

3. "COMMISSIONER" MEANS THE COMMISSIONER OF HEALTH.

4. "EXCHANGE" MEANS THE NEW YORK HEALTH BENEFIT EXCHANGE ESTABLISHED PURSUANT TO THIS TITLE.

5. "FEDERAL ACT" MEANS THE PATIENT PROTECTION AND AFFORDABLE CARE ACT, PUBLIC LAW 111-148, AS AMENDED BY THE HEALTH CARE AND EDUCATION RECONCILIATION ACT OF 2010, PUBLIC LAW 111-152, AND ANY REGULATIONS OR GUIDANCE ISSUED THEREUNDER.

6. "HEALTH PLAN" MEANS A POLICY, CONTRACT OR CERTIFICATE, OFFERED OR ISSUED BY AN INSURER TO PROVIDE, DELIVER, ARRANGE FOR, PAY FOR OR REIMBURSE ANY OF THE COSTS OF HEALTH CARE SERVICES. "HEALTH PLAN" SHALL NOT INCLUDE THE FOLLOWING:

(A) ACCIDENT INSURANCE OR DISABILITY INCOME INSURANCE, OR ANY COMBINATION THEREOF;

(B) COVERAGE ISSUED AS A SUPPLEMENT TO LIABILITY INSURANCE;

(C) LIABILITY INSURANCE, INCLUDING GENERAL LIABILITY INSURANCE AND AUTOMOBILE LIABILITY INSURANCE;

(D) WORKERS' COMPENSATION OR SIMILAR INSURANCE;

(E) AUTOMOBILE NO-FAULT INSURANCE;

(F) CREDIT INSURANCE;

(G) OTHER SIMILAR INSURANCE COVERAGE, AS SPECIFIED IN FEDERAL REGULATIONS, UNDER WHICH BENEFITS FOR MEDICAL CARE ARE SECONDARY OR INCIDENTAL TO OTHER INSURANCE BENEFITS;

(H) LIMITED SCOPE DENTAL OR VISION BENEFITS, BENEFITS FOR LONG-TERM CARE INSURANCE, NURSING HOME INSURANCE, HOME CARE INSURANCE, OR ANY COMBINATION THEREOF, OR SUCH OTHER SIMILAR, LIMITED BENEFITS HEALTH INSURANCE AS SPECIFIED IN FEDERAL REGULATIONS, IF THE BENEFITS ARE PROVIDED UNDER A SEPARATE POLICY, CERTIFICATE OR CONTRACT OF INSURANCE OR ARE OTHERWISE NOT AN INTEGRAL PART OF THE PLAN;

(I) COVERAGE ONLY FOR A SPECIFIED DISEASE OR ILLNESS, HOSPITAL INDEMNITY, OR OTHER FIXED INDEMNITY COVERAGE;

(J) MEDICARE SUPPLEMENTAL INSURANCE AS DEFINED IN SECTION 1882(G)(1) OF THE FEDERAL SOCIAL SECURITY ACT, COVERAGE SUPPLEMENTAL TO THE COVERAGE PROVIDED UNDER CHAPTER 55 OF TITLE 10 OF THE UNITED STATES CODE, OR SIMILAR SUPPLEMENTAL COVERAGE PROVIDED UNDER A GROUP HEALTH PLAN IF IT IS OFFERED AS A SEPARATE POLICY, CERTIFICATE OR CONTRACT OF INSURANCE; OR

(K) THE MEDICAL INDEMNITY FUND ESTABLISHED PURSUANT TO TITLE FOUR OF ARTICLE TWENTY-NINE-D OF THE PUBLIC HEALTH LAW.

7. "INSURER" MEANS AN INSURANCE COMPANY SUBJECT TO ARTICLE THIRTY-TWO OR FORTY-THREE OF THE INSURANCE LAW, OR A HEALTH MAINTENANCE ORGANIZATION CERTIFIED PURSUANT TO ARTICLE FORTY-FOUR OF THE PUBLIC HEALTH LAW THAT CONTRACTS OR OFFERS TO CONTRACT TO PROVIDE, DELIVER, ARRANGE, PAY OR REIMBURSE ANY OF THE COSTS OF HEALTH CARE SERVICES.

8. "QUALIFIED DENTAL PLAN" MEANS A LIMITED SCOPE DENTAL PLAN THAT IS ISSUED BY AN INSURER AND CERTIFIED IN ACCORDANCE WITH SECTION TWENTY-NINE HUNDRED FOURTEEN OF THIS TITLE.

9. "QUALIFIED EMPLOYER" MEANS A SMALL EMPLOYER THAT ELECTS TO MAKE ITS FULL-TIME EMPLOYEES ELIGIBLE FOR ONE OR MORE QUALIFIED HEALTH PLANS THROUGH THE EXCHANGE.

10. "QUALIFIED HEALTH PLAN" MEANS A HEALTH PLAN THAT IS ISSUED BY AN INSURER AND CERTIFIED IN ACCORDANCE WITH SECTION TWENTY-NINE HUNDRED FOURTEEN OF THIS TITLE.

11. "QUALIFIED INDIVIDUAL" MEANS AN INDIVIDUAL, INCLUDING A MINOR, WHO:

(A) IS SEEKING TO ENROLL IN A QUALIFIED HEALTH PLAN OFFERED TO INDIVIDUALS THROUGH THE EXCHANGE;

(B) RESIDES IN THIS STATE;

(C) AT THE TIME OF ENROLLMENT, IS NOT INCARCERATED, OTHER THAN INCARCERATION PENDING THE DISPOSITION OF CHARGES; AND

(D) IS, AND IS REASONABLY EXPECTED TO BE, FOR THE ENTIRE PERIOD FOR WHICH ENROLLMENT IS SOUGHT, A CITIZEN OR NATIONAL OF THE UNITED STATES OR AN ALIEN LAWFULLY PRESENT IN THE UNITED STATES.

12. "SECRETARY" MEANS THE SECRETARY OF THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES.

13. "SHOP" MEANS THE SMALL BUSINESS HEALTH OPTIONS PROGRAM DESIGNED TO ASSIST QUALIFIED EMPLOYERS IN THIS STATE IN FACILITATING THE ENROLLMENT OF THEIR EMPLOYEES IN QUALIFIED HEALTH PLANS OFFERED IN THE GROUP MARKET IN THIS STATE.

14. "SMALL EMPLOYER" SHALL BE DEFINED PURSUANT TO LEGISLATION TO BE ADOPTED FOLLOWING THE ISSUANCE OF THE REPORT AND RECOMMENDATION REQUIRED BY SECTION TWENTY-NINE HUNDRED SIXTEEN OF THIS TITLE; PROVIDED, HOWEVER, THAT SUCH DEFINITION SHALL BE CONSISTENT WITH THE DEFINITION OF "SMALL EMPLOYER" THAT APPLIES FOR EMPLOYERS PURCHASING HEALTH INSURANCE OUTSIDE OF THE EXCHANGE.

15. "SMALL GROUP MARKET" MEANS THE HEALTH INSURANCE MARKET UNDER WHICH INDIVIDUALS RECEIVE HEALTH INSURANCE COVERAGE ON BEHALF OF THEMSELVES AND THEIR DEPENDENTS THROUGH A GROUP HEALTH PLAN MAINTAINED BY A SMALL EMPLOYER.

