

SENATE, No. 2072

STATE OF NEW JERSEY
215th LEGISLATURE

INTRODUCED JUNE 14, 2012

Sponsored by:

Senator THOMAS H. KEAN, JR.

District 21 (Morris, Somerset and Union)

Senator JOSEPH F. VITALE

District 19 (Middlesex)

SYNOPSIS

Reorganizes and renames DHSS as Department of Health; establishes Division of Aging Services in DHS.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/15/2012)

1 **AN ACT** reorganizing and renaming the Department of Health and
2 Senior Services as the Department of Health, establishing a
3 Division of Aging Services in the Department of Human
4 Services and transferring certain services for senior citizens from
5 the Department of Health and Senior Services to the division,
6 revising various parts of the statutory law, and supplementing
7 Titles 26 and 30 of the Revised Statutes.

8
9 **BE IT ENACTED** *by the Senate and General Assembly of the State*
10 *of New Jersey:*

11
12 1. Section 10 of P.L.2004, c.17 (C.2A:62A-1.3) is amended to
13 read as follows:

14 10. a. If an individual's actual health care facility duty,
15 including on-call duty, does not require a response to a patient
16 emergency situation, a health care professional who, in good faith,
17 responds to a life-threatening emergency or responds to a request
18 for emergency assistance in a life-threatening emergency within a
19 hospital or other health care facility, is not liable for civil damages
20 as a result of an act or omission in the rendering of emergency care.
21 The immunity granted pursuant to this section shall not apply to
22 acts or omissions constituting gross negligence, recklessness, or
23 willful misconduct.

24 b. The provisions of subsection a. of this section shall not
25 apply to a health care professional if a provider-patient relationship
26 existed before the emergency, or if consideration in any form is
27 provided to the health care professional for the service rendered.

28 c. The provisions of subsection a. of this section do not
29 diminish a general hospital's responsibility to comply with all
30 Department of Health **[and Senior Services]** licensure requirements
31 concerning medical staff availability at the hospital.

32 d. A health care professional shall not be liable for civil
33 damages for injury or death caused in an emergency situation
34 occurring in the health care professional's private practice or in a
35 health care facility on account of a failure to inform a patient of the
36 possible consequences of a medical procedure when the failure to
37 inform is caused by any of the following:

38 (1) the patient was unconscious;

39 (2) the medical procedure was undertaken without the consent
40 of the patient because the health care professional reasonably
41 believed that the medical procedure should be undertaken
42 immediately and that there was insufficient time to fully inform the
43 patient; or

44 (3) the medical procedure was performed on a person legally
45 incapable of giving informed consent, and the health care

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 professional reasonably believed that the medical procedure should
2 be undertaken immediately and that there was insufficient time to
3 obtain the informed consent of the person authorized to give such
4 consent for the patient.

5 The provisions of this subsection shall apply only to actions for
6 damages for an injury or death arising as a result of a health care
7 professional's failure to inform, and not to actions for damages
8 arising as a result of a health care professional's negligence in
9 rendering or failing to render treatment.

10 e. As used in this section:

11 (1) "Health care professional" means a physician, dentist, nurse,
12 or other health care professional whose professional practice is
13 regulated pursuant to Title 45 of the Revised Statutes and an
14 emergency medical technician or mobile intensive care paramedic
15 certified by the Commissioner of Health [and Senior Services]
16 pursuant to Title 26 of the Revised Statutes; and

17 (2) "Health care facility" means a health care facility licensed by
18 the Department of Health [and Senior Services] pursuant to
19 P.L.1971, c.136 (C.26:2H-1 et seq.) and a psychiatric hospital
20 operated by the Department of Human Services and listed in
21 R.S.30:1-7.

22 (cf: P.L.2004, c.17, s.10)

23

24 2. N.J.S.2C:35-2 is amended to read as follows:

25 2C:35-2. As used in this chapter:

26 "Administer" means the direct application of a controlled
27 dangerous substance or controlled substance analog, whether by
28 injection, inhalation, ingestion, or any other means, to the body of a
29 patient or research subject by: (1) a practitioner (or, in his
30 presence, by his lawfully authorized agent), or (2) the patient or
31 research subject at the lawful direction and in the presence of the
32 practitioner.

33 "Agent" means an authorized person who acts on behalf of or at
34 the direction of a manufacturer, distributor, or dispenser but does
35 not include a common or contract carrier, public warehouseman, or
36 employee thereof.

37 "Controlled dangerous substance" means a drug, substance, or
38 immediate precursor in Schedules I through V, any substance the
39 distribution of which is specifically prohibited in N.J.S.2C:35-3, in
40 section 3 of P.L.1997, c.194 (C.2C:35-5.2), in section 5 of
41 P.L.1997, c.194 (C.2C:35-5.3), or in section 2 of P.L.2011, c.120
42 (C.2C:35-5.3a), and any drug or substance which, when ingested, is
43 metabolized or otherwise becomes a controlled dangerous substance
44 in the human body. When any statute refers to controlled dangerous
45 substances, or to a specific controlled dangerous substance, it shall
46 also be deemed to refer to any drug or substance which, when
47 ingested, is metabolized or otherwise becomes a controlled
48 dangerous substance or the specific controlled dangerous substance,
49 and to any substance that is an immediate precursor of a controlled

1 dangerous substance or the specific controlled dangerous substance.
2 The term shall not include distilled spirits, wine, malt beverages, as
3 those terms are defined or used in R.S.33:1-1 et seq., or tobacco and
4 tobacco products. The term, wherever it appears in any law or
5 administrative regulation of this State, shall include controlled
6 substance analogs.

7 "Controlled substance analog" means a substance that has a
8 chemical structure substantially similar to that of a controlled
9 dangerous substance and that was specifically designed to produce
10 an effect substantially similar to that of a controlled dangerous
11 substance. The term shall not include a substance manufactured or
12 distributed in conformance with the provisions of an approved new
13 drug application or an exemption for investigational use within the
14 meaning of section 505 of the "Federal Food, Drug and Cosmetic
15 Act," 52 Stat. 1052 (21 U.S.C. s.355).

16 "Counterfeit substance" means a controlled dangerous substance
17 or controlled substance analog which, or the container or labeling of
18 which, without authorization, bears the trademark, trade name, or
19 other identifying mark, imprint, number, or device, or any likeness
20 thereof, of a manufacturer, distributor, or dispenser other than the
21 person or persons who in fact manufactured, distributed, or
22 dispensed ~~the~~ such the substance and which thereby falsely purports
23 or is represented to be the product of, or to have been distributed
24 by, such other manufacturer, distributor, or dispenser.

25 "Deliver" or "delivery" means the actual, constructive, or
26 attempted transfer from one person to another of a controlled
27 dangerous substance or controlled substance analog, whether or not
28 there is an agency relationship.

29 "Dispense" means to deliver a controlled dangerous substance or
30 controlled substance analog to an ultimate user or research subject
31 by or pursuant to the lawful order of a practitioner, including the
32 prescribing, administering, packaging, labeling, or compounding
33 necessary to prepare the substance for that delivery. "Dispenser"
34 means a practitioner who dispenses.

35 "Distribute" means to deliver other than by administering or
36 dispensing a controlled dangerous substance or controlled substance
37 analog. "Distributor" means a person who distributes.

38 "Drugs" means (a) substances recognized in the official United
39 States Pharmacopoeia, official Homeopathic Pharmacopoeia of the
40 United States, or official National Formulary, or any supplement to
41 any of them; and (b) substances intended for use in the diagnosis,
42 cure, mitigation, treatment, or prevention of disease in man or other
43 animals; and (c) substances (other than food) intended to affect the
44 structure or any function of the body of man or other animals; and
45 (d) substances intended for use as a component of any article
46 specified in subsections (a), (b), and (c) of this section; but does not
47 include devices or their components, parts or accessories.

48 "Drug or alcohol dependent person" means a person who as a
49 result of using a controlled dangerous substance or controlled

1 substance analog or alcohol has been in a state of psychic or
2 physical dependence, or both, arising from the use of that controlled
3 dangerous substance or controlled substance analog or alcohol on a
4 continuous or repetitive basis. Drug or alcohol dependence is
5 characterized by behavioral and other responses, including but not
6 limited to a strong compulsion to take the substance on a recurring
7 basis in order to experience its psychic effects, or to avoid the
8 discomfort of its absence.

9 "Hashish" means the resin extracted from any part of the plant
10 Genus Cannabis L. and any compound, manufacture, salt,
11 derivative, mixture, or preparation of such resin.

12 "Manufacture" means the production, preparation, propagation,
13 compounding, conversion, or processing of a controlled dangerous
14 substance or controlled substance analog, either directly or by
15 extraction from substances of natural origin, or independently by
16 means of chemical synthesis, or by a combination of extraction and
17 chemical synthesis, and includes any packaging or repackaging of
18 the substance or labeling or relabeling of its container, except that
19 this term does not include the preparation or compounding of a
20 controlled dangerous substance or controlled substance analog by
21 an individual for his own use or the preparation, compounding,
22 packaging, or labeling of a controlled dangerous substance: (1) by
23 a practitioner as an incident to his administering or dispensing of a
24 controlled dangerous substance or controlled substance analog in
25 the course of his professional practice, or (2) by a practitioner (or
26 under his supervision) for the purpose of, or as an incident to,
27 research, teaching, or chemical analysis and not for sale.

28 "Marijuana" means all parts of the plant Genus Cannabis L.,
29 whether growing or not; the seeds thereof, and every compound,
30 manufacture, salt, derivative, mixture, or preparation of [such] the
31 plant or its seeds, except those containing resin extracted from
32 [such] the plant; but shall not include the mature stalks of [such]
33 the plant, fiber produced from [such] the stalks, oil, or cake made
34 from the seeds of [such] the plant, any other compound,
35 manufacture, salt, derivative, mixture, or preparation of [such]
36 mature stalks, fiber, oil, or cake, or the sterilized seed of [such] the
37 plant which is incapable of germination.

38 "Narcotic drug" means any of the following, whether produced
39 directly or indirectly by extraction from substances of vegetable
40 origin, or independently by means of chemical synthesis, or by a
41 combination of extraction and chemical synthesis:

42 (a) Opium, coca leaves, and opiates;

43 (b) A compound, manufacture, salt, derivative, or preparation of
44 opium, coca leaves, or opiates;

45 (c) A substance (and any compound, manufacture, salt,
46 derivative, or preparation thereof) which is chemically identical
47 with any of the substances referred to in subsections (a) and (b),
48 except that the words "narcotic drug" as used in this act shall not

1 include decocainized coca leaves or extracts of coca leaves, which
2 extracts do not contain cocaine or ecogine.

3 "Opiate" means any dangerous substance having an addiction-
4 forming or addiction-sustaining liability similar to morphine or
5 being capable of conversion into a drug having such addiction-
6 forming or addiction-sustaining liability. It does not include, unless
7 specifically designated as controlled pursuant to the provisions of
8 section 3 of P.L.1970, c.226 (C.24:21-3), the dextrorotatory isomer
9 of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan).
10 It does include its racemic and levorotatory forms.

11 "Opium poppy" means the plant of the species *Papaver*
12 *somniferum* L., except the seeds thereof.

13 "Person" means any corporation, association, partnership, trust,
14 other institution or entity or one or more individuals.

15 "Plant" means an organism having leaves and a readily
16 observable root formation, including, but not limited to, a cutting
17 having roots, a rootball or root hairs.

18 "Poppy straw" means all parts, except the seeds, of the opium
19 poppy, after mowing.

20 "Practitioner" means a physician, dentist, veterinarian, scientific
21 investigator, laboratory, pharmacy, hospital, or other person
22 licensed, registered, or otherwise permitted to distribute, dispense,
23 conduct research with respect to, or administer a controlled
24 dangerous substance or controlled substance analog in the course of
25 professional practice or research in this State.

26 (a) "Physician" means a physician authorized by law to practice
27 medicine in this or any other state and any other person authorized
28 by law to treat sick and injured human beings in this or any other
29 state.

30 (b) "Veterinarian" means a veterinarian authorized by law to
31 practice veterinary medicine in this State.

32 (c) "Dentist" means a dentist authorized by law to practice
33 dentistry in this State.

34 (d) "Hospital" means any federal institution, or any institution
35 for the care and treatment of the sick and injured, operated or
36 approved by the appropriate State department as proper to be
37 entrusted with the custody and professional use of controlled
38 dangerous substances or controlled substance analogs.

39 (e) "Laboratory" means a laboratory to be entrusted with the
40 custody of narcotic drugs and the use of controlled dangerous
41 substances or controlled substance analogs for scientific,
42 experimental and medical purposes and for purposes of instruction
43 approved by the [State] Department of Health [and Senior
44 Services].

45 "Production" includes the manufacture, planting, cultivation,
46 growing, or harvesting of a controlled dangerous substance or
47 controlled substance analog.

48 "Immediate precursor" means a substance which the [State
49 Department of Health and Senior Services] Division of Consumer

1 Affairs in the Department of Law and Public Safety has found to be
2 and by regulation designates as being the principal compound
3 commonly used or produced primarily for use, and which is an
4 immediate chemical intermediary used or likely to be used in the
5 manufacture of a controlled dangerous substance or controlled
6 substance analog, the control of which is necessary to prevent,
7 curtail, or limit such manufacture.

8 "Residential treatment facility" means any facility licensed and
9 approved by the Department of Health [and Senior Services] and
10 which is approved by any county probation department for the
11 inpatient treatment and rehabilitation of drug or alcohol dependent
12 persons.

13 "Schedules I, II, III, IV, and V" are the schedules set forth in
14 sections 5 through 8 of P.L.1970, c.226 (C.24:21-5 through 24:21-
15 8) and in section 4 of P.L.1971, c.3 (C.24:21-8.1) and as modified
16 by any regulations issued by the Commissioner of Health [and
17 Senior Services] pursuant to his authority as provided in section 3
18 of P.L.1970, c.226 (C.24:21-3).

19 "State" means the State of New Jersey.

20 "Ultimate user" means a person who lawfully possesses a
21 controlled dangerous substance or controlled substance analog for
22 his own use or for the use of a member of his household or for
23 administration to an animal owned by him or by a member of his
24 household.

25 "Prescription legend drug" means any drug which under federal
26 or State law requires dispensing by prescription or order of a
27 licensed physician, veterinarian or dentist and is required to bear the
28 statement "Rx only" or similar wording indicating that such drug
29 may be sold or dispensed only upon the prescription of a licensed
30 medical practitioner and is not a controlled dangerous substance or
31 stramonium preparation.

32 "Stramonium preparation" means a substance prepared from any
33 part of the stramonium plant in the form of a powder, pipe mixture,
34 cigarette, or any other form with or without other ingredients.

35 "Stramonium plant" means the plant *Datura Stramonium* Linne,
36 including *Datura Tatula* Linne.

37 (cf: P.L.2011, c.120, s.1)

38

39 3. Section 6 of P.L.1999, c.90 (C.2C:36-6.1) is amended to
40 read as follows:

41 6. Discarding hypodermic needle or syringe.

42 a. A person commits a petty disorderly persons offense if:

43 (1) the person discards, in a place accessible to other persons, a
44 hypodermic needle or syringe without destroying the hypodermic
45 needle or syringe; or

46 (2) he is the owner, lessee, or person in control of real property
47 and, knowing that needles and syringes in an intact condition have
48 been discarded or abandoned on his real property, allows them to
49 remain.

1 b. A hypodermic needle is destroyed if the needle is broken
2 from the hub or mangled. A syringe is destroyed if the nipple of the
3 barrel is broken from the barrel, or the plunger and barrel are
4 melted. Alternatively, a hypodermic needle or syringe is destroyed
5 if it is discarded as a single unit, without recapping, into a rigid
6 container and the container is destroyed by grinding or crushing in a
7 compactor, or by burning in an incinerator approved by the
8 Department of Environmental Protection, or by another method
9 approved by the Department of Health **[and Senior Services]**.

10 (cf: P.L.1999, c.90, s.6)

11
12 4. Section 1 of P.L.2011, c.183 (C.2C:36-6.2) is amended to
13 read as follows:

14 1. a. Notwithstanding any State law, rule, or regulation to the
15 contrary, a licensed pharmacy may sell a hypodermic syringe or
16 needle, or any other instrument adapted for the administration of
17 drugs by injection, to a person over 18 years of age who presents
18 valid photo identification to demonstrate proof of age or who
19 otherwise satisfies the seller that he is over 18 years of age, as
20 follows:

21 (1) without a prescription if sold in quantities of 10 or fewer;
22 and

23 (2) pursuant to a prescription issued by a person authorized to
24 prescribe under State law if sold in quantities of more than 10.

25 b. A licensed pharmacy that provides hypodermic syringes or
26 needles for sale shall also be required to:

27 (1) maintain its supply of such instruments under or behind the
28 pharmacy sales counter such that they are accessible only to a
29 person standing behind a pharmacy sales counter; and

30 (2) make available to each person who purchases any such
31 instrument, at the time of purchase, information to be developed by
32 the Department of Health **[and Senior Services]** to the purchaser,
33 about:

34 (a) the safe disposal of the instrument, including local disposal
35 locations or a telephone number to call for that information; and

36 (b) substance abuse treatment, including a telephone number to
37 call for assistance in obtaining treatment.

38 c. In addition to any other provision of law that may apply, a
39 person who purchases a hypodermic syringe or needle pursuant to
40 subsection a. of this section and sells that needle or syringe to
41 another person is guilty of a disorderly persons offense.

42 d. The Department of Health **[and Senior Services]**, in
43 consultation with the Department of Human Services and the New
44 Jersey State Board of Pharmacy, may, pursuant to the
45 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
46 seq.), adopt rules and regulations to effectuate the purposes of
47 subsection b. of this section. The Department of Health **[and**
48 **Senior Services]** shall make the information that is to be developed

1 pursuant to subsection b. of this section available to pharmacies and
2 purchasers of hypodermic syringes or needles through its Internet
3 website.

4 (cf: P.L.2011, c.183, s.1)

5

6 5. Section 8 of P.L.1941, c.151 (C.4:19-15.8) is amended to
7 read as follows:

8 8. a. Any person who keeps or operates or proposes to establish
9 a kennel, a pet shop, a shelter or a pound shall apply to the clerk or
10 other official designated to license dogs in the municipality where
11 such establishment is located, for a license entitling him to keep or
12 operate such establishment.

13 The application shall describe the premises where the
14 establishment is located or is proposed to be located, the purpose or
15 purposes for which it is to be maintained, and shall be accompanied
16 by the written approval of the local municipal and health authorities
17 showing compliance with the local and State rules and regulations
18 governing location of and sanitation at such establishments.

19 b. All licenses issued for a kennel, pet shop, shelter, or pound
20 shall state the purpose for which the establishment is maintained,
21 and all [such] licenses shall expire on the last day of June of each
22 year, and be subject to revocation by the municipality on
23 recommendation of the [State] Department of Health [and Senior
24 Services] or the local board of health for failure to comply with the
25 rules and regulations of the State department or local board
26 governing the same, after the owner has been afforded a hearing by
27 either the State department or local board, except as provided in
28 subsection c. of this section.

29 Any person holding [such] a license shall not be required to
30 secure individual licenses for dogs owned by [such] a licensee and
31 kept at [such] the establishments; [such] the licenses shall not be
32 transferable to another owner or different premises.

33 c. The license for a pet shop shall be subject to review by the
34 municipality, upon recommendation by the [State] Department of
35 Health [and Senior Services] or the local health authority for
36 failure by the pet shop to comply with the rules and regulations of
37 the State department or local health authority governing pet shops
38 or if the pet shop meets the criteria for recommended suspension or
39 revocation provided under subsection c. or d. of section 5 of
40 P.L.1999, c.336 (C.56:8-96), after the owner of the pet shop has
41 been afforded a hearing pursuant to subsection e. of section 5 of
42 P.L.1999, c.336 (C.56:8-96).

43 The municipality, based on the criteria for the recommendation
44 of the local health authority provided under subsections c. and d. of
45 section 5 of P.L.1999, c.336 (C.56:8-96), may suspend the license
46 for 90 days or may revoke the license if it is determined at the
47 hearing that the pet shop: (1) failed to maintain proper hygiene and
48 exercise reasonable care in safeguarding the health of animals in its

1 custody or (2) sold a substantial number of animals that the pet shop
2 knew, or reasonably should have known, to be unfit for purchase.

3 d. The municipality may issue a license for a pet shop that
4 permits the pet shop to sell pet supplies for all types of animals,
5 including cats and dogs, and sell animals other than cats and dogs
6 but restricts the pet shop from selling cats or dogs, or both.

7 e. Every pet shop licensed in the State shall submit annually
8 and no later than May 1 of each year records of the total number of
9 cats and dogs, respectively, sold by the pet shop each year to the
10 municipality in which it is located, and the municipality shall
11 provide this information to the local health authority.

12 (cf: P.L.1999, c.336, s.6)

13

14 6. Section 12 of P.L.1941, c.151 (C.4:19-15.12) is amended to
15 read as follows:

16 12. a. The governing body of each municipality may, by
17 ordinance, fix the sum to be paid annually for a dog license and
18 each renewal thereof, as required by section 3 of this act, which
19 sum shall be not less than \$1.50 or more than \$21; provided
20 however, that the governing body may by ordinance, provide for a
21 reduction or waiver of the sum to be paid by an owner who presents
22 a certificate signed by a licensed veterinarian stating that the dog
23 has been spayed or neutered. In the absence of any local ordinance,
24 the fee for all dog licenses shall be \$1.50.

25 b. The governing body of each municipality, may, by
26 ordinance, fix the sum to be paid for a 3-year dog license and each
27 renewal thereof, which sum shall be not more than 3 times the sum
28 charged for an annual license under subsection a. of this section. In
29 the absence of such a local ordinance, the license fee for a 3-year
30 dog license shall be \$4.50. The Department of Health [and Senior
31 Services] shall promulgate appropriate regulations concerning
32 veterinarians' certificates for rabies inoculations of dogs for 3-year
33 periods in connection with licenses issued under this subsection.

34 (cf: P.L.2007, c.7, s.1)

35

36 7. Section 16 of P.L.1941, c.151 (C.4:19-15.16) is amended to
37 read as follows:

38 16. a. The certified animal control officer appointed by the
39 governing body of the municipality shall take into custody and
40 impound any animal, to thereafter be euthanized or offered for
41 adoption, as provided in this section:

42 (1) Any dog off the premises of the owner or of the person
43 charged with the care of the dog, which is reasonably believed to be
44 a stray dog;

45 (2) Any dog off the premises of the owner or the person charged
46 with the care of the dog without a current registration tag on its
47 collar or elsewhere;

48 (3) Any female dog in season off the premises of the owner or
49 the person charged with the care of the dog;

1 (4) Any dog or other animal which is suspected to be rabid; or

2 (5) Any dog or other animal off the premises of the owner or the
3 person charged with its care that is reported to, or observed by, a
4 certified animal control officer to be ill, injured, or creating a threat
5 to public health, safety, or welfare, or otherwise interfering with the
6 enjoyment of property.

7 b. If an animal taken into custody and impounded pursuant to
8 subsection a. of this section has a collar or harness with
9 identification of the name and address of any person, or has a
10 registration tag, or has a microchip with an identification number
11 that can be traced to the owner or person charged with the care of
12 the animal, or the owner or the person charged with the care of the
13 animal is otherwise known, the certified animal control officer shall
14 ascertain the name and address of the owner or the person charged
15 with the care of the animal, and serve to the identified person as
16 soon as practicable, a notice in writing that the animal has been
17 seized and will be liable to be offered for adoption or euthanized if
18 not claimed within seven days after the service of the notice.

19 c. A notice required pursuant to this section may be served: (1)
20 by delivering it to the person on whom it is to be served, or by
21 leaving it at the person's usual or last known place of residence or
22 the address given on the collar, harness, or microchip identification;
23 or (2) by mailing the notice to that person at the person's usual or
24 last known place of residence, or to the address given on the collar,
25 harness or microchip identification.

26 d. A shelter, pound, or kennel operating as a shelter or pound
27 receiving an animal from a certified animal control officer pursuant
28 to subsection a. of this section, or from any other individual, group,
29 or organization, shall hold the animal for at least seven days before
30 offering it for adoption, or euthanizing, relocating, or sterilizing the
31 animal, except if:

32 (1) the animal is surrendered voluntarily by its owner to the
33 shelter, pound, or kennel operating as a shelter or pound, in which
34 case the provisions of subsection e. of this section shall apply; or

35 (2) the animal is suspected of being rabid, in which case the
36 provisions of subsection j. of this section shall apply.

37 If a shelter, pound or kennel operating as a shelter or pound is
38 not required to hold an animal for at least seven days pursuant to
39 paragraph (1) of subsection d. of this section, the shelter, pound, or
40 kennel operating as a shelter or pound:

41 (1) shall offer the animal for adoption for at least seven days
42 before euthanizing it; or

43 (2) may transfer the animal to an animal rescue organization
44 facility or a foster home prior to offering it for adoption if such a
45 transfer is determined to be in the best interest of the animal by the
46 shelter, pound, or kennel operating as a shelter or pound.

47 f. Except as otherwise provided for under subsection e. of this
48 section, no shelter, pound, or kennel operating as a shelter or pound
49 receiving an animal from a certified animal control officer may

1 transfer the animal to an animal rescue organization facility or a
2 foster home until the shelter, pound, or kennel operating as a shelter
3 or pound has held the animal for at least seven days.

4 g. If the owner or the person charged with the care of the
5 animal seeks to claim it within seven days, or after the seven days
6 have elapsed but before the animal has been adopted or euthanized,
7 the shelter, pound, or kennel operating as a shelter or pound:

8 (1) shall, in the case of a cat or dog, release it to the owner or
9 person charged with its care, provided the owner or person charged
10 with the care of the animal provides proof of ownership, which may
11 include a valid cat or dog license, registration, rabies inoculation
12 certificate, or documentation from the owner's veterinarian that the
13 cat or dog has received regular care from that veterinarian;

14 (2) may, in the case of a cat or dog, charge the cost of sterilizing
15 the cat or dog, if the owner requests such sterilizing when claiming
16 it; and

17 (3) may require the owner or person charged with the care of the
18 animal to pay all the animal's expenses while in the care of the
19 shelter, pound, or kennel operating as a shelter or pound, not to
20 exceed \$4 per day.

21 h. If the animal remains unclaimed, is not claimed due to the
22 failure of the owner or other person to comply with the
23 requirements of this section, or is not adopted after seven days after
24 the date on which notice is served pursuant to subsection c. of this
25 section or, if no notice can be served, not less than seven days after
26 the date on which the animal was impounded, the impounded
27 animal may be placed in a foster home, transferred to another
28 shelter, pound, kennel operating as a shelter or pound, or animal
29 rescue organization facility, or euthanized in a manner causing as
30 little pain as possible and consistent with the provisions of
31 R.S.4:22-19.

32 i. At the time of adoption, the right of ownership in the animal
33 shall transfer to the new owner. No dog or other animal taken into
34 custody, impounded, sent or otherwise brought to a shelter, pound,
35 or kennel operating as a shelter or pound shall be sold or otherwise
36 be made available for the purpose of experimentation. Any person
37 who sells or otherwise makes available any such dog or other
38 animal for the purpose of experimentation shall be guilty of a crime
39 of the fourth degree.

40 j. Any animal seized under this section suspected of being
41 rabid shall be immediately reported to the executive officer of the
42 local board of health and to the Department of Health [and Senior
43 Services], and shall be quarantined, observed, and otherwise
44 handled and dealt with as appropriate for an animal suspected of
45 being rabid or as required by the Department of Health [and Senior
46 Services] for [such] the animals.

47 k. When a certified animal control officer takes into custody
48 and impounds, or causes to be taken into custody and impounded,

1 an animal, the certified animal control officer may place the animal
2 in the custody of, or cause the animal to be placed in the custody of,
3 only a licensed shelter, pound, or kennel operating as a shelter or
4 pound. The certified animal control officer may not place the
5 animal in the custody of, or cause the animal to be placed in the
6 custody of, any animal rescue organization facility, foster home, or
7 other unlicensed facility. However, the licensed shelter, pound, or
8 kennel operating as a shelter or pound may place the animal in an
9 animal rescue organization facility, foster home, or other unlicensed
10 facility if necessary pursuant to subsection e. or h. of this section.

11 1. Notwithstanding the provisions of this section and sections 3
12 and 4 of P.L.2011, c.142 (C.4:19-15.30 and C.4:19-15.31) to the
13 contrary, no cat or dog being transferred between shelters, pounds,
14 or kennels operating as shelters or pounds, or being transferred to
15 an animal rescue organization facility or placed in a foster home,
16 shall be required to be sterilized prior to that transfer.
17 (cf: P.L.2011, c.142, s.2)

18

19 8. Section 3 of P.L.1983, c.525 (C.4:19-15.16a) is amended to
20 read as follows:

21 3. a. The Commissioner of Health **[and Senior Services]** shall,
22 within 120 days after the effective date of P.L.1983, c.525, and
23 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
24 (C.52:14B-1 et seq.), adopt rules and regulations concerning the
25 training and educational qualifications for the certification of
26 animal control officers, including, but not limited to, a course of
27 study approved by the commissioner and the Police Training
28 Commission, in consultation with the New Jersey Certified Animal
29 Control Officers Association, which acquaints a person with:

30 (1) The law as it affects animal control, animal welfare, and
31 animal cruelty;

32 (2) Animal behavior and the handling of stray or diseased
33 animals;

34 (3) Community safety as it relates to animal control; and

35 (4) The law enforcement methods and techniques required for
36 an animal control officer to properly exercise the authority to
37 investigate and sign complaints and arrest without warrant pursuant
38 to section 8 of P.L.1997, c.247 (C.4:19-15.16c), including, but not
39 limited to, those methods and techniques which relate to search,
40 seizure, and arrest. The training in law enforcement methods and
41 techniques described pursuant to this paragraph shall be part of the
42 course of study for an animal control officer only when required by
43 the governing body of a municipality pursuant to section 4 of
44 P.L.1983, c.525 (C.4:19-15.16b).

45 Any person 18 years of age or older may satisfy the courses of
46 study established pursuant to this subsection at that person's own
47 time and expense; however, nothing in this section shall be
48 construed as authorizing a person to exercise the powers and duties
49 of an animal control officer absent municipal appointment or

1 authorization pursuant to section 4 of P.L.1983, c.525 (C.4:19-
2 15.16b).

3 b. (1) The commissioner shall provide for the issuance of a
4 certificate to a person who possesses, or acquires, the training and
5 education required to qualify as a certified animal control officer
6 pursuant to paragraphs (1) through (3) of subsection a. of this
7 section and to a person who has been employed in the State of New
8 Jersey in the capacity of, and with similar responsibilities to those
9 required of, a certified animal control officer pursuant to the
10 provisions of P.L.1983, c.525, for a period of three years before
11 January 17, 1987. The commissioner shall not issue a certificate to
12 any person convicted of, or found civilly liable for, a violation of
13 any provision of chapter 22 of Title 4 of the Revised Statutes.

14 (2) The commissioner shall revoke the certificate of any person
15 convicted of, or found civilly liable for, a violation of any provision
16 of chapter 22 of Title 4 of the Revised Statutes, and shall place the
17 name of the person on the list established pursuant to subsection c.
18 of this section.

19 c. (1) The commissioner shall establish a list of all persons
20 issued a certificate pursuant to subsection b. of this section (a) for
21 whom that certificate has been revoked, or (b) who have been
22 convicted of, or found civilly liable for, a violation of any provision
23 of chapter 22 of Title 4 of the Revised Statutes. The commissioner
24 shall provide each municipality in the State with a copy of this list
25 within 30 days after the list is established and not less often than
26 annually thereafter if no revised list required pursuant to paragraph
27 (2) of this subsection has been issued in the interim.

28 (2) Upon receipt of a notice required pursuant to section 3 or 4
29 of P.L.2003, c.67 (C.4:22-57 or C.2B:12-17.1) involving a person
30 who has been issued a certificate pursuant to subsection b. of this
31 section, the commissioner shall add to the list the name of the
32 person convicted of, or found civilly liable for, a violation of any
33 provision of chapter 22 of Title 4 of the Revised Statutes according
34 to the notice, and shall issue a copy of the revised list to each
35 municipality within 30 days after receipt of any [such] notice.

36 (cf: P.L.2003, c.67, s.1)

37

38 9. Section 4 of P.L.1983, c.525 (C.4:19-15.16b) is amended to
39 read as follows:

40 4. The governing body of a municipality shall, within three
41 years of the effective date of P.L.1983, c.525, appoint a certified
42 animal control officer who shall be responsible for animal control
43 within the jurisdiction of the municipality and who shall enforce
44 and abide by the provisions of section 16 of P.L.1941, c.151
45 (C.4:19-15.16). The governing body shall not appoint a certified
46 animal control officer, shall not contract for animal control services
47 with any company that employs a certified animal control officer,
48 and shall revoke the appointment of a certified animal control
49 officer, who has been convicted of, or found civilly liable for, a

1 violation of any provision of chapter 22 of Title 4 of the Revised
2 Statutes or whose name is on the list or any revision thereto
3 established and provided by the Commissioner of Health [and
4 Senior Services] pursuant to subsection c. of section 3 of P.L.1983,
5 c.525 (C.4:19-15.16a). The governing body shall, within 30 days
6 after receipt thereof, review any such list or revision thereto
7 received by the municipality and shall, within that 30-day period,
8 take action accordingly as required pursuant to this section.

9 The governing body may authorize the certified animal control
10 officer to investigate and sign complaints, arrest violators, and
11 otherwise act as an officer for detection, apprehension, and arrest of
12 offenders against the animal control, animal welfare and animal
13 cruelty laws of the State, and ordinances of the municipality, if the
14 officer has completed the training required pursuant to paragraph 4
15 of subsection a. of section 3 of P.L.1983, c.525 (C.4:19-15.16a).
16 Only certified animal control officers who have completed the
17 training may be authorized by the governing body to so act as an
18 officer for detection, apprehension, and arrest of offenders;
19 however, officers who have completed the training shall not have
20 the authority to so act unless authorized by the governing body
21 which is employing the officer or contracting for the officer's
22 services.

23 (cf: P.L.2003, c.67, s.2)

24
25 10. Section 19 of P.L.1941, c.151 (C.4:19-15.19) is amended to
26 read as follows:

27 19. Except as otherwise provided in this act, any person who
28 violates or who fails or refuses to comply with sections 2, 4, 6, 7, 8,
29 10, or 18 of this act or the rules and regulations promulgated by the
30 [State] Department of Health pursuant to section 14 of this act,
31 shall be liable to a penalty of not less than \$5.00 nor more than
32 ~~[\$50.00]~~ \$50 for each offense, to be recovered by and in the name
33 of the ~~[Director]~~ Commissioner of Health ~~[of the State of New~~
34 ~~Jersey]~~, or by and in the name of the local board of health of the
35 municipality, or by and in the name of the municipality, as the case
36 may be, except that for the first offense in cases of violations of
37 sections 2, 4, and 6 of this act, the penalty shall be not less than
38 \$1.00 nor more than ~~[\$50.00]~~ \$50, to be recovered in the same
39 manner.

40 (cf: P.L.1974, c.69, s.2)

41
42 11. Section 20 of P.L.1941, c.151 (C.4:19-15.20) is amended to
43 read as follows:

44 20. Any penalty recovered in an action brought under the
45 provisions of this act shall be paid to the plaintiff therein. When the
46 plaintiff is the ~~[Director]~~ Commissioner of Health ~~[of the State of~~
47 ~~New Jersey]~~, the penalty shall be paid by ~~[said director]~~ the
48 commissioner into the treasury of the State. When the plaintiff is a

1 local board of health the penalty shall be paid by the local board
2 into the treasury of the municipality within which the local board
3 has jurisdiction.

4 (cf: P.L.1941, c.151, s.20)

5
6 12. Section 3 of P.L.2011, c.142 (C.4:19-15.30) is amended to
7 read as follows:

8 3. a. The Department of Health **【and Senior Services】** shall
9 develop and establish a pilot program to be known as the "Pet
10 Sterilization Pilot Program." The pilot program shall operate in any
11 county with significant animal overpopulation issues that is selected
12 for the program by the Commissioner of Health **【and Senior**
13 **Services】** and agrees to participate in the program. Upon the
14 county's agreement to participate, every shelter, pound, and kennel
15 operating as a shelter or pound in the county shall participate in the
16 pilot program.

17 b. A shelter, pound, or kennel operating as a shelter or pound in
18 a county participating in the pilot program established under
19 subsection a. of this section shall require every cat or dog to be
20 sterilized before releasing it to a person adopting a cat or dog from
21 the shelter, pound, or kennel operating as a shelter or pound when
22 adoption is permitted pursuant to section 16 of P.L.1941, c.151
23 (C.4:19-15.16), except as provided under section 4 of P.L.2011,
24 c.142 (C.4:19-15.31). The shelter, pound, or kennel operating as a
25 shelter or pound may charge the person adopting the animal the cost
26 of sterilization.

27 c. The pilot program shall operate for a period of at least two
28 years. No later than two years after the pilot program is established
29 and becomes operative, the Commissioner of Health **【and Senior**
30 **Services】** shall submit a written report to the Governor and,
31 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the
32 Legislature. The report shall contain information on the
33 implementation of the pilot program and shall include the
34 recommendation of the commissioner on the feasibility of
35 implementing the pilot program on a Statewide basis.

36 (cf: P.L.2011, c.142, s.3)

37
38 13. Section 6 of P.L.2011, c.142 (C.4:19-15.33) is amended to
39 read as follows:

40 6. a. The Department of Health **【and Senior Services】** shall
41 establish a registry of animal rescue organizations and their
42 facilities in the State. Any animal rescue organization may
43 voluntarily participate in the registry.

44 b. The department, pursuant to the "Administrative Procedure
45 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), may adopt any rules
46 and regulations determined necessary to implement the voluntary
47 registry and coordinate its use with the provisions of P.L.2011,

1 c.142 (C.4:19-15.30 et al.) and section 16 of P.L.1941, c.151
2 (C.4:19-15.16).
3 (cf: P.L.2011, c.142, s.6)
4

5 14. Section 4 of P.L.2002, c.102 (C.4:19-41) is amended to read
6 as follows:

7 4. Whenever a duly licensed veterinarian surgically debarks or
8 silences a dog, the veterinarian shall prepare and file a written
9 statement with the [State] Department of Health [and Senior
10 Services] setting forth the veterinary basis for administering the
11 surgery and providing the name and address of the owner, keeper or
12 harbinger of the debarked or silenced dog. A veterinarian who fails
13 to comply with the provisions of this section shall be subject to
14 disciplinary action by the State Board of Veterinary Medical
15 Examiners.

16 (cf: P.L.2002, c.102, s.4)
17

18 15. Section 15 of P.L.1997, c.236 (C.4:27-15) is amended to
19 read as follows:

20 15. The Department of Agriculture:

21 a. in consultation with the Aquaculture Technology Transfer
22 Center, the Rutgers Cooperative Extension and the Department of
23 Environmental Protection, shall implement an aquaculture statistics
24 reporting program which may include the collection of information
25 on the numbers of jobs being created in aquaculture, the amount,
26 value and type of product being produced, and the overall economic
27 activity in the aquaculture industry;

28 b. in consultation with the Aquaculture Technology Transfer
29 Center, and the Rutgers Cooperative Extension, shall assist
30 aquaculturists in obtaining coverage from federal crop insurance
31 programs;

32 c. in consultation with the Aquaculture Technology Transfer
33 Center and the Rutgers Cooperative Extension, shall assist
34 aquaculturists in completing the proper paperwork and other
35 information necessary to develop eligibility for economic
36 emergency loans for disaster relief through the Farmers Services
37 Agency and other programs;

38 d. in consultation with the United States Department of
39 Agriculture and the National Association of State Aquaculture
40 Coordinators, shall develop a monthly wholesale market report for
41 aquaculture products;

42 e. in conjunction with the Aquaculture Technology Transfer
43 Center and the Department of Health [and Senior Services], shall
44 assist the aquaculture industry in the development of necessary
45 quality control guidelines and specifications for production,
46 processing, and marketing of aquaculture products;

47 f. in conjunction with the Aquaculture Technology Transfer
48 Center, shall assist (1) the aquaculture industry in promoting its
49 products through techniques that may include the establishment and

1 use of a trademark and other specialized marketing efforts; and (2)
2 aquaculturists interested in developing coordinated efforts or
3 arrangements, including producer cooperatives, joint ventures,
4 market orders, and other forms of association; and

5 g. in conjunction with the Department of Health [and Senior
6 Services], the Department of Commerce and Economic
7 Development, the Department of Environmental Protection shall
8 explore the possibilities of establishing private sector joint
9 processing facilities to accommodate agriculture, seafood, and
10 aquaculture products.

11 (cf: P.L.1997, c.236, s.15)

12

13 16. Section 2 of P.L.2001, c.39 (C.5:12-71.3) is amended to read
14 as follows:

15 2. a. A person who is prohibited from gaming in a licensed
16 casino or simulcasting facility by any provision of P.L.1977, c.110
17 (C.5:12-1 et seq.) or any order of the director, commission, or court
18 of competent jurisdiction, including any person on the self-
19 exclusion list pursuant to section 1 of P.L.2001, c.39 (C.5:12-71.2),
20 shall not collect, in any manner or proceeding, any winnings or
21 recover any losses arising as a result of any prohibited gaming
22 activity.

23 b. For the purposes of P.L.1977, c.110 (C.5:12-1 et seq.), any
24 gaming activity in a licensed casino or simulcasting facility which
25 results in a prohibited person obtaining any money or thing of value
26 from, or being owed any money or thing of value by, the casino or
27 simulcasting facility shall be considered, solely for purposes of this
28 section, to be a fully executed gambling transaction.

29 c. In addition to any other penalty provided by law, any money
30 or thing or value which has been obtained by, or is owed to, any
31 prohibited person by a licensed casino or simulcasting facility as a
32 result of wagers made by a prohibited person shall be subject to
33 forfeiture following notice to the prohibited person and opportunity
34 to be heard. A licensed casino or simulcasting facility shall inform a
35 prohibited person of the availability of such notice on the division's
36 Internet website when ejecting the prohibited person and seizing
37 any chips, vouchers or other representative of money owed by a
38 casino to the prohibited person as authorized by this subsection.

39 Of any forfeited amount under \$100,000, one-half shall be
40 deposited into the State General Fund for appropriation by the
41 Legislature to the Department of [Health and Senior] Human
42 Services to provide funds for compulsive gambling treatment and
43 prevention programs in the State and the remaining one-half shall
44 be deposited into the Casino Revenue Fund. Of any forfeited
45 amount of \$100,000 or more, \$50,000 shall be deposited into the
46 State General Fund for appropriation by the Legislature to the
47 Department of [Health and Senior] Human Services to provide

1 funds for compulsive gambling treatment and prevention programs
2 and the remainder shall be deposited into the Casino Revenue Fund.

3 d. In any proceeding brought by the division against a licensee
4 or registrant pursuant to section 108 of P.L.1977, c.110 (C.5:12-
5 108) for a willful violation of the commission's self-exclusion
6 regulations, the division may order, in addition to any other
7 sanction authorized by section 129 of P.L.1977, c.110 (C.5:12-129),
8 the forfeiture of any money or thing of value obtained by the
9 licensee or registrant from any self-excluded person. Any money or
10 thing of value so forfeited shall be disposed of in the same manner
11 as any money or thing of value forfeited pursuant to subsection c. of
12 this section.

13 (cf: P.L.2011, c.19, s.38)

14
15 17. Section 145 of P.L.1977, c.110 (C.5:12-145) is amended to
16 read as follows:

17 145. a. There is hereby created and established in the Department
18 of the Treasury a separate special account to be known as the
19 "Casino Revenue Fund," into which shall be deposited all revenues
20 from the tax imposed by section 144 of this act; the investment
21 alternative tax imposed by section 3 of P.L.1984, c.218 (C.5:12-
22 144.1); the taxes and fees imposed by sections 3, 4 and 6 of
23 P.L.2003, c.116 (C.5:12-148.1, C.5:12-148.2 and C.5:12-145.8) and
24 any interest and penalties imposed by the division relating to those
25 taxes; the percentage of the value of expired gaming related
26 obligations pursuant to section 24 of P.L.2009, c.36 (C.5:12-141.2);
27 and all penalties levied and collected by the division pursuant to
28 P.L.1977, c.110 (C.5:12-1 et seq.) and the regulations promulgated
29 thereunder, except that the first \$600,000 in penalties collected each
30 fiscal year shall be paid into the General Fund for appropriation by
31 the Legislature to the Department of **【Health and Senior】** Human
32 Services, \$500,000 of which is to provide funds to the Council on
33 Compulsive Gambling of New Jersey and \$100,000 of which is to
34 provide funds for compulsive gambling treatment programs in the
35 State. In the event that less than \$600,000 in penalties are collected,
36 the Department of **【Health and Senior】** Human Services shall
37 determine the allocation of funds between the Council and the
38 treatment programs eligible under the criteria developed pursuant to
39 section 2 of P.L.1993, c.229 (C.26:2-169).

40 b. The division shall require at least monthly deposits by the
41 licensee of the tax established pursuant to subsection a. of section
42 144 of P.L.1977, c.110 (C.5:12-144), at such times, under such
43 conditions, and in such depositories as shall be prescribed by the
44 State Treasurer. The deposits shall be deposited to the credit of the
45 Casino Revenue Fund. The division may require a monthly report
46 and reconciliation statement to be filed with it on or before the 10th
47 day of each month, with respect to gross revenues and deposits
48 received and made, respectively, during the preceding month.

1 c. Moneys in the Casino Revenue Fund shall be appropriated
2 exclusively for reductions in property taxes, rentals, telephone, gas,
3 electric, and municipal utilities charges of eligible senior citizens
4 and disabled residents of the State, and for additional or expanded
5 health services or benefits or transportation services or benefits to
6 eligible senior citizens and disabled residents, as shall be provided
7 by law. On or about March 15 and September 15 of each year, the
8 State Treasurer shall publish in at least 10 newspapers circulating
9 generally in the State a report accounting for the total revenues
10 received in the Casino Revenue Fund and the specific amounts of
11 money appropriated therefrom for specific expenditures during the
12 preceding six months ending December 31 and June 30.

13 (cf: P.L. 2011, c.19, s.101)

14
15 18. Section 1 of P.L.1992, c.108 (C.5:12-145.3) is amended to
16 read as follows:

17 1. There is created a commission to be known as the "Casino
18 Revenue Fund Advisory Commission." The commission shall
19 consist of 15 members to be appointed as follows: two members of
20 the Senate, appointed by the President of the Senate, not more than
21 one of whom shall be of the same political party; two members of
22 the General Assembly, appointed by the Speaker of the General
23 Assembly, not more than one of whom shall be of the same political
24 party; three public members who are senior citizens, one of whom is
25 appointed by the President of the Senate, one of whom is appointed
26 by the Speaker of the General Assembly, and one of whom is
27 appointed by the Governor; three public members who are disabled,
28 one of whom is appointed by the President of the Senate, one of
29 whom is appointed by the Speaker of the General Assembly, and
30 one of whom is appointed by the Governor; one public member who
31 is a representative of the casino industry to be appointed by the
32 Governor upon the recommendation of the Casino Association of
33 New Jersey; the President of the New Jersey Association of
34 Directors of Area Agencies on Aging, the Chairperson of the New
35 Jersey Association of County Representatives for Disabled Persons,
36 the Director of the Division **of** Aging Services in the
37 Department of **Community Affairs** Human Services, and the
38 Legislative Budget and Finance Officer, or their designees, who
39 shall serve as ex officio members.

40 The legislative members shall serve during the two-year
41 legislative session in which the appointment is made. The senior
42 citizen and disabled members shall serve for three year terms or
43 until a successor is appointed; but of the members initially
44 appointed, one of the senior citizens and one of the disabled
45 members shall serve for a term of one year, one of the senior
46 citizens and one of the disabled members shall serve for a term of
47 two years, and one of the senior citizens and one of the disabled
48 members shall serve for a term of three years.

1 Vacancies in the membership of the commission shall be filled in
2 the same manner as the original appointments are made and a
3 member may be eligible for reappointment. Vacancies occurring
4 other than by expiration of a term shall be filled for the unexpired
5 term.

6 Members shall be eligible for reimbursement for necessary and
7 reasonable expenses incurred in the performance of their official
8 duties but reimbursement of expenses shall be within the limits of
9 funds appropriated or otherwise made available to the commission
10 for its purposes.

11 (cf: P.L.1992, c.108, s.1)

12

13 19. Section 3 of P.L.1991, c.290 (C.9:6B-3) is amended to read
14 as follows:

15 3. As used in this act:

16 "Child placed outside his home" means a child placed outside his
17 home by the Department of Human Services, the Department of
18 Children and Families, the Department of Health [and Senior
19 Services] , or a board of education.

20 "Department" means the Department of Human Services, the
21 Department of Children and Families, the Department of Health
22 [and Senior Services] , or board of education, as applicable.

23 (cf: P.L.2006, c.47, s.71)

24

25 20. Section 5 of P.L.1991, c.290 (C.9:6B-5) is amended to read
26 as follows:

27 5. The Departments of Human Services, Children and Families,
28 Health [and Senior Services], and Education shall each prepare and
29 update at least every six months, and shall make available to the
30 public upon request, aggregate non-identifying data about children
31 under their care, custody, or supervision who are placed in out-of-
32 home settings, by category as appropriate. The data shall include
33 the following:

34 a. The number of children placed outside their homes during
35 the six-month period and the cumulative number of children
36 residing in out-of-home settings;

37 b. The age, sex, and race of the children residing in out-of-
38 home settings;

39 c. The reasons for placement of these children;

40 d. The types of settings in which these children reside;

41 e. The length of time that these children have resided in these
42 settings;

43 f. The number of placements for those children who have been
44 placed in more than one setting;

45 g. The number of children who have been placed in the same
46 county in which their parents or legal guardians reside and the
47 number who have been placed outside of the State;

1 h. The number of children who have been permanently placed
2 or returned to their homes during the six-month period, and a
3 projection of the number of children who will be permanently
4 placed or returned to their homes during the following six-month
5 period; and

6 i. The number of children who have been permanently placed
7 or returned to their homes who are subsequently returned to an out-
8 of-home setting during the six-month period.

9 (cf: P.L.2006, c.47, s.72)

10
11 21. Section 6 of P.L.1991, c.290 (C.9:6B-6) is amended to read
12 as follows:

13 6. The Commissioners of Human Services, Children and
14 Families, Health [and Senior Services], and Education, pursuant to
15 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
16 seq.), shall each adopt rules and regulations to effectuate the
17 purposes of this act.

18 (cf: P.L.2006, c.47, s.73)

19
20 22. Section 9 of P.L.1999, c.145 (C.9:17A-1.8) is amended to
21 read as follows:

22 9. The Department of Health [and Senior Services] shall
23 prepare a fact sheet for distribution to unemancipated pregnant
24 minors who are seeking abortion services.

25 a. The fact sheet shall be written in terms generally understood
26 by a teenager and shall explain the parental notification
27 requirements of this act, including, but not limited to:

28 (1) that a minor may, by petition or motion, seek a waiver of
29 parental notification from a judge of the Superior Court;

30 (2) that a minor may participate in proceedings in the court on
31 her own behalf, that the court may appoint a guardian ad litem for
32 her and that the minor has a right to court appointed counsel, which
33 shall be provided to her by the court upon her request; and

34 (3) the procedure established by the court for petitioning or
35 making a motion before the court.

36 b. The department shall distribute the fact sheet, at no charge,
37 to ambulatory care facilities and hospitals licensed pursuant to
38 P.L.1971, c.136 (C.26:2H-1 et seq.), public and private agencies
39 and physicians' offices that provide family planning services and
40 prenatal care.

41 c. The physician who is responsible for providing notification
42 to an unemancipated minor's parent pursuant to this act, or his
43 designee, shall provide the unemancipated minor with a copy of the
44 fact sheet at the time the minor initially requests abortion services
45 from the physician.

46 (cf: P.L.1999, c.145, s.9)

47
48 23. Section 12 of P.L.1999, c.145 (C.9:17A-1.11) is amended to
49 read as follows:

1 12. The Commissioner of [the Department of]Health [and
2 Senior Services], in consultation with the Department of Law and
3 Public Safety, shall promulgate rules and regulations pursuant to the
4 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
5 seq.), concerning procedures for physicians to follow in effectuating
6 the notice required pursuant to the provisions of P.L.1999, c.145
7 (C.9:17A-1.1 et al.).
8 (cf: P.L.1999, c.145, s.12)

9
10 24. N.J.S.11A:11-2 is amended to read as follows:

11 11A:11-2. a. The Department of Personnel is abolished as a
12 principal department in the Executive Branch of State government.
13 The offices and terms of the Commissioner of Personnel, the deputy
14 commissioner, assistant commissioners, and the directors of the
15 various divisions and offices of the Department of Personnel are
16 terminated, except as otherwise provided by P.L.2008, c.29.

17 b. The functions, powers, and duties of the Department of
18 Personnel, the Commissioner of Personnel, the deputy
19 commissioner, assistant commissioners, and directors of the various
20 divisions and offices of the Department of Personnel are continued
21 and transferred as provided by P.L.2008, c.29. The State Treasurer
22 may allocate the functions, powers, and duties transferred to the
23 Department of the Treasury or the State Treasurer by P.L.2008, c.29
24 among such divisions or subdivisions in the Department of the
25 Treasury as the State Treasurer deems appropriate or as the State
26 Treasurer may establish.

27 c. (1) The Division of Equal Employment Opportunity and
28 Affirmative Action as constituted in the Department of Personnel,
29 with its functions, powers, and duties, and those of the
30 Commissioner of Personnel and the Merit System Board with
31 regard to that division, is continued and transferred to the
32 Department of the Treasury, except with regard to the power to
33 adjudicate complaints of violations of the State policy against
34 discrimination which power shall remain with the Civil Service
35 Commission. The functions, powers, and duties of the Division of
36 Equal Employment Opportunity and Affirmative Action shall be
37 allocated within the department as the State Treasurer shall
38 determine.

39 The Equal Employment Opportunity Advisory Commission as
40 constituted in the Department of Personnel is continued and
41 transferred to the Department of the Treasury to be allocated within
42 that department as the State Treasurer shall determine. The
43 members of the Equal Employment Opportunity Advisory
44 Commission shall continue as members of the commission for the
45 duration of their current terms and any reappointments and until
46 their successors are appointed, unless removed for cause.

47 (2) The planning and research unit and function as constituted in
48 the Department of Personnel is continued and transferred to the

1 Department of the Treasury to be allocated within that department
2 as the State Treasurer shall determine.

3 d. The Working Well NJ State employee wellness program as
4 constituted in the Department of Personnel is continued and
5 transferred to the Department of Health **[and Senior Services]** to be
6 allocated within that department as the commissioner shall
7 determine.

8 e. The toll-free information "Law Enforcement Officer Crisis
9 Intervention Services" telephone hotline as constituted in the
10 Department of Personnel is continued and transferred to the
11 Department of **[Health and Senior]** Human Services, pursuant to
12 sections 115 to 116 of P.L.2008, c.29 (C.26:2NN-1 to C.26:2NN-2),
13 to be allocated within that department as the commissioner shall
14 determine.

15 f. The New Jersey Employee Awards Committee as constituted
16 in the Department of Personnel is continued and transferred to the
17 Civil Service Commission. The members of the New Jersey
18 Employee Awards Committee shall continue as members of the
19 committee for the duration of their current terms and any
20 reappointments and until their successors are appointed, unless
21 removed for cause.

22 g. The commission shall develop a plan for the consolidation
23 and coordination of personnel and related functions, including, but
24 not limited to, classification, compensation, and workforce
25 planning, in the executive branch of State government and for
26 transfer to the commission of **[such]** employees, positions, funding,
27 facilities, equipment, powers, and duties from throughout the
28 executive branch of State government as necessary and appropriate
29 to effectuate such consolidation and coordination.

30 h. The commission shall submit the plan prepared pursuant to
31 subsection g. of this section to the Governor for review and
32 approval. With the approval of the Governor and in accordance
33 with regulations adopted by the commission, the commission,
34 pursuant to the approved plan, shall direct the consolidation and
35 coordination of personnel and related functions, including, but not
36 limited to, classification, compensation, and workforce planning, in
37 the executive branch of State government and transfer to the
38 commission **[such]** employees, positions, funding, facilities,
39 equipment, powers, duties, and functions from throughout the
40 executive branch of State government to effectuate **[such]** the
41 consolidation and coordination. The commission shall organize
42 these functions in **[such]** the units as the commission determines
43 are necessary for the efficient operation of the commission and in
44 **[such]** a manner as will provide the appointing authorities and all
45 State employees with proper support in personnel matters. The
46 consolidation shall not apply to those functions which the
47 commission has determined are unique to each department or
48 agency in its capacity as an appointing authority.

1 i. Each department, office, division, bureau, or agency in the
2 executive branch of State government shall cooperate with the
3 commission and make available to the commission such
4 information, personnel and assistance necessary to effectuate the
5 purposes of P.L.2008, c.29.

6 j. This section shall not be construed to permit or require
7 negotiations pursuant to the "New Jersey Employer-Employee
8 Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.), of any rule or
9 regulation promulgated by the State Treasurer or Civil Service
10 Commission pursuant to this section or any other section of this
11 title.

12 (cf: P.L.2008, c.29, s.78)

13
14 25. N.J.S.11A:11-3 is amended to read as follows:

15 11A:11-3 Any law, rule, regulation, order, reorganization plan,
16 contract, document, judicial or administrative proceeding,
17 appropriation, or otherwise which refers to the Department of
18 Personnel, Commissioner of Personnel, or Merit System Board shall
19 mean the Department of the Treasury, State Treasurer, Civil Service
20 Commission, or Department of Health **[and Senior Services]**, as
21 provided by P.L.2008, c.29.

22 (cf: P.L.2008, c.29, s.79)

23
24 26. N.J.S.11A:11-4 is amended to read as follows:

25 11A:11-4. All rules of the Merit System Board or the Department
26 of Personnel in effect on the effective date of P.L.2008, c.29 shall
27 remain in effect except as changed or modified by this title or action
28 of the Civil Service Commission, State Treasurer, Commissioner of
29 Health **[and Senior Services]**, or other authority, as appropriate.

30 (cf: P.L.2008, c.29, s.80)

31
32 27. Section 20 of P.L.1989, c.34 (C.13:1E-48.20) is amended to
33 read as follows:

34 20. a. This act, and any rule or regulation adopted pursuant
35 thereto, shall be enforced by the departments and by every local
36 board of health, or county health department, as the case may be.

37 The departments and the local board of health, or the county
38 health department, as the case may be, shall have the right to enter
39 the premises of a generator, transporter, or facility at any time in
40 order to determine compliance with this act.

41 The municipal attorney or an attorney retained by a municipality
42 in which a violation of this act is alleged to have occurred shall act
43 as counsel to a local board of health.

44 The county counsel or an attorney retained by a county in which
45 a violation of this act is alleged to have occurred shall act as
46 counsel to the county health department.

47 All enforcement activities undertaken by county health
48 departments pursuant to this subsection shall conform to all
49 applicable performance and administrative standards adopted

1 pursuant to section 10 of the "County Environmental Health Act,"
2 P.L.1977, c.443 (C.26:3A2-28).

3 b. Whenever the Commissioner of Environmental Protection or
4 the Commissioner of Health [and Senior Service] finds that a
5 person has violated this act, or any rule or regulation adopted
6 pursuant thereto, that commissioner shall:

7 (1) issue an order requiring the person found to be in violation
8 to comply in accordance with subsection c. of this section;

9 (2) bring a civil action in accordance with subsection d. of this
10 section;

11 (3) levy a civil administrative penalty in accordance with
12 subsection e. of this section;

13 (4) bring an action for a civil penalty in accordance with
14 subsection f. of this section; or

15 (5) petition the Attorney General to bring a criminal action in
16 accordance with subsections g. through j. of this section.

17 Pursuit of any of the remedies specified under this section shall
18 not preclude the seeking of any other remedy specified.

19 c. Whenever the Commissioner of Environmental Protection or
20 the Commissioner of Health [and Senior Services] finds that a
21 person has violated this act, or any rule or regulation adopted
22 pursuant thereto, that commissioner may issue an order specifying
23 the provision or provisions of this act, or the rule or regulation
24 adopted pursuant thereto, of which the person is in violation, citing
25 the action that constituted the violation, ordering abatement of the
26 violation, and giving notice to the person of the person's right to a
27 hearing on the matters contained in the order. The ordered party
28 shall have 20 days from receipt of the order within which to deliver
29 to the commissioner a written request for a hearing. After the
30 hearing and upon finding that a violation has occurred, the
31 commissioner may issue a final order. If no hearing is requested,
32 the order shall become final after the expiration of the 20-day
33 period. A request for hearing shall not automatically stay the effect
34 of the order.

35 d. The Commissioner of Environmental Protection, the
36 Commissioner of Health [and Senior Services], a local board of
37 health, or a county health department may institute an action or
38 proceeding in the Superior Court for injunctive and other relief,
39 including the appointment of a receiver for any violation of this act,
40 or of any rule or regulation adopted pursuant thereto, and the court
41 may proceed in the action in a summary manner. In any [such]
42 proceeding the court may grant temporary or interlocutory relief.

43 [Such] The relief may include, singly or in combination:

44 (1) a temporary or permanent injunction;

45 (2) assessment of the violator for the costs of any investigation,
46 inspection, or monitoring survey that led to the establishment of the
47 violation, and for the reasonable costs of preparing and litigating
48 the case under this subsection;

1 (3) assessment of the violator for any cost incurred by the State
2 in removing, correcting, or terminating the adverse effects upon
3 environmental quality or public health resulting from any violation
4 of this act, or any rule or regulation adopted pursuant thereto, for
5 which the action under this subsection may have been brought;

6 (4) assessment against the violator of compensatory damages for
7 any loss or destruction of wildlife, fish or aquatic life, and for any
8 other actual damages caused by any violation of this act, or any rule
9 or regulation adopted pursuant thereto, for which the action under
10 this subsection may have been brought; and

11 (5) assessment against the violator of the actual amount of any
12 economic benefits accruing to the violator from a violation.
13 Economic benefits may include the amount of any savings realized
14 from avoided capital or noncapital costs resulting from the
15 violation; the return earned or that may be earned on the amount of
16 avoided costs; any benefits accruing to the violator as a result of a
17 competitive market advantage enjoyed by reason of the violation; or
18 any other benefits resulting from the violation.

19 Assessments under this subsection shall be paid to the State
20 Treasurer, or to the local board of health, or to the county health
21 department, as the case may be, except that compensatory damages
22 may be paid by specific order of the court to any persons who have
23 been aggrieved by the violation.

24 If a proceeding is instituted by a local board of health or county
25 health department, notice thereof shall be served upon the
26 commissioners in the same manner as if the commissioners were
27 named parties to the action or proceeding. Either of the
28 departments may intervene as a matter of right in any proceeding
29 brought by a local board of health or county health department.

30 e. Either of the commissioners, as the case may be, may assess
31 a civil administrative penalty of not more than \$100,000 for each
32 violation. Each day that a violation continues shall constitute an
33 additional, separate, and distinct offense. A commissioner may not
34 assess a civil administrative penalty in excess of \$25,000 for a
35 single violation, or in excess of \$2,500 for each day during which a
36 violation continues, until the departments have respectively
37 adopted, pursuant to the "Administrative Procedure Act," P.L.1968,
38 c.410 (C.52:14B-1 et seq.), regulations requiring the appropriate
39 commissioner, in assessing a civil administrative penalty, to
40 consider the operational history of the violator, the severity of the
41 violation, the measures taken to mitigate or prevent further
42 violations, and whether the penalty will maintain an appropriate
43 deterrent. No assessment may be levied pursuant to this section
44 until after the violator has been notified by certified mail or
45 personal service. The notice shall include a reference to the section
46 of the statute, rule, regulation, or order violated, a concise statement
47 of the facts alleged to constitute a violation, a statement of the
48 amount of the civil administrative penalties to be imposed, and a
49 statement of the party's right to a hearing. The ordered party shall

1 have 20 calendar days from receipt of the notice within which to
2 deliver to the appropriate commissioner a written request for a
3 hearing. After the hearing and upon finding that a violation has
4 occurred, that commissioner may issue a final order after assessing
5 the amount of the fine specified in the notice. If no hearing is
6 requested, the notice shall become a final order after the expiration
7 of the 20-day period. Payment of the assessment is due when a
8 final order is issued or the notice becomes a final order. The
9 authority to levy a civil administrative penalty is in addition to all
10 other enforcement provisions in this act, and the payment of any
11 assessment shall not be deemed to affect the availability of any
12 other enforcement provisions in connection with the violation for
13 which the assessment is levied. Each department may compromise
14 any civil administrative penalty assessed under this section in an
15 amount the department determines appropriate.

16 f. A person who violates this act, or any rule or regulation
17 adopted pursuant thereto, shall be liable for a penalty of not more
18 than \$100,000 per day for each violation, to be collected in a civil
19 action commenced by the Commissioner of Environmental
20 Protection, the Commissioner of Health **and Senior Services**, a
21 local board of health, or a county health department.

22 A person who violates an administrative order issued pursuant to
23 subsection c. of this section, or a court order issued pursuant to
24 subsection d. of this section, or who fails to pay an administrative
25 assessment in full pursuant to subsection e. of this section is subject
26 upon order of a court to a civil penalty not to exceed \$200,000 per
27 day for each violation.

28 Of the penalty imposed pursuant to this subsection, 10% or \$250,
29 whichever is greater, shall be paid to the appropriate department
30 from the General Fund if the Attorney General determines that a
31 person is entitled to a reward pursuant to section 24 of this act.

32 Any penalty imposed pursuant to this subsection may be
33 collected, with costs, in a summary proceeding pursuant to the
34 "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10
35 et seq.). The Superior Court and the municipal court shall have
36 jurisdiction to enforce the provisions of the "Penalty Enforcement
37 Law of 1999" in connection with this act.

38 g. A person who purposely or knowingly:

39 (1) disposes or stores regulated medical waste without
40 authorization from either the Department of Environmental
41 Protection or the Department of Health **and Senior Services**, as
42 appropriate, or in violation of this act, or any rule or regulation
43 adopted pursuant thereto;

44 (2) makes any false or misleading statement to any person who
45 prepares any regulated medical waste application, registration,
46 form, label, certification, manifest, record, report, or other
47 document required by this act, or any rule or regulation adopted
48 pursuant thereto;

1 (3) makes any false or misleading statement on any regulated
2 medical waste application, registration, form, label, certification,
3 manifest, record, report, or other document required by this act, or
4 any rule or regulation adopted pursuant thereto; or

5 (4) fails to properly treat certain types of regulated medical
6 waste designated by the Department of Health [and Senior
7 Services] in a prescribed manner; shall, upon conviction, be guilty
8 of a crime of the third degree and, notwithstanding the provisions of
9 N.J.S.2C:43-3, shall be subject to a fine of not more than \$100,000
10 for the first offense, and not more than \$200,000 for each
11 subsequent offense, and restitution, in addition to any other
12 appropriate disposition authorized by subsection b. of N.J.S.2C:43-
13 2.

14 h. A person who recklessly or negligently:

15 (1) disposes or stores regulated medical waste without
16 authorization from either the Department of Environmental
17 Protection or the Department of Health [and Senior Services], as
18 appropriate, or in violation of this act, or any rule or regulation
19 adopted pursuant thereto;

20 (2) makes any false or misleading statement to any person who
21 prepares any regulated medical waste application, registration,
22 form, label, certification, manifest, record, report, or other
23 document required by this act, or any rule or regulation adopted
24 pursuant thereto;

25 (3) makes any false or misleading statement on any regulated
26 medical waste application, registration, form, label, certification,
27 manifest, record, report, or other document required by this act, or
28 any rule or regulation adopted pursuant thereto; or

29 (4) fails to properly treat certain types of regulated medical
30 waste designated by the Department of Health [and Senior
31 Services] in a manner prescribed thereby; shall, upon conviction, be
32 guilty of a crime of the fourth degree.

33 i. A person who, regardless of intent:

34 (1) transports any regulated medical waste to a facility or any
35 other place in the State that does not have authorization from the
36 Department of Environmental Protection to accept [such] the
37 waste, or in violation of this act, or any rule or regulation adopted
38 pursuant thereto; or

39 (2) transports, or receives transported, regulated medical waste
40 without completing and submitting a manifest in accordance with
41 this act, or any rule or regulation adopted pursuant thereto; shall,
42 upon conviction, be guilty of a crime of the fourth degree.

43 j. A person who purposely, knowingly, or recklessly:

44 (1) generates and causes or permits to be transported any
45 regulated medical waste to a facility or any other place in the State
46 that does not have authorization from the Department of
47 Environmental Protection to accept [such] the waste, or in

1 violation of this act, or any rule or regulation adopted pursuant
2 thereto; or

3 (2) violates any other provision of this act, or any rule or
4 regulation adopted pursuant thereto, for which no other criminal
5 penalty has been specifically provided for; shall, upon conviction,
6 be guilty of a crime of the fourth degree.

7 k. All conveyances used or intended for use in the willful
8 discharge, in violation of this act, or any rule or regulation adopted
9 pursuant thereto, of regulated medical waste are subject to forfeiture
10 to the State pursuant to P.L.1981, c.387 (C.13:1K-1 et seq.).

11 l. (Deleted by amendment, P.L.1997, c.325.)

12 m. No prosecution for a violation under this act shall be deemed
13 to preclude a prosecution for the violation of any other applicable
14 statute.

15 (cf: P.L.2009, c.282, s.1)

16

17 28. Section 1 of P.L.1998, c.18 (C.17:23A-13.1) is amended to
18 read as follows:

19 1. An insurer who requires an applicant for insurance to submit
20 to medical testing as a condition of issuing, extending or renewing
21 the insurance shall obtain the applicant's written consent for the
22 test. If in the course of the testing the insurer determines that the
23 applicant has a reportable communicable disease, the insurer shall
24 promptly notify the applicant of the determination and recommend
25 that the applicant contact a physician or other medical professional
26 regarding the significance of the test result. The insurer shall also
27 promptly provide the Department of Health **【and Senior Services】**
28 and a physician or other medical professional designated by the
29 applicant with a copy of the results of the test. The provisions of
30 this act shall not be construed to require a physician or other
31 medical professional who receives a copy of the test result to
32 initiate contact with the applicant regarding the test result.

33 The insurer shall provide the notification required pursuant to
34 this section regardless of whether the existence of the disease will
35 result in an adverse underwriting decision for the applicant.

36 For the purposes of this act, "reportable communicable disease"
37 means those diseases required to be reported to the Department of
38 Health **【and Senior Services】** pursuant to N.J.A.C.8:57-1.3 through
39 8:57-1.6 and N.J.A.C.8:57-2.2 and 8:57-2.3.

40 (cf: P.L.1998, c.18, s.1)

41

42 29. Section 2 of P.L.1998, c.18 (C.17:23A-13.2) is amended to
43 read as follows:

44 2. The Commissioner of Banking and Insurance, in
45 consultation with the Commissioner of Health **【and Senior**
46 **Services】**, shall adopt regulations pursuant to the "Administrative
47 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) which

1 establish procedures that insurers shall use to notify applicants of
2 test results pursuant to this act.
3 (cf: P.L.1998, c.18, s.2)

4
5 30. Section 1 of P.L.1970, c.22 (C.17:27A-1) is amended to read
6 as follows:

7 1. Definitions.

8 As used in P.L.1970, c.22 (C.17:27A-1 et seq.), the following
9 terms shall have the respective meanings hereinafter set forth,
10 unless the context shall otherwise require:

11 a. An "affiliate" of, or person "affiliated" with, a specific
12 person, is a person that directly, or indirectly through one or more
13 intermediaries, controls, or is controlled by, or is under common
14 control with, the person specified.

15 b. The term "commissioner" shall mean the Commissioner of
16 Banking and Insurance or ~~his~~ the commissioner's deputies,
17 except that when a health maintenance organization is the subject of
18 an acquisition of control or merger, the commissioner shall consult
19 with the Commissioner of Health ~~and Senior Services~~ on matters
20 relating to quality of, and access to, health care services.

21 c. The term "control" (including the terms "controlling,"
22 "controlled by" and "under common control with") means the
23 possession, direct or indirect, of the power to direct or cause the
24 direction of the management and policies of a person, whether
25 through the ownership of voting securities, by contract other than a
26 commercial contract for goods or nonmanagement services, or
27 otherwise, unless the power is the result of an official position with
28 or corporate office held by the person. Control shall be presumed
29 to exist if any person, directly or indirectly, owns, controls, holds
30 with the power to vote, or holds proxies representing, 10% or more
31 of the voting securities of any other person, provided that no such
32 presumption of control shall of itself relieve any person so
33 presumed to have control from any requirement of P.L.1970, c.22
34 (C.17:27A-1 et seq.). This presumption may be rebutted by a
35 showing made in the manner provided by subsection j. of section 3
36 of P.L.1970, c.22 (C.17:27A-3) that control does not exist in fact.
37 The commissioner may determine, after furnishing all persons in
38 interest notice and an opportunity to be heard, and making specific
39 findings of fact to support such determination, that control exists in
40 fact, notwithstanding the absence of a presumption to that effect.

41 d. An "insurance holding company system" consists of two or
42 more affiliated persons, one or more of which is an insurer.

43 e. The term "insurer" means any person or persons,
44 corporation, partnership, or company authorized by the laws of this
45 State to transact the business of insurance or to operate a health
46 maintenance organization in this State, except that it shall not
47 include agencies, authorities, or instrumentalities of the United
48 States, its possessions and territories, the Commonwealth of Puerto

1 Rico, the District of Columbia, or a state or political subdivision of
2 a state.

3 f. A "person" is an individual, a corporation, a partnership, an
4 association, a joint stock company, a trust, an unincorporated
5 organization, any similar entity or any combination of the foregoing
6 acting in concert.

7 g. (Deleted by amendment, P.L.1993, c.241[.]).

8 h. A "subsidiary" of a specified person is an affiliate controlled
9 by such person directly, or indirectly through one or more
10 intermediaries.

11 i. The term "voting security" shall include any security
12 convertible into or evidencing a right to acquire a voting security.

13 j. "Acquisition" means any agreement, arrangement or activity,
14 the consummation of which results in a person acquiring directly or
15 indirectly the control of another person, and includes but is not
16 limited to the acquisition of voting securities, and assets, and bulk
17 reinsurance and mergers.

18 k. "Health maintenance organization" means any person
19 operating under a certificate of authority issued pursuant to
20 P.L.1973, c.337 (C.26:2J-1 et seq.).

21 (cf: P.L2001, c.2, s.2)

22

23 31. Section 1 of P.L.1998, c.129 (C.17:29A-35.1) is amended to
24 read as follows:

25 1. Notwithstanding the provisions or any law, rule or regulation
26 to the contrary, upon the death of a driver on whom surcharges have
27 been levied by the [Division of Motor Vehicles] New Jersey Motor
28 Vehicle Commission pursuant to section 6 of P.L.1983, c.65
29 (C.17:29A-35), any debt established by the imposition of those
30 surcharges is extinguished and the [division] commission, or any
31 agent or representative thereof, shall cease to seek payment of that
32 debt.

33 Whenever the division is unable to obtain a death certificate
34 from a person representing the estate of any driver on whom
35 surcharges have been levied and who was a resident of the State, the
36 [division] commission shall obtain a copy of the death certificate
37 by contacting the State registrar of vital statistics in the Department
38 of Health [and Senior Services] and, in these cases, the [division]
39 commission shall not require the estate of the driver to furnish a
40 death certificate.

41 (cf: P.L.1998, c.129, s.1)

42

43 32. Section 27 of P.L.2004, c.17 (C.17:30D-29) is amended to
44 read as follows:

45 27. a. There is established a Medical Malpractice Liability
46 Insurance Premium Assistance Fund within the Department of the
47 Treasury as a nonlapsing, revolving fund.

48 b. The fund shall be comprised of the following revenue:

1 (1) an annual surcharge of \$3 per employee for all employers
2 who are subject to the New Jersey "unemployment compensation
3 law," R.S.43:21-1 et seq., collected by the comptroller for the New
4 Jersey Unemployment Compensation Fund and paid over to the
5 State Treasurer for deposit in the fund annually, as provided by the
6 commissioner, which surcharge may, at the option of the employer,
7 be treated as a payroll deduction to each covered employee;

8 (2) an annual charge of \$75 to be imposed by the State Board of
9 Medical Examiners on every physician and podiatrist licensed by
10 the board pursuant to the provisions of R.S.45:9-1 et seq., collected
11 by the board and remitted to the State Treasurer for deposit into the
12 fund;

13 (3) an annual charge of \$75 to be imposed by the State Board of
14 Chiropractic Examiners on every chiropractor licensed by the board
15 pursuant to the provisions of P.L.1989, c.153 (C.45:9-41.17 et seq.),
16 collected by the board and remitted to the State Treasurer for
17 deposit into the fund;

18 (4) an annual charge of \$75 to be imposed by the New Jersey
19 State Board of Dentistry on every dentist licensed pursuant to the
20 provisions of R.S.45:6-1 et seq., collected by the board and remitted
21 to the State Treasurer for deposit into the fund;

22 (5) an annual charge of \$75 to be imposed by the New Jersey
23 State Board of Optometrists on every optometrist licensed by the
24 board pursuant to the provisions of R.S.45:12-1 et seq., collected by
25 the board and remitted to the State Treasurer for deposit into the
26 fund; and

27 (6) an annual fee of \$75 to be assessed by the State Treasurer
28 and payable by each person licensed to practice law in this State,
29 for deposit into the fund.

30 The provisions of paragraphs (2) through (5) of this subsection
31 shall not apply to physicians, podiatrists, chiropractors, dentists, or
32 optometrists who: are statutorily or constitutionally barred from the
33 practice of their respective profession; can show that they do not
34 maintain a bona fide office for the practice of their profession in
35 this State; are completely retired from the practice of their
36 profession; are on full-time duty with the armed forces, VISTA, or
37 the Peace Corps and not engaged in practice; or have not practiced
38 their profession for at least one year.

39 The provisions of paragraph (6) of this subsection shall not apply
40 to attorneys who: are constitutionally or statutorily barred from the
41 practice of law; can show that they do not maintain a bona fide
42 office for the practice of law in this State; are completely retired
43 from the practice of law; are on full-time duty with the armed
44 forces, VISTA, or the Peace Corps and not engaged in practice; are
45 ineligible to practice law because they have not made their New
46 Jersey Lawyers' Fund for Client Protection payment; or have not
47 practiced law for at least one year.

48 c. The State Treasurer shall deposit all **【moneys】** monies
49 collected **【by him】** pursuant to this section into the fund. Monies

1 credited to the fund may be invested in the same manner as assets of
2 the General Fund and any investment earnings on the fund shall
3 accrue to the fund and shall be available subject to the same terms
4 and conditions as other monies in the fund.

5 d. The fund shall be administered by the Department of
6 Banking and Insurance in accordance with the provisions of
7 P.L.2004, c.17 (C.2A:53A-37 et al.).

8 e. The monies in the fund are specifically dedicated and shall
9 be utilized exclusively for the following purposes:

10 (1) \$17 million shall be allocated annually for the purpose of
11 providing relief towards the payment of medical malpractice
12 liability insurance premiums to health care providers in the State
13 who have experienced or are experiencing a liability insurance
14 premium increase in an amount as established by the commissioner
15 by regulation and meet the criteria established pursuant to section
16 28 of P.L.2004, c.17 (C.17:30D-30);

17 (2) \$6.9 million shall be allocated annually to the Health Care
18 Subsidy Fund established pursuant to section 8 of P.L.1992, c.160
19 (C.26:2H-18.58) for the purpose of providing payments to hospitals
20 in accordance with the formula used for the distribution of charity
21 care subsidies that are provided pursuant to P.L.1992, c.160
22 (C.26:2H-18.51 et al.);

23 (3) \$1 million shall be allocated annually for a student loan
24 expense reimbursement program for obstetrician/gynecologists, to
25 be established pursuant to section 29 of P.L.2004, c.17
26 (C.18A:71C-49); and

27 (4) \$1.2 million shall be allocated annually to the Division of
28 Medical Assistance and Health Services in the Department of
29 Human Services for the purposes provided in section 30 of
30 P.L.2004, c.17 (C.30:4J-7).

31 f. The fund and the annual surcharge, charges, and fee
32 provided for in subsection b. of this section shall expire three years
33 after the effective date of P.L.2004, c.17 (C.2A:53A-37 et al.).

34 g. The commissioner, in consultation with the Commissioner of
35 Health [and Senior Services], shall adopt rules and regulations
36 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
37 (C.52:14B-1 et seq.), to carry out the purposes of sections 26
38 through 29 of P.L.2004, c.17 (C.17:30D-28 through C.17:30D-30
39 and C.18A:71C-49); except that, notwithstanding any provision of
40 P.L.1968, c.410 to the contrary, the commissioner may adopt,
41 immediately upon filing with the Office of Administrative Law,
42 such regulations as the commissioner deems necessary to
43 implement the provisions of sections 26 through 29 of P.L.2004,
44 c.17 (C.17:30D-28 through C.17:30D-30 and C.18A:71C-49),
45 which shall be effective for a period not to exceed six months and
46 may thereafter be amended, adopted, or readopted by the
47 commissioner in accordance with the requirements of P.L.1968,
48 c.410.

49 (cf: P.L.2004, c.17, s.27)

1 33. Section 28 of P.L.2004, c.17 (C.17:30D-30) is amended to
2 read as follows:

3 28. a. In order to carry out the purposes of section 27 of
4 P.L.2004, c.17 (C.17:30D-29), the commissioner shall, at a
5 minimum:

6 (1) establish a program to provide medical malpractice liability
7 insurance premium subsidies to health care providers from monies
8 that are contained in the fund;

9 (2) establish a methodology and procedures for determining
10 eligibility for, and providing subsidies from, the fund;

11 (3) maintain confidential records on each health care provider
12 who receives assistance from the fund;

13 (4) take all necessary action to recover the cost of the subsidy
14 provided to a health care provider that the commissioner determines
15 to have been incorrectly provided; and

16 (5) provide for subsidies to all practitioners who are members of
17 specialties and subspecialties who qualify for relief under
18 subsection b. of this section, including those whose professional
19 liability insurance protection is provided by hospital funding
20 supplemented by purchased commercial insurance coverage.

21 b. The commissioner shall certify classes of practitioners by
22 specialty and subspecialty for each type of practitioner, whose
23 average medical malpractice premium, as a class, on or after
24 December 31, 2002, is in excess of an amount per year as
25 determined by the commissioner by regulation. In certifying
26 classes eligible for the subsidy, the commissioner, in consultation
27 with the Commissioner of Health [and Senior Services], may also
28 consider if access to care is threatened by the inability of a
29 significant number of practitioners, as applicable, in a particular
30 specialty or subspecialty, to continue practicing in a geographic
31 area of the State.

32 (1) In order to be eligible for a subsidy from the fund, a
33 practitioner shall have received a medical malpractice liability
34 insurance premium increase in an amount as determined by the
35 commissioner by regulation, for one or more of the following: upon
36 renewal on or after January 1, 2004, from the amount paid by that
37 practitioner in calendar year 2003; upon renewal on or after January
38 1, 2005, from the amount paid by that practitioner in calendar year
39 2004; and upon renewal on or after January 1, 2006, from the
40 amount paid by that practitioner in calendar year 2005; or

41 (2) In the case of a health care provider providing professional
42 liability insurance protection through self-insured hospital funding
43 supplemented with purchased commercial insurance coverage, in
44 order to be eligible for a subsidy from the fund, that provider shall
45 have increased its total professional liability funding obligation in
46 an amount as determined by the commissioner by regulation, for
47 one or more of the following: upon renewal on or after January 1,
48 2004, from the professional liability funding obligation paid by that
49 provider in calendar year 2003; upon renewal on or after January 1,

1 2005, from the professional liability funding obligation paid by that
2 provider in calendar year 2004; and upon renewal on or after
3 January 1, 2006, from the professional liability funding obligation
4 paid by that provider in calendar year 2005.

5 (3) The amount of the subsidy shall be an amount, as
6 determined by the commissioner by regulation, of the increase from
7 the preceding year's premium or self-insured professional liability
8 funding obligation; except that no health care provider shall receive
9 a subsidy in any year that is greater than an amount as determined
10 by the commissioner by regulation.

11 c. A practitioner who has been subject to a disciplinary action
12 or civil penalty by the practitioner's respective licensing board
13 pursuant to section 8, 9 or 12 of P.L.1978, c.73 (C.45:1-21, 22 or
14 25), when that action or penalty relates to the practitioner's
15 provision of, or failure to provide, treatment or care to a patient, is
16 not eligible for a subsidy from the fund.

17 d. (1) A practitioner who receives a subsidy from the fund
18 shall be required to practice in that practitioner's specialty or
19 subspecialty in this State for a period of at least two years after
20 receipt of the subsidy.

21 (2) A practitioner who fails to comply with the provisions of
22 paragraph (1) of this subsection shall be required to repay to the
23 commissioner the amount of the subsidy, in whole or in part as
24 determined by the commissioner.

25 e. The commissioner may waive the criteria for eligibility for a
26 subsidy established pursuant to this section, if the commissioner
27 determines that access to care for a particular specialty is threatened
28 because of an inability of a sufficient number of practitioners in that
29 specialty or subspecialty to practice in a geographic area of the
30 State.

31 f. The State Board of Medical Examiners, the State Board of
32 Chiropractic Examiners, the New Jersey State Board of Dentistry,
33 and the New Jersey Board of Nursing shall each provide to the
34 commissioner, on a quarterly basis, the names of the practitioners
35 who have been subject to a disciplinary action or civil penalty by
36 the practitioner's respective licensing board.

37 g. For the purposes of section 29 of P.L.2004, c.17
38 (C.18A:71C-49), the commissioner, in consultation with the State
39 Board of Medical Examiners, shall provide to the Higher Education
40 Student Assistance Authority the names of
41 obstetrician/gynecologists licensed by the board who may qualify
42 for the student loan reimbursement program established pursuant to
43 P.L.2004, c.17. A physician who has been subject to a disciplinary
44 action or civil penalty by the board, as provided in subsection c. of
45 this section, shall not be eligible for the program.

46 (cf: P.L.2004, c.17, s.28)

47

48 34. Section 34 of P.L.1998, c.21 (C.17:33A-18) is amended to
49 read as follows:

1 34. a. A section of the Office of Insurance Fraud Prosecutor
2 shall be designated to be responsible for establishing a liaison and
3 continuing communication between the office and the Department
4 of Health **[and Senior Services]**, the Department of Human
5 Services, the Department of Labor and Workforce Development,
6 any professional board in the Division of Consumer Affairs in the
7 Department of Law and Public Safety, the Department of Banking
8 and Insurance, the Division of State Police, every county
9 prosecutor's office, **[such]** local government units as may be
10 necessary or practicable, and insurers.

11 b. The section of the office responsible for such liaison shall
12 establish procedures: (1) for receiving notice from all entities
13 enumerated in subsection a. of this section of any case in which
14 fraud is suspected or has been substantiated; (2) for receiving
15 referrals for the investigation of alleged fraud; (3) for receiving
16 referrals for the prosecution of fraud by the office; (4) for receiving
17 and referring information regarding cases, administrative or
18 otherwise, under investigation by any department or other entity to
19 the appropriate authority; and (5) for providing information to and
20 coordinating information among any referring entities on pending
21 cases of insurance fraud which are under investigation or being
22 litigated or prosecuted. The liaison section of the office shall
23 maintain a record of every referral or investigation.

24 (cf: P.L.2008, c.121, s.1)

25

26 35. Section 2 of P.L.1995, c.316 (C.17:48-6m) is amended to
27 read as follows:

28 2. No hospital service corporation contract providing hospital
29 or medical expense benefits for groups with greater than 50 persons
30 shall be delivered, issued, executed, or renewed in this State, or
31 approved for issuance or renewal in this State by the Commissioner
32 of Banking and Insurance on or after the effective date of P.L.2005,
33 c.248 (C.17:48E-35.27 et al.), unless the contract provides benefits
34 to any named subscriber or other person covered thereunder for
35 expenses incurred in the following:

36 a. Screening by blood lead measurement for lead poisoning for
37 children, including confirmatory blood lead testing as specified by
38 the Department of Health **[and Senior Services]** pursuant to section
39 7 of P.L.1995, c.316 (C.26:2-137.1); and medical evaluation and
40 any necessary medical follow-up and treatment for lead poisoned
41 children.

42 b. All childhood immunizations as recommended by the
43 Advisory Committee on Immunization Practices of the United
44 **[State]** States Public Health Service and the Department of Health
45 **[and Senior Services]** pursuant to section 7 of P.L.1995, c.316
46 (C.26:2-137.1). A hospital service corporation shall notify its
47 subscribers, in writing, of any change in coverage with respect to
48 childhood immunizations and any related changes in premium.

1 Such notification shall be in a form and manner to be determined by
2 the Commissioner of Banking and Insurance.

3 c. Screening for newborn hearing loss by appropriate
4 electrophysiologic screening measures and periodic monitoring of
5 infants for delayed onset hearing loss, pursuant to P.L.2001, c.373
6 (C.26:2-103.1 et al.). Payment for this screening service shall be
7 separate and distinct from payment for routine new baby care in the
8 form of a newborn hearing screening fee as negotiated with the
9 provider and facility.

10 The benefits provided pursuant to this section shall be provided
11 to the same extent as for any other medical condition under the
12 contract, except that a deductible shall not be applied for benefits
13 provided pursuant to this section; however, with respect to a
14 contract that qualifies as a high deductible health plan for which
15 qualified medical expenses are paid using a health savings account
16 established pursuant to section 223 of the federal Internal Revenue
17 Code of 1986 (26 U.S.C. s.223), a deductible shall not be applied
18 for any benefits provided pursuant to this section which represent
19 preventive care as permitted by that federal law, and shall not be
20 applied as provided pursuant to section 6 of P.L.2005, c.248
21 (C.17:48-6dd). This section shall apply to all hospital service
22 corporation contracts in which the health service corporation has
23 reserved the right to change the premium.
24 (cf: P.L.2005, c.248, s.4)

25
26 36. Section 11 of P.L.1979, c.478 (C.17:48D-11) is amended to
27 read as follows:

28 11. a. The commissioner or **[his]** the commissioner's designee
29 may, as often as **[he]** the commissioner may reasonably determine,
30 investigate the business and examine the books, accounts, records,
31 and files of every dental plan organization. For that purpose the
32 commissioner or **[his]** the commissioner's designee shall have
33 reasonably free access to the offices and places of business, books,
34 accounts, papers, records, and files of all dental plan organizations.
35 A dental plan organization shall keep and use in its business such
36 books, accounts, and records as will enable the commissioner to
37 determine whether the dental plan organization is complying with
38 the provisions of this act and with the rules and regulations
39 promulgated pursuant to it. A dental plan organization shall
40 preserve its books, accounts, and records for at least 7 years; except
41 that preservation by photographic reproduction or records in
42 photographic form shall constitute compliance with this act.

43 b. For the purpose of the examination, the commissioner may,
44 within the limits of funds appropriated for such purpose, contract
45 with such persons as **[he]** the commissioner may deem advisable to
46 conduct the same or assist therein.

47 c. At the discretion of the commissioner, the Commissioner of
48 Health **[and Senior Services]** and the New Jersey State Board of

1 Dentistry may participate in the investigations and examinations
2 described in this section to verify the existence of an effective
3 dental plan.

4 d. The expenses incurred in making any examination pursuant
5 to this section shall be assessed against and paid by the dental plan
6 organization so examined. A dental plan organization having direct
7 premiums written in this State of less than \$2,000,000 in any
8 calendar year shall be subject to a limited scope examination with
9 expenses for that examination not to exceed \$5,000. Upon written
10 notice by the commissioner of the total amount of an assessment, a
11 dental plan organization shall become liable for and shall pay the
12 assessment to the commissioner.

13 (cf: P.L.2005, c.38, s.9)

14

15 37. Section 1 of P.L.1985, c.236 (C.17:48E-1) is amended to
16 read as follows:

17 1. As used in this act:

18 a. "Commissioner" means the Commissioner of Banking and
19 Insurance.

20 b. "Board" and "board of directors" means the board of
21 directors of the health service corporation.

22 c. "Elective surgical procedure" means any nonemergency
23 surgical procedure which may be scheduled at the convenience of
24 the patient or the surgeon without jeopardizing the patient's life or
25 causing serious impairment to the patient's bodily functions.

26 d. "Eligible physician" means a physician licensed to practice
27 medicine and surgery who holds the rank of Diplomate of an
28 American Board (M.D.) or Certified Specialist (D.O.) in the
29 surgical or medical specialty for which surgery is proposed.

30 e. "Health service corporation" means a health service
31 corporation established pursuant to the provisions of this act, which
32 is organized, without capital stock and not for profit, for the
33 purpose of (1) establishing, maintaining, and operating a nonprofit
34 health service plan and (2) supplying services in connection with (a)
35 the providing of health care or (b) conducting the business of
36 insurance as provided for in this act.

37 f. "Health service plan" means a plan under which contracts
38 are issued providing complete or partial prepayment or postpayment
39 of health care services and supplies eligible under the contracts for
40 a given period to persons covered under the contracts where
41 arrangements are made for payment for health care services and
42 supplies directly to the provider thereof or to a covered person
43 under those contracts.

44 g. "Hospital service corporation" means a hospital service
45 corporation established pursuant to the provisions of P.L.1938,
46 c.366 (C.17:48-1 et seq.).

47 h. "Medical service corporation" means a medical service
48 corporation established pursuant to the provisions of P.L.1940, c.74
49 (C.17:48A-1 et seq.).

i. "Provider of health care services" shall include, but not be limited to: (1) a health service corporation, a hospital service corporation or medical service corporation; (2) a hospital or health care facility under contract with a health service corporation to provide health care services or supplies to persons who become subscribers under contracts with the health service corporation; (3) a hospital or health care facility which is maintained by a state or any of its political subdivisions; (4) a hospital or health care facility licensed by the Department of Health [and Senior Services]; (5) other hospitals or health care facilities, as designated by the Department of Health [and Senior Services] to provide health care services; (6) a registered nursing home providing convalescent care; (7) a nonprofit voluntary visiting nurse organization providing health care services other than in a hospital; (8) hospitals or other health care facilities located in other states, which are subject to the supervision of those states, which if located in this State would be eligible to be licensed or designated by the Department of Health [and Senior Services]; (9) nonprofit hospital, medical or health service plans of other states approved by the commissioner; (10) physicians licensed to practice medicine and surgery; (11) licensed chiropractors; (12) licensed dentists; (13) licensed optometrists; (14) licensed pharmacists; (15) licensed podiatrists; (16) registered bio-analytical laboratories; (17) licensed psychologists; (18) registered physical therapists; (19) certified nurse-midwives; (20) registered professional nurses; (21) licensed health maintenance organizations; (22) licensed audiologists; (23) licensed speech-language pathologists; and (24) providers of other similar health care services or supplies as are approved by the commissioner.

j. "Second surgical opinion" means an opinion of an eligible physician based on that physician's examination of a person for the purpose of evaluating the medical advisability of that person undergoing an elective surgical procedure, but prior to the performance of the surgical procedure.

k. "Subscriber" means a person to whom a subscription certificate is issued by a health service corporation, and the term shall also include "policyholder," "member," or "employer" under a group contract where the context requires.

(cf: P.L.2005, c.259, s.27)

38. Section 1 of P.L.1995, c.316 (C.17:48E-35.10) is amended to read as follows:

1. No health service corporation contract providing hospital or medical expense benefits for groups with greater than 50 persons shall be delivered, issued, executed, or renewed in this State, or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance on or after the effective date of P.L.2005, c.248 (C.17:48E-35.27 et al.), unless the contract provides benefits to any named subscriber or other person covered thereunder for expenses incurred in the following:

1 a. Screening by blood lead measurement for lead poisoning for
2 children, including confirmatory blood lead testing as specified by
3 the Department of Health [and Senior Services] pursuant to section
4 7 of P.L.1995, c.316 (C.26:2-137.1); and medical evaluation and
5 any necessary medical follow-up and treatment for lead poisoned
6 children.

7 b. All childhood immunizations as recommended by the
8 Advisory Committee on Immunization Practices of the United
9 States Public Health Service and the Department of Health [and
10 Senior Services] pursuant to section 7 of P.L.1995, c.316 (C.26:2-
11 137.1). A health service corporation shall notify its subscribers, in
12 writing, of any change in coverage with respect to childhood
13 immunizations and any related changes in premium. [Such] The
14 notification shall be in a form and manner to be determined by the
15 Commissioner of Banking and Insurance.

16 c. Screening for newborn hearing loss by appropriate
17 electrophysiologic screening measures and periodic monitoring of
18 infants for delayed onset hearing loss, pursuant to P.L.2001, c.373
19 (C.26:2-103.1 et al.). Payment for this screening service shall be
20 separate and distinct from payment for routine new baby care in the
21 form of a newborn hearing screening fee as negotiated with the
22 provider and facility.

23 The benefits provided pursuant to this section shall be provided
24 to the same extent as for any other medical condition under the
25 contract, except that a deductible shall not be applied for benefits
26 provided pursuant to this section; however, with respect to a
27 contract that qualifies as a high deductible health plan for which
28 qualified medical expenses are paid using a health savings account
29 established pursuant to section 223 of the federal Internal Revenue
30 Code of 1986 (26 U.S.C. s.223), a deductible shall not be applied
31 for any benefits provided pursuant to this section which represent
32 preventive care as permitted by that federal law, and shall not be
33 applied as provided pursuant to section 3 of P.L.2005, c.248
34 (C.17:48E-35.28). This section shall apply to all health service
35 corporation contracts in which the health service corporation has
36 reserved the right to change the premium.

37 (cf: P.L. 2005, c.248, s.1)

38

39 39. Section 3 of P.L.1999, c.409 (C.17:48H-3) is amended to
40 read as follows:

41 3. a. An organized delivery system which is not subject to
42 licensure requirements pursuant to this act shall submit an
43 application for certification to the Commissioner of [Health]
44 Banking and [Senior Services] Insurance. The organized delivery
45 system may continue to operate during the pendency of its
46 application, but in no case longer than 12 months after the date of
47 submission of the application to the Department of [Health]
48 Banking and [Senior Services] Insurance, unless the

1 commissioner, by regulation, extends the 12-month limitation. In
2 the event the application is denied, the applicant shall be treated as
3 an organized delivery system whose certification has been revoked
4 pursuant to sections 7 and 8 of this act.

5 Notwithstanding the obligations imposed by this act regarding
6 certification requirements, nothing in this subsection shall operate
7 to impair any contract in force on the effective date of this act, but
8 this act shall apply to any contract renewed on or after the effective
9 date of this act.

10 b. The certification shall be valid for a period of three years.

11 c. A certified organized delivery system shall not directly issue
12 health benefits plans.

13 (cf: P.L.1999, c.409, s.3)

14

15 40. Section 4 of P.L.1999, c.409 (C.17:48H-4) is amended to
16 read as follows:

17 4. Application for certification to operate an organized delivery
18 system shall be made to the Commissioner of **Health** Banking
19 and **Senior Services** Insurance on a form prescribed by the
20 commissioner, shall be certified by an officer or authorized
21 representative of the applicant and shall include the following:

22 a. A copy of the applicant's basic organizational documents.
23 For purposes of this subsection, "basic organizational documents"
24 means the articles of incorporation, articles of association,
25 partnership agreement, management agreement, trust agreement, or
26 other applicable documents as appropriate to the applicant's form of
27 business entity, and all amendments to those documents;

28 b. A copy of the executed bylaws, rules, and regulations, or
29 similar documents, regulating the conduct of the applicant's internal
30 affairs;

31 c. A list, in a form approved by the Commissioner of **Health**
32 Banking and **Senior Services** Insurance, of the names, addresses,
33 and official positions of the persons who are to be responsible for
34 the conduct of the affairs of the applicant, including, but not limited
35 to, the members of the board of directors, executive committee, or
36 other governing board or committee, the principal officers, and any
37 person or entity owning or having the right to acquire 10% or more
38 of the voting securities of the applicant; in the case of a partnership
39 or association, the names of the partners or members; and a
40 statement of any criminal convictions or civil, enforcement, or
41 regulatory action, including actions relating to professional licenses,
42 taken against any person who is a member of the board, the
43 executive committee, or other governing board or committee, the
44 principal officers, or the persons who are responsible for the
45 conduct of the affairs of the applicant;

46 d. A statement generally describing the applicant, its facilities,
47 personnel, and the health care services to be offered by the
48 organized delivery system;

1 e. A copy of the standard form of any provider agreement
2 made or to be made between the applicant and any providers
3 relative to the provision of health care services;

4 f. A copy of the form of any contract made or to be made
5 between the applicant and any carrier for the provision of or
6 arrangement to provide health care services, which contract shall
7 contain provisions establishing the respective duties of the carrier
8 and the applicant with respect to compliance with P.L.1997, c.192
9 (C.26:2S-1 et seq.);

10 g. With respect to each contract made or to be made between
11 the applicant and any other person who will provide comprehensive
12 or limited health care services:

13 (1) A list of the persons who are to provide the health care
14 services, and the geographical area in which they are located and in
15 which the services are to be performed;

16 (2) A list of any affiliate of the applicant which provides
17 services to the applicant in this State and a description of any
18 material transaction between the affiliate and the applicant;

19 (3) A description of the health care services or benefits to be
20 offered or proposed to be offered by the applicant;

21 (4) A description of the means which will be utilized to assure
22 the availability and accessibility of the health care services to
23 enrollees or contract holders; and

24 (5) A description of the means by which the organized delivery
25 system shall be compensated for each contract entered into with a
26 carrier; and

27 h. A list of all administrative, civil, or criminal actions and
28 proceedings to which the applicant, or any of its affiliates, or
29 persons who are responsible for the conduct of the affairs of the
30 applicant or affiliate, have been subject and the resolution of those
31 actions and proceedings. If a license, certificate, or other authority
32 to operate has been refused, suspended, or revoked by any
33 jurisdiction, the applicant shall provide a copy of any orders,
34 proceedings, and determinations relating thereto.

35 In addition to the information required pursuant to this section,
36 [the Commissioner of Health and Senior Services or] the
37 Commissioner of Banking and Insurance may establish additional
38 reporting requirements or make detailed reporting requirements for
39 any class of certified organized delivery system.

40 (cf: P.L.1999, c.409, s.4)

41

42 41. Section 5 of P.L.1999, c.409 (C.17:48H-5) is amended to
43 read as follows:

44 5. Following receipt of an application for certification, the
45 Commissioner of [Health] Banking and [Senior Services]
46 Insurance shall review it [in consultation with the Commissioner of
47 Banking and Insurance] and notify the applicant of any deficiencies
48 contained therein.

1 a. The Commissioner of **【Health】** Banking and **【Senior**
2 **Services】** Insurance shall issue a certification to an organized
3 delivery system if the commissioner finds that the system meets the
4 standards provided for in this act, including, but not limited to:

5 (1) All of the material required by section 4 of this act has been
6 filed;

7 (2) The persons responsible for conducting the applicant's
8 affairs are competent, trustworthy, and possess good reputations,
9 and have had appropriate experience, training, and education;

10 (3) The persons who are to perform the health care services are
11 properly qualified;

12 (4) The organized delivery system has demonstrated the ability
13 to assure that health care services will be provided in a manner
14 which will assure the availability and accessibility of the services;

15 (5) The standard forms of provider agreements to be used by the
16 organized delivery system are acceptable; and

17 (6) The organized delivery system's contracts to provide
18 services do not entail or will not result in the assumption of
19 financial risk by the system.

20 b. The commissioner may deny an application for certification
21 if the applicant fails to meet any of the standards provided in this
22 act or on any other reasonable grounds. If certification is denied,
23 the commissioner shall notify the applicant and shall set forth the
24 reasons for the denial in writing. The applicant may request a
25 hearing by notice to the commissioner within 30 days of receiving
26 the notice of denial. Upon such denial, the applicant shall submit to
27 the commissioner a plan for bringing the organized delivery system
28 into compliance or providing for the closing down of its business.

29 (cf: P.L.1999, c.409, s.5)

30
31 42. Section 6 of P.L.1999, c.409 (C.17:48H-6) is amended to
32 read as follows:

33 6. a. A certified organized delivery system, unless otherwise
34 provided for in this act, shall not materially modify any matter or
35 document furnished to the Commissioner of **【Health】** Banking and
36 **【Senior Services】** Insurance pursuant to section 4 of this act unless
37 the organized delivery system files with the commissioner, at least
38 60 days prior to use or adoption of the change, a notice of the
39 change or modification, together with that information required by
40 the commissioner to explain the change or modification. If the
41 commissioner fails to affirmatively approve or disapprove the
42 change or modification within 60 days of submission of the notice,
43 the notice of modification shall be deemed approved. The
44 commissioner may extend the 60-day review period for not more
45 than 30 additional days by giving written notice of the extension
46 before the expiration of the 60-day period. If a change or
47 modification is disapproved, the commissioner shall notify the
48 system in writing and specify the reason for the disapproval.

1 b. Prior to entering into any contract with a carrier, a certified
2 organized delivery system shall file with the commissioner, for the
3 commissioner's approval, a copy of that contract. The filing shall
4 be made no later than 60 days prior to the date that the contract is
5 intended to be in effect. If the contract is not disapproved prior to
6 the effective date by the commissioner, the contract shall be deemed
7 approved.

8 (cf: P.L.1999, c.409, s.6)

9
10 43. Section 7 of P.L.1999, c.409 (C.17:48H-7) is amended to
11 read as follows:

12 7. The Commissioner of **【Health】 Banking** and **【Senior**
13 **Services】 Insurance** may suspend or revoke a certification issued to
14 an organized delivery system pursuant to this act upon the
15 commissioner's determination that:

16 a. The certified organized delivery system is operating in
17 contravention of its basic organizational documents;

18 b. The certified organized delivery system is unable to fulfill
19 its obligations to the carriers with whom it contracts;

20 c. The continued operation of the certified organized delivery
21 system would be hazardous to the health and welfare of the
22 enrollees or contract holders to whom it is obligated to provide
23 health care services or detrimental to a carrier with whom it has
24 contracted to provide the services;

25 d. The certified organized delivery system is unable to
26 maintain the standards as set forth by the commissioner by
27 regulation;

28 e. The certified organized delivery system has failed, as
29 provided by the contract, to comply with the provisions of
30 P.L.1997, c.192 (C.26:2S-1 et seq.);

31 f. The certified organized delivery system has failed to provide
32 the health care services for which it has been certified or has
33 provided health care services which are in contravention of the
34 contract or contracts filed with the commissioner;

35 g. The certified organized delivery system has otherwise failed
36 to comply with this act or with other applicable law; or

37 h. There are other reasonable grounds that warrant suspension
38 or revocation.

