

7314--A

I N   S E N A T E

May 2, 2012

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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 --  
committee discharged, bill amended, ordered reprinted as amended and  
recommitted to said committee

AN ACT to amend the insurance law, in relation to permitting insti-  
tutions of higher education to self-fund accident and health insurance  
for their students

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

1     Section 1. Section 1108 of the insurance law is amended by adding a  
2     new subsection (k) to read as follows:  
3     (K) AN INSTITUTION OF HIGHER EDUCATION, AS DEFINED IN PARAGRAPH TWO OF  
4     SUBSECTION (A) OF SECTION ONE THOUSAND ONE HUNDRED TWENTY-FOUR OF THIS  
5     ARTICLE, THAT HAS A CERTIFICATE OF AUTHORITY FROM THE SUPERINTENDENT AND  
6     COMPLIES WITH THE REQUIREMENTS OF SECTION ONE THOUSAND ONE HUNDRED TWEN-  
7     TY-FOUR OF THIS ARTICLE, TO THE EXTENT THEREIN STATED.  
8     S 2. The insurance law is amended by adding a new section 1124 to read  
9     as follows:  
10    S 1124. INSTITUTIONS OF HIGHER EDUCATION EXEMPT; CERTIFICATE OF  
11    AUTHORITY. (A) FOR THE PURPOSES OF THIS SECTION:  
12    (1) "QUALIFIED ACTUARY" MEANS AN ACTUARY WHO IS A MEMBER IN GOOD  
13    STANDING OF THE AMERICAN ACADEMY OF ACTUARIES OR SOCIETY OF ACTUARIES,  
14    WITH EXPERIENCE IN ESTABLISHING RATES FOR SELF-INSURED TRUSTS PROVIDING  
15    HEALTH BENEFITS OR OTHER SIMILAR EXPERIENCE.  
16    (2) "INSTITUTION OF HIGHER EDUCATION" OR "INSTITUTION" MEANS AN EDUCA-  
17    TIONAL INSTITUTION IN THIS STATE THAT:  
18    (A) ADMITS AS REGULAR STUDENTS ONLY PERSONS HAVING A CERTIFICATE OF  
19    GRADUATION FROM A SCHOOL PROVIDING SECONDARY EDUCATION, OR THE RECOG-  
20    NIZED EQUIVALENT OF SUCH A CERTIFICATE, OR PERSONS WHO HAVE COMPLETED A  
21    SECONDARY SCHOOL EDUCATION IN A HOME SCHOOL SETTING THAT IS TREATED AS A  
22    HOME SCHOOL OR PRIVATE SCHOOL UNDER THE LAWS OF THIS STATE;  
23    (B) IS LEGALLY AUTHORIZED WITHIN THIS STATE TO PROVIDE A PROGRAM OF  
24    EDUCATION BEYOND SECONDARY EDUCATION;

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

LBD15135-02-2

1 (C) PROVIDES AN EDUCATIONAL PROGRAM FOR WHICH THE INSTITUTION AWARDS A  
2 BACHELOR'S DEGREE, GRADUATE DEGREE, OR PROFESSIONAL DEGREE;

3 (D) IS A PUBLIC OR OTHER NONPROFIT INSTITUTION;

4 (E) IS ACCREDITED BY A NATIONALLY RECOGNIZED ACCREDITING AGENCY OR  
5 ASSOCIATION;

6 (F) IS GOVERNED BY THE BOARD OF REGENTS OF THIS STATE; AND

7 (G) MAINTAINS AN ENDOWMENT OF AT LEAST ONE BILLION DOLLARS.

8 (3) "STUDENT" MEANS A PERSON ENROLLED IN AN INSTITUTION OF HIGHER  
9 EDUCATION AND MAY INCLUDE A POSTDOCTORAL FELLOW.

10 (4) "STUDENT CONTRACT" MEANS EVIDENCE OF COVERAGE FURNISHED TO A  
11 STUDENT THAT SETS FORTH ALL BENEFITS AND TERMS AND CONDITIONS, WITH  
12 REGARD TO A STUDENT HEALTH PLAN.

13 (5) "STUDENT HEALTH PLAN" OR "PLAN" MEANS ANY SELF-FUNDED PLAN ESTAB-  
14 LISHED OR MAINTAINED BY AN INSTITUTION OF HIGHER EDUCATION FOR THE  
15 PURPOSE OF PROVIDING MEDICAL, SURGICAL, OR HOSPITAL SERVICES TO A  
16 STUDENT, THE STUDENT'S SPOUSE OR DOMESTIC PARTNER, THE STUDENT'S CHILD  
17 OR CHILDREN, OR OTHER PERSONS CHIEFLY DEPENDENT UPON THE STUDENT FOR  
18 SUPPORT AND MAINTENANCE.

