

S. 2606

A. 3006

S E N A T E - A S S E M B L Y

January 22, 2013

IN SENATE -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

IN ASSEMBLY -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read once and referred to the Committee on Ways and Means

AN ACT to amend chapter 59 of the laws of 2011, amending the public health law and other laws relating to general hospital reimbursement for annual rates, in relation to the cap on local Medicaid expenditures; to amend the public health law, in relation to general hospital inpatient reimbursement; to amend the social services law, in relation to the medical assistance information and payment system; to amend the social services law, in relation to certain contracts entered into by the commissioner of health for the purpose of implementing the Medicaid redesign team initiatives; to amend the public health law, in relation to the preferred drug program; to amend the public health law, in relation to antipsychotic therapeutic drugs; to amend the social services law, in relation to reducing pharmacy reimbursement for name brand drugs; to amend the public health law, in relation to eliminating the summary posting requirement for the pharmacy and therapeutic committee; to amend the social services law, in relation to early refill of prescriptions; to amend the social services law, in relation to authorizing the commissioner of health to implement an incontinence supply utilization management program; to amend the social services law, in relation to certain individual psychotherapy services; to amend the social services law, in relation to the funding of health home infrastructure development; to amend the public health law, in relation to general hospital inpatient reimbursement; to amend the social services law, in relation to managed care programs; to amend section 2 of part H of chapter 111 of the laws of 2010, relating to increasing Medicaid payments to providers through managed care organizations and providing equivalent fees through an ambulatory patient group methodology, in relation to the effectiveness thereof; to amend the public health law, in relation to rates of payment for residential health care facilities and in relation to rates of reimbursement for inpatient detoxification and withdrawal services; to

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

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amend the public health law, in relation to hospital inpatient base years; to amend the public health law, in relation to the Medicaid managed care inpatient psychiatric care default rate; to amend the public health law, in relation to the Medicaid managed care default rate; to amend the public health law, in relation to moving rate setting for child health plus to the department of health; to amend the social services law and the public health law, in relation to requiring the use of an enrollment broker for counties that are mandated Medicaid managed care and managed long term care; to amend the public health law, in relation to repealing the twentieth day of the month enrollment cut-off for managed long term care enrollees; to amend the public health law, in relation to the nursing home financially disadvantaged program; to amend the public health law, in relation to eliminating the recruitment and retention attestation requirement for certain certified home health agencies; to amend the public health law, in relation to extending the office of the Medicaid inspector general's power to audit rebasing rates; to amend the public health law, in relation to rebasing transition payments; to amend the public health law, in relation to capital cost reimbursement for nursing homes; to amend the public health law, in relation to eliminating the bed hold requirement; to amend the public health law, in relation to authorizing upper payment limits for certain nursing homes; to amend the public health law, in relation to rates for specialty nursing homes; to amend the social services law, in relation to eliminating spousal refusal of medical care; to amend the social services law, in relation to eligibility for Medicaid; to amend the social services law, in relation to treatment of income and resources of institutionalized persons; to amend the public health law, in relation to certain payments for certain home care agencies and services; to amend the social services law, in relation to Medicaid eligibility; to amend subdivision (a) of section 90 of part H of chapter 59 of the laws of 2011, amending the public health law and other laws relating to general hospital inpatient reimbursement, in relation to the effectiveness thereof; to amend subdivision 1 of section 92 of part H of chapter 59 of the laws of 2011, amending the public health law and other laws relating to known and projected department of health state funds Medicaid expenditures, in relation to the effectiveness thereof; in relation to eliminating the 2013-2014 trend factor and thereafter; to repeal certain provisions of the social services law and the public health law relating to managed care programs; and to repeal certain provisions of the public health law and the social services law relating to the pharmacy and therapeutics committee; providing for the repeal of certain provisions upon expiration thereof (Part A); to amend the public health law, in relation to payments to hospital assessments; to amend part C of chapter 58 of the laws of 2009 amending the public health law relating to payment by governmental agencies for general hospital inpatient services, in relation to the effectiveness of eligibility for medical assistance and the family health plus program; to amend chapter 474 of the laws of 1996, amending the education law and other laws relating to rates for residential healthcare facilities, in relation to reimbursements; to amend chapter 884 of the laws of 1990, amending the public health law relating to authorizing bad debt and charity care allowances for certified home health agencies, in relation to the effectiveness thereof; to amend the long term care integration and finance act of 1997, in relation to extending the expiration of operating demonstrations operating a managed long term

care plan; to amend chapter 81 of the laws of 1995, amending the public health law and other laws relating to medical reimbursement and welfare reform, in relation to reimbursements and the effectiveness thereof; to amend the public health law, in relation to capital related inpatient expenses; to amend part C of chapter 58 of the laws of 2007, amending the social services law and other laws relating to enacting the major components of legislation necessary to implement the health and mental hygiene budget for the 2007-2008 state fiscal year, in relation to rates of payment by state governmental agencies and the effectiveness of certain provisions of such chapter; to amend the social services law, in relation to reports on chronic illness demonstration projects; to amend chapter 451 of the laws of 2007, amending the public health law, the social services law and the insurance law, relating to providing enhanced consumer and provider protections, in relation to extending the effectiveness of certain provisions thereof; to amend the public health law, in relation to rates of payment for long term home health care programs; to amend chapter 2 of the laws of 1998, amending the public health law and other laws relating to expanding the child health insurance plan, in relation to the effectiveness of certain provisions thereof; to amend chapter 426 of the laws of 1983, amending the public health law relating to professional misconduct proceedings and chapter 582 of the laws of 1984, amending the public health law relating to regulating activities of physicians, in relation to making such provisions permanent; to amend the public health law, in relation to extending a demonstration program for physicians suffering from alcoholism, drug abuse or mental illness; to amend part X2 of chapter 62 of the laws of 2003 amending the public health law relating to allowing the use of funds of the office of professional medical conduct for activities of the patient health information and quality improvement act of 2000, in relation to the effectiveness of certain provisions thereof; to repeal subdivision 8 of section 364-1 of the social services law relating thereto; to repeal certain provisions of chapter 81 of the laws of 1995 amending the public health law and other laws relating to medical reimbursement and welfare relating to the effectiveness thereof (Part B); to amend the public health law, in relation to indigent care (Part C); to amend the social services law, in relation to eligibility conditions; to amend the social services law, in relation to permitting online and telephone Medicaid applications; to amend the social services law, in relation to allowing administrative renewals and self-attestation of residency; to amend the social services law, in relation to ending applications for family health plus; to amend the social services law, in relation to modified adjusted gross income and Medicaid eligibility groups; to amend the public health law, in relation to establishing methodology for modified adjusted gross income; to amend the public health law, in relation to centralizing child health plus eligibility determinations; to amend the public health law, in relation to requiring audit standards for eligibility; to amend the public health law, in relation to residency and income attestation and verification for child health plus; to amend the public health law, in relation to eliminating temporary enrollment in child health plus; to amend the public health law, in relation to expanding the child health plus social security number requirement to lawfully residing children; to amend the public health law, in relation to modified adjusted gross income under child health plus; to amend the public health law, in relation to personal interviews under

child health plus; to amend the social services law, in relation to amendment of contracts awarded by the commissioner of health; to amend the insurance law, in relation to clarifying the identity of persons to whom insurance licensing requirements apply; to amend the insurance law, in relation to coverage limitations requirements and student accident and health insurance; to amend the insurance law, in relation to standardization of individual enrollee direct payment contracts; to amend the insurance law, in relation to ensuring that group and individual insurance policy provisions conform to applicable requirements of federal law and to make conforming changes; to repeal sections 369-ee and 369-ff of the social services law, relating to the family health plus program; to repeal certain other provisions of the social services law relating thereto; to repeal certain provisions of the insurance law relating thereto; providing for the repeal of certain provisions upon expiration thereof (Part D); to amend the public health law and the insurance law, in relation to the early intervention program for infants and toddlers with disabilities and their families; to amend the public health law, in relation to the general public health work program; to amend chapter 577 of the laws of 2008 amending the public health law, relating to expedited partner therapy for persons infected with chlamydia trachomatis, in relation to the effectiveness of such chapter; to amend the public health law, in relation to outcome based contracting and outcome based health planning; to amend the public health law, the mental hygiene law and the executive law, in relation to consolidating the excess medical malpractice liability coverage pool; to amend the insurance law, in relation to the appointment of members of the board of the New York state health foundation and the investment of funds; to amend the insurance law and the general municipal law, in relation to malpractice and professional misconduct; to amend the administrative code of the city of New York, in relation to the definition of a certified first responder; to amend the workers' compensation law, in relation to an injury incurred by an emergency medical technician; to amend the education law and the state finance law, in relation to medical malpractice reform; and to repeal sections 3002, 3002-a, 3003-a, 3005-b, 3009, 3017 and articles 30-B and 30-C of the public health law relating to emergency medical services; to amend chapter 420 of the laws of 2002 amending the education law relating to the profession of social work; chapter 676 of the laws of 2002 amending the education law relating to the practice of psychology; and chapter 130 of the laws of 2010 amending the education law and other laws relating to the registration of entities providing certain professional services and the licensure of certain professions, in relation to reporting requirements and expiration dates; and to amend the public health law, in relation to consolidating the excess medical malpractice liability coverage pool; and to repeal section 18 of chapter 266 of the laws of 1986, amending the civil practice law and rules and other laws relating to medical and dental malpractice, relating thereto; to repeal certain provisions of the public health law relating to state aid for certain public health programs and provisions relating to sexually transmitted diseases (Part E); to amend the mental hygiene law, in relation to the addition to the methadone registry of dosage and such other information as is necessary to facilitate disaster management (Part F); to amend the mental hygiene law, in relation to state aid funding authorization of services funded by the office of alcoholism and substance abuse services; to repeal article 26 of such law relat-

ing thereto (Part G); to amend the mental hygiene law and chapter 56 of the laws of 2012, amending the mental hygiene law relating to the closure and the reduction in size of certain facilities serving persons with mental illness, in relation to references to certain former children's psychiatric centers in the city of New York, and in relation to the expiration and repeal of certain provisions thereof; to authorize the office of mental health to close, consolidate, reduce, transfer and otherwise redesign its programs; to amend chapter 62 of the laws of 2003, amending the mental hygiene law and the state finance law relating to the community mental health support and workforce reinvestment program, the membership of subcommittees for mental health of community services boards and the duties of such subcommittees and creating the community mental health and workforce reinvestment account, in relation to extending such provisions relating thereto (Part H); to amend the mental hygiene law, in relation to the recovery of exempt income by the office of mental health for community residential programs (Part I); to amend the mental hygiene law, in relation to vesting all authority to appoint and remove officers and employees of the office of mental health (Part J); to amend the mental hygiene law, in relation to an annual examination and notice of rights provided to respondent sex offenders who are confined in a secure treatment facility (Part K); to amend the mental hygiene law and the education law, in relation to creating mental health incident review panels (Part L); to repeal certain provisions of the mental hygiene law and certain provisions of chapter 723 of the laws of 1989, amending the mental hygiene law and other laws relating to the establishment of comprehensive psychiatric emergency programs, relating to eliminating the annual reports on the comprehensive psychiatric emergency program; family care; and the confinement, care and treatment of persons with developmental disabilities (Part M); and to amend chapter 57 of the laws of 2006, relating to establishing a cost of living adjustment for designated human services programs, in relation to foregoing such adjustment during the 2013-2014 state fiscal year (Part N)

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

1 Section 1. This act enacts into law major components of legislation
2 which are necessary to implement the state fiscal plan for the 2013-2014
3 state fiscal year. Each component is wholly contained within a Part
4 identified as Parts A through N. The effective date for each particular
5 provision contained within such Part is set forth in the last section of
6 such Part. Any provision in any section contained within a Part, includ-
7 ing the effective date of the Part, which makes a reference to a section
8 "of this act", when used in connection with that particular component,
9 shall be deemed to mean and refer to the corresponding section of the
10 Part in which it is found. Section three of this act sets forth the
11 general effective date of this act.

12 PART A

13 Section 1. Subdivision (a) of section 90 of part H of chapter 59 of
14 the laws of 2011, amending the public health law and other laws, relat-

ing to general hospital inpatient reimbursement for annual rates, is amended to read as follows:

(a) Notwithstanding any other provision of law to the contrary, for the state fiscal years beginning April 1, 2011 and ending on March 31, [2013] 2015, all Medicaid payments made for services provided on and after April 1, 2011, shall, except as hereinafter provided, be subject to a uniform two percent reduction and such reduction shall be applied, to the extent practicable, in equal amounts during the fiscal year, provided, however, that an alternative method may be considered at the discretion of the commissioner of health and the director of the budget based upon consultation with the health care industry including but not limited to, a uniform reduction in Medicaid rates of payments or other reductions provided that any method selected achieves up to \$345,000,000 in Medicaid state share savings in state fiscal year 2011-12 and up to \$357,000,000 ANNUALLY in state fiscal [year] YEARS 2012-13, 2013-14 AND 2014-15 except as hereinafter provided, for services provided on and after April 1, 2011 through March 31, [2013] 2015. Any alternative methods to achieve the reduction must be provided in writing and shall be filed with the senate finance committee and the assembly ways and means committee not less than thirty days before the date on which implementation is expected to begin. Nothing in this section shall be deemed to prevent all or part of such alternative reduction plan from taking effect retroactively, to the extent permitted by the federal centers for medicare and medicaid services.

S 2. Subdivision 1 of section 91 of part H of chapter 59 of the laws of 2011, amending the public health law and other laws relating to general hospital reimbursement for annual rates, as amended by section 5 of part F of chapter 56 of the laws of 2012, is amended to read as follows:

1. Notwithstanding any inconsistent provision of state law, rule or regulation to the contrary, subject to federal approval, the year to year rate of growth of department of health state funds Medicaid spending shall not exceed the ten year rolling average of the medical component of the consumer price index as published by the United States department of labor, bureau of labor statistics, for the preceding ten years[.]; PROVIDED, HOWEVER, THAT FOR STATE FISCAL YEAR 2013-14 AND FOR EACH FISCAL YEAR THEREAFTER, THE MAXIMUM ALLOWABLE ANNUAL INCREASE IN THE AMOUNT OF DEPARTMENT OF HEALTH STATE FUNDS MEDICAID SPENDING SHALL BE CALCULATED BY MULTIPLYING THE DEPARTMENT OF HEALTH STATE FUNDS MEDICAID SPENDING FOR THE PREVIOUS YEAR, MINUS THE AMOUNT OF ANY DEPARTMENT OF HEALTH STATE OPERATIONS SPENDING INCLUDED THEREIN, BY SUCH TEN YEAR ROLLING AVERAGE.

S 3. Subdivision 1 of section 92 of part H of chapter 59 of the laws of 2011, amending the public health law and other laws relating to known and projected department of health state funds Medicaid expenditures, as amended by section 57 of part D of chapter 56 of the laws of 2012, is amended to read as follows:

1. For state fiscal years 2011-12 through [2013-14] 2014-2015, the director of the budget, in consultation with the commissioner of health referenced as "commissioner" for purposes of this section, shall assess on a monthly basis, as reflected in monthly reports pursuant to subdivision five of this section known and projected department of health state funds medicaid expenditures by category of service and by geographic regions, as defined by the commissioner, and if the director of the budget determines that such expenditures are expected to cause medicaid disbursements for such period to exceed the projected department of

1 health medicaid state funds disbursements in the enacted budget finan-
2 cial plan pursuant to subdivision 3 of section 23 of the state finance
3 law, the commissioner of health, in consultation with the director of
4 the budget, shall develop a medicaid savings allocation plan to limit
5 such spending to the aggregate limit level specified in the enacted
6 budget financial plan, provided, however, such projections may be
7 adjusted by the director of the budget to account for any changes in the
8 New York state federal medical assistance percentage amount established
9 pursuant to the federal social security act, changes in provider reven-
10 ues, reductions to local social services district medical assistance
11 administration, and beginning April 1, 2012 the operational costs of the
12 New York state medical indemnity fund.

13 S 4. Subdivision 10 of section 2807-c of the public health law is
14 amended by adding a new paragraph (d) to read as follows:

15 (D)(I) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS SECTION OR
16 ANY OTHER CONTRARY PROVISION OF LAW AND SUBJECT TO THE AVAILABILITY OF
17 FEDERAL FINANCIAL PARTICIPATION, EFFECTIVE FOR MEDICAID RATE PERIODS ON
18 AND AFTER APRIL FIRST, TWO THOUSAND THIRTEEN, NO TREND FACTOR ADJUST-
19 MENTS SHALL BE AVAILABLE WITH REGARD TO REIMBURSEMENT FOR INPATIENT
20 SERVICES OTHERWISE SUBJECT TO THE PROVISIONS OF THIS SECTION.

21 (II) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS SECTION,
22 SECTION TWENTY-ONE OF CHAPTER ONE OF THE LAWS OF NINETEEN HUNDRED NINE-
23 TY-NINE, OR ANY OTHER CONTRARY PROVISION OF LAW AND SUBJECT TO THE
24 AVAILABILITY OF FEDERAL FINANCIAL PARTICIPATION, EFFECTIVE FOR MEDICAID
25 RATE PERIODS ON AND AFTER APRIL FIRST, TWO THOUSAND THIRTEEN, NO TREND
26 FACTOR ADJUSTMENTS SHALL BE AVAILABLE WITH REGARD TO REIMBURSEMENT FOR
27 THE FOLLOWING:

28 (A) RESIDENTIAL HEALTH CARE FACILITY INPATIENT SERVICES AND ADULT DAY
29 HEALTH CARE OUTPATIENT SERVICES PROVIDED PURSUANT TO THIS ARTICLE;

30 (B) HOSPITAL OUTPATIENT SERVICES AND DIAGNOSTIC AND TREATMENT CENTER
31 SERVICES PROVIDED PURSUANT TO THIS ARTICLE, EXCEPT AS REQUIRED BY FEDER-
32 AL LAW WITH REGARD TO SERVICES REIMBURSED PURSUANT TO SUBDIVISION EIGHT
33 OF SECTION TWENTY-EIGHT HUNDRED SEVEN OF THIS ARTICLE;

34 (C) CERTIFIED HOME HEALTH AGENCIES AND LONG TERM HOME HEALTH CARE
35 PROGRAMS PURSUANT TO SECTION THIRTY-SIX HUNDRED FOURTEEN OF THIS CHAP-
36 TER;

37 (D) PERSONAL CARE SERVICES PROVIDED PURSUANT TO SECTION THREE HUNDRED
38 SIXTY-SEVEN-I OF THE SOCIAL SERVICES LAW;

39 (E) ADULT DAY HEALTH CARE SERVICES PROVIDED TO PATIENTS DIAGNOSED WITH
40 AIDS AS DEFINED BY APPLICABLE REGULATIONS;

41 (F) PERSONAL CARE SERVICES PROVIDED IN THOSE LOCAL SOCIAL SERVICES
42 DISTRICTS, INCLUDING NEW YORK CITY, WHOSE RATES OF PAYMENT FOR SUCH
43 SERVICES ARE ESTABLISHED BY SUCH LOCAL SOCIAL SERVICES DISTRICTS PURSU-
44 ANT TO A RATE-SETTING EXEMPTION ISSUED BY THE COMMISSIONER TO SUCH LOCAL
45 SOCIAL SERVICES DISTRICTS IN ACCORDANCE WITH APPLICABLE REGULATIONS;

46 (G) ASSISTED LIVING PROGRAM SERVICES; AND

47 (H) HOSPICE SERVICES.

48 S 5. Paragraph (a) of subdivision 8 of section 367-b of the social
49 services law, as amended by chapter 109 of the laws of 2007, is amended
50 to read as follows:

51 (a) For the purpose of orderly and timely implementation of the
52 medical assistance information and payment system, the department is
53 hereby authorized to enter into agreements with fiscal intermediaries or
54 fiscal agents for the design, development, implementation, operation,
55 processing, auditing and making of payments, subject to audits being
56 conducted by the state in accordance with the terms of such agreements,

1 for medical assistance claims under the system described by this section
2 in any social services district. Such agreements shall specifically
3 provide that the state shall have complete oversight responsibility for
4 the fiscal intermediaries' or fiscal agents' performance and shall be
5 solely responsible for establishing eligibility requirements for recipi-
6 ents, provider qualifications, rates of payment, investigation of
7 suspected fraud and abuse, issuance of identification cards, establish-
8 ing and maintaining recipient eligibility files, provider profiles, and
9 conducting state audits of the fiscal intermediaries' or agents' at
10 least once annually. The system described in this subdivision shall be
11 operated by [a] ONE OR MORE fiscal [intermediary] INTERMEDIARIES or
12 fiscal [agent] AGENTS in accordance with this subdivision unless the
13 department is otherwise authorized by a law enacted subsequent to the
14 effective date of this subdivision to operate the system in another
15 manner. In no event shall such intermediary or agent be a political
16 subdivision of the state or any other governmental agency or entity.
17 NOTWITHSTANDING THE FOREGOING, THE DEPARTMENT MAY MAKE PAYMENTS TO A
18 PROVIDER UPON THE COMMISSIONER'S DETERMINATION THAT THE PROVIDER IS
19 TEMPORARILY UNABLE TO COMPLY WITH BILLING REQUIREMENTS. The department
20 shall consult with the office of Medicaid inspector general regarding
21 any activities undertaken by the fiscal intermediaries or fiscal agents
22 regarding investigation of suspected fraud and abuse.

23 S 6. Section 365-l of the social services law is amended by adding a
24 new subdivision 9 to read as follows:

25 9. ANY CONTRACT OR CONTRACTS ENTERED INTO BY THE COMMISSIONER OF
26 HEALTH PRIOR TO JANUARY FIRST, TWO THOUSAND THIRTEEN PURSUANT TO SUBDI-
27 VISION EIGHT OF THIS SECTION MAY BE AMENDED OR MODIFIED WITHOUT THE NEED
28 FOR A COMPETITIVE BID OR REQUEST FOR PROPOSAL PROCESS, AND WITHOUT
29 REGARD TO THE PROVISIONS OF SECTIONS ONE HUNDRED TWELVE AND ONE HUNDRED
30 SIXTY-THREE OF THE STATE FINANCE LAW, SECTION ONE HUNDRED FORTY-TWO OF
31 THE ECONOMIC DEVELOPMENT LAW, OR ANY OTHER PROVISION OF LAW, TO ALLOW
32 THE PURCHASE OF ADDITIONAL PERSONNEL AND SERVICES, SUBJECT TO AVAILABLE
33 FUNDING, FOR THE PURPOSE OF IMPLEMENTING MEDICAID REDESIGN TEAM INITI-
34 ATIVES, INCLUDING THOSE RELATED TO MANAGED CARE, MANAGED LONG TERM CARE,
35 MEDICAL ASSISTANCE WAIVERS, AND THE MEDICAL ASSISTANCE GLOBAL SPENDING
36 CAP.

37 S 7. Section 368-d of the social services law is amended by adding a
38 new subdivision 7 to read as follows:

39 7. ANY CONTRACT OR CONTRACTS ENTERED INTO BY THE COMMISSIONER OF
40 HEALTH PRIOR TO JANUARY FIRST, TWO THOUSAND THIRTEEN PURSUANT TO SUBDI-
41 VISION FIVE OF THIS SECTION OR SUBDIVISION FOUR OF SECTION THREE HUNDRED
42 SIXTY-EIGHT-E OF THIS TITLE MAY BE AMENDED OR MODIFIED WITHOUT THE NEED
43 FOR A COMPETITIVE BID OR REQUEST FOR PROPOSAL PROCESS, AND WITHOUT
44 REGARD TO THE PROVISIONS OF SECTIONS ONE HUNDRED TWELVE AND ONE HUNDRED
45 SIXTY-THREE OF THE STATE FINANCE LAW, SECTION ONE HUNDRED FORTY-TWO OF
46 THE ECONOMIC DEVELOPMENT LAW, OR ANY OTHER PROVISION OF LAW, TO ALLOW
47 THE PURCHASE OF ADDITIONAL PERSONNEL AND SERVICES, SUBJECT TO AVAILABLE
48 FUNDING, FOR THE PURPOSE OF IMPLEMENTING MEDICAID REDESIGN TEAM INITI-
49 ATIVES, INCLUDING THOSE RELATED TO MANAGED CARE, MANAGED LONG TERM CARE,
50 MEDICAL ASSISTANCE WAIVERS, AND THE MEDICAL ASSISTANCE GLOBAL SPENDING
51 CAP.

52 S 8. Intentionally Omitted

53 S 9. Intentionally Omitted

54 S 10. Subdivision 25 of section 364-j of the social services law is
55 REPEALED.

1 S 11. Paragraph (b) of subdivision 3 of section 273 of the public
2 health law, as added by section 10 of part C of chapter 58 of the laws
3 of 2005, is amended to read as follows:

4 (b) In the event that the patient does not meet the criteria in para-
5 graph (a) of this subdivision, the prescriber may provide additional
6 information to the program to justify the use of a prescription drug
7 that is not on the preferred drug list. The program shall provide a
8 reasonable opportunity for a prescriber to reasonably present his or her
9 justification of prior authorization. [If, after consultation with the
10 program, the prescriber, in his or her reasonable professional judgment,
11 determines that the use of a prescription drug that is not on the
12 preferred drug list is warranted, the prescriber's determination shall
13 be final.]

14 S 12. Paragraph (g-1) of subdivision 2 of section 365-a of the social
15 services law, as amended by section 23 of part H of chapter 59 of the
16 laws of 2011, is amended to read as follows:

17 (g-1) drugs provided on an in-patient basis, those drugs contained on
18 the list established by regulation of the commissioner of health pursu-
19 ant to subdivision four of this section, and those drugs which may not
20 be dispensed without a prescription as required by section sixty-eight
21 hundred ten of the education law and which the commissioner of health
22 shall determine to be reimbursable based upon such factors as the avail-
23 ability of such drugs or alternatives at low cost if purchased by a
24 medicaid recipient, or the essential nature of such drugs as described
25 by such commissioner in regulations, provided, however, that such drugs,
26 exclusive of long-term maintenance drugs, shall be dispensed in quanti-
27 ties no greater than a thirty day supply or one hundred doses, whichever
28 is greater; provided further that the commissioner of health is author-
29 ized to require prior authorization for any refill of a prescription
30 when [less than seventy-five percent of the previously dispensed amount
31 per fill should have been used] MORE THAN A SIX DAY SUPPLY OF THE PREVI-
32 OUSLY DISPENSED AMOUNT SHOULD REMAIN were the product used as normally
33 indicated; provided further that the commissioner of health is author-
34 ized to require prior authorization of prescriptions of opioid analges-
35 ics in excess of four prescriptions in a thirty-day period in accordance
36 with section two hundred seventy-three of the public health law, EXCEPT
37 THAT PRIOR AUTHORIZATION MAY BE DENIED IF THE DEPARTMENT OF HEALTH,
38 AFTER GIVING THE PRESCRIBER A REASONABLE OPPORTUNITY TO PRESENT A JUSTI-
39 FICATION, DETERMINES THAT THE ADDITIONAL PRESCRIPTION IS NOT MEDICALLY
40 NECESSARY; medical assistance shall not include any drug provided on
41 other than an in-patient basis for which a recipient is charged or a
42 claim is made in the case of a prescription drug, in excess of the maxi-
43 mum reimbursable amounts to be established by department regulations in
44 accordance with standards established by the secretary of the United
45 States department of health and human services, or, in the case of a
46 drug not requiring a prescription, in excess of the maximum reimbursable
47 amount established by the commissioner of health pursuant to paragraph
48 (a) of subdivision four of this section;

49 S 13. Subparagraph (ii) of paragraph (b) of subdivision 9 of section
50 367-a of the social services law, as amended by section 10 of part H of
51 chapter 59 of the laws of 2011, is amended to read as follows:

52 (ii) if the drug dispensed is a multiple source prescription drug or a
53 brand-name prescription drug for which no specific upper limit has been
54 set by such federal agency, the lower of the estimated acquisition cost
55 of such drug to pharmacies, the average acquisition cost if available or
56 the dispensing pharmacy's usual and customary price charged to the

1 general public. For sole and multiple source brand name drugs, estimated
2 acquisition cost means the average wholesale price of a prescription
3 drug based upon the package size dispensed from, as reported by the
4 prescription drug pricing service used by the department, less seventeen
5 AND SIX-TENTHS percent thereof or the wholesale acquisition cost of a
6 prescription drug based upon package size dispensed from, as reported by
7 the prescription drug pricing service used by the department, minus zero
8 and forty-one hundredths percent thereof, and updated monthly by the
9 department. For multiple source generic drugs, estimated acquisition
10 cost means the lower of the average acquisition cost, the average whole-
11 sale price of a prescription drug based on the package size dispensed
12 from, as reported by the prescription drug pricing service used by the
13 department, less twenty-five percent thereof, or the maximum acquisition
14 cost, if any, established pursuant to paragraph (e) of this subdivision.

15 S 14. Section 271 of the public health law is REPEALED.

16 S 15. Subdivision 3 of section 270 of the public health law is
17 REPEALED, subdivision 2 is renumbered subdivision 3 and a new subdivi-
18 sion 2 is added to read as follows:

19 2. "BOARD" SHALL MEAN THE DRUG UTILIZATION REVIEW BOARD.

20 S 16. Section 272 of the public health law, as added by section 10 of
21 part C of chapter 58 of the laws of 2005, subdivision 4 as amended by
22 section 30 of part A of chapter 58 of the laws of 2008, subdivision 8 as
23 amended by section 5 of part B of chapter 109 of the laws of 2010, para-
24 graph (d) of subdivision 10 as added by section 17 of part H of chapter
25 59 of the laws of 2011, subdivision 11 as amended by section 36 of part
26 C of chapter 58 of the laws of 2009, paragraph (b) of subdivision 11 as
27 amended by section 9 of part H of chapter 59 of the laws of 2011, is
28 amended to read as follows:

29 S 272. Preferred drug program. 1. There is hereby established a
30 preferred drug program to promote access to the most effective
31 prescription drugs while reducing the cost of prescription drugs for
32 persons in state public health plans.

33 2. When a prescriber prescribes a non-preferred drug, state public
34 health plan reimbursement shall be denied unless prior authorization is
35 obtained, unless no prior authorization is required under this article.

36 3. The commissioner shall establish performance standards for the
37 program that, at a minimum, ensure that the preferred drug program and
38 the clinical drug review program provide sufficient technical support
39 and timely responses to consumers, prescribers and pharmacists.

40 4. Notwithstanding any other provision of law to the contrary, no
41 preferred drug program or prior authorization requirement for
42 prescription drugs, except as created by this article, paragraph (a-1)
43 or (a-2) of subdivision four of section three hundred sixty-five-a of
44 the social services law, paragraph (g) of subdivision two of section
45 three hundred sixty-five-a of the social services law, subdivision one
46 of section two hundred forty-one of the elder law and shall apply to the
47 state public health plans.

48 5. The [pharmacy and therapeutics committee] DRUG UTILIZATION REVIEW
49 BOARD shall consider and make recommendations to the commissioner for
50 the adoption of a preferred drug program. (a) In developing the
51 preferred drug program, the [committee] BOARD shall, without limitation:
52 (i) identify therapeutic classes or drugs to be included in the
53 preferred drug program; (ii) identify preferred drugs in each of the
54 chosen therapeutic classes; (iii) evaluate the clinical effectiveness
55 and safety of drugs considering the latest peer-reviewed research and
56 may consider studies submitted to the federal food and drug adminis-

tration in connection with its drug approval system; (iv) consider the potential impact on patient care and the potential fiscal impact that may result from making such a therapeutic class subject to prior authorization; and (v) consider the potential impact of the preferred drug program on the health of special populations such as children, the elderly, the chronically ill, persons with HIV/AIDS and persons with mental health conditions.

(b) In developing the preferred drug program, the [committee] BOARD may consider preferred drug programs or evidence based research operated or conducted by or for other state governments, the federal government, or multi-state coalitions. Notwithstanding any inconsistent provision of section one hundred twelve or article eleven of the state finance law or section one hundred forty-two of the economic development law or any other law, the department may enter into contractual agreements with the Oregon Health and Science University Drug Effectiveness Review Project to provide technical and clinical support to the [committee] BOARD and the department in researching and recommending drugs to be placed on the preferred drug list.

(c) The [committee] BOARD shall from time to time review all therapeutic classes included in the preferred drug program, and may recommend that the commissioner add or delete drugs or classes of drugs to or from the preferred drug program, subject to this subdivision.

(d) The [committee] BOARD shall establish procedures to promptly review prescription drugs newly approved by the federal food and drug administration.

6. The [committee] BOARD shall recommend a procedure and criteria for the approval of non-preferred drugs as part of the prior authorization process. In developing these criteria, the [committee] BOARD shall include consideration of the following:

(a) the preferred drug has been tried by the patient and has failed to produce the desired health outcomes;

(b) the patient has tried the preferred drug and has experienced unacceptable side effects;

(c) the patient has been stabilized on a non-preferred drug and transition to the preferred drug would be medically contraindicated; and

(d) other clinical indications for the use of the non-preferred drug, which shall include consideration of the medical needs of special populations, including children, the elderly, the chronically ill, persons with mental health conditions, and persons affected by HIV/AIDS.

7. The commissioner shall provide thirty days public notice on the department's website prior to any meeting of the [committee] BOARD to develop recommendations concerning the preferred drug program. Such notice regarding meetings of the [committee] BOARD shall include a description of the proposed therapeutic class to be reviewed, a listing of drug products in the therapeutic class, and the proposals to be considered by the [committee] BOARD. The [committee] BOARD shall allow interested parties a reasonable opportunity to make an oral presentation to the [committee] BOARD related to the prior authorization of the therapeutic class to be reviewed. The [committee] BOARD shall consider any information provided by any interested party, including, but not limited to, prescribers, dispensers, patients, consumers and manufacturers of the drug in developing their recommendations.

8. The commissioner shall provide notice of any recommendations developed by the [committee] BOARD regarding the preferred drug program, at least five days before any final determination by the commissioner, by making such information available on the department's website. Such

1 public notice [shall] MAY include: a summary of the deliberations of the
2 [committee] BOARD; a summary of the positions of those making public
3 comments at meetings of the [committee] BOARD; the response of the
4 [committee] BOARD to those comments, if any; and the findings and recom-
5 mendations of the [committee] BOARD. ALTERNATIVELY, THE COMMISSIONER
6 MAY PROVIDE SUCH NOTICE OF THE BOARD'S RECOMMENDATIONS BY MAKING A VIDEO
7 OR AUDIO OF THE BOARD'S MEETINGS AVAILABLE ON THE DEPARTMENT'S WEBSITE
8 AT LEAST FIVE DAYS BEFORE ANY FINAL DETERMINATION BY THE COMMISSIONER.

9 9. Within ten days of a final determination regarding the preferred
10 drug program, the commissioner shall provide public notice on the
11 department's website of such determinations, including: the nature of
12 the determination; and analysis of the impact of the commissioner's
13 determination on state public health plan populations and providers; and
14 the projected fiscal impact to the state public health plan programs of
15 the commissioner's determination.

16 10. The commissioner shall adopt a preferred drug program and amend-
17 ments after considering the recommendations from the [committee] BOARD
18 and any comments received from prescribers, dispensers, patients,
19 consumers and manufacturers of the drug.

20 (a) The preferred drug list in any therapeutic class included in the
21 preferred drug program shall be developed based initially on an evalu-
22 ation of the clinical effectiveness, safety and patient outcomes,
23 followed by consideration of the cost-effectiveness of the drugs.

24 (b) In each therapeutic class included in the preferred drug program,
25 the [committee] BOARD shall determine whether there is one drug which is
26 significantly more clinically effective and safe, and that drug shall be
27 included on the preferred drug list without consideration of cost. If,
28 among two or more drugs in a therapeutic class, the difference in clin-
29 ical effectiveness and safety is not clinically significant, then cost
30 effectiveness (including price and supplemental rebates) may also be
31 considered in determining which drug or drugs shall be included on the
32 preferred drug list.

33 (c) In addition to drugs selected under paragraph (b) of this subdivi-
34 sion, any prescription drug in the therapeutic class, whose cost to the
35 state public health plans (including net price and supplemental rebates)
36 is equal to or less than the cost of another drug in the therapeutic
37 class that is on the preferred drug list under paragraph (b) of this
38 subdivision, may be selected to be on the preferred drug list, based on
39 clinical effectiveness, safety and cost-effectiveness.

40 (d) Notwithstanding any provision of this section to the contrary, the
41 commissioner may designate therapeutic classes of drugs, including
42 classes with only one drug, as all preferred prior to any review that
43 may be conducted by the [committee] BOARD pursuant to this section.

44 11. (a) The commissioner shall provide an opportunity for pharmaceu-
45 tical manufacturers to provide supplemental rebates to the state public
46 health plans for drugs within a therapeutic class; such supplemental
47 rebates shall be taken into consideration by the [committee] BOARD and
48 the commissioner in determining the cost-effectiveness of drugs within a
49 therapeutic class under the state public health plans.

50 (A-1) THE COMMISSIONER MAY REQUIRE A PHARMACEUTICAL MANUFACTURER TO
51 PROVIDE A MINIMUM SUPPLEMENTAL REBATE FOR DRUGS THAT ARE ELIGIBLE FOR
52 STATE PUBLIC HEALTH PLAN REIMBURSEMENT, INCLUDING SUCH DRUGS AS SET
53 FORTH IN PARAGRAPH (G-1) OF SUBDIVISION TWO OF SECTION THREE HUNDRED
54 SIXTY-FIVE-A OF THE SOCIAL SERVICES LAW. IF SUCH A MINIMUM SUPPLEMENTAL
55 REBATE IS NOT PROVIDED BY THE MANUFACTURER, PRIOR AUTHORIZATION MAY BE
56 REQUIRED BY THE COMMISSIONER.

1 (b) The commissioner may designate a pharmaceutical manufacturer as
2 one with whom the commissioner is negotiating or has negotiated a
3 manufacturer agreement, and all of the drugs it manufactures or markets
4 shall be included in the preferred drug program. The commissioner may
5 negotiate directly with a pharmaceutical manufacturer for rebates relat-
6 ing to any or all of the drugs it manufactures or markets. A manufactur-
7 er agreement shall designate any or all of the drugs manufactured or
8 marketed by the pharmaceutical manufacturer as being preferred or non
9 preferred drugs. When a pharmaceutical manufacturer has been designated
10 by the commissioner under this paragraph but the commissioner has not
11 reached a manufacturer agreement with the pharmaceutical manufacturer,
12 then the commissioner may designate some or all of the drugs manufac-
13 tured or marketed by the pharmaceutical manufacturer as non preferred
14 drugs. However, notwithstanding this paragraph, any drug that is
15 selected to be on the preferred drug list under paragraph (b) of subdi-
16 vision ten of this section on grounds that it is significantly more
17 clinically effective and safer than other drugs in its therapeutic class
18 shall be a preferred drug.

19 (c) Supplemental rebates under this subdivision shall be in addition
20 to those required by applicable federal law and subdivision seven of
21 section three hundred sixty-seven-a of the social services law. In order
22 to be considered in connection with the preferred drug program, such
23 supplemental rebates shall apply to the drug products dispensed under
24 the Medicaid program and the EPIC program. The commissioner is prohibit-
25 ed from approving alternative rebate demonstrations, value added
26 programs or guaranteed savings from other program benefits as a substi-
27 tution for supplemental rebates.

28 13. The commissioner may implement all or a portion of the preferred
29 drug program through contracts with administrators with expertise in
30 management of pharmacy services, subject to applicable laws.

31 14. For a period of eighteen months, commencing with the date of
32 enactment of this article, and without regard to the preferred drug
33 program or the clinical drug review program requirements of this arti-
34 cle, the commissioner is authorized to implement, or continue, a prior
35 authorization requirement for a drug which may not be dispensed without
36 a prescription as required by section sixty-eight hundred ten of the
37 education law, for which there is a non-prescription version within the
38 same drug class, or for which there is a comparable non-prescription
39 version of the same drug. Any such prior authorization requirement shall
40 be implemented in a manner that is consistent with the process employed
41 by the commissioner for such authorizations as of one day prior to the
42 date of enactment of this article. At the conclusion of the eighteen
43 month period, any such drug or drug class shall be subject to the
44 preferred drug program requirements of this article; provided, however,
45 that the commissioner is authorized to immediately subject any such drug
46 to prior authorization without regard to the provisions of subdivisions
47 five through eleven of this section.

48 S 17. Subdivisions 4, 5 and 6 of section 274 of the public health law,
49 as added by section 10 of part C of chapter 58 of the laws of 2005, are
50 amended to read as follows:

51 4. The commissioner shall obtain an evaluation of the factors set
52 forth in subdivision three of this section and a recommendation as to
53 the establishment of a prior authorization requirement for a drug under
54 the clinical drug review program from the [pharmacy and therapeutics
55 committee] DRUG UTILIZATION REVIEW BOARD. For this purpose, the commis-

1 sioner and the [committee] BOARD, as applicable, shall comply with the
2 following meeting and notice processes established by this article:

3 (a) the open meetings law and freedom of information law provisions of
4 subdivision six of section two hundred seventy-one of this article; and

5 (b) the public notice and interested party provisions of subdivisions
6 seven, eight and nine of section two hundred seventy-two of this arti-
7 cle.

8 5. The [committee] BOARD shall recommend a procedure and criteria for
9 the approval of drugs subject to prior authorization under the clinical
10 drug review program. Such criteria shall include the specific approved
11 clinical indications for use of the drug.

12 6. The commissioner shall identify a drug for which prior authori-
13 zation is required, as well as the procedures and criteria for approval
14 of use of the drug, under the clinical drug review program after consid-
15 ering the recommendations from the [committee] BOARD and any comments
16 received from prescribers, dispensers, consumers and manufacturers of
17 the drug. In no event shall the prior authorization criteria for
18 approval pursuant to this subdivision result in denial of the prior
19 authorization request based on the relative cost of the drug subject to
20 prior authorization.

21 S 18. Section 277 of the public health law, as added by section 10 of
22 part C of chapter 58 of the laws of 2005, is amended to read as follows:

23 S 277. Review and reports. 1. The commissioner, in consultation with
24 the [pharmacy and therapeutics committee] DRUG UTILIZATION REVIEW BOARD,
25 shall undertake periodic reviews, at least annually, of the preferred
26 drug program which shall include consideration of:

27 (a) the volume of prior authorizations being handled, including data
28 on the number and characteristics of prior authorization requests for
29 particular prescription drugs;

30 (b) the quality of the program's responsiveness, including the quality
31 of the administrator's responsiveness;

32 (c) complaints received from patients and providers;

33 (d) the savings attributable to the state, and to each county and the
34 city of New York, due to the provisions of this article;

35 (e) the aggregate amount of supplemental rebates received in the
36 previous fiscal year and in the current fiscal year, to date; and such
37 amounts are to be broken out by fiscal year and by month;

38 (f) the education and outreach program established by section two
39 hundred seventy-six of this article.

40 2. The commissioner and the [panel] BOARD shall, beginning March thir-
41 ty-first, two thousand six and annually thereafter, submit a report to
42 the governor and the legislature concerning each of the items subject to
43 periodic review under subdivision one of this section.

44 3. The commissioner and the [panel] BOARD shall, beginning with the
45 commencement of the preferred drug program and monthly thereafter,
46 submit a report to the governor and the legislature concerning the
47 amount of supplemental rebates received.

48 S 19. Subdivision 5 of section 369-bb of the social services law is
49 REPEALED and a new subdivision 5 is added to read as follows:

50 5. (A) THE FUNCTIONS, POWERS AND DUTIES OF THE FORMER PHARMACY AND
51 THERAPEUTICS COMMITTEE AS ESTABLISHED IN ARTICLE TWO-A OF THE PUBLIC
52 HEALTH LAW SHALL NOW BE CONSIDERED A FUNCTION OF THE DRUG UTILIZATION
53 REVIEW BOARD, INCLUDING BUT NOT LIMITED TO:

54 (I) CONDUCTING AN EXECUTIVE SESSION FOR THE PURPOSE OF RECEIVING AND
55 EVALUATING DRUG PRICING INFORMATION RELATED TO SUPPLEMENTAL REBATES, OR
56 RECEIVING AND EVALUATING TRADE SECRETS, OR OTHER INFORMATION WHICH, IF

1 DISCLOSED, WOULD CAUSE SUBSTANTIAL INJURY TO THE COMPETITIVE POSITION OF
2 THE MANUFACTURER; AND

3 (II) EVALUATING AND PROVIDING RECOMMENDATIONS TO THE COMMISSIONER OF
4 HEALTH ON OTHER ISSUES RELATING TO PHARMACY SERVICES UNDER MEDICAID OR
5 EPIC, INCLUDING, BUT NOT LIMITED TO: THERAPEUTIC COMPARISONS; ENHANCED
6 USE OF GENERIC DRUG PRODUCTS; ENHANCED TARGETING OF PHYSICIAN PRESCRIB-
7 ING PATTERNS; AND

8 (III) COLLABORATING WITH MANAGED CARE ORGANIZATIONS TO ADDRESS DRUG
9 UTILIZATION CONCERNS AND TO IMPLEMENT CONSISTENT MANAGEMENT STRATEGIES
10 ACROSS THE FEE-FOR-SERVICE AND MANAGED CARE PHARMACY BENEFITS.

11 (B) ANY BUSINESS OR OTHER MATTER UNDERTAKEN OR COMMENCED BY THE PHAR-
12 MACY AND THERAPEUTICS COMMITTEE PERTAINING TO OR CONNECTED WITH THE
13 FUNCTIONS, POWERS, OBLIGATIONS AND DUTIES ARE HEREBY TRANSFERRED AND
14 ASSIGNED TO THE DRUG UTILIZATION REVIEW BOARD AND PENDING ON THE EFFEC-
15 TIVE DATE OF THIS SUBDIVISION, MAY BE CONDUCTED AND COMPLETED BY THE
16 DRUG UTILIZATION REVIEW BOARD IN THE SAME MANNER AND UNDER THE SAME
17 TERMS AND CONDITIONS AND WITH THE SAME EFFECT AS IF CONDUCTED AND
18 COMPLETED BY THE PHARMACY AND THERAPEUTICS COMMITTEE. ALL BOOKS, PAPERS,
19 AND PROPERTY OF THE PHARMACY AND THERAPEUTICS COMMITTEE SHALL CONTINUE
20 TO BE MAINTAINED BY THE DRUG UTILIZATION REVIEW BOARD.

21 (C) ALL RULES, REGULATIONS, ACTS, ORDERS, DETERMINATIONS, AND DECI-
22 SIONS OF THE PHARMACY AND THERAPEUTICS COMMITTEE PERTAINING TO THE FUNC-
23 TIONS AND POWERS HEREIN TRANSFERRED AND ASSIGNED, IN FORCE AT THE TIME
24 OF SUCH TRANSFER AND ASSUMPTION, SHALL CONTINUE IN FULL FORCE AND EFFECT
25 AS RULES, REGULATIONS, ACTS, ORDERS, DETERMINATIONS AND DECISIONS OF THE
26 DRUG UTILIZATION REVIEW BOARD UNTIL DULY MODIFIED OR ABROGATED BY THE
27 COMMISSIONER OF HEALTH.

28 S 20. Subdivision 2 of section 369-bb of the social services law, as
29 added by chapter 632 of the laws of 1992, paragraph (a) as amended by
30 chapter 843 of the laws of 1992, is amended to read as follows:

31 2. The members of the DUR board shall be appointed by the commissioner
32 and shall serve a three-year term. Members may be reappointed upon the
33 completion of other terms. The membership shall be comprised of the
34 following:

35 (a) [Five] SIX persons licensed and actively engaged in the practice
36 of medicine in the state, [at least one of whom shall have expertise in
37 the area of mental health, who shall be selected from a list of nominees
38 provided by the medical society of the state of New York and other
39 medical associations] WITH EXPERTISE IN THE AREAS OF MENTAL HEALTH,
40 HIV/AIDS, GERIATRICS, PEDIATRICS OR INTERNAL MEDICINE AND WHO MAY BE
41 SELECTED BASED ON INPUT FROM PROFESSIONAL ASSOCIATIONS AND/OR ADVOCACY
42 GROUPS IN NEW YORK STATE.

43 (b) [Five] SIX persons licensed and actively practicing in [community]
44 pharmacy in the state who [shall] MAY be selected [from a list of nomi-
45 nees provided by pharmaceutical societies/associations of] BASED ON
46 INPUT FROM PROFESSIONAL ASSOCIATIONS AND/OR ADVOCACY GROUPS IN New York
47 state.

48 (c) Two persons with expertise in drug utilization review who are
49 [either] health care professionals licensed under Title VIII of the
50 education law [or who are pharmacologists] AT LEAST ONE OF WHOM IS A
51 PHARMACOLOGIST.

52 (d) [One person from the department of social services (commissioner
53 or designee).] TWO PERSONS THAT ARE CONSUMERS OR CONSUMER REPRESEN-
54 TATIVES OF ORGANIZATIONS WITH A REGIONAL OR STATEWIDE CONSTITUENCY AND
55 WHO HAVE BEEN INVOLVED IN ACTIVITIES RELATED TO HEALTH CARE CONSUMER
56 ADVOCACY, INCLUDING ISSUES AFFECTING MEDICAID OR EPIC RECIPIENTS.

1 (E) ONE PERSON LICENSED AND ACTIVELY PRACTICING AS A NURSE PRACTITION-
2 ER OR MIDWIFE.

3 (F) THE COMMISSIONER SHALL DESIGNATE A PERSON FROM THE DEPARTMENT TO
4 SERVE AS CHAIRPERSON OF THE BOARD.

5 S 21. Paragraph (g) of subdivision 2 of section 365-a of the social
6 services law, as amended by section 7 of part D of chapter 56 of the
7 laws of 2012, is amended to read as follows:

8 (g) sickroom supplies, eyeglasses, prosthetic appliances and dental
9 prosthetic appliances furnished in accordance with the regulations of
10 the department; provided further that: (i) the commissioner of health is
11 authorized to implement a preferred diabetic supply program wherein the
12 department of health will receive enhanced rebates from preferred
13 manufacturers of glucometers and test strips, and may subject non-pre-
14 ferred manufacturers' glucometers and test strips to prior authorization
15 under section two hundred seventy-three of the public health law; (ii)
16 enteral formula therapy and nutritional supplements are limited to
17 coverage only for nasogastric, jejunostomy, or gastrostomy tube feeding,
18 for treatment of an inborn metabolic disorder, or to address growth and
19 development problems in children, or, subject to standards established
20 by the commissioner, for persons with a diagnosis of HIV infection, AIDS
21 or HIV-related illness or other diseases and conditions; (iii)
22 prescription footwear and inserts are limited to coverage only when used
23 as an integral part of a lower limb orthotic appliance, as part of a
24 diabetic treatment plan, or to address growth and development problems
25 in children; [and] (iv) compression and support stockings are limited to
26 coverage only for pregnancy or treatment of venous stasis ulcers; AND
27 (V) THE COMMISSIONER OF HEALTH IS AUTHORIZED TO IMPLEMENT AN INCONTI-
28 NENCE SUPPLY UTILIZATION MANAGEMENT PROGRAM TO REDUCE COSTS WITHOUT
29 LIMITING ACCESS THROUGH THE EXISTING PROVIDER NETWORK, INCLUDING BUT NOT
30 LIMITED TO SINGLE OR MULTIPLE SOURCE CONTRACTS OR, A PREFERRED INCONTI-
31 NENCE SUPPLY PROGRAM WHEREIN THE DEPARTMENT OF HEALTH WILL RECEIVE
32 ENHANCED REBATES FROM PREFERRED MANUFACTURERS OF INCONTINENCE SUPPLIES,
33 AND MAY SUBJECT NON-PREFERRED MANUFACTURERS' INCONTINENCE SUPPLIES TO
34 PRIOR APPROVAL PURSUANT TO REGULATIONS OF THE DEPARTMENT, PROVIDED ANY
35 NECESSARY APPROVALS UNDER FEDERAL LAW HAVE BEEN OBTAINED TO RECEIVE
36 FEDERAL FINANCIAL PARTICIPATION IN THE COSTS OF INCONTINENCE SUPPLIES
37 PROVIDED PURSUANT TO THIS SUBPARAGRAPH;

38 S 22. Subdivision 2 of section 365-a of the social services law is
39 amended by adding a new paragraph (aa) to read as follows:

40 (AA) INDIVIDUAL PSYCHOTHERAPY SERVICES PROVIDED BY LICENSED SOCIAL
41 WORKERS, IN ACCORDANCE WITH LICENSING CRITERIA SET FORTH IN APPLICABLE
42 REGULATIONS, TO PERSONS UNDER THE AGE OF TWENTY-ONE AND TO PERSONS
43 REQUIRING SUCH SERVICES AS A RESULT OF OR RELATED TO PREGNANCY OR GIVING
44 BIRTH, PROVIDED ANY NECESSARY APPROVALS UNDER FEDERAL LAW HAVE BEEN
45 OBTAINED TO RECEIVE FEDERAL FINANCIAL PARTICIPATION IN THE COSTS OF
46 SERVICES PROVIDED PURSUANT TO THIS PARAGRAPH; PROVIDED, HOWEVER, THE
47 COMMISSIONER OF HEALTH IS AUTHORIZED TO ESTABLISH CRITERIA FOR SERVICES
48 PROVIDED PURSUANT TO THIS PARAGRAPH IN ACCORDANCE WITH ALL APPLICABLE
49 REQUIREMENTS OF FEDERAL LAW OR REGULATION PERTAINING TO SUCH SERVICES;
50 PROVIDED FURTHER NOTHING IN THIS PARAGRAPH SHALL BE CONSTRUED TO MODIFY
51 ANY LICENSURE, CERTIFICATION OR SCOPE OF PRACTICE PROVISION UNDER TITLE
52 EIGHT OF THE EDUCATION LAW.

53 S 23. Section 365-l of the social services law is amended by adding a
54 new subdivision 2-a to read as follows:

55 2-A. UP TO FIFTEEN MILLION DOLLARS IN STATE FUNDING MAY BE USED TO
56 FUND HEALTH HOME INFRASTRUCTURE DEVELOPMENT BY MARCH THIRTY-FIRST, TWO

1 THOUSAND FOURTEEN. SUCH FUNDS SHALL BE DISBURSED PURSUANT TO A FORMULA
2 ESTABLISHED BY THE COMMISSIONER. SUCH FORMULA MAY CONSIDER PRIOR ACCESS
3 TO SIMILAR FUNDING OPPORTUNITIES, GEOGRAPHIC AND DEMOGRAPHIC FACTORS,
4 INCLUDING THE POPULATION SERVED, AND PREVALENCE OF QUALIFYING CONDI-
5 TIONS, CONNECTIVITY TO PROVIDERS, AND OTHER CRITERIA AS ESTABLISHED BY
6 THE COMMISSIONER.

7 S 24. Paragraph (c) of subdivision 2 of section 365-a of the social
8 services law, as amended by chapter 778 of the laws of 1977, is amended
9 to read as follows:

10 (c) out-patient hospital or clinic services in facilities operated in
11 compliance with applicable provisions of this chapter, the public health
12 law, the mental hygiene law and other laws, including any provisions
13 thereof requiring an operating certificate or license, INCLUDING FACILI-
14 TIES AUTHORIZED BY THE APPROPRIATE LICENSING AUTHORITY TO PROVIDE INTE-
15 GRATED MENTAL HEALTH SERVICES, AND/OR ALCOHOLISM AND SUBSTANCE ABUSE
16 SERVICES, AND/OR PHYSICAL HEALTH SERVICES, AND/OR SERVICES TO PERSONS
17 WITH DEVELOPMENTAL DISABILITIES, WHEN SUCH SERVICES ARE PROVIDED AT A
18 SINGLE LOCATION OR SERVICE SITE, or where such facilities are not
19 conveniently accessible, in any hospital located without the state and
20 care and services in a day treatment program operated by the department
21 of mental hygiene or by a voluntary agency under an agreement with such
22 department in that part of a public institution operated and approved
23 pursuant to law as an intermediate care facility for [the mentally
24 retarded] PERSONS WITH DEVELOPMENTAL DISABILITIES;

25 S 25. The opening paragraph of paragraph 1 of subdivision 4 of section
26 2807-c of the public health law, as amended by section 11 of part C of
27 chapter 58 of the laws of 2009, is amended to read as follows:

28 Notwithstanding any inconsistent provision of this section and subject
29 to the availability of federal financial participation, rates of payment
30 by governmental agencies for general hospitals which are certified by
31 the office of alcoholism and substance abuse services to provide inpa-
32 tient detoxification and withdrawal services and, with regard to inpa-
33 tient services provided to patients discharged on and after December
34 first, two thousand eight and who are determined to be in diagnosis-re-
35 lated groups [numbered seven hundred forty-three, seven hundred forty-
36 four, seven hundred forty-five, seven hundred forty-six, seven hundred
37 forty-seven, seven hundred forty-eight, seven hundred forty-nine, seven
38 hundred fifty, or seven hundred fifty-one] AS IDENTIFIED AND PUBLISHED
39 ON THE NEW YORK STATE DEPARTMENT OF HEALTH WEBSITE, shall be made on a
40 per diem basis in accordance with the following:

41 S 26. Paragraph (c) of subdivision 35 of section 2807-c of the public
42 health law, as added by section 2 of part C of chapter 58 of the laws of
43 2009, is amended to read as follows:

44 (c) The base period reported costs and statistics used for rate-set-
45 ting for operating cost components, including the weights assigned to
46 diagnostic related groups, shall be updated no less frequently than
47 every four years and the new base period shall be no more than four
48 years prior to the first applicable rate period that utilizes such new
49 base period PROVIDED, HOWEVER, THAT THE FIRST UPDATED BASE PERIOD SHALL
50 BEGIN ON JANUARY FIRST, TWO THOUSAND FOURTEEN.

51 S 27. Subparagraph (i) of paragraph (e-1) of subdivision 4 of section
52 2807-c of the public health law, as amended by section 41 of part B of
53 chapter 58 of the laws of 2010, is amended to read as follows:

54 (i) For rate periods on and after April first, two thousand ten, the
55 commissioner, in consultation with the commissioner of the office of
56 mental health, shall promulgate regulations, and may promulgate emergen-

cy regulations, establishing methodologies for determining the operating cost components of rates of payments for services described in this paragraph. Such regulations shall utilize two thousand five operating costs as submitted to the department prior to July first, two thousand nine and shall provide for methodologies establishing per diem inpatient rates that utilize case mix adjustment mechanisms. Such regulations shall contain criteria for adjustments based on length of stay AND MAY ALSO PROVIDE FOR PERIODIC BASE YEAR UPDATES, AND ADJUSTMENTS TO THE UTILIZATION OF BASE YEAR COSTS AND STATISTICS.

S 28. Subparagraph (vii) of paragraph (e-2) of subdivision 4 of section 2807-c of the public health law, as added by section 13 of part C of chapter 58 of the laws of 2009, is amended to read as follows:

(vii) The commissioner may promulgate regulations, including emergency regulations, implementing the provisions of this paragraph, AND FURTHER, SUCH REGULATIONS MAY PROVIDE FOR THE PERIODIC UPDATING AND ADJUSTMENT OF THE BASE YEAR COSTS AND STATISTICS USED TO COMPUTE RATES OF PAYMENT PURSUANT TO THIS PARAGRAPH.

S 29. Paragraph (l) of subdivision 4 of section 2807-c of the public health law is amended by adding a new subparagraph (v) to read as follows:

(V) THE COMMISSIONER MAY PROMULGATE REGULATIONS, INCLUDING EMERGENCY REGULATIONS, PROVIDING FOR THE PERIODIC UPDATING AND ADJUSTMENT OF THE BASE YEAR COSTS AND STATISTICS USED TO COMPUTE RATES OF PAYMENT PURSUANT TO THIS PARAGRAPH.

S 30. Subparagraph (iv) of paragraph (e-2) of subdivision 4 of section 2807-c of the public health law is amended by adding a new clause (D) to read as follows:

(D) NOTWITHSTANDING ANY OTHER PROVISIONS OF LAW TO THE CONTRARY AND SUBJECT TO THE AVAILABILITY OF FEDERAL FINANCIAL PARTICIPATION, FOR ALL RATE PERIODS ON AND AFTER APRIL FIRST, TWO THOUSAND FOURTEEN, THE OPERATING COMPONENT OF OUTPATIENT SPECIALTY RATES OF HOSPITALS SUBJECT TO THIS SUBPARAGRAPH SHALL BE DETERMINED BY THE COMMISSIONER PURSUANT TO REGULATIONS, INCLUDING EMERGENCY REGULATIONS, AND IN CONSULTATION WITH SUCH SPECIALTY OUTPATIENT FACILITIES.

S 31. Paragraph (a-2) of subdivision 1 of section 2807-c of the public health law is amended by adding a new subparagraph (iii) to read as follows:

(III) NOTWITHSTANDING ANY CONTRARY PROVISION OF THIS PARAGRAPH OR ANY OTHER CONTRARY PROVISION OF LAW, PAYMENTS MADE PURSUANT TO THIS PARAGRAPH SHALL NOT REFLECT THE IMPLEMENTATION OF THE PROVISIONS OF PARAGRAPH (E-1) OF SUBDIVISION FOUR OF THIS SECTION OR OF REGULATIONS PROMULGATED THEREUNDER FOR ANY SERVICES PROVIDED PRIOR TO A DATE TO BE DETERMINED IN ACCORDANCE WITH REGULATIONS, INCLUDING EMERGENCY REGULATIONS, PROMULGATED BY THE COMMISSIONER, PROVIDED, HOWEVER, THAT UNTIL SUCH REGULATIONS ARE PROMULGATED THE PAYMENTS REQUIRED TO BE PAID PURSUANT TO THIS PARAGRAPH SHALL BE SUCH PAYMENTS AS ARE REQUIRED PURSUANT TO THIS PARAGRAPH FOR SERVICES PROVIDED ON OCTOBER NINETEENTH, TWO THOUSAND TEN.

S 32. Subparagraph (i) of paragraph (a-2) of subdivision 1 of section 2807-c of the public health law, as amended by section 6 of part 00 of chapter 57 of the laws of 2008, is amended to read as follows:

(i) With the exception of those enrollees covered under a payment rate methodology agreement negotiated with a general hospital, payments for inpatient hospital services provided to patients eligible for medical assistance pursuant to title eleven of article five of the social services law made by organizations operating in accordance with the

1 provisions of article forty-four of this chapter or by health mainte-
2 nance organizations organized and operating in accordance with article
3 forty-three of the insurance law shall be the rates of payment that
4 would be paid for such patients under the medical assistance program[,
5 (i)] AS determined pursuant to this section, excluding (I) adjustments
6 pursuant to subdivision fourteen-f of this section, and (ii) excluding
7 medical education costs that are reimbursed directly to the general
8 hospital in accordance with paragraph (a-3) of this subdivision, AND
9 (III) EXCLUDING ADJUSTMENTS MADE PURSUANT TO PARAGRAPHS (C) AND (E) OF
10 SUBDIVISION EIGHT OF THIS SECTION.

11 S 33. Subdivision 8 of section 2807-c of the public health law is
12 amended by adding a new paragraph (h) to read as follows:

13 (H) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS SECTION, SUBDI-
14 VISION TWO OF SECTION TWENTY-EIGHT HUNDRED SEVEN OF THIS ARTICLE, OR ANY
15 OTHER CONTRARY PROVISION OF LAW AND SUBJECT TO THE AVAILABILITY OF
16 FEDERAL FINANCIAL PARTICIPATION, THE CAPITAL COST COMPONENTS OF RATES OF
17 PAYMENT BY GOVERNMENTAL AGENCIES FOR INPATIENT AND OUTPATIENT SERVICES,
18 INCLUDING EMERGENCY SERVICES, PROVIDED BY GENERAL HOSPITALS ON AND AFTER
19 JANUARY FIRST, TWO THOUSAND FOURTEEN SHALL BE DETERMINED IN ACCORDANCE
20 WITH REGULATIONS, INCLUDING EMERGENCY REGULATIONS, PROMULGATED BY THE
21 COMMISSIONER. SUCH REGULATIONS SHALL BE DEVELOPED IN CONSULTATION WITH
22 THE HOSPITAL INDUSTRY.

23 S 34. Section 364-i of the social services law is amended by adding a
24 new subdivision 7 to read as follows:

25 7. NOTWITHSTANDING THE PROVISIONS OF SECTION ONE HUNDRED THIRTY-THREE
26 OF THIS CHAPTER OR ANY LAW TO THE CONTRARY, NO MEDICAL ASSISTANCE, AS
27 DEFINED IN SECTION THREE HUNDRED SIXTY-FIVE-A OF THIS TITLE, SHALL BE
28 AUTHORIZED OR REQUIRED TO BE FURNISHED TO AN INDIVIDUAL PRIOR TO THE
29 DATE THE INDIVIDUAL IS DETERMINED ELIGIBLE FOR ASSISTANCE UNDER THIS
30 TITLE, EXCEPT AS PROVIDED FOR IN THIS SECTION OR PURSUANT TO THE REGU-
31 LATIONS OF THE DEPARTMENT.

32 S 35. Section 4406-c of the public health law is amended by adding a
33 new subdivision 9 to read as follows:

34 9. (A) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW, CONTRACTS
35 WITH NURSING HOMES TO PROVIDE INPATIENT SERVICES SHALL ENSURE THAT THE
36 RESOURCES MADE AVAILABLE BY SUCH CONTRACTS WILL SUPPORT COMPENSATION FOR
37 PERSONS PROVIDING SUCH INPATIENT NURSING HOME SERVICES SUFFICIENT TO
38 ENSURE THE RETENTION OF A QUALIFIED WORKFORCE CAPABLE OF PROVIDING HIGH
39 QUALITY CARE TO THE RESIDENTS OF SUCH NURSING HOMES.

40 (B) SUCH CONTRACTS SHALL REQUIRE THAT STANDARD RATES OF COMPENSATION
41 BE PAID TO EMPLOYEES WHO PROVIDE INPATIENT NURSING HOME SERVICES,
42 INCLUDING NURSES, NURSING AIDES, ORDERLIES, ATTENDANTS, THERAPISTS AND,
43 IN ADDITION, TO ANY OTHER OCCUPATIONS DETERMINED BY THE COMMISSIONER, IN
44 CONSULTATION WITH THE COMMISSIONER OF LABOR, TO PROVIDE INPATIENT NURS-
45 ING HOME SERVICES.

46 (C) SUCH STANDARD RATES OF COMPENSATION SHALL INCLUDE A BASIC HOURLY
47 CASH RATE OF PAY AND A SUPPLEMENTAL BENEFIT RATE, WHICH MAY BE PAID OR
48 PROVIDED. SUCH RATES SHALL BE ANNUALLY DETERMINED BY THE COMMISSIONER
49 OF LABOR, IN CONSULTATION WITH THE COMMISSIONER, UTILIZING WAGE AND
50 FRINGE BENEFIT DATA FROM VARIOUS SOURCES, INCLUDING BUT NOT LIMITED TO,
51 DATA AND DETERMINATIONS OF FEDERAL, STATE OR OTHER GOVERNMENTAL AGEN-
52 CIES.

53 (D) THE COMMISSIONER SHALL DISTRIBUTE NOTICE OF SUCH RATES TO ALL SUCH
54 NURSING HOMES, WHICH SHALL BE DEEMED TO BE A TERM OF, AND INCLUDED AS
55 PART OF, ALL CONTRACTS SUBJECT TO THIS SECTION.

(E) A FAILURE TO COMPLY WITH THESE PROVISIONS OF THIS SUBDIVISION OR WITH REGULATIONS PROMULGATED THEREUNDER SHALL SUBJECT NON-COMPLIANT EMPLOYERS TO THE SANCTIONS AND ENFORCEMENT PROCESSES SET FORTH IN THE LABOR LAW AND REGULATIONS FOR A FAILURE TO PAY WAGES OR TO PAY OR PROVIDE SUPPLEMENTS, IN ADDITION TO ANY PENALTIES AVAILABLE UNDER THIS TITLE.

(F) IN THE EVENT THE COMMISSIONER DETERMINES, IN CONSULTATION WITH THE COMMISSIONER OF LABOR, THAT A NURSING HOME IS MATERIALLY OUT OF COMPLIANCE WITH THE PROVISIONS OF THIS SUBDIVISION THE COMMISSIONER SHALL REQUIRE THAT SUCH NURSING HOME NOT ACCEPT NEW ADMISSIONS PENDING REMEDIATION OF SUCH NON-COMPLIANCE, PROVIDED, HOWEVER, THAT THE COMMISSIONER MAY WAIVE SUCH ACTION IF THE COMMISSIONER DETERMINES THAT CONTINUED ADMISSIONS TO SUCH NURSING HOME IS REQUIRED TO MAINTAIN SUFFICIENT ACCESS TO NURSING HOME SERVICES IN THE RELEVANT GEOGRAPHIC AREA.

(G) THIS SUBDIVISION SHALL APPLY TO CONTRACTS WITH NURSING HOMES THAT ARE SUBJECT TO REVIEW BY THE DEPARTMENT UNDER THIS ARTICLE THAT ARE ISSUED, RENEWED, MODIFIED, ALTERED OR AMENDED ON OR AFTER OCTOBER FIRST, TWO THOUSAND THIRTEEN.

(H) THE COMMISSIONER AND THE COMMISSIONER OF LABOR MAY EACH PROMULGATE REGULATIONS, IN CONSULTATION WITH EACH OTHER, TO IMPLEMENT THE PROVISIONS OF THIS SUBDIVISION.

S 35-a. Subparagraph (i) of paragraph (b) of subdivision 1 of section 364-j of the social services law, as amended by chapter 433 of the laws of 1997, is amended to read as follows:

(i) is authorized to operate under article forty-four of the public health law or article forty-three of the insurance law and provides or arranges, directly or indirectly (including by referral) for covered comprehensive health services on a full capitation basis, INCLUDING A SPECIAL NEEDS MANAGED CARE PLAN OR COMPREHENSIVE HIV SPECIAL NEEDS PLAN; or

S 36. Paragraphs (c), (m) and (p) of subdivision 1 of section 364-j of the social services law, paragraph (c) as amended by section 12 of part C of chapter 58 of the laws of 2004, paragraph (m) as amended by section 42-b of part H of chapter 59 of the laws of 2011, and paragraph (p) as amended by chapter 649 of the laws of 1996, are amended and a new paragraph (z) is added to read as follows:

(c) "Managed care program". A statewide program in which medical assistance recipients enroll on a voluntary or mandatory basis to receive medical assistance services, including case management, directly and indirectly (including by referral) from a managed care provider, [and] INCLUDING as applicable, a [mental health special needs plan] SPECIAL NEEDS MANAGED CARE PLAN or a comprehensive HIV special needs plan, under this section.

(m) "Special needs managed care plan" [and "specialized managed care plan"] shall have the same meaning as in section forty-four hundred one of the public health law.

(p) "Grievance". Any complaint presented by a participant or a participant's representative for resolution through the grievance process of a managed care provider[, comprehensive HIV special needs plan or a mental health special needs plan].

(Z) "CREDENTIALED ALCOHOLISM AND SUBSTANCE ABUSE COUNSELOR (CASAC)". AN INDIVIDUAL CREDENTIALLED BY THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES IN ACCORDANCE WITH APPLICABLE REGULATIONS OF THE COMMISSIONER OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES.

1 S 37. Paragraph (c) of subdivision 2 of section 364-j of the social
2 services law, as added by section 42-c of part H of chapter 59 of the
3 laws of 2011, is amended to read as follows:

4 (c) The commissioner of health, jointly with the commissioner of
5 mental health and the commissioner of alcoholism and substance abuse
6 services shall be authorized to establish special needs managed care
7 [and specialized managed care] plans, under the medical assistance
8 program, in accordance with applicable federal law and regulations. The
9 commissioner of health, in cooperation with such commissioners, is
10 authorized, subject to the approval of the director of the division of
11 the budget, to apply for federal waivers when such action would be
12 necessary to assist in promoting the objectives of this section.

13 S 37-a. Paragraphs (b) and (c) of subdivision 3 of section 364-j of
14 the social services law are REPEALED.

15 S 38. Paragraphs (a), (d) and (e) of subdivision 3 of section 364-j
16 of the social services law, paragraph (a) as amended by section 13 of
17 part C of chapter 58 of the laws of 2004, paragraph (d) as relettered by
18 section 77 and paragraph (e) as amended by section 77-a of part H of
19 chapter 59 of the laws of 2011, and paragraph (d) as amended by chapter
20 648 of the laws of 1999, is amended to read as follows:

21 (a) Every person eligible for or receiving medical assistance under
22 this article, who resides in a social services district providing
23 medical assistance, which has implemented the state's managed care
24 program shall participate in the program authorized by this section.
25 Provided, however, that participation in a comprehensive HIV special
26 needs plan also shall be in accordance with article forty-four of the
27 public health law and participation in a [mental health special needs]
28 SPECIAL NEEDS MANAGED CARE plan shall also be in accordance with article
29 forty-four of the public health law and article thirty-one of the mental
30 hygiene law.

31 (d) [The] UNTIL SUCH TIME AS PROGRAM FEATURES AND REIMBURSEMENT RATES
32 ARE APPROVED BY THE COMMISSIONER OF HEALTH, IN CONSULTATION WITH THE
33 COMMISSIONERS OF THE OFFICE OF MENTAL HEALTH, THE OFFICE FOR PEOPLE WITH
34 DEVELOPMENTAL DISABILITIES, THE OFFICE OF CHILDREN AND FAMILY SERVICES,
35 AND THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, AS APPROPRI-
36 ATE, THE following services shall not be provided to medical assistance
37 recipients through managed care programs established pursuant to this
38 section, and shall continue to be provided outside of managed care
39 programs and in accordance with applicable reimbursement methodologies:

40 (i) day treatment services provided to individuals with developmental
41 disabilities;

42 (ii) comprehensive medicaid case management services provided to indi-
43 viduals with developmental disabilities;

44 (iii) services provided pursuant to title two-A of article twenty-five
45 of the public health law;

46 (iv) services provided pursuant to article eighty-nine of the educa-
47 tion law;

48 (v) mental health services provided by a certified voluntary free-
49 standing day treatment program where such services are provided in
50 conjunction with educational services authorized in an individualized
51 education program in accordance with regulations promulgated pursuant to
52 article eighty-nine of the education law;

53 (vi) long term services as determined by the commissioner of mental
54 retardation and developmental disabilities, provided to individuals with
55 developmental disabilities at facilities licensed pursuant to article
56 sixteen of the mental hygiene law or clinics serving individuals with

1 developmental disabilities at facilities licensed pursuant to article
2 twenty-eight of the public health law;
3 (vii) TB directly observed therapy;
4 (viii) AIDS adult day health care;
5 (ix) HIV COBRA case management; and
6 (x) other services as determined by the commissioner of health.
7 (e) The following categories of individuals may be required to enroll
8 with a managed care program when program features and reimbursement
9 rates are approved by the commissioner of health and, as appropriate,
10 the commissioners of the [department] OFFICE of mental health, the
11 office for [persons] PEOPLE with developmental disabilities, the office
12 of children and family services, and the office of [alcohol] ALCOHOLISM
13 and substance abuse services:
14 (i) an individual dually eligible for medical assistance and benefits
15 under the federal Medicare program [and enrolled in a Medicare managed
16 care plan offered by an entity that is also a managed care provider;
17 provided that (notwithstanding paragraph (g) of subdivision four of this
18 section):]; PROVIDED, HOWEVER, NOTHING HEREIN SHALL REQUIRE AN INDIVID-
19 UAL ENROLLED IN A MANAGED LONG TERM CARE PLAN, PURSUANT TO SECTION
20 FORTY-FOUR HUNDRED THREE-F OF THE PUBLIC HEALTH LAW, TO DISENROLL FROM
21 SUCH PROGRAM;
22 [(a) if the individual changes his or her Medicare managed care plan
23 as authorized by title XVIII of the federal social security act, and
24 enrolls in another Medicare managed care plan that is also a managed
25 care provider, the individual shall be (if required by the commissioner
26 under this paragraph) enrolled in that managed care provider;
27 (b) if the individual changes his or her Medicare managed care plan as
28 authorized by title XVIII of the federal social security act, but
29 enrolls in another Medicare managed care plan that is not also a managed
30 care provider, the individual shall be disenrolled from the managed care
31 provider in which he or she was enrolled and withdraw from the managed
32 care program;
33 (c) if the individual disenrolls from his or her Medicare managed care
34 plan as authorized by title XVIII of the federal social security act,
35 and does not enroll in another Medicare managed care plan, the individ-
36 ual shall be disenrolled from the managed care provider in which he or
37 she was enrolled and withdraw from the managed care program;
38 (d) nothing herein shall require an individual enrolled in a managed
39 long term care plan, pursuant to section forty-four hundred three-f of
40 the public health law, to disenroll from such program.]
41 (ii) an individual eligible for supplemental security income;
42 (iii) HIV positive individuals;
43 (iv) persons with serious mental illness and children and adolescents
44 with serious emotional disturbances, as defined in section forty-four
45 hundred one of the public health law;
46 (v) a person receiving services provided by a residential alcohol or
47 substance abuse program or facility for the [mentally retarded] DEVELOP-
48 MENTALLY DISABLED;
49 (vi) a person receiving services provided by an intermediate care
50 facility for the [mentally retarded] DEVELOPMENTALLY DISABLED or who has
51 characteristics and needs similar to such persons;
52 (vii) a person with a developmental or physical disability who
53 receives home and community-based services or care-at-home services
54 through existing waivers under section nineteen hundred fifteen (c) of
55 the federal social security act or who has characteristics and needs
56 similar to such persons;

1 (viii) a person who is eligible for medical assistance pursuant to
2 subparagraph twelve or subparagraph thirteen of paragraph (a) of subdivi-
3 sion one of section three hundred sixty-six of this title;
4 (ix) a person receiving services provided by a long term home health
5 care program, or a person receiving inpatient services in a state-oper-
6 ated psychiatric facility or a residential treatment facility for chil-
7 dren and youth;
8 (x) certified blind or disabled children living or expected to be
9 living separate and apart from the parent for thirty days or more;
10 (xi) residents of nursing facilities;
11 (xii) a foster child in the placement of a voluntary agency or in the
12 direct care of the local social services district;
13 (xiii) a person or family that is homeless; [and]
14 (xiv) individuals for whom a managed care provider is not geograph-
15 ically accessible so as to reasonably provide services to the person. A
16 managed care provider is not geographically accessible if the person
17 cannot access the provider's services in a timely fashion due to
18 distance or travel time[.];
19 (XV) A PERSON ELIGIBLE FOR MEDICARE PARTICIPATING IN A CAPITATED
20 DEMONSTRATION PROGRAM FOR LONG TERM CARE;
21 (XVI) AN INFANT LIVING WITH AN INCARCERATED MOTHER IN A STATE OR LOCAL
22 CORRECTIONAL FACILITY AS DEFINED IN SECTION TWO OF THE CORRECTION LAW;
23 (XVII) A PERSON WHO IS EXPECTED TO BE ELIGIBLE FOR MEDICAL ASSISTANCE
24 FOR LESS THAN SIX MONTHS;
25 (XVIII) A PERSON WHO IS ELIGIBLE FOR MEDICAL ASSISTANCE BENEFITS ONLY
26 WITH RESPECT TO TUBERCULOSIS-RELATED SERVICES;
27 (XIX) INDIVIDUALS RECEIVING HOSPICE SERVICES AT TIME OF ENROLLMENT;
28 (XX) A PERSON WHO HAS PRIMARY MEDICAL OR HEALTH CARE COVERAGE AVAIL-
29 ABLE FROM OR UNDER A THIRD-PARTY PAYOR WHICH MAY BE MAINTAINED BY
30 PAYMENT, OR PART PAYMENT, OF THE PREMIUM OR COST SHARING AMOUNTS, WHEN
31 PAYMENT OF SUCH PREMIUM OR COST SHARING AMOUNTS WOULD BE COST-EFFECTIVE,
32 AS DETERMINED BY THE LOCAL SOCIAL SERVICES DISTRICT;
33 (XXI) A PERSON RECEIVING FAMILY PLANNING SERVICES PURSUANT TO SUBPARA-
34 GRAPH ELEVEN OF PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION THREE
35 HUNDRED SIXTY-SIX OF THIS TITLE;
36 (XXII) A PERSON WHO IS ELIGIBLE FOR MEDICAL ASSISTANCE PURSUANT TO
37 PARAGRAPH (V) OF SUBDIVISION FOUR OF SECTION THREE HUNDRED SIXTY-SIX OF
38 THIS TITLE;
39 (XXIII) A PERSON WHO IS MEDICARE/MEDICAID Dually ELIGIBLE AND WHO IS
40 NOT ENROLLED IN A MEDICARE MANAGED CARE PLAN;
41 (XXIV) INDIVIDUALS WITH A CHRONIC MEDICAL CONDITION WHO ARE BEING
42 TREATED BY A SPECIALIST PHYSICIAN THAT IS NOT ASSOCIATED WITH A MANAGED
43 CARE PROVIDER IN THE INDIVIDUAL'S SOCIAL SERVICES DISTRICT; AND
44 (XXV) NATIVE AMERICANS.

45 S 39. Subparagraphs (ii), (iv) and (vii) of paragraph (e), subpara-
46 graphs (i) and (v) of paragraph (f) and paragraphs (g), (h), (i), (o),
47 (p), (q) and (r) of subdivision 4 of section 364-j of the social
48 services law, subparagraphs (ii), (iv) and (vii) of paragraph (e),
49 subparagraph (v) of paragraph (f) and paragraph (g) as amended by
50 section 14 of part C of chapter 58 of the laws of 2004, subparagraph (i)
51 of paragraph (f) as amended by section 79 of part H of chapter 59 of the
52 laws of 2011, paragraph (h) as amended by chapter 433 of the laws of
53 1997, and paragraphs (i), (o), (p), (q) and (r) as amended by chapter
54 649 of the laws of 1996, are amended and a new paragraph (v) is added to
55 read as follows:

1 (ii) In any social services district which has implemented a mandatory
2 managed care program pursuant to this section, the requirements of this
3 subparagraph shall apply to the extent consistent with federal law and
4 regulations. The department of health, may contract with one or more
5 independent organizations to provide enrollment counseling and enroll-
6 ment services, for participants required to enroll in managed care
7 programs, for each social services district requesting the services of
8 an enrollment broker. To select such organizations, the department of
9 health shall issue a request for proposals (RFP), shall evaluate
10 proposals submitted in response to such RFP and, pursuant to such RFP,
11 shall award a contract to one or more qualified and responsive organiza-
12 tions. Such organizations shall not be owned, operated, or controlled by
13 any governmental agency, managed care provider, [comprehensive HIV
14 special needs plan, mental health special needs plan,] or medical
15 services provider.

16 (iv) Local social services districts or enrollment organizations
17 through their enrollment counselors shall provide participants with the
18 opportunity for face to face counseling including individual counseling
19 upon request of the participant. Local social services districts or
20 enrollment organizations through their enrollment counselors shall also
21 provide participants with information in a culturally and linguistically
22 appropriate and understandable manner, in light of the participant's
23 needs, circumstances and language proficiency, sufficient to enable the
24 participant to make an informed selection of a managed care provider.
25 Such information shall include, but shall not be limited to: how to
26 access care within the program; a description of the medical assistance
27 services that can be obtained other than through a managed care provid-
28 er[, mental health special needs plan or comprehensive HIV special needs
29 plan]; the available managed care providers[, mental health special
30 needs plans and comprehensive HIV special needs plans] and the scope of
31 services covered by each; a listing of the medical services providers
32 associated with each managed care provider; the participants' rights
33 within the managed care program; and how to exercise such rights.
34 Enrollment counselors shall inquire into each participant's existing
35 relationships with medical services providers and explain whether and
36 how such relationships may be maintained within the managed care
37 program. For enrollments made during face to face counseling, if the
38 participant has a preference for particular medical services providers,
39 enrollment counselors shall verify with the medical services providers
40 that such medical services providers whom the participant prefers
41 participate in the managed care provider's network and are available to
42 serve the participant.

43 (vii) Any marketing materials developed by a managed care provider[,
44 comprehensive HIV special needs plan or mental health special needs
45 plan] shall be approved by the department of health or the local social
46 services district, and the commissioner of mental health AND THE COMMIS-
47 SIONER OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, where appropriate,
48 within sixty days prior to distribution to recipients of medical assist-
49 ance. All marketing materials shall be reviewed within sixty days of
50 submission.

51 (i) Participants shall choose a managed care provider at the time of
52 application for medical assistance; if the participant does not choose
53 such a provider the commissioner shall assign such participant to a
54 managed care provider in accordance with subparagraphs (ii), (iii), (iv)
55 and (v) of this paragraph. Participants already in receipt of medical
56 assistance shall have no less than thirty days from the date selected by

1 the district to enroll in the managed care program to select a managed
2 care provider[, and as appropriate, a mental health special needs plan,]
3 and shall be provided with information to make an informed choice. Where
4 a participant has not selected such a provider [or mental health special
5 needs plan,] the commissioner of health shall assign such participant to
6 a managed care provider[, and] WHICH, IF as appropriate, [to] MAY BE a
7 [mental health special needs plan] SPECIAL NEEDS MANAGED CARE PLAN,
8 taking into account capacity and geographic accessibility. The commis-
9 sioner may after the period of time established in subparagraph (ii) of
10 this paragraph assign participants to a managed care provider taking
11 into account quality performance criteria and cost. Provided however,
12 cost criteria shall not be of greater value than quality criteria in
13 assigning participants.

14 (v) The commissioner shall assign all participants not otherwise
15 assigned to a managed care plan pursuant to subparagraphs (ii), (iii)
16 and (iv) of this paragraph equally among each of the managed care
17 providers that meet the criteria established in subparagraph (i) of this
18 paragraph; PROVIDED, HOWEVER, THAT THE COMMISSIONER SHALL ASSIGN INDI-
19 VIDUALS MEETING THE CRITERIA FOR ENROLLMENT IN A SPECIAL NEEDS MANAGED
20 CARE PLAN TO SUCH PLAN OR PLANS WHERE AVAILABLE.

21 (g) If another managed care provider[, mental health special needs
22 plan or comprehensive HIV special needs plan] is available, participants
23 may change such provider or plan without cause within thirty days of
24 notification of enrollment or the effective date of enrollment, whichev-
25 er is later with a managed care provider[, mental health special needs
26 plan or comprehensive HIV special needs plan] by making a request of the
27 local social services district except that such period shall be forty-
28 five days for participants who have been assigned to a provider by the
29 commissioner of health. However, after such thirty or forty-five day
30 period, whichever is applicable, a participant may be prohibited from
31 changing managed care providers more frequently than once every twelve
32 months, as permitted by federal law except for good cause as determined
33 by the commissioner of health through regulations.

34 (h) If another medical services provider is available, a participant
35 may change his or her provider of medical services (including primary
36 care practitioners) without cause within thirty days of the partic-
37 ipant's first appointment with a medical services provider by making a
38 request of the managed care provider[, mental health special needs plan
39 or comprehensive HIV special needs plan]. However, after that thirty day
40 period, no participant shall be permitted to change his or her provider
41 of medical services other than once every six months except for good
42 cause as determined by the commissioner through regulations.

43 (i) A managed care provider[, mental health special needs plan, and
44 comprehensive HIV special needs plan] requesting a disenrollment shall
45 not disenroll a participant without the prior approval of the local
46 social services district in which the participant resides, provided that
47 disenrollment from a [mental health special needs plan] SPECIAL NEEDS
48 MANAGED CARE PLAN must comply with the standards of the commissioner of
49 health, THE COMMISSIONER OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, and
50 the commissioner of mental health. A managed care provider[, mental
51 health special needs plan or comprehensive HIV special needs plan] shall
52 not request disenrollment of a participant based on any diagnosis,
53 condition, or perceived diagnosis or condition, or a participant's
54 efforts to exercise his or her rights under a grievance process,
55 provided however, that a managed care provider may, where medically
56 appropriate, request permission to refer participants to a [mental

1 health special needs plan] MANAGED CARE PROVIDER THAT IS A SPECIAL NEEDS
2 MANAGED CARE PLAN or a comprehensive HIV special needs plan after
3 consulting with such participant and upon obtaining his/her consent to
4 such referral, and[,] provided further that a [mental health special
5 needs plan] SPECIAL NEEDS MANAGED CARE PLAN may, where clinically appro-
6 priate, disenroll individuals who no longer require the level of
7 services provided by a [mental health special needs plan] SPECIAL NEEDS
8 MANAGED CARE PLAN.

9 (o) A managed care provider shall provide or arrange, directly or
10 indirectly, (including by referral) for the full range of covered
11 services to all participants, notwithstanding that such participants may
12 be eligible to be enrolled in a comprehensive HIV special needs plan or
13 [mental health special needs plan] SPECIAL NEEDS MANAGED CARE PLAN.

14 (p) A managed care provider[, comprehensive HIV special needs plan and
15 mental health special needs plan] shall implement procedures to communi-
16 cate appropriately with participants who have difficulty communicating
17 in English and to communicate appropriately with visually-impaired and
18 hearing-impaired participants.

19 (q) A managed care provider[, comprehensive HIV special needs plan and
20 mental health special needs plan] shall comply with applicable state and
21 federal law provisions prohibiting discrimination on the basis of disa-
22 bility.

23 (r) A managed care provider[, comprehensive HIV special needs plan and
24 mental health special needs plan] shall provide services to participants
25 pursuant to an order of a court of competent jurisdiction, provided
26 however, that such services shall be within such provider's or plan's
27 benefit package and are reimbursable under title xix of the federal
28 social security act.

29 (V) A MANAGED CARE PROVIDER MUST ALLOW ENROLLEES TO ACCESS CHEMICAL
30 DEPENDENCE TREATMENT SERVICES FROM FACILITIES CERTIFIED BY THE OFFICE OF
31 ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, EVEN IF SUCH SERVICES ARE
32 RENDERED BY A PRACTITIONER WHO WOULD NOT OTHERWISE BE SEPARATELY REIM-
33 BURSED, INCLUDING BUT NOT LIMITED TO A CREDENTIALLED ALCOHOLISM AND
34 SUBSTANCE ABUSE COUNSELOR (CASAC).

35 S 40. Paragraph (a) of subdivision 5 of section 364-j of the social
36 services law, as amended by section 15 of part C of chapter 58 of the
37 laws of 2004, is amended to read as follows:

38 (a) The managed care program shall provide for the selection of quali-
39 fied managed care providers by the commissioner of health [and, as
40 appropriate, mental health special needs plans and comprehensive HIV
41 special needs plans] to participate in the program, INCLUDING COMPREHEN-
42 SIVE HIV SPECIAL NEEDS PLANS AND SPECIAL NEEDS MANAGED CARE PLANS IN
43 ACCORDANCE WITH THE PROVISIONS OF SECTION THREE HUNDRED SIXTY-FIVE-M OF
44 THIS TITLE; provided, however, that the commissioner of health may
45 contract directly with comprehensive HIV special needs plans consistent
46 with standards set forth in this section, and assure that such providers
47 are accessible taking into account the needs of persons with disabili-
48 ties and the differences between rural, suburban, and urban settings,
49 and in sufficient numbers to meet the health care needs of participants,
50 and shall consider the extent to which major public hospitals are
51 included within such providers' networks.

52 S 41. The opening paragraph of subdivision 6 of section 364-j of the
53 social services law, as added by chapter 649 of the laws of 1996, is
54 amended to read as follows:

1 6. A managed care provider[, mental health special needs plan or
2 comprehensive HIV special needs plan provider] shall not engage in the
3 following practices:

4 S 42. Subdivision 17 of section 364-j of the social services law, as
5 amended by section 94 of part B of chapter 436 of the laws of 1997, is
6 amended to read as follows:

7 17. (A) The provisions of this section regarding participation of
8 persons receiving family assistance and supplemental security income in
9 managed care programs shall be effective if, and as long as, federal
10 financial participation is available for expenditures for services
11 provided pursuant to this section.

12 (B) THE PROVISIONS OF THIS SECTION REGARDING THE FURNISHING OF HEALTH
13 AND BEHAVIORAL HEALTH SERVICES THROUGH A SPECIAL NEEDS MANAGED CARE PLAN
14 SHALL BE EFFECTIVE IF, AND AS LONG AS, FEDERAL FINANCIAL PARTICIPATION
15 IS AVAILABLE FOR EXPENDITURES FOR SERVICES PROVIDED BY SUCH PLANS PURSU-
16 ANT TO THIS SECTION.

17 S 43. Subdivision 20 of section 364-j of the social services law, as
18 added by chapter 649 of the laws of 1996, is amended to read as follows:

19 20. Upon a determination that a participant appears to be suitable for
20 admission to a comprehensive HIV special needs plan or a [mental health
21 special needs plan] SPECIAL NEEDS MANAGED CARE PLAN, a managed care
22 provider shall inform the participant of the availability of such plans,
23 where available and appropriate.

24 S 44. Paragraph (a) of subdivision 23 of section 364-j of the social
25 services law, as added by section 65 of part A of chapter 57 of the laws
26 of 2006, is amended to read as follows:

27 (a) As a means of protecting the health, safety and welfare of recipi-
28 ents, in addition to any other sanctions that may be imposed, the
29 commissioner, IN CONSULTATION WITH THE COMMISSIONERS OF THE OFFICE OF
30 MENTAL HEALTH AND THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES,
31 WHERE APPROPRIATE, shall appoint temporary management of a managed care
32 provider upon determining that the managed care provider has repeatedly
33 failed to meet the substantive requirements of sections 1903(m) and 1932
34 of the federal Social Security Act and regulations. A hearing shall not
35 be required prior to the appointment of temporary management.

36 S 45. The opening paragraph of subdivision 4 of section 365-m of the
37 social services law, as added by section 42-d of part H of chapter 59 of
38 the laws of 2011, is amended to read as follows:

39 The commissioners of the office of mental health, the office of alco-
40 holism and substance abuse services and the department of health, shall
41 have the responsibility for jointly designating on a regional basis,
42 after consultation with the local social services district and local
43 governmental unit, as such term is defined in the mental hygiene law, of
44 a city with a population of over one million persons, and after consul-
45 tation of other affected counties, a limited number of [specialized
46 managed care plans under section three hundred sixty-four-j of this
47 title,] special [need] NEEDS managed care plans under section three
48 hundred sixty-four-j of this title[, and/or integrated physical and
49 behavioral health provider systems certified under article twenty-nine-E
50 of the public health law] capable of managing the behavioral and phys-
51 ical health needs of medical assistance enrollees with significant
52 behavioral health needs. Initial designations of such plans [or provider
53 systems] should be made no later than April first, two thousand [thir-
54 teen] FOURTEEN, provided, however, such designations shall be contingent
55 upon a determination by such state commissioners that the entities to be
56 designated have the capacity and financial ability to provide services

1 in such plans [or provider systems], and that the region has a suffi-
2 cient population and service base to support such plans [and systems].
3 Once designated, the commissioner of health shall make arrangements to
4 enroll such enrollees in such plans [or integrated provider systems] and
5 to pay such plans [or provider systems] on a capitated or other basis to
6 manage, coordinate, and pay for behavioral and physical health medical
7 assistance services for such enrollees. Notwithstanding any inconsistent
8 provision of section one hundred twelve and one hundred sixty-three of
9 the state finance law, and section one hundred forty-two of the economic
10 development law, or any other law to the contrary, the designations of
11 such plans [and provider systems], and any resulting contracts with such
12 plans[,] OR providers [or provider systems] are authorized to be entered
13 into by such state commissioners without a competitive bid or request
14 for proposal process, provided however that:

15 S 46. Subdivision 8 of section 4401 of the public health law, as added
16 by section 42 of part H of chapter 59 of the laws of 2011, is amended to
17 read as follows:

18 8. "Special needs managed care plan" [or "specialized managed care
19 plan"] shall mean a combination of persons natural or corporate, or any
20 groups of such persons, or a county or counties, who enter into an
21 arrangement, agreement or plan, or combination of arrangements, agree-
22 ments or plans, to provide health and behavioral health services to
23 enrollees with significant behavioral health needs.

24 S 47. Section 4403-d of the public health law, as added by section
25 42-a of part H of chapter 59 of the laws of 2011, is amended to read as
26 follows:

27 S 4403-d. Special needs managed care plans [and specialized managed
28 care plans]. No person, group of persons, county or counties may operate
29 a special needs managed care plan [or specialized managed care plan]
30 without first obtaining a certificate of authority from the commission-
31 er, issued jointly with the commissioner of the office of mental health
32 and the commissioner of the office of alcoholism and substance abuse
33 services.

34 S 47-a. Subparagraphs (iii) and (iv) of paragraph (b) of subdivision
35 7 of section 4403-f of the public health law are REPEALED.

36 S 48. Subparagraph (v) of paragraph (b) of subdivision 7 of section
37 4403-f of the public health law, as amended by section 41-b of part H of
38 chapter 59 of the laws of 2011, is amended to read as follows:

39 (v) The following medical assistance recipients shall not be eligible
40 to participate in a managed long term care program or other care coordi-
41 nation model established pursuant to this paragraph until program
42 features and reimbursement rates are approved by the commissioner and,
43 as applicable, the commissioner of developmental disabilities:

44 (1) a person enrolled in a managed care plan pursuant to section three
45 hundred sixty-four-j of the social services law;

46 (2) a participant in the traumatic brain injury waiver program;

47 (3) a participant in the nursing home transition and diversion waiver
48 program;

49 (4) a person enrolled in the assisted living program;

50 (5) a person enrolled in home and community based waiver programs
51 administered by the office for people with developmental
52 disabilities[.];

53 (6) A PERSON WHO IS EXPECTED TO BE ELIGIBLE FOR MEDICAL ASSISTANCE FOR
54 LESS THAN SIX MONTHS, FOR A REASON OTHER THAN THAT THE PERSON IS ELIGI-
55 BLE FOR MEDICAL ASSISTANCE ONLY THROUGH THE APPLICATION OF EXCESS INCOME
56 TOWARD THE COST OF MEDICAL CARE AND SERVICES;

1 (7) A PERSON WHO IS ELIGIBLE FOR MEDICAL ASSISTANCE BENEFITS ONLY WITH
2 RESPECT TO TUBERCULOSIS-RELATED SERVICES;

3 (8) A PERSON RECEIVING HOSPICE SERVICES AT TIME OF ENROLLMENT;

4 (9) A PERSON WHO HAS PRIMARY MEDICAL OR HEALTH CARE COVERAGE AVAILABLE
5 FROM OR UNDER A THIRD-PARTY PAYOR WHICH MAY BE MAINTAINED BY PAYMENT, OR
6 PART PAYMENT, OF THE PREMIUM OR COST SHARING AMOUNTS, WHEN PAYMENT OF
7 SUCH PREMIUM OR COST SHARING AMOUNTS WOULD BE COST-EFFECTIVE, AS DETER-
8 MINED BY THE SOCIAL SERVICES DISTRICT;

9 (10) A PERSON RECEIVING FAMILY PLANNING SERVICES PURSUANT TO SUBPARA-
10 GRAPH ELEVEN OF PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION THREE
11 HUNDRED SIXTY-SIX OF THE SOCIAL SERVICES LAW;

12 (11) A PERSON WHO IS ELIGIBLE FOR MEDICAL ASSISTANCE PURSUANT TO PARA-
13 GRAPH (V) OF SUBDIVISION FOUR OF SECTION THREE HUNDRED SIXTY-SIX OF THE
14 SOCIAL SERVICES LAW; AND

15 (12) NATIVE AMERICANS.

16 S 48-a. Notwithstanding any contrary provision of law, the commission-
17 er of alcoholism and substance abuse services is authorized, subject to
18 the approval of the director of the budget, to transfer to the commis-
19 sioner of health state funds to be utilized as the state share for the
20 purpose of increasing payments under the medicaid program to managed
21 care organizations licensed under article 44 of the public health law or
22 under article 43 of the insurance law. Such managed care organizations
23 shall utilize such funds for the purpose of reimbursing hospital-based
24 and free-standing chemical dependence outpatient and opioid treatment
25 clinics licensed pursuant to article 28 of the public health law or
26 article 32 of the mental hygiene law for chemical dependency services,
27 as determined by the commissioner of health, in consultation with the
28 commissioner of alcoholism and substance abuse services, provided to
29 medicaid eligible outpatients. Such reimbursement shall be in the form
30 of fees for such services which are equivalent to the payments estab-
31 lished for such services under the ambulatory patient group (APG) rate-
32 setting methodology as utilized by the department of health or by the
33 office of alcoholism and substance abuse services for rate-setting
34 purposes; provided, however, that the increase to such fees that shall
35 result from the provisions of this section shall not, in the aggregate
36 and as determined by the commissioner of health, in consultation with
37 the commissioner of alcoholism and substance abuse services, be greater
38 than the increased funds made available pursuant to this section. The
39 commissioner of health may, in consultation with the commissioner of
40 alcoholism and substance abuse services, promulgate regulations, includ-
41 ing emergency regulations, as are necessary to implement the provisions
42 of this section.

43 S 49. Section 2 of part H of chapter 111 of the laws of 2010 relating
44 to increasing Medicaid payments to providers through managed care organ-
45 izations and providing equivalent fees through an ambulatory patient
46 group methodology, is amended to read as follows:

47 S 2. This act shall take effect immediately and shall be deemed to
48 have been in full force and effect on and after April 1, 2010, AND SHALL
49 EXPIRE ON MARCH 31, 2015.

50 S 50. Paragraph (e) of subdivision 8 of section 2511 of the public
51 health law, as added by section 21-a of part B of chapter 109 of the
52 laws of 2010, is amended and a new paragraph (h) is added to read as
53 follows:

54 (e) The commissioner shall adjust subsidy payments to approved organ-
55 izations made on and after April first, two thousand ten THROUGH MARCH
56 THIRTY-FIRST, TWO THOUSAND THIRTEEN, so that the amount of each such

1 payment, as otherwise calculated pursuant to this subdivision, is
2 reduced by twenty-eight percent of the amount by which such calculated
3 payment exceeds the statewide average subsidy payment for all approved
4 organizations in effect on April first, two thousand ten. Such statewide
5 average subsidy payment shall be calculated by the commissioner and
6 shall not reflect adjustments made pursuant to this paragraph.

7 (H) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS TITLE, ARTICLES
8 THIRTY-TWO AND FORTY-THREE OF THE INSURANCE LAW AND SUBSECTION (E) OF
9 SECTION ELEVEN HUNDRED TWENTY OF THE INSURANCE LAW, EFFECTIVE APRIL
10 FIRST, TWO THOUSAND THIRTEEN:

11 (I) THE COMMISSIONER SHALL, SUBJECT TO APPROVAL OF THE DIRECTOR OF THE
12 DIVISION OF THE BUDGET, DEVELOP REIMBURSEMENT METHODOLOGIES FOR DETER-
13 MINING THE AMOUNT OF SUBSIDY PAYMENTS MADE TO APPROVED ORGANIZATIONS FOR
14 THE COST OF COVERED HEALTH CARE SERVICES COVERAGE PROVIDED PURSUANT TO
15 THIS TITLE.

16 (II) THE COMMISSIONER, IN CONSULTATION WITH ENTITIES REPRESENTING
17 APPROVED ORGANIZATIONS, SHALL SELECT AND CONTRACT WITH AN INDEPENDENT
18 ACTUARY TO REVIEW SUCH REIMBURSEMENT METHODOLOGIES; PROVIDED, HOWEVER,
19 NOTWITHSTANDING SECTION ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE
20 LAW, THE COMMISSIONER MAY SELECT AND CONTRACT WITH THE INDEPENDENT ACTU-
21 ARY SELECTED PURSUANT TO SUBDIVISION EIGHTEEN OF SECTION THREE HUNDRED
22 SIXTY-FOUR-J OF THE SOCIAL SERVICES LAW, WITHOUT A COMPETITIVE BID OR
23 REQUEST FOR PROPOSAL PROCESS. SUCH INDEPENDENT ACTUARY SHALL REVIEW AND
24 MAKE RECOMMENDATIONS CONCERNING APPROPRIATE ACTUARIAL ASSUMPTIONS RELE-
25 VANT TO THE ESTABLISHMENT OF REIMBURSEMENT METHODOLOGIES, INCLUDING BUT
26 NOT LIMITED TO THE ADEQUACY OF SUBSIDY PAYMENT AMOUNTS IN RELATION TO
27 THE POPULATION TO BE SERVED ADJUSTED FOR CASE MIX, THE SCOPE OF SERVICES
28 APPROVED ORGANIZATIONS MUST PROVIDE, THE UTILIZATION OF SUCH SERVICES
29 AND THE NETWORK OF PROVIDERS REQUIRED TO MEET STATE STANDARDS.

30 (III) FOR THE PERIOD APRIL FIRST, TWO THOUSAND THIRTEEN THROUGH DECEM-
31 BER THIRTY-FIRST, TWO THOUSAND THIRTEEN, SUBSIDY PAYMENTS MADE TO
32 APPROVED ORGANIZATIONS SHALL BE AT AMOUNTS APPROVED PRIOR TO APRIL
33 FIRST, TWO THOUSAND THIRTEEN. ON AND AFTER JANUARY FIRST, TWO THOUSAND
34 FOURTEEN, SUBSIDY PAYMENTS MADE TO APPROVED ORGANIZATIONS SHALL BE AT
35 AMOUNTS DETERMINED BY THE COMMISSIONER IN ACCORDANCE WITH THIS PARA-
36 GRAPH.

37 S 51. Paragraph (b) of subdivision 7 of section 2511 of the public
38 health law, as amended by chapter 923 of the laws of 1990, is amended to
39 read as follows:

40 (b) The commissioner, in consultation with the superintendent, shall
41 make a determination whether to approve, disapprove or recommend modifi-
42 cation of the proposal. In order for a proposal to be approved by the
43 commissioner, the proposal must also be approved by the superintendent
44 with respect to the provisions of subparagraphs (viii) [through], (IX)
45 AND (xii) of paragraph (a) of this subdivision.

46 S 52. Subparagraph (ii) of paragraph (e) of subdivision 4 of section
47 364-j of the social services law, as amended by section 14 of part C of
48 chapter 58 of the laws of 2004, is amended to read as follows:

49 (ii) In any social services district which has implemented a mandatory
50 managed care program pursuant to this section, the requirements of this
51 subparagraph shall apply to the extent consistent with federal law and
52 regulations. The department of health, may contract with one or more
53 independent organizations to provide enrollment counseling and enroll-
54 ment services, for participants required to enroll in managed care
55 programs, for each social services district [requesting the services of
56 an enrollment broker] WHICH HAS IMPLEMENTED A MANDATORY MANAGED CARE

PROGRAM. To select such organizations, the department of health shall issue a request for proposals (RFP), shall evaluate proposals submitted in response to such RFP and, pursuant to such RFP, shall award a contract to one or more qualified and responsive organizations. Such organizations shall not be owned, operated, or controlled by any governmental agency, managed care provider, comprehensive HIV special needs plan, mental health special needs plan, or medical services provider.

S 53. Subparagraph (vii) of paragraph (b) of subdivision 7 of section 4403-f of the public health law, as amended by section 40-a of part D of chapter 56 of the laws of 2012, is amended to read as follows:

(vii) Managed long term care provided and plans certified or other care coordination model established pursuant to this paragraph shall comply with the provisions of paragraphs (d), (i), (t), and (u) and subparagraph (iii) of paragraph (a) and [subparagraph] SUBPARAGRAPHS (II) AND (iv) of paragraph (e) of subdivision four of section three hundred sixty-four-j of the social services law.

S 54. Subparagraph (iii) of paragraph (g) of subdivision 7 of section 4403-f of the public health law, as amended by section 41-b of part H of chapter 59 of the laws of 2011, is amended to read as follows:

(iii) The enrollment application shall be submitted by the managed long term care plan or demonstration to the entity designated by the department prior to the commencement of services under the managed long term care plan or demonstration. [For purposes of reimbursement of the managed long term care plan or demonstration, if the enrollment application is submitted on or before the twentieth day of the month, the enrollment shall commence on the first day of the month following the completion and submission and if the enrollment application is submitted after the twentieth day of the month, the enrollment shall commence on the first day of the second month following submission.] Enrollments conducted by a plan or demonstration shall be subject to review and audit by the department or a contractor selected pursuant to paragraph (d) of this subdivision.

S 55. Paragraph (a) of subdivision 8 of section 3614 of the public health law, as added by section 54 of part J of chapter 82 of the laws of 2002, is amended to read as follows:

(a) Notwithstanding any inconsistent provision of law, rule or regulation and subject to the provisions of paragraph (b) of this subdivision and to the availability of federal financial participation, the commissioner shall adjust medical assistance rates of payment for services provided by certified home health agencies FOR SUCH SERVICES PROVIDED TO CHILDREN UNDER EIGHTEEN YEARS OF AGE AND FOR SERVICES PROVIDED TO A SPECIAL NEEDS POPULATION OF MEDICALLY COMPLEX AND FRAGILE CHILDREN, ADOLESCENTS AND YOUNG DISABLED ADULTS BY A CHHA OPERATING UNDER A PILOT PROGRAM APPROVED BY THE DEPARTMENT, long term home health care programs and AIDS home care programs in accordance with this paragraph and paragraph (b) of this subdivision for purposes of improving recruitment and retention of non-supervisory home care services workers or any worker with direct patient care responsibility in the following amounts for services provided on and after December first, two thousand two.

(i) rates of payment by governmental agencies for certified home health agency services FOR SUCH SERVICES PROVIDED TO CHILDREN UNDER EIGHTEEN YEARS OF AGE AND FOR SERVICES PROVIDED TO A SPECIAL NEEDS POPULATION OF MEDICALLY COMPLEX AND FRAGILE CHILDREN, ADOLESCENTS AND YOUNG DISABLED ADULTS BY A CHHA OPERATING UNDER A PILOT PROGRAM APPROVED BY THE DEPARTMENT (including services provided through contracts with

1 licensed home care services agencies) shall be increased by three
2 percent;

3 (ii) rates of payment by governmental agencies for long term home
4 health care program services (including services provided through
5 contracts with licensed home care services agencies) shall be increased
6 by three percent; and

7 (iii) rates of payment by governmental agencies for AIDS home care
8 programs (including services provided through contracts with licensed
9 home care services agencies) shall be increased by three percent.

10 S 56. The opening paragraph of subdivision 9 of section 3614 of the
11 public health law, as amended by section 5 of part C of chapter 109 of
12 the laws of 2006, is amended to read as follows:

13 Notwithstanding any law to the contrary, the commissioner shall,
14 subject to the availability of federal financial participation, adjust
15 medical assistance rates of payment for certified home health agencies
16 FOR SUCH SERVICES PROVIDED TO CHILDREN UNDER EIGHTEEN YEARS OF AGE AND
17 FOR SERVICES PROVIDED TO A SPECIAL NEEDS POPULATION OF MEDICALLY COMPLEX
18 AND FRAGILE CHILDREN, ADOLESCENTS AND YOUNG DISABLED ADULTS BY A CHHA
19 OPERATING UNDER A PILOT PROGRAM APPROVED BY THE DEPARTMENT, long term
20 home health care programs, AIDS home care programs established pursuant
21 to this article, hospice programs established under article forty of
22 this chapter and for managed long term care plans and approved managed
23 long term care operating demonstrations as defined in section forty-four
24 hundred three-f of this chapter. Such adjustments shall be for purposes
25 of improving recruitment, training and retention of home health aides or
26 other personnel with direct patient care responsibility in the following
27 aggregate amounts for the following periods:

28 S 57. Paragraph (a) of subdivision 10 of section 3614 of the public
29 health law, as amended by section 24 of part C of chapter 59 of the laws
30 of 2011, is amended to read as follows:

31 (a) Such adjustments to rates of payments shall be allocated propor-
32 tionally based on each certified home health [agency's] AGENCY, long
33 term home health care program, AIDS home care and hospice program's home
34 health aide or other direct care services total annual hours of service
35 provided to medicaid patients, as reported in each such agency's most
36 recently available cost report as submitted to the department or for the
37 purpose of the managed long term care program a suitable proxy developed
38 by the department in consultation with the interested parties. Payments
39 made pursuant to this section shall not be subject to subsequent adjust-
40 ment or reconciliation; PROVIDED THAT SUCH ADJUSTMENTS TO RATES OF
41 PAYMENTS TO CERTIFIED HOME HEALTH AGENCIES SHALL ONLY BE FOR THAT
42 PORTION OF SERVICES PROVIDED TO CHILDREN UNDER EIGHTEEN YEARS OF AGE AND
43 FOR SERVICES PROVIDED TO A SPECIAL NEEDS POPULATION OF MEDICALLY COMPLEX
44 AND FRAGILE CHILDREN, ADOLESCENTS AND YOUNG DISABLED ADULTS BY A CHHA
45 OPERATING UNDER A PILOT PROGRAM APPROVED BY THE DEPARTMENT.