39 (cf: P.L.1999, c.409, s.7)

40
41 44. Section 8 of P.L.1999, c.409 (C.17:48H-8) is amended to
42 read as follows:

43 8. a. If the Commissioner of **【Health】 Banking** and **【Senior**
44 **Services】 Insurance** has cause to believe that grounds exist for the
45 suspension or revocation of the certification issued to an organized
46 delivery system, the commissioner shall notify the system, in
47 writing, specifically stating the grounds for suspension or
48 revocation and fixing a time for a hearing in accordance with the

1 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
2 seq.). If the certification is revoked, the organized delivery system
3 shall submit a plan to the commissioner within 15 days of the
4 revocation, for the winding up of its affairs, and shall conduct no
5 further business except as may be essential to the orderly
6 conclusion of its business. The commissioner may, by written
7 order, permit such further operation of the organized delivery
8 system as the commissioner finds to be in the best interest of
9 individuals receiving health care services from the system.

10 b. The commissioner shall notify all carriers with contracts
11 with the system that are on file with the Department of **Health**
12 Banking and **Senior Services** Insurance of the proceedings.
13 (cf: P.L.1999, c.409, s.8)

14

15 45. Section 9 of P.L.1999, c.409 (C.17:48H-9) is amended to
16 read as follows:

17 9. A certified organized delivery system shall pay to the
18 Commissioner of **Health** Banking and **Senior Services**
19 Insurance those application and examination fees as are established
20 by the commissioner by regulation.
21 (cf: P.L.1999, c.409, s.9)

22

23 46. Section 10 of P.L.1999, c.409 (C.17:48H-10) is amended to
24 read as follows:

25 10. The Commissioner of **Health** Banking and **Senior**
26 **Services** Insurance may, upon notice and hearing, assess a civil
27 administrative penalty in an amount not less than \$250 nor more
28 than \$10,000 for each day that a certified organized delivery system
29 is in violation of this act. Penalties imposed by the commissioner
30 pursuant to this section may be in lieu of, or in addition to,
31 suspension or revocation of a certification pursuant to this act. A
32 penalty may be recovered in a summary proceeding pursuant to
33 "The Penalty Enforcement Law of 1999," P.L.1999, c.274
34 (C.2A:58-10 et seq.).
35 (cf: P.L.1999, c.409, s.10)

36

37 47. Section 11 of P.L.1999, c.409 (C.17:48H-11) is amended to
38 read as follows:

39 11. a. An organized delivery system which receives
40 compensation on a basis that entails the assumption of financial risk
41 shall submit an application for licensure to the Commissioner of
42 Banking and Insurance. The organized delivery system may
43 continue to operate during the pendency of its application, but in no
44 case longer than 12 months after the date of submission of the
45 application to the Department of Banking and Insurance, unless the
46 commissioner, by regulation, extends the 12-month limitation. In
47 the event the application is denied, the applicant shall be treated as

1 an organized delivery system whose license has been revoked
2 pursuant to sections 23 and 24 of this act.

3 Notwithstanding the obligations imposed by this act regarding
4 licensure requirements, nothing in this subsection shall operate to
5 impair any contract in force on the effective date of this act, but this
6 act shall apply to any contract renewed on or after the effective date
7 of this act.

8 b. An organized delivery system which receives compensation
9 on a basis that entails the assumption of financial risk, but meets the
10 criteria set forth in this subsection, may apply to the commissioner
11 for an exemption from the licensure requirements of this act based
12 on the system's current contractual arrangements.

13 The commissioner may grant the exemption for such period of
14 time that the commissioner determines that the financial risk of the
15 organized delivery system is de minimis because the organized
16 delivery system's exposure to financial loss is limited in amount or
17 likelihood to the degree that it reasonably will not prevent the
18 system from satisfying the liabilities imposed under the terms of its
19 contracts.

20 The commissioner may revoke the organized delivery system's
21 exemption from licensure, after notice and an opportunity to be
22 heard, if the commissioner determines that the system's contracts no
23 longer meet the requirements for exemption set forth in this
24 subsection. Upon revocation of the exemption, the system shall be
25 required to obtain licensure from the department within 90 days.

26 c. An organized delivery system that is granted an exemption
27 from licensure shall apply to and obtain certification as an
28 organized delivery system from the Department of **[Health]**
29 **Banking** and **[Senior Services]** **Insurance** pursuant to the provisions
30 of this act.

31 d. A licensed organized delivery system shall not directly issue
32 health benefits plans.

33 (cf: P.L.1999, c.409, s.11)

34

35 48. Section 12 of P.L.1999, c.409 (C.17:48H-12) is amended to
36 read as follows:

37 12. Application for a license to operate an organized delivery
38 system shall be made to the Commissioner of Banking and
39 Insurance **[and the Commissioner of Health and Senior Services]**
40 on a form prescribed by the **[commissioners]** commissioner, shall
41 be certified by an officer or authorized representative of the
42 applicant, and shall include the following:

43 a. A copy of the applicant's basic organizational documents.
44 For purposes of this subsection, "basic organizational documents"
45 means the articles of incorporation, articles of association,
46 partnership agreement, management agreement, trust agreement, or
47 other applicable documents as appropriate to the applicant's form of
48 business entity and all amendments to those documents;

- 1 b. A copy of the executed bylaws, rules, and regulations, or
2 similar documents, regulating the conduct of the applicant's internal
3 affairs;
- 4 c. A list, in a form approved by the Commissioner of Banking
5 and Insurance, of the names, addresses, and official positions of the
6 persons who are to be responsible for the conduct of the affairs of
7 the applicant, including, but not limited to, the members of the
8 board of directors, executive committee or other governing board or
9 committee, the principal officers, and any person or entity owning
10 or having the right to acquire 10% or more of the voting securities
11 of the applicant; in the case of a partnership or association, the
12 names of the partners or members; each person who has loaned
13 funds to the applicant for the operation of its business; and a
14 statement of any criminal convictions or civil, enforcement or
15 regulatory action, including actions relating to professional licenses,
16 taken against any person who is a member of the board, the
17 executive committee or other governing board or committee, or the
18 principal officers, or the persons who are responsible for the
19 conduct of the affairs of the applicant;
- 20 d. A statement generally describing the applicant, its facilities,
21 personnel, and the health care services to be offered by the
22 organized delivery system;
- 23 e. A copy of the standard form of any provider agreement
24 made or to be made between the applicant and any providers
25 relative to the provision of health care services;
- 26 f. A copy of the form of any contract made or to be made
27 between the applicant and any carrier for the provision of or
28 arrangement to provide health care services, which contract shall
29 contain provisions establishing the respective duties of the carrier
30 and the applicant with respect to compliance with P.L.1997, c.192
31 (C.26:2S-1 et seq.);
- 32 g. A copy of the applicant's most recent financial statements
33 audited by an independent certified public accountant. If the
34 financial affairs of the applicant's parent company are audited by an
35 independent certified public accountant, but those of the applicant
36 are not, then a copy of the most recent audited financial statement
37 of the applicant's parent company, audited by an independent
38 certified public accountant, shall be submitted. A consolidated
39 financial statement of the applicant and its parent company shall
40 satisfy this requirement unless the Commissioner of Banking and
41 Insurance determines that additional or more recent financial
42 information is required for the proper administration of this act;
- 43 h. A copy of the applicant's financial plan, including a three-
44 year projection of anticipated operating results, a statement of the
45 sources of working capital and any other sources of funding and
46 provisions for contingencies;
- 47 i. With respect to each contract made or to be made between
48 the applicant and any other person who will provide comprehensive
49 or limited health care services:

- 1 (1) A list of the persons who are to provide the health care
- 2 services, and the geographical area in which they are located and in
- 3 which the services are to be performed;
- 4 (2) A list of any affiliate of the applicant which provides
- 5 services to the applicant in this State and a description of any
- 6 material transaction between the affiliate and the applicant;
- 7 (3) A description of the health care services or benefits to be
- 8 offered or proposed to be offered;
- 9 (4) A description of the means which will be utilized to assure
- 10 the availability and accessibility of the health care services to
- 11 enrollees or contract holders;
- 12 (5) A plan, in the event of the insolvency of the organized
- 13 delivery system, for continuation of the health care services to be
- 14 provided for under the contract; and
- 15 (6) A description of the means by which the organized delivery
- 16 system shall be compensated for each contract entered into with a
- 17 carrier;
- 18 j. A power of attorney, duly executed by the applicant, if not
- 19 domiciled in this State, appointing the Commissioner of Banking
- 20 and Insurance and the commissioner's successors in office as the
- 21 true and lawful attorney of the applicant in and for this State upon
- 22 whom all lawful process in any legal action or proceeding against
- 23 the organized delivery system in a cause of action arising in this
- 24 State may be served;
- 25 k. A list of all administrative, civil, or criminal actions and
- 26 proceedings to which the applicant, or any of its affiliates, or
- 27 persons who are responsible for the conduct of the affairs of the
- 28 applicant or affiliate, have been subject and the resolution of those
- 29 actions and proceedings. If a license, certificate or other authority
- 30 to operate has been refused, suspended, or revoked by any
- 31 jurisdiction, the applicant shall provide a copy of any orders,
- 32 proceedings and determinations relating thereto; and
- 33 l. Other information as may be required by the Commissioner
- 34 of Banking and Insurance [or the Commissioner of Health and
- 35 Senior Services].
- 36 (cf: P.L.1999, c.409, s.12)
- 37
- 38 49. Section 13 of P.L.1999, c.409 (C.17:48H-13) is amended to
- 39 read as follows:
- 40 13. Following receipt of an application for licensure, the
- 41 Commissioner of Banking and Insurance shall review it [in
- 42 consultation with the Commissioner of Health and Senior Services]
- 43 and notify the applicant of any deficiencies contained therein.
- 44 a. The Commissioner of Banking and Insurance shall issue a
- 45 license to an organized delivery system if the commissioner finds
- 46 that the system meets the standards provided for in this act,
- 47 including, but not limited to:

- 1 (1) All of the material required by section 12 of this act has been
2 filed;
- 3 (2) The persons responsible for conducting the applicant's
4 affairs are competent, trustworthy, and possess good reputations,
5 and have had appropriate experience, training, and education;
- 6 (3) The persons who are to perform the health care services are
7 properly qualified;
- 8 (4) The organized delivery system has demonstrated the ability
9 to assure that health care services will be provided in a manner
10 which will assure the availability and accessibility of the services;
- 11 (5) The standard forms of provider agreements to be used by the
12 organized delivery system are acceptable;
- 13 (6) The applicant is financially sound and may reasonably be
14 expected to meet its obligations to enrollees, contract holders and
15 carriers. In making this determination, the commissioner shall
16 consider:
- 17 (a) The financial soundness of the applicant's compensation
18 arrangements for the provision of health care services;
- 19 (b) The adequacy of working capital, other sources of funding
20 and provisions for contingencies; and
- 21 (c) Whether any deposit of cash or securities, or any other
22 evidence of financial protection submitted, meets the requirements
23 set forth in this act or by the commissioner by regulation;
- 24 (7) Any deficiencies identified by the commissioner have been
25 corrected; and
- 26 (8) Any other factors determined by the commissioner to be
27 relevant have been addressed to the satisfaction of the
28 commissioner.
- 29 b. [The Commissioner of Banking and Insurance shall refer all
30 standard forms of provider agreements, quality assurance programs
31 and utilization management programs to be used by the organized
32 delivery system to the Commissioner of Health and Senior Services
33 for review. The Commissioner of Banking and Insurance shall
34 consult with the Commissioner of Health and Senior Services
35 regarding provider agreements, quality assurance programs, and
36 utilization management programs in determining whether the
37 applicant for a license:
- 38 (1) Has demonstrated the potential ability to assure that health
39 care services will be provided in a manner that will assure the
40 availability and accessibility of the services;
- 41 (2) Has adequate arrangements for an ongoing quality assurance
42 program, where applicable;
- 43 (3) Has established acceptable forms for provider agreements to
44 be used by the system; and
- 45 (4) Has demonstrated that the persons who are to perform the
46 health care services are properly qualified.] (Deleted by
47 amendment, P.L. , c.) (pending before the Legislature as this
48 bill).

1 c. The Commissioner of Banking and Insurance [, in
2 consultation with the Commissioner of Health and Senior
3 Services], may deny an application for a license if the applicant
4 fails to meet any of the standards provided in this act or on any
5 other reasonable grounds. If the license is denied, the
6 Commissioner of Banking and Insurance shall notify the applicant
7 and shall set forth the reasons for the denial in writing. The
8 applicant may request a hearing by notice to the commissioner
9 within 30 days of receiving the notice of denial. Upon such denial,
10 the applicant shall submit to the commissioner a plan for bringing
11 the organized delivery system into compliance or providing for the
12 closing down of its business.

13 (cf: P.L.1999, c.409, s.13)

14
15 50. Section 15 of P.L.1999, c.409 (C.17:48H-15) is amended to
16 read as follows:

17 15. A licensed organized delivery system may:

18 a. Contract with an insurer licensed in this State for the
19 provision of indemnity coverage against the cost of services
20 provided by the system or other obligations of the system, either on
21 an individual or aggregate attachment basis; and

22 b. In addition to comprehensive or limited services, as
23 applicable, provided by the system for enrollees or contract holders,
24 provide:

25 (1) Additional services as approved by the Commissioner of
26 Banking and Insurance [, in consultation with the Commissioner of
27 Health and Senior Services];

28 (2) Indemnity benefits covering urgent care or emergency
29 services;

30 (3) Coverage for services from providers, other than
31 participating providers, in accordance with the terms of the
32 contract; and

33 (4) Any other function provided by law, in the system's
34 organizational documents or in the license.

35 (cf: P.L.1999, c.409, s.15)

36
37 51. Section 31 of P.L.1999, c.409 (C.17:48H-31) is amended to
38 read as follows:

39 31. Any certified organized delivery system which intends to
40 change the means by which it receives compensation so that it will
41 be compensated on a basis that entails the assumption of financial
42 risk shall [notify the Commissioner of Health and Senior Services
43 and] make application for licensure to the Commissioner of
44 Banking and Insurance pursuant to this act.

45 (cf: P.L.1999, c.409, s.31)

46
47 52. Section 32 of P.L.1999, c.409 (C.17:48H-32) is amended to
48 read as follows:

1 32. The **【Commissioners】** Commissioner of Banking and
2 Insurance **【and Health and Senior Services】** shall adopt rules and
3 regulations pursuant to the "Administrative Procedure Act,"
4 P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purposes of
5 this act.

6 The **【commissioners】** commissioner shall adopt the rules and
7 regulations within 180 days of the date of enactment of this act.
8 (cf: P.L.1999, c.409, s.32)

9
10 53. Section 33 of P.L.1999, c.409 (C.17:48H-33) is amended to
11 read as follows:

12 33. An organized delivery system which is **【either certified by**
13 **the Department of Health and Senior Services or】** licensed by the
14 Department of Banking and Insurance shall be subject to the
15 "Health Care Quality Act," P.L.1997, c.192 (C.26:2S-1 et seq.) and
16 the regulations promulgated thereunder.
17 (cf: P.L.1999, c.409, s.33)

18
19 54. Section 35 of P.L.1999, c.409 (C.17:48H-35) is amended to
20 read as follows:

21 35. Any documents provided by a organized delivery system to
22 the Department of Banking and Insurance **【or Health and Senior**
23 **Services】** pursuant to this act that are deemed by the Commissioner
24 of Banking and Insurance **【or the Commissioner of Health and**
25 **Senior Services】** to be proprietary, shall be confidential and shall
26 not be considered public documents pursuant to P.L.1963, c.73
27 (C.47:1A-2).
28 (cf: P.L.1999, c.409, s.35)

29
30 55. Section 3 of P.L.1995, c.316 (C.17B:27-46.11) is amended
31 to read as follows:

32 3. No group health insurance policy providing hospital or
33 medical expense benefits for groups with more than 50 persons
34 shall be delivered, issued, executed, or renewed in this State, or
35 approved for issuance or renewal in this State by the Commissioner
36 of Banking and Insurance on or after the effective date of P.L.2005,
37 c.248 (C.17:48E-35.27 et al.), unless the policy provides benefits to
38 any named insured or other person covered thereunder for expenses
39 incurred in the following:

40 a. Screening by blood lead measurement for lead poisoning for
41 children, including confirmatory blood lead testing as specified by
42 the Department of Health **【and Senior Services】** pursuant to section
43 7 of P.L.1995, c.316 (C.26:2-137.1); and medical evaluation and
44 any necessary medical follow-up and treatment for lead poisoned
45 children.

46 b. All childhood immunizations as recommended by the
47 Advisory Committee on Immunization Practices of the United
48 States Public Health Service and the Department of Health **【and**

1 Senior Services] pursuant to section 7 of P.L.1995, c.316 (C.26:2-
2 137.1). A health insurer shall notify its policyholders, in writing, of
3 any change in coverage with respect to childhood immunizations
4 and any related changes in premium. Such notification shall be in a
5 form and manner to be determined by the Commissioner of Banking
6 and Insurance.

7 c. Screening for newborn hearing loss by appropriate
8 electrophysiologic screening measures and periodic monitoring of
9 infants for delayed onset hearing loss, pursuant to P.L.2001, c.373
10 (C.26:2-103.1 et al.). Payment for this screening service shall be
11 separate and distinct from payment for routine new baby care in the
12 form of a newborn hearing screening fee as negotiated with the
13 provider and facility.

14 The benefits provided pursuant to this section shall be provided
15 to the same extent as for any other medical condition under the
16 policy, except that a deductible shall not be applied for benefits
17 provided pursuant to this section; however, with respect to a policy
18 that qualifies as a high deductible health plan for which qualified
19 medical expenses are paid using a health savings account
20 established pursuant to section 223 of the federal Internal Revenue
21 Code of 1986 (26 U.S.C. s.223), a deductible shall not be applied
22 for any benefits provided pursuant to this section that represent
23 preventive care as permitted by that federal law, and shall not be
24 applied as provided pursuant to section 9 of P.L.2005, c.248
25 (C.17B:27-46.1dd). This section shall apply to all group health
26 insurance policies in which the health insurer has reserved the right
27 to change the premium.

28 (cf: P.L.2005, c.248, s.7)

29
30 56. Section 4 of P.L.2001, c.368 (C.17B:27A-4.7) is amended to
31 read as follows:

32 4. In addition to the health benefits plans offered by a carrier
33 on the effective date of this act, a carrier that writes individual
34 health benefits plans pursuant to P.L.1992, c.161 (C.17B:27A-2 et
35 al.) may also offer one or more of the plans through the carrier's
36 network of providers, with no reimbursement for any out-of-
37 network benefits other than emergency care, urgent care, and
38 continuity of care. A carrier's network of providers shall be subject
39 to review and approval or disapproval by the Commissioner of
40 Banking and Insurance, in consultation with the Commissioner of
41 Health [and Senior Services], pursuant to regulations promulgated
42 by the Department of Banking and Insurance, including review and
43 approval or disapproval before plans with benefits provided through
44 a carrier's network of providers pursuant to this section may be
45 offered by the carrier. Policies or contracts written on this basis
46 shall be rated in a separate rating pool for the purposes of
47 establishing a premium, but for the purpose of determining a
48 carrier's losses, these policies or contracts shall be aggregated with

1 the losses on the carrier's other business written pursuant to the
2 provisions of P.L.1992, c.161 (C.17B:27A-2 et al.).
3 (cf: P.L.2008, c.38, s.13)

4
5 57. Section 6 of P.L.1992, c.161 (C.17B:27A-7) is amended to
6 read as follows:

7 6. The commissioner shall approve the policy and contract
8 forms and benefit levels to be made available by all carriers for the
9 health benefits plans required to be issued pursuant to section 3 of
10 P.L.1992, c.161 (C.17B:27A-4), and shall adopt such modifications
11 to one or more plans as the board determines are necessary to make
12 available a "high deductible health plan" or plans consistent with
13 section 301 of Title III of the "Health Insurance Portability and
14 Accountability Act of 1996," Pub.L.104-191 (26 U.S.C. s.220),
15 regarding tax-deductible medical savings accounts, within 60 days
16 after the enactment of P.L.1997, c.414 (C.54A:3-4 et al.). The
17 commissioner shall provide the board with an informational filing
18 of the policy and contract forms and benefit levels it approves.

19 a. The individual health benefits plans established by the board
20 may include cost containment measures such as, but not limited to:
21 utilization review of health care services, including review of
22 medical necessity of hospital and physician services; case
23 management benefit alternatives; selective contracting with
24 hospitals, physicians, and other health care providers; and
25 reasonable benefit differentials applicable to participating and
26 nonparticipating providers; and other managed care provisions.

27 b. An individual health benefits plan offered pursuant to
28 section 3 of P.L.1992, c.161 (C.17B:27A-4) shall contain a
29 limitation of no more than 12 months on coverage for preexisting
30 conditions. An individual health benefits plan offered pursuant to
31 section 3 of P.L.1992, c.161 (C.17B:27A-4) shall not contain a
32 preexisting condition limitation of any period under the following
33 circumstances:

34 (1) to an individual who has, under creditable coverage, with no
35 intervening lapse in coverage of more than 31 days, been treated or
36 diagnosed by a physician for a condition under that plan or satisfied
37 a 12-month preexisting condition limitation; or

38 (2) to a federally defined eligible individual who applies for an
39 individual health benefits plan within 63 days of termination of the
40 prior coverage.

41 c. In addition to the standard individual health benefits plans
42 provided for in section 3 of P.L.1992, c.161 (C.17B:27A-4), the
43 board may develop up to five rider packages. Premium rates for the
44 rider packages shall be determined in accordance with section 8 of
45 P.L.1992, c.161 (C.17B:27A-9).

46 d. After the board's establishment of the individual health
47 benefits plans required pursuant to section 3 of P.L.1992, c.161
48 (C.17B:27A-4), and notwithstanding any law to the contrary, a
49 carrier shall file the policy or contract forms with the commissioner

1 and certify to the commissioner that the health benefits plans to be
2 used by the carrier are in substantial compliance with the provisions
3 in the corresponding approved plans. The certification shall be
4 signed by the chief executive officer of the carrier. Upon receipt by
5 the commissioner of the certification, the certified plans may be
6 used until the commissioner, after notice and hearing, disapproves
7 their continued use.

8 e. Effective immediately for an individual health benefits plan
9 issued on or after the effective date of P.L.2005, c.248 (C.17:48E-
10 35.27 et al.) and effective on the first 12-month anniversary date of
11 an individual health benefits plan in effect on the effective date of
12 P.L.2005, c.248 (C.17:48E-35.27 et al.), the individual health
13 benefits plans required pursuant to section 3 of P.L.1992, c.161
14 (C.17B:27A-4), including any plan offered by a federally qualified
15 health maintenance organization, shall contain benefits for expenses
16 incurred in the following:

17 (1) Screening by blood lead measurement for lead poisoning for
18 children, including confirmatory blood lead testing as specified by
19 the Department of Health [and Senior Services] pursuant to section
20 7 of P.L.1995, c.316 (C.26:2-137.1); and medical evaluation and
21 any necessary medical follow-up and treatment for lead poisoned
22 children.

23 (2) All childhood immunizations as recommended by the
24 Advisory Committee on Immunization Practices of the United
25 States Public Health Service and the Department of Health [and
26 Senior Services] pursuant to section 7 of P.L.1995, c.316 (C.26:2-
27 137.1). A carrier shall notify its insureds, in writing, of any change
28 in the health care services provided with respect to childhood
29 immunizations and any related changes in premium. Such
30 notification shall be in a form and manner to be determined by the
31 Commissioner of Banking and Insurance.

32 (3) Screening for newborn hearing loss by appropriate
33 electrophysiologic screening measures and periodic monitoring of
34 infants for delayed onset hearing loss, pursuant to P.L.2001, c.373
35 (C.26:2-103.1 et al.). Payment for this screening service shall be
36 separate and distinct from payment for routine new baby care in the
37 form of a newborn hearing screening fee as negotiated with the
38 provider and facility.

39 The benefits provided pursuant to this subsection shall be
40 provided to the same extent as for any other medical condition
41 under the health benefits plan, except that a deductible shall not be
42 applied for benefits provided pursuant to this subsection; however,
43 with respect to a health benefits plan that qualifies as a high
44 deductible health plan for which qualified medical expenses are
45 paid using a health savings account established pursuant to section
46 223 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.223),
47 a deductible shall not be applied for any benefits provided pursuant
48 to this subsection that represent preventive care as permitted by that
49 federal law, and shall not be applied as provided pursuant to section

1 14 of P.L.2005, c.248 (C.17B:27A-7.11). This subsection shall
2 apply to all individual health benefits plans in which the carrier has
3 reserved the right to change the premium.

4 f. Effective immediately for a health benefits plan issued on or
5 after the effective date of P.L.2001, c.361 (C.17:48-6z et al.) and
6 effective on the first 12-month anniversary date of a health benefits
7 plan in effect on the effective date of P.L.2001, c.361 (C.17:48-6z
8 et al.), the health benefits plans required pursuant to section 3 of
9 P.L.1992, c.161 (C.17B:27A-4) that provide benefits for expenses
10 incurred in the purchase of prescription drugs shall provide benefits
11 for expenses incurred in the purchase of specialized non-standard
12 infant formulas, when the covered infant's physician has diagnosed
13 the infant as having multiple food protein intolerance and has
14 determined such formula to be medically necessary, and when the
15 covered infant has not been responsive to trials of standard non-cow
16 milk-based formulas, including soybean and goat milk. The
17 coverage may be subject to utilization review, including periodic
18 review, of the continued medical necessity of the specialized infant
19 formula.

20 The benefits shall be provided to the same extent as for any other
21 prescribed items under the health benefits plan.

22 This subsection shall apply to all individual health benefits plans
23 in which the carrier has reserved the right to change the premium.

24 g. Effective immediately for an individual health benefits plan
25 issued on or after the effective date of P.L.2005, c.248 (C.17:48E-
26 35.27 et al.) and effective on the first 12-month anniversary date of
27 an individual health benefits plan in effect on the effective date of
28 P.L.2005, c.248 (C.17:48E-35.27 et al.), the health benefits plans
29 required pursuant to section 3 of P.L.1992, c.161 (C.17B:27A-4)
30 that qualify as high deductible health plans for which qualified
31 medical expenses are paid using a health savings account
32 established pursuant to section 223 of the federal Internal Revenue
33 Code of 1986 (26 U.S.C. s.223), including any plan offered by a
34 federally qualified health maintenance organization, shall contain
35 benefits for expenses incurred in connection with any medically
36 necessary benefits provided in-network which represent preventive
37 care as permitted by that federal law.

38 The benefits provided pursuant to this subsection shall be
39 provided to the same extent as for any other medical condition
40 under the health benefits plan, except that a deductible shall not be
41 applied for benefits provided pursuant to this subsection. This
42 subsection shall apply to all individual health benefits plans in
43 which the carrier has reserved the right to change the premium.

44 (cf: P.L.2008, c.38, s.15)

45
46 58. Section 3 of P.L.1992, c.162 (C.17B:27A-19) is amended to
47 read as follows:

48 3. a. Except as provided in subsection f. of this section, every
49 small employer carrier shall, as a condition of transacting business

1 in this State, offer to every small employer at least three of the
2 health benefit plans established by the board, as provided in this
3 section, and also offer and make a good faith effort to market
4 individual health benefits plans as provided in section 3 of
5 P.L.1992, c.161 (C.17B:27A-4). The board shall establish a
6 standard policy form for each of the plans, which except as
7 otherwise provided in subsection j. of this section, shall be the only
8 plans offered to small groups on or after January 1, 1994. One
9 policy form shall contain the benefits provided for in sections 55,
10 57, and 59 of P.L.1991, c.187 (C.17:48E-22.2, 17B:26B-2 and
11 26:2J-4.3). In the case of indemnity carriers, one policy form shall
12 be established which contains benefits and cost sharing levels which
13 are equivalent to the health benefits plans of health maintenance
14 organizations pursuant to the "Health Maintenance Organization
15 Act of 1973," Pub.L.93-222 (42 U.S.C. s.300e et seq.). The
16 remaining policy forms shall contain basic hospital and medical-
17 surgical benefits, including, but not limited to:

- 18 (1) Basic inpatient and outpatient hospital care;
- 19 (2) Basic and extended medical-surgical benefits;
- 20 (3) Diagnostic tests, including X-rays;
- 21 (4) Maternity benefits, including prenatal and postnatal care;
- 22 and
- 23 (5) Preventive medicine, including periodic physical
24 examinations and inoculations.

25 At least three of the forms shall provide for major medical
26 benefits in varying lifetime aggregates, one of which shall provide
27 at least \$1,000,000 in lifetime aggregate benefits. The policy forms
28 provided pursuant to this section shall contain benefits representing
29 progressively greater actuarial values.

30 Notwithstanding the provisions of this subsection to the contrary,
31 the board also may establish additional policy forms by which a
32 small employer carrier, other than a health maintenance
33 organization, may provide indemnity benefits for health
34 maintenance organization enrollees by direct contract with the
35 enrollees' small employer through a dual arrangement with the
36 health maintenance organization. The dual arrangement shall be
37 filed with the commissioner for approval. The additional policy
38 forms shall be consistent with the general requirements of P.L.1992,
39 c.162 (C.17B:27A-17 et seq.).

40 b. Initially, a carrier shall offer a plan within 90 days of the
41 approval of such plan by the commissioner. Thereafter, the plans
42 shall be available to all small employers on a continuing basis.
43 Every small employer which elects to be covered under any health
44 benefits plan who pays the premium therefor and who satisfies the
45 participation requirements of the plan shall be issued a policy or
46 contract by the carrier.

47 c. The carrier may establish a premium payment plan which
48 provides installment payments and which may contain reasonable

1 provisions to ensure payment security, provided that provisions to
2 ensure payment security are uniformly applied.

3 d. In addition to the standard policies described in subsection a.
4 of this section, the board may develop up to five rider packages.
5 Any such package which a carrier chooses to offer shall be issued to
6 a small employer who pays the premium therefor, and shall be
7 subject to the rating methodology set forth in section 9 of P.L.1992,
8 c.162 (C.17B:27A-25).

9 e. (Deleted by amendment, P.L.2008, c.38).

10 f. Notwithstanding the provisions of this section to the
11 contrary, a health maintenance organization which is a qualified
12 health maintenance organization pursuant to the "Health
13 Maintenance Organization Act of 1973," Pub.L.93-222 (42
14 U.S.C.s.300e et seq.) shall be permitted to offer health benefits
15 plans formulated by the board and approved by the commissioner
16 which are in accordance with the provisions of that law in lieu of
17 the plans required pursuant to this section.

18 Notwithstanding the provisions of this section to the contrary, a
19 health maintenance organization which is approved pursuant to
20 P.L.1973, c.337 (C.26:2J-1 et seq.) shall be permitted to offer health
21 benefits plans formulated by the board and approved by the
22 commissioner which are in accordance with the provisions of that
23 law in lieu of the plans required pursuant to this section, except that
24 the plans shall provide the same level of benefits as required for a
25 federally qualified health maintenance organization, including any
26 requirements concerning copayments by enrollees.

27 g. A carrier shall not be required to own or control a health
28 maintenance organization or otherwise affiliate with a health
29 maintenance organization in order to comply with the provisions of
30 this section, but the carrier shall be required to offer at least three of
31 the health benefits plans which are formulated by the board and
32 approved by the commissioner, including one plan which contains
33 benefits and cost sharing levels that are equivalent to those required
34 for health maintenance organizations.

35 h. Notwithstanding the provisions of subsection a. of this
36 section to the contrary, the board may modify the benefits provided
37 for in sections 55, 57 and 59 of P.L.1991, c.187 (C.17:48E-22.2,
38 17B:26B-2 and 26:2J-4.3).

39 i. (1) In addition to the rider packages provided for in
40 subsection d. of this section, every carrier may offer, in connection
41 with the health benefits plans required to be offered by this section,
42 any number of riders which may revise the coverage offered by the
43 plans in any way, provided, however, that any form of such rider or
44 amendment thereof which decreases benefits or decreases the
45 actuarial value of a plan shall be filed for informational purposes
46 with the board and for approval by the commissioner before such
47 rider may be sold. Any rider or amendment thereof which adds
48 benefits or increases the actuarial value of a plan shall be filed with
49 the board for informational purposes before such rider may be sold.

1 The added premium or reduction in premium for each rider, as
2 applicable, shall be listed separately from the premium for the
3 standard plan.

4 The commissioner shall disapprove any rider filed pursuant to
5 this subsection that is unjust, unfair, inequitable, unreasonably
6 discriminatory, misleading, contrary to law or the public policy of
7 this State. The commissioner shall not approve any rider which
8 reduces benefits below those required by sections 55, 57 and 59 of
9 P.L.1991, c.187 (C.17:48E-22.2, 17B:26B-2 and 26:2J-4.3) and
10 required to be sold pursuant to this section. The commissioner's
11 determination shall be in writing and shall be appealable.

12 (2) The benefit riders provided for in paragraph (1) of this
13 subsection shall be subject to the provisions of section 2, subsection
14 b. of section 3, and sections 6, 7, 8, 9 and 11 of P.L.1992, c.162
15 (C.17B:27A-18, 17B:27A-19, 17B:27A-22, 17B:27A-23, 17B:27A-
16 24, 17B:27A-25, and 17B:27A-27).

17 j. (1) Notwithstanding the provisions of P.L.1992, c.162
18 (C.17B:27A-17 et seq.) to the contrary, a health benefits plan issued
19 by or through a carrier, association, or multiple employer
20 arrangement prior to January 1, 1994 or, if the requirements of
21 subparagraph (c) of paragraph (6) of this subsection are met, issued
22 by or through an out-of-State trust prior to January 1, 1994, at the
23 option of a small employer policy or contract holder, may be
24 renewed or continued after February 28, 1994, or in the case of such
25 a health benefits plan whose anniversary date occurred between
26 March 1, 1994 and the effective date of P.L.1994, c.11 (C.17B:27A-
27 19.1 et al.), may be reinstated within 60 days of that anniversary
28 date and renewed or continued if, beginning on the first 12-month
29 anniversary date occurring on or after the sixtieth day after the
30 board adopts regulations concerning the implementation of the
31 rating factors permitted by section 9 of P.L.1992, c.162
32 (C.17B:27A-25) and, regardless of the situs of delivery of the health
33 benefits plan, the health benefits plan renewed, continued or
34 reinstated pursuant to this subsection complies with the provisions
35 of section 2, subsection b. of section 3, and sections 6, 7, 8, 9 and
36 11 of P.L.1992, c.162 (C.17B:27A-18, 17B:27A-19, 17B:27A-22,
37 17B:27A-23, 17B:27A-24, 17B:27A-25 and 17B:27A-27) and
38 section 7 of P.L.1995, c.340 (C.17B:27A-19.3).

39 Nothing in this subsection shall be construed to require an
40 association, multiple employer arrangement or out-of-State trust to
41 provide health benefits coverage to small employers that are not
42 contemplated by the organizational documents, bylaws, or other
43 regulations governing the purpose and operation of the association,
44 multiple employer arrangement or out-of-State trust.
45 Notwithstanding the foregoing provision to the contrary, an
46 association, multiple employer arrangement or out-of-State trust
47 that offers health benefits coverage to its members' employees and
48 dependents:

- 1 (a) shall offer coverage to all eligible employees and their
2 dependents within the membership of the association, multiple
3 employer arrangement or out-of-State trust;
- 4 (b) shall not use actual or expected health status in determining
5 its membership; and
- 6 (c) shall make available to its small employer members at least
7 one of the standard benefits plans, as determined by the
8 commissioner, in addition to any health benefits plan permitted to
9 be renewed or continued pursuant to this subsection.
- 10 (2) Notwithstanding the provisions of this subsection to the
11 contrary, a carrier or out-of-State trust which writes the health
12 benefits plans required pursuant to subsection a. of this section shall
13 be required to offer those plans to any small employer, association
14 or multiple employer arrangement.
- 15 (3) (a) A carrier, association, multiple employer arrangement, or
16 out-of-State trust may withdraw a health benefits plan marketed to
17 small employers that was in effect on December 31, 1993 with the
18 approval of the commissioner. The commissioner shall approve a
19 request to withdraw a plan, consistent with regulations adopted by
20 the commissioner, only on the grounds that retention of the plan
21 would cause an unreasonable financial burden to the issuing carrier,
22 taking into account the rating provisions of section 9 of P.L.1992,
23 c.162 (C.17B:27A-25) and section 7 of P.L.1995, c.340
24 (C.17B:27A-19.3).
- 25 (b) A carrier which has renewed, continued or reinstated a
26 health benefits plan pursuant to this subsection that has not been
27 newly issued to a new small employer group since January 1, 1994,
28 may, upon approval of the commissioner, continue to establish its
29 rates for that plan based on the loss experience of that plan if the
30 carrier does not issue that health benefits plan to any new small
31 employer groups.
- 32 (4) (Deleted by amendment, P.L.1995, c.340).
- 33 (5) A health benefits plan that otherwise conforms to the
34 requirements of this subsection shall be deemed to be in compliance
35 with this subsection, notwithstanding any change in the plan's
36 deductible or copayment.
- 37 (6) (a) Except as otherwise provided in subparagraphs (b) and
38 (c) of this paragraph, a health benefits plan renewed, continued or
39 reinstated pursuant to this subsection shall be filed with the
40 commissioner for informational purposes within 30 days after its
41 renewal date. No later than 60 days after the board adopts
42 regulations concerning the implementation of the rating factors
43 permitted by section 9 of P.L.1992, c.162 (C.17B:27A-25) the filing
44 shall be amended to show any modifications in the plan that are
45 necessary to comply with the provisions of this subsection. The
46 commissioner shall monitor compliance of any such plan with the
47 requirements of this subsection, except that the board shall enforce
48 the loss ratio requirements.

1 (b) A health benefits plan filed with the commissioner pursuant
2 to subparagraph (a) of this paragraph may be amended as to its
3 benefit structure if the amendment does not reduce the actuarial
4 value and benefits coverage of the health benefits plan below that of
5 the lowest standard health benefits plan established by the board
6 pursuant to subsection a. of this section. The amendment shall be
7 filed with the commissioner for approval pursuant to the terms of
8 sections 4, 8, 12 and 25 of P.L.1995, c.73 (C.17:48-8.2, 17:48A-9.2,
9 17:48E-13.2 and 26:2J-43), N.J.S.17B:26-1 and N.J.S.17B:27-49, as
10 applicable, and shall comply with the provisions of sections 2 and 9
11 of P.L.1992, c.162 (C.17B:27A-18 and 17B:27A-25) and section 7
12 of P.L.1995, c.340 (C.17B:27A-19.3).

13 (c) A health benefits plan issued by a carrier through an out-of-
14 State trust shall be permitted to be renewed or continued pursuant to
15 paragraph (1) of this subsection upon approval by the commissioner
16 and only if the benefits offered under the plan are at least equal to
17 the actuarial value and benefits coverage of the lowest standard
18 health benefits plan established by the board pursuant to subsection
19 a. of this section. For the purposes of meeting the requirements of
20 this subparagraph, carriers shall be required to file with the
21 commissioner the health benefits plans issued through an out-of-
22 State trust no later than 180 days after the date of enactment of
23 P.L.1995, c.340. A health benefits plan issued by a carrier through
24 an out-of-State trust that is not filed with the commissioner pursuant
25 to this subparagraph, shall not be permitted to be continued or
26 renewed after the 180-day period.

27 (7) Notwithstanding the provisions of P.L.1992, c.162
28 (C.17B:27A-17 et seq.) to the contrary, an association, multiple
29 employer arrangement or out-of-State trust may offer a health
30 benefits plan authorized to be renewed, continued or reinstated
31 pursuant to this subsection to small employer groups that are
32 otherwise eligible pursuant to paragraph (1) of subsection j. of this
33 section during the period for which such health benefits plan is
34 otherwise authorized to be renewed, continued or reinstated.

35 (8) Notwithstanding the provisions of P.L.1992, c.162
36 (C.17B:27A-17 et seq.) to the contrary, a carrier, association,
37 multiple employer arrangement or out-of-State trust may offer
38 coverage under a health benefits plan authorized to be renewed,
39 continued or reinstated pursuant to this subsection to new
40 employees of small employer groups covered by the health benefits
41 plan in accordance with the provisions of paragraph (1) of this
42 subsection.

43 (9) Notwithstanding the provisions of P.L.1992, c.162
44 (C.17B:27A-17 et seq.) or P.L.1992, c.161 (C.17B:27A-2 et al.) to
45 the contrary, any individual, who is eligible for small employer
46 coverage under a policy issued, renewed, continued or reinstated
47 pursuant to this subsection, but who would be subject to a
48 preexisting condition exclusion under the small employer health
49 benefits plan, or who is a member of a small employer group who

1 has been denied coverage under the small employer group health
2 benefits plan for health reasons, may elect to purchase or continue
3 coverage under an individual health benefits plan until such time as
4 the group health benefits plan covering the small employer group of
5 which the individual is a member complies with the provisions of
6 P.L.1992, c.162 (C.17B:27A-17 et seq.).

7 (10) In a case in which an association made available a health
8 benefits plan on or before March 1, 1994 and subsequently changed
9 the issuing carrier between March 1, 1994 and the effective date of
10 P.L.1995, c.340, the new issuing carrier shall be deemed to have
11 been eligible to continue and renew the plan pursuant to paragraph
12 (1) of this subsection.

13 (11) In a case in which an association, multiple employer
14 arrangement or out-of-State trust made available a health benefits
15 plan on or before March 1, 1994 and subsequently changes the
16 issuing carrier for that plan after the effective date of P.L.1995,
17 c.340, the new issuing carrier shall file the health benefits plan with
18 the commissioner for approval in order to be deemed eligible to
19 continue and renew that plan pursuant to paragraph (1) of this
20 subsection.

21 (12) In a case in which a small employer purchased a health
22 benefits plan directly from a carrier on or before March 1, 1994 and
23 subsequently changes the issuing carrier for that plan after the
24 effective date of P.L.1995, c.340, the new issuing carrier shall file
25 the health benefits plan with the commissioner for approval in order
26 to be deemed eligible to continue and renew that plan pursuant to
27 paragraph (1) of this subsection.

28 Notwithstanding the provisions of subparagraph (b) of paragraph
29 (6) of this subsection to the contrary, a small employer who changes
30 its health benefits plan's issuing carrier pursuant to the provisions of
31 this paragraph, shall not, upon changing carriers, modify the benefit
32 structure of that health benefits plan within six months of the date
33 the issuing carrier was changed.

34 k. Effective immediately for a health benefits plan issued on or
35 after the effective date of P.L.2005, c.248 (C.17:48E-35.27 et al.)
36 and effective on the first 12-month anniversary date of a health
37 benefits plan in effect on the effective date of P.L.2005, c.248
38 (C.17:48E-35.27 et al.), the health benefits plans required pursuant
39 to this section, including any plans offered by a State approved or
40 federally qualified health maintenance organization, shall contain
41 benefits for expenses incurred in the following:

42 (1) Screening by blood lead measurement for lead poisoning for
43 children, including confirmatory blood lead testing as specified by
44 the Department of Health [and Senior Services] pursuant to section
45 7 of P.L.1995, c.316 (C.26:2-137.1); and medical evaluation and
46 any necessary medical follow-up and treatment for lead poisoned
47 children.

48 (2) All childhood immunizations as recommended by the
49 Advisory Committee on Immunization Practices of the United

1 States Public Health Service and the Department of Health [and
2 Senior Services] pursuant to section 7 of P.L.1995, c.316 (C.26:2-
3 137.1). A carrier shall notify its insureds, in writing, of any change
4 in the health care services provided with respect to childhood
5 immunizations and any related changes in premium. Such
6 notification shall be in a form and manner to be determined by the
7 Commissioner of Banking and Insurance.

8 (3) Screening for newborn hearing loss by appropriate
9 electrophysiologic screening measures and periodic monitoring of
10 infants for delayed onset hearing loss, pursuant to P.L.2001, c.373
11 (C.26:2-103.1 et al.). Payment for this screening service shall be
12 separate and distinct from payment for routine new baby care in the
13 form of a newborn hearing screening fee as negotiated with the
14 provider and facility.

15 The benefits provided pursuant to this subsection shall be
16 provided to the same extent as for any other medical condition
17 under the health benefits plan, except that a deductible shall not be
18 applied for benefits provided pursuant to this subsection; however,
19 with respect to a small employer health benefits plan that qualifies
20 as a high deductible health plan for which qualified medical
21 expenses are paid using a health savings account established
22 pursuant to section 223 of the federal Internal Revenue Code of
23 1986 (26 U.S.C. s.223), a deductible shall not be applied for any
24 benefits that represent preventive care as permitted by that federal
25 law, and shall not be applied as provided pursuant to section 16 of
26 P.L.2005, c.248 (C.17B:27A-19.14). This subsection shall apply to
27 all small employer health benefits plans in which the carrier has
28 reserved the right to change the premium.

29 l. The board shall consider including benefits for speech-
30 language pathology and audiology services, as rendered by speech-
31 language pathologists and audiologists within the scope of their
32 practices, in at least one of the standard policies and in at least one
33 of the five riders to be developed under this section.

34 m. Effective immediately for a health benefits plan issued on or
35 after the effective date of P.L.2001, c.361 (C.17:48-6z et al.) and
36 effective on the first 12-month anniversary date of a health benefits
37 plan in effect on the effective date of P.L.2001, c.361 (C.17:48-6z
38 et al.), the health benefits plans required pursuant to this section
39 that provide benefits for expenses incurred in the purchase of
40 prescription drugs shall provide benefits for expenses incurred in
41 the purchase of specialized non-standard infant formulas, when the
42 covered infant's physician has diagnosed the infant as having
43 multiple food protein intolerance and has determined such formula
44 to be medically necessary, and when the covered infant has not been
45 responsive to trials of standard non-cow milk-based formulas,
46 including soybean and goat milk. The coverage may be subject to
47 utilization review, including periodic review, of the continued
48 medical necessity of the specialized infant formula.

1 The benefits shall be provided to the same extent as for any other
2 prescribed items under the health benefits plan.

3 This subsection shall apply to all small employer health benefits
4 plans in which the carrier has reserved the right to change the
5 premium.

6 n. Effective immediately for a health benefits plan issued on or
7 after the effective date of P.L.2005, c.248 (C.17:48E-35.27 et al.)
8 and effective on the first 12-month anniversary date of a small
9 employer health benefits plan in effect on the effective date of
10 P.L.2005, c.248 (C.17:48E-35.27 et al.), the health benefits plans
11 required pursuant to this section that qualify as high deductible
12 health plans for which qualified medical expenses are paid using a
13 health savings account established pursuant to section 223 of the
14 federal Internal Revenue Code of 1986 (26 U.S.C. s.223), including
15 any plans offered by a State approved or federally qualified health
16 maintenance organization, shall contain benefits for expenses
17 incurred in connection with any medically necessary benefits
18 provided in-network that represent preventive care as permitted by
19 that federal law.

20 The benefits provided pursuant to this subsection shall be
21 provided to the same extent as for any other medical condition
22 under the health benefits plan, except that no deductible shall be
23 applied for benefits provided pursuant to this subsection. This
24 subsection shall apply to all small employer health benefits plans in
25 which the carrier has reserved the right to change the premium.
26 (cf: P.L.2008, c.38, s.21)

27

28 59. Section 5 of P.L.2001, c.368 (C.17B:27A-19.11) is amended
29 to read as follows:

30 5. In addition to the standard health benefits plans offered by a
31 carrier on the effective date of this act, a carrier that writes small
32 employer health benefits plans pursuant to P.L.1992, c.162
33 (C.17B:27A-17 et seq.) may also offer one or more of the plans
34 through the carrier's network of providers, with no reimbursement
35 for any out-of-network benefits other than emergency care, urgent
36 care, and continuity of care. A carrier's network of providers shall
37 be subject to review and approval or disapproval by the
38 Commissioner of Banking and Insurance, in consultation with the
39 Commissioner of Health [and Senior Services], pursuant to
40 regulations promulgated by the Department of Banking and
41 Insurance, including review and approval or disapproval before
42 plans with benefits provided through a carrier's network of
43 providers pursuant to this section may be offered by the carrier.
44 Policies or contracts written on this basis shall be rated in a separate
45 rating pool for the purposes of establishing a premium, but for the
46 purpose of determining a carrier's losses, these policies or contracts
47 shall be aggregated with the losses on the carrier's other business

1 written pursuant to the provisions of P.L.1992, c.162 (C.17B:27A-
2 17 et seq.).
3 (cf: P.L.2008, c.38, s.22)
4

5 60. Section 13 of P.L.1992, c.162 (C.17B:27A-29) is amended
6 to read as follows:

7 13. a. Within 60 days of the effective date of this act, the
8 commissioner shall give notice to all members of the time and place
9 for the initial organizational meeting, which shall take place within
10 90 days of the effective date. The members shall elect the initial
11 board, subject to the approval of the commissioner. The board shall
12 consist of 10 elected public members and two ex officio members
13 who include the Commissioner of Health [and Senior Services] and
14 the commissioner or their designees. Initially, three of the public
15 members of the board shall be elected for a three-year term, three
16 shall be elected for a two-year term, and three shall be elected for a
17 one-year term. Thereafter, all elected board members shall serve for
18 a term of three years. The following categories shall be represented
19 among the elected public members:

20 (1) Three carriers whose principal health insurance business is
21 in the small employer market;

22 (2) One carrier whose principal health insurance business is in
23 the large employer market;

24 (3) A health service corporation or a domestic stock insurer
25 which converted from a health service corporation pursuant to the
26 provisions of P.L.2001, c.131 (C.17:48E-49 et al.) and is primarily
27 engaged in the business of issuing health benefit plans in this State;

28 (4) Two health maintenance organizations; and

29 (5) (Deleted by amendment, P.L.1995, c.298).

30 (6) (Deleted by amendment, P.L.1995, c.298).

31 (7) Three persons representing small employers, at least one of
32 whom represents minority small employers.

33 No carrier shall have more than one representative on the board.

34 The board shall hold an election for the two members added
35 pursuant to P.L.1995, c.298 within 90 days of the date of enactment
36 of that act. Initially, one of the two new members shall serve for a
37 term of one year and one of the two new members shall serve for a
38 term of two years. Thereafter, the new members shall serve for a
39 term of three years. The terms of the risk-assuming carrier and
40 reinsuring carrier shall terminate upon the election of the two new
41 members added pursuant to P.L.1995, c.298, notwithstanding the
42 provisions of this section to the contrary.

43 In addition to the 10 elected public members, the board shall
44 include six public members appointed by the Governor with the
45 advice and consent of the Senate who shall include:

46 Two insurance producers licensed to sell health insurance
47 pursuant to P.L.1987, c.293 (C.17:22A-1 et seq.);

48 One representative of organized labor;

1 One physician licensed to practice medicine and surgery in this
2 State; and

3 Two persons who represent the general public and are not
4 employees of a health benefits plan provider.

5 The public members shall be appointed for a term of three years,
6 except that of the members first appointed, two shall be appointed
7 for a term of one year, two for a term of two years and two for a
8 term of three years.

9 A vacancy in the membership of the board shall be filled for an
10 unexpired term in the manner provided for the original election or
11 appointment, as appropriate.

12 b. If the initial board is not elected at the organizational
13 meeting, the commissioner shall appoint the public members within
14 15 days of the organizational meeting, in accordance with the
15 provisions of paragraphs (1) through (7) of subsection a. of this
16 section.

17 c. (Deleted by amendment, P.L.1995, c.298).

18 d. All meetings of the board shall be subject to the
19 requirements of the "Open Public Meetings Act," P.L.1975, c.231
20 (C.10:4-6 et seq.).

21 e. At least two copies of the minutes of every meeting of the
22 board shall be delivered forthwith to the commissioner.
23 (cf: P.L. 2001, c.131, s.22)

24

25 61. Section 4 of P.L.2003, c.193 (C.17B:27D-4) is amended to
26 read as follows:

27 4. The commission shall consist of 17 voting members as
28 follows: the Commissioners of Health **[and Senior Services]**,
29 Human Services and Banking and Insurance or their designees, who
30 shall serve ex officio; three public members appointed by the
31 President of the Senate, who shall include a representative of a
32 commercial health insurance company, a physician licensed in this
33 State who is a member of the Medical Society of New Jersey, and a
34 representative of the New Jersey Business and Industry Association,
35 no more than two of whom shall be from the same political party;
36 three public members appointed by the Speaker of the General
37 Assembly, who shall include a representative of a health service
38 corporation, a physician licensed in this State, and a representative
39 of organized labor, no more than two of whom shall be from the
40 same political party; and eight public members appointed by the
41 Governor, who shall include a medical educator from the University
42 of Medicine and Dentistry of New Jersey whose major field of
43 expertise is the study and evaluation of the cost of health care and
44 health insurance, a representative of the New Jersey Association of
45 Health Plans, a representative of the New Jersey Hospital
46 Association, a representative of the New Jersey State Nurses
47 Association, a representative of the New Jersey Dental Association,
48 a representative of a consumer advocacy organization and two

1 representatives of the general public who are knowledgeable about
2 health benefits plans.

3 The President of the Senate may appoint two members of the
4 Senate, no more than one of whom shall be from the same political
5 party, to serve as nonvoting members of the commission. The
6 Speaker of the General Assembly may appoint two members of the
7 General Assembly, no more than one of whom shall be from the
8 same political party, to serve as nonvoting members of the
9 commission. The legislative members shall serve during their
10 legislative term of office.

11 Of the voting members first appointed, four shall serve for a term
12 of two years, four for a term of three years, and three for a term of
13 four years.

14 Voting members appointed thereafter shall serve four-year terms,
15 and any vacancy shall be filled by appointment for the unexpired
16 term only. A member is eligible for reappointment. Vacancies in
17 the membership of the commission shall be filled in the same
18 manner as the original appointments were made.

19 (cf: P.L.2003, c.193, s.4)

20

21 62. Section 5 of P.L.2003, c.193 (C.17B:27D-5) is amended to
22 read as follows:

23 5. a. The commission shall organize and hold its first meeting
24 within 90 days after the appointment of its members and shall elect
25 a chairman and a vice chairman from among its members. The
26 commission may appoint a secretary, who need not be a member of
27 the commission.

28 b. The members of the commission shall serve without
29 compensation but may be allowed their actual and necessary
30 expenses incurred in the performance of their duties within the
31 limits of funds appropriated or otherwise made available to the
32 commission for this purpose.

33 c. The Department of Banking and Insurance, in consultation
34 with the Department of Health [and Senior Services], shall assist
35 the commission in the performance of its duties.

36 d. The commission shall be entitled to call upon the services of
37 any State, county or municipal department, board, commission or
38 agency as it may require and as may be available to it for these
39 purposes, and to incur such traveling and other miscellaneous
40 expenses as it may deem necessary for the proper execution of its
41 duties and as may be within the limit of funds appropriated or
42 otherwise made available to it for these purposes.

43 e. The commission shall meet regularly, and at a minimum of
44 four times per year. Special meetings may be called by the
45 chairman of the commission.

46 (cf: P.L.2003, c.193, s.5)

47

48 63. Section 6 of P.L.2003, c.193 (C.17B:27D-6) is amended to
49 read as follows:

1 6. It shall be the duty of the commission to review any bill
2 introduced in either House of the Legislature that would require a
3 carrier to provide a mandated health benefit, as provided in this
4 section.

5 a. Whenever a bill containing a mandated health benefit is
6 introduced in the Legislature, the chairman of the standing
7 reference committee to which the bill has been referred in the
8 House in which it was introduced shall, upon introduction of the
9 bill, request the commission to prepare a written report that assesses
10 the social and financial effects and the medical efficacy of the
11 proposed mandated health benefit.

12 If the bill is subsequently amended, a prime sponsor or the
13 presiding officer of the House in which the bill is pending may
14 request the commission to amend or revise its report to reflect the
15 changes made by the amendment.

16 b. (1) For the period ending December 31, 2003, the
17 commission shall complete its review of a bill within 90 days after
18 the date the review is requested, and provide its comments and
19 recommendations in writing to the prime sponsor, committee
20 chairman and presiding officer of the House in which the bill is
21 pending. The commission may request an extension prior to the
22 90th day, in which case the presiding officer of the House in which
23 the bill is pending may grant an extension of up to 45 days for the
24 commission to complete its review.

25 (2) Beginning January 1, 2004, the commission shall complete
26 its review of a bill within 60 days after the date the review is
27 requested, and provide its comments and recommendations in
28 writing to the prime sponsor, committee chairman and presiding
29 officer of the House in which the bill is pending. The commission
30 may request an extension prior to the 60th day, in which case the
31 presiding officer of the House in which the bill is pending may
32 grant an extension of up to 45 days for the commission to complete
33 its review.

34 c. The House or standing reference committee, as applicable,
35 shall not consider or vote upon the bill until either: (1) the
36 commission completes its review and provides its comments and
37 recommendations in writing to the prime sponsor, committee
38 chairman and presiding officer of the House in which the bill is
39 pending, or (2) the 90th or 60th day, as applicable, after the date
40 the review is requested, if no extension was granted, or the
41 designated day for the end of the extension period, whichever is
42 later.

43 d. (1) If the presiding officer of the House in which the bill is
44 pending determines that the bill is an urgent matter, the presiding
45 officer shall so notify in writing the commission and the chairman
46 of the standing reference committee to which the bill was referred,
47 and the House or committee may consider and vote upon the bill as
48 soon as practicable.

1 (2) If the chairman of the standing reference committee to which
2 the bill is referred, in consultation with the Commissioner of Health
3 **【and Senior Services】**, determines that the bill is of such an urgent
4 nature that it would seriously impair the public health to wait for
5 the commission to issue its report, the chairman shall so notify in
6 writing the presiding officer of the House in which the bill is
7 pending, and the commission, of that determination, and the
8 standing reference committee, with the agreement of the presiding
9 officer of the House, may consider and vote upon the bill as soon as
10 practicable.

11 (cf: P.L.2003, c.193, s.6)

12

13 64. Section 7 of P.L.2003, c.193 (C.17B:27D-7) is amended to
14 read as follows:

15 7. The review of a bill containing a proposed mandated health
16 benefit by the commission shall include the following:

17 a. The social impact of mandating the health benefit, which
18 shall include:

19 (1) the extent to which the proposed mandated health benefit
20 and the services it would provide are needed by, available to and
21 utilized by the population of New Jersey;

22 (2) the extent to which insurance coverage for the proposed
23 mandated health benefit already exists or, if no coverage exists, the
24 extent to which the lack of coverage results in inadequate health
25 care or financial hardship for the affected population of New Jersey;

26 (3) the demand for the proposed mandated health benefit from
27 the public and the source and extent of opposition to mandating the
28 health benefit;

29 (4) relevant findings bearing on the social impact of the lack of
30 the proposed mandated health benefit; and

31 (5) such other information with respect to the social impact as
32 the commission deems appropriate.

33 b. The financial impact of mandating the health benefit, which
34 shall include:

35 (1) the extent to which the proposed mandated health benefit
36 would increase or decrease the cost for treatment or service;

37 (2) the extent to which similar mandated health benefits in other
38 states have affected charges, costs and payments for services;

39 (3) the extent to which the proposed mandated health benefit
40 would increase the appropriate use of the treatment or service;

41 (4) the impact of the proposed mandated health benefit on total
42 costs to carriers and on administrative costs;

43 (5) the impact of the proposed mandated health benefit on total
44 costs to purchasers and benefit costs;

45 (6) the impact of the proposed mandated health benefit on the
46 total cost of health care within New Jersey; and

47 (7) such other information with respect to the financial impact
48 as the commission deems appropriate.

- 1 c. The medical efficacy of mandating the health benefit, which
2 shall include:
- 3 (1) if the proposed health benefit mandates coverage of a
4 particular treatment or therapy, the recommendation of a clinical
5 study or review article in a major peer-reviewed professional
6 journal;
- 7 (2) if the proposed benefit mandates coverage of the services
8 provided by an additional class of practitioners, the results of at
9 least one professionally accepted, controlled trial comparing the
10 medical results achieved by the additional class of practitioners and
11 the practitioners already covered by benefits;
- 12 (3) the results of other research;
- 13 (4) the impact of the proposed benefit on the general availability
14 of health benefits coverage in New Jersey; and
- 15 (5) such other information with respect to the medical efficacy
16 as the commission deems appropriate.
- 17 d. The effects of balancing the social, economic and medical
18 efficacy considerations, which shall include, but not be limited to:
- 19 (1) the extent to which the need for coverage outweighs the
20 costs of mandating the health benefit; and
- 21 (2) the extent to which the problem of coverage may be solved
22 by mandating the availability of the coverage as an option under a
23 health benefits plan.
- 24 e. An analysis of information collected from various sources,
25 including, but not limited to:
- 26 (1) a State data collection system;
- 27 (2) the Departments of Health [and Senior Services] and
28 Banking and Insurance;
- 29 (3) health planning organizations;
- 30 (4) proponents and opponents of the proposed health benefit
31 mandate, who shall be encouraged to provide appropriate
32 documentation supporting their positions. The commission shall
33 examine such documentation to determine whether:
- 34 (a) the documentation is complete;
- 35 (b) the assumptions upon which the research is based are valid;
- 36 (c) the research cited in the documentation meets professional
37 standards;
- 38 (d) all relevant research respecting the proposed benefit has
39 been cited in the documentation;
- 40 (e) the conclusions and interpretations in the documentation are
41 consistent with the data submitted; and
- 42 (5) such other data sources as the commission deems
43 appropriate.
- 44 In analyzing information from the various sources, the
45 commission shall give substantial weight to the documentation
46 provided by the proponents and opponents of the mandate to the
47 extent that such documentation is made available to them.
- 48 (cf: P.L.2003, c.193, s.7)

1 65. Section 8 of P.L.2003, c.193 (C.17B:27D-8) is amended to
2 read as follows:

3 8. In the course of studying and evaluating proposed mandated
4 health benefits, the commission shall:

5 a. develop criteria for a system and program of data collection,
6 for use by the Departments of Health **【and Senior Services】** and
7 Banking and Insurance, to assess the impact of mandated health
8 benefits, including the cost to employers and carriers, impact of
9 treatment, cost savings in the health care system, number of
10 providers, and other data as may be appropriate; and

11 b. review and comment to any State department, board, bureau,
12 commission, or agency, with respect to any order or regulations
13 proposed or implemented thereby that affect mandated health
14 benefits.

15 (cf: P.L.2003, c.193, s.8)

16

17 66. Section 1 of P.L.1999, c.154 (C.17B:30-23) is amended to
18 read as follows:

19 1. a. (1) The Commissioner of Banking and Insurance, in
20 consultation with the Commissioner of Health **【and Senior**
21 **Services】**, shall establish, by regulation, a timetable for
22 implementation of the electronic receipt and transmission of health
23 care claim information by each hospital, medical **【or】** , and health
24 service corporation, individual and group health insurer, health
25 maintenance organization, dental service corporation, dental plan
26 organization, and prepaid prescription service organization,
27 respectively, and a subsidiary of such corporation, insurer, or
28 organization that processes health care benefits claims as a third
29 party administrator, authorized to do business in this State.

30 The Commissioner of Banking and Insurance shall establish the
31 timetable within 90 days of the date the federal Department of
32 Health and Human Services adopts rules establishing standards for
33 health care transactions, including: health claims or equivalent
34 encounter information, including institutional, professional,
35 pharmacy, and dental health claims; enrollment and disenrollment
36 in a health plan; eligibility for a health plan; health care payment
37 and remittance advice; health care premium payments; first report
38 of injury; health claim status; and referral certification and
39 authorization, respectively, pursuant to section 262 of Pub.L.104-
40 191 (42 U.S.C.s.1320d et seq.). The commissioner may adopt more
41 than one timetable, if necessary, to conform the requirements of this
42 section with the dates of adoption of the federal rules.

43 (2) The timetable for implementation adopted by the
44 commissioner shall provide for extensions and waivers of the
45 implementation requirement pursuant to paragraph (1) of this
46 subsection in cases when it has been demonstrated to the
47 commissioner's satisfaction that compliance with the timetable for
48 implementation will result in an undue hardship to a hospital,

1 medical or health service corporation, individual or group health
2 insurer, health maintenance organization, dental service
3 corporation, dental plan organization, or prepaid prescription
4 service organization, respectively, or a subsidiary of such
5 corporation, insurer, or organization that processes health care
6 benefits claims as a third party administrator, authorized to do
7 business in this State.

8 (3) The Commissioner of Banking and Insurance shall report to
9 the Governor and the Legislature within one year of establishing the
10 timetable pursuant to this subsection, on the number of extensions
11 and waivers of the implementation requirement that he has granted
12 pursuant to paragraph (2) of this subsection, and the reasons
13 therefor.

14 b. The Commissioner of Banking and Insurance, in
15 consultation with the Commissioner of Health [and Senior
16 Services], shall adopt, by regulation for each type of contract, as he
17 deems appropriate, one set of standard health care enrollment and
18 claim forms in paper and electronic formats to be used by each
19 hospital, medical, or health service corporation, individual and
20 group health insurer, health maintenance organization, dental
21 service corporation, dental plan organization, and prepaid
22 prescription service organization, and a subsidiary of such
23 corporation, insurer, or organization that processes health care
24 benefits claims as a third party administrator, authorized to do
25 business in this State.

26 The Commissioner of Banking and Insurance shall establish the
27 standard health care enrollment and claim forms within 90 days of
28 the date the federal Department of Health and Human Services
29 adopts rules establishing standards for the forms.

30 (cf: P.L.1999, c.154, s.1)

31

32 67. Section 15 of P.L.1999, c.154 (C.17B:30-24) is amended to
33 read as follows:

34 15. The Commissioner of Banking and Insurance, in
35 consultation with the Commissioner of Health [and Senior
36 Services], shall adopt regulations to effectuate the purposes of
37 sections 1 through 10 of this act, pursuant to the "Administrative
38 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). To the
39 extent practicable, the regulations shall include any provisions the
40 commissioner deems appropriate that seek to reduce the amount of,
41 or to consolidate, the paper forms sent by hospital, medical, health,
42 and dental service corporations, and commercial insurers, health
43 maintenance organizations, dental plan organizations, and prepaid
44 prescription service organizations to health care providers and
45 covered persons.

46 (cf: P.L.1999, c.154, s.15)

1 68. Section 16 of P.L.1999, c.154 (C.17B:30-25) is amended to
2 read as follows:

3 16. Thomas A. Edison State College shall study and monitor the
4 effectiveness of electronic data interchange technology and
5 electronic health records in reducing administrative costs, identify
6 means by which new electronic data interchange technology and
7 electronic health records can be implemented to effect health care
8 system cost savings, and determine the extent of electronic data
9 interchange technology and electronic health records use in the
10 State's health care system.

11 The Departments of Health **[and Senior Services]** and Banking
12 and Insurance or any other department upon request shall cooperate
13 with and provide assistance to the college in carrying out its study
14 pursuant to this section.

15 The college shall report to the Legislature and the Governor from
16 time to time on its findings and recommendations.

17 (cf: P.L.2005, c.352, s.19)

18

19 69. Section 2 of P.L.2003, c.112 (C.17B:30-42) is amended to
20 read as follows:

21 2. As used in this act:

22 "Coinsurance" means the percentage of a charge covered by a
23 health plan that must be paid by a person covered under the health
24 plan.

25 "Collection agency" means the Department of the Treasury and
26 any company, agency, or law firm engaged in collecting debts that
27 the Department of the Treasury may determine to engage to assist it
28 in collecting debts.

29 "Debt" means money owed by a patient to a hospital, or by
30 someone who is legally responsible for payment for a patient, and
31 includes late payment penalties and interest thereon. It does not
32 include monies owed to a hospital by a health plan for services
33 provided by the hospital to a person with coverage under that plan,
34 or amounts subject to dispute between a health plan and a hospital.

35 "Debtor" means an individual owing money to or having a
36 delinquent account with a hospital, which obligation has not been
37 adjudicated, satisfied by court order, set aside by court order, or
38 discharged in bankruptcy.

39 "Deductible" means the amount of covered charges under a
40 health plan that an individual must pay for services before a health
41 plan begins to pay on a covered charge.

42 "Department" means the Department of Health **[and Senior
43 Services]**.

44 "General Hospital" and "hospital" have the meanings set forth in
45 N.J.A.C.8:43G-1.2.

46 "Health plan" means an individual or group health benefits plan
47 that provides or pays the cost of hospital and medical expenses,
48 dental or vision care, or prescription drugs, and is provided by or
49 through an insurer, health maintenance organization, the Medicaid

1 program, the Medicare program, a Medicare+Choice provider or
2 Medicare supplemental insurer, an employer-sponsored group
3 health benefits plan, government or church-sponsored health
4 benefits plan or a multi-employer welfare arrangement.

5 "Medicaid" means the program established pursuant to P.L.1968,
6 c.413 (C.30:4D-1 et seq.).

7 "Medicare" means the program established by Pub.L.89-97 (42
8 U.S.C. s.1395 et seq.) as amended, or its successor plan or plans.

9 "Patient" means a person who receives services in a hospital on
10 an inpatient or outpatient basis.

11 (cf: P.L.2010, c.87, s.5)

12

13 70. Section 7 of P.L.2003, c.112 (C.17B:30-47) is amended to
14 read as follows:

15 7. a. The following procedures shall apply for those hospitals
16 that wish to participate in the voluntary assignment program created
17 by this act.

18 b. The hospital shall file with the department a notice
19 signifying its intent to participate voluntarily and certifying the
20 following:

21 (1) the hospital has determined that the patient is not eligible for
22 charity care under the New Jersey Hospital Care Payment
23 Assistance Program established by the Department of Health [and
24 Senior Services] pursuant to section 10 of P.L.1992, c.160
25 (C.26:2H-18.60);

26 (2) the hospital has submitted a "clean claim" pursuant to
27 P.L.1999, c.154 (C.17B:30-23 et al.) and P.L.1999, c.155
28 (C.17B:30-26 et seq.) to the patient, a responsible party, Medicaid,
29 Medicare or a health plan, as applicable, within a reasonable time
30 following the patient's discharge, or in the case of outpatient
31 service, the date of service;

32 (3) the claims have been fully adjudicated by a health plan,
33 Medicare or Medicaid, where applicable, and a debt remains
34 outstanding;

35 (4) the hospital has not initiated collection procedures against
36 the patient or responsible party while a claim was pending
37 adjudication with Medicare or a health plan, for which a debt
38 remains outstanding;

39 (5) the hospital has notified the patient of the hospital's
40 intention, if the account is not paid in full, or alternatively through a
41 payment plan with the hospital, to proceed with legal action, or to
42 turn the bill over to the department for collection.

43 c. Nothing herein shall be deemed to create any new right to
44 collection of hospital debts by hospitals beyond existing law; nor
45 shall it be deemed to preclude any existing right to collection.

46 d. The department may determine the content of the notice
47 required by paragraph (5) of subsection b. of this section to the
48 patient concerning the likelihood that the account will be turned
49 over to the department for collection.

1 e. The minimum amount of an unpaid bill that may be assigned
2 to the department by a hospital is \$100, or such other minimum as
3 the department shall determine by regulation.

4 f. Upon receipt of the voluntary assignment, the Department of
5 the Treasury shall send, on behalf of the department, a notice to the
6 person named as a debtor of the hospital, notifying the person as to
7 receipt of the assignment by the department, providing the person
8 with 30 days to challenge the validity of the debt, and providing
9 notice that in the absence of such challenge, a Certificate of Debt
10 will be filed with the Superior Court of New Jersey. The notice
11 shall also include a statement on the department's intention to take
12 action to set off the liability against any refund of taxes pursuant to
13 the "New Jersey Gross Income Tax Act" including an earned
14 income tax credit, a NJ SAVER rebate or a homestead rebate, or
15 other such funds as may be authorized by law.

16 g. If the person named as a debtor responds within the 30-day
17 period, the person shall be provided with an opportunity to present,
18 either in writing or in person, evidence as to why the person does
19 not believe he is responsible for the debt. The department shall
20 provide written notice to both the person and the hospital as to its
21 determination regarding the validity of the debt, including the
22 imposition of collection fees and interest, if applicable.

23 h. If the person fails to respond within 30 days to the
24 department, the department may utilize the provisions of the Set off
25 of Individual Liability (SOIL) program established pursuant to
26 P.L.1981, c.239 (C.54A:9-8.1 et seq.), to collect any surcharge
27 levied under this section that is unpaid on or after the effective date
28 of this act.

29 As additional remedies, the department may utilize the services
30 of a collection agency to settle the debt and may also issue a
31 certificate to the Clerk of the Superior Court stating that the person
32 identified in the certificate is indebted under this law in such
33 amount as shall be stated in the certificate. The certificate shall
34 reference this act. Thereupon the clerk to whom such certificate
35 shall have been issued shall immediately enter upon the record of
36 docketed judgments: the name of the person as debtor; the State as
37 creditor; the address of the person, if shown in the certificate; the
38 amount of the debt so certified; a reference to this act under which
39 the debt is assessed; and the date of making the entries. The
40 docketing of the entries shall have the same force and effect as a
41 civil judgment docketed in the Superior Court, and the department
42 shall have all the remedies and may take all of the proceedings for
43 the collection thereof which may be had or taken upon the recovery
44 of a judgment in an action, but without prejudice to any right of
45 appeal. Upon entry by the clerk of the certificate in the record of
46 docketed judgments in accordance with this provision, interest in
47 the amount specified by the court rules for post-judgment interest
48 shall accrue from the date of the docketing of the certificate;
49 however, payment of the interest may be waived by the department.

1 i. Any collection efforts undertaken pursuant to this act shall
2 be undertaken in accordance with the "Health Insurance Portability
3 and Accountability Act of 1996," Pub.L.104-191 and 45 C.F.R.
4 160.101 to 164.534, or any other similar law. The department and
5 any other entity performing collection activities pursuant to this act
6 is authorized to enter into any agreements required to comply with
7 such laws, including, but not limited to, entering into agreements
8 with the hospitals and collection agencies to provide for appropriate
9 safeguarding of information.

10 (cf: P.L.2010, c.87, s.9)

11
12 71. Section 3 of P.L.2005, c.352 (C.17B:30-50) is amended to
13 read as follows:

14 3. As used in sections 3 through 7 of P.L.2005, c.352
15 (C.17B:30-50 through C.17B:30-54):

16 "Authorization" means a determination required under a health
17 benefits plan, that based on the information provided, satisfies the
18 requirements under the member's health benefits plan for medical
19 necessity.

20 "Carrier" means an insurance company, health service
21 corporation, hospital service corporation, medical service
22 corporation, or health maintenance organization authorized to issue
23 health benefits plans in this State.

24 "Commissioner" means the Commissioner of Banking and
25 Insurance.

26 "Covered person" means a person on whose behalf a carrier
27 offering the plan is obligated to pay benefits or provide services
28 pursuant to the health benefits plan.

29 "Covered service" means a health care service provided to a
30 covered person under a health benefits plan for which the carrier is
31 obligated to pay benefits or provide services.

32 "Generally accepted standards of medical practice" means
33 standards that are based on: credible scientific evidence published
34 in peer-reviewed medical literature generally recognized by the
35 relevant medical community; physician and health care provider
36 specialty society recommendations; the views of physicians and
37 health care providers practicing in relevant clinical areas; and any
38 other relevant factor as determined by the commissioner by
39 regulation.

40 "Health benefits plan" means a benefits plan which pays or
41 provides hospital and medical expense benefits for covered
42 services, and is delivered or issued for delivery in this State by or
43 through a carrier. Health benefits plan includes, but is not limited
44 to, Medicare supplement coverage and Medicare+Choice contracts
45 to the extent not otherwise prohibited by federal law. For the
46 purposes of sections 3 through 7 of P.L.2005, c.352 (C.17B:30-50
47 through C.17B:30-54), health benefits plan shall not include the
48 following plans, policies or contracts: accident only, credit,
49 disability, long-term care, Civilian Health and Medical Program for

1 the Uniformed Services, CHAMPUS supplement coverage,
2 coverage arising out of a workers' compensation or similar law,
3 automobile medical payment insurance, personal injury protection
4 insurance issued pursuant to P.L.1972, c.70 (C.39:6A-1 et seq.) or
5 hospital confinement indemnity coverage.

6 "Hospital" means a general acute care facility licensed by the
7 Commissioner of Health [and Senior Services] pursuant to
8 P.L.1971, c.136 (C.26:2H-1 et seq.), including rehabilitation,
9 psychiatric and long-term acute facilities.

10 "Medical necessity" or "medically necessary" means or describes
11 a health care service that a health care provider, exercising his
12 prudent clinical judgment, would provide to a covered person for
13 the purpose of evaluating, diagnosing₁ or treating an illness, injury,
14 disease₁ or its symptoms and that is: in accordance with the
15 generally accepted standards of medical practice; clinically
16 appropriate, in terms of type, frequency, extent, site₁ and duration,
17 and considered effective for the covered person's illness, injury₁ or
18 disease; not primarily for the convenience of the covered person or
19 the health care provider; and not more costly than an alternative
20 service or sequence of services at least as likely to produce
21 equivalent therapeutic or diagnostic results as to the diagnosis or
22 treatment of that covered person's illness, injury₁ or disease.

23 "Network provider" means a participating hospital or physician
24 under contract or other agreement with a carrier to furnish health
25 care services to covered persons.

26 "Payer" means a carrier which requires that utilization
27 management be performed to authorize the approval of a health care
28 service and includes an organized delivery system that is certified
29 by the Commissioner of Health [and Senior Services] or licensed
30 by the commissioner pursuant to P.L.1999, c.409 (C.17:48H-1 et
31 seq.).

32 "Payer's agent" or "agent" means an intermediary contracted or
33 affiliated with the payer to provide authorization for service or
34 perform administrative functions including, but not limited to, the
35 payment of claims or the receipt, processing₁ or transfer of claims
36 or claim information.

37 "Physician" means a physician licensed pursuant to Title 45 of
38 the Revised Statutes.

39 "Utilization management" means a system for reviewing the
40 appropriate and efficient allocation of health care services under a
41 health benefits plan according to specified guidelines, in order to
42 recommend or determine whether, or to what extent, a health care
43 service given or proposed to be given to a covered person should or
44 will be reimbursed, covered, paid for, or otherwise provided under
45 the health benefits plan. The system may include, but shall not be
46 limited to: preadmission certification, the application of practice
47 guidelines, continued stay review, discharge planning,

1 preauthorization of ambulatory care procedures and retrospective
2 review.

3 (cf: P.L.2005, c.352, s.3)

4

5 72. Section 1 of P.L.2007, c.194 (C.17B:30-58) is amended to
6 read as follows:

7 1. As used in this act:

8 "Ambulance service" means the provision of emergency health
9 care services, basic life support services, advanced life support
10 services, critical care services, mobile intensive care services, or
11 emergency medical transportation in a vehicle that is licensed,
12 equipped, and staffed in accordance with the requirements set forth
13 by the Commissioner of Health [and Senior Services].

14 "Assignment of benefits" means any written instrument executed
15 by the covered person or his authorized representative which
16 assigns a service provider the covered person's right to receive
17 reimbursement for a covered service rendered to the covered
18 person.

19 "Carrier" means an insurance company, health service
20 corporation, hospital service corporation, medical service
21 corporation, or health maintenance organization authorized to issue
22 health benefits plans in this State.

23 "Claim" means a claim by a covered person for payment of
24 benefits under a health benefits plan.

25 "Commissioner" means the Commissioner of Banking and
26 Insurance.

27 "Covered person" means a person on whose behalf a carrier
28 offering the health benefits plan is obligated to pay benefits or
29 provide services pursuant to the health benefits plan.

30 "Covered service" means an ambulance service provided to a
31 covered person under a health benefits plan for which the carrier is
32 obligated to pay benefits or provide services.

33 "Health benefits plan" means a hospital and medical expense
34 insurance policy; health service corporation contract; hospital
35 service corporation contract; medical service corporation contract;
36 health maintenance organization subscriber contract; or other plan
37 for medical care delivered or issued for delivery in this State. For
38 purposes of this act, health benefits plan shall not include one or
39 more, or any combination of, the following: coverage only for
40 accident, or disability income insurance, or any combination
41 thereof; coverage issued as a supplement to liability insurance;
42 liability insurance, including general liability insurance and
43 automobile liability insurance; stop loss or excess risk insurance;
44 workers' compensation or similar insurance; automobile medical
45 payment insurance; credit-only insurance; coverage for on-site
46 medical clinics; coverage for Medicaid services pursuant to a
47 contract with the State; and any other similar insurance coverage, as
48 specified in federal regulations, under which benefits for medical
49 care are secondary or incidental to other insurance benefits. Health

1 benefits plans shall not include the following benefits if they are
2 provided under a separate policy, certificate or contract of insurance
3 or are otherwise not an integral part of the plan: limited scope
4 dental or vision benefits; benefits for long-term care, nursing home
5 care, home health care, community-based care, or any combination
6 thereof; and such other similar, limited benefits as are specified in
7 federal regulations. Health benefits plan shall not include hospital
8 confinement indemnity coverage if the benefits are provided under
9 a separate policy, certificate or contract of insurance, there is no
10 coordination between the provision of the benefits and any
11 exclusion of benefits under any group health benefits plan
12 maintained by the same plan sponsor, and those benefits are paid
13 with respect to an event without regard to whether benefits are
14 provided with respect to such an event under any group health plan
15 maintained by the same plan sponsor.

16 "Payer" means a carrier or any agent thereof who is doing
17 business in the State and is under a contractual obligation to pay
18 claims.

19 "Service provider" means any person, public or private
20 institution, agency, or business concern lawfully providing an
21 ambulance service.

22 (cf: P.L.2007, c.194, s.1)

23

24 73. Section 1 of P.L.2011, c.214 (C.18A:3B-69) is amended to
25 read as follows:

26 1. a. The governing board of each institution of higher
27 education shall develop and coordinate an emergency operations
28 plan to ensure the continuity of essential institution functions under
29 all circumstances. The plan shall:

30 (1) identify a baseline of preparedness for all potential
31 emergencies, including pandemics, to establish a viable capability
32 to perform essential functions during any emergency that disrupts
33 normal operations; and

34 (2) be coordinated with State and local authorities including, but
35 not limited to, the State Office of Emergency Management, local
36 law enforcement officers, county and local health officers, county
37 offices of emergency management, and other emergency
38 responders.

39 b. The plan shall include, but not be limited to, the following
40 components: identification of essential functions, programs, and
41 personnel; procedures to implement the plan; delegation of
42 authority and lines of succession; identification of alternative
43 facilities and related infrastructure, including those for
44 communications; identification and protection of vital records and
45 databases; and schedules and procedures for periodic tests, training,
46 and exercises. The plan shall be consistent with the local emergency
47 operations plan of the municipality in which the institution is
48 located.

1 c. The governing board of the institution shall adopt and
2 submit for review an emergency operations plan to the Secretary of
3 Higher Education, the State Office of Emergency Management, the
4 Department of Health [and Senior Services], and the Office of
5 Homeland Security and Preparedness within six months of the
6 effective date of this act. The governing board shall review, update,
7 and resubmit the plan to the offices every five years. If an
8 emergency incident occurs at an institution during the five-year
9 period, the plan shall be reviewed immediately.

10 d. The Office of Homeland Security and Preparedness, the
11 State Office of Emergency Management, the Department of Health
12 [and Senior Services], and the Secretary of Higher Education shall
13 review the emergency operations plan submitted by an institution of
14 higher education pursuant to subsection c. of this section and, when
15 necessary, shall in coordination with other State agencies make
16 recommendations to the institution for improving the plan that are
17 deemed necessary.

18 e. Any plan prepared pursuant to this section shall not be
19 considered a government record as defined in section 1 of P.L.1995,
20 c.23 (C.47:1A-1.1) and shall not be available for public inspection,
21 copying, or the purchase of copies.

22 (cf: P.L.2011, c.214, s.1)

23

24 74. Section 2 of P.L.1997, c.368 (C.18A:40-12.6) is amended to
25 read as follows:

26 2. The policy for the administration of medication to a pupil
27 shall provide that the school nurse shall have the primary
28 responsibility for the administration of the epinephrine. The school
29 nurse shall designate, in consultation with the board of education, or
30 chief school administrator of a nonpublic school additional
31 employees of the school district or nonpublic school who volunteer
32 to administer epinephrine via a pre-filled auto-injector mechanism
33 to a pupil for anaphylaxis when the nurse is not physically present
34 at the scene. The school nurse shall determine that:

35 a. the designees have been properly trained in the
36 administration of the epinephrine via a pre-filled auto-injector
37 mechanism using standardized training protocols established by the
38 Department of Education in consultation with the Department of
39 Health [and Senior Services];

40 b. the parents or guardians of the pupil consent in writing to the
41 administration of the epinephrine via a pre-filled auto-injector
42 mechanism by the designees;

43 c. the board or chief school administrator of a nonpublic school
44 informs the parents or guardians of the pupil in writing that the
45 district and its employees or agents or the nonpublic school and its
46 employees and agents shall have no liability as a result of any injury
47 arising from the administration of the epinephrine to the pupil;

48 d. the parents or guardians of the pupil sign a statement
49 acknowledging their understanding that the district or nonpublic

1 school shall have no liability as a result of any injury arising from
2 the administration of the epinephrine via a pre-filled auto-injector
3 mechanism to the pupil and that the parents or guardians shall
4 indemnify and hold harmless the district and its employees or
5 agents against any claims arising out of the administration of the
6 epinephrine via a pre-filled auto-injector mechanism to the pupil;
7 and

8 e. the permission is effective for the school year for which it is
9 granted and is renewed for each subsequent school year upon
10 fulfillment of the requirements in subsections a. through d. of this
11 section.

12 The Department of Education, in consultation with the
13 Department of Health [and Senior Services], shall require trained
14 designees for students enrolled in a school who may require the
15 emergency administration of epinephrine for anaphylaxis when the
16 school nurse is not available.

17 Nothing in this section shall be construed to prohibit the
18 emergency administration of epinephrine via a pre-filled auto-
19 injector mechanism to a pupil for anaphylaxis by the school nurse
20 or other employees designated pursuant to this section when the
21 pupil is authorized to self-administer epinephrine pursuant to
22 section 1 of P.L.1993, c.308 (C.18A:40-12.3), or when there is a
23 coexisting diagnosis of asthma, or when a prescription is received
24 from a licensed health care professional for epinephrine coupled
25 with another form of medication.

26 (cf: P.L.2007, c.57, s.3)

27

28 75. Section 4 of P.L.2007, c.57 (C.18A:40-12.6a) is amended to
29 read as follows:

30 4. The Department of Education, in consultation with the
31 Department of Health [and Senior Services], appropriate medical
32 experts, and professional organizations representing school nurses,
33 principals, teachers, and the food allergy community, shall establish
34 and disseminate to each board of education and chief school
35 administrator of a nonpublic school guidelines for the development
36 of a policy by a school district or nonpublic school for the
37 management of food allergies in the school setting and the
38 emergency administration of epinephrine to students for
39 anaphylaxis.

40 (cf: P.L.2007, c.57, s.4)

41

42 76. Section 6 of P.L.2007, c.57 (C.18A:40-12.6c) is amended to
43 read as follows:

44 6. a. In an effort to assist the certified school nurse in a public
45 school district and the school nurse in a nonpublic school in
46 recruiting and training additional school employees as volunteer
47 designees to administer epinephrine for anaphylaxis when the
48 school nurse is not physically present, the Department of Education
49 and the Department of Health [and Senior Services] shall jointly

1 develop training protocols, in consultation with the New Jersey
2 School Nurses Association.

3 b. The certified school nurse in consultation with the board of
4 education, or the school nurse in consultation with the chief school
5 administrator of a nonpublic school, shall recruit and train volunteer
6 designees who are determined acceptable candidates by the school
7 nurse within each school building as deemed necessary by the
8 nursing service plan.

9 (cf: P.L.2007, c.229, s.1)

10
11 77. Section 3 of P.L.2001, c.61 (C.18A:40-12.8) is amended to
12 read as follows:

13 3. The State Board of Education, in consultation with the
14 Commissioner of Health [and Senior Services], shall adopt
15 regulations requiring each public school board of education to
16 develop policies for the administration of asthma medication
17 through the use of a nebulizer by the school nurse or other person
18 authorized by regulation. The regulations shall include:

19 a. a requirement that each certified nurse or other person
20 authorized to administer asthma medication receive training in
21 airway management and in the use of nebulizers and inhalers
22 consistent with nationally recognized standards, including, but not
23 limited to, those of the National Institutes of Health and the
24 American Association of Allergy and Immunology; and

25 b. a requirement that each pupil authorized to use asthma
26 medication pursuant to section 1 of P.L.1993, c.308 (C.18A: 40-
27 12.3), or a nebulizer have an asthma treatment plan prepared by the
28 physician of the pupil, which shall identify, at a minimum, asthma
29 triggers, the treatment plan, and such other elements as shall be
30 determined by the State Board of Education.

31 (cf: P.L.2001, c.61, s.3)

32
33 78. Section 3 of P.L.2002, c.58 (C.18A:40-21.1) is amended to
34 read as follows:

35 3. The Commissioner of Health [and Senior Services] shall
36 require the immunization of a child for hepatitis B as a condition of
37 enrollment in grades nine through 12.

38 b. Beginning with the 2003-2004 school year, a principal,
39 director or other person in charge of a public or private school in
40 this State shall not knowingly admit or retain in grades nine through
41 12 a child whose parent or guardian has not submitted acceptable
42 evidence of the child's immunization for hepatitis B prior to or
43 during enrollment in ninth grade, as provided by regulation of the
44 Commissioner of Health [and Senior Services].

45 c. The Commissioner of Health [and Senior Services] shall
46 adopt rules and regulations pursuant to the "Administrative

1 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to carry out
2 the purposes of this section.
3 (cf: P.L.2002, c.58, s.3)
4

5 79. Section 3 of P.L.2007, c.122 (C.18A:40-37) is amended to
6 read as follows:

7 3. a. The Commissioner of Education, in consultation with the
8 Commissioner of Health [and Senior Services], shall establish a
9 three-year comprehensive eye examination pilot program for second
10 grade students. The purpose of the program shall be to eliminate
11 inappropriate referrals for special education programs and services
12 by examining students at the end of second grade for vision-related
13 problems that may go undiagnosed and result in special education
14 classification.

15 b. The commissioner shall select for participation in the pilot
16 program one school district in each of the northern, central, and
17 southern regions of the State, including an urban school district, a
18 suburban school district, and a rural school district. In selecting the
19 pilot school districts, the commissioner may consider the percentage
20 of students in the district classified as eligible for special education
21 programs and services, the percentage increase in such
22 classifications over the prior five school years, and the district's
23 interest in participating in the program. The commissioner shall
24 collaborate with each pilot school district on the procedures to be
25 implemented to conduct the comprehensive eye examinations,
26 including the coverage of any costs associated with the
27 examinations. In any agreement concerning the cost of providing
28 examinations, no parent or guardian of a student shall be required to
29 make any payment to the optometrist or ophthalmologist providing
30 a comprehensive eye examination, or the school district or any other
31 entity; except that if the student is covered by a health insurance
32 plan which has a copayment requirement, the parent or guardian
33 shall pay the health care provider the required copayment. In this
34 case, the parent or guardian may apply to the Comprehensive Eye
35 Examination Fund for reimbursement of the copayment.

36 c. The commissioner shall develop and distribute to the pilot
37 districts a form to document and provide information on each
38 comprehensive eye examination conducted under the program.
39 (cf: P.L.2007, c.122, c.3)
40

41 80. Section 1 of P.L.2007, c.125 (C.18A:40-41) is amended to
42 read as follows:

43 1. a. The Commissioner of Education, in consultation with the
44 Commissioner of Health [and Senior Services], the American Heart
45 Association, and the American Academy of Pediatrics, shall
46 develop a pamphlet that provides information about sudden cardiac
47 death to the parents or guardians of student athletes. The pamphlet
48 shall include an explanation of sudden cardiac death, its incidence
49 among student athletes, a description of early warning signs, and an

1 overview of the options that are privately available to screen for
2 cardiac conditions that may lead to sudden cardiac death, including
3 a statement about the limitations of these options.

4 b. The commissioner shall distribute the pamphlet, at no
5 charge, to all school districts in the State. The commissioner shall
6 update the pamphlet as necessary, and shall make additional copies
7 available to nonpublic schools upon request.

8 c. In the 2007-2008 school year and in each school year
9 thereafter, each school district shall distribute the pamphlet to the
10 parents or guardians of students participating in school sports.

11 (cf: P.L.2007, c.125, s.1)

12
13 81. Section 2 of P.L.2007, c.134 (C.18A:40-42) is amended to
14 read as follows:

15 2. a. The Commissioner of Education, in consultation with the
16 Commissioner of Health [and Senior Services], shall develop an
17 educational fact sheet about the human papillomavirus (HPV) for
18 distribution to parents or guardians of students in grades seven
19 through 12. The educational fact sheet shall include information
20 about the causes, symptoms and means of transmission of HPV, and
21 where additional information can be obtained.

22 b. For the 2007-2008 school year, a school district shall
23 distribute to parents and guardians of students in grades seven
24 through 12 the educational fact sheet on HPV, in a manner
25 prescribed by the Commissioner of Education.

26 c. Beginning with the 2008-2009 school year, a school district
27 shall distribute the educational fact sheet annually to parents or
28 guardians of students in grade seven in a manner prescribed by the
29 Commissioner of Education.

30 d. The Commissioner of Education also shall make the
31 educational fact sheet available to private schools educating
32 students in grades seven through 12. Such schools are encouraged,
33 but not required, to distribute the fact sheet to parents or guardians
34 of students at the school.

35 (cf: P.L.2007, c.134, s.2)

36
37 82. Section 5 of P.L.1987, c.387 (C.18A:40A-12) is amended to
38 read as follows:

39 5. a. Whenever it shall appear to any teaching staff member,
40 school nurse or other educational personnel of any public school in
41 this State that a pupil may be under the influence of substances as
42 defined pursuant to section 2 of this act, other than anabolic
43 steroids, that teaching staff member, school nurse, or other
44 educational personnel shall report the matter as soon as possible to
45 the school nurse or medical inspector, as the case may be, or to a
46 student assistance coordinator, and to the principal or, in his
47 absence, to his designee. The principal or his designee, shall
48 immediately notify the parent or guardian and the superintendent of
49 schools, if there be one, or the administrative principal and shall

1 arrange for an immediate examination of the pupil by a doctor
2 selected by the parent or guardian, or if that doctor is not
3 immediately available, by the medical inspector, if he is available.
4 If a doctor or medical inspector is not immediately available, the
5 pupil shall be taken to the emergency room of the nearest hospital
6 for examination accompanied by a member of the school staff
7 designated by the principal and a parent or guardian of the pupil if
8 available. The pupil shall be examined as soon as possible for the
9 purpose of diagnosing whether or not the pupil is under such
10 influence. A written report of that examination shall be furnished
11 within 24 hours by the examining physician to the parent or
12 guardian of the pupil and to the superintendent of schools or
13 administrative principal. If it is determined that the pupil was under
14 the influence of a substance, the pupil shall be returned to [his or
15 her] the pupil's home as soon as possible and shall not resume
16 attendance at school until the pupil submits to the principal a
17 written report certifying that [he or she] the pupil is physically and
18 mentally able to return thereto, which report shall be prepared by a
19 personal physician, the medical inspector, or the physician who
20 examined the pupil pursuant to the provisions of this act.

21 In addition, the pupil shall be interviewed by a student assistance
22 coordinator or another appropriately trained teaching staff member
23 for the purpose of determining the extent of the pupil's involvement
24 with these substances and possible need for treatment. In order to
25 make this determination the coordinator or other teaching staff
26 member may conduct a reasonable investigation which may include
27 interviews with the pupil's teachers and parents. The coordinator or
28 other teaching staff member may also consult with [such] experts
29 in the field of substance abuse as may be necessary and appropriate.
30 If it is determined that the pupil's involvement with and use of these
31 substances represents a danger to the pupil's health and well-being,
32 the coordinator or other teaching staff member shall refer the pupil
33 to an appropriate treatment program which has been approved by
34 the Commissioner of Health [and Senior Services].

35 b. Whenever any teaching staff member, school nurse, or other
36 educational personnel of any public school in this State shall have
37 reason to believe that a pupil has used or may be using anabolic
38 steroids, that teaching staff member, school nurse, or other
39 educational personnel shall report the matter as soon as possible to
40 the school nurse or medical inspector, as the case may be, or to a
41 student assistance coordinator, and to the principal or, in his
42 absence, to his designee. The principal or his designee, shall
43 immediately notify the parent or guardian and the superintendent of
44 schools, if there be one, or the administrative principal and shall
45 arrange for an examination of the pupil by a doctor selected by the
46 parent or guardian or by the medical inspector. The pupil shall be
47 examined as soon as possible for the purpose of diagnosing whether
48 or not the pupil has been using anabolic steroids. A written report

1 of that examination shall be furnished by the examining physician
2 to the parent or guardian of the pupil and to the superintendent of
3 schools or administrative principal. If it is determined that the pupil
4 has been using anabolic steroids, the pupil shall be interviewed by a
5 student assistance coordinator or another appropriately trained
6 teaching staff member for the purpose of determining the extent of
7 the pupil's involvement with these substances and possible need for
8 treatment. In order to make this determination the coordinator or
9 other teaching staff member may conduct a reasonable investigation
10 which may include interviews with the pupil's teachers and parents.
11 The coordinator or other teaching staff member may also consult
12 with [such] experts in the field of substance abuse as may be
13 necessary and appropriate. If it is determined that the pupil's
14 involvement with and use of these substances represents a danger to
15 the pupil's health and well-being, the coordinator or other teaching
16 staff member shall refer the pupil to an appropriate treatment
17 program which has been approved by the Commissioner of Health
18 [and Senior Services].
19 (cf: P.L.2009, c.54, s.1)
20

21 83. Section 11 of P.L.1987, c.387 (C.18A:40A-18) is amended
22 to read as follows:

23 11. The Commissioner of Education, in consultation with the
24 Commissioner of Health [and Senior Services], shall develop and
25 administer a program which provides for the employment of student
26 assistance coordinators in certain school districts.

27 a. Within 90 days of the effective date of this act, the
28 Commissioner of Education shall forward to each local school
29 board a request for a proposal for the employment of a student
30 assistance coordinator. A board which wants to participate in the
31 program shall submit a proposal to the commissioner which outlines
32 the district's plan to provide substance abuse prevention,
33 intervention, and treatment referral services to students through the
34 employment of a student assistance coordinator. Nothing shall
35 preclude a district which employs a student assistance coordinator
36 at the time of the effective date of this act from participating in this
37 program. The commissioner shall select school districts to
38 participate in the program through a competitive grant process. The
39 participating districts shall include urban, suburban, and rural
40 districts from the north, central, and southern geographic regions of
41 the State with at least one school district per county. In addition to
42 all other State aid to which the local district is entitled under the
43 provisions of P.L.2007, c.260 (C.18A:7F-43 et al.) and other
44 pertinent statutes, each board of education participating in the
45 program shall receive from the State, for a three-year period, the
46 amount necessary to pay the salary of its student assistance
47 coordinator.

48 b. The position of student assistance coordinator shall be
49 separate and distinct from any other employment position in the

1 district, including, but not limited to district guidance counselors,
2 school social workers, and school psychologists. The State Board
3 of Education shall approve the education and experience criteria
4 necessary for employment as a student assistance coordinator. The
5 criteria shall include a requirement for certification by the State
6 Board of Examiners. In addition to the criteria established by the
7 State board, the Department of Education and the Department of
8 Health [and Senior Services] shall jointly conduct orientation and
9 training programs for student assistance coordinators, and shall also
10 provide for continuing education programs for coordinators.

11 c. It shall be the responsibility of student assistance
12 coordinators to assist local school districts in the effective
13 implementation of this act. Coordinators shall assist with the in
14 service training of school district staff concerning substance abuse
15 issues and the district program to combat substance abuse; serve as
16 an information resource for substance abuse curriculum
17 development and instruction; assist the district in revising and
18 implementing substance abuse policies and procedures; develop and
19 administer intervention services in the district; provide counseling
20 services to pupils regarding substance abuse problems; and, where
21 necessary and appropriate, cooperate with juvenile justice officials
22 in the rendering of substance abuse treatment services.

23 d. The Commissioner of Education, in consultation with the
24 Commissioner of Health [and Senior Services], shall implement a
25 plan to collect data on the effectiveness of the program in treating
26 problems associated with substance abuse and in reducing the
27 incidence of substance abuse in local school districts. Six months
28 prior to the expiration of the program authorized pursuant to this
29 section, the Commissioner of Education shall submit to the
30 Governor and the Legislature an evaluation of the program and a
31 recommendation on the advisability of its continuation or expansion
32 to all school districts in the State.

33 (cf: P.L.2009, c.54, s.4)

34

35 84. Section 9 of P.L.2003, c.117 (C.24:2-9) is amended to read
36 as follows:

37 9. The Department of Health [and Senior Services] may,
38 pursuant to regulation adopted in accordance with the
39 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
40 seq.), establish and charge reasonable fees not to exceed \$100 to
41 cover administrative costs associated with the issuance of a
42 "Certificate of Free Sale." For the purpose of this act, a "Certificate
43 of Free Sale" is defined as a certificate completed and issued by the
44 department attesting that a specific food, drug, cosmetic, or medical
45 device product regulated under Title 24 of the Revised Statutes, [as
46 amended and supplemented,] and manufactured, distributed, and
47 offered for sale in this State is labeled in conformance with the
48 applicable food, drug, cosmetic, or medical device laws and rules of

1 this State and further attests to the results of the most recently
2 conducted sanitary inspection of the manufacturer or distributor of
3 the subject product.

4 Further, the Department of Health [and Senior Services may],
5 pursuant to regulation adopted in accordance with the
6 "Administrative Procedure Act," establish and charge reasonable
7 fees not to exceed \$100 to cover administrative costs associated
8 with the issuance of other certifications or affidavits related to
9 matters regulated by the department under Title 24 of the Revised
10 Statutes[, as amended and supplemented].

11 (cf: P.L.2003, c.117, s.9)

12
13 85. Section 13 of P.L.1961, c.52 (C.24:6B-12) is amended to
14 read as follows:

15 13. For the purposes of this registration act, unless otherwise
16 required by the context:

17 (a) "Commissioner" means Commissioner of [the State
18 Department of] Health [and Senior Services] or [his] the
19 commissioner's designated representative.

20 (b) "Department" means the [State] Department of Health [and
21 Senior Services].

22 (c) "Drugs" means "drugs" and "devices" as defined in R.S.
23 24:1-1.

24 (d) "Person" means a natural person, partnership, corporation, or
25 any other business association.

26 (e) "Registrant" means the person in whose name a drug
27 manufacturing business or wholesale non-prescription drug business
28 is registered.

29 (f) "Drug manufacturing business" means the business of
30 creating, making, or producing drugs by compounding, growing, or
31 other process. This definition shall apply to persons engaged in the
32 drug manufacturing business who do not maintain a manufacturing
33 location in this State but do operate distribution depots or
34 warehouses of such business in this State. This definition shall not
35 apply to licensed pharmacies or to licensed professional individuals
36 such as, but not limited to, pharmacists, physicians, dentists, or
37 veterinarians when engaged in the lawful pursuit of their
38 professions.

39 (g) "Wholesale drug business" means the business of supplying
40 non-prescription drugs to persons other than the ultimate consumer.
41 This definition shall not apply to licensed pharmacies or to licensed
42 professional individuals such as, but not limited to, pharmacists,
43 physicians, dentists, or veterinarians when engaged in the lawful
44 pursuit of their professions, and shall not apply to a registered drug
45 manufacturing business.

46 (cf: P.L.2005, c.206, s.4)

1 86. Section 5 of P.L.2005, c.206 (C.24:6B-14) is amended to
2 read as follows:

3 5. As used in sections 5 through 24 of P.L.2005, c.206
4 (C.24:6B-14 et seq.):

5 "Adulterated" means a prescription drug that is adulterated
6 pursuant to R.S.24:5-10.

7 "Authenticate" means to affirmatively verify before any
8 distribution of a prescription drug that each transaction listed on the
9 pedigree has occurred.

10 "Authorized distributor" or "authorized distributor of record"
11 means a wholesale distributor with whom a manufacturer has
12 established an ongoing relationship to distribute the manufacturer's
13 product. An ongoing relationship is deemed to exist when the
14 wholesale distributor, or any member of its affiliated group as
15 defined in section 1504 of the Internal Revenue Code of 1986 (26
16 U.S.C. s.1504): is listed on the manufacturer's list of authorized
17 distributors; has a written agreement currently in effect with the
18 manufacturer; or has a verifiable account with the manufacturer and
19 meets or exceeds the following transaction or volume requirement
20 thresholds:

- 21 a. 5,000 sales units per company within 12 months; or
22 b. 12 purchases by invoice at the manufacturer's minimum
23 purchasing requirement per invoice within 12 months.

24 "Centralized prescription processing" means the processing by a
25 pharmacy of a request from another pharmacy to fill or refill a
26 prescription drug order or to perform processing functions such as
27 dispensing, drug utilization review, claims adjudication, refill
28 authorizations and therapeutic interventions.

29 "Chain pharmacy distribution center" means a distribution
30 facility or warehouse owned by and operated for the primary use of
31 a group of pharmacies that are under common or affiliated control
32 or ownership.

33 "Commissioner" means the Commissioner of Health [and Senior
34 Services].

35 "Contraband" with respect to a prescription drug means:
36 counterfeit; stolen; misbranded; obtained by fraud; purchased by a
37 nonprofit institution for its own use and placed in commerce in
38 violation of the own use agreement; or the existing documentation
39 or pedigree, if required, for the prescription drug has been forged,
40 counterfeited, falsely created, or contains any altered, false, or
41 misrepresented information.

42 "Counterfeit prescription drug" means a prescription drug, or the
43 container, shipping container, seal, or labeling thereof, which,
44 without authorization, bears the trademark, trade name or other
45 identifying mark, imprint, or any likeness thereof, of a
46 manufacturer, processor, packer, or distributor other than the person
47 or persons who in fact manufactured, processed, packed, or
48 distributed [such] the prescription drug and which thereby falsely
49 purports or is represented to be the product of, or to have been

1 packed or distributed by, such other manufacturer, processor,
2 packer, or distributor.

3 "DEA" means the federal Drug Enforcement Administration.

4 "Department" means the Department of Health [and Senior
5 Services].

6 "Designated representative" means an individual who is
7 designated by a wholesale prescription drug distributor to serve as
8 the primary contact person for the wholesale distributor with the
9 department, and who is responsible for managing the company's
10 operations at that licensed location.

11 "Distribute" means to sell, offer to sell, deliver, offer to deliver,
12 broker, give away, or transfer a prescription drug, whether by
13 passage of title, physical movement, or both. The term does not
14 mean to: dispense or administer; deliver or offer to deliver in the
15 usual course of business as a common carrier or logistics
16 provider, or provide a sample to a patient by a licensed practitioner,
17 a health care professional acting at the direction and under the
18 supervision of a practitioner, or the pharmacist of a health care
19 facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.)
20 acting at the direction of a practitioner.

21 "Drug" means: a. an article or substance recognized in the
22 official United States Pharmacopoeia, official Homeopathic
23 Pharmacopoeia of the United States or official National Formulary,
24 or any supplement to any of them; b. an article or substance
25 intended for use in the diagnosis, cure, mitigation, treatment, or
26 prevention of disease in man or other animals; c. an article or
27 substance, other than food, intended to affect the structure of any
28 function of the body of man or animals; and d. an article or
29 substance intended for use as a component of any article or
30 substance specified in clause a., b., or c.; but does not include
31 devices or their components, parts, or accessories. Drug includes a
32 prefilled syringe or needle.

33 "Immediate container" means a container but does not include
34 package liners.

