

5062--A

2015-2016 Regular Sessions

I N A S S E M B L Y

February 11, 2015

Introduced by M. of A. GOTTFRIED, ABINANTI, BARRON, BENEDETTO, BICHOTTE, BLAKE, BRONSON, COLTON, COOK, CRESPO, CYMBROWITZ, DINOWITZ, ENGLE-BRIGHT, GANTT, HIKIND, JAFFEE, JEAN-PIERRE, JOYNER, KAVANAGH, KIM, LAVINE, LIFTON, LINARES, LUPARDO, MOSLEY, PEOPLES-STOKES, PERRY, PICHARDO, RAMOS, RODRIGUEZ, ROSENTHAL, RUSSELL, SCHIMEL, SEAWRIGHT, SEPULVEDA, STECK, STIRPE, TITONE, TITUS, WALKER, WEINSTEIN, WEPRIN, DILAN, GJONAJ, RICHARDSON, MOYA, SIMOTAS, HUNTER, MILLER, HYNDMAN, RIVERA -- Multi-Sponsored by -- M. of A. ABBATE, ARROYO, AUBRY, BRENAN, CAHILL, DAVILA, FAHY, FARRELL, GLICK, GUNTHER, HOOPER, LENTOL, MAGEE, MAGNARELLI, MARKEY, MAYER, McDONALD, O'DONNELL, ORTIZ, PAULIN, PRETLOW, QUART, ROBINSON, ROZIC, SIMON, SKARTADOS, SOLAGES, THIELE, WRIGHT -- read once and referred to the Committee on Health -- ordered to a third reading -- recommitted to the Committee on Health in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law and the state finance law, in relation to enacting the "New York health act" and to establishing New York Health

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

1 Section 1. Short title. This act shall be known and may be cited as
2 the "New York health act".
3 S 2. Legislative findings and intent. 1. The state constitution
4 states: "The protection and promotion of the health of the inhabitants
5 of the state are matters of public concern and provision therefor shall
6 be made by the state and by such of its subdivisions and in such manner,
7 and by such means as the legislature shall from time to time determine."
8 (Article XVII, S3.) The legislature finds and declares that all resi-
9 dents of the state have the right to health care. While the federal
10 Affordable Care Act brought many improvements in health care and health

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

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1 coverage, it still leaves many New Yorkers without coverage or with
2 inadequate coverage. New Yorkers - as individuals, employers, and
3 taxpayers - have experienced a rise in the cost of health care and
4 coverage in recent years, including rising premiums, deductibles and
5 co-pays, restricted provider networks and high out-of-network charges.
6 Businesses have also experienced increases in the costs of health care
7 benefits for their employees, and many employers are shifting a larger
8 share of the cost of coverage to their employees or dropping coverage
9 entirely. Health care providers are also affected by inadequate health
10 coverage in New York state. A large portion of voluntary and public
11 hospitals, health centers and other providers now experience substantial
12 losses due to the provision of care that is uncompensated. Individuals
13 often find that they are deprived of affordable care and choice because
14 of decisions by health plans guided by the plan's economic needs rather
15 than their health care needs. To address the fiscal crisis facing the
16 health care system and the state and to assure New Yorkers can exercise
17 their right to health care, affordable and comprehensive health coverage
18 must be provided. Pursuant to the state constitution's charge to the
19 legislature to provide for the health of New Yorkers, this legislation
20 is an enactment of state concern for the purpose of establishing a
21 comprehensive universal single-payer health care coverage program and a
22 health care cost control system for the benefit of all residents of the
23 state of New York.

24 2. It is the intent of the Legislature to create the New York Health
25 program to provide a universal health plan for every New Yorker, funded
26 by broad-based revenue based on ability to pay. The state shall work to
27 obtain waivers and other approvals relating to Medicaid, Child Health
28 Plus, Medicare, the Affordable Care Act, and any other appropriate
29 federal programs, under which federal funds and other subsidies that
30 would otherwise be paid to New York State, New Yorkers, and health care
31 providers for health coverage that will be equaled or exceeded by New
32 York Health will be paid by the federal government to New York State and
33 deposited in the New York Health trust fund, and for other program
34 modifications (including elimination of cost sharing and insurance
35 premiums). Under such waivers and approvals, health coverage under
36 those programs will be replaced and merged into New York Health, which
37 will operate as a true single-payer program.

38 If any necessary waiver or approval is not obtained, the state shall
39 use state plan amendments and seek waivers and approvals to maximize,
40 and make as seamless as possible, the use of federally-matched health
41 programs and federal health programs in New York Health. Thus, even
42 where other programs such as Medicaid or Medicare may contribute to
43 paying for care, it is the goal of this legislation that the coverage
44 will be delivered by New York Health and, as much as possible, the
45 multiple sources of funding will be pooled with other New York Health
46 funds and not be apparent to New York Health members or participating
47 providers. This program will promote movement away from fee-for-service
48 payment, which tends to reward quantity and requires excessive adminis-
49 trative expense, and towards alternate payment methodologies, such as
50 global or capitated payments to providers or health care organizations,
51 that promote quality, efficiency, investment in primary and preventive
52 care, and innovation and integration in the organizing of health care.

53 3. This act does not create any employment benefit, nor does it
54 require, prohibit, or limit the providing of any employment benefit.

55 4. In order to promote improved quality of, and access to, health care
56 services and promote improved clinical outcomes, it is the policy of the

1 state to encourage cooperative, collaborative and integrative arrange-
2 ments among health care providers who might otherwise be competitors,
3 under the active supervision of the commissioner of health. It is the
4 intent of the state to supplant competition with such arrangements and
5 regulation only to the extent necessary to accomplish the purposes of
6 this act, and to provide state action immunity under the state and
7 federal antitrust laws to health care providers, particularly with
8 respect to their relations with the single-payer New York Health plan
9 created by this act.

10 S 3. Article 50 and sections 5000, 5001, 5002 and 5003 of the public
11 health law are renumbered article 80 and sections 8000, 8001, 8002 and
12 8003, respectively, and a new article 51 is added to read as follows:

ARTICLE 51

NEW YORK HEALTH

SECTION 5100. DEFINITIONS.

5101. PROGRAM CREATED.

5102. BOARD OF TRUSTEES.

5103. ELIGIBILITY AND ENROLLMENT.

5104. BENEFITS.

5105. HEALTH CARE PROVIDERS; CARE COORDINATION; PAYMENT METHOD-
OLOGIES.

5106. HEALTH CARE ORGANIZATIONS.

5107. PROGRAM STANDARDS.

5108. REGULATIONS.

5109. PROVISIONS RELATING TO FEDERAL HEALTH PROGRAMS.

5110. ADDITIONAL PROVISIONS.

5111. REGIONAL ADVISORY COUNCILS.

28 S 5100. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING TERMS
29 SHALL HAVE THE FOLLOWING MEANINGS, UNLESS THE CONTEXT CLEARLY REQUIRES
30 OTHERWISE:

31 1. "BOARD" MEANS THE BOARD OF TRUSTEES OF THE NEW YORK HEALTH PROGRAM
32 CREATED BY SECTION FIFTY-ONE HUNDRED TWO OF THIS ARTICLE, AND "TRUSTEE"
33 MEANS A TRUSTEE OF THE BOARD.

34 2. "CARE COORDINATION" MEANS SERVICES PROVIDED BY A CARE COORDINATOR
35 UNDER SUBDIVISION TWO OF SECTION FIFTY-ONE HUNDRED FIVE OF THIS ARTICLE.

36 3. "CARE COORDINATOR" MEANS AN INDIVIDUAL OR ENTITY APPROVED TO
37 PROVIDE CARE COORDINATION UNDER SUBDIVISION TWO OF SECTION FIFTY-ONE
38 HUNDRED FIVE OF THIS ARTICLE.

39 4. "FEDERALLY-MATCHED PUBLIC HEALTH PROGRAM" MEANS THE MEDICAL ASSIST-
40 ANCE PROGRAM UNDER TITLE ELEVEN OF ARTICLE FIVE OF THE SOCIAL SERVICES
41 LAW, THE BASIC HEALTH PROGRAM UNDER SECTION THREE HUNDRED SIXTY-NINE-GG
42 OF THE SOCIAL SERVICES LAW, AND THE CHILD HEALTH PLUS PROGRAM UNDER
43 TITLE ONE-A OF ARTICLE TWENTY-FIVE OF THIS CHAPTER.

44 5. "HEALTH CARE ORGANIZATION" MEANS AN ENTITY THAT IS APPROVED BY THE
45 COMMISSIONER UNDER SECTION FIFTY-ONE HUNDRED SIX OF THIS ARTICLE TO
46 PROVIDE HEALTH CARE SERVICES TO MEMBERS UNDER THE PROGRAM.

47 6. "HEALTH CARE SERVICE" MEANS ANY HEALTH CARE SERVICE, INCLUDING CARE
48 COORDINATION, INCLUDED AS A BENEFIT UNDER THE PROGRAM.

49 7. "IMPLEMENTATION PERIOD" MEANS THE PERIOD UNDER SUBDIVISION THREE OF
50 SECTION FIFTY-ONE HUNDRED ONE OF THIS ARTICLE DURING WHICH THE PROGRAM
51 WILL BE SUBJECT TO SPECIAL ELIGIBILITY AND FINANCING PROVISIONS UNTIL IT
52 IS FULLY IMPLEMENTED UNDER THAT SECTION.

53 8. "LONG TERM CARE" MEANS LONG TERM CARE, TREATMENT, MAINTENANCE, OR
54 SERVICES NOT COVERED UNDER CHILD HEALTH PLUS, AS APPROPRIATE, WITH THE
55 EXCEPTION OF SHORT TERM REHABILITATION, AS DEFINED BY THE COMMISSIONER.

1 9. "MEDICAID" OR "MEDICAL ASSISTANCE" MEANS TITLE ELEVEN OF ARTICLE
2 FIVE OF THE SOCIAL SERVICES LAW AND THE PROGRAM THEREUNDER. "CHILD
3 HEALTH PLUS" MEANS TITLE ONE-A OF ARTICLE TWENTY-FIVE OF THIS CHAPTER
4 AND THE PROGRAM THEREUNDER. "MEDICARE" MEANS TITLE XVIII OF THE FEDERAL
5 SOCIAL SECURITY ACT AND THE PROGRAMS THEREUNDER. "BASIC HEALTH PROGRAM"
6 MEANS SECTION THREE HUNDRED SIXTY-NINE-GG OF THE SOCIAL SERVICES LAW AND
7 THE PROGRAM THEREUNDER.

8 10. "MEMBER" MEANS AN INDIVIDUAL WHO IS ENROLLED IN THE PROGRAM.

9 11. "NEW YORK HEALTH TRUST FUND" MEANS THE NEW YORK HEALTH TRUST FUND
10 ESTABLISHED UNDER SECTION EIGHTY-NINE-I OF THE STATE FINANCE LAW.

11 12. "OUT-OF-STATE HEALTH CARE SERVICE" MEANS A HEALTH CARE SERVICE
12 PROVIDED TO A MEMBER WHILE THE MEMBER IS OUT OF THE STATE AND (A) IT IS
13 MEDICALLY NECESSARY THAT THE HEALTH CARE SERVICE BE PROVIDED WHILE THE
14 MEMBER IS OUT OF THE STATE, OR (B) IT IS CLINICALLY APPROPRIATE THAT THE
15 HEALTH CARE SERVICE BE PROVIDED BY A PARTICULAR HEALTH CARE PROVIDER
16 LOCATED OUT OF THE STATE RATHER THAN IN THE STATE. HOWEVER, ANY HEALTH
17 CARE SERVICE PROVIDED TO A NEW YORK HEALTH ENROLLEE BY A HEALTH CARE
18 PROVIDER QUALIFIED UNDER PARAGRAPH (A) OF SUBDIVISION THREE OF SECTION
19 FIFTY-ONE HUNDRED FIVE OF THIS ARTICLE THAT IS LOCATED OUTSIDE THE STATE
20 SHALL NOT BE CONSIDERED AN OUT-OF-STATE SERVICE AND SHALL BE COVERED AS
21 OTHERWISE PROVIDED IN THIS ARTICLE.

22 13. "PARTICIPATING PROVIDER" MEANS ANY INDIVIDUAL OR ENTITY THAT IS A
23 HEALTH CARE PROVIDER QUALIFIED UNDER SUBDIVISION THREE OF SECTION
24 FIFTY-ONE HUNDRED FIVE OF THIS ARTICLE THAT PROVIDES HEALTH CARE
25 SERVICES TO MEMBERS UNDER THE PROGRAM, OR A HEALTH CARE ORGANIZATION.

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

30 15. "PERSON" MEANS ANY INDIVIDUAL OR NATURAL PERSON, TRUST, PARTNER-
31 SHIP, ASSOCIATION, UNINCORPORATED ASSOCIATION, CORPORATION, COMPANY,
32 LIMITED LIABILITY COMPANY, PROPRIETORSHIP, JOINT VENTURE, FIRM, JOINT
33 STOCK ASSOCIATION, DEPARTMENT, AGENCY, AUTHORITY, OR OTHER LEGAL ENTITY,
34 WHETHER FOR-PROFIT, NOT-FOR-PROFIT OR GOVERNMENTAL.

35 16. "PROGRAM" MEANS THE NEW YORK HEALTH PROGRAM CREATED BY SECTION
36 FIFTY-ONE HUNDRED ONE OF THIS ARTICLE.

37 17. "PRESCRIPTION AND NON-PRESCRIPTION DRUGS" MEANS PRESCRIPTION DRUGS
38 AS DEFINED IN SECTION TWO HUNDRED SEVENTY OF THIS CHAPTER, AND NON-PRES-
39 CRIPTION SMOKING CESSATION PRODUCTS OR DEVICES.

40 18. "RESIDENT" MEANS AN INDIVIDUAL WHOSE PRIMARY PLACE OF ABODE IS IN
41 THE STATE, WITHOUT REGARD TO THE INDIVIDUAL'S IMMIGRATION STATUS, AS
42 DETERMINED ACCORDING TO REGULATIONS OF THE COMMISSIONER.

