

3525--A

2015-2016 Regular Sessions

I N S E N A T E

February 11, 2015

Introduced by Sens. PERKINS, ADDABBO, AVELLA, BRESLIN, COMRIE, DILAN, ESPAILLAT, HAMILTON, HASSELL-THOMPSON, HOYLMAN, KRUEGER, LATIMER, MONTGOMERY, PANEPINTO, PARKER, PERALTA, PERSAUD, RIVERA, SANDERS, SERRANO, SQUADRON, STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- recommitted to the Committee on Health in accordance with Senate Rule 6, sec. 8 -- 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
11 coverage, it still leaves many New Yorkers without coverage or with
12 inadequate coverage. New Yorkers - as individuals, employers, and
13 taxpayers - have experienced a rise in the cost of health care and
14 coverage in recent years, including rising premiums, deductibles and
15 co-pays, restricted provider networks and high out-of-network charges.
16 Businesses have also experienced increases in the costs of health care
17 benefits for their employees, and many employers are shifting a larger
18 share of the cost of coverage to their employees or dropping coverage
19 entirely. Health care providers are also affected by inadequate health
20 coverage in New York state. A large portion of voluntary and public
21 hospitals, health centers and other providers now experience substantial

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

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1 losses due to the provision of care that is uncompensated. Individuals
2 often find that they are deprived of affordable care and choice because
3 of decisions by health plans guided by the plan's economic needs rather
4 than their health care needs. To address the fiscal crisis facing the
5 health care system and the state and to assure New Yorkers can exercise
6 their right to health care, affordable and comprehensive health coverage
7 must be provided. Pursuant to the state constitution's charge to the
8 legislature to provide for the health of New Yorkers, this legislation
9 is an enactment of state concern for the purpose of establishing a
10 comprehensive universal single-payer health care coverage program and a
11 health care cost control system for the benefit of all residents of the
12 state of New York.

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

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

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

44 4. In order to promote improved quality of, and access to, health care
45 services and promote improved clinical outcomes, it is the policy of the
46 state to encourage cooperative, collaborative and integrative arrange-
47 ments among health care providers who might otherwise be competitors,
48 under the active supervision of the commissioner of health. It is the
49 intent of the state to supplant competition with such arrangements and
50 regulation only to the extent necessary to accomplish the purposes of
51 this act, and to provide state action immunity under the state and
52 federal antitrust laws to health care providers, particularly with
53 respect to their relations with the single-payer New York Health plan
54 created by this act.

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

4 ARTICLE 51
5 NEW YORK HEALTH

6 SECTION 5100. DEFINITIONS.

- 7 5101. PROGRAM CREATED.
- 8 5102. BOARD OF TRUSTEES.
- 9 5103. ELIGIBILITY AND ENROLLMENT.
- 10 5104. BENEFITS.
- 11 5105. HEALTH CARE PROVIDERS; CARE COORDINATION; PAYMENT METHOD-
- 12 OLOGIES.
- 13 5106. HEALTH CARE ORGANIZATIONS.
- 14 5107. PROGRAM STANDARDS.
- 15 5108. REGULATIONS.
- 16 5109. PROVISIONS RELATING TO FEDERAL HEALTH PROGRAMS.
- 17 5110. ADDITIONAL PROVISIONS.
- 18 5111. REGIONAL ADVISORY COUNCILS.

19 S 5100. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING TERMS
20 SHALL HAVE THE FOLLOWING MEANINGS, UNLESS THE CONTEXT CLEARLY REQUIRES
21 OTHERWISE:

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

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

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

30 4. "FEDERALLY-MATCHED PUBLIC HEALTH PROGRAM" MEANS THE MEDICAL ASSIST-
31 ANCE PROGRAM UNDER TITLE ELEVEN OF ARTICLE FIVE OF THE SOCIAL SERVICES
32 LAW, THE BASIC HEALTH PROGRAM UNDER SECTION THREE HUNDRED SIXTY-NINE-GG
33 OF THE SOCIAL SERVICES LAW, AND THE CHILD HEALTH PLUS PROGRAM UNDER
34 TITLE ONE-A OF ARTICLE TWENTY-FIVE OF THIS CHAPTER.

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

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

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

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

47 9. "MEDICAID" OR "MEDICAL ASSISTANCE" MEANS TITLE ELEVEN OF ARTICLE
48 FIVE OF THE SOCIAL SERVICES LAW AND THE PROGRAM THEREUNDER. "CHILD
49 HEALTH PLUS" MEANS TITLE ONE-A OF ARTICLE TWENTY-FIVE OF THIS CHAPTER
50 AND THE PROGRAM THEREUNDER. "MEDICARE" MEANS TITLE XVIII OF THE FEDERAL
51 SOCIAL SECURITY ACT AND THE PROGRAMS THEREUNDER. "BASIC HEALTH PROGRAM"
52 MEANS SECTION THREE HUNDRED SIXTY-NINE-GG OF THE SOCIAL SERVICES LAW AND
53 THE PROGRAM THEREUNDER.

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

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

1 12. "OUT-OF-STATE HEALTH CARE SERVICE" MEANS A HEALTH CARE SERVICE
2 PROVIDED TO A MEMBER WHILE THE MEMBER IS OUT OF THE STATE AND (A) IT IS
3 MEDICALLY NECESSARY THAT THE HEALTH CARE SERVICE BE PROVIDED WHILE THE
4 MEMBER IS OUT OF THE STATE, OR (B) IT IS CLINICALLY APPROPRIATE THAT THE
5 HEALTH CARE SERVICE BE PROVIDED BY A PARTICULAR HEALTH CARE PROVIDER
6 LOCATED OUT OF THE STATE RATHER THAN IN THE STATE. HOWEVER, ANY HEALTH
7 CARE SERVICE PROVIDED TO A NEW YORK HEALTH ENROLLEE BY A HEALTH CARE
8 PROVIDER QUALIFIED UNDER PARAGRAPH (A) OF SUBDIVISION THREE OF SECTION
9 FIFTY-ONE HUNDRED FIVE OF THIS ARTICLE THAT IS LOCATED OUTSIDE THE STATE
10 SHALL NOT BE CONSIDERED AN OUT-OF-STATE SERVICE AND SHALL BE COVERED AS
11 OTHERWISE PROVIDED IN THIS ARTICLE.

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

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

20 15. "PERSON" MEANS ANY INDIVIDUAL OR NATURAL PERSON, TRUST, PARTNER-
21 SHIP, ASSOCIATION, UNINCORPORATED ASSOCIATION, CORPORATION, COMPANY,
22 LIMITED LIABILITY COMPANY, PROPRIETORSHIP, JOINT VENTURE, FIRM, JOINT
23 STOCK ASSOCIATION, DEPARTMENT, AGENCY, AUTHORITY, OR OTHER LEGAL ENTITY,
24 WHETHER FOR-PROFIT, NOT-FOR-PROFIT OR GOVERNMENTAL.

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

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

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

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

37 2. THE COMMISSIONER SHALL, TO THE MAXIMUM EXTENT POSSIBLE, ORGANIZE,
38 ADMINISTER AND MARKET THE PROGRAM AND SERVICES AS A SINGLE PROGRAM UNDER
39 THE NAME "NEW YORK HEALTH" OR SUCH OTHER NAME AS THE COMMISSIONER SHALL
40 DETERMINE, REGARDLESS OF UNDER WHICH LAW OR SOURCE THE DEFINITION OF A
41 BENEFIT IS FOUND INCLUDING (ON A VOLUNTARY BASIS) RETIREE HEALTH BENE-
42 FITS. IN IMPLEMENTING THIS SUBDIVISION, THE COMMISSIONER SHALL AVOID
43 JEOPARDIZING FEDERAL FINANCIAL PARTICIPATION IN THESE PROGRAMS AND SHALL
44 TAKE CARE TO PROMOTE PUBLIC UNDERSTANDING AND AWARENESS OF AVAILABLE
45 BENEFITS AND PROGRAMS.

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

50 4. AN INSURER AUTHORIZED TO PROVIDE COVERAGE PURSUANT TO THE INSURANCE
51 LAW OR A HEALTH MAINTENANCE ORGANIZATION CERTIFIED UNDER THIS CHAPTER
52 MAY, IF OTHERWISE AUTHORIZED, OFFER BENEFITS THAT DO NOT COVER ANY
53 SERVICE FOR WHICH COVERAGE IS OFFERED TO INDIVIDUALS UNDER THE PROGRAM,
54 BUT MAY NOT OFFER BENEFITS THAT COVER ANY SERVICE FOR WHICH COVERAGE IS
55 OFFERED TO INDIVIDUALS UNDER THE PROGRAM. PROVIDED, HOWEVER, THAT THIS
56 SUBDIVISION SHALL NOT PROHIBIT (A) THE OFFERING OF ANY BENEFITS TO OR

1 FOR INDIVIDUALS, INCLUDING THEIR FAMILIES, WHO ARE EMPLOYED OR SELF-EM-
2 PLOYED IN THE STATE BUT WHO ARE NOT RESIDENTS OF THE STATE, OR (B) THE
3 OFFERING OF BENEFITS DURING THE IMPLEMENTATION PERIOD TO INDIVIDUALS WHO
4 ENROLLED OR MAY ENROLL AS MEMBERS OF THE PROGRAM, OR (C) THE OFFERING OF
5 RETIREE HEALTH BENEFITS.