46 S 58. Paragraph (h) of subdivision 21 of section 2808 of the public
47 health law, as amended by section 8 of part D of chapter 58 of the laws
48 of 2009, is amended to read as follows:

49 (h) The total amount of funds to be allocated and distributed as
50 medical assistance for financially disadvantaged residential health care
51 facility rate adjustments to eligible facilities for a rate period in
52 accordance with this subdivision shall be thirty million dollars for the
53 period October first, two thousand four through December thirty-first,
54 two thousand four and thirty million dollars on an annualized basis for
55 rate periods on and after January first, two thousand five through
56 December thirty-first, two thousand eight and thirty million dollars on

1 an annualized basis on and after January first, two thousand nine
2 THROUGH DECEMBER THIRTY-FIRST, TWO THOUSAND TWELVE. The nonfederal share
3 of such rate adjustments shall be paid by the state, with no local
4 share, from allocations made pursuant to paragraph (hh) of subdivision
5 one of section twenty-eight hundred seven-v of this article. In the
6 event the statewide total of the annual rate adjustments determined
7 pursuant to paragraph (g) of this subdivision varies from the amounts
8 set forth in this paragraph, each qualifying facility's rate adjustment
9 shall be proportionately increased or decreased such that the total of
10 the annual rate adjustments made pursuant to this subdivision is equal
11 to the amounts set forth in this paragraph on a statewide basis.

12 S 59. Paragraph (d) of subdivision 2-b of section 2808 of the public
13 health law, as added by section 47 of part C of chapter 109 of the laws
14 of 2006, is amended to read as follows:

15 (d) Cost reports submitted by residential health care facilities for
16 the two thousand two calendar year or any part thereof shall, notwith-
17 standing any contrary provision of law, be subject to audit through
18 December thirty-first, two thousand [fourteen] EIGHTEEN and facilities
19 shall retain for the purpose of such audits all fiscal and statistical
20 records relevant to such cost reports, provided, however, that any such
21 audit commenced on or before December thirty-first, two thousand [four-
22 teen] EIGHTEEN, may be completed and used for the purpose of adjusting
23 any Medicaid rates which utilize such costs.

24 S 60. Subparagraph (ii) of paragraph (a) of subdivision 2-b of section
25 2808 of the public health law, as added by section 47 of part C of chap-
26 ter 109 of the laws of 2006, is amended to read as follows:

27 (ii) Rates for the periods two thousand seven and two thousand eight
28 shall be further adjusted by a per diem add-on amount, as determined by
29 the commissioner, reflecting the proportional amount of each facility's
30 projected Medicaid benefit to the total projected Medicaid benefit for
31 all facilities of the imputed use of the rate-setting methodology set
32 forth in paragraph (b) of this subdivision, provided, however, that for
33 those facilities that do not receive a per diem add-on adjustment pursu-
34 ant to this subparagraph, rates shall be further adjusted to include the
35 proportionate benefit, as determined by the commissioner, of the expira-
36 tion of the opening paragraph and paragraph (a) of subdivision sixteen
37 of this section and of paragraph (a) of subdivision fourteen of this
38 section, provided, further, however, that the aggregate total of the
39 rate adjustments made pursuant to this subparagraph shall not exceed one
40 hundred thirty-seven million five hundred thousand dollars for the two
41 thousand seven rate period and one hundred sixty-seven million five
42 hundred thousand dollars for the two thousand eight rate period AND
43 PROVIDED FURTHER, HOWEVER, THAT SUCH RATE ADJUSTMENTS AS MADE PURSUANT
44 TO THIS SUBPARAGRAPH PRIOR TO TWO THOUSAND TWELVE SHALL NOT BE SUBJECT
45 TO SUBSEQUENT ADJUSTMENT OR RECONCILIATION.

46 S 61. Subparagraph (i) of paragraph (b) of subdivision 2-b of section
47 2808 of the public health law, as amended by section 94 of part H of
48 chapter 59 of the laws of 2011, is amended to read as follows:

49 (i) (A) Subject to the provisions of subparagraphs (ii) through (xiv)
50 of this paragraph, for periods on and after April first, two thousand
51 nine the operating cost component of rates of payment shall reflect
52 allowable operating costs as reported in each facility's cost report for
53 the two thousand two calendar year, as adjusted for inflation on an
54 annual basis in accordance with the methodology set forth in paragraph
55 (c) of subdivision ten of section twenty-eight hundred seven-c of this
56 article, provided, however, that for those facilities which [do not

1 receive a per diem add-on adjustment pursuant to subparagraph (ii) of
2 paragraph (a) of this subdivision] ARE DETERMINED BY THE COMMISSIONER TO
3 BE QUALIFYING FACILITIES IN ACCORDANCE WITH THE PROVISIONS OF CLAUSE (B)
4 OF THIS SUBPARAGRAPH, rates shall be further adjusted to include the
5 proportionate benefit, as determined by the commissioner, of the expira-
6 tion of the opening paragraph and paragraph (a) of subdivision sixteen
7 of this section and of paragraph (a) of subdivision fourteen of this
8 section, and provided further that the operating cost component of rates
9 of payment for those facilities which [did not receive a per diem
10 adjustment in accordance with subparagraph (ii) of paragraph (a) of this
11 subdivision] ARE DETERMINED BY THE COMMISSIONER TO BE QUALIFYING FACILI-
12 TIES IN ACCORDANCE WITH THE PROVISIONS OF CLAUSE (B) OF THIS SUBPARA-
13 GRAPH shall not be less than the operating component such facilities
14 received in the two thousand eight rate period, as adjusted for
15 inflation on an annual basis in accordance with the methodology set
16 forth in paragraph (c) of subdivision ten of section twenty-eight
17 hundred seven-c of this article and further provided, however, that
18 rates for facilities whose operating cost component reflects base year
19 costs subsequent to January first, two thousand two shall have rates
20 computed in accordance with this paragraph, utilizing allowable operat-
21 ing costs as reported in such subsequent base year period, and trended
22 forward to the rate year in accordance with applicable inflation
23 factors.

24 (B) FOR THE PURPOSES OF THIS SUBPARAGRAPH QUALIFYING FACILITIES ARE
25 THOSE FACILITIES FOR WHICH THE COMMISSIONER DETERMINES THAT THEIR
26 REPORTED TWO THOUSAND TWO BASE YEAR OPERATING COST COMPONENT, AS DEFINED
27 IN ACCORDANCE WITH THE REGULATIONS OF THE DEPARTMENT AS SET FORTH IN 10
28 NYCRR 86-2.10(A)(7); IS LESS THAN THE OPERATING COMPONENT SUCH FACILI-
29 TIES RECEIVED IN THE TWO THOUSAND EIGHT RATE PERIOD, AS ADJUSTED BY
30 APPLICABLE TREND FACTORS.

31 S 62. Subdivision 2-c of section 2808 of the public health law is
32 amended by adding a new paragraph (e) to read as follows:

33 (E) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS SECTION OR ANY
34 CONTRARY PROVISION OF LAW AND SUBJECT TO THE AVAILABILITY OF FEDERAL
35 FINANCIAL PARTICIPATION, THE CAPITAL COST COMPONENTS OF RATES OF PAYMENT
36 BY GOVERNMENTAL AGENCIES FOR INPATIENT SERVICES PROVIDED BY RESIDENTIAL
37 HEALTH CARE FACILITIES ON AND AFTER JANUARY FIRST, TWO THOUSAND FOURTEEN
38 SHALL BE DETERMINED IN ACCORDANCE WITH REGULATIONS, INCLUDING EMERGENCY
39 REGULATIONS, PROMULGATED BY THE COMMISSIONER. SUCH REGULATIONS SHALL BE
40 DEVELOPED IN CONSULTATION WITH THE NURSING HOME INDUSTRY.

41 S 63. Paragraph (e-1) of subdivision 12 of section 2808 of the public
42 health law, as amended by section 1 of part D of chapter 59 of the laws
43 of 2011, is amended to read as follows:

44 (e-1) Notwithstanding any inconsistent provision of law or regulation,
45 the commissioner shall provide, in addition to payments established
46 pursuant to this article prior to application of this section, addi-
47 tional payments under the medical assistance program pursuant to title
48 eleven of article five of the social services law for non-state operated
49 public residential health care facilities, including public residential
50 health care facilities located in the county of Nassau, the county of
51 Westchester and the county of Erie, but excluding public residential
52 health care facilities operated by a town or city within a county, in
53 aggregate annual amounts of up to one hundred fifty million dollars in
54 additional payments for the state fiscal year beginning April first, two
55 thousand six and for the state fiscal year beginning April first, two
56 thousand seven and for the state fiscal year beginning April first, two

1 thousand eight and of up to three hundred million dollars in such aggre-
2 gate annual additional payments for the state fiscal year beginning
3 April first, two thousand nine, and for the state fiscal year beginning
4 April first, two thousand ten and for the state fiscal year beginning
5 April first, two thousand eleven, and for the state fiscal years begin-
6 ning April first, two thousand twelve and April first, two thousand
7 thirteen. The amount allocated to each eligible public residential
8 health care facility for this period shall be computed in accordance
9 with the provisions of paragraph (f) of this subdivision, provided,
10 however, that patient days shall be utilized for such computation
11 reflecting actual reported data for two thousand three and each repre-
12 sentative succeeding year as applicable, AND PROVIDED FURTHER, HOWEVER,
13 THAT, IN CONSULTATION WITH IMPACTED PROVIDERS, OF THE FUNDS ALLOCATED
14 FOR DISTRIBUTION IN THE STATE FISCAL YEAR BEGINNING APRIL FIRST, TWO
15 THOUSAND THIRTEEN, UP TO SIXTEEN MILLION DOLLARS MAY BE ALLOCATED IN
16 ACCORDANCE WITH PARAGRAPH (F-1) OF THIS SUBDIVISION.

17 S 64. Subdivision 12 of section 2808 of the public health law is
18 amended by adding a new paragraph (f-1) to read as follows:

19 (F-1) FUNDS ALLOCATED BY THE PROVISIONS OF PARAGRAPH (E-1) OF THIS
20 SUBDIVISION FOR DISTRIBUTION PURSUANT TO THIS PARAGRAPH, SHALL BE ALLO-
21 CATED PROPORTIONALLY TO THOSE PUBLIC RESIDENTIAL HEALTH CARE FACILITIES
22 WHICH WERE SUBJECT TO RETROACTIVE REDUCTIONS IN PAYMENTS MADE PURSUANT
23 TO THIS SUBDIVISION FOR STATE FISCAL YEAR PERIODS BEGINNING APRIL FIRST,
24 TWO THOUSAND SIX.

25 S 65. Paragraph (a) of subdivision 6 of section 4403-f of the public
26 health law, as amended by section 41-b of part H of chapter 59 of the
27 laws of 2011, is amended to read as follows:

28 (a) An applicant shall be issued a certificate of authority as a
29 managed long term care plan upon a determination by the commissioner
30 that the applicant complies with the operating requirements for a
31 managed long term care plan under this section. [The commissioner shall
32 issue no more than seventy-five certificates of authority to managed
33 long term care plans pursuant to this section.]

34 S 66. Paragraph (c) of subdivision 2-c of section 2808 of the public
35 health law, as added by section 95 of part H of chapter 59 of the laws
36 of 2011, is amended to read as follows:

37 (c) The non-capital component of the rates for: (i) AIDS facilities or
38 discrete AIDS units within facilities; (ii) discrete units for residents
39 receiving care in a long-term inpatient rehabilitation program for trau-
40 matic brain injured persons; (iii) discrete units providing specialized
41 programs for residents requiring behavioral interventions; (iv) discrete
42 units for long-term ventilator dependent residents; and (v) facilities
43 or discrete units within facilities that provide extensive nursing,
44 medical, psychological and counseling support services solely to chil-
45 dren shall reflect the rates in effect for such facilities on January
46 first, two thousand nine, as adjusted for inflation and rate appeals in
47 accordance with applicable statutes, provided, however, that such rates
48 for facilities described in subparagraph (i) of this paragraph shall
49 reflect the application of the provisions of section twelve of part D of
50 chapter fifty-eight of the laws of two thousand nine, and provided
51 further, however, that insofar as such rates reflect trend adjustments
52 for trend factors attributable to the two thousand eight and two thou-
53 sand nine calendar years the aggregate amount of such trend factor
54 adjustments shall be subject to the provisions of section two of part D
55 of chapter fifty-eight of the laws of two thousand nine, as amended; AND
56 PROVIDED FURTHER, HOWEVER, THAT NOTWITHSTANDING ANY INCONSISTENT

1 PROVISIONS OF THIS SUBDIVISION AND SUBJECT TO THE AVAILABILITY OF FEDER-
2 AL FINANCIAL PARTICIPATION, FOR ALL RATE PERIODS ON AND AFTER APRIL
3 FIRST, TWO THOUSAND FOURTEEN, RATES CONSISTENT WITH PARAGRAPHS (A) AND
4 (B) OF THIS SUBDIVISION FOR FACILITIES DESCRIBED IN THIS PARAGRAPH,
5 INCLUDING A PATIENT ACUITY ADJUSTMENT FOR FACILITIES DESCRIBED IN
6 SUBPARAGRAPH (V) OF THIS PARAGRAPH, SHALL BE ESTABLISHED BY THE COMMIS-
7 SIONER BY REGULATION AS AUTHORIZED BY PARAGRAPH (D) OF THIS SUBDIVISION
8 AND IN CONSULTATION WITH AFFECTED PROVIDERS.

9 S 67. Paragraph (a) of subdivision 3 of section 366 of the social
10 services law, as amended by chapter 110 of the laws of 1971, is amended
11 to read as follows:

12 (a) Medical assistance shall be furnished to applicants in cases
13 where, although such applicant has a responsible relative with suffi-
14 cient income and resources to provide medical assistance as determined
15 by the regulations of the department, the income and resources of the
16 responsible relative are not available to such applicant because of the
17 absence of such relative [or] AND the refusal or failure of such ABSENT
18 relative to provide the necessary care and assistance. In such cases,
19 however, the furnishing of such assistance shall create an implied
20 contract with such relative, and the cost thereof may be recovered from
21 such relative in accordance with title six of article three OF THIS
22 CHAPTER and other applicable provisions of law.

23 S 68. Paragraph (a) of subdivision 2 of section 366-c of the social
24 services law, as added by chapter 558 of the laws of 1989, is amended to
25 read as follows:

26 (a) For purposes of this section an "institutionalized spouse" is a
27 person (I) WHO IS in a medical institution or nursing facility [(i) who
28 is] AND expected to remain in such facility or institution for at least
29 thirty consecutive days[,]; or (II) WHO is receiving care, services and
30 supplies pursuant to a waiver pursuant to subsection (c) of section
31 nineteen hundred fifteen of the federal social security act OR IS
32 RECEIVING CARE, SERVICES AND SUPPLIES IN A MANAGED LONG-TERM CARE PLAN
33 PURSUANT TO SECTION ELEVEN HUNDRED FIFTEEN OF THE SOCIAL SECURITY ACT;
34 and [(ii)] (III) who is married to a person who is not in a medical
35 institution or nursing facility or is not receiving WAIVER services
36 [pursuant to a waiver pursuant to subsection (c) of section nineteen
37 hundred fifteen of the federal social security act] DESCRIBED IN SUBPAR-
38 AGRAPH (II) OF THIS PARAGRAPH; PROVIDED, HOWEVER, THAT MEDICAL ASSIST-
39 ANCE SHALL BE FURNISHED PURSUANT TO THIS PARAGRAPH ONLY IF, FOR SO LONG
40 AS, AND TO THE EXTENT THAT FEDERAL FINANCIAL PARTICIPATION IS AVAILABLE
41 THEREFOR. THE COMMISSIONER OF HEALTH SHALL MAKE ANY AMENDMENTS TO THE
42 STATE PLAN FOR MEDICAL ASSISTANCE, OR APPLY FOR ANY WAIVER OR APPROVAL
43 UNDER THE FEDERAL SOCIAL SECURITY ACT THAT ARE NECESSARY TO CARRY OUT
44 THE PROVISIONS OF THIS PARAGRAPH.

45 S 69. Paragraph (b) of subdivision 6 of section 3614 of the public
46 health law, as added by chapter 645 of the laws of 2003, is amended to
47 read as follows:

48 (b) For purposes of this subdivision, real property capital
49 construction costs shall only be included in rates of payment for
50 assisted living programs if: THE FACILITY HOUSES EXCLUSIVELY ASSISTED
51 LIVING PROGRAM BEDS AUTHORIZED PURSUANT TO PARAGRAPH (J) OF SUBDIVISION
52 THREE OF SECTION FOUR HUNDRED SIXTY-ONE-L OF THE SOCIAL SERVICES LAW OR
53 (i) the facility is operated by a not-for-profit corporation; (ii) the
54 facility commenced operation after nineteen hundred ninety-eight and at
55 least ninety-five percent of the certified approved beds are provided to
56 residents who are subject to the assisted living program; and (iii) the

1 assisted living program is in a county with a population of no less than
2 two hundred eighty thousand persons. The methodology used to calculate
3 the rate for such capital construction costs shall be the same methodol-
4 ogy used to calculate the capital construction costs at residential
5 health care facilities for such costs, PROVIDED THAT THE COMMISSIONER
6 MAY ADOPT RULES AND REGULATIONS WHICH ESTABLISH A CAP ON REAL PROPERTY
7 CAPITAL CONSTRUCTION COSTS FOR THOSE FACILITIES THAT HOUSE EXCLUSIVELY
8 ASSISTED LIVING PROGRAM BEDS AUTHORIZED PURSUANT TO PARAGRAPH (J) OF
9 SUBDIVISION THREE OF SECTION FOUR HUNDRED SIXTY-ONE-L OF THE SOCIAL
10 SERVICES LAW.

11 S 70. Subdivision 3 of section 461-l of the social services law is
12 amended by adding a new paragraph (j) to read as follows:

13 (J) THE COMMISSIONER OF HEALTH IS AUTHORIZED TO ADD UP TO FOUR THOU-
14 SAND FIVE HUNDRED ASSISTED LIVING PROGRAM BEDS TO THE GROSS NUMBER OF
15 ASSISTED LIVING PROGRAM BEDS HAVING BEEN DETERMINED TO BE AVAILABLE AS
16 OF APRIL FIRST, TWO THOUSAND TWELVE. APPLICANTS ELIGIBLE TO SUBMIT AN
17 APPLICATION UNDER THIS PARAGRAPH SHALL BE LIMITED TO ADULT HOMES (I)
18 ESTABLISHED PURSUANT TO SECTION FOUR HUNDRED SIXTY-ONE-B OF THIS ARTICLE
19 WITH, AS OF SEPTEMBER FIRST, TWO THOUSAND TWELVE, A CERTIFIED CAPACITY
20 OF EIGHTY BEDS OR MORE IN WHICH TWENTY-FIVE PERCENT OR MORE OF THE RESI-
21 DENT POPULATION ARE PERSONS WITH SERIOUS MENTAL ILLNESS AS DEFINED IN
22 REGULATIONS PROMULGATED BY THE COMMISSIONER OF HEALTH AND (II) LOCATED
23 IN A CITY WITH A POPULATION OF OVER ONE MILLION PERSONS. THE COMMIS-
24 SIONER OF HEALTH SHALL NOT BE REQUIRED TO REVIEW ON A COMPARATIVE BASIS
25 APPLICATIONS SUBMITTED FOR ASSISTED LIVING PROGRAM BEDS MADE AVAILABLE
26 UNDER THIS PARAGRAPH.

27 S 71. Subdivision 14 of section 366 of the social services law, as
28 added by section 74 of part H of chapter 59 of the laws of 2011, is
29 amended to read as follows:

30 14. The commissioner of health may make any available amendments to
31 the state plan for medical assistance submitted pursuant to section
32 three hundred sixty-three-a of this title, or, if an amendment is not
33 possible, develop and submit an application for any waiver or approval
34 under the federal social security act that may be necessary to disregard
35 or exempt an amount of income, for the purpose of assisting with housing
36 costs, for individuals receiving coverage of nursing facility services
37 under this title, OTHER THAN SHORT-TERM REHABILITATION SERVICES, AND FOR
38 INDIVIDUALS IN RECEIPT OF MEDICAL ASSISTANCE WHILE IN AN ADULT HOME, AS
39 DEFINED IN SUBDIVISION TWENTY-FIVE OF SECTION TWO OF THIS CHAPTER, who
40 [are]: ARE (i) discharged [from the nursing facility] to the community;
41 AND (ii) IF ELIGIBLE, enrolled in a plan certified pursuant to section
42 forty-four hundred three-f of the public health law; and (iii) [while so
43 enrolled, not] DO NOT MEET THE CRITERIA TO BE considered an "institu-
44 tionalized spouse" for purposes of section three hundred sixty-six-c of
45 this title.

46 S 72. Section 364-j of the social services law is amended by adding a
47 new subdivision 27 to read as follows:

48 27. (A) THE CENTERS FOR MEDICARE AND MEDICAID SERVICES HAS ESTABLISHED
49 AN INITIATIVE TO ALIGN INCENTIVES BETWEEN MEDICARE AND MEDICAID. THE
50 GOAL OF THE INITIATIVE IS TO INCREASE ACCESS TO SEAMLESS, QUALITY
51 PROGRAMS THAT INTEGRATE SERVICES FOR THE DUALY ELIGIBLE BENEFICIARY AS
52 WELL AS TO ACHIEVE BOTH STATE AND FEDERAL HEALTH CARE SAVINGS BY IMPROV-
53 ING HEALTH CARE DELIVERY AND ENCOURAGING HIGH-QUALITY, EFFICIENT CARE.
54 IN FURTHERANCE OF THIS GOAL, THE LEGISLATURE AUTHORIZES THE COMMISSIONER
55 OF HEALTH TO ESTABLISH A FULLY INTEGRATED DUALS ADVANTAGE (FIDA)
56 PROGRAM.

(B) THE FIDA PROGRAM SHALL PROVIDE TARGETED POPULATIONS OF MEDICARE/MEDICAID DUALY ELIGIBLE PERSONS WITH COMPREHENSIVE HEALTH SERVICES THAT INCLUDE THE FULL RANGE OF MEDICARE AND MEDICAID COVERED SERVICES, INCLUDING BUT NOT LIMITED TO PRIMARY AND ACUTE CARE, PRESCRIPTION DRUGS, BEHAVIORAL HEALTH SERVICES, CARE COORDINATION SERVICES, AND LONG-TERM SUPPORTS AND SERVICES, AS WELL AS OTHER SERVICES, THROUGH MANAGED CARE PROVIDERS, AS DEFINED IN SUBDIVISION ONE OF THIS SECTION, INCLUDING MANAGED LONG TERM CARE PLANS CERTIFIED PURSUANT TO SECTION FORTY-FOUR HUNDRED THREE-F OF THE PUBLIC HEALTH LAW.

(C) UNDER THE FIDA PROGRAM ESTABLISHED PURSUANT TO THIS SUBDIVISION, UP TO THREE MANAGED LONG TERM CARE PLANS MAY BE AUTHORIZED TO EXCLUSIVELY ENROLL INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES, AS SUCH TERM IS DEFINED IN SECTION 1.03 OF THE MENTAL HYGIENE LAW. THE COMMISSIONER OF HEALTH MAY WAIVE ANY OF THE DEPARTMENT'S REGULATIONS AS THE COMMISSIONER, IN CONSULTATION WITH THE COMMISSIONER OF DEVELOPMENTAL DISABILITIES, DEEMS NECESSARY TO ALLOW SUCH MANAGED LONG TERM CARE PLANS TO PROVIDE OR ARRANGE FOR SERVICES FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES THAT ARE ADEQUATE AND APPROPRIATE TO MEET THE NEEDS OF SUCH INDIVIDUALS AND THAT WILL ENSURE THEIR HEALTH AND SAFETY. THE COMMISSIONER OF DEVELOPMENTAL DISABILITIES MAY WAIVE ANY OF THE OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES' REGULATIONS AS SUCH COMMISSIONER, IN CONSULTATION WITH THE COMMISSIONER OF HEALTH, DEEMS NECESSARY TO ALLOW SUCH MANAGED LONG TERM CARE PLANS TO PROVIDE OR ARRANGE FOR SERVICES FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES THAT ARE ADEQUATE AND APPROPRIATE TO MEET THE NEEDS OF SUCH INDIVIDUALS AND THAT WILL ENSURE THEIR HEALTH AND SAFETY.

(D) THE PROVISIONS OF THIS SUBDIVISION SHALL NOT APPLY UNLESS ALL NECESSARY APPROVALS UNDER FEDERAL LAW AND REGULATION HAVE BEEN OBTAINED TO RECEIVE FEDERAL FINANCIAL PARTICIPATION IN THE COSTS OF HEALTH CARE SERVICES PROVIDED PURSUANT TO THIS SUBDIVISION.

(E) THE COMMISSIONER OF HEALTH IS AUTHORIZED TO SUBMIT AMENDMENTS TO THE STATE PLAN FOR MEDICAL ASSISTANCE AND/OR SUBMIT ONE OR MORE APPLICATIONS FOR WAIVERS OF THE FEDERAL SOCIAL SECURITY ACT AS MAY BE NECESSARY TO OBTAIN THE FEDERAL APPROVALS NECESSARY TO IMPLEMENT THIS SUBDIVISION.

(F) THE COMMISSIONER OF HEALTH, IN CONSULTATION WITH THE COMMISSIONER OF DEVELOPMENTAL DISABILITIES, AS APPROPRIATE, MAY CONTRACT WITH MANAGED CARE PLANS APPROVED TO PARTICIPATE IN THE FIDA PROGRAM WITHOUT THE NEED FOR A COMPETITIVE BID OR REQUEST FOR PROPOSAL PROCESS, AND WITHOUT REGARD TO THE PROVISIONS OF SECTIONS ONE HUNDRED TWELVE AND ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE LAW, SECTION ONE HUNDRED FORTY-TWO OF THE ECONOMIC DEVELOPMENT LAW, OR ANY OTHER PROVISION OF LAW.

S 73. The public health law is amended by adding a new section 4403-g to read as follows:

S 4403-G. DEVELOPMENTAL DISABILITY INDIVIDUAL SUPPORT AND CARE COORDINATION ORGANIZATIONS. 1. DEFINITIONS. AS USED IN THIS SECTION:

(A) "DEVELOPMENTAL DISABILITY INDIVIDUAL SUPPORT AND CARE COORDINATION ORGANIZATION" OR "DISCO" MEANS AN ENTITY THAT HAS RECEIVED A CERTIFICATE OF AUTHORITY PURSUANT TO THIS SECTION TO PROVIDE, OR ARRANGE FOR, HEALTH AND LONG TERM CARE SERVICES, AS DETERMINED BY THE COMMISSIONER AND THE COMMISSIONER OF DEVELOPMENTAL DISABILITIES, ON A CAPITATED BASIS IN ACCORDANCE WITH THIS SECTION, FOR A POPULATION OF INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES, AS SUCH TERM IS DEFINED IN SECTION 1.03 OF THE MENTAL HYGIENE LAW, WHICH THE ORGANIZATION IS AUTHORIZED TO ENROLL.

(B) "ELIGIBLE APPLICANT" MEANS AN ENTITY CONTROLLED BY ONE OR MORE NON-PROFIT ORGANIZATIONS WHICH HAVE A HISTORY OF PROVIDING OR COORDINAT-

1 ING HEALTH AND LONG TERM CARE SERVICES TO PERSONS WITH DEVELOPMENTAL
2 DISABILITIES.

3 (C) "HEALTH AND LONG TERM CARE SERVICES" MEANS SERVICES INCLUDING, BUT
4 NOT LIMITED TO, HOME AND COMMUNITY-BASED AND INSTITUTION-BASED LONG TERM
5 CARE AND ANCILLARY SERVICES (THAT SHALL INCLUDE MEDICAL SUPPLIES AND
6 NUTRITIONAL SUPPLEMENTS) THAT ARE NECESSARY TO MEET THE NEEDS OF PERSONS
7 WHOM THE PLAN IS AUTHORIZED TO ENROLL, AND MAY INCLUDE PRIMARY CARE AND
8 ACUTE CARE IF THE DISCO IS AUTHORIZED TO PROVIDE OR ARRANGE FOR SUCH
9 SERVICES.

10 2. APPROVAL AUTHORITY. AN APPLICANT SHALL BE ISSUED A CERTIFICATE OF
11 AUTHORITY AS A DISCO UPON A DETERMINATION BY THE COMMISSIONER AND THE
12 COMMISSIONER OF DEVELOPMENTAL DISABILITIES THAT THE APPLICANT COMPLIES
13 WITH THE OPERATING REQUIREMENTS FOR A DISCO UNDER THIS SECTION.

14 3. APPLICATION FOR CERTIFICATE OF AUTHORITY; FORM. THE COMMISSIONER
15 AND THE COMMISSIONER OF DEVELOPMENTAL DISABILITIES SHALL JOINTLY DEVELOP
16 APPLICATION FORMS FOR A CERTIFICATE OF AUTHORITY TO OPERATE A DISCO. AN
17 ELIGIBLE APPLICANT SHALL SUBMIT AN APPLICATION FOR A CERTIFICATE OF
18 AUTHORITY TO OPERATE A DISCO UPON FORMS PRESCRIBED BY SUCH COMMISSION-
19 ERS. SUCH ELIGIBLE APPLICANT SHALL SUBMIT INFORMATION AND DOCUMENTATION
20 TO THE COMMISSIONER WHICH SHALL INCLUDE, BUT NOT BE LIMITED TO:

21 (A) A DESCRIPTION OF THE SERVICE AREA PROPOSED TO BE SERVED BY THE
22 DISCO WITH PROJECTIONS OF ENROLLMENT THAT WILL RESULT IN A FISCALLY
23 SOUND PLAN;

24 (B) A DESCRIPTION OF THE SERVICES TO BE COVERED BY SUCH DISCO;

25 (C) A DESCRIPTION OF THE PROPOSED MARKETING PLAN;

26 (D) THE NAMES OF THE PROVIDERS PROPOSED TO BE IN THE DISCO'S NETWORK;

27 (E) EVIDENCE OF THE CHARACTER AND COMPETENCE OF THE APPLICANT'S
28 PROPOSED OPERATORS;

29 (F) ADEQUATE DOCUMENTATION OF THE APPROPRIATE LICENSES, CERTIFICATIONS
30 OR APPROVALS TO PROVIDE CARE AS PLANNED, INCLUDING AFFILIATE AGREEMENTS
31 OR PROPOSED CONTRACTS WITH SUCH PROVIDERS AS MAY BE NECESSARY TO PROVIDE
32 THE FULL COMPLEMENT OF SERVICES REQUIRED TO BE PROVIDED UNDER THIS
33 SECTION;

34 (G) A DESCRIPTION OF THE PROPOSED QUALITY-ASSURANCE MECHANISMS, GRIEV-
35 ANCE PROCEDURES, MECHANISMS TO PROTECT THE RIGHTS OF ENROLLEES AND CARE
36 COORDINATION SERVICES TO ENSURE CONTINUITY, QUALITY, APPROPRIATENESS AND
37 COORDINATION OF CARE;

38 (H) A DESCRIPTION OF THE PROPOSED QUALITY ASSESSMENT AND PERFORMANCE
39 IMPROVEMENT PROGRAM THAT INCLUDES PERFORMANCE AND OUTCOME BASED QUALITY
40 STANDARDS FOR ENROLLEE HEALTH STATUS AND SATISFACTION, AND DATA
41 COLLECTION AND REPORTING FOR STANDARD PERFORMANCE MEASURES;

42 (I) A DESCRIPTION OF THE MANAGEMENT SYSTEMS AND SYSTEMS TO PROCESS
43 PAYMENT FOR COVERED SERVICES;

44 (J) A DESCRIPTION OF THE MECHANISM TO MAXIMIZE REIMBURSEMENT OF AND
45 COORDINATE SERVICES REIMBURSED PURSUANT TO TITLE XVIII OF THE FEDERAL
46 SOCIAL SECURITY ACT AND ALL OTHER APPLICABLE BENEFITS, WITH SUCH BENEFIT
47 COORDINATION INCLUDING, BUT NOT LIMITED TO, MEASURES TO SUPPORT SOUND
48 CLINICAL DECISIONS, REDUCE ADMINISTRATIVE COMPLEXITY, COORDINATE ACCESS
49 TO SERVICES, MAXIMIZE BENEFITS AVAILABLE PURSUANT TO SUCH TITLE AND
50 ENSURE THAT NECESSARY CARE IS PROVIDED;

51 (K) A DESCRIPTION OF THE SYSTEMS FOR SECURING AND INTEGRATING ANY
52 POTENTIAL SOURCES OF FUNDING FOR SERVICES PROVIDED BY OR THROUGH THE
53 ORGANIZATION, INCLUDING, BUT NOT LIMITED TO, FUNDING AVAILABLE UNDER
54 TITLES XVI, XVIII, XIX AND XX OF THE FEDERAL SOCIAL SECURITY ACT AND ALL
55 OTHER AVAILABLE SOURCES OF FUNDING;

1 (L) A DESCRIPTION OF THE PROPOSED CONTRACTUAL ARRANGEMENTS FOR PROVID-
2 ERS OF HEALTH AND LONG TERM CARE SERVICES IN THE BENEFIT PACKAGE; AND

3 (M) INFORMATION RELATED TO THE FINANCIAL CONDITION OF THE APPLICANT.

4 4. CERTIFICATE OF AUTHORITY APPROVAL. THE COMMISSIONER SHALL NOT
5 APPROVE AN APPLICATION FOR A CERTIFICATE OF AUTHORITY UNLESS THE APPLI-
6 CANT DEMONSTRATES TO THE SATISFACTION OF THE COMMISSIONER AND THE
7 COMMISSIONER OF DEVELOPMENTAL DISABILITIES:

8 (A) THAT IT WILL HAVE IN PLACE ACCEPTABLE QUALITY ASSURANCE MECH-
9 ANISMS, GRIEVANCE PROCEDURES AND MECHANISMS TO PROTECT THE RIGHTS OF
10 ENROLLEES AND CARE COORDINATION SERVICES TO ENSURE CONTINUITY, QUALITY,
11 APPROPRIATENESS AND COORDINATION OF CARE;

12 (B) THAT IT HAS DEVELOPED A QUALITY ASSESSMENT AND PERFORMANCE
13 IMPROVEMENT PROGRAM THAT INCLUDES PERFORMANCE AND OUTCOME BASED QUALITY
14 STANDARDS FOR ENROLLEE HEALTH STATUS AND SATISFACTION, WHICH SHALL BE
15 REVIEWED BY THE COMMISSIONER AND THE COMMISSIONER OF DEVELOPMENTAL DISA-
16 BILITIES. THE PROGRAM SHALL INCLUDE DATA COLLECTION AND REPORTING FOR
17 STANDARD PERFORMANCE MEASURES AS REQUIRED BY THE COMMISSIONER AND THE
18 COMMISSIONER OF DEVELOPMENTAL DISABILITIES;

19 (C) THAT AN OTHERWISE ELIGIBLE ENROLLEE SHALL NOT BE INVOLUNTARILY
20 DISENROLLED WITHOUT THE PRIOR APPROVAL OF THE COMMISSIONER OF DEVELOP-
21 MENTAL DISABILITIES;

22 (D) THAT THE APPLICANT SHALL NOT USE DECEPTIVE OR COERCIVE MARKETING
23 METHODS TO ENCOURAGE PARTICIPANTS TO ENROLL AND THAT THE APPLICANT SHALL
24 NOT DISTRIBUTE MARKETING MATERIALS TO POTENTIAL ENROLLEES BEFORE SUCH
25 MATERIALS HAVE BEEN APPROVED BY THE COMMISSIONER AND THE COMMISSIONER OF
26 DEVELOPMENTAL DISABILITIES;

27 (E) SATISFACTORY EVIDENCE OF THE CHARACTER AND COMPETENCE OF THE
28 APPLICANT'S PROPOSED OPERATORS;

29 (F) REASONABLE ASSURANCE THAT THE APPLICANT WILL PROVIDE HIGH QUALITY
30 SERVICES TO AN ENROLLED POPULATION, THAT THE APPLICANT'S NETWORK OF
31 PROVIDERS IS ADEQUATE AND THAT SUCH PROVIDERS HAVE DEMONSTRATED SUFFI-
32 CIENT COMPETENCY TO DELIVER HIGH QUALITY SERVICES TO THE ENROLLED POPU-
33 LATION AND THAT POLICIES AND PROCEDURES WILL BE IN PLACE TO ADDRESS THE
34 CULTURAL AND LINGUISTIC NEEDS OF THE ENROLLED POPULATION;

35 (G) SUFFICIENT MANAGEMENT SYSTEMS CAPACITY TO MEET THE REQUIREMENTS OF
36 THIS SECTION AND THE ABILITY TO EFFICIENTLY PROCESS PAYMENT FOR COVERED
37 SERVICES;

38 (H) READINESS AND CAPABILITY TO MAXIMIZE REIMBURSEMENT OF AND COORDI-
39 NATE SERVICES REIMBURSED PURSUANT TO TITLE XVIII OF THE FEDERAL SOCIAL
40 SECURITY ACT AND ALL OTHER APPLICABLE BENEFITS, WITH SUCH BENEFIT COOR-
41 DINATION INCLUDING, BUT NOT LIMITED TO, MEASURES TO SUPPORT SOUND CLIN-
42 ICAL DECISIONS, REDUCE ADMINISTRATIVE COMPLEXITY, COORDINATE ACCESS TO
43 SERVICES, MAXIMIZE BENEFITS AVAILABLE PURSUANT TO SUCH TITLE AND ENSURE
44 THAT NECESSARY CARE IS PROVIDED;

45 (I) READINESS AND CAPABILITY TO ARRANGE AND MANAGE COVERED SERVICES;

46 (J) WILLINGNESS AND CAPABILITY OF TAKING, OR COOPERATING IN, ALL STEPS
47 NECESSARY TO SECURE AND INTEGRATE ANY POTENTIAL SOURCES OF FUNDING FOR
48 SERVICES PROVIDED BY OR THROUGH THE DISCO, INCLUDING, BUT NOT LIMITED
49 TO, FUNDING AVAILABLE UNDER TITLES XVI, XVIII, XIX AND XX OF THE FEDERAL
50 SOCIAL SECURITY ACT AND ALL OTHER AVAILABLE SOURCES OF FUNDING;

51 (K) THAT THE CONTRACTUAL ARRANGEMENTS FOR PROVIDERS OF HEALTH AND LONG
52 TERM CARE SERVICES IN THE BENEFIT PACKAGE ARE SUFFICIENT TO ENSURE THE
53 AVAILABILITY AND ACCESSIBILITY OF SUCH SERVICES TO THE PROPOSED ENROLLED
54 POPULATION CONSISTENT WITH GUIDELINES ESTABLISHED BY THE COMMISSIONER
55 AND THE COMMISSIONER OF DEVELOPMENTAL DISABILITIES; AND

1 (L) THAT THE APPLICANT IS FINANCIALLY RESPONSIBLE AND SHALL BE
2 EXPECTED TO MEET ITS OBLIGATIONS TO ITS ENROLLED MEMBERS.

3 5. ENROLLMENT. (A) ONLY PERSONS WITH DEVELOPMENTAL DISABILITIES, AS
4 DETERMINED BY THE OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES,
5 SHALL BE ELIGIBLE TO ENROLL IN DISCOS.

6 (B) THE OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES OR ITS
7 DESIGNEE SHALL ENROLL AN ELIGIBLE PERSON IN THE DISCO CHOSEN BY HIM OR
8 HER, HIS OR HER GUARDIAN OR OTHER LEGAL REPRESENTATIVE, PROVIDED THAT
9 SUCH DISCO IS AUTHORIZED TO ENROLL SUCH PERSON.

10 (C) NO PERSON WITH A DEVELOPMENTAL DISABILITY WHO IS RECEIVING OR
11 APPLYING FOR MEDICAL ASSISTANCE AND WHO IS RECEIVING, OR ELIGIBLE TO
12 RECEIVE, SERVICES FUNDED, CERTIFIED, AUTHORIZED OR APPROVED BY THE
13 OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES SHALL BE REQUIRED TO
14 ENROLL IN A DISCO IN ORDER TO RECEIVE SUCH SERVICES UNTIL PROGRAM
15 FEATURES AND REIMBURSEMENT RATES ARE APPROVED BY THE COMMISSIONER AND
16 THE COMMISSIONER OF DEVELOPMENTAL DISABILITIES, AND UNTIL SUCH COMMIS-
17 SIONERS DETERMINE THAT THERE ARE A SUFFICIENT NUMBER OF PLANS AUTHORIZED
18 TO COORDINATE CARE FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES
19 PURSUANT TO THIS ARTICLE OPERATING IN THE PERSON'S COUNTY OF RESIDENCE
20 TO MEET THE NEEDS OF PERSONS WITH DEVELOPMENTAL DISABILITIES, AND THAT
21 SUCH DISCOS MEET THE STANDARDS OF THIS SECTION.

22 (D) PERSONS REQUIRED TO ENROLL IN A DISCO SHALL HAVE NO LESS THAN
23 THIRTY DAYS TO SELECT A DISCO, AND SUCH PERSONS AND THEIR GUARDIANS OR
24 OTHER LEGAL REPRESENTATIVES SHALL BE PROVIDED WITH INFORMATION TO MAKE
25 AN INFORMED CHOICE. WHERE A PERSON, GUARDIAN OR OTHER LEGAL REPRESEN-
26 TATIVE HAS NOT SELECTED A DISCO, THE COMMISSIONER OF DEVELOPMENTAL DISA-
27 BILITIES OR ITS DESIGNEE SHALL ENROLL SUCH PERSON IN A DISCO CHOSEN BY
28 SUCH COMMISSIONER, TAKING INTO ACCOUNT QUALITY, CAPACITY AND GEOGRAPHIC
29 ACCESSIBILITY. THE OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES OR
30 ITS DESIGNEE SHALL AUTOMATICALLY RE-ENROLL A PERSON WITH THE SAME DISCO
31 IF THERE IS A LOSS OF MEDICAID ELIGIBILITY OF TWO MONTHS OR LESS.

32 (E) ENROLLED PERSONS MAY CHANGE THEIR ENROLLMENT AT ANY TIME WITHOUT
33 CAUSE, PROVIDED, HOWEVER, THAT A PERSON REQUIRED TO ENROLL IN A DISCO IN
34 ORDER TO RECEIVE SERVICES FUNDED, LICENSED, AUTHORIZED OR APPROVED BY
35 THE OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES MAY ONLY DISENROLL
36 FROM A DISCO IF HE OR SHE ENROLLS IN ANOTHER DISCO AUTHORIZED TO ENROLL
37 HIM OR HER. SUCH DISENROLLMENT SHALL BE EFFECTIVE NO LATER THAN THE
38 FIRST DAY OF THE SECOND MONTH FOLLOWING THE REQUEST.

39 (F) A DISCO MAY REQUEST THE INVOLUNTARY DISENROLLMENT OF AN ENROLLED
40 PERSON IN WRITING TO THE OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILI-
41 TIES. SUCH DISENROLLMENT SHALL NOT BE EFFECTIVE UNTIL THE REQUEST IS
42 REVIEWED AND APPROVED BY SUCH OFFICE. THE DEPARTMENT AND THE OFFICE FOR
43 PEOPLE WITH DEVELOPMENTAL DISABILITIES SHALL ADOPT RULES AND REGULATIONS
44 GOVERNING THIS PROCESS.

45 6. ASSESSMENTS. THE OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILI-
46 TIES, OR ITS DESIGNEE, SHALL COMPLETE A COMPREHENSIVE ASSESSMENT THAT
47 SHALL INCLUDE, BUT NOT BE LIMITED TO, AN EVALUATION OF THE MEDICAL,
48 SOCIAL AND ENVIRONMENTAL NEEDS OF EACH PROSPECTIVE ENROLLEE IN A DISCO.
49 THIS ASSESSMENT SHALL ALSO SERVE AS THE BASIS FOR THE DEVELOPMENT AND
50 PROVISION OF AN APPROPRIATE PLAN OF CARE FOR THE ENROLLEE. THE ASSESS-
51 MENT SHALL BE COMPLETED BY THE OFFICE FOR PEOPLE WITH DEVELOPMENTAL
52 DISABILITIES OR ITS DESIGNEE IN CONSULTATION WITH THE PROSPECTIVE
53 ENROLLEE'S HEALTH CARE PRACTITIONER AS NECESSARY. THE COMMISSIONER OF
54 DEVELOPMENTAL DISABILITIES SHALL PRESCRIBE THE FORMS ON WHICH THE
55 ASSESSMENT SHALL BE MADE. THE OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISA-
56 BILITIES MAY DESIGNATE THE DISCO TO PERFORM SUCH ASSESSMENTS.

1 7. PROGRAM OVERSIGHT AND ADMINISTRATION. (A) THE COMMISSIONER AND THE
2 COMMISSIONER OF DEVELOPMENTAL DISABILITIES SHALL JOINTLY PROMULGATE
3 REGULATIONS TO IMPLEMENT THIS SECTION, TO PROVIDE FOR OVERSIGHT OF
4 DISCOS, INCLUDING ON SITE REVIEWS, AND TO ENSURE THE QUALITY, APPROPRI-
5 ATENESS AND COST-EFFECTIVENESS OF THE SERVICES PROVIDED BY DISCOS.

6 (B) THE COMMISSIONER AND THE COMMISSIONER OF DEVELOPMENTAL DISABILI-
7 TIES MAY WAIVE RULES AND REGULATIONS OF THEIR RESPECTIVE DEPARTMENT OR
8 OFFICE, INCLUDING BUT NOT LIMITED TO, THOSE PERTAINING TO DUPLICATIVE
9 REQUIREMENTS CONCERNING RECORD KEEPING, BOARDS OF DIRECTORS, STAFFING
10 AND REPORTING, WHEN SUCH WAIVER WILL PROMOTE THE EFFICIENT DELIVERY OF
11 APPROPRIATE, QUALITY, COST-EFFECTIVE SERVICES AND WHEN THE HEALTH, SAFE-
12 TY AND GENERAL WELFARE OF DISCO ENROLLEES WILL NOT BE IMPAIRED AS A
13 RESULT OF SUCH WAIVER. IN ORDER TO ACHIEVE DISCO SYSTEM EFFICIENCIES AND
14 COORDINATION AND TO PROMOTE THE OBJECTIVES OF HIGH QUALITY, INTEGRATED
15 AND COST EFFECTIVE CARE, THE COMMISSIONERS MAY ESTABLISH A SINGLE COOR-
16 DINATED SURVEILLANCE PROCESS, ALLOW FOR A COMPREHENSIVE QUALITY IMPROVE-
17 MENT AND REVIEW PROCESS TO MEET COMPONENT QUALITY REQUIREMENTS, AND
18 REQUIRE A UNIFORM COST REPORT. THE COMMISSIONERS SHALL REQUIRE DISCOS
19 TO UTILIZE QUALITY IMPROVEMENT MEASURES, BASED ON HEALTH OUTCOMES DATA,
20 FOR INTERNAL QUALITY ASSESSMENT PROCESSES AND MAY UTILIZE SUCH MEASURES
21 AS PART OF THE SINGLE COORDINATED SURVEILLANCE PROCESS.

22 (C) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THE SOCIAL SERVICES
23 LAW TO THE CONTRARY, THE COMMISSIONER IN CONSULTATION WITH THE COMMIS-
24 SIONER OF DEVELOPMENTAL DISABILITIES SHALL, PURSUANT TO REGULATION,
25 DETERMINE WHETHER AND THE EXTENT TO WHICH THE APPLICABLE PROVISIONS OF
26 THE SOCIAL SERVICES LAW OR REGULATIONS RELATING TO APPROVALS AND AUTHOR-
27 IZATIONS OF, AND UTILIZATION LIMITATIONS ON, HEALTH AND LONG TERM CARE
28 SERVICES REIMBURSED PURSUANT TO TITLE XIX OF THE FEDERAL SOCIAL SECURITY
29 ACT ARE INCONSISTENT WITH THE FLEXIBILITY NECESSARY FOR THE EFFICIENT
30 ADMINISTRATION OF DISCOS, AND SUCH REGULATIONS SHALL PROVIDE THAT SUCH
31 PROVISIONS SHALL NOT BE APPLICABLE TO ENROLLEES OF DISCOS, PROVIDED THAT
32 SUCH DETERMINATIONS ARE CONSISTENT WITH APPLICABLE FEDERAL LAW AND REGU-
33 LATION.

34 (D) THE COMMISSIONER AND THE COMMISSIONER OF DEVELOPMENTAL DISABILI-
35 TIES SHALL ENSURE, THROUGH PERIODIC REVIEWS OF DISCOS, THAT ORGANIZATION
36 SERVICES ARE PROMPTLY AVAILABLE TO ENROLLEES WHEN APPROPRIATE. SUCH
37 PERIODIC REVIEWS SHALL BE MADE ACCORDING TO STANDARDS AS DETERMINED BY
38 THE COMMISSIONERS IN REGULATIONS.

39 (E) THE COMMISSIONER AND THE COMMISSIONER OF DEVELOPMENTAL DISABILI-
40 TIES SHALL HAVE THE AUTHORITY TO CONDUCT BOTH ON SITE AND OFF SITE
41 REVIEWS OF DISCOS. SUCH REVIEWS MAY INCLUDE, BUT NOT BE LIMITED TO, THE
42 FOLLOWING COMPONENTS: GOVERNANCE; FISCAL AND FINANCIAL REPORTING;
43 RECORDKEEPING; INTERNAL CONTROLS; MARKETING; NETWORK CONTRACTING AND
44 ADEQUACY; PROGRAM INTEGRITY ASSURANCES; UTILIZATION CONTROL AND REVIEW
45 SYSTEMS; GRIEVANCE AND APPEALS SYSTEMS; QUALITY ASSESSMENT AND ASSURANCE
46 SYSTEMS; CARE MANAGEMENT; ENROLLMENT AND DISENROLLMENT; MANAGEMENT
47 INFORMATION SYSTEMS, AND OTHER OPERATIONAL AND MANAGEMENT COMPONENTS.

48 8. SOLVENCY. (A) THE COMMISSIONER, IN CONSULTATION WITH THE COMMIS-
49 SIONER OF DEVELOPMENTAL DISABILITIES, SHALL BE RESPONSIBLE FOR EVALUAT-
50 ING, APPROVING AND REGULATING ALL MATTERS RELATING TO FISCAL SOLVENCY,
51 INCLUDING RESERVES, SURPLUS AND PROVIDER CONTRACTS. THE COMMISSIONER
52 SHALL PROMULGATE REGULATIONS TO IMPLEMENT THIS SECTION. THE COMMISSION-
53 ER, IN THE ADMINISTRATION OF THIS SUBDIVISION:

54 (I) SHALL BE GUIDED BY THE STANDARDS THAT GOVERN THE FISCAL SOLVENCY
55 OF A HEALTH MAINTENANCE ORGANIZATION, PROVIDED, HOWEVER, THAT THE
56 COMMISSIONER SHALL RECOGNIZE THE SPECIFIC DELIVERY COMPONENTS, OPERA-

1 TIONAL CAPACITY AND FINANCIAL CAPABILITY OF THE ELIGIBLE APPLICANT FOR A
2 CERTIFICATE OF AUTHORITY;

3 (II) SHALL NOT APPLY FINANCIAL SOLVENCY STANDARDS THAT EXCEED THOSE
4 REQUIRED FOR A HEALTH MAINTENANCE ORGANIZATION; AND

5 (III) SHALL ESTABLISH REASONABLE CAPITALIZATION AND CONTINGENT RESERVE
6 REQUIREMENTS.

7 (B) STANDARDS ESTABLISHED PURSUANT TO THIS SUBDIVISION SHALL BE
8 ADEQUATE TO PROTECT THE INTERESTS OF ENROLLEES IN THE DISCO. THE COMMIS-
9 SIONER SHALL BE SATISFIED THAT THE ELIGIBLE APPLICANT IS FINANCIALLY
10 SOUND, AND HAS MADE ADEQUATE PROVISIONS TO PAY FOR QUALITY SERVICES THAT
11 ARE COST EFFECTIVE AND APPROPRIATE TO NEEDS AND THE PROTECTION OF THE
12 HEALTH, SAFETY, WELFARE AND SATISFACTION OF THOSE SERVED.

13 9. ROLE OF THE SUPERINTENDENT OF FINANCIAL SERVICES. (A) THE SUPER-
14 INTENDENT OF FINANCIAL SERVICES SHALL DETERMINE AND APPROVE PREMIUMS IN
15 ACCORDANCE WITH THE INSURANCE LAW WHENEVER ANY POPULATION OF ENROLLEES
16 NOT ELIGIBLE UNDER TITLE XIX OF THE FEDERAL SOCIAL SECURITY ACT IS TO BE
17 COVERED. THE DETERMINATION AND APPROVAL OF THE SUPERINTENDENT OF FINAN-
18 CIAL SERVICES SHALL RELATE TO PREMIUMS CHARGED TO SUCH ENROLLEES NOT
19 ELIGIBLE UNDER TITLE XIX OF THE FEDERAL SOCIAL SECURITY ACT.

20 (B) THE SUPERINTENDENT OF FINANCIAL SERVICES SHALL EVALUATE AND
21 APPROVE ANY ENROLLEE CONTRACTS WHENEVER SUCH ENROLLEE CONTRACTS ARE TO
22 COVER ANY POPULATION OF ENROLLEES NOT ELIGIBLE UNDER TITLE XIX OF THE
23 FEDERAL SOCIAL SECURITY ACT.

24 10. PAYMENT RATES FOR DISCO ENROLLEES ELIGIBLE FOR MEDICAL ASSISTANCE.
25 THE COMMISSIONER SHALL ESTABLISH PAYMENT RATES FOR SERVICES PROVIDED TO
26 ENROLLEES ELIGIBLE UNDER TITLE XIX OF THE FEDERAL SOCIAL SECURITY ACT.
27 SUCH PAYMENT RATES SHALL BE SUBJECT TO APPROVAL BY THE DIRECTOR OF THE
28 DIVISION OF THE BUDGET. PAYMENT RATES SHALL BE RISK-ADJUSTED TO TAKE
29 INTO ACCOUNT THE CHARACTERISTICS OF ENROLLEES, OR PROPOSED ENROLLEES,
30 INCLUDING, BUT NOT LIMITED TO: FRAILITY, DISABILITY LEVEL, HEALTH AND
31 FUNCTIONAL STATUS, AGE, GENDER, THE NATURE OF SERVICES PROVIDED TO SUCH
32 ENROLLEES, AND OTHER FACTORS AS DETERMINED BY THE COMMISSIONER AND THE
33 COMMISSIONER OF DEVELOPMENTAL DISABILITIES. THE RISK ADJUSTED PREMIUMS
34 MAY ALSO BE COMBINED WITH DISINCENTIVES OR REQUIREMENTS DESIGNED TO
35 MITIGATE ANY INCENTIVES TO OBTAIN HIGHER PAYMENT CATEGORIES.

36 11. CONTINUATION OF CERTIFICATE OF AUTHORITY. CONTINUATION OF A
37 CERTIFICATE OF AUTHORITY ISSUED UNDER THIS SECTION SHALL BE CONTINGENT
38 UPON COMPLIANCE BY THE DISCO WITH APPLICABLE PROVISIONS OF THIS SECTION
39 AND RULES AND REGULATIONS PROMULGATED THEREUNDER; THE CONTINUING FISCAL
40 SOLVENCY OF THE DISCO; AND FEDERAL FINANCIAL PARTICIPATION IN PAYMENTS
41 ON BEHALF OF ENROLLEES WHO ARE ELIGIBLE TO RECEIVE SERVICES UNDER TITLE
42 XIX OF THE FEDERAL SOCIAL SECURITY ACT.

43 12. PROTECTION OF ENROLLEES. THE COMMISSIONER MAY, IN HIS OR HER
44 DISCRETION AND WITH THE CONCURRENCE OF THE COMMISSIONER OF DEVELOPMENTAL
45 DISABILITIES, FOR THE PURPOSE OF THE PROTECTION OF ENROLLEES, IMPOSE
46 MEASURES INCLUDING, BUT NOT LIMITED TO BANS ON FURTHER ENROLLMENTS UNTIL
47 ANY IDENTIFIED PROBLEMS ARE RESOLVED TO THE SATISFACTION OF THE COMMIS-
48 SIONER, OR FINES UPON A FINDING THAT THE DISCO HAS FAILED TO COMPLY WITH
49 THE PROVISIONS OF ANY APPLICABLE STATUTE, RULE OR REGULATION.

50 13. INFORMATION SHARING. THE COMMISSIONER AND THE COMMISSIONER OF
51 DEVELOPMENTAL DISABILITIES SHALL, AS NECESSARY AND CONSISTENT WITH
52 FEDERAL REGULATIONS PROMULGATED PURSUANT TO THE HEALTH INSURANCE PORTA-
53 BILITY AND ACCOUNTABILITY ACT, SHARE WITH SUCH DISCO THE FOLLOWING DATA
54 IF IT IS AVAILABLE:

55 (A) INFORMATION CONCERNING UTILIZATION OF SERVICES AND PROVIDERS BY
56 EACH OF ITS ENROLLEES PRIOR TO AND DURING ENROLLMENT.

1 (B) AGGREGATE DATA CONCERNING UTILIZATION AND COSTS FOR ENROLLEES AND
2 FOR COMPARABLE COHORTS SERVED THROUGH THE MEDICAID FEE-FOR-SERVICE
3 PROGRAM.

4 14. CONTRACTS. NOTWITHSTANDING ANY INCONSISTENT PROVISIONS OF THIS
5 SECTION AND SECTIONS ONE HUNDRED TWELVE AND ONE HUNDRED SIXTY-THREE OF
6 THE STATE FINANCE LAW, THE COMMISSIONER, IN CONSULTATION WITH THE
7 COMMISSIONER OF DEVELOPMENTAL DISABILITIES, MAY CONTRACT WITH DISCOS
8 APPROVED UNDER THIS SECTION WITHOUT A COMPETITIVE BID OR REQUEST FOR
9 PROPOSAL PROCESS, TO PROVIDE COVERAGE FOR ENROLLEES PURSUANT TO THIS
10 SECTION. NOTWITHSTANDING ANY INCONSISTENT PROVISIONS OF THIS SECTION AND
11 SECTION ONE HUNDRED FORTY-THREE OF THE ECONOMIC DEVELOPMENT LAW, NO
12 NOTICE IN THE PROCUREMENT OPPORTUNITIES NEWSLETTER SHALL BE REQUIRED FOR
13 CONTRACTS AWARDED BY THE COMMISSIONER TO QUALIFIED DISCOS PURSUANT TO
14 THIS SECTION.

15 15. APPLICABILITY OF OTHER LAWS. DISCOS SHALL BE SUBJECT TO THE
16 PROVISIONS OF THE INSURANCE LAW AND REGULATIONS APPLICABLE TO HEALTH
17 MAINTENANCE ORGANIZATIONS, THIS ARTICLE AND REGULATIONS PROMULGATED
18 THEREUNDER. TO THE EXTENT THAT THE PROVISIONS OF THIS SECTION ARE INCON-
19 SISTENT WITH THE PROVISIONS OF THIS CHAPTER OR THE PROVISIONS OF THE
20 INSURANCE LAW, THE PROVISIONS OF THIS SECTION SHALL PREVAIL.

21 16. EFFECTIVENESS. THE PROVISIONS OF THIS SECTION SHALL ONLY BE EFFEC-
22 TIVE IF, FOR SO LONG AS, AND TO THE EXTENT THAT FEDERAL FINANCIAL
23 PARTICIPATION IS AVAILABLE FOR THE COSTS OF SERVICES PROVIDED BY THE
24 DISCOS TO ENROLLEES WHO ARE RECIPIENTS OF MEDICAL ASSISTANCE PURSUANT TO
25 TITLE ELEVEN OF ARTICLE FIVE OF THE SOCIAL SERVICES LAW. THE COMMISSION-
26 ER SHALL MAKE ANY NECESSARY AMENDMENTS TO THE STATE PLAN FOR MEDICAL
27 ASSISTANCE SUBMITTED PURSUANT TO SECTION THREE HUNDRED SIXTY-THREE-A OF
28 THE SOCIAL SERVICES LAW, IN ORDER TO ENSURE SUCH FEDERAL FINANCIAL
29 PARTICIPATION.

30 S 74. Section 4403 of the public health law is amended by adding a new
31 subdivision 8 to read as follows:

32 8. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, A HEALTH
33 MAINTENANCE ORGANIZATION MAY EXPAND ITS COMPREHENSIVE HEALTH SERVICES
34 PLAN TO INCLUDE SERVICES OPERATED, CERTIFIED, FUNDED, AUTHORIZED OR
35 APPROVED BY THE OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES, AND
36 MAY OFFER SUCH EXPANDED PLAN TO A POPULATION OF PERSONS WITH DEVELOP-
37 MENTAL DISABILITIES, AS SUCH TERM IS DEFINED IN THE MENTAL HYGIENE LAW,
38 SUBJECT TO THE FOLLOWING:

39 (A) SUCH ORGANIZATION MUST HAVE THE ABILITY TO PROVIDE OR COORDINATE
40 SERVICES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES, AS DEMONSTRATED BY
41 CRITERIA TO BE DETERMINED BY THE COMMISSIONER AND THE COMMISSIONER OF
42 DEVELOPMENTAL DISABILITIES;

43 (B) THE PROVISION BY SUCH ORGANIZATION OF SERVICES OPERATED, CERTI-
44 FIED, FUNDED, AUTHORIZED OR APPROVED BY THE OFFICE FOR PEOPLE WITH
45 DEVELOPMENTAL DISABILITIES SHALL BE SUBJECT TO THE JOINT OVERSIGHT AND
46 REVIEW OF BOTH THE DEPARTMENT AND THE OFFICE FOR PEOPLE WITH DEVELOP-
47 MENTAL DISABILITIES;

48 (C) SUCH ORGANIZATION SHALL NOT PROVIDE OR ARRANGE FOR SERVICES OPER-
49 ATED, CERTIFIED, FUNDED, AUTHORIZED OR APPROVED BY THE OFFICE FOR PEOPLE
50 WITH DEVELOPMENTAL DISABILITIES UNTIL THE COMMISSIONER AND COMMISSIONER
51 OF DEVELOPMENTAL DISABILITIES APPROVE PROGRAM FEATURES AND RATES THAT
52 INCLUDE SUCH SERVICES, AND DETERMINE THAT SUCH ORGANIZATION MEETS THE
53 REQUIREMENTS OF THIS PARAGRAPH;

54 (D) AN OTHERWISE ELIGIBLE ENROLLEE RECEIVING SERVICES THROUGH THE PLAN
55 THAT ARE OPERATED, CERTIFIED, FUNDED, AUTHORIZED OR APPROVED BY THE
56 OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES SHALL NOT BE INVOLUN-

TARILY DISENROLLED FROM SUCH PLAN WITHOUT THE PRIOR APPROVAL OF THE COMMISSIONER OF DEVELOPMENTAL DISABILITIES;

(E) THE OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES SHALL DETERMINE THE ELIGIBILITY OF INDIVIDUALS RECEIVING SERVICES OPERATED, CERTIFIED, FUNDED, AUTHORIZED OR APPROVED BY SUCH OFFICE TO ENROLL IN SUCH A PLAN AND SHALL ENROLL INDIVIDUALS IT DETERMINES ELIGIBLE IN THE PLAN CHOSEN BY SUCH INDIVIDUAL, GUARDIAN OR OTHER LEGAL REPRESENTATIVE;

(F) THE OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES, OR IF IT SO DESIGNATES, THE HEALTH MAINTENANCE ORGANIZATION OR OTHER DESIGNEE, SHALL COMPLETE A COMPREHENSIVE ASSESSMENT FOR ENROLLEES THAT RECEIVE SERVICES OPERATED, CERTIFIED, FUNDED, AUTHORIZED OR APPROVED BY SUCH OFFICE. THIS ASSESSMENT SHALL INCLUDE, BUT NOT BE LIMITED TO, AN EVALUATION OF THE MEDICAL, SOCIAL AND ENVIRONMENTAL NEEDS OF EACH PROSPECTIVE ENROLLEE. THIS ASSESSMENT SHALL ALSO SERVE AS THE BASIS FOR THE DEVELOPMENT AND PROVISION OF AN APPROPRIATE PLAN OF CARE FOR THE ENROLLEE. THE ASSESSMENT SHALL BE COMPLETED BY SUCH OFFICE OR ITS DESIGNEE, IN CONSULTATION WITH THE PROSPECTIVE ENROLLEE'S HEALTH CARE PRACTITIONER AS NECESSARY. THE COMMISSIONER OF DEVELOPMENTAL DISABILITIES SHALL PRESCRIBE THE FORMS ON WHICH THE ASSESSMENT SHALL BE MADE.

(G) NO PERSON WITH A DEVELOPMENTAL DISABILITY SHALL BE REQUIRED TO ENROLL IN A COMPREHENSIVE HEALTH SERVICES PLAN AS A CONDITION OF RECEIVING MEDICAL ASSISTANCE AND SERVICES OPERATED, CERTIFIED, FUNDED, AUTHORIZED OR APPROVED BY THE OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES UNTIL PROGRAM FEATURES AND REIMBURSEMENT RATES ARE APPROVED BY THE COMMISSIONER AND THE COMMISSIONER OF DEVELOPMENTAL DISABILITIES AND UNTIL SUCH COMMISSIONERS DETERMINE THAT THERE ARE A SUFFICIENT NUMBER OF PLANS AUTHORIZED TO COORDINATE CARE FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES PURSUANT TO THIS ARTICLE OPERATING IN THE PERSON'S COUNTY OF RESIDENCE TO MEET THE NEEDS OF PERSONS WITH DEVELOPMENTAL DISABILITIES, AND THAT SUCH PLANS MEET THE STANDARDS OF THIS SECTION.

(H) THE PROVISIONS OF THIS SUBDIVISION SHALL ONLY BE EFFECTIVE IF, FOR SO LONG AS, AND TO THE EXTENT THAT FEDERAL FINANCIAL PARTICIPATION IS AVAILABLE FOR THE COSTS OF SERVICES PROVIDED HEREUNDER TO RECIPIENTS OF MEDICAL ASSISTANCE PURSUANT TO TITLE ELEVEN OF ARTICLE FIVE OF THE SOCIAL SERVICES LAW. THE COMMISSIONER SHALL MAKE ANY NECESSARY AMENDMENTS TO THE STATE PLAN FOR MEDICAL ASSISTANCE SUBMITTED PURSUANT TO SECTION THREE HUNDRED SIXTY-THREE-A OF THE SOCIAL SERVICES LAW, AND/OR SUBMIT ONE OR MORE APPLICATIONS FOR WAIVERS OF THE FEDERAL SOCIAL SECURITY ACT, AS MAY BE NECESSARY TO ENSURE SUCH FEDERAL FINANCIAL PARTICIPATION. TO THE EXTENT THAT THE PROVISIONS OF THIS SUBDIVISION ARE INCONSISTENT WITH OTHER PROVISIONS OF THIS ARTICLE OR WITH THE PROVISIONS OF SECTION THREE HUNDRED SIXTY-FOUR-J OF THE SOCIAL SERVICES LAW, THE PROVISIONS OF THIS SUBDIVISION SHALL PREVAIL.

S 75. The opening paragraph of paragraph (h) of subdivision 7 of section 4403-f of the public health law, as amended by section 41-b of part H of chapter 59 of the laws of 2011, is amended to read as follows:

The commissioner AND, IN THE CASE OF A PLAN ARRANGING FOR OR PROVIDING SERVICES OPERATED, CERTIFIED, FUNDED, AUTHORIZED OR APPROVED BY THE OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES, THE COMMISSIONER OF DEVELOPMENTAL DISABILITIES, shall, upon request by a managed long term care plan or operating demonstration, and consistent with federal regulations promulgated pursuant to the Health Insurance Portability and Accountability Act, share with such plan or demonstration the following data if it is available:

S 76. Section 4403-f of the public health law is amended by adding three new subdivisions 12, 13 and 14 to read as follows:

12. NOTWITHSTANDING ANY PROVISION TO THE CONTRARY, A MANAGED LONG TERM CARE PLAN MAY EXPAND THE SERVICES IT PROVIDES OR ARRANGES FOR TO INCLUDE SERVICES OPERATED, CERTIFIED, FUNDED, AUTHORIZED OR APPROVED BY THE OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES FOR A POPULATION OF PERSONS WITH DEVELOPMENTAL DISABILITIES, AS SUCH TERM IS DEFINED IN THE MENTAL HYGIENE LAW, SUBJECT TO THE FOLLOWING:

(A) SUCH PLAN MUST HAVE THE ABILITY TO PROVIDE OR COORDINATE SERVICES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES AS DEMONSTRATED BY CRITERIA TO BE DETERMINED BY THE COMMISSIONER AND THE COMMISSIONER OF DEVELOPMENTAL DISABILITIES;

(B) THE PROVISION BY SUCH PLAN OF SERVICES OPERATED, CERTIFIED, FUNDED, AUTHORIZED OR APPROVED BY THE OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES SHALL BE SUBJECT TO THE JOINT OVERSIGHT AND REVIEW OF BOTH THE DEPARTMENT AND THE OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES;

(C) SUCH PLAN SHALL NOT PROVIDE OR ARRANGE FOR SERVICES OPERATED, CERTIFIED, FUNDED, AUTHORIZED OR APPROVED BY THE OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES UNTIL THE COMMISSIONER AND COMMISSIONER OF DEVELOPMENTAL DISABILITIES APPROVE PROGRAM FEATURES AND RATES THAT INCLUDE SUCH SERVICES, AND DETERMINE THAT SUCH ORGANIZATION MEETS THE REQUIREMENTS OF THIS SUBDIVISION;

(D) AN OTHERWISE ELIGIBLE ENROLLEE RECEIVING SERVICES THROUGH THE PLAN THAT ARE OPERATED, CERTIFIED, FUNDED, AUTHORIZED OR APPROVED BY THE OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES SHALL NOT BE INVOLUNTARILY DISENROLLED FROM SUCH PLAN WITHOUT THE PRIOR APPROVAL OF THE COMMISSIONER OF DEVELOPMENTAL DISABILITIES;

(E) THE OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES SHALL DETERMINE THE ELIGIBILITY OF INDIVIDUALS RECEIVING SERVICES OPERATED, CERTIFIED, FUNDED, AUTHORIZED OR APPROVED BY SUCH OFFICE TO ENROLL IN SUCH A PLAN. SUCH OFFICE OR ITS DESIGNEE SHALL ENROLL ELIGIBLE INDIVIDUALS IT DETERMINES ELIGIBLE IN A PLAN CHOSEN BY SUCH INDIVIDUAL, GUARDIAN OR OTHER LEGAL REPRESENTATIVE;

(F) THE OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES, OR IF IT SO DESIGNATES, A PLAN OR OTHER DESIGNEE, SHALL COMPLETE A COMPREHENSIVE ASSESSMENT FOR ENROLLEES WHO RECEIVE SERVICES OPERATED, CERTIFIED, FUNDED, AUTHORIZED OR APPROVED BY SUCH OFFICE. THIS ASSESSMENT SHALL INCLUDE, BUT NOT BE LIMITED TO, AN EVALUATION OF THE MEDICAL, SOCIAL AND ENVIRONMENTAL NEEDS OF EACH PROSPECTIVE ENROLLEE. THIS ASSESSMENT SHALL ALSO SERVE AS THE BASIS FOR THE DEVELOPMENT AND PROVISION OF AN APPROPRIATE PLAN OF CARE FOR THE ENROLLEE. THE ASSESSMENT SHALL BE COMPLETED BY THE OFFICE OR, IF DESIGNATED, THE PLAN, IN CONSULTATION WITH THE PROSPECTIVE ENROLLEE'S HEALTH CARE PRACTITIONER AS NECESSARY. THE COMMISSIONER OF DEVELOPMENTAL DISABILITIES SHALL PRESCRIBE THE FORMS ON WHICH THE ASSESSMENT SHALL BE MADE.

(G) NO PERSON WITH A DEVELOPMENTAL DISABILITY SHALL BE REQUIRED TO ENROLL IN A MANAGED LONG TERM CARE PLAN AS A CONDITION OF RECEIVING MEDICAL ASSISTANCE AND SERVICES OPERATED, CERTIFIED, FUNDED, AUTHORIZED OR APPROVED BY THE OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES UNTIL PROGRAM FEATURES AND REIMBURSEMENT RATES ARE APPROVED BY THE COMMISSIONER AND THE COMMISSIONER OF DEVELOPMENTAL DISABILITIES AND UNTIL SUCH COMMISSIONERS DETERMINE THAT THERE ARE A SUFFICIENT NUMBER OF PLANS AUTHORIZED TO COORDINATE CARE FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES PURSUANT TO THIS ARTICLE OPERATING IN THE PERSON'S COUNTY OF RESIDENCE TO MEET THE NEEDS OF PERSONS WITH DEVELOPMENTAL DISABILITIES, AND THAT SUCH PLANS MEET THE STANDARDS OF THIS SECTION.

1 13. NOTWITHSTANDING ANY INCONSISTENT PROVISION TO THE CONTRARY, THE
2 COMMISSIONER MAY ISSUE A CERTIFICATE OF AUTHORITY TO NO MORE THAN THREE
3 ELIGIBLE APPLICANTS TO OPERATE MANAGED LONG TERM PLANS THAT ARE AUTHOR-
4 IZED TO EXCLUSIVELY ENROLL INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES,
5 AS SUCH TERM IS DEFINED IN SECTION 1.03 OF THE MENTAL HYGIENE LAW. THE
6 COMMISSIONER MAY ONLY ISSUE CERTIFICATES OF AUTHORITY PURSUANT TO THIS
7 SUBDIVISION IF, AND TO THE EXTENT THAT, THE DEPARTMENT HAS RECEIVED
8 FEDERAL APPROVAL TO OPERATE A FULLY INTEGRATED DUALS ADVANTAGE PROGRAM
9 FOR THE INTEGRATION OF SERVICES FOR PERSONS ENROLLED IN MEDICARE AND
10 MEDICAID. THE COMMISSIONER MAY WAIVE ANY OF THE DEPARTMENT'S REGU-
11 LATIONS AS THE COMMISSIONER, IN CONSULTATION WITH THE COMMISSIONER OF
12 DEVELOPMENTAL DISABILITIES, DEEMS NECESSARY TO ALLOW SUCH MANAGED LONG
13 TERM PLANS TO PROVIDE OR ARRANGE FOR SERVICES FOR INDIVIDUALS WITH
14 DEVELOPMENTAL DISABILITIES THAT ARE ADEQUATE AND APPROPRIATE TO MEET THE
15 NEEDS OF SUCH INDIVIDUALS AND THAT WILL ENSURE THEIR HEALTH AND SAFETY.

16 14. THE PROVISIONS OF SUBDIVISIONS TWELVE AND THIRTEEN OF THIS SECTION
17 SHALL ONLY BE EFFECTIVE IF, FOR SO LONG AS, AND TO THE EXTENT THAT
18 FEDERAL FINANCIAL PARTICIPATION IS AVAILABLE FOR THE COSTS OF SERVICES
19 PROVIDED THEREUNDER TO RECIPIENTS OF MEDICAL ASSISTANCE PURSUANT TO
20 TITLE ELEVEN OF ARTICLE FIVE OF THE SOCIAL SERVICES LAW. THE COMMISSION-
21 ER SHALL MAKE ANY NECESSARY AMENDMENTS TO THE STATE PLAN FOR MEDICAL
22 ASSISTANCE SUBMITTED PURSUANT TO SECTION THREE HUNDRED SIXTY-THREE-A OF
23 THE SOCIAL SERVICES LAW, AND/OR SUBMIT ONE OR MORE APPLICATIONS FOR
24 WAIVERS OF THE FEDERAL SOCIAL SECURITY ACT, AS MAY BE NECESSARY TO
25 ENSURE SUCH FEDERAL FINANCIAL PARTICIPATION. TO THE EXTENT THAT THE
26 PROVISIONS OF SUBDIVISIONS TWELVE AND THIRTEEN OF THIS SECTION ARE
27 INCONSISTENT WITH OTHER PROVISIONS OF THIS ARTICLE OR WITH THE
28 PROVISIONS OF SECTION THREE HUNDRED SIXTY-FOUR-J OF THE SOCIAL SERVICES
29 LAW, THE PROVISIONS OF THIS SUBDIVISION SHALL PREVAIL.

30 S 77. Subparagraph (ii) of paragraph (b) of subdivision 1 of section
31 364-j of the social services law, as amended by chapter 433 of the laws
32 of 1997, is amended and a new subparagraph (iii) is added to read as
33 follows:

34 (ii) is authorized as a partially capitated program pursuant to
35 section three hundred sixty-four-f of this title or section forty-four
36 hundred three-e of the public health law or section 1915b of the social
37 security act[.]; OR

38 (III) IS AUTHORIZED TO OPERATE UNDER SECTION FORTY-FOUR HUNDRED
39 THREE-G OF THE PUBLIC HEALTH LAW.

40 S 78. Section 364-j of the social services law is amended by adding a
41 new subdivision 28 to read as follows:

42 28. TO THE EXTENT THAT ANY PROVISION OF THIS SECTION IS INCONSISTENT
43 WITH ANY PROVISION OF SECTION FORTY-FOUR HUNDRED THREE-G OF THE PUBLIC
44 HEALTH LAW, SUCH PROVISION OF THIS SECTION SHALL NOT APPLY TO AN ENTITY
45 AUTHORIZED TO OPERATE PURSUANT TO SECTION FORTY-FOUR HUNDRED THREE-G OF
46 THE PUBLIC HEALTH LAW.

47 S 79. Subdivision 2 of section 365-a of the social services law is
48 amended by adding a new paragraph (aa) to read as follows:

49 (AA) CARE AND SERVICES FURNISHED BY A DEVELOPMENTAL DISABILITY INDIV-
50 VIDUAL SUPPORT AND CARE COORDINATION ORGANIZATION (DISCO) THAT HAS
51 RECEIVED A CERTIFICATE OF AUTHORITY PURSUANT TO SECTION FORTY-FOUR
52 HUNDRED THREE-G OF THE PUBLIC HEALTH LAW TO ELIGIBLE INDIVIDUALS RESID-
53 ING IN THE GEOGRAPHIC AREA SERVED BY SUCH ENTITY, WHEN SUCH SERVICES ARE
54 FURNISHED IN ACCORDANCE WITH AN AGREEMENT APPROVED BY THE DEPARTMENT OF
55 HEALTH WHICH MEETS THE REQUIREMENTS OF FEDERAL LAW AND REGULATIONS.

1 S 80. The commissioner of health shall, to the extent necessary,
2 submit the appropriate waivers, including, but not limited to, those
3 authorized pursuant to sections eleven hundred fifteen and nineteen
4 hundred fifteen of the federal social security act, or successor
5 provisions, and any other waivers necessary to achieve the purposes of
6 high quality, integrated and cost effective care and integrated finan-
7 cial eligibility policies under the medical assistance program or pursu-
8 ant to title XVIII of the federal social security act and to require
9 medical assistance recipients with developmental disabilities who
10 require home and community-based services, as specified by the commis-
11 sioner, to receive such services through an available organization
12 certified pursuant to article 44 of the public health law. Copies of
13 such original waiver applications and amendments thereto shall be
14 provided to the chairs of the senate finance committee, the assembly
15 ways and means committee and the senate and assembly health committees
16 simultaneously with their submission to the federal government.

17 S 81. Notwithstanding any inconsistent provision of law, rule or regu-
18 lation, for purposes of implementing the provisions of the public health
19 law and the social services law, references to titles XIX and XXI of the
20 federal social security act in the public health law and the social
21 services law shall be deemed to include and also to mean any successor
22 titles thereto under the federal social security act.

23 S 82. Notwithstanding any inconsistent provision of law, rule or regu-
24 lation, the effectiveness of the provisions of sections 2807 and 3614 of
25 the public health law, section 18 of chapter 2 of the laws of 1988, and
26 18 NYCRR 505.14(h), as they relate to time frames for notice, approval
27 or certification of rates of payment, are hereby suspended and without
28 force or effect for purposes of implementing the provisions of this act.

29 S 83. Severability clause. If any clause, sentence, paragraph, subdivi-
30 sion, section or part of this act shall be adjudged by any court of
31 competent jurisdiction to be invalid, such judgment shall not affect,
32 impair or invalidate the remainder thereof, but shall be confined in its
33 operation to the clause, sentence, paragraph, subdivision, section or
34 part thereof directly involved in the controversy in which such judgment
35 shall have been rendered. It is hereby declared to be the intent of the
36 legislature that this act would have been enacted even if such invalid
37 provisions had not been included herein.

38 S 84. This act shall take effect immediately and shall be deemed to
39 have been in full force and effect on and after April 1, 2013 provided
40 that:

41 1. the amendments to subdivision 10 of section 2807-c of the public
42 health law, made by section four of this act, shall not affect the expi-
43 ration of such subdivision and shall be deemed repealed therewith;

44 1-a. sections ten, eleven, twelve and thirteen of this act shall take
45 effect July 1, 2013;

46 2. any rules or regulations necessary to implement the provisions of
47 this act may be promulgated and any procedures, forms, or instructions
48 necessary for such implementation may be adopted and issued on or after
49 the date this act shall have become a law;

50 3. this act shall not be construed to alter, change, affect, impair or
51 defeat any rights, obligations, duties or interests accrued, incurred or
52 conferred prior to the effective date of this act;

53 4. the commissioner of health and the superintendent of financial
54 services and any appropriate council may take any steps necessary to
55 implement this act prior to its effective date;

1 5. notwithstanding any inconsistent provision of the state administra-
2 tive procedure act or any other provision of law, rule or regulation,
3 the commissioner of health and the superintendent of financial services
4 and any appropriate council is authorized to adopt or amend or promul-
5 gate on an emergency basis any regulation he or she or such council
6 determines necessary to implement any provision of this act on its
7 effective date;

8 6. the provisions of this act shall become effective notwithstanding
9 the failure of the commissioner of health or the superintendent of
10 financial services or any council to adopt or amend or promulgate regu-
11 lations implementing this act;

12 7. the amendments to subparagraph (ii) of paragraph (b) of subdivision
13 9 of section 367-a of the social services law made by section thirteen
14 of this act shall not affect the expiration of such subdivision and
15 shall be deemed to expire therewith;

16 8. the amendments to paragraph (a-2) of subdivision 1 of section
17 2807-c of the public health law made by sections thirty-one and thirty-
18 two of this act shall not affect the expiration of such paragraph and
19 shall be deemed to expire therewith;

20 9. the amendments to section 364-j of the social services law made by
21 sections thirty-five-a, thirty-six, thirty-seven, thirty-eight, thirty-
22 nine, forty, forty-one, forty-two, forty-three, forty-four, fifty-two,
23 seventy-two, seventy-seven and seventy-eight of this act shall not
24 affect the repeal of such section and shall be deemed repealed there-
25 with;

26 10. section forty-eight-a of this act shall expire and be deemed
27 repealed March 31, 2015; and

28 11. the amendments to section 4403-f of the public health law made by
29 sections forty-eight, fifty-three, fifty-four, sixty-five, seventy-five
30 and seventy-six of this act shall not affect the repeal of such section
31 and shall be deemed repealed therewith.

32

PART B

33 Section 1. Subdivision (f) of section 129 of part C of chapter 58 of
34 the laws of 2009, amending the public health law relating to payment by
35 governmental agencies for general hospital inpatient services, is
36 amended to read as follows:

37 (f) section twenty-five of this act shall expire and be deemed
38 repealed April 1, [2013] 2016;

39 S 2. Paragraph (a) of subdivision 1 of section 212 of chapter 474 of
40 the laws of 1996, amending the education law and other laws relating to
41 rates for residential healthcare facilities, as amended by section 2 of
42 part D of chapter 59 of the laws of 2011, is amended to read as follows:

43 (a) Notwithstanding any inconsistent provision of law or regulation to
44 the contrary, effective beginning August 1, 1996, for the period April
45 1, 1997 through March 31, 1998, April 1, 1998 for the period April 1,
46 1998 through March 31, 1999, August 1, 1999, for the period April 1,
47 1999 through March 31, 2000, April 1, 2000, for the period April 1, 2000
48 through March 31, 2001, April 1, 2001, for the period April 1, 2001
49 through March 31, 2002, April 1, 2002, for the period April 1, 2002
50 through March 31, 2003, and for the state fiscal year beginning April 1,
51 2005 through March 31, 2006, and for the state fiscal year beginning
52 April 1, 2006 through March 31, 2007, and for the state fiscal year
53 beginning April 1, 2007 through March 31, 2008, and for the state fiscal
54 year beginning April 1, 2008 through March 31, 2009, and for the state

1 fiscal year beginning April 1, 2009 through March 31, 2010, and for the
2 state fiscal year beginning April 1, 2010 through March 31, 2013, AND
3 FOR EACH STATE FISCAL YEAR THEREAFTER, the department of health is
4 authorized to pay public general hospitals, as defined in subdivision 10
5 of section 2801 of the public health law, operated by the state of New
6 York or by the state university of New York or by a county, which shall
7 not include a city with a population of over one million, of the state
8 of New York, and those public general hospitals located in the county of
9 Westchester, the county of Erie or the county of Nassau, additional
10 payments for inpatient hospital services as medical assistance payments
11 pursuant to title 11 of article 5 of the social services law for
12 patients eligible for federal financial participation under title XIX of
13 the federal social security act in medical assistance pursuant to the
14 federal laws and regulations governing disproportionate share payments
15 to hospitals up to one hundred percent of each such public general
16 hospital's medical assistance and uninsured patient losses after all
17 other medical assistance, including disproportionate share payments to
18 such public general hospital for 1996, 1997, 1998, and 1999, based
19 initially for 1996 on reported 1994 reconciled data as further recon-
20 ciled to actual reported 1996 reconciled data, and for 1997 based
21 initially on reported 1995 reconciled data as further reconciled to
22 actual reported 1997 reconciled data, for 1998 based initially on
23 reported 1995 reconciled data as further reconciled to actual reported
24 1998 reconciled data, for 1999 based initially on reported 1995 recon-
25 ciled data as further reconciled to actual reported 1999 reconciled
26 data, for 2000 based initially on reported 1995 reconciled data as
27 further reconciled to actual reported 2000 data, for 2001 based initial-
28 ly on reported 1995 reconciled data as further reconciled to actual
29 reported 2001 data, for 2002 based initially on reported 2000 reconciled
30 data as further reconciled to actual reported 2002 data, and for state
31 fiscal years beginning on April 1, 2005, based initially on reported
32 2000 reconciled data as further reconciled to actual reported data for
33 2005, and for state fiscal years beginning on April 1, 2006, based
34 initially on reported 2000 reconciled data as further reconciled to
35 actual reported data for 2006, for state fiscal years beginning on and
36 after April 1, 2007 through March 31, 2009, based initially on reported
37 2000 reconciled data as further reconciled to actual reported data for
38 2007 and 2008, respectively, for state fiscal years beginning on and
39 after April 1, 2009, based initially on reported 2007 reconciled data,
40 adjusted for authorized Medicaid rate changes applicable to the state
41 fiscal year, and as further reconciled to actual reported data for 2009,
42 for state fiscal years beginning on and after April 1, 2010, based
43 initially on reported reconciled data from the base year two years prior
44 to the payment year, adjusted for authorized Medicaid rate changes
45 applicable to the state fiscal year, and further reconciled to actual
46 reported data from such payment year, and to actual reported data for
47 each respective succeeding year. The payments may be added to rates of
48 payment or made as aggregate payments to an eligible public general
49 hospital.

50 S 3. Section 11 of chapter 884 of the laws of 1990, amending the
51 public health law relating to authorizing bad debt and charity care
52 allowances for certified home health agencies, as amended by section 3
53 of part D of chapter 59 of the laws of 2011, is amended to read as
54 follows:

55 S 11. This act shall take effect immediately and:

56 (a) sections one and three shall expire on December 31, 1996,

(b) sections four through ten shall expire on June 30, [2013] 2018, and

(c) provided that the amendment to section 2807-b of the public health law by section two of this act shall not affect the expiration of such section 2807-b as otherwise provided by law and shall be deemed to expire therewith.

S 4. Subdivision 2 of section 246 of chapter 81 of the laws of 1995, amending the public health law and other laws relating to medical reimbursement and welfare reform, as amended by section 4 of part D of chapter 59 of the laws of 2011, is amended to read as follows:

2. Sections five, seven through nine, twelve through fourteen, and eighteen of this act shall be deemed to have been in full force and effect on and after April 1, 1995 through March 31, 1999 and on and after July 1, 1999 through March 31, 2000 and on and after April 1, 2000 through March 31, 2003 and on and after April 1, 2003 through March 31, 2006 and on and after April 1, 2006 through March 31, 2007 and on and after April 1, 2007 through March 31, 2009 and on and after April 1, 2009 through March 31, 2011 and sections twelve, thirteen and fourteen of this act shall be deemed to be in full force and effect on and after April 1, 2011 [through March 31, 2013];

S 5. Subparagraph (vi) of paragraph (b) of subdivision 2 of section 2807-d of the public health law, as amended by section 102 of part H of chapter 59 of the laws of 2011, is amended to read as follows:

(vi) Notwithstanding any contrary provision of this paragraph or any other provision of law or regulation to the contrary, for residential health care facilities the assessment shall be six percent of each residential health care facility's gross receipts received from all patient care services and other operating income on a cash basis for the period April first, two thousand two through March thirty-first, two thousand three for hospital or health-related services, including adult day services; provided, however, that residential health care facilities' gross receipts attributable to payments received pursuant to title XVIII of the federal social security act (medicare) shall be excluded from the assessment; provided, however, that for all such gross receipts received on or after April first, two thousand three through March thirty-first, two thousand five, such assessment shall be five percent, and further provided that for all such gross receipts received on or after April first, two thousand five through March thirty-first, two thousand nine, and on or after April first, two thousand nine through March thirty-first, two thousand eleven such assessment shall be six percent, and further provided that for all such gross receipts received on or after April first, two thousand eleven [through March thirty-first, two thousand thirteen] such assessment shall be six percent.

S 6. Section 88 of chapter 659 of the laws of 1997, constituting the long term care integration and finance act of 1997, as amended by chapter 446 of the laws of 2011, is amended to read as follows:

S 88. Notwithstanding any provision of law to the contrary, all operating demonstrations, as such term is defined in paragraph (c) of subdivision 1 of section 4403-f of the public health law as added by section eighty-two of this act, due to expire prior to January 1, 2001 shall be deemed to [expire on December 31, 2013] REMAIN IN FULL FORCE AND EFFECT SUBSEQUENT TO SUCH DATE.

S 7. Subparagraph (v) of paragraph (b) of subdivision 35 of section 2807-c of the public health law, as amended by section 2 of part G of chapter 56 of the laws of 2012, is amended to read as follows:

1 (v) such regulations shall incorporate quality related measures,
2 including, but not limited to, potentially preventable re-admissions
3 (PPRs) and provide for rate adjustments or payment disallowances related
4 to PPRs and other potentially preventable negative outcomes (PPNOs),
5 which shall be calculated in accordance with methodologies as determined
6 by the commissioner, provided, however, that such methodologies shall be
7 based on a comparison of the actual and risk adjusted expected number of
8 PPRs and other PPNOs in a given hospital and with benchmarks established
9 by the commissioner and provided further that such rate adjustments or
10 payment disallowances shall result in an aggregate reduction in Medicaid
11 payments of no less than thirty-five million dollars for the period July
12 first, two thousand ten through March thirty-first, two thousand eleven
13 and no less than fifty-one million dollars for annual periods beginning
14 April first, two thousand eleven through March thirty-first, two thou-
15 sand [thirteen] FOURTEEN, provided further that such aggregate
16 reductions shall be offset by Medicaid payment reductions occurring as a
17 result of decreased PPRs during the period July first, two thousand ten
18 through March thirty-first, two thousand eleven and the period April
19 first, two thousand eleven through March thirty-first, two thousand
20 [thirteen] FOURTEEN and as a result of decreased PPNOs during the period
21 April first, two thousand eleven through March thirty-first, two thou-
22 sand [thirteen] FOURTEEN; and provided further that for the period July
23 first, two thousand ten through March thirty-first, two thousand [thir-
24 teen] FOURTEEN, such rate adjustments or payment disallowances shall not
25 apply to behavioral health PPRs; or to readmissions that occur on or
26 after fifteen days following an initial admission. By no later than July
27 first, two thousand eleven the commissioner shall enter into consulta-
28 tions with representatives of the health care facilities subject to this
29 section regarding potential prospective revisions to applicable method-
30 ologies and benchmarks set forth in regulations issued pursuant to this
31 subparagraph;

32 S 8. Subdivision 2 of section 93 of part C of chapter 58 of the laws
33 of 2007 amending the social services law and other laws relating to
34 enacting the major components of legislation necessary to implement the
35 health and mental hygiene budget for the 2007-2008 fiscal year, as
36 amended by section 10 of part B of chapter 58 of the laws of 2009, is
37 amended to read as follows:

38 2. section two of this act shall expire and be deemed repealed on
39 March 31, [2013] 2014;

40 S 8-a. Subdivision 8 of section 364-l of the social services law is
41 REPEALED.

42 S 9. Section 194 of chapter 474 of the laws of 1996, amending the
43 education law and other laws relating to rates for residential health
44 care facilities, as amended by section 9 of part D of chapter 59 of the
45 laws of 2011, is amended to read as follows:

46 S 194. 1. Notwithstanding any inconsistent provision of law or regu-
47 lation, the trend factors used to project reimbursable operating costs
48 to the rate period for purposes of determining rates of payment pursuant
49 to article 28 of the public health law for residential health care
50 facilities for reimbursement of inpatient services provided to patients
51 eligible for payments made by state governmental agencies on and after
52 April 1, 1996 through March 31, 1999 and for payments made on and after
53 July 1, 1999 through March 31, 2000 and on and after April 1, 2000
54 through March 31, 2003 and on and after April 1, 2003 through March 31,
55 2007 and on and after April 1, 2007 through March 31, 2009 and on and
56 after April 1, 2009 through March 31, 2011 and on and after April 1,

1 2011 [through March 31, 2013] shall reflect no trend factor projections
2 or adjustments for the period April 1, 1996, through March 31, 1997.

3 2. The commissioner of health shall adjust such rates of payment to
4 reflect the exclusion pursuant to this section of such specified trend
5 factor projections or adjustments.

6 S 10. Subdivision 1 of section 89-a of part C of chapter 58 of the
7 laws of 2007, amending the social services law and other laws relating
8 to enacting the major components of legislation necessary to implement
9 the health and mental hygiene budget for the 2007-2008 state fiscal
10 year, as amended by section 10 of part D of chapter 59 of the laws of
11 2011, is amended to read as follows:

12 1. Notwithstanding paragraph (c) of subdivision 10 of section 2807-c
13 of the public health law and section 21 of chapter 1 of the laws of
14 1999, as amended, and any other inconsistent provision of law or regu-
15 lation to the contrary, in determining rates of payments by state
16 governmental agencies effective for services provided beginning April 1,
17 2006, through March 31, 2009, and on and after April 1, 2009 through
18 March 31, 2011, and on and after April 1, 2011 [through March 31, 2013]
19 for inpatient and outpatient services provided by general hospitals and
20 for inpatient services and outpatient adult day health care services
21 provided by residential health care facilities pursuant to article 28 of
22 the public health law, the commissioner of health shall apply a trend
23 factor projection of two and twenty-five hundredths percent attributable
24 to the period January 1, 2006 through December 31, 2006, and on and
25 after January 1, 2007, provided, however, that on reconciliation of such
26 trend factor for the period January 1, 2006 through December 31, 2006
27 pursuant to paragraph (c) of subdivision 10 of section 2807-c of the
28 public health law, such trend factor shall be the final US Consumer
29 Price Index (CPI) for all urban consumers, as published by the US
30 Department of Labor, Bureau of Labor Statistics less twenty-five
31 hundredths of a percentage point.

32 S 11. Paragraph (f) of subdivision 1 of section 64 of chapter 81 of
33 the laws of 1995, amending the public health law and other laws relating
34 to medical reimbursement and welfare reform, as amended by section 11 of
35 part D of chapter 59 of the laws of 2011, is amended to read as follows:

36 (f) Prior to [February 1, 2001, February 1, 2002, February 1, 2003,
37 February 1, 2004, February 1, 2005, February 1, 2006, February 1, 2007,
38 February 1, 2008, February 1, 2009, February 1, 2010, February 1, 2011,
39 February 1, 2012, and February 1, 2013] FEBRUARY FIRST OF EACH YEAR the
40 commissioner of health shall calculate the result of the statewide total
41 of residential health care facility days of care provided to benefici-
42 aries of title XVIII of the federal social security act (medicare),
43 divided by the sum of such days of care plus days of care provided to
44 residents eligible for payments pursuant to title 11 of article 5 of the
45 social services law minus the number of days provided to residents
46 receiving hospice care, expressed as a percentage, for the period
47 commencing January 1, through November 30, of the prior year respective-
48 ly, based on such data for such period. This value shall be called the
49 [2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011,
50 2012, and 2013] statewide target percentage [respectively] OF THE
51 RESPECTIVE YEAR FOR WHICH IT IS CALCULATED.

52 S 12. Subparagraph (ii) of paragraph (b) of subdivision 3 of section
53 64 of chapter 81 of the laws of 1995, amending the public health law and
54 other laws relating to medical reimbursement and welfare reform, as
55 amended by section 12 of part D of chapter 59 of the laws of 2011, is
56 amended to read as follows:

1 (ii) If the [1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006,
2 2007, 2008, 2009, 2010, 2011, 2012, and 2013] statewide target percent-
3 ages are not for each year at least three percentage points higher than
4 the statewide base percentage, the commissioner of health shall deter-
5 mine the percentage by which the statewide target percentage for each
6 year is not at least three percentage points higher than the statewide
7 base percentage. The percentage calculated pursuant to this paragraph
8 shall be called the [1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005,
9 2006, 2007, 2008, 2009, 2010, 2011, 2012, and 2013] statewide reduction
10 percentage [respectively] OF THE RESPECTIVE YEAR FOR WHICH IT IS CALCU-
11 LATED. If the [1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006,
12 2007, 2008, 2009, 2010, 2011, 2012, and 2013] statewide target percent-
13 age for the respective year is at least three percentage points higher
14 than the statewide base percentage, the statewide reduction percentage
15 for the respective year shall be zero.

16 S 13. Subparagraph (iii) of paragraph (b) of subdivision 4 of section
17 64 of chapter 81 of the laws of 1995, amending the public health law and
18 other laws relating to medical reimbursement and welfare reform, as
19 amended by section 13 of part D of chapter 59 of the laws of 2011, is
20 amended to read as follows:

21 (iii) The [1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008,
22 2009, 2010, 2011, 2012, and 2013] statewide reduction percentage shall
23 be multiplied by one hundred two million dollars respectively to deter-
24 mine the [1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008,
25 2009, 2010, 2011, 2012, and 2013] RESPECTIVE YEAR'S statewide aggregate
26 reduction amount. If the [1998 and the 2000, 2001, 2002, 2003, 2004,
27 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, and 2013] statewide
28 reduction percentage shall be zero respectively, there shall be no
29 [1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010,
30 2011, 2012, and 2013] reduction amount.

31 S 14. Paragraph (b) of subdivision 5 of section 64 of chapter 81 of
32 the laws of 1995, amending the public health law and other laws relating
33 to medical reimbursement and welfare reform, as amended by section 14 of
34 part D of chapter 59 of the laws of 2011, is amended to read as follows:

35 (b) The [1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005,
36 2006, 2007, 2008, 2009, 2010, 2011, 2012, and 2013] statewide aggregate
37 reduction amounts shall for each year be allocated by the commissioner
38 of health among residential health care facilities that are eligible to
39 provide services to beneficiaries of title XVIII of the federal social
40 security act (medicare) and residents eligible for payments pursuant to
41 title 11 of article 5 of the social services law on the basis of the
42 extent of each facility's failure to achieve a two percentage points
43 increase in the 1996 target percentage, a three percentage point
44 increase in the [1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006,
45 2007, 2008, 2009, 2010, 2011, 2012, and 2013] target percentage THERE-
46 AFTER and a two and one-quarter percentage point increase in the 1999
47 target percentage for each year, compared to the base percentage, calcu-
48 lated on a facility specific basis for this purpose, compared to the
49 statewide total of the extent of each facility's failure to achieve a
50 two percentage points increase in the 1996 and a three percentage point
51 increase in the 1997 and a three percentage point increase in the 1998
52 and a two and one-quarter percentage point increase in the 1999 target
53 percentage and a three percentage point increase in the [2000, 2001,
54 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, and
55 2013] target percentage compared to the base percentage. These amounts
56 shall be called the [1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003,

1 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, and 2013] facility
2 specific reduction amounts [respectively] OF THE RESPECTIVE YEAR FOR
3 WHICH IT IS CALCULATED.

4 S 14-a. Section 228 of chapter 474 of the laws of 1996, amending the
5 education law and other laws relating to rates for residential health
6 care facilities, as amended by section 14-a of part D of chapter 59 of
7 the laws of 2011, is amended to read as follows:

8 S 228. 1. Definitions. (a) Regions, for purposes of this section,
9 shall mean a downstate region to consist of Kings, New York, Richmond,
10 Queens, Bronx, Nassau and Suffolk counties and an upstate region to
11 consist of all other New York state counties. A certified home health
12 agency or long term home health care program shall be located in the
13 same county utilized by the commissioner of health for the establishment
14 of rates pursuant to article 36 of the public health law.

15 (b) Certified home health agency (CHHA) shall mean such term as
16 defined in section 3602 of the public health law.

17 (c) Long term home health care program (LTHHCP) shall mean such term
18 as defined in subdivision 8 of section 3602 of the public health law.

19 (d) Regional group shall mean all those CHHAs and LTHHCPs, respective-
20 ly, located within a region.

21 (e) Medicaid revenue percentage, for purposes of this section, shall
22 mean CHHA and LTHHCP revenues attributable to services provided to
23 persons eligible for payments pursuant to title 11 of article 5 of the
24 social services law divided by such revenues plus CHHA and LTHHCP reven-
25 ues attributable to services provided to beneficiaries of Title XVIII of
26 the federal social security act (medicare).

27 (f) Base period, for purposes of this section, shall mean calendar
28 year 1995.

29 (g) Target period. For purposes of this section, the 1996 target peri-
30 od shall mean August 1, 1996 through March 31, 1997, the 1997 target
31 period shall mean January 1, 1997 through November 30, 1997, the 1998
32 target period shall mean January 1, 1998 through November 30, 1998, the
33 1999 target period shall mean January 1, 1999 through November 30, 1999,
34 the 2000 target period shall mean January 1, 2000 through November 30,
35 2000, the 2001 target period shall mean January 1, 2001 through November
36 30, 2001, the 2002 target period shall mean January 1, 2002 through
37 November 30, 2002, the 2003 target period shall mean January 1, 2003
38 through November 30, 2003, the 2004 target period shall mean January 1,
39 2004 through November 30, 2004, and the 2005 target period shall mean
40 January 1, 2005 through November 30, 2005, the 2006 target period shall
41 mean January 1, 2006 through November 30, 2006, and the 2007 target
42 period shall mean January 1, 2007 through November 30, 2007 and the 2008
43 target period shall mean January 1, 2008 through November 30, 2008, and
44 the 2009 target period shall mean January 1, 2009 through November 30,
45 2009 and the 2010 target period shall mean January 1, 2010 through
46 November 30, 2010 and the 2011 target period shall mean January 1, 2011
47 through November 30, 2011 and the 2012 target period shall mean January
48 1, 2012 through November 30, 2012 and the 2013 target period shall mean
49 January 1, 2013 through November 30, 2013, AND FOR EACH SUBSEQUENT YEAR
50 SUCH TARGET PERIOD SHALL BE THE FIRST OF JANUARY THROUGH THE THIRTIETH
51 OF NOVEMBER FOR THE RESPECTIVE YEAR.

52 2. (a) Prior to February 1, 1997, for each regional group the commis-
53 sioner of health shall calculate the 1996 medicaid revenue percentages
54 for the period commencing August 1, 1996 to the last date for which such
55 data is available and reasonably accurate.

1 (b) Prior to [February 1, 1998, prior to February 1, 1999, prior to
2 February 1, 2000, prior to February 1, 2001, prior to February 1, 2002,
3 prior to February 1, 2003, prior to February 1, 2004, prior to February
4 1, 2005, prior to February 1, 2006, prior to February 1, 2007, prior to
5 February 1, 2008, prior to February 1, 2009, prior to February 1, 2010,
6 prior to February 1, 2011, prior to February 1, 2012 and prior to Febru-
7 ary 1, 2013] THE FIRST OF FEBRUARY EACH YEAR for each regional group the
8 commissioner of health shall calculate the prior year's medicaid revenue
9 percentages for the period commencing January 1 through November 30 of
10 such prior year.

11 3. By September 15, 1996, for each regional group the commissioner of
12 health shall calculate the base period medicaid revenue percentage.

13 4. (a) For each regional group, the 1996 target medicaid revenue
14 percentage shall be calculated by subtracting the 1996 medicaid revenue
15 reduction percentages from the base period medicaid revenue percentages.
16 The 1996 medicaid revenue reduction percentage, taking into account
17 regional and program differences in utilization of medicaid and medicare
18 services, for the following regional groups shall be equal to:

19 (i) one and one-tenth percentage points for CHHAs located within the
20 downstate region;

21 (ii) six-tenths of one percentage point for CHHAs located within the
22 upstate region;

23 (iii) one and eight-tenths percentage points for LTHHCPs located with-
24 in the downstate region; and

25 (iv) one and seven-tenths percentage points for LTHHCPs located within
26 the upstate region.

27 (b) For [1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007,
28 2008, 2009, 2010, 2011, 2012, and 2013 for] each regional group, the
29 target medicaid revenue percentage for the respective year shall be
30 calculated by subtracting the respective year's medicaid revenue
31 reduction percentage from the base period medicaid revenue percentage.
32 The medicaid revenue reduction percentages for [1997, 1998, 2000, 2001,
33 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, and
34 2013] EACH RESPECTIVE YEAR, taking into account regional and program
35 differences in utilization of medicaid and medicare services, for the
36 following regional groups shall be equal to for each such year:

37 (i) one and one-tenth percentage points for CHHAs located within the
38 downstate region;

39 (ii) six-tenths of one percentage point for CHHAs located within the
40 upstate region;

41 (iii) one and eight-tenths percentage points for LTHHCPs located with-
42 in the downstate region; and

43 (iv) one and seven-tenths percentage points for LTHHCPs located within
44 the upstate region.

45 (c) For each regional group, the 1999 target medicaid revenue percent-
46 age shall be calculated by subtracting the 1999 medicaid revenue
47 reduction percentage from the base period medicaid revenue percentage.
48 The 1999 medicaid revenue reduction percentages, taking into account
49 regional and program differences in utilization of medicaid and medicare
50 services, for the following regional groups shall be equal to:

51 (i) eight hundred twenty-five thousandths (.825) of one percentage
52 point for CHHAs located within the downstate region;

53 (ii) forty-five hundredths (.45) of one percentage point for CHHAs
54 located within the upstate region;

55 (iii) one and thirty-five hundredths percentage points (1.35) for
56 LTHHCPs located within the downstate region; and

1 (iv) one and two hundred seventy-five thousandths percentage points
2 (1.275) for LTHHCPs located within the upstate region.

3 5. (a) For each regional group, if the 1996 medicaid revenue percent-
4 age is not equal to or less than the 1996 target medicaid revenue
5 percentage, the commissioner of health shall compare the 1996 medicaid
6 revenue percentage to the 1996 target medicaid revenue percentage to
7 determine the amount of the shortfall which, when divided by the 1996
8 medicaid revenue reduction percentage, shall be called the 1996
9 reduction factor. These amounts, expressed as a percentage, shall not
10 exceed one hundred percent. If the 1996 medicaid revenue percentage is
11 equal to or less than the 1996 target medicaid revenue percentage, the
12 1996 reduction factor shall be zero.

13 (b) For [1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006,
14 2007, 2008, 2009, 2010, 2011, 2012, and 2013 for] each regional group,
15 if the medicaid revenue percentage for the respective year is not equal
16 to or less than the target medicaid revenue percentage for such respec-
17 tive year, the commissioner of health shall compare such respective
18 year's medicaid revenue percentage to such respective year's target
19 medicaid revenue percentage to determine the amount of the shortfall
20 which, when divided by the respective year's medicaid revenue reduction
21 percentage, shall be called the reduction factor for such respective
22 year. These amounts, expressed as a percentage, shall not exceed one
23 hundred percent. If the medicaid revenue percentage for a particular
24 year is equal to or less than the target medicaid revenue percentage for
25 that year, the reduction factor for that year shall be zero.

26 6. (a) For each regional group, the 1996 reduction factor shall be
27 multiplied by the following amounts to determine each regional group's
28 applicable 1996 state share reduction amount:

29 (i) two million three hundred ninety thousand dollars (\$2,390,000) for
30 CHHAs located within the downstate region;

31 (ii) seven hundred fifty thousand dollars (\$750,000) for CHHAs located
32 within the upstate region;

33 (iii) one million two hundred seventy thousand dollars (\$1,270,000)
34 for LTHHCPs located within the downstate region; and

35 (iv) five hundred ninety thousand dollars (\$590,000) for LTHHCPs
36 located within the upstate region.

37 For each regional group reduction, if the 1996 reduction factor shall
38 be zero, there shall be no 1996 state share reduction amount.

39 (b) For [1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007,
40 2008, 2009, 2010, 2011, 2012, and 2013 for] each regional group, the
41 reduction factor for the respective year shall be multiplied by the
42 following amounts to determine each regional group's applicable state
43 share reduction amount for such respective year:

44 (i) two million three hundred ninety thousand dollars (\$2,390,000) for
45 CHHAs located within the downstate region;

46 (ii) seven hundred fifty thousand dollars (\$750,000) for CHHAs located
47 within the upstate region;

48 (iii) one million two hundred seventy thousand dollars (\$1,270,000)
49 for LTHHCPs located within the downstate region; and

50 (iv) five hundred ninety thousand dollars (\$590,000) for LTHHCPs
51 located within the upstate region.

52 For each regional group reduction, if the reduction factor for a
53 particular year shall be zero, there shall be no state share reduction
54 amount for such year.

(c) For each regional group, the 1999 reduction factor shall be multiplied by the following amounts to determine each regional group's applicable 1999 state share reduction amount:

(i) one million seven hundred ninety-two thousand five hundred dollars (\$1,792,500) for CHHAs located within the downstate region;

(ii) five hundred sixty-two thousand five hundred dollars (\$562,500) for CHHAs located within the upstate region;

(iii) nine hundred fifty-two thousand five hundred dollars (\$952,500) for LTHHCPs located within the downstate region; and

(iv) four hundred forty-two thousand five hundred dollars (\$442,500) for LTHHCPs located within the upstate region.

