

7314

I N S E N A T E

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Introduced by Sens. SEWARD, O'MARA -- read twice and ordered printed,
and when printed to be committed to the Committee on Insurance

AN ACT to amend the insurance law, in relation to self-funded student
health benefit plans

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. The insurance law is amended by adding a new article 80 to
2 read as follows:

3 A R T I C L E 8 0

4 S E L F - F U N D E D S T U D E N T H E A L T H B E N E F I T P L A N S

5 SECTION 8000. PURPOSE.

6 8001. DEFINITIONS.

7 8002. MINIMUM STANDARDS FOR PLANS.

8 8003. APPLICATION.

9 8004. AGREEMENT.

10 8005. PERIODIC REPORTS OF SELF-INSURERS.

11 8006. SUSPENSION OR REVOCATION OF APPROVAL.

12 8007. DISCONTINUANCE OF PLAN.

13 S 8000. PURPOSE. THE PURPOSE OF THIS ARTICLE IS TO SET FORTH STANDARDS
14 AND PROCEDURES FOR NOT-FOR-PROFIT PRIVATE AND PUBLIC INSTITUTIONS OF
15 HIGHER EDUCATION WHICH PROVIDE FOUR YEAR BACHELOR'S DEGREE PROGRAMS AND
16 GRADUATE OR PROFESSIONAL DEGREE PROGRAMS, AND WHICH HAVE ENDOWMENTS OF
17 AT LEAST ONE BILLION DOLLARS, TO OBTAIN AUTHORIZATION TO PROVIDE FOR THE
18 HEALTH INSURANCE NEEDS OF THEIR STUDENTS BY IMPLEMENTING SELF-FUNDED
19 STUDENT HEALTH BENEFIT PLANS.

20 S 8001. DEFINITIONS. FOR THE PURPOSES OF THIS ARTICLE, THE FOLLOWING
21 TERMS SHALL HAVE THE FOLLOWING MEANINGS:

22 (A) "PLAN" SHALL MEAN A SELF-FUNDED STUDENT HEALTH BENEFIT PLAN MEET-
23 ING THE REQUIREMENTS OF SECTION EIGHT THOUSAND TWO OF THIS ARTICLE.

24 (B) "QUALIFIED ACTUARY" SHALL MEAN A MEMBER IN GOOD STANDING OF THE
25 AMERICAN ACADEMY OF ACTUARIES, A PERSON RECOGNIZED BY THE AMERICAN ACAD-
26 EMY OF ACTUARIES AS QUALIFIED TO PREPARE ACTUARIAL VALUATIONS, OR A
27 PERSON WHO OTHERWISE HAS DEMONSTRATED THEIR COMPETENCY IN SUCH ACTUARIAL
28 VALUATION TO THE SATISFACTION OF THE SUPERINTENDENT.

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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(C) "SELF-INSURER" MEANS A UNIVERSITY WHICH HAS BEEN APPROVED BY THE SUPERINTENDENT TO PROVIDE FOR THE HEALTH INSURANCE NEEDS OF ITS STUDENTS BY IMPLEMENTING A PLAN.

(D) "UNIVERSITY" MEANS A NOT-FOR-PROFIT PRIVATE OR PUBLIC INSTITUTION OF HIGHER EDUCATION WITHIN THE MEANING OF 20 U.S.C., S 1001 WHICH IS GOVERNED BY THE NEW YORK STATE BOARD OF REGENTS, AND WHICH PROVIDES FOUR YEAR BACHELOR'S DEGREE PROGRAMS AND GRADUATE OR PROFESSIONAL DEGREE PROGRAMS.

S 8002. MINIMUM STANDARDS FOR PLANS. A PLAN MUST COMPLY WITH THE FOLLOWING MINIMUM STANDARDS:

(A) ELIGIBILITY. EACH PLAN SHALL DETERMINE THE SPECIFIC CRITERIA FOR STUDENT ELIGIBILITY. A PLAN MAY PROVIDE OPTIONS FOR COVERAGE FOR SPOUSES, DEPENDENTS, EXTENDED DEPENDENT COVERAGE, UNMARRIED STUDENTS ON MEDICAL LEAVE OF ABSENCE, UNMARRIED DISABLED CHILDREN, NEWBORN INFANTS, ADOPTED CHILDREN AND STEP-CHILDREN, DOMESTIC PARTNERS AND NEW FAMILY MEMBERS AND PROVIDE FOR ENROLLMENT BY NEW STUDENTS AND THEIR DEPENDENTS AND OPEN ENROLLMENT BY CURRENT STUDENTS AND THEIR DEPENDENTS IN ACCORDANCE WITH AT LEAST THE MINIMUM REQUIREMENTS SET FORTH IN SUBSECTION (C) OF SECTION FOUR THOUSAND THREE HUNDRED FIVE AND SECTION FOUR THOUSAND THREE HUNDRED SIX-A OF THIS CHAPTER AND PART FIFTY-TWO OF TITLE ELEVEN OF THE OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK.