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

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

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

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

17 S 5102. BOARD OF TRUSTEES. 1. THE NEW YORK HEALTH BOARD OF TRUSTEES IS
18 HEREBY CREATED IN THE DEPARTMENT. THE BOARD OF TRUSTEES SHALL, AT THE
19 REQUEST OF THE COMMISSIONER, CONSIDER ANY MATTER TO EFFECTUATE THE
20 PROVISIONS AND PURPOSES OF THIS ARTICLE, AND MAY ADVISE THE COMMISSIONER
21 THEREON; AND IT MAY, FROM TIME TO TIME, SUBMIT TO THE COMMISSIONER ANY
22 RECOMMENDATIONS TO EFFECTUATE THE PROVISIONS AND PURPOSES OF THIS ARTI-
23 CLE. THE COMMISSIONER MAY PROPOSE REGULATIONS UNDER THIS ARTICLE AND
24 AMENDMENTS THERETO FOR CONSIDERATION BY THE BOARD. THE BOARD OF TRUSTEES
25 SHALL HAVE NO EXECUTIVE, ADMINISTRATIVE OR APPOINTIVE DUTIES EXCEPT AS
26 OTHERWISE PROVIDED BY LAW. THE BOARD OF TRUSTEES SHALL HAVE POWER TO
27 ESTABLISH, AND FROM TIME TO TIME, AMEND REGULATIONS TO EFFECTUATE THE
28 PROVISIONS AND PURPOSES OF THIS ARTICLE, SUBJECT TO APPROVAL BY THE
29 COMMISSIONER.

30 2. THE BOARD SHALL BE COMPOSED OF:

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

33 (B) NINETEEN TRUSTEES APPOINTED BY THE GOVERNOR;

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

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

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

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

46 (V) ONE OF WHOM SHALL BE REPRESENTATIVE OF COMMUNITY HEALTH CENTERS;

47 (VI) TWO OF WHOM SHALL BE REPRESENTATIVES OF HEALTH CARE ORGANIZA-
48 TIONS; AND

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

50 (VIII) TWO OF WHOM SHALL HAVE DEMONSTRATED EXPERTISE IN HEALTH CARE
51 FINANCE;

52 (C) TEN TRUSTEES APPOINTED BY THE GOVERNOR; FOUR OF WHOM TO BE
53 APPOINTED ON THE RECOMMENDATION OF THE SPEAKER OF THE ASSEMBLY; FOUR OF
54 WHOM TO BE APPOINTED ON THE RECOMMENDATION OF THE TEMPORARY PRESIDENT OF
55 THE SENATE; ONE OF WHOM TO BE APPOINTED ON THE RECOMMENDATION OF THE

1 MINORITY LEADER OF THE ASSEMBLY; AND ONE OF WHOM TO BE APPOINTED ON THE
2 RECOMMENDATION OF THE MINORITY LEADER OF THE SENATE.

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

7 4. THE CHAIR OF THE BOARD SHALL BE APPOINTED, AND MAY BE REMOVED AS
8 CHAIR, BY THE GOVERNOR FROM AMONG THE TRUSTEES. THE BOARD SHALL MEET AT
9 LEAST FOUR TIMES EACH CALENDAR YEAR. MEETINGS SHALL BE HELD UPON THE
10 CALL OF THE CHAIR AND AS PROVIDED BY THE BOARD. A MAJORITY OF THE
11 APPOINTED TRUSTEES SHALL BE A QUORUM OF THE BOARD, AND THE AFFIRMATIVE
12 VOTE OF A MAJORITY OF THE TRUSTEES VOTING, BUT NOT LESS THAN TEN, SHALL
13 BE NECESSARY FOR ANY ACTION TO BE TAKEN BY THE BOARD. THE BOARD MAY
14 ESTABLISH AN EXECUTIVE COMMITTEE TO EXERCISE ANY POWERS OR DUTIES OF THE
15 BOARD AS IT MAY PROVIDE, AND OTHER COMMITTEES TO ASSIST THE BOARD OR THE
16 EXECUTIVE COMMITTEE. THE CHAIR OF THE BOARD SHALL CHAIR THE EXECUTIVE
17 COMMITTEE AND SHALL APPOINT THE CHAIR AND MEMBERS OF ALL OTHER COMMIT-
18 TEES. THE BOARD OF TRUSTEES MAY APPOINT ONE OR MORE ADVISORY COMMITTEES.
19 MEMBERS OF ADVISORY COMMITTEES NEED NOT BE MEMBERS OF THE BOARD OF TRUS-
20 TEES.

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

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

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

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

32 (A) THE BOARD SHALL DEVELOP A PROPOSAL, CONSISTENT WITH THE PRINCIPLES
33 OF THIS ARTICLE, FOR PROVISION BY THE PROGRAM OF LONG-TERM CARE COVER-
34 AGE, INCLUDING THE DEVELOPMENT OF A PROPOSAL, CONSISTENT WITH THE PRIN-
35 CIPLES OF THIS ARTICLE, FOR ITS FUNDING. IN DEVELOPING THE PROPOSAL,
36 THE BOARD SHALL CONSULT WITH AN ADVISORY COMMITTEE, APPOINTED BY THE
37 CHAIR OF THE BOARD, INCLUDING REPRESENTATIVES OF CONSUMERS AND POTENTIAL
38 CONSUMERS OF LONG-TERM CARE, PROVIDERS OF LONG-TERM CARE, LABOR, AND
39 OTHER INTERESTED PARTIES. THE BOARD SHALL PRESENT ITS PROPOSAL TO THE
40 GOVERNOR AND THE LEGISLATURE.

41 (B) THE BOARD SHALL DEVELOP PROPOSALS FOR: (I) INCORPORATING RETIREE
42 HEALTH BENEFITS INTO NEW YORK HEALTH; (II) ACCOMMODATING EMPLOYER RETI-
43 REE HEALTH BENEFITS FOR PEOPLE WHO HAVE BEEN MEMBERS OF NEW YORK HEALTH
44 BUT LIVE AS RETIREES OUT OF THE STATE; AND (III) ACCOMMODATING EMPLOYER
45 RETIREE HEALTH BENEFITS FOR PEOPLE WHO EARNED OR ACCRUED SUCH BENEFITS
46 WHILE RESIDING IN THE STATE PRIOR TO THE IMPLEMENTATION OF NEW YORK
47 HEALTH AND LIVE AS RETIREES OUT OF THE STATE.

48 (C) THE BOARD SHALL DEVELOP A PROPOSAL FOR NEW YORK HEALTH COVERAGE OF
49 HEALTH CARE SERVICES COVERED UNDER THE WORKERS' COMPENSATION LAW,
50 INCLUDING WHETHER AND HOW TO CONTINUE FUNDING FOR THOSE SERVICES UNDER
51 THAT LAW AND WHETHER AND HOW TO INCORPORATE AN ELEMENT OF EXPERIENCE
52 RATING.

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

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

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

6 (A) CHILD HEALTH PLUS;

7 (B) MEDICAID;

8 (C) MEDICARE;

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

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

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

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

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

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

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

28 S 5105. HEALTH CARE PROVIDERS; CARE COORDINATION; PAYMENT METHODOL-
29 OGIES. 1. CHOICE OF HEALTH CARE PROVIDER. (A) ANY HEALTH CARE PROVIDER
30 QUALIFIED TO PARTICIPATE UNDER THIS SECTION MAY PROVIDE HEALTH CARE
31 SERVICES UNDER THE PROGRAM, PROVIDED THAT THE HEALTH CARE PROVIDER IS
32 OTHERWISE LEGALLY AUTHORIZED TO PERFORM THE HEALTH CARE SERVICE FOR THE
33 INDIVIDUAL AND UNDER THE CIRCUMSTANCES INVOLVED.