For each regional group reduction, if the 1999 reduction factor shall be zero, there shall be no 1999 state share reduction amount.

7. (a) For each regional group, the 1996 state share reduction amount shall be allocated by the commissioner of health among CHHAs and LTHHCPs on the basis of the extent of each CHHA's and LTHHCP's failure to achieve the 1996 target medicaid revenue percentage, calculated on a provider specific basis utilizing revenues for this purpose, expressed as a proportion of the total of each CHHA's and LTHHCP's failure to achieve the 1996 target medicaid revenue percentage within the applicable regional group. This proportion shall be multiplied by the applicable 1996 state share reduction amount calculation pursuant to paragraph (a) of subdivision 6 of this section. This amount shall be called the 1996 provider specific state share reduction amount.

(b) For [1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, and 2013 for] each regional group, the state share reduction amount for the respective year shall be allocated by the commissioner of health among CHHAs and LTHHCPs on the basis of the extent of each CHHA's and LTHHCP's failure to achieve the target medicaid revenue percentage for the applicable year, calculated on a provider specific basis utilizing revenues for this purpose, expressed as a proportion of the total of each CHHA's and LTHHCP's failure to achieve the target medicaid revenue percentage for the applicable year within the applicable regional group. This proportion shall be multiplied by the applicable year's state share reduction amount calculation pursuant to paragraph (b) or (c) of subdivision 6 of this section. This amount shall be called the provider specific state share reduction amount for the applicable year.

8. (a) The 1996 provider specific state share reduction amount shall be due to the state from each CHHA and LTHHCP and may be recouped by the state by March 31, 1997 in a lump sum amount or amounts from payments due to the CHHA and LTHHCP pursuant to title 11 of article 5 of the social services law.

(b) The provider specific state share reduction amount for [1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, and 2013 respectively,] THE RESPECTIVE YEAR shall be due to the state from each CHHA and LTHHCP and each year the amount due for such year may be recouped by the state by March 31 of the following year in a lump sum amount or amounts from payments due to the CHHA and LTHHCP pursuant to title 11 of article 5 of the social services law.

9. CHHAs and LTHHCPs shall submit such data and information at such times as the commissioner of health may require for purposes of this section. The commissioner of health may use data available from third-party payors.

10. On or about June 1, 1997, for each regional group the commissioner of health shall calculate for the period August 1, 1996 through March

31, 1997 a medicaid revenue percentage, a reduction factor, a state share reduction amount, and a provider specific state share reduction amount in accordance with the methodology provided in paragraph (a) of subdivision 2, paragraph (a) of subdivision 5, paragraph (a) of subdivision 6 and paragraph (a) of subdivision 7 of this section. The provider specific state share reduction amount calculated in accordance with this subdivision shall be compared to the 1996 provider specific state share reduction amount calculated in accordance with paragraph (a) of subdivision 7 of this section. Any amount in excess of the amount determined in accordance with paragraph (a) of subdivision 7 of this section shall be due to the state from each CHHA and LTHHCP and may be recouped in accordance with paragraph (a) of subdivision 8 of this section. If the amount is less than the amount determined in accordance with paragraph (a) of subdivision 7 of this section, the difference shall be refunded to the CHHA and LTHHCP by the state no later than July 15, 1997. CHHAs and LTHHCPs shall submit data for the period August 1, 1996 through March 31, 1997 to the commissioner of health by April 15, 1997.

11. If a CHHA or LTHHCP fails to submit data and information as required for purposes of this section:

(a) such CHHA or LTHHCP shall be presumed to have no decrease in medicaid revenue percentage between the applicable base period and the applicable target period for purposes of the calculations pursuant to this section; and

(b) the commissioner of health shall reduce the current rate paid to such CHHA and such LTHHCP by state governmental agencies pursuant to article 36 of the public health law by one percent for a period beginning on the first day of the calendar month following the applicable due date as established by the commissioner of health and continuing until the last day of the calendar month in which the required data and information are submitted.

12. The commissioner of health shall inform in writing the director of the budget and the chair of the senate finance committee and the chair of the assembly ways and means committee of the results of the calculations pursuant to this section.

S 15. Subdivision 5-a of section 246 of chapter 81 of the laws of 1995, amending the public health law and other laws relating to medical reimbursement and welfare reform, as amended by section 15 of part D of chapter 59 of the laws of 2011, is amended to read as follows:

5-a. Section sixty-four-a of this act shall be deemed to have been in full force and effect on and after April 1, 1995 through March 31, 1999 and on and after July 1, 1999 through March 31, 2000 and on and after April 1, 2000 through March 31, 2003 and on and after April 1, 2003 through March 31, 2007, and on and after April 1, 2007 through March 31, 2009, and on and after April 1, 2009 through March 31, 2011, and on and after April 1, 2011 through March 31, 2013, AND ON AND AFTER APRIL 1, 2013 THROUGH MARCH 31, 2018;

S 16. Section 64-b of chapter 81 of the laws of 1995, amending the public health law and other laws relating to medical reimbursement and welfare reform, as amended by section 16 of part D of chapter 59 of the laws of 2011, is amended to read as follows:

S 64-b. Notwithstanding any inconsistent provision of law, the provisions of subdivision 7 of section 3614 of the public health law, as amended, shall remain and be in full force and effect on April 1, 1995 through March 31, 1999 and on July 1, 1999 through March 31, 2000 and on and after April 1, 2000 through March 31, 2003 and on and after April 1, 2003 through March 31, 2007, and on and after April 1, 2007 through

1 March 31, 2009, and on and after April 1, 2009 through March 31, 2011,
2 and on and after April 1, 2011 through March 31, 2013, AND ON AND AFTER
3 APRIL 1, 2013 THROUGH MARCH 31, 2018.

4 S 17. Subdivision 1 of section 20 of chapter 451 of the laws of 2007,
5 amending the public health law, the social services law and the insur-
6 ance law, relating to providing enhanced consumer and provider
7 protections, as amended by section 17 of part D of chapter 59 of the
8 laws of 2011, is amended to read as follows:

9 1. sections four, eleven and thirteen of this act shall take effect
10 immediately and shall expire and be deemed repealed June 30, [2013]
11 2015;

12 S 18. The opening paragraph of subdivision 7-a of section 3614 of the
13 public health law, as amended by section 18 of part D of chapter 59 of
14 the laws of 2011, is amended to read as follows:

15 Notwithstanding any inconsistent provision of law or regulation, for
16 the purposes of establishing rates of payment by governmental agencies
17 for long term home health care programs for the period April first, two
18 thousand five, through December thirty-first, two thousand five, and for
19 the period January first, two thousand six through March thirty-first,
20 two thousand seven, and on and after April first, two thousand seven
21 through March thirty-first, two thousand nine, and on and after April
22 first, two thousand nine through March thirty-first, two thousand elev-
23 en, and on and after April first, two thousand eleven through March
24 thirty-first, two thousand thirteen AND FOR EACH YEAR THEREAFTER, the
25 reimbursable base year administrative and general costs of a provider of
26 services shall not exceed the statewide average of total reimbursable
27 base year administrative and general costs of such providers of
28 services.

29 S 19. Subdivisions 3, 4 and 5 of section 47 of chapter 2 of the laws
30 of 1998, amending the public health law and other laws relating to
31 expanding the child health insurance plan, as amended by section 19 of
32 part D of chapter 59 of the laws of 2011, are amended to read as
33 follows:

34 3. section six of this act shall take effect January 1, 1999;
35 [provided, however, that subparagraph (iii) of paragraph (c) of subdivi-
36 sion 9 of section 2510 of the public health law, as added by this act,
37 shall expire on July 1, 2014;]

38 4. sections two, three, four, seven, eight, nine, fourteen, fifteen,
39 sixteen, eighteen, eighteen-a, [twenty-three,] twenty-four, and twenty-
40 nine of this act shall take effect January 1, 1999 [and shall expire on
41 July 1, 2014]; section twenty-five of this act shall take effect on
42 January 1, 1999 and shall expire on April 1, 2005;

43 5. section twelve of this act shall take effect January 1, 1999;
44 [provided, however, paragraphs (g) and (h) of subdivision 2 of section
45 2511 of the public health law, as added by such section, shall expire on
46 July 1, 2014;]

47 S 20. Subdivision 6-a of section 93 of part C of chapter 58 of the
48 laws of 2007 amending the social services law and the public health law
49 relating to adjustments of rates, as amended by section 40 of part D of
50 chapter 58 of the laws of 2009, is amended to read as follows:

51 6-a. section fifty-seven of this act shall expire and be deemed
52 repealed on December 31, [2013] 2018; provided that the amendments made
53 by such section to subdivision 4 of section 366-c of the social services
54 law shall apply with respect to determining initial and continuing
55 eligibility for medical assistance, including the continued eligibility
56 of recipients originally determined eligible prior to the effective date

1 of this act, and provided further that such amendments shall not apply
2 to any person or group of persons if it is subsequently determined by
3 the Centers for Medicare and Medicaid services or by a court of compe-
4 tent jurisdiction that medical assistance with federal financial partic-
5 ipation is available for the costs of services provided to such person
6 or persons under the provisions of subdivision 4 of section 366-c of the
7 social services law in effect immediately prior to the effective date of
8 this act.

9 S 21. Subdivision 12 of section 246 of chapter 81 of the laws of 1995,
10 amending the public health law and other laws relating to medical
11 reimbursement and welfare reform, is REPEALED.

12 S 22. Section 5 of chapter 426 of the laws of 1983, amending the
13 public health law relating to professional misconduct proceedings, as
14 amended by chapter 36 of the laws of 2008, is amended to read as
15 follows:

16 S 5. This act shall take effect June 1, 1983 [and shall remain in full
17 force and effect until March 31, 2013].

18 S 23. Section 5 of chapter 582 of the laws of 1984, amending the
19 public health law relating to regulating activities of physicians, as
20 amended by chapter 36 of the laws of 2008, is amended to read as
21 follows:

22 S 5. This act shall take effect immediately[, provided however that
23 the provisions of this act shall remain in full force and effect until
24 March 31, 2013 at which time the provisions of this act shall be deemed
25 to be repealed].

26 S 24. Subparagraph (ii) of paragraph (c) of subdivision 11 of section
27 230 of the public health law, as amended by chapter 36 of the laws of
28 2008, is amended to read as follows:

29 (ii) Participation and membership during a three year demonstration
30 period in a physician committee of the Medical Society of the State of
31 New York or the New York State Osteopathic Society whose purpose is to
32 confront and refer to treatment physicians who are thought to be suffer-
33 ing from alcoholism, drug abuse or mental illness. Such demonstration
34 period shall commence on April first, nineteen hundred eighty and termi-
35 nate on May thirty-first, nineteen hundred eighty-three. An additional
36 demonstration period shall commence on June first, nineteen hundred
37 eighty-three and terminate on March thirty-first, nineteen hundred
38 eighty-six. An additional demonstration period shall commence on April
39 first, nineteen hundred eighty-six and terminate on March thirty-first,
40 nineteen hundred eighty-nine. An additional demonstration period shall
41 commence April first, nineteen hundred eighty-nine and terminate March
42 thirty-first, nineteen hundred ninety-two. An additional demonstration
43 period shall commence April first, nineteen hundred ninety-two and
44 terminate March thirty-first, nineteen hundred ninety-five. An addi-
45 tional demonstration period shall commence on April first, nineteen
46 hundred ninety-five and terminate on March thirty-first, nineteen
47 hundred ninety-eight. An additional demonstration period shall commence
48 on April first, nineteen hundred ninety-eight and terminate on March
49 thirty-first, two thousand three. An additional demonstration period
50 shall commence on April first, two thousand three [and terminate on
51 March thirty-first, two thousand thirteen]; provided, however, that the
52 commissioner may prescribe requirements for the continuation of such
53 demonstration program, including periodic reviews of such programs and
54 submission of any reports and data necessary to permit such reviews.
55 During these additional periods, the provisions of this subparagraph
56 shall also apply to a physician committee of a county medical society.

1 S 25. Section 4 of part X2 of chapter 62 of the laws of 2003, amending
2 the public health law relating to allowing for the use of funds of the
3 office of professional medical conduct for activities of the patient
4 health information and quality improvement act of 2000, as amended by
5 section 27 of part A of chapter 59 of the laws of 2011, is amended to
6 read as follows:

7 S 4. This act shall take effect immediately; provided that the
8 provisions of section one of this act shall be deemed to have been in
9 full force and effect on and after April 1, 2003, and shall expire March
10 31, [2013] 2015 when upon such date the provisions of such section shall
11 be deemed repealed.

12 S 26. Notwithstanding any inconsistent provision of law, rule or regu-
13 lation, the effectiveness of the provisions of sections 2807 and 3614 of
14 the public health law, section 18 of chapter 2 of the laws of 1988, and
15 18 NYCRR 505.14(h), as they relate to time frames for notice, approval
16 or certification of rates of payment, are hereby suspended and without
17 force or effect for purposes of implementing the provisions of this act.

18 S 27. Severability clause. If any clause, sentence, paragraph, subdi-
19 vision, section or part of this act shall be adjudged by any court of
20 competent jurisdiction to be invalid, such judgment shall not affect,
21 impair or invalidate the remainder thereof, but shall be confined in its
22 operation to the clause, sentence, paragraph, subdivision, section or
23 part thereof directly involved in the controversy in which such judge-
24 ment shall have been rendered. It is hereby declared to be the intent of
25 the legislature that this act would have been enacted even if such
26 invalid provisions had not been included herein.

27 S 28. This act shall take effect immediately and shall be deemed to
28 have been in full force and effect on and after April 1, 2013.

29 PART C

30 Section 1. Section 2807-k of the public health law is amended by
31 adding a new subdivision 5-d to read as follows:

32 5-D. (A) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS SECTION,
33 SECTION TWENTY-EIGHT HUNDRED SEVEN-W OF THIS ARTICLE OR ANY OTHER
34 CONTRARY PROVISION OF LAW, AND SUBJECT TO THE AVAILABILITY OF FEDERAL
35 FINANCIAL PARTICIPATION, FOR PERIODS ON AND AFTER JANUARY FIRST, TWO
36 THOUSAND THIRTEEN, THROUGH DECEMBER THIRTY-FIRST, TWO THOUSAND FIFTEEN,
37 ALL FUNDS AVAILABLE FOR DISTRIBUTION PURSUANT TO THIS SECTION AND
38 SECTION TWENTY-EIGHT HUNDRED SEVEN-W OF THIS ARTICLE, SHALL BE RESERVED
39 AND SET ASIDE AND DISTRIBUTED IN ACCORDANCE WITH THE PROVISIONS OF THIS
40 SUBDIVISION.

41 (B) THE COMMISSIONER SHALL PROMULGATE REGULATIONS, AND MAY PROMULGATE
42 EMERGENCY REGULATIONS, ESTABLISHING METHODOLOGIES FOR THE DISTRIBUTION
43 OF FUNDS AS DESCRIBED IN PARAGRAPH (A) OF THIS SUBDIVISION AND SUCH
44 REGULATIONS SHALL INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING:

45 (I) SUCH REGULATIONS SHALL ESTABLISH METHODOLOGIES FOR DETERMINING
46 EACH FACILITY'S RELATIVE UNCOMPENSATED CARE NEED AMOUNT BASED ON UNIN-
47 SURED INPATIENT AND OUTPATIENT UNITS OF SERVICE FROM THE COST REPORTING
48 YEAR TWO YEARS PRIOR TO THE DISTRIBUTION YEAR, MULTIPLIED BY THE APPLI-
49 CABLE MEDICAID RATES IN EFFECT JANUARY FIRST OF THE DISTRIBUTION YEAR,
50 AS SUMMED AND ADJUSTED BY A STATEWIDE COST ADJUSTMENT FACTOR AND REDUCED
51 BY THE SUM OF ALL PAYMENT AMOUNTS COLLECTED FROM SUCH UNINSURED
52 PATIENTS, AND AS FURTHER ADJUSTED BY APPLICATION OF A NOMINAL NEED
53 COMPUTATION THAT SHALL TAKE INTO ACCOUNT EACH FACILITY'S MEDICAID INPA-
54 TIENT SHARE.

(II) ANNUAL DISTRIBUTIONS PURSUANT TO SUCH REGULATIONS FOR THE TWO THOUSAND THIRTEEN THROUGH TWO THOUSAND FIFTEEN CALENDAR YEARS SHALL BE IN ACCORD WITH THE FOLLOWING:

(A) ONE HUNDRED THIRTY-NINE MILLION FOUR HUNDRED THOUSAND DOLLARS SHALL BE DISTRIBUTED AS MEDICAID DISPROPORTIONATE SHARE HOSPITAL ("DSH") PAYMENTS TO MAJOR PUBLIC GENERAL HOSPITALS; AND

(B) NINE HUNDRED NINETY-FOUR MILLION NINE HUNDRED THOUSAND DOLLARS AS MEDICAID DSH PAYMENTS TO ELIGIBLE GENERAL HOSPITALS, OTHER THAN MAJOR PUBLIC GENERAL HOSPITALS.

(III)(A) SUCH REGULATIONS SHALL ESTABLISH TRANSITION ADJUSTMENTS TO THE DISTRIBUTIONS MADE PURSUANT TO CLAUSES (A) AND (B) OF SUBPARAGRAPH (II) OF THIS PARAGRAPH SUCH THAT NO FACILITY EXPERIENCES A REDUCTION IN INDIGENT CARE POOL PAYMENTS PURSUANT TO THIS SUBDIVISION THAT IS GREATER THAN THE PERCENTAGES, AS SPECIFIED IN SUCH REGULATIONS, AS COMPARED TO THE AVERAGE DISTRIBUTION THAT EACH SUCH FACILITY RECEIVED FOR THE THREE CALENDAR YEARS PRIOR TO TWO THOUSAND THIRTEEN PURSUANT TO THIS SECTION AND SECTION TWENTY-EIGHT HUNDRED SEVEN-W OF THIS ARTICLE.

(B) SUCH REGULATIONS SHALL ALSO ESTABLISH ADJUSTMENTS LIMITING THE INCREASES IN INDIGENT CARE POOL PAYMENTS EXPERIENCED BY FACILITIES PURSUANT TO THIS SUBDIVISION BY AN AMOUNT THAT WILL BE, AS DETERMINED BY THE COMMISSIONER AND IN CONJUNCTION WITH SUCH OTHER FUNDING AS MAY BE AVAILABLE FOR THIS PURPOSE, SUFFICIENT TO ENSURE FULL FUNDING FOR THE TRANSITION ADJUSTMENT PAYMENTS AUTHORIZED BY CLAUSE (A) OF THIS SUBPARAGRAPH.

(IV) SUCH REGULATIONS SHALL RESERVE ONE PERCENT OF THE FUNDS AVAILABLE FOR DISTRIBUTION IN THE TWO THOUSAND FOURTEEN AND TWO THOUSAND FIFTEEN CALENDAR YEARS PURSUANT TO THIS SUBDIVISION, SUBDIVISION FOURTEEN-F OF SECTION TWENTY-EIGHT HUNDRED SEVEN-C OF THIS ARTICLE, AND SECTIONS TWO HUNDRED ELEVEN AND TWO HUNDRED TWELVE OF CHAPTER FOUR HUNDRED SEVENTY-FOUR OF THE LAWS OF NINETEEN HUNDRED NINETY-SIX, IN A "FINANCIAL ASSISTANCE COMPLIANCE POOL" AND SHALL ESTABLISH METHODOLOGIES FOR THE DISTRIBUTION OF SUCH POOL FUNDS TO FACILITIES BASED ON THEIR LEVEL OF COMPLIANCE, AS DETERMINED BY THE COMMISSIONER, WITH THE PROVISIONS OF SUBDIVISION NINE-A OF THIS SECTION.

S 2. Subdivision 14-f of section 2807-c of the public health law, as amended by chapter 1 of the laws of 1999, is amended to read as follows:

14-f. Public general hospital indigent care adjustment. Notwithstanding any inconsistent provision of this section AND SUBJECT TO THE AVAILABILITY OF FEDERAL FINANCIAL PARTICIPATION, payment for inpatient hospital services for persons eligible for payments made by state governmental agencies for the period January first, nineteen hundred ninety-seven through December thirty-first, nineteen hundred ninety-nine and periods on and after January first, two thousand applicable to patients eligible for federal financial participation under title XIX of the federal social security act in medical assistance provided pursuant to title eleven of article five of the social services law determined in accordance with this section shall include for eligible public general hospitals a public general hospital indigent care adjustment equal to the aggregate amount of the adjustments provided for such public general hospital for the period January first, nineteen hundred ninety-six through December thirty-first, nineteen hundred ninety-six pursuant to subdivisions fourteen-a and fourteen-d of this section on an annualized basis, [provided all federal approvals necessary by federal law and regulation for federal financial participation in payments made for beneficiaries eligible for medical assistance under title XIX of the federal social security act based upon the adjustment provided herein as

1 a component of such payments are granted] PROVIDED, HOWEVER, THAT FOR
2 PERIODS ON AND AFTER JANUARY FIRST, TWO THOUSAND THIRTEEN AN ANNUAL
3 AMOUNT OF FOUR HUNDRED TWELVE MILLION DOLLARS SHALL BE ALLOCATED TO
4 ELIGIBLE MAJOR PUBLIC HOSPITALS BASED ON EACH HOSPITAL'S PROPORTIONATE
5 SHARE OF MEDICAID AND UNINSURED LOSSES TO TOTAL MEDICAID AND UNINSURED
6 LOSSES FOR ALL ELIGIBLE MAJOR PUBLIC HOSPITALS, NET OF ANY DISPROPOR-
7 TIONATE SHARE HOSPITAL PAYMENTS RECEIVED PURSUANT TO SECTIONS
8 TWENTY-EIGHT HUNDRED SEVEN-K AND TWENTY-EIGHT HUNDRED SEVEN-W OF THIS
9 ARTICLE. The adjustment may be made to rates of payment or as aggregate
10 payments to an eligible hospital.

11 S 3. Paragraph (i) of subdivision 2-a of section 2807 of the public
12 health law, as amended by section 16 of part C of chapter 58 of the laws
13 of 2009, is amended to read as follows:

14 (i) Notwithstanding any provision of law to the contrary, rates of
15 payment by governmental agencies for general hospital outpatient
16 services, general hospital emergency services and ambulatory surgical
17 services provided by a general hospital established pursuant to para-
18 graphs (a), (c) and (d) of this subdivision shall result in an aggregate
19 increase in such rates of payment of fifty-six million dollars for the
20 period December first, two thousand eight through March thirty-first,
21 two thousand nine and one hundred seventy-eight million dollars for
22 periods after April first, two thousand nine, THROUGH MARCH
23 THIRTY-FIRST, TWO THOUSAND THIRTEEN, AND ONE HUNDRED FIFTY-THREE MILLION
24 DOLLARS FOR STATE FISCAL YEAR PERIODS ON AND AFTER APRIL FIRST, TWO
25 THOUSAND THIRTEEN, provided, however, that for periods on and after
26 April first, two thousand nine, such amounts may be adjusted to reflect
27 projected decreases in fee-for-service Medicaid utilization and changes
28 in case-mix with regard to such services from the two thousand seven
29 calendar year to the applicable rate year, and provided further, howev-
30 er, that funds made available as a result of any such decreases may be
31 utilized by the commissioner to increase capitation rates paid to Medi-
32 caid managed care plans and family health plus plans to cover increased
33 payments to health care providers for ambulatory care services and to
34 increase such other ambulatory care payment rates as the commissioner
35 determines necessary to facilitate access to quality ambulatory care
36 services.

37 S 4. This act shall take effect immediately and shall be deemed to
38 have been in full force and effect on and after April 1, 2013 provided
39 that:

40 a. sections one and two of this act shall be deemed to have been in
41 full force and effect on and after January 1, 2013; and

42 b. the amendments to subdivision 14-f of section 2807-c of the public
43 health law made by section two of this act shall not affect the expira-
44 tion of such subdivision and shall be deemed to expire therewith.

45 PART D

46 Section 1. Subdivision 1 of section 366 of the social services law is
47 REPEALED and a new subdivision 1 is added to read as follows:

48 1. (A) DEFINITIONS. FOR PURPOSES OF THIS SECTION:

49 (1) "BENCHMARK COVERAGE" REFERS TO MEDICAL ASSISTANCE COVERAGE DEFINED
50 IN SUBDIVISION ONE OF SECTION THREE HUNDRED SIXTY-FIVE-A OF THIS TITLE;

51 (2) "CARETAKER RELATIVE" MEANS A RELATIVE OF A DEPENDENT CHILD BY
52 BLOOD, ADOPTION, OR MARRIAGE WITH WHOM THE CHILD IS LIVING, WHO ASSUMES
53 PRIMARY RESPONSIBILITY FOR THE CHILD'S CARE AND WHO IS ONE OF THE
54 FOLLOWING:

1 (I) THE CHILD'S FATHER, MOTHER, GRANDFATHER, GRANDMOTHER, BROTHER,
2 SISTER, STEPFATHER, STEPMOTHER, STEPBROTHER, STEPSISTER, UNCLE, AUNT,
3 FIRST COUSIN, NEPHEW, OR NIECE; OR

4 (II) THE SPOUSE OF SUCH PARENT OR RELATIVE, EVEN AFTER THE MARRIAGE IS
5 TERMINATED BY DEATH OR DIVORCE;

6 (3) "FAMILY SIZE" MEANS THE NUMBER OF PERSONS COUNTED AS MEMBERS OF AN
7 INDIVIDUAL'S HOUSEHOLD; WITH RESPECT TO INDIVIDUALS WHOSE MEDICAL
8 ASSISTANCE ELIGIBILITY IS BASED ON MODIFIED ADJUSTED GROSS INCOME, IN
9 DETERMINING THE FAMILY SIZE OF A PREGNANT WOMAN, OR OF OTHER INDIVIDUALS
10 WHO HAVE A PREGNANT WOMAN IN THEIR HOUSEHOLD, THE PREGNANT WOMAN IS
11 COUNTED AS HERSELF PLUS THE NUMBER OF CHILDREN SHE IS EXPECTED TO DELIV-
12 ER;

13 (4) "FEDERAL POVERTY LINE" MEANS THE POVERTY LINE DEFINED AND ANNUALLY
14 REVISED BY THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES;

15 (5) "HOUSEHOLD," FOR PURPOSES OF DETERMINING THE FINANCIAL ELIGIBILITY
16 OF APPLICANTS AND RECIPIENTS OF BENEFITS UNDER THIS TITLE, SHALL BE
17 DEFINED BY THE COMMISSIONER OF HEALTH, AND BE BASED ON ELIGIBILITY CATE-
18 GORY; WITH RESPECT TO INDIVIDUALS WHOSE MEDICAL ASSISTANCE ELIGIBILITY
19 IS BASED ON MODIFIED ADJUSTED GROSS INCOME, SUCH DEFINITION SHALL BE
20 CONSISTENT WITH THE REQUIREMENTS OF FEDERAL REGULATION AT 42 CFR 435.603
21 OR ANY SUCCESSOR REGULATION;

22 (6) "MAGI" MEANS MODIFIED ADJUSTED GROSS INCOME;

23 (7) "MAGI-BASED INCOME" MEANS INCOME CALCULATED USING THE SAME METHOD-
24 OLOGIES USED TO DETERMINE MAGI UNDER SECTION 36B(D)(2)(B) OF THE INTER-
25 NATIONAL REVENUE CODE, WITH THE EXCEPTION OF LUMP SUM PAYMENTS, CERTAIN
26 EDUCATIONAL SCHOLARSHIPS, AND CERTAIN AMERICAN INDIAN AND ALASKA NATIVE
27 INCOME, AS SPECIFIED BY THE COMMISSIONER OF HEALTH CONSISTENT WITH
28 FEDERAL REGULATION AT 42 CFR 435.603 OR ANY SUCCESSOR REGULATION;

29 (8) "MAGI HOUSEHOLD INCOME" MEANS, WITH RESPECT TO AN INDIVIDUAL WHOSE
30 MEDICAL ASSISTANCE ELIGIBILITY IS BASED ON MODIFIED ADJUSTED GROSS
31 INCOME, THE SUM OF THE MAGI-BASED INCOME OF EVERY PERSON INCLUDED IN THE
32 INDIVIDUAL'S MAGI HOUSEHOLD, MINUS AN AMOUNT EQUIVALENT TO FIVE PERCENT-
33 AGE POINTS OF THE FEDERAL POVERTY LEVEL FOR THE APPLICABLE FAMILY SIZE,
34 EXCEPT THAT IT SHALL NOT INCLUDE THE MAGI-BASED INCOME OF THE FOLLOWING
35 PERSONS IF SUCH PERSONS ARE NOT EXPECTED TO BE REQUIRED TO FILE A TAX
36 RETURN IN THE TAXABLE YEAR IN WHICH ELIGIBILITY FOR MEDICAL ASSISTANCE
37 IS BEING DETERMINED:

38 (I) A BIOLOGICAL, ADOPTED, OR STEP CHILD WHO IS INCLUDED IN THE INDI-
39 VIDUAL'S MAGI HOUSEHOLD; OR

40 (II) A PERSON, OTHER THAN A SPOUSE OR A BIOLOGICAL, ADOPTED, OR STEP
41 CHILD, WHO IS EXPECTED TO BE CLAIMED AS A TAX DEPENDENT BY THE INDIVID-
42 UAL;

43 (9) "STANDARD COVERAGE" REFERS TO MEDICAL ASSISTANCE COVERAGE DEFINED
44 IN SUBDIVISION TWO OF SECTION THREE HUNDRED SIXTY-FIVE-A OF THIS TITLE.

45 (B) MAGI ELIGIBILITY GROUPS. INDIVIDUALS LISTED IN THIS PARAGRAPH ARE
46 ELIGIBLE FOR MEDICAL ASSISTANCE BASED ON MODIFIED ADJUSTED GROSS INCOME.

47 (1) AN INDIVIDUAL IS ELIGIBLE FOR BENCHMARK COVERAGE IF HIS OR HER
48 MAGI HOUSEHOLD INCOME DOES NOT EXCEED ONE HUNDRED THIRTY-THREE PERCENT
49 OF THE FEDERAL POVERTY LINE FOR THE APPLICABLE FAMILY SIZE AND HE OR SHE
50 IS:

51 (I) AGE NINETEEN OR OLDER AND UNDER AGE SIXTY-FIVE; AND

52 (II) NOT PREGNANT; AND

53 (III) NOT ENTITLED TO OR ENROLLED FOR BENEFITS UNDER PARTS A OR B OF
54 TITLE XVIII OF THE FEDERAL SOCIAL SECURITY ACT; AND

55 (IV) NOT OTHERWISE ELIGIBLE FOR AND RECEIVING COVERAGE UNDER SUBPARA-
56 GRAPHS TWO AND THREE OF THIS PARAGRAPH; AND

1 (V) NOT A PARENT OR OTHER CARETAKER RELATIVE OF A DEPENDENT CHILD
2 UNDER TWENTY-ONE YEARS OF AGE AND LIVING WITH SUCH CHILD, UNLESS SUCH
3 CHILD IS RECEIVING BENEFITS UNDER THIS TITLE OR UNDER TITLE 1-A OF ARTI-
4 CLE TWENTY-FIVE OF THE PUBLIC HEALTH LAW, OR OTHERWISE IS ENROLLED IN
5 MINIMUM ESSENTIAL COVERAGE.

6 (2) A PREGNANT WOMAN OR AN INFANT YOUNGER THAN ONE YEAR OF AGE IS
7 ELIGIBLE FOR STANDARD COVERAGE IF HIS OR HER MAGI HOUSEHOLD INCOME DOES
8 NOT EXCEED THE MAGI-EQUIVALENT OF TWO HUNDRED PERCENT OF THE FEDERAL
9 POVERTY LINE FOR THE APPLICABLE FAMILY SIZE, WHICH SHALL BE CALCULATED
10 IN ACCORDANCE WITH GUIDANCE ISSUED BY THE SECRETARY OF THE UNITED STATES
11 DEPARTMENT OF HEALTH AND HUMAN SERVICES, OR AN INFANT YOUNGER THAN ONE
12 YEAR OF AGE WHO MEETS THE PRESUMPTIVE ELIGIBILITY REQUIREMENTS OF SUBDI-
13 VISION FOUR OF SECTION THREE HUNDRED SIXTY-FOUR-I OF THIS TITLE.

14 (3) A CHILD WHO IS AT LEAST ONE YEAR OF AGE BUT YOUNGER THAN NINETEEN
15 YEARS OF AGE IS ELIGIBLE FOR STANDARD COVERAGE IF HIS OR HER MAGI HOUSE-
16 HOLD INCOME DOES NOT EXCEED THE MAGI-EQUIVALENT OF ONE HUNDRED
17 THIRTY-THREE PERCENT OF THE FEDERAL POVERTY LINE FOR THE APPLICABLE
18 FAMILY SIZE, WHICH SHALL BE CALCULATED IN ACCORDANCE WITH GUIDANCE
19 ISSUED BY THE SECRETARY OF THE UNITED STATES DEPARTMENT OF HEALTH AND
20 HUMAN SERVICES, OR A CHILD WHO IS AT LEAST ONE YEAR OF AGE BUT YOUNGER
21 THAN NINETEEN YEARS OF AGE WHO MEETS THE PRESUMPTIVE ELIGIBILITY
22 REQUIREMENTS OF SUBDIVISION FOUR OF SECTION THREE HUNDRED SIXTY-FOUR-I
23 OF THIS TITLE.

24 (4) AN INDIVIDUAL WHO IS A PREGNANT WOMAN OR IS A MEMBER OF A FAMILY
25 THAT CONTAINS A DEPENDENT CHILD LIVING WITH A PARENT OR OTHER CARETAKER
26 RELATIVE IS ELIGIBLE FOR STANDARD COVERAGE IF HIS OR HER MAGI HOUSEHOLD
27 INCOME DOES NOT EXCEED THE MAGI-EQUIVALENT OF ONE HUNDRED THIRTY PERCENT
28 OF THE HIGHEST AMOUNT THAT ORDINARILY WOULD HAVE BEEN PAID TO A PERSON
29 WITHOUT ANY INCOME OR RESOURCES UNDER THE FAMILY ASSISTANCE PROGRAM AS
30 IT EXISTED ON THE FIRST DAY OF NOVEMBER, NINETEEN HUNDRED NINETY-SEVEN,
31 WHICH SHALL BE CALCULATED IN ACCORDANCE WITH GUIDANCE ISSUED BY THE
32 SECRETARY OF THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES;
33 FOR PURPOSES OF THIS SUBPARAGRAPH, THE TERM DEPENDENT CHILD MEANS A
34 PERSON WHO IS UNDER EIGHTEEN YEARS OF AGE, OR IS EIGHTEEN YEARS OF AGE
35 AND A FULL-TIME STUDENT, WHO IS DEPRIVED OF PARENTAL SUPPORT OR CARE BY
36 REASON OF THE DEATH, CONTINUED ABSENCE, OR PHYSICAL OR MENTAL INCAPACITY
37 OF A PARENT, OR BY REASON OF THE UNEMPLOYMENT OF THE PARENT, AS DEFINED
38 BY THE DEPARTMENT OF HEALTH.

39 (5) A CHILD WHO IS UNDER TWENTY-ONE YEARS OF AGE AND WHO WAS IN FOSTER
40 CARE UNDER THE RESPONSIBILITY OF THE STATE ON HIS OR HER EIGHTEENTH
41 BIRTHDAY IS ELIGIBLE FOR STANDARD COVERAGE; NOTWITHSTANDING ANY
42 PROVISION OF LAW TO THE CONTRARY, THE PROVISIONS OF THIS SUBPARAGRAPH
43 SHALL BE EFFECTIVE ONLY IF AND FOR SO LONG AS FEDERAL FINANCIAL PARTIC-
44 IPATION IS AVAILABLE IN THE COSTS OF MEDICAL ASSISTANCE FURNISHED HERE-
45 UNDER.

46 (6) AN INDIVIDUAL WHO IS NOT OTHERWISE ELIGIBLE FOR MEDICAL ASSISTANCE
47 UNDER THIS SECTION IS ELIGIBLE FOR COVERAGE OF FAMILY PLANNING SERVICES
48 REIMBURSED BY THE FEDERAL GOVERNMENT AT A RATE OF NINETY PERCENT, AND
49 FOR COVERAGE OF THOSE SERVICES IDENTIFIED BY THE COMMISSIONER OF HEALTH
50 AS SERVICES GENERALLY PERFORMED AS PART OF OR AS A FOLLOW-UP TO A
51 SERVICE ELIGIBLE FOR SUCH NINETY PERCENT REIMBURSEMENT, INCLUDING TREAT-
52 MENT FOR SEXUALLY TRANSMITTED DISEASES, IF HIS OR HER INCOME DOES NOT
53 EXCEED THE MAGI-EQUIVALENT OF TWO HUNDRED PERCENT OF THE FEDERAL POVERTY
54 LINE FOR THE APPLICABLE FAMILY SIZE, WHICH SHALL BE CALCULATED IN
55 ACCORDANCE WITH GUIDANCE ISSUED BY THE SECRETARY OF THE UNITED STATES
56 DEPARTMENT OF HEALTH AND HUMAN SERVICES.

1 (C) NON-MAGI ELIGIBILITY GROUPS. INDIVIDUALS LISTED IN THIS PARAGRAPH
2 ARE ELIGIBLE FOR STANDARD COVERAGE. WHERE A FINANCIAL ELIGIBILITY DETER-
3 MINATION MUST BE MADE BY THE MEDICAL ASSISTANCE PROGRAM FOR INDIVIDUALS
4 IN THESE GROUPS, SUCH FINANCIAL ELIGIBILITY WILL BE DETERMINED IN
5 ACCORDANCE WITH SUBDIVISION TWO OF THIS SECTION.

6 (1) AN INDIVIDUAL RECEIVING OR ELIGIBLE TO RECEIVE FEDERAL SUPPLE-
7 MENTAL SECURITY INCOME PAYMENTS AND/OR ADDITIONAL STATE PAYMENTS PURSU-
8 ANT TO TITLE SIX OF THIS ARTICLE; ANY INCONSISTENT PROVISION OF THIS
9 CHAPTER OR OTHER LAW NOTWITHSTANDING, THE DEPARTMENT MAY DESIGNATE THE
10 OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE AS ITS AGENT TO DISCHARGE
11 ITS RESPONSIBILITY, OR SO MUCH OF ITS RESPONSIBILITY AS IS PERMITTED BY
12 FEDERAL LAW, FOR DETERMINING ELIGIBILITY FOR MEDICAL ASSISTANCE WITH
13 RESPECT TO PERSONS WHO ARE NOT ELIGIBLE TO RECEIVE FEDERAL SUPPLEMENTAL
14 SECURITY INCOME PAYMENTS BUT WHO ARE RECEIVING A STATE ADMINISTERED
15 SUPPLEMENTARY PAYMENT OR MANDATORY MINIMUM SUPPLEMENT IN ACCORDANCE WITH
16 THE PROVISIONS OF SUBDIVISION ONE OF SECTION TWO HUNDRED TWELVE OF THIS
17 ARTICLE.

18 (2) AN INDIVIDUAL WHO, ALTHOUGH NOT RECEIVING PUBLIC ASSISTANCE OR
19 CARE FOR HIS OR HER MAINTENANCE UNDER OTHER PROVISIONS OF THIS CHAPTER,
20 HAS INCOME AND RESOURCES, INCLUDING AVAILABLE SUPPORT FROM RESPONSIBLE
21 RELATIVES, THAT DOES NOT EXCEED THE AMOUNTS SET FORTH IN PARAGRAPH (A)
22 OF SUBDIVISION TWO OF THIS SECTION, AND IS (I) SIXTY-FIVE YEARS OF AGE
23 OR OLDER, OR CERTIFIED BLIND OR CERTIFIED DISABLED OR (II) FOR REASONS
24 OTHER THAN INCOME OR RESOURCES, IS ELIGIBLE FOR FEDERAL SUPPLEMENTAL
25 SECURITY INCOME BENEFITS AND/OR ADDITIONAL STATE PAYMENTS.

26 (3) AN INDIVIDUAL WHO, ALTHOUGH NOT RECEIVING PUBLIC ASSISTANCE OR
27 CARE FOR HIS OR HER MAINTENANCE UNDER OTHER PROVISIONS OF THIS CHAPTER,
28 HAS INCOME, INCLUDING AVAILABLE SUPPORT FROM RESPONSIBLE RELATIVES, THAT
29 DOES NOT EXCEED THE AMOUNTS SET FORTH IN PARAGRAPH (A) OF SUBDIVISION
30 TWO OF THIS SECTION, AND IS (I) UNDER THE AGE OF TWENTY-ONE YEARS, OR
31 (II) A SPOUSE OF A CASH PUBLIC ASSISTANCE RECIPIENT LIVING WITH HIM OR
32 HER AND ESSENTIAL OR NECESSARY TO HIS OR HER WELFARE AND WHOSE NEEDS ARE
33 TAKEN INTO ACCOUNT IN DETERMINING THE AMOUNT OF HIS OR HER CASH PAYMENT,
34 OR (III) IS A SINGLE INDIVIDUAL OR A MEMBER OF A CHILDLESS COUPLE, AND
35 AGE NINETEEN OR OLDER AND UNDER AGE SIXTY-FIVE, AND UNABLE TO RECEIVE
36 NECESSARY MEDICAL CARE UNDER OTHER PROVISIONS OF THIS SECTION, OR (IV)
37 FOR REASONS OTHER THAN INCOME, WOULD MEET THE ELIGIBILITY REQUIREMENTS
38 OF THE AID TO DEPENDENT CHILDREN PROGRAM AS IT EXISTED ON THE SIXTEENTH
39 DAY OF JULY, NINETEEN HUNDRED NINETY-SIX.

40 (4) A CHILD IN FOSTER CARE, OR A CHILD DESCRIBED IN SECTION FOUR
41 HUNDRED FIFTY-FOUR OR FOUR HUNDRED FIFTY-EIGHT-D OF THIS CHAPTER.

42 (5) A DISABLED INDIVIDUAL AT LEAST SIXTEEN YEARS OF AGE, BUT UNDER THE
43 AGE OF SIXTY-FIVE, WHO: WOULD BE ELIGIBLE FOR BENEFITS UNDER THE
44 SUPPLEMENTAL SECURITY INCOME PROGRAM BUT FOR EARNINGS IN EXCESS OF THE
45 ALLOWABLE LIMIT; HAS NET AVAILABLE INCOME THAT DOES NOT EXCEED TWO
46 HUNDRED FIFTY PERCENT OF THE APPLICABLE FEDERAL INCOME OFFICIAL POVERTY
47 LINE, AS DEFINED AND UPDATED BY THE UNITED STATES DEPARTMENT OF HEALTH
48 AND HUMAN SERVICES, FOR A ONE-PERSON OR TWO-PERSON HOUSEHOLD, AS DEFINED
49 BY THE COMMISSIONER IN REGULATION; HAS HOUSEHOLD RESOURCES, AS DEFINED
50 IN PARAGRAPH (E) OF SUBDIVISION TWO OF SECTION THREE HUNDRED SIXTY-SIX-C
51 OF THIS TITLE, OTHER THAN RETIREMENT ACCOUNTS, THAT DO NOT EXCEED TWENTY
52 THOUSAND DOLLARS FOR A ONE-PERSON HOUSEHOLD OR THIRTY THOUSAND DOLLARS
53 FOR A TWO-PERSON HOUSEHOLD, AS DEFINED BY THE COMMISSIONER IN REGU-
54 LATION; AND CONTRIBUTES TO THE COST OF MEDICAL ASSISTANCE PROVIDED
55 PURSUANT TO THIS SUBPARAGRAPH IN ACCORDANCE WITH SUBDIVISION TWELVE OF
56 SECTION THREE HUNDRED SIXTY-SEVEN-A OF THIS TITLE; FOR PURPOSES OF THIS

SUBPARAGRAPH, DISABLED MEANS HAVING A MEDICALLY DETERMINABLE IMPAIRMENT OF SUFFICIENT SEVERITY AND DURATION TO QUALIFY FOR BENEFITS UNDER SECTION 1902(A)(10)(A)(II)(XV) OF THE SOCIAL SECURITY ACT.

(6) AN INDIVIDUAL AT LEAST SIXTEEN YEARS OF AGE, BUT UNDER THE AGE OF SIXTY-FIVE, WHO: IS EMPLOYED; CEASES TO BE IN RECEIPT OF MEDICAL ASSISTANCE UNDER SUBPARAGRAPH FIVE OF THIS PARAGRAPH BECAUSE THE PERSON, BY REASON OF MEDICAL IMPROVEMENT, IS DETERMINED AT THE TIME OF A REGULARLY SCHEDULED CONTINUING DISABILITY REVIEW TO NO LONGER BE ELIGIBLE FOR SUPPLEMENTAL SECURITY INCOME PROGRAM BENEFITS OR DISABILITY INSURANCE BENEFITS UNDER THE SOCIAL SECURITY ACT; CONTINUES TO HAVE A SEVERE MEDICALLY DETERMINABLE IMPAIRMENT, TO BE DETERMINED IN ACCORDANCE WITH APPLICABLE FEDERAL REGULATIONS; AND CONTRIBUTES TO THE COST OF MEDICAL ASSISTANCE PROVIDED PURSUANT TO THIS SUBPARAGRAPH IN ACCORDANCE WITH SUBDIVISION TWELVE OF SECTION THREE HUNDRED SIXTY-SEVEN-A OF THIS TITLE; FOR PURPOSES OF THIS SUBPARAGRAPH, A PERSON IS CONSIDERED TO BE EMPLOYED IF THE PERSON IS EARNING AT LEAST THE APPLICABLE MINIMUM WAGE UNDER SECTION SIX OF THE FEDERAL FAIR LABOR STANDARDS ACT AND WORKING AT LEAST FORTY HOURS PER MONTH; OR

(7) AN INDIVIDUAL RECEIVING TREATMENT FOR BREAST OR CERVICAL CANCER WHO MEETS THE ELIGIBILITY REQUIREMENTS OF PARAGRAPH (D) OF SUBDIVISION FOUR OF THIS SECTION OR THE PRESUMPTIVE ELIGIBILITY REQUIREMENTS OF SUBDIVISION FIVE OF SECTION THREE HUNDRED SIXTY-FOUR-I OF THIS TITLE.

(8) AN INDIVIDUAL RECEIVING TREATMENT FOR COLON OR PROSTATE CANCER WHO MEETS THE ELIGIBILITY REQUIREMENTS OF PARAGRAPH (E) OF SUBDIVISION FOUR OF THIS SECTION OR THE PRESUMPTIVE ELIGIBILITY REQUIREMENTS OF SUBDIVISION FIVE OF SECTION THREE HUNDRED SIXTY-FOUR-I OF THIS TITLE.

(9) AN INDIVIDUAL WHO:

(I) IS UNDER TWENTY-SIX YEARS OF AGE; AND

(II) WAS IN FOSTER CARE UNDER THE RESPONSIBILITY OF THE STATE ON HIS OR HER EIGHTEENTH BIRTHDAY; AND

(III) WAS IN RECEIPT OF MEDICAL ASSISTANCE UNDER THIS TITLE WHILE IN FOSTER CARE; AND

(IV) IS NOT OTHERWISE ELIGIBLE FOR MEDICAL ASSISTANCE UNDER THIS TITLE.

(10) A RESIDENT OF A HOME FOR ADULTS OPERATED BY A SOCIAL SERVICES DISTRICT, OR A RESIDENTIAL CARE CENTER FOR ADULTS OR COMMUNITY RESIDENCE OPERATED OR CERTIFIED BY THE OFFICE OF MENTAL HEALTH, AND HAS NOT, ACCORDING TO CRITERIA PROMULGATED BY THE DEPARTMENT CONSISTENT WITH THIS TITLE, SUFFICIENT INCOME, OR IN THE CASE OF A PERSON SIXTY-FIVE YEARS OF AGE OR OLDER, CERTIFIED BLIND, OR CERTIFIED DISABLED, SUFFICIENT INCOME AND RESOURCES, INCLUDING AVAILABLE SUPPORT FROM RESPONSIBLE RELATIVES, TO MEET ALL THE COSTS OF REQUIRED MEDICAL CARE AND SERVICES AVAILABLE UNDER THIS TITLE.

(D) CONDITIONS OF ELIGIBILITY. A PERSON SHALL NOT BE ELIGIBLE FOR MEDICAL ASSISTANCE UNDER THIS TITLE UNLESS HE OR SHE:

(1) IS A RESIDENT OF THE STATE, OR, WHILE TEMPORARILY IN THE STATE, REQUIRES IMMEDIATE MEDICAL CARE WHICH IS NOT OTHERWISE AVAILABLE, PROVIDED THAT SUCH PERSON DID NOT ENTER THE STATE FOR THE PURPOSE OF OBTAINING SUCH MEDICAL CARE; AND

(2) ASSIGNS TO THE APPROPRIATE SOCIAL SERVICES OFFICIAL OR TO THE DEPARTMENT, IN ACCORDANCE WITH DEPARTMENT REGULATIONS: (I) ANY BENEFITS WHICH ARE AVAILABLE TO HIM OR HER INDIVIDUALLY FROM ANY THIRD PARTY FOR CARE OR OTHER MEDICAL BENEFITS AVAILABLE UNDER THIS TITLE AND WHICH ARE OTHERWISE ASSIGNABLE PURSUANT TO A CONTRACT OR ANY AGREEMENT WITH SUCH THIRD PARTY; OR (II) ANY RIGHTS, OF THE INDIVIDUAL OR OF ANY OTHER PERSON WHO IS ELIGIBLE FOR MEDICAL ASSISTANCE UNDER THIS TITLE AND ON

1 WHOSE BEHALF THE INDIVIDUAL HAS THE LEGAL AUTHORITY TO EXECUTE AN
2 ASSIGNMENT OF SUCH RIGHTS, TO SUPPORT SPECIFIED AS SUPPORT FOR THE
3 PURPOSE OF MEDICAL CARE BY A COURT OR ADMINISTRATIVE ORDER; AND

4 (3) COOPERATES WITH THE APPROPRIATE SOCIAL SERVICES OFFICIAL OR THE
5 DEPARTMENT IN ESTABLISHING PATERNITY OR IN ESTABLISHING, MODIFYING, OR
6 ENFORCING A SUPPORT ORDER WITH RESPECT TO HIS OR HER CHILD; PROVIDED,
7 HOWEVER, THAT NOTHING HEREIN CONTAINED SHALL BE CONSTRUED TO REQUIRE A
8 PAYMENT UNDER THIS TITLE FOR CARE OR SERVICES, THE COST OF WHICH MAY BE
9 MET IN WHOLE OR IN PART BY A THIRD PARTY; NOTWITHSTANDING THE FOREGOING,
10 A SOCIAL SERVICES OFFICIAL SHALL NOT REQUIRE SUCH COOPERATION IF THE
11 SOCIAL SERVICES OFFICIAL OR THE DEPARTMENT DETERMINES THAT SUCH ACTIONS
12 WOULD BE DETRIMENTAL TO THE BEST INTEREST OF THE CHILD, APPLICANT, OR
13 RECIPIENT, OR WITH RESPECT TO PREGNANT WOMEN DURING PREGNANCY AND DURING
14 THE SIXTY-DAY PERIOD BEGINNING ON THE LAST DAY OF PREGNANCY, IN ACCORD-
15 ANCE WITH PROCEDURES AND CRITERIA ESTABLISHED BY REGULATIONS OF THE
16 DEPARTMENT CONSISTENT WITH FEDERAL LAW; AND

17 (4) APPLIES FOR AND UTILIZES GROUP HEALTH INSURANCE BENEFITS AVAILABLE
18 THROUGH A CURRENT OR FORMER EMPLOYER, INCLUDING BENEFITS FOR A SPOUSE
19 AND DEPENDENT CHILDREN, IN ACCORDANCE WITH THE REGULATIONS OF THE
20 DEPARTMENT.

21 (E) CONDITIONS OF COVERAGE. AN OTHERWISE ELIGIBLE PERSON SHALL NOT BE
22 ENTITLED TO MEDICAL ASSISTANCE COVERAGE OF CARE, SERVICES, AND SUPPLIES
23 UNDER THIS TITLE WHILE HE OR SHE:

24 (1) IS AN INMATE OR PATIENT IN AN INSTITUTION OR FACILITY WHEREIN
25 MEDICAL ASSISTANCE MAY NOT BE PROVIDED IN ACCORDANCE WITH APPLICABLE
26 FEDERAL OR STATE REQUIREMENTS, EXCEPT FOR PERSONS DESCRIBED IN SUBPARA-
27 GRAPH TEN OF PARAGRAPH (C) OF THIS SUBDIVISION OR SUBDIVISION ONE-A OR
28 SUBDIVISION ONE-B OF THIS SECTION; OR

29 (2) IS A PATIENT IN A PUBLIC INSTITUTION OPERATED PRIMARILY FOR THE
30 TREATMENT OF TUBERCULOSIS OR CARE OF THE MENTALLY DISABLED, WITH THE
31 EXCEPTION OF: (I) A PERSON SIXTY-FIVE YEARS OF AGE OR OLDER AND A
32 PATIENT IN ANY SUCH INSTITUTION; (II) A PERSON UNDER TWENTY-ONE YEARS OF
33 AGE AND RECEIVING IN-PATIENT PSYCHIATRIC SERVICES IN A PUBLIC INSTITU-
34 TION OPERATED PRIMARILY FOR THE CARE OF THE MENTALLY DISABLED; (III) A
35 PATIENT IN A PUBLIC INSTITUTION OPERATED PRIMARILY FOR THE CARE OF THE
36 MENTALLY RETARDED WHO IS RECEIVING MEDICAL CARE OR TREATMENT IN THAT
37 PART OF SUCH INSTITUTION THAT HAS BEEN APPROVED PURSUANT TO LAW AS A
38 HOSPITAL OR NURSING HOME; (IV) A PATIENT IN AN INSTITUTION OPERATED BY
39 THE STATE DEPARTMENT OF MENTAL HYGIENE, WHILE UNDER CARE IN A HOSPITAL
40 ON RELEASE FROM SUCH INSTITUTION FOR THE PURPOSE OF RECEIVING CARE IN
41 SUCH HOSPITAL; OR (V) IS A PERSON RESIDING IN A COMMUNITY RESIDENCE OR A
42 RESIDENTIAL CARE CENTER FOR ADULTS.

43 S 2. Subdivision 4 of section 366 of the social services law is
44 REPEALED and a new subdivision 4 is added to read as follows:

45 4. SPECIAL ELIGIBILITY PROVISIONS.

46 (A) TRANSITIONAL MEDICAL ASSISTANCE.

47 (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, EACH FAMILY WHICH WAS
48 ELIGIBLE FOR MEDICAL ASSISTANCE PURSUANT TO SUBPARAGRAPH FOUR OF PARA-
49 GRAPH (B) OF SUBDIVISION ONE OF THIS SECTION IN AT LEAST ONE OF THE SIX
50 MONTHS IMMEDIATELY PRECEDING THE MONTH IN WHICH SUCH FAMILY BECAME INEL-
51 IGIBLE FOR SUCH ASSISTANCE BECAUSE OF INCOME FROM THE EMPLOYMENT OF THE
52 CARETAKER RELATIVE SHALL, WHILE SUCH FAMILY INCLUDES A DEPENDENT CHILD,
53 REMAIN ELIGIBLE FOR MEDICAL ASSISTANCE FOR TWELVE CALENDAR MONTHS IMME-
54 DIATELY FOLLOWING THE MONTH IN WHICH SUCH FAMILY WOULD OTHERWISE BE
55 DETERMINED TO BE INELIGIBLE FOR MEDICAL ASSISTANCE PURSUANT TO THE
56 PROVISIONS OF THIS TITLE AND THE REGULATIONS OF THE DEPARTMENT GOVERNING

1 INCOME AND RESOURCE LIMITATIONS RELATING TO ELIGIBILITY DETERMINATIONS
2 FOR FAMILIES DESCRIBED IN SUBPARAGRAPH FOUR OF PARAGRAPH (B) OF SUBDIVI-
3 SION ONE OF THIS SECTION.

4 (2) (I) UPON GIVING NOTICE OF TERMINATION OF MEDICAL ASSISTANCE
5 PROVIDED PURSUANT TO SUBPARAGRAPH FOUR OF PARAGRAPH (B) OF SUBDIVISION
6 ONE OF THIS SECTION, THE DEPARTMENT SHALL NOTIFY EACH SUCH FAMILY OF ITS
7 RIGHTS TO EXTENDED BENEFITS UNDER SUBPARAGRAPH ONE OF THIS PARAGRAPH AND
8 DESCRIBE THE CONDITIONS UNDER WHICH SUCH EXTENSION MAY BE TERMINATED.

9 (II) THE DEPARTMENT SHALL PROMULGATE REGULATIONS IMPLEMENTING THE
10 REQUIREMENTS OF THIS SUBPARAGRAPH AND SUBPARAGRAPH ONE OF THIS PARAGRAPH
11 RELATING TO THE CONDITIONS UNDER WHICH EXTENDED COVERAGE HEREUNDER MAY
12 BE TERMINATED, THE SCOPE OF COVERAGE, AND THE CONDITIONS UNDER WHICH
13 COVERAGE MAY BE EXTENDED PENDING A REDETERMINATION OF ELIGIBILITY. SUCH
14 REGULATIONS SHALL, AT A MINIMUM, PROVIDE FOR: TERMINATION OF SUCH COVER-
15 AGE AT THE CLOSE OF THE FIRST MONTH IN WHICH THE FAMILY CEASES TO
16 INCLUDE A DEPENDENT CHILD; NOTICE OF TERMINATION PRIOR TO THE EFFECTIVE
17 DATE OF ANY TERMINATIONS; COVERAGE UNDER EMPLOYEE HEALTH PLANS AND
18 HEALTH MAINTENANCE ORGANIZATIONS; AND DISQUALIFICATION OF PERSONS FOR
19 EXTENDED COVERAGE BENEFITS UNDER THIS PARAGRAPH FOR FRAUD.

20 (3) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW, EACH FAMILY
21 WHICH WAS ELIGIBLE FOR MEDICAL ASSISTANCE PURSUANT TO SUBPARAGRAPH FOUR
22 OF PARAGRAPH (B) OF SUBDIVISION ONE OF THIS SECTION IN AT LEAST THREE OF
23 THE SIX MONTHS IMMEDIATELY PRECEDING THE MONTH IN WHICH SUCH FAMILY
24 BECAME INELIGIBLE FOR SUCH ASSISTANCE AS A RESULT, WHOLLY OR PARTLY, OF
25 THE COLLECTION OR INCREASED COLLECTION OF CHILD OR SPOUSAL SUPPORT
26 PURSUANT TO PART D OF TITLE IV OF THE FEDERAL SOCIAL SECURITY ACT,
27 SHALL, FOR PURPOSES OF MEDICAL ASSISTANCE ELIGIBILITY, BE CONSIDERED TO
28 BE ELIGIBLE FOR MEDICAL ASSISTANCE PURSUANT TO SUBPARAGRAPH FOUR OF
29 PARAGRAPH (B) OF SUBDIVISION ONE OF THIS SECTION FOR AN ADDITIONAL FOUR
30 CALENDAR MONTHS BEGINNING WITH THE MONTH INELIGIBILITY FOR SUCH ASSIST-
31 ANCE BEGINS.

32 (B) PREGNANT WOMEN AND CHILDREN.

33 (1) A PREGNANT WOMAN ELIGIBLE FOR MEDICAL ASSISTANCE UNDER SUBPARA-
34 GRAPH TWO OR FOUR OF PARAGRAPH (B) OF SUBDIVISION ONE OF THIS SECTION ON
35 ANY DAY OF HER PREGNANCY WILL CONTINUE TO BE ELIGIBLE FOR SUCH CARE AND
36 SERVICES THROUGH THE END OF THE MONTH IN WHICH THE SIXTIETH DAY FOLLOW-
37 ING THE END OF THE PREGNANCY OCCURS, WITHOUT REGARD TO ANY CHANGE IN THE
38 INCOME OF THE FAMILY THAT INCLUDES THE PREGNANT WOMAN, EVEN IF SUCH
39 CHANGE OTHERWISE WOULD HAVE RENDERED HER INELIGIBLE FOR MEDICAL ASSIST-
40 ANCE.

41 (2) A CHILD BORN TO A WOMAN ELIGIBLE FOR AND RECEIVING MEDICAL ASSIST-
42 ANCE ON THE DATE OF THE CHILD'S BIRTH SHALL BE DEEMED TO HAVE APPLIED
43 FOR MEDICAL ASSISTANCE AND TO HAVE BEEN FOUND ELIGIBLE FOR SUCH ASSIST-
44 ANCE ON THE DATE OF SUCH BIRTH AND TO REMAIN ELIGIBLE FOR SUCH ASSIST-
45 ANCE FOR A PERIOD OF ONE YEAR, SO LONG AS THE CHILD IS A MEMBER OF THE
46 WOMAN'S HOUSEHOLD AND THE WOMAN REMAINS ELIGIBLE FOR SUCH ASSISTANCE OR
47 WOULD REMAIN ELIGIBLE FOR SUCH ASSISTANCE IF SHE WERE PREGNANT.

48 (3) A CHILD UNDER THE AGE OF NINETEEN WHO IS DETERMINED ELIGIBLE FOR
49 MEDICAL ASSISTANCE UNDER THE PROVISIONS OF THIS SECTION, SHALL, CONSIST-
50 ENT WITH APPLICABLE FEDERAL REQUIREMENTS, REMAIN ELIGIBLE FOR SUCH
51 ASSISTANCE UNTIL THE EARLIER OF:

52 (I) THE LAST DAY OF THE MONTH WHICH IS TWELVE MONTHS FOLLOWING THE
53 DETERMINATION OR REDETERMINATION OF ELIGIBILITY FOR SUCH ASSISTANCE; OR

54 (II) THE LAST DAY OF THE MONTH IN WHICH THE CHILD REACHES THE AGE OF
55 NINETEEN.

(4) AN INFANT ELIGIBLE UNDER SUBPARAGRAPH TWO OR FOUR OF PARAGRAPH (B) OF SUBDIVISION ONE OF THIS SECTION WHO IS RECEIVING MEDICALLY NECESSARY IN-PATIENT SERVICES FOR WHICH MEDICAL ASSISTANCE IS PROVIDED ON THE DATE THE CHILD ATTAINS ONE YEAR OF AGE, AND WHO, BUT FOR ATTAINING SUCH AGE, WOULD REMAIN ELIGIBLE FOR MEDICAL ASSISTANCE UNDER SUCH SUBPARAGRAPH, SHALL CONTINUE TO REMAIN ELIGIBLE UNTIL THE END OF THE STAY FOR WHICH IN-PATIENT SERVICES ARE BEING FURNISHED.

(5) A CHILD ELIGIBLE UNDER SUBPARAGRAPH THREE OF PARAGRAPH (B) OF SUBDIVISION ONE OF THIS SECTION WHO IS RECEIVING MEDICALLY NECESSARY IN-PATIENT SERVICES FOR WHICH MEDICAL ASSISTANCE IS PROVIDED ON THE DATE THE CHILD ATTAINS NINETEEN YEARS OF AGE, AND WHO, BUT FOR ATTAINING SUCH AGE, WOULD REMAIN ELIGIBLE FOR MEDICAL ASSISTANCE UNDER THIS PARAGRAPH, SHALL CONTINUE TO REMAIN ELIGIBLE UNTIL THE END OF THE STAY FOR WHICH IN-PATIENT SERVICES ARE BEING FURNISHED.

(6) A WOMAN WHO WAS PREGNANT WHILE IN RECEIPT OF MEDICAL ASSISTANCE WHO SUBSEQUENTLY LOSES HER ELIGIBILITY FOR MEDICAL ASSISTANCE SHALL HAVE HER ELIGIBILITY FOR MEDICAL ASSISTANCE CONTINUED FOR A PERIOD OF TWENTY-FOUR MONTHS FROM THE END OF THE MONTH IN WHICH THE SIXTIETH DAY FOLLOWING THE END OF HER PREGNANCY OCCURS, BUT ONLY FOR FEDERAL TITLE X SERVICES WHICH ARE ELIGIBLE FOR REIMBURSEMENT BY THE FEDERAL GOVERNMENT AT A RATE OF NINETY PERCENT; PROVIDED, HOWEVER, THAT SUCH NINETY PERCENT LIMITATION SHALL NOT APPLY TO THOSE SERVICES IDENTIFIED BY THE COMMISSIONER AS SERVICES, INCLUDING TREATMENT FOR SEXUALLY TRANSMITTED DISEASES, GENERALLY PERFORMED AS PART OF OR AS A FOLLOW-UP TO A SERVICE ELIGIBLE FOR SUCH NINETY PERCENT REIMBURSEMENT; AND PROVIDED FURTHER, HOWEVER, THAT NOTHING IN THIS PARAGRAPH SHALL BE DEEMED TO AFFECT PAYMENT FOR SUCH TITLE X SERVICES IF FEDERAL FINANCIAL PARTICIPATION IS NOT AVAILABLE FOR SUCH CARE, SERVICES AND SUPPLIES.

(C) CONTINUOUS COVERAGE FOR ADULTS. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A PERSON WHOSE ELIGIBILITY FOR MEDICAL ASSISTANCE IS BASED ON THE MODIFIED ADJUSTED GROSS INCOME OF THE PERSON OR THE PERSON'S HOUSEHOLD, AND WHO LOSES ELIGIBILITY FOR SUCH ASSISTANCE FOR A REASON OTHER THAN CITIZENSHIP STATUS, LACK OF STATE RESIDENCE, OR FAILURE TO PROVIDE A VALID SOCIAL SECURITY NUMBER, BEFORE THE END OF A TWELVE MONTH PERIOD BEGINNING ON THE EFFECTIVE DATE OF THE PERSON'S INITIAL ELIGIBILITY FOR SUCH ASSISTANCE, OR BEFORE THE END OF A TWELVE MONTH PERIOD BEGINNING ON THE DATE OF ANY SUBSEQUENT DETERMINATION OF ELIGIBILITY BASED ON MODIFIED ADJUSTED GROSS INCOME, SHALL HAVE HIS OR HER ELIGIBILITY FOR SUCH ASSISTANCE CONTINUED UNTIL THE END OF SUCH TWELVE MONTH PERIOD, PROVIDED THAT FEDERAL FINANCIAL PARTICIPATION IN THE COSTS OF SUCH ASSISTANCE IS AVAILABLE.

(D) BREAST AND CERVICAL CANCER TREATMENT.

(1) PERSONS WHO ARE NOT ELIGIBLE FOR MEDICAL ASSISTANCE UNDER THE TERMS OF SECTION 1902(A)(10)(A)(I) OF THE FEDERAL SOCIAL SECURITY ACT ARE ELIGIBLE FOR MEDICAL ASSISTANCE COVERAGE DURING THE TREATMENT OF BREAST OR CERVICAL CANCER, SUBJECT TO THE PROVISIONS OF THIS PARAGRAPH.

(2) (I) MEDICAL ASSISTANCE IS AVAILABLE UNDER THIS PARAGRAPH TO PERSONS WHO ARE UNDER SIXTY-FIVE YEARS OF AGE, HAVE BEEN SCREENED FOR BREAST AND/OR CERVICAL CANCER UNDER THE CENTERS FOR DISEASE CONTROL AND PREVENTION BREAST AND CERVICAL CANCER EARLY DETECTION PROGRAM AND NEED TREATMENT FOR BREAST OR CERVICAL CANCER, AND ARE NOT OTHERWISE COVERED UNDER CREDITABLE COVERAGE AS DEFINED IN THE FEDERAL PUBLIC HEALTH SERVICE ACT; PROVIDED HOWEVER THAT MEDICAL ASSISTANCE SHALL BE FURNISHED PURSUANT TO THIS CLAUSE ONLY TO THE EXTENT PERMITTED UNDER FEDERAL LAW, IF, FOR SO LONG AS, AND TO THE EXTENT THAT FEDERAL FINANCIAL PARTICIPATION IS AVAILABLE THEREFOR.

1 (II) MEDICAL ASSISTANCE IS AVAILABLE UNDER THIS PARAGRAPH TO PERSONS
2 WHO MEET THE REQUIREMENTS OF CLAUSE (I) OF THIS SUBPARAGRAPH BUT FOR
3 THEIR AGE AND/OR GENDER, WHO HAVE BEEN SCREENED FOR BREAST AND/OR CERVI-
4 CAL CANCER UNDER THE PROGRAM DESCRIBED IN TITLE ONE-A OF ARTICLE TWEN-
5 TY-FOUR OF THE PUBLIC HEALTH LAW AND NEED TREATMENT FOR BREAST OR CERVI-
6 CAL CANCER, AND ARE NOT OTHERWISE COVERED UNDER CREDITABLE COVERAGE AS
7 DEFINED IN THE FEDERAL PUBLIC HEALTH SERVICE ACT; PROVIDED HOWEVER THAT
8 MEDICAL ASSISTANCE SHALL BE FURNISHED PURSUANT TO THIS CLAUSE ONLY IF
9 AND FOR SO LONG AS THE PROVISIONS OF CLAUSE (I) OF THIS SUBPARAGRAPH ARE
10 IN EFFECT.

11 (3) MEDICAL ASSISTANCE PROVIDED TO A PERSON UNDER THIS PARAGRAPH SHALL
12 BE LIMITED TO THE PERIOD IN WHICH SUCH PERSON REQUIRES TREATMENT FOR
13 BREAST OR CERVICAL CANCER.

14 (4) (I) THE COMMISSIONER OF HEALTH SHALL PROMULGATE SUCH REGULATIONS
15 AS MAY BE NECESSARY TO CARRY OUT THE PROVISIONS OF THIS PARAGRAPH. SUCH
16 REGULATIONS SHALL INCLUDE, BUT NOT BE LIMITED TO: ELIGIBILITY REQUIRE-
17 MENTS; A DESCRIPTION OF THE MEDICAL SERVICES WHICH ARE COVERED; AND A
18 PROCESS FOR PROVIDING PRESUMPTIVE ELIGIBILITY WHEN A QUALIFIED ENTITY,
19 AS DEFINED BY THE COMMISSIONER, DETERMINES ON THE BASIS OF PRELIMINARY
20 INFORMATION THAT A PERSON MEETS THE REQUIREMENTS FOR ELIGIBILITY UNDER
21 THIS PARAGRAPH.

22 (II) FOR PURPOSES OF DETERMINING ELIGIBILITY FOR MEDICAL ASSISTANCE
23 UNDER THIS PARAGRAPH, RESOURCES AVAILABLE TO SUCH INDIVIDUAL SHALL NOT
24 BE CONSIDERED NOR REQUIRED TO BE APPLIED TOWARD THE PAYMENT OR PART
25 PAYMENT OF THE COST OF MEDICAL CARE, SERVICES AND SUPPLIES AVAILABLE
26 UNDER THIS PARAGRAPH.

27 (III) AN INDIVIDUAL SHALL BE ELIGIBLE FOR PRESUMPTIVE ELIGIBILITY FOR
28 MEDICAL ASSISTANCE UNDER THIS PARAGRAPH IN ACCORDANCE WITH SUBDIVISION
29 FIVE OF SECTION THREE HUNDRED SIXTY-FOUR-I OF THIS TITLE.

30 (5) THE COMMISSIONER OF HEALTH SHALL, CONSISTENT WITH THIS TITLE, MAKE
31 ANY NECESSARY AMENDMENTS TO THE STATE PLAN FOR MEDICAL ASSISTANCE
32 SUBMITTED PURSUANT TO SECTION THREE HUNDRED SIXTY-THREE-A OF THIS TITLE,
33 IN ORDER TO ENSURE FEDERAL FINANCIAL PARTICIPATION IN EXPENDITURES UNDER
34 THIS PARAGRAPH. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY,
35 THE PROVISIONS OF CLAUSE (I) OF SUBPARAGRAPH TWO OF THIS PARAGRAPH SHALL
36 BE EFFECTIVE ONLY IF AND FOR SO LONG AS FEDERAL FINANCIAL PARTICIPATION
37 IS AVAILABLE IN THE COSTS OF MEDICAL ASSISTANCE FURNISHED THEREUNDER.

38 (E) COLON AND PROSTATE CANCER TREATMENT.

39 (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, A
40 PERSON WHO HAS BEEN SCREENED OR REFERRED FOR SCREENING FOR COLON OR
41 PROSTATE CANCER BY THE CANCER SERVICES SCREENING PROGRAM, AS ADMINIS-
42 TERED BY THE DEPARTMENT OF HEALTH, AND HAS BEEN DIAGNOSED WITH COLON OR
43 PROSTATE CANCER IS ELIGIBLE FOR MEDICAL ASSISTANCE FOR THE DURATION OF
44 HIS OR HER TREATMENT FOR SUCH CANCER.

45 (2) PERSONS ELIGIBLE FOR MEDICAL ASSISTANCE UNDER THIS PARAGRAPH SHALL
46 HAVE AN INCOME OF TWO HUNDRED FIFTY PERCENT OR LESS OF THE COMPARABLE
47 FEDERAL INCOME OFFICIAL POVERTY LINE AS DEFINED AND ANNUALLY REVISED BY
48 THE FEDERAL OFFICE OF MANAGEMENT AND BUDGET.

49 (3) AN INDIVIDUAL SHALL BE ELIGIBLE FOR PRESUMPTIVE ELIGIBILITY FOR
50 MEDICAL ASSISTANCE UNDER THIS PARAGRAPH IN ACCORDANCE WITH SUBDIVISION
51 FIVE OF SECTION THREE HUNDRED SIXTY-FOUR-I OF THIS TITLE.

52 (4) MEDICAL ASSISTANCE IS AVAILABLE UNDER THIS PARAGRAPH TO PERSONS
53 WHO ARE UNDER SIXTY-FIVE YEARS OF AGE, AND ARE NOT OTHERWISE COVERED
54 UNDER CREDITABLE COVERAGE AS DEFINED IN THE FEDERAL PUBLIC HEALTH
55 SERVICE ACT.

1 S 3. Paragraph (a) of subdivision 4 of section 364-i of the social
2 services law, as added by section 29-a of part A of chapter 58 of the
3 laws of 2007, is amended to read as follows:

4 (a) Notwithstanding any inconsistent provision of law to the contrary,
5 a child shall be presumed to be eligible for medical assistance under
6 this title beginning on the date that a qualified entity, as defined in
7 paragraph (c) of this subdivision, determine, on the basis of prelimi-
8 nary information, that the [net] MAGI household income of the child does
9 not exceed the applicable level for eligibility as provided for pursuant
10 to SUBPARAGRAPH TWO OR THREE OF paragraph [(u)] (B) of subdivision
11 [four] ONE of section three hundred sixty-six of this title.

12 S 4. Paragraph (a) of subdivision 5 of section 364-i of the social
13 services law, as added by chapter 176 of the laws of 2006, is amended to
14 read as follows:

15 (a) An individual shall be presumed to be eligible for medical assist-
16 ance under this title beginning on the date that a qualified entity, as
17 defined in paragraph (c) of this subdivision, determines, on the basis
18 of preliminary information, that the individual meets the requirements
19 of paragraph [(v) or (v-1)] (D) OR (E) of subdivision four of section
20 three hundred sixty-six of this title.

21 S 5. Subdivision 6 of section 364-i of the social services law, as
22 added by chapter 484 of the laws of 2009 and paragraph (a-2) as added by
23 section 76 of part H of chapter 59 of the laws of 2011, is amended to
24 read as follows:

25 6. (a) A pregnant woman shall be presumed to be eligible for [coverage
26 of services described in paragraph (c) of this subdivision] MEDICAL
27 ASSISTANCE UNDER THIS TITLE, EXCLUDING INPATIENT SERVICES AND INSTITU-
28 TIONAL LONG TERM CARE, beginning on the date that a prenatal care
29 provider, licensed under article twenty-eight of the public health law
30 or other prenatal care provider approved by the department of health
31 determines, on the basis of preliminary information, that the pregnant
32 woman's [family has: (i) subject to the approval of the federal Centers
33 for Medicare and Medicaid Services, gross income that does not exceed
34 two hundred thirty percent of the federal poverty line (as defined and
35 annually revised by the United States department of health and human
36 services) for a family of the same size, or (ii) in the absence of such
37 approval, net income that does not exceed two hundred percent of the
38 federal poverty line (as defined and annually revised by the United
39 States department of health and human services) for a family of the same
40 size.] MAGI HOUSEHOLD INCOME DOES NOT EXCEED THE MAGI-EQUIVALENT OF TWO
41 HUNDRED PERCENT OF THE FEDERAL POVERTY LINE FOR THE APPLICABLE FAMILY
42 SIZE, WHICH SHALL BE CALCULATED IN ACCORDANCE WITH GUIDANCE ISSUED BY
43 THE SECRETARY OF THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN
44 SERVICES.

45 (a-2) At the time of application for presumptive eligibility pursuant
46 to this subdivision, a pregnant woman who resides in a social services
47 district that has implemented the state's managed care program pursuant
48 to section three hundred sixty-four-j of this title must choose a
49 managed care provider. If a managed care provider is not chosen at the
50 time of application, the pregnant woman will be assigned to a managed
51 care provider in accordance with subparagraphs (ii), (iii), (iv) and (v)
52 of paragraph (f) of subdivision four of section three hundred sixty-
53 four-j of this title.

54 (b) Such presumptive eligibility shall continue through the earlier
55 of: the day on which eligibility is determined pursuant to this title;
56 or the last day of the month following the month in which the provider

1 makes preliminary determination, in the case of a pregnant woman who
2 does not file an application for medical assistance on or before such
3 day.

4 (c) [A presumptively eligible pregnant woman is eligible for coverage
5 of:

6 (i) all medical care, services, and supplies available under the
7 medical assistance program, excluding inpatient services and institu-
8 tional long term care, if the woman's family has: (A) subject to the
9 approval of the federal Centers for Medicare and Medicaid Services,
10 gross income that does not exceed one hundred twenty percent of the
11 federal poverty line (as defined and annually revised by the United
12 States department of health and human services) for a family of the same
13 size, or (B) in the absence of such approval, net income that does not
14 exceed one hundred percent of the federal poverty line (as defined and
15 annually revised by the United States department of health and human
16 services) for a family of the same size; or

17 (ii) prenatal care services as described in subparagraph four of para-
18 graph (o) of subdivision four of section three hundred sixty-six of this
19 title, if the woman's family has: (A) subject to the approval of the
20 federal Centers for Medicare and Medicaid Services, gross income that
21 exceeds one hundred twenty percent of the federal poverty line (as
22 defined and annually revised by the United States department of health
23 and human services) for families of the same size, but does not exceed
24 two hundred thirty percent of such federal poverty line, or (B) in the
25 absence of such approval, net income that exceeds one hundred percent
26 but does not exceed two hundred percent of the federal poverty line (as
27 defined and annually revised by the United States department of health
28 and human services) for a family of the same size.

29 (d)] The department of health shall provide prenatal care providers
30 licensed under article twenty-eight of the public health law and other
31 approved prenatal care providers with such forms as are necessary for a
32 pregnant woman to apply and information on how to assist such women in
33 completing and filing such forms. A qualified provider which determines
34 that a pregnant woman is presumptively eligible shall notify the social
35 services district in which the pregnant woman resides of the determi-
36 nation within five working days after the date on which such determi-
37 nation is made and shall inform the woman at the time the determination
38 is made that she is required to make application by the last day of the
39 month following the month in which the determination is made.

40 [(e)] (D) Notwithstanding any other provision of law, care that is
41 furnished to a pregnant woman pursuant to this subdivision during a
42 presumptive eligibility period shall be deemed as medical assistance for
43 purposes of payment and state reimbursement.

44 [(f)] (E) Facilities licensed under article twenty-eight of the public
45 health law providing prenatal care services shall perform presumptive
46 eligibility determinations and assist women in submitting appropriate
47 documentation to the social services district as required by the commis-
48 sioner; provided, however, that a facility may apply to the commissioner
49 for exemption from this requirement on the basis of undue hardship.

50 [(g)] (F) All prenatal care providers enrolled in the medicaid program
51 must provide prenatal care services to eligible service recipients
52 determined presumptively eligible for medical assistance but not yet
53 enrolled in the medical assistance program, and assist women in submit-
54 ting appropriate documentation to the social services district as
55 required by the commissioner.

1 S 6. Subdivision 1 and the opening paragraph of subdivision 2 of
2 section 365-a of the social services law, subdivision 1 as amended by
3 chapter 110 of the laws of 1971 and the opening paragraph of subdivision
4 2 as amended by chapter 41 of the laws of 1992, are amended to read as
5 follows:

6 [1.] The amount, nature and manner of providing medical assistance for
7 needy persons shall be determined by the public welfare official with
8 the advice of a physician and in accordance with the local medical plan,
9 this title, and the regulations of the department.

10 1. "BENCHMARK COVERAGE" SHALL MEAN PAYMENT OF PART OR ALL OF THE COST
11 OF MEDICALLY NECESSARY MEDICAL, DENTAL, AND REMEDIAL CARE, SERVICES, AND
12 SUPPLIES DESCRIBED IN SUBDIVISION TWO OF THIS SECTION, AND TO THE EXTENT
13 NOT INCLUDED THEREIN, ANY ESSENTIAL BENEFITS AS DEFINED IN 42 U.S.C.
14 18022(B), WITH THE EXCEPTION OF INSTITUTIONAL LONG TERM CARE SERVICES;
15 SUCH CARE, SERVICES AND SUPPLIES SHALL BE PROVIDED THROUGH THE MANAGED
16 CARE PROGRAM DESCRIBED IN SECTION THREE HUNDRED SIXTY-FOUR-J OF THIS
17 TITLE.

18 ["Medical assistance"] "STANDARD COVERAGE" shall mean payment of part
19 or all of the cost of medically necessary medical, dental and remedial
20 care, services and supplies, as authorized in this title or the regu-
21 lations of the department, which are necessary to prevent, diagnose,
22 correct or cure conditions in the person that cause acute suffering,
23 endanger life, result in illness or infirmity, interfere with such
24 person's capacity for normal activity, or threaten some significant
25 handicap and which are furnished an eligible person in accordance with
26 this title and the regulations of the department. Such care, services
27 and supplies shall include the following medical care, services and
28 supplies, together with such medical care, services and supplies
29 provided for in subdivisions three, four and five of this section, and
30 such medical care, services and supplies as are authorized in the regu-
31 lations of the department:

32 S 7. Subdivision 1 of section 366-a of the social services law, as
33 amended by section 60 of part C of chapter 58 of the laws of 2009, is
34 amended to read as follows:

35 1. Any person requesting medical assistance may make application
36 therefor [in person, through another in his behalf or by mail] IN ANY
37 FORM OR MANNER PERMITTED BY THE DEPARTMENT OF HEALTH, WHICH MAY INCLUDE
38 THE SUBMISSION OF: A WRITTEN APPLICATION to the social services official
39 of the county[, city or town, or to the service officer of the city or
40 town] in which the applicant resides or is found OR TO THE DEPARTMENT OF
41 HEALTH OR ITS AGENT; A PHONE APPLICATION; OR AN ON-LINE APPLICATION.
42 [In addition, in the case of a person who is sixty-five years of age or
43 older and is a patient in a state hospital for tuberculosis or for the
44 mentally disabled, applications may be made to the department or to a
45 social services official designated as the agent of the department.]
46 Notwithstanding any provision of law to the contrary, [a personal] AN
47 IN-PERSON interview with the applicant or with the person who made
48 application on his or her behalf shall not be required as part of a
49 determination of initial or continuing eligibility pursuant to this
50 title.

51 S 8. Paragraph (a) of subdivision 2 of section 366-a of the social
52 services law, as amended by section 60 of part C of chapter 58 of the
53 laws of 2009, is amended to read as follows:

54 (a) Upon receipt of such application, the appropriate social services
55 official, or the department of health or its agent [when the applicant
56 is a patient in a state hospital for the mentally disabled,] shall veri-

1 fy the eligibility of such applicant. In accordance with the regulations
2 of the department of health, it shall be the responsibility of the
3 applicant to provide information and documentation necessary for the
4 determination of initial and ongoing eligibility for medical assistance.
5 If an applicant or recipient is unable to provide necessary documenta-
6 tion, the [public welfare] SOCIAL SERVICES official OR THE DEPARTMENT OF
7 HEALTH OR ITS AGENT shall promptly cause an investigation to be made.
8 Where an investigation is necessary, sources of information other than
9 public records will be consulted only with permission of the applicant
10 or recipient. In the event that such permission is not granted by the
11 applicant or recipient, or necessary documentation cannot be obtained,
12 the social services official or the department of health or its agent
13 may suspend or deny medical assistance until such time as it may be
14 satisfied as to the applicant's or recipient's eligibility therefor.

15 S 9. The opening paragraph of subdivision 3 of section 366-a of the
16 social services law, as added by chapter 256 of the laws of 1966, is
17 amended to read as follows:

18 Upon the receipt of such application, and after the completion of any
19 investigation that shall be deemed necessary, the appropriate [public
20 welfare] SOCIAL SERVICES official[,] or the department OF HEALTH or its
21 agent [when the applicant is a patient in a state hospital for tubercu-
22 losis or for the mentally disabled,] shall

23 S 10. Paragraphs (b) and (c) of subdivision 5 of section 366-a of the
24 social services law, as added by section 52 of part A of chapter 1 of
25 the laws of 2002, are amended to read as follows:

26 (b) [The commissioner shall develop a simplified statewide recertif-
27 ication form for use in redetermining eligibility under this title. The
28 form shall include requests only for such information that is:

29 (i) reasonably necessary to determine continued eligibility for
30 medical assistance under this title; and

31 (ii) subject to change since the date of the recipient's initial
32 application.] THE REGULATIONS REQUIRED BY PARAGRAPH (A) OF THIS SUBDIVI-
33 SION SHALL PROVIDE, AT A MINIMUM, THAT:

34 (I) THE REDETERMINATION OF ELIGIBILITY WILL BE MADE WITHOUT REQUIRING
35 INFORMATION FROM THE RECIPIENT, IF POSSIBLE, BASED ON RELIABLE INFORMA-
36 TION POSSESSED OR AVAILABLE TO THE DEPARTMENT OF HEALTH OR ITS AGENT,
37 INCLUDING INFORMATION ACCESSED FROM DATABASES PURSUANT TO SUBDIVISION
38 EIGHT OF THIS SECTION;

39 (II) IF THE DEPARTMENT OF HEALTH OR ITS AGENT IS UNABLE TO RENEW
40 ELIGIBILITY BASED ON AVAILABLE INFORMATION, THE RECIPIENT WILL BE
41 REQUESTED TO SUPPLY ONLY SUCH INFORMATION AS IS REASONABLY NECESSARY TO
42 DETERMINE CONTINUED ELIGIBILITY FOR MEDICAL ASSISTANCE UNDER THIS TITLE
43 AND SUBJECT TO CHANGE SINCE THE DATE OF THE RECIPIENT'S INITIAL APPLICA-
44 TION; IF INCOME INFORMATION IS REQUESTED, THE RECIPIENT MAY ATTEST TO
45 SUCH INFORMATION UNLESS THE RECIPIENT IS ELIGIBLE UNDER SUBPARAGRAPH TWO
46 OF PARAGRAPH (C) OF SUBDIVISION ONE OF SECTION THREE HUNDRED SIXTY-SIX
47 OF THIS TITLE AND IS RECEIVING MEDICAL ASSISTANCE COVERAGE OF NURSING
48 FACILITY SERVICES;

49 (III) FOR PERSONS WHOSE MEDICAL ASSISTANCE ELIGIBILITY IS BASED ON
50 MODIFIED ADJUSTED GROSS INCOME, ELIGIBILITY MUST BE RENEWED ONCE EVERY
51 TWELVE MONTHS, AND NO MORE FREQUENTLY THAN ONCE EVERY TWELVE MONTHS,
52 UNLESS THE DEPARTMENT OF HEALTH OR ITS AGENT RECEIVES INFORMATION ABOUT
53 A CHANGE IN A RECIPIENT'S CIRCUMSTANCES THAT MAY AFFECT ELIGIBILITY; AND

54 (IV) ESTABLISH PROCEDURES FOR RENEWING AND REDETERMINING ELIGIBILITY
55 THAT COMPLY WITH THE REQUIREMENTS OF FEDERAL REGULATION AT 42 CFR
56 435.916 OR ANY SUCCESSOR REGULATION.

1 (c) [A personal] AN IN-PERSON interview with the recipient shall not
2 be required as part of a redetermination of eligibility pursuant to this
3 subdivision.

4 S 11. Paragraph (d) of subdivision 5 of section 366-a of the social
5 services law is REPEALED.

6 S 12. Paragraph (e) of subdivision 5 of section 366-a of the social
7 services law, as added by section 1 of part C of chapter 58 of the laws
8 of 2007, is amended to read as follows:

9 [(e)] (D) The commissioner of health shall verify the accuracy of the
10 information provided by [the] AN APPLICANT OR recipient [pursuant to
11 paragraph (d) of this subdivision] by matching it against information to
12 which the commissioner of health has access, including under subdivision
13 eight of this section. In the event [there is an inconsistency between]
14 the information reported by the recipient [and] IS NOT REASONABLY
15 COMPATIBLE WITH any information obtained by the commissioner of health
16 from other sources and such [inconsistency] INCOMPATIBILITY is material
17 to medical assistance eligibility, the commissioner of health shall
18 request that the recipient provide adequate documentation to verify his
19 or her place of residence or income, as applicable. In addition to the
20 documentation of residence and income authorized by this paragraph, the
21 commissioner of health is authorized to periodically require a reason-
22 able sample of recipients to provide documentation of residence and
23 income at recertification. The commissioner of health shall consult with
24 the medicaid inspector general regarding income and residence verifica-
25 tion practices and procedures necessary to maintain program integrity
26 and deter fraud and abuse.

27 S 13. Subdivision 11 of section 364-j of the social services law is
28 REPEALED.

29 S 14. Clause (D) of subparagraph (v) of paragraph (a) of subdivision 2
30 of section 369-ee of the social services law, as amended by section 67
31 of part C of chapter 58 of the laws of 2009, is amended, and a new
32 subparagraph (vi) is added to read as follows:

33 (D) is not described in clause (A), (B) or (C) of this subparagraph
34 and has gross family income equal to or less than two hundred percent of
35 the federal income official poverty line (as defined and updated by the
36 United States Department of Health and Human Services) for a family of
37 the same size; provided, however, that eligibility under this clause is
38 subject to sources of federal and non-federal funding for such purpose
39 described in section sixty-seven-a of [the] PART C OF chapter
40 FIFTY-EIGHT of the laws of two thousand nine [that added this clause] or
41 as may be available under the waiver agreement entered into with the
42 federal government under section eleven hundred fifteen of the federal
43 social security act, as jointly determined by the commissioner and the
44 director of the division of the budget. In no case shall state funds be
45 utilized to support the non-federal share of expenditures pursuant to
46 this subparagraph, provided however that the commissioner may demon-
47 strate to the United States department of health and human services the
48 existence of non-federally participating state expenditures as necessary
49 to secure federal funding under an eleven hundred fifteen waiver for the
50 purposes herein. Eligibility under this clause may be provided to resi-
51 dents of all counties or, at the joint discretion of the commissioner
52 and the director of the division of the budget, a subset of counties of
53 the state[.]; AND

54 (VI) MAKES APPLICATION FOR BENEFITS PURSUANT TO THIS TITLE ON OR
55 BEFORE DECEMBER THIRTY-FIRST, TWO THOUSAND THIRTEEN.

1 S 14-a. Subdivision 5 of section 369-ee of the social services law is
2 amended by adding a new paragraph (d) to read as follows:

3 (D) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (A) OF THIS SUBDIVI-
4 SION OR ANY OTHER PROVISION OF LAW, IN THE CASE OF A PERSON RECEIVING
5 HEALTH CARE SERVICES PURSUANT TO THIS TITLE ON JANUARY FIRST, TWO THOU-
6 SAND FOURTEEN, SUCH PERSON'S ELIGIBILITY SHALL BE RECERTIFIED AS SOON AS
7 PRACTICABLE THEREAFTER, AND SUCH PERSON'S COVERAGE UNDER THIS TITLE
8 SHALL END ON THE EARLIEST OF: (I) THE DATE THE PERSON IS ENROLLED IN A
9 QUALIFIED HEALTH PLAN OFFERED THROUGH A HEALTH INSURANCE EXCHANGE ESTAB-
10 LISHED IN ACCORDANCE WITH THE REQUIREMENTS OF THE FEDERAL PATIENT
11 PROTECTION AND AFFORDABLE CARE ACT (P.L. 111-148), AS AMENDED BY THE
12 FEDERAL HEALTH CARE AND EDUCATION ACT OF 2010 (P.L. 111-152); (II)
13 DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN; OR (III) THE DATE ON WHICH
14 THE DEPARTMENT OF HEALTH CEASES TO HAVE ALL NECESSARY APPROVALS UNDER
15 FEDERAL LAW AND REGULATION TO RECEIVE FEDERAL FINANCIAL PARTICIPATION,
16 UNDER THE PROGRAM DESCRIBED IN TITLE ELEVEN OF THIS ARTICLE, IN THE
17 COSTS OF HEALTH SERVICES PROVIDED PURSUANT TO THIS SECTION.

18 S 15. Sections 369-ee and 369-ff of the social services law are
19 REPEALED.

20 S 16. Subdivision 3 of section 367-a of the social services law is
21 amended by adding a new paragraph (e) to read as follows:

22 (E) (1) PAYMENT OF PREMIUMS FOR ENROLLING INDIVIDUALS IN QUALIFIED
23 HEALTH PLANS OFFERED THROUGH A HEALTH INSURANCE EXCHANGE ESTABLISHED
24 PURSUANT TO THE FEDERAL PATIENT PROTECTION AND AFFORDABLE CARE ACT (P.L.
25 111-148), AS AMENDED BY THE FEDERAL HEALTH CARE AND EDUCATION RECONCIL-
26 IATION ACT OF 2010 (P.L. 111-152), TOGETHER WITH THE COSTS OF APPLICABLE
27 CO-INSURANCE, DEDUCTIBLE AMOUNTS, AND OTHER COST-SHARING OBLIGATIONS,
28 SHALL BE AVAILABLE TO INDIVIDUALS WHO:

29 (I) IMMEDIATELY PRIOR TO BEING ENROLLED IN THE QUALIFIED HEALTH PLAN,
30 OR TO THE EXPIRATION OR REPEAL OF THE FAMILY HEALTH PLUS PROGRAM, WERE
31 ELIGIBLE UNDER SUCH PROGRAM AND ENROLLED IN A FAMILY HEALTH INSURANCE
32 PLAN AS A PARENT OR STEPPARENT OF A CHILD UNDER THE AGE OF TWENTY-ONE,
33 OR AS A CHILD NINETEEN OR TWENTY YEARS OF AGE LIVING WITH HIS OR HER
34 PARENT, AND WHOSE MAGI HOUSEHOLD INCOME, AS DEFINED IN SUBPARAGRAPH
35 EIGHT OF PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION THREE HUNDRED
36 SIXTY-SIX OF THIS TITLE, EXCEEDS ONE HUNDRED THIRTY-THREE PERCENT OF THE
37 FEDERAL POVERTY LINE FOR THE APPLICABLE FAMILY SIZE;

38 (II) ARE NOT OTHERWISE ELIGIBLE FOR MEDICAL ASSISTANCE UNDER THIS
39 TITLE; AND

40 (III) ARE ENROLLED IN A QUALIFIED HEALTH PLAN IN THE SILVER LEVEL, AS
41 DEFINED IN 42 U.S.C. 18022.

42 (2) PAYMENT PURSUANT TO THIS PARAGRAPH SHALL BE FOR PREMIUMS, CO-INSU-
43 RANCE, DEDUCTIBLES, AND OTHER COST-SHARING OBLIGATIONS OF THE INDIVIDUAL
44 UNDER THE QUALIFIED HEALTH PLAN TO THE EXTENT THAT THEY EXCEED THE
45 AMOUNT THAT WOULD HAVE BEEN THE INDIVIDUAL'S CO-PAYMENT OBLIGATION
46 AMOUNT UNDER THE FAMILY HEALTH PLUS PROGRAM, AND SHALL CONTINUE ONLY IF
47 AND FOR SO LONG AS THE INDIVIDUAL'S MAGI HOUSEHOLD INCOME EXCEEDS ONE
48 HUNDRED THIRTY-THREE PERCENT, BUT DOES NOT EXCEED ONE HUNDRED FIFTY
49 PERCENT, OF THE FEDERAL POVERTY LINE FOR THE APPLICABLE FAMILY SIZE.

50 (3) THE COMMISSIONER OF HEALTH IS AUTHORIZED TO SUBMIT AMENDMENTS TO
51 THE STATE PLAN FOR MEDICAL ASSISTANCE AND/OR SUBMIT ONE OR MORE APPLICA-
52 TIONS FOR WAIVERS OF THE FEDERAL SOCIAL SECURITY ACT AS MAY BE NECESSARY
53 TO RECEIVE FEDERAL FINANCIAL PARTICIPATION IN THE COSTS OF PAYMENTS MADE
54 PURSUANT TO THIS PARAGRAPH; PROVIDED FURTHER, HOWEVER, THAT NOTHING IN
55 THIS SUBPARAGRAPH SHALL BE DEEMED TO AFFECT PAYMENTS FOR PREMIUMS,
56 CO-INSURANCE, DEDUCTIBLES, OR OTHER COST-SHARING OBLIGATIONS PURSUANT TO

1 THIS PARAGRAPH IF FEDERAL FINANCIAL PARTICIPATION IN THE COSTS OF SUCH
2 PAYMENTS IS NOT AVAILABLE.

3 S 17. Section 2510 of the public health law is amended by adding a new
4 subdivision 13 to read as follows:

5 13. "HOUSEHOLD INCOME" MEANS THE SUM OF THE MODIFIED ADJUSTED GROSS
6 INCOME OF EVERY INDIVIDUAL INCLUDED IN A CHILD'S HOUSEHOLD CALCULATED IN
7 ACCORDANCE WITH APPLICABLE FEDERAL LAW AND REGULATIONS, AS MAY BE
8 AMENDED. THIS DEFINITION SHALL BE EFFECTIVE ON JANUARY FIRST, TWO THOU-
9 SAND FOURTEEN OR A LATER DATE TO BE DETERMINED BY THE COMMISSIONER
10 CONTINGENT UPON THE REQUIREMENTS OF THE PATIENT PROTECTION AND AFFORDA-
11 BLE CARE ACT OF 2010 BEING FULLY IMPLEMENTED BY THE STATE AND AS
12 APPROVED BY THE SECRETARY OF THE DEPARTMENT OF HEALTH AND HUMAN
13 SERVICES.

14 S 18. Section 2510 of the public health law is amended by adding two
15 new subdivisions 14 and 15 to read as follows:

16 14. "STATE ENROLLMENT CENTER" MEANS THE CENTRALIZED SYSTEM AND OPERA-
17 TION OF ELIGIBILITY DETERMINATIONS BY THE STATE OR ITS CONTRACTOR FOR
18 ALL INSURANCE AFFORDABILITY PROGRAMS, INCLUDING THE CHILD HEALTH INSUR-
19 ANCE PROGRAM ESTABLISHED PURSUANT TO THIS TITLE.

20 15. "INSURANCE AFFORDABILITY PROGRAMS" MEANS THOSE PROGRAMS SET FORTH
21 IN SECTION 435.4 OF TITLE 42 OF THE CODE OF FEDERAL REGULATIONS.

22 S 19. Subparagraphs (iv) and (vi) of paragraph (f) of subdivision 2 of
23 section 2511 of the public health law, subparagraph (iv) as added by
24 section 44 of part A of chapter 1 of the laws of 2002 and subparagraph
25 (vi) as added by section 45-b of part C of chapter 58 of the laws of
26 2008, are amended to read as follows:

27 (iv) In the event a household does not provide income documentation
28 required by subparagraph (iii) of this paragraph within two months of
29 the approved organization's OR STATE ENROLLMENT CENTER'S request, WHICH-
30 EVER IS APPLICABLE, the approved organization OR STATE ENROLLMENT CENTER
31 shall disenroll the child at the end of such two month period. Except as
32 provided in paragraph (c) of subdivision five-a of this section,
33 approved organizations shall not be obligated to repay subsidy payments
34 made by the state on behalf of children enrolled during this two month
35 period.

36 (vi) Any income verification response by the department of taxation
37 and finance pursuant to subparagraphs (i) and (ii) of this paragraph
38 shall not be a public record and shall not be released by the commis-
39 sioner, the department of taxation and finance [or], an approved organ-
40 ization, OR THE STATE ENROLLMENT CENTER, except pursuant to this para-
41 graph. Information disclosed pursuant to this paragraph shall be limited
42 to information necessary for verification. Information so disclosed
43 shall be kept confidential by the party receiving such information. Such
44 information shall be expunged within a reasonable time to be determined
45 by the commissioner and the department of taxation and finance.

46 S 20. Paragraph (j) of subdivision 2 of section 2511 of the public
47 health law, as added by section 45 of part A of chapter 1 of the laws of
48 2002, is amended to read as follows:

49 (j) Where an application for recertification of coverage under this
50 title contains insufficient information for a final determination of
51 eligibility for continued coverage, a child shall be presumed eligible
52 for a period not to exceed the earlier of two months beyond the preced-
53 ing period of eligibility or the date upon which a final determination
54 of eligibility is made based on the submission of additional data. In
55 the event such additional information is not submitted within two months
56 of the approved organization's OR STATE ENROLLMENT CENTER'S request,

1 WHICHEVER IS APPLICABLE, the approved organization OR STATE ENROLLMENT
2 CENTER shall disenroll the child following the expiration of such two
3 month period. Except as provided in paragraph (c) of subdivision five-a
4 of this section, approved organizations shall not be obligated to repay
5 subsidy payments received on behalf of children enrolled during this two
6 month period.

7 S 21. Subdivision 4 of section 2511 of the public health law, as
8 amended by section 70 of part B of chapter 58 of the laws of 2005, is
9 amended to read as follows:

10 4. Households shall report to the approved organization OR STATE
11 ENROLLMENT CENTER, WHICHEVER IS APPLICABLE, within thirty days, any
12 changes in New York state residency or health care coverage under insur-
13 ance that may make a child ineligible for subsidy payments pursuant to
14 this section. Any individual who, with the intent to obtain benefits,
15 willfully misstates income or residence to establish eligibility pursu-
16 ant to subdivision two of this section or willfully fails to notify an
17 approved organization OR STATE ENROLLMENT CENTER of a change in resi-
18 dence or health care coverage pursuant to this subdivision shall repay
19 such subsidy to the commissioner. Individuals seeking to enroll children
20 for coverage shall be informed that such willful misstatement or failure
21 to notify shall result in such liability.

22 S 22. The subdivision heading and paragraphs (a) and (b) of subdivi-
23 sion 5-a of section 2511 of the public health law, the subdivision head-
24 ing and paragraph (a) as added by chapter 170 of the laws of 1994 and
25 paragraph (b) as amended by section 71 of part B of chapter 58 of the
26 laws of 2005, are amended to read as follows:

27 Obligations of approved organizations OR THE STATE ENROLLMENT CENTER.
28 (a) An approved organization OR STATE ENROLLMENT CENTER, WHICHEVER IS
29 APPLICABLE, shall have the obligation to review all information provided
30 pursuant to subdivision two of this section and shall not certify or
31 recertify a child as eligible for a subsidy payment unless the child
32 meets the eligibility criteria.

33 (b) An approved organization OR STATE ENROLLMENT CENTER, WHICHEVER IS
34 APPLICABLE, shall promptly review all information relating to a poten-
35 tial change in eligibility based on information provided pursuant to
36 subdivision four of this section. Within at least thirty days after
37 receipt of such information, the approved organization OR STATE ENROLL-
38 MENT CENTER shall make a determination whether the child is still eligi-
39 ble for a subsidy payment and shall notify the household and the commis-
40 sioner if it determines the child is not eligible for a subsidy payment.

41 S 23. Paragraph (a) of subdivision 11 of section 2511 of the public
42 health law, as amended by section 37 of part A of chapter 58 of the laws
43 of 2007, is amended to read as follows:

44 (a) An approved organization shall submit required reports and infor-
45 mation to the commissioner in such form and at times, at least annually,
46 as may be required by the commissioner and specified in contracts and
47 official department of health administrative guidance, in order to eval-
48 uate the operations and results of the program and quality of care being
49 provided by such organizations. Such reports and information shall
50 include, but not be limited to, enrollee demographics (APPLICABLE ONLY
51 UNTIL THE STATE ENROLLMENT CENTER IS IMPLEMENTED), program utilization
52 and expense, patient care outcomes and patient specific medical informa-
53 tion, including encounter data maintained by an approved organization
54 for purposes of quality assurance and oversight. Any information or
55 data collected pursuant to this paragraph shall be kept confidential in

1 accordance with Title XXI of the federal social security act or any
2 other applicable state or federal law.

3 S 24. Subdivision 12 of section 2511 of the public health law, as
4 amended by chapter 2 of the laws of 1998, is amended to read as follows:

5 12. The commissioner shall, in consultation with the superintendent,
6 establish procedures to coordinate the child health insurance plan with
7 the medical assistance program, including but not limited to, procedures
8 to maximize enrollment of eligible children under those programs by
9 identification and transfer of children who are eligible or who become
10 eligible to receive medical assistance and procedures to facilitate
11 changes in enrollment status for children who are ineligible for subsi-
12 dies under this section and for children who are no longer eligible for
13 medical assistance in order to facilitate and ensure continuity of
14 coverage. The commissioner shall review, on an annual basis, the eligi-
15 bility verification and recertification procedures of approved organiza-
16 tions under this title to insure the appropriate enrollment of children.
17 Such review shall include, but not be limited to, an audit of a statis-
18 tically representative sample of cases from among all approved organiza-
19 tions AND SHALL BE APPLICABLE TO ANY PERIOD DURING WHICH AN APPROVED
20 ORGANIZATION'S RESPONSIBILITIES INCLUDE DETERMINING ELIGIBILITY. In the
21 event such review and audit reveals cases which do not meet the eligi-
22 bility criteria for coverage set forth in this section, that information
23 shall be forwarded to the approved organization and the commissioner for
24 appropriate action.

25 S 25. Paragraph (e) of subdivision 12-a of section 2511 of the public
26 health law, as added by chapter 2 of the laws of 1998, is amended and a
27 new paragraph (f) is added to read as follows:

28 (e) standards and procedures for the imposition of penalties for
29 substantial noncompliance, which may include, but not be limited to,
30 financial penalties in addition to penalties set forth in section twelve
31 of this chapter and consistent with applicable federal standards, as
32 specified in contracts, and contract termination[.]; PROVIDED HOWEVER

33 (F) AUDIT STANDARDS AND PROCEDURES ESTABLISHED PURSUANT TO THIS
34 SECTION, INCLUDING PENALTIES, SHALL BE APPLICABLE TO ELIGIBILITY DETER-
35 MINATIONS MADE BY APPROVED ORGANIZATIONS ONLY FOR PERIODS DURING WHICH
36 AN APPROVED ORGANIZATION'S RESPONSIBILITIES INCLUDE MAKING SUCH ELIGI-
37 BILITY DETERMINATIONS.

38 S 26. Paragraph (e) and subparagraphs (i), (ii), (iii) and (v) of
39 paragraph (f) of subdivision 2 of section 2511 of the public health law,
40 paragraph (e) as added by chapter 170 of the laws of 1994 and relettered
41 by chapter 2 of the laws of 1998, and subparagraphs (i) and (ii) of
42 paragraph (f) as amended by section 6 of part B of chapter 58 of the
43 laws of 2010, subparagraph (iii) of paragraph (f) as amended by chapter
44 535 of the laws of 2010, and subparagraph (v) of paragraph (f) as
45 amended by section 7 of part J of chapter 82 of the laws of 2002, are
46 amended to read as follows:

47 (e) is a resident of New York state. Such residency shall be [demon-
48 strated by] ATTESTED TO BY THE APPLICANT FOR INSURANCE, PROVIDED HOWEV-
49 ER, THE COMMISSIONER MAY REQUIRE adequate proof[, as determined by the
50 commissioner,] of a New York state street address IN LIMITED CIRCUM-
51 STANCES WHEN THERE IS AN INCONSISTENCY WITH RESIDENCY INFORMATION FROM
52 OTHER DATA SOURCES. [If the child has no street address, such proof may
53 include, but not be limited to, school records or other documentation
54 determined by the commissioner.]

55 (i) In order to establish income eligibility under this subdivision at
56 initial application, a household shall provide [such documentation spec-

1 ified in subparagraph (iii) of this paragraph, as necessary and suffi-
2 cient to determine a child's financial eligibility for a subsidy payment
3 under this title] THE SOCIAL SECURITY NUMBERS FOR EACH PARENT AND LEGAL-
4 LY RESPONSIBLE ADULT WHO IS A MEMBER OF THE HOUSEHOLD AND WHOSE INCOME
5 IS AVAILABLE TO THE CHILD, SUBJECT TO SUBPARAGRAPH (V) OF THIS
6 PARAGRAPH. The commissioner [may verify the accuracy of such income
7 information provided by the household by matching it against] SHALL
8 DETERMINE ELIGIBILITY BASED ON income information contained in databases
9 to which the commissioner has access, including the state's wage report-
10 ing system pursuant to subdivision five of section one hundred seventy-
11 one-a of the tax law and by means of an income verification performed
12 pursuant to a cooperative agreement with the department of taxation and
13 finance pursuant to subdivision four of section one hundred
14 seventy-one-b of the tax law. THE COMMISSIONER MAY REQUIRE AN ATTESTA-
15 TION BY THE HOUSEHOLD THAT THE INCOME INFORMATION OBTAINED FROM ELEC-
16 TRONIC DATA SOURCES IS ACCURATE. SUCH ATTESTATION SHALL INCLUDE ANY
17 OTHER HOUSEHOLD INCOME INFORMATION NOT OBTAINED FROM AN ELECTRONIC DATA
18 SOURCE THAT IS NECESSARY TO DETERMINE A CHILD'S FINANCIAL ELIGIBILITY
19 FOR A SUBSIDY PAYMENT UNDER THIS TITLE. IF THE ATTESTATION IS REASONABLY
20 COMPATIBLE WITH INFORMATION OBTAINED FROM AVAILABLE DATA SOURCES, NO
21 FURTHER INFORMATION OR DOCUMENTATION IS REQUIRED. IF THE ATTESTATION IS
22 NOT REASONABLY COMPATIBLE WITH INFORMATION OBTAINED FROM AVAILABLE DATA
23 SOURCES AND A REASONABLE EXPLANATION IS NOT PROVIDED BY THE HOUSEHOLD,
24 DOCUMENTATION MAY BE REQUIRED AS SPECIFIED IN SUBPARAGRAPH (III) OF THIS
25 PARAGRAPH.

