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 the "New York health act".

S 2. Legislative findings and intent. 1. The state constitution states: "The protection and promotion of the health of the inhabitants of the state are matters of public concern and provision therefor shall be made by the state and by such of its subdivisions and in such manner, and by such means as the legislature shall from time to time determine." (Article XVII, S3.) The legislature finds and declares that all residents of the state have the right to health care. While the federal 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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coverage, it still leaves many New Yorkers without coverage or with inadequate coverage. New Yorkers - as individuals, employers, and taxpayers - have experienced a rise in the cost of health care and coverage in recent years, including rising premiums, deductibles and co-pays, restricted provider networks and high out-of-network charges. Businesses have also experienced increases in the costs of health care benefits for their employees, and many employers are shifting a larger share of the cost of coverage to their employees or dropping coverage entirely. Health care providers are also affected by inadequate health coverage in New York state. A large portion of voluntary and public hospitals, health centers and other providers now experience substantial losses due to the provision of care that is uncompensated. Individuals often find that they are deprived of affordable care and choice because of decisions by health plans guided by the plan's economic needs rather than their health care needs. To address the fiscal crisis facing the health care system and the state and to assure New Yorkers can exercise their right to health care, affordable and comprehensive health coverage must be provided. Pursuant to the state constitution's charge to the legislature to provide for the health of New Yorkers, this legislation is an enactment of state concern for the purpose of establishing a comprehensive universal single-payer health care coverage program and a health care cost control system for the benefit of all residents of the state of New York.

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

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

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

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

S 3. Article 50 and sections 5000, 5001, 5002 and 5003 of the public health law are renumbered article 80 and sections 8000, 8001, 8002 and 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 METHODOLOGIES.
5106. HEALTH CARE ORGANIZATIONS.
5107. PROGRAM STANDARDS.
5108. REGULATIONS.
5109. PROVISIONS RELATING TO FEDERAL HEALTH PROGRAMS.
5110. ADDITIONAL PROVISIONS.
5111. REGIONAL ADVISORY COUNCILS.

S 5100. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS, UNLESS THE CONTEXT CLEARLY REQUIRES OTHERWISE:
1. "BOARD" MEANS THE BOARD OF TRUSTEES OF THE NEW YORK HEALTH PROGRAM CREATED BY SECTION FIFTY-ONE HUNDRED TWO OF THIS ARTICLE, AND "TRUSTEE" MEANS A TRUSTEE OF THE BOARD.
2. "CARE COORDINATION" MEANS SERVICES PROVIDED BY A CARE COORDINATOR UNDER SUBDIVISION TWO OF SECTION FIFTY-ONE HUNDRED FIVE OF THIS ARTICLE.
3. "CARE COORDINATOR" MEANS AN INDIVIDUAL OR ENTITY APPROVED TO PROVIDE CARE COORDINATION UNDER SUBDIVISION TWO OF SECTION FIFTY-ONE HUNDRED FIVE OF THIS ARTICLE.
5. "HEALTH CARE ORGANIZATION" MEANS AN ENTITY THAT IS APPROVED BY THE COMMISSIONER UNDER SECTION FIFTY-ONE HUNDRED SIX OF THIS ARTICLE TO PROVIDE HEALTH CARE SERVICES TO MEMBERS UNDER THE PROGRAM.
6. "HEALTH CARE SERVICE" MEANS ANY HEALTH CARE SERVICE, INCLUDING CARE COORDINATION, INCLUDED AS A BENEFIT UNDER THE PROGRAM.
7. "IMPLEMENTATION PERIOD" MEANS THE PERIOD UNDER SUBDIVISION THREE OF SECTION FIFTY-ONE HUNDRED ONE OF THIS ARTICLE DURING WHICH THE PROGRAM WILL BE SUBJECT TO SPECIAL ELIGIBILITY AND FINANCING PROVISIONS UNTIL IT IS FULLY IMPLEMENTED UNDER THAT SECTION.
8. "LONG TERM CARE" MEANS LONG TERM CARE, TREATMENT, MAINTENANCE, OR SERVICES NOT COVERED UNDER CHILD HEALTH PLUS, AS APPROPRIATE, WITH THE EXCEPTION OF SHORT TERM REHABILITATION, AS DEFINED BY THE COMMISSIONER.

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

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

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

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


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

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

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

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

S 5101. PROGRAM CREATED. 1. THE NEW YORK HEALTH PROGRAM IS HEREBY CREATED IN THE DEPARTMENT. THE COMMISSIONER SHALL ESTABLISH AND IMPLEMENT THE PROGRAM UNDER THIS ARTICLE. THE PROGRAM SHALL PROVIDE COMPREHENSIVE HEALTH COVERAGE TO EVERY RESIDENT WHO ENROLLS IN THE PROGRAM.

2. THE COMMISSIONER SHALL, TO THE MAXIMUM EXTENT POSSIBLE, ORGANIZE, ADMINISTER AND MARKET THE PROGRAM AND SERVICES AS A SINGLE PROGRAM UNDER THE NAME "NEW YORK HEALTH" OR SUCH OTHER NAME AS THE COMMISSIONER SHALL DETERMINE, REGARDLESS OF UNDER WHICH LAW OR SOURCE THE DEFINITION OF A BENEFIT IS FOUND INCLUDING (ON A VOLUNTARY BASIS) RETIREE HEALTH BENEFITS. IN IMPLEMENTING THIS SUBDIVISION, THE COMMISSIONER SHALL AVOID JEOPARDIZING FEDERAL FINANCIAL PARTICIPATION IN THESE PROGRAMS AND SHALL TAKE CARE TO PROMOTE PUBLIC UNDERSTANDING AND AWARENESS OF AVAILABLE BENEFITS AND PROGRAMS.
3. The Commissioner shall determine when individuals may begin enrolling in the program. There shall be an implementation period, which shall begin on the date that individuals may begin enrolling in the program and shall end as determined by the Commissioner.

