

8278

2011-2012 Regular Sessions

I N A S S E M B L Y

June 9, 2011

Introduced by M. of A. PEOPLES-STOKES -- read once and referred to the
Committee on Health

AN ACT to amend the insurance law and the public health law, in relation
to establishing a health care disparities data collection system

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

1 Section 1. Subsections (d) and (e) of section 210 of the insurance
2 law, as added by chapter 579 of the laws of 1998, are amended to read as
3 follows:
4 (d) BEGINNING NO LATER THAN SEPTEMBER FIRST OF THE YEAR FOLLOWING THE
5 EFFECTIVE DATE OF THE RULES AND REGULATIONS ESTABLISHING THE HEALTH CARE
6 DISPARITIES DATA COLLECTION SYSTEM, PURSUANT TO TITLE THREE-A OF ARTICLE
7 TWO OF THE PUBLIC HEALTH LAW, AND ON SEPTEMBER FIRST OF THE PRECEDING
8 YEAR IF PRACTICABLE, IN ADDITION TO THE INFORMATION REQUIRED IN
9 SUBSECTIONS (A), (B) AND (C) OF THIS SECTION, THE SUPERINTENDENT OF
10 FINANCIAL SERVICES SHALL INCLUDE IN SUCH GUIDE AND SELECTION OF THE DATA
11 APPLICABLE TO EACH INSURER OR ENTITY FROM THE HEALTH CARE DISPARITIES
12 DATA COLLECTION SYSTEM. SUCH DATA SHALL INCLUDE DATA COLLECTED OR
13 COMPILED IN REGARD TO HEALTH CARE QUALITY AND HEALTH OUTCOMES PURSUANT
14 TO SECTION TWO THOUSAND NINE HUNDRED NINETY-FIVE-C OF THE PUBLIC HEALTH
15 LAW OR OTHER DATA THAT IS GENERALLY RECOGNIZED AS AUTHORITATIVE AND
16 RELIABLE.
17 (E) Health insurers and entities certified pursuant to article forty-
18 four of the public health law shall provide annually to the superinten-
19 dent OF FINANCIAL SERVICES and the commissioner of health, and the
20 commissioner of health shall provide to the superintendent OF FINANCIAL
21 SERVICES, all of the information necessary for the superintendent to
22 produce the annual consumer guide, PROVIDED THAT THIS REQUIREMENT SHALL
23 NOT APPLY TO INFORMATION PROVIDED FOR IN SUBSECTION (D) OF THIS SECTION
24 IF THE SUPERINTENDENT OF FINANCIAL SERVICES ALREADY POSSESSES SUCH
25 INFORMATION AS PART OF THE DATA COLLECTION SYSTEM PROVIDED FOR IN TITLE

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

LBD11921-01-1

1 THREE-A OF ARTICLE TWO OF THE PUBLIC HEALTH LAW. In compiling the guide,
2 the superintendent OF FINANCIAL SERVICES shall make every effort to
3 ensure that the information is presented in a clear, understandable
4 fashion which facilitates comparisons among individual insurers and
5 entities, and in a format which lends itself to the widest possible
6 distribution to consumers. The superintendent OF FINANCIAL SERVICES
7 shall either include the information from the annual consumer guide in
8 the consumer shopping guide required by subsection (a) of section four
9 thousand three hundred twenty-three of this chapter or combine the two
10 guides as long as consumers in the individual market are provided with
11 the information required by subsection (a) of section four thousand
12 three hundred twenty-three of this chapter.

13 [(e)] (F) The superintendent OF FINANCIAL SERVICES shall contract with
14 a national organization for the purposes of drafting and designing the
15 guide, including the preparation of relevant explanatory material. Such
16 organization shall have actual experience in preparing a similar guide
17 for at least one other state. The superintendent, in consultation with
18 the commissioner of health, may also contract with one or more national
19 organizations to assist such commissioner in the collection of data and
20 the analysis and auditing of the clinical measurers. Such organizations
21 shall consult periodically with associations representing health insur-
22 ers and health maintenance organizations as well as with consumer repre-
23 sentatives in New York in preparing the consumer guide. IN REGARD TO
24 INFORMATION ADDED TO THE CONSUMER GUIDE OR GUIDES PURSUANT TO SUBSECTION
25 (D) OF THIS SECTION, THE DATA SELECTED AS WELL AS THE FORMAT SHALL BE
26 DETERMINED BY THE SUPERINTENDENT OF FINANCIAL SERVICES IN CONSULTATION
27 WITH THE COMMISSIONER OF HEALTH, WITH CONSIDERATION GIVEN TO THE VIEWS
28 EXPRESSED BY STAKEHOLDERS IN THE REVIEW AND COMMENT PROCESS HELD PURSU-
29 ANT TO SUBDIVISION ELEVEN OF SECTION TWO HUNDRED FORTY-SEVEN OF THE
30 PUBLIC HEALTH LAW.