43 S 5101. PROGRAM CREATED. 1. THE NEW YORK HEALTH PROGRAM IS HEREBY
44 CREATED IN THE DEPARTMENT. THE COMMISSIONER SHALL ESTABLISH AND IMPL-
45 MENT THE PROGRAM UNDER THIS ARTICLE. THE PROGRAM SHALL PROVIDE COMPRE-
46 HENSIVE HEALTH COVERAGE TO EVERY RESIDENT WHO ENROLLS IN THE PROGRAM.

47 2. THE COMMISSIONER SHALL, TO THE MAXIMUM EXTENT POSSIBLE, ORGANIZE,
48 ADMINISTER AND MARKET THE PROGRAM AND SERVICES AS A SINGLE PROGRAM UNDER
49 THE NAME "NEW YORK HEALTH" OR SUCH OTHER NAME AS THE COMMISSIONER SHALL
50 DETERMINE, REGARDLESS OF UNDER WHICH LAW OR SOURCE THE DEFINITION OF A
51 BENEFIT IS FOUND INCLUDING (ON A VOLUNTARY BASIS) RETIREE HEALTH BENE-
52 FITS. IN IMPLEMENTING THIS SUBDIVISION, THE COMMISSIONER SHALL AVOID
53 JEOPARDIZING FEDERAL FINANCIAL PARTICIPATION IN THESE PROGRAMS AND SHALL
54 TAKE CARE TO PROMOTE PUBLIC UNDERSTANDING AND AWARENESS OF AVAILABLE
55 BENEFITS AND PROGRAMS.

1 3. THE COMMISSIONER SHALL DETERMINE WHEN INDIVIDUALS MAY BEGIN ENROLL-
2 ING IN THE PROGRAM. THERE SHALL BE AN IMPLEMENTATION PERIOD, WHICH SHALL
3 BEGIN ON THE DATE THAT INDIVIDUALS MAY BEGIN ENROLLING IN THE PROGRAM
4 AND SHALL END AS DETERMINED BY THE COMMISSIONER.

5 4. AN INSURER AUTHORIZED TO PROVIDE COVERAGE PURSUANT TO THE INSURANCE
6 LAW OR A HEALTH MAINTENANCE ORGANIZATION CERTIFIED UNDER THIS CHAPTER
7 MAY, IF OTHERWISE AUTHORIZED, OFFER BENEFITS THAT DO NOT COVER ANY
8 SERVICE FOR WHICH COVERAGE IS OFFERED TO INDIVIDUALS UNDER THE PROGRAM,
9 BUT MAY NOT OFFER BENEFITS THAT COVER ANY SERVICE FOR WHICH COVERAGE IS
10 OFFERED TO INDIVIDUALS UNDER THE PROGRAM. PROVIDED, HOWEVER, THAT THIS
11 SUBDIVISION SHALL NOT PROHIBIT (A) THE OFFERING OF ANY BENEFITS TO OR
12 FOR INDIVIDUALS, INCLUDING THEIR FAMILIES, WHO ARE EMPLOYED OR SELF-EM-
13 PLOYED IN THE STATE BUT WHO ARE NOT RESIDENTS OF THE STATE, OR (B) THE
14 OFFERING OF BENEFITS DURING THE IMPLEMENTATION PERIOD TO INDIVIDUALS WHO
15 ENROLLED OR MAY ENROLL AS MEMBERS OF THE PROGRAM, OR (C) THE OFFERING OF
16 RETIREE HEALTH BENEFITS.

17 5. A COLLEGE, UNIVERSITY OR OTHER INSTITUTION OF HIGHER EDUCATION IN
18 THE STATE MAY PURCHASE COVERAGE UNDER THE PROGRAM FOR ANY STUDENT, OR
19 STUDENT'S DEPENDENT, WHO IS NOT A RESIDENT OF THE STATE.

20 6. TO THE EXTENT ANY PROVISION OF THIS CHAPTER, THE SOCIAL SERVICES
21 LAW OR THE INSURANCE LAW:

22 (A) IS INCONSISTENT WITH ANY PROVISION OF THIS ARTICLE OR THE LEGISLA-
23 TIVE INTENT OF THE NEW YORK HEALTH ACT, THIS ARTICLE SHALL APPLY AND
24 PREVAIL, EXCEPT WHERE EXPLICITLY PROVIDED OTHERWISE BY THIS ARTICLE; AND

25 (B) IS CONSISTENT WITH THE PROVISIONS OF THIS ARTICLE AND THE LEGISLA-
26 TIVE INTENT OF THE NEW YORK HEALTH ACT, THE PROVISION OF THAT LAW SHALL
27 APPLY.

28 S 5102. BOARD OF TRUSTEES. 1. THE NEW YORK HEALTH BOARD OF TRUSTEES IS
29 HEREBY CREATED IN THE DEPARTMENT. THE BOARD OF TRUSTEES SHALL, AT THE
30 REQUEST OF THE COMMISSIONER, CONSIDER ANY MATTER TO EFFECTUATE THE
31 PROVISIONS AND PURPOSES OF THIS ARTICLE, AND MAY ADVISE THE COMMISSIONER
32 THEREON; AND IT MAY, FROM TIME TO TIME, SUBMIT TO THE COMMISSIONER ANY
33 RECOMMENDATIONS TO EFFECTUATE THE PROVISIONS AND PURPOSES OF THIS ARTI-
34 CLE. THE COMMISSIONER MAY PROPOSE REGULATIONS UNDER THIS ARTICLE AND
35 AMENDMENTS THERETO FOR CONSIDERATION BY THE BOARD. THE BOARD OF TRUSTEES
36 SHALL HAVE NO EXECUTIVE, ADMINISTRATIVE OR APPOINTIVE DUTIES EXCEPT AS
37 OTHERWISE PROVIDED BY LAW. THE BOARD OF TRUSTEES SHALL HAVE POWER TO
38 ESTABLISH, AND FROM TIME TO TIME, AMEND REGULATIONS TO EFFECTUATE THE
39 PROVISIONS AND PURPOSES OF THIS ARTICLE, SUBJECT TO APPROVAL BY THE
40 COMMISSIONER.

41 2. THE BOARD SHALL BE COMPOSED OF:

42 (A) THE COMMISSIONER, THE SUPERINTENDENT OF FINANCIAL SERVICES, AND
43 THE DIRECTOR OF THE BUDGET, OR THEIR DESIGNEES, AS EX OFFICIO MEMBERS;

44 (B) NINETEEN TRUSTEES APPOINTED BY THE GOVERNOR;

45 (I) FIVE OF WHOM SHALL BE REPRESENTATIVES OF HEALTH CARE CONSUMER
46 ADVOCACY ORGANIZATIONS WHICH HAVE A STATEWIDE OR REGIONAL CONSTITUENCY,
47 WHO HAVE BEEN INVOLVED IN ACTIVITIES RELATED TO HEALTH CARE CONSUMER
48 ADVOCACY, INCLUDING ISSUES OF INTEREST TO LOW- AND MODERATE-INCOME INDI-
49 VIDUALS;

50 (II) TWO OF WHOM SHALL BE REPRESENTATIVES OF PROFESSIONAL ORGANIZA-
51 TIONS REPRESENTING PHYSICIANS;

52 (III) TWO OF WHOM SHALL BE REPRESENTATIVES OF PROFESSIONAL ORGANIZA-
53 TIONS REPRESENTING LICENSED OR REGISTERED HEALTH CARE PROFESSIONALS
54 OTHER THAN PHYSICIANS;

55 (IV) THREE OF WHOM SHALL BE REPRESENTATIVES OF HOSPITALS, ONE OF WHOM
56 SHALL BE A REPRESENTATIVE OF PUBLIC HOSPITALS;

1 (V) ONE OF WHOM SHALL BE REPRESENTATIVE OF COMMUNITY HEALTH CENTERS;
2 (VI) TWO OF WHOM SHALL BE REPRESENTATIVES OF HEALTH CARE ORGANIZA-
3 TIONS; AND

4 (VII) TWO OF WHOM SHALL BE REPRESENTATIVES OF ORGANIZED LABOR;

5 (VIII) TWO OF WHOM SHALL HAVE DEMONSTRATED EXPERTISE IN HEALTH CARE
6 FINANCE;

7 (C) TEN TRUSTEES APPOINTED BY THE GOVERNOR; FOUR OF WHOM TO BE
8 APPOINTED ON THE RECOMMENDATION OF THE SPEAKER OF THE ASSEMBLY; FOUR OF
9 WHOM TO BE APPOINTED ON THE RECOMMENDATION OF THE TEMPORARY PRESIDENT OF
10 THE SENATE; ONE OF WHOM TO BE APPOINTED ON THE RECOMMENDATION OF THE
11 MINORITY LEADER OF THE ASSEMBLY; AND ONE OF WHOM TO BE APPOINTED ON THE
12 RECOMMENDATION OF THE MINORITY LEADER OF THE SENATE.

13 3. AFTER THE END OF THE IMPLEMENTATION PERIOD, NO PERSON SHALL BE A
14 TRUSTEE UNLESS HE OR SHE IS A MEMBER OF THE PROGRAM, EXCEPT THE EX OFFI-
15 CIO TRUSTEES. EACH TRUSTEE SHALL SERVE AT THE PLEASURE OF THE APPOINTING
16 OFFICER, EXCEPT THE EX OFFICIO TRUSTEES.

17 4. THE CHAIR OF THE BOARD SHALL BE APPOINTED, AND MAY BE REMOVED AS
18 CHAIR, BY THE GOVERNOR FROM AMONG THE TRUSTEES. THE BOARD SHALL MEET AT
19 LEAST FOUR TIMES EACH CALENDAR YEAR. MEETINGS SHALL BE HELD UPON THE
20 CALL OF THE CHAIR AND AS PROVIDED BY THE BOARD. A MAJORITY OF THE
21 APPOINTED TRUSTEES SHALL BE A QUORUM OF THE BOARD, AND THE AFFIRMATIVE
22 VOTE OF A MAJORITY OF THE TRUSTEES VOTING, BUT NOT LESS THAN TEN, SHALL
23 BE NECESSARY FOR ANY ACTION TO BE TAKEN BY THE BOARD. THE BOARD MAY
24 ESTABLISH AN EXECUTIVE COMMITTEE TO EXERCISE ANY POWERS OR DUTIES OF THE
25 BOARD AS IT MAY PROVIDE, AND OTHER COMMITTEES TO ASSIST THE BOARD OR THE
26 EXECUTIVE COMMITTEE. THE CHAIR OF THE BOARD SHALL CHAIR THE EXECUTIVE
27 COMMITTEE AND SHALL APPOINT THE CHAIR AND MEMBERS OF ALL OTHER COMMIT-
28 TEES. THE BOARD OF TRUSTEES MAY APPOINT ONE OR MORE ADVISORY COMMITTEES.
29 MEMBERS OF ADVISORY COMMITTEES NEED NOT BE MEMBERS OF THE BOARD OF TRUS-
30 TEES.

31 5. TRUSTEES SHALL SERVE WITHOUT COMPENSATION BUT SHALL BE REIMBURSED
32 FOR THEIR NECESSARY AND ACTUAL EXPENSES INCURRED WHILE ENGAGED IN THE
33 BUSINESS OF THE BOARD.

34 6. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, NO OFFICER OR
35 EMPLOYEE OF THE STATE OR ANY LOCAL GOVERNMENT SHALL FORFEIT OR BE DEEMED
36 TO HAVE FORFEITED HIS OR HER OFFICE OR EMPLOYMENT BY REASON OF BEING A
37 TRUSTEE.

38 7. THE BOARD AND ITS COMMITTEES AND ADVISORY COMMITTEES MAY REQUEST
39 AND RECEIVE THE ASSISTANCE OF THE DEPARTMENT AND ANY OTHER STATE OR
40 LOCAL GOVERNMENTAL ENTITY IN EXERCISING ITS POWERS AND DUTIES.

41 8. NO LATER THAN TWO YEARS AFTER THE EFFECTIVE DATE OF THIS ARTICLE:

42 (A) THE BOARD SHALL DEVELOP A PROPOSAL, CONSISTENT WITH THE PRINCIPLES
43 OF THIS ARTICLE, FOR PROVISION BY THE PROGRAM OF LONG-TERM CARE COVER-
44 AGE, INCLUDING THE DEVELOPMENT OF A PROPOSAL, CONSISTENT WITH THE PRIN-
45 CIPLES OF THIS ARTICLE, FOR ITS FUNDING. IN DEVELOPING THE PROPOSAL,
46 THE BOARD SHALL CONSULT WITH AN ADVISORY COMMITTEE, APPOINTED BY THE
47 CHAIR OF THE BOARD, INCLUDING REPRESENTATIVES OF CONSUMERS AND POTENTIAL
48 CONSUMERS OF LONG-TERM CARE, PROVIDERS OF LONG-TERM CARE, LABOR, AND
49 OTHER INTERESTED PARTIES. THE BOARD SHALL PRESENT ITS PROPOSAL TO THE
50 GOVERNOR AND THE LEGISLATURE.

51 (B) THE BOARD SHALL DEVELOP PROPOSALS FOR: (I) INCORPORATING RETIREE
52 HEALTH BENEFITS INTO NEW YORK HEALTH; (II) ACCOMMODATING EMPLOYER RETI-
53 REE HEALTH BENEFITS FOR PEOPLE WHO HAVE BEEN MEMBERS OF NEW YORK HEALTH
54 BUT LIVE AS RETIREES OUT OF THE STATE; AND (III) ACCOMMODATING EMPLOYER
55 RETIREE HEALTH BENEFITS FOR PEOPLE WHO EARNED OR ACCRUED SUCH BENEFITS

1 WHILE RESIDING IN THE STATE PRIOR TO THE IMPLEMENTATION OF NEW YORK
2 HEALTH AND LIVE AS RETIREES OUT OF THE STATE.

3 (C) THE BOARD SHALL DEVELOP A PROPOSAL FOR NEW YORK HEALTH COVERAGE OF
4 HEALTH CARE SERVICES COVERED UNDER THE WORKERS' COMPENSATION LAW,
5 INCLUDING WHETHER AND HOW TO CONTINUE FUNDING FOR THOSE SERVICES UNDER
6 THAT LAW AND WHETHER AND HOW TO INCORPORATE AN ELEMENT OF EXPERIENCE
7 RATING.