34 (B) A MEMBER MAY CHOOSE TO RECEIVE HEALTH CARE SERVICES UNDER THE
35 PROGRAM FROM ANY PARTICIPATING PROVIDER, CONSISTENT WITH PROVISIONS OF
36 THIS ARTICLE RELATING TO CARE COORDINATION AND HEALTH CARE ORGANIZA-
37 TIONS, THE WILLINGNESS OR AVAILABILITY OF THE PROVIDER (SUBJECT TO
38 PROVISIONS OF THIS ARTICLE RELATING TO DISCRIMINATION), AND THE APPRO-
39 PRIATE CLINICALLY-RELEVANT CIRCUMSTANCES.

40 2. CARE COORDINATION.

41 (A) CARE COORDINATION SHALL INCLUDE, BUT NOT BE LIMITED TO, MANAGING,
42 REFERRING TO, LOCATING, COORDINATING, AND MONITORING HEALTH CARE
43 SERVICES FOR THE MEMBER TO ASSURE THAT ALL MEDICALLY NECESSARY HEALTH
44 CARE SERVICES ARE MADE AVAILABLE TO AND ARE EFFECTIVELY USED BY THE
45 MEMBER IN A TIMELY MANNER, CONSISTENT WITH PATIENT AUTONOMY. CARE COOR-
46 DINATION IS NOT A REQUIREMENT FOR PRIOR AUTHORIZATION FOR HEALTH CARE
47 SERVICES AND REFERRAL SHALL NOT BE REQUIRED FOR A MEMBER TO RECEIVE A
48 HEALTH CARE SERVICE.

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

51 (I) A HEALTH CARE PRACTITIONER WHO IS: (A) THE MEMBER'S PRIMARY CARE
52 PRACTITIONER; (B) AT THE OPTION OF A FEMALE MEMBER, THE MEMBER'S PROVID-
53 ER OF PRIMARY GYNECOLOGICAL CARE; OR (C) AT THE OPTION OF A MEMBER WHO
54 HAS A CHRONIC CONDITION THAT REQUIRES SPECIALTY CARE, A SPECIALIST
55 HEALTH CARE PRACTITIONER WHO REGULARLY AND CONTINUALLY PROVIDES TREAT-
56 MENT FOR THAT CONDITION TO THE MEMBER;

1 (II) AN ENTITY LICENSED UNDER ARTICLE TWENTY-EIGHT OF THIS CHAPTER OR
2 CERTIFIED UNDER ARTICLE THIRTY-SIX OF THIS CHAPTER, A MANAGED LONG TERM
3 CARE PLAN UNDER SECTION FORTY-FOUR HUNDRED THREE-F OF THIS CHAPTER OR
4 OTHER PROGRAM MODEL UNDER PARAGRAPH (B) OF SUBDIVISION SEVEN OF SUCH
5 SECTION, OR, WITH RESPECT TO A MEMBER WHO RECEIVES CHRONIC MENTAL HEALTH
6 CARE SERVICES, AN ENTITY LICENSED UNDER ARTICLE THIRTY-ONE OF THE MENTAL
7 HYGIENE LAW OR OTHER ENTITY APPROVED BY THE COMMISSIONER IN CONSULTATION
8 WITH THE COMMISSIONER OF MENTAL HEALTH;

9 (III) A HEALTH CARE ORGANIZATION;

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

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

16 (C) HEALTH CARE SERVICES PROVIDED TO A MEMBER SHALL NOT BE SUBJECT TO
17 PAYMENT UNDER THE PROGRAM UNLESS THE MEMBER IS ENROLLED WITH A CARE
18 COORDINATOR AT THE TIME THE HEALTH CARE SERVICE IS PROVIDED, EXCEPT
19 WHERE PROVIDED UNDER SUBDIVISION THREE OF SECTION FIFTY-ONE HUNDRED FOUR
20 OF THIS ARTICLE. EVERY MEMBER SHALL ENROLL WITH A CARE COORDINATOR THAT
21 AGREES TO PROVIDE CARE COORDINATION TO THE MEMBER PRIOR TO RECEIVING
22 HEALTH CARE SERVICES TO BE PAID FOR UNDER THE PROGRAM. THE MEMBER SHALL
23 REMAIN ENROLLED WITH THAT CARE COORDINATOR UNTIL THE MEMBER BECOMES
24 ENROLLED WITH A DIFFERENT CARE COORDINATOR OR CEASES TO BE A MEMBER.
25 MEMBERS HAVE THE RIGHT TO CHANGE THEIR CARE COORDINATOR ON TERMS AT
26 LEAST AS PERMISSIVE AS THE PROVISIONS OF SECTION THREE HUNDRED
27 SIXTY-FOUR-J OF THE SOCIAL SERVICES LAW RELATING TO AN INDIVIDUAL CHANG-
28 ING HIS OR HER PRIMARY CARE PROVIDER OR MANAGED CARE PROVIDER.

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

33 (E) A HEALTH CARE ORGANIZATION MAY ESTABLISH RULES RELATING TO CARE
34 COORDINATION FOR MEMBERS IN THE HEALTH CARE ORGANIZATION, DIFFERENT FROM
35 THIS SUBDIVISION BUT OTHERWISE CONSISTENT WITH THIS ARTICLE AND OTHER
36 APPLICABLE LAWS. NOTHING IN THIS SUBDIVISION SHALL AUTHORIZE ANY INDI-
37 VIDUAL TO ENGAGE IN ANY ACT IN VIOLATION OF TITLE EIGHT OF THE EDUCATION
38 LAW.

39 (F) THE COMMISSIONER SHALL DEVELOP AND IMPLEMENT PROCEDURES AND STAND-
40 ARDS FOR AN INDIVIDUAL OR ENTITY TO BE APPROVED TO BE A CARE COORDINATOR
41 IN THE PROGRAM, INCLUDING BUT NOT LIMITED TO PROCEDURES AND STANDARDS
42 RELATING TO THE REVOCATION, SUSPENSION, LIMITATION, OR ANNULMENT OF
43 APPROVAL ON A DETERMINATION THAT THE INDIVIDUAL OR ENTITY IS INCOMPETENT
44 TO BE A CARE COORDINATOR OR HAS EXHIBITED A COURSE OF CONDUCT WHICH IS
45 EITHER INCONSISTENT WITH PROGRAM STANDARDS AND REGULATIONS OR WHICH
46 EXHIBITS AN UNWILLINGNESS TO MEET SUCH STANDARDS AND REGULATIONS, OR IS
47 A POTENTIAL THREAT TO THE PUBLIC HEALTH OR SAFETY. SUCH PROCEDURES AND
48 STANDARDS SHALL NOT LIMIT APPROVAL TO BE A CARE COORDINATOR IN THE
49 PROGRAM FOR ECONOMIC PURPOSES AND SHALL BE CONSISTENT WITH GOOD PROFES-
50 SIONAL PRACTICE. IN DEVELOPING THE PROCEDURES AND STANDARDS, THE COMMIS-
51 SIONER SHALL: (I) CONSIDER EXISTING STANDARDS DEVELOPED BY NATIONAL
52 ACCREDITING AND PROFESSIONAL ORGANIZATIONS; AND (II) CONSULT WITH
53 NATIONAL AND LOCAL ORGANIZATIONS WORKING ON CARE COORDINATION OR SIMILAR
54 MODELS, INCLUDING HEALTH CARE PRACTITIONERS, HOSPITALS, CLINICS, AND
55 CONSUMERS AND THEIR REPRESENTATIVES. WHEN DEVELOPING AND IMPLEMENTING
56 STANDARDS OF APPROVAL OF CARE COORDINATORS FOR INDIVIDUALS RECEIVING

1 CHRONIC MENTAL HEALTH CARE SERVICES, THE COMMISSIONER SHALL CONSULT WITH
2 THE COMMISSIONER OF MENTAL HEALTH. AN INDIVIDUAL OR ENTITY MAY NOT BE A
3 CARE COORDINATOR UNLESS THE SERVICES INCLUDED IN CARE COORDINATION ARE
4 WITHIN THE INDIVIDUAL'S PROFESSIONAL SCOPE OF PRACTICE OR THE ENTITY'S
5 LEGAL AUTHORITY.

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

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

31 (B) THE COMMISSIONER SHALL ESTABLISH AND MAINTAIN PROCEDURES AND STAN-
32 DARDS FOR RECOGNIZING HEALTH CARE PROVIDERS LOCATED OUT OF THE STATE FOR
33 PURPOSES OF PROVIDING COVERAGE UNDER THE PROGRAM FOR OUT-OF-STATE HEALTH
34 CARE SERVICES.