31 S 2. Subsection (a) of section 4323 of the insurance law, as amended
32 by chapter 1 of the laws of 1999, is amended to read as follows:

33 (a) All health maintenance organizations issued a certificate of
34 authority under article forty-four of the public health law or licensed
35 under this article shall prepare, in conjunction with the superintendent
36 OF FINANCIAL SERVICES, and shall participate in and share the cost of
37 the publication and dissemination of a consumer's shopping guide for
38 standardized individual health plans issued pursuant to sections four
39 thousand three hundred twenty-one and four thousand three hundred twen-
40 ty-two of this article and a separate consumer shopping guide for stand-
41 ardized qualifying individual health insurance contracts and standard-
42 ized qualifying group health insurance contracts issued pursuant to
43 section four thousand three hundred twenty-six of this article. The
44 consumer's shopping guides shall be published annually and shall include
45 the names, addresses and telephone numbers of all health maintenance
46 organizations offering such coverage as well as a description of the
47 plan design and premiums in such a manner that facilitates consumer
48 comparison. SUCH CONSUMER GUIDES SHALL ALSO CONTAIN, IN A MANNER THAT
49 FACILITATES CONSUMER COMPARISON, A SELECTION OF THE DATA APPLICABLE TO
50 EACH SUCH HEALTH MAINTENANCE ORGANIZATION FROM THE HEALTH CARE DISPARI-
51 TIES DATA COLLECTION SYSTEM ESTABLISHED UNDER TITLE THREE-A OF ARTICLE
52 TWO OF THE PUBLIC HEALTH LAW. THE DATA SELECTED AS WELL AS THE FORMAT
53 SHALL BE DETERMINED BY THE SUPERINTENDENT OF FINANCIAL SERVICES IN
54 CONSULTATION WITH THE COMMISSIONER OF HEALTH, WITH CONSIDERATION GIVEN
55 TO THE VIEWS EXPRESSED BY STAKEHOLDERS IN THE REVIEW AND COMMENT PROCESS

1 HELD PURSUANT TO SUBDIVISION ELEVEN OF SECTION TWO HUNDRED FORTY-SEVEN
2 OF THE PUBLIC HEALTH LAW.

3 S 3. Subdivision 1 of section 206 of the public health law is amended
4 by adding a new subdivision (s) to read as follows:

5 (S) ESTABLISH, ADMINISTER AND ENFORCE THE HEALTH CARE DISPARITIES DATA
6 COLLECTION SYSTEM ESTABLISHED UNDER TITLE THREE-A OF THIS ARTICLE.

7 S 4. Article 2 of the public health law is amended by adding a new
8 title 3-A to read as follows:

9 TITLE III-A

10 HEALTH CARE DISPARITIES DATA COLLECTION SYSTEM

11 SECTION 245. LEGISLATIVE INTENT.

12 246. DEFINITIONS.

13 247. ESTABLISHMENT OF HEALTH CARE DISPARITIES DATA COLLECTION
14 SYSTEM.

15 248. DISSEMINATION OF HEALTH CARE DISPARITIES DATA TO THE
16 PUBLIC.

17 249. ENFORCEMENT.