8 S 5103. ELIGIBILITY AND ENROLLMENT. 1. EVERY RESIDENT OF THE STATE
9 SHALL BE ELIGIBLE AND ENTITLED TO ENROLL AS A MEMBER UNDER THE PROGRAM.

10 2. NO MEMBER SHALL BE REQUIRED TO PAY ANY PREMIUM OR OTHER CHARGE FOR
11 ENROLLING IN OR BEING A MEMBER UNDER THE PROGRAM.

12 S 5104. BENEFITS. 1. THE PROGRAM SHALL PROVIDE COMPREHENSIVE HEALTH
13 COVERAGE TO EVERY MEMBER, WHICH SHALL INCLUDE ALL HEALTH CARE SERVICES
14 REQUIRED TO BE COVERED UNDER ANY OF THE FOLLOWING, WITHOUT REGARD TO
15 WHETHER THE MEMBER WOULD OTHERWISE BE ELIGIBLE FOR OR COVERED BY THE
16 PROGRAM OR SOURCE REFERRED TO:

17 (A) CHILD HEALTH PLUS;

18 (B) MEDICAID;

19 (C) MEDICARE;

20 (D) ARTICLE FORTY-FOUR OF THIS CHAPTER OR ARTICLE THIRTY-TWO OR
21 FORTY-THREE OF THE INSURANCE LAW;

22 (E) ARTICLE ELEVEN OF THE CIVIL SERVICE LAW, AS OF THE DATE ONE YEAR
23 BEFORE THE BEGINNING OF THE IMPLEMENTATION PERIOD;

24 (F) ANY COST INCURRED DEFINED IN PARAGRAPH ONE OF SUBSECTION (A) OF
25 SECTION FIFTY-ONE HUNDRED TWO OF THE INSURANCE LAW, PROVIDED THAT THIS
26 COVERAGE SHALL NOT REPLACE COVERAGE UNDER ARTICLE FIFTY-ONE OF THE
27 INSURANCE LAW;

28 (G) ANY ADDITIONAL HEALTH CARE SERVICE AUTHORIZED TO BE ADDED TO THE
29 PROGRAM'S BENEFITS BY THE PROGRAM; AND

30 (H) PROVIDED THAT NONE OF THE ABOVE SHALL INCLUDE LONG TERM CARE,
31 UNTIL A PROPOSAL UNDER PARAGRAPH (A) OF SUBDIVISION EIGHT OF SECTION
32 FIFTY-ONE HUNDRED TWO OF THIS ARTICLE IS ENACTED INTO LAW.

33 2. NO MEMBER SHALL BE REQUIRED TO PAY ANY PREMIUM, DEDUCTIBLE, CO-PAY-
34 MENT OR CO-INSURANCE UNDER THE PROGRAM.

35 3. THE PROGRAM SHALL PROVIDE FOR PAYMENT UNDER THE PROGRAM FOR EMER-
36 GENCY AND TEMPORARY HEALTH CARE SERVICES PROVIDED TO MEMBERS OR INDIVID-
37 UALS ENTITLED TO BECOME MEMBERS WHO HAVE NOT HAD A REASONABLE OPPORTU-
38 NITY TO BECOME A MEMBER OR TO ENROLL WITH A CARE COORDINATOR.

39 S 5105. HEALTH CARE PROVIDERS; CARE COORDINATION; PAYMENT METHODOL-
40 OGIES. 1. CHOICE OF HEALTH CARE PROVIDER. (A) ANY HEALTH CARE PROVIDER
41 QUALIFIED TO PARTICIPATE UNDER THIS SECTION MAY PROVIDE HEALTH CARE
42 SERVICES UNDER THE PROGRAM, PROVIDED THAT THE HEALTH CARE PROVIDER IS
43 OTHERWISE LEGALLY AUTHORIZED TO PERFORM THE HEALTH CARE SERVICE FOR THE
44 INDIVIDUAL AND UNDER THE CIRCUMSTANCES INVOLVED.

45 (B) A MEMBER MAY CHOOSE TO RECEIVE HEALTH CARE SERVICES UNDER THE
46 PROGRAM FROM ANY PARTICIPATING PROVIDER, CONSISTENT WITH PROVISIONS OF
47 THIS ARTICLE RELATING TO CARE COORDINATION AND HEALTH CARE ORGANIZA-
48 TIONS, THE WILLINGNESS OR AVAILABILITY OF THE PROVIDER (SUBJECT TO
49 PROVISIONS OF THIS ARTICLE RELATING TO DISCRIMINATION), AND THE APPRO-
50 PRIATE CLINICALLY-RELEVANT CIRCUMSTANCES.

51 2. CARE COORDINATION.

52 (A) CARE COORDINATION SHALL INCLUDE, BUT NOT BE LIMITED TO, MANAGING,
53 REFERRING TO, LOCATING, COORDINATING, AND MONITORING HEALTH CARE
54 SERVICES FOR THE MEMBER TO ASSURE THAT ALL MEDICALLY NECESSARY HEALTH
55 CARE SERVICES ARE MADE AVAILABLE TO AND ARE EFFECTIVELY USED BY THE
56 MEMBER IN A TIMELY MANNER, CONSISTENT WITH PATIENT AUTONOMY. CARE COOR-

1 DINATION IS NOT A REQUIREMENT FOR PRIOR AUTHORIZATION FOR HEALTH CARE
2 SERVICES AND REFERRAL SHALL NOT BE REQUIRED FOR A MEMBER TO RECEIVE A
3 HEALTH CARE SERVICE.

4 (B) A CARE COORDINATOR MAY BE AN INDIVIDUAL OR ENTITY THAT IS APPROVED
5 BY THE PROGRAM THAT IS:

6 (I) A HEALTH CARE PRACTITIONER WHO IS: (A) THE MEMBER'S PRIMARY CARE
7 PRACTITIONER; (B) AT THE OPTION OF A FEMALE MEMBER, THE MEMBER'S PROVID-
8 ER OF PRIMARY GYNECOLOGICAL CARE; OR (C) AT THE OPTION OF A MEMBER WHO
9 HAS A CHRONIC CONDITION THAT REQUIRES SPECIALTY CARE, A SPECIALIST
10 HEALTH CARE PRACTITIONER WHO REGULARLY AND CONTINUALLY PROVIDES TREAT-
11 MENT FOR THAT CONDITION TO THE MEMBER;

12 (II) AN ENTITY LICENSED UNDER ARTICLE TWENTY-EIGHT OF THIS CHAPTER OR
13 CERTIFIED UNDER ARTICLE THIRTY-SIX OF THIS CHAPTER, A MANAGED LONG TERM
14 CARE PLAN UNDER SECTION FORTY-FOUR HUNDRED THREE-F OF THIS CHAPTER OR
15 OTHER PROGRAM MODEL UNDER PARAGRAPH (B) OF SUBDIVISION SEVEN OF SUCH
16 SECTION, OR, WITH RESPECT TO A MEMBER WHO RECEIVES CHRONIC MENTAL HEALTH
17 CARE SERVICES, AN ENTITY LICENSED UNDER ARTICLE THIRTY-ONE OF THE MENTAL
18 HYGIENE LAW OR OTHER ENTITY APPROVED BY THE COMMISSIONER IN CONSULTATION
19 WITH THE COMMISSIONER OF MENTAL HEALTH;

20 (III) A HEALTH CARE ORGANIZATION;

21 (IV) A TAFT-HARTLEY FUND, WITH RESPECT TO ITS MEMBERS AND THEIR FAMILY
22 MEMBERS; PROVIDED THAT THIS PROVISION SHALL NOT PRECLUDE A TAFT-HARTLEY
23 FUND FROM BECOMING A CARE COORDINATOR UNDER SUBPARAGRAPH (V) OF THIS
24 PARAGRAPH OR A HEALTH CARE ORGANIZATION UNDER SECTION FIFTY-ONE HUNDRED
25 SIX OF THIS ARTICLE; OR

26 (V) ANY NOT-FOR-PROFIT OR GOVERNMENTAL ENTITY APPROVED BY THE PROGRAM.

27 (C) HEALTH CARE SERVICES PROVIDED TO A MEMBER SHALL NOT BE SUBJECT TO
28 PAYMENT UNDER THE PROGRAM UNLESS THE MEMBER IS ENROLLED WITH A CARE
29 COORDINATOR AT THE TIME THE HEALTH CARE SERVICE IS PROVIDED, EXCEPT
30 WHERE PROVIDED UNDER SUBDIVISION THREE OF SECTION FIFTY-ONE HUNDRED FOUR
31 OF THIS ARTICLE. EVERY MEMBER SHALL ENROLL WITH A CARE COORDINATOR THAT
32 AGREES TO PROVIDE CARE COORDINATION TO THE MEMBER PRIOR TO RECEIVING
33 HEALTH CARE SERVICES TO BE PAID FOR UNDER THE PROGRAM. THE MEMBER SHALL
34 REMAIN ENROLLED WITH THAT CARE COORDINATOR UNTIL THE MEMBER BECOMES
35 ENROLLED WITH A DIFFERENT CARE COORDINATOR OR CEASES TO BE A MEMBER.
36 MEMBERS HAVE THE RIGHT TO CHANGE THEIR CARE COORDINATOR ON TERMS AT
37 LEAST AS PERMISSIVE AS THE PROVISIONS OF SECTION THREE HUNDRED
38 SIXTY-FOUR-J OF THE SOCIAL SERVICES LAW RELATING TO AN INDIVIDUAL CHANG-
39 ING HIS OR HER PRIMARY CARE PROVIDER OR MANAGED CARE PROVIDER.

40 (D) CARE COORDINATION SHALL BE PROVIDED TO THE MEMBER BY THE MEMBER'S
41 CARE COORDINATOR. A CARE COORDINATOR MAY EMPLOY OR UTILIZE THE SERVICES
42 OF OTHER INDIVIDUALS OR ENTITIES TO ASSIST IN PROVIDING CARE COORDI-
43 NATION FOR THE MEMBER, CONSISTENT WITH REGULATIONS OF THE COMMISSIONER.

44 (E) A HEALTH CARE ORGANIZATION MAY ESTABLISH RULES RELATING TO CARE
45 COORDINATION FOR MEMBERS IN THE HEALTH CARE ORGANIZATION, DIFFERENT FROM
46 THIS SUBDIVISION BUT OTHERWISE CONSISTENT WITH THIS ARTICLE AND OTHER
47 APPLICABLE LAWS. NOTHING IN THIS SUBDIVISION SHALL AUTHORIZE ANY INDI-
48 VIDUAL TO ENGAGE IN ANY ACT IN VIOLATION OF TITLE EIGHT OF THE EDUCATION
49 LAW.

50 (F) THE COMMISSIONER SHALL DEVELOP AND IMPLEMENT PROCEDURES AND STAND-
51 ARDS FOR AN INDIVIDUAL OR ENTITY TO BE APPROVED TO BE A CARE COORDINATOR
52 IN THE PROGRAM, INCLUDING BUT NOT LIMITED TO PROCEDURES AND STANDARDS
53 RELATING TO THE REVOCATION, SUSPENSION, LIMITATION, OR ANNULMENT OF
54 APPROVAL ON A DETERMINATION THAT THE INDIVIDUAL OR ENTITY IS INCOMPETENT
55 TO BE A CARE COORDINATOR OR HAS EXHIBITED A COURSE OF CONDUCT WHICH IS
56 EITHER INCONSISTENT WITH PROGRAM STANDARDS AND REGULATIONS OR WHICH

1 EXHIBITS AN UNWILLINGNESS TO MEET SUCH STANDARDS AND REGULATIONS, OR IS
2 A POTENTIAL THREAT TO THE PUBLIC HEALTH OR SAFETY. SUCH PROCEDURES AND
3 STANDARDS SHALL NOT LIMIT APPROVAL TO BE A CARE COORDINATOR IN THE
4 PROGRAM FOR ECONOMIC PURPOSES AND SHALL BE CONSISTENT WITH GOOD PROFES-
5 SIONAL PRACTICE. IN DEVELOPING THE PROCEDURES AND STANDARDS, THE COMMIS-
6 SIONER SHALL: (I) CONSIDER EXISTING STANDARDS DEVELOPED BY NATIONAL
7 ACCREDITING AND PROFESSIONAL ORGANIZATIONS; AND (II) CONSULT WITH
8 NATIONAL AND LOCAL ORGANIZATIONS WORKING ON CARE COORDINATION OR SIMILAR
9 MODELS, INCLUDING HEALTH CARE PRACTITIONERS, HOSPITALS, CLINICS, AND
10 CONSUMERS AND THEIR REPRESENTATIVES. WHEN DEVELOPING AND IMPLEMENTING
11 STANDARDS OF APPROVAL OF CARE COORDINATORS FOR INDIVIDUALS RECEIVING
12 CHRONIC MENTAL HEALTH CARE SERVICES, THE COMMISSIONER SHALL CONSULT WITH
13 THE COMMISSIONER OF MENTAL HEALTH. AN INDIVIDUAL OR ENTITY MAY NOT BE A
14 CARE COORDINATOR UNLESS THE SERVICES INCLUDED IN CARE COORDINATION ARE
15 WITHIN THE INDIVIDUAL'S PROFESSIONAL SCOPE OF PRACTICE OR THE ENTITY'S
16 LEGAL AUTHORITY.

17 (G) TO MAINTAIN APPROVAL UNDER THE PROGRAM, A CARE COORDINATOR MUST:
18 (I) RENEW ITS STATUS AT A FREQUENCY DETERMINED BY THE COMMISSIONER; AND
19 (II) PROVIDE DATA TO THE DEPARTMENT AS REQUIRED BY THE COMMISSIONER TO
20 ENABLE THE COMMISSIONER TO EVALUATE THE IMPACT OF CARE COORDINATORS ON
21 QUALITY, OUTCOMES AND COST.