(B) MANDATORY COVERED BENEFITS. EACH PLAN SHALL PROVIDE COVERAGE FOR PRIMARY AND PREVENTATIVE HEALTH SERVICES, COUNSELING, PREVENTATIVE OBSTETRIC AND GYNECOLOGICAL CARE, MAMMOGRAPHY SCREENING, CERVICAL CYTOLOGY SCREENING, BONE MINERAL DENSITY MEASUREMENTS OR TESTS, DRUG AND DEVICES, PROSTATE CANCER SCREENING, MASTECTOMY CARE, POST-MASTECTOMY RECONSTRUCTION, EMERGENCY SERVICES, PREADMISSION TESTING, HOME HEALTH SERVICES, MATERNITY CARE, DIABETES EQUIPMENT, SUPPLIES AND SELF-MANAGEMENT EDUCATION, OUTPATIENT SUBSTANCE ABUSE SERVICES, PRE-HOSPITAL EMERGENCY MEDICAL SERVICES, AUTISM SPECTRUM DISORDER, DIRECT ACCESS TO OB/GYN SERVICES, SECOND MEDICAL OPINION FOR CANCER DIAGNOSIS, SECOND SURGICAL OPINION, CHIROPRACTIC CARE, MENTAL, NERVOUS AND EMOTIONAL DISORDERS IN COMPLIANCE WITH THE FEDERAL MENTAL HEALTH PARITY ADDICTION EQUITY ACT OF 2008, SERVICES PERFORMED AT COMPREHENSIVE CARE CENTER FOR EATING DISORDERS, PRESCRIPTION DRUGS INCLUDING ENTERAL FORMULAS, OFF-LABEL CANCER DRUG USAGE, CONTRACEPTIVE DRUGS AND DEVICES, CHEMICAL ABUSE AND DEPENDENCE DIAGNOSIS AND TREATMENT, AMBULATORY CARE, LICENSED CLINICAL SOCIAL WORKERS AND REGISTERED PROFESSIONAL NURSES IN ACCORDANCE WITH AT LEAST THE MINIMUM REQUIREMENTS OF SECTIONS FOUR THOUSAND THREE HUNDRED THREE, FOUR THOUSAND THREE HUNDRED TWENTY-FOUR AND FOUR THOUSAND NINE HUNDRED OF THIS CHAPTER AND PART FIFTY-TWO OF TITLE ELEVEN OF THE OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK.

(C) MANDATORY STANDARD PROVISIONS. EACH PLAN SHALL INCLUDE PROVISIONS CONCERNING COST OF SERVICE, TIME FRAME TO SUBMIT CLAIMS, SUSPENSION OF COVERAGE WHILE ON ACTIVE DUTY WITH THE ARMED FORCES AND EXTENSION OF BENEFITS IN ACCORDANCE WITH AT LEAST THE MINIMUM REQUIREMENTS OF SECTIONS THREE THOUSAND TWO HUNDRED ONE AND FOUR THOUSAND THREE HUNDRED FIVE OF THIS CHAPTER AND PART FIFTY-TWO OF TITLE ELEVEN OF THE OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK.

(D) OPTIONAL STANDARD PROVISIONS. EACH PLAN MAY INCLUDE PROVISIONS CONCERNING:

(1) SUBROGATION, IN COMPLIANCE WITH SECTION 5-335 OF THE GENERAL OBLIGATIONS LAW; AND

1 (2) THE COORDINATION OF BENEFITS AND UNILATERAL MODIFICATION AS
2 PROVIDED FOR IN PART FIFTY-TWO OF TITLE ELEVEN OF THE OFFICIAL COMPILA-
3 TION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK.

4 (E) PERMISSIBLE EXCLUSIONS. EACH PLAN MAY INCLUDE PROVISIONS PROVIDING
5 EXCLUSIONS FOR CLAIMS FOR, OR ARISING FROM COSMETIC SURGERY, FOOT CARE,
6 DENTAL CARE OR TREATMENT, EYEGLASSES AND HEARING AIDS, CUSTODIAL CARE,
7 REST CURES, WAR OR ACT OF WAR, PARTICIPATION IN FELONY, RIOT OR INSUR-
8 RECTION, SERVICE IN ARMED FORCES, ACCIDENT OR SICKNESS COVERED UNDER
9 MANDATORY NO-FAULT, WORKERS' COMPENSATION, MEDICARE OR OTHER GOVERN-
10 MENTAL PROGRAMS, SEPARATELY BILLED SERVICES BY HOSPITAL EMPLOYEES,
11 SERVICES BY MEMBER OF A STUDENT'S OR COVERED DEPENDENT'S IMMEDIATE FAMI-
12 LY, SERVICES FOR WHICH NO CHARGE IS NORMALLY MADE, SERVICES COVERED
13 UNDER VALID AND COLLECTIBLE MEDICAL, HEALTH OR ACCIDENT INSURANCE,
14 SERVICES OUTSIDE THE UNITED STATES AS PROVIDED FOR IN PART FIFTY-TWO OF
15 TITLE ELEVEN OF THE OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS
16 OF THE STATE OF NEW YORK. SUBJECT TO THE DISCRETION OF THE SUPERINTEN-
17 DENT, ADDITIONAL EXCLUSIONS MAY BE INCLUDED.