35 "Logistics provider" means an entity that receives drugs from the
36 original manufacturer and delivers them at the direction of that
37 manufacturer, and does not purchase, sell, trade, or take title to the
38 drugs.

39 "Misbranded" means a prescription drug with respect to which
40 the label is: false or misleading in any particular; does not bear the
41 name and address of the manufacturer, packer, or distributor and
42 does not have an accurate statement of the quantities of the active
43 ingredients; or does not show an accurate monograph for legend
44 drugs; or is misbranded based upon other considerations as
45 provided in the Federal Food, Drug, and Cosmetic Act, 21 U.S.C.
46 s.301 et seq.

47 "Pedigree" means a statement or record identifying each previous
48 sale of a prescription drug, from the sale by a manufacturer through
49 acquisition and sale by a wholesale distributor, including each

1 distribution to an authorized distributor, starting with the last
2 authorized distributor, or the manufacturer if the prescription drug
3 has not been purchased previously by an authorized distributor or is
4 a prescription drug on the specified list of susceptible products. A
5 pedigree shall include the following information: the proprietary
6 and established name of the prescription drug; the dosage;
7 container size; number of containers; and the date, business name,
8 and address of all parties to each prior transaction involving the
9 prescription drug starting with the last authorized distributor or the
10 manufacturer if the prescription drug has not been purchased
11 previously by an authorized distributor or is a prescription drug on
12 the specified list of susceptible products.

13 "Repackage" means changing the container, wrapper, quantity,
14 or labeling of a prescription drug to further its distribution.

15 "Sales unit" means the unit of measure that the manufacturer
16 uses to invoice its customer for the particular product.

17 "Specified list of susceptible products" means a specific list of
18 prescription drugs, to be determined by the commissioner, that are
19 considered to be potential targets for adulteration, counterfeiting, or
20 diversion, which the commissioner shall provide to wholesale
21 distributors as prescription drugs are added to or removed from the
22 list, along with notification of those changes.

23 "Wholesale distribution" means the distribution of prescription
24 drugs in or into the State by a wholesale distributor to a person
25 other than a consumer or patient, and includes transfers of
26 prescription drugs from one pharmacy to another pharmacy if the
27 value of the goods transferred exceeds 5% of total prescription drug
28 sales revenue of either the transferor or transferee pharmacy during
29 any consecutive 12-month period. The term excludes:

30 a. the sale, purchase or trade of a prescription drug, an offer to
31 sell, purchase, or trade a prescription drug, or the dispensing of a
32 prescription drug pursuant to a prescription;

33 b. the sale, purchase or trade of a prescription drug, or an offer
34 to sell, purchase, or trade a prescription drug for emergency medical
35 reasons;

36 c. the sale, purchase or trade of a prescription drug, or an offer
37 to sell, purchase, or trade a prescription drug by pharmacies, chain
38 pharmacy distribution centers, and the associated transfer of goods
39 between chain pharmacy distribution centers and their servicing
40 wholesale distributors or manufacturers;

41 d. intracompany transactions or sales among wholesale
42 distributors, chain pharmacy distribution centers, and pharmacies,
43 and which are limited to those sales or transfers of a prescription
44 drug among members of an affiliated group, even if the members of
45 the affiliated group are separate legal entities;

46 e. the sale, purchase or trade of a prescription drug, or an offer
47 to sell, purchase, or trade a prescription drug among hospitals or
48 other health care entities licensed pursuant to P.L.1971, c.136
49 (C.26:2H-1 et seq.) that are under common control;

- 1 f. the sale, purchase or trade of a prescription drug, or offer to
2 sell, purchase, or trade a prescription drug by a charitable
3 organization exempt from taxation pursuant to section 501(c)(3) of
4 the Internal Revenue Code of 1986 (26 U.S.C. s.501(c)(3)) to a
5 nonprofit affiliate of the organization;
- 6 g. the purchase or other acquisition by a hospital or other
7 similar health care entity licensed pursuant to P.L.1971, c.136
8 (C.26:2H-1 et seq.) that is a member of a group purchasing
9 organization of a prescription drug for its own use from the group
10 purchasing organization or from other hospitals or similar health
11 care entities that are members of these organizations;
- 12 h. the transfer of prescription drugs between pharmacies
13 pursuant to a centralized prescription processing agreement;
- 14 i. the distribution of prescription drug samples by
15 manufacturers' representatives or wholesale distributors'
16 representatives;
- 17 j. the sale, purchase or trade of blood and blood components
18 intended for transfusion;
- 19 k. prescription drug returns, when conducted by a pharmacy,
20 chain pharmacy distribution center, hospital, health care entity
21 licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), or
22 charitable institution in accordance with regulations established by
23 the commissioner;
- 24 l. the sale of minimal quantities of prescription drugs by retail
25 pharmacies to licensed practitioners for office use;
- 26 m. the stockpiling and distribution of drugs under the
27 authorization of a State agency for the purpose of providing those
28 products in an emergency situation; or
- 29 n. the sale, transfer, merger, or consolidation of all or part of
30 the business of a pharmacy or pharmacies from or with another
31 pharmacy or pharmacies whether accomplished as a purchase and
32 sale of stock or business assets.
- 33 "Wholesale distributor" means any person, other than the
34 manufacturer, pharmacy, logistics provider, or chain pharmacy
35 distribution center, engaged in wholesale distribution of
36 prescription drugs in or into the State and includes repackagers,
37 own-label distributors, private-label distributors, jobbers, brokers,
38 warehouses including distributors' warehouses, independent
39 prescription drug traders, and retail pharmacies that conduct
40 wholesale distribution.
41 (cf: P.L.2005, c.206, s.5)
42
- 43 87. Section 5 of P.L.1977, c.240 (C.24:6E-4) is amended to read
44 as follows:
- 45 5. As used in this act unless the context clearly indicates
46 otherwise:
- 47 a. "Drug product" means a dosage form containing one or more
48 active therapeutic ingredients along with other substances included
49 during the manufacturing process.

- 1 b. "Brand name" means the proprietary name assigned to a
2 drug by the manufacturer thereof.
- 3 c. "Established name" with respect to a drug or ingredient
4 thereof, means (1) the applicable official name designated pursuant
5 to the Federal Food, Drug and Cosmetic Act (Title 21, U.S.C. s.301
6 et seq.), or (2) if there is no such official name and such drug or
7 ingredient is recognized in an official compendium, then the official
8 title thereof in such compendium, except that where a drug or
9 ingredient is recognized in the United States Pharmacopoeia and in
10 the Homeopathic Pharmacopoeia under different official titles, the
11 official title used in the United States Pharmacopoeia shall apply
12 unless it is labeled and offered for sale as a homeopathic drug, in
13 which case the official title used in the Homeopathic
14 Pharmacopoeia shall apply, or (3) if neither (1) nor (2) is
15 applicable, then the common or usual name, if any, of such drug or
16 ingredient.
- 17 d. "Prescription" means an order for drugs or combinations or
18 mixtures thereof, written or signed by a duly licensed physician,
19 dentist, veterinarian, or other medical practitioner licensed to write
20 prescriptions intended for the treatment or prevention of disease in
21 man or animals, and includes orders for drugs or medicines or
22 combinations or mixtures thereof transmitted to pharmacists
23 through word of mouth, telephone, telegraph, or other means of
24 communication by a duly licensed physician, dentist, veterinarian,
25 or other medical practitioner licensed to write prescriptions
26 intended for the treatment or prevention of disease in man or
27 animals.
- 28 e. "Department" means the Department of Health [and Senior
29 Services].
- 30 f. "Chemical equivalents" means those drug products that
31 contain the same amounts of the same therapeutically active
32 ingredients in the same dosage forms and that meet present
33 compendial standards.
- 34 g. "Reference drug product" means the product which is
35 adopted by the department as the standard for other chemically
36 equivalent drugs in terms of testing for the therapeutic equivalence.
37 In all cases, the reference drug product shall be a currently
38 marketed drug which is the subject of a full (not abbreviated) new
39 drug application approved by the Federal Food and Drug
40 Administration.
- 41 h. "Therapeutic equivalents" means chemical equivalents
42 which, when administered to the same individuals in the same
43 dosage regimen, will provide essentially the same efficacy or
44 toxicity as their respective reference drug products.
- 45 "Bioavailability" means the extent and rate of absorption from a
46 dosage form as reflected by the time-concentration curve of the
47 administered drug in the systemic circulation.

1 j. "Bioequivalents" means chemical equivalents which, when
2 administered to the same individuals in the same dosage regimen,
3 will result in comparable bioavailability.

4 k. "Pharmaceutical equivalents" means those drug products that
5 contain the same amounts of the same therapeutically active
6 ingredients in the same dosage form and that meet established
7 standards.

8 l. "Interchangeable drug products" means pharmaceutical
9 equivalents or bioequivalents that are determined to be therapeutic
10 equivalents by the department.

11 m. "Present compendial standards" means the official standards
12 for drug excipients and drug products listed in the latest revision of
13 the United States Pharmacopoeia (USP) and the National Formulary
14 (NF).

15 n. "Dosage form" means the physical formulation or medium in
16 which the product is intended, manufactured and made available for
17 use, including, but not limited to: tablets, capsules, oral solutions,
18 aerosols, inhalers, gels, lotions, creams, ointments, transdermals
19 and suppositories, and the particular form of the above which
20 utilizes a specific technology or mechanism to control, enhance, or
21 direct the release, targeting, systemic absorption, or other delivery
22 of a dosage regimen in the body.

23 (cf: P.L.2010, c.87, s.1)

24
25 88. Section 2 of P.L.2003, c.57 (C.24:6H-2) is amended to read
26 as follows:

27 2. A product that contains ephedrine alkaloids that is not a drug
28 as defined in R.S.24:1-1, shall not be sold or offered for sale in this
29 State after the effective date of this act unless its label indicates that
30 the sale of the product to minors under 18 years of age is prohibited
31 by State law, in accordance with regulations adopted by the
32 Commissioner of Health **【and Senior Services】**.

33 (cf: P.L.2003, c.57, s.2)

34
35 89. Section 3 of P.L.2003, c.57 (C.24:6H-3) is amended to read
36 as follows:

37 3. The Commissioner of Health **【and Senior Services】** shall
38 adopt rules and regulations pursuant to the "Administrative
39 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to carry out
40 the purposes of this act.

41 (cf: P.L.2003, c.57, s.3)

42
43 90. Section 3 of P.L.2009, c.307 (C.24:6I-3) is amended to read
44 as follows:

45 3. As used in this act:

46 "Bona fide physician-patient relationship" means a relationship
47 in which the physician has ongoing responsibility for the
48 assessment, care, and treatment of a patient's debilitating medical
49 condition.

1 "Certification" means a statement signed by a physician with
2 whom a qualifying patient has a bona fide physician-patient
3 relationship, which attests to the physician's authorization for the
4 patient to apply for registration for the medical use of marijuana.

5 "Commissioner" means the Commissioner of Health [and Senior
6 Services].

7 "Debilitating medical condition" means:

8 (1) one of the following conditions, if resistant to conventional
9 medical therapy: seizure disorder, including epilepsy; intractable
10 skeletal muscular spasticity; or glaucoma;

11 (2) one of the following conditions, if severe or chronic pain,
12 severe nausea or vomiting, cachexia, or wasting syndrome results
13 from the condition or treatment thereof: positive status for human
14 immunodeficiency virus[.]; acquired immune deficiency
15 syndrome[.]; or cancer;

16 (3) amyotrophic lateral sclerosis, multiple sclerosis, terminal
17 cancer, muscular dystrophy, or inflammatory bowel disease,
18 including Crohn's disease;

19 (4) terminal illness, if the physician has determined a prognosis
20 of less than 12 months of life; or

21 (5) any other medical condition or its treatment that is approved
22 by the department by regulation.

23 "Department" means the Department of Health [and Senior
24 Services].

25 "Marijuana" has the meaning given in section 2 of the "New
26 Jersey Controlled Dangerous Substances Act," P.L.1970, c.226
27 (C.24:21-2).

28 "Medical marijuana alternative treatment center" or "alternative
29 treatment center" means an organization approved by the
30 department to perform activities necessary to provide registered
31 qualifying patients with usable marijuana and related paraphernalia
32 in accordance with the provisions of this act. This term shall
33 include the organization's officers, directors, board members, and
34 employees.

35 "Medical use of marijuana" means the acquisition, possession,
36 transport, or use of marijuana or paraphernalia by a registered
37 qualifying patient as authorized by this act.

38 "Minor" means a person who is under 18 years of age and who
39 has not been married or previously declared by a court or an
40 administrative agency to be emancipated.

41 "Paraphernalia" has the meaning given in N.J.S.2C:36-1.

42 "Physician" means a person licensed to practice medicine and
43 surgery pursuant to Title 45 of the Revised Statutes with whom the
44 patient has a bona fide physician-patient relationship and who is the
45 primary care physician, hospice physician, or physician responsible
46 for the ongoing treatment of a patient's debilitating medical
47 condition, provided, however, that [such] the ongoing treatment

1 shall not be limited to the provision of authorization for a patient to
2 use medical marijuana or consultation solely for that purpose.

3 "Primary caregiver" or "caregiver" means a resident of the State
4 who:

5 a. is at least 18 years old;

6 b. has agreed to assist with a registered qualifying patient's
7 medical use of marijuana, is not currently serving as primary
8 caregiver for another qualifying patient, and is not the qualifying
9 patient's physician;

10 c. has never been convicted of possession or sale of a
11 controlled dangerous substance, unless such conviction occurred
12 after the effective date of this act and was for a violation of federal
13 law related to possession or sale of marijuana that is authorized
14 under this act;

15 d. has registered with the department pursuant to section 4 of
16 this act, and has satisfied the criminal history record background
17 check requirement of section 4 of this act; and

18 e. has been designated as primary caregiver on the qualifying
19 patient's application or renewal for a registry identification card or
20 in other written notification to the department.

21 "Qualifying patient" or "patient" means a resident of the State
22 who has been provided with a certification by a physician pursuant
23 to a bona fide physician-patient relationship.

24 "Registry identification card" means a document issued by the
25 department that identifies a person as a registered qualifying patient
26 or primary caregiver.

27 "Usable marijuana" means the dried leaves and flowers of
28 marijuana, and any mixture or preparation thereof, and does not
29 include the seeds, stems, stalks or roots of the plant.

30 (cf: P.L.2009, c.307, s.3)

31
32 91. Section 15 of P.L.2009, c.307 (C.24:6I-13) is amended to
33 read as follows:

34 15. a. The Department of Health **[and Senior Services]** is
35 authorized to exchange fingerprint data with, and receive
36 information from, the Division of State Police in the Department of
37 Law and Public Safety and the Federal Bureau of Investigation for
38 use in reviewing applications for individuals seeking to serve as
39 primary caregivers pursuant to section 4 of P.L.2009, c.307
40 (C.24:6I-4), and for permits to operate as, or to be a director,
41 officer, or employee of, alternative treatment centers pursuant to
42 section 7 of P.L.2009, c.307 (C.24:6I-7).

43 b. The Division of State Police shall promptly notify the
44 Department of Health **[and Senior Services]** in the event an
45 applicant seeking to serve as a primary caregiver or an applicant for
46 a permit to operate as, or to be a director, officer, or employee of,
47 an alternative treatment center, who was the subject of a criminal
48 history record background check conducted pursuant to subsection

1 a. of this section, is convicted of a crime involving possession or
2 sale of a controlled dangerous substance.
3 (cf: P.L.2009, c.307, s.15)
4

5 92. Section 2 of P.L.1970, c.226 (C.24:21-2) is amended to read
6 as follows:

7 2. As used in this act:

8 "Administer" means the direct application of a controlled
9 dangerous substance, whether by injection, inhalation, ingestion, or
10 any other means, to the body of a patient or research subject by: (1)
11 a practitioner (or, in his presence, by his lawfully authorized agent),
12 or (2) the patient or research subject at the lawful direction and in
13 the presence of the practitioner.

14 "Agent" means an authorized person who acts on behalf of or at
15 the direction of a manufacturer, distributor, or dispenser but does
16 not include a common or contract carrier, public warehouseman, or
17 employee thereof.

18 "Commissioner" means the Commissioner of Health [and Senior
19 Services].

20 "Controlled dangerous substance" means a drug, substance, or
21 immediate precursor in Schedules I through V of article 2 of
22 P.L.1970, c.226 (C.24:21-1 et seq.)[, as amended and
23 supplemented]. The term shall not include distilled spirits, wine,
24 malt beverages, as those terms are defined or used in R.S.33:1-1 et
25 seq., or tobacco and tobacco products.

26 "Counterfeit substance" means a controlled dangerous substance
27 which, or the container or labeling of which, without authorization,
28 bears the trademark, trade name, or other identifying mark, imprint,
29 number or device, or any likeness thereof, of a manufacturer,
30 distributor, or dispenser other than the person or persons who in fact
31 manufactured, distributed, or dispensed such substance and which
32 thereby falsely purports or is represented to be the product of, or to
33 have been distributed by, such other manufacturer, distributor, or
34 dispenser.

35 "Deliver" or "delivery" means the actual, constructive, or
36 attempted transfer from one person to another of a controlled
37 dangerous substance, whether or not there is an agency relationship.

38 "Director" means the Director of the Division of Consumer
39 Affairs in the Department of Law and Public Safety.

40 "Dispense" means to deliver a controlled dangerous substance to
41 an ultimate user or research subject by or pursuant to the lawful
42 order of a practitioner, including the prescribing, administering,
43 packaging, labeling, or compounding necessary to prepare the
44 substance for that delivery. "Dispenser" means a practitioner who
45 dispenses.

46 "Distribute" means to deliver other than by administering or
47 dispensing a controlled dangerous substance. "Distributor" means a
48 person who distributes.

1 "Division" means the Division of Consumer Affairs in the
2 Department of Law and Public Safety.

3 "Drug Enforcement Administration" means the Drug
4 Enforcement Administration in the United States Department of
5 Justice.

6 "Drugs" means (a) substances recognized in the official United
7 States Pharmacopoeia, official Homeopathic Pharmacopoeia of the
8 United States, or official National Formulary, or any supplement to
9 any of them; and (b) substances intended for use in the diagnosis,
10 cure, mitigation, treatment, or prevention of disease in man or other
11 animals; and (c) substances (other than food) intended to affect the
12 structure or any function of the body of man or other animals; and
13 (d) substances intended for use as a component of any article
14 specified in subsections (a), (b), and (c) of this section; but does not
15 include devices or their components, parts or accessories.

16 "Drug dependent person" means a person who is using a
17 controlled dangerous substance and who is in a state of psychic or
18 physical dependence, or both, arising from the use of that controlled
19 dangerous substance on a continuous basis. Drug dependence is
20 characterized by behavioral and other responses, including but not
21 limited to a strong compulsion to take the substance on a recurring
22 basis in order to experience its psychic effects, or to avoid the
23 discomfort of its absence.

24 "Hashish" means the resin extracted from any part of the plant
25 Genus Cannabis L. and any compound, manufacture, salt,
26 derivative, mixture, or preparation of such resin.

27 "Marihuana" means all parts of the plant Genus Cannabis L.,
28 whether growing or not; the seeds thereof; and every compound,
29 manufacture, salt, derivative, mixture, or preparation of [such] the
30 plant or its seeds, except those containing resin extracted from
31 [such] the plant; but shall not include the mature stalks of [such]
32 the plant, fiber produced from [such] the stalks, oil or cake made
33 from the seeds of [such] the plant, any other compound,
34 manufacture, salt, derivative, mixture, or preparation of such mature
35 stalks, fiber, oil, or cake, or the sterilized seed of [such] the plant
36 which is incapable of germination.

37 "Manufacture" means the production, preparation, propagation,
38 compounding, conversion, or processing of a controlled dangerous
39 substance, either directly or by extraction from substances of
40 natural origin, or independently by means of chemical synthesis, or
41 by a combination of extraction and chemical synthesis, and includes
42 any packaging or repackaging of the substance or labeling or
43 relabeling of its container, except that this term does not include the
44 preparation or compounding of a controlled dangerous substance by
45 an individual for his own use or the preparation, compounding,
46 packaging, or labeling of a controlled dangerous substance: (1) by a
47 practitioner as an incident to his administering or dispensing of a
48 controlled dangerous substance in the course of his professional

1 practice, or (2) by a practitioner (or under his supervision) for the
2 purpose of, or as an incident to, research, teaching, or chemical
3 analysis and not for sale.

4 "Narcotic drug" means any of the following, whether produced
5 directly or indirectly by extraction from substances of vegetable
6 origin, or independently by means of chemical synthesis, or by a
7 combination of extraction and chemical synthesis:

8 (a) Opium, coca leaves, and opiates;

9 (b) A compound, manufacture, salt, derivative, or preparation of
10 opium, coca leaves, or opiates;

11 (c) A substance (and any compound, manufacture, salt,
12 derivative, or preparation thereof) which is chemically identical
13 with any of the substances referred to in subsections (a) and (b),
14 except that the words "narcotic drug" as used in this act shall not
15 include decocainized coca leaves or extracts of coca leaves, which
16 extracts do not contain cocaine or ecgonine.

17 "Official written order" means an order written on a form
18 provided for that purpose by the Attorney General of the United
19 States or his delegate, under any laws of the United States making
20 provisions therefor, if such order forms are authorized and required
21 by the federal law, and if no such form is provided, then on an
22 official form provided for that purpose by the division. If
23 authorized by the Attorney General of the United States or the
24 division, the term shall also include an order transmitted by
25 electronic means.

26 "Opiate" means any dangerous substance having an addiction-
27 forming or addiction-sustaining liability similar to morphine or
28 being capable of conversion into a drug having such addiction-
29 forming or addiction-sustaining liability. It does not include, unless
30 specifically designated as controlled under section 3 of this act, the
31 dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its
32 salts (dextromethorphan). It does include its racemic and
33 levorotatory forms.

34 "Opium poppy" means the plant of the species *Papaver*
35 *somniferum* L., except the seeds thereof.

36 "Person" means any corporation, association, partnership, trust,
37 other institution or entity, or one or more individuals.

38 "Pharmacist" means a registered pharmacist of this State.

39 "Pharmacy owner" means the owner of a store or other place of
40 business where controlled dangerous substances are compounded or
41 dispensed by a registered pharmacist; but nothing in this chapter
42 contained shall be construed as conferring on a person who is not
43 registered or licensed as a pharmacist any authority, right, or
44 privilege that is not granted to him by the pharmacy laws of this
45 State.

46 "Poppy straw" means all parts, except the seeds, of the opium
47 poppy, after mowing.

48 "Practitioner" means a physician, dentist, veterinarian, scientific
49 investigator, laboratory, pharmacy, hospital, or other person

1 licensed, registered, or otherwise permitted to distribute, dispense,
2 conduct research with respect to, or administer a controlled
3 dangerous substance in the course of professional practice or
4 research in this State.

5 (a) "Physician" means a physician authorized by law to practice
6 medicine in this or any other state and any other person authorized
7 by law to treat sick and injured human beings in this or any other
8 state.

9 (b) "Veterinarian" means a veterinarian authorized by law to
10 practice veterinary medicine in this State.

11 (c) "Dentist" means a dentist authorized by law to practice
12 dentistry in this State.

13 (d) "Hospital" means any federal institution, or any institution
14 for the care and treatment of the sick and injured, operated or
15 approved by the appropriate State department as proper to be
16 entrusted with the custody and professional use of controlled
17 dangerous substances.

18 (e) "Laboratory" means a laboratory to be entrusted with the
19 custody of narcotic drugs and the use of controlled dangerous
20 substances for scientific, experimental, and medical purposes and
21 for purposes of instruction approved by the Department of Health
22 [and Senior Services].

23 "Production" includes the manufacture, planting, cultivation,
24 growing, or harvesting of a controlled dangerous substance.

25 "Immediate precursor" means a substance which the division has
26 found to be and by regulation designates as being the principal
27 compound commonly used or produced primarily for use, and
28 which is an immediate chemical intermediary used or likely to be
29 used in the manufacture of a controlled dangerous substance, the
30 control of which is necessary to prevent, curtail, or limit such
31 manufacture.

32 "State" means the State of New Jersey.

33 "Ultimate user" means a person who lawfully possesses a
34 controlled dangerous substance for his own use or for the use of a
35 member of his household or for administration to an animal owned
36 by him or by a member of his household.

37 (cf: P.L. 2007, c.244, s.1)

38

39 93. (New section) a. The Department of Health, established
40 pursuant to P.L.1947, c.177 (C.26:1A-1 et seq.), and continued and
41 constituted and redesignated as the Department of Health and
42 Senior Services pursuant to Reorganization Plan No. 001-1996, is
43 continued and constituted and redesignated as the Department of
44 Health. The Commissioner of Health and Senior Services shall be
45 redennominated as the Commissioner of Health.

46 b. Whenever the terms "Department of Health and Senior
47 Services" and "Commissioner of Health and Senior Services" occur
48 or any references are made thereto in any law, rule, regulation,
49 order, contract, document, judicial or administrative proceeding, or

1 otherwise, the same shall be deemed to mean or refer to the
2 “Department of Health” and the “Commissioner of Health,”
3 respectively.

4 c. The Commissioner of Health shall have the power, not
5 inconsistent with section 13 of P.L.1947, c.177 (C.26:1A-13) or the
6 provisions of P.L. , c. (C.) (pending before the Legislature as
7 this bill), to organize the work of the Department of Health in such
8 organizational units as the commissioner may determine to be
9 necessary for its efficient and effective operation.

10
11 94. Section 11 of P.L.1999, c.154 (C.26:1A-15.1) is amended to
12 read as follows:

13 11. The Commissioner of Health **【and Senior Services】**, in
14 consultation with the Commissioner of Banking and Insurance,
15 shall establish an advisory board to make recommendations to the
16 commissioners on health information electronic data interchange
17 technology policy, including a Statewide policy on electronic health
18 records, and measures to protect the confidentiality of medical
19 information. The members of the board shall include, at a
20 minimum, representation from health insurance carriers, health care
21 professionals and facilities, higher education, business and
22 organized labor, health care consumers, and the commissioner of
23 each department in the State that uses individuals' medical records
24 or processes claims for health care services. The members of the
25 board shall serve without compensation but shall be entitled to
26 reimbursement for reasonable expenses incurred in the performance
27 of their duties.

28 (cf: P.L.2005, c.352, s.18)

29
30 95. Section 12 of P.L.1999, c.154 (C.26:1A-15.2) is amended to
31 read as follows:

32 12. The Commissioner of Health **【and Senior Services】**, in
33 conjunction with the Commissioner of Banking and Insurance, shall
34 present an annual report to the Governor and the Legislature on the
35 development and use of health information electronic data
36 interchange technology in New Jersey. The report shall be prepared
37 in consultation with the advisory board established pursuant to
38 section 11 of P.L.1999, c.154 (C.26:1A-15.1). The report shall
39 include any recommendations, including proposals for regulatory
40 and legislative changes, to promote the development and use of
41 health information electronic data interchange technology in this
42 State.

43 (cf: P.L.1999, c.154, s.12)

44
45 96. Section 2 of P.L.1993, c.309 (C.26:1A-36.7) is amended to
46 read as follows:

47 2. The Department of Health **【and Senior Services】**, in
48 conjunction with the Departments of Education and Human
49 Services, shall establish a Statewide system of early intervention

1 services for eligible infants and toddlers from birth to age two,
2 inclusive, with physical, cognitive, communication, social, or
3 emotional, and adaptive developmental delays or disabilities in
4 accordance with Part H of the "Individuals with Disabilities
5 Education Act," Pub.L.91-230 (20 U.S.C. s.1471 et seq.).
6 (cf: P.L.2007, c.172, s.1)

7
8 97. Section 2 of P.L.2007, c.172 (C.26:1A-36.7a) is amended to
9 read as follows:

10 2. The Early Intervention Program in the Department of Health
11 [and Senior Services], established pursuant to section 2 of
12 P.L.1993, c.309 (C.26:1A-36.7), shall conduct activities to address
13 the specific needs of children with autism spectrum disorders and
14 their families. These activities shall include, but not be limited to,
15 the following:

16 a. developing, in consultation with autism experts and
17 advocates, including, but not limited to, the Governor's Council for
18 Medical Research and Treatment of Autism, Autism Speaks, The
19 New Jersey Center for Outreach and Services for the Autism
20 Community, The Autism Center of New Jersey Medical School at
21 the University of Medicine and Dentistry of New Jersey, the
22 Statewide Parent Advocacy Network, Inc., and the New Jersey
23 chapter of the American Academy of Pediatrics, guidelines for
24 health care professionals to use in evaluating infants and toddlers
25 living in the State for autism and to ensure the timely referral by
26 health care professionals of infants and toddlers who are identified
27 as having autism or suspected of being on the autism spectrum to
28 the Early Intervention Program in order to provide appropriate
29 services to those infants and toddlers as early as possible;

30 b. referring affected children who are identified as having
31 autism or suspected of being on the autism spectrum and their
32 families to schools and agencies, including community, consumer,
33 and parent-based agencies, and organizations and other programs
34 mandated by Part C of the "Individuals with Disabilities Education
35 Act" (20 U.S.C. s.1431 et seq.), which offer programs specifically
36 designed to meet the unique needs of children with autism;

37 c. collecting data on Statewide autism screening, diagnosis,
38 and intervention programs and systems that can be used for applied
39 research, program evaluation, and policy development; and

40 d. disseminating information on the medical care of individuals
41 with autism to health care professionals and the general public.

42 (cf: P.L.2007, c.172, s.2)

43
44 98. Section 2 of P.L.1999, c.265 (C.26:1A-37.6) is amended to
45 read as follows:

46 2. There is established in the Department of Health [and Senior
47 Services] a New Jersey Council on Physical Fitness and Sports
48 which shall serve the citizens of the State by developing safe,
49 healthful, and enjoyable physical fitness and sports programs. The

1 council shall provide instruments of motivation and education, and
2 shall promote public awareness to ensure that all citizens of the
3 State have the opportunity to pursue a more healthful lifestyle.
4 (cf: P.L.1999, c.265, s.2)

5

6 99. Section 3 of P.L.1999, c.265 (C.26:1A-37.7) is amended to
7 read as follows:

8 3. a. The council shall consist of 16 members, including: the
9 Commissioner of Health [and Senior Services], or [his] the
10 commissioner's designee, who shall serve as an ex officio member;
11 and 15 public members to be appointed by the Governor as follows:
12 one member each from the New Jersey Association of Health,
13 Physical Education, Recreation and Dance; the New Jersey
14 Recreation and Parks Association; the Medical Society of New
15 Jersey; the New Jersey State Interscholastic Athletic Association;
16 and such other persons or professionals as are interested in the
17 physical fitness of the citizens of the State. The council shall meet
18 and organize immediately after appointment of the members and
19 shall elect from its membership a chairperson and vice chairperson.

20 b. Each public member of the council shall serve for a term of
21 three years, expiring on January 1 in the appropriate year; except
22 that of the members first appointed, four shall be appointed for a
23 term of one year, five shall be appointed for a term of two years and
24 six shall be appointed for a term of three years, as determined by
25 the Governor. Each member shall hold office for the term of
26 appointment and until a successor is appointed and qualified. A
27 public member of the council shall be eligible for reappointment.
28 Members appointed to fill a vacancy occurring for any reason other
29 than the expiration of the term shall serve for the unexpired term
30 only.

31 c. Public members shall serve without compensation, but shall
32 be reimbursed for necessary expenses incurred in the performance
33 of their duties.

34 d. The council shall adopt rules for the transaction of its
35 business and shall keep a record of its business, including a record
36 of its resolutions, transactions, findings and determinations. A
37 majority of the members of the council shall constitute a quorum,
38 but a lesser number may hold a hearing.

39 e. The council shall meet at least once in each quarter of the
40 fiscal year, and as often thereafter as shall be deemed necessary by
41 the chairperson.

42 f. By a two-thirds vote of the council, a member may be
43 dismissed from membership for such reasons as the council may
44 establish, which reasons shall include lack of interest in council
45 duties or repeated absences from council meetings.

46 g. The council shall be administrated by the Department of
47 Health [and Senior Services]. The department shall employ
48 necessary staff to carry out the duties and functions of the council

1 as otherwise provided in this act or as otherwise provided by law.
2 (cf: P.L.1999, c.265, s.3)

3
4 100. Section 41 of P.L.1947, c.177 (C.26:1A-41) is amended to
5 read as follows:

6 41. The commissioner shall, in the name of the department,
7 issue the following licenses:

- 8 a. Health officer's license;
- 9 b. (Deleted by amendment, P.L.1997, c.416).
- 10 c. (Deleted by amendment, P.L.1997, c.416).
- 11 d. (Deleted by amendment, P.L.1997, c.416).
- 12 e. (Deleted by amendment, P.L.1997, c.416).
- 13 f. (Deleted by amendment, P.L.1997, c.416).
- 14 g. (Deleted by amendment, P.L.1997, c.416).
- 15 h. (Deleted by amendment, P.L.1997, c.416).
- 16 i. (Deleted by amendment, P.L.1997, c.416).
- 17 j. (Deleted by amendment, P.L.1997, c.416).
- 18 k. Registered environmental health specialist's license.

19 However, any health officer's license, sanitary inspector's
20 license, and plumbing inspector's license issued before the effective
21 date of P.L.1947, c.177 (C.26:1A-1 et seq.) by the **[State]**
22 Department of Health **[and Senior Services]** shall, unless
23 suspended or revoked in accordance with the provisions of sections
24 43 and 44 of that act, remain in effect during the employment as
25 such of the holder thereof. Upon enactment of P.L.1997, c.416
26 (C.26:1A-42.1 et al.) any existing Sanitary Inspector, First Grade
27 license shall become a Registered Environmental Health Specialist
28 license without any further action required of the licensee.

29 Any license eliminated by P.L.1997, c.416 (C.26:1A-42.1 et al.)
30 shall, unless suspended or revoked in accordance with the
31 provisions of sections 43 and 44 of P.L.1947, c.177 (C.26:1A-43
32 and C.26:1A-44), remain in effect until the holder thereof does not
33 renew the license within two years from the date of its expiration,
34 or the commissioner does not renew the license in accordance with
35 section 42 of that act, whichever comes first.

36 (cf: P.L.1997, c.416, s.6)

37
38 101. Section 43 of P.L.1947, c.177 (C.26:1A-43) is amended to
39 read as follows:

40 43. Any license issued in accordance with the provisions of this
41 article, and any health officer's license or sanitary inspector's
42 license heretofore issued by the **[State]** Department of Health **[and**
43 **Senior Services]**, may be suspended or revoked, after notice and
44 hearing conducted by an administrative law judge pursuant to the
45 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
46 seq.), for any of the following causes:

- 47 a. Violation of any of the provisions of this act or of any law
48 relating to public health;

- 1 b. Violation of any provision of the State Sanitary Code;
2 c. Violation of any applicable local health regulation or
3 ordinance;
4 d. Any act or happening occurring after the making of
5 application for such license which, if the same had occurred prior to
6 said time, would have prevented the issuance of such license; or
7 e. A conviction in a court of competent jurisdiction, either
8 within or outside this State, of a crime involving moral turpitude,
9 except that if the conviction is reversed and the holder of the license
10 is discharged or acquitted, or if the holder is pardoned or the civil
11 rights of the holder are restored, the holder may obtain a license.

12 Notwithstanding any provision of section 10 of P.L.1968, c.410
13 (C.52:14B-10) to the contrary, the commissioner, before adopting,
14 rejecting or modifying the recommended report and decision of an
15 administrative law judge, shall consult with the Public Health
16 Council.

17 The suspension or revocation of a license shall be effected by a
18 notice in writing of the suspension or revocation, designating the
19 effective date thereof, and in the case of a suspension, the term of
20 the suspension, which notice may be served upon the licensee
21 personally or by mailing the same by registered mail addressed to
22 the licensee at the licensee's home address.

23 The commissioner shall file a copy of the notice of suspension or
24 revocation of license with the local board of health.

25 (cf: P.L.1997, c.416, s.8)
26

27 102. Section 1 of P.L.1957, c.72 (C.26:1A-107) is amended to
28 read as follows:

29 1. a. There is hereby established in the Department of [State]
30 Human Services, a [division] Division [on aging] of Aging
31 Services, consisting of a director and the New Jersey State
32 Commission on Aging in accordance with the provisions of section
33 397 of P.L. , c. (C.) (pending before the Legislature as this
34 bill).

35 (cf: P.L.1966, c.61, s.2)
36

37 103. Section 6 of P.L.1957, c.72 (C.26:1A-112) is amended to
38 read as follows:

39 6. The [Secretary of State] Commissioner of Human Services
40 may appoint such professional, technical, and clerical assistants and
41 employees as may be necessary to enable the division and the
42 commission to perform the duties imposed upon it by this act and
43 their compensation shall be fixed within the limits of available
44 appropriations and as shall be provided by law. The [said]
45 assistants and employees, together with the director of the division,
46 shall be deemed to be the staff of the division and the commission.
47 The advisory commission shall meet at regular intervals and at least
48 4 times annually. The times and places for the said meetings shall

1 be fixed by the commission and special meetings may be called by
2 the director on not less than 10 days' written notice to each member,
3 and any such notice shall specify the object of the meeting.

4 (cf: P.L.1959, c.143, s.3)

5
6 104. Section 9 of P.L.1966, c.61 (C.26:1A-113.1) is amended to
7 read as follows:

8 9. The commission shall:

9 (1) Furnish consultation and advice to the Division **[on]** ~~of~~
10 Aging Services on programs designed to carry out the division's
11 mandate.

12 (2) Provide leadership in the field of aging.

13 (3) Make recommendations to the Governor and Legislature
14 regarding new legislation needed in areas related to aging.

15 (4) Maintain liaison with other commissions and groups whose
16 activities relate to the broad field of aging.

17 (cf: P.L.1966, c.61, s.9)

18
19 105. Section 10 of P.L.1966, c.61 (C.26:1A-115.1) is amended
20 to read as follows:

21 10. The **[Secretary of State]** Commissioner of Human Services,
22 subject to the approval of the Governor, is authorized, on behalf of
23 the State of New Jersey, to enter into agreements with the Federal
24 Government or any agency thereof, under which the Division **[on]**
25 ~~of~~ Aging Services (1) will provide or otherwise secure the adoption
26 of **[such]** programs consonant with the objectives of this act and (2)
27 will receive reimbursement from the United States for any such
28 costs incurred, expenses paid, or allowances and benefits paid in
29 connection with said programs in accordance with said agreement
30 and the laws of this State or of the United States.

31 (cf: P.L.1966, c.61, s.10)

32
33 106. Section 2 of P.L.2001, c.376 (C.26:1A-124) is amended to
34 read as follows:

35 2. There is established the Office on Women's Health in the
36 Department of Health **[and Senior Services]**.

37 The office shall:

38 a. Provide grants to community-based organizations to conduct
39 special research, demonstration, and evaluation projects on women's
40 health concerns;

41 b. Develop and implement model public and private
42 partnerships throughout the State for health awareness campaigns
43 and to improve the access, acceptability, and use of public health
44 services;

45 c. Serve as an information and resource center for women's
46 health information and data;

47 d. Function as an advocate for the adoption and implementation
48 of effective measures to improve women's health;

1 e. Convene such task forces of experienced, knowledgeable
2 persons on specific women's health issues as the director deems
3 appropriate; and

4 f. Review the programs of the Departments of Health [and
5 Senior Services], Human Services, [Community Affairs] Children
6 and Families, and Education and any other department of State
7 government, as appropriate, that concern women's health and make
8 recommendations to the departments that will enable them to better
9 coordinate and improve the effectiveness of their efforts.

10 (cf: P.L.2001, c.376, s.2)

11
12 107. Section 3 of P.L.2001, c.376 (C.26:1A-125) is amended to
13 read as follows:

14 3. The Commissioner of Health [and Senior Services] shall
15 appoint a director for the office who shall serve at the pleasure of
16 the commissioner during the commissioner's term of office and until
17 the appointment and qualification of the director's successor. The
18 director shall devote his entire time to the duties of the position and
19 shall receive a salary as provided by law.

20 (cf: P.L.2001, c.376, s.3)

21
22 108. Section 5 of P.L.2001, c.376 (C.26:1A-127) is amended to
23 read as follows:

24 5. There is established a Women's Health Advisory
25 Commission.

26 The commission shall consist of nine members, including the
27 Commissioner of Health [and Senior Services] or his designee,
28 who shall serve ex officio, and eight public members who are
29 residents of the State and who shall be appointed as follows: one
30 member who is a health care professional shall be appointed by the
31 President of the Senate; one member who is a health care
32 professional shall be appointed by the Speaker of the General
33 Assembly; and six members, at least two of whom are health care
34 professionals, at least one of whom represents health care facilities,
35 at least one of whom represents the health insurance industry, and at
36 least one of whom is a woman with a disability, shall be appointed
37 by the Governor with the advice and consent of the Senate. No less
38 than five of the public members shall be women.

39 The term of office of each public member shall be three years,
40 but of the members first appointed, two shall be appointed for a
41 term of one year, three shall be appointed for a term of two years
42 and three shall be appointed for a term of three years. A member
43 shall hold office for the term of his appointment and until his
44 successor has been appointed and qualified. All vacancies shall be
45 filled for the balance of the unexpired term in the same manner as
46 the original appointment. A member of the commission is eligible
47 for reappointment.

1 The public members of the commission shall not receive any
2 compensation for their services, but shall be reimbursed for the
3 actual and necessary expenses incurred in the performance of their
4 duties as members of the commission, within the limits of funds
5 available to the commission.

6 The members of the commission shall annually elect a chairman
7 and a vice-chairman from among the public members and may
8 select a secretary, who need not be a member of the commission.

9 The Office on Women's Health in the Department of Health [and
10 Senior Services] shall provide staff and assistance which the
11 commission requires to carry out its work.

12 (cf: P.L.2001, c.376, s.5)

13

14 109. Section 9 of P.L.2001, c.376, (C.26:1A-131) is amended to
15 read as follows:

16 9. The Commissioner of Health [and Senior Services] shall
17 adopt rules and regulations pursuant to the "Administrative
18 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to carry out
19 the purposes of this act.

20 (cf: P.L.2001, c.376, s.9)

21

22 110. Section 5 of P.L.2007, c.330 (C.26:1A-136) is amended to
23 read as follows:

24 5. a. There is established the New Jersey Health Information
25 Technology Commission. For the purpose of complying with the
26 provisions of Article V, Section IV, paragraph 1 of the New Jersey
27 Constitution, the commission is established within the Department
28 of Health [and Senior Services], but, notwithstanding the
29 establishment, the commission shall be independent of any
30 supervision or control by the department or any board or officer
31 thereof.

32 b. The commission shall collaborate with the Office for e-HIT
33 established pursuant to section 8 of this act (C.17:1D-1), concerning
34 all activities related to the development, implementation, and
35 oversight of the plan.

36 The commission shall be responsible for approving the Statewide
37 health information technology plan.

38 c. In providing advice on the development of the plan, the
39 commission shall, at a minimum, consider the following:

40 (1) the importance of the education of the general public and
41 health care professionals about the value of an electronic health
42 infrastructure for improving the delivery of patient care;

43 (2) the means for the creation of an effective, efficient,
44 Statewide use of electronic health information in patient care, health
45 care policymaking, clinical research, health care financing, and
46 continuous quality improvements;

47 (3) the means for the promotion of the use of national standards
48 for the development of an interoperative system, including

1 provisions relating to security, privacy, data content, structures and
2 format, vocabulary, and transmission protocols;

3 (4) the nature of proper strategic investments in equipment and
4 other infrastructure elements that will facilitate the ongoing
5 development of a Statewide infrastructure;

6 (5) funding needs for the ongoing development of health
7 information technology projects;

8 (6) actions needed to incorporate existing health care
9 information technology initiatives into the plan in order to avoid
10 incompatible systems and duplicative efforts;

11 (7) the proper means for the review and integration of the
12 recommendations, findings, and conclusions of the New Jersey
13 Health Information Security and Privacy Collaboration;

14 (8) the importance of recommending steps for the proper
15 resolution of issues related to data ownership, governance, and
16 confidentiality and security of patient information;

17 (9) the importance of promoting the deployment of health
18 information technology in primary care provider settings; and

19 (10) the roles that the development and use of open-source
20 electronic medical record software and the use of application
21 service provider software can play in effectuating the purposes of
22 paragraph (9) of this subsection.

23 d. The commission shall review the plan submitted by the
24 Office for e-HIT and notify it of any changes needed to approve the
25 plan.

26 (cf: P.L.2007, c.330, s.5)

27

28 111. Section 6 of P.L.2007, c.330 (C.26:1A-137) is amended to
29 read as follows:

30 6. a. The New Jersey Health Information Technology
31 Commission shall be comprised of 19 members as follows:

32 (1) the Commissioners of Health **[and Senior Services]**,
33 Banking and Insurance, Children and Families, and Human
34 Services, and the State Treasurer, or their designees, who shall
35 serve ex officio; and

36 (2) 14 public members, who shall be appointed by the Governor
37 no later than the 60th day after the effective date of this act, as
38 follows: three physicians engaged in private practice in this State,
39 one of whom is a pediatrician and one a psychiatrist; two persons
40 who represent acute care hospitals in this State, one of whom
41 represents a teaching hospital and the other a non-teaching hospital;
42 a registered professional nurse practicing in this State; a pharmacist
43 practicing in this State; a person who represents a clinical
44 laboratory operating in this State; an attorney practicing in this
45 State with demonstrated expertise in health privacy issues; a person
46 who represents a health insurance carrier operating in this State; a
47 person who represents a Quality Improvement Organization located
48 in New Jersey that contracts with the federal Centers for Medicare
49 **[and]** & Medicaid Services to improve the efficiency and

1 effectiveness, economy, and quality of services provided to
2 Medicare beneficiaries; and three members of the public with a
3 demonstrated professional expertise in issues relating to the work of
4 the commission, including one member with expertise in electronic
5 health information technology.

6 (3) The Governor shall designate a public member as chair of
7 the commission.

8 b. The public members shall serve for a term of three years;
9 except that, of the public members first appointed, five shall serve
10 for a term of three years, five for a term of two years, and four for a
11 term of one year. Vacancies in the membership of the commission
12 shall be filled in the same manner as the original appointments were
13 made.

14 c. The commission shall organize as soon as may be
15 practicable, but no later than the 45th day after the appointment of
16 its members. The public members shall serve without
17 compensation, but may be reimbursed for necessary expenses
18 incurred in the performance of their duties.

19 d. A majority of the total authorized membership of the
20 commission shall constitute a quorum at any meeting thereof.
21 Action may be taken and motions and resolutions adopted by the
22 commission at any meeting of the commission by the affirmative
23 vote of a majority of the quorum of the members who are present.
24 A vacancy in the membership of the commission shall not impair
25 the right of a quorum of the members to exercise all the powers and
26 perform all the duties of the commission.

27 e. The commission shall meet 2and confer with the Office for
28 e-HIT at least quarterly and may meet at other times at the call of
29 the commission chair. The meetings of the commission shall
30 comply with the provisions of the "Senator Byron M. Baer Open
31 Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.).

32 f. In addition to any other powers authorized by law, the
33 commission shall have the authority, in accordance with State law,
34 to:

35 (1) make and enter into contracts to purchase services and
36 supplies;

37 (2) develop and submit a proposed budget, not to exceed \$1
38 million annually;

39 (3) apply for, receive, and expend grants from governmental or
40 private nonprofit sources;

41 (4) recommend to the Department of Banking and Insurance the
42 necessary charges and assessments to be levied to collect payments
43 from persons and entities for the provision of services or as the
44 Office for e-HIT otherwise determines necessary to effectuate the
45 purposes of this act;

46 (5) receive and expend appropriations;

47 (6) provide such other services and perform such other functions
48 as the commission deems necessary to fulfill its responsibilities
49 under this act; and

1 (7) appoint, retain, or employ consultants on a contract basis or
2 otherwise, who are deemed necessary, and as may be within the
3 limits of funds appropriated or otherwise made available to it for its
4 purposes.

5 g. In collaboration with the Office for e-HIT, the commission
6 shall, no later than 18 months after its initial meeting and annually
7 thereafter, submit a joint report to the Governor, and to the
8 Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1),
9 concerning its activities and the status of, and actions taken
10 regarding development, implementation, and oversight of the
11 Statewide health information technology plan. The commission
12 shall include in that report any findings and recommendations that it
13 desires to make, along with any legislative bills that it desires to
14 recommend for adoption by the Legislature.

15 h. The commission shall develop and submit a proposed budget
16 to the Commissioner of Health **[and Senior Services]** to effectuate
17 its duties as set forth in this act.

18 The budget shall be subject to approval by the Commissioner of
19 Health **[and Senior Services]**.

20 i. The commission shall appoint a full-time executive director,
21 who shall serve as secretary to the commission. The executive
22 director shall serve at the pleasure of the commission and shall be
23 qualified by training and experience to perform the duties of the
24 position. The executive director shall be in the unclassified service
25 of the Civil Service and may hire properly qualified employees,
26 within the limits of funds appropriated or otherwise made available
27 to the commission, who shall also be employed in the unclassified
28 service of the Civil Service; except that employees performing
29 stenographic or clerical duties shall be in the career service and
30 appointed pursuant to Title 11A of the New Jersey Statutes.

31 (cf: P.L.2007, c.330, s.6)

32

33 112. Section 2 of P.L.2001, c.373 (C.26:2-103.2) is amended to
34 read as follows:

35 2. As used in this act:

36 "Commissioner" means the Commissioner of Health **[and Senior**
37 **Services]**.

38 "Department" means the Department of Health **[and Senior**
39 **Services]**.

40 "Electrophysiologic screening measures" means the electrical
41 result of the application of physiologic agents and includes, but is
42 not limited to, the procedures currently known as Auditory
43 Brainstem Response testing (ABR) and Otoacoustic Emissions
44 testing (OAE) and any other procedure adopted by regulation by the
45 commissioner.

46 "Hearing loss" means a hearing loss of 30dB or greater in the
47 frequency region important for speech recognition and
48 comprehension in one or both ears, which is approximately 500

1 through 4000 Hz., except that the commissioner may adopt a
2 standard which establishes a less severe hearing loss, as
3 appropriate.

4 "Newborn" means a child up to 28 days old.

5 "Parent" means a biological parent, stepparent, adoptive parent,
6 legal guardian, or other legal custodian of a child.

7 (cf: P.L.2001, c.373, s.2)

8
9 113. Section 2 of P.L.1977, c.266 (C.26:2-105) is amended to
10 read as follows:

11 2. The Department of Health **[and Senior Services]** shall
12 establish and maintain an up-to-date registry which shall include a
13 record of cases of cancer and specified cases of tumorous or
14 precancerous disease that occur in New Jersey, and such
15 information concerning these cases as it shall deem necessary and
16 appropriate in order to conduct thorough and complete
17 epidemiologic surveys of cancer and cancer-related diseases in this
18 State and to apply appropriate preventive and control measures.

19 (cf: P.L.2001, c.99, s.1)

20
21 114. Section 3 of P.L.1977, c.266 (C.26:2-106) is amended to
22 read as follows:

23 3. a. The Commissioner of Health **[and Senior Services]**, in
24 consultation with the Public Health Council, shall require the
25 reporting of cases of cancer and other specified tumorous and
26 precancerous diseases, and the submission of such specified
27 additional information on reported cases or control populations as
28 he deems necessary and appropriate for the recognition, prevention,
29 cure, or control of such diseases.

30 b. Pursuant to subsection a. of this section, the Commissioner
31 of Health **[and Senior Services]** is hereby authorized to adopt and
32 promulgate, in the manner prescribed by the applicable provisions
33 of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
34 1 et seq.) rules and regulations specifying the health care providers,
35 individuals, and other organizations obliged to make the report and
36 submissions required by subsection a. of this section, the related
37 information to be included in such reports, and the methods for such
38 reporting.

39 c. All abstracting work performed by a health care facility in
40 accordance with this section shall be performed by a certified tumor
41 registrar.

42 d. (1) The Department of Health **[and Senior Services]** shall
43 contract out its registry services to health care facilities which lack
44 adequate internal capabilities to report cases on a timely basis, as
45 provided in the regulations adopted pursuant to this section. Such
46 health care facilities shall reimburse the department for services
47 rendered.

1 (2) If a health care facility fails to correct deficiencies in its
2 reporting that are discovered on audit by the Department of Health
3 **【and Senior Services】** within 30 days, the department will conduct
4 the appropriate registrar activities and charge the facility for all
5 costs related to its services.

6 e. Health insurers and other third party health care payers
7 providing health benefits plans to residents of the State shall report
8 to the Department of Health **【and Senior Services】** cases of cancer
9 of State residents based upon selection criteria and in a format
10 specified by the department.

11 f. (1) A health care facility, health care provider, or health
12 insurer that fails to comply with the provisions of this section shall
13 be liable to a penalty of up to \$500 per unreported cancer case.

14 (2) A health care facility that fails to report cases of cancer
15 electronically, as required by regulation, shall be liable to a penalty
16 not to exceed \$1,000 per business day.

17 (3) A penalty sued for under the provisions of this subsection
18 shall be recovered by and in the name of the Department of Health
19 **【and Senior Services】** and shall be dedicated to the cancer registry.

20 g. All information reported to the Department of Health **【and**
21 **Senior Services】** for inclusion in the cancer registry pursuant to this
22 section shall be verified for accuracy by the department within six
23 months of receiving the information and shall be incorporated in the
24 registry. Aggregate or summary information, to include gender
25 distribution, age groupings of cases, and cancer types, shall be
26 made available to the public no later than six months after
27 verification by the department. The department shall not make
28 public any information reported to the department which discloses
29 the identity of any person to whom the information relates.

30 (cf: P.L.2001, c.99, s.2)

31
32 115. Section 4 of P.L.1977, c.266 (C.26:2-107) is amended to
33 read as follows:

34 4. The reports made pursuant to this act are to be used only by
35 the Department of Health **【and Senior Services】** and such other
36 agencies as may be designated by the Commissioner of Health **【and**
37 **Senior Services】** and shall not otherwise be divulged or made
38 public so as to disclose the identity of any person to whom they
39 relate; and to that end, such reports shall not be included under
40 materials available to public inspection pursuant to P.L.1963, c.73
41 (C.47:1A-1 et seq.).

42 (cf: P.L.2001, c.99, s.3)

43
44 116. Section 5 of P.L.1977, c.266 (C.26:2-108) is amended to
45 read as follows:

46 5. No individual or organization providing information to the
47 Department of Health **【and Senior Services】** in accordance with

1 this act shall be deemed to be, or held liable for, divulging
2 confidential information.

3 (cf: P.L.2001, c.99, s.4)

4
5 117. Section 1 of P.L.2004, c.12 (C.26:2-111.1) is amended to
6 read as follows:

7 1. a. A health care provider shall give an infant's parent or
8 guardian the option of consenting to the performance of testing by
9 qualified laboratories for disorders in infants for which testing is
10 not required pursuant to P.L.1977, c.321 (C.26:2-110 et seq.), on a
11 form and in a manner prescribed by the Commissioner of Health
12 **【and Senior Services】**. The health care provider shall not be
13 required to assume the cost of such testing.

14 As used in this section:

15 "Health care provider" means a health care professional licensed
16 pursuant to Title 45 of the Revised Statutes or a health care facility
17 licensed pursuant to Title 26 of the Revised Statutes that provides
18 health care services to newborn infants.

19 "Qualified laboratory" means a clinical laboratory not operated
20 by the Department of Health **【and Senior Services】**, which is
21 certified by the Secretary of Health and Human Services pursuant to
22 the federal "Clinical Laboratory Improvement Amendments of
23 1988," Pub.L.100-578 (42 U.S.C. s.263a) and reports its test results
24 by using normal pediatric reference ranges.

25 b. (1) The Commissioner of Health **【and Senior Services】** shall
26 prepare and make available electronically, on the Internet website
27 of the Department of Health **【and Senior Services】**, information
28 that explains the availability of testing performed by qualified
29 laboratories for disorders in infants for which testing is not required
30 pursuant to P.L.1977, c.321 (C.26:2-110 et seq.).

31 (2) A health care provider shall give an infant's parent or
32 guardian a hard copy of the information prepared pursuant to
33 paragraph (1) of this subsection and provide the parent or guardian
34 with a reasonable opportunity to read the information when giving
35 the parent or guardian the option of consenting to the performance
36 of testing pursuant to subsection a. of this section.

37 (cf: P.L.2004, c.12, s.1)

38
39 118. Section 4 of P.L.2007, c.218 (C.26:2-111.2) is amended to
40 read as follows:

41 4. a. The Commissioner of Health **【and Senior Services】** shall
42 require each birthing facility in the State to administer to a newborn
43 in its care a test for human immunodeficiency virus (HIV) if the
44 HIV status of the mother of the newborn is unknown.

45 A newborn shall not be denied testing for HIV on the basis of the
46 newborn's economic status.

47 b. The commissioner shall establish a comprehensive program
48 for the follow-up testing of newborns who test positive for HIV

1 pursuant to subsection a. of this section or whose mother is HIV-
2 positive, which shall include, but not be limited to, procedures for
3 the administration of HIV testing, counseling of the newborn's
4 mother, tracking the newborn, disclosure of HIV test results to the
5 mother, facility compliance reviews, and educational activities
6 related to the HIV testing.

7 c. The provisions of this section shall not apply to a newborn
8 whose parents object to the test as being in conflict with their
9 religious tenets and practices. The parents shall provide the health
10 care facility with a written statement of the objection, and the
11 statement shall be included in the newborn's medical record.

12 d. As used in this section, "birthing facility" means an inpatient
13 or ambulatory health care facility licensed by the Department of
14 Health [and Senior Services] that provides birthing and newborn
15 care services.

16 e. The Commissioner of Health [and Senior Services] shall
17 adopt rules and regulations, pursuant to the "Administrative
18 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to
19 carry out the purposes of this section.

20 (cf: P.L.2007, c.218, s.4)

21
22 119. Section 2 of P.L.2011, c.74 (C.26:2-111.4) is amended to
23 read as follows:

24 2. a. The Commissioner of Health [and Senior Services] shall
25 require each birthing facility licensed by the Department of Health
26 [and Senior Services] to perform a pulse oximetry screening, a
27 minimum of 24 hours after birth, on every newborn in its care.

28 b. As used in this section, "birthing facility" means an inpatient
29 or ambulatory health care facility licensed by the Department of
30 Health [and Senior Services] that provides birthing and newborn
31 care services.

32 c. The commissioner shall adopt rules and regulations,
33 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
34 (C.52:14B-1 et seq.), necessary to carry out the purposes of this act.

35 (cf: P.L.2011, c.74, s.2)

36
37 120. Section 1 of P.L.2011, c.175 (C.26:2-111.5) is amended to
38 read as follows:

39 1. a. All infants born in this State shall be tested for the
40 lysosomal storage disorders known as Krabbe, Pompe, Gaucher,
41 Fabry, and Niemann-Pick diseases within six months following the
42 occurrence of all of the following:

43 (1) the registration with the federal Food and Drug
44 Administration of the necessary reagents;

45 (2) the availability of the necessary reagents from the federal
46 Centers for Disease Control and Prevention;

47 (3) the availability of quality assurance testing methodology for
48 these processes; and

1 (4) the acquisition by the Department of Health [and Senior
2 Services] of the equipment necessary to implement the expanded
3 screening tests.

4 b. The Department of Health [and Senior Services] may
5 charge a reasonable fee for the tests performed pursuant to this
6 section. The amount of the fee and the procedures for collecting the
7 fee shall be determined by the Commissioner of Health [and Senior
8 Services].

9 (cf: P.L.2011, c.175, s.1)

10
11 121. Section 4 of P.L.1987, c.370 (C.26:2-151) is amended to
12 read as follows:

13 4. There is established in the Executive Branch of the State
14 government, the Catastrophic Illness in Children Relief Fund
15 Commission. For the purposes of complying with the provisions of
16 Article V, section IV, paragraph 1 of the New Jersey Constitution,
17 the commission is allocated within the Department of Human
18 Services, but notwithstanding that allocation, the commission shall
19 be independent of any supervision or control by the department or
20 by any board or officer thereof.

21 The commission shall consist of the Commissioner of Health
22 [and Senior Services], the Commissioner of Human Services, the
23 Commissioner of Children and Families, the Commissioner of
24 Banking and Insurance, and the State Treasurer, who shall be
25 members ex officio, and seven public members who are residents of
26 this State, appointed by the Governor with the advice and consent
27 of the Senate for terms of five years, two of whom are appointed
28 upon the recommendation of the President of the Senate, one of
29 whom is a provider of health care services to children in this State
30 and two of whom are appointed upon the recommendation of the
31 Speaker of the General Assembly, one of whom is a provider of
32 health care services to children in this State. The five public
33 members first appointed by the Governor shall serve for terms of
34 one, two, three, four and five years, respectively.

35 Each member shall hold office for the term of his appointment
36 and until his successor has been appointed and qualified. A
37 member of the commission is eligible for reappointment.

38 Each ex officio member of the commission may designate an
39 officer or employee of [his] the ex officio member's department to
40 represent [him] the member at meetings of the commission, and
41 each designee may lawfully vote and otherwise act on behalf of the
42 member for whom he constitutes the designee. Any designation
43 shall be in writing delivered to the commission and filed with the
44 office of the Secretary of State and shall continue in effect until
45 revoked or amended in the same manner as provided for
46 designation.

47 (cf: P.L.2007, c.342, s.1)

1 122. Section 2 of P.L.1991, c.401 (C.26:2-161) is amended to
2 read as follows:

3 2. a. There is established the New Jersey Office on Minority
4 and Multicultural Health in the Department of Health [and Senior
5 Services].

6 b. Whenever the term "New Jersey Office on Minority Health"
7 occurs or any reference is made thereto in any law, contract, or
8 document, the same shall be deemed to mean or refer to the "New
9 Jersey Office on Minority and Multicultural Health."
10 (cf: P.L.2001, c.205, s.3)
11

12 123. Section 3 of P.L.1991, c.401 (C.26:2-162) is amended to
13 read as follows:

14 3. The office shall:

15 a. Provide grants to community-based organizations to conduct
16 special research, demonstration, and evaluation projects for targeted
17 at-risk racial and ethnic minority populations and to support
18 ongoing community-based programs that are designed to reduce or
19 eliminate racial and ethnic health disparities in the State;

20 b. Develop and implement model public and private
21 partnerships in racial and ethnic minority communities for health
22 awareness campaigns and to improve the access, acceptability, and
23 use of public health services;

24 c. Serve as an information and resource center for racial and
25 ethnic minority specific health information and data and develop a
26 clearinghouse to collate and organize data on a county-by-county
27 basis and disseminate it upon request to interested parties;

28 d. Review, recommend, and develop culturally appropriate
29 health education materials;

30 e. Provide assistance to local school districts to develop
31 programs in elementary and secondary schools which stress good
32 nutrition and healthy lifestyles;

33 f. Function as an advocate for the adoption and implementation
34 of effective measures to improve the health of racial and ethnic
35 minority populations in this State, which measures should lead to
36 the elimination of disparities among the various racial and ethnic
37 populations of this State with respect to access to high-quality
38 health care, utilization of health care services, and health status;

39 g. Improve existing data systems to ensure that the health
40 information that is collected includes specific race and ethnicity
41 identifiers;

42 h. Review the programs of the Departments of Health [and
43 Senior Services], Human Services, Community Affairs, and
44 Education and any other department of State government, as
45 appropriate, that concern multicultural or minority health and make
46 recommendations to the departments that will enable them to better
47 coordinate and improve the effectiveness of their efforts;

1 i. Develop a Statewide plan for increasing the number of racial
2 and ethnic minority health care professionals which includes
3 recommendations for the financing mechanisms and recruitment
4 strategies necessary to carry out the plan;

5 j. Work collaboratively with colleges of medicine and
6 dentistry in this State and other health care professional training
7 programs to develop cultural and language competency courses that
8 are designed to address the problem of racial and ethnicity
9 disparities in health care access, utilization, treatment decisions,
10 quality, and outcomes;

11 k. Develop recommendations for the most effective means of
12 providing outreach to racial and ethnic minority communities
13 throughout the State to ensure their maximum participation in
14 publicly funded health benefits programs;

15 l. Seek to establish a Statewide alliance with community-based
16 agencies and organizations, health care facilities, health care
17 provider organizations, managed care organizations, and
18 pharmaceutical manufacturers to promote the objectives of the
19 office; and

20 m. Evaluate multicultural or racial and ethnic minority health
21 programs in other states to assess their efficacy and potential for
22 replication in this State and make recommendations regarding the
23 adoption of such programs, as appropriate.

24 (cf: P.L.2001, c.205, s.4)

25
26 124. Section 4 of P.L.1991, c.401 (C.26:2-163) is amended to
27 read as follows:

28 4. The office is authorized to:

29 a. Adopt rules and regulations pursuant to the "Administrative
30 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), concerning
31 the operation of the office and other matters that may be necessary
32 to carry out the purposes of this act;

33 b. Maintain offices at such places within the State as it may
34 designate;

35 c. Employ a director and other personnel as may be necessary.
36 The director shall be appointed by the Commissioner of Health
37 [and Senior Services] and shall serve at the pleasure of the
38 commissioner during the commissioner's term of office and until the
39 appointment and qualification of the director's successor. The
40 director shall devote his entire time to the duties of the position and
41 shall receive a salary as provided by law;

42 d. Apply for and accept any grant of money from the federal
43 government, private foundations or other sources, which may be
44 available for programs related to multicultural or minority health;

45 e. Serve as the designated State agency for receipt of federal
46 funds specifically designated for multicultural or racial and ethnic
47 minority health programs; and

1 f. Enter into contracts with individuals, organizations, and
2 institutions necessary for the performance of its duties under this
3 act.

4 (cf: P.L.2001, c.205, s.5)

5
6 125. Section 5 of P.L.1991, c.401 (C.26:2-164) is amended to
7 read as follows:

8 5. There is established a New Jersey Office on Minority and
9 Multicultural Health Advisory Commission.

10 The commission shall consist of nine members, including the
11 Commissioner of Health [and Senior Services] or his designee,
12 who shall serve ex officio, and eight public members who are
13 residents of the State and who shall be appointed as follows: one
14 member who is a health care professional shall be appointed by the
15 President of the Senate; one member who is a health care
16 professional shall be appointed by the Speaker of the General
17 Assembly; and six members, at least two of whom are health care
18 professionals, at least one of whom represents health care facilities
19 and at least one of whom represents the health insurance industry,
20 shall be appointed by the Governor with the advice and consent of
21 the Senate.

22 The term of office of each public member shall be three years,
23 but of the members first appointed, two shall be appointed for a
24 term of one year, three shall be appointed for a term of two years
25 and three shall be appointed for a term of three years. A member
26 shall hold office for the term of his appointment and until his
27 successor has been appointed and qualified. All vacancies shall be
28 filled for the balance of the unexpired term in the same manner as
29 the original appointment. A member of the commission is eligible
30 for reappointment.

31 The public members of the commission shall not receive any
32 compensation for their services, but shall be reimbursed for the
33 actual and necessary expenses incurred in the performance of their
34 duties as members of the commission, within the limits of funds
35 available to the commission.

36 The members of the commission shall annually elect a chairman
37 and a vice-chairman from among the public members and may
38 select a secretary, who need not be a member of the commission.

39 The New Jersey Office on Minority and Multicultural Health
40 shall provide such staff and assistance as the commission requires
41 to carry out its work.

42 (cf. P.L.2001, c.205, s.6)

43
44 126. Section 1 of P.L.2004, c.137 (C.26:2-167.1) is amended to
45 read as follows:

46 1. The Commissioner of Health [and Senior Services] shall
47 establish the "Eliminating Health Disparities Initiative" in the
48 Office on Minority and Multicultural Health. The commissioner
49 shall require the office to develop and implement a comprehensive,

1 coordinated plan to reduce health disparities between White and
2 racial and ethnic minority populations in the State in the following
3 priority areas: asthma; infant mortality; breast, cervical, prostate
4 and colorectal cancer screening; kidney disease; HIV/AIDS;
5 hepatitis C; sexually transmitted diseases; adult and child
6 immunizations; cardiovascular disease; diabetes; and accidental
7 injuries and violence. As used in this act, "office" means the New
8 Jersey Office on Minority and Multicultural Health.
9 (cf: P.L.2004, c.137, s.1)

10
11 127. Section 3 of P.L.2004, c.137 (C.26:2-167.33) is amended to
12 read as follows:

13 3. The Commissioner of Health **[and Senior Services]** shall
14 adopt rules and regulations, pursuant to the "Administrative
15 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate
16 the purposes of this act.
17 (cf: P.L.2004, c.137, s.3)

18
19 128. Section 2 of P.L.1993, c.229 (C.26:2-169) is amended to
20 read as follows:

21 2. The Department of **[Health and Senior]** Human Services
22 shall develop criteria which prevention, education, and treatment
23 programs for compulsive gamblers shall meet in order to become
24 eligible for a grant from the funds made available for such programs
25 pursuant to section 145 of P.L.1977, c.110 (C.5:12-145). The
26 department shall also develop a formula for the distribution of
27 available funds which will result in an equitable distribution among
28 the programs which meet the eligibility criteria and apply for
29 grants.

30 The department shall submit a report to the Senate Budget and
31 Appropriations Committee and the Assembly Appropriations
32 Committee, or their successors, describing the criteria developed
33 pursuant to this section and detailing the amount of grants
34 distributed and the names of the programs receiving grants. The
35 department shall submit the report annually to both committees.
36 (cf: P.L.2001, c.199, s.40)

37
38 129. Section 2 of P.L.1997, c.229 (C.26:2-171) is amended to
39 read as follows:

40 2. a. There is established in the Executive Branch of the State
41 Government an Advisory Council on Adolescent Pregnancy. For
42 the purposes of complying with the provisions of Article V, Section
43 IV, paragraph 1 of the New Jersey Constitution, the advisory
44 council is allocated within the Department of Health **[and Senior
45 Services]**, but notwithstanding that allocation, the advisory council
46 shall be independent of any supervision or control by the
47 department or by any board or officer thereof.

1 b. The advisory council shall consist of 24 members as follows:
2 the Commissioners of the Departments of Health [and Senior
3 Services], Human Services, Children and Families, Education,
4 Community Affairs, and Labor and Workforce Development, who
5 shall serve as ex officio members, and 18 public members, four of
6 whom shall be teenagers, including two teenage parents and two
7 teenagers who are not parents, and fourteen of whom shall be
8 representatives of community based religious, health, and social
9 service organizations which serve adolescents and health
10 professionals and educators with recognized expertise in the field of
11 adolescent pregnancy. Of the public members, three shall be
12 appointed by the President of the Senate, no more than two of
13 whom shall be of the same political party; three shall be appointed
14 by the Speaker of the General Assembly, no more than two of
15 whom shall be of the same political party; and 12 shall be appointed
16 by the Governor. Eight of the persons appointed by the Governor
17 shall be appointed with the advice and consent of the Senate, no
18 more than four of whom shall be of the same political party; and
19 four of the persons appointed by the Governor shall be teenagers.
20 The advisory council shall organize within 30 days after the
21 appointment of its members. The members shall select one person
22 from among them to serve as the chairperson and the members shall
23 select a secretary, who need not be a member of the advisory
24 council.

25 c. Each ex officio member may designate an employee of the
26 member's department to represent the member at hearings of the
27 advisory council. All designees may lawfully vote and otherwise
28 act on behalf of the member for whom they constitute the designee.

29 d. Each public member shall be appointed for a term of three
30 years, but of the members first appointed, six shall serve for a term
31 of one year, six for a term of two years, and six for a term of three
32 years. Members shall serve until their successors are appointed and
33 qualified. Vacancies shall be filled in the same manner as the
34 original appointments were made.

35 e. Members of the advisory council shall serve without
36 compensation but, within the limits of funds appropriated or
37 otherwise made available to it, shall be eligible for reimbursement
38 of necessary expenses incurred in the performance of their duties.

39 f. The Department of Health [and Senior Services] shall
40 provide such staff as the advisory council requests to carry out the
41 purposes of this act.

42 (cf: P.L.2008, c.63, s.1)

43

44 130. Section 2 of P.L.2000, c.167 (C.26:2-176) is amended to
45 read as follows:

46 2. The Commissioner of Health [and Senior Services], in
47 conjunction with the State Board of Medical Examiners and the
48 New Jersey Board of Nursing, shall work with health care facilities

1 and licensed health care professionals in the State to develop
2 policies and procedures to achieve the following requirements
3 concerning postpartum depression:

4 a. Physicians, nurse midwives, and other licensed health care
5 professionals providing prenatal care to women shall provide
6 education to women and their families about postpartum depression
7 in order to lower the likelihood that new mothers will continue to
8 suffer from this illness in silence;

9 b. All birthing facilities in the State shall provide departing
10 new mothers and fathers and other family members, as appropriate,
11 with complete information about postpartum depression, including
12 its symptoms, methods of coping with the illness, and treatment
13 resources;

14 c. Physicians, nurse midwives, and other licensed health care
15 professionals providing postnatal care to women shall screen new
16 mothers for postpartum depression symptoms prior to discharge
17 from the birthing facility and at the first few postnatal check-up
18 visits; and

19 d. Physicians, nurse midwives, and other licensed health care
20 professionals providing prenatal and postnatal care to women shall
21 include fathers and other family members, as appropriate, in both
22 the education and treatment processes to help them better
23 understand the nature and causes of postpartum depression so that
24 they too can overcome the spillover effects of the illness and
25 improve their ability to be supportive of the new mother.

26 (cf: P.L.2006, c.12, s.1)

27

28 131. Section 3 of P.L.2000, c.167 (C.26:2-177) is amended to
29 read as follows:

30 3. The Commissioner of Health **[and Senior Services]** shall
31 establish a public awareness campaign to inform the general public
32 about the nature and causes of postpartum depression and its health
33 implications, including its symptoms, methods of coping with the
34 illness, and the most effective means of treatment.

35 (cf: P.L.2000, c.167, s.3)

36

37 132. Section 4 of P.L.2000, c.167 (C.26:2-178) is amended to
38 read as follows:

39 4. The Commissioner of Health **[and Senior Services]**,
40 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
41 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate
42 the purposes of this act.

43 (cf: P.L.2000, c.167, s.4)

44

45 133. Section 1 of P.L.2003, c.174 (C.26:2-179) is amended to
46 read as follows:

47 1. The Department of Health **[and Senior Services]**, in
48 consultation with the Department of Environmental Protection, shall
49 prepare a consumer's mercury alert notice for posting in all patient

1 areas of professional medical offices that provide gynecological,
2 obstetrical, or pediatric care and in the patient or client areas of all
3 maternal and child health and nutrition programs. The notice shall
4 explain the danger to women who expect to become pregnant,
5 women who are pregnant or breast feeding their children, and
6 young children, of eating mercury contaminated fish. The notice
7 shall summarize the State's and the federal government's most
8 current mercury health advisories concerning fish consumption and
9 shall contain such other information as the department deems
10 appropriate. The notice also shall list any telephone number that
11 may be established for State residents to call for further information
12 about the health advisories.

13 The department shall distribute the notice, at no charge, to all
14 professional medical offices that provide gynecological, obstetrical,
15 or pediatric care and to all publicly funded maternal and child
16 health and nutrition programs in the State. The department shall
17 update the notice as necessary, and shall make additional copies of
18 the notice available to health care providers upon request.

19 (cf: P.L.2003, c.174, s.1)

20

21 134. Section 2 of P.L.2005, c.98 (C.26:2-181) is amended to
22 read as follows:

23 2. The Commissioner of Health **[and Senior Services]** shall
24 establish a public awareness campaign to inform the general public
25 about post-polio sequelae, for which purpose the commissioner
26 shall provide for the development of educational materials, in
27 consultation with health care facilities and providers that have a
28 demonstrated record of expertise and interest in this subject, which
29 shall be made available to local boards of health, physicians,
30 hospitals, and clinics for distribution to consumers.

31 (cf: P.L.2005, c.98, s.2)

32

33 135. Section 1 of P.L.2005, c.280 (C.26:2-182) is amended to
34 read as follows:

35 1. a. There is established the "Task Force on Cancer
36 Prevention,
37 Early Detection and Treatment in New Jersey" within the
38 Department of Health **[and Senior Services]**.

39 b. The task force shall be comprised of the following members:

40 (1) the Commissioner of Health **[and Senior Services]**, or his
41 designee, who shall serve ex officio; and

42 (2) no more than 20 public members to be appointed by the
43 Governor, who shall include representatives from: the Public
44 Health Council; the New Jersey State Commission on Cancer
45 Research; the New Jersey Office on Minority and Multicultural
46 Health; the Medical Society of New Jersey; academic medical
47 centers and universities engaged in cancer education, research, and
48 treatment; providers of cancer treatment and support services;
49 pharmaceutical companies engaged in cancer research; community-

1 based organizations and coalitions engaged in cancer outreach,
2 education, and screening; and cancer survivors.

3 c. The public members shall serve for a term of one year.
4 Vacancies in the membership of the task force shall be filled in the
5 same manner as the original appointments were made.

6 d. The task force shall organize as soon as may be practicable,
7 but no later than the 30th day after the appointment of its members,
8 and shall select a chairperson from among the public members. The
9 chairperson shall appoint a secretary who need not be a member of
10 the task force. The public members shall serve without
11 compensation, but may be reimbursed for necessary expenses
12 incurred in the performance of their duties.

13 e. The Department of Health [and Senior Services] shall
14 supply such staff and resources, including a person to serve as
15 executive director of the task force, as the task force requires to
16 carry out its duties.

17 f. The task force is entitled to the assistance and services of the
18 employees of any State department, board, bureau, commission, or
19 agency as it may require and as may be available to it for its
20 purposes, and to incur traveling and other miscellaneous expenses
21 necessary to perform its duties, within the limits of funds
22 appropriated or otherwise made available to it for its purpose.
23 (cf: P.L.2005, c.280, s.1)

24

25 136. Section 2 of P.L.2005, c.280 (C.26:2-183) is amended to
26 read as follows:

27 2. a. The task force shall:

28 (1) evaluate current trends in cancer incidence, morbidity and
29 mortality, screening, diagnosis, and behaviors that increase risk;

30 (2) evaluate historic, current, and emerging cancer control
31 strategies;

32 (3) establish cancer reduction goals, which shall seek to reduce
33 mortality rates for breast, cervical, prostate, lung, and colorectal
34 cancer;

35 (4) establish specific goals for:

36 (a) reducing behavior that increases the risk of cancer, including
37 behavior related to smoking and diet;

38 (b) reversing the present trend of annual increases in the rate of
39 invasive melanoma;

40 (c) closing the gap in cancer mortality rates between the total
41 population and minorities;

42 (d) increasing the use of screening tests for cancer, especially
43 among elderly and minority populations; and

44 (e) increasing the percentage of cancers diagnosed at early
45 stages;

46 (5) develop an integrated set of priority strategies that are
47 necessary to achieve the goals established pursuant to this act; and

1 (6) delineate the respective roles and responsibilities for the
2 State and other entities in implementing the priority strategies
3 identified pursuant to this act.

4 b. (1) The task force shall report to the Governor, the
5 Commissioner of Health **【and Senior Services】**, and the Legislature
6 on its findings, recommendations, and activities at least biennially.

7 (2) In addition, the cervical cancer workgroup, which the task
8 force shall establish in addition to such other workgroups as it
9 deems appropriate, shall report to the Governor, the Commissioner
10 of Health **【and Senior Services】**, and the Legislature at least
11 biennially on its findings and recommendations regarding strategies
12 and actions to reduce the occurrence of, and burdens suffered from,
13 cervical cancer, along with any legislative bills that it desires to
14 recommend for adoption by the Legislature.

15 (cf: P.L.2005, c.280, s.2)

16
17 137. Section 3 of P.L.2005, c.280 (C.26:2-184) is amended to
18 read as follows:

19 3. The task force established pursuant to Executive Order No.
20 114 of 2000, together with its functions, powers, duties, and
21 workgroups, is continued in the Department of Health **【and Senior**
22 **Services】** as the "Task Force on Cancer Prevention, Early Detection
23 and Treatment in New Jersey" established pursuant to this act.

24 (cf: P.L.2005, c.280, s.3)

25
26 138. Section 2 of P.L.2011, c.155 (C.26:2-184.2) is amended to
27 read as follows:

28 2. a. The Commissioner of Health **【and Senior Services】** shall
29 establish a public awareness campaign to inform the general public
30 about the clinical significance of ovarian cancer and its public
31 health implications. The campaign shall include, at a minimum,
32 risk factors, symptoms, the need for early detection, and methods of
33 treatment.

34 b. The commissioner shall, at a minimum:

35 (1) provide for the development of printed educational materials
36 and public service announcements in English and Spanish; and

37 (2) disseminate information for distribution to the public,
38 through a variety of entities, including, but not limited to, local
39 health agencies and clinics, physicians, health care facilities, county
40 offices on aging, pharmacies, libraries, senior citizen centers, other
41 community-based outreach programs and organizations, and the
42 Department of **【Health and Senior Services'】** Health's official
43 website.

44 (cf: P.L.2011, c.155, s.2)

45
46 139. Section 2 of P.L.2007, c.170 (C.26:2-186) is amended to
47 read as follows:

1 2. a. A physician, psychologist, and any other health care
2 professional licensed pursuant to Title 45 of the Revised Statutes
3 who is qualified by training to make the diagnosis and who then
4 makes the diagnosis that a child has an autism spectrum disorder
5 shall report this diagnosis to the Department of Health [and Senior
6 Services] in a form and manner prescribed by the Commissioner of
7 Health [and Senior Services].

8 b. The report shall be in writing and shall include the name and
9 address of the person submitting the report, the name, age, place of
10 birth, and address of the child diagnosed as having an autism
11 spectrum disorder, and other pertinent information as may be
12 required by the commissioner; except that, if the child's parent or
13 guardian objects to the reporting of the child's diagnosis for any
14 reason, the report shall not include any information that could be
15 used to identify the child.

16 c. The commissioner shall specify procedures for the health
17 care professional to inform the child's parent or guardian of the
18 requirements of subsections a. and b. of this section and the purpose
19 served by including this information in the registry established
20 pursuant to section 3 of P.L.2007, c.170 (C.26:2-187), as well as the
21 parent's or guardian's right to refuse to permit the reporting of any
22 information that could be used to identify the child.

23 (cf: P.L.2009, c.204, s.3)

24
25 140. Section 4 of P.L.2009, c.204 (C.26:2-186.1) is amended to
26 read as follows:

27 4. a. An adult who has been diagnosed as having an autism
28 spectrum disorder by a physician, psychologist, or any other health
29 care professional licensed pursuant to Title 45 of the Revised
30 Statutes who is qualified by training to make the diagnosis, and
31 whose diagnosis has not been reported pursuant to section 2 of
32 P.L.2007, c.170 (C.26:2-186), may, at his discretion, report this
33 diagnosis, or request that a health care professional on his behalf
34 report this diagnosis, to the Department of Health [and Senior
35 Services] in a form and manner prescribed by the Commissioner of
36 Health [and Senior Services].

37 b. The report shall be in writing and shall include the name and
38 address of the person submitting the report, the name, age, place of
39 birth, and address of the adult diagnosed as having an autism
40 spectrum disorder, and other pertinent information as may be
41 required by the commissioner.

42 c. The commissioner shall specify procedures for the health
43 care professional to inform the adult of the provisions of
44 subsections a. and b. of this section and the purpose served by
45 including this information in the registry established pursuant to
46 section 3 of P.L.2007, c.170 (C.26:2-187).

47 (cf: P.L.2009, c.204, s.4)

1 141. Section 3 of P.L.2007, c.170 (C.26:2-187) is amended to
2 read as follows:

3 3. The Department of Health **【and Senior Services】**, in
4 consultation with the Department of Human Services, shall
5 maintain an up-to-date registry which shall include a record of: all
6 reported cases of an autism spectrum disorder that occur in New
7 Jersey, including those reported pursuant to section 2 of P.L.2007,
8 c.170 (C.26:2-186) and section 4 of P.L.2009, c.204 (C.26:2-186.1);
9 each reported case of an autism spectrum disorder that occurs in
10 New Jersey in which the initial diagnosis is changed, lost, or
11 considered misdiagnosed; and any other information it deems
12 relevant and appropriate in order to conduct thorough and complete
13 epidemiologic surveys of autism spectrum disorders, to enable
14 analysis of this problem and to plan for and provide services to
15 children and adults with an autism spectrum disorder and their
16 families.

17 (cf: P.L.2009, c.204, s.5)

18

19 142. Section 4 of P.L.2007, c.170 (C.26:2-188) is amended to
20 read as follows:

21 4. a. The reports made pursuant to P.L.2007, c.170 (C.26:2-185
22 et seq.) and section 4 of P.L.2009, c.204 (C.26:2-186.1) are to be
23 used only by the Department of Health **【and Senior Services】** and
24 other agencies as may be designated by the Commissioner of Health
25 **【and Senior Services】**, including the Department of Human
26 Services, and shall not otherwise be divulged or made public so as
27 to disclose the identity of any person to whom they relate; and, to
28 that end, the reports shall not be included under materials available
29 to public inspections pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.)
30 or P.L.2001, c.404 (C.47:1A-5 et al.).

31 b. A physician, psychologist, or health care professional
32 providing information to the department in accordance with
33 P.L.2007, c.170 (C.26:2-185 et seq.) or section 4 of P.L.2009, c.204
34 (C.26:2-186.1) shall not be deemed to be, or held liable for,
35 divulging confidential information.

36 c. Nothing in P.L.2007, c.170 (C.26:2-185 et seq.) or section 4
37 of P.L.2009, c.204 (C.26:2-186.1) shall be construed to compel a
38 child or adult who has been reported as having an autism spectrum
39 disorder to submit to medical or health examination or supervision
40 by the department.

41 (cf: P.L.2009, c.204, s.6)

42

43 143. Section 2 of P.L.2008, c.80 (C.26:2-190) is amended to
44 read as follows:

45 2. a. The Commissioner of Health **【and Senior Services】** and
46 the Commissioner of Human Services, in consultation with the New
47 Jersey Fire and Emergency Medical Services Institute and the New
48 Jersey State First Aid Council, shall develop a training curriculum

1 with the purpose of informing emergency responders of the risks
2 associated with autism or an intellectual or other developmental
3 disability, as well as providing instruction in appropriate
4 recognition and response techniques concerning these disabilities.
5 The curriculum shall be incorporated into existing time
6 requirements for training and continuing education of emergency
7 responders.

8 b. Prior to certification by the Department of Health [and
9 Senior Services], each emergency medical technician trained in
10 basic life support services as defined in section 1 of P.L.1985, c.351
11 (C.26:2K-21) shall be required to satisfactorily complete the
12 training developed under subsection a. of this section. Every
13 emergency medical technician certified prior to the effective date of
14 this act shall, within 36 months of the effective date of this act,
15 satisfactorily complete the training in recognition and response
16 techniques concerning these disabilities, through existing
17 continuing education requirements.

18 c. The Commissioner of Health [and Senior Services] shall
19 adopt rules and regulations, pursuant to the "Administrative
20 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate
21 the purposes of this act.

22 (cf: P.L.2008, c.80, s.2)

23
24 144. Section 3 of P.L.2007, c.255 (C.26:2AA-3) is amended to
25 read as follows:

26 3. As used in this act:

27 "Commissioner" means the Commissioner of Health [and Senior
28 Services]; and

29 "Reflex sympathetic dystrophy syndrome" or "RSDS" means a
30 debilitating and progressively chronic condition characterized by
31 severe burning pain, pathological changes in bone and skin,
32 excessive sweating, tissue swelling, and extreme sensitivity to
33 touch.

34 (cf: P.L.2007, c.255, s.3)

35
36 145. Section 4 of P.L.2007, c.255 (C.26:2AA-4) is amended to
37 read as follows:

38 4. The commissioner shall establish a reflex sympathetic
39 dystrophy syndrome education and research program in the
40 Department of Health [and Senior Services]. The purpose of the
41 program is to promote public awareness of the causes of RSDS, the
42 value of early detection and the diagnosis of and possible treatments
43 for the syndrome, and to promote research, through public and
44 private sources, to accurately identify, diagnose, and treat RSDS.

45 (cf: P.L.2007, c.255, s.4)

46
47 146. Section 5 of P.L.2007, c.255 (C.26:2AA-5) is amended to
48 read as follows:

- 1 5. The Department of Health [and Senior Services] shall:
- 2 a. establish a public education program through the
- 3 department's website, to promote RSDS education, which will
- 4 enable individuals to make informed decisions about their health,
- 5 including, but not limited to the following elements:
- 6 (1) the cause and nature of RSDS;
- 7 (2) the risk factors that contribute to the manifestation of RSDS;
- 8 (3) available treatment options, including risks and benefits of
- 9 those options;
- 10 (4) environmental safety and injury prevention;
- 11 (5) rest and use of appropriate body mechanics;
- 12 (6) the availability of RSDS diagnostic, treatment, and outreach
- 13 services in the community; and
- 14 (7) any other factors or elements that might mitigate the effects
- 15 of RSDS;
- 16 b. notify local health departments, hospitals, clinics, and other
- 17 health care providers about the availability of information
- 18 concerning RSDS on the department's website;
- 19 c. within the limits of funds available to the department for this
- 20 purpose, coordinate, promote, and offer professional education
- 21 programs, through institutions of higher education, for health care
- 22 providers and health-related community-based organizations, which
- 23 may include, but are not limited to the following elements:
- 24 (1) research findings;
- 25 (2) the cause and nature of RSDS;
- 26 (3) the risk factors, including, but not limited to, lifestyle,
- 27 heredity, and drug interactions;
- 28 (4) the diagnostic procedures and appropriate indications for
- 29 their use;
- 30 (5) medical and surgical treatment options, including
- 31 experimental and established drug therapies and the risks and
- 32 benefits of each option;
- 33 (6) environmental safety and injury prevention; and
- 34 (7) the availability of RSDS diagnosis and treatment and support
- 35 services in the community; and
- 36 d. promote research, through both private and public funding
- 37 sources, to accurately identify, diagnose, and treat RSDS.
- 38 (cf: P.L.2007, c.255, s.5)
- 39

40 147. Section 1 of P.L.2006, c.48 (C.26:2D-82.1) is amended to

41 read as follows:

- 42 1. a. A tanning facility operator shall not permit a person who
- 43 is under 14 years of age to use a tanning facility.
- 44 b. A tanning facility operator shall not permit a person who is
- 45 at least 14 but less than 18 years of age to use a tanning facility
- 46 without written authorization of the person's parent or legal
- 47 guardian indicating that such parent or guardian has read and
- 48 understood the safety standards and warnings required pursuant to
- 49 section 3 of P.L.1989, c.234 (C.26:2D-83). An emancipated minor

1 shall be exempt from the authorization requirement of this
2 subsection upon legal proof documenting said emancipation.

3 c. The Commissioner of Health **【and Senior Services】** shall
4 establish by regulation:

5 (1) the contents required in the authorization form;

6 (2) the method for maintaining a record of the forms; and

7 (3) the frequency with which the forms shall be authorized or
8 reauthorized.

9 d. The penalties for violating the provisions of this section
10 shall be as provided in section 7 of P.L.1989, c.234 (C.26:2D-87).
11 (cf: P.L.2006, c.48, s.1)

12
13 148. Section 3 of P.L.1989, c.234 (C.26:2D-83) is amended to
14 read as follows:

15 3. The Commissioner of Health **【and Senior Services】**, in
16 consultation with the Commissioner of Environmental Protection,
17 shall, by regulation, establish minimum safety standards for tanning
18 facilities. The standards shall include, but not be limited to:

19 a. Establishment of a maximum safe time of exposure to
20 radiation and a maximum safe temperature at which tanning devices
21 may be operated;

22 b. A requirement that a patron at a tanning facility wear
23 protective eye glasses when using tanning equipment and that a
24 patron be supervised as to the length of time the patron uses tanning
25 equipment at the facility;

26 c. A requirement that the facility operator post easily legible,
27 permanent warning signs near the tanning equipment which state:
28 "DANGER-ULTRAVIOLET RADIATION FOLLOW ALL
29 INSTRUCTIONS";

30 d. A requirement that the facility have protective shielding for
31 tanning equipment in the facility; and

32 e. A requirement that the facility operator post a sign in
33 conspicuous view at or near the reception area which states:
34 "PERSONS UNDER AGE 14 SHALL NOT BE PERMITTED TO
35 USE THIS TANNING FACILITY. PERSONS BETWEEN 14
36 AND 18 YEARS OF AGE SHALL NOT BE PERMITTED TO USE
37 THIS TANNING FACILITY WITHOUT WRITTEN
38 AUTHORIZATION OF A PARENT OR LEGAL GUARDIAN."

39 (cf: P.L.2006, c.48, s.2)

40
41 149. Section 5 of P.L.1989, c.234 (C.26:2D-85) is amended to
42 read as follows:

43 5. There is established in the Department of Health **【and Senior**
44 **Services】** a nonlapsing revolving fund known as the "Non-Ionizing
45 Radiation Fund." The fund shall be credited with all fees collected
46 pursuant to this act. Interest on monies in the fund shall be credited

1 to the fund, and all monies in the fund are appropriated for the
2 purposes of this act.
3 (cf: P.L.2006, c.48, s.3)
4

5 150. Section 6 of P.L.1989, c.234 (C.26:2D-86) is amended to
6 read as follows:

7 6. a. A tanning facility shall register annually with the
8 Department of Health **【and Senior Services】** on forms provided by
9 the department and shall pay to the department an annual
10 registration fee.

11 b. The Department of Health **【and Senior Services】** shall
12 establish a registration fee schedule, by regulation, to cover the
13 costs of implementing the provisions of this act, including the costs
14 incurred by local boards of health pursuant to section 4 of this act.
15 (cf: P.L.2006, c.48, s.4)
16

17 151. Section 7 of P.L.1989, c.234 (C.26:2D-87) is amended to
18 read as follows:

19 7. A person who violates the provisions of this act is subject to
20 a penalty of \$100 for the first offense and \$200 for each subsequent
21 offense. The penalty shall be sued for and collected in a court of
22 competent jurisdiction in a summary proceeding in accordance with
23 the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-
24 10 et seq.).

25 A penalty recovered under the provisions of this act shall be
26 recovered by and in the name of the Commissioner of Health **【and**
27 **Senior Services】** or by and in the name of the local board of health.
28 When the plaintiff is the Commissioner of Health **【and Senior**
29 **Services】** the penalty recovered shall be paid by the commissioner
30 into the treasury of the State. When the plaintiff is a local board of
31 health, the penalty recovered shall be paid by the local board of
32 health into the treasury of the municipality where the violation
33 occurred.

34 (cf: P.L.2006, c.48, s.5)
35

36 152. Section 8 of P.L.1989, c.234 (C.26:2D-88) is amended to
37 read as follows:

38 8. In accordance with the "Administrative Procedure Act,"
39 P.L.1968, c.410 (C.52:14B-1 et seq.), the Commissioner of Health
40 **【and Senior Services】**, in consultation with the Commissioner of
41 Environmental Protection, shall promulgate rules and regulations
42 necessary to carry out the purposes of this act.

43 (cf: P.L.2006, c.48, s.6)
44

45 153. Section 2 of P.L.1971, c.136 (C.26:2H-2) is amended to
46 read as follows:

47 **【"】**2. The following words or phrases, as used in this act, shall
48 have the following meanings, unless the context otherwise requires:

1 a. "Health care facility" means the facility or institution
2 whether public or private, engaged principally in providing services
3 for health maintenance organizations, diagnosis, or treatment of
4 human disease, pain, injury, deformity, or physical condition,
5 including, but not limited to, a general hospital, special hospital,
6 mental hospital, public health center, diagnostic center, treatment
7 center, rehabilitation center, extended care facility, skilled nursing
8 home, nursing home, intermediate care facility, tuberculosis
9 hospital, chronic disease hospital, maternity hospital, outpatient
10 clinic, dispensary, home health care agency, residential health care
11 facility, and bioanalytical laboratory (except as specifically
12 excluded hereunder) or central services facility serving one or more
13 such institutions but excluding institutions that provide healing
14 solely by prayer and excluding such bioanalytical laboratories as
15 are independently owned and operated, and are not owned,
16 operated, managed, or controlled, in whole or in part, directly or
17 indirectly by any one or more health care facilities, and the
18 predominant source of business of which is not by contract with
19 health care facilities within the State of New Jersey and which
20 solicit or accept specimens and operate predominantly in interstate
21 commerce.

22 b. "Health care service" means the preadmission, outpatient,
23 inpatient, and postdischarge care provided in or by a health care
24 facility, and such other items or services as are necessary for such
25 care, which are provided by or under the supervision of a physician
26 for the purpose of health maintenance organizations, diagnosis, or
27 treatment of human disease, pain, injury, disability, deformity, or
28 physical condition, including, but not limited to, nursing service,
29 home care nursing, and other paramedical service, ambulance
30 service, service provided by an intern, resident in training or
31 physician whose compensation is provided through agreement with
32 a health care facility, laboratory service, medical social service,
33 drugs, biologicals, supplies, appliances, equipment, bed and board,
34 but excluding services provided by a physician in his private
35 practice, except as provided in sections 7 and 12 of P.L.1971, c.136
36 (C.26:2H-7 and 26:2H-12), or by practitioners of healing solely by
37 prayer, and services provided by first aid, rescue and ambulance
38 squad as defined in the "New Jersey Highway Safety Act of 1971,"
39 P.L.1971, c.351 (C.27:5F-1 et seq.).

40 c. "Construction" means the erection, building, or substantial
41 acquisition, alteration, reconstruction, improvement, renovation,
42 extension, or modification of a health care facility, including its
43 equipment, the inspection and supervision thereof; and the studies,
44 surveys, designs, plans, working drawings, specifications,
45 procedures, and other actions necessary thereto.

46 d. "Board" means the Health Care Administration Board
47 established pursuant to this act.

48 e. (Deleted by amendment, P.L.1998, c.43).

- 1 f. "Government agency" means a department, board, bureau,
2 division, office, agency, public benefit, or other corporation, or any
3 other unit, however described, of the State or political subdivision
4 thereof.
- 5 g. (Deleted by amendment, P.L.1991, c.187).
- 6 h. (Deleted by amendment, P.L.1991, c.187).
- 7 **[I.] i.** "Department" means the **[State]** Department of Health
8 **[and Senior Services]**.
- 9 j. "Commissioner" means the **[State]** Commissioner of Health
10 **[and Senior Services]**.
- 11 k. "Preliminary cost base" means that proportion of a hospital's
12 current cost which may reasonably be required to be reimbursed to
13 a properly utilized hospital for the efficient and effective delivery of
14 appropriate and necessary health care services of high quality
15 required by such hospital's mix of patients. The preliminary cost
16 base initially may include costs identified by the commissioner and
17 approved or adjusted by the commission as being in excess of that
18 proportion of a hospital's current costs identified above, which
19 excess costs shall be eliminated in a timely and reasonable manner
20 prior to certification of the revenue base. The preliminary cost base
21 shall be established in accordance with regulations proposed by the
22 commissioner and approved by the board.
- 23 l. (Deleted by amendment, P.L.1992, c.160).
- 24 m. "Provider of health care" means an individual (1) who is a
25 direct provider of health care service in that the individual's primary
26 activity is the provision of health care services to individuals or the
27 administration of health care facilities in which such care is
28 provided and, when required by State law, the individual has
29 received professional training in the provision of such services or in
30 such administration and is licensed or certified for such provision or
31 administration; or (2) who is an indirect provider of health care in
32 that the individual (a) holds a fiduciary position with, or has a
33 fiduciary interest in, any entity described in subparagraph b(ii) or
34 subparagraph b(iv); provided, however, that a member of the
35 governing body of a county or any elected official shall not be
36 deemed to be a provider of health care unless he is a member of the
37 board of trustees of a health care facility or a member of a board,
38 committee or body with authority similar to that of a board of
39 trustees, or unless he participates in the direct administration of a
40 health care facility; or (b) received, either directly or through his
41 spouse, more than one-tenth of his gross annual income for any one
42 or more of the following:
- 43 (i) Fees or other compensation for research into or instruction in
44 the provision of health care services;
- 45 (ii) Entities engaged in the provision of health care services or in
46 research or instruction in the provision of health care services;

1 (iii) Producing or supplying drugs or other articles for
2 individuals or entities for use in the provision of or in research into
3 or instruction in the provision of health care services;

4 (iv) Entities engaged in producing drugs or such other articles.

5 n. "Private long-term health care facility" means a nursing
6 home, skilled nursing home, or intermediate care facility presently
7 in operation and licensed as such prior to the adoption of the 1967
8 Life Safety Code by the [State] Department of Health [and Senior
9 Services] in 1972 and which has a maximum 50-bed capacity and
10 which does not accommodate Medicare or Medicaid patients.

11 o. (Deleted by amendment, P.L.1998, c.43).

12 p. "State Health Planning Board" means the board established
13 pursuant to section 33 of P.L.1991, c.187 (C.26:2H-5.7) to conduct
14 certificate of need review activities.

15 (cf: P.L.2004, c.54, s.3)

16
17 154. Section 1 of P.L.2000, c.62 (C.26:2H-5b) is amended to
18 read as follows:

19 1. a. The Commissioner of Health [and Senior Services] shall
20 prescribe, by regulation, requirements to be adopted by health care
21 facilities licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.)
22 for the routine monitoring of pain as a fifth vital sign in patients, in
23 addition to blood pressure, pulse, respiration, and temperature.

24 For the purpose of this subsection, the commissioner shall
25 require health care facilities to:

26 (1) routinely inquire whether a patient is in pain;

27 (2) maintain policies and procedures as prescribed by the
28 commissioner for asking patients to rate their degree of pain for a
29 specified period of time and to record their responses; and

30 (3) routinely record levels of pain intensity on patient charts.

31 b. The requirements to be adopted pursuant to subsection a. of
32 this section shall take effect no later than the 180th day after the
33 effective date of this act.

34 (cf: P.L.2000, c.62, s.1)

35
36 155. Section 2 of P.L.2000, c.62 (C.26:2H-5c) is amended to
37 read as follows:

38 2. The Commissioner of Health [and Senior Services],
39 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
40 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate
41 the purposes of this act, for which purpose the commissioner shall
42 consult, at a minimum, with: the State Board of Medical
43 Examiners, the New Jersey Board of Nursing, the Board of
44 Pharmacy, the New Jersey Hospital Association, the New Jersey
45 Association of Health Care Facilities, the Medical Society of New
46 Jersey, the New Jersey Association of Osteopathic Physicians and
47 Surgeons, the New Jersey State Nurses Association, the Home

1 Health Assembly of New Jersey, and the New Jersey Hospice and
2 Palliative Care Organization.
3 (cf: P.L.2000, c.62, s.2)
4

5 156. Section 1 of P.L.2002, c.81 (C.26:2H-5d) is amended to
6 read as follows:

7 1. a. The Commissioner of Health [and Senior Services], in
8 consultation with the Director of the Division of Consumer Affairs
9 in the Department of Law and Public Safety, shall require that, no
10 later than the 180th day after the date of enactment of this act, each
11 home health agency licensed pursuant to P.L.1971, c.136 (C.26:2H-
12 1 et seq.) shall provide the following information to each patient
13 receiving home-based services from that agency, or to a person
14 designated by the patient:

15 (1) the name and certification or licensure title, as applicable, of
16 the homemaker-home health aide or other health care professional
17 whose practice is regulated pursuant to Title 45 of the Revised
18 Statutes, to be displayed on an identification tag as required for
19 homemaker-home health aides by regulation of the New Jersey
20 Board of Nursing, or as otherwise to be prescribed by regulation of
21 the commissioner for other health care professionals, that the
22 homemaker-home health aide or other health care professional shall
23 wear at all times while examining, observing, or caring for the
24 patient; and

25 (2) a copy of the most current edition of the consumer guide to
26 homemaker-home health aides published by the New Jersey Board
27 of Nursing.

28 b. The consumer guide required pursuant to subsection a. of
29 this section shall be provided:

30 (1) in advance of the provision of services to the patient,
31 whenever possible; and

32 (2) otherwise upon the homemaker-home health aide's initial
33 visit to the patient's home.

34 c. Beginning on the first day of the 13th month after the date of
35 enactment of this act, the identification tag required pursuant to
36 subsection a. of this section shall include a photograph of the
37 homemaker-home health aide or other health care professional.

38 d. The commissioner, pursuant to the "Administrative
39 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt
40 rules and regulations to effectuate the purposes of this section.

41 (cf: P.L.2002, c.81, s.1)
42

43 157. Section 1 of P.L.2004, c.90 (C.26:2H-5e) is amended to
44 read as follows:

45 1. A general or special hospital, nursing home or assisted living
46 residence licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.)
47 shall, commencing no later than the 180th day after the effective
48 date of this act and as prescribed by regulation of the Commissioner
49 of Health [and Senior Services], adopt and maintain written

1 policies and procedures to delineate the responsibilities of its staff
2 for prompt notification of a family member, guardian, or other
3 designated person about a patient's death and confirmation and
4 written documentation of that notification.
5 (cf: P.L.2004, c.90, s.1)

6
7 158. Section 3 of P.L.2005, c.21 (C.26:2H-5h) is amended to
8 read as follows:

9 3. The Commissioner of Health **[and Senior Services]**,
10 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
11 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate
12 the purposes of this act, in consultation with the Quality
13 Improvement Advisory Committee established by the
14 commissioner. The regulations shall include, but not be limited to,
15 procedures for standardizing the reporting of information by general
16 hospitals and nursing homes that is required pursuant to subsection
17 d. of section 2 of this act.
18 (cf: P.L.2005, c.21, s.3)

19
20 159. Section 2 of P.L.2008, c.58 (C.26:2H-5.1a) is amended to
21 read as follows:

22 2. a. The Commissioner of Health **[and Senior Services]** shall
23 prescribe, by regulation: (1) specific indicators by which a general
24 hospital may be evaluated for financial soundness, and the
25 thresholds at which it may be considered to be in financial distress
26 or at risk of being in financial distress; and (2) the progressive
27 levels of monitoring and department participation in the
28 development and oversight of corrective measures to resolve a
29 general hospital's financial or potential financial difficulties,
30 including the various levels of involvement by an appointed
31 monitor. The indicators and progressive levels of monitoring and
32 intervention shall be guided by the indicators and levels of
33 monitoring and intervention identified in the final report of the New
34 Jersey Commission on Rationalizing Health Care Resources, issued
35 on January 24, 2008.

36 b. The thresholds of specified financial indicators and
37 corresponding Department of Health **[and Senior Services]**
38 involvement that may be triggered by them shall include, but are
39 not limited to, measures relating to:

- 40 (1) days cash-on-hand;
41 (2) cushion ratio;
42 (3) days in accounts receivable;
43 (4) average payment period;
44 (5) total margin;
45 (6) earnings before depreciation; and
46 (7) any other factor which the commissioner deems appropriate,
47 including failure to provide required or requested financial
48 information.

1 c. If the commissioner determines that a hospital is in financial
2 distress or at risk of being in financial distress after considering the
3 specified financial indicators set forth in subsection b. of this
4 section, then the commissioner may appoint, in consultation with
5 the hospital, a monitor to prevent further financial deterioration.
6 Payment for the monitor shall be determined through a contingency
7 contract established between the hospital and the monitor. The
8 contract shall be subject to approval by the department with regard
9 to the monitor's responsibilities. In no case shall a hospital bear
10 financial liability if no savings result from measures undertaken
11 pursuant to the contract.