19 (B) AN INSTITUTION OF HIGHER EDUCATION SHALL NOT ESTABLISH, MAINTAIN,  
20 OR OTHERWISE PARTICIPATE IN A STUDENT HEALTH PLAN IN THIS STATE UNLESS  
21 THE INSTITUTION OBTAINS AND MAINTAINS A CERTIFICATE OF AUTHORITY FROM  
22 THE SUPERINTENDENT PURSUANT TO THE PROVISIONS OF THIS SECTION.

23 (C) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION OR A REGULATION  
24 PROMULGATED BY THE SUPERINTENDENT, AN INSTITUTION PROVIDING A PLAN  
25 SHALL:

26 (1) BE SUBJECT TO ALL CONSUMER PROTECTION LAWS APPLICABLE TO CORPO-  
27 RATIONS ORGANIZED UNDER ARTICLE FORTY-THREE OF THIS CHAPTER, INCLUDING  
28 MINIMUM REQUIREMENTS OF ARTICLE FORTY-THREE OF THIS CHAPTER AND REGU-  
29 LATIONS THEREUNDER REGARDING BENEFITS, CONTRACTS, AND RATES; AND

30 (2) PROVIDE THAT ITS PLAN WILL HAVE AN EXPECTED LOSS RATIO OF NOT LESS  
31 THAN EIGHTY-TWO PERCENT. IN REVIEWING A RATE FILING OR APPLICATION BY A  
32 PLAN, THE SUPERINTENDENT MAY MODIFY THE EIGHTY-TWO PERCENT EXPECTED  
33 MINIMUM LOSS RATIO REQUIREMENT IF THE SUPERINTENDENT DETERMINES THE  
34 MODIFICATION TO BE IN THE INTERESTS OF THE PEOPLE OF THIS STATE OR IF  
35 THE SUPERINTENDENT DETERMINES THAT A MODIFICATION IS NECESSARY TO MAIN-  
36 TAIN PLAN SOLVENCY. NO LATER THAN ONE HUNDRED TWENTY DAYS AFTER THE  
37 CLOSE OF A PLAN'S FISCAL YEAR, A PLAN SHALL ANNUALLY REPORT THE ACTUAL  
38 LOSS RATIO FOR THE PREVIOUS PLAN FISCAL YEAR IN A FORMAT ACCEPTABLE TO  
39 THE SUPERINTENDENT. IF THE EXPECTED LOSS RATIO IS NOT MET, THE SUPER-  
40 INTENDENT MAY DIRECT THE PLAN TO TAKE CORRECTIVE ACTION. MANDATORY  
41 UNIFORM STUDENT ADMINISTRATIVE HEALTH FEES PAID BY THE STUDENTS IRRE-  
42 SPECTIVE OF WHETHER THE STUDENT IS A PLAN MEMBER TO AN INSTITUTION SHALL  
43 NOT BE DEEMED TO BE INCLUDED IN THE PREMIUMS PAID BY STUDENTS FOR HEALTH  
44 BENEFIT COVERAGE UNDER A PLAN.

45 (D) AN INSTITUTION SHALL FILE AN APPLICATION FOR A CERTIFICATE OF  
46 AUTHORITY ON SUCH FORM AS THE SUPERINTENDENT MAY PRESCRIBE, AND SHALL  
47 PROVIDE TO THE SATISFACTION OF THE SUPERINTENDENT THE FOLLOWING:

48 (1) A COPY OF THE STUDENT CONTRACT, INCLUDING A TABLE OF THE PREMIUM  
49 RATES CHARGED OR PROPOSED TO BE CHARGED;

50 (2) A REPORT INDICATING THE BENEFIT PROVISIONS, PREMIUM RATES, AND  
51 INCURRED MEDICAL LOSSES ASSOCIATED WITH THE INSTITUTION'S STUDENTS UNDER  
52 THE INSURANCE POLICY OR CONTRACT INSURING THE INSTITUTION'S STUDENTS,  
53 FOR THE THREE YEARS PRIOR TO THE DATE OF THE APPLICATION;