18 (F) WRITTEN DISCLOSURE STATEMENT. IN ADDITION TO PROVIDING NOTICE TO
19 STUDENTS AND THEIR COVERED DEPENDENTS OF ELIGIBILITY REQUIREMENTS,
20 COVERED BENEFITS, STANDARD PROVISIONS, OPTIONAL STANDARD PROVISIONS AND
21 PERMISSIBLE EXCLUSIONS, THE WRITTEN DISCLOSURE STATEMENT PROVIDED TO
22 STUDENTS AND THEIR COVERED DEPENDENTS MUST INCLUDE A DEFINITION OF
23 MEDICAL NECESSITY, AND SET FORTH THE PLAN'S PRIOR AUTHORIZATION REQUIRE-
24 MENTS, UTILIZATION REVIEW POLICIES AND PROCEDURES, EXTERNAL APPEAL
25 PROCEDURES, REIMBURSEMENT OF PROVIDERS POLICIES, THE STUDENT'S FINANCIAL
26 RESPONSIBILITY FOR PAYMENT, POLICIES CONCERNING NON-PARTICIPATING
27 PROVIDERS AND NON-AUTHORIZED SERVICES, GRIEVANCE PROCEDURES, POLICIES
28 AND PROCEDURES CONCERNING THE SELECTION, ACCESSING AND CHANGING OF
29 PARTICIPATING PROVIDERS, REFERRAL TO NON-PARTICIPATING PROVIDERS, STAND-
30 ING REFERRALS, SPECIALTY CARE PROVIDER AS PRIMARY CARE PROVIDER,
31 SPECIALTY CARE CENTERS, ACCESS TO TRANSITIONAL CARE, NON-ENGLISH SPEAK-
32 ING STUDENTS, CONTACT INFORMATION AND PROVIDER INFORMATION AS PROVIDED
33 FOR IN SECTIONS THREE THOUSAND TWO HUNDRED THIRTY-EIGHT, FOUR THOUSAND
34 TWO HUNDRED TWENTY-FOUR, FOUR THOUSAND THREE HUNDRED SIX, FOUR THOUSAND
35 THREE HUNDRED TWENTY-FOUR AND ARTICLE FORTY-NINE OF THIS CHAPTER.

36 (G) MINIMUM MEDICAL LOSS RATIOS. UNLESS WAIVED BY THE SUPERINTENDENT,
37 THE PERCENTAGE OF CHARGES COLLECTED FROM STUDENTS AND THEIR COVERED
38 DEPENDENTS USED TO PAY CLAIMS UNDER A PLAN MUST EQUAL OR EXCEED EIGHTY-
39 TWO PERCENT, OR SUCH GREATER PERCENTAGE AS MAY BE PROVIDED UNDER REGU-
40 LATIONS APPLICABLE TO INSURED STUDENT HEALTH INSURANCE/BENEFIT PLANS
41 PROMULGATED BY THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES
42 IN ACCORDANCE WITH ALL APPLICABLE FEDERAL LAW. IN CALCULATING THE
43 EXPENSES THAT CAN AND CANNOT BE COUNTED TOWARDS CALCULATION OF A PLAN'S
44 MEDICAL LOSS RATIO, A PLAN MUST APPLY THE APPLICABLE DEFINITIONS, FORMU-
45 LAE AND PROCEDURAL REQUIREMENTS SET FORTH IN THE NATIONAL ASSOCIATION OF
46 INSURANCE COMMISSIONER'S MODEL REGULATION FOR UNIFORM DEFINITIONS AND
47 STANDARDIZED METHODOLOGIES FOR CALCULATION OF THE MEDICAL LOSS RATIO FOR
48 PLAN YEARS TWO THOUSAND ELEVEN, TWO THOUSAND TWELVE AND TWO THOUSAND
49 THIRTEEN PER SECTION 2718(B) OF THE FEDERAL PUBLIC HEALTH SERVICE ACT.
50 IF A SIMILAR REGULATION IS PROMULGATED BY THE SUPERINTENDENT, A PLAN
51 MUST APPLY THE APPLICABLE DEFINITIONS, FORMULAE AND PROCEDURAL REQUIRE-
52 MENTS SET FORTH IN SUCH REGULATION. NOTWITHSTANDING THE FOREGOING, NO
53 PLAN SHALL BE REQUIRED TO MAKE A REFUND OF FEES PAID TO THE PLAN BY, OR
54 ON BEHALF OF, ANY COVERED PERSON IF THE PLAN'S MEDICAL LOSS RATIO IS
55 LESS THAN THE RATIO SET FORTH IN A REGULATION PROMULGATED BY THE SUPER-
56 INTENDENT OR THE RATIO PROVIDED UNDER REGULATIONS PROMULGATED BY THE

1 UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES. TO THE EXTENT A
2 REFUND OF FEES WOULD OTHERWISE BE REQUIRED UNDER ANY SUCH REGULATIONS, A
3 PLAN SHALL BE AUTHORIZED TO RETAIN SUCH FEES FOR THE BENEFIT OF THE
4 PLAN.

