

5426

2013-2014 Regular Sessions

I N   A S S E M B L Y

February 26, 2013

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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 SHALL  
10    INCLUDE IN SUCH GUIDE AND SELECTION OF THE DATA APPLICABLE TO EACH  
11    INSURER OR ENTITY FROM THE HEALTH CARE DISPARITIES DATA COLLECTION  
12    SYSTEM. SUCH DATA SHALL INCLUDE DATA COLLECTED OR COMPILED IN REGARD TO  
13    HEALTH CARE QUALITY AND HEALTH OUTCOMES PURSUANT TO SECTION TWO THOUSAND  
14    NINE HUNDRED NINETY-FIVE-C OF THE PUBLIC HEALTH LAW OR OTHER DATA THAT  
15    IS GENERALLY RECOGNIZED AS AUTHORITATIVE AND RELIABLE.  
16    (E) Health insurers and entities certified pursuant to article forty-  
17    four of the public health law shall provide annually to the superinten-  
18    dent and the commissioner of health, and the commissioner of health  
19    shall provide to the superintendent, all of the information necessary  
20    for the superintendent to produce the annual consumer guide, PROVIDED  
21    THAT THIS REQUIREMENT SHALL NOT APPLY TO INFORMATION PROVIDED FOR IN  
22    SUBSECTION (D) OF THIS SECTION IF THE SUPERINTENDENT ALREADY POSSESSES  
23    SUCH INFORMATION AS PART OF THE DATA COLLECTION SYSTEM PROVIDED FOR IN  
24    TITLE THREE-A OF ARTICLE TWO OF THE PUBLIC HEALTH LAW. In compiling the  
25    guide, the superintendent shall make every effort to ensure that the

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

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1 information is presented in a clear, understandable fashion which facil-  
2 itates comparisons among individual insurers and entities, and in a  
3 format which lends itself to the widest possible distribution to consum-  
4 ers. The superintendent shall either include the information from the  
5 annual consumer guide in the consumer shopping guide required by  
6 subsection (a) of section four thousand three hundred twenty-three of  
7 this chapter or combine the two guides as long as consumers in the indi-  
8 vidual market are provided with the information required by subsection  
9 (a) of section four thousand three hundred twenty-three of this chapter.

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

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

29 (a) All health maintenance organizations issued a certificate of  
30 authority under article forty-four of the public health law or licensed  
31 under this article shall prepare, in conjunction with the superinten-  
32 dent, and shall participate in and share the cost of the publication and  
33 dissemination of a consumer's shopping guide for standardized individual  
34 health plans issued pursuant to sections four thousand three hundred  
35 twenty-one and four thousand three hundred twenty-two of this article  
36 and a separate consumer shopping guide for standardized qualifying indi-  
37 vidual health insurance contracts and standardized qualifying group  
38 health insurance contracts issued pursuant to section four thousand  
39 three hundred twenty-six of this article. The consumer's shopping guides  
40 shall be published annually and shall include the names, addresses and  
41 telephone numbers of all health maintenance organizations offering such  
42 coverage as well as a description of the plan design and premiums in  
43 such a manner that facilitates consumer comparison. SUCH CONSUMER GUIDES  
44 SHALL ALSO CONTAIN, IN A MANNER THAT FACILITATES CONSUMER COMPARISON, A  
45 SELECTION OF THE DATA APPLICABLE TO EACH SUCH HEALTH MAINTENANCE ORGAN-  
46 IZATION FROM THE HEALTH CARE DISPARITIES DATA COLLECTION SYSTEM ESTAB-  
47 LISHED UNDER TITLE THREE-A OF ARTICLE TWO OF THE PUBLIC HEALTH LAW. THE  
48 DATA SELECTED AS WELL AS THE FORMAT SHALL BE DETERMINED BY THE SUPER-  
49 INTENDENT IN CONSULTATION WITH THE COMMISSIONER OF HEALTH, WITH CONSID-  
50 ERATION GIVEN TO THE VIEWS EXPRESSED BY STAKEHOLDERS IN THE REVIEW AND  
51 COMMENT PROCESS HELD PURSUANT TO SUBDIVISION ELEVEN OF SECTION TWO  
52 HUNDRED FORTY-SEVEN OF THE PUBLIC HEALTH LAW.

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

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

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

3 TITLE III-A

4 HEALTH CARE DISPARITIES DATA COLLECTION SYSTEM

5 SECTION 245. LEGISLATIVE INTENT.

6 246. DEFINITIONS.

7 247. ESTABLISHMENT OF HEALTH CARE DISPARITIES DATA COLLECTION  
8 SYSTEM.

9 248. DISSEMINATION OF HEALTH CARE DISPARITIES DATA TO THE  
10 PUBLIC.

11 249. ENFORCEMENT.

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

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

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

38 3. "HEALTH CARE DISPARITIES DATA COLLECTION SYSTEM" OR "DATA  
39 COLLECTION SYSTEM" MEANS THE COLLECTION OF INFORMATION IN THE FORM  
40 ESTABLISHED IN THIS TITLE.