12 The appointed monitor shall have demonstrated expertise in
13 hospital administration, management, or operations. A monitor: (1)
14 shall be authorized to attend all hospital board meetings, executive
15 committee meetings, finance committee meetings, steering
16 committee meetings, turnaround committee meetings, or any other
17 meetings concerning the hospital's fiscal matters; (2) may be
18 authorized to have voting and veto powers over actions taken in the
19 above mentioned meetings; (3) shall report to the commissioner and
20 the full hospital board of trustees in a manner prescribed by the
21 commissioner; and (4) shall serve for such period of time as may be
22 determined by the commissioner in consultation with the hospital.

23 The commissioner shall maintain continuing oversight of the
24 actions and recommendations of the monitor to ensure that the
25 public interest is protected.

26 (cf: P.L.2008, c.58, s.2)

27

28 160. Section 3 of P.L.2008, c.58 (C.26:2H-5.1b) is amended to
29 read as follows:

30 3. As a condition of licensure under P.L.1971, c.136 (C.26:2H-
31 1 et al.), a general hospital shall:

32 a. provide monthly unaudited financial information and annual
33 audited financial statements to the Department of Health [and
34 Senior Services], and such other financial information as the
35 department may request; and

36 b. permit the Commissioner of Health [and Senior Services],
37 or a monitor appointed by the commissioner, as applicable, to
38 oversee its financial operations, and, if the commissioner
39 determines that the hospital is at risk of being in financial distress
40 or is in financial distress based on criteria specified by regulation,
41 participate in the development and implementation of a corrective
42 plan to resolve the hospital's financial difficulties, pursuant to
43 section 2 of P.L.2008, c.58 (C.26:2H-5.1a).

44 (cf: P.L.2008, c.58, s.3)

45

46 161. Section 1 of P.L.2009, c.263, s.1 (C.26:2H-5.1c) is
47 amended to read as follows:

48 1. An ambulatory care facility licensed to provide surgical
49 services pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) shall use a

1 common billing form, designated by the Commissioner of Health
2 **【and Senior Services】**, for each patient when billing for health care
3 services. The information provided on the billing form shall, to the
4 extent applicable, be the same as that required of hospitals.

5 (cf: P.L.2009, c.263, s.1)

6
7 162. Section 3 of P.L.2009, c.263 (C.26:2H-5.1e) is amended to
8 read as follows:

9 3. a. An ambulatory care facility licensed to provide surgical
10 services pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) shall be
11 required to report quarterly to the Department of Health **【and**
12 **Senior Services】**, in a form and manner prescribed by the
13 commissioner:

14 (1) process quality indicators of infection control as selected by
15 the commissioner in consultation with the Quality Improvement
16 Advisory Committee within the department; and

17 (2) beginning 30 days after the adoption of regulations pursuant
18 to this act, data on infection rates for the major site categories that
19 define facility-associated infection locations, multiple infections,
20 and device-related and non-device related infections, as selected by
21 the commissioner in consultation with the Quality Improvement
22 Advisory Committee within the department.

23 b. The information reported pursuant to this section shall be
24 transmitted in such a manner as to not include identifying
25 information about patients.

26 c. The commissioner shall promptly advise an ambulatory care
27 facility in the event that the commissioner determines, based on
28 information reported by the facility, that a change in facility
29 practices or policy is necessary to improve performance in the
30 prevention of facility-associated infection and quality of care
31 provided at the facility.

32 d. The commissioner shall make available to members of the
33 public, on the official Internet website of the department, the
34 information reported pursuant to this section, in such a format as the
35 commissioner deems appropriate to enable comparison among
36 ambulatory care facilities with respect to the information.

37 e. In order to effectuate the purposes of this section, the
38 commissioner, in consultation with the Quality Improvement
39 Advisory Committee in the department, shall, by regulation:
40 establish standard methods for identifying and reporting facility-
41 associated infections; identify the major site categories for which
42 infections shall be reported, taking into account the categories most
43 likely to improve the delivery and outcome of health care in the
44 State; and specify the methodology for presenting the data to the
45 public, including procedures to adjust for differences in case mix
46 and severity of infections among facilities.

47 (cf: P.L.2009, c.263, s.3)

1 163. Section 4 of P.L.2009, c.263 (C.26:2H-5.1f) is amended to
2 read as follows:

3 4. The Commissioner of Health **【and Senior Services】**,
4 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
5 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate
6 the purposes of this act.
7 (cf: P.L.2009, c.263, s.4)

8
9 164. Section 33 of P.L.1991, c.187 (C.26:2H-5.7) is amended to
10 read as follows:

11 33. There is established in the Department of Health **【and Senior**
12 **Services】** a State Health Planning Board. The members of the
13 board shall include: the Commissioners of Health **【and Senior**
14 **Services】**, Children and Families, and Human Services, or their
15 designees, who shall serve as ex officio, nonvoting members; the
16 chairmen of the Health Care Administration Board and the Public
17 Health Council, or their designees, who shall serve as ex officio
18 members; and nine public members appointed by the Governor with
19 the advice and consent of the Senate, five of whom are consumers
20 of health care services who are neither providers of health care
21 services or persons with a fiduciary interest in a health care service.

22 Of the additional public members first appointed pursuant to
23 P.L.1998, c.43, two shall serve for a term of two years and two shall
24 serve for a term of three years. Following the expiration of the
25 original terms, the public members shall serve for a term of four
26 years and are eligible for reappointment. Public members serving
27 on the board on the effective date of P.L.1998, c.43 shall continue
28 to serve for the term of their appointment. Any vacancy shall be
29 filled in the same manner as the original appointment, for the
30 unexpired term. Public members shall continue to serve until their
31 successors are appointed. The public members shall serve without
32 compensation but may be reimbursed for reasonable expenses
33 incurred in the performance of their duties, within the limits of
34 funds available to the board.

35 a. A member or employee of the State Health Planning Board
36 shall not, by reason of his performance of any duty, function, or
37 activity required of, or authorized to be undertaken by the board, be
38 held civilly or criminally liable if that person acted within the scope
39 of his duty, function, or activity as a member or employee of the
40 board, without gross negligence or malice toward any person
41 affected thereby.

42 b. A member of the State Health Planning Board shall not vote
43 on any matter before the board concerning an individual or entity
44 with which the member has, or within the last 12 months has had,
45 any substantial ownership, employment, medical staff, fiduciary,
46 contractual, creditor, or consultative relationship. A member who
47 has or has had such a relationship with an individual or entity
48 involved in any matter before the board shall make a written

1 disclosure of the relationship before any action is taken by the
2 board with respect to the matter and shall make the relationship
3 public in any meeting in which action on the matter is to be taken.

4 (cf: P.L.2006, c.47, s.108)

5
6 165. Section 34 of P.L.1991, c.187 (C.26:2H-5.8) is amended to
7 read as follows:

8 34. a. (Deleted by amendment, P.L.1998, c.43).

9 b. The State Health Planning Board shall review applications
10 for certificates of need and make recommendations to the
11 Commissioner of Health [and Senior Services].

12 c. In the case of an application for a certificate of need to
13 transfer ownership of an existing general acute care hospital or to
14 close or eliminate a health care facility or service that is subject to
15 review by the State Health Planning Board, the State Health
16 Planning Board shall hold at least one public hearing in the service
17 area of the health care facility or service; except that, in the event
18 the Attorney General or the Department of Health [and Senior
19 Services] is required by State law to hold a public hearing on the
20 transfer of ownership of the hospital, the State Health Planning
21 Board shall not be required to hold a public hearing on the
22 application for a certificate of need to transfer ownership of the
23 hospital. The public hearing shall be held no later than 30 days
24 after an application is deemed complete by the Commissioner of
25 Health [and Senior Services]. Public notice of the hearing shall be
26 provided at least two weeks in advance of the date of the hearing.

27 Notwithstanding the provisions of this subsection to the contrary,
28 in the event that the commissioner determines that a proposed
29 closure or elimination of a health care facility or service should be
30 considered on an expedited basis in order to preserve the quality of
31 health care provided to the community, the commissioner may
32 reduce the period of time required for public notice of the hearing.

33 (cf: P.L.1998, c.43, s.5)

34
35 166. Section 2 of P.L.1999, c.311 (C.26:2H-5.11) is amended to
36 read as follows:

37 2. As used in this act:

38 "Commissioner" means the Commissioner of Health [and Senior
39 Services].

40 "Department" means the Department of Health [and Senior
41 Services].

42 "Needle stick injury" means the parenteral introduction into the
43 body of a health care worker of blood or other potentially infectious
44 material by a needle or other sharp device during the worker's
45 performance of health care duties in a health care facility.

46 (cf: P.L.1999, c.311, s.2)

1 167. Section 6 of P.L.2007, c.236 (C.26:2H-5.22) is amended to
2 read as follows:

3 6. A covered health care facility licensed pursuant to P.L.1971,
4 c.136 (C.26:2H-1 et al.) that is in violation of the provisions of this
5 act shall be subject to such penalties as the Commissioner of Health
6 **【and Senior Services】** may determine pursuant to sections 13 and
7 14 of P.L.1971, c.136 (C.26:2H-13 and 26:2H-14).
8 (cf: P.L.2007, c.236, s.6)
9

10 168. Section 7 of P.L.2007, c.236 (C.26:2H-5.23) is amended to
11 read as follows:

12 7. The Commissioners of Health **【and Senior Services】** and
13 Human Services shall adopt rules and regulations pursuant to the
14 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
15 seq.) to carry out the purposes of this act.
16 (P.L.2007, c.236, s.7)
17

18 169. Section 7 of P.L.1971, c.136 (C.26:2H-7) is amended to
19 read as follows:

20 7. No health care facility shall be constructed or expanded, and
21 no new health care service shall be instituted after the effective date
22 of P.L.1971, c.136 (C.26:2H-1 et seq.) except upon application for
23 and receipt of a certificate of need as provided by P.L.1971, c.136
24 (C.26:2H-1 et seq.). No agency of the State or of any county or
25 municipal government shall approve any grant of funds for, or issue
26 any license to, a health care facility which is constructed or
27 expanded, or which institutes a new health care service, in violation
28 of the provisions of P.L.1971, c.136 (C.26:2H-1 et seq.).

29 Except as provided in section 19 of P.L.1992, c.160 (C.26:2H-7a
30) and section 16 of P.L.1998, c.43 (C.26:2H-7c), the provisions of
31 this section shall apply to:

32 a. The initiation of any health care service as provided in
33 section 2 of P.L.1971, c.136 (C.26:2H-2);

34 b. The initiation by any person of a health care service which is
35 the subject of a health planning regulation adopted by the
36 Department of Health **【and Senior Services】**;

37 c. The purchase by any person of major moveable equipment
38 whose total cost is over \$2 million;

39 d. The expenditure by a licensed health care facility of over \$2
40 million for construction of a new health care facility; and

41 e. The construction of a facility by any person, whose total
42 project cost exceeds \$2 million, if the facility-type is the subject of
43 a health planning regulation adopted by the Department of Health
44 **【and Senior Services】**.

45 The commissioner may periodically increase the monetary
46 thresholds established in this section, by regulation, to reflect
47 inflationary increases in the costs of health care equipment or
48 construction.

1 For the purposes of this section, "health care service" shall
2 include any service which is the subject of a health planning
3 regulation adopted by the Department of Health [and Senior
4 Services], and "person" shall include a corporation, company,
5 association, society, firm, partnership, and joint stock company, as
6 well as an individual.

7 A physician who initiates a health care service which is the
8 subject of a health planning regulation or purchases major moveable
9 equipment pursuant to subsection b. or c. of this section, may apply
10 to the commissioner for a waiver of the certificate of need
11 requirement if: the equipment or health care service is such an
12 essential, fundamental, and integral component of the physician's
13 practice specialty, that the physician would be unable to practice his
14 specialty according to the acceptable medical standards of that
15 specialty without the health care service or equipment; the
16 physician bills at least 75% of his total amount of charges in the
17 practice specialty which uses the health care service or equipment;
18 and the health care service or equipment is not otherwise available
19 and accessible to patients, pursuant to standards established by the
20 commissioner, by regulation. The commissioner shall make a
21 determination about whether to grant or deny the waiver, within 120
22 days from the date the request for the waiver is received by the
23 commissioner and shall so notify the physician who requested the
24 waiver. If the request is denied, the commissioner shall include in
25 that notification the reason for the denial. If the request is denied,
26 the initiation of a health care service or the purchase of major
27 moveable equipment shall be subject to the certificate of need
28 requirements pursuant to this section.

29 A health maintenance organization which furnishes at least basic
30 comprehensive care health services on a prepaid basis to enrollees
31 either through providers employed by the health maintenance
32 organization or through a medical group or groups which contract
33 directly with the health maintenance organization, which initiates a
34 health care service, or constructs a health care facility pursuant to
35 subsection a., b., d., or e. of this section, may apply to the
36 commissioner for a waiver of the certificate of need requirement if:
37 the initiation of the health care service or the construction is in the
38 best interests of State health planning; and the health maintenance
39 organization is in compliance with the provisions of P.L.1973,
40 c.337 (C.26:2J-1 et seq.) and complies with the provisions of
41 subsection d. of section 3 of P.L.1973, c.337 (C.26:2J-3) regarding
42 notification to the commissioner. The commissioner shall make a
43 determination about whether to grant or deny the waiver within 45
44 days from the date the request for the waiver is received by the
45 commissioner and shall so notify the health maintenance
46 organization. If the request for a waiver is denied on the basis that
47 the request would not be in the best interests of State health
48 planning, the commissioner shall state in that notification the reason
49 why the request would not be in the best interests of State health

1 planning. If the request for a waiver is denied, the health
2 maintenance organization's initiation of a health care service or
3 construction project shall be subject to the certificate of need
4 requirements pursuant to this section.

5 The requirement to obtain a certificate of need for major
6 moveable equipment pursuant to subsection c. of this section shall
7 not apply if a contract to purchase that equipment was entered into
8 prior to July 1, 1991.

9 (cf: P.L.1998, c.43, s.6)

10

11 170. Section 16 of P.L.1998, c.43 (C.26:2H-7c) is amended to
12 read as follows:

13 16. a. Notwithstanding the provisions of section 7 of P.L.1971,
14 c.136 (C.26:2H-7) to the contrary, 20 months after the effective
15 date of P.L.1998, c.43 the following shall be exempt from the
16 certificate of need requirement:

17 Extracorporeal shock wave lithotripter;

18 Hyperbaric chamber;

19 Positron emission tomography;

20 Residential drug and alcohol services;

21 Ambulatory surgical facilities;

22 Basic obstetric and pediatric services and birth centers, including
23 additions of basic obstetric and pediatric beds in hospitals; and

24 Linear accelerator, including Cobalt 60 unit.

25 b. Notwithstanding the provisions of subsection a. of this
26 section to the contrary, if the Commissioner of Health [and Senior
27 Services] determines that Department of Health [and Senior
28 Services] licensing standards for a health care service or facility
29 listed in subsection a. of this section have been adopted by
30 regulation of the department pursuant to the "Administrative
31 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the
32 commissioner may exempt the health care service or facility from
33 the provisions of section 7 of P.L.1971, c.136 (C.26:2H-7) prior to
34 the 20-month period established in subsection a. of this section.

35 The commissioner shall publish notice of any exemptions
36 established pursuant to this subsection in the New Jersey Register
37 and provide for 45 days' public notice prior to the effective date of
38 the exemption.

39 c. In the case of any health care service or facility that is not
40 exempted from the provisions of section 7 of P.L.1971, c.136
41 (C.26:2H-7) pursuant to this section or section 19 of P.L.1992,
42 c.160 (C.26:2H-7a) and is not subject to expedited review, the
43 commissioner shall publish a call schedule for the initiation of the
44 services or facilities within 90 days of the date of enactment of this
45 act. In the event that the commissioner determines that there is
46 insufficient need to support the initiation of the service or facility,
47 the commissioner is authorized to cancel the call. The

1 commissioner shall provide public notice of the cancellation at least
2 45 days prior to the scheduled call date.

3 (cf: P.L.1998, c.43, s.16)

4
5 171. Section 18 of P.L.1998, c.43 (C.26:2H-7d) is amended to
6 read as follows:

7 18. Notwithstanding the provisions of P.L.1971, c.136
8 (C.26:2H-1 et seq.) to the contrary, health care equipment which
9 involves new technology that is not identified in N.J.A.C.8:33 et
10 seq., shall not be subject to certificate of need requirements and
11 may be initiated in the State in accordance with the requirements of
12 this section.

13 a. The new technology shall be directly related to a health care
14 service for which the provider is already licensed and has obtained
15 a certificate of need, when required.

16 b. The provider shall notify the Commissioner of Health [and
17 Senior Services] about the intent to initiate the new technology at
18 least 60 days prior to the date the provider will begin use of the
19 technology.

20 c. The new technology shall have pre-market approval from the
21 federal Food and Drug Administration.

22 d. The provider shall use the new technology in accordance
23 with guidelines approved by [the] The Joint Commission [on
24 Accreditation of Health Care Organizations] until such time as the
25 Department of Health [and Senior Services] has adopted licensing
26 standards for the new technology. The provider shall be required to
27 comply with the department's licensing standards for the new
28 technology upon adoption of the standards.

29 e. The provider shall agree to submit to the department
30 appropriate patient information and other data concerning use of the
31 new technology to assist the department in establishing licensing
32 standards. The provider shall submit the information and other data
33 on a quarterly basis until such time as licensing standards are
34 adopted for the new technology.

35 f. The commissioner may suspend a provider's use of the new
36 technology if he determines that the provider is not in compliance
37 with the requirements of this section.

38 (cf: P.L.1998, c.43, s.18)

39
40 172. Section 3 of P.L.1996, c.102 (C.26:2H-7.6) is amended to
41 read as follows:

42 3. a. A hospital which proposes to utilize a portion of its
43 licensed bed capacity for the purpose of establishing a subacute care
44 unit shall be subject to the following requirements:

45 (1) the subacute care unit's beds shall be licensed by the
46 Department of Health [and Senior Services] as long-term care beds
47 and shall meet all applicable State licensing and federal certification
48 requirements, including the physical requirements for skilled

1 nursing beds under the federal Medicare program established
2 pursuant to Pub.L.89-97 (42 U.S.C.s.1395 et seq.), with reasonable
3 waiver provisions as determined by the commissioner or the federal
4 **【Health Care Financing Administration】** Centers for Medicare &
5 Medicaid Services, as appropriate;

6 (2) the maximum length of stay in the unit shall not exceed eight
7 days;

8 (3) the unit shall be certified to participate in the Medicare
9 program as a skilled nursing facility;

10 (4) the unit shall be comprised of not more than 7% of the
11 hospital's licensed medical-surgical bed capacity or 12 beds,
12 whichever is greater;

13 (5) the hospital's licensed medical-surgical bed capacity shall be
14 reduced, by the commissioner, by the number of beds used to
15 establish a subacute care unit under the provisions of this section.
16 Long-term care beds in a hospital's subacute care unit shall not be
17 transferred to, or combined with, a subacute care unit in another
18 hospital. Bed limitations for a hospital shall include both
19 conversions of existing acute care beds and any purchases or other
20 acquisitions or rentals of beds to be used by a hospital for the
21 provision of subacute care under this act;

22 (6) (Deleted by amendment, P.L.1998, c.43).

23 (7) the hospital shall be subject to the fee for the filing of an
24 application for a license for long-term care beds and any renewal
25 thereof as established by the Department of Health **【and Senior**
26 **Services】** pursuant to section 12 of P.L.1971, c.136 (C.26:2H-12).

27 b. Subacute care shall not be covered by the Medicaid program
28 established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.). The
29 long-term care beds in a subacute care unit shall not be included in
30 long-term care bed inventories for certificate of need review
31 purposes.

32 (cf: P.L.1998, c.43, s.8)

33

34 173. Section 2 of P.L.2000, c.143 (C.26:2H-7.11) is amended to
35 read as follows:

36 2. In addition to the requirements of P.L.1971, c.136 (C.26:2H-
37 1 et seq.) concerning certificate of need and licensure requirements,
38 a nonprofit hospital licensed pursuant to P.L.1971, c.136 (C.26:2H-
39 1 et seq.) shall satisfy the requirements of this act before applying
40 to the Superior Court of New Jersey for approval prior to entering
41 into a transaction that results in the acquisition of the hospital as
42 defined in this act. The proposed acquisition shall be subject to the
43 prior review of the Attorney General, in consultation with the
44 Commissioner of Health **【and Senior Services】**, pursuant to the
45 provisions of this section. The Attorney General shall review the
46 application in furtherance of his common law responsibilities as
47 protector, supervisor, and enforcer of charitable trusts and
48 charitable corporations.

1 For the purposes of sections 2 and 3 of this act, "acquisition"
2 means the purchase, lease, exchange, conversion, restructuring,
3 merger, division, consolidation, transfer of control, or other
4 disposition of a substantial amount of assets or operations, whether
5 through a single transaction or series of transactions, with one or
6 more persons or entities.

7 This act shall not apply to a nonprofit hospital if the proposed
8 acquisition is in the usual and regular course of its activities and the
9 Attorney General has given the nonprofit hospital a written waiver
10 as to the proposed acquisition. As used in this section, a proposed
11 acquisition is not in the usual and regular course of a nonprofit
12 hospital's activities if it effects a fundamental corporate change that
13 involves transfer of ownership or control of charitable assets or a
14 change of the nonprofit hospital's mission or purpose.

15 a. (1) Within five working days of submitting an application
16 pursuant to this section, the nonprofit hospital shall publish a notice
17 of the proposed acquisition, in a form approved by the Attorney
18 General, in a newspaper of general circulation in the service area of
19 the hospital once per week for three weeks. The notice shall state
20 the names of the parties to the agreement, describe the contents of
21 the application to the Attorney General, and state the date by which
22 a person may submit written comments about the application to the
23 Attorney General.

24 (2) Within 30 days after receipt of an initial application, the
25 Attorney General shall advise the applicant in writing whether the
26 application is complete, and, if not, shall specify what additional
27 information is required.

28 (3) The Attorney General shall, upon receipt of the information
29 requested, notify the applicant in writing of the date of completion
30 of the application.

31 b. Within 90 days of the date of completion of the application,
32 the Attorney General, in consultation with the Commissioner of
33 Health [and Senior Services], shall review the application and
34 support the proposed acquisition, with or without any specific
35 modifications, or, if [he] the Attorney General finds that it is not in
36 the public interest, oppose the proposed acquisition. The Attorney
37 General or commissioner may, for good cause, extend the time for
38 review of an application submitted pursuant to this section.

39 The proposed acquisition shall not be considered to be in the
40 public interest unless the Attorney General determines that
41 appropriate steps have been taken to safeguard the value of the
42 charitable assets of the hospital and to ensure that any proceeds
43 from the proposed acquisition are irrevocably dedicated for
44 appropriate charitable health care purposes; and the Commissioner
45 of Health [and Senior Services] determines that the proposed
46 transaction is not likely to result in the deterioration of the quality,
47 availability or accessibility of health care services in the affected
48 communities.

1 c. In determining whether the acquisition meets the criteria of
2 subsection b. of this section, the Attorney General shall consider:

3 (1) Whether the acquisition is permitted under the "New Jersey
4 Nonprofit Corporation Act," Title 15A of the New Jersey Statutes,
5 and other applicable State statutes governing nonprofit entities,
6 trusts, or charities;

7 (2) Whether the nonprofit hospital exercised due diligence in
8 deciding to effectuate the acquisition, selecting the other party to
9 the acquisition and negotiating the terms and conditions of the
10 acquisition;

11 (3) The procedures used by the nonprofit hospital in making its
12 decision, including whether appropriate expert assistance was used;

13 (4) Whether conflict of interest was disclosed, including, but not
14 limited to, conflicts of interest related to board members of,
15 executives of and experts retained by the nonprofit hospital,
16 purchaser, or other parties to the acquisition;

17 (5) Whether any management contract under the acquisition is
18 for reasonable fair value;

19 (6) Whether the acquisition proceeds will be used for
20 appropriate charitable health care purposes consistent with the
21 nonprofit hospital's original purpose or for the support and
22 promotion of health care and whether the proceeds will be
23 controlled as charitable funds independently of the purchaser or
24 parties to the acquisition; and

25 (7) Any other criteria the Attorney General establishes by
26 regulation to determine whether the proposed acquisition is in the
27 public interest.

28 d. In determining whether an acquisition by any person or
29 entity other than a corporation organized in this State for charitable
30 purposes under Title 15A of the New Jersey Statutes meets the
31 criteria of subsection b. of this section, the Attorney General shall
32 consider, in addition to the criteria set forth in subsection c., the
33 following criteria:

34 (1) Whether the nonprofit hospital will receive full and fair
35 market value for its assets. The Attorney General may employ, at
36 the nonprofit hospital's expense, reasonably necessary expert
37 assistance in making this determination;

38 (2) Whether charitable funds are placed at unreasonable risk, if
39 the acquisition is financed in part by the nonprofit hospital;

40 (3) Whether a right of first refusal has been retained to
41 repurchase the assets by a successor nonprofit corporation or
42 foundation if, following the acquisition, the hospital is subsequently
43 sold to, acquired by or merged with another entity;

44 (4) Whether the nonprofit hospital established appropriate
45 criteria in deciding to pursue a conversion in relation to carrying out
46 its mission and purposes;

47 (5) Whether the nonprofit hospital considered the proposed
48 conversion as the only alternative or as the best alternative in
49 carrying out its mission and purposes;

1 (6) Whether the nonprofit hospital exercised due care in
2 assigning a value to the existing hospital and its charitable assets in
3 proceeding to negotiate the proposed conversion;

4 (7) Whether officers, directors, board members, or senior
5 management will receive future contracts in existing, new, or
6 affiliated hospitals or foundations; and

7 (8) Any other criteria the Attorney General establishes by
8 regulation to determine whether a proposed acquisition by any
9 person or entity other than a corporation organized in this State for
10 charitable purposes under Title 15A of the New Jersey Statutes is in
11 the public interest.

12 e. In his the Attorney General's review of the proposed
13 acquisition, the Attorney General may assess the entity proposing to
14 acquire the nonprofit hospital for reasonable costs related to the
15 review, as determined by the Attorney General to be necessary.
16 Reasonable costs may include expert review of the acquisition and a
17 process for educating the public about the acquisition and obtaining
18 public input.

19 f. The Attorney General and the Commissioner of Health and
20 Senior Services shall, during the course of the review pursuant to
21 this section, hold at least one public hearing in which any person
22 may file written comments and exhibits or appear and make a
23 statement. The public hearing may, if the Attorney General and
24 commissioner so agree, be conducted jointly. The commissioner
25 may satisfy the requirements of this subsection by conducting a
26 public hearing in conjunction with the certificate of need review
27 process pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.). The
28 Attorney General or the commissioner may subpoena additional
29 information or witnesses, including, but not limited to, information
30 about any transaction that is collateral to the proposed acquisition
31 and any related documents, require and administer oaths, require
32 sworn statements, take depositions and use related discovery
33 procedures for purposes of the hearing and at any time prior to
34 completing the review of the proposed acquisition.

35 The Attorney General shall make the information received
36 pursuant to this section, and the Department of Health and Senior
37 Services shall make any information in its records relating to the
38 proposed acquisition, available for inspection at no cost to the
39 public.

40 The public hearing shall be held no later than 60 days after the
41 date that an application from a nonprofit hospital is deemed
42 complete by the Attorney General. Public notice of the hearing
43 shall be provided at least two weeks in advance of the date of the
44 hearing.

45 g. In a proposed acquisition subject to review under subsection
46 d. of this section, the Attorney General, after consultation with the
47 principal parties to the transaction, shall make a determination as to
48 the amount of assets which the nonprofit hospital shall set aside as a

1 charitable obligation, based on the full and fair market value of the
2 hospital at the time of the proposed acquisition as determined by the
3 Attorney General.

4 h. Upon execution of a proposed acquisition subject to review
5 under subsection d. of this section, the amount determined by the
6 Attorney General to be set aside as a charitable obligation shall be
7 placed in a nonprofit charitable trust or one or more existing or
8 newly established tax-exempt charitable organizations operating
9 pursuant to 26 U.S.C. s. 501(c)(3). The charitable mission and
10 grant-making functions of any charitable entity that receives assets
11 pursuant to subsection g. of this section shall be dedicated to
12 serving the health care needs of the community historically served
13 by the predecessor nonprofit hospital. Any charitable entity that
14 receives assets pursuant to subsection g. of this section, the
15 directors, officers, and trustees of any such charitable entity, and the
16 assets of any such charitable entity, including any stock involved in
17 the acquisition, shall be independent of any influence or control by
18 the acquiring entity, its directors, officers, trustees, subsidiaries, or
19 affiliates.

20 (1) The governance of the charitable trust that results from the
21 acquisition or of any newly established charitable organization that
22 is to receive charitable assets pursuant to subsection g. of this
23 section shall be subject to review and approval by the Attorney
24 General. The governance of any existing charitable organization
25 that is to receive charitable assets pursuant to subsection g. of this
26 section shall be subject to review by the Attorney General. The
27 governance of the charitable trust or the charitable organization
28 shall be broadly based, and neither the trust or organization nor any
29 officer, director, or senior manager of the trust or organization shall
30 be affiliated with the acquiring entity and no officer, director, or
31 senior manager of the trust or organization shall be a full-time
32 employee of State government. No officer, director, or senior
33 manager of the trust or organization shall have been a director,
34 officer, agent, trustee, or employee of the nonprofit hospital during
35 the three years immediately preceding the effective date of the
36 acquisition, unless that person can demonstrate to the satisfaction of
37 the Attorney General that the person's assumption of the position of
38 officer, director, or senior manager of the trust or organization
39 would not constitute a breach of fiduciary duty or other conflict of
40 interest.

41 (2) The governing body of the charitable trust or organization
42 shall establish or demonstrate that it has in place, as the case may
43 be, a mechanism to avoid conflicts of interest and to prohibit grants
44 that benefit the board of directors and management of the acquiring
45 entity or its affiliates or subsidiaries.

46 (3) The governing body of the charitable trust or organization
47 shall provide the Attorney General with an annual report which
48 shall include an audited financial statement and a detailed
49 description of its grant-making and other charitable activities

1 related to its use of the charitable assets received pursuant to this
2 act. The annual report shall be made available to the public at both
3 the Attorney General's office and the office of the charitable trust or
4 organization. Nothing contained in this act shall affect the
5 obligations of an entity possessing endowment funds under
6 P.L.1975, c.26 (C.15:18-15 et seq.).

7 i. (1) The entity acquiring the nonprofit hospital, if determined
8 to be necessary by the Commissioner of Health [and Senior
9 Services], shall provide funds, in an amount determined by the
10 Commissioner of Health [and Senior Services], for the hiring by
11 the Department of Health [and Senior Services] of an independent
12 health care access monitor to monitor and report quarterly to the
13 Department of Health [and Senior Services] on community health
14 care access by the entity, including levels of uncompensated care
15 for indigent persons provided by the entity. The funding shall be
16 provided for three years after the date of the acquisition. The entity
17 acquiring the hospital shall provide the monitor with appropriate
18 access to the entity's records in order to enable the monitor to fulfill
19 this function.

20 To prevent the duplication of any information already reported
21 by the entity, the monitor shall, to the extent possible, utilize data
22 already provided by the entity to the Department of Health [and
23 Senior Services].

24 No personal identifiers shall be attached to any of the records
25 obtained by the monitor, and all such records shall be subject to the
26 privacy and confidentiality provisions of medical records provided
27 by law.

28 (2) Following the monitoring period, or in the event that no
29 monitoring period is established, if the Commissioner of Health
30 [and Senior Services] receives information indicating that the
31 acquiring entity is not fulfilling its commitment to the affected
32 service area pursuant to this act and determines that the information
33 is true, [he] the commissioner shall order the acquiring entity to
34 comply with a corrective action plan. The commissioner shall retain
35 oversight of the acquiring entity's obligations under the corrective
36 action plan for as long as necessary to ensure compliance with this
37 act.

38 j. The trustees and senior managers of the nonprofit hospital
39 are prohibited from investing in the acquiring entity for a period of
40 three years following the acquisition.

41 k. No director, officer, agent, trustee, or employee of the
42 nonprofit hospital shall benefit directly or indirectly from the
43 acquisition, including the receipt of any compensation directly
44 related to the proposed acquisition.

45 l. Upon completion by the Attorney General of the review of
46 the application required by this act, the nonprofit hospital shall
47 apply to the Superior Court for approval of the proposed
48 acquisition. In that proceeding, the Attorney General shall advise

1 the court as to whether [he] the Attorney General supports or
2 opposes the proposed acquisition, with or without any specific
3 modifications, and the basis for that position. Any person who filed
4 a written comment or exhibit or appeared and made a statement in
5 the public hearing held by the Attorney General pursuant to
6 subsection f. of this section shall be considered a party to the
7 proceeding, including consumers or community groups representing
8 the citizens of the State.

9 m. Notwithstanding the provisions of subsections a. and f. of
10 this section to the contrary, in the event that the Attorney General or
11 the Commissioner of Health [and Senior Services] determines that
12 a proposed acquisition should be considered on an expedited basis
13 in order to preserve the quality of health care provided to the
14 community, the Attorney General and the commissioner may
15 combine the public notice about the acquisition with the notice for a
16 public hearing as required in subsections a. and f., respectively, and
17 may reduce the period of time required for notice, as necessary. In
18 considering a proposed acquisition on an expedited basis, the
19 Attorney General and commissioner may agree to reduce the period
20 of time for review of a completed application to less than 90 days.

21 n. The Attorney General, in consultation with the
22 Commissioner of Health [and Senior Services], shall adopt
23 regulations pursuant to the "Administrative Procedure Act,"
24 P.L.1968, c.410, (C.52:14B-1 et seq.) to carry out the purposes of
25 this act.

26 (cf: P.L.2000, c.143, s.2)

27
28 174. Section 5 of P.L.2000, c.143 (C.26:2H-7.14) is amended to
29 read as follows:

30 5. Nothing in this act shall be construed to limit the existing
31 authority of the Attorney General, the Commissioner of Health [and
32 Senior Services], or any other government official or entity or the
33 court to review, approve or disapprove conditions related to an
34 acquisition, transaction, or disposition under current law.

35 (cf: P.L.2000, c.143, s.5)

36
37 175. Section 1 of P.L.1002, c.25 (C.26:2H-7.15) is amended to
38 read as follows:

39 1. As used in this act:

40 "Assisted living" means a coordinated array of supportive
41 personal and health services, available 24 hours per day, which
42 promote resident self-direction and participation in decisions that
43 emphasize independence, individuality, privacy, dignity, and
44 homelike surroundings to residents who have been assessed to need
45 these services, including residents who require formal long-term
46 care.

47 "Assisted living program" means the provision of or arrangement
48 for meals and assisted living services, when needed, to the residents

1 of publicly subsidized housing, which because of any federal, State,
2 or local housing laws, rules, regulation, or requirements cannot
3 become licensed as an assisted living residence.

4 "Assisted living residence" means a facility licensed by the
5 Department of Health [and Senior Services] to provide apartment-
6 style housing and congregate dining and to assure that assisted
7 living services are available when needed, for four or more adult
8 persons unrelated to the proprietor. Apartment units shall offer, at a
9 minimum, one unfurnished room, a private bathroom, a kitchenette,
10 and a lockable door on the unit entrance.

11 "Commissioner" means the Commissioner of Health [and Senior
12 Services].

13 (cf: P.L.2002, c.25, s.1)

14
15 176. Section 8 of P.L.2002, c.25 (C.26:2H-7.21) is amended to
16 read as follows:

17 8. The Commissioner of Health [and Senior Services],
18 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
19 (C.52:14B-1 et seq.) shall adopt rules and regulations to effectuate
20 the purposes of this act.

21 (cf: P.L.2002, c.25, s.8)

22
23 177. Section 1 of P.L.1982, c.149 (C.26:2H-11.1) is amended to
24 read as follows:

25 1. In the case of an application for a certificate of need or
26 initial licensure, as applicable, for a narcotic and drug abuse
27 treatment center to be located within 500 feet from any building in
28 this State used for the instruction of children between the ages of
29 five and 18 years, the applicant shall notify the governing body of
30 the municipality within which [he] the applicant proposes to locate
31 the treatment center of [his] the applicant's intention to apply for
32 the certificate of need or licensure and the proposed location of the
33 center. Documentation of [such] the notice shall be filed with the
34 certificate of need or license application. The Commissioner of
35 Health [and Senior Services] is hereby authorized to adopt
36 reasonable rules and regulations, in accordance with the provisions
37 of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
38 1 et seq.), to effectuate the purposes of this act. For the purposes of
39 this act, the definition of "narcotic and drug abuse treatment center"
40 shall be identical to the definition in subsection (a) of section 2 of
41 P.L.1970, c.334 (C.26:2G-22). This act shall not apply to any
42 [such] narcotic and drug abuse treatment center for which an
43 application was filed prior to the effective date of this act.

44 (cf: P.L.1998, c.43, s.11)

45
46 178. Section 3 of P.L.1989, c.300 (C.26:2H-12.2a) is amended
47 to read as follows:

1 3. a. A health care entity shall maintain all records of all
2 documented complaints of events related to patient care about, and
3 disciplinary proceedings or actions against, a health care
4 professional who is employed by or has an affiliation with the
5 health care entity. The health care entity shall retain the
6 information for a period of seven years and make the records,
7 including any information the health care entity has pertaining to
8 records maintained on the health care professional prior to the
9 effective date of P.L.1989, c.300 (C.45:9-19.4 et al.), available to
10 the division, the board which licenses or otherwise authorizes the
11 health care professional to practice, the Medical Practitioner
12 Review Panel established pursuant to section 8 of P.L.1989, c.300
13 (C.45:9-19.8), and the Department of Health [and Senior Services],
14 as applicable, upon request.

15 b. A health care entity shall maintain for a period of four years
16 all records and source data relating to its mortality, morbidity,
17 complication, infection, and readmission and shall make the records
18 available to the division, the board which licenses, or otherwise
19 authorizes the health care professional, the review panel and the
20 Department of Health [and Senior Services], as applicable, upon
21 request.

22 c. A health care entity which fails to maintain the records
23 required pursuant to this section shall be subject to such penalties as
24 the Department of Health [and Senior Services] shall determine
25 pursuant to sections 13 and 14 of P.L.1971, c.136 (C.26:2H-13 and
26 26:2H-14) and section 16 of P.L.1997, c.192 (C.26:2S-16), or the
27 director shall determine pursuant to P.L.1989, c.331 (C.34:8-43 et
28 seq.), as applicable.

29 (cf: P.L.2005, c.83, s.3)

30
31 179. Section 2 of P.L.2005, c.83 (C.26:2H-12.2b) is amended to
32 read as follows:

33 2. a. A health care entity shall notify the division in writing if a
34 health care professional who is employed by, under contract to
35 render professional services to, or has privileges granted by, that
36 health care entity, or who provides such services pursuant to an
37 agreement with a health care services firm or staffing registry:

38 (1) for reasons relating to the health care professional's
39 impairment, incompetency, or professional misconduct, which
40 incompetency or professional misconduct relates adversely to
41 patient care or safety: (a) has full or partial privileges summarily or
42 temporarily revoked or suspended, or permanently reduced,
43 suspended, or revoked; (b) has been removed from the list of
44 eligible employees of a health services firm or staffing registry; (c)
45 has been discharged from the staff; or (d) has had a contract to
46 render professional services terminated or rescinded;

47 (2) has conditions or limitations placed on the exercise of
48 clinical privileges or practice within the health care entity for
49 reasons relating to the health care professional's impairment,

1 incompetency, or professional misconduct or, which incompetency
2 or professional misconduct relates adversely to patient care or
3 safety, including, but not limited to, second opinion requirements,
4 non-routine concurrent or retrospective review of admissions or
5 care, non-routine supervision by one or more members of the staff,
6 or the completion of remedial education or training;

7 (3) voluntarily resigns from the staff if: (a) the health care entity
8 is reviewing the health care professional's patient care or reviewing
9 whether, based upon its reasonable belief, the health care
10 professional's conduct demonstrates an impairment or incompetence
11 or is unprofessional, which incompetence or unprofessional conduct
12 relates adversely to patient care or safety; or (b) the health care
13 entity, through any member of the medical or administrative staff,
14 has expressed an intention to do such a review;

15 (4) voluntarily relinquishes any partial privilege or authorization
16 to perform a specific procedure if: (a) the health care entity is
17 reviewing the health care professional's patient care or reviewing
18 whether, based upon its reasonable belief, the health care
19 professional's conduct demonstrates an impairment or incompetence
20 or is unprofessional, which incompetence or unprofessional conduct
21 relates adversely to patient care or safety; or (b) the health care
22 entity, through any member of the medical or administrative staff,
23 has expressed an intention to do such a review;

24 (5) while under, or subsequent to, a review by the health care
25 entity of the health care professional's patient care or professional
26 conduct is granted a leave of absence for reasons relating to a
27 physical, mental, or emotional condition or drug or alcohol use
28 which impairs the health care professional's ability to practice with
29 reasonable skill and safety, except that no report is required for
30 pregnancy-related leaves of absence or if the health care
31 professional has sought assistance from a professional assistance or
32 intervention program approved or designated by the division or a
33 board to provide confidential oversight of the health care
34 professional and is following the treatment regimen or monitoring
35 as that program requires; or

36 (6) is a party to a medical malpractice liability suit, to which the
37 health care entity is also a party, and in which there is a settlement,
38 judgment, or arbitration award.

39 As used in this subsection, incompetence, professional
40 misconduct, and unprofessional conduct shall not include personal
41 conduct, such as tardiness, insubordination, or other similar
42 behavior, which does not relate to patient care or safety.

43 b. A health care entity shall notify the division in writing if it is
44 in possession of information that indicates that a health care
45 professional has failed to comply with a request to seek assistance
46 from a professional assistance or intervention program approved or
47 designated by the division or a board to provide confidential
48 oversight of the health care professional, or has failed to follow the
49 treatment regimen or monitoring program required by that program

1 to assure that the health care professional's physical, mental, or
2 emotional condition or drug or alcohol use does not impair the
3 health care professional's ability to practice with reasonable skill
4 and safety.

5 c. A health care entity shall notify the division in writing if any
6 health care professional who has been the subject of a report
7 pursuant to this section, has had conditions or limitations on the
8 exercise of clinical privileges or practice within the health care
9 entity altered, or privileges restored, or has resumed exercising
10 clinical privileges that had been voluntarily relinquished.

11 d. In the case of a health care professional who is providing
12 services at a health care entity pursuant to an agreement with a
13 health care services firm or staffing agency and is the subject of a
14 notice pursuant to this section, the health care entity shall, when it
15 submits a notice to the division concerning that health care
16 professional, provide a copy of the notice to the health care services
17 firm or staffing agency.

18 e. The form of notification shall be prescribed by the
19 Commissioner or Health [and Senior Services], in consultation
20 with the Commissioner of Human Services in the case of
21 psychiatric facilities and developmental centers, and shall contain
22 such information as may be required by the division and shall be
23 made within seven days of the date of the action, settlement,
24 judgment, or award.

25 f. A health care entity which fails to provide such notice to the
26 division or fails to cooperate with a request for information by the
27 division, the board or the Medical Practitioner Review Panel
28 established pursuant to section 8 of P.L.1989, c.300 (C.45:9-19.8)
29 shall be subject to such penalties as the Department of Health [and
30 Senior Services] may determine pursuant to sections 13 and 14 of
31 P.L.1971, c.136 (C.26:2H-13 and 26:2H-14).

32 g. A health care entity, or any employee thereof, which
33 provides information to the division, the board, the Medical
34 Practitioner Review Panel, a health care services firm or staffing
35 agency, or the Department of Health [and Senior Services], in good
36 faith and without malice, regarding a health care professional
37 pursuant to the provisions of this section or section 3 of P.L.1989,
38 c.300 (C.26:2H-12.2a), is not liable for civil damages in any cause
39 of action arising out of the provision or reporting of the
40 information.

41 h. A health care entity shall provide the health care
42 professional who is the subject of a notice pursuant to paragraphs
43 (1), (2), (4), and (5) of subsection a. of this section and subsection
44 c. of this section with a copy of the notice provided to the division,
45 when the health care entity submits the notice to the division.

46 i. For the purposes of this section, section 3 of P.L.1989, c.300
47 (C.26:2H-12.2a) and section 15 of P.L.2005, c.83 (C.26:2H-12.2c):

1 "Board" means a professional and occupational licensing board
2 within the Division of Consumer Affairs in the Department of Law
3 and Public Safety which licenses or otherwise authorizes a health
4 care professional to practice a health care profession.

5 "Division" means the Division of Consumer Affairs in the
6 Department of Law and Public Safety.

7 "Health care entity" means a health care facility licensed
8 pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), a health
9 maintenance organization authorized to operate pursuant to
10 P.L.1973, c.337 (C.26:2J-1 et seq.), a carrier which offers a
11 managed care plan regulated pursuant to P.L.1997, c.192 (C.26:2S-
12 1 et seq.), a State or county psychiatric hospital, a State
13 developmental center, a staffing registry, and a home care services
14 agency as defined in section 1 of P.L.1947, c.262 (C.45:11-23).

15 "Health care professional" means a person licensed or otherwise
16 authorized pursuant to Title 45 or Title 52 of the Revised Statutes to
17 practice a health care profession that is regulated by the Director of
18 the Division of Consumer Affairs or by one of the following boards:
19 the State Board of Medical Examiners, the New Jersey Board of
20 Nursing, the New Jersey State Board of Dentistry, the New Jersey
21 State Board of Optometrists, the New Jersey State Board of
22 Pharmacy, the State Board of Chiropractic Examiners, the
23 Acupuncture Examining Board, the State Board of Physical
24 Therapy, the State Board of Respiratory Care, the Orthotics and
25 Prosthetics Board of Examiners, the State Board of Psychological
26 Examiners, the State Board of Social Work Examiners, the State
27 Board of Veterinary Medical Examiners, the State Board of
28 Examiners of Ophthalmic Dispensers and Ophthalmic Technicians,
29 the Audiology and Speech-Language Pathology Advisory
30 Committee, the State Board of Marriage and Family Therapy
31 Examiners, the Occupational Therapy Advisory Council and the
32 Certified Psychoanalysts Advisory Committee. "Health care
33 professional" also includes a nurse aide and a personal care
34 assistant certified by the Department of Health [and Senior
35 Services].

36 (cf: P.L.2005, c.83, s.2)

37
38 180. Section 15 of P.L.2005, c.83 (C.26:2H-12.2c) is amended to
39 read as follows:

40 15. a. A health care entity, upon the inquiry of another health
41 care entity, shall truthfully:

42 (1) disclose whether, within the seven years preceding the
43 inquiry, it provided any notice to the division pursuant to section 2
44 of P.L.2005, c.83 (C.26:2H-12.2b), or to the review panel, as
45 required by section 3 of P.L.1989, c.300 (C.26:2H-12.2a), with
46 respect to the health care professional about whom the inquiry has
47 been made, providing a copy of the form of notification and any
48 supporting documentation that was provided to the division, a
49 professional or occupational licensing board in the Division of

1 Consumer Affairs in the Department of Law and Public Safety, or
2 the review panel; and

3 (2) provide information about a current or former employee's
4 job performance as it relates to patient care, as provided in this
5 section, and, in the case of a former employee, the reason for the
6 employee's separation.

7 b. For the purposes of this section, "job performance" shall
8 relate to the suitability of the employee for re-employment at a
9 health care entity, and the employee's skills and abilities as they
10 relate to suitability for future employment at a health care entity.
11 Information about a current or former employee's job performance
12 pursuant to this paragraph shall be based on the employee's
13 performance evaluation, and provided to another health care entity
14 only if: (1) the evaluation has been signed by the evaluator and
15 shared with the employee; (2) the employee has had the opportunity
16 to respond; and (3) the employee's response, if any, has been taken
17 into consideration when providing the information to another health
18 care entity.

19 Job performance as it relates to patient care shall not include the
20 current or former employee's participation in labor activities
21 pursuant to the "National Labor Relations Act," 29 U.S.C. s.151 et
22 seq.

23 c. A health care entity, or any employee designated by the
24 entity, which, pursuant to this section, provides information in good
25 faith and without malice to another health care entity concerning a
26 health care professional, including information about a current or
27 former employee's job performance as it relates to patient care, is
28 not liable for civil damages in any cause of action arising out of the
29 provision or reporting of the information.

30 d. A health care entity which fails to truthfully disclose
31 information to another health care entity making an inquiry
32 pursuant to this section or fails to cooperate with such request for
33 information by the other health care entity shall be subject to such
34 penalties as the Department of Health [and Senior Services] may
35 determine pursuant to sections 13 and 14 of P.L.1971, c.136
36 (C.26:2H-13 and 26:2H-14) and section 16 of P.L.1997, c.192
37 (C.26:2S-16), or the director shall determine pursuant to P.L.1989,
38 c.331 (C.34:8-43 et seq.), as applicable.
39 (cf: P.L.2005, c.83, s.15)

40

41 181. Section 1 of P.L.1998, c.136 (C.26:2H-12.6a) is amended
42 to read as follows:

43 1. a. The Department of Children and Families, in consultation
44 with the Department of Health [and Senior Services], shall prepare
45 a resource guide in both English and Spanish which provides
46 information on child abuse and neglect to all parents of newborn
47 infants born in this State. The resource guide shall be distributed to
48 each parent present during the infant's birth, by the personnel at a

1 hospital or birthing facility, prior to the mother's discharge, as part
2 of the hospital or birthing facility's discharge procedures.

3 b. The resource guide shall include information on the signs of
4 child abuse and neglect, the services provided by the State which
5 help in preventing child abuse and neglect, including the
6 availability of home visitation resources, the legal ramifications of
7 abusing or neglecting a child, and tips on child safety.

8 c. The department shall distribute the resource guide, at no
9 charge, to all the hospitals and birthing facilities in the State. The
10 department shall update the resource guide as necessary, and shall
11 make additional copies of the resource guide available to health
12 care providers upon request.

13 d. In addition to the resource guide prepared pursuant to
14 subsection a. of this section, the department, in consultation with
15 the Department of Health [and Senior Services], shall prepare a
16 pamphlet in both English and Spanish that includes information on
17 the prevention of shaken baby syndrome and detailed suggestions
18 for how to cope with a crying baby. The pamphlet shall be
19 distributed to each parent present during the infant's birth, by the
20 personnel at a hospital or birthing facility, prior to the mother's
21 discharge, as part of the hospital or birthing facility's discharge
22 procedures. The department shall: distribute the pamphlet, at no
23 charge, to all hospitals and birthing facilities in the State; update the
24 pamphlet as necessary; and make additional copies of the pamphlet
25 available to health care providers upon request.

26 (cf: P.L.2010, c.67, s.1)

27

28 182. Section 1 of P.L.2005, c.50 (C.26:2H-12.6b) is amended to
29 read as follows:

30 1. As used in this act:

31 "Commissioner" means the Commissioner of Health [and Senior
32 Services].

33 "Division on Women" means the Division on Women in the
34 Department of Community Affairs.

35 "Emergency care to sexual assault victims" means a medical
36 examination, procedure, or service provided by an emergency
37 health care facility to a sexual assault victim following an alleged
38 sexual offense.

39 "Emergency contraception" means one or more prescription
40 drugs to prevent pregnancy, used separately or in combination,
41 administered to or self-administered by a patient within a medically
42 recommended time after sexual intercourse, dispensed for that
43 purpose in accordance with professional standards of practice and
44 determined to be safe by the United States Food and Drug
45 Administration.

46 "Emergency health care facility" means a general hospital or
47 satellite emergency department licensed pursuant to P.L.1971, c.136
48 (C.26:2H-1 et seq.).

1 "Medically and factually accurate and objective" means verified
2 or supported by the weight of research conducted in compliance
3 with accepted scientific methods and standards, published in peer-
4 reviewed journals and recognized as accurate and objective by
5 leading professional organizations and agencies with relevant
6 expertise in the field of obstetrics and gynecology.

7 "Sexual Assault Nurse Examiner program" means the Statewide
8 Sexual Assault Nurse Examiner program in the Division of
9 Criminal Justice in the Department of Law and Public Safety,
10 established pursuant to P.L.2001, c.81 (C.52:4B-50 et seq.).

11 "Sexual assault victim" means a female who alleges or is alleged
12 to have suffered a personal, physical, or psychological injury as a
13 result of a sexual offense.

14 "Sexual offense" means sexual assault and aggravated sexual
15 assault as set forth in N.J.S.2C:14-2, criminal sexual contact and
16 aggravated criminal sexual contact as set forth in N.J.S.2C:14-3,
17 fourth degree lewdness as set forth in subsection b. of N.J.S.2C:14-
18 4 and endangering the welfare of a child by engaging in sexual
19 conduct which would impair or debauch the morals of the child as
20 set forth in N.J.S.2C:24-4.

21 (cf: P.L.2005, c.50, s.1)

22

23 183. Section 2 of P.L.1989, c.170 (C.26:2H-12.8) is amended to
24 read as follows:

25 2. Every person admitted to a general hospital as licensed by
26 the [State] Department of Health [and Senior Services] pursuant to
27 P.L.1971, c.136 (C.26:2H-1 et al.) shall have the right:

28 a. To considerate and respectful care consistent with sound
29 nursing and medical practices, which shall include being informed
30 of the name and licensure status of a student nurse or facility staff
31 member who examines, observes, or treats the patient and the right
32 to expect and receive appropriate assessment, management, and
33 treatment of pain as an integral component of that person's care;

34 b. To be informed of the name of the physician responsible for
35 coordinating his care;

36 c. To obtain from the physician complete, current information
37 concerning his diagnosis, treatment, and prognosis in terms he can
38 reasonably be expected to understand. When it is not medically
39 advisable to give this information to the patient, it shall be made
40 available to another person designated by the patient on his behalf;

41 d. To receive from the physician information necessary to give
42 informed consent prior to the start of any procedure or treatment
43 and which, except for those emergency situations not requiring an
44 informed consent, shall include as a minimum the specific
45 procedure or treatment, the medically significant risks involved, and
46 the possible duration of incapacitation, if any, as well as an
47 explanation of the significance of the patient's informed consent.
48 The patient shall be advised of any medically significant
49 alternatives for care or treatment, however, this does not include

- 1 experimental treatments that are not yet accepted by the medical
2 establishment;
- 3 e. To refuse treatment to the extent permitted by law and to be
4 informed of the medical consequences of this act;
- 5 f. To privacy to the extent consistent with providing adequate
6 medical care to the patient. This shall not preclude discussion of a
7 patient's case or examination of a patient by appropriate health care
8 personnel;
- 9 g. To privacy and confidentiality of all records pertaining to
10 **[his]** the patient's treatment, except as otherwise provided by law
11 or third party payment contract, and to access to those records,
12 including receipt of a copy thereof at reasonable cost, upon request,
13 unless **[his]** the patient's physician states in writing that access by
14 the patient is not medically advisable;
- 15 h. To expect that within its capacity, the hospital will make
16 reasonable response to **[his]** the patient's request for services,
17 including the services of an interpreter in a language other than
18 English if 10% or more of the population in the hospital's service
19 area speaks that language;
- 20 i. To be informed by **[his]** the patient's physician of any
21 continuing health care requirements which may follow discharge
22 and to receive assistance from the physician and appropriate
23 hospital staff in arranging for required follow-up care after
24 discharge;
- 25 j. To be informed by the hospital of the necessity of transfer to
26 another facility prior to the transfer and of any alternatives to it
27 which may exist, which transfer shall not be effected unless it is
28 determined by the physician to be medically necessary;
- 29 k. To be informed, upon request, of other health care and
30 educational institutions that the hospital has authorized to
31 participate in his treatment;
- 32 l. To be advised if the hospital proposes to engage in or
33 perform human research or experimentation and to refuse to
34 participate in these projects. For the purposes of this subsection
35 "human research" does not include the mere collecting of statistical
36 data;
- 37 m. To examine and receive an explanation of **[his]** the patient's
38 bill, regardless of source of payment, and to receive information or
39 be advised on the availability of sources of financial assistance to
40 help pay for the patient's care, as necessary;
- 41 n. To expect reasonable continuity of care;
- 42 o. To be advised of the hospital rules and regulations that apply
43 to his conduct as a patient;
- 44 p. To treatment without discrimination as to race, age, religion,
45 sex, national origin, or source of payment; and
- 46 q. To contract directly with a New Jersey licensed registered
47 professional nurse of the patient's choosing for private professional
48 nursing care during his hospitalization. A registered professional

1 nurse so contracted shall adhere to hospital policies and procedures
2 in regard to treatment protocols and policies and procedures so long
3 as those policies and procedures are the same for private duty and
4 regularly employed nurses. The registered professional nurse shall
5 not be considered an agent or employee of the hospital for purposes
6 of any financial liabilities, including, but not limited to, State or
7 federal employee taxes, worker's compensation payments or
8 coverage for professional liability.

9 The hospital, upon a patient's or **[his]** the patient's designee's
10 request for private professional nursing care, shall provide the
11 patient or **[his]** the patient's designee with a list of local nonprofit
12 professional nurses association registries that refer nurses for
13 private professional nursing care.

14 (cf: P.L.2000, c.65, s.1)
15

16 184. Section 14 of P.L.1999, c.154 (C.26:2H-12.12) is amended
17 to read as follows:

18 14. Effective 12 months after the adoption of regulations
19 establishing standard health care enrollment and claim forms by the
20 Commissioner of Banking and Insurance pursuant to section 1 of
21 P.L.1999, c.154 (C.17B:30-23), a health care facility licensed
22 pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) is responsible for
23 filing all claims for third party payment, including claims filed on
24 behalf of the health care facility's patient for any health care service
25 provided by the health care facility that is eligible for third party
26 payment, except that at the patient's option, the patient may file the
27 claim for third party payment.

28 a. In the case of a claim filed on behalf of the health care
29 facility's patient, the health care facility shall file the claim within
30 60 days of the last date of service for a course of treatment, on the
31 standard claim form adopted by the Commissioner of Banking and
32 Insurance pursuant to section 1 of P.L.1999, c.154 (C.17B:30-23).

33 b. In the case of a claim in which the patient has assigned **[his]**
34 the patient's benefits to the health care facility, the health care
35 facility shall file the claim within 180 days of the last date of
36 service for a course of treatment, on the standard claim form
37 adopted by the Commissioner of Banking and Insurance pursuant to
38 section 1 of P.L.1999, c.154 (C.17B:30-23). If the health care
39 facility does not file the claim within 180 days of the last date of
40 service for a course of treatment, the third party payer shall reserve
41 the right to deny payment of the claim, in accordance with
42 regulations established by the Commissioner of Banking and
43 Insurance, and the health care facility shall be prohibited from
44 seeking any payment directly from the patient.

45 (1) In establishing the standards for denial of payment, the
46 Commissioner of Banking and Insurance shall consider the length
47 of delay in filing the claim, the good faith use of information
48 provided by the patient to the health care facility with respect to the
49 identity of the patient's third party payer, delays in filing a claim

1 related to coordination of benefits between third party payers and
2 any other factors the commissioner deems appropriate, and,
3 accordingly, shall define specific instances where the sanctions
4 permitted pursuant to this subsection shall not apply.

5 (2) A health care facility which fails to file a claim within 180
6 days and whose claim for payment has been denied by the third
7 party payer in accordance with this subsection may, in the
8 discretion of a judge of the Superior Court, be permitted to refile
9 the claim if the third party payer has not been substantially
10 prejudiced thereby. Application to the court for permission to refile
11 a claim shall be made within 14 days of notification of denial of
12 payment and shall be made upon motion based upon affidavits
13 showing sufficient reasons for the failure to file the claim with the
14 third party payer within 180 days.

15 c. The provisions of this section shall not apply to any claims
16 filed pursuant to P.L.1972, c.70 (C.39:6A-1 et seq.).

17 d. A health care facility which violates the provisions of
18 subsection a. of this section may be subject to a civil penalty of
19 \$250 for each violation plus \$50 for each day after the 60th day that
20 the health care facility fails to submit a claim. The penalty shall be
21 sued for and collected by the Department of Health [and Senior
22 Services] pursuant to ["the penalty enforcement law," N.J.S.2A:58-
23 1 et seq.] the "Penalty Enforcement Law of 1999," P.L.1999, c.274
24 (C.2A:58-10 et seq.).
25 (cf: PL.1999, c.154, s.14)
26

27 185. Section 3 of P.L.1999, c.362 (C.26:2H-12.13) is amended
28 to read as follows:

29 3. a. The owner or operator of a general hospital who is
30 required to prepare a Consumer Confidence Report pursuant to the
31 "Safe Drinking Water Act Amendments of 1996," 42 U.S.C.s.300f et
32 al., or who receives a Consumer Confidence Report from the owner
33 or operator of a public community water system, shall post each
34 Consumer Confidence Report it prepares or receives in the area of
35 each major entrance and in each admitting room in the hospital.

36 b. The owner or operator of a general hospital who is a supplier
37 of water but is not required to prepare a Consumer Confidence
38 Report pursuant to the "Safe Drinking Water Act Amendments of
39 1996," and who is required to conduct tests of its drinking water by
40 the Department of Environmental Protection, shall post a chart
41 setting forth the results of the water tests, including the level of
42 detection and, as appropriate for each contaminant, the maximum
43 contaminant level, highest level allowed, action level, treatment
44 technique, or other expression of an acceptable level, for each
45 contaminant, in the area of each major entrance and in each
46 admitting room in the general hospital. The chart also shall include
47 in bold print the statement required to be included in a Consumer
48 Confidence Report pursuant to 40 CFR s.141.154(a). The chart
49 shall not include contaminants that are not detected.

1 c. As used in this section, "general hospital" shall mean any
2 general hospital licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et
3 seq.).

4 d. The provisions of this section shall be enforced by the
5 Department of Health **[and Senior Services]**. The Department of
6 Health **[and Senior Services]** shall not be required to conduct on-
7 site inspections to determine compliance with this section more
8 frequently than any on-site inspections of general hospitals are
9 conducted by the department pursuant to any other law.

10 (cf: P.L.1999, c.362, s.3)

11
12 186. Section 4 of P.L.1999, c.362 (C.26:2H-12.14) is amended
13 to read as follows:

14 4. a. The owner or operator of a rehabilitation center, extended
15 care facility, skilled nursing home, or nursing home who is required
16 to prepare a Consumer Confidence Report pursuant to the "Safe
17 Drinking Water Act Amendments of 1996," 42 U.S.C.s.300f et al.,
18 or who receives a Consumer Confidence Report from the owner or
19 operator of a public community water system, shall post each
20 Consumer Confidence Report it prepares or receives in at least one
21 conspicuous location in the rehabilitation center, extended care
22 facility, skilled nursing home, or nursing home.

23 b. The owner or operator of a rehabilitation center, extended
24 care facility, skilled nursing home, or nursing home who is a
25 supplier of water but is not required to prepare a Consumer
26 Confidence Report pursuant to the "Safe Drinking Water Act
27 Amendments of 1996," and who is required to conduct tests of its
28 drinking water by the Department of Environmental Protection,
29 shall post a chart setting forth the results of the water tests,
30 including the level of detection and, as appropriate for each
31 contaminant, the maximum contaminant level, highest level
32 allowed, action level, treatment technique, or other expression of an
33 acceptable level, for each contaminant, in at least one conspicuous
34 location in the rehabilitation center, extended care facility, skilled
35 nursing home, or nursing home. The chart also shall include in bold
36 print the statement required to be included in a Consumer
37 Confidence Report pursuant to 40 CFR s.141.154(a). The chart shall
38 not include contaminants that are not detected.

39 c. As used in this section, "rehabilitation center," "extended
40 care facility," "skilled nursing home," and "nursing home" shall
41 mean a rehabilitation center, extended care facility, skilled nursing
42 home, or nursing home licensed pursuant to P.L.1971, c.136
43 (C.26:2H-1 et seq.).

44 d. The provisions of this section shall be enforced by the
45 Department of Health **[and Senior Services]**. The Department of
46 Health **[and Senior Services]** shall not be required to conduct on-
47 site inspections to determine compliance with this section more
48 frequently than any on-site inspections of rehabilitation centers,

1 extended care facilities, skilled nursing homes, or nursing homes
2 are conducted by the department pursuant to any other law.
3 (cf: P.L.1999, c.362, s.4)
4

5 187. Section 2 of P.L.1999, c.436 (C.26:2H-12.15) is amended
6 to read as follows:

7 2. a. The Commissioner of Health **[and Senior Services]**,
8 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
9 (C.52:14B-1 et seq.), shall adopt regulations governing the use of
10 unlicensed assistive personnel in licensed health care facilities, in
11 consultation with at least the following: the Director of the Division
12 of Consumer Affairs in the Department of Law and Public Safety,
13 the New Jersey Hospital Association, the New Jersey Association of
14 Health Care Facilities, the Medical Society of New Jersey, and the
15 New Jersey State Nurses Association.

16 As used in this section, "unlicensed assistive personnel" means
17 any unlicensed or uncertified personnel employed by a licensed
18 health care facility that perform nursing tasks which do not require
19 the skill or judgment of a registered professional nurse and which
20 are assigned to them by, and carried out under the supervision of, a
21 registered professional nurse.

22 b. The regulations adopted pursuant to subsection a. of this
23 section, shall require, at a minimum, that:

24 (1) unlicensed assistive personnel employed by a health care
25 facility meet the standards and requirements for education and
26 competency evaluation prescribed by the New Jersey Board of
27 Nursing pursuant to paragraph (26) of subsection d. of section 2 of
28 P.L.1947, c.262 (C.45:11-24); and

29 (2) a health care facility, prior to implementing the use of
30 unlicensed assistive personnel, establish a multidisciplinary
31 committee, including representation from registered professional
32 nurses, physicians, administrative staff, and unlicensed assistive
33 personnel, to evaluate the need for using these personnel, formulate
34 and adopt a plan to implement their use, and monitor the
35 implementation of the plan.

36 c. The plan for implementing the use of unlicensed assistive
37 personnel pursuant to paragraph (2) of subsection b. of this section
38 shall, at a minimum:

39 (1) require the use and specify the composition of
40 multidisciplinary patient care teams operating under the plan;

41 (2) prescribe materials and protocols for the orientation and
42 training of health care facility staff with respect to implementing
43 the plan;

44 (3) provide for the periodic monitoring and evaluation of the use
45 of unlicensed assistive personnel by the multidisciplinary
46 committee established pursuant to subsection b. of this section; and

47 (4) require in-service training and educational programming for
48 both registered professional nurses and unlicensed assistive
49 personnel which include subject matter relating to the delegation of

1 nursing tasks to unlicensed assistive personnel and the supervision
2 of these personnel by registered professional nurses.
3 (cf: P.L.1999, c.436, s.2)

4
5 188. Section 2 of P.L.2001, c.234 (C.26:2H-12.17) is amended
6 to read as follows:

7 2. The Commissioner of Health **[and Senior Services]** may
8 waive the 10% utilization requirement or reduce the required
9 percentage by regulation for specific regions of the State or
10 Statewide if **[he]** the commissioner determines that sufficient
11 numbers of assisted living beds are available in the State to meet the
12 needs of Medicaid-eligible persons within the limits of the federal
13 waiver to provide assisted living services through the Medicaid
14 program.
15 (cf: P.L.2001, c.234, s.2)

16
17 189. Section 6 of P.L.2001, c.234 (C.26:2H-12.21) is amended
18 to read as follows:

19 6. The Commissioner of Health **[and Senior Services]** shall
20 adopt regulations pursuant to the "Administrative Procedure Act,"
21 P.L.1968, c.410 (C.52:14B-1 et seq.) necessary to carry out the
22 purposes of this act.
23 (cf: P.L.2001, c.234, s.6)

24
25 190. Section 3 of P.L.2004, c.9 (C.26:2H-12.25) is amended to
26 read as follows:

27 3. a. As used in this act:

28 "Adverse event" means an event that is a negative consequence
29 of care that results in unintended injury or illness, which may or
30 may not have been preventable.

31 "Anonymous" means that information is presented in a form and
32 manner that prevents the identification of the person filing the
33 report.

34 "Commissioner" means the Commissioner of Health **[and Senior
35 Services]**.

36 "Department" means the Department of Health **[and Senior
37 Services]**.

38 "Event" means a discrete, auditable, and clearly defined
39 occurrence.

40 "Health care facility" or "facility" means a health care facility
41 licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) and a State
42 psychiatric hospital operated by the Department of Human Services
43 and listed in R.S.30:1-7.

44 "Health care professional" means an individual who, acting
45 within the scope of **[his]** the individual's licensure or certification,
46 provides health care services, and includes, but is not limited to, a
47 physician, dentist, nurse, pharmacist, or other health care

1 professional whose professional practice is regulated pursuant to
2 Title 45 of the Revised Statutes.

3 "Near-miss" means an occurrence that could have resulted in an
4 averse event but the adverse event was prevented.

5 "Preventable event" means an event that could have been
6 anticipated and prepared against, but occurs because of an error or
7 other system failure.

8 "Serious preventable adverse event" means an adverse event that
9 is a preventable event and results in death or loss of a body part, or
10 disability or loss of bodily function lasting more than seven days or
11 still present at the time of discharge from a health care facility.

12 b. In accordance with the requirements established by the
13 commissioner by regulation, pursuant to this act, a health care
14 facility shall develop and implement a patient safety plan for the
15 purpose of improving the health and safety of patients at the
16 facility.

17 The patient safety plan shall, at a minimum, include:

18 (1) a patient safety committee, as prescribed by regulation;

19 (2) a process for teams of facility staff, which teams are
20 comprised of personnel who are representative of the facility's
21 various disciplines and have appropriate competencies, to conduct
22 ongoing analysis and application of evidence-based patient safety
23 practices in order to reduce the probability of adverse events
24 resulting from exposure to the health care system across a range of
25 diseases and procedures;

26 (3) a process for teams of facility staff, which teams are
27 comprised of personnel who are representative of the facility's
28 various disciplines and have appropriate competencies, to conduct
29 analyses of near-misses, with particular attention to serious
30 preventable adverse events and adverse events; and

31 (4) a process for the provision of ongoing patient safety training
32 for facility personnel.

33 The provisions of this subsection shall not be construed to
34 eliminate or lessen a hospital's obligation under current law or
35 regulation to have a continuous quality improvement program.

36 c. A health care facility shall report to the department or, in the
37 case of a State psychiatric hospital, to the Department of Human
38 Services, in a form and manner established by the commissioner,
39 every serious preventable adverse event that occurs in that facility.

40 d. A health care facility shall assure that the patient affected by
41 a serious preventable adverse event or an adverse event specifically
42 related to an allergic reaction, or, in the case of a minor or a patient
43 who is incapacitated, the patient's parent or guardian or other
44 family member, as appropriate, is informed of the serious
45 preventable adverse event or adverse event specifically related to an
46 allergic reaction, no later than the end of the episode of care, or, if
47 discovery occurs after the end of the episode of care, in a timely
48 fashion as established by the commissioner by regulation. The time,
49 date, participants, and content of the notification shall be

1 documented in the patient's medical record in accordance with rules
2 and regulations adopted by the commissioner. The content of the
3 documentation shall be determined in accordance with the rules and
4 regulations of the commissioner. If the patient's physician
5 determines that the disclosure would seriously and adversely affect
6 the patient's health, then the facility shall assure that the family
7 member, if available, is notified in accordance with rules and
8 regulations adopted by the commissioner. In the event that an adult
9 patient is not informed of the serious preventable adverse event or
10 adverse event specifically related to an allergic reaction, the facility
11 shall assure that the physician includes a statement in the patient's
12 medical record that provides the reason for not informing the
13 patient pursuant to this section.

14 e. (1) A health care professional or other employee of a health
15 care facility is encouraged to make anonymous reports to the
16 department or, in the case of a State psychiatric hospital, to the
17 Department of Human Services, in a form and manner established
18 by the commissioner, regarding near-misses, preventable events,
19 and adverse events that are otherwise not subject to mandatory
20 reporting pursuant to subsection c. of this section.

21 (2) The commissioner shall establish procedures for and a
22 system to collect, store, and analyze information voluntarily
23 reported to the department pursuant to this subsection. The
24 repository shall function as a clearinghouse for trend analysis of the
25 information collected pursuant to this subsection.

26 f. Any documents, materials, or information received by the
27 department, or the Department of Human Services, as applicable,
28 pursuant to the provisions of subsections c. and e. of this section
29 concerning serious preventable adverse events, near-misses,
30 preventable events, and adverse events that are otherwise not
31 subject to mandatory reporting pursuant to subsection c. of this
32 section, shall not be:

33 (1) subject to discovery or admissible as evidence or otherwise
34 disclosed in any civil, criminal, or administrative action or
35 proceeding;

36 (2) considered a public record under P.L.1963, c.73 (C.47:1A-1
37 et seq.) or P.L.2001, c.404 (C.47:1A-5 et al.); or

38 (3) used in an adverse employment action or in the evaluation of
39 decisions made in relation to accreditation, certification,
40 credentialing, or licensing of an individual, which is based on the
41 individual's participation in the development, collection, reporting
42 or storage of information in accordance with this section. The
43 provisions of this paragraph shall not be construed to limit a health
44 care facility from taking disciplinary action against a health care
45 professional in a case in which the professional has displayed
46 recklessness, gross negligence, or willful misconduct, or in which
47 there is evidence, based on other similar cases known to the facility,
48 of a pattern of significant substandard performance that resulted in
49 serious preventable adverse events.

1 The information received by the department, or the Department
2 of Human Services, as applicable, shall be shared with the Attorney
3 General in accordance with rules and regulations adopted pursuant
4 to subsection j. of this section, and may be used by the department,
5 the Department of Human Services, and the Attorney General for
6 the purposes of this act and for oversight of facilities and health
7 care professionals; however, the departments and the Attorney
8 General shall not use the information for any other purpose.

9 In using the information to exercise oversight, the department,
10 Department of Human Services, and Attorney General, as
11 applicable, shall place primary emphasis on assuring effective
12 corrective action by the facility or health care professional,
13 reserving punitive enforcement or disciplinary action for those
14 cases in which the facility or the professional has displayed
15 recklessness, gross negligence, or willful misconduct, or in which
16 there is evidence, based on other similar cases known to the
17 department, Department of Human Services or the Attorney
18 General, of a pattern of significant substandard performance that
19 has the potential for or actually results in harm to patients.

20 g. Any documents, materials, or information developed by a
21 health care facility as part of a process of self-critical analysis
22 conducted pursuant to subsection b. of this section concerning
23 preventable events, near-misses, and adverse events, including
24 serious preventable adverse events, and any document or oral
25 statement that constitutes the disclosure provided to a patient or the
26 patient's family member or guardian pursuant to subsection d. of
27 this section, shall not be:

28 (1) subject to discovery or admissible as evidence or otherwise
29 disclosed in any civil, criminal, or administrative action or
30 proceeding; or

31 (2) used in an adverse employment action or in the evaluation of
32 decisions made in relation to accreditation, certification,
33 credentialing, or licensing of an individual, which is based on the
34 individual's participation in the development, collection, reporting,
35 or storage of information in accordance with subsection b. of this
36 section. The provisions of this paragraph shall not be construed to
37 limit a health care facility from taking disciplinary action against a
38 health care professional in a case in which the professional has
39 displayed recklessness, gross negligence or **【wilful】** willful
40 misconduct, or in which there is evidence, based on other similar
41 cases known to the facility, of a pattern of significant substandard
42 performance that resulted in serious preventable adverse events.

43 h. Notwithstanding the fact that documents, materials, or
44 information may have been considered in the process of self-critical
45 analysis conducted pursuant to subsection b. of this section, or
46 received by the department or the Department of Human Services
47 pursuant to the provisions of subsection c. or e. of this section, the
48 provisions of this act shall not be construed to increase or decrease,
49 in any way, the availability, discoverability, admissibility, or use of

1 any such documents, materials, or information if obtained from any
2 source or context other than those specified in this act.

3 i. The investigative and disciplinary powers conferred on the
4 boards and commissions established pursuant to Title 45 of the
5 Revised Statutes, the Director of the Division of Consumer Affairs
6 in the Department of Law and Public Safety and the Attorney
7 General under the provisions of P.L.1978, c.73 (C.45:1-14 et seq.)
8 or any other law, rule, or regulation, as well as the investigative and
9 enforcement powers conferred on the department and the
10 commissioner under the provisions of Title 26 of the Revised
11 Statutes or any other law, rule or regulation, shall not be exercised
12 in such a manner so as to unduly interfere with a health care
13 facility's implementation of its patient safety plan established
14 pursuant to this section. However, this act shall not be construed to
15 otherwise affect, in any way, the exercise of such investigative,
16 disciplinary, and enforcement powers.

17 j. The commissioner shall, pursuant to the "Administrative
18 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt such
19 rules and regulations necessary to carry out the provisions of this
20 act. The regulations shall establish: criteria for a health care
21 facility's patient safety plan and patient safety committee; the time
22 frame and format for mandatory reporting of serious preventable
23 adverse events at a health care facility; the types of events that
24 qualify as serious preventable adverse events and adverse events
25 specifically related to an allergic reaction; the circumstances under
26 which a health care facility is not required to inform a patient or the
27 patient's family about a serious preventable adverse event or
28 adverse event specifically related to an allergic reaction; and a
29 system for the sharing of information received by the department
30 and the Department of Human Services pursuant to subsections c.
31 and e. of this section with the Attorney General. In establishing the
32 criteria for reporting serious preventable adverse events, the
33 commissioner shall, to the extent feasible, use criteria for these
34 events that have been or are developed by organizations engaged in
35 the development of nationally recognized standards.

36 The commissioner shall consult with the Commissioner of
37 Human Services with respect to rules and regulations affecting the
38 State psychiatric hospitals and with the Attorney General with
39 respect to rules and regulations regarding the establishment of a
40 system for the sharing of information received by the department
41 and the Department of Human Services pursuant to subsections c.
42 and e. of this section with the Attorney General.

43 k. Nothing in this act shall be construed to increase or decrease
44 the discoverability, in accordance with *Christy v. Salem*, No. A-
45 6448-02T3 (Superior Court of New Jersey, Appellate Division,
46 February 17, 2004)(2004 WL291160), of any documents, materials
47 or information if obtained from any source or context other than
48 those specified in this act.

49 (cf: P.L.2004, c.9, s.3)

1 191. Section 8 of P.L.2007, c.196 (C.26:2H-12.25a) is amended
2 to read as follows:

3 8. The Commissioner of Health **【and Senior Services】** and the
4 Commissioner of Human Services shall compile their findings and
5 recommendations for operational changes related to patient safety
6 in health care facilities, based on information reported to the
7 commissioners pursuant to the "Patient Safety Act," P.L.2004, c.9
8 (C.26:2H-12.23 et seq.).

9 The commissioners shall jointly issue an annual report of their
10 findings and recommendations to the Governor, and to the
11 Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1),
12 to be made available on the official Internet website of the
13 Department of Health **【and Senior Services】**.

14 (cf: P.L.2007, c.196, s.8)

15

16 192. Section 1 of P.L.2009, c.122 (C.26:2H-12.25b) is amended
17 to read as follows:

18 1. a. The Department of Health **【and Senior Services】** shall
19 include in the New Jersey Hospital Performance Report issued
20 annually by the department hospital-specific data from hospital
21 procedure and diagnosis codes concerning the following patient
22 safety indicators:

- 23 (1) Foreign body left during procedure (PSI 05);
24 (2) Iatrogenic pneumothorax (PSI 06);
25 (3) Postoperative hip fracture (PSI 08);
26 (4) Postoperative hemorrhage or hematoma (PSI 09);
27 (5) Postoperative deep vein thrombosis (DVT) or pulmonary
28 embolism (PE) (PSI 12);
29 (6) Postoperative sepsis (PSI 13);
30 (7) Postoperative wound dehiscence (PSI 14);
31 (8) Accidental puncture or laceration (PSI 15);
32 (9) Transfusion reaction (PSI 16);
33 (10) Birth trauma (PSI 17);
34 (11) Obstetric trauma-vaginal delivery with instrument (PSI 18);
35 (12) Obstetric trauma-vaginal delivery without instrument (PSI
36 19);
37 (13) Air embolism; and
38 (14) Surgery on the wrong side, wrong body part, or wrong
39 person, or wrong surgery performed on a patient.

40 b. The Commissioner of Health **【and Senior Services】**, in
41 consultation with the Quality Improvement Advisory Committee in
42 the Department of Health **【and Senior Services】**, may include
43 additional patient safety indicators in the annual report, by
44 regulation. The commissioner shall consider indicators that: (1) are
45 recommended by the federal Agency for Healthcare Research and
46 Quality or the Centers for Medicare **【and】** & Medicaid Services; (2)
47 are suitable for comparative reporting and public accountability,
48 and are risk adjusted; (3) have a strong evidence base with no

1 substantial evidence against their use for comparative reporting; and
2 (4) can be measured through data that are available through hospital
3 procedure and diagnosis codes.

4 c. The commissioner shall request the Quality Improvement
5 Advisory Committee to study and make recommendations to the
6 commissioner on how to expand public reporting by the department
7 of patient pressure ulcers, patient infections due to hospital care,
8 and falls by patients in general hospitals.

9 d. The commissioner shall, in accordance with the
10 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
11 seq.), adopt such rules and regulations as the commissioner deems
12 necessary to carry out the provisions of this act.
13 (cf: P.L.2009, c.122, s.1)

14

15 193. Section 2 of P.L.2004, c.136 (C.26:2H-12.28) is amended
16 to read as follows:

17 2. The Commissioner of Health **[and Senior Services]** shall
18 designate hospitals that meet the criteria set forth in this act as
19 primary or comprehensive stroke centers.

20 a. A hospital shall apply to the commissioner for designation
21 and shall demonstrate to the satisfaction of the commissioner that
22 the hospital meets the criteria set forth in section 3 or 4 of this act
23 for a primary or comprehensive stroke center, respectively.

24 b. The commissioner shall designate as many hospitals as
25 primary stroke centers as apply for the designation, provided that
26 the hospital meets the criteria set forth in section 3 of this act. In
27 addition to the criteria set forth in section 3 of this act, the
28 commissioner is encouraged to take into consideration whether the
29 hospital contracts with carriers that provide coverage through the
30 State Medicaid program, established pursuant to P.L.1968, c.413
31 (C.30:4D-1 et seq.)**],** the Children's Health Care Coverage Program,
32 established pursuant to P.L.1997, c.272 (C.30:4I-1 et seq.),**]** and the
33 NJ FamilyCare **[Health Coverage]** Program, established pursuant
34 to **[P.L.2000, c.71 (C.30:4J-1 et seq.)]** P.L.2005, c.156 (C.30:4J-8
35 et al.).

36 c. The commissioner shall designate as many hospitals as
37 comprehensive stroke centers as apply for the designation, provided
38 that the hospital meets the criteria set forth in section 4 of this act.

39 d. The commissioner may suspend or revoke a hospital's
40 designation as a stroke center, after notice and hearing, if the
41 commissioner determines that the hospital is not in compliance with
42 the requirements of this act.

43 (cf: P.L.2004, c.136, s.2)

44

45 194. Section 4 of P.L.2004, c.136 (C.26:2H-12.30) is amended
46 to read as follows:

1 4. A hospital designated as a comprehensive stroke center shall
2 use proven state-of-the-art technology and medical techniques and,
3 at a minimum, meet the criteria set forth in this section.

4 a. The hospital shall meet all of the criteria required for a
5 primary stroke center pursuant to section 3 of this act.

6 b. With respect to patient care, the hospital shall:

7 (1) maintain a neurosurgical team that is capable of assessing
8 and treating complex stroke and stroke-like syndromes;

9 (2) maintain on staff a neuro-radiologist with Certificate of
10 Added Qualifications and a physician with neuro-interventional
11 angiographic training and skills;

12 (3) provide comprehensive rehabilitation services either on site
13 or by transfer agreement with another health care facility; and

14 (4) enter into and maintain written transfer agreements with
15 primary stroke centers to accept transfer of patients with complex
16 strokes when clinically warranted.

17 c. With respect to support services, the hospital shall:

18 (1) have magnetic resonance imaging and computed tomography
19 angiography capabilities;

20 (2) have digital subtraction angiography and a suite equipped
21 for neuro-interventional procedures;

22 (3) develop and maintain sophisticated outcomes assessment
23 and performance improvement capability that incorporates data
24 from affiliated primary stroke centers and integrates regional, State,
25 and national data;

26 (4) provide guidance and continuing medical education to
27 primary stroke centers;

28 (5) provide graduate medical education in stroke; and

29 (6) conduct research on stroke-related topics.

30 d. If the Commissioner of Health **[and Senior Services]**
31 determines that a new drug, device, technique, or technology has
32 become available for the treatment of stroke that provides a
33 diagnostic or therapeutic advantage over existing elements included
34 in the criteria established in this section or in section 3 of this act,
35 the commissioner may, by regulation, revise or update the criteria
36 accordingly.

37 (cf: P.L.2004, c.136, s.4.)
38

39 195. Section 5 of P.L.2004, c.136 (C.26:2H-12.31) is amended
40 to read as follows:

41 5. a. In order to encourage and ensure the establishment of
42 stroke centers throughout the State, the Commissioner of Health
43 **[and Senior Services]** shall award matching grants to hospitals that
44 seek designation as stroke centers and demonstrate a need for
45 financial assistance to develop the necessary infrastructure,
46 including personnel and equipment, in order to satisfy the criteria
47 for designation provided pursuant to this act. The matching grants
48 shall not exceed \$250,000 or 50% of the hospital's cost for
49 developing the necessary infrastructure, whichever is less.

1 b. A hospital seeking designation as a stroke center shall apply
2 to the commissioner for a matching grant, in a manner and on a
3 form required by the commissioner, and provide such information
4 as the commissioner deems necessary to determine if the hospital is
5 eligible for the grant.

6 c. The commissioner may provide matching grants to as many
7 hospitals as the commissioner deems appropriate, except that:

8 (1) Matching grant awards shall be made to at least two
9 applicant hospitals in the northern region of this State (comprising
10 Bergen, Hudson, Essex, Passaic, Morris, Sussex, and Warren
11 counties), at least two applicant hospitals in the central region of
12 this State (comprising Union, Somerset, Hunterdon, Mercer,
13 Middlesex, and Monmouth counties) and at least two applicant
14 hospitals in the southern region of this State (comprising
15 Burlington, Camden, Gloucester, Salem, Cumberland, Cape May,
16 Atlantic, and Ocean counties), provided in the case of each region
17 that the applicant hospitals receiving the awards must be eligible
18 therefor under the provisions of this act; and

19 (2) No more than 20% of the funds appropriated pursuant to this
20 act shall be allocated to hospitals that seek designation as
21 comprehensive stroke centers.

22 (cf: P.L.2004, c.136, s.5)

23
24 196. Section 6 of P.L.2004, c.136 (C.26:2H-12.32) is amended
25 to read as follows:

26 6. The Commissioner of Health **[and Senior Services]** shall,
27 not later than September 1, 2005, prepare and submit to the
28 Governor, the President of the Senate, and the Speaker of the
29 General Assembly a report indicating, as of June 30, 2005, the total
30 number of hospitals that shall have applied for grants under section
31 5 of this act and the number of those applicants that shall have been
32 found to be eligible for such grants, the total number of grants
33 awarded, the name and address of each grantee hospital and the
34 amount of the award to each, and the amount of each award that
35 shall have been paid to the grantee.

36 (cf: P.L.2004, c.136, s.6)

37
38 197. Section 1 of P.L.2007, c.65 (C.26:2H-12.33) is amended to
39 read as follows:

40 1. a. The Department of Health **[and Senior Services]** shall
41 make available to the public, through its official department
42 website, information regarding:

43 (1) the ownership of each long-term care facility and adult day
44 health services facility licensed by the department; and

45 (2) any violation of statutory standards or rules and regulations
46 of the department pertaining to the care of patients or physical plant
47 standards found at any such facility by the department.

48 b. The information made available to the public pursuant to
49 subsection a. of this section shall be provided in a manner that

1 would enable a member of the public to search the website by name
2 of a facility or its owner in order to access the information. The
3 department shall also make the information available in writing,
4 upon request.

5 c. The information regarding the ownership of a long-term care
6 or adult day health services facility that is made available to the
7 public pursuant to subsection a. of this section shall provide, at a
8 minimum: the name of the owner of a facility as listed on the
9 facility's license and, if there is more than one owner or the facility
10 is owned by a corporation, the name of each person who holds at
11 least a 10% interest in the facility; the name of any other licensed
12 long-term care or adult day health services facility in the State
13 owned by this owner, corporation, and each person who holds at
14 least a 10% interest in the facility, as applicable; and the address
15 and contact information for the facility.

16 d. The information that is displayed on the official department
17 website pursuant to subsection a. of this section shall include
18 Internet web links to the New Jersey Report Card for Nursing
19 Homes maintained by the department and the Medicare Nursing
20 Home Compare database maintained by the federal Centers for
21 Medicare & Medicaid Services.

22 (cf: P.L.2007, c.65, s.1)

23

24 198. Section 1 of P.L.2007, c.74 (C.26:2H-12.34) is amended to
25 read as follows:

26 1. a. (1) As a condition of serving as a member of the board of
27 trustees of a general hospital licensed pursuant to P.L.1971, c.136
28 (C.26:2H-1 et al.), a person shall be required to complete a training
29 program approved by the Commissioner of Health [and Senior
30 Services] that is designed to clarify the roles and duties of a
31 hospital trustee and is at least one day in length.

32 (2) The training shall be completed no later than six months
33 after the date that the person is appointed as a member of the board,
34 except that a person who is appointed as a member of a hospital
35 board of trustees on or after the date of enactment of this act but
36 prior to the effective date thereof shall complete the training no
37 later than six months after the effective date.

38 (3) A person who was appointed as a member of a hospital
39 board of trustees prior to the date of enactment of P.L.2007, c.74
40 shall complete the training no later than six months after the
41 effective date of P.L.2008, c.57.

42 b. The commissioner shall, in consultation with the New Jersey
43 Hospital Association, the Hospital Alliance of New Jersey, and the
44 New Jersey Council of Teaching Hospitals:

45 (1) prescribe the subject matter of the training, which shall
46 include, but need not be limited to, a review of the types of
47 financial, organizational, legal, regulatory, and ethical issues that a
48 hospital trustee may be required to consider in the course of
49 discharging the trustee's governance responsibilities;

1 (2) arrange for, or specify, the entity or entities to provide the
2 training;

3 (3) specify the timeframe within which the training is to be
4 completed;

5 (4) certify completion of the training for each trustee upon
6 receipt of documentation thereof, as provided on a form and in a
7 manner prescribed by the commissioner, or otherwise arrange for
8 certification by the training entity; and

9 (5) take such other actions as the commissioner determines
10 appropriate to effectuate the purposes of this act.

11 (cf: P.L.2008, c.57, s.1)

12

13 199. Section 2 of P.L.2007, c.120 (C.26:2H-12.36) is amended
14 to read as follows:

15 2. a. Within one month after the effective date of this act, all
16 general hospitals licensed by the Department of Health [and Senior
17 Services] pursuant to P.L.1971, c.136 (C.26:2H-1 et al.) shall
18 implement an infection prevention program in their intensive care
19 unit or units, as applicable, and if the hospital has no intensive care
20 unit, then in another high-risk unit such as a surgical unit, or other
21 unit where there is significant risk of facility-acquired infections.

22 Ultimately, the hospital shall expand the infection prevention
23 program to all areas of the hospital, with the exception of an
24 inpatient psychiatric unit, if applicable. The expansion of the
25 infection prevention program shall be completed as quickly as
26 feasible, taking into account the hospital's patient population,
27 physical plant, and other facility-specific circumstances.

28 b. In addition to any other best practices and effective
29 strategies, the hospital shall incorporate the following strategies:

30 (1) identification and isolation of both colonized and infected
31 patients by screening patients upon admission in order to break the
32 chain of transmission;

33 (2) contact precautions for patients found to be MRSA positive,
34 as "contact precautions" is defined by the Centers for Disease
35 Control and Prevention;

36 (3) patient cultures for MRSA upon discharge or transfer from
37 the unit where the infection prevention program has been
38 implemented, and flagging of patients who are readmitted to the
39 hospital;

40 (4) strict adherence to hygiene guidelines;

41 (5) a written infections prevention and control policy with input
42 from frontline caregivers; and

43 (6) a worker education requirement regarding modes of
44 transmission of MRSA, use of protective equipment, disinfection
45 policies and procedures, and other preventive measures.

46 c. A general hospital shall report to the Department of Health
47 [and Senior Services], in a manner and according to a schedule
48 prescribed by the Commissioner of Health [and Senior Services],

1 the number of cases of hospital-acquired MRSA that occur in its
2 facility.
3 (cf: P.L.2007, c.120, s.2)

4
5 200. Section 3 of P.L.2007, c.120 (C.26:2H-12.37) is amended
6 to read as follows:

7 3. A general hospital that is in violation of the provisions of
8 this act shall be subject to such penalties as the Commissioner of
9 Health **[and Senior Services]** may determine pursuant to sections
10 13 and 14 of P.L.1971, c.136 (C.26:2H-13 and 26:2H-14).
11 (cf: P.L.2007, c.20, s.3)

12
13 201. Section 2 of P.L.2007, c.196 (C.26:2H-12.40) is amended
14 to read as follows:

15 2. The Legislature finds and declares:

16 a. Health care facility-associated infections constitute a major
17 public health problem in this country, affecting from 5% to 10% of
18 hospitalized patients annually, resulting in an estimated two million
19 infections, and 90,000 deaths, and adding an estimated \$4.5 to \$5.7
20 billion in health care costs;

21 b. Many health care facility-associated infections can be
22 prevented, and a goal of zero health care facility-associated
23 infections is desirable. There are many simple and effective
24 practices in hospitals that can dramatically reduce the incidence of
25 health care facility-associated infections, such as hand washing,
26 using gloves and properly sterilized equipment, and following the
27 same established best practices, every time, for procedures such as
28 the insertion of an intravenous tube to deliver fluids and
29 medication;

30 c. The uniform reporting of health care facility-associated
31 infections to the State, and the review and analysis of this data by
32 the Department of Health **[and Senior Services]**, will provide a
33 measurable means to assist hospitals in improving patient
34 outcomes;

35 d. The federal Centers for Disease Control and Prevention
36 recommends that states establishing public reporting systems for
37 health care facility-associated infections focus on major site
38 categories to report rates of health care facility-associated infections
39 related to procedures and conditions including, but not limited to,
40 urinary tract infections, surgical site infections, ventilator-
41 associated pneumonia, and central line-related bloodstream
42 infections. A focus on major site categories helps ensure that data
43 collection is concentrated in populations where health care facility-
44 associated infections are more prevalent, and that the infection rates
45 reported are most useful for targeting prevention practices and
46 making comparisons among hospitals and within hospitals, over
47 time;

48 e. The Department of Health **[and Senior Services]** currently
49 provides comparative hospital performance data in its annual New

1 Jersey Hospital Performance Report, and including information
2 about hospital infection rates will further enhance the value of the
3 report to the public and health care providers; and

4 f. Therefore, it is a matter of public health and fiscal policy
5 that patients in New Jersey's hospitals receive health care that
6 incorporates best practices in infection control, not only to protect
7 their health and lives, but also to ensure the economic viability of
8 New Jersey's hospitals.

9 (cf: P.L.2007, c.196, s.2)

10
11 202. Section 3 of P.L.2007, c.196 (C.26:2H-12.41) is amended
12 to read as follows:

13 3. A general hospital licensed pursuant to P.L.1971, c.136
14 (C.26:2H-1 et al.) shall be required to report quarterly to the
15 Department of Health **【and Senior Services】**, in a form and manner
16 prescribed by the Commissioner of Health **【and Senior Services】**:

17 a. process quality indicators of hospital infection control that
18 have been identified by the federal Centers for Medicare **【and】** &
19 Medicaid Services, as selected by the commissioner in consultation
20 with the Quality Improvement Advisory Committee within the
21 department; and

22 b. beginning 30 days after the adoption of regulations pursuant
23 to this act, data on infection rates for the major site categories that
24 define health care facility-associated infection locations, multiple
25 infections, and device-related and non-device related infections,
26 identified by the federal Centers for Disease Control and
27 Prevention, as selected by the commissioner in consultation with
28 the Quality Improvement Advisory Committee within the
29 department.

30 (cf: P.L.2011, c.42, s.1)

31
32 203. Section 5 of P.L.2007, c.196 (C.26:2H-12.43) is amended
33 to read as follows:

34 5. The commissioner shall make available to members of the
35 public, on the official Internet website of the Department of Health
36 **【and Senior Services】**, the information reported pursuant to this act,
37 in such a format as the commissioner deems appropriate to enable
38 comparison among hospitals, with respect to the information, and
39 shall include information in the New Jersey Hospital Performance
40 Report annually issued by the commissioner that measures the
41 performance of general hospitals in the State with respect to process
42 quality indicators and health care facility-associated infection
43 among patients.

44 (cf: P.L.2007, c.196, s.5)

45
46 204. Section 3 of P.L.2007, c.247 (C.26:2H-12.48) is amended
47 to read as follows:

1 3. A health care professional shall provide to each patient to
2 whom that individual is providing prenatal care, as early as
3 practicable in the health care professional's therapeutic relationship
4 with the patient, preferably in the first trimester, a copy of the
5 brochure prepared by the Division of Family Health Services in the
6 Department of Health **【and Senior Services】** that may be
7 downloaded from the website of the department, which is designed
8 to answer common questions about umbilical cord and placental
9 blood donation and storage, including the NMDP-affiliated public
10 umbilical cord blood bank and private umbilical cord blood bank
11 options and the differences between and benefits of these options.
12 The health care professional shall offer to discuss the information
13 contained in the brochure with the patient.

14 (cf: P.L.2007, c.247, s.3)

15
16 205. Section 2 of P.L.2008, c.59 (C.26:2H-12.51) is amended to
17 read as follows:

18 2. The Department of Health **【and Senior Services】** shall post
19 the notice of a hospital's annual public meeting on the department's
20 website.

21 (cf: P.L.2008, c.59, s.2)

22
23 206. Section 1 of P.L.2008, c.60 (C.26:2H-12.52) is amended to
24 read as follows:

25 1. A hospital licensed by the Department of Health **【and Senior**
26 **Services】** pursuant to P.L.1971, c.136 (C.26:2H-1 et al.) shall
27 charge a patient who is an uninsured resident of this State, and
28 whose family gross income is less than 500% of the federal poverty
29 level, an amount no greater than 115% of the applicable payment
30 rate under the federal Medicare program, established pursuant to
31 Pub.L.89-97 (42 U.S.C.s.1395 et seq.), for the health care services
32 rendered to the patient. The amount shall be in accordance with the
33 sliding scale based on income developed by the department
34 pursuant to this act.

35 (cf: P.L.2008, c.60, s.1)

36
37 207. Section 2 of P.L.2008, c.60 (C.26:2H-12.53) is amended to
38 read as follows:

39 2. The Department of Health **【and Senior Services】** shall
40 establish a sliding scale based on income which stipulates the
41 percentage of a hospital charge that an uninsured resident of this
42 State whose family gross income is less than 500% of the federal
43 poverty level is required to pay for health care services rendered at
44 a hospital.

45 (cf: P.L.2008, c.60, s.2)

46
47 208. Section 2 of P.L.2009, c.61 (C.26:2H-12.57) is amended to
48 read as follows:

1 2. The Department of Health [and Senior Services], in
2 consultation with the Division of Medical Assistance and Health
3 Services in the Department of Human Services, shall prepare a
4 written informational sheet for assisted living facilities that explains
5 eligibility for participation in a federally approved 1915(c)
6 Medicaid waiver program that provides assisted living services.
7 The informational sheets shall be available on the website of the
8 Department of Health [and Senior Services] and shall be updated
9 by the Department of Health [and Senior Services] as necessary to
10 reflect a change in eligibility for the programs.

11 (cf: P.L.2009, c.61, s.2)

12

13 209. Section 3 of P.L.2009, c.61 (C.26:2H-12.58) is amended to
14 read as follows:

15 3. The Department of Health [and Senior Services] shall
16 distribute the applicable informational sheets, prepared and updated
17 pursuant to section 2 of this act, to all licensed assisted living
18 facilities in the State.

19 (cf: P.L.2009, c.61, s.3)

20

21 210. Section 1 of P.L.2010, c.61 (C.26:2H-12.59) is amended to
22 read as follows:

23 1. a. The Commissioner of Health [and Senior Services] shall
24 prepare an online brochure for display on the Internet website of the
25 Department of Health [and Senior Services], based upon
26 information derived from the National Marrow Donor Program, or
27 NMDP, which may be downloaded by physicians and utilized by
28 the commissioner for the purposes of subsection c. of this section,
29 and shall be designed to inform patients of the option to become a
30 bone marrow or peripheral blood stem cell, or PBSC, donor by
31 registering with the NMDP and to answer common questions about
32 bone marrow and peripheral blood stem cell, or PBSC, donation.

33 b. The brochure shall describe:

34 (1) the health benefits to the community from making a bone
35 marrow or PBSC donation through the NMDP;

36 (2) how to register with the NMDP;

37 (3) the procedures for making a bone marrow or PBSC donation
38 through the NMDP, including notice that there is no charge to the
39 donor or the donor's family for making the donation;

40 (4) the circumstances and procedures by which a patient may
41 receive a transfusion of the patient's previously donated blood; and

42 (5) any other aspects of bone marrow or PBSC donation that the
43 commissioner deems appropriate for the purposes of this act.

44 c. The commissioner, within the limits of resources available to
45 the Department of Health [and Senior Services] for this purpose,
46 shall seek to promote awareness among physicians and the general
47 public in this State about the option to become a bone marrow or
48 PBSC donor. In doing so, the commissioner shall consult with at

1 least the following: the Medical Society of New Jersey, the Institute
2 of Medicine and Public Health of New Jersey, the NMDP, and other
3 organizations that are seeking to increase bone marrow and PBSC
4 donation among various ethnic groups within the State in need of
5 these donations.

6 (cf: P.L.2010, c.61, s.1)

7
8 211. Section 1 of P.L.2011, c.16 (C.26:2H-12.61) is amended to
9 read as follows:

10 1. a. If a facility licensed to operate as an assisted living
11 residence or comprehensive personal care home pursuant to
12 P.L.1971, c.136 (C.26:2H-1 et seq.) opts to surrender its license and
13 has promised a resident of the facility or the resident's responsible
14 party, in writing through a resident agreement or other instrument,
15 or through a condition of licensure or certificate of need with the
16 Department of Health **【and Senior Services】**, that it will not
17 discharge a resident who becomes Medicaid-eligible, as that term is
18 defined in section 1 of P.L.2001, c.234 (C.26:2H-12.16), the facility
19 shall escrow sufficient funds, as determined by the Commissioner
20 of Health **【and Senior Services】**, to cover the cost of providing
21 **【such】** a resident with care in an alternate State-licensed assisted
22 living residence or comprehensive personal care home for as long as
23 the resident shall require **【such】** care.

24 b. The facility shall cover any costs necessary to utilize **【such】**
25 actuarial services as the Department of Health **【and Senior**
26 **Services】** may require to determine the amount to be escrowed
27 pursuant to subsection a. of this section.

28 c. In the event of a facility bankruptcy, any monies left over
29 after all creditors have been paid shall be used, to the maximum
30 extent practicable, to cover the cost of care provided to a resident in
31 an alternate State-licensed assisted living residence or
32 comprehensive personal care home pursuant to subsection a. of this
33 section.

34 (cf: P.L.2011, c.16, s.1)

35
36 212. Section 7 of P.L.2007, c.225 (C.26:2H-14.14) is amended
37 to read as follows:

38 7. A covered health care facility licensed pursuant to P.L.1971,
39 c.136 (C.26:2H-1 et al.) that is in violation of the provisions of this
40 act shall be subject to such penalties as the Department of Health
41 **【and Senior Services】** may determine pursuant to sections 13 and
42 14 of P.L.1971, c.136 (C.26:2H-13 and 26:2H-14).

43 (cf: P.L.2007, c.225, s.7)

44
45 213. Section 8 of P.L.2007, c.225, s.8 (C.26:2H-14.15) is
46 amended to read as follows:

47 8. The Commissioner of Health **【and Senior Services】** shall
48 adopt rules and regulations pursuant to the "Administrative

1 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), within 12
2 months of the date of enactment of this act, to carry out the
3 purposes of this act.

4 (cf: P.L.2007, c.225, s.8)

5
6 214. Section 3 of P.L.1987, c.299 (C.26:2H-18c) is amended to
7 read as follows:

8 3. a. The Commissioner of Health [and Senior Services],
9 subject to the provisions of subsection b. of this section, shall
10 designate Cooper University Hospital in the City of Camden as the
11 State's specialty acute care children's hospital in southern New
12 Jersey for the counties of Atlantic, Burlington, Camden, Cape May,
13 Cumberland, Gloucester, and Salem.

14 b. The designation by the Commissioner of Health [and Senior
15 Services] pursuant to subsection a. of this section shall be made
16 subsequent to, and shall be contingent upon, the execution of a
17 written agreement between Cooper University Hospital and a
18 majority of the acute care hospitals providing inpatient pediatric
19 services which are located in the counties listed in subsection a. of
20 this section.

21 The written agreement shall state that the other facility
22 recognizes Cooper University Hospital as the State's specialty acute
23 care children's hospital for the counties listed in subsection a. of
24 this section and shall set forth the basis on which the other facility
25 shall make referrals to Cooper University Hospital.

26 (cf: P.L.2005, c.116, s.2)

27
28 215. Section 1 of P.L.1992, c.181 (C.26:2H-18d) is amended to
29 read as follows:

30 1. a. The Commissioner of Health [and Senior Services],
31 subject to the provisions of subsection b. of this section, shall
32 designate Robert Wood Johnson University Hospital/St. Peter's
33 University Hospital in the City of New Brunswick as the State's
34 specialty acute care children's hospital in central New Jersey for the
35 counties of Hunterdon, Mercer, Middlesex, and Somerset.

36 b. The designation by the Commissioner of Health [and Senior
37 Services] pursuant to subsection a. of this section shall be made
38 subsequent to, and shall be contingent upon, the execution of a
39 written agreement between Robert Wood Johnson University
40 Hospital/St. Peter's University Hospital and a majority of the acute
41 care hospitals providing inpatient pediatric services which are
42 located in the counties listed in subsection a. of this section.

43 The written agreement shall state that the other facility
44 recognizes Robert Wood Johnson University Hospital/St. Peter's
45 University Hospital as the State's specialty acute care children's
46 hospital for the counties listed in subsection a. of this section and
47 shall set forth the basis on which the other facility shall make

1 referrals to Robert Wood Johnson University Hospital/St. Peter's
2 University Hospital.
3 (cf: P.L.2005, c.116, s.3)
4

5 216. Section 1 of P.L.1993, c.374 (C.26:2H-18e) is amended to
6 read as follows:

7 1. a. The Commissioner of Health **[and Senior Services]**,
8 subject to the provisions of subsection b. of this section, shall
9 designate St. Joseph's Hospital and Medical Center in the City of
10 Paterson as the State's specialty acute care children's hospital for the
11 counties of Bergen, Passaic, Sussex, and Warren.