16. "SUPERINTENDENT" MEANS THE SUPERINTENDENT OF INSURANCE UNTIL OCTOBER THIRD, TWO THOUSAND ELEVEN, WHEN SUCH TERM SHALL MEAN THE SUPERINTENDENT OF FINANCIAL SERVICES.

S 2913. HEALTH BENEFIT EXCHANGE. 1. THE NEW YORK STATE HEALTH BENEFIT EXCHANGE IS HEREBY ESTABLISHED AS A PUBLIC AUTHORITY PURSUANT TO THE PROVISIONS OF THIS CHAPTER.

2. THE EXCHANGE SHALL OPERATE SUBJECT TO THE SUPERVISION AND CONTROL OF A BOARD OF DIRECTORS. IT SHALL CONSIST OF ELEVEN DIRECTORS TO BE APPOINTED AS PROVIDED IN SUBDIVISION THREE OF THIS SECTION.

3. THE BOARD SHALL BE COMPOSED OF THE FOLLOWING DIRECTORS:

(A) TWO NON-VOTING EX OFFICIO DIRECTORS: THE SUPERINTENDENT AND THE COMMISSIONER OR THEIR DESIGNEES;

(B) THREE DIRECTORS SHALL BE APPOINTED BY THE GOVERNOR;

(C) TWO DIRECTORS SHALL BE APPOINTED BY THE TEMPORARY PRESIDENT OF THE SENATE;

(D) TWO DIRECTORS SHALL BE APPOINTED BY THE SPEAKER OF THE ASSEMBLY;

(E) ONE DIRECTOR SHALL BE APPOINTED BY THE MINORITY LEADER OF THE SENATE;

(F) ONE DIRECTOR SHALL BE APPOINTED BY THE MINORITY LEADER OF THE ASSEMBLY.

4. APPOINTMENTS SHALL BE MADE NO LATER THAN SIXTY DAYS AFTER THE EFFECTIVE DATE OF THIS TITLE. IN THE EVENT THAT A PARTICULAR APPOINTMENT IS NOT MADE WITHIN SIXTY DAYS, THE GOVERNOR SHALL APPOINT AN INDIVIDUAL OF HIS OR HER CHOOSING TO FILL THE VACANCY.

5. DIRECTORS OF THE BOARD, OTHER THAN AN EX OFFICIO DIRECTOR, SHALL BE APPOINTED FOR A TERM OF FOUR YEARS, EXCEPT THAT THE INITIAL APPOINTMENTS BY THE TEMPORARY PRESIDENT OF THE SENATE AND SPEAKER OF THE ASSEMBLY SHALL BE FOR A TERM OF FIVE YEARS, AND THE INITIAL APPOINTMENTS BY THE MINORITY LEADERS IN THE SENATE AND ASSEMBLY SHALL BE FOR A TERM OF TWO YEARS. EACH DIRECTOR SHALL CONTINUE TO SERVE UNTIL A SUCCESSOR HAS BEEN APPOINTED AND QUALIFIED. VACANCIES SHALL BE FILLED BY APPOINTMENT BY THE INITIAL APPOINTING AUTHORITY FOR THE UNEXPIRED TERM. FIVE VOTING DIRECTORS SHALL CONSTITUTE A QUORUM FOR THE PURPOSE OF ORGANIZING THE AUTHORITY AND CONDUCTING THE BUSINESS THEREOF. THE BOARD SHALL DETERMINE THE

1 TIMES, PLACES AND FREQUENCY OF ITS MEETINGS, HOWEVER, THE BOARD SHALL
2 MEET AT LEAST QUARTERLY.

3 6. A CHAIR SHALL BE NOMINATED BY THE GOVERNOR AMONG HIS OR HER ALLO-
4 CATED NOMINEES AND BE SUBJECT TO CONFIRMATION BY THE SENATE. EACH
5 DIRECTOR SHALL RECEIVE REIMBURSEMENT FOR HIS OR HER ACTUAL AND REASON-
6 ABLE EXPENSES IN THE PERFORMANCE OF HIS OR HER DUTIES HEREUNDER.

7 7. THE BOARD SHALL APPOINT A CHIEF EXECUTIVE OFFICER OF THE NEW YORK
8 STATE HEALTH BENEFIT EXCHANGE. THE CHIEF EXECUTIVE OFFICER SHALL BE
9 SUBJECT TO CONFIRMATION BY THE STATE SENATE IN ACCORDANCE WITH SECTION
10 TWENTY-EIGHT HUNDRED FIFTY-TWO OF THIS ARTICLE.

11 8. DIRECTORS SHALL BE SUBJECT TO THE PROVISIONS FOR REMOVAL PRESCRIBED
12 IN SECTION TWENTY-EIGHT HUNDRED TWENTY-SEVEN OF THIS ARTICLE.

13 9. TO THE EXTENT PRACTICABLE, DIRECTORS APPOINTED TO THE BOARD SHALL
14 COLLECTIVELY HAVE DEMONSTRATED EXPERTISE IN ALL OF THE FOLLOWING AREAS,
15 PROVIDED THAT EACH DIRECTOR SHALL HAVE DEMONSTRATED EXPERTISE IN AT
16 LEAST ONE OF THE FOLLOWING AREAS:

- 17 (A) INDIVIDUAL HEALTH CARE COVERAGE;
- 18 (B) SMALL EMPLOYER HEALTH CARE COVERAGE;
- 19 (C) HEALTH BENEFITS PLAN ADMINISTRATION;
- 20 (D) HEALTH CARE FINANCE OR ECONOMICS;
- 21 (E) PURCHASING HEALTH PLAN COVERAGE, INCLUDING AGENTS, BROKERS, CHAM-
22 BERS OF COMMERCE AND OTHER EMPLOYER ASSOCIATIONS; AND
- 23 (F) DELIVERY OF HEALTH CARE SERVICES.

24 10. IN MAKING APPOINTMENTS TO THE BOARD, THE APPOINTING AUTHORITIES
25 SHALL TAKE INTO CONSIDERATION THE CULTURAL, ETHNIC AND GEOGRAPHICAL
26 DIVERSITY OF THE STATE SO THAT THE BOARD'S COMPOSITION ACCURATELY
27 REFLECTS THE VARIOUS REGIONS OF THE STATE.

28 11. THE BOARD SHALL ADOPT FORMAL MECHANISMS TO AVOID CONFLICTS OF
29 INTERESTS BY ITS DIRECTORS OR THE STAFF OF THE EXCHANGE.

30 12. THE EXCHANGE SHALL BE SUBJECT TO THE PROVISIONS OF THE PUBLIC
31 OFFICERS LAW. IN THE EVENT REGULATORY AUTHORITY IS PROVIDED TO THE
32 EXCHANGE, THE EXCHANGE SHALL BE SUBJECT TO THE STATE ADMINISTRATIVE
33 PROCEDURE ACT.