22 3. HEALTH CARE PROVIDERS. (A) THE COMMISSIONER SHALL ESTABLISH AND
23 MAINTAIN PROCEDURES AND STANDARDS FOR HEALTH CARE PROVIDERS TO BE QUALI-
24 FIED TO PARTICIPATE IN THE PROGRAM, INCLUDING BUT NOT LIMITED TO PROCE-
25 DURES AND STANDARDS RELATING TO THE REVOCATION, SUSPENSION, LIMITATION,
26 OR ANNULMENT OF QUALIFICATION TO PARTICIPATE ON A DETERMINATION THAT THE
27 HEALTH CARE PROVIDER IS AN INCOMPETENT PROVIDER OF SPECIFIC HEALTH CARE
28 SERVICES OR HAS EXHIBITED A COURSE OF CONDUCT WHICH IS EITHER INCONSIST-
29 ENT WITH PROGRAM STANDARDS AND REGULATIONS OR WHICH EXHIBITS AN UNWILL-
30 INGNESS TO MEET SUCH STANDARDS AND REGULATIONS, OR IS A POTENTIAL THREAT
31 TO THE PUBLIC HEALTH OR SAFETY. SUCH PROCEDURES AND STANDARDS SHALL NOT
32 LIMIT HEALTH CARE PROVIDER PARTICIPATION IN THE PROGRAM FOR ECONOMIC
33 PURPOSES AND SHALL BE CONSISTENT WITH GOOD PROFESSIONAL PRACTICE. ANY
34 HEALTH CARE PROVIDER WHO IS QUALIFIED TO PARTICIPATE UNDER MEDICAID,
35 CHILD HEALTH PLUS OR MEDICARE SHALL BE DEEMED TO BE QUALIFIED TO PARTICI-
36 IPATE IN THE PROGRAM, AND ANY HEALTH CARE PROVIDER'S REVOCATION, SUSPEN-
37 SION, LIMITATION, OR ANNULMENT OF QUALIFICATION TO PARTICIPATE IN ANY OF
38 THOSE PROGRAMS SHALL APPLY TO THE HEALTH CARE PROVIDER'S QUALIFICATION
39 TO PARTICIPATE IN THE PROGRAM; PROVIDED THAT A HEALTH CARE PROVIDER
40 QUALIFIED UNDER THIS SENTENCE SHALL FOLLOW THE PROCEDURES TO BECOME
41 QUALIFIED UNDER THE PROGRAM BY THE END OF THE IMPLEMENTATION PERIOD.

42 (B) THE COMMISSIONER SHALL ESTABLISH AND MAINTAIN PROCEDURES AND STAN-
43 DARDS FOR RECOGNIZING HEALTH CARE PROVIDERS LOCATED OUT OF THE STATE FOR
44 PURPOSES OF PROVIDING COVERAGE UNDER THE PROGRAM FOR OUT-OF-STATE HEALTH
45 CARE SERVICES.

46 4. PAYMENT FOR HEALTH CARE SERVICES. (A) THE COMMISSIONER MAY ESTAB-
47 LISH BY REGULATION PAYMENT METHODOLOGIES FOR HEALTH CARE SERVICES AND
48 CARE COORDINATION PROVIDED TO MEMBERS UNDER THE PROGRAM BY PARTICIPATING
49 PROVIDERS, CARE COORDINATORS, AND HEALTH CARE ORGANIZATIONS. THERE MAY
50 BE A VARIETY OF DIFFERENT PAYMENT METHODOLOGIES, INCLUDING THOSE ESTAB-
51 LISHED ON A DEMONSTRATION BASIS. ALL PAYMENT RATES UNDER THE PROGRAM
52 SHALL BE REASONABLE AND REASONABLY RELATED TO THE COST OF EFFICIENTLY
53 PROVIDING THE HEALTH CARE SERVICE AND ASSURING AN ADEQUATE AND ACCESSI-
54 BLE SUPPLY OF HEALTH CARE SERVICE. UNTIL AND UNLESS ANOTHER PAYMENT
55 METHODOLOGY IS ESTABLISHED, HEALTH CARE SERVICES PROVIDED TO MEMBERS

1 UNDER THE PROGRAM SHALL BE PAID FOR ON A FEE-FOR-SERVICE BASIS, EXCEPT
2 FOR CARE COORDINATION.

3 (B) THE PROGRAM SHALL ENGAGE IN GOOD FAITH NEGOTIATIONS WITH HEALTH
4 CARE PROVIDERS' REPRESENTATIVES UNDER TITLE III OF ARTICLE FORTY-NINE OF
5 THIS CHAPTER, INCLUDING, BUT NOT LIMITED TO, IN RELATION TO RATES OF
6 PAYMENT AND PAYMENT METHODOLOGIES.

7 (C) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, PAYMENT FOR
8 DRUGS PROVIDED BY PHARMACIES UNDER THE PROGRAM SHALL BE MADE PURSUANT TO
9 TITLE ONE OF ARTICLE TWO-A OF THIS CHAPTER. HOWEVER, THE PROGRAM SHALL
10 PROVIDE FOR PAYMENT FOR PRESCRIPTION DRUGS UNDER SECTION 340B OF THE
11 FEDERAL PUBLIC SERVICE ACT WHERE APPLICABLE. PAYMENT FOR PRESCRIPTION
12 DRUGS PROVIDED BY HEALTH CARE PROVIDERS OTHER THAN PHARMACIES SHALL BE
13 PURSUANT TO OTHER PROVISIONS OF THIS ARTICLE.

14 (D) PAYMENT FOR HEALTH CARE SERVICES ESTABLISHED UNDER THIS ARTICLE
15 SHALL BE CONSIDERED PAYMENT IN FULL. A PARTICIPATING PROVIDER SHALL NOT
16 CHARGE ANY RATE IN EXCESS OF THE PAYMENT ESTABLISHED UNDER THIS ARTICLE
17 FOR ANY HEALTH CARE SERVICE UNDER THE PROGRAM PROVIDED TO A MEMBER AND
18 SHALL NOT SOLICIT OR ACCEPT PAYMENT FROM ANY MEMBER OR THIRD PARTY FOR
19 ANY SUCH SERVICE EXCEPT AS PROVIDED UNDER SECTION FIFTY-ONE HUNDRED NINE
20 OF THIS ARTICLE. HOWEVER, THIS PARAGRAPH SHALL NOT PRECLUDE THE PROGRAM
21 FROM ACTING AS A PRIMARY OR SECONDARY PAYER IN CONJUNCTION WITH ANOTHER
22 THIRD-PARTY PAYER WHERE PERMITTED UNDER SECTION FIFTY-ONE HUNDRED NINE
23 OF THIS ARTICLE.

24 (E) THE PROGRAM MAY PROVIDE IN PAYMENT METHODOLOGIES FOR PAYMENT FOR
25 CAPITAL RELATED EXPENSES FOR SPECIFICALLY IDENTIFIED CAPITAL EXPENDI-
26 TURES INCURRED BY NOT-FOR-PROFIT OR GOVERNMENTAL ENTITIES CERTIFIED
27 UNDER ARTICLE TWENTY-EIGHT OF THIS CHAPTER. ANY CAPITAL RELATED EXPENSE
28 GENERATED BY A CAPITAL EXPENDITURE THAT REQUIRES OR REQUIRED APPROVAL
29 UNDER ARTICLE TWENTY-EIGHT OF THIS CHAPTER MUST HAVE RECEIVED THAT
30 APPROVAL FOR THE CAPITAL RELATED EXPENSE TO BE PAID FOR UNDER THE
31 PROGRAM.

32 (F) PAYMENT METHODOLOGIES AND RATES SHALL INCLUDE A DISTINCT COMPONENT
33 OF REIMBURSEMENT FOR DIRECT AND INDIRECT GRADUATE MEDICAL EDUCATION AS
34 DEFINED, CALCULATED AND IMPLEMENTED PURSUANT TO SECTION TWENTY-EIGHT
35 HUNDRED SEVEN-C OF THIS CHAPTER.

36 (G) THE COMMISSIONER SHALL PROVIDE BY REGULATION FOR PAYMENT METHOD-
37 OLOGIES AND PROCEDURES FOR PAYING FOR OUT-OF-STATE HEALTH CARE SERVICES.
38 S 5106. HEALTH CARE ORGANIZATIONS. 1. A MEMBER MAY CHOOSE TO ENROLL
39 WITH AND RECEIVE HEALTH CARE SERVICES UNDER THE PROGRAM FROM A HEALTH
40 CARE ORGANIZATION.

41 2. A HEALTH CARE ORGANIZATION SHALL BE A NOT-FOR-PROFIT OR GOVERN-
42 MENTAL ENTITY THAT IS APPROVED BY THE COMMISSIONER THAT IS:

43 (A) AN ACCOUNTABLE CARE ORGANIZATION UNDER ARTICLE TWENTY-NINE-E OF
44 THIS CHAPTER; OR

45 (B) A TAFT-HARTLEY FUND (I) WITH RESPECT TO ITS MEMBERS AND THEIR
46 FAMILY MEMBERS, AND (II) IF ALLOWED BY APPLICABLE LAW AND APPROVED BY
47 THE COMMISSIONER, FOR OTHER MEMBERS OF THE PROGRAM; PROVIDED THAT THE
48 COMMISSIONER SHALL PROVIDE BY REGULATION THAT WHERE A TAFT-HARTLEY FUND
49 IS ACTING UNDER THIS SUBPARAGRAPH THERE ARE PROTECTIONS FOR HEALTH CARE
50 PROVIDERS AND PATIENTS COMPARABLE TO THOSE APPLICABLE TO ACCOUNTABLE
51 CARE ORGANIZATIONS.

52 3. A HEALTH CARE ORGANIZATION MAY BE RESPONSIBLE FOR ALL OR PART OF
53 THE HEALTH CARE SERVICES TO WHICH ITS MEMBERS ARE ENTITLED UNDER THE
54 PROGRAM, CONSISTENT WITH THE TERMS OF ITS APPROVAL BY THE COMMISSIONER.

55 4. (A) THE COMMISSIONER SHALL DEVELOP AND IMPLEMENT PROCEDURES AND
56 STANDARDS FOR AN ENTITY TO BE APPROVED TO BE A HEALTH CARE ORGANIZATION

1 IN THE PROGRAM, INCLUDING BUT NOT LIMITED TO PROCEDURES AND STANDARDS
2 RELATING TO THE REVOCATION, SUSPENSION, LIMITATION, OR ANNULMENT OF
3 APPROVAL ON A DETERMINATION THAT THE ENTITY IS INCOMPETENT TO BE A
4 HEALTH CARE ORGANIZATION OR HAS EXHIBITED A COURSE OF CONDUCT WHICH IS
5 EITHER INCONSISTENT WITH PROGRAM STANDARDS AND REGULATIONS OR WHICH
6 EXHIBITS AN UNWILLINGNESS TO MEET SUCH STANDARDS AND REGULATIONS, OR IS
7 A POTENTIAL THREAT TO THE PUBLIC HEALTH OR SAFETY. SUCH PROCEDURES AND
8 STANDARDS SHALL NOT LIMIT APPROVAL TO BE A HEALTH CARE ORGANIZATION IN
9 THE PROGRAM FOR ECONOMIC PURPOSES AND SHALL BE CONSISTENT WITH GOOD
10 PROFESSIONAL PRACTICE. IN DEVELOPING THE PROCEDURES AND STANDARDS, THE
11 COMMISSIONER SHALL: (I) CONSIDER EXISTING STANDARDS DEVELOPED BY
12 NATIONAL ACCREDITING AND PROFESSIONAL ORGANIZATIONS; AND (II) CONSULT
13 WITH NATIONAL AND LOCAL ORGANIZATIONS WORKING IN THE FIELD OF HEALTH
14 CARE ORGANIZATIONS, INCLUDING HEALTH CARE PRACTITIONERS, HOSPITALS,
15 CLINICS, AND CONSUMERS AND THEIR REPRESENTATIVES. WHEN DEVELOPING AND
16 IMPLEMENTING STANDARDS OF APPROVAL OF HEALTH CARE ORGANIZATIONS, THE
17 COMMISSIONER SHALL CONSULT WITH THE COMMISSIONER OF MENTAL HEALTH AND
18 THE COMMISSIONER OF DEVELOPMENTAL DISABILITIES.

19 (B) TO MAINTAIN APPROVAL UNDER THE PROGRAM, A HEALTH CARE ORGANIZATION
20 MUST: (I) RENEW ITS STATUS AT A FREQUENCY DETERMINED BY THE COMMISSIONER;
21 AND (II) PROVIDE DATA TO THE DEPARTMENT AS REQUIRED BY THE COMMISSIONER
22 TO ENABLE THE COMMISSIONER TO EVALUATE THE HEALTH CARE ORGANIZATION
23 IN RELATION TO QUALITY OF HEALTH CARE SERVICES, HEALTH CARE
24 OUTCOMES, AND COST.

25 5. THE COMMISSIONER SHALL MAKE REGULATIONS RELATING TO HEALTH CARE
26 ORGANIZATIONS CONSISTENT WITH AND TO ENSURE COMPLIANCE WITH THIS ARTICLE.
27

28 6. THE PROVISION OF HEALTH CARE SERVICES DIRECTLY OR INDIRECTLY BY A
29 HEALTH CARE ORGANIZATION THROUGH HEALTH CARE PROVIDERS SHALL NOT BE
30 CONSIDERED THE PRACTICE OF A PROFESSION UNDER TITLE EIGHT OF THE EDUCATION
31 LAW BY THE HEALTH CARE ORGANIZATION.

