§ 2803-i. General hospital inpatient discharge review program. 1. A general hospital inpatient discharge review program applicable to all patients other than beneficiaries of title XVIII of the federal social security act (medicare) shall be established in accordance with this section. No general hospital inpatient subject to the provisions of this section may be discharged on the basis that inpatient hospital service in a general hospital is no longer medically necessary and that an appropriate discharge plan has been established unless a written notice of such determinations and a copy of the discharge plan have been provided to the patient or the appointed personal representative of the patient. The patient or the appointed personal representative of the patient shall have the opportunity to sign the notice and a copy of the discharge plan and receive a copy of both signed documents. Every general hospital shall use a common notice developed and disseminated in accordance with rules and regulations adopted by the council and approved by the commissioner which shall indicate that the patient is to be discharged, shall state the reasons therefor and shall state that the patient may request a review of such determinations. The patient, or the appointed personal representative of the patient may request a review of such determinations by the appropriate independent professional review agent (or "review agent") in accordance with subdivision four of this section. Notwithstanding that the patient discharge review process provided in accordance with federal law and regulation shall apply to beneficiaries of title XVIII of the federal social security act (medicare), a written copy of the discharge plan, and discharge notice shall be provided to the beneficiary or the appointed personal representative of the beneficiary. The beneficiary or the appointed personal representative of the beneficiary shall have the opportunity to sign the documents and receive a copy of the signed documents.

2. (a) For patients eligible for payments by state governmental agencies for general hospital inpatient services as the patient's primary payor, an independent professional review agent shall mean the commissioner or his designee. In conducting general hospital inpatient discharge reviews in accordance with this section, the commissioner may utilize the services of department personnel or other authorized representatives, including a review agent approved in accordance with

paragraph (b) of this subdivision.

(b) For patients who are not beneficiaries of title XVIII of the federal social security act (medicare) nor eligible for payments by state governmental agencies as the patient's primary payor, an independent professional review agent shall mean a third party payor of hospital services or other corporation approved by the commissioner in writing for purposes of conducting general hospital inpatient discharge reviews in accordance with this section. For a third party payor of hospital services or other corporation to be approved as an independent professional review agent in accordance with this paragraph, such third party payor or other corporation must meet the following criteria: (i) the review agent shall employ or otherwise secure the services of adequate medical personnel qualified to determine the necessity of continued inpatient hospital services and the appropriateness of hospital discharge plans; (ii) the review agent shall demonstrate the ability to render review decisions in a timely manner as provided in this section; (iii) the review agent shall agree to provide ready access by the commissioner to all data, records and information it collects and maintains concerning its review activities under this section; (iv) the review agent shall agree to provide to the commissioner such data, information and reports as the commissioner determines necessary to evaluate the review process provided pursuant to this section; (v) the review agent shall provide assurances that review personnel shall not have a conflict of interest in conducting a discharge review for a patient based on hospital or professional affiliation; and (vi) the review agent meets such other performance and efficiency criteria regarding the conduct of reviews pursuant to this section established by the commissioner. The commissioner may withdraw approval of an independent professional review agent where such review agent fails to continue to meet approval criteria established pursuant to this paragraph.

(c) (i) Each general hospital shall enter into contracts with one or more independent professional review agents approved by the commissioner in accordance with paragraph (b) of this subdivision for purposes of conducting general hospital inpatient discharge reviews in accordance with this section for patients, including uncompensated care patients, who are not beneficiaries of title XVIII of the federal social security

act (medicare) nor eligible for payments by state governmental agencies as the patients' primary payor; provided, however, a payor of hospital service included in the payor categories specified in paragraph (a) of subdivision one of section twenty-eight hundred seven-c of this article, other than state governmental agencies, may designate the review agent for their subscribers or beneficiaries or enrolled members and shall reimburse such designated review agent for costs of the discharge review program.

(ii) Notwithstanding any inconsistent provision of law, general hospital contract costs incurred in accordance with subparagraph (i) of this paragraph may be included as an additional charge for general hospital inpatient services in determining patient charges for payors included in the payor categories specified in paragraph (c) of subdivision one of section twenty-eight hundred seven-c of this article, or as a charge in addition to rates of payment for general hospital inpatient services in determining payment due for payors included in the payor categories specified in paragraph (b) of subdivision one of section twenty-eight hundred seven-c of this article, or paragraph (a) of such subdivision one if a payor has not designated a review agent for such payor's subscribers or beneficiaries or enrolled members, or paragraph (a) or (b) of subdivision two of section twenty-eight hundred seven-c of this article. Such additional charges shall not be subject to maximum charge or rate of payment ceilings determined in accordance with section twenty-eight hundred seven-c of this article for such payors.

3. (a) If a general hospital and the attending physician agree that inpatient hospital service in a general hospital is no longer medically necessary for a patient, other than a beneficiary of title XVIII of the federal social security act (medicare), and an appropriate discharge plan has been established for such patient, at that time the hospital shall provide the patient or the appointed personal representative of the patient with a written discharge notice and a copy of the discharge plan, meeting the requirements of subdivision one of this section.

