

# ASSEMBLY, No. 3104

## STATE OF NEW JERSEY 215th LEGISLATURE

INTRODUCED JUNE 14, 2012

**Sponsored by:**

**Assemblywoman MARY PAT ANGELINI**  
**District 11 (Monmouth)**

**Co-Sponsored by:**

**Assemblywoman Handlin**

**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: 6/22/2012)

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,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (c) A substance (and any compound, manufacture, salt,  
2 derivative, or preparation thereof) which is chemically identical  
3 with any of the substances referred to in subsections (a) and (b),  
4 except that the words "narcotic drug" as used in this act shall not  
5 include decocainized coca leaves or extracts of coca leaves, which  
6 extracts do not contain cocaine or ecogine.

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

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

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

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

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

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

30 (a) "Physician" means a physician authorized by law to practice  
31 medicine in this or any other state and any other person authorized  
32 by law to treat sick and injured human beings in this or any other  
33 state.

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

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

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

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

1 "Production" includes the manufacture, planting, cultivation,  
2 growing, or harvesting of a controlled dangerous substance or  
3 controlled substance analog.

4 "Immediate precursor" means a substance which the [State  
5 Department of Health and Senior Services] Division of Consumer  
6 Affairs in the Department of Law and Public Safety has found to be  
7 and by regulation designates as being the principal compound  
8 commonly used or produced primarily for use, and which is an  
9 immediate chemical intermediary used or likely to be used in the  
10 manufacture of a controlled dangerous substance or controlled  
11 substance analog, the control of which is necessary to prevent,  
12 curtail, or limit such manufacture.

13 "Residential treatment facility" means any facility licensed and  
14 approved by the Department of Health [and Senior Services] and  
15 which is approved by any county probation department for the  
16 inpatient treatment and rehabilitation of drug or alcohol dependent  
17 persons.

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

24 "State" means the State of New Jersey.

25 "Ultimate user" means a person who lawfully possesses a  
26 controlled dangerous substance or controlled substance analog for  
27 his own use or for the use of a member of his household or for  
28 administration to an animal owned by him or by a member of his  
29 household.

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

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

40 "Stramonium plant" means the plant *Datura Stramonium* Linne,  
41 including *Datura Tatula* Linne.  
42 (cf: P.L.2011, c.120, s.1)

43  
44 3. Section 6 of P.L.1999, c.90 (C.2C:36-6.1) is amended to read  
45 as follows:

46 6. Discarding hypodermic needle or syringe.

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

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

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

8 b. A hypodermic needle is destroyed if the needle is broken  
9 from the hub or mangled. A syringe is destroyed if the nipple of the  
10 barrel is broken from the barrel, or the plunger and barrel are  
11 melted. Alternatively, a hypodermic needle or syringe is destroyed  
12 if it is discarded as a single unit, without recapping, into a rigid  
13 container and the container is destroyed by grinding or crushing in a  
14 compactor, or by burning in an incinerator approved by the  
15 Department of Environmental Protection, or by another method  
16 approved by the Department of Health [and Senior Services].

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

18

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

21 1. a. Notwithstanding any State law, rule, or regulation to the  
22 contrary, a licensed pharmacy may sell a hypodermic syringe or  
23 needle, or any other instrument adapted for the administration of  
24 drugs by injection, to a person over 18 years of age who presents  
25 valid photo identification to demonstrate proof of age or who  
26 otherwise satisfies the seller that he is over 18 years of age, as  
27 follows:

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

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

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

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

37 (2) make available to each person who purchases any such  
38 instrument, at the time of purchase, information to be developed by  
39 the Department of Health [and Senior Services] to the purchaser,  
40 about:

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

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

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



1 d. The Department of Health **[and Senior Services]**, in  
2 consultation with the Department of Human Services and the New  
3 Jersey State Board of Pharmacy, may, pursuant to the  
4 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
5 seq.), adopt rules and regulations to effectuate the purposes of  
6 subsection b. of this section. The Department of Health **[and**  
7 **Senior Services]** shall make the information that is to be developed  
8 pursuant to subsection b. of this section available to pharmacies and  
9 purchasers of hypodermic syringes or needles through its Internet  
10 website.

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

12

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

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

20 The application shall describe the premises where the  
21 establishment is located or is proposed to be located, the purpose or  
22 purposes for which it is to be maintained, and shall be accompanied  
23 by the written approval of the local municipal and health authorities  
24 showing compliance with the local and State rules and regulations  
25 governing location of and sanitation at such establishments.

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

36 Any person holding **[such]** a license shall not be required to  
37 secure individual licenses for dogs owned by **[such]** a licensee and  
38 kept at **[such]** the establishments; **[such]** the licenses shall not be  
39 transferable to another owner or different premises.

40 c. The license for a pet shop shall be subject to review by the  
41 municipality, upon recommendation by the **[State]** Department of  
42 Health **[and Senior Services]** or the local health authority for  
43 failure by the pet shop to comply with the rules and regulations of  
44 the State department or local health authority governing pet shops  
45 or if the pet shop meets the criteria for recommended suspension or  
46 revocation provided under subsection c. or d. of section 5 of  
47 P.L.1999, c.336 (C.56:8-96), after the owner of the pet shop has

1 been afforded a hearing pursuant to subsection e. of section 5 of  
2 P.L.1999, c.336 (C.56:8-96).

3 The municipality, based on the criteria for the recommendation  
4 of the local health authority provided under subsections c. and d. of  
5 section 5 of P.L.1999, c.336 (C.56:8-96), may suspend the license  
6 for 90 days or may revoke the license if it is determined at the  
7 hearing that the pet shop: (1) failed to maintain proper hygiene and  
8 exercise reasonable care in safeguarding the health of animals in its  
9 custody or (2) sold a substantial number of animals that the pet shop  
10 knew, or reasonably should have known, to be unfit for purchase.

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

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

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

21  
22 6. Section 12 of P.L.1941, c.151 (C.4:19-15.12) is amended to  
23 read as follows:

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

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

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

43  
44 7. Section 16 of P.L.1941, c.151 (C.4:19-15.16) is amended to  
45 read as follows:

46 16. a. The certified animal control officer appointed by the  
47 governing body of the municipality shall take into custody and

1 impound any animal, to thereafter be euthanized or offered for  
2 adoption, as provided in this section:

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

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

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

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

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

17 b. If an animal taken into custody and impounded pursuant to  
18 subsection a. of this section has a collar or harness with  
19 identification of the name and address of any person, or has a  
20 registration tag, or has a microchip with an identification number  
21 that can be traced to the owner or person charged with the care of  
22 the animal, or the owner or the person charged with the care of the  
23 animal is otherwise known, the certified animal control officer shall  
24 ascertain the name and address of the owner or the person charged  
25 with the care of the animal, and serve to the identified person as  
26 soon as practicable, a notice in writing that the animal has been  
27 seized and will be liable to be offered for adoption or euthanized if  
28 not claimed within seven days after the service of the notice.

29 c. A notice required pursuant to this section may be served: (1)  
30 by delivering it to the person on whom it is to be served, or by  
31 leaving it at the person's usual or last known place of residence or  
32 the address given on the collar, harness, or microchip identification;  
33 or (2) by mailing the notice to that person at the person's usual or  
34 last known place of residence, or to the address given on the collar,  
35 harness or microchip identification.

36 d. A shelter, pound, or kennel operating as a shelter or pound  
37 receiving an animal from a certified animal control officer pursuant  
38 to subsection a. of this section, or from any other individual, group,  
39 or organization, shall hold the animal for at least seven days before  
40 offering it for adoption, or euthanizing, relocating, or sterilizing the  
41 animal, except if:

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

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

47 If a shelter, pound or kennel operating as a shelter or pound is  
48 not required to hold an animal for at least seven days pursuant to

1 paragraph (1) of subsection d. of this section, the shelter, pound, or  
2 kennel operating as a shelter or pound:

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

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

9 f. Except as otherwise provided for under subsection e. of this  
10 section, no shelter, pound, or kennel operating as a shelter or pound  
11 receiving an animal from a certified animal control officer may  
12 transfer the animal to an animal rescue organization facility or a  
13 foster home until the shelter, pound, or kennel operating as a shelter  
14 or pound has held the animal for at least seven days.

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

19 (1) shall, in the case of a cat or dog, release it to the owner or  
20 person charged with its care, provided the owner or person charged  
21 with the care of the animal provides proof of ownership, which may  
22 include a valid cat or dog license, registration, rabies inoculation  
23 certificate, or documentation from the owner's veterinarian that the  
24 cat or dog has received regular care from that veterinarian;

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

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

32 h. If the animal remains unclaimed, is not claimed due to the  
33 failure of the owner or other person to comply with the  
34 requirements of this section, or is not adopted after seven days after  
35 the date on which notice is served pursuant to subsection c. of this  
36 section or, if no notice can be served, not less than seven days after  
37 the date on which the animal was impounded, the impounded  
38 animal may be placed in a foster home, transferred to another  
39 shelter, pound, kennel operating as a shelter or pound, or animal  
40 rescue organization facility, or euthanized in a manner causing as  
41 little pain as possible and consistent with the provisions of  
42 R.S.4:22-19.

43 i. At the time of adoption, the right of ownership in the animal  
44 shall transfer to the new owner. No dog or other animal taken into  
45 custody, impounded, sent or otherwise brought to a shelter, pound,  
46 or kennel operating as a shelter or pound shall be sold or otherwise  
47 be made available for the purpose of experimentation. Any person  
48 who sells or otherwise makes available any such dog or other

1 animal for the purpose of experimentation shall be guilty of a crime  
2 of the fourth degree.

3 j. Any animal seized under this section suspected of being  
4 rabid shall be immediately reported to the executive officer of the  
5 local board of health and to the Department of Health **[and Senior**  
6 **Services]**, and shall be quarantined, observed, and otherwise  
7 handled and dealt with as appropriate for an animal suspected of  
8 being rabid or as required by the Department of Health **[and Senior**  
9 **Services]** for **[such]** the animals.

10 k. When a certified animal control officer takes into custody  
11 and impounds, or causes to be taken into custody and impounded,  
12 an animal, the certified animal control officer may place the animal  
13 in the custody of, or cause the animal to be placed in the custody of,  
14 only a licensed shelter, pound, or kennel operating as a shelter or  
15 pound. The certified animal control officer may not place the  
16 animal in the custody of, or cause the animal to be placed in the  
17 custody of, any animal rescue organization facility, foster home, or  
18 other unlicensed facility. However, the licensed shelter, pound, or  
19 kennel operating as a shelter or pound may place the animal in an  
20 animal rescue organization facility, foster home, or other unlicensed  
21 facility if necessary pursuant to subsection e. or h. of this section.

22 l. Notwithstanding the provisions of this section and sections 3  
23 and 4 of P.L.2011, c.142 (C.4:19-15.30 and C.4:19-15.31) to the  
24 contrary, no cat or dog being transferred between shelters, pounds,  
25 or kennels operating as shelters or pounds, or being transferred to  
26 an animal rescue organization facility or placed in a foster home,  
27 shall be required to be sterilized prior to that transfer.  
28 (cf: P.L.2011, c.142, s.2)

29

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

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

41 (1) The law as it affects animal control, animal welfare, and  
42 animal cruelty;

43 (2) Animal behavior and the handling of stray or diseased  
44 animals;

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

46 (4) The law enforcement methods and techniques required for  
47 an animal control officer to properly exercise the authority to

1 investigate and sign complaints and arrest without warrant pursuant  
2 to section 8 of P.L.1997, c.247 (C.4:19-15.16c), including, but not  
3 limited to, those methods and techniques which relate to search,  
4 seizure, and arrest. The training in law enforcement methods and  
5 techniques described pursuant to this paragraph shall be part of the  
6 course of study for an animal control officer only when required by  
7 the governing body of a municipality pursuant to section 4 of  
8 P.L.1983, c.525 (C.4:19-15.16b).

9 Any person 18 years of age or older may satisfy the courses of  
10 study established pursuant to this subsection at that person's own  
11 time and expense; however, nothing in this section shall be  
12 construed as authorizing a person to exercise the powers and duties  
13 of an animal control officer absent municipal appointment or  
14 authorization pursuant to section 4 of P.L.1983, c.525 (C.4:19-  
15 15.16b).

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

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

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

41 (2) Upon receipt of a notice required pursuant to section 3 or 4  
42 of P.L.2003, c.67 (C.4:22-57 or C.2B:12-17.1) involving a person  
43 who has been issued a certificate pursuant to subsection b. of this  
44 section, the commissioner shall add to the list the name of the  
45 person convicted of, or found civilly liable for, a violation of any  
46 provision of chapter 22 of Title 4 of the Revised Statutes according  
47 to the notice, and shall issue a copy of the revised list to each

1 municipality within 30 days after receipt of any [such] notice.  
2 (cf: P.L.2003, c.67, s.1)

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

6 4. The governing body of a municipality shall, within three  
7 years of the effective date of P.L.1983, c.525, appoint a certified  
8 animal control officer who shall be responsible for animal control  
9 within the jurisdiction of the municipality and who shall enforce  
10 and abide by the provisions of section 16 of P.L.1941, c.151  
11 (C.4:19-15.16). The governing body shall not appoint a certified  
12 animal control officer, shall not contract for animal control services  
13 with any company that employs a certified animal control officer,  
14 and shall revoke the appointment of a certified animal control  
15 officer, who has been convicted of, or found civilly liable for, a  
16 violation of any provision of chapter 22 of Title 4 of the Revised  
17 Statutes or whose name is on the list or any revision thereto  
18 established and provided by the Commissioner of Health [and  
19 Senior Services] pursuant to subsection c. of section 3 of P.L.1983,  
20 c.525 (C.4:19-15.16a). The governing body shall, within 30 days  
21 after receipt thereof, review any such list or revision thereto  
22 received by the municipality and shall, within that 30-day period,  
23 take action accordingly as required pursuant to this section.

24 The governing body may authorize the certified animal control  
25 officer to investigate and sign complaints, arrest violators, and  
26 otherwise act as an officer for detection, apprehension, and arrest of  
27 offenders against the animal control, animal welfare and animal  
28 cruelty laws of the State, and ordinances of the municipality, if the  
29 officer has completed the training required pursuant to paragraph 4  
30 of subsection a. of section 3 of P.L.1983, c.525 (C.4:19-15.16a).  
31 Only certified animal control officers who have completed the  
32 training may be authorized by the governing body to so act as an  
33 officer for detection, apprehension, and arrest of offenders;  
34 however, officers who have completed the training shall not have  
35 the authority to so act unless authorized by the governing body  
36 which is employing the officer or contracting for the officer's  
37 services.

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

39  
40 10. Section 19 of P.L.1941, c.151 (C.4:19-15.19) is amended to  
41 read as follows:

42 19. Except as otherwise provided in this act, any person who  
43 violates or who fails or refuses to comply with sections 2, 4, 6, 7, 8,  
44 10, or 18 of this act or the rules and regulations promulgated by the  
45 [State] Department of Health pursuant to section 14 of this act,  
46 shall be liable to a penalty of not less than \$5.00 nor more than  
47 [\$50.00] \$50 for each offense, to be recovered by and in the name

1 of the **[Director]** Commissioner of Health **[of the State of New**  
2 **Jersey]**, or by and in the name of the local board of health of the  
3 municipality, or by and in the name of the municipality, as the case  
4 may be, except that for the first offense in cases of violations of  
5 sections 2, 4, and 6 of this act, the penalty shall be not less than  
6 \$1.00 nor more than **[\$50.00]** \$50, to be recovered in the same  
7 manner.

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

9  
10 11. Section 20 of P.L.1941, c.151 (C.4:19-15.20) is amended to  
11 read as follows:

12 20. Any penalty recovered in an action brought under the  
13 provisions of this act shall be paid to the plaintiff therein. When the  
14 plaintiff is the **[Director]** Commissioner of Health **[of the State of**  
15 **New Jersey]**, the penalty shall be paid by **[said director]** the  
16 commissioner into the treasury of the State. When the plaintiff is a  
17 local board of health the penalty shall be paid by the local board  
18 into the treasury of the municipality within which the local board  
19 has jurisdiction.

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

21  
22 12. Section 3 of P.L.2011, c.142 (C.4:19-15.30) is amended to  
23 read as follows:

24 3. a. The Department of Health **[and Senior Services]** shall  
25 develop and establish a pilot program to be known as the "Pet  
26 Sterilization Pilot Program." The pilot program shall operate in any  
27 county with significant animal overpopulation issues that is selected  
28 for the program by the Commissioner of Health **[and Senior**  
29 **Services]** and agrees to participate in the program. Upon the  
30 county's agreement to participate, every shelter, pound, and kennel  
31 operating as a shelter or pound in the county shall participate in the  
32 pilot program.

33 b. A shelter, pound, or kennel operating as a shelter or pound in  
34 a county participating in the pilot program established under  
35 subsection a. of this section shall require every cat or dog to be  
36 sterilized before releasing it to a person adopting a cat or dog from  
37 the shelter, pound, or kennel operating as a shelter or pound when  
38 adoption is permitted pursuant to section 16 of P.L.1941, c.151  
39 (C.4:19-15.16), except as provided under section 4 of P.L.2011,  
40 c.142 (C.4:19-15.31). The shelter, pound, or kennel operating as a  
41 shelter or pound may charge the person adopting the animal the cost  
42 of sterilization.

43 c. The pilot program shall operate for a period of at least two  
44 years. No later than two years after the pilot program is established  
45 and becomes operative, the Commissioner of Health **[and Senior**  
46 **Services]** shall submit a written report to the Governor and,  
47 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the



1 Legislature. The report shall contain information on the  
2 implementation of the pilot program and shall include the  
3 recommendation of the commissioner on the feasibility of  
4 implementing the pilot program on a Statewide basis.  
5 (cf: P.L.2011, c.142, s.3)

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

9 6. a. The Department of Health **[and Senior Services]** shall  
10 establish a registry of animal rescue organizations and their  
11 facilities in the State. Any animal rescue organization may  
12 voluntarily participate in the registry.

13 b. The department, pursuant to the "Administrative Procedure  
14 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), may adopt any rules  
15 and regulations determined necessary to implement the voluntary  
16 registry and coordinate its use with the provisions of P.L.2011,  
17 c.142 (C.4:19-15.30 et al.) and section 16 of P.L.1941, c.151  
18 (C.4:19-15.16).

19 (cf: P.L.2011, c.142, s.6)

20

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

23 4. Whenever a duly licensed veterinarian surgically debarks or  
24 silences a dog, the veterinarian shall prepare and file a written  
25 statement with the **[State]** Department of Health **[and Senior  
26 Services]** setting forth the veterinary basis for administering the  
27 surgery and providing the name and address of the owner, keeper or  
28 harborer of the debarked or silenced dog. A veterinarian who fails  
29 to comply with the provisions of this section shall be subject to  
30 disciplinary action by the State Board of Veterinary Medical  
31 Examiners.

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

33

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

36 15. The Department of Agriculture:

37 a. in consultation with the Aquaculture Technology Transfer  
38 Center, the Rutgers Cooperative Extension and the Department of  
39 Environmental Protection, shall implement an aquaculture statistics  
40 reporting program which may include the collection of information  
41 on the numbers of jobs being created in aquaculture, the amount,  
42 value and type of product being produced, and the overall economic  
43 activity in the aquaculture industry;

44 b. in consultation with the Aquaculture Technology Transfer  
45 Center, and the Rutgers Cooperative Extension, shall assist  
46 aquaculturists in obtaining coverage from federal crop insurance  
47 programs;

- 1 c. in consultation with the Aquaculture Technology Transfer
- 2 Center and the Rutgers Cooperative Extension, shall assist
- 3 aquaculturists in completing the proper paperwork and other
- 4 information necessary to develop eligibility for economic
- 5 emergency loans for disaster relief through the Farmers Services
- 6 Agency and other programs;
- 7 d. in consultation with the United States Department of
- 8 Agriculture and the National Association of State Aquaculture
- 9 Coordinators, shall develop a monthly wholesale market report for
- 10 aquaculture products;
- 11 e. in conjunction with the Aquaculture Technology Transfer
- 12 Center and the Department of Health [and Senior Services], shall
- 13 assist the aquaculture industry in the development of necessary
- 14 quality control guidelines and specifications for production,
- 15 processing, and marketing of aquaculture products;
- 16 f. in conjunction with the Aquaculture Technology Transfer
- 17 Center, shall assist (1) the aquaculture industry in promoting its
- 18 products through techniques that may include the establishment and
- 19 use of a trademark and other specialized marketing efforts; and (2)
- 20 aquaculturists interested in developing coordinated efforts or
- 21 arrangements, including producer cooperatives, joint ventures,
- 22 market orders, and other forms of association; and
- 23 g. in conjunction with the Department of Health [and Senior
- 24 Services], the Department of Commerce and Economic
- 25 Development, the Department of Environmental Protection shall
- 26 explore the possibilities of establishing private sector joint
- 27 processing facilities to accommodate agriculture, seafood, and
- 28 aquaculture products.
- 29 (cf: P.L.1997, c.236, s.15)
- 30
- 31 16. Section 2 of P.L.2001, c.39 (C.5:12-71.3) is amended to read
- 32 as follows:
- 33 2. a. A person who is prohibited from gaming in a licensed
- 34 casino or simulcasting facility by any provision of P.L.1977, c.110
- 35 (C.5:12-1 et seq.) or any order of the director, commission, or court
- 36 of competent jurisdiction, including any person on the self-
- 37 exclusion list pursuant to section 1 of P.L.2001, c.39 (C.5:12-71.2),
- 38 shall not collect, in any manner or proceeding, any winnings or
- 39 recover any losses arising as a result of any prohibited gaming
- 40 activity.
- 41 b. For the purposes of P.L.1977, c.110 (C.5:12-1 et seq.), any
- 42 gaming activity in a licensed casino or simulcasting facility which
- 43 results in a prohibited person obtaining any money or thing of value
- 44 from, or being owed any money or thing of value by, the casino or
- 45 simulcasting facility shall be considered, solely for purposes of this
- 46 section, to be a fully executed gambling transaction.
- 47 c. In addition to any other penalty provided by law, any money
- 48 or thing or value which has been obtained by, or is owed to, any

1 prohibited person by a licensed casino or simulcasting facility as a  
2 result of wagers made by a prohibited person shall be subject to  
3 forfeiture following notice to the prohibited person and opportunity  
4 to be heard. A licensed casino or simulcasting facility shall inform a  
5 prohibited person of the availability of such notice on the division's  
6 Internet website when ejecting the prohibited person and seizing  
7 any chips, vouchers or other representative of money owed by a  
8 casino to the prohibited person as authorized by this subsection.

9 Of any forfeited amount under \$100,000, one-half shall be  
10 deposited into the State General Fund for appropriation by the  
11 Legislature to the Department of **Health and Senior** Human  
12 Services to provide funds for compulsive gambling treatment and  
13 prevention programs in the State and the remaining one-half shall  
14 be deposited into the Casino Revenue Fund. Of any forfeited  
15 amount of \$100,000 or more, \$50,000 shall be deposited into the  
16 State General Fund for appropriation by the Legislature to the  
17 Department of **Health and Senior** Human Services to provide  
18 funds for compulsive gambling treatment and prevention programs  
19 and the remainder shall be deposited into the Casino Revenue Fund.

20 d. In any proceeding brought by the division against a licensee  
21 or registrant pursuant to section 108 of P.L.1977, c.110 (C.5:12-  
22 108) for a willful violation of the commission's self-exclusion  
23 regulations, the division may order, in addition to any other  
24 sanction authorized by section 129 of P.L.1977, c.110 (C.5:12-129),  
25 the forfeiture of any money or thing of value obtained by the  
26 licensee or registrant from any self-excluded person. Any money or  
27 thing of value so forfeited shall be disposed of in the same manner  
28 as any money or thing of value forfeited pursuant to subsection c. of  
29 this section.

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

31  
32 17. Section 145 of P.L.1977, c.110 (C.5:12-145) is amended to  
33 read as follows:

34 145. a. There is hereby created and established in the Department  
35 of the Treasury a separate special account to be known as the  
36 "Casino Revenue Fund," into which shall be deposited all revenues  
37 from the tax imposed by section 144 of this act; the investment  
38 alternative tax imposed by section 3 of P.L.1984, c.218 (C.5:12-  
39 144.1); the taxes and fees imposed by sections 3, 4 and 6 of  
40 P.L.2003, c.116 (C.5:12-148.1, C.5:12-148.2 and C.5:12-145.8) and  
41 any interest and penalties imposed by the division relating to those  
42 taxes; the percentage of the value of expired gaming related  
43 obligations pursuant to section 24 of P.L.2009, c.36 (C.5:12-141.2);  
44 and all penalties levied and collected by the division pursuant to  
45 P.L.1977, c.110 (C.5:12-1 et seq.) and the regulations promulgated  
46 thereunder, except that the first \$600,000 in penalties collected each  
47 fiscal year shall be paid into the General Fund for appropriation by  
48 the Legislature to the Department of **Health and Senior** Human

1 Services, \$500,000 of which is to provide funds to the Council on  
2 Compulsive Gambling of New Jersey and \$100,000 of which is to  
3 provide funds for compulsive gambling treatment programs in the  
4 State. In the event that less than \$600,000 in penalties are collected,  
5 the Department of ~~Health and Senior~~ Human Services shall  
6 determine the allocation of funds between the Council and the  
7 treatment programs eligible under the criteria developed pursuant to  
8 section 2 of P.L.1993, c.229 (C.26:2-169).

9 b. The division shall require at least monthly deposits by the  
10 licensee of the tax established pursuant to subsection a. of section  
11 144 of P.L.1977, c.110 (C.5:12-144), at such times, under such  
12 conditions, and in such depositories as shall be prescribed by the  
13 State Treasurer. The deposits shall be deposited to the credit of the  
14 Casino Revenue Fund. The division may require a monthly report  
15 and reconciliation statement to be filed with it on or before the 10th  
16 day of each month, with respect to gross revenues and deposits  
17 received and made, respectively, during the preceding month.

18 c. Moneys in the Casino Revenue Fund shall be appropriated  
19 exclusively for reductions in property taxes, rentals, telephone, gas,  
20 electric, and municipal utilities charges of eligible senior citizens  
21 and disabled residents of the State, and for additional or expanded  
22 health services or benefits or transportation services or benefits to  
23 eligible senior citizens and disabled residents, as shall be provided  
24 by law. On or about March 15 and September 15 of each year, the  
25 State Treasurer shall publish in at least 10 newspapers circulating  
26 generally in the State a report accounting for the total revenues  
27 received in the Casino Revenue Fund and the specific amounts of  
28 money appropriated therefrom for specific expenditures during the  
29 preceding six months ending December 31 and June 30.

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

31  
32 18. Section 1 of P.L.1992, c.108 (C.5:12-145.3) is amended to  
33 read as follows:

34 1. There is created a commission to be known as the "Casino  
35 Revenue Fund Advisory Commission." The commission shall  
36 consist of 15 members to be appointed as follows: two members of  
37 the Senate, appointed by the President of the Senate, not more than  
38 one of whom shall be of the same political party; two members of  
39 the General Assembly, appointed by the Speaker of the General  
40 Assembly, not more than one of whom shall be of the same political  
41 party; three public members who are senior citizens, one of whom is  
42 appointed by the President of the Senate, one of whom is appointed  
43 by the Speaker of the General Assembly, and one of whom is  
44 appointed by the Governor; three public members who are disabled,  
45 one of whom is appointed by the President of the Senate, one of  
46 whom is appointed by the Speaker of the General Assembly, and  
47 one of whom is appointed by the Governor; one public member who  
48 is a representative of the casino industry to be appointed by the

1 Governor upon the recommendation of the Casino Association of  
2 New Jersey; the President of the New Jersey Association of  
3 Directors of Area Agencies on Aging, the Chairperson of the New  
4 Jersey Association of County Representatives for Disabled Persons,  
5 the Director of the Division **【on】** of Aging Services in the  
6 Department of **【Community Affairs】** Human Services, and the  
7 Legislative Budget and Finance Officer, or their designees, who  
8 shall serve as ex officio members.

9 The legislative members shall serve during the two-year  
10 legislative session in which the appointment is made. The senior  
11 citizen and disabled members shall serve for three year terms or  
12 until a successor is appointed; but of the members initially  
13 appointed, one of the senior citizens and one of the disabled  
14 members shall serve for a term of one year, one of the senior  
15 citizens and one of the disabled members shall serve for a term of  
16 two years, and one of the senior citizens and one of the disabled  
17 members shall serve for a term of three years.

18 Vacancies in the membership of the commission shall be filled in  
19 the same manner as the original appointments are made and a  
20 member may be eligible for reappointment. Vacancies occurring  
21 other than by expiration of a term shall be filled for the unexpired  
22 term.

23 Members shall be eligible for reimbursement for necessary and  
24 reasonable expenses incurred in the performance of their official  
25 duties but reimbursement of expenses shall be within the limits of  
26 funds appropriated or otherwise made available to the commission  
27 for its purposes.

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

29  
30 19. Section 3 of P.L.1991, c.290 (C.9:6B-3) is amended to read  
31 as follows:

32 3. As used in this act:

33 "Child placed outside his home" means a child placed outside his  
34 home by the Department of Human Services, the Department of  
35 Children and Families, the Department of Health **【and Senior**  
36 **Services】**, or a board of education.

37 "Department" means the Department of Human Services, the  
38 Department of Children and Families, the Department of Health  
39 **【and Senior Services】**, or board of education, as applicable.

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

41  
42 20. Section 5 of P.L.1991, c.290 (C.9:6B-5) is amended to read  
43 as follows:

44 5. The Departments of Human Services, Children and Families,  
45 Health **【and Senior Services】**, and Education shall each prepare and  
46 update at least every six months, and shall make available to the  
47 public upon request, aggregate non-identifying data about children

- 1 under their care, custody, or supervision who are placed in out-of-
- 2 home settings, by category as appropriate. The data shall include
- 3 the following:
- 4 a. The number of children placed outside their homes during
- 5 the six-month period and the cumulative number of children
- 6 residing in out-of-home settings;
- 7 b. The age, sex, and race of the children residing in out-of-
- 8 home settings;
- 9 c. The reasons for placement of these children;
- 10 d. The types of settings in which these children reside;
- 11 e. The length of time that these children have resided in these
- 12 settings;
- 13 f. The number of placements for those children who have been
- 14 placed in more than one setting;
- 15 g. The number of children who have been placed in the same
- 16 county in which their parents or legal guardians reside and the
- 17 number who have been placed outside of the State;
- 18 h. The number of children who have been permanently placed
- 19 or returned to their homes during the six-month period, and a
- 20 projection of the number of children who will be permanently
- 21 placed or returned to their homes during the following six-month
- 22 period; and
- 23 i. The number of children who have been permanently placed
- 24 or returned to their homes who are subsequently returned to an out-
- 25 of-home setting during the six-month period.
- 26 (cf: P.L.2006, c.47, s.72)

27  
28 21. Section 6 of P.L.1991, c.290 (C.9:6B-6) is amended to read  
29 as follows:

30 6. The Commissioners of Human Services, Children and  
31 Families, Health [and Senior Services], and Education, pursuant to  
32 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
33 seq.), shall each adopt rules and regulations to effectuate the  
34 purposes of this act.  
35 (cf: P.L.2006, c.47, s.73)

36  
37 22. Section 9 of P.L.1999, c.145 (C.9:17A-1.8) is amended to  
38 read as follows:

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

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

- 45 (1) that a minor may, by petition or motion, seek a waiver of
- 46 parental notification from a judge of the Superior Court;
- 47 (2) that a minor may participate in proceedings in the court on
- 48 her own behalf, that the court may appoint a guardian ad litem for

1 her and that the minor has a right to court appointed counsel, which  
2 shall be provided to her by the court upon her request; and

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

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

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

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

16

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

19 12. The Commissioner of [the Department of ]Health [and  
20 Senior Services], in consultation with the Department of Law and  
21 Public Safety, shall promulgate rules and regulations pursuant to the  
22 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
23 seq.), concerning procedures for physicians to follow in effectuating  
24 the notice required pursuant to the provisions of P.L.1999, c.145  
25 (C.9:17A-1.1 et al.).

26 (cf: P.L.1999, c.145, s.12)

27

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

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

35 b. The functions, powers, and duties of the Department of  
36 Personnel, the Commissioner of Personnel, the deputy  
37 commissioner, assistant commissioners, and directors of the various  
38 divisions and offices of the Department of Personnel are continued  
39 and transferred as provided by P.L.2008, c.29. The State Treasurer  
40 may allocate the functions, powers, and duties transferred to the  
41 Department of the Treasury or the State Treasurer by P.L.2008, c.29  
42 among such divisions or subdivisions in the Department of the  
43 Treasury as the State Treasurer deems appropriate or as the State  
44 Treasurer may establish.

45 c. (1) The Division of Equal Employment Opportunity and  
46 Affirmative Action as constituted in the Department of Personnel,  
47 with its functions, powers, and duties, and those of the  
48 Commissioner of Personnel and the Merit System Board with

1 regard to that division, is continued and transferred to the  
2 Department of the Treasury, except with regard to the power to  
3 adjudicate complaints of violations of the State policy against  
4 discrimination which power shall remain with the Civil Service  
5 Commission. The functions, powers, and duties of the Division of  
6 Equal Employment Opportunity and Affirmative Action shall be  
7 allocated within the department as the State Treasurer shall  
8 determine.

9 The Equal Employment Opportunity Advisory Commission as  
10 constituted in the Department of Personnel is continued and  
11 transferred to the Department of the Treasury to be allocated within  
12 that department as the State Treasurer shall determine. The  
13 members of the Equal Employment Opportunity Advisory  
14 Commission shall continue as members of the commission for the  
15 duration of their current terms and any reappointments and until  
16 their successors are appointed, unless removed for cause.

17 (2) The planning and research unit and function as constituted in  
18 the Department of Personnel is continued and transferred to the  
19 Department of the Treasury to be allocated within that department  
20 as the State Treasurer shall determine.

21 d. The Working Well NJ State employee wellness program as  
22 constituted in the Department of Personnel is continued and  
23 transferred to the Department of Health **and Senior Services** to be  
24 allocated within that department as the commissioner shall  
25 determine.

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

33 f. The New Jersey Employee Awards Committee as constituted  
34 in the Department of Personnel is continued and transferred to the  
35 Civil Service Commission. The members of the New Jersey  
36 Employee Awards Committee shall continue as members of the  
37 committee for the duration of their current terms and any  
38 reappointments and until their successors are appointed, unless  
39 removed for cause.

40 g. The commission shall develop a plan for the consolidation  
41 and coordination of personnel and related functions, including, but  
42 not limited to, classification, compensation, and workforce  
43 planning, in the executive branch of State government and for  
44 transfer to the commission of **[such]** employees, positions, funding,  
45 facilities, equipment, powers, and duties from throughout the  
46 executive branch of State government as necessary and appropriate  
47 to effectuate such consolidation and coordination.



1 h. The commission shall submit the plan prepared pursuant to  
2 subsection g. of this section to the Governor for review and  
3 approval. With the approval of the Governor and in accordance  
4 with regulations adopted by the commission, the commission,  
5 pursuant to the approved plan, shall direct the consolidation and  
6 coordination of personnel and related functions, including, but not  
7 limited to, classification, compensation, and workforce planning, in  
8 the executive branch of State government and transfer to the  
9 commission **[such]** employees, positions, funding, facilities,  
10 equipment, powers, duties, and functions from throughout the  
11 executive branch of State government to effectuate **[such]** the  
12 consolidation and coordination. The commission shall organize  
13 these functions in **[such]** the units as the commission determines  
14 are necessary for the efficient operation of the commission and in  
15 **[such]** a manner as will provide the appointing authorities and all  
16 State employees with proper support in personnel matters. The  
17 consolidation shall not apply to those functions which the  
18 commission has determined are unique to each department or  
19 agency in its capacity as an appointing authority.

20 i. Each department, office, division, bureau, or agency in the  
21 executive branch of State government shall cooperate with the  
22 commission and make available to the commission such  
23 information, personnel and assistance necessary to effectuate the  
24 purposes of P.L.2008, c.29.

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

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

32  
33 25. N.J.S.11A:11-3 is amended to read as follows:

34 11A:11-3 Any law, rule, regulation, order, reorganization plan,  
35 contract, document, judicial or administrative proceeding,  
36 appropriation, or otherwise which refers to the Department of  
37 Personnel, Commissioner of Personnel, or Merit System Board shall  
38 mean the Department of the Treasury, State Treasurer, Civil Service  
39 Commission, or Department of Health **[and Senior Services]**, as  
40 provided by P.L.2008, c.29.

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

42  
43 26. N.J.S.11A:11-4 is amended to read as follows:

44 11A:11-4. All rules of the Merit System Board or the Department  
45 of Personnel in effect on the effective date of P.L.2008, c.29 shall  
46 remain in effect except as changed or modified by this title or action

1 of the Civil Service Commission, State Treasurer, Commissioner of  
2 Health [and Senior Services], or other authority, as appropriate.  
3 (cf: P.L.2008, c.29, s.80)  
4

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

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

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

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

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

20 All enforcement activities undertaken by county health  
21 departments pursuant to this subsection shall conform to all  
22 applicable performance and administrative standards adopted  
23 pursuant to section 10 of the "County Environmental Health Act,"  
24 P.L.1977, c.443 (C.26:3A2-28).

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

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

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

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

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

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

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

41 c. Whenever the Commissioner of Environmental Protection or  
42 the Commissioner of Health [and Senior Services] finds that a  
43 person has violated this act, or any rule or regulation adopted  
44 pursuant thereto, that commissioner may issue an order specifying  
45 the provision or provisions of this act, or the rule or regulation  
46 adopted pursuant thereto, of which the person is in violation, citing  
47 the action that constituted the violation, ordering abatement of the  
48 violation, and giving notice to the person of the person's right to a

1 hearing on the matters contained in the order. The ordered party  
2 shall have 20 days from receipt of the order within which to deliver  
3 to the commissioner a written request for a hearing. After the  
4 hearing and upon finding that a violation has occurred, the  
5 commissioner may issue a final order. If no hearing is requested,  
6 the order shall become final after the expiration of the 20-day  
7 period. A request for hearing shall not automatically stay the effect  
8 of the order.

9 d. The Commissioner of Environmental Protection, the  
10 Commissioner of Health **[and Senior Services]**, a local board of  
11 health, or a county health department may institute an action or  
12 proceeding in the Superior Court for injunctive and other relief,  
13 including the appointment of a receiver for any violation of this act,  
14 or of any rule or regulation adopted pursuant thereto, and the court  
15 may proceed in the action in a summary manner. In any **[such]**  
16 proceeding the court may grant temporary or interlocutory relief.

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

- 18 (1) a temporary or permanent injunction;
- 19 (2) assessment of the violator for the costs of any investigation,  
20 inspection, or monitoring survey that led to the establishment of the  
21 violation, and for the reasonable costs of preparing and litigating  
22 the case under this subsection;
- 23 (3) assessment of the violator for any cost incurred by the State  
24 in removing, correcting, or terminating the adverse effects upon  
25 environmental quality or public health resulting from any violation  
26 of this act, or any rule or regulation adopted pursuant thereto, for  
27 which the action under this subsection may have been brought;
- 28 (4) assessment against the violator of compensatory damages for  
29 any loss or destruction of wildlife, fish or aquatic life, and for any  
30 other actual damages caused by any violation of this act, or any rule  
31 or regulation adopted pursuant thereto, for which the action under  
32 this subsection may have been brought; and
- 33 (5) assessment against the violator of the actual amount of any  
34 economic benefits accruing to the violator from a violation.  
35 Economic benefits may include the amount of any savings realized  
36 from avoided capital or noncapital costs resulting from the  
37 violation; the return earned or that may be earned on the amount of  
38 avoided costs; any benefits accruing to the violator as a result of a  
39 competitive market advantage enjoyed by reason of the violation; or  
40 any other benefits resulting from the violation.

41 Assessments under this subsection shall be paid to the State  
42 Treasurer, or to the local board of health, or to the county health  
43 department, as the case may be, except that compensatory damages  
44 may be paid by specific order of the court to any persons who have  
45 been aggrieved by the violation.

46 If a proceeding is instituted by a local board of health or county  
47 health department, notice thereof shall be served upon the  
48 commissioners in the same manner as if the commissioners were

1 named parties to the action or proceeding. Either of the  
2 departments may intervene as a matter of right in any proceeding  
3 brought by a local board of health or county health department.

4 e. Either of the commissioners, as the case may be, may assess  
5 a civil administrative penalty of not more than \$100,000 for each  
6 violation. Each day that a violation continues shall constitute an  
7 additional, separate, and distinct offense. A commissioner may not  
8 assess a civil administrative penalty in excess of \$25,000 for a  
9 single violation, or in excess of \$2,500 for each day during which a  
10 violation continues, until the departments have respectively  
11 adopted, pursuant to the "Administrative Procedure Act," P.L.1968,  
12 c.410 (C.52:14B-1 et seq.), regulations requiring the appropriate  
13 commissioner, in assessing a civil administrative penalty, to  
14 consider the operational history of the violator, the severity of the  
15 violation, the measures taken to mitigate or prevent further  
16 violations, and whether the penalty will maintain an appropriate  
17 deterrent. No assessment may be levied pursuant to this section  
18 until after the violator has been notified by certified mail or  
19 personal service. The notice shall include a reference to the section  
20 of the statute, rule, regulation, or order violated, a concise statement  
21 of the facts alleged to constitute a violation, a statement of the  
22 amount of the civil administrative penalties to be imposed, and a  
23 statement of the party's right to a hearing. The ordered party shall  
24 have 20 calendar days from receipt of the notice within which to  
25 deliver to the appropriate commissioner a written request for a  
26 hearing. After the hearing and upon finding that a violation has  
27 occurred, that commissioner may issue a final order after assessing  
28 the amount of the fine specified in the notice. If no hearing is  
29 requested, the notice shall become a final order after the expiration  
30 of the 20-day period. Payment of the assessment is due when a  
31 final order is issued or the notice becomes a final order. The  
32 authority to levy a civil administrative penalty is in addition to all  
33 other enforcement provisions in this act, and the payment of any  
34 assessment shall not be deemed to affect the availability of any  
35 other enforcement provisions in connection with the violation for  
36 which the assessment is levied. Each department may compromise  
37 any civil administrative penalty assessed under this section in an  
38 amount the department determines appropriate.

39 f. A person who violates this act, or any rule or regulation  
40 adopted pursuant thereto, shall be liable for a penalty of not more  
41 than \$100,000 per day for each violation, to be collected in a civil  
42 action commenced by the Commissioner of Environmental  
43 Protection, the Commissioner of Health [and Senior Services], a  
44 local board of health, or a county health department.

45 A person who violates an administrative order issued pursuant to  
46 subsection c. of this section, or a court order issued pursuant to  
47 subsection d. of this section, or who fails to pay an administrative  
48 assessment in full pursuant to subsection e. of this section is subject

1 upon order of a court to a civil penalty not to exceed \$200,000 per  
2 day for each violation.

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

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

13 g. A person who purposely or knowingly:

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

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

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

28 (4) fails to properly treat certain types of regulated medical  
29 waste designated by the Department of Health **[and Senior  
30 Services]** in a prescribed manner; shall, upon conviction, be guilty  
31 of a crime of the third degree and, notwithstanding the provisions of  
32 N.J.S.2C:43-3, shall be subject to a fine of not more than \$100,000  
33 for the first offense, and not more than \$200,000 for each  
34 subsequent offense, and restitution, in addition to any other  
35 appropriate disposition authorized by subsection b. of N.J.S.2C:43-  
36 2.

37 h. A person who recklessly or negligently:

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

43 (2) makes any false or misleading statement to any person who  
44 prepares any regulated medical waste application, registration,  
45 form, label, certification, manifest, record, report, or other  
46 document required by this act, or any rule or regulation adopted  
47 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 manner prescribed thereby; shall, upon conviction, be
- 8 guilty of a crime of the fourth degree.
- 9 i. A person who, regardless of intent:
- 10 (1) transports any regulated medical waste to a facility or any
- 11 other place in the State that does not have authorization from the
- 12 Department of Environmental Protection to accept [such] the
- 13 waste, or in violation of this act, or any rule or regulation adopted
- 14 pursuant thereto; or
- 15 (2) transports, or receives transported, regulated medical waste
- 16 without completing and submitting a manifest in accordance with
- 17 this act, or any rule or regulation adopted pursuant thereto; shall,
- 18 upon conviction, be guilty of a crime of the fourth degree.
- 19 j. A person who purposely, knowingly, or recklessly:
- 20 (1) generates and causes or permits to be transported any
- 21 regulated medical waste to a facility or any other place in the State
- 22 that does not have authorization from the Department of
- 23 Environmental Protection to accept [such] the waste, or in
- 24 violation of this act, or any rule or regulation adopted pursuant
- 25 thereto; or
- 26 (2) violates any other provision of this act, or any rule or
- 27 regulation adopted pursuant thereto, for which no other criminal
- 28 penalty has been specifically provided for; shall, upon conviction,
- 29 be guilty of a crime of the fourth degree.
- 30 k. All conveyances used or intended for use in the willful
- 31 discharge, in violation of this act, or any rule or regulation adopted
- 32 pursuant thereto, of regulated medical waste are subject to forfeiture
- 33 to the State pursuant to P.L.1981, c.387 (C.13:1K-1 et seq.).
- 34 l. (Deleted by amendment, P.L.1997, c.325.)
- 35 m. No prosecution for a violation under this act shall be deemed
- 36 to preclude a prosecution for the violation of any other applicable
- 37 statute.
- 38 (cf: P.L.2009, c.282, s.1)
- 39
- 40 28. Section 1 of P.L.1998, c.18 (C.17:23A-13.1) is amended to
- 41 read as follows:
- 42 1. An insurer who requires an applicant for insurance to submit
- 43 to medical testing as a condition of issuing, extending or renewing
- 44 the insurance shall obtain the applicant's written consent for the
- 45 test. If in the course of the testing the insurer determines that the
- 46 applicant has a reportable communicable disease, the insurer shall
- 47 promptly notify the applicant of the determination and recommend
- 48 that the applicant contact a physician or other medical professional

1 regarding the significance of the test result. The insurer shall also  
2 promptly provide the Department of Health [and Senior Services]  
3 and a physician or other medical professional designated by the  
4 applicant with a copy of the results of the test. The provisions of  
5 this act shall not be construed to require a physician or other  
6 medical professional who receives a copy of the test result to  
7 initiate contact with the applicant regarding the test result.

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

11 For the purposes of this act, "reportable communicable disease"  
12 means those diseases required to be reported to the Department of  
13 Health [and Senior Services] pursuant to N.J.A.C.8:57-1.3 through  
14 8:57-1.6 and N.J.A.C.8:57-2.2 and 8:57-2.3.

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

16  
17 29. Section 2 of P.L.1998, c.18 (C.17:23A-13.2) is amended to  
18 read as follows:

19 2. The Commissioner of Banking and Insurance, in  
20 consultation with the Commissioner of Health [and Senior  
21 Services], shall adopt regulations pursuant to the "Administrative  
22 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) which  
23 establish procedures that insurers shall use to notify applicants of  
24 test results pursuant to this act.

25 (cf: P.L.1998, c.18, s.2)

26  
27 30. Section 1 of P.L.1970, c.22 (C.17:27A-1) is amended to read  
28 as follows:

29 1. Definitions.

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

33 a. An "affiliate" of, or person "affiliated" with, a specific  
34 person, is a person that directly, or indirectly through one or more  
35 intermediaries, controls, or is controlled by, or is under common  
36 control with, the person specified.

37 b. The term "commissioner" shall mean the Commissioner of  
38 Banking and Insurance or [his] the commissioner's deputies,  
39 except that when a health maintenance organization is the subject of  
40 an acquisition of control or merger, the commissioner shall consult  
41 with the Commissioner of Health [and Senior Services] on matters  
42 relating to quality of, and access to, health care services.

43 c. The term "control" (including the terms "controlling,"  
44 "controlled by" and "under common control with") means the  
45 possession, direct or indirect, of the power to direct or cause the  
46 direction of the management and policies of a person, whether  
47 through the ownership of voting securities, by contract other than a

1 commercial contract for goods or nonmanagement services, or  
2 otherwise, unless the power is the result of an official position with  
3 or corporate office held by the person. Control shall be presumed  
4 to exist if any person, directly or indirectly, owns, controls, holds  
5 with the power to vote, or holds proxies representing, 10% or more  
6 of the voting securities of any other person, provided that no such  
7 presumption of control shall of itself relieve any person so  
8 presumed to have control from any requirement of P.L.1970, c.22  
9 (C.17:27A-1 et seq.). This presumption may be rebutted by a  
10 showing made in the manner provided by subsection j. of section 3  
11 of P.L.1970, c.22 (C.17:27A-3) that control does not exist in fact.  
12 The commissioner may determine, after furnishing all persons in  
13 interest notice and an opportunity to be heard, and making specific  
14 findings of fact to support such determination, that control exists in  
15 fact, notwithstanding the absence of a presumption to that effect.

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

18 e. The term "insurer" means any person or persons,  
19 corporation, partnership, or company authorized by the laws of this  
20 State to transact the business of insurance or to operate a health  
21 maintenance organization in this State, except that it shall not  
22 include agencies, authorities, or instrumentalities of the United  
23 States, its possessions and territories, the Commonwealth of Puerto  
24 Rico, the District of Columbia, or a state or political subdivision of  
25 a state.

26 f. A "person" is an individual, a corporation, a partnership, an  
27 association, a joint stock company, a trust, an unincorporated  
28 organization, any similar entity or any combination of the foregoing  
29 acting in concert.

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

31 h. A "subsidiary" of a specified person is an affiliate controlled  
32 by such person directly, or indirectly through one or more  
33 intermediaries.

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

36 j. "Acquisition" means any agreement, arrangement or activity,  
37 the consummation of which results in a person acquiring directly or  
38 indirectly the control of another person, and includes but is not  
39 limited to the acquisition of voting securities, and assets, and bulk  
40 reinsurance and mergers.

41 k. "Health maintenance organization" means any person  
42 operating under a certificate of authority issued pursuant to  
43 P.L.1973, c.337 (C.26:2J-1 et seq.).  
44 (cf: P.L2001, c.2, s.2)

45  
46 31. Section 1 of P.L.1998, c.129 (C.17:29A-35.1) is amended to  
47 read as follows:



1       1. Notwithstanding the provisions or any law, rule or regulation  
2 to the contrary, upon the death of a driver on whom surcharges have  
3 been levied by the **【Division of Motor Vehicles】** New Jersey Motor  
4 Vehicle Commission pursuant to section 6 of P.L.1983, c.65  
5 (C.17:29A-35), any debt established by the imposition of those  
6 surcharges is extinguished and the **【division】** commission, or any  
7 agent or representative thereof, shall cease to seek payment of that  
8 debt.

9       Whenever the division is unable to obtain a death certificate  
10 from a person representing the estate of any driver on whom  
11 surcharges have been levied and who was a resident of the State, the  
12 **【division】** commission shall obtain a copy of the death certificate  
13 by contacting the State registrar of vital statistics in the Department  
14 of Health **【and Senior Services】** and, in these cases, the **【division】**  
15 commission shall not require the estate of the driver to furnish a  
16 death certificate.

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

18  
19       32. Section 27 of P.L.2004, c.17 (C.17:30D-29) is amended to  
20 read as follows:

21       27. a. There is established a Medical Malpractice Liability  
22 Insurance Premium Assistance Fund within the Department of the  
23 Treasury as a nonlapsing, revolving fund.

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

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

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

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

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

46       (5) an annual charge of \$75 to be imposed by the New Jersey  
47 State Board of Optometrists on every optometrist licensed by the  
48 board pursuant to the provisions of R.S.45:12-1 et seq., collected by

1 the board and remitted to the State Treasurer for deposit into the  
2 fund; and

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

6 The provisions of paragraphs (2) through (5) of this subsection  
7 shall not apply to physicians, podiatrists, chiropractors, dentists, or  
8 optometrists who: are statutorily or constitutionally barred from the  
9 practice of their respective profession; can show that they do not  
10 maintain a bona fide office for the practice of their profession in  
11 this State; are completely retired from the practice of their  
12 profession; are on full-time duty with the armed forces, VISTA, or  
13 the Peace Corps and not engaged in practice; or have not practiced  
14 their profession for at least one year.

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

24 c. The State Treasurer shall deposit all ~~【moneys】~~ monies  
25 collected ~~【by him】~~ pursuant to this section into the fund. Monies  
26 credited to the fund may be invested in the same manner as assets of  
27 the General Fund and any investment earnings on the fund shall  
28 accrue to the fund and shall be available subject to the same terms  
29 and conditions as other monies in the fund.

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

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

35 (1) \$17 million shall be allocated annually for the purpose of  
36 providing relief towards the payment of medical malpractice  
37 liability insurance premiums to health care providers in the State  
38 who have experienced or are experiencing a liability insurance  
39 premium increase in an amount as established by the commissioner  
40 by regulation and meet the criteria established pursuant to section  
41 28 of P.L.2004, c.17 (C.17:30D-30);

42 (2) \$6.9 million shall be allocated annually to the Health Care  
43 Subsidy Fund established pursuant to section 8 of P.L.1992, c.160  
44 (C.26:2H-18.58) for the purpose of providing payments to hospitals  
45 in accordance with the formula used for the distribution of charity  
46 care subsidies that are provided pursuant to P.L.1992, c.160  
47 (C.26:2H-18.51 et al.);

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

5 (4) \$1.2 million shall be allocated annually to the Division of  
6 Medical Assistance and Health Services in the Department of  
7 Human Services for the purposes provided in section 30 of  
8 P.L.2004, c.17 (C.30:4J-7).

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

12 g. The commissioner, in consultation with the Commissioner of  
13 Health [and Senior Services], shall adopt rules and regulations  
14 pursuant to the "Administrative Procedure Act," P.L.1968, c.410  
15 (C.52:14B-1 et seq.), to carry out the purposes of sections 26  
16 through 29 of P.L.2004, c.17 (C.17:30D-28 through C.17:30D-30  
17 and C.18A:71C-49); except that, notwithstanding any provision of  
18 P.L.1968, c.410 to the contrary, the commissioner may adopt,  
19 immediately upon filing with the Office of Administrative Law,  
20 such regulations as the commissioner deems necessary to  
21 implement the provisions of sections 26 through 29 of P.L.2004,  
22 c.17 (C.17:30D-28 through C.17:30D-30 and C.18A:71C-49),  
23 which shall be effective for a period not to exceed six months and  
24 may thereafter be amended, adopted, or readopted by the  
25 commissioner in accordance with the requirements of P.L.1968,  
26 c.410.

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

28

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

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

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

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

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

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

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

1       b. The commissioner shall certify classes of practitioners by  
2 specialty and subspecialty for each type of practitioner, whose  
3 average medical malpractice premium, as a class, on or after  
4 December 31, 2002, is in excess of an amount per year as  
5 determined by the commissioner by regulation. In certifying  
6 classes eligible for the subsidy, the commissioner, in consultation  
7 with the Commissioner of Health [and Senior Services], may also  
8 consider if access to care is threatened by the inability of a  
9 significant number of practitioners, as applicable, in a particular  
10 specialty or subspecialty, to continue practicing in a geographic  
11 area of the State.

12       (1) In order to be eligible for a subsidy from the fund, a  
13 practitioner shall have received a medical malpractice liability  
14 insurance premium increase in an amount as determined by the  
15 commissioner by regulation, for one or more of the following: upon  
16 renewal on or after January 1, 2004, from the amount paid by that  
17 practitioner in calendar year 2003; upon renewal on or after January  
18 1, 2005, from the amount paid by that practitioner in calendar year  
19 2004; and upon renewal on or after January 1, 2006, from the  
20 amount paid by that practitioner in calendar year 2005; or

21       (2) In the case of a health care provider providing professional  
22 liability insurance protection through self-insured hospital funding  
23 supplemented with purchased commercial insurance coverage, in  
24 order to be eligible for a subsidy from the fund, that provider shall  
25 have increased its total professional liability funding obligation in  
26 an amount as determined by the commissioner by regulation, for  
27 one or more of the following: upon renewal on or after January 1,  
28 2004, from the professional liability funding obligation paid by that  
29 provider in calendar year 2003; upon renewal on or after January 1,  
30 2005, from the professional liability funding obligation paid by that  
31 provider in calendar year 2004; and upon renewal on or after  
32 January 1, 2006, from the professional liability funding obligation  
33 paid by that provider in calendar year 2005.

34       (3) The amount of the subsidy shall be an amount, as  
35 determined by the commissioner by regulation, of the increase from  
36 the preceding year's premium or self-insured professional liability  
37 funding obligation; except that no health care provider shall receive  
38 a subsidy in any year that is greater than an amount as determined  
39 by the commissioner by regulation.

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

46       d. (1) A practitioner who receives a subsidy from the fund  
47 shall be required to practice in that practitioner's specialty or

1 subspecialty in this State for a period of at least two years after  
2 receipt of the subsidy.

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

7 e. The commissioner may waive the criteria for eligibility for a  
8 subsidy established pursuant to this section, if the commissioner  
9 determines that access to care for a particular specialty is threatened  
10 because of an inability of a sufficient number of practitioners in that  
11 specialty or subspecialty to practice in a geographic area of the  
12 State.

13 f. The State Board of Medical Examiners, the State Board of  
14 Chiropractic Examiners, the New Jersey State Board of Dentistry,  
15 and the New Jersey Board of Nursing shall each provide to the  
16 commissioner, on a quarterly basis, the names of the practitioners  
17 who have been subject to a disciplinary action or civil penalty by  
18 the practitioner's respective licensing board.

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

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

29

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

32 34. a. A section of the Office of Insurance Fraud Prosecutor  
33 shall be designated to be responsible for establishing a liaison and  
34 continuing communication between the office and the Department  
35 of Health [and Senior Services], the Department of Human  
36 Services, the Department of Labor and Workforce Development,  
37 any professional board in the Division of Consumer Affairs in the  
38 Department of Law and Public Safety, the Department of Banking  
39 and Insurance, the Division of State Police, every county  
40 prosecutor's office, [such] local government units as may be  
41 necessary or practicable, and insurers.