32 S 5107. PROGRAM STANDARDS. 1. THE COMMISSIONER SHALL ESTABLISH
33 REQUIREMENTS AND STANDARDS FOR THE PROGRAM AND FOR HEALTH CARE ORGANIZATIONS,
34 CARE COORDINATORS, AND HEALTH CARE PROVIDERS, CONSISTENT WITH
35 THIS ARTICLE, INCLUDING REQUIREMENTS AND STANDARDS FOR, AS APPLICABLE:

36 (A) THE SCOPE, QUALITY AND ACCESSIBILITY OF HEALTH CARE SERVICES;

37 (B) RELATIONS BETWEEN HEALTH CARE ORGANIZATIONS OR HEALTH CARE PROVIDERS
38 AND MEMBERS; AND

39 (C) RELATIONS BETWEEN HEALTH CARE ORGANIZATIONS AND HEALTH CARE
40 PROVIDERS, INCLUDING (I) CREDENTIALING AND PARTICIPATION IN THE HEALTH
41 CARE ORGANIZATION; AND (II) TERMS, METHODS AND RATES OF PAYMENT.

42 2. REQUIREMENTS AND STANDARDS UNDER THE PROGRAM SHALL INCLUDE, BUT NOT
43 BE LIMITED TO, PROVISIONS TO PROMOTE THE FOLLOWING:

44 (A) SIMPLIFICATION, TRANSPARENCY, UNIFORMITY, AND FAIRNESS IN HEALTH
45 CARE PROVIDER CREDENTIALING AND PARTICIPATION IN HEALTH CARE ORGANIZATION
46 NETWORKS, REFERRALS, PAYMENT PROCEDURES AND RATES, CLAIMS PROCESSING,
47 AND APPROVAL OF HEALTH CARE SERVICES, AS APPLICABLE;

48 (B) PRIMARY AND PREVENTIVE CARE, CARE COORDINATION, EFFICIENT AND
49 EFFECTIVE HEALTH CARE SERVICES, QUALITY ASSURANCE, COORDINATION AND
50 INTEGRATION OF HEALTH CARE SERVICES, INCLUDING USE OF APPROPRIATE TECHNOLOGY,
51 AND PROMOTION OF PUBLIC, ENVIRONMENTAL AND OCCUPATIONAL HEALTH;

52 (C) ELIMINATION OF HEALTH CARE DISPARITIES;

53 (D) NON-DISCRIMINATION WITH RESPECT TO MEMBERS AND HEALTH CARE PROVIDERS
54 ON THE BASIS OF RACE, ETHNICITY, NATIONAL ORIGIN, RELIGION, DISABILITY,
55 AGE, SEX, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, OR
56 ECONOMIC CIRCUMSTANCES; PROVIDED THAT HEALTH CARE SERVICES PROVIDED

1 UNDER THE PROGRAM SHALL BE APPROPRIATE TO THE PATIENT'S CLINICALLY-RELE-
2 VANT CIRCUMSTANCES; AND

3 (E) ACCESSIBILITY OF CARE COORDINATION, HEALTH CARE ORGANIZATION
4 SERVICES AND HEALTH CARE SERVICES, INCLUDING ACCESSIBILITY FOR PEOPLE
5 WITH DISABILITIES AND PEOPLE WITH LIMITED ABILITY TO SPEAK OR UNDERSTAND
6 ENGLISH, AND THE PROVIDING OF CARE COORDINATION, HEALTH CARE ORGANIZA-
7 TION SERVICES AND HEALTH CARE SERVICES IN A CULTURALLY COMPETENT MANNER.

8 3. ANY PARTICIPATING PROVIDER OR CARE COORDINATOR THAT IS ORGANIZED AS
9 A FOR-PROFIT ENTITY SHALL BE REQUIRED TO MEET THE SAME REQUIREMENTS AND
10 STANDARDS AS ENTITIES ORGANIZED AS NOT-FOR-PROFIT ENTITIES, AND PAYMENTS
11 UNDER THE PROGRAM PAID TO SUCH ENTITIES SHALL NOT BE CALCULATED TO
12 ACCOMMODATE THE GENERATION OF PROFIT OR REVENUE FOR DIVIDENDS OR OTHER
13 RETURN ON INVESTMENT OR THE PAYMENT OF TAXES THAT WOULD NOT BE PAID BY A
14 NOT-FOR-PROFIT ENTITY.

15 4. EVERY PARTICIPATING PROVIDER SHALL FURNISH TO THE PROGRAM SUCH
16 INFORMATION TO, AND PERMIT EXAMINATION OF ITS RECORDS BY, THE PROGRAM,
17 AS MAY BE REASONABLY REQUIRED FOR PURPOSES OF REVIEWING ACCESSIBILITY
18 AND UTILIZATION OF HEALTH CARE SERVICES, QUALITY ASSURANCE, AND COST
19 CONTAINMENT, THE MAKING OF PAYMENTS, AND STATISTICAL OR OTHER STUDIES OF
20 THE OPERATION OF THE PROGRAM OR FOR PROTECTION AND PROMOTION OF PUBLIC,
21 ENVIRONMENTAL AND OCCUPATIONAL HEALTH.

22 5. IN DEVELOPING REQUIREMENTS AND STANDARDS AND MAKING OTHER POLICY
23 DETERMINATIONS UNDER THIS ARTICLE, THE COMMISSIONER SHALL CONSULT WITH
24 REPRESENTATIVES OF MEMBERS, HEALTH CARE PROVIDERS, CARE COORDINATORS,
25 HEALTH CARE ORGANIZATIONS AND OTHER INTERESTED PARTIES.

26 6. THE PROGRAM SHALL MAINTAIN THE CONFIDENTIALITY OF ALL DATA AND
27 OTHER INFORMATION COLLECTED UNDER THE PROGRAM WHEN SUCH DATA WOULD BE
28 NORMALLY CONSIDERED CONFIDENTIAL DATA BETWEEN A PATIENT AND HEALTH CARE
29 PROVIDER. AGGREGATE DATA OF THE PROGRAM WHICH IS DERIVED FROM CONFIDEN-
30 TIAL DATA BUT DOES NOT VIOLATE PATIENT CONFIDENTIALITY SHALL BE PUBLIC
31 INFORMATION.

32 S 5108. REGULATIONS. THE COMMISSIONER MAY APPROVE REGULATIONS AND
33 AMENDMENTS THERETO, UNDER SUBDIVISION ONE OF SECTION FIFTY-ONE HUNDRED
34 TWO OF THIS ARTICLE. THE COMMISSIONER MAY MAKE REGULATIONS OR AMENDMENTS
35 THERETO TO EFFECTUATE THE PROVISIONS AND PURPOSES OF THIS ARTICLE ON AN
36 EMERGENCY BASIS UNDER SECTION TWO HUNDRED TWO OF THE STATE ADMINISTRA-
37 TIVE PROCEDURE ACT, PROVIDED THAT SUCH REGULATIONS OR AMENDMENTS SHALL
38 NOT BECOME PERMANENT UNLESS ADOPTED UNDER SUBDIVISION ONE OF SECTION
39 FIFTY-ONE HUNDRED TWO OF THIS ARTICLE.

40 S 5109. PROVISIONS RELATING TO FEDERAL HEALTH PROGRAMS. 1. THE COMMIS-
41 SIONER SHALL SEEK ALL FEDERAL WAIVERS AND OTHER FEDERAL APPROVALS AND
42 ARRANGEMENTS AND SUBMIT STATE PLAN AMENDMENTS NECESSARY TO OPERATE THE
43 PROGRAM CONSISTENT WITH THIS ARTICLE.

44 2. (A) THE COMMISSIONER SHALL APPLY TO THE SECRETARY OF HEALTH AND
45 HUMAN SERVICES OR OTHER APPROPRIATE FEDERAL OFFICIAL FOR ALL WAIVERS OF
46 REQUIREMENTS, AND MAKE OTHER ARRANGEMENTS, UNDER MEDICARE, ANY FEDERAL-
47 LY-MATCHED PUBLIC HEALTH PROGRAM, THE AFFORDABLE CARE ACT, AND ANY OTHER
48 FEDERAL PROGRAMS THAT PROVIDE FEDERAL FUNDS FOR PAYMENT FOR HEALTH CARE
49 SERVICES, THAT ARE NECESSARY TO ENABLE ALL NEW YORK HEALTH MEMBERS TO
50 RECEIVE ALL BENEFITS UNDER THE PROGRAM THROUGH THE PROGRAM TO ENABLE THE
51 STATE TO IMPLEMENT THIS ARTICLE AND TO RECEIVE AND DEPOSIT ALL FEDERAL
52 PAYMENTS UNDER THOSE PROGRAMS (INCLUDING FUNDS THAT MAY BE PROVIDED IN
53 LIEU OF PREMIUM TAX CREDITS, COST-SHARING SUBSIDIES, AND SMALL BUSINESS
54 TAX CREDITS) IN THE STATE TREASURY TO THE CREDIT OF THE NEW YORK HEALTH
55 TRUST FUND CREATED UNDER SECTION EIGHTY-NINE-I OF THE STATE FINANCE LAW
56 AND TO USE THOSE FUNDS FOR THE NEW YORK HEALTH PROGRAM AND OTHER

1 PROVISIONS UNDER THIS ARTICLE. TO THE EXTENT POSSIBLE, THE COMMISSIONER
2 SHALL NEGOTIATE ARRANGEMENTS WITH THE FEDERAL GOVERNMENT IN WHICH BULK
3 OR LUMP-SUM FEDERAL PAYMENTS ARE PAID TO NEW YORK HEALTH IN PLACE OF
4 FEDERAL SPENDING OR TAX BENEFITS FOR FEDERALLY-MATCHED HEALTH PROGRAMS
5 OR FEDERAL HEALTH PROGRAMS.

6 (B) THE COMMISSIONER MAY REQUIRE MEMBERS OR APPLICANTS TO BE MEMBERS
7 TO PROVIDE INFORMATION NECESSARY FOR THE PROGRAM TO COMPLY WITH ANY
8 WAIVER OR ARRANGEMENT UNDER THIS SUBDIVISION.

9 3. (A) IF ACTIONS TAKEN UNDER SUBDIVISION TWO OF THIS SECTION DO NOT
10 ACCOMPLISH ALL RESULTS INTENDED UNDER THAT SUBDIVISION, THEN THIS SUBDI-
11 VISION SHALL APPLY AND SHALL AUTHORIZE ADDITIONAL ACTIONS TO EFFECTIVELY
12 IMPLEMENT NEW YORK HEALTH TO THE MAXIMUM EXTENT POSSIBLE AS A
13 SINGLE-PAYER PROGRAM CONSISTENT WITH THIS ARTICLE.

14 (B) THE COMMISSIONER MAY TAKE ACTIONS CONSISTENT WITH THIS ARTICLE TO
15 ENABLE NEW YORK HEALTH TO ADMINISTER MEDICARE IN NEW YORK STATE AND TO
16 BE A PROVIDER OF DRUG COVERAGE UNDER MEDICARE PART D FOR ELIGIBLE
17 MEMBERS OF NEW YORK HEALTH.

18 (C) THE COMMISSIONER MAY WAIVE OR MODIFY THE APPLICABILITY OF
19 PROVISIONS OF THIS SECTION RELATING TO ANY FEDERALLY-MATCHED PUBLIC
20 HEALTH PROGRAM OR MEDICARE AS NECESSARY TO IMPLEMENT ANY WAIVER OR
21 ARRANGEMENT UNDER THIS SECTION OR TO MAXIMIZE THE BENEFIT TO THE NEW
22 YORK HEALTH PROGRAM UNDER THIS SECTION, PROVIDED THAT THE COMMISSIONER,
23 IN CONSULTATION WITH THE DIRECTOR OF THE BUDGET, SHALL DETERMINE THAT
24 SUCH WAIVER OR MODIFICATION IS IN THE BEST INTERESTS OF THE MEMBERS
25 AFFECTED BY THE ACTION AND THE STATE.

26 (D) THE COMMISSIONER MAY APPLY FOR COVERAGE UNDER ANY
27 FEDERALLY-MATCHED PUBLIC HEALTH PROGRAM ON BEHALF OF ANY MEMBER AND
28 ENROLL THE MEMBER IN THE FEDERALLY-MATCHED PUBLIC HEALTH PROGRAM OR
29 MEDICARE IF THE MEMBER IS ELIGIBLE FOR IT. ENROLLMENT IN A
30 FEDERALLY-MATCHED PUBLIC HEALTH PROGRAM OR MEDICARE SHALL NOT CAUSE ANY
31 MEMBER TO LOSE ANY HEALTH CARE SERVICE PROVIDED BY THE PROGRAM OR DIMIN-
32 ISH ANY RIGHT THE MEMBER WOULD OTHERWISE HAVE.

33 (E) THE COMMISSIONER SHALL BY REGULATION INCREASE THE INCOME ELIGIBIL-
34 ITY LEVEL, INCREASE OR ELIMINATE THE RESOURCE TEST FOR ELIGIBILITY,
35 SIMPLIFY ANY PROCEDURAL OR DOCUMENTATION REQUIREMENT FOR ENROLLMENT, AND
36 INCREASE THE BENEFITS FOR ANY FEDERALLY-MATCHED PUBLIC HEALTH PROGRAM,
37 AND FOR ANY PROGRAM TO REDUCE OR ELIMINATE AN INDIVIDUAL'S COINSURANCE,
38 COST-SHARING OR PREMIUM OBLIGATIONS OR INCREASE AN INDIVIDUAL'S ELIGI-
39 BILITY FOR ANY FEDERAL FINANCIAL SUPPORT RELATED TO MEDICARE OR THE
40 AFFORDABLE CARE ACT NOTWITHSTANDING ANY LAW OR REGULATION TO THE CONTRA-
41 RY. THE COMMISSIONER MAY ACT UNDER THIS PARAGRAPH UPON A FINDING,
42 APPROVED BY THE DIRECTOR OF THE BUDGET, THAT THE ACTION (I) WILL HELP TO
43 INCREASE THE NUMBER OF MEMBERS WHO ARE ELIGIBLE FOR AND ENROLLED IN
44 FEDERALLY-MATCHED PUBLIC HEALTH PROGRAMS, OR FOR ANY PROGRAM TO REDUCE
45 OR ELIMINATE AN INDIVIDUAL'S COINSURANCE, COST-SHARING OR PREMIUM OBLI-
46 GATIONS OR INCREASE AN INDIVIDUAL'S ELIGIBILITY FOR ANY FEDERAL FINAN-
47 CIAL SUPPORT RELATED TO MEDICARE OR THE AFFORDABLE CARE ACT; (II) WILL
48 NOT DIMINISH ANY INDIVIDUAL'S ACCESS TO ANY HEALTH CARE SERVICE OR RIGHT
49 THE INDIVIDUAL WOULD OTHERWISE HAVE; (III) IS IN THE INTEREST OF THE
50 PROGRAM; AND (IV) DOES NOT REQUIRE OR HAS RECEIVED ANY NECESSARY FEDERAL
51 WAIVERS OR APPROVALS TO ENSURE FEDERAL FINANCIAL PARTICIPATION. ACTIONS
52 UNDER THIS PARAGRAPH SHALL NOT APPLY TO ELIGIBILITY FOR PAYMENT FOR LONG
53 TERM CARE.