5 (H) BENEFIT MAXIMUM. A PLAN MUST PROVIDE A MAXIMUM ANNUAL BENEFIT AT
6 LEAST EQUAL TO THE MAXIMUM ANNUAL BENEFIT REQUIRED FOR FULLY INSURED
7 STUDENT HEALTH INSURANCE PLANS UNDER ALL APPLICABLE FEDERAL LAW AND THE
8 REGULATIONS APPLICABLE TO FULLY INSURED STUDENT HEALTH INSURANCE PLANS
9 PROMULGATED BY THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN
10 SERVICES.

11 (I) THIRD PARTY TRANSACTIONS. A UNIVERSITY'S TRANSACTIONS WITH THIRD
12 PARTIES IN CONNECTION WITH A PLAN MUST SATISFY THE FOLLOWING REQUIRE-
13 MENTS:

14 (1) THE TERMS SHALL BE FAIR AND EQUITABLE;

15 (2) CHARGES OR FEES FOR SERVICES PERFORMED SHALL BE REASONABLE; AND

16 (3) EXPENSES INCURRED SHALL BE ALLOCATED TO THE UNIVERSITY ON AN EQUI-
17 TABLE BASIS IN CONFORMITY WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES
18 CONSISTENTLY APPLIED.

19 IN ADDITION, THE BOOKS, ACCOUNTS AND RECORDS OF EACH PARTY TO ALL
20 TRANSACTIONS BETWEEN A UNIVERSITY AND A THIRD PARTY IN CONNECTION WITH A
21 PLAN SHALL BE MAINTAINED SO AS TO CLEARLY AND ACCURATELY DISCLOSE THE
22 NATURE AND DETAILS OF THE TRANSACTION INCLUDING SUCH ACCOUNTING INFORMA-
23 TION AS IS NECESSARY TO SUPPORT THE REASONABLENESS OF ALL CHARGES OR
24 FEES PAID BY A UNIVERSITY TO SUCH THIRD PARTIES.

25 S 8003. APPLICATION. (A) (1) EVERY UNIVERSITY DESIRING TO IMPLEMENT A
26 PLAN SHALL MAKE AN APPLICATION IN FORM PRESCRIBED BY THE SUPERINTENDENT.
27 THIS APPLICATION SHALL CONTAIN:

28 (A) A REPORT INDICATING MEDICAL LOSSES (PAYMENTS PLUS RESERVES) ASSO-
29 CIATED WITH THE UNIVERSITY'S STUDENTS UNDER THE UNIVERSITY'S FULLY
30 INSURED STUDENT HEALTH INSURANCE PLANS, FOR A PERIOD UP TO THREE YEARS
31 PRIOR TO THE DATE OF APPLICATION;

32 (B) THE MOST RECENT, CERTIFIED, INDEPENDENTLY AUDITED FINANCIAL STATE-
33 MENT OF THE UNIVERSITY;

34 (C) A NARRATIVE DESCRIPTION OF THE UNIVERSITY'S PROPOSED PLAN, INCLUD-
35 ING A DESCRIPTION OF ALL CHARGES AND FEES TO BE CHARGED BY THE PLAN TO
36 STUDENTS FOR HEALTH BENEFITS. AN ACTUARIAL REPORT PREPARED BY A QUALI-
37 FIED ACTUARY SUPPORTING THE CHARGES AND FEES TO BE CHARGED BY THE PLAN
38 TO STUDENTS FOR HEALTH BENEFITS SHALL ACCOMPANY THE NARRATIVE
39 DESCRIPTION;

40 (D) A NARRATIVE DESCRIPTION OF HOW THE PLAN WILL ADMINISTER PLAN BENE-
41 FITS AND REQUIREMENTS AND ADJUST CLAIMS. IF THE UNIVERSITY'S PLAN DOES
42 NOT UTILIZE UNIVERSITY EMPLOYEES TO ADMINISTER PLAN BENEFITS REQUIRE-
43 MENTS AND ADJUST CLAIMS, THE NARRATIVE DESCRIPTION MUST INCLUDE A
44 DESCRIPTION OF THE ARRANGEMENT ENTERED INTO BY THE PLAN WITH A LICENSED
45 INDEPENDENT ADJUSTER WHICH WILL ADMINISTER PLAN BENEFITS AND REQUIRE-
46 MENTS AND ADJUST CLAIMS ON BEHALF OF THE PLAN. A COPY OF THE SERVICES
47 AGREEMENT BETWEEN THE PLAN AND THE INDEPENDENT ADJUSTER SHALL BE
48 INCLUDED WITH THE APPLICATION;