35 4. PAYMENT FOR HEALTH CARE SERVICES. (A) THE COMMISSIONER MAY ESTAB-
36 LISH BY REGULATION PAYMENT METHODOLOGIES FOR HEALTH CARE SERVICES AND
37 CARE COORDINATION PROVIDED TO MEMBERS UNDER THE PROGRAM BY PARTICIPATING
38 PROVIDERS, CARE COORDINATORS, AND HEALTH CARE ORGANIZATIONS. THERE MAY
39 BE A VARIETY OF DIFFERENT PAYMENT METHODOLOGIES, INCLUDING THOSE ESTAB-
40 LISHED ON A DEMONSTRATION BASIS. ALL PAYMENT RATES UNDER THE PROGRAM
41 SHALL BE REASONABLE AND REASONABLY RELATED TO THE COST OF EFFICIENTLY
42 PROVIDING THE HEALTH CARE SERVICE AND ASSURING AN ADEQUATE AND ACCESSI-
43 BLE SUPPLY OF HEALTH CARE SERVICE. UNTIL AND UNLESS ANOTHER PAYMENT
44 METHODOLOGY IS ESTABLISHED, HEALTH CARE SERVICES PROVIDED TO MEMBERS
45 UNDER THE PROGRAM SHALL BE PAID FOR ON A FEE-FOR-SERVICE BASIS, EXCEPT
46 FOR CARE COORDINATION.

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

51 (C) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, PAYMENT FOR
52 DRUGS PROVIDED BY PHARMACIES UNDER THE PROGRAM SHALL BE MADE PURSUANT TO
53 TITLE ONE OF ARTICLE TWO-A OF THIS CHAPTER. HOWEVER, THE PROGRAM SHALL
54 PROVIDE FOR PAYMENT FOR PRESCRIPTION DRUGS UNDER SECTION 340B OF THE
55 FEDERAL PUBLIC SERVICE ACT WHERE APPLICABLE. PAYMENT FOR PRESCRIPTION

1 DRUGS PROVIDED BY HEALTH CARE PROVIDERS OTHER THAN PHARMACIES SHALL BE
2 PURSUANT TO OTHER PROVISIONS OF THIS ARTICLE.

3 (D) PAYMENT FOR HEALTH CARE SERVICES ESTABLISHED UNDER THIS ARTICLE
4 SHALL BE CONSIDERED PAYMENT IN FULL. A PARTICIPATING PROVIDER SHALL NOT
5 CHARGE ANY RATE IN EXCESS OF THE PAYMENT ESTABLISHED UNDER THIS ARTICLE
6 FOR ANY HEALTH CARE SERVICE UNDER THE PROGRAM PROVIDED TO A MEMBER AND
7 SHALL NOT SOLICIT OR ACCEPT PAYMENT FROM ANY MEMBER OR THIRD PARTY FOR
8 ANY SUCH SERVICE EXCEPT AS PROVIDED UNDER SECTION FIFTY-ONE HUNDRED NINE
9 OF THIS ARTICLE. HOWEVER, THIS PARAGRAPH SHALL NOT PRECLUDE THE PROGRAM
10 FROM ACTING AS A PRIMARY OR SECONDARY PAYER IN CONJUNCTION WITH ANOTHER
11 THIRD-PARTY PAYER WHERE PERMITTED UNDER SECTION FIFTY-ONE HUNDRED NINE
12 OF THIS ARTICLE.

13 (E) THE PROGRAM MAY PROVIDE IN PAYMENT METHODOLOGIES FOR PAYMENT FOR
14 CAPITAL RELATED EXPENSES FOR SPECIFICALLY IDENTIFIED CAPITAL EXPENDI-
15 TURES INCURRED BY NOT-FOR-PROFIT OR GOVERNMENTAL ENTITIES CERTIFIED
16 UNDER ARTICLE TWENTY-EIGHT OF THIS CHAPTER. ANY CAPITAL RELATED EXPENSE
17 GENERATED BY A CAPITAL EXPENDITURE THAT REQUIRES OR REQUIRED APPROVAL
18 UNDER ARTICLE TWENTY-EIGHT OF THIS CHAPTER MUST HAVE RECEIVED THAT
19 APPROVAL FOR THE CAPITAL RELATED EXPENSE TO BE PAID FOR UNDER THE
20 PROGRAM.

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

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

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

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

34 (B) A TAFT-HARTLEY FUND (I) WITH RESPECT TO ITS MEMBERS AND THEIR
35 FAMILY MEMBERS, AND (II) IF ALLOWED BY APPLICABLE LAW AND APPROVED BY
36 THE COMMISSIONER, FOR OTHER MEMBERS OF THE PROGRAM; PROVIDED THAT THE
37 COMMISSIONER SHALL PROVIDE BY REGULATION THAT WHERE A TAFT-HARTLEY FUND
38 IS ACTING UNDER THIS SUBPARAGRAPH THERE ARE PROTECTIONS FOR HEALTH CARE
39 PROVIDERS AND PATIENTS COMPARABLE TO THOSE APPLICABLE TO ACCOUNTABLE
40 CARE ORGANIZATIONS.

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

44 4. (A) THE COMMISSIONER SHALL DEVELOP AND IMPLEMENT PROCEDURES AND
45 STANDARDS FOR AN ENTITY TO BE APPROVED TO BE A HEALTH CARE ORGANIZATION
46 IN THE PROGRAM, INCLUDING BUT NOT LIMITED TO PROCEDURES AND STANDARDS
47 RELATING TO THE REVOCATION, SUSPENSION, LIMITATION, OR ANNULMENT OF
48 APPROVAL ON A DETERMINATION THAT THE ENTITY IS INCOMPETENT TO BE A
49 HEALTH CARE ORGANIZATION OR HAS EXHIBITED A COURSE OF CONDUCT WHICH IS
50 EITHER INCONSISTENT WITH PROGRAM STANDARDS AND REGULATIONS OR WHICH
51 EXHIBITS AN UNWILLINGNESS TO MEET SUCH STANDARDS AND REGULATIONS, OR IS
52 A POTENTIAL THREAT TO THE PUBLIC HEALTH OR SAFETY. SUCH PROCEDURES AND
53 STANDARDS SHALL NOT LIMIT APPROVAL TO BE A HEALTH CARE ORGANIZATION IN
54 THE PROGRAM FOR ECONOMIC PURPOSES AND SHALL BE CONSISTENT WITH GOOD
55 PROFESSIONAL PRACTICE. IN DEVELOPING THE PROCEDURES AND STANDARDS, THE
56 COMMISSIONER SHALL: (I) CONSIDER EXISTING STANDARDS DEVELOPED BY

1 NATIONAL ACCREDITING AND PROFESSIONAL ORGANIZATIONS; AND (II) CONSULT
2 WITH NATIONAL AND LOCAL ORGANIZATIONS WORKING IN THE FIELD OF HEALTH
3 CARE ORGANIZATIONS, INCLUDING HEALTH CARE PRACTITIONERS, HOSPITALS,
4 CLINICS, AND CONSUMERS AND THEIR REPRESENTATIVES. WHEN DEVELOPING AND
5 IMPLEMENTING STANDARDS OF APPROVAL OF HEALTH CARE ORGANIZATIONS, THE
6 COMMISSIONER SHALL CONSULT WITH THE COMMISSIONER OF MENTAL HEALTH AND
7 THE COMMISSIONER OF DEVELOPMENTAL DISABILITIES.

8 (B) TO MAINTAIN APPROVAL UNDER THE PROGRAM, A HEALTH CARE ORGANIZATION
9 MUST: (I) RENEW ITS STATUS AT A FREQUENCY DETERMINED BY THE COMMISSIONER;
10 AND (II) PROVIDE DATA TO THE DEPARTMENT AS REQUIRED BY THE COMMISSIONER
11 TO ENABLE THE COMMISSIONER TO EVALUATE THE HEALTH CARE ORGANIZATION
12 IN RELATION TO QUALITY OF HEALTH CARE SERVICES, HEALTH CARE
13 OUTCOMES, AND COST.

14 5. THE COMMISSIONER SHALL MAKE REGULATIONS RELATING TO HEALTH CARE
15 ORGANIZATIONS CONSISTENT WITH AND TO ENSURE COMPLIANCE WITH THIS ARTICLE.
16

17 6. THE PROVISION OF HEALTH CARE SERVICES DIRECTLY OR INDIRECTLY BY A
18 HEALTH CARE ORGANIZATION THROUGH HEALTH CARE PROVIDERS SHALL NOT BE
19 CONSIDERED THE PRACTICE OF A PROFESSION UNDER TITLE EIGHT OF THE EDUCATION
20 LAW BY THE HEALTH CARE ORGANIZATION.