54 (F) TO ENABLE THE COMMISSIONER TO APPLY FOR COVERAGE UNDER ANY FEDER-
55 ALLY-MATCHED PUBLIC HEALTH PROGRAM OR MEDICARE ON BEHALF OF ANY MEMBER
56 AND ENROLL THE MEMBER IN THE FEDERALLY-MATCHED PUBLIC HEALTH PROGRAM OR

1 MEDICARE IF THE MEMBER IS ELIGIBLE FOR IT, THE COMMISSIONER MAY REQUIRE
2 THAT EVERY MEMBER OR APPLICANT TO BE A MEMBER SHALL PROVIDE INFORMATION
3 TO ENABLE THE COMMISSIONER TO DETERMINE WHETHER THE APPLICANT IS ELIGI-
4 BLE FOR A FEDERALLY-MATCHED PUBLIC HEALTH PROGRAM AND FOR MEDICARE (AND
5 ANY PROGRAM OR BENEFIT UNDER MEDICARE). THE PROGRAM SHALL MAKE A REASON-
6 ABLE EFFORT TO NOTIFY MEMBERS OF THEIR OBLIGATIONS UNDER THIS PARAGRAPH.
7 AFTER A REASONABLE EFFORT HAS BEEN MADE TO CONTACT THE MEMBER, THE
8 MEMBER SHALL BE NOTIFIED IN WRITING THAT HE OR SHE HAS SIXTY DAYS TO
9 PROVIDE SUCH REQUIRED INFORMATION. IF SUCH INFORMATION IS NOT PROVIDED
10 WITHIN THE SIXTY DAY PERIOD, THE MEMBER'S COVERAGE UNDER THE PROGRAM MAY
11 BE TERMINATED.

12 (G) AS A CONDITION OF CONTINUED ELIGIBILITY FOR HEALTH CARE SERVICES
13 UNDER THE PROGRAM, A MEMBER WHO IS ELIGIBLE FOR BENEFITS UNDER MEDICARE
14 SHALL ENROLL IN MEDICARE, INCLUDING PARTS A, B AND D.

15 (H) THE PROGRAM SHALL PROVIDE PREMIUM ASSISTANCE FOR ALL MEMBERS
16 ENROLLING IN A MEDICARE PART D DRUG COVERAGE UNDER SECTION 1860D OF
17 TITLE XVIII OF THE FEDERAL SOCIAL SECURITY ACT LIMITED TO THE LOW-INCOME
18 BENCHMARK PREMIUM AMOUNT ESTABLISHED BY THE FEDERAL CENTERS FOR MEDICARE
19 AND MEDICAID SERVICES AND ANY OTHER AMOUNT WHICH SUCH AGENCY ESTABLISHES
20 UNDER ITS DE MINIMIS PREMIUM POLICY, EXCEPT THAT SUCH PAYMENTS MADE ON
21 BEHALF OF MEMBERS ENROLLED IN A MEDICARE ADVANTAGE PLAN MAY EXCEED THE
22 LOW-INCOME BENCHMARK PREMIUM AMOUNT IF DETERMINED TO BE COST EFFECTIVE
23 TO THE PROGRAM.

24 (I) IF THE COMMISSIONER HAS REASONABLE GROUNDS TO BELIEVE THAT A
25 MEMBER COULD BE ELIGIBLE FOR AN INCOME-RELATED SUBSIDY UNDER SECTION
26 1860D-14 OF TITLE XVIII OF THE FEDERAL SOCIAL SECURITY ACT, THE MEMBER
27 SHALL PROVIDE, AND AUTHORIZE THE PROGRAM TO OBTAIN, ANY INFORMATION OR
28 DOCUMENTATION REQUIRED TO ESTABLISH THE MEMBER'S ELIGIBILITY FOR SUCH
29 SUBSIDY, PROVIDED THAT THE COMMISSIONER SHALL ATTEMPT TO OBTAIN AS MUCH
30 OF THE INFORMATION AND DOCUMENTATION AS POSSIBLE FROM RECORDS THAT ARE
31 AVAILABLE TO HIM OR HER.

32 (J) THE PROGRAM SHALL MAKE A REASONABLE EFFORT TO NOTIFY MEMBERS OF
33 THEIR OBLIGATIONS UNDER THIS SUBDIVISION. AFTER A REASONABLE EFFORT HAS
34 BEEN MADE TO CONTACT THE MEMBER, THE MEMBER SHALL BE NOTIFIED IN WRITING
35 THAT HE OR SHE HAS SIXTY DAYS TO PROVIDE SUCH REQUIRED INFORMATION. IF
36 SUCH INFORMATION IS NOT PROVIDED WITHIN THE SIXTY DAY PERIOD, THE
37 MEMBER'S COVERAGE UNDER THE PROGRAM MAY BE TERMINATED.

38 S 5110. ADDITIONAL PROVISIONS. 1. THE COMMISSIONER SHALL CONTRACT
39 WITH NOT-FOR-PROFIT ORGANIZATIONS TO PROVIDE:

40 (A) CONSUMER ASSISTANCE TO INDIVIDUALS WITH RESPECT TO SELECTION OF A
41 CARE COORDINATOR OR HEALTH CARE ORGANIZATION, ENROLLING, OBTAINING
42 HEALTH CARE SERVICES, DISENROLLING, AND OTHER MATTERS RELATING TO THE
43 PROGRAM;

44 (B) HEALTH CARE PROVIDER ASSISTANCE TO HEALTH CARE PROVIDERS PROVIDING
45 AND SEEKING OR CONSIDERING WHETHER TO PROVIDE, HEALTH CARE SERVICES
46 UNDER THE PROGRAM, WITH RESPECT TO PARTICIPATING IN A HEALTH CARE ORGAN-
47 IZATION AND DEALING WITH A HEALTH CARE ORGANIZATION; AND

48 (C) CARE COORDINATOR ASSISTANCE TO INDIVIDUALS AND ENTITIES PROVIDING
49 AND SEEKING OR CONSIDERING WHETHER TO PROVIDE, CARE COORDINATION TO
50 MEMBERS.

51 2. THE COMMISSIONER SHALL PROVIDE GRANTS FROM FUNDS IN THE NEW YORK
52 HEALTH TRUST FUND OR OTHERWISE APPROPRIATED FOR THIS PURPOSE, TO HEALTH
53 SYSTEMS AGENCIES UNDER SECTION TWENTY-NINE HUNDRED FOUR-B OF THIS CHAP-
54 TER TO SUPPORT THE OPERATION OF SUCH HEALTH SYSTEMS AGENCIES.

55 3. THE COMMISSIONER SHALL PROVIDE FUNDS FROM THE NEW YORK HEALTH TRUST
56 FUND OR OTHERWISE APPROPRIATED FOR THIS PURPOSE TO THE COMMISSIONER OF

1 LABOR FOR A PROGRAM FOR RETRAINING AND ASSISTING JOB TRANSITION FOR
2 INDIVIDUALS EMPLOYED OR PREVIOUSLY EMPLOYED IN THE FIELD OF HEALTH
3 INSURANCE AND OTHER THIRD-PARTY PAYMENT FOR HEALTH CARE OR PROVIDING
4 SERVICES TO HEALTH CARE PROVIDERS TO DEAL WITH THIRD-PARTY PAYERS FOR
5 HEALTH CARE, WHOSE JOBS MAY BE OR HAVE BEEN ENDED AS A RESULT OF THE
6 IMPLEMENTATION OF THE NEW YORK HEALTH PROGRAM, CONSISTENT WITH OTHERWISE
7 APPLICABLE LAW.

8 4. THE COMMISSIONER SHALL, DIRECTLY AND THROUGH GRANTS TO NOT-FOR-PRO-
9 FIT ENTITIES, CONDUCT PROGRAMS USING DATA COLLECTED THROUGH THE NEW YORK
10 HEALTH PROGRAM, TO PROMOTE AND PROTECT PUBLIC, ENVIRONMENTAL AND OCCUPA-
11 TIONAL HEALTH, INCLUDING COOPERATION WITH OTHER DATA COLLECTION AND
12 RESEARCH PROGRAMS OF THE DEPARTMENT, CONSISTENT WITH THIS ARTICLE AND
13 OTHERWISE APPLICABLE LAW.

14 S 5111. REGIONAL ADVISORY COUNCILS. 1. THE NEW YORK HEALTH REGIONAL
15 ADVISORY COUNCILS (EACH REFERRED TO IN THIS ARTICLE AS A "REGIONAL ADVI-
16 SORY COUNCIL") ARE HEREBY CREATED IN THE DEPARTMENT.

17 2. THERE SHALL BE A REGIONAL ADVISORY COUNCIL ESTABLISHED IN EACH OF
18 THE FOLLOWING REGIONS:

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

20 (B) NEW YORK CITY;

21 (C) HUDSON VALLEY, CONSISTING OF DELAWARE, DUTCHESS, ORANGE, PUTNAM,
22 ROCKLAND, SULLIVAN, ULSTER, WESTCHESTER COUNTIES;

23 (D) NORTHERN, CONSISTING OF ALBANY, CLINTON, COLUMBIA, ESSEX, FRANK-
24 LIN, FULTON, GREENE, HAMILTON, MONTGOMERY, OTSEGO, RENSSELAER, SARATOGA,
25 SCHENECTADY, SCHOHARIE, WARREN, WASHINGTON COUNTIES;

26 (E) CENTRAL, CONSISTING OF BROOME, CAYUGA, CHEMUNG, CHENANGO, CORT-
27 LAND, HERKIMER, JEFFERSON, LEWIS, LIVINGSTON, MADISON, MONROE, ONEIDA,
28 ONONDAGA, ONTARIO, OSWEGO, SCHUYLER, SENECA, ST. LAWRENCE, STEUBEN,
29 TIOGA, TOMPKINS, WAYNE, YATES COUNTIES; AND

30 (F) WESTERN, CONSISTING OF ALLEGANY, CATTARAUGUS, CHAUTAUQUA, ERIE,
31 GENESEE, NIAGARA, ORLEANS, WYOMING COUNTIES.

32 3. EACH REGIONAL ADVISORY COUNCIL SHALL BE COMPOSED OF NOT FEWER THAN
33 TWENTY-SEVEN MEMBERS, AS DETERMINED BY THE COMMISSIONER AND THE BOARD,
34 AS NECESSARY TO APPROPRIATELY REPRESENT THE DIVERSE NEEDS AND CONCERNS
35 OF THE REGION. MEMBERS OF A REGIONAL ADVISORY COUNCIL SHALL BE RESIDENTS
36 OF OR HAVE THEIR PRINCIPAL PLACE OF BUSINESS IN THE REGION SERVED BY THE
37 REGIONAL ADVISORY COUNCIL.

38 4. APPOINTMENT OF MEMBERS OF THE REGIONAL ADVISORY COUNCILS.

39 (A) THE TWENTY-SEVEN MEMBERS SHALL BE APPOINTED AS FOLLOWS:

40 (I) NINE MEMBERS SHALL BE APPOINTED BY THE GOVERNOR;

41 (II) SIX MEMBERS SHALL BE APPOINTED BY THE GOVERNOR ON THE RECOMMENDA-
42 TION OF THE SPEAKER OF THE ASSEMBLY;

43 (III) SIX MEMBERS SHALL BE APPOINTED BY THE GOVERNOR ON THE RECOMMEN-
44 DATION OF THE TEMPORARY PRESIDENT OF THE SENATE;

45 (IV) THREE MEMBERS SHALL BE APPOINTED BY THE GOVERNOR ON THE RECOMMEN-
46 DATION OF THE MINORITY LEADER OF THE ASSEMBLY; AND

47 (V) THREE MEMBERS SHALL BE APPOINTED BY THE GOVERNOR ON THE RECOMMEN-
48 DATION OF THE MINORITY LEADER OF THE SENATE. WHERE A REGIONAL ADVISORY
49 COUNCIL HAS MORE THAN TWENTY-SEVEN MEMBERS, THE ADDITIONAL MEMBERS SHALL
50 BE APPOINTED AND RECOMMENDED BY THESE OFFICIALS IN THE SAME PROPORTION
51 AS THE TWENTY-SEVEN MEMBERS.

52 WHERE A REGIONAL ADVISORY COUNCIL HAS MORE THAN TWENTY-SEVEN MEMBERS,
53 ADDITIONAL MEMBERS SHALL BE APPOINTED AND RECOMMENDED BY THESE OFFICIALS
54 IN THE SAME PROPORTION AS THE TWENTY-SEVEN MEMBERS.