42 b. The section of the office responsible for such liaison shall  
43 establish procedures: (1) for receiving notice from all entities  
44 enumerated in subsection a. of this section of any case in which  
45 fraud is suspected or has been substantiated; (2) for receiving  
46 referrals for the investigation of alleged fraud; (3) for receiving  
47 referrals for the prosecution of fraud by the office; (4) for receiving  
48 and referring information regarding cases, administrative or

1 otherwise, under investigation by any department or other entity to  
2 the appropriate authority; and (5) for providing information to and  
3 coordinating information among any referring entities on pending  
4 cases of insurance fraud which are under investigation or being  
5 litigated or prosecuted. The liaison section of the office shall  
6 maintain a record of every referral or investigation.  
7 (cf: P.L.2008, c.121, s.1)

8  
9 35. Section 2 of P.L.1995, c.316 (C.17:48-6m) is amended to  
10 read as follows:

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

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

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

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

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

1 for any benefits provided pursuant to this section which represent  
2 preventive care as permitted by that federal law, and shall not be  
3 applied as provided pursuant to section 6 of P.L.2005, c.248  
4 (C.17:48-6dd). This section shall apply to all hospital service  
5 corporation contracts in which the health service corporation has  
6 reserved the right to change the premium.  
7 (cf: P.L.2005, c.248, s.4)

8  
9 36. Section 11 of P.L.1979, c.478 (C.17:48D-11) is amended to  
10 read as follows:

11 11. a. The commissioner or **[his]** the commissioner's designee  
12 may, as often as **[he]** the commissioner may reasonably determine,  
13 investigate the business and examine the books, accounts, records,  
14 and files of every dental plan organization. For that purpose the  
15 commissioner or **[his]** the commissioner's designee shall have  
16 reasonably free access to the offices and places of business, books,  
17 accounts, papers, records, and files of all dental plan organizations.  
18 A dental plan organization shall keep and use in its business such  
19 books, accounts, and records as will enable the commissioner to  
20 determine whether the dental plan organization is complying with  
21 the provisions of this act and with the rules and regulations  
22 promulgated pursuant to it. A dental plan organization shall  
23 preserve its books, accounts, and records for at least 7 years; except  
24 that preservation by photographic reproduction or records in  
25 photographic form shall constitute compliance with this act.

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

30 c. At the discretion of the commissioner, the Commissioner of  
31 Health **[and Senior Services]** and the New Jersey State Board of  
32 Dentistry may participate in the investigations and examinations  
33 described in this section to verify the existence of an effective  
34 dental plan.

35 d. The expenses incurred in making any examination pursuant  
36 to this section shall be assessed against and paid by the dental plan  
37 organization so examined. A dental plan organization having direct  
38 premiums written in this State of less than \$2,000,000 in any  
39 calendar year shall be subject to a limited scope examination with  
40 expenses for that examination not to exceed \$5,000. Upon written  
41 notice by the commissioner of the total amount of an assessment, a  
42 dental plan organization shall become liable for and shall pay the  
43 assessment to the commissioner.

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

45  
46 37. Section 1 of P.L.1985, c.236 (C.17:48E-1) is amended to  
47 read as follows:

- 1       1. As used in this act:
- 2       a. "Commissioner" means the Commissioner of Banking and  
3 Insurance.
- 4       b. "Board" and "board of directors" means the board of  
5 directors of the health service corporation.
- 6       c. "Elective surgical procedure" means any nonemergency  
7 surgical procedure which may be scheduled at the convenience of  
8 the patient or the surgeon without jeopardizing the patient's life or  
9 causing serious impairment to the patient's bodily functions.
- 10      d. "Eligible physician" means a physician licensed to practice  
11 medicine and surgery who holds the rank of Diplomate of an  
12 American Board (M.D.) or Certified Specialist (D.O.) in the  
13 surgical or medical specialty for which surgery is proposed.
- 14      e. "Health service corporation" means a health service  
15 corporation established pursuant to the provisions of this act, which  
16 is organized, without capital stock and not for profit, for the  
17 purpose of (1) establishing, maintaining, and operating a nonprofit  
18 health service plan and (2) supplying services in connection with (a)  
19 the providing of health care or (b) conducting the business of  
20 insurance as provided for in this act.
- 21      f. "Health service plan" means a plan under which contracts  
22 are issued providing complete or partial prepayment or postpayment  
23 of health care services and supplies eligible under the contracts for  
24 a given period to persons covered under the contracts where  
25 arrangements are made for payment for health care services and  
26 supplies directly to the provider thereof or to a covered person  
27 under those contracts.
- 28      g. "Hospital service corporation" means a hospital service  
29 corporation established pursuant to the provisions of P.L.1938,  
30 c.366 (C.17:48-1 et seq.).
- 31      h. "Medical service corporation" means a medical service  
32 corporation established pursuant to the provisions of P.L.1940, c.74  
33 (C.17:48A-1 et seq.).
- 34      i. "Provider of health care services" shall include, but not be  
35 limited to: (1) a health service corporation, a hospital service  
36 corporation or medical service corporation; (2) a hospital or health  
37 care facility under contract with a health service corporation to  
38 provide health care services or supplies to persons who become  
39 subscribers under contracts with the health service corporation; (3)  
40 a hospital or health care facility which is maintained by a state or  
41 any of its political subdivisions; (4) a hospital or health care facility  
42 licensed by the Department of Health **【and Senior Services】**; (5)  
43 other hospitals or health care facilities, as designated by the  
44 Department of Health **【and Senior Services】** to provide health care  
45 services; (6) a registered nursing home providing convalescent care;  
46 (7) a nonprofit voluntary visiting nurse organization providing  
47 health care services other than in a hospital; (8) hospitals or other  
48 health care facilities located in other states, which are subject to the



1 supervision of those states, which if located in this State would be  
2 eligible to be licensed or designated by the Department of Health  
3 **【and Senior Services】**; (9) nonprofit hospital, medical or health  
4 service plans of other states approved by the commissioner; (10)  
5 physicians licensed to practice medicine and surgery; (11) licensed  
6 chiropractors; (12) licensed dentists; (13) licensed optometrists;  
7 (14) licensed pharmacists; (15) licensed podiatrists; (16) registered  
8 bio-analytical laboratories; (17) licensed psychologists; (18)  
9 registered physical therapists; (19) certified nurse-midwives; (20)  
10 registered professional nurses; (21) licensed health maintenance  
11 organizations; (22) licensed audiologists; (23) licensed speech-  
12 language pathologists; and (24) providers of other similar health  
13 care services or supplies as are approved by the commissioner.

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

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

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

24

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

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

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

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

1 notification shall be in a form and manner to be determined by the  
2 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 3 of P.L.2005, c.248  
21 (C.17:48E-35.28). This section shall apply to all health 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.1)

25  
26 39. Section 3 of P.L.1999, c.409 (C.17:48H-3) is amended to  
27 read as follows:

28 3. a. An organized delivery system which is not subject to  
29 licensure requirements pursuant to this act shall submit an  
30 application for certification to the Commissioner of **Health**  
31 **Banking** and **Senior Services Insurance**. The organized delivery  
32 system may continue to operate during the pendency of its  
33 application, but in no case longer than 12 months after the date of  
34 submission of the application to the Department of **Health**  
35 **Banking** and **Senior Services Insurance**, unless the  
36 commissioner, by regulation, extends the 12-month limitation. In  
37 the event the application is denied, the applicant shall be treated as  
38 an organized delivery system whose certification has been revoked  
39 pursuant to sections 7 and 8 of this act.

40 Notwithstanding the obligations imposed by this act regarding  
41 certification requirements, nothing in this subsection shall operate  
42 to impair any contract in force on the effective date of this act, but  
43 this act shall apply to any contract renewed on or after the effective  
44 date of this act.

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

46 c. A certified organized delivery system shall not directly issue  
47 health benefits plans.

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

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

3       4. Application for certification to operate an organized delivery  
4 system shall be made to the Commissioner of **【Health】 Banking**  
5 and **【Senior Services】 Insurance** on a form prescribed by the  
6 commissioner, shall be certified by an officer or authorized  
7 representative of the applicant and shall include the following:

8       a. A copy of the applicant's basic organizational documents.  
9 For purposes of this subsection, "basic organizational documents"  
10 means the articles of incorporation, articles of association,  
11 partnership agreement, management agreement, trust agreement, or  
12 other applicable documents as appropriate to the applicant's form of  
13 business entity, and all amendments to those documents;

14       b. A copy of the executed bylaws, rules, and regulations, or  
15 similar documents, regulating the conduct of the applicant's internal  
16 affairs;

17       c. A list, in a form approved by the Commissioner of **【Health】**  
18 **Banking** and **【Senior Services】 Insurance**, of the names, addresses,  
19 and official positions of the persons who are to be responsible for  
20 the conduct of the affairs of the applicant, including, but not limited  
21 to, the members of the board of directors, executive committee, or  
22 other governing board or committee, the principal officers, and any  
23 person or entity owning or having the right to acquire 10% or more  
24 of the voting securities of the applicant; in the case of a partnership  
25 or association, the names of the partners or members; and a  
26 statement of any criminal convictions or civil, enforcement, or  
27 regulatory action, including actions relating to professional licenses,  
28 taken against any person who is a member of the board, the  
29 executive committee, or other governing board or committee, the  
30 principal officers, or the persons who are responsible for the  
31 conduct of the affairs of the applicant;

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

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

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

44       g. With respect to each contract made or to be made between  
45 the applicant and any other person who will provide comprehensive  
46 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 by the applicant;
- 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; and
- 12 (5) A description of the means by which the organized delivery
- 13 system shall be compensated for each contract entered into with a
- 14 carrier; and
- 15 h. A list of all administrative, civil, or criminal actions and
- 16 proceedings to which the applicant, or any of its affiliates, or
- 17 persons who are responsible for the conduct of the affairs of the
- 18 applicant or affiliate, have been subject and the resolution of those
- 19 actions and proceedings. If a license, certificate, or other authority
- 20 to operate has been refused, suspended, or revoked by any
- 21 jurisdiction, the applicant shall provide a copy of any orders,
- 22 proceedings, and determinations relating thereto.
- 23 In addition to the information required pursuant to this section,
- 24 [the Commissioner of Health and Senior Services or] the
- 25 Commissioner of Banking and Insurance may establish additional
- 26 reporting requirements or make detailed reporting requirements for
- 27 any class of certified organized delivery system.
- 28 (cf: P.L.1999, c.409, s.4)
- 29
- 30 41. Section 5 of P.L.1999, c.409 (C.17:48H-5) is amended to
- 31 read as follows:
- 32 5. Following receipt of an application for certification, the
- 33 Commissioner of [Health] Banking and [Senior Services]
- 34 Insurance shall review it [in consultation with the Commissioner of
- 35 Banking and Insurance] and notify the applicant of any deficiencies
- 36 contained therein.
- 37 a. The Commissioner of [Health] Banking and [Senior
- 38 Services] Insurance shall issue a certification to an organized
- 39 delivery system if the commissioner finds that the system meets the
- 40 standards provided for in this act, including, but not limited to:
- 41 (1) All of the material required by section 4 of this act has been
- 42 filed;
- 43 (2) The persons responsible for conducting the applicant's
- 44 affairs are competent, trustworthy, and possess good reputations,
- 45 and have had appropriate experience, training, and education;
- 46 (3) The persons who are to perform the health care services are
- 47 properly qualified;

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

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

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

9 b. The commissioner may deny an application for certification  
10 if the applicant fails to meet any of the standards provided in this  
11 act or on any other reasonable grounds. If certification is denied,  
12 the commissioner shall notify the applicant and shall set forth the  
13 reasons for the denial in writing. The applicant may request a  
14 hearing by notice to the commissioner within 30 days of receiving  
15 the notice of denial. Upon such denial, the applicant shall submit to  
16 the commissioner a plan for bringing the organized delivery system  
17 into compliance or providing for the closing down of its business.

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

19

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

22 6. a. A certified organized delivery system, unless otherwise  
23 provided for in this act, shall not materially modify any matter or  
24 document furnished to the Commissioner of **Health** Banking and  
25 **Senior Services** Insurance pursuant to section 4 of this act unless  
26 the organized delivery system files with the commissioner, at least  
27 60 days prior to use or adoption of the change, a notice of the  
28 change or modification, together with that information required by  
29 the commissioner to explain the change or modification. If the  
30 commissioner fails to affirmatively approve or disapprove the  
31 change or modification within 60 days of submission of the notice,  
32 the notice of modification shall be deemed approved. The  
33 commissioner may extend the 60-day review period for not more  
34 than 30 additional days by giving written notice of the extension  
35 before the expiration of the 60-day period. If a change or  
36 modification is disapproved, the commissioner shall notify the  
37 system in writing and specify the reason for the disapproval.

38 b. Prior to entering into any contract with a carrier, a certified  
39 organized delivery system shall file with the commissioner, for the  
40 commissioner's approval, a copy of that contract. The filing shall  
41 be made no later than 60 days prior to the date that the contract is  
42 intended to be in effect. If the contract is not disapproved prior to  
43 the effective date by the commissioner, the contract shall be deemed  
44 approved.

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

46

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

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

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

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

9       c. The continued operation of the certified organized delivery  
10 system would be hazardous to the health and welfare of the  
11 enrollees or contract holders to whom it is obligated to provide  
12 health care services or detrimental to a carrier with whom it has  
13 contracted to provide the services;

14       d. The certified organized delivery system is unable to  
15 maintain the standards as set forth by the commissioner by  
16 regulation;

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

20       f. The certified organized delivery system has failed to provide  
21 the health care services for which it has been certified or has  
22 provided health care services which are in contravention of the  
23 contract or contracts filed with the commissioner;

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

26       h. There are other reasonable grounds that warrant suspension  
27 or revocation.

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

29  
30       44. Section 8 of P.L.1999, c.409 (C.17:48H-8) is amended to  
31 read as follows:

32       8. a. If the Commissioner of **【Health】 Banking** and **【Senior**  
33 **Services】 Insurance** has cause to believe that grounds exist for the  
34 suspension or revocation of the certification issued to an organized  
35 delivery system, the commissioner shall notify the system, in  
36 writing, specifically stating the grounds for suspension or  
37 revocation and fixing a time for a hearing in accordance with the  
38 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
39 seq.). If the certification is revoked, the organized delivery system  
40 shall submit a plan to the commissioner within 15 days of the  
41 revocation, for the winding up of its affairs, and shall conduct no  
42 further business except as may be essential to the orderly  
43 conclusion of its business. The commissioner may, by written  
44 order, permit such further operation of the organized delivery  
45 system as the commissioner finds to be in the best interest of  
46 individuals receiving health care services from the system.

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

5  
6       45. Section 9 of P.L.1999, c.409 (C.17:48H-9) is amended to  
7 read as follows:

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

12  
13  
14       46. Section 10 of P.L.1999, c.409 (C.17:48H-10) is amended to  
15 read as follows:

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

27  
28       47. Section 11 of P.L.1999, c.409 (C.17:48H-11) is amended to  
29 read as follows:

30       11. a. An organized delivery system which receives  
31 compensation on a basis that entails the assumption of financial risk  
32 shall submit an application for licensure to the Commissioner of  
33 Banking and Insurance. The organized delivery system may  
34 continue to operate during the pendency of its application, but in no  
35 case longer than 12 months after the date of submission of the  
36 application to the Department of Banking and Insurance, unless the  
37 commissioner, by regulation, extends the 12-month limitation. In  
38 the event the application is denied, the applicant shall be treated as  
39 an organized delivery system whose license has been revoked  
40 pursuant to sections 23 and 24 of this act.

41       Notwithstanding the obligations imposed by this act regarding  
42 licensure requirements, nothing in this subsection shall operate to  
43 impair any contract in force on the effective date of this act, but this  
44 act shall apply to any contract renewed on or after the effective date  
45 of this act.

46       b. An organized delivery system which receives compensation  
47 on a basis that entails the assumption of financial risk, but meets the

1 criteria set forth in this subsection, may apply to the commissioner  
2 for an exemption from the licensure requirements of this act based  
3 on the system's current contractual arrangements.

4 The commissioner may grant the exemption for such period of  
5 time that the commissioner determines that the financial risk of the  
6 organized delivery system is de minimis because the organized  
7 delivery system's exposure to financial loss is limited in amount or  
8 likelihood to the degree that it reasonably will not prevent the  
9 system from satisfying the liabilities imposed under the terms of its  
10 contracts.

11 The commissioner may revoke the organized delivery system's  
12 exemption from licensure, after notice and an opportunity to be  
13 heard, if the commissioner determines that the system's contracts no  
14 longer meet the requirements for exemption set forth in this  
15 subsection. Upon revocation of the exemption, the system shall be  
16 required to obtain licensure from the department within 90 days.

17 c. An organized delivery system that is granted an exemption  
18 from licensure shall apply to and obtain certification as an  
19 organized delivery system from the Department of **[Health]**  
20 **Banking** and **[Senior Services]** **Insurance** pursuant to the provisions  
21 of this act.

22 d. A licensed organized delivery system shall not directly issue  
23 health benefits plans.

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

25  
26 48. Section 12 of P.L.1999, c.409 (C.17:48H-12) is amended to  
27 read as follows:

28 12. Application for a license to operate an organized delivery  
29 system shall be made to the Commissioner of Banking and  
30 Insurance **[and the Commissioner of Health and Senior Services]**  
31 on a form prescribed by the **[commissioners]** **commissioner**, shall  
32 be certified by an officer or authorized representative of the  
33 applicant, and shall include the following:

34 a. A copy of the applicant's basic organizational documents.  
35 For purposes of this subsection, "basic organizational documents"  
36 means the articles of incorporation, articles of association,  
37 partnership agreement, management agreement, trust agreement, or  
38 other applicable documents as appropriate to the applicant's form of  
39 business entity and all amendments to those documents;

40 b. A copy of the executed bylaws, rules, and regulations, or  
41 similar documents, regulating the conduct of the applicant's internal  
42 affairs;

43 c. A list, in a form approved by the Commissioner of Banking  
44 and Insurance, of the names, addresses, and official positions of the  
45 persons who are to be responsible for the conduct of the affairs of  
46 the applicant, including, but not limited to, the members of the  
47 board of directors, executive committee or other governing board or  
48 committee, the principal officers, and any person or entity owning



1 or having the right to acquire 10% or more of the voting securities  
2 of the applicant; in the case of a partnership or association, the  
3 names of the partners or members; each person who has loaned  
4 funds to the applicant for the operation of its business; and a  
5 statement of any criminal convictions or civil, enforcement or  
6 regulatory action, including actions relating to professional licenses,  
7 taken against any person who is a member of the board, the  
8 executive committee or other governing board or committee, or the  
9 principal officers, or the persons who are responsible for the  
10 conduct of the affairs of the applicant;

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

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

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

23 g. A copy of the applicant's most recent financial statements  
24 audited by an independent certified public accountant. If the  
25 financial affairs of the applicant's parent company are audited by an  
26 independent certified public accountant, but those of the applicant  
27 are not, then a copy of the most recent audited financial statement  
28 of the applicant's parent company, audited by an independent  
29 certified public accountant, shall be submitted. A consolidated  
30 financial statement of the applicant and its parent company shall  
31 satisfy this requirement unless the Commissioner of Banking and  
32 Insurance determines that additional or more recent financial  
33 information is required for the proper administration of this act;

34 h. A copy of the applicant's financial plan, including a three-  
35 year projection of anticipated operating results, a statement of the  
36 sources of working capital and any other sources of funding and  
37 provisions for contingencies;

38 i. With respect to each contract made or to be made between  
39 the applicant and any other person who will provide comprehensive  
40 or limited health care services:

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

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

47 (3) A description of the health care services or benefits to be  
48 offered or proposed to be offered;

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

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

1 applicant may request a hearing by notice to the commissioner  
2 within 30 days of receiving the notice of denial. Upon such denial,  
3 the applicant shall submit to the commissioner a plan for bringing  
4 the organized delivery system into compliance or providing for the  
5 closing down of its business.

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

7

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

10 15. A licensed organized delivery system may:

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

15 b. In addition to comprehensive or limited services, as  
16 applicable, provided by the system for enrollees or contract holders,  
17 provide:

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

21 (2) Indemnity benefits covering urgent care or emergency  
22 services;

23 (3) Coverage for services from providers, other than  
24 participating providers, in accordance with the terms of the  
25 contract; and

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

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

29

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

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

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

39

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

42 32. The [Commissioners] Commissioner of Banking and  
43 Insurance [and Health and Senior Services] shall adopt rules and  
44 regulations pursuant to the "Administrative Procedure Act,"  
45 P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purposes of  
46 this act.

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

4  
5       53. Section 33 of P.L.1999, c.409 (C.17:48H-33) is amended to  
6 read as follows:

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

13  
14       54. Section 35 of P.L.1999, c.409 (C.17:48H-35) is amended to  
15 read as follows:

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

24  
25       55. Section 3 of P.L.1995, c.316 (C.17B:27-46.11) is amended  
26 to read as follows:

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

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

41       b. All childhood immunizations as recommended by the  
42 Advisory Committee on Immunization Practices of the United  
43 States Public Health Service and the Department of Health **【and**  
44 **Senior Services】** pursuant to section 7 of P.L.1995, c.316 (C.26:2-  
45 137.1). A health insurer shall notify its policyholders, in writing, of  
46 any change in coverage with respect to childhood immunizations  
47 and any related changes in premium. Such notification shall be in a

1 form and manner to be determined by the Commissioner of Banking  
2 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 policy, except that a deductible shall not be applied for benefits  
13 provided pursuant to this section; however, with respect to a policy  
14 that qualifies as a high deductible health plan for which qualified  
15 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 that represent  
19 preventive care as permitted by that federal law, and shall not be  
20 applied as provided pursuant to section 9 of P.L.2005, c.248  
21 (C.17B:27-46.1dd). This section shall apply to all group health  
22 insurance policies in which the health insurer has reserved the right  
23 to change the premium.

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

25

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

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

47 (cf: P.L.2008, c.38, s.13)

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

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

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

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

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

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

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

42       d. After the board's establishment of the individual health  
43 benefits plans required pursuant to section 3 of P.L.1992, c.161  
44 (C.17B:27A-4), and notwithstanding any law to the contrary, a  
45 carrier shall file the policy or contract forms with the commissioner  
46 and certify to the commissioner that the health benefits plans to be  
47 used by the carrier are in substantial compliance with the provisions  
48 in the corresponding approved plans. The certification shall be

1 signed by the chief executive officer of the carrier. Upon receipt by  
2 the commissioner of the certification, the certified plans may be  
3 used until the commissioner, after notice and hearing, disapproves  
4 their continued use.

5 e. Effective immediately for an individual health benefits plan  
6 issued on or after the effective date of P.L.2005, c.248 (C.17:48E-  
7 35.27 et al.) and effective on the first 12-month anniversary date of  
8 an individual health benefits plan in effect on the effective date of  
9 P.L.2005, c.248 (C.17:48E-35.27 et al.), the individual health  
10 benefits plans required pursuant to section 3 of P.L.1992, c.161  
11 (C.17B:27A-4), including any plan offered by a federally qualified  
12 health maintenance organization, shall contain benefits for expenses  
13 incurred in the following:

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

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

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

36 The benefits provided pursuant to this subsection shall be  
37 provided to the same extent as for any other medical condition  
38 under the health benefits plan, except that a deductible shall not be  
39 applied for benefits provided pursuant to this subsection; however,  
40 with respect to a health benefits plan that qualifies as a high  
41 deductible health plan for which qualified medical expenses are  
42 paid using a health savings account established pursuant to section  
43 223 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.223),  
44 a deductible shall not be applied for any benefits provided pursuant  
45 to this subsection that represent preventive care as permitted by that  
46 federal law, and shall not be applied as provided pursuant to section  
47 14 of P.L.2005, c.248 (C.17B:27A-7.11). This subsection shall



1 apply to all individual health benefits plans in which the carrier has  
2 reserved the right to change the premium.

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

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

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

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

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

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

44

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

47 3. a. Except as provided in subsection f. of this section, every  
48 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 subsection  
40 d. of this section, every carrier may offer, in connection with the  
41 health benefits plans required to be offered by this section, any  
42 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

1 the board for informational purposes before such rider may be sold.  
2 The added premium or reduction in premium for each rider, as  
3 applicable, shall be listed separately from the premium for the  
4 standard plan.

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

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

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

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

1 that offers health benefits coverage to its members' employees and  
2 dependents:

3 (a) shall offer coverage to all eligible employees and their  
4 dependents within the membership of the association, multiple  
5 employer arrangement or out-of-State trust;

6 (b) shall not use actual or expected health status in determining  
7 its membership; and

8 (c) shall make available to its small employer members at least  
9 one of the standard benefits plans, as determined by the  
10 commissioner, in addition to any health benefits plan permitted to  
11 be renewed or continued pursuant to this subsection.

12 (2) Notwithstanding the provisions of this subsection to the  
13 contrary, a carrier or out-of-State trust which writes the health  
14 benefits plans required pursuant to subsection a. of this section shall  
15 be required to offer those plans to any small employer, association  
16 or multiple employer arrangement.

17 (3) (a) A carrier, association, multiple employer arrangement, or  
18 out-of-State trust may withdraw a health benefits plan marketed to  
19 small employers that was in effect on December 31, 1993 with the  
20 approval of the commissioner. The commissioner shall approve a  
21 request to withdraw a plan, consistent with regulations adopted by  
22 the commissioner, only on the grounds that retention of the plan  
23 would cause an unreasonable financial burden to the issuing carrier,  
24 taking into account the rating provisions of section 9 of P.L.1992,  
25 c.162 (C.17B:27A-25) and section 7 of P.L.1995, c.340  
26 (C.17B:27A-19.3).

27 (b) A carrier which has renewed, continued or reinstated a  
28 health benefits plan pursuant to this subsection that has not been  
29 newly issued to a new small employer group since January 1, 1994,  
30 may, upon approval of the commissioner, continue to establish its  
31 rates for that plan based on the loss experience of that plan if the  
32 carrier does not issue that health benefits plan to any new small  
33 employer groups.

34 (4) (Deleted by amendment, P.L.1995, c.340).

35 (5) A health benefits plan that otherwise conforms to the  
36 requirements of this subsection shall be deemed to be in compliance  
37 with this subsection, notwithstanding any change in the plan's  
38 deductible or copayment.

39 (6) (a) Except as otherwise provided in subparagraphs (b) and (c)  
40 of this paragraph, a health benefits plan renewed, continued or  
41 reinstated pursuant to this subsection shall be filed with the  
42 commissioner for informational purposes within 30 days after its  
43 renewal date. No later than 60 days after the board adopts  
44 regulations concerning the implementation of the rating factors  
45 permitted by section 9 of P.L.1992, c.162 (C.17B:27A-25) the filing  
46 shall be amended to show any modifications in the plan that are  
47 necessary to comply with the provisions of this subsection. The  
48 commissioner shall monitor compliance of any such plan with the

1 requirements of this subsection, except that the board shall enforce  
2 the loss ratio requirements.

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

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

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

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

45 (9) Notwithstanding the provisions of P.L.1992, c.162  
46 (C.17B:27A-17 et seq.) or P.L.1992, c.161 (C.17B:27A-2 et al.) to  
47 the contrary, any individual, who is eligible for small employer  
48 coverage under a policy issued, renewed, continued or reinstated

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

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

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

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

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

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

45 (1) Screening by blood lead measurement for lead poisoning for  
46 children, including confirmatory blood lead testing as specified by  
47 the Department of Health [and Senior Services] pursuant to section  
48 7 of P.L.1995, c.316 (C.26:2-137.1); and medical evaluation and

1 any necessary medical follow-up and treatment for lead poisoned  
2 children.

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

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

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

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

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



1 responsive to trials of standard non-cow milk-based formulas,  
2 including soybean and goat milk. The coverage may be subject to  
3 utilization review, including periodic review, of the continued  
4 medical necessity of the specialized infant formula.

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

7 This subsection shall apply to all small employer health benefits  
8 plans in which the carrier has reserved the right to change the  
9 premium.

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

24 The benefits provided pursuant to this subsection shall be  
25 provided to the same extent as for any other medical condition  
26 under the health benefits plan, except that no deductible shall be  
27 applied for benefits provided pursuant to this subsection. This  
28 subsection shall apply to all small employer health benefits plans in  
29 which the carrier has reserved the right to change the premium.

30 (cf: P.L.2008, c.38, s.21)

31  
32 59. Section 5 of P.L.2001, c.368 (C.17B:27A-19.11) is amended  
33 to read as follows:

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

1 rating pool for the purposes of establishing a premium, but for the  
2 purpose of determining a carrier's losses, these policies or contracts  
3 shall be aggregated with the losses on the carrier's other business  
4 written pursuant to the provisions of P.L.1992, c.162 (C.17B:27A-  
5 17 et seq.).

6 (cf: P.L.2008, c.38, s.22)

7  
8 60. Section 13 of P.L.1992, c.162 (C.17B:27A-29) is amended  
9 to read as follows:

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

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

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

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

31 (4) Two health maintenance organizations; and

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

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

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

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

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

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

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

3 One representative of organized labor;

4 One physician licensed to practice medicine and surgery in this  
5 State; and

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

8 The public members shall be appointed for a term of three years,  
9 except that of the members first appointed, two shall be appointed  
10 for a term of one year, two for a term of two years and two for a  
11 term of three years.

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

15 b. If the initial board is not elected at the organizational  
16 meeting, the commissioner shall appoint the public members within  
17 15 days of the organizational meeting, in accordance with the  
18 provisions of paragraphs (1) through (7) of subsection a. of this  
19 section.

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

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

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

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

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

1 Association, a representative of the New Jersey State Nurses  
2 Association, a representative of the New Jersey Dental Association,  
3 a representative of a consumer advocacy organization and two  
4 representatives of the general public who are knowledgeable about  
5 health benefits plans.

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

14 Of the voting members first appointed, four shall serve for a term  
15 of two years, four for a term of three years, and three for a term of  
16 four years.

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

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

23

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

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

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

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

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

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

1 chairman of the commission.

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

3

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

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

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

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

21 b. (1) For the period ending December 31, 2003, the  
22 commission shall complete its review of a bill within 90 days after  
23 the date the review is requested, and provide its comments and  
24 recommendations in writing to the prime sponsor, committee  
25 chairman and presiding officer of the House in which the bill is  
26 pending. The commission may request an extension prior to the  
27 90th day, in which case the presiding officer of the House in which  
28 the bill is pending may grant an extension of up to 45 days for the  
29 commission to complete its review.

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

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

1       d. (1) If the presiding officer of the House in which the bill is  
2 pending determines that the bill is an urgent matter, the presiding  
3 officer shall so notify in writing the commission and the chairman  
4 of the standing reference committee to which the bill was referred,  
5 and the House or committee may consider and vote upon the bill as  
6 soon as practicable.

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

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

18

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

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

23       a. The social impact of mandating the health benefit, which  
24 shall include:

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

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

32       (3) the demand for the proposed mandated health benefit from  
33 the public and the source and extent of opposition to mandating the  
34 health benefit;

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

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

39       b. The financial impact of mandating the health benefit, which  
40 shall include:

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

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

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

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

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

1 (5) such other data sources as the commission deems  
2 appropriate.

3 In analyzing information from the various sources, the  
4 commission shall give substantial weight to the documentation  
5 provided by the proponents and opponents of the mandate to the  
6 extent that such documentation is made available to them.  
7 (cf: P.L.2003, c.193, s.7)

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

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

13 a. develop criteria for a system and program of data collection,  
14 for use by the Departments of Health **and Senior Services** and  
15 Banking and Insurance, to assess the impact of mandated health  
16 benefits, including the cost to employers and carriers, impact of  
17 treatment, cost savings in the health care system, number of  
18 providers, and other data as may be appropriate; and

19 b. review and comment to any State department, board, bureau,  
20 commission, or agency, with respect to any order or regulations  
21 proposed or implemented thereby that affect mandated health  
22 benefits.

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

24  
25 66. Section 1 of P.L.1999, c.154 (C.17B:30-23) is amended to  
26 read as follows:

27 1. a. (1) The Commissioner of Banking and Insurance, in  
28 consultation with the Commissioner of Health **and Senior**  
29 **Services**, shall establish, by regulation, a timetable for  
30 implementation of the electronic receipt and transmission of health  
31 care claim information by each hospital, medical **or** and health  
32 service corporation, individual and group health insurer, health  
33 maintenance organization, dental service corporation, dental plan  
34 organization, and prepaid prescription service organization,  
35 respectively, and a subsidiary of such corporation, insurer, or  
36 organization that processes health care benefits claims as a third  
37 party administrator, authorized to do business in this State.

38 The Commissioner of Banking and Insurance shall establish the  
39 timetable within 90 days of the date the federal Department of  
40 Health and Human Services adopts rules establishing standards for  
41 health care transactions, including: health claims or equivalent  
42 encounter information, including institutional, professional,  
43 pharmacy, and dental health claims; enrollment and disenrollment  
44 in a health plan; eligibility for a health plan; health care payment  
45 and remittance advice; health care premium payments; first report  
46 of injury; health claim status; and referral certification and  
47 authorization, respectively, pursuant to section 262 of Pub.L.104-  
48 191 (42 U.S.C.s.1320d et seq.). The commissioner may adopt more



1 than one timetable, if necessary, to conform the requirements of this  
2 section with the dates of adoption of the federal rules.

3 (2) The timetable for implementation adopted by the  
4 commissioner shall provide for extensions and waivers of the  
5 implementation requirement pursuant to paragraph (1) of this  
6 subsection in cases when it has been demonstrated to the  
7 commissioner's satisfaction that compliance with the timetable for  
8 implementation will result in an undue hardship to a hospital,  
9 medical or health service corporation, individual or group health  
10 insurer, health maintenance organization, dental service  
11 corporation, dental plan organization, or prepaid prescription  
12 service organization, respectively, or a subsidiary of such  
13 corporation, insurer, or organization that processes health care  
14 benefits claims as a third party administrator, authorized to do  
15 business in this State.

16 (3) The Commissioner of Banking and Insurance shall report to  
17 the Governor and the Legislature within one year of establishing the  
18 timetable pursuant to this subsection, on the number of extensions  
19 and waivers of the implementation requirement that he has granted  
20 pursuant to paragraph (2) of this subsection, and the reasons  
21 therefor.

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

34 The Commissioner of Banking and Insurance shall establish the  
35 standard health care enrollment and claim forms within 90 days of  
36 the date the federal Department of Health and Human Services  
37 adopts rules establishing standards for the forms.

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

39

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

42 15. The Commissioner of Banking and Insurance, in  
43 consultation with the Commissioner of Health [and Senior  
44 Services], shall adopt regulations to effectuate the purposes of  
45 sections 1 through 10 of this act, pursuant to the "Administrative  
46 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). To the  
47 extent practicable, the regulations shall include any provisions the  
48 commissioner deems appropriate that seek to reduce the amount of,

or to consolidate, the paper forms sent by hospital, medical, health, and dental service corporations, and commercial insurers, health maintenance organizations, dental plan organizations, and prepaid prescription service organizations to health care providers and covered persons.

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

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

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

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

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

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

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

2. As used in this act:

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

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

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

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

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

1 "Department" means the Department of Health [and Senior  
2 Services].

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

5 "Health plan" means an individual or group health benefits plan  
6 that provides or pays the cost of hospital and medical expenses,  
7 dental or vision care, or prescription drugs, and is provided by or  
8 through an insurer, health maintenance organization, the Medicaid  
9 program, the Medicare program, a Medicare+Choice provider or  
10 Medicare supplemental insurer, an employer-sponsored group  
11 health benefits plan, government or church-sponsored health  
12 benefits plan or a multi-employer welfare arrangement.

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

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

17 "Patient" means a person who receives services in a hospital on  
18 an inpatient or outpatient basis.  
19 (cf: P.L.2010, c.87, s.5)  
20

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

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

26 b. The hospital shall file with the department a notice  
27 signifying its intent to participate voluntarily and certifying the  
28 following:

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

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

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

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

47 (5) the hospital has notified the patient of the hospital's  
48 intention, if the account is not paid in full, or alternatively through a

1 payment plan with the hospital, to proceed with legal action, or to  
2 turn the bill over to the department for collection.

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

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

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

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

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

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

38 As additional remedies, the department may utilize the services  
39 of a collection agency to settle the debt and may also issue a  
40 certificate to the Clerk of the Superior Court stating that the person  
41 identified in the certificate is indebted under this law in such  
42 amount as shall be stated in the certificate. The certificate shall  
43 reference this act. Thereupon the clerk to whom such certificate  
44 shall have been issued shall immediately enter upon the record of  
45 docketed judgments: the name of the person as debtor; the State as  
46 creditor; the address of the person, if shown in the certificate; the  
47 amount of the debt so certified; a reference to this act under which  
48 the debt is assessed; and the date of making the entries. The

1 docketing of the entries shall have the same force and effect as a  
2 civil judgment docketed in the Superior Court, and the department  
3 shall have all the remedies and may take all of the proceedings for  
4 the collection thereof which may be had or taken upon the recovery  
5 of a judgment in an action, but without prejudice to any right of  
6 appeal. Upon entry by the clerk of the certificate in the record of  
7 docketed judgments in accordance with this provision, interest in  
8 the amount specified by the court rules for post-judgment interest  
9 shall accrue from the date of the docketing of the certificate;  
10 however, payment of the interest may be waived by the department.

11 i. Any collection efforts undertaken pursuant to this act shall  
12 be undertaken in accordance with the "Health Insurance Portability  
13 and Accountability Act of 1996," Pub.L.104-191 and 45 C.F.R.  
14 160.101 to 164.534, or any other similar law. The department and  
15 any other entity performing collection activities pursuant to this act  
16 is authorized to enter into any agreements required to comply with  
17 such laws, including, but not limited to, entering into agreements  
18 with the hospitals and collection agencies to provide for appropriate  
19 safeguarding of information.

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

21

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

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

26 "Authorization" means a determination required under a health  
27 benefits plan, that based on the information provided, satisfies the  
28 requirements under the member's health benefits plan for medical  
29 necessity.

30 "Carrier" means an insurance company, health service  
31 corporation, hospital service corporation, medical service  
32 corporation, or health maintenance organization authorized to issue  
33 health benefits plans in this State.

34 "Commissioner" means the Commissioner of Banking and  
35 Insurance.

36 "Covered person" means a person on whose behalf a carrier  
37 offering the plan is obligated to pay benefits or provide services  
38 pursuant to the health benefits plan.

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

42 "Generally accepted standards of medical practice" means  
43 standards that are based on: credible scientific evidence published  
44 in peer-reviewed medical literature generally recognized by the  
45 relevant medical community; physician and health care provider  
46 specialty society recommendations; the views of physicians and  
47 health care providers practicing in relevant clinical areas; and any

1 other relevant factor as determined by the commissioner by  
2 regulation.

3 "Health benefits plan" means a benefits plan which pays or  
4 provides hospital and medical expense benefits for covered  
5 services, and is delivered or issued for delivery in this State by or  
6 through a carrier. Health benefits plan includes, but is not limited  
7 to, Medicare supplement coverage and Medicare+Choice contracts  
8 to the extent not otherwise prohibited by federal law. For the  
9 purposes of sections 3 through 7 of P.L.2005, c.352 (C.17B:30-50  
10 through C.17B:30-54), health benefits plan shall not include the  
11 following plans, policies or contracts: accident only, credit,  
12 disability, long-term care, Civilian Health and Medical Program for  
13 the Uniformed Services, CHAMPUS supplement coverage,  
14 coverage arising out of a workers' compensation or similar law,  
15 automobile medical payment insurance, personal injury protection  
16 insurance issued pursuant to P.L.1972, c.70 (C.39:6A-1 et seq.) or  
17 hospital confinement indemnity coverage.

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

22 "Medical necessity" or "medically necessary" means or describes  
23 a health care service that a health care provider, exercising his  
24 prudent clinical judgment, would provide to a covered person for  
25 the purpose of evaluating, diagnosing, or treating an illness, injury,  
26 disease, or its symptoms and that is: in accordance with the  
27 generally accepted standards of medical practice; clinically  
28 appropriate, in terms of type, frequency, extent, site, and duration,  
29 and considered effective for the covered person's illness, injury, or  
30 disease; not primarily for the convenience of the covered person or  
31 the health care provider; and not more costly than an alternative  
32 service or sequence of services at least as likely to produce  
33 equivalent therapeutic or diagnostic results as to the diagnosis or  
34 treatment of that covered person's illness, injury, or disease.

35 "Network provider" means a participating hospital or physician  
36 under contract or other agreement with a carrier to furnish health  
37 care services to covered persons.

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

44 "Payer's agent" or "agent" means an intermediary contracted or  
45 affiliated with the payer to provide authorization for service or  
46 perform administrative functions including, but not limited to, the  
47 payment of claims or the receipt, processing, or transfer of claims  
48 or claim information.

1 "Physician" means a physician licensed pursuant to Title 45 of  
2 the Revised Statutes.

3 "Utilization management" means a system for reviewing the  
4 appropriate and efficient allocation of health care services under a  
5 health benefits plan according to specified guidelines, in order to  
6 recommend or determine whether, or to what extent, a health care  
7 service given or proposed to be given to a covered person should or  
8 will be reimbursed, covered, paid for, or otherwise provided under  
9 the health benefits plan. The system may include, but shall not be  
10 limited to: preadmission certification, the application of practice  
11 guidelines, continued stay review, discharge planning,  
12 preauthorization of ambulatory care procedures and retrospective  
13 review.

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

15

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

18 1. As used in this act:

19 "Ambulance service" means the provision of emergency health  
20 care services, basic life support services, advanced life support  
21 services, critical care services, mobile intensive care services, or  
22 emergency medical transportation in a vehicle that is licensed,  
23 equipped, and staffed in accordance with the requirements set forth  
24 by the Commissioner of Health [and Senior Services].

25 "Assignment of benefits" means any written instrument executed  
26 by the covered person or his authorized representative which  
27 assigns a service provider the covered person's right to receive  
28 reimbursement for a covered service rendered to the covered  
29 person.

30 "Carrier" means an insurance company, health service  
31 corporation, hospital service corporation, medical service  
32 corporation, or health maintenance organization authorized to issue  
33 health benefits plans in this State.

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

36 "Commissioner" means the Commissioner of Banking and  
37 Insurance.

38 "Covered person" means a person on whose behalf a carrier  
39 offering the health benefits plan is obligated to pay benefits or  
40 provide services pursuant to the health benefits plan.

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

44 "Health benefits plan" means a hospital and medical expense  
45 insurance policy; health service corporation contract; hospital  
46 service corporation contract; medical service corporation contract;  
47 health maintenance organization subscriber contract; or other plan  
48 for medical care delivered or issued for delivery in this State. For

1 purposes of this act, health benefits plan shall not include one or  
2 more, or any combination of, the following: coverage only for  
3 accident, or disability income insurance, or any combination  
4 thereof; coverage issued as a supplement to liability insurance;  
5 liability insurance, including general liability insurance and  
6 automobile liability insurance; stop loss or excess risk insurance;  
7 workers' compensation or similar insurance; automobile medical  
8 payment insurance; credit-only insurance; coverage for on-site  
9 medical clinics; coverage for Medicaid services pursuant to a  
10 contract with the State; and any other similar insurance coverage, as  
11 specified in federal regulations, under which benefits for medical  
12 care are secondary or incidental to other insurance benefits. Health  
13 benefits plans shall not include the following benefits if they are  
14 provided under a separate policy, certificate or contract of insurance  
15 or are otherwise not an integral part of the plan: limited scope  
16 dental or vision benefits; benefits for long-term care, nursing home  
17 care, home health care, community-based care, or any combination  
18 thereof; and such other similar, limited benefits as are specified in  
19 federal regulations. Health benefits plan shall not include hospital  
20 confinement indemnity coverage if the benefits are provided under  
21 a separate policy, certificate or contract of insurance, there is no  
22 coordination between the provision of the benefits and any  
23 exclusion of benefits under any group health benefits plan  
24 maintained by the same plan sponsor, and those benefits are paid  
25 with respect to an event without regard to whether benefits are  
26 provided with respect to such an event under any group health plan  
27 maintained by the same plan sponsor.

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

31 "Service provider" means any person, public or private  
32 institution, agency, or business concern lawfully providing an  
33 ambulance service.

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

35  
36 73. Section 1 of P.L.2011, c.214 (C.18A:3B-69) is amended to  
37 read as follows:

38 1. a. The governing board of each institution of higher education  
39 shall develop and coordinate an emergency operations plan to  
40 ensure the continuity of essential institution functions under all  
41 circumstances. The plan shall:

42 (1) identify a baseline of preparedness for all potential  
43 emergencies, including pandemics, to establish a viable capability  
44 to perform essential functions during any emergency that disrupts  
45 normal operations; and

46 (2) be coordinated with State and local authorities including, but  
47 not limited to, the State Office of Emergency Management, local  
48 law enforcement officers, county and local health officers, county



1 offices of emergency management, and other emergency  
2 responders.

3 b. The plan shall include, but not be limited to, the following  
4 components: identification of essential functions, programs, and  
5 personnel; procedures to implement the plan; delegation of  
6 authority and lines of succession; identification of alternative  
7 facilities and related infrastructure, including those for  
8 communications; identification and protection of vital records and  
9 databases; and schedules and procedures for periodic tests, training,  
10 and exercises. The plan shall be consistent with the local emergency  
11 operations plan of the municipality in which the institution is  
12 located.

13 c. The governing board of the institution shall adopt and  
14 submit for review an emergency operations plan to the Secretary of  
15 Higher Education, the State Office of Emergency Management, the  
16 Department of Health [and Senior Services], and the Office of  
17 Homeland Security and Preparedness within six months of the  
18 effective date of this act. The governing board shall review, update,  
19 and resubmit the plan to the offices every five years. If an  
20 emergency incident occurs at an institution during the five-year  
21 period, the plan shall be reviewed immediately.

22 d. The Office of Homeland Security and Preparedness, the  
23 State Office of Emergency Management, the Department of Health  
24 [and Senior Services], and the Secretary of Higher Education shall  
25 review the emergency operations plan submitted by an institution of  
26 higher education pursuant to subsection c. of this section and, when  
27 necessary, shall in coordination with other State agencies make  
28 recommendations to the institution for improving the plan that are  
29 deemed necessary.

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

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

35

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

38 2. The policy for the administration of medication to a pupil  
39 shall provide that the school nurse shall have the primary  
40 responsibility for the administration of the epinephrine. The school  
41 nurse shall designate, in consultation with the board of education, or  
42 chief school administrator of a nonpublic school additional  
43 employees of the school district or nonpublic school who volunteer  
44 to administer epinephrine via a pre-filled auto-injector mechanism  
45 to a pupil for anaphylaxis when the nurse is not physically present  
46 at the scene. The school nurse shall determine that:

47 a. the designees have been properly trained in the  
48 administration of the epinephrine via a pre-filled auto-injector

1 mechanism using standardized training protocols established by the  
2 Department of Education in consultation with the Department of  
3 Health [and Senior Services];

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

7 c. the board or chief school administrator of a nonpublic school  
8 informs the parents or guardians of the pupil in writing that the  
9 district and its employees or agents or the nonpublic school and its  
10 employees and agents shall have no liability as a result of any injury  
11 arising from the administration of the epinephrine to the pupil;

12 d. the parents or guardians of the pupil sign a statement  
13 acknowledging their understanding that the district or nonpublic  
14 school shall have no liability as a result of any injury arising from  
15 the administration of the epinephrine via a pre-filled auto-injector  
16 mechanism to the pupil and that the parents or guardians shall  
17 indemnify and hold harmless the district and its employees or  
18 agents against any claims arising out of the administration of the  
19 epinephrine via a pre-filled auto-injector mechanism to the pupil;  
20 and

21 e. the permission is effective for the school year for which it is  
22 granted and is renewed for each subsequent school year upon  
23 fulfillment of the requirements in subsections a. through d. of this  
24 section.

25 The Department of Education, in consultation with the  
26 Department of Health [and Senior Services], shall require trained  
27 designees for students enrolled in a school who may require the  
28 emergency administration of epinephrine for anaphylaxis when the  
29 school nurse is not available.

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

39 (cf: P.L.2007, c.57, s.3)  
40

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

43 4. The Department of Education, in consultation with the  
44 Department of Health [and Senior Services], appropriate medical  
45 experts, and professional organizations representing school nurses,  
46 principals, teachers, and the food allergy community, shall establish  
47 and disseminate to each board of education and chief school  
48 administrator of a nonpublic school guidelines for the development

1 of a policy by a school district or nonpublic school for the  
2 management of food allergies in the school setting and the  
3 emergency administration of epinephrine to students for  
4 anaphylaxis.

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

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

9 6. a. In an effort to assist the certified school nurse in a public  
10 school district and the school nurse in a nonpublic school in  
11 recruiting and training additional school employees as volunteer  
12 designees to administer epinephrine for anaphylaxis when the  
13 school nurse is not physically present, the Department of Education  
14 and the Department of Health **[and Senior Services]** shall jointly  
15 develop training protocols, in consultation with the New Jersey  
16 School Nurses Association.

17 b. The certified school nurse in consultation with the board of  
18 education, or the school nurse in consultation with the chief school  
19 administrator of a nonpublic school, shall recruit and train volunteer  
20 designees who are determined acceptable candidates by the school  
21 nurse within each school building as deemed necessary by the  
22 nursing service plan.

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

24  
25 77. Section 3 of P.L.2001, c.61 (C.18A:40-12.8) is amended to  
26 read as follows:

27 3. The State Board of Education, in consultation with the  
28 Commissioner of Health **[and Senior Services]**, shall adopt  
29 regulations requiring each public school board of education to  
30 develop policies for the administration of asthma medication  
31 through the use of a nebulizer by the school nurse or other person  
32 authorized by regulation. The regulations shall include:

33 a. a requirement that each certified nurse or other person  
34 authorized to administer asthma medication receive training in  
35 airway management and in the use of nebulizers and inhalers  
36 consistent with nationally recognized standards, including, but not  
37 limited to, those of the National Institutes of Health and the  
38 American Association of Allergy and Immunology; and

39 b. a requirement that each pupil authorized to use asthma  
40 medication pursuant to section 1 of P.L.1993, c.308 (C.18A: 40-  
41 12.3), or a nebulizer have an asthma treatment plan prepared by the  
42 physician of the pupil, which shall identify, at a minimum, asthma  
43 triggers, the treatment plan, and such other elements as shall be  
44 determined by the State Board of Education.

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

46  
47 78. Section 3 of P.L.2002, c.58 (C.18A:40-21.1) is amended to  
48 read as follows:

1       3. The Commissioner of Health **【and Senior Services】** shall  
2 require the immunization of a child for hepatitis B as a condition of  
3 enrollment in grades nine through 12.

4       b. Beginning with the 2003-2004 school year, a principal,  
5 director or other person in charge of a public or private school in  
6 this State shall not knowingly admit or retain in grades nine through  
7 12 a child whose parent or guardian has not submitted acceptable  
8 evidence of the child's immunization for hepatitis B prior to or  
9 during enrollment in ninth grade, as provided by regulation of the  
10 Commissioner of Health **【and Senior Services】**.

11       c. The Commissioner of Health **【and Senior Services】** shall  
12 adopt rules and regulations pursuant to the "Administrative  
13 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to carry out  
14 the purposes of this section.  
15 (cf: P.L.2002, c.58, s.3)

16

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

19       3. a. The Commissioner of Education, in consultation with the  
20 Commissioner of Health **【and Senior Services】**, shall establish a  
21 three-year comprehensive eye examination pilot program for second  
22 grade students. The purpose of the program shall be to eliminate  
23 inappropriate referrals for special education programs and services  
24 by examining students at the end of second grade for vision-related  
25 problems that may go undiagnosed and result in special education  
26 classification.

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

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

5  
6 80. Section 1 of P.L.2007, c.125 (C.18A:40-41) is amended to  
7 read as follows:

8 1. a. The Commissioner of Education, in consultation with the  
9 Commissioner of Health [and Senior Services], the American Heart  
10 Association, and the American Academy of Pediatrics, shall  
11 develop a pamphlet that provides information about sudden cardiac  
12 death to the parents or guardians of student athletes. The pamphlet  
13 shall include an explanation of sudden cardiac death, its incidence  
14 among student athletes, a description of early warning signs, and an  
15 overview of the options that are privately available to screen for  
16 cardiac conditions that may lead to sudden cardiac death, including  
17 a statement about the limitations of these options.

18 b. The commissioner shall distribute the pamphlet, at no  
19 charge, to all school districts in the State. The commissioner shall  
20 update the pamphlet as necessary, and shall make additional copies  
21 available to nonpublic schools upon request.

22 c. In the 2007-2008 school year and in each school year  
23 thereafter, each school district shall distribute the pamphlet to the  
24 parents or guardians of students participating in school sports.  
25 (cf: P.L.2007, c.125, s.1)

26  
27 81. Section 2 of P.L.2007, c.134 (C.18A:40-42) is amended to  
28 read as follows:

29 2. a. The Commissioner of Education, in consultation with the  
30 Commissioner of Health [and Senior Services], shall develop an  
31 educational fact sheet about the human papillomavirus (HPV) for  
32 distribution to parents or guardians of students in grades seven  
33 through 12. The educational fact sheet shall include information  
34 about the causes, symptoms and means of transmission of HPV, and  
35 where additional information can be obtained.

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

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

44 d. The Commissioner of Education also shall make the  
45 educational fact sheet available to private schools educating  
46 students in grades seven through 12. Such schools are encouraged,  
47 but not required, to distribute the fact sheet to parents or guardians

1 of students at the school.  
2 (cf: P.L.2007, c.134, s.2)

3  
4 82. Section 5 of P.L.1987, c.387 (C.18A:40A-12) is amended to  
5 read as follows:

6 5. a. Whenever it shall appear to any teaching staff member,  
7 school nurse or other educational personnel of any public school in  
8 this State that a pupil may be under the influence of substances as  
9 defined pursuant to section 2 of this act, other than anabolic  
10 steroids, that teaching staff member, school nurse, or other  
11 educational personnel shall report the matter as soon as possible to  
12 the school nurse or medical inspector, as the case may be, or to a  
13 student assistance coordinator, and to the principal or, in his  
14 absence, to his designee. The principal or his designee, shall  
15 immediately notify the parent or guardian and the superintendent of  
16 schools, if there be one, or the administrative principal and shall  
17 arrange for an immediate examination of the pupil by a doctor  
18 selected by the parent or guardian, or if that doctor is not  
19 immediately available, by the medical inspector, if he is available.  
20 If a doctor or medical inspector is not immediately available, the  
21 pupil shall be taken to the emergency room of the nearest hospital  
22 for examination accompanied by a member of the school staff  
23 designated by the principal and a parent or guardian of the pupil if  
24 available. The pupil shall be examined as soon as possible for the  
25 purpose of diagnosing whether or not the pupil is under such  
26 influence. A written report of that examination shall be furnished  
27 within 24 hours by the examining physician to the parent or  
28 guardian of the pupil and to the superintendent of schools or  
29 administrative principal. If it is determined that the pupil was under  
30 the influence of a substance, the pupil shall be returned to [his or  
31 her] the pupil's home as soon as possible and shall not resume  
32 attendance at school until the pupil submits to the principal a  
33 written report certifying that [he or she] the pupil is physically and  
34 mentally able to return thereto, which report shall be prepared by a  
35 personal physician, the medical inspector, or the physician who  
36 examined the pupil pursuant to the provisions of this act.

37 In addition, the pupil shall be interviewed by a student assistance  
38 coordinator or another appropriately trained teaching staff member  
39 for the purpose of determining the extent of the pupil's involvement  
40 with these substances and possible need for treatment. In order to  
41 make this determination the coordinator or other teaching staff  
42 member may conduct a reasonable investigation which may include  
43 interviews with the pupil's teachers and parents. The coordinator or  
44 other teaching staff member may also consult with [such] experts  
45 in the field of substance abuse as may be necessary and appropriate.  
46 If it is determined that the pupil's involvement with and use of these  
47 substances represents a danger to the pupil's health and well-being,  
48 the coordinator or other teaching staff member shall refer the pupil

1 to an appropriate treatment program which has been approved by  
2 the Commissioner of Health [and Senior Services].

3 b. Whenever any teaching staff member, school nurse, or other  
4 educational personnel of any public school in this State shall have  
5 reason to believe that a pupil has used or may be using anabolic  
6 steroids, that teaching staff member, school nurse, or other  
7 educational personnel shall report the matter as soon as possible to  
8 the school nurse or medical inspector, as the case may be, or to a  
9 student assistance coordinator, and to the principal or, in his  
10 absence, to his designee. The principal or his designee, shall  
11 immediately notify the parent or guardian and the superintendent of  
12 schools, if there be one, or the administrative principal and shall  
13 arrange for an examination of the pupil by a doctor selected by the  
14 parent or guardian or by the medical inspector. The pupil shall be  
15 examined as soon as possible for the purpose of diagnosing whether  
16 or not the pupil has been using anabolic steroids. A written report  
17 of that examination shall be furnished by the examining physician  
18 to the parent or guardian of the pupil and to the superintendent of  
19 schools or administrative principal. If it is determined that the pupil  
20 has been using anabolic steroids, the pupil shall be interviewed by a  
21 student assistance coordinator or another appropriately trained  
22 teaching staff member for the purpose of determining the extent of  
23 the pupil's involvement with these substances and possible need for  
24 treatment. In order to make this determination the coordinator or  
25 other teaching staff member may conduct a reasonable investigation  
26 which may include interviews with the pupil's teachers and parents.  
27 The coordinator or other teaching staff member may also consult  
28 with [such] experts in the field of substance abuse as may be  
29 necessary and appropriate. If it is determined that the pupil's  
30 involvement with and use of these substances represents a danger to  
31 the pupil's health and well-being, the coordinator or other teaching  
32 staff member shall refer the pupil to an appropriate treatment  
33 program which has been approved by the Commissioner of Health  
34 [and Senior Services].

35 (cf: P.L.2009, c.54, s.1)

36  
37 83. Section 11 of P.L.1987, c.387 (C.18A:40A-18) is amended  
38 to read as follows:

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

43 a. Within 90 days of the effective date of this act, the  
44 Commissioner of Education shall forward to each local school  
45 board a request for a proposal for the employment of a student  
46 assistance coordinator. A board which wants to participate in the  
47 program shall submit a proposal to the commissioner which outlines  
48 the district's plan to provide substance abuse prevention,

1 intervention, and treatment referral services to students through the  
2 employment of a student assistance coordinator. Nothing shall  
3 preclude a district which employs a student assistance coordinator  
4 at the time of the effective date of this act from participating in this  
5 program. The commissioner shall select school districts to  
6 participate in the program through a competitive grant process. The  
7 participating districts shall include urban, suburban, and rural  
8 districts from the north, central, and southern geographic regions of  
9 the State with at least one school district per county. In addition to  
10 all other State aid to which the local district is entitled under the  
11 provisions of P.L.2007, c.260 (C.18A:7F-43 et al.) and other  
12 pertinent statutes, each board of education participating in the  
13 program shall receive from the State, for a three-year period, the  
14 amount necessary to pay the salary of its student assistance  
15 coordinator.