4. An insurer authorized to provide coverage pursuant to the insurance law or a health maintenance organization certified under this chapter may, if otherwise authorized, offer benefits that do not cover any service for which coverage is offered to individuals under the program, but may not offer benefits that cover any service for which coverage is offered to individuals under the program. Provided, however, that this subdivision shall not prohibit (A) the offering of any benefits to or for individuals, including their families, who are employed or self-employed in the state but who are not residents of the state, or (B) the offering of benefits during the implementation period to individuals who enrolled or may enroll as members of the program, or (C) the offering of retiree health benefits.

5. A college, university or other institution of higher education in the state may purchase coverage under the program for any student, or student's dependent, who is not a resident of the state.

6. To the extent any provision of this chapter, the social services law or the insurance law:

(A) is inconsistent with any provision of this article or the legislative intent of the New York Health Act, this article shall apply and prevail, except where explicitly provided otherwise by this article; and

(B) is consistent with the provisions of this article and the legislative intent of the New York Health Act, the provision of that law shall apply.

§ 5102. Board of Trustees. 1. The New York Health Board of Trustees is hereby created in the department. The board of trustees shall, at the request of the Commissioner, consider any matter to effectuate the provisions and purposes of this article, and may advise the Commissioner thereon; and it may, from time to time, submit to the Commissioner any recommendations to effectuate the provisions and purposes of this article. The Commissioner may propose regulations under this article and amendments thereto for consideration by the board. The board of trustees shall have no executive, administrative or appointive duties except as otherwise provided by law. The board of trustees shall have power to establish, and from time to time, amend regulations to effectuate the provisions and purposes of this article, subject to approval by the Commissioner.

2. The board shall be composed of:

(A) the Commissioner, the Superintendent of Financial Services, and the Director of the budget, or their designees, as ex officio members;

(B) nineteen trustees appointed by the Governor;

(I) five of whom shall be representatives of health care consumer advocacy organizations which have a statewide or regional constituency, who have been involved in activities related to health care consumer advocacy, including issues of interest to low- and moderate-income individuals;

(II) two of whom shall be representatives of professional organizations representing physicians;

(III) two of whom shall be representatives of professional organizations representing licensed or registered health care professionals other than physicians;

(IV) three of whom shall be representatives of hospitals, one of whom shall be a representative of public hospitals;
(V) ONE OF WHOM SHALL BE REPRESENTATIVE OF COMMUNITY HEALTH CENTERS;
(VI) TWO OF WHOM SHALL BE REPRESENTATIVES OF HEALTH CARE ORGANIZATIONS; AND
(VII) TWO OF WHOM SHALL BE REPRESENTATIVES OF ORGANIZED LABOR;
(VIII) TWO OF WHOM SHALL HAVE DEMONSTRATED EXPERTISE IN HEALTH CARE FINANCE;
(C) TEN TRUSTEES APPOINTED BY THE GOVERNOR; FOUR OF WHOM TO BE APPOINTED ON THE RECOMMENDATION OF THE SPEAKER OF THE ASSEMBLY; FOUR OF WHOM TO BE APPOINTED ON THE RECOMMENDATION OF THE TEMPORARY PRESIDENT OF THE SENATE; ONE OF WHOM TO BE APPOINTED ON THE RECOMMENDATION OF THE MINORITY LEADER OF THE ASSEMBLY; AND ONE OF WHOM TO BE APPOINTED ON THE RECOMMENDATION OF THE MINORITY LEADER OF THE SENATE.


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

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

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

8. NO LATER THAN TWO YEARS AFTER THE EFFECTIVE DATE OF THIS ARTICLE:
   (A) THE BOARD SHALL DEVELOP A PROPOSAL, CONSISTENT WITH THE PRINCIPLES OF THIS ARTICLE, FOR PROVISION BY THE PROGRAM OF LONG-TERM CARE COVERAGE, INCLUDING THE DEVELOPMENT OF A PROPOSAL, CONSISTENT WITH THE PRINCIPLES OF THIS ARTICLE, FOR ITS FUNDING. IN DEVELOPING THE PROPOSAL, THE BOARD SHALL CONSULT WITH AN ADVISORY COMMITTEE, APPOINTED BY THE CHAIR OF THE BOARD, INCLUDING REPRESENTATIVES OF CONSUMERS AND POTENTIAL CONSUMERS OF LONG-TERM CARE, PROVIDERS OF LONG-TERM CARE, LABOR, AND OTHER INTERESTED PARTIES. THE BOARD SHALL PRESENT ITS PROPOSAL TO THE GOVERNOR AND THE LEGISLATURE.
   (B) THE BOARD SHALL DEVELOP PROPOSALS FOR: (I) INCORPORATING RETIREE HEALTH BENEFITS INTO NEW YORK HEALTH; (II) ACCOMMODATING EMPLOYER RETIREE HEALTH BENEFITS FOR PEOPLE WHO HAVE BEEN MEMBERS OF NEW YORK HEALTH BUT LIVE AS RETIREES OUT OF THE STATE; AND (III) ACCOMMODATING EMPLOYER RETIREE HEALTH BENEFITS FOR PEOPLE WHO EARNED OR ACCRUED SUCH BENEFITS
WHILE RESIDING IN THE STATE PRIOR TO THE IMPLEMENTATION OF NEW YORK HEALTH AND LIVE AS RETIREES OUT OF THE STATE.

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

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

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

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

(A) CHILD HEALTH PLUS;

(B) MEDICAID;

(C) MEDICARE;

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

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

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

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

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

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

3. THE PROGRAM SHALL PROVIDE FOR PAYMENT UNDER THE PROGRAM FOR EMERGENCY AND TEMPORARY HEALTH CARE SERVICES PROVIDED TO MEMBERS OR INDIVIDUALS ENTITLED TO BECOME MEMBERS WHO HAVE NOT HAD A REASONABLE OPPORTUNITY TO BECOME A MEMBER OR TO ENROLL WITH A CARE COORDINATOR.