26 (ii) In order to establish income eligibility under this subdivision
27 at recertification, [a household shall attest to all information regard-
28 ing the household's income that is necessary and sufficient to determine
29 a child's financial eligibility for a subsidy payment under this title
30 and shall provide the social security numbers for each parent and legal-
31 ly responsible adult who is a member of the household and whose income
32 is available to the child, subject to subparagraph (v) of this para-
33 graph. The] THE commissioner [may verify the accuracy of such income
34 information provided by the household by matching it against income]
35 SHALL MAKE A REDETERMINATION OF ELIGIBILITY WITHOUT REQUIRING INFORMA-
36 TION FROM THE INDIVIDUAL IF ABLE TO DO SO BASED ON RELIABLE INFORMATION
37 CONTAINED IN THE INDIVIDUAL'S ENROLLMENT FILE OR OTHER MORE CURRENT
38 information contained in databases to which the commissioner has access,
39 including the state's wage reporting system and by means of an income
40 verification performed pursuant to a cooperative agreement with the
41 department of taxation and finance pursuant to subdivision four of
42 section one hundred seventy-one-b of the tax law. THE COMMISSIONER MAY
43 REQUIRE AN ATTESTATION BY THE HOUSEHOLD THAT THE INCOME INFORMATION
44 CONTAINED IN THE ENROLLMENT FILE OR OBTAINED FROM ELECTRONIC DATA SOURC-
45 ES IS ACCURATE. SUCH ATTESTATION SHALL INCLUDE ANY OTHER HOUSEHOLD
46 INCOME INFORMATION NOT OBTAINED FROM AN ELECTRONIC DATA SOURCE THAT IS
47 NECESSARY TO REDETERMINE A CHILD'S FINANCIAL ELIGIBILITY FOR A SUBSIDY
48 PAYMENT UNDER THIS TITLE. In the event that there is an inconsistency
49 between the income information attested to by the household and any
50 information obtained by the commissioner from other sources pursuant to
51 this subparagraph, and such inconsistency is material to the household's
52 eligibility for a subsidy payment under this title, the commissioner
53 [shall] MAY require the [approved organization to obtain] HOUSEHOLD TO
54 PROVIDE income documentation [from the household] as specified in
55 subparagraph (iii) of this paragraph.

1 (iii) IF THE ATTESTATION OF HOUSEHOLD INCOME REQUIRED BY SUBPARAGRAPHS
2 (I) AND (II) OF THIS PARAGRAPH IS NOT REASONABLY COMPATIBLE WITH INFOR-
3 MATION OBTAINED FROM DATA SOURCES, FURTHER INFORMATION, INCLUDING
4 DOCUMENTATION, MAY BE REQUIRED. Income documentation shall include, but
5 not be limited to, one or more of the following for each parent and
6 legally responsible adult who is a member of the household and whose
7 income is available to the child;
8 (A) current annual income tax returns;
9 (B) paycheck stubs;
10 (C) written documentation of income from all employers; or
11 (D) written documentation of income eligibility of a child for free or
12 reduced breakfast or lunch through the school meal program certified by
13 the child's school, provided that:
14 (I) the commissioner may verify the accuracy of the information
15 provided in the same manner and way as provided for in subparagraph (ii)
16 of this paragraph; and
17 (II) such documentation may not be suitable proof of income in the
18 event of a material inconsistency in income after the commissioner has
19 performed verification pursuant to subparagraph (ii) of this paragraph;
20 or
21 (E) other documentation of income (earned or unearned) as determined
22 by the commissioner, provided, however, such documentation shall set
23 forth the source of such income.
24 (v) In the event a household chooses not to provide the social securi-
25 ty numbers required by [subparagraph] SUBPARAGRAPHS (I) AND (ii) of this
26 paragraph, such household shall provide income documentation specified
27 in subparagraph (iii) of this paragraph as a condition of the child's
28 enrollment. Nothing in this paragraph shall be construed as obligating a
29 household to provide social security numbers of parents or legally
30 responsible adults as a condition of a child's enrollment or eligibility
31 for a subsidy payment under this title.
32 S 27. Subparagraph (ii) of paragraph (g) of subdivision 2 of section
33 2511 of the public health law, as amended by section 29 of part A of
34 chapter 58 of the laws of 2007, is amended to read as follows:
35 (ii) Effective September first two thousand seven, THROUGH MARCH THIR-
36 TY-FIRST, TWO THOUSAND FOURTEEN OR A LATER DATE TO BE DETERMINED BY THE
37 COMMISSIONER CONTINGENT UPON THE REQUIREMENTS OF THE PATIENT PROTECTION
38 AND AFFORDABLE CARE ACT OF 2010 BEING FULLY IMPLEMENTED BY THE DATE AND
39 AS APPROVED BY THE SECRETARY OF THE DEPARTMENT OF HEALTH AND HUMAN
40 SERVICES, temporary enrollment pursuant to subparagraph (i) of this
41 paragraph shall be provided only to children who apply for recertif-
42 ication of coverage under this title who appear to be eligible for
43 medical assistance under title eleven of article five of the social
44 services law.
45 S 28. Paragraph (a) of subdivision 2-b of section 2511 of the public
46 health law, as added by section 5 of part B of chapter 58 of the laws of
47 2010, is amended to read as follows:
48 (a) Effective October first, two thousand ten, for purposes of claim-
49 ing federal financial participation under paragraph nine of subsection
50 (c) of section twenty-one hundred five of the federal social security
51 act[,] for individuals declaring to be citizens at initial application,
52 AND, EFFECTIVE JANUARY FIRST, TWO THOUSAND FOURTEEN OR A LATER DATE TO
53 BE DETERMINED BY THE COMMISSIONER CONTINGENT UPON THE REQUIREMENTS OF
54 THE PATIENT PROTECTION AND AFFORDABLE CARE ACT OF 2010 BEING FULLY
55 IMPLEMENTED BY THE STATE AND AS APPROVED BY THE SECRETARY OF THE DEPART-

MENT OF HEALTH AND HUMAN SERVICES, FOR INDIVIDUALS WHO ARE LAWFULLY RESIDING IN THE COUNTRY, a household shall provide:

(i) the social security number for the applicant to be verified by the commissioner in accordance with a process established by the social security administration pursuant to federal law, or

(ii) documentation of citizenship and identity of the applicant consistent with requirements under the medical assistance program, as specified by the commissioner on the initial application.

S 29. Paragraph (d) of subdivision 9 of section 2510 of the public health law, as added by section 72-a of part C of chapter 58 of the laws of 2009, is amended to read as follows:

(d) for periods on or after July first, two thousand nine, amounts as follows:

(i) no payments are required for eligible children whose family [gross] household income is less than one hundred sixty percent of the non-farm federal poverty level and for eligible children who are American Indians or Alaskan Natives, as defined by the U.S. Department of Health and Human Services, whose family [gross] household income is less than two hundred fifty-one percent of the non-farm federal poverty level; and

(ii) nine dollars per month for each eligible child whose family [gross] household income is between one hundred sixty percent and two hundred twenty-two percent of the non-farm federal poverty level, but no more than twenty-seven dollars per month per family; and

(iii) fifteen dollars per month for each eligible child whose family [gross] household income is between two hundred twenty-three percent and two hundred fifty percent of the non-farm federal poverty level, but no more than forty-five dollars per month per family; and

(iv) thirty dollars per month for each eligible child whose family [gross] household income is between two hundred fifty-one percent and three hundred percent of the non-farm federal poverty level, but no more than ninety dollars per month per family;

(v) forty-five dollars per month for each eligible child whose family [gross] household income is between three hundred one percent and three hundred fifty percent of the non-farm federal poverty level, but no more than one hundred thirty-five dollars per month per family; and

(vi) sixty dollars per month for each eligible child whose family [gross] household income is between three hundred fifty-one percent and four hundred percent of the non-farm federal poverty level, but no more than one hundred eighty dollars per month per family.

S 30. Subparagraph (iii) of paragraph (a) of subdivision 2 of section 2511 of the public health law, as amended by section 32 of part B of chapter 58 of the laws of 2008, is amended to read as follows:

(iii) effective September first, two thousand eight, resides in a household having a [gross] household income at or below four hundred percent of the non-farm federal poverty level (as defined and updated by the United States department of health and human services);

S 31. Subparagraph (ii) of paragraph (d) of subdivision 2 of section 2511 of the public health law, as amended by section 33 of part A of chapter 58 of the laws of 2007, clause (B) as amended by section 3 of part 00 of chapter 57 of the laws of 2008, is amended to read as follows:

(ii) (A) The implementation of this paragraph for a child residing in a household having a [gross] household income at or below two hundred fifty percent of the non-farm federal poverty level (as defined and updated by the United States department of health and human services)

1 shall take effect only upon the commissioner's finding that insurance
2 provided under this title is substituting for coverage under group
3 health plans in excess of a percentage specified by the secretary of the
4 federal department of health and human services. The commissioner shall
5 notify the legislature prior to implementation of this paragraph.

6 (B) The implementation of clauses (A), (B), (C), (D), (E), (F), (G)
7 and (I) of subparagraph (i) of this paragraph for a child residing in a
8 household having a [gross] household income between two hundred fifty-
9 one and four hundred percent of the non-farm federal poverty level (as
10 defined and updated by the United States department of health and human
11 services) shall take effect September first, two thousand eight;
12 provided however, the entirety of subparagraph (i) of this paragraph
13 shall take effect and be applied to such children on the date federal
14 financial participation becomes available for such population in accord-
15 ance with the state's Title XXI child health plan. The commissioner
16 shall monitor the number of children who are subject to the waiting
17 period established pursuant to this clause.

18 S 32. Clauses (A) and (B) of subparagraph (i) of paragraph (b) of
19 subdivision 18 of section 2511 of the public health law, as added by
20 section 31 of part A of chapter 58 of the laws of 2007, are amended to
21 read as follows:

22 (A) participation in the program for a child who resides in a house-
23 hold having a [gross] household income at or below two hundred fifty
24 percent of the non-farm federal poverty level (as defined and updated by
25 the United States department of health and human services) shall be
26 voluntary and an eligible child may disenroll from the premium assist-
27 ance program at any time and enroll in individual coverage under this
28 title; and

29 (B) participation in the program for a child who resides in a house-
30 hold having a [gross] household income between two hundred fifty-one and
31 four hundred percent of the non-farm federal poverty level (as defined
32 and updated by the United States department of health and human
33 services) and meets certain eligibility criteria shall be mandatory. A
34 child in this income group who meets the criteria for enrollment in the
35 premium assistance program shall not be eligible for individual coverage
36 under this title;

37 S 33. Subparagraph (iv) of paragraph (b) and paragraph (d) of subdivi-
38 sion 9 of section 2511 of the public health law, as amended by section
39 18-a of chapter 2 of the laws of 1998, are amended to read as follows:

40 (iv) outstationing of persons who are authorized to provide assistance
41 to families in completing the enrollment application process under this
42 title and title eleven of article five of the social services law,
43 [including the conduct of personal interviews pursuant to section three
44 hundred sixty-six-a of the social services law and personal interviews
45 required upon recertification under such section of the social services
46 law,] in locations, such as community settings, which are geographically
47 accessible to large numbers of children who may be eligible for benefits
48 under such titles, and at times, including evenings and weekends, when
49 large numbers of children who may be eligible for benefits under such
50 titles are likely to be encountered. Persons outstationed in accordance
51 with this subparagraph shall be authorized to make determinations of
52 presumptive eligibility in accordance with paragraph (g) of subdivision
53 two of section two thousand five hundred and eleven of this title; and

54 (d) Subject to the availability of funds therefor, training shall be
55 provided for outstationed persons and employees of approved organiza-
56 tions to enable them to disseminate information, AND facilitate the

1 completion of the application process under this subdivision[, and
2 conduct personal interviews required by section three hundred
3 sixty-six-a of the social services law and personal interviews required
4 upon recertification under such section of the social services law].

5 S 33-a. Subdivision 5 of section 365-n of the social services law, as
6 added by section 6 of part F of chapter 56 of the laws of 2012, is
7 amended to read as follows:

8 5. Notwithstanding any inconsistent provision of sections one hundred
9 twelve and one hundred sixty-three of the state finance law, or sections
10 one hundred forty-two and one hundred forty-three of the economic devel-
11 opment law, or any other contrary provision of law, the commissioner is
12 authorized to amend the terms of contracts awarded prior to the effec-
13 tive date of this section, including a contract entered into pursuant to
14 subdivision twenty-four of section two hundred six of the public health
15 law, as added by section thirty-nine of part C of chapter fifty-eight of
16 the laws of two thousand eight, without a competitive bid or request for
17 proposal process, upon a determination that the existing contractor is
18 qualified to provide assistance with one or more functions established
19 in subdivision two of this section, OR NECESSARY TO COMPLY WITH THE
20 PROVISIONS OF THE FEDERAL PATIENT PROTECTION AND AFFORDABLE CARE ACT
21 (P.L. 111-148), AS AMENDED BY THE FEDERAL HEALTH CARE AND EDUCATION
22 RECONCILIATION ACT OF 2010 (P.L. 111-152). Such amendments shall be
23 limited to implementation of: (i) automation enhancements, including but
24 not limited to, the Medicare savings program and the family planning
25 benefit program; (ii) processes for verification of third party insur-
26 ance and processing enrollment in medical assistance with third party
27 health insurance; (iii) procedures that will increase efficiencies at
28 enrollment centers; (iv) an asset verification system; and (v) processes
29 to comply with ANY HEALTH CARE RELATED PROVISIONS OF THE AFOREMENTIONED
30 federal [law] PUBLIC LAWS, including, but not limited to, the use of
31 modified adjusted gross income in eligibility determinations.

32 S 34. Paragraphs 9 and 10 of subsection (a) of section 2101 of the
33 insurance law, as added by chapter 687 of the laws of 2003, are amended
34 and a new paragraph 11 is added to read as follows:

35 (9) a person who is not a resident of this state who sells, solicits
36 or negotiates a contract of insurance for commercial property/casualty
37 risks to an insured with risks located in more than one state insured
38 under that contract, provided that such person is otherwise licensed as
39 an insurance producer to sell, solicit or negotiate that insurance in
40 the state where the insured maintains its principal place of business
41 and the contract of insurance insures risks located in that state; [or]

42 (10) any salaried full-time employee who counsels or advises his or
43 her employer relative to the insurance interests of the employer or of
44 the subsidiaries or business affiliates of the employer provided that
45 the employee does not sell or solicit insurance or receive a commis-
46 sion[.]; OR

47 (11) ANY PERSON WHO HAS RECEIVED A GRANT FROM AND HAS BEEN CERTIFIED
48 BY THE HEALTH BENEFIT EXCHANGE ESTABLISHED PURSUANT TO SECTION 1311 OF
49 THE AFFORDABLE CARE ACT, 42 U.S.C. S 18031, TO ACT AS A NAVIGATOR, AS
50 SUCH TERM IS USED IN 42 U.S.C. S 18031(I), PROVIDED THAT THE PERSON HAS
51 COMPLETED THE TRAINING REQUIRED BY THE HEALTH BENEFIT EXCHANGE.

52 S 35. Paragraphs 8 and 9 of subsection (c) of section 2101 of the
53 insurance law, paragraph 8 as amended and paragraph 9 as added by
54 section 5 of part I of chapter 61 of the laws of 2011, are amended and a
55 new paragraph 10 is added to read as follows:

1 (8) a person who is not a resident of this state who sells, solicits
2 or negotiates a contract for commercial property/casualty risks to an
3 insured with risks located in more than one state insured under that
4 contract, provided that such person is otherwise licensed as an insur-
5 ance producer to sell, solicit or negotiate that insurance in the state
6 where the insured maintains its principal place of business and the
7 contract of insurance insures risks located in that state; [or]

8 (9) a person who is not a resident of this state who sells, solicits
9 or negotiates a contract of property/casualty insurance, as defined in
10 paragraph six of subsection (x) of this section, of an insurer not
11 authorized to do business in this state, provided that: (A) the
12 insured's home state is a state other than this state; and (B) such
13 person is otherwise licensed to sell, solicit or negotiate excess line
14 insurance in the insured's home state[.]; OR

15 (10) ANY PERSON WHO HAS RECEIVED A GRANT FROM AND HAS BEEN CERTIFIED
16 BY THE HEALTH BENEFIT EXCHANGE ESTABLISHED PURSUANT TO SECTION 1311 OF
17 THE AFFORDABLE CARE ACT, 42 U.S.C. S 18031, TO ACT AS A NAVIGATOR, AS
18 SUCH TERM IS USED IN 42 U.S.C. S 18031(I), INCLUDING ANY PERSON EMPLOYED
19 BY A CERTIFIED NAVIGATOR, PROVIDED THAT THE PERSON HAS COMPLETED THE
20 TRAINING REQUIRED BY THE HEALTH BENEFIT EXCHANGE.

21 S 36. Paragraphs 10 and 11 of subsection (k) of section 2101 of the
22 insurance law, paragraph 10 as amended and paragraph 11 as added by
23 section 6 of part I of chapter 61 of the laws of 2011, are amended and a
24 new paragraph 12 is added to read as follows:

25 (10) any salaried full-time employee who counsels or advises his or
26 her employer relative to the insurance interests of the employer or of
27 the subsidiaries or business affiliates of the employer, provided that
28 the employee does not sell or solicit insurance or receive a commission;
29 [or]

30 (11) a person who is not a resident of this state who sells, solicits
31 or negotiates a contract of property/casualty insurance, as defined in
32 paragraph six of subsection (x) of this section, of an insurer not
33 authorized to do business in this state, provided that: (A) the
34 insured's home state is a state other than this state; and (B) such
35 person is otherwise licensed to sell, solicit or negotiate excess line
36 insurance in the insured's home state[.]; OR

37 (12) ANY PERSON WHO HAS RECEIVED A GRANT FROM AND HAS BEEN CERTIFIED
38 BY THE HEALTH BENEFIT EXCHANGE ESTABLISHED PURSUANT TO SECTION 1311 OF
39 THE AFFORDABLE CARE ACT, 42 U.S.C. S 18031 TO ACT AS A NAVIGATOR, AS
40 SUCH TERM IS USED IN 42 U.S.C. S 18031(I), INCLUDING ANY PERSON EMPLOYED
41 BY A CERTIFIED NAVIGATOR, PROVIDED THAT THE PERSON HAS COMPLETED THE
42 TRAINING REQUIRED BY THE HEALTH BENEFIT EXCHANGE.

43 S 37. Subparagraphs (B) and (C) of paragraph 4 of subsection (b) of
44 section 2102 of the insurance law, are amended and a new subparagraph
45 (D) is added to read as follows:

46 (B) actuaries or certified public accountants who provide information,
47 recommendations, advice or services in their professional capacity, if
48 neither they nor their employer receive any compensation directly or
49 indirectly on account of any insurance, bond, annuity or pension
50 contract that results in whole or part from such information, recommen-
51 dation, advice or services; [or]

52 (C) regular salaried officers or employees of an insurer who devote
53 substantially all of their services to activities other than the render-
54 ing of consulting services to the insuring public while acting in their
55 capacity as such in discharging the duties of their employment[.]; OR

(D) PERSONS WHO HAVE RECEIVED GRANTS FROM AND HAVE BEEN CERTIFIED BY THE HEALTH BENEFIT EXCHANGE ESTABLISHED PURSUANT TO SECTION 1311 OF THE AFFORDABLE CARE ACT, 42 U.S.C. S 18031, TO ACT AS NAVIGATORS, AS SUCH TERM IS USED IN 42 U.S.C. S 18031(I), INCLUDING PERSONS EMPLOYED BY CERTIFIED NAVIGATORS, PROVIDED THAT THE PERSONS HAVE COMPLETED THE TRAINING REQUIRED BY THE HEALTH BENEFIT EXCHANGE.

S 38. Subparagraph (B) of paragraph 25 of subsection (i) of section 3216 of the insurance law, as amended by chapter 596 of the laws of 2011, is amended to read as follows:

(B) Every policy [which] THAT provides physician services, medical, major medical or similar comprehensive-type coverage shall provide coverage for the screening, diagnosis and treatment of autism spectrum disorder in accordance with this paragraph and shall not exclude coverage for the screening, diagnosis or treatment of medical conditions otherwise covered by the policy because the individual is diagnosed with autism spectrum disorder. Such coverage may be subject to annual deductibles, copayments and coinsurance as may be deemed appropriate by the superintendent and shall be consistent with those imposed on other benefits under the policy. Coverage for applied behavior analysis shall be subject to a maximum benefit of [forty-five thousand dollars] SIX HUNDRED EIGHTY HOURS OF TREATMENT per POLICY OR CALENDAR year per covered individual [and such maximum annual benefit will increase by the amount calculated from the average ten year rolling average increase of the medical component of the consumer price index]. This paragraph shall not be construed as limiting the benefits that are otherwise available to an individual under the policy, provided however that such policy shall not contain any limitations on visits that are solely applied to the treatment of autism spectrum disorder. No insurer shall terminate coverage or refuse to deliver, execute, issue, amend, adjust, or renew coverage to an individual solely because the individual is diagnosed with autism spectrum disorder or has received treatment for autism spectrum disorder. Coverage shall be subject to utilization review and external appeals of health care services pursuant to article forty-nine of this chapter as well as, case management, and other managed care provisions.

S 39. Subparagraph (B) of paragraph 17 of subsection (1) of section 3221 of the insurance law, as amended by chapter 596 of the laws of 2011, is amended to read as follows:

(B) Every group or blanket policy [which] THAT provides physician services, medical, major medical or similar comprehensive-type coverage shall provide coverage for the screening, diagnosis and treatment of autism spectrum disorder in accordance with this paragraph and shall not exclude coverage for the screening, diagnosis or treatment of medical conditions otherwise covered by the policy because the individual is diagnosed with autism spectrum disorder. Such coverage may be subject to annual deductibles, copayments and coinsurance as may be deemed appropriate by the superintendent and shall be consistent with those imposed on other benefits under the group or blanket policy. Coverage for applied behavior analysis shall be subject to a maximum benefit of [forty-five thousand dollars] SIX HUNDRED EIGHTY HOURS OF TREATMENT per POLICY OR CALENDAR year per covered individual [and such maximum annual benefit will increase by the amount calculated from the average ten year rolling average increase of the medical component of the consumer price index]. This paragraph shall not be construed as limiting the benefits that are otherwise available to an individual under the group or blanket policy, provided however that such policy shall not contain any limita-

tions on visits that are solely applied to the treatment of autism spectrum disorder. No insurer shall terminate coverage or refuse to deliver, execute, issue, amend, adjust, or renew coverage to an individual solely because the individual is diagnosed with autism spectrum disorder or has received treatment for autism spectrum disorder. Coverage shall be subject to utilization review and external appeals of health care services pursuant to article forty-nine of this chapter as well as, case management, and other managed care provisions.

S 40. Paragraph 2 of subsection (ee) of section 4303 of the insurance law, as amended by chapter 596 of the laws of 2011, is amended to read as follows:

(2) Every contract [which] THAT provides physician services, medical, major medical or similar comprehensive-type coverage shall provide coverage for the screening, diagnosis and treatment of autism spectrum disorder in accordance with this [subsection] PARAGRAPH and shall not exclude coverage for the screening, diagnosis or treatment of medical conditions otherwise covered by the contract because the individual is diagnosed with autism spectrum disorder. Such coverage may be subject to annual deductibles, copayments and coinsurance as may be deemed appropriate by the superintendent and shall be consistent with those imposed on other benefits under the contract. Coverage for applied behavior analysis shall be subject to a maximum benefit of [forty-five thousand dollars] SIX HUNDRED EIGHTY HOURS OF TREATMENT per CONTRACT OR CALENDAR year per covered individual [and such maximum annual benefit will increase by the amount calculated from the average ten year rolling average increase of the medical component of the consumer price index]. This paragraph shall not be construed as limiting the benefits that are otherwise available to an individual under the contract, provided however that such contract shall not contain any limitations on visits that are solely applied to the treatment of autism spectrum disorder. No insurer shall terminate coverage or refuse to deliver, execute, issue, amend, adjust, or renew coverage to an individual solely because the individual is diagnosed with autism spectrum disorder or has received treatment for autism spectrum disorder. Coverage shall be subject to utilization review and external appeals of health care services pursuant to article forty-nine of this chapter as well as, case management, and other managed care provisions.

S 41. The insurance law is amended by adding a new section 3240 to read as follows:

S 3240. STUDENT ACCIDENT AND HEALTH INSURANCE. (A) IN THIS SECTION:

(1) "STUDENT ACCIDENT AND HEALTH INSURANCE" MEANS A POLICY OR CONTRACT OF HOSPITAL, MEDICAL, OR SURGICAL EXPENSE INSURANCE DELIVERED OR ISSUED FOR DELIVERY IN THIS STATE ON OR AFTER JANUARY FIRST, TWO THOUSAND FOURTEEN, BY AN INSURER OR A CORPORATION, TO AN INSTITUTION OF HIGHER EDUCATION COVERING STUDENTS ENROLLED IN THE INSTITUTION AND THE STUDENTS' DEPENDENTS.

(2) "INSTITUTION OF HIGHER EDUCATION" OR "INSTITUTION" SHALL HAVE THE MEANING SET FORTH IN THE HIGHER EDUCATION ACT OF 1965, 20 U.S.C. S 1001.

(3) "INSURER" MEANS AN INSURER LICENSED TO WRITE ACCIDENT AND HEALTH INSURANCE PURSUANT TO THIS CHAPTER.

(4) "CORPORATION" MEANS A CORPORATION ORGANIZED IN ACCORDANCE WITH ARTICLE FORTY-THREE OF THIS CHAPTER.

(B) AN INSURER OR CORPORATION SHALL NOT IMPOSE ANY PRE-EXISTING CONDITION EXCLUSION IN A STUDENT ACCIDENT AND HEALTH INSURANCE POLICY OR CONTRACT. AN INSURER OR CORPORATION SHALL NOT CONDITION ELIGIBILITY, INCLUDING CONTINUED ELIGIBILITY, FOR A STUDENT ACCIDENT AND HEALTH

1 INSURANCE POLICY OR CONTRACT ON HEALTH STATUS, MEDICAL CONDITION,
2 INCLUDING BOTH PHYSICAL AND MENTAL ILLNESSES, CLAIMS EXPERIENCE, RECEIPT
3 OF HEALTH CARE, MEDICAL HISTORY, GENETIC INFORMATION, EVIDENCE OF INSUR-
4 ABILITY, INCLUDING CONDITIONS ARISING OUT OF ACTS OF DOMESTIC VIOLENCE,
5 OR DISABILITY.

6 (C) A STUDENT ACCIDENT AND HEALTH INSURANCE POLICY OR CONTRACT SHALL
7 PROVIDE COVERAGE FOR ESSENTIAL HEALTH BENEFITS AS DEFINED IN SECTION
8 1302(B) OF THE AFFORDABLE CARE ACT, 42 U.S.C. S 18022(B).

9 (D) AN INSURER OR CORPORATION SHALL NOT REFUSE TO RENEW OR OTHERWISE
10 TERMINATE A STUDENT ACCIDENT AND HEALTH INSURANCE POLICY OR CONTRACT
11 EXCEPT IF:

12 (1) THE INDIVIDUAL COVERED UNDER THE STUDENT ACCIDENT AND HEALTH
13 INSURANCE POLICY OR CONTRACT CEASES TO BE ENROLLED AS A STUDENT IN THE
14 INSTITUTION OF HIGHER EDUCATION TO WHICH THE STUDENT ACCIDENT AND HEALTH
15 INSURANCE POLICY OR CONTRACT IS ISSUED, PROVIDED THE INSURER OR CORPO-
16 RATION TERMINATES THE POLICY OR CONTRACT UNIFORMLY WITHOUT REGARD TO ANY
17 HEALTH STATUS-RELATED FACTOR OF ANY COVERED PERSON;

18 (2) THE INSURER TERMINATES THE POLICY FOR ANY OF THE REASONS SPECIFIED
19 IN SUBPARAGRAPHS (A) THROUGH (F) OF PARAGRAPH ONE OF SUBSECTION (G) OF
20 SECTION THREE THOUSAND TWO HUNDRED SIXTEEN OF THIS ARTICLE; OR

21 (3) THE CORPORATION TERMINATES THE CONTRACT FOR ANY OF THE REASONS
22 SPECIFIED IN SUBPARAGRAPHS (A) THROUGH (D) OR (F) OF PARAGRAPH TWO OF
23 SUBSECTION (C) OF SECTION FOUR THOUSAND THREE HUNDRED FOUR OF THIS CHAP-
24 TER.

25 (E) THIS SECTION SHALL NOT APPLY TO COVERAGE UNDER A STUDENT HEALTH
26 PLAN ISSUED PURSUANT TO SECTION ONE THOUSAND ONE HUNDRED TWENTY-FOUR OF
27 THIS CHAPTER.

28 (F) THE SUPERINTENDENT MAY PROMULGATE REGULATIONS REGARDING STUDENT
29 ACCIDENT AND HEALTH INSURANCE, WHICH MAY INCLUDE MINIMUM STANDARDS FOR
30 THE FORM, CONTENT AND SALE OF THE POLICIES AND CONTRACTS AND, NOTWITH-
31 STANDING THE PROVISIONS OF SECTION THREE THOUSAND TWO HUNDRED THIRTY-ONE
32 AND FOUR THOUSAND THREE HUNDRED EIGHT OF THIS CHAPTER, THE ESTABLISHMENT
33 OF RATING METHODOLOGY TO BE APPLIED TO THE POLICIES AND CONTRACTS;
34 PROVIDED THAT ANY SUCH REGULATIONS SHALL BE NO LESS FAVORABLE TO THE
35 INSURED THAN THAT WHICH IS PROVIDED UNDER FEDERAL LAW AND STATE LAW
36 APPLICABLE TO INDIVIDUAL INSURANCE.

37 (G) THE RATIO OF BENEFITS TO PREMIUMS SHALL BE NOT LESS THAN
38 EIGHTY-TWO PERCENT AS CALCULATED IN A MANNER TO BE DETERMINED BY THE
39 SUPERINTENDENT.

40 (H) EVERY INSURER OR CORPORATION SHALL REPORT TO THE SUPERINTENDENT
41 ANNUALLY, ON A DATE SPECIFIED BY THE SUPERINTENDENT IN A REGULATION,
42 CLAIMS EXPERIENCE AND OTHER DATA IN A MANNER ACCEPTABLE TO THE SUPER-
43 INTENDENT THAT SHALL DEMONSTRATE THE INSURER'S OR CORPORATION'S COMPLI-
44 ANCE WITH THE APPLICABLE RULES AND REGULATIONS.

45 S 42. Subsection (1) of section 3216 of the insurance law is REPEALED
46 and a new subsection (l) is added to read as follows:

47 (L) ON AND AFTER OCTOBER FIRST, TWO THOUSAND THIRTEEN, AN INSURER
48 SHALL NOT OFFER INDIVIDUAL HOSPITAL, MEDICAL OR SURGICAL EXPENSE INSUR-
49 ANCE POLICIES UNLESS THE POLICIES MEET THE REQUIREMENTS OF SUBSECTION
50 (B) OF SECTION FOUR THOUSAND THREE HUNDRED TWENTY-EIGHT OF THIS CHAPTER.
51 SUCH POLICIES THAT ARE OFFERED WITHIN THE HEALTH BENEFIT EXCHANGE ESTAB-
52 LISHED PURSUANT TO SECTION 1311 OF THE AFFORDABLE CARE ACT, 42 U.S.C. S
53 18031, OR ANY REGULATIONS PROMULGATED THEREUNDER, ALSO SHALL MEET ANY
54 REQUIREMENTS ESTABLISHED BY THE HEALTH BENEFIT EXCHANGE.

55 S 43. Subsection (1) of section 4304 of the insurance law is REPEALED
56 and a new subsection (1) is added to read as follows:

1 (1) ON AND AFTER OCTOBER FIRST, TWO THOUSAND THIRTEEN, A CORPORATION
2 SHALL NOT OFFER INDIVIDUAL HOSPITAL, MEDICAL, OR SURGICAL EXPENSE INSUR-
3 ANCE CONTRACTS UNLESS THE CONTRACTS MEET THE REQUIREMENTS OF SUBSECTION
4 (B) OF SECTION FOUR THOUSAND THREE HUNDRED TWENTY-EIGHT OF THIS ARTICLE.
5 SUCH CONTRACTS THAT ARE OFFERED WITHIN THE HEALTH BENEFIT EXCHANGE
6 ESTABLISHED PURSUANT TO SECTION 1311 OF THE AFFORDABLE CARE ACT, 42
7 U.S.C. S 18031, OR ANY REGULATIONS PROMULGATED THEREUNDER, ALSO SHALL
8 MEET ANY REQUIREMENTS ESTABLISHED BY THE HEALTH BENEFIT EXCHANGE. TO THE
9 EXTENT THAT A HOLDER OF A SPECIAL PURPOSE CERTIFICATE OF AUTHORITY
10 ISSUED PURSUANT TO SECTION FOUR THOUSAND FOUR HUNDRED THREE-A OF THE
11 PUBLIC HEALTH LAW OFFERS INDIVIDUAL HOSPITAL, MEDICAL, OR SURGICAL
12 EXPENSE INSURANCE CONTRACTS, THE CONTRACTS SHALL MEET THE REQUIREMENTS
13 OF SUBSECTION (B) OF SECTION FOUR THOUSAND THREE HUNDRED TWENTY-EIGHT OF
14 THIS ARTICLE.

15 S 44. The section heading and subsection (a) of section 4321 of the
16 insurance law, the section heading as added by chapter 504 of the laws
17 of 1995 and subsection (a) as amended by chapter 342 of the laws of
18 2004, are amended to read as follows:

19 Standardization of individual enrollee direct payment contracts
20 offered by health maintenance organizations PRIOR TO OCTOBER FIRST, TWO
21 THOUSAND THIRTEEN. (a) On and after January first, nineteen hundred
22 ninety-six, AND UNTIL SEPTEMBER THIRTIETH, TWO THOUSAND THIRTEEN all
23 health maintenance organizations issued a certificate of authority under
24 article forty-four of the public health law or licensed under this arti-
25 cle shall offer a standardized individual enrollee contract on an open
26 enrollment basis as prescribed by section forty-three hundred seventeen
27 of this article and section forty-four hundred six of the public health
28 law, and regulations promulgated thereunder, provided, however, that
29 such requirements shall not apply to a health maintenance organization
30 exclusively serving individuals enrolled pursuant to title eleven of
31 article five of the social services law, title eleven-D of article five
32 of the social services law, title one-A of article twenty-five of the
33 public health law or title eighteen of the federal Social Security Act[,
34 and, further provided, that such health maintenance organization shall
35 not discontinue a contract for an individual receiving comprehensive-
36 type coverage in effect prior to January first, two thousand four who is
37 ineligible to purchase policies offered after such date pursuant to this
38 section or section four thousand three hundred twenty-two of this arti-
39 cle due to the provision of 42 U.S.C. 1395ss in effect prior to January
40 first, two thousand four]. On and after January first, nineteen hundred
41 ninety-six, AND UNTIL SEPTEMBER THIRTIETH, TWO THOUSAND THIRTEEN, the
42 enrollee contracts issued pursuant to this section and section four
43 thousand three hundred twenty-two of this article shall be the only
44 contracts offered by health maintenance organizations to individuals.
45 The enrollee contracts issued by a health maintenance organization under
46 this section and section four thousand three hundred twenty-two of this
47 article shall also be the only contracts issued by health maintenance
48 organizations for purposes of conversion pursuant to sections four thou-
49 sand three hundred four and four thousand three hundred five of this
50 article. However, nothing in this section shall be deemed to require
51 health maintenance organizations to terminate individual direct payment
52 contracts issued prior to January first, nineteen hundred ninety-six or
53 prevent health maintenance organizations from terminating individual
54 direct payment contracts issued prior to January first, nineteen hundred
55 ninety-six.

1 S 45. The section heading and subsection (a) of section 4322 of the
2 insurance law, the section heading as added by chapter 504 of the laws
3 of 1995 and subsection (a) as amended by chapter 342 of the laws of
4 2004, are amended and a new subsection (i) is added to read as follows:
5 Standardization of individual enrollee direct payment contracts
6 offered by health maintenance organizations which provide out-of-plan
7 benefits PRIOR TO OCTOBER FIRST, TWO THOUSAND THIRTEEN. (a) On and after
8 January first, nineteen hundred ninety-six, AND UNTIL SEPTEMBER THIRTI-
9 ETH, TWO THOUSAND THIRTEEN, all health maintenance organizations issued
10 a certificate of authority under article forty-four of the public health
11 law or licensed under this article shall offer to individuals, in addi-
12 tion to the standardized contract required by section four thousand
13 three hundred twenty-one of this article, a standardized individual
14 enrollee direct payment contract on an open enrollment basis as
15 prescribed by section four thousand three hundred seventeen of this
16 article and section four thousand four hundred six of the public health
17 law, and regulations promulgated thereunder, with an out-of-plan benefit
18 system, provided, however, that such requirements shall not apply to a
19 health maintenance organization exclusively serving individuals enrolled
20 pursuant to title eleven of article five of the social services law,
21 title eleven-D of article five of the social services law, title one-A
22 of article twenty-five of the public health law or title eighteen of the
23 federal Social Security Act[, and, further provided, that such health
24 maintenance organization shall not discontinue a contract for an indi-
25 vidual receiving comprehensive-type coverage in effect prior to January
26 first, two thousand four who is ineligible to purchase policies offered
27 after such date pursuant to this section or section four thousand three
28 hundred twenty-two of this article due to the provision of 42 U.S.C.
29 1395ss in effect prior to January first, two thousand four]. The out-of-
30 plan benefit system shall either be provided by the health maintenance
31 organization pursuant to subdivision two of section four thousand four
32 hundred six of the public health law or through an accompanying insur-
33 ance contract providing out-of-plan benefits offered by a company appro-
34 priately licensed pursuant to this chapter. On and after January first,
35 nineteen hundred ninety-six, AND UNTIL SEPTEMBER THIRTIETH, TWO THOUSAND
36 THIRTEEN, the contracts issued pursuant to this section and section four
37 thousand three hundred twenty-one of this article shall be the only
38 contracts offered by health maintenance organizations to individuals.
39 The enrollee contracts issued by a health maintenance organization under
40 this section and section four thousand three hundred twenty-one of this
41 article shall also be the only contracts issued by the health mainte-
42 nance organization for purposes of conversion pursuant to sections four
43 thousand three hundred four and four thousand three hundred five of this
44 article. However, nothing in this section shall be deemed to require
45 health maintenance organizations to terminate individual direct payment
46 contracts issued prior to January first, nineteen hundred ninety-six or
47 prohibit health maintenance organizations from terminating individual
48 direct payment contracts issued prior to January first, nineteen hundred
49 ninety-six.

50 (I) ON AND AFTER JANUARY FIRST, TWO THOUSAND FOURTEEN, EACH CONTRACT
51 THAT IS NOT A GRANDFATHERED HEALTH PLAN SHALL PROVIDE COVERAGE FOR THE
52 ESSENTIAL HEALTH BENEFIT PACKAGE. FOR PURPOSES OF THIS SUBSECTION:

53 (1) "ESSENTIAL HEALTH BENEFITS PACKAGE" SHALL HAVE THE MEANING SET
54 FORTH IN SECTION 1302(A) OF THE AFFORDABLE CARE ACT, 42 U.S.C. S
55 18022(A); AND

(2) "GRANDFATHERED HEALTH PLAN" MEANS COVERAGE PROVIDED BY A CORPORATION IN WHICH AN INDIVIDUAL WAS ENROLLED ON MARCH TWENTY-THIRD, TWO THOUSAND TEN FOR AS LONG AS THE COVERAGE MAINTAINS GRANDFATHERED STATUS IN ACCORDANCE WITH SECTION 1251(E) OF THE AFFORDABLE CARE ACT, 42 U.S.C. S 18011(E).

S 46. The insurance law is amended by adding a new section 4328 to read as follows:

S 4328. INDIVIDUAL ENROLLEE DIRECT PAYMENT CONTRACTS OFFERED BY HEALTH MAINTENANCE ORGANIZATIONS ON AND AFTER OCTOBER FIRST, TWO THOUSAND THIRTEEN. (A) ON AND AFTER OCTOBER FIRST, TWO THOUSAND THIRTEEN, ALL HEALTH MAINTENANCE ORGANIZATIONS ISSUED A CERTIFICATE OF AUTHORITY UNDER ARTICLE FORTY-FOUR OF THE PUBLIC HEALTH LAW OR LICENSED UNDER THIS ARTICLE SHALL OFFER AN INDIVIDUAL ENROLLEE DIRECT PAYMENT CONTRACT IN ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION, PROVIDED, HOWEVER, THAT THIS REQUIREMENT SHALL NOT APPLY TO A HOLDER OF A SPECIAL PURPOSE CERTIFICATE OF AUTHORITY ISSUED PURSUANT TO SECTION FOUR THOUSAND FOUR HUNDRED THREE-A OF THE PUBLIC HEALTH LAW OR EXCEPT AS OTHERWISE REQUIRED UNDER SUBSECTION (L) OF SECTION FOUR THOUSAND THREE HUNDRED FOUR OF THIS ARTICLE, A HEALTH MAINTENANCE ORGANIZATION EXCLUSIVELY SERVING INDIVIDUALS ENROLLED PURSUANT TO TITLE ELEVEN OF ARTICLE FIVE OF THE SOCIAL SERVICES LAW, TITLE ELEVEN-D OF ARTICLE FIVE OF THE SOCIAL SERVICES LAW, TITLE ONE-A OF ARTICLE TWENTY-FIVE OF THE PUBLIC HEALTH LAW OR TITLE EIGHTEEN OF THE FEDERAL SOCIAL SECURITY ACT. THE ENROLLEE CONTRACTS ISSUED BY A HEALTH MAINTENANCE ORGANIZATION UNDER THIS SECTION ALSO SHALL BE THE ONLY CONTRACTS ISSUED BY THE HEALTH MAINTENANCE ORGANIZATION FOR PURPOSES OF CONVERSION PURSUANT TO SECTIONS FOUR THOUSAND THREE HUNDRED FOUR AND FOUR THOUSAND THREE HUNDRED FIVE OF THIS ARTICLE.

(B) (1) THE INDIVIDUAL ENROLLEE DIRECT PAYMENT CONTRACT OFFERED PURSUANT TO THIS SECTION SHALL PROVIDE COVERAGE FOR THE ESSENTIAL HEALTH BENEFIT PACKAGE AS REQUIRED IN SECTION 2707(A) OF THE PUBLIC HEALTH SERVICE ACT, 42 U.S.C. S 300GG-6(A). FOR PURPOSES OF THIS PARAGRAPH, "ESSENTIAL HEALTH BENEFITS PACKAGE" SHALL HAVE THE MEANING SET FORTH IN SECTION 1302(A) OF THE AFFORDABLE CARE ACT, 42 U.S.C. S 18022(A).

(2) A HEALTH MAINTENANCE ORGANIZATION SHALL OFFER AT LEAST ONE INDIVIDUAL ENROLLEE DIRECT PAYMENT CONTRACT AT EACH LEVEL OF COVERAGE AS DEFINED IN SECTION 1302(D) OF THE AFFORDABLE CARE ACT, 42 U.S.C. S 18022(D). A HEALTH MAINTENANCE ORGANIZATION ALSO SHALL OFFER ONE CHILD-ONLY PLAN AT EACH LEVEL OF COVERAGE AS REQUIRED IN SECTION 2707(C) OF THE PUBLIC HEALTH SERVICE ACT, 42 U.S.C. S 300GG-6(C).

(3) WITHIN THE HEALTH BENEFIT EXCHANGE ESTABLISHED PURSUANT TO SECTION 1311 OF THE AFFORDABLE CARE ACT, 42 U.S.C. S 18031, A HEALTH MAINTENANCE ORGANIZATION MAY OFFER AN INDIVIDUAL ENROLLEE DIRECT PAYMENT CONTRACT THAT IS A CATASTROPHIC HEALTH PLAN AS DEFINED IN SECTION 1302(E) OF THE AFFORDABLE CARE ACT, 42 U.S.C. S 18022(E), OR ANY REGULATIONS PROMULGATED THEREUNDER.

(4) THE INDIVIDUAL ENROLLEE DIRECT PAYMENT CONTRACT OFFERED PURSUANT TO THIS SECTION SHALL HAVE THE SAME ENROLLMENT PERIODS, INCLUDING SPECIAL ENROLLMENT PERIODS, AS REQUIRED FOR AN INDIVIDUAL DIRECT PAYMENT CONTRACT OFFERED WITHIN THE HEALTH BENEFIT EXCHANGE ESTABLISHED PURSUANT TO SECTION 1311 OF THE AFFORDABLE CARE ACT, 42 U.S.C. S 18031, OR ANY REGULATIONS PROMULGATED THEREUNDER.

(5) THE INDIVIDUAL ENROLLEE DIRECT PAYMENT CONTRACT OFFERED PURSUANT TO THIS SECTION SHALL BE ISSUED WITHOUT REGARD TO EVIDENCE OF INSURABILITY AND WITHOUT AN EXCLUSION FOR PRE-EXISTING CONDITIONS.

(6) A HEALTH MAINTENANCE ORGANIZATION OFFERING AN INDIVIDUAL ENROLLEE DIRECT PAYMENT CONTRACT PURSUANT TO THIS SECTION SHALL NOT ESTABLISH

1 RULES FOR ELIGIBILITY, INCLUDING CONTINUED ELIGIBILITY, OF ANY INDIVID-
2 UAL OR DEPENDENT OF THE INDIVIDUAL TO ENROLL UNDER THE CONTRACT BASED ON
3 ANY OF THE FOLLOWING HEALTH STATUS-RELATED FACTORS:
4 (A) HEALTH STATUS;
5 (B) MEDICAL CONDITION, INCLUDING BOTH PHYSICAL AND MENTAL ILLNESSES;
6 (C) CLAIMS EXPERIENCE;
7 (D) RECEIPT OF HEALTH CARE;
8 (E) MEDICAL HISTORY;
9 (F) GENETIC INFORMATION;
10 (G) EVIDENCE OF INSURABILITY, INCLUDING CONDITIONS ARISING OUT OF ACTS
11 OF DOMESTIC VIOLENCE; OR
12 (H) DISABILITY.
13 (7) THE INDIVIDUAL ENROLLEE DIRECT PAYMENT CONTRACT OFFERED PURSUANT
14 TO THIS SECTION SHALL BE COMMUNITY RATED. FOR PURPOSES OF THIS PARA-
15 GRAPH, "COMMUNITY RATED" MEANS A RATING METHODOLOGY IN WHICH THE PREMIUM
16 FOR ALL PERSONS COVERED BY A CONTRACT FORM IS THE SAME, BASED ON THE
17 EXPERIENCE OF THE ENTIRE POOL OF RISKS, WITHOUT REGARD TO AGE, SEX,
18 HEALTH STATUS, TOBACCO USAGE, OR OCCUPATION.
19 (C) IN ADDITION TO OR IN LIEU OF THE INDIVIDUAL ENROLLEE DIRECT
20 PAYMENT CONTRACTS REQUIRED UNDER THIS SECTION, ALL HEALTH MAINTENANCE
21 ORGANIZATIONS ISSUED A CERTIFICATE OF AUTHORITY UNDER ARTICLE FORTY-FOUR
22 OF THE PUBLIC HEALTH LAW OR LICENSED UNDER THIS ARTICLE MAY OFFER INDIVIDUAL
23 ENROLLEE DIRECT PAYMENT CONTRACTS WITHIN THE HEALTH BENEFIT
24 EXCHANGE ESTABLISHED PURSUANT TO SECTION 1311 OF THE AFFORDABLE CARE
25 ACT, 42 U.S.C. S 18031, OR ANY REGULATIONS PROMULGATED THEREUNDER, AND
26 ANY REQUIREMENTS ESTABLISHED BY THE HEALTH BENEFIT EXCHANGE. IF A HEALTH
27 MAINTENANCE ORGANIZATION SATISFIES THE REQUIREMENTS OF SUBSECTION (A) OF
28 THIS SECTION BY OFFERING INDIVIDUAL ENROLLEE DIRECT PAYMENT CONTRACTS
29 WITHIN THE HEALTH BENEFIT EXCHANGE, THE HEALTH MAINTENANCE
30 ORGANIZATION, NOT INCLUDING A HOLDER OF A SPECIAL PURPOSE CERTIFICATE OF
31 AUTHORITY ISSUED PURSUANT TO SECTION FOUR THOUSAND FOUR HUNDRED THREE-A
32 OF THE PUBLIC HEALTH LAW, SHALL AT A MINIMUM OFFER THE SAME INDIVIDUAL
33 ENROLLEE DIRECT PAYMENT CONTRACTS OUTSIDE THE HEALTH BENEFIT EXCHANGE TO
34 INDIVIDUALS NOT ELIGIBLE FOR COVERAGE WITHIN THE HEALTH BENEFIT
35 EXCHANGE.
36 (D)(1) NOTHING IN THIS SECTION SHALL BE DEEMED TO REQUIRE HEALTH MAIN-
37 TENANCE ORGANIZATIONS TO DISCONTINUE INDIVIDUAL DIRECT PAYMENT CONTRACTS
38 ISSUED PRIOR TO JANUARY FIRST, TWO THOUSAND FOURTEEN OR PREVENT HEALTH
39 MAINTENANCE ORGANIZATIONS FROM DISCONTINUING INDIVIDUAL DIRECT PAYMENT
40 CONTRACTS ISSUED PRIOR TO JANUARY FIRST, TWO THOUSAND FOURTEEN. IF A
41 HEALTH MAINTENANCE ORGANIZATION DISCONTINUES INDIVIDUAL DIRECT PAYMENT
42 CONTRACTS ISSUED PRIOR TO OCTOBER FIRST, TWO THOUSAND THIRTEEN, REGARD-
43 LESS OF WHETHER IT IS A GRANDFATHERED HEALTH PLAN, THEN THE HEALTH MAIN-
44 TENANCE ORGANIZATION SHALL COMPLY WITH THE REQUIREMENTS OF SUBSECTION
45 (C) OF SECTION FOUR THOUSAND THREE HUNDRED FOUR OF THIS ARTICLE.
46 (2) FOR PURPOSES OF THIS SUBSECTION, "GRANDFATHERED HEALTH PLAN" MEANS
47 COVERAGE PROVIDED BY A CORPORATION IN WHICH AN INDIVIDUAL WAS ENROLLED
48 ON MARCH TWENTY-THIRD, TWO THOUSAND TEN FOR AS LONG AS THE COVERAGE
49 MAINTAINS GRANDFATHERED STATUS IN ACCORDANCE WITH SECTION 1251(E) OF THE
50 AFFORDABLE CARE ACT, 42 U.S.C. S 18011(E).
51 (E) THE SUPERINTENDENT MAY PROMULGATE REGULATIONS IMPLEMENTING THE
52 REQUIREMENTS OF THIS SECTION, INCLUDING REGULATIONS THAT MODIFY OR ADD
53 ADDITIONAL STANDARDIZED INDIVIDUAL ENROLLEE DIRECT PAYMENT CONTRACTS IF
54 THE SUPERINTENDENT DETERMINES ADDITIONAL CONTRACTS WITH DIFFERENT LEVELS
55 OF BENEFITS ARE NECESSARY TO MEET THE NEEDS OF THE PUBLIC.

1 S 47. Paragraphs 4, 6, 9 and 10 of subsection (e) of section 3221 of
2 the insurance law are REPEALED, paragraphs 5, 7, 8, 11 and 12 are renum-
3 bered paragraphs 4, 5, 6, 7 and 8 and paragraph 1, as amended by chapter
4 306 of the laws of 1987, is amended to read as follows:

5 (1) A group policy providing hospital, MEDICAL or surgical expense
6 insurance for other than specific diseases or accident only, shall
7 provide that if the insurance on an employee or member insured under the
8 group policy ceases because of termination of [(I)] (A) employment or of
9 membership in the class or classes eligible for coverage under the poli-
10 cy or [(II)] (B) the policy, for any reason whatsoever, unless the poli-
11 cyholder has replaced the group policy with similar and continuous
12 coverage for the same group whether insured or self-insured, such
13 employee or member who has been insured under the group policy [for at
14 least three months] shall be entitled to have issued to [him] THE
15 INSURED by the insurer without evidence of insurability upon application
16 made to the insurer within forty-five days after such termination, and
17 payment of the quarterly, or, at the option of the employee or member, a
18 less frequent premium applicable to the [class of risk to which the
19 person belongs, the age of such person, and the] form and amount of
20 insurance, an individual policy of insurance. The insurer may, at its
21 option elect to provide the insurance coverage under a group insurance
22 policy, delivered in this state, in lieu of the issuance of a converted
23 individual policy of insurance. Such individual policy, or group policy,
24 as the case may be is hereafter referred to as the converted policy. The
25 benefits provided under the converted policy shall be those required by
26 subsection (f)[,] AND (g)[, (h) or (i) hereof] OF THIS SECTION, [which-
27 ever is applicable and,] in the event of termination of the converted
28 group policy of insurance, each insured thereunder shall have a right of
29 conversion to a converted individual policy of insurance.

30 S 48. Paragraph 3 of subsection (e) of section 3221 of the insurance
31 law, as separately amended by chapters 370 and 869 of the laws of 1984,
32 is amended to read as follows:

33 (3) The converted policy shall, at the option of the employee or
34 member, provide identical coverage for the dependents of such employee
35 or member who were covered under the group policy. Provided, however,
36 that if the employee or member chooses the option of dependent coverage
37 then dependents acquired after the permitted time to convert stated in
38 paragraph one of this subsection shall be added to the converted family
39 policy in accordance with the provisions of subsection (c) of section
40 thirty-two hundred sixteen of this article and any regulations promul-
41 gated or guidelines issued by the superintendent. [The converted policy
42 need not provide benefits in excess of those provided for such persons
43 under the group policy from which conversion is made and may contain any
44 exclusion or benefit limitation contained in the group policy or custom-
45 arily used in individual policies.] The effective date of the individ-
46 ual's coverage under the converted policy shall be the date of the
47 termination of the individual's insurance under the group policy as to
48 those persons covered under the group policy.

49 S 49. Subsections (f) and (g) of section 3221 of the insurance law are
50 REPEALED and two new subsections (f) and (g) are added to read as
51 follows:

52 (F) IF THE GROUP INSURANCE POLICY INSURES THE EMPLOYEE OR MEMBER FOR
53 HOSPITAL, MEDICAL OR SURGICAL EXPENSE INSURANCE, OR IF THE GROUP INSUR-
54 ANCE POLICY INSURES THE EMPLOYEE OR MEMBER FOR MAJOR MEDICAL OR SIMILAR
55 COMPREHENSIVE-TYPE COVERAGE, THEN THE CONVERSION PRIVILEGE SHALL ENTITLE
56 THE EMPLOYEE OR MEMBER TO OBTAIN COVERAGE UNDER A CONVERTED POLICY

1 PROVIDING, AT THE INSURED'S OPTION, COVERAGE UNDER ANY ONE OF THE PLANS
2 DESCRIBED IN SUBSECTION (G) OF THIS SECTION ON AN EXPENSE INCURRED
3 BASIS.

4 (G) FOR CONVERSION PURPOSES, AN INSURER SHALL OFFER TO THE EMPLOYEE OR
5 MEMBER A POLICY AT EACH LEVEL OF COVERAGE AS DEFINED IN SECTION 1302(D)
6 OF THE AFFORDABLE CARE ACT, 42 U.S.C. S 18022(D) THAT CONTAINS THE BENE-
7 FITS DESCRIBED IN PARAGRAPH ONE OF SUBSECTION (B) OF SECTION FOUR THOU-
8 SAND THREE HUNDRED TWENTY-EIGHT OF THIS CHAPTER.

9 S 50. Subparagraph (D) of paragraph 4 of subsection (l) of section
10 3221 of the insurance law, as amended by chapter 230 of the laws of
11 2004, is amended to read as follows:

12 (D) In addition to the requirements of subparagraph (A) of this para-
13 graph, every insurer issuing a group policy for delivery in this state
14 [which] WHERE THE policy provides reimbursement to insureds for psychi-
15 atric or psychological services or for the diagnosis and treatment of
16 mental, nervous or emotional disorders and ailments, however defined in
17 such policy, by physicians, psychiatrists or psychologists, [must] SHALL
18 provide the same coverage to insureds for such services when performed
19 by a licensed clinical social worker, within the lawful scope of his or
20 her practice, who is licensed pursuant to subdivision two of section
21 seven thousand seven hundred four of the education law and in addition
22 shall have either: (i) three or more additional years experience in
23 psychotherapy, which for the purposes of this subparagraph shall mean
24 the use of verbal methods in interpersonal relationships with the intent
25 of assisting a person or persons to modify attitudes and behavior
26 [which] THAT are intellectually, socially or emotionally maladaptive,
27 under supervision, satisfactory to the state board for social work, in a
28 facility, licensed or incorporated by an appropriate governmental
29 department, providing services for diagnosis or treatment of mental,
30 nervous or emotional disorders or ailments[, or]; (ii) three or more
31 additional years experience in psychotherapy under the supervision,
32 satisfactory to the state board for social work, of a psychiatrist, a
33 licensed and registered psychologist or a licensed clinical social work-
34 er qualified for reimbursement pursuant to subsection [(h)] (E) of this
35 section, or (iii) a combination of the experience specified in items (i)
36 and (ii) OF THIS SUBPARAGRAPH totaling three years, satisfactory to the
37 state board for social work.

38 (E) The state board for social work shall maintain a list of all
39 licensed clinical social workers qualified for reimbursement under
40 [this] subparagraph (D) OF THIS PARAGRAPH.

41 S 51. Paragraph 1 of subsection (e) of section 4304 of the insurance
42 law, as amended by chapter 661 of the laws of 1997 and as further
43 amended by section 104 of part A of chapter 62 of the laws of 2011, is
44 amended to read as follows:

45 (1) If any such contract is terminated in accordance with the
46 provisions of paragraph one of subsection (c) [hereof] OF THIS SECTION,
47 or any such contract is terminated because of a default by the remitting
48 agent in the payment of premiums not cured within the grace period and
49 the remitting agent has not replaced the contract with similar and
50 continuous coverage for the same group whether insured or self-insured,
51 or any such contract is terminated in accordance with the provisions of
52 subparagraph (E) of paragraph two of subsection (c) [hereof] OF THIS
53 SECTION, or if an individual other than the contract holder is no longer
54 covered under a "family contract" because [he] THE INDIVIDUAL is no
55 longer within the definition set forth in the contract, or a spouse is
56 no longer covered under the contract because of divorce from the

1 contract holder or annulment of the marriage, or any such contract is
2 terminated because of the death of the contract holder, then such indi-
3 vidual, former spouse, or in the case of the death of the contract hold-
4 er the surviving spouse or other dependents of the deceased contract
5 holder covered under the contract, as the case may be, shall be entitled
6 to convert, without evidence of insurability, upon application therefor
7 and the making of the first payment thereunder within thirty-one days
8 after the date of termination of such contract, to a contract [of a type
9 which provides coverage most nearly comparable to the type of coverage
10 under the contract from which the individual converted, which coverage
11 shall be no less than the minimum standards for basic hospital, basic
12 medical, or major medical as provided for in department of financial
13 services regulation; provided, however, that if the corporation does not
14 issue such a major medical contract, then to a comprehensive or compara-
15 ble type of coverage which is most commonly being sold to group remit-
16 ting agents. Notwithstanding the previous sentence, a corporation may
17 elect to issue a standardized individual enrollee contract pursuant to
18 section four thousand three hundred twenty-two of this article in lieu
19 of a major medical contract, comprehensive or comparable type of cover-
20 age required to be offered upon conversion from an indemnity contract]
21 THAT CONTAINS THE BENEFITS DESCRIBED IN PARAGRAPH ONE OF SUBSECTION (B)
22 OF SECTION FOUR THOUSAND THREE HUNDRED TWENTY-EIGHT OF THIS CHAPTER. THE
23 CORPORATION SHALL OFFER ONE CONTRACT AT EACH LEVEL OF COVERAGE AS
24 DEFINED IN SECTION 1302(D) OF THE AFFORDABLE CARE ACT, 42 U.S.C. S
25 18022(D). THE INDIVIDUAL MAY CHOOSE ANY SUCH CONTRACT OFFERED BY THE
26 CORPORATION. The effective date of the coverage provided by the
27 converted direct payment contract shall be the date of the termination
28 of coverage under the contract from which conversion was made.

29 S 52. Paragraph 1 of subsection (d) of section 4305 of the insurance
30 law, as amended by chapter 504 of the laws of 1995 and as further
31 amended by section 104 of part A of chapter 62 of the laws of 2011, is
32 amended to read as follows:

33 (1) (A) A group contract issued pursuant to this section shall contain
34 a provision to the effect that in case of a termination of coverage
35 under such contract of any member of the group because of [(I)] (I)
36 termination for any reason whatsoever of [his] THE MEMBER'S employment
37 or membership, [if he has been covered under the group contract for at
38 least three months,] or [(II)] (II) termination for any reason whatsoev-
39 er of the group contract itself unless the group contract holder has
40 replaced the group contract with similar and continuous coverage for the
41 same group whether insured or self-insured, [he] THE MEMBER shall be
42 entitled to have issued to [him] THE MEMBER by the corporation, without
43 evidence of insurability, upon application therefor and payment of the
44 first premium made to the corporation within forty-five days after
45 termination of the coverage, an individual direct payment contract,
46 covering such member and [his] THE MEMBER'S eligible dependents who were
47 covered by the group contract, which provides coverage [most nearly
48 comparable to the type of coverage under the group contract, which
49 coverage shall be no less than the minimum standards for basic hospital,
50 basic medical, or major medical as provided for in department of finan-
51 cial services regulation; provided, however, that if the corporation
52 does not issue such a major medical contract, then to a comprehensive or
53 comparable type of coverage which is most commonly being sold to group
54 remitting agents. Notwithstanding the previous sentence, a corporation
55 may elect to issue a standardized individual enrollee contract pursuant
56 to section four thousand three hundred twenty two of this article in

1 lieu of a major medical contract, comprehensive or comparable type of
2 coverage required to be offered upon conversion from an indemnity
3 contract] THAT CONTAINS THE BENEFITS DESCRIBED IN PARAGRAPH ONE OF
4 SUBSECTION (B) OF SECTION FOUR THOUSAND THREE HUNDRED TWENTY-EIGHT OF
5 THIS CHAPTER. THE CORPORATION SHALL OFFER ONE CONTRACT AT EACH LEVEL OF
6 COVERAGE AS DEFINED IN SECTION 1302(D) OF THE AFFORDABLE CARE ACT, 42
7 U.S.C. S 18022(D). THE MEMBER MAY CHOOSE ANY SUCH CONTRACT OFFERED BY
8 THE CORPORATION.

9 (B) The conversion privilege afforded [herein] IN THIS PARAGRAPH shall
10 also be available: [(A)] (I) upon the divorce or annulment of the
11 marriage of a member, to the divorced spouse or former spouse of such
12 member[, (B)]; (II) upon the death of the member, to the surviving
13 spouse and other dependents covered under the contract[,]; and [(C)]
14 (III) to a dependent if no longer within the definition in the contract.

15 S 53. Section 3216 of the insurance law is amended by adding a new
16 subsection (m) to read as follows:

17 (M) AN INSURER SHALL NOT BE REQUIRED TO OFFER THE POLICYHOLDER ANY
18 BENEFITS THAT MUST BE MADE AVAILABLE PURSUANT TO THIS SECTION IF THE
19 BENEFITS MUST BE COVERED AS ESSENTIAL HEALTH BENEFITS. FOR ANY POLICY
20 ISSUED WITHIN THE HEALTH BENEFIT EXCHANGE ESTABLISHED PURSUANT TO
21 SECTION 1311 OF THE AFFORDABLE CARE ACT, 42 U.S.C. S 18031, AN INSURER
22 SHALL NOT BE REQUIRED TO OFFER THE POLICYHOLDER ANY BENEFITS THAT MUST
23 BE MADE AVAILABLE PURSUANT TO THIS SECTION. FOR PURPOSES OF THIS
24 SUBSECTION, "ESSENTIAL HEALTH BENEFITS" SHALL HAVE THE MEANING SET FORTH
25 IN SECTION 1302(B) OF THE AFFORDABLE CARE ACT, 42 U.S.C. S 18022(B).

26 S 54. Subsections (h) and (i) of section 3221 of the insurance law are
27 REPEALED and two new subsections (h) and (i) are added to read as
28 follows:

29 (H) EVERY SMALL GROUP POLICY DELIVERED OR ISSUED FOR DELIVERY IN THIS
30 STATE THAT PROVIDES COVERAGE FOR HOSPITAL, MEDICAL OR SURGICAL EXPENSE
31 INSURANCE AND IS NOT A GRANDFATHERED HEALTH PLAN SHALL PROVIDE COVERAGE
32 FOR THE ESSENTIAL HEALTH BENEFIT PACKAGE AS REQUIRED IN SECTION 2707(A)
33 OF THE PUBLIC HEALTH SERVICE ACT, 42 U.S.C. S 300GG-6(A). FOR PURPOSES
34 OF THIS SUBSECTION:

35 (1) "ESSENTIAL HEALTH BENEFITS PACKAGE" SHALL HAVE THE MEANING SET
36 FORTH IN SECTION 1302(A) OF THE AFFORDABLE CARE ACT, 42 U.S.C. S
37 18022(A);

38 (2) "GRANDFATHERED HEALTH PLAN" MEANS COVERAGE PROVIDED BY AN INSURER
39 IN WHICH AN INDIVIDUAL WAS ENROLLED ON MARCH TWENTY-THIRD, TWO THOUSAND
40 TEN FOR AS LONG AS THE COVERAGE MAINTAINS GRANDFATHERED STATUS IN
41 ACCORDANCE WITH SECTION 1251(E) OF THE AFFORDABLE CARE ACT, 42 U.S.C. S
42 18011(E); AND

43 (3) "SMALL GROUP" MEANS A GROUP OF FIFTY OR FEWER EMPLOYEES OR MEMBERS
44 EXCLUSIVE OF SPOUSES AND DEPENDENTS; PROVIDED, HOWEVER, THAT BEGINNING
45 JANUARY FIRST, TWO THOUSAND SIXTEEN, "SMALL GROUP" MEANS A GROUP OF ONE
46 HUNDRED OR FEWER EMPLOYEES OR MEMBERS EXCLUSIVE OF SPOUSES AND DEPENDENTS.

47 (I) AN INSURER SHALL NOT BE REQUIRED TO OFFER THE POLICYHOLDER ANY
48 BENEFITS THAT MUST BE MADE AVAILABLE PURSUANT TO THIS SECTION IF THE
49 BENEFITS MUST BE COVERED PURSUANT TO SUBSECTION (H) OF THIS SECTION. FOR
50 ANY POLICY ISSUED WITHIN THE HEALTH BENEFIT EXCHANGE ESTABLISHED PURSU-
51 ANT TO SECTION 1311 OF THE AFFORDABLE CARE ACT, 42 U.S.C. S 18031, AN
52 INSURER SHALL NOT BE REQUIRED TO OFFER THE POLICYHOLDER ANY BENEFITS
53 THAT MUST BE MADE AVAILABLE PURSUANT TO THIS SECTION.
54

1 S 55. Subsection (gg) of section 4303 of the insurance law, as added
2 by chapter 536 of the laws of 2010, is relettered to be subsection (jj)
3 and two new subsections (kk) and (ll) are added to read as follows:

4 (KK) EVERY SMALL GROUP CONTRACT DELIVERED OR ISSUED FOR DELIVERY IN
5 THIS STATE THAT PROVIDES COVERAGE FOR HOSPITAL, MEDICAL OR SURGICAL
6 EXPENSE INSURANCE AND IS NOT A GRANDFATHERED HEALTH PLAN SHALL PROVIDE
7 COVERAGE FOR THE ESSENTIAL HEALTH BENEFIT PACKAGE AS REQUIRED IN SECTION
8 2707(A) OF THE PUBLIC HEALTH SERVICE ACT, 42 U.S.C. S 300GG-6(A). FOR
9 PURPOSES OF THIS SUBSECTION:

10 (1) "ESSENTIAL HEALTH BENEFITS PACKAGE" SHALL HAVE THE MEANING SET
11 FORTH IN SECTION 1302(A) OF THE AFFORDABLE CARE ACT, 42 U.S.C. S
12 18022(A);

13 (2) "GRANDFATHERED HEALTH PLAN" MEANS COVERAGE PROVIDED BY A CORPO-
14 RATION IN WHICH AN INDIVIDUAL WAS ENROLLED ON MARCH TWENTY-THIRD, TWO
15 THOUSAND TEN FOR AS LONG AS THE COVERAGE MAINTAINS GRANDFATHERED STATUS
16 IN ACCORDANCE WITH SECTION 1251(E) OF THE AFFORDABLE CARE ACT, 42 U.S.C.
17 S 18011(E); AND

18 (3) "SMALL GROUP" MEANS A GROUP OF FIFTY OR FEWER EMPLOYEES OR MEMBERS
19 EXCLUSIVE OF SPOUSES AND DEPENDENTS. BEGINNING JANUARY FIRST, TWO THOU-
20 SAND SIXTEEN, "SMALL GROUP" MEANS A GROUP OF ONE HUNDRED OR FEWER
21 EMPLOYEES OR MEMBERS EXCLUSIVE OF SPOUSES AND DEPENDENTS.

22 (LL) A CORPORATION SHALL NOT BE REQUIRED TO OFFER THE CONTRACT HOLDER
23 ANY BENEFITS THAT MUST BE MADE AVAILABLE PURSUANT TO THIS SECTION IF
24 SUCH BENEFITS MUST BE COVERED PURSUANT TO SUBSECTION (KK) OF THIS
25 SECTION. FOR ANY CONTRACT ISSUED WITHIN THE HEALTH BENEFIT EXCHANGE
26 ESTABLISHED PURSUANT TO SECTION 1311 OF THE AFFORDABLE CARE ACT, 42
27 U.S.C. S 18031, A CORPORATION SHALL NOT BE REQUIRED TO OFFER THE
28 CONTRACT HOLDER ANY BENEFITS THAT MUST BE MADE AVAILABLE PURSUANT TO
29 THIS SECTION.

30 S 56. Section 4326 of the insurance law, as added by chapter 1 of the
31 laws of 1999, subsection (b) as amended by chapter 342 of the laws of
32 2004, subparagraph (A) of paragraph 1 and subparagraph (C) of paragraph
33 3 of subsection (c) as amended by chapter 419 of the laws of 2000, para-
34 graphs 13 and 14 of subsection (d), paragraphs 6 and 7 of subsection (e)
35 and subsection (k) as amended and paragraph 15 of subsection (d) as
36 added by chapter 219 of the laws of 2011 and subsections (d-1), (d-2)
37 and (d-3) as added by chapter 645 of the laws of 2005, is amended to
38 read as follows:

39 S 4326. Standardized health insurance contracts for qualifying small
40 employers and individuals. (a) A program is hereby established for the
41 purpose of making standardized health insurance contracts available to
42 qualifying small employers [and qualifying individuals] as defined in
43 this section. Such program is designed to encourage small employers to
44 offer health insurance coverage to their employees [and to also make
45 coverage available to uninsured employees whose employers do not provide
46 group health insurance].

47 (b) Participation in the program established by this section and
48 section four thousand three hundred twenty-seven of this article is
49 limited to corporations or insurers organized or licensed under this
50 article or article forty-two of this chapter and health maintenance
51 organizations issued a certificate of authority under article forty-four
52 of the public health law or licensed under this article. Participation
53 by all health maintenance organizations is mandatory, provided, however,
54 that such requirements shall not apply to a HOLDER OF A SPECIAL PURPOSE
55 CERTIFICATE OF AUTHORITY ISSUED PURSUANT TO SECTION FOUR THOUSAND FOUR
56 HUNDRED THREE-A OF THE PUBLIC HEALTH LAW OR A health maintenance organ-

1 ization exclusively serving individuals enrolled pursuant to title elev-
2 en of article five of the social services law, title eleven-D of article
3 five of the social services law, title one-A of article twenty-five of
4 the public health law or title eighteen of the federal Social Security
5 Act[, and, further provided, that such health maintenance organization
6 shall not discontinue a contract for an individual receiving comprehen-
7 sive-type coverage in effect prior to January first, two thousand four
8 who is ineligible to purchase policies offered after such date pursuant
9 to this section or section four thousand three hundred twenty-two of
10 this article due to the provision of 42 U.S.C. 1395ss in effect prior to
11 January first, two thousand four]. On and after January first, two thou-
12 sand one, all health maintenance organizations shall offer qualifying
13 group health insurance contracts [and qualifying individual health
14 insurance contracts] as defined in this section. For the purposes of
15 this section and section four thousand three hundred twenty-seven of
16 this article, article forty-three corporations or article forty-two
17 insurers which voluntarily participate in compliance with the require-
18 ments of this program shall be eligible for reimbursement from the stop
19 loss funds created pursuant to section four thousand three hundred twen-
20 ty-seven of this article under the same terms and conditions as health
21 maintenance organizations.

22 (c) The following definitions shall be applicable to the insurance
23 contracts offered under the program established by this section:

24 (1) (A) A qualifying small employer is [an employer that is either:

25 (A) An individual proprietor who is the only employee of the business:

26 (i) without health insurance which provides benefits on an expense
27 reimbursed or prepaid basis in effect during the twelve month period
28 prior to application for a qualifying group health insurance contract
29 under the program established by this section; and

30 (ii) resides in a household having a net household income at or below
31 two hundred eight percent of the non-farm federal poverty level (as
32 defined and updated by the federal department of health and human
33 services) or the gross equivalent of such net income;

34 (iii) except that the requirements set forth in item (i) of this
35 subparagraph shall not be applicable where an individual proprietor had
36 health insurance coverage during the previous twelve months and such
37 coverage terminated due to one of the reasons set forth in items (i)
38 through (viii) of subparagraph (C) of paragraph three of subsection (c)
39 of this section; or

40 (B) An] AN employer with:

41 (i) not more than fifty [eligible] employees;

42 (ii) no group health insurance [which] THAT provides benefits on an
43 expense reimbursed or prepaid basis covering employees in effect during
44 the twelve month period prior to application for a qualifying group
45 health insurance contract under the program established by this section;
46 and

47 (iii) at least thirty percent of its [eligible] employees receiving
48 annual wages from the employer at a level equal to or less than thirty
49 thousand dollars. The thirty thousand dollar figure shall be adjusted
50 periodically pursuant to subparagraph [(F)] (D) of this paragraph.

51 [(C) The requirements set forth in item (i) of subparagraph (A) of
52 this paragraph and in item (ii) of subparagraph (B) of this paragraph
53 shall not be applicable where an individual proprietor or employer is
54 transferring from a health insurance contract issued pursuant to the New
55 York state small business health insurance partnership program estab-
56 lished by section nine hundred twenty-two of the public health law or

1 from health care coverage issued pursuant to a regional pilot project
2 for the uninsured established by section one thousand one hundred eigh-
3 teen of this chapter.

4 (D)] (B) The twelve month period set forth [in item (i) of subpara-
5 graph (A) of this paragraph and] in item (ii) of subparagraph [(B)] (A)
6 of this paragraph may be adjusted by the superintendent from twelve
7 months to eighteen months if he determines that the twelve month period
8 is insufficient to prevent inappropriate substitution of [other health
9 insurance contracts for] qualifying group health insurance contracts FOR
10 OTHER HEALTH INSURANCE CONTRACTS.

11 [(E)] (C) An [individual proprietor or] employer shall cease to be a
12 qualifying small employer if any health insurance [which] THAT provides
13 benefits on an expense reimbursed or prepaid basis covering [the indi-
14 vidual proprietor or] an employer's employees, other than qualifying
15 group health insurance purchased pursuant to this section, is purchased
16 or otherwise takes effect subsequent to purchase of qualifying group
17 health insurance under the program established by this section.

18 [(F)] (D) The wage levels utilized in subparagraph [(B)] (A) of this
19 paragraph shall be adjusted annually, beginning in two thousand two. The
20 adjustment shall take effect on July first of each year. For July first,
21 two thousand two, the adjustment shall be a percentage of the annual
22 wage figure specified in subparagraph [(B)] (A) of this paragraph. For
23 subsequent years, the adjustment shall be a percentage of the annual
24 wage figure [which] THAT took effect on July first of the prior year.
25 The percentage adjustment shall be the same percentage by which the
26 current year's non-farm federal poverty level, as defined and updated by
27 the federal department of health and human services, for a family unit
28 of four persons for the forty-eight contiguous states and Washington,
29 D.C., changed from the same level established for the prior year.

30 (2) A qualifying group health insurance contract is a group contract
31 purchased from a health maintenance organization, corporation or insurer
32 by a qualifying small employer [which] THAT provides the benefits set
33 forth in subsection (d) of this section. The contract must insure not
34 less than fifty percent of the employees [eligible for coverage].

35 [(3)(A) A qualifying individual is an employed person:

36 (i) who does not have and has not had health insurance with benefits
37 on an expense reimbursed or prepaid basis during the twelve month period
38 prior to the individual's application for health insurance under the
39 program established by this section;

40 (ii) whose employer does not provide group health insurance and has
41 not provided group health insurance with benefits on an expense reim-
42 bursed or prepaid basis covering employees in effect during the twelve
43 month period prior to the individual's application for health insurance
44 under the program established by this section;

45 (iii) resides in a household having a net household income at or below
46 two hundred eight percent of the non-farm federal poverty level (as
47 defined and updated by the federal department of health and human
48 services) or the gross equivalent of such net income; and

49 (iv) is ineligible for Medicare.

50 (B) The requirements set forth in items (i) and (ii) of subparagraph
51 (A) of this paragraph shall not be applicable where an individual is
52 transferring from a health insurance contract issued pursuant to the
53 voucher insurance program established by section one thousand one
54 hundred twenty-one of this chapter, a health insurance contract issued
55 pursuant to the New York state small business health insurance partner-
56 ship program established by section nine hundred twenty-two of the

1 public health law or health care coverage issued pursuant to a regional
2 pilot project for the uninsured established by section one thousand one
3 hundred eighteen of this chapter.

4 (C) The requirements set forth in items (i) and (ii) of subparagraph
5 (A) of this paragraph shall not be applicable where an individual had
6 health insurance coverage during the previous twelve months and such
7 coverage terminated due to:

8 (i) loss of employment due to factors other than voluntary separation;

9 (ii) death of a family member which results in termination of coverage
10 under a health insurance contract under which the individual is covered;

11 (iii) change to a new employer that does not provide group health
12 insurance with benefits on an expense reimbursed or prepaid basis;

13 (iv) change of residence so that no employer-based health insurance
14 with benefits on an expense reimbursed or prepaid basis is available;

15 (v) discontinuation of a group health insurance contract with benefits
16 on an expense reimbursed or prepaid basis covering the qualifying indi-
17 vidual as an employee or dependent;

18 (vi) expiration of the coverage periods established by the continua-
19 tion provisions of the Employee Retirement Income Security Act, 29
20 U.S.C. section 1161 et seq. and the Public Health Service Act, 42
21 U.S.C. section 300bb-1 et seq. established by the Consolidated Omnibus
22 Budget Reconciliation Act of 1985, as amended, or the continuation
23 provisions of subsection (m) of section three thousand two hundred twen-
24 ty-one, subsection (k) of section four thousand three hundred four and
25 subsection (e) of section four thousand three hundred five of this chap-
26 ter;

27 (vii) legal separation, divorce or annulment which results in termi-
28 nation of coverage under a health insurance contract under which the
29 individual is covered; or

30 (viii) loss of eligibility under a group health plan.

31 (D) The twelve month period set forth in items (i) and (ii) of subpar-
32 agraph (A) of this paragraph may be adjusted by the superintendent from
33 twelve months to eighteen months if he determines that the twelve month
34 period is insufficient to prevent inappropriate substitution of other
35 health insurance contracts for qualifying individual health insurance
36 contracts.

37 (4) A qualifying individual health insurance contract is an individual
38 contract issued directly to a qualifying individual and which provides
39 the benefits set forth in subsection (d) of this section. At the option
40 of the qualifying individual, such contract may include coverage for
41 dependents of the qualifying individual.]

42 (d) [The contracts issued pursuant to this section by health mainte-
43 nance organizations, corporations or insurers and approved by the super-
44 intendent shall only provide in-plan benefits, except for emergency care
45 or where services are not available through a plan provider. Covered
46 services shall include only the following:

47 (1) inpatient hospital services consisting of daily room and board,
48 general nursing care, special diets and miscellaneous hospital services
49 and supplies;

50 (2) outpatient hospital services consisting of diagnostic and treat-
51 ment services;

52 (3) physician services consisting of diagnostic and treatment
53 services, consultant and referral services, surgical services (including
54 breast reconstruction surgery after a mastectomy), anesthesia services,
55 second surgical opinion, and a second opinion for cancer treatment;

1 (4) outpatient surgical facility charges related to a covered surgical
2 procedure;
3 (5) preadmission testing;
4 (6) maternity care;
5 (7) adult preventive health services consisting of mammography screen-
6 ing; cervical cytology screening; periodic physical examinations no more
7 than once every three years; and adult immunizations;
8 (8) preventive and primary health care services for dependent children
9 including routine well-child visits and necessary immunizations;
10 (9) equipment, supplies and self-management education for the treat-
11 ment of diabetes;
12 (10) diagnostic x-ray and laboratory services;
13 (11) emergency services;
14 (12) therapeutic services consisting of radiologic services, chemoth-
15 erapy and hemodialysis;
16 (13) blood and blood products furnished in connection with surgery or
17 inpatient hospital services;
18 (14) prescription drugs obtained at a participating pharmacy. In addi-
19 tion to providing coverage at a participating pharmacy, health mainte-
20 nance organizations may utilize a mail order prescription drug program.
21 Health maintenance organizations may provide prescription drugs pursuant
22 to a drug formulary; however, health maintenance organizations must
23 implement an appeals process so that the use of non-formulary
24 prescription drugs may be requested by a physician; and
25 (15) for a contract that is not a grandfathered health plan, the
26 following additional preventive health services:
27 (A) evidence-based items or services that have in effect a rating of
28 'A' or 'B' in the current recommendations of the United States preven-
29 tive services task force;
30 (B) immunizations that have in effect a recommendation from the advi-
31 sory committee on immunization practices of the centers for disease
32 control and prevention with respect to the individual involved;
33 (C) with respect to children, including infants and adolescents,
34 evidence-informed preventive care and screenings provided for in the
35 comprehensive guidelines supported by the health resources and services
36 administration; and
37 (D) with respect to women, such additional preventive care and screen-
38 ings not described in subparagraph (A) of this paragraph as provided for
39 in comprehensive guidelines supported by the health resources and
40 services administration.
41 (E) For purposes of this paragraph, "grandfathered health plan" means
42 coverage provided by a corporation in which an individual was enrolled
43 on March twenty-third, two thousand ten for as long as the coverage
44 maintains grandfathered status in accordance with section 1251(e) of the
45 Affordable Care Act, 42 U.S.C. S 18011(e)] A QUALIFYING GROUP HEALTH
46 INSURANCE CONTRACT SHALL PROVIDE COVERAGE FOR THE ESSENTIAL HEALTH BENE-
47 FIT PACKAGE AS REQUIRED IN SECTION 2707(A) OF THE PUBLIC HEALTH SERVICE
48 ACT, 42 U.S.C. S 300GG-6(A). FOR PURPOSES OF THIS SUBSECTION "ESSENTIAL
49 HEALTH BENEFITS PACKAGE" SHALL HAVE THE MEANING SET FORTH IN SECTION
50 1302(A) OF THE AFFORDABLE CARE ACT, 42 U.S.C. S 18022(A).
51 (d-1) Covered services shall not include drugs, procedures and
52 supplies for the treatment of erectile dysfunction when provided to, or
53 prescribed for use by, a person who is required to register as a sex
54 offender pursuant to article six-C of the correction law, provided that:
55 (1) any denial of coverage pursuant to this subsection shall provide the
56 enrollee with the means of obtaining additional information concerning

1 both the denial and the means of challenging such denial; (2) all drugs,
2 procedures and supplies for the treatment of erectile dysfunction may be
3 subject to prior authorization by corporations, insurers or health main-
4 tenance organizations for the purposes of implementing this subsection;
5 and (3) the superintendent shall promulgate regulations to implement the
6 denial of coverage pursuant to this subsection giving health maintenance
7 organizations, corporations and insurers at least sixty days following
8 promulgation of the regulations to implement their denial procedures
9 pursuant to this subsection.

10 (d-2) No person or entity authorized to provide coverage under this
11 section shall be subject to any civil or criminal liability for damages
12 for any decision or action pursuant to subsection (d-1) of this section,
13 made in the ordinary course of business if that authorized person or
14 entity acted reasonably and in good faith with respect to such informa-
15 tion.

16 (d-3) Notwithstanding any other provision of law, if the commissioner
17 of health makes a finding pursuant to subdivision twenty-three of
18 section two hundred six of the public health law, the superintendent is
19 authorized to remove a drug, procedure or supply from the services
20 covered by the standardized health insurance contract established by
21 this section for those persons required to register as sex offenders
22 pursuant to article six-C of the correction law.

23 (e) [The benefits provided in the contracts described in subsection
24 (d) of this section shall be subject to the following deductibles and
25 copayments:

26 (1) in-patient hospital services shall have a five hundred dollar
27 copayment for each continuous hospital confinement;

28 (2) surgical services shall be subject to a copayment of the lesser of
29 twenty percent of the cost of such services or two hundred dollars per
30 occurrence;

31 (3) outpatient surgical facility charges shall be subject to a facili-
32 ty copayment charge of seventy-five dollars per occurrence;

33 (4) emergency services shall have a fifty dollar copayment which must
34 be waived if hospital admission results from the emergency room visit;

35 (5) prescription drugs shall have a one hundred dollar calendar year
36 deductible per individual. After the deductible is satisfied, each thir-
37 ty-four day supply of a prescription drug will be subject to a copay-
38 ment. The copayment will be ten dollars if the drug is generic. The
39 copayment for a brand name drug will be twenty dollars plus the differ-
40 ence in cost between the brand name drug and the equivalent generic
41 drug. If a mail order drug program is utilized, a twenty dollar copay-
42 ment shall be imposed on a ninety day supply of generic prescription
43 drugs. A forty dollar copayment plus the difference in cost between the
44 brand name drug and the equivalent generic drug shall be imposed on a
45 ninety day supply of brand name prescription drugs. In no event shall
46 the copayment exceed the cost of the prescribed drug;

47 (6) (A) the maximum coverage for prescription drugs in an individual
48 contract that is a grandfathered health plan shall be three thousand
49 dollars per individual in a calendar year; and

50 (B) the maximum dollar amount on coverage for prescription drugs in an
51 individual contract that is not a grandfathered health plan or in any
52 group contract shall be consistent with section 2711 of the Public
53 Health Service Act, 42 U.S.C. S 300gg-11 or any regulations thereunder.

54 (C) For purposes of this paragraph, "grandfathered health plan" means
55 coverage provided by a corporation in which an individual was enrolled
56 on March twenty-third, two thousand ten for as long as the coverage

1 maintains grandfathered status in accordance with section 1251(e) of the
2 Affordable Care Act, 42 U.S.C. S 18011(e); and
3 (7) all other services shall have a twenty dollar copayment with the
4 exception of prenatal care which shall have a ten dollar copayment or
5 preventive health services provided pursuant to paragraph fifteen of
6 subsection (d) of this section, for which no copayment shall apply] A
7 QUALIFYING GROUP HEALTH INSURANCE CONTRACT ISSUED TO A QUALIFYING SMALL
8 EMPLOYER PRIOR TO JANUARY FIRST, TWO THOUSAND FOURTEEN THAT DOES NOT
9 INCLUDE ALL ESSENTIAL HEALTH BENEFITS REQUIRED PURSUANT TO SECTION
10 2707(A) OF THE PUBLIC HEALTH SERVICE ACT, 42 U.S.C. S 300GG-6(A), SHALL
11 BE DISCONTINUED, INCLUDING GRANDFATHERED HEALTH PLANS. FOR THE PURPOSES
12 OF THIS PARAGRAPH, "GRANDFATHERED HEALTH PLANS" MEANS COVERAGE PROVIDED
13 BY A CORPORATION TO INDIVIDUALS WHO WERE ENROLLED ON MARCH TWENTY-THIRD,
14 TWO THOUSAND TEN FOR AS LONG AS THE COVERAGE MAINTAINS GRANDFATHERED
15 STATUS IN ACCORDANCE WITH SECTION 1251(E) OF THE AFFORDABLE CARE ACT, 42
16 U.S.C. S 18011(E). A QUALIFYING SMALL EMPLOYER SHALL BE TRANSITIONED TO
17 A PLAN THAT PROVIDES: (1) A LEVEL OF COVERAGE THAT IS DESIGNED TO
18 PROVIDE BENEFITS THAT ARE ACTUARIALLY EQUIVALENT TO EIGHTY PERCENT OF
19 THE FULL ACTUARIAL VALUE OF THE BENEFITS PROVIDED UNDER THE PLAN; AND
20 (2) COVERAGE FOR THE ESSENTIAL HEALTH BENEFIT PACKAGE AS REQUIRED IN
21 SECTION 2707(A) OF THE PUBLIC HEALTH SERVICE ACT, 42 U.S.C. S
22 300GG-6(A). THE SUPERINTENDENT SHALL STANDARDIZE THE BENEFIT PACKAGE AND
23 COST SHARING REQUIREMENTS OF QUALIFIED GROUP HEALTH INSURANCE CONTRACTS
24 CONSISTENT WITH COVERAGE OFFERED THROUGH THE HEALTH BENEFIT EXCHANGE
25 ESTABLISHED PURSUANT TO SECTION 1311 OF THE AFFORDABLE CARE ACT, 42
26 U.S.C. S 18031.

27 (f) [Except as included in the list of covered services in subsection
28 (d) of this section, the] THE mandated and make-available benefits set
29 forth in sections [three thousand two hundred sixteen,] three thousand
30 two hundred twenty-one of this chapter and four thousand three hundred
31 three of this article shall not be applicable to the contracts issued
32 pursuant to this section. [Mandated benefits included in such contracts
33 shall be subject to the deductibles and copayments set forth in
34 subsection (e) of this section.]

35 (g) [The superintendent shall be authorized to modify, by regulation,
36 the copayment and deductible amounts described in this section if the
37 superintendent determines such amendments are necessary to facilitate
38 implementation of this section. On or after January first, two thousand
39 two, the superintendent shall be authorized to establish, by regulation,
40 one or more additional standardized health insurance benefit packages if
41 the superintendent determines additional benefit packages with different
42 levels of benefits are necessary to meet the needs of the public.

43 (h)] A health maintenance organization, corporation or insurer must
44 offer the benefit package without change or additional benefits. [Quali-
45 fying] A QUALIFYING small [employers] EMPLOYER shall be issued the bene-
46 fit package in a qualifying group health insurance contract. [Qualifying
47 individuals shall be issued the benefit package in a qualifying individ-
48 ual health insurance contract.

49 (i)] (H) A health maintenance organization, corporation or insurer
50 shall obtain from the employer [or individual] written certification at
51 the time of initial application and annually thereafter ninety days
52 prior to the contract renewal date that such employer [or individual]
53 meets the requirements of a qualifying small employer [or a qualifying
54 individual] pursuant to this section. A health maintenance organization,
55 corporation or insurer may require the submission of appropriate
56 documentation in support of the certification.

1 [(j)] (I) Applications for qualifying group health insurance contracts
2 [and qualifying individual health insurance contracts] must be accepted
3 from [any qualifying individual and] any qualifying small employer at
4 all times throughout the year. The superintendent, by regulation, may
5 require health maintenance organizations, corporations or insurers to
6 give preference to qualifying small employers whose [eligible] employees
7 have the lowest average salaries.

8 [(k) (1) All coverage under a qualifying group health insurance
9 contract or a qualifying individual health insurance contract must be
10 subject to a pre-existing condition limitation provision as set forth in
11 sections three thousand two hundred thirty-two of this chapter and four
12 thousand three hundred eighteen of this article, including the crediting
13 requirements thereunder. The underwriting of such contracts may not
14 involve more than the imposition of a pre-existing condition limitation.
15 However, as provided in sections three thousand two hundred thirty-two
16 of this chapter and four thousand three hundred eighteen of this arti-
17 cle, a corporation shall not impose a pre-existing condition limitation
18 provision on any person under age nineteen, except may impose such a
19 limitation on those persons covered by a qualifying individual health
20 insurance contract that is a grandfathered health plan.

21 (2)] (J) Beginning January first, two thousand fourteen, pursuant to
22 section 2704 of the Public Health Service Act, 42 U.S.C. S 300gg-3, a
23 corporation shall not impose any pre-existing condition limitation in a
24 qualifying group health insurance contract [or a qualifying individual
25 health insurance contract except may impose such a limitation in a qual-
26 ifying individual health insurance contract that is a grandfathered
27 health plan].

28 [(3) For purposes of paragraphs one and two of this subsection,
29 "grandfathered health plan" means coverage provided by a corporation in
30 which an individual was enrolled on March twenty-third, two thousand ten
31 for as long as the coverage maintains grandfathered status in accordance
32 with section 1251(e) of the Affordable Care Act, 42 U.S.C. S 18011(e).

33 [(l)] (K) A qualifying small employer shall elect whether to make
34 coverage under the qualifying group health insurance contract available
35 to dependents of employees. Any employee or dependent who is enrolled in
36 Medicare is ineligible for coverage, unless required by federal law.
37 Dependents of an employee who is enrolled in Medicare will be eligible
38 for dependent coverage provided the dependent is not also enrolled in
39 Medicare.

40 [(m)] (L) A qualifying small employer must pay at least fifty percent
41 of the premium for employees covered under a qualifying group health
42 insurance contract and must offer coverage to all employees receiving
43 annual wages at a level of thirty thousand dollars or less, and at least
44 one such employee shall accept such coverage. The thirty thousand dollar
45 wage level shall be adjusted periodically in accordance with subpara-
46 graph (F) of paragraph one of subsection (c) of this section. The
47 employer premium contribution must be the same percentage for all
48 covered employees.

49 [(n)] (M) Premium rate calculations for qualifying group health insur-
50 ance contracts [and qualifying individual health insurance contracts]
51 shall be subject to the following:

52 (1) coverage must be community rated and [include rate tiers for indi-
53 viduals, two adult families and at least one other family tier. The rate
54 differences must be based upon the cost differences for the different
55 family units and the rate tiers must be uniformly applied. The rate tier
56 structure used by a health maintenance organization, corporation or

insurer for the contracts issued to qualifying small employers and to qualifying individuals must be the same] THE SUPERINTENDENT SHALL SET STANDARD RATING TIERS FOR FAMILY UNITS AND STANDARD RATING RELATIVITIES BETWEEN TIERS APPLICABLE TO ALL CONTRACTS SUBJECT TO THIS SECTION; AND

(2) [if geographic rating areas are utilized, such geographic areas must be reasonable and in a given case may include a single county. The geographic areas utilized must be the same for the contracts issued to qualifying small employers and to qualifying individuals. The superintendent shall not require the inclusion of any specific geographic region within the proposed community rated region selected by the health maintenance organization, corporation or insurer so long as the health maintenance organization, corporation or insurer's proposed regions do not contain configurations designed to avoid or segregate particular areas within a county covered by the health maintenance organization, corporation or insurer's community rates.] BEGINNING JANUARY FIRST, TWO THOUSAND FOURTEEN, EVERY POLICY SUBJECT TO THIS SECTION SHALL USE STANDARDIZED REGIONS ESTABLISHED BY THE SUPERINTENDENT; AND

(3) claims experience under contracts issued to qualifying small employers [and to qualifying individuals] must be pooled WITH THE HEALTH MAINTENANCE ORGANIZATION, CORPORATION OR INSURER'S SMALL GROUP BUSINESS for rate setting purposes. [The premium rates for qualifying group health insurance contracts and qualifying individual health insurance contracts must be the same.

(o)] (N) A health maintenance organization, corporation or insurer shall submit reports to the superintendent in such form and at times as may be reasonably required in order to evaluate the operations and results of the standardized health insurance program established by this section.

[(p) Notwithstanding any other provision of law, all individuals and small businesses that are participating in or covered by insurance contracts or policies issued pursuant to the New York state small business health insurance partnership program established by section nine hundred twenty-two of the public health law, the voucher insurance program established by section one thousand one hundred twenty-one of this chapter, or uninsured pilot programs established pursuant to chapter seven hundred three of the laws of nineteen hundred eighty-eight shall be eligible for participation in the standardized health insurance contracts established by this section, regardless of any of the eligibility requirements established pursuant to subsection (c) of this section.]

S 57. The insurance law is amended by adding a new section 4326-a to read as follows:

S 4326-A. TRANSITION OF HEALTHY NEW YORK ENROLLEES. (A) ON DECEMBER THIRTY-FIRST, TWO THOUSAND THIRTEEN, COVERAGE ISSUED TO QUALIFYING INDIVIDUALS AND QUALIFYING SMALL EMPLOYERS WHO ARE SOLE PROPRIETORS AS DEFINED IN SECTION FOUR THOUSAND THREE HUNDRED TWENTY-SIX SHALL END.

(B) A HEALTH MAINTENANCE ORGANIZATION, CORPORATION, OR INSURER SHALL PROVIDE WRITTEN NOTICE OF THE PROGRAM DISCONTINUANCE TO EACH ENROLLED INDIVIDUAL AND INDIVIDUAL PROPRIETOR AT LEAST ONE HUNDRED AND EIGHTY DAYS PRIOR TO THE DATE OF PROGRAM DISCONTINUANCE. EVERY NOTICE OF PROGRAM DISCONTINUANCE SHALL BE IN SUCH FORM AND CONTAIN SUCH INFORMATION AS THE SUPERINTENDENT REQUIRES. IN ADDITION TO ANY OTHER INFORMATION REQUIRED BY THE SUPERINTENDENT, THE WRITTEN NOTICE SHALL INCLUDE A CONSPICUOUS EXPLANATION, IN PLAIN LANGUAGE, OF AVAILABLE HEALTH INSURANCE OPTIONS, INCLUDING COVERAGE THROUGH THE HEALTH BENEFIT EXCHANGE

1 ESTABLISHED PURSUANT TO SECTION 1311 OF THE AFFORDABLE CARE ACT, 42
2 U.S.C. S 18031, UPON SUCH DISCONTINUANCE.

3 (C) QUALIFYING GROUP HEALTH INSURANCE CONTRACTS ISSUED TO QUALIFYING
4 SMALL EMPLOYERS PRIOR TO JANUARY FIRST, TWO THOUSAND FOURTEEN THAT DO
5 NOT INCLUDE ALL ESSENTIAL HEALTH BENEFITS REQUIRED PURSUANT TO SECTION
6 2707(A) OF THE PUBLIC HEALTH SERVICE ACT, 42 U.S.C. S 300GG-6(A); SHALL
7 BE DISCONTINUED, INCLUDING GRANDFATHERED HEALTH PLANS. FOR THE PURPOSES
8 OF THIS PARAGRAPH, "GRANDFATHERED HEALTH PLANS" MEANS COVERAGE PROVIDED
9 BY A CORPORATION TO INDIVIDUALS WHO WERE ENROLLED ON MARCH TWENTY-THIRD,
10 TWO THOUSAND TEN FOR AS LONG AS THE COVERAGE MAINTAINS GRANDFATHERED
11 STATUS IN ACCORDANCE WITH SECTION 1251(E) OF THE AFFORDABLE CARE ACT, 42
12 U.S.C. S 18011(E). QUALIFYING SMALL EMPLOYERS THAT ARE IMPACTED BY THE
13 DISCONTINUANCE SHALL BE TRANSITIONED TO A PLAN THAT MEETS THE REQUIRE-
14 MENTS OF SUBSECTION (E) OF SECTION FOUR THOUSAND THREE HUNDRED
15 TWENTY-SIX OF THIS CHAPTER. A HEALTH MAINTENANCE ORGANIZATION, CORPO-
16 RATION, OR INSURER SHALL PROVIDE WRITTEN NOTICE OF THE PROGRAM DISCON-
17 TINUANCE TO EACH ENROLLED QUALIFYING SMALL EMPLOYER AT LEAST ONE HUNDRED
18 EIGHTY DAYS PRIOR TO THE DATE OF PROGRAM DISCONTINUANCE. EVERY NOTICE OF
19 PROGRAM DISCONTINUANCE SHALL BE IN SUCH FORM AND CONTAIN SUCH INFORMA-
20 TION AS REQUIRED BY THE SUPERINTENDENT. IN ADDITION TO ANY OTHER INFOR-
21 MATION THE SUPERINTENDENT MAY REQUIRE, THE WRITTEN NOTICE SHALL INCLUDE
22 A CONSPICUOUS EXPLANATION, IN PLAIN LANGUAGE, OF THE ABILITY TO TRANSI-
23 TION TO A NEW QUALIFYING SMALL GROUP HEALTH INSURANCE CONTRACT OFFERED
24 PURSUANT TO SECTION FOUR THOUSAND THREE HUNDRED TWENTY-SIX OF THIS ARTI-
25 CLE.

26 S 58. Section 4327 of the insurance law, as added by chapter 1 of the
27 laws of 1999, subsection (h) as amended by chapter 419 of the laws of
28 2000, subsection (m-1) as added by section 12 of part B of chapter 58 of
29 the laws of 2010, subsection (s) as amended and subsection (t) as added
30 by chapter 441 of the laws of 2006, is amended to read as follows:

31 S 4327. Stop loss funds for standardized health insurance contracts
32 issued to qualifying small employers and qualifying individuals. (a) The
33 superintendent shall establish a fund from which health maintenance
34 organizations, corporations or insurers may receive reimbursement, to
35 the extent of funds available therefor, for claims paid by such health
36 maintenance organizations, corporations or insurers for members covered
37 under qualifying group health insurance contracts issued pursuant to
38 section four thousand three hundred twenty-six of this article. This
39 fund shall be known as the "small employer stop loss fund". [The super-
40 intendent shall establish a separate and distinct fund from which health
41 maintenance organizations, corporations or insurers may receive
42 reimbursement, to the extent of funds available therefor, for claims
43 paid by such health maintenance organizations, corporations or insurers
44 for members covered under qualifying individual health insurance
45 contracts issued pursuant to section four thousand three hundred twen-
46 ty-six of this article. This fund shall be known as the "qualifying
47 individual stop loss fund".]

48 (b) [Commencing on January first, two thousand one, health] HEALTH
49 maintenance organizations, corporations or insurers shall be eligible to
50 receive reimbursement for ninety percent of claims paid between [thirty]
51 FIVE thousand and [one hundred] SEVENTY-FIVE thousand dollars in a
52 calendar year for any member covered under a standardized contract
53 issued pursuant to section four thousand three hundred twenty-six of
54 this article. Claims paid for members covered under qualifying group
55 health insurance contracts shall be reimbursable from the small employer
56 stop loss fund. [Claims paid for members covered under qualifying indi-

1 vidual health insurance contracts shall be reimbursable from the quali-
2 fying individual stop loss fund.] For the purposes of this section,
3 claims shall include health care claims paid by a health maintenance
4 organization on behalf of a covered member pursuant to such standardized
5 contracts.

6 (c) The superintendent shall promulgate regulations that set forth
7 procedures for the operation of the small employer stop loss fund [and
8 the qualifying individual stop loss fund] and distribution of monies
9 therefrom.

10 (d) [The small employer stop loss fund shall operate separately from
11 the qualifying individual stop loss fund. Except as specified in
12 subsection (b) of this section with respect to calendar year two thou-
13 sand one, the level of stop loss coverage for the qualifying group
14 health insurance contracts and the qualifying individual health insur-
15 ance contracts need not be the same. The two stop loss funds need not be
16 structured or operated in the same manner, except as specified in this
17 section. The monies available for distribution from the stop loss funds
18 may be reallocated between the small employer stop loss fund and the
19 qualifying individual stop loss fund if the superintendent determines
20 that such reallocation is warranted due to enrollment trends.] THE
21 SUPERINTENDENT MAY ADJUST THE LEVEL OF STOP LOSS COVERAGE SPECIFIED IN
22 SUBSECTION (B) OF THIS SECTION.

23 (e) Claims shall be reported and funds shall be distributed from the
24 small employer stop loss fund [and from the qualifying individual stop
25 loss fund] on a calendar year basis. Claims shall be eligible for
26 reimbursement only for the calendar year in which the claims are paid.
27 Once claims paid on behalf of a covered member reach or exceed one
28 hundred thousand dollars in a given calendar year, no further claims
29 paid on behalf of such member in that calendar year shall be eligible
30 for reimbursement.

31 (f) Each health maintenance organization, corporation or insurer shall
32 submit a request for reimbursement from [each of] the stop loss [funds]
33 FUND on forms prescribed by the superintendent. [Each of the] THE
34 requests for reimbursement shall be submitted no later than April first
35 following the end of the calendar year for which the reimbursement
36 requests are being made. The superintendent may require health mainte-
37 nance organizations, corporations or insurers to submit such claims data
38 in connection with the reimbursement requests as he deems necessary to
39 enable him to distribute monies and oversee the operation of the small
40 employer [and qualifying individual] stop loss [funds] FUND. The super-
41 intendent may require that such data be submitted on a per member,
42 aggregate and/or categorical basis. [Data shall be reported separately
43 for qualifying group health insurance contracts and qualifying individ-
44 ual health insurance contracts issued pursuant to section four thousand
45 three hundred twenty-six of this article.]

46 (g) For [each] THE stop loss fund, the superintendent shall calculate
47 the total claims reimbursement amount for all health maintenance organ-
48 izations, corporations or insurers for the calendar year for which
49 claims are being reported.

50 (1) In the event that the total amount requested for reimbursement for
51 a calendar year exceeds funds available for distribution for claims paid
52 during that same calendar year, the superintendent shall provide for the
53 pro-rata distribution of the available funds. Each health maintenance
54 organization, corporation or insurer shall be eligible to receive only
55 such proportionate amount of the available funds as the individual
56 health maintenance organization's, corporation's or insurer's total

1 eligible claims paid bears to the total eligible claims paid by all
2 health maintenance organizations, corporations or insurers.

3 (2) In the event that funds available for distribution for claims paid
4 by all health maintenance organizations, corporations or insurers during
5 a calendar year exceeds the total amount requested for reimbursement by
6 all health maintenance organizations, corporations or insurers during
7 that same calendar year, any excess funds shall be carried forward and
8 made available for distribution in the next calendar year. Such excess
9 funds shall be in addition to the monies appropriated for the stop loss
10 fund in the next calendar year.

11 (h) Upon the request of the superintendent, each health maintenance
12 organization shall be required to furnish such data as the superinten-
13 dent deems necessary to oversee the operation of the small employer [and
14 qualifying individual] stop loss [funds] FUND. Such data shall be
15 furnished in a form prescribed by the superintendent. Each health main-
16 tenance organization, corporation or insurer shall provide the super-
17 intendent with monthly reports of the total enrollment under the quali-
18 fying group health insurance contracts [and the qualifying individual
19 health insurance contracts] issued pursuant to section four thousand
20 three hundred twenty-six of this article. The reports shall be in a form
21 prescribed by the superintendent.

22 (i) The superintendent shall separately estimate the per member annual
23 cost of total claims reimbursement from each stop loss fund for [quali-
24 fying individual health insurance contracts and for] qualifying group
25 health insurance contracts based upon available data and appropriate
26 actuarial assumptions. Upon request, each health maintenance organiza-
27 tion, corporation or insurer shall furnish to the superintendent claims
28 experience data for use in such estimations.

29 (j) The superintendent shall determine total eligible enrollment under
30 qualifying group health insurance contracts [and qualifying individual
31 health insurance contracts]. [For qualifying group health insurance
32 contracts, the] THE total eligible enrollment shall be determined by
33 dividing the total funds available for distribution from the small
34 employer stop loss fund by the estimated per member annual cost of total
35 claims reimbursement from the small employer stop loss fund. [For quali-
36 fying individual health insurance contracts, the total eligible enroll-
37 ment shall be determined by dividing the total funds available for
38 distribution from the qualifying individual stop loss fund by the esti-
39 mated per member annual cost of total claims reimbursement from the
40 qualifying individual stop loss fund.]

41 (k) The superintendent shall suspend the enrollment of new employers
42 under qualifying group health insurance contracts if [he] THE SUPER-
43 INTENDENT determines that the total enrollment reported by all health
44 maintenance organizations, corporations or insurers under such contracts
45 exceeds the total eligible enrollment, thereby resulting in anticipated
46 annual expenditures from the small employer stop loss fund in excess of
47 the total funds available for distribution from such stop loss fund.
48 [The superintendent shall suspend the enrollment of new individuals
49 under qualifying individual health insurance contracts if he determines
50 that the total enrollment reported by all health maintenance organiza-
51 tions, corporations or insurers under such contracts exceeds the total
52 eligible enrollment, thereby resulting in anticipated annual expendi-
53 tures from the qualifying individual stop loss fund in excess of the
54 total funds available for distribution from such stop loss fund.]

55 (l) The superintendent shall provide the health maintenance organiza-
56 tions, corporations or insurers with notification of any enrollment

1 suspensions as soon as practicable after receipt of all enrollment data.
2 [The superintendent's determination and notification shall be made sepa-
3 rately for the qualifying group health insurance contracts and for the
4 qualifying individual health insurance contracts.]

5 (m) If at any point during a suspension of enrollment of new qualify-
6 ing small employers [and/or qualifying individuals], the superintendent
7 determines that funds are sufficient to provide for the addition of new
8 enrollments, the superintendent shall be authorized to reactivate new
9 enrollments and to notify all health maintenance organizations, corpo-
10 rations or insurers that enrollment of new employers [and/or individ-
11 uals] may again commence. [The superintendent's determination and
12 notification shall be made separately for the qualifying group health
13 insurance contracts and for the qualifying individual health insurance
14 contracts.]

15 (m-1) In the event that the superintendent suspends the enrollment of
16 new individuals for qualifying group health insurance contracts [or
17 qualifying individual health insurance contracts], the superintendent
18 shall ensure that small employers [or sole proprietors] seeking to
19 enroll in a qualified group [or individual] health insurance contract
20 pursuant to section forty-three hundred twenty-six of this article are
21 provided information on and directed to [the family health plus employer
22 partnership program under section three hundred sixty-nine-ff of the
23 social services law] COVERAGE OPTIONS AVAILABLE THROUGH THE HEALTH BENE-
24 FIT EXCHANGE ESTABLISHED PURSUANT TO SECTION 1311 OF THE AFFORDABLE CARE
25 ACT, 42 U.S.C. S 18031.

26 (n) The suspension of issuance of qualifying group health insurance
27 contracts to new qualifying small employers shall not preclude the addi-
28 tion of new employees of an employer already covered under such a
29 contract or new dependents of employees already covered under such
30 contracts.

31 (o) [The suspension of issuance of qualifying individual health insur-
32 ance contracts to new qualifying individuals shall not preclude the
33 addition of new dependents to an existing qualifying individual health
34 insurance contract.]

35 (p)] The premiums for qualifying group health insurance contracts must
36 factor in the availability of reimbursement from the small employer stop
37 loss fund. [The premiums for qualifying individual health insurance
38 contracts must factor in the availability of reimbursement from the
39 qualifying individual stop loss funds.]

40 (q)] (P) The superintendent may obtain the services of an organization
41 to administer the stop loss funds established by this section. [If the
42 superintendent deems it appropriate, he or she may utilize a separate
43 organization for administration of the small employer stop loss fund and
44 the qualifying individual stop loss fund.] The superintendent shall
45 establish guidelines for the submission of proposals by organizations
46 for the purposes of administering the funds. The superintendent shall
47 make a determination whether to approve, disapprove or recommend modifi-
48 cation to the proposal of an applicant to administer the funds. An
49 organization approved to administer the funds shall submit reports to
50 the superintendent in such form and at times as may be required by the
51 superintendent in order to facilitate evaluation and ensure orderly
52 operation of the funds, including[, but not limited to,] an annual
53 report of the affairs and operations of the fund, such report to be
54 delivered to the superintendent and to the chairs of the senate finance
55 committee and the assembly ways and means committee. An organization
56 approved to administer the funds shall maintain records in a form

1 prescribed by the superintendent and which shall be available for
2 inspection by or at the request of the superintendent. The superinten-
3 dent shall determine the amount of compensation to be allocated to an
4 approved organization as payment for fund administration. Compensation
5 shall be payable from the stop loss coverage funds. An organization
6 approved to administer the funds may be removed by the superintendent
7 and must cooperate in the orderly transition of services to another
8 approved organization or to the superintendent.