16 b. The position of student assistance coordinator shall be  
17 separate and distinct from any other employment position in the  
18 district, including, but not limited to district guidance counselors,  
19 school social workers, and school psychologists. The State Board  
20 of Education shall approve the education and experience criteria  
21 necessary for employment as a student assistance coordinator. The  
22 criteria shall include a requirement for certification by the State  
23 Board of Examiners. In addition to the criteria established by the  
24 State board, the Department of Education and the Department of  
25 Health [and Senior Services] shall jointly conduct orientation and  
26 training programs for student assistance coordinators, and shall also  
27 provide for continuing education programs for coordinators.

28 c. It shall be the responsibility of student assistance  
29 coordinators to assist local school districts in the effective  
30 implementation of this act. Coordinators shall assist with the in  
31 service training of school district staff concerning substance abuse  
32 issues and the district program to combat substance abuse; serve as  
33 an information resource for substance abuse curriculum  
34 development and instruction; assist the district in revising and  
35 implementing substance abuse policies and procedures; develop and  
36 administer intervention services in the district; provide counseling  
37 services to pupils regarding substance abuse problems; and, where  
38 necessary and appropriate, cooperate with juvenile justice officials  
39 in the rendering of substance abuse treatment services.

40 d. The Commissioner of Education, in consultation with the  
41 Commissioner of Health [and Senior Services], shall implement a  
42 plan to collect data on the effectiveness of the program in treating  
43 problems associated with substance abuse and in reducing the  
44 incidence of substance abuse in local school districts. Six months  
45 prior to the expiration of the program authorized pursuant to this  
46 section, the Commissioner of Education shall submit to the  
47 Governor and the Legislature an evaluation of the program and a



1 recommendation on the advisability of its continuation or expansion  
2 to all school districts in the State.

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

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

7 9. The Department of Health **【and Senior Services】** may,  
8 pursuant to regulation adopted in accordance with the  
9 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
10 seq.), establish and charge reasonable fees not to exceed \$100 to  
11 cover administrative costs associated with the issuance of a  
12 "Certificate of Free Sale." For the purpose of this act, a "Certificate  
13 of Free Sale" is defined as a certificate completed and issued by the  
14 department attesting that a specific food, drug, cosmetic, or medical  
15 device product regulated under Title 24 of the Revised Statutes,**【** as  
16 amended and supplemented,**】** and manufactured, distributed, and  
17 offered for sale in this State is labeled in conformance with the  
18 applicable food, drug, cosmetic, or medical device laws and rules of  
19 this State and further attests to the results of the most recently  
20 conducted sanitary inspection of the manufacturer or distributor of  
21 the subject product.

22 Further, the Department of Health **【and Senior Services may】**,  
23 pursuant to regulation adopted in accordance with the  
24 "Administrative Procedure Act," establish and charge reasonable  
25 fees not to exceed \$100 to cover administrative costs associated  
26 with the issuance of other certifications or affidavits related to  
27 matters regulated by the department under Title 24 of the Revised  
28 Statutes**【, as amended and supplemented】**.

29 (cf: P.L.2003, c.117, s.9)  
30

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

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

35 (a) "Commissioner" means Commissioner of **【the State**  
36 **Department of】** Health **【and Senior Services】** or **【his】** the  
37 commissioner's designated representative.

38 (b) "Department" means the **【State】** Department of Health **【and**  
39 **Senior Services】**.

40 (c) "Drugs" means "drugs" and "devices" as defined in R.S.  
41 24:1-1.

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

44 (e) "Registrant" means the person in whose name a drug  
45 manufacturing business or wholesale non-prescription drug business  
46 is registered.

1 (f) "Drug manufacturing business" means the business of  
2 creating, making, or producing drugs by compounding, growing, or  
3 other process. This definition shall apply to persons engaged in the  
4 drug manufacturing business who do not maintain a manufacturing  
5 location in this State but do operate distribution depots or  
6 warehouses of such business in this State. This definition shall not  
7 apply to licensed pharmacies or to licensed professional individuals  
8 such as, but not limited to, pharmacists, physicians, dentists, or  
9 veterinarians when engaged in the lawful pursuit of their  
10 professions.

11 (g) "Wholesale drug business" means the business of supplying  
12 non-prescription drugs to persons other than the ultimate consumer.  
13 This definition shall not apply to licensed pharmacies or to licensed  
14 professional individuals such as, but not limited to, pharmacists,  
15 physicians, dentists, or veterinarians when engaged in the lawful  
16 pursuit of their professions, and shall not apply to a registered drug  
17 manufacturing business.

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

19

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

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

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

26 "Authenticate" means to affirmatively verify before any  
27 distribution of a prescription drug that each transaction listed on the  
28 pedigree has occurred.

29 "Authorized distributor" or "authorized distributor of record"  
30 means a wholesale distributor with whom a manufacturer has  
31 established an ongoing relationship to distribute the manufacturer's  
32 product. An ongoing relationship is deemed to exist when the  
33 wholesale distributor, or any member of its affiliated group as  
34 defined in section 1504 of the Internal Revenue Code of 1986 (26  
35 U.S.C. s.1504): is listed on the manufacturer's list of authorized  
36 distributors; has a written agreement currently in effect with the  
37 manufacturer; or has a verifiable account with the manufacturer and  
38 meets or exceeds the following transaction or volume requirement  
39 thresholds:

40 a. 5,000 sales units per company within 12 months; or

41 b. 12 purchases by invoice at the manufacturer's minimum  
42 purchasing requirement per invoice within 12 months.

43 "Centralized prescription processing" means the processing by a  
44 pharmacy of a request from another pharmacy to fill or refill a  
45 prescription drug order or to perform processing functions such as  
46 dispensing, drug utilization review, claims adjudication, refill  
47 authorizations and therapeutic interventions.

1 "Chain pharmacy distribution center" means a distribution  
2 facility or warehouse owned by and operated for the primary use of  
3 a group of pharmacies that are under common or affiliated control  
4 or ownership.

5 "Commissioner" means the Commissioner of Health [and Senior  
6 Services].

7 "Contraband" with respect to a prescription drug means:  
8 counterfeit; stolen; misbranded; obtained by fraud; purchased by a  
9 nonprofit institution for its own use and placed in commerce in  
10 violation of the own use agreement; or the existing documentation  
11 or pedigree, if required, for the prescription drug has been forged,  
12 counterfeited, falsely created, or contains any altered, false, or  
13 misrepresented information.

14 "Counterfeit prescription drug" means a prescription drug, or the  
15 container, shipping container, seal, or labeling thereof, which,  
16 without authorization, bears the trademark, trade name or other  
17 identifying mark, imprint, or any likeness thereof, of a  
18 manufacturer, processor, packer, or distributor other than the person  
19 or persons who in fact manufactured, processed, packed, or  
20 distributed [such] the prescription drug and which thereby falsely  
21 purports or is represented to be the product of, or to have been  
22 packed or distributed by, such other manufacturer, processor,  
23 packer, or distributor.

24 "DEA" means the federal Drug Enforcement Administration.

25 "Department" means the Department of Health [and Senior  
26 Services].

27 "Designated representative" means an individual who is  
28 designated by a wholesale prescription drug distributor to serve as  
29 the primary contact person for the wholesale distributor with the  
30 department, and who is responsible for managing the company's  
31 operations at that licensed location.

32 "Distribute" means to sell, offer to sell, deliver, offer to deliver,  
33 broker, give away, or transfer a prescription drug, whether by  
34 passage of title, physical movement, or both. The term does not  
35 mean to: dispense or administer; deliver or offer to deliver in the  
36 usual course of business as a common carrier or logistics provider,  
37 or provide a sample to a patient by a licensed practitioner, a health  
38 care professional acting at the direction and under the supervision  
39 of a practitioner, or the pharmacist of a health care facility licensed  
40 pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) acting at the  
41 direction of a practitioner.

42 "Drug" means: a. an article or substance recognized in the  
43 official United States Pharmacopoeia, official Homeopathic  
44 Pharmacopoeia of the United States or official National Formulary,  
45 or any supplement to any of them; b. an article or substance  
46 intended for use in the diagnosis, cure, mitigation, treatment, or  
47 prevention of disease in man or other animals; c. an article or

1 substance, other than food, intended to affect the structure of any  
2 function of the body of man or animals; and d. an article or  
3 substance intended for use as a component of any article or  
4 substance specified in clause a., b., or c.; but does not include  
5 devices or their components, parts, or accessories. Drug includes a  
6 prefilled syringe or needle.

7 "Immediate container" means a container but does not include  
8 package liners.

9 "Logistics provider" means an entity that receives drugs from the  
10 original manufacturer and delivers them at the direction of that  
11 manufacturer, and does not purchase, sell, trade, or take title to the  
12 drugs.

13 "Misbranded" means a prescription drug with respect to which  
14 the label is: false or misleading in any particular; does not bear the  
15 name and address of the manufacturer, packer, or distributor and  
16 does not have an accurate statement of the quantities of the active  
17 ingredients; or does not show an accurate monograph for legend  
18 drugs; or is misbranded based upon other considerations as  
19 provided in the Federal Food, Drug, and Cosmetic Act, 21 U.S.C.  
20 s.301 et seq.

21 "Pedigree" means a statement or record identifying each previous  
22 sale of a prescription drug, from the sale by a manufacturer through  
23 acquisition and sale by a wholesale distributor, including each  
24 distribution to an authorized distributor, starting with the last  
25 authorized distributor, or the manufacturer if the prescription drug  
26 has not been purchased previously by an authorized distributor or is  
27 a prescription drug on the specified list of susceptible products. A  
28 pedigree shall include the following information: the proprietary  
29 and established name of the prescription drug; the dosage;  
30 container size; number of containers; and the date, business name,  
31 and address of all parties to each prior transaction involving the  
32 prescription drug starting with the last authorized distributor or the  
33 manufacturer if the prescription drug has not been purchased  
34 previously by an authorized distributor or is a prescription drug on  
35 the specified list of susceptible products.

36 "Repackage" means changing the container, wrapper, quantity,  
37 or labeling of a prescription drug to further its distribution.

38 "Sales unit" means the unit of measure that the manufacturer  
39 uses to invoice its customer for the particular product.

40 "Specified list of susceptible products" means a specific list of  
41 prescription drugs, to be determined by the commissioner, that are  
42 considered to be potential targets for adulteration, counterfeiting, or  
43 diversion, which the commissioner shall provide to wholesale  
44 distributors as prescription drugs are added to or removed from the  
45 list, along with notification of those changes.

46 "Wholesale distribution" means the distribution of prescription  
47 drugs in or into the State by a wholesale distributor to a person  
48 other than a consumer or patient, and includes transfers of

- 1 prescription drugs from one pharmacy to another pharmacy if the  
2 value of the goods transferred exceeds 5% of total prescription drug  
3 sales revenue of either the transferor or transferee pharmacy during  
4 any consecutive 12-month period. The term excludes:
- 5 a. the sale, purchase or trade of a prescription drug, an offer to  
6 sell, purchase, or trade a prescription drug, or the dispensing of a  
7 prescription drug pursuant to a prescription;
  - 8 b. the sale, purchase or trade of a prescription drug, or an offer  
9 to sell, purchase, or trade a prescription drug for emergency medical  
10 reasons;
  - 11 c. the sale, purchase or trade of a prescription drug, or an offer  
12 to sell, purchase, or trade a prescription drug by pharmacies, chain  
13 pharmacy distribution centers, and the associated transfer of goods  
14 between chain pharmacy distribution centers and their servicing  
15 wholesale distributors or manufacturers;
  - 16 d. intracompany transactions or sales among wholesale  
17 distributors, chain pharmacy distribution centers, and pharmacies,  
18 and which are limited to those sales or transfers of a prescription  
19 drug among members of an affiliated group, even if the members of  
20 the affiliated group are separate legal entities;
  - 21 e. the sale, purchase or trade of a prescription drug, or an offer  
22 to sell, purchase, or trade a prescription drug among hospitals or  
23 other health care entities licensed pursuant to P.L.1971, c.136  
24 (C.26:2H-1 et seq.) that are under common control;
  - 25 f. the sale, purchase or trade of a prescription drug, or offer to  
26 sell, purchase, or trade a prescription drug by a charitable  
27 organization exempt from taxation pursuant to section 501(c)(3) of  
28 the Internal Revenue Code of 1986 (26 U.S.C. s.501(c)(3)) to a  
29 nonprofit affiliate of the organization;
  - 30 g. the purchase or other acquisition by a hospital or other  
31 similar health care entity licensed pursuant to P.L.1971, c.136  
32 (C.26:2H-1 et seq.) that is a member of a group purchasing  
33 organization of a prescription drug for its own use from the group  
34 purchasing organization or from other hospitals or similar health  
35 care entities that are members of these organizations;
  - 36 h. the transfer of prescription drugs between pharmacies  
37 pursuant to a centralized prescription processing agreement;
  - 38 i. the distribution of prescription drug samples by  
39 manufacturers' representatives or wholesale distributors'  
40 representatives;
  - 41 j. the sale, purchase or trade of blood and blood components  
42 intended for transfusion;
  - 43 k. prescription drug returns, when conducted by a pharmacy,  
44 chain pharmacy distribution center, hospital, health care entity  
45 licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), or  
46 charitable institution in accordance with regulations established by  
47 the commissioner;

1 l. the sale of minimal quantities of prescription drugs by retail  
2 pharmacies to licensed practitioners for office use;

3 m. the stockpiling and distribution of drugs under the  
4 authorization of a State agency for the purpose of providing those  
5 products in an emergency situation; or

6 n. the sale, transfer, merger, or consolidation of all or part of  
7 the business of a pharmacy or pharmacies from or with another  
8 pharmacy or pharmacies whether accomplished as a purchase and  
9 sale of stock or business assets.

10 "Wholesale distributor" means any person, other than the  
11 manufacturer, pharmacy, logistics provider, or chain pharmacy  
12 distribution center, engaged in wholesale distribution of  
13 prescription drugs in or into the State and includes repackagers,  
14 own-label distributors, private-label distributors, jobbers, brokers,  
15 warehouses including distributors' warehouses, independent  
16 prescription drug traders, and retail pharmacies that conduct  
17 wholesale distribution.

18 (cf: P.L.2005, c.206, s.5)

19  
20 87. Section 5 of P.L.1977, c.240 (C.24:6E-4) is amended to read  
21 as follows:

22 5. As used in this act unless the context clearly indicates  
23 otherwise:

24 a. "Drug product" means a dosage form containing one or more  
25 active therapeutic ingredients along with other substances included  
26 during the manufacturing process.

27 b. "Brand name" means the proprietary name assigned to a  
28 drug by the manufacturer thereof.

29 c. "Established name" with respect to a drug or ingredient  
30 thereof, means (1) the applicable official name designated pursuant  
31 to the Federal Food, Drug and Cosmetic Act (Title 21, U.S.C. s.301  
32 et seq.), or (2) if there is no such official name and such drug or  
33 ingredient is recognized in an official compendium, then the official  
34 title thereof in such compendium, except that where a drug or  
35 ingredient is recognized in the United States Pharmacopoeia and in  
36 the Homeopathic Pharmacopoeia under different official titles, the  
37 official title used in the United States Pharmacopoeia shall apply  
38 unless it is labeled and offered for sale as a homeopathic drug, in  
39 which case the official title used in the Homeopathic  
40 Pharmacopoeia shall apply, or (3) if neither (1) nor (2) is  
41 applicable, then the common or usual name, if any, of such drug or  
42 ingredient.

43 d. "Prescription" means an order for drugs or combinations or  
44 mixtures thereof, written or signed by a duly licensed physician,  
45 dentist, veterinarian, or other medical practitioner licensed to write  
46 prescriptions intended for the treatment or prevention of disease in  
47 man or animals, and includes orders for drugs or medicines or  
48 combinations or mixtures thereof transmitted to pharmacists

1 through word of mouth, telephone, telegraph, or other means of  
2 communication by a duly licensed physician, dentist, veterinarian,  
3 or other medical practitioner licensed to write prescriptions  
4 intended for the treatment or prevention of disease in man or  
5 animals.

6 e. "Department" means the Department of Health [and Senior  
7 Services].

8 f. "Chemical equivalents" means those drug products that  
9 contain the same amounts of the same therapeutically active  
10 ingredients in the same dosage forms and that meet present  
11 compendial standards.

12 g. "Reference drug product" means the product which is  
13 adopted by the department as the standard for other chemically  
14 equivalent drugs in terms of testing for the therapeutic equivalence.  
15 In all cases, the reference drug product shall be a currently  
16 marketed drug which is the subject of a full (not abbreviated) new  
17 drug application approved by the Federal Food and Drug  
18 Administration.

19 h. "Therapeutic equivalents" means chemical equivalents  
20 which, when administered to the same individuals in the same  
21 dosage regimen, will provide essentially the same efficacy or  
22 toxicity as their respective reference drug products.

23 "Bioavailability" means the extent and rate of absorption from a  
24 dosage form as reflected by the time-concentration curve of the  
25 administered drug in the systemic circulation.

26 j. "Bioequivalents" means chemical equivalents which, when  
27 administered to the same individuals in the same dosage regimen,  
28 will result in comparable bioavailability.

29 k. "Pharmaceutical equivalents" means those drug products that  
30 contain the same amounts of the same therapeutically active  
31 ingredients in the same dosage form and that meet established  
32 standards.

33 l. "Interchangeable drug products" means pharmaceutical  
34 equivalents or bioequivalents that are determined to be therapeutic  
35 equivalents by the department.

36 m. "Present compendial standards" means the official standards  
37 for drug excipients and drug products listed in the latest revision of  
38 the United States Pharmacopoeia (USP) and the National Formulary  
39 (NF).

40 n. "Dosage form" means the physical formulation or medium in  
41 which the product is intended, manufactured and made available for  
42 use, including, but not limited to: tablets, capsules, oral solutions,  
43 aerosols, inhalers, gels, lotions, creams, ointments, transdermals  
44 and suppositories, and the particular form of the above which  
45 utilizes a specific technology or mechanism to control, enhance, or  
46 direct the release, targeting, systemic absorption, or other delivery  
47 of a dosage regimen in the body.

48 (cf: P.L.2010, c.87, s.1)

1 88. Section 2 of P.L.2003, c.57 (C.24:6H-2) is amended to read  
2 as follows:

3 2. A product that contains ephedrine alkaloids that is not a drug  
4 as defined in R.S.24:1-1, shall not be sold or offered for sale in this  
5 State after the effective date of this act unless its label indicates that  
6 the sale of the product to minors under 18 years of age is prohibited  
7 by State law, in accordance with regulations adopted by the  
8 Commissioner of Health **and Senior Services**.  
9 (cf: P.L.2003, c.57, s.2)

10

11 89. Section 3 of P.L.2003, c.57 (C.24:6H-3) is amended to read  
12 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 carry out  
16 the purposes of this act.  
17 (cf: P.L.2003, c.57, s.3)

18

19 90. Section 3 of P.L.2009, c.307 (C.24:6I-3) is amended to read  
20 as follows:

21 3. As used in this act:

22 "Bona fide physician-patient relationship" means a relationship  
23 in which the physician has ongoing responsibility for the  
24 assessment, care, and treatment of a patient's debilitating medical  
25 condition.

26 "Certification" means a statement signed by a physician with  
27 whom a qualifying patient has a bona fide physician-patient  
28 relationship, which attests to the physician's authorization for the  
29 patient to apply for registration for the medical use of marijuana.

30 "Commissioner" means the Commissioner of Health **and Senior**  
31 **Services**.

32 "Debilitating medical condition" means:

33 (1) one of the following conditions, if resistant to conventional  
34 medical therapy: seizure disorder, including epilepsy; intractable  
35 skeletal muscular spasticity; or glaucoma;

36 (2) one of the following conditions, if severe or chronic pain,  
37 severe nausea or vomiting, cachexia, or wasting syndrome results  
38 from the condition or treatment thereof: positive status for human  
39 immunodeficiency virus~~[,]~~; acquired immune deficiency  
40 syndrome~~[,]~~; or cancer;

41 (3) amyotrophic lateral sclerosis, multiple sclerosis, terminal  
42 cancer, muscular dystrophy, or inflammatory bowel disease,  
43 including Crohn's disease;

44 (4) terminal illness, if the physician has determined a prognosis  
45 of less than 12 months of life; or

46 (5) any other medical condition or its treatment that is approved  
47 by the department by regulation.



1 "Department" means the Department of Health [and Senior  
2 Services].

3 "Marijuana" has the meaning given in section 2 of the "New  
4 Jersey Controlled Dangerous Substances Act," P.L.1970, c.226  
5 (C.24:21-2).

6 "Medical marijuana alternative treatment center" or "alternative  
7 treatment center" means an organization approved by the  
8 department to perform activities necessary to provide registered  
9 qualifying patients with usable marijuana and related paraphernalia  
10 in accordance with the provisions of this act. This term shall  
11 include the organization's officers, directors, board members, and  
12 employees.

13 "Medical use of marijuana" means the acquisition, possession,  
14 transport, or use of marijuana or paraphernalia by a registered  
15 qualifying patient as authorized by this act.

16 "Minor" means a person who is under 18 years of age and who  
17 has not been married or previously declared by a court or an  
18 administrative agency to be emancipated.

19 "Paraphernalia" has the meaning given in N.J.S.2C:36-1.

20 "Physician" means a person licensed to practice medicine and  
21 surgery pursuant to Title 45 of the Revised Statutes with whom the  
22 patient has a bona fide physician-patient relationship and who is the  
23 primary care physician, hospice physician, or physician responsible  
24 for the ongoing treatment of a patient's debilitating medical  
25 condition, provided, however, that [such] the ongoing treatment  
26 shall not be limited to the provision of authorization for a patient to  
27 use medical marijuana or consultation solely for that purpose.

28 "Primary caregiver" or "caregiver" means a resident of the State  
29 who:

- 30 a. is at least 18 years old;
- 31 b. has agreed to assist with a registered qualifying patient's  
32 medical use of marijuana, is not currently serving as primary  
33 caregiver for another qualifying patient, and is not the qualifying  
34 patient's physician;
- 35 c. has never been convicted of possession or sale of a  
36 controlled dangerous substance, unless such conviction occurred  
37 after the effective date of this act and was for a violation of federal  
38 law related to possession or sale of marijuana that is authorized  
39 under this act;
- 40 d. has registered with the department pursuant to section 4 of  
41 this act, and has satisfied the criminal history record background  
42 check requirement of section 4 of this act; and
- 43 e. has been designated as primary caregiver on the qualifying  
44 patient's application or renewal for a registry identification card or  
45 in other written notification to the department.

46 "Qualifying patient" or "patient" means a resident of the State  
47 who has been provided with a certification by a physician pursuant  
48 to a bona fide physician-patient relationship.

1 "Registry identification card" means a document issued by the  
2 department that identifies a person as a registered qualifying patient  
3 or primary caregiver.

4 "Usable marijuana" means the dried leaves and flowers of  
5 marijuana, and any mixture or preparation thereof, and does not  
6 include the seeds, stems, stalks or roots of the plant.  
7 (cf: P.L.2009, c.307, s.3)

8  
9 91. Section 15 of P.L.2009, c.307 (C.24:6I-13) is amended to  
10 read as follows:

11 15. a. The Department of Health **[and Senior Services]** is  
12 authorized to exchange fingerprint data with, and receive  
13 information from, the Division of State Police in the Department of  
14 Law and Public Safety and the Federal Bureau of Investigation for  
15 use in reviewing applications for individuals seeking to serve as  
16 primary caregivers pursuant to section 4 of P.L.2009, c.307  
17 (C.24:6I-4), and for permits to operate as, or to be a director,  
18 officer, or employee of, alternative treatment centers pursuant to  
19 section 7 of P.L.2009, c.307 (C.24:6I-7).

20 b. The Division of State Police shall promptly notify the  
21 Department of Health **[and Senior Services]** in the event an  
22 applicant seeking to serve as a primary caregiver or an applicant for  
23 a permit to operate as, or to be a director, officer, or employee of,  
24 an alternative treatment center, who was the subject of a criminal  
25 history record background check conducted pursuant to subsection  
26 a. of this section, is convicted of a crime involving possession or  
27 sale of a controlled dangerous substance.  
28 (cf: P.L.2009, c.307, s.15)

29  
30 92. Section 2 of P.L.1970, c.226 (C.24:21-2) is amended to read  
31 as follows:

32 2. As used in this act:

33 "Administer" means the direct application of a controlled  
34 dangerous substance, whether by injection, inhalation, ingestion, or  
35 any other means, to the body of a patient or research subject by: (1)  
36 a practitioner (or, in his presence, by his lawfully authorized agent),  
37 or (2) the patient or research subject at the lawful direction and in  
38 the presence of the practitioner.

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

43 "Commissioner" means the Commissioner of Health **[and Senior  
44 Services]**.

45 "Controlled dangerous substance" means a drug, substance, or  
46 immediate precursor in Schedules I through V of article 2 of  
47 P.L.1970, c.226 (C.24:21-1 et seq.)**],** as amended and

1 supplemented]. The term shall not include distilled spirits, wine,  
2 malt beverages, as those terms are defined or used in R.S.33:1-1 et  
3 seq., or tobacco and tobacco products.

4 "Counterfeit substance" means a controlled dangerous substance  
5 which, or the container or labeling of which, without authorization,  
6 bears the trademark, trade name, or other identifying mark, imprint,  
7 number or device, or any likeness thereof, of a manufacturer,  
8 distributor, or dispenser other than the person or persons who in fact  
9 manufactured, distributed, or dispensed such substance and which  
10 thereby falsely purports or is represented to be the product of, or to  
11 have been distributed by, such other manufacturer, distributor, or  
12 dispenser.

13 "Deliver" or "delivery" means the actual, constructive, or  
14 attempted transfer from one person to another of a controlled  
15 dangerous substance, whether or not there is an agency relationship.

16 "Director" means the Director of the Division of Consumer  
17 Affairs in the Department of Law and Public Safety.

18 "Dispense" means to deliver a controlled dangerous substance to  
19 an ultimate user or research subject by or pursuant to the lawful  
20 order of a practitioner, including the prescribing, administering,  
21 packaging, labeling, or compounding necessary to prepare the  
22 substance for that delivery. "Dispenser" means a practitioner who  
23 dispenses.

24 "Distribute" means to deliver other than by administering or  
25 dispensing a controlled dangerous substance. "Distributor" means a  
26 person who distributes.

27 "Division" means the Division of Consumer Affairs in the  
28 Department of Law and Public Safety.

29 "Drug Enforcement Administration" means the Drug  
30 Enforcement Administration in the United States Department of  
31 Justice.

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

42 "Drug dependent person" means a person who is using a  
43 controlled dangerous substance and who is in a state of psychic or  
44 physical dependence, or both, arising from the use of that controlled  
45 dangerous substance on a continuous basis. Drug dependence is  
46 characterized by behavioral and other responses, including but not  
47 limited to a strong compulsion to take the substance on a recurring

1 basis in order to experience its psychic effects, or to avoid the  
2 discomfort of its absence.

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

6 "Marihuana" means all parts of the plant Genus Cannabis L.,  
7 whether growing or not; the seeds thereof; and every compound,  
8 manufacture, salt, derivative, mixture, or preparation of **[such]** the  
9 plant or its seeds, except those containing resin extracted from  
10 **[such]** the plant; but shall not include the mature stalks of **[such]**  
11 the plant, fiber produced from **[such]** the stalks, oil or cake made  
12 from the seeds of **[such]** the plant, any other compound,  
13 manufacture, salt, derivative, mixture, or preparation of such mature  
14 stalks, fiber, oil, or cake, or the sterilized seed of **[such]** the plant  
15 which is incapable of germination.

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

31 "Narcotic drug" means any of the following, whether produced  
32 directly or indirectly by extraction from substances of vegetable  
33 origin, or independently by means of chemical synthesis, or by a  
34 combination of extraction and chemical synthesis:

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

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

38 (c) A substance (and any compound, manufacture, salt,  
39 derivative, or preparation thereof) which is chemically identical  
40 with any of the substances referred to in subsections (a) and (b),  
41 except that the words "narcotic drug" as used in this act shall not  
42 include decocainized coca leaves or extracts of coca leaves, which  
43 extracts do not contain cocaine or ecgonine.

44 "Official written order" means an order written on a form  
45 provided for that purpose by the Attorney General of the United  
46 States or his delegate, under any laws of the United States making  
47 provisions therefor, if such order forms are authorized and required

1 by the federal law, and if no such form is provided, then on an  
2 official form provided for that purpose by the division. If  
3 authorized by the Attorney General of the United States or the  
4 division, the term shall also include an order transmitted by  
5 electronic means.

6 "Opiate" means any dangerous substance having an addiction-  
7 forming or addiction-sustaining liability similar to morphine or  
8 being capable of conversion into a drug having such addiction-  
9 forming or addiction-sustaining liability. It does not include, unless  
10 specifically designated as controlled under section 3 of this act, the  
11 dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its  
12 salts (dextromethorphan). It does include its racemic and  
13 levorotatory forms.

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

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

18 "Pharmacist" means a registered pharmacist of this State.

19 "Pharmacy owner" means the owner of a store or other place of  
20 business where controlled dangerous substances are compounded or  
21 dispensed by a registered pharmacist; but nothing in this chapter  
22 contained shall be construed as conferring on a person who is not  
23 registered or licensed as a pharmacist any authority, right, or  
24 privilege that is not granted to him by the pharmacy laws of this  
25 State.

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

28 "Practitioner" means a physician, dentist, veterinarian, scientific  
29 investigator, laboratory, pharmacy, hospital, or other person  
30 licensed, registered, or otherwise permitted to distribute, dispense,  
31 conduct research with respect to, or administer a controlled  
32 dangerous substance in the course of professional practice or  
33 research in this State.

34 (a) "Physician" means a physician authorized by law to practice  
35 medicine in this or any other state and any other person authorized  
36 by law to treat sick and injured human beings in this or any other  
37 state.

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

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

42 (d) "Hospital" means any federal institution, or any institution  
43 for the care and treatment of the sick and injured, operated or  
44 approved by the appropriate State department as proper to be  
45 entrusted with the custody and professional use of controlled  
46 dangerous substances.

47 (e) "Laboratory" means a laboratory to be entrusted with the  
48 custody of narcotic drugs and the use of controlled dangerous

1 substances for scientific, experimental, and medical purposes and  
2 for purposes of instruction approved by the Department of Health  
3 **【and Senior Services】**.

4 "Production" includes the manufacture, planting, cultivation,  
5 growing, or harvesting of a controlled dangerous substance.

6 "Immediate precursor" means a substance which the division has  
7 found to be and by regulation designates as being the principal  
8 compound commonly used or produced primarily for use, and  
9 which is an immediate chemical intermediary used or likely to be  
10 used in the manufacture of a controlled dangerous substance, the  
11 control of which is necessary to prevent, curtail, or limit such  
12 manufacture.

13 "State" means the State of New Jersey.

14 "Ultimate user" means a person who lawfully possesses a  
15 controlled dangerous substance for his own use or for the use of a  
16 member of his household or for administration to an animal owned  
17 by him or by a member of his household.

18 (cf: P.L. 2007, c.244, s.1)

19

20 93. (New section) a. The Department of Health, established  
21 pursuant to P.L.1947, c.177 (C.26:1A-1 et seq.), and continued and  
22 constituted and redesignated as the Department of Health and  
23 Senior Services pursuant to Reorganization Plan No. 001-1996, is  
24 continued and constituted and redesignated as the Department of  
25 Health. The Commissioner of Health and Senior Services shall be  
26 redennominated as the Commissioner of Health.

27 b. Whenever the terms "Department of Health and Senior  
28 Services" and "Commissioner of Health and Senior Services" occur  
29 or any references are made thereto in any law, rule, regulation,  
30 order, contract, document, judicial or administrative proceeding, or  
31 otherwise, the same shall be deemed to mean or refer to the  
32 "Department of Health" and the "Commissioner of Health,"  
33 respectively.

34 c. The Commissioner of Health shall have the power, not  
35 inconsistent with section 13 of P.L.1947, c.177 (C.26:1A-13) or the  
36 provisions of P.L. , c. (C. ) (pending before the Legislature as  
37 this bill), to organize the work of the Department of Health in such  
38 organizational units as the commissioner may determine to be  
39 necessary for its efficient and effective operation.

40

41 94. Section 11 of P.L.1999, c.154 (C.26:1A-15.1) is amended to  
42 read as follows:

43 11. The Commissioner of Health **【and Senior Services】**, in  
44 consultation with the Commissioner of Banking and Insurance,  
45 shall establish an advisory board to make recommendations to the  
46 commissioners on health information electronic data interchange  
47 technology policy, including a Statewide policy on electronic health  
48 records, and measures to protect the confidentiality of medical

1 information. The members of the board shall include, at a  
2 minimum, representation from health insurance carriers, health care  
3 professionals and facilities, higher education, business and  
4 organized labor, health care consumers, and the commissioner of  
5 each department in the State that uses individuals' medical records  
6 or processes claims for health care services. The members of the  
7 board shall serve without compensation but shall be entitled to  
8 reimbursement for reasonable expenses incurred in the performance  
9 of their duties.

10 (cf: P.L.2005, c.352, s.18)

11  
12 95. Section 12 of P.L.1999, c.154 (C.26:1A-15.2) is amended to  
13 read as follows:

14 12. The Commissioner of Health **【and Senior Services】**, in  
15 conjunction with the Commissioner of Banking and Insurance, shall  
16 present an annual report to the Governor and the Legislature on the  
17 development and use of health information electronic data  
18 interchange technology in New Jersey. The report shall be prepared  
19 in consultation with the advisory board established pursuant to  
20 section 11 of P.L.1999, c.154 (C.26:1A-15.1). The report shall  
21 include any recommendations, including proposals for regulatory  
22 and legislative changes, to promote the development and use of  
23 health information electronic data interchange technology in this  
24 State.

25 (cf: P.L.1999, c.154, s.12)

26  
27 96. Section 2 of P.L.1993, c.309 (C.26:1A-36.7) is amended to  
28 read as follows:

29 2. The Department of Health **【and Senior Services】**, in  
30 conjunction with the Departments of Education and Human  
31 Services, shall establish a Statewide system of early intervention  
32 services for eligible infants and toddlers from birth to age two,  
33 inclusive, with physical, cognitive, communication, social, or  
34 emotional, and adaptive developmental delays or disabilities in  
35 accordance with Part H of the "Individuals with Disabilities  
36 Education Act," Pub.L.91-230 (20 U.S.C. s.1471 et seq.).

37 (cf: P.L.2007, c.172, s.1)

38  
39 97. Section 2 of P.L.2007, c.172 (C.26:1A-36.7a) is amended to  
40 read as follows:

41 2. The Early Intervention Program in the Department of Health  
42 **【and Senior Services】**, established pursuant to section 2 of  
43 P.L.1993, c.309 (C.26:1A-36.7), shall conduct activities to address  
44 the specific needs of children with autism spectrum disorders and  
45 their families. These activities shall include, but not be limited to,  
46 the following:

47 a. developing, in consultation with autism experts and  
48 advocates, including, but not limited to, the Governor's Council for

1 Medical Research and Treatment of Autism, Autism Speaks, The  
2 New Jersey Center for Outreach and Services for the Autism  
3 Community, The Autism Center of New Jersey Medical School at  
4 the University of Medicine and Dentistry of New Jersey, the  
5 Statewide Parent Advocacy Network, Inc., and the New Jersey  
6 chapter of the American Academy of Pediatrics, guidelines for  
7 health care professionals to use in evaluating infants and toddlers  
8 living in the State for autism and to ensure the timely referral by  
9 health care professionals of infants and toddlers who are identified  
10 as having autism or suspected of being on the autism spectrum to  
11 the Early Intervention Program in order to provide appropriate  
12 services to those infants and toddlers as early as possible;

13 b. referring affected children who are identified as having  
14 autism or suspected of being on the autism spectrum and their  
15 families to schools and agencies, including community, consumer,  
16 and parent-based agencies, and organizations and other programs  
17 mandated by Part C of the "Individuals with Disabilities Education  
18 Act" (20 U.S.C. s.1431 et seq.), which offer programs specifically  
19 designed to meet the unique needs of children with autism;

20 c. collecting data on Statewide autism screening, diagnosis,  
21 and intervention programs and systems that can be used for applied  
22 research, program evaluation, and policy development; and

23 d. disseminating information on the medical care of individuals  
24 with autism to health care professionals and the general public.

25 (cf: P.L.2007, c.172, s.2)

26

27 98. Section 2 of P.L.1999, c.265 (C.26:1A-37.6) is amended to  
28 read as follows:

29 2. There is established in the Department of Health **and Senior**  
30 **Services** a New Jersey Council on Physical Fitness and Sports  
31 which shall serve the citizens of the State by developing safe,  
32 healthful, and enjoyable physical fitness and sports programs. The  
33 council shall provide instruments of motivation and education, and  
34 shall promote public awareness to ensure that all citizens of the  
35 State have the opportunity to pursue a more healthful lifestyle.

36 (cf: P.L.1999, c.265, s.2)

37

38 99. Section 3 of P.L.1999, c.265 (C.26:1A-37.7) is amended to  
39 read as follows:

40 3. a. The council shall consist of 16 members, including: the  
41 Commissioner of Health **and Senior Services**, or **his** the  
42 commissioner's designee, who shall serve as an ex officio member;  
43 and 15 public members to be appointed by the Governor as follows:  
44 one member each from the New Jersey Association of Health,  
45 Physical Education, Recreation and Dance; the New Jersey  
46 Recreation and Parks Association; the Medical Society of New  
47 Jersey; the New Jersey State Interscholastic Athletic Association;  
48 and such other persons or professionals as are interested in the



1 physical fitness of the citizens of the State. The council shall meet  
2 and organize immediately after appointment of the members and  
3 shall elect from its membership a chairperson and vice chairperson.

4 b. Each public member of the council shall serve for a term of  
5 three years, expiring on January 1 in the appropriate year; except  
6 that of the members first appointed, four shall be appointed for a  
7 term of one year, five shall be appointed for a term of two years and  
8 six shall be appointed for a term of three years, as determined by  
9 the Governor. Each member shall hold office for the term of  
10 appointment and until a successor is appointed and qualified. A  
11 public member of the council shall be eligible for reappointment.  
12 Members appointed to fill a vacancy occurring for any reason other  
13 than the expiration of the term shall serve for the unexpired term  
14 only.

15 c. Public members shall serve without compensation, but shall  
16 be reimbursed for necessary expenses incurred in the performance  
17 of their duties.

18 d. The council shall adopt rules for the transaction of its  
19 business and shall keep a record of its business, including a record  
20 of its resolutions, transactions, findings and determinations. A  
21 majority of the members of the council shall constitute a quorum,  
22 but a lesser number may hold a hearing.

23 e. The council shall meet at least once in each quarter of the  
24 fiscal year, and as often thereafter as shall be deemed necessary by  
25 the chairperson.

26 f. By a two-thirds vote of the council, a member may be  
27 dismissed from membership for such reasons as the council may  
28 establish, which reasons shall include lack of interest in council  
29 duties or repeated absences from council meetings.

30 g. The council shall be administrated by the Department of  
31 Health [and Senior Services]. The department shall employ  
32 necessary staff to carry out the duties and functions of the council  
33 as otherwise provided in this act or as otherwise provided by law.

34 (cf: P.L.1999, c.265, s.3)

35

36 100. Section 41 of P.L.1947, c.177 (C.26:1A-41) is amended to  
37 read as follows:

38 41. The commissioner shall, in the name of the department,  
39 issue the following licenses:

- 40 a. Health officer's license;
- 41 b. (Deleted by amendment, P.L.1997, c.416).
- 42 c. (Deleted by amendment, P.L.1997, c.416).
- 43 d. (Deleted by amendment, P.L.1997, c.416).
- 44 e. (Deleted by amendment, P.L.1997, c.416).
- 45 f. (Deleted by amendment, P.L.1997, c.416).
- 46 g. (Deleted by amendment, P.L.1997, c.416).
- 47 h. (Deleted by amendment, P.L.1997, c.416).
- 48 i. (Deleted by amendment, P.L.1997, c.416).

1 j. (Deleted by amendment, P.L.1997, c.416).

2 k. Registered environmental health specialist's license.

3 However, any health officer's license, sanitary inspector's  
4 license, and plumbing inspector's license issued before the effective  
5 date of P.L.1947, c.177 (C.26:1A-1 et seq.) by the **[State]**  
6 Department of Health **[and Senior Services]** shall, unless  
7 suspended or revoked in accordance with the provisions of sections  
8 43 and 44 of that act, remain in effect during the employment as  
9 such of the holder thereof. Upon enactment of P.L.1997, c.416  
10 (C.26:1A-42.1 et al.) any existing Sanitary Inspector, First Grade  
11 license shall become a Registered Environmental Health Specialist  
12 license without any further action required of the licensee.

13 Any license eliminated by P.L.1997, c.416 (C.26:1A-42.1 et al.)  
14 shall, unless suspended or revoked in accordance with the  
15 provisions of sections 43 and 44 of P.L.1947, c.177 (C.26:1A-43  
16 and C.26:1A-44), remain in effect until the holder thereof does not  
17 renew the license within two years from the date of its expiration,  
18 or the commissioner does not renew the license in accordance with  
19 section 42 of that act, whichever comes first.  
20 (cf: P.L.1997, c.416, s.6)

21

22 101. Section 43 of P.L.1947, c.177 (C.26:1A-43) is amended to  
23 read as follows:

24 43. Any license issued in accordance with the provisions of this  
25 article, and any health officer's license or sanitary inspector's  
26 license heretofore issued by the **[State]** Department of Health **[and**  
27 **Senior Services]**, may be suspended or revoked, after notice and  
28 hearing conducted by an administrative law judge pursuant to the  
29 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
30 seq.), for any of the following causes:

31 a. Violation of any of the provisions of this act or of any law  
32 relating to public health;

33 b. Violation of any provision of the State Sanitary Code;

34 c. Violation of any applicable local health regulation or  
35 ordinance;

36 d. Any act or happening occurring after the making of  
37 application for such license which, if the same had occurred prior  
38 to said time, would have prevented the issuance of such license; or

39 e. A conviction in a court of competent jurisdiction, either  
40 within or outside this State, of a crime involving moral turpitude,  
41 except that if the conviction is reversed and the holder of the license  
42 is discharged or acquitted, or if the holder is pardoned or the civil  
43 rights of the holder are restored, the holder may obtain a license.

44 Notwithstanding any provision of section 10 of P.L.1968, c.410  
45 (C.52:14B-10) to the contrary, the commissioner, before adopting,  
46 rejecting or modifying the recommended report and decision of an  
47 administrative law judge, shall consult with the Public Health  
48 Council.

1 The suspension or revocation of a license shall be effected by a  
2 notice in writing of the suspension or revocation, designating the  
3 effective date thereof, and in the case of a suspension, the term of  
4 the suspension, which notice may be served upon the licensee  
5 personally or by mailing the same by registered mail addressed to  
6 the licensee at the licensee's home address.

7 The commissioner shall file a copy of the notice of suspension or  
8 revocation of license with the local board of health.

9 (cf: P.L.1997, c.416, s.8)

10  
11 102. Section 1 of P.L.1957, c.72 (C.26:1A-107) is amended to  
12 read as follows:

13 1. a. There is hereby established in the Department of **[State]**  
14 Human Services, a **[division]** Division **[on aging]** of Aging  
15 Services, consisting of a director and the New Jersey State  
16 Commission on Aging in accordance with the provisions of section  
17 397 of P.L. , c. (C. ) (pending before the Legislature as this  
18 bill).

19 (cf: P.L.1966, c.61, s.2)

20  
21 103. Section 6 of P.L.1957, c.72 (C.26:1A-112) is amended to  
22 read as follows:

23 6. The **[Secretary of State]** Commissioner of Human Services  
24 may appoint such professional, technical, and clerical assistants and  
25 employees as may be necessary to enable the division and the  
26 commission to perform the duties imposed upon it by this act and  
27 their compensation shall be fixed within the limits of available  
28 appropriations and as shall be provided by law. The **[said]**  
29 assistants and employees, together with the director of the division,  
30 shall be deemed to be the staff of the division and the commission.  
31 The advisory commission shall meet at regular intervals and at least  
32 4 times annually. The times and places for the said meetings shall  
33 be fixed by the commission and special meetings may be called by  
34 the director on not less than 10 days' written notice to each member,  
35 and any such notice shall specify the object of the meeting.

36 (cf: P.L.1959, c.143, s.3)

37  
38 104. Section 9 of P.L.1966, c.61 (C.26:1A-113.1) is amended to  
39 read as follows:

40 9. The commission shall:

41 (1) Furnish consultation and advice to the Division **[on]** of  
42 Aging Services on programs designed to carry out the division's  
43 mandate.

44 (2) Provide leadership in the field of aging.

45 (3) Make recommendations to the Governor and Legislature  
46 regarding new legislation needed in areas related to aging.

(4) Maintain liaison with other commissions and groups whose activities relate to the broad field of aging.

(cf: P.L.1966, c.61, s.9)

105. Section 10 of P.L.1966, c.61 (C.26:1A-115.1) is amended to read as follows:

10. The **【Secretary of State】** Commissioner of Human Services, subject to the approval of the Governor, is authorized, on behalf of the State of New Jersey, to enter into agreements with the Federal Government or any agency thereof, under which the Division **【on】** of Aging Services (1) will provide or otherwise secure the adoption of **【such】** programs consonant with the objectives of this act and (2) will receive reimbursement from the United States for any such costs incurred, expenses paid, or allowances and benefits paid in connection with said programs in accordance with said agreement and the laws of this State or of the United States.

(cf: P.L.1966, c.61, s.10)

106. Section 2 of P.L.2001, c.376 (C.26:1A-124) is amended to read as follows:

2. There is established the Office on Women's Health in the Department of Health **【and Senior Services】**.

The office shall:

a. Provide grants to community-based organizations to conduct special research, demonstration, and evaluation projects on women's health concerns;

b. Develop and implement model public and private partnerships throughout the State for health awareness campaigns and to improve the access, acceptability, and use of public health services;

c. Serve as an information and resource center for women's health information and data;

d. Function as an advocate for the adoption and implementation of effective measures to improve women's health;

e. Convene such task forces of experienced, knowledgeable persons on specific women's health issues as the director deems appropriate; and

f. Review the programs of the Departments of Health **【and Senior Services】**, Human Services, **【Community Affairs】** Children and Families, and Education and any other department of State government, as appropriate, that concern women's health and make recommendations to the departments that will enable them to better coordinate and improve the effectiveness of their efforts.

(cf: P.L.2001, c.376, s.2)

107. Section 3 of P.L.2001, c.376 (C.26:1A-125) is amended to read as follows:

1       3. The Commissioner of Health **【and Senior Services】** shall  
2 appoint a director for the office who shall serve at the pleasure of  
3 the commissioner during the commissioner's term of office and until  
4 the appointment and qualification of the director's successor. The  
5 director shall devote his entire time to the duties of the position and  
6 shall receive a salary as provided by law.

7 (cf: P.L.2001, c.376, s.3)

8  
9       108. Section 5 of P.L.2001, c.376 (C.26:1A-127) is amended to  
10 read as follows:

11       5. There is established a Women's Health Advisory  
12 Commission.

13       The commission shall consist of nine members, including the  
14 Commissioner of Health **【and Senior Services】** or his designee,  
15 who shall serve ex officio, and eight public members who are  
16 residents of the State and who shall be appointed as follows: one  
17 member who is a health care professional shall be appointed by the  
18 President of the Senate; one member who is a health care  
19 professional shall be appointed by the Speaker of the General  
20 Assembly; and six members, at least two of whom are health care  
21 professionals, at least one of whom represents health care facilities,  
22 at least one of whom represents the health insurance industry, and at  
23 least one of whom is a woman with a disability, shall be appointed  
24 by the Governor with the advice and consent of the Senate. No less  
25 than five of the public members shall be women.

26       The term of office of each public member shall be three years,  
27 but of the members first appointed, two shall be appointed for a  
28 term of one year, three shall be appointed for a term of two years  
29 and three shall be appointed for a term of three years. A member  
30 shall hold office for the term of his appointment and until his  
31 successor has been appointed and qualified. All vacancies shall be  
32 filled for the balance of the unexpired term in the same manner as  
33 the original appointment. A member of the commission is eligible  
34 for reappointment.

35       The public members of the commission shall not receive any  
36 compensation for their services, but shall be reimbursed for the  
37 actual and necessary expenses incurred in the performance of their  
38 duties as members of the commission, within the limits of funds  
39 available to the commission.

40       The members of the commission shall annually elect a chairman  
41 and a vice-chairman from among the public members and may  
42 select a secretary, who need not be a member of the commission.

43       The Office on Women's Health in the Department of Health **【and**  
44 **Senior Services】** shall provide staff and assistance which the  
45 commission requires to carry out its work.

46 (cf: P.L.2001, c.376, s.5)

1       109. Section 9 of P.L.2001, c.376, (C.26:1A-131) is amended to  
2 read as follows:

3       9. The Commissioner of Health **[and Senior Services]** shall  
4 adopt rules and regulations pursuant to the "Administrative  
5 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to carry out  
6 the purposes of this act.  
7 (cf: P.L.2001, c.376, s.9)  
8

9       110. Section 5 of P.L.2007, c.330 (C.26:1A-136) is amended to  
10 read as follows:

11       5. a. There is established the New Jersey Health Information  
12 Technology Commission. For the purpose of complying with the  
13 provisions of Article V, Section IV, paragraph 1 of the New Jersey  
14 Constitution, the commission is established within the Department  
15 of Health **[and Senior Services]**, but, notwithstanding the  
16 establishment, the commission shall be independent of any  
17 supervision or control by the department or any board or officer  
18 thereof.

19       b. The commission shall collaborate with the Office for e-HIT  
20 established pursuant to section 8 of this act (C.17:1D-1), concerning  
21 all activities related to the development, implementation, and  
22 oversight of the plan.

23       The commission shall be responsible for approving the Statewide  
24 health information technology plan.

25       c. In providing advice on the development of the plan, the  
26 commission shall, at a minimum, consider the following:

27       (1) the importance of the education of the general public and  
28 health care professionals about the value of an electronic health  
29 infrastructure for improving the delivery of patient care;

30       (2) the means for the creation of an effective, efficient,  
31 Statewide use of electronic health information in patient care, health  
32 care policymaking, clinical research, health care financing, and  
33 continuous quality improvements;

34       (3) the means for the promotion of the use of national standards  
35 for the development of an interoperative system, including  
36 provisions relating to security, privacy, data content, structures and  
37 format, vocabulary, and transmission protocols;

38       (4) the nature of proper strategic investments in equipment and  
39 other infrastructure elements that will facilitate the ongoing  
40 development of a Statewide infrastructure;

41       (5) funding needs for the ongoing development of health  
42 information technology projects;

43       (6) actions needed to incorporate existing health care  
44 information technology initiatives into the plan in order to avoid  
45 incompatible systems and duplicative efforts;

46       (7) the proper means for the review and integration of the  
47 recommendations, findings, and conclusions of the New Jersey  
48 Health Information Security and Privacy Collaboration;

(8) the importance of recommending steps for the proper resolution of issues related to data ownership, governance, and confidentiality and security of patient information;

(9) the importance of promoting the deployment of health information technology in primary care provider settings; and

(10) the roles that the development and use of open-source electronic medical record software and the use of application service provider software can play in effectuating the purposes of paragraph (9) of this subsection.

d. The commission shall review the plan submitted by the Office for e-HIT and notify it of any changes needed to approve the plan.

(cf: P.L.2007, c.330, s.5)

111. Section 6 of P.L.2007, c.330 (C.26:1A-137) is amended to read as follows:

6. a. The New Jersey Health Information Technology Commission shall be comprised of 19 members as follows:

(1) the Commissioners of Health **[and Senior Services]**, Banking and Insurance, Children and Families, and Human Services, and the State Treasurer, or their designees, who shall serve ex officio; and

(2) 14 public members, who shall be appointed by the Governor no later than the 60th day after the effective date of this act, as follows: three physicians engaged in private practice in this State, one of whom is a pediatrician and one a psychiatrist; two persons who represent acute care hospitals in this State, one of whom represents a teaching hospital and the other a non-teaching hospital; a registered professional nurse practicing in this State; a pharmacist practicing in this State; a person who represents a clinical laboratory operating in this State; an attorney practicing in this State with demonstrated expertise in health privacy issues; a person who represents a health insurance carrier operating in this State; a person who represents a Quality Improvement Organization located in New Jersey that contracts with the federal Centers for Medicare **[and]** & Medicaid Services to improve the efficiency and effectiveness, economy, and quality of services provided to Medicare beneficiaries; and three members of the public with a demonstrated professional expertise in issues relating to the work of the commission, including one member with expertise in electronic health information technology.

(3) The Governor shall designate a public member as chair of the commission.

b. The public members shall serve for a term of three years; except that, of the public members first appointed, five shall serve for a term of three years, five for a term of two years, and four for a term of one year. Vacancies in the membership of the commission

1 shall be filled in the same manner as the original appointments were  
2 made.

3 c. The commission shall organize as soon as may be  
4 practicable, but no later than the 45th day after the appointment of  
5 its members. The public members shall serve without  
6 compensation, but may be reimbursed for necessary expenses  
7 incurred in the performance of their duties.

8 d. A majority of the total authorized membership of the  
9 commission shall constitute a quorum at any meeting thereof.  
10 Action may be taken and motions and resolutions adopted by the  
11 commission at any meeting of the commission by the affirmative  
12 vote of a majority of the quorum of the members who are present.  
13 A vacancy in the membership of the commission shall not impair  
14 the right of a quorum of the members to exercise all the powers and  
15 perform all the duties of the commission.

16 e. The commission shall meet 2and confer with the Office for  
17 e-HIT at least quarterly and may meet at other times at the call of  
18 the commission chair. The meetings of the commission shall  
19 comply with the provisions of the "Senator Byron M. Baer Open  
20 Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.).

21 f. In addition to any other powers authorized by law, the  
22 commission shall have the authority, in accordance with State law,  
23 to:

24 (1) make and enter into contracts to purchase services and  
25 supplies;

26 (2) develop and submit a proposed budget, not to exceed \$1  
27 million annually;

28 (3) apply for, receive, and expend grants from governmental or  
29 private nonprofit sources;

30 (4) recommend to the Department of Banking and Insurance the  
31 necessary charges and assessments to be levied to collect payments  
32 from persons and entities for the provision of services or as the  
33 Office for e-HIT otherwise determines necessary to effectuate the  
34 purposes of this act;

35 (5) receive and expend appropriations;

36 (6) provide such other services and perform such other functions  
37 as the commission deems necessary to fulfill its responsibilities  
38 under this act; and

39 (7) appoint, retain, or employ consultants on a contract basis or  
40 otherwise, who are deemed necessary, and as may be within the  
41 limits of funds appropriated or otherwise made available to it for its  
42 purposes.

43 g. In collaboration with the Office for e-HIT, the commission  
44 shall, no later than 18 months after its initial meeting and annually  
45 thereafter, submit a joint report to the Governor, and to the  
46 Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1),  
47 concerning its activities and the status of, and actions taken  
48 regarding development, implementation, and oversight of the



1 Statewide health information technology plan. The commission  
2 shall include in that report any findings and recommendations that it  
3 desires to make, along with any legislative bills that it desires to  
4 recommend for adoption by the Legislature.

5 h. The commission shall develop and submit a proposed budget  
6 to the Commissioner of Health **【and Senior Services】** to effectuate  
7 its duties as set forth in this act.

8 The budget shall be subject to approval by the Commissioner of  
9 Health **【and Senior Services】**.

10 i. The commission shall appoint a full-time executive director,  
11 who shall serve as secretary to the commission. The executive  
12 director shall serve at the pleasure of the commission and shall be  
13 qualified by training and experience to perform the duties of the  
14 position. The executive director shall be in the unclassified service  
15 of the Civil Service and may hire properly qualified employees,  
16 within the limits of funds appropriated or otherwise made available  
17 to the commission, who shall also be employed in the unclassified  
18 service of the Civil Service; except that employees performing  
19 stenographic or clerical duties shall be in the career service and  
20 appointed pursuant to Title 11A of the New Jersey Statutes.

21 (cf: P.L.2007, c.330, s.6)

22

23 112. Section 2 of P.L.2001, c.373 (C.26:2-103.2) is amended to  
24 read as follows:

25 2. As used in this act:

26 "Commissioner" means the Commissioner of Health **【and Senior**  
27 **Services】**.

28 "Department" means the Department of Health **【and Senior**  
29 **Services】**.

30 "Electrophysiologic screening measures" means the electrical  
31 result of the application of physiologic agents and includes, but is  
32 not limited to, the procedures currently known as Auditory  
33 Brainstem Response testing (ABR) and Otoacoustic Emissions  
34 testing (OAE) and any other procedure adopted by regulation by the  
35 commissioner.

36 "Hearing loss" means a hearing loss of 30dB or greater in the  
37 frequency region important for speech recognition and  
38 comprehension in one or both ears, which is approximately 500  
39 through 4000 Hz., except that the commissioner may adopt a  
40 standard which establishes a less severe hearing loss, as  
41 appropriate.

42 "Newborn" means a child up to 28 days old.

43 "Parent" means a biological parent, stepparent, adoptive parent,  
44 legal guardian, or other legal custodian of a child.

45 (cf: P.L.2001, c.373, s.2)

1       113. Section 2 of P.L.1977, c.266 (C.26:2-105) is amended to  
2 read as follows:

3       2. The Department of Health **【and Senior Services】** shall  
4 establish and maintain an up-to-date registry which shall include a  
5 record of cases of cancer and specified cases of tumorous or  
6 precancerous disease that occur in New Jersey, and such  
7 information concerning these cases as it shall deem necessary and  
8 appropriate in order to conduct thorough and complete  
9 epidemiologic surveys of cancer and cancer-related diseases in this  
10 State and to apply appropriate preventive and control measures.  
11 (cf: P.L.2001, c.99, s.1)  
12

13       114. Section 3 of P.L.1977, c.266 (C.26:2-106) is amended to  
14 read as follows:

15       3. a. The Commissioner of Health **【and Senior Services】**, in  
16 consultation with the Public Health Council, shall require the  
17 reporting of cases of cancer and other specified tumorous and  
18 precancerous diseases, and the submission of such specified  
19 additional information on reported cases or control populations as  
20 he deems necessary and appropriate for the recognition, prevention,  
21 cure, or control of such diseases.