34 13. EXCEPT AS EXPRESSLY PROVIDED BY THIS TITLE, THE BOARD SHALL NOT:

- 35 (A) HAVE THE POWER TO TAX, ASSESS, IMPOSE FEES OR IMPOSE ASSESSMENTS;
- 36 (B) HAVE THE POWER TO ISSUE BONDS, NOTES, OR ANY OTHER DEBT OBLI-
37 GATIONS;
- 38 (C) EXERCISE ANY ADDITIONAL POWERS, DUTIES OR FUNCTIONS WITH REGARD TO
39 THE OPERATION OF THE EXCHANGE UNLESS THE GOVERNOR AND THE LEGISLATURE
40 AUTHORIZES SUCH ADDITIONAL POWERS, DUTIES OR FUNCTIONS THROUGH ENACTMENT
41 OF SUBSEQUENT LEGISLATION;
- 42 (D) REGULATE HEALTH INSURERS, HEALTH INSURANCE PLANS, OR HEALTH INSUR-
43 ANCE PRODUCERS.

44 14. THE BOARD SHALL HAVE A FIDUCIARY RELATIONSHIP WITH THE EXCHANGE.

45 S 2914. POWERS OF THE EXCHANGE. 1. NOTHING CONTAINED IN THIS TITLE
46 SHALL BE INTERPRETED TO AUTHORIZE THE EXCHANGE TO EXERCISE REGULATORY
47 AUTHORITY, UNLESS AND UNTIL EXPRESSLY AUTHORIZED BY THE LEGISLATURE, AND
48 THE POWERS OF THE EXCHANGE SHALL BE LIMITED TO THE FOLLOWING:

49 (A) TO APPOINT OFFICERS, AGENTS AND EMPLOYEES, PRESCRIBE THEIR DUTIES
50 AND QUALIFICATIONS AND FIX THEIR COMPENSATION SUBJECT TO THE PROVISIONS
51 OF THE CIVIL SERVICE LAW, INCLUDING THE CHIEF EXECUTIVE OFFICER AS
52 REFERRED TO IN SUBDIVISION SEVEN OF SECTION TWENTY-NINE HUNDRED THIRTEEN
53 OF THIS TITLE.

54 (B) ACQUIRE, LEASE, PURCHASE, OWN, MANAGE, HOLD AND DISPOSE OF REAL
55 AND PERSONAL PROPERTY, AND LEASE, CONVEY OR DEAL IN OR ENTER INTO AGREE-

MENTS WITH RESPECT TO SUCH PROPERTY ON ANY TERMS NECESSARY OR INCIDENTAL TO THE CARRYING OUT OF THESE PURPOSES.

(C) TO MAKE AND ALTER BY-LAWS FOR ITS ORGANIZATION AND MANAGEMENT.

(D) TO ENTER INTO CONTRACTS SUBJECT TO SECTION TWENTY-NINE HUNDRED FIFTEEN OF THIS TITLE, AND TO EXECUTE ALL INSTRUMENTS NECESSARY OR CONVENIENT.

(E) TO RETAIN AND EMPLOY PRIVATE CONSULTANTS ON A CONTRACT BASIS, SUBJECT TO SECTION TWENTY-NINE HUNDRED FIFTEEN OF THIS TITLE, FOR RENDERING PROFESSIONAL AND TECHNICAL ASSISTANCE AND ADVICE.

(F) TO ACCEPT OR APPLY FOR ANY GIFTS OR ANY GRANT OF FUNDS OR PROPERTY FROM THE FEDERAL GOVERNMENT OR FROM THE STATE OF NEW YORK OR ANY OTHER FEDERAL OR STATE PUBLIC BODY OR POLITICAL SUBDIVISION OR ANY OTHER PERSON AND TO COMPLY WITH THE TERMS AND CONDITIONS THEREOF.

(G) TO ACQUIRE, HOLD AND DISPOSE OF PERSONAL PROPERTY FOR ITS CORPORATE PURPOSES.

(H) THE EXCHANGE MAY ENTER INTO INFORMATION-SHARING AGREEMENTS WITH FEDERAL AND STATE AGENCIES AND OTHER STATE EXCHANGES TO CARRY OUT ITS RESPONSIBILITIES UNDER THIS TITLE PROVIDED SUCH AGREEMENTS INCLUDE ADEQUATE PROTECTIONS WITH RESPECT TO THE CONFIDENTIALITY OF THE INFORMATION SHARED AND COMPLY WITH ALL STATE AND FEDERAL LAWS.

2. THE EXCHANGE SHALL:

(A) IMPLEMENT PROCEDURES FOR THE CERTIFICATION, RECERTIFICATION AND DECERTIFICATION, CONSISTENT WITH GUIDELINES DEVELOPED BY THE SECRETARY UNDER SECTION 1311(C) OF THE FEDERAL ACT AND AS AUTHORIZED BY THE ENACTMENT OF FUTURE STATE LEGISLATION REGARDING HEALTH BENEFIT PLANS AS QUALIFIED HEALTH PLANS.

(B) IMPLEMENT PROCEDURES FOR AUTHORIZING QUALIFIED DENTAL PLANS THAT OFFER LIMITED SCOPE DENTAL BENEFITS CONSISTENT WITH SECTION 1311(D)(2)(B)(II) OF THE FEDERAL ACT, AND PROVIDE THAT IF AT LEAST ONE QUALIFIED DENTAL PLAN IS AUTHORIZED TO BE OFFERED THROUGH THE EXCHANGE, CERTIFICATION OF A HEALTH BENEFIT PLAN AS A QUALIFIED HEALTH PLAN UNDER PARAGRAPH (A) OF THIS SUBDIVISION, SHALL NOT BE DENIED BECAUSE THE HEALTH BENEFIT PLAN DOES NOT OFFER THE DENTAL BENEFITS REQUIRED OF A QUALIFIED DENTAL PLAN.

(C) PROVIDE FOR THE OPERATION OF A TOLL-FREE TELEPHONE HOTLINE TO RESPOND TO REQUESTS FOR ASSISTANCE.

(D) PROVIDE FOR ENROLLMENT PERIODS, WHICH ARE CONSISTENT WITH COMPARABLE ENROLLMENT PERIODS IN THE INSURANCE LAW, AS PROVIDED UNDER SECTION 1311(C)(6) OF THE FEDERAL ACT.

(E) MAINTAIN AN INTERNET WEB SITE THROUGH WHICH ENROLLEES AND PROSPECTIVE ENROLLEES OF QUALIFIED HEALTH PLANS AND QUALIFIED DENTAL PLANS MAY OBTAIN STANDARDIZED COMPARATIVE INFORMATION ON SUCH PLANS.

(F) PUBLISH THE AVERAGE COSTS OF LICENSING, REGULATORY FEES AND ANY OTHER PAYMENTS REQUIRED BY THE EXCHANGE AND THE ADMINISTRATIVE COSTS OF THE EXCHANGE, INCLUDING INFORMATION ON MONIES LOST TO WASTE, FRAUD AND ABUSE, ON AN INTERNET WEB SITE TO EDUCATE INDIVIDUALS ON SUCH COSTS.