12 b. The designation by the Commissioner of Health **[and Senior**
13 **Services]** pursuant to subsection a. of this section shall be made
14 subsequent to, and shall be contingent upon, the execution of a
15 written agreement between St. Joseph's Hospital and Medical
16 Center and a majority of the acute care hospitals providing inpatient
17 pediatric services which are located in the counties listed in
18 subsection a. of this section.

19 The written agreement shall state that the other facility
20 recognizes St. Joseph's Hospital and Medical Center as the State's
21 specialty acute care children's hospital for the counties listed in
22 subsection a. of this section and shall set forth the basis on which
23 the other facility shall make referrals to St. Joseph's Hospital and
24 Medical Center.

25 (cf: P.L.2003, c.98, s.3)
26

27 217. Section 2 of P.L.2003, c.98 (C.26:2H-18f) is amended to
28 read as follows:

29 2. a. The Commissioner of Health **[and Senior Services]**,
30 subject to the provisions of subsection b. of this section, shall
31 designate Morristown Memorial Hospital as the State's specialty
32 acute care children's hospital for Morris and Union counties.

33 b. The designation by the Commissioner of Health **[and Senior**
34 **Services]** pursuant to subsection a. of this section shall be made
35 subsequent to, and shall be contingent upon, the execution of
36 written transfer agreements between Morristown Memorial Hospital
37 and a majority of the acute care hospitals providing inpatient
38 pediatric services which are located in Morris and Union counties.

39 The written agreement shall state that the other facility
40 recognizes Morristown Memorial Hospital as the State's specialty
41 acute care children's hospital for Morris and Union counties and
42 shall set forth the basis on which the other facility shall make
43 referrals to Morristown Memorial Hospital.

44 (cf: P.L.2003, c.98, s.2)
45

46 218. Section 1 of P.L.2005, c.116 (C.26:2H-18g) is amended to
47 read as follows:

1 1. a. The Commissioner of Health [and Senior Services],
2 subject to the provisions of subsection b. of this section, shall
3 designate Jersey Shore University Medical Center and Monmouth
4 Medical Center, each, as the State's specialty acute care children's
5 hospitals for Monmouth and Ocean counties, subject to the
6 commissioner's determination that each hospital meets all of the
7 licensure criteria that apply to a children's hospital and has met and
8 complied with all of the requirements to obtain State authorization
9 to offer the component services that constitute a children's hospital.
10 The commissioner's determination and the designation pursuant
11 thereto shall be made separately for each hospital; and the
12 commissioner's decision on the designation of each hospital shall be
13 made independently of, and shall not be contingent upon, the
14 decision on the designation of the other hospital.

15 b. The designation of each hospital by the Commissioner of
16 Health [and Senior Services] pursuant to subsection a. of this
17 section shall be made subsequent to, and shall be contingent upon,
18 the execution of written transfer agreements, respectively, between:
19 Jersey Shore University Medical Center and a majority of the acute
20 care hospitals providing inpatient pediatric services located in
21 Monmouth and Ocean counties; and Monmouth Medical Center and
22 a majority of the acute care hospitals providing inpatient pediatric
23 services located in Monmouth and Ocean counties.

24 The written agreement shall state that the other facility
25 recognizes Jersey Shore University Medical Center and Monmouth
26 Medical Center, as applicable, as the State's specialty acute care
27 children's hospitals for Monmouth and Ocean counties and shall set
28 forth the basis on which the other facility shall make referrals to
29 Jersey Shore University Medical Center or Monmouth Medical
30 Center, as applicable.

31 (cf: P.L.2005, c.116, s.1)

32

33 219. Section 1 of P.L.2011, c.208 (C.26:2H-18h) is amended to
34 read as follows:

35 1. a. The Commissioner of Health [and Senior Services] may
36 issue a nursing facility license for a facility that provides care for
37 Huntington's Disease.

38 b. The commissioner, pursuant to the "Administrative
39 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), may adopt
40 rules and regulations to effectuate the purposes of this act.

41 (cf: P.L.2011, c.208, s.1)

42

43 220. Section 2 of P.L.1992, c.160 (C.26:2H-18.52) is amended
44 to read as follows:

45 2. As used in sections 1 through 17 of P.L.1992, c.160
46 (C.26:2H-18.51 through 26:2H-18.67), sections 12 through 15 of
47 P.L.1995, c.133 (C.26:2H-18.59a through C.26:2H-18.59d),
48 sections 7 through 12 of P.L.1996, c.28 (C.26:2H-18.59e et al.) and

1 sections 6, 8, 10 and 11 of P.L.1997, c.263 (C.26:2H-18.58e,
2 C.26:2H-18.58f, C.26:2H-18.58d and C.26:2H-18.59h):

3 "Administrator" means the administrator of the Health Care
4 Subsidy Fund appointed by the commissioner.

5 "Charity care" means care provided at disproportionate share
6 hospitals that may be eligible for a charity care subsidy pursuant to
7 this act.

8 "Charity care subsidy" means the component of the
9 disproportionate share payment that is attributable to care provided
10 at a disproportionate share hospital to persons unable to pay for that
11 care, as provided in this act.

12 "Commission" means the New Jersey Essential Health Services
13 Commission established pursuant to section 4 of this act.

14 "Commissioner" means the Commissioner of Health [and Senior
15 Services].

16 "Department" means the Department of Health [and Senior
17 Services].

18 "Disproportionate share hospital" means a hospital designated by
19 the Commissioner of Human Services pursuant to Pub.L.89-97 (42
20 U.S.C. s.1396a et seq.) and Pub.L.102-234.

21 "Disproportionate share payment" means those payments made
22 by the Division of Medical Assistance and Health Services in the
23 Department of Human Services to hospitals defined as
24 disproportionate share hospitals by the Commissioner of Human
25 Services in accordance with federal laws and regulations applicable
26 to hospitals serving a disproportionate number of low income
27 patients.

28 "Fund" means the Health Care Subsidy Fund established
29 pursuant to section 8 of this act.

30 "Hospital" means an acute care hospital licensed by the
31 Department of Health [and Senior Services] pursuant to P.L.1971,
32 c.136 (C.26:2H-1 et al.).

33 "Medicaid" means the New Jersey Medical Assistance and
34 Health Services Program in the Department of Human Services
35 established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).

36 "Medicare" means the program established pursuant to Pub.L.89-
37 97 (42 U.S.C. s.1395 et seq.).
38 (cf: P.L.1997, c.263, s.1)

39

40 221. Section 2 of P.L.2006, c.87 (C.26:2H-18.55a) is amended
41 to read as follows:

42 2. a. The Commissioner of Health [and Senior Services] shall
43 compile, to the extent data are available, the following information
44 about recipients of charity care who are employed:

45 (1) the employer's name and address;

46 (2) the number of recipients of charity care who are employed
47 by the employer; and

1 (3) the cost to the State of providing charity care for the
2 employer's employees and their dependents.

3 b. In order to compile the information required pursuant to this
4 section, the commissioner may require hospitals and other health
5 care facilities to submit such information as may be necessary for
6 this purpose.

7 c. The commissioner may include comparable information
8 about recipients of other public health care coverage programs, and
9 **[such]** other information as the commissioner deems appropriate
10 regarding employer-based coverage for persons covered under
11 public insurance programs.

12 d. The information compiled by the commissioner shall not
13 include the name of any charity care recipient or any family
14 member of a recipient.

15 e. The commissioner shall provide the information required
16 pursuant to this section to the Commissioner of Human Services for
17 inclusion in the annual report on Access to Employer-Based Health
18 Insurance, as provided in section 1 of P.L.2006, c.87 (C.30:4J-17).
19 (cf: P.L.2006, c.87, s.2)

20
21 222. Section 7 of P.L.1992, c.160 (C.26:2H-18.57) is amended
22 to read as follows:

23 7. a. Effective January 1, 1994, the Department of Health **[and**
24 **Senior Services]** shall assess each hospital a per adjusted admission
25 charge of **[\$10.00]** \$10.

26 Of the revenues raised by the hospital per adjusted admission
27 charge, **[\$5.00]** \$5 per adjusted admission shall be used by the
28 department to carry out its duties pursuant to P.L.1992, c.160
29 (C.26:2H-18.51 et al.) and **[\$5.00]** \$5 per adjusted admission shall
30 be used by the department for administrative costs related to health
31 planning.

32 b. Effective July 1, 2004, the department shall assess each
33 licensed ambulatory care facility that is licensed to provide one or
34 more of the following ambulatory care services: ambulatory
35 surgery, computerized axial tomography, comprehensive outpatient
36 rehabilitation, extracorporeal shock wave lithotripsy, magnetic
37 resonance imaging, megavoltage radiation oncology, positron
38 emission tomography, orthotripsy, and sleep disorder services. The
39 Commissioner of Health **[and Senior Services]** may, by regulation,
40 add additional categories of ambulatory care services that shall be
41 subject to the assessment if such services are added to the list of
42 services provided in N.J.A.C.8:43A-2.2(b) after the effective date
43 of P.L.2004, c.54.

44 The assessment established in this subsection shall not apply to
45 an ambulatory care facility that is licensed to a hospital in this State
46 as an off-site ambulatory care service facility.

47 (1) For Fiscal Year 2005, the assessment on an ambulatory care
48 facility providing one or more of the services listed in this

1 subsection shall be based on gross receipts for the 2003 tax year as
2 follows:

3 (a) a facility with less than \$300,000 in gross receipts shall not
4 pay an assessment; and

5 (b) a facility with at least \$300,000 in gross receipts shall pay an
6 assessment equal to 3.5% of its gross receipts or \$200,000,
7 whichever amount is less.

8 The commissioner shall provide notice no later than August 15,
9 2004 to all facilities that are subject to the assessment that the first
10 payment of the assessment is due October 1, 2004 and that proof of
11 gross receipts for the facility's tax year ending in calendar year 2003
12 shall be provided by the facility to the commissioner no later than
13 September 15, 2004. If a facility fails to provide proof of gross
14 receipts by September 15, 2004, the facility shall be assessed the
15 maximum rate of \$200,000 for Fiscal Year 2005.

16 The Fiscal Year 2005 assessment shall be payable to the
17 department in four installments, with payments due October 1,
18 2004, January 1, 2005, March 15, 2005 and June 15, 2005.

19 (2) For Fiscal Year 2006, the commissioner shall use the
20 calendar year 2004 data submitted in accordance with subsection c.
21 of this section to calculate a uniform gross receipts assessment rate
22 for each facility with gross receipts over \$300,000 that is subject to
23 the assessment, except that no facility shall pay an assessment
24 greater than \$200,000. The rate shall be calculated so as to raise the
25 same amount in the aggregate as was assessed in Fiscal Year 2005.
26 A facility shall pay its assessment to the department in four
27 payments in accordance with a timetable prescribed by the
28 commissioner.

29 (3) Beginning in Fiscal Year 2007 and for each fiscal year
30 thereafter through Fiscal Year 2010, the uniform gross receipts
31 assessment rate calculated in accordance with paragraph (2) of this
32 subsection shall be applied to each facility subject to the assessment
33 with gross receipts over \$300,000, as those gross receipts are
34 documented in the facility's most recent annual report to the
35 department, except that no facility shall pay an assessment greater
36 than \$200,000. A facility shall pay its annual assessment to the
37 department in four payments in accordance with a timetable
38 prescribed by the commissioner.

39 (4) Beginning in Fiscal Year 2011 and for each fiscal year
40 thereafter, the uniform gross receipts assessment shall be applied at
41 the rate of 2.95% to each facility subject to the assessment with
42 gross receipts over \$300,000, as those gross receipts are
43 documented in the facility's most recent annual report submitted to
44 the department pursuant to subsection c. of this section, except that
45 no facility shall pay an assessment greater than \$350,000. A
46 facility shall pay its annual assessment to the department in four
47 payments in accordance with a timetable prescribed by the
48 commissioner.

1 c. Each ambulatory care facility that is subject to the
2 assessment provided in subsection b. of this section shall submit an
3 annual report including, at a minimum, data on volume of patient
4 visits, charges, and gross revenues, by payer type, for patient
5 services, beginning with calendar year 2004 data. The annual
6 report shall be submitted to the department according to a timetable
7 and in a form and manner prescribed by the commissioner.

8 The department may audit selected annual reports in order to
9 determine their accuracy.

10 d. (1) If, upon audit as provided for in subsection c. of this
11 section, it is determined that an ambulatory care facility understated
12 its gross receipts in its annual report to the department, the facility's
13 assessment for the fiscal year that was based on the defective report
14 shall be retroactively increased to the appropriate amount and the
15 facility shall be liable for a penalty in the amount of the difference
16 between the original and corrected assessment.

17 (2) A facility that fails to provide the information required
18 pursuant to subsection c. of this section shall be liable for a civil
19 penalty not to exceed \$500 for each day in which the facility is not
20 in compliance.

21 (3) A facility that is operating one or more of the ambulatory
22 care services listed in subsection b. of this section without a license
23 from the department, on or after July 1, 2004, shall be liable for
24 double the amount of the assessment provided for in subsection b.
25 of this section, in addition to such other penalties as the department
26 may impose for operating an ambulatory care facility without a
27 license.

28 (4) The commissioner shall recover any penalties provided for
29 in this subsection in an administrative proceeding in accordance
30 with the "Administrative Procedure Act," P.L.1968, c.410
31 (C.52:14B-1 et seq.).

32 e. The revenues raised by the ambulatory care facility
33 assessment pursuant to this section shall be deposited in the Health
34 Care Subsidy Fund established pursuant to section 8 of P.L.1992,
35 c.160 (C.26:2H-18.58).

36 (cf: P.L.2010, c.23, s.1)

37
38 223. Section 8 of P.L.1992, c.160 (C.26:2H-18.58) is amended
39 to read as follows:

40 8. There is established the Health Care Subsidy Fund in the
41 Department of Health **[and Senior Services]**.

42 a. The fund shall be comprised of revenues from employee and
43 employer contributions made pursuant to section 29 of P.L.1992,
44 c.160 (C.43:21-7b), revenues from the hospital assessment made
45 pursuant to section 12 of P.L.1992, c.160 (C.26:2H-18.62),
46 revenues pursuant to section 11 of P.L.1996, c.28 (C.26:2H-
47 18.58c), revenues from interest and penalties collected pursuant to
48 this act and revenues from **[such]** other sources as the Legislature
49 shall determine. Interest earned on the monies in the fund shall be

1 credited to the fund. The fund shall be a nonlapsing fund dedicated
2 for use by the State to: (1) distribute charity care and other
3 uncompensated care disproportionate share payments to hospitals,
4 and other eligible providers pursuant to section 8 of P.L.1996, c.28
5 (C.26:2H-18.59f), provide subsidies for the Health Access New
6 Jersey program established pursuant to section 15 of P.L.1992,
7 c.160 (C.26:2H-18.65), and provide funding for children's health
8 care coverage in the NJ FamilyCare Program pursuant to
9 【P.L.1997, c.272 (C.30:4I-1 et seq.)】 P.L.2005, c.156 (C.30:4J-8 et
10 al.); (2) provide funding for federally qualified health centers
11 pursuant to section 12 of P.L.1992, c.160 (C.26:2H-18.62); and (3)
12 provide for the payment in State fiscal year 2002 of appropriate
13 Medicaid expenses, subject to the approval of the Director of the
14 Division of Budget and Accounting.

15 b. The fund shall be administered by a person appointed by the
16 commissioner.

17 The administrator of the fund is responsible for overseeing and
18 coordinating the collection and reimbursement of fund monies. The
19 administrator is responsible for promptly informing the
20 commissioner if monies are not or are not reasonably expected to be
21 collected or disbursed.

22 c. The commissioner shall adopt rules and regulations to ensure
23 the integrity of the fund, pursuant to the "Administrative Procedure
24 Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

25 d. The administrator shall establish separate accounts for the
26 charity care component of the disproportionate share hospital
27 subsidy, other uncompensated care component of the
28 disproportionate share hospital subsidy, federally qualified health
29 centers funding, and the payments for subsidies for insurance
30 premiums to provide care in disproportionate share hospitals,
31 known as the Health Access New Jersey subsidy account,
32 respectively.

33 e. In the event that the charity care component of the
34 disproportionate share hospital subsidy account has a surplus in a
35 given year after payments are distributed pursuant to the
36 methodology established in section 13 of P.L.1995, c.133 (C.26:2H-
37 18.59b) and section 7 of P.L.1996, c.28 (C.26:2H-18.59e) and
38 within the limitations provided in subsection e. of section 9 of
39 P.L.1992, c.160 (C.26:2H-18.59), the surplus monies in calendar
40 years 2002, 2003 and 2004 shall lapse to the unemployment
41 compensation fund established pursuant to R.S.43:21-9, and each
42 year thereafter shall lapse to the charity care component of the
43 disproportionate share hospital subsidy account for distribution in
44 subsequent years.

45 (cf: P.L.2005, c.237, s.1)

46

47 224. Section 6 of P.L.1997, c.263 (C.26:2H-18.58e) is amended
48 to read as follows:

1 6. a. The Commissioner of Health [and Senior Services] shall
2 transfer to the Hospital Health Care Subsidy account, known as the
3 Hospital Relief Fund, in the Division of Medical Assistance and
4 Health Services in the Department of Human Services from the
5 Health Care Subsidy Fund, \$50.75 million in fiscal year 998 and
6 \$101.5 million each fiscal year thereafter, according to a schedule
7 to be determined by the Commissioner of Health [and Senior
8 Services] in consultation with the Commissioner of Human
9 Services. These funds shall be distributed to eligible
10 disproportionate share hospitals according to a methodology
11 adopted by the Commissioner of Human Services pursuant to
12 N.J.A.C.10:52-8.2, using hospital expenditure data for the most
13 recent calendar year available for reimbursements from these funds.

14 b. In fiscal year 1998 and each fiscal year thereafter, the
15 Governor shall recommend and the Legislature shall appropriate to
16 the Hospital Health Care Subsidy account for distribution to
17 disproportionate share hospitals which are eligible for
18 reimbursement pursuant to subsection a. of this section, those
19 federal funds received in connection with the provision of hospital
20 reimbursements from that account.

21 (cf: P.L.1997, c.263, s.6)

22
23 225. Section 8 of P.L.1997, c.263 (C.26:2H-18.58f) is amended
24 to read as follows:

25 8. a. The Commissioner of Health [and Senior Services] shall
26 transfer to the Division of Medical Assistance and Health Services
27 in the Department of Human Services from the Health Care Subsidy
28 Fund, \$23.8 million in fiscal year 1998, \$47.6 million in fiscal year
29 1999, and an amount in each succeeding fiscal year that is
30 necessary to obtain the maximum amount of federal funds to which
31 the State is entitled in order to provide children's health care
32 coverage in the NJ FamilyCare Program pursuant to [P.L.1997,
33 c.272 (C.30:4I-1 et seq.)] P.L.2005, c.156 (C.30:4J-8 et al.),
34 according to a schedule to be determined by the Commissioner of
35 Health [and Senior Services] in consultation with the
36 Commissioner of Human Services. These funds shall be expended
37 to provide children's health care coverage in the NJ FamilyCare
38 Program pursuant to [P.L.1997, c.272 (C.30:4I-1 et seq.)]
39 P.L.2005, c.156.

40 b. In fiscal year 1999 and each fiscal year thereafter, the
41 Governor shall recommend and the Legislature shall appropriate to
42 the Division of Medical Assistance and Health Services for the
43 purposes of subsection a. of this section, those federal funds
44 received in connection with the provision of children's health care
45 coverage in the NJ FamilyCare Program pursuant to [P.L.1997,
46 c.272 (C.30:4I-1 et seq.)] P.L.2005, c.156.

47 (cf: P.L.1997, c.263, s.8)

1 226. Section 4 of P.L.1997, c.264 (C.26:2H-18.58g) is amended
2 to read as follows:

3 4. Notwithstanding the provisions of any other law to the
4 contrary,

5 a. commencing July 1, 1998 and ending June 30, 2006: after
6 the deposit required pursuant to section 5 of P.L.1982, c.40
7 (C.54:40A-37.1), the first \$150,000,000 of revenue collected
8 annually from the cigarette tax imposed pursuant to P.L.1948, c.65
9 (C.54:40A-1 et seq.) and the first \$5,000,000 of revenue collected
10 annually from the "Tobacco Products Wholesale Sales and Use Tax
11 Act," P.L.1990, c.39 (C.54:40B-1 et seq.), shall be deposited into
12 the Health Care Subsidy Fund established pursuant to section 8 of
13 P.L.1992, c.160 (C.26:2H-18.58); and the next \$390,000,000 of
14 revenue collected annually from the cigarette tax imposed pursuant
15 to P.L.1948, c.65 (C.54:40A-1 et seq.) shall be appropriated
16 annually for health programs, and the next \$50,000,000 of revenue
17 collected annually from the cigarette tax imposed pursuant to
18 P.L.1948, c.65 (C.54:40A-1 et seq.) shall be appropriated annually
19 to the New Jersey Economic Development Authority for payment of
20 debt service incurred by the authority for school facilities projects
21 and in fiscal years commencing July 1, 2002 and July 1, 2003, the
22 next \$30,000,000 of revenue collected annually from the cigarette
23 tax imposed pursuant to P.L.1948, c.65 (C.54:40A-1 et seq.) shall
24 be directed to the Department of Health **[and Senior Services]** to
25 fund anti-smoking initiatives, except that the amount shall be
26 \$40,000,000 in the fiscal year commencing July 1, 2004 and
27 \$45,000,000 in the fiscal year commencing July 1, 2005; and

28 b. commencing with fiscal years beginning on and after July 1,
29 2006, after the deposit required pursuant to section 5 of P.L.1982,
30 c.40 (C.54:40A-37.1), the first \$150,000,000 of revenue collected
31 annually from the cigarette tax imposed pursuant to P.L.1948, c.65
32 (C.54:40A-1 et seq.) and the first \$5,000,000 of revenue collected
33 annually from the "Tobacco Products Wholesale Sales and Use Tax
34 Act," P.L.1990, c.39 (C.54:40B-1 et seq.), shall be deposited into
35 the Health Care Subsidy Fund established pursuant to section 8 of
36 P.L.1992, c.160 (C.26:2H-18.58). In addition, commencing with
37 fiscal years beginning on and after July 1, 2006 but before July 1,
38 2009, there shall be deposited \$215,000,000 of revenue collected
39 annually from the cigarette tax imposed pursuant to P.L.1948, c.65
40 (C.54:40A-1 et seq.) in accordance with the provisions of section 5
41 of P.L.2004, c.68 (C.34:1B-21.20), and, commencing with fiscal
42 years beginning on and after July 1, 2009, there shall be deposited
43 \$241,500,000 of revenue collected annually from the cigarette tax
44 imposed pursuant to P.L.1948, c.65 (C.54:40A-1 et seq.) in
45 accordance with the provisions of section 5 of P.L.2004, c.68
46 (C.34:1B-21.20).
47 (cf: P.L.2009, c.70, s.3)

1 227. Section 9 of P.L.1997, c.263 (C.26:2H-18.59) is amended
2 to read as follows:

3 9. a. The commissioner shall allocate such funds as specified
4 in subsection e. of this section to the charity care component of the
5 disproportionate share hospital subsidy account. In a given year,
6 the department shall transfer from the fund to the Division of
7 Medical Assistance and Health Services in the Department of
8 Human Services such funds as may be necessary for the total
9 approved charity care disproportionate share payments to hospitals
10 for that year.

11 b. For the period January 1, 1993 to December 31, 1993, the
12 commission shall allocate \$500 million to the charity care
13 component of the disproportionate share hospital subsidy account.
14 The Department of Health [and Senior Services] shall recommend
15 the amount that the Division of Medical Assistance and Health
16 Services shall pay to an eligible hospital on a provisional, monthly
17 basis pursuant to paragraphs (1) and (2) of this subsection. The
18 department shall also advise the commission and each eligible
19 hospital of the amount a hospital is entitled to receive.

20 (1) The department shall determine if a hospital is eligible to
21 receive a charity care subsidy in 1993 based on the following:

22
23 Hospital Specific Approved Uncompensated Care-1991
24

25
26 Hospital Specific Preliminary Cost Base-1992
27

28 = Hospital Specific % Uncompensated Care (%UC)
29

30 A hospital is eligible for a charity care subsidy in 1993 if, upon
31 establishing a rank order of the %UC for all hospitals, the hospital
32 is among the 80% of hospitals with the highest %UC.
33

34 (2) The maximum amount of the charity care subsidy an eligible
35 hospital may receive in 1993 shall be based on the following:

36
37 Hospital Specific Approved Uncompensated Care-1991
38

39
40 Total approved Uncompensated Care All Eligible Hospitals-1991
41

42 X \$500 million
43

44 = Maximum Amount of Hospital Specific Charity Care Subsidy for
45 1993
46

47 (3) A hospital shall be required to submit all claims for charity
48 care cost reimbursement, as well as demographic information about
49 the persons who qualify for charity care, to the department in a

1 manner and time frame specified by the Commissioner of Health
2 **【and Senior Services】**, in order to continue to be eligible for a
3 charity care subsidy in 1993 and in subsequent years.

4 The demographic information shall include the recipient's age,
5 sex, marital status, employment status, type of health insurance
6 coverage, if any, and if the recipient is a child under 18 years of age
7 who does not have health insurance coverage or a married person
8 who does not have health insurance coverage, whether the child's
9 parent or the married person's spouse, as the case may be, has health
10 insurance.

11 (4) A hospital shall be reimbursed for the cost of eligible charity
12 care at the same rate paid to that hospital by the Medicaid program;
13 except that charity care services provided to emergency room
14 patients who do not require those services on an emergency basis
15 shall be reimbursed at a rate appropriate for primary care, according
16 to a schedule of payments developed by the commission.

17 (5) The department shall provide for an audit of a hospital's
18 charity care for 1993 within a time frame established by the
19 department.

20 c. For the period January 1, 1994 to December 31, 1994, a
21 hospital shall receive disproportionate share payments from the
22 Division of Medical Assistance and Health Services based on the
23 amount of charity care submitted to the commission or its
24 designated agent, in a form and manner specified by the
25 commission. The commission or its designated agent shall review
26 and price all charity care claims and notify the Division of Medical
27 Assistance and Health Services of the amount it shall pay to each
28 hospital on a monthly basis based on actual services rendered.

29 (1) (Deleted by amendment, P.L.1995, c.133.)

30 (2) If the commission is not able to fully implement the charity
31 care claims pricing system by January 1, 1994, the commission
32 shall continue to make provisional disproportionate share payments
33 to eligible hospitals, through the Division of Medical Assistance
34 and Health Services, based on the charity care costs incurred by all
35 hospitals in 1993, until such time as the commission is able to
36 implement the claims pricing system.

37 If there are additional charity care balances available after the
38 1994 distribution based on 1993 charity care costs, the department
39 shall transfer these available balances from the fund to the Division
40 of Medical Assistance and Health Services for an approved one-
41 time additional disproportionate share payment to hospitals
42 according to the methodology provided in section 12 of P.L.1995,
43 c.133 (C.26:2H-18.59a). The total payment for all hospitals shall
44 not exceed \$75.5 million.

45 (3) A hospital shall be reimbursed for the cost of eligible charity
46 care at the same rate paid to that hospital by the Medicaid program;
47 except that charity care services provided to emergency room
48 patients who do not require those services on an emergency basis

1 shall be reimbursed at a rate appropriate for primary care, according
2 to a schedule of payments developed by the commission.

3 (4) (Deleted by amendment, P.L.1995, c.133.)

4 d. (Deleted by amendment, P.L.1995, c.133.)

5 e. The total amount allocated for charity care subsidy payments
6 shall be: in 1994, \$450 million; in 1995, \$400 million; in 1996,
7 \$310 million; in 1997, \$300 million; for the period January 1, 1998
8 through June 30, 1998, \$160 million; and in fiscal year 1999 and
9 each fiscal year thereafter through fiscal year 2004, \$320 million.
10 Total payments to hospitals shall not exceed the amount allocated
11 for each given year.

12 f. Beginning January 1, 1995:

13 (1) The charity care subsidy shall be determined pursuant to
14 section 13 of P.L.1995, c.133 (C.26:2H-18.59b).

15 (2) A charity care claim shall be valued at the same rate paid to
16 that hospital by the Medicaid program, except that charity care
17 services provided to emergency room patients who do not require
18 those services on an emergency basis shall be valued at a rate
19 appropriate for primary care according to a schedule of payments
20 adopted by the commissioner.

21 (3) The department shall provide for an audit of a hospital's
22 charity care within a time frame established by the commissioner.
23 (cf: P.L.2004, c.113, s.1)

24

25 228. Section 9 of P.L.1996, c.28 (C.26:2H-18.59g) is amended
26 to read as follows:

27 9. The Commissioner of Health **[and Senior Services]**, in
28 consultation with the State Treasurer, shall establish a technology
29 infrastructure to support the provision of charity care pursuant to
30 P.L.1992, c.160 (C.26:2H-18.51 et al.).

31 The State Treasurer, in consultation with the Commissioners of
32 Health **[and Senior Services]** and Human Services may, if deemed
33 to be in the State's best interests, include system features and
34 provisions in the technology infrastructure to satisfy the
35 requirements of multiple programs and purposes, including, but not
36 limited to, programs such as, Medicaid, food stamps, public
37 assistance, and purposes such as the exchange and consolidation of
38 health care information permitted by law, eligibility and identity
39 verification, claims processing, the use of electronic patient
40 identification technology, and electronic data interchange.
41 (cf: P.L.1998, c.37, s.3)

42

43 229. Section 3 of P.L.2004, c.113 (C.26:2H-18.59i) is amended
44 to read as follows:

45 3. a. Beginning July 1, 2004 and each year thereafter:

46 (1) Reimbursed documented charity care shall be equal to the
47 Medicaid-priced amounts of charity care claims submitted to the
48 Department of Health **[and Senior Services]** for the most recent
49 calendar year, adjusted, as necessary, to reflect the annual audit

1 results. These amounts shall be augmented to reflect payments to
2 hospitals by the Medicaid program for Graduate Medical Education
3 and Indirect Medical Education based on the most recent Graduate
4 Medical Education and Indirect Medical Education formulas
5 utilized by the federal Medicare program.

6 (2) Hospital-specific reimbursed documented charity care shall
7 be equal to the Medicaid-priced dollar amount of charity care
8 provided by a hospital as submitted to the Department of Health
9 **【and Senior Services】** for the most recent calendar year. A sample
10 of the claims submitted by the hospital to the department shall be
11 subject to an annual audit conducted pursuant to applicable charity
12 care eligibility criteria.

13 b. Beginning July 1, 2004 and each year thereafter, the charity
14 care subsidy shall be determined according to the following
15 methodology:

16 (1) Each hospital shall be ranked in order of its hospital-
17 specific, relative charity care percentage, or RCCP, by dividing the
18 amount of hospital-specific gross revenue for charity care patients
19 by the hospital's total gross revenue for all patients.

20 (2) The nine hospitals with the highest RCCPs shall receive a
21 charity care payment equal to 96% of each hospital's hospital-
22 specific reimbursed documented charity care. The hospital ranked
23 number 10 shall receive a charity care payment equal to 94% of its
24 hospital-specific reimbursed documented charity care, and each
25 hospital ranked number 11 and below shall receive two percentage
26 points less than the hospital ranked immediately above that hospital.

27 (3) Notwithstanding the provisions of paragraph (2) of this
28 subsection to the contrary, each of the hospitals located in the 10
29 municipalities in the State with the lowest median annual household
30 income according to the most recent census data, shall be ranked
31 from the hospital with the highest hospital-specific reimbursed
32 documented charity care to the hospital with the lowest hospital-
33 specific reimbursed documented charity care. The hospital in each
34 of the 10 municipalities, if any, with the highest documented
35 hospital-specific charity care shall receive a charity care payment
36 equal to 96% of its hospital-specific reimbursed documented charity
37 care.

38 (4) Notwithstanding the provisions of this subsection to the
39 contrary, no hospital shall receive reimbursement for less than 43%
40 of its hospital-specific reimbursed documented charity care.

41 c. To ensure that charity care subsidy payments remain viable
42 and appropriate, the State shall maintain the charity care subsidy at
43 an amount not less than 75% of the Medicaid-priced amounts of
44 charity care provided by hospitals in the State. In addition, these
45 amounts shall be augmented to reflect payments to hospitals by the
46 Medicaid program for Graduate Medical Education and Indirect
47 Medical Education based on the most recent Graduate Medical
48 Education and Indirect Medical Education formulas utilized by the
49 federal Medicare program.

1 d. Notwithstanding any other provisions of this section to the
2 contrary, in the event that the change from the charity care subsidy
3 formula in effect for fiscal year 2004 to the formula established
4 pursuant to this section in effect for fiscal year 2005, reduces, for
5 any reason, the amount of the charity care subsidy payment to a
6 hospital below the amount that the hospital received under the
7 formula in effect in fiscal year 2004, the hospital shall receive a
8 payment equal to the amount it would have received under the
9 formula in effect for fiscal year 2004.

10 (cf: P.L.2004, c.113, s.3)

11
12 230. Section 6 of P.L.2008, c.38 (C.26:2H-18.59j) is amended to
13 read as follows:

14 6. Notwithstanding the provisions of section 3 of P.L.2004,
15 c.113 (C.26:2H-18.59i) to the contrary, a hospital shall not submit
16 charity care claims to the Department of Health **[and Senior**
17 **Services]** for health care services provided to a child under 19 years
18 of age who presents at a hospital for emergency care and who may
19 be deemed presumptively eligible for NJ FamilyCare coverage
20 pursuant to P.L.2005, c.156 (C.30:4J-8 et al.) or Medicaid coverage
21 pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).

22 (cf: P.L.2008, c.38, s.6)

23
24 231. Section 3 of P.L.2007, c.217 (C.26:2H-18.60c) is amended
25 to read as follows:

26 3. The Commissioner of Health **[and Senior Services]** shall
27 require the use of procedures by hospitals to ensure their uniform
28 collection from applicants for charity care pursuant to section 10 of
29 P.L.1992, c.160 (C.26:2H-18.60) and the transmission to the
30 Department of Health **[and Senior Services]** of **[such]**
31 demographic and financial information as the commissioner
32 requires pursuant to section 14 of P.L.1995, c.133 (C.26:2H-18.59c)
33 and any other information that the commissioner determines
34 necessary to ensure the efficient, cost-effective operation of the
35 hospital charity care subsidy program and to prevent and detect
36 fraudulent charity care claims.

37 (cf: P.L.2007, c.217, s.3)

38
39 232. Section 4 of P.L.2007, c.217 (C.26:2H-18.60d) is amended
40 to read as follows:

41 4. a. The Commissioner of Health **[and Senior Services]** and
42 the Medicaid Inspector General shall establish an inter-agency
43 agreement under which the staff and resources of the Office of the
44 Medicaid Inspector General are utilized to:

45 (1) investigate charity care claims, which that office or the
46 Department of Health **[and Senior Services]** reasonably suspects
47 may be fraudulent, with the same authority as that granted to the
48 Medicaid Inspector General to investigate complaints related to

1 Medicaid integrity, fraud, and abuse pursuant to P.L.2007, c.58
2 (C.30:4D-53 et al.); and

3 (2) recover monies from third party payers that were paid as
4 charity care subsidies based upon fraudulent charity care claims.

5 b. The commissioner and the Medicaid Inspector General shall
6 take such actions as are necessary to ensure that any monies
7 recovered pursuant to subsection a. of this section are deposited in
8 the Health Care Subsidy Fund and used for the purposes of
9 providing charity care subsidies pursuant to P.L.1992, c.160
10 (C.26:2H-18.51 et al.).
11 (cf: P.L.2007, c.217, s.4)

12
13 233. Section 5 of P.L.2007, c.217 (C.26:2H-18.60e) is amended
14 to read as follows:

15 5. The Commissioner of Health **[and Senior Services]** and the
16 State Treasurer shall establish an inter-agency agreement under
17 which the staff and resources of the Division of Taxation in the
18 Department of the Treasury are utilized to conduct random checks
19 of personal State income tax returns filed by persons determined
20 eligible for charity care pursuant to section 10 of P.L.1992, c.160
21 (C.26:2H-18.60), in consultation with the commissioner, and with
22 the Medicaid Inspector General pursuant to section 4 of P.L.2007,
23 c.217 (C.26:2H-18.60d), for the purposes of determining the
24 validity of charity care claims for health care services provided to
25 those persons.
26 (cf: P.L.2007, c.217, s.5)

27
28 234. Section 7 of P.L.2007, c.217 (C.26:2H-18.60f) is amended
29 to read as follows:

30 7. The Commissioner of Health **[and Senior Services]** shall
31 establish a mechanism, by means of a toll-free telephone hotline or
32 electronic mail, through which persons may confidentially report
33 suspected incidents of fraudulent charity care claims to the
34 Department of Health **[and Senior Services]**.
35 (cf: P.L.2007, c.217, s.7)

36
37 235. Section 12 of P.L.1992, c.160 (C.26:2H-18.62) is amended
38 to read as follows:

39 12. a. (Deleted by amendment, P.L.2005, c.237).

40 b. (Deleted by amendment, P.L.2005, c.237).

41 c. (1) Notwithstanding any law to the contrary, each general
42 hospital and each specialty heart hospital shall pay .53% of its total
43 operating revenue to the department for deposit in the Health Care
44 Subsidy Fund. The hospital shall make monthly payments to the
45 department beginning July 1, 1993. The commissioner shall
46 determine the manner in which the payments shall be made.

47 For the purposes of this subsection, "total operating revenue"
48 shall be defined by the department in accordance with financial
49 reporting requirements established pursuant to N.J.A.C.8:31B-3.3

1 and shall include revenue from any ambulatory care facility that is
2 licensed to a general hospital as an off-site ambulatory care service
3 facility.

4 (2) The commissioner shall allocate the monies paid by
5 hospitals pursuant to paragraph (1) of this subsection as follows:

6 (a) In State fiscal years 2006 and 2007, \$35 million of those
7 monies shall be allocated to the support of federally qualified health
8 centers in this State, and the remainder shall be allocated to the
9 support of (i) the infant mortality reduction program in the
10 Department of Health [and Senior Services], (ii) the primary care
11 physician and dentist loan redemption program established in the
12 Higher Education Student Assistance Authority by article 3 of
13 P.L.1999, c.46 (C.18A:71C-32 et seq.), and (iii) the development
14 and use of health information electronic data interchange
15 technology pursuant to P.L.1999, c.154 (C.17B:30-23 et al.); and

16 (b) In State fiscal year 2008 and thereafter, \$40 million of those
17 monies shall be allocated to the support of federally qualified health
18 centers in this State.

19 Monies allocated to the support of federally qualified health
20 centers in the State under this paragraph shall be used for the
21 purpose of compensating them for health care services provided to
22 uninsured patients.

23 d. The monies paid by the hospitals and allocated under
24 subsection c. of this section for the support of federally qualified
25 health centers shall be credited to the federally qualified health
26 centers account.

27 e. (1) Monies paid by hospitals under subsection c. of this
28 section in excess of \$40 million, federal matching funds received on
29 account of such monies, and interest received on such payments and
30 funds shall be allocated exclusively to support funding to hospitals.

31 (2) In the event that any approval, application, or other
32 condition necessary for the implementation of this subsection and
33 the distribution of funds pursuant thereto consistent with the Fiscal
34 Year 2011 annual appropriations act is not obtained, granted, or
35 satisfied, the Departments of Health [and Senior Services] and
36 Human Services shall jointly prepare a plan concerning charity care
37 and related hospital funding, which shall be subject to the approval
38 of the Joint Budget Oversight Committee.

39 (cf: P.L.2010, c.23, s.2)

40
41 236. Section 3 of P.L.2008, c.33 (C.26:2H-18.76) is amended to
42 read as follows:

43 3. a. The Health Care Stabilization Fund is established as a
44 nonlapsing, revolving fund in the Department of Health [and Senior
45 Services]. The fund shall be administered by the Department of
46 Health [and Senior Services] in consultation with the Department
47 of the Treasury. The fund shall be comprised of [such] revenues as

1 are appropriated by the Legislature from time to time, along with
2 any interest earned on monies in the fund.

3 b. Monies from the fund shall be disbursed solely as grants to
4 qualifying licensed health care facilities pursuant to eligibility
5 criteria, and subject to conditions, prescribed by the Commissioner
6 of Health **【and Senior Services】** in accordance with the
7 requirements of this act.

8 (cf: P.L.2008, c.33, s.3)

9
10 237. Section 4 of P.L.2008, c.33 (C.26:2H-18.77) is amended to
11 read as follows:

12 4. The Commissioner of Health **【and Senior Services】**, in
13 consultation with the State Treasurer and the New Jersey Health
14 Care Facilities Financing Authority, may award a grant to a hospital
15 or other licensed health care facility from the fund if the
16 commissioner determines that, due to extraordinary circumstances,
17 the grant is necessary to maintain access to essential health care
18 services or referral sources, as appropriate. In determining whether
19 to award a grant to a licensed health care facility, the commissioner
20 shall consider whether, at a minimum, the following factors are
21 present:

22 a. Extraordinary circumstances threaten access to essential
23 health services for residents in a community;

24 b. Persons in a community will be without ready access to
25 essential health care services in the absence of the award of a grant
26 from the fund;

27 c. Funding is unavailable from other sources to preserve or
28 provide essential health care services;

29 d. A grant from the fund is likely to stabilize access to the
30 essential health care services;

31 e. There is a reasonable likelihood that the essential health care
32 services will be sustainable upon the termination of the grant;

33 f. The proposed recipient of the grant agrees to conditions
34 established by the commissioner for receipt of a grant; and

35 g. The hospital or other licensed health care facility serves a
36 significant number of uninsured and underinsured persons.

37 (cf: P.L.2008, c.33, s.4)

38
39 238. Section 5 of P.L.2008, c.33 (C.26:2H-18.78) is amended to
40 read as follows:

41 5. a. The Commissioner of Health **【and Senior Services】** shall
42 set reasonable conditions for the receipt of a grant by a general
43 hospital or other licensed health care facility, which conditions may
44 include, but need not be limited to, requirements to assure the
45 efficient and effective delivery of health care services.

46 The facility shall agree to: the provision of essential health care
47 services to the community as determined by the commissioner;
48 facilitating the enrollment of individuals in appropriate government
49 insurance programs; and providing the Department of Health **【and**

1 Senior Services] with [such] quality of care, utilization, and
2 financial information as determined by the commissioner to be
3 reasonable and necessary. In the case of a facility whose financial
4 condition created or contributed to the extraordinary circumstances
5 necessitating the award of the grant, the facility shall agree to such
6 corrective steps to its governance, management, and business
7 operations as the commissioner deems reasonable and appropriate
8 in light of the facility's circumstances and the health care needs of
9 the community.

10 b. Within one year of the award of a grant from the fund, the
11 commissioner, in consultation with the State Comptroller, shall
12 cause to be conducted an audit to evaluate:

13 (1) whether a grantee's use of the funds was consistent with the
14 provisions of this act, the commissioner's regulations, and any
15 conditions imposed upon the award of the grant; and

16 (2) whether a grantee's use of the funds furthered the purposes
17 of this act.

18 c. The commissioner, pursuant to the "Administrative
19 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt
20 such rules and regulations as are necessary to effectuate the
21 purposes of this act. The regulations shall specify eligibility criteria
22 for, and conditions that must be met by, a health care facility to
23 receive a grant from the fund.

24 Notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1
25 et seq.) to the contrary, the commissioner may adopt immediately
26 upon filing with the Office of Administrative Law such regulations
27 as the commissioner deems necessary to implement the provisions
28 of this act, which shall be effective for a period not to exceed 270
29 days following enactment of this act and may thereafter be
30 amended, adopted, or readopted by the department in accordance
31 with the requirements of P.L.1968, c.410.

32 d. The commissioner shall annually, by March 1 of each year,
33 submit a report on the Health Care Stabilization Fund to the
34 Governor, and to the Legislature pursuant to section 2 of P.L.1991,
35 c.164 (C.52:14-19.1). The commissioner shall include a copy of the
36 report on the department's website.

37 The report shall identify the health care facilities that received
38 grants during the reporting period, the purpose for which the grant
39 was allocated to the facility, and the extent to which the awarding
40 of the grant furthered the purposes of this act. The report shall
41 include a copy of any audits conducted pursuant to subsection b. of
42 this section.

43 (cf: P.L.2008, c.33, s.5)

45 239. Section 3 of P.L.1997, c.78 (C.26:2H-81) is amended to
46 read as follows:

47 3. The Commissioner of Health [and Senior Services] shall
48 adopt rules and regulations pursuant to the "Administrative

1 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) necessary to
2 carry out the provisions of this act.
3 (cf: P.L.1997, c.78, s.3)
4

5 240. Section 2 of P.L.1997, c.100 (C.26:2H-83) is amended to
6 read as follows:

7 2. a. The Department of Health **[and Senior Services]** shall not
8 issue a nurse aide or personal care assistant certification to any
9 applicant, except on a conditional basis as provided for in
10 subsection d. of section 3 of P.L.1997, c.100 (C.26:2H-84), unless
11 the Commissioner of Health **[and Senior Services]** first determines,
12 consistent with the requirements of sections 2 through 6 of
13 P.L.1997, c.100 (C.26:2H-83 through 87), that no criminal history
14 record information exists on file in the Federal Bureau of
15 Investigation, Identification Division, or in the State Bureau of
16 Identification in the Division of State Police, which would
17 disqualify that person from being certified. A nurse aide or personal
18 care assistant certified by the department prior to the effective date
19 of P.L.2000, c.20 upon whom a criminal history record background
20 check has not been conducted pursuant to sections 2 through 6 of
21 P.L.1997, c.100 (C.26:2H-83 through 87), shall be required to
22 undergo that criminal history record background check as a
23 condition of that individual's initial recertification following the
24 effective date of P.L.2000, c.20.

25 In addition, a follow-up criminal history record background
26 check of federal records shall be conducted at least once every two
27 years as a condition of recertification for every certified nurse aide
28 and personal care assistant; except that the commissioner, in lieu of
29 conducting follow-up criminal history record background checks
30 for purposes of recertification, may provide for an alternative means
31 of determining whether a certified nurse aide or personal care
32 assistant has been convicted of a crime or disorderly persons
33 offense which would disqualify that person from certification,
34 including, but not limited to, a match of a person's Social Security
35 number or other identifying information with records of criminal
36 proceedings in this and other states. If the commissioner elects to
37 implement this alternative means of determining whether a certified
38 nurse aide or personal care assistant has been convicted of a crime
39 or disorderly persons offense which would disqualify that person
40 from certification, the commissioner shall report to the Governor
41 and the Legislature prior to its implementation on the projected
42 costs and procedures to be followed with respect to its
43 implementation and setting forth the rationale therefor.

44 A person shall be disqualified from certification if that person's
45 criminal history record background check reveals a record of
46 conviction of any of the following crimes and offenses:

47 (1) In New Jersey, any crime or disorderly persons offense:

48 (a) involving danger to the person, meaning those crimes and
49 disorderly persons offenses set forth in N.J.S.2C:11-1 et seq.,

1 N.J.S.2C:12-1 et seq., N.J.S.2C:13-1 et seq., N.J.S.2C:14-1 et seq.
2 or N.J.S.2C:15-1 et seq.; or

3 (b) against the family, children, or incompetents, meaning those
4 crimes and disorderly persons offenses set forth in N.J.S.2C:24-1 et
5 seq.; or

6 (c) involving theft as set forth in chapter 20 of Title 2C of the
7 New Jersey Statutes; or

8 (d) involving any controlled dangerous substance or controlled
9 substance analog as set forth in chapter 35 of Title 2C of the New
10 Jersey Statutes except paragraph (4) of subsection a. of
11 N.J.S.2C:35-10.

12 (2) In any other state or jurisdiction, of conduct which, if
13 committed in New Jersey, would constitute any of the crimes or
14 disorderly persons offenses described in paragraph (1) of this
15 subsection.

16 b. Notwithstanding the provisions of subsection a. of this
17 section, no person shall be disqualified from certification on the
18 basis of any conviction disclosed by a criminal history record
19 background check performed pursuant to sections 2 through 6 and
20 section 14 of P.L.1997, c.100 (C.26:2H-83 through 87 and C.53:1-
21 20.9a) if the person has affirmatively demonstrated to the
22 Commissioner of Health [and Senior Services] clear and
23 convincing evidence of the person's rehabilitation. In determining
24 whether a person has affirmatively demonstrated rehabilitation, the
25 following factors shall be considered:

26 (1) the nature and responsibility of the position which the
27 convicted person would hold, has held or currently holds, as the
28 case may be;

29 (2) the nature and seriousness of the offense;

30 (3) the circumstances under which the offense occurred;

31 (4) the date of the offense;

32 (5) the age of the person when the offense was committed;

33 (6) whether the offense was an isolated or repeated incident;

34 (7) any social conditions which may have contributed to the
35 offense; and

36 (8) any evidence of rehabilitation, including good conduct in
37 prison or in the community, counseling or psychiatric treatment
38 received, acquisition of additional academic or vocational
39 schooling, successful participation in correctional work-release
40 programs, or the recommendation of those who have had the person
41 under their supervision.

42 c. If a person subject to the provisions of sections 2 through 6
43 of P.L.1997, c.100 (C.26:2H-83 through 87) refuses to consent to,
44 or cooperate in, the securing of a criminal history record
45 background check, the commissioner shall, as applicable:

46 (1) not issue a nurse aide or personal care assistant certification
47 and shall notify the applicant, and the applicant's employer if the
48 applicant is conditionally employed as provided in subsection d. of

1 section 3 of P.L.1997, c.100 (C.26:2H-84) or the applicant's
2 prospective employer if known, of that denial; or

3 (2) revoke the person's current nurse aide or personal care
4 assistant certification and notify the person, and the person's
5 employer, if known, of that revocation.

6 (cf: P.L.2000, c.20, s.1)

7

8 241. Section 3 of P.L.1997, c.100 (C.26:2H-84) is amended to
9 read as follows:

10 3. a. An applicant for certification, or a certified nurse aide or
11 personal care assistant who is required to undergo a criminal history
12 record background check pursuant to section 2 of P.L.1997, c.100
13 (C.26:2H-83), shall submit to the Commissioner of Health [and
14 Senior Services] that individual's name, address, and fingerprints
15 taken on standard fingerprint cards by a State or municipal law
16 enforcement agency. The commissioner is authorized to exchange
17 fingerprint data with and receive criminal history record
18 information from the Federal Bureau of Investigation and the
19 Division of State Police for use in making the determinations
20 required by sections 2 through 6 of P.L.1997, c.100 (C.26:2H-83
21 through 87).

22 b. Upon receipt of the criminal history record information for a
23 person from the Federal Bureau of Investigation or the Division of
24 State Police, the commissioner shall immediately notify, in writing,
25 the applicant, and the applicant's employer if the applicant is
26 conditionally employed as provided in subsection d. of this section
27 or the applicant's prospective employer if known, or a certified
28 nurse aide or personal care assistant who is required to undergo a
29 criminal history record background check pursuant to section 2 of
30 P.L.1997, c.100 (C.26:2H-83) and that person's employer, as
31 applicable, of the person's qualification or disqualification for
32 certification under sections 2 through 6 of P.L.1997, c.100
33 (C.26:2H-83 through 87). If the person is disqualified, the
34 conviction or convictions which constitute the basis for the
35 disqualification shall be identified in the notice to the person, but
36 shall not be identified in the notice to the person's employer or
37 prospective employer.

38 c. The person who is the subject of the background check shall
39 have 30 days from the date of the written notice of disqualification
40 to petition the commissioner for a hearing on the accuracy of the
41 person's criminal history record information or to establish the
42 person's rehabilitation under subsection b. of section 2 of P.L.1997,
43 c.100 (C.26:2H-83). The commissioner shall notify the person's
44 employer or prospective employer of the person's petition for a
45 hearing within five days following the receipt of the petition from
46 the person. Upon the issuance of a final decision upon a petition to
47 the commissioner pursuant to this subsection, the commissioner
48 shall notify the person and the person's employer or prospective
49 employer as to whether the person remains disqualified from

1 certification under sections 2 through 6 of P.L.1997, c.100
2 (C.26:2H-83 through 87).

3 d. An applicant for certification may be issued conditional
4 certification and may be employed as a nurse aide or a personal care
5 assistant conditionally for a period not to exceed 60 days, pending
6 completion of a criminal history record background check required
7 under sections 2 through 6 of P.L.1997, c.100 (C.26:2H-83 through
8 87) by the Division of State Police in the Department of Law and
9 Public Safety based upon an examination of its own files in
10 accordance with section 14 of P.L.1997, c.100 (C.53:1-20.9a), and
11 for an additional period not to exceed 60 days pending completion
12 of a criminal history record background check by federal authorities
13 as arranged for by the Division of State Police pursuant to section
14 14 of P.L.1997, c.100 (C.53:1-20.9a), if the person submits to the
15 commissioner a sworn statement attesting that the person has not
16 been convicted of any crime or disorderly persons offense as
17 described in section 2 of P.L.1997, c.100 (C.26:2H-83). A person
18 who submits a false sworn statement shall be disqualified from
19 certification as a nurse aide or a personal care assistant, as the case
20 may be, and shall not have an opportunity to establish rehabilitation
21 pursuant to subsection b. of section 2 of P.L.1997, c.100 (C.26:2H-
22 83).

23 A conditionally employed person, or an employed person
24 certified as a nurse aide or a personal care assistant, who disputes
25 the accuracy of the criminal history record information and who
26 files a petition requesting a hearing pursuant to subsection c. of this
27 section may remain employed by that person's employer until the
28 commissioner rules on the person's petition but, pending the
29 commissioner's ruling, the employer shall not permit the person to
30 have unsupervised contact with patients, residents, or clients, as the
31 case may be, who are 60 years of age or older.

32 e. (1) A licensed health care facility or other entity that has
33 received an application from or conditionally employs an applicant
34 for nurse aide or personal care assistant certification, or employs a
35 certified nurse aide or personal care assistant, and:

36 (a) receives notice from the Commissioner of Health [and
37 Senior Services] that the applicant or certified nurse aide or
38 personal care assistant, as applicable, has been determined by the
39 commissioner to be disqualified from certification as a nurse aide or
40 personal care assistant pursuant to sections 2 through 6 of P.L.1997,
41 c.100 (C.26:2H-83 through 87); or

42 (b) terminates its employment of a conditionally employed
43 applicant for nurse aide or personal care assistant certification or a
44 certified nurse aide or personal care assistant because the person
45 was disqualified from employment at the health care facility or
46 other entity on the basis of a conviction of a crime or disorderly
47 persons offense as described in section 2 of P.L.1997, c.100
48 (C.26:2H-83) after commencing employment at the health care
49 facility or other entity;

1 shall be immune from liability for disclosing that disqualification or
2 termination in good faith to another licensed health care facility or
3 other entity that is qualified by statute or regulation to employ the
4 person as a nurse aide or personal care assistant.

5 (2) A licensed health care facility or other entity which discloses
6 information pursuant to paragraph (1) of this subsection shall be
7 presumed to be acting in good faith unless it is shown by clear and
8 convincing evidence that the health care facility or other entity
9 acted with actual malice toward the person who is the subject of the
10 information.

11 f. (1) A licensed health care facility or other entity, upon
12 receiving notice from the Commissioner of Health [and Senior
13 Services] that a person employed by it as a nurse aide or personal
14 care assistant, including a conditionally employed person, has been
15 convicted of a crime or disorderly persons offense as described in
16 section 2 of P.L.1997, c.100 (C.26:2H-83) after commencing
17 employment at the health care facility or other entity, shall:

18 (a) immediately terminate the person's employment as a nurse
19 aide or personal care assistant; and

20 (b) report information about the termination to the
21 Commissioner of Health [and Senior Services] in a manner
22 prescribed by the commissioner, who shall thereupon deem the
23 person to be disqualified from certification as a nurse aide or
24 personal care assistant, subject to the provisions of paragraph (3) of
25 this subsection.

26 (2) A licensed health care facility or other entity shall be
27 immune from liability for any actions taken in good faith pursuant
28 to paragraph (1) of this subsection and shall be presumed to be
29 acting in good faith unless it is shown by clear and convincing
30 evidence that the health care facility or other entity acted with
31 actual malice toward the employee.

32 (3) The person terminated from employment pursuant to
33 paragraph (1) of this subsection shall have 30 days from the date of
34 the termination to petition the commissioner for a hearing on the
35 accuracy of the information about the conviction reported to the
36 commissioner or to establish why the person should not be
37 terminated from employment, and disqualified from certification, as
38 a nurse aide or personal care assistant. The commissioner shall
39 notify the person's employer of the person's petition for a hearing
40 within five days following the receipt of the petition from the
41 person. Upon the issuance of a final decision upon a petition to the
42 commissioner pursuant to this paragraph, the commissioner shall
43 notify the person and the person's employer as to whether:

44 (a) the person is to be reinstated in [his] the person's
45 employment as a nurse aide or personal care assistant and retain
46 [his] the person's certification; or

1 (b) the person's termination from employment as a nurse aide or
2 personal care assistant stands and the person remains disqualified
3 from certification.

4 g. The commissioner shall provide for a registry of all persons
5 who have successfully completed all training and competency
6 evaluation requirements for certification as a nurse aide or personal
7 care assistant and shall provide for the inclusion in the registry of
8 information about the disqualification of any person from
9 certification pursuant to sections 2 through 6 of P.L.1997, c.100
10 (C.26:2H-83 through 87); for which purposes, the commissioner
11 may use an existing registry established pursuant to statute or
12 regulation, subject to the requirements of federal law. The registry
13 shall include the specific documented findings constituting the basis
14 for that disqualification, except that the information shall indicate
15 that the person was convicted of a crime or disorderly persons
16 offense as described in section 2 of P.L.1997, c.100 (C.26:2H-83),
17 but shall not identify the conviction or convictions which constitute
18 the basis for the disqualification.

19 (cf: P.L.2000, c.20, s.2)

20
21 242. Section 4 of P.L.1997, c.100 (C.26:2H-85) is amended to
22 read as follows:

23 4. The Department of Health **【and Senior Services】** shall
24 assume the cost of the criminal history record background check
25 conducted on an applicant for nurse aide or personal care assistant
26 certification, or a certified nurse aide or personal care assistant, as
27 the case may be, pursuant to sections 2 through 6 and section 14 of
28 P.L.1997, c.100 (C.26:2H-83 through 87 and C.53:1-20.9a).

29 (cf: P.L.2000, c.20, s.3)

30
31 243. Section 5 of P.L.1997, c.100 (C.26:2H-86) is amended to
32 read as follows:

33 5. In accordance with the "Administrative Procedure Act,"
34 P.L.1968, c.410 (C.52:14B-1 et seq.), the Commissioner of Health
35 **【and Senior Services】** shall adopt rules and regulations necessary to
36 implement the provisions of sections 1 through 4 and section 6 of
37 P.L.1997, c.100 (C.26:2H-82 through C.26:2H-85 and C.26:2H-87).

38 (cf: P.L.1997, c.100, s.5)

39
40 244. Section 6 of P.L.1997, c.100 (C.26:2H-87) is amended to
41 read as follows:

42 6. Any person submitting a false sworn statement pursuant to
43 section 3 of P.L.1997, c.100 (C.26:2H-84) shall be subject to a fine
44 of not more than \$1,000, which may be assessed by the
45 Commissioner of Health **【and Senior Services】**.

46 (cf: P.L.1997, c.284, s.5)

47
48 245. Section 2 of P.L.1997, c.296 (C.26:2H-89) is amended to
49 read as follows:

1 2. A PACE or Pre-PACE program shall operate in the State
2 only in accordance with a contract with the Department of [Health
3 and Senior] Human Services, which shall be prepared in
4 consultation with the Department of Human Services, and pursuant
5 to the provisions of this act.

6 The programs shall not be subject to the requirements of
7 P.L.1973, c.337 (C.26:2J-1 et seq.).
8 (cf: P.L.1997 c.296, s.2)

9
10 246. Section 3 of P.L.2003, c.105 (C.26:2H-94) is amended to
11 read as follows:

12 3. As used in this act:

13 "Commissioner" means the Commissioner of [Health and Senior
14 Services] Human Services.

15 "Department" means the Department of [Health and Senior
16 Services] Human Services.

17 "Director" means the Director of the Division of Taxation in the
18 Department of the Treasury.

19 "Fund" means the "Nursing Home Quality of Care Improvement
20 Fund" established pursuant to this act.

21 "Medicaid" means the Medicaid program established pursuant to
22 P.L.1968, c.413 (C.30:4D-1 et seq.).

23 "Nursing home" means a long-term care facility licensed
24 pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), as well as the
25 distinct part of another health care facility or continuing care
26 retirement community that is licensed to provide skilled nursing
27 care services pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.). For
28 the purposes of this act, nursing home shall not include: an acute
29 care hospital; assisted living facility; comprehensive personal care
30 home; residential health care facility; adult day health care facility;
31 alternate family care program; adult family care program; home
32 health care agency; State psychiatric hospital; county health care
33 facility, including, but not limited to, county geriatric center, county
34 nursing home or other county long-term care facility; the New
35 Jersey Firemen's Home; or a health care facility operated by the
36 Department of Military and Veterans' Affairs.

37 (cf: P.L.2004, c.41, s.1)

38
39 247. Section 4 of P.L.2003, c.105 (C.26:2H-95) is amended to
40 read as follows:

41 4. The "Nursing Home Quality of Care Improvement Fund" is
42 established as a nonlapsing fund in the Department of the Treasury.
43 The fund shall be administered by the State Treasurer, in
44 consultation with the Commissioner of [Health and Senior
45 Services] Human Services or [his] the commissioner's designee,
46 who shall be responsible for the oversight, coordination, and
47 disbursement of fund monies, and shall be credited with monies
48 received pursuant to section 6 of this act, except for those monies

1 which are deposited into the General Fund in accordance with the
2 provisions of that section.

3 a. The fund shall be comprised of:

4 (1) revenues from assessments paid by nursing homes pursuant
5 to section 5 of this act;

6 (2) matching federal funds received pursuant to Title XIX of the
7 federal Social Security Act (42 U.S.C. s.1396 et seq.) that result
8 from the expenditure of revenues from assessments collected
9 pursuant to section 5 of this act;

10 (3) General Fund revenues, as necessary, to allow for the per
11 diem add-on payments pursuant to subsection d. of section 6 of this
12 act until the revenue from the assessment has been collected. Upon
13 collection of the revenue from the assessment, the General Fund
14 shall be repaid within 90 days; and

15 (4) any interest or other income earned on monies deposited into
16 the fund.

17 b. Any disbursement of monies from the fund shall be used
18 solely for Medicaid nursing home add-ons as provided for under
19 section 6 of this act, which shall not in any manner render the
20 assessment mechanism set forth in section 5 of this act to be in
21 violation of the hold harmless provisions of 42 C.F.R. s.433.68(f).

22 c. The State Treasurer shall provide by regulation for such
23 measures as are required to ensure the integrity of the fund.

24 d. The State Treasurer shall establish separate accounts within
25 the fund as are needed to efficiently manage and disburse fund
26 monies.

27 e. Monies in the fund shall not be used to supplant
28 appropriations from the General Fund to the department [or the
29 Department of Human Services] for use in securing matching
30 federal funds not otherwise provided for in this act.

31 f. The Director of the Division of Taxation shall be responsible
32 for collecting the assessments.

33 (cf: P.L.2003, c.105, s.4)

34

35 248. Section 3 of P.L.2005, c.233 (C.26:2H-104) is amended to
36 read as follows:

37 3. As used in this act:

38 "Adult" means an individual 18 years of age or older.

39 "Advance directive for mental health care" or "advance
40 directive" means a writing executed in accordance with the
41 requirements of this act. An "advance directive" may include a
42 proxy directive or an instruction directive, or both.

43 "Decision-making capacity" means a patient's ability to
44 understand and appreciate the nature and consequences of mental
45 health care decisions, including the benefits and risks of each, and
46 alternatives to any proposed mental health care, and to reach an
47 informed decision. A patient's decision-making capacity is
48 evaluated relative to the demands of a particular mental health care
49 decision.

1 "Declarant" means a competent adult who executes an advance
2 directive for mental health care.

3 "Domestic partner" means a domestic partner as defined in
4 section 3 of P.L.2003, c.246 (C.26:8A-3).

5 "Instruction directive" means a writing which provides
6 instructions and direction regarding the declarant's wishes for
7 mental health care in the event that the declarant subsequently lacks
8 decision-making capacity.

9 "Mental health care decision" means a decision to accept or
10 refuse any treatment, service, or procedure used to diagnose, treat,
11 or care for a patient's mental condition. "Mental health care
12 decision" also means a decision to accept or refuse the services of a
13 particular mental health care professional or psychiatric facility,
14 including a decision to accept or to refuse a transfer of care.

15 "Mental health care professional" means an individual licensed
16 or certified by this State to provide or administer mental health care
17 in the ordinary course of business or practice of a profession.

18 "Mental health care representative" means the individual
19 designated by a declarant pursuant to the proxy directive part of an
20 advance directive for mental health care for the purpose of making
21 mental health care decisions on the declarant's behalf, and includes
22 an individual designated as an alternate mental health care
23 representative who is acting as the declarant's mental health care
24 representative in accordance with the terms and order of priority
25 stated in an advance directive for mental health care.

26 "Patient" means an individual who is under the care of a mental
27 health care professional.

28 "Proxy directive" means a writing which designates a mental
29 health care representative in the event that the declarant
30 subsequently lacks decision-making capacity.

31 "Psychiatric facility" means a State psychiatric facility listed in
32 R.S.30:1-7, a county psychiatric hospital or the psychiatric unit of a
33 county hospital, a short-term care facility, special psychiatric
34 hospital or psychiatric unit of a general hospital or other health care
35 facility licensed by the Department of Health [and Senior Services]
36 pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), or a hospital or
37 community-based mental health center or other entity licensed or
38 funded by the Department of Human Services to provide
39 community-based mental health services.

40 "Responsible mental health care professional" means a person
41 licensed or certified by the State to provide or administer mental
42 health care who is selected by, or assigned to, the patient and has
43 primary responsibility for the care and treatment of the patient.

44 "State" means a state, territory, or possession of the United
45 States, the District of Columbia, or the Commonwealth of Puerto
46 Rico.

47 (cf: P.L.2005 c.233, s.3)

1 249. Section 16 of P.L.2005, c.233 (C.26:2H-117) is amended to
2 read as follows:

3 16. In accordance with the "Administrative Procedure Act,"
4 P.L.1968, c.410 (C.52:14B-1 et seq.), the Commissioner of Health
5 **【and Senior Services】**, in consultation with the Commissioner of
6 Human Services, shall adopt rules and regulations, with respect to
7 psychiatric facilities licensed by the Department of Health **【and**
8 **Senior Services】**, to:

9 a. provide for the annual reporting by those psychiatric
10 facilities to the Department of Health **【and Senior Services】**, and
11 the gathering of such additional data, as is reasonably necessary to
12 oversee and evaluate the implementation of this act; except that the
13 commissioner shall seek to minimize the burdens of record-keeping
14 imposed by the rules and regulations and ensure the appropriate
15 confidentiality of patient records; and

16 b. require those psychiatric facilities to adopt policies and
17 practices designed to:

18 (1) make routine inquiry, at the time of admission and at such
19 other times as are appropriate under the circumstances, concerning
20 the existence and location of an advance directive for mental health
21 care;

22 (2) provide appropriate informational materials concerning
23 advance directives for mental health care, including information
24 about the registry of advance directives for mental health care
25 established or designated pursuant to section 17 of this act, to all
26 interested patients and their families and mental health care
27 representatives, and to assist patients interested in discussing and
28 executing an advance directive for mental health care, as well as to
29 encourage declarants to periodically review their advance directives
30 for mental health care as needed;

31 (3) inform mental health care professionals of their rights and
32 responsibilities under this act, to assure that the rights and
33 responsibilities are understood, and to provide a forum for
34 discussion and consultation regarding the requirements of this act;
35 and

36 (4) otherwise comply with the provisions of this act.

37 (cf: P.L.2005, c.233, s.16)

38

39 250. Section 18 of P.L.2005, c.233 (C.26:2H-118) is amended to
40 read as follows:

41 18. The Department of Health **【and Senior Services】** and the
42 Department of Human Services shall jointly evaluate the
43 implementation of this act and report to the Governor and the
44 Legislature, including recommendations for any changes deemed
45 necessary, within five years after the effective date of this act.

46 (cf: P.L.2005, c.233, s.18)

1 251. Section 19 of P.L.2005, c.233 (C.26:2H-119) is amended to
2 read as follows:

3 19. a. A mental health care representative shall not be subject to
4 criminal or civil liability for any actions performed in good faith
5 and in accordance with the provisions of this act to carry out the
6 terms of an advance directive for mental health care.

7 b. A mental health care professional shall not be subject to
8 criminal or civil liability, or to discipline by the psychiatric facility
9 or the respective State licensing board for professional misconduct,
10 for any actions performed to carry out the terms of an advance
11 directive for mental health care in good faith and in accordance
12 with: the provisions of this act; any rules and regulations adopted
13 by the Commissioner of Health [and Senior Services] or the
14 Commissioner of Human Services pursuant to this act; and accepted
15 professional standards.

16 c. A psychiatric facility shall not be subject to criminal or civil
17 liability for any actions performed in good faith and in accordance
18 with the provisions of this act to carry out the terms of an advance
19 directive for mental health care.

20 (cf: P.L.2005, c.233, s.19)

21

22 252. Section 1 of P.L.2006, c.75 (C.26:2H-126) is amended as
23 follows:

24 1. a. Except as provided in subsection b. of this section, at least
25 60 days prior to the proposed date of the closing or relocation of a
26 nursing home or assisted living residence licensed pursuant to
27 P.L.1971, c.136 (C.26:2H-1 et seq.), the nursing home or assisted
28 living administrator shall notify, in writing, a resident of the
29 facility, the resident's legal representative, if applicable, and the
30 Department of Health [and Senior Services] of the closing or
31 relocation of the facility.

32 b. The Commissioner of Health [and Senior Services] may
33 waive the 60-day notice requirement in subsection a. of this section
34 if the commissioner determines that an emergency situation
35 warrants a more immediate closure or relocation of the nursing
36 home or assisted living residence. In the case of such an emergency
37 situation, the administrator of the facility shall notify, in writing, a
38 resident, the resident's legal representative, if applicable, and the
39 Department of Health [and Senior Services] of the closure or
40 relocation as soon as practicable.

41 As used in this section, an "emergency situation" may include:
42 the suspension or revocation of the facility license by the
43 commissioner; decertification of the facility by the federal Medicare
44 program established pursuant to Title XVIII of the "Social Security
45 Act," Pub.L.89-97 (42 U.S.C. s.1395 et seq.), or the Medicaid
46 program established pursuant to P.L.1968, c.413 (C.30:4D-1 et

1 seq.); or any other event as prescribed by regulation of the
2 commissioner.
3 (cf: P.L.2006, c.75, s.1)
4

5 253. Section 1 of P.L.2009, c.55 (C.26:2H-127) is amended to
6 read as follows:

7 1. a. An assisted living facility licensed by the Department of
8 Health [and Senior Services] pursuant to P.L.1971, c.136
9 (C.26:2H-1 et seq.) that requires a new resident, as a condition of
10 admission to the facility, to pay a one-time security deposit, which
11 is in addition to the regular monthly rental and services charges,
12 shall provide that the deposit plus interest earned on the deposit is
13 refundable to the resident or other designated person upon the
14 resident's vacating the facility if the resident provides the facility
15 with 30 days' notice that the resident intends to vacate the facility.

16 b. The facility may deduct an amount not to exceed one percent
17 per annum of the amount of the invested or deposited security
18 deposit for the cost of servicing and processing an account
19 containing a security deposit.
20 (cf: P.L.2009, c.55, s.1)
21

22 254. Section 1 of P.L.2011, c.58 (C.26:2H-128) is amended to
23 read as follows:

24 1. a. Each assisted living facility and comprehensive personal
25 care home provider licensed pursuant to P.L.1971, c.136 (C.26:2H-
26 1 et seq.) shall distribute to each resident and post in a conspicuous,
27 public place in the facility or home, as applicable, a statement of
28 resident rights. The statement of rights shall include, at a minimum,
29 the rights set forth in subsection b. of this section. Each resident,
30 resident family member, and legally appointed guardian, as
31 applicable, shall be informed of the resident rights, and provided
32 with explanations if needed. The provider shall ensure that each
33 resident, or the resident's legally appointed guardian, as applicable,
34 signs a copy of the statement of rights.

35 b. Every resident of an assisted living facility or
36 comprehensive personal care home that is licensed in the State shall
37 have the right to:

38 (1) receive personalized services and care in accordance with
39 the resident's individualized general service or health service plan;

40 (2) receive a level of care and services that address the resident's
41 changing physical and psychosocial status;

42 (3) have [his or her] the resident's independence and
43 individuality;

44 (4) be treated with respect, courtesy, consideration, and dignity;

45 (5) make choices with respect to services and lifestyle;

46 (6) privacy;

47 (7) have or not to have families' and friends' participation in
48 resident service planning and implementation;

- 1 (8) receive pain management as needed, in accordance with
- 2 Department of Health [and Senior Services] regulations;
- 3 (9) choose a physician, advanced practice nurse, or physician
- 4 assistant;
- 5 (10) appeal an involuntary discharge as specified in department
- 6 regulations;
- 7 (11) receive written documentation that fee increases based on a
- 8 higher level of care are based on reassessment of the resident and in
- 9 accordance with department regulations;
- 10 (12) receive a written explanation of fee increases that are not
- 11 related to increased services, upon request by the resident;
- 12 (13) participate, to the fullest extent that the resident is able, in
- 13 planning [his or her] the resident's own medical treatment and
- 14 care;
- 15 (14) refuse medication and treatment after the resident has been
- 16 informed, in language that the resident understands, of the possible
- 17 consequences of this decision;
- 18 (15) refuse to participate in experimental research, including the
- 19 investigations of new drugs and medical devices, and to be included
- 20 in experimental research only when the resident gives informed,
- 21 written consent to such participation;
- 22 (16) be free from physical and mental abuse and neglect;
- 23 (17) be free from chemical and physical restraints, unless a
- 24 physician, advanced practice nurse, or physician assistant
- 25 authorizes the use for a limited period of time to protect the resident
- 26 or others from injury. Under no circumstances shall a resident be
- 27 confined in a locked room, or restrained, including with the use of
- 28 excessive drugs, for punishment or for the convenience of staff;
- 29 (18) manage the resident's own finances, and to delegate that
- 30 responsibility to a family member, assigned guardian, facility
- 31 administrator, or some other individual with power of attorney. The
- 32 resident's authorization delegating such authority shall be witnessed
- 33 and in writing;
- 34 (19) receive prior to or at the time of admission, and afterwards
- 35 through addenda, an admission agreement that complies with all
- 36 applicable State and federal laws, describes the services provided
- 37 and the related charges, and includes the policies for payment of
- 38 fees, deposits, and refunds;
- 39 (20) receive a quarterly written account of the resident's funds,
- 40 the itemized property deposited with the facility for the resident's
- 41 use and safekeeping, and all financial transactions with the resident,
- 42 next-of-kin, or guardian, which account shall show the amount of
- 43 property in the account at the beginning and end of the accounting
- 44 period, as well as a list of all deposits and withdrawals,
- 45 substantiated by receipts given to the resident or the resident's
- 46 guardian;
- 47 (21) have daily access during specified hours to the money and
- 48 property that the resident has deposited with the facility, and to
- 49 delegate, in writing, this right of access to a representative;

- 1 (22) live in safe and clean conditions that do not admit more
- 2 residents than can safely be accommodated;
- 3 (23) not be arbitrarily and capriciously moved to a different bed
- 4 or room;
- 5 (24) wear the resident's own clothes;
- 6 (25) keep and use the resident's personal property, unless doing
- 7 so would be unsafe, impractical, or an infringement on the rights of
- 8 other residents;
- 9 (26) reasonable opportunities for private and intimate physical
- 10 and social interaction with other people, including the opportunity
- 11 to share a room with another individual unless it is medically
- 12 inadvisable;
- 13 (27) confidential treatment with regard to information about the
- 14 resident, subject to the requirements of law;
- 15 (28) receive and send mail in unopened envelopes, unless the
- 16 resident requests otherwise, and the right to request and receive
- 17 assistance in reading and writing correspondence unless medically
- 18 contraindicated;
- 19 (29) have a private telephone in the resident's living quarters at
- 20 the resident's own expense;
- 21 (30) meet with any visitors of the resident's choice, at any time,
- 22 in accordance with facility policies and procedures;
- 23 (31) take part in activities, and to meet with and participate in
- 24 the activities of any social, religious, and community groups, as
- 25 long as these activities do not disrupt the lives of other residents;
- 26 (32) refuse to perform services for the facility;
- 27 (33) request visits at any time by representatives of the religion
- 28 of the resident's choice and, upon the resident's request, to attend
- 29 outside religious services at the resident's own expense;
- 30 (34) participate in meals, recreation, and social activities
- 31 without being subjected to discrimination based on age, race,
- 32 religion, sex, marital status, nationality, or disability;
- 33 (35) organize and participate in a resident council that presents
- 34 residents' concerns to the administrator of the facility;
- 35 (36) be transferred or discharged only in accordance with the
- 36 terms of the admission agreement and with N.J.A.C. 8:36-5.1(d);
- 37 (37) receive written notice at least 30 days in advance when the
- 38 facility requests the resident's transfer or discharge, except in an
- 39 emergency, which notice shall include the name and contact
- 40 information for the New Jersey Office of the Ombudsman for the
- 41 Institutionalized Elderly;
- 42 (38) receive a written statement of resident rights and any
- 43 regulations established by the facility involving resident rights and
- 44 responsibilities;
- 45 (39) retain and exercise all constitutional, civil, and legal rights
- 46 to which the resident is entitled by law;
- 47 (40) voice complaints without fear of interference, discharge,
- 48 reprisal, and obtain contact information respecting government
- 49 agencies to which residents can complain and ask questions, which

1 information also shall be posted in a conspicuous place in the
2 facility;

3 (41) hire a private caregiver or companion at the resident's
4 expense and responsibility, as long as the caregiver or companion
5 complies with the facility's policies and procedures; and

6 (42) obtain medications from a pharmacy of the resident's
7 choosing, as long as the pharmacy complies with the facility's
8 medication administration system, if applicable.

9 (cf: P.L.2011, c.58, s.1)

10

11 255. Section 3 of P.L.2011, c.145 (C.26:2H-131) is amended to
12 read as follows:

13 3. As used in sections 1 through 12 of this act:

14 "Advance directive" means an advance directive for health care
15 as defined in section 3 of P.L.1991, c.201 (C.26:2H-55).

16 "Advanced practice nurse" or "APN" means a person who is
17 certified as an advanced practice nurse pursuant to P.L.1991, c.377
18 (C.45:11-45 et seq.).

19 "Commissioner" means the Commissioner of Health [and Senior
20 Services].

21 "Decision-making capacity" means a patient's ability to
22 understand and appreciate the nature and consequences of a
23 particular health care decision, including the benefits and risks of
24 that decision, and alternatives to any proposed health care, and to
25 reach an informed decision.

26 "Department" means the Department of Health [and Senior
27 Services].

28 "Emergency care" means the use of resuscitative measures and
29 other immediate treatment provided in response to a sudden, acute,
30 and unanticipated medical crisis in order to avoid injury,
31 impairment, or death.

32 "Emergency care provider" means an emergency medical
33 technician, paramedic, or member of a first aid, ambulance, or
34 rescue squad.

35 "Health care decision" means a decision to accept, withdraw, or
36 refuse a treatment, service, or procedure used to diagnose, treat, or
37 care for a person's physical or mental condition, including life-
38 sustaining treatment.

39 "Health care institution" means a health care facility licensed
40 pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), a psychiatric
41 facility as defined in section 2 of P.L.1987, c.116 (C.30:4-27.2), or
42 a State developmental center listed in R.S.30:1-7.

43 "Health care professional" means a health care professional who
44 is licensed or otherwise authorized to practice a health care
45 profession pursuant to Title 45 or 52 of the Revised Statutes and is
46 currently engaged in that practice.

47 "Life-sustaining treatment" means the use of any medical device
48 or procedure, artificially provided fluids and nutrition, drugs,

1 surgery, or therapy that uses mechanical or other artificial means to
2 sustain, restore, or supplant a vital bodily function, and thereby
3 increase the expected life span of a patient.

4 "Patient" means a person who is under the care of a physician or
5 APN.

6 "Patient's representative" means an individual who is designated
7 by a patient or otherwise authorized under law to make health care
8 decisions on the patient's behalf if the patient lacks decision-making
9 capacity.

10 "Physician" means a person who is licensed to practice medicine
11 and surgery pursuant to chapter 9 of Title 45 of the Revised
12 Statutes.

13 "Physician Orders for Life-Sustaining Treatment form" or
14 "POLST form" means a standardized printed document that is
15 uniquely identifiable and has a uniform color, which:

16 a. is recommended for use on a voluntary basis by patients who
17 have advanced chronic progressive illness or a life expectancy of
18 less than five years, or who otherwise wish to further define their
19 preferences for health care;

20 b. does not qualify as an advance directive;

21 c. is not valid unless it meets the requirements for a completed
22 POLST form as set forth in this act;

23 d. provides a means by which to indicate whether the patient
24 has made an anatomical gift pursuant to P.L.2008, c.50 (C.26:6-77
25 et al.);

26 e. is intended to provide direction to emergency care personnel
27 regarding the use of emergency care, and to a health care
28 professional regarding the use of life-sustaining treatment, with
29 respect to the patient, by indicating the patient's preference
30 concerning the use of specified interventions and the intensity of
31 treatment for each intervention;

32 f. is intended to accompany the patient, and to be honored by
33 all personnel attending the patient, across the full range of possible
34 health care settings, including the patient's home, a health care
35 institution, or otherwise at the scene of a medical emergency; and

36 g. may be modified or revoked at any time by a patient with
37 decision-making capacity or the patient's representative in
38 accordance with the provisions of section 7 of this act.

39 "Resuscitative measures" means cardiopulmonary resuscitation
40 provided in the event that a patient suffers a cardiac or respiratory
41 arrest.

42 (cf: P.L.2011, c.145, s.3)

43

44 256. Section 5 of P.L.2011, c.145 (C.26:2H-133) is amended to
45 read as follows:

46 5. The Commissioner of Health **[and Senior Services]** shall
47 designate a patient safety organization (PSO) operating in this State
48 pursuant to the federal "Patient Safety and Quality Improvement
49 Act of 2005," Pub.L.109-41, to carry out the following

1 responsibilities, by mutual written agreement of the commissioner
2 and that PSO:

3 a. prescribe a POLST form and the procedures for completion,
4 modification, and revocation of the form;

5 b. seek to promote awareness among health care professionals,
6 emergency care providers, and the general public in this State about
7 the option to complete a POLST form;

8 c. provide ongoing training of health care professionals and
9 emergency care providers about the use of the POLST form, in
10 consultation with organizations representing, and educational
11 programs serving, health care professionals and emergency care
12 providers, respectively, in this State;

13 d. prescribe additional requirements for the completion of a
14 POLST form that may be applicable in the case of a patient with
15 mental illness or a developmental disability in consultation with
16 organizations that represent persons with mental illness and
17 developmental disabilities, respectively;

18 e. provide for ongoing evaluation of the design and use of
19 POLST forms through the use of such data as the PSO determines
20 reasonably necessary for that purpose, subject to the commissioner's
21 written approval; and

22 f. seek to minimize any record-keeping burden imposed on a
23 health care institution pursuant to this act and take such actions as
24 are necessary to ensure the confidentiality of any [such] data
25 furnished to the PSO that may contain patient-specific information.
26 (cf: P.L.2011, c.145, s.5)

27

28 257. Section 11 of P.L.2011, c.145 (C.26:2H-139) is amended to
29 read as follows:

30 11. a. A health care professional who intentionally fails to act in
31 accordance with the requirements of this act is subject to discipline
32 for professional misconduct pursuant to section 8 of P.L.1978, c.73
33 (C.45:1-21).

34 b. A health care institution that intentionally fails to act in
35 accordance with the requirements of this act shall be liable to a civil
36 penalty of not more than \$1,000 for each offense. For the purposes
37 of this subsection, each violation shall constitute a separate offense.
38 The civil penalty shall be collected in a summary proceeding,
39 brought in the name of the State in a court of competent jurisdiction
40 pursuant to the "Penalty Enforcement Law of 1999," P.L.1999,
41 c.274 (C.2A:58-10 et seq.).

42 c. An emergency care provider subject to regulation by the
43 Department of Health [and Senior Services] who intentionally fails
44 to act in accordance with the requirements of this act is subject to
45 such disciplinary measures as the commissioner deems necessary
46 and within his statutory authority to impose.

47 d. A person who commits any of the following acts is guilty of
48 a crime of the fourth degree:

1 (1) willfully concealing, canceling, defacing, obliterating, or
2 withholding personal knowledge of a completed POLST form or a
3 modification or revocation thereof, without the patient's consent;

4 (2) falsifying or forging a completed POLST form or a
5 modification or revocation thereof of another person;

6 (3) coercing or fraudulently inducing the completion of a
7 POLST form or a modification or revocation thereof; or

8 (4) requiring or prohibiting the completion of a POLST form or
9 a modification or revocation thereof as a condition of coverage
10 under any policy of health or life insurance or an annuity, or a
11 public benefits program, or as a condition of the provision of health
12 care.

13 e. The commission of an act identified in paragraph (1), (2), or
14 (3) of subsection d. of this section, which results in the involuntary
15 earlier death of a patient, shall constitute a crime of the first degree.

16 f. The provisions of this section shall not be construed to
17 repeal any sanctions applicable under any other law.

18 (cf: P.L.2011, c.145, s.11)

19

20 258. Section 3 of P.L.1972, c.29 (C.26:2I-3) is amended to read
21 as follows:

22 3. As used in this act, the following words and terms shall have
23 the following meanings, unless the context indicates or requires
24 another or different meaning or intent:

25 "Authority" means the New Jersey Health Care Facilities
26 Financing Authority created by this act or any board, body,
27 commission, department, or officer succeeding to the principal
28 functions thereof or to whom the powers conferred upon the
29 authority by this act shall be given by law.

30 "Bond" means bonds, notes, or other evidences of indebtedness
31 of the authority issued pursuant to this act.

32 "Commissioner" means the Commissioner of Health [and Senior
33 Services].

34 "Credit agreement" means a loan agreement, revolving credit
35 agreement, agreement establishing a line of credit, letter of credit,
36 reimbursement agreement, interest exchange agreement, insurance
37 contract, surety bond, commitment to purchase bonds, purchase or
38 sale agreement, or commitment or other contract or agreement
39 authorized and approved by the authority in connection with the
40 authorization, issuance, security or payment of bonds.

41 "Health care organization" means an organization located in this
42 State which is authorized or permitted by law, whether directly or
43 indirectly through a holding corporation, partnership, or other
44 entity, to provide health care-related services, including, but not
45 limited to, hospital, outpatient, public health, home health care,
46 residential care, assisted living, hospice, health maintenance
47 organization, blood bank, alcohol or drug abuse, half-way house,
48 diagnostic, treatment, rehabilitation, extended care, skilled nursing
49 care, nursing care, intermediate care, tuberculosis care, chronic

1 disease care, maternity, mental health, boarding or sheltered care or
2 day care, services provided by a physician in his office, or any other
3 service offered in connection with health care services or by an
4 entity affiliated with a health care organization or an integrated
5 delivery system.

6 "Hospital asset transformation program" means the hospital asset
7 transformation program established pursuant to subsection g. of
8 section 7 of P.L.1972, c.29 (C.26:2I-7).

9 "Integrated delivery system" means a group of legally affiliated
10 health care organizations.

11 "Public health care organization" means a State, county, or
12 municipal health care organization.

13 "Project" or "health care organization project" means the
14 acquisition, construction, improvement, renovation, or
15 rehabilitation of lands, buildings, fixtures, equipment, and articles
16 of personal property, or other tangible or intangible assets that are
17 necessary or useful in the development, establishment, or operation
18 of a health care organization pursuant to this act, and "project" or
19 "health care organization project" may include: the financing,
20 refinancing, or consolidation of secured or unsecured debt,
21 borrowings, or obligations, or the provision of financing for any
22 other expense incurred in the ordinary course of business, all of
23 which lands, buildings, fixtures, equipment, and articles of personal
24 property are to be used or occupied by any person in the health care
25 organization; the acquisition of an entity interest, including capital
26 stock, in a corporation; or any combination thereof; and may
27 include any combination of the foregoing undertaken jointly by any
28 health care organization with one or more other health care
29 organizations.

30 "Project cost" or "health care organization project cost" means
31 the sum total of all or any part of costs incurred or estimated to be
32 incurred by the authority or by a health care organization which are
33 reasonable and necessary for carrying out all works and
34 undertakings and providing all necessary equipment for the
35 development of a project, exclusive of the amount of any private or
36 federal, State, or local financial assistance for and received by a
37 health care organization for the payment of such project cost. Such
38 costs shall include, but are not necessarily limited to: interest prior
39 to, during and for a reasonable period after such development; start-
40 up costs and costs of operation and maintenance during the
41 construction period and for a reasonable additional period
42 thereafter; organization, administration, operation, and other
43 expenses of the health care organization prior to and during
44 construction; the cost of necessary studies, surveys, plans, and
45 specifications, architectural, engineering, legal, or other special
46 services; the cost of acquisition of land, buildings, and
47 improvements thereon (including payments for the relocation of
48 persons displaced by such acquisition), site preparation and
49 development, construction, reconstruction, equipment, including

1 fixtures, equipment, and cost of demolition and removal, and
2 articles of personal property required; the reasonable cost of
3 financing incurred by a health care organization or the authority in
4 the course of the development of the project; reserves for debt
5 service; the fees imposed upon a health care organization by the
6 commissioner and by the authority; other fees charged, and
7 necessary expenses incurred in connection with the initial
8 occupancy of the project; and the cost of such other items as may be
9 reasonable and necessary for the development of a project; as well
10 as provision or reserves for working capital, operating or
11 maintenance or replacement expenses, or for payment or security of
12 principal of, or interest on, bonds.

13 (cf: P.L.2000, c.98, s.2)

14
15 259. Section 4 of P.L.1972, c.29 (C.26:2I-4) is amended to read
16 as follows:

17 4. a. There is hereby established in the Department of Health
18 **【and Senior Services】**, a public body corporate and politic, with
19 corporate succession, to be known as the "New Jersey Health Care
20 Facilities Financing Authority." The authority shall constitute a
21 political subdivision of the State established as an instrumentality
22 exercising public and essential governmental functions, and the
23 exercise by the authority of the powers conferred by this act shall be
24 deemed and held to be an essential governmental function.

25 b. The authority shall consist of seven members, three of whom
26 shall be the commissioner, who shall be the chairman, the
27 Commissioner of Banking and Insurance, and the Commissioner of
28 Human Services, who shall serve during their terms of office, or
29 when so designated by them, their deputies or other representatives,
30 who shall serve at their pleasure, and four public members who are
31 citizens of the State to be appointed by the Governor, with the
32 advice and consent of the Senate for terms of four years; provided
33 that the four members first appointed by the Governor shall serve
34 terms expiring on the first, second, third, and fourth, respectively,
35 April 30 ensuing after the enactment of this act. Each member
36 shall hold office for the term of **【his】** the member's appointment
37 and until **【his】** the member's successor shall have been appointed
38 and qualified. Any vacancy among the public members shall be
39 filled by appointment for the unexpired term only.

40 c. Any member of the authority appointed by the Governor
41 may be removed from office by the Governor for cause after a
42 public hearing.

43 d. The members of the authority shall serve without
44 compensation, but the authority may reimburse its members for
45 necessary expenses incurred in the discharge of their official duties.

46 e. The authority, upon the first appointment of its members and
47 thereafter on or after April 30 in each year, shall annually elect
48 from among its members a vice chairman who shall hold office
49 until April 30 next ensuing and shall continue to serve during the

1 term of his successor and until his successor shall have been
2 appointed and qualified. The authority may also appoint, retain,
3 and employ, without regard to the provisions of Title 11A, Civil
4 Service, of the New Jersey Statutes, such officers, agents, and
5 employees as it may require, and it shall determine their
6 qualifications, terms of office, duties, services, and compensation.

7 f. The powers of the authority shall be vested in the members
8 thereof in office from time to time and a majority of the total
9 authorized membership of the authority shall constitute a quorum at
10 any meeting thereof. Action may be taken and motions and
11 resolutions adopted by the authority at any meeting thereof by the
12 affirmative vote of a majority of the members present, unless in
13 any case the bylaws of the authority shall require a larger number.
14 No vacancy in the membership of the authority shall impair the
15 right of a quorum to exercise all the rights and perform all the
16 duties of the authority.

17 g. Each member and the treasurer of the authority shall execute
18 a bond to be conditioned upon the faithful performance of the duties
19 of such member or treasurer, as the case may be, in such form and
20 amount as may be prescribed by the Attorney General. Such bonds
21 shall be filed in the office of the Secretary of State. At all times
22 thereafter the members and treasurer of the authority shall maintain
23 such bonds in full force and effect. All costs of such bonds shall be
24 borne by the authority.

25 h. No trustee, director, officer, or employee of a health care
26 organization may serve as a member of the authority.

27 i. At least two true copies of the minutes of every meeting of
28 the authority shall be forthwith delivered by and under the
29 certification of the secretary thereof, to the Governor. No action
30 taken at such meeting by the authority shall have force or effect
31 until 10 days, exclusive of Saturdays, Sundays, and public holidays,
32 after such copies of the minutes shall have been so delivered or at
33 such earlier time as the Governor shall sign a statement of approval
34 thereof. If, in said 10-day period, the Governor returns a copy of
35 the minutes with veto of any action taken by the authority or any
36 member thereof at such meeting, such action shall be null and of no
37 effect. If the Governor shall not return the minutes within said 10-
38 day period, any action therein recited shall have force and effect
39 according to the wording thereof. At any time prior to the
40 expiration of the said 10-day period, the Governor may sign a
41 statement of approval of all or any such action of the authority.

42 The powers conferred in this subsection upon the Governor shall
43 be exercised with due regard for the rights of the holders of bonds
44 of the authority at any time outstanding.

45 (cf: P.L.1997, c.435, s.4)

46

47 260. Section 5 of P.L.1972, c.29 (C.26:2I-5) is amended to read
48 as follows:

49 5. Powers of authority. The authority shall have power:

- 1 a. To adopt bylaws for the regulation of its affairs and the
2 conduct of its business and to alter and revise such bylaws from
3 time to time at its discretion.
- 4 b. To adopt and have an official seal and alter the same at
5 pleasure.
- 6 c. To maintain an office at such place or places within the State
7 as it may designate.
- 8 d. To sue and be sued in its own name.
- 9 e. To borrow money and to issue bonds of the authority and to
10 provide for the rights of the holders thereof as provided in this act.
- 11 f. To acquire, lease as lessee or lessor, hold and dispose of real
12 and personal property or any interest therein, in the exercise of its
13 powers and the performance of its duties under this act.
- 14 g. To acquire in the name of the authority by purchase or
15 otherwise, on such terms and conditions and in such manner as it
16 may deem proper, any land or interest therein and other property
17 which it may determine is reasonably necessary for any project; and
18 to hold and use the same and to sell, convey, lease or otherwise
19 dispose of property so acquired, no longer necessary for the
20 authority's purposes, for fair consideration after public notice.
- 21 h. To receive and accept, from any federal or other public
22 agency or governmental entity directly or through the Department
23 of Health and Senior Services or any other agency of the State or
24 any health care organization, grants or loans for or in aid of the
25 acquisition or construction of any project, and to receive and accept
26 aid or contributions from any other source, of either money,
27 property, labor or other things of value, to be held, used and applied
28 only for the purposes for which such grants, loans and contributions
29 may be made.
- 30 i. To prepare or cause to be prepared plans, specifications,
31 designs and estimates of costs for the construction and equipment of
32 health care organization projects for health care organizations under
33 the provisions of this act, and from time to time to modify such
34 plans, specifications, designs or estimates.
- 35 j. By contract or contracts with and for health care
36 organizations only, to construct, acquire, reconstruct, rehabilitate
37 and improve, and furnish and equip health care organization
38 projects. The authority, in the exercise of its authority to make and
39 enter into contracts and agreements necessary or incidental to the
40 performance of its duties and the execution of its powers, shall
41 adopt standing rules and procedures providing that, except as
42 hereinafter provided, no contract on behalf of the authority shall be
43 entered into for the doing of any work, or for the hiring of
44 equipment or vehicles, where the sum to be expended exceeds the
45 sum of \$7,500.00 or the amount determined as provided in this
46 subsection, unless the authority shall first publicly advertise for bids
47 therefor, and shall award the contract to the lowest responsible
48 bidder; provided, however, that such advertising shall not be
49 required where the contract to be entered into is one for the

1 furnishing or performing of services of a professional nature or for
2 the supplying of any product or the rendering of any service by a
3 public utility subject to the jurisdiction of the Board of Public
4 Utilities, and tariffs and schedules of the charges, made, charged, or
5 exacted by the public utility for any such products to be supplied or
6 services to be rendered are filed with said board. The Governor, in
7 consultation with the Department of the Treasury, shall, no later
8 than March 1 of each odd-numbered year, adjust the threshold
9 amount set forth in this subsection, or subsequent to 1985 the
10 threshold amount resulting from any adjustment under this
11 subsection or section 17 of P.L.1985, c.469, in direct proportion to
12 the rise or fall of the Consumer Price Index for all urban consumers
13 in the New York City and the Philadelphia areas as reported by the
14 United States Department of Labor. The Governor shall, no later
15 than June 1 of each odd-numbered year, notify the authority of the
16 adjustment. The adjustment shall become effective July 1 of each
17 odd-numbered year.

18 k. To determine the location and character of any project to be
19 undertaken, subject to the provisions of this act, and subject to State
20 health and environmental laws, to construct, reconstruct, maintain,
21 repair, lease as lessee or lessor, and regulate the same and operate
22 the same in the event of default by a health care organization of its
23 obligations and agreements with the authority; to enter into
24 contracts for any or all such purposes; and to enter into contracts for
25 the management and operation of a project in the event of default as
26 herein provided. The authority shall use its best efforts to conclude
27 its position as an operator as herein provided as soon as is
28 practicable.

29 l. To establish rules and regulations for the use of a project or
30 any portion thereof and to designate a health care organization as its
31 agent to establish rules and regulations for the use of a project
32 undertaken by such a health care organization.

33 m. Generally to fix and revise from time to time and to charge
34 and collect rates, rents, fees and other charges for the use of and for
35 the services furnished or to be furnished by a project or any portion
36 thereof and to contract with holders of its bonds and with any other
37 person, party, association, corporation or other body, public or
38 private, in respect thereof.

39 n. To enter into agreements, credit agreements or contracts,
40 execute any and all instruments, and do and perform any and all
41 acts or things necessary, convenient or desirable for the purposes of
42 the authority or to carry out any power expressly given in this act.

43 o. To invest any moneys held in reserve or sinking funds, or
44 any moneys not required for immediate use or disbursement, at the
45 discretion of the authority, in such obligations as are authorized by
46 resolution of the authority.

47 p. To obtain, or aid in obtaining, from any department or
48 agency of the United States any insurance or guarantee as to, or of,
49 or for the payment or repayment of interest or principal, or both, or

1 any part thereof, on any loan or any instrument evidencing or
2 securing the same, made or entered into pursuant to the provisions
3 of this act; and notwithstanding any other provisions of this act, to
4 enter into agreement, contract or any other instrument whatsoever
5 with respect to any such insurance or guarantee, and accept
6 payment in such manner and form as provided therein in the event
7 of default by the borrower.

8 q. To obtain from any department or agency of the United
9 States or a private insurance company any insurance or guarantee as
10 to, or of, or for the payment or repayment of interest or principal, or
11 both, or any part thereof, on any bonds issued by the authority
12 pursuant to the provisions of this act; and notwithstanding any other
13 provisions of this act, to enter into any agreement, contract or any
14 other instrument whatsoever with respect to any such insurance or
15 guarantee, except to the extent that such action would in any way
16 impair or interfere with the authority's ability to perform and fulfill
17 the terms of any agreement made with the holders of the bonds of
18 the authority.

19 r. To receive and accept, from any department or agency of the
20 United States or of the State or from any other entity, any grant,
21 appropriation or other moneys to be used for or applied to any
22 corporate purpose of the authority, including without limitation the
23 meeting of debt service obligations of the authority in respect of its
24 bonds.

25 s. Subject to the approval of the State Treasurer, to grant or
26 loan all or any portion of the funds received pursuant to subsection
27 g. of section 7 of P.L.1972, c.29 (C.26:2I-7) in connection with the
28 hospital asset transformation program.

29 (cf: P.L.2000, c.98, s.3)

30
31 261. Section 21 of P.L.1972, c.29 (C.26:2I-21) is amended to
32 read as follows:

33 21. The Department of Health **[and Senior Services]**, or the
34 commissioner or their representatives, may visit, examine into, and
35 inspect, the authority and may require, as often as desired, duly
36 verified reports therefrom giving such information and in such form
37 as **[such]** the department or commissioner shall prescribe.

38 (cf: P.L.1997, c.435, s.8)

39
40 262. Section 23 of P.L.1972, c.29 (C.26:2I-23) is amended to
41 read as follows:

42 23. In order to provide new health care organizations and to
43 enable the construction and financing thereof, to refinance
44 indebtedness hereafter created by the authority for the purpose of
45 providing one or more health care organizations or additions or
46 improvements thereto or modernization thereof or for any one or
47 more of said purposes but for no other purpose unless authorized by
48 law, each of the following bodies shall have the powers hereafter
49 enumerated to be exercised upon such terms and conditions,

1 including the fixing of fair consideration or rental to be paid or
2 received, as it shall determine by resolution as to such property and
3 each shall be subject to the performance of the duties hereafter
4 enumerated, that is to say, the Department of Health [and Senior
5 Services] as to such as are located on land owned by, or owned by
6 the State and held for, any State institution or on lands of the
7 institutions under the jurisdiction of the Department of Health [and
8 Senior Services] or of the Department of Human Services, or by the
9 authority, the Commissioner of Human Services as to State
10 institutions operated by that department, the board of trustees or
11 governing body of any public health care organization, the board of
12 trustees of the University of Medicine and Dentistry of New Jersey,
13 as to such as are located on land owned by the university, or by the
14 State for the university, the State or by the particular public health
15 care organization, respectively, namely:

16 a. The power to sell and to convey to the authority title in fee
17 simple in any such land and any existing health care facility thereon
18 owned by the State and held for any department thereof or of any of
19 the institutions under the jurisdiction of the Department of Health
20 [and Senior Services] or the power to sell and to convey to the
21 authority such title as the State or the public health care
22 organization, respectively, may have in any such land and any
23 existing health care facility thereon.

24 b. The power to lease to the authority any land and any existing
25 health care facility thereon so owned for a term or terms not
26 exceeding 50 years each.

27 c. The power to lease or sublease from the authority, and to
28 make available, any such land and existing health care facility
29 conveyed or leased to the authority under subsections a. and b. of
30 this section, and any new health care facility erected upon such land
31 or upon any other land owned by the authority.

32 d. The power and duty, upon receipt of notice of any
33 assignment by the authority of any lease or sublease made under
34 subsection c. of this section, or of any of its rights under any such
35 lease or sublease, to recognize and give effect to such assignment,
36 and to pay to the assignee thereof rentals or other payments then
37 due or which may become due under any such lease or sublease
38 which has been so assigned by the authority.

39 (cf: P.L.1997, c.435, s.9)

40
41 263. Section 6 of P.L.1991, c.279 (C.26:2J-4.4) is amended to
42 read as follows:

43 6. Notwithstanding any provision of law to the contrary, a
44 certificate of authority to establish and operate a health maintenance
45 organization in this State shall not be issued or continued by the
46 Commissioner of Health [and Senior Services] on or after the
47 effective date of this act unless the health maintenance organization
48 provides health care services to any enrollee for the conduct of: one

1 baseline mammogram examination for women who are at least 35
2 but less than 40 years of age; a mammogram examination every
3 year for women age 40 and over; and, in the case of a woman who
4 is under 40 years of age and has a family history of breast cancer or
5 other breast cancer risk factors, a mammogram examination at such
6 age and intervals as deemed medically necessary by the woman's
7 health care provider.

8 These health care services shall be provided to the same extent as
9 for any other sickness under the enrollee agreement.

10 The provisions of this section shall apply to all enrollee
11 agreements in which the health maintenance organization has
12 reserved the right to change the schedule of charges.

13 (cf: P.L.2004, c.86, s.6)

14
15 264. Section 8 of P.L.1993, c.327 (C.26:2J-4.6) is amended to
16 read as follows:

17 8. a. Notwithstanding any provision of this act or any other law
18 to the contrary, a certificate of authority to establish and operate a
19 health maintenance organization in this State shall not be issued or
20 continued by the Commissioner of Health **and Senior Services** on
21 or after the effective date of this act unless the health maintenance
22 organization provides health care services to any enrollee which
23 include a health promotion program providing health wellness
24 examinations and **counseling** counseling, which program shall
25 include, but not be limited to, the following tests and services:

26 (1) For all persons 20 years of age and older, annual tests to
27 determine blood hemoglobin, blood pressure, blood glucose level,
28 and blood cholesterol level or, alternatively, low-density lipoprotein
29 (LDL) level, and blood high-density lipoprotein (HDL) level;

30 (2) For all persons 35 years of age or older, a glaucoma eye test
31 every five years;

32 (3) For all persons 40 years of age or older, an annual stool
33 examination for presence of blood;

34 (4) For all persons 45 years of age or older, a left-sided colon
35 examination of 35 to 60 centimeters every five years;

36 (5) For all women 20 years of age or older, a pap smear
37 pursuant to the provisions of section 5 of P.L.1995, c.415 (C.26:2J-
38 4.12);

39 (6) For all women 40 years of age or older, a mammogram
40 examination pursuant to the provisions of section 6 of P.L.1991,
41 c.279 (C.26:2J-4.4);

42 (7) For all adults, recommended immunizations; and

43 (8) For all persons 20 years of age or older, an annual
44 consultation with a health care provider to discuss lifestyle
45 behaviors that promote health and well-being including, but not
46 limited to, smoking control, nutrition and diet recommendations,
47 exercise plans, lower back protection, weight control, immunization
48 practices, breast self-examination, testicular self-examination, and
49 seat belt usage in motor vehicles.

1 Notwithstanding the provisions of this subsection to the contrary,
2 if a physician or other health care provider recommends that it
3 would be medically appropriate for an enrollee to receive a different
4 schedule of tests and services than that provided for under this
5 subsection, the health maintenance organization shall provide
6 coverage for the tests or services actually provided, within the
7 limits of the amounts listed in subsection b. of this section.

8 b. A health maintenance organization shall not be required to
9 offer services to enrollees set forth in subsection a. of this section
10 for which the value exceeds: \$125 a year for each person between
11 the ages of 20 to 39, inclusive; \$145 a year for each man age 40 and
12 over; and \$235 a year for each woman age 40 and over; except that
13 for persons 45 years of age or older, the value of a left-sided colon
14 examination shall not be included in the above amount; however, no
15 health maintenance organization shall be required to provide
16 services to enrollees for a left-sided colon examination with a value
17 in excess of \$150.