49 (E) A PRO-FORMA STATEMENT OF OBLIGATIONS, EXPENSES, MEDICAL LOSSES AND
50 CHARGES AND FEES TO BE CHARGED BY THE PLAN TO STUDENTS FOR HEALTH BENE-
51 FITS DURING THE NEXT THREE YEARS; AND

52 (F) A NARRATIVE DESCRIPTION OF THE ACCOUNTING METHODOLOGY WHICH WILL
53 BE UTILIZED BY THE PLAN, INCLUDING A DESCRIPTION OF THE SEPARATE ACCOUNT
54 FOR CLAIMS, EXPENSES, LOSSES, INCURRED-BUT-NOT-REPORTED LOSSES AND
55 RESERVES WHICH WILL BE CREATED WITHIN THE UNIVERSITY'S GENERAL ACCOUNT-
56 ING LEDGER SYSTEM.

(2) A UNIVERSITY SEEKING TO QUALIFY AS A SELF-INSURER, SHALL CAUSE TO BE PAID INTO A RESERVE FUND THE AMOUNTS NECESSARY TO SATISFY ALL CONTRACTUAL OBLIGATIONS AND LIABILITIES OF THE PLAN, INCLUDING:

(A) A RESERVE FOR PAYMENT OF CLAIMS AND EXPENSES THEREON REPORTED BUT NOT YET PAID, AND CLAIMS AND EXPENSES THEREON INCURRED BUT NOT YET REPORTED WHICH SHALL NOT BE LESS THAN AN AMOUNT EQUAL TO TWENTY-FIVE PERCENT OF EXPECTED INCURRED CLAIMS AND EXPENSES THEREON FOR THE CURRENT PLAN YEAR, UNLESS A QUALIFIED ACTUARY HAS DEMONSTRATED TO THE SUPERINTENDENT'S SATISFACTION THAT A LESSER AMOUNT WILL BE ADEQUATE;

(B) A RESERVE FOR UNEARNED PREMIUM EQUIVALENTS; AND

(C) A SURPLUS ACCOUNT, ESTABLISHED AND MAINTAINED FOR THE SOLE PURPOSE OF SATISFYING UNEXPECTED OBLIGATIONS OF THE PLAN IN THE EVENT OF TERMINATION OF THE PLAN, WHICH SHALL NOT BE LESS THAN: FIVE PERCENT OF THE ANNUALIZED EARNED PREMIUM EQUIVALENTS DURING THE CURRENT FISCAL YEAR OF THE PLAN.

ONE OF THE WAYS A QUALIFIED ACTUARY MAY DEMONSTRATE THAT A LESSER AMOUNT OF A RESERVE FOR PAYMENT OF CLAIMS AND EXPENSES THEREON REPORTED BUT NOT YET PAID, AND CLAIMS AND EXPENSES THEREON INCURRED BUT NOT YET REPORTED WILL BE ADEQUATE IS BY SHOWING THAT THE UNIVERSITY HAS OBTAINED A MEDICAL STOP-LOSS INSURANCE POLICY ISSUED BY AN INSURANCE CARRIER AUTHORIZED BY THE SUPERINTENDENT TO WRITE MEDICAL STOP-LOSS INSURANCE POLICIES IN NEW YORK STATE.

THE ASSETS CONSTITUTING THE PLAN'S RESERVE FUNDS SHALL CONSIST SOLELY OF CERTIFICATES OF DEPOSIT ISSUED BY A UNITED STATES BANK AND PAYABLE IN UNITED STATES LEGAL TENDER, AND/OR SECURITIES REPRESENTING INVESTMENTS OF THE TYPES SPECIFIED IN PARAGRAPHS ONE, TWO, THREE, EIGHT AND TEN OF SUBSECTION (A) OF SECTION ONE THOUSAND FOUR HUNDRED FOUR OF THIS CHAPTER, OR AS OTHERWISE EXPRESSLY PERMITTED BY THE SUPERINTENDENT. ANY INTEREST EARNED OR CAPITAL GAIN REALIZED ON THE MONEY SO DEPOSITED OR INVESTED SHALL ACCRUE TO AND BECOME PART OF THE PLAN'S RESERVE FUNDS OR SURPLUS ACCOUNT, AS APPLICABLE.