(G) INFORM INDIVIDUALS, IN ACCORDANCE WITH SECTION 1413 OF THE FEDERAL ACT, OF ELIGIBILITY REQUIREMENTS FOR THE MEDICAID PROGRAM UNDER TITLE XIX OF THE SOCIAL SECURITY ACT, AS AMENDED FROM TIME TO TIME, THE CHILDREN'S HEALTH INSURANCE PROGRAM (CHIP) UNDER TITLE XXI OF THE SOCIAL SECURITY ACT, AS AMENDED FROM TIME TO TIME, OR ANY APPLICABLE STATE PUBLIC PROGRAM INCLUDING FAMILY HEALTH PLUS AND HEALTHY NY, AND ENROLL AN INDIVIDUAL IN SUCH PROGRAM TO THE EXTENT REQUIRED BY THE FEDERAL ACT, IF THE EXCHANGE DETERMINES, THROUGH SCREENING OF THE APPLICATION BY THE EXCHANGE, THAT SUCH INDIVIDUAL IS ELIGIBLE FOR ANY SUCH PROGRAM. UPON

1 ENROLLMENT, SUCH ELIGIBLE INDIVIDUAL SHALL BE REFERRED TO THE APPROPRI-
2 ATE LOCAL DEPARTMENT OF SOCIAL SERVICES.

3 (H) ESTABLISH AND MAKE AVAILABLE BY ELECTRONIC MEANS A CALCULATOR TO
4 DETERMINE THE ACTUAL COST OF COVERAGE AFTER APPLICATION OF ANY PREMIUM
5 TAX CREDIT UNDER SECTION 36B OF THE INTERNAL REVENUE CODE AND ANY COST-
6 SHARING REDUCTION UNDER SECTION 1402 OF THE FEDERAL ACT.

7 (I) ESTABLISH A SMALL BUSINESS HEALTH OPTIONS PROGRAM (SHOP) EXCHANGE
8 THROUGH WHICH QUALIFIED EMPLOYERS MAY ENROLL IN QUALIFIED HEALTH PLANS.
9 THE SHOP EXCHANGE SHALL PROVIDE EMPLOYERS THE ABILITY TO SELECT A HEALTH
10 PLAN OR PLANS THROUGH WHICH THEIR EMPLOYEES ARE PROVIDED COVERAGE, OR AT
11 THE OPTION OF THE EMPLOYER, ALLOW EACH EMPLOYEE TO ENROLL IN ANY PLAN
12 OFFERED THROUGH THE SHOP EXCHANGE AT THE LEVEL OF COVERAGE SPECIFIED BY
13 THE EMPLOYER. THE EXCHANGE SHALL NOT HAVE THE AUTHORITY TO EITHER MERGE
14 THE INDIVIDUAL AND SMALL GROUP MARKETS OR MERGE THE SHOP WITH THE INDI-
15 VIDUAL MARKET EXCHANGE. OTHER THAN FOR PURPOSES OF SHARING INFORMATION
16 TECHNOLOGY, THE SHOP EXCHANGE SHALL OPERATE SEPARATE AND DISTINCT FROM
17 THOSE ACTIVITIES OF THE EXCHANGE INTENDED TO FACILITATE THE ENROLLMENT
18 OF INDIVIDUALS.

19 (J) GRANT A CERTIFICATION, SUBJECT TO SECTION 1411 OF THE FEDERAL ACT,
20 ATTESTING THAT, FOR PURPOSES OF THE INDIVIDUAL RESPONSIBILITY PENALTY
21 UNDER SECTION 5000A OF THE INTERNAL REVENUE CODE, AN INDIVIDUAL IS
22 EXEMPT FROM THE INDIVIDUAL RESPONSIBILITY REQUIREMENT OR FROM THE PENAL-
23 TY IMPOSED BY SAID SECTION 5000A BECAUSE:

24 (I) THERE IS NO AFFORDABLE QUALIFIED HEALTH PLAN AVAILABLE THROUGH THE
25 EXCHANGE, OR THE INDIVIDUAL'S EMPLOYER, COVERING THE INDIVIDUAL; OR

26 (II) THE INDIVIDUAL MEETS THE REQUIREMENTS FOR ANY OTHER SUCH
27 EXEMPTION FROM THE INDIVIDUAL RESPONSIBILITY REQUIREMENT OR PENALTY.

28 (K) PROVIDE TO THE SECRETARY OF THE TREASURY OF THE UNITED STATES THE
29 FOLLOWING:

30 (I) A LIST OF THE INDIVIDUALS GRANTED A CERTIFICATION UNDER PARAGRAPH
31 (J) OF THIS SUBDIVISION, INCLUDING THE NAME AND TAXPAYER IDENTIFICATION
32 NUMBER OF EACH INDIVIDUAL;

33 (II) THE NAME AND TAXPAYER IDENTIFICATION NUMBER OF EACH INDIVIDUAL
34 WHO WAS AN EMPLOYEE OF AN EMPLOYER BUT WHO WAS DETERMINED TO BE ELIGIBLE
35 FOR THE PREMIUM TAX CREDIT UNDER SECTION 36B OF THE INTERNAL REVENUE
36 CODE BECAUSE:

37 (1) THE EMPLOYER DID NOT PROVIDE MINIMUM ESSENTIAL HEALTH BENEFITS
38 COVERAGE; OR

39 (2) THE EMPLOYER PROVIDED THE MINIMUM ESSENTIAL COVERAGE BUT IT WAS
40 DETERMINED UNDER SECTION 36B(C)(2)(C) OF THE INTERNAL REVENUE CODE TO BE
41 UNAFFORDABLE TO THE EMPLOYEE OR DID NOT PROVIDE THE REQUIRED MINIMUM
42 ACTUARIAL VALUE; AND

43 (III) THE NAME AND TAXPAYER IDENTIFICATION NUMBER OF:

44 (1) EACH INDIVIDUAL WHO NOTIFIES THE EXCHANGE UNDER SECTION 1411(B)(4)
45 OF THE FEDERAL ACT THAT SUCH INDIVIDUAL HAS CHANGED EMPLOYERS; AND

46 (2) EACH INDIVIDUAL WHO CEASES COVERAGE UNDER A QUALIFIED HEALTH PLAN
47 DURING A PLAN YEAR AND THE EFFECTIVE DATE OF THAT CESSATION.

48 (L) PROVIDE TO EACH EMPLOYER THE NAME OF EACH EMPLOYEE OF THE EMPLOYER
49 DESCRIBED IN SUBPARAGRAPH (II) OF PARAGRAPH (K) OF THIS SUBDIVISION, WHO
50 CEASES COVERAGE UNDER A QUALIFIED HEALTH PLAN DURING A PLAN YEAR AND THE
51 EFFECTIVE DATE OF THE CESSATION.

52 (M) PERFORM DUTIES REQUIRED OF, OR DELEGATED TO, THE EXCHANGE BY THE
53 SECRETARY OR THE SECRETARY OF THE TREASURY OF THE UNITED STATES RELATED
54 TO DETERMINING ELIGIBILITY FOR PREMIUM TAX CREDITS, REDUCED COST-SHARING
55 OR INDIVIDUAL RESPONSIBILITY REQUIREMENT EXEMPTIONS.

56 (N) CONSULT WITH STAKEHOLDERS, INCLUDING, BUT NOT LIMITED TO:

(I) EDUCATED HEALTH CARE CONSUMERS WHO ARE ENROLLEES IN QUALIFIED HEALTH PLANS;

(II) INDIVIDUALS AND ENTITIES WITH EXPERIENCE IN FACILITATING ENROLLMENT IN QUALIFIED HEALTH PLANS;

(III) REPRESENTATIVES OF SMALL EMPLOYERS AND SELF-EMPLOYED INDIVIDUALS; AND

(IV) ADVOCATES FOR ENROLLING HARD-TO-REACH POPULATIONS.