55 (B) REGIONAL ADVISORY COUNCIL MEMBERSHIP SHALL INCLUDE BUT NOT BE
56 LIMITED TO:

1 (I) REPRESENTATIVES OF HEALTH CARE CONSUMER ADVOCACY ORGANIZATIONS
2 WITH A REGIONAL CONSTITUENCY, WHO SHALL REPRESENT AT LEAST ONE THIRD OF
3 THE MEMBERSHIP OF EACH REGIONAL COUNCIL;

4 (II) REPRESENTATIVES OF PROFESSIONAL ORGANIZATIONS REPRESENTING PHYSI-
5 CIANS;

6 (III) REPRESENTATIVES OF PROFESSIONAL ORGANIZATIONS REPRESENTING
7 HEALTH CARE PROFESSIONALS OTHER THAN PHYSICIANS;

8 (IV) REPRESENTATIVES OF GENERAL HOSPITALS, INCLUDING PUBLIC HOSPITALS;

9 (V) REPRESENTATIVES OF COMMUNITY HEALTH CENTERS;

10 (VI) REPRESENTATIVES OF HEALTH CARE ORGANIZATIONS;

11 (VII) REPRESENTATIVES OF ORGANIZED LABOR; AND

12 (VIII) REPRESENTATIVES OF MUNICIPAL AND COUNTY GOVERNMENT.

13 5. MEMBERS OF A REGIONAL ADVISORY COUNCIL SHALL BE APPOINTED FOR TERMS
14 OF THREE YEARS PROVIDED, HOWEVER, THAT OF THE MEMBERS FIRST APPOINTED,
15 ONE-THIRD SHALL BE APPOINTED FOR ONE YEAR TERMS AND ONE-THIRD SHALL BE
16 APPOINTED FOR TWO YEAR TERMS. VACANCIES SHALL BE FILLED IN THE SAME
17 MANNER AS ORIGINAL APPOINTMENTS FOR THE REMAINDER OF ANY UNEXPIRED TERM.
18 NO PERSON SHALL BE AN APPOINTED MEMBER OF A REGIONAL ADVISORY COUNCIL
19 FOR MORE THAN SIX YEARS IN ANY PERIOD OF TWELVE CONSECUTIVE YEARS.

20 6. MEMBERS OF THE REGIONAL ADVISORY COUNCILS SHALL SERVE WITHOUT
21 COMPENSATION BUT SHALL BE REIMBURSED FOR THEIR NECESSARY AND ACTUAL
22 EXPENSES INCURRED WHILE ENGAGED IN THE BUSINESS OF THE ADVISORY COUN-
23 CILS. THE PROGRAM SHALL PROVIDE FINANCIAL SUPPORT FOR SUCH EXPENSES AND
24 OTHER EXPENSES OF THE REGIONAL ADVISORY COUNCILS.

25 7. EACH REGIONAL ADVISORY COUNCIL SHALL MEET AT LEAST QUARTERLY. EACH
26 REGIONAL ADVISORY COUNCIL MAY FORM COMMITTEES TO ASSIST IT IN ITS WORK.
27 MEMBERS OF A COMMITTEE NEED NOT BE MEMBERS OF THE REGIONAL ADVISORY
28 COUNCIL. THE NEW YORK CITY REGIONAL ADVISORY COUNCIL SHALL FORM A
29 COMMITTEE FOR EACH BOROUGH OF NEW YORK CITY, TO ASSIST THE REGIONAL
30 ADVISORY COUNCIL IN ITS WORK AS IT RELATES PARTICULARLY TO THAT BOROUGH.

31 8. EACH REGIONAL ADVISORY COUNCIL SHALL ADVISE THE COMMISSIONER, THE
32 BOARD, THE GOVERNOR AND THE LEGISLATURE ON ALL MATTERS RELATING TO THE
33 DEVELOPMENT AND IMPLEMENTATION OF THE NEW YORK HEALTH PROGRAM.

34 9. EACH REGIONAL ADVISORY COUNCIL SHALL ADOPT, AND FROM TIME TO TIME
35 REVISE, A COMMUNITY HEALTH IMPROVEMENT PLAN FOR ITS REGION FOR THE
36 PURPOSE OF:

37 (A) PROMOTING THE DELIVERY OF HEALTH CARE SERVICES IN THE REGION,
38 IMPROVING THE QUALITY AND ACCESSIBILITY OF CARE, INCLUDING CULTURAL
39 COMPETENCY, CLINICAL INTEGRATION OF CARE BETWEEN SERVICE PROVIDERS
40 INCLUDING BUT NOT LIMITED TO PHYSICAL, MENTAL, AND BEHAVIORAL HEALTH,
41 PHYSICAL AND DEVELOPMENTAL DISABILITY SERVICES, AND LONG-TERM CARE;

42 (B) FACILITY AND HEALTH SERVICES PLANNING IN THE REGION;

43 (C) IDENTIFYING GAPS IN REGIONAL HEALTH CARE SERVICES; AND

44 (D) PROMOTING INCREASED PUBLIC KNOWLEDGE AND RESPONSIBILITY REGARDING
45 THE AVAILABILITY AND APPROPRIATE UTILIZATION OF HEALTH CARE SERVICES.
46 EACH COMMUNITY HEALTH IMPROVEMENT PLAN SHALL BE SUBMITTED TO THE COMMIS-
47 SIONER AND THE BOARD AND SHALL BE POSTED ON THE DEPARTMENT'S WEBSITE.

48 10. EACH REGIONAL ADVISORY COUNCIL SHALL HOLD AT LEAST FOUR PUBLIC
49 HEARINGS ANNUALLY ON MATTERS RELATING TO THE NEW YORK HEALTH PROGRAM AND
50 THE DEVELOPMENT AND IMPLEMENTATION OF THE COMMUNITY HEALTH IMPROVEMENT
51 PLAN.

52 11. EACH REGIONAL ADVISORY COUNCIL SHALL PUBLISH AN ANNUAL REPORT TO
53 THE COMMISSIONER AND THE BOARD ON THE PROGRESS OF THE COMMUNITY HEALTH
54 IMPROVEMENT PLAN. THESE REPORTS SHALL BE POSTED ON THE DEPARTMENT'S
55 WEBSITE.

1 12. ALL MEETINGS OF THE REGIONAL ADVISORY COUNCILS AND COMMITTEES
2 SHALL BE SUBJECT TO ARTICLE SIX OF THE PUBLIC OFFICERS LAW.

3 S 4. Financing of New York Health. 1. The governor shall submit to the
4 legislature a revenue plan and legislative bills to implement the plan
5 (referred to collectively in this section as the "revenue proposal") to
6 provide the revenue necessary to finance the New York Health program, as
7 created by article 51 of the public health law (referred to in this
8 section as the "program"), taking into consideration anticipated federal
9 revenue available for the program. The revenue proposal shall be submit-
10 ted to the legislature as part of the executive budget under article VII
11 of the state constitution, for the fiscal year commencing on the first
12 day of April in the calendar year after this act shall become a law. In
13 developing the revenue proposal, the governor shall consult with appro-
14 priate officials of the executive branch; the temporary president of the
15 senate; the speaker of the assembly; the chairs of the fiscal and health
16 committees of the senate and assembly; and representatives of business,
17 labor, consumers and local government.

18 2. (a) Basic structure. The basic structure of the revenue proposal
19 shall be as follows: Revenue for the program shall come from two premi-
20 ums (referred to collectively in this section as the "premiums"). First,
21 there shall be a progressively graduated premium on all payroll and
22 self-employed income (referred to in this section as the "payroll premi-
23 um"), paid by employers, employees and self-employed, similar to the
24 Medicare tax. Higher brackets of income subject to this premium shall be
25 assessed at a higher marginal rate than lower brackets. Second, there
26 shall be a progressively graduated premium on taxable income (such as
27 interest, dividends, and capital gains) not subject to the payroll
28 premium (referred to in this section as the "non-payroll premium"). The
29 premiums will be set at levels anticipated to produce sufficient revenue
30 to finance the program and other provisions of article 51 of the public
31 health law, to be scaled up as enrollment grows, taking into consider-
32 ation anticipated federal revenue available for the program. Provision
33 shall be made for state residents (who are eligible for the program) who
34 are employed out-of-state, and non-residents (who are not eligible for
35 the program) who are employed in the state.

36 (b) Payroll premium. The income to be subject to the payroll premium
37 shall be all income subject to the Medicare tax. The premium shall be
38 set at a percentage of that income, which shall be progressively gradu-
39 ated, so the percentage is higher on higher brackets of income. For
40 employed individuals, the employer shall pay eighty percent of the
41 premium and the employee shall pay twenty percent of the premium, except
42 that an employer may agree to pay all or part of the employee's share.
43 A self-employed individual shall pay the full premium.

44 (c) Non-payroll income premium. There shall be a premium on upper-
45 bracket taxable personal income that is not subject to the payroll
46 premium. It shall be set at a percentage of that income, which shall be
47 progressively graduated, so the percentage is higher on higher brackets
48 of income.

49 (d) Phased-in rates. Early in the program, when enrollment is growing,
50 the amount of the premiums shall be at an appropriate level, and shall
51 be raised as anticipated enrollment grows, to cover the actual cost of
52 the program and other provisions of article 51 of the public health law.
53 The revenue proposal shall include a mechanism for determining the rates
54 of the premiums.

55 (e) Cross-border employees. (i) State residents employed out-of-state.
56 If an individual is employed out-of-state by an employer that is subject

1 to New York state law, the employer and employee shall be required to
 2 pay the payroll premium as to that employee as if the employment were in
 3 the state. If an individual is employed out-of-state by an employer that
 4 is not subject to New York state law, either (A) the employer and
 5 employee shall voluntarily comply with the premium or (B) the employee
 6 shall pay the premium as if he or she were self-employed.

7 (ii) Out-of-state residents employed in the state. (A) The payroll
 8 premium shall apply to any out-of-state resident who is employed or
 9 self-employed in the state. (B) In the case of an out-of-state resident
 10 who is employed or self-employed in the state, such individual and indi-
 11 vidual's employer shall be able to take a credit against the payroll
 12 premiums they would otherwise pay, as to the individual for amounts they
 13 spend on health benefits for the individual that would otherwise be
 14 covered by the program if the individual were a member of the program.
 15 For employers, the credit shall be available regardless of the form of
 16 the health benefit (e.g., health insurance, a self-insured plan, direct
 17 services, or reimbursement for services), to make sure that the revenue
 18 proposal does not relate to employment benefits in violation of the
 19 federal ERISA. For non-employment-based spending by individuals, the
 20 credit shall be available for and limited to spending for health cover-
 21 age (not out-of-pocket health spending). The credit shall be available
 22 without regard to how little is spent or how sparse the benefit. The
 23 credit may only be taken against the payroll premiums. Any excess amount
 24 may not be applied to other tax liability. For employment-based health
 25 benefits, the credit shall be distributed between the employer and
 26 employee in the same proportion as the spending by each for the benefit.
 27 The employer and employee may each apply their respective portion of the
 28 credit to their respective portion of the premium. If any provision of
 29 this clause or any application of it shall be ruled to violate federal
 30 ERISA, the provision or the application of it shall be null and void and
 31 the ruling shall not affect any other provision or application of this
 32 section or the act that enacted it.

33 3. The revenue proposal shall include a plan and legislative
 34 provisions for ending the requirement for local social services
 35 districts to pay part of the cost of Medicaid and replacing those
 36 payments with revenue from the premiums under the revenue proposal.

37 4. To the extent that the revenue proposal differs from the terms of
 38 subdivision two of this section, the revenue proposal shall state how it
 39 differs from those terms and reasons for and the effects of the differ-
 40 ences.

41 5. All revenue from the premiums shall be deposited in the New York
 42 Health trust fund account under section 89-i of the state finance law.

43 S 5. Article 49 of the public health law is amended by adding a new
 44 title 3 to read as follows:

45 TITLE III

46 COLLECTIVE NEGOTIATIONS BY HEALTH CARE PROVIDERS WITH 47 NEW YORK HEALTH

48 SECTION 4920. DEFINITIONS.

49 4921. COLLECTIVE NEGOTIATION AUTHORIZED.

50 4922. COLLECTIVE NEGOTIATION REQUIREMENTS.

51 4923. REQUIREMENTS FOR HEALTH CARE PROVIDERS' REPRESENTATIVE.

52 4924. CERTAIN COLLECTIVE ACTION PROHIBITED.

53 4925. FEES.

54 4926. CONFIDENTIALITY.

55 4927. SEVERABILITY AND CONSTRUCTION.

56 S 4920. DEFINITIONS. FOR PURPOSES OF THIS TITLE:

1 1. "NEW YORK HEALTH" MEANS THE PROGRAM UNDER ARTICLE FIFTY-ONE OF THIS
2 CHAPTER.

3 2. "PERSON" MEANS AN INDIVIDUAL, ASSOCIATION, CORPORATION, OR ANY
4 OTHER LEGAL ENTITY.

5 3. "HEALTH CARE PROVIDERS' REPRESENTATIVE" MEANS A THIRD PARTY THAT IS
6 AUTHORIZED BY HEALTH CARE PROVIDERS TO NEGOTIATE ON THEIR BEHALF WITH
7 NEW YORK HEALTH OVER TERMS AND CONDITIONS AFFECTING THOSE HEALTH CARE
8 PROVIDERS.

9 4. "STRIKE" MEANS A WORK STOPPAGE IN PART OR IN WHOLE, DIRECT OR INDI-
10 RECT, BY A BODY OF WORKERS TO GAIN COMPLIANCE WITH DEMANDS MADE ON AN
11 EMPLOYER.

12 5. "HEALTH CARE PROVIDER" MEANS A PERSON WHO IS LICENSED, CERTIFIED,
13 REGISTERED OR AUTHORIZED TO PRACTICE A HEALTH CARE PROFESSION PURSUANT
14 TO TITLE EIGHT OF THE EDUCATION LAW AND WHO PRACTICES THAT PROFESSION AS
15 A HEALTH CARE PROVIDER AS AN INDEPENDENT CONTRACTOR OR WHO IS AN OWNER,
16 OFFICER, SHAREHOLDER, OR PROPRIETOR OF A HEALTH CARE PROVIDER; OR AN
17 ENTITY THAT EMPLOYS OR UTILIZES HEALTH CARE PROVIDERS TO PROVIDE HEALTH
18 CARE SERVICES, INCLUDING BUT NOT LIMITED TO A HOSPITAL LICENSED UNDER
19 ARTICLE TWENTY-EIGHT OF THIS CHAPTER OR AN ACCOUNTABLE CARE ORGANIZATION
20 UNDER ARTICLE TWENTY-NINE-E OF THIS CHAPTER. A HEALTH CARE PROVIDER
21 UNDER TITLE EIGHT OF THE EDUCATION LAW WHO PRACTICES AS AN EMPLOYEE OF A
22 HEALTH CARE PROVIDER SHALL NOT BE DEEMED A HEALTH CARE PROVIDER FOR
23 PURPOSES OF THIS TITLE.