21 S 5107. PROGRAM STANDARDS. 1. THE COMMISSIONER SHALL ESTABLISH
22 REQUIREMENTS AND STANDARDS FOR THE PROGRAM AND FOR HEALTH CARE ORGANIZATIONS,
23 CARE COORDINATORS, AND HEALTH CARE PROVIDERS, CONSISTENT WITH
24 THIS ARTICLE, INCLUDING REQUIREMENTS AND STANDARDS FOR, AS APPLICABLE:

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

26 (B) RELATIONS BETWEEN HEALTH CARE ORGANIZATIONS OR HEALTH CARE PROVIDERS
27 AND MEMBERS; AND

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

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

33 (A) SIMPLIFICATION, TRANSPARENCY, UNIFORMITY, AND FAIRNESS IN HEALTH
34 CARE PROVIDER CREDENTIALING AND PARTICIPATION IN HEALTH CARE ORGANIZATION
35 NETWORKS, REFERRALS, PAYMENT PROCEDURES AND RATES, CLAIMS PROCESSING,
36 AND APPROVAL OF HEALTH CARE SERVICES, AS APPLICABLE;

37 (B) PRIMARY AND PREVENTIVE CARE, CARE COORDINATION, EFFICIENT AND
38 EFFECTIVE HEALTH CARE SERVICES, QUALITY ASSURANCE, COORDINATION AND
39 INTEGRATION OF HEALTH CARE SERVICES, INCLUDING USE OF APPROPRIATE TECHNOLOGY,
40 AND PROMOTION OF PUBLIC, ENVIRONMENTAL AND OCCUPATIONAL HEALTH;

41 (C) ELIMINATION OF HEALTH CARE DISPARITIES;

42 (D) NON-DISCRIMINATION WITH RESPECT TO MEMBERS AND HEALTH CARE PROVIDERS
43 ON THE BASIS OF RACE, ETHNICITY, NATIONAL ORIGIN, RELIGION, DISABILITY,
44 AGE, SEX, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, OR
45 ECONOMIC CIRCUMSTANCES; PROVIDED THAT HEALTH CARE SERVICES PROVIDED
46 UNDER THE PROGRAM SHALL BE APPROPRIATE TO THE PATIENT'S CLINICALLY-RELEVANT
47 CIRCUMSTANCES; AND

48 (E) ACCESSIBILITY OF CARE COORDINATION, HEALTH CARE ORGANIZATION
49 SERVICES AND HEALTH CARE SERVICES, INCLUDING ACCESSIBILITY FOR PEOPLE
50 WITH DISABILITIES AND PEOPLE WITH LIMITED ABILITY TO SPEAK OR UNDERSTAND
51 ENGLISH, AND THE PROVIDING OF CARE COORDINATION, HEALTH CARE ORGANIZATION
52 SERVICES AND HEALTH CARE SERVICES IN A CULTURALLY COMPETENT MANNER.

53 3. ANY PARTICIPATING PROVIDER OR CARE COORDINATOR THAT IS ORGANIZED AS
54 A FOR-PROFIT ENTITY SHALL BE REQUIRED TO MEET THE SAME REQUIREMENTS AND
55 STANDARDS AS ENTITIES ORGANIZED AS NOT-FOR-PROFIT ENTITIES, AND PAYMENTS
56 UNDER THE PROGRAM PAID TO SUCH ENTITIES SHALL NOT BE CALCULATED TO

1 ACCOMMODATE THE GENERATION OF PROFIT OR REVENUE FOR DIVIDENDS OR OTHER
2 RETURN ON INVESTMENT OR THE PAYMENT OF TAXES THAT WOULD NOT BE PAID BY A
3 NOT-FOR-PROFIT ENTITY.

4 4. EVERY PARTICIPATING PROVIDER SHALL FURNISH TO THE PROGRAM SUCH
5 INFORMATION TO, AND PERMIT EXAMINATION OF ITS RECORDS BY, THE PROGRAM,
6 AS MAY BE REASONABLY REQUIRED FOR PURPOSES OF REVIEWING ACCESSIBILITY
7 AND UTILIZATION OF HEALTH CARE SERVICES, QUALITY ASSURANCE, AND COST
8 CONTAINMENT, THE MAKING OF PAYMENTS, AND STATISTICAL OR OTHER STUDIES OF
9 THE OPERATION OF THE PROGRAM OR FOR PROTECTION AND PROMOTION OF PUBLIC,
10 ENVIRONMENTAL AND OCCUPATIONAL HEALTH.

11 5. IN DEVELOPING REQUIREMENTS AND STANDARDS AND MAKING OTHER POLICY
12 DETERMINATIONS UNDER THIS ARTICLE, THE COMMISSIONER SHALL CONSULT WITH
13 REPRESENTATIVES OF MEMBERS, HEALTH CARE PROVIDERS, CARE COORDINATORS,
14 HEALTH CARE ORGANIZATIONS AND OTHER INTERESTED PARTIES.

15 6. THE PROGRAM SHALL MAINTAIN THE CONFIDENTIALITY OF ALL DATA AND
16 OTHER INFORMATION COLLECTED UNDER THE PROGRAM WHEN SUCH DATA WOULD BE
17 NORMALLY CONSIDERED CONFIDENTIAL DATA BETWEEN A PATIENT AND HEALTH CARE
18 PROVIDER. AGGREGATE DATA OF THE PROGRAM WHICH IS DERIVED FROM CONFIDEN-
19 TIAL DATA BUT DOES NOT VIOLATE PATIENT CONFIDENTIALITY SHALL BE PUBLIC
20 INFORMATION.

21 S 5108. REGULATIONS. THE COMMISSIONER MAY APPROVE REGULATIONS AND
22 AMENDMENTS THERETO, UNDER SUBDIVISION ONE OF SECTION FIFTY-ONE HUNDRED
23 TWO OF THIS ARTICLE. THE COMMISSIONER MAY MAKE REGULATIONS OR AMENDMENTS
24 THERETO TO EFFECTUATE THE PROVISIONS AND PURPOSES OF THIS ARTICLE ON AN
25 EMERGENCY BASIS UNDER SECTION TWO HUNDRED TWO OF THE STATE ADMINISTRA-
26 TIVE PROCEDURE ACT, PROVIDED THAT SUCH REGULATIONS OR AMENDMENTS SHALL
27 NOT BECOME PERMANENT UNLESS ADOPTED UNDER SUBDIVISION ONE OF SECTION
28 FIFTY-ONE HUNDRED TWO OF THIS ARTICLE.

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

33 2. (A) THE COMMISSIONER SHALL APPLY TO THE SECRETARY OF HEALTH AND
34 HUMAN SERVICES OR OTHER APPROPRIATE FEDERAL OFFICIAL FOR ALL WAIVERS OF
35 REQUIREMENTS, AND MAKE OTHER ARRANGEMENTS, UNDER MEDICARE, ANY FEDERAL-
36 LY-MATCHED PUBLIC HEALTH PROGRAM, THE AFFORDABLE CARE ACT, AND ANY OTHER
37 FEDERAL PROGRAMS THAT PROVIDE FEDERAL FUNDS FOR PAYMENT FOR HEALTH CARE
38 SERVICES, THAT ARE NECESSARY TO ENABLE ALL NEW YORK HEALTH MEMBERS TO
39 RECEIVE ALL BENEFITS UNDER THE PROGRAM THROUGH THE PROGRAM TO ENABLE THE
40 STATE TO IMPLEMENT THIS ARTICLE AND TO RECEIVE AND DEPOSIT ALL FEDERAL
41 PAYMENTS UNDER THOSE PROGRAMS (INCLUDING FUNDS THAT MAY BE PROVIDED IN
42 LIEU OF PREMIUM TAX CREDITS, COST-SHARING SUBSIDIES, AND SMALL BUSINESS
43 TAX CREDITS) IN THE STATE TREASURY TO THE CREDIT OF THE NEW YORK HEALTH
44 TRUST FUND CREATED UNDER SECTION EIGHTY-NINE-I OF THE STATE FINANCE LAW
45 AND TO USE THOSE FUNDS FOR THE NEW YORK HEALTH PROGRAM AND OTHER
46 PROVISIONS UNDER THIS ARTICLE. TO THE EXTENT POSSIBLE, THE COMMISSIONER
47 SHALL NEGOTIATE ARRANGEMENTS WITH THE FEDERAL GOVERNMENT IN WHICH BULK
48 OR LUMP-SUM FEDERAL PAYMENTS ARE PAID TO NEW YORK HEALTH IN PLACE OF
49 FEDERAL SPENDING OR TAX BENEFITS FOR FEDERALLY-MATCHED HEALTH PROGRAMS
50 OR FEDERAL HEALTH PROGRAMS.