(O) MEET THE FOLLOWING FINANCIAL INTEGRITY REQUIREMENTS:

(I) KEEP AN ACCURATE ACCOUNTING OF ALL ACTIVITIES, RECEIPTS AND EXPENDITURES AND ANNUALLY SUBMIT A REPORT CONCERNING SUCH ACCOUNTINGS TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE MINORITY LEADER OF THE SENATE, AND THE MINORITY LEADER OF THE ASSEMBLY;

(II) FULLY COOPERATE WITH ANY INVESTIGATION CONDUCTED BY THE SECRETARY PURSUANT TO THE SECRETARY'S AUTHORITY UNDER THE FEDERAL ACT AND ALLOW THE SECRETARY, IN COORDINATION WITH THE INSPECTOR GENERAL OF THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES AND ANY OFFICERS OF COMPETENT JURISDICTION, TO:

(1) INVESTIGATE THE AFFAIRS OF THE EXCHANGE;

(2) EXAMINE THE PROPERTIES AND RECORDS OF THE EXCHANGE; AND

(3) REQUIRE PERIODIC REPORTS IN RELATION TO THE ACTIVITIES UNDERTAKEN BY THE EXCHANGE;

(III) NOT USE ANY FUNDS IN CARRYING OUT ITS ACTIVITIES UNDER THIS TITLE, THAT ARE INTENDED FOR THE ADMINISTRATIVE AND OPERATIONAL EXPENSES OF THE EXCHANGE, FOR STAFF RETREATS, PROMOTIONAL GIVEAWAYS, EXCESSIVE EXECUTIVE COMPENSATION OR PROMOTION OF FEDERAL OR STATE LEGISLATIVE AND REGULATORY MODIFICATIONS.

(P) AS AUTHORIZED UNDER SECTION 1312(E) OF THE FEDERAL ACT, THE EXCHANGE SHALL PERMIT AGENTS AND BROKERS TO:

(I) ENROLL QUALIFIED INDIVIDUALS AND QUALIFIED EMPLOYERS IN ANY QUALIFIED HEALTH PLANS OFFERED IN THE EXCHANGE; AND

(II) ASSIST QUALIFIED INDIVIDUALS AND QUALIFIED EMPLOYERS IN APPLYING FOR PREMIUM TAX CREDITS AND COST-SHARING REDUCTIONS FOR PLANS OFFERED IN THE EXCHANGE.

S 2915. PROCUREMENT. 1. INFORMATION TECHNOLOGY CONTRACTS RESULTING IN A SOLE TECHNOLOGY PLATFORM ENTERED INTO BY THE EXCHANGE UNDER THE AMOUNT OF ONE MILLION DOLLARS SHALL BE EXEMPT FROM THE COMPETITIVE BID PROCESS PURSUANT TO SECTIONS ONE HUNDRED TWELVE AND ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE LAW AND ANY OTHER LAW TO THE CONTRARY.

2. INFORMATION TECHNOLOGY CONTRACTS RESULTING IN A SOLE TECHNOLOGY PLATFORM IN THE AMOUNT OF ONE MILLION DOLLARS OR MORE, ENTERED INTO BY THE EXCHANGE, SHALL BE EXEMPT FROM THE COMPETITIVE BID OR REQUEST FOR PROPOSAL PROCESS PURSUANT TO SECTIONS ONE HUNDRED TWELVE AND ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE LAW AND ANY OTHER LAW TO THE CONTRARY; PROVIDED, HOWEVER:

(A) THE EXCHANGE SHALL POST ON ITS WEBSITE, OR OTHERWISE MAKE AVAILABLE, FOR A PERIOD NOT LESS THAN SIXTY DAYS:

(I) A DESCRIPTION OF THE OF PROPOSED SERVICES TO BE PROVIDED BY THE CONTRACTOR AND ANY RELATED SERVICES;

(II) THE CRITERIA FOR SELECTION OF A CONTRACTOR OR CONTRACTORS;

(III) THE PERIOD OF TIME DURING WHICH PROSPECTIVE CONTRACTORS MAY SEEK SELECTION, WHICH SHALL BE NO LESS THAN THIRTY DAYS AFTER SUCH INFORMATION IS FIRST POSTED ON THE WEBSITE; AND

(IV) THE MANNER BY WHICH A PROSPECTIVE CONTRACTOR MAY SEEK SUCH SELECTION, WHICH MAY INCLUDE SUBMISSION BY ELECTRONIC MEANS;

(B) ALL REASONABLE AND RESPONSIVE SUBMISSIONS THAT ARE RECEIVED FROM PROSPECTIVE CONTRACTORS SHALL BE REVIEWED BY THE EXCHANGE; AND

(C) THE EXCHANGE SHALL SELECT SUCH CONTRACTOR OR CONTRACTORS THAT, IN ITS DISCRETION, HAVE DEMONSTRATED THE ABILITY TO EFFECTIVELY, EFFICIENTLY, AND ECONOMICALLY IMPLEMENT THE REQUIREMENTS NECESSARY AND CONSISTENT WITH THE CRITERIA ESTABLISHED BY THIS TITLE AND THE FEDERAL ACT; HAVE THE REQUISITE EXPERTISE AND FINANCIAL RESOURCES; HAVE DEMONSTRATED THAT THEIR DIRECTORS, MEMBERS, MANAGERS, PARTNERS OR OPERATORS HAVE THE REQUISITE CHARACTER, COMPETENCE AND STANDING IN THE INDUSTRY, AND ARE BEST SUITED TO SERVE THE PURPOSES OF THIS TITLE.

3. CONTRACTS ENTERED INTO BY THE EXCHANGE PURSUANT TO THIS SECTION SHALL BE SUBJECT TO SECTION ONE HUNDRED THIRTY-NINE-J OF THE STATE FINANCE LAW.

S 2916. REPORTS BY THE EXCHANGE. 1. ON OR BEFORE JANUARY FIRST, TWO THOUSAND TWELVE, THE BOARD SHALL SUBMIT A REPORT TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE MINORITY LEADER OF THE SENATE, AND THE MINORITY LEADER OF THE ASSEMBLY, WHICH SHALL INCLUDE, BUT IS NOT LIMITED TO, RECOMMENDATIONS ON THE FOLLOWING:

(A) ESTABLISHMENT OF A BASIC HEALTH PLAN;

(B) HOW TO ESTABLISH A SEPARATE INDIVIDUAL HEALTH INSURANCE MARKET AND A SMALL EMPLOYER HEALTH INSURANCE MARKET WITHIN THE EXCHANGE;

(C) ADVANTAGES AND DISADVANTAGES OF REVISING THE DEFINITION OF "SMALL EMPLOYER" PRIOR TO THE DATE REQUIRED BY THE FEDERAL ACT FROM NOT MORE THAN FIFTY EMPLOYEES TO NOT MORE THAN ONE HUNDRED EMPLOYEES BASED ON ACTUARIAL ANALYSES OF PROJECTED IMPACTS ON PREMIUM RATES FOR BOTH INDIVIDUALS AND SMALL EMPLOYERS AND ESTABLISHMENT OF A CONSISTENT DEFINITION BOTH INSIDE AND OUTSIDE THE EXCHANGE FOR THE PURPOSES OF STATE AND FEDERAL LAW;

