§ 2821. State electronic health records (EHR) loan program. 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) "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.

(b) "Eligible health care provider" shall mean any health care provider organized under the laws of this state eligible to receive federal funds, which has been approved for participation in this program by the commissioner.

(c) "EHR loan fund" shall mean the certified electronic health records technology loan fund authorized to be established by the authority pursuant to this section.

2. The authority shall establish the EHR loan fund. Funds shall be transferred or appropriated to the authority for deposit in the EHR loan fund as authorized pursuant to any provision of law. Funds in the EHR loan fund shall be held by the authority pursuant to this section as custodian, administered by the authority pursuant to an agreement with the commissioner and invested by the authority in accordance with the investment guidelines of the authority. All investment income shall be credited to, and any repayments of loans as hereinafter provided shall be deposited in, the EHR loan fund, and spent therefrom only for the purposes set forth in this section.

3. The commissioner and the authority shall enter into an agreement, subject to the approval of the director of the division of the budget, for the purpose of administering the moneys in the EHR loan fund in a manner that will benefit the public health by encouraging improvements in the health care delivery system through the use of information technology in the state. Such agreement shall include, but not be limited to, the following provisions:

(a) for the receipt, management and expenditure of funds held in the EHR loan fund by the authority;

(b) for the development of program components, including but not limited to provider eligibility and terms and conditions of loans, and for the development and implementation of strategic plans for eligible health care providers, addressing the development of meaningful electronic health record improvements, including strategies for facilitating the purchase of certified electronic health records technology, enhancing the utilization of certified electronic health records technology, training personnel in the use of such technology and supporting the secure exchange of electronic health information to and from electronic health records; and

(c) other requirements set forth by the Secretary of the United States Department of Health and Human Services with respect to the state EHR loan fund for the expenditure by the authority from the EHR loan fund to reimburse the authority and the department for the cost of administering the loan fund.

4. Any eligible health care provider may apply for EHR loan funds to the extent such funds are derived from deposits made pursuant to law by the state. The commissioner and the authority shall consider the extent to which an eligible health care provider can provide matching funds that may be required by law.

5. To the extent funds are available from an eligible health care provider, expenditures from the EHR loan fund shall be repaid to the EHR loan fund from repayments received by the authority, from an eligible health care provider pursuant to the terms of any financing agreement, mortgage or loan document permitting the recovery from the eligible health care provider of such expenditures. The authority shall record the account for all such payments, which shall be deposited in the EHR loan fund account.

6. Loans from the EHR loan fund shall be made pursuant to an agreement with the eligible health care provider specifying the terms thereof, including repayment terms. The authority shall record and account for all such repayments, which shall be deposited in the EHR loan fund. The authority shall report annually to the director of the division of budget, the chair of the senate finance committee and the chair of the

assembly ways and means committee, on the transactions in the EHR loan fund, including but not limited to deposits to the fund, loans made from the fund, investment income, and the balance on hand as of the end of each year.

7. The commissioner is authorized, with the assistance and cooperation of the authority, to provide a program of technical assistance for eligible health care providers.

8. The commissioner may promulgate regulations, including emergency regulations, to implement the provisions of this section.