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

(B) A MEMBER MAY CHOOSE TO RECEIVE HEALTH CARE SERVICES UNDER THE PROGRAM FROM ANY PARTICIPATING PROVIDER, CONSISTENT WITH PROVISIONS OF THIS ARTICLE RELATING TO CARE COORDINATION AND HEALTH CARE ORGANIZATIONS, THE WILLINGNESS OR AVAILABILITY OF THE PROVIDER (SUBJECT TO PROVISIONS OF THIS ARTICLE RELATING TO DISCRIMINATION), AND THE APPROPRIATE CLINICALLY-RELEVANT CIRCUMSTANCES.

2. CARE COORDINATION.

(A) CARE COORDINATION SHALL INCLUDE, BUT NOT BE LIMITED TO, MANAGING, REFERRING TO, LOCATING, COORDINATING, AND MONITORING HEALTH CARE SERVICES FOR THE MEMBER TO ASSURE THAT ALL MEDICALLY NECESSARY HEALTH CARE SERVICES ARE MADE AVAILABLE TO AND ARE EFFECTIVELY USED BY THE MEMBER IN A TIMELY MANNER, CONSISTENT WITH PATIENT AUTONOMY. CARE COOR-
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    DINATION IS NOT A REQUIREMENT FOR PRIOR AUTHORIZATION FOR HEALTH CARE
    SERVICES AND REFERRAL SHALL NOT BE REQUIRED FOR A MEMBER TO RECEIVE A
    HEALTH CARE SERVICE.
    (B) A CARE COORDINATOR MAY BE AN INDIVIDUAL OR ENTITY THAT IS APPROVED
    BY THE PROGRAM THAT IS:
    (I) A HEALTH CARE PRACTITIONER WHO IS: (A) THE MEMBER'S PRIMARY CARE
    PRACTITIONER; (B) AT THE OPTION OF A FEMALE MEMBER, THE MEMBER'S PROVIDER
    OF PRIMARY GYNECOLOGICAL CARE; OR (C) AT THE OPTION OF A MEMBER WHO
    HAS A CHRONIC CONDITION THAT REQUIRES SPECIALTY CARE, A SPECIALIST
    HEALTH CARE PRACTITIONER WHO REGULARLY AND CONTINUALLY PROVIDES TREAT-
    MENT FOR THAT CONDITION TO THE MEMBER;
    (II) AN ENTITY LICENSED UNDER ARTICLE TWENTY-EIGHT OF THIS CHAPTER OR
    CERTIFIED UNDER ARTICLE THIRTY-SIX OF THIS CHAPTER, A MANAGED LONG TERM
    CARE PLAN UNDER SECTION FORTY-FOUR HUNDRED THREE-F OF THIS CHAPTER OR
    OTHER PROGRAM MODEL UNDER PARAGRAPH (B) OF SUBDIVISION SEVEN OF SUCH
    SECTION, OR, WITH RESPECT TO A MEMBER WHO RECEIVES CHRONIC MENTAL HEALTH
    CARE SERVICES, AN ENTITY LICENSED UNDER ARTICLE THIRTY-ONE OF THE MENTAL
    HYGIENE LAW OR OTHER ENTITY APPROVED BY THE COMMISSIONER IN CONSULTATION
    WITH THE COMMISSIONER OF MENTAL HEALTH;
    (III) A HEALTH CARE ORGANIZATION;
    (IV) A TAFT-HARTLEY FUND, WITH RESPECT TO ITS MEMBERS AND THEIR FAMILY
    MEMBERS; PROVIDED THAT THIS PROVISION SHALL NOT PRECLUDE A TAFT-HARTLEY
    FUND FROM BECOMING A CARE COORDINATOR UNDER SUBPARAGRAPH (V) OF THIS
    PARAGRAPH OR A HEALTH CARE ORGANIZATION UNDER SECTION FIFTY-ONE HUNDRED
    SIX OF THIS ARTICLE; OR
    (V) ANY NOT-FOR-PROFIT OR GOVERNMENTAL ENTITY APPROVED BY THE PROGRAM.
    (C) HEALTH CARE SERVICES PROVIDED TO A MEMBER SHALL NOT BE SUBJECT TO
    PAYMENT UNDER THE PROGRAM UNLESS THE MEMBER IS ENROLLED WITH A CARE
    COORDINATOR AT THE TIME THE HEALTH CARE SERVICE IS PROVIDED, EXCEPT
    WHERE PROVIDED UNDER SUBDIVISION THREE OF SECTION FIFTY-ONE HUNDRED FOUR
    OF THIS ARTICLE. EVERY MEMBER SHALL EnROLL WITH A CARE COORDINATOR THAT
    AGREES TO PROVIDE CARE CoORDINATION TO THE MEMBER PRIOR TO RECEIVING
    HEALTH CARE SERVICES TO BE PAID FOR UNDER THE PROGRAM. THE MEMBER SHALL
    REMAIN ENROLLED WITH THAT CARE COORDINATOR UNTIL THE MEMBER BECOMES
    ENROLLED WITH A DIFFERENT CARE COORDINATOR OR CEASES TO BE A MEMBER.
    MEMBERS HAVE THE RIGHT TO CHANGE THEIR CARE COORDINATOR ON TERMS AT
    LEAST AS PERMISSIVE AS THE PROVISIONS OF SECTION THREE HUNDRED
    SIXTY-FOUR-J OF THE SOCIAL SERVICES LAW RELATING TO AN INDIVIDUAL CHANG-
    ING HIS OR HER PRIMARY CARE PROVIDER OR MANAGED CARE PROVIDER.
    (D) CARE COORDINATION SHALL BE PROVIDED TO THE MEMBER BY THE MEMBER'S
    CARE COORDINATOR. A CARE COORDINATOR MAY EMPLOY OR UTILIZE THE SERVICES
    OF OTHER INDIVIDUALS OR ENTITIES TO ASSIST IN PROVIDING CARE COORDI-
    NATION FOR THE MEMBER, CONSISTENT WITH REGULATIONS OF THE COMMISSIONER.
    (E) A HEALTH CARE ORGANIZATION MAY ESTABLISH RULES RELATING TO CARE
    COORDINATION FOR MEMBERS IN THE HEALTH CARE ORGANIZATION, DIFFERENT FROM
    THIS SUBDIVISION BUT OTHERWISE CONSISTENT WITH THIS ARTICLE AND OTHER
    APPLICABLE LAWS. NOTHING IN THIS SUBDIVISION SHALL AUTHORIZE ANY INDIV-
    IDUAL TO ENGAGE IN ANY ACT IN VIOLATION OF TITLE EIGHT OF THE EDUCATION
    LAW.
    (F) THE COMMISSIONER SHALL DEVELOP AND IMPLEMENT PROCEDURES AND STAND-
    ARDS FOR AN INDIVIDUAL OR ENTITY TO BE APPROVED TO BE A CARE COORDINATOR
    IN THE PROGRAM, INCLUDING BUT NOT LIMITED TO PROCEDURES AND STANDARDS
    RELATING TO THE REVOCATION, SUSPENSION, LIMITATION, OR ANNULMENT OF
    APPROVAL ON A DETERMINATION THAT THE INDIVIDUAL OR ENTITY IS INCOMPETENT
    TO BE A CARE COORDINATOR OR HAS EXHIBITED A COURSE OF CONDUCT WHICH IS
    EITHER INCONSISTENT WITH PROGRAM STANDARDS AND REGULATIONS OR WHICH
EXHIBITS AN UNWILLINGNESS TO MEET SUCH STANDARDS AND REGULATIONS, OR IS A POTENTIAL THREAT TO THE PUBLIC HEALTH OR SAFETY. SUCH PROCEDURES AND STANDARDS SHALL NOT LIMIT APPROVAL TO BE A CARE COORDINATOR IN THE PROGRAM FOR ECONOMIC PURPOSES AND SHALL BE CONSISTENT WITH GOOD PROFESSIONAL PRACTICE. IN DEVELOPING THE PROCEDURES AND STANDARDS, THE COMMISSIONER SHALL: (I) CONSIDER EXISTING STANDARDS DEVELOPED BY NATIONAL ACCREDITING AND PROFESSIONAL ORGANIZATIONS; AND (II) CONSULT WITH NATIONAL AND LOCAL ORGANIZATIONS WORKING ON CARE COORDINATION OR SIMILAR MODELS, INCLUDING HEALTH CARE PRACTITIONERS, HOSPITALS, CLINICS, AND CONSUMERS AND THEIR REPRESENTATIVES. WHEN DEVELOPING AND IMPLEMENTING STANDARDS OF APPROVAL OF CARE COORDINATORS FOR INDIVIDUALS RECEIVING CHRONIC MENTAL HEALTH CARE SERVICES, THE COMMISSIONER SHALL CONSULT WITH THE COMMISSIONER OF MENTAL HEALTH. AN INDIVIDUAL OR ENTITY MAY NOT BE A CARE COORDINATOR UNLESS THE SERVICES INCLUDED IN CARE COORDINATION ARE WITHIN THE INDIVIDUAL'S PROFESSIONAL SCOPE OF PRACTICE OR THE ENTITY'S LEGAL AUTHORITY.