54 (3) THE MOST RECENT CERTIFIED INDEPENDENTLY-AUDITED FINANCIAL STATE-  
55 MENT FOR THE INSTITUTION;

(4) A REPORT PREPARED BY A QUALIFIED ACTUARY THAT SUPPORTS THE PROPOSED PREMIUMS FOR THE PLAN;

(5) A COPY OF ALL AGREEMENTS BETWEEN THE INSTITUTION AND ANY PLAN ADMINISTRATOR, WITH REGARD TO THE STUDENT HEALTH PLAN;

(6) A PRO-FORMA BALANCE SHEET, INCLUDING ACTUARIALLY DETERMINED CLAIMS LIABILITIES, AND STATEMENT OF REVENUE AND EXPENSES, INCLUDING REASONABLY PROJECTED EXPENSES, MEDICAL LOSSES, AND PREMIUMS TO BE CHARGED TO STUDENTS FOR THE PLAN DURING THE FIRST THREE YEARS;

(7) A NARRATIVE DESCRIPTION OF THE:

(A) ACCOUNTING METHODOLOGY THAT THE INSTITUTION WILL UTILIZE, INCLUDING A DESCRIPTION OF THE SEPARATE ACCOUNTS FOR REVENUES AND EXPENSES, INCLUDING MEDICAL AND HOSPITAL EXPENSES AND ADMINISTRATION EXPENSES, RESERVES FOR CLAIMS AND EXPENSES THEREON, INCLUDING INCURRED-BUT-NOT-REPORTED, UNEARNED PREMIUM RESERVES, CONTINGENT RESERVES, AND ANY ASSET ACCOUNTS (CASH, PREMIUMS RECEIVABLE, INVESTMENTS) RELEVANT TO THE PLAN. THE ACCOUNTS MAY BE ESTABLISHED WITHIN THE INSTITUTION'S GENERAL ACCOUNTING LEDGER SYSTEM, PROVIDED THE GENERAL LEDGER ACCOUNTS ARE CLEARLY IDENTIFIABLE AS PERTAINING TO THE PLAN, INCLUDING ANY SUCH ACCOUNTS ALLOCATED TO THE PLAN;

(B) BILLING AND CLAIM PAYMENT PROCEDURES, INCLUDING THE NAMES AND CONTACT INFORMATION FOR THOSE PERSONS CHARGED WITH HANDLING ACCOUNTING AND CLAIMS ISSUES; AND

(C) ANY COMPENSATION THE INSTITUTION WILL RECEIVE IN CONNECTION WITH THE PLAN.

(8) COPY OF ANY STOP-LOSS INSURANCE POLICY ISSUED OR PROPOSED TO BE ISSUED BY AN INSURER AUTHORIZED TO DO THE BUSINESS OF ACCIDENT AND HEALTH INSURANCE IN THIS STATE OR IS A HEALTH SERVICE CORPORATION ORGANIZED UNDER ARTICLE FORTY-THREE OF THIS CHAPTER; AND

(9) SUCH OTHER INFORMATION AS THE SUPERINTENDENT MAY REQUIRE.

(E) UPON COMPLIANCE WITH THIS SECTION, THE SUPERINTENDENT MAY ISSUE A CERTIFICATE OF AUTHORITY TO AN APPLICANT. EVERY CERTIFICATE OF AUTHORITY SHALL CONTAIN THE NAME OF THE CERTIFIED ENTITY AND ITS HOME OFFICE ADDRESS. THE SUPERINTENDENT SHALL REFUSE TO GRANT A CERTIFICATE OF AUTHORITY TO AN APPLICANT THAT FAILS TO MEET THE REQUIREMENTS OF THIS SECTION. THE SUPERINTENDENT MAY REFUSE TO ISSUE ANY CERTIFICATE OF AUTHORITY IF IN THE SUPERINTENDENT'S JUDGMENT, THE REFUSAL WILL BEST PROMOTE THE INTERESTS OF THE PEOPLE OF THIS STATE.

NOTICE OF REFUSAL SHALL BE IN WRITING AND SHALL SET FORTH THE BASIS FOR REFUSAL. IF THE APPLICANT SUBMITS A WRITTEN REQUEST WITHIN THIRTY DAYS AFTER RECEIPT OF THE NOTICE OF REFUSAL, THEN THE SUPERINTENDENT SHALL CONDUCT A HEARING TO GIVE THE APPLICANT THE OPPORTUNITY TO SHOW CAUSE WHY THE REFUSAL SHOULD NOT BE MADE FINAL.