(b) If a general hospital has determined that inpatient hospital service in a general hospital is no longer medically necessary for a patient, other than a beneficiary of title XVIII of the federal social security act (medicare), and an appropriate discharge plan has been

established for such patient but the attending physician has not agreed with the hospital's determinations, the hospital may request by telephone a review of the validity of the hospital's determinations by the appropriate independent professional review agent. Such review agent shall conduct a review of the hospital's determinations and prior to the conclusion of the review shall provide an opportunity to the treating physician and an appropriate representative of the hospital to confer and provide information which may include the patient's clinical records if requested by the review agent. Such review agent shall notify the hospital of the results of its review not later than one working day after the date the review agent has received the request, the records required to conduct such review, and the date of such conferring and receipt of any additional information requested. The hospital shall provide notice to the attending physician of the results of the review. If the review agent concurs with the hospital's determinations, the hospital shall provide the patient or his appointed personal representative with a written notice of such determinations and notice that the patient shall be financially responsible for continued stay, and with a copy of the proposed discharge plan. The patient or the appointed personal representative of the patient shall have the opportunity to sign the notice and a copy of the proposed discharge plan and receive a copy of both signed documents. Every general hospital shall use a common notice developed and disseminated in accordance with rules and regulations adopted by the council and approved by the commissioner which shall indicate the determinations made, shall state the reasons therefor and that the patient's attending physician has disagreed and shall state that the patient or the appointed personal representative of the patient may request a review of such determinations by the appropriate review agent.

4. A patient in a general hospital, or the appointed personal representative of the patient, who receives a written notice in accordance with paragraph (a) or (b) of subdivision three of this section, may request a review by the appropriate review agent of the determinations set forth in such notice related to medical necessity of continued inpatient hospital service, the appropriateness of the discharge plan and the availability of required continuing health care

services.

(a) If a patient while still hospitalized or while no longer an inpatient, or the appointed personal representative of such patient, requests a review by the appropriate review agent, the hospital shall promptly provide to the review agent the records required to review the determinations. Such request for a patient no longer an inpatient shall take place no later than thirty days after receipt of a notice provided in accordance with subdivision three of this section or seven days after receipt of a complete bill for all inpatient services rendered, whichever is later. The review agent shall conduct a review of such determinations and shall provide the treating physician and an appropriate representative of the hospital with an opportunity to confer and provide information prior to the conclusion of the review. The review agent shall provide written notice to the patient, or the appointed personal representative of the patient, and the hospital of the results of the review within three working days of receipt of the requests for review and the records required to review the determinations. The hospital shall provide notice to the attending physician of the results of the review.

(b) Notwithstanding the provisions of paragraph (a) of this subdivision, if a patient while still an inpatient in the general hospital, or the appointed personal representative of the patient, requests a review by the appropriate review agent not later than noon of the first working day after the date the patient, or the appointed personal representative of the patient, receives the written notice, the hospital shall provide to the appropriate review agent the records required to review the determinations by the close of business of such working day. The appropriate review agent shall conduct a review of such determinations and provide written notice to the patient, or the appointed personal representative of the patient, and the hospital of the results of the review not later than one full working day after the date the review agent has received the request for review and such records. The hospital shall provide notice to the attending physician of the results of the review.

5. Notwithstanding any inconsistent provision of law, if the appropriate review agent, upon any review conducted pursuant to

paragraph (b) of subdivision three or pursuant to subdivision four of this section does not concur in the determinations, continued stay in a general hospital shall be deemed necessary and appropriate for the patient for purposes of payment for such continued stay in accordance with section twenty-eight hundred seven-c of this article.

6. If a patient eligible for payment for inpatient hospital services under a case based payment per discharge determined in accordance with section twenty-eight hundred seven-c of this article, or the appointed personal representative of the patient, requests a review by the appropriate review agent in accordance with paragraph (b) of subdivision four of this section, the hospital may not demand or request any payment for additional inpatient hospital services provided to such patient subsequent to the proposed time of discharge and prior to noon of the day after the date the patient or the appointed personal representative of the patient receives notice of the results of the review by the review agent other than payment determined in accordance with section twenty-eight hundred seven-c of this article and deductibles, copayments, or other charges that would be authorized for a patient for whom inpatient hospital services in a general hospital continue to be necessary and appropriate.

7. In any review conducted pursuant to paragraph (b) of subdivision three or pursuant to subdivision four of this section, the review agent shall solicit the views of the patient involved, or the appointed personal representative of the patient, and the attending physician.

8. Each patient, or the appointed personal representative of the patient, provided a notice by a general hospital in accordance with subdivision three of this section shall be provided at such time by the hospital with a notice, in a form developed in accordance with rules and regulations adopted by the council and approved by the commissioner, of such patient's right to request a discharge review in accordance with this section. The patient or the appointed personal representative of the patient shall have the opportunity to sign this form and receive a copy of the signed form.

9. Upon discharge of a blind or visually impaired patient, a hospital shall offer to provide the patient's discharge plan in a large print version or, at the patient's or patient's representative's request, as an audio recording, to be made available to such patient or such patient's representative on compact disc or other medium as the hospital may offer, or as an electronically transmitted digital file, in addition to a written copy of the discharge plan.

10. The council shall adopt rules and regulations, subject to the approval of the commissioner, necessary to implement this section.