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

3. HEALTH CARE PROVIDERS. (A) THE COMMISSIONER SHALL ESTABLISH AND MAINTAIN PROCEDURES AND STANDARDS FOR HEALTH CARE PROVIDERS TO BE QUALIFIED TO PARTICIPATE IN THE PROGRAM, INCLUDING BUT NOT LIMITED TO PROCEDURES AND STANDARDS RELATING TO THE REVOCATION, SUSPENSION, LIMITATION, OR ANNULMENT OF QUALIFICATION TO PARTICIPATE ON A DETERMINATION THAT THE HEALTH CARE PROVIDER IS AN INCOMPETENT PROVIDER OF SPECIFIC HEALTH CARE SERVICES OR HAS EXHIBITED A COURSE OF CONDUCT WHICH IS EITHER INCONSISTENT WITH PROGRAM STANDARDS AND REGULATIONS OR WHICH EXHIBITS AN UNWILLINGNESS TO MEET SUCH STANDARDS AND REGULATIONS, OR IS A POTENTIAL THREAT TO THE PUBLIC HEALTH OR SAFETY. SUCH PROCEDURES AND STANDARDS SHALL NOT LIMIT HEALTH CARE PROVIDER PARTICIPATION IN THE PROGRAM FOR ECONOMIC PURPOSES AND SHALL BE CONSISTENT WITH GOOD PROFESSIONAL PRACTICE. ANY HEALTH CARE PROVIDER WHO IS QUALIFIED TO PARTICIPATE UNDER MEDICAID, CHILD HEALTH PLUS OR MEDICARE SHALL BE DEEMED TO BE QUALIFIED TO PARTICIPATE IN THE PROGRAM, AND ANY HEALTH CARE PROVIDER'S REVOCATION, SUSPENSION, LIMITATION, OR ANNULMENT OF QUALIFICATION TO PARTICIPATE IN ANY OF THOSE PROGRAMS SHALL APPLY TO THE HEALTH CARE PROVIDER'S QUALIFICATION TO PARTICIPATE IN THE PROGRAM; PROVIDED THAT A HEALTH CARE PROVIDER QUALIFIED UNDER THIS SENTENCE SHALL FOLLOW THE PROCEDURES TO BECOME QUALIFIED UNDER THE PROGRAM BY THE END OF THE IMPLEMENTATION PERIOD.