(D) EVALUATION OF REQUIRING QUALIFIED HEALTH PLANS TO PROVIDE THE ESSENTIAL HEALTH BENEFITS PACKAGE, AS DESCRIBED IN SECTION 1302(A) OF THE FEDERAL ACT, ALONG WITH SPECIFIC COSTS OF INCLUDING STATE MANDATED BENEFITS AND RECOMMENDATIONS AS TO HOW TO FINANCE THE COSTS OF SUCH ADDITIONAL BENEFITS;

(E) VALUE OF ALLOWING LARGE EMPLOYERS TO PARTICIPATE IN THE EXCHANGE BEGINNING IN TWO THOUSAND SEVENTEEN;

(F) WHETHER HEALTH SAVINGS ACCOUNTS SHOULD BE OFFERED IN THE EXCHANGE AND IN WHAT MANNER YOUNG ADULTS WILL BENEFIT FROM HEALTH SAVINGS ACCOUNTS;

(G) THE EFFICACY OF MERGING THE INDIVIDUAL AND SMALL EMPLOYER HEALTH INSURANCE MARKETS AND THE SUBSEQUENT EFFECT ON PREMIUM RATES ON NEW YORK SMALL EMPLOYERS AND INDIVIDUALS BASED ON ACTUARIAL ANALYSES FOR EACH OF THE HEALTH PLAN OPTIONS UNDER THE FEDERAL ACT;

(H) A PROCESS TO DETERMINE EACH QUALIFIED HEALTH PLAN'S LEVEL OF COVERAGE IN ACCORDANCE WITH REGULATIONS ISSUED BY THE SECRETARY UNDER SECTION 1302(D)(2)(A) OF THE FEDERAL ACT;

(I) STEPS TO IMPLEMENT THE ASSIGNMENT OF A RATING TO EACH QUALIFIED HEALTH PLAN OFFERED THROUGH THE EXCHANGE IN ACCORDANCE WITH THE CRITERIA DEVELOPED BY THE SECRETARY UNDER SECTION 1311(C)(3) OF THE FEDERAL ACT;

(J) RECOMMENDATIONS ON HOW TO AVOID DUPLICATIVE OVERSIGHT FUNCTIONS WITH OTHER STATE AND LOCAL AGENCIES AND ENTITIES.

(K) THE ROLE OF THE EXCHANGE AS IT RELATES TO PUBLIC HEALTH INSURANCE COVERAGE, INCLUDING MEDICAID, CHILD HEALTH PLUS, FAMILY HEALTH PLUS AND HEALTHY NEW YORK;

(L) THE ADVANTAGES AND DISADVANTAGES OF THE EXCHANGE TO SERVE AS AN ACTIVE PURCHASER, A SELECTIVE CONTRACTOR, OR CLEARINGHOUSE OF INSURANCE;

1 (M) RISK ADJUSTMENT METHODOLOGIES TO MEET THE REQUIREMENTS OF THE
2 FEDERAL ACT;

3 (N) A PLAN TO AWARD NAVIGATOR GRANTS IN ACCORDANCE WITH SECTION
4 1311(I) OF THE FEDERAL ACT AND AN ANALYSIS OF THE REQUIREMENTS FOR SERV-
5 ING AS A NAVIGATOR;

6 (O) WAYS TO ENSURE THAT THE EXCHANGE IS FINANCIALLY SELF-SUSTAINABLE
7 BY THE YEAR TWO THOUSAND FIFTEEN, AS REQUIRED BY THE FEDERAL ACT;

8 (P) AN ANALYSIS OF WAYS TO CONFORM THE DEFINITIONS OF MEDICAL LOSS
9 RATIO IN A MANNER THAT IS CONSISTENT WITH THE FEDERAL ACT;

10 (Q) AN ANALYSIS OF REGIONAL VARIATIONS IN THE OPERATION OF THE
11 EXCHANGE AND THEIR INCORPORATION WITHIN THE EXCHANGE; AND

12 (R) CERTIFYING INSURANCE PLANS OPERATING WITHIN THE EXCHANGE PURSUANT
13 TO THE GUIDELINES ENUMERATED IN THE FEDERAL ACT.

14 2. THE EXCHANGE SHALL HAVE NO AUTHORITY NEITHER EXPRESSED NOR IMPLIED
15 TO IMPLEMENT RECOMMENDATIONS ON THE ISSUES SET FORTH IN SUBDIVISION ONE
16 OF THIS SECTION WITHOUT FURTHER STATUTORY AUTHORITY.

17 3. THE BOARD SHALL CONSIDER THE RECOMMENDATIONS DEVELOPED BY THE
18 REGIONAL ADVISORY COMMITTEES, ESTABLISHED PURSUANT TO SECTION
19 TWENTY-NINE HUNDRED NINETEEN OF THIS TITLE, WHEN DEVELOPING THE RECOM-
20 MENDATIONS REQUIRED BY THIS SECTION.

21 S 2917. MONEYS OF THE AUTHORITY. 1. THE MONEYS OF THE AUTHORITY
22 SHALL, EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, BE DEPOSITED IN A
23 GENERAL ACCOUNT CALLED THE NEW YORK STATE HEALTH BENEFIT EXCHANGE
24 ACCOUNT AND SUCH OTHER ACCOUNTS AS THE AUTHORITY MAY DEEM NECESSARY,
25 PURSUANT TO RESOLUTION OF THE AUTHORITY BOARD, FOR THE TRANSACTION OF
26 ITS BUSINESS AND SHALL BE PAID OUT ON CHECKS SIGNED BY THE CHAIRMAN OF
27 THE AUTHORITY OR BY SUCH OTHER PERSON OR PERSONS AS THE AUTHORITY MAY
28 AUTHORIZE.

29 2. ALL MONEYS OF THE AUTHORITY DERIVED FROM STATE APPROPRIATIONS SHALL
30 BE PAID TO THE COMPTROLLER OF THE STATE AS AGENT OF THE AUTHORITY, WHO
31 SHALL NOT COMMINGLE SUCH MONEYS WITH OTHER MONEYS. SUCH MONEYS SHALL BE
32 DEPOSITED IN A SEPARATE BANK ACCOUNT OR ACCOUNTS. THE MONEYS IN SUCH
33 ACCOUNTS SHALL BE PAID OUT ON CHECK OF THE COMPTROLLER ON REQUISITION OF
34 THE CHAIR OF THE AUTHORITY OR OF SUCH OTHER PERSON OR PERSONS AS THE
35 AUTHORITY MAY AUTHORIZE TO MAKE SUCH REQUISITIONS. ALL DEPOSITS OF SUCH
36 MONEYS SHALL, IF REQUIRED BY THE COMPTROLLER OR THE AUTHORITY, BE
37 SECURED BY OBLIGATIONS OF THE UNITED STATES OF AMERICA OR OF THE STATE
38 OF NEW YORK OF A MARKET VALUE EQUAL AT ALL TIMES TO THE AMOUNT OF THE
39 DEPOSIT AND ALL BANKS AND TRUST COMPANIES ARE AUTHORIZED TO GIVE SUCH
40 SECURITY FOR SUCH DEPOSITS.