41 4. "HEALTH INSURER" MEANS A HEALTH MAINTENANCE ORGANIZATION ISSUED A  
42 CERTIFICATE OF AUTHORITY UNDER ARTICLE FORTY-FOUR OF THIS CHAPTER, AN  
43 ENTITY LICENSED UNDER ARTICLE FORTY-THREE OR FORTY-FOUR OF THE INSURANCE  
44 LAW, OR A PERSON, FIRM OR CORPORATION PROVIDING HEALTH INSURANCE POLI-  
45 CIES UNDER ARTICLE THIRTY-TWO OF THE INSURANCE LAW. SUCH TERM SHALL  
46 INCLUDE A PUBLIC INSURANCE PROGRAM.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 6. ANY STATE AGENCY, INCLUDING ANY HEALTH BENEFIT EXCHANGE OR  
8 EXCHANGES CREATED IN THE STATE UNDER THE AFFORDABLE CARE ACT WHICH  
9 OBTAINS OR POSSESSES DATA WHICH IS SUBJECT TO THIS TITLE SHALL BE  
10 REQUIRED TO FURNISH SUCH DATA TO THE DEPARTMENT UPON REQUEST, IN THE  
11 FORMAT AND MANNER REQUESTED BY THE DEPARTMENT. SUCH AGENCY OR ENTITY  
12 SHALL ALSO BE REQUIRED TO COOPERATE WITH THE DEPARTMENT IN THE ESTAB-  
13 LISHMENT AND MAINTENANCE OF THE DATA COLLECTION SYSTEM.

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

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

25 8. THE DEPARTMENT SHALL PRESCRIBE FORMS OR QUESTIONNAIRES FOR THE  
26 COLLECTION OF DATA FROM DATA PROVIDERS THAT ARE NECESSARY FOR THE DATA  
27 COLLECTION SYSTEM, ALONG WITH APPROPRIATE INSTRUCTIONS FOR PERSONS  
28 COMPLETING THE FORM OR QUESTIONNAIRE. NOTWITHSTANDING THE PRECEDING  
29 SENTENCE, THE DEPARTMENT SHALL BE AUTHORIZED TO USE MEANS OTHER THAN  
30 SUCH FORM OR QUESTIONNAIRE IF DATA NEEDED FOR THE DATA COLLECTION SYSTEM  
31 IS OTHERWISE REASONABLY OBTAINABLE BY OTHER MEANS, INCLUDING FROM THE  
32 DEPARTMENT OF HEALTH AND HUMAN SERVICES PURSUANT TO THE AFFORDABLE CARE  
33 ACT. IN ORDER TO REDUCE THE COSTS OR ADMINISTRATIVE BURDENS ON DATA  
34 PROVIDERS, PATIENTS, APPLICANTS, OR OTHER PERSONS, THE DEPARTMENT MAY  
35 ALTERNATIVELY INCLUDE QUESTIONS ELICITING THE DATA MANDATED BY THIS  
36 TITLE ON A QUESTIONNAIRE OR FORM DEVELOPED FOR PURPOSES OTHER THAN SPEC-  
37 IFIED IN THIS TITLE.

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

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

52 11. STAKEHOLDERS SELECTED BY THE COMMISSIONER, INCLUDING HEALTH CARE  
53 CONSUMER ORGANIZATIONS, ORGANIZATIONS THAT REPRESENT RACIAL AND ETHNIC  
54 MINORITIES, WOMEN, THOSE WHOSE FIRST LANGUAGE IS NOT ENGLISH, PEOPLE  
55 WITH DISABILITIES, AND GAY AND LESBIAN DATA PROVIDERS, AS WELL AS THE  
56 SUPERINTENDENT OF FINANCIAL SERVICES, SHALL BE PROVIDED WITH THE OPPOR-

1 TUNITY TO REVIEW AND COMMENT ON THE METHODOLOGY USED TO COMPLY WITH THIS  
2 TITLE, INCLUDING COLLECTION METHODS, ANALYSIS, FORMATTING, AND METHODS  
3 AND MEANS FOR RELEASE AND DISSEMINATION. SUCH OPPORTUNITY TO REVIEW AND  
4 COMMENT SHALL INCLUDE, BUT NOT BE LIMITED TO, WHETHER THE DATA IS  
5 FORMATTED IN A MANNER SO AS TO ENABLE CONSUMERS TO MAKE INFORMED CHOICES  
6 OF HEALTH INSURERS AND ARTICLE TWENTY-EIGHT FACILITIES AND THE USABILITY  
7 OF THE WEBSITE UNDER SECTION TWO HUNDRED FORTY-EIGHT OF THIS TITLE. THE  
8 OPPORTUNITY FOR REVIEW AND COMMENT SHALL INCLUDE AT LEAST ONE MEETING OF  
9 SUCH STAKEHOLDERS PRIOR TO THE DEVELOPMENT OF THE REGULATIONS PROMULGAT-  
10 ED PURSUANT TO THIS TITLE, AND AT LEAST ONE MEETING ANNUALLY THEREAFTER  
11 SO THAT MODIFICATIONS TO THE DATA COLLECTION SYSTEM MAY BE CONSIDERED BY  
12 THE DEPARTMENT. THE DEPARTMENT SHALL REPORT THE RESULTS OF SUCH REVIEW  
13 AND COMMENT PROCESS TO THE SUPERINTENDENT OF FINANCIAL SERVICES.