(B) THE COMMISSIONER SHALL ESTABLISH AND MAINTAIN PROCEDURES AND STANDARDS FOR RECOGNIZING HEALTH CARE PROVIDERS LOCATED OUT OF THE STATE FOR PURPOSES OF PROVIDING COVERAGE UNDER THE PROGRAM FOR OUT-OF-STATE HEALTH CARE SERVICES.

4. PAYMENT FOR HEALTH CARE SERVICES. (A) THE COMMISSIONER MAY ESTABLISH BY REGULATION PAYMENT METHODOLOGIES FOR HEALTH CARE SERVICES AND CARE COORDINATION PROVIDED TO MEMBERS UNDER THE PROGRAM BY PARTICIPATING PROVIDERS, CARE COORDINATORS, AND HEALTH CARE ORGANIZATIONS. THERE MAY BE A VARIETY OF DIFFERENT PAYMENT METHODOLOGIES, INCLUDING THOSE ESTABLISHED ON A DEMONSTRATION BASIS. ALL PAYMENT RATES UNDER THE PROGRAM SHALL BE REASONABLE AND REASONABLY RELATED TO THE COST OF EFFICIENTLY PROVIDING THE HEALTH CARE SERVICE AND ASSURING AN ADEQUATE AND ACCESSIBLE SUPPLY OF HEALTH CARE SERVICE. UNTIL AND UNLESS ANOTHER PAYMENT METHODOLOGY IS ESTABLISHED, HEALTH CARE SERVICES PROVIDED TO MEMBERS
UNDER THE PROGRAM SHALL BE PAID FOR ON A FEE-FOR-SERVICE BASIS, EXCEPT FOR CARE COORDINATION.

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

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

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

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

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

(G) THE COMMISSIONER SHALL PROVIDE BY REGULATION FOR PAYMENT METHODOLOGIES AND PROCEDURES FOR PAYING FOR OUT-OF-STATE HEALTH CARE SERVICES.

S 5106. HEALTH CARE ORGANIZATIONS. 1. A MEMBER MAY CHOOSE TO ENROLL WITH AND RECEIVE HEALTH CARE SERVICES UNDER THE PROGRAM FROM A HEALTH CARE ORGANIZATION.

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

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

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

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

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

(B) TO MAINTAIN APPROVAL UNDER THE PROGRAM, A HEALTH CARE ORGANIZATION
MUST: (I) RENEW ITS STATUS AT A FREQUENCY DETERMINED BY THE COMMISSION-
ER; AND (II) PROVIDE DATA TO THE DEPARTMENT AS REQUIRED BY THE COMMISS-
IONER TO ENABLE THE COMMISSIONER TO EVALUATE THE HEALTH CARE ORGANIZA-
TION IN RELATION TO QUALITY OF HEALTH CARE SERVICES, HEALTH CARE
OUTCOMES, AND COST.

5. THE COMMISSIONER SHALL MAKE REGULATIONS RELATING TO HEALTH CARE
ORGANIZATIONS CONSISTENT WITH AND TO ENSURE COMPLIANCE WITH THIS ARTI-
CLE.

6. THE PROVISION OF HEALTH CARE SERVICES DIRECTLY OR INDIRECTLY BY A
HEALTH CARE ORGANIZATION THROUGH HEALTH CARE PROVIDERS SHALL NOT BE
CONSIDERED THE PRACTICE OF A PROFESSION UNDER TITLE EIGHT OF THE EDUCA-
TION LAW BY THE HEALTH CARE ORGANIZATION.

5107. PROGRAM STANDARDS. 1. THE COMMISSIONER SHALL ESTABLISH
REQUIREMENTS AND STANDARDS FOR THE PROGRAM AND FOR HEALTH CARE ORGANIZA-
TIONS, CARE COORDINATORS, AND HEALTH CARE PROVIDERS, CONSISTENT WITH
THIS ARTICLE, INCLUDING REQUIREMENTS AND STANDARDS FOR, AS APPLICABLE:

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

(B) RELATIONS BETWEEN HEALTH CARE ORGANIZATIONS OR HEALTH CARE PROVID-
ERS AND MEMBERS; AND

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

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

(A) SIMPLIFICATION, TRANSPARENCY, UNIFORMITY, AND FAIRNESS IN HEALTH
CARE PROVIDER CREDENTIALING AND PARTICIPATION IN HEALTH CARE ORGANIZA-
TION NETWORKS, REFerrals, PAYMENT PROCEDURES AND RATES, CLAIMS PROCESS-
ING, AND APPROVAL OF HEALTH CARE SERVICES, AS APPLICABLE;

(B) PRIMARY AND PREVENTIVE CARE, CARE COORDINATION, EFFICIENT AND
EFFECTIVE HEALTH CARE SERVICES, QUALITY ASSURANCE, COORDINATION AND
INTEGRATION OF HEALTH CARE SERVICES, INCLUDING USE OF APPROPRIATE TECH-
NOLOGY, AND PROMOTION OF PUBLIC, ENVIRONMENTAL AND OCCUPATIONAL HEALTH;

(C) ELIMINATION OF HEALTH CARE DISPARITIES;

(D) NON-DISCRIMINATION WITH RESPECT TO MEMBERS AND HEALTH CARE PROVID-
ERS ON THE BASIS OF RACE, ETHNICITY, NATIONAL ORIGIN, RELIGION, DISABIL-
ITY, AGE, SEX, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, OR
ECONOMIC CIRCUMSTANCES; PROVIDED THAT HEALTH CARE SERVICES PROVIDED
UNDER THE PROGRAM SHALL BE APPROPRIATE TO THE PATIENT'S CLINICALLY-RELEVANT CIRCUMSTANCES; AND

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

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


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


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

§ 5109. PROVISIONS RELATING TO FEDERAL HEALTH PROGRAMS. 1. THE COMMISSIONER SHALL SEEK ALL FEDERAL WAIVERS AND OTHER FEDERAL APPROVALS AND ARRANGEMENTS AND SUBMIT STATE PLAN AMENDMENTS NECESSARY TO OPERATE THE PROGRAM CONSISTENT WITH THIS ARTICLE.