9 [(r)] (Q) If the superintendent deems it appropriate for the proper
10 administration of the small employer stop loss fund [and/or the qualify-
11 ing individual stop loss fund], the administrator of the fund, on behalf
12 of and with the prior approval of the superintendent, shall be author-
13 ized to purchase stop loss insurance and/or reinsurance from an insur-
14 ance company licensed to write such type of insurance in this state.
15 Such stop loss insurance and/or reinsurance may be purchased to the
16 extent of funds available therefor within such funds which are available
17 for purposes of the stop loss funds established by this section.

18 [(s)] (R) The superintendent may access funding from the small employ-
19 er stop loss fund [and/or the qualifying individual stop loss fund] for
20 the purposes of developing and implementing public education, outreach
21 and facilitated enrollment strategies targeted to small employers [and
22 working adults] without health insurance. The superintendent may
23 contract with marketing organizations to perform or provide assistance
24 with such education, outreach, and enrollment strategies. The super-
25 intendent shall determine the amount of funding available for the
26 purposes of this subsection which in no event shall exceed eight percent
27 of the annual funding amounts for the small employer stop loss fund [and
28 the qualifying individual stop loss fund].

29 [(t)] (S) Brooklyn healthworks pilot program [and upstate healthworks
30 pilot program]. Commencing on July first, two thousand six, the super-
31 intendent shall access funding from the small employer stop loss fund
32 [and the qualifying individual stop loss fund] for the purpose of
33 support and expansion of the existing pilot program Brooklyn healthworks
34 approved by the superintendent [and for the establishment and operation
35 of a pilot program to be located in upstate New York]. For the purpose
36 of this subsection, in no event shall the amount of funding available
37 exceed [two] ONE percent of the annual funding [amounts] AMOUNT for the
38 small employer stop loss fund [and the qualifying individual stop loss
39 fund].

40 S 59. Paragraph 1 of subsection (d) of section 4235 of the insurance
41 law is amended to read as follows:

42 (1) In this section, for the purpose of insurance OTHER THAN FOR GROUP
43 HOSPITAL, MEDICAL, MAJOR MEDICAL OR SIMILAR COMPREHENSIVE-TYPES OF
44 EXPENSE REIMBURSED INSURANCE hereunder: "employees" includes the offi-
45 cers, managers, employees and retired employees of the employer and of
46 subsidiary or affiliated corporations of a corporate employer, and the
47 individual proprietors, partners, employees and retired employees of
48 affiliated individuals and firms controlled by the insured employer
49 through stock ownership, contract or otherwise; "employees" may be
50 deemed to include the individual proprietor or partners if the employer
51 is an individual proprietor or a partnership; and "employees" as used in
52 subparagraph (A) of paragraph one of subsection (c) hereof may also
53 include the directors of the employer and of subsidiary or affiliated
54 corporations of a corporate employer.

55 S 60. Subsection (d) of section 4235 of the insurance law is amended
56 by adding a new paragraph 3 to read as follows:

(3) IN THIS SECTION, FOR THE PURPOSE OF GROUP HOSPITAL, MEDICAL, MAJOR MEDICAL OR SIMILAR COMPREHENSIVE-TYPES OF EXPENSE REIMBURSED INSURANCE HEREUNDER:

(A) "EMPLOYEE" SHALL HAVE THE MEANING SET FORTH IN SECTION 2791 OF THE PUBLIC HEALTH SERVICE ACT, 42 U.S.C. S 300GG-91(D)(5) OR ANY REGULATIONS PROMULGATED THEREUNDER; AND

(B) "FULL-TIME EMPLOYEE" MEANS WITH RESPECT TO ANY MONTH, AN EMPLOYEE WHO IS EMPLOYED ON AVERAGE FOR AT LEAST THIRTY HOURS OF SERVICE PER WEEK AS SET FORTH IN SECTION 4980H(C)(4) OF THE INTERNAL REVENUE CODE, 26 U.S.C. S 4980H(C)(4), OR ANY REGULATIONS PROMULGATED THEREUNDER.

S 61. Subparagraph (B) of paragraph 1 of subsection (e) of section 3231 of the insurance law, as amended by chapter 107 of the laws of 2010, is amended to read as follows:

(B) The expected minimum loss ratio for a policy form subject to this section, for which a rate filing or application is made pursuant to this paragraph, other than a medicare supplemental insurance policy, or, with the approval of the superintendent, an aggregation of policy forms that are combined into one community rating experience pool and rated consistent with community rating requirements, shall not be less than eighty-two percent. In reviewing a rate filing or application, the superintendent may modify the eighty-two percent expected minimum loss ratio requirement if the superintendent determines the modification to be in the interests of the people of this state or if the superintendent determines that a modification is necessary to maintain insurer solvency. No later than [June thirtieth] AUGUST THIRTY-FIRST of each year, every insurer subject to this subparagraph shall annually report the actual loss ratio for the previous calendar year in a format acceptable to the superintendent. If an expected loss ratio is not met, the superintendent may direct the insurer to take corrective action, which may include the submission of a rate filing to reduce future premiums, or to issue dividends, premium refunds or credits, or any combination of these.

S 62. Subparagraph (A) of paragraph 3 of subsection (c) of section 4308 of the insurance law, as added by chapter 107 of the laws of 2010, is amended to read as follows:

(A) The expected minimum loss ratio for a contract form subject to this subsection for which a rate filing or application is made pursuant to this paragraph, other than a medicare supplemental insurance contract, or, with the approval of the superintendent, an aggregation of contract forms that are combined into one community rating experience pool and rated consistent with community rating requirements, shall not be less than eighty-two percent. In reviewing a rate filing or application, the superintendent may modify the eighty-two percent expected minimum loss ratio requirement if the superintendent determines the modification to be in the interests of the people of this state or if the superintendent determines that a modification is necessary to maintain insurer solvency. No later than [June thirtieth] AUGUST THIRTY-FIRST of each year, every corporation subject to this subparagraph shall annually report the actual loss ratio for the previous calendar year in a format acceptable to the superintendent. If an expected loss ratio is not met, the superintendent may direct the corporation to take corrective action, which may include the submission of a rate filing to reduce future premiums, or to issue dividends, premium refunds or credits, or any combination of these.

S 63. Section 3233 of the insurance law is amended by adding a new subsection (d) to read as follows:

1 (D) NOTWITHSTANDING ANY PROVISION OF THIS CHAPTER OR ANY OTHER CHAP-
2 TER, THE SUPERINTENDENT MAY SUSPEND OR TERMINATE, BY REGULATION, THE
3 OPERATION, IN WHOLE OR IN PART, OF ANY MECHANISM ESTABLISHED AND OPERAT-
4 ING PURSUANT TO THE AUTHORITY OF THIS SECTION PROVIDED THAT THE SUPER-
5 INTENDENT DETERMINES THAT THE OBJECTIVES STATED IN SUBSECTION (A) OF
6 THIS SECTION ARE MET BY THE OPERATION OF A MECHANISM OR MECHANISMS
7 ESTABLISHED BY THE FEDERAL GOVERNMENT PURSUANT TO SECTION 1343 OF THE
8 AFFORDABLE CARE ACT, 42 U.S.C. S 18063. NOTWITHSTANDING SUBSECTION (B)
9 OF THIS SECTION, THE SUPERINTENDENT MAY EXERCISE THIS AUTHORITY WITHOUT
10 CONVENING A TECHNICAL ADVISORY COMMITTEE.

11 S 64. Subparagraph (D) of paragraph 2 of subsection (p) of section
12 3221 of the insurance law, as added by chapter 661 of the laws of 1997,
13 is amended to read as follows:

14 (D) The insurer is ceasing to offer group or blanket policies in a
15 market in accordance with paragraph three OR SEVEN of this subsection.

16 S 65. Subsection (p) of section 3221 of the insurance law is amended
17 by adding a new paragraph 7 to read as follows:

18 (7) AN INSURER MAY DISCONTINUE OFFERING A PARTICULAR CLASS OF GROUP OR
19 BLANKET POLICY OF HOSPITAL, SURGICAL OR MEDICAL EXPENSE INSURANCE
20 OFFERED IN THE SMALL OR LARGE GROUP MARKET, AND INSTEAD OFFER A GROUP OR
21 BLANKET POLICY OF HOSPITAL, SURGICAL OR MEDICAL EXPENSE INSURANCE THAT
22 COMPLIES WITH THE REQUIREMENTS OF SECTION 2707 OF THE PUBLIC HEALTH
23 SERVICE ACT, S 42 U.S.C. 300GG-6 THAT BECOME APPLICABLE TO SUCH POLICY
24 AS OF JANUARY FIRST, TWO THOUSAND FOURTEEN, PROVIDED THAT THE INSURER:

25 (A) DISCONTINUES THE EXISTING CLASS OF POLICY IN SUCH MARKET AS OF
26 EITHER DECEMBER THIRTY-FIRST, TWO THOUSAND THIRTEEN OR THE POLICY
27 RENEWAL DATE OCCURRING IN TWO THOUSAND FOURTEEN IN ACCORDANCE WITH THIS
28 CHAPTER;

29 (B) PROVIDES WRITTEN NOTICE TO EACH POLICYHOLDER PROVIDED COVERAGE OF
30 THE CLASS IN THE MARKET (AND TO ALL EMPLOYEES AND MEMBER INSURED
31 COVERED UNDER SUCH COVERAGE) OF THE DISCONTINUANCE AT LEAST NINETY DAYS
32 PRIOR TO THE DATE OF DISCONTINUANCE OF SUCH COVERAGE. THE WRITTEN NOTICE
33 SHALL BE IN A FORM SATISFACTORY TO THE SUPERINTENDENT;

34 (C) OFFERS TO EACH POLICYHOLDER PROVIDED COVERAGE OF THE CLASS IN THE
35 MARKET, THE OPTION TO PURCHASE ALL (OR, IN THE CASE OF THE LARGE GROUP
36 MARKET, ANY) OTHER HOSPITAL, SURGICAL AND MEDICAL EXPENSE COVERAGE THAT
37 COMPLIES WITH THE REQUIREMENTS OF SECTION 2707 OF THE PUBLIC HEALTH
38 SERVICE ACT, 42 U.S.C. S 300GG-6 THAT BECOME APPLICABLE TO SUCH COVERAGE
39 AS OF JANUARY FIRST, TWO THOUSAND FOURTEEN, CURRENTLY BEING OFFERED BY
40 THE INSURER TO A GROUP IN THAT MARKET;

41 (D) IN EXERCISING THE OPTION TO DISCONTINUE COVERAGE OF THE CLASS AND
42 IN OFFERING THE OPTION OF COVERAGE UNDER SUBPARAGRAPH (C) OF THIS PARA-
43 GRAPH, ACTS UNIFORMLY WITHOUT REGARD TO THE CLAIMS EXPERIENCE OF THOSE
44 POLICYHOLDERS OR ANY HEALTH STATUS-RELATED FACTOR RELATING TO ANY
45 PARTICULAR COVERED EMPLOYEE, MEMBER INSURED OR DEPENDENT, OR PARTICULAR
46 NEW EMPLOYEE, MEMBER INSURED, OR DEPENDENT WHO MAY BECOME ELIGIBLE FOR
47 SUCH COVERAGE, AND DOES NOT DISCONTINUE THE COVERAGE OF THE CLASS WITH
48 THE INTENT OR AS A PRETEXT TO DISCONTINUING THE COVERAGE OF ANY SUCH
49 EMPLOYEE, MEMBER INSURED, OR DEPENDENT; AND

50 (E) AT LEAST ONE HUNDRED TWENTY DAYS PRIOR TO THE DATE OF THE DISCON-
51 TINUANCE OF SUCH COVERAGE, PROVIDES WRITTEN NOTICE TO THE SUPERINTENDENT
52 OF THE DISCONTINUANCE, INCLUDING CERTIFICATION BY AN OFFICER OR DIRECTOR
53 OF THE INSURER THAT: (I) THE REASON FOR THE DISCONTINUANCE IS TO REPLACE
54 THE COVERAGE WITH NEW COVERAGE THAT COMPLIES WITH THE REQUIREMENTS OF
55 SECTION 2707 OF THE PUBLIC HEALTH SERVICE ACT, S 42 U.S.C. 300GG-6 THAT
56 BECOME EFFECTIVE JANUARY FIRST, TWO THOUSAND FOURTEEN; AND (II) THE

1 REPLACEMENT COVERAGE OFFERED IN ACCORDANCE WITH SUBPARAGRAPH (C) OF THIS
2 PARAGRAPH WILL NOT RESULT IN A LOSS OF ANY BENEFIT COVERED UNDER THE
3 DISCONTINUED POLICY. FOR PURPOSES OF THIS SUBPARAGRAPH, A CHANGE IN COST
4 SHARING SHALL NOT CONSTITUTE A LOSS OF A BENEFIT. THE WRITTEN NOTICE
5 SHALL BE IN SUCH FORM AND CONTAIN SUCH INFORMATION THE SUPERINTENDENT
6 REQUIRES.

7 S 66. Item (iii) of subparagraph (C) of paragraph 2 of subsection (c)
8 of section 4304 of the insurance law, as amended by chapter 661 of the
9 laws of 1997, is amended to read as follows:

10 (iii) Discontinuance of all individual hospital, surgical or medical
11 expense insurance contracts for which the premiums are paid by a remit-
12 ting agent of a group, in the small group market, or the large group
13 market, or both markets, in this state, in conjunction with a withdrawal
14 from the small group market, or the large group market, or both markets,
15 in this state. Withdrawal from the small group market, or the large
16 group market, or both markets, shall be governed by the requirements of
17 subparagraphs [(B)] (E) and [(C)] (F) of paragraph three of subsection
18 (j) of section four thousand three hundred five of this article. For
19 purposes of this item, "withdrawal" from a market means that no coverage
20 is offered or maintained in such market under contracts issued pursuant
21 to this section or contracts issued pursuant to section four thousand
22 three hundred five of this article.

23 S 67. Subparagraph (D) of paragraph 2 of subsection (j) of section
24 4305 of the insurance law, as added by chapter 661 of the laws of 1997,
25 is amended to read as follows:

26 (D) The corporation is ceasing to offer group or blanket contracts in
27 a market in accordance with paragraph three OR PARAGRAPH SIX of this
28 subsection.

29 S 68. Subsection (j) of section 4305 of the insurance law is amended
30 by adding a new paragraph 6 to read as follows:

31 (6) A CORPORATION MAY DISCONTINUE OFFERING A PARTICULAR CLASS OF GROUP
32 OR BLANKET CONTRACT OF HOSPITAL, SURGICAL OR MEDICAL EXPENSE INSURANCE
33 OFFERED IN THE SMALL OR LARGE GROUP MARKET, AND INSTEAD OFFER A GROUP OR
34 BLANKET CONTRACT OF HOSPITAL, SURGICAL OR MEDICAL EXPENSE INSURANCE THAT
35 COMPLIES WITH THE REQUIREMENTS OF SECTION 2707 OF THE PUBLIC HEALTH
36 SERVICE ACT, 42 U.S.C. S 300GG-6 THAT BECOME APPLICABLE TO SUCH CONTRACT
37 AS OF JANUARY FIRST, TWO THOUSAND FOURTEEN, PROVIDED THAT THE CORPO-
38 RATION:

39 (A) DISCONTINUES THE EXISTING CLASS OF CONTRACT IN SUCH MARKET AS OF
40 EITHER DECEMBER THIRTY-FIRST, TWO THOUSAND THIRTEEN OR THE CONTRACT
41 RENEWAL DATE OCCURRING IN TWO THOUSAND FOURTEEN IN ACCORDANCE WITH THIS
42 CHAPTER;

43 (B) PROVIDES WRITTEN NOTICE TO EACH CONTRACT HOLDER PROVIDED COVERAGE
44 OF THE CLASS IN THE MARKET (AND TO ALL EMPLOYEES AND MEMBER INSURED
45 COVERED UNDER SUCH COVERAGE) OF THE DISCONTINUANCE AT LEAST NINETY DAYS
46 PRIOR TO THE DATE OF DISCONTINUANCE OF SUCH COVERAGE. THE WRITTEN NOTICE
47 SHALL BE IN A FORM SATISFACTORY TO THE SUPERINTENDENT;

48 (C) OFFERS TO EACH CONTRACT HOLDER PROVIDED COVERAGE OF THE CLASS IN
49 THE MARKET, THE OPTION TO PURCHASE ALL (OR, IN THE CASE OF THE LARGE
50 GROUP MARKET, ANY) OTHER HOSPITAL, SURGICAL AND MEDICAL EXPENSE COVERAGE
51 THAT COMPLIES WITH THE REQUIREMENTS OF SECTION 2707 OF THE PUBLIC HEALTH
52 SERVICE ACT, 42 U.S.C. S 300GG-6 THAT BECOME APPLICABLE TO SUCH COVERAGE
53 AS OF JANUARY FIRST, TWO THOUSAND FOURTEEN, CURRENTLY BEING OFFERED BY
54 THE CORPORATION TO A GROUP IN THAT MARKET;

55 (D) IN EXERCISING THE OPTION TO DISCONTINUE COVERAGE OF THE CLASS AND
56 IN OFFERING THE OPTION OF COVERAGE UNDER SUBPARAGRAPH (C) OF THIS PARA-

1 GRAPH, ACTS UNIFORMLY WITHOUT REGARD TO THE CLAIMS EXPERIENCE OF THOSE
2 CONTRACT HOLDERS OR ANY HEALTH STATUS-RELATED FACTOR RELATING TO ANY
3 PARTICULAR COVERED EMPLOYEE, MEMBER INSURED OR DEPENDENT, OR PARTICULAR
4 NEW EMPLOYEE, MEMBER INSURED, OR DEPENDENT WHO MAY BECOME ELIGIBLE FOR
5 SUCH COVERAGE, AND DOES NOT DISCONTINUE THE COVERAGE OF THE CLASS WITH
6 THE INTENT OR AS A PRETEXT TO DISCONTINUING THE COVERAGE OF ANY SUCH
7 EMPLOYEE, MEMBER INSURED, OR DEPENDENT; AND

8 (E) AT LEAST ONE HUNDRED TWENTY DAYS PRIOR TO THE DATE OF THE DISCON-
9 TINUANCE OF SUCH COVERAGE, PROVIDES WRITTEN NOTICE TO THE SUPERINTENDENT
10 OF THE DISCONTINUANCE, INCLUDING CERTIFICATION BY AN OFFICER OR DIRECTOR
11 OF THE CORPORATION THAT: (I) THE REASON FOR THE DISCONTINUANCE IS TO
12 REPLACE THE COVERAGE WITH NEW COVERAGE THAT COMPLIES WITH THE REQUIRE-
13 MENTS OF SECTION 2707 OF THE PUBLIC HEALTH SERVICE ACT, 42 U.S.C. S
14 300GG-6 THAT BECOME EFFECTIVE JANUARY FIRST, TWO THOUSAND FOURTEEN; AND
15 (II) THE REPLACEMENT COVERAGE OFFERED IN ACCORDANCE WITH SUBPARAGRAPH
16 (C) OF THIS PARAGRAPH WILL NOT RESULT IN A LOSS OF ANY BENEFIT COVERED
17 UNDER THE DISCONTINUED CONTRACT. FOR PURPOSES OF THIS SUBPARAGRAPH, A
18 CHANGE IN COST SHARING SHALL NOT CONSTITUTE A LOSS OF A BENEFIT. THE
19 WRITTEN NOTICE SHALL BE IN SUCH FORM AND CONTAIN SUCH INFORMATION THE
20 SUPERINTENDENT REQUIRES.

21 S 69. Subsections (a), (b) and (c) of section 3231 of the insurance
22 law, subsection (a) as amended by chapter 661 of the laws of 1997,
23 subsection (b) as amended by chapter 557 of the laws of 2002, subsection
24 (c) as added by chapter 501 of the laws of 1992, are amended to read as
25 follows:

26 (a) (1) No individual health insurance policy and no group health
27 insurance policy covering between [two] ONE and fifty employees or
28 members of the group OR BETWEEN ONE AND ONE HUNDRED EMPLOYEES OR MEMBERS
29 OF THE GROUP FOR POLICIES ISSUED OR RENEWED ON OR AFTER JANUARY FIRST,
30 TWO THOUSAND SIXTEEN exclusive of spouses and dependents, hereinafter
31 referred to as a small group, providing hospital and/or medical bene-
32 fits, including medicare supplemental insurance, shall be issued in this
33 state unless such policy is community rated and, notwithstanding any
34 other provisions of law, the underwriting of such policy involves no
35 more than the imposition of a pre-existing condition limitation [as] IF
36 OTHERWISE permitted by this article. (2) Any individual, and dependents
37 of such individual, and any small group, including all employees or
38 group members and dependents of employees or members, applying for indi-
39 vidual health insurance coverage, including medicare supplemental cover-
40 age, [or small group health insurance coverage, including medicare
41 supplemental insurance,] OR SMALL GROUP HEALTH INSURANCE COVERAGE,
42 INCLUDING MEDICARE SUPPLEMENTAL INSURANCE, BUT NOT INCLUDING COVERAGE
43 SPECIFIED IN SUBSECTION (L) OF SECTION THREE THOUSAND TWO HUNDRED
44 SIXTEEN, SUBSECTION (1) OF SECTION FOUR THOUSAND THREE HUNDRED FOUR,
45 SECTION FOUR THOUSAND THREE HUNDRED TWENTY-ONE, SECTION FOUR THOUSAND
46 THREE HUNDRED TWENTY-TWO AND SECTION FOUR THOUSAND THREE HUNDRED TWEN-
47 TY-EIGHT OF THIS CHAPTER must be accepted at all times throughout the
48 year for any hospital and/or medical coverage offered by the insurer to
49 individuals or small groups in this state. (3) Once accepted for cover-
50 age, an individual or small group cannot be terminated by the insurer
51 due to claims experience. Termination of an individual or small group
52 shall be based only on one or more of the reasons set forth in
53 subsection (g) of section three thousand two hundred sixteen or
54 subsection (p) of section three thousand two hundred twenty-one of this
55 article. Group hospital and/or medical coverage, including medicare
56 supplemental insurance, obtained through an out-of-state trust covering

1 a group of fifty or fewer employees or participating persons who are
2 residents of this state must be community rated regardless of the situs
3 of delivery of the policy. Notwithstanding any other provisions of law,
4 the underwriting of such policy may involve no more than the imposition
5 of a pre-existing condition limitation as permitted by this article, and
6 once accepted for coverage, an individual or small group cannot be
7 terminated due to claims experience. Termination of an individual or
8 small group shall be based only on one or more of the reasons set forth
9 in subsection (p) of section three thousand two hundred twenty-one of
10 this article. (4) For the purposes of this section, "community rated"
11 means a rating methodology in which the premium for all persons covered
12 by a policy [or contract] form is the same based on the experience of
13 the entire pool of risks [covered by that policy or contract form] OF
14 ALL INDIVIDUALS OR SMALL GROUPS COVERED BY THE INSURER without regard to
15 age, sex, health status, TOBACCO USAGE or occupation, EXCLUDING THOSE
16 COVERED BY MEDICARE SUPPLEMENTAL INSURANCE. CATASTROPHIC HEALTH INSUR-
17 ANCE POLICIES ISSUED PURSUANT TO SECTION 1302(E) OF THE AFFORDABLE CARE
18 ACT, 42 U.S.C. S 18022(E), SHALL BE CLASSIFIED IN A DISTINCT COMMUNITY
19 RATING POOL.

20 (b) [Nothing herein shall prohibit the use of premium rate structures
21 to establish different premium rates for individuals as opposed to fami-
22 ly units or] (1) THE SUPERINTENDENT SHALL SET STANDARD PREMIUM TIERS AND
23 STANDARD RATING RELATIVITIES BETWEEN TIERS APPLICABLE TO ALL POLICIES
24 SUBJECT TO THIS SECTION. THE SUPERINTENDENT SHALL SET A STANDARD RELA-
25 TIVITY APPLICABLE TO CHILD-ONLY POLICIES ISSUED PURSUANT TO SECTION
26 1302(F) OF THE AFFORDABLE CARE ACT, 42 U.S.C. S 18022(F). THE RELATIVI-
27 TY FOR CHILD-ONLY POLICIES SHALL BE ACTUARIALLY JUSTIFIABLE USING THE
28 AGGREGATE EXPERIENCE OF INSURERS TO PREVENT THE CHARGING OF UNJUSTIFIED
29 PREMIUMS. THE SUPERINTENDENT MAY ADJUST SUCH PREMIUM TIERS AND RELATIVI-
30 TIES PERIODICALLY BASED UPON THE AGGREGATE EXPERIENCE OF INSURERS ISSU-
31 ING POLICY FORMS SUBJECT TO THIS SECTION. (2) AN INSURER SHALL ESTABLISH
32 separate community rates for individuals as opposed to small groups. (3)
33 If an insurer is required to issue a [contract] POLICY to individual
34 proprietors pursuant to subsection (i) of this section, such policy
35 shall be subject to subsection (a) of this section.

36 (c) (1) The superintendent shall permit the use of separate community
37 rates for reasonable geographic regions, which may, in a given case,
38 include a single county. The regions shall be approved by the super-
39 intendent as part of the rate filing. The superintendent shall not
40 require the inclusion of any specific geographic regions within the
41 proposed community rated regions selected by the insurer in its rate
42 filing so long as the insurer's proposed regions do not contain config-
43 urations designed to avoid or segregate particular areas within a county
44 covered by the insurer's community rates. (2) BEGINNING ON JANUARY
45 FIRST, TWO THOUSAND FOURTEEN, FOR EVERY POLICY SUBJECT TO THIS SECTION
46 THAT PROVIDES PHYSICIAN SERVICES, MEDICAL, MAJOR MEDICAL OR SIMILAR
47 COMPREHENSIVE-TYPE COVERAGE, EXCEPT FOR MEDICARE SUPPLEMENT PLANS,
48 INSURERS SHALL USE STANDARDIZED REGIONS ESTABLISHED BY THE SUPERINTEN-
49 DENT.

50 S 70. Subsection (g) of section 3231 of the insurance law, as added by
51 chapter 501 of the laws of 1992, is amended to read as follows:

52 (g) (1) This section shall also apply to policies issued to a group
53 defined in subsection (c) of section four thousand two hundred thirty-
54 five, including but not limited to an association or trust of employers,
55 if the group includes one or more member employers or other member
56 groups which have fifty or fewer employees or members exclusive of

1 spouses and dependents. FOR POLICIES ISSUED OR RENEWED ON OR AFTER
2 JANUARY FIRST, TWO THOUSAND FOURTEEN, IF THE GROUP INCLUDES ONE OR MORE
3 MEMBER EMPLOYERS OR OTHER MEMBER GROUPS ELIGIBLE FOR COVERAGE SUBJECT TO
4 THIS SECTION, THEN SUCH MEMBER GROUPS SHALL BE CLASSIFIED AS SMALL
5 GROUPS FOR RATING PURPOSES AND THE REMAINING MEMBERS SHALL BE RATED
6 CONSISTENT WITH THE RATING RULES APPLICABLE TO SUCH REMAINING MEMBERS
7 PURSUANT TO THIS SECTION.

8 (2) IF A POLICY IS ISSUED TO A GROUP DEFINED IN SUBSECTION (C) OF
9 SECTION FOUR THOUSAND TWO HUNDRED THIRTY-FIVE OF THIS CHAPTER, INCLUDING
10 AN ASSOCIATION GROUP, THAT INCLUDES ONE OR MORE INDIVIDUAL OR INDIVIDUAL
11 PROPRIETOR MEMBERS, FOR RATING PURPOSES THE INSURER SHALL INCLUDE SUCH
12 MEMBERS IN ITS INDIVIDUAL POOL OF RISKS IN ESTABLISHING PREMIUM RATES
13 FOR SUCH MEMBERS.

14 (3) NOTWITHSTANDING SUBDIVISION FIVE OF SECTION NINE HUNDRED
15 TWENTY-TWO OF THE LABOR LAW, IF A POLICY ISSUED TO A GROUP THAT IS A
16 PROFESSIONAL EMPLOYER ORGANIZATION AS DEFINED IN SECTION NINE HUNDRED
17 SIXTEEN OF THE LABOR LAW, INCLUDES ONE OR MORE SMALL GROUP MEMBERS
18 ELIGIBLE FOR COVERAGE SUBJECT TO THIS SECTION, THE INSURER SHALL INCLUDE
19 SUCH EMPLOYER MEMBERS IN ITS SMALL GROUP POOL OF RISKS IN ESTABLISHING
20 PREMIUM RATES FOR SUCH MEMBERS.

21 S 71. Paragraph 2 of subsection (i) of section 3231 of the insurance
22 law, as amended by chapter 183 of the laws of 2011, is amended to read
23 as follows:

24 (2) For coverage purchased pursuant to this subsection, THROUGH DECEM-
25 BER THIRTY-FIRST, TWO THOUSAND THIRTEEN, individual proprietors shall be
26 classified in their own community rating category, provided however, up
27 to and including December thirty-first, two thousand [fourteen]
28 THIRTEEN, the premium rate established for individual proprietors
29 purchased pursuant to paragraph one of this subsection shall not be
30 greater than one hundred fifteen percent of the rate established for the
31 same coverage issued to groups. COVERAGE PURCHASED OR IN EFFECT PURSU-
32 ANT TO THIS SUBSECTION ON OR AFTER JANUARY FIRST, TWO THOUSAND FOURTEEN
33 SHALL BE CLASSIFIED IN THE INDIVIDUAL RATING CATEGORY.

34 S 72. Section 4317 of the insurance law, as added by chapter 501 of
35 the laws of 1992, subsection (a) as amended by chapter 661 of the laws
36 of 1997, subsection (b) as amended and subsection (f) as added by chap-
37 ter 557 of the laws of 2002, subsection (d) as amended by section 2 of
38 part A of chapter 494 of the laws of 2009, paragraph 2 of subsection (f)
39 as amended by chapter 183 of the laws of 2011, is amended to read as
40 follows:

41 S 4317. Rating of individual and small group health insurance
42 contracts. (a) (1) No individual health insurance contract and no group
43 health insurance contract covering between [two] ONE and fifty employees
44 or members of the group, OR BETWEEN ONE AND ONE HUNDRED EMPLOYEES OR
45 MEMBERS OF THE GROUP FOR POLICIES ISSUED OR RENEWED ON OR AFTER JANUARY
46 FIRST, TWO THOUSAND SIXTEEN exclusive of spouses and dependents, includ-
47 ing contracts for which the premiums are paid by a remitting agent for a
48 group, hereinafter referred to as a small group, providing hospital
49 and/or medical benefits, including Medicare supplemental insurance,
50 shall be issued in this state unless such contract is community rated
51 and, notwithstanding any other provisions of law, the underwriting of
52 such contract involves no more than the imposition of a pre-existing
53 condition limitation [as] IF OTHERWISE permitted by this article. (2)
54 Any individual, and dependents of such individual, and any small group,
55 including all employees or group members and dependents of employees or
56 members, applying for individual or small group health insurance cover-

1 age OR SMALL GROUP HEALTH INSURANCE COVERAGE, INCLUDING MEDICARE SUPPLE-
2 MENTAL INSURANCE, BUT NOT INCLUDING COVERAGE SPECIFIED IN SUBSECTION (1)
3 OF SECTION THREE THOUSAND TWO HUNDRED SIXTEEN, SUBSECTION (L) OF SECTION
4 FOUR THOUSAND THREE HUNDRED FOUR, SECTION FOUR THOUSAND THREE HUNDRED
5 TWENTY-ONE, SECTION FOUR THOUSAND THREE HUNDRED TWENTY-TWO AND SECTION
6 FOUR THOUSAND THREE HUNDRED TWENTY-EIGHT OF THIS CHAPTER, AND INCLUDING
7 COVERAGE THAT IS OFFERED WITHIN THE HEALTH BENEFIT EXCHANGE ESTABLISHED
8 PURSUANT TO SECTION 1311 OF THE AFFORDABLE CARE ACT, 42 U.S.C. S 18031
9 AND ANY REGULATIONS PROMULGATED THEREUNDER, must be accepted at all
10 times throughout the year for any hospital and/or medical coverage[,
11 including Medicare supplemental insurance,] offered by the corporation
12 to individuals or small groups in this state. (3) Once accepted for
13 coverage, an individual or small group cannot be terminated by the
14 insurer due to claims experience. Termination of coverage for individ-
15 uals or small groups may be based only on one or more of the reasons set
16 forth in subsection (c) of section four thousand three hundred four or
17 subsection (j) of section four thousand three hundred five of this arti-
18 cle. (4) For the purposes of this section, "community rated" means a
19 rating methodology in which the premium for all persons covered by a
20 policy or contract form is the same, based on the experience of the
21 entire pool of risks [covered by that policy or contract form] OF ALL
22 INDIVIDUALS OR SMALL GROUPS COVERED BY THE CORPORATION without regard to
23 age, sex, health status, TOBACCO USAGE or occupation EXCLUDING THOSE
24 INDIVIDUALS COVERED BY MEDICARE SUPPLEMENTAL INSURANCE. CATASTROPHIC
25 HEALTH INSURANCE CONTRACTS ISSUED PURSUANT TO SECTION 1302(E) OF THE
26 AFFORDABLE CARE ACT, 42 U.S.C. S 18022(E), SHALL BE CLASSIFIED IN A
27 DISTINCT COMMUNITY RATING POOL.

28 (b) [Nothing herein shall prohibit the use of premium rate structures
29 to establish different premium rates for individuals as opposed to fami-
30 ly units or] (1) THE SUPERINTENDENT SHALL SET STANDARD PREMIUM TIERS AND
31 STANDARD RATING RELATIVITIES BETWEEN TIERS APPLICABLE TO ALL CONTRACTS
32 SUBJECT TO THIS SECTION. THE SUPERINTENDENT SHALL ALSO SET A STANDARD
33 RELATIVITY APPLICABLE TO CHILD-ONLY CONTRACTS ISSUED PURSUANT TO SECTION
34 1302(F) OF THE AFFORDABLE CARE ACT, 42 U.S.C. S 18022(F). THE RELATIVI-
35 TY FOR CHILD-ONLY CONTRACTS MUST BE ACTUARIALLY JUSTIFIABLE USING THE
36 AGGREGATE EXPERIENCE OF CORPORATIONS TO PREVENT THE CHARGING OF UNJUSTI-
37 FIED PREMIUMS. THE SUPERINTENDENT MAY ADJUST SUCH PREMIUM TIERS AND
38 RELATIVITIES PERIODICALLY BASED UPON THE AGGREGATE EXPERIENCE OF CORPO-
39 RATIONS ISSUING CONTRACT FORMS SUBJECT TO THIS SECTION. (2) A CORPO-
40 RATION SHALL ESTABLISH separate community rates for individuals as
41 opposed to small groups. (3) If a corporation is required to issue a
42 contract to individual proprietors pursuant to subsection (f) of this
43 section, such contract shall be subject to the requirements of
44 subsection (a) of this section.

45 (c) (1) The superintendent shall permit the use of separate community
46 rates for reasonable geographic regions, which may, in a given case,
47 include a single county. The regions shall be approved by the super-
48 intendent as part of the rate filing. The superintendent shall not
49 require the inclusion of any specific geographic regions within the
50 proposed community rated regions selected by the corporation in its rate
51 filing so long as the corporation's proposed regions do not contain
52 configurations designed to avoid or segregate particular areas within a
53 county covered by the corporation's community rates. (2) BEGINNING ON
54 JANUARY FIRST, TWO THOUSAND FOURTEEN, FOR EVERY CONTRACT SUBJECT TO THIS
55 SECTION THAT PROVIDES PHYSICIAN SERVICES, MEDICAL, MAJOR MEDICAL OR
56 SIMILAR COMPREHENSIVE-TYPE COVERAGE, EXCEPT FOR MEDICARE SUPPLEMENTAL

1 INSURANCE, CORPORATIONS SHALL USE STANDARDIZED REGIONS ESTABLISHED BY
2 THE SUPERINTENDENT.

3 (d) (1) [This] FOR POLICIES ISSUED ON OR BEFORE DECEMBER THIRTY-FIRST,
4 TWO THOUSAND THIRTEEN, THIS section shall also apply to [contracts] A
5 CONTRACT issued to a group defined in subsection (c) of section four
6 thousand two hundred thirty-five of this chapter, including [but not
7 limited] to an association or trust of employers, if the group includes
8 one or more member employers or other member groups [which have fifty or
9 fewer employees or members exclusive of spouses and dependents.] THAT
10 WOULD BE SUBJECT TO THIS SUBSECTION. FOR CONTRACTS ISSUED OR RENEWED ON
11 OR AFTER JANUARY FIRST, TWO THOUSAND FOURTEEN, IF THE GROUP INCLUDES ONE
12 OR MORE MEMBER EMPLOYERS OR OTHER MEMBER GROUPS THAT HAVE FIFTY OR FEWER
13 EMPLOYEES OR MEMBERS EXCLUSIVE OF SPOUSES AND DEPENDENTS, THEN SUCH
14 MEMBER GROUPS SHALL BE CLASSIFIED AS SMALL GROUPS FOR RATING PURPOSES
15 AND THE REMAINING MEMBERS SHALL BE RATED CONSISTENT WITH THE RATING
16 RULES APPLICABLE TO SUCH REMAINING MEMBERS PURSUANT TO THIS SECTION.

17 (2) IF A CONTRACT IS ISSUED TO A GROUP DEFINED IN SUBSECTION (C) OF
18 SECTION FOUR THOUSAND TWO HUNDRED THIRTY-FIVE OF THIS CHAPTER INCLUDING
19 ASSOCIATION GROUPS, THAT INCLUDES ONE OR MORE INDIVIDUAL OR INDIVIDUAL
20 PROPRIETOR MEMBERS, THEN FOR RATING PURPOSES THE CORPORATION SHALL
21 INCLUDE SUCH MEMBERS IN ITS INDIVIDUAL POOL OF RISKS IN ESTABLISHING
22 PREMIUM RATES FOR SUCH MEMBERS.

23 (3) NOTWITHSTANDING SUBDIVISION FIVE OF SECTION NINE HUNDRED
24 TWENTY-TWO OF THE LABOR LAW, IF A CONTRACT IS ISSUED TO A GROUP THAT IS
25 A PROFESSIONAL EMPLOYER ORGANIZATION AS DEFINED IN SECTION NINE HUNDRED
26 SIXTEEN OF THE LABOR LAW, AND INCLUDES ONE OR MORE EMPLOYERS ELIGIBLE
27 FOR COVERAGE SUBJECT TO THIS SECTION, THEN THE CORPORATION SHALL INCLUDE
28 SUCH EMPLOYER MEMBERS IN ITS SMALL GROUP POOL OF RISKS IN ESTABLISHING
29 PREMIUM RATES FOR SUCH MEMBERS.

30 [(2)] (4) A corporation shall provide specific claims experience to a
31 municipal corporation, as defined in subsection (f) of section four
32 thousand seven hundred two of this chapter, covered by the corporation
33 under a community rated contract when the municipal corporation requests
34 its claims experience for purposes of forming or joining a municipal
35 cooperative health benefit plan certified pursuant to article forty-sev-
36 en of this chapter. Notwithstanding the foregoing provisions, no corpo-
37 ration shall be required to provide more than three years' claims expe-
38 rience to a municipal corporation making this request.

39 (e) (1) Notwithstanding any other provision of this chapter, no insur-
40 er, subsidiary of an insurer, or controlled person of a holding company
41 system may act as an administrator or claims paying agent, as opposed to
42 an insurer, on behalf of small groups which, if they purchased insur-
43 ance, would be subject to this section. No insurer, subsidiary of an
44 insurer, or controlled person of a holding company may provide stop
45 loss, catastrophic or reinsurance coverage to small groups which, if
46 they purchased insurance, would be subject to this section.

47 (2) This subsection shall not apply to coverage insuring a plan
48 [which] THAT was in effect on or before December thirty-first, nineteen
49 hundred ninety-one and was issued to a group [which] THAT includes
50 member small employers or other member small groups, including but not
51 limited to association groups, provided that (A) acceptance of addi-
52 tional small member employers (or other member groups comprised of fifty
53 or fewer employees or members, exclusive of spouses and dependents) into
54 the group on or after June first, nineteen hundred ninety-two and before
55 April first, nineteen hundred ninety-four does not exceed an amount
56 equal to ten percent per year of the total number of persons covered

1 under the group as of June first, nineteen hundred ninety-two, but noth-
2 ing in this subparagraph shall limit the addition of larger member
3 employers; (B) (i) after April first, nineteen hundred ninety-four, the
4 group thereafter accepts member small employers and member small groups
5 without underwriting by any more than the imposition of a pre-existing
6 condition limitation as permitted by this article and the cost for
7 participation in the group for all persons covered shall be the same
8 based on the experience of the entire pool of risks covered under the
9 entire group, without regard to age, sex, health status or occupation;
10 and; (ii) once accepted for coverage, an individual or small group
11 cannot be terminated due to claims experience; (C) the [insurer] CORPO-
12 RATION has registered the names of such groups, including the total
13 number of persons covered as of June first, nineteen hundred ninety-two,
14 with the superintendent, in a form prescribed by the superintendent, on
15 or before April first, nineteen hundred ninety-three and shall report
16 annually thereafter until such groups comply with the provisions of
17 subparagraph (B) of this paragraph; and (D) the types or categories of
18 employers or groups eligible to join the association are not altered or
19 expanded after June first, nineteen hundred ninety-two.

20 (3) A corporation may apply to the superintendent for an extension or
21 extensions of time beyond April first, nineteen hundred ninety-four in
22 which to implement the provisions of this subsection as they relate to
23 groups registered with the superintendent pursuant to subparagraph (C)
24 of paragraph two of this subsection; any such extension or extensions
25 may not exceed two years in aggregate duration, and the ten percent per
26 year limitation of subparagraph (A) of paragraph two of this subsection
27 shall be reduced to five percent per year during the period of any such
28 extension or extensions. Any application for an extension shall demon-
29 strate that a significant financial hardship to such group would result
30 from such implementation.

31 (f)(1) If the [insurer] CORPORATION issues coverage to an association
32 group (including chambers of commerce), as defined in subparagraph (K)
33 of paragraph one of subsection (c) of section four thousand two hundred
34 thirty-five of this chapter, THEN the [insurer must] CORPORATION SHALL
35 issue the same coverage to individual proprietors [which] WHO purchase
36 coverage through the association group as the [insurer] CORPORATION
37 issues to groups [which] THAT purchase coverage through the association
38 group; provided, however, that [an insurer which] A CORPORATION THAT, on
39 the effective date of this subsection, is issuing coverage to individual
40 proprietors not connected with an association group, may continue to
41 issue such coverage provided that the coverage is otherwise in accord-
42 ance with this subsection and all other applicable provisions of law.

43 (2) For coverage purchased pursuant to this subsection THROUGH DECEM-
44 BER THIRTY-FIRST, TWO THOUSAND THIRTEEN, individual proprietors shall be
45 classified in their own community rating category, provided however, up
46 to and including December thirty-first, two thousand [fourteen]
47 THIRTEEN, the premium rate established for individual proprietors
48 purchased pursuant to paragraph one of this subsection shall not be
49 greater than one hundred fifteen percent of the rate established for the
50 same coverage issued to groups. COVERAGE PURCHASED OR IN EFFECT PURSU-
51 ANT TO THIS SUBSECTION ON OR AFTER JANUARY FIRST, TWO THOUSAND FOURTEEN
52 SHALL BE CLASSIFIED IN THE INDIVIDUAL RATING CATEGORY.

53 (3) The [insurer] CORPORATION may require members of the association
54 purchasing health insurance to verify that all employees electing health
55 insurance are legitimate employees of the employers, as documented on
56 New York state tax form NYS-45-ATT-MN or comparable documentation. In

1 order to be eligible to purchase health insurance pursuant to this
2 subsection and obtain the same group insurance products as are offered
3 to groups, a sole employee of a corporation or a sole proprietor of an
4 unincorporated business or entity must (A) work at least twenty hours
5 per week, (B) if purchasing the coverage through an association group,
6 be a member of the association for at least sixty days prior to the
7 effective date of the insurance [policy] CONTRACT, and (C) present a
8 copy of the following documentation to the [insurer] CORPORATION or
9 health plan administrator on an annual basis:

10 (i) NYS tax form 45-ATT, or comparable documentation of active employ-
11 ee status;

12 (ii) for an unincorporated business, the prior year's federal income
13 tax Schedule C for an incorporated business subject to Subchapter S with
14 a sole employee, federal income tax Schedule E for other incorporated
15 businesses with a sole employee, a W-2 annual wage statement, or federal
16 tax form 1099 with federal income tax Schedule F; or

17 (iii) for a business in business for less than one year, a cancelled
18 business check, a certificate of doing business, or appropriate tax
19 documentation; and

20 (iv) such other documentation as may be reasonably required by the
21 insurer as approved by the superintendent to verify eligibility of an
22 individual to purchase health insurance pursuant to this subsection.

23 (4) Notwithstanding the provisions of item (I) of clause (i) of
24 subparagraph (K) of paragraph one of subsection (c) of section four
25 thousand two hundred thirty-five of this chapter, for purposes of this
26 section, an association group shall include chambers of commerce with
27 less than two hundred members and which are 501C3 or 501C6 organiza-
28 tions.

29 S 73. Notwithstanding any inconsistent provision of law, rule or regu-
30 lation, for purposes of implementing the provisions of the public health
31 law and the social services law, references to titles XIX and XXI of the
32 federal social security act in the public health law and the social
33 services law shall be deemed to include and also to mean any successor
34 titles thereto under the federal social security act.

35 S 74. Notwithstanding any inconsistent provision of law, rule or regu-
36 lation, the effectiveness of the provisions of sections 2807 and 3614 of
37 the public health law, section 18 of chapter 2 of the laws of 1988, and
38 18 NYCRR 505.14(h), as they relate to time frames for notice, approval
39 or certification of rates of payment, are hereby suspended and without
40 force or effect for purposes of implementing the provisions of this act.

41 S 75. Severability clause. If any clause, sentence, paragraph, subdivi-
42 sion, section or part of this act shall be adjudged by any court of
43 competent jurisdiction to be invalid, such judgment shall not affect,
44 impair or invalidate the remainder thereof, but shall be confined in its
45 operation to the clause, sentence, paragraph, subdivision, section or
46 part thereof directly involved in the controversy in which such judgment
47 shall have been rendered. It is hereby declared to be the intent of the
48 legislature that this act would have been enacted even if such invalid
49 provisions had not been included herein.

50 S 76. This act shall take effect immediately and shall be deemed to
51 have been in full force and effect on and after January 1, 2013;
52 provided that:

53 a. sections thirty-eight, thirty-nine, forty, forty-one, forty-seven,
54 forty-eight, forty-nine, fifty, fifty-one, fifty-two, fifty-three,
55 fifty-four and fifty-five of this act shall take effect January 1, 2014,

1 and shall apply to all policies and contracts issued, renewed, modified,
2 altered or amended on or after such date.

3 b. sections forty-two, forty-three, forty-four, forty-five and forty-
4 six of this act shall apply to all policies and contracts issued,
5 renewed, modified, altered or amended on or after October 1, 2013;

6 c. section fifty-six of this act shall take effect January 1, 2014;

7 d. section fifty-seven of this act shall be deemed repealed January 1,
8 2014;

9 e. sections fifteen and fifty-eight of this act shall take effect
10 January 1, 2015;

11 f. sections fifty-nine and sixty of this act shall take effect January
12 1, 2016 and shall apply to all policies and contracts issued, renewed,
13 modified, altered, or amended on or after such date;

14 g. sections fourteen and fourteen-a of this act shall take effect
15 immediately and shall be deemed to have been in full force and effect on
16 and after April 1, 2013;

17 h. the amendments to paragraphs (e) and (f) of subdivision 2 of
18 section 2511 of the public health law made by sections nineteen and
19 twenty-six of this act shall take effect January 1, 2014 or a later date
20 to be determined by the commissioner of health contingent upon the
21 requirements of the Patient Protection and Affordable Care Act of 2010
22 being fully implemented by the state and as approved by the secretary of
23 the department of health and human services; provided that the commis-
24 sioner of health shall notify the legislative bill drafting commission
25 upon the occurrence of the enactment of the legislation provided for in
26 sections nineteen and twenty-six of this act in order that the commis-
27 sion may maintain an accurate and timely effective data base of the
28 official text of the laws of the state of New York in furtherance of
29 effectuating the provisions of section 44 of the legislative law and
30 section 70-b of the public officers law;

31 h-1. provided however, the amendments to subparagraph (ii) of para-
32 graph (f) of subdivision 2 of section 2511 of the public health law made
33 by section twenty-six of this act shall take effect April 1, 2014;

34 i. the amendments to subdivision 4 of section 2511 of the public
35 health law made by section twenty-one of this act shall not affect the
36 expiration and reversion of such subdivision and shall be deemed to
37 expire therewith;

38 j. the amendments to subparagraph (ii) of paragraph (g) of subdivision
39 2 of section 2511 of the public health law made by section twenty-seven
40 of this act shall not affect the expiration of such paragraph and shall
41 be deemed to expire therewith;

42 j-1. the amendments to subparagraph (iii) of paragraph (a) of subdivi-
43 sion 2 of section 2511 of the public health law made by section thirty
44 of this act shall not affect the expiration of such paragraph and shall
45 be deemed to expire therewith;

46 j-2. the amendments to subparagraph (iv) of paragraph (b) and para-
47 graph (d) of subdivision 9 of section 2511 of the public health law made
48 by section thirty-three of this act shall not affect the expiration of
49 such subdivision and shall be deemed to expire therewith;

50 j-3. the amendments to subdivision 5 of section 365-n of the social
51 services law made by section thirty-three-a of this act shall not affect
52 the repeal of such subdivision and shall be deemed repealed therewith;

53 k. any rules or regulations necessary to implement the provisions of
54 this act may be promulgated and any procedures, forms, or instructions
55 necessary for implementation may be adopted and issued on or after the
56 date this act shall have become a law;

1 l. this act shall not be construed to alter, change, affect, impair or
2 defeat any rights, obligations, duties or interests accrued, incurred or
3 conferred prior to the effective date of this act;
4 m. the commissioner of health and the superintendent of financial
5 services and any appropriate council may take any steps necessary to
6 implement this act prior to its effective date;
7 n. notwithstanding any inconsistent provision of the state administra-
8 tive procedure act or any other provision of law, rule or regulation,
9 the commissioner of health and the superintendent of financial services
10 and any appropriate council is authorized to adopt or amend or promul-
11 gate on an emergency basis any regulation he or she or such council
12 determines necessary to implement any provision of this act on its
13 effective date; and
14 o. the provisions of this act shall become effective notwithstanding
15 the failure of the commissioner of health or the superintendent of
16 financial services or any council to adopt or amend or promulgate regu-
17 lations implementing this act.

18

PART E

19 Section 1. Subdivisions 9 and 10 of section 2541 of the public health
20 law, as added by chapter 428 of the laws of 1992, are amended to read as
21 follows:

22 9. "Evaluation" means a multidisciplinary professional, objective
23 [assessment] EXAMINATION conducted by [appropriately] qualified person-
24 nel and conducted pursuant to section twenty-five hundred forty-four of
25 this title to determine a child's eligibility under this title.

26 A "PARTIAL EVALUATION" SHALL MEAN AN EXAMINATION OF THE CHILD IN A
27 SINGLE DEVELOPMENTAL AREA FOR PURPOSES OF DETERMINING ELIGIBILITY, AND
28 MAY ALSO MEAN AN EXAMINATION OF THE CHILD TO DETERMINE THE NEED FOR A
29 MODIFICATION TO THE CHILD'S INDIVIDUALIZED FAMILY SERVICE PLAN.

30 10. "Evaluator" means [a team of two or more professionals approved
31 pursuant to section twenty-five hundred fifty-one of this title] A
32 PROVIDER APPROVED BY THE DEPARTMENT to conduct screenings and evalu-
33 ations.

34 S 2. Section 2541 of the public health law is amended by adding two
35 new subdivisions 13-b and 15-a to read as follows:

36 13-B. "MULTIDISCIPLINARY" MEANS THE INVOLVEMENT OF TWO OR MORE SEPA-
37 RATE DISCIPLINES OR PROFESSIONS, WHICH MAY MEAN ONE INDIVIDUAL WHO MEETS
38 THE DEFINITION OF QUALIFIED PERSONNEL AS SET FORTH IN SUBDIVISION
39 FIFTEEN OF THIS SECTION AND WHO IS QUALIFIED IN ACCORDANCE WITH STATE
40 LICENSURE, CERTIFICATION, OR OTHER COMPARABLE STANDARDS, TO EVALUATE ALL
41 FIVE DEVELOPMENTAL AREAS.

42 15-A. "SCREENING" MEANS THE PROCEDURES USED BY QUALIFIED PERSONNEL,
43 AS DEFINED IN SUBDIVISION FIFTEEN OF THIS SECTION, TO DETERMINE WHETHER
44 A CHILD IS SUSPECTED OF HAVING A DISABILITY AND IN NEED OF EARLY INTER-
45 VENTION SERVICES, AND SHALL INCLUDE THE ADMINISTRATION OF A STANDARDIZED
46 SCREENING INSTRUMENT OR INSTRUMENTS APPROVED BY THE DEPARTMENT, WHERE
47 AVAILABLE AND APPROPRIATE FOR THE CHILD, IN ACCORDANCE WITH SUBDIVISION
48 THREE OF SECTION TWENTY-FIVE HUNDRED FORTY-FOUR OF THIS TITLE.

49 S 3. Subdivision 3 of section 2542 of the public health law, as
50 amended by chapter 231 of the laws of 1993, is amended to read as
51 follows:

52 3. [The] (A) UNLESS AN INFANT OR TODDLER HAS ALREADY BEEN REFERRED TO
53 THE EARLY INTERVENTION OFFICIAL OR THE HEALTH OFFICER OF THE PUBLIC
54 HEALTH DISTRICT IN WHICH THE INFANT OR TODDLER RESIDES, AS DESIGNATED BY

1 THE MUNICIPALITY, THE following persons and entities, within two working
2 days of identifying an infant or toddler suspected of having a disabili-
3 ty or at risk of having a disability, shall refer such infant or toddler
4 to the early intervention official or the health officer [of the public
5 health district in which the infant or toddler resides, as designated by
6 the municipality,] AS APPLICABLE but in no event over the objection of
7 the parent made in accordance with procedures established by the depart-
8 ment for use by such primary referral sources[, unless the child has
9 already been referred]: hospitals, child health care providers, day
10 care programs, local school districts, public health facilities, early
11 childhood direction centers and such other social service and health
12 care agencies and providers as the commissioner shall specify in regu-
13 lation; provided, however, that the department shall establish proce-
14 dures, including regulations if required, to ensure that primary refer-
15 ral sources adequately inform the parent or guardian about the early
16 intervention program, including through brochures and written materials
17 created or approved by the department.

18 (B) THE PRIMARY REFERRAL SOURCES IDENTIFIED IN PARAGRAPH (A) OF THIS
19 SUBDIVISION SHALL, WITH PARENT OR GUARDIAN CONSENT, COMPLETE AND TRANS-
20 MIT AT THE TIME OF REFERRAL, A REFERRAL FORM DEVELOPED BY THE DEPART-
21 MENT, WHICH CONTAINS INFORMATION SUFFICIENT TO DOCUMENT THE PRIMARY
22 REFERRAL SOURCE'S CONCERN OR BASIS FOR SUSPECTING THE CHILD HAS A DISA-
23 BILITY OR IS AT RISK OF HAVING A DISABILITY, AND WHERE APPLICABLE, SPEC-
24 IFIES THE CHILD'S DIAGNOSED CONDITION THAT ESTABLISHES THE CHILD'S
25 ELIGIBILITY FOR THE EARLY INTERVENTION PROGRAM. THE PRIMARY REFERRAL
26 SOURCE SHALL ALSO, WITH PARENT OR GUARDIAN CONSENT, PROVIDE SUCH OTHER
27 RECORDS OR REPORTS PERTINENT TO THE CHILD'S DEVELOPMENTAL STATUS OR
28 DISABILITY. THE PRIMARY REFERRAL SOURCE SHALL FURTHER INFORM THE PARENT
29 OR GUARDIAN OF A CHILD WITH A DIAGNOSED CONDITION THAT HAS A HIGH PROBA-
30 BILITY OF RESULTING IN DEVELOPMENTAL DELAY, THAT ELIGIBILITY FOR THE
31 PROGRAM MAY BE ESTABLISHED BY MEDICAL OR OTHER RECORDS, AND OF THE
32 IMPORTANCE OF PROVIDING CONSENT FOR THE PRIMARY REFERRAL SOURCE TO TRAN-
33 SMIT RECORDS OR REPORTS NECESSARY TO SUPPORT THE DIAGNOSIS, OR, FOR
34 PARENTS OR GUARDIANS OF CHILDREN WHO DO NOT HAVE A DIAGNOSED CONDITION,
35 RECORDS OR REPORTS THAT WOULD ASSIST IN DETERMINING ELIGIBILITY FOR THE
36 PROGRAM.

37 S 4. Section 2544 of the public health law, as added by chapter 428 of
38 the laws of 1992, paragraph (c) of subdivision 2 as added by section 1
39 of part A of chapter 56 of the laws of 2012, and subdivision 11 as added
40 by section 3 of part B3 of chapter 62 of the laws of 2003, is amended to
41 read as follows:

42 S 2544. Screening and evaluations. 1. Each child thought to be an
43 eligible child is entitled to [a multidisciplinary] AN evaluation
44 CONDUCTED IN ACCORDANCE WITH THIS SECTION, and the early intervention
45 official shall ensure such evaluation, with parental consent.

46 2. (a) [The] SUBJECT TO THE PROVISIONS OF SECTION TWENTY-FIVE HUNDRED
47 FORTY-FIVE-A OF THIS TITLE, THE parent may select an evaluator from the
48 list of approved evaluators as described in section twenty-five hundred
49 forty-two of this title to conduct the SCREENING AND/OR evaluation AS
50 APPLICABLE AND IN ACCORDANCE WITH THIS SECTION. The parent or evaluator
51 shall immediately notify the early intervention official of such
52 selection. THE EVALUATOR SHALL REVIEW THE INFORMATION AND DOCUMENTATION
53 PROVIDED WITH THE REFERRAL TO DETERMINE THE APPROPRIATE SCREENING OR
54 EVALUATION PROCESS TO FOLLOW IN ACCORDANCE WITH THIS SECTION. The evalu-
55 ator may begin the SCREENING OR evaluation no sooner than four working

1 days after such notification, unless otherwise approved by the initial
2 service coordinator.

3 (b) [the evaluator shall designate an individual as the principal
4 contact for the multidisciplinary team] INITIAL SERVICE COORDINATORS
5 SHALL INFORM PARENTS OF THE SCREENING OR EVALUATION PROCEDURES THAT MAY
6 BE PERFORMED, AS APPLICABLE. FOR A CHILD REFERRED TO THE EARLY INTER-
7 VENTION OFFICIAL WHO HAS A DIAGNOSED PHYSICAL OR MENTAL CONDITION THAT
8 HAS A HIGH PROBABILITY OF RESULTING IN DEVELOPMENTAL DELAY, THE INITIAL
9 SERVICE COORDINATOR SHALL INFORM THE PARENT THAT THE EVALUATION OF THE
10 CHILD SHALL BE CONDUCTED IN ACCORDANCE WITH THE PROCEDURES SET FORTH IN
11 SUBDIVISION FIVE OF THIS SECTION.

12 (c) If, in consultation with the evaluator, the service coordinator
13 identifies a child that is potentially eligible for programs or services
14 offered by or under the auspices of the office for people with develop-
15 mental disabilities, the service coordinator shall, with parent consent,
16 notify the office for people with developmental disabilities' regional
17 developmental disabilities services office of the potential eligibility
18 of such child for said programs or services.

19 3. [(a) To determine eligibility, an evaluator shall, with parental
20 consent, either (i) screen a child to determine what type of evaluation,
21 if any, is warranted, or (ii) provide a multidisciplinary evaluation. In
22 making the determination whether to provide an evaluation, the evaluator
23 may rely on a recommendation from a physician or other qualified person
24 as designated by the commissioner] SCREENINGS FOR CHILDREN REFERRED TO
25 THE EARLY INTERVENTION PROGRAM TO DETERMINE WHETHER THEY ARE SUSPECTED
26 OF HAVING A DISABILITY. (A) FOR A CHILD REFERRED TO THE EARLY INTER-
27 VENTION PROGRAM, THE EVALUATOR SHALL FIRST PERFORM A SCREENING OF THE
28 CHILD, WITH PARENTAL CONSENT, TO DETERMINE WHETHER THE CHILD IS
29 SUSPECTED OF HAVING A DISABILITY.

30 (B) THE EVALUATOR SHALL UTILIZE A STANDARDIZED SCREENING INSTRUMENT OR
31 INSTRUMENTS APPROVED BY THE DEPARTMENT TO CONDUCT THE SCREENING. IF THE
32 EVALUATOR DOES NOT UTILIZE A STANDARDIZED SCREENING INSTRUMENT OR
33 INSTRUMENTS APPROVED BY THE DEPARTMENT FOR THE SCREENING, THE EVALUATOR
34 SHALL DOCUMENT IN WRITING WHY THE SAME ARE UNAVAILABLE OR INAPPROPRIATE
35 FOR THE CHILD.

36 (C) THE EVALUATOR SHALL EXPLAIN THE RESULTS OF THE SCREENING TO THE
37 PARENT, AND SHALL FULLY DOCUMENT THE RESULTS IN WRITING.

38 [(b)] (D) If, based upon the screening, a child is [believed to be
39 eligible, or if otherwise elected by the parent] SUSPECTED OF HAVING A
40 DISABILITY, the [child shall] EVALUATOR SHALL PROCEED, with [the consent
41 of a parent] PARENTAL CONSENT, [receive a multidisciplinary] TO CONDUCT
42 AN evaluation[. All evaluations shall be conducted in accordance with]
43 OF THE CHILD IN ACCORDANCE WITH THE PROCEDURES SET FORTH IN SUBDIVISION
44 FOUR OF THIS SECTION, the coordinated standards and procedures, and
45 [with] regulations promulgated by the commissioner.

46 (E) IF, BASED UPON THE SCREENING, A CHILD IS NOT SUSPECTED OF HAVING A
47 DISABILITY, AN EVALUATION SHALL NOT BE PROVIDED, UNLESS REQUESTED BY THE
48 PARENT. THE EARLY INTERVENTION OFFICIAL SHALL PROVIDE THE PARENT WITH
49 WRITTEN NOTICE OF THE SCREENING RESULTS, WHICH SHALL INCLUDE INFORMATION
50 ON THE PARENT'S RIGHT TO REQUEST AN EVALUATION.

51 (F) A SCREENING SHALL NOT BE PROVIDED TO CHILDREN WHO ARE REFERRED TO
52 THE EARLY INTERVENTION PROGRAM WHO HAVE A DIAGNOSED PHYSICAL OR MENTAL
53 CONDITION WITH A HIGH PROBABILITY OF RESULTING IN DEVELOPMENTAL DELAY
54 THAT ESTABLISHES ELIGIBILITY FOR THE PROGRAM, OR FOR CHILDREN WHO HAVE
55 PREVIOUSLY RECEIVED AN EVALUATION UNDER THE EARLY INTERVENTION PROGRAM

1 AND HAVE BEEN REFERRED AGAIN TO THE EARLY INTERVENTION OFFICIAL WITHIN
2 SIX MONTHS OF THE PREVIOUS EVALUATION.

3 4. The evaluation of [each] A child shall:

4 (a) INCLUDE THE ADMINISTRATION OF AN EVALUATION INSTRUMENT APPROVED BY
5 THE DEPARTMENT. IF THE EVALUATOR DOES NOT UTILIZE AN EVALUATION INSTRU-
6 MENT APPROVED BY THE DEPARTMENT AS PART OF THE EVALUATION OF THE CHILD,
7 THE EVALUATOR SHALL DOCUMENT IN WRITING WHY SUCH INSTRUMENT OR INSTRU-
8 MENTS ARE NOT APPROPRIATE OR AVAILABLE FOR THE CHILD;

9 (B) be conducted by personnel trained to utilize appropriate methods
10 and procedures;

11 [(b)] (C) be based on informed clinical opinion;

12 [(c)] (D) be made without regard to the availability of services in
13 the municipality or who might provide such services; [and

14 (d)] (E) with parental consent, include the following:

15 (i) a review of pertinent records related to the child's current
16 health status and medical history;

17 (ii) an evaluation of the child's level of functioning in each of the
18 developmental areas set forth in paragraph (c) of subdivision seven of
19 section twenty-five hundred forty-one of this title[;] TO DETERMINE
20 WHETHER THE CHILD HAS A DISABILITY AS DEFINED IN THIS TITLE THAT ESTAB-
21 LISHES THE CHILD'S ELIGIBILITY FOR THE PROGRAM; AND

22 (F) IF THE CHILD HAS BEEN DETERMINED ELIGIBLE BY THE EVALUATOR AFTER
23 CONDUCTING THE PROCEDURES SET FORTH IN PARAGRAPHS (A) THROUGH (E) OF
24 THIS SUBDIVISION, THE EVALUATION SHALL ALSO INCLUDE:

25 [(iii)] (I) an assessment [of the unique needs of] FOR THE PURPOSE OF
26 IDENTIFYING the [child] CHILD'S UNIQUE STRENGTHS AND NEEDS in [terms of]
27 each of the developmental areas [set forth in paragraph (c) of subdivi-
28 sion seven of section twenty-five hundred forty-one of this title,
29 including the identification of] AND THE EARLY INTERVENTION services
30 appropriate to meet those needs;

31 (II) A FAMILY-DIRECTED ASSESSMENT, IF CONSENTED TO BY THE FAMILY, IN
32 ORDER TO IDENTIFY THE FAMILY'S RESOURCES, PRIORITIES AND CONCERNS AND
33 THE SUPPORTS NECESSARY TO ENHANCE THE FAMILY'S CAPACITY TO MEET THE
34 DEVELOPMENTAL NEEDS OF THE CHILD. THE FAMILY ASSESSMENT SHALL BE VOLUN-
35 TARY ON THE PART OF EACH FAMILY MEMBER PARTICIPATING IN THE ASSESSMENT;

36 [(iv)] (III) an [evaluation] ASSESSMENT of the transportation needs of
37 the child, if any; and

38 [(v)] (IV) such other matters as the commissioner may prescribe in
39 regulation.

40 5. EVALUATIONS FOR CHILDREN WHO ARE REFERRED TO THE EARLY INTERVENTION
41 OFFICIAL WITH DIAGNOSED PHYSICAL OR MENTAL CONDITIONS THAT HAVE A HIGH
42 PROBABILITY OF RESULTING IN DEVELOPMENTAL DELAY. (A) IF A CHILD HAS A
43 DIAGNOSED PHYSICAL OR MENTAL CONDITION THAT HAS A HIGH PROBABILITY OF
44 RESULTING IN DEVELOPMENTAL DELAY, THE CHILD'S MEDICAL OR OTHER RECORDS
45 SHALL BE USED, WHEN AVAILABLE TO ESTABLISH THE CHILD'S ELIGIBILITY FOR
46 THE PROGRAM.

47 (B) THE EVALUATOR SHALL, UPON REVIEW OF THE REFERRAL FORM PROVIDED IN
48 ACCORDANCE WITH SECTION TWENTY-FIVE HUNDRED FORTY-TWO OF THIS TITLE OR
49 ANY OTHER RECORDS, OR AT THE TIME OF INITIAL CONTACT WITH THE CHILD'S
50 FAMILY, DETERMINE WHETHER THE CHILD HAS A DIAGNOSED CONDITION THAT
51 ESTABLISHES THE CHILD'S ELIGIBILITY FOR THE PROGRAM. IF THE EVALUATOR
52 HAS REASON TO BELIEVE, AFTER SPEAKING WITH THE CHILD'S FAMILY, THAT THE
53 CHILD MAY HAVE A DIAGNOSED CONDITION THAT ESTABLISHES THE CHILD'S ELIGI-
54 BILITY BUT THE EVALUATOR HAS NOT BEEN PROVIDED WITH MEDICAL OR OTHER
55 DOCUMENTATION OF SUCH DIAGNOSIS, THE EVALUATOR SHALL, WITH PARENTAL

1 CONSENT, OBTAIN SUCH DOCUMENTATION, WHEN AVAILABLE, PRIOR TO PROCEEDING
2 WITH THE EVALUATION OF THE CHILD.

3 (C) THE EVALUATOR SHALL REVIEW ALL RECORDS RECEIVED TO DOCUMENT THAT
4 THE CHILD'S DIAGNOSIS AS SET FORTH IN SUCH RECORDS ESTABLISHES THE
5 CHILD'S ELIGIBILITY FOR THE EARLY INTERVENTION PROGRAM.

6 (D) NOTWITHSTANDING SUBDIVISION FOUR OF THIS SECTION, IF THE CHILD'S
7 ELIGIBILITY FOR THE EARLY INTERVENTION PROGRAM IS ESTABLISHED IN ACCORD-
8 ANCE WITH THIS SUBDIVISION, THE EVALUATION OF THE CHILD SHALL CONSIST OF

9 (I) A REVIEW OF THE RESULTS OF THE MEDICAL OR OTHER RECORDS THAT ESTAB-
10 LISHED THE CHILD'S ELIGIBILITY, AND ANY OTHER PERTINENT EVALUATIONS OR
11 RECORDS AVAILABLE AND (II) THE PROCEDURES SET FORTH IN PARAGRAPH (F) OF
12 SUBDIVISION FOUR OF THIS SECTION. THE EVALUATION PROCEDURES SET FORTH IN
13 PARAGRAPHS (A) THROUGH (E) OF SUBDIVISION FOUR OF THIS SECTION SHALL NOT
14 BE REQUIRED OR CONDUCTED.

15 6. EVALUATIONS FOR CHILDREN REFERRED TO THE EARLY INTERVENTION OFFI-
16 CIAL AFTER A PREVIOUS EARLY INTERVENTION EVALUATION FOUND THEM INELIGI-
17 BLE FOR THE PROGRAM. (A) NOTWITHSTANDING SUBDIVISION FOUR OF THIS
18 SECTION, A PARTIAL EVALUATION SHALL BE CONDUCTED FOR A CHILD THAT WAS
19 PREVIOUSLY REFERRED TO THE EARLY INTERVENTION OFFICIAL AND FOUND INELI-
20 GIBLE AFTER AN EVALUATION IF:

21 (I) THE CHILD'S PRIOR EVALUATION WAS COMPLETED BETWEEN THREE AND SIX
22 MONTHS OF THE DATE OF THE CHILD'S SUBSEQUENT REFERRAL;

23 (II) THE CHILD'S SUBSEQUENT REFERRAL IS BASED ON A SPECIFIC CONCERN IN
24 A SINGLE DEVELOPMENTAL AREA; AND

25 (III) NO OTHER NEW MEDICAL, HEALTH OR DEVELOPMENTAL CONCERNS ARE INDI-
26 CATED.

27 (B) IF THE PARTIAL EVALUATION ESTABLISHES THE CHILD'S ELIGIBILITY FOR
28 THE EARLY INTERVENTION PROGRAM, THE EVALUATION OF THE CHILD SHALL ALSO
29 INCLUDE THE PROCEDURES SET FORTH IN PARAGRAPH (F) OF SUBDIVISION FOUR OF
30 THIS SECTION. THE EVALUATION PROCEDURES SET FORTH IN PARAGRAPHS (A)
31 THROUGH (E) OF SUBDIVISION FOUR OF THIS SECTION SHALL NOT BE CONDUCTED,
32 UNLESS REQUESTED BY THE PARENT.

33 (C) AN EVALUATION CONDUCTED IN ACCORDANCE WITH SUBDIVISION FOUR OF
34 THIS SECTION SHALL BE PROVIDED TO A CHILD THAT WAS PREVIOUSLY REFERRED
35 TO THE EARLY INTERVENTION OFFICIAL AND FOUND INELIGIBLE AFTER AN EVALU-
36 ATION IF THE CHILD'S PARENT OR PRIMARY REFERRAL SOURCE INDICATES SPECIF-
37 IC NEW CONCERNS IN MORE THAN ONE DEVELOPMENTAL AREA, OR IF RECORDS OR
38 OTHER REPORTS INDICATE A SIGNIFICANT CHANGE IN OVERALL DEVELOPMENT.

39 (D) FOR EVALUATIONS SUBJECT TO THE PROVISIONS OF THIS SUBDIVISION, THE
40 EVALUATOR WHO CONDUCTED THE PRIOR EVALUATION OF THE CHILD SHALL BE
41 ASSIGNED TO CONDUCT THE PARTIAL EVALUATION OR EVALUATION, AS APPLICABLE,
42 UNLESS THE EVALUATOR IS UNAVAILABLE OR THE PARENT OBJECTS TO THE ASSIGN-
43 MENT. THE EVALUATOR SHALL REVIEW THE PRIOR EVALUATION CONDUCTED ON THE
44 CHILD AND ANY OTHER PERTINENT RECORDS, WITH PARENTAL CONSENT.

45 (E) NOTWITHSTANDING ANY CONTRARY PROVISION OF LAW, A CHILD WHO IS
46 REFERRED TO THE EARLY INTERVENTION OFFICIAL WITHIN THREE MONTHS OF THE
47 COMPLETION OF A PRIOR EVALUATION SHALL NOT BE ENTITLED TO A PARTIAL
48 EVALUATION OR EVALUATION, AS APPLICABLE, UNLESS SIGNIFICANT MEDICAL,
49 HEALTH OR DEVELOPMENTAL CHANGES ARE INDICATED.

50 7. An evaluation shall not include a reference to any specific provid-
51 er of early intervention services.

52 [6.] 8. Nothing in this section shall restrict an evaluator from
53 utilizing, in addition to findings from his or her personal examination,
54 other examinations, evaluations or assessments conducted for such child,
55 including those conducted prior to the evaluation under this section, if

1 such examinations, evaluations or assessments are consistent with the
2 coordinated standards and procedures.

3 [7.] 9. Following completion of the evaluation, the evaluator shall
4 provide the parent and service coordinator with a copy of a summary of
5 the full evaluation. To the extent practicable, the summary shall be
6 provided in the native language of the parent. Upon request of the
7 parent, early intervention official or service coordinator, the evalu-
8 ator shall provide a copy of the full evaluation to such parent, early
9 intervention official or service coordinator.

10 [8.] 10. A parent who disagrees with the results of an evaluation may
11 obtain an additional evaluation or partial evaluation at public expense
12 to the extent authorized by federal law or regulation.

13 [9.] 11. Upon receipt of the results of an evaluation, a service coor-
14 dinator may, with parental consent, require additional diagnostic infor-
15 mation regarding the condition of the child, provided, however, that
16 such evaluation or assessment is not unnecessarily duplicative or inva-
17 sive to the child, and provided further, that:

18 (a) where the evaluation has established the child's eligibility, such
19 additional diagnostic information shall be used solely to provide addi-
20 tional information to the parent and service coordinator regarding the
21 child's need for services and cannot be a basis for refuting eligibil-
22 ity;

23 (b) the service coordinator provides the parent with a written expla-
24 nation of the basis for requiring additional diagnostic information;

25 (c) the additional diagnostic procedures are at no expense to the
26 parent; and

27 (d) the evaluation is completed and a meeting to develop an IFSP is
28 held within the time prescribed in subdivision one of section twenty-
29 five hundred forty-five of this title.

30 [10.] 12. (a) If the screening indicates that the infant or toddler is
31 not an eligible child and the parent elects not to have an evaluation,
32 or if the evaluation indicates that the infant or toddler is not an
33 eligible child, the service coordinator shall inform the parent of other
34 programs or services that may benefit such child, and the child's family
35 and, with parental consent, refer such child to such programs or
36 services.

37 (b) A parent may appeal a determination that a child is ineligible
38 pursuant to the provisions of section twenty-five hundred forty-nine of
39 this title, provided, however, that a parent may not initiate such
40 appeal until all evaluations are completed. IN ADDITION, FOR A CHILD
41 REFERRED TO THE EARLY INTERVENTION OFFICIAL WHO HAS A DIAGNOSED PHYSICAL
42 OR MENTAL CONDITION THAT ESTABLISHES THE CHILD'S ELIGIBILITY FOR THE
43 PROGRAM IN ACCORDANCE WITH SUBDIVISION FIVE OF THIS SECTION, THE PARENT
44 MAY APPEAL THE DENIAL OF A REQUEST TO HAVE THE EVALUATOR CONDUCT THE
45 EVALUATION PROCEDURES SET FORTH IN PARAGRAPHS (A) THROUGH (E) OF SUBDI-
46 VISION FOUR OF THIS SECTION, PROVIDED, HOWEVER, THAT THE PARENT MAY NOT
47 INITIATE THE APPEAL UNTIL THE EVALUATION CONDUCTED IN ACCORDANCE WITH
48 SUBDIVISION FIVE OF THIS SECTION IS COMPLETED.

49 [11.] 13. Notwithstanding any other provision of law to the contrary,
50 where a request has been made to review an IFSP prior to the six-month
51 interval provided in subdivision seven of section twenty-five hundred
52 forty-five of this title for purposes of increasing frequency or dura-
53 tion of an approved service, including service coordination, the early
54 intervention official may require an additional evaluation or partial
55 evaluation at public expense by an approved evaluator other than the
56 current provider of service, with parent consent.

1 S 5. Subdivision 1, the opening paragraph of subdivision 2 and subdi-
2 vision 7 of section 2545 of the public health law, as added by chapter
3 428 of the laws of 1992, are amended to read as follows:

4 1. If the evaluator determines that the infant or toddler is an eligi-
5 ble child, the early intervention official shall convene a meeting, at a
6 time and place convenient to the parent, consisting of the parent, such
7 official, the evaluator, A REPRESENTATIVE FROM THE CHILD'S HEALTH INSUR-
8 ER OR HEALTH MAINTENANCE ORGANIZATION, WHICH SHALL INCLUDE THE MEDICAL
9 ASSISTANCE PROGRAM OR THE CHILD HEALTH INSURANCE PROGRAM ESTABLISHED IN
10 TITLE ONE-A OF THIS ARTICLE, OR ANY OTHER GOVERNMENTAL THIRD PARTY
11 PAYOR, IF THE CHILD HAS HEALTH INSURANCE COVERAGE THROUGH A HEALTH
12 INSURER OR HEALTH MAINTENANCE ORGANIZATION AND THE REPRESENTATIVE IS
13 AVAILABLE TO ATTEND THE MEETING ON THE DATE AND TIME CHOSEN BY THE EARLY
14 INTERVENTION OFFICIAL, the initial service coordinator and any other
15 persons who the parent or the initial service coordinator, with the
16 parent's consent, invite, provided that such meeting shall be held no
17 later than forty-five days from the date that the early intervention
18 official was first contacted regarding the child, except under excep-
19 tional circumstances prescribed by the commissioner. The early inter-
20 vention official, at or prior to the time of scheduling the meeting,
21 shall inform the parent of the right to invite any person to the meet-
22 ing. IF THE REPRESENTATIVE FROM THE CHILD'S HEALTH INSURER OR HEALTH
23 MAINTENANCE ORGANIZATION IS NOT AVAILABLE TO ATTEND THE MEETING IN
24 PERSON ON THE DATE AND TIME CHOSEN BY THE EARLY INTERVENTION OFFICIAL,
25 ARRANGEMENTS MAY BE MADE FOR THE REPRESENTATIVE'S INVOLVEMENT IN THE
26 MEETING BY PARTICIPATION IN A TELEPHONE CONFERENCE CALL OR BY OTHER
27 MEANS.

28 The early intervention official, A REPRESENTATIVE FROM THE CHILD'S
29 HEALTH INSURER OR HEALTH MAINTENANCE ORGANIZATION, WHICH SHALL INCLUDE
30 THE MEDICAL ASSISTANCE PROGRAM OR THE CHILD HEALTH INSURANCE PROGRAM
31 ESTABLISHED IN TITLE ONE-A OF THIS ARTICLE, OR ANY OTHER GOVERNMENTAL
32 THIRD PARTY PAYOR, IF THE CHILD HAS HEALTH INSURANCE COVERAGE THROUGH A
33 HEALTH INSURER OR HEALTH MAINTENANCE ORGANIZATION AND THE REPRESENTATIVE
34 IS AVAILABLE TO ATTEND OR PARTICIPATE IN THE MEETING ON THE DATE AND
35 TIME CHOSEN BY THE EARLY INTERVENTION OFFICIAL, initial service coordi-
36 nator, parent and evaluator shall develop an IFSP for an eligible child
37 whose parents request services. The IFSP shall be in writing and shall
38 include, but not be limited to:

39 7. The IFSP shall be reviewed at six month intervals and shall be
40 evaluated annually by the early intervention official, A REPRESENTATIVE
41 FROM THE CHILD'S HEALTH INSURER OR HEALTH MAINTENANCE ORGANIZATION,
42 WHICH SHALL INCLUDE THE MEDICAL ASSISTANCE PROGRAM OR THE CHILD HEALTH
43 INSURANCE PROGRAM ESTABLISHED IN TITLE ONE-A OF THIS ARTICLE, OR ANY
44 OTHER GOVERNMENTAL THIRD PARTY PAYOR, IF THE CHILD HAS HEALTH INSURANCE
45 COVERAGE THROUGH A HEALTH INSURER OR HEALTH MAINTENANCE ORGANIZATION AND
46 THE REPRESENTATIVE IS AVAILABLE TO PARTICIPATE IN THE REVIEW OR ATTEND
47 THE ANNUAL MEETING TO EVALUATE THE IFSP ON THE DATE AND TIME CHOSEN BY
48 THE EARLY INTERVENTION OFFICIAL, THE service coordinator, the parent and
49 providers of services to the eligible child. Upon request of a parent,
50 the plan may be reviewed by such persons at more frequent intervals. IF
51 THE REPRESENTATIVE FROM THE CHILD'S HEALTH INSURER OR HEALTH MAINTENANCE
52 ORGANIZATION IS NOT AVAILABLE TO PARTICIPATE IN THE REVIEW OR ATTEND THE
53 MEETING TO EVALUATE THE IFSP IN PERSON ON THE DATE AND TIME CHOSEN BY
54 THE EARLY INTERVENTION OFFICIAL, ARRANGEMENTS MAY BE MADE FOR THE REPRE-
55 SENTATIVE'S INVOLVEMENT BY PARTICIPATION IN A TELEPHONE CONFERENCE CALL
56 OR BY OTHER MEANS.

1 S 6. Subdivision 10 of section 2545 of the public health law, as added
2 by section 2-a of part A of chapter 56 of the laws of 2012, is amended
3 to read as follows:

4 10. The service coordinator shall ensure that the IFSP, including any
5 amendments thereto, is implemented [in a timely manner but not] WITHIN
6 THIRTY DAYS FROM THE DATE THE PARENT SIGNS THE IFSP AND CONSENTS TO THE
7 SERVICES, OR, IF THE PROJECTED DATE FOR INITIATION OF SERVICE AS SET
8 FORTH IN THE IFSP IS MORE THAN THIRTY DAYS FROM THE DATE THE PARENT
9 SIGNS THE IFSP AND CONSENTS TO SUCH SERVICE, THE SERVICE COORDINATOR
10 SHALL ENSURE THAT THE IFSP IS IMPLEMENTED NO later than thirty days
11 after the projected [dates] DATE for initiation of the [services as set
12 forth in the plan] SERVICE.

13 S 7. The public health law is amended by adding a new section 2545-a
14 to read as follows:

15 S 2545-A. USE OF NETWORK PROVIDERS. 1. FOR CHILDREN REFERRED TO THE
16 EARLY INTERVENTION PROGRAM ON OR AFTER JANUARY FIRST, TWO THOUSAND FOUR-
17 TEEN, IF A CHILD HAS HEALTH INSURANCE COVERAGE UNDER A HEALTH INSURANCE
18 POLICY, PLAN OR CONTRACT, INCLUDING COVERAGE AVAILABLE UNDER THE MEDICAL
19 ASSISTANCE PROGRAM OR THE CHILD HEALTH INSURANCE PROGRAM ESTABLISHED IN
20 TITLE ONE-A OF THIS ARTICLE OR UNDER ANY OTHER GOVERNMENTAL THIRD PARTY
21 PAYOR, AND THE HEALTH INSURANCE POLICY, PLAN OR CONTRACT PROVIDES COVER-
22 AGE FOR HEALTH, DIAGNOSTIC OR DEVELOPMENTAL SCREENINGS OR EVALUATIONS
23 OR, SERVICES THAT MAY BE RENDERED TO THE CHILD UNDER THE EARLY INTER-
24 VENTION PROGRAM, THE SERVICE COORDINATOR, OR, IN ACCORDANCE WITH SECTION
25 TWENTY-FIVE HUNDRED FORTY-FOUR OF THIS TITLE, THE PARENT, WITH RESPECT
26 TO SCREENINGS OR EVALUATIONS, SHALL SELECT A PROVIDER APPROVED BY THE
27 DEPARTMENT AND WITHIN THE HEALTH INSURER'S OR HEALTH MAINTENANCE ORGAN-
28 IZATION'S NETWORK, IF APPLICABLE, FOR THE PROVISION OF SUCH SCREENING,
29 EVALUATION OR SERVICES, PROVIDED HOWEVER THAT THIS SUBDIVISION SHALL NOT
30 APPLY UNDER THE FOLLOWING CONDITIONS:

31 (A) SPECIAL CIRCUMSTANCES EXIST RELATED TO A PROVIDER'S QUALIFICATIONS
32 OR AVAILABILITY AND THE PROVIDER IS NOT WITHIN THE HEALTH INSURER'S OR
33 HEALTH MAINTENANCE ORGANIZATION'S NETWORK;

34 (B) HEALTH INSURANCE POLICY, PLAN OR CONTRACT BENEFITS HAVE BEEN
35 EXHAUSTED; OR

36 (C) OTHER EXTRAORDINARY CIRCUMSTANCES EXIST IN WHICH THERE IS A CLEAR
37 SHOWING THAT THE CHILD HAS A DEMONSTRATED NEED, AS DETERMINED BY THE
38 HEALTH INSURER OR HEALTH MAINTENANCE ORGANIZATION, IF APPLICABLE, FOR A
39 SCREENING, EVALUATION OR SERVICE RENDERED BY A PROVIDER WHO HAS NOT
40 ENTERED INTO A PARTICIPATION AGREEMENT WITH THE CHILD'S HEALTH INSURER
41 OR HEALTH MAINTENANCE ORGANIZATION FOR THE PROVISION OF SUCH SCREENING,
42 EVALUATION OR SERVICE.

43 2. ALL APPROVED EVALUATORS AND PROVIDERS OF EARLY INTERVENTION
44 SERVICES, EXCEPT SERVICE COORDINATION SERVICES, HEREINAFTER COLLECTIVELY
45 REFERRED TO AS "PROVIDER" OR "PROVIDERS" FOR PURPOSES OF THIS SECTION,
46 SHALL ESTABLISH AND MAINTAIN CONTRACTS OR AGREEMENTS WITH A SUFFICIENT
47 NUMBER OF HEALTH INSURERS OR HEALTH MAINTENANCE ORGANIZATIONS, INCLUDING
48 THE MEDICAL ASSISTANCE PROGRAM OR THE CHILD HEALTH INSURANCE PROGRAM
49 ESTABLISHED UNDER TITLE ONE-A OF THIS ARTICLE, AS DETERMINED NECESSARY
50 BY THE COMMISSIONER TO MEET HEALTH INSURER OR HEALTH MAINTENANCE ORGAN-
51 IZATION NETWORK ADEQUACY; PROVIDED, HOWEVER, THAT THE DEPARTMENT MAY, IN
52 ITS DISCRETION, APPROVE A PROVIDER WHO DOES NOT HAVE A CONTRACT OR
53 AGREEMENT WITH ONE OR MORE HEALTH INSURERS OR HEALTH MAINTENANCE ORGAN-
54 IZATIONS IF THE PROVIDER RENDERS A SERVICE THAT MEETS A UNIQUE NEED FOR
55 SUCH SERVICE UNDER THE EARLY INTERVENTION PROGRAM. APPROVED PROVIDERS
56 SHALL SUBMIT TO THE DEPARTMENT INFORMATION AND DOCUMENTATION OF THE

1 HEALTH INSURERS AND HEALTH MAINTENANCE ORGANIZATIONS WITH WHICH THE
2 PROVIDER HOLDS AN AGREEMENT OR CONTRACT. A PROVIDER'S APPROVAL WITH THE
3 DEPARTMENT TO DELIVER EVALUATIONS OR EARLY INTERVENTION SERVICES SHALL
4 TERMINATE IF THE PROVIDER FAILS TO PROVIDE SUCH INFORMATION OR DOCUMEN-
5 TATION ACCEPTABLE TO THE DEPARTMENT OF ITS CONTRACTS OR AGREEMENTS WITH
6 HEALTH INSURERS OR HEALTH MAINTENANCE ORGANIZATIONS AS REQUESTED BY THE
7 DEPARTMENT.

8 S 8. Subdivision 1 of section 2557 of the public health law, as
9 amended by section 4 of part C of chapter 1 of the laws of 2002, is
10 amended to read as follows:

11 1. The approved costs, OTHER THAN THOSE REIMBURSABLE IN ACCORDANCE
12 WITH SECTION TWENTY-FIVE HUNDRED FIFTY-NINE OF THIS TITLE, for [an
13 eligible] A child who receives [an] A SCREENING, evaluation and early
14 intervention services pursuant to this title shall be a charge upon the
15 municipality wherein the eligible child resides or, where the services
16 are covered by the medical assistance program, upon the social services
17 district of fiscal responsibility with respect to those eligible chil-
18 dren who are also eligible for medical assistance. All approved costs
19 shall be paid in the first instance and at least quarterly by the appro-
20 priate governing body or officer of the municipality upon vouchers
21 presented and audited in the same manner as the case of other claims
22 against the municipality. Notwithstanding the insurance law or regu-
23 lations thereunder relating to the permissible exclusion of payments for
24 services under governmental programs, no such exclusion shall apply with
25 respect to payments made pursuant to this title. Notwithstanding the
26 insurance law or any other law or agreement to the contrary, benefits
27 under this title shall be considered secondary to any [plan of insurance
28 or state government benefit program] HEALTH INSURANCE POLICY, PLAN OR
29 CONTRACT under which an eligible child may have coverage, INCLUDING
30 COVERAGE AVAILABLE UNDER THE MEDICAL ASSISTANCE PROGRAM OR THE CHILD
31 HEALTH INSURANCE PROGRAM ESTABLISHED IN TITLE ONE-A OF THIS ARTICLE, OR
32 UNDER ANY OTHER GOVERNMENTAL THIRD PARTY PAYOR. Nothing in this section
33 shall increase or enhance coverages provided for within [an insurance
34 contract] A HEALTH INSURANCE POLICY, PLAN OR CONTRACT subject to the
35 provisions of this title.

36 S 9. Paragraph (c) of subdivision 3 of section 2559 of the public
37 health law, as amended by section 11 of part A of chapter 56 of the laws
38 of 2012, is amended, paragraphs (b) and (d) of such subdivision are
39 relettered (d) and (f) and two new paragraphs (b) and (c) are added to
40 read as follows:

41 (B) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW, RULE OR REGU-
42 LATION, PAYMENTS MADE BY ANY HEALTH INSURER OR HEALTH MAINTENANCE ORGAN-
43 IZATION FOR SCREENINGS, EVALUATIONS AND SERVICES PROVIDED UNDER THE
44 EARLY INTERVENTION PROGRAM SHALL BE MADE AT RATES NEGOTIATED BY THE
45 HEALTH INSURER OR HEALTH MAINTENANCE ORGANIZATION AND PROVIDER, IF
46 APPLICABLE, PROVIDED, HOWEVER, THAT IF THE HEALTH INSURER OR HEALTH
47 MAINTENANCE ORGANIZATION MAINTAINS A NETWORK OF PROVIDERS AND EXTRAOR-
48 DINARY CIRCUMSTANCES EXIST IN WHICH THERE IS A CLEAR SHOWING THAT A
49 CHILD HAS A DEMONSTRATED NEED, AS DETERMINED BY THE HEALTH INSURER OR
50 HEALTH MAINTENANCE ORGANIZATION, IF APPLICABLE, FOR A SCREENING, EVALU-
51 ATION OR SERVICE RENDERED BY A PROVIDER WHO IS NOT WITHIN THE HEALTH
52 INSURER'S OR HEALTH MAINTENANCE ORGANIZATION'S NETWORK, PAYMENT TO SUCH
53 OUT OF NETWORK PROVIDER SHALL BE MADE IN ACCORDANCE WITH THE OUT OF
54 NETWORK COVERAGE, IF ANY, THAT IS AVAILABLE UNDER THE HEALTH INSURANCE
55 POLICY, PLAN OR CONTRACT. PAYMENTS MADE BY ANY HEALTH INSURER OR HEALTH
56 MAINTENANCE ORGANIZATION SHALL BE CONSIDERED PAYMENTS IN FULL FOR SUCH

SERVICES AND THE PROVIDER SHALL NOT SEEK ADDITIONAL PAYMENT FROM THE MUNICIPALITY, CHILD, OR HIS OR HER PARENTS FOR ANY PORTION OF THE COSTS OF SAID SERVICES. NOTHING HEREIN SHALL PROHIBIT A HEALTH INSURER OR HEALTH MAINTENANCE ORGANIZATION FROM APPLYING A COPAYMENT, COINSURANCE OR DEDUCTIBLE AS SET FORTH IN THE HEALTH INSURANCE POLICY, PLAN OR CONTRACT. PAYMENTS FOR COPAYMENTS, COINSURANCE OR DEDUCTIBLES SHALL BE MADE IN ACCORDANCE WITH PARAGRAPH (D) OF THIS SUBDIVISION.

(C) WHEN PAYMENT UNDER A HEALTH INSURANCE POLICY, PLAN OR CONTRACT IS NOT AVAILABLE OR BENEFITS HAVE BEEN EXHAUSTED, PROVIDERS SHALL SEEK PAYMENT FOR SERVICES IN ACCORDANCE WITH SECTION TWENTY-FIVE HUNDRED FIFTY-SEVEN OF THIS TITLE; PROVIDED, HOWEVER, THAT IF THE SERVICE PROVIDED IS A COVERED BENEFIT UNDER THE HEALTH INSURANCE POLICY, PLAN OR CONTRACT AND PAYMENT HAS BEEN DENIED ON GROUNDS OTHER THAN THAT BENEFITS HAVE BEEN EXHAUSTED, THE PROVIDER SHALL EXHAUST ALL APPEALS OF SAID DENIAL PRIOR TO CLAIMING PAYMENT TO THE MUNICIPALITY FOR THE SERVICE IN ACCORDANCE WITH SECTION TWENTY-FIVE HUNDRED FIFTY-SEVEN OF THIS TITLE. PROVIDERS SHALL NOT DISCONTINUE OR DELAY SERVICES TO ELIGIBLE CHILDREN PENDING PAYMENT OF THE CLAIM OR DETERMINATIONS OF ANY APPEAL DENIALS.

[(c)] (E) Payments made for early intervention services under [an] A HEALTH insurance policy [or health benefit], plan OR CONTRACT, including payments made by the medical assistance program OR THE CHILD HEALTH INSURANCE PROGRAM ESTABLISHED UNDER TITLE ONE-A OF THIS ARTICLE or other governmental third party payor, which are provided as part of an IFSP pursuant to section twenty-five hundred forty-five of this title shall not be applied by the insurer or plan administrator against any maximum lifetime or annual limits specified in the policy or health benefits plan, pursuant to section eleven of [the] chapter FOUR HUNDRED TWENTY-EIGHT of the laws of nineteen hundred ninety-two which added this title.

S 10. Subdivision 7 of section 2510 of the public health law, as amended by section 21 of part B of chapter 109 of the laws of 2010, is amended to read as follows:

7. "Covered health care services" means: the services of physicians, optometrists, nurses, nurse practitioners, midwives and other related professional personnel which are provided on an outpatient basis, including routine well-child visits; diagnosis and treatment of illness and injury; inpatient health care services; laboratory tests; diagnostic x-rays; prescription and non-prescription drugs and durable medical equipment; radiation therapy; chemotherapy; hemodialysis; emergency room services; hospice services; emergency, preventive and routine dental care, including medically necessary orthodontia but excluding cosmetic surgery; emergency, preventive and routine vision care, including eyeglasses; speech and hearing services; and, inpatient and outpatient mental health, alcohol and substance abuse services as defined by the commissioner in consultation with the superintendent. "COVERED HEALTH CARE SERVICES" SHALL ALSO INCLUDE EARLY INTERVENTION SERVICES PROVIDED PURSUANT TO TITLE TWO-A OF THIS ARTICLE UP TO THE SCOPE AND LEVEL OF COVERAGE FOR THE SAME SERVICES PROVIDED PURSUANT TO THIS SUBDIVISION, AS DEFINED BY THE COMMISSIONER. "Covered health care services" shall not include drugs, procedures and supplies for the treatment of erectile dysfunction when provided to, or prescribed for use by, a person who is required to register as a sex offender pursuant to article six-C of the correction law, provided that any denial of coverage of such drugs, procedures or supplies shall provide the patient with the means of obtaining additional information concerning both the denial and the means of challenging such denial.

1 S 11. Paragraph (b) of subdivision 5 of section 4403 of the public
2 health law is relettered paragraph (c) and a new paragraph (b) is added
3 to read as follows:

4 (B) UPON THE EFFECTIVE DATE OF THIS PARAGRAPH AND AT THE TIME OF EVERY
5 THREE YEAR REVIEW BY THE COMMISSIONER AS SET FORTH IN PARAGRAPH (A) OF
6 THIS SUBDIVISION, AND UPON APPLICATION FOR EXPANSION OF SERVICE AREA,
7 THE HEALTH MAINTENANCE ORGANIZATION SHALL DEMONSTRATE THAT IT MAINTAINS
8 AN ADEQUATE NETWORK OF PROVIDERS WHO ARE APPROVED TO DELIVER EVALUATIONS
9 AND EARLY INTERVENTION PROGRAM SERVICES IN ACCORDANCE WITH TITLE TWO-A
10 OF ARTICLE TWENTY-FIVE OF THIS CHAPTER, BY SHOWING TO THE SATISFACTION
11 OF THE COMMISSIONER THAT: (1) THERE ARE A SUFFICIENT NUMBER OF
12 GEOGRAPHICALLY ACCESSIBLE PARTICIPATING PROVIDERS, AND (2) THERE ARE
13 SUFFICIENT PROVIDERS IN EACH AREA OF SPECIALTY OF PRACTICE TO MEET THE
14 NEEDS OF THE ENROLLMENT POPULATION.

15 S 12. Section 4406 of the public health law is amended by adding a new
16 subdivision 6 to read as follows:

17 6. (A) NO SUBSCRIBER CONTRACT OR BENEFIT PACKAGE SHALL EXCLUDE COVER-
18 AGE FOR OTHERWISE COVERED SERVICES SOLELY ON THE BASIS THAT THE SERVICES
19 CONSTITUTE EARLY INTERVENTION PROGRAM SERVICES UNDER TITLE TWO-A OF
20 ARTICLE TWENTY-FIVE OF THIS CHAPTER.

21 (B) WHERE A SUBSCRIBER CONTRACT OR BENEFIT PACKAGE PROVIDES COVERAGE
22 FOR A HEALTH, DIAGNOSTIC OR DEVELOPMENTAL SCREENING OR EVALUATION, OR A
23 SERVICE THAT IS PROVIDED UNDER THE EARLY INTERVENTION PROGRAM AND IS
24 OTHERWISE COVERED UNDER THE SUBSCRIBER CONTRACT OR BENEFIT PACKAGE, SUCH
25 COVERAGE SHALL NOT BE APPLIED AGAINST ANY MAXIMUM ANNUAL OR LIFETIME
26 MONETARY LIMITS SET FORTH IN SUCH SUBSCRIBER CONTRACT OR BENEFIT PACK-
27 AGE. VISIT LIMITATIONS AND OTHER TERMS AND CONDITIONS OF THE SUBSCRIBER
28 CONTRACT OR BENEFIT PACKAGE WILL CONTINUE TO APPLY TO EARLY INTERVENTION
29 SERVICES. HOWEVER, ANY VISITS USED FOR EARLY INTERVENTION PROGRAM
30 SERVICES SHALL NOT REDUCE THE NUMBER OF VISITS OTHERWISE AVAILABLE TO
31 THE ENROLLEE AND THE ENROLLEE'S PARENTS AND FAMILY MEMBERS WHO ARE
32 COVERED UNDER THE SUBSCRIBER CONTRACT OR BENEFIT PACKAGE FOR SUCH
33 SERVICES THAT ARE NOT PROVIDED UNDER THE EARLY INTERVENTION PROGRAM.

34 (C) THE HEALTH MAINTENANCE ORGANIZATION SHALL PROVIDE THE MUNICIPALITY
35 AND SERVICE COORDINATOR WITH INFORMATION ON THE EXTENT OF BENEFITS
36 AVAILABLE TO AN ENROLLEE UNDER SUCH SUBSCRIBER CONTRACT OR BENEFIT PACK-
37 AGE WITHIN FIFTEEN DAYS OF THE HEALTH MAINTENANCE ORGANIZATION'S RECEIPT
38 OF WRITTEN REQUEST AND NOTICE AUTHORIZING SUCH RELEASE. THE SERVICE
39 COORDINATOR SHALL PROVIDE SUCH INFORMATION TO THE RENDERING PROVIDER
40 ASSIGNED TO PROVIDE SERVICES TO THE ENROLLEE. THE HEALTH MAINTENANCE
41 ORGANIZATION SHALL FURTHER PROVIDE THE MUNICIPALITY AND SERVICE COORDI-
42 NATOR WITH A LIST, UPDATED QUARTERLY, OF THE NAMES OF PARTICIPATING
43 PROVIDERS IN THE HEALTH MAINTENANCE ORGANIZATION'S NETWORK WHO ARE
44 APPROVED TO DELIVER EVALUATIONS AND EARLY INTERVENTION PROGRAM SERVICES
45 IN ACCORDANCE WITH TITLE TWO-A OF ARTICLE TWENTY-FIVE OF THIS CHAPTER.

46 (D) NO HEALTH MAINTENANCE ORGANIZATION SHALL REFUSE TO ISSUE A
47 SUBSCRIBER CONTRACT OR BENEFIT PACKAGE OR REFUSE TO RENEW A SUBSCRIBER
48 CONTRACT OR BENEFIT PACKAGE SOLELY BECAUSE THE APPLICANT OR ENROLLEE IS
49 RECEIVING SERVICES UNDER THE EARLY INTERVENTION PROGRAM.

50 (E) HEALTH MAINTENANCE ORGANIZATIONS SHALL ACCEPT CLAIMS SUBMITTED FOR
51 PAYMENT UNDER THE CONTRACT OR BENEFIT PACKAGE FROM A PROVIDER THROUGH
52 THE DEPARTMENT'S FISCAL AGENT AND DATA SYSTEM FOR SUCH CLAIMING. HEALTH
53 MAINTENANCE ORGANIZATIONS SHALL, IN A MANNER AND FORMAT AS REQUIRED BY
54 THE DEPARTMENT, PROVIDE THE DEPARTMENT WITH INFORMATION ON CLAIMS
55 SUBMITTED FOR SCREENINGS, EVALUATIONS AND EARLY INTERVENTION SERVICES

1 PROVIDED TO ENROLLEES UNDER THE EARLY INTERVENTION PROGRAM AND DISPOSI-
2 TION OF SUCH CLAIMS.

3 (F) WHERE A SUBSCRIBER CONTRACT OR BENEFIT PACKAGE PROVIDES COVERAGE
4 FOR A SCREENING, EVALUATION OR SERVICE PROVIDED UNDER THE EARLY INTER-
5 VENTION PROGRAM, PAYMENT SHALL BE MADE AT RATES NEGOTIATED BY THE HEALTH
6 MAINTENANCE ORGANIZATION AND PROVIDER PROVIDED, HOWEVER, THAT IF
7 EXTRAORDINARY CIRCUMSTANCES EXIST IN WHICH THERE IS A CLEAR SHOWING THAT
8 AN ENROLLEE HAS A DEMONSTRATED NEED, AS DETERMINED BY THE HEALTH MAINTE-
9 NANCE ORGANIZATION, FOR A SCREENING, EVALUATION OR SERVICE RENDERED BY A
10 PROVIDER WHO IS NOT WITHIN THE HEALTH MAINTENANCE ORGANIZATION'S
11 NETWORK, PAYMENT TO SUCH OUT OF NETWORK PROVIDER SHALL BE MADE IN
12 ACCORDANCE WITH THE OUT OF NETWORK COVERAGE, IF ANY, THAT IS AVAILABLE
13 UNDER THE SUBSCRIBER CONTACT OR BENEFIT PACKAGE.

14 (G) HEALTH MAINTENANCE ORGANIZATIONS SHALL, FOR SERVICES RENDERED TO
15 ENROLLEES UNDER THE EARLY INTERVENTION PROGRAM, AUTHORIZE SUCH PROVISION
16 OF SERVICES IN SETTINGS THAT ARE NATURAL OR TYPICAL FOR A SAME-AGED
17 INFANT OR TODDLER WITHOUT A DISABILITY, WHICH SHALL INCLUDE THE HOME.
18 THE DETERMINATION OF THE APPROPRIATE LOCATION OR SETTING WHEREIN
19 SERVICES ARE TO BE RENDERED SHALL BE MADE BY THE INDIVIDUALIZED FAMILY
20 SERVICE PLAN PARTICIPANTS IN ACCORDANCE WITH SECTION TWENTY-FIVE HUNDRED
21 FORTY-FIVE OF THIS CHAPTER.

22 S 13. Subsections (b) and (c) of section 3235-a of the insurance law,
23 subsection (b) as added by section 3 of part C of chapter 1 of the laws
24 of 2002, subsection (c) as amended by section 17 of part A of chapter 56
25 of the laws of 2012, are amended and five new subsections (e), (f), (g),
26 (h) and (i) are added to read as follows:

27 (b) Where a policy of accident and health insurance, including a
28 contract issued pursuant to [article] ARTICLES forty-three AND
29 FORTY-SEVEN of this chapter, provides coverage for [an] A HEALTH, DIAG-
30 NOSTIC OR DEVELOPMENTAL SCREENING OR EVALUATION OR A SERVICE THAT IS
31 PROVIDED UNDER THE early intervention program [service] AND IS OTHERWISE
32 COVERED UNDER THE POLICY OR CONTRACT, such coverage shall not be applied
33 against any maximum annual or lifetime monetary limits set forth in such
34 policy or contract. Visit limitations and other terms and conditions of
35 the policy will continue to apply to early intervention services. Howev-
36 er, any visits used for early intervention program services shall not
37 reduce the number of visits otherwise available TO THE COVERED PERSON
38 AND THE COVERED PERSON'S PARENTS AND FAMILY MEMBERS WHO ARE COVERED
39 under the policy or contract for such services THAT ARE NOT PROVIDED
40 UNDER THE EARLY INTERVENTION PROGRAM.

41 (c) Any right of subrogation to benefits which a municipality or
42 provider is entitled in accordance with paragraph (d) of subdivision
43 three of section twenty-five hundred fifty-nine of the public health law
44 shall be valid and enforceable to the extent benefits are available
45 under any accident and health insurance policy. The right of subrogation
46 does not attach to insurance benefits paid or provided under any acci-
47 dent and health insurance policy prior to receipt by the insurer of
48 written notice from the municipality or provider, as applicable. The
49 insurer shall provide the municipality and service coordinator with
50 information on the extent of benefits available to the covered person
51 under such policy within fifteen days of the insurer's receipt of writ-
52 ten request and notice authorizing such release. The service coordinator
53 shall provide such information to the rendering provider assigned to
54 provide services to the [child] COVERED PERSON. THE INSURER SHALL
55 FURTHER PROVIDE THE MUNICIPALITY AND SERVICE COORDINATOR WITH A LIST,
56 UPDATED QUARTERLY, OF THE NAMES OF PROVIDERS IN THE INSURER'S NETWORK,

1 IF APPLICABLE, WHO ARE APPROVED BY THE COMMISSIONER OF HEALTH TO DELIVER
2 EVALUATIONS AND EARLY INTERVENTION PROGRAM SERVICES IN ACCORDANCE WITH
3 TITLE TWO-A OF ARTICLE TWENTY-FIVE OF THE PUBLIC HEALTH LAW.

4 (E) WHERE A POLICY OF ACCIDENT AND HEALTH INSURANCE, INCLUDING A
5 CONTRACT ISSUED PURSUANT TO ARTICLES FORTY-THREE AND FORTY-SEVEN OF THIS
6 CHAPTER, UTILIZES A NETWORK OF PROVIDERS, THE INSURER SHALL DEMONSTRATE
7 TO THE SUPERINTENDENT, IN CONSULTATION WITH THE COMMISSIONER OF HEALTH,
8 THAT IT MAINTAINS AN ADEQUATE NETWORK OF PROVIDERS WHO ARE APPROVED TO
9 DELIVER EVALUATIONS AND EARLY INTERVENTION PROGRAM SERVICES IN ACCORD-
10 ANCE WITH TITLE TWO-A OF ARTICLE TWENTY-FIVE OF THE PUBLIC HEALTH LAW BY
11 DOCUMENTING THAT: (1) THERE ARE A SUFFICIENT NUMBER OF GEOGRAPHICALLY
12 ACCESSIBLE PARTICIPATING PROVIDERS; AND (2) THERE ARE SUFFICIENT PROVID-
13 ERS IN EACH AREA OF SPECIALTY OF PRACTICE TO MEET THE NEEDS OF THE
14 ENROLLMENT POPULATION.

15 (F) WHERE A POLICY OF ACCIDENT AND HEALTH INSURANCE, INCLUDING A
16 CONTRACT ISSUED PURSUANT TO ARTICLES FORTY-THREE AND FORTY-SEVEN OF THIS
17 CHAPTER, PROVIDES COVERAGE FOR A HEALTH, DIAGNOSTIC OR DEVELOPMENTAL
18 SCREENING OR EVALUATION, OR SERVICE PROVIDED UNDER THE EARLY INTER-
19 VENTION PROGRAM, PAYMENT SHALL BE MADE AT RATES NEGOTIATED BY THE INSUR-
20 ER AND PROVIDER, IF APPLICABLE, PROVIDED, HOWEVER, THAT IF EXTRAORDINARY
21 CIRCUMSTANCES EXIST IN WHICH THERE IS A CLEAR SHOWING THAT A COVERED
22 PERSON HAS A DEMONSTRATED NEED FOR A SCREENING, EVALUATION OR SERVICE
23 RENDERED BY A PROVIDER WHO IS NOT WITHIN THE HEALTH INSURER'S NETWORK,
24 PAYMENT TO SUCH PROVIDER SHALL BE MADE IN ACCORDANCE WITH THE OUT OF
25 NETWORK COVERAGE, IF ANY, THAT IS AVAILABLE UNDER THE POLICY OR
26 CONTRACT.

27 (G) INSURERS SHALL ACCEPT CLAIMS SUBMITTED FOR PAYMENT UNDER THE POLI-
28 CY OR CONTRACT FROM A PROVIDER THROUGH THE DEPARTMENT OF HEALTH'S FISCAL
29 AGENT AND DATA SYSTEM FOR SUCH CLAIMING. INSURERS SHALL, IN A MANNER
30 AND FORMAT AS REQUIRED BY THE DEPARTMENT OF HEALTH, PROVIDE THE DEPART-
31 MENT OF HEALTH WITH INFORMATION ON CLAIMS SUBMITTED FOR SCREENINGS,
32 EVALUATIONS AND EARLY INTERVENTION SERVICES PROVIDED TO COVERED PERSONS
33 UNDER THE EARLY INTERVENTION PROGRAM AND THE DISPOSITION OF SUCH CLAIMS.