22       b. Pursuant to subsection a. of this section, the Commissioner  
23 of Health **【and Senior Services】** is hereby authorized to adopt and  
24 promulgate, in the manner prescribed by the applicable provisions  
25 of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-  
26 1 et seq.) rules and regulations specifying the health care providers,  
27 individuals, and other organizations obliged to make the report and  
28 submissions required by subsection a. of this section, the related  
29 information to be included in such reports, and the methods for such  
30 reporting.

31       c. All abstracting work performed by a health care facility in  
32 accordance with this section shall be performed by a certified tumor  
33 registrar.

34       d. (1) The Department of Health **【and Senior Services】** shall  
35 contract out its registry services to health care facilities which lack  
36 adequate internal capabilities to report cases on a timely basis, as  
37 provided in the regulations adopted pursuant to this section. Such  
38 health care facilities shall reimburse the department for services  
39 rendered.

40       (2) If a health care facility fails to correct deficiencies in its  
41 reporting that are discovered on audit by the Department of Health  
42 **【and Senior Services】** within 30 days, the department will conduct  
43 the appropriate registrar activities and charge the facility for all  
44 costs related to its services.

45       e. Health insurers and other third party health care payers  
46 providing health benefits plans to residents of the State shall report  
47 to the Department of Health **【and Senior Services】** cases of cancer

1 of State residents based upon selection criteria and in a format  
2 specified by the department.

3 f. (1) A health care facility, health care provider, or health  
4 insurer that fails to comply with the provisions of this section shall  
5 be liable to a penalty of up to \$500 per unreported cancer case.

6 (2) A health care facility that fails to report cases of cancer  
7 electronically, as required by regulation, shall be liable to a penalty  
8 not to exceed \$1,000 per business day.

9 (3) A penalty sued for under the provisions of this subsection  
10 shall be recovered by and in the name of the Department of Health  
11 **【and Senior Services】** and shall be dedicated to the cancer registry.

12 g. All information reported to the Department of Health **【and**  
13 **Senior Services】** for inclusion in the cancer registry pursuant to this  
14 section shall be verified for accuracy by the department within six  
15 months of receiving the information and shall be incorporated in the  
16 registry. Aggregate or summary information, to include gender  
17 distribution, age groupings of cases, and cancer types, shall be  
18 made available to the public no later than six months after  
19 verification by the department. The department shall not make  
20 public any information reported to the department which discloses  
21 the identity of any person to whom the information relates.

22 (cf: P.L.2001, c.99, s.2)

23

24 115. Section 4 of P.L.1977, c.266 (C.26:2-107) is amended to  
25 read as follows:

26 4. The reports made pursuant to this act are to be used only by  
27 the Department of Health **【and Senior Services】** and such other  
28 agencies as may be designated by the Commissioner of Health **【and**  
29 **Senior Services】** and shall not otherwise be divulged or made  
30 public so as to disclose the identity of any person to whom they  
31 relate; and to that end, such reports shall not be included under  
32 materials available to public inspection pursuant to P.L.1963, c.73  
33 (C.47:1A-1 et seq.).

34 (cf: P.L.2001, c.99, s.3)

35

36 116. Section 5 of P.L.1977, c.266 (C.26:2-108) is amended to  
37 read as follows:

38 5. No individual or organization providing information to the  
39 Department of Health **【and Senior Services】** in accordance with  
40 this act shall be deemed to be, or held liable for, divulging  
41 confidential information.

42 (cf: P.L.2001, c.99, s.4)

43

44 117. Section 1 of P.L.2004, c.12 (C.26:2-111.1) is amended to  
45 read as follows:

46 1. a. A health care provider shall give an infant's parent or  
47 guardian the option of consenting to the performance of testing by

1 qualified laboratories for disorders in infants for which testing is  
2 not required pursuant to P.L.1977, c.321 (C.26:2-110 et seq.), on a  
3 form and in a manner prescribed by the Commissioner of Health  
4 **【and Senior Services】**. The health care provider shall not be  
5 required to assume the cost of such testing.

6 As used in this section:

7 "Health care provider" means a health care professional licensed  
8 pursuant to Title 45 of the Revised Statutes or a health care facility  
9 licensed pursuant to Title 26 of the Revised Statutes that provides  
10 health care services to newborn infants.

11 "Qualified laboratory" means a clinical laboratory not operated  
12 by the Department of Health **【and Senior Services】**, which is  
13 certified by the Secretary of Health and Human Services pursuant to  
14 the federal "Clinical Laboratory Improvement Amendments of  
15 1988," Pub.L.100-578 (42 U.S.C. s.263a) and reports its test results  
16 by using normal pediatric reference ranges.

17 b. (1) The Commissioner of Health **【and Senior Services】** shall  
18 prepare and make available electronically, on the Internet website  
19 of the Department of Health **【and Senior Services】**, information  
20 that explains the availability of testing performed by qualified  
21 laboratories for disorders in infants for which testing is not required  
22 pursuant to P.L.1977, c.321 (C.26:2-110 et seq.).

23 (2) A health care provider shall give an infant's parent or  
24 guardian a hard copy of the information prepared pursuant to  
25 paragraph (1) of this subsection and provide the parent or guardian  
26 with a reasonable opportunity to read the information when giving  
27 the parent or guardian the option of consenting to the performance  
28 of testing pursuant to subsection a. of this section.

29 (cf: P.L.2004, c.12, s.1)

30  
31 118. Section 4 of P.L.2007, c.218 (C.26:2-111.2) is amended to  
32 read as follows:

33 4. a. The Commissioner of Health **【and Senior Services】** shall  
34 require each birthing facility in the State to administer to a newborn  
35 in its care a test for human immunodeficiency virus (HIV) if the  
36 HIV status of the mother of the newborn is unknown.

37 A newborn shall not be denied testing for HIV on the basis of the  
38 newborn's economic status.

39 b. The commissioner shall establish a comprehensive program  
40 for the follow-up testing of newborns who test positive for HIV  
41 pursuant to subsection a. of this section or whose mother is HIV-  
42 positive, which shall include, but not be limited to, procedures for  
43 the administration of HIV testing, counseling of the newborn's  
44 mother, tracking the newborn, disclosure of HIV test results to the  
45 mother, facility compliance reviews, and educational activities  
46 related to the HIV testing.

1 c. The provisions of this section shall not apply to a newborn  
2 whose parents object to the test as being in conflict with their  
3 religious tenets and practices. The parents shall provide the health  
4 care facility with a written statement of the objection, and the  
5 statement shall be included in the newborn's medical record.

6 d. As used in this section, "birthing facility" means an inpatient  
7 or ambulatory health care facility licensed by the Department of  
8 Health [and Senior Services] that provides birthing and newborn  
9 care services.

10 e. The Commissioner of Health [and Senior Services] shall  
11 adopt rules and regulations, pursuant to the "Administrative  
12 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to  
13 carry out the purposes of this section.  
14 (cf: P.L.2007, c.218, s.4)

15  
16 119. Section 2 of P.L.2011, c.74 (C.26:2-111.4) is amended to  
17 read as follows:

18 2. a. The Commissioner of Health [and Senior Services] shall  
19 require each birthing facility licensed by the Department of Health  
20 [and Senior Services] to perform a pulse oximetry screening, a  
21 minimum of 24 hours after birth, on every newborn in its care.

22 b. As used in this section, "birthing facility" means an inpatient  
23 or ambulatory health care facility licensed by the Department of  
24 Health [and Senior Services] that provides birthing and newborn  
25 care services.

26 c. The commissioner shall adopt rules and regulations,  
27 pursuant to the "Administrative Procedure Act," P.L.1968, c.410  
28 (C.52:14B-1 et seq.), necessary to carry out the purposes of this act.  
29 (cf: P.L.2011, c.74, s.2)

30  
31 120. Section 1 of P.L.2011, c.175 (C.26:2-111.5) is amended to  
32 read as follows:

33 1. a. All infants born in this State shall be tested for the  
34 lysosomal storage disorders known as Krabbe, Pompe, Gaucher,  
35 Fabry, and Niemann-Pick diseases within six months following the  
36 occurrence of all of the following:

37 (1) the registration with the federal Food and Drug  
38 Administration of the necessary reagents;

39 (2) the availability of the necessary reagents from the federal  
40 Centers for Disease Control and Prevention;

41 (3) the availability of quality assurance testing methodology for  
42 these processes; and

43 (4) the acquisition by the Department of Health [and Senior  
44 Services] of the equipment necessary to implement the expanded  
45 screening tests.

46 b. The Department of Health [and Senior Services] may  
47 charge a reasonable fee for the tests performed pursuant to this

1 section. The amount of the fee and the procedures for collecting the  
2 fee shall be determined by the Commissioner of Health [and Senior  
3 Services].

4 (cf: P.L.2011, c.175, s.1)

5  
6 121. Section 4 of P.L.1987, c.370 (C.26:2-151) is amended to  
7 read as follows:

8 4. There is established in the Executive Branch of the State  
9 government, the Catastrophic Illness in Children Relief Fund  
10 Commission. For the purposes of complying with the provisions of  
11 Article V, section IV, paragraph 1 of the New Jersey Constitution,  
12 the commission is allocated within the Department of Human  
13 Services, but notwithstanding that allocation, the commission shall  
14 be independent of any supervision or control by the department or  
15 by any board or officer thereof.

16 The commission shall consist of the Commissioner of Health  
17 [and Senior Services], the Commissioner of Human Services, the  
18 Commissioner of Children and Families, the Commissioner of  
19 Banking and Insurance, and the State Treasurer, who shall be  
20 members ex officio, and seven public members who are residents of  
21 this State, appointed by the Governor with the advice and consent  
22 of the Senate for terms of five years, two of whom are appointed  
23 upon the recommendation of the President of the Senate, one of  
24 whom is a provider of health care services to children in this State  
25 and two of whom are appointed upon the recommendation of the  
26 Speaker of the General Assembly, one of whom is a provider of  
27 health care services to children in this State. The five public  
28 members first appointed by the Governor shall serve for terms of  
29 one, two, three, four and five years, respectively.

30 Each member shall hold office for the term of his appointment  
31 and until his successor has been appointed and qualified. A  
32 member of the commission is eligible for reappointment.

33 Each ex officio member of the commission may designate an  
34 officer or employee of [his] the ex officio member's department to  
35 represent [him] the member at meetings of the commission, and  
36 each designee may lawfully vote and otherwise act on behalf of the  
37 member for whom he constitutes the designee. Any designation  
38 shall be in writing delivered to the commission and filed with the  
39 office of the Secretary of State and shall continue in effect until  
40 revoked or amended in the same manner as provided for  
41 designation.

42 (cf: P.L.2007, c.342, s.1)

43  
44 122. Section 2 of P.L.1991, c.401 (C.26:2-161) is amended to  
45 read as follows:

1       2. a. There is established the New Jersey Office on Minority  
2 and Multicultural Health in the Department of Health [and Senior  
3 Services].

4       b. Whenever the term "New Jersey Office on Minority Health"  
5 occurs or any reference is made thereto in any law, contract, or  
6 document, the same shall be deemed to mean or refer to the "New  
7 Jersey Office on Minority and Multicultural Health."  
8 (cf: P.L.2001, c.205, s.3)

10       123. Section 3 of P.L.1991, c.401 (C.26:2-162) is amended to  
11 read as follows:

12       3. The office shall:

13       a. Provide grants to community-based organizations to conduct  
14 special research, demonstration, and evaluation projects for targeted  
15 at-risk racial and ethnic minority populations and to support  
16 ongoing community-based programs that are designed to reduce or  
17 eliminate racial and ethnic health disparities in the State;

18       b. Develop and implement model public and private  
19 partnerships in racial and ethnic minority communities for health  
20 awareness campaigns and to improve the access, acceptability, and  
21 use of public health services;

22       c. Serve as an information and resource center for racial and  
23 ethnic minority specific health information and data and develop a  
24 clearinghouse to collate and organize data on a county-by-county  
25 basis and disseminate it upon request to interested parties;

26       d. Review, recommend, and develop culturally appropriate  
27 health education materials;

28       e. Provide assistance to local school districts to develop  
29 programs in elementary and secondary schools which stress good  
30 nutrition and healthy lifestyles;

31       f. Function as an advocate for the adoption and implementation  
32 of effective measures to improve the health of racial and ethnic  
33 minority populations in this State, which measures should lead to  
34 the elimination of disparities among the various racial and ethnic  
35 populations of this State with respect to access to high-quality  
36 health care, utilization of health care services, and health status;

37       g. Improve existing data systems to ensure that the health  
38 information that is collected includes specific race and ethnicity  
39 identifiers;

40       h. Review the programs of the Departments of Health [and  
41 Senior Services], Human Services, Community Affairs, and  
42 Education and any other department of State government, as  
43 appropriate, that concern multicultural or minority health and make  
44 recommendations to the departments that will enable them to better  
45 coordinate and improve the effectiveness of their efforts;

46       i. Develop a Statewide plan for increasing the number of racial  
47 and ethnic minority health care professionals which includes

- 1 recommendations for the financing mechanisms and recruitment  
2 strategies necessary to carry out the plan;
- 3 j. Work collaboratively with colleges of medicine and  
4 dentistry in this State and other health care professional training  
5 programs to develop cultural and language competency courses that  
6 are designed to address the problem of racial and ethnicity  
7 disparities in health care access, utilization, treatment decisions,  
8 quality, and outcomes;
- 9 k. Develop recommendations for the most effective means of  
10 providing outreach to racial and ethnic minority communities  
11 throughout the State to ensure their maximum participation in  
12 publicly funded health benefits programs;
- 13 l. Seek to establish a Statewide alliance with community-based  
14 agencies and organizations, health care facilities, health care  
15 provider organizations, managed care organizations, and  
16 pharmaceutical manufacturers to promote the objectives of the  
17 office; and
- 18 m. Evaluate multicultural or racial and ethnic minority health  
19 programs in other states to assess their efficacy and potential for  
20 replication in this State and make recommendations regarding the  
21 adoption of such programs, as appropriate.
- 22 (cf: P.L.2001, c.205, s.4)
- 23
- 24 124. Section 4 of P.L.1991, c.401 (C.26:2-163) is amended to  
25 read as follows:
- 26 4. The office is authorized to:
- 27 a. Adopt rules and regulations pursuant to the "Administrative  
28 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), concerning  
29 the operation of the office and other matters that may be necessary  
30 to carry out the purposes of this act;
- 31 b. Maintain offices at such places within the State as it may  
32 designate;
- 33 c. Employ a director and other personnel as may be necessary.  
34 The director shall be appointed by the Commissioner of Health  
35 [and Senior Services] and shall serve at the pleasure of the  
36 commissioner during the commissioner's term of office and until the  
37 appointment and qualification of the director's successor. The  
38 director shall devote his entire time to the duties of the position and  
39 shall receive a salary as provided by law;
- 40 d. Apply for and accept any grant of money from the federal  
41 government, private foundations or other sources, which may be  
42 available for programs related to multicultural or minority health;
- 43 e. Serve as the designated State agency for receipt of federal  
44 funds specifically designated for multicultural or racial and ethnic  
45 minority health programs; and
- 46 f. Enter into contracts with individuals, organizations, and



1 institutions necessary for the performance of its duties under this  
2 act.

3 (cf: P.L.2001, c.205, s.5)  
4

5 125. Section 5 of P.L.1991, c.401 (C.26:2-164) is amended to  
6 read as follows:

7 5. There is established a New Jersey Office on Minority and  
8 Multicultural Health Advisory Commission.

9 The commission shall consist of nine members, including the  
10 Commissioner of Health [and Senior Services] or his designee,  
11 who shall serve ex officio, and eight public members who are  
12 residents of the State and who shall be appointed as follows: one  
13 member who is a health care professional shall be appointed by the  
14 President of the Senate; one member who is a health care  
15 professional shall be appointed by the Speaker of the General  
16 Assembly; and six members, at least two of whom are health care  
17 professionals, at least one of whom represents health care facilities  
18 and at least one of whom represents the health insurance industry,  
19 shall be appointed by the Governor with the advice and consent of  
20 the Senate.

21 The term of office of each public member shall be three years,  
22 but of the members first appointed, two shall be appointed for a  
23 term of one year, three shall be appointed for a term of two years  
24 and three shall be appointed for a term of three years. A member  
25 shall hold office for the term of his appointment and until his  
26 successor has been appointed and qualified. All vacancies shall be  
27 filled for the balance of the unexpired term in the same manner as  
28 the original appointment. A member of the commission is eligible  
29 for reappointment.

30 The public members of the commission shall not receive any  
31 compensation for their services, but shall be reimbursed for the  
32 actual and necessary expenses incurred in the performance of their  
33 duties as members of the commission, within the limits of funds  
34 available to the commission.

35 The members of the commission shall annually elect a chairman  
36 and a vice-chairman from among the public members and may  
37 select a secretary, who need not be a member of the commission.

38 The New Jersey Office on Minority and Multicultural Health  
39 shall provide such staff and assistance as the commission requires  
40 to carry out its work.

41 (cf. P.L.2001, c.205, s.6)  
42

43 126. Section 1 of P.L.2004, c.137 (C.26:2-167.1) is amended to  
44 read as follows:

45 1. The Commissioner of Health [and Senior Services] shall  
46 establish the "Eliminating Health Disparities Initiative" in the  
47 Office on Minority and Multicultural Health. The commissioner  
48 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

1 prepare a consumer's mercury alert notice for posting in all patient  
2 areas of professional medical offices that provide gynecological,  
3 obstetrical, or pediatric care and in the patient or client areas of all  
4 maternal and child health and nutrition programs. The notice shall  
5 explain the danger to women who expect to become pregnant,  
6 women who are pregnant or breast feeding their children, and  
7 young children, of eating mercury contaminated fish. The notice  
8 shall summarize the State's and the federal government's most  
9 current mercury health advisories concerning fish consumption and  
10 shall contain such other information as the department deems  
11 appropriate. The notice also shall list any telephone number that  
12 may be established for State residents to call for further information  
13 about the health advisories.

14 The department shall distribute the notice, at no charge, to all  
15 professional medical offices that provide gynecological, obstetrical,  
16 or pediatric care and to all publicly funded maternal and child  
17 health and nutrition programs in the State. The department shall  
18 update the notice as necessary, and shall make additional copies of  
19 the notice available to health care providers upon request.

20 (cf: P.L.2003, c.174, s.1)

21

22 134. Section 2 of P.L.2005, c.98 (C.26:2-181) is amended to  
23 read as follows:

24 2. The Commissioner of Health **[and Senior Services]** shall  
25 establish a public awareness campaign to inform the general public  
26 about post-polio sequelae, for which purpose the commissioner  
27 shall provide for the development of educational materials, in  
28 consultation with health care facilities and providers that have a  
29 demonstrated record of expertise and interest in this subject, which  
30 shall be made available to local boards of health, physicians,  
31 hospitals, and clinics for distribution to consumers.

32 (cf: P.L.2005, c.98, s.2)

33

34 135. Section 1 of P.L.2005, c.280 (C.26:2-182) is amended to  
35 read as follows:

36 1. a. There is established the "Task Force on Cancer 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;

1 pharmaceutical companies engaged in cancer research; community-  
2 based organizations and coalitions engaged in cancer outreach,  
3 education, and screening; and cancer survivors.

4 c. The public members shall serve for a term of one year.  
5 Vacancies in the membership of the task force shall be filled in the  
6 same manner as the original appointments were made.

7 d. The task force shall organize as soon as may be practicable,  
8 but no later than the 30th day after the appointment of its members,  
9 and shall select a chairperson from among the public members. The  
10 chairperson shall appoint a secretary who need not be a member of  
11 the task force. The public members shall serve without  
12 compensation, but may be reimbursed for necessary expenses  
13 incurred in the performance of their duties.

14 e. The Department of Health [and Senior Services] shall  
15 supply such staff and resources, including a person to serve as  
16 executive director of the task force, as the task force requires to  
17 carry out its duties.

18 f. The task force is entitled to the assistance and services of the  
19 employees of any State department, board, bureau, commission, or  
20 agency as it may require and as may be available to it for its  
21 purposes, and to incur traveling and other miscellaneous expenses  
22 necessary to perform its duties, within the limits of funds  
23 appropriated or otherwise made available to it for its purpose.

24 (cf: P.L.2005, c.280, s.1)

25  
26 136. Section 2 of P.L.2005, c.280 (C.26:2-183) is amended to  
27 read as follows:

28 2. a. The task force shall:

29 (1) evaluate current trends in cancer incidence, morbidity and  
30 mortality, screening, diagnosis, and behaviors that increase risk;

31 (2) evaluate historic, current, and emerging cancer control  
32 strategies;

33 (3) establish cancer reduction goals, which shall seek to reduce  
34 mortality rates for breast, cervical, prostate, lung, and colorectal  
35 cancer;

36 (4) establish specific goals for:

37 (a) reducing behavior that increases the risk of cancer, including  
38 behavior related to smoking and diet;

39 (b) reversing the present trend of annual increases in the rate of  
40 invasive melanoma;

41 (c) closing the gap in cancer mortality rates between the total  
42 population and minorities;

43 (d) increasing the use of screening tests for cancer, especially  
44 among elderly and minority populations; and

45 (e) increasing the percentage of cancers diagnosed at early  
46 stages;

47 (5) develop an integrated set of priority strategies that are  
48 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 the  
46 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)

1       146. Section 5 of P.L.2007, c.255 (C.26:2AA-5) is amended to  
2 read as follows:

3       5. The Department of Health [and Senior Services] shall:

4       a. establish a public education program through the  
5 department's website, to promote RSDS education, which will  
6 enable individuals to make informed decisions about their health,  
7 including, but not limited to the following elements:

- 8       (1) the cause and nature of RSDS;
- 9       (2) the risk factors that contribute to the manifestation of RSDS;
- 10       (3) available treatment options, including risks and benefits of
- 11 those options;
- 12       (4) environmental safety and injury prevention;
- 13       (5) rest and use of appropriate body mechanics;
- 14       (6) the availability of RSDS diagnostic, treatment, and outreach
- 15 services in the community; and
- 16       (7) any other factors or elements that might mitigate the effects
- 17 of RSDS;

18       b. notify local health departments, hospitals, clinics, and other  
19 health care providers about the availability of information  
20 concerning RSDS on the department's website;

21       c. within the limits of funds available to the department for this  
22 purpose, coordinate, promote, and offer professional education  
23 programs, through institutions of higher education, for health care  
24 providers and health-related community-based organizations, which  
25 may include, but are not limited to the following elements:

- 26       (1) research findings;
- 27       (2) the cause and nature of RSDS;
- 28       (3) the risk factors, including, but not limited to, lifestyle,
- 29 heredity, and drug interactions;
- 30       (4) the diagnostic procedures and appropriate indications for
- 31 their use;
- 32       (5) medical and surgical treatment options, including
- 33 experimental and established drug therapies and the risks and
- 34 benefits of each option;
- 35       (6) environmental safety and injury prevention; and
- 36       (7) the availability of RSDS diagnosis and treatment and support
- 37 services in the community; and

38       d. promote research, through both private and public funding  
39 sources, to accurately identify, diagnose, and treat RSDS.

40 (cf: P.L.2007, c.255, s.5)

41  
42       147. Section 1 of P.L.2006, c.48 (C.26:2D-82.1) is amended to  
43 read as follows:

44       1. a. A tanning facility operator shall not permit a person who is  
45 under 14 years of age to use a tanning facility.

46       b. A tanning facility operator shall not permit a person who is  
47 at least 14 but less than 18 years of age to use a tanning facility  
48 without written authorization of the person's parent or legal

1 guardian indicating that such parent or guardian has read and  
2 understood the safety standards and warnings required pursuant to  
3 section 3 of P.L.1989, c.234 (C.26:2D-83). An emancipated minor  
4 shall be exempt from the authorization requirement of this  
5 subsection upon legal proof documenting said emancipation.

6 c. The Commissioner of Health **[and Senior Services]** shall  
7 establish by regulation:

- 8 (1) the contents required in the authorization form;  
9 (2) the method for maintaining a record of the forms; and  
10 (3) the frequency with which the forms shall be authorized or  
11 reauthorized.

12 d. The penalties for violating the provisions of this section  
13 shall be as provided in section 7 of P.L.1989, c.234 (C.26:2D-87).  
14 (cf: P.L.2006, c.48, s.1)

15  
16 148. Section 3 of P.L.1989, c.234 (C.26:2D-83) is amended to  
17 read as follows:

18 3. The Commissioner of Health **[and Senior Services]**, in  
19 consultation with the Commissioner of Environmental Protection,  
20 shall, by regulation, establish minimum safety standards for tanning  
21 facilities. The standards shall include, but not be limited to:

22 a. Establishment of a maximum safe time of exposure to  
23 radiation and a maximum safe temperature at which tanning devices  
24 may be operated;

25 b. A requirement that a patron at a tanning facility wear  
26 protective eye glasses when using tanning equipment and that a  
27 patron be supervised as to the length of time the patron uses tanning  
28 equipment at the facility;

29 c. A requirement that the facility operator post easily legible,  
30 permanent warning signs near the tanning equipment which state:  
31 "DANGER-ULTRAVIOLET RADIATION FOLLOW ALL  
32 INSTRUCTIONS";

33 d. A requirement that the facility have protective shielding for  
34 tanning equipment in the facility; and

35 e. A requirement that the facility operator post a sign in  
36 conspicuous view at or near the reception area which states:  
37 "PERSONS UNDER AGE 14 SHALL NOT BE PERMITTED TO  
38 USE THIS TANNING FACILITY. PERSONS BETWEEN 14  
39 AND 18 YEARS OF AGE SHALL NOT BE PERMITTED TO USE  
40 THIS TANNING FACILITY WITHOUT WRITTEN  
41 AUTHORIZATION OF A PARENT OR LEGAL GUARDIAN."

42 (cf: P.L.2006, c.48, s.2)

43

44 149. Section 5 of P.L.1989, c.234 (C.26:2D-85) is amended to  
45 read as follows:

46 5. There is established in the Department of Health **[and Senior  
47 Services]** a nonlapsing revolving fund known as the "Non-Ionizing  
48 Radiation Fund." The fund shall be credited with all fees collected

1 pursuant to this act. Interest on monies in the fund shall be credited  
2 to the fund, and all monies in the fund are appropriated for the  
3 purposes of this act.

4 (cf: P.L.2006, c.48, s.3)

5  
6 150. Section 6 of P.L.1989, c.234 (C.26:2D-86) is amended to  
7 read as follows:

8 6. a. A tanning facility shall register annually with the  
9 Department of Health **【and Senior Services】** on forms provided by  
10 the department and shall pay to the department an annual  
11 registration fee.

12 b. The Department of Health **【and Senior Services】** shall  
13 establish a registration fee schedule, by regulation, to cover the  
14 costs of implementing the provisions of this act, including the costs  
15 incurred by local boards of health pursuant to section 4 of this act.

16 (cf: P.L.2006, c.48, s.4)

17  
18 151. Section 7 of P.L.1989, c.234 (C.26:2D-87) is amended to  
19 read as follows:

20 7. A person who violates the provisions of this act is subject to  
21 a penalty of \$100 for the first offense and \$200 for each subsequent  
22 offense. The penalty shall be sued for and collected in a court of  
23 competent jurisdiction in a summary proceeding in accordance with  
24 the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-  
25 10 et seq.).

26 A penalty recovered under the provisions of this act shall be  
27 recovered by and in the name of the Commissioner of Health **【and**  
28 **Senior Services】** or by and in the name of the local board of health.  
29 When the plaintiff is the Commissioner of Health **【and Senior**  
30 **Services】** the penalty recovered shall be paid by the commissioner  
31 into the treasury of the State. When the plaintiff is a local board of  
32 health, the penalty recovered shall be paid by the local board of  
33 health into the treasury of the municipality where the violation  
34 occurred.

35 (cf: P.L.2006, c.48, s.5)

36  
37 152. Section 8 of P.L.1989, c.234 (C.26:2D-88) is amended to  
38 read as follows:

39 8. In accordance with the "Administrative Procedure Act,"  
40 P.L.1968, c.410 (C.52:14B-1 et seq.), the Commissioner of Health  
41 **【and Senior Services】**, in consultation with the Commissioner of  
42 Environmental Protection, shall promulgate rules and regulations  
43 necessary to carry out the purposes of this act.

44 (cf: P.L.2006, c.48, s.6)

45  
46 153. Section 2 of P.L.1971, c.136 (C.26:2H-2) is amended to  
47 read as follows:

- 1    **["]**2. The following words or phrases, as used in this act, shall  
2    have the following meanings, unless the context otherwise requires:
- 3       a. "Health care facility" means the facility or institution  
4       whether public or private, engaged principally in providing services  
5       for health maintenance organizations, diagnosis, or treatment of  
6       human disease, pain, injury, deformity, or physical condition,  
7       including, but not limited to, a general hospital, special hospital,  
8       mental hospital, public health center, diagnostic center, treatment  
9       center, rehabilitation center, extended care facility, skilled nursing  
10      home, nursing home, intermediate care facility, tuberculosis  
11      hospital, chronic disease hospital, maternity hospital, outpatient  
12      clinic, dispensary, home health care agency, residential health care  
13      facility, and bioanalytical laboratory (except as specifically  
14      excluded hereunder) or central services facility serving one or more  
15      such institutions but excluding institutions that provide healing  
16      solely by prayer and excluding such bioanalytical laboratories as  
17      are independently owned and operated, and are not owned,  
18      operated, managed, or controlled, in whole or in part, directly or  
19      indirectly by any one or more health care facilities, and the  
20      predominant source of business of which is not by contract with  
21      health care facilities within the State of New Jersey and which  
22      solicit or accept specimens and operate predominantly in interstate  
23      commerce.
- 24      b. "Health care service" means the preadmission, outpatient,  
25      inpatient, and postdischarge care provided in or by a health care  
26      facility, and such other items or services as are necessary for such  
27      care, which are provided by or under the supervision of a physician  
28      for the purpose of health maintenance organizations, diagnosis, or  
29      treatment of human disease, pain, injury, disability, deformity, or  
30      physical condition, including, but not limited to, nursing service,  
31      home care nursing, and other paramedical service, ambulance  
32      service, service provided by an intern, resident in training or  
33      physician whose compensation is provided through agreement with  
34      a health care facility, laboratory service, medical social service,  
35      drugs, biologicals, supplies, appliances, equipment, bed and board,  
36      but excluding services provided by a physician in his private  
37      practice, except as provided in sections 7 and 12 of P.L.1971, c.136  
38      (C.26:2H-7 and 26:2H-12), or by practitioners of healing solely by  
39      prayer, and services provided by first aid, rescue and ambulance  
40      squad as defined in the "New Jersey Highway Safety Act of 1971,"  
41      P.L.1971, c.351 (C.27:5F-1 et seq.).
- 42      c. "Construction" means the erection, building, or substantial  
43      acquisition, alteration, reconstruction, improvement, renovation,  
44      extension, or modification of a health care facility, including its  
45      equipment, the inspection and supervision thereof; and the studies,  
46      surveys, designs, plans, working drawings, specifications,  
47      procedures, and other actions necessary thereto.

- 1 d. "Board" means the Health Care Administration Board  
2 established pursuant to this act.
- 3 e. (Deleted by amendment, P.L.1998, c.43).
- 4 f. "Government agency" means a department, board, bureau,  
5 division, office, agency, public benefit, or other corporation, or any  
6 other unit, however described, of the State or political subdivision  
7 thereof.
- 8 g. (Deleted by amendment, P.L.1991, c.187).
- 9 h. (Deleted by amendment, P.L.1991, c.187).
- 10 **[I.] i.** "Department" means the **[State]** Department of Health  
11 **[and Senior Services]**.
- 12 j. "Commissioner" means the **[State]** Commissioner of Health  
13 **[and Senior Services]**.
- 14 k. "Preliminary cost base" means that proportion of a hospital's  
15 current cost which may reasonably be required to be reimbursed to  
16 a properly utilized hospital for the efficient and effective delivery of  
17 appropriate and necessary health care services of high quality  
18 required by such hospital's mix of patients. The preliminary cost  
19 base initially may include costs identified by the commissioner and  
20 approved or adjusted by the commission as being in excess of that  
21 proportion of a hospital's current costs identified above, which  
22 excess costs shall be eliminated in a timely and reasonable manner  
23 prior to certification of the revenue base. The preliminary cost base  
24 shall be established in accordance with regulations proposed by the  
25 commissioner and approved by the board.
- 26 l. (Deleted by amendment, P.L.1992, c.160).
- 27 m. "Provider of health care" means an individual (1) who is a  
28 direct provider of health care service in that the individual's primary  
29 activity is the provision of health care services to individuals or the  
30 administration of health care facilities in which such care is  
31 provided and, when required by State law, the individual has  
32 received professional training in the provision of such services or in  
33 such administration and is licensed or certified for such provision or  
34 administration; or (2) who is an indirect provider of health care in  
35 that the individual (a) holds a fiduciary position with, or has a  
36 fiduciary interest in, any entity described in subparagraph b(ii) or  
37 subparagraph b(iv); provided, however, that a member of the  
38 governing body of a county or any elected official shall not be  
39 deemed to be a provider of health care unless he is a member of the  
40 board of trustees of a health care facility or a member of a board,  
41 committee or body with authority similar to that of a board of  
42 trustees, or unless he participates in the direct administration of a  
43 health care facility; or (b) received, either directly or through his  
44 spouse, more than one-tenth of his gross annual income for any one  
45 or more of the following:
- 46 (i) Fees or other compensation for research into or instruction in  
47 the provision of health care services;

- 1 (ii) Entities engaged in the provision of health care services or
- 2 in research or instruction in the provision of health care services;
- 3 (iii) Producing or supplying drugs or other articles for
- 4 individuals or entities for use in the provision of or in research into
- 5 or instruction in the provision of health care services;
- 6 (iv) Entities engaged in producing drugs or such other articles.
- 7 n. "Private long-term health care facility" means a nursing
- 8 home, skilled nursing home, or intermediate care facility presently
- 9 in operation and licensed as such prior to the adoption of the 1967
- 10 Life Safety Code by the [State] Department of Health [and Senior
- 11 Services] in 1972 and which has a maximum 50-bed capacity and
- 12 which does not accommodate Medicare or Medicaid patients.
- 13 o. (Deleted by amendment, P.L.1998, c.43).
- 14 p. "State Health Planning Board" means the board established
- 15 pursuant to section 33 of P.L.1991, c.187 (C.26:2H-5.7) to conduct
- 16 certificate of need review activities.
- 17 (cf: P.L.2004, c.54, s.3)
- 18

19 154. Section 1 of P.L.2000, c.62 (C.26:2H-5b) is amended to  
20 read as follows:

21 1. a. The Commissioner of Health [and Senior Services] shall  
22 prescribe, by regulation, requirements to be adopted by health care  
23 facilities licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.)  
24 for the routine monitoring of pain as a fifth vital sign in patients, in  
25 addition to blood pressure, pulse, respiration, and temperature.

26 For the purpose of this subsection, the commissioner shall  
27 require health care facilities to:

- 28 (1) routinely inquire whether a patient is in pain;
- 29 (2) maintain policies and procedures as prescribed by the
- 30 commissioner for asking patients to rate their degree of pain for a
- 31 specified period of time and to record their responses; and
- 32 (3) routinely record levels of pain intensity on patient charts.

33 b. The requirements to be adopted pursuant to subsection a. of  
34 this section shall take effect no later than the 180th day after the  
35 effective date of this act.

36 (cf: P.L.2000, c.62, s.1)

37

38 155. Section 2 of P.L.2000, c.62 (C.26:2H-5c) is amended to  
39 read as follows:

40 2. The Commissioner of Health [and Senior Services],  
41 pursuant to the "Administrative Procedure Act," P.L.1968, c.410  
42 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate  
43 the purposes of this act, for which purpose the commissioner shall  
44 consult, at a minimum, with: the State Board of Medical  
45 Examiners, the New Jersey Board of Nursing, the Board of  
46 Pharmacy, the New Jersey Hospital Association, the New Jersey  
47 Association of Health Care Facilities, the Medical Society of New  
48 Jersey, the New Jersey Association of Osteopathic Physicians and



1 Surgeons, the New Jersey State Nurses Association, the Home  
2 Health Assembly of New Jersey, and the New Jersey Hospice and  
3 Palliative Care Organization.  
4 (cf: P.L.2000, c.62, s.2)

6 156. Section 1 of P.L.2002, c.81 (C.26:2H-5d) is amended to  
7 read as follows:

8 1. a. The Commissioner of Health **[and Senior Services]**, in  
9 consultation with the Director of the Division of Consumer Affairs  
10 in the Department of Law and Public Safety, shall require that, no  
11 later than the 180th day after the date of enactment of this act, each  
12 home health agency licensed pursuant to P.L.1971, c.136 (C.26:2H-  
13 1 et seq.) shall provide the following information to each patient  
14 receiving home-based services from that agency, or to a person  
15 designated by the patient:

16 (1) the name and certification or licensure title, as applicable, of  
17 the homemaker-home health aide or other health care professional  
18 whose practice is regulated pursuant to Title 45 of the Revised  
19 Statutes, to be displayed on an identification tag as required for  
20 homemaker-home health aides by regulation of the New Jersey  
21 Board of Nursing, or as otherwise to be prescribed by regulation of  
22 the commissioner for other health care professionals, that the  
23 homemaker-home health aide or other health care professional shall  
24 wear at all times while examining, observing, or caring for the  
25 patient; and

26 (2) a copy of the most current edition of the consumer guide to  
27 homemaker-home health aides published by the New Jersey Board  
28 of Nursing.

29 b. The consumer guide required pursuant to subsection a. of  
30 this section shall be provided:

31 (1) in advance of the provision of services to the patient,  
32 whenever possible; and

33 (2) otherwise upon the homemaker-home health aide's initial  
34 visit to the patient's home.

35 c. Beginning on the first day of the 13th month after the date of  
36 enactment of this act, the identification tag required pursuant to  
37 subsection a. of this section shall include a photograph of the  
38 homemaker-home health aide or other health care professional.

39 d. The commissioner, pursuant to the "Administrative  
40 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt  
41 rules and regulations to effectuate the purposes of this section.

42 (cf: P.L.2002, c.81, s.1)

44 157. Section 1 of P.L.2004, c.90 (C.26:2H-5e) is amended to  
45 read as follows:

46 1. A general or special hospital, nursing home or assisted living  
47 residence licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.)  
48 shall, commencing no later than the 180th day after the effective

1 date of this act and as prescribed by regulation of the Commissioner  
2 of Health **【and Senior Services】**, adopt and maintain written  
3 policies and procedures to delineate the responsibilities of its staff  
4 for prompt notification of a family member, guardian, or other  
5 designated person about a patient's death and confirmation and  
6 written documentation of that notification.

7 (cf: P.L.2004, c.90, s.1)

8

9 158. Section 3 of P.L.2005, c.21 (C.26:2H-5h) is amended to  
10 read as follows:

11 3. The Commissioner of Health **【and Senior Services】**,  
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 this act, in consultation with the Quality  
15 Improvement Advisory Committee established by the  
16 commissioner. The regulations shall include, but not be limited to,  
17 procedures for standardizing the reporting of information by general  
18 hospitals and nursing homes that is required pursuant to subsection  
19 d. of section 2 of this act.

20 (cf: P.L.2005, c.21, s.3)

21

22 159. Section 2 of P.L.2008, c.58 (C.26:2H-5.1a) is amended to  
23 read as follows:

24 2. a. The Commissioner of Health **【and Senior Services】** shall  
25 prescribe, by regulation: (1) specific indicators by which a general  
26 hospital may be evaluated for financial soundness, and the  
27 thresholds at which it may be considered to be in financial distress  
28 or at risk of being in financial distress; and (2) the progressive  
29 levels of monitoring and department participation in the  
30 development and oversight of corrective measures to resolve a  
31 general hospital's financial or potential financial difficulties,  
32 including the various levels of involvement by an appointed  
33 monitor. The indicators and progressive levels of monitoring and  
34 intervention shall be guided by the indicators and levels of  
35 monitoring and intervention identified in the final report of the New  
36 Jersey Commission on Rationalizing Health Care Resources, issued  
37 on January 24, 2008.

38 b. The thresholds of specified financial indicators and  
39 corresponding Department of Health **【and Senior Services】**  
40 involvement that may be triggered by them shall include, but are  
41 not limited to, measures relating to:

- 42 (1) days cash-on-hand;  
43 (2) cushion ratio;  
44 (3) days in accounts receivable;  
45 (4) average payment period;  
46 (5) total margin;  
47 (6) earnings before depreciation; and

1 (7) any other factor which the commissioner deems appropriate,  
2 including failure to provide required or requested financial  
3 information.

4 c. If the commissioner determines that a hospital is in financial  
5 distress or at risk of being in financial distress after considering the  
6 specified financial indicators set forth in subsection b. of this  
7 section, then the commissioner may appoint, in consultation with  
8 the hospital, a monitor to prevent further financial deterioration.  
9 Payment for the monitor shall be determined through a contingency  
10 contract established between the hospital and the monitor. The  
11 contract shall be subject to approval by the department with regard  
12 to the monitor's responsibilities. In no case shall a hospital bear  
13 financial liability if no savings result from measures undertaken  
14 pursuant to the contract.

15 The appointed monitor shall have demonstrated expertise in  
16 hospital administration, management, or operations. A monitor: (1)  
17 shall be authorized to attend all hospital board meetings, executive  
18 committee meetings, finance committee meetings, steering  
19 committee meetings, turnaround committee meetings, or any other  
20 meetings concerning the hospital's fiscal matters; (2) may be  
21 authorized to have voting and veto powers over actions taken in the  
22 above mentioned meetings; (3) shall report to the commissioner and  
23 the full hospital board of trustees in a manner prescribed by the  
24 commissioner; and (4) shall serve for such period of time as may be  
25 determined by the commissioner in consultation with the hospital.

26 The commissioner shall maintain continuing oversight of the  
27 actions and recommendations of the monitor to ensure that the  
28 public interest is protected.

29 (cf: P.L.2008, c.58, s.2)

30  
31 160. Section 3 of P.L.2008, c.58 (C.26:2H-5.1b) is amended to  
32 read as follows:

33 3. As a condition of licensure under P.L.1971, c.136 (C.26:2H-  
34 1 et al.), a general hospital shall:

35 a. provide monthly unaudited financial information and annual  
36 audited financial statements to the Department of Health [and  
37 Senior Services], and such other financial information as the  
38 department may request; and

39 b. permit the Commissioner of Health [and Senior Services],  
40 or a monitor appointed by the commissioner, as applicable, to  
41 oversee its financial operations, and, if the commissioner  
42 determines that the hospital is at risk of being in financial distress  
43 or is in financial distress based on criteria specified by regulation,  
44 participate in the development and implementation of a corrective  
45 plan to resolve the hospital's financial difficulties, pursuant to  
46 section 2 of P.L.2008, c.58 (C.26:2H-5.1a).

47 (cf: P.L.2008, c.58, s.3)

1       161. Section 1 of P.L.2009, c.263, s.1 (C.26:2H-5.1c) is  
2 amended to read as follows:

3       1. An ambulatory care facility licensed to provide surgical  
4 services pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) shall use a  
5 common billing form, designated by the Commissioner of Health  
6 **【and Senior Services】**, for each patient when billing for health care  
7 services. The information provided on the billing form shall, to the  
8 extent applicable, be the same as that required of hospitals.  
9 (cf: P.L.2009, c.263, s.1)

10

11       162. Section 3 of P.L.2009, c.263 (C.26:2H-5.1e) is amended to  
12 read as follows:

13       3. a. An ambulatory care facility licensed to provide surgical  
14 services pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) shall be  
15 required to report quarterly to the Department of Health **【and**  
16 **Senior Services】**, in a form and manner prescribed by the  
17 commissioner:

18       (1) process quality indicators of infection control as selected by  
19 the commissioner in consultation with the Quality Improvement  
20 Advisory Committee within the department; and

21       (2) beginning 30 days after the adoption of regulations pursuant  
22 to this act, data on infection rates for the major site categories that  
23 define facility-associated infection locations, multiple infections,  
24 and device-related and non-device related infections, as selected by  
25 the commissioner in consultation with the Quality Improvement  
26 Advisory Committee within the department.

27       b. The information reported pursuant to this section shall be  
28 transmitted in such a manner as to not include identifying  
29 information about patients.

30       c. The commissioner shall promptly advise an ambulatory care  
31 facility in the event that the commissioner determines, based on  
32 information reported by the facility, that a change in facility  
33 practices or policy is necessary to improve performance in the  
34 prevention of facility-associated infection and quality of care  
35 provided at the facility.

36       d. The commissioner shall make available to members of the  
37 public, on the official Internet website of the department, the  
38 information reported pursuant to this section, in such a format as the  
39 commissioner deems appropriate to enable comparison among  
40 ambulatory care facilities with respect to the information.

41       e. In order to effectuate the purposes of this section, the  
42 commissioner, in consultation with the Quality Improvement  
43 Advisory Committee in the department, shall, by regulation:  
44 establish standard methods for identifying and reporting facility-  
45 associated infections; identify the major site categories for which  
46 infections shall be reported, taking into account the categories most  
47 likely to improve the delivery and outcome of health care in the  
48 State; and specify the methodology for presenting the data to the

1 public, including procedures to adjust for differences in case mix  
2 and severity of infections among facilities.

3 (cf: P.L.2009, c.263, s.3)

4

5 163. Section 4 of P.L.2009, c.263 (C.26:2H-5.1f) is amended to  
6 read as follows:

7 4. 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 rules and regulations to effectuate  
10 the purposes of this act.

11 (cf: P.L.2009, c.263, s.4)

12

13 164. Section 33 of P.L.1991, c.187 (C.26:2H-5.7) is amended to  
14 read as follows:

15 33. There is established in the Department of Health [and Senior  
16 Services] a State Health Planning Board. The members of the  
17 board shall include: the Commissioners of Health [and Senior  
18 Services], Children and Families, and Human Services, or their  
19 designees, who shall serve as ex officio, nonvoting members; the  
20 chairmen of the Health Care Administration Board and the Public  
21 Health Council, or their designees, who shall serve as ex officio  
22 members; and nine public members appointed by the Governor with  
23 the advice and consent of the Senate, five of whom are consumers  
24 of health care services who are neither providers of health care  
25 services or persons with a fiduciary interest in a health care service.

26 Of the additional public members first appointed pursuant to  
27 P.L.1998, c.43, two shall serve for a term of two years and two shall  
28 serve for a term of three years. Following the expiration of the  
29 original terms, the public members shall serve for a term of four  
30 years and are eligible for reappointment. Public members serving  
31 on the board on the effective date of P.L.1998, c.43 shall continue  
32 to serve for the term of their appointment. Any vacancy shall be  
33 filled in the same manner as the original appointment, for the  
34 unexpired term. Public members shall continue to serve until their  
35 successors are appointed. The public members shall serve without  
36 compensation but may be reimbursed for reasonable expenses  
37 incurred in the performance of their duties, within the limits of  
38 funds available to the board.

39 a. A member or employee of the State Health Planning Board  
40 shall not, by reason of his performance of any duty, function, or  
41 activity required of, or authorized to be undertaken by the board, be  
42 held civilly or criminally liable if that person acted within the scope  
43 of his duty, function, or activity as a member or employee of the  
44 board, without gross negligence or malice toward any person  
45 affected thereby.

46 b. A member of the State Health Planning Board shall not vote  
47 on any matter before the board concerning an individual or entity

1 with which the member has, or within the last 12 months has had,  
 2 any substantial ownership, employment, medical staff, fiduciary,  
 3 contractual, creditor, or consultative relationship. A member who  
 4 has or has had such a relationship with an individual or entity  
 5 involved in any matter before the board shall make a written  
 6 disclosure of the relationship before any action is taken by the  
 7 board with respect to the matter and shall make the relationship  
 8 public in any meeting in which action on the matter is to be taken.  
 9 (cf: P.L.2006, c.47, s.108)

10  
 11 165. Section 34 of P.L.1991, c.187 (C.26:2H-5.8) is amended to  
 12 read as follows:

13 34. a. (Deleted by amendment, P.L.1998, c.43).

14 b. The State Health Planning Board shall review applications  
 15 for certificates of need and make recommendations to the  
 16 Commissioner of Health [and Senior Services].

17 c. In the case of an application for a certificate of need to  
 18 transfer ownership of an existing general acute care hospital or to  
 19 close or eliminate a health care facility or service that is subject to  
 20 review by the State Health Planning Board, the State Health  
 21 Planning Board shall hold at least one public hearing in the service  
 22 area of the health care facility or service; except that, in the event  
 23 the Attorney General or the Department of Health [and Senior  
 24 Services] is required by State law to hold a public hearing on the  
 25 transfer of ownership of the hospital, the State Health Planning  
 26 Board shall not be required to hold a public hearing on the  
 27 application for a certificate of need to transfer ownership of the  
 28 hospital. The public hearing shall be held no later than 30 days  
 29 after an application is deemed complete by the Commissioner of  
 30 Health [and Senior Services]. Public notice of the hearing shall be  
 31 provided at least two weeks in advance of the date of the hearing.

32 Notwithstanding the provisions of this subsection to the contrary,  
 33 in the event that the commissioner determines that a proposed  
 34 closure or elimination of a health care facility or service should be  
 35 considered on an expedited basis in order to preserve the quality of  
 36 health care provided to the community, the commissioner may  
 37 reduce the period of time required for public notice of the hearing.  
 38 (cf: P.L.1998, c.43, s.5)

39  
 40 166. Section 2 of P.L.1999, c.311 (C.26:2H-5.11) is amended to  
 41 read as follows:

42 2. As used in this act:

43 "Commissioner" means the Commissioner of Health [and Senior  
 44 Services].

45 "Department" means the Department of Health [and Senior  
 46 Services].

1 "Needle stick injury" means the parenteral introduction into the  
2 body of a health care worker of blood or other potentially infectious  
3 material by a needle or other sharp device during the worker's  
4 performance of health care duties in a health care facility.

5 (cf: P.L.1999, c.311, s.2)

6  
7 167. Section 6 of P.L.2007, c.236 (C.26:2H-5.22) is amended to  
8 read as follows:

9 6. A covered health care facility licensed pursuant to P.L.1971,  
10 c.136 (C.26:2H-1 et al.) that is in violation of the provisions of this  
11 act shall be subject to such penalties as the Commissioner of Health  
12 **【and Senior Services】** may determine pursuant to sections 13 and  
13 14 of P.L.1971, c.136 (C.26:2H-13 and 26:2H-14).

14 (cf: P.L.2007, c.236, s.6)

15  
16 168. Section 7 of P.L.2007, c.236 (C.26:2H-5.23) is amended to  
17 read as follows:

18 7. The Commissioners of Health **【and Senior Services】** and  
19 Human Services shall adopt rules and regulations pursuant to the  
20 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
21 seq.) to carry out the purposes of this act.

22 (P.L.2007, c.236, s.7)

23  
24 169. Section 7 of P.L.1971, c.136 (C.26:2H-7) is amended to  
25 read as follows:

26 7. No health care facility shall be constructed or expanded, and  
27 no new health care service shall be instituted after the effective date  
28 of P.L.1971, c.136 (C.26:2H-1 et seq.) except upon application for  
29 and receipt of a certificate of need as provided by P.L.1971, c.136  
30 (C.26:2H-1 et seq.). No agency of the State or of any county or  
31 municipal government shall approve any grant of funds for, or issue  
32 any license to, a health care facility which is constructed or  
33 expanded, or which institutes a new health care service, in violation  
34 of the provisions of P.L.1971, c.136 (C.26:2H-1 et seq.).

35 Except as provided in section 19 of P.L.1992, c.160  
36 (C.26:2H-7a ) and section 16 of P.L.1998, c.43 (C.26:2H-7c), the  
37 provisions of this section shall apply to:

38 a. The initiation of any health care service as provided in  
39 section 2 of P.L.1971, c.136 (C.26:2H-2);

40 b. The initiation by any person of a health care service which is  
41 the subject of a health planning regulation adopted by the  
42 Department of Health **【and Senior Services】**;

43 c. The purchase by any person of major moveable equipment  
44 whose total cost is over \$2 million;

45 d. The expenditure by a licensed health care facility of over \$2  
46 million for construction of a new health care facility; and

47 e. The construction of a facility by any person, whose total  
48 project cost exceeds \$2 million, if the facility-type is the subject of

1 a health planning regulation adopted by the Department of Health  
2 **【and Senior Services】**.

3 The commissioner may periodically increase the monetary  
4 thresholds established in this section, by regulation, to reflect  
5 inflationary increases in the costs of health care equipment or  
6 construction.

7 For the purposes of this section, "health care service" shall  
8 include any service which is the subject of a health planning  
9 regulation adopted by the Department of Health **【and Senior**  
10 **Services】**, and "person" shall include a corporation, company,  
11 association, society, firm, partnership, and joint stock company, as  
12 well as an individual.

13 A physician who initiates a health care service which is the  
14 subject of a health planning regulation or purchases major moveable  
15 equipment pursuant to subsection b. or c. of this section, may apply  
16 to the commissioner for a waiver of the certificate of need  
17 requirement if: the equipment or health care service is such an  
18 essential, fundamental, and integral component of the physician's  
19 practice specialty, that the physician would be unable to practice his  
20 specialty according to the acceptable medical standards of that  
21 specialty without the health care service or equipment; the  
22 physician bills at least 75% of his total amount of charges in the  
23 practice specialty which uses the health care service or equipment;  
24 and the health care service or equipment is not otherwise available  
25 and accessible to patients, pursuant to standards established by the  
26 commissioner, by regulation. The commissioner shall make a  
27 determination about whether to grant or deny the waiver, within 120  
28 days from the date the request for the waiver is received by the  
29 commissioner and shall so notify the physician who requested the  
30 waiver. If the request is denied, the commissioner shall include in  
31 that notification the reason for the denial. If the request is denied,  
32 the initiation of a health care service or the purchase of major  
33 moveable equipment shall be subject to the certificate of need  
34 requirements pursuant to this section.

35 A health maintenance organization which furnishes at least basic  
36 comprehensive care health services on a prepaid basis to enrollees  
37 either through providers employed by the health maintenance  
38 organization or through a medical group or groups which contract  
39 directly with the health maintenance organization, which initiates a  
40 health care service, or constructs a health care facility pursuant to  
41 subsection a., b., d., or e. of this section, may apply to the  
42 commissioner for a waiver of the certificate of need requirement if:  
43 the initiation of the health care service or the construction is in the  
44 best interests of State health planning; and the health maintenance  
45 organization is in compliance with the provisions of P.L.1973,  
46 c.337 (C.26:2J-1 et seq.) and complies with the provisions of  
47 subsection d. of section 3 of P.L.1973, c.337 (C.26:2J-3) regarding  
48 notification to the commissioner. The commissioner shall make a



1 determination about whether to grant or deny the waiver within 45  
2 days from the date the request for the waiver is received by the  
3 commissioner and shall so notify the health maintenance  
4 organization. If the request for a waiver is denied on the basis that  
5 the request would not be in the best interests of State health  
6 planning, the commissioner shall state in that notification the reason  
7 why the request would not be in the best interests of State health  
8 planning. If the request for a waiver is denied, the health  
9 maintenance organization's initiation of a health care service or  
10 construction project shall be subject to the certificate of need  
11 requirements pursuant to this section.

12 The requirement to obtain a certificate of need for major  
13 moveable equipment pursuant to subsection c. of this section shall  
14 not apply if a contract to purchase that equipment was entered into  
15 prior to July 1, 1991.

16 (cf: P.L.1998, c.43, s.6)

17

18 170. Section 16 of P.L.1998, c.43 (C.26:2H-7c) is amended to  
19 read as follows:

20 16. a. Notwithstanding the provisions of section 7 of P.L.1971,  
21 c.136 (C.26:2H-7) to the contrary, 20 months after the effective  
22 date of P.L.1998, c.43 the following shall be exempt from the  
23 certificate of need requirement:

24 Extracorporeal shock wave lithotripter;

25 Hyperbaric chamber;

26 Positron emission tomography;

27 Residential drug and alcohol services;

28 Ambulatory surgical facilities;

29 Basic obstetric and pediatric services and birth centers, including  
30 additions of basic obstetric and pediatric beds in hospitals; and

31 Linear accelerator, including Cobalt 60 unit.

32 b. Notwithstanding the provisions of subsection a. of this  
33 section to the contrary, if the Commissioner of Health [and Senior  
34 Services] determines that Department of Health [and Senior  
35 Services] licensing standards for a health care service or facility  
36 listed in subsection a. of this section have been adopted by  
37 regulation of the department pursuant to the "Administrative  
38 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the  
39 commissioner may exempt the health care service or facility from  
40 the provisions of section 7 of P.L.1971, c.136 (C.26:2H-7) prior to  
41 the 20-month period established in subsection a. of this section.

42 The commissioner shall publish notice of any exemptions  
43 established pursuant to this subsection in the New Jersey Register  
44 and provide for 45 days' public notice prior to the effective date of  
45 the exemption.

46 c. In the case of any health care service or facility that is not  
47 exempted from the provisions of section 7 of P.L.1971, c.136  
48 (C.26:2H-7) pursuant to this section or section 19 of P.L.1992,

1 c.160 (C.26:2H-7a) and is not subject to expedited review, the  
2 commissioner shall publish a call schedule for the initiation of the  
3 services or facilities within 90 days of the date of enactment of this  
4 act. In the event that the commissioner determines that there is  
5 insufficient need to support the initiation of the service or facility,  
6 the commissioner is authorized to cancel the call. The  
7 commissioner shall provide public notice of the cancellation at least  
8 45 days prior to the scheduled call date.

9 (cf: P.L.1998, c.43, s.16)

10  
11 171. Section 18 of P.L.1998, c.43 (C.26:2H-7d) is amended to  
12 read as follows:

13 18. Notwithstanding the provisions of P.L.1971, c.136  
14 (C.26:2H-1 et seq.) to the contrary, health care equipment which  
15 involves new technology that is not identified in N.J.A.C.8:33 et  
16 seq., shall not be subject to certificate of need requirements and  
17 may be initiated in the State in accordance with the requirements of  
18 this section.

19 a. The new technology shall be directly related to a health care  
20 service for which the provider is already licensed and has obtained  
21 a certificate of need, when required.

22 b. The provider shall notify the Commissioner of Health [and  
23 Senior Services] about the intent to initiate the new technology at  
24 least 60 days prior to the date the provider will begin use of the  
25 technology.

26 c. The new technology shall have pre-market approval from the  
27 federal Food and Drug Administration.