(F) IN ORDER TO OBTAIN AND MAINTAIN A CERTIFICATE OF AUTHORITY, AN INSTITUTION SHALL:

(1) FILE A COMPLETE APPLICATION WITH THE SUPERINTENDENT IN ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION;

(2) HAVE WITHIN ITS OWN ORGANIZATION ADEQUATE RESOURCES AND COMPETENT PERSONNEL TO ADMINISTER THE STUDENT HEALTH PLAN OR, IN ORDER TO PROVIDE SUCH ADMINISTRATIVE SERVICES, IN WHOLE OR PART, HAS CONTRACTED WITH A PERSON OR ENTITY TO SERVE AS A PLAN ADMINISTRATOR, DETERMINED BY THE INSTITUTION TO BE QUALIFIED BASED UPON WRITTEN DOCUMENTATION FURNISHED TO THE INSTITUTION, PROVIDED THAT THE DOCUMENTATION SHALL BE MADE AVAILABLE TO THE SUPERINTENDENT UPON REQUEST;

(3) ESTABLISH AND MAINTAIN PREMIUM RATES SUFFICIENT TO MEET ITS CONTRACTUAL OBLIGATIONS AND TO SATISFY THE RESERVE REQUIREMENTS SET FORTH IN SUBSECTION (H) OF THIS SECTION;

(4) ESTABLISH AND MAINTAIN A FAIR AND EQUITABLE PROCESS FOR CLAIMS REVIEW, DISPUTE RESOLUTION, AND APPEAL PROCEDURES, INCLUDING ARBITRATION OF REJECTED CLAIMS, AND PROCEDURES FOR HANDLING CLAIMS FOR BENEFITS IN THE EVENT OF PLAN DISSOLUTION, THAT ARE SATISFACTORY TO THE SUPERINTENDENT AND ARE SUBJECT TO ARTICLE FORTY-NINE OF THIS CHAPTER;

(5) PROVIDE COVERED STUDENTS WITH A STUDENT CONTRACT; AND

(6) FILE ALL PLAN DOCUMENTS, INCLUDING THE SUMMARY PLAN DESCRIPTION, AND ANY AMENDMENTS THERETO, WITH THE SUPERINTENDENT AND RECEIVE THE SUPERINTENDENT'S APPROVAL IN ACCORDANCE WITH THIS SECTION.

(G) AN INSTITUTION THAT HAS RECEIVED A CERTIFICATE OF AUTHORITY SHALL FILE WITH THE SUPERINTENDENT, FOR THE SUPERINTENDENT'S PRIOR APPROVAL, ANY AMENDMENTS TO THE STUDENT CONTRACT, STUDENT HEALTH PLAN, OR PREMIUM RATES CHARGED FOR THE PLAN.

(H)(1) AN INSTITUTION SHALL ESTABLISH RESERVES WITH 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 SHALL BE ADEQUATE; (B) A RESERVE FOR UNEARNED PREMIUM EQUIVALENTS, COMPUTED PRO-RATA ON THE BASIS OF THE UNEXPIRED PORTION OF THE POLICY PERIOD; AND (C) A CONTINGENT RESERVE FUND, 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.

(2) 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, SHALL BE ADEQUATE BY SHOWING THAT THE INSTITUTION HAS OBTAINED A MEDICAL STOP-LOSS INSURANCE POLICY ISSUED BY AN INSURER AUTHORIZED BY THE SUPERINTENDENT TO DO THE BUSINESS OF ACCIDENT AND HEALTH INSURANCE IN THIS STATE OR IS A HEALTH SERVICE CORPORATION ORGANIZED UNDER ARTICLE FORTY-THREE OF THIS CHAPTER. IF AT ANY TIME THE RESERVE FUNDS REQUIRED TO BE ESTABLISHED PURSUANT TO THIS SECTION FALL BELOW THE REQUIRED MINIMUM AMOUNTS, THEN THE INSTITUTION SHALL IMMEDIATELY NOTIFY THE SUPERINTENDENT OF SUCH IMPAIRMENT. THE INSTITUTION SHALL CURE THE IMPAIRMENT WITHIN FIVE BUSINESS DAYS.

(3) THE ASSETS CONSTITUTING THE STUDENT HEALTH PLAN'S CONTINGENT RESERVE FUND SHALL CONSIST SOLELY OF CERTIFICATES OF DEPOSIT ISSUED BY A UNITED STATES BANK AND PAYABLE IN UNITED STATES LEGAL TENDER, 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 CONTINGENT RESERVE, AS APPLICABLE.