34 (H) INSURERS SHALL, FOR SERVICES RENDERED TO COVERED PERSONS UNDER THE
35 EARLY INTERVENTION PROGRAM, AUTHORIZE SUCH PROVISION OF SERVICES IN
36 SETTINGS THAT ARE NATURAL OR TYPICAL FOR A SAME-AGED INFANT OR TODDLER
37 WITHOUT A DISABILITY, WHICH SHALL INCLUDE THE HOME. THE DETERMINATION
38 OF THE APPROPRIATE LOCATION OR SETTING WHEREIN SERVICES ARE TO BE
39 RENDERED SHALL BE MADE BY THE INDIVIDUALIZED FAMILY SERVICE PLAN PARTIC-
40 IPANTS IN ACCORDANCE WITH SECTION TWENTY-FIVE HUNDRED FORTY-FIVE OF THE
41 PUBLIC HEALTH LAW.

42 (I) NOTHING IN THIS SECTION SHALL BE DEEMED TO LIMIT THE SUPERINTEN-
43 DENT'S AUTHORITY TO IMPOSE NETWORK ADEQUACY REQUIREMENTS ON INSURERS IN
44 GENERAL.

45 S 14. Section 600 of the public health law, as added by chapter 901 of
46 the laws of 1986, is amended to read as follows:

47 S 600. State aid; general requirements. In order to be eligible for
48 state aid under this title, a municipality shall be required to do the
49 following in accordance with the provisions of this article:

50 1. submit an application to the department for state aid WHICH IS
51 APPROVED BY THE COMMISSIONER IN ACCORDANCE WITH SECTION SIX HUNDRED ONE
52 OF THIS TITLE;

53 [2. submit a municipal public health services plan to the department
54 for approval;

55 3. implement and adhere to the municipal public health services plan,
56 as approved;

1 4. submit a detailed report to the department of all expenditures on
2 services funded by this title for the immediately preceding fiscal year
3 of such municipality;

4 5. employ a person to supervise the provision of public health
5 services in accordance with the provisions of section six hundred four
6 of this chapter; and

7 6.] 2. PROVIDE ALL CORE PUBLIC HEALTH SERVICES, AS DEFINED IN SECTION
8 SIX HUNDRED TWO OF THIS TITLE;

9 3. SUBMIT A COMMUNITY HEALTH ASSESSMENT IN ACCORDANCE WITH SECTION SIX
10 HUNDRED TWO-A OF THIS TITLE;

11 4. ESTABLISH, COLLECT AND REPORT FEES AND REVENUE FOR SERVICES
12 PROVIDED BY THE MUNICIPALITY, IN ACCORDANCE WITH SECTION SIX HUNDRED SIX
13 OF THIS TITLE; AND

14 5. appropriate or otherwise make funds available to finance a
15 prescribed share of the cost of public health services.

16 S 15. Section 601 of the public health law, as added by chapter 901 of
17 the laws of 1986, is amended to read as follows:

18 S 601. Application for state aid. 1. The governing body of each muni-
19 cipality desiring to make application for state aid under this title
20 shall annually, on such dates as may be fixed by the commissioner,
21 submit an application for such aid.

22 2. The application shall be in such form as the commissioner shall
23 prescribe, and shall include, but not be limited to:

24 (a) an organizational chart of the municipal health agency, AND A
25 STATEMENT PROVIDING THE NUMBER OF EMPLOYEES, BY JOB TITLE, PROPOSED TO
26 PROVIDE PUBLIC HEALTH SERVICES FUNDED BY THIS TITLE;

27 (b) a [detailed] budget of proposed expenditures for services funded
28 by this title;

29 [(c) a description of proposed program activities for services funded
30 by this title;

31 (d) a copy of the municipal public health services plan prepared and
32 submitted pursuant to section six hundred two of this title;

33 (e) a certification by the chief executive officer of the munici-
34 pality, or in those municipalities with no chief executive officer the
35 chairman of the county legislature, that the proposed expenditures and
36 program activities are consistent with the public health services plan;
37 and

38 (f)] (C) A DESCRIPTION OF HOW THE MUNICIPALITY WILL PROVIDE PUBLIC
39 HEALTH SERVICES;

40 (D) AN ATTESTATION BY THE CHIEF EXECUTIVE OFFICER OF THE MUNICIPALITY
41 THAT SUFFICIENT FUNDS HAVE BEEN APPROPRIATED TO PROVIDE THE PUBLIC
42 HEALTH SERVICES FOR WHICH THE MUNICIPALITY IS SEEKING STATE AID;

43 (E) AN ATTESTATION BY THE MUNICIPAL OFFICER IN CHARGE OF ADMINISTERING
44 PUBLIC HEALTH THAT THE MUNICIPALITY HAS DILIGENTLY REVIEWED ITS STATE
45 AID APPLICATION AND THAT THE APPLICATION SEEKS STATE AID ONLY FOR ELIGI-
46 BLE PUBLIC HEALTH SERVICES;

47 (F) A LIST OF PUBLIC HEALTH SERVICES PROVIDED BY THE MUNICIPALITY THAT
48 ARE NOT ELIGIBLE FOR STATE AID, AND THE COST OF EACH SERVICE;

49 (G) A PROJECTION OF FEES AND REVENUE TO BE COLLECTED FOR PUBLIC HEALTH
50 SERVICES ELIGIBLE FOR STATE AID, IN ACCORDANCE WITH SECTION SIX HUNDRED
51 SIX OF THIS TITLE; AND

52 (H) such other information as the commissioner may require.

53 3. THE COMMISSIONER SHALL APPROVE THE STATE AID APPLICATION TO THE
54 EXTENT THAT IT IS CONSISTENT WITH THIS SECTION AND ANY OTHER CONDITIONS
55 OR LIMITATIONS ESTABLISHED IN, OR REGULATIONS PROMULGATED PURSUANT TO,
56 THIS ARTICLE.

1 4. A MUNICIPALITY MAY AMEND ITS STATE AID APPLICATION WITH THE
2 APPROVAL OF THE COMMISSIONER, AND SUBJECT TO ANY RULES AND REGULATIONS
3 THAT THE COMMISSIONER MAY ADOPT.

4 S 16. Section 602 of the public health law is REPEALED and a new
5 section 602 is added to read as follows:

6 S 602. CORE PUBLIC HEALTH SERVICES. 1. TO BE ELIGIBLE FOR STATE AID,
7 A MUNICIPALITY MUST PROVIDE THE FOLLOWING CORE PUBLIC HEALTH SERVICES:

8 (A) FAMILY HEALTH, WHICH SHALL INCLUDE ACTIVITIES DESIGNED TO REDUCE
9 PERINATAL, INFANT AND MATERNAL MORTALITY AND MORBIDITY AND TO PROMOTE
10 THE HEALTH OF INFANTS, CHILDREN, ADOLESCENTS, AND PEOPLE OF CHILDBEARING
11 AGE. SUCH ACTIVITIES SHALL INCLUDE FAMILY CENTERED PERINATAL SERVICES
12 AND OTHER SERVICES APPROPRIATE TO PROMOTE THE BIRTH OF A HEALTHY BABY TO
13 A HEALTHY MOTHER, AND SERVICES TO ASSURE THAT INFANTS, YOUNG CHILDREN,
14 AND SCHOOL AGE CHILDREN ARE ENROLLED IN APPROPRIATE HEALTH INSURANCE
15 PROGRAMS AND OTHER HEALTH BENEFIT PROGRAMS FOR WHICH THEY ARE ELIGIBLE,
16 AND THAT THE PARENTS OR GUARDIANS OF SUCH CHILDREN ARE PROVIDED WITH
17 INFORMATION CONCERNING HEALTH CARE PROVIDERS IN THEIR AREA THAT ARE
18 WILLING AND ABLE TO PROVIDE HEALTH SERVICES TO SUCH CHILDREN. PROVISION
19 OF PRIMARY AND PREVENTATIVE CLINICAL HEALTH CARE SERVICES SHALL NOT BE
20 ELIGIBLE FOR STATE AID, SUBJECT TO SUCH EXCEPTIONS FOR PERSONS UNDER THE
21 AGE OF TWENTY-ONE AS THE COMMISSIONER MAY DEEM APPROPRIATE.

22 (B) COMMUNICABLE DISEASE CONTROL, WHICH SHALL INCLUDE ACTIVITIES TO
23 CONTROL AND MITIGATE THE EXTENT OF INFECTIOUS DISEASES. SUCH ACTIVITIES
24 SHALL INCLUDE, BUT NOT BE LIMITED TO, SURVEILLANCE AND EPIDEMIOLOGICAL
25 PROGRAMS, PROGRAMS TO DETECT DISEASES IN THEIR EARLY STAGES, IMMUNIZA-
26 TIONS AGAINST INFECTIOUS DISEASES, INVESTIGATION OF DISEASES AND
27 PREVENTION OF TRANSMISSION, PREVENTION AND TREATMENT OF SEXUALLY TRAN-
28 SMISSIBLE DISEASES, AND ARTHROPOD VECTOR-BORNE DISEASE PREVENTION.

29 (C) CHRONIC DISEASES SERVICES, WHICH SHALL INCLUDE PROMOTING PUBLIC,
30 HEALTH CARE PROVIDER AND OTHER COMMUNITY SERVICE PROVIDER ACTIVITIES
31 THAT ENCOURAGE CHRONIC DISEASE PREVENTION, EARLY DETECTION AND QUALITY
32 CARE DELIVERY. SUCH ACTIVITIES INCLUDE, BUT ARE NOT LIMITED TO, THOSE
33 THAT PROMOTE HEALTHY COMMUNITIES AND REDUCE RISK FACTORS SUCH AS TOBACCO
34 USE, POOR NUTRITION AND PHYSICAL INACTIVITY. PROVISION OF CLINICAL
35 SERVICES SHALL NOT BE ELIGIBLE FOR STATE AID, SUBJECT TO SUCH EXCEPTIONS
36 AS THE COMMISSIONER MAY DEEM APPROPRIATE.

37 (D) COMMUNITY HEALTH ASSESSMENT, AS DESCRIBED IN SECTION SIX HUNDRED
38 TWO-A OF THIS ARTICLE.

39 (E) ENVIRONMENTAL HEALTH, WHICH SHALL INCLUDE ACTIVITIES THAT PROMOTE
40 HEALTH AND PREVENT ILLNESS AND INJURY BY ASSURING THAT SAFE AND SANITARY
41 CONDITIONS ARE MAINTAINED AT PUBLIC DRINKING WATER SUPPLIES, FOOD
42 SERVICE ESTABLISHMENTS, AND OTHER REGULATED FACILITIES; INVESTIGATING
43 PUBLIC HEALTH NUISANCES TO ASSURE ABATEMENT BY RESPONSIBLE PARTIES;
44 PROTECTING THE PUBLIC FROM UNNECESSARY EXPOSURE TO RADIATION, CHEMICALS,
45 AND OTHER HARMFUL CONTAMINANTS; AND CONDUCTING INVESTIGATIONS OF INCI-
46 DENTS THAT RESULT IN ILLNESS, INJURY OR DEATH IN ORDER TO IDENTIFY AND
47 MITIGATE THE ENVIRONMENTAL CAUSES TO PREVENT ADDITIONAL MORBIDITY AND
48 MORTALITY.

49 (F) PUBLIC HEALTH EMERGENCY PREPAREDNESS AND RESPONSE, INCLUDING PLAN-
50 NING, TRAINING, AND MAINTAINING READINESS FOR PUBLIC HEALTH EMERGENCIES.

51 2. THE MUNICIPALITY MUST INCORPORATE INTO EACH CORE PUBLIC HEALTH
52 SERVICE THE FOLLOWING GENERAL ACTIVITIES:

53 (A) ONGOING ASSESSMENT OF COMMUNITY HEALTH NEEDS;

54 (B) EDUCATION ON PUBLIC HEALTH ISSUES;

55 (C) DEVELOPMENT OF POLICIES AND PLANS TO ADDRESS HEALTH NEEDS; AND

(D) ACTIONS TO ASSURE THAT SERVICES NECESSARY TO ACHIEVE AGREED UPON GOALS ARE PROVIDED.

3. A MUNICIPALITY MAY PROVIDE FEWER SERVICES THAN THOSE SET FORTH IN SUBDIVISION ONE OF THIS SECTION, IF THE COMMISSIONER DETERMINES WITHIN HIS DISCRETION THAT ANOTHER ENTITY IS WILLING AND ABLE TO PROVIDE SUCH SERVICES.

S 17. The public health law is amended by adding a new section 602-a to read as follows:

S 602-A. COMMUNITY HEALTH ASSESSMENT. 1. EVERY MUNICIPALITY SHALL, ON SUCH DATES AS MAY BE FIXED BY THE COMMISSIONER, SUBMIT TO THE DEPARTMENT A COMMUNITY HEALTH ASSESSMENT.

2. THE COMMUNITY HEALTH ASSESSMENT SHALL BE IN SUCH FORM AS THE COMMISSIONER SHALL PRESCRIBE, AND SHALL INCLUDE, BUT NOT BE LIMITED TO:

(A) AN ESTIMATE AND DESCRIPTION OF THE HEALTH STATUS OF THE POPULATION AND FACTORS THAT CONTRIBUTE TO HEALTH ISSUES;

(B) IDENTIFICATION OF PRIORITY AREAS FOR HEALTH IMPROVEMENT, IN CONJUNCTION WITH THE STATE HEALTH IMPROVEMENT PLAN;

(C) IDENTIFICATION OF PUBLIC HEALTH SERVICES IN THE MUNICIPALITY AND IN THE COMMUNITY AND OTHER RESOURCES THAT CAN BE MOBILIZED TO IMPROVE POPULATION HEALTH, PARTICULARLY IN THOSE PRIORITY AREAS IDENTIFIED IN PARAGRAPH (B) OF THIS SUBDIVISION; AND

(D) A COMMUNITY HEALTH IMPROVEMENT PLAN CONSISTING OF ACTIONS, POLICIES, STRATEGIES AND MEASURABLE OBJECTIVES THROUGH WHICH THE MUNICIPALITY AND ITS COMMUNITY PARTNERS WILL ADDRESS AREAS FOR HEALTH IMPROVEMENT AND TRACK PROGRESS TOWARD IMPROVEMENT OF PUBLIC HEALTH OUTCOMES.

S 18. Section 603 of the public health law, as added by chapter 901 of the laws of 1986, is amended to read as follows:

S 603. [Municipal public health services plan] CORE PUBLIC HEALTH SERVICES; implementation. 1. In order to be eligible for state aid under this title, each municipality shall administer its CORE public health [programs] SERVICES in accordance with [its approved municipal public health services plan and] THE standards of performance established by the commissioner through rules and regulations [and] PURSUANT TO SECTION SIX HUNDRED NINETEEN OF THIS ARTICLE. EACH MUNICIPALITY shall, in particular, ensure that public health services are provided in an efficient and effective manner to all persons in the municipality.

2. The commissioner may withhold state aid reimbursement under this title for the appropriate services if, on ANY audit [and], review OF A STATE AID APPLICATION OR PERIODIC CLAIM FOR STATE AID, OR OTHER INFORMATION AVAILABLE TO THE DEPARTMENT, the commissioner finds that such services are not furnished or rendered in conformance with the rules and regulations established by the commissioner, INCLUDING BUT NOT LIMITED TO THE STANDARDS OF PERFORMANCE ESTABLISHED PURSUANT TO SECTION SIX HUNDRED NINETEEN OF THIS ARTICLE, or that the expenditures were not [made according to the approved public health services plan required by] FOR AN ACTIVITY SET FORTH IN section six hundred two of this title. In such cases, the commissioner, in order to ensure that the public health is promoted as defined in [paragraph (b) of subdivision three of] section six hundred two of this title, may use any proportionate share of a municipality's per capita or base grant that is withheld to contract with agencies, associations, or organizations. The health department may use any such withheld share to provide services upon approval of the director of the division of the budget. Copies of such transactions shall be filed with the fiscal committees of the legislature.

1 3. CONSISTENT WITH PARAGRAPH (H) OF SUBDIVISION TWO OF SECTION SIX
2 HUNDRED ONE OF THIS TITLE, WHEN DETERMINING WHETHER TO APPROVE A STATE
3 AID APPLICATION OR PERIODIC CLAIM FOR STATE AID, THE COMMISSIONER SHALL
4 HAVE AUTHORITY TO REQUEST ANY AND ALL FINANCIAL AND OTHER DOCUMENTS
5 NECESSARY OR RELEVANT TO VERIFY THAT THE CLAIMED EXPENDITURES ARE ELIGI-
6 BLE FOR STATE AID UNDER THIS ARTICLE.

7 S 19. Section 604 of the public health law, as added by chapter 901 of
8 the laws of 1986, is amended to read as follows:

9 S 604. Supervision of public health programs. In order to be eligible
10 for state aid, under this title, each municipality shall employ a full-
11 time local commissioner of health or public health director to supervise
12 the provision of public health services [and to implement the approved
13 public health services plan] for that municipality, SUBJECT TO THE
14 FOLLOWING EXCEPTIONS:

15 1. SUCH PERSON MAY SERVE AS THE HEAD OF A MERGED AGENCY OR MULTIPLE
16 AGENCIES, IF THE APPROVAL OF THE COMMISSIONER IS OBTAINED; AND

17 2. SUCH PERSON MAY SERVE AS THE LOCAL COMMISSIONER OF HEALTH OR PUBLIC
18 HEALTH DIRECTOR OF ADDITIONAL COUNTIES, WHEN AUTHORIZED PURSUANT TO
19 SECTION THREE HUNDRED FIFTY-ONE OF THIS CHAPTER.

20 S 20. Section 605 of the public health law, as added by chapter 901 of
21 the laws of 1986, subdivision 1 as amended by section 6 of part B of
22 chapter 57 of the laws of 2006, subdivision 2 as amended by section 13
23 of part A of chapter 59 of the laws of 2011, is amended to read as
24 follows:

25 S 605. State aid; amount of reimbursement. 1. A state aid base grant
26 shall be reimbursed to municipalities for the [base] CORE public health
27 services identified in [paragraph (b) of subdivision three of] section
28 six hundred two of this title, in an amount of the greater of [fifty-
29 five] SIXTY-FIVE cents per capita, for each person in the municipality,
30 or [five] SIX hundred fifty thousand dollars provided that the munici-
31 pality expends at least [five] SIX hundred fifty thousand dollars for
32 such [base] CORE public health services. A municipality must provide all
33 the [basic] CORE public health services identified in [paragraph (b) of
34 subdivision three of] section six hundred two of this title to qualify
35 for such base grant unless the municipality has the approval of the
36 commissioner to expend the base grant on a portion of such [base] CORE
37 public health services. If any services in such [paragraph (b)] SECTION
38 are not [approved in the plan or if no plan is submitted for such
39 services] PROVIDED, the commissioner may limit the municipality's per
40 capita or base grant to [that proportionate share which will fund those
41 services that are submitted in a plan and subsequently approved] REFLECT
42 THE SCOPE OF THE REDUCED SERVICES. The commissioner may use the [propor-
43 tionate share] AMOUNT that is not granted to contract with agencies,
44 associations, or organizations to provide such services; or the health
45 department may use such proportionate share to provide the services upon
46 approval of the director of the division of the budget.

47 2. State aid reimbursement for public health services provided by a
48 municipality under this title, shall be made if the municipality is
49 providing some or all of the [basic] CORE public health services identi-
50 fied in [paragraph (b) of subdivision three of] section six hundred two
51 of this title, pursuant to an approved [plan] APPLICATION FOR STATE AID,
52 at a rate of no less than thirty-six per centum of the difference
53 between the amount of moneys expended by the municipality for public
54 health services required by [paragraph (b) of subdivision three of]
55 section six hundred two of this title during the fiscal year and the
56 base grant provided pursuant to subdivision one of this section. No such

1 reimbursement shall be provided for services [if they are not approved
2 in a plan or if no plan is submitted for such services] THAT ARE NOT
3 ELIGIBLE FOR STATE AID PURSUANT TO THIS ARTICLE.

4 3. Municipalities shall make every reasonable effort to collect
5 payments for public health services provided. All such revenues shall be
6 reported to the commissioner PURSUANT TO SECTION SIX HUNDRED SIX OF THIS
7 TITLE and will be deducted from expenditures identified under subdivi-
8 sion two of this section to produce a net cost eligible for state aid.

9 S 21. Section 606 of the public health law, as added by chapter 901 of
10 the laws of 1986, is amended to read as follows:

11 S 606. Assessment of fees; THIRD-PARTY COVERAGE OR INDEMNIFICATION.
12 1. Assessment of fees by municipalities. [Each municipality shall
13 assess fees for services provided by such municipality in accordance
14 with a fee and revenue plan which shall include a schedule of fees that
15 the municipality proposes to charge for each service identified by the
16 commissioner and each additional service identified by the municipality
17 for which a fee is to be charged. In accordance with the provisions of
18 subdivision four of section six hundred two of this chapter, the commis-
19 sioner shall review each fee and revenue plan submitted to him and, on
20 the basis of such review, issue a notice of intent to disapprove the
21 plan or approve the plan, with or without conditions, within ninety days
22 of his receipt of the plan. In determining whether to approve or disap-
23 prove a plan, the commissioner shall consider the extent to which the
24 plan, once implemented, will satisfy standards which the commissioner
25 has promulgated through rules and regulations after consulting with the
26 public health council and county health commissioners, boards and public
27 health directors. Such standards shall include a list of those environ-
28 mental, personal health and other services for which fees shall be
29 charged, the calculation of cost by each municipality and the relation-
30 ship of cost to fees, and provisions for prohibiting the assessment of
31 fees which would impede the delivery of services deemed essential to the
32 protection of the health of the public.] EACH MUNICIPALITY SHALL ESTAB-
33 LISH A SCHEDULE OF FEES FOR PUBLIC HEALTH SERVICES PROVIDED BY THE MUNI-
34 CIPALITY AND SHALL MAKE EVERY REASONABLE EFFORT TO COLLECT SUCH FEES.
35 Fees for personal health services shall be reflective of an individual's
36 ability to pay and shall not be inconsistent with the reimbursement
37 guidelines of articles twenty-eight and thirty-six of this chapter and
38 applicable federal laws and regulations. To the extent possible revenues
39 generated shall be used to enhance or expand public health services. IN
40 ITS STATE AID APPLICATION, EACH MUNICIPALITY SHALL PROVIDE THE DEPART-
41 MENT WITH A PROJECTION OF FEES AND REVENUE TO BE COLLECTED FOR THAT
42 YEAR. EACH MUNICIPALITY SHALL PERIODICALLY REPORT TO THE DEPARTMENT FEES
43 AND REVENUE ACTUALLY COLLECTED.

44 2. Assessment of fees by the commissioner. In each municipality, the
45 commissioner shall establish a fee and revenue plan for services
46 provided by the department in a manner consistent with the standards and
47 regulations established pursuant to subdivision one of this section.

48 3. THIRD PARTY COVERAGE OR INDEMNIFICATION. FOR ANY PUBLIC HEALTH
49 SERVICE FOR WHICH COVERAGE OR INDEMNIFICATION FROM A THIRD PARTY IS
50 AVAILABLE, THE MUNICIPALITY MUST SEEK SUCH COVERAGE OR INDEMNIFICATION
51 AND REPORT ANY ASSOCIATED REVENUE TO THE DEPARTMENT IN ITS STATE AID
52 APPLICATION.

53 S 22. Subdivisions 1 and 2 of section 609 of the public health law, as
54 amended by chapter 474 of the laws of 1996, are amended to read as
55 follows:

1 1. Where a laboratory shall have been or is hereafter established
2 pursuant to article five of this chapter, the state, through the legis-
3 lature and within the limits to be prescribed by the commissioner, shall
4 provide aid at a per centum, determined in accordance with the
5 provisions of [paragraph (b) of] subdivision two of section six hundred
6 five of this article, of the actual cost of [installation,] REPAIR,
7 RELOCATION, equipment and maintenance of the laboratory or laboratories
8 FOR SERVICES ASSOCIATED WITH A CORE PUBLIC HEALTH SERVICE, AS DESCRIBED
9 IN SECTION SIX HUNDRED TWO OF THIS TITLE. Such cost shall be the
10 excess, if any, of such expenditures over available revenues of all
11 types, including adequate and reasonable fees, derived from or attribut-
12 able to the performance of laboratory services.

13 2. Where a county or city provides or shall have provided for labora-
14 tory service by contracting with an established laboratory FOR SERVICES
15 ASSOCIATED WITH A CORE PUBLIC HEALTH SERVICE, AS DESCRIBED IN SUBDIVI-
16 SION THREE OF SECTION SIX HUNDRED TWO OF THIS TITLE, with the approval
17 of the commissioner, it shall be entitled to state aid at a per centum,
18 determined in accordance with the provisions of [paragraph (b) of]
19 subdivision two of section six hundred five of this article, of the cost
20 of the contracts. [State aid shall be available for a district laborato-
21 ry supply station maintained and operated in accordance with article
22 five of this chapter in the same manner and to the same extent as for
23 laboratory services.]

24 S 23. Sections 610 and 612 of the public health law are REPEALED.

25 S 24. Paragraphs (a) and (c) of subdivision 1 and subdivision 4 of
26 section 613 of the public health law, paragraphs (a) and (c) of subdivi-
27 sion 1 as amended by chapter 36 of the laws of 2010, subdivision 4 as
28 amended by chapter 207 of the laws of 2004, are amended to read as
29 follows:

30 (a) The commissioner shall develop and supervise the execution of a
31 program of immunization, surveillance and testing, to raise to the high-
32 est reasonable level the immunity of the children of the state against
33 communicable diseases including, but not limited to, influenza, poliomy-
34 elitis, measles, mumps, rubella, haemophilus influenzae type b (Hib),
35 diphtheria, pertussis, tetanus, varicella, hepatitis B, pneumococcal
36 disease, and the immunity of adults of the state against diseases iden-
37 tified by the commissioner, including but not limited to influenza,
38 smallpox, [and] hepatitis AND SUCH OTHER DISEASES AS THE COMMISSIONER
39 MAY DESIGNATE THROUGH REGULATION. [The commissioner shall encourage the
40 municipalities] MUNICIPALITIES in the state [to develop and] shall
41 [assist them in the development and the execution of] DEVELOP local
42 programs of [inoculation] IMMUNIZATION to raise the immunity of the
43 children and adults of each municipality to the highest reasonable
44 level. Such programs shall include ASSURANCE OF provision of vaccine,
45 [surveillance of vaccine effectiveness by means of laboratory tests,]
46 serological testing of individuals and educational efforts to inform
47 health care providers and target populations or their parents, if they
48 are minors, of the facts relative to these diseases and [inoculation]
49 IMMUNIZATIONS to prevent their occurrence.

50 (c) The commissioner shall invite and encourage the active assistance
51 and cooperation in such education activities of: the medical societies,
52 organizations of other licensed health personnel, hospitals, corpo-
53 rations subject to article forty-three of the insurance law, trade
54 unions, trade associations, parents and teachers and their associations,
55 organizations of child care resource and referral agencies, the media of
56 mass communication, and such other voluntary groups and organizations of

1 citizens as he or she shall deem appropriate. The public health AND
2 HEALTH PLANNING council, the department of education, the department of
3 family assistance, and the department of mental hygiene shall provide
4 the commissioner with such assistance in carrying out the program as he
5 or she shall request. All other state agencies shall also render such
6 assistance as the commissioner may reasonably require for this program.
7 Nothing in this subdivision shall authorize mandatory immunization of
8 adults or children, except as provided in sections twenty-one hundred
9 sixty-four and twenty-one hundred sixty-five of this chapter.

10 4. The commissioner shall expend such funds as the legislature shall
11 make available for the purchase of the vaccines described in subdivision
12 one of this section. [All immunization vaccines purchased with such
13 funds shall be purchased by sealed competitive state bids through the
14 office of general services. Immunization vaccine] VACCINES purchased
15 with funds made available under this section shall be made available
16 without charge to licensed private physicians, hospitals, clinics and
17 such others as the commissioner shall determine [in accordance with
18 regulations to be promulgated by the commissioner], and no charge shall
19 be made to any patient for such vaccines.

20 S 25. Subdivisions 5, 6 and 7 of section 613 of the public health law
21 are REPEALED.

22 S 26. Subdivision 2 of section 614 of the public health law, as added
23 by chapter 901 of the laws of 1986, is amended to read as follows:

24 2. "City", each city of the state having a population of [fifty thou-
25 sand] ONE MILLION or more, according to the last preceding federal
26 census[, but does not include any such city which is included as a part
27 of a county health district pursuant to this chapter].

28 S 27. Section 616 of the public health law, as added by chapter 901 of
29 the laws of 1986 and subdivision 1 as amended by section 9 of part B of
30 chapter 57 of the laws of 2006, is amended to read as follows:

31 S 616. Limitations on state aid. 1. The total amount of state aid
32 provided pursuant to this article shall be limited to the amount of the
33 annual appropriation made by the legislature. In no event, however,
34 shall such state aid be less than an amount to provide the full base
35 grant and, as otherwise provided by paragraph (a) of subdivision two of
36 section six hundred five of this article, at least thirty-six per centum
37 of the difference between the amount of moneys expended by the munici-
38 pality for ELIGIBLE public health services [required by paragraph (b) of
39 subdivision three of section six hundred two of this article] PURSUANT
40 TO AN APPROVED APPLICATION FOR STATE AID during the fiscal year and the
41 base grant provided pursuant to subdivision one of section six hundred
42 five of this article. [A municipality shall also receive not less than
43 thirty-six per centum of the moneys expended for other public health
44 services pursuant to paragraph (b) of subdivision two of section six
45 hundred five of this article, and, at least the minimum amount so
46 required for the services identified in title two of this article.]

47 2. No payments shall be made from moneys appropriated for the purpose
48 of this article to a municipality OR CONTRACTORS OF THE MUNICIPALITY for
49 contributions by the municipality for indirect costs and fringe bene-
50 fits, including but not limited to, employee retirement funds, health
51 insurance and federal old age and survivors insurance.

52 S 28. Section 617 of the public health law, as added by chapter 901 of
53 the laws of 1986, is amended to read as follows:

54 S 617. Maintenance of effort. Such amount of state aid provided will
55 be used to support and to the extent practicable, to increase the level
56 of funds that would otherwise be made available for such purposes and

1 not to supplant the amount to be provided by the municipalities. If a
2 municipality that is provided state aid pursuant to title one of this
3 article reduces its expenditures beneath the amount expended in its base
4 year, which is [the greater of its expenditures in its fiscal year
5 ending in either nineteen hundred eighty-five or] the most recent fiscal
6 year for which the municipality has filed [an annual] ALL expenditure
7 [report] REPORTS to the department, state aid reimbursement provided
8 pursuant to subdivision one of section six hundred five of this article
9 will be reduced by the [difference between the reduction in local
10 expenditures between its base year and its current fiscal year and the
11 reduction in state aid between the base year and the current fiscal year
12 pursuant to paragraphs (a) and (b) of subdivision two of section six
13 hundred five of this article. A municipality may include revenue,
14 excluding third party reimbursement, raised by the municipality in
15 calculating its maintenance of effort] PERCENTAGE REDUCTION IN EXPENDI-
16 TURES BETWEEN ITS BASE YEAR AND ITS CURRENT FISCAL YEAR. FOR PURPOSES OF
17 THIS SECTION, REDUCTIONS IN EXPENDITURES SHALL BE ADJUSTED FOR: AN
18 ABSENCE OF EXTRAORDINARY EXPENDITURES OF A TEMPORARY NATURE, SUCH AS
19 DISASTER RELIEF; UNAVOIDABLE OR JUSTIFIABLE PROGRAM REDUCTIONS, SUCH AS
20 A PROGRAM BEING SUBSUMED BY ANOTHER AGENCY; OR IN CIRCUMSTANCES WHERE
21 THE MUNICIPALITY CAN DEMONSTRATE, TO THE DEPARTMENT'S SATISFACTION, THAT
22 THE NEED FOR THE EXPENDITURE NO LONGER EXISTS.

23 S 29. Section 618 of the public health law, as added by chapter 901 of
24 the laws of 1986, is amended to read as follows:

25 S 618. Performance and accountability. The commissioner shall estab-
26 lish, in consultation with the municipalities, uniform statewide
27 performance standards for the services funded pursuant to this article;
28 provided, however, the commissioner may modify a specific standard for a
29 municipality if such municipality demonstrates adequate justification.
30 The commissioner shall recognize the particular needs and capabilities
31 of the various municipalities. The commissioner shall monitor the
32 PERFORMANCE AND expenditures of each municipality to ensure that each
33 one satisfies the performance standards. Any municipality failing to
34 satisfy its standards may be subject to a reduction or loss of aid until
35 such municipality can demonstrate that it has the capacity to satisfy
36 such standards. [The commissioner shall establish a uniform accounting
37 system for monitoring the expenditures for services of each municipality
38 to which aid is granted, and for determining the appropriateness of the
39 costs of such services. The commissioner shall also establish a uniform
40 reporting system to determine the appropriateness of the amount and
41 types of services provided, and the number of people receiving such
42 services. Such reporting system shall also require information on the
43 amount of public health moneys received from the federal government, the
44 private sector, grants, and fees. Each such municipality shall comply
45 with the regulations of such accounting and reporting systems. The
46 commissioner shall determine the extent to which the services maintained
47 and improved the health status of a municipality's residents and main-
48 tained and improved the accessibility and quality of care, and
49 controlled costs of the health care system.]

50 S 30. Section 619 of the public health law, as added by chapter 901 of
51 the laws of 1986, is amended to read as follows:

52 S 619. Commissioner; regulatory powers. The commissioner [shall] MAY
53 adopt regulations to effectuate the provisions and purposes of this
54 article, including, but not limited to:

55 1. setting standards of performance [and reasonable costs] for the
56 provision of [basic] CORE public health services which shall include

1 performance criteria to ensure that reimbursable health services are
2 delivered in an efficient and effective manner by a municipality; and
3 2. monitoring, COLLECTING DATA and evaluating the provision of [basic]
4 CORE public health services by the municipalities and the amounts
5 expended by the municipalities for such services.

6 S 31. The public health law is amended by adding a new section 619-a
7 to read as follows:

8 S 619-A. INCENTIVE STANDARDS OF PERFORMANCE. 1. THE COMMISSIONER MAY
9 ESTABLISH STATEWIDE INCENTIVE PERFORMANCE STANDARDS FOR THE DELIVERY OF
10 CORE PUBLIC HEALTH SERVICES.

11 2. WITHIN AMOUNTS APPROPRIATED, AND SUBJECT TO THE APPROVAL OF THE
12 DIRECTOR OF THE BUDGET, THE COMMISSIONER MAY INCREASE STATE AID TO ANY
13 MUNICIPALITY THAT MEETS OR EXCEEDS STATEWIDE INCENTIVE PERFORMANCE STAN-
14 DARDS ESTABLISHED UNDER THIS SECTION, PROVIDED THAT THE TOTAL OF SUCH
15 PAYMENTS TO ALL MUNICIPALITIES MAY NOT EXCEED ONE MILLION DOLLARS ANNU-
16 ALLY.

17 S 32. The article heading of article 23 of the public health law, as
18 amended by chapter 878 of the laws of 1980, is amended to read as
19 follows:

20 CONTROL OF SEXUALLY [TRANSMISSIBLE] TRANSMITTED DISEASES

21 S 33. Sections 2300, 2301, 2302 and 2303 of the public health law are
22 REPEALED.

23 S 34. The section heading and subdivisions 1 and 2 of section 2304 of
24 the public health law, as amended by chapter 878 of the laws of 1980,
25 are amended and two new subdivisions 4 and 5 are added to read as
26 follows:

27 Sexually [transmissible] TRANSMITTED diseases; treatment facilities;
28 administration. 1. It shall be the responsibility of each board of
29 health of a health district to provide adequate facilities for the
30 [free] diagnosis and treatment of persons living within its jurisdiction
31 who are suspected of being infected or are infected with a sexually
32 [transmissible] TRANSMITTED disease.

33 2. The health officer of said health district shall administer these
34 facilities DIRECTLY OR THROUGH CONTRACT and shall promptly examine or
35 arrange for the examination of persons suspected of being infected with
36 a sexually [transmissible] TRANSMITTED disease, and shall promptly
37 institute treatment or arrange for the treatment of those found or
38 otherwise known to be infected with a sexually [transmissible] TRANSMIT-
39 TED disease, provided that any person may, at his option, be treated at
40 his own expense by a [licensed physician] HEALTH CARE PRACTITIONER of
41 his choice.

42 4. EACH BOARD OF HEALTH AND LOCAL HEALTH OFFICER SHALL ENSURE THAT
43 DIAGNOSIS AND TREATMENT SERVICES ARE AVAILABLE AND, TO THE GREATEST
44 EXTENT PRACTICABLE, SEEK THIRD PARTY COVERAGE OR INDEMNIFICATION FOR
45 SUCH SERVICES; PROVIDED, HOWEVER, THAT NO BOARD OF HEALTH, LOCAL HEALTH
46 OFFICER, OR OTHER MUNICIPAL OFFICER OR ENTITY SHALL REQUEST OR REQUIRE
47 THAT SUCH COVERAGE OR INDEMNIFICATION BE UTILIZED AS A CONDITION OF
48 PROVIDING DIAGNOSIS OR TREATMENT SERVICES.

49 5. THE TERM "HEALTH OFFICER" AS USED IN THIS ARTICLE SHALL MEAN A
50 COUNTY HEALTH OFFICER, A CITY HEALTH OFFICER, A TOWN HEALTH OFFICER, A
51 VILLAGE HEALTH OFFICER, THE HEALTH OFFICER OF A CONSOLIDATED HEALTH
52 DISTRICT OR A STATE DISTRICT HEALTH OFFICER.

53 S 35. Section 2305 of the public health law, as amended by chapter 878
54 of the laws of 1980, is amended to read as follows:

55 S 2305. Sexually [transmissible] TRANSMITTED diseases; [treatment by
56 licensed physician or staff physician of a hospital; prescriptions]

1 TREATMENT OF MINORS. [1. No person, other than a licensed physician,
2 or, in a hospital, a staff physician, shall diagnose, treat or prescribe
3 for a person who is infected with a sexually transmissible disease, or
4 who has been exposed to infection with a sexually transmissible disease,
5 or dispense or sell a drug, medicine or remedy for the treatment of such
6 person except on prescription of a duly licensed physician.

7 2. A licensed physician, or in a hospital, a staff physician,] A
8 HEALTH CARE PRACTITIONER WHO IS AUTHORIZED UNDER TITLE EIGHT OF THE
9 EDUCATION LAW TO DIAGNOSE AND PRESCRIBE DRUGS FOR SEXUALLY TRANSMITTED
10 INFECTIONS, ACTING WITHIN HIS OR HER LAWFUL SCOPE OF PRACTICE, may diag-
11 nose, treat or prescribe for a person under the age of [twenty-one]
12 EIGHTEEN years without the consent or knowledge of the parents or guard-
13 ian of said person[, where such person is infected with a sexually tran-
14 smissible disease, or has been exposed to infection with a sexually
15 transmissible disease].

16 [3. For the purposes of this section, the term "hospital" shall mean a
17 hospital as defined in article twenty-eight of this chapter.]

18 S 36. Section 2306 of the public health law, as amended by chapter 41
19 of the laws of 2010, is amended to read as follows:

20 S 2306. Sexually [transmissible] TRANSMITTED diseases; reports and
21 information, confidential. All reports or information secured by a board
22 of health or health officer under the provisions of this article shall
23 be confidential except in so far as is necessary to carry out the
24 purposes of this article. Such report or information may be disclosed by
25 court order in a criminal proceeding in which it is otherwise admissible
26 or in a proceeding pursuant to article ten of the family court act in
27 which it is otherwise admissible, to the prosecution and to the defense,
28 or in a proceeding pursuant to article ten of the family court act in
29 which it is otherwise admissible, to the petitioner, respondent and
30 attorney for the child, provided that the subject of the report or
31 information has waived the confidentiality provided for by this section
32 EXCEPT INSOFAR AS IS NECESSARY TO CARRY OUT THE PURPOSES OF THIS ARTI-
33 CLE. INFORMATION MAY BE DISCLOSED TO THIRD PARTY REIMBURSERS OR THEIR
34 AGENTS TO THE EXTENT NECESSARY TO REIMBURSE HEALTH CARE PROVIDERS FOR
35 HEALTH SERVICES; PROVIDED THAT, WHEN NECESSARY, AN OTHERWISE APPROPRIATE
36 AUTHORIZATION FOR SUCH DISCLOSURE HAS BEEN SECURED BY THE PROVIDER. A
37 person waives the confidentiality provided for by this section if such
38 person voluntarily discloses or consents to disclosure of such report or
39 information or a portion thereof. If such person lacks the capacity to
40 consent to such a waiver, his or her parent, guardian or attorney may so
41 consent. An order directing disclosure pursuant to this section shall
42 specify that no report or information shall be disclosed pursuant to
43 such order which identifies or relates to any person other than the
44 subject of the report or information. REPORTS AND INFORMATION MAY BE
45 USED IN THE AGGREGATE IN PROGRAMS APPROVED BY THE COMMISSIONER FOR THE
46 IMPROVEMENT OF THE QUALITY OF MEDICAL CARE PROVIDED TO PERSONS WITH
47 SEXUALLY TRANSMITTED DISEASES; OR WITH PATIENT IDENTIFIERS WHEN USED
48 WITHIN THE STATE OR LOCAL HEALTH DEPARTMENT BY PUBLIC HEALTH DISEASE
49 PROGRAMS TO ASSESS CO-MORBIDITY OR COMPLETENESS OF REPORTING AND TO
50 DIRECT PROGRAM NEEDS, IN WHICH CASE PATIENT IDENTIFIERS SHALL NOT BE
51 DISCLOSED OUTSIDE THE STATE OR LOCAL HEALTH DEPARTMENT.

52 S 37. The section heading and subdivisions 1 and 2 of section 2308 of
53 the public health law are amended to read as follows:

54 [Venereal] SEXUALLY TRANSMITTED disease; pregnant women; blood test
55 for syphilis. 1. Every physician, OR HEALTH CARE PRACTITIONER ACTING
56 WITHIN HIS OR HER LAWFUL SCOPE OF PRACTICE, attending pregnant women in

1 the state shall in the case of every woman so attended take or cause to
2 be taken a sample of blood of such woman at the time of first examina-
3 tion, and submit such sample to an approved laboratory for a standard
4 serological test for syphilis.

5 2. Every other person permitted by law to attend upon pregnant women
6 in the state but not permitted by law to take blood tests, shall cause a
7 sample of the blood of such pregnant woman to be taken promptly by a
8 duly licensed physician, OR OTHER HEALTH CARE PRACTITIONER ACTING WITHIN
9 HIS OR HER LAWFUL SCOPE OF PRACTICE, and submitted to an approved labo-
10 ratory for a standard serological test for syphilis.

11 S 38. Section 2308-a of the public health law, as amended by chapter
12 878 of the laws of 1980, is amended to read as follows:

13 S 2308-a. Sexually [transmissible] TRANSMITTED diseases; tests for
14 sexually [transmissible] TRANSMITTED diseases. 1. The administrative
15 officer or other person in charge of a clinic or other facility provid-
16 ing gynecological, obstetrical, genito-urological, contraceptive, steri-
17 lization or termination of pregnancy services or treatment shall require
18 the staff of such clinic or facility to offer to administer to every
19 resident of the state of New York coming to such clinic or facility for
20 such services or treatment, appropriate examinations or tests for the
21 detection of sexually [transmissible] TRANSMITTED diseases.

22 2. Each physician providing gynecological, obstetrical, genito-urolog-
23 ical, contraceptive, sterilization, or termination of pregnancy services
24 or treatment shall offer to administer to every resident of the state of
25 New York coming to such physician for such services or treatment, appro-
26 priate examinations or tests for the detection of sexually [transmissi-
27 ble] TRANSMITTED diseases.

28 S 39. Sections 2309 and 2310 of the public health law are REPEALED.

29 S 40. Section 2311 of the public health law, as added by chapter 878
30 of the laws of 1980, is amended to read as follows:

31 S 2311. Sexually [transmissible] TRANSMITTED disease list. The commis-
32 sioner shall promulgate a list of sexually [transmissible] TRANSMITTED
33 diseases, such as gonorrhea and syphilis, for the purposes of this arti-
34 cle. The commissioner, in determining the diseases to be included in
35 such list, shall consider those conditions principally transmitted by
36 sexual contact, OTHER SECTIONS OF THIS CHAPTER ADDRESSING COMMUNICABLE
37 DISEASES and the impact of particular diseases on individual morbidity
38 and the health of newborns.

39 S 41. Section 2 of chapter 577 of the laws of 2008, amending the
40 public health law relating to expedited partner therapy for persons
41 infected with chlamydia trachomatis, is amended to read as follows:

42 S 2. This act shall take effect on the one hundred twentieth day after
43 it shall have become a law [and shall expire and be deemed repealed
44 January 1, 2014].

45 S 42. The public health law is amended by adding a new article 12-A to
46 read as follows:

47 ARTICLE 12-A

48 OUTCOME BASED CONTRACTING AND 49 OUTCOME BASED HEALTH PLANNING

50 SECTION 1202. LEGISLATIVE FINDINGS.

51 1203. OUTCOME BASED CONTRACTING AND OUTCOME BASED HEALTH PLAN-
52 NING.

53 1204. OUTCOME BASED AREAS.

54 S 1202. LEGISLATIVE FINDINGS. 1. THE LEGISLATURE DECLARES THAT A
55 COMPREHENSIVE, INTEGRATED APPROACH TO PUBLIC HEALTH AND HEALTH CARE
56 REQUIRES THAT THE DEPARTMENT HAVE THE FLEXIBILITY TO PROMOTE BETTER

1 HEALTH OUTCOMES, TARGET RESOURCES EFFECTIVELY AND ADDRESS EXISTING AND
2 NEW OR EMERGING HEALTH ISSUES.

3 2. TO ENSURE THAT RESOURCES ARE USED EFFICIENTLY AND EFFECTIVELY, IT
4 IS IMPORTANT THAT CONTRACTORS, TO THE EXTENT DEEMED NECESSARY BY THE
5 COMMISSIONER, CARRY OUT THE PURPOSES OF THIS ARTICLE AND BE SUBJECT TO
6 OUTCOME-BASED PERFORMANCE MEASURES.

7 S 1203. OUTCOME BASED CONTRACTING AND OUTCOME BASED HEALTH PLANNING.

8 1. WITHIN AMOUNTS APPROPRIATED THEREFOR, THE COMMISSIONER IS AUTHORIZED
9 TO MAKE GRANTS, AWARDS, DISBURSEMENTS, AND OTHER PAYMENTS AND TRANSFERS,
10 AND MAY ENTER INTO OR CONTINUE EXISTING CONTRACTS AND AGREEMENTS AND
11 OTHERWISE DISBURSE FUNDS TO GOVERNMENTAL, PUBLIC, NON-PROFIT OR PRIVATE
12 ENTITIES AS NECESSARY TO ACCOMPLISH THE PURPOSES OF THIS ARTICLE, IN
13 EACH OF THE AREAS SET FORTH IN SECTION TWELVE HUNDRED FOUR OF THIS ARTI-
14 CLE.

15 2. FUNDING SHALL BE AWARDED UNDER THIS ARTICLE IN THE NUMBER, AMOUNTS
16 AND MANNER DETERMINED BY THE COMMISSIONER ON A COMPETITIVE BASIS, WHEN-
17 EVER PRACTICABLE, PURSUANT TO ONE OR MORE REQUESTS FOR
18 APPLICATION/PROPOSAL PROCESSES COVERING EACH OR MULTIPLE AREAS SET FORTH
19 IN SECTION TWELVE HUNDRED FOUR OF THIS ARTICLE OR OTHER ALLOWABLE
20 OPTIONS IN THE STATE FINANCE LAW. THE COMMISSIONER SHALL POST ON THE
21 DEPARTMENT'S WEBSITE NOTICES OF FUNDING AVAILABILITY AND INCLUDE STATE-
22 MENTS TO ENCOURAGE EXISTING AND NEW PROVIDERS TO PARTICIPATE.

23 3. PAYMENTS PURSUANT TO GRANT AWARDS AND OTHER DISBURSEMENTS OR TRANS-
24 FERS MADE UNDER THIS ARTICLE SHALL BE BASED ON THE INTENDED ACHIEVEMENT
25 OF OUTCOMES AS SPECIFIED BY THE COMMISSIONER.

26 4. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW WITHIN THIS CHAP-
27 TER, THE COMMISSIONER SHALL NOT AWARD GRANTS, ENTER INTO CONTRACTS OR
28 CONTINUE CONTRACTS OR MAKE DISBURSEMENTS OR CONDUCT PROGRAM ACTIVITIES
29 WITH RESPECT TO ANY PROGRAM OR ACTIVITY AUTHORIZED IN THIS CHAPTER THAT
30 THE COMMISSIONER DEEMS TO FALL WITHIN THE AREAS SET FORTH IN SECTION
31 TWELVE HUNDRED FOUR OF THIS ARTICLE, UNLESS THE COMMISSIONER EVALUATES
32 THE PROGRAM OR PROGRAM ACTIVITY AND DETERMINES THAT IT IS CONSISTENT
33 WITH THE OBJECTIVES AND STANDARDS OF THIS ARTICLE.

34 S 1204. OUTCOME BASED AREAS. GRANT AWARDS, AND OTHER DISBURSEMENTS,
35 PAYMENTS OR TRANSFERS AND PROGRAM ACTIVITIES IN THE FOLLOWING AREAS
36 SHALL BE SUBJECT TO THIS ARTICLE:

37 1. WITHIN AMOUNTS APPROPRIATED, THE AREA OF CHRONIC DISEASE PREVENTION
38 AND TREATMENT, WHICH SHALL BE DESIGNED TO IMPLEMENT EVIDENCE AND BEST
39 PRACTICE BASED APPROACHES TO CHRONIC DISEASE THAT EMPHASIZE THE IMPOR-
40 TANCE OF PREVENTIVE CARE AND HEALTHIER ENVIRONMENTS. SUCH GRANTS SHOULD
41 ALSO, TO THE EXTENT FEASIBLE, COMPLEMENT THE STATE'S EFFORTS TO PROMOTE
42 INTEGRATED CARE MANAGEMENT STRATEGIES IN THE PROVISION OF HEALTH CARE
43 AND LONG TERM CARE SUPPORT. THE DEPARTMENT SHALL IDENTIFY CHRONIC
44 DISEASES THAT ARE PUBLIC HEALTH PRIORITIES. TO THAT END AND SUBJECT TO
45 THE PROVISIONS OF THIS ARTICLE THE DEPARTMENT IS AUTHORIZED TO:

46 (A) DEVELOP AND/OR SUPPORT IMPLEMENTATION OF ENVIRONMENTAL APPROACHES
47 THAT PROMOTE HEALTH AND PREVENT DISEASE AND SUPPORT AND REINFORCE HEAL-
48 THY BEHAVIORS IN VARIOUS SECTORS;

49 (B) DEVELOP AND/OR SUPPORT PROGRAMS OF PUBLIC HEALTH MARKETING AND
50 COMMUNICATION, INCLUDING DEVELOPING, ADAPTING, PROMOTING AND DISSEMINAT-
51 ING PUBLIC EDUCATION MATERIALS AND CAMPAIGNS TO REDUCE MORBIDITY,
52 MORTALITY AND HEALTH DISPARITIES;

53 (C) DEVELOP AND/OR SUPPORT ACTIVITIES TO PROMOTE EARLY DETECTION AND
54 QUALITY CARE DELIVERY BY HEALTHCARE AND OTHER COMMUNITY SERVICE PROVID-
55 ERS;

(D) CONDUCT AND/OR SUPPORT EPIDEMIOLOGY AND SURVEILLANCE TO GATHER, ANALYZE, AND DISSEMINATE DATA AND INFORMATION AND CONDUCT EVALUATIONS TO INFORM, PRIORITIZE, DELIVER AND MONITOR PROGRAM ACTIVITIES AND POPULATION-LEVEL RISK FACTORS, DISEASES AND HEALTH; AND

(E) ANY OTHER FUNCTIONS DEEMED NECESSARY BY THE COMMISSIONER TO IMPLEMENT THE PURPOSES OF THIS ARTICLE.

2. WITHIN AMOUNTS APPROPRIATED, IN THE AREA OF ENVIRONMENTAL HEALTH AND INFECTIOUS DISEASE, WHICH SHALL BE DESIGNED TO MINIMIZE RISK TO POPULATION HEALTH POSED BY ENVIRONMENTAL FACTORS AND INFECTIOUS DISEASE AND IMPLEMENT EVIDENCE AND BEST PRACTICE BASED APPROACHES THAT EMPHASIZE THE IMPORTANCE OF PREVENTION OF EXPOSURES. THE DEPARTMENT SHALL IDENTIFY ENVIRONMENTAL CONDITIONS AND RELATED DISEASES AND EXPOSURES THAT IMPACT HUMAN HEALTH AND IDENTIFY PRIORITY COMMUNICABLE DISEASES AND SHALL DEVELOP PROGRAMS TO PREVENT AND ADDRESS THOSE PRIORITY ENVIRONMENTAL CONDITIONS AND COMMUNICABLE DISEASES, THEIR RISK FACTORS, MODES OF TRANSMISSION AND PREVENTION. TO THAT END AND SUBJECT TO THE PROVISIONS OF THIS ARTICLE THE DEPARTMENT IS AUTHORIZED TO:

(A) DEVELOP AND/OR SUPPORT PROGRAMS FOR IDENTIFICATION, SCREENING, INSPECTION, INVESTIGATION, ASSESSMENT, SURVEILLANCE, PREVENTION, TREATMENT AND OUTREACH;

(B) DEVELOP AND/OR SUPPORT PROGRAMS FOR POPULATION BASED PREVENTION, PUBLIC EDUCATION AND OUTREACH;

(C) DEVELOP AND/OR SUPPORT PROGRAMS FOR PROFESSIONAL EDUCATION AND TRAINING IN OUTREACH, PREVENTION, DETECTION AND TREATMENT; AND

(D) ANY OTHER FUNCTIONS DEEMED NECESSARY BY THE COMMISSIONER TO IMPLEMENT THE PURPOSES OF THIS ARTICLE.

3. WITHIN AMOUNTS APPROPRIATED, IN THE AREA OF MATERNAL AND CHILD HEALTH AND NUTRITION, WHICH SHALL BE DESIGNED TO IMPLEMENT EVIDENCE AND BEST PRACTICE BASED APPROACHES TO MATERNAL AND CHILD HEALTH AND NUTRITION THAT EMPHASIZE THE IMPORTANCE OF PREVENTIVE CARE. THE DEPARTMENT SHALL IDENTIFY ADVERSE MATERNAL AND CHILD HEALTH OUTCOMES AND NUTRITION RISKS THAT ARE PRIORITIES, AND SHALL DEVELOP PROGRAMS TO PREVENT AND ADDRESS THOSE PRIORITY ADVERSE MATERNAL AND CHILD HEALTH OUTCOMES AND NUTRITION RISKS AND THEIR CAUSES, AND REDUCE HEALTH DISPARITIES. TO THAT END AND SUBJECT TO THE PROVISION OF THIS ARTICLE THE DEPARTMENT IS AUTHORIZED TO:

(A) DEVELOP AND/OR SUPPORT PROGRAMS FOR IDENTIFICATION, SCREENING, INVESTIGATION, PREVENTION, TREATMENT AND OUTREACH, SURVEILLANCE, EVALUATION AND SERVICE PROVISION;

(B) DEVELOP AND/OR SUPPORT PROGRAMS FOR PROFESSIONAL EDUCATION AND TRAINING IN OUTREACH, PREVENTION, DETECTION TREATMENT AND SERVICE PROVISION; AND

(C) ANY OTHER FUNCTIONS DEEMED NECESSARY BY THE COMMISSIONER TO IMPLEMENT THE PURPOSES OF THIS ARTICLE.

4. WITHIN THE AMOUNTS APPROPRIATED, IN THE AREAS OF HIV, AIDS, HEPATITIS C AND SEXUALLY TRANSMITTED DISEASES, WHICH SHALL BE DESIGNED TO IMPLEMENT EVIDENCE AND BEST PRACTICE BASED APPROACHES TO HIV, AIDS, HEPATITIS C AND SEXUALLY TRANSMITTED DISEASE PREVENTION AND CARE. THE DEPARTMENT SHALL IDENTIFY HIV AND AIDS, STD AND HEPATITIS C PREVENTION, IDENTIFICATION AND TREATMENT PRIORITIES AND SHALL DEVELOP PROGRAMS TO PREVENT AND ADDRESS HIV AND AIDS, STD AND HEPATITIS C. TO THAT END AND SUBJECT TO THE PROVISION OF THIS ARTICLE THE DEPARTMENT IS AUTHORIZED TO:

(A) DEVELOP AND/OR SUPPORT PROGRAMS FOR IDENTIFICATION, SCREENING, INVESTIGATION, SURVEILLANCE, PREVENTION, TREATMENT, SUPPORT, OUTREACH AND SERVICE PROVISION;

1 (B) DEVELOP AND/OR SUPPORT PROGRAMS FOR PROFESSIONAL EDUCATION AND
2 TRAINING IN OUTREACH, PREVENTION, DETECTION, SUPPORT, TREATMENT AND
3 SERVICE PROVISION;

4 (C) DEVELOP AND/OR SUPPORT PROGRAMS THAT ENSURE THE APPROPRIATENESS
5 AND QUALITY OF HIV/AIDS, STD, AND HEPATITIS C SERVICES; AND

6 (D) ANY OTHER FUNCTIONS DEEMED NECESSARY BY THE COMMISSIONER TO IMPL-
7 MENT THE PURPOSES OF THIS ARTICLE.

8 5. WITHIN AMOUNTS APPROPRIATED, IN THE AREA OF HEALTH QUALITY AND
9 OUTCOMES, WHICH SHALL BE DESIGNED TO SUPPORT CORE PRIORITY INITIATIVES
10 THAT ADDRESS IMPROVED POPULATION HEALTH OUTCOMES, PATIENT SAFETY AND
11 QUALITY. TO THAT END AND SUBJECT TO THE PROVISIONS OF THIS ARTICLE THE
12 DEPARTMENT IS AUTHORIZED TO:

13 (A) CARRY OUT PATIENT SAFETY AND OUTCOMES RESEARCH;

14 (B) USE EVIDENCE AND POPULATION HEALTH PRINCIPLES AND BEST PRACTICES
15 TO DRIVE IMPROVEMENT IN HEALTHCARE QUALITY AND PATIENT SAFETY;

16 (C) DEVELOP OR SUPPORT PROGRAMS TO ASSESS, EVALUATE AND COMMUNICATE
17 FINDINGS RELATED TO HEALTH CARE QUALITY AND SAFETY; AND

18 (D) ANY OTHER FUNCTIONS DEEMED NECESSARY BY THE COMMISSIONER TO IMPL-
19 MENT THE PURPOSES OF THIS ARTICLE.

20 6. WITHIN AMOUNTS APPROPRIATED, IN THE AREA OF WORKFORCE DEVELOPMENT,
21 WHICH SHALL BE DESIGNED TO BETTER ADDRESS THE GOALS OF IMPROVING CARE,
22 IMPROVING HEALTH, AND REDUCING COSTS, AND PREPARING FOR THE INCREASED
23 DEMAND FOR SERVICES RESULTING FROM THE IMPLEMENTATION OF FEDERAL HEALTH
24 CARE REFORM. TO THAT END AND SUBJECT TO THE PROVISIONS OF THIS ARTICLE
25 THE DEPARTMENT IS AUTHORIZED TO:

26 (A) TRAIN ADDITIONAL HEALTH CARE WORKERS;

27 (B) FOCUS ON TRAINING NEW HEALTH CARE WORKERS AND RE-TRAINING EXISTING
28 HEALTH CARE EMPLOYEES IN EMERGING MODELS OF COLLABORATIVE CARE, WORK IN
29 CULTURALLY COMPETENT, PATIENT-CENTERED INTERDISCIPLINARY TEAMS, MAXIMIZ-
30 ING UTILIZATION OF HEALTH INFORMATION TECHNOLOGY, AND TO OTHERWISE
31 ADDRESS CHANGES IN THE HEALTH CARE DELIVERY SYSTEM;

32 (C) TRAIN HEALTH CARE WORKERS TO CARE FOR HIGH NEED AND VULNERABLE
33 POPULATIONS WITH COMPLEX MEDICAL, BEHAVIORAL, AND LONG-TERM CARE NEEDS;

34 (D) PROVIDE SERVICES IN COMMUNITIES THAT EXPERIENCE SHORTAGES OF
35 PHYSICIANS AND OTHER HEALTH CARE WORKERS;

36 (E) PROVIDE TRAINING OF PHYSICIANS IN CLINICAL RESEARCH IN ORDER TO
37 IMPROVE THE HEALTH STATUS OF THE POPULATION THROUGH ADVANCES IN BIOMEDI-
38 CAL RESEARCH; AND

39 (F) ANY OTHER FUNCTIONS DEEMED NECESSARY BY THE COMMISSIONER TO IMPL-
40 MENT THE PURPOSES OF THIS ARTICLE.

41 S 43. Subdivisions 1, 2, 2-a, 2-b and 3 of section 2802 of the public
42 health law, subdivisions 1, 2 and 2-b as amended by section 58 of part A
43 of chapter 58 of the laws of 2010, subdivision 2-a as added and para-
44 graph (e) of subdivision 3 as amended by chapter 731 of the laws of
45 1993, subdivision 3 as amended by chapter 609 of the laws of 1982, are
46 amended to read as follows:

47 1. An application for such construction shall be filed with the
48 department, together with such other forms and information as shall be
49 prescribed by, or acceptable to, the department. Thereafter the depart-
50 ment shall forward a copy of the application and accompanying documents
51 to the public health and health planning council, and the health systems
52 agency, if any, having geographical jurisdiction of the area where the
53 hospital is located.

54 2. The commissioner shall not act upon an application for construction
55 of a hospital until the public health and health planning council and
56 the health systems agency have had a reasonable time to submit their

1 recommendations, and unless (a) the applicant has obtained all approvals
2 and consents required by law for its incorporation or establishment
3 (including the approval of the public health and health planning council
4 pursuant to the provisions of this article) provided, however, that the
5 commissioner may act upon an application for construction by an appli-
6 cant possessing a valid operating certificate when the application qual-
7 ifies for review without the recommendation of the council pursuant to
8 regulations adopted by the council and approved by the commissioner; and
9 (b) the commissioner is satisfied as to the public need for the
10 construction, at the time and place and under the circumstances
11 proposed, provided however that[,] in the case of an application by: (I)
12 a hospital established or operated by an organization defined in subdivi-
13 sion one of section four hundred eighty-two-b of the social services
14 law, the needs of the members of the religious denomination concerned,
15 for care or treatment in accordance with their religious or ethical
16 convictions, shall be deemed to be public need[.]; (II) A GENERAL HOSPI-
17 TAL OR DIAGNOSTIC AND TREATMENT CENTER, ESTABLISHED UNDER THIS ARTICLE,
18 TO CONSTRUCT A FACILITY TO PROVIDE PRIMARY CARE SERVICES, AS DEFINED IN
19 REGULATION, THE CONSTRUCTION MAY BE APPROVED WITHOUT REGARD FOR PUBLIC
20 NEED; OR (III) A GENERAL HOSPITAL OR A DIAGNOSTIC AND TREATMENT CENTER,
21 ESTABLISHED UNDER THIS ARTICLE, TO UNDERTAKE CONSTRUCTION THAT DOES NOT
22 INVOLVE A CHANGE IN CAPACITY, THE TYPES OF SERVICES PROVIDED, MAJOR
23 MEDICAL EQUIPMENT, FACILITY REPLACEMENT, OR THE GEOGRAPHIC LOCATION OF
24 SERVICES, THE CONSTRUCTION MAY BE APPROVED WITHOUT REGARD FOR PUBLIC
25 NEED.

26 2-a. The council shall afford the applicant an opportunity to present
27 information in person concerning an application to a committee desig-
28 nated by the council.

29 2-b. Beginning on January first, nineteen hundred ninety-four, and
30 each year thereafter, a complete application received between January
31 first and June thirtieth of each year shall be reviewed by the appropri-
32 ate health systems agency and the department and presented to the public
33 health and health planning council for its consideration prior to June
34 thirtieth of the following year and a complete application received
35 between July first and December thirty-first of each year shall be
36 reviewed by the appropriate health systems agency and the department and
37 presented to the public health and health planning council for consider-
38 ation prior to December thirty-first of the following year.

39 3. Subject to the provisions of paragraph (b) of subdivision two, the
40 commissioner in approving the construction of a hospital shall take into
41 consideration and be empowered to request information and advice as to
42 (a) the availability of facilities or services such as preadmission,
43 ambulatory or home care services which may serve as alternatives or
44 substitutes for the whole or any part of the proposed hospital
45 construction;

46 (b) the need for special equipment in view of existing utilization of
47 comparable equipment at the time and place and under the circumstances
48 proposed;

49 (c) the possible economies and improvements in service to be antic-
50 ipated from the operation of joint central services including, but not
51 limited to laboratory, research, radiology, pharmacy, laundry and
52 purchasing;

53 (d) the adequacy of financial resources and sources of future revenue,
54 PROVIDED THAT THE COMMISSIONER MAY, BUT IS NOT REQUIRED TO, CONSIDER THE
55 ADEQUACY OF FINANCIAL RESOURCES AND SOURCES OF FUTURE REVENUE IN

RELATION TO APPLICATIONS UNDER SUBPARAGRAPHS (II) AND (III) OF PARAGRAPH (B) OF SUBDIVISION TWO OF THIS SECTION; and

(e) whether the facility is currently in substantial compliance with all applicable codes, rules and regulations, provided, however, that the commissioner shall not disapprove an application solely on the basis that the facility is not currently in substantial compliance, if the application is specifically:

(i) to correct life safety code or patient care deficiencies;

(ii) to correct deficiencies which are necessary to protect the life, health, safety and welfare of facility patients, residents or staff;

(iii) for replacement of equipment that no longer meets the generally accepted operational standards existing for such equipment at the time it was acquired; and

(iv) for decertification of beds and services.

S 44. Subdivisions 1, 2 and 3 of section 2807-z of the public health law, as amended by chapter 400 of the laws of 2012, are amended to read as follows:

1. Notwithstanding any provision of this chapter or regulations or any other state law or regulation, for any eligible capital project as defined in subdivision six of this section, the department shall have thirty days of receipt of the certificate of need OR CONSTRUCTION application, PURSUANT TO SECTION TWENTY-EIGHT HUNDRED TWO OF THIS ARTICLE, for a limited or administrative review to deem such application complete. If the department determines the application is incomplete or that more information is required, the department shall notify the applicant in writing within thirty days of the date of the application's submission, and the applicant shall have twenty business days to provide additional information or otherwise correct the deficiency in the application.

2. For an eligible capital project requiring a limited or administrative review, within ninety days of the department deeming the application complete, the department shall make a decision to approve or disapprove the certificate of need OR CONSTRUCTION application for such project. If the department determines to disapprove the project, the basis for such disapproval shall be provided in writing; however, disapproval shall not be based on the incompleteness of the application. If the department fails to take action to approve or disapprove the application within ninety days of the certificate of need application being deemed complete, the application will be deemed approved.

3. For an eligible capital project requiring full review by the council, the certificate of need OR CONSTRUCTION application shall be placed on the next council agenda following the department deeming the application complete.

S 45. Intentionally omitted.

S 46. Section 2801-a of the public health law is amended by adding a new subdivision 3-b to read as follows:

3-B. NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS CHAPTER TO THE CONTRARY, THE PUBLIC HEALTH AND HEALTH PLANNING COUNCIL MAY APPROVE THE ESTABLISHMENT OF DIAGNOSTIC OR TREATMENT CENTERS TO BE ISSUED OPERATING CERTIFICATES FOR THE PURPOSE OF PROVIDING PRIMARY CARE, AS DEFINED BY THE COMMISSIONER IN REGULATIONS, WITHOUT REGARD TO THE REQUIREMENTS OF PUBLIC NEED AND FINANCIAL RESOURCES AS SET FORTH IN SUBDIVISION THREE OF THIS SECTION.

S 47. Subdivision 3 of section 2801-a of the public health law, as amended by section 57 of part A of chapter 58 of the laws of 2010, is amended to read as follows:

1 3. The public health and health planning council shall not approve a
2 certificate of incorporation, articles of organization or application
3 for establishment unless it is satisfied, insofar as applicable, as to
4 (a) the public need for the existence of the institution at the time and
5 place and under the circumstances proposed, provided, however, that in
6 the case of an institution proposed to be established or operated by an
7 organization defined in subdivision one of section one hundred seventy-
8 two-a of the executive law, the needs of the members of the religious
9 denomination concerned, for care or treatment in accordance with their
10 religious or ethical convictions, shall be deemed to be public need; (b)
11 the character, competence, and standing in the community, of the
12 proposed incorporators, directors, sponsors, stockholders, members or
13 operators; with respect to any proposed incorporator, director, sponsor,
14 stockholder, member or operator who is already or within the past [ten]
15 SEVEN years has been an incorporator, director, sponsor, member, princi-
16 pal stockholder, principal member, or operator of any hospital, private
17 proprietary home for adults, residence for adults, or non-profit home
18 for the aged or blind which has been issued an operating certificate by
19 the state department of social services, or a halfway house, hostel or
20 other residential facility or institution for the care, custody or
21 treatment of the mentally disabled which is subject to approval by the
22 department of mental hygiene, no approval shall be granted unless the
23 public health and health planning council, having afforded an adequate
24 opportunity to members of health systems agencies, if any, having
25 geographical jurisdiction of the area where the institution is to be
26 located to be heard, shall affirmatively find by substantial evidence as
27 to each such incorporator, director, sponsor, MEMBER, principal stock-
28 holder, PRINCIPAL MEMBER, or operator that a substantially consistent
29 high level of care is being or was being rendered in each such hospital,
30 home, residence, halfway house, hostel, or other residential facility or
31 institution with which such person is or was affiliated; for the
32 purposes of this paragraph, the public health and health planning coun-
33 cil shall adopt rules and regulations, subject to the approval of the
34 commissioner, to establish the criteria to be used to determine whether
35 a substantially consistent high level of care has been rendered,
36 provided, however, that there shall not be a finding that a substantial-
37 ly consistent high level of care has been rendered where there have been
38 violations of the state hospital code, or other applicable rules and
39 regulations, that (i) threatened to directly affect the health, safety
40 or welfare of any patient or resident, and (ii) were recurrent or were
41 not promptly corrected, UNLESS THE PROPOSED INCORPORATOR, DIRECTOR,
42 SPONSOR, STOCKHOLDER, MEMBER OR OPERATOR DEMONSTRATES, AND THE PUBLIC
43 HEALTH AND HEALTH PLANNING COUNCIL FINDS, THAT THE VIOLATIONS CANNOT BE
44 ATTRIBUTED TO THE ACTION OR INACTION OF SUCH PROPOSED INCORPORATOR,
45 DIRECTOR, SPONSOR, STOCKHOLDER, MEMBER OR OPERATOR DUE TO THE TIMING,
46 EXTENT OR MANNER OF THE AFFILIATION; (c) the financial resources of the
47 proposed institution and its sources of future revenues; and (d) such
48 other matters as it shall deem pertinent.

49 S 48. Subdivision 4 of section 2801-a of the public health law, as
50 amended by section 57 of part A of chapter 58 of the laws of 2010, is
51 amended to read as follows:

52 4. (a) Any change in the person who is the operator of a hospital
53 shall be approved by the public health and health planning council in
54 accordance with the provisions of subdivisions two and three of this
55 section. Notwithstanding any inconsistent provision of this paragraph,
56 any change by a natural person who is the operator of a hospital seeking

1 to transfer part of his or her interest in such hospital to another
2 person or persons so as to create a partnership shall be approved in
3 accordance with the provisions of paragraph (b) of this subdivision.

4 (b) [(i)] Any transfer, assignment or other disposition of ten percent
5 or more of [an] DIRECT OR INDIRECT interest or voting rights in [a part-
6 nership or limited liability company, which is the] AN operator of a
7 hospital to a new STOCKHOLDER, partner or member, OR ANY TRANSFER,
8 ASSIGNMENT OR OTHER DISPOSITION OF A DIRECT OR INDIRECT INTEREST OR
9 VOTING RIGHTS OF SUCH AN OPERATOR WHICH RESULTS IN THE OWNERSHIP OR
10 CONTROL OF MORE THAN TEN PERCENT OF THE INTEREST OR VOTING RIGHTS OF
11 SUCH OPERATOR BY ANY PERSON NOT PREVIOUSLY APPROVED BY THE PUBLIC HEALTH
12 AND HEALTH PLANNING COUNCIL, OR ITS PREDECESSOR, FOR THAT OPERATOR shall
13 be approved by the public health and health planning council, in accord-
14 ance with the provisions of subdivisions two and three of this section,
15 except that: (A) any such change shall be subject to the approval by the
16 public health and health planning council in accordance with paragraph
17 (b) of subdivision three of this section only with respect to the new
18 STOCKHOLDER, partner or member, and any remaining STOCKHOLDERS, partners
19 or members who have not been previously approved for that facility in
20 accordance with such paragraph, and (B) such change shall not be subject
21 to paragraph (a) of subdivision three of this section. IN THE ABSENCE OF
22 SUCH APPROVAL, THE OPERATING CERTIFICATE OF SUCH HOSPITAL SHALL BE
23 SUBJECT TO REVOCATION OR SUSPENSION.

24 [(ii)] (C) (I) With respect to a transfer, assignment or disposition
25 involving less than ten percent of [an] A DIRECT OR INDIRECT interest or
26 voting rights in [such partnership or limited liability company] AN
27 OPERATOR OF A HOSPITAL to a new STOCKHOLDER, partner or member, no prior
28 approval of the public health and health planning council shall be
29 required. However, no such transaction shall be effective unless at
30 least ninety days prior to the intended effective date thereof, the
31 [partnership or limited liability company] OPERATOR fully completes and
32 files with the public health and health planning council notice on a
33 form, to be developed by the public health and health planning council,
34 which shall disclose such information as may reasonably be necessary for
35 the public health and health planning council to determine whether it
36 should bar the transaction for any of the reasons set forth in item (A),
37 (B), (C) or (D) below. Within ninety days from the date of receipt of
38 such notice, the public health and health planning council may bar any
39 transaction under this subparagraph: (A) if the equity position of the
40 [partnership or limited liability company,] OPERATOR, determined in
41 accordance with generally accepted accounting principles, would be
42 reduced as a result of the transfer, assignment or disposition; (B) if
43 the transaction would result in the ownership of a [partnership or
44 membership] DIRECT OR INDIRECT interest OR VOTING RIGHTS by any persons
45 who have been convicted of a felony described in subdivision five of
46 section twenty-eight hundred six of this article; (C) if there are
47 reasonable grounds to believe that the proposed transaction does not
48 satisfy the character and competence criteria set forth in subdivision
49 three of this section; or (D) UPON THE RECOMMENDATION OF THE DEPARTMENT,
50 if the transaction, together with all transactions under this subpara-
51 graph for the [partnership] OPERATOR, or successor, during any five year
52 period would, in the aggregate, involve twenty-five percent or more of
53 the interest in the [partnership] OPERATOR. The public health and health
54 planning council shall state specific reasons for barring any trans-
55 action under this subparagraph and shall so notify each party to the
56 proposed transaction.

1 [(iii) With respect to a transfer, assignment or disposition of an
2 interest or voting rights in such partnership or limited liability
3 company to any remaining partner or member, which transaction involves
4 the withdrawal of the transferor from the partnership or limited liabil-
5 ity company, no prior approval of the public health and health planning
6 council shall be required. However, no such transaction shall be effec-
7 tive unless at least ninety days prior to the intended effective date
8 thereof, the partnership or limited liability company fully completes
9 and files with the public health and health planning council notice on a
10 form, to be developed by the public health and health planning council,
11 which shall disclose such information as may reasonably be necessary for
12 the public health and health planning council to determine whether it
13 should bar the transaction for the reason set forth below. Within ninety
14 days from the date of receipt of such notice, the public health and
15 health planning council may bar any transaction under this subparagraph
16 if the equity position of the partnership or limited liability company,
17 determined in accordance with generally accepted accounting principles,
18 would be reduced as a result of the transfer, assignment or disposition.
19 The public health and health planning council shall state specific
20 reasons for barring any transaction under this subparagraph and shall so
21 notify each party to the proposed transaction.

22 (c) Any transfer, assignment or other disposition of ten percent or
23 more of the stock or voting rights thereunder of a corporation which is
24 the operator of a hospital or which is a member of a limited liability
25 company which is the operator of a hospital to a new stockholder, or any
26 transfer, assignment or other disposition of the stock or voting rights
27 thereunder of such a corporation which results in the ownership or
28 control of more than ten percent of the stock or voting rights there-
29 under of such corporation by any person not previously approved by the
30 public health and health planning council, or its predecessor, for that
31 corporation shall be subject to approval by the public health and health
32 planning council, in accordance with the provisions of subdivisions two
33 and three of this section and rules and regulations pursuant thereto;
34 except that: any such transaction shall be subject to the approval by
35 the public health and health planning council in accordance with para-
36 graph (b) of subdivision three of this section only with respect to a
37 new stockholder or a new principal stockholder; and shall not be subject
38 to paragraph (a) of subdivision three of this section. In the absence of
39 such approval, the operating certificate of such hospital shall be
40 subject to revocation or suspension.] (II) No prior approval of the
41 public health and health planning council shall be required with respect
42 to a transfer, assignment or disposition of ten percent or more of [the
43 stock] A DIRECT OR INDIRECT INTEREST or voting rights [thereunder of a
44 corporation which is the] IN AN operator of a hospital [or which is a
45 member of a limited liability company which is the owner of a hospital]
46 to any person previously approved by the public health and health plan-
47 ning council, or its predecessor, for that [corporation] OPERATOR.
48 However, no such transaction shall be effective unless at least ninety
49 days prior to the intended effective date thereof, the [stockholder]
50 OPERATOR FULLY completes and files with the public health and health
51 planning council notice on forms to be developed by the public health
52 and health planning council, which shall disclose such information as
53 may reasonably be necessary for the public health and health planning
54 council to determine whether it should bar the transaction. Such trans-
55 action will be final as of the intended effective date unless, prior
56 thereto, the public health and health planning council shall state

1 specific reasons for barring such transactions under this paragraph and
2 shall notify each party to the proposed transaction. Nothing in this
3 paragraph shall be construed as permitting a person not previously
4 approved by the public health and health planning council for that
5 [corporation] OPERATOR to become the owner of ten percent or more of the
6 [stock of a corporation which is] INTEREST OR VOTING RIGHTS, DIRECTLY OR
7 INDIRECTLY, IN the operator of a hospital [or which is a member of a
8 limited liability company which is the owner of a hospital] without
9 first obtaining the approval of the public health and health planning
10 council.

11 (d) No hospital shall be approved for establishment which would be
12 operated by a limited partnership, or by a partnership any of the
13 members of which are not natural persons.

14 (e) No hospital shall be approved for establishment which would be
15 operated by a corporation any of the stock of which is owned by another
16 corporation or a limited liability company if any of its corporate
17 members' stock is owned by another corporation.

18 (f) No corporation shall be a member of a limited liability company
19 authorized to operate a hospital unless its proposed incorporators,
20 directors, stockholders or principal stockholders shall have been
21 approved in accordance with the provisions of subdivision three of this
22 section applicable to the approval of the proposed incorporators, direc-
23 tors or stockholders of any other corporation requiring approval for
24 establishment.

25 (g) A natural person appointed as trustee of an express testamentary
26 trust, created by a deceased sole proprietor, partner or shareholder in
27 the operation of a hospital for the benefit of a person of less than
28 twenty-five years of age, may, as the trustee, apply pursuant to subdivi-
29 sion two of this section for approval to operate or participate in the
30 operation of a facility or interest therein which is included in the
31 corpus of such trust until such time as all beneficiaries attain the age
32 of twenty-five, unless the trust instrument provides for earlier termi-
33 nation, or such beneficiaries receive establishment approval in their
34 own right, or until a transfer of the trust corpus is approved by the
35 public health and health planning council, in accordance with this
36 subdivision and subdivisions two and three of this section, whichever
37 first occurs. The public health and health planning council shall not
38 approve any such application unless it is satisfied as to:

39 (i) the character, competence and standing in the community of each
40 proposed trustee operator pursuant to the provisions of paragraph (b) of
41 subdivision three of this section; and

42 (ii) the ability of the trustee under the terms of the trust instru-
43 ment to operate or participate in the operation of the hospital in a
44 manner consistent with this chapter and regulations promulgated pursuant
45 thereto.

46 (h) A natural person appointed conservator pursuant to article eight-
47 y-one of the mental hygiene law, or a natural person appointed committee
48 of the property of an incompetent pursuant to article eighty-one of the
49 mental hygiene law or a sole proprietor, partner or shareholder of a
50 hospital, may apply pursuant to subdivision two of this section for
51 approval to operate a hospital owned by the conservatee or incompetent
52 for a period not exceeding two years or until a transfer of the hospital
53 is approved by the public health and health planning council in accord-
54 ance with subdivisions two and three of this section, whichever occurs
55 first. The public health and health planning council shall not approve
56 any such application unless it is satisfied as to:

1 (i) the character, competence and standing in the community of the
2 proposed conservator operator or committee operator pursuant to the
3 provisions of paragraph (b) of subdivision three of this section; and
4 (ii) the ability of the conservator or committee under the terms of
5 the court order to operate the hospital in a manner consistent with this
6 chapter and regulations promulgated pursuant thereto.

7 S 49. Section 3611-a of the public health law, as amended by section
8 92 of part C of chapter 58 of the laws of 2009, subdivisions 1 and 2 as
9 amended by section 67 of part A of chapter 58 of the laws of 2010, is
10 amended to read as follows:

11 S 3611-a. Change in the operator or owner. 1. Any change in the
12 person who, or any transfer, assignment, or other disposition of an
13 interest or voting rights of ten percent or more, or any transfer,
14 assignment or other disposition which results in the ownership or
15 control of an interest or voting rights of ten percent or more, in a
16 limited liability company or a partnership which is the operator of a
17 licensed home care services agency or a certified home health agency
18 shall be approved by the public health and health planning council, in
19 accordance with the provisions of subdivision four of section thirty-six
20 hundred five of this article relative to licensure or subdivision two of
21 section thirty-six hundred six of this article relative to certificate
22 of approval, except that:

23 (a) Public health and health planning council approval shall be
24 required only with respect to the person, or the member or partner that
25 is acquiring the interest or voting rights; and

26 (b) With respect to certified home health agencies, such change shall
27 not be subject to the public need assessment described in paragraph (a)
28 of subdivision two of section thirty-six hundred six of this article.

29 (c) IN THE ABSENCE OF SUCH APPROVAL, THE LICENSE OR CERTIFICATE OF
30 APPROVAL SHALL BE SUBJECT TO REVOCATION OR SUSPENSION.

31 (D) (I) No prior approval of the public health and health planning
32 council shall be required with respect to a transfer, assignment or
33 disposition of:

34 [(i)] (A) an interest or voting rights to any person previously
35 approved by the public health and health planning council, or its prede-
36 cessor, for that operator; or

37 [(ii)] (B) an interest or voting rights of less than ten percent in
38 the operator. [However, no]

39 (II) NO such transaction UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH
40 shall be effective unless at least ninety days prior to the intended
41 effective date thereof, the [partner or member] OPERATOR completes and
42 files with the public health and health planning council notice on forms
43 to be developed by the public health council, which shall disclose such
44 information as may reasonably be necessary for the public health and
45 health planning council to determine whether it should bar the trans-
46 action. Such transaction will be final as of the intended effective date
47 unless, prior thereto, the public health and health planning council
48 shall state specific reasons for barring such transactions under this
49 paragraph and shall notify each party to the proposed transaction.

50 2. Any transfer, assignment or other disposition of ten percent or
51 more of the stock or voting rights thereunder of a corporation which is
52 the operator of a licensed home care services agency or a certified home
53 health agency, or any transfer, assignment or other disposition of the
54 stock or voting rights thereunder of such a corporation which results in
55 the ownership or control of more than ten percent of the stock or voting
56 rights thereunder of such corporation by any person shall be subject to

1 approval by the public health and health planning council in accordance
2 with the provisions of subdivision four of section thirty-six hundred
3 five of this article relative to licensure or subdivision two of section
4 thirty-six hundred six of this article relative to certificate of
5 approval, except that:

6 (a) Public health and health planning council approval shall be
7 required only with respect to the person or entity acquiring such stock
8 or voting rights; and

9 (b) With respect to certified home health agencies, such change shall
10 not be subject to the public need assessment described in paragraph (a)
11 of subdivision two of section thirty-six hundred six of this article. In
12 the absence of such approval, the license or certificate of approval
13 shall be subject to revocation or suspension.

14 (c) No prior approval of the public health and health planning council
15 shall be required with respect to a transfer, assignment or disposition
16 of an interest or voting rights to any person previously approved by the
17 public health and health planning council, or its predecessor, for that
18 operator. However, no such transaction shall be effective unless at
19 least one hundred twenty days prior to the intended effective date ther-
20 eof, the partner or member completes and files with the public health
21 and health planning council notice on forms to be developed by the
22 public health and health planning council, which shall disclose such
23 information as may reasonably be necessary for the public health and
24 health planning council to determine whether it should bar the trans-
25 action. Such transaction will be final as of the intended effective date
26 unless, prior thereto, the public health and health planning council
27 shall state specific reasons for barring such transactions under this
28 paragraph and shall notify each party to the proposed transaction.

29 3. (a) The commissioner shall charge to applicants for a change in
30 operator or owner of a licensed home care services agency or a certified
31 home health agency an application fee in the amount of two thousand
32 dollars.

33 (b) The fees paid by certified home health agencies pursuant to this
34 subdivision for any application approved in accordance with this section
35 shall be deemed allowable costs in the determination of reimbursement
36 rates established pursuant to this article. All fees pursuant to this
37 section shall be payable to the department of health for deposit into
38 the special revenue funds - other, miscellaneous special revenue fund -
39 339, certificate of need account.

40 S 50. The public health law is amended by adding a new section 2806-a
41 to read as follows:

42 S 2806-A. TEMPORARY OPERATOR. 1. FOR THE PURPOSES OF THIS SECTION:

43 (A) "ADULT CARE FACILITY" SHALL MEAN AN ADULT HOME OR ENRICHED HOUSING
44 PROGRAM LICENSED PURSUANT TO ARTICLE SEVEN OF THE SOCIAL SERVICES LAW OR
45 AN ASSISTED LIVING RESIDENCE LICENSED PURSUANT TO ARTICLE FORTY-SIX-B OF
46 THIS CHAPTER;

47 (B) "ESTABLISHED OPERATOR" SHALL MEAN THE OPERATOR OF AN ADULT CARE
48 FACILITY, A GENERAL HOSPITAL OR A DIAGNOSTIC AND TREATMENT CENTER THAT
49 HAS BEEN ESTABLISHED AND ISSUED AN OPERATING CERTIFICATE AS SUCH PURSU-
50 ANT TO THIS ARTICLE;

51 (C) "FACILITY" SHALL MEAN (I) A GENERAL HOSPITAL OR A DIAGNOSTIC AND
52 TREATMENT CENTER THAT HAS BEEN ISSUED AN OPERATING CERTIFICATE AS SUCH
53 PURSUANT TO THIS ARTICLE; OR (II) AN ADULT CARE FACILITY;

54 (D) "TEMPORARY OPERATOR" SHALL MEAN ANY PERSON OR ENTITY THAT:

1 (I) AGREES TO OPERATE A FACILITY ON A TEMPORARY BASIS IN THE BEST
2 INTERESTS OF ITS RESIDENTS OR PATIENTS AND THE COMMUNITY SERVED BY THE
3 FACILITY; AND

4 (II) HAS DEMONSTRATED THAT HE OR SHE HAS THE CHARACTER, COMPETENCE AND
5 FINANCIAL ABILITY TO OPERATE THE FACILITY IN COMPLIANCE WITH APPLICABLE
6 STANDARDS;

7 (E) "SERIOUS FINANCIAL INSTABILITY" SHALL INCLUDE BUT NOT BE LIMITED
8 TO DEFAULTING OR VIOLATING KEY COVENANTS OF LOANS, OR MISSED MORTGAGE
9 PAYMENTS, OR GENERAL UNTIMELY PAYMENT OF OBLIGATIONS, INCLUDING BUT NOT
10 LIMITED TO EMPLOYEE BENEFIT FUND, PAYROLL TAX, AND INSURANCE PREMIUM
11 OBLIGATIONS, OR FAILURE TO MAINTAIN REQUIRED DEBT SERVICE COVERAGE
12 RATIOS OR, AS APPLICABLE, FACTORS THAT HAVE TRIGGERED A WRITTEN EVENT OF
13 DEFAULT NOTICE TO THE DEPARTMENT BY THE DORMITORY AUTHORITY OF THE STATE
14 OF NEW YORK; AND

15 (F) "EXTRAORDINARY FINANCIAL ASSISTANCE" SHALL MEAN STATE FUNDS
16 PROVIDED TO A FACILITY UPON SUCH FACILITY'S REQUEST FOR THE PURPOSE OF
17 ASSISTING THE FACILITY TO ADDRESS SERIOUS FINANCIAL INSTABILITY. SUCH
18 FUNDS MAY BE DERIVED FROM EXISTING PROGRAMS WITHIN THE DEPARTMENT,
19 SPECIAL APPROPRIATIONS, OR OTHER FUNDS.

20 2.(A) IN THE EVENT THAT: (I) A FACILITY SEEKS EXTRAORDINARY FINANCIAL
21 ASSISTANCE AND THE COMMISSIONER FINDS THAT THE FACILITY IS EXPERIENCING
22 SERIOUS FINANCIAL INSTABILITY THAT IS JEOPARDIZING EXISTING OR CONTINUED
23 ACCESS TO ESSENTIAL SERVICES WITHIN THE COMMUNITY, OR (II) THE COMMIS-
24 SIONER FINDS THAT THERE ARE CONDITIONS WITHIN THE FACILITY THAT SERIOUS-
25 LY ENDANGER THE LIFE, HEALTH OR SAFETY OF RESIDENTS OR PATIENTS, THE
26 COMMISSIONER MAY APPOINT A TEMPORARY OPERATOR TO ASSUME SOLE CONTROL AND
27 SOLE RESPONSIBILITY FOR THE OPERATIONS OF THAT FACILITY. THE APPOINTMENT
28 OF THE TEMPORARY OPERATOR SHALL BE EFFECTUATED PURSUANT TO THIS SECTION
29 AND SHALL BE IN ADDITION TO ANY OTHER REMEDIES PROVIDED BY LAW.

30 (B) THE ESTABLISHED OPERATOR OF A FACILITY MAY AT ANY TIME REQUEST THE
31 COMMISSIONER TO APPOINT A TEMPORARY OPERATOR. UPON RECEIVING SUCH A
32 REQUEST, THE COMMISSIONER MAY, IF HE OR SHE DETERMINES THAT SUCH AN
33 ACTION IS NECESSARY TO RESTORE OR MAINTAIN THE PROVISION OF QUALITY CARE
34 TO THE RESIDENTS OR PATIENTS OR ALLEVIATE THE FACILITY'S FINANCIAL
35 INSTABILITY, ENTER INTO AN AGREEMENT WITH THE ESTABLISHED OPERATOR FOR
36 THE APPOINTMENT OF A TEMPORARY OPERATOR TO ASSUME SOLE CONTROL AND SOLE
37 RESPONSIBILITY FOR THE OPERATIONS OF THAT FACILITY.

38 3. (A) A TEMPORARY OPERATOR APPOINTED PURSUANT TO THIS SECTION SHALL,
39 PRIOR TO HIS OR HER APPOINTMENT AS TEMPORARY OPERATOR, PROVIDE THE
40 COMMISSIONER WITH A WORK PLAN SATISFACTORY TO THE COMMISSIONER TO
41 ADDRESS THE FACILITY'S DEFICIENCIES AND SERIOUS FINANCIAL INSTABILITY
42 AND A SCHEDULE FOR IMPLEMENTATION OF SUCH PLAN. A WORK PLAN SHALL NOT BE
43 REQUIRED PRIOR TO THE APPOINTMENT OF THE TEMPORARY OPERATOR PURSUANT TO
44 CLAUSE (II) OF PARAGRAPH (A) OF SUBDIVISION TWO OF THIS SECTION IF THE
45 COMMISSIONER HAS DETERMINED THAT THE IMMEDIATE APPOINTMENT OF A TEMPO-
46 RARY OPERATOR IS NECESSARY BECAUSE PUBLIC HEALTH OR SAFETY IS IN IMMI-
47 NENT DANGER OR THERE EXISTS ANY CONDITION OR PRACTICE OR A CONTINUING
48 PATTERN OF CONDITIONS OR PRACTICES WHICH POSES IMMINENT DANGER TO THE
49 HEALTH OR SAFETY OF ANY PATIENT OR RESIDENT OF THE FACILITY. WHERE SUCH
50 IMMEDIATE APPOINTMENT HAS BEEN FOUND TO BE NECESSARY, THE TEMPORARY
51 OPERATOR SHALL PROVIDE THE COMMISSIONER WITH A WORK PLAN SATISFACTORY TO
52 THE COMMISSIONER AS SOON AS PRACTICABLE.

53 (B) THE TEMPORARY OPERATOR SHALL USE HIS OR HER BEST EFFORTS TO IMPL-
54 MENT THE WORK PLAN PROVIDED TO THE COMMISSIONER, IF APPLICABLE, AND TO
55 CORRECT OR ELIMINATE ANY DEFICIENCIES OR FINANCIAL INSTABILITY IN THE
56 FACILITY AND TO PROMOTE THE QUALITY AND ACCESSIBILITY OF HEALTH CARE

1 SERVICES IN THE COMMUNITY SERVED BY THE FACILITY. SUCH CORRECTION OR
2 ELIMINATION OF DEFICIENCIES OR SERIOUS FINANCIAL INSTABILITY SHALL NOT
3 INCLUDE MAJOR ALTERATIONS OF THE PHYSICAL STRUCTURE OF THE FACILITY.
4 DURING THE TERM OF HIS OR HER APPOINTMENT, THE TEMPORARY OPERATOR SHALL
5 HAVE THE SOLE AUTHORITY TO DIRECT THE MANAGEMENT OF THE FACILITY IN ALL
6 ASPECTS OF OPERATION AND SHALL BE AFFORDED FULL ACCESS TO THE ACCOUNTS
7 AND RECORDS OF THE FACILITY. THE TEMPORARY OPERATOR SHALL, DURING THIS
8 PERIOD, OPERATE THE FACILITY IN SUCH A MANNER AS TO PROMOTE SAFETY AND
9 THE QUALITY AND ACCESSIBILITY OF HEALTH CARE SERVICES OR RESIDENTIAL
10 CARE IN THE COMMUNITY SERVED BY THE FACILITY. THE TEMPORARY OPERATOR
11 SHALL HAVE THE POWER TO LET CONTRACTS THEREFOR OR INCUR EXPENSES ON
12 BEHALF OF THE FACILITY, PROVIDED THAT WHERE INDIVIDUAL ITEMS OF REPAIRS,
13 IMPROVEMENTS OR SUPPLIES EXCEED TEN THOUSAND DOLLARS, THE TEMPORARY
14 OPERATOR SHALL OBTAIN PRICE QUOTATIONS FROM AT LEAST THREE REPUTABLE
15 SOURCES. THE TEMPORARY OPERATOR SHALL NOT BE REQUIRED TO FILE ANY BOND.
16 NO SECURITY INTEREST IN ANY REAL OR PERSONAL PROPERTY COMPRISING THE
17 FACILITY OR CONTAINED WITHIN THE FACILITY, OR IN ANY FIXTURE OF THE
18 FACILITY, SHALL BE IMPAIRED OR DIMINISHED IN PRIORITY BY THE TEMPORARY
19 OPERATOR. NEITHER THE TEMPORARY OPERATOR NOR THE DEPARTMENT SHALL ENGAGE
20 IN ANY ACTIVITY THAT CONSTITUTES A CONFISCATION OF PROPERTY WITHOUT THE
21 PAYMENT OF FAIR COMPENSATION.

22 4. THE TEMPORARY OPERATOR SHALL BE ENTITLED TO A REASONABLE FEE, AS
23 DETERMINED BY THE COMMISSIONER, AND NECESSARY EXPENSES INCURRED DURING
24 HIS OR HER PERFORMANCE AS TEMPORARY OPERATOR, TO BE PAID FROM THE REVEN-
25 UE OF THE FACILITY. THE TEMPORARY OPERATOR SHALL COLLECT INCOMING
26 PAYMENTS FROM ALL SOURCES AND APPLY THEM TO THE REASONABLE FEE AND TO
27 COSTS INCURRED IN THE PERFORMANCE OF HIS OR HER FUNCTIONS AS TEMPORARY
28 OPERATOR IN CORRECTING DEFICIENCIES AND CAUSES OF SERIOUS FINANCIAL
29 INSTABILITY. THE TEMPORARY OPERATOR SHALL BE LIABLE ONLY IN HIS OR HER
30 CAPACITY AS TEMPORARY OPERATOR FOR INJURY TO PERSON AND PROPERTY BY
31 REASON OF CONDITIONS OF THE FACILITY IN A CASE WHERE AN ESTABLISHED
32 OPERATOR WOULD HAVE BEEN LIABLE; HE OR SHE SHALL NOT HAVE ANY LIABILITY
33 IN HIS OR HER PERSONAL CAPACITY, EXCEPT FOR GROSS NEGLIGENCE AND INTEN-
34 TIONAL ACTS.

35 5. (A) THE INITIAL TERM OF THE APPOINTMENT OF THE TEMPORARY OPERATOR
36 SHALL NOT EXCEED ONE HUNDRED EIGHTY DAYS. AFTER ONE HUNDRED EIGHTY DAYS,
37 IF THE COMMISSIONER DETERMINES THAT TERMINATION OF THE TEMPORARY OPERA-
38 TOR WOULD CAUSE SIGNIFICANT DETERIORATION OF THE QUALITY OF, OR ACCESS
39 TO, HEALTH CARE OR RESIDENTIAL CARE IN THE COMMUNITY OR THAT REAPPOINT-
40 MENT IS NECESSARY TO CORRECT THE CONDITIONS WITHIN THE FACILITY THAT
41 SERIOUSLY ENDANGER THE LIFE, HEALTH OR SAFETY OF RESIDENTS OR PATIENTS,
42 OR THE FINANCIAL INSTABILITY THAT REQUIRED THE APPOINTMENT OF THE TEMPO-
43 RARY OPERATOR, THE COMMISSIONER MAY AUTHORIZE UP TO TWO ADDITIONAL NINE-
44 TY-DAY TERMS.

45 (B) UPON THE COMPLETION OF THE TWO NINETY-DAY TERMS REFERENCED IN
46 PARAGRAPH (A) OF THIS SUBDIVISION, IF THE COMMISSIONER DETERMINES THAT
47 THE TEMPORARY OPERATOR REQUIRES ADDITIONAL TERMS TO MEET THE OBJECTIVES
48 OF THE WORK PLAN SUBMITTED PURSUANT TO SUBDIVISION THREE OF THIS
49 SECTION, THE COMMISSIONER MAY REAPPOINT THE TEMPORARY OPERATOR FOR ADDI-
50 TIONAL NINETY-DAY TERMS, PROVIDED THAT THE COMMISSIONER SHALL PROVIDE
51 FOR NOTICE AND A HEARING AS SET FORTH IN SUBDIVISION SIX OF THIS SUBDI-
52 VISION.

53 (C) WITHIN FOURTEEN DAYS PRIOR TO THE TERMINATION OF EACH TERM OF THE
54 APPOINTMENT OF THE TEMPORARY OPERATOR, THE TEMPORARY OPERATOR SHALL
55 SUBMIT TO THE COMMISSIONER AND TO THE ESTABLISHED OPERATOR A REPORT
56 DESCRIBING:

1 (I) THE ACTIONS TAKEN DURING THE APPOINTMENT TO ADDRESS SUCH DEFICIEN-
2 CIES AND FINANCIAL INSTABILITY,

3 (II) OBJECTIVES FOR THE CONTINUATION OF THE TEMPORARY OPERATORSHIP IF
4 NECESSARY AND A SCHEDULE FOR SATISFACTION OF SUCH OBJECTIVES, AND

5 (III) RECOMMENDED ACTIONS FOR THE ONGOING OPERATION OF THE FACILITY
6 SUBSEQUENT TO THE TERM OF THE TEMPORARY OPERATOR. THE REPORT SHALL
7 REFLECT BEST EFFORTS TO PRODUCE A FULL AND COMPLETE ACCOUNTING.

8 (D) THE TERM OF THE INITIAL APPOINTMENT AND OF ANY SUBSEQUENT REAP-
9 POINTMENT MAY BE TERMINATED PRIOR TO THE EXPIRATION OF THE DESIGNATED
10 TERM, IF THE ESTABLISHED OPERATOR AND THE COMMISSIONER AGREE ON A PLAN
11 OF CORRECTION AND THE IMPLEMENTATION OF SUCH PLAN.

12 6. (A) THE COMMISSIONER, UPON MAKING A DETERMINATION TO APPOINT A
13 TEMPORARY OPERATOR PURSUANT TO PARAGRAPH (A) OF SUBDIVISION TWO OF THIS
14 SECTION SHALL, PRIOR TO THE COMMENCEMENT OF THE APPOINTMENT, CAUSE THE
15 ESTABLISHED OPERATOR OF THE FACILITY TO BE NOTIFIED OF THE DETERMINATION
16 BY REGISTERED OR CERTIFIED MAIL ADDRESSED TO THE PRINCIPAL OFFICE OF THE
17 ESTABLISHED OPERATOR. SUCH NOTIFICATION SHALL INCLUDE A DETAILED
18 DESCRIPTION OF THE FINDINGS UNDERLYING THE DETERMINATION TO APPOINT A
19 TEMPORARY OPERATOR, AND THE DATE AND TIME OF A REQUIRED MEETING WITH THE
20 COMMISSIONER AND/OR HIS OR HER DESIGNEE WITHIN TEN BUSINESS DAYS OF THE
21 DATE OF SUCH NOTICE. AT SUCH MEETING, THE ESTABLISHED OPERATOR SHALL
22 HAVE THE OPPORTUNITY TO REVIEW AND DISCUSS ALL RELEVANT FINDINGS. AT
23 SUCH MEETING OR WITHIN TEN ADDITIONAL BUSINESS DAYS, THE COMMISSIONER
24 AND THE ESTABLISHED OPERATOR SHALL ATTEMPT TO DEVELOP A MUTUALLY SATIS-
25 FACTORY PLAN OF CORRECTION AND SCHEDULE FOR IMPLEMENTATION. IN THE EVENT
26 SUCH PLAN OF CORRECTION IS AGREED UPON, THE COMMISSIONER SHALL NOTIFY
27 THE ESTABLISHED OPERATOR THAT THE COMMISSIONER NO LONGER INTENDS TO
28 APPOINT A TEMPORARY OPERATOR. A MEETING SHALL NOT BE REQUIRED PRIOR TO
29 THE APPOINTMENT OF THE TEMPORARY OPERATOR PURSUANT TO CLAUSE (II) OF
30 PARAGRAPH (A) OF SUBDIVISION TWO OF THIS SECTION IF THE COMMISSIONER HAS
31 DETERMINED THAT THE IMMEDIATE APPOINTMENT OF A TEMPORARY OPERATOR IS
32 NECESSARY BECAUSE PUBLIC HEALTH OR SAFETY IS IN IMMINENT DANGER OR THERE
33 EXISTS ANY CONDITION OR PRACTICE OR A CONTINUING PATTERN OF CONDITIONS
34 OR PRACTICES WHICH POSES IMMINENT DANGER TO THE HEALTH OR SAFETY OF ANY
35 PATIENT OR RESIDENT OF THE FACILITY. WHERE SUCH IMMEDIATE APPOINTMENT
36 HAS BEEN FOUND TO BE NECESSARY, THE COMMISSIONER SHALL PROVIDE THE
37 ESTABLISHED OPERATOR WITH A NOTICE AS REQUIRED UNDER THIS PARAGRAPH ON
38 THE DATE OF THE APPOINTMENT OF THE TEMPORARY OPERATOR.

39 (B) SHOULD THE COMMISSIONER AND THE ESTABLISHED OPERATOR BE UNABLE TO
40 ESTABLISH A PLAN OF CORRECTION PURSUANT TO PARAGRAPH (A) OF THIS SUBDI-
41 VISION, OR SHOULD THE ESTABLISHED OPERATOR FAIL TO RESPOND TO THE
42 COMMISSIONER'S INITIAL NOTIFICATION, A TEMPORARY OPERATOR SHALL BE
43 APPOINTED AS SOON AS IS PRACTICABLE AND SHALL OPERATE PURSUANT TO THE
44 PROVISIONS OF THIS SECTION.

45 (C) THE ESTABLISHED OPERATOR SHALL BE AFFORDED AN OPPORTUNITY FOR AN
46 ADMINISTRATIVE HEARING ON THE COMMISSIONER'S DETERMINATION TO APPOINT A
47 TEMPORARY OPERATOR. SUCH ADMINISTRATIVE HEARING SHALL OCCUR PRIOR TO
48 SUCH APPOINTMENT, EXCEPT THAT THE HEARING SHALL NOT BE REQUIRED PRIOR TO
49 THE APPOINTMENT OF THE TEMPORARY OPERATOR PURSUANT TO CLAUSE (II) OF
50 PARAGRAPH (A) OF SUBDIVISION TWO OF THIS SECTION IF THE COMMISSIONER HAS
51 DETERMINED THAT THE IMMEDIATE APPOINTMENT OF A TEMPORARY OPERATOR IS
52 NECESSARY BECAUSE PUBLIC HEALTH OR SAFETY IS IN IMMINENT DANGER OR THERE
53 EXISTS ANY CONDITION OR PRACTICE OR A CONTINUING PATTERN OF CONDITIONS
54 OR PRACTICES WHICH POSES IMMINENT DANGER TO THE HEALTH OR SAFETY OF ANY
55 PATIENT OR RESIDENT OF THE FACILITY. AN ADMINISTRATIVE HEARING AS
56 PROVIDED FOR UNDER THIS PARAGRAPH SHALL BEGIN NO LATER THAN SIXTY DAYS

1 FROM THE DATE OF THE NOTICE TO THE ESTABLISHED OPERATOR AND SHALL NOT BE
2 EXTENDED WITHOUT THE CONSENT OF BOTH PARTIES. ANY SUCH HEARING SHALL BE
3 STRICTLY LIMITED TO THE ISSUE OF WHETHER THE DETERMINATION OF THE
4 COMMISSIONER TO APPOINT A TEMPORARY OPERATOR IS SUPPORTED BY SUBSTANTIAL
5 EVIDENCE. A COPY OF THE DECISION SHALL BE SENT TO THE ESTABLISHED OPERA-
6 TOR.

7 (D) THE COMMISSIONER SHALL, UPON MAKING A DETERMINATION TO REAPPOINT A
8 TEMPORARY OPERATOR FOR THE FIRST OF AN ADDITIONAL NINETY-DAY TERM PURSU-
9 ANT TO PARAGRAPH (A) OF SUBDIVISION FIVE OF THIS SECTION, CAUSE THE
10 ESTABLISHED OPERATOR OF THE FACILITY TO BE NOTIFIED OF THE DETERMINATION
11 BY REGISTERED OR CERTIFIED MAIL ADDRESSED TO THE PRINCIPAL OFFICE OF THE
12 ESTABLISHED OPERATOR. IF THE COMMISSIONER DETERMINES THAT ADDITIONAL
13 REAPPOINTMENTS PURSUANT TO PARAGRAPH (B) OF SUBDIVISION FIVE OF THIS
14 SECTION ARE REQUIRED, THE COMMISSIONER SHALL AGAIN CAUSE THE ESTABLISHED
15 OPERATOR OF THE FACILITY TO BE NOTIFIED OF SUCH DETERMINATION BY REGIS-
16 TERED OR CERTIFIED MAIL ADDRESSED TO THE PRINCIPAL OFFICE OF THE ESTAB-
17 LISHED OPERATOR AT THE COMMENCEMENT OF THE FIRST OF EVERY TWO ADDITIONAL
18 TERMS. UPON RECEIPT OF SUCH NOTIFICATION AT THE PRINCIPAL OFFICE OF THE
19 ESTABLISHED OPERATOR AND BEFORE THE EXPIRATION OF TEN DAYS THEREAFTER,
20 THE ESTABLISHED OPERATOR MAY REQUEST AN ADMINISTRATIVE HEARING ON THE
21 DETERMINATION TO BEGIN NO LATER THAN SIXTY DAYS FROM THE DATE OF THE
22 REAPPOINTMENT OF THE TEMPORARY OPERATOR. ANY SUCH HEARING SHALL BE
23 STRICTLY LIMITED TO THE ISSUE OF WHETHER THE DETERMINATION OF THE
24 COMMISSIONER TO REAPPOINT THE TEMPORARY OPERATOR IS SUPPORTED BY
25 SUBSTANTIAL EVIDENCE.

26 7. NO PROVISION CONTAINED IN THIS SECTION SHALL BE DEEMED TO RELIEVE
27 THE ESTABLISHED OPERATOR OR ANY OTHER PERSON OF ANY CIVIL OR CRIMINAL
28 LIABILITY INCURRED, OR ANY DUTY IMPOSED BY LAW, BY REASON OF ACTS OR
29 OMISSIONS OF THE ESTABLISHED OPERATOR OR ANY OTHER PERSON PRIOR TO THE
30 APPOINTMENT OF ANY TEMPORARY OPERATOR HEREUNDER; NOR SHALL ANYTHING
31 CONTAINED IN THIS SECTION BE CONSTRUED TO SUSPEND DURING THE TERM OF THE
32 APPOINTMENT OF THE TEMPORARY OPERATOR ANY OBLIGATION OF THE ESTABLISHED
33 OPERATOR OR ANY OTHER PERSON FOR THE PAYMENT OF TAXES OR OTHER OPERATING
34 AND MAINTENANCE EXPENSES OF THE FACILITY NOR OF THE ESTABLISHED OPERATOR
35 OR ANY OTHER PERSON FOR THE PAYMENT OF MORTGAGES OR LIENS.