28 d. The provider shall use the new technology in accordance  
29 with guidelines approved by [the] The Joint Commission [on  
30 Accreditation of Health Care Organizations] until such time as the  
31 Department of Health [and Senior Services] has adopted licensing  
32 standards for the new technology. The provider shall be required to  
33 comply with the department's licensing standards for the new  
34 technology upon adoption of the standards.

35 e. The provider shall agree to submit to the department  
36 appropriate patient information and other data concerning use of the  
37 new technology to assist the department in establishing licensing  
38 standards. The provider shall submit the information and other data  
39 on a quarterly basis until such time as licensing standards are  
40 adopted for the new technology.

41 f. The commissioner may suspend a provider's use of the new  
42 technology if he determines that the provider is not in compliance  
43 with the requirements of this section.

44 (cf: P.L.1998, c.43, s.18)

45  
46 172. Section 3 of P.L.1996, c.102 (C.26:2H-7.6) is amended to  
47 read as follows:

1       3. a. A hospital which proposes to utilize a portion of its licensed  
2 bed capacity for the purpose of establishing a subacute care unit  
3 shall be subject to the following requirements:

4       (1) the subacute care unit's beds shall be licensed by the  
5 Department of Health **【and Senior Services】** as long-term care beds  
6 and shall meet all applicable State licensing and federal certification  
7 requirements, including the physical requirements for skilled  
8 nursing beds under the federal Medicare program established  
9 pursuant to Pub.L.89-97 (42 U.S.C.s.1395 et seq.), with reasonable  
10 waiver provisions as determined by the commissioner or the federal  
11 **【Health Care Financing Administration】** Centers for Medicare &  
12 Medicaid Services, as appropriate;

13       (2) the maximum length of stay in the unit shall not exceed eight  
14 days;

15       (3) the unit shall be certified to participate in the Medicare  
16 program as a skilled nursing facility;

17       (4) the unit shall be comprised of not more than 7% of the  
18 hospital's licensed medical-surgical bed capacity or 12 beds,  
19 whichever is greater;

20       (5) the hospital's licensed medical-surgical bed capacity shall be  
21 reduced, by the commissioner, by the number of beds used to  
22 establish a subacute care unit under the provisions of this section.  
23 Long-term care beds in a hospital's subacute care unit shall not be  
24 transferred to, or combined with, a subacute care unit in another  
25 hospital. Bed limitations for a hospital shall include both  
26 conversions of existing acute care beds and any purchases or other  
27 acquisitions or rentals of beds to be used by a hospital for the  
28 provision of subacute care under this act;

29       (6) (Deleted by amendment, P.L.1998, c.43).

30       (7) the hospital shall be subject to the fee for the filing of an  
31 application for a license for long-term care beds and any renewal  
32 thereof as established by the Department of Health **【and Senior**  
33 **Services】** pursuant to section 12 of P.L.1971, c.136 (C.26:2H-12).

34       b. Subacute care shall not be covered by the Medicaid program  
35 established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.). The  
36 long-term care beds in a subacute care unit shall not be included in  
37 long-term care bed inventories for certificate of need review  
38 purposes.

39       (cf: P.L.1998, c.43, s.8)

40

41       173. Section 2 of P.L.2000, c.143 (C.26:2H-7.11) is amended to  
42 read as follows:

43       2. In addition to the requirements of P.L.1971, c.136 (C.26:2H-  
44 1 et seq.) concerning certificate of need and licensure requirements,  
45 a nonprofit hospital licensed pursuant to P.L.1971, c.136 (C.26:2H-  
46 1 et seq.) shall satisfy the requirements of this act before applying  
47 to the Superior Court of New Jersey for approval prior to entering  
48 into a transaction that results in the acquisition of the hospital as

1 defined in this act. The proposed acquisition shall be subject to the  
2 prior review of the Attorney General, in consultation with the  
3 Commissioner of Health [and Senior Services], pursuant to the  
4 provisions of this section. The Attorney General shall review the  
5 application in furtherance of his common law responsibilities as  
6 protector, supervisor, and enforcer of charitable trusts and  
7 charitable corporations.

8 For the purposes of sections 2 and 3 of this act, "acquisition"  
9 means the purchase, lease, exchange, conversion, restructuring,  
10 merger, division, consolidation, transfer of control, or other  
11 disposition of a substantial amount of assets or operations, whether  
12 through a single transaction or series of transactions, with one or  
13 more persons or entities.

14 This act shall not apply to a nonprofit hospital if the proposed  
15 acquisition is in the usual and regular course of its activities and the  
16 Attorney General has given the nonprofit hospital a written waiver  
17 as to the proposed acquisition. As used in this section, a proposed  
18 acquisition is not in the usual and regular course of a nonprofit  
19 hospital's activities if it effects a fundamental corporate change that  
20 involves transfer of ownership or control of charitable assets or a  
21 change of the nonprofit hospital's mission or purpose.

22 a. (1) Within five working days of submitting an application  
23 pursuant to this section, the nonprofit hospital shall publish a notice  
24 of the proposed acquisition, in a form approved by the Attorney  
25 General, in a newspaper of general circulation in the service area of  
26 the hospital once per week for three weeks. The notice shall state  
27 the names of the parties to the agreement, describe the contents of  
28 the application to the Attorney General, and state the date by which  
29 a person may submit written comments about the application to the  
30 Attorney General.

31 (2) Within 30 days after receipt of an initial application, the  
32 Attorney General shall advise the applicant in writing whether the  
33 application is complete, and, if not, shall specify what additional  
34 information is required.

35 (3) The Attorney General shall, upon receipt of the information  
36 requested, notify the applicant in writing of the date of completion  
37 of the application.

38 b. Within 90 days of the date of completion of the application,  
39 the Attorney General, in consultation with the Commissioner of  
40 Health [and Senior Services], shall review the application and  
41 support the proposed acquisition, with or without any specific  
42 modifications, or, if [he] the Attorney General finds that it is not in  
43 the public interest, oppose the proposed acquisition. The Attorney  
44 General or commissioner may, for good cause, extend the time for  
45 review of an application submitted pursuant to this section.

46 The proposed acquisition shall not be considered to be in the  
47 public interest unless the Attorney General determines that  
48 appropriate steps have been taken to safeguard the value of the

1 charitable assets of the hospital and to ensure that any proceeds  
2 from the proposed acquisition are irrevocably dedicated for  
3 appropriate charitable health care purposes; and the Commissioner  
4 of Health [and Senior Services] determines that the proposed  
5 transaction is not likely to result in the deterioration of the quality,  
6 availability or accessibility of health care services in the affected  
7 communities.

8 c. In determining whether the acquisition meets the criteria of  
9 subsection b. of this section, the Attorney General shall consider:

10 (1) Whether the acquisition is permitted under the "New Jersey  
11 Nonprofit Corporation Act," Title 15A of the New Jersey Statutes,  
12 and other applicable State statutes governing nonprofit entities,  
13 trusts, or charities;

14 (2) Whether the nonprofit hospital exercised due diligence in  
15 deciding to effectuate the acquisition, selecting the other party to  
16 the acquisition and negotiating the terms and conditions of the  
17 acquisition;

18 (3) The procedures used by the nonprofit hospital in making its  
19 decision, including whether appropriate expert assistance was used;

20 (4) Whether conflict of interest was disclosed, including, but not  
21 limited to, conflicts of interest related to board members of,  
22 executives of and experts retained by the nonprofit hospital,  
23 purchaser, or other parties to the acquisition;

24 (5) Whether any management contract under the acquisition is  
25 for reasonable fair value;

26 (6) Whether the acquisition proceeds will be used for  
27 appropriate charitable health care purposes consistent with the  
28 nonprofit hospital's original purpose or for the support and  
29 promotion of health care and whether the proceeds will be  
30 controlled as charitable funds independently of the purchaser or  
31 parties to the acquisition; and

32 (7) Any other criteria the Attorney General establishes by  
33 regulation to determine whether the proposed acquisition is in the  
34 public interest.

35 d. In determining whether an acquisition by any person or  
36 entity other than a corporation organized in this State for charitable  
37 purposes under Title 15A of the New Jersey Statutes meets the  
38 criteria of subsection b. of this section, the Attorney General shall  
39 consider, in addition to the criteria set forth in subsection c., the  
40 following criteria:

41 (1) Whether the nonprofit hospital will receive full and fair  
42 market value for its assets. The Attorney General may employ, at  
43 the nonprofit hospital's expense, reasonably necessary expert  
44 assistance in making this determination;

45 (2) Whether charitable funds are placed at unreasonable risk, if  
46 the acquisition is financed in part by the nonprofit hospital;

47 (3) Whether a right of first refusal has been retained to  
48 repurchase the assets by a successor nonprofit corporation or

- 1 foundation if, following the acquisition, the hospital is subsequently  
2 sold to, acquired by or merged with another entity;
- 3 (4) Whether the nonprofit hospital established appropriate  
4 criteria in deciding to pursue a conversion in relation to carrying out  
5 its mission and purposes;
- 6 (5) Whether the nonprofit hospital considered the proposed  
7 conversion as the only alternative or as the best alternative in  
8 carrying out its mission and purposes;
- 9 (6) Whether the nonprofit hospital exercised due care in  
10 assigning a value to the existing hospital and its charitable assets in  
11 proceeding to negotiate the proposed conversion;
- 12 (7) Whether officers, directors, board members, or senior  
13 management will receive future contracts in existing, new, or  
14 affiliated hospitals or foundations; and
- 15 (8) Any other criteria the Attorney General establishes by  
16 regulation to determine whether a proposed acquisition by any  
17 person or entity other than a corporation organized in this State for  
18 charitable purposes under Title 15A of the New Jersey Statutes is in  
19 the public interest.
- 20 e. In **his** the Attorney General's review of the proposed  
21 acquisition, the Attorney General may assess the entity proposing to  
22 acquire the nonprofit hospital for reasonable costs related to the  
23 review, as determined by the Attorney General to be necessary.  
24 Reasonable costs may include expert review of the acquisition and a  
25 process for educating the public about the acquisition and obtaining  
26 public input.
- 27 f. The Attorney General and the Commissioner of Health **and**  
28 Senior Services shall, during the course of the review pursuant to  
29 this section, hold at least one public hearing in which any person  
30 may file written comments and exhibits or appear and make a  
31 statement. The public hearing may, if the Attorney General and  
32 commissioner so agree, be conducted jointly. The commissioner  
33 may satisfy the requirements of this subsection by conducting a  
34 public hearing in conjunction with the certificate of need review  
35 process pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.). The  
36 Attorney General or the commissioner may subpoena additional  
37 information or witnesses, including, but not limited to, information  
38 about any transaction that is collateral to the proposed acquisition  
39 and any related documents, require and administer oaths, require  
40 sworn statements, take depositions and use related discovery  
41 procedures for purposes of the hearing and at any time prior to  
42 completing the review of the proposed acquisition.
- 43 The Attorney General shall make the information received  
44 pursuant to this section, and the Department of Health **and** Senior  
45 Services shall make any information in its records relating to the  
46 proposed acquisition, available for inspection at no cost to the  
47 public.

1       The public hearing shall be held no later than 60 days after the  
2       date that an application from a nonprofit hospital is deemed  
3       complete by the Attorney General. Public notice of the hearing  
4       shall be provided at least two weeks in advance of the date of the  
5       hearing.

6       g. In a proposed acquisition subject to review under subsection  
7       d. of this section, the Attorney General, after consultation with the  
8       principal parties to the transaction, shall make a determination as to  
9       the amount of assets which the nonprofit hospital shall set aside as a  
10      charitable obligation, based on the full and fair market value of the  
11      hospital at the time of the proposed acquisition as determined by the  
12      Attorney General.

13      h. Upon execution of a proposed acquisition subject to review  
14      under subsection d. of this section, the amount determined by the  
15      Attorney General to be set aside as a charitable obligation shall be  
16      placed in a nonprofit charitable trust or one or more existing or  
17      newly established tax-exempt charitable organizations operating  
18      pursuant to 26 U.S.C. s. 501(c)(3). The charitable mission and  
19      grant-making functions of any charitable entity that receives assets  
20      pursuant to subsection g. of this section shall be dedicated to  
21      serving the health care needs of the community historically served  
22      by the predecessor nonprofit hospital. Any charitable entity that  
23      receives assets pursuant to subsection g. of this section, the  
24      directors, officers, and trustees of any such charitable entity, and the  
25      assets of any such charitable entity, including any stock involved in  
26      the acquisition, shall be independent of any influence or control by  
27      the acquiring entity, its directors, officers, trustees, subsidiaries, or  
28      affiliates.

29      (1) The governance of the charitable trust that results from the  
30      acquisition or of any newly established charitable organization that  
31      is to receive charitable assets pursuant to subsection g. of this  
32      section shall be subject to review and approval by the Attorney  
33      General. The governance of any existing charitable organization  
34      that is to receive charitable assets pursuant to subsection g. of this  
35      section shall be subject to review by the Attorney General. The  
36      governance of the charitable trust or the charitable organization  
37      shall be broadly based, and neither the trust or organization nor any  
38      officer, director, or senior manager of the trust or organization shall  
39      be affiliated with the acquiring entity and no officer, director, or  
40      senior manager of the trust or organization shall be a full-time  
41      employee of State government. No officer, director, or senior  
42      manager of the trust or organization shall have been a director,  
43      officer, agent, trustee, or employee of the nonprofit hospital during  
44      the three years immediately preceding the effective date of the  
45      acquisition, unless that person can demonstrate to the satisfaction of  
46      the Attorney General that the person's assumption of the position of  
47      officer, director, or senior manager of the trust or organization

1 would not constitute a breach of fiduciary duty or other conflict of  
2 interest.

3 (2) The governing body of the charitable trust or organization  
4 shall establish or demonstrate that it has in place, as the case may  
5 be, a mechanism to avoid conflicts of interest and to prohibit grants  
6 that benefit the board of directors and management of the acquiring  
7 entity or its affiliates or subsidiaries.

8 (3) The governing body of the charitable trust or organization  
9 shall provide the Attorney General with an annual report which  
10 shall include an audited financial statement and a detailed  
11 description of its grant-making and other charitable activities  
12 related to its use of the charitable assets received pursuant to this  
13 act. The annual report shall be made available to the public at both  
14 the Attorney General's office and the office of the charitable trust or  
15 organization. Nothing contained in this act shall affect the  
16 obligations of an entity possessing endowment funds under  
17 P.L.1975, c.26 (C.15:18-15 et seq.).

18 i. (1) The entity acquiring the nonprofit hospital, if determined to  
19 be necessary by the Commissioner of Health **[and Senior Services]**,  
20 shall provide funds, in an amount determined by the Commissioner  
21 of Health **[and Senior Services]**, for the hiring by the Department  
22 of Health **[and Senior Services]** of an independent health care  
23 access monitor to monitor and report quarterly to the Department of  
24 Health **[and Senior Services]** on community health care access by  
25 the entity, including levels of uncompensated care for indigent  
26 persons provided by the entity. The funding shall be provided for  
27 three years after the date of the acquisition. The entity acquiring  
28 the hospital shall provide the monitor with appropriate access to the  
29 entity's records in order to enable the monitor to fulfill this  
30 function.

31 To prevent the duplication of any information already reported  
32 by the entity, the monitor shall, to the extent possible, utilize data  
33 already provided by the entity to the Department of Health **[and**  
34 **Senior Services]**.

35 No personal identifiers shall be attached to any of the records  
36 obtained by the monitor, and all such records shall be subject to the  
37 privacy and confidentiality provisions of medical records provided  
38 by law.

39 (2) Following the monitoring period, or in the event that no  
40 monitoring period is established, if the Commissioner of Health  
41 **[and Senior Services]** receives information indicating that the  
42 acquiring entity is not fulfilling its commitment to the affected  
43 service area pursuant to this act and determines that the information  
44 is true, **[he]** the commissioner shall order the acquiring entity to  
45 comply with a corrective action plan. The commissioner shall retain  
46 oversight of the acquiring entity's obligations under the corrective



1 action plan for as long as necessary to ensure compliance with this  
2 act.

3 j. The trustees and senior managers of the nonprofit hospital  
4 are prohibited from investing in the acquiring entity for a period of  
5 three years following the acquisition.

6 k. No director, officer, agent, trustee, or employee of the  
7 nonprofit hospital shall benefit directly or indirectly from the  
8 acquisition, including the receipt of any compensation directly  
9 related to the proposed acquisition.

10 l. Upon completion by the Attorney General of the review of  
11 the application required by this act, the nonprofit hospital shall  
12 apply to the Superior Court for approval of the proposed  
13 acquisition. In that proceeding, the Attorney General shall advise  
14 the court as to whether **[he]** the Attorney General supports or  
15 opposes the proposed acquisition, with or without any specific  
16 modifications, and the basis for that position. Any person who filed  
17 a written comment or exhibit or appeared and made a statement in  
18 the public hearing held by the Attorney General pursuant to  
19 subsection f. of this section shall be considered a party to the  
20 proceeding, including consumers or community groups representing  
21 the citizens of the State.

22 m. Notwithstanding the provisions of subsections a. and f. of  
23 this section to the contrary, in the event that the Attorney General or  
24 the Commissioner of Health **[and Senior Services]** determines that  
25 a proposed acquisition should be considered on an expedited basis  
26 in order to preserve the quality of health care provided to the  
27 community, the Attorney General and the commissioner may  
28 combine the public notice about the acquisition with the notice for a  
29 public hearing as required in subsections a. and f., respectively, and  
30 may reduce the period of time required for notice, as necessary. In  
31 considering a proposed acquisition on an expedited basis, the  
32 Attorney General and commissioner may agree to reduce the period  
33 of time for review of a completed application to less than 90 days.

34 n. The Attorney General, in consultation with the  
35 Commissioner of Health **[and Senior Services]**, shall adopt  
36 regulations pursuant to the "Administrative Procedure Act,"  
37 P.L.1968, c.410, (C.52:14B-1 et seq.) to carry out the purposes of  
38 this act.

39 (cf: P.L.2000, c.143, s.2)

40

41 174. Section 5 of P.L.2000, c.143 (C.26:2H-7.14) is amended to  
42 read as follows:

43 5. Nothing in this act shall be construed to limit the existing  
44 authority of the Attorney General, the Commissioner of Health **[and**  
45 **Senior Services]**, or any other government official or entity or the  
46 court to review, approve or disapprove conditions related to an

1 acquisition, transaction, or disposition under current law.  
2 (cf: P.L.2000, c.143, s.5)

3  
4 175. Section 1 of P.L.1002, c.25 (C.26:2H-7.15) is amended to  
5 read as follows:

6 1. As used in this act:

7 "Assisted living" means a coordinated array of supportive  
8 personal and health services, available 24 hours per day, which  
9 promote resident self-direction and participation in decisions that  
10 emphasize independence, individuality, privacy, dignity, and  
11 homelike surroundings to residents who have been assessed to need  
12 these services, including residents who require formal long-term  
13 care.

14 "Assisted living program" means the provision of or arrangement  
15 for meals and assisted living services, when needed, to the residents  
16 of publicly subsidized housing, which because of any federal, State,  
17 or local housing laws, rules, regulation, or requirements cannot  
18 become licensed as an assisted living residence.

19 "Assisted living residence" means a facility licensed by the  
20 Department of Health [and Senior Services] to provide apartment-  
21 style housing and congregate dining and to assure that assisted  
22 living services are available when needed, for four or more adult  
23 persons unrelated to the proprietor. Apartment units shall offer, at a  
24 minimum, one unfurnished room, a private bathroom, a kitchenette,  
25 and a lockable door on the unit entrance.

26 "Commissioner" means the Commissioner of Health [and Senior  
27 Services].

28 (cf: P.L.2002, c.25, s.1)

29  
30 176. Section 8 of P.L.2002, c.25 (C.26:2H-7.21) is amended to  
31 read as follows:

32 8. The Commissioner of Health [and Senior Services],  
33 pursuant to the "Administrative Procedure Act," P.L.1968, c.410  
34 (C.52:14B-1 et seq.) shall adopt rules and regulations to effectuate  
35 the purposes of this act.

36 (cf: P.L.2002, c.25, s.8)

37  
38 177. Section 1 of P.L.1982, c.149 (C.26:2H-11.1) is amended to  
39 read as follows:

40 1. In the case of an application for a certificate of need or  
41 initial licensure, as applicable, for a narcotic and drug abuse  
42 treatment center to be located within 500 feet from any building in  
43 this State used for the instruction of children between the ages of  
44 five and 18 years, the applicant shall notify the governing body of  
45 the municipality within which [he] the applicant proposes to locate  
46 the treatment center of [his] the applicant's intention to apply for  
47 the certificate of need or licensure and the proposed location of the

1 center. Documentation of **such** the notice shall be filed with the  
2 certificate of need or license application. The Commissioner of  
3 Health **and Senior Services** is hereby authorized to adopt  
4 reasonable rules and regulations, in accordance with the provisions  
5 of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-  
6 1 et seq.), to effectuate the purposes of this act. For the purposes of  
7 this act, the definition of "narcotic and drug abuse treatment center"  
8 shall be identical to the definition in subsection (a) of section 2 of  
9 P.L.1970, c.334 (C.26:2G-22). This act shall not apply to any  
10 **such** narcotic and drug abuse treatment center for which an  
11 application was filed prior to the effective date of this act.  
12 (cf: P.L.1998, c.43, s.11)

13

14 178. Section 3 of P.L.1989, c.300 (C.26:2H-12.2a) is amended  
15 to read as follows:

16 3. a. A health care entity shall maintain all records of all  
17 documented complaints of events related to patient care about, and  
18 disciplinary proceedings or actions against, a health care  
19 professional who is employed by or has an affiliation with the  
20 health care entity. The health care entity shall retain the  
21 information for a period of seven years and make the records,  
22 including any information the health care entity has pertaining to  
23 records maintained on the health care professional prior to the  
24 effective date of P.L.1989, c.300 (C.45:9-19.4 et al.), available to  
25 the division, the board which licenses or otherwise authorizes the  
26 health care professional to practice, the Medical Practitioner  
27 Review Panel established pursuant to section 8 of P.L.1989, c.300  
28 (C.45:9-19.8), and the Department of Health **and Senior Services**,  
29 as applicable, upon request.

30 b. A health care entity shall maintain for a period of four years  
31 all records and source data relating to its mortality, morbidity,  
32 complication, infection, and readmission and shall make the records  
33 available to the division, the board which licenses, or otherwise  
34 authorizes the health care professional, the review panel and the  
35 Department of Health **and Senior Services**, as applicable, upon  
36 request.

37 c. A health care entity which fails to maintain the records  
38 required pursuant to this section shall be subject to such penalties as  
39 the Department of Health **and Senior Services** shall determine  
40 pursuant to sections 13 and 14 of P.L.1971, c.136 (C.26:2H-13 and  
41 26:2H-14) and section 16 of P.L.1997, c.192 (C.26:2S-16), or the  
42 director shall determine pursuant to P.L.1989, c.331 (C.34:8-43 et  
43 seq.), as applicable.  
44 (cf: P.L.2005, c.83, s.3)

45

46 179. Section 2 of P.L.2005, c.83 (C.26:2H-12.2b) is amended to  
47 read as follows:

1       2. a. A health care entity shall notify the division in writing if a  
2 health care professional who is employed by, under contract to  
3 render professional services to, or has privileges granted by, that  
4 health care entity, or who provides such services pursuant to an  
5 agreement with a health care services firm or staffing registry:

6       (1) for reasons relating to the health care professional's  
7 impairment, incompetency, or professional misconduct, which  
8 incompetency or professional misconduct relates adversely to  
9 patient care or safety: (a) has full or partial privileges summarily or  
10 temporarily revoked or suspended, or permanently reduced,  
11 suspended, or revoked; (b) has been removed from the list of  
12 eligible employees of a health services firm or staffing registry; (c)  
13 has been discharged from the staff; or (d) has had a contract to  
14 render professional services terminated or rescinded;

15       (2) has conditions or limitations placed on the exercise of  
16 clinical privileges or practice within the health care entity for  
17 reasons relating to the health care professional's impairment,  
18 incompetency, or professional misconduct or, which incompetency  
19 or professional misconduct relates adversely to patient care or  
20 safety, including, but not limited to, second opinion requirements,  
21 non-routine concurrent or retrospective review of admissions or  
22 care, non-routine supervision by one or more members of the staff,  
23 or the completion of remedial education or training;

24       (3) voluntarily resigns from the staff if: (a) the health care entity  
25 is reviewing the health care professional's patient care or reviewing  
26 whether, based upon its reasonable belief, the health care  
27 professional's conduct demonstrates an impairment or incompetence  
28 or is unprofessional, which incompetence or unprofessional conduct  
29 relates adversely to patient care or safety; or (b) the health care  
30 entity, through any member of the medical or administrative staff,  
31 has expressed an intention to do such a review;

32       (4) voluntarily relinquishes any partial privilege or authorization  
33 to perform a specific procedure if: (a) the health care entity is  
34 reviewing the health care professional's patient care or reviewing  
35 whether, based upon its reasonable belief, the health care  
36 professional's conduct demonstrates an impairment or incompetence  
37 or is unprofessional, which incompetence or unprofessional conduct  
38 relates adversely to patient care or safety; or (b) the health care  
39 entity, through any member of the medical or administrative staff,  
40 has expressed an intention to do such a review;

41       (5) while under, or subsequent to, a review by the health care  
42 entity of the health care professional's patient care or professional  
43 conduct is granted a leave of absence for reasons relating to a  
44 physical, mental, or emotional condition or drug or alcohol use  
45 which impairs the health care professional's ability to practice with  
46 reasonable skill and safety, except that no report is required for  
47 pregnancy-related leaves of absence or if the health care  
48 professional has sought assistance from a professional assistance or

1 intervention program approved or designated by the division or a  
2 board to provide confidential oversight of the health care  
3 professional and is following the treatment regimen or monitoring  
4 as that program requires; or

5 (6) is a party to a medical malpractice liability suit, to which the  
6 health care entity is also a party, and in which there is a settlement,  
7 judgment, or arbitration award.

8 As used in this subsection, incompetence, professional  
9 misconduct, and unprofessional conduct shall not include personal  
10 conduct, such as tardiness, insubordination, or other similar  
11 behavior, which does not relate to patient care or safety.

12 b. A health care entity shall notify the division in writing if it is  
13 in possession of information that indicates that a health care  
14 professional has failed to comply with a request to seek assistance  
15 from a professional assistance or intervention program approved or  
16 designated by the division or a board to provide confidential  
17 oversight of the health care professional, or has failed to follow the  
18 treatment regimen or monitoring program required by that program  
19 to assure that the health care professional's physical, mental, or  
20 emotional condition or drug or alcohol use does not impair the  
21 health care professional's ability to practice with reasonable skill  
22 and safety.

23 c. A health care entity shall notify the division in writing if any  
24 health care professional who has been the subject of a report  
25 pursuant to this section, has had conditions or limitations on the  
26 exercise of clinical privileges or practice within the health care  
27 entity altered, or privileges restored, or has resumed exercising  
28 clinical privileges that had been voluntarily relinquished.

29 d. In the case of a health care professional who is providing  
30 services at a health care entity pursuant to an agreement with a  
31 health care services firm or staffing agency and is the subject of a  
32 notice pursuant to this section, the health care entity shall, when it  
33 submits a notice to the division concerning that health care  
34 professional, provide a copy of the notice to the health care services  
35 firm or staffing agency.

36 e. The form of notification shall be prescribed by the  
37 Commissioner or Health [and Senior Services], in consultation  
38 with the Commissioner of Human Services in the case of  
39 psychiatric facilities and developmental centers, and shall contain  
40 such information as may be required by the division and shall be  
41 made within seven days of the date of the action, settlement,  
42 judgment, or award.

43 f. A health care entity which fails to provide such notice to the  
44 division or fails to cooperate with a request for information by the  
45 division, the board or the Medical Practitioner Review Panel  
46 established pursuant to section 8 of P.L.1989, c.300 (C.45:9-19.8)  
47 shall be subject to such penalties as the Department of Health [and

1 Senior Services] may determine pursuant to sections 13 and 14 of  
2 P.L.1971, c.136 (C.26:2H-13 and 26:2H-14).

3 g. A health care entity, or any employee thereof, which  
4 provides information to the division, the board, the Medical  
5 Practitioner Review Panel, a health care services firm or staffing  
6 agency, or the Department of Health [and Senior Services], in good  
7 faith and without malice, regarding a health care professional  
8 pursuant to the provisions of this section or section 3 of P.L.1989,  
9 c.300 (C.26:2H-12.2a), is not liable for civil damages in any cause  
10 of action arising out of the provision or reporting of the  
11 information.

12 h. A health care entity shall provide the health care  
13 professional who is the subject of a notice pursuant to paragraphs  
14 (1), (2), (4), and (5) of subsection a. of this section and subsection  
15 c. of this section with a copy of the notice provided to the division,  
16 when the health care entity submits the notice to the division.

17 i. For the purposes of this section, section 3 of P.L.1989, c.300  
18 (C.26:2H-12.2a) and section 15 of P.L.2005, c.83 (C.26:2H-12.2c):

19 "Board" means a professional and occupational licensing board  
20 within the Division of Consumer Affairs in the Department of Law  
21 and Public Safety which licenses or otherwise authorizes a health  
22 care professional to practice a health care profession.

23 "Division" means the Division of Consumer Affairs in the  
24 Department of Law and Public Safety.

25 "Health care entity" means a health care facility licensed  
26 pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), a health  
27 maintenance organization authorized to operate pursuant to  
28 P.L.1973, c.337 (C.26:2J-1 et seq.), a carrier which offers a  
29 managed care plan regulated pursuant to P.L.1997, c.192 (C.26:2S-  
30 1 et seq.), a State or county psychiatric hospital, a State  
31 developmental center, a staffing registry, and a home care services  
32 agency as defined in section 1 of P.L.1947, c.262 (C.45:11-23).

33 "Health care professional" means a person licensed or otherwise  
34 authorized pursuant to Title 45 or Title 52 of the Revised Statutes to  
35 practice a health care profession that is regulated by the Director of  
36 the Division of Consumer Affairs or by one of the following boards:  
37 the State Board of Medical Examiners, the New Jersey Board of  
38 Nursing, the New Jersey State Board of Dentistry, the New Jersey  
39 State Board of Optometrists, the New Jersey State Board of  
40 Pharmacy, the State Board of Chiropractic Examiners, the  
41 Acupuncture Examining Board, the State Board of Physical  
42 Therapy, the State Board of Respiratory Care, the Orthotics and  
43 Prosthetics Board of Examiners, the State Board of Psychological  
44 Examiners, the State Board of Social Work Examiners, the State  
45 Board of Veterinary Medical Examiners, the State Board of  
46 Examiners of Ophthalmic Dispensers and Ophthalmic Technicians,  
47 the Audiology and Speech-Language Pathology Advisory  
48 Committee, the State Board of Marriage and Family Therapy

1 Examiners, the Occupational Therapy Advisory Council and the  
2 Certified Psychoanalysts Advisory Committee. "Health care  
3 professional" also includes a nurse aide and a personal care  
4 assistant certified by the Department of Health [and Senior  
5 Services].

6 (cf: P.L.2005, c.83, s.2)

7  
8 180. Section 15 of P.L.2005, c.83 (C.26:2H-12.2c) is amended to  
9 read as follows:

10 15. a. A health care entity, upon the inquiry of another health  
11 care entity, shall truthfully:

12 (1) disclose whether, within the seven years preceding the  
13 inquiry, it provided any notice to the division pursuant to section 2  
14 of P.L.2005, c.83 (C.26:2H-12.2b), or to the review panel, as  
15 required by section 3 of P.L.1989, c.300 (C.26:2H-12.2a), with  
16 respect to the health care professional about whom the inquiry has  
17 been made, providing a copy of the form of notification and any  
18 supporting documentation that was provided to the division, a  
19 professional or occupational licensing board in the Division of  
20 Consumer Affairs in the Department of Law and Public Safety, or  
21 the review panel; and

22 (2) provide information about a current or former employee's  
23 job performance as it relates to patient care, as provided in this  
24 section, and, in the case of a former employee, the reason for the  
25 employee's separation.

26 b. For the purposes of this section, "job performance" shall  
27 relate to the suitability of the employee for re-employment at a  
28 health care entity, and the employee's skills and abilities as they  
29 relate to suitability for future employment at a health care entity.  
30 Information about a current or former employee's job performance  
31 pursuant to this paragraph shall be based on the employee's  
32 performance evaluation, and provided to another health care entity  
33 only if: (1) the evaluation has been signed by the evaluator and  
34 shared with the employee; (2) the employee has had the opportunity  
35 to respond; and (3) the employee's response, if any, has been taken  
36 into consideration when providing the information to another health  
37 care entity.

38 Job performance as it relates to patient care shall not include the  
39 current or former employee's participation in labor activities  
40 pursuant to the "National Labor Relations Act," 29 U.S.C. s.151 et  
41 seq.

42 c. A health care entity, or any employee designated by the  
43 entity, which, pursuant to this section, provides information in good  
44 faith and without malice to another health care entity concerning a  
45 health care professional, including information about a current or  
46 former employee's job performance as it relates to patient care, is  
47 not liable for civil damages in any cause of action arising out of the  
48 provision or reporting of the information.

1 d. A health care entity which fails to truthfully disclose  
2 information to another health care entity making an inquiry  
3 pursuant to this section or fails to cooperate with such request for  
4 information by the other health care entity shall be subject to such  
5 penalties as the Department of Health [and Senior Services] may  
6 determine pursuant to sections 13 and 14 of P.L.1971, c.136  
7 (C.26:2H-13 and 26:2H-14) and section 16 of P.L.1997, c.192  
8 (C.26:2S-16), or the director shall determine pursuant to P.L.1989,  
9 c.331 (C.34:8-43 et seq.), as applicable.  
10 (cf: P.L.2005, c.83, s.15)

11  
12 181. Section 1 of P.L.1998, c.136 (C.26:2H-12.6a) is amended  
13 to read as follows:

14 1. a. The Department of Children and Families, in consultation  
15 with the Department of Health [and Senior Services], shall prepare  
16 a resource guide in both English and Spanish which provides  
17 information on child abuse and neglect to all parents of newborn  
18 infants born in this State. The resource guide shall be distributed to  
19 each parent present during the infant's birth, by the personnel at a  
20 hospital or birthing facility, prior to the mother's discharge, as part  
21 of the hospital or birthing facility's discharge procedures.

22 b. The resource guide shall include information on the signs of  
23 child abuse and neglect, the services provided by the State which  
24 help in preventing child abuse and neglect, including the  
25 availability of home visitation resources, the legal ramifications of  
26 abusing or neglecting a child, and tips on child safety.

27 c. The department shall distribute the resource guide, at no  
28 charge, to all the hospitals and birthing facilities in the State. The  
29 department shall update the resource guide as necessary, and shall  
30 make additional copies of the resource guide available to health  
31 care providers upon request.

32 d. In addition to the resource guide prepared pursuant to  
33 subsection a. of this section, the department, in consultation with  
34 the Department of Health [and Senior Services], shall prepare a  
35 pamphlet in both English and Spanish that includes information on  
36 the prevention of shaken baby syndrome and detailed suggestions  
37 for how to cope with a crying baby. The pamphlet shall be  
38 distributed to each parent present during the infant's birth, by the  
39 personnel at a hospital or birthing facility, prior to the mother's  
40 discharge, as part of the hospital or birthing facility's discharge  
41 procedures. The department shall: distribute the pamphlet, at no  
42 charge, to all hospitals and birthing facilities in the State; update the  
43 pamphlet as necessary; and make additional copies of the pamphlet  
44 available to health care providers upon request.

45 (cf: P.L.2010, c.67, s.1)

46  
47 182. Section 1 of P.L.2005, c.50 (C.26:2H-12.6b) is amended to  
48 read as follows:



1       1. As used in this act:

2       "Commissioner" means the Commissioner of Health [and Senior  
3       Services].

4       "Division on Women" means the Division on Women in the  
5       Department of Community Affairs.

6       "Emergency care to sexual assault victims" means a medical  
7       examination, procedure, or service provided by an emergency  
8       health care facility to a sexual assault victim following an alleged  
9       sexual offense.

10      "Emergency contraception" means one or more prescription  
11      drugs to prevent pregnancy, used separately or in combination,  
12      administered to or self-administered by a patient within a medically  
13      recommended time after sexual intercourse, dispensed for that  
14      purpose in accordance with professional standards of practice and  
15      determined to be safe by the United States Food and Drug  
16      Administration.

17      "Emergency health care facility" means a general hospital or  
18      satellite emergency department licensed pursuant to P.L.1971, c.136  
19      (C.26:2H-1 et seq.).

20      "Medically and factually accurate and objective" means verified  
21      or supported by the weight of research conducted in compliance  
22      with accepted scientific methods and standards, published in peer-  
23      reviewed journals and recognized as accurate and objective by  
24      leading professional organizations and agencies with relevant  
25      expertise in the field of obstetrics and gynecology.

26      "Sexual Assault Nurse Examiner program" means the Statewide  
27      Sexual Assault Nurse Examiner program in the Division of  
28      Criminal Justice in the Department of Law and Public Safety,  
29      established pursuant to P.L.2001, c.81 (C.52:4B-50 et seq.).

30      "Sexual assault victim" means a female who alleges or is alleged  
31      to have suffered a personal, physical, or psychological injury as a  
32      result of a sexual offense.

33      "Sexual offense" means sexual assault and aggravated sexual  
34      assault as set forth in N.J.S.2C:14-2, criminal sexual contact and  
35      aggravated criminal sexual contact as set forth in N.J.S.2C:14-3,  
36      fourth degree lewdness as set forth in subsection b. of N.J.S.2C:14-  
37      4 and endangering the welfare of a child by engaging in sexual  
38      conduct which would impair or debauch the morals of the child as  
39      set forth in N.J.S.2C:24-4.

40      (cf: P.L.2005, c.50, s.1)

41

42      183. Section 2 of P.L.1989, c.170 (C.26:2H-12.8) is amended to  
43      read as follows:

44      2. Every person admitted to a general hospital as licensed by  
45      the [State] Department of Health [and Senior Services] pursuant to  
46      P.L.1971, c.136 (C.26:2H-1 et al.) shall have the right:

47      a. To considerate and respectful care consistent with sound  
48      nursing and medical practices, which shall include being informed

- 1 of the name and licensure status of a student nurse or facility staff  
2 member who examines, observes, or treats the patient and the right  
3 to expect and receive appropriate assessment, management, and  
4 treatment of pain as an integral component of that person's care;
- 5 b. To be informed of the name of the physician responsible for  
6 coordinating his care;
- 7 c. To obtain from the physician complete, current information  
8 concerning his diagnosis, treatment, and prognosis in terms he can  
9 reasonably be expected to understand. When it is not medically  
10 advisable to give this information to the patient, it shall be made  
11 available to another person designated by the patient on his behalf;
- 12 d. To receive from the physician information necessary to give  
13 informed consent prior to the start of any procedure or treatment  
14 and which, except for those emergency situations not requiring an  
15 informed consent, shall include as a minimum the specific  
16 procedure or treatment, the medically significant risks involved, and  
17 the possible duration of incapacitation, if any, as well as an  
18 explanation of the significance of the patient's informed consent.  
19 The patient shall be advised of any medically significant  
20 alternatives for care or treatment, however, this does not include  
21 experimental treatments that are not yet accepted by the medical  
22 establishment;
- 23 e. To refuse treatment to the extent permitted by law and to be  
24 informed of the medical consequences of this act;
- 25 f. To privacy to the extent consistent with providing adequate  
26 medical care to the patient. This shall not preclude discussion of a  
27 patient's case or examination of a patient by appropriate health care  
28 personnel;
- 29 g. To privacy and confidentiality of all records pertaining to  
30 **[his] the patient's** treatment, except as otherwise provided by law  
31 or third party payment contract, and to access to those records,  
32 including receipt of a copy thereof at reasonable cost, upon request,  
33 unless **[his] the patient's** physician states in writing that access by  
34 the patient is not medically advisable;
- 35 h. To expect that within its capacity, the hospital will make  
36 reasonable response to **[his] the patient's** request for services,  
37 including the services of an interpreter in a language other than  
38 English if 10% or more of the population in the hospital's service  
39 area speaks that language;
- 40 i. To be informed by **[his] the patient's** physician of any  
41 continuing health care requirements which may follow discharge  
42 and to receive assistance from the physician and appropriate  
43 hospital staff in arranging for required follow-up care after  
44 discharge;
- 45 j. To be informed by the hospital of the necessity of transfer to  
46 another facility prior to the transfer and of any alternatives to it  
47 which may exist, which transfer shall not be effected unless it is  
48 determined by the physician to be medically necessary;

1 k. To be informed, upon request, of other health care and  
2 educational institutions that the hospital has authorized to  
3 participate in his treatment;

4 l. To be advised if the hospital proposes to engage in or  
5 perform human research or experimentation and to refuse to  
6 participate in these projects. For the purposes of this subsection  
7 "human research" does not include the mere collecting of statistical  
8 data;

9 m. To examine and receive an explanation of **[his]** the patient's  
10 bill, regardless of source of payment, and to receive information or  
11 be advised on the availability of sources of financial assistance to  
12 help pay for the patient's care, as necessary;

13 n. To expect reasonable continuity of care;

14 o. To be advised of the hospital rules and regulations that apply  
15 to his conduct as a patient;

16 p. To treatment without discrimination as to race, age, religion,  
17 sex, national origin, or source of payment; and

18 q. To contract directly with a New Jersey licensed registered  
19 professional nurse of the patient's choosing for private professional  
20 nursing care during his hospitalization. A registered professional  
21 nurse so contracted shall adhere to hospital policies and procedures  
22 in regard to treatment protocols and policies and procedures so long  
23 as those policies and procedures are the same for private duty and  
24 regularly employed nurses. The registered professional nurse shall  
25 not be considered an agent or employee of the hospital for purposes  
26 of any financial liabilities, including, but not limited to, State or  
27 federal employee taxes, worker's compensation payments or  
28 coverage for professional liability.

29 The hospital, upon a patient's or **[his]** the patient's designee's  
30 request for private professional nursing care, shall provide the  
31 patient or **[his]** the patient's designee with a list of local nonprofit  
32 professional nurses association registries that refer nurses for  
33 private professional nursing care.

34 (cf: P.L.2000, c.65, s.1)  
35

36 184. Section 14 of P.L.1999, c.154 (C.26:2H-12.12) is amended  
37 to read as follows:

38 14. Effective 12 months after the adoption of regulations  
39 establishing standard health care enrollment and claim forms by the  
40 Commissioner of Banking and Insurance pursuant to section 1 of  
41 P.L.1999, c.154 (C.17B:30-23), a health care facility licensed  
42 pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) is responsible for  
43 filing all claims for third party payment, including claims filed on  
44 behalf of the health care facility's patient for any health care service  
45 provided by the health care facility that is eligible for third party  
46 payment, except that at the patient's option, the patient may file the  
47 claim for third party payment.

1       a. In the case of a claim filed on behalf of the health care  
2 facility's patient, the health care facility shall file the claim within  
3 60 days of the last date of service for a course of treatment, on the  
4 standard claim form adopted by the Commissioner of Banking and  
5 Insurance pursuant to section 1 of P.L.1999, c.154 (C.17B:30-23).

6       b. In the case of a claim in which the patient has assigned **his**  
7 the patient's benefits to the health care facility, the health care  
8 facility shall file the claim within 180 days of the last date of  
9 service for a course of treatment, on the standard claim form  
10 adopted by the Commissioner of Banking and Insurance pursuant to  
11 section 1 of P.L.1999, c.154 (C.17B:30-23). If the health care  
12 facility does not file the claim within 180 days of the last date of  
13 service for a course of treatment, the third party payer shall reserve  
14 the right to deny payment of the claim, in accordance with  
15 regulations established by the Commissioner of Banking and  
16 Insurance, and the health care facility shall be prohibited from  
17 seeking any payment directly from the patient.

18       (1) In establishing the standards for denial of payment, the  
19 Commissioner of Banking and Insurance shall consider the length  
20 of delay in filing the claim, the good faith use of information  
21 provided by the patient to the health care facility with respect to the  
22 identity of the patient's third party payer, delays in filing a claim  
23 related to coordination of benefits between third party payers and  
24 any other factors the commissioner deems appropriate, and,  
25 accordingly, shall define specific instances where the sanctions  
26 permitted pursuant to this subsection shall not apply.

27       (2) A health care facility which fails to file a claim within 180  
28 days and whose claim for payment has been denied by the third  
29 party payer in accordance with this subsection may, in the  
30 discretion of a judge of the Superior Court, be permitted to refile  
31 the claim if the third party payer has not been substantially  
32 prejudiced thereby. Application to the court for permission to refile  
33 a claim shall be made within 14 days of notification of denial of  
34 payment and shall be made upon motion based upon affidavits  
35 showing sufficient reasons for the failure to file the claim with the  
36 third party payer within 180 days.

37       c. The provisions of this section shall not apply to any claims  
38 filed pursuant to P.L.1972, c.70 (C.39:6A-1 et seq.).

39       d. A health care facility which violates the provisions of  
40 subsection a. of this section may be subject to a civil penalty of  
41 \$250 for each violation plus \$50 for each day after the 60th day that  
42 the health care facility fails to submit a claim. The penalty shall be  
43 sued for and collected by the Department of Health **and Senior**  
44 **Services** pursuant to **["the penalty enforcement law," N.J.S.2A:58-**  
45 **1 et seq.] the "Penalty Enforcement Law of 1999," P.L.1999, c.274**  
46 **(C.2A:58-10 et seq.).**

47 (cf: PL.1999, c.154, s.14)

1       185. Section 3 of P.L.1999, c.362 (C.26:2H-12.13) is amended  
2 to read as follows:

3       3. a. The owner or operator of a general hospital who is required  
4 to prepare a Consumer Confidence Report pursuant to the "Safe  
5 Drinking Water Act Amendments of 1996," 42 U.S.C.s.300f et al.,  
6 or who receives a Consumer Confidence Report from the owner or  
7 operator of a public community water system, shall post each  
8 Consumer Confidence Report it prepares or receives in the area of  
9 each major entrance and in each admitting room in the hospital.

10       b. The owner or operator of a general hospital who is a supplier  
11 of water but is not required to prepare a Consumer Confidence  
12 Report pursuant to the "Safe Drinking Water Act Amendments of  
13 1996," and who is required to conduct tests of its drinking water by  
14 the Department of Environmental Protection, shall post a chart  
15 setting forth the results of the water tests, including the level of  
16 detection and, as appropriate for each contaminant, the maximum  
17 contaminant level, highest level allowed, action level, treatment  
18 technique, or other expression of an acceptable level, for each  
19 contaminant, in the area of each major entrance and in each  
20 admitting room in the general hospital. The chart also shall include  
21 in bold print the statement required to be included in a Consumer  
22 Confidence Report pursuant to 40 CFR s.141.154(a). The chart  
23 shall not include contaminants that are not detected.

24       c. As used in this section, "general hospital" shall mean any  
25 general hospital licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et  
26 seq.).

27       d. The provisions of this section shall be enforced by the  
28 Department of Health **[and Senior Services]**. The Department of  
29 Health **[and Senior Services]** shall not be required to conduct on-  
30 site inspections to determine compliance with this section more  
31 frequently than any on-site inspections of general hospitals are  
32 conducted by the department pursuant to any other law.  
33 (cf: P.L.1999, c.362, s.3)

34  
35       186. Section 4 of P.L.1999, c.362 (C.26:2H-12.14) is amended  
36 to read as follows:

37       4. a. The owner or operator of a rehabilitation center, extended  
38 care facility, skilled nursing home, or nursing home who is required  
39 to prepare a Consumer Confidence Report pursuant to the "Safe  
40 Drinking Water Act Amendments of 1996," 42 U.S.C.s.300f et al.,  
41 or who receives a Consumer Confidence Report from the owner or  
42 operator of a public community water system, shall post each  
43 Consumer Confidence Report it prepares or receives in at least one  
44 conspicuous location in the rehabilitation center, extended care  
45 facility, skilled nursing home, or nursing home.

46       b. The owner or operator of a rehabilitation center, extended  
47 care facility, skilled nursing home, or nursing home who is a  
48 supplier of water but is not required to prepare a Consumer

1 Confidence Report pursuant to the "Safe Drinking Water Act  
2 Amendments of 1996," and who is required to conduct tests of its  
3 drinking water by the Department of Environmental Protection,  
4 shall post a chart setting forth the results of the water tests,  
5 including the level of detection and, as appropriate for each  
6 contaminant, the maximum contaminant level, highest level  
7 allowed, action level, treatment technique, or other expression of an  
8 acceptable level, for each contaminant, in at least one conspicuous  
9 location in the rehabilitation center, extended care facility, skilled  
10 nursing home, or nursing home. The chart also shall include in bold  
11 print the statement required to be included in a Consumer  
12 Confidence Report pursuant to 40 CFR s.141.154(a). The chart shall  
13 not include contaminants that are not detected.

14 c. As used in this section, "rehabilitation center," "extended  
15 care facility," "skilled nursing home," and "nursing home" shall  
16 mean a rehabilitation center, extended care facility, skilled nursing  
17 home, or nursing home licensed pursuant to P.L.1971, c.136  
18 (C.26:2H-1 et seq.).

19 d. The provisions of this section shall be enforced by the  
20 Department of Health **[and Senior Services]**. The Department of  
21 Health **[and Senior Services]** shall not be required to conduct on-  
22 site inspections to determine compliance with this section more  
23 frequently than any on-site inspections of rehabilitation centers,  
24 extended care facilities, skilled nursing homes, or nursing homes  
25 are conducted by the department pursuant to any other law.

26 (cf: P.L.1999, c.362, s.4)

27

28 187. Section 2 of P.L.1999, c.436 (C.26:2H-12.15) is amended  
29 to read as follows:

30 2. a. 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 regulations governing the use of  
33 unlicensed assistive personnel in licensed health care facilities, in  
34 consultation with at least the following: the Director of the Division  
35 of Consumer Affairs in the Department of Law and Public Safety,  
36 the New Jersey Hospital Association, the New Jersey Association of  
37 Health Care Facilities, the Medical Society of New Jersey, and the  
38 New Jersey State Nurses Association.

39 As used in this section, "unlicensed assistive personnel" means  
40 any unlicensed or uncertified personnel employed by a licensed  
41 health care facility that perform nursing tasks which do not require  
42 the skill or judgment of a registered professional nurse and which  
43 are assigned to them by, and carried out under the supervision of, a  
44 registered professional nurse.

45 b. The regulations adopted pursuant to subsection a. of this  
46 section, shall require, at a minimum, that:

47 (1) unlicensed assistive personnel employed by a health care  
48 facility meet the standards and requirements for education and

1 competency evaluation prescribed by the New Jersey Board of  
2 Nursing pursuant to paragraph (26) of subsection d. of section 2 of  
3 P.L.1947, c.262 (C.45:11-24); and

4 (2) a health care facility, prior to implementing the use of  
5 unlicensed assistive personnel, establish a multidisciplinary  
6 committee, including representation from registered professional  
7 nurses, physicians, administrative staff, and unlicensed assistive  
8 personnel, to evaluate the need for using these personnel, formulate  
9 and adopt a plan to implement their use, and monitor the  
10 implementation of the plan.

11 c. The plan for implementing the use of unlicensed assistive  
12 personnel pursuant to paragraph (2) of subsection b. of this section  
13 shall, at a minimum:

14 (1) require the use and specify the composition of  
15 multidisciplinary patient care teams operating under the plan;

16 (2) prescribe materials and protocols for the orientation and  
17 training of health care facility staff with respect to implementing  
18 the plan;

19 (3) provide for the periodic monitoring and evaluation of the use  
20 of unlicensed assistive personnel by the multidisciplinary  
21 committee established pursuant to subsection b. of this section; and

22 (4) require in-service training and educational programming for  
23 both registered professional nurses and unlicensed assistive  
24 personnel which include subject matter relating to the delegation of  
25 nursing tasks to unlicensed assistive personnel and the supervision  
26 of these personnel by registered professional nurses.

27 (cf: P.L.1999, c.436, s.2)

28

29 188. Section 2 of P.L.2001, c.234 (C.26:2H-12.17) is amended  
30 to read as follows:

31 2. The Commissioner of Health **【and Senior Services】** may  
32 waive the 10% utilization requirement or reduce the required  
33 percentage by regulation for specific regions of the State or  
34 Statewide if **【he】** the commissioner determines that sufficient  
35 numbers of assisted living beds are available in the State to meet the  
36 needs of Medicaid-eligible persons within the limits of the federal  
37 waiver to provide assisted living services through the Medicaid  
38 program.

39 (cf: P.L.2001, c.234, s.2)

40

41 189. Section 6 of P.L.2001, c.234 (C.26:2H-12.21) is amended  
42 to read as follows:

43 6. The Commissioner of Health **【and Senior Services】** shall  
44 adopt regulations pursuant to the "Administrative Procedure Act,"  
45 P.L.1968, c.410 (C.52:14B-1 et seq.) necessary to carry out the  
46 purposes of this act.

47 (cf: P.L.2001, c.234, s.6)

1       190. Section 3 of P.L.2004, c.9 (C.26:2H-12.25) is amended to  
2 read as follows:

3       3. a. As used in this act:

4       "Adverse event" means an event that is a negative consequence  
5 of care that results in unintended injury or illness, which may or  
6 may not have been preventable.

7       "Anonymous" means that information is presented in a form and  
8 manner that prevents the identification of the person filing the  
9 report.

10       "Commissioner" means the Commissioner of Health **[and Senior**  
11 **Services]**.

12       "Department" means the Department of Health **[and Senior**  
13 **Services]**.

14       "Event" means a discrete, auditable, and clearly defined  
15 occurrence.

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

20       "Health care professional" means an individual who, acting  
21 within the scope of **[his] the individual's** licensure or certification,  
22 provides health care services, and includes, but is not limited to, a  
23 physician, dentist, nurse, pharmacist, or other health care  
24 professional whose professional practice is regulated pursuant to  
25 Title 45 of the Revised Statutes.

26       "Near-miss" means an occurrence that could have resulted in an  
27 adverse event but the adverse event was prevented.

28       "Preventable event" means an event that could have been  
29 anticipated and prepared against, but occurs because of an error or  
30 other system failure.

31       "Serious preventable adverse event" means an adverse event that  
32 is a preventable event and results in death or loss of a body part, or  
33 disability or loss of bodily function lasting more than seven days or  
34 still present at the time of discharge from a health care facility.

35       b. In accordance with the requirements established by the  
36 commissioner by regulation, pursuant to this act, a health care  
37 facility shall develop and implement a patient safety plan for the  
38 purpose of improving the health and safety of patients at the  
39 facility.

40       The patient safety plan shall, at a minimum, include:

41       (1) a patient safety committee, as prescribed by regulation;

42       (2) a process for teams of facility staff, which teams are  
43 comprised of personnel who are representative of the facility's  
44 various disciplines and have appropriate competencies, to conduct  
45 ongoing analysis and application of evidence-based patient safety  
46 practices in order to reduce the probability of adverse events



1 resulting from exposure to the health care system across a range of  
2 diseases and procedures;

3 (3) a process for teams of facility staff, which teams are  
4 comprised of personnel who are representative of the facility's  
5 various disciplines and have appropriate competencies, to conduct  
6 analyses of near-misses, with particular attention to serious  
7 preventable adverse events and adverse events; and

8 (4) a process for the provision of ongoing patient safety training  
9 for facility personnel.

10 The provisions of this subsection shall not be construed to  
11 eliminate or lessen a hospital's obligation under current law or  
12 regulation to have a continuous quality improvement program.

13 c. A health care facility shall report to the department or, in the  
14 case of a State psychiatric hospital, to the Department of Human  
15 Services, in a form and manner established by the commissioner,  
16 every serious preventable adverse event that occurs in that facility.

17 d. A health care facility shall assure that the patient affected by  
18 a serious preventable adverse event or an adverse event specifically  
19 related to an allergic reaction, or, in the case of a minor or a patient  
20 who is incapacitated, the patient's parent or guardian or other  
21 family member, as appropriate, is informed of the serious  
22 preventable adverse event or adverse event specifically related to an  
23 allergic reaction, no later than the end of the episode of care, or, if  
24 discovery occurs after the end of the episode of care, in a timely  
25 fashion as established by the commissioner by regulation. The time,  
26 date, participants, and content of the notification shall be  
27 documented in the patient's medical record in accordance with rules  
28 and regulations adopted by the commissioner. The content of the  
29 documentation shall be determined in accordance with the rules and  
30 regulations of the commissioner. If the patient's physician  
31 determines that the disclosure would seriously and adversely affect  
32 the patient's health, then the facility shall assure that the family  
33 member, if available, is notified in accordance with rules and  
34 regulations adopted by the commissioner. In the event that an adult  
35 patient is not informed of the serious preventable adverse event or  
36 adverse event specifically related to an allergic reaction, the facility  
37 shall assure that the physician includes a statement in the patient's  
38 medical record that provides the reason for not informing the  
39 patient pursuant to this section.

40 e. (1) A health care professional or other employee of a health  
41 care facility is encouraged to make anonymous reports to the  
42 department or, in the case of a State psychiatric hospital, to the  
43 Department of Human Services, in a form and manner established  
44 by the commissioner, regarding near-misses, preventable events,  
45 and adverse events that are otherwise not subject to mandatory  
46 reporting pursuant to subsection c. of this section.

47 (2) The commissioner shall establish procedures for and a  
48 system to collect, store, and analyze information voluntarily

1 reported to the department pursuant to this subsection. The  
2 repository shall function as a clearinghouse for trend analysis of the  
3 information collected pursuant to this subsection.

4 f. Any documents, materials, or information received by the  
5 department, or the Department of Human Services, as applicable,  
6 pursuant to the provisions of subsections c. and e. of this section  
7 concerning serious preventable adverse events, near-misses,  
8 preventable events, and adverse events that are otherwise not  
9 subject to mandatory reporting pursuant to subsection c. of this  
10 section, shall not be:

11 (1) subject to discovery or admissible as evidence or otherwise  
12 disclosed in any civil, criminal, or administrative action or  
13 proceeding;

14 (2) considered a public record under P.L.1963, c.73 (C.47:1A-1  
15 et seq.) or P.L.2001, c.404 (C.47:1A-5 et al.); or

16 (3) used in an adverse employment action or in the evaluation of  
17 decisions made in relation to accreditation, certification,  
18 credentialing, or licensing of an individual, which is based on the  
19 individual's participation in the development, collection, reporting  
20 or storage of information in accordance with this section. The  
21 provisions of this paragraph shall not be construed to limit a health  
22 care facility from taking disciplinary action against a health care  
23 professional in a case in which the professional has displayed  
24 recklessness, gross negligence, or willful misconduct, or in which  
25 there is evidence, based on other similar cases known to the facility,  
26 of a pattern of significant substandard performance that resulted in  
27 serious preventable adverse events.