41 3. THE COMPTROLLER OF THE STATE AND HIS OR HER LEGALLY AUTHORIZED
42 REPRESENTATIVES ARE HEREBY AUTHORIZED AND EMPOWERED FROM TIME TO TIME TO
43 EXAMINE THE ACCOUNTS AND BOOKS OF THE AUTHORITY, INCLUDING ITS RECEIPTS,
44 DISBURSEMENTS, CONTRACTS, SINKING FUNDS, INVESTMENTS AND ANY OTHER
45 MATTERS RELATING TO ITS FINANCIAL STANDING.

46 4. THE BOARD SHALL ENSURE THAT THE ESTABLISHMENT, OPERATION AND ADMIN-
47 ISTRATIVE FUNCTIONS OF THE EXCHANGE DO NOT EXCEED THE COMBINATION OF
48 FEDERAL FUNDS, PRIVATE DONATIONS AND OTHER NON-GENERAL FUND MONEYS
49 AVAILABLE FOR THIS PURPOSE. NO FUNDS OF THE EXCHANGE SHALL BE TRANS-
50 FERRED TO THE GENERAL FUND OR ANY SPECIAL REVENUE FUND OR SHALL BE USED
51 FOR ANY PURPOSE OTHER THAN THE PURPOSES SET FORTH IN THIS TITLE. NO
52 FUNDS SHALL BE TRANSFERRED FROM THE GENERAL FUND OR ANY SPECIAL REVENUE
53 FUND TO THE EXCHANGE. NO LIABILITY INCURRED BY THE EXCHANGE OR ANY OF
54 ITS OFFICERS OR EMPLOYEES MAY BE SATISFIED USING MONEYS FROM THE GENERAL
55 FUND.

1 5. NOTWITHSTANDING ANY LAW TO THE CONTRARY, THE COMPTROLLER IS HEREBY
2 AUTHORIZED AND DIRECTED TO TRANSFER ALL THE UNENCUMBERED BALANCE FOR THE
3 PURPOSES OF ESTABLISHING AND OPERATING THE NEW YORK STATE HEALTH BENEFIT
4 EXCHANGE UPON MONIES RECEIVED PURSUANT TO THE FEDERAL PATIENT PROTECTION
5 AND AFFORDABLE CARE ACT (PUBLIC LAW 111-148), AS AMENDED BY THE FEDERAL
6 HEALTH CARE AND EDUCATION RECONCILIATION ACT OF 2010 (PUBLIC LAW
7 111-152), AND ANY AMENDMENTS THERETO, OR REGULATIONS OR GUIDANCE ISSUED
8 UNDER THOSE ACTS, IN THE MEDICAL ASSISTANCE AND SURVEY ACCOUNT, OR ANY
9 OTHER ACCOUNT OF THE STATE THAT RECEIVES SUCH FUNDS, TO THE NEW YORK
10 STATE HEALTH BENEFIT EXCHANGE, UNLESS EXPRESSLY PROHIBITED BY THE
11 CONTRACT'S TERMS OR BY LAW.

12 S 2918. ACTIONS AGAINST THE EXCHANGE. NEITHER ANY DIRECTOR OF THE
13 EXCHANGE NOR ANY OFFICER, EMPLOYEE, OR AGENT OF THE EXCHANGE, WHILE
14 ACTING WITHIN THE SCOPE OF THEIR AUTHORITY, SHALL BE SUBJECT TO ANY
15 PERSONAL LIABILITY RESULTING FROM THE EXERCISE OR CARRYING OUT OF ANY OF
16 THE EXCHANGE'S PURPOSES OR POWERS.

17 S 2919. REGIONAL ADVISORY COMMITTEES. 1. THERE SHALL BE EIGHT REGIONAL
18 ADVISORY COMMITTEES. THERE SHALL BE SIX MEMBERS OF EACH REGIONAL ADVI-
19 SORY COMMITTEE. SUCH REGIONAL ADVISORY COMMITTEES SHALL PROVIDE EXPER-
20 TISE AND RECOMMENDATIONS TO THE BOARD. THE REGIONAL ADVISORY COMMITTEES
21 SHALL BE COMPOSED OF INDIVIDUAL STAKEHOLDERS FROM THE GEOGRAPHIC REGION
22 INCLUDING, BUT NOT LIMITED TO, CARRIERS, PRODUCERS, AGENTS, BROKERS,
23 CHAMBERS OF COMMERCE, EMPLOYER ASSOCIATIONS, HEALTH CARE PROVIDERS,
24 SMALL EMPLOYERS, AND CONSUMERS. MEMBERS OF EACH REGIONAL ADVISORY
25 COMMITTEE SHALL BE APPOINTED IN EQUAL NUMBERS BY THE GOVERNOR, THE
26 TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY. THE
27 APPOINTING OFFICERS SHALL SUBMIT TO THE BOARD THEIR APPOINTMENTS TO THE
28 REGIONAL ADVISORY COMMITTEES NO LATER THAN SIXTY DAYS AFTER THE EFFEC-
29 TIVE DATE OF THIS TITLE. IN THE EVENT THAT A PARTICULAR APPOINTMENT IS
30 NOT MADE WITHIN SIXTY DAYS, THE GOVERNOR SHALL APPOINT AN INDIVIDUAL OF
31 HIS OR HER CHOOSING TO FILL THE VACANCY. THE REGIONAL ADVISORY COMMIT-
32 TEES SHALL COMMENCE THEIR DUTIES SIXTY DAYS AFTER THE EFFECTIVE DATE OF
33 THIS TITLE.

34 2. THERE SHALL BE THE FOLLOWING EIGHT REGIONS:

35 (A) LONG ISLAND, CONSISTING OF NASSAU AND SUFFOLK COUNTIES;

36 (B) NEW YORK CITY;

37 (C) HUDSON VALLEY, CONSISTING OF ULSTER, DUCHESS, ORANGE, PUTNAM,
38 ROCKLAND, AND WESTCHESTER COUNTIES;

39 (D) CAPITAL DISTRICT, CONSISTING OF ALBANY, COLUMBIA, FULTON, GREENE,
40 MONTGOMERY, RENSSELAER, SARATOGA, SCHENECTADY, SCHOHARIE, WARREN, AND
41 WASHINGTON COUNTIES;

42 (E) CENTRAL, CONSISTING OF CAYUGA, CORTLAND, HERKIMER, MADISON, ONEI-
43 DA, ONONDAGA, OSWEGO, SENECA, AND TOMPKINS COUNTIES;

44 (F) NORTH COUNTRY, CONSISTING OF CLINTON, ESSEX, FRANKLIN, HAMILTON,
45 JEFFERSON, LEWIS, AND ST. LAWRENCE COUNTIES;

46 (G) WESTERN, CONSISTING OF CHAUTAUQUA, ERIE, GENESEE, LIVINGSTON,
47 MONROE, NIAGARA, ONTARIO, ORLEANS, WAYNE, WYOMING AND YATES COUNTIES;

48 (H) SOUTHERN TIER, CONSISTING OF ALLEGANY, CATTARAUGUS, BROOME,
49 CHEMUNG, CHENANGO, DELAWARE, OTSEGO, SCHUYLER, STEUBEN, SULLIVAN, AND
50 TIOGA COUNTIES.