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

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

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

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

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

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

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

(F) TO ENABLE THE COMMISSIONER TO APPLY FOR COVERAGE UNDER ANY FEDER-
ALLY-MATCHED PUBLIC HEALTH PROGRAM OR MEDICARE ON BEHALF OF ANY MEMBER
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
LABOR FOR A PROGRAM FOR RETRAINING AND ASSISTING JOB TRANSITION FOR INDIVIDUALS EMPLOYED OR PREVIOUSLY EMPLOYED IN THE FIELD OF HEALTH INSURANCE AND OTHER THIRD-PARTY PAYMENT FOR HEALTH CARE OR PROVIDING SERVICES TO HEALTH CARE PROVIDERS TO DEAL WITH THIRD-PARTY Payers FOR HEALTH CARE, WHOSE JOBS MAY BE OR HAVE BEEN ENDED AS A RESULT OF THE IMPLEMENTATION OF THE NEW YORK HEALTH PROGRAM, CONSISTENT WITH OTHERWISE APPLICABLE LAW.

4. THE COMMISSIONER SHALL, DIRECTLY AND THROUGH GRANTS TO NOT-FOR-PROFIT ENTITIES, CONDUCT PROGRAMS USING DATA COLLECTED THROUGH THE NEW YORK HEALTH PROGRAM, TO PROMOTE AND PROTECT PUBLIC, ENVIRONMENTAL AND OCCUPATIONAL HEALTH, INCLUDING COOPERATION WITH OTHER DATA COLLECTION AND RESEARCH PROGRAMS OF THE DEPARTMENT, CONSISTENT WITH THIS ARTICLE AND OTHERWISE APPLICABLE LAW.

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

2. THERE SHALL BE A REGIONAL ADVISORY COUNCIL ESTABLISHED IN EACH OF THE FOLLOWING REGIONS:
   (A) LONG ISLAND, CONSISTING OF NASSAU AND SUFFOLK COUNTIES;
   (B) NEW YORK CITY;
   (C) HUDSON VALLEY, CONSISTING OF DELAWARE, DUTCHESS, ORANGE, PUTNAM, ROCKLAND, SULLIVAN, ULSTER, WESTCHESTER COUNTIES;
   (D) NORTHERN, CONSISTING OF ALBANY, CLINTON, COLUMBIA, ESSEX, FRANKLIN, FULTON, GREENE, HAMILTON, MONTGOMERY, OTSEGO, RENSSELAER, SARATOGA, SCHENECTADY, SCHOMARIE, WARREN, WASHINGTON COUNTIES;
   (E) CENTRAL, CONSISTING OF BROOME, CAYUGA, CHEMUNG, CHENANGO, CORTLAND, HERKIMER, JEFFERSON, LEWIS, LIVINGSTON, MADISON, MONROE, ONEIDA, ONONDAGA, ONTARIO, OSWEGO, SCHUYLER, SENECA, ST. LAWRENCE, STEUBEN, TIOGA, TOMPKINS, WAYNE, YATES COUNTIES; AND
   (F) WESTERN, CONSISTING OF ALLEGANY, CATTARAUGUS, CHAUTAUQUA, ERIE, GENESEE, NIAGARA, ORLEANS, WYOMING COUNTIES.

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

4. APPOINTMENT OF MEMBERS OF THE REGIONAL ADVISORY COUNCILS.
   (A) THE TWENTY-SEVEN MEMBERS SHALL BE APPOINTED AS FOLLOWS:
      (I) NINE MEMBERS SHALL BE APPOINTED BY THE GOVERNOR;
      (II) SIX MEMBERS SHALL BE APPOINTED BY THE GOVERNOR ON THE RECOMMENDATION OF THE SPEAKER OF THE ASSEMBLY;
      (III) SIX MEMBERS SHALL BE APPOINTED BY THE GOVERNOR ON THE RECOMMENDATION OF THE TEMPORARY PRESIDENT OF THE SENATE;
      (IV) THREE MEMBERS SHALL BE APPOINTED BY THE GOVERNOR ON THE RECOMMENDATION OF THE MINORITY LEADER OF THE ASSEMBLY; AND

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

   (B) REGIONAL ADVISORY COUNCIL MEMBERSHIP SHALL INCLUDE BUT NOT BE LIMITED TO:
(I) REPRESENTATIVES OF HEALTH CARE CONSUMER ADVOCACY ORGANIZATIONS WITH A REGIONAL CONSTITUENCY, WHO SHALL REPRESENT AT LEAST ONE THIRD OF THE MEMBERSHIP OF EACH REGIONAL COUNCIL;
(II) REPRESENTATIVES OF PROFESSIONAL ORGANIZATIONS REPRESENTING PHYSICIANS;
(III) REPRESENTATIVES OF PROFESSIONAL ORGANIZATIONS REPRESENTING HEALTH CARE PROFESSIONALS OTHER THAN PHYSICIANS;
(IV) REPRESENTATIVES OF GENERAL HOSPITALS, INCLUDING PUBLIC HOSPITALS;
(V) REPRESENTATIVES OF COMMUNITY HEALTH CENTERS;
(VI) REPRESENTATIVES OF HEALTH CARE ORGANIZATIONS;
(VII) REPRESENTATIVES OF ORGANIZED LABOR; AND
(VIII) REPRESENTATIVES OF MUNICIPAL AND COUNTY GOVERNMENT.