THE PLAN'S RESERVE FUNDS SHALL BE ACCOUNTED FOR SEPARATE AND APART FROM ALL OTHER FUNDS OF THE UNIVERSITY, AND SUCH ACCOUNTING SHALL SHOW:

(I) THE PURPOSE, SOURCE, DATE AND AMOUNT OF EACH SUM PAID INTO THE FUNDS;

(II) THE INTEREST EARNED BY SUCH FUNDS;

(III) CAPITAL GAINS OR LOSSES RESULTING FROM THE SALE OF INVESTMENTS OF THE PLAN'S RESERVE FUNDS;

(IV) THE ORDER, PURPOSE, DATE AND AMOUNT OF EACH PAYMENT FROM THE RESERVE FUND; AND

(V) THE ASSETS OF THE FUND, INDICATING CASH BALANCE AND SCHEDULE OF INVESTMENTS.

THE REQUIREMENTS FOR FUNDING OF THE PLAN'S RESERVE FUNDS SHALL BE CALCULATED USING GENERALLY ACCEPTED ACCOUNTING PRINCIPLES ("GAAP"). ONLY THOSE EXPENSES WHICH RELATE TO THE PLAN MAY BE INCLUDED IN CALCULATING THE REQUIREMENTS FOR FUNDING OF THE PLAN'S RESERVE FUNDS. EXPENSES ALLOCATED TO THE PLAN SHALL BE ALLOCATED ON AN EQUITABLE BASIS IN CONFORMITY WITH GAAP CONSISTENTLY APPLIED. THE BOOKS, ACCOUNTS AND RECORDS OF THE PLAN SHALL BE MAINTAINED AS TO CLEARLY AND ACCURATELY DISCLOSE THE NATURE AND DETAILS OF ALL EXPENSES SO AS TO SUPPORT THE REASONABLENESS OF SUCH EXPENSES.

(B) IF, UPON EXAMINATION OF THE CERTIFIED, INDEPENDENTLY AUDITED FINANCIAL STATEMENT OF THE UNIVERSITY AND OTHER DATA SUBMITTED, THE SUPERINTENDENT IS SATISFIED AS TO THE ABILITY OF THE UNIVERSITY TO FULFILL ITS OBLIGATION UNDER THE PLAN AND THAT THE UNIVERSITY'S TANGIBLE ASSETS AND FINANCIAL HISTORY MAKE THE PAYMENT OF ALL OBLIGATIONS THAT

1 MAY ARISE UNDER THE PLAN, REASONABLY CERTAIN, THE APPLICATION MAY BE
2 GRANTED SUBJECT TO THE CONDITIONS HEREIN PROVIDED. THE SUPERINTENDENT
3 WILL NOTIFY THE UNIVERSITY OF APPROVAL OR NON-APPROVAL OF ITS APPLICA-
4 TION WITHIN NINETY DAYS.

5 (C) TO ENSURE CONTINUING COMPLIANCE WITH THE REQUIREMENTS OF THIS
6 ARTICLE AND THE PLAN WHICH HAS BEEN APPROVED BY THE SUPERINTENDENT, THE
7 SUPERINTENDENT SHALL BE AUTHORIZED, PURSUANT TO SECTION THREE HUNDRED
8 NINE OF THIS CHAPTER, TO MAKE AN EXAMINATION INTO THE AFFAIRS OF ANY
9 SELF-INSURER AS OFTEN AS HE OR SHE DEEMS IT EXPEDIENT FOR THE PROTECTION
10 OF THE INTERESTS OF THE PEOPLE OF THIS STATE.

11 S 8004. AGREEMENT. A UNIVERSITY MAKING AN APPLICATION WITH THE SUPER-
12 INTENDENT FOR AUTHORITY TO IMPLEMENT A PLAN SHALL EXECUTE AND FILE WITH
13 THE SUPERINTENDENT AN AGREEMENT, IN PRESCRIBED FORM:

14 (A) TO PAY ALL OBLIGATIONS AND EXPENSES ARISING UNDER ITS PLAN;

15 (B) TO COMPLY WITH ALL CONSUMER PROTECTION LAWS AND REGULATIONS OF THE
16 STATE OF NEW YORK, INCLUDING, BUT NOT LIMITED TO, THE PROHIBITION
17 AGAINST DECEPTIVE BUSINESS PRACTICES SET FORTH IN SECTION THREE HUNDRED
18 FORTY-NINE OF THE GENERAL BUSINESS LAW; AND

19 (C) TO PROVIDE THE SUPERINTENDENT WITH SIXTY DAYS' PRIOR WRITTEN
20 NOTICE OF ANY DECISION TO TERMINATE ITS PLAN FOR ANY REASON.