51 3. EACH REGIONAL ADVISORY COMMITTEE SHALL DEVELOP RECOMMENDATIONS FOR
52 THE ESTABLISHMENT, IMPLEMENTATION, AND OPERATION OF THE NEW YORK STATE
53 HEALTH BENEFIT EXCHANGE INCLUDING RECOMMENDATIONS FOR REGIONAL VARI-
54 ATIONS IN THE OPERATION OF THE EXCHANGE. IN CARRYING OUT ITS FUNCTIONS,
55 A REGIONAL ADVISORY COMMITTEE SHALL FOSTER DISCUSSIONS AMONG, AND
56 CONDUCT FORMAL PUBLIC HEARINGS WITH REQUISITE PUBLIC NOTICE TO SOLICIT

1 INPUT FROM, LOCAL STAKEHOLDER INTERESTS, INCLUDING BUT NOT LIMITED TO,
2 CARRIERS, INSURANCE PRODUCERS, CONSUMERS, HEALTH CARE PROVIDERS, CHAM-
3 BERS OF COMMERCE AND OTHER EMPLOYER ASSOCIATIONS, SMALL BUSINESSES, AND
4 COMMUNITY-BASED ORGANIZATIONS. NOT LATER THAN DECEMBER FIRST, TWO THOU-
5 SAND ELEVEN, AND ANNUALLY THEREAFTER, EACH REGIONAL ADVISORY COMMITTEE
6 SHALL TRANSMIT TO THE BOARD A REPORT CONTAINING ITS RECOMMENDATIONS. THE
7 FAILURE OF ANY REGIONAL ADVISORY COMMITTEE TO PERFORM THE DUTIES IMPOSED
8 BY THIS SECTION SHALL NOT AFFECT THE OBLIGATION OF THE BOARD TO PERFORM
9 THE DUTIES IMPOSED BY SECTION TWENTY-NINE HUNDRED SIXTEEN OF THIS TITLE.

10 S 2920. OFFICERS AND EMPLOYEES. 1. THE BOARD SHALL HAVE THE POWER TO
11 APPOINT EMPLOYEES TO SERVE AS SENIOR MANAGERIAL STAFF OF THE EXCHANGE AS
12 NECESSARY, WHO SHALL BE DESIGNATED TO BE IN THE EXEMPT CLASS OF CIVIL
13 SERVICE. THE BOARD SHALL ALSO HAVE THE POWER TO FIX THE SALARIES OF SUCH
14 EMPLOYEES.

15 2. ANY PUBLIC OFFICER OR EMPLOYEE OF A STATE DEPARTMENT, AGENCY OR
16 COMMISSION MAY BE TRANSFERRED TO THE EXCHANGE WITHOUT EXAMINATION AND
17 WITHOUT LOSS OF ANY CIVIL SERVICE STATUS OR RIGHTS TO A COMPARABLE
18 OFFICE, POSITION OR EMPLOYMENT WITH THE EXCHANGE; PROVIDED, HOWEVER, NO
19 SUCH TRANSFER MAY BE MADE WITHOUT THE CONSENT OF THE HEAD OF THE DEPART-
20 MENT, AGENCY OR COMMISSION.

21 3. THE SALARY OR COMPENSATION OF ANY SUCH OFFICER OR EMPLOYEE, AFTER
22 SUCH TRANSFER, SHALL BE PAID BY THE EXCHANGE.

23 4. ANY OFFICER OR EMPLOYEE TRANSFERRED TO THE EXCHANGE PURSUANT TO
24 THIS SECTION, WHO ARE MEMBERS OF OR BENEFIT UNDER ANY EXISTING PENSION
25 OR RETIREMENT FUND OR SYSTEM, SHALL CONTINUE TO HAVE ALL RIGHTS, PRIVI-
26 LEGES, OBLIGATIONS AND STATUS WITH RESPECT TO SUCH FUND OR SYSTEM AS ARE
27 NOW PRESCRIBED BY LAW, BUT DURING THE PERIOD OF THEIR EMPLOYMENT BY THE
28 EXCHANGE, ALL CONTRIBUTIONS TO SUCH FUNDS OR SYSTEMS TO BE PAID BY THE
29 EMPLOYER ON ACCOUNT OF SUCH OFFICERS OR EMPLOYEES SHALL BE PAID BY THE
30 EXCHANGE.

31 5. A TRANSFERRED EMPLOYEE SHALL REMAIN IN THE SAME COLLECTIVE BARGAIN-
32 ING UNIT AS WAS THE CASE PRIOR TO HIS OR HER TRANSFER; SUCCESSOR EMPLOY-
33 EES TO THE POSITIONS HELD BY SUCH TRANSFERRED EMPLOYEES SHALL, CONSIST-
34 ENT WITH THE PROVISIONS OF ARTICLE FOURTEEN OF THE CIVIL SERVICE LAW, BE
35 INCLUDED IN THE SAME UNIT AS THEIR PREDECESSORS. EMPLOYEES SERVING IN
36 POSITIONS IN NEWLY CREATED TITLES SHALL BE ASSIGNED TO THE SAME COLLEC-
37 TIVE BARGAINING UNIT AS THEY WOULD HAVE BEEN ASSIGNED TO WERE SUCH
38 TITLES CREATED PRIOR TO THE ESTABLISHMENT OF THE EXCHANGE. NOTHING
39 CONTAINED IN THIS ARTICLE SHALL BE CONSTRUED (A) TO DIMINISH THE RIGHTS
40 OF EMPLOYEES PURSUANT TO A COLLECTIVE BARGAINING AGREEMENT OR (B) TO
41 AFFECT EXISTING LAW WITH RESPECT TO AN APPLICATION TO THE PUBLIC EMPLOY-
42 MENT RELATIONS BOARD SEEKING A DESIGNATION BY THE BOARD THAT CERTAIN
43 PERSONS ARE MANAGERIAL OR CONFIDENTIAL.

44 S 2921. RELATION TO OTHER LAWS. NOTHING IN THIS TITLE, AND NO ACTION
45 TAKEN BY THE EXCHANGE PURSUANT TO THIS TITLE, SHALL BE CONSTRUED TO
46 PREEMPT OR SUPERSEDE THE AUTHORITY OF THE SUPERINTENDENT TO REGULATE THE
47 BUSINESS OF INSURANCE WITHIN THIS STATE OR THE AUTHORITY OF THE COMMIS-
48 SIONER TO REGULATE ENTITIES CERTIFIED PURSUANT TO ARTICLE FORTY-FOUR OF
49 THE PUBLIC HEALTH LAW.

50 S 2. Severability clause. If any clause, sentence, paragraph, subdi-
51 vision, section or part of this act shall be adjudged by any court of
52 competent jurisdiction to be invalid, such judgment shall not affect,
53 impair, or invalidate the remainder thereof, but shall be confined in
54 its operation to the clause, sentence, paragraph, subdivision, section
55 or part thereof directly involved in the controversy in which such judg-
56 ment shall have been rendered. It is hereby declared to be the intent of

1 the legislature that this act would have been enacted even if such
2 invalid provisions had not been included herein, except in the event
3 that, if any provision of the federal Patient Protection and Affordable
4 Care Act or the federal Health Care and Education Reconciliation Act of
5 2010 is held to be unconstitutional by the United States Supreme Court
6 or is repealed by the United States Congress, then this act shall be
7 null and void.

8 S 3. This act shall take effect immediately.