(4) THE PLAN'S ASSETS, LIABILITIES, INCOME AND EXPENSES SHALL BE ACCOUNTED FOR SEPARATE AND APART FROM ALL OTHER ASSETS, LIABILITIES, INCOME AND EXPENSES OF THE UNIVERSITY. THE ACCOUNTING FOR THE PLAN'S CONTINGENT RESERVE FUND SHALL SHOW: (A) THE PURPOSE, SOURCE, DATE AND AMOUNT OF EACH SUM PAID INTO THE FUND; (B) THE INTEREST EARNED BY SUCH FUND; (C) CAPITAL GAINS OR LOSSES RESULTING FROM THE SALE OF INVESTMENTS OF THE PLAN'S CONTINGENT RESERVE FUND; (D) THE ORDER, PURPOSE, DATE AND

1 AMOUNT OF EACH PAYMENT FROM THE CONTINGENT RESERVE FUND; AND (E) THE  
2 ASSETS OF THE CONTINGENT RESERVE FUND, INDICATING CASH BALANCE AND SCHE-  
3 DULE OF INVESTMENTS.

4 (5) THE REQUIREMENTS FOR FUNDING OF THE PLAN'S RESERVES SHALL BE  
5 CALCULATED USING GENERALLY ACCEPTED ACCOUNTING PRINCIPLES. ONLY THOSE  
6 EXPENSES THAT RELATE TO THE PLAN SHALL BE INCLUDED IN CALCULATING THE  
7 REQUIREMENTS FOR FUNDING OF THE PLAN'S RESERVE FUNDS. EXPENSES ALLOCATED  
8 TO THE PLAN SHALL BE ALLOCATED ON AN EQUITABLE BASIS IN CONFORMITY WITH  
9 GENERALLY ACCEPTED ACCOUNTING PRINCIPLES CONSISTENTLY APPLIED. THE  
10 BOOKS, ACCOUNTS, AND RECORDS OF THE PLAN SHALL BE MAINTAINED AS TO  
11 CLEARLY AND ACCURATELY DISCLOSE THE NATURE AND DETAILS OF ALL EXPENSES  
12 SO AS TO SUPPORT THE REASONABLENESS OF SUCH EXPENSES.

13 (I)(1) AN INSTITUTION OF HIGHER EDUCATION SHALL FILE WITH THE SUPER-  
14 INTENDENT WITHIN ONE HUNDRED TWENTY DAYS OF THE CLOSE OF THE PLAN'S  
15 FISCAL YEAR A REPORT THAT CONTAINS:

16 (A) AN ANNUAL FINANCIAL STATEMENT, VERIFIED BY THE OATH OF AT LEAST  
17 TWO OF THE INSTITUTION'S PRINCIPAL OFFICERS, WITH DIRECT KNOWLEDGE OF  
18 THE OPERATIONS OF THE STUDENT HEALTH PLAN, SHOWING THE FINANCIAL CONDI-  
19 TION OF THE PLAN DURING THE MOST RECENT FISCAL YEAR, IN ACCORDANCE WITH  
20 LAW AND GENERALLY ACCEPTED ACCOUNTING PRINCIPLES, IN A FORM PRESCRIBED  
21 BY THE SUPERINTENDENT;

22 (B) THE IDENTITY OF THE QUALIFIED ACTUARY UTILIZED BY THE INSTITUTION  
23 OR PLAN AND THE AMOUNT PAID TO THE QUALIFIED ACTUARY BY THE INSTITUTION  
24 OR PLAN DURING ITS MOST RECENT FISCAL YEAR;

25 (C) THE IDENTITIES OF THE PLAN'S TEN LARGEST VENDORS BY PAYMENT AMOUNT  
26 DURING ITS MOST RECENT FISCAL YEAR;

27 (D) THE NAME AND CONTACT INFORMATION OF THE PERSON OR ENTITY APPOINTED  
28 BY THE INSTITUTION TO ADMINISTER THE STUDENT HEALTH PLAN;

29 (E) A PRO-FORMA STATEMENT OF PROJECTED REVENUE AND EXPENSES FOR HEALTH  
30 BENEFITS ANTICIPATED BY THE PLAN FOR THE NEXT TWELVE-MONTH PERIOD OF THE  
31 PLAN'S OPERATION, PROVIDED ON A FISCAL YEAR;

32 (F) A DETAILED REPORT OF THE OPERATIONS AND CONDITION OF THE PLAN'S  
33 RESERVE FUNDS; AND

34 (G) SUCH OTHER INFORMATION AS THE SUPERINTENDENT MAY REQUIRE.