18 c. The Commissioner of Health [and Senior Services], in
19 consultation with the Department of the Treasury, shall annually
20 adjust the threshold amounts provided by subsection b. of this
21 section in direct proportion to the increase or decrease in the
22 consumer price index for all urban consumers in the New York City
23 and Philadelphia areas as reported by the United States Department
24 of Labor. The adjustment shall become effective on July 1 of the
25 year in which it is reported.

26 d. Nothing in this act shall be construed to require that a health
27 maintenance organization take any actions which conflict with the
28 health benefits, underwriting and rating standards established by the
29 federal government pursuant to subchapter XI of Pub.L.93-222 (42
30 U.S.C. s.300e et seq.).

31 e. This section shall apply to all health maintenance
32 organization contracts in which the right to change the enrollee
33 charge has been reserved.

34 f. The provisions of this section shall not apply to a health
35 benefits plan subject to the provisions of P.L.1992, c.161
36 (C.17B:27A-2 et seq.) or P.L.1992, c.162 (C.17B:27A-17 et seq.).
37 (cf: P.L.1999, c.339, s.6)

38

39 265. Section 4 of P.L.1995, c.316 (C.26:2J-4.10) is amended to
40 read as follows:

41 4. A certificate of authority to establish and operate a health
42 maintenance organization in this State shall not be issued or
43 continued by the Commissioner of [Health] Banking and [Senior
44 Services] Insurance on or after the effective date of P.L.2005, c.248
45 (C.17:48E-35.27 et al.) unless the health maintenance organization
46 offers health care services to any enrollee which include:

47 a. Screening by blood lead measurement for lead poisoning for
48 children, including confirmatory blood lead testing as specified by
49 the Department of Health [and Senior Services] pursuant to section

1 7 of P.L.1995, c.316 (C.26:2-137.1); and medical evaluation and
2 any necessary medical follow-up and treatment for lead poisoned
3 children.

4 b. All childhood immunizations as recommended by the
5 Advisory Committee on Immunization Practices of the United
6 States Public Health Service and the Department of Health [and
7 Senior Services] pursuant to section 7 of P.L.1995, c.316 (C.26:2-
8 137.1). A health maintenance organization shall notify its
9 enrollees, in writing, of any change in the health care services
10 provided with respect to childhood immunizations and any related
11 changes in premium. [Such] The notification shall be in a form
12 and manner to be determined by the Commissioner of Banking and
13 Insurance.

14 c. Screening for newborn hearing loss by appropriate
15 electrophysiologic screening measures and periodic monitoring of
16 infants for delayed onset hearing loss, pursuant to P.L.2001, c.373
17 (C.26:2-103.1 et al.). Payment for this screening service shall be
18 separate and distinct from payment for routine new baby care in the
19 form of a newborn hearing screening fee as negotiated with the
20 provider and facility.

21 The health care services provided pursuant to this section shall
22 be provided to the same extent as for any other medical condition
23 under the contract, except that a deductible shall not be applied for
24 services provided pursuant to this section; however, with respect to
25 a contract that qualifies as a high deductible health plan for which
26 qualified medical expenses are paid using a health savings account
27 established pursuant to section 223 of the federal Internal Revenue
28 Code of 1986 (26 U.S.C. s.223), a deductible shall not be applied
29 for any services provided pursuant to this section that represent
30 preventive care as permitted by that federal law, and shall not be
31 applied as provided pursuant to section 12 of P.L.2005, c.248
32 (C.26:2J-4.29). This section shall apply to all contracts under
33 which the health maintenance organization has reserved the right to
34 change the schedule of charges for enrollee coverage.

35 (cf: P.L.2005, c.248, s.10)

36
37 266. Section 5 of P.L.1995, c.415 (C.26:2J-4.12) is amended to
38 read as follows:

39 5. A certificate of authority to establish and operate a health
40 maintenance organization in this State shall not be issued or
41 continued by the Commissioner of [Health] Banking and [Senior
42 Services] Insurance on or after the effective date of this act unless
43 the health maintenance organization offers health care services to
44 any enrollee or other person covered thereunder which include a
45 Pap smear. The health care services shall be provided to the same
46 extent as for any other medical condition under the contract.

47 As used in this section, and notwithstanding the provisions of
48 this section to the contrary, "Pap smear" means an initial Pap smear

1 and any confirmatory test when medically necessary and as ordered
2 by the covered person's physician and includes all laboratory costs
3 associated with the initial Pap smear and any **[such]** confirmatory
4 test.

5 The provisions of this section shall apply to all contracts for
6 health care services by health maintenance organizations under
7 which the right to change the schedule of charges for enrollee
8 coverage is reserved.

9 (cf: P.L.2001, c.227, s.5)

10
11 267. Section 6 of P.L.1997, c.75 (C.26:2J-4.14) is amended to
12 read as follows:

13 6. A certificate of authority to establish and operate a health
14 maintenance organization in this State pursuant to P.L.1973, c.337
15 (C.26:2J-1 et seq.) shall not be issued or continued by the
16 Commissioner of **[Health] Banking** and **[Senior Services]**
17 Insurance on or after the effective date of P.L.1997, c.75 unless the
18 health maintenance organization provides health care services to
19 any enrollee, following a mastectomy on one breast or both breasts,
20 for reconstructive breast surgery, surgery to restore and achieve
21 symmetry between the two breasts, and prostheses and, under any
22 contract for health care services providing outpatient x-ray or
23 radiation therapy, outpatient chemotherapy following surgical
24 procedures in connection with the treatment of breast cancer shall
25 be included as a part of the outpatient x-ray or radiation therapy.

26 The health care services shall be provided to the same extent as
27 for any other medical condition under the contract for health care
28 services.

29 The provisions of this section shall apply to all contracts for
30 health care services by health maintenance organizations under
31 which the right to change the schedule of charges for enrollee
32 coverage is reserved.

33 (cf: P.L.1997, c.75, s.6)

34
35 268. Section 8 of P.L.1997, c.149 (C.26:2J-4.15) is amended to
36 read as follows:

37 8. a. Every enrollee agreement that provides hospital or
38 medical expense benefits and is delivered, issued, executed, or
39 renewed in this State pursuant to P.L.1973, c.337 (C.26:2J-1 et seq.)
40 or approved for issuance or renewal in this State by the
41 Commissioner of **[Health] Banking** and **[Senior Services]**
42 Insurance on or after the effective date of this act shall provide
43 health care services for a minimum of 72 hours of inpatient care
44 following a modified radical mastectomy and a minimum of 48
45 hours of inpatient care following a simple mastectomy. The enrollee
46 agreement shall not require a health care provider to obtain
47 authorization from the health maintenance organization for
48 prescribing 72 or 48 hours, as appropriate, of inpatient care as
49 provided for in this section.

1 The provisions of this section shall not be construed to: require a
2 patient to receive inpatient care for 72 or 48 hours, as appropriate, if
3 the patient in consultation with the patient's physician determines
4 that a shorter length of stay is medically appropriate; or relieve a
5 patient or a patient's physician, if appropriate, of any notification
6 requirements to the health maintenance organization under the
7 enrollee agreement.

8 The health care services shall be provided to the same extent as
9 for any other sickness under the enrollee agreement.

10 The provisions of this section shall apply to enrollee agreements
11 in which the health maintenance organization has reserved the right
12 to change the schedule of charges.

13 b. The Commissioner of **Health** Banking and **Senior**
14 **Services** Insurance shall adopt regulations pursuant to the
15 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
16 seq.) to implement the provisions of this section.
17 (cf: P.L.1997, c.149, s.8)

18

19 269. Section 8 of P.L.1997, c.338 (C.26:2J-4.17) is amended to
20 read as follows:

21 8. Notwithstanding any provision of law to the contrary, a
22 certificate of authority to establish and operate a health maintenance
23 organization in this State shall not be issued or continued by the
24 Commissioner of **Health** Banking and **Senior Services**
25 Insurance on or after the effective date of this act unless the health
26 maintenance organization provides health care services to each
27 enrollee for the therapeutic treatment of inherited metabolic
28 diseases, including the purchase of medical foods and low protein
29 modified food products, when diagnosed and determined to be
30 medically necessary by the enrollee's physician.

31 For the purposes of this section, "inherited metabolic disease"
32 means a disease caused by an inherited abnormality of body
33 chemistry for which testing is mandated pursuant to P.L.1977, c.321
34 (C.26:2-110 et seq.); "low protein modified food product" means a
35 food product that is specially formulated to have less than one gram
36 of protein per serving and is intended to be used under the direction
37 of a physician for the dietary treatment of an inherited metabolic
38 disease, but does not include a natural food that is naturally low in
39 protein; and "medical food" means a food that is intended for the
40 dietary treatment of a disease or condition for which nutritional
41 requirements are established by medical evaluation and is
42 formulated to be consumed or administered enterally under
43 direction of a physician.

44 The health care services shall be provided to the same extent as
45 for any other medical condition under the contract.

46 The provisions of this section shall apply to all contracts for
47 health care services by health maintenance organizations under

1 which the right to change the schedule of charges for enrollee
2 coverage is reserved.
3 (cf: P.L.1997, c.338, s.8)
4

5 270. Section 6 of P.L.1999, c.49 (C.26:2J-4.19) is amended to
6 read as follows:

7 6. a. A certificate of authority to establish and operate a health
8 maintenance organization in this State pursuant to P.L.1973, c.337
9 (C.26:2J-1 et seq.), shall not be issued or continued by the
10 Commissioner of **【Health】** Banking and **【Senior Services】**
11 Insurance on or after the effective date of this amendatory and
12 supplementary act unless the health maintenance organization
13 provides health care services to an enrollee who is severely disabled
14 or a child age five or under for: (1) general anesthesia and
15 hospitalization for dental services; or (2) a medical condition
16 covered by the enrollee agreement which requires hospitalization or
17 general anesthesia for dental services rendered by a participating
18 dentist regardless of where the dental services are provided.

19 b. A health maintenance organization may require prior
20 authorization of hospitalization for dental services in the same
21 manner that prior authorization is required for hospitalization for
22 other covered diseases or conditions.

23 c. This section shall apply to all contracts for health care
24 services in which the health maintenance organization has reserved
25 the right to change the schedule of charges.
26 (cf: P.L.1999, c.49, s.6)
27

28 271. Section 8 of P.L.1999, c.108 (C.26:2J-4.20) is amended to
29 read as follows:

30 8. a. Every enrollee agreement delivered, issued, executed, or
31 renewed in this State pursuant to P.L.1973, c.337 (C.26:2J-1 et seq.)
32 or approved for issuance or renewal in this State by the
33 Commissioner of **【Health】** Banking and **【Senior Services】**
34 Insurance, on or after the effective date of this act shall provide
35 health care services for biologically-based mental illness under the
36 same terms and conditions as provided for any other sickness under
37 the agreement. "Biologically-based mental illness" means a mental
38 or nervous condition that is caused by a biological disorder of the
39 brain and results in a clinically significant or psychological
40 syndrome or pattern that substantially limits the functioning of the
41 person with the illness, including but not limited to, schizophrenia,
42 schizoaffective disorder, major depressive disorder, bipolar
43 disorder, paranoia and other psychotic disorders, obsessive-
44 compulsive disorder, panic disorder and pervasive developmental
45 disorder, or autism. "Same terms and conditions" means that the
46 health maintenance organization cannot apply different copayments,
47 deductibles, or health care services limits to biologically-based
48 mental health care services than those applied to other medical or
49 surgical health care services.

1 b. Nothing in this section shall be construed to change the
2 manner in which a health maintenance organization determines:

3 (1) whether a mental health care service meets the medical
4 necessity standard as established by the health maintenance
5 organization; or

6 (2) which providers shall be entitled to reimbursement or to be
7 participating providers, as appropriate, for mental health services
8 under the enrollee agreement.

9 c. The provisions of this section shall apply to enrollee
10 agreements in which the health maintenance organization has
11 reserved the right to change the premium.

12 (cf: P.L.1999, c.106, s.8)

13

14 272. Section 1 of P.L.1999, c.332 (C.26:2J-4.21) is amended to
15 read as follows:

16 1. a. A certificate of authority to establish and operate a health
17 maintenance organization in this State shall not be issued or
18 continued by the Commissioner of **【Health】 Banking and Senior**
19 **Services】 Insurance** on or after the effective date of this act unless
20 the health maintenance organization offers health care services in
21 conformance with the provisions of subsection b. of this section.

22 b. If an enrollee is a resident of a skilled nursing facility,
23 continuing care retirement community, or a retirement community
24 which operates a skilled nursing facility on the premises of the
25 community, regardless of whether the health maintenance
26 organization is under contract with the skilled nursing facility or the
27 skilled nursing facility at the continuing care retirement community
28 or retirement community, the enrollee's primary care physician shall
29 refer the enrollee to the skilled nursing facility or the community's
30 Medicare-certified skilled nursing unit, as applicable, rather than to
31 a skilled nursing facility separate from the facility or the
32 community of origin, if:

33 (1) the skilled nursing facility or the continuing care retirement
34 community or retirement community with a skilled nursing facility
35 has the capacity to provide the services the enrollee needs;

36 (2) the primary care physician, in consultation with the enrollee
37 or a representative of the enrollee's family, determines that the
38 referral is in the best interest of the enrollee;

39 (3) the skilled nursing facility or the continuing care retirement
40 community or retirement community with a skilled nursing facility
41 agrees to be reimbursed at the same contract rate negotiated by the
42 health maintenance organization with similar providers for the same
43 services and supplies in the same geographic area; and

44 (4) the skilled nursing facility or the continuing care retirement
45 community or retirement community with a skilled nursing facility
46 meets all applicable State licensing and certification requirements

47 c. For the purposes of this act, "continuing care retirement
48 community" means a continuing care facility operating under a
49 certificate of authority issued by the Department of Community

1 Affairs pursuant to P.L.1986, c.103 (C.52:27D-330 et seq.), and
2 "retirement community" means a retirement community which is
3 registered with the Department of Community Affairs pursuant to
4 P.L.1977, c.419 (C.45:22A-21 et seq.).
5 (cf: P.L.1999, c.332, s.1)
6

7 273. Section 8 of P.L.2001, c.295 (C.26:2J-4.24) is amended to
8 read as follows:

9 8. Every enrollee agreement that provides hospital or medical
10 expense benefits and is delivered, issued, executed, or renewed in
11 this State pursuant to P.L.1973, c.337 (C.26:2J-1 et seq.), or
12 approved for issuance or renewal in this State by the Commissioner
13 of **Health** Banking and **Senior Services** Insurance on or after
14 the effective date of this act, shall provide health care services to
15 any enrollee or other person covered thereunder for expenses
16 incurred in conducting colorectal cancer screening at regular
17 intervals for persons age 50 and over and for persons of any age
18 who are considered to be at high risk for colorectal cancer. The
19 methods of screening for which benefits shall be provided shall
20 include: a screening fecal occult blood test, flexible sigmoidoscopy,
21 colonoscopy, barium enema, or any combination thereof; or the
22 most reliable, medically recognized screening test available. The
23 method and frequency of screening to be utilized shall be in
24 accordance with the most recent published guidelines of the
25 American Cancer Society and as determined medically necessary by
26 the covered person's physician, in consultation with the covered
27 person.

28 As used in this section, "high risk for colorectal cancer" means a
29 person has:

- 30 a. a family history of: familial adenomatous polyposis;
31 hereditary non-polyposis colon cancer; or breast, ovarian,
32 endometrial, or colon cancer or polyps;
33 b. chronic inflammatory bowel disease; or
34 c. a background, ethnicity, or lifestyle that the physician
35 believes puts the person at elevated risk for colorectal cancer.

36 The health care services shall be provided to the same extent as
37 for any other medical condition under the enrollee agreement.

38 The provisions of this section shall apply to all enrollee
39 agreements in which the health maintenance organization has
40 reserved the right to change the schedule of charges.

41 (cf: P.L.2001, c.295, s.8)
42

43 274. Section 11 of P.L.2005, c.248 (C.26:2J-4.28) is amended to
44 read as follows:

45 11. A certificate of authority to establish and operate a health
46 maintenance organization, which organization offers a contract that
47 qualifies as a high deductible health plan for which qualified
48 medical expenses are paid using a health savings account
49 established pursuant to section 223 of the federal Internal Revenue

1 Code of 1986 (26 U.S.C. s.223), shall not be issued or continued by
2 the Commissioner of **【Health】 Banking** and **【Senior Services】**
3 **Insurance** on or after the effective date of P.L.2005, c.248
4 (C.17:48E-35.27 et al.), unless the health maintenance organization
5 offers health care services to any enrollee which include services
6 provided in-network which represent medically necessary
7 preventive care as permitted by that federal law.

8 The services provided pursuant to this section shall be provided
9 to the same extent as for any other medical condition under the
10 contract, except that a deductible shall not be applied for services
11 provided pursuant to this section. This section shall apply to all
12 contracts under which the health maintenance organization has
13 reserved the right to change the schedule of charges for enrollee
14 coverage.

15 (cf: P.L.2005, c.248, s.11)

16

17 275. Section 12 of P.L.2005, c.248 (C.26:2J-4.29) is amended to
18 read as follows:

19 12. Notwithstanding the provisions of section 4 of P.L.1995,
20 c.316 (C.26:2J-4.10) regarding deductibles for a high deductible
21 health plan, a contract offered by a health maintenance
22 organization, which certificate of authority to establish and operate
23 is issued or continued by the Commissioner of **【Health】 Banking**
24 and **【Senior Services】 Insurance** on or after the effective date of
25 P.L.2005, c.248 (C.17:48E-35.27 et al.), that qualifies as a high
26 deductible health plan for which qualified medical expenses are
27 paid using a health savings account established pursuant to section
28 223 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.223),
29 shall not apply a deductible for any benefits in which a deductible is
30 not applicable pursuant to any law enacted after the effective date
31 of P.L.2005, c.248 (C.17:48E-35.27 et al.).

32 This section shall apply to all contracts under which the health
33 maintenance organization has reserved the right to change the
34 schedule of charges for enrollee coverage.

35 (cf: P.L.2005, c.248, s.12)

36

37 276. Section 8 of P.L.2007, c.345 (C.26:2J-4.31) is amended to
38 read as follows:

39 8. a. A certificate of authority to establish and operate a health
40 maintenance organization in this State pursuant to P.L.1973, c.337
41 (C.26:2J-1 et seq.) shall not be issued or continued by the
42 Commissioner of **【Health】 Banking** and **【Senior Services】**
43 **Insurance** on or after the effective date of this act unless the health
44 maintenance organization provides health care services for any
45 person covered thereunder for expenses incurred in obtaining an
46 orthotic or prosthetic appliance from any licensed orthotist or
47 prosthetist, or any certified pedorthist, as determined medically
48 necessary by the covered person's physician.

1 As used in this section, "orthotic appliance," "prosthetic
2 appliance," **["licensed orthotist"]** "licensed orthotist," and "licensed
3 prosthetist" have the meaning assigned to them in section 3 of
4 P.L.1991, c.512 (C.45:12B-3) and "certified pedorthist" has the
5 meaning assigned to it in subsection j. of section 18 of P.L.1991,
6 c.512 (C.45:12B-18).

7 b. On and after the effective date of this act, a health
8 maintenance organization shall reimburse for orthotic and prosthetic
9 appliances at the same rate as reimbursement for such appliances
10 under the federal Medicare reimbursement schedule.

11 c. The benefits shall be provided to the same extent as for any
12 other medical condition under the enrollee agreement.

13 d. The provisions of this section shall apply to all enrollee
14 agreements in which the health maintenance organization has
15 reserved the right to change the schedule of charges.

16 (cf: P.L.2007, c.345, s.8)

17
18 277. Section 23 of P.L.1973, c.337 (C.26:2J-23) is amended to
19 read as follows:

20 23. Every health maintenance organization subject to this act
21 shall pay to the commissioner the following fees:

22 a. for filing an application for a certificate of authority or
23 amendment thereto, \$100.00;

24 b. for filing each annual report, \$10.00; and

25 c. for the purpose of supporting the activities of the
26 Department of **[Health]** Banking and **[Senior Services]** Insurance
27 associated with the regulation of health maintenance organizations,
28 \$1.50 per life per year, with payment being made annually no later
29 than July 15 for the preceding calendar year. Payments made by a
30 health maintenance organization pursuant to this act shall not in any
31 way reduce payments that may be owed by a health maintenance
32 organization pursuant to P.L.1995, c.156 (C.17:1C-19 et seq.) and
33 subsequent amendments thereto. No such payment shall be
34 required for any per life per year that is funded through the
35 Medicaid program established pursuant to P.L.1968, c.413
36 (C.30:4D-1 et seq.), **the "Children's Health Care Coverage**
37 **Program"** established pursuant to P.L.1997, c.272 (C.30:4I-1 et
38 **seq.),** **or the ["FamilyCare Health Coverage Program"]** NJ
39 FamilyCare Program established pursuant to **[P.L.2000, c.71**
40 **(C.30:4J-1 et seq.)]** P.L.2005, c.156 (C.30:4J-8 et al.).

41 In accordance with the "Administrative Procedure Act,"
42 P.L.1968, c.410 (C.52:14B-1 et seq.), the commissioner may
43 promulgate rules and regulations directing that additional fees be
44 paid.

45 From fees collected under the provisions of subsection c. of this
46 section, the Legislature shall in each fiscal year appropriate to the
47 community health law project the sum of \$100,000 to fund a grant
48 in support of a program to provide any senior citizen resident of this

1 State who is covered as an enrollee in or beneficiary of a health
2 plan administered by a health maintenance organization with
3 information concerning the person's rights under the program and
4 assistance with the procedures for receiving the benefits to which
5 the person is entitled under the program.

6 (cf: P.L.2002, c.34, s.18)

7
8 278. Section 1 of P.L.1986, c.106 (C.26:2K-35) is amended to
9 read as follows:

10 1. As used in this act:

11 a. "Commissioner" means the Commissioner of [the
12 Department of] Health [and Senior Services].

13 b. "Dispatch" means the coordinated request for and dispatch
14 of the emergency medical service helicopter response unit by a
15 central communications center located in the service area, following
16 protocols developed by the mobile intensive care hospital, the
17 regional trauma or critical care center, the commissioner, and the
18 superintendent.

19 c. "Emergency medical service helicopter response unit" means
20 a specially equipped hospital-based emergency medical service
21 helicopter staffed by advanced life support personnel and operated
22 for the provision of advanced life support services under the
23 medical direction of a mobile intensive care program and the
24 regional trauma or critical care center authorized by the
25 commissioner.

26 d. "Emergency medical transportation" means the prehospital
27 or interhospital transportation of an acutely ill or injured patient by
28 a dedicated emergency medical service helicopter response unit
29 operated, maintained and piloted by the Division of State Police of
30 the Department of Law and Public Safety, pursuant to regulations
31 adopted by the commissioner under chapter 40 of Title 8 of the New
32 Jersey Administrative Code.

33 e. "Medical direction" means the medical control and medical
34 orders transmitted from the physician of the mobile intensive care
35 hospital or from the physician at the regional trauma or critical care
36 center to the staff of the helicopter. The mobile intensive care unit
37 coordinating center and regional trauma or critical care center shall
38 have the ability to cross patch and consult with each other as
39 approved by the commissioner.

40 f. "Mobile intensive care hospital" means a hospital authorized
41 by the commissioner to develop and maintain a mobile intensive
42 care unit to provide advanced life support services in accordance
43 with P.L.1984, c.146 (C.26:2K-7 et al.).

44 g. "Regional trauma center" means a State designated level one
45 hospital-based trauma center equipped and staffed to provide
46 emergency medical services to an accident or trauma victim,
47 including, but not limited to, the level one trauma centers at the
48 University of Medicine and Dentistry of New Jersey-University

1 Hospital in Newark, known as the "Eric Munoz Trauma Center,"
2 and at the Cooper Hospital/University Medical Center in Camden.

3 h. "Critical care center" means a hospital authorized by the
4 commissioner to provide regional critical care services, such as
5 trauma, burn, spinal cord, cardiac, poison, or neonatal care.

6 i. "Superintendent" means the Superintendent of the Division
7 of State Police of the Department of Law and Public Safety.
8 (cf: P.L.2010, c.80, s.1)

9
10 279. Section 1 of P.L.2003, c.1 (C.26:2K-47.1) is amended to
11 read as follows:

12 1. As used in this act:

13 "Commissioner" means the Commissioner of Health [and Senior
14 Services];

15 "Emergency medical service" means a program in a hospital
16 staffed 24 hours-a-day by a licensed physician trained in emergency
17 medicine;

18 "Emergency medical technician" means a person trained in basic
19 life support services as defined in section 1 of P.L.1985, c.351
20 (C.26:2K-21) and who is certified by the Department of Health
21 [and Senior Services] to provide that level of care.

22 (cf: P.L.2003, c.1. s.1)

23
24 280. Section 2 of P.L.2003, c.1 (C.26:2K-47.2) is amended to
25 read as follows:

26 2. a. An emergency medical technician who has been certified
27 by the commissioner pursuant to subsection b. of this section to
28 administer an epinephrine auto-injector device shall administer,
29 maintain and dispose of the device in accordance with rules and
30 regulations adopted by the commissioner.

31 Each administration of an auto-injector device pursuant to this
32 act shall be reported to the Department of Health [and Senior
33 Services] in a manner determined by the commissioner.

34 b. The commissioner shall establish written standards and
35 application procedures which an emergency medical technician
36 shall meet in order to obtain certification. The commissioner shall
37 certify a candidate who: provides evidence of satisfactory
38 completion of an educational program which is approved by the
39 commissioner and includes training in the administration of
40 epinephrine auto-injector devices; and passes an examination in the
41 administration of the devices which is approved by the
42 commissioner.

43 c. The commissioner shall maintain a registry of all persons
44 certified pursuant to this section, which shall include, but not be
45 limited to:

- 46 (1) the person's name and residence; and
47 (2) the date that certification was granted.

1 d. The commissioner shall annually compile a list of
2 emergency medical technicians who have obtained certification to
3 administer an epinephrine auto-injector device pursuant to this
4 section, which shall be available to the public.

5 e. A fee may be charged to a person enrolled in an educational
6 program approved by the department which includes training in the
7 administration of an epinephrine auto-injector device in order to
8 cover the cost of training and testing for certification pursuant to
9 this section, if the entity that provides the educational program is
10 not reimbursed for the cost of that training and testing from the
11 "Emergency Medical Technician Training Fund" established
12 pursuant to section 3 of P.L.1992, c.143 (C.26:2K-56).

13 (cf: P.L.2003, c.1, s.2)

14
15 281. Section 10 of P.L.2003, c.1 (C.26:2K-47.9) is amended to
16 read as follows:

17 10. Pursuant to the "Administrative Procedure Act," P.L.1968,
18 c.410 (C.52:14B-1 et seq.), the Commissioner of Health [and
19 Senior Services] shall adopt rules and regulations to effectuate the
20 purposes of this act, including medical protocols for the
21 administration of epinephrine auto-injector devices, in consultation
22 with the State [mobil] mobile intensive care advisory council and
23 the New Jersey State First Aid Council, Inc. The rules and
24 regulations shall address age appropriateness in the administration
25 of epinephrine.

26 (cf: P.L.2003, c.1, s.10)

27
28 282. Section 1 of P.L.2009, c.174 (C.26:2K-63) is amended to
29 read as follows:

30 1. Certification of a person as an emergency medical technician
31 by the Commissioner of Health [and Senior Services], when that
32 person meets the requirements therefor as prescribed by regulation
33 of the commissioner, shall be valid for a period of five years.

34 (cf: P.L.2009, c.174, s.1)

35
36 283. Section 2 of P.L.2009, c.174 (C.26:2K-64) is amended to
37 read as follows:

38 2. The Commissioner of Health [and Senior Services],
39 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
40 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate
41 the purposes of this act.

42 (cf: P.L.2009, c.174, s.2)

43
44 284. Section 1 of P.L.2003, c.269 (C.26:2M-7.2) is amended to
45 read as follows:

46 1. a. The Commissioner of Health [and Senior Services] shall
47 establish a mandatory training program for long-term care facility
48 staff, as described in subsection b. of this section, in the specialized

1 care of patients who are diagnosed by a physician as having
2 Alzheimer's disease or a related disorder. The training program
3 shall include the causes and progression of Alzheimer's disease and
4 related disorders and methods to deal with the specific problems
5 encountered in the care of patients with Alzheimer's disease and
6 related disorders, including, but not limited to: communicating with
7 patients with Alzheimer's disease and related disorders;
8 psychological, social and physical needs of patients with
9 Alzheimer's disease and related disorders; and safety measures
10 which need to be taken for a patient with Alzheimer's disease and
11 related disorders.

12 b. A long-term care facility shall annually provide training,
13 under the training program established pursuant to subsection a. of
14 this section, to a certified nurse aide, licensed practical nurse,
15 registered professional nurse, and other health care professionals, as
16 appropriate, who provide direct care to a patient in the facility who
17 is diagnosed as having Alzheimer's disease or a related disorder.

18 (cf: P.L.2003, c.269, s.1)

19

20 285. Section 2 of P.L.1988, c.114 (C.26:2M-10) is amended to
21 read as follows:

22 2. As used in this act:

23 a. "Adult day care" means a community-based group program
24 designed to meet the needs of functionally or cognitively impaired
25 adults through an individual plan of care structured to provide a
26 variety of health, social, and related support services in a protective
27 setting during any part of a day but less than 24 hours.

28 b. "Alzheimer's Disease and related disorders" means forms of
29 dementia characterized by a general loss of intellectual abilities of
30 sufficient severity to interfere with social or occupational
31 functioning.

32 c. "Care needs or behavioral problems" means the
33 manifestations of dementia which may include, but need not be
34 limited to, progressive memory loss, confusion, inability to
35 communicate, extreme personality change, and eventual inability to
36 perform the most basic tasks.

37 d. "Commissioner" means the Commissioner of [the State
38 Department of Health and Senior] Human Services.

39 e. "Department" means the [State] Department of [Health and
40 Senior] Human Services.

41 f. "Grantee" means a public agency, private for profit agency,
42 or private nonprofit agency selected by the department to establish
43 an adult day care program for participants pursuant to this act.

44 g. "Participant" means an individual with Alzheimer's disease
45 or a related disorder, particularly those in the moderate to severe
46 stages. To be eligible for services, a participant shall have

1 documentation from a physician that the participant has Alzheimer's
2 disease or a related disorder.
3 (cf: P.L.1999, c.285, s.1)
4

5 286. Section 2 of P.L.2011, c.76 (C.26:2M-17) is amended to
6 read as follows:

7 2. a. There is established the New Jersey Alzheimer's Disease
8 Study Commission in the Department of **【Health and Senior】**
9 Human Services.

10 b. The commission shall consist of 15 members as follows:

11 (1) the Commissioners of Health **【and Senior Services】** and
12 Human Services, or their designees, who shall serve ex officio;

13 (2) two members of the Senate, to be appointed by the President
14 of the Senate, who shall not be of the same political party;

15 (3) two members of the General Assembly, to be appointed by
16 the Speaker of the General Assembly, who shall not be of the same
17 political party; and

18 (4) nine members appointed by the Governor, as follows: two
19 persons recommended by the Alzheimer's Association, one of
20 whom shall be a representative of the Greater New Jersey Chapter
21 and one of whom shall be a representative of the Alzheimer's
22 Association Delaware Valley Chapter; three health care
23 professionals who are currently involved in the provision of direct
24 services, one of whom shall be a representative of an agency that
25 provides home care services to persons with dementia, one of whom
26 shall be a representative of an assisted living facility that provides
27 specialized services to persons with dementia, and one of whom
28 shall be a representative of a licensed nursing home that provides
29 specialized services to persons with dementia; one representative
30 from the clergy who has experience providing emotional and
31 spiritual care and support for persons with Alzheimer's disease and
32 their families; two persons who by reason of family relationship or
33 legal guardianship bear or have borne responsibility in caring for a
34 person with Alzheimer's disease; and one attorney who is currently
35 licensed and practicing in New Jersey, has expertise in legal and
36 financial planning and elder care issues, and has extensive
37 community-based experience working with persons with
38 Alzheimer's disease and their families.

39 c. Vacancies in the membership of the commission shall be
40 filled in the same manner provided for the original appointments.

41 d. The commission shall organize as soon as practicable
42 following the appointment of its members and shall select a
43 chairperson from among the members. The chairperson shall
44 appoint a secretary who need not be a member of the commission.

45 e. Members of the commission shall serve without
46 compensation, but shall be reimbursed for necessary expenses
47 incurred in the performance of their duties as members of the
48 commission, within the limits of funds appropriated or otherwise
49 made available to the commission for its purposes.

1 f. The commission shall be entitled to call to its assistance and
2 avail itself of the services of the employees of any State, county, or
3 municipal department, board, bureau, commission, or agency as it
4 may require and as may be available to it for its purposes.

5 g. The Department of **[Health and Senior Service]** Human
6 Services shall provide staff support to the commission, as
7 necessary.

8 (cf: P.L.2011, c.76, s.2)

9
10 287. Section 2 of P.L.2003, c.257 (C.26:2N-9) is amended to
11 read as follows:

12 2. a. Prior to administering a second dose of the measles-
13 mumps-rubella (MMR) vaccine to a child, a health care provider
14 may give the child's parent or guardian the option of consenting to
15 the administration of an antibody titer to determine whether or not
16 the child has already developed immunity to MMR in response to a
17 previously administered dose of the vaccine and would not require
18 the second dose.

19 b. Documented laboratory evidence of immunity from MMR
20 shall exempt a child from further vaccination for MMR, as may be
21 required pursuant to Department of Health **[and Senior Services]**
22 regulations.

23 (cf: P.L.2003, c.257, s.2)

24
25 288. Section 3 of P.L.2003, c.257 (C.26:2N-10) is amended to
26 read as follows:

27 3. The Commissioner of Health **[and Senior Services]** shall
28 prepare and make available to all health care providers in the State a
29 pamphlet that explains the nature and purpose of the MMR vaccine
30 and the antibody titer used to determine immunity pursuant to
31 section 2 of this act.

32 The commissioner shall send a copy of the pamphlet to every
33 licensed health care provider in the State who administers the MMR
34 vaccine, with a cover letter advising the health care provider that
35 the pamphlet was prepared in accordance with the requirements of
36 P.L.2003, c. 257 (C.26:2N-8 et seq.), known as "Holly's Law," and
37 how the health care provider can obtain additional copies of the
38 pamphlet from the Department of Health **[and Senior Services]**.

39 (cf: P.L.2003, c.257, s.3)

40
41 289. Section 4 of P.L.2003, c.257 (C.26:2N-11) is amended to
42 read as follows:

43 4. The Commissioner of Health **[and Senior Services]** shall
44 adopt rules and regulations, pursuant to the "Administrative
45 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to
46 carry out the provisions of this act.

47 (cf: P.L.2003, c.257, s.4)

1 290. Section 2 of P.L.1993, c.288 (C.26:2Q-2) is amended to
2 read as follows:

3 2. As used in sections 1 through 12 of P.L.1993, c.288
4 (C.26:2Q-1 through C.26:2Q-12):

5 "Commissioner" means the Commissioner of Health [and Senior
6 Services].

7 "Department" means the Department of Health [and Senior
8 Services].

9 "Interim controls" means a set of measures designed to reduce
10 temporarily human exposure or likely exposure to lead-based paint
11 hazards, including specialized cleaning, repairs, maintenance,
12 painting, temporary containment, ongoing monitoring of lead-based
13 paint hazards or potential hazards, and the establishment and
14 operation of management and resident education programs, or as the
15 term is defined under 42 U.S.C.s.4851b.

16 "Lead abatement" means a set of measures designed to
17 permanently eliminate lead-based paint hazards in accordance with
18 standards established by the Commissioner of Community Affairs
19 in compliance with standards promulgated by the appropriate
20 federal agencies. Such term includes:

21 a. the removal of lead-based paint and lead-contaminated dust,
22 the permanent containment or encapsulation of lead-based paint, the
23 replacement of lead-painted surfaces or fixtures, and the removal or
24 covering of lead contaminated soil; and

25 b. all preparation, cleanup, disposal, and post-abatement
26 clearance testing activities associated with such measures.

27 "Lead evaluation" means a surface-by-surface investigation to
28 determine the presence of lead-based paint and the provision of a
29 report explaining the results of the investigation.

30 "Lead hazard control work" means work to make housing lead-
31 safe, or to mitigate, through the use of interim controls as permitted
32 under federal law and as defined in 42 U.S.C.s.4851b, or to
33 eliminate permanently lead-based paint hazards by abatement on a
34 premises by a person certified to perform lead abatement work
35 pursuant to sections 1 through 12 of P.L.1993, c.288 (C.26:2Q-1 et
36 seq.) and sections 14 through 24 of P.L.1993, c.288 (C.52:27D-427
37 et seq.).

38 "Lead-based paint" means paint or other surface coating material
39 that contains lead in excess of 1.0 milligrams per centimeter
40 squared or in excess of 0.5% by weight, or such other level as may
41 be established by federal law.

42 "Lead-based paint hazard" means any condition that causes
43 exposure to lead from lead-contaminated dust or soil or lead-
44 contaminated paint that is deteriorated or present in surfaces, that
45 would result in adverse human health effects.

46 "Lead-based paint hazard inspection" means an inspection of
47 residential housing and the structure's interior common areas and
48 exterior surface for the presence of lead-based paint hazards.

1 "Lead safe maintenance work" means those maintenance
2 activities which are necessary to maintain surfaces in a lead safe
3 condition and to prevent lead-based paint hazards from occurring or
4 reoccurring.

5 "Surface" means an area such as an interior or exterior wall,
6 ceiling, floor, door, door frame, window sill, window frame, porch,
7 stair, handrail and spindle, or other abradable surface, soil,
8 furniture, a carpet, a radiator or a water pipe.

9 (cf: P.L.2003, c.311, s.17)

10

11 291. Section 2 of P.L.1997, c.191 (C.26:2R-2) is amended to
12 read as follows:

13 2. As used in this act:

14 "Commissioner" means the Commissioner of **【Health and**
15 **Senior】** Human Services.

16 "Council" means the Interagency Council on Osteoporosis
17 established pursuant to this act.

18 "Department" means the Department **【of Health and Senior】**
19 Human Services.

20 "Program" means the osteoporosis prevention and education
21 program established pursuant to this act.

22 (cf: P.L.1997, c.191, s.2)

23

24 292. Section 3 of P.L.1997, c.191 (C.26:2R-3) is amended to
25 read as follows:

26 3. a. The Commissioner of **【Health and Senior】** Human
27 Services shall establish an osteoporosis prevention and education
28 program in the Department of **【Health and Senior】** Human
29 Services. The purpose of the program is to promote: public
30 awareness of the causes of osteoporosis; options for prevention; the
31 value of early detection; and possible treatments, including the
32 benefits and risks of those treatments. The department may accept,
33 for that purpose, any special grant of money, services, or property
34 from the federal government or any of its agencies, or from any
35 foundation, organization, or medical school.

36 b. The program shall include the following:

37 (1) Development of a public education and outreach campaign
38 to promote osteoporosis prevention and education, including, but
39 not limited to, the following subjects:

40 (a) The cause and nature of the disease;

41 (b) Risk factors;

42 (c) The role of hysterectomy;

43 (d) Prevention of osteoporosis, including nutrition, diet, and
44 physical exercise;

45 (e) Diagnostic procedures and appropriate indications for their
46 use;

47 (f) Hormone replacement, including the benefits and risks;

48 (g) Environmental safety and injury prevention; and

1 (h) Availability of osteoporosis diagnostic treatment services in
2 the community.

3 (2) Development of educational materials to be made available
4 for consumers, particularly targeted to high-risk groups, through
5 local boards of health, physicians, other health care providers,
6 including, but not limited to, health maintenance organizations,
7 hospitals, and clinics, and women's organizations.

8 (3) Development of professional education programs for health
9 care providers to assist them in understanding research findings and
10 the subjects set forth in paragraph (1) of this subsection.

11 (4) Development and maintenance of a list of current providers
12 of specialized services for the prevention and treatment of
13 osteoporosis. Dissemination of the list shall be accompanied by a
14 description of diagnostic procedures, appropriate indications for
15 their use, and a cautionary statement about the current status of
16 osteoporosis research, prevention, and treatment. The statement
17 shall also indicate that the department does not license, certify, or in
18 any other way approve osteoporosis programs or centers in this
19 State.

20 (cf: P.L.1997, c.191, s.3)

21

22 293. Section 1 of P.L.1999, c.330 (C.26:2R-3.1) is amended to
23 read as follows:

24 1. The Department of **【Health and Senior】** Human Services
25 shall prepare an informational pamphlet which describes the causes
26 and nature of osteoporosis as well as methods which may be used to
27 prevent and treat osteoporosis, including nutrition, diet, physical
28 exercise, and medications. The department shall make a supply of
29 these pamphlets available to all pharmacies registered with the New
30 Jersey Board of Pharmacy for distribution to the public.

31 (cf: P.L.1999, c.330, s.1)

32

33 294. Section 2 of P.L.1997, c.192 (C.26:2S-2) is amended to
34 read as follows:

35 2. As used in sections 2 through 19 of this act:

36 "Behavioral health care services" means procedures or services
37 rendered by a health care provider for the treatment of mental
38 illness, emotional disorders, or drug or alcohol abuse. "Behavioral
39 health care services" does not include: any quality assurance or
40 utilization management activities or treatment plan reviews
41 conducted by a carrier, or a private entity on behalf of the carrier,
42 pertaining to these services, whether administrative or clinical in
43 nature; or any other administrative functions, including, but not
44 limited to, accounting and financial reporting, billing and
45 collection, data processing, debt or debt service, legal services,
46 promotion and marketing, or provider credentialing.

47 "Carrier" means an insurance company, health service
48 corporation, hospital service corporation, medical service

1 corporation or health maintenance organization authorized to issue
2 health benefits plans in this State.

3 "Commissioner" means the Commissioner of **【Health】 Banking**
4 and **【Senior Services】 Insurance**.

5 "Contract holder" means an employer or organization that
6 purchases a contract for services.

7 "Covered person" means a person on whose behalf a carrier
8 offering the plan is obligated to pay benefits or provide services
9 pursuant to the health benefits plan.

10 "Covered service" means a health care service provided to a
11 covered person under a health benefits plan for which the carrier is
12 obligated to pay benefits or provide services.

13 "Department" means the Department of **【Health】 Banking** and
14 **Senior Services】 Insurance**.

15 "Health benefits plan" means a benefits plan which pays or
16 provides hospital and medical expense benefits for covered
17 services, and is delivered or issued for delivery in this State by or
18 through a carrier. Health benefits plan includes, but is not limited
19 to, Medicare supplement coverage and risk contracts to the extent
20 not otherwise prohibited by federal law. For the purposes of this
21 act, health benefits plan shall not include the following plans,
22 policies or contracts: accident only, credit, disability, long-term
23 care, CHAMPUS supplement coverage, coverage arising out of a
24 workers' compensation or similar law, automobile medical payment
25 insurance, personal injury protection insurance issued pursuant to
26 P.L.1972, c.70 (C.39:6A-1 et seq.) or hospital confinement
27 indemnity coverage.

28 "Health care provider" means an individual or entity which,
29 acting within the scope of its licensure or certification, provides a
30 covered service defined by the health benefits plan. Health care
31 provider includes, but is not limited to, a physician and other health
32 care professionals licensed pursuant to Title 45 of the Revised
33 Statutes, and a hospital and other health care facilities licensed
34 pursuant to Title 26 of the Revised Statutes.

35 "Independent utilization review organization" means an
36 independent entity comprised of physicians and other health care
37 professionals who are representative of the active practitioners in
38 the area in which the organization will operate and which is under
39 contract with the department to provide medical necessity or
40 appropriateness of services appeal reviews pursuant to this act.

41 "Managed behavioral health care organization" means an entity,
42 other than a carrier, which contracts with a carrier to provide,
43 undertake to arrange, or administer behavioral health care services
44 to covered persons through health care providers employed by the
45 managed behavioral health care organization or otherwise make
46 behavioral health care services available to covered persons through
47 contracts with health care providers. "Managed behavioral health
48 care organization" does not include a person or entity that, for an

1 administrative fee only, solely arranges a panel of health care
2 providers for a carrier for the provision of behavioral health care
3 services on a discounted fee-for-service basis.

4 "Managed care plan" means a health benefits plan that integrates
5 the financing and delivery of appropriate health care services to
6 covered persons by arrangements with participating providers, who
7 are selected to participate on the basis of explicit standards, to
8 furnish a comprehensive set of health care services and financial
9 incentives for covered persons to use the participating providers and
10 procedures provided for in the plan.

11 "Subscriber" means, in the case of a group contract, a person
12 whose employment or other status, except family status, is the basis
13 for eligibility for enrollment by the carrier or, in the case of an
14 individual contract, the person in whose name the contract is issued.

15 "Utilization management" means a system for reviewing the
16 appropriate and efficient allocation of health care services under a
17 health benefits plan according to specified guidelines, in order to
18 recommend or determine whether, or to what extent, a health care
19 service given or proposed to be given to a covered person should or
20 will be reimbursed, covered, paid for, or otherwise provided under
21 the health benefits plan. The system may include: preadmission
22 certification, the application of practice guidelines, continued stay
23 review, discharge planning, preauthorization of ambulatory care
24 procedures and retrospective review.

25 (cf: P.L.2005, c.172, s.1)

26

27 295. Section 1 of P.L.2001, c.88 (C.26:2S-7.1) is amended to
28 read as follows:

29 1. The Commissioner of **【Health】 Banking** and **【Senior**
30 **Services】 Insurance**, in consultation with the New Jersey
31 Association of Health Plans, the Health Insurance Association of
32 America, the Medical Society of New Jersey, the New Jersey
33 Hospital Association, and such other representatives of managed
34 care plans as the commissioner deems appropriate, shall adopt by
35 regulation, a universal physician application for participation form
36 for use by carriers which offer managed care plans for the purpose
37 of credentialing physicians who seek to participate in a carrier's
38 provider network and for the purpose of credentialing physicians
39 who are employed by hospitals or other health care facilities which
40 seek to participate in a carrier's provider network.

41 The commissioner, in consultation with the New Jersey
42 Association of Health Plans, the Health Insurance Association of
43 America, the Medical Society of New Jersey, the New Jersey
44 Hospital Association and such other representatives of managed
45 care plans as the commissioner deems appropriate, shall also adopt
46 by regulation a form for renewal of credentialing, which shall be an
47 abbreviated version of the universal application form. The renewal
48 form shall be designed to enable a physician to indicate changes in
49 the information provided in the application form.

1 The commissioner shall revise the universal application and
2 renewal forms, as necessary, to conform with industry-wide,
3 national standards for credentialing.

4 In developing the forms, the commissioner shall consult with the
5 Commissioner of Human Services to ensure that the credentialing
6 requirements for participation in the Medicaid program, established
7 pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.), [the health care
8 coverage program for children, established pursuant to P.L.1997,
9 c.272 (C.30:4I-1 et seq.)] and the NJ FamilyCare [Health
10 Coverage] Program established pursuant to [P.L.2000, c.71
11 (C.30:4J-1 et seq.)] P.L.2005, c.156 (C.30:4J-8 et al.) are
12 adequately reflected on the application and renewal forms.
13 (cf: P.L.2001, c.88, s.1)
14

15 296. Section 1 of P.L.2000, c.121 (C.26:2S-10.1) is amended to
16 read as follows:

17 1. A carrier which offers a managed care plan that provides
18 benefits or health care services, as applicable, for the home
19 treatment of bleeding episodes associated with hemophilia,
20 including the purchase of blood products and blood infusion
21 equipment, shall comply with the provisions of this section.

22 a. For the purpose of providing home treatment services for
23 bleeding episodes associated with hemophilia, the carrier shall be
24 required to contract with, and exclusively use, providers that
25 comply with standards adopted by regulation of the Department of
26 [Health] Banking and [Senior Services] Insurance in consultation
27 with the Hemophilia Association of New Jersey. At a minimum,
28 the standards shall require that each provider:

29 (1) provide services pursuant to a prescription from the covered
30 person's attending physician and not make any substitutions of
31 blood products without prior approval of the attending physician;

32 (2) provide all brands of clotting factor products in low, medium
33 and high-assay range levels to execute treatment regimens as
34 prescribed by a covered person's attending physician, and all needed
35 ancillary supplies for the treatment or prevention of bleeding
36 episodes, including, but not limited to, needles, syringes, and cold
37 compression packs;

38 (3) have the ability to deliver prescribed blood products,
39 medications, and nursing services within three hours after receipt of
40 a prescription for an emergent situation, and maintain 24-hour on-
41 call service to accommodate this requirement;

42 (4) demonstrate experience with and knowledge of bleeding
43 disorders and the management thereof;

44 (5) demonstrate the ability for appropriate and necessary record
45 keeping and documentation, including the ability to expedite
46 product recall or notification systems and the ability to assist
47 covered persons in obtaining third party reimbursement;

1 (6) provide for proper removal and disposal of hazardous waste
2 pursuant to State and federal law;

3 (7) provide covered persons with a written copy of the agency's
4 policy regarding discontinuation of services related to loss of health
5 benefits plan coverage or inability to pay; and

6 (8) provide covered persons, upon request, with information
7 about the expected costs for medications and services provided by
8 the agency that are not otherwise covered by the covered person's
9 health benefits plan.

10 b. The Department of **Health** Banking and **Senior Service**
11 Insurance shall compile a list of providers who meet the minimum
12 standards established pursuant to this section and shall make the list
13 available to carriers and covered persons, upon request.

14 c. As used in this section: "blood product" includes, but is not
15 limited to, Factor VIII, Factor IX and cryoprecipitate; and "blood
16 infusion equipment" includes, but is not limited to, syringes and
17 needles.

18 (cf: P.L.2000, c.121, s.1)

19

20 297. Section 11 of P.L.2000, c.121 (C.26:2S-10.3) is amended
21 to read as follows:

22 11. The Department of **Health** Banking and **Senior Services**
23 Insurance, pursuant to the "Administrative Procedure Act,"
24 P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt regulations to
25 carry out the provisions of sections 1 and 2 of this act.

26 (cf: P.L.2000, c.121, s.11)

27

28 298. Section 1 of P.L.2011, c.190 (C.26:2S-14.1) is amended to
29 read as follows:

30 1. A general hospital licensed pursuant to P.L.1971, c.136
31 (C.26:2H-1 et seq.) shall be required, as prescribed by regulation of
32 the Commissioner of Health **[and Senior Services]**, to:

33 (1) post, in a conspicuous place in each of its waiting rooms for
34 members of the general public, a notice, as prescribed pursuant to
35 section 3 of P.L.2011, c.190 (C.26:2S-14.2), which provides
36 information about the operation of, and how to apply for, the
37 Independent Health Care Appeals Program established pursuant to
38 section 11 of P.L.1997, c.192 (C.26:2S-11); and

39 (2) ensure that appropriate hospital staff, including direct patient
40 care providers, staff that are concerned with billing for hospital
41 services or provide financial counseling to patients, and staff
42 otherwise engaged in providing patient advocacy or patient
43 relations services, are made aware of the program and are able to
44 provide information to patients and their family members, or other
45 persons on the patient's behalf, about how to contact the program.

46 (cf: P.L.2011, c.190, s.1)

47

48 299. Section 3 of P.L.2011, c.190 (C.26:2S-14.2) is amended to
49 read as follows:

1 3. The Commissioner of Banking and Insurance, in
2 consultation with the Commissioner of Health **【and Senior**
3 **Services】** and the State Board of Medical Examiners, shall
4 prescribe the size, content, and format of the notice about the
5 Independent Health Care Appeals Program to be posted in general
6 hospitals pursuant to section 1 of P.L.2011, c.190 (C.26:2S-14.1)
7 and in physicians' medical offices pursuant to section 2 of P.L.2011,
8 c.190 (C.45:9-22.26), and shall make the notice available to general
9 hospitals and physicians, and to members of the general public, by
10 posting it on the Internet website of the Department of Banking and
11 Insurance.

12 (cf: P.L.2011, c.190, s.3)

13

14 300. Section 4 of P.L.2011, c.190 (C.26:2S-14.3) is amended to
15 read as follows:

16 4. The Commissioner of Health **【and Senior Services】** and the
17 State Board of Medical Examiners, pursuant to the "Administrative
18 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) and in
19 consultation with each other and the Commissioner of Banking and
20 Insurance, shall adopt rules and regulations to effectuate the
21 purposes of this act.

22 (cf: P.L.2011, c.190, s.4)

23

24 301. Section 2 of P.L.2001, c.14 (C.26:2S-20) is amended to
25 read as follows:

26 2. As used in this act:

27 "Carrier" means a carrier as defined in section 2 of P.L.1997,
28 c.192 (C.26:2S-2).

29 "Commissioner" means the Commissioner of **【Health】 Banking**
30 **and 【Senior Services】 Insurance.**

31 "Department" means the Department of **【Health】 Banking** and
32 **【Senior Services】 Insurance.**

33 "Managed care plan" means a managed care plan as defined in
34 section 2 of P.L.1997, c.192 (C.26:2S-2).

35 "Medicaid" means the Medicaid program established pursuant to
36 P.L.1968, c.413 (C.30:4D-1 et seq.).

37 "Medicare" means the federal Medicare program established
38 pursuant to the federal Social Security Act, Pub.L.89-97 (42 U.S.C.
39 s.1395 et seq.).

40 "NJ FamilyCare" means the FamilyCare Health Coverage
41 Program established pursuant to **【P.L.2000, c.71 (C.30:4J-1 et**
42 **seq.)】 P.L.2005, c.156 (C.30:4J-8 et al.).**

43 "Program" means the Managed Health Care Consumer
44 Assistance Program established pursuant to this act.

45 (cf: P.L.2001, c.14, s.2)

46

47 302. Section 3 of P.L.2001, c.14 (C.26:2S-21) is amended to
48 read as follows:

- 1 3. a. There is established the Managed Health Care Consumer
2 Assistance Program in the Department of **Health** Banking and
3 **Senior Services** Insurance. The commissioner shall make
4 agreements to operate the program as necessary, in consultation
5 with the Commissioner of Human Services **and the Commissioner**
6 **of Banking and Insurance**, to assure that citizens have reasonable
7 access to services in all regions of the State.
- 8 b. The program shall:
- 9 (1) create and provide educational materials and training to
10 consumers regarding their rights and responsibilities as enrollees in
11 managed care plans, including materials and training specific to
12 Medicaid, NJ FamilyCare, Medicare, and commercial managed care
13 plans;
- 14 (2) assist and educate individual enrollees about the functions of
15 the State and federal agencies that regulate managed care products,
16 assist and educate enrollees about the various complaint, grievance,
17 and appeal processes, including State fair hearings, provide
18 assistance to individuals in determining which process is most
19 appropriate for the individual to pursue when necessary, maintain
20 and provide to individual enrollees the forms that may be necessary
21 to submit a complaint, grievance or appeal with the State or federal
22 agencies, and provide assistance to individual enrollees in
23 completion of the forms, if necessary;
- 24 (3) maintain and provide information to individuals upon
25 request about advocacy groups, including legal services programs
26 Statewide and in each county that may be available to assist
27 individuals, and maintain lists of State and Congressional
28 representatives and the means by which to contact representatives,
29 for distribution upon request;
- 30 (4) maintain a toll-free telephone number for consumers to call
31 for information and assistance. The number shall be accessible to
32 the deaf and hard of hearing, and staff or translation services shall
33 be available to assist non-English proficient individuals who are
34 members of language groups that meet population thresholds
35 established by the department;
- 36 (5) ensure that individuals have timely access to the services of,
37 and receive timely responses from, the program;
- 38 (6) provide feedback to managed care plans, beneficiary
39 advisory groups and employers regarding enrollees' concerns and
40 problems;
- 41 (7) provide nonpartisan information about federal and State
42 activities relative to managed care, and provide assistance to
43 individuals in obtaining copies of pending legislation, statutes, and
44 regulations; and
- 45 (8) develop and maintain a data base monitoring the degree of
46 each type of service provided by the program to individual
47 enrollees, the types of concerns and complaints brought to the

1 program and the entities about which complaints and concerns are
2 brought.

3 c. In order to meet its objectives, the program shall have access
4 to:

5 (1) the medical and other records of an individual enrollee
6 maintained by a managed care plan, upon the specific written
7 authorization of the enrollee or his legal representative;

8 (2) the administrative records, policies, and documents of
9 managed care plans to which individuals or the general public have
10 access; and

11 (3) all licensing, certification, and data reporting records
12 maintained by the State or reported to the federal government by the
13 State that are not proprietary information or otherwise protected by
14 law, with copies thereof to be supplied to the program by the State
15 upon the request of the program.

16 d. The program shall take such actions as are necessary to
17 protect the identity and confidentiality of any complainant or other
18 individual with respect to whom the program maintains files or
19 records. Any medical or personally identifying information received
20 or in the possession of the program shall be considered confidential
21 and shall be used only by the department, the program and such
22 other agencies as the commissioner designates and shall not be
23 subject to public access, inspection or copying under P.L.1963, c.73
24 (C.47:1A-1 et seq.) or the common law concerning access to public
25 records. This subsection shall not be construed to limit the ability
26 of the program to compile and report non-identifying data pursuant
27 to paragraph (8) of subsection b. of this section.

28 e. The program shall seek to coordinate its activities with
29 consumer advocacy organizations, legal assistance providers
30 serving low-income and other vulnerable health care consumers,
31 managed care and health insurance counseling assistance programs,
32 and relevant federal and State agencies to assure that the
33 information and assistance provided by the program are current and
34 accurate.

35 f. Until such time as the program is developed, the
36 commissioner shall make agreements with two independent, private
37 nonprofit consumer advocacy organizations, which shall be the
38 Community Health Law Project and New Jersey Protection and
39 Advocacy, Inc. to operate the program on an interim basis. The
40 interim program shall be in effect for one year from the effective
41 date of this act. Any appropriation in this act for the program may
42 be allocated for the interim program.

43 (cf: P.L.2001, c.14, s.3)

44

45 303. Section 8 of P.L.2001, c.14 (C.26:2S-25) is amended to
46 read as follows:

47 8. The Commissioner of **【Health】** Banking and **【Senior**
48 **Services】** Insurance, pursuant to the "Administrative Procedure

1 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and
2 regulations to effectuate the purposes of this act.
3 (cf: P.2001, c.14, s.8)

4
5 304. Section 1 of P.L.1998, c.116 (C.26:2T-1) is amended to
6 read as follows:

7 1. The Commissioner of Health **【and Senior Services】** shall
8 provide for the inclusion of all newly diagnosed cases of hepatitis C
9 among those communicable diseases which are required to be
10 reported by health care providers or other designated persons to the
11 Department of Health **【and Senior Services】** pursuant to
12 N.J.A.C.8:57-1.4 and 8:57-1.5. The commissioner shall require that
13 such information be reported directly to the department, rather than
14 to local health departments, as **【he】** the commissioner determines
15 necessary to assist the department to develop hepatitis C disease
16 control measures, and shall revise these requirements as necessary
17 to reflect technological advances which improve the ability to
18 diagnose and treat the disease.

19 (cf: P.L.2001, c.357, s.6)

20
21 305. Section 2 of P.L.1998, c.116 (C.26:2T-2) is amended to
22 read as follows:

23 2. The Commissioner of Health **【and Senior Services】** shall
24 provide written guidance regarding screening for the hepatitis C
25 virus to licensed physicians and public health officers which
26 reflects current and accepted standards of medical and public health
27 practice, consistent with the recommendations of the federal
28 Centers for Disease Control and Prevention, and encourages
29 appropriate screening and diagnosis of all persons at high risk for
30 hepatitis C infection as defined by the federal centers, including,
31 but not limited to:

32 (1) veterans of the United States armed forces;

33 (2) women who underwent a caesarian section or a premature
34 delivery prior to 1990;

35 (3) persons who received blood or blood products prior to 1992;

36 (4) persons who received an organ or tissue transplant prior to
37 1990;

38 (5) persons who have received invasive cosmetic procedures,
39 including body piercing and tattooing;

40 (6) persons who have a history of multiple sexually transmitted
41 diseases or multiple partners;

42 (7) persons with a history of intravenous drug use; and

43 (8) such other categories of persons at high risk for hepatitis C
44 infection as may be determined by the commissioner.

45 (cf: P.L.1998, c.116, s.2)

46
47 306. Section 3 of P.L.1998, c.116 (C.26:2T-3) is amended to
48 read as follows:

1 3. The Commissioner of Health **[and Senior Services]** shall
2 make available to licensed physicians and public health officers, in
3 printed and electronic format, hepatitis C education and prevention
4 information materials which reflect the recommendations of the
5 federal Centers for Disease Control and Prevention and other
6 relevant entities, including, but not limited to, the American Liver
7 Foundation, for distribution to persons at high risk for hepatitis C
8 infection as described in section 2 of this act.

9 (cf: P.L.1998, c.116, s.3)

10
11 307. Section 4 of P.L.1998, c.116 (C.26:2T-4) is amended to
12 read as follows:

13 4. The Commissioner of Health **[and Senior Services]**,
14 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
15 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate
16 the purposes of this act.

17 (cf: P.1998, c.116, s.4)

18
19 308. Section 2 of P.L.2001, c.357 (C.26:2T-6) is amended to
20 read as follows:

21 2. As used in this act:

22 "Commissioner" means the Commissioner of Health **[and Senior**
23 **Services]**.

24 "HCV" means the hepatitis C virus.

25 "Program" means the hepatitis C education, prevention, and
26 screening program established pursuant to this act.

27 (cf: P.L.2001, c.357, s.2)

28
29 309. Section 3 of P.L.2001, c.357 (C.26:2T-7) is amended to
30 read as follows:

31 3. In consultation with the hepatitis C advisory board
32 established pursuant to section 4 of this act, the Commissioner of
33 Health **[and Senior Services]** shall establish a hepatitis C
34 education, prevention, and screening program that includes, but is
35 not limited to, measures directed to physicians and other health care
36 workers, police officers, correctional officers, firefighters,
37 emergency services personnel, employees of the State's
38 developmental centers, and the general public. The program shall
39 be established in accordance with accepted public health practice
40 and recommendations of the federal Centers for Disease Control
41 and Prevention, the Surgeon General of the United States, the
42 American Association for the Study of Liver Diseases, the National
43 Institutes of Health and the American Liver Foundation and within
44 the limits of resources available for the purposes thereof.

45 a. For the purposes of this program, the commissioner shall
46 develop and implement the following:

47 (1) public education and outreach to raise awareness of hepatitis
48 C among persons at high risk for hepatitis C as described in section

1 2 of P.L.1998, c.116 (C.26:2T-2), which includes police officers,
2 firefighters, persons employed by correctional facilities, emergency
3 response personnel, and other high-risk groups, including, but not
4 limited to, health care professionals and persons employed in
5 primary care settings or health care facilities, which shall include, at
6 a minimum, information on risk factors, the value of early detection
7 and the options available for treating hepatitis C;

8 (2) measures to promote public awareness about the availability
9 of hepatitis C screening, prevention and treatment services among
10 persons at high risk for hepatitis C as determined by the
11 commissioner based upon data provided by the federal Centers for
12 Disease Control and Prevention, the Surgeon General of the United
13 States, the American Association for the Study of Liver Diseases,
14 the National Institutes of Health and the American Liver
15 Foundation, and any other nationally recognized liver societies;

16 (3) educational activities for health care professionals in regard
17 to the epidemiology, natural history, detection, and treatment of
18 hepatitis C, which shall include information about coinfection with
19 HCV and HIV and the implications of coinfection for HIV or AIDS
20 treatment;

21 (4) educational and informational measures targeted at specific
22 groups, including, but not limited to, activities designed to educate
23 youth about the long-term consequences of infection with HCV;

24 (5) measures to prevent further transmission of HCV and to
25 prevent onset of chronic liver disease caused by hepatitis C through
26 outreach to detect and treat chronic HCV infection; and

27 (6) a collaborative effort with the Department of Corrections to
28 develop screening services to identify inmates at risk for hepatitis C
29 upon admission, and to provide education and counseling about
30 treatment options to reduce the potential health risk to the
31 community from these persons.

32 b. The commissioner shall evaluate existing hepatitis C support
33 services in the community and assess the need for improving the
34 quality and accessibility of these services.

35 c. The commissioner shall seek to establish public-private
36 partnerships to promote outreach and increase awareness for the
37 purposes of this act among employers, organized labor, health care
38 providers, health insurers, and community-based organizations, and
39 coalitions.

40 d. The commissioner shall take such actions as are reasonably
41 necessary to ensure that the program established pursuant to this act
42 provides clear, complete, and accurate hepatitis C education,
43 information, and referral services in a multiculturally competent
44 manner that is designed to provide appropriate linkages to health
45 care services for persons in need thereof.

46 e. The commissioner shall seek to secure the use of such funds
47 or other resources from private nonprofit or for-profit sources or the
48 federal government to effectuate the purposes of this act as may be

1 available therefor, which shall be used to supplement and shall not
2 supplant State funds used to carry out the purposes of this act.

3 f. The commissioner shall seek, to the maximum extent
4 practicable, to coordinate the activities of the program, as
5 applicable, with services provided separately to specific
6 populations, including, but not limited to, veterans of the United
7 States armed forces, persons participating in private or public drug
8 abuse or alcohol treatment programs, and persons with HIV.
9 (cf: P.L.2001, c.357, s.3)

10

11 310. Section 1 of P.L.1999, c.366 (C.26:2U-1) is amended to
12 read as follows:

13 1. The Commissioner of Health **[and Senior Services]** shall
14 establish a Statewide network of resources to provide the following
15 services to persons with chronic fatigue syndrome, also known as
16 chronic fatigue immune dysfunction syndrome: physician training
17 and patient education programs, and a public awareness campaign.
18 (cf: P.L.1999, c.66, s.1)

19

20 311. Section 2 of P.L.1999, c.66 (C.26:2U-2) is amended to read
21 as follows:

22 2. The Department of Health **[and Senior Services]**, in
23 consultation with the New Jersey Chronic Fatigue Syndrome
24 Association, Inc., the Academy of Medicine of New Jersey, and the
25 University of Medicine and Dentistry of New Jersey, shall prepare
26 and make available to all health care providers in the State, upon
27 request, a manual which provides information about the clinical
28 significance, diagnosis and treatment of chronic fatigue syndrome.
29 The manual may contain any other information which the
30 Commissioner of Health **[and Senior Services]** deems necessary
31 and may be revised by the department whenever new information
32 about chronic fatigue syndrome becomes available. The department
33 shall publicize and make available the manual to the maximum
34 extent possible.
35 (cf: P.L.1999, c.66, s.2)

36

37 312. Section 3 of P.L.1999, c.66 (C.26:2U-3) is amended to read
38 as follows:

39 3. The Commissioner of Health **[and Senior Services]**,
40 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
41 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate
42 the purposes of this act.
43 (cf: P.L.1999, c.66, s.3)

44

45 313. Section 3 of P.L.1999, c.72 (C.26:2V-3) is amended to read
46 as follows:

47 3. As used in this act:

1 "Commissioner" means the Commissioner of [Health and
2 Senior] Human Services.

3 "Department" means the Department of [Health and Senior]
4 Human Services.

5 "Initiative" means the arthritis quality of life initiative
6 established pursuant to this act.

7 "Arthritis" means any of the more than 130 types of arthritis and
8 rheumatic diseases.

9 (cf: P.L.1999, c.72, s.3)

10

11 314. Section 5 of P.L.1999, c.72 (C.26:2V-5) is amended to read
12 as follows:

13 5. There is established an Advisory Council on Arthritis in the
14 department to advise the commissioner on the development and
15 implementation of the initiative. The council shall include: two
16 members of the Senate, to be appointed by the President of the
17 Senate, who shall not be of the same political party; two members
18 of the General Assembly, to be appointed by the Speaker of the
19 General Assembly, who shall not be of the same political party; the
20 Senior Assistant Commissioner, Public Health Prevention and
21 Protection and the [Assistant Commissioner,] Director of the
22 Division of [Senior] Aging Services in the [department]
23 Department of Human Services; the Director of the Division on
24 Women in the Department of Community Affairs, and a member of
25 the Interagency Council on Osteoporosis, as ex officio members;
26 and 15 public members to be appointed by the commissioner who
27 may include representatives of persons with arthritis, arthritis health
28 organizations, public health educators, experts in arthritis research,
29 prevention, and treatment and health care strategic planning, and
30 health care providers including physicians and nurses. The public
31 members of the council shall serve without compensation and may
32 be reimbursed for any expenses incurred by them in the
33 performance of their duties.

34 Legislative members shall serve during their terms of office.
35 Public members shall serve for a term of three years from the date
36 of their appointment and until their successors are appointed and
37 qualified; except that of the first appointments made: five shall be
38 for a term of one year, five for two years, and five for three years.

39 Vacancies shall be filled in the same manner as the original
40 appointments were made.

41 The advisory council shall organize as soon as may be
42 practicable after the appointment of its members and shall select a
43 chairman from among its members and a secretary who need not be
44 a member of the council.

45 (cf: P.L.1999, c.72, s.5)

46

47 315. Section 1 of P.L.1999, c.361 (C.26:2W-1) is amended to
48 read as follows:

1 1. The Commissioner of Health [and Senior Services] shall
2 establish a Cancer Awareness, Education and Research Program to
3 provide the following: support for cancer medical research;
4 physician education and awareness; and patient education and
5 screening services, particularly for members of minority groups.
6 (cf: P.L.1999, c.361, s.1)

7
8 316. Section 2 of P.L.1999, c.361 (C.26:2W-2) is amended to
9 read as follows:

10 2. The Commissioner of Health [and Senior Services],
11 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
12 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate
13 the purposes of this act.
14 (cf: P.L.1999, c.361, s.2)

15
16 317. Section 1 of P.L.2001, c.196 (C.26:2W-3) is amended to
17 read as follows:

18 1. a. The Commissioner of Health [and Senior Services] shall
19 establish a breast cancer public awareness campaign, as a
20 component of the Cancer Awareness, Education and Research
21 Program established pursuant to P.L.1999, c.361 (C.26:2W-1 et
22 seq.), to promote awareness and outreach throughout the State in
23 regard to breast cancer screening services. The public awareness
24 campaign shall be established in accordance with accepted public
25 health practice and recommendations of the federal Centers for
26 Disease Control and Prevention, and within the limits of funds
27 appropriated pursuant to this act and any other resources available
28 for the purposes thereof.

29 b. For the purposes of this act, the commissioner shall, at a
30 minimum:

31 (1) develop and implement a Statewide plan to promote public
32 awareness among members of the public, community-based
33 organizations, and health care providers, and encourage more
34 referrals to breast cancer screening services;

35 (2) distribute promotional incentives for free or discounted
36 items to be provided to women by local retail businesses that will
37 encourage them to undergo mammography and become educated
38 about breast cancer;

39 (3) provide for the use of public service announcements and
40 printed materials in both English and Spanish;

41 (4) seek to disseminate information through a variety of entities,
42 including, but not limited to, primary care sites, health care
43 facilities, local health departments and clinics, county offices on the
44 aging, pharmacies, libraries, YWCAs and YMCAs, senior centers,
45 houses of worship, programs that serve victims of domestic
46 violence, other community-based outreach programs and
47 organizations, and the Internet;

48 (5) consult and seek to collaborate with at least the following
49 entities to effectuate the public awareness campaign: the New

1 Jersey Primary Care Association, the American Cancer Society, the
2 Medical Society of New Jersey, the New Jersey Hospital
3 Association, Planned Parenthood, AARP, the New Jersey Advisory
4 Commission on the Status of Women, the New Jersey State
5 Commission on Cancer Research, The Cancer Institute of New
6 Jersey, the New Jersey Pharmacists Association, the Health
7 Research and Educational Trust of New Jersey, and The Peer
8 Review Organization of New Jersey, Inc.;

9 (6) establish and publicize the availability of a toll-free
10 telephone number operated by the Department of Health [and
11 Senior Services] to provide information and referral to members of
12 the general public about breast screening services, with particular
13 emphasis on facilitating free and reduced charge screening for low-
14 income and uninsured women; and

15 (7) seek to secure the use of such funds or other resources from
16 private nonprofit or for-profit sources or the federal government to
17 effectuate the purposes of this act as may be available therefor,
18 which shall be used to supplement and shall not supplant State
19 funds used to carry out the purposes of this act.

20 (cf: P.L.2001, c.196, s.1)

21

22 318. Section 1 of P.L.2000, c.25 (C.26:2X-1) is amended to read
23 as follows:

24 1. The Commissioner of Health [and Senior Services] shall
25 establish a public awareness campaign to inform the general public
26 about the clinical significance of meningitis and its public health
27 implications, including its causes and the most effective means of
28 prevention and treatment.

29 (cf: P.L.2000, c.25, s.1)

30

31 319. Section 3 of P.L.2000, c.25 (C.26:2X-2) is amended to read
32 as follows:

33 3. The Commissioner of Health [and Senior Services],
34 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
35 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate
36 the purposes of this act.

37 (cf: P.L.2000, c.25, s.3)

38

39 320. Section 1 of P.L.2006, c.64 (C.26:2X-3) is amended to read
40 as follows:

41 1. The Commissioner of Health [and Senior Services], in
42 consultation with the Commissioner of Education, shall develop an
43 educational fact sheet concerning meningococcal meningitis for
44 distribution to parents or guardians of students in grades 6 through
45 12, pursuant to section 2 of P.L.2006, c.64 (C.18A:40-21.2). The
46 educational fact sheet shall include, but need not be limited to, the
47 following information:

1 a. the causes, symptoms, and means of transmission of
2 meningococcal meningitis;

3 b. the availability, effectiveness, and risks of the meningitis
4 vaccine; and

5 c. where additional information concerning the disease can be
6 obtained.

7 (cf: P.L.2006, c.64, s.1)

8
9 321. Section 2 of P.L.2001, c.304 (C.26:2Y-2) is amended to
10 read as follows:

11 2. The Legislature finds and declares that:

12 a. In the absence of appropriate housing with supportive
13 services, many elders or people with physical disabilities are often
14 subject to inappropriate, premature, or overextended
15 institutionalization. This results in the overutilization of costly
16 services and the negative impact of the institutional environment on
17 the individual's emotional and physical well-being. A need exists to
18 fill this gap in the housing continuum between independent living
19 and institutionalization for those elders and physically disabled
20 citizens who are in need of shelter and services to remain in the
21 community.

22 b. Adult family care has proven to be a successful and cost-
23 effective means of fulfilling basic shelter and everyday service
24 needs of elders and physically disabled adults, thereby enabling
25 them to preserve their independence, choice and dignity in a secure
26 environment.

27 c. Therefore, it is the policy of this State to promote the health,
28 safety and welfare of its elderly and physically disabled citizens by
29 encouraging the development of adult family care homes for elders
30 and physically disabled adults and to provide for the licensing of
31 caregivers and regulation of such adult family care homes by the
32 Department of Health [and Senior Services].

33 (cf: P.L.2001, c.304, s.2)

34
35 322. Section 3 of P.L.2001, c.304 (C.26:2Y-3) is amended to
36 read as follows:

37 3. As used in this act:

38 "Activities of daily living" or "ADL" means functions and tasks
39 for self-care which are performed either independently or with
40 supervision or assistance, which include, but are not limited to,
41 mobility, transferring, walking, grooming, bathing, dressing and
42 undressing, eating, and toileting.

43 "Adult family care" means a 24-hour per day living arrangement
44 for persons who, because of age or physical disability, need
45 assistance with activities of daily living, and for whom services
46 designed to meet their individual needs are provided by licensed
47 caregivers in approved adult family care homes.

48 "Adult family care caregiver" means a person licensed to provide
49 care and services in the daily operation of an adult family care

1 home, but does not include the owner or lessor of the building in
2 which the adult family care home is situated unless the owner or
3 lessor is also the provider of care and services in the adult family
4 care home.

5 "Adult family care home" means a residence regulated by the
6 department and housing no more than three clients, in which
7 personal care and other supportive services are provided by an
8 individual who has been licensed by the department as an adult
9 family care caregiver. "Adult family care home" shall not include
10 a rooming or boarding house used and operated under license of the
11 Department of Community Affairs pursuant to P.L.1979, c.496
12 (C.55:13B-1 et seq.).

13 "Adult family care sponsor agency" means an entity licensed by
14 the department to administer an adult family care program within a
15 given area, which provides essential administrative and clerical
16 support services to two or more caregivers, and which shall not be
17 considered to be a health care facility as defined in section 2 of
18 P.L.1971, c.136 (C.26:2H-2).

19 "Client" means an elder or person with physical disabilities
20 enrolled in adult family care.

21 "Commissioner" means the Commissioner of Health [and Senior
22 Services].

23 "Department" means the Department of Health [and Senior
24 Services].

25 "Elder" means a person sixty years of age or older.

26 (cf: P.L.2001, c.304, s.3)

27

28 323. Section 13 of P.L.2001, c.304 (C.26:2Y-11) is amended to
29 read as follows:

30 13. The Commissioner of Health [and Senior Services],
31 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
32 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate
33 the purposes of this act.

34 (cf: P.L.2001, c.304, s.13)

35

36 324. Section 2 of P.L.2005, c.274 (C.26:2MM-2) is amended to
37 read s follows:

38 2. As used in this act:

39 "Alcohol and drug counselor" means a person who is a certified
40 alcohol and drug counselor or a licensed clinical alcohol and drug
41 counselor pursuant to P.L.1997, c.331 (C.45:2D-1 et seq.).

42 "Attempted suicide" means destructive behavior intended by the
43 actor to result in the actor's harm or death.

44 "Completed suicide" means a death that is known or reasonably
45 suspected to have resulted from an intentional act of the deceased,
46 regardless of whether it has been ruled a suicide by a medical
47 examiner.

1 "Council" means the New Jersey Elderly Person Suicide
2 Prevention Advisory Council established pursuant to section 3 of
3 this act.

4 "Department" means the Department of **[Health and Senior]**
5 Human Services.

6 "Elderly person" means a person 65 years of age and older.

7 "Licensed clinical social worker" means a person who holds a
8 current, valid license issued pursuant to subsection a. of section 6 or
9 subsection a. or d. of section 8 of P.L.1991, c.134 (C.45:15BB-1 et
10 seq.).

11 (cf: P.L.2005, c.274, s.2)

12
13 325. Section 3 of P.L.2005, c.274 (C.26:2MM-3) is amended to
14 read as follows:

15 3. There is established in the Department of **[Health and**
16 **Senior]** Human Services the New Jersey Elderly Person Suicide
17 Prevention Advisory Council.

18 a. The purpose of the council shall be to examine existing
19 needs of and services for elderly persons at risk of suicide and make
20 recommendations to the department for suicide prevention and
21 intervention strategies to help reduce the incidence of attempted and
22 completed suicides among elderly persons.

23 b. The council shall consist of nine members as follows:

24 (1) the Commissioners of Health **[and Senior Services]** and
25 Human Services and the chairman of the Community Mental Health
26 Citizens Advisory Board established pursuant to P.L.1957, c.146
27 (C.30:9A-1 et seq.), or their designees, who shall serve ex officio;

28 (2) two public members appointed by the Governor, one of
29 whom shall be a person with personal or family experience with
30 suicide of an elderly person and one of whom shall be an alcohol
31 and drug counselor;

32 (3) two public members appointed by the Speaker of the General
33 Assembly, who are not members of the same political party, one of
34 whom shall be a registered professional nurse and one of whom
35 shall be a licensed clinical social worker; and

36 (4) two public members appointed by the President of the
37 Senate, who are not members of the same political party, one of
38 whom shall be a physician who has been specially trained in caring
39 for elderly persons and has a certificate of added qualifications in
40 geriatrics and one of whom shall be a geropsychiatrist.

41 c. The public members shall be appointed no later than 60 days
42 after the enactment of this act.

43 d. The public members shall serve for a term of five years; but,
44 of the members first appointed, two shall serve for a term of three
45 years, two shall serve for a term of four years and two shall serve
46 for a term of five years. Members are eligible for reappointment
47 upon the expiration of their terms. Vacancies in the membership of

1 the council shall be filled in the same manner provided for the
2 original appointments.

3 e. The council shall organize as soon as practicable following
4 the appointment of its members and shall select a chairperson and
5 vice-chairperson from among the members. The chairperson shall
6 appoint a secretary who need not be a member of the council.

7 f. The public members shall serve without compensation, but
8 shall be reimbursed for necessary expenses incurred in the
9 performance of their duties and within the limits of funds available
10 to the council.

11 g. The council shall be entitled to call to its assistance and avail
12 itself of the services of the employees of any State, county, or
13 municipal department, board, bureau, commission, or agency as it
14 may require and as may be available to it for its purposes.

15 h. The Department of **【Health and Senior Service】** Human
16 Services shall provide staff support to the council.
17 (cf: P.L.2005, c.274, s.3)

18

19 326. Section 115 of P.L.2008, c.29 (C.26:2NN-1) is amended to
20 read as follows:

21 115. a. The Department of **【Health and Senior】** Human Services
22 shall maintain a toll-free information "Law Enforcement Officer
23 Crisis Intervention Services" telephone hotline on a 24-hour basis.

24 The hotline shall receive and respond to calls from law
25 enforcement officers and sheriff's officers who have been involved
26 in any event or incident which has produced personal or job-related
27 depression, anxiety, stress, or other psychological or emotional
28 tension, trauma, or disorder for the officer and officers who have
29 been wounded in the line of duty. The operators of the hotline shall
30 seek to identify those officers who should be referred to further
31 debriefing, and counseling services, and to provide such referrals.
32 In the case of wounded officers, those services may include peer
33 counseling, diffusing, debriefing, group therapy and individual
34 therapy as part of a coordinated assistance program, to be known as
35 the "Blue Heart Law Enforcement Assistance Program," designed
36 and implemented by the University of Medicine and Dentistry of
37 New Jersey's University Behavioral Healthcare Unit.

38 b. The operators of the hotline shall be trained by the
39 Department of **【Health and Senior】** Human Services and, to the
40 greatest extent possible, shall be persons, who by experience or
41 education, are: (1) familiar with post trauma disorders and the
42 emotional and psychological tensions, depressions, and anxieties
43 unique to law enforcement officers and sheriff's officers; or (2)
44 trained to provide counseling services involving marriage and
45 family life, substance abuse, personal stress management, and other
46 emotional or psychological disorders or conditions which may be
47 likely to adversely affect the personal and professional well-being
48 of a law enforcement officer and a sheriff's officer.

1 c. To ensure the integrity of the telephone hotline and to
2 encourage officers to utilize it, the commissioner shall provide for
3 the confidentiality of the names of the officers calling, the
4 information discussed by that officer and the operator, and any
5 referrals for further debriefing or counseling; provided, however,
6 the commissioner may, by rule and regulation, (1) establish
7 guidelines providing for the tracking of any officer who exhibits a
8 severe emotional or psychological disorder or condition which the
9 operator handling the call reasonably believes might result in harm
10 to the officer or others and (2) establish a confidential registry of
11 wounded New Jersey law enforcement officers.

12 (cf: P.L.2008, c.29, s.115)

13
14 327. Section 16 of P.L.2008, c.39 (C.26:2NN-2) is amended to
15 read as follows:

16 116. The Commissioner of **Health and Senior** Human Services
17 shall prepare a list of appropriately licensed or certified
18 psychiatrists, psychologists, and social workers; other appropriately
19 trained and qualified counselors; and experienced former law
20 enforcement officers who are willing to accept referrals and to
21 participate in the debriefing and counseling offered law
22 enforcement officers and sheriff's officers under the provisions of
23 sections 115 to 116 of P.L.2008, c.29 (C.26:2NN-1 to C.26:2NN-2).
24 (cf: P.L.2008, c.29, s.116)

25
26 328. Section 2 of P.L.2005, c.3 (C.26:3A2-36) is amended to
27 read as follows:

28 2. a. The Department of Environmental Protection, with the
29 concurrence of the Department of Health **[and Senior Services]** and
30 the State Office of Emergency Management in the Division of State
31 Police in the Department of Law and Public Safety, shall develop a
32 comprehensive plan for the standardization and coordination of
33 county hazardous material response programs to effectively address
34 all incidents involving hazardous materials, including, but not
35 limited to, chemical, biological, radiological, nuclear, or explosive
36 incidents.

37 The plan shall include procedures for State, county, and local
38 response to incidents involving hazardous materials, including, but
39 not limited to, chemical, biological, radiological, nuclear, or
40 explosive incidents, and planning, training, exercising, and
41 equipment requirements designed to assure that local responders
42 have the capacity, competency and capability to protect the public
43 from exposure to those materials, and shall include the adoption of
44 environmental health performance standards and standards of
45 administrative procedures for county hazardous materials response.

46 b. The certified local health agency in each county shall
47 develop, in consultation with their county office of emergency
48 management, a comprehensive, coordinated county-wide emergency
49 response program for incidents involving hazardous materials,

1 including, but not limited to, chemical, biological, radiological,
2 nuclear, or explosive incidents for the county that is consistent with
3 the plan developed by the department pursuant to subsection a. of
4 this section.

5 c. In any county in which there is no certified local health
6 agency, the board of chosen freeholders shall designate a local
7 health agency from the county to develop, in consultation with the
8 county office of emergency management and the Department of
9 Health [and Senior Services], a comprehensive, coordinated
10 county-wide emergency response program for incidents involving
11 hazardous materials, including, but not limited to, chemical,
12 biological, radiological, nuclear, or explosive incidents for the
13 county that is consistent with the plan developed by the department
14 pursuant to subsection a. of this section.
15 (cf: P.L.2005, c.3, s.2)

16

17 329. Section 4 of P.L.2005, c.3 (C.26:3A2-38) is amended to
18 read as follows:

19 4. a. The Department of Environmental Protection, with the
20 concurrence of the Department of Health [and Senior Services] and
21 the State Office of Emergency Management in the Division of State
22 Police in the Department of Law and Public Safety, and in
23 consultation with representatives of certified local health agencies,
24 shall adopt, pursuant to the "Administrative Procedure Act,"
25 P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations that:

26 (1) establish criteria and procedures for the award of grants to
27 certified local health agencies, or local health agencies, as
28 appropriate, pursuant to section 3 of P.L.2005, c.3 (C.26:3A2-37);

29 (2) establish environmental health performance standards and
30 standards of administrative procedures for county hazardous
31 materials response for incidents involving hazardous materials,
32 including, but not limited to, chemical, biological, radiological,
33 nuclear, or explosive incidents; and

34 (3) establish criteria and procedures for the development of
35 inter-local agreements to facilitate the creation of a Statewide
36 mutual aid network for responding to incidents involving hazardous
37 materials, including, but not limited to, chemical, biological,
38 radiological, nuclear, or explosive incidents

39 b. Prior to the adoption of rules and regulations pursuant to
40 subsection a. of this section, and notwithstanding the provisions of
41 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
42 seq.) to the contrary, the Commissioner of Environmental
43 Protection may, immediately upon filing the proper notice with the
44 Office of Administrative Law, adopt such temporary rules and
45 regulations as the commissioner determines are necessary to
46 implement the provisions of P.L.2005, c.3 (C.26:3A2-36 et al.).
47 The temporary rules and regulations shall be in effect for a period
48 not to exceed 270 days after the date of the filing, except that in no
49 case shall the temporary rules and regulations be in effect one year

1 after the effective date of P.L.2005, c.3 (C.26:3A2-36 et al.). The
2 temporary rules and regulations shall thereafter be amended,
3 adopted or readopted by the commissioner as the commissioner
4 determines is necessary in accordance with the requirements of the
5 "Administrative Procedure Act."

6 (cf: P.L.2005, c.3, s.4)
7

8 330. Section 8 of P.L.2005, c.383 (C.26:3D-62) is amended to
9 read as follows:

10 8. a. The person having control of an indoor public place or
11 workplace shall order any person smoking in violation of this act to
12 comply with the provisions of this act. A person, after being so
13 ordered, who smokes in violation of this act is subject to a fine of
14 not less than \$250 for the first offense, \$500 for the second offense
15 and \$1,000 for each subsequent offense. A penalty shall be
16 recovered in accordance with the provisions of subsections c. and d.
17 of this section.

18 b. The Department of Health **[and Senior Services]** or the local
19 board of health or the board, body, or officers exercising the
20 functions of the local board of health according to law, upon written
21 complaint or having reason to suspect that an indoor public place or
22 workplace covered by the provisions of this act is or may be in
23 violation of the provisions of this act, shall, by written notification,
24 advise the person having control of the place accordingly, and order
25 appropriate action to be taken. A person receiving that notice who
26 fails or refuses to comply with the order is subject to a fine of not
27 less than \$250 for the first offense, \$500 for the second offense, and
28 \$1,000 for each subsequent offense. In addition to the penalty
29 provided herein, the court may order immediate compliance with
30 the provisions of this act.

31 c. A penalty recovered under the provisions of this act shall be
32 recovered by and in the name of the Commissioner of Health **[and**
33 **Senior Services]** or by and in the name of the local board of health.
34 When the plaintiff is the Commissioner of Health **[and Senior**
35 **Services]**, the penalty recovered shall be paid by the commissioner
36 into the treasury of the State. When the plaintiff is a local board of
37 health, the penalty recovered shall be paid by the local board into
38 the treasury of the municipality where the violation occurred.

39 d. A municipal court shall have jurisdiction over proceedings
40 to enforce and collect any penalty imposed because of a violation of
41 this act if the violation has occurred within the territorial
42 jurisdiction of the court. The proceedings shall be summary and in
43 accordance with the "Penalty Enforcement Law of 1999," P.L.1999,
44 c.274 (C.2A:58-10 et seq.). Process shall be in the nature of a
45 summons or warrant and shall issue only at the suit of the
46 Commissioner of Health **[and Senior Services]**, or the local board
47 of health, as the case may be, as plaintiff.

1 e. The penalties provided in subsections a. and b. of this
2 section shall be the only civil remedy for a violation of this act, and
3 there shall be no private right of action against a party for failure to
4 comply with the provisions of this act.

5 (cf: P.L.2005, c.383, s.8)

6
7 331. Section 10 of P.L.2005, c.383 (C.26:3D-64) is amended to
8 read as follows:

9 10. The Commissioner of Health **[and Senior Services]**,
10 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
11 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate
12 the purposes of this act.

13 (cf: P.L.2005, c.383, s.10)

14
15 332. Section 1 of P.L.2005, c.26 (C.26:3E-14) is amended to
16 read as follows:

17 1. The Commissioner of Health **[and Senior Services]**, in
18 consultation with the New Jersey Restaurant Association, shall
19 prepare a fact sheet, to be directed to restaurant managers and staff,
20 which is designed to explain nut allergies and the health-related
21 consequences to persons with **[such] nut** allergies who are exposed
22 to food items that contain or are prepared with nut products, and
23 includes a recommendation that restaurants identify such food items
24 on their menus. The commissioner shall make this fact sheet
25 available to local boards of health by electronic or other means of
26 distribution, and local health officers shall furnish this information
27 to restaurants at the time of inspection.

28 As used in this section:

29 "Nut" means~~[:]~~ peanuts and tree nuts, including, but not limited
30 to, almonds, brazil nuts, cashews, hazelnuts, filberts, macadamia
31 nuts, pecans, pistachios, and walnuts; and

32 "Restaurant" means an establishment in which the principal
33 business is the sale of food for consumption on the premises.

34 (cf: P.L.2005, c.26, s.1)

35
36 333. Section 2 of P.L.2005, c.26 (C.26:3E-15) is amended to
37 read as follows:

38 2. The Commissioner of Health **[and Senior Services]** shall
39 conduct, within the limits of monies appropriated pursuant to this
40 act, a public information campaign regarding food allergies, to be
41 known as "Ask Before You Eat." The public information campaign
42 shall be designed to inform the public about food allergies and the
43 health-related consequences, including anaphylaxis, to persons with
44 such allergies who are exposed to food items that contain or are
45 prepared with ingredients that trigger severe allergic reactions, such
46 as peanuts, tree nuts, and seafood.

47 (cf: P.L.2005, c.26, s.2)

1 334. Section 2 of P.L.2009, c.306 (C.26:3E-17) is amended to
2 read as follows:

3 2. Notwithstanding any provision of law to the contrary:

4 a. (1) A retail food establishment using a standard printed menu
5 shall list next to each food or beverage item on the menu, the total
6 number of calories for that item as usually prepared and offered for
7 sale;

8 (2) A retail food establishment using a menu board system or
9 similar signage shall list next to each food or beverage item on the
10 board or sign, the total number of calories for that item as usually
11 prepared and offered for sale;

12 (3) A retail food establishment that has a drive-through window
13 shall display calorie content values either on the drive-through
14 menu board or on an adjacent stanchion visible at the point of
15 ordering, and the calorie content values shall be posted adjacent to
16 their respective menu item names as clearly and conspicuously as
17 the price or menu item is on the drive-through menu board; and

18 (4) A retail food establishment which offers alcoholic beverages
19 for sale may, as an alternative to listing calorie information for each
20 individual alcoholic beverage, list the average caloric value for
21 beers, wines, and spirits as established by the United States
22 Department of Agriculture, Agriculture Research Service in the
23 National Nutrient Database for Standard Reference.

24 A retail food establishment that lists the average caloric values
25 for alcoholic beverages pursuant to this paragraph shall add to the
26 labeling the following statement: "Signature drinks or liqueurs with
27 added ingredients may increase calorie content."

28 b. The calorie information listed pursuant to paragraphs (1) and
29 (2) of subsection a. of this section shall be posted clearly and
30 conspicuously adjacent or in close proximity to the applicable menu
31 item using a font and format that is at least as prominent, in size and
32 appearance, as that used to post either the name or price of the
33 menu item.

34 The calorie content values required by this act shall be based
35 upon a verifiable analysis of the menu item, which may include the
36 use of nutrient databases, laboratory testing, or other reliable
37 methods of analysis, and shall be rounded to the nearest 10 calories
38 for calorie content values above 50 calories and to the nearest five
39 calories for calorie content values 50 calories and below.

40 c. The provisions of this section shall apply to each menu item
41 that is served in portions the size and content of which are
42 standardized.

43 d. For menu items that come in different flavors and varieties
44 but that are listed as a single menu item, the minimum to maximum
45 numbers of calories for all flavors and varieties of that item shall be
46 listed on the menu, menu board, or stanchion, as applicable, for
47 each size offered for sale.

48 e. (1) The disclosure of calorie information on a menu, menu
49 board, or stanchion next to a standard menu item that is a

1 combination of at least two standard menu items on the menu, menu
2 board, or stanchion, shall, based upon all possible combinations for
3 that standard menu item, include both the minimum and the
4 maximum amount of calories. If there is only one possible total
5 amount of calories, that total shall be disclosed.

6 (2) The disclosure of calorie information on a menu, menu
7 board, or stanchion next to a standard menu item that is not an
8 appetizer or dessert, but is intended to serve more than one
9 individual, shall include both:

10 (a) the number of individuals intended to be served by the
11 standard menu item; and

12 (b) the calorie information per individual serving.

13 If the standard menu item is a combination of at least two
14 standard menu items, the disclosure shall, based upon all possible
15 combinations for that standard menu item, include both the
16 minimum and the maximum amount of calories. If there is only one
17 possible total amount of calories, that total shall be disclosed.

18 f. Nothing in this section shall prohibit a retail food
19 establishment from providing additional nutrition information to its
20 customers for each food or beverage item listed on its menu.

21 g. The provisions of this section shall not apply to any:

22 (1) item not listed on a standard printed menu or menu board
23 system or similar signage, including, but not limited to, condiments
24 or other products placed on a table or counter for general use; or

25 (2) daily specials, temporary menu items appearing on the menu
26 for less than 60 days per calendar year, customized orders, or food
27 or beverage items from a consumer self-serve salad bar or buffet.

28 h. (1) The Department of Health **[and Senior Services]** or the
29 local board of health or the board, body, or officers exercising the
30 functions of the local board of health according to law, upon written
31 complaint or having reason to suspect that a violation of this act has
32 occurred, shall, by written notification, advise the proprietor of the
33 retail food establishment accordingly and order appropriate action
34 to be taken.

35 (2) A proprietor of a retail food establishment who violates the
36 provisions of this section by failing to provide the information
37 about food and beverage items as required in this section, or
38 knowingly misstating the number of calories in a food or beverage
39 item, shall be subject to a penalty of not less than \$50 or more than
40 \$100 for the first offense, and not less than \$250 or more than \$500
41 for the second or any subsequent offense. A municipal court shall
42 have jurisdiction over proceedings to enforce and collect any
43 penalty imposed because of a violation of this act, if the violation
44 has occurred within the territorial jurisdiction of the court. The
45 proceedings shall be summary and in accordance with the "Penalty
46 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).
47 Process shall be in the nature of a summons or warrant and shall
48 issue only at the suit of the Commissioner of Health **[and Senior**

1 Services], or the local board of health, as the case may be, as
2 plaintiff.

3 When the plaintiff is the Commissioner of Health [and Senior
4 Services], the penalty recovered shall be paid by the commissioner
5 into the treasury of the State. When the plaintiff is a local board of
6 health, the penalty recovered shall be paid by the local board into
7 the treasury of the municipality where the violation occurred.

8 i. The provisions of this section shall not be construed to
9 create or enhance any claim, right of action, or civil liability that
10 did not previously exist under State law or limit any claim, right of
11 action, or civil liability that otherwise exists under State law.

12 j. There shall be no private right of action against the
13 proprietor of a retail food establishment for failure to comply with
14 the provisions of this section.

15 k. To the extent consistent with federal law, the provisions of
16 this section, as well as any other State law that regulates the
17 disclosure of caloric information, shall be a matter of Statewide
18 concern and shall occupy the entire field of regulation regarding the
19 disclosure of caloric information by a retail food establishment, as
20 well as content required to be posted on menus, menu board
21 systems or similar signage, or stanchions, as applicable. No
22 ordinance or regulation of a local government or local board of
23 health shall regulate the dissemination of caloric information or the
24 content required to be placed on menus, menu board systems or
25 similar signage, or stanchions by a retail food establishment. Any
26 local government or local board of health ordinance or regulation
27 that violates this prohibition is void and shall have no force or
28 effect.

29 l. As used in this section, "retail food establishment" means a
30 fixed restaurant or any similar place that is part of a chain with 20
31 or more locations nationally and doing business

32 (1) under the same trade name or under common ownership or
33 control or

34 (2) as franchised outlets of a parent business,
35 the principal activity of which consists of preparing for
36 consumption within the establishment a meal or food to be eaten on
37 the premises or picked up at a drive-through window.
38 (cf: P.L.2009, c.306, s.2)

39
40 335. Section 3 of P.L.2009, c.306 (C.26:3E-18) is amended to
41 read as follows:

42 3. The Commissioner of Health [and Senior Services] shall
43 adopt rules and regulations, pursuant to the "Administrative
44 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate
45 the purposes of this act.

46 (cf: P.L.2009, c.306, s.3)

47

48 336. R.S.26:4-2 is amended to read as follows:

1 26:4-2. In order to prevent the spread of disease affecting
2 humans, the Department of Health **[and Senior Services]**, and the
3 local boards of health within their respective jurisdictions and
4 subject to the State sanitary code, shall have power to:

- 5 a. Declare what diseases are communicable.
- 6 b. Declare when any communicable disease has become
7 epidemic.
- 8 c. Require the reporting of communicable diseases.
- 9 d. Maintain and enforce proper and sufficient quarantine,
10 wherever deemed necessary.
- 11 e. Remove any person infected with a communicable disease to
12 a suitable place, if in its judgment removal is necessary and can be
13 accomplished without any undue risk to the person infected.
- 14 f. Disinfect any premises when deemed necessary.
- 15 g. Remove to a proper place to be designated by it all articles
16 within its jurisdiction, which, in its opinion, shall be infected with
17 any matter likely to communicate disease and to destroy such
18 articles, when in its opinion the safety of the public health requires
19 it.

20 In the event the Governor declares a public health emergency,
21 the department shall oversee the uniform exercise of these powers
22 in the State and the local board of health shall be subject to the
23 department's exercise of authority under this section.

24 (cf: P.L.2005, c.222, s.31)

25
26 337. Section 3 of P.L.2007, c.134 (C.26:4-95.4) is amended to
27 read s follows:

28 3. a. The Commissioner of Health **[and Senior Services]**, in
29 consultation with the Commissioner of Education and the Director
30 of the Division on Women in the Department of Community
31 Affairs, shall establish a public awareness campaign to inform the
32 general public about the clinical significance and public health
33 implications of the human papillomavirus, including its causes and
34 the most effective means of prevention and treatment. The public
35 awareness campaign shall be established in accordance with
36 accepted public health practice and recommendations of the federal
37 Centers for Disease Control and Prevention, and within the limits of
38 available funds and any other resources available for the purposes
39 thereof.

40 b. The commissioner shall prepare a patient information
41 brochure regarding the human papillomavirus, including its causes
42 and the most effective means of prevention and treatment. The
43 department shall distribute the pamphlet, at no charge, to all
44 pediatricians in the State. The department shall update the
45 pamphlet as necessary, and shall make additional copies of the
46 pamphlet available to other health care providers upon request.

47 (cf: P.L.2007, c.134, s.3)

1 338. Section 3 of P.L.2004, c.138 (C.26:4-133) is amended to
2 read as follows:

3 3. As used in this act:

4 "Commissioner" means the Commissioner of Health **【and Senior**
5 **Services】**.

6 "Department" means the Department of Health **【and Senior**
7 **Services】**.

8 "Health care provider" means a health care facility licensed
9 pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) or a health care
10 professional whose practice is regulated pursuant to Title 45 of the
11 Revised Statutes.

12 "Registry" means the New Jersey Immunization Information
13 System established pursuant to this act.

14 (cf: P.L.2004, c.138, s.3)

15

16 339. Section 4 of P.L.2004, c.138 (C.26:4-134) is amended to
17 read as follows:

18 4. a. There is established a Statewide automated and electronic
19 immunization registry, to be designated as the New Jersey
20 Immunization Information System, in the Department of Health
21 **【and Senior Services】**. The registry shall be designed to serve as a
22 single repository of immunization records to aid, coordinate, and
23 help promote effective and cost-efficient disease screening,
24 prevention, and control efforts in the State.

25 b. A newborn infant in New Jersey, who is born on or after
26 January 1, 1998, shall be enrolled in the registry immediately
27 following birth unless the parent or legal guardian of the infant
28 provides a written request to not participate in the registry.

29 A child born prior to January 1, 1998 may be enrolled in the
30 registry at the parent's or legal guardian's written request.

31 c. Access to the information in the registry shall be limited to:
32 health care providers, schools, colleges, licensed child care centers,
33 and public agencies, and private organizations as determined by
34 regulation of the commissioner. A registrant, or the registrant's
35 parent or legal guardian if the registrant is a minor, shall have
36 access to the registrant's immunization and other preventive health
37 screening information in the registry.

38 d. The information contained in the registry shall be used for
39 the following purposes:

40 (1) to help ensure that registrants receive all recommended
41 immunizations in a timely manner by providing access to the
42 registrants' immunization records;

43 (2) to help improve immunization rates by providing notice to
44 registrants of overdue or upcoming immunizations; and

45 (3) to help control communicable diseases by assisting in the
46 identification of persons who require immediate immunization in
47 the event of a vaccine-preventable disease outbreak.

1 e. The authentic immunization and other preventive health
2 screening record of a child, which shall consist of a paper or
3 electronic copy of the registry entry that is a true and accurate
4 representation of the information contained therein, obtained from
5 the registry shall be accepted as a valid immunization and
6 preventive health screening record of the registrant for the purpose
7 of meeting immunization and preventive health screening
8 documentation requirements for admission to a school, college, or
9 licensed child care center.

10 f. A health care provider shall not discriminate in any way
11 against a person solely because the person elects not to participate
12 in the registry.

13 g. An authorized user granted access as provided in subsection
14 c. of this section shall only access information in the registry on a
15 specific patient or client who is presently receiving services, is
16 under the user's care or is within the applicable governmental health
17 authority's jurisdiction.

18 h. An agency, organization, or other entity authorized to access
19 information in the registry shall not use any report made by a health
20 care provider pursuant to this act in any punitive manner against the
21 provider.

22 i. The commissioner, in consultation with the Public Health
23 Council, shall adopt rules and regulations, pursuant to the
24 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
25 seq.), to effectuate the purposes of this act, including, but not
26 limited to:

27 (1) the establishment and maintenance of the registry;

28 (2) the methods for submitting, and the content of, reports of
29 immunizations to the registry, for which purpose the commissioner
30 shall provide, to the maximum extent practicable, for reporting
31 options to facilitate compliance with the requirements of subsection
32 b. of this section;

33 (3) procedures for the birth hospital of a newborn infant or
34 health care provider, as applicable, to inform the parent or legal
35 guardian of a newborn infant or minor of the purpose of the registry
36 and its potential uses by parties having authorized access to registry
37 information, and the content of that information;

38 (4) procedures for a registrant, or the registrant's parent or legal
39 guardian if the registrant is a minor, to review and correct
40 information contained in the registry;

41 (5) procedures for the parent or legal guardian of a newborn
42 infant or minor, or a person over 18 years of age, to request to not
43 participate in the registry at any time and to remove or inactivate
44 information from the registry;

45 (6) limits on, and methods of, access to the registry by those
46 authorized pursuant to subsection c. of this section;

47 (7) procedures for health insurers to obtain immunization
48 information from the registry concerning only their covered
49 persons, as well as summary statistics, which information or

1 statistics shall not be used or disclosed for any other purpose than
2 to:

- 3 (a) improve patient care;
- 4 (b) provide quality assurance to employers purchasing group
5 coverage and to health care providers;
- 6 (c) improve outreach and education efforts with respect to their
7 covered persons and health care providers; and
- 8 (d) monitor and improve quality of care standards as developed
9 by professional organizations, accreditation agencies and
10 government agencies in collaboration with the department; and
- 11 (8) procedures for the department to disseminate statistical
12 information and supporting commentary.

13 (cf: P.L.2004, c.138, s.4)

14

15 340. Section 10 of P.L.2011, c.210 (C.26:5B-6) is amended to
16 read as follows:

17 10. a. The Department of Health **[and Senior Services]**, in
18 consultation with the Medical Society of New Jersey and the
19 University of Medicine and Dentistry of New Jersey, shall prepare,
20 and make available on its Internet website, information in English
21 and Spanish, which is designed to be easily understandable by the
22 general public, about the genetic risk factors associated with, and
23 the symptoms and treatment of, sickle cell anemia, in addition to
24 any other information that the Commissioner of Health **[and Senior
25 Services]** deems necessary for the purposes of this act. The
26 department shall revise this information whenever new information
27 about sickle cell anemia becomes available.

28 b. The department shall prepare an informational booklet in
29 English and Spanish that contains the information posted on its
30 website pursuant to subsection a. of this section, as funds become
31 available for that purpose. The department shall make a supply of
32 booklets available to all licensed health care facilities engaged in
33 the diagnosis or treatment of sickle cell anemia, as well as to health
34 care professionals, community health centers, members of the
35 public, and social services agencies upon their request.

36 (cf: P.L.2011, c.210, s.10)

37

38 341. Section 1 of P.L.1995, c.174 (C.26:5C-15) is amended to
39 read as follows:

40 1. As used in this act:

41 "AIDS" means acquired immune deficiency syndrome as defined
42 by the Centers for Disease Control and Prevention of the United
43 States Public Health Service.

44 "Commissioner" means the Commissioner of Health **[and Senior
45 Services]**.

46 "Department" means the Department of Health **[and Senior
47 Services]**.