28 The information received by the department, or the Department  
29 of Human Services, as applicable, shall be shared with the Attorney  
30 General in accordance with rules and regulations adopted pursuant  
31 to subsection j. of this section, and may be used by the department,  
32 the Department of Human Services, and the Attorney General for  
33 the purposes of this act and for oversight of facilities and health  
34 care professionals; however, the departments and the Attorney  
35 General shall not use the information for any other purpose.

36 In using the information to exercise oversight, the department,  
37 Department of Human Services, and Attorney General, as  
38 applicable, shall place primary emphasis on assuring effective  
39 corrective action by the facility or health care professional,  
40 reserving punitive enforcement or disciplinary action for those  
41 cases in which the facility or the professional has displayed  
42 recklessness, gross negligence, or willful misconduct, or in which  
43 there is evidence, based on other similar cases known to the  
44 department, Department of Human Services or the Attorney  
45 General, of a pattern of significant substandard performance that  
46 has the potential for or actually results in harm to patients.

47 g. Any documents, materials, or information developed by a  
48 health care facility as part of a process of self-critical analysis

1 conducted pursuant to subsection b. of this section concerning  
2 preventable events, near-misses, and adverse events, including  
3 serious preventable adverse events, and any document or oral  
4 statement that constitutes the disclosure provided to a patient or the  
5 patient's family member or guardian pursuant to subsection d. of  
6 this section, shall not be:

7 (1) subject to discovery or admissible as evidence or otherwise  
8 disclosed in any civil, criminal, or administrative action or  
9 proceeding; or

10 (2) used in an adverse employment action or in the evaluation of  
11 decisions made in relation to accreditation, certification,  
12 credentialing, or licensing of an individual, which is based on the  
13 individual's participation in the development, collection, reporting,  
14 or storage of information in accordance with subsection b. of this  
15 section. The provisions of this paragraph shall not be construed to  
16 limit a health care facility from taking disciplinary action against a  
17 health care professional in a case in which the professional has  
18 displayed recklessness, gross negligence or **【wilful】** willful  
19 misconduct, or in which there is evidence, based on other similar  
20 cases known to the facility, of a pattern of significant substandard  
21 performance that resulted in serious preventable adverse events.

22 h. Notwithstanding the fact that documents, materials, or  
23 information may have been considered in the process of self-critical  
24 analysis conducted pursuant to subsection b. of this section, or  
25 received by the department or the Department of Human Services  
26 pursuant to the provisions of subsection c. or e. of this section, the  
27 provisions of this act shall not be construed to increase or decrease,  
28 in any way, the availability, discoverability, admissibility, or use of  
29 any such documents, materials, or information if obtained from any  
30 source or context other than those specified in this act.

31 i. The investigative and disciplinary powers conferred on the  
32 boards and commissions established pursuant to Title 45 of the  
33 Revised Statutes, the Director of the Division of Consumer Affairs  
34 in the Department of Law and Public Safety and the Attorney  
35 General under the provisions of P.L.1978, c.73 (C.45:1-14 et seq.)  
36 or any other law, rule, or regulation, as well as the investigative and  
37 enforcement powers conferred on the department and the  
38 commissioner under the provisions of Title 26 of the Revised  
39 Statutes or any other law, rule or regulation, shall not be exercised  
40 in such a manner so as to unduly interfere with a health care  
41 facility's implementation of its patient safety plan established  
42 pursuant to this section. However, this act shall not be construed to  
43 otherwise affect, in any way, the exercise of such investigative,  
44 disciplinary, and enforcement powers.

45 j. The commissioner shall, pursuant to the "Administrative  
46 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt such  
47 rules and regulations necessary to carry out the provisions of this  
48 act. The regulations shall establish: criteria for a health care

1 facility's patient safety plan and patient safety committee; the time  
2 frame and format for mandatory reporting of serious preventable  
3 adverse events at a health care facility; the types of events that  
4 qualify as serious preventable adverse events and adverse events  
5 specifically related to an allergic reaction; the circumstances under  
6 which a health care facility is not required to inform a patient or the  
7 patient's family about a serious preventable adverse event or  
8 adverse event specifically related to an allergic reaction; and a  
9 system for the sharing of information received by the department  
10 and the Department of Human Services pursuant to subsections c.  
11 and e. of this section with the Attorney General. In establishing the  
12 criteria for reporting serious preventable adverse events, the  
13 commissioner shall, to the extent feasible, use criteria for these  
14 events that have been or are developed by organizations engaged in  
15 the development of nationally recognized standards.

16 The commissioner shall consult with the Commissioner of  
17 Human Services with respect to rules and regulations affecting the  
18 State psychiatric hospitals and with the Attorney General with  
19 respect to rules and regulations regarding the establishment of a  
20 system for the sharing of information received by the department  
21 and the Department of Human Services pursuant to subsections c.  
22 and e. of this section with the Attorney General.

23 k. Nothing in this act shall be construed to increase or decrease  
24 the discoverability, in accordance with *Christy v. Salem*, No. A-  
25 6448-02T3 (Superior Court of New Jersey, Appellate Division,  
26 February 17, 2004)(2004 WL291160), of any documents, materials  
27 or information if obtained from any source or context other than  
28 those specified in this act.

29 (cf: P.L.2004, c.9, s.3)

30

31 191. Section 8 of P.L.2007, c.196 (C.26:2H-12.25a) is amended  
32 to read as follows:

33 8. The Commissioner of Health **and Senior Services** and the  
34 Commissioner of Human Services shall compile their findings and  
35 recommendations for operational changes related to patient safety  
36 in health care facilities, based on information reported to the  
37 commissioners pursuant to the "Patient Safety Act," P.L.2004, c.9  
38 (C.26:2H-12.23 et seq.).

39 The commissioners shall jointly issue an annual report of their  
40 findings and recommendations to the Governor, and to the  
41 Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1),  
42 to be made available on the official Internet website of the  
43 Department of Health **and Senior Services**.

44 (cf: P.L.2007, c.196, s.8)

45

46 192. Section 1 of P.L.2009, c.122 (C.26:2H-12.25b) is amended  
47 to read as follows:

1       1. a. The Department of Health **【and Senior Services】** shall  
2 include in the New Jersey Hospital Performance Report issued  
3 annually by the department hospital-specific data from hospital  
4 procedure and diagnosis codes concerning the following patient  
5 safety indicators:

- 6       (1) Foreign body left during procedure (PSI 05);
- 7       (2) Iatrogenic pneumothorax (PSI 06);
- 8       (3) Postoperative hip fracture (PSI 08);
- 9       (4) Postoperative hemorrhage or hematoma (PSI 09);
- 10      (5) Postoperative deep vein thrombosis (DVT) or pulmonary  
11 embolism (PE) (PSI 12);
- 12      (6) Postoperative sepsis (PSI 13);
- 13      (7) Postoperative wound dehiscence (PSI 14);
- 14      (8) Accidental puncture or laceration (PSI 15);
- 15      (9) Transfusion reaction (PSI 16);
- 16      (10) Birth trauma (PSI 17);
- 17      (11) Obstetric trauma-vaginal delivery with instrument (PSI 18);
- 18      (12) Obstetric trauma-vaginal delivery without instrument (PSI  
19 19);
- 20      (13) Air embolism; and
- 21      (14) Surgery on the wrong side, wrong body part, or wrong  
22 person, or wrong surgery performed on a patient.

23       b. The Commissioner of Health **【and Senior Services】**, in  
24 consultation with the Quality Improvement Advisory Committee in  
25 the Department of Health **【and Senior Services】**, may include  
26 additional patient safety indicators in the annual report, by  
27 regulation. The commissioner shall consider indicators that: (1) are  
28 recommended by the federal Agency for Healthcare Research and  
29 Quality or the Centers for Medicare **【and】** & Medicaid Services; (2)  
30 are suitable for comparative reporting and public accountability,  
31 and are risk adjusted; (3) have a strong evidence base with no  
32 substantial evidence against their use for comparative reporting; and  
33 (4) can be measured through data that are available through hospital  
34 procedure and diagnosis codes.

35       c. The commissioner shall request the Quality Improvement  
36 Advisory Committee to study and make recommendations to the  
37 commissioner on how to expand public reporting by the department  
38 of patient pressure ulcers, patient infections due to hospital care,  
39 and falls by patients in general hospitals.

40       d. The commissioner shall, in accordance with the  
41 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
42 seq.), adopt such rules and regulations as the commissioner deems  
43 necessary to carry out the provisions of this act.

44 (cf: P.L.2009, c.122, s.1)

46       193. Section 2 of P.L.2004, c.136 (C.26:2H-12.28) is amended  
47 to read as follows:

1       2. The Commissioner of Health **[and Senior Services]** shall  
2 designate hospitals that meet the criteria set forth in this act as  
3 primary or comprehensive stroke centers.

4       a. A hospital shall apply to the commissioner for designation  
5 and shall demonstrate to the satisfaction of the commissioner that  
6 the hospital meets the criteria set forth in section 3 or 4 of this act  
7 for a primary or comprehensive stroke center, respectively.

8       b. The commissioner shall designate as many hospitals as  
9 primary stroke centers as apply for the designation, provided that  
10 the hospital meets the criteria set forth in section 3 of this act. In  
11 addition to the criteria set forth in section 3 of this act, the  
12 commissioner is encouraged to take into consideration whether the  
13 hospital contracts with carriers that provide coverage through the  
14 State Medicaid program, established pursuant to P.L.1968, c.413  
15 (C.30:4D-1 et seq.)**],** the Children's Health Care Coverage Program,  
16 established pursuant to P.L.1997, c.272 (C.30:4I-1 et seq.),**]** and the  
17 NJ FamilyCare [Health Coverage] Program, established pursuant  
18 to **[P.L.2000, c.71 (C.30:4J-1 et seq.)] P.L.2005, c.156 (C.30:4J-8**  
19 **et al.)**.

20       c. The commissioner shall designate as many hospitals as  
21 comprehensive stroke centers as apply for the designation, provided  
22 that the hospital meets the criteria set forth in section 4 of this act.

23       d. The commissioner may suspend or revoke a hospital's  
24 designation as a stroke center, after notice and hearing, if the  
25 commissioner determines that the hospital is not in compliance with  
26 the requirements of this act.

27 (cf: P.L.2004, c.136, s.2)

28

29       194. Section 4 of P.L.2004, c.136 (C.26:2H-12.30) is amended  
30 to read as follows:

31       4. A hospital designated as a comprehensive stroke center shall  
32 use proven state-of-the-art technology and medical techniques and,  
33 at a minimum, meet the criteria set forth in this section.

34       a. The hospital shall meet all of the criteria required for a  
35 primary stroke center pursuant to section 3 of this act.

36       b. With respect to patient care, the hospital shall:

37       (1) maintain a neurosurgical team that is capable of assessing  
38 and treating complex stroke and stroke-like syndromes;

39       (2) maintain on staff a neuro-radiologist with Certificate of  
40 Added Qualifications and a physician with neuro-interventional  
41 angiographic training and skills;

42       (3) provide comprehensive rehabilitation services either on site  
43 or by transfer agreement with another health care facility; and

44       (4) enter into and maintain written transfer agreements with  
45 primary stroke centers to accept transfer of patients with complex  
46 strokes when clinically warranted.

47       c. With respect to support services, the hospital shall:

- 1 (1) have magnetic resonance imaging and computed tomography  
2 angiography capabilities;
- 3 (2) have digital subtraction angiography and a suite equipped  
4 for neuro-interventional procedures;
- 5 (3) develop and maintain sophisticated outcomes assessment  
6 and performance improvement capability that incorporates data  
7 from affiliated primary stroke centers and integrates regional, State,  
8 and national data;
- 9 (4) provide guidance and continuing medical education to  
10 primary stroke centers;
- 11 (5) provide graduate medical education in stroke; and
- 12 (6) conduct research on stroke-related topics.
- 13 d. If the Commissioner of Health **[and Senior Services]**  
14 determines that a new drug, device, technique, or technology has  
15 become available for the treatment of stroke that provides a  
16 diagnostic or therapeutic advantage over existing elements included  
17 in the criteria established in this section or in section 3 of this act,  
18 the commissioner may, by regulation, revise or update the criteria  
19 accordingly.  
20 (cf: P.L.2004, c.136, s.4.)

21  
22 195. Section 5 of P.L.2004, c.136 (C.26:2H-12.31) is amended  
23 to read as follows:

24 5. a. In order to encourage and ensure the establishment of stroke  
25 centers throughout the State, the Commissioner of Health **[and**  
26 **Senior Services]** shall award matching grants to hospitals that seek  
27 designation as stroke centers and demonstrate a need for financial  
28 assistance to develop the necessary infrastructure, including  
29 personnel and equipment, in order to satisfy the criteria for  
30 designation provided pursuant to this act. The matching grants shall  
31 not exceed \$250,000 or 50% of the hospital's cost for developing  
32 the necessary infrastructure, whichever is less.

33 b. A hospital seeking designation as a stroke center shall apply  
34 to the commissioner for a matching grant, in a manner and on a  
35 form required by the commissioner, and provide such information  
36 as the commissioner deems necessary to determine if the hospital is  
37 eligible for the grant.

38 c. The commissioner may provide matching grants to as many  
39 hospitals as the commissioner deems appropriate, except that:

40 (1) Matching grant awards shall be made to at least two  
41 applicant hospitals in the northern region of this State (comprising  
42 Bergen, Hudson, Essex, Passaic, Morris, Sussex, and Warren  
43 counties), at least two applicant hospitals in the central region of  
44 this State (comprising Union, Somerset, Hunterdon, Mercer,  
45 Middlesex, and Monmouth counties) and at least two applicant  
46 hospitals in the southern region of this State (comprising  
47 Burlington, Camden, Gloucester, Salem, Cumberland, Cape May,  
48 Atlantic, and Ocean counties), provided in the case of each region

1 that the applicant hospitals receiving the awards must be eligible  
2 therefor under the provisions of this act; and

3 (2) No more than 20% of the funds appropriated pursuant to this  
4 act shall be allocated to hospitals that seek designation as  
5 comprehensive stroke centers.

6 (cf: P.L.2004, c.136, s.5)

7  
8 196. Section 6 of P.L.2004, c.136 (C.26:2H-12.32) is amended  
9 to read as follows:

10 6. The Commissioner of Health **[and Senior Services]** shall,  
11 not later than September 1, 2005, prepare and submit to the  
12 Governor, the President of the Senate, and the Speaker of the  
13 General Assembly a report indicating, as of June 30, 2005, the total  
14 number of hospitals that shall have applied for grants under section  
15 5 of this act and the number of those applicants that shall have been  
16 found to be eligible for such grants, the total number of grants  
17 awarded, the name and address of each grantee hospital and the  
18 amount of the award to each, and the amount of each award that  
19 shall have been paid to the grantee.

20 (cf: P.L.2004, c.136, s.6)

21  
22 197. Section 1 of P.L.2007, c.65 (C.26:2H-12.33) is amended to  
23 read as follows:

24 1. a. The Department of Health **[and Senior Services]** shall make  
25 available to the public, through its official department website,  
26 information regarding:

27 (1) the ownership of each long-term care facility and adult day  
28 health services facility licensed by the department; and

29 (2) any violation of statutory standards or rules and regulations  
30 of the department pertaining to the care of patients or physical plant  
31 standards found at any such facility by the department.

32 b. The information made available to the public pursuant to  
33 subsection a. of this section shall be provided in a manner that  
34 would enable a member of the public to search the website by name  
35 of a facility or its owner in order to access the information. The  
36 department shall also make the information available in writing,  
37 upon request.

38 c. The information regarding the ownership of a long-term care  
39 or adult day health services facility that is made available to the  
40 public pursuant to subsection a. of this section shall provide, at a  
41 minimum: the name of the owner of a facility as listed on the  
42 facility's license and, if there is more than one owner or the facility  
43 is owned by a corporation, the name of each person who holds at  
44 least a 10% interest in the facility; the name of any other licensed  
45 long-term care or adult day health services facility in the State  
46 owned by this owner, corporation, and each person who holds at  
47 least a 10% interest in the facility, as applicable; and the address  
48 and contact information for the facility.



1 d. The information that is displayed on the official department  
2 website pursuant to subsection a. of this section shall include  
3 Internet web links to the New Jersey Report Card for Nursing  
4 Homes maintained by the department and the Medicare Nursing  
5 Home Compare database maintained by the federal Centers for  
6 Medicare & Medicaid Services.  
7 (cf: P.L.2007, c.65, s.1)

8  
9 198. Section 1 of P.L.2007, c.74 (C.26:2H-12.34) is amended to  
10 read as follows:

11 1. a. (1) As a condition of serving as a member of the board of  
12 trustees of a general hospital licensed pursuant to P.L.1971, c.136  
13 (C.26:2H-1 et al.), a person shall be required to complete a training  
14 program approved by the Commissioner of Health [and Senior  
15 Services] that is designed to clarify the roles and duties of a  
16 hospital trustee and is at least one day in length.

17 (2) The training shall be completed no later than six months  
18 after the date that the person is appointed as a member of the board,  
19 except that a person who is appointed as a member of a hospital  
20 board of trustees on or after the date of enactment of this act but  
21 prior to the effective date thereof shall complete the training no  
22 later than six months after the effective date.

23 (3) A person who was appointed as a member of a hospital  
24 board of trustees prior to the date of enactment of P.L.2007, c.74  
25 shall complete the training no later than six months after the  
26 effective date of P.L.2008, c.57.

27 b. The commissioner shall, in consultation with the New Jersey  
28 Hospital Association, the Hospital Alliance of New Jersey, and the  
29 New Jersey Council of Teaching Hospitals:

30 (1) prescribe the subject matter of the training, which shall  
31 include, but need not be limited to, a review of the types of  
32 financial, organizational, legal, regulatory, and ethical issues that a  
33 hospital trustee may be required to consider in the course of  
34 discharging the trustee's governance responsibilities;

35 (2) arrange for, or specify, the entity or entities to provide the  
36 training;

37 (3) specify the timeframe within which the training is to be  
38 completed;

39 (4) certify completion of the training for each trustee upon  
40 receipt of documentation thereof, as provided on a form and in a  
41 manner prescribed by the commissioner, or otherwise arrange for  
42 certification by the training entity; and

43 (5) take such other actions as the commissioner determines  
44 appropriate to effectuate the purposes of this act.

45 (cf: P.L.2008, c.57, s.1)

46  
47 199. Section 2 of P.L.2007, c.120 (C.26:2H-12.36) is amended  
48 to read as follows:

1       2. a. Within one month after the effective date of this act, all  
2 general hospitals licensed by the Department of Health [and Senior  
3 Services] pursuant to P.L.1971, c.136 (C.26:2H-1 et al.) shall  
4 implement an infection prevention program in their intensive care  
5 unit or units, as applicable, and if the hospital has no intensive care  
6 unit, then in another high-risk unit such as a surgical unit, or other  
7 unit where there is significant risk of facility-acquired infections.

8       Ultimately, the hospital shall expand the infection prevention  
9 program to all areas of the hospital, with the exception of an  
10 inpatient psychiatric unit, if applicable. The expansion of the  
11 infection prevention program shall be completed as quickly as  
12 feasible, taking into account the hospital's patient population,  
13 physical plant, and other facility-specific circumstances.

14       b. In addition to any other best practices and effective  
15 strategies, the hospital shall incorporate the following strategies:

16       (1) identification and isolation of both colonized and infected  
17 patients by screening patients upon admission in order to break the  
18 chain of transmission;

19       (2) contact precautions for patients found to be MRSA positive,  
20 as "contact precautions" is defined by the Centers for Disease  
21 Control and Prevention;

22       (3) patient cultures for MRSA upon discharge or transfer from  
23 the unit where the infection prevention program has been  
24 implemented, and flagging of patients who are readmitted to the  
25 hospital;

26       (4) strict adherence to hygiene guidelines;

27       (5) a written infections prevention and control policy with input  
28 from frontline caregivers; and

29       (6) a worker education requirement regarding modes of  
30 transmission of MRSA, use of protective equipment, disinfection  
31 policies and procedures, and other preventive measures.

32       c. A general hospital shall report to the Department of Health  
33 [and Senior Services], in a manner and according to a schedule  
34 prescribed by the Commissioner of Health [and Senior Services],  
35 the number of cases of hospital-acquired MRSA that occur in its  
36 facility.

37 (cf: P.L.2007, c.120, s.2)

38  
39       200. Section 3 of P.L.2007, c.120 (C.26:2H-12.37) is amended  
40 to read as follows:

41       3. A general hospital that is in violation of the provisions of  
42 this act shall be subject to such penalties as the Commissioner of  
43 Health [and Senior Services] may determine pursuant to sections  
44 13 and 14 of P.L.1971, c.136 (C.26:2H-13 and 26:2H-14).

45 (cf: P.L.2007, c.20, s.3)

- 1       201. Section 2 of P.L.2007, c.196 (C.26:2H-12.40) is amended  
2 to read as follows:
- 3       2. The Legislature finds and declares:
- 4       a. Health care facility-associated infections constitute a major  
5 public health problem in this country, affecting from 5% to 10% of  
6 hospitalized patients annually, resulting in an estimated two million  
7 infections, and 90,000 deaths, and adding an estimated \$4.5 to \$5.7  
8 billion in health care costs;
- 9       b. Many health care facility-associated infections can be  
10 prevented, and a goal of zero health care facility-associated  
11 infections is desirable. There are many simple and effective  
12 practices in hospitals that can dramatically reduce the incidence of  
13 health care facility-associated infections, such as hand washing,  
14 using gloves and properly sterilized equipment, and following the  
15 same established best practices, every time, for procedures such as  
16 the insertion of an intravenous tube to deliver fluids and  
17 medication;
- 18       c. The uniform reporting of health care facility-associated  
19 infections to the State, and the review and analysis of this data by  
20 the Department of Health **[and Senior Services]**, will provide a  
21 measurable means to assist hospitals in improving patient  
22 outcomes;
- 23       d. The federal Centers for Disease Control and Prevention  
24 recommends that states establishing public reporting systems for  
25 health care facility-associated infections focus on major site  
26 categories to report rates of health care facility-associated infections  
27 related to procedures and conditions including, but not limited to,  
28 urinary tract infections, surgical site infections, ventilator-  
29 associated pneumonia, and central line-related bloodstream  
30 infections. A focus on major site categories helps ensure that data  
31 collection is concentrated in populations where health care facility-  
32 associated infections are more prevalent, and that the infection rates  
33 reported are most useful for targeting prevention practices and  
34 making comparisons among hospitals and within hospitals, over  
35 time;
- 36       e. The Department of Health **[and Senior Services]** currently  
37 provides comparative hospital performance data in its annual New  
38 Jersey Hospital Performance Report, and including information  
39 about hospital infection rates will further enhance the value of the  
40 report to the public and health care providers; and
- 41       f. Therefore, it is a matter of public health and fiscal policy  
42 that patients in New Jersey's hospitals receive health care that  
43 incorporates best practices in infection control, not only to protect  
44 their health and lives, but also to ensure the economic viability of  
45 New Jersey's hospitals.
- 46 (cf: P.L.2007, c.196, s.2)

1       202. Section 3 of P.L.2007, c.196 (C.26:2H-12.41) is amended  
2 to read as follows:

3       3. A general hospital licensed pursuant to P.L.1971, c.136  
4 (C.26:2H-1 et al.) shall be required to report quarterly to the  
5 Department of Health **【and Senior Services】**, in a form and manner  
6 prescribed by the Commissioner of Health **【and Senior Services】**:

7       a. process quality indicators of hospital infection control that  
8 have been identified by the federal Centers for Medicare **【and】** &  
9 Medicaid Services, as selected by the commissioner in consultation  
10 with the Quality Improvement Advisory Committee within the  
11 department; and

12       b. beginning 30 days after the adoption of regulations pursuant  
13 to this act, data on infection rates for the major site categories that  
14 define health care facility-associated infection locations, multiple  
15 infections, and device-related and non-device related infections,  
16 identified by the federal Centers for Disease Control and  
17 Prevention, as selected by the commissioner in consultation with  
18 the Quality Improvement Advisory Committee within the  
19 department.

20 (cf: P.L.2011, c.42, s.1)

21

22       203. Section 5 of P.L.2007, c.196 (C.26:2H-12.43) is amended  
23 to read as follows:

24       5. The commissioner shall make available to members of the  
25 public, on the official Internet website of the Department of Health  
26 **【and Senior Services】**, the information reported pursuant to this act,  
27 in such a format as the commissioner deems appropriate to enable  
28 comparison among hospitals, with respect to the information, and  
29 shall include information in the New Jersey Hospital Performance  
30 Report annually issued by the commissioner that measures the  
31 performance of general hospitals in the State with respect to process  
32 quality indicators and health care facility-associated infection  
33 among patients.

34 (cf: P.L.2007, c.196, s.5)

35

36       204. Section 3 of P.L.2007, c.247 (C.26:2H-12.48) is amended  
37 to read as follows:

38       3. A health care professional shall provide to each patient to  
39 whom that individual is providing prenatal care, as early as  
40 practicable in the health care professional's therapeutic relationship  
41 with the patient, preferably in the first trimester, a copy of the  
42 brochure prepared by the Division of Family Health Services in the  
43 Department of Health **【and Senior Services】** that may be  
44 downloaded from the website of the department, which is designed  
45 to answer common questions about umbilical cord and placental  
46 blood donation and storage, including the NMDP-affiliated public  
47 umbilical cord blood bank and private umbilical cord blood bank

1 options and the differences between and benefits of these options.  
 2 The health care professional shall offer to discuss the information  
 3 contained in the brochure with the patient.

4 (cf: P.L.2007, c.247, s.3)

5

6 205. Section 2 of P.L.2008, c.59 (C.26:2H-12.51) is amended to  
 7 read as follows:

8 2. The Department of Health **【and Senior Services】** shall post  
 9 the notice of a hospital's annual public meeting on the department's  
 10 website.

11 (cf: P.L.2008, c.59, s.2)

12

13 206. Section 1 of P.L.2008, c.60 (C.26:2H-12.52) is amended to  
 14 read as follows:

15 1. A hospital licensed by the Department of Health **【and Senior**  
 16 **Services】** pursuant to P.L.1971, c.136 (C.26:2H-1 et al.) shall  
 17 charge a patient who is an uninsured resident of this State, and  
 18 whose family gross income is less than 500% of the federal poverty  
 19 level, an amount no greater than 115% of the applicable payment  
 20 rate under the federal Medicare program, established pursuant to  
 21 Pub.L.89-97 (42 U.S.C.s.1395 et seq.), for the health care services  
 22 rendered to the patient. The amount shall be in accordance with the  
 23 sliding scale based on income developed by the department  
 24 pursuant to this act.

25 (cf: P.L.2008, c.60, s.1)

26

27 207. Section 2 of P.L.2008, c.60 (C.26:2H-12.53) is amended to  
 28 read as follows:

29 2. The Department of Health **【and Senior Services】** shall  
 30 establish a sliding scale based on income which stipulates the  
 31 percentage of a hospital charge that an uninsured resident of this  
 32 State whose family gross income is less than 500% of the federal  
 33 poverty level is required to pay for health care services rendered at  
 34 a hospital.

35 (cf: P.L.2008, c.60, s.2)

36

37 208. Section 2 of P.L.2009, c.61 (C.26:2H-12.57) is amended to  
 38 read as follows:

39 2. The Department of Health **【and Senior Services】**, in  
 40 consultation with the Division of Medical Assistance and Health  
 41 Services in the Department of Human Services, shall prepare a  
 42 written informational sheet for assisted living facilities that explains  
 43 eligibility for participation in a federally approved 1915(c)  
 44 Medicaid waiver program that provides assisted living services.  
 45 The informational sheets shall be available on the website of the  
 46 Department of Health **【and Senior Services】** and shall be updated

1 by the Department of Health **【and Senior Services】** as necessary to  
2 reflect a change in eligibility for the programs.

3 (cf: P.L.2009, c.61, s.2)

4  
5 209. Section 3 of P.L.2009, c.61 (C.26:2H-12.58) is amended to  
6 read as follows:

7 3. The Department of Health **【and Senior Services】** shall  
8 distribute the applicable informational sheets, prepared and updated  
9 pursuant to section 2 of this act, to all licensed assisted living  
10 facilities in the State.

11 (cf: P.L.2009, c.61, s.3)

12  
13 210. Section 1 of P.L.2010, c.61 (C.26:2H-12.59) is amended to  
14 read as follows:

15 1. a. The Commissioner of Health **【and Senior Services】** shall  
16 prepare an online brochure for display on the Internet website of the  
17 Department of Health **【and Senior Services】**, based upon  
18 information derived from the National Marrow Donor Program, or  
19 NMDP, which may be downloaded by physicians and utilized by  
20 the commissioner for the purposes of subsection c. of this section,  
21 and shall be designed to inform patients of the option to become a  
22 bone marrow or peripheral blood stem cell, or PBSC, donor by  
23 registering with the NMDP and to answer common questions about  
24 bone marrow and peripheral blood stem cell, or PBSC, donation.

25 b. The brochure shall describe:

26 (1) the health benefits to the community from making a bone  
27 marrow or PBSC donation through the NMDP;

28 (2) how to register with the NMDP;

29 (3) the procedures for making a bone marrow or PBSC donation  
30 through the NMDP, including notice that there is no charge to the  
31 donor or the donor's family for making the donation;

32 (4) the circumstances and procedures by which a patient may  
33 receive a transfusion of the patient's previously donated blood; and

34 (5) any other aspects of bone marrow or PBSC donation that the  
35 commissioner deems appropriate for the purposes of this act.

36 c. The commissioner, within the limits of resources available to  
37 the Department of Health **【and Senior Services】** for this purpose,  
38 shall seek to promote awareness among physicians and the general  
39 public in this State about the option to become a bone marrow or  
40 PBSC donor. In doing so, the commissioner shall consult with at  
41 least the following: the Medical Society of New Jersey, the Institute  
42 of Medicine and Public Health of New Jersey, the NMDP, and other  
43 organizations that are seeking to increase bone marrow and PBSC  
44 donation among various ethnic groups within the State in need of  
45 these donations.

46 (cf: P.L.2010, c.61, s.1)

1       211. Section 1 of P.L.2011, c.16 (C.26:2H-12.61) is amended to  
2 read as follows:

3       1. a. If a facility licensed to operate as an assisted living  
4 residence or comprehensive personal care home pursuant to  
5 P.L.1971, c.136 (C.26:2H-1 et seq.) opts to surrender its license and  
6 has promised a resident of the facility or the resident's responsible  
7 party, in writing through a resident agreement or other instrument,  
8 or through a condition of licensure or certificate of need with the  
9 Department of Health **[and Senior Services]**, that it will not  
10 discharge a resident who becomes Medicaid-eligible, as that term is  
11 defined in section 1 of P.L.2001, c.234 (C.26:2H-12.16), the facility  
12 shall escrow sufficient funds, as determined by the Commissioner  
13 of Health **[and Senior Services]**, to cover the cost of providing  
14 **[such]** a resident with care in an alternate State-licensed assisted  
15 living residence or comprehensive personal care home for as long as  
16 the resident shall require **[such]** care.

17       b. The facility shall cover any costs necessary to utilize **[such]**  
18 actuarial services as the Department of Health **[and Senior**  
19 **Services]** may require to determine the amount to be escrowed  
20 pursuant to subsection a. of this section.

21       c. In the event of a facility bankruptcy, any monies left over  
22 after all creditors have been paid shall be used, to the maximum  
23 extent practicable, to cover the cost of care provided to a resident in  
24 an alternate State-licensed assisted living residence or  
25 comprehensive personal care home pursuant to subsection a. of this  
26 section.

27 (cf: P.L.2011, c.16, s.1)

28

29       212. Section 7 of P.L.2007, c.225 (C.26:2H-14.14) is amended  
30 to read as follows:

31       7. A covered health care facility licensed pursuant to P.L.1971,  
32 c.136 (C.26:2H-1 et al.) that is in violation of the provisions of this  
33 act shall be subject to such penalties as the Department of Health  
34 **[and Senior Services]** may determine pursuant to sections 13 and  
35 14 of P.L.1971, c.136 (C.26:2H-13 and 26:2H-14).

36 (cf: P.L.2007, c.225, s.7)

37

38       213. Section 8 of P.L.2007, c.225, s.8 (C.26:2H-14.15) is  
39 amended to read as follows:

40       8. The Commissioner of Health **[and Senior Services]** shall  
41 adopt rules and regulations pursuant to the "Administrative  
42 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), within 12  
43 months of the date of enactment of this act, to carry out the  
44 purposes of this act.

45 (cf: P.L.2007, c.225, s.8)

1       214. Section 3 of P.L.1987, c.299 (C.26:2H-18c) is amended to  
2 read as follows:

3       3. a. The Commissioner of Health **【and Senior Services】**, subject  
4 to the provisions of subsection b. of this section, shall designate  
5 Cooper University Hospital in the City of Camden as the State's  
6 specialty acute care children's hospital in southern New Jersey for  
7 the counties of Atlantic, Burlington, Camden, Cape May,  
8 Cumberland, Gloucester, and Salem.

9       b. The designation by the Commissioner of Health **【and Senior**  
10 **Services】** pursuant to subsection a. of this section shall be made  
11 subsequent to, and shall be contingent upon, the execution of a  
12 written agreement between Cooper University Hospital and a  
13 majority of the acute care hospitals providing inpatient pediatric  
14 services which are located in the counties listed in subsection a. of  
15 this section.

16       The written agreement shall state that the other facility  
17 recognizes Cooper University Hospital as the State's specialty acute  
18 care children's hospital for the counties listed in subsection a. of  
19 this section and shall set forth the basis on which the other facility  
20 shall make referrals to Cooper University Hospital.

21 (cf: P.L.2005, c.116, s.2)

22

23       215. Section 1 of P.L.1992, c.181 (C.26:2H-18d) is amended to  
24 read as follows:

25       1. a. The Commissioner of Health **【and Senior Services】**, subject  
26 to the provisions of subsection b. of this section, shall designate  
27 Robert Wood Johnson University Hospital/St. Peter's University  
28 Hospital in the City of New Brunswick as the State's specialty acute  
29 care children's hospital in central New Jersey for the counties of  
30 Hunterdon, Mercer, Middlesex, and Somerset.

31       b. The designation by the Commissioner of Health **【and Senior**  
32 **Services】** pursuant to subsection a. of this section shall be made  
33 subsequent to, and shall be contingent upon, the execution of a  
34 written agreement between Robert Wood Johnson University  
35 Hospital/St. Peter's University Hospital and a majority of the acute  
36 care hospitals providing inpatient pediatric services which are  
37 located in the counties listed in subsection a. of this section.

38       The written agreement shall state that the other facility  
39 recognizes Robert Wood Johnson University Hospital/St. Peter's  
40 University Hospital as the State's specialty acute care children's  
41 hospital for the counties listed in subsection a. of this section and  
42 shall set forth the basis on which the other facility shall make  
43 referrals to Robert Wood Johnson University Hospital/St. Peter's  
44 University Hospital.

45 (cf: P.L.2005, c.116, s.3)



1       216. Section 1 of P.L.1993, c.374 (C.26:2H-18e) is amended to  
2 read as follows:

3       1. a. The Commissioner of Health **[and Senior Services]**, subject  
4 to the provisions of subsection b. of this section, shall designate St.  
5 Joseph's Hospital and Medical Center in the City of Paterson as the  
6 State's specialty acute care children's hospital for the counties of  
7 Bergen, Passaic, Sussex, and Warren.

8       b. The designation by the Commissioner of Health **[and Senior**  
9 **Services]** pursuant to subsection a. of this section shall be made  
10 subsequent to, and shall be contingent upon, the execution of a  
11 written agreement between St. Joseph's Hospital and Medical  
12 Center and a majority of the acute care hospitals providing inpatient  
13 pediatric services which are located in the counties listed in  
14 subsection a. of this section.

15       The written agreement shall state that the other facility  
16 recognizes St. Joseph's Hospital and Medical Center as the State's  
17 specialty acute care children's hospital for the counties listed in  
18 subsection a. of this section and shall set forth the basis on which  
19 the other facility shall make referrals to St. Joseph's Hospital and  
20 Medical Center.

21 (cf: P.L.2003, c.98, s.3)

22

23       217. Section 2 of P.L.2003, c.98 (C.26:2H-18f) is amended to  
24 read as follows:

25       2. a. The Commissioner of Health **[and Senior Services]**,  
26 subject to the provisions of subsection b. of this section, shall  
27 designate Morristown Memorial Hospital as the State's specialty  
28 acute care children's hospital for Morris and Union counties.

29       b. The designation by the Commissioner of Health **[and Senior**  
30 **Services]** pursuant to subsection a. of this section shall be made  
31 subsequent to, and shall be contingent upon, the execution of  
32 written transfer agreements between Morristown Memorial Hospital  
33 and a majority of the acute care hospitals providing inpatient  
34 pediatric services which are located in Morris and Union counties.

35       The written agreement shall state that the other facility  
36 recognizes Morristown Memorial Hospital as the State's specialty  
37 acute care children's hospital for Morris and Union counties and  
38 shall set forth the basis on which the other facility shall make  
39 referrals to Morristown Memorial Hospital.

40 (cf: P.L.2003, c.98, s.2)

41

42       218. Section 1 of P.L.2005, c.116 (C.26:2H-18g) is amended to  
43 read as follows:

44       1. a. The Commissioner of Health **[and Senior Services]**, subject  
45 to the provisions of subsection b. of this section, shall designate  
46 Jersey Shore University Medical Center and Monmouth Medical  
47 Center, each, as the State's specialty acute care children's hospitals

1 for Monmouth and Ocean counties, subject to the commissioner's  
2 determination that each hospital meets all of the licensure criteria  
3 that apply to a children's hospital and has met and complied with all  
4 of the requirements to obtain State authorization to offer the  
5 component services that constitute a children's hospital. The  
6 commissioner's determination and the designation pursuant thereto  
7 shall be made separately for each hospital; and the commissioner's  
8 decision on the designation of each hospital shall be made  
9 independently of, and shall not be contingent upon, the decision on  
10 the designation of the other hospital.

11 b. The designation of each hospital by the Commissioner of  
12 Health [and Senior Services] pursuant to subsection a. of this  
13 section shall be made subsequent to, and shall be contingent upon,  
14 the execution of written transfer agreements, respectively, between:  
15 Jersey Shore University Medical Center and a majority of the acute  
16 care hospitals providing inpatient pediatric services located in  
17 Monmouth and Ocean counties; and Monmouth Medical Center and  
18 a majority of the acute care hospitals providing inpatient pediatric  
19 services located in Monmouth and Ocean counties.

20 The written agreement shall state that the other facility  
21 recognizes Jersey Shore University Medical Center and Monmouth  
22 Medical Center, as applicable, as the State's specialty acute care  
23 children's hospitals for Monmouth and Ocean counties and shall set  
24 forth the basis on which the other facility shall make referrals to  
25 Jersey Shore University Medical Center or Monmouth Medical  
26 Center, as applicable.

27 (cf: P.L.2005, c.116, s.1)

28

29 219. Section 1 of P.L.2011, c.208 (C.26:2H-18h) is amended to  
30 read as follows:

31 1. a. The Commissioner of Health [and Senior Services] may  
32 issue a nursing facility license for a facility that provides care for  
33 Huntington's Disease.

34 b. The commissioner, pursuant to the "Administrative  
35 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), may adopt  
36 rules and regulations to effectuate the purposes of this act.

37 (cf: P.L.2011, c.208, s.1)

38

39 220. Section 2 of P.L.1992, c.160 (C.26:2H-18.52) is amended  
40 to read as follows:

41 2. As used in sections 1 through 17 of P.L.1992, c.160  
42 (C.26:2H-18.51 through 26:2H-18.67), sections 12 through 15 of  
43 P.L.1995, c.133 (C.26:2H-18.59a through C.26:2H-18.59d),  
44 sections 7 through 12 of P.L.1996, c.28 (C.26:2H-18.59e et al.) and  
45 sections 6, 8, 10 and 11 of P.L.1997, c.263 (C.26:2H-18.58e,  
46 C.26:2H-18.58f, C.26:2H-18.58d and C.26:2H-18.59h):

47 "Administrator" means the administrator of the Health Care  
48 Subsidy Fund appointed by the commissioner.

1 "Charity care" means care provided at disproportionate share  
2 hospitals that may be eligible for a charity care subsidy pursuant to  
3 this act.

4 "Charity care subsidy" means the component of the  
5 disproportionate share payment that is attributable to care provided  
6 at a disproportionate share hospital to persons unable to pay for that  
7 care, as provided in this act.

8 "Commission" means the New Jersey Essential Health Services  
9 Commission established pursuant to section 4 of this act.

10 "Commissioner" means the Commissioner of Health [and Senior  
11 Services].

12 "Department" means the Department of Health [and Senior  
13 Services].

14 "Disproportionate share hospital" means a hospital designated by  
15 the Commissioner of Human Services pursuant to Pub.L.89-97 (42  
16 U.S.C. s.1396a et seq.) and Pub.L.102-234.

17 "Disproportionate share payment" means those payments made  
18 by the Division of Medical Assistance and Health Services in the  
19 Department of Human Services to hospitals defined as  
20 disproportionate share hospitals by the Commissioner of Human  
21 Services in accordance with federal laws and regulations applicable  
22 to hospitals serving a disproportionate number of low income  
23 patients.

24 "Fund" means the Health Care Subsidy Fund established  
25 pursuant to section 8 of this act.

26 "Hospital" means an acute care hospital licensed by the  
27 Department of Health [and Senior Services] pursuant to P.L.1971,  
28 c.136 (C.26:2H-1 et al.).

29 "Medicaid" means the New Jersey Medical Assistance and  
30 Health Services Program in the Department of Human Services  
31 established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).

32 "Medicare" means the program established pursuant to Pub.L.89-  
33 97 (42 U.S.C. s.1395 et seq.).  
34 (cf: P.L.1997, c.263, s.1)

35  
36 221. Section 2 of P.L.2006, c.87 (C.26:2H-18.55a) is amended  
37 to read as follows:

38 2. a. The Commissioner of Health [and Senior Services] shall  
39 compile, to the extent data are available, the following information  
40 about recipients of charity care who are employed:

- 41 (1) the employer's name and address;
- 42 (2) the number of recipients of charity care who are employed  
43 by the employer; and
- 44 (3) the cost to the State of providing charity care for the  
45 employer's employees and their dependents.

46 b. In order to compile the information required pursuant to this  
47 section, the commissioner may require hospitals and other health

1 care facilities to submit such information as may be necessary for  
2 this purpose.

3 c. The commissioner may include comparable information  
4 about recipients of other public health care coverage programs, and  
5 **[such]** other information as the commissioner deems appropriate  
6 regarding employer-based coverage for persons covered under  
7 public insurance programs.

8 d. The information compiled by the commissioner shall not  
9 include the name of any charity care recipient or any family  
10 member of a recipient.

11 e. The commissioner shall provide the information required  
12 pursuant to this section to the Commissioner of Human Services for  
13 inclusion in the annual report on Access to Employer-Based Health  
14 Insurance, as provided in section 1 of P.L.2006, c.87 (C.30:4J-17).  
15 (cf: P.L.2006, c.87, s.2)

16  
17 222. Section 7 of P.L.1992, c.160 (C.26:2H-18.57) is amended  
18 to read as follows:

19 7. a. Effective January 1, 1994, the Department of Health **[and**  
20 **Senior Services]** shall assess each hospital a per adjusted admission  
21 charge of **[\$10.00]** \$10.

22 Of the revenues raised by the hospital per adjusted admission  
23 charge, **[\$5.00]** \$5 per adjusted admission shall be used by the  
24 department to carry out its duties pursuant to P.L.1992, c.160  
25 (C.26:2H-18.51 et al.) and **[\$5.00]** \$5 per adjusted admission shall  
26 be used by the department for administrative costs related to health  
27 planning.

28 b. Effective July 1, 2004, the department shall assess each  
29 licensed ambulatory care facility that is licensed to provide one or  
30 more of the following ambulatory care services: ambulatory  
31 surgery, computerized axial tomography, comprehensive outpatient  
32 rehabilitation, extracorporeal shock wave lithotripsy, magnetic  
33 resonance imaging, megavoltage radiation oncology, positron  
34 emission tomography, orthotripsy, and sleep disorder services. The  
35 Commissioner of Health **[and Senior Services]** may, by regulation,  
36 add additional categories of ambulatory care services that shall be  
37 subject to the assessment if such services are added to the list of  
38 services provided in N.J.A.C.8:43A-2.2(b) after the effective date  
39 of P.L.2004, c.54.

40 The assessment established in this subsection shall not apply to  
41 an ambulatory care facility that is licensed to a hospital in this State  
42 as an off-site ambulatory care service facility.

43 (1) For Fiscal Year 2005, the assessment on an ambulatory care  
44 facility providing one or more of the services listed in this  
45 subsection shall be based on gross receipts for the 2003 tax year as  
46 follows:

1 (a) a facility with less than \$300,000 in gross receipts shall not  
2 pay an assessment; and

3 (b) a facility with at least \$300,000 in gross receipts shall pay an  
4 assessment equal to 3.5% of its gross receipts or \$200,000,  
5 whichever amount is less.

6 The commissioner shall provide notice no later than August 15,  
7 2004 to all facilities that are subject to the assessment that the first  
8 payment of the assessment is due October 1, 2004 and that proof of  
9 gross receipts for the facility's tax year ending in calendar year 2003  
10 shall be provided by the facility to the commissioner no later than  
11 September 15, 2004. If a facility fails to provide proof of gross  
12 receipts by September 15, 2004, the facility shall be assessed the  
13 maximum rate of \$200,000 for Fiscal Year 2005.

14 The Fiscal Year 2005 assessment shall be payable to the  
15 department in four installments, with payments due October 1,  
16 2004, January 1, 2005, March 15, 2005 and June 15, 2005.

17 (2) For Fiscal Year 2006, the commissioner shall use the  
18 calendar year 2004 data submitted in accordance with subsection c.  
19 of this section to calculate a uniform gross receipts assessment rate  
20 for each facility with gross receipts over \$300,000 that is subject to  
21 the assessment, except that no facility shall pay an assessment  
22 greater than \$200,000. The rate shall be calculated so as to raise the  
23 same amount in the aggregate as was assessed in Fiscal Year 2005.  
24 A facility shall pay its assessment to the department in four  
25 payments in accordance with a timetable prescribed by the  
26 commissioner.

27 (3) Beginning in Fiscal Year 2007 and for each fiscal year  
28 thereafter through Fiscal Year 2010, the uniform gross receipts  
29 assessment rate calculated in accordance with paragraph (2) of this  
30 subsection shall be applied to each facility subject to the assessment  
31 with gross receipts over \$300,000, as those gross receipts are  
32 documented in the facility's most recent annual report to the  
33 department, except that no facility shall pay an assessment greater  
34 than \$200,000. A facility shall pay its annual assessment to the  
35 department in four payments in accordance with a timetable  
36 prescribed by the commissioner.

37 (4) Beginning in Fiscal Year 2011 and for each fiscal year  
38 thereafter, the uniform gross receipts assessment shall be applied at  
39 the rate of 2.95% to each facility subject to the assessment with  
40 gross receipts over \$300,000, as those gross receipts are  
41 documented in the facility's most recent annual report submitted to  
42 the department pursuant to subsection c. of this section, except that  
43 no facility shall pay an assessment greater than \$350,000. A  
44 facility shall pay its annual assessment to the department in four  
45 payments in accordance with a timetable prescribed by the  
46 commissioner.

47 c. Each ambulatory care facility that is subject to the  
48 assessment provided in subsection b. of this section shall submit an

1 annual report including, at a minimum, data on volume of patient  
2 visits, charges, and gross revenues, by payer type, for patient  
3 services, beginning with calendar year 2004 data. The annual  
4 report shall be submitted to the department according to a timetable  
5 and in a form and manner prescribed by the commissioner.

6 The department may audit selected annual reports in order to  
7 determine their accuracy.

8 d. (1) If, upon audit as provided for in subsection c. of this  
9 section, it is determined that an ambulatory care facility understated  
10 its gross receipts in its annual report to the department, the facility's  
11 assessment for the fiscal year that was based on the defective report  
12 shall be retroactively increased to the appropriate amount and the  
13 facility shall be liable for a penalty in the amount of the difference  
14 between the original and corrected assessment.

15 (2) A facility that fails to provide the information required  
16 pursuant to subsection c. of this section shall be liable for a civil  
17 penalty not to exceed \$500 for each day in which the facility is not  
18 in compliance.

19 (3) A facility that is operating one or more of the ambulatory  
20 care services listed in subsection b. of this section without a license  
21 from the department, on or after July 1, 2004, shall be liable for  
22 double the amount of the assessment provided for in subsection b.  
23 of this section, in addition to such other penalties as the department  
24 may impose for operating an ambulatory care facility without a  
25 license.

26 (4) The commissioner shall recover any penalties provided for  
27 in this subsection in an administrative proceeding in accordance  
28 with the "Administrative Procedure Act," P.L.1968, c.410  
29 (C.52:14B-1 et seq.).

30 e. The revenues raised by the ambulatory care facility  
31 assessment pursuant to this section shall be deposited in the Health  
32 Care Subsidy Fund established pursuant to section 8 of P.L.1992,  
33 c.160 (C.26:2H-18.58).  
34 (cf: P.L.2010, c.23, s.1)

35  
36 223. Section 8 of P.L.1992, c.160 (C.26:2H-18.58) is amended  
37 to read as follows:

38 8. There is established the Health Care Subsidy Fund in the  
39 Department of Health **and Senior Services**.

40 a. The fund shall be comprised of revenues from employee and  
41 employer contributions made pursuant to section 29 of P.L.1992,  
42 c.160 (C.43:21-7b), revenues from the hospital assessment made  
43 pursuant to section 12 of P.L.1992, c.160 (C.26:2H-18.62),  
44 revenues pursuant to section 11 of P.L.1996, c.28 (C.26:2H-  
45 18.58c), revenues from interest and penalties collected pursuant to  
46 this act and revenues from **[such]** other sources as the Legislature  
47 shall determine. Interest earned on the monies in the fund shall be  
48 credited to the fund. The fund shall be a nonlapsing fund dedicated

1 for use by the State to: (1) distribute charity care and other  
2 uncompensated care disproportionate share payments to hospitals,  
3 and other eligible providers pursuant to section 8 of P.L.1996, c.28  
4 (C.26:2H-18.59f), provide subsidies for the Health Access New  
5 Jersey program established pursuant to section 15 of P.L.1992,  
6 c.160 (C.26:2H-18.65), and provide funding for children's health  
7 care coverage in the NJ FamilyCare Program pursuant to  
8 **[P.L.1997, c.272 (C.30:4I-1 et seq.)]** P.L.2005, c.156 (C.30:4J-8 et  
9 al.); (2) provide funding for federally qualified health centers  
10 pursuant to section 12 of P.L.1992, c.160 (C.26:2H-18.62); and (3)  
11 provide for the payment in State fiscal year 2002 of appropriate  
12 Medicaid expenses, subject to the approval of the Director of the  
13 Division of Budget and Accounting.

14 b. The fund shall be administered by a person appointed by the  
15 commissioner.

16 The administrator of the fund is responsible for overseeing and  
17 coordinating the collection and reimbursement of fund monies. The  
18 administrator is responsible for promptly informing the  
19 commissioner if monies are not or are not reasonably expected to be  
20 collected or disbursed.

21 c. The commissioner shall adopt rules and regulations to ensure  
22 the integrity of the fund, pursuant to the "Administrative Procedure  
23 Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

24 d. The administrator shall establish separate accounts for the  
25 charity care component of the disproportionate share hospital  
26 subsidy, other uncompensated care component of the  
27 disproportionate share hospital subsidy, federally qualified health  
28 centers funding, and the payments for subsidies for insurance  
29 premiums to provide care in disproportionate share hospitals,  
30 known as the Health Access New Jersey subsidy account,  
31 respectively.

32 e. In the event that the charity care component of the  
33 disproportionate share hospital subsidy account has a surplus in a  
34 given year after payments are distributed pursuant to the  
35 methodology established in section 13 of P.L.1995, c.133 (C.26:2H-  
36 18.59b) and section 7 of P.L.1996, c.28 (C.26:2H-18.59e) and  
37 within the limitations provided in subsection e. of section 9 of  
38 P.L.1992, c.160 (C.26:2H-18.59), the surplus monies in calendar  
39 years 2002, 2003 and 2004 shall lapse to the unemployment  
40 compensation fund established pursuant to R.S.43:21-9, and each  
41 year thereafter shall lapse to the charity care component of the  
42 disproportionate share hospital subsidy account for distribution in  
43 subsequent years.

44 (cf: P.L.2005, c.237, s.1)

45

46 224. Section 6 of P.L.1997, c.263 (C.26:2H-18.58e) is amended  
47 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 in  
4 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:

$$\begin{aligned} & \text{Hospital Specific Approved Uncompensated Care-1991} \\ & \hline & \text{Hospital Specific Preliminary Cost Base-1992} \\ & = \text{Hospital Specific \% Uncompensated Care (\%UC)} \end{aligned}$$

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:

$$\begin{aligned} & \text{Hospital Specific Approved Uncompensated Care-1991} \\ & \hline & \text{Total approved Uncompensated Care All Eligible Hospitals-1991} \\ & \text{X \$500 million} \\ & = \text{Maximum Amount of Hospital Specific Charity Care Subsidy for} \\ & \text{1993} \end{aligned}$$

46  
47       (3) A hospital shall be required to submit all claims for charity  
48 care cost reimbursement, as well as demographic information about

1 the persons who qualify for charity care, to the department in a  
2 manner and time frame specified by the Commissioner of Health  
3 [and Senior Services], in order to continue to be eligible for a  
4 charity care subsidy in 1993 and in subsequent years.

5 The demographic information shall include the recipient's age,  
6 sex, marital status, employment status, type of health insurance  
7 coverage, if any, and if the recipient is a child under 18 years of age  
8 who does not have health insurance coverage or a married person  
9 who does not have health insurance coverage, whether the child's  
10 parent or the married person's spouse, as the case may be, has health  
11 insurance.

12 (4) A hospital shall be reimbursed for the cost of eligible charity  
13 care at the same rate paid to that hospital by the Medicaid program;  
14 except that charity care services provided to emergency room  
15 patients who do not require those services on an emergency basis  
16 shall be reimbursed at a rate appropriate for primary care, according  
17 to a schedule of payments developed by the commission.

18 (5) The department shall provide for an audit of a hospital's  
19 charity care for 1993 within a time frame established by the  
20 department.

21 c. For the period January 1, 1994 to December 31, 1994, a  
22 hospital shall receive disproportionate share payments from the  
23 Division of Medical Assistance and Health Services based on the  
24 amount of charity care submitted to the commission or its  
25 designated agent, in a form and manner specified by the  
26 commission. The commission or its designated agent shall review  
27 and price all charity care claims and notify the Division of Medical  
28 Assistance and Health Services of the amount it shall pay to each  
29 hospital on a monthly basis based on actual services rendered.

30 (1) (Deleted by amendment, P.L.1995, c.133.)

31 (2) If the commission is not able to fully implement the charity  
32 care claims pricing system by January 1, 1994, the commission  
33 shall continue to make provisional disproportionate share payments  
34 to eligible hospitals, through the Division of Medical Assistance  
35 and Health Services, based on the charity care costs incurred by all  
36 hospitals in 1993, until such time as the commission is able to  
37 implement the claims pricing system.

38 If there are additional charity care balances available after the  
39 1994 distribution based on 1993 charity care costs, the department  
40 shall transfer these available balances from the fund to the Division  
41 of Medical Assistance and Health Services for an approved one-  
42 time additional disproportionate share payment to hospitals  
43 according to the methodology provided in section 12 of P.L.1995,  
44 c.133 (C.26:2H-18.59a). The total payment for all hospitals shall  
45 not exceed \$75.5 million.

46 (3) A hospital shall be reimbursed for the cost of eligible charity  
47 care at the same rate paid to that hospital by the Medicaid program;  
48 except that charity care services provided to emergency room

1 patients who do not require those services on an emergency basis  
2 shall be reimbursed at a rate appropriate for primary care, according  
3 to a schedule of payments developed by the commission.

4 (4) (Deleted by amendment, P.L.1995, c.133.)

5 d. (Deleted by amendment, P.L.1995, c.133.)

6 e. The total amount allocated for charity care subsidy payments  
7 shall be: in 1994, \$450 million; in 1995, \$400 million; in 1996,  
8 \$310 million; in 1997, \$300 million; for the period January 1, 1998  
9 through June 30, 1998, \$160 million; and in fiscal year 1999 and  
10 each fiscal year thereafter through fiscal year 2004, \$320 million.  
11 Total payments to hospitals shall not exceed the amount allocated  
12 for each given year.

13 f. Beginning January 1, 1995:

14 (1) The charity care subsidy shall be determined pursuant to  
15 section 13 of P.L.1995, c.133 (C.26:2H-18.59b).

16 (2) A charity care claim shall be valued at the same rate paid to  
17 that hospital by the Medicaid program, except that charity care  
18 services provided to emergency room patients who do not require  
19 those services on an emergency basis shall be valued at a rate  
20 appropriate for primary care according to a schedule of payments  
21 adopted by the commissioner.

22 (3) The department shall provide for an audit of a hospital's  
23 charity care within a time frame established by the commissioner.

24 (cf: P.L.2004, c.113, s.1)

25

26 228. Section 9 of P.L.1996, c.28 (C.26:2H-18.59g) is amended  
27 to read as follows:

28 9. The Commissioner of Health [and Senior Services], in  
29 consultation with the State Treasurer, shall establish a technology  
30 infrastructure to support the provision of charity care pursuant to  
31 P.L.1992, c.160 (C.26:2H-18.51 et al.).

32 The State Treasurer, in consultation with the Commissioners of  
33 Health [and Senior Services] and Human Services may, if deemed  
34 to be in the State's best interests, include system features and  
35 provisions in the technology infrastructure to satisfy the  
36 requirements of multiple programs and purposes, including, but not  
37 limited to, programs such as, Medicaid, food stamps, public  
38 assistance, and purposes such as the exchange and consolidation of  
39 health care information permitted by law, eligibility and identity  
40 verification, claims processing, the use of electronic patient  
41 identification technology, and electronic data interchange.