35 (2) AN INSTITUTION OF HIGHER EDUCATION SHALL FILE WITH THE SUPERINTEN-  
36 DENT WITHIN ONE HUNDRED TWENTY DAYS OF THE CLOSE OF ITS STUDENT HEALTH  
37 PLAN'S FISCAL YEAR THE MOST RECENT CERTIFIED, INDEPENDENTLY AUDITED  
38 FINANCIAL STATEMENT FOR THE INSTITUTION. THE STATEMENT SHALL INCLUDE AN  
39 OPINION OF AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT. THE NOTES TO THE  
40 FINANCIAL STATEMENT SHALL SHOW THE FINANCIAL RESULTS OF THE STUDENT  
41 HEALTH PLAN OPERATIONS AND A DESCRIPTION AS TO HOW THE INSTITUTION MEETS  
42 THE RESERVE REQUIREMENTS IN PARAGRAPH ONE OF SUBSECTION (H) OF THIS  
43 SECTION, INCLUDING THE AMOUNTS REPORTED FOR EACH OF THE RESERVES, THE  
44 METHOD USED TO CALCULATE THE RESERVES, AND THE CHANGE IN THE RESERVES  
45 FROM THE BEGINNING OF THE PLAN'S FISCAL YEAR TO THE END OF THE PLAN'S  
46 FISCAL YEAR. IN ADDITION, THE NOTES TO FINANCIAL STATEMENT SHALL DETAIL  
47 THE ASSETS COMPRISING THE CONTINGENT RESERVE FUND TO DEMONSTRATE COMPLI-  
48 ANCE WITH PARAGRAPH ONE OF SUBSECTION (H) OF THIS SECTION.

49 (3) AN INSTITUTION THAT FAILS TO FILE ANY REPORT OR STATEMENT REQUIRED  
50 BY THIS CHAPTER, OR FAILS TO REPLY WITHIN THIRTY DAYS TO A WRITTEN  
51 INQUIRY BY THE SUPERINTENDENT IN CONNECTION THEREWITH SHALL, IN ADDITION  
52 TO OTHER PENALTIES PROVIDED BY THIS CHAPTER, BE SUBJECT, UPON DUE NOTICE  
53 AND OPPORTUNITY TO BE HEARD, TO A PENALTY OF UP TO ONE THOUSAND DOLLARS  
54 PER DAY OF DELAY, NOT TO EXCEED TWENTY-FIVE THOUSAND DOLLARS IN THE  
55 AGGREGATE, FOR EACH SUCH FAILURE.

1 (J) THE SUPERINTENDENT MAY, PURSUANT TO SECTION THREE HUNDRED NINE,  
2 THREE HUNDRED TEN, THREE HUNDRED ELEVEN, AND THREE HUNDRED TWELVE OF  
3 THIS CHAPTER, AND PURSUANT TO THE FINANCIAL SERVICES LAW, MAKE AN EXAM-  
4 INATION INTO THE AFFAIRS OF ANY INSTITUTION, WITH REGARD TO A STUDENT  
5 HEALTH PLAN ISSUED BY THE INSTITUTION, AS OFTEN AS THE SUPERINTENDENT  
6 DEEMS IT EXPEDIENT FOR THE PROTECTION OF THE INTERESTS OF THE PEOPLE OF  
7 THIS STATE. THE EXPENSES OF EVERY EXAMINATION OF THE AFFAIRS OF AN  
8 INSTITUTION, WITH REGARD TO A STUDENT HEALTH PLAN ESTABLISHED OR MAIN-  
9 TAINED BY THE INSTITUTION, SHALL BE BORNE AND PAID BY THE INSTITUTION SO  
10 EXAMINED. THE EXPENSES OF EXAMINATION SHALL INCLUDE REIMBURSEMENT FOR  
11 THE COMPENSATION PAID FOR THE SERVICES OF PERSONS EMPLOYED BY THE SUPER-  
12 INTENDENT OR BY THE SUPERINTENDENT'S AUTHORITY TO MAKE SUCH EXAMINATION,  
13 AND FOR THE NECESSARY TRAVELING AND LIVING EXPENSES OF THE PERSON OR  
14 PERSONS MAKING THE EXAMINATION.