1 "HIV" means the human immunodeficiency virus or any other
2 related virus identified as a probable causative agent of AIDS.
3 (cf: P.L.2007, c.218, s.1)
4

5 342. Section 2 of P.L.1997, c.246 (C.26:5C-22) is amended to
6 read as follows:

7 2. a. A semen bank shall perform an HIV test on a potential
8 donor prior to that person donating semen and shall freeze all
9 donated semen for a waiting period of at least six months, in
10 accordance with standards adopted by the United States Centers for
11 Disease Control and Prevention.

12 b. A semen bank shall perform the HIV test only after the
13 donor has provided written informed consent according to standards
14 adopted by the Commissioner of Health and Senior Services. A
15 donor who refuses to provide written informed consent to an HIV
16 test or tests positive for HIV shall not be permitted to donate semen.

17 c. The cost of the HIV test shall be borne by the recipient of
18 the donation.

19 d. The Commissioner of Health **[and Senior Services]** shall
20 establish procedures for notification by a semen bank to donors of
21 screening results and referrals to appropriate counseling and health
22 care services as necessary.

23 (cf: P.L.1997, c.246, s.2)
24

25 343. Section 4 of P.L.1997, c.246 (C.26:5C-24) is amended to
26 read as follows:

27 4. The Commissioner of Health **[and Senior Services]**,
28 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
29 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate
30 the purposes of this act.

31 (cf: P.L.1997, c.246, s.4)
32

33 344. Section 3 of P.L.2006, c.99 (C.26:5C-27) is amended to
34 read as follows:

35 3. The Commissioner of Health **[and Senior Services]** shall
36 establish a demonstration program to permit up to six municipalities
37 to operate a sterile syringe access program in accordance with the
38 provisions of this act. For the purposes of the demonstration
39 program, the commissioner shall prescribe by regulation
40 requirements for a municipality to establish, or otherwise authorize
41 the operation within that municipality of, a sterile syringe access
42 program to provide for the exchange of hypodermic syringes and
43 needles in accordance with the provisions of this act.

44 a. The commissioner shall:

45 (1) request an application, to be submitted on a form and in a
46 manner to be prescribed by the commissioner, from any
47 municipality that seeks to establish a sterile syringe access program,
48 or from other entities authorized to operate a sterile syringe access

1 program within that municipality as provided in paragraph (2) of
2 subsection a. of section 4 of this act;

3 (2) approve those applications that meet the requirements
4 established by regulation of the commissioner and contract with the
5 municipalities or entities whose applications are approved to
6 establish a sterile syringe access program as provided in paragraph
7 (2) of subsection a. of section 4 of this act to operate a sterile
8 syringe access program in any municipality in which the governing
9 body has authorized the operation of sterile syringe access programs
10 within that municipality by ordinance;

11 (3) support and facilitate, to the maximum extent practicable,
12 the linkage of sterile syringe access programs to [such] health care
13 facilities and programs as may provide appropriate health care
14 services, including mental health and substance abuse treatment,
15 and to housing assistance, career employment-related counseling,
16 and education counseling to consumers participating in [any such]
17 a sterile syringe access program;

18 (4) provide for the adoption of a uniform identification card or
19 other uniform Statewide means of identification for consumers,
20 staff, and volunteers of a sterile syringe access program pursuant to
21 paragraph (8) of subsection b. of section 4 of this act; and

22 (5) maintain a record of the data reported to the commissioner
23 by sterile syringe access programs pursuant to paragraph (10) of
24 subsection b. of section 4 of this act.

25 b. The commissioner shall be authorized to accept [such]
26 funding as may be made available from the private sector to
27 effectuate the purposes of this act.

28 (cf: P.L.2006, c.99, s.3)

29

30 345. Section 3 of P.L.2008, c.49 (C.26:6-70) is amended to read
31 as follows:

32 3. As used in this act:

33 "Anatomical research recovery organization" means a nonprofit
34 corporation engaged in the recovery of a human body or part
35 donated for education, research, or the advancement of medical,
36 dental, or mortuary science pursuant to P.L.1969, c.161 (C.26:6-57
37 et seq.) or any subsequent statute adopted pursuant thereto, where
38 part or all of the recovery takes place in this State. Anatomical
39 research recovery organization shall not include an accredited
40 institution of higher education in this State that uses an anatomical
41 gift for its own educational or research purposes and is not engaged
42 in the distribution of a human body or part to another person or
43 entity.

44 "Commissioner" means the Commissioner of Health [and Senior
45 Services].

46 "Department" means the Department of Health [and Senior
47 Services].

1 "Distribution" means the removal of a human body or part from a
2 storage location to any other location for educational or research
3 use, or the advancement of medical, dental, or mortuary science.

4 "Education" means the use of the whole body or parts for
5 purposes of teaching or training individuals, including medical or
6 dental professionals and students, with regard to the anatomy and
7 characteristics of the human body.

8 "Human body part" or "part" means organs, tissues, eyes, bones,
9 blood vessels, and any other portions of a deceased human body
10 which are subject to an anatomical gift pursuant to P.L.1969, c.161
11 (C.26:6-57) or any subsequent statute adopted pursuant thereto, but
12 does not include blood collected pursuant to P.L.1945, c.301
13 (C.26:2A-1).

14 "Recovery" means the obtaining of a human body or part,
15 including, but not limited to, determining or obtaining consent or
16 authorization for donation of the human body or part, performing
17 surgical or other technical procedures for recovering the body or
18 part, and processing the body or part. Recovery does not include
19 actions taken by a medical examiner or coroner as part of his
20 professional duties.

21 "Research" means the conduct of scientific testing and
22 observation designed to result in the acquisition of generalizable
23 knowledge. Research does not include an autopsy or other
24 investigation conducted for the purpose of obtaining information
25 related to the decedent.
26 (cf: P.L.2008, c.49, s.3)

27

28 346. Section 4 of P.L.2008, c.49 (C.26:6-71) is amended to read
29 as follows:

30 4. a. No person shall engage in the recovery of a human body
31 or part donated in this State for education, research, or the
32 advancement of medical, dental, or mortuary science pursuant to
33 P.L.1969, c.161 (C.26:6-57 et seq.) or any subsequent statute
34 adopted pursuant thereto, unless the person is registered as an
35 anatomical research recovery organization with the Department of
36 Health [and Senior Services] pursuant to this act.

37 The registration required pursuant to this act shall be in addition
38 to any license or permit required by a local board of health, other
39 local health agency, or any State or federal agency.

40 b. The registration shall be valid for a one-year period and may
41 be renewed subject to compliance with the requirements of this act.
42 The commissioner shall establish such registration and renewal fees
43 as may be reasonable and necessary to carry out the purposes of this
44 act.

45 c. The commissioner may enter and inspect the premises of any
46 anatomical research recovery organization and the books and
47 records as is reasonably necessary to carry out the provisions of this
48 act.

49 (cf: P.L.2008, c.49, s.4)

1 347. Section 28 of P.L.2003, c.221 (C.26:8-21.1) is amended to
2 read as follows:

3 28. The Commissioner of Health **[and Senior Services]**,
4 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
5 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate
6 the purposes of this act.
7 (cf: P.L.2003, c.221, s.28)

8

9 348. R.S.26:8-23 is amended to read as follows:

10 26:8-23. The Department of Health **[and Senior Services]** shall
11 have charge of the registration of births, deaths, fetal deaths,
12 marriages, civil unions, and domestic partnerships and shall procure
13 the prompt and accurate registration of the same in each registration
14 district and in the department. The department may promulgate any
15 rule or regulation which it deems necessary for the uniform and
16 thorough enforcement of this section.

17 The department may decline permission to examine any record
18 except in the presence of an officer or employee of the department.
19 (cf: P.L.2006, c.103, s.40)

20

21 349. Section 17 of P.L.2003, c.221 (C.26:8-24.2) is amended to
22 read as follows:

23 17. a. There is established the "New Jersey Electronic Death
24 Registration Support Fund" as a nonlapsing, revolving fund to be
25 administered by the Commissioner of Health **[and Senior Services]**
26 and credited with monies received pursuant to subsection c. of
27 R.S.26:8-62.

28 b. The State Treasurer is the custodian of the fund and all
29 disbursements from the fund shall be made by the treasurer upon
30 vouchers signed by the commissioner. The monies in the fund shall
31 be invested and reinvested by the Director of the Division of
32 Investment in the Department of the Treasury as are other trust
33 funds in the custody of the State Treasurer in the manner provided
34 by law. Interest received on the monies in the fund shall be credited
35 to the fund.

36 c. The monies in the fund and the interest earned thereon shall
37 be used to meet the development and operational costs of the NJ-
38 EDRS, including, but not limited to, costs associated with:
39 personnel; hardware purchases and maintenance; software and
40 communications infrastructure; website hosting; and licensing fees,
41 royalties and transaction expenses incurred in the development,
42 installation, maintenance and operation of electronic payment
43 security, authentication and encryption systems, and user training
44 and education.

45 d. **[`]**The Commissioner of Health **[and Senior Services]**
46 shall, no later than 30 months after the date of enactment of
47 P.L.2003, c.221, report to the chairs of the Senate Health, Human
48 Services and Senior Citizens Committee, the Senate Budget and

1 Appropriations Committee, the Assembly Health and Human
2 Services Committee and the Assembly Appropriations Committee,
3 or their successors, concerning the sources and uses of monies in
4 the fund. The report shall include a description of the methodology
5 used by the State registrar to set the fee imposed pursuant to
6 subsection c. of R.S.26:8-62, a summary of the monies credited to
7 fund, and a summary of expenditures by category from the fund
8 pursuant to the authority of this section and the requirements of
9 section 16 of P.L.2003, c.221 (C.26:8-24.1), together with any
10 recommendations by the State registrar or the commissioner for
11 changes that either considers should be made in the law concerning
12 the implementation of the NJ-EDRS or the fees imposed pursuant to
13 subsection c. of R.S.26:8-62.

14 (cf: P.L.2003, c.221, s.17)

15
16 350. Section 2 of P.L.1983, c.291 (C.26:8-40.21) is amended to
17 read as follows:

18 2. a. The Department of Health **[and Senior Services]** shall
19 establish and maintain a birth defects and severe neonatal jaundice
20 registry, which shall contain a confidential record of all birth
21 defects and all cases of severe hyperbilirubinemia that occur in New
22 Jersey and any other information that the department deems
23 necessary and appropriate in order to conduct thorough and
24 complete epidemiologic surveys of birth defects and cases of severe
25 hyperbilirubinemia that occur in this State and plan for and provide
26 services to children with birth defects and severe
27 hyperbilirubinemia and their families.

28 b. The department shall make available electronically on its
29 Internet website, in English and Spanish, information on the
30 characteristics and effects of severe neonatal jaundice.

31 (cf: P.L.2005, c.176, s.2)

32
33 351. Section 3 of P.L.1983, c.291 (C.26:8-40.22) is amended to
34 read as follows:

35 3. a. The Commissioner of Health **[and Senior Services]**, in
36 consultation with the Public Health Council, shall require the
37 confidential reporting to the Department of Health **[and Senior
38 Services]** of all cases where an infant is diagnosed with severe
39 hyperbilirubinemia, and where a pregnancy results in a naturally
40 aborted fetus or infant affected by a birth defect, and an electively
41 aborted fetus that exhibits or is known to have a birth defect after
42 15 weeks of gestation. The reporting requirement shall apply to all
43 infants from birth through five years of age.

44 b. The Commissioner of Health **[and Senior Services]** shall
45 determine the health care providers and facilities which shall be
46 required to report all birth defects and all cases of severe
47 hyperbilirubinemia, the types of conditions or defects that shall be
48 reported, the type of information that shall be contained in the

1 confidential report and the method for making the report. In reports
2 concerning all fetuses with anomalies, the name of the mother shall
3 not be submitted.

4 (cf: P.L.2005, c.176, s.3)

5
6 352. R.S.26:8-69 is amended to read as follows:

7 26:8-69. Except as otherwise specifically provided in this chapter
8 and R.S.37:1-1 et seq., any person who shall:

9 a. Fail or refuse to furnish correctly any information in **[his]**
10 the person's possession; or

11 b. Willfully and knowingly furnish false information affecting
12 any certificate or record required by this chapter; or

13 c. Willfully alter, otherwise than is provided by R.S.26:8-48 et
14 seq., or willfully or knowingly falsify, any certificate or record
15 established by this chapter; or

16 d. Fail to fill out and transmit any certificate or record in the
17 manner required by this chapter; or

18 e. Being a local registrar, deputy registrar, alternate deputy
19 registrar or subregistrar, shall fail to perform **[his]** the person's
20 duty as required by this chapter and by the directions of the State
21 registrar thereunder; or

22 f. Violate any of the provisions of this chapter or fail to
23 discharge any duty required by this chapter-

24 Shall be subject to a penalty of not less than \$100 nor more than
25 \$250 for each first offense and not less than \$250 nor more than
26 \$500 for each subsequent offense.

27 The penalties shall be recovered in a civil action in the name of
28 the Department of Health **[and Senior Services]** or local board in
29 any court of competent jurisdiction.

30 The Superior Court or municipal court shall have jurisdiction
31 over proceedings to enforce and collect any such penalty, if the
32 violation has occurred within the territorial jurisdiction of the court.
33 The proceedings shall be summary and in accordance with the
34 "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10
35 et seq.).

36 Notwithstanding the provisions of this section to the contrary,
37 the State registrar may refer a violation of this chapter by a
38 physician, nurse, or funeral director who is licensed pursuant to
39 Title 45 of the Revised Statutes to the appropriate professional
40 board in the Division of Consumer Affairs in the Department of
41 Law and Public Safety, which shall, in accordance with the
42 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
43 seq.), assess the penalty provided for in this subsection and assume
44 enforcement responsibility on the same basis as it would for a
45 violation of the statute or regulations governing the practice of
46 those persons regulated by that board.

47 (cf: P.L.2003, c.221, s.26)

1 353. Section 3 of P.L.2003, c.246 (C.26:8A-3) is amended to
2 read as follows:

3 3. As used in sections 1 through 9 of P.L.2003, c.246
4 (C.26:8A-1 through C.26:8A-9) and in R.S.26:8-1 et seq.:

5 "Affidavit of Domestic Partnership" means an affidavit that sets
6 forth each party's name and age, the parties' common mailing
7 address, and a statement that, at the time the affidavit is signed,
8 both parties meet the requirements of this act for entering into a
9 domestic partnership and wish to enter into a domestic partnership
10 with each other.

11 "Basic living expenses" means the cost of basic food and shelter,
12 and any other cost, including, but not limited to, the cost of health
13 care, if some or all of the cost is paid as a benefit because a person
14 is another person's domestic partner.

15 "Certificate of Domestic Partnership" means a certificate that
16 includes: the full names of the domestic partners, a statement that
17 the two individuals are members of a registered domestic
18 partnership recognized by the State of New Jersey, the date that the
19 domestic partnership was entered into, and a statement that the
20 partners are entitled to all the rights, privileges and responsibilities
21 accorded to domestic partners under the law. The certificate shall
22 bear the seal of the State of New Jersey.

23 "Commissioner" means the Commissioner of Health [and Senior
24 Services].

25 "Domestic partner" or "partner" means a person who is in a
26 relationship that satisfies the definition of a domestic partnership as
27 set forth in this act.

28 "Have a common residence" means that two persons share the
29 same place to live in this State, or share the same place to live in
30 another jurisdiction when at least one of the persons is a member of
31 a State-administered retirement system, regardless of whether or
32 not: the legal right to possess the place is in both of their names;
33 one or both persons have additional places to live; or one person
34 temporarily leaves the shared place of residence to reside
35 elsewhere, on either a short-term or long-term basis, for reasons that
36 include, but are not limited to, medical care, incarceration,
37 education, a sabbatical, or employment, but intends to return to the
38 shared place of residence.

39 "Jointly responsible" means that each domestic partner agrees to
40 provide for the other partner's basic living expenses if the other
41 partner is unable to provide for himself.

42 "Notice of Rights and Obligations of Domestic Partners" means a
43 form that advises domestic partners, or persons seeking to become
44 domestic partners, of the procedural requirements for establishing,
45 maintaining, and terminating a domestic partnership, and includes
46 information about the rights and responsibilities of the partners.

47 (cf: P.L.2003, c.246, s.3)

1 354. Section 59 of P.L.2003, c.246 (C.26:8A-12) is amended to
2 read as follows:

3 59. a. The Commissioner of Health **【and Senior Services】**,
4 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
5 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate
6 the purposes of sections 1 through 10 and 13 through 35 of this act.

7 b. The Commissioner of Banking and Insurance, pursuant to
8 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
9 seq.), shall adopt rules and regulations to effectuate the purposes of
10 sections 47 through 52, 55 and 56 of this act.

11 c. The New Jersey Individual Health Coverage Program Board,
12 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
13 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate
14 the purposes of section 53 of this act.

15 d. The New Jersey Small Employer Health Benefits Program
16 Board, pursuant to the "Administrative Procedure Act," P.L.1968,
17 c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations to
18 effectuate the purposes of section 54 of this act.

19 (cf: P.L.2003, c.246, s.59)

20

21 355. Section 2 of P.L.2005, c.222 (C.26:13-2) is amended to
22 read as follows:

23 2. As used in this act:

24 "Biological agent" means any microorganism, virus, bacterium,
25 rickettsiae, fungus, toxin, infectious substance, or biological
26 product that may be naturally occurring or engineered as a result of
27 biotechnology, or any naturally occurring or bioengineered
28 component of any such microorganism, virus, bacterium,
29 rickettsiae, fungus, infectious substance, or biological product,
30 capable of causing death, disease, or other biological malfunction in
31 a human, an animal, a plant, or another living organism.

32 "Bioterrorism" means the intentional use or threat of use of any
33 biological agent, to cause death, disease, or other biological
34 malfunction in a human, animal, plant, or other living organism, or
35 degrade the quality and safety of the food, air, or water supply.

36 "Chemical weapon" means a toxic chemical and its precursors,
37 except where intended for a lawful purpose as long as the type and
38 quantity is consistent with such a purpose. Chemical weapon
39 includes, but is not limited to: nerve agents, choking agents, blood
40 agents, and incapacitating agents.

41 "Commissioner" means the Commissioner of Health **【and Senior**
42 **Services】**, or the commissioner's designee.

43 "Contagious disease" means an infectious disease that can be
44 transmitted from person to person.

45 "Department" means the Department of Health **【and Senior**
46 **Services】**.

47 "Health care facility" means any non-federal institution, building
48 or agency, or portion thereof whether public or private for profit or

1 nonprofit that is used, operated or designed to provide health
2 services, medical or dental treatment or nursing, rehabilitative, or
3 preventive care to any person. Health care facility includes, but is
4 not limited to: an ambulatory surgical facility, home health agency,
5 hospice, hospital, infirmary, intermediate care facility, dialysis
6 center, long-term care facility, medical assistance facility, mental
7 health center, paid and volunteer emergency medical services,
8 outpatient facility, public health center, rehabilitation facility,
9 residential treatment facility, skilled nursing facility, and adult day
10 care center. Health care facility also includes, but is not limited to,
11 the following related property when used for or in connection with
12 the foregoing: a laboratory, research facility, pharmacy, laundry
13 facility, health personnel training and lodging facility, patient, guest
14 and health personnel food service facility, and the portion of an
15 office or office building used by persons engaged in health care
16 professions or services.

17 "Health care provider" means any person or entity who provides
18 health care services including, but not limited to: a health care
19 facility, bioanalytical laboratory director, perfusionist, physician,
20 physician assistant, pharmacist, dentist, nurse, paramedic,
21 respiratory care practitioner, medical or laboratory technician, and
22 ambulance and emergency medical workers.

23 "Infectious disease" means a disease caused by a living organism
24 or other pathogen, including a fungus, bacteria, parasite, protozoan,
25 virus, or prion. An infectious disease may, or may not, be
26 transmissible from person to person, animal to person, or insect to
27 person.

28 "Isolation" means the physical separation and confinement of an
29 individual or groups of individuals who are infected or reasonably
30 believed to be infected, on the basis of signs, symptoms or
31 laboratory analysis, with a contagious or possibly contagious
32 disease from non-isolated individuals, to prevent or limit the
33 transmission of the disease to non-isolated individuals.

34 "Local health agency" means a county, regional, municipal, or
35 other governmental agency organized for the purpose of providing
36 health services, administered by a full-time health officer and
37 conducting a public health program pursuant to law.

38 "Local Information Network and Communications System
39 Agency" or "LINCS agency" means the lead local public health
40 agency in each county or identified city, as designated and
41 determined by the commissioner pursuant to section 21 of this act,
42 responsible for providing central planning, coordination, and
43 delivery of specialized services within the designated county or
44 city, in partnership with the other local health agencies within that
45 jurisdiction, in order to prepare for and respond to acts of
46 bioterrorism and other forms of terrorism or other public health
47 emergencies or threats, and to discharge the activities as specified
48 under this act.

1 "Microorganism" includes, but is not limited to, bacteria, viruses,
2 fungi, rickettsiae, or protozoa.

3 "Nuclear or radiological device" means: any nuclear device
4 which is an explosive device designed to cause a nuclear yield; an
5 explosive radiological dispersal device used directly or indirectly to
6 spread radioactive material; or a simple radiological dispersal
7 device which is any act, container or any other device used to
8 release radiological material for use as a weapon.

9 "Overlap agent or toxin" means: any microorganism or toxin that
10 poses a risk to both human and animal health and includes:

11 Anthrax - *Bacillus anthracis*

12 Botulism - *Clostridium botulinum* toxin, *Botulinum* neurotoxins,
13 *Botulinum* neurotoxin producing species of *Clostridium*

14 Plague - *Yersinia pestis*

15 Tularemia - *Francisella tularensis*

16 Viral Hemorrhagic Fevers - Ebola, Marburg, Lassa, Machupo

17 Brucellosis- *Brucella* species

18 Glanders - *Burkholderia mallei*

19 Melioidosis - *Burkholderia pseudomallei*

20 Psittacosis - *Chlamydia psittaci*

21 Coccidioidomycosis - *Coccidioides immitis*

22 Q Fever - *Coxiella burnetii*

23 Typhus Fever - *Rickettsia prowazekii*

24 Viral Encephalitis - VEE (Venezuelan equine encephalitis virus),
25 EEE (Eastern equine encephalitis), WEE (Western equine
26 encephalitis)

27 Toxins - *Ricinus communis*, *Clostridium perfringens*, *Staph.*
28 *Aureus*, Staphylococcal enterotoxins, T-2 toxin, Shigatoxin

29 Nipah - Nipah virus

30 Hantavirus - Hantavirus

31 West Nile Fever - West Nile virus

32 Hendra - Hendra virus

33 Rift Valley Fever - Rift Valley Fever virus

34 Highly Pathogenic Avian Influenza

35 "Public health emergency" means an occurrence or imminent
36 threat of an occurrence that:

37 a. is caused or is reasonably believed to be caused by any of
38 the following: (1) bioterrorism or an accidental release of one or
39 more biological agents; (2) the appearance of a novel or previously
40 controlled or eradicated biological agent; (3) a natural disaster; (4) a
41 chemical attack or accidental release of toxic chemicals; or (5) a
42 nuclear attack or nuclear accident; and

43 b. poses a high probability of any of the following harms: (1) a
44 large number of deaths, illness, or injury in the affected population;
45 (2) a large number of serious or long-term impairments in the
46 affected population; or (3) exposure to a biological agent or
47 chemical that poses a significant risk of substantial future harm to a
48 large number of people in the affected population.

1 "Quarantine" means the physical separation and confinement of
2 an individual or groups of individuals, who are or may have been
3 exposed to a contagious or possibly contagious disease and who do
4 not show signs or symptoms of a contagious disease, from non-
5 quarantined individuals, to prevent or limit the transmission of the
6 disease to non-quarantined individuals.

7 "Toxin" means the toxic material of plants, animals,
8 microorganisms, viruses, fungi, or infectious substances, or a
9 recombinant molecule, whatever its origin or method of production,
10 including:

11 a. any poisonous substance or biological product that may be
12 engineered as a result of biotechnology or produced by a living
13 organism; or

14 b. any poisonous isomer or biological product, homolog, or
15 derivative of such a substance.

16 (cf: P.L.2005, c.222, s.2)

17
18 356. Section 24 of P.L.2005, c.222 (C.26:13-24) is amended to
19 read as follows:

20 24. a. There is hereby established in the Department of Health
21 **【and Senior Services】** a State Public Health Emergency Claim
22 Reimbursement Board. The board shall include the following
23 members: the Commissioner of Health **【and Senior Services】**, who
24 shall be the presiding officer, the Attorney General, the Adjutant
25 General of the Department of Military and Veterans' Affairs, the
26 State Director of Emergency Management, the Secretary of
27 Agriculture, the Commissioner of Banking and Insurance, the
28 Commissioner of Environmental Protection, the Commissioner of
29 Community Affairs, the State Medical Examiner, and the State
30 Treasurer, or their designees. The members of the board shall serve
31 without pay in connection with all such duties as are prescribed in
32 this act.

33 b. The board shall meet at such times as may be necessary to
34 fulfill the requirements set forth herein. The Commissioner of
35 Health **【and Senior Services】** shall convene the board within 45
36 days of the filing of a complete petition. The concurrence of six
37 members of the board shall be necessary for the validity of all acts
38 of the board.

39 c. Subject to available appropriations, the board shall have the
40 authority to award reasonable reimbursement, as determined by the
41 board, for any services required of any person under the provisions
42 of this act, which shall be paid at the prevailing established rate for
43 services of a like or similar nature as determined by the board.
44 Subject to available appropriations, the board shall have the
45 authority to award reasonable reimbursement, as determined by the
46 board, for any property employed, taken, or used under the
47 provisions of this act.

48 d. All awards shall be paid from any funds appropriated by the
49 State, any political subdivision of the State, or the federal

1 government, for such purpose. In awarding reimbursement under
2 this section, the board shall take into account any funds, or any
3 other thing of value, received by a claimant from any other source,
4 including but not limited to private donations, contributions, and
5 insurance proceeds. The board shall not award reimbursement
6 unless the claimant has demonstrated, to the satisfaction of the
7 board, that the claimant has first sought reimbursement for any loss
8 incurred due to the declaration of a public health emergency from
9 any and all appropriate third party payers.

10 (cf: P.L.2005, c.222, s.24)

11

12 357. Section 25 of P.L.2005, c.222 (C.26:13-25) is amended to
13 read as follows:

14 25. a. Any person making a claim for reimbursement for private
15 property or services employed, taken or used for a public purpose
16 under this act shall, subsequent to the termination of the public
17 health emergency, file a petition for an award with the State Public
18 Health Emergency Claim Reimbursement Board, established
19 pursuant to section 24 of this act, through the Commissioner of
20 Health [and Senior Services]. The petition shall be signed by the
21 claimant and shall set forth the following:

22 (1) a description of the services or property employed, taken, or
23 used;

24 (2) the dates of the employment, taking, or usage;

25 (3) the person or entity ordering the employment, taking, or
26 usage;

27 (4) such additional information as the petitioner deems relevant
28 to a full consideration of the claim; and

29 (5) any additional information that the board may require.

30 b. The board may establish such forms, documents, and
31 procedures as may be necessary to expedite the processing of
32 claims, and all claimants shall utilize and follow the forms,
33 documents, and procedures, if so established. Subsequent to the
34 filing of an initial petition, the board may request such additional
35 information as it deems necessary from any claimant and may
36 require the claimant, and any other person with knowledge of facts
37 and circumstances relevant to the claim, to appear before the board
38 for a hearing. No petition shall be filed with the board more than
39 180 days from the last date the services or property were employed,
40 taken or used, except that this deadline may be extended by the
41 board as is necessary to further the purposes of this act.

42 c. The board's determination concerning a claimant's petition
43 for reimbursement shall be transmitted to the claimant in writing.
44 The claimant may appeal the decision to the Superior Court subject
45 to the Rules of Court regarding the review of State agency actions.

46 d. Any person seeking reimbursement under this act shall
47 proceed in accordance with the provisions of this section unless the
48 declaration of public health emergency which gives rise to the claim
49 or petition for reimbursement is superseded by order of the

1 Governor pursuant to P.L.1942, c.251 (C.App.A:9-33 et seq.). Upon
2 the declaration of an emergency by the Governor pursuant to
3 P.L.1942, c.251 which supersedes the declaration of a public health
4 emergency, the person shall proceed in accordance with the
5 provisions of P.L.1942, c.251 and the person's rights, remedies and
6 entitlement to reimbursement shall be limited to that which is
7 afforded in that act.

8 e. Notwithstanding the provisions of this section to the
9 contrary, in the event funds are otherwise made available for
10 reimbursement, a person shall not be required to file a petition for
11 an award with the board pursuant to this section.

12 (cf: P.L.2005, c.222, s.25)

13

14 358. Section 6 of P.L.1968, c.413 (C.30:4D-6) is amended to
15 read as follows:

16 6. a. Subject to the requirements of Title XIX of the federal
17 Social Security Act, the limitations imposed by this act and by the
18 rules and regulations promulgated pursuant thereto, the department
19 shall provide medical assistance to qualified applicants, including
20 authorized services within each of the following classifications:

21 (1) Inpatient hospital services;

22 (2) Outpatient hospital services;

23 (3) Other laboratory and X-ray services;

24 (4) (a) Skilled nursing or intermediate care facility services;

25 (b) **【Such early】** Early and periodic screening and diagnosis of
26 individuals who are eligible under the program and are under age
27 21, to ascertain their physical or mental defects and **【such】** the
28 health care, treatment, and other measures to correct or ameliorate
29 defects and chronic conditions discovered thereby, as may be
30 provided in regulations of the Secretary of the federal Department
31 of Health and Human Services and approved by the commissioner;

32 (5) Physician's services furnished in the office, the patient's
33 home, a hospital, a skilled nursing, or intermediate care facility or
34 elsewhere.

35 As used in this subsection, "laboratory and X-ray services"
36 includes HIV drug resistance testing, including, but not limited to,
37 genotype assays that have been cleared or approved by the federal
38 Food and Drug Administration, laboratory developed genotype
39 assays, phenotype assays, and other assays using phenotype
40 prediction with genotype comparison, for persons diagnosed with
41 HIV infection or AIDS.

42 b. Subject to the limitations imposed by federal law, by this
43 act, and by the rules and regulations promulgated pursuant thereto,
44 the medical assistance program may be expanded to include
45 authorized services within each of the following classifications:

46 (1) Medical care not included in subsection a.(5) above, or any
47 other type of remedial care recognized under State law, furnished
48 by licensed practitioners within the scope of their practice, as
49 defined by State law;

- 1 (2) Home health care services;
- 2 (3) Clinic services;
- 3 (4) Dental services;
- 4 (5) Physical therapy and related services;
- 5 (6) Prescribed drugs, dentures, and prosthetic devices; and
- 6 eyeglasses prescribed by a physician skilled in diseases of the eye
- 7 or by an optometrist, whichever the individual may select;
- 8 (7) Optometric services;
- 9 (8) Podiatric services;
- 10 (9) Chiropractic services;
- 11 (10) Psychological services;
- 12 (11) Inpatient psychiatric hospital services for individuals under
- 13 21 years of age, or under age 22 if they are receiving such services
- 14 immediately before attaining age 21;
- 15 (12) Other diagnostic, screening, preventive, and rehabilitative
- 16 services, and other remedial care;
- 17 (13) Inpatient hospital services, nursing facility services, and
- 18 intermediate care facility services for individuals 65 years of age or
- 19 over in an institution for mental diseases;
- 20 (14) Intermediate care facility services;
- 21 (15) Transportation services;
- 22 (16) Services in connection with the inpatient or outpatient
- 23 treatment or care of drug abuse, when the treatment is prescribed by
- 24 a physician and provided in a licensed hospital or in a narcotic and
- 25 drug abuse treatment center approved by the Department of Health
- 26 [and Senior] Services pursuant to P.L.1970, c.334 (C.26:2G-21 et
- 27 seq.) and whose staff includes a medical director, and limited to
- 28 those services eligible for federal financial participation under Title
- 29 XIX of the federal Social Security Act;
- 30 (17) Any other medical care and any other type of remedial care
- 31 recognized under State law, specified by the Secretary of the federal
- 32 Department of Health and Human Services, and approved by the
- 33 commissioner;
- 34 (18) Comprehensive maternity care, which may include: the
- 35 basic number of prenatal and postpartum visits recommended by the
- 36 American College of Obstetrics and Gynecology; additional
- 37 prenatal and postpartum visits that are medically necessary;
- 38 necessary laboratory, nutritional assessment and counseling, health
- 39 education, personal counseling, managed care, outreach, and
- 40 follow-up services; treatment of conditions which may complicate
- 41 pregnancy; and physician or certified nurse-midwife delivery
- 42 services;
- 43 (19) Comprehensive pediatric care, which may include:
- 44 ambulatory, preventive, and primary care health services. The
- 45 preventive services shall include, at a minimum, the basic number
- 46 of preventive visits recommended by the American Academy of
- 47 Pediatrics;
- 48 (20) Services provided by a hospice which is participating in the
- 49 Medicare program established pursuant to Title XVIII of the Social

1 Security Act, Pub.L.89-97 (42 U.S.C. s.1395 et seq.). Hospice
2 services shall be provided subject to approval of the Secretary of
3 the federal Department of Health and Human Services for federal
4 reimbursement;

5 (21) Mammograms, subject to approval of the Secretary of the
6 federal Department of Health and Human Services for federal
7 reimbursement, including one baseline mammogram for women
8 who are at least 35 but less than 40 years of age; one mammogram
9 examination every two years or more frequently, if recommended
10 by a physician, for women who are at least 40 but less than 50 years
11 of age; and one mammogram examination every year for women
12 age 50 and over.

13 c. Payments for the foregoing services, goods, and supplies
14 furnished pursuant to this act shall be made to the extent authorized
15 by this act, the rules and regulations promulgated pursuant thereto
16 and, where applicable, subject to the agreement of insurance
17 provided for under this act. [Said] The payments shall constitute
18 payment in full to the provider on behalf of the recipient. Every
19 provider making a claim for payment pursuant to this act shall
20 certify in writing on the claim submitted that no additional amount
21 will be charged to the recipient, [his] the recipient's family, [his]
22 the recipient's representative or others on [his] the recipient's
23 behalf for the services, goods, and supplies furnished pursuant to
24 this act.

25 No provider whose claim for payment pursuant to this act has
26 been denied because the services, goods, or supplies were
27 determined to be medically unnecessary shall seek reimbursement
28 from the recipient, his family, his representative or others on his
29 behalf for such services, goods, and supplies provided pursuant to
30 this act; provided, however, a provider may seek reimbursement
31 from a recipient for services, goods, or supplies not authorized by
32 this act, if the recipient elected to receive the services, goods or
33 supplies with the knowledge that they were not authorized.

34 d. Any individual eligible for medical assistance (including
35 drugs) may obtain such assistance from any person qualified to
36 perform the service or services required (including an organization
37 which provides such services, or arranges for their availability on a
38 prepayment basis), who undertakes to provide [him] the individual
39 such services.

40 No copayment or other form of cost-sharing shall be imposed on
41 any individual eligible for medical assistance, except as mandated
42 by federal law as a condition of federal financial participation.

43 e. Anything in this act to the contrary notwithstanding, no
44 payments for medical assistance shall be made under this act with
45 respect to care or services for any individual who:

46 (1) Is an inmate of a public institution (except as a patient in a
47 medical institution); provided, however, that an individual who is
48 otherwise eligible may continue to receive services for the month in

1 which he becomes an inmate, should the commissioner determine to
2 expand the scope of Medicaid eligibility to include such an
3 individual, subject to the limitations imposed by federal law and
4 regulations, or

5 (2) Has not attained 65 years of age and who is a patient in an
6 institution for mental diseases, or

7 (3) Is over 21 years of age and who is receiving inpatient
8 psychiatric hospital services in a psychiatric facility; provided,
9 however, that an individual who was receiving such services
10 immediately prior to attaining age 21 may continue to receive such
11 services until ~~he~~ the individual reaches age 22. Nothing in this
12 subsection shall prohibit the commissioner from extending medical
13 assistance to all eligible persons receiving inpatient psychiatric
14 services; provided that there is federal financial participation
15 available.

16 f. (1) A third party as defined in section 3 of P.L.1968, c.413
17 (C.30:4D-3) shall not consider a person's eligibility for Medicaid in
18 this or another state when determining the person's eligibility for
19 enrollment or the provision of benefits by that third party.

20 (2) In addition, any provision in a contract of insurance, health
21 benefits plan, or other health care coverage document, will, trust,
22 agreement, court order, or other instrument which reduces or
23 excludes coverage or payment for health care-related goods and
24 services to or for an individual because of that individual's actual or
25 potential eligibility for or receipt of Medicaid benefits shall be null
26 and void, and no payments shall be made under this act as a result
27 of any such provision.

28 (3) Notwithstanding any provision of law to the contrary, the
29 provisions of paragraph (2) of this subsection shall not apply to a
30 trust agreement that is established pursuant to 42 U.S.C.
31 s.1396p(d)(4)(A) or (C) to supplement and augment assistance
32 provided by government entities to a person who is disabled as
33 defined in section 1614(a)(3) of the federal Social Security Act (42
34 U.S.C. s.1382c (a)(3)).

35 g. The following services shall be provided to eligible
36 medically needy individuals as follows:

37 (1) Pregnant women shall be provided prenatal care and delivery
38 services and postpartum care, including the services cited in
39 subsection a.(1), (3), and (5) of this section and subsection b.(1)-
40 (10), (12), (15), and (17) of this section, and nursing facility
41 services cited in subsection b.(13) of this section.

42 (2) Dependent children shall be provided with services cited in
43 subsection a.(3) and (5) of this section and subsection b.(1), (2), (3),
44 (4), (5), (6), (7), (10), (12), (15), and (17) of this section, and
45 nursing facility services cited in subsection b.(13) of this section.

46 (3) Individuals who are 65 years of age or older shall be
47 provided with services cited in subsection a.(3) and (5) of this
48 section and subsection b.(1)-(5), (6) excluding prescribed drugs, (7),

1 (8), (10), (12), (15), and (17) of this section, and nursing facility
2 services cited in subsection b.(13) of this section.

3 (4) Individuals who are blind or disabled shall be provided with
4 services cited in subsection a.(3) and (5) of this section and
5 subsection b.(1)-(5), (6) excluding prescribed drugs, (7), (8), (10),
6 (12), (15), and (17) of this section, and nursing facility services
7 cited in subsection b.(13) of this section.

8 (5) (a) Inpatient hospital services, subsection a.(1) of this
9 section, shall only be provided to eligible medically needy
10 individuals, other than pregnant women, if the federal Department
11 of Health and Human Services discontinues the State's waiver to
12 establish inpatient hospital reimbursement rates for the Medicare
13 and Medicaid programs under the authority of section 601(c)(3) of
14 the Social Security Act Amendments of 1983, Pub.L.98-21 (42
15 U.S.C. s.1395ww(c)(5)). Inpatient hospital services may be
16 extended to other eligible medically needy individuals if the federal
17 Department of Health and Human Services directs that these
18 services be included.

19 (b) Outpatient hospital services, subsection a.(2) of this section,
20 shall only be provided to eligible medically needy individuals if the
21 federal Department of Health and Human Services discontinues the
22 State's waiver to establish outpatient hospital reimbursement rates
23 for the Medicare and Medicaid programs under the authority of
24 section 601(c)(3) of the Social Security Amendments of 1983,
25 Pub.L.98-21 (42 U.S.C. s.1395ww(c)(5)). Outpatient hospital
26 services may be extended to all or to certain medically needy
27 individuals if the federal Department of Health and Human Services
28 directs that these services be included. However, the use of
29 outpatient hospital services shall be limited to clinic services and to
30 emergency room services for injuries and significant acute medical
31 conditions.

32 (c) The division shall monitor the use of inpatient and outpatient
33 hospital services by medically needy persons.

34 h. In the case of a qualified disabled and working individual
35 pursuant to section 6408 of Pub.L.101-239 (42 U.S.C. s.1396d), the
36 only medical assistance provided under this act shall be the
37 payment of premiums for Medicare part A under 42 U.S.C.
38 ss.1395i-2 and 1395r.

39 i. In the case of a specified low-income Medicare beneficiary
40 pursuant to 42 U.S.C. s.1396a(a)(10)(E)iii, the only medical
41 assistance provided under this act shall be the payment of premiums
42 for Medicare part B under 42 U.S.C. s.1395r as provided for in 42
43 U.S.C. s.1396d(p)(3)(A)(ii).

44 j. In the case of a qualified individual pursuant to 42 U.S.C.
45 s.1396a(aa), the only medical assistance provided under this act
46 shall be payment for authorized services provided during the period
47 in which the individual requires treatment for breast or cervical
48 cancer, in accordance with criteria established by the commissioner.
49 (cf: P.L.2003, c.294, s.1)

1 359. Section 3 of P.L.1981, c.134 (C.30:4D-6.4) is amended to
2 read as follows:

3 3. After consulting with the Commissioner of Human Services,
4 the Commissioner of Health **【and Senior Services】** is authorized
5 and empowered to issue and enforce, or cause to be issued and
6 enforced through the division, all necessary rules, regulations, and
7 administrative orders with respect to:

8 a. The development of minimum requirements concerning the
9 equipment, supplies, and vehicles of providers of mobility
10 assistance vehicle services;

11 b. The establishment of standards for the amount of liability
12 insurance each provider must maintain in order to be eligible to
13 provide mobility assistance vehicle services. Evidence of such
14 insurance, including the name of the insurer and the policy number,
15 shall be filed at the time of application for approval by the division
16 and from time to time as the division shall deem necessary; and

17 c. The establishment of standards for certified trained
18 personnel employed by providers of mobility assistance vehicle
19 services.

20 (cf: P.L.1997, c.102, s.3)

21

22 360. Section 7 of P.L.1968, c.413 (C.30:4D-7) is amended to
23 read as follows:

24 7. Duties of commissioner. The commissioner is authorized
25 and empowered to issue, or to cause to be issued through the
26 Division of Medical Assistance and Health Services, all necessary
27 rules and regulations and administrative orders, and to do or cause
28 to be done all other acts and things necessary to secure for the State
29 of New Jersey the maximum federal participation that is available
30 with respect to a program of medical assistance, consistent with
31 fiscal responsibility and within the limits of funds available for any
32 fiscal year, and to the extent authorized by the medical assistance
33 program plan; to adopt fee schedules with regard to medical
34 assistance benefits and otherwise to accomplish the purposes of this
35 act, including specifically the following:

36 a. Subject to the limits imposed by this act, to submit a plan for
37 medical assistance, as required by Title XIX of the federal Social
38 Security Act, to the federal Department of Health and Human
39 Services for approval pursuant to the provisions of such law; to act
40 for the State in making negotiations relative to the submission and
41 approval of such plan, to make such arrangements, not inconsistent
42 with the law, as may be required by or pursuant to federal law to
43 obtain and retain such approval and to secure for the State the
44 benefits of the provisions of such law;

45 b. Subject to the limits imposed by this act, to determine the
46 amount and scope of services to be covered, that the amounts to be
47 paid are reasonable, and the duration of medical assistance to be
48 furnished; provided, however, that the department shall provide
49 medical assistance on behalf of all recipients of categorical

1 assistance and such other related groups as are mandatory under
2 federal laws and rules and regulations, as they now are or as they
3 may be hereafter amended, in order to obtain federal matching
4 funds for such purposes and, in addition, provide medical assistance
5 for the resource family children specified in subsection i.(7) of
6 section 3 of P.L.1968, c.413 (C.30:4D-3). The medical assistance
7 provided for these groups shall not be less in scope, duration, or
8 amount than is currently furnished ~~such~~ these groups, and in
9 addition, shall include at least the minimum services required under
10 federal laws and rules and regulations to obtain federal matching
11 funds for such purposes.

12 The commissioner is authorized and empowered, at such times as
13 he may determine feasible, within the limits of appropriated funds
14 for any fiscal year, to extend the scope, duration, and amount of
15 medical assistance on behalf of these groups of categorical
16 assistance recipients, related groups as are mandatory, and resource
17 family children authorized pursuant to section 3i. (7) of this act, so
18 as to include, in whole or in part, the optional medical services
19 authorized under federal laws and rules and regulations, and the
20 commissioner shall have the authority to establish and maintain the
21 priorities given such optional medical services; provided, however,
22 that medical assistance shall be provided to at least such groups and
23 in such scope, duration, and amount as are required to obtain
24 federal matching funds.

25 The commissioner is further authorized and empowered, at such
26 times as he may determine feasible, within the limits of
27 appropriated funds for any fiscal year, to issue, or cause to be
28 issued through the Division of Medical Assistance and Health
29 Services, all necessary rules, regulations and administrative orders,
30 and to do or cause to be done all other acts and things necessary to
31 implement and administer demonstration projects pursuant to Title
32 XI, section 1115 of the federal Social Security Act, including, but
33 not limited to waiving compliance with specific provisions of this
34 act, to the extent and for the period of time the commissioner deems
35 necessary, as well as contracting with any legal entity, including but
36 not limited to corporations organized pursuant to Title 14A, New
37 Jersey Statutes (N.J.S.14A:1-1 et seq.), Title 15, Revised Statutes
38 (R.S.15:1-1 et seq.), and Title 15A, New Jersey Statutes
39 (N.J.S.15A:1-1 et seq.) as well as boards, groups, agencies, persons,
40 and other public or private entities;

41 c. To administer the provisions of this act;

42 d. To make reports to the federal Department of Health and
43 Human Services as from time to time may be required by such
44 federal department and to the New Jersey Legislature as hereinafter
45 provided;

46 e. To assure that any applicant, qualified applicant or recipient
47 shall be afforded the opportunity for a hearing should ~~his~~ the
48 person's claim for medical assistance be denied, reduced,
49 terminated, or not acted upon within a reasonable time;

- 1 f. To assure that providers shall be afforded the opportunity for
2 an administrative hearing within a reasonable time on any valid
3 complaint arising out of the claim payment process;
- 4 g. To provide safeguards to restrict the use or disclosure of
5 information concerning applicants and recipients to purposes
6 directly connected with administration of this act;
- 7 h. To take all necessary action to recover any and all payments
8 incorrectly made to or illegally received by a provider from such
9 provider or his estate or from any other person, firm, corporation,
10 partnership, or entity responsible for or receiving the benefit or
11 possession of the incorrect or illegal payments or their estates,
12 successors or assigns, and to assess and collect such penalties as are
13 provided for herein;
- 14 i. To take all necessary action to recover the cost of benefits
15 incorrectly provided to or illegally obtained by a recipient,
16 including those made after a voluntary divestiture of real or
17 personal property or any interest or estate in property for less than
18 adequate consideration made for the purpose of qualifying for
19 assistance. The division shall take action to recover the cost of
20 benefits from a recipient, legally responsible relative, representative
21 payee, or any other party or parties whose action or inaction
22 resulted in the incorrect or illegal payments or who received the
23 benefit of the divestiture, or from their respective estates, as the
24 case may be and to assess and collect the penalties as are provided
25 for herein, except that no lien shall be imposed against property of
26 the recipient prior to his death except in accordance with section 17
27 of P.L.1968, c.413 (C.30:4D-17). No recovery action shall be
28 initiated more than five years after an incorrect payment has been
29 made to a recipient when the incorrect payment was due solely to an
30 error on the part of the State or any agency, agent, or subdivision
31 thereof;
- 32 j. To take all necessary action to recover the cost of benefits
33 correctly provided to a recipient from the estate of said recipient in
34 accordance with sections 6 through 12 of this amendatory and
35 supplementary act;
- 36 k. To take all reasonable measures to ascertain the legal or
37 equitable liability of third parties to pay for care and services
38 (available under the plan) arising out of injury, disease, or
39 disability; where it is known that a third party has a liability, to treat
40 such liability as a resource of the individual on whose behalf the
41 care and services are made available for purposes of determining
42 eligibility; and in any case where such a liability is found to exist
43 after medical assistance has been made available on behalf of the
44 individual, to seek reimbursement for such assistance to the extent
45 of such liability;
- 46 l. To compromise, waive, or settle and execute a release of any
47 claim arising under this act including interest or other penalties, or
48 designate another to compromise, waive, or settle and execute a
49 release of any claim arising under this act. The commissioner or

- 1 **[his]** the commissioner's designee whose title shall be specified by
2 regulation may compromise, settle or waive any such claim in
3 whole or in part, either in the interest of the Medicaid program or
4 for any other reason which the commissioner by regulation shall
5 establish;
- 6 m. To pay or credit to a provider any net amount found by final
7 audit as defined by regulation to be owing to the provider. Such
8 payment, if it is not made within 45 days of the final audit, shall
9 include interest on the amount due at the maximum legal rate in
10 effect on the date the payment became due, except that such interest
11 shall not be paid on any obligation for the period preceding
12 September 15, 1976. This subsection shall not apply until federal
13 financial participation is available for such interest payments;
- 14 n. To issue, or designate another to issue, **[subpenas]**
15 subpoenas to compel the attendance of witnesses and the production
16 of books, records, accounts, papers, and documents of any party,
17 whether or not that party is a provider, which directly or indirectly
18 relate to goods or services provided under this act, for the purpose
19 of assisting in any investigation, examination, or inspection, or in
20 any suspension, debarment, disqualification, recovery, or other
21 proceeding arising under this act;
- 22 o. To solicit, receive, and review bids pursuant to the
23 provisions of P.L.1954, c.48 (C.52:34-6 et seq.) and all amendments
24 and supplements thereto, by any corporation doing business in the
25 State of New Jersey, including nonprofit hospital service
26 corporations, medical service corporations, health service
27 corporations, or dental service corporations incorporated in New
28 Jersey and authorized to do business pursuant to P.L.1938, c.366
29 (C.17:48-1 et seq.), P.L.1940, c.74 (C.17:48A-1 et seq.), P.L.1985,
30 c.236 (C.17:48E-1 et seq.), or P.L.1968, c.305 (C.17:48C-1 et seq.),
31 and to make recommendations in connection therewith to the State
32 Medicaid Commission;
- 33 p. To contract, or otherwise provide as in this act provided, for
34 the payment of claims in the manner approved by the State
35 Medicaid Commission;
- 36 q. Where necessary, to advance funds to the underwriter or
37 fiscal agent to enable such underwriter or fiscal agent, in
38 accordance with terms of its contract, to make payments to
39 providers;
- 40 r. To enter into contracts with federal, State, or local
41 governmental agencies, or other appropriate parties, when necessary
42 to carry out the provisions of this act;
- 43 s. To assure that the nature and quality of the medical
44 assistance provided for under this act shall be uniform and
45 equitable to all recipients;
- 46 t. To provide for the reimbursement of State and county-
47 administered skilled nursing and intermediate care facilities through
48 the use of a governmental peer grouping system, subject to federal
49 approval and the availability of federal reimbursement.

1 (1) In establishing a governmental peer grouping system, the
2 State's financial participation is limited to an amount equal to the
3 nonfederal share of the reimbursement which would be due each
4 facility if the governmental peer grouping system was not
5 established, and each county's financial participation in this
6 reimbursement system is equal to the nonfederal share of the
7 increase in reimbursement for its facility or facilities which results
8 from the establishment of the governmental peer grouping system.

9 (2) On or before December 1 of each year, the commissioner
10 shall estimate and certify to the Director of the Division of Local
11 Government Services in the Department of Community Affairs the
12 amount of increased federal reimbursement a county may receive
13 under the governmental peer grouping system. On or before
14 December 15 of each year, the Director of the Division of Local
15 Government Services shall certify the increased federal
16 reimbursement to the chief financial officer of each county. If the
17 amount of increased federal reimbursement to a county exceeds or
18 is less than the amount certified, the certification for the next year
19 shall account for the actual amount of federal reimbursement that
20 the county received during the prior calendar year.

21 (3) The governing body of each county entitled to receive
22 increased federal reimbursement under the provisions of this
23 amendatory act shall, by March 31 of each year, submit a report to
24 the commissioner on the intended use of the savings in county
25 expenditures which result from the increased federal
26 reimbursement. The governing body of each county, with the
27 advice of agencies providing social and health related services, shall
28 use not less than 10% and no more than 50% of the savings in
29 county expenditures which result from the increased federal
30 reimbursement for community-based social and health related
31 programs for elderly and disabled persons who may otherwise
32 require nursing home care. This percentage shall be negotiated
33 annually between the governing body and the commissioner and
34 shall take into account a county's social, demographic, and fiscal
35 conditions, a county's social and health related expenditures and
36 needs, and estimates of federal revenues to support county
37 operations in the upcoming year, particularly in the areas of social
38 and health related services.

39 (4) The commissioner, subject to approval by law, may
40 terminate the governmental peer grouping system if federal
41 reimbursement is significantly reduced or if the Medicaid program
42 is significantly altered or changed by the federal government
43 subsequent to the enactment of this amendatory act. The
44 commissioner, prior to terminating the governmental peer grouping
45 system, shall submit to the Legislature and to the governing body of
46 each county a report as to the reasons for terminating the
47 governmental peer grouping system;

48 u. The commissioner, in consultation with the Commissioner of
49 Health [and Senior Services], shall:

1 (1) Develop criteria and standards for comprehensive maternity
2 or pediatric care providers and determine whether a provider who
3 requests to become a comprehensive maternity or pediatric care
4 provider meets the department's criteria and standards;

5 (2) Develop a program of comprehensive maternity care
6 services which defines the type of services to be provided, the level
7 of services to be provided, and the frequency with which qualified
8 applicants are to receive services pursuant to P.L.1968, c.413
9 (C.30:4D-1 et seq.);

10 (3) Develop a program of comprehensive pediatric care services
11 which defines the type of services to be provided, the level of
12 services to be provided, and the frequency with which qualified
13 applicants are to receive services pursuant to P.L.1968, c.413
14 (C.30:4D-1 et seq.);

15 (4) Develop and implement a system for monitoring the quality
16 and delivery of comprehensive maternity and pediatric care services
17 and a system for evaluating the effectiveness of the services
18 programs in meeting their objectives;

19 (5) Establish provider reimbursement rates for the
20 comprehensive maternity and pediatric care services;

21 v. The commissioner, jointly with the Commissioner of Health
22 **【and Senior Services】**, shall report to the Governor and the
23 Legislature no later than two years following the date of enactment
24 of P.L.1987, c.115 (C.30:4D-2.1 et al.) and annually thereafter on
25 the status of the comprehensive maternity and pediatric care
26 services and their effectiveness in meeting the objectives set forth
27 in section 1 of P.L.1987, c.115 (C.30:4D-2.1) accompanying the
28 report with any recommendations for changes in the law governing
29 the services that the commissioners deem necessary.

30 (cf: P.L.2004, c.130, s.94)

31
32 361. Section 2 of P.L. 2009, c.268 (C.30:4D-7l) is amended to
33 read as follows:

34 2. The Department of Health **【and Senior Services】** shall
35 adjust the Family Planning Services Grant-in-Aid appropriation and
36 transfer the appropriate amount of State funds to the Division of
37 Medical Assistance and Health Services in the Department of
38 Human Services to facilitate the implementation of section 1 of this
39 act. The Department of Health **【and Senior Services】** shall notify
40 the Legislative Budget and Finance Officer as to the amount that is
41 transferred.

42 (cf: P.L.2009, c.268, s.2)

43
44 362. Section 4 of P.L.2011, c.114 (C.30:4D-8.4) is amended to
45 read as follows:

46 4. a. The department shall accept applications for certification
47 from demonstration project applicants beginning 60 days following
48 the effective date of this act, and shall certify an applicant as a
49 Medicaid ACO for participation in the demonstration project

1 following its determination that the applicant meets the
2 requirements specified in this section. The department may deny
3 certification of any ACO applicant that the department determines
4 does not meet the requirements of this act. The department may
5 consider applications for approval, including revised applications
6 submitted by an ACO not previously approved to participate in the
7 demonstration project.

8 b. The department, in consultation with the Department of
9 Health **[and Senior Services]**, may certify as many ACOs for
10 participation in the demonstration project as it determines
11 appropriate, but shall certify no more than one ACO for each
12 designated area.

13 c. Prior to certification, a demonstration project applicant shall
14 demonstrate that it meets the following minimum standards:

15 (1) The applicant has been formed as a nonprofit corporation
16 pursuant to the "New Jersey Nonprofit Corporation Act," P.L.1983,
17 c.127 (C.15A:1-1 et seq.), for the purposes described in this act;

18 (2) The applicant's governing board includes:

19 a) individuals representing the interests of: health care
20 providers, including, but not limited to, general hospitals, clinics,
21 private practice offices, physicians, behavioral health care
22 providers, and dentists~~;~~, patients~~;~~, and other social service
23 agencies or organizations located in the designated area; and

24 (b) voting representation from at least two consumer
25 organizations capable of advocating on behalf of patients residing
26 within the designated area of the ACO. At least one of the
27 organizations shall have extensive leadership involvement by
28 individuals residing within the designated area of the ACO, and
29 shall have a physical location within the designated area.
30 Additionally, at least one of the individuals representing a consumer
31 organization shall be an individual who resides within the
32 designated area served by the ACO;

33 (3) The applicant has support of its application by: all of the
34 general hospitals located in the designated area served by the ACO;
35 no fewer than 75% of the qualified primary care providers located
36 in the designated area; and at least four qualified behavioral health
37 care providers located in the designated area;

38 (4) The applicant has a process for receipt of gainsharing
39 payments from the department and any voluntarily participating
40 Medicaid managed care organizations, and the subsequent
41 distribution of such gainsharing payments in accordance with a
42 quality improvement and gainsharing plan to be approved by the
43 department, in consultation with the Department of Health **[and**
44 **Senior Services]**;

45 (5) The applicant has a process for engaging members of the
46 community and for receiving public comments with respect to its
47 gainsharing plan;

1 (6) The applicant has a commitment to become accountable for
2 the health outcomes, quality, cost, and access to care of Medicaid
3 recipients residing in the designated area for a period of at least
4 three years following certification; and

5 (7) The applicant has a commitment to ensure the use of
6 electronic prescribing and electronic medical records by health care
7 providers located in the designated area.

8 d. Nothing in this act shall be construed to prevent the
9 department from certifying an applicant as a Medicaid ACO that
10 also participates in a Medicare ACO demonstration project
11 approved by the federal Centers for Medicare **[and]** & Medicaid
12 Services.

13 (cf: P.L.2011, c.114, s.4)

14
15 363. Section 5 of P.L.2011, c.114 (C.30:4D-8.5) is amended to
16 read as follows:

17 5. a. A certified Medicaid ACO shall be eligible to receive and
18 distribute gainsharing payments only after having received approval
19 from the department of its gainsharing plan, which approval may be
20 requested by the ACO at the time of certification or at any time
21 within one year of certification. An ACO may seek to amend its
22 gainsharing plan at any time following the plan's initial approval by
23 submitting amendments to the department for approval.

24 b. The department, with input from the Department of Health
25 **[and Senior Services]** and utilizing outcome evaluation data
26 provided by the Rutgers Center for State Health Policy, shall
27 approve only those gainsharing plans that promote: improvements
28 in health outcomes and quality of care, as measured by objective
29 benchmarks as well as patient experience of care; expanded access
30 to primary and behavioral health care services; and the reduction of
31 unnecessary and inefficient costs associated with care rendered to
32 Medicaid recipients residing in the ACO's designated area. The
33 department and the Department of Health **[and Senior Services]**
34 shall provide all data necessary to the Rutgers Center for State
35 Health Policy for analysis in support of the department's review of
36 gainsharing plans. Criteria to be considered by the department and
37 the Department of Health **[and Senior Services]** in approving a
38 gainsharing plan shall include, but are not limited to:

39 (1) whether the plan promotes: care coordination through multi-
40 disciplinary teams, including care coordination of patients with
41 chronic diseases and the elderly; expansion of the medical home
42 and chronic care models; increased patient medication adherence
43 and use of medication therapy management services; use of health
44 information technology and sharing of health information; and use
45 of open access scheduling in clinical and behavioral health care
46 settings;

47 (2) whether the plan encourages services such as patient or
48 family health education and health promotion, home-based services,

1 telephonic communication, group care, and culturally and
2 linguistically appropriate care;

3 (3) whether the gainsharing payment system is structured to
4 reward quality and improved patient outcomes and experience of
5 care;

6 (4) whether the plan funds interdisciplinary collaboration
7 between behavioral health and primary care providers for patients
8 with complex care needs likely to inappropriately access an
9 emergency department and general hospital for preventable
10 conditions;

11 (5) whether the plan funds improved access to dental services
12 for high-risk patients likely to inappropriately access an emergency
13 department and general hospital for untreated dental conditions; and

14 (6) whether the plan has been developed with community input
15 and will be made available for inspection by members of the
16 community served by the ACO.

17 c. The gainsharing plan shall include an appropriate proposed
18 time period beginning and ending on specified dates prior to the
19 commencement of the demonstration project, which shall be the
20 benchmark period against which cost savings can be measured on
21 an annual basis going forward. Savings shall be calculated in
22 accordance with a methodology that:

23 (1) identifies expenditures per recipient by the Medicaid fee-for-
24 service program during the benchmark period, adjusted for
25 characteristics of recipients and local conditions that predict future
26 Medicaid spending but are not amenable to the care coordination or
27 management activities of an ACO which shall serve as the
28 benchmark payment calculation;

29 (2) compares the benchmark payment calculation to amounts
30 paid by the Medicaid fee-for-service program for all such resident
31 recipients during subsequent periods; and

32 (3) provides that the benchmark payment calculation shall
33 remain fixed for a period of three years following approval of the
34 gainsharing plan.

35 d. The percentage of cost savings identified pursuant to
36 subsection c. of this section to be distributed to the ACO, retained
37 by any voluntarily participating Medicaid managed care
38 organization, and retained by the State, shall be identified in the
39 gainsharing plan and shall remain in effect for a period of three
40 years following approval of the gainsharing plan. **[Such]** The
41 percentages shall be designed to ensure that:

42 (1) the State can achieve meaningful savings and support the
43 ongoing operation of the demonstration project, and

44 (2) the ACO receives a sufficient portion of the shared savings
45 necessary to achieve its mission and expand its scope of activities.

46 e. Notwithstanding the provisions of this section to the
47 contrary, the department shall not approve a gainsharing plan that
48 provides direct or indirect financial incentives for the reduction or
49 limitation of medically necessary and appropriate items or services

1 provided to patients under a health care provider's clinical care in
2 violation of federal law.

3 f. Notwithstanding the provisions of this section to the
4 contrary, a gainsharing plan that provides for shared savings
5 between general hospitals and physicians related to acute care
6 admissions utilizing the methodological component of the
7 Physician-Hospital Collaboration Demonstration awarded by the
8 federal Centers for Medicare [and] & Medicaid Services to the
9 New Jersey Care Integration Consortium, shall not be required to be
10 approved by the department. The department shall not be under any
11 obligation to participate in the Physician-Hospital Collaboration
12 Demonstration.

13 g. The department shall consider using a portion of any savings
14 generated to expand the nursing, primary care, behavioral health
15 care, and dental workforces and services in the area served by the
16 ACO.

17 h. A gainsharing plan submitted to the department for this
18 ACO demonstration project shall contain an assessment of the
19 expected impact of revenues on hospitals that agree to participate.
20 The assessment shall include estimates for changes in both direct
21 patient care reimbursement and indirect revenue, such as
22 disproportionate share payments, graduate medical education
23 payments, and other similar payments. The assessment shall
24 include a review of whether participation in the demonstration
25 project could significantly impact the financial stability of any
26 hospital through rapid reductions in revenue and how this impact
27 will be mitigated. The gainsharing plan shall include a letter of
28 support from all participating hospitals in order to be accepted by
29 the department.

30 (cf: P.L.2011, c.114, s.5)

31

32 364. Section 8 of P.L.2011, c.114 (C.30:4D-8.8) is amended to
33 read as follows:

34 8. a. The department, in consultation with the Department of
35 Health [and Senior Services], shall:

36 (1) design and implement the application process for approval of
37 participating ACOs in the demonstration project;

38 (2) collect data from participants in the demonstration project;
39 and

40 (3) approve a methodology proposed by the Medicaid ACO
41 applicant for calculation of cost savings and for monitoring of
42 health outcomes and quality of care under the demonstration
43 project.

44 b. The department and the Department of Health [and Senior
45 Services] shall be authorized to jointly seek public and private
46 grants to implement and operate the demonstration project.

47 (cf: P.L.2011, c.114, s.8)

1 365. Section 9 of P.L.2011, c.114 (C.30:4D-8.9) is amended to
2 read as follows:

3 9. The department, in consultation with the Department of
4 Health **【and Senior Services】**, shall evaluate the demonstration
5 project annually to assess whether: cost savings, including, but not
6 limited to, savings in administrative costs and savings due to
7 improved health outcomes, are achieved through implementation of
8 the demonstration project.

9 The department, in consultation with the Department of Health
10 **【and Senior Services】**, and with the assistance of the Rutgers
11 Center for State Health Policy, shall evaluate the demonstration
12 project annually to assess whether there is improvement in the rates
13 of health screening, the outcomes and hospitalization rates for
14 persons with chronic illnesses, and the hospitalization and
15 readmission rates for patients residing in the designated areas
16 served by the ACOs. The department and the Department of Health
17 **【and Senior Services】** shall provide the Rutgers Center for State
18 Health Policy with all data necessary to perform the annual
19 evaluation of the demonstration project.

20 (cf: P.L.2011, c.114, s.9)

21

22 366. Section 12 of P.L.2011, c.114 (C.30:4D-8.12) is amended
23 to read as follows:

24 12. a. Under the demonstration project, payment shall continue
25 to be made to providers of services and suppliers participating in
26 the Medicaid ACO for services provided to managed care recipients
27 or individuals who receive services on a fee-for-service basis in the
28 same manner as they would otherwise be made, except that the
29 ACO is eligible to receive gainsharing payments under sections 5
30 and 6 of this act if it meets the requirements set forth therein.

31 b. Nothing in this act shall be construed to authorize the
32 Departments of Human Services or Health **【and Senior Services】** to
33 waive or limit any provisions of federal or State law or
34 reimbursement methodologies governing Medicaid reimbursement
35 to federally qualified health centers, including, but not limited to,
36 Medicaid prospective payment reimbursement and any
37 supplemental payments made to a federally qualified health center
38 providing services to Medicaid managed care recipients.

39 (cf: P.L.2011, c.114, s.12)

40

41 367. Section 14 of P.L.2001, c.114 (C.30:4D-8.14) is amended
42 to read as follows:

43 14. Upon completion of the demonstration project, the
44 Commissioners of Human Services and Health **【and Senior**
45 **Services】** shall report to the Governor, and to the Legislature
46 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), on the
47 demonstration project, and include in the report the findings of the
48 evaluation carried out pursuant to section 9 of this act. The

1 commissioners shall make such recommendations as they deem
2 appropriate.

3 If, after three years following enactment of this act, the
4 commissioners find the demonstration project was successful in
5 reducing costs and improving health outcomes and the quality of
6 care for Medicaid recipients, the commissioners may recommend
7 that Medicaid ACOs be established on a permanent basis and in
8 additional communities in which Medicaid recipients reside.
9 (cf: P.L.2011, c.114, s.14)

10

11 368. Section 15 of P.L.2011, c.114 (C.30:4D-8.15) is amended
12 to read as follows:

13 15. The Commissioner of Human Services, in accordance with
14 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
15 seq.) and with input from the Commissioner of Health [and Senior
16 Services], shall, within 180 days of the effective date of this act,
17 adopt rules and regulations establishing the standards for
18 gainsharing plans submitted by Medicaid ACOs. The
19 Commissioner of Human Services shall also adopt, with input from
20 the Commissioner of Health [and Senior Services,] such rules and
21 regulations governing the ongoing oversight and monitoring of the
22 quality of care delivered to Medicaid recipients in the designated
23 areas served by the Medicaid ACOs, and such other requirements as
24 the Commissioner of Human Services deems necessary to carry out
25 the provisions of this act.
26 (cf: P.L.2011, c.114, s.15)

27

28 369. Section 2 of P.L.1998, c.41 (C.30:4D-17.17a) is amended
29 to read as follows:

30 2. a. There is established the Drug Utilization Review Board in
31 the department to advise the department on the implementation of a
32 drug utilization review program pursuant to P.L.1993, c.16
33 (C.30:4D-17.16 et seq.) and this section. The board shall establish
34 a Senior Drug Utilization Review Committee to address the specific
35 prescribing needs of the elderly and an AIDS/HIV Drug Utilization
36 Review Committee to address the specific prescribing needs of
37 persons with AIDS/HIV, in addition to such other committees as it
38 deems necessary. It shall be the responsibility of each committee to
39 evaluate the specific prescribing needs of its beneficiary population,
40 and to submit recommendations to the board in regard thereto.

41 The board shall consist of 17 members, including the
42 Commissioners of Human Services and Health [and Senior
43 Services] or their designees, who shall serve as nonvoting ex
44 officio members, and 15 public members. The public members
45 shall be appointed by the Governor with the advice and consent of
46 the Senate. The appointments shall be made as follows: six
47 persons licensed and actively engaged in the practice of medicine in
48 this State, including one who is a psychiatrist and at least two who

1 specialize in geriatric medicine and two who specialize in
2 AIDS/HIV care, one of whom who is a pediatric AIDS/HIV
3 specialist, four of whom shall be appointed upon the
4 recommendation of the Medical Society of New Jersey and two
5 upon the recommendation of the New Jersey Association of
6 Osteopathic Physicians and Surgeons; one person licensed as a
7 physician in this State who is actively engaged in academic
8 medicine; four persons licensed in and actively practicing or
9 teaching pharmacy in this State, who shall be appointed from a list
10 of pharmacists recommended by the New Jersey Pharmacists
11 Association, the New Jersey Council of Chain Drug Stores, the
12 Garden State Pharmacy Owners, Inc., the New Jersey Society of
13 Hospital Pharmacists, the Academy of Consultant Pharmacists and
14 the College of Pharmacy of Rutgers, The State University; one
15 additional health care professional; two persons certified as
16 advanced practice nurses in this State, who shall be appointed upon
17 the recommendation of the New Jersey State Nurses Association;
18 and one member to be appointed upon the recommendation of the
19 Pharmaceutical Research and Manufacturers of America.

20 Each member of the board shall have expertise in the clinically
21 appropriate prescribing and dispensing of outpatient drugs.

22 b. All appointments to the board shall be made no later than the
23 60th day after the effective date of this act. The public members
24 shall be appointed for two-year terms and shall serve until a
25 successor is appointed and qualified, and are eligible for
26 reappointment; except that of the public members first appointed,
27 eight shall be appointed for a term of two years and five for a term
28 of one year.

29 c. Vacancies in the membership of the board shall be filled in
30 the same manner as the original appointments were made but for the
31 unexpired term only. Members of the board shall serve with
32 compensation for the time and expenses incurred in the
33 performance of their duties as board members, as determined by the
34 Commissioners of Human Services and Health [and Senior
35 Services], subject to the approval of the Director of the Division of
36 Budget and Accounting in the Department of the Treasury.

37 d The board shall select a chairman from among the public
38 members, who shall serve a one-year term, and a secretary. The
39 chairman may serve consecutive terms. The board shall adopt
40 bylaws. The board shall meet at least quarterly and may meet at
41 other times at the call of the chairman. The board shall in all
42 respects comply with the provisions of the "Open Public Meetings
43 Act," P.L.1975, c.231 (C.10:4-6 et seq.). No motion to take any
44 action by the board shall be valid except upon the affirmative vote
45 of a majority of the authorized membership of the board.

46 e. The duties of the board shall include the development and
47 application of the criteria and standards to be used in retrospective
48 and prospective drug utilization review. The criteria and standards
49 shall be based on the compendia and developed with professional

1 input in a consensus fashion. There shall be provisions for timely
2 reassessments and revisions as necessary and provisions for input
3 by persons acting as patient advocates. The drug utilization review
4 standards shall reflect the local practices of prescribers, in order to
5 monitor:

- 6 (1) therapeutic appropriateness;
- 7 (2) overutilization or underutilization;
- 8 therapeutic duplication;
- 9 (4) drug-disease contraindications;
- 10 (5) drug-drug interactions;
- 11 (6) incorrect drug dosage;
- 12 (7) duration of drug treatment; and
- 13 (8) clinical drug abuse or misuse.

14 The board shall recommend to the department criteria for denials
15 of claims and establish standards for a medical exception process.
16 The board shall also consider relevant information provided by
17 interested parties outside of the board and, if appropriate, shall
18 make revisions to the criteria and standards in a timely manner
19 based upon this information.

20 f. The board, with the approval of the department, shall be
21 responsible for the development, selection, application, and
22 assessment of interventions or remedial strategies for prescribers,
23 pharmacists, and beneficiaries that are educational and not punitive
24 in nature to improve the quality of care, including:

25 (1) Information disseminated to prescribers and pharmacists to
26 ensure that they are aware of the duties and powers of the board;

27 (2) Written, oral, or electronic reminders of patient-specific or
28 drug-specific information that are designed to ensure prescriber,
29 pharmacist, and beneficiary confidentiality, and suggested changes
30 in the prescribing or dispensing practices designed to improve the
31 quality of care;

32 (3) The development of an educational program, using data
33 provided through drug utilization review as a part of active and
34 ongoing educational outreach activities to improve prescribing and
35 dispensing practices as provided in this section. These educational
36 outreach activities shall include accurate, balanced, and timely
37 information about drugs and their effect on a patient. If the board
38 contracts with another entity to provide this program, that entity
39 shall publicly disclose any financial interest or benefit that accrues
40 to it from the products selected or used in this program;

41 (4) Use of face-to-face discussion between experts in drug
42 therapy and the prescriber or pharmacist who has been designated
43 by the board for educational intervention;

44 (5) Intensified reviews or monitoring of selected prescribers or
45 pharmacists;

46 (6) The timely evaluation of interventions to determine whether
47 the interventions have improved the quality of care; and

(7) The review of case profiles prior to the conducting of an intervention.

(cf: P.L. 2003, c.262, s.1)

370. Section 3 of P.L.1993, c.163 (C.30:4D-17.18) is amended to read as follows:

3. The department shall be responsible for:

a. (Deleted by amendment, P.L.1998, c.41).

b. The implementation of a drug utilization review program, subject to the approval of the Commissioner of Health [and Senior Services], to ensure that prescriptions are appropriate, medically necessary, and not likely to result in adverse medical outcomes, including the approval of the provisions of any contractual agreement between the State pharmaceutical benefits program and other entities processing and reviewing drug claims and profiles for the drug utilization review program.

The program shall include both retrospective and prospective drug utilization review. Retrospective drug utilization review shall include an analysis of drug claims processing data in order to identify patterns of fraud, abuse, or gross overuse, and inappropriate or medically unnecessary care, and to assess data on drug use against standards that are based on the compendia and other sources. Prospective drug utilization review shall include a review conducted by the pharmacist at the point of sale.

c. (Deleted by amendment, P.L.1998, c.41).

d. (Deleted by amendment, P.L.1998, c.41).

e. The submission of an annual report, which shall be subject to public comment prior to its issuance, to the federal Department of Health and Human Services by December 1 of each year. The annual report shall also be submitted to the Governor, the Legislature, the New Jersey Pharmaceutical Association and the Medical Society of New Jersey by December 1 of each year. The report shall include the following information:

(1) An overview of the activities of the board and the drug utilization review program;

(2) Interventions used and their ability to improve the quality of care; however, this information shall not disclose the identities of individual prescribers, pharmacists, or beneficiaries, but shall specify whether the intervention was a result of underutilization or overutilization of drugs;

(3) The costs of administering the drug utilization review program;

(4) Any cost impact to other areas of the State pharmaceutical benefits program resulting from the drug utilization review program, such as hospitalization rates or changes in long-term care;

(5) A quantitative assessment of how drug utilization review has improved beneficiaries' quality of care;

(6) A review of the total number of prescriptions and medical exception requests reviewed by drug therapeutic class;

1 (7) An assessment of the impact of the educational program
2 established pursuant to subsection f. of section 2 of P.L.1998, c.41
3 (C.30:4D-17.17a) and interventions on prescribing or dispensing
4 practices, total program costs, quality of care, and other pertinent
5 patient patterns; and

6 (8) Recommendations for improvement of the drug utilization
7 review program.

8 f. The development of a working agreement between the board
9 and other boards or agencies, including, but not limited to: the
10 Board of Pharmacy of the State of New Jersey and the State Board
11 of Medical Examiners, in order to clarify any overlapping areas of
12 responsibility.

13 g. The establishment of an appeal process for prescribers,
14 pharmacists, and beneficiaries pursuant to P.L.1993, c.16 (C.30:4D-
15 17.16 et seq.) and section 2 of P.L.1998, c.41 (C.30:4D-17.17a).

16 h. The publication and dissemination of medically correct and
17 balanced educational information to prescribers and pharmacists to
18 identify and reduce the frequency of patterns of fraud, abuse, gross
19 overuse, or inappropriate or medically unnecessary care among
20 prescribers, pharmacists, and beneficiaries, including:

- 21 (1) potential or actual reactions to drugs;
- 22 (2) therapeutic appropriateness;
- 23 (3) overutilization or underutilization;
- 24 (4) appropriate use of generic drugs;
- 25 (5) therapeutic duplication;
- 26 (6) drug-disease contraindications;
- 27 (7) drug-drug interactions;
- 28 (8) incorrect drug dosage or duration of drug treatment;
- 29 (9) drug allergy interactions; and
- 30 (10) clinical abuse or misuse.

31 i. The development and publication, with the input of the
32 Board of Pharmacy of the State of New Jersey, of the guidelines to
33 be used by pharmacists, including mail order pharmacies, in their
34 counseling of beneficiaries.

35 j. The adoption and implementation of procedures designed to
36 ensure the confidentiality of any information collected, stored,
37 retrieved, assessed, or analyzed by the board, staff to the board, or
38 contractors to the drug utilization review program, that identifies
39 individual prescribers, pharmacists, or beneficiaries. The board
40 may have access to identifying information for purposes of carrying
41 out intervention activities, but the identifying information may not
42 be released to anyone other than a member of the board, except that
43 the board may release cumulative nonidentifying information for
44 purposes of legitimate research. The improper release of
45 identifying information in violation of this act may subject that
46 person to criminal or civil penalties.

47 k. The determination of whether nursing or long-term care
48 facilities under 42 CFR 483.60 are exempt from the provisions of
49 this act.

1 l. The establishment of a medical exception process by
2 regulation.

3 m. The provision of such staff and other resources as the board
4 requires.

5 (cf: P.L.1998, c.41, s.3)

6

7 371. Section 4 of P.L.1998, c.41 (C.30:4D-17.18a) is amended
8 to read as follows:

9 4. The Commissioner of Human Services, pursuant to the
10 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
11 seq.), and subject to the approval of the Commissioner of Health
12 [and Senior Services] as appropriate, shall adopt rules and
13 regulations to effectuate the purposes of P.L.1993, c.16 (C.30:4D-
14 17.16 et seq.) and section 2 of P.L.1998, c.41 (C.30:4D-17.17a);
15 except that, notwithstanding any provision of P.L.1968, c.410
16 (C.52:14B-1 et seq.) to the contrary, the Commissioner of Human
17 Services [, subject to the approval of the Commissioner of Health
18 and Senior Services], may adopt, immediately upon filing with the
19 Office of Administrative Law, such regulations as the commissioner
20 deems necessary to implement the provisions of P.L.1993, c.16
21 (C.30:4D-17.16 et seq.) and section 2 of P.L.1998, c.41 (C.30:4D-
22 17.17a), which shall be effective for a period not to exceed six
23 months and may thereafter be amended, adopted or re-adopted by
24 the Commissioner of Human Services[, subject to the approval of
25 the Commissioner of Health and Senior Services], in accordance
26 with the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).
27 (cf: P.L.1998, c.41, s.4)

28

29 372. Section 2 of P.L.2006, c.23 (C30:4D-17.24) is amended to
30 read as follows:

31 2. The Legislature finds and declares that:

32 a. The current population of adults 60 years of age and older in
33 New Jersey is about 1.4 million, and this number is expected to
34 double in size over the next 25 years;

35 b. A primary objective of public policy governing access to
36 long-term care in this State shall be to promote the independence,
37 dignity and lifestyle choice of older adults and persons with
38 physical disabilities or Alzheimer's disease and related disorders;

39 c. Many states are actively seeking to "rebalance" their long-
40 term care programs and budgets in order to support consumer
41 choice and offer more choices for older adults and persons with
42 disabilities to live in their homes and communities;

43 d. New Jersey has been striving to redirect long-term care away
44 from an over-reliance on institutional care toward more home and
45 community-based options; however, it is still often easier for older
46 adults and persons with disabilities to qualify for Medicaid long-
47 term care coverage if they are admitted to a nursing home than if
48 they seek to obtain services through one of the Medicaid home and

1 community-based long-term care options available in this State,
2 such as the Community Care Program for the Elderly and Disabled,
3 Assisted Living, Adult Family Care, Caregiver Assistance Program,
4 Adult Day Health Services, Traumatic Brain Injury, AIDS
5 Community Care Alternatives Program, Community Resources for
6 People with Disabilities, or Community Resources for People with
7 Disabilities Private Duty Nursing;

8 e. The federal "New Freedom Initiative" was launched in 2001
9 for the purpose of promoting the goal of independent living for
10 persons with disabilities; and Executive Order No. 13217, issued by
11 the President of the United States on June 18, 2001, called upon the
12 federal government to assist states and localities to swiftly
13 implement the 1999 United States Supreme Court decision in
14 *Olmstead v. L.C.* and directed federal agencies to evaluate their
15 policies, programs, statutes, and regulations to determine whether
16 any should be revised or modified to improve the availability of
17 community-based services for qualified persons with disabilities;

18 f. Executive Order No. 100, issued by the Governor on March
19 23, 2004, directed the Commissioner of Health [and Senior
20 Services], in consultation with the State Treasurer, to prepare an
21 analysis and recommendations for developing a global long-term
22 care budgeting process designed to provide the Department of
23 Health [and Senior Services] with the authority and flexibility to
24 move Medicaid recipients into the appropriate level of care based
25 on their individual needs, and to identify specific gaps and
26 requirements necessary to streamline paperwork and expedite the
27 process of obtaining Medicaid eligibility for home care options for
28 those who qualify;

29 g. Executive Order No. 31, issued by the Governor on April 21,
30 2005, established a "money follows the person" pilot program and
31 set aside funding in fiscal year 2006 for home and community-
32 based long-term care;

33 h. Older adults and those with physical disabilities or
34 Alzheimer's disease and related disorders that require a nursing
35 facility level of care should not be forced to choose between going
36 into a nursing home or giving up the medical assistance that pays
37 for their needed services, and thereby be denied the right to choose
38 where they receive those services; their eligibility for home and
39 community-based long-term care services under Medicaid should be
40 based upon the same income and asset standards as those used to
41 determine eligibility for long-term care in an institutional setting;
42 and

43 i. The enactment of [this bill] P.L. 2006, c.23 (C.30:4D-17.23
44 et seq) will ensure that, in the case of Medicaid-funded long-term
45 care services, "the money follows the person" to allow maximum
46 flexibility between nursing homes and home and community-based
47 settings when it does not compromise federal funding or services in
48 the nursing home and, in so doing, significantly expands the choices

1 available to consumers of these services and thereby fulfills the goal
2 of personal independence so highly valued by the growing number
3 of older adults and persons with disabilities in this State.

4 (cf: P.L.2006, c.23, s.2)

5
6 373. Section 3 of P.L.2006, c.23 (C.30:4D-17.25) is amended to
7 read as follows:

8 3. As used in this act:

9 "Commissioner" means the Commissioner of **Health and**
10 **Senior** Human Services.

11 "Funding parity between nursing home care and home and
12 community-based care" means that the distribution of the amounts
13 expended for these two categories of long-term care under the
14 Medicaid program reflects an appropriate balance between the
15 service delivery costs of those persons whose needs and preferences
16 can most appropriately be met in a nursing home and those persons
17 whose needs and preferences can most appropriately be met in a
18 home or community-based setting.

19 "Home and community-based care" means Medicaid home and
20 community-based long-term care options available in this State,
21 including, but not limited to, the Community Care Program for the
22 Elderly and Disabled, Assisted Living, Adult Family Care,
23 Caregiver Assistance Program, Adult Day Health Services,
24 Traumatic Brain Injury, AIDS Community Care Alternatives
25 Program, Community Resources for People with Disabilities, and
26 Community Resources for People with Disabilities Private Duty
27 Nursing.

28 (cf: P.L.2006, c.23, s.3)

29
30 374. Section 4 of P.L.2006, c.23 (C.30:4D-17.26) is amended to
31 read as follows:

32 4. a. (1) Beginning in fiscal year 2008, and in each succeeding
33 fiscal year through fiscal year 2013, the commissioner, in
34 consultation with the State Treasurer **and the Commissioner of**
35 **Human Services** and in accordance with the provisions of this
36 section, shall implement a process that rebalances the overall
37 allocation of funding within the Department of **Health and Senior**
38 Human Services for long-term care services through the expansion
39 of home and community-based services for persons eligible for
40 long-term care as defined by regulation of the commissioner. The
41 expansion of home and community-based services shall be funded,
42 within the existing level of appropriations, by diverting persons in
43 need of long-term care to allow maximum flexibility between
44 nursing home placements and home and community-based services.
45 The State Treasurer, after review and analysis, shall determine the
46 transfer of such funding to home and community-based services
47 provided by the **Departments of Health and Senior Services and**

1 Department of Human Services as is necessary to effectuate the
2 purposes of this act.

3 (2) Beginning in fiscal year 2008, and in each succeeding fiscal
4 year through fiscal year 2013, funds equal to the amount of the
5 reduction in the projected growth of Medicaid expenditures for
6 nursing home care pursuant to paragraph (1) of this subsection, for
7 State dollars only plus the percentage anticipated for programs and
8 persons that will receive federal matching dollars, shall be
9 reallocated to home and community-based care through a global
10 budget and expended solely for such care, until the commissioner
11 determines that total Medicaid expenditures for long-term care have
12 been sufficiently rebalanced to achieve funding parity between
13 nursing home care and home and community-based care. Any
14 funds so reallocated, which are not expended in the fiscal year in
15 which they are reallocated, shall be reserved for expenditures for
16 home and community-based care in a subsequent fiscal year.

17 (3) Subject to federal approval, the home and community-based
18 services to which funds are reallocated pursuant to this act shall
19 include services designated by the commissioner[, in consultation
20 with the Commissioner of Human Services] and the Medicaid
21 Long-Term Care Funding Advisory Council established pursuant to
22 this act.

23 (4) Notwithstanding the provisions of this subsection to the
24 contrary, this act shall not be construed to authorize a reduction in
25 funding for Medicaid-approved services based upon the approved
26 State Medicaid nursing home reimbursement methodology,
27 including existing cost screens used to determine daily rates, annual
28 rebasing and inflationary adjustments.

29 b. The commissioner[, in consultation with the Commissioner
30 of Human Services,] shall adopt modifications to the Medicaid
31 long-term care intake system that promote increased use of home
32 and community-based services. These modifications shall include,
33 but not be limited to, the following:

34 (1) commencing March 1, 2007, on a pilot basis in Atlantic and
35 Warren counties, pursuant to Executive Order No. 31 of 2005:

36 (a) the provision of home and community-based services
37 available under Medicaid, as designated by the commissioner, in
38 consultation with [the Commissioner of Human Services and] the
39 Medicaid Long-Term Care Funding Advisory Council established
40 pursuant to this act, pending completion of a formal Medicaid
41 financial eligibility determination for the recipient of services, for a
42 period that does not exceed a time limit established by the
43 commissioner; except that the cost of any services provided
44 pursuant to this subparagraph to a person who is subsequently
45 determined to be ineligible for Medicaid may be recovered from
46 that person; and

47 (b) the use of mechanisms for making fast-track Medicaid
48 eligibility determinations, a revised clinical assessment instrument,

1 and a computerized tracking system for Medicaid long-term care
2 expenditures; and

3 (2) commencing March 1, 2008, expansion of the services and
4 measures provided for in paragraph (1) of this subsection to all of
5 the remaining counties in the State, subject to the commissioner
6 conducting or otherwise providing for an evaluation of the pilot
7 programs in Atlantic and Warren counties prior to that date and
8 determining from that evaluation that the pilot programs are cost-
9 effective and should be expanded Statewide.

10 (cf: P.L.2006, c.23, s.4)

11

12 375. Section 6 of P.L.2006, c.23 (C.30:4D-17.28) is amended to
13 read as follows:

14 6. The commissioner, in consultation with the Medicaid Long-
15 Term Care Funding Advisory Council established pursuant to this
16 act, shall:

17 a. Implement, by such time as the commissioner certifies to the
18 Governor and the Legislature that funding parity has been achieved
19 pursuant to subsection b. of section 5 of this act, a comprehensive
20 data system to track long-term care expenditures and services and
21 consumer profiles and preferences. The data system shall include,
22 but not be limited to: the number of vacant nursing home beds
23 annually and the number of nursing home residents transferred to
24 home and community-based care pursuant to this act; annual long-
25 term care expenditures for nursing home care and each of the home
26 and community based long-term care options available to Medicaid
27 recipients; and annual percentage changes in both long-term care
28 expenditures for, and the number of Medicaid recipients utilizing,
29 nursing home care and each of the home and community based
30 long-term care options, respectively;

31 b. Commence the following no later than January 1, 2008:

32 (1) implement a system of Statewide long-term care service
33 coordination and management designed to minimize administrative
34 costs, improve access to services, and minimize obstacles to the
35 delivery of long-term care services to people in need;

36 (2) identify home and community based long-term care service
37 models that are determined by the commissioner to be efficient and
38 cost-effective alternatives to nursing home care, and develop clear
39 and concise performance standards for those services for which
40 standards are not already available in a home and community-based
41 services waiver;

42 (3) develop and implement [with the Commissioner of Human
43 Services] a comprehensive consumer assessment instrument that is
44 designed to facilitate an expedited process to authorize the
45 provision of home and community-based care to a person through
46 fast track eligibility prior to completion of a formal financial
47 eligibility determination; and

48 (4) develop and implement a comprehensive quality assurance
49 system with appropriate and regular assessments that is designed to

1 ensure that all forms of long-term care available to consumers in
2 this State are financially viable, cost-effective, and promote and
3 sustain consumer independence; and

4 c. Seek to make information available to the general public on
5 a Statewide basis, through print and electronic media, regarding the
6 various forms of long-term care available in this State and the rights
7 accorded to long-term care consumers by statute and regulation, as
8 well as information about public and nonprofit agencies and
9 organizations that provide informational and advocacy services to
10 assist long-term care consumers and their families.

11 (cf: P.L.2006, c.23, s.6)

12

13 376. Section 7 of P.L.2006, c.23 (C.30:4D-17.29) is amended to
14 read as follows:

15 7. a. There is established the Medicaid Long-Term Care
16 Funding Advisory Council within the Department of **Health and**
17 **Senior** Human Services. The advisory council shall meet at least
18 quarterly during each fiscal year until such time as the
19 commissioner certifies to the Governor and the Legislature that
20 funding parity has been achieved pursuant to subsection b. of
21 section 5 of this act, and shall be entitled to receive such
22 information from the Departments of Health **[and Senior Services]**,
23 Human Services, and the Treasury as the advisory council deems
24 necessary to carry out its responsibilities under this act.

25 b. The advisory council shall:

26 (1) monitor and assess, and advise the commissioner on, the
27 implementation and operation of the Medicaid long-term care
28 expenditure reforms and other provisions of this act; and

29 (2) develop recommendations for a program to recruit and train
30 a stable workforce of home care providers, including
31 recommendations for changes to provider reimbursement under
32 Medicaid home and community-based care programs.

33 c. The advisory council shall comprise **[15]** 14 members as
34 follows:

35 (1) the commissioner**[, the Commissioner of Human Services]**
36 and the State Treasurer, or their designees, as ex officio members;
37 and

38 (2) 12 public members to be appointed by the commissioner as
39 follows: one person appointed upon the recommendation of AARP;
40 one person upon the recommendation of the New Jersey
41 Association of Area Agencies on Aging, one person upon the
42 recommendation of the New Jersey Association of County Offices
43 for the Disabled; one person upon the recommendation of the
44 Health Care Association of New Jersey; one person upon the
45 recommendation of the New Jersey Association of Non-Profit
46 Homes for the Aging; one person upon the recommendation of the
47 New Jersey Hospital Association; one person upon the
48 recommendation of the Rutgers Center for State Health Policy; one

1 person upon the recommendation of the New Jersey Elder Rights
2 Coalition; one person upon the recommendation of the County
3 Welfare Directors Association of New Jersey; one person upon the
4 recommendation of the New Jersey Adult Day Services
5 Association; one person upon the recommendation of a labor union
6 that represents home and community-based health care workers;
7 and one person who is a representative of the home care industry.

8 d. The advisory council shall organize as soon as possible after
9 the appointment of its members, and shall annually select from its
10 membership a chairman who shall serve until his successor is
11 elected and qualifies. The members shall also select a secretary
12 who need not be a member of the advisory council.

13 e. The department shall provide such staff and administrative
14 support to the advisory council as it requires to carry out its
15 responsibilities.

16 (cf: P.L.2006, c.23, s.7)

17
18 377. Section 8 of P.L.2006, c.23 (C.30:4D-17.30) is amended to
19 read as follows:

20 8. The Commissioner of Human Services[, with the approval
21 of the Commissioner of Health and Senior Services,] shall apply to
22 the federal Centers for Medicare [and] & Medicaid Services for
23 any waiver of federal requirements, or for any State plan
24 amendments or home and community-based services waiver
25 amendments, which may be necessary to obtain federal financial
26 participation for State Medicaid expenditures in order to effectuate
27 the purposes of this act.

28 (c.f. P.L.2006, c.23, s.8)

29
30 378. Section 9 of P.L.2006, c.23 (C.30:4D-17.31) is amended to
31 read as follows:

32 9. The commissioner [, in consultation with the Commissioner
33 of Human Services,] shall track Medicaid long-term care
34 expenditures necessary to carry out the provisions of this act.

35 (cf: P.L.2006, c.23, s.9)

36
37 379. Section 2 of P.L.2000, c.28 (C.30:4D-19.3) is amended to
38 read as follows:

39 2. As used in this act:

40 "Bank" means a State or federally chartered bank, savings bank,
41 or savings and loan association located in this State that is
42 authorized to receive public funds and that is selected by the
43 participating governmental entities to carry out the provisions of
44 this act.

45 "Intergovernmental transfer" means the transfer of money to the
46 State account by a participating governmental entity as
47 contemplated by an intergovernmental transfer agreement.

1 "Intergovernmental transfer agreement" means an agreement
2 among the State Treasurer, the Commissioners of Human Services
3 and Health **and Senior Services**, and a participating governmental
4 entity pertaining to participation in and implementation of the
5 intergovernmental transfer program.

6 "Intergovernmental transfer program" or "program" means a
7 program to enhance federal financial participation under the
8 Medicaid program by using intergovernmental transfers.

9 "Medicaid" means the "New Jersey Medical Assistance and
10 Health Services Program" established pursuant to P.L.1968, c.413
11 (C.30:4D-1 et seq.).

12 "Medicaid State plan" means the plan submitted by the State to
13 the federal **Health Care Financing Administration** Centers for
14 Medicare & Medicaid Services in the Department of Health and
15 Human Services, including any amendments thereto.

16 "Participant accounts" means the accounts maintained at the
17 bank by each participating governmental entity for the purpose of
18 effectuating the intergovernmental transfer program.

19 "Participating governmental entity" means any governmental
20 entity that owns a nursing facility enrolled in the Medicaid program
21 and qualifies for a supplemental payment under the Medicaid State
22 plan, and which signs an intergovernmental transfer agreement.

23 "State account" means the account maintained at the bank by the
24 State Treasurer for the purpose of the intergovernmental transfer
25 program.

26 "Supplemental payment" means the Medicaid payment made by
27 the State to a participating governmental entity for a specified fiscal
28 year, as set forth and provided for in an intergovernmental transfer
29 agreement.

30 (cf: P.L.2000, c.28, s.2)

31

32 380. Section 3 of P.L.2000, c.28 (C.30:4D-19.4) is amended to
33 read as follows:

34 3. There is established an intergovernmental transfer program
35 subject to the provisions of this act.

36 a. Notwithstanding the provisions of any other law to the
37 contrary, a governmental entity eligible to receive a supplemental
38 payment is authorized to participate in the intergovernmental
39 transfer program and to take all actions necessary to effectuate
40 completion of the intergovernmental transfer program, including,
41 but not limited to:

42 (1) entering into agreements, including an intergovernmental
43 transfer agreement, with any entity, including the State Treasurer,
44 the Commissioner of Human Services, the Commissioner of Health
45 **and Senior Services**, and other participating governmental
46 entities;

47 (2) cooperating with a bank in the execution of any additional
48 documentation required by the bank to effect the borrowing by any
49 participating governmental entity through the issuance of short-term

1 notes in the manner prescribed for the issuance of tax anticipation
2 notes pursuant to N.J.S.40A:4-64, except that the short-term notes
3 shall not be subject to the provisions of N.J.S.40A:4-66, or in any
4 other manner permitted by law, and to pledge to the bank a security
5 interest in all of its right, title and interest in and to its participant
6 account for repayment of short-term notes;

7 (3) transferring participating governmental entity funds to the
8 State account;

9 (4) executing certifications, letters of instruction or other
10 instruments necessary to effectuate the intergovernmental transfer
11 program; and

12 (5) receiving and utilizing supplemental payments received in
13 accordance with the Medicaid State plan, in the manner set forth
14 under the terms of an intergovernmental transfer agreement and as
15 may be necessary to achieve the purposes of the intergovernmental
16 transfer agreement.

17 b. Notwithstanding any other law to the contrary, the State
18 Treasurer, the Commissioner of Human Services and the
19 Commissioner of Health [and Senior Services], acting on behalf of
20 the State, are authorized to participate in the intergovernmental
21 transfer program and to take all actions and make payments in
22 connection with the completion of the intergovernmental transfer
23 program, including, but not limited to:

24 (1) entering into agreements, including the intergovernmental
25 transfer agreement, with any entity, including participating
26 governmental entities, upon such terms and conditions as the State
27 Treasurer deems necessary or desirable to allow for the entity's
28 participation in the intergovernmental transfer program;

29 (2) cooperating with any bank in the execution of any additional
30 documentation required by the bank to transfer supplemental
31 payments to the participant accounts and otherwise effectuate the
32 intergovernmental transfer program; and

33 (3) executing, approving, and authorizing certifications, letters
34 of instruction, legal opinions, or other instruments as the State
35 Treasurer deems necessary or desirable to effectuate the
36 intergovernmental transfer program.

37 (cf: P.L.2000, c.28, s.3)

38

39 381. Section 4 of P.L.2000, c.28 (C.30:4D-19.5) is amended to
40 read as follows:

41 4. a. There are appropriated to the Department of [Health and
42 Senior] Human Services such sums as are determined necessary by
43 the Director of the Division of Budget and Accounting in the
44 Department of the Treasury to make supplemental payments in
45 accordance with the Medicaid State plan under the
46 intergovernmental transfer program. The sums so appropriated
47 shall be deposited in the State account and used to make
48 supplemental payments to the participant accounts pursuant to this

1 subsection and as set forth in an intergovernmental transfer
2 agreement.

3 b. There are appropriated to the Department of [Health and
4 Senior] Human Services and Department of the Treasury such
5 additional sums as are determined necessary by the Director of the
6 Division of Budget and Accounting in the Department of the
7 Treasury to pay costs incurred by the State in connection with the
8 execution and delivery of any agreements authorized hereunder,
9 including the costs of professional services, attorneys, and any other
10 costs necessary to complete the intergovernmental transfer program.
11 (cf: P.L. 2000, c.28, s.4)

12

13 382. Section 1 of P.L. 2003, c.281 (C.30:4D-21.4) is amended to
14 read as follows:

15 1. a. Notwithstanding the provisions of any other law to the
16 contrary, a recipient of benefits under the "Pharmaceutical
17 Assistance to the Aged and Disabled" program, established pursuant
18 to P.L.1975, c.194 (C.30:4D-20 et seq.), shall notify the Department
19 of [Health and Senior] Human Services if the recipient
20 unintentionally errs in estimating annual income to determine
21 eligibility for the program due to an unanticipated payment which
22 would render the recipient ineligible for the program. Notification
23 to the department shall be made in the time and manner prescribed
24 by the department.

25 b. If the department determines that the payment was
26 unanticipated, the recipient shall reimburse the program for only
27 those benefits that were paid by the program after the recipient
28 received the unanticipated payment.

29 c. If the department determines that the payment was not
30 unanticipated, the recipient shall reimburse the program for all
31 benefits that were paid by the program in the calendar year in which
32 the payment was received.

33 d. Within 30 days of receipt of a determination by the
34 department that the payment was not unanticipated, a recipient may
35 request a hearing, which shall be conducted pursuant to the
36 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
37 seq.).

38 e. Nothing in this section shall preclude a recipient from
39 reapplying for benefits in the calendar year following the year in
40 which the recipient notified the department pursuant to subsection
41 a. of this section.

42 (cf: P.L.2003, c.281, s.1)

43

44 383. Section 1 of P.L.2009, c.272 (C.30:4D-21.5) is amended to
45 read as follows:

46 1. a. If a person who is a recipient of benefits under the
47 "Pharmaceutical Assistance to the Aged and Disabled," or PAAD,
48 program becomes ineligible for PAAD because the person's income
49 exceeds the program's income eligibility limit and the person still

1 remains eligible for the "Senior Gold Prescription Discount
2 Program," the person shall be enrolled automatically in the "Senior
3 Gold Prescription Discount Program."

4 b. If a person who is a recipient of benefits under the "Senior
5 Gold Prescription Discount Program" has a decrease in income that
6 renders the person eligible for PAAD, the person shall
7 automatically be enrolled in PAAD.

8 c. The Department of **【Health and Senior】** Human Services
9 shall establish one application form for use in applying for the
10 PAAD program and the "Senior Gold Prescription Discount
11 Program." The form shall provide for the inclusion of all
12 information necessary to determine eligibility for both programs
13 and advise applicants of the automatic enrollment provisions of
14 subsections a. and b. of this section.

15 (cf: P.L.2009, c.272, s.1)

16
17 384. Section 2 of P.L.2003, c.281 (C.30:4D-38.1) is amended to
18 read as follows:

19 2. a. Notwithstanding the provisions of any other law to the
20 contrary, a recipient of benefits under the "Hearing Aid Assistance
21 for the Aged and Disabled" program, established pursuant to
22 P.L.1987, c.298 (C.30:4D-36 et seq.), shall notify the Department
23 of **【Health and Senior】** Human Services if the recipient
24 unintentionally errs in estimating annual income to determine
25 eligibility for the program due to an unanticipated payment which
26 would render the recipient ineligible for the program. Notification
27 to the department shall be made in the time and manner prescribed
28 by the department.

29 b. If the department determines that the payment was
30 unanticipated, the recipient shall reimburse the program for only
31 those benefits that were paid by the program after the recipient
32 received the unanticipated payment.

33 c. If the department determines that the payment was not
34 unanticipated, the recipient shall reimburse the program for all
35 benefits that were paid by the program in the calendar year in which
36 the payment was received.

37 d. Within 30 days of receipt of a determination by the
38 department that the payment was not unanticipated, a recipient may
39 request a hearing, which shall be conducted pursuant to the
40 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
41 seq.).

42 e. Nothing in this section shall preclude a recipient from
43 reapplying for benefits in the calendar year following the year in
44 which the recipient notified the department pursuant to subsection
45 a. of this section.

46 (cf: P.L.2003, c.281, s.2)

47
48 385. Section 2 of P.L.2001, c.96 (C.30:4D-44) is amended to
49 read as follows:

1 2. As used in this act:

2 "Commissioner" means the Commissioner of **【Health and**
3 **Senior】 Human** Services.

4 "Department" means the Department of **【Health and Senior】**
5 Human Services.

6 "PAAD" means the program of pharmaceutical assistance to the
7 aged and disabled established pursuant to P.L.1975, c.194
8 (C.30:4D-20 et seq.).

9 "Prescription drug" means any legend drug which is covered by
10 PAAD.

11 "Program" means the "Senior Gold Prescription Discount
12 Program" established pursuant to this act.

13 "Reasonable cost" means the cost of a prescription drug as
14 established for PAAD.

15 "Resident" means a resident as defined in section 3 of P.L.1975,
16 c.194 (C.30:4D-22) for purposes of eligibility for PAAD.
17 (cf: P.L.2001, c.96, s.2)

18

19 386. Section 3 of P.L.2001, c.96 (C.30:4D-45) is amended to
20 read as follows:

21 3. a. There is established the "Senior Gold Prescription
22 Discount Program" in the Department of **【Health and Senior】**
23 Human Services.

24 b. A resident of this State shall be eligible for the program if
25 the person is:

26 (1) either 65 years of age or older or a recipient of disability
27 insurance benefits under Title II of the federal Social Security Act
28 (42 U.S.C. s.401 et seq.);

29 (2) receiving an annual income, the amount of which is not
30 more than \$10,000 above the applicable PAAD income eligibility
31 limits for single and married persons, which amount is to be
32 determined on the same basis as income is determined for the
33 purpose of eligibility for PAAD; and

34 (3) not eligible for any other program of State-funded
35 prescription drug benefits.

36 c. The program shall provide a payment to a pharmacy that is
37 participating in the program for the reasonable cost of one or more
38 prescription drugs purchased by an eligible person who presents an
39 identification card issued by the program in an amount that exceeds
40 the copayment paid by the eligible person. The payments to
41 pharmacies shall commence no later than 120 days after the
42 effective date of this act or after enactment, whichever is later.

43 At the time of each purchase of a prescription drug, the eligible
44 person shall pay a copayment that shall not be waived, discounted,
45 or rebated in whole or in part, and shall be equal to:

46 (1) \$15 plus 50% of the remaining amount of the reasonable
47 cost for the prescription drug, or the reasonable cost for the
48 prescription drug, whichever is less; or

1 (2) \$15, or the reasonable cost for the prescription drug,
2 whichever is less, in the case of an eligible person who has incurred
3 out-of-pocket expenditures, including copayments and deductibles,
4 for the purchase of prescription drugs, which are not reimbursable
5 by any other plan of assistance or insurance and are credited to that
6 person's account for each 12-month period of eligibility in
7 accordance with procedures established by the commissioner, in the
8 following amounts: \$2,000 for a single person and \$3,000 for a
9 married couple. These out-of-pocket expense amounts shall include
10 only expenses incurred on or after the date that the person received
11 proof of eligibility for the program from the department.

12 d. If an interchangeable drug product contained in the latest list
13 approved and published by the Drug Utilization Review Council
14 pursuant to section 7 of P.L.1977, c.240 (C.24:6E-6) is available for
15 the prescribed prescription drug, an eligible person shall either:

16 (1) purchase an interchangeable drug product, the cost of which
17 is equal to or less than the maximum allowable cost as determined
18 by the commissioner; or

19 (2) if the prescriber specifically indicates that substitution is not
20 permissible, purchase the prescribed drug product that is higher in
21 cost than the maximum allowable cost as determined by the
22 commissioner and pay the amount of the price above that maximum
23 allowable cost, in addition to the amount of the copayment paid by
24 the eligible person pursuant to subsection c. of this section.