18 S 245. LEGISLATIVE INTENT. THE LEGISLATURE FINDS AND DECLARES THAT
19 SUBSTANTIAL DISPARITIES EXIST AS TO HEALTH CARE OUTCOMES BASED ON RACE,
20 ETHNICITY, SEX, PRIMARY LANGUAGE, DISABILITY STATUS, AND SEXUAL ORIEN-
21 TATION IN THIS STATE AND IN THE NATION. THE INTENT OF THIS TITLE IS TO
22 ESTABLISH A UNIFORM DATA HEALTH CARE DISPARITIES DATA COLLECTION SYSTEM
23 IN THIS STATE WHICH WILL ENABLE HEALTH CARE CONSUMERS TO BE FULLY
24 INFORMED AS TO THE RECORD OF HEALTH PLANS AND HEALTH CARE INSTITUTIONS
25 IN ADDRESSING DISPARITIES BASED ON THESE FACTORS IN ORDER TO MAKE
26 INFORMED HEALTH CARE CHOICES AND FOR STATE POLICYMAKERS TO ADDRESS
27 DISPARITIES. THE DATA COLLECTION SYSTEM ESTABLISHED UNDER THIS TITLE
28 SHALL INCORPORATE THE DISPARITIES DATA COLLECTED UNDER THE PATIENT
29 PROTECTION AND AFFORDABLE CARE ACT, EXISTING STATE AND FEDERAL LAWS AND
30 REGULATIONS, AND THE ADDITIONAL REQUIREMENTS ESTABLISHED UNDER THIS
31 TITLE. IT IS FURTHER THE INTENT OF THIS TITLE THAT THE DEPARTMENT ASSEM-
32 BLE HEALTH DISPARITIES DATA FROM ALL STATE AND FEDERAL AGENCIES THAT
33 PRESENTLY COLLECT SUCH DATA OR THAT WILL BE REQUIRED TO COLLECT IT IN
34 THE FUTURE AND COMPILE THIS DATA IN A FORMAT THAT IS EASILY ACCESSIBLE
35 AND AVAILABLE TO THE PUBLIC AT NO CHARGE.

36 S 246. DEFINITIONS. THE FOLLOWING WORDS AND PHRASES, AS USED IN THIS
37 TITLE, SHALL HAVE THE FOLLOWING MEANINGS: 1. "ARTICLE TWENTY-EIGHT
38 FACILITY" MEANS ANY ENTITY REGULATED UNDER ARTICLE TWENTY-EIGHT OF THIS
39 CHAPTER, INCLUDING A HOSPITAL, NURSING HOME, OR RESIDENTIAL HEALTH CARE
40 FACILITY.

41 2. "DATA PROVIDER" MEANS AN ARTICLE TWENTY-EIGHT FACILITY DEFINED
42 PURSUANT TO SUBDIVISION ONE OF THIS SECTION OR A HEALTH INSURER DEFINED
43 PURSUANT TO SUBDIVISION FOUR OF THIS SECTION.

44 3. "HEALTH CARE DISPARITIES DATA COLLECTION SYSTEM" OR "DATA
45 COLLECTION SYSTEM" MEANS THE COLLECTION OF INFORMATION IN THE FORM
46 ESTABLISHED IN THIS TITLE.

47 4. "HEALTH INSURER" MEANS A HEALTH MAINTENANCE ORGANIZATION ISSUED A
48 CERTIFICATE OF AUTHORITY UNDER ARTICLE FORTY-FOUR OF THIS CHAPTER, AN
49 ENTITY LICENSED UNDER ARTICLE FORTY-THREE OR FORTY-FOUR OF THE INSURANCE
50 LAW, OR A PERSON, FIRM OR CORPORATION PROVIDING HEALTH INSURANCE POLI-
51 CIES UNDER ARTICLE THIRTY-TWO OF THE INSURANCE LAW. SUCH TERM SHALL
52 INCLUDE A PUBLIC INSURANCE PROGRAM.

53 5. "PATIENT PROTECTION AND AFFORDABLE CARE ACT" OR "AFFORDABLE CARE
54 ACT" MEANS PUBLIC LAW 111-148 AND PUBLIC LAW 111-152, AS SUCH LAWS MAY
55 FROM TIME TO TIME BE AMENDED.

6. "PUBLIC INSURANCE PROGRAM" INCLUDES AN APPROVED ORGANIZATION PURSUANT TO TITLE ONE-A OF ARTICLE TWENTY-FIVE OF THIS CHAPTER, AN APPROVED ORGANIZATION PURSUANT TO SECTION THREE HUNDRED SIXTY-NINE-EE OF THE SOCIAL SERVICES LAW, AND A PARTICIPANT IN THE PROGRAM CREATED BY SECTION FOUR THOUSAND THREE HUNDRED TWENTY-SIX OF THE INSURANCE LAW. SUCH TERM SHALL ALSO INCLUDE MEDICAL ASSISTANCE FOR NEEDY PERSONS PURSUANT TO TITLE ELEVEN OF ARTICLE FIVE OF THE SOCIAL SERVICES LAW.