42 (cf: P.L.1998, c.37, s.3)

43

44 229. Section 3 of P.L.2004, c.113 (C.26:2H-18.59i) is amended  
45 to read as follows:

46 3. a. Beginning July 1, 2004 and each year thereafter:

47 (1) Reimbursed documented charity care shall be equal to the  
48 Medicaid-priced amounts of charity care claims submitted to the

1 Department of Health **【and Senior Services】** for the most recent  
2 calendar year, adjusted, as necessary, to reflect the annual audit  
3 results. These amounts shall be augmented to reflect payments to  
4 hospitals by the Medicaid program for Graduate Medical Education  
5 and Indirect Medical Education based on the most recent Graduate  
6 Medical Education and Indirect Medical Education formulas  
7 utilized by the federal Medicare program.

8 (2) Hospital-specific reimbursed documented charity care shall  
9 be equal to the Medicaid-priced dollar amount of charity care  
10 provided by a hospital as submitted to the Department of Health  
11 **【and Senior Services】** for the most recent calendar year. A sample  
12 of the claims submitted by the hospital to the department shall be  
13 subject to an annual audit conducted pursuant to applicable charity  
14 care eligibility criteria.

15 b. Beginning July 1, 2004 and each year thereafter, the charity  
16 care subsidy shall be determined according to the following  
17 methodology:

18 (1) Each hospital shall be ranked in order of its hospital-  
19 specific, relative charity care percentage, or RCCP, by dividing the  
20 amount of hospital-specific gross revenue for charity care patients  
21 by the hospital's total gross revenue for all patients.

22 (2) The nine hospitals with the highest RCCPs shall receive a  
23 charity care payment equal to 96% of each hospital's hospital-  
24 specific reimbursed documented charity care. The hospital ranked  
25 number 10 shall receive a charity care payment equal to 94% of its  
26 hospital-specific reimbursed documented charity care, and each  
27 hospital ranked number 11 and below shall receive two percentage  
28 points less than the hospital ranked immediately above that hospital.

29 (3) Notwithstanding the provisions of paragraph (2) of this  
30 subsection to the contrary, each of the hospitals located in the 10  
31 municipalities in the State with the lowest median annual household  
32 income according to the most recent census data, shall be ranked  
33 from the hospital with the highest hospital-specific reimbursed  
34 documented charity care to the hospital with the lowest hospital-  
35 specific reimbursed documented charity care. The hospital in each  
36 of the 10 municipalities, if any, with the highest documented  
37 hospital-specific charity care shall receive a charity care payment  
38 equal to 96% of its hospital-specific reimbursed documented charity  
39 care.

40 (4) Notwithstanding the provisions of this subsection to the  
41 contrary, no hospital shall receive reimbursement for less than 43%  
42 of its hospital-specific reimbursed documented charity care.

43 c. To ensure that charity care subsidy payments remain viable  
44 and appropriate, the State shall maintain the charity care subsidy at  
45 an amount not less than 75% of the Medicaid-priced amounts of  
46 charity care provided by hospitals in the State. In addition, these  
47 amounts shall be augmented to reflect payments to hospitals by the  
48 Medicaid program for Graduate Medical Education and Indirect

1 Medical Education based on the most recent Graduate Medical  
2 Education and Indirect Medical Education formulas utilized by the  
3 federal Medicare program.

4 d. Notwithstanding any other provisions of this section to the  
5 contrary, in the event that the change from the charity care subsidy  
6 formula in effect for fiscal year 2004 to the formula established  
7 pursuant to this section in effect for fiscal year 2005, reduces, for  
8 any reason, the amount of the charity care subsidy payment to a  
9 hospital below the amount that the hospital received under the  
10 formula in effect in fiscal year 2004, the hospital shall receive a  
11 payment equal to the amount it would have received under the  
12 formula in effect for fiscal year 2004.

13 (cf: P.L.2004, c.113, s.3)

14  
15 230. Section 6 of P.L.2008, c.38 (C.26:2H-18.59j) is amended to  
16 read as follows:

17 6. Notwithstanding the provisions of section 3 of P.L.2004,  
18 c.113 (C.26:2H-18.59i) to the contrary, a hospital shall not submit  
19 charity care claims to the Department of Health **[and Senior**  
20 **Services]** for health care services provided to a child under 19 years  
21 of age who presents at a hospital for emergency care and who may  
22 be deemed presumptively eligible for NJ FamilyCare coverage  
23 pursuant to P.L.2005, c.156 (C.30:4J-8 et al.) or Medicaid coverage  
24 pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).

25 (cf: P.L.2008, c.38, s.6)

26  
27 231. Section 3 of P.L.2007, c.217 (C.26:2H-18.60c) is amended  
28 to read as follows:

29 3. The Commissioner of Health **[and Senior Services]** shall  
30 require the use of procedures by hospitals to ensure their uniform  
31 collection from applicants for charity care pursuant to section 10 of  
32 P.L.1992, c.160 (C.26:2H-18.60) and the transmission to the  
33 Department of Health **[and Senior Services]** of **[such]**  
34 demographic and financial information as the commissioner  
35 requires pursuant to section 14 of P.L.1995, c.133 (C.26:2H-18.59c)  
36 and any other information that the commissioner determines  
37 necessary to ensure the efficient, cost-effective operation of the  
38 hospital charity care subsidy program and to prevent and detect  
39 fraudulent charity care claims.

40 (cf: P.L.2007, c.217, s.3)

41  
42 232. Section 4 of P.L.2007, c.217 (C.26:2H-18.60d) is amended  
43 to read as follows:

44 4. a. The Commissioner of Health **[and Senior Services]** and the  
45 Medicaid Inspector General shall establish an inter-agency  
46 agreement under which the staff and resources of the Office of the  
47 Medicaid Inspector General are utilized to:

1 (1) investigate charity care claims, which that office or the  
2 Department of Health **【and Senior Services】** reasonably suspects  
3 may be fraudulent, with the same authority as that granted to the  
4 Medicaid Inspector General to investigate complaints related to  
5 Medicaid integrity, fraud, and abuse pursuant to P.L.2007, c.58  
6 (C.30:4D-53 et al.); and

7 (2) recover monies from third party payers that were paid as  
8 charity care subsidies based upon fraudulent charity care claims.

9 b. The commissioner and the Medicaid Inspector General shall  
10 take such actions as are necessary to ensure that any monies  
11 recovered pursuant to subsection a. of this section are deposited in  
12 the Health Care Subsidy Fund and used for the purposes of  
13 providing charity care subsidies pursuant to P.L.1992, c.160  
14 (C.26:2H-18.51 et al.).  
15 (cf: P.L.2007, c.217, s.4)

16  
17 233. Section 5 of P.L.2007, c.217 (C.26:2H-18.60e) is amended  
18 to read as follows:

19 5. The Commissioner of Health **【and Senior Services】** and the  
20 State Treasurer shall establish an inter-agency agreement under  
21 which the staff and resources of the Division of Taxation in the  
22 Department of the Treasury are utilized to conduct random checks  
23 of personal State income tax returns filed by persons determined  
24 eligible for charity care pursuant to section 10 of P.L.1992, c.160  
25 (C.26:2H-18.60), in consultation with the commissioner, and with  
26 the Medicaid Inspector General pursuant to section 4 of P.L.2007,  
27 c.217 (C.26:2H-18.60d), for the purposes of determining the  
28 validity of charity care claims for health care services provided to  
29 those persons.  
30 (cf: P.L.2007, c.217, s.5)

31  
32 234. Section 7 of P.L.2007, c.217 (C.26:2H-18.60f) is amended  
33 to read as follows:

34 7. The Commissioner of Health **【and Senior Services】** shall  
35 establish a mechanism, by means of a toll-free telephone hotline or  
36 electronic mail, through which persons may confidentially report  
37 suspected incidents of fraudulent charity care claims to the  
38 Department of Health **【and Senior Services】**.  
39 (cf: P.L.2007, c.217, s.7)

40  
41 235. Section 12 of P.L.1992, c.160 (C.26:2H-18.62) is amended  
42 to read as follows:

43 12. a. (Deleted by amendment, P.L.2005, c.237).

44 b. (Deleted by amendment, P.L.2005, c.237).

45 c. (1) Notwithstanding any law to the contrary, each general  
46 hospital and each specialty heart hospital shall pay .53% of its total  
47 operating revenue to the department for deposit in the Health Care  
48 Subsidy Fund. The hospital shall make monthly payments to the

1 department beginning July 1, 1993. The commissioner shall  
2 determine the manner in which the payments shall be made.

3 For the purposes of this subsection, "total operating revenue"  
4 shall be defined by the department in accordance with financial  
5 reporting requirements established pursuant to N.J.A.C.8:31B-3.3  
6 and shall include revenue from any ambulatory care facility that is  
7 licensed to a general hospital as an off-site ambulatory care service  
8 facility.

9 (2) The commissioner shall allocate the monies paid by  
10 hospitals pursuant to paragraph (1) of this subsection as follows:

11 (a) In State fiscal years 2006 and 2007, \$35 million of those  
12 monies shall be allocated to the support of federally qualified health  
13 centers in this State, and the remainder shall be allocated to the  
14 support of (i) the infant mortality reduction program in the  
15 Department of Health [and Senior Services], (ii) the primary care  
16 physician and dentist loan redemption program established in the  
17 Higher Education Student Assistance Authority by article 3 of  
18 P.L.1999, c.46 (C.18A:71C-32 et seq.), and (iii) the development  
19 and use of health information electronic data interchange  
20 technology pursuant to P.L.1999, c.154 (C.17B:30-23 et al.); and

21 (b) In State fiscal year 2008 and thereafter, \$40 million of those  
22 monies shall be allocated to the support of federally qualified health  
23 centers in this State.

24 Monies allocated to the support of federally qualified health  
25 centers in the State under this paragraph shall be used for the  
26 purpose of compensating them for health care services provided to  
27 uninsured patients.

28 d. The monies paid by the hospitals and allocated under  
29 subsection c. of this section for the support of federally qualified  
30 health centers shall be credited to the federally qualified health  
31 centers account.

32 e. (1) Monies paid by hospitals under subsection c. of this  
33 section in excess of \$40 million, federal matching funds received on  
34 account of such monies, and interest received on such payments and  
35 funds shall be allocated exclusively to support funding to hospitals.

36 (2) In the event that any approval, application, or other  
37 condition necessary for the implementation of this subsection and  
38 the distribution of funds pursuant thereto consistent with the Fiscal  
39 Year 2011 annual appropriations act is not obtained, granted, or  
40 satisfied, the Departments of Health [and Senior Services] and  
41 Human Services shall jointly prepare a plan concerning charity care  
42 and related hospital funding, which shall be subject to the approval  
43 of the Joint Budget Oversight Committee.

44 (cf: P.L.2010, c.23, s.2)

45

46 236. Section 3 of P.L.2008, c.33 (C.26:2H-18.76) is amended to  
47 read as follows:



1       3. a. The Health Care Stabilization Fund is established as a  
2 nonlapsing, revolving fund in the Department of Health [and Senior  
3 Services]. The fund shall be administered by the Department of  
4 Health [and Senior Services] in consultation with the Department  
5 of the Treasury. The fund shall be comprised of [such] revenues as  
6 are appropriated by the Legislature from time to time, along with  
7 any interest earned on monies in the fund.

8       b. Monies from the fund shall be disbursed solely as grants to  
9 qualifying licensed health care facilities pursuant to eligibility  
10 criteria, and subject to conditions, prescribed by the Commissioner  
11 of Health [and Senior Services] in accordance with the  
12 requirements of this act.

13 (cf: P.L.2008, c.33, s.3)

14  
15       237. Section 4 of P.L.2008, c.33 (C.26:2H-18.77) is amended to  
16 read as follows:

17       4. The Commissioner of Health [and Senior Services], in  
18 consultation with the State Treasurer and the New Jersey Health  
19 Care Facilities Financing Authority, may award a grant to a hospital  
20 or other licensed health care facility from the fund if the  
21 commissioner determines that, due to extraordinary circumstances,  
22 the grant is necessary to maintain access to essential health care  
23 services or referral sources, as appropriate. In determining whether  
24 to award a grant to a licensed health care facility, the commissioner  
25 shall consider whether, at a minimum, the following factors are  
26 present:

27       a. Extraordinary circumstances threaten access to essential  
28 health services for residents in a community;

29       b. Persons in a community will be without ready access to  
30 essential health care services in the absence of the award of a grant  
31 from the fund;

32       c. Funding is unavailable from other sources to preserve or  
33 provide essential health care services;

34       d. A grant from the fund is likely to stabilize access to the  
35 essential health care services;

36       e. There is a reasonable likelihood that the essential health care  
37 services will be sustainable upon the termination of the grant;

38       f. The proposed recipient of the grant agrees to conditions  
39 established by the commissioner for receipt of a grant; and

40       g. The hospital or other licensed health care facility serves a  
41 significant number of uninsured and underinsured persons.

42 (cf: P.L.2008, c.33, s.4)

43  
44       238. Section 5 of P.L.2008, c.33 (C.26:2H-18.78) is amended to  
45 read as follows:

46       5. a. The Commissioner of Health [and Senior Services] shall  
47 set reasonable conditions for the receipt of a grant by a general

1 hospital or other licensed health care facility, which conditions may  
2 include, but need not be limited to, requirements to assure the  
3 efficient and effective delivery of health care services.

4 The facility shall agree to: the provision of essential health care  
5 services to the community as determined by the commissioner;  
6 facilitating the enrollment of individuals in appropriate government  
7 insurance programs; and providing the Department of Health [and  
8 Senior Services] with [such] quality of care, utilization, and  
9 financial information as determined by the commissioner to be  
10 reasonable and necessary. In the case of a facility whose financial  
11 condition created or contributed to the extraordinary circumstances  
12 necessitating the award of the grant, the facility shall agree to such  
13 corrective steps to its governance, management, and business  
14 operations as the commissioner deems reasonable and appropriate  
15 in light of the facility's circumstances and the health care needs of  
16 the community.

17 b. Within one year of the award of a grant from the fund, the  
18 commissioner, in consultation with the State Comptroller, shall  
19 cause to be conducted an audit to evaluate:

20 (1) whether a grantee's use of the funds was consistent with the  
21 provisions of this act, the commissioner's regulations, and any  
22 conditions imposed upon the award of the grant; and

23 (2) whether a grantee's use of the funds furthered the purposes  
24 of this act.

25 c. The commissioner, pursuant to the "Administrative  
26 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt  
27 such rules and regulations as are necessary to effectuate the  
28 purposes of this act. The regulations shall specify eligibility criteria  
29 for, and conditions that must be met by, a health care facility to  
30 receive a grant from the fund.

31 Notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1  
32 et seq.) to the contrary, the commissioner may adopt immediately  
33 upon filing with the Office of Administrative Law such regulations  
34 as the commissioner deems necessary to implement the provisions  
35 of this act, which shall be effective for a period not to exceed 270  
36 days following enactment of this act and may thereafter be  
37 amended, adopted, or readopted by the department in accordance  
38 with the requirements of P.L.1968, c.410.

39 d. The commissioner shall annually, by March 1 of each year,  
40 submit a report on the Health Care Stabilization Fund to the  
41 Governor, and to the Legislature pursuant to section 2 of P.L.1991,  
42 c.164 (C.52:14-19.1). The commissioner shall include a copy of the  
43 report on the department's website.

44 The report shall identify the health care facilities that received  
45 grants during the reporting period, the purpose for which the grant  
46 was allocated to the facility, and the extent to which the awarding  
47 of the grant furthered the purposes of this act. The report shall

1 include a copy of any audits conducted pursuant to subsection b. of  
2 this section.

3 (cf: P.L.2008, c.33, s.5)

4

5 239. Section 3 of P.L.1997, c.78 (C.26:2H-81) is amended to  
6 read as follows:

7 3. The Commissioner of Health **[and Senior Services]** shall  
8 adopt rules and regulations pursuant to the "Administrative  
9 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) necessary to  
10 carry out the provisions of this act.

11 (cf: P.L.1997, c.78, s.3)

12

13 240. Section 2 of P.L.1997, c.100 (C.26:2H-83) is amended to  
14 read as follows:

15 2. a. The Department of Health **[and Senior Services]** shall not  
16 issue a nurse aide or personal care assistant certification to any  
17 applicant, except on a conditional basis as provided for in  
18 subsection d. of section 3 of P.L.1997, c.100 (C.26:2H-84), unless  
19 the Commissioner of Health **[and Senior Services]** first determines,  
20 consistent with the requirements of sections 2 through 6 of  
21 P.L.1997, c.100 (C.26:2H-83 through 87), that no criminal history  
22 record information exists on file in the Federal Bureau of  
23 Investigation, Identification Division, or in the State Bureau of  
24 Identification in the Division of State Police, which would  
25 disqualify that person from being certified. A nurse aide or personal  
26 care assistant certified by the department prior to the effective date  
27 of P.L.2000, c.20 upon whom a criminal history record background  
28 check has not been conducted pursuant to sections 2 through 6 of  
29 P.L.1997, c.100 (C.26:2H-83 through 87), shall be required to  
30 undergo that criminal history record background check as a  
31 condition of that individual's initial recertification following the  
32 effective date of P.L.2000, c.20.

33 In addition, a follow-up criminal history record background  
34 check of federal records shall be conducted at least once every two  
35 years as a condition of recertification for every certified nurse aide  
36 and personal care assistant; except that the commissioner, in lieu of  
37 conducting follow-up criminal history record background checks  
38 for purposes of recertification, may provide for an alternative means  
39 of determining whether a certified nurse aide or personal care  
40 assistant has been convicted of a crime or disorderly persons  
41 offense which would disqualify that person from certification,  
42 including, but not limited to, a match of a person's Social Security  
43 number or other identifying information with records of criminal  
44 proceedings in this and other states. If the commissioner elects to  
45 implement this alternative means of determining whether a certified  
46 nurse aide or personal care assistant has been convicted of a crime  
47 or disorderly persons offense which would disqualify that person  
48 from certification, the commissioner shall report to the Governor

1 and the Legislature prior to its implementation on the projected  
2 costs and procedures to be followed with respect to its  
3 implementation and setting forth the rationale therefor.

4 A person shall be disqualified from certification if that person's  
5 criminal history record background check reveals a record of  
6 conviction of any of the following crimes and offenses:

7 (1) In New Jersey, any crime or disorderly persons offense:

8 (a) involving danger to the person, meaning those crimes and  
9 disorderly persons offenses set forth in N.J.S.2C:11-1 et seq.,  
10 N.J.S.2C:12-1 et seq., N.J.S.2C:13-1 et seq., N.J.S.2C:14-1 et seq.  
11 or N.J.S.2C:15-1 et seq.; or

12 (b) against the family, children, or incompetents, meaning those  
13 crimes and disorderly persons offenses set forth in N.J.S.2C:24-1 et  
14 seq.; or

15 (c) involving theft as set forth in chapter 20 of Title 2C of the  
16 New Jersey Statutes; or

17 (d) involving any controlled dangerous substance or controlled  
18 substance analog as set forth in chapter 35 of Title 2C of the New  
19 Jersey Statutes except paragraph (4) of subsection a. of  
20 N.J.S.2C:35-10.

21 (2) In any other state or jurisdiction, of conduct which, if  
22 committed in New Jersey, would constitute any of the crimes or  
23 disorderly persons offenses described in paragraph (1) of this  
24 subsection.

25 b. Notwithstanding the provisions of subsection a. of this  
26 section, no person shall be disqualified from certification on the  
27 basis of any conviction disclosed by a criminal history record  
28 background check performed pursuant to sections 2 through 6 and  
29 section 14 of P.L.1997, c.100 (C.26:2H-83 through 87 and C.53:1-  
30 20.9a) if the person has affirmatively demonstrated to the  
31 Commissioner of Health [and Senior Services] clear and  
32 convincing evidence of the person's rehabilitation. In determining  
33 whether a person has affirmatively demonstrated rehabilitation, the  
34 following factors shall be considered:

35 (1) the nature and responsibility of the position which the  
36 convicted person would hold, has held or currently holds, as the  
37 case may be;

38 (2) the nature and seriousness of the offense;

39 (3) the circumstances under which the offense occurred;

40 (4) the date of the offense;

41 (5) the age of the person when the offense was committed;

42 (6) whether the offense was an isolated or repeated incident;

43 (7) any social conditions which may have contributed to the  
44 offense; and

45 (8) any evidence of rehabilitation, including good conduct in  
46 prison or in the community, counseling or psychiatric treatment  
47 received, acquisition of additional academic or vocational  
48 schooling, successful participation in correctional work-release

1 programs, or the recommendation of those who have had the person  
2 under their supervision.

3 c. If a person subject to the provisions of sections 2 through 6  
4 of P.L.1997, c.100 (C.26:2H-83 through 87) refuses to consent to,  
5 or cooperate in, the securing of a criminal history record  
6 background check, the commissioner shall, as applicable:

7 (1) not issue a nurse aide or personal care assistant certification  
8 and shall notify the applicant, and the applicant's employer if the  
9 applicant is conditionally employed as provided in subsection d. of  
10 section 3 of P.L.1997, c.100 (C.26:2H-84) or the applicant's  
11 prospective employer if known, of that denial; or

12 (2) revoke the person's current nurse aide or personal care  
13 assistant certification and notify the person, and the person's  
14 employer, if known, of that revocation.

15 (cf: P.L.2000, c.20, s.1)

16

17 241. Section 3 of P.L.1997, c.100 (C.26:2H-84) is amended to  
18 read as follows:

19 3. a. An applicant for certification, or a certified nurse aide or  
20 personal care assistant who is required to undergo a criminal history  
21 record background check pursuant to section 2 of P.L.1997, c.100  
22 (C.26:2H-83), shall submit to the Commissioner of Health [and  
23 Senior Services] that individual's name, address, and fingerprints  
24 taken on standard fingerprint cards by a State or municipal law  
25 enforcement agency. The commissioner is authorized to exchange  
26 fingerprint data with and receive criminal history record  
27 information from the Federal Bureau of Investigation and the  
28 Division of State Police for use in making the determinations  
29 required by sections 2 through 6 of P.L.1997, c.100 (C.26:2H-83  
30 through 87).

31 b. Upon receipt of the criminal history record information for a  
32 person from the Federal Bureau of Investigation or the Division of  
33 State Police, the commissioner shall immediately notify, in writing,  
34 the applicant, and the applicant's employer if the applicant is  
35 conditionally employed as provided in subsection d. of this section  
36 or the applicant's prospective employer if known, or a certified  
37 nurse aide or personal care assistant who is required to undergo a  
38 criminal history record background check pursuant to section 2 of  
39 P.L.1997, c.100 (C.26:2H-83) and that person's employer, as  
40 applicable, of the person's qualification or disqualification for  
41 certification under sections 2 through 6 of P.L.1997, c.100  
42 (C.26:2H-83 through 87). If the person is disqualified, the  
43 conviction or convictions which constitute the basis for the  
44 disqualification shall be identified in the notice to the person, but  
45 shall not be identified in the notice to the person's employer or  
46 prospective employer.

47 c. The person who is the subject of the background check shall  
48 have 30 days from the date of the written notice of disqualification

1 to petition the commissioner for a hearing on the accuracy of the  
2 person's criminal history record information or to establish the  
3 person's rehabilitation under subsection b. of section 2 of P.L.1997,  
4 c.100 (C.26:2H-83). The commissioner shall notify the person's  
5 employer or prospective employer of the person's petition for a  
6 hearing within five days following the receipt of the petition from  
7 the person. Upon the issuance of a final decision upon a petition to  
8 the commissioner pursuant to this subsection, the commissioner  
9 shall notify the person and the person's employer or prospective  
10 employer as to whether the person remains disqualified from  
11 certification under sections 2 through 6 of P.L.1997, c.100  
12 (C.26:2H-83 through 87).

13 d. An applicant for certification may be issued conditional  
14 certification and may be employed as a nurse aide or a personal care  
15 assistant conditionally for a period not to exceed 60 days, pending  
16 completion of a criminal history record background check required  
17 under sections 2 through 6 of P.L.1997, c.100 (C.26:2H-83 through  
18 87) by the Division of State Police in the Department of Law and  
19 Public Safety based upon an examination of its own files in  
20 accordance with section 14 of P.L.1997, c.100 (C.53:1-20.9a), and  
21 for an additional period not to exceed 60 days pending completion  
22 of a criminal history record background check by federal authorities  
23 as arranged for by the Division of State Police pursuant to section  
24 14 of P.L.1997, c.100 (C.53:1-20.9a), if the person submits to the  
25 commissioner a sworn statement attesting that the person has not  
26 been convicted of any crime or disorderly persons offense as  
27 described in section 2 of P.L.1997, c.100 (C.26:2H-83). A person  
28 who submits a false sworn statement shall be disqualified from  
29 certification as a nurse aide or a personal care assistant, as the case  
30 may be, and shall not have an opportunity to establish rehabilitation  
31 pursuant to subsection b. of section 2 of P.L.1997, c.100 (C.26:2H-  
32 83).

33 A conditionally employed person, or an employed person  
34 certified as a nurse aide or a personal care assistant, who disputes  
35 the accuracy of the criminal history record information and who  
36 files a petition requesting a hearing pursuant to subsection c. of this  
37 section may remain employed by that person's employer until the  
38 commissioner rules on the person's petition but, pending the  
39 commissioner's ruling, the employer shall not permit the person to  
40 have unsupervised contact with patients, residents, or clients, as the  
41 case may be, who are 60 years of age or older.

42 e. (1) A licensed health care facility or other entity that has  
43 received an application from or conditionally employs an applicant  
44 for nurse aide or personal care assistant certification, or employs a  
45 certified nurse aide or personal care assistant, and:

46 (a) receives notice from the Commissioner of Health [and  
47 Senior Services] that the applicant or certified nurse aide or  
48 personal care assistant, as applicable, has been determined by the

1 commissioner to be disqualified from certification as a nurse aide or  
2 personal care assistant pursuant to sections 2 through 6 of P.L.1997,  
3 c.100 (C.26:2H-83 through 87); or

4 (b) terminates its employment of a conditionally employed  
5 applicant for nurse aide or personal care assistant certification or a  
6 certified nurse aide or personal care assistant because the person  
7 was disqualified from employment at the health care facility or  
8 other entity on the basis of a conviction of a crime or disorderly  
9 persons offense as described in section 2 of P.L.1997, c.100  
10 (C.26:2H-83) after commencing employment at the health care  
11 facility or other entity;

12 shall be immune from liability for disclosing that disqualification or  
13 termination in good faith to another licensed health care facility or  
14 other entity that is qualified by statute or regulation to employ the  
15 person as a nurse aide or personal care assistant.

16 (2) A licensed health care facility or other entity which discloses  
17 information pursuant to paragraph (1) of this subsection shall be  
18 presumed to be acting in good faith unless it is shown by clear and  
19 convincing evidence that the health care facility or other entity  
20 acted with actual malice toward the person who is the subject of the  
21 information.

22 f. (1) A licensed health care facility or other entity, upon  
23 receiving notice from the Commissioner of Health [and Senior  
24 Services] that a person employed by it as a nurse aide or personal  
25 care assistant, including a conditionally employed person, has been  
26 convicted of a crime or disorderly persons offense as described in  
27 section 2 of P.L.1997, c.100 (C.26:2H-83) after commencing  
28 employment at the health care facility or other entity, shall:

29 (a) immediately terminate the person's employment as a nurse  
30 aide or personal care assistant; and

31 (b) report information about the termination to the  
32 Commissioner of Health [and Senior Services] in a manner  
33 prescribed by the commissioner, who shall thereupon deem the  
34 person to be disqualified from certification as a nurse aide or  
35 personal care assistant, subject to the provisions of paragraph (3) of  
36 this subsection.

37 (2) A licensed health care facility or other entity shall be  
38 immune from liability for any actions taken in good faith pursuant  
39 to paragraph (1) of this subsection and shall be presumed to be  
40 acting in good faith unless it is shown by clear and convincing  
41 evidence that the health care facility or other entity acted with  
42 actual malice toward the employee.

43 (3) The person terminated from employment pursuant to  
44 paragraph (1) of this subsection shall have 30 days from the date of  
45 the termination to petition the commissioner for a hearing on the  
46 accuracy of the information about the conviction reported to the  
47 commissioner or to establish why the person should not be  
48 terminated from employment, and disqualified from certification, as

1 a nurse aide or personal care assistant. The commissioner shall  
2 notify the person's employer of the person's petition for a hearing  
3 within five days following the receipt of the petition from the  
4 person. Upon the issuance of a final decision upon a petition to the  
5 commissioner pursuant to this paragraph, the commissioner shall  
6 notify the person and the person's employer as to whether:

7 (a) the person is to be reinstated in **【his】** the person's  
8 employment as a nurse aide or personal care assistant and retain  
9 **【his】** the person's certification; or

10 (b) the person's termination from employment as a nurse aide or  
11 personal care assistant stands and the person remains disqualified  
12 from certification.

13 g. The commissioner shall provide for a registry of all persons  
14 who have successfully completed all training and competency  
15 evaluation requirements for certification as a nurse aide or personal  
16 care assistant and shall provide for the inclusion in the registry of  
17 information about the disqualification of any person from  
18 certification pursuant to sections 2 through 6 of P.L.1997, c.100  
19 (C.26:2H-83 through 87); for which purposes, the commissioner  
20 may use an existing registry established pursuant to statute or  
21 regulation, subject to the requirements of federal law. The registry  
22 shall include the specific documented findings constituting the basis  
23 for that disqualification, except that the information shall indicate  
24 that the person was convicted of a crime or disorderly persons  
25 offense as described in section 2 of P.L.1997, c.100 (C.26:2H-83),  
26 but shall not identify the conviction or convictions which constitute  
27 the basis for the disqualification.

28 (cf: P.L.2000, c.20, s.2)

29

30 242. Section 4 of P.L.1997, c.100 (C.26:2H-85) is amended to  
31 read as follows:

32 4. The Department of Health **【and Senior Services】** shall  
33 assume the cost of the criminal history record background check  
34 conducted on an applicant for nurse aide or personal care assistant  
35 certification, or a certified nurse aide or personal care assistant, as  
36 the case may be, pursuant to sections 2 through 6 and section 14 of  
37 P.L.1997, c.100 (C.26:2H-83 through 87 and C.53:1-20.9a).

38 (cf: P.L.2000, c.20, s.3)

39

40 243. Section 5 of P.L.1997, c.100 (C.26:2H-86) is amended to  
41 read as follows:

42 5. In accordance with the "Administrative Procedure Act,"  
43 P.L.1968, c.410 (C.52:14B-1 et seq.), the Commissioner of Health  
44 **【and Senior Services】** shall adopt rules and regulations necessary to  
45 implement the provisions of sections 1 through 4 and section 6 of  
46 P.L.1997, c.100 (C.26:2H-82 through C.26:2H-85 and C.26:2H-87).

47 (cf: P.L.1997, c.100, s.5)



1       244. Section 6 of P.L.1997, c.100 (C.26:2H-87) is amended to  
2 read as follows:

3       6. Any person submitting a false sworn statement pursuant to  
4 section 3 of P.L.1997, c.100 (C.26:2H-84) shall be subject to a fine  
5 of not more than \$1,000, which may be assessed by the  
6 Commissioner of Health **and Senior Services**.  
7 (cf: P.L.1997, c.284, s.5)  
8

9       245. Section 2 of P.L.1997, c.296 (C.26:2H-89) is amended to  
10 read as follows:

11       2. A PACE or Pre-PACE program shall operate in the State  
12 only in accordance with a contract with the Department of **Health**  
13 **and Senior** Human Services, which shall be prepared in  
14 consultation with the Department of Human Services, and pursuant  
15 to the provisions of this act.

16       The programs shall not be subject to the requirements of  
17 P.L.1973, c.337 (C.26:2J-1 et seq.).  
18 (cf: P.L.1997 c.296, s.2)  
19

20       246. Section 3 of P.L.2003, c.105 (C.26:2H-94) is amended to  
21 read as follows:

22       3. As used in this act:

23       "Commissioner" means the Commissioner of **Health and Senior**  
24 **Services** Human Services.

25       "Department" means the Department of **Health and Senior**  
26 **Services** Human Services.

27       "Director" means the Director of the Division of Taxation in the  
28 Department of the Treasury.

29       "Fund" means the "Nursing Home Quality of Care Improvement  
30 Fund" established pursuant to this act.

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

33       "Nursing home" means a long-term care facility licensed  
34 pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), as well as the  
35 distinct part of another health care facility or continuing care  
36 retirement community that is licensed to provide skilled nursing  
37 care services pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.). For  
38 the purposes of this act, nursing home shall not include: an acute  
39 care hospital; assisted living facility; comprehensive personal care  
40 home; residential health care facility; adult day health care facility;  
41 alternate family care program; adult family care program; home  
42 health care agency; State psychiatric hospital; county health care  
43 facility, including, but not limited to, county geriatric center, county  
44 nursing home or other county long-term care facility; the New  
45 Jersey Firemen's Home; or a health care facility operated by the  
46 Department of Military and Veterans' Affairs.

47 (cf: P.L.2004, c.41, s.1)

1       247. Section 4 of P.L.2003, c.105 (C.26:2H-95) is amended to  
2 read as follows:

3       4. The "Nursing Home Quality of Care Improvement Fund" is  
4 established as a nonlapsing fund in the Department of the Treasury.  
5 The fund shall be administered by the State Treasurer, in  
6 consultation with the Commissioner of **[Health and Senior**  
7 **Services]** Human Services or **[his]** the commissioner's designee,  
8 who shall be responsible for the oversight, coordination, and  
9 disbursement of fund monies, and shall be credited with monies  
10 received pursuant to section 6 of this act, except for those monies  
11 which are deposited into the General Fund in accordance with the  
12 provisions of that section.

13       a. The fund shall be comprised of:

14       (1) revenues from assessments paid by nursing homes pursuant  
15 to section 5 of this act;

16       (2) matching federal funds received pursuant to Title XIX of the  
17 federal Social Security Act (42 U.S.C. s.1396 et seq.) that result  
18 from the expenditure of revenues from assessments collected  
19 pursuant to section 5 of this act;

20       (3) General Fund revenues, as necessary, to allow for the per  
21 diem add-on payments pursuant to subsection d. of section 6 of this  
22 act until the revenue from the assessment has been collected. Upon  
23 collection of the revenue from the assessment, the General Fund  
24 shall be repaid within 90 days; and

25       (4) any interest or other income earned on monies deposited into  
26 the fund.

27       b. Any disbursement of monies from the fund shall be used  
28 solely for Medicaid nursing home add-ons as provided for under  
29 section 6 of this act, which shall not in any manner render the  
30 assessment mechanism set forth in section 5 of this act to be in  
31 violation of the hold harmless provisions of 42 C.F.R. s.433.68(f).

32       c. The State Treasurer shall provide by regulation for such  
33 measures as are required to ensure the integrity of the fund.

34       d. The State Treasurer shall establish separate accounts within  
35 the fund as are needed to efficiently manage and disburse fund  
36 monies.

37       e. Monies in the fund shall not be used to supplant  
38 appropriations from the General Fund to the department **[or the**  
39 **Department of Human Services]** for use in securing matching  
40 federal funds not otherwise provided for in this act.

41       f. The Director of the Division of Taxation shall be responsible  
42 for collecting the assessments.

43 (cf: P.L.2003, c.105, s.4)  
44

45       248. Section 3 of P.L.2005, c.233 (C.26:2H-104) is amended to  
46 read as follows:

47       3. As used in this act:

48       "Adult" means an individual 18 years of age or older.

1 "Advance directive for mental health care" or "advance  
2 directive" means a writing executed in accordance with the  
3 requirements of this act. An "advance directive" may include a  
4 proxy directive or an instruction directive, or both.

5 "Decision-making capacity" means a patient's ability to  
6 understand and appreciate the nature and consequences of mental  
7 health care decisions, including the benefits and risks of each, and  
8 alternatives to any proposed mental health care, and to reach an  
9 informed decision. A patient's decision-making capacity is  
10 evaluated relative to the demands of a particular mental health care  
11 decision.

12 "Declarant" means a competent adult who executes an advance  
13 directive for mental health care.

14 "Domestic partner" means a domestic partner as defined in  
15 section 3 of P.L.2003, c.246 (C.26:8A-3).

16 "Instruction directive" means a writing which provides  
17 instructions and direction regarding the declarant's wishes for  
18 mental health care in the event that the declarant subsequently lacks  
19 decision-making capacity.

20 "Mental health care decision" means a decision to accept or  
21 refuse any treatment, service, or procedure used to diagnose, treat,  
22 or care for a patient's mental condition. "Mental health care  
23 decision" also means a decision to accept or refuse the services of a  
24 particular mental health care professional or psychiatric facility,  
25 including a decision to accept or to refuse a transfer of care.

26 "Mental health care professional" means an individual licensed  
27 or certified by this State to provide or administer mental health care  
28 in the ordinary course of business or practice of a profession.

29 "Mental health care representative" means the individual  
30 designated by a declarant pursuant to the proxy directive part of an  
31 advance directive for mental health care for the purpose of making  
32 mental health care decisions on the declarant's behalf, and includes  
33 an individual designated as an alternate mental health care  
34 representative who is acting as the declarant's mental health care  
35 representative in accordance with the terms and order of priority  
36 stated in an advance directive for mental health care.

37 "Patient" means an individual who is under the care of a mental  
38 health care professional.

39 "Proxy directive" means a writing which designates a mental  
40 health care representative in the event that the declarant  
41 subsequently lacks decision-making capacity.

42 "Psychiatric facility" means a State psychiatric facility listed in  
43 R.S.30:1-7, a county psychiatric hospital or the psychiatric unit of a  
44 county hospital, a short-term care facility, special psychiatric  
45 hospital or psychiatric unit of a general hospital or other health care  
46 facility licensed by the Department of Health **[and Senior Services]**  
47 pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), or a hospital or  
48 community-based mental health center or other entity licensed or

1 funded by the Department of Human Services to provide  
2 community-based mental health services.

3 "Responsible mental health care professional" means a person  
4 licensed or certified by the State to provide or administer mental  
5 health care who is selected by, or assigned to, the patient and has  
6 primary responsibility for the care and treatment of the patient.

7 "State" means a state, territory, or possession of the United  
8 States, the District of Columbia, or the Commonwealth of Puerto  
9 Rico.

10 (cf: P.L.2005 c.233, s.3)

11

12 249. Section 16 of P.L.2005, c.233 (C.26:2H-117) is amended to  
13 read as follows:

14 16. In accordance with the "Administrative Procedure Act,"  
15 P.L.1968, c.410 (C.52:14B-1 et seq.), the Commissioner of Health  
16 **【and Senior Services】**, in consultation with the Commissioner of  
17 Human Services, shall adopt rules and regulations, with respect to  
18 psychiatric facilities licensed by the Department of Health **【and**  
19 **Senior Services】**, to:

20 a. provide for the annual reporting by those psychiatric  
21 facilities to the Department of Health **【and Senior Services】**, and  
22 the gathering of such additional data, as is reasonably necessary to  
23 oversee and evaluate the implementation of this act; except that the  
24 commissioner shall seek to minimize the burdens of record-keeping  
25 imposed by the rules and regulations and ensure the appropriate  
26 confidentiality of patient records; and

27 b. require those psychiatric facilities to adopt policies and  
28 practices designed to:

29 (1) make routine inquiry, at the time of admission and at such  
30 other times as are appropriate under the circumstances, concerning  
31 the existence and location of an advance directive for mental health  
32 care;

33 (2) provide appropriate informational materials concerning  
34 advance directives for mental health care, including information  
35 about the registry of advance directives for mental health care  
36 established or designated pursuant to section 17 of this act, to all  
37 interested patients and their families and mental health care  
38 representatives, and to assist patients interested in discussing and  
39 executing an advance directive for mental health care, as well as to  
40 encourage declarants to periodically review their advance directives  
41 for mental health care as needed;

42 (3) inform mental health care professionals of their rights and  
43 responsibilities under this act, to assure that the rights and  
44 responsibilities are understood, and to provide a forum for  
45 discussion and consultation regarding the requirements of this act;  
46 and

47 (4) otherwise comply with the provisions of this act.

48 (cf: P.L.2005, c.233, s.16)

1       250. Section 18 of P.L.2005, c.233 (C.26:2H-118) is amended to  
2 read as follows:

3       18. The Department of Health **【and Senior Services】** and the  
4 Department of Human Services shall jointly evaluate the  
5 implementation of this act and report to the Governor and the  
6 Legislature, including recommendations for any changes deemed  
7 necessary, within five years after the effective date of this act.  
8 (cf: P.L.2005, c.233, s.18)

9  
10       251. Section 19 of P.L.2005, c.233 (C.26:2H-119) is amended to  
11 read as follows:

12       19. a. A mental health care representative shall not be subject to  
13 criminal or civil liability for any actions performed in good faith  
14 and in accordance with the provisions of this act to carry out the  
15 terms of an advance directive for mental health care.

16       b. A mental health care professional shall not be subject to  
17 criminal or civil liability, or to discipline by the psychiatric facility  
18 or the respective State licensing board for professional misconduct,  
19 for any actions performed to carry out the terms of an advance  
20 directive for mental health care in good faith and in accordance  
21 with: the provisions of this act; any rules and regulations adopted  
22 by the Commissioner of Health **【and Senior Services】** or the  
23 Commissioner of Human Services pursuant to this act; and accepted  
24 professional standards.

25       c. A psychiatric facility shall not be subject to criminal or civil  
26 liability for any actions performed in good faith and in accordance  
27 with the provisions of this act to carry out the terms of an advance  
28 directive for mental health care.

29 (cf: P.L.2005, c.233, s.19)

30  
31       252. Section 1 of P.L.2006, c.75 (C.26:2H-126) is amended as  
32 follows:

33       1. a. Except as provided in subsection b. of this section, at least  
34 60 days prior to the proposed date of the closing or relocation of a  
35 nursing home or assisted living residence licensed pursuant to  
36 P.L.1971, c.136 (C.26:2H-1 et seq.), the nursing home or assisted  
37 living administrator shall notify, in writing, a resident of the  
38 facility, the resident's legal representative, if applicable, and the  
39 Department of Health **【and Senior Services】** of the closing or  
40 relocation of the facility.

41       b. The Commissioner of Health **【and Senior Services】** may  
42 waive the 60-day notice requirement in subsection a. of this section  
43 if the commissioner determines that an emergency situation  
44 warrants a more immediate closure or relocation of the nursing  
45 home or assisted living residence. In the case of such an emergency  
46 situation, the administrator of the facility shall notify, in writing, a  
47 resident, the resident's legal representative, if applicable, and the

1 Department of Health [and Senior Services] of the closure or  
2 relocation as soon as practicable.

3 As used in this section, an "emergency situation" may include:  
4 the suspension or revocation of the facility license by the  
5 commissioner; decertification of the facility by the federal Medicare  
6 program established pursuant to Title XVIII of the "Social Security  
7 Act," Pub.L.89-97 (42 U.S.C. s.1395 et seq.), or the Medicaid  
8 program established pursuant to P.L.1968, c.413 (C.30:4D-1 et  
9 seq.); or any other event as prescribed by regulation of the  
10 commissioner.

11 (cf: P.L.2006, c.75, s.1)

12

13 253. Section 1 of P.L.2009, c.55 (C.26:2H-127) is amended to  
14 read as follows:

15 1. a. An assisted living facility licensed by the Department of  
16 Health [and Senior Services] pursuant to P.L.1971, c.136  
17 (C.26:2H-1 et seq.) that requires a new resident, as a condition of  
18 admission to the facility, to pay a one-time security deposit, which  
19 is in addition to the regular monthly rental and services charges,  
20 shall provide that the deposit plus interest earned on the deposit is  
21 refundable to the resident or other designated person upon the  
22 resident's vacating the facility if the resident provides the facility  
23 with 30 days' notice that the resident intends to vacate the facility.

24 b. The facility may deduct an amount not to exceed one percent  
25 per annum of the amount of the invested or deposited security  
26 deposit for the cost of servicing and processing an account  
27 containing a security deposit.

28 (cf: P.L.2009, c.55, s.1)

29

30 254. Section 1 of P.L.2011, c.58 (C.26:2H-128) is amended to  
31 read as follows:

32 1. a. Each assisted living facility and comprehensive personal  
33 care home provider licensed pursuant to P.L.1971, c.136 (C.26:2H-  
34 1 et seq.) shall distribute to each resident and post in a conspicuous,  
35 public place in the facility or home, as applicable, a statement of  
36 resident rights. The statement of rights shall include, at a minimum,  
37 the rights set forth in subsection b. of this section. Each resident,  
38 resident family member, and legally appointed guardian, as  
39 applicable, shall be informed of the resident rights, and provided  
40 with explanations if needed. The provider shall ensure that each  
41 resident, or the resident's legally appointed guardian, as applicable,  
42 signs a copy of the statement of rights.

43 b. Every resident of an assisted living facility or  
44 comprehensive personal care home that is licensed in the State shall  
45 have the right to:

46 (1) receive personalized services and care in accordance with  
47 the resident's individualized general service or health service plan;

- 1 (2) receive a level of care and services that address the resident's
- 2 changing physical and psychosocial status;
- 3 (3) have **【his or her】** the resident's independence and
- 4 individuality;
- 5 (4) be treated with respect, courtesy, consideration, and dignity;
- 6 (5) make choices with respect to services and lifestyle;
- 7 (6) privacy;
- 8 (7) have or not to have families' and friends' participation in
- 9 resident service planning and implementation;
- 10 (8) receive pain management as needed, in accordance with
- 11 Department of Health **【and Senior Services】** regulations;
- 12 (9) choose a physician, advanced practice nurse, or physician
- 13 assistant;
- 14 (10) appeal an involuntary discharge as specified in department
- 15 regulations;
- 16 (11) receive written documentation that fee increases based on a
- 17 higher level of care are based on reassessment of the resident and in
- 18 accordance with department regulations;
- 19 (12) receive a written explanation of fee increases that are not
- 20 related to increased services, upon request by the resident;
- 21 (13) participate, to the fullest extent that the resident is able, in
- 22 planning **【his or her】** the resident's own medical treatment and
- 23 care;
- 24 (14) refuse medication and treatment after the resident has been
- 25 informed, in language that the resident understands, of the possible
- 26 consequences of this decision;
- 27 (15) refuse to participate in experimental research, including the
- 28 investigations of new drugs and medical devices, and to be included
- 29 in experimental research only when the resident gives informed,
- 30 written consent to such participation;
- 31 (16) be free from physical and mental abuse and neglect;
- 32 (17) be free from chemical and physical restraints, unless a
- 33 physician, advanced practice nurse, or physician assistant
- 34 authorizes the use for a limited period of time to protect the resident
- 35 or others from injury. Under no circumstances shall a resident be
- 36 confined in a locked room, or restrained, including with the use of
- 37 excessive drugs, for punishment or for the convenience of staff;
- 38 (18) manage the resident's own finances, and to delegate that
- 39 responsibility to a family member, assigned guardian, facility
- 40 administrator, or some other individual with power of attorney. The
- 41 resident's authorization delegating such authority shall be witnessed
- 42 and in writing;
- 43 (19) receive prior to or at the time of admission, and afterwards
- 44 through addenda, an admission agreement that complies with all
- 45 applicable State and federal laws, describes the services provided
- 46 and the related charges, and includes the policies for payment of
- 47 fees, deposits, and refunds;

- 1       (20) receive a quarterly written account of the resident's funds,
- 2       the itemized property deposited with the facility for the resident's
- 3       use and safekeeping, and all financial transactions with the resident,
- 4       next-of-kin, or guardian, which account shall show the amount of
- 5       property in the account at the beginning and end of the accounting
- 6       period, as well as a list of all deposits and withdrawals,
- 7       substantiated by receipts given to the resident or the resident's
- 8       guardian;
- 9       (21) have daily access during specified hours to the money and
- 10      property that the resident has deposited with the facility, and to
- 11      delegate, in writing, this right of access to a representative;
- 12      (22) live in safe and clean conditions that do not admit more
- 13      residents than can safely be accommodated;
- 14      (23) not be arbitrarily and capriciously moved to a different bed
- 15      or room;
- 16      (24) wear the resident's own clothes;
- 17      (25) keep and use the resident's personal property, unless doing
- 18      so would be unsafe, impractical, or an infringement on the rights of
- 19      other residents;
- 20      (26) reasonable opportunities for private and intimate physical
- 21      and social interaction with other people, including the opportunity
- 22      to share a room with another individual unless it is medically
- 23      inadvisable;
- 24      (27) confidential treatment with regard to information about the
- 25      resident, subject to the requirements of law;
- 26      (28) receive and send mail in unopened envelopes, unless the
- 27      resident requests otherwise, and the right to request and receive
- 28      assistance in reading and writing correspondence unless medically
- 29      contraindicated;
- 30      (29) have a private telephone in the resident's living quarters at
- 31      the resident's own expense;
- 32      (30) meet with any visitors of the resident's choice, at any time,
- 33      in accordance with facility policies and procedures;
- 34      (31) take part in activities, and to meet with and participate in
- 35      the activities of any social, religious, and community groups, as
- 36      long as these activities do not disrupt the lives of other residents;
- 37      (32) refuse to perform services for the facility;
- 38      (33) request visits at any time by representatives of the religion
- 39      of the resident's choice and, upon the resident's request, to attend
- 40      outside religious services at the resident's own expense;
- 41      (34) participate in meals, recreation, and social activities
- 42      without being subjected to discrimination based on age, race,
- 43      religion, sex, marital status, nationality, or disability;
- 44      (35) organize and participate in a resident council that presents
- 45      residents' concerns to the administrator of the facility;
- 46      (36) be transferred or discharged only in accordance with the
- 47      terms of the admission agreement and with N.J.A.C. 8:36-5.1(d);



1 (37) receive written notice at least 30 days in advance when the  
2 facility requests the resident's transfer or discharge, except in an  
3 emergency, which notice shall include the name and contact  
4 information for the New Jersey Office of the Ombudsman for the  
5 Institutionalized Elderly;

6 (38) receive a written statement of resident rights and any  
7 regulations established by the facility involving resident rights and  
8 responsibilities;

9 (39) retain and exercise all constitutional, civil, and legal rights  
10 to which the resident is entitled by law;

11 (40) voice complaints without fear of interference, discharge,  
12 reprisal, and obtain contact information respecting government  
13 agencies to which residents can complain and ask questions, which  
14 information also shall be posted in a conspicuous place in the  
15 facility;

16 (41) hire a private caregiver or companion at the resident's  
17 expense and responsibility, as long as the caregiver or companion  
18 complies with the facility's policies and procedures; and

19 (42) obtain medications from a pharmacy of the resident's  
20 choosing, as long as the pharmacy complies with the facility's  
21 medication administration system, if applicable.

22 (cf: P.L.2011, c.58, s.1)

23

24 255. Section 3 of P.L.2011, c.145 (C.26:2H-131) is amended to  
25 read as follows:

26 3. As used in sections 1 through 12 of this act:

27 "Advance directive" means an advance directive for health care  
28 as defined in section 3 of P.L.1991, c.201 (C.26:2H-55).

29 "Advanced practice nurse" or "APN" means a person who is  
30 certified as an advanced practice nurse pursuant to P.L.1991, c.377  
31 (C.45:11-45 et seq.).

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

34 "Decision-making capacity" means a patient's ability to  
35 understand and appreciate the nature and consequences of a  
36 particular health care decision, including the benefits and risks of  
37 that decision, and alternatives to any proposed health care, and to  
38 reach an informed decision.

39 "Department" means the Department of Health [and Senior  
40 Services].

41 "Emergency care" means the use of resuscitative measures and  
42 other immediate treatment provided in response to a sudden, acute,  
43 and unanticipated medical crisis in order to avoid injury,  
44 impairment, or death.

45 "Emergency care provider" means an emergency medical  
46 technician, paramedic, or member of a first aid, ambulance, or  
47 rescue squad.

1 "Health care decision" means a decision to accept, withdraw, or  
2 refuse a treatment, service, or procedure used to diagnose, treat, or  
3 care for a person's physical or mental condition, including life-  
4 sustaining treatment.

5 "Health care institution" means a health care facility licensed  
6 pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), a psychiatric  
7 facility as defined in section 2 of P.L.1987, c.116 (C.30:4-27.2), or  
8 a State developmental center listed in R.S.30:1-7.

9 "Health care professional" means a health care professional who  
10 is licensed or otherwise authorized to practice a health care  
11 profession pursuant to Title 45 or 52 of the Revised Statutes and is  
12 currently engaged in that practice.

13 "Life-sustaining treatment" means the use of any medical device  
14 or procedure, artificially provided fluids and nutrition, drugs,  
15 surgery, or therapy that uses mechanical or other artificial means to  
16 sustain, restore, or supplant a vital bodily function, and thereby  
17 increase the expected life span of a patient.

18 "Patient" means a person who is under the care of a physician or  
19 APN.

20 "Patient's representative" means an individual who is designated  
21 by a patient or otherwise authorized under law to make health care  
22 decisions on the patient's behalf if the patient lacks decision-making  
23 capacity.

24 "Physician" means a person who is licensed to practice medicine  
25 and surgery pursuant to chapter 9 of Title 45 of the Revised  
26 Statutes.

27 "Physician Orders for Life-Sustaining Treatment form" or  
28 "POLST form" means a standardized printed document that is  
29 uniquely identifiable and has a uniform color, which:

30 a. is recommended for use on a voluntary basis by patients who  
31 have advanced chronic progressive illness or a life expectancy of  
32 less than five years, or who otherwise wish to further define their  
33 preferences for health care;

34 b. does not qualify as an advance directive;

35 c. is not valid unless it meets the requirements for a completed  
36 POLST form as set forth in this act;

37 d. provides a means by which to indicate whether the patient  
38 has made an anatomical gift pursuant to P.L.2008, c.50 (C.26:6-77  
39 et al.);

40 e. is intended to provide direction to emergency care personnel  
41 regarding the use of emergency care, and to a health care  
42 professional regarding the use of life-sustaining treatment, with  
43 respect to the patient, by indicating the patient's preference  
44 concerning the use of specified interventions and the intensity of  
45 treatment for each intervention;

46 f. is intended to accompany the patient, and to be honored by  
47 all personnel attending the patient, across the full range of possible

1 health care settings, including the patient's home, a health care  
2 institution, or otherwise at the scene of a medical emergency; and

3 g. may be modified or revoked at any time by a patient with  
4 decision-making capacity or the patient's representative in  
5 accordance with the provisions of section 7 of this act.

6 "Resuscitative measures" means cardiopulmonary resuscitation  
7 provided in the event that a patient suffers a cardiac or respiratory  
8 arrest.

9 (cf: P.L.2011, c.145, s.3)

10  
11 256. Section 5 of P.L.2011, c.145 (C.26:2H-133) is amended to  
12 read as follows:

13 5. The Commissioner of Health **[and Senior Services]** shall  
14 designate a patient safety organization (PSO) operating in this State  
15 pursuant to the federal "Patient Safety and Quality Improvement  
16 Act of 2005," Pub.L.109-41, to carry out the following  
17 responsibilities, by mutual written agreement of the commissioner  
18 and that PSO:

19 a. prescribe a POLST form and the procedures for completion,  
20 modification, and revocation of the form;

21 b. seek to promote awareness among health care professionals,  
22 emergency care providers, and the general public in this State about  
23 the option to complete a POLST form;

24 c. provide ongoing training of health care professionals and  
25 emergency care providers about the use of the POLST form, in  
26 consultation with organizations representing, and educational  
27 programs serving, health care professionals and emergency care  
28 providers, respectively, in this State;

29 d. prescribe additional requirements for the completion of a  
30 POLST form that may be applicable in the case of a patient with  
31 mental illness or a developmental disability in consultation with  
32 organizations that represent persons with mental illness and  
33 developmental disabilities, respectively;

34 e. provide for ongoing evaluation of the design and use of  
35 POLST forms through the use of such data as the PSO determines  
36 reasonably necessary for that purpose, subject to the commissioner's  
37 written approval; and

38 f. seek to minimize any record-keeping burden imposed on a  
39 health care institution pursuant to this act and take such actions as  
40 are necessary to ensure the confidentiality of any **[such]** data  
41 furnished to the PSO that may contain patient-specific information.

42 (cf: P.L.2011, c.145, s.5)

43  
44 257. Section 11 of P.L.2011, c.145 (C.26:2H-139) is amended to  
45 read as follows:

46 11. a. A health care professional who intentionally fails to act in  
47 accordance with the requirements of this act is subject to discipline

1 for professional misconduct pursuant to section 8 of P.L.1978, c.73  
2 (C.45:1-21).

3 b. A health care institution that intentionally fails to act in  
4 accordance with the requirements of this act shall be liable to a civil  
5 penalty of not more than \$1,000 for each offense. For the purposes  
6 of this subsection, each violation shall constitute a separate offense.  
7 The civil penalty shall be collected in a summary proceeding,  
8 brought in the name of the State in a court of competent jurisdiction  
9 pursuant to the "Penalty Enforcement Law of 1999," P.L.1999,  
10 c.274 (C.2A:58-10 et seq.).

11 c. An emergency care provider subject to regulation by the  
12 Department of Health [and Senior Services] who intentionally fails  
13 to act in accordance with the requirements of this act is subject to  
14 such disciplinary measures as the commissioner deems necessary  
15 and within his statutory authority to impose.

16 d. A person who commits any of the following acts is guilty of  
17 a crime of the fourth degree:

18 (1) willfully concealing, canceling, defacing, obliterating, or  
19 withholding personal knowledge of a completed POLST form or a  
20 modification or revocation thereof, without the patient's consent;

21 (2) falsifying or forging a completed POLST form or a  
22 modification or revocation thereof of another person;

23 (3) coercing or fraudulently inducing the completion of a  
24 POLST form or a modification or revocation thereof; or

25 (4) requiring or prohibiting the completion of a POLST form or  
26 a modification or revocation thereof as a condition of coverage  
27 under any policy of health or life insurance or an annuity, or a  
28 public benefits program, or as a condition of the provision of health  
29 care.

30 e. The commission of an act identified in paragraph (1), (2), or  
31 (3) of subsection d. of this section, which results in the involuntary  
32 earlier death of a patient, shall constitute a crime of the first degree.

33 f. The provisions of this section shall not be construed to  
34 repeal any sanctions applicable under any other law.

35 (cf: P.L.2011, c.145, s.11)

36

37 258. Section 3 of P.L.1972, c.29 (C.26:2I-3) is amended to read  
38 as follows:

39 3. As used in this act, the following words and terms shall have  
40 the following meanings, unless the context indicates or requires  
41 another or different meaning or intent:

42 "Authority" means the New Jersey Health Care Facilities  
43 Financing Authority created by this act or any board, body,  
44 commission, department, or officer succeeding to the principal  
45 functions thereof or to whom the powers conferred upon the  
46 authority by this act shall be given by law.