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

54 3. (A) IF ACTIONS TAKEN UNDER SUBDIVISION TWO OF THIS SECTION DO NOT
55 ACCOMPLISH ALL RESULTS INTENDED UNDER THAT SUBDIVISION, THEN THIS SUBDI-
56 VISION SHALL APPLY AND SHALL AUTHORIZE ADDITIONAL ACTIONS TO EFFECTIVELY

1 IMPLEMENT NEW YORK HEALTH TO THE MAXIMUM EXTENT POSSIBLE AS A
2 SINGLE-PAYER PROGRAM CONSISTENT WITH THIS ARTICLE.

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

7 (C) THE COMMISSIONER MAY WAIVE OR MODIFY THE APPLICABILITY OF
8 PROVISIONS OF THIS SECTION RELATING TO ANY FEDERALLY-MATCHED PUBLIC
9 HEALTH PROGRAM OR MEDICARE AS NECESSARY TO IMPLEMENT ANY WAIVER OR
10 ARRANGEMENT UNDER THIS SECTION OR TO MAXIMIZE THE BENEFIT TO THE NEW
11 YORK HEALTH PROGRAM UNDER THIS SECTION, PROVIDED THAT THE COMMISSIONER,
12 IN CONSULTATION WITH THE DIRECTOR OF THE BUDGET, SHALL DETERMINE THAT
13 SUCH WAIVER OR MODIFICATION IS IN THE BEST INTERESTS OF THE MEMBERS
14 AFFECTED BY THE ACTION AND THE STATE.

15 (D) THE COMMISSIONER MAY APPLY FOR COVERAGE UNDER ANY
16 FEDERALLY-MATCHED PUBLIC HEALTH PROGRAM ON BEHALF OF ANY MEMBER AND
17 ENROLL THE MEMBER IN THE FEDERALLY-MATCHED PUBLIC HEALTH PROGRAM OR
18 MEDICARE IF THE MEMBER IS ELIGIBLE FOR IT. ENROLLMENT IN A
19 FEDERALLY-MATCHED PUBLIC HEALTH PROGRAM OR MEDICARE SHALL NOT CAUSE ANY
20 MEMBER TO LOSE ANY HEALTH CARE SERVICE PROVIDED BY THE PROGRAM OR DIMIN-
21 ISH ANY RIGHT THE MEMBER WOULD OTHERWISE HAVE.

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

43 (F) TO ENABLE THE COMMISSIONER TO APPLY FOR COVERAGE UNDER ANY FEDER-
44 ALLY-MATCHED PUBLIC HEALTH PROGRAM OR MEDICARE ON BEHALF OF ANY MEMBER
45 AND ENROLL THE MEMBER IN THE FEDERALLY-MATCHED PUBLIC HEALTH PROGRAM OR
46 MEDICARE IF THE MEMBER IS ELIGIBLE FOR IT, THE COMMISSIONER MAY REQUIRE
47 THAT EVERY MEMBER OR APPLICANT TO BE A MEMBER SHALL PROVIDE INFORMATION
48 TO ENABLE THE COMMISSIONER TO DETERMINE WHETHER THE APPLICANT IS ELIGI-
49 BLE FOR A FEDERALLY-MATCHED PUBLIC HEALTH PROGRAM AND FOR MEDICARE (AND
50 ANY PROGRAM OR BENEFIT UNDER MEDICARE). THE PROGRAM SHALL MAKE A REASON-
51 ABLE EFFORT TO NOTIFY MEMBERS OF THEIR OBLIGATIONS UNDER THIS PARAGRAPH.
52 AFTER A REASONABLE EFFORT HAS BEEN MADE TO CONTACT THE MEMBER, THE
53 MEMBER SHALL BE NOTIFIED IN WRITING THAT HE OR SHE HAS SIXTY DAYS TO
54 PROVIDE SUCH REQUIRED INFORMATION. IF SUCH INFORMATION IS NOT PROVIDED
55 WITHIN THE SIXTY DAY PERIOD, THE MEMBER'S COVERAGE UNDER THE PROGRAM MAY
56 BE TERMINATED.

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

4 (H) THE PROGRAM SHALL PROVIDE PREMIUM ASSISTANCE FOR ALL MEMBERS
5 ENROLLING IN A MEDICARE PART D DRUG COVERAGE UNDER SECTION 1860D OF
6 TITLE XVIII OF THE FEDERAL SOCIAL SECURITY ACT LIMITED TO THE LOW-INCOME
7 BENCHMARK PREMIUM AMOUNT ESTABLISHED BY THE FEDERAL CENTERS FOR MEDICARE
8 AND MEDICAID SERVICES AND ANY OTHER AMOUNT WHICH SUCH AGENCY ESTABLISHES
9 UNDER ITS DE MINIMIS PREMIUM POLICY, EXCEPT THAT SUCH PAYMENTS MADE ON
10 BEHALF OF MEMBERS ENROLLED IN A MEDICARE ADVANTAGE PLAN MAY EXCEED THE
11 LOW-INCOME BENCHMARK PREMIUM AMOUNT IF DETERMINED TO BE COST EFFECTIVE
12 TO THE PROGRAM.

13 (I) IF THE COMMISSIONER HAS REASONABLE GROUNDS TO BELIEVE THAT A
14 MEMBER COULD BE ELIGIBLE FOR AN INCOME-RELATED SUBSIDY UNDER SECTION
15 1860D-14 OF TITLE XVIII OF THE FEDERAL SOCIAL SECURITY ACT, THE MEMBER
16 SHALL PROVIDE, AND AUTHORIZE THE PROGRAM TO OBTAIN, ANY INFORMATION OR
17 DOCUMENTATION REQUIRED TO ESTABLISH THE MEMBER'S ELIGIBILITY FOR SUCH
18 SUBSIDY, PROVIDED THAT THE COMMISSIONER SHALL ATTEMPT TO OBTAIN AS MUCH
19 OF THE INFORMATION AND DOCUMENTATION AS POSSIBLE FROM RECORDS THAT ARE
20 AVAILABLE TO HIM OR HER.

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

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

29 (A) CONSUMER ASSISTANCE TO INDIVIDUALS WITH RESPECT TO SELECTION OF A
30 CARE COORDINATOR OR HEALTH CARE ORGANIZATION, ENROLLING, OBTAINING
31 HEALTH CARE SERVICES, DISENROLLING, AND OTHER MATTERS RELATING TO THE
32 PROGRAM;

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

37 (C) CARE COORDINATOR ASSISTANCE TO INDIVIDUALS AND ENTITIES PROVIDING
38 AND SEEKING OR CONSIDERING WHETHER TO PROVIDE, CARE COORDINATION TO
39 MEMBERS.

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

44 3. THE COMMISSIONER SHALL PROVIDE FUNDS FROM THE NEW YORK HEALTH TRUST
45 FUND OR OTHERWISE APPROPRIATED FOR THIS PURPOSE TO THE COMMISSIONER OF
46 LABOR FOR A PROGRAM FOR RETRAINING AND ASSISTING JOB TRANSITION FOR
47 INDIVIDUALS EMPLOYED OR PREVIOUSLY EMPLOYED IN THE FIELD OF HEALTH
48 INSURANCE AND OTHER THIRD-PARTY PAYMENT FOR HEALTH CARE OR PROVIDING
49 SERVICES TO HEALTH CARE PROVIDERS TO DEAL WITH THIRD-PARTY PAYERS FOR
50 HEALTH CARE, WHOSE JOBS MAY BE OR HAVE BEEN ENDED AS A RESULT OF THE
51 IMPLEMENTATION OF THE NEW YORK HEALTH PROGRAM, CONSISTENT WITH OTHERWISE
52 APPLICABLE LAW.

53 4. THE COMMISSIONER SHALL, DIRECTLY AND THROUGH GRANTS TO NOT-FOR-PRO-
54 FIT ENTITIES, CONDUCT PROGRAMS USING DATA COLLECTED THROUGH THE NEW YORK
55 HEALTH PROGRAM, TO PROMOTE AND PROTECT PUBLIC, ENVIRONMENTAL AND OCCUPA-
56 TIONAL HEALTH, INCLUDING COOPERATION WITH OTHER DATA COLLECTION AND

1 RESEARCH PROGRAMS OF THE DEPARTMENT, CONSISTENT WITH THIS ARTICLE AND
2 OTHERWISE APPLICABLE LAW.

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

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

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

9 (B) NEW YORK CITY;

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

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

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

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

21 3. EACH REGIONAL ADVISORY COUNCIL SHALL BE COMPOSED OF NOT FEWER THAN
22 TWENTY-SEVEN MEMBERS, AS DETERMINED BY THE COMMISSIONER AND THE BOARD,
23 AS NECESSARY TO APPROPRIATELY REPRESENT THE DIVERSE NEEDS AND CONCERNS
24 OF THE REGION. MEMBERS OF A REGIONAL ADVISORY COUNCIL SHALL BE RESIDENTS
25 OF OR HAVE THEIR PRINCIPAL PLACE OF BUSINESS IN THE REGION SERVED BY THE
26 REGIONAL ADVISORY COUNCIL.