7. "RACE AND ETHNICITY" MEANS ALL RACIAL CATEGORIES COMPILED BY THE UNITED STATES CENSUS, PROVIDED THAT THE "ASIAN" RACIAL CATEGORY SHALL BE BROKEN DOWN FURTHER INTO THE SUBCATEGORIES DESIGNATED BY THE CENSUS, INCLUDING "ASIAN INDIAN," "CHINESE," "FILIPINO," "JAPANESE," "KOREAN," "VIETNAMESE," AND "OTHER ASIAN."

8. "RETENTION RATE" MEANS THE PERCENTAGE OF THOSE ENROLLED IN A PUBLIC INSURANCE PROGRAM THAT ARE ASKED TO RENEW OR RECERTIFY AND DO RENEW OR RECERTIFY AS OF TWO MONTHS AFTER THE EXPIRATION OF THEIR PREVIOUS HEALTH INSURANCE COVERAGE.

9. "TAKE UP RATE" MEANS THE PERCENTAGE OF THOSE ELIGIBLE FOR A PUBLIC INSURANCE PROGRAM THAT ENROLL IN THE PROGRAM.

S 247. ESTABLISHMENT OF HEALTH CARE DISPARITIES DATA COLLECTION SYSTEM. 1. THE DEPARTMENT SHALL ESTABLISH BY RULEMAKING A HEALTH CARE DISPARITIES DATA COLLECTION SYSTEM. ONCE ESTABLISHED, THE DATA INCLUDED IN SUCH SYSTEM SHALL BE MADE AVAILABLE TO THE PUBLIC UNDER THE TERMS ESTABLISHED IN THIS TITLE.

2. ALL DATA PROVIDERS SHALL BE REQUIRED TO FURNISH THE DATA MANDATED TO BE SUBMITTED UNDER SUBDIVISION THREE OF THIS SECTION AND ANY OTHER DATA WHICH THE DEPARTMENT SHALL PRESCRIBE, AND OTHERWISE PARTICIPATE IN THE HEALTH CARE DISPARITIES COLLECTION SYSTEM ESTABLISHED UNDER THIS TITLE.

3. THE DATA COLLECTION SYSTEM SHALL INCLUDE AT LEAST THE FOLLOWING DATA SETS DISAGGREGATED BY RACE AND ETHNICITY, SEX, PRIMARY LANGUAGE, DISABILITY STATUS, AND SEXUAL ORIENTATION:

A. IN THE CASE OF HEALTH INSURERS, THE NUMBER OF SUBSCRIBERS, COVERED PERSONS (INCLUDING SPOUSES AND CHILDREN IN THE CASE OF FAMILY COVERAGE), AND APPLICANTS;

B. IN THE CASE OF ARTICLE TWENTY-EIGHT FACILITIES, THE NUMBER OF PATIENTS AND DATA CONCERNING HEALTH CARE QUALITY AND HEALTH OUTCOMES COLLECTED AND/OR DISSEMINATED PURSUANT TO SECTION TWO THOUSAND NINE HUNDRED NINETY-FIVE-B OF THIS CHAPTER, AND/OR ANY OTHER DATA IN REGARD TO HEALTH CARE QUALITY AND HEALTH OUTCOMES SELECTED BY THE DEPARTMENT THAT IS GENERALLY RECOGNIZED AS AUTHORITATIVE AND RELIABLE;

C. IN THE CASE OF PUBLIC INSURANCE PROGRAMS, TAKE UP RATES AND RETENTION RATES;

D. DATA COLLECTED OR COMPILED PURSUANT TO SECTION TWO THOUSAND NINE HUNDRED NINETY-FIVE-C OF THIS CHAPTER;

E. ANY DATA IN ADDITION TO THE DATA REFERRED TO IN PARAGRAPHS B, C AND D OF THIS SUBDIVISION IN REGARD TO HEALTH CARE QUALITY AND OUTCOMES WHICH IS REQUIRED TO BE DISCLOSED OR FURNISHED TO ANY STATE AGENCY BY ANY PROVISION OF LAW, THAT IS ALREADY DISAGGREGATED BY RACE AND/OR ETHNICITY, SEX, PRIMARY LANGUAGE, DISABILITY STATUS, AND/OR SEXUAL ORIENTATION, OR FOR WHICH IT IS PRACTICABLE TO DISAGGREGATE SUCH DATA BY SUCH FACTORS;