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

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

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


9. EACH REGIONAL ADVISORY COUNCIL SHALL ADOPT, AND FROM TIME TO TIME REVISE, A COMMUNITY HEALTH IMPROVEMENT PLAN FOR ITS REGION FOR THE PURPOSE OF:
   (A) PROMOTING THE DELIVERY OF HEALTH CARE SERVICES IN THE REGION, IMPROVING THE QUALITY AND ACCESSIBILITY OF CARE, INCLUDING CULTURAL COMPETENCY, CLINICAL INTEGRATION OF CARE BETWEEN SERVICE PROVIDERS INCLUDING BUT NOT LIMITED TO PHYSICAL, MENTAL, AND BEHAVIORAL HEALTH, PHYSICAL AND DEVELOPMENTAL DISABILITY SERVICES, AND LONG-TERM CARE;
   (B) FACILITY AND HEALTH SERVICES PLANNING IN THE REGION;
   (C) IDENTIFYING GAPS IN REGIONAL HEALTH CARE SERVICES; AND
   (D) PROMOTING INCREASED PUBLIC KNOWLEDGE AND RESPONSIBILITY REGARDING THE AVAILABILITY AND APPROPRIATE UTILIZATION OF HEALTH CARE SERVICES. EACH COMMUNITY HEALTH IMPROVEMENT PLAN SHALL BE SUBMITTED TO THE COMMISSIONER AND THE BOARD AND SHALL BE POSTED ON THE DEPARTMENT’S WEBSITE.

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

11. EACH REGIONAL ADVISORY COUNCIL SHALL PUBLISH AN ANNUAL REPORT TO THE COMMISSIONER AND THE BOARD ON THE PROGRESS OF THE COMMUNITY HEALTH IMPROVEMENT PLAN. THESE REPORTS SHALL BE POSTED ON THE DEPARTMENT’S WEBSITE.
12. ALL MEETINGS OF THE REGIONAL ADVISORY COUNCILS AND COMMITTEES SHALL BE SUBJECT TO ARTICLE SIX OF THE PUBLIC OFFICERS LAW.

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

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

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

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

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

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

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

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

4. To the extent that the revenue proposal differs from the terms of subdivision two of this section, the revenue proposal shall state how it differs from those terms and reasons for and the effects of the differences.

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

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

TITLE III

COLLECTIVE NEGOTIATIONS BY HEALTH CARE PROVIDERS WITH NEW YORK HEALTH

SECTION 4920. DEFINITIONS.

4921. COLLECTIVE NEGOTIATION AUTHORIZED.

4922. COLLECTIVE NEGOTIATION REQUIREMENTS.

4923. REQUIREMENTS FOR HEALTH CARE PROVIDERS' REPRESENTATIVE.

4924. CERTAIN COLLECTIVE ACTION PROHIBITED.

4925. FEES.

4926. CONFIDENTIALITY.

4927. SEVERABILITY AND CONSTRUCTION.
1. "NEW YORK HEALTH" MEANS THE PROGRAM UNDER ARTICLE FIFTY-ONE OF THIS
   CHAPTER.

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

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

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

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

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

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

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

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

S 4922. COLLECTIVE NEGOTIATION REQUIREMENTS. 1. COLLECTIVE NEGOTIATION
   RIGHTS GRANTED BY THIS TITLE MUST CONFORM TO THE FOLLOWING REQUIREMENTS:
   (A) HEALTH CARE PROVIDERS MAY COMMUNICATE WITH OTHER HEALTH CARE
   PROVIDERS REGARDING THE TERMS AND CONDITIONS TO BE NEGOTIATED WITH NEW
   YORK HEALTH;
   (B) HEALTH CARE PROVIDERS MAY COMMUNICATE WITH HEALTH CARE PROVIDERS'
   REPRESENTATIVES;
   (C) A HEALTH CARE PROVIDERS' REPRESENTATIVE IS THE ONLY PARTY AUTHOR-
   RIZED TO NEGOTIATE WITH NEW YORK HEALTH ON BEHALF OF THE HEALTH CARE
   PROVIDERS AS A GROUP;
   (D) A HEALTH CARE PROVIDER CAN BE BOUND BY THE TERMS AND CONDITIONS
   NEGOTIATED BY THE HEALTH CARE PROVIDERS' REPRESENTATIVES; AND
   (E) IN COMMUNICATING OR NEGOTIATING WITH THE HEALTH CARE PROVIDERS'
   REPRESENTATIVE, NEW YORK HEALTH IS ENTITLED TO OFFER AND PROVIDE DIFFER-
   ENT TERMS AND CONDITIONS TO INDIVIDUAL COMPETING HEALTH CARE PROVIDERS.

2. NOTHING IN THIS TITLE SHALL AFFECT OR LIMIT THE RIGHT OF A HEALTH
   CARE PROVIDER OR GROUP OF HEALTH CARE PROVIDERS TO COLLECTIVELY PETITION
   A GOVERNMENT ENTITY FOR A CHANGE IN A LAW, RULE, OR REGULATION.
3. NOTHING IN THIS TITLE SHALL AFFECT OR LIMIT COLLECTIVE ACTION OR COLLECTIVE BARGAINING ON THE PART OF ANY HEALTH CARE PROVIDER WITH HIS OR HER EMPLOYER OR ANY OTHER LAWFUL COLLECTIVE ACTION OR COLLECTIVE BARGAINING.

S 4923. REQUIREMENTS FOR HEALTH CARE PROVIDERS' REPRESENTATIVE. BEFORE ENGAGING IN COLLECTIVE NEGOTIATIONS WITH NEW YORK HEALTH ON BEHALF OF HEALTH CARE PROVIDERS, A HEALTH CARE PROVIDERS' REPRESENTATIVE SHALL FILE WITH THE COMMISSIONER, IN THE MANNER PRESCRIBED BY THE COMMISSIONER, INFORMATION IDENTIFYING THE REPRESENTATIVE, THE REPRESENTATIVE'S PLAN OF OPERATION, AND THE REPRESENTATIVE'S PROCEDURES TO ENSURE COMPLIANCE WITH THIS TITLE.