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

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

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

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

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

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

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

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

44 (B) REGIONAL ADVISORY COUNCIL MEMBERSHIP SHALL INCLUDE BUT NOT BE
45 LIMITED TO:

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

49 (II) REPRESENTATIVES OF PROFESSIONAL ORGANIZATIONS REPRESENTING PHYSI-
50 CIANS;

51 (III) REPRESENTATIVES OF PROFESSIONAL ORGANIZATIONS REPRESENTING
52 HEALTH CARE PROFESSIONALS OTHER THAN PHYSICIANS;

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

54 (V) REPRESENTATIVES OF COMMUNITY HEALTH CENTERS;

55 (VI) REPRESENTATIVES OF HEALTH CARE ORGANIZATIONS;

56 (VII) REPRESENTATIVES OF ORGANIZED LABOR; AND

1 (VIII) REPRESENTATIVES OF MUNICIPAL AND COUNTY GOVERNMENT.

2 5. MEMBERS OF A REGIONAL ADVISORY COUNCIL SHALL BE APPOINTED FOR TERMS
3 OF THREE YEARS PROVIDED, HOWEVER, THAT OF THE MEMBERS FIRST APPOINTED,
4 ONE-THIRD SHALL BE APPOINTED FOR ONE YEAR TERMS AND ONE-THIRD SHALL BE
5 APPOINTED FOR TWO YEAR TERMS. VACANCIES SHALL BE FILLED IN THE SAME
6 MANNER AS ORIGINAL APPOINTMENTS FOR THE REMAINDER OF ANY UNEXPIRED TERM.
7 NO PERSON SHALL BE AN APPOINTED MEMBER OF A REGIONAL ADVISORY COUNCIL
8 FOR MORE THAN SIX YEARS IN ANY PERIOD OF TWELVE CONSECUTIVE YEARS.

9 6. MEMBERS OF THE REGIONAL ADVISORY COUNCILS SHALL SERVE WITHOUT
10 COMPENSATION BUT SHALL BE REIMBURSED FOR THEIR NECESSARY AND ACTUAL
11 EXPENSES INCURRED WHILE ENGAGED IN THE BUSINESS OF THE ADVISORY COUN-
12 CILS. THE PROGRAM SHALL PROVIDE FINANCIAL SUPPORT FOR SUCH EXPENSES AND
13 OTHER EXPENSES OF THE REGIONAL ADVISORY COUNCILS.

14 7. EACH REGIONAL ADVISORY COUNCIL SHALL MEET AT LEAST QUARTERLY. EACH
15 REGIONAL ADVISORY COUNCIL MAY FORM COMMITTEES TO ASSIST IT IN ITS WORK.
16 MEMBERS OF A COMMITTEE NEED NOT BE MEMBERS OF THE REGIONAL ADVISORY
17 COUNCIL. THE NEW YORK CITY REGIONAL ADVISORY COUNCIL SHALL FORM A
18 COMMITTEE FOR EACH BOROUGH OF NEW YORK CITY, TO ASSIST THE REGIONAL
19 ADVISORY COUNCIL IN ITS WORK AS IT RELATES PARTICULARLY TO THAT BOROUGH.

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

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

26 (A) PROMOTING THE DELIVERY OF HEALTH CARE SERVICES IN THE REGION,
27 IMPROVING THE QUALITY AND ACCESSIBILITY OF CARE, INCLUDING CULTURAL
28 COMPETENCY, CLINICAL INTEGRATION OF CARE BETWEEN SERVICE PROVIDERS
29 INCLUDING BUT NOT LIMITED TO PHYSICAL, MENTAL, AND BEHAVIORAL HEALTH,
30 PHYSICAL AND DEVELOPMENTAL DISABILITY SERVICES, AND LONG-TERM CARE;

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

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

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

37 10. EACH REGIONAL ADVISORY COUNCIL SHALL HOLD AT LEAST FOUR PUBLIC
38 HEARINGS ANNUALLY ON MATTERS RELATING TO THE NEW YORK HEALTH PROGRAM AND
39 THE DEVELOPMENT AND IMPLEMENTATION OF THE COMMUNITY HEALTH IMPROVEMENT
40 PLAN.

41 11. EACH REGIONAL ADVISORY COUNCIL SHALL PUBLISH AN ANNUAL REPORT TO
42 THE COMMISSIONER AND THE BOARD ON THE PROGRESS OF THE COMMUNITY HEALTH
43 IMPROVEMENT PLAN. THESE REPORTS SHALL BE POSTED ON THE DEPARTMENT'S
44 WEBSITE.

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

47 S 4. Financing of New York Health. 1. The governor shall submit to the
48 legislature a revenue plan and legislative bills to implement the plan
49 (referred to collectively in this section as the "revenue proposal") to
50 provide the revenue necessary to finance the New York Health program, as
51 created by article 51 of the public health law (referred to in this
52 section as the "program"), taking into consideration anticipated federal
53 revenue available for the program. The revenue proposal shall be submit-
54 ted to the legislature as part of the executive budget under article VII
55 of the state constitution, for the fiscal year commencing on the first
56 day of April in the calendar year after this act shall become a law. In

1 developing the revenue proposal, the governor shall consult with appro-
2 priate officials of the executive branch; the temporary president of the
3 senate; the speaker of the assembly; the chairs of the fiscal and health
4 committees of the senate and assembly; and representatives of business,
5 labor, consumers and local government.

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

24 (b) Payroll premium. The income to be subject to the payroll premium
25 shall be all income subject to the Medicare tax. The premium shall be
26 set at a percentage of that income, which shall be progressively gradu-
27 ated, so the percentage is higher on higher brackets of income. For
28 employed individuals, the employer shall pay eighty percent of the
29 premium and the employee shall pay twenty percent of the premium, except
30 that an employer may agree to pay all or part of the employee's share.
31 A self-employed individual shall pay the full premium.

32 (c) Non-payroll income premium. There shall be a premium on upper-
33 bracket taxable personal income that is not subject to the payroll
34 premium. It shall be set at a percentage of that income, which shall be
35 progressively graduated, so the percentage is higher on higher brackets
36 of income.

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

43 (e) Cross-border employees. (i) State residents employed out-of-state.
44 If an individual is employed out-of-state by an employer that is subject
45 to New York state law, the employer and employee shall be required to
46 pay the payroll premium as to that employee as if the employment were in
47 the state. If an individual is employed out-of-state by an employer that
48 is not subject to New York state law, either (A) the employer and
49 employee shall voluntarily comply with the premium or (B) the employee
50 shall pay the premium as if he or she were self-employed.

51 (ii) Out-of-state residents employed in the state. (A) The payroll
52 premium shall apply to any out-of-state resident who is employed or
53 self-employed in the state. (B) In the case of an out-of-state resident
54 who is employed or self-employed in the state, such individual and indi-
55 vidual's employer shall be able to take a credit against the payroll
56 premiums they would otherwise pay, as to the individual for amounts they

1 spend on health benefits for the individual that would otherwise be
 2 covered by the program if the individual were a member of the program.
 3 For employers, the credit shall be available regardless of the form of
 4 the health benefit (e.g., health insurance, a self-insured plan, direct
 5 services, or reimbursement for services), to make sure that the revenue
 6 proposal does not relate to employment benefits in violation of the
 7 federal ERISA. For non-employment-based spending by individuals, the
 8 credit shall be available for and limited to spending for health cover-
 9 age (not out-of-pocket health spending). The credit shall be available
 10 without regard to how little is spent or how sparse the benefit. The
 11 credit may only be taken against the payroll premiums. Any excess amount
 12 may not be applied to other tax liability. For employment-based health
 13 benefits, the credit shall be distributed between the employer and
 14 employee in the same proportion as the spending by each for the benefit.
 15 The employer and employee may each apply their respective portion of the
 16 credit to their respective portion of the premium. If any provision of
 17 this clause or any application of it shall be ruled to violate federal
 18 ERISA, the provision or the application of it shall be null and void and
 19 the ruling shall not affect any other provision or application of this
 20 section or the act that enacted it.

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

25 4. To the extent that the revenue proposal differs from the terms of
 26 subdivision two of this section, the revenue proposal shall state how it
 27 differs from those terms and reasons for and the effects of the differ-
 28 ences.

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

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

33 TITLE III

34 COLLECTIVE NEGOTIATIONS BY HEALTH CARE PROVIDERS WITH 35 NEW YORK HEALTH

36 SECTION 4920. DEFINITIONS.

37 4921. COLLECTIVE NEGOTIATION AUTHORIZED.