F. ANY DATA THAT IS REQUIRED TO BE REPORTED IN REGARD TO APPLICANTS, RECIPIENTS OR PARTICIPANTS UNDER TITLE ONE OF THE PATIENT PROTECTION AND AFFORDABLE CARE ACT (42 U.S.C. 300K) AND ITS IMPLEMENTING REGULATIONS, AS SUCH REGULATIONS MAY FROM TIME TO TIME BE AMENDED; AND

1 G. ANY OTHER DATA OR DATA METHODOLOGY THAT THE DEPARTMENT DETERMINES
2 WOULD MEET THE GOALS OF THIS TITLE, INCLUDING DATA PRODUCED OR COLLECTED
3 BY THE FEDERAL GOVERNMENT.

4 4. UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE, FOR THE PURPOSES OF
5 PARAGRAPH F OF SUBDIVISION THREE OF THIS SECTION, THE TERMS "APPLICANT,"
6 "RECIPIENT" OR "PARTICIPANT" SHALL HAVE THE SAME MEANING AS SUCH TERMS
7 ARE GIVEN IN THE AFFORDABLE CARE ACT AND ITS IMPLEMENTING REGULATIONS,
8 AS SUCH ACT AND REGULATIONS SHALL FROM TIME TO TIME BE AMENDED.

9 5. THE DEPARTMENT SHALL REQUIRE DATA PROVIDERS TO UPDATE AT LEAST
10 ANNUALLY ANY DATA THAT IS FURNISHED UNDER SUBDIVISION THREE OF THIS
11 SECTION. NOTWITHSTANDING THE PRECEDING SENTENCE, FOR ANY DATA COLLECTED
12 PURSUANT TO ANY OTHER PROVISION OF LAW WHICH REQUIRES UPDATING MORE
13 FREQUENTLY THAN ANNUALLY, THE FREQUENCY PROVIDED FOR IN SUCH PROVISION
14 SHALL APPLY.

15 6. ANY STATE AGENCY, INCLUDING ANY HEALTH BENEFIT EXCHANGE OR
16 EXCHANGES CREATED IN THE STATE UNDER THE AFFORDABLE CARE ACT WHICH
17 OBTAINS OR POSSESSES DATA WHICH IS SUBJECT TO THIS TITLE SHALL BE
18 REQUIRED TO FURNISH SUCH DATA TO THE DEPARTMENT UPON REQUEST, IN THE
19 FORMAT AND MANNER REQUESTED BY THE DEPARTMENT. SUCH AGENCY OR ENTITY
20 SHALL ALSO BE REQUIRED TO COOPERATE WITH THE DEPARTMENT IN THE ESTAB-
21 LISHMENT AND MAINTENANCE OF THE DATA COLLECTION SYSTEM.

22 7. A. THE DEPARTMENT IS AUTHORIZED TO ENTER INTO ANY AGREEMENT WITH
23 THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES OR ANY OTHER ENTITY
24 THAT IS NECESSARY TO OBTAIN THE DATA OBTAINED BY THE FEDERAL DEPARTMENT
25 OF HEALTH AND HUMAN SERVICES FROM ANY FEDERALLY CONDUCTED OR SUPPORTED
26 HEALTH CARE OR PUBLIC HEALTH PROGRAM, ACTIVITY OR SURVEY PURSUANT TO
27 TITLE XXXI OF THE AFFORDABLE CARE ACT (42 U.S.C. 300K) AND ITS IMPE-
28 MENTING REGULATIONS FOR INCLUSION IN THE DATA COLLECTION SYSTEM.

29 B. THE COMMISSIONER IS AUTHORIZED TO CONTRACT WITH ONE OR MORE ENTI-
30 TIES TO OPERATE ANY PART OF THE HEALTH CARE DISPARITIES DATA COLLECTION
31 SYSTEM, AND TO ACCEPT GRANTS AND ENTER INTO CONTRACTS AS MAY BE NECES-
32 SARY TO PROVIDE FUNDING FOR SUCH DATA COLLECTION SYSTEM.