21 S 8005. PERIODIC REPORTS OF SELF-INSURERS. (A) REPORTS SHALL BE FILED
22 WITH THE SUPERINTENDENT, BY EACH SELF-INSURER AS FOLLOWS:

23 (1) THE MOST RECENT CERTIFIED, INDEPENDENTLY AUDITED FINANCIAL STATE-
24 MENT OF THE SELF-INSURER;

25 (2) A STATEMENT OF OBLIGATIONS, EXPENSES, MEDICAL LOSSES AND CHARGES
26 AND FEES PAID TO THE SELF-INSURER'S PLAN BY STUDENTS FOR HEALTH BENEFITS
27 DURING ITS MOST RECENT FISCAL OR PLAN YEAR;

28 (3) THE IDENTITY OF THE QUALIFIED ACTUARY UTILIZED BY THE
29 SELF-INSURER'S PLAN TOGETHER WITH THE FEES PAID TO THE QUALIFIED ACTUARY
30 BY THE SELF-INSURER'S PLAN DURING ITS MOST RECENT FISCAL OR PLAN YEAR;

31 (4) THE IDENTITY OF THE SELF-INSURER'S PLAN'S TEN LARGEST VENDORS BY
32 PAYMENT AMOUNT DURING ITS MOST RECENT FISCAL OR PLAN YEAR;

33 (5) THE IDENTITY AND CONTACT INFORMATION FOR THE PERSON ACTING AS THE
34 ADMINISTRATOR OF THE SELF-INSURER'S PLAN. THE PERSON DESIGNATED AS
35 ADMINISTRATOR WILL BE THE PERSON TO WHOM ALL INQUIRIES FROM THE SUPER-
36 INTENDENT CONCERNING THE SELF-INSURER'S PLAN SHALL BE DIRECTED;

37 (6) A PRO-FORMA STATEMENT OF OBLIGATIONS, EXPENSES, MEDICAL LOSSES,
38 AND CHARGES AND FEES TO BE PAID TO THE SELF-INSURER'S PLAN BY STUDENTS
39 FOR HEALTH BENEFITS ANTICIPATED BY THE SELF-INSURER'S PLAN FOR THE NEXT
40 TWELVE MONTH PERIOD OF THE PLAN'S OPERATION. THE PRO-FORMA STATEMENT CAN
41 BE PROVIDED ON EITHER A FISCAL YEAR OR A PLAN YEAR BASIS;

42 (7) A STATEMENT OF OBLIGATIONS, EXPENSES, MEDICAL LOSSES AND CHARGES
43 AND FEES PAID TO THE SELF-INSURER'S PLAN BY STUDENTS FOR HEALTH BENE-
44 FITS;

45 (8) A DETAILED REPORT OF THE OPERATIONS AND CONDITION OF THE PLAN'S
46 RESERVE FUNDS; AND

47 (9) ADDITIONAL OR MORE FREQUENT REPORTS OR STATEMENTS AS MAY BE
48 REQUESTED BY THE SUPERINTENDENT.

49 (B) THE REPORTS CALLED FOR IN SUBSECTION (A) OF THIS SECTION SHALL BE
50 FILED NO LATER THAN APRIL FIRST OF EACH YEAR, RELATING TO THE PRIOR YEAR
51 ENDING DECEMBER THIRTY-FIRST, WITH THE EXCEPTION OF THE REPORT CALLED
52 FOR IN PARAGRAPH ONE OF SUBSECTION (A) OF THIS SECTION WHICH SHALL BE
53 FILED NO LATER THAN MAY FIRST OF EACH YEAR, RELATING TO THE PRIOR YEAR
54 ENDING DECEMBER THIRTY-FIRST, UNLESS IT MAINTAINS A FISCAL YEAR, IN
55 WHICH CASE, RELATING TO THE PRIOR FISCAL YEAR.

1 S 8006. SUSPENSION OR REVOCATION OF APPROVAL. (A) THE SUPERINTENDENT
2 MAY SUSPEND OR REVOKE THE APPROVAL ISSUED TO A SELF-INSURER FOR THE
3 ESTABLISHMENT OF A PLAN FOR ANY CAUSE THAT WOULD BE THE BASIS FOR DENIAL
4 OF AN INITIAL APPLICATION FOR SUCH APPROVAL, OR FOR FAILURE TO MAINTAIN
5 THE RESERVE FUNDS REQUIRED UNDER PARAGRAPH TWO OF SUBSECTION (A) OF
6 SECTION EIGHT THOUSAND THREE OF THIS ARTICLE; PROVIDED, HOWEVER, THAT
7 THE SUPERINTENDENT SHALL NOT SUSPEND OR REVOKE AN APPROVAL IF THE PLAN
8 HAS IMPLEMENTED A REMEDIATION PLAN ACCEPTABLE TO THE SUPERINTENDENT. IN
9 ADDITION TO THE FOREGOING, THE SUPERINTENDENT MAY ALSO SUSPEND OR REVOKE
10 THE APPROVAL ISSUED TO A SELF-INSURER FOR THE ESTABLISHMENT OF A PLAN IF
11 THE SELF-INSURER HAS REFUSED TO PRODUCE ITS ACCOUNTS, RECORDS, AND FILES
12 FOR EXAMINATION, OR IF ANY REPRESENTATIVE OF THE SELF-INSURER HAS
13 REFUSED TO COOPERATE OR GIVE INFORMATION WITH RESPECT TO THE AFFAIRS OF
14 THE PLAN OR PERFORM ANY OTHER LEGAL OBLIGATION RELATING TO SUCH EXAMINA-
15 TION WHEN REQUIRED BY THE SUPERINTENDENT.