36 S 51. The mental hygiene law is amended by adding a new section 32.20
37 to read as follows:

38 S 32.20 TEMPORARY OPERATOR. 1. FOR THE PURPOSES OF THIS SECTION:

39 (A) "CHEMICAL DEPENDENCE TREATMENT PROGRAM" SHALL MEAN A PROGRAM
40 CERTIFIED PURSUANT TO SECTION 32.05 OF THIS ARTICLE;

41 (B) "ESTABLISHED OPERATOR" SHALL MEAN THE OPERATOR OF A CHEMICAL
42 DEPENDENCE TREATMENT PROGRAM THAT HAS BEEN ESTABLISHED AND ISSUED AN
43 OPERATING CERTIFICATE PURSUANT TO SECTION 32.05 OF THIS ARTICLE;

44 (C) "TEMPORARY OPERATOR" SHALL MEAN ANY OASAS STAFF MEMBER, PERSON OR
45 ENTITY THAT:

46 (I) AGREES TO OPERATE A PROGRAM ON A TEMPORARY BASIS IN THE BEST
47 INTERESTS OF ITS PATIENTS AND THE COMMUNITY SERVED BY THE PROGRAM;

48 (II) HAS DEMONSTRATED THAT HE OR SHE HAS THE CHARACTER, COMPETENCE AND
49 ABILITY TO OPERATE AN OASAS-CERTIFIED PROGRAM IN COMPLIANCE WITH APPLI-
50 CABLE STANDARDS; AND

51 (III) PRIOR TO HIS OR HER APPOINTMENT AS TEMPORARY OPERATOR, DEVELOPS
52 WITH GUIDANCE FROM THE COMMISSIONER A SATISFACTORY PLAN TO ADDRESS THE
53 PROGRAM'S DEFICIENCIES;

54 (D) "SERIOUS FINANCIAL INSTABILITY" SHALL INCLUDE BUT NOT BE LIMITED
55 TO DEFAULTING OR VIOLATING KEY COVENANTS OF BOND ISSUES, MISSED MORTGAGE
56 PAYMENTS, GENERAL UNTIMELY PAYMENT OF DEBTS, FAILURE TO PAY ITS EMPLOY-

1 EES OR VENDORS, INSUFFICIENT FUNDS TO MEET THE GENERAL OPERATING
2 EXPENSES OF THE PROGRAM AND/OR FACILITY, FAILURE TO MAINTAIN REQUIRED
3 DEBT SERVICE COVERAGE RATIOS AND/OR, AS APPLICABLE, FACTORS THAT HAVE
4 TRIGGERED A WRITTEN EVENT OF DEFAULT NOTICE TO THE OFFICE BY THE DORMI-
5 TORY AUTHORITY OF THE STATE OF NEW YORK; AND

6 (E) "EXTRAORDINARY FINANCIAL ASSISTANCE" SHALL MEAN STATE FUNDS
7 PROVIDED TO, OR REQUESTED BY, A PROGRAM FOR THE EXPRESS PURPOSE OF
8 PREVENTING THE CLOSURE OF THE PROGRAM THAT THE COMMISSIONER FINDS
9 PROVIDES ESSENTIAL AND NECESSARY SERVICES WITHIN THE COMMUNITY.

10 2. (A) IN THE EVENT THAT: (I) THE OFFICE IMPOSED A PENALTY ON A
11 PROGRAM WITHIN THE PRIOR TWELVE MONTHS; (II) THE PROGRAM IS SEEKING
12 EXTRAORDINARY FINANCIAL ASSISTANCE; (III) OFFICE COLLECTED DATA INDI-
13 CATES THAT THE PROGRAM IS EXPERIENCING SERIOUS FINANCIAL INSTABILITY
14 ISSUES; (IV) OFFICE COLLECTED DATA INDICATES THAT THE PROGRAM'S BOARD OF
15 DIRECTORS OR ADMINISTRATION ARE UNABLE OR UNWILLING TO ENSURE THE PROPER
16 OPERATION OF THE PROGRAM; (V) THE PROGRAM HAS VIOLATED THE TERMS OF ITS
17 CONTRACT WITH THE STATE; OR (VI) OFFICE COLLECTED DATA INDICATES THERE
18 ARE CONDITIONS THAT SERIOUSLY ENDANGER OR JEOPARDIZE CONTINUED ACCESS TO
19 NECESSARY CHEMICAL DEPENDENCE TREATMENT SERVICES WITHIN THE COMMUNITY,
20 THE COMMISSIONER SHALL NOTIFY THE ESTABLISHED OPERATOR OF HIS OR HER
21 INTENTION TO APPOINT A TEMPORARY OPERATOR TO ASSUME SOLE RESPONSIBILITY
22 FOR THE PROGRAM'S TREATMENT OPERATIONS OF THAT FACILITY FOR A LIMITED
23 PERIOD OF TIME. THE APPOINTMENT OF A TEMPORARY OPERATOR SHALL BE EFFEC-
24 TUATED PURSUANT TO THIS SECTION, AND SHALL BE IN ADDITION TO ANY OTHER
25 REMEDIES PROVIDED BY LAW.

26 (B) THE ESTABLISHED OPERATOR OF A PROGRAM MAY AT ANY TIME REQUEST THE
27 COMMISSIONER TO APPOINT A TEMPORARY OPERATOR. UPON RECEIVING SUCH A
28 REQUEST, THE COMMISSIONER MAY, IF HE OR SHE DETERMINES THAT SUCH AN
29 ACTION IS NECESSARY, ENTER INTO AN AGREEMENT WITH THE ESTABLISHED OPERA-
30 TOR FOR THE APPOINTMENT OF A TEMPORARY OPERATOR TO RESTORE OR MAINTAIN
31 THE PROVISION OF QUALITY CARE TO THE PATIENTS UNTIL THE ESTABLISHED
32 OPERATOR CAN RESUME OPERATIONS WITHIN THE DESIGNATED TIME PERIOD; THE
33 PATIENTS MAY BE TRANSFERRED TO OTHER OASAS-CERTIFIED PROVIDERS; OR THE
34 PROGRAM OPERATIONS OF THAT FACILITY SHOULD BE COMPLETELY DISCONTINUED.

35 3. (A) A TEMPORARY OPERATOR APPOINTED PURSUANT TO THIS SECTION SHALL
36 USE HIS OR HER BEST EFFORTS TO IMPLEMENT THE PLAN DEVELOPED WITH THE
37 GUIDANCE OF THE COMMISSIONER TO CORRECT OR ELIMINATE ANY DEFICIENCIES IN
38 THE PROGRAM AND TO PROMOTE THE QUALITY AND ACCESSIBILITY OF CHEMICAL
39 DEPENDENCE TREATMENT SERVICES IN THE COMMUNITY SERVED BY THE PROGRAM.

40 (B) IF THE IDENTIFIED PROGRAM DEFICIENCIES CANNOT BE ADDRESSED IN THE
41 TIME PERIOD DESIGNATED IN THE PLAN, THE PATIENTS SHALL BE TRANSFERRED TO
42 OTHER OASAS-CERTIFIED PROVIDERS.

43 (C) DURING THE TERM OF HIS OR HER APPOINTMENT, THE TEMPORARY OPERATOR
44 SHALL HAVE THE AUTHORITY TO DIRECT THE PROGRAM STAFF OF THE FACILITY IN
45 ALL ASPECTS NECESSARY TO APPROPRIATELY TREAT AND/OR TRANSFER THE
46 PATIENTS. THE TEMPORARY OPERATOR SHALL, DURING THIS PERIOD, OPERATE THE
47 PROGRAM IN SUCH A MANNER AS TO PROMOTE SAFETY AND THE QUALITY AND ACCES-
48 SIBILITY OF CHEMICAL DEPENDENCE TREATMENT SERVICES IN THE COMMUNITY
49 SERVED BY THE FACILITY UNTIL EITHER THE ESTABLISHED OPERATOR CAN RESUME
50 PROGRAM OPERATIONS OR UNTIL THE PATIENTS ARE APPROPRIATELY TRANSFERRED
51 TO OTHER OASAS-CERTIFIED PROVIDERS.

52 (D) THE TEMPORARY OPERATOR SHALL NOT BE REQUIRED TO FILE ANY BOND. NO
53 SECURITY INTEREST IN ANY REAL OR PERSONAL PROPERTY COMPRISING THE FACIL-
54 ITY OR CONTAINED WITHIN THE FACILITY OR IN ANY FIXTURE OF THE FACILITY,
55 SHALL BE IMPAIRED OR DIMINISHED IN PRIORITY BY THE TEMPORARY OPERATOR.

1 NEITHER THE TEMPORARY OPERATOR NOR THE OFFICE SHALL ENGAGE IN ANY ACTIV-
2 ITY THAT CONSTITUTES A CONFISCATION OF PROPERTY.

3 4. THE TEMPORARY OPERATOR SHALL BE ENTITLED TO A REASONABLE FEE, AS
4 DETERMINED BY THE COMMISSIONER, AND NECESSARY EXPENSES INCURRED DURING
5 HIS OR HER PERFORMANCE AS TEMPORARY OPERATOR. THE TEMPORARY OPERATOR
6 SHALL BE LIABLE ONLY IN HIS OR HER CAPACITY AS TEMPORARY OPERATOR OF THE
7 PROGRAM FOR INJURY TO PERSON AND PROPERTY BY REASON OF HIS OR HER OPERA-
8 TION OF SUCH PROGRAM; HE OR SHE SHALL NOT HAVE ANY LIABILITY IN HIS OR
9 HER PERSONAL CAPACITY, EXCEPT FOR GROSS NEGLIGENCE AND INTENTIONAL ACTS.

10 5. (A) THE INITIAL TERM OF THE APPOINTMENT OF THE TEMPORARY OPERATOR
11 SHALL NOT EXCEED NINETY DAYS. AFTER NINETY DAYS, IF THE COMMISSIONER
12 DETERMINES THAT TERMINATION OF THE TEMPORARY OPERATOR WOULD CAUSE
13 SIGNIFICANT DETERIORATION OF THE QUALITY OF, OR ACCESS TO, HEALTH CARE
14 IN THE COMMUNITY OR THAT REAPPOINTMENT IS NECESSARY TO CORRECT THE DEFICI-
15 CIENCIES THAT REQUIRED THE APPOINTMENT OF THE TEMPORARY OPERATOR, THE
16 COMMISSIONER MAY AUTHORIZE AN ADDITIONAL NINETY-DAY TERM. HOWEVER, SUCH
17 AUTHORIZATION SHALL INCLUDE THE COMMISSIONER'S REQUIREMENTS FOR CONCLU-
18 SION OF THE TEMPORARY OPERATORSHIP TO BE SATISFIED WITHIN THE ADDITIONAL
19 TERM.

20 (B) WITHIN FOURTEEN DAYS PRIOR TO THE TERMINATION OF EACH TERM OF THE
21 APPOINTMENT OF THE TEMPORARY OPERATOR, THE TEMPORARY OPERATOR SHALL
22 SUBMIT TO THE COMMISSIONER AND TO THE ESTABLISHED OPERATOR A REPORT
23 DESCRIBING:

24 (I) THE ACTIONS TAKEN DURING THE APPOINTMENT TO ADDRESS: THE IDENTI-
25 FIED PROGRAM DEFICIENCIES; THE RESUMPTION OF PROGRAM OPERATIONS BY THE
26 ESTABLISHED OPERATOR; OR THE TRANSFER OF THE PATIENTS TO OTHER
27 OASAS-CERTIFIED PROVIDERS;

28 (II) OBJECTIVES FOR THE CONTINUATION OF THE TEMPORARY OPERATORSHIP IF
29 NECESSARY AND A SCHEDULE FOR SATISFACTION OF SUCH OBJECTIVES; AND

30 (III) IF APPLICABLE, THE RECOMMENDED ACTIONS FOR THE ONGOING OPERATION
31 OF THE PROGRAM SUBSEQUENT TO THE TEMPORARY OPERATORSHIP.

32 (C) THE TERM OF THE INITIAL APPOINTMENT AND OF ANY SUBSEQUENT REAP-
33 POINTMENT MAY BE TERMINATED PRIOR TO THE EXPIRATION OF THE DESIGNATED
34 TERM, IF THE ESTABLISHED OPERATOR AND THE COMMISSIONER AGREE ON A PLAN
35 OF CORRECTION AND THE IMPLEMENTATION OF SUCH PLAN.

36 6. (A) THE COMMISSIONER SHALL, UPON MAKING A DETERMINATION OF AN
37 INTENTION TO APPOINT A TEMPORARY OPERATOR PURSUANT TO PARAGRAPH (A) OF
38 SUBDIVISION TWO OF THIS SECTION CAUSE THE ESTABLISHED OPERATOR OF THE
39 FACILITY TO BE NOTIFIED OF THE INTENTION BY REGISTERED OR CERTIFIED MAIL
40 ADDRESSED TO THE PRINCIPAL OFFICE OF THE ESTABLISHED OPERATOR. SUCH
41 NOTIFICATION SHALL INCLUDE A DETAILED DESCRIPTION OF THE FINDINGS UNDER-
42 LYING THE INTENTION TO APPOINT A TEMPORARY OPERATOR, AND THE DATE AND
43 TIME OF A REQUIRED MEETING WITH THE COMMISSIONER AND/OR HIS OR HER
44 DESIGNEE WITHIN TEN BUSINESS DAYS OF THE RECEIPT OF SUCH NOTICE. AT SUCH
45 MEETING, THE ESTABLISHED OPERATOR SHALL HAVE THE OPPORTUNITY TO REVIEW
46 AND DISCUSS ALL RELEVANT FINDINGS. AT SUCH MEETING, THE COMMISSIONER AND
47 THE ESTABLISHED OPERATOR SHALL ATTEMPT TO DEVELOP A MUTUALLY SATISFAC-
48 TORY PLAN OF CORRECTION AND SCHEDULE FOR IMPLEMENTATION. IN SUCH EVENT,
49 THE COMMISSIONER SHALL NOTIFY THE ESTABLISHED OPERATOR THAT THE COMMISS-
50 SIONER WILL ABSTAIN FROM APPOINTING A TEMPORARY OPERATOR CONTINGENT UPON
51 THE ESTABLISHED OPERATOR REMEDIATING THE IDENTIFIED DEFICIENCIES WITHIN
52 THE AGREED UPON TIMEFRAME.

53 (B) SHOULD THE COMMISSIONER AND THE ESTABLISHED OPERATOR BE UNABLE TO
54 ESTABLISH A PLAN OF CORRECTION PURSUANT TO PARAGRAPH (A) OF THIS SUBDI-
55 VISION, OR SHOULD THE ESTABLISHED OPERATOR FAIL TO RESPOND TO THE
56 COMMISSIONER'S INITIAL NOTIFICATION, THERE SHALL BE AN ADMINISTRATIVE

1 HEARING ON THE COMMISSIONER'S DETERMINATION TO APPOINT A TEMPORARY OPER-
2 ATOR TO BEGIN NO LATER THAN THIRTY DAYS FROM THE DATE OF THE NOTICE TO
3 THE ESTABLISHED OPERATOR. ANY SUCH HEARING SHALL BE STRICTLY LIMITED TO
4 THE ISSUE OF WHETHER THE DETERMINATION OF THE COMMISSIONER TO APPOINT A
5 TEMPORARY OPERATOR IS SUPPORTED BY SUBSTANTIAL EVIDENCE. A COPY OF THE
6 DECISION SHALL BE SENT TO THE ESTABLISHED OPERATOR.

7 (C) IF THE DECISION TO APPOINT A TEMPORARY OPERATOR IS UPHELD SUCH
8 TEMPORARY OPERATOR SHALL BE APPOINTED AS SOON AS IS PRACTICABLE AND
9 SHALL OPERATE THE PROGRAM PURSUANT TO THE PROVISIONS OF THIS SECTION.

10 7. NOTWITHSTANDING THE APPOINTMENT OF A TEMPORARY OPERATOR, THE ESTAB-
11 LISHED OPERATOR REMAINS OBLIGATED FOR THE CONTINUED OPERATION OF THE
12 FACILITY SO THAT THE PROGRAM CAN FUNCTION IN A NORMAL MANNER. NO
13 PROVISION CONTAINED IN THIS SECTION SHALL BE DEEMED TO RELIEVE THE
14 ESTABLISHED OPERATOR OR ANY OTHER PERSON OF ANY CIVIL OR CRIMINAL
15 LIABILITY INCURRED, OR ANY DUTY IMPOSED BY LAW, BY REASON OF ACTS OR
16 OMISSIONS OF THE ESTABLISHED OPERATOR OR ANY OTHER PERSON PRIOR TO THE
17 APPOINTMENT OF ANY TEMPORARY OPERATOR OF THE PROGRAM HEREUNDER; NOR
18 SHALL ANYTHING CONTAINED IN THIS SECTION BE CONSTRUED TO SUSPEND DURING
19 THE TERM OF THE APPOINTMENT OF THE TEMPORARY OPERATOR OF THE PROGRAM ANY
20 OBLIGATION OF THE ESTABLISHED OPERATOR OR ANY OTHER PERSON FOR THE MAIN-
21 TENANCE AND REPAIR OF THE FACILITY, PROVISION OF UTILITY SERVICES,
22 PAYMENT OF TAXES OR OTHER OPERATING AND MAINTENANCE EXPENSES OF THE
23 FACILITY, NOR OF THE ESTABLISHED OPERATOR OR ANY OTHER PERSON FOR THE
24 PAYMENT OF MORTGAGES OR LIENS.

25 S 52. Section 3000 of the public health law, as amended by chapter 804
26 of the laws of 1992, is amended to read as follows:

27 S 3000. Declaration of policy and statement of purpose. The furnishing
28 of medical assistance in an emergency AND NON-EMERGENCY SITUATION is a
29 matter of vital concern affecting the public health, safety and welfare.
30 Prehospital emergency medical care, the provision of prompt and effec-
31 tive communication among ambulances, ADVANCED LIFE SUPPORT SERVICES and
32 hospitals and safe and effective care and transportation of the sick and
33 injured are essential public health services.

34 It is the purpose of this article to promote [the] public health AND
35 WELLNESS, safety and welfare by providing for certification of all
36 advanced life support first response services and ambulance services;
37 the creation of regional emergency medical services [councils] ADVISORY
38 BOARDS; and a New York state emergency medical services [council] ADVI-
39 SORY BOARD to [develop] ADVISE THE DEPARTMENT AND THE COMMISSIONER IN
40 THE DEVELOPMENT OF minimum training standards for certified first
41 responders, emergency medical technicians and advanced emergency medical
42 technicians and minimum equipment and communication standards for
43 advanced life support first response services and ambulance services.

44 S 53. Subdivision 2 and paragraphs (a), (c) and (e) of subdivision 3
45 of section 3000-b of the public health law, subdivision 2 as amended by
46 chapter 583 of the laws of 1999, paragraph (a) of subdivision 3 as
47 amended by chapter 243 of the laws of 2010 and paragraphs (c) and (e) of
48 subdivision 3 as added by chapter 552 of the laws of 1998, are amended
49 to read as follows:

50 2. Collaborative agreement. A person, firm, organization or other
51 entity may purchase, acquire, possess and operate an automated external
52 defibrillator pursuant to a collaborative agreement with an emergency
53 health care provider. The collaborative agreement shall include a writ-
54 ten agreement and written practice protocols, and policies and proce-
55 dures that shall assure compliance with this section. The public access
56 defibrillation provider shall file a copy of the collaborative agreement

1 with the department and with the appropriate regional [council] BOARD
2 prior to operating the automated external defibrillator.

3 (a) No person may operate an automated external defibrillator unless
4 the person has successfully completed a training course in the operation
5 of an automated external defibrillator approved by a nationally-recog-
6 nized organization or the [state emergency medical services council]
7 COMMISSIONER AND THE COMPLETION OF THE COURSE WAS RECENT ENOUGH TO STILL
8 BE EFFECTIVE UNDER THE STANDARDS OF THE APPROVING ORGANIZATION. Howev-
9 er, this section shall not prohibit operation of an automated external
10 defibrillator, (i) by a health care practitioner licensed or certified
11 under title VIII of the education law or a person certified under this
12 article acting within his or her lawful scope of practice; (ii) by a
13 person acting pursuant to a lawful prescription; or (iii) by a person
14 who operates the automated external defibrillator other than as part of
15 or incidental to his or her employment or regular duties, who is acting
16 in good faith, with reasonable care, and without expectation of monetary
17 compensation, to provide first aid that includes operation of an auto-
18 mated external defibrillator; nor shall this section limit any good
19 samaritan protections provided in section three thousand-a of this arti-
20 cle.

21 (c) The public access defibrillation provider shall notify the APPRO-
22 PRIATE regional [council] BOARD of the existence, location and type of
23 any automated external defibrillator it possesses.

24 (e) The emergency health care provider shall participate in the
25 regional quality improvement program pursuant to subdivision one of
26 section three thousand [four-a] FOUR of this article.

27 S 54. Subdivision 2 and paragraph (a) of subdivision 3 of section
28 3000-c of the public health law, as added by chapter 578 of the laws of
29 1999, are amended to read as follows:

30 2. Collaborative agreement. Any eligible person, firm, organization or
31 other entity may purchase, acquire, possess and use epinephrine auto-in-
32 jector devices pursuant to a collaborative agreement with an emergency
33 health care provider. The collaborative agreement shall include a writ-
34 ten agreement that incorporates written practice protocols, and policies
35 and procedures that shall ensure compliance with the provisions of this
36 section. The person, firm, organization or entity shall file a copy of
37 the collaborative agreement with the department and with the appropriate
38 regional [council] BOARD prior to using any epinephrine auto-injector
39 device.

40 (a) No person shall use an epinephrine auto-injector device unless
41 such person shall have successfully completed a training course in the
42 use of epinephrine auto-injector devices approved by the commissioner
43 [pursuant to the rules of the department]. This section does not prohib-
44 it the use of an epinephrine auto-injector device (i) by a health care
45 practitioner licensed or certified under title eight of the education
46 law acting within the scope of his or her practice, or (ii) by a person
47 acting pursuant to a lawful prescription.

48 S 55. Section 3001 of the public health law, as amended by chapter 804
49 of the laws of 1992, subdivisions 13 and 15 as amended by chapter 445 of
50 the laws of 1993, is amended to read as follows:

51 S 3001. Definitions. As used in this article, unless the context
52 otherwise requires:

53 1. "Emergency medical service" means initial emergency AND OUT OF
54 HOSPITAL medical assistance including, but not limited to, the treatment
55 of trauma, burns, respiratory, circulatory [and], obstetrical emergen-
56 cies AND RESPONSE IN DISASTERS.

1 1-A. "PEDIATRIC CARE" MEANS MEDICAL CARE PROVIDED TO NEONATES,
2 INFANTS, TODDLERS, PRESCHOOLERS, SCHOOL AGERS AND ADOLESCENTS.

3 1-B. "TRAUMA CARE" MEANS HEALTH CARE PROVIDED TO PATIENTS AT HIGH RISK
4 OF DEATH OR DISABILITY FROM MULTIPLE AND SEVERE INJURIES.

5 1-C. "DISASTER CARE" MEANS CARE PROVIDED TO PATIENTS WHO ARE THE
6 VICTIMS OF NATURAL OR MAN-MADE DISASTERS, INCLUDING BUT NOT LIMITED TO
7 BIOLOGIC, NUCLEAR, INCENDIARY, CHEMICAL AND EXPLOSIVE DISASTERS.

8 2. "Ambulance service" means an individual, partnership, association,
9 corporation, municipality or any legal or public entity or subdivision
10 thereof engaged in providing emergency AND OUT OF HOSPITAL medical care
11 and the transportation of sick or injured persons by motor vehicle,
12 aircraft or other forms of transportation to, from, or between general
13 hospitals or other health care facilities.

14 3. "Voluntary ambulance service" means an ambulance service (i) oper-
15 ating not for pecuniary profit or financial gain, and (ii) no part of
16 the assets or income of which is distributable to, or enures to the
17 benefit of, its members, directors or officers except to the extent
18 permitted under this article.

19 4. "Voluntary advanced life support first response service" means
20 advanced life support first response service (i) operating not for pecu-
21 niary profit or financial gain, and (ii) no part of the assets or income
22 of which is distributable to, or enures to the benefit of, its members,
23 directors or officers except to the extent permitted under this article.

24 5. "Certified first responder" means an individual who meets the mini-
25 mum TRAINING, EDUCATION AND CERTIFICATION requirements established by
26 [regulations pursuant to section three thousand two of this article] THE
27 COMMISSIONER and who is responsible for administration of initial life
28 saving care of sick and injured persons.

29 6. "Emergency medical technician" means an individual who meets the
30 minimum TRAINING, EDUCATION AND CERTIFICATION requirements established
31 by [regulations pursuant to section three thousand two of this article]
32 THE COMMISSIONER and who is responsible for administration or super-
33 vision of initial emergency medical care and transportation of sick or
34 injured persons.

35 7. "Advanced emergency medical technician" means an emergency medical
36 technician who [has satisfactorily completed an advanced course of
37 training approved by the state council under regulations pursuant to
38 section three thousand two of this article] MEETS THE MINIMUM TRAINING,
39 EDUCATION AND CERTIFICATION REQUIREMENTS ESTABLISHED BY THE COMMISSIONER
40 AND WHO IS RESPONSIBLE FOR ADMINISTRATION OR SUPERVISION OF ADVANCED
41 EMERGENCY AND OUT OF HOSPITAL MEDICAL CARE AND TRANSPORTATION OF SICK OR
42 INJURED PERSONS.

43 7-A. "PARAMEDIC" MEANS AN INDIVIDUAL THAT MEETS THE MINIMUM TRAINING,
44 EDUCATION AND CERTIFICATION REQUIREMENTS ESTABLISHED BY THE COMMISSIONER
45 AND WHO IS RESPONSIBLE FOR ADMINISTRATION OR SUPERVISION OF ADVANCED
46 EMERGENCY CARE, OUT OF HOSPITAL MEDICAL CARE AND TRANSPORTATION OF SICK
47 OR INJURED PERSONS.

48 8. "State [council] BOARD" means the New York state emergency medical
49 services [council] ADVISORY BOARD established pursuant to this article.

50 9. "Regional [council] BOARD" means a regional emergency medical
51 services [council] ADVISORY BOARD established pursuant to this article.

52 10. "Enrolled member" means any member of a voluntary ambulance
53 service or voluntary advanced life support first response service who
54 provides emergency medical care or transportation of sick or injured
55 persons without expectation of monetary compensation.

1 11. "Advanced life support care" means definitive acute medical care
2 provided, under medical control, by advanced emergency medical techni-
3 cians within an advanced life support system.

4 12. "Advanced life support system" means an organized acute medical
5 care system to provide advanced life support care on site or en route
6 to, from, or between general hospitals or other health care facilities.

7 13. "Advanced life support mobile unit" means an ambulance or advanced
8 life support first response vehicle approved to provide advanced life
9 support services pursuant to this article.

10 14. "Qualified medical and health personnel" means physicians, regis-
11 tered professional nurses and advanced emergency medical technicians
12 competent in the management of patients requiring advanced life support
13 care.

14 15. "Medical control" means: (a) advice and direction provided by a
15 physician or under the direction of a physician to certified first
16 responders, emergency medical technicians or advanced emergency medical
17 technicians who are providing medical care at the scene of an emergency
18 or en route to a health care facility; and (b) indirect medical control
19 including the written policies, procedures, and protocols for prehospi-
20 tal emergency medical care and transportation developed by [the state
21 emergency medical advisory committee, approved by the state emergency
22 medical services council and] the commissioner, and implemented by
23 regional EMERGENCY medical advisory committees.

24 16. "Regional EMERGENCY medical advisory committee" means a group of
25 five or more physicians, and one or more non-voting individuals repre-
26 sentative of each of the following: hospitals, basic life support
27 providers, advanced life support providers and emergency medical
28 services training sponsor medical directors approved by the affected
29 regional [emergency medical services councils] BOARDS.

30 17. "Advanced life support first response service" means an organiza-
31 tion which provides advanced life support care, but does not transport
32 patients.

33 18. ["EMS program agency" means a not-for-profit corporation or muni-
34 cipality designated by the state council and approved by the affected
35 regional council or councils to facilitate the development and operation
36 of an emergency medical services system within a region as directed by
37 the regional council under this article.

38 19.] "Operator" means any person who by reason of a direct or indirect
39 ownership interest (whether of record or beneficial) has the ability,
40 acting either alone or in concert with others with ownership interests,
41 to direct or cause the direction of the management or policies of an
42 ambulance service or advanced life support first response service.

43 [20] 19. "Mutual aid agreement" means a written agreement, entered
44 into by two or more ambulance services or advanced life support first
45 response services possessing valid [ambulance service or advanced life
46 support first response service certificates or statements of registra-
47 tion] OPERATING AUTHORITY, FIRE SERVICES AS DEFINED BY SECTION TWO
48 HUNDRED NINE-B OF THE GENERAL MUNICIPAL LAW, OR THE GOVERNING BODY OF
49 ANY CITY, TOWN OR VILLAGE, for the organized, SUPERVISED, coordinated,
50 and cooperative reciprocal mobilization of personnel, equipment,
51 services, or facilities for [back-up or support upon request as required
52 pursuant to a written mutual aid plan] OUTSIDE SERVICE UPON REQUEST. An
53 ambulance service and advanced life support first response service may
54 participate in one or more mutual aid agreements.

55 [21] 20. "Primary territory" means the geographic area or subdivi-
56 sions listed on an ambulance service certificate [or statement of regis-

1 tration within which the ambulance service may receive patients for
2 transport].

3 S 56. Section 3002 of the public health law is REPEALED and a new
4 section 3002 is added to read as follows:

5 S 3002. NEW YORK STATE EMERGENCY MEDICAL SERVICES ADVISORY BOARD. 1.
6 THERE IS HEREBY CREATED WITHIN THE DEPARTMENT OF HEALTH THE NEW YORK
7 STATE EMERGENCY MEDICAL SERVICES ADVISORY BOARD. THE BOARD SHALL CONSIST
8 OF THIRTY-ONE MEMBERS, APPOINTED BY THE COMMISSIONER, WHO SHALL BE
9 REPRESENTATIVE OF THE DIVERSITY OF THE EMERGENCY MEDICAL AND TRAUMA
10 SYSTEM IN THE STATE, PARTICULARLY REGARDING DIVERSITY IN GEOGRAPHY,
11 INDUSTRY AND PATIENT CARE. MEMBERS SHALL SERVE AT THE PLEASURE OF THE
12 COMMISSIONER FOR THREE YEAR TERMS, EXCEPT THAT THE TERM OF ELEVEN OF THE
13 INITIAL ADVISORY MEMBERS SHALL BE FOR TWO YEARS; PROVIDED THAT A MEMBER
14 SHALL CONTINUE TO SERVE IN FULL CAPACITY UNTIL SUCH TIME AS THE MEMBER
15 RESIGNS, IS REMOVED OR REPLACED. NO PERSON MAY SERVE AS A MEMBER FOR
16 MORE THAN TWO CONSECUTIVE TERMS TOTAL. THE COMMISSIONER SHALL APPOINT A
17 CHAIR AND A VICE-CHAIR. MEMBERS OF THE STATE BOARD SHALL RECEIVE NO
18 COMPENSATION FOR THEIR SERVICES AS MEMBERS.

19 2. NO CIVIL ACTION SHALL BE BROUGHT IN ANY COURT AGAINST ANY MEMBER,
20 OFFICER OR EMPLOYEE OF THE STATE BOARD FOR ANY ACT DONE, FAILURE TO ACT,
21 OR STATEMENT OR OPINION MADE, WHILE DISCHARGING HIS OR HER DUTIES AS A
22 MEMBER, OFFICER OR EMPLOYEE OF THE STATE BOARD, WITHOUT LEAVE FROM A
23 JUSTICE OF THE SUPREME COURT, FIRST HAD AND OBTAINED. IN NO EVENT SHALL
24 SUCH MEMBER, OFFICER OR EMPLOYEE BE LIABLE FOR DAMAGES IN ANY SUCH
25 ACTION IF HE OR SHE SHALL HAVE ACTED IN GOOD FAITH, WITH REASONABLE CARE
26 AND UPON PROBABLE CAUSE.

27 3. THE STATE BOARD SHALL ADVISE THE DEPARTMENT ON ISSUES RELATED TO
28 EMERGENCY MEDICAL SERVICES, PEDIATRIC CARE, TRAUMA CARE AND DISASTER
29 CARE, AND ASSIST IN THE COORDINATION OF SUCH, INCLUDING BUT NOT LIMITED
30 TO THE DEVELOPMENT, PERIODIC REVISION, AND APPLICATION OF RULES AND
31 REGULATIONS, APPROPRIATENESS REVIEW STANDARDS, AND QUALITY IMPROVEMENT
32 GUIDELINES, AS THE COMMISSIONER AND THE DEPARTMENT MAY REQUEST. THE
33 STATE BOARD SHALL HAVE THE SAME AUTHORITY GRANTED TO REGIONAL BOARDS BY
34 THE ARTICLE IN ANY REGION OF THE STATE IN WHICH A REGIONAL BOARD HAS NOT
35 BEEN ESTABLISHED. THE STATE BOARD MAY MEET AS FREQUENTLY AS REQUESTED BY
36 THE DEPARTMENT.

37 4. UPON APPEAL FROM ANY CONCERNED PARTY, THE STATE BOARD MAY RECOMMEND
38 AMENDMENT, MODIFICATION AND REVERSAL OF DETERMINATIONS OF THE REGIONAL
39 BOARDS AND REGIONAL EMERGENCY MEDICAL ADVISORY COMMITTEES MADE PURSUANT
40 TO ANY SECTION OF THIS ARTICLE. THE COMMISSIONER SHALL REVIEW ALL RECOM-
41 MENDATIONS OF THE STATE BOARD AND MAY APPROVE, DISAPPROVE OR MODIFY SUCH
42 RECOMMENDATIONS. ALL RECOMMENDATIONS APPROVED, DISAPPROVED OR MODIFIED
43 BY THE COMMISSIONER SHALL BE SUBJECT TO REVIEW AS PROVIDED IN ARTICLE
44 SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES. APPLICATION FOR SUCH
45 REVIEW MUST BE MADE WITHIN SIXTY DAYS AFTER SERVICE IN PERSON OR BY
46 REGISTERED OR CERTIFIED MAIL.

47 5. THE COMMISSIONER MAY APPOINT A TECHNICAL ADVISORY GROUP TO COMPILE
48 AND REVIEW DATA, DRAFT DOCUMENTS, OR PERFORM OTHER TASKS RELATED TO THE
49 DISCOVERY OR PRODUCTION OF INFORMATION NEEDED IN ORDER FOR THE STATE
50 BOARD TO PROPERLY CONSIDER A MATTER. TECHNICAL ADVISORY GROUPS SHALL BE
51 APPOINTED ONLY FOR A LIMITED AND DEFINED PERIOD OF TIME IN THE PERFORM-
52 ANCE OF A SPECIFIC TASK IN RELATION TO A SPECIFIC MATTER. INFORMATION
53 OBTAINED OR PRODUCED BY THE TECHNICAL ADVISORY GROUP SHALL BE PROVIDED
54 TO AND EXAMINED BY THE STATE ADVISORY BOARD.

55 S 57. Section 3002-a of the public health law is REPEALED.

1 S 58. Section 3003 of the public health law, as added by chapter 1053
2 of the laws of 1974, subdivision 1 as amended by chapter 1054 of the
3 laws of 1974, subdivisions 2 and 5 as amended by chapter 445 of the laws
4 of 1993, subdivisions 3 and 5-a as added and paragraph (a) of subdivi-
5 sion 10 as amended by chapter 804 of the laws of 1992, subdivision 4 as
6 amended by chapter 580 of the laws of 2007 and subdivision 10 as added
7 by chapter 1016 of the laws of 1981, is amended to read as follows:

8 S 3003. Regional emergency medical services [councils] ADVISORY
9 BOARDS. 1. The commissioner[, with the approval of the state council,]
10 shall designate regional emergency medical services [councils on or
11 before January first, nineteen hundred seventy-eight] BOARDS but in no
12 event shall the number of regional [councils] BOARDS exceed [eighteen]
13 TEN. Such A regional [councils] BOARD shall be established on the basis
14 of application for designation as A regional [councils] BOARD submitted
15 by local organizations, the members of which are knowledgeable in vari-
16 ous aspects of emergency medical services. Such application shall
17 describe the geographic area to be served and contain a list of nominees
18 for appointment to membership on such regional [councils] BOARD and a
19 statement as to the proposed method of operation in such detail as the
20 commissioner[, with the approval of the state council,] shall prescribe.

21 2. Each regional [council] BOARD shall be comprised of at least
22 fifteen but not more than thirty members to be initially appointed by
23 the commissioner, [with the approval of the state council] IN CONSULTA-
24 TION WITH THE STATE BOARD, from nominations submitted by local organiza-
25 tions applying for establishment as the regional [council] BOARD. SUCH
26 MEMBERS SHALL BE REPRESENTATIVE OF THE DIVERSITY OF EMERGENCY MEDICAL
27 SERVICES IN THE REGION; PARTICULARLY WITH RESPECT TO DIVERSITY IN
28 GEOGRAPHY, INDUSTRY AND PATIENT CARE. Not less than one-third of the
29 membership of the regional [councils] BOARDS shall be representatives of
30 ambulance services and the remaining membership of the regional [coun-
31 cils] BOARDS shall consist of, but not be limited to, representatives of
32 existing local emergency medical care committees, physicians, nurses,
33 hospitals, health planning agencies, fire department emergency and
34 rescue squads, public health officers and the general public. The county
35 EMS coordinator, established pursuant to section two hundred twenty-
36 three-b of the county law, of any county within the region shall serve
37 as an ex officio member of the regional [council] BOARD; provided,
38 however, nothing in this subdivision shall prevent a county EMS coordi-
39 nator from serving as a voting member of a regional [council] BOARD.
40 Members of each regional [council] BOARD shall be residents living with-
41 in the geographic area to be served by the regional [council] BOARD. The
42 presence of a majority of members shall constitute a quorum.

43 3. Each regional [council] BOARD shall ASSIST THE REGIONAL EMERGENCY
44 MEDICAL ADVISORY COMMITTEES, OTHER REGIONAL BOARDS, STATE BOARD, DEPART-
45 MENT AND COMMISSIONER, AS REQUIRED BY THIS ARTICLE AND REQUESTED BY THE
46 DEPARTMENT AND COMMISSIONER, IN CARRYING OUT THE PROVISIONS OF THIS
47 ARTICLE, AND SHALL have the power to:

- 48 (a) [have a seal and alter the same at pleasure;
49 (b) acquire, lease, hold, and dispose of real and personal property or
50 any interest therein for its purposes;
51 (c) make and alter by-laws for its organization and internal manage-
52 ment, and rules and regulations governing the exercise of its powers and
53 the fulfillment of its purposes under this article; such rules and regu-
54 lations must be filed with the secretary of state and the state EMS
55 council;

1 (d) enter into contracts for employment of such officers and employees
2 as it may require for the performance of its duties; and to fix and
3 determine their qualifications, duties, and compensation, and to retain
4 and employ such personnel as may be required for its purposes; and
5 private consultants on a contract basis or otherwise, for the rendering
6 of professional or technical services and advice;
7 (e) enter into contracts, leases, and subleases and to execute all
8 instruments necessary or convenient for the conduct of its business,
9 including contracts with the commissioner and any state agency or munic-
10 ipal entity; and contracts with hospitals and physicians for the
11 purposes of carrying out its powers under this article;
12 (f)] undertake or cause to be undertaken plans, surveys, analyses and
13 studies necessary, convenient or desirable for the effectuation of its
14 purposes and powers, and to prepare recommendations and reports in
15 regard thereto;
16 [(g)] (B) fix and collect reasonable fees, rents, and other charges
17 for the use of its equipment and the provision of its services;
18 [(h)] contract for and to accept any gifts or grants, subsidies, or
19 loans of funds or property, or financial or other aid in any form from
20 the federal or state government or any agency or instrumentality there-
21 of; or from any other source, public or private, and to comply, subject
22 to the provisions of this article, with the terms and conditions there-
23 of; provided, however, that the councils may contract for payment of
24 debt evidenced by bonds or notes or other evidence of indebtedness,
25 either directly or through a lease purchase agreement;
26 (i)] (C) recommend to the department approval of training course spon-
27 sors within its region, and to develop, promulgate and implement annual-
28 ly an EMS training plan which addresses the needs of its region;
29 [(j)] (D) enter into [contracts or memoranda of agreement] AGREEMENTS
30 with other regional [councils] BOARDS to provide services in a joint or
31 cooperative manner; and [to enter into contracts or memoranda of agree-
32 ment with an EMS program agency to carry out one or more of its respon-
33 sibilities under this article;
34 (k) procure insurance against any loss or liability in connection with
35 the use, management, maintenance, and operation of its equipment and
36 facilities, in such amounts and from such insurers as it reasonably
37 deems necessary;
38 (l) approve] (E) RECOMMEND TO THE COMMISSIONER INDIVIDUALS FOR
39 APPOINTMENT TO ITS regional medical advisory committee [nominees;
40 (m) provide focused technical assistance and support to those volun-
41 tary ambulance services operating under exemptions, to assist such
42 services in progressing toward the uniform standards established pursu-
43 ant to this section. Such assistance and support shall include, but not
44 be limited to, volunteer recruitment and management training; and
45 (n) do all things necessary, convenient and desirable to carry out its
46 purposes and for the exercise of the powers granted in this article].
47 4. Each regional [council] BOARD shall have the responsibility to
48 coordinate emergency medical services programs within its region,
49 including but not limited to, the establishment of emergency medical
50 technician courses and the issuance of uniform emergency medical techni-
51 cian insignia and certificates. Such training courses shall be made
52 available by video or computer to the maximum extent possible.
53 5. [The] EACH regional [council] BOARD shall have the responsibility
54 to make determinations of public need for the establishment of addi-
55 tional emergency medical services and ambulance services WITHIN ITS
56 GEOGRAPHIC AREA and to make the determinations of public need as

provided in section three thousand eight OF THIS ARTICLE. The regional [council] BOARD shall make such determination by an affirmative vote of a majority of all of those members consisting of voting members.

[5-a. The regional emergency medical services council is authorized to grant an exemption from the staffing standards set forth in section three thousand five-a of this article to a voluntary ambulance service operating solely with enrolled members or paid emergency medical technicians which has demonstrated a good faith effort to meet the standards and is unable to meet such standards because of factors deemed appropriate by the regional council. An exemption shall be for a period not to exceed two years and shall be conditioned on the participation by the voluntary service in a program to achieve compliance which shall include technical assistance and support from the regional council tailored to the needs and resources at the local level, as provided by paragraph (m) of subdivision three of this section, to be funded by the New York state emergency medical services training account established pursuant to section ninety-seven-q of the state finance law, such account as funded by a chapter of the laws of nineteen hundred ninety-three. Nothing shall prevent the regional council from issuing subsequent exemptions. Such exemptions shall have no effect whatsoever on the insurability of the organization receiving such exemption and such exemption shall not be used as a basis for increasing insurance rates or premiums related thereto, notwithstanding any other provision of law, rule, regulation, or commissioner's ruling or advisory to the contrary. Prior to issuing an exemption, the regional council shall provide written notice by certified mail to the chief executive officers of all general hospitals and municipalities in the county or counties within which the service requesting an exemption operates. Such notice shall provide opportunity for comment on the issuance of the exemption. Notice of the determination of the regional council shall be provided within ten days of the determination to the applicant, the department, and any party receiving notification of the application who requests notice of the determination. The applicant, the department, or any concerned party may appeal the determination of the regional council to the state council within thirty days after the regional council makes its determination.]

6. The term of office of members of [the] EACH regional [council] BOARD shall be four years, except that of those members first appointed, at least one-half but not more than two-thirds shall be for [terms] A TERM not to exceed two years.

7. Each regional [council] BOARD shall meet as frequently as its business may require.

8. [The commissioner, upon request of the regional council, may designate an officer or employee of the department to act as secretary of the regional council, and may assign from time to time such other employees as the regional council may require.

9.] No civil action shall be brought in any court against any member, officer or employee of any designated regional [council] BOARD for any act done, failure to act, or statement or opinion made, while discharging his duties as a member, officer or employee of the regional [council] BOARD, without leave from a justice of the supreme court, first had and obtained. In any event such member, officer or employee shall not be liable for damages in any such action if he shall have acted in good faith, with reasonable care and upon probable cause.

[10. (a) The department shall provide each regional council with the funds necessary to enable such regional council to carry out its respon-

1 sibilities as mandated under this section within amounts appropriated
2 therefor.

3 (b) Such funds shall be provided upon approval by the department of an
4 application submitted by a regional council. The application shall
5 contain such information and be in such form as the commissioner shall
6 require pursuant to rules and regulations which he shall promulgate
7 after consultation with the state council in order to effect the
8 purposes and provisions of this subdivision.]

9 9. ALL DETERMINATIONS OF THE REGIONAL BOARDS MAY BE APPEALED TO THE
10 STATE BOARD PURSUANT TO SUBDIVISION THREE OF SECTION THREE THOUSAND TWO
11 OF THIS ARTICLE.

12 S 59. Section 3003-a of the public health law is REPEALED.

13 S 60. Section 3004-a of the public health law, as added by chapter 804
14 of the laws of 1992, subdivision 4 as added by chapter 445 of the laws
15 of 1993, is renumbered section 3004 and amended to read as follows:

16 S 3004. Regional emergency medical advisory committees. 1. Regional
17 emergency medical advisory committees shall develop policies, proce-
18 dures, and triage, treatment, and transportation protocols FOR EMERGENCY
19 MEDICAL SERVICES which are consistent with the STATE-WIDE MINIMUM stand-
20 ards [of the state emergency medical advisory committee] ESTABLISHED BY
21 THE COMMISSIONER IN CONSULTATION WITH THE STATE BOARD, and which address
22 specific local conditions. Regional emergency medical advisory commit-
23 tees may also approve physicians to provide on line medical control,
24 coordinate the development of regional medical control systems, and
25 participate in quality improvement activities addressing system-wide
26 concerns. Hospitals and prehospital medical care services shall be
27 authorized to release patient outcome information to regional emergency
28 medical advisory committees for purposes of assessing prehospital care
29 concerns. Regional quality improvement programs shall be presumed to be
30 an extension of the quality improvement program set forth in section
31 three thousand six of this article, and the provisions of subdivisions
32 two and three of such section three thousand six shall apply to such
33 programs.

34 2. [The committee shall nominate to the commissioner a physician with
35 demonstrated knowledge and experience in emergency medical services to
36 serve on the state emergency medical advisory committee.

37 3.] No civil action shall be brought in any court against any member,
38 officer or employee of the committee for any act done, failure to act,
39 or statement or opinion made, while discharging his or her duties as a
40 member, officer, or employee of the committee, without leave from a
41 justice of the supreme court, first had and obtained. In no event shall
42 such member, officer, or employee be liable for damages in any such
43 action if he or she shall have acted in good faith, with reasonable care
44 and upon probable cause.

45 [4.] 3. Any decision of a regional emergency medical advisory commit-
46 tee regarding provision of a level of care, including staffing require-
47 ments, may be appealed to the state [emergency medical advisory commit-
48 tee] BOARD by any regional [EMS council] BOARD, ambulance service,
49 advanced life support service, certified first responder, emergency
50 medical technician, or advanced emergency medical technician adversely
51 affected. No action shall be taken to implement a decision regarding
52 existing levels of care or staffing while an appeal of such decision is
53 pending. [Any decision of the state emergency medical advisory committee
54 may be appealed pursuant to subdivision two-a of section three thousand
55 two-a of this article.]

1 S 61. Section 3005 of the public health law, as amended by chapter 804
2 of the laws of 1992, subdivision 5 as amended and subdivision 8 as added
3 by chapter 445 of the laws of 1993, is amended to read as follows:

4 S 3005. Ambulance service certificates. 1. No ambulance service [oper-
5 ating for profit, hospital ambulance service or municipal ambulance
6 service of a city of over one million population shall operate on or
7 after September first, nineteen hundred seventy-five unless it possesses
8 a valid ambulance service certificate issued pursuant to this article.
9 Effective January first, nineteen hundred ninety-seven, no ambulance
10 service shall be operated unless it possesses a valid ambulance service
11 operating certificate issued pursuant to this article or has been issued
12 a statement of registration. No advanced life support first response
13 service shall operate unless it possesses a valid advanced life support
14 first responder service operating certificate. Effective January first,
15 two thousand, no ambulance service] OR ADVANCED LIFE SUPPORT FIRST
16 RESPONSE SERVICE shall be operated unless it possesses a valid operating
17 certificate.

18 2. [The department shall issue an initial certificate to an ambulance
19 service certified prior to the effective date of this section upon
20 submission of proof that it is the holder of a valid ambulance service
21 certificate and is otherwise in compliance with provisions of section
22 three thousand nine of this article.

23 2-a. Prior to January first, two thousand, the department shall issue
24 an initial certificate to a registered ambulance service in possession
25 of a valid registration provided that such service has been issued an
26 exemption issued by a regional council pursuant to subdivision five-a of
27 section three thousand three of this article.

28 3. The department shall issue an initial certificate to an advanced
29 life support first response service upon submission of proof that such
30 advanced life support first response service is staffed and equipped in
31 accordance with rules and regulations promulgated pursuant to this arti-
32 cle and is otherwise in compliance with provisions of section three
33 thousand nine of this article.

34 4.] A certificate issued BY THE DEPARTMENT to an ambulance service or
35 advanced life support first response service shall be valid for two
36 years. The initial certification fee shall be one hundred dollars. Ther-
37 eafter the biennial fee shall be in accordance with the schedule of fees
38 established by the commissioner pursuant to this article. However, there
39 shall be no initial or renewal certification fee required of a voluntary
40 ambulance service or voluntary advanced life support first response
41 service.

42 [5.] 3. No initial certificate [(except initial certificates issued
43 pursuant to subdivision two of this section)] shall be issued unless the
44 commissioner finds that the proposed operator or operators are competent
45 and fit to operate the service and that the ambulance service or
46 advanced life support first response service is staffed and equipped in
47 accordance with rules and regulations promulgated pursuant to this arti-
48 cle.

49 [6.] 4. No ambulance service or advanced life support first response
50 service shall begin operation without prior approval of the appropriate
51 regional [council] BOARD, or if there is no appropriate regional [coun-
52 cil] BOARD established such ambulance service or advanced life support
53 first response service shall apply for approval from the state [council]
54 BOARD as to the public need for the establishment of additional ambu-
55 lance service or advanced life support first response service, pursuant
56 to section three thousand eight of this article.

[7.] 5. Applications for a certificate shall be made by the owner of an ambulance service or advanced life support first response service operating for profit or the responsible official of a voluntary ambulance service or advanced life support first response service upon forms provided by the department. The application shall state the name and address of the owner and PROVIDE such other information as the department may require pursuant to rules and regulations.

[8.] 6. For purposes of this article, competent means that any proposed operator of any ambulance service or advanced life support first response service who is already or had been within the last ten years an incorporator, director, sponsor, principal stockholder, or operator of any ambulance service, hospital, private proprietary home for adults, residence for adults, or non-profit home for the aged or blind which has been issued an operating certificate by the state department of social services, or a halfway house, hostel, or other residential facility or institution for the care, custody, or treatment of the mentally disabled subject to the approval by the department of mental hygiene, or any invalid coach service subject to approval by the department of transportation, is rendering or did render a substantially consistent high level of care. For purposes of this subdivision, the [state emergency medical services council] COMMISSIONER, IN CONSULTATION WITH THE STATE BOARD, shall [adopt] PROMULGATE rules and regulations[, subject to the approval of the commissioner,] to establish the criteria to be used to define substantially consistent high level of care with respect to ambulance services[, AND advanced life support first response services, [and invalid coaches,] except that the commissioner may not find that a consistently high level of care has been rendered where there have been violations of the state EMS code, or other applicable rules and regulations, that (i) threatened to directly affect the health, safety, or welfare of any patient, and (ii) were recurrent or were not promptly corrected. For purposes of this article, the rules adopted by the state [hospital review and planning council] PUBLIC HEALTH AND HEALTH PLANNING COUNCIL with respect to subdivision three of section twenty-eight hundred one-a of this chapter shall apply to other types of operators. Fit means that the operator or proposed operator (a) has not been convicted of a crime or pleaded nolo contendere to a felony charge involving murder, manslaughter, assault, sexual abuse, theft, robbery, fraud, embezzlement, drug abuse, or sale of drugs and (b) is not or was not subject to a state or federal administrative order relating to fraud or embezzlement, unless the commissioner finds that such conviction or such order does not demonstrate a present risk or danger to patients or the public.

S 62. Section 3005-a of the public health law, as added by chapter 804 of the laws of 1992, subdivision 1 as amended by chapter 445 of the laws of 1993, is amended to read as follows:

S 3005-a. Staffing standards; ambulance services and advanced life support first response services. 1. The following staffing standards shall be in effect unless otherwise provided by this section:

[(a) effective January first, nineteen hundred ninety-seven the minimum staffing standard for a registered ambulance service shall be a certified first responder with the patient;

(b) effective January first, two thousand, the] THE minimum staffing standard for [a voluntary] EACH ambulance service shall be an emergency medical technician with the patient;

[(c) the minimum staffing standard for all other ambulance services shall be an emergency medical technician with the patient; and

(d)] 2. the minimum staffing standard for an advanced life support first response service shall be an advanced emergency medical technician with the patient. Circumstances permitting other than advanced life support care by an advanced life support first response service may be established by rule PROMULGATED by [the state council, subject to the approval of] the commissioner, IN CONSULTATION WITH THE STATE BOARD.

[2. Any service granted an exemption by the regional council pursuant to subdivision five-a of section three thousand three of this article shall be subject to the standards and terms of the exemption.

3. Notwithstanding any other provision of this article, the effective date of the standards established by this section shall be delayed by one year for each fiscal year, prior to January first, two thousand, in which the amounts appropriated are less than that which would have been expended pursuant to the provisions of section ninety-seven-q of the state finance law.]

S 63. Section 3005-b of the public health law is REPEALED.

S 64. Section 3006 of the public health law, as added by chapter 804 of the laws of 1992, subdivision 1 as amended and subdivision 4 as added by chapter 445 of the laws of 1993, is amended to read as follows:

S 3006. Quality improvement program. 1. [By January first, nineteen hundred ninety-seven, every] EVERY ambulance service and advanced life support first response service shall establish or participate in a quality improvement program, which shall be an ongoing system to monitor and evaluate the quality and appropriateness of the medical care provided by the ambulance service or advanced life support first response service, and which shall pursue opportunities to improve patient care and to resolve identified problems. The quality improvement program may be conducted independently or in collaboration with other services, with the appropriate regional [council, with an EMS program agency] BOARD, with a hospital, or with another appropriate organization approved by the department. Such program shall include a committee of at least five members, at least three of whom do not participate in the provision of care by the service. At least one member shall be a physician, and the others shall be nurses, or emergency medical technicians, or advanced emergency medical technicians, or other appropriately qualified allied health personnel. The quality improvement committee shall have the following responsibilities:

(a) to review the care rendered by the service, as documented in prehospital care reports and other materials. The committee shall have the authority to use such information to review and to recommend to the governing body changes in administrative policies and procedures, as may be necessary, and shall notify the governing body of significant deficiencies;

(b) to periodically review the credentials and performance of all persons providing emergency medical care on behalf of the service;

(c) to periodically review information concerning compliance with standard of care procedures and protocols, grievances filed with the service by patients or their families, and the occurrence of incidents injurious or potentially injurious to patients. A quality improvement program shall also include participation in the department's prehospital care reporting system and the provision of continuing education programs to address areas in which compliance with procedures and protocols is most deficient and to inform personnel of changes in procedures and protocols. Continuing education programs may be provided by the service itself or by other organizations; and

(d) to present data to the regional EMERGENCY medical advisory committee and to participate in system-wide evaluation.

1-A. THE DEPARTMENT SHALL DEVELOP AND MAINTAIN STATEWIDE AND REGIONAL QUALITY IMPROVEMENT PROGRAMS FOR TRAUMA AND DISASTER CARE, WHICH SHALL BE INTEGRATED WITH THE QUALITY IMPROVEMENT PROGRAM FOR EMERGENCY MEDICAL SERVICES, AND INCORPORATE QUALITY IMPROVEMENT PROGRAMS FROM ALL COMPONENTS OF THE TRAUMA SYSTEM, INCLUDING, BUT NOT LIMITED TO, FULLY INTEGRATED STATEWIDE AND REGIONAL TRAUMA REGISTRIES.

2. The information required to be collected and maintained, including [information from the prehospital care reporting system which identifies an individual] PATIENT IDENTIFYING INFORMATION AND PROTECTED HEALTH INFORMATION, shall be kept confidential and shall not be released except to the department or pursuant to section three thousand [four-a] FOUR of this article.

3. Notwithstanding any other provisions of law, none of the MEDICAL records, documentation, or [committee] actions or records required OF ANY QUALITY IMPROVEMENT COMMITTEE pursuant to this section shall be subject to disclosure under article six of the public officers law or article thirty-one of the civil practice law and rules, except as hereinafter provided or as provided in any other provision of law. No person in attendance at a meeting of any [such] QUALITY IMPROVEMENT committee shall be required to testify as to what transpired thereat. The prohibition related to disclosure of testimony shall not apply to the statements made by any person in attendance at such a meeting who is a party to an action or proceeding the subject of which was reviewed at the meeting. The prohibition of disclosure of information from the prehospital care reporting system shall not apply to information which does not identify a particular ambulance service or individual.

4. Any person who in good faith and without malice provides information to further the purpose of this section or who, in good faith and without malice, participates on the quality improvement committee shall not be subject to any action for civil damages or other relief as a result of such activity.

S 65. Section 3008 of the public health law, as added by chapter 1053 of the laws of 1974, subdivisions 1 and 2 as amended by chapter 804 of the laws of 1992, subdivision 3 as amended by chapter 252 of the laws of 1981, subdivision 6 as added by chapter 850 of the laws of 1992, subdivision 7 as added by chapter 510 of the laws of 1997 and paragraph (b) of subdivision 7 as amended by chapter 464 of the laws of 2012, is amended to read as follows:

S 3008. Applications for determinations of public need. 1. Every application for a determination of public need shall be made in writing to the appropriate regional [council] BOARD, shall specify the primary territory within which the applicant requests to operate, be verified under oath, and shall be in such form and contain such information as required by the rules and regulations promulgated pursuant to this article.

2. Notice of the application shall be forwarded by registered or certified mail by the appropriate regional [council] BOARD to the chief executive officers of all general hospitals, ambulance services, and municipalities operating within the same county or counties where the services seeks to operate. The notice shall provide opportunity for comment.

3. Notice pursuant to this section shall be deemed filed with the ambulance service and municipality upon being mailed by the appropriate regional BOARD or state [council] BOARD by registered or certified mail.

1 4. The appropriate regional [council] BOARD or the state [council]
2 BOARD shall make its determination of public need within sixty days
3 after receipt of the application.

4 5. The applicant or any concerned party may appeal the determination
5 of the appropriate regional [council] BOARD to the state council within
6 thirty days after the regional [council] BOARD makes its determination.

7 6. [In the case of an application for certification under this article
8 by a municipal ambulance service to serve the area within the municipi-
9 pality, and the municipal ambulance service meets appropriate training,
10 staffing and equipment standards, there should be a presumption in favor
11 of approving the application.

12 7.] (a) Notwithstanding any other provision of law and subject to the
13 provisions of this article, any municipality within this state, or fire
14 district acting on behalf of any such municipality, and acting through
15 its local legislative body, is hereby authorized and empowered to adopt
16 and amend local laws, ordinances or resolutions to establish and operate
17 advanced life support first [responder] RESPONSE services or municipal
18 ambulance services within the municipality, upon meeting or exceeding
19 all standards set by the department for appropriate training, staffing
20 and equipment, and upon filing with the [New York state emergency
21 medical services council] DEPARTMENT, a written request for such author-
22 ization. Upon such filing, THE DEPARTMENT SHALL DETERMINE WHETHER such
23 municipal advanced life support first [responder] RESPONSE service or
24 municipal ambulance service [shall be deemed to have] HAS satisfied any
25 and all requirements for determination of public need for the establish-
26 ment of additional emergency medical services pursuant to this article
27 [for a period of two years following the date of such filing]. Nothing
28 in this article shall be deemed to [exclude] EXEMPT the municipal
29 advanced life support first [responder] RESPONSE service or municipal
30 ambulance service authorized to be established and operated pursuant to
31 this article from [complying with] APPROPRIATE TRAINING, STAFFING AND
32 EQUIPMENT STANDARDS AND any other requirement or provision of this arti-
33 cle or any other applicable provision of law.

34 (b) [In the case of an application for certification pursuant to this
35 subdivision, for a municipal advanced life support or municipal ambu-
36 lance service, to serve the area within the municipality, where the
37 proposed service meets or exceeds the appropriate training, staffing and
38 equipment standards, there shall be a strong presumption in favor of
39 approving the application.] Notwithstanding any other provision of this
40 article, FOR APPLICATIONS SUBMITTED PRIOR TO APRIL FIRST, TWO THOUSAND
41 THIRTEEN, any city with a population of fourteen thousand seven hundred
42 or sixty-two thousand two hundred thirty-five, according to the two
43 thousand ten federal decennial census, or fire district acting on behalf
44 of any such city, that applies for permanent certification pursuant to
45 this section at the conclusion of the two year period provided in this
46 subdivision, shall not be required to apply to its regional emergency
47 medical services council or the state emergency medical services council
48 for a determination of need, and the application shall be submitted to
49 and approved by the commissioner unless the commissioner finds that the
50 municipal advanced life support first responder service or municipal
51 ambulance service has failed to meet the appropriate training, staffing
52 and equipment standards.

53 S 66. Section 3009 of the public health law is REPEALED.

54 S 67. Section 3010 of the public health law, as amended by chapter 804
55 of the laws of 1992, subdivision 1 as amended by chapter 588 of the laws

1 of 1993 and subdivisions 2 and 3 as amended by chapter 445 of the laws
2 of 1993, is amended to read as follows:

3 S 3010. Area of operation; transfers. 1. Every ambulance OR ADVANCED
4 LIFE SUPPORT FIRST RESPONSE service certificate [or statement of regis-
5 tration] issued under this article shall specify the primary territory
6 within which the ambulance OR ADVANCED LIFE SUPPORT FIRST RESPONSE
7 service shall be permitted to operate. An ambulance OR ADVANCED LIFE
8 SUPPORT FIRST RESPONSE service shall receive patients only within the
9 primary territory specified on its ambulance OR ADVANCED LIFE SUPPORT
10 FIRST RESPONSE service certificate [or statement of registration],
11 except: (a) when receiving a patient which it initially transported to a
12 facility or location outside its primary territory; (b) as required for
13 the fulfillment of a mutual aid agreement authorized by the regional
14 [council] BOARD, DEPARTMENT AND COMMISSIONER; (c) upon express approval
15 of the department and the appropriate regional [emergency medical
16 services council] BOARD for a maximum of sixty days if necessary to meet
17 an emergency need; provided that in order to continue such operation
18 beyond the sixty day maximum period necessary to meet an emergency need,
19 the ambulance OR ADVANCED LIFE SUPPORT FIRST RESPONSE service must
20 satisfy the requirements of this article, regarding determination of
21 public need and specification of the primary territory on the ambulance
22 OR ADVANCED LIFE SUPPORT FIRST RESPONSE service certificate or statement
23 of registration; or (d) an ambulance service or advanced life support
24 first response service organization formed to serve the need for the
25 provision of emergency medical services in accordance with the religious
26 convictions of a religious denomination may serve such needs in an area
27 adjacent to such primary territory and, while responding to a call for
28 such service, the needs of other residents of such area at the emergency
29 scene. Any ambulance OR ADVANCED LIFE SUPPORT FIRST RESPONSE service
30 seeking to operate in more than one region shall make application to
31 each appropriate regional [council] BOARD. Whenever an application is
32 made simultaneously to more than one regional [council] BOARD, the
33 applications submitted to the regional [councils] BOARDS shall be iden-
34 tical, or copies of each application shall be submitted to all the
35 regional [councils] BOARDS involved.

36 2. No ambulance OR ADVANCED LIFE SUPPORT FIRST RESPONSE service
37 certificate shall be transferable unless the regional [council] BOARD
38 and the department [reviews] REVIEW and [approves] APPROVE the transfer
39 as follows:

40 a. Any change in the individual who is the sole proprietor of an ambu-
41 lance OR ADVANCED LIFE SUPPORT FIRST RESPONSE service shall only be
42 approved upon a determination that the proposed new operator is compe-
43 tent and fit to operate the service.

44 b. Any change in a partnership which is the owner of an ambulance OR
45 ADVANCED LIFE SUPPORT FIRST RESPONSE service shall be approved based
46 upon a determination that the new partner or partners are competent and
47 fit to operate the service. The remaining partners shall not be subject
48 to a character and fitness review.

49 c. Any transfer, assignment or other disposition of ten percent or
50 more of the stock or voting rights thereunder of a corporation which is
51 the owner of an ambulance OR ADVANCED LIFE SUPPORT FIRST RESPONSE
52 service, or any transfer, assignment or other disposition of the stock
53 or voting rights thereunder of such a corporation which results in the
54 ownership or control of ten percent or more of the stock or voting
55 rights thereunder by any person, shall be approved based upon a determi-
56 nation that the new stockholder or stockholder proposing to obtain ten

1 percent or more of the stock or voting rights thereunder of such corpo-
2 ration is competent and fit to operate the service. The remaining stock-
3 holders shall not be subject to a character and fitness review.

4 d. Any transfer of all or substantially all of the assets of a corpo-
5 ration which owns or operates a [certified] ambulance OR ADVANCED LIFE
6 SUPPORT FIRST RESPONSE service shall be approved based upon a determi-
7 nation that the individual, partnership, or corporation proposing to
8 obtain all or substantially all of the assets of the corporation is
9 competent and fit to operate the service.

10 e. Any transfer affected in the absence of the review and approval
11 required by this section shall be null and void and the certificate of
12 such ambulance OR ADVANCED LIFE SUPPORT FIRST RESPONSE service shall be
13 subject to revocation or suspension.

14 3. Nothing contained in this section shall be construed to prohibit
15 any voluntary ambulance OR ADVANCED LIFE SUPPORT FIRST RESPONSE service
16 authorized by its governing authority to do so from transporting any
17 sick or injured resident of its primary territory from any general
18 hospital or other health care facility licensed by the department,
19 whether or not such general hospital or health care facility is within
20 the service's primary territory, to any other general hospital or health
21 care facility licensed by the department for further care, or to such
22 resident's home. Nothing contained in this section shall be construed to
23 prohibit any proprietary ambulance OR ADVANCED LIFE SUPPORT FIRST
24 RESPONSE service authorized by its governing body to do so from trans-
25 porting any sick or injured patient from any general hospital or other
26 health care facility licensed by the department whether or not such
27 general hospital or health care facility is within the service's primary
28 territory, to any other general hospital or health care facility
29 licensed by the department within the service's primary territory for
30 further care, or to such patient's home, if such patient's home is with-
31 in its primary territory. Any ambulance OR ADVANCED LIFE SUPPORT FIRST
32 RESPONSE service owned by or under contract to a general hospital
33 licensed by the department may transport any specialty patient from any
34 other general hospital or health care facility licensed by the depart-
35 ment to the hospital owning such ambulance OR ADVANCED LIFE SUPPORT
36 FIRST RESPONSE service, or with which it has a contract. Categories of
37 specialty patients shall be defined by rule PROMULGATED by [the state
38 emergency medical services council, subject to the approval of] the
39 commissioner.

40 4. No ambulance OR ADVANCED LIFE SUPPORT FIRST RESPONSE service
41 certificate of an ambulance OR ADVANCED LIFE SUPPORT FIRST RESPONSE
42 service which has discontinued operations for a continuous period in
43 excess of thirty days shall be transferable without the approval of the
44 appropriate regional [council] BOARD AND THE DEPARTMENT.

45 S 68. Section 3011 of the public health law, as amended by chapter 804
46 of the laws of 1992, subdivision 3 as amended and subdivision 3-a as
47 added by chapter 501 of the laws of 2000, subdivision 10 as amended by
48 chapter 206 of the laws of 2008 and subdivision 11 as added by chapter
49 542 of the laws of 1995, is amended to read as follows:

50 S 3011. Powers and duties of the department and the commissioner. 1.
51 THE COMMISSIONER SHALL ISSUE CERTIFICATION FOR CERTIFIED FIRST RESPON-
52 DER, EMERGENCY MEDICAL TECHNICIAN OR ADVANCED EMERGENCY MEDICAL TECHNI-
53 CIAN TO AN INDIVIDUAL WHO MEETS THE MINIMUM REQUIREMENTS ESTABLISHED BY
54 REGULATIONS.

55 2. THE COMMISSIONER SHALL ISSUE CERTIFICATION FOR AMBULANCE AND
56 ADVANCED LIFE SUPPORT FIRST RESPONSE SERVICES WHO HAVE RECEIVED A DETER-

MINATION OF NEED BY THE APPROPRIATE REGIONAL ADVISORY BOARD AND MEET THE MINIMUM REQUIREMENTS ESTABLISHED BY REGULATIONS.

3. The department may inquire into the operation of ambulance services and advanced life support first response services and conduct periodic inspections of facilities, communication services, vehicles, methods, procedures, materials, [staff and] STAFFING, RECORDS, equipment AND QUALITY ASSURANCE ACTIVITIES AND DOCUMENTATION. It may also evaluate data received from ambulance services and advanced life support first response services.

[2.] 4. The department may require ambulance services and advanced life support first response services to submit periodic reports of calls received, services performed and such other information as may be necessary to carry out the provisions of this article.

[3.] 5. THE COMMISSIONER, IN CONSULTATION WITH THE STATE BOARD, SHALL DEVELOP STATEWIDE MINIMUM STANDARDS FOR: (A) MEDICAL CONTROL; (B) SCOPE OF PREHOSPITAL CARE PRACTICE; (C) TREATMENT, TRANSPORTATION AND TRIAGE PROTOCOLS, INCLUDING PROTOCOLS FOR INVASIVE PROCEDURES AND INFECTION CONTROL; AND (D) THE USE OF REGULATED MEDICAL DEVICES AND DRUGS BY EMERGENCY MEDICAL SERVICES PERSONNEL CERTIFIED PURSUANT TO THIS ARTICLE. THE COMMISSIONER MAY ISSUE ADVISORY GUIDELINES IN ANY OF THESE AREAS. THE DEPARTMENT SHALL REVIEW PROTOCOLS DEVELOPED BY REGIONAL EMERGENCY MEDICAL ADVISORY COMMITTEES FOR CONSISTENCY WITH STATEWIDE STANDARDS.

6. The commissioner, [with the advice and consent of the state council] IN CONSULTATION WITH THE STATE BOARD, shall designate not more than [eighteen] TEN geographic areas within the state wherein a regional [emergency medical services council] BOARD shall be established. In making the determination of a geographic area, the commissioner shall take into consideration the presence of ambulance services, hospital facilities, existing emergency medical services committees, trained health personnel, health planning agencies and communication and transportation facilities[; and shall establish separate regional emergency medical services councils for the counties of Nassau and Westchester]. The commissioner shall [promote and encourage the establishment of] ESTABLISH a regional [emergency medical services council] BOARD in each of said designated areas.

[3-a. Notwithstanding any inconsistent provision of this article:

a. The creation of any regional council or emergency medical services program agency on or after January first, two thousand shall not diminish any then existing funding appropriated after the effective date of this subdivision to regional councils or emergency medical services program agencies;

b. Subject to the provisions of paragraph c of this subdivision, funding for regional councils and emergency medical services program agencies existing on or after January first, two thousand shall be increased in proportion to any funding appropriated therefor by the department and in such proportion as determined by the department;

c. Funding for any regional council or emergency medical services program agency created on or after January first, two thousand shall be in addition to any funds appropriated on the effective date of this subdivision for regional councils or emergency medical services program agencies existing on January first, two thousand. Funding for any regional council or emergency medical services program agency created after January first, two thousand shall be in an amount at least equal to the minimum funding level appropriated to regional councils or emergency medical services program agencies existing on such date, or in an amount equal to the proportion that such new regional council or emer-

1 gency medical services program agency represented on the basis of popu-
2 lation in its former regional council or emergency medical services
3 program agency, whichever is larger.

4 4. The commissioner may propose rules and regulations and amendments
5 thereto for consideration by the state council.] 7. The commissioner
6 shall establish a schedule of certification fees for ambulance services
7 and advanced life support first response services other than voluntary
8 ambulance services and voluntary advanced life support first response
9 services.

10 [5.] 8. For the purpose of promoting the public health, safety and
11 welfare the commissioner is hereby authorized and empowered to contract
12 with [voluntary ambulance services and municipal ambulance services, or
13 with the fire commissioners of fire districts operating voluntary] ambu-
14 lance services, upon such terms and conditions as he OR SHE shall deem
15 appropriate and within amounts made available therefor, for reimburse-
16 ment of the necessary and incidental costs incurred by such ambulance
17 services in order to effectuate the provisions of this article.

18 [6.] 9. The commissioner is hereby authorized, for the purposes of
19 effectuating the provisions of this article in the development of a
20 statewide emergency medical service system, to contract with any ambu-
21 lance service or with the fire commissioners of fire districts operating
22 certified voluntary ambulance services for the use of necessary equip-
23 ment upon such terms and conditions as the commissioner shall deem
24 appropriate.

25 [7.] 10. THE DEPARTMENT AND COMMISSIONER SHALL PREPARE, AND PERIOD-
26 ICALLY UPDATE AS NECESSARY, A STATEWIDE EMERGENCY MEDICAL SERVICES MOBI-
27 LIZATION PLAN, WHICH PROVIDES FOR THE IDENTIFICATION AND DEPLOYMENT OF
28 EMERGENCY MEDICAL SERVICES PERSONNEL AND RESOURCES THROUGHOUT THE STATE
29 IN RESPONSE TO A LOCAL OR REGIONAL REQUEST. UPON NOTIFICATION TO THE
30 STATE BOARD, THE REGIONAL BOARDS, AND THE REGIONAL EMERGENCY MEDICAL
31 ADVISORY COMMITTEES, THE PLAN SHALL BECOME THE STATEWIDE EMERGENCY
32 MEDICAL SERVICES MOBILIZATION PLAN.

33 11. The commissioner [may recommend to the state council minimum qual-
34 ifications] SHALL, IN CONSULTATION WITH THE STATE BOARD, ESTABLISH A
35 MINIMUM SCOPE OF PRACTICE, EDUCATION, TRAINING, CERTIFICATION AND
36 CREDENTIALING QUALIFICATIONS for certified first responders [(which
37 shall not exceed fifty-one hours)], emergency medical technicians and
38 advanced emergency medical technicians in all phases of emergency
39 medical technology including but not limited to, communications, first
40 aid, equipment, maintenance, emergency techniques and procedures,
41 patient management and knowledge of procedures and equipment for emer-
42 gency medical care.

43 [8. The commissioner shall provide every certified ambulance service
44 and advanced life support first response service with an official insig-
45 nia which may be attached to every vehicle owned or operated by a certi-
46 fied ambulance service or advanced life support first response service.

47 9. The department shall provide the state council with such assistance
48 as the council may request in order to carry out its responsibilities as
49 set forth in subdivision two-a of section three thousand two of this
50 article.

51 10.] 12. THE DEPARTMENT SHALL REQUIRE EVERY CERTIFIED AMBULANCE
52 SERVICE AND ADVANCED LIFE SUPPORT FIRST RESPONSE SERVICE TO DISPLAY AN
53 OFFICIAL INSIGNIA WHICH MUST BE ATTACHED TO EVERY VEHICLE OWNED OR OPER-
54 ATED BY A CERTIFIED AMBULANCE SERVICE OR ADVANCED LIFE SUPPORT FIRST
55 RESPONSE SERVICE.

13. The commissioner is hereby authorized and empowered to extend the certification for emergency medical technicians, advanced emergency medical technicians or certified first responders who have been ordered to active military duty, other than for training, [on or after the eleventh day of September, two thousand one] and whose certification will expire during their military duty [or within the six months immediately following separation from military service]. The extended certification shall be for the period of military duty and for twelve months after they have been released from active military duty.

[11.] 14. The commissioner, [with the advice and consent of the state council] IN CONSULTATION WITH THE STATE BOARD, shall promulgate rules and regulations necessary to ensure compliance with the provisions of subdivision two of section sixty-seven hundred thirteen of the education law; AND MAY FACILITATE DEVELOPMENT AND PERIODIC REVISION OF APPROPRIATENESS REVIEW STANDARDS FOR EMERGENCY MEDICAL SERVICES AND EMERGENCY DEPARTMENTS, PEDIATRIC SERVICES AND PEDIATRIC CENTERS, TRAUMA SERVICES AND TRAUMA CENTERS, BURN SERVICES AND BURN CENTERS, AND DISASTER CARE UNDER ARTICLE TWENTY-EIGHT OF THIS CHAPTER, FOR ADOPTION BY THE COMMISSIONER OR STATE PUBLIC HEALTH AND HEALTH PLANNING COUNCIL, AS APPROPRIATE.

15. THE DEPARTMENT AND COMMISSIONER, IN CONSULTATION WITH THE STATE BOARD, SHALL CONTINUE THE CATEGORIZATION OF GENERAL HOSPITALS AND OTHER HEALTH CARE FACILITIES FOR EMERGENCY MEDICAL CARE AND TRAUMA CARE UNDER ARTICLE TWENTY-EIGHT OF THIS CHAPTER, AND THE DESIGNATION OF EMERGENCY FACILITIES IN GENERAL HOSPITALS AND OTHER HEALTH CARE FACILITIES, AS EMERGENCY DEPARTMENTS OR EMERGENCY SERVICES APPROPRIATE FOR EMERGENCY MEDICAL CARE AND GENERAL HOSPITALS AND OTHER HEALTH CARE FACILITIES AS TRAUMA CENTERS OR TRAUMA STATIONS APPROPRIATE FOR TRAUMA CARE, BASED UPON SUCH CATEGORIZATION.

16. THE DEPARTMENT AND COMMISSIONER, IN CONSULTATION WITH THE STATE BOARD, SHALL DEVELOP AND MAINTAIN A STATEWIDE SYSTEM FOR RECOGNITION OF FACILITIES ABLE TO PROVIDE SUSTENTATIVE OR DEFINITIVE SPECIALTY PEDIATRIC EMERGENCY MEDICAL AND TRAUMA CARE FOR SUDDEN CHILDHOOD ILLNESS AND INJURY AND FOR PREFERENTIAL TRANSPORT OF SUDDENLY ILL OR INJURED CHILDREN TO SUCH FACILITIES, AND SHALL PROMOTE THE USE OF SUCH FACILITIES IN ACCORDANCE WITH WRITTEN PROTOCOLS OR TRANSFER AGREEMENTS AS APPROPRIATE.

17. UPON APPEAL OF ANY INTERESTED PARTY, THE COMMISSIONER MAY AMEND, MODIFY, AND REVERSE DECISIONS OF THE STATE BOARD, ANY REGIONAL BOARD, OR ANY REGIONAL EMERGENCY MEDICAL ADVISORY COMMITTEE; PROVIDED THAT IN CONSIDERATION OF A REGIONAL BOARD OR REGIONAL EMERGENCY MEDICAL ADVISORY COMMITTEE DECISION, THE COMMISSIONER SHALL CONSULT THE STATE ADVISORY BOARD.

S 69. Section 3012 of the public health law, as added by chapter 1053 of the laws of 1974, subdivision 1 as amended by chapter 445 of the laws of 1993, subdivision 2 as amended by chapter 804 of the laws of 1992 and subdivisions 3 and 4 as amended by chapter 252 of the laws of 1981, is amended to read as follows:

S 3012. Enforcement. 1. Any ambulance service or advanced life support first response service certificate issued pursuant to section three thousand five of this article may be revoked, suspended, limited or annulled by the department upon proof that the operator or certificate holder or one or more enrolled members or one or more persons in his OR HER employ:

(a) has been guilty of misrepresentation in obtaining the certificate or in the operation of the ambulance service or advanced life support first response service; or

1 (b) has not been competent in the operation of the service or has
2 shown inability to provide adequate ambulance services or advanced life
3 support first response service; or
4 (c) has failed to pay the biennial certification fee as required
5 [except in the case of any voluntary ambulance service or voluntary
6 advanced life support first response service]; or
7 (d) has failed to file any report required by the provisions of this
8 article or the rules and regulations promulgated thereunder; or
9 (e) has violated or aided and abetted in the violation of any
10 provision of this article, the rules and regulations promulgated or
11 continued thereunder, or the state sanitary code; or
12 (f) had discontinued operations for a period in excess of one month;
13 or
14 (g) a voluntary ambulance service or voluntary advanced life support
15 first response service has failed to meet the minimum staffing standard
16 and has not been issued an exemption[, except that such certificate
17 shall not be suspended or revoked unless the commissioner finds that an
18 adequate alternative service exists. The commissioner shall consider the
19 recommendation of the regional emergency medical services council in
20 making a finding]; or
21 (h) an ambulance service operating for profit has failed to meet the
22 minimum staffing standard; or
23 (i) has been convicted of a crime or pleaded nolo contendere to a
24 felony charge involving murder, manslaughter, assault, sexual abuse,
25 theft, robbery, fraud, embezzlement, drug abuse, or sale of drugs,
26 unless the commissioner finds that such conviction does not demonstrate
27 a present risk or danger to patients or the public; or
28 (j) is or was subject to a state or federal administrative order
29 relating to fraud or embezzlement, unless the commissioner finds that
30 such order does not demonstrate a present risk or danger to patients or
31 the public.

32 2. Proceedings under this section may be initiated by any person,
33 corporation, association, or public officer, or by the department by the
34 filing of written charges with the department. Whenever the department
35 seeks revocation or suspension of a certificate of an ambulance service
36 or an advanced life support first response service, a copy of the charg-
37 es shall be referred to the appropriate regional [council] BOARD for
38 review and recommendation to the department prior to a hearing. [Such
39 recommendation shall include a determination as to whether the public
40 need would be served by a revocation, suspension, annulment or limita-
41 tion. If there is no appropriate regional council established, the state
42 council shall make such determination and present to the department its
43 recommendations.]

44 3. No certificate shall be revoked, [suspended,] limited or annulled
45 without a hearing. However, a certificate may be [temporarily] suspended
46 without a hearing and without the [approval] REVIEW of the appropriate
47 regional [council] BOARD or state [council] BOARD for a period not in
48 excess of [thirty] NINETY days upon notice to the certificate holder
49 following a finding by the department that the public health, safety or
50 welfare is in imminent danger.

51 4. The [commissioner] DEPARTMENT shall fix a time and place for the
52 hearing. A copy of the charges and the recommendations of the appropri-
53 ate regional [council] BOARD or state [council] BOARD together with the
54 notice of the time and place of the hearing, shall be mailed to the
55 certificate holder by registered or certified mail, at the address spec-
56 ified on the certificate, at least fifteen days before the date fixed

1 for the hearing. The appropriate regional [council] BOARD may be a party
2 to such hearing. The certificate holder may file with the department,
3 not less than five days prior to the hearing, a written answer to the
4 charges.

5 S 70. Section 3016 of the public health law, as amended by chapter 252
6 of the laws of 1981, is amended to read as follows:

7 S 3016. Continuance of rules and regulations. All rules and regu-
8 lations heretofore adopted by the commissioner pertaining to all ambu-
9 lance OR ADVANCED LIFE SUPPORT RESPONSE services shall continue in full
10 force and effect as rules and regulations until duly modified or super-
11 seded by rules and regulations hereafter adopted and enacted by the
12 [state council pursuant to section three thousand two of this article]
13 COMMISSIONER.

14 S 71. Section 3017 of the public health law is REPEALED.

15 S 72. Intentionally omitted.

16 S 73. Section 3030 of the public health law, as added by chapter 439
17 of the laws of 1979, is amended to read as follows:

18 S 3030. Advanced life support services. Advanced life support
19 services provided by an advanced emergency medical technician, shall be
20 (1) provided under the direction of qualified medical and health person-
21 nel utilizing patient information and data transmitted by voice or
22 telemetry, (2) limited to the category or categories in which the
23 advanced emergency medical technician is certified pursuant to this
24 article, [and] (3) recorded for each patient, on an individual treat-
25 ment-management record, AND (4) LIMITED TO PARTICIPATION IN AN ADVANCE
26 LIFE SUPPORT SYSTEM.

27 S 74. Section 3031 of the public health law, as added by chapter 439
28 of the laws of 1979, is amended to read as follows:

29 S 3031. Advanced life support system. Advanced life support system
30 must (1) be under the overall supervision and direction of a qualified
31 physician [with respect to the advanced life support services provided],
32 (2) UTILIZE ADVANCED LIFE SUPPORT PROTOCOLS DEVELOPED BY THE REGIONAL
33 EMERGENCY MEDICAL ADVISORY COMMITTEE AND APPROVED BY THE COMMISSIONER,
34 (3) be staffed by qualified medical and health personnel, [(3)] (4)
35 utilize advanced emergency medical technicians whose certification is
36 appropriate to the advanced life support services provided, [(4)] (5)
37 utilize advanced support mobile units appropriate to the advanced life
38 support services provided, [(5)] (6) maintain a treatment-management
39 record for each patient receiving advanced life support services, and
40 [(6)] (7) be integrated with a hospital emergency, intensive care, coro-
41 nary care or other appropriate service.

42 S 75. Section 3032 of the public health law, as amended by chapter 445
43 of the laws of 1993, is amended to read as follows:

44 S 3032. Rules and regulations. The [state council, with the approval
45 of the] commissioner, IN CONSULTATION WITH THE STATE BOARD, shall
46 promulgate rules and regulations to effectuate the purposes of sections
47 three thousand thirty and three thousand thirty-one of this article.

48 S 76. Section 3052 of the public health law, as added by chapter 727
49 of the laws of 1986, is amended to read as follows:

50 S 3052. Establishment of a training program for emergency medical
51 services personnel. 1. There is hereby established a training program
52 for emergency medical services personnel including, but not limited to,
53 first responders, emergency medical technicians, advanced emergency
54 medical technicians and emergency vehicle operators.

55 1-A. SUCH TRAINING PROGRAM MAY USE ANY COMBINATION OF COURSEWORK,
56 TESTING, CONTINUING EDUCATION AND CONTINUOUS PRACTICE TO PROVIDE THE

1 MEANS BY WHICH SUCH PERSONNEL, INCLUDING INSTRUCTOR LEVEL PERSONNEL, MAY
2 BE TRAINED AND CERTIFIED. THE PROGRAM MAY INCLUDE MEANS THAT ALLOW FOR
3 CERTIFICATION OF EMERGENCY MEDICAL TECHNICIANS AND ADVANCED EMERGENCY
4 MEDICAL TECHNICIANS WITHOUT THE REQUIREMENT OF PRACTICAL SKILLS OR WRIT-
5 TEN EXAMINATION.

6 1-B. THE COMMISSIONER, IN CONSULTATION WITH THE STATE BOARD, SHALL
7 DEVELOP SUCH TRAINING PROGRAM, PROMULGATING RULES AND REGULATIONS AS MAY
8 BE NECESSARY FOR ADMINISTRATION AND COMPLIANCE.

9 2. The commissioner shall provide state aid within the amount appro-
10 priated to entities such as local governments, regional [emergency
11 medical services councils] BOARDS, and voluntary agencies and organiza-
12 tions to conduct training courses for emergency medical services person-
13 nel and to conduct practical examinations for certification of such
14 personnel. The commissioner shall establish a schedule for determining
15 the amount of state aid provided pursuant to this section.

16 [a. Such schedule may include varying rates for distinct geographic
17 areas of the state and for various course sizes, giving special consid-
18 eration to areas with the most need for additional emergency medical
19 technicians. In determining the need for additional emergency medical
20 technicians, the commissioner shall use measurements such as the average
21 number of emergency medical technicians per ambulance service, the ratio
22 of emergency medical technicians per square mile, the average number of
23 calls per service and the percentage of calls to which an emergency
24 medical technician has responded, provided such data is available to the
25 commissioner.

26 b.] Such schedule shall provide sufficient reimbursement to permit
27 sponsors to offer basic emergency medical technician courses which
28 adhere to curricula approved by the [New York state emergency medical
29 services council and the] commissioner without the need to charge
30 tuition to participants.

31 3. Upon request, the [commissioner] DEPARTMENT shall provide manage-
32 ment advice and technical assistance to regional [emergency medical
33 services councils] BOARDS, county emergency medical services coordina-
34 tors, and course sponsors and instructors to stimulate the improvement
35 of training courses and the provision of courses in a manner which
36 encourages participation. Such advice and technical assistance may
37 relate to, but need not be limited to the location, scheduling and
38 structure of courses.

39 4. The department is authorized, either directly or through contractu-
40 al arrangement, to develop and distribute training materials for use by
41 course instructors and sponsors, to recruit additional instructors and
42 sponsors and to provide training courses for instructors.

43 [5. The commissioner shall conduct a public service campaign to
44 recruit additional volunteers to join ambulance services targeted to
45 areas in need for additional emergency medical technicians.]

46 S 77. Section 3053 of the public health law, as amended by chapter 445
47 of the laws of 1993, is amended to read as follows:

48 S 3053. Reporting. Advanced life support first response services and
49 ambulance services [registered or] certified pursuant to article thirty
50 of this chapter shall submit detailed individual call reports on a form
51 to be [provided] DETERMINED by the department, or may submit data elec-
52 tronically in a format approved by the department. The [state emergency
53 medical services council, with the approval of the] commissioner, IN
54 CONSULTATION WITH THE STATE BOARD, may adopt rules and regulations
55 permitting or requiring ambulance AND ADVANCED LIFE SUPPORT FIRST
56 RESPONSE services whose volume exceeds [twenty thousand calls per year]

1 A SPECIFIED ANNUAL THRESHOLD to submit call report data electronically.
2 Such rules shall define the data elements to be submitted, and may
3 include requirements that assure availability of data to the REGIONAL
4 BOARDS AND regional emergency medical advisory [committee] COMMITTEES.

5 S 78. Articles 30-B and 30-C of the public health law are REPEALED.

6 S 79. Subdivisions 3 and 4 of section 97-q of the state finance law,
7 as added by chapter 804 of the laws of 1992, are amended to read as
8 follows:

9 3. Moneys of the account, when allocated, shall be available to the
10 department of health for the purpose of funding the training of emergen-
11 cy medical services personnel, and funding as shall be provided by
12 appropriation for the [state] OPERATION OF THE STATE'S emergency medical
13 services [council, regional emergency medical services councils, emer-
14 gency medical services program agencies or other emergency medical
15 services training programs] SYSTEM, in order to carry out the purposes
16 of articles thirty and thirty-A of the public health law.

17 4. [Not less than fifty percent of the] THE monies of the account
18 shall be expended for the direct costs of providing emergency medical
19 services training at the local level. [The legislature shall annually
20 appropriate from the remaining available monies, funding for the state
21 emergency medical services council, the regional emergency medical
22 services councils, the emergency medical services program agencies and]
23 ANNUAL APPROPRIATIONS SHALL BE USED TO ENABLE the department of health
24 [in order to carry out] TO ACHIEVE the purposes of articles thirty and
25 thirty-A of the public health law. At the end of any fiscal year, any
26 funds not encumbered for these purposes shall be reallocated for the
27 costs of training advanced life support personnel.

28 S 80. Paragraph 4 of subdivision a of section 19-162.2 of the adminis-
29 trative code of the city of New York, as added by local law number 40 of
30 the city of New York for the year 1997, is amended to read as follows:

31 4. "certified first responder" shall mean an individual who meets the
32 minimum requirements established by [regulations pursuant to section
33 three thousand two] THE COMMISSIONER OF HEALTH PURSUANT TO ARTICLE THIR-
34 TY of the public health law and who is responsible for administration of
35 initial life saving care of sick and injured persons.

36 S 81. Subdivision 1-a of section 122-b of the general municipal law,
37 as amended by chapter 303 of the laws of 1980, is amended to read as
38 follows:

39 1-a. As used in this section:

40 (a) "Emergency medical technician" means an individual who meets the
41 minimum requirements established by [regulations pursuant to section
42 three thousand two] THE COMMISSIONER OF HEALTH PURSUANT TO ARTICLE THIR-
43 TY of the public health law and who is responsible for administration or
44 supervision of initial emergency medical assistance and handling and
45 transportation of sick, disabled or injured persons.

46 (b) "Advanced emergency medical technician" means an emergency medical
47 technician who has satisfactorily completed an advanced course of train-
48 ing approved by the [state council under regulations pursuant to section
49 three thousand two] COMMISSIONER OF HEALTH PURSUANT TO ARTICLE THIRTY of
50 the public health law.

51 S 82. Subparagraph (iii) of paragraph (e) of subdivision 3 of section
52 219-e of the general municipal law, as added by chapter 514 of the laws
53 of 1998, is amended to read as follows:

54 (iii) A volunteer ambulance worker appointed to serve on the New York
55 state emergency medical services [council, the state emergency medical
56 advisory committee] ADVISORY BOARD, a regional emergency medical

1 services [council] ADVISORY BOARD or a regional emergency medical advi-
2 sory committee, established pursuant to article thirty of the public
3 health law shall also be eligible to receive one point per meeting.

4 S 83. Subparagraph (iii) of paragraph (e) of subdivision 3 of section
5 219-m of the general municipal law, as added by chapter 558 of the laws
6 of 1998, is amended to read as follows:

7 (iii) A volunteer ambulance worker appointed to serve on the New York
8 state emergency medical services [council, the state emergency medical
9 advisory committee] ADVISORY BOARD, a regional emergency medical
10 services [council] ADVISORY BOARD or a regional emergency medical advi-
11 sory committee, established pursuant to article thirty of the public
12 health law shall also be eligible to receive one point per meeting.

13 S 84. Subdivision 2 of section 10 of the workers' compensation law, as
14 added by chapter 872 of the laws of 1985, is amended to read as follows:

15 2. Notwithstanding any other provisions of this chapter, an injury
16 incurred by an individual currently employed as an emergency medical
17 technician or an advanced emergency medical technician who is certified
18 pursuant to [section three thousand two] ARTICLE THIRTY of the public
19 health law, while voluntarily and without expectation of monetary
20 compensation rendering medical assistance at the scene of an accident
21 shall be deemed to have arisen out of and in the course of the employ-
22 ment with that emergency medical technician or advanced emergency
23 medical technician's current employer.

24 S 85. Subdivision 1 of section 580 of the executive law, as amended by
25 chapter 40 of the laws of 2012, is amended to read as follows:

26 1. Creation; members. There is hereby created in the department of
27 state an emergency services council, the members of which shall be the
28 directors of the office of fire prevention and control, the bureau of
29 emergency medical services and the state emergency management office,
30 the superintendent of state police, the commissioner of health, the
31 secretary of state, the director of the state office for the aging and
32 the director of state operations who shall be the chairperson unless
33 otherwise appointed by the governor. There shall also be two represen-
34 tatives appointed by the state emergency medical services [council]
35 ADVISORY BOARD, one of whom shall be a representative of volunteer ambu-
36 lance service and one of whom shall be a representative of proprietary
37 ambulance service; two representatives appointed by the fire advisory
38 board, one of which shall be representative of volunteer fire service
39 and one of which shall be representative of paid fire service; one
40 representative shall be appointed by the disaster preparedness commis-
41 sion; one physician shall be appointed by the [state emergency medical
42 advisory committee] COMMISSIONER OF HEALTH; one appointment shall be
43 made by the governor; one appointment shall be made by the temporary
44 president of the senate; and one appointment shall be made by the speak-
45 er of the assembly.

46 S 86. Section 804-d of the education law, as added by chapter 315 of
47 the laws of 2005, is amended to read as follows:

48 S 804-d. Automated external defibrillator instruction. Instructions
49 regarding the correct use of an automated external defibrillator shall
50 be included as a part of the health education curriculum in all senior
51 high schools when cardiopulmonary resuscitation instruction is being
52 provided as authorized by section eight hundred four-c of this article.
53 In addition to the requirement that all teachers of health education
54 shall be certified to teach health, persons instructing pupils in the
55 correct use of automated external defibrillators shall possess valid
56 certification by a nationally recognized organization or the [state

1 emergency medical services council] COMMISSIONER OF HEALTH offering
2 certification in the operation of an automated external defibrillator
3 and in its instruction.

4 S 87. Subparagraph (iv) of paragraph a of subdivision 1 of section
5 6908 of the education law, as amended by chapter 160 of the laws of
6 2003, is amended and a new subparagraph (v) is added to read as follows:

7 (iv) the furnishing of nursing assistance in case of an emergency; OR
8 (V) MEDICATION ADMINISTRATION SERVICES PROVIDED BY A HOME HEALTH AIDE
9 WHEN SUCH SERVICES ARE PERFORMED UNDER THE SUPERVISION OF A REGISTERED
10 PROFESSIONAL NURSE EMPLOYED BY A HOME CARE SERVICES AGENCY LICENSED OR
11 CERTIFIED PURSUANT TO ARTICLE THIRTY-SIX OR HOSPICE PROGRAM CERTIFIED
12 PURSUANT TO ARTICLE FORTY OF THE PUBLIC HEALTH LAW, IN ACCORDANCE WITH A
13 DEMONSTRATION PROGRAM DEVELOPED BY THE DEPARTMENT IN CONSULTATION WITH
14 THE DEPARTMENT OF HEALTH; PROVIDED THAT: (A) MEDICATION ADMINISTRATION
15 SERVICES MUST BE IN ACCORDANCE WITH AND PURSUANT TO AN AUTHORIZED PRAC-
16 TITIONER'S ORDERED CARE; (B) ONLY AN INDIVIDUAL WHO HAS SUCCESSFULLY
17 COMPLETED A COMPETENCY EXAMINATION SATISFACTORY TO THE COMMISSIONER MAY
18 PROVIDE MEDICATION ADMINISTRATION SERVICES AS PERMITTED BY THIS SUBPARA-
19 GRAPH; (C) SUCH HOME HEALTH AIDE DOES NOT HOLD HIMSELF OR HERSELF OUT,
20 OR ACCEPT EMPLOYMENT AS, A PERSON LICENSED TO PRACTICE NURSING UNDER THE
21 PROVISIONS OF THIS ARTICLE; (D) A HOME CARE SERVICES AGENCY OR A HOSPICE
22 PROGRAM MAY NOT PERMIT MEDICATION ADMINISTRATION SERVICES BY A HOME
23 HEALTH AIDE UNDER THIS SUBPARAGRAPH UNLESS SUCH AGENCY OR PROGRAM HAS
24 DEMONSTRATED TO THE SATISFACTION OF THE DEPARTMENT THAT DESPITE REASON-
25 ABLE EFFORTS TO SECURE AN APPROPRIATE LEVEL OF NURSING SERVICES FOR
26 PURPOSES OF ADMINISTERING MEDICATION, PARTICIPATION IN THE DEMONSTRATION
27 PROGRAM IS WARRANTED; (E) ONLY MEDICATIONS WHICH ARE ROUTINE AND
28 PREMEASURED OR OTHERWISE PACKAGED IN A MANNER THAT PROMOTES RELATIVE
29 EASE OF ADMINISTRATION MAY BE ADMINISTERED UNDER THE DEMONSTRATION
30 PROGRAM DEVELOPED PURSUANT TO THIS SUBPARAGRAPH; (F) SUCH HOME HEALTH
31 AIDE IS NOT REQUIRED NOR PERMITTED TO ASSESS THE MEDICATION NEEDS OF AN
32 INDIVIDUAL; AND (G) SUCH DEMONSTRATION PROGRAM SHALL BE FOR A TWO YEAR
33 PERIOD, AT THE CONCLUSION OF WHICH THE DEPARTMENT, IN CONSULTATION WITH
34 THE DEPARTMENT OF HEALTH, SHALL REPORT ON THE RESULTS OF SUCH PROGRAM
35 AND RECOMMEND WHETHER IT SHOULD BE CONTINUED OR EXPANDED TO ADDITIONAL
36 HEALTH CARE SETTINGS;

37 S 88. Subdivision 1 of section 6908 of the education law is amended by
38 adding a new paragraph i to read as follows:

39 I. AS PROHIBITING THE PRACTICE OF NURSING IN THIS STATE BY AN ADVANCED
40 HOME HEALTH AIDE, CERTIFIED PURSUANT TO SUBDIVISION SIX OF SECTION THIR-
41 TY-SIX HUNDRED TWELVE OF THE PUBLIC HEALTH LAW, WHEN SUCH SERVICES ARE
42 PROVIDED TO A SELF-DIRECTING INDIVIDUAL, ASSIGNED BY AND PERFORMED UNDER
43 THE SUPERVISION OF A REGISTERED PROFESSIONAL NURSE EMPLOYED BY A HOME
44 CARE SERVICES AGENCY LICENSED OR CERTIFIED PURSUANT TO ARTICLE
45 THIRTY-SIX OR HOSPICE PROGRAM CERTIFIED PURSUANT TO ARTICLE FORTY OF THE
46 PUBLIC HEALTH LAW, AND PURSUANT TO AN AUTHORIZED PRACTITIONER'S ORDERED
47 CARE; PROVIDED THAT SUCH HOME HEALTH AIDE DOES NOT HOLD HIMSELF OR
48 HERSELF OUT, OR ACCEPT EMPLOYMENT AS, A PERSON LICENSED TO PRACTICE
49 NURSING UNDER THE PROVISIONS OF THIS ARTICLE.

50 S 89. Subdivisions 6 and 7 of section 3612 of the public health law,
51 subdivision 7 as renumbered by chapter 606 of the laws of 2003, are
52 renumbered subdivisions 7 and 8 and a new subdivision 6 is added to read
53 as follows:

54 6. THE COMMISSIONER SHALL, PURSUANT TO REGULATIONS ESTABLISHING MINI-
55 MUM TRAINING AND QUALIFICATION OF ADVANCED HOME HEALTH AIDES, CERTIFY
56 ADVANCED HOME HEALTH AIDES.

1 S 90. Subdivision 1 of section 6605-b of the education law, as added
2 by chapter 437 of the laws of 2001, is amended to read as follows:

3 1. [A] NOTWITHSTANDING ANY PROVISION HEREIN TO THE CONTRARY, A dental
4 hygienist shall not administer or monitor nitrous oxide analgesia or
5 local infiltration anesthesia in the practice of dental hygiene without
6 a dental hygiene restricted local infiltration anesthesia/nitrous oxide
7 analgesia certificate and except under the personal supervision of a
8 dentist and in conjunction with the performance of dental hygiene proce-
9 dures authorized by law and in accordance with regulations promulgated
10 by the commissioner. Personal supervision, for purposes of this section,
11 means that the supervising dentist remains in the dental office where
12 the local infiltration anesthesia or nitrous oxide analgesia services
13 are being performed, personally authorizes and prescribes the use of
14 local infiltration anesthesia or nitrous oxide analgesia for the patient
15 and, before dismissal of the patient, personally examines the condition
16 of the patient after the use of local infiltration anesthesia or nitrous
17 oxide analgesia is completed. It is professional misconduct for a
18 dentist to fail to provide the supervision required by this section, and
19 any dentist found guilty of such misconduct under the procedures
20 prescribed in section sixty-five hundred ten of this title shall be
21 subject to the penalties prescribed in section sixty-five hundred eleven
22 of this title.

23 S 91. Subdivision 1 of section 6606 of the education law, as amended
24 by chapter 437 of the laws of 2001, is amended to read as follows:

25 1. The practice of the profession of dental hygiene is defined as the
26 performance of dental services which shall include removing calcareous
27 deposits, accretions and stains from the exposed surfaces of the teeth
28 which begin at the epithelial attachment and applying topical agents
29 indicated for a complete dental prophylaxis, removing cement, placing or
30 removing rubber dam, removing sutures, placing matrix band, providing
31 patient education, applying topical medication, placing and exposing
32 DIAGNOSTIC DENTAL X-ray films, performing topical fluoride applications
33 and topical anesthetic applications, polishing teeth, taking medical
34 history, charting caries, taking impressions for study casts, placing
35 and removing temporary restorations, administering and monitoring
36 nitrous oxide analgesia and administering and monitoring local infil-
37 tration anesthesia, subject to certification in accordance with section
38 sixty-six hundred five-b of this article, and any other function in the
39 definition of the practice of dentistry as may be delegated by a
40 licensed dentist in accordance with regulations promulgated by the
41 commissioner. The practice of dental hygiene may be conducted in the
42 office of any licensed dentist or in any appropriately equipped school
43 or public institution but must be done EITHER under the supervision of a
44 licensed dentist OR, IN THE CASE OF A REGISTERED DENTAL HYGIENIST WORK-
45 ING FOR A HOSPITAL AS DEFINED IN ARTICLE TWENTY-EIGHT OF THE PUBLIC
46 HEALTH LAW, PURSUANT TO A COLLABORATIVE ARRANGEMENT WITH A LICENSED
47 DENTIST PURSUANT TO REGULATIONS PROMULGATED PURSUANT TO ARTICLE TWENTY-
48 EIGHT OF THE PUBLIC HEALTH LAW.

49 S 92. Section 6608 of the education law, as amended by chapter 300 of
50 the laws of 2006, is amended to read as follows:

51 S 6608. Definition of practice of certified dental assisting. The
52 practice of certified dental assisting is defined as providing support-
53 ive services to a dentist in his/her performance of dental services
54 authorized under this article. Such support shall include providing
55 patient education, taking preliminary medical histories and vital signs
56 to be reviewed by the dentist, placing and removing rubber dams, select-

1 ing and prefitting provisional crowns, selecting and prefitting ortho-
2 dontic bands, removing orthodontic arch wires and ligature ties, placing
3 and removing matrix bands, taking impressions for study casts or diag-
4 nostic casts, removing periodontal dressings, and such other dental
5 supportive services authorized by the dentist consistent with regu-
6 lations promulgated by the commissioner, provided that such functions
7 are performed under the direct personal supervision of a licensed
8 dentist in the course of the performance of dental services. Such
9 services shall not include diagnosing and/or performing surgical proce-
10 dures, irreversible procedures or procedures that would alter the hard
11 or soft tissue of the oral and maxillofacial area or any other proce-
12 dures determined by the department. The practice of certified dental
13 assisting may be conducted in the office of any licensed dentist or in
14 any appropriately equipped school or public institution but must be done
15 under the direct personal supervision of a licensed dentist. Direct
16 personal supervision, for purposes of this section, means supervision of
17 dental procedures based on instructions given by a licensed dentist in
18 the course of a procedure who remains in the dental office where the
19 supportive services are being performed, personally diagnoses the condi-
20 tion to be treated, personally authorizes the procedures, and before
21 dismissal of the patient, who remains the responsibility of the licensed
22 dentist, evaluates the services performed by the dental assistant. Noth-
23 ing herein authorizes a dental assistant to perform any of the services
24 or functions defined as part of the practice of dental hygiene in
25 accordance with the provisions of subdivision one of section sixty-six
26 hundred six of this article, except those functions authorized pursuant
27 to this section. All dental supportive services provided in this section
28 may be performed by currently registered dental hygienists [under a
29 dentist's supervision], as defined in regulations of the commissioner.

30 S 93. Subdivisions 7 and 10 of section 6611 of the education law,
31 subdivision 7 as amended by chapter 649 of the laws of 2006 and subdivi-
32 sion 10 as amended by chapter 65 of the laws of 2011, are amended to
33 read as follows:

34 7. Any dentist or dental hygienist WORKING UNDER THE SUPERVISION OF A
35 DENTIST, who in the performance of dental services, x-rays the mouth or
36 teeth of a patient shall during the performance of such x-rays shield
37 the torso and thyroid area of such patient including but not limited to
38 the gonads and other reproductive organs with a lead apron thyroid
39 collar, or other similar protective garment or device. Notwithstanding
40 the provisions of this subdivision, if in the dentist's professional
41 judgment the use of a thyroid collar would be inappropriate under the
42 circumstances, because of the nature of the patient, the type of x-ray
43 being taken, or other factors, the dentist or A dental hygienist WORKING
44 UNDER THE SUPERVISION OF THE DENTIST need not shield the thyroid area.

45 10. [Beginning January first, two thousand nine, each] EACH dentist
46 AND REGISTERED DENTAL HYGIENIST WORKING FOR A HOSPITAL AS DEFINED IN
47 ARTICLE TWENTY-EIGHT OF THE PUBLIC HEALTH LAW WHO PRACTICES IN COLLAB-
48 ORATION WITH A LICENSED DENTIST shall become certified in cardiopulmo-
49 nary resuscitation (CPR) from an approved provider and thereafter main-
50 tain current certification, which shall be included in the mandatory
51 hours of continuing education acceptable for dentists to the extent
52 provided in the commissioner's regulations. In the event the dentist OR
53 REGISTERED DENTAL HYGIENIST cannot physically perform CPR, the commis-
54 sioner's regulations shall allow the dentist OR REGISTERED DENTAL
55 HYGIENIST to make arrangements for another individual in the office to

1 administer CPR. All dental facilities shall have an automatic external
2 defibrillator or other defibrillator at the facility.

3 S 94. Subdivision 2 of section 903 of the education law, as added by
4 chapter 281 of the laws of 2007, is amended to read as follows:

5 2. a. A dental health certificate shall be requested from each
6 student. Each student is requested to furnish a dental health certifi-
7 cate at the same time that health certificates are required. An exam-
8 ination and dental health history of any child may be requested by the
9 local school authorities at any time in their discretion to promote the
10 educational interests of such child. Each certificate shall be signed by
11 a duly licensed dentist who is authorized by law to practice in this
12 state, and consistent with any applicable written practice agreement, or
13 by a duly licensed dentist OR REGISTERED DENTAL HYGIENIST who is author-
14 ized to practice in the jurisdiction in which the examination was given,
15 provided that the commissioner has determined that such jurisdiction has
16 standards of licensure and practice comparable to those of New York.
17 Each such certificate shall describe the dental health condition of the
18 student when the examination was made, which shall not be more than
19 twelve months prior to the commencement of the school year in which the
20 examination is requested, and shall state whether such student is in fit
21 condition of dental health to permit his or her attendance at the public
22 schools.

23 b. A notice of request for dental health certificates shall be
24 distributed at the same time that parents or person in parental
25 relationship to students are notified of health examination requirements
26 and shall state that a list of DENTAL PRACTICES, dentists AND REGISTERED
27 DENTAL HYGIENISTS to which children [who need comprehensive dental exam-
28 inations] may be referred for [treatment] DENTAL SERVICES on a free or
29 reduced cost basis is available upon request at the child's school. The
30 department shall, in collaboration with the department of health,
31 compile and maintain a list of DENTAL PRACTICES, dentists AND REGISTERED
32 DENTAL HYGIENISTS to which children [who need comprehensive dental exam-
33 inations] may be referred for [treatment] DENTAL SERVICES on a free or
34 reduced cost basis. Such list shall be made available to all public
35 schools and be made available to parents or person in parental relation-
36 ship upon request. The department shall promulgate regulations to ensure
37 the gathering and dissemination of the proper information to interested
38 parties.

39 S 95. Paragraph (a) of subdivision 3 of section 6902 of the education
40 law, as added by chapter 257 of the laws of 1988, is amended to read as
41 follows:

42 (a) The practice of registered professional nursing by a nurse practi-
43 tioner, certified under section [six thousand nine] SIXTY-NINE hundred
44 ten of this article, may include the diagnosis of illness and physical
45 conditions and the performance of therapeutic and corrective measures
46 within a specialty area of practice, in collaboration with a licensed
47 physician qualified to collaborate in the specialty involved, provided
48 such services are performed in accordance with a written practice agree-
49 ment and written practice protocols. The written practice agreement
50 shall include explicit provisions for the resolution of any disagreement
51 between the collaborating physician and the nurse practitioner regarding
52 a matter of diagnosis or treatment that is within the scope of practice
53 of both. To the extent the practice agreement does not so provide, then
54 the collaborating physician's diagnosis or treatment shall prevail. NO
55 WRITTEN PRACTICE AGREEMENT OR WRITTEN PRACTICE PROTOCOLS SHALL BE
56 REQUIRED FOR NURSE PRACTITIONERS WHO PROVIDE ONLY PRIMARY CARE SERVICES

1 AS DETERMINED BY THE COMMISSIONER OF HEALTH AND WHO DEMONSTRATE TO THE
2 DEPARTMENT OF HEALTH, IN THE MANNER AND MEANS REQUIRED BY SUCH DEPART-
3 MENT IN CONSULTATION WITH THE EDUCATION DEPARTMENT, THAT IT IS NOT
4 REASONABLE TO REQUIRE SUCH AGREEMENT OR PRACTICE PROTOCOLS.

5 S 96. Subdivisions 3 and 5 of section 6542 of the education law, as
6 amended by chapter 48 of the laws of 2012, are amended to read as
7 follows:

8 3. No physician shall employ or supervise more than [two] FOUR physi-
9 cian assistants in his or her private practice.

10 5. Notwithstanding any other provision of this article, nothing shall
11 prohibit a physician employed by or rendering services to the department
12 of corrections and community supervision under contract from supervising
13 no more than [four] SIX physician assistants in his or her practice for
14 the department of corrections and community supervision.