15 (K)(1) THE SUPERINTENDENT MAY SUSPEND OR REVOKE A CERTIFICATE OF  
16 AUTHORITY ISSUED TO AN INSTITUTION IF THE SUPERINTENDENT FINDS, AFTER  
17 NOTICE AND HEARING, THAT THE INSTITUTION HAS FAILED TO COMPLY WITH ANY  
18 REQUIREMENT IMPOSED ON IT BY THE PROVISIONS OF THIS CHAPTER AND IF IN  
19 THE SUPERINTENDENT'S JUDGMENT SUCH SUSPENSION OR REVOCATION IS REASON-  
20 ABLY NECESSARY TO PROTECT THE INTERESTS OF THE PEOPLE OF THIS STATE,  
21 INCLUDING:

22 (A) FOR ANY CAUSE THAT WOULD BE A BASIS FOR DENIAL OF AN INITIAL  
23 APPLICATION FOR SUCH A CERTIFICATE;

24 (B) FAILURE TO MAINTAIN THE RESERVES REQUIRED BY SUBSECTION (H) OF  
25 THIS SECTION; OR

26 (C) THE SUPERINTENDENT FINDS THAT THE INSTITUTION HAS REFUSED TO  
27 PRODUCE ITS ACCOUNTS, RECORDS, AND FILES FOR EXAMINATION OR HAS REFUSED  
28 TO COOPERATE OR GIVE INFORMATION WITH RESPECT TO THE AFFAIRS OF THE  
29 STUDENT HEALTH PLAN OR TO PERFORM ANY OTHER LEGAL OBLIGATION RELATING TO  
30 SUCH AN EXAMINATION WHEN REQUIRED BY THE SUPERINTENDENT.

31 (2) ANY CERTIFICATE OF AUTHORITY SUSPENDED OR REVOKED UNDER THIS  
32 SUBSECTION SHALL BE SURRENDERED TO THE SUPERINTENDENT, AND THE INSTITU-  
33 TION SHALL NOTIFY ALL PARTICIPATING STUDENTS OF THAT DECISION IN SUCH  
34 FORM AND MANNER AS THE SUPERINTENDENT MAY PRESCRIBE, BUT NOT LATER THAN  
35 TEN DAYS AFTER RECEIPT OF NOTICE OF THE SUPERINTENDENT'S DECISION  
36 REQUIRING SUSPENSION OR REVOCATION. IN ADDITION, THE INSTITUTION SHALL  
37 SUBMIT A PLAN FOR THE SUPERINTENDENT'S APPROVAL FOR WINDING UP THE  
38 PLAN'S AFFAIRS IN AN ORDERLY MANNER DESIGNED TO RESULT IN TIMELY PAYMENT  
39 OF ALL BENEFITS, IN SUCH FORM AND MANNER AS THE SUPERINTENDENT MAY  
40 PRESCRIBE.

41 (3) NOTWITHSTANDING SUBDIVISION TWO OF SECTION EIGHTY-SEVEN OF THE  
42 PUBLIC OFFICERS LAW, ALL FINAL DECISIONS TO SUSPEND OR REVOKE THE  
43 CERTIFICATE OF AUTHORITY WITH REGARD TO AN INSTITUTION SHALL BE PUBLIC.

44 (L) IN ANY CASE IN WHICH AN INSTITUTION DETERMINES THAT THERE IS A  
45 REASON TO BELIEVE THAT THE STUDENT HEALTH PLAN WILL TERMINATE, THE  
46 INSTITUTION SHALL SO INFORM THE SUPERINTENDENT AT LEAST SIXTY DAYS PRIOR  
47 THERETO, AND SHALL FILE A SWORN STATEMENT WITH THE SUPERINTENDENT  
48 CONCERNING ALL CURRENT AND FUTURE LIABILITIES UNDER ITS DISCONTINUED  
49 PLAN. THE INSTITUTION ALSO SHALL SUBMIT A PLAN FOR THE SUPERINTENDENT'S  
50 APPROVAL FOR WINDING UP THE PLAN'S AFFAIRS IN AN ORDERLY MANNER DESIGNED  
51 TO RESULT IN TIMELY PAYMENT OF ALL BENEFITS, IN SUCH FORM AND MANNER AS  
52 THE SUPERINTENDENT MAY PRESCRIBE.