33 8. THE DEPARTMENT SHALL PRESCRIBE FORMS OR QUESTIONNAIRES FOR THE
34 COLLECTION OF DATA FROM DATA PROVIDERS THAT ARE NECESSARY FOR THE DATA
35 COLLECTION SYSTEM, ALONG WITH APPROPRIATE INSTRUCTIONS FOR PERSONS
36 COMPLETING THE FORM OR QUESTIONNAIRE. NOTWITHSTANDING THE PRECEDING
37 SENTENCE, THE DEPARTMENT SHALL BE AUTHORIZED TO USE MEANS OTHER THAN
38 SUCH FORM OR QUESTIONNAIRE IF DATA NEEDED FOR THE DATA COLLECTION SYSTEM
39 IS OTHERWISE REASONABLY OBTAINABLE BY OTHER MEANS, INCLUDING FROM THE
40 DEPARTMENT OF HEALTH AND HUMAN SERVICES PURSUANT TO THE AFFORDABLE CARE
41 ACT. IN ORDER TO REDUCE THE COSTS OR ADMINISTRATIVE BURDENS ON DATA
42 PROVIDERS, PATIENTS, APPLICANTS, PATIENTS OR OTHER PERSONS, THE DEPART-
43 MENT MAY ALTERNATIVELY INCLUDE QUESTIONS ELICITING THE DATA MANDATED BY
44 THIS TITLE ON A QUESTIONNAIRE OR FORM DEVELOPED FOR PURPOSES OTHER THAN
45 SPECIFIED IN THIS TITLE.

46 9. UNLESS REQUIRED BY ANY OTHER PROVISION OF LAW, IT SHALL BE VOLUN-
47 TARY FOR ANY PATIENT, APPLICANT OR ANY OTHER PERSON RECEIVING OR SEEKING
48 SERVICES FROM A DATA PROVIDER TO PROVIDE INFORMATION IN REGARD TO THEIR
49 RACE, ETHNICITY, SEX, PRIMARY LANGUAGE, DISABILITY STATUS, OR SEXUAL
50 ORIENTATION, AND NO PATIENT, APPLICANT OR PATIENT OR ANY OTHER SUCH
51 PERSON SHALL BE DENIED SERVICES OR IN ANY WAY DISCRIMINATED AGAINST IN
52 THE RECEIPT OF SERVICES FOR FAILURE TO ANSWER ANY SUCH QUESTION. THE
53 DEPARTMENT SHALL INCLUDE A STATEMENT EXPLAINING THAT THE INFORMATION
54 REQUESTED IS VOLUNTARY IN ALL QUESTIONNAIRES OR FORMS PROVIDED FOR IN
55 SUBDIVISION EIGHT OF THIS SECTION.

10. IN ADMINISTERING THIS TITLE, THE DEPARTMENT SHALL SEEK TO AVOID DUPLICATIVE REQUIREMENTS ON DATA PROVIDERS, STATE AGENCIES, AND STATE ENTITIES, SO LONG AS THE METHODOLOGY SELECTED MEETS THE GOALS OF THIS TITLE.

11. STAKEHOLDERS SELECTED BY THE COMMISSIONER, INCLUDING HEALTH CARE CONSUMER ORGANIZATIONS, ORGANIZATIONS THAT REPRESENT RACIAL AND ETHNIC MINORITIES, WOMEN, THOSE WHOSE FIRST LANGUAGE IS NOT ENGLISH, PEOPLE WITH DISABILITIES, AND GAY AND LESBIAN DATA PROVIDERS, AS WELL AS THE SUPERINTENDENT OF FINANCIAL SERVICES, SHALL BE PROVIDED WITH THE OPPORTUNITY TO REVIEW AND COMMENT ON THE METHODOLOGY USED TO COMPLY WITH THIS TITLE, INCLUDING COLLECTION METHODS, ANALYSIS, FORMATTING, AND METHODS AND MEANS FOR RELEASE AND DISSEMINATION. SUCH OPPORTUNITY TO REVIEW AND COMMENT SHALL INCLUDE, BUT NOT BE LIMITED TO, WHETHER THE DATA IS FORMATTED IN A MANNER SO AS TO ENABLE CONSUMERS TO MAKE INFORMED CHOICES OF HEALTH INSURERS AND ARTICLE TWENTY-EIGHT FACILITIES AND THE USABILITY OF THE WEBSITE UNDER SECTION TWO HUNDRED FORTY-EIGHT OF THIS TITLE. THE OPPORTUNITY FOR REVIEW AND COMMENT SHALL INCLUDE AT LEAST ONE MEETING OF SUCH STAKEHOLDERS PRIOR TO THE DEVELOPMENT OF THE REGULATIONS PROMULGATED PURSUANT TO THIS TITLE, AND AT LEAST ONE MEETING ANNUALLY THEREAFTER SO THAT MODIFICATIONS TO THE DATA COLLECTION SYSTEM MAY BE CONSIDERED BY THE DEPARTMENT. THE DEPARTMENT SHALL REPORT THE RESULTS OF SUCH REVIEW AND COMMENT PROCESS TO THE SUPERINTENDENT OF FINANCIAL SERVICES.