38 4922. COLLECTIVE NEGOTIATION REQUIREMENTS.

39 4923. REQUIREMENTS FOR HEALTH CARE PROVIDERS' REPRESENTATIVE.

40 4924. CERTAIN COLLECTIVE ACTION PROHIBITED.

41 4925. FEES.

42 4926. CONFIDENTIALITY.

43 4927. SEVERABILITY AND CONSTRUCTION.

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

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

47 2. "PERSON" MEANS AN INDIVIDUAL, ASSOCIATION, CORPORATION, OR ANY
 48 OTHER LEGAL ENTITY.

49 3. "HEALTH CARE PROVIDERS' REPRESENTATIVE" MEANS A THIRD PARTY THAT IS
 50 AUTHORIZED BY HEALTH CARE PROVIDERS TO NEGOTIATE ON THEIR BEHALF WITH
 51 NEW YORK HEALTH OVER TERMS AND CONDITIONS AFFECTING THOSE HEALTH CARE
 52 PROVIDERS.

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

1 5. "HEALTH CARE PROVIDER" MEANS A PERSON WHO IS LICENSED, CERTIFIED,
2 REGISTERED OR AUTHORIZED TO PRACTICE A HEALTH CARE PROFESSION PURSUANT
3 TO TITLE EIGHT OF THE EDUCATION LAW AND WHO PRACTICES THAT PROFESSION AS
4 A HEALTH CARE PROVIDER AS AN INDEPENDENT CONTRACTOR OR WHO IS AN OWNER,
5 OFFICER, SHAREHOLDER, OR PROPRIETOR OF A HEALTH CARE PROVIDER; OR AN
6 ENTITY THAT EMPLOYS OR UTILIZES HEALTH CARE PROVIDERS TO PROVIDE HEALTH
7 CARE SERVICES, INCLUDING BUT NOT LIMITED TO A HOSPITAL LICENSED UNDER
8 ARTICLE TWENTY-EIGHT OF THIS CHAPTER OR AN ACCOUNTABLE CARE ORGANIZATION
9 UNDER ARTICLE TWENTY-NINE-E OF THIS CHAPTER. A HEALTH CARE PROVIDER
10 UNDER TITLE EIGHT OF THE EDUCATION LAW WHO PRACTICES AS AN EMPLOYEE OF A
11 HEALTH CARE PROVIDER SHALL NOT BE DEEMED A HEALTH CARE PROVIDER FOR
12 PURPOSES OF THIS TITLE.

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

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

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

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

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

29 (A) HEALTH CARE PROVIDERS MAY COMMUNICATE WITH OTHER HEALTH CARE
30 PROVIDERS REGARDING THE TERMS AND CONDITIONS TO BE NEGOTIATED WITH NEW
31 YORK HEALTH;

32 (B) HEALTH CARE PROVIDERS MAY COMMUNICATE WITH HEALTH CARE PROVIDERS'
33 REPRESENTATIVES;

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

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

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

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

45 3. NOTHING IN THIS TITLE SHALL AFFECT OR LIMIT COLLECTIVE ACTION OR
46 COLLECTIVE BARGAINING ON THE PART OF ANY HEALTH CARE PROVIDER WITH HIS
47 OR HER EMPLOYER OR ANY OTHER LAWFUL COLLECTIVE ACTION OR COLLECTIVE
48 BARGAINING.

49 S 4923. REQUIREMENTS FOR HEALTH CARE PROVIDERS' REPRESENTATIVE. BEFORE
50 ENGAGING IN COLLECTIVE NEGOTIATIONS WITH NEW YORK HEALTH ON BEHALF OF
51 HEALTH CARE PROVIDERS, A HEALTH CARE PROVIDERS' REPRESENTATIVE SHALL
52 FILE WITH THE COMMISSIONER, IN THE MANNER PRESCRIBED BY THE COMMISSION-
53 ER, INFORMATION IDENTIFYING THE REPRESENTATIVE, THE REPRESENTATIVE'S
54 PLAN OF OPERATION, AND THE REPRESENTATIVE'S PROCEDURES TO ENSURE COMPLI-
55 ANCE WITH THIS TITLE.

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

5 2. NO HEALTH CARE PROVIDERS' REPRESENTATIVE SHALL NEGOTIATE ANY AGREE-
6 MENT THAT EXCLUDES, LIMITS THE PARTICIPATION OR REIMBURSEMENT OF, OR
7 OTHERWISE LIMITS THE SCOPE OF SERVICES TO BE PROVIDED BY ANY HEALTH CARE
8 PROVIDER OR GROUP OF HEALTH CARE PROVIDERS WITH RESPECT TO THE PERFORM-
9 ANCE OF SERVICES THAT ARE WITHIN THE HEALTH CARE PROVIDER'S SCOPE OF
10 PRACTICE, LICENSE, REGISTRATION, OR CERTIFICATE.

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

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

20 S 4927. SEVERABILITY AND CONSTRUCTION. IF ANY PROVISION OR APPLICATION
21 OF THIS TITLE SHALL BE HELD TO BE INVALID, OR TO VIOLATE OR BE INCON-
22 SISTENT WITH ANY APPLICABLE FEDERAL LAW OR REGULATION, THAT SHALL NOT
23 AFFECT OTHER PROVISIONS OR APPLICATIONS OF THIS TITLE WHICH CAN BE GIVEN
24 EFFECT WITHOUT THAT PROVISION OR APPLICATION; AND TO THAT END, THE
25 PROVISIONS AND APPLICATIONS OF THIS TITLE ARE SEVERABLE. THE PROVISIONS
26 OF THIS TITLE SHALL BE LIBERALLY CONSTRUED TO GIVE EFFECT TO THE
27 PURPOSES THEREOF.

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

31 11. "State public health plan" means the medical assistance program
32 established by title eleven of article five of the social services law
33 (referred to in this article as "Medicaid"), the elderly pharmaceutical
34 insurance coverage program established by title three of article two of
35 the elder law (referred to in this article as "EPIC"), and the [family
36 health plus program established by section three hundred sixty-nine-ee
37 of the social services law to the extent that section provides that the
38 program shall be subject to this article] NEW YORK HEALTH PROGRAM ESTAB-
39 LISHED BY ARTICLE FIFTY-ONE OF THIS CHAPTER.

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

42 S 89-I. NEW YORK HEALTH TRUST FUND. 1. THERE IS HEREBY ESTABLISHED IN
43 THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE COMMISSIONER OF TAXA-
44 TION AND FINANCE A SPECIAL REVENUE FUND TO BE KNOWN AS THE "NEW YORK
45 HEALTH TRUST FUND", HEREINAFTER KNOWN AS "THE FUND". THE DEFINITIONS IN
46 SECTION FIFTY-ONE HUNDRED OF THE PUBLIC HEALTH LAW SHALL APPLY TO THIS
47 SECTION.

48 2. THE FUND SHALL CONSIST OF:

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

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

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

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

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

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

19 S 8. Temporary commission on implementation. 1. There is hereby estab-
20 lished a temporary commission on implementation of the New York Health
21 program, hereinafter to be known as the commission, consisting of
22 fifteen members: five members, including the chair, shall be appointed
23 by the governor; four members shall be appointed by the temporary presi-
24 dent of the senate, one member shall be appointed by the senate minority
25 leader; four members shall be appointed by the speaker of the assembly,
26 and one member shall be appointed by the assembly minority leader. The
27 commissioner of health, the superintendent of financial services, and
28 the commissioner of taxation and finance, or their designees shall serve
29 as non-voting ex-officio members of the commission.

30 2. Members of the commission shall receive such assistance as may be
31 necessary from other state agencies and entities, and shall receive
32 necessary expenses incurred in the performance of their duties. The
33 commission may employ staff as needed, prescribe their duties, and fix
34 their compensation within amounts appropriated for the commission.

35 3. The commission shall examine the laws and regulations of the state
36 and make such recommendations as are necessary to conform the laws and
37 regulations of the state and article 51 of the public health law estab-
38 lishing the New York Health program and other provisions of law relating
39 to the New York Health program, and to improve and implement the
40 program. The commission shall report its recommendations to the governor
41 and the legislature. The commission shall immediately begin development
42 of proposals consistent with the principles of this article for
43 provision of long-term care coverage; health care services covered under
44 the workers' compensation law; and incorporation of retiree health bene-
45 fits, as described in paragraphs (a), (b) and (c) of subdivision eight
46 of section fifty-one hundred two of this article. The commission shall
47 provide its work product and assistance to the board established pursu-
48 ant to section fifty-one hundred two of this article upon completion of
49 the appointment of the board.

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

56 S 10. This act shall take effect immediately.