24 S 4921. COLLECTIVE NEGOTIATION AUTHORIZED. 1. HEALTH CARE PROVIDERS
25 MAY MEET AND COMMUNICATE FOR THE PURPOSE OF COLLECTIVELY NEGOTIATING
26 WITH NEW YORK HEALTH ON ANY MATTER RELATING TO NEW YORK HEALTH, INCLUD-
27 ING BUT NOT LIMITED TO RATES OF PAYMENT AND PAYMENT METHODOLOGIES.

28 2. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO ALLOW OR AUTHORIZE AN
29 ALTERATION OF THE TERMS OF THE INTERNAL AND EXTERNAL REVIEW PROCEDURES
30 SET FORTH IN LAW.

31 3. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO ALLOW A STRIKE OF NEW
32 YORK HEALTH BY HEALTH CARE PROVIDERS.

33 4. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO ALLOW OR AUTHORIZE
34 TERMS OR CONDITIONS WHICH WOULD IMPEDE THE ABILITY OF NEW YORK HEALTH TO
35 OBTAIN OR RETAIN ACCREDITATION BY THE NATIONAL COMMITTEE FOR QUALITY
36 ASSURANCE OR A SIMILAR BODY OR TO COMPLY WITH APPLICABLE STATE OR FEDER-
37 AL LAW.

38 S 4922. COLLECTIVE NEGOTIATION REQUIREMENTS. 1. COLLECTIVE NEGOTIATION
39 RIGHTS GRANTED BY THIS TITLE MUST CONFORM TO THE FOLLOWING REQUIREMENTS:

40 (A) HEALTH CARE PROVIDERS MAY COMMUNICATE WITH OTHER HEALTH CARE
41 PROVIDERS REGARDING THE TERMS AND CONDITIONS TO BE NEGOTIATED WITH NEW
42 YORK HEALTH;

43 (B) HEALTH CARE PROVIDERS MAY COMMUNICATE WITH HEALTH CARE PROVIDERS'
44 REPRESENTATIVES;

45 (C) A HEALTH CARE PROVIDERS' REPRESENTATIVE IS THE ONLY PARTY AUTHOR-
46 IZED TO NEGOTIATE WITH NEW YORK HEALTH ON BEHALF OF THE HEALTH CARE
47 PROVIDERS AS A GROUP;

48 (D) A HEALTH CARE PROVIDER CAN BE BOUND BY THE TERMS AND CONDITIONS
49 NEGOTIATED BY THE HEALTH CARE PROVIDERS' REPRESENTATIVES; AND

50 (E) IN COMMUNICATING OR NEGOTIATING WITH THE HEALTH CARE PROVIDERS'
51 REPRESENTATIVE, NEW YORK HEALTH IS ENTITLED TO OFFER AND PROVIDE DIFFER-
52 ENT TERMS AND CONDITIONS TO INDIVIDUAL COMPETING HEALTH CARE PROVIDERS.

53 2. NOTHING IN THIS TITLE SHALL AFFECT OR LIMIT THE RIGHT OF A HEALTH
54 CARE PROVIDER OR GROUP OF HEALTH CARE PROVIDERS TO COLLECTIVELY PETITION
55 A GOVERNMENT ENTITY FOR A CHANGE IN A LAW, RULE, OR REGULATION.

1 3. NOTHING IN THIS TITLE SHALL AFFECT OR LIMIT COLLECTIVE ACTION OR
2 COLLECTIVE BARGAINING ON THE PART OF ANY HEALTH CARE PROVIDER WITH HIS
3 OR HER EMPLOYER OR ANY OTHER LAWFUL COLLECTIVE ACTION OR COLLECTIVE
4 BARGAINING.

5 S 4923. REQUIREMENTS FOR HEALTH CARE PROVIDERS' REPRESENTATIVE. BEFORE
6 ENGAGING IN COLLECTIVE NEGOTIATIONS WITH NEW YORK HEALTH ON BEHALF OF
7 HEALTH CARE PROVIDERS, A HEALTH CARE PROVIDERS' REPRESENTATIVE SHALL
8 FILE WITH THE COMMISSIONER, IN THE MANNER PRESCRIBED BY THE COMMISSIONER,
9 INFORMATION IDENTIFYING THE REPRESENTATIVE, THE REPRESENTATIVE'S
10 PLAN OF OPERATION, AND THE REPRESENTATIVE'S PROCEDURES TO ENSURE COMPLI-
11 ANCE WITH THIS TITLE.

12 S 4924. CERTAIN COLLECTIVE ACTION PROHIBITED. 1. THIS TITLE IS NOT
13 INTENDED TO AUTHORIZE COMPETING HEALTH CARE PROVIDERS TO ACT IN CONCERT
14 IN RESPONSE TO A HEALTH CARE PROVIDERS' REPRESENTATIVE'S DISCUSSIONS OR
15 NEGOTIATIONS WITH NEW YORK HEALTH EXCEPT AS AUTHORIZED BY OTHER LAW.

16 2. NO HEALTH CARE PROVIDERS' REPRESENTATIVE SHALL NEGOTIATE ANY AGREE-
17 MENT THAT EXCLUDES, LIMITS THE PARTICIPATION OR REIMBURSEMENT OF, OR
18 OTHERWISE LIMITS THE SCOPE OF SERVICES TO BE PROVIDED BY ANY HEALTH CARE
19 PROVIDER OR GROUP OF HEALTH CARE PROVIDERS WITH RESPECT TO THE PERFORM-
20 ANCE OF SERVICES THAT ARE WITHIN THE HEALTH CARE PROVIDER'S SCOPE OF
21 PRACTICE, LICENSE, REGISTRATION, OR CERTIFICATE.

22 S 4925. FEES. EACH PERSON WHO ACTS AS THE REPRESENTATIVE OF NEGOTIAT-
23 ING PARTIES UNDER THIS TITLE SHALL PAY TO THE DEPARTMENT A FEE TO ACT AS
24 A REPRESENTATIVE. THE COMMISSIONER, BY RULE, SHALL SET FEES IN AMOUNTS
25 DEEMED REASONABLE AND NECESSARY TO COVER THE COSTS INCURRED BY THE
26 DEPARTMENT IN ADMINISTERING THIS TITLE.

27 S 4926. CONFIDENTIALITY. ALL REPORTS AND OTHER INFORMATION REQUIRED TO
28 BE REPORTED TO THE DEPARTMENT UNDER THIS TITLE SHALL NOT BE SUBJECT TO
29 DISCLOSURE UNDER ARTICLE SIX OF THE PUBLIC OFFICERS LAW OR ARTICLE THIR-
30 TY-ONE OF THE CIVIL PRACTICE LAW AND RULES.

31 S 4927. SEVERABILITY AND CONSTRUCTION. IF ANY PROVISION OR APPLICATION
32 OF THIS TITLE SHALL BE HELD TO BE INVALID, OR TO VIOLATE OR BE INCON-
33 SISTENT WITH ANY APPLICABLE FEDERAL LAW OR REGULATION, THAT SHALL NOT
34 AFFECT OTHER PROVISIONS OR APPLICATIONS OF THIS TITLE WHICH CAN BE GIVEN
35 EFFECT WITHOUT THAT PROVISION OR APPLICATION; AND TO THAT END, THE
36 PROVISIONS AND APPLICATIONS OF THIS TITLE ARE SEVERABLE. THE PROVISIONS
37 OF THIS TITLE SHALL BE LIBERALLY CONSTRUED TO GIVE EFFECT TO THE
38 PURPOSES THEREOF.

39 S 6. Subdivision 11 of section 270 of the public health law, as
40 amended by section 2-a of part C of chapter 58 of the laws of 2008, is
41 amended to read as follows:

42 11. "State public health plan" means the medical assistance program
43 established by title eleven of article five of the social services law
44 (referred to in this article as "Medicaid"), the elderly pharmaceutical
45 insurance coverage program established by title three of article two of
46 the elder law (referred to in this article as "EPIC"), and the [family
47 health plus program established by section three hundred sixty-nine-ee
48 of the social services law to the extent that section provides that the
49 program shall be subject to this article] NEW YORK HEALTH PROGRAM ESTAB-
50 LISHED BY ARTICLE FIFTY-ONE OF THIS CHAPTER.

51 S 7. The state finance law is amended by adding a new section 89-i to
52 read as follows:

53 S 89-I. NEW YORK HEALTH TRUST FUND. 1. THERE IS HEREBY ESTABLISHED IN
54 THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE COMMISSIONER OF TAXA-
55 TION AND FINANCE A SPECIAL REVENUE FUND TO BE KNOWN AS THE "NEW YORK
56 HEALTH TRUST FUND", HEREINAFTER KNOWN AS "THE FUND". THE DEFINITIONS IN

1 SECTION FIFTY-ONE HUNDRED OF THE PUBLIC HEALTH LAW SHALL APPLY TO THIS
2 SECTION.

3 2. THE FUND SHALL CONSIST OF:

4 (A) ALL MONIES OBTAINED FROM PREMIUMS PURSUANT TO LEGISLATION ENACTED
5 AS PROPOSED UNDER SECTION THREE OF THE NEW YORK HEALTH ACT;

6 (B) FEDERAL PAYMENTS RECEIVED AS A RESULT OF ANY WAIVER OF REQUIRE-
7 MENTS GRANTED OR OTHER ARRANGEMENTS AGREED TO BY THE UNITED STATES
8 SECRETARY OF HEALTH AND HUMAN SERVICES OR OTHER APPROPRIATE FEDERAL
9 OFFICIALS FOR HEALTH CARE PROGRAMS ESTABLISHED UNDER MEDICARE, ANY
10 FEDERALLY-MATCHED PUBLIC HEALTH PROGRAM, OR THE AFFORDABLE CARE ACT;

11 (C) THE AMOUNTS PAID BY THE DEPARTMENT OF HEALTH THAT ARE EQUIVALENT
12 TO THOSE AMOUNTS THAT ARE PAID ON BEHALF OF RESIDENTS OF THIS STATE
13 UNDER MEDICARE, ANY FEDERALLY-MATCHED PUBLIC HEALTH PROGRAM, OR THE
14 AFFORDABLE CARE ACT FOR HEALTH BENEFITS WHICH ARE EQUIVALENT TO HEALTH
15 BENEFITS COVERED UNDER NEW YORK HEALTH;

16 (D) FEDERAL AND STATE FUNDS FOR PURPOSES OF THE PROVISION OF SERVICES
17 AUTHORIZED UNDER TITLE XX OF THE FEDERAL SOCIAL SECURITY ACT THAT WOULD
18 OTHERWISE BE COVERED UNDER ARTICLE FIFTY-ONE OF THE PUBLIC HEALTH LAW;
19 AND

20 (E) STATE MONIES THAT WOULD OTHERWISE BE APPROPRIATED TO ANY GOVERN-
21 MENTAL AGENCY, OFFICE, PROGRAM, INSTRUMENTALITY OR INSTITUTION WHICH
22 PROVIDES HEALTH SERVICES, FOR SERVICES AND BENEFITS COVERED UNDER NEW
23 YORK HEALTH. PAYMENTS TO THE FUND PURSUANT TO THIS PARAGRAPH SHALL BE IN
24 AN AMOUNT EQUAL TO THE MONEY APPROPRIATED FOR SUCH PURPOSES IN THE
25 FISCAL YEAR BEGINNING IMMEDIATELY PRECEDING THE EFFECTIVE DATE OF THE
26 NEW YORK HEALTH ACT.

27 3. MONIES IN THE FUND SHALL ONLY BE USED FOR PURPOSES ESTABLISHED
28 UNDER ARTICLE FIFTY-ONE OF THE PUBLIC HEALTH LAW.

29 S 8. Temporary commission on implementation. 1. There is hereby estab-
30 lished a temporary commission on implementation of the New York Health
31 program, hereinafter to be known as the commission, consisting of
32 fifteen members: five members, including the chair, shall be appointed
33 by the governor; four members shall be appointed by the temporary presi-
34 dent of the senate, one member shall be appointed by the senate minority
35 leader; four members shall be appointed by the speaker of the assembly,
36 and one member shall be appointed by the assembly minority leader. The
37 commissioner of health, the superintendent of financial services, and
38 the commissioner of taxation and finance, or their designees shall serve
39 as non-voting ex-officio members of the commission.

40 2. Members of the commission shall receive such assistance as may be
41 necessary from other state agencies and entities, and shall receive
42 necessary expenses incurred in the performance of their duties. The
43 commission may employ staff as needed, prescribe their duties, and fix
44 their compensation within amounts appropriated for the commission.

45 3. The commission shall examine the laws and regulations of the state
46 and make such recommendations as are necessary to conform the laws and
47 regulations of the state and article 51 of the public health law estab-
48 lishing the New York Health program and other provisions of law relating
49 to the New York Health program, and to improve and implement the
50 program. The commission shall report its recommendations to the governor
51 and the legislature. The commission shall immediately begin development
52 of proposals consistent with the principles of this article for
53 provision of long-term care coverage; health care services covered under
54 the workers' compensation law; and incorporation of retiree health bene-
55 fits, as described in paragraphs (a), (b) and (c) of subdivision eight
56 of section fifty-one hundred two of this article. The commission shall

1 provide its work product and assistance to the board established pursu-
2 ant to section fifty-one hundred two of this article upon completion of
3 the appointment of the board.

4 S 9. Severability. If any provision or application of this act shall
5 be held to be invalid, or to violate or be inconsistent with any appli-
6 cable federal law or regulation, that shall not affect other provisions
7 or applications of this act which can be given effect without that
8 provision or application; and to that end, the provisions and applica-
9 tions of this act are severable.

10 S 10. This act shall take effect immediately.