S 248. DISSEMINATION OF HEALTH CARE DISPARITIES DATA TO THE PUBLIC. 1. AS EARLY AS PRACTICABLE AFTER THE RECEIPT BY THE DEPARTMENT OF ANY DATA WHICH IS A COMPONENT OF THE DATA COLLECTION SYSTEM AND IN NO CASE LONGER THAN NINETY DAYS AFTER RECEIPT, THE DEPARTMENT SHALL POST SUCH DATA ON A WEBSITE MAINTAINED BY THE DEPARTMENT WHICH IS EASILY ACCESSIBLE TO THE PUBLIC AND DOWNLOADABLE USING A SPREADSHEET PROGRAM USED BY SUBSTANTIAL NUMBERS OF THE GENERAL PUBLIC THAT PERMITS MANIPULATION OF THE DATA AFTER DOWNLOADING. THE DEPARTMENT SHALL ENSURE THAT THE DATA IS DISPLAYED IN A CLEAR FORMAT WHICH IS EASILY UNDERSTANDABLE, AND WHICH FACILITATES CONSUMER COMPARISON IN SUCH A MANNER SO AS TO ENABLE CONSUMERS TO MAKE INFORMED CHOICES OF HEALTH INSURERS OR ARTICLE TWENTY-EIGHT FACILITIES. THE WEBSITE SHALL ALSO INCLUDE EASILY UNDERSTANDABLE INSTRUCTIONS ON HOW TO ACCESS THE DATA, AND A GLOSSARY OF THE TERMS USED. THE DATA SHALL BE MADE AVAILABLE TO THE PUBLIC ON THE WEBSITE AT NO CHARGE.

2. A. THE DEPARTMENT SHALL COMPILE THE DATA COLLECTED UNDER THIS TITLE AND POST IT ON THE WEBSITE ON A STATEWIDE BASIS AND ALSO IN A FORM THAT IS DISAGGREGATED BY GROUP FACTORS. IN ADDITION, SUCH DATA COLLECTED SHALL BE FURTHER DISAGGREGATED ON A COUNTY AND AN INDUSTRY BASIS, PROVIDED THAT FOR ANY CITY WITH A POPULATION OF ONE MILLION RESIDENTS OR MORE, SUCH DATA SHALL ALSO BE FURTHER DISAGGREGATED ON A CITYWIDE BASIS. THE DEPARTMENT SHALL CONSIDER THE FEASIBILITY OF INCLUDING OTHER METHODS OF PRESENTING THE DATA OTHER THAN THAT AS MANDATED IN THIS TITLE THAT MIGHT PROMOTE THE GOALS OF THIS TITLE OF HELPING CONSUMERS MAKE INFORMED HEALTH CARE CHOICES AND STATE POLICYMAKERS IN ADDRESSING DISPARITIES.

B. FOR THE PURPOSES OF PARAGRAPH A OF THIS SUBDIVISION:

I. TO "COMPILE THE DATA COLLECTED" MEANS TO CALCULATE THE TOTAL NUMBER OF PATIENTS, SUBSCRIBERS, APPLICANTS OR OTHER PERSONS RECEIVING OR APPLYING FOR SERVICES, AS APPLICABLE, AND THE PERCENTAGE OF THE TOTAL FOR EACH DATA ELEMENT;

II. TO DISAGGREGATE BY "GROUP FACTORS" MEANS BY RACE AND ETHNICITY, SEX, PRIMARY LANGUAGE, DISABILITY STATUS, AND SEXUAL ORIENTATION; AND

III. TO DISAGGREGATE BY "INDUSTRY" MEANS TO DISAGGREGATE THE DATA INTO AT LEAST THE FOLLOWING CATEGORIES: GENERAL HOSPITALS, NURSING HOMES AND