16 (B) IN THE CASE OF SUSPENSION OR REVOCATION OF AN APPROVAL ISSUED TO A
17 SELF-INSURER, THE SUPERINTENDENT SHALL SEND A COPY OF SUCH DECISION TO
18 THE UNIVERSITY BY CERTIFIED MAIL AT THE PLAN'S ADDRESS. UPON THE REQUEST
19 OF THE UNIVERSITY, FILED WITHIN SIXTY DAYS OF THE MAILING OF THE SUPER-
20 INTENDENT'S DECISION, THE SUPERINTENDENT SHALL SCHEDULE A HEARING ON
21 SUCH DECISION BY WRITTEN NOTICE, SENT BY CERTIFIED MAIL TO THE UNIVERSI-
22 TY. SUCH NOTICE SHALL SET FORTH A SPECIFIC DATE, TIME AND PLACE FOR THE
23 HEARING, WHICH SHALL COMMENCE WITHIN SIXTY DAYS OF THE MAILING OF THE
24 NOTICE.

25 S 8007. DISCONTINUANCE OF PLAN. (A) A UNIVERSITY WHICH HAS HAD ITS
26 APPROVAL SUSPENDED OR REVOKED OR WHICH HAS DETERMINED TO TERMINATE ITS
27 PLAN FOR ANY REASON SHALL FILE A SWORN STATEMENT WITH THE SUPERINTENDENT
28 CONCERNING ALL CURRENT AND FUTURE LIABILITIES UNDER ITS DISCONTINUED
29 PLAN. IN ADDITION, THE UNIVERSITY SHALL ALSO SUBMIT A PLAN FOR THE
30 SUPERINTENDENT'S APPROVAL FOR WINDING UP THE PLAN'S AFFAIRS IN AN ORDER-
31 LY MANNER DESIGNED TO RESULT IN TIMELY PAYMENT OF ALL BENEFITS, IN SUCH
32 FORM AND MANNER AS THE SUPERINTENDENT MAY PRESCRIBE.

33 (B) UNTIL SUCH TIME AS ALL CURRENT AND FUTURE LIABILITIES UNDER A
34 DISCONTINUED PLAN HAVE BEEN FULLY AND FINALLY PAID OR ELIMINATED, A
35 UNIVERSITY SHALL CONTINUE TO MAINTAIN AND FUND THE RESERVE FUNDS
36 REQUIRED TO BE ESTABLISHED UNDER PARAGRAPH TWO OF SUBSECTION (A) OF
37 SECTION EIGHT THOUSAND THREE OF THIS ARTICLE. DURING SUCH PERIOD, A
38 UNIVERSITY SHALL HONOR ANY DIRECTIVES FROM THE SUPERINTENDENT REQUIRING
39 THE UNIVERSITY TO SATISFY PLAN OBLIGATIONS TO PAY ANY CLAIMS OR
40 EXPENSES. IF, AT ANY TIME, IT IS DETERMINED BY THE SUPERINTENDENT THAT
41 ADDITIONAL FUNDS ARE REQUIRED TO BE DEPOSITED INTO THE RESERVE FUNDS,
42 THE UNIVERSITY SHALL MAKE SUCH DEPOSIT OR DEPOSITS WITHIN THIRTY DAYS OF
43 SUCH DETERMINATION. NO PART OF THE PLAN'S RESERVE FUNDS SHALL BE
44 SUBJECT TO THE CLAIMS OF GENERAL CREDITORS OF A UNIVERSITY UNTIL ALL
45 PLAN BENEFITS AND OTHER PLAN OBLIGATIONS HAVE BEEN SATISFIED.

46 (C) AFTER THE LAPSE OF TWENTY-FOUR MONTHS, IF ALL CLAIMS UNDER THE
47 DISCONTINUED PLAN HAVE BEEN FINALLY AND FULLY PAID, AND ALL EXPENSES AND
48 ASSESSMENTS REQUIRED BY LAW HAVE BEEN PAID, THE ASSETS WITHIN THE PLAN'S
49 RESERVE FUNDS SHALL NO LONGER BE REQUIRED TO BE MAINTAINED WITHIN
50 RESTRICTED ACCOUNTS WITHIN THE UNIVERSITY'S GENERAL ACCOUNTING LEDGER
51 SYSTEM.

52 S 2. This act shall take effect on the one hundred twentieth day after
53 it shall have become a law. Effective immediately, the addition, amend-
54 ment and/or repeal of any rule or regulation necessary for the implemen-
55 tation of this act on its effective date is authorized to be made on or
56 before such date.