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

2. NO HEALTH CARE PROVIDERS' REPRESENTATIVE SHALL NEGOTIATE ANY AGREEMENT THAT EXCLUDES, LIMITS THE PARTICIPATION OR REIMBURSEMENT OF, OR OTHERWISE LIMITS THE SCOPE OF SERVICES TO BE PROVIDED BY ANY HEALTH CARE PROVIDER OR GROUP OF HEALTH CARE PROVIDERS WITH RESPECT TO THE PERFORMANCE OF SERVICES THAT ARE WITHIN THE HEALTH CARE PROVIDER'S SCOPE OF PRACTICE, LICENSE, REGISTRATION, OR CERTIFICATE.

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

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

S 4927. SEVERABILITY AND CONSTRUCTION. IF ANY PROVISION OR APPLICATION OF THIS TITLE SHALL BE HELD TO BE INVALID, OR TO VIOLATE OR BE INCONSISTENT WITH ANY APPLICABLE FEDERAL LAW OR REGULATION, THAT SHALL NOT AFFECT OTHER PROVISIONS OR APPLICATIONS OF THIS TITLE WHICH CAN BE GIVEN EFFECT WITHOUT THAT PROVISION OR APPLICATION; AND TO THAT END, THE PROVISIONS AND APPLICATIONS OF THIS TITLE ARE SEVERABLE. THE PROVISIONS OF THIS TITLE SHALL BE LIBERALLY CONSTRUED TO GIVE EFFECT TO THE PURPOSES THEREOF.

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

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

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

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

2. THE FUND SHALL CONSIST OF:
(A) ALL MONIES OBTAINED FROM PREMIUMS PURSUANT TO LEGISLATION ENACTED AS PROPOSED UNDER SECTION THREE OF THE NEW YORK HEALTH ACT;
(B) FEDERAL PAYMENTS RECEIVED AS A RESULT OF ANY WAIVER OF REQUIREMENTS GRANTED OR OTHER ARRANGEMENTS AGREED TO BY THE UNITED STATES SECRETARY OF HEALTH AND HUMAN SERVICES OR OTHER APPROPRIATE FEDERAL OFFICIALS FOR HEALTH CARE PROGRAMS ESTABLISHED UNDER MEDICARE, ANY FEDERALLY-MATCHED PUBLIC HEALTH PROGRAM, OR THE AFFORDABLE CARE ACT;
(C) THE AMOUNTS PAID BY THE DEPARTMENT OF HEALTH THAT ARE EQUIVALENT TO THOSE AMOUNTS THAT ARE PAID ON BEHALF OF RESIDENTS OF THIS STATE UNDER MEDICARE, ANY FEDERALLY-MATCHED PUBLIC HEALTH PROGRAM, OR THE AFFORDABLE CARE ACT FOR HEALTH BENEFITS WHICH ARE EQUIVALENT TO HEALTH BENEFITS COVERED UNDER NEW YORK HEALTH;
(D) FEDERAL AND STATE FUNDS FOR PURPOSES OF THE PROVISION OF SERVICES AUTHORIZED UNDER TITLE XX OF THE FEDERAL SOCIAL SECURITY ACT THAT WOULD OTHERWISE BE COVERED UNDER ARTICLE FIFTY-ONE OF THE PUBLIC HEALTH LAW; AND
(E) STATE MONIES THAT WOULD OTHERWISE BE APPROPRIATED TO ANY GOVERNMENTAL AGENCY, OFFICE, PROGRAM, INSTRUMENTALITY OR INSTITUTION WHICH PROVIDES HEALTH SERVICES, FOR SERVICES AND BENEFITS COVERED UNDER NEW YORK HEALTH. PAYMENTS TO THE FUND PURSUANT TO THIS PARAGRAPH SHALL BE IN AN AMOUNT EQUAL TO THE MONEY APPROPRIATED FOR SUCH PURPOSES IN THE FISCAL YEAR BEGINNING IMMEDIATELY PRECEDING THE EFFECTIVE DATE OF THE NEW YORK HEALTH ACT.

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

S 8. Temporary commission on implementation. 1. There is hereby established a temporary commission on implementation of the New York Health program, hereinafter to be known as the commission, consisting of fifteen members: five members, including the chair, shall be appointed by the governor; four members shall be appointed by the temporary president of the senate, one member shall be appointed by the senate minority leader; four members shall be appointed by the speaker of the assembly, and one member shall be appointed by the assembly minority leader. The commissioner of health, the superintendent of financial services, and the commissioner of taxation and finance, or their designees shall serve as non-voting ex-officio members of the commission.
2. Members of the commission shall receive such assistance as may be necessary from other state agencies and entities, and shall receive necessary expenses incurred in the performance of their duties. The commission may employ staff as needed, prescribe their duties, and fix their compensation within amounts appropriated for the commission.
3. The commission shall examine the laws and regulations of the state and make such recommendations as are necessary to conform the laws and regulations of the state and article 51 of the public health law establishing the New York Health program and other provisions of law relating to the New York Health program, and to improve and implement the program. The commission shall report its recommendations to the governor and the legislature. The commission shall immediately begin development of proposals consistent with the principles of this article for provision of long-term care coverage; health care services covered under the workers' compensation law; and incorporation of retiree health benefits, as described in paragraphs (a), (b) and (c) of subdivision eight of section fifty-one hundred two of this article. The commission shall
provide its work product and assistance to the board established pursuant to section fifty-one hundred two of this article upon completion of the appointment of the board.

S 9. Severability. If any provision or application of this act shall be held to be invalid, or to violate or be inconsistent with any applicable federal law or regulation, that shall not affect other provisions or applications of this act which can be given effect without that provision or application; and to that end, the provisions and applications of this act are severable.

S 10. This act shall take effect immediately.