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

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

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

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

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

46 III. TO DISAGGREGATE BY "INDUSTRY" MEANS TO DISAGGREGATE THE DATA INTO  
47 AT LEAST THE FOLLOWING CATEGORIES: GENERAL HOSPITALS, NURSING HOMES AND  
48 RESIDENTIAL CARE FACILITIES IN THE CASE OF ARTICLE TWENTY-EIGHT FACILI-  
49 TIES, AND COMMERCIAL INSURERS, HEALTH MAINTENANCE ORGANIZATIONS, AND  
50 PUBLIC INSURANCE PROGRAMS IN THE CASE OF HEALTH INSURERS. IN THE CASE OF  
51 PUBLIC INSURANCE PROGRAMS, THE DATA SHALL ALSO BE BROKEN DOWN FURTHER,  
52 INTO THE FOLLOWING CATEGORIES: ALL APPROVED ORGANIZATIONS PURSUANT TO  
53 TITLE ONE-A OF ARTICLE TWENTY-FIVE OF THIS CHAPTER, ALL APPROVED ORGAN-  
54 IZATIONS PURSUANT TO SECTION THREE HUNDRED SIXTY-NINE-EE OF THE SOCIAL  
55 SERVICES LAW, ALL PARTICIPANTS IN THE PROGRAM CREATED BY SECTION FOUR  
56 THOUSAND THREE HUNDRED TWENTY-SIX OF THE INSURANCE LAW, AND ALL DATA IN

1 REGARD TO PROVIDING MEDICAL ASSISTANCE FOR NEEDY PERSONS PURSUANT TO  
2 TITLE ELEVEN OF ARTICLE FIVE OF THE SOCIAL SERVICES LAW.

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

8 4. FOR ALL DATA COMPILED BY THE DEPARTMENT PURSUANT TO SECTION TWO  
9 HUNDRED FORTY-SEVEN OF THIS TITLE OR DISSEMINATED PURSUANT TO THIS  
10 SECTION, DATA IN REGARD TO THE ASIAN RACIAL CATEGORY SHALL BE COMPILED  
11 AND DISSEMINATED AS TO ALL ASIANS, AND ALSO FOR THE SUBCATEGORIES OF  
12 ASIANS PROVIDED FOR IN SUBDIVISION SEVEN OF SECTION TWO HUNDRED  
13 FORTY-SIX OF THIS TITLE. HISPANICS SHALL BE LISTED BOTH UNDER THEIR  
14 RACE, AND SEPARATE DATA SHALL BE COMPILED AND DISSEMINATED FOR HISPANICS  
15 OF ALL RACES.

16 S 249. ENFORCEMENT. IN ADDITION TO THE PENALTIES OTHERWISE PROVIDED  
17 UNDER THIS CHAPTER, ANY VIOLATION OF THIS TITLE BY AN AUTHORIZED INSUR-  
18 ER, REPRESENTATIVE OF THE INSURER, OR ANY OTHER PERSON OR ENTITY  
19 LICENSED, CERTIFIED, REGISTERED, OR AUTHORIZED PURSUANT TO THE INSURANCE  
20 LAW, THE SUPERINTENDENT OF FINANCIAL SERVICES SHALL BE AUTHORIZED TO  
21 SEEK THE REMEDIES PROVIDED IN SECTION ONE HUNDRED NINE OF THE INSURANCE  
22 LAW. NOTHING IN THIS TITLE SHALL IN ANY WAY CONTRAVENE OR LIMIT THE  
23 RIGHTS OR REMEDIES THAT ARE OTHERWISE AVAILABLE TO A STATE AGENCY OR A  
24 CONSUMER UNDER ANY OTHER PROVISION OF LAW.

25 S 5. This act shall take effect three months after the effective date  
26 of regulations implementing Title XXXI of the patient protection and  
27 affordable care act (42 U.S.C. 300k) or July 1, 2013, whichever is  
28 later; provided, however that effective immediately, the addition,  
29 amendment and/or repeal of any rule or regulation necessary for the  
30 implementation of this act on its effective date are authorized and  
31 directed to be made and completed on or before such effective date, and  
32 provided further, that any state agency may gather information or take  
33 any other action necessary for the implementation of this act on its  
34 effective date; provided, further, however, that the commissioner of  
35 health shall notify the legislative bill drafting commission upon the  
36 occurrence of the issuance of the regulations implementing Title XXXI of  
37 the patient protection and affordable care act in order that the commis-  
38 sion may maintain an accurate and timely effective data base of the  
39 official text of the laws of the state of New York in furtherance of  
40 effectuating the provisions of section 44 of the legislative law and  
41 section 70-b of the public officers law.