§ 1109. Limited exemption for health maintenance organizations. (a) An organization complying with the provisions of article forty-four of the public health law may operate without being licensed under this chapter and without being subject to any provisions of this chapter, except: (1) to the extent that such organization must comply with the provisions of this chapter by virtue of such article, and (2) the provisions of sections three hundred eight, one thousand three hundred one, one thousand three hundred two, one thousand three hundred seven, one thousand three hundred twenty-two, with regard to health maintenance organizations that are domiciled in this state and certified or operating in at least one other state, two thousand one hundred three, two thousand one hundred twelve, two thousand one hundred fourteen, two thousand one hundred fifteen, two thousand one hundred seventeen, two thousand one hundred twenty-three, two thousand six hundred eight-a, two thousand six hundred twelve, three thousand two hundred twenty-four-a, four thousand three hundred eight, four thousand three hundred seventeen, four thousand three hundred eighteen, four thousand three hundred twenty, four thousand three hundred twenty-one, four thousand three hundred twenty-two and four thousand three hundred twenty-three of this chapter.

(b) An organization which provides health care services for a periodic fee paid in advance but which does not comply with the provisions of article forty-four of the public health law shall be deemed to be engaged in the business of insurance and may not operate without being licensed under this chapter.

(c) An organization referred to in subsection (a) or (b) hereof shall be subject to article seventy-four of this chapter.

(d) A health maintenance organization may make any investment permitted for a health service corporation organized pursuant to article forty-three of this chapter provided that the superintendent, after consultation with the commissioner of health, may modify such investment requirements, if such modification would permit the organization to more effectively implement its program without incurring undue risk to its subscribers.

(e) The superintendent may promulgate regulations in effectuating the purposes and provisions of this chapter and article forty-four of the public health law and may modify requirements applicable to the

contracts between a health maintenance organization and its subscribers, subject to such limitations as the superintendent shall deem necessary or proper to insure the performance of such contracts.