1 RESIDENTIAL CARE FACILITIES IN THE CASE OF ARTICLE TWENTY-EIGHT FACILI-
2 TIES, AND COMMERCIAL INSURERS, HEALTH MAINTENANCE ORGANIZATIONS, AND
3 PUBLIC INSURANCE PROGRAMS IN THE CASE OF HEALTH INSURERS. IN THE CASE OF
4 PUBLIC INSURANCE PROGRAMS, THE DATA SHALL ALSO BE BROKEN DOWN FURTHER,
5 INTO THE FOLLOWING CATEGORIES: ALL APPROVED ORGANIZATIONS PURSUANT TO
6 TITLE ONE-A OF ARTICLE TWENTY-FIVE OF THIS CHAPTER, ALL APPROVED ORGAN-
7 IZATIONS PURSUANT TO SECTION THREE HUNDRED SIXTY-NINE-EE OF THE SOCIAL
8 SERVICES LAW, ALL PARTICIPANTS IN THE PROGRAM CREATED BY SECTION FOUR
9 THOUSAND THREE HUNDRED TWENTY-SIX OF THE INSURANCE LAW, AND ALL DATA IN
10 REGARD TO PROVIDING MEDICAL ASSISTANCE FOR NEEDY PERSONS PURSUANT TO
11 TITLE ELEVEN OF ARTICLE FIVE OF THE SOCIAL SERVICES LAW.

12 3. NOTWITHSTANDING ANY OTHER PROVISION OF STATE OR FEDERAL LAW, THE
13 DEPARTMENT SHALL RESTRICT DISSEMINATION OF ANY DATA SUBJECT TO THIS
14 TITLE IF SUCH DISSEMINATION WOULD REVEAL ANY DATA AS TO ANY INDIVIDUAL
15 CONSUMER, INCLUDING BUT NOT LIMITED TO HIS OR HER RACE AND/OR ETHNICITY,
16 PRIMARY LANGUAGE, DISABILITY STATUS, OR SEXUAL ORIENTATION.

17 4. FOR ALL DATA COMPILED BY THE DEPARTMENT PURSUANT TO SECTION TWO
18 HUNDRED FORTY-SEVEN OF THIS TITLE OR DISSEMINATED PURSUANT TO THIS
19 SECTION, DATA IN REGARD TO THE ASIAN RACIAL CATEGORY SHALL BE COMPILED
20 AND DISSEMINATED AS TO ALL ASIANS, AND ALSO FOR THE SUBCATEGORIES OF
21 ASIANS PROVIDED FOR IN SUBDIVISION SEVEN OF SECTION TWO HUNDRED
22 FORTY-SIX OF THIS TITLE. HISPANICS SHALL BE LISTED BOTH UNDER THEIR
23 RACE, AND SEPARATE DATA SHALL BE COMPILED AND DISSEMINATED FOR HISPANICS
24 OF ALL RACES.

25 S 249. ENFORCEMENT. IN ADDITION TO THE PENALTIES OTHERWISE PROVIDED
26 UNDER THIS CHAPTER, ANY VIOLATION OF THIS TITLE BY AN AUTHORIZED INSUR-
27 ER, REPRESENTATIVE OF THE INSURER, OR ANY OTHER PERSON OR ENTITY
28 LICENSED, CERTIFIED, REGISTERED, OR AUTHORIZED PURSUANT TO THE INSURANCE
29 LAW, THE SUPERINTENDENT OF FINANCIAL SERVICES SHALL BE AUTHORIZED TO
30 SEEK THE REMEDIES PROVIDED IN SECTION ONE HUNDRED NINE OF THE INSURANCE
31 LAW. NOTHING IN THIS TITLE SHALL IN ANY WAY CONTRAVENE OR LIMIT THE
32 RIGHTS OR REMEDIES THAT ARE OTHERWISE AVAILABLE TO A STATE AGENCY OR A
33 CONSUMER UNDER ANY OTHER PROVISION OF LAW.

34 S 5. This act shall take effect three months after the effective date
35 of regulations implementing Title XXXI of the patient protection and
36 affordable care act (42 U.S.C. 300k) or July 1, 2012, whichever is
37 later; provided, however that effective immediately, the addition,
38 amendment and/or repeal of any rule or regulation necessary for the
39 implementation of this act on its effective date are authorized and
40 directed to be made and completed on or before such effective date, and
41 provided further, that any state agency may gather information or take
42 any other action necessary for the implementation of this act on its
43 effective date.