15 S 97. The opening paragraph, and paragraphs (k) and (l) of subdivision
16 1 of section 3510 of the public health law, as added by chapter 175 of
17 the laws of 2006, are amended and four new paragraphs (m), (n), (o) and
18 (p) are added to read as follows:

19 The license, registration or intravenous contrast administration
20 certificate of a [radiological] RADIOLOGIC technologist may be suspended
21 for a fixed period, revoked or annulled, or such licensee censured,
22 reprimanded, subject to a civil penalty not to exceed two thousand
23 dollars for every such violation, or otherwise disciplined, in accord-
24 ance with the provisions and procedures defined in this article, upon
25 decision after due hearing that the individual is guilty of the follow-
26 ing misconduct:

27 (k) using the prefix "Dr.", the word "doctor" or any suffix or affix
28 to indicate or imply that the licensee is a duly licensed practitioner
29 as defined in this article when not so licensed; [or]

30 (l) incompetence or negligence[.];

31 (M) BEING CONVICTED OF COMMITTING AN ACT CONSTITUTING A CRIME UNDER
32 (I) NEW YORK STATE LAW; (II) FEDERAL LAW; OR (III) THE LAW OF ANOTHER
33 JURISDICTION AND WHICH, IF COMMITTED WITHIN THIS STATE, WOULD HAVE
34 CONSTITUTED A CRIME UNDER NEW YORK STATE LAW;

35 (N) HAVING BEEN FOUND GUILTY OF IMPROPER PROFESSIONAL PRACTICE OR
36 PROFESSIONAL MISCONDUCT BY A DULY AUTHORIZED PROFESSIONAL DISCIPLINARY
37 AGENCY OF ANOTHER STATE WHERE THE CONDUCT UPON WHICH THE FINDING WAS
38 BASED, IF COMMITTED IN NEW YORK STATE, WOULD CONSTITUTE PROFESSIONAL
39 MISCONDUCT UNDER THE LAWS OF NEW YORK STATE;

40 (O) HAVING BEEN FOUND GUILTY IN AN ADJUDICATORY PROCEEDING OF VIOLAT-
41 ING A STATE OR FEDERAL STATUTE OR REGULATION, PURSUANT TO A FINAL DECI-
42 SION OR DETERMINATION, AND WHEN NO APPEAL IS PENDING, OR AFTER RESOL-
43 UTION OF THE PROCEEDING BY STIPULATION OR AGREEMENT, AND WHEN THE
44 VIOLATION WOULD CONSTITUTE PROFESSIONAL MISCONDUCT UNDER THE LAWS OF NEW
45 YORK STATE; OR

46 (P) HAVING HIS OR HER LICENSE TO PRACTICE AS A RADIOLOGIC TECHNOLOGIST
47 REVOKED, SUSPENDED OR HAVING OTHER DISCIPLINARY ACTION TAKEN, OR HAVING
48 HIS OR HER APPLICATION FOR A LICENSE REFUSED, REVOKED OR SUSPENDED OR
49 HAVING VOLUNTARILY OR OTHERWISE SURRENDERED HIS OR HER LICENSE AFTER A
50 DISCIPLINARY ACTION WAS INSTITUTED BY A DULY AUTHORIZED PROFESSIONAL
51 DISCIPLINARY AGENCY OF ANOTHER STATE, WHERE THE CONDUCT RESULTING IN THE
52 REVOCATION, SUSPENSION OR OTHER DISCIPLINARY ACTION INVOLVING THE
53 LICENSE OR REFUSAL, REVOCATION OR SUSPENSION OF AN APPLICATION FOR A
54 LICENSE OR THE SURRENDER OF THE LICENSE WOULD, IF COMMITTED IN NEW YORK
55 STATE, CONSTITUTE PROFESSIONAL MISCONDUCT UNDER THE LAWS OF NEW YORK
56 STATE. A RADIOLOGIC TECHNOLOGIST LICENSED IN NEW YORK STATE WHO IS ALSO

1 LICENSED OR SEEKING LICENSURE IN ANOTHER STATE MUST IMMEDIATELY REPORT
2 TO THE DEPARTMENT ANY REVOCATION, SUSPENSION OR OTHER DISCIPLINARY
3 ACTION INVOLVING THE OUT-OF-STATE LICENSE OR REFUSAL, REVOCATION OR
4 SUSPENSION OF AN APPLICATION FOR AN OUT-OF-STATE LICENSE OR THE SURREN-
5 DER OF THE OUT-OF-STATE LICENSE.

6 S 98. Section 9 of chapter 420 of the laws of 2002 amending the educa-
7 tion law relating to the profession of social work, as amended by chap-
8 ter 132 of the laws of 2010, is amended to read as follows:

9 S 9. [a.] Nothing in this act shall prohibit or limit the activities
10 or services on the part of any person in the employ of a program or
11 service operated, regulated, funded, or approved by the department of
12 mental hygiene, the office of children and family services, the depart-
13 ment of [correctional services] CORRECTIONS AND COMMUNITY SUPERVISION,
14 the state office for the aging, the department of health, or a local
15 governmental unit as that term is defined in article 41 of the mental
16 hygiene law or a social services district as defined in section 61 of
17 the social services law, provided, however, this section shall not
18 authorize the use of any title authorized pursuant to article 154 of the
19 education law[, except that this section shall be deemed repealed on
20 July 1, 2013; provided, further, however, that on or before October 1,
21 2010, each state agency identified in this subdivision shall submit to
22 the commissioner of education data, in such form and detail as requested
23 by the commissioner of education, concerning the functions performed by
24 its service provider workforce and the service provider workforce of the
25 local governmental units and social services districts as defined in
26 this subdivision over which the agency has regulatory authority. After
27 receipt of such data, the commissioner shall convene a workgroup of such
28 state agencies for the purpose of reviewing such data and also to make
29 recommendations regarding amendments to law, rule or regulation neces-
30 sary to clarify which tasks and activities must be performed only by
31 licensed or otherwise authorized personnel. No later than January 1,
32 2011, after consultation with such work group, the commissioner shall
33 develop criteria for the report required pursuant to subdivision b of
34 this section and shall work with such state agencies by providing advice
35 and guidance regarding which tasks and activities must be performed only
36 by licensed or otherwise authorized personnel.

37 b. On or before July 1, 2011, each such state agency, after consulta-
38 tion with local governmental units and social services districts as
39 defined in subdivision a of this section over which the agency has regu-
40 latory authority, shall submit to the commissioner of education a report
41 on the utilization of personnel subject to the provisions of this
42 section. Such report shall include but not be limited to: identification
43 of tasks and activities performed by such personnel categorized as tasks
44 and functions restricted to licensed personnel and tasks and functions
45 that do not require a license under article 154 of the education law;
46 analysis of costs associated with employing only appropriately licensed
47 or otherwise authorized personnel to perform tasks and functions that
48 require licensure under such article 154, including salary costs and
49 costs associated with providing support to unlicensed personnel in
50 obtaining appropriate licensure. Such report shall also include an
51 action plan detailing measures through which each such entity shall, no
52 later than July 1, 2013, comply with professional licensure laws appli-
53 cable to services provided and make recommendations on alternative path-
54 ways toward licensure.

55 c. The commissioner of education shall, after receipt of the report
56 required under this section, and after consultation with state agencies,

1 not-for-profit providers, professional associations, consumers, and
2 other key stakeholders, submit a report to the governor, the speaker of
3 the assembly, the temporary president of the senate, and the chairs of
4 the senate and assembly higher education committees by July 1, 2012 to
5 recommend any amendments to law, rule or regulation necessary to fully
6 implement the requirements for licensure by July 1, 2013. Other state
7 agency commissioners shall be provided an opportunity to include state-
8 ments or alternative recommendations in such report].

9 S 99. Section 17-a of chapter 676 of the laws of 2002 amending the
10 education law relating to the practice of psychology, as amended by
11 chapter 130 of the laws of 2010, subdivision b as amended by chapter 132
12 of the laws of 2010, is amended to read as follows:

13 S 17-a. [a.] In relation to activities and services provided under
14 article 153 of the education law, nothing in this act shall prohibit or
15 limit such activities or services on the part of any person in the
16 employ of a program or service operated, regulated, funded, or approved
17 by the department of mental hygiene or the office of children and family
18 services, or a local governmental unit as that term is defined in arti-
19 cle 41 of the mental hygiene law or a social services district as
20 defined in section 61 of the social services law. In relation to activ-
21 ities and services provided under article 163 of the education law,
22 nothing in this act shall prohibit or limit such activities or services
23 on the part of any person in the employ of a program or service oper-
24 ated, regulated, funded, or approved by the department of mental
25 hygiene, the office of children and family services, the department of
26 correctional services, the state office for the aging and the department
27 of health or a local governmental unit as that term is defined in arti-
28 cle 41 of the mental hygiene law or a social services district as
29 defined in section 61 of the social services law, pursuant to authority
30 granted by law. This section shall not authorize the use of any title
31 authorized pursuant to article 153 or 163 of the education law by any
32 such employed person, except as otherwise provided by such articles
33 respectively.

34 [b. This section shall be deemed repealed July 1, 2013 provided,
35 however, that on or before October 1, 2010, each state agency identified
36 in subdivision a of this section shall submit to the commissioner of
37 education data, in such form and detail as requested by the commissioner
38 of education, concerning the functions performed by its service provider
39 workforce and the service provider workforce of the local governmental
40 units and social services districts as defined in subdivision a of this
41 section over which the agency has regulatory authority. After receipt of
42 such data, the commissioner shall convene a workgroup of such state
43 agencies for the purpose of reviewing such data and also to make recom-
44 mendations regarding amendments to law, rule or regulation necessary to
45 clarify which tasks and activities must be performed only by licensed or
46 otherwise authorized personnel. No later than January 1, 2011, after
47 consultation with such workgroup, the commissioner shall develop crite-
48 ria for the report required pursuant to paragraph one of this subdivi-
49 sion and shall work with such state agencies by providing advice and
50 guidance regarding which tasks and activities must be performed only by
51 licensed or otherwise authorized personnel.

52 1. On or before July 1, 2011, each such state agency, after consulta-
53 tion with local governmental units and social services districts as
54 defined in subdivision a of this section over which the agency has regu-
55 latory authority, shall submit to the commissioner of education a report
56 on the utilization of personnel subject to the provisions of this

1 section. Such report shall include but not be limited to: identification
2 of tasks and activities performed by such personnel categorized as tasks
3 and functions restricted to licensed personnel and tasks and functions
4 that do not require a license under article 153 or 163 of the education
5 law; analysis of costs associated with employing only appropriately
6 licensed or otherwise authorized personnel to perform tasks and func-
7 tions that require licensure under such article 153 or 163, including
8 salary costs and costs associated with providing support to unlicensed
9 personnel in obtaining appropriate licensure. Such report shall also
10 include an action plan detailing measures through which each such entity
11 shall, no later than July 1, 2013, comply with professional licensure
12 laws applicable to services provided and make recommendations on alter-
13 native pathways toward licensure.

14 2. The commissioner of education shall, after receipt of the reports
15 required under this section, and after consultation with state agencies,
16 not-for-profit providers, professional associations, consumers, and
17 other key stakeholders, submit a report to the governor, the speaker of
18 the assembly, the temporary president of the senate, and the chairs of
19 the senate and assembly higher education committees by July 1, 2012 to
20 recommend any amendments to law, rule or regulation necessary to fully
21 implement the requirements for licensure by July 1, 2013. Other state
22 agency commissioners shall be provided an opportunity to include state-
23 ments or alternative recommendations in such report.]

24 S 100. Section 16 of chapter 130 of the laws of 2010 amending the
25 education law and other laws relating to the registration of entities
26 providing certain professional services and the licensure of certain
27 professions, as amended by chapter 132 of the laws of 2010, is amended
28 to read as follows:

29 S 16. This act shall take effect immediately; provided that sections
30 thirteen, fourteen and fifteen of this act shall take effect immediately
31 and shall be deemed to have been in full force and effect on and after
32 June 1, 2010 [and such sections shall be deemed repealed July 1, 2013;
33 provided further that the amendments to section 9 of chapter 420 of the
34 laws of 2002 amending the education law relating to the profession of
35 social work made by section thirteen of this act shall repeal on the
36 same date as such section repeals; provided further that the amendments
37 to section 17-a of chapter 676 of the laws of 2002 amending the educa-
38 tion law relating to the practice of psychology made by section fourteen
39 of this act shall repeal on the same date as such section repeals].

40 S 101. Section 2801-a of the public health law is amended by adding a
41 new subdivision 17 to read as follows:

42 17. (A) DIAGNOSTIC OR TREATMENT CENTERS ESTABLISHED TO PROVIDE HEALTH
43 CARE SERVICES WITHIN THE SPACE OF A RETAIL BUSINESS OPERATION, SUCH AS A
44 PHARMACY, A STORE OPEN TO THE GENERAL PUBLIC OR A SHOPPING MALL, MAY BE
45 OPERATED BY LEGAL ENTITIES FORMED UNDER THE LAWS OF NEW YORK WHOSE
46 STOCKHOLDERS OR MEMBERS, AS APPLICABLE, ARE NOT NATURAL PERSONS AND
47 WHOSE PRINCIPAL STOCKHOLDERS AND MEMBERS, AS APPLICABLE, AND CONTROLLING
48 PERSONS COMPLY WITH ALL APPLICABLE REQUIREMENTS OF THIS SECTION AND
49 DEMONSTRATE, TO THE SATISFACTION OF THE PUBLIC HEALTH AND HEALTH PLAN-
50 NING COUNCIL, SUFFICIENT EXPERIENCE AND EXPERTISE IN DELIVERING HIGH
51 QUALITY HEALTH CARE SERVICES. SUCH DIAGNOSTIC AND TREATMENT CENTERS
52 SHALL BE REFERRED TO IN THIS SECTION AS "LIMITED SERVICES CLINICS". FOR
53 PURPOSES OF THIS SUBDIVISION, THE PUBLIC HEALTH AND HEALTH PLANNING
54 COUNCIL SHALL ADOPT AND AMEND RULES AND REGULATIONS, NOTWITHSTANDING ANY
55 INCONSISTENT PROVISION OF THIS SECTION, TO ADDRESS ANY MATTER IT DEEMS
56 PERTINENT TO THE ESTABLISHMENT OF LIMITED SERVICES CLINICS; PROVIDED

1 THAT SUCH RULES AND REGULATIONS SHALL INCLUDE, BUT NOT BE LIMITED TO,
2 PROVISIONS GOVERNING OR RELATING TO: (I) ANY DIRECT OR INDIRECT CHANGES
3 OR TRANSFERS OF OWNERSHIP INTERESTS OR VOTING RIGHTS IN SUCH ENTITIES OR
4 THEIR STOCKHOLDERS OR MEMBERS, AS APPLICABLE, AND PROVIDE FOR PUBLIC
5 HEALTH AND HEALTH PLANNING COUNCIL APPROVAL OF ANY CHANGE IN CONTROLLING
6 INTERESTS, PRINCIPAL STOCKHOLDERS, CONTROLLING PERSONS, PARENT COMPANY
7 OR SPONSORS; (II) OVERSIGHT OF THE OPERATOR AND ITS SHAREHOLDERS OR
8 MEMBERS, AS APPLICABLE, INCLUDING LOCAL GOVERNANCE OF THE LIMITED
9 SERVICES CLINICS; AND (III) RELATING TO THE CHARACTER AND COMPETENCE AND
10 QUALIFICATIONS OF, AND CHANGES RELATING TO, THE DIRECTORS AND OFFICERS,
11 THE OPERATOR AND ITS PRINCIPAL STOCKHOLDERS, CONTROLLING PERSONS, COMPA-
12 NY OR SPONSORS.

13 (B) THE FOLLOWING PROVISIONS OF THIS SECTION SHALL NOT APPLY TO LIMIT-
14 ED SERVICES CLINICS OPERATED PURSUANT TO THIS SUBDIVISION: (I) PARAGRAPH
15 (B) OF SUBDIVISION THREE OF THIS SECTION, RELATING TO STOCKHOLDERS AND
16 MEMBERS; (II) PARAGRAPH (C) OF SUBDIVISION FOUR OF THIS SECTION, RELAT-
17 ING TO THE DISPOSITION OF STOCK OR VOTING RIGHTS; AND (III) PARAGRAPH
18 (E) OF SUBDIVISION FOUR OF THIS SECTION, RELATING TO THE OWNERSHIP OF
19 STOCK OR MEMBERSHIP.

20 (C) A LIMITED SERVICES CLINIC SHALL BE DEEMED TO BE A "HEALTH CARE
21 PROVIDER" FOR THE PURPOSES OF TITLE TWO-D OF ARTICLE TWO OF THIS CHAP-
22 TER. A PRESCRIBER PRACTICING IN A LIMITED SERVICES CLINIC SHALL NOT BE
23 DEEMED TO BE IN THE EMPLOY OF A PHARMACY OR PRACTICING IN A HOSPITAL FOR
24 PURPOSES OF SUBDIVISION TWO OF SECTION SIXTY-EIGHT HUNDRED SEVEN OF THE
25 EDUCATION LAW.

26 (D) THE COMMISSIONER SHALL PROMULGATE REGULATIONS SETTING FORTH OPERA-
27 TIONAL AND PHYSICAL PLANT STANDARDS FOR LIMITED SERVICES CLINICS, WHICH
28 MAY BE DIFFERENT FROM THE REGULATIONS OTHERWISE APPLICABLE TO DIAGNOSTIC
29 OR TREATMENT CENTERS, INCLUDING, BUT NOT LIMITED TO: DESIGNATING OR
30 LIMITING THE DIAGNOSES AND SERVICES THAT MAY BE PROVIDED; PROHIBITING
31 THE PROVISION OF SERVICES TO PATIENTS TWENTY-FOUR MONTHS OF AGE OR YOUN-
32 GER; AND REQUIREMENTS OR GUIDELINES FOR ADVERTISING AND SIGNAGE, DISCLO-
33 SURE OF OWNERSHIP INTERESTS, INFORMED CONSENT, RECORD KEEPING, REFERRAL
34 FOR TREATMENT AND CONTINUITY OF CARE, CASE REPORTING TO THE PATIENT'S
35 PRIMARY CARE OR OTHER HEALTH CARE PROVIDERS, DESIGN, CONSTRUCTION,
36 FIXTURES, AND EQUIPMENT. IN MAKING REGULATIONS UNDER THIS SECTION, THE
37 COMMISSIONER MAY CONSULT WITH A WORKGROUP INCLUDING BUT NOT LIMITED TO
38 REPRESENTATIVES OF PROFESSIONAL SOCIETIES OF APPROPRIATE HEALTH CARE
39 PROFESSIONALS, INCLUDING THOSE IN PRIMARY CARE AND OTHER SPECIALTIES AND
40 SHALL PROMOTE AND STRENGTHEN PRIMARY CARE; THE INTEGRATION OF SERVICES
41 PROVIDED BY LIMITED SERVICES CLINICS WITH THE SERVICES PROVIDED BY THE
42 PATIENT'S OTHER HEALTH CARE PROVIDERS; AND THE REFERRAL OF PATIENTS TO
43 APPROPRIATE HEALTH CARE PROVIDERS, INCLUDING APPROPRIATE TRANSMISSION OF
44 PATIENT HEALTH RECORDS.

45 S 102. Intentionally omitted.

46 S 103. Intentionally omitted.

47 S 104. Section 2801-a of the public health law is amended by adding a
48 new subdivision 18 to read as follows:

49 18. (A) THE COMMISSIONER IS AUTHORIZED TO ESTABLISH A PILOT PROGRAM TO
50 ASSIST IN RESTRUCTURING HEALTH CARE DELIVERY SYSTEMS BY ALLOWING FOR
51 INCREASED CAPITAL INVESTMENT IN HEALTH CARE FACILITIES. PURSUANT TO THE
52 PILOT PROGRAM, THE PUBLIC HEALTH AND HEALTH PLANNING COUNCIL SHALL
53 APPROVE THE ESTABLISHMENT, IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVI-
54 SION THREE OF THIS SECTION, OF NO MORE THAN TWO BUSINESS CORPORATIONS
55 FORMED UNDER THE BUSINESS CORPORATION LAW, ONE OF WHICH SHALL BE THE
56 OPERATOR OF A HOSPITAL OR HOSPITALS IN KINGS COUNTY AND ONE SHALL BE

1 ELSEWHERE IN THE STATE. SUCH BUSINESS CORPORATIONS SHALL AFFILIATE, THE
2 EXTENT OF THE AFFILIATION TO BE DETERMINED BY THE COMMISSIONER, WITH AT
3 LEAST ONE ACADEMIC MEDICAL INSTITUTION APPROVED BY THE COMMISSIONER.

4 (B) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, BUSINESS
5 CORPORATIONS ESTABLISHED PURSUANT TO THIS SUBDIVISION SHALL BE DEEMED
6 ELIGIBLE TO PARTICIPATE IN DEBT FINANCING PROVIDED BY THE DORMITORY
7 AUTHORITY OF THE STATE OF NEW YORK, LOCAL DEVELOPMENT CORPORATIONS AND
8 ECONOMIC DEVELOPMENT CORPORATIONS.

9 (C) THE FOLLOWING PROVISIONS OF THIS CHAPTER SHALL NOT APPLY TO BUSI-
10 NESS CORPORATIONS ESTABLISHED PURSUANT TO THIS SUBDIVISION: (I) PARA-
11 GRAPH (B) OF SUBDIVISION THREE OF THIS SECTION, RELATING TO STOCKHOLD-
12 ERS; (II) PARAGRAPH (C) OF SUBDIVISION FOUR OF THIS SECTION, RELATING TO
13 THE DISPOSITION OF STOCK OR VOTING RIGHTS; (III) PARAGRAPH (E) OF SUBDI-
14 VISION FOUR OF THIS SECTION, RELATING TO THE OWNERSHIP OF STOCK; AND
15 (IV) PARAGRAPH (A) OF SUBDIVISION THREE OF SECTION FOUR THOUSAND FOUR OF
16 THIS CHAPTER, RELATING TO THE OWNERSHIP OF STOCK. NOTWITHSTANDING THE
17 FOREGOING, THE PUBLIC HEALTH AND HEALTH PLANNING COUNCIL MAY REQUIRE THE
18 DISCLOSURE OF THE IDENTITY OF STOCKHOLDERS, PROVIDED THAT THE NUMBER OF
19 STOCKHOLDERS DOES NOT EXCEED THIRTY-FIVE.

20 (D) THE CORPORATE POWERS AND PURPOSES OF A BUSINESS CORPORATION ESTAB-
21 LISHED AS AN OPERATOR PURSUANT TO THIS SUBDIVISION SHALL BE LIMITED TO
22 THE OWNERSHIP AND OPERATION, OR OPERATION, OF A HOSPITAL OR HOSPITALS
23 SPECIFICALLY NAMED AND THE LOCATION OR LOCATIONS OF WHICH ARE SPECIF-
24 ICALLY DESIGNATED BY STREET ADDRESS, CITY, TOWN, VILLAGE OR LOCALITY AND
25 COUNTY; PROVIDED, HOWEVER, THAT THE CORPORATE POWERS AND PURPOSES MAY
26 ALSO INCLUDE THE OWNERSHIP AND OPERATION, OR OPERATION, OF A CERTIFIED
27 HOME HEALTH AGENCY OR LICENSED HOME CARE SERVICES AGENCY OR AGENCIES AS
28 DEFINED IN ARTICLE THIRTY-SIX OF THIS CHAPTER OR A HOSPICE OR HOSPICES
29 AS DEFINED IN ARTICLE FORTY OF THIS CHAPTER, IF THE CORPORATION HAS
30 RECEIVED ALL APPROVALS REQUIRED UNDER SUCH LAW TO OWN AND OPERATE, OR
31 OPERATE, SUCH HOME CARE SERVICES AGENCY OR AGENCIES OR HOSPICE OR
32 HOSPICES. SUCH CORPORATE POWERS AND PURPOSES SHALL NOT BE MODIFIED,
33 AMENDED OR DELETED WITHOUT THE PRIOR APPROVAL OF THE COMMISSIONER.

34 (E) (1) IN DISCHARGING THE DUTIES OF THEIR RESPECTIVE POSITIONS, THE
35 BOARD OF DIRECTORS, COMMITTEES OF THE BOARD AND INDIVIDUAL DIRECTORS AND
36 OFFICERS OF A BUSINESS CORPORATION ESTABLISHED PURSUANT TO THIS SUBDIVI-
37 SION SHALL CONSIDER THE EFFECTS OF ANY ACTION UPON:

38 (A) THE ABILITY OF THE BUSINESS CORPORATION TO ACCOMPLISH ITS PURPOSE;

39 (B) THE SHAREHOLDERS OF THE BUSINESS CORPORATION;

40 (C) THE EMPLOYEES AND WORKFORCE OF THE BUSINESS;

41 (D) THE INTERESTS OF PATIENTS OF THE HOSPITAL OR HOSPITALS;

42 (E) COMMUNITY AND SOCIETAL CONSIDERATIONS, INCLUDING THOSE OF ANY
43 COMMUNITY IN WHICH FACILITIES OF THE CORPORATION ARE LOCATED;

44 (F) THE LOCAL AND GLOBAL ENVIRONMENT; AND

45 (G) THE SHORT-TERM AND LONG-TERM INTERESTS OF THE CORPORATION, INCLUD-
46 ING BENEFITS THAT MAY ACCRUE TO THE CORPORATION FROM ITS LONG-TERM
47 PLANS.

48 (2) THE CONSIDERATION OF INTERESTS AND FACTORS IN THE MANNER REQUIRED
49 BY PARAGRAPH ONE OF THIS PARAGRAPH:

50 (A) SHALL NOT CONSTITUTE A VIOLATION OF THE PROVISIONS OF SECTION
51 SEVEN HUNDRED FIFTEEN OR SEVEN HUNDRED SEVENTEEN OF THE BUSINESS CORPO-
52 RATION LAW; AND

53 (B) IS IN ADDITION TO THE ABILITY OF DIRECTORS TO CONSIDER INTERESTS
54 AND FACTORS AS PROVIDED IN SECTION SEVEN HUNDRED SEVENTEEN OF THE BUSI-
55 NESS CORPORATION LAW.

(F) A SALE, LEASE, CONVEYANCE, EXCHANGE, TRANSFER, OR OTHER DISPOSITION OF ALL OR SUBSTANTIALLY ALL OF THE ASSETS OF THE CORPORATION SHALL NOT BE EFFECTIVE UNLESS THE TRANSACTION IS APPROVED BY THE COMMISSIONER.

(G) NO LATER THAN TWO YEARS AFTER THE ESTABLISHMENT OF A BUSINESS CORPORATION UNDER THIS SUBDIVISION, THE COMMISSIONER SHALL PROVIDE THE GOVERNOR, THE MAJORITY LEADER OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY WITH A WRITTEN EVALUATION OF THE PILOT PROGRAM. SUCH EVALUATION SHALL ADDRESS THE OVERALL EFFECTIVENESS OF THE PROGRAM IN ALLOWING FOR ACCESS TO CAPITAL INVESTMENT IN HEALTH CARE FACILITIES AND THE IMPACT SUCH ACCESS MAY HAVE ON THE QUALITY OF CARE PROVIDED BY HOSPITALS OPERATED BY BUSINESS CORPORATIONS ESTABLISHED UNDER THIS SUBDIVISION.

S 105. Intentionally omitted.

S 106. Section 18 of chapter 266 of the laws of 1986, amending the civil practice law and rules and other laws relating to medical and dental malpractice, is REPEALED.

S 107. Any rules or regulations promulgated by the superintendent of insurance or the commissioner of health pursuant to the provisions of section 18 of chapter 266 of the laws of 1986 shall survive such repeal, and shall be applicable to the excess medical malpractice liability coverage pool and related provisions as created by section one hundred eight of this act.

The repeal of section 18 of chapter 266 of the laws of 1986 as effectuated by section one hundred six of this act shall not affect the rights or obligations of any physician, dentist, insurer or general hospital related to excess or equivalent excess coverage purchased pursuant to the provisions of section 18 of chapter 266 of the laws of 1986 that were in effect prior to the date this act takes effect; nor shall the repeal of section 18 of chapter 266 of the laws of 1986 as effectuated by section one hundred six of this act affect the rights or obligations of any claimant against excess or equivalent excess coverage that was purchased pursuant to the provisions of section 18 of chapter 266 of the laws of 1986 that were in effect prior to the date this act takes effect.

S 108. The public health law is amended by adding a new section 23 to read as follows:

S 23. EXCESS MEDICAL MALPRACTICE LIABILITY COVERAGE POOL. 1. THE HOSPITAL EXCESS LIABILITY POOL ESTABLISHED BY SUBDIVISION FIVE OF SECTION EIGHTEEN OF CHAPTER TWO HUNDRED SIXTY-SIX OF THE LAWS OF NINETEEN HUNDRED EIGHTY-SIX, AS AMENDED BY CHAPTER TWO HUNDRED FIFTY-SIX OF THE LAWS OF NINETEEN HUNDRED NINETY-THREE SHALL BE CONTINUED AND IS HEREBY RENAMED THE "EXCESS MEDICAL MALPRACTICE LIABILITY COVERAGE POOL." THE EXCESS MEDICAL MALPRACTICE LIABILITY COVERAGE POOL SHALL BE OVERSEEN BY THE SUPERINTENDENT OF FINANCIAL SERVICES AND THE COMMISSIONER, AND SHALL CONSIST OF FUNDS CURRENTLY IN OR OWED TO THE EXCESS LIABILITY POOL AS OF THE EFFECTIVE DATE OF THIS SECTION, AND FUNDS APPROPRIATED FOR THE PURPOSES OF THE EXCESS MEDICAL MALPRACTICE LIABILITY COVERAGE POOL.

2. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF SECTIONS ONE HUNDRED TWELVE AND ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE LAW, OR SECTIONS ONE HUNDRED FORTY-TWO AND ONE HUNDRED FORTY-THREE OF THE ECONOMIC DEVELOPMENT LAW, OR ANY OTHER CONTRARY PROVISION OF LAW, THE SUPERINTENDENT OF FINANCIAL SERVICES MAY ENTER INTO A CONTRACT OR CONTRACTS UNDER THIS SUBDIVISION WITHOUT A COMPETITIVE BID OR REQUEST FOR PROPOSAL PROCESS, PROVIDED, HOWEVER, THAT:

(A) THE DEPARTMENT OF FINANCIAL SERVICES SHALL POST ON ITS WEBSITE, FOR A PERIOD OF NO LESS THAN THIRTY DAYS:

1 (I) A DESCRIPTION OF THE PROPOSED SERVICES TO BE PROVIDED PURSUANT TO
2 THE CONTRACT OR CONTRACTS;

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

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

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

9 (B) ALL REASONABLE AND RESPONSIVE SUBMISSIONS THAT ARE RECEIVED FROM
10 PROSPECTIVE CONTRACTORS IN TIMELY FASHION SHALL BE REVIEWED BY THE
11 SUPERINTENDENT OF FINANCIAL SERVICES; AND

12 (C) THE SUPERINTENDENT OF FINANCIAL SERVICES SHALL SELECT SUCH
13 CONTRACTOR OR CONTRACTORS THAT, IN THE SUPERINTENDENT OF FINANCIAL
14 SERVICES' DISCRETION, ARE BEST SUITED TO SERVE THE PURPOSES OF THIS
15 SUBDIVISION.

16 3. (A) THE SUPERINTENDENT OF FINANCIAL SERVICES AND THE COMMISSIONER
17 OR THEIR DESIGNEES SHALL, FROM FUNDS AVAILABLE IN THE EXCESS MEDICAL
18 MALPRACTICE LIABILITY COVERAGE POOL CREATED PURSUANT TO SUBDIVISION ONE
19 OF THIS SECTION, PURCHASE A POLICY OR POLICIES FOR EXCESS INSURANCE
20 COVERAGE, OR FOR EQUIVALENT EXCESS COVERAGE, FOR MEDICAL OR DENTAL MALP-
21 RACTICE OCCURRENCES BETWEEN THE FIRST OF JULY OF A GIVEN YEAR AND ENDING
22 THE THIRTIETH OF JUNE OF THE NEXT SUCCEEDING YEAR, OR TO REIMBURSE A
23 GENERAL HOSPITAL WHERE THE HOSPITAL PURCHASES EQUIVALENT EXCESS COVERAGE
24 FOR MEDICAL OR DENTAL MALPRACTICE OCCURRENCES BETWEEN THE FIRST OF JULY
25 IN A GIVEN YEAR AND ENDING THE THIRTIETH OF JUNE IN THE SUCCEEDING YEAR
26 FOR ELIGIBLE PHYSICIANS OR DENTISTS AS CERTIFIED BY A GENERAL HOSPITAL
27 LICENSED PURSUANT TO ARTICLE TWENTY-EIGHT OF THIS CHAPTER FOR EACH SUCH
28 PERIOD OR PERIODS, PROVIDED THE RATES AND PREMIUMS PAID FOR SUCH POLICY
29 OR POLICIES ARE ACTUARIALLY SOUND AND NOT DISCOUNTED, AS DETERMINED BY
30 THE SUPERINTENDENT OF FINANCIAL SERVICES OR HIS OR HER DESIGNATED ACTU-
31 ARY.

32 (B) SUCH POLICIES MAY BE PURCHASED PURSUANT TO SECTION FIVE THOUSAND
33 FIVE HUNDRED TWO OF THE INSURANCE LAW, OR FROM AN INSURER, DULY LICENSED
34 IN THIS STATE TO WRITE PERSONAL INJURY LIABILITY INSURANCE AND ACTUALLY
35 WRITING MEDICAL MALPRACTICE INSURANCE IN THIS STATE.

36 (C) NO SINGLE INSURER SHALL WRITE MORE THAN FIFTY PERCENT OF THE TOTAL
37 EXCESS PREMIUM FOR A GIVEN POLICY YEAR, UNLESS UPON REQUEST BY THE
38 INSURER, THE SUPERINTENDENT OF FINANCIAL SERVICES IN WRITING DETERMINED
39 THAT EXCEEDING SUCH LIMIT WOULD NOT BE HARMFUL TO THE POLICYHOLDER AND
40 THE PEOPLE OF THE STATE.

41 (D) ANNUALLY FOLLOWING THE PASSAGE OF THE STATE BUDGET, THE SUPER-
42 INTENDENT OF FINANCIAL SERVICES SHALL DETERMINE THE NUMBER OF PHYSICIANS
43 OR DENTISTS FOR WHOM A POLICY OR POLICIES FOR EXCESS INSURANCE COVERAGE,
44 OR FOR EQUIVALENT EXCESS COVERAGE, MAY BE PURCHASED FROM FUNDS AVAILABLE
45 IN THE EXCESS MEDICAL MALPRACTICE LIABILITY COVERAGE POOL. THE SUPER-
46 INTENDENT SHALL GRANT PRIORITY FOR PURCHASING POLICIES IN THE NEXT POLI-
47 CY YEAR TO THE HIGHEST RISK CLASS OF PHYSICIANS OR DENTISTS PRACTICING
48 IN THE HIGHEST RISK TERRITORIES. THE SUPERINTENDENT AND COMMISSIONER
49 SHALL NOT BE OBLIGATED TO PURCHASE ANY MORE POLICIES THAN THE NUMBER OF
50 POLICIES AT ACTUARIALLY SOUND RATES THAT CAN BE SUPPORTED WITHIN THE
51 LIMITS OF THE APPROPRIATION. AFTER THE INITIAL ENROLLMENT PERIOD, SHOULD
52 THE SUPERINTENDENT DETERMINE THAT ADDITIONAL POLICIES CAN BE PURCHASED
53 FOR AN ADDITIONAL CLASS OF PHYSICIANS OR DENTISTS OR A DIFFERENT TERRI-
54 TORY OF PRACTICE, THE SUPERINTENDENT SHALL MAKE POLICIES AVAILABLE ON A
55 FIRST COME FIRST SERVED BASIS UP TO THE NUMBER OF POLICIES THAT CAN BE
56 SUPPORTED BY THE APPROPRIATION.

1 4. (A) FOR THE PURPOSES OF THIS SECTION, "ELIGIBLE PHYSICIAN OR
2 DENTIST" SHALL MEAN A PHYSICIAN OR DENTIST WHO:

3 (I) HAS PROFESSIONAL PRIVILEGES IN THE GENERAL HOSPITAL THAT IS CERTI-
4 FYING THE PHYSICIAN'S OR DENTIST'S ELIGIBILITY;

5 (II) FROM TIME TO TIME PROVIDES EMERGENCY MEDICAL OR DENTAL SERVICES,
6 INCLUDING EMERGENCY MEDICAL SCREENING EXAMINATIONS, TREATMENT FOR EMER-
7 GENCY MEDICAL CONDITIONS, INCLUDING LABOR AND DELIVERY, OR TREATMENT FOR
8 EMERGENCY DENTAL CONDITIONS TO PERSONS IN NEED OF SUCH TREATMENT AT THE
9 GENERAL HOSPITAL THAT IS CERTIFYING THEIR ELIGIBILITY;

10 (III) ACCEPT MEDICAID; AND

11 (IV) (1) HAS IN FORCE COVERAGE UNDER AN INDIVIDUAL POLICY OR GROUP
12 POLICY WRITTEN IN ACCORDANCE WITH THE PROVISIONS OF THE INSURANCE LAW
13 FROM AN INSURER LICENSED IN THIS STATE TO WRITE PERSONAL INJURY LIABIL-
14 ITY INSURANCE, OF PRIMARY MALPRACTICE INSURANCE COVERAGE IN AMOUNTS OF
15 NO LESS THAN ONE MILLION THREE HUNDRED THOUSAND DOLLARS FOR EACH CLAIM-
16 ANT AND THREE MILLION NINE HUNDRED THOUSAND DOLLARS FOR ALL CLAIMANTS
17 UNDER THAT POLICY AND COVERING THE SAME TIME PERIOD AS THE EXCESS INSUR-
18 ANCE COVERAGE; OR,

19 (2) IS ENDORSED AS AN ADDITIONAL INSURED UNDER A VOLUNTARY ATTENDING
20 PHYSICIAN ("CHANNELING") PROGRAM PREVIOUSLY PERMITTED BY THE SUPERINTEN-
21 DENT OF INSURANCE AND COVERING THE SAME TIME PERIOD AS THE EQUIVALENT
22 EXCESS COVERAGE.

23 (B) THE EXCESS COVERAGE OR EQUIVALENT EXCESS COVERAGE SHALL, WHEN
24 COMBINED WITH THE PHYSICIAN'S OR DENTIST'S PRIMARY MALPRACTICE INSURANCE
25 COVERAGE OR COVERAGE PROVIDED THROUGH A VOLUNTARY ATTENDING PHYSICIAN
26 ("CHANNELING") PROGRAM PREVIOUSLY PERMITTED BY THE SUPERINTENDENT OF
27 INSURANCE, TOTAL AN AGGREGATE LEVEL OF COVERAGE OF TWO MILLION THREE
28 HUNDRED THOUSAND DOLLARS FOR EACH CLAIMANT AND SIX MILLION NINE HUNDRED
29 THOUSAND DOLLARS FOR ALL CLAIMANTS WITH RESPECT TO OCCURRENCES DURING
30 THE POLICY PERIOD.

31 (C) THE EQUIVALENT EXCESS COVERAGE SHALL PROVIDE FOR PAYMENT ONLY
32 AFTER COVERAGE AVAILABLE THROUGH THE VOLUNTARY ATTENDING PHYSICIAN
33 ("CHANNELING") PROGRAM HAS BEEN EXHAUSTED DURING THE POLICY PERIOD.

34 (D) IN THE EVENT THAT AN ELIGIBLE PHYSICIAN OR DENTIST HAS PROFES-
35 SIONAL PRIVILEGES IN MORE THAN ONE GENERAL HOSPITAL, THE CERTIFICATION
36 OF THE PHYSICIAN'S OR DENTIST'S ELIGIBILITY SHALL BE PROVIDED BY THE
37 GENERAL HOSPITAL DESIGNATED BY SUCH PHYSICIAN OR DENTIST AS THE GENERAL
38 HOSPITAL WITH WHICH THE PHYSICIAN OR DENTIST IS PRIMARILY AFFILIATED, AS
39 MAY BE DEFINED PURSUANT TO REGULATIONS PROMULGATED BY THE COMMISSIONER.

40 5. FOR THE PURPOSES OF THIS SECTION "EQUIVALENT EXCESS COVERAGE" SHALL
41 MEAN A POLICY OR POLICIES OF INSURANCE FOR A PHYSICIAN OR DENTIST
42 INSURED UNDER A VOLUNTARY ATTENDING PHYSICIAN ("CHANNELING") PROGRAM
43 PREVIOUSLY PERMITTED BY THE SUPERINTENDENT OF INSURANCE INSURING A
44 PHYSICIAN OR DENTIST AGAINST MEDICAL OR DENTAL MALPRACTICE WITH AN
45 AGGREGATE LEVEL OF COVERAGE PROVIDING NOT LESS THAN TWO MILLION THREE
46 HUNDRED THOUSAND DOLLARS FOR EACH CLAIMANT AND SIX MILLION NINE HUNDRED
47 THOUSAND DOLLARS FOR ALL CLAIMANTS DURING THE POLICY PERIOD. SUCH COVER-
48 AGE LIMITS SHALL BE REDUCED BY PAYMENTS MADE ON BEHALF OF SUCH PHYSICIAN
49 OR DENTIST UNDER A HOSPITAL PROFESSIONAL LIABILITY POLICY WRITTEN PURSU-
50 ANT TO A VOLUNTARY ATTENDING PHYSICIAN ("CHANNELING") PROGRAM PREVIOUSLY
51 PERMITTED BY THE SUPERINTENDENT OF INSURANCE, IN AN AMOUNT NOT TO EXCEED
52 TWO MILLION THREE HUNDRED THOUSAND DOLLARS FOR EACH CLAIMANT AND SIX
53 MILLION NINE HUNDRED THOUSAND DOLLARS FOR ALL CLAIMANTS DURING SUCH
54 POLICY PERIOD FOR EACH SUCH PHYSICIAN OR DENTIST.

55 6. (A) TO THE EXTENT FUNDS AVAILABLE TO THE EXCESS MEDICAL MALPRACTICE
56 LIABILITY COVERAGE POOL PURSUANT TO SUBDIVISION ONE OF THIS SECTION ARE

1 INSUFFICIENT TO MEET THE COSTS OF EXCESS INSURANCE COVERAGE OR EQUIV-
2 ALENT EXCESS COVERAGE FOR COVERAGE PERIODS DURING THE PERIOD BETWEEN
3 JULY FIRST OF A GIVEN YEAR AND JUNE THIRTIETH OF THE NEXT SUCCEEDING
4 YEAR, BEGINNING JULY FIRST, TWO THOUSAND THIRTEEN AND ENDING JUNE THIR-
5 TIETH, TWO THOUSAND FIFTEEN EACH PHYSICIAN OR DENTIST FOR WHOM A POLICY
6 FOR EXCESS INSURANCE COVERAGE OR EQUIVALENT EXCESS COVERAGE IS PURCHASED
7 FOR SUCH PERIOD SHALL BE RESPONSIBLE FOR PAYMENT TO THE PROVIDER OF
8 EXCESS INSURANCE COVERAGE OR EQUIVALENT EXCESS COVERAGE OF AN ALLOCABLE
9 SHARE OF SUCH INSUFFICIENCY, BASED ON THE RATIO OF THE TOTAL COST OF
10 SUCH COVERAGE FOR SUCH PHYSICIAN OR DENTIST TO THE SUM OF THE TOTAL COST
11 OF SUCH COVERAGE FOR ALL PHYSICIANS OR DENTISTS APPLIED TO SUCH INSUFFI-
12 CIENCY.

13 (B) EACH PROVIDER OF EXCESS INSURANCE COVERAGE OR EQUIVALENT EXCESS
14 COVERAGE COVERING THE PERIOD BETWEEN JULY FIRST OF A GIVEN YEAR AND JUNE
15 THIRTIETH OF THE NEXT SUCCEEDING YEAR, BEGINNING JULY FIRST, TWO THOU-
16 SAND THIRTEEN AND ENDING JUNE THIRTIETH, TWO THOUSAND FIFTEEN SHALL
17 NOTIFY A COVERED PHYSICIAN OR DENTIST BY MAIL, MAILED TO THE ADDRESS
18 SHOWN ON THE LAST APPLICATION FOR EXCESS INSURANCE COVERAGE OR EQUIV-
19 ALENT EXCESS COVERAGE, OF THE AMOUNT DUE TO SUCH PROVIDER FROM SUCH
20 PHYSICIAN OR DENTIST FOR SUCH COVERAGE PERIOD DETERMINED IN ACCORDANCE
21 WITH PARAGRAPH (A) OF THIS SUBDIVISION. SUCH AMOUNT SHALL BE DUE FROM
22 SUCH PHYSICIAN OR DENTIST TO SUCH PROVIDER OF EXCESS INSURANCE COVERAGE
23 OR EQUIVALENT EXCESS COVERAGE IN A TIME AND MANNER DETERMINED BY THE
24 SUPERINTENDENT OF FINANCIAL SERVICES.

25 (C) IF A PHYSICIAN OR DENTIST LIABLE FOR PAYMENT OF A PORTION OF THE
26 COSTS OF EXCESS INSURANCE COVERAGE OR EQUIVALENT EXCESS COVERAGE COVER-
27 ING THE PERIOD BETWEEN JULY FIRST OF A GIVEN YEAR AND JUNE THIRTIETH OF
28 THE NEXT SUCCEEDING YEAR, BEGINNING JULY FIRST, TWO THOUSAND THIRTEEN
29 AND ENDING JUNE THIRTIETH, TWO THOUSAND FIFTEEN DETERMINED IN ACCORDANCE
30 WITH PARAGRAPH (A) OF THIS SUBDIVISION FAILS, REFUSES OR NEGLECTS TO
31 MAKE PAYMENT TO THE PROVIDER OF EXCESS INSURANCE COVERAGE OR EQUIVALENT
32 EXCESS COVERAGE IN SUCH TIME AND MANNER AS DETERMINED BY THE SUPERINTEN-
33 DENT OF FINANCIAL SERVICES PURSUANT TO PARAGRAPH (B) OF THIS SUBDIVI-
34 SION, EXCESS INSURANCE COVERAGE OR EQUIVALENT EXCESS COVERAGE PURCHASED
35 FOR SUCH PHYSICIAN OR DENTIST IN ACCORDANCE WITH THIS SECTION FOR SUCH
36 COVERAGE PERIOD SHALL BE CANCELLED AND SHALL BE NULL AND VOID AS OF THE
37 FIRST DAY ON OR AFTER THE COMMENCEMENT OF A POLICY PERIOD WHERE THE
38 LIABILITY FOR PAYMENT PURSUANT TO THIS SUBDIVISION HAS NOT BEEN MET.

39 (D) EACH PROVIDER OF EXCESS INSURANCE COVERAGE OR EQUIVALENT EXCESS
40 COVERAGE SHALL NOTIFY THE SUPERINTENDENT OF FINANCIAL SERVICES AND THE
41 COMMISSIONER OR THEIR DESIGNEE OF EACH PHYSICIAN AND DENTIST ELIGIBLE
42 FOR PURCHASE OF A POLICY FOR EXCESS INSURANCE COVERAGE OR EQUIVALENT
43 EXCESS COVERAGE COVERING THE PERIOD BETWEEN JULY FIRST OF A GIVEN YEAR
44 AND JUNE THIRTIETH OF THE NEXT SUCCEEDING YEAR, BEGINNING JULY FIRST,
45 TWO THOUSAND THIRTEEN AND ENDING JUNE THIRTIETH, TWO THOUSAND FIFTEEN
46 THAT HAS MADE PAYMENT TO SUCH PROVIDER OF EXCESS INSURANCE COVERAGE OR
47 EQUIVALENT EXCESS COVERAGE IN ACCORDANCE WITH PARAGRAPH (B) OF THIS
48 SUBDIVISION AND OF EACH PHYSICIAN AND DENTIST WHO HAS FAILED, REFUSED OR
49 NEGLECTED TO MAKE SUCH PAYMENT.

50 (E) A PROVIDER OF EXCESS INSURANCE COVERAGE OR EQUIVALENT EXCESS
51 COVERAGE SHALL REFUND TO THE EXCESS MEDICAL MALPRACTICE LIABILITY COVER-
52 AGE POOL ANY AMOUNT ALLOCABLE TO THE PERIOD BETWEEN JULY FIRST OF A
53 GIVEN YEAR AND JUNE THIRTIETH OF THE NEXT SUCCEEDING YEAR, BEGINNING
54 JULY FIRST, TWO THOUSAND THIRTEEN AND ENDING JUNE THIRTIETH, TWO THOU-
55 SAND FIFTEEN RECEIVED FROM THE EXCESS MEDICAL MALPRACTICE LIABILITY
56 COVERAGE POOL FOR PURCHASE OF EXCESS INSURANCE COVERAGE OR EQUIVALENT

1 EXCESS COVERAGE COVERING THE PERIOD BETWEEN JULY FIRST OF A GIVEN YEAR
2 AND JUNE THIRTIETH OF THE NEXT SUCCEEDING YEAR, BEGINNING JULY FIRST,
3 TWO THOUSAND THIRTEEN AND ENDING JUNE THIRTIETH, TWO THOUSAND FIFTEEN
4 FOR A PHYSICIAN OR DENTIST WHERE SUCH EXCESS INSURANCE COVERAGE OR
5 EQUIVALENT EXCESS COVERAGE IS CANCELLED IN ACCORDANCE WITH PARAGRAPH (C)
6 OF THIS SUBDIVISION.

7 (F) A POLICY OR POLICIES OF EXCESS MEDICAL MALPRACTICE COVERAGE ISSUED
8 TO OR ON BEHALF OF AN ELIGIBLE PHYSICIAN OR DENTIST PURSUANT TO THIS
9 SECTION SHALL BE WRITTEN UPON AND GIVE EFFECT TO THE CHOICE OF AN INSUR-
10 ER BY THE PHYSICIAN OR DENTIST, PROVIDED, HOWEVER, THAT SUCH CHOICE
11 SHALL BE MADE AMONG INSURERS WRITING EXCESS COVERAGE POLICIES IN ACCORD-
12 ANCE WITH THIS SECTION AND FURTHER PROVIDED THAT NO PHYSICIAN OR DENTIST
13 SHALL BE COMPELLED TO BE INSURED BY AN INSURER PROVIDING PRIMARY COVER-
14 AGE NOR SHALL SUCH INSURER PROVIDING SUCH PRIMARY COVERAGE BE COMPELLED
15 TO WRITE COVERAGE OF SUCH ELIGIBLE PHYSICIAN OR DENTIST FOR SUCH EXCESS
16 COVERAGE, IN WHICH CASE THE ELIGIBLE PHYSICIAN OR DENTIST MAY SELECT
17 ANOTHER INSURER WRITING SUCH EXCESS COVERAGE IN ACCORDANCE WITH THIS
18 SECTION.

19 7. ANY INSURER ISSUING POLICIES OF EXCESS OR EQUIVALENT EXCESS COVER-
20 AGE IN ACCORDANCE WITH SUBDIVISION ONE OF THIS SECTION MAY, NOTWITH-
21 STANDING ANY PROVISIONS OF THE INSURANCE LAW, RETURN TO THE STATE, IN
22 WHOLE OR IN PART, THE MONEYS REIMBURSED BY THE STATE IN ACCORDANCE WITH
23 THIS SECTION FOR SPECIFIED POLICY PERIODS, UPON A CERTIFICATION TO THE
24 INSURER BY THE SUPERINTENDENT OF FINANCIAL SERVICES THAT THERE IS A
25 REASONABLE LIKELIHOOD ON AN ACTUARIAL BASIS THAT THE MONEYS RETURNED
26 WILL NOT BE NEEDED TO PAY FOR THE EXPECTED LIABILITIES INCURRED BY THE
27 INSURER FOR SUCH POLICY PERIODS.

28 8. THE SUPERINTENDENT OF FINANCIAL SERVICES AND THE COMMISSIONER MAY
29 ADOPT AND MAY AMEND SUCH REGULATIONS AS ARE NECESSARY TO EFFECTUATE THE
30 PROVISIONS OF THIS SECTION.

31 S 109. Intentionally omitted.

32 S 110. Intentionally omitted.

33 S 111. Intentionally omitted.

34 S 112. Intentionally omitted.

35 S 113. Intentionally omitted.

36 S 114. Intentionally omitted.

37 S 115. Intentionally omitted.

38 S 116. Intentionally omitted.

39 S 117. Intentionally omitted.

40 S 118. Intentionally omitted.

41 S 119. Notwithstanding any inconsistent provision of law, rule or
42 regulation, for purposes of implementing the provisions of the public
43 health law and the social services law, references to titles XIX and XXI
44 of the federal social security act in the public health law and the
45 social services law shall be deemed to include and also to mean any
46 successor titles thereto under the federal social security act.

47 S 120. Notwithstanding any inconsistent provision of law, rule or
48 regulation, the effectiveness of the provisions of sections 2807 and
49 3614 of the public health law, section 18 of chapter 2 of the laws of
50 1988, and 18 NYCRR 505.14(h), as they relate to time frames for notice,
51 approval or certification of rates of payment, are hereby suspended and
52 without force or effect for purposes of implementing the provisions of
53 this act.

54 S 121. Severability. If any clause, sentence, paragraph, subdivision,
55 section or part of this act shall be adjudged by any court of competent
56 jurisdiction to be invalid, such judgment shall not affect, impair or

1 invalidate the remainder thereof, but shall be confined in its operation
2 to the clause, sentence, paragraph, subdivision, section or part thereof
3 directly involved in the controversy in which the judgment shall have
4 been rendered. It is hereby declared to be the intent of the legislature
5 that this act would have been enacted even if such invalid provisions
6 had not been included herein.

7 S 122. This act shall take effect immediately and shall be deemed to
8 have been in full force and effect on and after April 1, 2013; provided,
9 however, that the provisions of this act shall apply only to actions and
10 proceedings commenced on or after such effective date; provided,
11 further, that:

12 (a) the amendments to paragraph (a) of subdivision 2 of section 2544
13 of the public health law made by section four of this act, as such
14 amendments pertain to authorizing a parent to select an evaluator
15 subject to the provisions of section 2545-a of the public health law as
16 added by section seven of this act shall apply on and after January 1,
17 2014;

18 (b) the amendments to subdivision 10 of section 2545 of the public
19 health law made by section six of this act shall take effect on the same
20 date and in the same manner as section 2-a of part A of chapter 56 of
21 the laws of 2012, takes effect;

22 (c) subdivision 2 of section 2545-a of the public health law, as added
23 by section seven of this act, section eleven of this act, paragraph (c)
24 as it pertains to requiring health maintenance organizations to provide
25 municipalities and service coordinators with a list of participating
26 providers who are approved under the early intervention program and
27 paragraph (g) of subdivision 6 of section 4406 of the public health law
28 as added by section twelve of this act, subsection (c) as amended to
29 require insurers to provide municipalities and service coordinators with
30 a list of participating providers who are approved under the early
31 intervention program and subsections (e) and (h) of section 3235-a of
32 the insurance law, as added by section thirteen of this act, shall take
33 effect October 1, 2013; provided however, that the requirements
34 contained in paragraph (g) of subdivision 6 of section 4406 of the
35 public health law as added by section twelve of this act and subsection
36 (h) of section 3235-a of the insurance law as added by section thirteen
37 of this act shall apply only to policies, benefit packages and contracts
38 issued, renewed, modified, altered or amended on or after the effective
39 date of such paragraph and such subsection;

40 (d) paragraph (b) of subdivision 6 of section 4406 of the public
41 health law as added by section twelve of this act and subsection (b) of
42 section 3235-a of the insurance law as amended by section thirteen of
43 this act shall take effect April 1, 2013, provided however that the
44 requirements contained therein, as they apply to prohibiting the
45 reduction of the number of visits available to the covered person or
46 enrollee's parents and family members who are covered under the policy
47 or contract by the number of visits used for early intervention
48 services, shall apply only to policies, benefit packages and contracts
49 issued, renewed, modified, altered or amended on or after the effective
50 date of such paragraph and such subsection;

51 (e) paragraph (f) of subdivision 6 of section 4406 of the public
52 health law, as added by section twelve of this act, shall take effect
53 January 1, 2014;

54 (f) the amendments to subdivision 7 of section 2510 of the public
55 health law made by section ten of this act shall be subject to the expi-
56 ration and revision of such subdivision and shall expire therewith;

1 (g) subsection (f) of section 3235-a of the insurance law, as added by
2 section thirteen of this act, shall take effect January 1, 2014;
3 (h) sections thirty-three, thirty-four, thirty-five, thirty-six, thir-
4 ty-seven, thirty-nine, forty, and forty-one of this act shall take
5 effect immediately;
6 (i) sections five, nine, ten, fourteen, fifteen, sixteen, seventeen,
7 eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-three, twen-
8 ty-four, twenty-six, twenty-seven, twenty-eight, twenty-nine, and thirty
9 of this act shall take effect January 1, 2014;
10 (j) sections eighty-seven, eighty-eight and eighty-nine of this act
11 shall take effect April 1, 2014, provided that effective immediately,
12 the addition, amendment and/or repeal of any rule or regulation neces-
13 sary for the implementation of such sections on the effective date of
14 this act are authorized and directed to be made and completed on or
15 before such effective date;
16 (k) any rules or regulations necessary to implement the provisions of
17 this act may be promulgated and any procedures, forms, or instructions
18 necessary for such implementation may be adopted and issued on or after
19 the date this act shall have become a law;
20 (l) this act shall not be construed to alter, change, affect, impair
21 or defeat any rights, obligations, duties or interests accrued, incurred
22 or conferred prior to the effective date of this act;
23 (m) the commissioner of health and the superintendent of financial
24 services and any appropriate council may take any steps necessary to
25 implement this act prior to its effective date;
26 (n) notwithstanding any inconsistent provision of the state adminis-
27 trative procedure act or any other provision of law, rule or regulation,
28 the commissioner of health and the superintendent of financial services
29 and any appropriate council is authorized to adopt or amend or promul-
30 gate on an emergency basis any regulation he or she or such council
31 determines necessary to implement any provision of this act on its
32 effective date; and
33 (o) the provisions of this act shall become effective notwithstanding
34 the failure of the commissioner of health or the superintendent of
35 financial services or any council to adopt or amend or promulgate regu-
36 lations implementing this act.

37 PART F

38 Section 1. Section 19.16 of the mental hygiene law, as added by chap-
39 ter 223 of the laws of 1992, is amended to read as follows:
40 S 19.16 Methadone Registry.
41 The office shall establish and maintain, either directly or through
42 contract, a central registry for purposes of preventing multiple enroll-
43 ment, ENSURING ACCURATE DOSAGE DELIVERY AND FACILITATING DISASTER
44 MANAGEMENT in methadone programs. The office shall require all methadone
45 programs to utilize such registry and shall have the power to assess
46 methadone programs such fees as are necessary and appropriate.
47 S 2. This act shall take effect April 1, 2013.

48 PART G

49 Section 1. Article 26 of the mental hygiene law is REPEALED.
50 S 2. The article heading of article 25 of the mental hygiene law, as
51 added by chapter 471 of the laws of 1980, is amended to read as follows:

[FUNDING FOR SUBSTANCE ABUSE SERVICES]
FUNDING FOR SERVICES OF THE OFFICE OF ALCOHOLISM AND
SUBSTANCE ABUSE SERVICES

S 3. Paragraphs 1, 2, 3 and 4 of subdivision (a) of section 25.01 of the mental hygiene law, paragraph 1 as added by chapter 471 of the laws of 1980, and paragraphs 2, 3 and 4 as amended by chapter 223 of the laws of 1992, are amended, and four new paragraphs 5, 6, 7 and 8 are added to read as follows:

1. "Local agency" shall mean a county governmental unit for a county not wholly within a city, and a city governmental unit for a city having a population of one million or more, designated by such county or city as responsible for substance [abuse] USE DISORDER services in such county or city.

2. "Operating [costs] EXPENSES" shall mean expenditures[, excluding capital costs and debt service, subject to the approval of the office,] APPROVED BY THE OFFICE AND incurred for the maintenance and operation of substance [abuse] USE DISORDER programs, including but not limited to expenditures for treatment, administration, personnel, AND contractual services[, rental, depreciation and interest expenses incurred, in connection with the design, construction, acquisition, reconstruction, rehabilitation or improvement of a substance abuse program facility, and payments made to the facilities development corporation for substance abuse program facilities; provided that where the]. OPERATING EXPENSES DO NOT INCLUDE CAPITAL COSTS AND DEBT SERVICE UNLESS SUCH EXPENSES ARE RELATED TO THE rent, financing or refinancing of the design, construction, acquisition, reconstruction, rehabilitation or improvement of a substance [abuse] USE DISORDER program facility [is through the facilities development corporation, operating costs shall include the debt service to be paid to amortize obligations, including principal and interest, issued by the New York State medical care facilities finance agency to finance or refinance the capital costs of such facilities] PURSUANT TO THE MENTAL HYGIENE FACILITIES FINANCE PROGRAM THROUGH THE DORMITORY AUTHORITY OF THE STATE OF NEW YORK (DASNY; SUCCESSOR TO THE FACILITIES DEVELOPMENT CORPORATION), OR OTHERWISE APPROVED BY THE OFFICE.

3. "Debt service" shall mean amounts, subject to the approval of the office, [as shall be] required to be paid to amortize obligations including principal and interest [issued by the New York state housing finance agency, the New York State medical care facilities finance agency or], ASSUMED by or on behalf of a [substance abuse program] VOLUNTARY AGENCY or a local [agency to finance capital costs for substance abuse program facilities] GOVERNMENT.

4. "Capital costs" shall mean [expenditures, subject to the approval of the office, as shall be obligated to acquire, construct, reconstruct, rehabilitate or improve a substance abuse program facility.] THE COSTS OF A LOCAL GOVERNMENT OR A VOLUNTARY AGENCY WITH RESPECT TO THE ACQUISITION OF REAL PROPERTY ESTATES, INTERESTS, AND COOPERATIVE INTERESTS IN REALTY, THEIR DESIGN, CONSTRUCTION, RECONSTRUCTION, REHABILITATION AND IMPROVEMENT, ORIGINAL FURNISHINGS AND EQUIPMENT, SITE DEVELOPMENT, AND APPURTENANCES OF A FACILITY.

5. "STATE AID" SHALL MEAN FINANCIAL SUPPORT PROVIDED THROUGH APPROPRIATIONS OF THE OFFICE TO SUPPORT THE PROVISION OF SUBSTANCE USE DISORDER TREATMENT, COMPULSIVE GAMBLING, PREVENTION OR OTHER AUTHORIZED SERVICES, WITH THE EXCLUSION OF APPROPRIATIONS FOR THE PURPOSE OF MEDICAL ASSISTANCE.

1 6. "VOLUNTARY AGENCY CONTRIBUTIONS" SHALL MEAN REVENUE SOURCES OF
2 VOLUNTARY AGENCIES EXCLUSIVE OF STATE AID AND LOCAL TAX LEVY.

3 7. "APPROVED NET OPERATING COST" SHALL MEAN THE REMAINDER OF TOTAL
4 OPERATING EXPENSES APPROVED BY THE OFFICE, LESS ALL SOURCES OF REVENUE,
5 INCLUDING VOLUNTARY AGENCY CONTRIBUTIONS AND LOCAL TAX LEVY.

6 8. "VOLUNTARY AGENCY" SHALL MEAN A CORPORATION ORGANIZED OR EXISTING
7 PURSUANT TO THE NOT-FOR-PROFIT CORPORATION LAW FOR THE PURPOSE OF
8 PROVIDING SUBSTANCE USE DISORDER, TREATMENT, COMPULSIVE GAMBLING,
9 PREVENTION OR OTHER AUTHORIZED SERVICES.

10 S 4. Subdivisions (a) and (b) of section 25.03 of the mental hygiene
11 law, subdivision (a) as amended by chapter 558 of the laws of 1999 and
12 subdivision (b) as amended by chapter 223 of the laws of 1992, are
13 amended and a new subdivision (d) is added to read as follows:

14 (a) In accordance with the provisions of this article, AND WITHIN
15 APPROPRIATIONS MADE AVAILABLE, the office may provide [financial
16 support] STATE AID to a [substance abuse program or a] local [agency]
17 GOVERNMENT OR VOLUNTARY AGENCY up to one hundred per centum of the
18 APPROVED NET operating costs of such [program] LOCAL GOVERNMENT or
19 VOLUNTARY agency, and [either fifty per centum of the capital cost or
20 fifty per centum of the debt service,] STATE AID MAY ALSO BE GRANTED TO
21 A LOCAL GOVERNMENT OR A VOLUNTARY AGENCY FOR CAPITAL COSTS ASSOCIATED
22 WITH THE PROVISION OF SERVICES AT A RATE OF UP TO ONE HUNDRED PERCENT OF
23 APPROVED CAPITAL COSTS. SUCH STATE AID SHALL NOT BE GRANTED UNLESS AND
24 UNTIL SUCH LOCAL GOVERNMENT OR VOLUNTARY AGENCY IS IN COMPLIANCE WITH
25 ALL REGULATIONS PROMULGATED BY THE COMMISSIONER REGARDING THE FINANCING
26 OF CAPITAL PROJECTS. SUCH STATE AID for approved [services] NET OPERAT-
27 ING COSTS SHALL BE MADE AVAILABLE by way of advance or reimbursement,
28 through EITHER contracts entered into between the office and such
29 [program or] VOLUNTARY agency[, upon such terms and conditions as the
30 office shall deem appropriate, except as provided in section 25.07 of
31 this article, provided, however, that, upon issuance of an operating
32 certificate in accordance with article thirty-two of this chapter, if
33 required, the office shall provide financial support for approved chemi-
34 cal dependence services in accordance with article twenty-six of this
35 title.] OR BY DISTRIBUTION OF SUCH STATE AID TO LOCAL GOVERNMENTS
36 THROUGH A GRANT PROCESS PURSUANT TO SECTION 25.11 OF THIS ARTICLE.

37 (b) Financial support by the office shall be subject to the approval
38 of the director of the budget AND WITHIN AVAILABLE APPROPRIATIONS.

39 (D) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO REQUIRE THE STATE TO
40 INCREASE SUCH STATE AID SHOULD A LOCAL GOVERNMENT CHOOSE TO REMOVE ANY
41 PORTION OF ITS LOCAL TAX LEVY SUPPORT OF VOLUNTARY AGENCIES, ALTHOUGH
42 THE STATE MAY CHOOSE TO DO SO TO ADDRESS AN URGENT PUBLIC NEED, OR
43 CONVERSELY, MAY CHOOSE TO REDUCE ITS STATE AID.

44 S 5. Section 25.05 of the mental hygiene law, as amended by chapter
45 223 of the laws of 1992, is amended to read as follows:

46 S 25.05 Reimbursement from other sources.

47 The office shall not provide a [substance abuse program] VOLUNTARY
48 AGENCY or a local agency with financial support for obligations incurred
49 by or on behalf of such program or agency for substance [abuse] USE
50 DISORDER services for which reimbursement is or may be claimed under any
51 provision of law other than this article.

52 S 6. The section heading and subdivisions (a) and (c) of section 25.06
53 of the mental hygiene law, as amended by chapter 223 of the laws of
54 1992, are amended to read as follows:

55 Disclosures by closely allied entities of [substance abuse programs] A
56 VOLUNTARY AGENCY.

(a) A closely allied entity of a [substance abuse program] VOLUNTARY AGENCY that is funded or has applied for funding from the office shall provide the office with the following information:

1. A schedule of the dates, nature and amounts of all fiscal transactions between the closely allied entity and the [substance abuse program] VOLUNTARY AGENCY that is funded or has applied for funding from the office.

2. A copy of the closely allied entity's certified annual financial statements.

3. With respect to any lease agreement between the closely allied entity, as lessor, and the [substance abuse program] VOLUNTARY AGENCY that is funded or has applied for funding from the office, as lessee, of real or personal property:

(i) A certified statement by an independent outside entity providing a fair market appraisal of the real property space to be rented, as well as of any rental of personal property.

(ii) A statement of projected operating costs of the allied entity relative to any such leased property for the budget period. The closely allied entity must furnish the office with a certified statement of its actual operating costs relative to the leased property.

4. A statement of the funds received by the closely allied entity in connection with its fund raising activities conducted on behalf of the substance [abuse] USE DISORDER program that is funded or has applied for funding from the office which clearly identifies how such funds were and will be distributed or applied to such program.

5. Any other data or information which the office may deem necessary for purposes of making a funding decision.

(c) For purposes of this section, a "closely allied entity" shall mean, but not be limited to, a corporation, partnership or unincorporated association or other body that has been formed or is organized to provide financial assistance and aid for the benefit of a [substance abuse program] VOLUNTARY AGENCY that is funded or has applied for funding from the office AND which FINANCIAL ASSISTANCE AND AID shall include, but not be limited to, engaging in fund raising activities, administering funds, holding title to real property, having an interest in personal property of any nature whatsoever, and engaging in any other activities for the benefit of any such program. Moreover, an entity shall be deemed closely allied to a [substance abuse program] VOLUNTARY AGENCY that is funded or has applied for funding from the office to the extent that such entity and applicable fiscal transactions are required to be disclosed within the annual financial statements of the [substance abuse program] VOLUNTARY AGENCY that is funded or has applied for funding from the office, under the category of related party transactions, as defined by and in accordance with generally accepted accounting principles (GAAP) and generally accepted auditing standards (GAAS), as promulgated by the American institute of certified public accountants (AICPA).

S 7. Section 25.07 of the mental hygiene law, as added by chapter 471 of the laws of 1980, is amended to read as follows:

S 25.07 Non-substitution.

A [substance abuse program] VOLUNTARY AGENCY or a local [agency] GOVERNMENT shall not substitute state monies for cash contributions, federal aid otherwise committed to or intended for use in such program or by such agency, revenues derived from the operation of such program or agency, or the other resources available for use in the operation of the program or agency.

1 S 8. Section 25.09 of the mental hygiene law, as amended by chapter
2 223 of the laws of 1992, is amended to read as follows:

3 S 25.09 Administrative costs.

4 Subject to the approval of the director of the budget, the office
5 shall establish a limit on the amount of financial support which may be
6 advanced or reimbursed to a [substance abuse program] VOLUNTARY AGENCY
7 or a local [agency] GOVERNMENT for the administration of a [substance
8 abuse] program.

9 S 9. Section 25.11 of the mental hygiene law, as added by chapter 471
10 of the laws of 1980, subdivision (a) as amended by chapter 223 of the
11 laws of 1992, is amended to read as follows:

12 S 25.11 [Comprehensive plan] DISTRIBUTION OF STATE AID TO LOCAL GOVERN-
13 MENTS.

14 [(a) A local agency intending to seek financial support from the
15 office shall no later than July first of each year submit to the office
16 a comprehensive substance abuse services plan, which shall describe the
17 programs and activities planned for its ensuing fiscal year. Such plan
18 shall indicate to the extent possible, the nature of the services to be
19 provided, whether such services are to be provided directly, through
20 subcontract, or through the utilization of existing public resources,
21 the area or areas to be served, and an estimate of the cost of such
22 services, including amounts to be provided other than by office finan-
23 cial support, specifically identifying the amount of local governmental
24 funds committed to substance abuse programs during its current fiscal
25 year, and a commitment that no less than such an amount will be used
26 from such funds for the operation of such programs during the next
27 fiscal year. Such plan shall make provisions for all needed substance
28 abuse services and for the evaluation of the effectiveness of such
29 services.

30 (b) When a comprehensive plan includes a local school district based
31 substance abuse program such plan shall include the details of an
32 adequate distribution of in-school and community-wide preventive educa-
33 tion services, including, but not limited to, services to be provided by
34 local drug abuse prevention councils, and shall emphasize the use of
35 other volunteer agency services as may be available. The description of
36 the program and activities thereunder shall be separately stated, and
37 the data and information required to be provided shall conform to the
38 provisions of subdivision (a) of this section except that the period to
39 be covered may, notwithstanding the fiscal year of the local agency,
40 conform to the school year.] NOTWITHSTANDING SECTION ONE HUNDRED TWELVE
41 OF THE STATE FINANCE LAW, THE OFFICE IS AUTHORIZED TO GRANT STATE AID
42 ANNUALLY TO LOCAL GOVERNMENTS IN THE FOLLOWING MANNER:

43 (A) LOCAL GOVERNMENTS SHALL BE GRANTED STATE AID BY A STATE AID FUND-
44 ING AUTHORIZATION LETTER ISSUED BY THE OFFICE FOR APPROVED NET OPERATING
45 COSTS FOR VOLUNTARY AGENCIES TO SUPPORT THE BASE AMOUNT OF STATE AID
46 PROVIDED TO SUCH VOLUNTARY AGENCIES FOR THE PRIOR YEAR PROVIDED THAT THE
47 LOCAL GOVERNMENT HAS APPROVED AND SUBMITTED BUDGETS FOR THE VOLUNTARY
48 AGENCIES TO THE OFFICE. THE VOLUNTARY AGENCY BUDGETS SHALL IDENTIFY THE
49 NATURE OF THE SERVICES TO BE PROVIDED WHICH MUST BE CONSISTENT WITH THE
50 LOCAL SERVICES PLAN SUBMITTED BY THE LOCAL GOVERNMENT PURSUANT TO ARTI-
51 CLE FORTY-ONE OF THIS CHAPTER, THE AREAS TO BE SERVED AND INCLUDE A
52 DESCRIPTION OF THE VOLUNTARY AGENCY CONTRIBUTIONS AND LOCAL GOVERNMENT
53 FUNDING PROVIDED. THE LOCAL GOVERNMENT SHALL ENTER INTO CONTRACTS WITH
54 THE VOLUNTARY AGENCIES RECEIVING SUCH STATE AID. SUCH CONTRACTS SHALL
55 INCLUDE FUNDING REQUIREMENTS SET BY THE OFFICE INCLUDING BUT NOT LIMITED
56 TO RESPONSIBILITIES OF VOLUNTARY AGENCIES RELATING TO WORK SCOPES,

1 PROGRAM PERFORMANCE AND OPERATIONS, APPLICATION OF PROGRAM INCOME,
2 PROHIBITED USE OF FUNDS, RECORDKEEPING AND AUDIT OBLIGATIONS. UPON
3 DESIGNATION BY THE OFFICE, LOCAL GOVERNMENTS SHALL NOTIFY VOLUNTARY
4 AGENCIES AS TO THE SOURCE OF FUNDING RECEIVED BY SUCH VOLUNTARY AGEN-
5 CIES.

6 (B) STATE AID MADE AVAILABLE TO A LOCAL GOVERNMENT FOR APPROVED NET
7 OPERATING COSTS FOR A VOLUNTARY AGENCY MAY BE REDUCED WHERE A REVIEW OF
8 SUCH VOLUNTARY AGENCY'S PRIOR YEAR'S BUDGET AND/OR PERFORMANCE INDI-
9 CATES:

10 (1) THAT THE LOCAL GOVERNMENT OR VOLUNTARY AGENCY HAS FAILED TO MEET
11 MINIMUM PERFORMANCE STANDARDS AND REQUIREMENTS OF THE OFFICE INCLUDING,
12 BUT NOT LIMITED TO, MAINTAINING SERVICE UTILIZATION RATES AND PRODUCTIV-
13 ITY STANDARDS AS SET BY THE OFFICE;

14 (2) THAT THE VOLUNTARY AGENCY HAS HAD AN INCREASE IN VOLUNTARY AGENCY
15 CONTRIBUTIONS THAT REDUCES THE APPROVED NET OPERATING COSTS NECESSARY;

16 (3) THAT THE OFFICE, UPON CONSULTATION WITH THE LOCAL GOVERNMENT,
17 OTHERWISE DETERMINES THERE IS A NEED TO REDUCE THE AMOUNT OF STATE AID
18 AVAILABLE.

19 S 10. Section 25.13 of the mental hygiene law, as amended by chapter
20 223 of the laws of 1992, is amended to read as follows:

21 S 25.13 Office is authorized state agency.

22 (a) The office when designated by the governor is the agency of the
23 state to administer and/or supervise the state plan or plans concerning
24 substance [abuse] USE DISORDER services specified in the federal drug
25 abuse office and treatment act of nineteen hundred seventy-two and to
26 cooperate with the duly designated federal authorities charged with the
27 administration thereof.

28 (b) The office and all entities to which it provides financial support
29 shall do all that is required and shall render necessary cooperation to
30 ensure optimum use of federal aid for substance [abuse] USE DISORDER
31 services.

32 (c) The commissioner is authorized and empowered to take such steps,
33 not inconsistent with law, as may be necessary for the purpose of
34 procuring for the people of this state all of the benefits and assist-
35 ance, financial and otherwise, provided, or to be provided for, by or
36 pursuant to any act of congress relating to substance [abuse] USE DISOR-
37 DER services.

38 S 11. Section 25.15 of the mental hygiene law, as amended by chapter
39 223 of the laws of 1992, is amended to read as follows:

40 S 25.15 Optimizing federal aid.

41 (a) A local [agency] GOVERNMENT or [substance abuse program] VOLUNTARY
42 AGENCY shall, unless a specific written waiver of this requirement is
43 made by the office, cause applications to be completed on such forms and
44 in such manner as directed by the office and submit the same to the
45 office for the purpose of causing a determination to be made whether the
46 cost of the services provided individuals and groups qualify for federal
47 aid which may be available for services provided pursuant to titles IV,
48 XVI, XIX and XX of the federal social security act, or any other federal
49 law. A local [agency] GOVERNMENT or a [substance abuse program] VOLUN-
50 TARY AGENCY shall furnish to the office such other data as may be
51 required and shall render such cooperation as may be necessary to maxi-
52 mize such potential federal aid. All information concerning the identity
53 of individuals obtained and provided pursuant to this subdivision shall
54 be kept confidential.

55 (b) To the extent that federal aid may be available for any substance
56 [abuse] USE DISORDER services, the office, notwithstanding any other

1 inconsistent provision of law, and with the approval of the director of
2 the budget, is hereby authorized to seek such federal aid on behalf of
3 [substance abuse programs] VOLUNTARY AGENCIES and local [agencies]
4 GOVERNMENTS either directly or through the submission of claims to
5 another state agency authorized to submit the same to an appropriate
6 federal agency. The office is further authorized to certify for payment
7 to [substance abuse programs] VOLUNTARY AGENCIES and local [agencies]
8 GOVERNMENTS any federal aid received by the state which is attributable
9 to the activities financed by such programs and [agencies] GOVERNMENTS.

10 S 12. Section 25.17 of the mental hygiene law, as amended by chapter
11 223 of the laws of 1992, is amended to read as follows:

12 S 25.17 Fees for services.

13 Local [agencies] GOVERNMENTS and substance [abuse] USE DISORDER treat-
14 ment programs funded in whole or in part by the office shall establish,
15 subject to the approval of the office, fee schedules for substance
16 [abuse] USE DISORDER services, not specifically covered by the rates
17 established pursuant to article twenty-eight of the public health law or
18 title two of article five of the social services law. Such fees shall be
19 charged for substance [abuse] USE DISORDER services furnished to persons
20 who are financially able to pay the same, provided, that such services
21 shall not be refused to any person because of his inability to pay
22 therefor.

23 S 13. Subdivision (d) of section 41.18 of the mental hygiene law, as
24 amended by chapter 558 of the laws of 1999, is amended to read as
25 follows:

26 (d) The liability of the state in any state fiscal year for state aid
27 pursuant to this section shall exclude chemical dependence services,
28 which are subject to article [twenty-six] TWENTY-FIVE of this chapter,
29 and shall be limited to the amounts appropriated for such state aid by
30 the legislature for such state fiscal year.

31 S 14. This act shall take effect April 1, 2013; provided, however,
32 that effective immediately, any rule or regulation necessary for the
33 implementation of this act on its effective date is authorized and
34 directed to be made and completed on or before such effective date.

35 PART H

36 Section 1. Subdivision (b) of section 7.17 of the mental hygiene law,
37 as amended by section 1 of part 0 of chapter 56 of the laws of 2012, is
38 amended to read as follows:

39 (b) There shall be in the office the hospitals named below for the
40 care, treatment and rehabilitation of persons with mental illness and
41 for research and teaching in the science and skills required for the
42 care, treatment and rehabilitation of such persons with mental illness.

43 Greater Binghamton Health Center
44 Bronx Psychiatric Center
45 Buffalo Psychiatric Center
46 Capital District Psychiatric Center
47 Central New York Psychiatric Center
48 Creedmoor Psychiatric Center
49 Elmira Psychiatric Center
50 Kingsboro Psychiatric Center
51 Kirby Forensic Psychiatric Center
52 Manhattan Psychiatric Center
53 Mid-Hudson Forensic Psychiatric Center
54 Mohawk Valley Psychiatric Center

1 Nathan S. Kline Institute for Psychiatric Research
2 New York State Psychiatric Institute
3 Pilgrim Psychiatric Center
4 Richard H. Hutchings Psychiatric Center
5 Rochester Psychiatric Center
6 Rockland Psychiatric Center
7 St. Lawrence Psychiatric Center
8 South Beach Psychiatric Center
9 New York City Children's Center
10 Rockland Children's Psychiatric Center
11 Sagamore Children's Psychiatric Center
12 Western New York Children's Psychiatric Center
13 The New York State Psychiatric Institute and The Nathan S. Kline
14 Institute for Psychiatric Research are designated as institutes for the
15 conduct of medical research and other scientific investigation directed
16 towards furthering knowledge of the etiology, diagnosis, treatment and
17 prevention of mental illness. [Whenever the term Bronx Children's
18 Psychiatric Center, Brooklyn Children's Psychiatric Center and Queens
19 Children's Psychiatric Center is referred to or designated in any regu-
20 lation, contract or document pertaining to the functions, powers, obli-
21 gations and duties hereby transferred and assigned, such reference or
22 designation shall be deemed to refer to the New York City Children's
23 Center.]

24 S 2. Section 4 of part 0 of chapter 56 of the laws of 2012, amending
25 the mental hygiene law relating to the closure and the reduction in size
26 of certain facilities serving persons with mental illness, is amended
27 and a new section 1-a is added to read as follows:

28 S 1-A. WHENEVER THE TERM BRONX CHILDREN'S PSYCHIATRIC CENTER, BROOKLYN
29 CHILDREN'S PSYCHIATRIC CENTER OR QUEENS CHILDREN'S PSYCHIATRIC CENTER IS
30 REFERRED TO OR DESIGNATED IN ANY REGULATION, CONTRACT OR DOCUMENT
31 PERTAINING TO THE FUNCTIONS, POWERS, OBLIGATIONS AND DUTIES HEREBY
32 TRANSFERRED AND ASSIGNED PURSUANT TO THIS ACT, SUCH REFERENCE OR DESIG-
33 NATION SHALL BE DEEMED TO REFER TO THE NEW YORK CITY CHILDREN'S CENTER.

34 S 4. This act shall take effect immediately and shall be deemed to
35 have been in full force and effect on and after April 1, 2012; provided
36 that the date for any closure or consolidation pursuant to this act
37 shall be on a date certified by the commissioner of mental health; and
38 provided further, however, that SECTION TWO OF this act shall expire and
39 be deemed repealed March 31, 2013.

40 S 3. Notwithstanding the provisions of subdivisions (b) and (e) of
41 section 7.17 of the mental hygiene law or any other law to the contrary,
42 the office of mental health is authorized to close, consolidate, reduce,
43 transfer or otherwise redesign services of hospitals, other facilities
44 and programs operated by the office of mental health, and to implement
45 significant service reductions and reconfigurations according to this
46 section as shall be determined by the commissioner of mental health to
47 be necessary for the cost-effective and efficient operation of such
48 hospitals, other facilities and programs. One of the intents of actions
49 taken that result in closure, consolidation, reduction, transfer or
50 other redesign of services of hospitals is to reinvest savings such
51 that, to the extent practicable, comparable or greater levels of commu-
52 nity based mental health services will be provided to persons with
53 mental illness in need of services within the catchment areas of such
54 hospitals, as determined by the commissioner of mental health with
55 approval from the director of the division of the budget.

1 (a) In addition to the closure, consolidation or merger of one or more
2 facilities, the commissioner of mental health is authorized to perform
3 any significant service reductions that would reduce inpatient bed
4 capacity, which shall include but not be limited to, closures of wards
5 at a state-operated psychiatric center or the conversion of beds to
6 transitional placement programs, provided that the commissioner provide
7 at least 45 days notice of such reductions to the temporary president of
8 the senate and the speaker of the assembly and simultaneously post such
9 notice upon its public website. In assessing which significant services
10 reductions to undertake, the commissioner shall consider data related to
11 inpatient census, indicating nonutilization or under utilization of
12 beds, and the efficient operation of facilities.

13 (b) At least 75 days prior to the anticipated closure, consolidation
14 or merger of any hospitals named in subdivision (b) of section 7.17 of
15 the mental hygiene law, the commissioner of mental health shall provide
16 notice of such closure, consolidation or merger to the temporary presi-
17 dent of the senate, and speaker of the assembly, the chief executive
18 officer of the county in which the facility is located, and shall post
19 such notice upon its public website. The commissioner shall be author-
20 ized to conduct any and all preparatory actions which may be required to
21 effectuate such closures during such 75 day period. In assessing which
22 of such hospitals to close, the commissioner shall consider the follow-
23 ing factors: (1) the size, scope and type of services provided by the
24 hospital; (2) the relative quality of the care and treatment provided by
25 the hospital, as may be informed by internal or external quality or
26 accreditation reviews; (3) the current and anticipated long term need
27 for the types of services provided by the facility within its catchment
28 area, which may include, but not limited to, services for adults or
29 children, or other specialized services, such as forensic services; (4)
30 the availability of staff sufficient to address the current and antic-
31 ipated long term service needs; (5) the long term capital investment
32 required to ensure that the facility meets relevant state and federal
33 regulatory and capital construction requirements, and national accredi-
34 tation standards; (6) the proximity of the facility to other facilities
35 with space that could accommodate anticipated need, the relative cost of
36 any necessary renovations of such space, the relative potential operat-
37 ing efficiency of such facilities, and the size, scope and types of
38 services provided by the other facilities; (7) anticipated savings based
39 upon economies of scale or other factors; (8) community mental health
40 services available in the facility catchment area and the ability of
41 such community mental health services to meet the behavioral health
42 needs of the impacted consumers; (9) the obligations of the state to
43 place persons with mental disabilities in community settings rather than
44 in institutions, when appropriate; and (10) the anticipated impact of
45 the closure on access to mental health services.

46 (c) Any transfers of inpatient capacity or any resulting transfer of
47 functions shall be authorized to be made by the commissioner of mental
48 health and any transfer of personnel upon such transfer of capacity or
49 transfer of functions shall be accomplished in accordance with the
50 provisions of section 70 of the civil service law.

51 S 4. Section 7 of part R2 of chapter 62 of the laws of 2003, amending
52 the mental hygiene law and the state finance law relating to the commu-
53 nity mental health support and workforce reinvestment program, the
54 membership of subcommittees for mental health of community services
55 boards and the duties of such subcommittees and creating the community
56 mental health and workforce reinvestment account, as amended by section

1 2 of part C of chapter 111 of the laws of 2010, is amended to read as
2 follows:

3 S 7. This act shall take effect immediately and shall expire March 31,
4 [2013] 2014 when upon such date the provisions of this act shall be
5 deemed repealed.

6 S 5. Severability clause. If any clause, sentence, paragraph, subdivi-
7 sion, section or part of this act shall be adjudged by any court of
8 competent jurisdiction to be invalid, such judgment shall not affect,
9 impair, or invalidate the remainder thereof, but shall be confined in
10 its operation to the clause, sentence, paragraph, subdivision, section
11 or part thereof directly involved in the controversy in which such judg-
12 ment shall have been rendered. It is hereby declared to be the intent of
13 the legislature that this act would have been enacted even if such
14 invalid provisions had not been included herein.

15 S 6. This act shall take effect April 1, 2013; provided, however that
16 if this act shall become a law after April 1, 2013, this act shall take
17 effect immediately and shall be deemed to have been in full force and
18 effect on and after April 1, 2013; provided that the date for any
19 closure or consolidations pursuant to this act shall be on or after a
20 date certified by the commissioner of mental health.

21

PART I

22 Section 1. Subdivisions (d), (e), (f) and (g) of section 41.44 of the
23 mental hygiene law are relettered subdivisions (e), (f), (g), and (h)
24 and a new subdivision (d) is added to read as follows:

25 (D) THE COMMISSIONER IS AUTHORIZED TO RECOVER FUNDING FROM PROVIDERS
26 OF COMMUNITY RESIDENCES LICENSED BY THE OFFICE OF MENTAL HEALTH,
27 CONSISTENT WITH CONTRACTUAL OBLIGATIONS OF SUCH PROVIDERS, AND NOTWITH-
28 STANDING ANY OTHER INCONSISTENT PROVISION OF LAW TO THE CONTRARY, SUCH
29 RECOVERY AMOUNT SHALL EQUAL FIFTY PERCENT OF THE MEDICAID REVENUE
30 RECEIVED BY SUCH PROVIDERS WHICH EXCEEDS THE FIXED AMOUNT OF ANNUAL
31 MEDICAID REVENUE LIMITATIONS, AS ESTABLISHED BY THE COMMISSIONER.

32 S 2. This act shall take effect immediately, and shall be deemed to
33 have been in full force and effect on and after April 1, 2013.

34

PART J

35 Section 1. Subdivision (a) of section 7.19 of the mental hygiene law,
36 as amended by chapter 307 of the laws of 1979, is amended to read as
37 follows:

38 (a) The commissioner OR HIS OR HER DESIGNEE may, within the amounts
39 appropriated therefor, appoint and remove in accordance with law and
40 applicable rules of the state civil service commission, such officers
41 and employees of the office of mental health [and facility officers and
42 employees who are designated managerial or confidential pursuant to
43 article fourteen of the civil service law] as are necessary for effi-
44 cient administration AND SHALL ADMINISTER THE OFFICE'S PERSONNEL SYSTEM
45 IN ACCORDANCE WITH SUCH LAW AND RULES. IN EXERCISING THE APPOINTING
46 AUTHORITY, THE COMMISSIONER SHALL TAKE ALL REASONABLE AND NECESSARY
47 STEPS, CONSISTENT WITH ARTICLE TWENTY-THREE-A OF THE CORRECTION LAW, TO
48 ENSURE THAT ANY SUCH PERSON SO APPOINTED HAS NOT PREVIOUSLY ENGAGED IN
49 ANY ACT IN VIOLATION OF ANY LAW WHICH COULD COMPROMISE THE HEALTH AND
50 SAFETY OF PATIENTS.

1 S 2. Subdivision (a) of section 7.21 of the mental hygiene law, as
2 amended by chapter 434 of the laws of 1980, is amended to read as
3 follows:

4 (a) The director of a facility under the jurisdiction of the office of
5 mental health shall be its chief executive officer. Each such director
6 shall be in the noncompetitive class and designated as confidential as
7 defined by subdivision two-a of section forty-two of the civil service
8 law and shall be appointed by and serve at the pleasure of the commis-
9 sioner. [Except for facility officers and employees for which subdivi-
10 sion (a) of section 7.19 of this article makes the commissioner the
11 appointing and removing authority, the director of a facility shall have
12 the power, within amounts appropriated therefor, to appoint and remove
13 in accordance with law and applicable rules of the state civil service
14 commission such officers and employees of the facility of which he is
15 director as are necessary for its efficient administration. He shall in
16 exercising this appointing authority take, consistent with article twen-
17 ty-three-A of the correction law, all reasonable and necessary steps to
18 insure that any such person so appointed has not previously engaged in
19 any act in violation of any law which could compromise the health and
20 safety of patients in the facility of which he is director.] He OR SHE
21 shall manage the facility [and administer its personnel system] subject
22 to applicable law and the regulations of the commissioner of mental
23 health [and the rules of the state civil service commission]. Before
24 the commissioner shall issue any such regulation or any amendment or
25 revision thereof, he OR SHE shall consult with the FACILITY directors
26 [of the office's hospitals] regarding its suitability. The director
27 shall maintain effective supervision of all parts of the facility and
28 over all persons employed therein or coming thereon and shall generally
29 direct the care and treatment of patients. Directors presently serving
30 at office of mental health facilities shall continue to serve under the
31 terms of their original appointment.

32 S 3. This act shall take effect April 1, 2013.

33

PART K

34 Section 1. Subdivisions (a), (b) and (c) of section 10.09 of the
35 mental hygiene law, subdivisions (a) and (c) as added by chapter 7 of
36 the laws of 2007 and subdivision (b) as amended by section 3 of part P
37 of chapter 56 of the laws of 2012, are amended to read as follows:

38 (a) The commissioner shall provide the respondent and counsel for
39 respondent with [an annual] A written notice of the right to petition
40 the court for discharge, WHICH SHALL BE PROVIDED NO LATER THAN ELEVEN
41 MONTHS AFTER THE DATE ON WHICH THE SUPREME OR COUNTY COURT JUDGE LAST
42 ORDERED OR CONFIRMED THE NEED FOR CONTINUED CONFINEMENT PURSUANT TO THIS
43 ARTICLE. The notice shall contain a form for the waiver of the right to
44 petition for discharge.

45 (b) The commissioner shall also assure that each respondent committed
46 under this article shall have an examination for evaluation of his or
47 her mental condition made [at least once every] NO LATER THAN ONE year
48 [(calculated from) AFTER the date on which the supreme or county court
49 judge last ordered or confirmed the need for continued confinement
50 pursuant to this article [or the date on which the respondent waived the
51 right to petition for discharge pursuant to this section, whichever is
52 later, as applicable]]. SUCH EXAMINATION SHALL BE conducted by a psychi-
53 atric examiner who shall report to the commissioner his or her written
54 findings as to whether the respondent is currently a dangerous sex

1 offender requiring confinement. At such time, the respondent also shall
2 have the right to be evaluated by an independent psychiatric examiner.
3 If the respondent is financially unable to obtain an examiner, the court
4 shall appoint an examiner of the respondent's choice to be paid within
5 the limits prescribed by law. Following such evaluation, each psychiat-
6 ric examiner shall report his or her findings in writing to the commis-
7 sioner and to counsel for respondent. The commissioner shall review
8 relevant records and reports, along with the findings of the psychiatric
9 examiners, and shall make a determination in writing as to whether the
10 respondent is currently a dangerous sex offender requiring confinement.

11 (c) The commissioner shall [annually] forward the notice and waiver
12 form, along with a report including the commissioner's written determi-
13 nation and the findings of the psychiatric examination, to the supreme
14 or county court where the respondent is located, WHICH SHALL BE PROVIDED
15 NO LATER THAN ONE YEAR AFTER THE DATE ON WHICH THE SUPREME OR COUNTY
16 COURT JUDGE LAST ORDERED OR CONFIRMED THE NEED FOR CONTINUED CONFINEMENT
17 PURSUANT TO THIS ARTICLE.

18 S 2. This act shall take effect immediately and shall be deemed to
19 have been in full force and effect on and after April 1, 2013.

20

PART L

21 Section 1. The mental hygiene law is amended by adding a new section
22 31.37 to read as follows:

23 S 31.37 MENTAL HEALTH INCIDENT REVIEW PANELS.

24 (A) THE COMMISSIONER IS AUTHORIZED TO ESTABLISH A MENTAL HEALTH INCI-
25 DENT REVIEW PANEL FOR THE PURPOSES OF REVIEWING IN CONJUNCTION WITH
26 LOCAL REPRESENTATION, THE CIRCUMSTANCES AND EVENTS RELATED TO A SERIOUS
27 INCIDENT INVOLVING A PERSON WITH MENTAL ILLNESS. FOR PURPOSES OF THIS
28 SECTION, A "SERIOUS INCIDENT INVOLVING A PERSON WITH MENTAL ILLNESS"
29 MEANS AN INCIDENT OCCURRING IN THE COMMUNITY IN WHICH A PERSON WITH A
30 SERIOUS MENTAL ILLNESS IS PHYSICALLY INJURED OR CAUSES PHYSICAL INJURY
31 TO ANOTHER PERSON, OR SUFFERS A SERIOUS AND PREVENTABLE MEDICAL COMPLI-
32 CATION OR BECOMES INVOLVED IN A CRIMINAL INCIDENT INVOLVING VIOLENCE. A
33 PANEL SHALL CONDUCT A REVIEW OF SUCH SERIOUS INCIDENT IN AN ATTEMPT TO
34 IDENTIFY PROBLEMS OR GAPS IN MENTAL HEALTH DELIVERY SYSTEMS AND TO MAKE
35 RECOMMENDATIONS FOR CORRECTIVE ACTIONS TO IMPROVE THE PROVISION OF
36 MENTAL HEALTH OR RELATED SERVICES, TO IMPROVE THE COORDINATION, INTE-
37 GRATION AND ACCOUNTABILITY OF CARE IN THE MENTAL HEALTH SERVICE SYSTEM,
38 AND TO ENHANCE INDIVIDUAL AND PUBLIC SAFETY.

39 (B) A MENTAL HEALTH INCIDENT REVIEW PANEL SHALL INCLUDE, BUT NEED NOT
40 BE LIMITED TO, REPRESENTATIVES FROM THE OFFICE OF MENTAL HEALTH AND THE
41 LOCAL GOVERNMENTAL UNIT WHERE THE SERIOUS INCIDENT INVOLVING A PERSON
42 WITH A MENTAL ILLNESS OCCURRED. A MENTAL HEALTH INCIDENT REVIEW PANEL
43 MAY ALSO INCLUDE, IF DEEMED APPROPRIATE BY THE COMMISSIONER BASED ON THE
44 NATURE OF THE SERIOUS INCIDENT BEING REVIEWED, ONE OR MORE REPRESENT-
45 ATIVES FROM MENTAL HEALTH PROVIDERS, LOCAL DEPARTMENTS OF SOCIAL
46 SERVICES, HUMAN SERVICES PROGRAMS, HOSPITALS, LOCAL SCHOOLS, EMERGENCY
47 MEDICAL OR MENTAL HEALTH SERVICES, THE OFFICE OF THE COUNTY ATTORNEY, A
48 COUNTY PROSECUTOR'S OFFICE, STATE OR LOCAL LAW ENFORCEMENT AGENCIES, THE
49 OFFICE OF THE MEDICAL EXAMINER OR THE OFFICE OF THE CORONER, THE JUDICI-
50 ARY, OR OTHER APPROPRIATE STATE OR LOCAL OFFICIALS.

51 (C) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY AND TO
52 THE EXTENT CONSISTENT WITH FEDERAL LAW, A MENTAL HEALTH INCIDENT REVIEW
53 PANEL SHALL HAVE ACCESS TO THOSE CLIENT-IDENTIFIABLE MENTAL HEALTH
54 RECORDS, AS WELL AS ALL RECORDS, DOCUMENTATION AND REPORTS RELATING TO

1 THE INVESTIGATION OF AN INCIDENT BY A FACILITY IN ACCORDANCE WITH REGU-
2 LATIONS OF THE COMMISSIONER, WHICH ARE NECESSARY FOR THE INVESTIGATION
3 OF THE INCIDENT AND THE PREPARATION OF A REPORT OF THE INCIDENT, AS
4 PROVIDED IN SUBDIVISION (E) OF THIS SECTION. A MENTAL HEALTH INCIDENT
5 REVIEW PANEL ESTABLISHED PURSUANT TO THIS SECTION SHALL BE PROVIDED WITH
6 ACCESS TO ALL OTHER RECORDS IN THE POSSESSION OF STATE OR LOCAL OFFI-
7 CIALS OR AGENCIES, WITHIN TWENTY-ONE DAYS OF RECEIPT OF A REQUEST,
8 EXCEPT: (1) THOSE RECORDS PROTECTED BY SECTION 190.25 OF THE CRIMINAL
9 PROCEDURE LAW; AND (2) WHERE PROVISION OF LAW ENFORCEMENT RECORDS WOULD
10 INTERFERE WITH AN ONGOING LAW ENFORCEMENT INVESTIGATION OR JUDICIAL
11 PROCEEDING, IDENTIFY A CONFIDENTIAL SOURCE OR DISCLOSE CONFIDENTIAL
12 INFORMATION RELATING TO AN ONGOING CRIMINAL INVESTIGATION, HIGHLY SENSI-
13 TIVE CRIMINAL INVESTIGATIVE TECHNIQUES OR PROCEDURES, OR ENDANGER THE
14 SAFETY OR WELFARE OF AN INDIVIDUAL.

15 (D) MENTAL HEALTH INCIDENT REVIEW PANELS, MEMBERS OF THE REVIEW PANELS
16 AND PERSONS WHO PRESENT INFORMATION TO A REVIEW PANEL SHALL HAVE IMMUNI-
17 TY FROM CIVIL AND CRIMINAL LIABILITY FOR ALL REASONABLE AND GOOD FAITH
18 ACTIONS TAKEN PURSUANT TO THIS SECTION, AND SHALL NOT BE QUESTIONED IN
19 ANY CIVIL OR CRIMINAL PROCEEDING REGARDING ANY OPINIONS FORMED AS A
20 RESULT OF A MEETING OF SUCH REVIEW PANEL. NOTHING IN THIS SECTION SHALL
21 BE CONSTRUED TO PREVENT A PERSON FROM TESTIFYING AS TO INFORMATION
22 OBTAINED INDEPENDENTLY OF A MENTAL HEALTH INCIDENT REVIEW PANEL, OR
23 INFORMATION WHICH IS PUBLIC.

24 (E) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, ALL
25 MEETINGS CONDUCTED, ALL REPORTS AND RECORDS MADE AND MAINTAINED AND ALL
26 BOOKS AND PAPERS OBTAINED BY A MENTAL HEALTH INCIDENT REVIEW PANEL SHALL
27 BE CONFIDENTIAL, AND SHALL NOT BE OPEN OR MADE AVAILABLE, EXCEPT BY
28 COURT ORDER OR AS SET FORTH IN SUBDIVISION (G) OF THIS SECTION. EACH
29 MENTAL HEALTH INCIDENT REVIEW PANEL SHALL DEVELOP A REPORT OF THE INCI-
30 DENT INVESTIGATED. SUCH REPORT SHALL NOT CONTAIN ANY INDIVIDUALLY IDEN-
31 TIFIABLE INFORMATION AND SHALL BE PROVIDED TO THE OFFICE OF MENTAL
32 HEALTH UPON COMPLETION. SUCH REPORTS MUST BE APPROVED BY THE OFFICE OF
33 MENTAL HEALTH PRIOR TO BECOMING FINAL.

34 (F) IF QUALITY PROBLEMS OF PARTICULAR MENTAL HEALTH PROGRAMS ARE IDEN-
35 TIFIED BASED ON SUCH REVIEWS, THE COMMISSIONER IS AUTHORIZED, PURSUANT
36 TO THE RELEVANT PROVISIONS OF THIS CHAPTER, TO TAKE APPROPRIATE ACTIONS
37 REGARDING THE LICENSURE OF PARTICULAR PROVIDERS, TO REFER THE ISSUE TO
38 OTHER RESPONSIBLE PARTIES FOR INVESTIGATION, OR TO TAKE OTHER APPROPRI-
39 ATE ACTION.

40 (G) IN HIS OR HER DISCRETION, THE COMMISSIONER SHALL BE AUTHORIZED TO
41 PROVIDE THE FINAL REPORT OF A REVIEW PANEL OR PORTIONS THEREOF TO ANY
42 INDIVIDUAL OR ENTITY FOR WHOM THE REPORT MAKES RECOMMENDATIONS FOR
43 CORRECTIVE OR OTHER APPROPRIATE ACTIONS THAT SHOULD BE TAKEN. ANY FINAL
44 REPORT OR PORTION THEREOF SHALL NOT BE FURTHER DISSEMINATED BY THE INDI-
45 VIDUAL OR ENTITY RECEIVING SUCH REPORT.

46 (H) THE COMMISSIONER SHALL SUBMIT AN ANNUAL CUMULATIVE REPORT TO THE
47 GOVERNOR AND THE LEGISLATURE INCORPORATING THE DATA IN THE MENTAL HEALTH
48 INCIDENT REVIEW PANEL REPORTS AND INCLUDING A SUMMARY OF THE FINDINGS
49 AND RECOMMENDATIONS MADE BY SUCH REVIEW PANELS. THE ANNUAL CUMULATIVE
50 REPORTS MAY THEREAFTER BE MADE AVAILABLE TO THE PUBLIC.

51 S 2. Subdivision (c) of section 33.13 of the mental hygiene law is
52 amended by adding a new paragraph 16 to read as follows:

53 16. TO A MENTAL HEALTH INCIDENT REVIEW PANEL, OR MEMBERS THEREOF,
54 ESTABLISHED BY THE COMMISSIONER PURSUANT TO SECTION 31.37 OF THIS TITLE,
55 IN CONNECTION WITH INCIDENT REVIEWS CONDUCTED BY SUCH PANEL.

1 S 3. Subdivision 3 of section 6527 of the education law, as amended by
2 chapter 257 of the laws of 1987, is amended to read as follows:

3 3. No individual who serves as a member of (a) a committee established
4 to administer a utilization review plan of a hospital, including a
5 hospital as defined in article twenty-eight of the public health law or
6 a hospital as defined in subdivision ten of section 1.03 of the mental
7 hygiene law, or (b) a committee having the responsibility of the inves-
8 tigation of an incident reported pursuant to section 29.29 of the mental
9 hygiene law or the evaluation and improvement of the quality of care
10 rendered in a hospital as defined in article twenty-eight of the public
11 health law or a hospital as defined in subdivision ten of section 1.03
12 of the mental hygiene law, or (c) any medical review committee or
13 subcommittee thereof of a local, county or state medical, dental, podia-
14 try or optometrical society, any such society itself, a professional
15 standards review organization or an individual when such committee,
16 subcommittee, society, organization or individual is performing any
17 medical or quality assurance review function including the investigation
18 of an incident reported pursuant to section 29.29 of the mental hygiene
19 law, either described in clauses (a) and (b) of this subdivision,
20 required by law, or involving any controversy or dispute between (i) a
21 physician, dentist, podiatrist or optometrist or hospital administrator
22 and a patient concerning the diagnosis, treatment or care of such
23 patient or the fees or charges therefor or (ii) a physician, dentist,
24 podiatrist or optometrist or hospital administrator and a provider of
25 medical, dental, podiatric or optometrical services concerning any
26 medical or health charges or fees of such physician, dentist, podiatrist
27 or optometrist, or (d) a committee appointed pursuant to section twen-
28 ty-eight hundred five-j of the public health law to participate in the
29 medical and dental malpractice prevention program, or (e) any individual
30 who participated in the preparation of incident reports required by the
31 department of health pursuant to section twenty-eight hundred five-l of
32 the public health law, or (f) a committee established to administer a
33 utilization review plan, or a committee having the responsibility of
34 evaluation and improvement of the quality of care rendered, in a health
35 maintenance organization organized under article forty-four of the
36 public health law or article forty-three of the insurance law, including
37 a committee of an individual practice association or medical group
38 acting pursuant to a contract with such a health maintenance organiza-
39 tion, OR (G) A MENTAL HEALTH INCIDENT REVIEW PANEL CONVENED PURSUANT TO
40 SECTION 31.37 OF THE MENTAL HYGIENE LAW, shall be liable in damages to
41 any person for any action taken or recommendations made, by him OR HER
42 within the scope of his OR HER function in such capacity provided that
43 (a) such individual has taken action or made recommendations within the
44 scope of his OR HER function and without malice, and (b) in the reason-
45 able belief after reasonable investigation that the act or recommenda-
46 tion was warranted, based upon the facts disclosed.

47 Neither the proceedings nor the records relating to performance of a
48 medical or a quality assurance review function or participation in a
49 medical and dental malpractice prevention program nor any report
50 required by the department of health pursuant to section twenty-eight
51 hundred five-l of the public health law described herein, including the
52 investigation of an incident reported pursuant to section 29.29 of the
53 mental hygiene law OR REVIEWED PURSUANT TO SECTION 31.37 OF THE MENTAL
54 HYGIENE LAW, shall be subject to disclosure under article thirty-one of
55 the civil practice law and rules except as hereinafter provided or as
56 provided by any other provision of law. No person in attendance at a

1 meeting when a medical or a quality assurance review or a medical and
2 dental malpractice prevention program or an incident reporting function
3 described herein was performed, including the investigation of an inci-
4 dent reported pursuant to section 29.29 of the mental hygiene law OR AN
5 INCIDENT REVIEWED PURSUANT TO SECTION 31.37 OF THE MENTAL HYGIENE LAW,
6 shall be required to testify as to what transpired thereat. The prohibi-
7 tion relating to discovery of testimony shall not apply to the state-
8 ments made by any person in attendance at such a meeting who is a party
9 to an action or proceeding the subject matter of which was reviewed at
10 such meeting.

11 S 4. This act shall take effect on the sixtieth day after it shall
12 have become a law.

13 PART M

14 Section 1. Section 20 of chapter 723 of the laws of 1989, amending the
15 metal hygiene law and other laws relating to the establishment of
16 comprehensive psychiatric emergency programs, is REPEALED.

17 S 2. Subdivision (c) of section 7.15 of the metal hygiene law is
18 REPEALED.

19 S 3. Subdivision (c) of section 13.15 of the mental hygiene law is
20 REPEALED.

21 S 4. Paragraph 3 of subdivision (d) of section 16.19 of the mental
22 hygiene law is REPEALED.

23 S 5. This act shall take effect April 1, 2013.

24 PART N

25 Section 1. Subdivisions 3-b and 3-c of section 1 and section 4 of
26 part C of chapter 57 of the laws of 2006, relating to establishing a
27 cost of living adjustment for designated human services programs, as
28 amended by section 1 of part H of chapter 56 of the laws of 2012, is
29 amended to read as follows:

30 3-b. Notwithstanding any inconsistent provision of law, beginning
31 April 1, 2009 and ending March 31, [2013] 2014, the commissioners shall
32 not include a COLA for the purpose of establishing rates of payments,
33 contracts or any other form of reimbursement.

34 3-c. Notwithstanding any inconsistent provision of law, beginning
35 April 1, [2013] 2014 and ending March 31, [2016] 2017, the commissioners
36 shall develop the COLA under this section using the actual U.S. consumer
37 price index for all urban consumers (CPI-U) published by the United
38 States department of labor, bureau of labor statistics for the twelve
39 month period ending in July of the budget year prior to such state
40 fiscal year, for the purpose of establishing rates of payments,
41 contracts or any other form of reimbursement.

42 S 4. This act shall take effect immediately and shall be deemed to
43 have been in full force and effect on and after April 1, 2006; provided
44 section one of this act shall expire and be deemed repealed April 1,
45 [2016] 2017; provided, further, that sections two and three of this act
46 shall expire and be deemed repealed December 31, 2009.

47 S 2. This act shall take effect immediately and shall be deemed to
48 have been in full force and effect on and after April 1, 2013; provided,
49 however, that the amendments to section 1 of part C of chapter 57 of the
50 laws of 2006 made by section one of this act shall not affect the repeal
51 of such section and shall be deemed repealed therewith.

1 S 2. Severability clause. If any clause, sentence, paragraph, subdivi-
2 sion, section or part of this act shall be adjudged by any court of
3 competent jurisdiction to be invalid, such judgment shall not affect,
4 impair, or invalidate the remainder thereof, but shall be confined in
5 its operation to the clause, sentence, paragraph, subdivision, section
6 or part thereof directly involved in the controversy in which such judg-
7 ment shall have been rendered. It is hereby declared to be the intent of
8 the legislature that this act would have been enacted even if such
9 invalid provisions had not been included herein.

10 S 3. This act shall take effect immediately provided, however, that
11 the applicable effective date of Parts A through N of this act shall be
12 as specifically set forth in the last section of such Parts.