25 e. An eligible person whose prescription drug costs are covered
26 in part by any other program or plan of assistance or insurance may
27 be required to receive reduced assistance under the Senior Gold
28 Prescription Discount Program. If an eligible person's prescription
29 drug costs are covered in whole or in part by any other program or
30 plan of assistance or insurance, the other program or plan shall be
31 the primary payer and the Senior Gold Prescription Discount
32 Program shall be the payer of last resort.

33 f. The commissioner may establish limits on the day supply or
34 maximum quantity of prescription drugs which may be purchased
35 by an eligible person under the program in a manner equivalent to
36 those established for prescription drug purchases under PAAD.

37 g. An eligible person under the program shall, upon the
38 submission of an application and proof of expenditure as the
39 department may prescribe, be reimbursed for 50% of the cost of
40 each prescription drug purchased by that person in an amount that
41 exceeds the required copayment, during the period commencing 30
42 days after the person's properly completed application was received
43 by the department and ending on the date on which the person
44 received proof of eligibility from the department; except that no
45 reimbursement under this act shall be made for a prescription drug
46 purchased prior to the effective date of this act.

47 h. The commissioner shall by regulation provide for:

48 (1) arrangements for providing notice of the availability of the
49 program and the distribution of application forms therefor;

1 (2) a system of payments to pharmacies that includes the same
2 dispensing fee structure that is used for PAAD and a system for
3 determining eligibility for the program, including evidence of
4 complete or partial coverage of prescription drug costs by any other
5 program or plan of assistance or insurance; and

6 (3) the issuance of program identification cards to persons who
7 are determined eligible for the program.

8 (cf: P.L.2001, c.96, s.3)

9

10 387. Section 3 of P.L.2003, c.281 (C.30:4D-45.1) is amended to
11 read as follows:

12 3. a. Notwithstanding the provisions of any other law to the
13 contrary, a recipient of benefits under the "Senior Gold Prescription
14 Discount Program," established pursuant to P.L.2001, c.96
15 (C.30:4D-43 et seq.), shall notify the Department of **Health and**
16 **Senior** Human Services if the recipient unintentionally errs in
17 estimating annual income to determine eligibility for the program
18 due to an unanticipated payment which would render the recipient
19 ineligible for the program. Notification to the department shall be
20 made in the time and manner prescribed by the department.

21 b. If the department determines that the payment was
22 unanticipated, the recipient shall reimburse the program for only
23 those benefits that were paid by the program after the recipient
24 received the unanticipated payment.

25 c. If the department determines that the payment was not
26 unanticipated, the recipient shall reimburse the program for all
27 benefits that were paid by the program in the calendar year in which
28 the payment was received.

29 d. Within 30 days of receipt of a determination by the
30 department that the payment was not unanticipated, a recipient may
31 request a hearing, which shall be conducted pursuant to the
32 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
33 seq.).

34 e. Nothing in this section shall preclude a recipient from
35 reapplying for benefits in the calendar year following the year in
36 which the recipient notified the department pursuant to subsection
37 a. of this section.

38 (cf: P.L.2003, c.281, s.3)

39

40 388. Section 8 of P.L.2001, c.96 (C.30:4D-50) is amended to
41 read as follows:

42 8. The Commissioner of **Health and Senior** Human Services,
43 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
44 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate
45 the purposes of this act.

46 (cf: P.L.2001, c.96, s.8)

47

48 389. Section 9 of P.L.2001, c.96 (C.30:4D-51) is amended to
49 read as follows:

1 9. Notwithstanding the provisions of any law to the contrary,
2 no funds appropriated for the Senior Gold Prescription Discount
3 Program established pursuant to this act shall be expended unless
4 participating pharmaceutical manufacturing companies execute
5 contracts with the Department of [Health and Senior Services
6 through the Department of] Human Services providing for the
7 payment of rebates to the State under terms substantially similar to
8 those of rebate payment contracts under PAAD, provided that the
9 manufacturer's rebates for the Senior Gold Prescription Discount
10 Program shall apply only to the amount paid by the State under the
11 program.

12 (cf: P.L.2001, c.96, s.9)

13

14 390. Section 10 of P.L.2001, c.96 (C.30:4D-52) is amended to
15 read as follows:

16 10. Amounts received as rebates under rebate payment contracts
17 executed pursuant to section 9 of this act are appropriated to the
18 Department of [Health and Senior] Human Services for the support
19 of the Senior Gold Prescription Discount Program.

20 (cf: P.L.2001, c.96, s.10)

21

22 391. Section 2 of P.L.2007, c.58 (C.30:4D-54) is amended to
23 read as follows:

24 2. The Legislature finds and declares that:

25 a. The State of New Jersey expends more than \$9 billion in
26 taxpayer funds to fund the Medicaid program each year;

27 b. The State has a continuing responsibility to ensure that funds
28 expended under the Medicaid program are used appropriately and
29 efficiently to promote the public health;

30 c. Fraud, waste, and abuse by providers and recipients in the
31 Medicaid program reduces the ability of the State to properly fund
32 the program and results in harm to the health of the citizens of this
33 State;

34 d. Controlling fraud, waste, and abuse in the Medicaid program
35 includes preventing, detecting, and investigating such fraud, waste,
36 and abuse, and referring it for civil or criminal action when
37 appropriate;

38 e. The current system for controlling Medicaid fraud, waste,
39 and abuse is based largely on formal and informal agreements
40 among the Department of Human Services, the Medicaid Fraud
41 Control Unit of the Department of Law and Public Safety, the
42 Department of Health [and Senior Services,] and other local, State,
43 and federal agencies whose clients are served by the Medicaid
44 program or who are otherwise responsible for the control of
45 Medicaid fraud, waste, and abuse;

46 f. Centralizing fraud recovery efforts and establishing an
47 independent Office of the Medicaid Inspector General by statute to
48 prevent, detect, and investigate fraud and abuse and coordinate the

1 anti-fraud efforts of all State agencies funded by Medicaid will
2 enhance the efforts of the State to control Medicaid costs;

3 g. The current efforts to control Medicaid fraud, waste, and
4 abuse in New Jersey range from investigating providers before they
5 enroll in the Medicaid program to identifying fraud, waste, and
6 abuse on the part of both providers and recipients;

7 h. Changes in federal and State law, as well as in the health
8 care industry and in available technology, suggest that it is time for
9 a comprehensive review of the Medicaid fraud, waste, and abuse
10 control infrastructure in this State;

11 i. Toward that end, the Governor has appointed the New Jersey
12 Commission on Government Efficiency and Reform to evaluate the
13 budget, structure, and organization of government in New Jersey,
14 including State agencies, instrumentalities and independent
15 authorities, local and county government and school districts, and
16 advise the Governor on governmental restructuring, effectiveness,
17 best practices, efficiencies, cost-saving measures, and how best to
18 achieve economies of scale in the delivery of services and
19 programs, at the lowest possible cost, consistent with mission and
20 quality; and

21 j. While the State examines and prepares to implement such
22 fundamental, long-term structural changes, the immediate
23 coordination of State efforts to control Medicaid fraud, waste, and
24 abuse at all levels of government is essential.

25 (cf: P.L.2007, c.58, s.2)

26

27 392. Section 5 of P.L.2007, c.58 (C.30:4D-57) is amended to
28 read as follows:

29 5. a. The Medicaid Inspector General shall have the following
30 general functions, duties, powers, and responsibilities:

31 (1) To appoint such deputies, directors, assistants, and other
32 officers and employees as may be needed for the office to meet its
33 responsibilities, and to prescribe their duties and fix their
34 compensation in accordance with State law and within the amounts
35 appropriated therefor;

36 (2) To conduct and supervise all State government activities,
37 except those of the Medicaid Fraud Control Unit in the Department
38 of Law and Public Safety, relating to Medicaid integrity, fraud, and
39 abuse;

40 (3) To call upon any department, office, division, or agency of
41 State government to provide such information, resources, or other
42 assistance as the Medicaid Inspector General deems necessary to
43 discharge the duties and functions and to fulfill the responsibilities
44 of the Medicaid Inspector General under this act. Each department,
45 office, division, and agency of this State shall cooperate with the
46 Medicaid Inspector General and furnish the office with the
47 assistance necessary to accomplish the purposes of this act;

48 (4) To coordinate activities to prevent, detect, and investigate
49 Medicaid fraud and abuse among the following: the Departments of

1 Human Services, Health [and Senior Services], Education, and
2 Treasury; the Office of the Attorney General; and the special
3 investigative unit maintained by each health insurer providing a
4 Medicaid managed care plan within the State;

5 (5) To apply for and receive federal grants and monies with all
6 necessary assistance as the Medicaid Inspector General shall require
7 from the department;

8 (6) To enter into any applicable federal pilot programs and
9 demonstration projects and coordinate with the department in order
10 for the department to apply as requested by the Medicaid Inspector
11 General, for necessary federal waivers;

12 (7) To recommend and implement policies relating to Medicaid
13 integrity, fraud, and abuse, and monitor the implementation of any
14 recommendations made by the office to other agencies or entities
15 responsible for the administration of Medicaid;

16 (8) To perform any other functions that are necessary or
17 appropriate in furtherance of the mission of the office; and

18 (9) To direct all public or private Medicaid service providers or
19 recipients to cooperate with the office and provide such information
20 or assistance as shall be reasonably required by the office.

21 b. As it relates to ensuring compliance with applicable
22 Medicaid standards and requirements, identifying and reducing
23 fraud and abuse, and improving the efficiency and effectiveness of
24 Medicaid, the functions, duties, powers, and responsibilities of the
25 Medicaid Inspector General shall include, but not be limited to, the
26 following:

27 (1) To establish, in consultation with the department and the
28 Attorney General, guidelines under which the withholding of
29 payments or exclusion from Medicaid may be imposed on a
30 provider or shall automatically be imposed on a provider;

31 (2) To review the utilization of Medicaid services to ensure that
32 Medicaid funds, regardless of which agency administers the service,
33 are appropriately spent to improve the health of Medicaid
34 recipients;

35 (3) To review and audit contracts, cost reports, claims, bills, and
36 all other expenditures of Medicaid funds to determine compliance
37 with applicable laws, regulations, guidelines, and standards, and
38 enhance program integrity;

39 (4) To consult with the department to optimize the Medicaid
40 management information system in furtherance of the mission of
41 the office. The department shall consult with the Medicaid
42 Inspector General on matters that concern the operation, upgrade
43 and implementation of the Medicaid management information
44 system;

45 (5) To coordinate the implementation of information technology
46 relating to Medicaid integrity, fraud, and abuse; and

47 (6) To conduct educational programs for Medicaid providers,
48 vendors, contractors, and recipients designed to limit Medicaid
49 fraud and abuse.

1 c. As it relates to investigating allegations of Medicaid fraud
2 and abuse and enforcing applicable laws, rules, regulations, and
3 standards, the functions, duties, powers, and responsibilities of the
4 Medicaid Inspector General shall include, but not be limited to, the
5 following:

6 (1) To conduct investigations concerning any acts of misconduct
7 within Medicaid;

8 (2) To refer information and evidence to regulatory agencies and
9 professional and occupational licensing boards;

10 (3) To coordinate the investigations of the office with the
11 Attorney General, the State Inspector General, law enforcement
12 authorities, and any prosecutor of competent jurisdiction, and
13 endeavor to develop these investigations in a manner that expedites
14 and facilitates criminal prosecutions and the recovery of improperly
15 expended Medicaid funds, including:

16 (a) keeping detailed records for cases processed by the State
17 Inspector General and the Attorney General and county prosecutors.
18 The records shall include: information on the total number of cases
19 processed and, for each case, the agency and division to which the
20 case is referred for investigation; the date on which the case is
21 referred; and the nature of the suspected fraud, waste, or abuse; and

22 (b) receiving notice from the Attorney General of each case that
23 the Attorney General declines to prosecute or prosecutes
24 unsuccessfully;

25 (4) To make information and evidence relating to suspected
26 criminal acts which the Medicaid Inspector General may obtain in
27 carrying out his duties available to the Medicaid Fraud Control Unit
28 pursuant to the requirements of federal law, as well as to other law
29 enforcement officials when appropriate, and consult with the
30 Attorney General and county prosecutors in order to coordinate
31 criminal investigations and prosecutions;

32 (5) To refer complaints alleging criminal conduct to the
33 Attorney General or other appropriate prosecutorial authority. If
34 the Attorney General or other appropriate prosecutorial authority
35 decides not to investigate or prosecute the matter, the Attorney
36 General or other appropriate prosecutorial authority shall promptly
37 notify the Medicaid Inspector General. The Attorney General or the
38 prosecutorial authority shall inform the Medicaid Inspector General
39 as to whether an investigation is ongoing with regard to any matter
40 so referred. The Medicaid Inspector General shall preserve the
41 confidentiality of the existence of any ongoing criminal
42 investigation.

43 (a) If the Attorney General or the prosecutorial authority
44 decides not to investigate or act upon the matter referred, the
45 Inspector General is authorized to continue an investigation after
46 the receipt of such a notice.

47 (b) Upon the completion of an investigation or, in a case in
48 which the investigation leads to prosecution, upon completion of
49 the prosecution, the Attorney General or the prosecutorial authority

1 shall report promptly the findings and results to the Medicaid
2 Inspector General. In the course of informing the Medicaid
3 Inspector General, the Attorney General or prosecutorial authority
4 shall give full consideration to the authority, duties, functions, and
5 responsibilities of the Medicaid Inspector General, the public
6 interest in disclosure, and the need for protecting the confidentiality
7 of complainants and informants.

8 (c) The Medicaid Inspector General shall maintain a record of
9 all matters referred and the responses received and shall be
10 authorized to disclose information received as appropriate and as
11 may be necessary to resolve the matter referred, to the extent
12 consistent with the public interest in disclosure and the need for
13 protecting the confidentiality of complainants and informants and
14 preserving the confidentiality of ongoing criminal investigations.

15 (d) Notwithstanding any referral made pursuant to this
16 subsection, the Medicaid Inspector General may pursue any
17 administrative or civil remedy under the law;

18 (6) In furtherance of an investigation, to compel at a specific
19 time and place, by subpoena, the appearance and sworn testimony
20 of any person whom the Medicaid Inspector General reasonably
21 believes may be able to give information relating to a matter under
22 investigation;

23 (a) For this purpose, the Medicaid Inspector General is
24 empowered to administer oaths and examine witnesses under oath,
25 and compel any person to produce at a specific time and place, by
26 subpoena, any documents, books, records, papers, objects, or other
27 evidence that the Medicaid Inspector General reasonably believes
28 may relate to a matter under investigation.

29 (b) If any person to whom a subpoena is issued fails to appear
30 or, having appeared, refuses to give testimony, or fails to produce
31 the books, papers, or other documents required, the Medicaid
32 Inspector General may apply to the Superior Court and the court
33 may order the person to appear and give testimony or produce the
34 books, papers, or other documents, as applicable. Any person
35 failing to obey that order may be punished by the court as for
36 contempt;

37 (7) Subject to applicable State and federal law, to have full and
38 unrestricted access to all records, reports, audits, reviews,
39 documents, papers, data, recommendations, or other material
40 available to State and local departments of health and human
41 services, other State and local government agencies, and Medicaid
42 service providers relating to programs and operations with respect
43 to which the office has responsibilities under this act;

44 (8) To solicit, receive, and investigate complaints related to
45 Medicaid integrity, fraud, and abuse;

46 (9) To prepare cases, provide expert testimony, and support
47 administrative hearings and other legal proceedings; and

48 (10) Upon reasonable belief of the commission of a fraudulent
49 or abusive act, to conduct on-site facility inspections.

1 d. As it relates to recovering improperly expended Medicaid
2 funds, imposing administrative sanctions, damages or penalties,
3 negotiating settlements, and developing an effective third-party
4 liability program to assure that all private or other governmental
5 medical resources have been exhausted before a claim is paid by
6 Medicaid or that reimbursement is sought when there is discovered
7 a liable third party after payment of a claim, the functions, duties,
8 powers, and responsibilities of the Medicaid Inspector General shall
9 include, but not be limited to, the following:

10 (1) On behalf of the department, to collect all overpayments for
11 reimbursable services that are self-disclosed by providers pursuant
12 to current law;

13 (2) To pursue civil and administrative enforcement actions
14 against those who engage in fraud, abuse, or illegal acts perpetrated
15 within Medicaid, including providers, contractors, agents,
16 recipients, individuals, or other entities involved directly or
17 indirectly with the provision of Medicaid care, services, and
18 supplies. These civil and administrative enforcement actions shall
19 include the imposition of administrative sanctions, penalties,
20 suspension of fraudulent, abusive, or illegal payments, and actions
21 for civil recovery and seizure of property or other assets connected
22 with such payments;

23 (3) To initiate civil suits consistent with the provisions of this
24 act, maintain actions for civil recovery on behalf of the State, and
25 enter into civil settlements;

26 (4) To withhold payments to any provider for Medicaid services
27 if the provider unreasonably fails to produce complete and accurate
28 records related to an investigation that is initiated by the office with
29 reasonable cause;

30 (5) To ensure that Medicaid is the payor of last resort, and to
31 provide for the coordination of benefits with each health insurer
32 operating in the State and the recoupment of any duplicate
33 reimbursement paid by the State. Every such health insurer shall be
34 required to provide such information and reports as may be deemed
35 necessary by the Medicaid Inspector General for the coordination of
36 benefits and shall maintain files in a manner and format approved
37 by the department; and

38 (6) To monitor and pursue the recoupment of Medicaid
39 overpayments, damages, penalties, and sanctions.

40 (cf: P.L.2007, c.58, s.5)

41
42 393. Section 7 of P.L.2007, c.58 (C.30:4D-59) is amended to
43 read as follows:

44 7. a. The Medicaid audit, program integrity, fraud, and abuse
45 prevention and recovery functions, all officers and employees that
46 the Medicaid Inspector General deems qualified and substantially
47 engaged therein, and any documents and records that the Medicaid
48 Inspector General deems necessary and related to the transfer of
49 such functions and personnel, shall be transferred to the Office of

1 the Medicaid Inspector General from the Medicaid Office of
2 Program Integrity Unit and the Third Party Liability Unit in the
3 Division of Medical Assistance and Health Services, the Division of
4 Aging Services, the Division of Disability Services, the Division of
5 Developmental Disabilities, the Division of Mental Health and
6 Addiction Services, the Division of Youth and Family Services, the
7 Division of Child Behavioral Health Services, the Department of
8 Health [and Senior Services] and the Department of the Treasury.
9 The Medicaid Inspector General shall consult with the head of each
10 department or agency from which such function is to be transferred
11 to determine the officers and employees to be transferred.

12 b. The Medicaid Inspector General shall have general
13 managerial control over the office and shall establish the
14 organizational structure of the office as the Medicaid Inspector
15 General deems appropriate to carry out the responsibilities and
16 functions of the office. Within the limits of funds appropriated
17 therefor, the Medicaid Inspector General may hire such employees
18 in the unclassified service as are necessary to administer the office.
19 These employees shall serve at the pleasure of the Medicaid
20 Inspector General. Subject to the availability of appropriations, the
21 Medicaid Inspector General may obtain the services of certified
22 public accountants, qualified management consultants, professional
23 auditors, or other professionals necessary to independently perform
24 the functions of the office.

25 (cf: P.L.2007, c.58, s.7)

26

27 394. Section 10 of P.L.1985, c.307 (C.30:4G-10) is amended to
28 read as follows:

29 10. a. There is established in the department an Advisory
30 Council on Personal Attendant Services which consists of 19
31 members as follows: the [Commissioner of Health and Senior
32 Services, the] Director of the Division of Youth and Family
33 Services in the Department of Children and Families, the Director
34 of the Division of Aging Services, the Director of the Division of
35 Developmental Disabilities, and the Director of the Division of
36 Medical Assistance and Health Services in the Department of
37 Human Services, the Director of the Division of Veterans' Services
38 in the Department of Military and Veterans' Affairs, and the
39 Director of the Division of Vocational Rehabilitation Services in
40 the Department of Labor and Workforce Development, or their
41 designees, who shall serve ex officio, and 13 members appointed by
42 the commissioner who are residents of this State, one of whom is a
43 member of the New Jersey Association of County Representatives
44 of Disabled Persons, four of whom represent providers of personal
45 attendant services, five of whom represent consumers of personal
46 attendant services and three of whom represent advocacy groups or
47 agencies for the physically disabled.

48 A vacancy in the membership of the council shall be filled in the
49 same manner as the original appointment.

1 The members of the council shall serve without compensation,
2 but the department shall reimburse the members for the reasonable
3 expenses incurred in the performance of their duties.

4 b. The council shall hold an organizational meeting within 30
5 days after the appointment of its members. The members of the
6 council shall elect from among them a **【chairman】** chairperson,
7 who shall be the chief executive officer of the council and the
8 members shall elect a secretary, who need not be a member of the
9 council.

10 c. The council shall:

11 (1) Advise the commissioner on matters pertaining to personal
12 attendant services and the development of the personal attendant
13 program, upon the request of the commissioner;

14 (2) Review the rules and regulations promulgated for the
15 implementation of the personal attendant program and make
16 recommendations to the commissioner, as appropriate;

17 (3) Evaluate the effectiveness of the personal attendant program
18 in achieving the purposes of this act; and

19 (4) Assess the Statewide need for personal attendant services
20 and the projected cost for providing these services Statewide.

21 (cf: P.L. 2006, c.47, s.160)

22

23 395. Section 1 of P.L.2006, c.87 (C.30:4J-17) is amended to
24 read as follows:

25 1. The Commissioner of Human Services, in consultation with
26 the Commissioners of Health **【and Senior Services】**, Labor and
27 Workforce Development, and Banking and Insurance, as
28 appropriate, shall prepare, to the extent data are available, an annual
29 report on Access to Employer-Based Health Insurance, as provided
30 in this act.

31 a. The report shall include the following information about
32 each employer in the State with an aggregate of 50 or more NJ
33 FamilyCare enrollees or Medicaid recipients:

34 (1) the employer's name and address, unless the employer has
35 more than one work site, in which case the employer's name and the
36 number of work sites and the counties in which the work sites are
37 located;

38 (2) the number of NJ FamilyCare enrollees and Medicaid
39 recipients who are employed by the employer;

40 (3) the number of NJ FamilyCare enrollees and Medicaid
41 recipients who are spouses or dependents of employees of the
42 employer;

43 (4) whether the employer offers health insurance coverage to its
44 employees; and

45 (5) the cost to the State of providing NJ FamilyCare and
46 Medicaid coverage for the employer's employees and their
47 dependents.

48 The commissioner may include comparable information about
49 recipients of other public health care coverage programs, and such

1 other information as [he] the commissioner deems appropriate
2 regarding employer-based coverage for persons covered under
3 public insurance programs.

4 The commissioner shall also include the information compiled
5 by the Commissioner of Health [and Senior Services] concerning
6 recipients of charity care pursuant to section 2 of P.L.2006, c.87
7 (C.26:2H-18.55a). With respect to the information provided by the
8 Commissioner of Health [and Senior Services], the commissioner,
9 in consultation with the Commissioners of Labor and Workforce
10 Development and Banking and Insurance, shall ascertain whether
11 the employer of a recipient of charity care offers health insurance
12 coverage to its employees. The commissioner shall include that
13 information about employers in the report.

14 In addition, the commissioner may make any recommendations
15 [he] the commissioner deems appropriate for legislative action.

16 b. The report shall not include the name of any NJ FamilyCare
17 enrollee or Medicaid recipient or any family member of an enrollee
18 or recipient.

19 c. The commissioner shall submit the report by September 1 of
20 each year to the Governor and the chairmen of the Senate and
21 Assembly standing reference committees on human services, health,
22 and appropriations.

23 (cf: P.L.2006, c.87, s.1)
24

25 396. Section 27 of P.L.2008, c.38 (C.30:4J-19) is amended to
26 read as follows:

27 27. The Commissioner of Human Services shall establish an
28 Outreach, Enrollment, and Retention Working Group to develop a
29 plan to carry out ongoing and sustainable measures to strengthen
30 outreach to low and moderate income families who may be eligible
31 for Medicaid, NJ FamilyCare, or NJ FamilyCare Advantage, to
32 maximize enrollment in these programs, and to ensure retention of
33 enrollees in these programs.

34 a. The members of the working group shall include:

35 (1) The Commissioners of Human Services, Health [and Senior
36 Services], Banking and Insurance, Labor and Workforce
37 Development, Education, and Community Affairs, and the
38 Secretary of Agriculture [, and the Child Advocate], or their
39 designees, who shall serve ex officio; and

40 (2) Six public members appointed by the Commissioner of
41 Human Services who shall include: one person who represents
42 racial and ethnic minorities in this State; one person who represents
43 managed care organizations that participate in the Medicaid and NJ
44 FamilyCare programs; one person who represents the vendor under
45 contract with the Division of Medical Assistance and Health
46 Services to provide NJ FamilyCare eligibility, enrollment, and
47 health benefit coordinator services to the division; one person who
48 represents New Jersey Policy Perspective; one person who

1 represents the **【Association】** Advocates for Children of New Jersey;
2 and one person who represents Legal Services of New Jersey.

3 b. As part of the plan, the working group shall:

4 (1) determine if there are obstacles to enrollment of minorities
5 in the State in the Medicaid, NJ FamilyCare, and NJ FamilyCare
6 Advantage programs due to ethnic and cultural differences and, if
7 so, develop strategies for the Department of Human Services to
8 overcome these obstacles and increase enrollment among
9 minorities;

10 (2) recommend outreach strategies to identify and enroll all
11 eligible children in the Medicaid, NJ FamilyCare, and NJ
12 FamilyCare Advantage programs and to retain enrollment of
13 children and their parents in the programs;

14 (3) establish monthly enrollment goals for the number of
15 children who need to be enrolled in Medicaid, NJ FamilyCare, and
16 NJ FamilyCare Advantage in order to ensure that as many children
17 as possible who are eligible for these programs are enrolled within a
18 reasonable period of time, in accordance with the mandate
19 established pursuant to section 2 of P.L.2008, c.38 (C.26:15-2); and

20 (4) make such other recommendations to the Commissioner of
21 Human Services as the working group determines necessary and
22 appropriate to achieve the purposes of this section.

23 c. The working group shall organize as soon as practicable
24 following the appointment of its members and shall select a
25 chairperson and vice-chairperson from among the members. The
26 chairperson shall appoint a secretary who need not be a member of
27 the working group.

28 (1) The public members shall serve without compensation, but
29 shall be reimbursed for necessary expenses incurred in the
30 performance of their duties and within the limits of funds available
31 to the working group.

32 (2) The working group shall be entitled to call to its assistance
33 and avail itself of the services of the employees of any State,
34 county, or municipal department, board, bureau, commission, or
35 agency as it may require and as may be available to it for its
36 purposes.

37 d. Upon completion of the plan, the working group shall report
38 on its activities to the **【chairmen】** chairperson of the Senate and
39 Assembly standing reference committees on health and human
40 services, and include a copy of the plan and any recommendations
41 for legislative action it deems appropriate.

42 e. The Commissioner of Human Services shall post the plan on
43 the department's Internet website and include a table showing the
44 monthly enrollment goals established in the plan and the actual new
45 and continued enrollments for that month. The commissioner shall
46 update the table monthly.

47 f. The Department of Human Services shall provide staff
48 support to the working group.

49 (cf: P.L.2008, c.38, s.27)

1 397. (New section) a. There is established the Division of
2 Aging Services in the Department of Human Services.

3 b. The functions, powers, and duties of the Department of
4 Health and Senior Services, redesignated as the Department of
5 Health pursuant to section 93 of P.L. , c. (C.) (pending before
6 the Legislature as this bill), to the extent that they relate to the
7 provision of programs or services for senior citizens, including the
8 New Jersey State Commission on Aging established pursuant to
9 section 1 of P.L.1957, c.72 (C.26:1A-107), the Division on Aging
10 and Community Services, and any other division relating to senior
11 benefits, are transferred to the Division of Aging Services, subject
12 to the provisions of P.L. , c. (C.) (pending before the
13 Legislature as this bill) and in accordance with the "State Agency
14 Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.).

15 c. All appropriations and other monies available, and to
16 become available, that relate to the provision of programs or
17 services for senior citizens are continued in the Division of Aging
18 Services and shall be available for the objects and purposes for
19 which these monies are appropriated, subject to the provisions of
20 P.L. , c. (C.) (pending before the Legislature as this bill) and
21 any other terms, restrictions, limitations, or other requirements
22 imposed by law.

23 d. The administrator and head of the office shall be a director
24 who shall be known as the Director of the Division of Aging
25 Services. The director shall be a person qualified by training and
26 experience to perform the duties of the office and shall devote his
27 entire time to the performance of those duties. The director shall be
28 appointed by the commissioner.

29 e. The commissioner shall appoint and remove officers and
30 employees of the division subject to the provisions of Title 11A of
31 the New Jersey Statutes and other applicable statutes as are
32 necessary to enable the division to perform its duties pursuant to
33 this act and shall fix their compensation within the limits of
34 available appropriations and as is provided by law.

35 f. Whenever, in any law, rule, regulation, order, contract,
36 document, judicial or administrative proceeding or otherwise,
37 reference is made to the Division on Aging in either the Department
38 of State, the Department of Community Affairs, or the Department
39 of Health or Senior Services, the same shall mean and refer to the
40 Division of Aging Services in the Department of Human Services.

41

42 398. Section 1 of P.L.1997, c.364 (C.34:5A-10.1) is amended to
43 read as follows:

44 1. As used in this act:

45 "Child care center" means a child care center licensed pursuant
46 to the provisions of P.L.1983, c.492 (C.30:5B-1 et seq.);

47 "Hazardous substance" means any substance, or substance in a
48 mixture, included on the hazardous substance list developed by the
49 Department of Health [and Senior Services] pursuant to the

1 "Worker and Community Right to Know Act," P.L.1983, c.315
2 (C.34:5A-1 et seq.).

3 "Hazardous substance" shall not include:

4 (1) Any article containing a hazardous substance if the
5 hazardous substance is present in a solid form which does not pose
6 any acute or chronic health hazard to any person exposed to it;

7 (2) Any hazardous substance constituting less than one percent
8 of a mixture unless the hazardous substance is present in an
9 aggregate amount of 500 pounds or more in a container in a public
10 or private school or child care center building;

11 (3) Any hazardous substance which is a special health hazardous
12 substance constituting less than the threshold percentage established
13 by the Department of Health [and Senior Services] pursuant to
14 P.L.1983, c.315 (C.34:5A-1 et seq.), for that special health
15 hazardous substance when present in a mixture;

16 (4) Any hazardous substance present in the same form and
17 concentration as a product packaged for distribution and use by
18 consumers and which is not a product intended primarily for
19 commercial use;

20 (5) Any fuel in a motor vehicle;

21 (6) Tobacco or tobacco products;

22 (7) Wood or wood products;

23 (8) Foods, drugs, or cosmetics;

24 (9) Hazardous substances which are an integral part of a
25 building's structure or furnishings;

26 (10) Products which are personal property and are intended for
27 personal use; and

28 (11) Any substance used in the routine maintenance of a public
29 or private school or child care center building or its grounds, any
30 substance used in a classroom science laboratory, any substance
31 used in a school occupational training facility, including
32 laboratories and shops, and any substance used in the normal
33 operation of the classrooms or administrative offices of a public or
34 private school or child care center, including any substance used in
35 the heating or cooling of the school or child care center;

36 "Hazardous substance fact sheet" means the hazardous substance
37 fact sheets prepared by the Department of Health [and Senior
38 Services] pursuant to the "Worker and Community Right to Know
39 Act," P.L.1983, c.315 (C.34:5A-1 et seq.);

40 "Public school or private school" have the same meaning as set
41 forth in N.J.S.18A:1-1.

42 (cf: P.L.1997, c.364, s.1)

43

44 399. Section 2 of P.L.1997, c.364 (C.34:5A-10.2) is amended to
45 read as follows:

46 2. a. No person shall use or allow the use of any hazardous
47 substance in or on any building or grounds used as a public school,
48 a private school, or child care center at any time when children are
49 expected to be present in the building. The provisions of this

1 subsection shall not apply when an emergency condition, as deemed
2 by the Board of Education or the chief school administrator in the
3 case of any public school, or the person having responsibility for
4 the operation of any private school or child care center, necessitates
5 the use of a hazardous substance when children are present.

6 b. Any person who uses or stores, or causes or allows the use
7 or storage of any hazardous substance in or on any building or
8 grounds used as a public school, a private school, or child care
9 center shall ensure that the use or storage of that hazardous
10 substance is in compliance with the regulations adopted by the
11 Department of Health **[and Senior Services]** pursuant to section 5
12 of P.L.1997, c.364 (C.34:5A-10.5).

13 (cf: P.L.1997, c.364, s.2)

14
15 400. Section 5 of P.L.1997, c.364 (C.34:5A-10.5) is amended to
16 read as follows:

17 5. The Department of Health **[and Senior Services]**, in
18 consultation with the Departments of Education, Human Services,
19 Children and Families and Environmental Protection, and within
20 180 days of the enactment of P.L.1997, c.364 (C.34:5A-10.1 et
21 seq.), shall adopt, pursuant to the "Administrative Procedure Act,"
22 P.L.1968, c.410 (C.52:14B-1 et seq.), regulations necessary to
23 implement the provisions of this act which are consistent with
24 federal and State indoor air quality standards and standards
25 governing the exposure of children to hazardous substances as they
26 are adopted by the federal government.

27 (cf: P.L.2006, c.47, s.183)

28
29 401. Section 14 of P.L.1983, c.315 (C.34:5A-14) is amended to
30 read as follows:

31 14. a. Every employer shall have until October 30, 1985 to take
32 any action necessary to assure that every container at the employer's
33 facility containing a hazardous substance shall bear a label
34 indicating the chemical name and Chemical Abstracts Service
35 number of the hazardous substance or the trade secret registry
36 number assigned to the hazardous substance. The labels on all
37 containers except pipelines and underground storage tanks shall be
38 designed and affixed in such a manner to ensure that if there is a
39 flood or other natural disaster when the container is transported or
40 stored, the label shall remain in place and visible. Employers may
41 label containers in a research and development laboratory by means
42 of a code or number system, if the code or number system will
43 enable an employee to readily make a cross-reference to a
44 hazardous substance fact sheet which will provide the employee
45 with the chemical name and Chemical Abstracts Service number of
46 the hazardous substance contained in the container, or the trade
47 secret registry number assigned to the hazardous substance. The
48 code or number system shall be designed to allow the employee free
49 and ready access at all times to the chemical name and Chemical

1 Abstracts Service number of the hazardous substance in the
2 container, shall be designed to allow the employee access to this
3 information without the permission or assistance of management,
4 and shall be available to the employee at close proximity to the
5 employee's specific job location or locations. Employers shall be
6 required to label pipelines only at the valve or valves located at the
7 point at which a hazardous substance enters a facility's pipeline
8 system, and at normally operated valves, outlets, vents, drains, and
9 sample connections designed to allow the release of a hazardous
10 substance from the pipeline.

11 b. Within two years of the effective date of this act, every
12 employer shall take any action necessary to assure that every
13 container at the employer's facility bears a label indicating the
14 chemical name and Chemical Abstracts Service number of the
15 substance in the container, except as provided in subsection d. of
16 this section, or the trade secret registry number assigned to the
17 substance. Employers may label containers in a research and
18 development laboratory by means of a code or number system, if
19 the code or number system will enable an employee to readily make
20 a cross-reference to documentary material retained on file by the
21 employer at the facility which will provide the employee with the
22 chemical name and Chemical Abstracts Service number of the
23 substance contained in the container, except as provided in
24 subsection d. of this section, or the trade secret registry number
25 assigned to the substance. The code or number system shall be
26 designed to allow the employee free and ready access at all times to
27 the chemical name and Chemical Abstracts Service number of the
28 substance in the container, shall be designed to allow the employee
29 access to this information without the permission or assistance of
30 management, and shall be available to the employee at close
31 proximity to the employee's specific job location or locations. If a
32 container contains a mixture, an employer shall be required to
33 insure that the label identify the chemical names and Chemical
34 Abstracts Service numbers, except as provided in subsection d. of
35 this section, or the trade secret registry numbers, of the five most
36 predominant substances contained in the mixture. The provisions of
37 this subsection shall not apply to any substance constituting less
38 than 1% of a mixture unless the substance is present at the facility
39 in an aggregate amount of 500 pounds or more. Employers shall be
40 required to label pipelines only at the valve or valves located at the
41 point at which a substance enters a facility's pipeline system, and at
42 normally operated valves, outlets, vents, drains, and sample
43 connections designed to allow the release of a substance from the
44 pipeline. One year after the effective date of this act the
45 Department of Health [and Senior Services] shall establish criteria
46 for containers which, because of the finished and durable
47 characteristics of their contents, shall be exempt from the provisions
48 of this subsection. These standards shall be consistent with the
49 intent of this subsection to provide for the labeling of every

1 container which may contain a substance which is potentially
2 hazardous.

3 c. The labeling requirements of subsections a. and b. of this
4 section shall not apply to containers labeled pursuant to the
5 "Federal Insecticide, Fungicide, and Rodenticide Act," 61 Stat. 163
6 (7 U.S.C. s.121 et al.), except that the label for any such container
7 except pipelines and underground storage tanks shall be designed
8 and affixed in such a manner to ensure that if there is a flood or
9 other natural disaster when the container is transported or stored,
10 the label shall remain in place and visible. The Department of
11 Health [and Senior Services] may, by rule and regulation, certify
12 containers labeled pursuant to any other federal act as labeled in
13 compliance with the provisions of this section.

14 d. One year after the effective date of this act the Department
15 of Health [and Senior Services] shall adopt, pursuant to the
16 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
17 seq.), a list of substances the containers of which may be labeled
18 with the common names and Chemical Abstracts Service numbers
19 of their contents. The department shall include on the list adopted
20 pursuant to this subsection only substances which are widely
21 recognized by their common names. An employer shall provide the
22 chemical name of a substance in a container labeled pursuant to this
23 subsection within five working days of the request therefor.

24 (cf: P.L.2007, c.190, s.1)

25

26 402. Section 21 of P.L.1983, c.315 (C.34:5A-21) is amended to
27 read as follows:

28 21. The Department of Health [and Senior Services], the
29 Department of Environmental Protection, and the Department of
30 Labor and Workforce Development shall jointly establish a
31 procedure for annually receiving information from the public and
32 any other interested party, concerning any revision of the workplace
33 hazardous substance list and any revision of the environmental
34 hazardous substance list. This procedure shall include a mechanism
35 for revising the workplace hazardous substance list and the
36 environmental hazardous substance list. Any revision of the
37 workplace hazardous substance list or environmental hazardous
38 substance list shall be based on documented scientific evidence.
39 The Department of Health [and Senior Services] and the
40 Department of Environmental Protection shall publicly announce
41 any revisions of the workplace hazardous substance list or the
42 environmental hazardous substance list, and any such additions or
43 revisions shall be made pursuant to the provisions of the
44 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
45 seq.).

46 (cf: P.L.2010, c.87, s.19)

1 403. Section 26 of P.L.1983, c.315 (C.34:5A-26) is amended to
2 read as follows:

3 26. a. There is established in the Department of the Treasury a
4 nonlapsing, revolving fund to be known as the "Worker and
5 Community Right To Know Fund." The "Worker and Community
6 Right To Know Fund" shall be credited with all fees collected
7 pursuant to paragraph (1) of subsection b. of this section and
8 interest on moneys in the "Worker and Community Right To Know
9 Fund" shall be credited to the "Worker and Community Right To
10 Know Fund" and all moneys in the "Worker and Community Right
11 To Know Fund" are appropriated for the purposes of the "Worker
12 and Community Right To Know Fund", and no moneys shall be
13 expended for those purposes without the specific appropriation
14 thereof by the Legislature. The State Treasurer shall be the
15 administrator of the "Worker and Community Right To Know
16 Fund", and all disbursements from the "Worker and Community
17 Right To Know Fund" shall be made by the State Treasurer upon
18 the warrant of the Director of the Division of Budget and
19 Accounting.

20 b. (1) The Department of Labor and Workforce Development
21 shall annually assess each employer a fee of not less than \$75.00
22 nor more than an amount equal to \$4.00 per employee to provide
23 for the implementation of the provisions of this act. All fees
24 collected by the department pursuant to this paragraph shall be
25 deposited in the "Worker and Community Right To Know Fund".

26 (2) The Department of Labor and Workforce Development shall
27 annually assess each employer a fee of \$2.00 per employee for the
28 implementation of P.L.1991, c.235 (C.13:1D-35 et seq.). All fees
29 collected by the department pursuant to this paragraph shall be
30 deposited in the "Pollution Prevention Fund" established pursuant
31 to section 16 of P.L.1991, c.235 (C.13:1D-50), and shall be used
32 only for the implementation of P.L.1991, c.235 (C.13:1D-35 et
33 seq.).

34 c. The moneys in the "Worker and Community Right To Know
35 Fund" shall be disbursed only for the following purposes:

36 (1) Expenses approved by the Director of the Division of
37 Budget and Accounting and incurred by the Department of Health
38 **[and Senior Services]**, the Department of Environmental
39 Protection, the Department of Labor and Workforce Development,
40 the Department of the Treasury, and the county health departments
41 in implementing the provisions of this act; and

42 (2) Repayment to the General Fund of any moneys appropriated
43 by law in order to implement the provisions of this act.

44 d. The State Treasurer shall annually disburse the moneys in
45 the "Worker and Community Right To Know Fund" for
46 expenditures approved by the Director of the Division of Budget
47 and Accounting pursuant to paragraph (1) of subsection c. of this
48 section, but in no case in an amount to the several departments that
49 is greater than the following percentages of the "Worker and

1 Community Right To Know Fund" available in any one year: the
2 Department of Health **【and Senior Services】**, 40%; the Department
3 of Environmental Protection, 20%; the county health departments,
4 15%; the Department of Labor and Workforce Development, 15%;
5 and the Department of the Treasury, 10%.

6 e. Beginning two years after the effective date of this act, the
7 State Treasurer shall make an annual audit of the "Worker and
8 Community Right To Know Fund" to determine the adequacy of
9 moneys on deposit in the "Worker and Community Right To Know
10 Fund" to support the implementation of the provisions of this act. If
11 the State Treasurer, in consultation with the Department of Health
12 **【and Senior Services】**, the Department of Environmental
13 Protection, and the Department of Labor and Workforce
14 Development makes a determination that the revenues in the
15 "Worker and Community Right To Know Fund" are sufficient to
16 warrant a reduction in the fees imposed pursuant to paragraph (1) of
17 subsection b. of this section for the ensuing year, **【he】** the State
18 Treasurer may reduce the amount of the fees imposed during that
19 year by an amount warranted by the balance in the "Worker and
20 Community Right To Know Fund" at the time of the determination.
21 (cf: P.L. 2003, c.117, s.19)

22
23 404. Section 10 of P.L.1984, c.173 (C.34:5A-41) is amended to
24 read as follows:

25 10. Any person who knowingly hinders or delays the
26 **【Commissioner】** Commissioners of Labor and Workforce
27 Development or Health **【and Senior Services】** or the authorized
28 representative thereof, in the performance of the duty to enforce this
29 act, or knowingly submits false or misleading information on any
30 license or permit application required by this act, or fails to obtain
31 licenses or permits required by the provisions of this act, or refuses
32 to make these licenses or permits accessible to either commissioner,
33 or the authorized representative thereof, or otherwise violates any
34 provision of this act or any regulation adopted under this act, shall,
35 upon conviction, be guilty of a crime of the third degree and,
36 notwithstanding the provisions of N.J.S.2C:43-3, shall be subject to
37 a fine of not more than \$25,000 in addition to any other appropriate
38 disposition authorized by subsection b. of N.J.S.2C:43-2.
39 (cf: PL.1997, c.325, s.5)

40
41 405. Section 8 of P.L.1983, c.516 (C.34:6A-32) is amended to
42 read as follows:

43 8. The commissioner shall, in consultation with the
44 Commissioner of Health **【and Senior Services】** and the
45 Commissioner of Community Affairs and with the advice of the
46 advisory board, promulgate all regulations which **【he】** the
47 commissioner deems necessary for the proper administration and
48 enforcement of this act. A variance may be granted if the

1 commissioner determines that the applicant is in compliance with
2 the requirements for a permanent variance as set forth in subsection
3 c. of section 15 of this act. The variance shall not be deemed to be
4 a variation approved pursuant to the "State Uniform Construction
5 Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) or the "Uniform
6 Fire Safety Act," P.L.1983, c.383 (C.52:27D-192 et al.) or any other
7 building or fire safety standard or code.

8 Space leased by a public employer shall be subject to current
9 health or safety rules and regulations. Any deficiency, including a
10 deficiency resulting either from occupant use or deferred
11 maintenance by the lessor, shall be subject to correction in
12 accordance with the governing rules and regulations at the time that
13 the deficiency is cited by the commissioner or the Commissioner of
14 Health **[and Senior Services]**. However, a lease of any duration
15 may not be entered into unless the leased property is in
16 conformance with such rules and regulations as are in effect at the
17 time the lease is executed.

18 No fire company, first aid₂ or rescue squad, whether paid, part-
19 paid, or volunteer, shall be required to pay to the Department of
20 Labor and Workforce Development or the Department of Health
21 **[and Senior Services]** any registration or inspection fee imposed
22 by rule or regulation with regard to the filling of air cylinders for
23 respiratory equipment used by the fire company, first aid₂ or rescue
24 squad.

25 (cf: P.L.2000, c.126, s.6)

26
27 406. Section 1 of P.L.1997, c.92 (C.39:3-27.90) is amended to
28 read as follows:

29 1. a. The **[Director of the Division of Motor Vehicles]** Chief
30 Administrator of the New Jersey Motor Vehicle Commission may
31 issue for a motor vehicle owned or leased and registered in the State
32 special license plates bearing, in addition to the registration number
33 and other markings or identification otherwise prescribed by law,
34 the slogan "Conquer Cancer." These plates may include an
35 emblem, to be designed by the Commissioner of Health **[and Senior**
36 **Services]** and approved by the **[Director of the Division of Motor**
37 **Vehicles]** chief administrator, indicating support for, or an interest
38 in, finding new methods of treating and preventing cancer.

39 b. Application for issuance of a "Conquer Cancer" license plate
40 shall be made to the **[director]** chief administrator on **[such]** forms
41 and in **[such]** a manner as may be prescribed by the **[director]**
42 chief administrator. The **[director]** chief administrator shall collect
43 for each set of plates issued an application fee of \$50, and an annual
44 renewal fee of \$10, in addition to the fees otherwise prescribed by
45 law for the registration of motor vehicles.

46 c. Monies collected from all fees for "Conquer Cancer" license
47 plates shall be deposited in the Cancer Research Fund, established
48 in the Department of Health **[and Senior Services]** pursuant to

1 section 5 of P.L.1982, c.40 (C.54:40A-37.1). Any monetary
2 donation made available to the State to support the provisions of
3 **[this bill]** P.L.1997, c.92 (C.39:3-27.90 et seq.) shall be deposited
4 in the Cancer Research Fund for use as set forth in this section.
5 Interest or other income earned on monies deposited under this act
6 into the Cancer Research Fund shall be credited to the fund for use
7 as set forth in this section.

8 Funds shall be utilized by the New Jersey State Commission on
9 Cancer Research: (1) first to reimburse the **[Division of Motor**
10 **Vehicles]** commission for all costs, including those costs associated
11 with computer programing changes, incurred in producing, issuing,
12 renewing, and publicizing the availability of "Conquer Cancer"
13 license plates; (2) to reimburse the Department of Health **[and**
14 **Senior Services]** for the design and printing of notices, posters and
15 signs to be utilized by the **[Division of Motor Vehicles]**
16 commission; and (3) for approved research projects as defined in
17 section 3 of P.L.1983, c.6 (C.52:9U-3).

18 d. The **[director]** chief administrator shall annually certify to
19 the Commissioner of Health **[and Senior Services]** the average cost
20 per license plate incurred in the immediately preceding year by the
21 **[Division of Motor Vehicles]** commission in producing, issuing,
22 renewing, and publicizing the availability of "Conquer Cancer"
23 license plates. The commissioner shall annually report the
24 Department of **[Health and Senior Services's]** Health's costs and the
25 division's costs to the Office of Management and Budget.

26 e. The **[director]** chief administrator shall notify eligible
27 motorists of the opportunity to obtain "Conquer Cancer" license
28 plates by including a notice with all motor vehicle registration
29 renewals, and by posting appropriate posters or signs in all
30 **[division]** commission facilities and offices, as may be provided by
31 the Department of Health **[and Senior Services]**. The notices,
32 posters, and signs shall be designed by the Commissioner of Health
33 **[and Senior Services]** after consulting with the New Jersey State
34 Commission on Cancer Research. The designs shall be subject to
35 the approval of the **[director]** chief administrator. The Department
36 of Health **[and Senior Services]** shall supply the **[division]**
37 commission with the notices, posters, and signs to be circulated or
38 posted by the **[division]** commission.

39 f. The Commissioner of Health **[and Senior Services]**, the
40 New Jersey State Commission on Cancer Research, and the
41 **[director]** chief administrator shall develop and enter into an
42 interagency memorandum of agreement setting forth the procedures
43 to be followed by the Department of Health **[and Senior Services]**,
44 the commission and the **[division]** Motor Vehicle Commission in
45 carrying out their respective responsibilities under this act.

46 g. In the event that the average cost per license plate, as
47 certified by the **[director]** chief administrator and approved by the

1 Joint Budget Oversight Committee, or its successor, is greater than
2 the \$50 application fee established in subsection b. of this section in
3 two consecutive fiscal years, the **[director]** chief administrator may
4 discontinue the issuance of the "Conquer Cancer" license plate.
5 (cf: P.L.1997, c.92, s.1)

6
7 407. Section 6 of P.L.1970, c. 248 (C.40:23-6.43) is amended to
8 read as follows:

9 6. There shall be appropriated and paid annually to each county
10 office on aging, subject to the approval of the Commissioner of **[the**
11 **Department of Community Affairs]** Human Services, an amount
12 equal to one-half of the amount of annual expense of the county
13 office on aging; provided, however, that no county shall receive
14 more than **[\$20,000.00]** \$20,000 in State aid hereunder in any
15 calendar year. Payments shall be made by the State Treasurer, upon
16 certificate of the Commissioner of **[the Department of Community**
17 **Affairs]** Human Services and warrant of the Director of the
18 Division of Budget and Accounting, on or before December 31 of
19 each calendar year. This payment shall constitute reimbursement to
20 the county for the State aid portion of the annual expense of each
21 county office on aging during the year in which the payment is
22 made.

23 (cf: P.L.1970, c.248, s.6)

24
25 408. Section 12 of P.L.1989, c.300 (C.45:9-19.12) is amended to
26 read as follows:

27 12. The State Board of Medical Examiners shall, by regulation,
28 provide for the issuance of permits to, or registration of, persons
29 engaging in the practice of medicine or surgery or podiatric
30 medicine while in training, and establish the scope of permissible
31 practice by these persons within the context of an accredited
32 graduate medical education program conducted at a hospital
33 licensed by the Department of Health **[and Senior Services]**. A
34 permit holder shall be permitted to engage in practice outside the
35 context of a graduate medical education program for additional
36 remuneration only if that practice is:

37 a. Approved by the director of the graduate medical education
38 program in which the permit holder is participating; and

39 b. With respect to any practice at or through a health care
40 facility licensed by the Department of Health **[and Senior**
41 **Services]**, supervised by a plenary licensee who shall either remain
42 on the premises of the health care facility or be available through
43 electronic communications; or

44 c. With respect to any practice outside of a health care facility
45 licensed by the Department of Health **[and Senior Services]**,
46 supervised by a plenary licensee who shall remain on the premises.

47 (cf: P.L.2005, c.259, s.15)

1 409. Section 2 of P.L.1989, c.19 (C.45:9-22.5) is amended to
2 read as follows:

3 2. a. A practitioner shall not refer a patient or direct an
4 employee of the practitioner to refer a patient to a health care
5 service in which the practitioner, or the practitioner's immediate
6 family, or the practitioner in combination with the practitioner's
7 immediate family has a significant beneficial interest; except that,
8 in the case of a practitioner, a practitioner's immediate family, or a
9 practitioner in combination with the practitioner's immediate family
10 who had the significant beneficial interest prior to the effective date
11 of P.L.1991, c.187 (C.26:2H-18.24 et al.), and in the case of a
12 significant beneficial interest in a health care service that provides
13 lithotripsy or radiation therapy pursuant to an oncological protocol
14 that was held prior to the effective date of this section of P.L.2009,
15 c.24, the practitioner may continue to refer a patient or direct an
16 employee to do so if that practitioner discloses the significant
17 beneficial interest to the patient.

18 b. If a practitioner is permitted to refer a patient to a health care
19 service pursuant to this section, the practitioner shall provide the
20 patient with a written disclosure form, prepared pursuant to section
21 3 of P.L.1989, c.19 (C.45:9-22.6), and post a copy of this disclosure
22 form in a conspicuous public place in the practitioner's office.

23 c. The restrictions on referral of patients established in this
24 section shall not apply to:

25 (1) medical treatment or a procedure that is provided at the
26 practitioner's medical office and for which a bill is issued directly in
27 the name of the practitioner or the practitioner's medical office;

28 (2) renal dialysis; and

29 (3) ambulatory surgery or procedures requiring anesthesia
30 performed at a surgical practice registered with the Department of
31 Health [and Senior Services] pursuant to subsection g. of section
32 12 of P.L.1971, c.136 (C.26:2H-12) or at an ambulatory care
33 facility licensed by the Department of Health [and Senior Services]
34 to perform surgical and related services, if the following conditions
35 are met:

36 (a) the practitioner who provided the referral personally
37 performs the procedure;

38 (b) the practitioner's remuneration as an owner of or investor in
39 the practice or facility is directly proportional to [his] the
40 practioner's ownership interest and not to the volume of patients the
41 practitioner refers to the practice or facility;

42 (c) all clinically-related decisions at a facility owned in part by
43 non-practitioners are made by practitioners and are in the best
44 interests of the patient; and

45 (d) disclosure of the referring practitioner's significant
46 beneficial interest in the practice or facility is made to the patient in
47 writing, at or prior to the time that the referral is made, consistent
48 with the provisions of section 3 of P.L.1989, c.19 (C.45:9-22.6).

49 (cf; P.L.2009, c.24, s.2)

1 410. Section 4 of P.L.2009, c.24 (C.45:9-22.5a) is amended to
2 read as follows:

3 4. a. A referral for ambulatory surgery or a procedure requiring
4 anesthesia made prior to the effective date of this section of
5 P.L.2009, c.24 by a practitioner to a surgical practice or ambulatory
6 care facility licensed by the Department of Health **and Senior**
7 **Services** to perform surgical and related services shall be deemed
8 to comply with the provisions of section 2 of P.L.1989, c.19
9 (C.45:9-22.5) if the practitioner personally performed the procedure
10 that is the subject of the referral.

11 b. As used in this section, "surgical practice" means a structure
12 or suite of rooms that has the following characteristics:

13 (1) has no more than one room dedicated for use as an operating
14 room which is specifically equipped to perform surgery, and is
15 designed and constructed to accommodate invasive diagnostic and
16 surgical procedures;

17 (2) has one or more post-anesthesia care units or a dedicated
18 recovery area where the patient may be closely monitored and
19 observed until discharged; and

20 (3) is established by a physician, physician professional
21 association surgical practice, or other professional practice form
22 specified by the State Board of Medical Examiners pursuant to
23 N.J.A.C.13:35-6.16(f) solely for the physician's, association's or
24 other professional entity's private medical practice.

25 "Surgical practice" includes an unlicensed entity that is certified
26 by the Centers for Medicare and Medicaid Services as an
27 ambulatory surgery center provider.

28 (cf: P.L.2009, c.24, s.4)

29

30 411. Section 4 of P.L. 2003, c.281 (C.48:2-29.16a) is amended
31 to read as follows:

32 4. a. Notwithstanding the provisions of any other law to the
33 contrary, a recipient of benefits under the "Lifeline Credit
34 Program," established pursuant to P.L.1979, c.197 (C.48:2-29.15 et
35 seq.), shall notify the Department of **Health and Senior** Human
36 Services if the recipient unintentionally errs in estimating annual
37 income to determine eligibility for the program due to an
38 unanticipated payment which would render the recipient ineligible
39 for the program. Notification to the department shall be made in
40 the time and manner prescribed by the department office.

41 b. If the department determines that the payment was
42 unanticipated, the recipient shall reimburse the program for only
43 those benefits that were paid by the program after the recipient
44 received the unanticipated payment.

45 c. If the department determines that the payment was not
46 unanticipated, the recipient shall reimburse the program for all
47 benefits that were paid by the program in the calendar year in which
48 the payment was received.

1 d. Within 30 days of receipt of a determination by the
2 department that the payment was not unanticipated, a recipient may
3 request a hearing, which shall be conducted pursuant to the
4 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
5 seq.).

6 e. Nothing in this section shall preclude a recipient from
7 reapplying for benefits in the calendar year following the year in
8 which the recipient notified the department pursuant to subsection
9 a. of this section.

10 (cf: P.L.2003, c.281, s.4)

11
12 412. Section 5 of P.L.2003, c.281 (C.48:2-29.32a) is amended to
13 read as follows:

14 5. a. Notwithstanding the provisions of any other law to the
15 contrary, a recipient of benefits under the "Tenants' Lifeline
16 Assistance Program," established pursuant to P.L.1981, c.210
17 (C.48:2-29.30 et seq.), shall notify the Department of [Health and
18 Senior] Human Services if the recipient unintentionally errs in
19 estimating annual income to determine eligibility for the program
20 due to an unanticipated payment which would render the recipient
21 ineligible for the program. Notification to the department shall be
22 made in the time and manner prescribed by the department.

23 b. If the department determines that the payment was
24 unanticipated, the recipient shall reimburse the program for only
25 those benefits that were paid by the program after the recipient
26 received the unanticipated payment.

27 c. If the department determines that the payment was not
28 unanticipated, the recipient shall reimburse the program for all
29 benefits that were paid by the program in the calendar year in which
30 the payment was received.

31 d. Within 30 days of receipt of a determination by the
32 department that the payment was not unanticipated, a recipient may
33 request a hearing, which shall be conducted pursuant to the
34 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
35 seq.).

36 e. Nothing in this section shall preclude a recipient from
37 reapplying for benefits in the calendar year following the year in
38 which the recipient notified the department to subsection a. of this
39 section.

40 (cf: P.L.2003, c.281, s.5)

41
42 413. Section 1 of P.L.1987, c.133 (C.52:27D-29.17) is amended
43 to read as follows:

44 1. a. "Commissioner" means the Commissioner of [the
45 Department of Community Affairs] Human Services.

46 b. "Department" means the Department of [Community
47 Affairs] Human Services.

1 c. "Eligible participant" means a resident of this State who is
2 60 years of age or older and homebound by reason of illness,
3 incapacitating disability, or is otherwise isolated.

4 d. "Home delivered nutrition services" means home delivered
5 meals as defined by the "Older Americans Act of 1965," Pub.L. 89-
6 73 (42 U.S.C. s. 3001 et seq.).

7 e. "Program" means the Home Delivered Meals Expansion
8 Program in the Division **【on】 of Aging Services**, in the Department
9 of **【Community Affairs】 Human Services**.

10 (cf: P.L.1987, c.133, s.1)

11
12 414. Section 2 of P.L.1987, c.133 (C.52:27D-29.18) is amended
13 to read as follows:

14 2. The commissioner shall establish a Home Delivered Meals
15 Expansion Program in the Division of Aging Services, in the
16 Department of **【Community Affairs】 Human Services**, to provide
17 home delivered nutrition services to eligible participants on
18 weekends and holidays.

19 (cf: P.L.1987, c.133, s.2)

20
21 415. Section 6 of P.L.1987, c.133 (C.52:27D-29.22) is amended
22 to read as follows:

23 6. a. There is appropriated **【\$1,000,000.00】 \$1,000,000** from
24 the Casino Revenue Fund to the Department of **【Community**
25 **Affairs】 Human Services** to effectuate the purposes of this act.

26 b. The department shall allocate not less than 95% of the funds
27 appropriated for the purposes of this act to the county offices on
28 aging, and these funds shall be disbursed to the county offices on
29 aging according to the formula used to disburse funds for the home
30 delivered nutrition services provided under Title III of the "Older
31 Americans Act of 1965," Pub.L. 89-73 (42 U.S.C. s. 3001 et seq.).

32 c. The county shall match the State funds allocated to a county
33 office on aging for this program with an amount equal to 20% of the
34 State funds. The county share may be cash or in kind.

35 (cf: P.L.1987, c.133, s.6)

36
37 416. Section 2 of P.L.1993, c.4 (C.52:27D-29.33) is amended to
38 read as follows:

39 2. As used in this act:

40 "County office on aging" means a county office on aging which
41 is also designated as an area agency on aging for funding under the
42 "Older Americans Act of 1965," Pub.L.89-73 (42 U.S.C. s.3001 et
43 seq.).

44 "Director" means the Director of the Division **【on】 of Aging**
45 **Services** in the Department of **【Community Affairs】 Human**
46 **Services**.

47 "Senior citizen" means a person 60 years of age or older.

48 (cf: P.L.1993, c.4, s.2)

1 417. Section 3 of P.L.1993, c.4 (C.52:27D-29.34) is amended to
2 read as follows:

3 3. a. There is established in the Division **【on】 of** Aging
4 Services in the Department of **【Community Affairs】** Human
5 Services a Senior Health Insurance Counseling Program to provide
6 health insurance information and assistance by trained volunteer
7 counselors to senior citizens.

8 b. The Director of the Division **【on】 of** Aging Services shall
9 establish the program in all counties in the State through the county
10 offices on aging or other appropriate agencies designated by the
11 director.

12 (cf: P.L.1993, c.4, s.3)

13

14 418. Section 6 of P.L.1993, c.4 (C.52:27D-29.36) is amended to
15 read

16 6. The Director of the Division **【on】 of** Aging Services in the
17 Department of **【Community Affairs】** Human Services shall
18 establish a legal representation program to assist Medicare
19 beneficiaries under Title XVIII of the Social Security Act who are
20 65 years of age or older, or disabled, in appeals of unfairly denied
21 Medicare coverage. The services provided under this program shall
22 include, but not be limited to, the following: outreach to Medicare
23 beneficiaries, the development and dissemination of educational
24 materials pertaining to the Medicare program and the claims appeal
25 process, the development and dissemination of materials for
26 Medicare beneficiaries to submit their own appeals, and the offer of
27 direct legal representation to appeal unfairly denied coverage under
28 Part A and Part B of the Medicare program. Such legal
29 representation may include, but not be limited to, appeals within the
30 administrative appeals structure and appeals to the United States
31 District Court.

32 (cf: P.L.1993, c.4, s.6)

33

34 419. Section 40 of P.L.1966, c.293 (C.52:27D-40) is amended to
35 read as follows:

36 40. Whenever the term "Division of Local Government" occurs
37 or any reference is made thereto in any law, contract or document,
38 the same shall be deemed to mean or refer to the Division of Local
39 Finance in the Department of Community Affairs established
40 hereunder.

41 Whenever the term "Director of the Division of Local
42 Government" occurs or any reference is made thereto in any law,
43 contract or document, the same shall be deemed to mean or refer to
44 the Director of the Division of Local Finance in the Department of
45 Community Affairs established hereunder.

46 Whenever the term "Local Government Board" occurs or any
47 reference is made thereto in any law, contract or document, the
48 same shall be deemed to mean or refer to the Local Finance Board

1 of the Division of Local Finance in the Department of Community
2 Affairs established hereunder.

3 Whenever the term "public housing and development authority"
4 occurs or any reference is made thereto in any law, contract or
5 document, the same shall be deemed to mean or refer to the public
6 housing and development authority in the Department of
7 Community Affairs established hereunder.

8 Whenever the term "State Housing Council" occurs or any
9 reference is made thereto in any law, contract or document, the
10 same shall be deemed to mean or refer to the State Housing Council
11 in the Department of Community Affairs established hereunder.

12 Whenever the term "Bureau of Tenement House Supervision"
13 occurs or any reference is made thereto in any law, contract or
14 document, the same shall be deemed to mean or refer to the Bureau
15 of Housing Inspection of the Division of Housing and Urban
16 Renewal in the Department of Community Affairs established
17 hereunder.

18 Whenever the term "Board of Tenement House Supervision"
19 occurs or any reference is made thereto in any law, contract or
20 document, the same shall be deemed to mean or refer to the Board
21 of Housing Inspection in the Division of Housing and Urban
22 Renewal of the Department of Community Affairs established
23 hereunder.

24 Whenever the term "office of supervisor of hotel fire safety"
25 occurs or any reference is made thereto in any law, contract or
26 document, the same shall be deemed to mean or refer to the office
27 of supervisor of hotel fire safety in the Bureau of Housing
28 Inspection of the Division of Housing and Urban Renewal in the
29 Department of Community Affairs established hereunder.

30 Whenever the term "Division of State and Regional Planning"
31 occurs or any reference is made thereto in any law, contract or
32 document, the same shall be deemed to mean or refer to the
33 Division of State and Regional Planning in the Department of
34 Community Affairs established hereunder.

35 Whenever the term "Director of the Division of State and
36 Regional Planning" occurs or any reference is made thereto in any
37 law, contract or document, the same shall be deemed to mean or
38 refer to the Director of the Division of State and Regional Planning
39 in the Department of Community Affairs established hereunder.

40 Whenever the term "Division on Aging" occurs or any reference
41 is made thereto in any law, contract, or document, the same shall be
42 deemed to mean or refer to the Division [on Aging in the
43 Department of Community Affairs established hereunder] of Aging
44 Services in the Department of Human Services.

45 Whenever the term "Director of the Division on Aging" occurs
46 or any reference is made thereto in any law, contract, or document,
47 the same shall be deemed to mean or refer to the Director of the
48 Division [on Aging in the Department of Community Affairs

1 established hereunder] of Aging Services in the Department of
2 Human Services.

3 Whenever the term "New Jersey State Commission on Aging"
4 occurs or any reference is made thereto in any law, contract, or
5 document, the same shall be deemed to mean or refer to the New
6 Jersey State Commission on Aging in the Division [on Aging in the
7 Department of Community Affairs established hereunder] of Aging
8 Services in the Department of Human Services.

9 Whenever the terms "Youth Division" or "Division of Youth"
10 occur or any reference is made thereto in any law, contract or
11 document, the same shall be deemed to mean or refer to the
12 Division of Youth in the Department of Community Affairs
13 established hereunder.

14 Whenever the terms "Director of the Youth Division" or
15 "Director of the Division of Youth" occur or any reference is made
16 thereto in any law, contract or document, the same shall be deemed
17 to mean or refer to the Director of the Division of Youth in the
18 Department of Community Affairs established hereunder.

19 Whenever the term "New Jersey State Youth Commission"
20 occurs or any reference is made thereto in any law, contract or
21 document, the same shall be deemed to mean or refer to the New
22 Jersey State Youth Commission of the Division of Youth in the
23 Department of Community Affairs established hereunder.

24 Whenever the term "New Jersey Office of Economic
25 Opportunity" occurs or any reference is made thereto in any law,
26 contract or document, the same shall be deemed to mean or refer to
27 the New Jersey Office of Economic Opportunity in the Department
28 of Community Affairs established hereunder.

29 (cf: P.L.1967, c.42, s.8)

30

31 420. Section 2 of P.L.2007, c.1 (C.52:27D-130.5) is amended to
32 read as follows:

33 2. a. (1) No construction permit shall be issued pursuant to
34 section 12 of P.L.1975, c.217 (C.52:27D-130) for the
35 reconstruction, alteration, conversion, or repair of any building or
36 structure to be used for a child care center licensed pursuant to the
37 provisions of P.L.1983, c.492 (C.30:5B-1 et seq.), or for
38 educational purposes, if that building or structure was previously
39 used for industrial, storage, or high hazard purposes, as a nail salon,
40 dry cleaning facility, or gasoline station, or is on a contaminated
41 site, on a site on which there is suspected contamination, or on an
42 industrial site that is subject to the provisions of the "Industrial Site
43 Recovery Act," P.L.1983, c.330 (C.13:1K-6 et al.), except upon the
44 submission of the certification issued by the Department of Health
45 [and Senior Services] pursuant to section 1 of P.L.2007, c.1
46 (C.52:27D-130.4) to the construction official by the applicant, that
47 the building or structure has been evaluated and assessed for
48 contaminants, and that the building or structure is safe for use as a

1 child care center licensed pursuant to the provisions of P.L.1983,
2 c.492, or for educational purposes.

3 (2) Notwithstanding the provisions of paragraph (1) of this
4 subsection to the contrary, a construction permit may be issued for
5 the construction or alteration of any building or structure to be used
6 as a child care center licensed pursuant to the provisions of
7 P.L.1983, c.492, or for educational purposes, if the construction
8 permit is necessary to perform work in the building or structure in
9 order to comply with the rules and regulations adopted pursuant to
10 subsection a. of section 1 of P.L.2007, c.1 (C.52:27D-130.4) and
11 obtain the certification issued by the Department of Health [and
12 Senior Services] pursuant to subsection c. of section 1 of P.L.2007,
13 c.1 (C.52:27D-130.4).

14 A construction permit issued pursuant to this paragraph shall be
15 limited to the construction or alterations necessary to comply with
16 the rules and regulations adopted pursuant to subsection a. of
17 section 1 of P.L.2007, c.1 (C.52:27D-130.4).

18 (3) The appropriate enforcing agency shall not grant a certificate
19 of occupancy for any building or structure to be used as a child care
20 center licensed pursuant to the provisions of P.L.1983, c.492, or for
21 educational purposes, that received a construction permit pursuant
22 to paragraph (2) of this subsection, except upon the submission of
23 the certification issued by the Department of Health [and Senior
24 Services] pursuant to subsection c. of section 1 of P.L.2007, c.1
25 (C.52:27D-130.4) to the construction official by the applicant, that
26 the building or structure has been evaluated and assessed for
27 contaminants, and that the building or structure is safe for use as a
28 child care center licensed pursuant to the provisions of P.L.1983,
29 c.492, or for educational purposes.

30 b. (1) No construction permit shall be issued for the
31 construction or alteration of any building or structure to be used as
32 a child care center licensed pursuant to the provisions of P.L.1983,
33 c.492, or for educational purposes, on a site that was previously
34 used for industrial, storage, or high hazard purposes, as a nail salon,
35 dry cleaning facility, or gasoline station, or on a contaminated site,
36 on a site on which there is suspected contamination, or on an
37 industrial site that is subject to the provisions of the "Industrial Site
38 Recovery Act," P.L.1983, c.330 (C.13:1K-6 et al.), except after
39 submission by the applicant to the construction official of
40 documentation sufficient to establish that the Department of
41 Environmental Protection has approved a remedial action workplan
42 for the entire site or that the site has been remediated consistent
43 with the remediation standards and other remediation requirements
44 established pursuant to section 35 of P.L.1993, c.139 (C.58:10B-12)
45 and a no further action letter has been issued by the Department of
46 Environmental Protection for the entire site.

47 (2) Notwithstanding the provisions of paragraph (1) of this
48 subsection to the contrary, a construction permit may be issued for

1 the construction or alteration of any building or structure to be used
2 as a child care center licensed pursuant to the provisions of
3 P.L.1983, c.492, or for educational purposes, on a site that was
4 previously used for industrial, storage, or high hazard purposes, as a
5 nail salon, dry cleaning facility, or gasoline station, or on a
6 contaminated site, on a site on which there is suspected
7 contamination, or on an industrial site that is subject to the
8 provisions of the "Industrial Site Recovery Act," P.L.1983, c.330
9 (C.13:1K-6 et al.), if the construction permit is necessary to
10 remediate the site consistent with the remediation standards and
11 other remediation requirements established pursuant to section 35
12 of P.L.1993, c.139 (C.58:10B-12) in order to obtain a no further
13 action letter from the Department of Environmental Protection.

14 A construction permit issued pursuant to this paragraph shall be
15 limited to the construction or alterations necessary to develop a
16 remedial action workplan to be submitted to the Department of
17 Environmental Protection for approval or to remediate the site
18 consistent with the remediation standards and other remediation
19 requirements established pursuant to section 35 of P.L.1993, c.139
20 (C.58:10B-12) and receive a no further action letter from the
21 Department of Environmental Protection.

22 (3) The appropriate enforcing agency shall not grant a certificate
23 of occupancy for any building or structure to be used as a child care
24 center licensed pursuant to the provisions of P.L.1983, c.492, or for
25 educational purposes, that received a construction permit pursuant
26 to paragraph (2) of this subsection, except after submission by the
27 applicant to the construction official of documentation sufficient to
28 establish that the site has been remediated consistent with the
29 remediation standards and other remediation requirements
30 established pursuant to section 35 of P.L.1993, c.139 (C.58:10B-12)
31 and a no further action letter has been issued by the Department of
32 Environmental Protection for the entire site.

33 c. As used in this section: "contaminated site" means any real
34 property on which there is contamination; "contamination,"
35 "remediation" or "remediate," and "no further action letter" shall
36 have the same meanings as provided in section 23 of P.L.1993,
37 c.139 (C.58:10B-1); and "educational purposes" means for the
38 purposes of a private school or public school as defined in
39 N.J.S.18A:1-1, or a charter school as defined pursuant to P.L.1995,
40 c.426 (C.18A:36A-1 et seq.).

41 (cf: P.L.2007, c.1, s.2)

42

43 421. Section 1 of P.L. 2011, c.125 (C.52:27D-191.1) is amended
44 to read as follows:

45 1. a. The Department of **Health and Senior** Human Services
46 shall ensure that a person receiving services under the Congregate
47 Housing Services Program including, but not limited to, meal
48 preparation, housekeeping, shopping, laundry, linens change,
49 companionship, and personal care, receives those services in a

1 manner that promotes the dignity of and shows respect for the
2 person.

3 b. A Congregate Housing Services Program shall make
4 information related to its services available to the manager of a
5 subsidized housing facility that has contracted with the State to
6 provide a Congregate Housing Services Program. The manager
7 shall be responsible for the distribution and dissemination of the
8 information to its residents and shall include in that information a
9 statement that the services provided by the program shall be
10 provided to:

11 (1) help meet the needs of a resident;

12 (2) foster the independence and individuality of a resident;

13 (3) treat a resident with respect, courtesy, consideration, and
14 dignity; and

15 (4) assure a resident the right to make choices with respect to
16 services and lifestyle.

17 c. A Congregate Housing Services Program shall:

18 (1) advise a resident receiving congregate housing services, in
19 writing, of the availability of information from the Division of
20 Aging **【and Community】** Services in the Department of **【Health**
21 **and Senior】** Human Services about issues that may be of concern to
22 a resident; and

23 (2) make available, upon request, the qualifications of a
24 counselor or other professional who is providing services to
25 residents under the Congregate Housing Services Program.

26 (cf: P.L.2011, c.125, s.1)

27

28 422. Section 28 of P.L.1986, c.103, s.28 (C.52:27D-357) is
29 amended to read as follows:

30 28. a. There is created a Continuing Care Advisory Council
31 which consists of 13 members as follows: the Commissioners of
32 **【the Departments of Community Affairs,】** Human Services, Health
33 **【and Senior Services】**, and Banking and Insurance, or their
34 designees, who shall serve ex officio and shall be non-voting
35 members; 10 public members appointed by the Governor, with the
36 advice and consent of the Senate, who are residents of the State and
37 two of whom are administrators of continuing care facilities in this
38 State, one of whom is a representative of the business community
39 and knowledgeable in the area of management, one of whom is a
40 certified public accountant, one of whom is an attorney licensed to
41 practice in this State, three of whom are residents of continuing care
42 retirement communities in this State who are recommended by the
43 Organization of Residents Associations of New Jersey, one of
44 whom is a trustee or director of a continuing care retirement
45 community in this State and one of whom is a representative of the
46 New Jersey Association of Non-Profit Homes for the Aging.

47 b. The term of office for each public member is three years, or
48 until the member's successor has been appointed; except that of the

1 public members first appointed, two shall be appointed for a term of
2 one year, two for a term of two years and three for a term of three
3 years.

4 A vacancy in the membership of the council shall be filled in the
5 same manner as the original appointment, but for the unexpired
6 term. A member of the council is eligible for reappointment.

7 The members of the council shall serve without compensation,
8 but the council shall reimburse the members for the reasonable
9 expenses incurred in the performance of their duties.

10 c. The council shall hold an organizational meeting within 30
11 days after the appointment of its members. The members of the
12 council shall elect from among them a **【chairman】** chairperson,
13 who shall be the chief executive officer of the council, and the
14 members shall elect a secretary, who need not be a member of the
15 council.

16 d. The council shall meet at least four times a year but may
17 meet more frequently at the discretion of the **【chairman】**
18 chairperson or the commissioner.

19 e. The council may call to its assistance and avail itself of the
20 services and assistance of any officials and employees of the
21 Department of Community Affairs or other State agency and
22 political subdivisions and their departments, boards, bureaus,
23 commissions, and agencies as it requires and as is available to it for
24 this purpose and may expend any funds that are appropriated or
25 otherwise made available to it pursuant to this act.

26 f. The council shall:

27 (1) Advise and provide information to the commissioner on
28 matters pertaining to the operation and regulation of continuing care
29 retirement facilities, upon request of the commissioner;

30 (2) Review and comment upon, as appropriate, any proposed
31 rules and regulations and legislation pertaining to continuing care
32 retirement facilities;

33 (3) Make recommendations to the commissioner about any
34 needed changes in rules and regulations and State and federal laws
35 pertaining to continuing care retirement facilities; and

36 (4) Assist in the rehabilitation of a continuing care retirement
37 facility, upon request of the commissioner.

38 g. The commissioner shall report annually to the Governor and
39 the Legislature, the commissioner's and the council's findings and
40 recommendations concerning continuing care retirement
41 communities and the implementation of this act.

42 (cf: P.L.2007, c.192, s.2)

43

44 423. Section 2 of P.L.1993, c.249 (C.52:27D-407) is amended to
45 read as follows:

46 2. As used in this act:

47 "Abuse" means the willful infliction of physical pain, injury or
48 mental anguish, unreasonable confinement, or the willful

1 deprivation of services which are necessary to maintain a person's
2 physical and mental health.

3 "Caretaker" means a person who has assumed the responsibility
4 for the care of a vulnerable adult as a result of family relationship or
5 who has assumed responsibility for the care of a vulnerable adult
6 voluntarily, by contract, or by order of a court of competent
7 jurisdiction, whether or not they reside together.

8 "Commissioner" means the Commissioner of **【Health and**
9 **Senior】** Human Services.

10 "Community setting" means a private residence or any
11 noninstitutional setting in which a person may reside alone or with
12 others, but shall not include residential health care facilities,
13 rooming houses or boarding homes or any other facility or living
14 arrangement subject to licensure by, operated by, or under contract
15 with, a State department or agency.

16 "County adult protective services provider" means a county
17 Board of Social Services or other public or nonprofit agency with
18 experience as a New Jersey provider of protective services for
19 adults, designated by the county and approved by the commissioner.
20 The county adult protective services provider receives reports made
21 pursuant to this act, maintains pertinent records and provides,
22 arranges, or recommends protective services.

23 "County director" means the director of a county adult protective
24 services provider.

25 "Department" means the Department of **【Health and Senior】**
26 Human Services.

27 "Emergency medical technician" means a person trained in basic
28 life support services as defined in section 1 of P.L.1985, c.351
29 (C.26:2K-21) and who is certified by the Department of Health and
30 Senior Services to provide that level of care.

31 "Exploitation" means the act or process of illegally or improperly
32 using a person or his resources for another person's profit or
33 advantage.

34 "Firefighter" means a paid or volunteer firefighter.

35 "Health care professional" means a health care professional who
36 is licensed or otherwise authorized, pursuant to Title 45 or Title 52
37 of the Revised Statutes, to practice a health care profession that is
38 regulated by one of the following boards or by the Director of the
39 Division of Consumer Affairs: the State Board of Medical
40 Examiners, the New Jersey Board of Nursing, the New Jersey State
41 Board of Dentistry, the New Jersey State Board of Optometrists, the
42 New Jersey State Board of Pharmacy, the State Board of
43 Chiropractic Examiners, the Acupuncture Examining Board, the
44 State Board of Physical Therapy, the State Board of Respiratory
45 Care, the Orthotics and Prosthetics Board of Examiners, the State
46 Board of Psychological Examiners, the State Board of Social Work
47 Examiners, the State Board of Examiners of Ophthalmic Dispensers
48 and Ophthalmic Technicians, the Audiology and Speech-Language
49 Pathology Advisory Committee, the State Board of Marriage and

1 Family Therapy Examiners, the Occupational Therapy Advisory
2 Council, the Certified Psychoanalysts Advisory Committee, and the
3 State Board of Polysomnography. "Health care professional" also
4 means a nurse aide or personal care assistant who is certified by the
5 Department of Health and Senior Services.

6 "Neglect" means an act or failure to act by a vulnerable adult or
7 his caretaker which results in the inadequate provision of care or
8 services necessary to maintain the physical and mental health of the
9 vulnerable adult, and which places the vulnerable adult in a
10 situation which can result in serious injury or which is life-
11 threatening.

12 "Protective services" means voluntary or court-ordered social,
13 legal, financial, medical or psychiatric services necessary to
14 safeguard a vulnerable adult's rights and resources, and to protect a
15 vulnerable adult from abuse, neglect or exploitation. Protective
16 services include, but are not limited to: evaluating the need for
17 services, providing or arranging for appropriate services, obtaining
18 financial benefits to which a person is entitled, and arranging for
19 guardianship and other legal actions.

20 "Vulnerable adult" means a person 18 years of age or older who
21 resides in a community setting and who, because of a physical or
22 mental illness, disability or deficiency, lacks sufficient
23 understanding or capacity to make, communicate, or carry out
24 decisions concerning his well-being and is the subject of abuse,
25 neglect or exploitation. A person shall not be deemed to be the
26 subject of abuse, neglect or exploitation or in need of protective
27 services for the sole reason that the person is being furnished
28 nonmedical remedial treatment by spiritual means through prayer
29 alone or in accordance with a recognized religious method of
30 healing in lieu of medical treatment, and in accordance with the
31 tenets and practices of the person's established religious tradition.
32 (cf: P.L.2009, c.276, s.1)

33

34 424. Section 21 of P.L.1993, c.249 (C.52:27D-426) is amended
35 to read as follows:

36 21. a. All funding, programs, and positions created to provide
37 adult protective services [by the Division of Youth and Family
38 Services in the Department of Human Services] are continued and
39 shall be transferred to the [Department of Community Affairs,
40 however, for federal funding and reporting purposes, the]
41 Department of Human Services [shall remain the designated agency
42 for such programs]. The Department of Community Affairs shall
43 provide the Department of Human Services with such information
44 as the Department of Human Services requires to fulfill its federal
45 funding and reporting requirements.

46 b. The transfers directed by this act shall be made in

1 accordance with the "State Agency Transfer Act," P.L.1971, c.375
2 (C.52:14D-1 et seq.).
3 (cf: P.L.1993, c.249, s.21)
4

5 425. Section 15 of P.L.1993, c.288 (C.52:27D-428) is amended
6 to read as follows:

7 15. a. A business firm shall neither directly nor indirectly
8 perform lead evaluation or abatement work without first obtaining
9 certification from the department. Certification may be issued to
10 perform lead evaluation or abatement work if the business firm
11 employs or will employ sufficient numbers and types of personnel
12 certified by the Department of Health **[and Senior Services]**
13 pursuant to section 3 of P.L.1993, c.288 (C.26:2Q-3) to perform
14 lead abatement work and meets all other requirements that the
15 commissioner may establish pursuant to section 23 of P.L.1993,
16 c.288 (C.52:27D-436). The certification shall be in writing, shall
17 contain an expiration date, and shall be signed by the commissioner.

18 b. A person or business firm shall not undertake a project
19 involving lead abatement work without first obtaining a
20 construction permit for that project pursuant to section 12 of
21 P.L.1975, c.217 (C.52:27D-130). No permit shall be issued for lead
22 abatement work, except to:

23 (1) an owner undertaking work on his own premises using his
24 own employees, if those employees are certified by the Department
25 of Health **[and Senior Services]** pursuant to section 3 of P.L.1993,
26 c.288 (C.26:2Q-3);

27 (2) a homeowner proposing to perform lead abatement work
28 himself on a dwelling unit that he owns and occupies as a primary
29 place of residence; or

30 (3) a business firm certified pursuant to this section to perform
31 such work.

32 The issuance of a construction permit to an individual
33 homeowner proposing to perform lead abatement work on a
34 dwelling unit that he owns and occupies as a primary place of
35 residence shall be accompanied by written information developed
36 by the department explaining the dangers of improper lead
37 abatement, procedures for conducting safe lead abatement, and the
38 availability of certified lead abatement contractors, or of any
39 available training for homeowners.

40 c. Nothing in this section shall be construed to restrict or
41 otherwise affect the right of any business firm to engage in painting,
42 woodworking, structural renovation, or other indoor or outdoor
43 contracting services that may result in the disturbance of paint, or to
44 engage in lead safe maintenance work or lead hazard control work,
45 but a business firm shall not hold itself out as certified by the
46 department or otherwise represent that it has specialized
47 competency to perform lead evaluation or abatement work unless it
48 has been certified or otherwise specifically authorized pursuant to
49 this section.

1 A business firm that seeks to engage in lead safe maintenance
2 work or lead hazard control work shall do so using only persons
3 who, prior to engaging in such work, shall have completed such
4 training courses as may be prescribed by the commissioner and
5 provided by a training provider accredited by the Commissioner of
6 Health **【and Senior Services】**.

7 A business firm that utilizes interim controls to reduce the risk of
8 lead-based paint exposure shall utilize only those methods approved
9 by the appropriate federal agencies, including specialized cleaning,
10 repairs, maintenance, painting, temporary containment, ongoing
11 monitoring of lead-based paint hazards or potential hazards, as may
12 be set forth under 42 U.S.C.s.4851b₁ or those methods set forth in
13 guidelines established by the commissioner, but shall not be
14 required to be certified pursuant to this section unless performing
15 lead abatement.

16 (cf: P.L.2003, c.311, s.23)

17

18 426. Section 24 of P.L. 2003, c.311 (C.52:27D-437.15) is
19 amended to read as follows:

20 24. The Commissioner of Banking and Insurance and the
21 Commissioner of Health **【and Senior Services】** shall consult with
22 the Commissioner of Community Affairs and shall modify all
23 regulations concerning lead hazards in accordance with the
24 provisions of P.L.2003, c.311 (C.52:27D-437.1 et al.), to recognize
25 lead hazard control work as an authorized alternative method to
26 lead abatement in control of lead hazards.

27 (cf: P.L.2003, c.311, s.24)

28

29 427. Section 4 of P.L.1985, c.298 (C.52:27G-23) is amended to
30 read as follows:

31 4. There is created in the Executive Branch of the State
32 Government the Office of the Public Guardian for Elderly Adults.
33 For the purpose of complying with the provisions of Article V,
34 Section IV, paragraph 1 of the New Jersey Constitution, the Office
35 of the Public Guardian for Elderly Adults is allocated to the
36 Department of **【Community Affairs】** Human Services, but
37 notwithstanding this allocation, the office shall be independent of
38 any supervision or control by the department or any board or officer
39 thereof.

40 (cf: P.L.1985, c.298, s.4.)

41

42 428. Section 15 of P.L.2005, c.37 (C.52:27G-42) is amended to
43 read as follows:

44 15. a. There is established in the Department of **【Health and**
45 **Senior】** Human Services a special non-lapsing fund to be known as
46 the Registered Professional Guardian Fund, which shall be a
47 dedicated fund to serve as a depository for monies collected from
48 the estate of an incapacitated adult pursuant to this section. The

1 fund shall be administered by the Office of the Public Guardian for
2 Elderly Adults, and all interest on monies in the fund shall be
3 credited to the fund. The monies in the fund shall be made available
4 to the Office of the Public Guardian for Elderly Adults to be used
5 exclusively for the implementation of this act.

6 b. Sixty days after receiving plenary letters of guardianship or
7 letters of guardianship of property, a guardian appointed by the
8 Superior Court of New Jersey, with the exception of the
9 appointment of the public guardian pursuant to P.L.1985, c.298
10 (C.52:27G-20 et seq.), a guardian for a veteran pursuant to
11 N.J.S.3B:13-1 et seq. and guardianship services provided by the
12 Bureau of Guardianship Services in the Division of Developmental
13 Disabilities in the Department of Human Services pursuant to
14 P.L.1965, c.59 (C.30:4-165.1 et seq.), shall pay out of the estate of
15 the incapacitated adult a fee of \$150 to the Office of the Public
16 Guardian for Elderly Adults for deposit into the fund, except that no
17 such charge shall be made to an incapacitated adult's estate for an
18 incapacitated adult whose income is less than 150% of the federal
19 poverty level and whose assets are less than \$50,000.

20 c. If the guardian seeks an exemption from the fee based on the
21 ward's income or assets, as set forth in subsection b. of this section,
22 the guardian shall make an application to the Office of the Public
23 Guardian for Elderly Adults on forms adopted by that office.

24 d. If a guardian who is obligated to pay an assessment imposed
25 pursuant to subsection b. of this section fails to pay the assessment,
26 upon application by the Office of the Public Guardian for Elderly
27 Adults, the court shall afford the guardian notice and an opportunity
28 to be heard on the issue of default. Failure to make the assessed
29 payment when due shall be considered a default. The standard of
30 proof shall be by a preponderance of the evidence, and the burden
31 of establishing good cause for a default shall be on the guardian
32 who has defaulted. If the court finds that the guardian has defaulted
33 without good cause, the court may:

34 (1) compel the guardian of the estate to account and ascertain
35 the financial condition of the incapacitated adult's estate;

36 (2) remove the guardian;

37 (3) enter judgment against the guardian of the estate for the
38 amount of the assessment; or

39 (4) take such other action as may be permitted by law.

40 (cf: P.L.2005, c.370, s.15)

41
42 429. Section 16 of P.L.2005, c.37 (C.52:27G-43) is amended to
43 read as follows:

44 16. a. The Commissioner of **【Health and Senior】 Human**
45 Services, pursuant to the "Administrative Procedure Act," P.L.1968,
46 c.410 (C.52:14B-1 et seq.), may adopt rules and regulations
47 necessary for the implementation of this act.

1 b. The Supreme Court may adopt Rules of Court for the
2 implementation of this act.
3 (cf: P.L.2005, c.370, s.16)

4
5 430. Section 1 of P.L.1997, c.348 (C.54:4-8.67) is amended to
6 read as follows:

7 1. As used in this act:

8 "Base year" means, in the case of a person who is an eligible
9 claimant on or before December 31, 1997, the tax year 1997; and in
10 the case of a person who first becomes an eligible claimant after
11 December 31, 1997, the tax year in which the person first becomes
12 an eligible claimant. In the case of an eligible claimant who
13 subsequently moves from the homestead for which the initial
14 eligibility was established, the base year shall be the first full tax
15 year during which the person resides in the new homestead.
16 Provided however, a base year for an eligible claimant after such a
17 move shall not apply to tax years commencing prior to January 1,
18 2009.

19 "Commissioner" means the Commissioner of [Health and Senior
20 Services] Community Affairs.

21 "Director" means the Director of the Division of Taxation.

22 "Condominium" means the form of real property ownership
23 provided for under the "Condominium Act," P.L.1969, c.257
24 (C.46:8B-1 et seq.).

25 "Cooperative" means a housing corporation or association which
26 entitles the holder of a share or membership interest thereof to
27 possess and occupy for dwelling purposes a house, apartment or
28 other unit of housing owned or leased by the corporation or
29 association, or to lease or purchase a unit of housing constructed or
30 to be constructed by the corporation or association.

31 "Disabled person" means an individual receiving monetary
32 payments pursuant to Title II of the federal Social Security Act (42
33 U.S.C. s.401 et seq.) on December 31, 1998, or on December 31 in
34 all or any part of the year for which a homestead property tax
35 reimbursement under this act is claimed.

36 "Dwelling house" means any residential property assessed as real
37 property which consists of not more than four units, of which not
38 more than one may be used for commercial purposes, but shall not
39 include a unit in a condominium, cooperative, horizontal property
40 regime or mutual housing corporation.

41 "Eligible claimant" means a person who:

42 is 65 or more years of age, or who is a disabled person;

43 is an owner of a homestead, or the lessee of a site in a mobile
44 home park on which site the applicant owns a manufactured or
45 mobile home;

46 has an annual income of less than \$17,918 in tax year 1998, less
47 than \$18,151 in tax year 1999, or less than \$37,174 in tax year
48 2000, if single, or, if married, whose annual income combined with
49 that of the spouse is less than \$21,970 in tax year 1998, less than

1 \$22,256 in tax year 1999, or less than \$45,582 in tax year 2000,
2 which income eligibility limits for single and married persons shall
3 be subject to adjustments in tax years 2001 through 2006 pursuant
4 to section 9 of P.L.1997, c.348 (C.54:4-8.68);

5 has an annual income of \$60,000 or less in tax year 2007,
6 \$70,000 or less in tax year 2008, or \$80,000 or less in tax year
7 2009, if single or married, which income eligibility limits shall be
8 subject to adjustments in subsequent tax years pursuant to section 9
9 of P.L.1997, c.348 (C.54:4-8.68);

10 as a renter or homeowner, has made a long-term contribution to
11 the fabric, social structure and finances of one or more communities
12 in this State, as demonstrated through the payment of property taxes
13 directly, or through rent, on any homestead or rental unit used as a
14 principal residence in this State for at least 10 consecutive years at
15 least three of which as owner of the homestead for which a
16 homestead property tax reimbursement is sought prior to the date
17 that an initial application for a homestead property tax
18 reimbursement is filed. A person who has been an eligible claimant
19 for a previous tax year shall qualify as an eligible claimant
20 beginning the second full tax year following a move to another
21 homestead in New Jersey, despite not meeting the three-year
22 minimum residency and ownership requirement required for initial
23 claimants under this paragraph; provided that the person satisfies
24 the income eligibility limits for the tax year. Provided however,
25 eligibility beginning in a second full tax year after such a move
26 shall not apply to tax years commencing prior to January 1, 2010.

27 "Homestead" means:

28 a dwelling house and the land on which that dwelling house is
29 located which constitutes the place of the eligible claimant's
30 domicile and is owned and used by the eligible claimant as the
31 eligible claimant's principal residence;

32 a site in a mobile home park equipped for the installation of
33 manufactured or mobile homes, where these sites are under
34 common ownership and control for the purpose of leasing each site
35 to the owner of a manufactured or mobile home for the installation
36 thereof and such site is used by the eligible claimant as the eligible
37 claimant's principal residence;

38 a dwelling house situated on land owned by a person other than
39 the eligible claimant which constitutes the place of the eligible
40 claimant's domicile and is owned and used by the eligible claimant
41 as the eligible claimant's principal residence;

42 a condominium unit or a unit in a horizontal property regime or a
43 continuing care retirement community which constitutes the place
44 of the eligible claimant's domicile and is owned and used by the
45 eligible claimant as the eligible claimant's principal residence.

46 In addition to the generally accepted meaning of "owned" or
47 "ownership," a homestead shall be deemed to be owned by a person
48 if that person is a tenant for life or a tenant under a lease for 99
49 years or more, is entitled to and actually takes possession of the

1 homestead under an executory contract for the sale thereof or under
2 an agreement with a lending institution which holds title as security
3 for a loan, or is a resident of a continuing care retirement
4 community pursuant to a contract for continuing care for the life of
5 that person which requires the resident to bear, separately from any
6 other charges, the proportionate share of property taxes attributable
7 to the unit that the resident occupies;

8 a unit in a cooperative or mutual housing corporation which
9 constitutes the place of domicile of a residential shareholder or
10 lessee therein, or of a lessee or shareholder who is not a residential
11 shareholder therein, which is used by the eligible claimant as the
12 eligible claimant's principal residence.

13 "Homestead property tax reimbursement" means payment of the
14 difference between the amount of property tax or site fee
15 constituting property tax due and paid in any year on any
16 homestead, exclusive of improvements not included in the
17 assessment on the real property for the base year, and the amount of
18 property tax or site fee constituting property tax due and paid in the
19 base year, when the amount paid in the base year is the lower
20 amount; but such calculations shall be reduced by any current year
21 property tax reductions or reductions in site fees constituting
22 property taxes resulting from judgments entered by county boards
23 of taxation or the State Tax Court.

24 "Horizontal property regime" means the form of real property
25 ownership provided for under the "Horizontal Property Act,"
26 P.L.1963, c.168 (C.46:8A-1 et seq.).

27 "Manufactured home" or "mobile home" means a unit of housing
28 which:

29 (1) Consists of one or more transportable sections which are
30 substantially constructed off site and, if more than one section, are
31 joined together on site;

32 (2) Is built on a permanent chassis;

33 (3) Is designed to be used, when connected to utilities, as a
34 dwelling on a permanent or nonpermanent foundation; and

35 (4) Is manufactured in accordance with the standards
36 promulgated for a manufactured home by the Secretary of the
37 United States Department of Housing and Urban Development
38 pursuant to the "National Manufactured Housing Construction and
39 Safety Standards Act of 1974," Pub.L.93-383 (42 U.S.C. s.5401 et
40 seq.) and the standards promulgated for a manufactured or mobile
41 home by the commissioner pursuant to the "State Uniform
42 Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.).

43 "Mobile home park" means a parcel of land, or two or more
44 parcels of land, containing no fewer than 10 sites equipped for the
45 installation of manufactured or mobile homes, where these sites are
46 under common ownership and control for the purpose of leasing
47 each site to the owner of a manufactured or mobile home for the
48 installation thereof, and where the owner or owners provide
49 services, which are provided by the municipality in which the park

1 is located for property owners outside the park, which services may
2 include but shall not be limited to:

- 3 (1) The construction and maintenance of streets;
- 4 (2) Lighting of streets and other common areas;
- 5 (3) Garbage removal;
- 6 (4) Snow removal; and
- 7 (5) Provisions for the drainage of surface water from home sites
8 and common areas.

9 "Mutual housing corporation" means a corporation not-for-profit,
10 incorporated under the laws of this State on a mutual or cooperative
11 basis within the scope of section 607 of the Langham Act (National
12 Defense Housing), Pub.L.849, (42 U.S.C. s.1521 et seq.), as
13 amended, which acquired a National Defense Housing Project
14 pursuant to that act.

15 "Income" means income as determined pursuant to P.L.1975,
16 c.194 (C:30:4D-20 et seq.).

17 "Principal residence" means a homestead actually and
18 continually occupied by an eligible claimant as his or her permanent
19 residence, as distinguished from a vacation home, property owned
20 and rented or offered for rent by the claimant, and other secondary
21 real property holdings.

22 "Property tax" means the general property tax due and paid as set
23 forth in this section, on a homestead, but does not include special
24 assessments and interest and penalties for delinquent taxes. For the
25 sole purpose of qualifying for a benefit under P.L.1997, c.348
26 (C.54:4-8.67 et seq.), property taxes paid by June 1 of the year
27 following the year for which the benefit is claimed will be deemed
28 to be timely paid.

29 "Site fee constituting property tax" means 18 percent of the
30 annual site fee paid or payable to the owner of a mobile home park.

31 "Tax year" means the calendar year in which a homestead is
32 assessed and the property tax is levied thereon and it means the
33 calendar year in which income is received or accrued.
34 (cf: P.L. 2009, c.129)

35
36 431. Section 4 of P.L.1999, c.129 (C.56:8-14.5) is amended to
37 read as follows:

38 4. The Director of the Division of Consumer Affairs in the
39 Department of Law and Public Safety, in consultation with the
40 Director of the Division **【on】 of Aging 【in the Department of**
41 **Community Affairs】 Services in the Department of Human**
42 **Services**, the directors of the New Jersey Association of Area
43 Agencies on Aging, and the New Jersey Association of County
44 Offices for Disabled Persons, shall develop and implement an
45 educational program to inform senior citizens and persons with
46 disabilities about consumer protection laws and consumer rights,
47 subject to funds made available pursuant to subsection b. of section
48 5 of P.L.1999, c.129 (C.56:8-14.6) or any other source. Functions
49 of the program may include:

1 a. The preparation of educational materials regarding consumer
2 protection laws and consumer rights that are of particular interest to
3 senior citizens and persons with disabilities and distribution of
4 those materials to the appropriate State and county agencies for
5 dissemination to senior citizens, persons with disabilities and the
6 public; and

7 b. The underwriting of educational seminars and other forms of
8 educational projects for the benefit of senior citizens and persons
9 with disabilities.

10 (cf: P.L.1999, c.129, s.4)

11
12 432. Section 5 of P.L.1999, c.336 (C.56:8-96) is amended to
13 read as follows:

14 5. a. Any consumer who purchases from a pet shop an animal
15 that becomes sick or dies after the date of purchase may take the
16 sick or dead animal to a veterinarian within the period of time
17 required pursuant to the notification form provided upon the date of
18 purchase, receive certification from the veterinarian of the health
19 and condition of the animal, and pursue the recourse provided for
20 under the circumstances indicated by the veterinarian certification,
21 as required and provided for pursuant to section 4 of P.L.1999,
22 c.336 (C.56:8-95).

23 b. Upon receipt of the certification from the veterinarian, the
24 consumer may report the sickness or death of the animal and the pet
25 shop where the animal was purchased to the local health authority
26 with jurisdiction over the municipality in which the pet shop where
27 the animal was purchased is located, and to the Director of the
28 Division of Consumer Affairs in the Department of Law and Public
29 Safety. The consumer shall provide a copy of the veterinarian
30 certificate with any [such] report. The director shall forward to the
31 appropriate local health authority a copy of any [such] report the
32 division receives. The local health authority shall record and retain
33 the records of any [such] report and documentation submitted by a
34 consumer.

35 c. By the May 1 immediately following the effective date of
36 this act, and annually thereafter, the local health authority with
37 jurisdiction over pet shops shall review any files it has concerning
38 reports filed pursuant to subsection b. of this section and shall
39 recommend to the municipality in which the pet shop is located the
40 revocation of the license of any pet shop with reports filed as
41 follows:

42 (1) 15% of the total number of animals sold in a year by the pet
43 shop were certified by a veterinarian to be unfit for purchase due to
44 congenital or hereditary cause or condition, or a sickness brought
45 on by a congenital or hereditary cause or condition;

46 (2) 25% of the total number of animals sold in a year by the pet
47 shop were certified by a veterinarian to be unfit for purchase due to
48 a non-congenital cause or condition;

1 (3) 10% of the total number of animals sold in a year by the pet
2 shop died and were certified by a veterinarian to have died from a
3 non-congenital cause or condition; or

4 (4) 5% of the total number of animals sold in a year by the pet
5 shop died and were certified by a veterinarian to have died from a
6 congenital or hereditary cause or condition, or a sickness brought
7 on by a congenital or hereditary cause or condition.

8 d. By the May 1 immediately following the effective date of
9 this act, and annually thereafter, the local health authority with
10 jurisdiction over pet shops shall review any files it has concerning
11 reports filed pursuant to subsection b. of this section and shall
12 recommend to the municipality in which the pet shop is located a
13 90-day suspension of the license of any pet shop with reports filed
14 as follows:

15 (1) 10% of the total number of animals sold in a year by the pet
16 shop were certified by a veterinarian to be unfit for purchase due to
17 congenital or hereditary cause or condition, or a sickness brought
18 on by a congenital or hereditary cause or condition;

19 (2) 15% of the total number of animals sold in a year by the pet
20 shop were certified by a veterinarian to be unfit for purchase due to
21 a non-congenital cause or condition;

22 (3) 5% of the total number of animals sold in a year by the pet
23 shop died and were certified by a veterinarian to have died from a
24 non-congenital cause or condition; or

25 (4) 3% of the total number of animals sold in a year by the pet
26 shop died and were certified by a veterinarian to have died from a
27 congenital or hereditary cause or condition, or a sickness brought
28 on by a congenital or hereditary cause or condition.

29 e. Pursuant to the authority and requirements provided in
30 section 8 of P.L.1941, c.151 (C.4:19-15.8), the owner of the pet
31 shop shall be afforded a hearing and, upon the recommendation by
32 the local health authority pursuant to subsection c. or d. of this
33 section, the local health authority, in consultation with the [State]
34 Department of Health [and Senior Services], shall set a date for the
35 hearing to be held by the local health authority or the State
36 Department of Health [and Senior Services] and shall notify the pet
37 shop involved. The municipality may suspend or revoke the
38 license, or part thereof, that authorizes the pet shop to sell cats or
39 dogs after [such] the hearing has been held and as provided in
40 section 8 of P.L.1941, c.151 (C.4:19-15.8). At the hearing, the
41 local health authority or the [State] Department of Health [and
42 Senior Services], whichever entity is holding the hearing, shall
43 receive testimony from the pet shop and shall determine if the pet
44 shop: (1) failed to maintain proper hygiene and exercise reasonable
45 care in safeguarding the health of animals in its custody, or (2) sold
46 a substantial number of animals that the pet shop knew, or
47 reasonably should have known, to be unfit for purchase.

1 f. No provision of subsection c. shall be construed to restrict
2 the local health authority or the [State] Department of Health [and
3 Senior Services] from holding a hearing concerning any pet shop in
4 the State irrespective of the criteria for recommendation of license
5 suspension or revocation named in subsection c. or d., or from
6 recommending to a municipality the suspension or revocation of the
7 license of a pet shop within its jurisdiction for other violations
8 under other sections of law, or rules and regulations adopted
9 pursuant thereto.

10 g. No action taken by the local health authority or municipality
11 pursuant to this section or section 8 of P.L.1941, c.151 (C.4:19-
12 15.8) shall be construed to limit or replace any action, hearing or
13 review of complaints concerning the pet shop by the Division of
14 Consumer Affairs in the Department of Law and Public Safety to
15 enforce consumer fraud laws or other protections to which the
16 consumer is entitled.

17 h. The requirements of this section shall be posted in a
18 prominent place in each pet shop in the State along with the name,
19 address, and telephone number of the local health authority that has
20 jurisdiction over the pet shop, and this information shall be
21 provided in writing at the time of purchase to each consumer and to
22 each licensed veterinarian contracted for services by the pet shop
23 upon contracting the veterinarian.

24 i. The Director of the Division of Consumer Affairs may
25 investigate and pursue enforcement against any pet shop reported
26 by a consumer pursuant to subsection b. of this section.

27 (cf: P.L.1999, c.336, s.5)

28
29 433. Section 4 of P.L.1999, c.174 (C.26:1A-15.3), section 28 of
30 P.L.1966 c.293 (C.52:27D-28), section 2 of P.L.1975, c.36,
31 (C.52:27D-28.2), section 1 of P.L.1985, c.357 (C.52:27D-28.5), and
32 section 29 of P.L.1966, c.293 (C. 52:27D-29) are repealed.

33
34 434. This act shall take effect immediately.

35 36 37 STATEMENT

38
39 This bill reorganizes and renames the Department of Health and
40 Senior Services (DHSS) as the Department of Health, establishes a
41 Division of Aging Services in the Department of Human Services
42 (DHS) and transfers certain services and program for senior citizens
43 from DHSS to the new Division of Aging Services in DHS.

44 This bill repeals provisions concerning the Division on Aging the
45 Department of Community Affairs as it is no longer operative.