53 (M)(1) NO PART OF ANY FUNDS OF THE INSTITUTION, AS THEY PERTAIN TO THE  
54 STUDENT HEALTH PLAN, SHALL BE SUBJECT TO THE CLAIMS OF GENERAL CREDITORS  
55 OF THE INSTITUTION UNTIL ALL PLAN BENEFITS AND OTHER PLAN OBLIGATIONS  
56 HAVE BEEN SATISFIED. UNTIL SUCH TIME, THE INSTITUTION SHALL CONTINUE TO

1 MAINTAIN AND FUND THE RESERVE FUNDS REQUIRED TO BE ESTABLISHED UNDER  
2 SUBSECTION (H) OF THIS SECTION. IF AT ANY TIME THE SUPERINTENDENT DETER-  
3 MINES THAT ADDITIONAL FUNDS SHALL BE DEPOSITED IN THE RESERVE FUNDS,  
4 THEN THE INSTITUTION SHALL MAKE THE DEPOSIT WITHIN THIRTY DAYS OF THE  
5 SUPERINTENDENT'S DETERMINATION.

6 (2) IF, AFTER TWENTY-FOUR MONTHS, OR SUCH LONGER PERIOD AS DEEMED  
7 NECESSARY BY THE SUPERINTENDENT, ALL PLAN BENEFITS AND OTHER PLAN OBLI-  
8 GATIONS HAVE BEEN SATISFIED, THE INSTITUTION, UPON APPROVAL BY THE  
9 SUPERINTENDENT, SHALL NO LONGER BE REQUIRED TO MAINTAIN ASSETS WITHIN  
10 THE PLAN'S RESERVE FUNDS WITHIN RESTRICTED ACCOUNTS WITHIN THE INSTI-  
11 TUTION'S GENERAL ACCOUNTING LEDGER SYSTEM.

12 (N) AN INSTITUTION SHALL NOT ISSUE A STOP-LOSS INSURANCE POLICY.

13 (O) THE SUPERINTENDENT MAY PROMULGATE SUCH REGULATIONS AS THE SUPER-  
14 INTENDENT DEEMS NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS SECTION  
15 AND TO ENSURE THAT THE PLANS ESTABLISHED UNDER THIS SECTION ARE IN THE  
16 BEST INTERESTS OF THE STUDENTS, STUDENTS' SPOUSES, THE STUDENTS' CHIL-  
17 DREN, AND OTHER PERSONS CHIEFLY DEPENDENT UPON THE STUDENTS FOR SUPPORT  
18 AND MAINTENANCE.

19 (P) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, ANY INSTITUTION OF  
20 HIGHER EDUCATION THAT VIOLATES THIS SECTION SHALL BE SUBJECT TO THE  
21 PENALTIES SET FORTH IN SECTION ONE HUNDRED NINE OF THIS CHAPTER.

22 S 3. Subsections (b) and (c) of section 4237-a of the insurance law,  
23 as added by chapter 618 of the laws of 1999, are amended to read as  
24 follows:

25 (b) "Stop-loss insurance" means an insurance policy whereby the insur-  
26 er agrees to pay claims or indemnify an employer for losses incurred  
27 under a self-insured employee benefit plan OR A STUDENT HEALTH PLAN AS  
28 AUTHORIZED BY SECTION ONE THOUSAND ONE HUNDRED TWENTY-FOUR OF THIS CHAP-  
29 TER in excess of specified loss limits for individual claims and/or for  
30 all claims combined, or any similar arrangement.

31 (c) A stop-loss insurance policy delivered, issued for delivery, or  
32 entered into in this state shall clearly describe:

33 (1) the entire money or other consideration for the policy;

34 (2) the time at which the insurance takes effect and terminates;

35 (3) the specified per-claim, per-employee OR, IN THE CASE OF A STUDENT  
36 HEALTH PLAN UNDER SECTION ONE THOUSAND ONE HUNDRED TWENTY-FOUR OF THIS  
37 CHAPTER, PER STUDENT, or aggregate amount of claims above which payment  
38 or reimbursement is to be made by the insurer; and

39 (4) the payments to be made by the insurer once the specified stop-  
40 loss thresholds have been exceeded.

41 S 4. This act shall take effect on January 1, 2013, provided that  
42 effective immediately, the superintendent of financial services may:

43 (1) prescribe an application form and start accepting applications  
44 from institutions for certificates of authority; and

45 (2) promulgate any rules and regulations necessary for the implementa-  
46 tion of the provisions of this act on its effective date.