§ 4705. Municipal cooperation agreements. (a) The municipal cooperation agreement, under which the municipal cooperative health benefit plan is established and maintained, and any amendment thereto, shall be approved by each participating municipal corporation by majority vote of each such corporation's governing body, and shall:

(1) specify all municipal corporations participating in the municipal cooperative health benefit plan and describe the form or type of municipal corporations eligible for participation;

(2) state that all participating municipal corporations agree to share the costs of and assume the liabilities for medical, surgical and hospital benefits provided under the municipal cooperative health benefit plan to the covered employees (including retirees) and their dependents of all participating municipal corporations;

(3) state that each participating municipal corporation agrees to pay on demand such municipal corporation's share of any assessment ordered by the governing board of the municipal cooperative health benefit plan or by the superintendent under this article or article seventy-four of this chapter;

(4) specify the eligibility requirements for membership in and coverage by the municipal cooperative health benefit plan, including reasonable geographic boundaries (if any) of such plan, provided that no municipal cooperation agreement shall include any provision restricting or otherwise limiting the right to participate in the plan of a municipal corporation of the same type which provides satisfactory proof of its financial responsibility and which is located within the geographic region in which the municipal cooperative health benefit plan operates;

(5) not include any provision restricting or otherwise limiting the right of eligible employees (including retirees and dependents) of a participating municipal corporation to enroll for coverage in the plan;

(6) designate the fiscal officer of a participating municipal corporation to be the chief fiscal officer of the municipal cooperative health benefit plan;

(7) designate the plan's attorney-in-fact to receive service of summons or other legal process in any action, suit or proceeding arising out of any contract, agreement or transaction involving such municipal cooperative health benefit plan; and

(8) establish a governing board to be responsible for the management, control and administration of the municipal cooperative health benefit plan, provided any municipal cooperative agreement to establish such a plan which is entered into after the effective date of this article shall provide that unions which are the exclusive collective bargaining representatives of employees who are covered by such health benefit plan shall be entitled to representation on such governing board.

(b) The municipal cooperation agreement shall provide that the plan's chief fiscal officer:

(1) shall have custody of all moneys received by the municipal cooperative health benefit plan or made available for expenditure under the plan;

(2) shall, notwithstanding any provision of the general municipal law, make payment in accordance with procedures developed by the plan's governing board and acceptable to the superintendent;

(3) may invest moneys not required for immediate expenditure in the types of investment specified in the general municipal law or the education law (as applicable) for temporary investments or as otherwise expressly permitted by the superintendent; and

(4) shall receive no remuneration, except that the participating municipal corporation employing the chief fiscal officer may be reimbursed for reasonable expenses incurred in connection with the duties of such fiscal officer in connection with the plan.

(c) A municipal cooperation agreement shall include a provision:

(1) describing the composition, number and procedures under which governing board members are chosen, provided that, for those agreements entered into after the effective date of this article, the governing board shall include representation by unions which are the exclusive collective bargaining representatives of employees covered by the plan, and that such unions shall establish and agree to the procedures by which the member or members of the governing board which represent unions are selected;

(2) designating one governing board member to have custody of all reports, statements and other documents of the plan; and

(3) that the governing board shall meet at least annually at a time and place in this state designated in accordance with the agreement.

(d) The municipal cooperation agreement shall provide that the

governing board:

(1) shall design the plan of benefits provided by the municipal cooperative health benefit plan and prepare the plan document and summary plan description in accordance with section four thousand seven hundred nine of this article;

(2) may enter into an agreement with a contract administrator or other service provider, determined by the governing board to be qualified, to receive, investigate, recommend, audit, approve or make payment of claims under the municipal cooperative health benefit plan, provided that:

(A) the charges, fees and other compensation for any contracted services shall be clearly stated in written administrative services contracts as required in subdivision six of section ninety-two-a of the general municipal law;

(B) payment for contracted services shall be made only after such services are rendered;

(C) no member of the plan's governing board or any member of such member's immediate family shall be an owner, officer, director, partner, or employee of any contract administrator retained by the plan; and

(D) all such agreements shall comply with the requirements of subdivision six of section ninety-two-a of the general municipal law.

(3) shall be authorized to purchase stop-loss insurance, to the extent required by section four thousand seven hundred seven of this article, on behalf of the municipal cooperative health benefit plan;

(4) shall be authorized to establish a joint fund or funds to finance all plan expenditures, including claims, reserves, surplus, administration, stop-loss insurance and other expenses;

(5) shall prepare an annual budget for the municipal cooperative health benefit plan to determine the premium equivalent rates for participating municipal corporations to be deposited in the plan's joint fund or funds during the fiscal year, provided that:

(A) the governing board shall designate the bank or trust company in which joint funds, including reserve funds, are to be deposited and which shall be located in this state, duly chartered under federal law or the laws of this state; and

(B) the governing board shall establish premium equivalent rates for participating municipal corporations on the bases of a community rating

methodology filed with and approved by the superintendent and, in determining the annual premium equivalent rates, the governing board:

(i) may contract for necessary actuarial services to estimate expected plan expenditures during the fiscal year;

(ii) shall maintain reserves in amounts equal to or exceeding the minimum amounts required by section four thousand seven hundred six of this article; and

(iii) shall maintain a stop-loss policy or policies, to the extent required by section four thousand seven hundred seven of this article;

(6) shall be authorized to assess participating municipal corporations for additional contributions, if actual losses due to benefits paid out, administrative expenses and reserve and surplus requirements exceed amounts held in the plan's joint funds; and

(7) shall be authorized to refund amounts in excess of reserves and surplus required by section four thousand seven hundred six of this article and anticipated expenses in the plan's joint funds to participating municipal corporations, or to retain such excess amounts or a portion thereof and apply such amounts in preparing the plan's budget for the following year.

(e) The municipal cooperation agreement shall provide for the following to be prepared and furnished to the governing board, to participating municipal corporations, to unions which are the exclusive bargaining representatives of employees covered by the plan and to the superintendent:

(1) an annual audit, and opinions thereon, by an independent certified public accountant, of the financial condition, accounting procedures and internal control systems of the municipal cooperative health benefit plan;

(2) an annual report and quarterly reports describing the plan's current financial status; and

(3) an annual independent actuarial opinion on the financial soundness of the plan, including the actuarial soundness of contribution or premium equivalent rates and reserves, both as paid in the current year and projected for the next fiscal year.

(f) The municipal cooperation agreement shall specify the rights and obligations of a municipal corporation withdrawing from a municipal cooperative health benefit plan to any contribution (or premium

equivalent) refund or reserve fund or for any contingent assessment liability or other obligation.

(g) Every municipal cooperation agreement shall contain a provision stating that nothing contained in such agreement shall be construed to waive any right a covered person possesses with respect to the confidentiality of medical records and that such right may only be waived upon the written consent of such covered person.