§ 19. Reasonable charges for medicare beneficiaries. 1. No physician licensed under article one hundred thirty-one of the education law shall charge from a beneficiary of health insurance under title XVIII of the federal social security act (medicare) any amount in excess of the following limitations:

(a) Effective January first, nineteen hundred ninety-one, a physician's charge shall not exceed one hundred fifteen percent of the reasonable charge for that service as determined by the United States secretary for health and human services.

(b) Beginning January first, nineteen hundred ninety-three, a physician's charge shall not exceed one hundred ten percent of the reasonable charge for that service as determined by the United States secretary for health and human services, provided however, that if the statewide percentage of medicare part B claims billed at or below the reasonable charge as determined by the United States secretary for health and human services for federal fiscal year nineteen hundred eighty-nine fails to increase by five percentage points for federal fiscal year nineteen hundred ninety-two, such physician's charge shall, thereafter, not exceed one hundred five percent of the reasonable charge as determined by the United States secretary for health and human services. If, in any subsequent federal fiscal year, such statewide percentage of medicare part B claims billed at or below such reasonable charge fails to maintain such five percentage point increase, physician's charge shall thereafter not exceed one hundred five percent of the reasonable charge as determined by the United States secretary for health and human services.

2. The charge limitation set forth in subdivision one of this section shall not apply if the service which such beneficiary is to be billed is either an office or home visit as set forth in procedure codes 90000 through 90170 in the Physician Current Procedural Terminology 4th Edition 1989.

3. The state office for the aging shall, through agreement with carriers and/or intermediaries contracted with by the federal government in this state pursuant to title XVIII of the federal social security act (medicare), obtain the percentages of physician's bills submitted at or

below the reasonable charge as established by the United States secretary for health and human services, and shall issue a report by December first, nineteen hundred ninety-two and every December first, thereafter, stating whether the percentage of bills submitted at or below such reasonable charge for federal fiscal year nineteen hundred ninety-two increased by five percentage points over the statewide percentage of bills submitted at or below such reasonable charge for federal fiscal year nineteen hundred eighty-nine and whether such percentage has been maintained for each successive federal fiscal year after nineteen hundred ninety-two.

4. Notwithstanding any inconsistent provision of this chapter, a physician who is determined, after opportunity for a hearing, to have violated the provisions of this section shall be subject for the first violation to a fine of not more than one thousand dollars nor less than the greater of three times the amount collected, or, if not collected, three times the amount charged, in excess of the limitations set forth in subdivision one of this section, and, for each additional violation committed within five years of the date of an immediately preceding violation of this section, to a fine of not more than five thousand dollars nor less than the greater of one thousand dollars or three times the amount collected, or, if not collected, three times the amount charged, in excess of the limitations set forth in subdivision one of this section; provided, however, that in no event shall the fine for an individual violation of this section be greater than five thousand dollars. In addition, where the provisions of this section have been violated, the physician shall refund to the beneficiary the amount collected in excess of the limitations set forth in subdivision one of this section.