§ 2815-a. Community health care revolving capital fund. 1. Definitions. As used in this section, the following words and phrases shall have the following meanings unless a different meaning is plainly required by the context:

a. "Administrator" shall mean a not for profit Community Development Financial Institution CDFI that is certified by the U.S. Treasury community development financial fund, has experience financing projects in the New York state healthcare sector and otherwise meets the requirements of this section.

b. "Dormitory authority" or "authority" shall mean the dormitory authority of the state of New York created by title four of article eight of the public authorities law which has succeeded to the powers, functions and duties of the medical care facilities finance agency pursuant to chapter eighty-three of the laws of nineteen hundred ninety-five.

c. "Participating borrower" shall mean a community-based health care provider, which for the purposes of this section, shall be defined as diagnostic and treatment center licensed or granted an operating certificate under article twenty-eight of this chapter, a mental health clinic licensed or granted an operating certificate under article thirty-one of the mental health law; or an alcohol and substance abuse treatment clinic licensed or granted an operating certificate under article thirty-two of the mental hygiene law, each organized under the laws of this state.

d. "Revolving capital fund" shall mean community health care revolving capital fund authorized to be established by the dormitory authority and administered pursuant to this section.

2. Revolving capital fund. The dormitory authority shall, within amounts appropriated, establish the community health care revolving capital fund. Monies in the revolving capital fund shall be utilized for the purpose of making loans to qualifying participating borrowers to improve access to affordable capital financing to expand and improve

capacity to provide health care in the State. Funds shall be transferred by the commissioner to the dormitory authority for deposit in the revolving capital fund in an amount as authorized by appropriation. Monies in the fund shall be: (a) held by the authority pursuant to this section as custodian pursuant to an agreement with the commissioner until transferred to the administrator pursuant to this section, and (b) invested by the authority in accordance with the investment guidelines of the authority during said custodial period. All investment income shall be credited to, and shall be deposited in, the revolving capital fund.

3. Administration agreement. The commissioner and the authority shall enter into an agreement, subject to the approval of the director of the budget, for the purpose of administering the funds in the revolving capital fund through an administrator. A copy of such agreement, and any amendments thereto, shall be provided to the chair of the senate finance committee, the director of the division of budget, and the chair of the assembly ways and means committee. The agreement shall specify that the administrator shall administer the community health care revolving capital fund in a manner that will benefit the public health by encouraging improvements in the community health care delivery system in the state, in compliance with all applicable laws, rules, regulations and other requirements.

4. Agreement with the administrator. The dormitory authority shall, in consultation with the commissioner, enter into an agreement with the administrator. Such agreement shall provide for the administration of the revolving capital fund administrator, in accordance with the requirements of this section, the commissioner and dormitory authority and all applicable laws, rules, regulations and other requirements. Upon the effective date of the agreement, custody of, and responsibility for, the revolving capital fund shall be transferred from the dormitory authority to the administrator, subject to the requirements of the agreement. Such agreement shall include, but not be limited to, the following provisions:

a. That the administrator shall be responsible for the receipt,

management and expenditure of monies held in the revolving capital fund;

b. That the administrator shall maintain books and records pertaining to all monies received and disbursed pursuant to this section and the agreement;

c. That monies in such revolving capital fund shall be utilized for the purpose of making loans to qualifying participating borrowers, to provide participating borrowers with improved access to affordable capital to expand and improve preventive or primary care capacity;

d. That participating borrowers shall be chosen by the administrator through an application process approved by the authority and the commissioner;

e. That eligible uses of funds so loaned to participating borrowers shall include but not be limited to: (i) eligible costs as described in paragraph (f) of this subdivision, attributable to the proposed construction, reconstruction, renovation, rehabilitation, refurbishing, expansion, upgrading and equipping of a participating borrower's community-based health care facility; (ii) reserves for credit enhancement including loan guarantees; (iii) loan loss and debt service reserves and subordinated loans; and (iv) facility financing, including loans for predevelopment, acquisition and construction, permanent financing and bridge loans;

f. That eligible costs under this section shall include, but not be limited to, all hard construction costs and associated professional and other costs, furniture, fixtures and equipment, including health information technology, acquisition, predevelopment due diligence, initial operating expenses and working capital;

g. That the administrator administering the revolving capital fund shall report quarterly on the transactions in the revolving capital fund in a form and manner specified by the authority in consultation with the commissioner, including but not limited to: receipts or deposits to the fund, disbursements, loans or credit enhancement made from the fund,

investment income, and the balance on hand as of the end of the month for each such quarter;

h. That the administrator shall be required to invest monies on deposit in the fund in accordance with investment guidelines meeting the requirements of the department and dormitory authority, and all investment income shall be credited to, and any repayment of loans as hereinafter provided shall be deposited in, the revolving capital fund, and spent therefrom only for the purposes set forth in this section;

i. That only the reasonable expenses of the administrator, as determined by the commissioner and president of the authority, incurred in the establishment and administration of the revolving capital loan program (including the retention of professionals and consultants, if any) may be paid or reimbursed from the revolving capital fund;

j. That revolving capital fund monies shall be held in trust and used for the benefit of eligible community-based health care facility capital projects; and

k. Any other term or condition as determined by the authority, in consultation with the commissioner.

5. Loan documentation. Loans from the revolving capital fund shall be made pursuant to a written loan agreement between the administrator and the participating borrower, specifying the terms thereof including repayment terms. The loan agreement shall be in such form and content as shall be acceptable to the commissioner and dormitory authority, and may include such other any further written documentation and/or agreements as shall be required in the judgment of the commissioner and dormitory authority, including but not limited to all required filings under the Uniform Commercial Code.