47 "Bond" means bonds, notes, or other evidences of indebtedness  
48 of the authority issued pursuant to this act.

1 "Commissioner" means the Commissioner of Health [and Senior  
2 Services].

3 "Credit agreement" means a loan agreement, revolving credit  
4 agreement, agreement establishing a line of credit, letter of credit,  
5 reimbursement agreement, interest exchange agreement, insurance  
6 contract, surety bond, commitment to purchase bonds, purchase or  
7 sale agreement, or commitment or other contract or agreement  
8 authorized and approved by the authority in connection with the  
9 authorization, issuance, security or payment of bonds.

10 "Health care organization" means an organization located in this  
11 State which is authorized or permitted by law, whether directly or  
12 indirectly through a holding corporation, partnership, or other  
13 entity, to provide health care-related services, including, but not  
14 limited to, hospital, outpatient, public health, home health care,  
15 residential care, assisted living, hospice, health maintenance  
16 organization, blood bank, alcohol or drug abuse, half-way house,  
17 diagnostic, treatment, rehabilitation, extended care, skilled nursing  
18 care, nursing care, intermediate care, tuberculosis care, chronic  
19 disease care, maternity, mental health, boarding or sheltered care or  
20 day care, services provided by a physician in his office, or any other  
21 service offered in connection with health care services or by an  
22 entity affiliated with a health care organization or an integrated  
23 delivery system.

24 "Hospital asset transformation program" means the hospital asset  
25 transformation program established pursuant to subsection g. of  
26 section 7 of P.L.1972, c.29 (C.26:2I-7).

27 "Integrated delivery system" means a group of legally affiliated  
28 health care organizations.

29 "Public health care organization" means a State, county, or  
30 municipal health care organization.

31 "Project" or "health care organization project" means the  
32 acquisition, construction, improvement, renovation, or  
33 rehabilitation of lands, buildings, fixtures, equipment, and articles  
34 of personal property, or other tangible or intangible assets that are  
35 necessary or useful in the development, establishment, or operation  
36 of a health care organization pursuant to this act, and "project" or  
37 "health care organization project" may include: the financing,  
38 refinancing, or consolidation of secured or unsecured debt,  
39 borrowings, or obligations, or the provision of financing for any  
40 other expense incurred in the ordinary course of business, all of  
41 which lands, buildings, fixtures, equipment, and articles of personal  
42 property are to be used or occupied by any person in the health care  
43 organization; the acquisition of an entity interest, including capital  
44 stock, in a corporation; or any combination thereof; and may  
45 include any combination of the foregoing undertaken jointly by any  
46 health care organization with one or more other health care  
47 organizations.

1 "Project cost" or "health care organization project cost" means  
2 the sum total of all or any part of costs incurred or estimated to be  
3 incurred by the authority or by a health care organization which are  
4 reasonable and necessary for carrying out all works and  
5 undertakings and providing all necessary equipment for the  
6 development of a project, exclusive of the amount of any private or  
7 federal, State, or local financial assistance for and received by a  
8 health care organization for the payment of such project cost. Such  
9 costs shall include, but are not necessarily limited to: interest prior  
10 to, during and for a reasonable period after such development; start-  
11 up costs and costs of operation and maintenance during the  
12 construction period and for a reasonable additional period  
13 thereafter; organization, administration, operation, and other  
14 expenses of the health care organization prior to and during  
15 construction; the cost of necessary studies, surveys, plans, and  
16 specifications, architectural, engineering, legal, or other special  
17 services; the cost of acquisition of land, buildings, and  
18 improvements thereon (including payments for the relocation of  
19 persons displaced by such acquisition), site preparation and  
20 development, construction, reconstruction, equipment, including  
21 fixtures, equipment, and cost of demolition and removal, and  
22 articles of personal property required; the reasonable cost of  
23 financing incurred by a health care organization or the authority in  
24 the course of the development of the project; reserves for debt  
25 service; the fees imposed upon a health care organization by the  
26 commissioner and by the authority; other fees charged, and  
27 necessary expenses incurred in connection with the initial  
28 occupancy of the project; and the cost of such other items as may be  
29 reasonable and necessary for the development of a project; as well  
30 as provision or reserves for working capital, operating or  
31 maintenance or replacement expenses, or for payment or security of  
32 principal of, or interest on, bonds.

33 (cf: P.L.2000, c.98, s.2)

34  
35 259. Section 4 of P.L.1972, c.29 (C.26:2I-4) is amended to read  
36 as follows:

37 4. a. There is hereby established in the Department of Health  
38 **[and Senior Services]**, a public body corporate and politic, with  
39 corporate succession, to be known as the "New Jersey Health Care  
40 Facilities Financing Authority." The authority shall constitute a  
41 political subdivision of the State established as an instrumentality  
42 exercising public and essential governmental functions, and the  
43 exercise by the authority of the powers conferred by this act shall be  
44 deemed and held to be an essential governmental function.

45 b. The authority shall consist of seven members, three of whom  
46 shall be the commissioner, who shall be the chairman, the  
47 Commissioner of Banking and Insurance, and the Commissioner of  
48 Human Services, who shall serve during their terms of office, or

1 when so designated by them, their deputies or other representatives,  
2 who shall serve at their pleasure, and four public members who are  
3 citizens of the State to be appointed by the Governor, with the  
4 advice and consent of the Senate for terms of four years; provided  
5 that the four members first appointed by the Governor shall serve  
6 terms expiring on the first, second, third, and fourth, respectively,  
7 April 30 ensuing after the enactment of this act. Each member  
8 shall hold office for the term of ~~his~~ the member's appointment  
9 and until ~~his~~ the member's successor shall have been appointed  
10 and qualified. Any vacancy among the public members shall be  
11 filled by appointment for the unexpired term only.

12 c. Any member of the authority appointed by the Governor  
13 may be removed from office by the Governor for cause after a  
14 public hearing.

15 d. The members of the authority shall serve without  
16 compensation, but the authority may reimburse its members for  
17 necessary expenses incurred in the discharge of their official duties.

18 e. The authority, upon the first appointment of its members and  
19 thereafter on or after April 30 in each year, shall annually elect  
20 from among its members a vice chairman who shall hold office  
21 until April 30 next ensuing and shall continue to serve during the  
22 term of his successor and until his successor shall have been  
23 appointed and qualified. The authority may also appoint, retain,  
24 and employ, without regard to the provisions of Title 11A, Civil  
25 Service, of the New Jersey Statutes, such officers, agents, and  
26 employees as it may require, and it shall determine their  
27 qualifications, terms of office, duties, services, and compensation.

28 f. The powers of the authority shall be vested in the members  
29 thereof in office from time to time and a majority of the total  
30 authorized membership of the authority shall constitute a quorum at  
31 any meeting thereof. Action may be taken and motions and  
32 resolutions adopted by the authority at any meeting thereof by the  
33 affirmative vote of a majority of the members present, unless in  
34 any case the bylaws of the authority shall require a larger number.  
35 No vacancy in the membership of the authority shall impair the  
36 right of a quorum to exercise all the rights and perform all the  
37 duties of the authority.

38 g. Each member and the treasurer of the authority shall execute  
39 a bond to be conditioned upon the faithful performance of the duties  
40 of such member or treasurer, as the case may be, in such form and  
41 amount as may be prescribed by the Attorney General. Such bonds  
42 shall be filed in the office of the Secretary of State. At all times  
43 thereafter the members and treasurer of the authority shall maintain  
44 such bonds in full force and effect. All costs of such bonds shall be  
45 borne by the authority.

46 h. No trustee, director, officer, or employee of a health care  
47 organization may serve as a member of the authority.

1       i. At least two true copies of the minutes of every meeting of  
2 the authority shall be forthwith delivered by and under the  
3 certification of the secretary thereof, to the Governor. No action  
4 taken at such meeting by the authority shall have force or effect  
5 until 10 days, exclusive of Saturdays, Sundays, and public holidays,  
6 after such copies of the minutes shall have been so delivered or at  
7 such earlier time as the Governor shall sign a statement of approval  
8 thereof. If, in said 10-day period, the Governor returns a copy of  
9 the minutes with veto of any action taken by the authority or any  
10 member thereof at such meeting, such action shall be null and of no  
11 effect. If the Governor shall not return the minutes within said 10-  
12 day period, any action therein recited shall have force and effect  
13 according to the wording thereof. At any time prior to the  
14 expiration of the said 10-day period, the Governor may sign a  
15 statement of approval of all or any such action of the authority.

16       The powers conferred in this subsection upon the Governor shall  
17 be exercised with due regard for the rights of the holders of bonds  
18 of the authority at any time outstanding.

19 (cf: P.L.1997, c.435, s.4)

20

21       260. Section 5 of P.L.1972, c.29 (C.26:2I-5) is amended to read  
22 as follows:

23       5. Powers of authority. The authority shall have power:

24       a. To adopt bylaws for the regulation of its affairs and the  
25 conduct of its business and to alter and revise such bylaws from  
26 time to time at its discretion.

27       b. To adopt and have an official seal and alter the same at  
28 pleasure.

29       c. To maintain an office at such place or places within the State  
30 as it may designate.

31       d. To sue and be sued in its own name.

32       e. To borrow money and to issue bonds of the authority and to  
33 provide for the rights of the holders thereof as provided in this act.

34       f. To acquire, lease as lessee or lessor, hold and dispose of real  
35 and personal property or any interest therein, in the exercise of its  
36 powers and the performance of its duties under this act.

37       g. To acquire in the name of the authority by purchase or  
38 otherwise, on such terms and conditions and in such manner as it  
39 may deem proper, any land or interest therein and other property  
40 which it may determine is reasonably necessary for any project; and  
41 to hold and use the same and to sell, convey, lease or otherwise  
42 dispose of property so acquired, no longer necessary for the  
43 authority's purposes, for fair consideration after public notice.

44       h. To receive and accept, from any federal or other public  
45 agency or governmental entity directly or through the Department  
46 of Health and Senior Services or any other agency of the State or  
47 any health care organization, grants or loans for or in aid of the



1 acquisition or construction of any project, and to receive and accept  
2 aid or contributions from any other source, of either money,  
3 property, labor or other things of value, to be held, used and applied  
4 only for the purposes for which such grants, loans and contributions  
5 may be made.

6 i. To prepare or cause to be prepared plans, specifications,  
7 designs and estimates of costs for the construction and equipment of  
8 health care organization projects for health care organizations under  
9 the provisions of this act, and from time to time to modify such  
10 plans, specifications, designs or estimates.

11 j. By contract or contracts with and for health care  
12 organizations only, to construct, acquire, reconstruct, rehabilitate  
13 and improve, and furnish and equip health care organization  
14 projects. The authority, in the exercise of its authority to make and  
15 enter into contracts and agreements necessary or incidental to the  
16 performance of its duties and the execution of its powers, shall  
17 adopt standing rules and procedures providing that, except as  
18 hereinafter provided, no contract on behalf of the authority shall be  
19 entered into for the doing of any work, or for the hiring of  
20 equipment or vehicles, where the sum to be expended exceeds the  
21 sum of \$7,500.00 or the amount determined as provided in this  
22 subsection, unless the authority shall first publicly advertise for bids  
23 therefor, and shall award the contract to the lowest responsible  
24 bidder; provided, however, that such advertising shall not be  
25 required where the contract to be entered into is one for the  
26 furnishing or performing of services of a professional nature or for  
27 the supplying of any product or the rendering of any service by a  
28 public utility subject to the jurisdiction of the Board of Public  
29 Utilities, and tariffs and schedules of the charges, made, charged, or  
30 exacted by the public utility for any such products to be supplied or  
31 services to be rendered are filed with said board. The Governor, in  
32 consultation with the Department of the Treasury, shall, no later  
33 than March 1 of each odd-numbered year, adjust the threshold  
34 amount set forth in this subsection, or subsequent to 1985 the  
35 threshold amount resulting from any adjustment under this  
36 subsection or section 17 of P.L.1985, c.469, in direct proportion to  
37 the rise or fall of the Consumer Price Index for all urban consumers  
38 in the New York City and the Philadelphia areas as reported by the  
39 United States Department of Labor. The Governor shall, no later  
40 than June 1 of each odd-numbered year, notify the authority of the  
41 adjustment. The adjustment shall become effective July 1 of each  
42 odd-numbered year.

43 k. To determine the location and character of any project to be  
44 undertaken, subject to the provisions of this act, and subject to State  
45 health and environmental laws, to construct, reconstruct, maintain,  
46 repair, lease as lessee or lessor, and regulate the same and operate  
47 the same in the event of default by a health care organization of its  
48 obligations and agreements with the authority; to enter into

1 contracts for any or all such purposes; and to enter into contracts for  
2 the management and operation of a project in the event of default as  
3 herein provided. The authority shall use its best efforts to conclude  
4 its position as an operator as herein provided as soon as is  
5 practicable.

6 l. To establish rules and regulations for the use of a project or  
7 any portion thereof and to designate a health care organization as its  
8 agent to establish rules and regulations for the use of a project  
9 undertaken by such a health care organization.

10 m. Generally to fix and revise from time to time and to charge  
11 and collect rates, rents, fees and other charges for the use of and for  
12 the services furnished or to be furnished by a project or any portion  
13 thereof and to contract with holders of its bonds and with any other  
14 person, party, association, corporation or other body, public or  
15 private, in respect thereof.

16 n. To enter into agreements, credit agreements or contracts,  
17 execute any and all instruments, and do and perform any and all  
18 acts or things necessary, convenient or desirable for the purposes of  
19 the authority or to carry out any power expressly given in this act.

20 o. To invest any moneys held in reserve or sinking funds, or  
21 any moneys not required for immediate use or disbursement, at the  
22 discretion of the authority, in such obligations as are authorized by  
23 resolution of the authority.

24 p. To obtain, or aid in obtaining, from any department or  
25 agency of the United States any insurance or guarantee as to, or of,  
26 or for the payment or repayment of interest or principal, or both, or  
27 any part thereof, on any loan or any instrument evidencing or  
28 securing the same, made or entered into pursuant to the provisions  
29 of this act; and notwithstanding any other provisions of this act, to  
30 enter into agreement, contract or any other instrument whatsoever  
31 with respect to any such insurance or guarantee, and accept  
32 payment in such manner and form as provided therein in the event  
33 of default by the borrower.

34 q. To obtain from any department or agency of the United  
35 States or a private insurance company any insurance or guarantee as  
36 to, or of, or for the payment or repayment of interest or principal, or  
37 both, or any part thereof, on any bonds issued by the authority  
38 pursuant to the provisions of this act; and notwithstanding any other  
39 provisions of this act, to enter into any agreement, contract or any  
40 other instrument whatsoever with respect to any such insurance or  
41 guarantee, except to the extent that such action would in any way  
42 impair or interfere with the authority's ability to perform and fulfill  
43 the terms of any agreement made with the holders of the bonds of  
44 the authority.

45 r. To receive and accept, from any department or agency of the  
46 United States or of the State or from any other entity, any grant,  
47 appropriation or other moneys to be used for or applied to any  
48 corporate purpose of the authority, including without limitation the

1 meeting of debt service obligations of the authority in respect of its  
2 bonds.

3 s. Subject to the approval of the State Treasurer, to grant or  
4 loan all or any portion of the funds received pursuant to subsection  
5 g. of section 7 of P.L.1972, c.29 (C.26:2I-7) in connection with the  
6 hospital asset transformation program.  
7 (cf: P.L.2000, c.98, s.3)

8  
9 261. Section 21 of P.L.1972, c.29 (C.26:2I-21) is amended to  
10 read as follows:

11 21. The Department of Health **[and Senior Services]**, or the  
12 commissioner or their representatives, may visit, examine into, and  
13 inspect, the authority and may require, as often as desired, duly  
14 verified reports therefrom giving such information and in such form  
15 as **[such]** the department or commissioner shall prescribe.  
16 (cf: P.L.1997, c.435, s.8)

17  
18 262. Section 23 of P.L.1972, c.29 (C.26:2I-23) is amended to  
19 read as follows:

20 23. In order to provide new health care organizations and to  
21 enable the construction and financing thereof, to refinance  
22 indebtedness hereafter created by the authority for the purpose of  
23 providing one or more health care organizations or additions or  
24 improvements thereto or modernization thereof or for any one or  
25 more of said purposes but for no other purpose unless authorized by  
26 law, each of the following bodies shall have the powers hereafter  
27 enumerated to be exercised upon such terms and conditions,  
28 including the fixing of fair consideration or rental to be paid or  
29 received, as it shall determine by resolution as to such property and  
30 each shall be subject to the performance of the duties hereafter  
31 enumerated, that is to say, the Department of Health **[and Senior  
32 Services]** as to such as are located on land owned by, or owned by  
33 the State and held for, any State institution or on lands of the  
34 institutions under the jurisdiction of the Department of Health **[and  
35 Senior Services]** or of the Department of Human Services, or by the  
36 authority, the Commissioner of Human Services as to State  
37 institutions operated by that department, the board of trustees or  
38 governing body of any public health care organization, the board of  
39 trustees of the University of Medicine and Dentistry of New Jersey,  
40 as to such as are located on land owned by the university, or by the  
41 State for the university, the State or by the particular public health  
42 care organization, respectively, namely:

43 a. The power to sell and to convey to the authority title in fee  
44 simple in any such land and any existing health care facility thereon  
45 owned by the State and held for any department thereof or of any of  
46 the institutions under the jurisdiction of the Department of Health  
47 **[and Senior Services]** or the power to sell and to convey to the

1 authority such title as the State or the public health care  
2 organization, respectively, may have in any such land and any  
3 existing health care facility thereon.

4 b. The power to lease to the authority any land and any existing  
5 health care facility thereon so owned for a term or terms not  
6 exceeding 50 years each.

7 c. The power to lease or sublease from the authority, and to  
8 make available, any such land and existing health care facility  
9 conveyed or leased to the authority under subsections a. and b. of  
10 this section, and any new health care facility erected upon such land  
11 or upon any other land owned by the authority.

12 d. The power and duty, upon receipt of notice of any  
13 assignment by the authority of any lease or sublease made under  
14 subsection c. of this section, or of any of its rights under any such  
15 lease or sublease, to recognize and give effect to such assignment,  
16 and to pay to the assignee thereof rentals or other payments then  
17 due or which may become due under any such lease or sublease  
18 which has been so assigned by the authority.

19 (cf: P.L.1997, c.435, s.9)

20  
21 263. Section 6 of P.L.1991, c.279 (C.26:2J-4.4) is amended to  
22 read as follows:

23 6. Notwithstanding any provision of law to the contrary, a  
24 certificate of authority to establish and operate a health maintenance  
25 organization in this State shall not be issued or continued by the  
26 Commissioner of Health **[and Senior Services]** on or after the  
27 effective date of this act unless the health maintenance organization  
28 provides health care services to any enrollee for the conduct of: one  
29 baseline mammogram examination for women who are at least 35  
30 but less than 40 years of age; a mammogram examination every  
31 year for women age 40 and over; and, in the case of a woman who  
32 is under 40 years of age and has a family history of breast cancer or  
33 other breast cancer risk factors, a mammogram examination at such  
34 age and intervals as deemed medically necessary by the woman's  
35 health care provider.

36 These health care services shall be provided to the same extent  
37 as for any other sickness 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.2004, c.86, s.6)

42  
43 264. Section 8 of P.L.1993, c.327 (C.26:2J-4.6) is amended to  
44 read as follows:

45 8. a. Notwithstanding any provision of this act or any other law  
46 to the contrary, a certificate of authority to establish and operate a  
47 health maintenance organization in this State shall not be issued or  
48 continued by the Commissioner of Health **[and Senior Services]** on

1 or after the effective date of this act unless the health maintenance  
2 organization provides health care services to any enrollee which  
3 include a health promotion program providing health wellness  
4 examinations and **【counselling】** counseling, which program shall  
5 include, but not be limited to, the following tests and services:

6 (1) For all persons 20 years of age and older, annual tests to  
7 determine blood hemoglobin, blood pressure, blood glucose level,  
8 and blood cholesterol level or, alternatively, low-density lipoprotein  
9 (LDL) level, and blood high-density lipoprotein (HDL) level;

10 (2) For all persons 35 years of age or older, a glaucoma eye test  
11 every five years;

12 (3) For all persons 40 years of age or older, an annual stool  
13 examination for presence of blood;

14 (4) For all persons 45 years of age or older, a left-sided colon  
15 examination of 35 to 60 centimeters every five years;

16 (5) For all women 20 years of age or older, a pap smear pursuant  
17 to the provisions of section 5 of P.L.1995, c.415 (C.26:2J-4.12);

18 (6) For all women 40 years of age or older, a mammogram  
19 examination pursuant to the provisions of section 6 of P.L.1991,  
20 c.279 (C.26:2J-4.4);

21 (7) For all adults, recommended immunizations; and

22 (8) For all persons 20 years of age or older, an annual  
23 consultation with a health care provider to discuss lifestyle  
24 behaviors that promote health and well-being including, but not  
25 limited to, smoking control, nutrition and diet recommendations,  
26 exercise plans, lower back protection, weight control, immunization  
27 practices, breast self-examination, testicular self-examination, and  
28 seat belt usage in motor vehicles.

29 Notwithstanding the provisions of this subsection to the contrary,  
30 if a physician or other health care provider recommends that it  
31 would be medically appropriate for an enrollee to receive a different  
32 schedule of tests and services than that provided for under this  
33 subsection, the health maintenance organization shall provide  
34 coverage for the tests or services actually provided, within the  
35 limits of the amounts listed in subsection b. of this section.

36 b. A health maintenance organization shall not be required to  
37 offer services to enrollees set forth in subsection a. of this section  
38 for which the value exceeds: \$125 a year for each person between  
39 the ages of 20 to 39, inclusive; \$145 a year for each man age 40 and  
40 over; and \$235 a year for each woman age 40 and over; except that  
41 for persons 45 years of age or older, the value of a left-sided colon  
42 examination shall not be included in the above amount; however, no  
43 health maintenance organization shall be required to provide  
44 services to enrollees for a left-sided colon examination with a value  
45 in excess of \$150.

46 c. The Commissioner of Health **【and Senior Services】**, in  
47 consultation with the Department of the Treasury, shall annually  
48 adjust the threshold amounts provided by subsection b. of this

1 section in direct proportion to the increase or decrease in the  
2 consumer price index for all urban consumers in the New York City  
3 and Philadelphia areas as reported by the United States Department  
4 of Labor. The adjustment shall become effective on July 1 of the  
5 year in which it is reported.

6 d. Nothing in this act shall be construed to require that a health  
7 maintenance organization take any actions which conflict with the  
8 health benefits, underwriting and rating standards established by the  
9 federal government pursuant to subchapter XI of Pub.L.93-222 (42  
10 U.S.C. s.300e et seq.).

11 e. This section shall apply to all health maintenance  
12 organization contracts in which the right to change the enrollee  
13 charge has been reserved.

14 f. The provisions of this section shall not apply to a health  
15 benefits plan subject to the provisions of P.L.1992, c.161  
16 (C.17B:27A-2 et seq.) or P.L.1992, c.162 (C.17B:27A-17 et seq.).  
17 (cf: P.L.1999, c.339, s.6)

18  
19 265. Section 4 of P.L.1995, c.316 (C.26:2J-4.10) is amended to  
20 read as follows:

21 4. A certificate of authority to establish and operate a health  
22 maintenance organization in this State shall not be issued or  
23 continued by the Commissioner of **Health** Banking and **Senior**  
24 **Services** Insurance on or after the effective date of P.L.2005, c.248  
25 (C.17:48E-35.27 et al.) unless the health maintenance organization  
26 offers health care services to any enrollee which include:

27 a. Screening by blood lead measurement for lead poisoning for  
28 children, including confirmatory blood lead testing as specified by  
29 the Department of Health **and Senior Services** pursuant to section  
30 7 of P.L.1995, c.316 (C.26:2-137.1); and medical evaluation and  
31 any necessary medical follow-up and treatment for lead poisoned  
32 children.

33 b. All childhood immunizations as recommended by the  
34 Advisory Committee on Immunization Practices of the United  
35 States Public Health Service and the Department of Health **and**  
36 **Senior Services** pursuant to section 7 of P.L.1995, c.316 (C.26:2-  
37 137.1). A health maintenance organization shall notify its  
38 enrollees, in writing, of any change in the health care services  
39 provided with respect to childhood immunizations and any related  
40 changes in premium. **Such** The notification shall be in a form  
41 and manner to be determined by the Commissioner of Banking and  
42 Insurance.

43 c. Screening for newborn hearing loss by appropriate  
44 electrophysiologic screening measures and periodic monitoring of  
45 infants for delayed onset hearing loss, pursuant to P.L.2001, c.373  
46 (C.26:2-103.1 et al.). Payment for this screening service shall be  
47 separate and distinct from payment for routine new baby care in the

1 form of a newborn hearing screening fee as negotiated with the  
2 provider and facility.

3 The health care services provided pursuant to this section shall  
4 be provided to the same extent as for any other medical condition  
5 under the contract, except that a deductible shall not be applied for  
6 services provided pursuant to this section; however, with respect to  
7 a contract that qualifies as a high deductible health plan for which  
8 qualified medical expenses are paid using a health savings account  
9 established pursuant to section 223 of the federal Internal Revenue  
10 Code of 1986 (26 U.S.C. s.223), a deductible shall not be applied  
11 for any services provided pursuant to this section that represent  
12 preventive care as permitted by that federal law, and shall not be  
13 applied as provided pursuant to section 12 of P.L.2005, c.248  
14 (C.26:2J-4.29). This section shall apply to all contracts under  
15 which the health maintenance organization has reserved the right to  
16 change the schedule of charges for enrollee coverage.

17 (cf: P.L.2005, c.248, s.10)

18

19 266. Section 5 of P.L.1995, c.415 (C.26:2J-4.12) is amended to  
20 read as follows:

21 5. A certificate of authority to establish and operate a health  
22 maintenance organization in this State shall not be issued or  
23 continued by the Commissioner of **Health** Banking and **Senior**  
24 **Services** Insurance on or after the effective date of this act unless  
25 the health maintenance organization offers health care services to  
26 any enrollee or other person covered thereunder which include a  
27 Pap smear. The health care services shall be provided to the same  
28 extent as for any other medical condition under the contract.

29 As used in this section, and notwithstanding the provisions of  
30 this section to the contrary, "Pap smear" means an initial Pap smear  
31 and any confirmatory test when medically necessary and as ordered  
32 by the covered person's physician and includes all laboratory costs  
33 associated with the initial Pap smear and any **[such]** confirmatory  
34 test.

35 The provisions of this section shall apply to all contracts for  
36 health care services by health maintenance organizations under  
37 which the right to change the schedule of charges for enrollee  
38 coverage is reserved.

39 (cf: P.L.2001, c.227, s.5)

40

41 267. Section 6 of P.L.1997, c.75 (C.26:2J-4.14) is amended to  
42 read as follows:

43 6. A certificate of authority to establish and operate a health  
44 maintenance organization in this State pursuant to P.L.1973, c.337  
45 (C.26:2J-1 et seq.) shall not be issued or continued by the  
46 Commissioner of **Health** Banking and **Senior Services**  
47 Insurance on or after the effective date of P.L.1997, c.75 unless the  
48 health maintenance organization provides health care services to

1 any enrollee, following a mastectomy on one breast or both breasts,  
2 for reconstructive breast surgery, surgery to restore and achieve  
3 symmetry between the two breasts, and prostheses and, under any  
4 contract for health care services providing outpatient x-ray or  
5 radiation therapy, outpatient chemotherapy following surgical  
6 procedures in connection with the treatment of breast cancer shall  
7 be included as a part of the outpatient x-ray or radiation therapy.

8 The health care services shall be provided to the same extent as  
9 for any other medical condition under the contract for health care  
10 services.

11 The provisions of this section shall apply to all contracts for  
12 health care services by health maintenance organizations under  
13 which the right to change the schedule of charges for enrollee  
14 coverage is reserved.

15 (cf: P.L.1997, c.75, s.6)

16  
17 268. Section 8 of P.L.1997, c.149 (C.26:2J-4.15) is amended to  
18 read as follows:

19 8. a. Every enrollee agreement that provides hospital or medical  
20 expense benefits and is delivered, issued, executed, or renewed in  
21 this State pursuant to P.L.1973, c.337 (C.26:2J-1 et seq.) or  
22 approved for issuance or renewal in this State by the Commissioner  
23 of **Health Banking** and **Senior Services Insurance** on or after  
24 the effective date of this act shall provide health care services for a  
25 minimum of 72 hours of inpatient care following a modified radical  
26 mastectomy and a minimum of 48 hours of inpatient care following  
27 a simple mastectomy. The enrollee agreement shall not require a  
28 health care provider to obtain authorization from the health  
29 maintenance organization for prescribing 72 or 48 hours, as  
30 appropriate, of inpatient care as provided for in this section.

31 The provisions of this section shall not be construed to: require a  
32 patient to receive inpatient care for 72 or 48 hours, as appropriate, if  
33 the patient in consultation with the patient's physician determines  
34 that a shorter length of stay is medically appropriate; or relieve a  
35 patient or a patient's physician, if appropriate, of any notification  
36 requirements to the health maintenance organization under the  
37 enrollee agreement.

38 The health care services shall be provided to the same extent as  
39 for any other sickness under the enrollee agreement.

40 The provisions of this section shall apply to enrollee agreements  
41 in which the health maintenance organization has reserved the right  
42 to change the schedule of charges.

43 b. The Commissioner of **Health Banking** and **Senior Services Insurance**  
44 shall adopt regulations pursuant to the  
45 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
46 seq.) to implement the provisions of this section.

47 (cf: P.L.1997, c.149, s.8)



1       269. Section 8 of P.L.1997, c.338 (C.26:2J-4.17) is amended to  
2 read as follows:

3       8. Notwithstanding any provision of law to the contrary, a  
4 certificate of authority to establish and operate a health maintenance  
5 organization in this State shall not be issued or continued by the  
6 Commissioner of **【Health】 Banking** and **【Senior Services】**  
7 Insurance on or after the effective date of this act unless the health  
8 maintenance organization provides health care services to each  
9 enrollee for the therapeutic treatment of inherited metabolic  
10 diseases, including the purchase of medical foods and low protein  
11 modified food products, when diagnosed and determined to be  
12 medically necessary by the enrollee's physician.

13       For the purposes of this section, "inherited metabolic disease"  
14 means a disease caused by an inherited abnormality of body  
15 chemistry for which testing is mandated pursuant to P.L.1977, c.321  
16 (C.26:2-110 et seq.); "low protein modified food product" means a  
17 food product that is specially formulated to have less than one gram  
18 of protein per serving and is intended to be used under the direction  
19 of a physician for the dietary treatment of an inherited metabolic  
20 disease, but does not include a natural food that is naturally low in  
21 protein; and "medical food" means a food that is intended for the  
22 dietary treatment of a disease or condition for which nutritional  
23 requirements are established by medical evaluation and is  
24 formulated to be consumed or administered enterally under  
25 direction of a physician.

26       The health care services shall be provided to the same extent as  
27 for any other medical condition under the contract.

28       The provisions of this section shall apply to all contracts for  
29 health care services by health maintenance organizations under  
30 which the right to change the schedule of charges for enrollee  
31 coverage is reserved.

32 (cf: P.L.1997, c.338, s.8)

33

34       270. Section 6 of P.L.1999, c.49 (C.26:2J-4.19) is amended to  
35 read as follows:

36       6. a. A certificate of authority to establish and operate a health  
37 maintenance organization in this State pursuant to P.L.1973, c.337  
38 (C.26:2J-1 et seq.), shall not be issued or continued by the  
39 Commissioner of **【Health】 Banking** and **【Senior Services】**  
40 Insurance on or after the effective date of this amendatory and  
41 supplementary act unless the health maintenance organization  
42 provides health care services to an enrollee who is severely disabled  
43 or a child age five or under for: (1) general anesthesia and  
44 hospitalization for dental services; or (2) a medical condition  
45 covered by the enrollee agreement which requires hospitalization or  
46 general anesthesia for dental services rendered by a participating  
47 dentist regardless of where the dental services are provided.

1       b. A health maintenance organization may require prior  
2 authorization of hospitalization for dental services in the same  
3 manner that prior authorization is required for hospitalization for  
4 other covered diseases or conditions.

5       c. This section shall apply to all contracts for health care  
6 services in which the health maintenance organization has reserved  
7 the right to change the schedule of charges.

8 (cf: P.L.1999, c.49, s.6)

9  
10       271. Section 8 of P.L.1999, c.108 (C.26:2J-4.20) is amended to  
11 read as follows:

12       8. a. Every enrollee agreement delivered, issued, executed, or  
13 renewed in this State pursuant to P.L.1973, c.337 (C.26:2J-1 et seq.)  
14 or approved for issuance or renewal in this State by the  
15 Commissioner of **Health** Banking and **Senior Services**  
16 Insurance, on or after the effective date of this act shall provide  
17 health care services for biologically-based mental illness under the  
18 same terms and conditions as provided for any other sickness under  
19 the agreement. "Biologically-based mental illness" means a mental  
20 or nervous condition that is caused by a biological disorder of the  
21 brain and results in a clinically significant or psychological  
22 syndrome or pattern that substantially limits the functioning of the  
23 person with the illness, including but not limited to, schizophrenia,  
24 schizoaffective disorder, major depressive disorder, bipolar  
25 disorder, paranoia and other psychotic disorders, obsessive-  
26 compulsive disorder, panic disorder and pervasive developmental  
27 disorder, or autism. "Same terms and conditions" means that the  
28 health maintenance organization cannot apply different copayments,  
29 deductibles, or health care services limits to biologically-based  
30 mental health care services than those applied to other medical or  
31 surgical health care services.

32       b. Nothing in this section shall be construed to change the  
33 manner in which a health maintenance organization determines:

34       (1) whether a mental health care service meets the medical  
35 necessity standard as established by the health maintenance  
36 organization; or

37       (2) which providers shall be entitled to reimbursement or to be  
38 participating providers, as appropriate, for mental health services  
39 under the enrollee agreement.

40       c. The provisions of this section shall apply to enrollee  
41 agreements in which the health maintenance organization has  
42 reserved the right to change the premium.

43 (cf: P.L.1999, c.106, s.8)

44  
45       272. Section 1 of P.L.1999, c.332 (C.26:2J-4.21) is amended to  
46 read as follows:

47       1. a. A certificate of authority to establish and operate a health  
48 maintenance organization in this State shall not be issued or

1 continued by the Commissioner of **【Health】 Banking** and **【Senior**  
2 **Services】 Insurance** on or after the effective date of this act unless  
3 the health maintenance organization offers health care services in  
4 conformance with the provisions of subsection b. of this section.

5 b. If an enrollee is a resident of a skilled nursing facility,  
6 continuing care retirement community, or a retirement community  
7 which operates a skilled nursing facility on the premises of the  
8 community, regardless of whether the health maintenance  
9 organization is under contract with the skilled nursing facility or the  
10 skilled nursing facility at the continuing care retirement community  
11 or retirement community, the enrollee's primary care physician shall  
12 refer the enrollee to the skilled nursing facility or the community's  
13 Medicare-certified skilled nursing unit, as applicable, rather than to  
14 a skilled nursing facility separate from the facility or the  
15 community of origin, if:

16 (1) the skilled nursing facility or the continuing care retirement  
17 community or retirement community with a skilled nursing facility  
18 has the capacity to provide the services the enrollee needs;

19 (2) the primary care physician, in consultation with the enrollee  
20 or a representative of the enrollee's family, determines that the  
21 referral is in the best interest of the enrollee;

22 (3) the skilled nursing facility or the continuing care retirement  
23 community or retirement community with a skilled nursing facility  
24 agrees to be reimbursed at the same contract rate negotiated by the  
25 health maintenance organization with similar providers for the same  
26 services and supplies in the same geographic area; and

27 (4) the skilled nursing facility or the continuing care retirement  
28 community or retirement community with a skilled nursing facility  
29 meets all applicable State licensing and certification requirements

30 c. For the purposes of this act, "continuing care retirement  
31 community" means a continuing care facility operating under a  
32 certificate of authority issued by the Department of Community  
33 Affairs pursuant to P.L.1986, c.103 (C.52:27D-330 et seq.), and  
34 "retirement community" means a retirement community which is  
35 registered with the Department of Community Affairs pursuant to  
36 P.L.1977, c.419 (C.45:22A-21 et seq.).

37 (cf: P.L.1999, c.332, s.1)

38  
39 273. Section 8 of P.L.2001, c.295 (C.26:2J-4.24) is amended to  
40 read as follows:

41 8. Every enrollee agreement that provides hospital or medical  
42 expense benefits and is delivered, issued, executed, or renewed in  
43 this State pursuant to P.L.1973, c.337 (C.26:2J-1 et seq.), or  
44 approved for issuance or renewal in this State by the Commissioner  
45 of **【Health】 Banking** and **【Senior Services】 Insurance** on or after  
46 the effective date of this act, shall provide health care services to  
47 any enrollee or other person covered thereunder for expenses  
48 incurred in conducting colorectal cancer screening at regular

1 intervals for persons age 50 and over and for persons of any age  
2 who are considered to be at high risk for colorectal cancer. The  
3 methods of screening for which benefits shall be provided shall  
4 include: a screening fecal occult blood test, flexible sigmoidoscopy,  
5 colonoscopy, barium enema, or any combination thereof; or the  
6 most reliable, medically recognized screening test available. The  
7 method and frequency of screening to be utilized shall be in  
8 accordance with the most recent published guidelines of the  
9 American Cancer Society and as determined medically necessary by  
10 the covered person's physician, in consultation with the covered  
11 person.

12 As used in this section, "high risk for colorectal cancer" means a  
13 person has:

14 a. a family history of: familial adenomatous polyposis;  
15 hereditary non-polyposis colon cancer; or breast, ovarian,  
16 endometrial, or colon cancer or polyps;

17 b. chronic inflammatory bowel disease; or

18 c. a background, ethnicity, or lifestyle that the physician  
19 believes puts the person at elevated risk for colorectal cancer.

20 The health care services shall be provided to the same extent as  
21 for any other medical condition under the enrollee agreement.

22 The provisions of this section shall apply to all enrollee  
23 agreements in which the health maintenance organization has  
24 reserved the right to change the schedule of charges.

25 (cf: P.L.2001, c.295, s.8)

26

27 274. Section 11 of P.L.2005, c.248 (C.26:2J-4.28) is amended to  
28 read as follows:

29 11. A certificate of authority to establish and operate a health  
30 maintenance organization, which organization offers a contract that  
31 qualifies as a high deductible health plan for which qualified  
32 medical expenses are paid using a health savings account  
33 established pursuant to section 223 of the federal Internal Revenue  
34 Code of 1986 (26 U.S.C. s.223), shall not be issued or continued by  
35 the Commissioner of **Health Banking** and **Senior Services**  
36 Insurance on or after the effective date of P.L.2005, c.248  
37 (C.17:48E-35.27 et al.), unless the health maintenance organization  
38 offers health care services to any enrollee which include services  
39 provided in-network which represent medically necessary  
40 preventive care as permitted by that federal law.

41 The services provided pursuant to this section shall be provided  
42 to the same extent as for any other medical condition under the  
43 contract, except that a deductible shall not be applied for services  
44 provided pursuant to this section. This section shall apply to all  
45 contracts under which the health maintenance organization has  
46 reserved the right to change the schedule of charges for enrollee  
47 coverage.

48 (cf: P.L.2005, c.248, s.11)

1       275. Section 12 of P.L.2005, c.248 (C.26:2J-4.29) is amended to  
2 read as follows:

3       12. Notwithstanding the provisions of section 4 of P.L.1995,  
4 c.316 (C.26:2J-4.10) regarding deductibles for a high deductible  
5 health plan, a contract offered by a health maintenance  
6 organization, which certificate of authority to establish and operate  
7 is issued or continued by the Commissioner of **【Health】** Banking  
8 and **【Senior Services】** Insurance on or after the effective date of  
9 P.L.2005, c.248 (C.17:48E-35.27 et al.), that qualifies as a high  
10 deductible health plan for which qualified medical expenses are  
11 paid using a health savings account established pursuant to section  
12 223 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.223),  
13 shall not apply a deductible for any benefits in which a deductible is  
14 not applicable pursuant to any law enacted after the effective date  
15 of P.L.2005, c.248 (C.17:48E-35.27 et al.).

16       This section shall apply to all contracts under which the health  
17 maintenance organization has reserved the right to change the  
18 schedule of charges for enrollee coverage.  
19 (cf: P.L.2005, c.248, s.12)  
20

21       276. Section 8 of P.L.2007, c.345 (C.26:2J-4.31) is amended to  
22 read as follows:

23       8. a. A certificate of authority to establish and operate a health  
24 maintenance organization in this State pursuant to P.L.1973, c.337  
25 (C.26:2J-1 et seq.) shall not be issued or continued by the  
26 Commissioner of **【Health】** Banking and **【Senior Services】**  
27 Insurance on or after the effective date of this act unless the health  
28 maintenance organization provides health care services for any  
29 person covered thereunder for expenses incurred in obtaining an  
30 orthotic or prosthetic appliance from any licensed orthotist or  
31 prosthetist, or any certified pedorthist, as determined medically  
32 necessary by the covered person's physician.

33       As used in this section, "orthotic appliance," "prosthetic  
34 appliance," **【"licensed orthotist"】** "licensed orthotist," and "licensed  
35 prosthetist" have the meaning assigned to them in section 3 of  
36 P.L.1991, c.512 (C.45:12B-3) and "certified pedorthist" has the  
37 meaning assigned to it in subsection j. of section 18 of P.L.1991,  
38 c.512 (C.45:12B-18).

39       b. On and after the effective date of this act, a health  
40 maintenance organization shall reimburse for orthotic and prosthetic  
41 appliances at the same rate as reimbursement for such appliances  
42 under the federal Medicare reimbursement schedule.

43       c. The benefits shall be provided to the same extent as for any  
44 other medical condition under the enrollee agreement.

45       d. The provisions of this section shall apply to all enrollee  
46 agreements in which the health maintenance organization has  
47 reserved the right to change the schedule of charges.

48 (cf: P.L.2007, c.345, s.8)

1       277. Section 23 of P.L.1973, c.337 (C.26:2J-23) is amended to  
2 read as follows:

3       23. Every health maintenance organization subject to this act  
4 shall pay to the commissioner the following fees:

5       a. for filing an application for a certificate of authority or  
6 amendment thereto, \$100.00;

7       b. for filing each annual report, \$10.00; and

8       c. for the purpose of supporting the activities of the  
9 Department of **Health** Banking and **Senior Services** Insurance  
10 associated with the regulation of health maintenance organizations,  
11 \$1.50 per life per year, with payment being made annually no later  
12 than July 15 for the preceding calendar year. Payments made by a  
13 health maintenance organization pursuant to this act shall not in any  
14 way reduce payments that may be owed by a health maintenance  
15 organization pursuant to P.L.1995, c.156 (C.17:1C-19 et seq.) and  
16 subsequent amendments thereto. No such payment shall be  
17 required for any per life per year that is funded through the  
18 Medicaid program established pursuant to P.L.1968, c.413  
19 (C.30:4D-1 et seq.), the "Children's Health Care Coverage  
20 Program" established pursuant to P.L.1997, c.272 (C.30:4I-1 et  
21 seq.), or the **["FamilyCare Health Coverage Program"]** NJ  
22 FamilyCare Program established pursuant to **[P.L.2000, c.71**  
23 **(C.30:4J-1 et seq.)]** P.L.2005, c.156 (C.30:4J-8 et al.).

24       In accordance with the "Administrative Procedure Act,"  
25 P.L.1968, c.410 (C.52:14B-1 et seq.), the commissioner may  
26 promulgate rules and regulations directing that additional fees be  
27 paid.

28       From fees collected under the provisions of subsection c. of this  
29 section, the Legislature shall in each fiscal year appropriate to the  
30 community health law project the sum of \$100,000 to fund a grant  
31 in support of a program to provide any senior citizen resident of this  
32 State who is covered as an enrollee in or beneficiary of a health  
33 plan administered by a health maintenance organization with  
34 information concerning the person's rights under the program and  
35 assistance with the procedures for receiving the benefits to which  
36 the person is entitled under the program.

37 (cf: P.L.2002, c.34, s.18)

38

39       278. Section 1 of P.L.1986, c.106 (C.26:2K-35) is amended to  
40 read as follows:

41       1. As used in this act:

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

44       b. "Dispatch" means the coordinated request for and dispatch  
45 of the emergency medical service helicopter response unit by a  
46 central communications center located in the service area, following  
47 protocols developed by the mobile intensive care hospital, the

1 regional trauma or critical care center, the commissioner, and the  
2 superintendent.

3 c. "Emergency medical service helicopter response unit" means  
4 a specially equipped hospital-based emergency medical service  
5 helicopter staffed by advanced life support personnel and operated  
6 for the provision of advanced life support services under the  
7 medical direction of a mobile intensive care program and the  
8 regional trauma or critical care center authorized by the  
9 commissioner.

10 d. "Emergency medical transportation" means the prehospital  
11 or interhospital transportation of an acutely ill or injured patient by  
12 a dedicated emergency medical service helicopter response unit  
13 operated, maintained and piloted by the Division of State Police of  
14 the Department of Law and Public Safety, pursuant to regulations  
15 adopted by the commissioner under chapter 40 of Title 8 of the New  
16 Jersey Administrative Code.

17 e. "Medical direction" means the medical control and medical  
18 orders transmitted from the physician of the mobile intensive care  
19 hospital or from the physician at the regional trauma or critical care  
20 center to the staff of the helicopter. The mobile intensive care unit  
21 coordinating center and regional trauma or critical care center shall  
22 have the ability to cross patch and consult with each other as  
23 approved by the commissioner.

24 f. "Mobile intensive care hospital" means a hospital authorized  
25 by the commissioner to develop and maintain a mobile intensive  
26 care unit to provide advanced life support services in accordance  
27 with P.L.1984, c.146 (C.26:2K-7 et al.).

28 g. "Regional trauma center" means a State designated level one  
29 hospital-based trauma center equipped and staffed to provide  
30 emergency medical services to an accident or trauma victim,  
31 including, but not limited to, the level one trauma centers at the  
32 University of Medicine and Dentistry of New Jersey-University  
33 Hospital in Newark, known as the "Eric Munoz Trauma Center,"  
34 and at the Cooper Hospital/University Medical Center in Camden.

35 h. "Critical care center" means a hospital authorized by the  
36 commissioner to provide regional critical care services, such as  
37 trauma, burn, spinal cord, cardiac, poison, or neonatal care.

38 i. "Superintendent" means the Superintendent of the Division  
39 of State Police of the Department of Law and Public Safety.  
40 (cf: P.L.2010, c.80, s.1)

41

42 279. Section 1 of P.L.2003, c.1 (C.26:2K-47.1) is amended to  
43 read as follows:

44 1. As used in this act:

45 "Commissioner" means the Commissioner of Health [and Senior  
46 Services];

1 "Emergency medical service" means a program in a hospital  
2 staffed 24 hours-a-day by a licensed physician trained in emergency  
3 medicine;

4 "Emergency medical technician" means a person trained in basic  
5 life support services as defined in section 1 of P.L.1985, c.351  
6 (C.26:2K-21) and who is certified by the Department of Health  
7 **【and Senior Services】** to provide that level of care.  
8 (cf: P.L.2003, c.1. s.1)  
9

10 280. Section 2 of P.L.2003, c.1 (C.26:2K-47.2) is amended to  
11 read as follows:

12 2. a. An emergency medical technician who has been certified  
13 by the commissioner pursuant to subsection b. of this section to  
14 administer an epinephrine auto-injector device shall administer,  
15 maintain and dispose of the device in accordance with rules and  
16 regulations adopted by the commissioner.

17 Each administration of an auto-injector device pursuant to this  
18 act shall be reported to the Department of Health **【and Senior**  
19 **Services】** in a manner determined by the commissioner.

20 b. The commissioner shall establish written standards and  
21 application procedures which an emergency medical technician  
22 shall meet in order to obtain certification. The commissioner shall  
23 certify a candidate who: provides evidence of satisfactory  
24 completion of an educational program which is approved by the  
25 commissioner and includes training in the administration of  
26 epinephrine auto-injector devices; and passes an examination in the  
27 administration of the devices which is approved by the  
28 commissioner.

29 c. The commissioner shall maintain a registry of all persons  
30 certified pursuant to this section, which shall include, but not be  
31 limited to:

- 32 (1) the person's name and residence; and  
33 (2) the date that certification was granted.

34 d. The commissioner shall annually compile a list of  
35 emergency medical technicians who have obtained certification to  
36 administer an epinephrine auto-injector device pursuant to this  
37 section, which shall be available to the public.

38 e. A fee may be charged to a person enrolled in an educational  
39 program approved by the department which includes training in the  
40 administration of an epinephrine auto-injector device in order to  
41 cover the cost of training and testing for certification pursuant to  
42 this section, if the entity that provides the educational program is  
43 not reimbursed for the cost of that training and testing from the  
44 "Emergency Medical Technician Training Fund" established  
45 pursuant to section 3 of P.L.1992, c.143 (C.26:2K-56).

46 (cf: P.L.2003, c.1, s.2)



1       281. Section 10 of P.L.2003, c.1 (C.26:2K-47.9) is amended to  
2 read as follows:

3       10. Pursuant to the "Administrative Procedure Act," P.L.1968,  
4 c.410 (C.52:14B-1 et seq.), the Commissioner of Health [and  
5 Senior Services] shall adopt rules and regulations to effectuate the  
6 purposes of this act, including medical protocols for the  
7 administration of epinephrine auto-injector devices, in consultation  
8 with the State [mobil] mobile intensive care advisory council and  
9 the New Jersey State First Aid Council, Inc. The rules and  
10 regulations shall address age appropriateness in the administration  
11 of epinephrine.

12 (cf: P.L.2003, c.1. s.10)

13

14       282. Section 1 of P.L.2009, c.174 (C.26:2K-63) is amended to  
15 read as follows:

16       1. Certification of a person as an emergency medical technician  
17 by the Commissioner of Health [and Senior Services], when that  
18 person meets the requirements therefor as prescribed by regulation  
19 of the commissioner, shall be valid for a period of five years.

20 (cf: P.L.2009, c.174, s.1)

21

22       283. Section 2 of P.L.2009, c.174 (C.26:2K-64) is amended to  
23 read as follows:

24       2. The Commissioner of Health [and Senior Services],  
25 pursuant to the "Administrative Procedure Act," P.L.1968, c.410  
26 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate  
27 the purposes of this act.

28 (cf: P.L.2009, c.174, s.2)

29

30       284. Section 1 of P.L.2003, c.269 (C.26:2M-7.2) is amended to  
31 read as follows:

32       1. a. The Commissioner of Health [and Senior Services] shall  
33 establish a mandatory training program for long-term care facility  
34 staff, as described in subsection b. of this section, in the specialized  
35 care of patients who are diagnosed by a physician as having  
36 Alzheimer's disease or a related disorder. The training program  
37 shall include the causes and progression of Alzheimer's disease and  
38 related disorders and methods to deal with the specific problems  
39 encountered in the care of patients with Alzheimer's disease and  
40 related disorders, including, but not limited to: communicating with  
41 patients with Alzheimer's disease and related disorders;  
42 psychological, social and physical needs of patients with  
43 Alzheimer's disease and related disorders; and safety measures  
44 which need to be taken for a patient with Alzheimer's disease and  
45 related disorders.

46       b. A long-term care facility shall annually provide training,  
47 under the training program established pursuant to subsection a. of

1 this section, to a certified nurse aide, licensed practical nurse,  
2 registered professional nurse, and other health care professionals, as  
3 appropriate, who provide direct care to a patient in the facility who  
4 is diagnosed as having Alzheimer's disease or a related disorder.  
5 (cf: P.L.2003, c.269, s.1)

6  
7 285. Section 2 of P.L.1988, c.114 (C.26:2M-10) is amended to  
8 read as follows:

9 2. As used in this act:

10 a. "Adult day care" means a community-based group program  
11 designed to meet the needs of functionally or cognitively impaired  
12 adults through an individual plan of care structured to provide a  
13 variety of health, social, and related support services in a protective  
14 setting during any part of a day but less than 24 hours.

15 b. "Alzheimer's Disease and related disorders" means forms of  
16 dementia characterized by a general loss of intellectual abilities of  
17 sufficient severity to interfere with social or occupational  
18 functioning.

19 c. "Care needs or behavioral problems" means the  
20 manifestations of dementia which may include, but need not be  
21 limited to, progressive memory loss, confusion, inability to  
22 communicate, extreme personality change, and eventual inability to  
23 perform the most basic tasks.

24 d. "Commissioner" means the Commissioner of [the State  
25 Department of Health and Senior] Human Services.

26 e. "Department" means the [State] Department of [Health and  
27 Senior] Human Services.

28 f. "Grantee" means a public agency, private for profit agency,  
29 or private nonprofit agency selected by the department to establish  
30 an adult day care program for participants pursuant to this act.

31 g. "Participant" means an individual with Alzheimer's disease  
32 or a related disorder, particularly those in the moderate to severe  
33 stages. To be eligible for services, a participant shall have  
34 documentation from a physician that the participant has Alzheimer's  
35 disease or a related disorder.

36 (cf: P.L.1999, c.285, s.1)

37  
38 286. Section 2 of P.L.2011, c.76 (C.26:2M-17) is amended to  
39 read as follows:

40 2. a. There is established the New Jersey Alzheimer's Disease  
41 Study Commission in the Department of [Health and Senior]  
42 Human Services.

43 b. The commission shall consist of 15 members as follows:

44 (1) the Commissioners of Health [and Senior Services] and  
45 Human Services, or their designees, who shall serve ex officio;

46 (2) two members of the Senate, to be appointed by the President  
47 of the Senate, who shall not be of the same political party;

1 (3) two members of the General Assembly, to be appointed by  
2 the Speaker of the General Assembly, who shall not be of the same  
3 political party; and

4 (4) nine members appointed by the Governor, as follows: two  
5 persons recommended by the Alzheimer's Association, one of  
6 whom shall be a representative of the Greater New Jersey Chapter  
7 and one of whom shall be a representative of the Alzheimer's  
8 Association Delaware Valley Chapter; three health care  
9 professionals who are currently involved in the provision of direct  
10 services, one of whom shall be a representative of an agency that  
11 provides home care services to persons with dementia, one of whom  
12 shall be a representative of an assisted living facility that provides  
13 specialized services to persons with dementia, and one of whom  
14 shall be a representative of a licensed nursing home that provides  
15 specialized services to persons with dementia; one representative  
16 from the clergy who has experience providing emotional and  
17 spiritual care and support for persons with Alzheimer's disease and  
18 their families; two persons who by reason of family relationship or  
19 legal guardianship bear or have borne responsibility in caring for a  
20 person with Alzheimer's disease; and one attorney who is currently  
21 licensed and practicing in New Jersey, has expertise in legal and  
22 financial planning and elder care issues, and has extensive  
23 community-based experience working with persons with  
24 Alzheimer's disease and their families.

25 c. Vacancies in the membership of the commission shall be  
26 filled in the same manner provided for the original appointments.

27 d. The commission shall organize as soon as practicable  
28 following the appointment of its members and shall select a  
29 chairperson from among the members. The chairperson shall  
30 appoint a secretary who need not be a member of the commission.

31 e. Members of the commission shall serve without  
32 compensation, but shall be reimbursed for necessary expenses  
33 incurred in the performance of their duties as members of the  
34 commission, within the limits of funds appropriated or otherwise  
35 made available to the commission for its purposes.

36 f. The commission shall be entitled to call to its assistance and  
37 avail itself of the services of the employees of any State, county, or  
38 municipal department, board, bureau, commission, or agency as it  
39 may require and as may be available to it for its purposes.

40 g. The Department of [Health and Senior Service] Human  
41 Services shall provide staff support to the commission, as  
42 necessary.

43 (cf: P.L.2011, c.76, s.2)

44

45 287. Section 2 of P.L.2003, c.257 (C.26:2N-9) is amended to  
46 read as follows:

47 2. a. Prior to administering a second dose of the measles-mumps-  
48 rubella (MMR) vaccine to a child, a health care provider may give

1 the child's parent or guardian the option of consenting to the  
2 administration of an antibody titer to determine whether or not the  
3 child has already developed immunity to MMR in response to a  
4 previously administered dose of the vaccine and would not require  
5 the second dose.

6 b. Documented laboratory evidence of immunity from MMR  
7 shall exempt a child from further vaccination for MMR, as may be  
8 required pursuant to Department of Health **[and Senior Services]**  
9 regulations.

10 (cf: P.L.2003, c.257, s.2)

11  
12 288. Section 3 of P.L.2003, c.257 (C.26:2N-10) is amended to  
13 read as follows:

14 3. The Commissioner of Health **[and Senior Services]** shall  
15 prepare and make available to all health care providers in the State a  
16 pamphlet that explains the nature and purpose of the MMR vaccine  
17 and the antibody titer used to determine immunity pursuant to  
18 section 2 of this act.

19 The commissioner shall send a copy of the pamphlet to every  
20 licensed health care provider in the State who administers the MMR  
21 vaccine, with a cover letter advising the health care provider that  
22 the pamphlet was prepared in accordance with the requirements of  
23 P.L.2003, c. 257 (C.26:2N-8 et seq.), known as "Holly's Law," and  
24 how the health care provider can obtain additional copies of the  
25 pamphlet from the Department of Health **[and Senior Services]**.

26 (cf: P.L.2003, c.257, s.3)

27  
28 289. Section 4 of P.L.2003, c.257 (C.26:2N-11) is amended to  
29 read as follows:

30 4. The Commissioner of Health **[and Senior Services]** shall  
31 adopt rules and regulations, pursuant to the "Administrative  
32 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to  
33 carry out the provisions of this act.

34 (cf: P.L.2003, c.257, s.4)

35  
36 290. Section 2 of P.L.1993, c.288 (C.26:2Q-2) is amended to  
37 read as follows:

38 2. As used in sections 1 through 12 of P.L.1993, c.288  
39 (C.26:2Q-1 through C.26:2Q-12):

40 "Commissioner" means the Commissioner of Health **[and Senior**  
41 **Services]**.

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

44 "Interim controls" means a set of measures designed to reduce  
45 temporarily human exposure or likely exposure to lead-based paint  
46 hazards, including specialized cleaning, repairs, maintenance,  
47 painting, temporary containment, ongoing monitoring of lead-based

1 paint hazards or potential hazards, and the establishment and  
2 operation of management and resident education programs, or as the  
3 term is defined under 42 U.S.C.s.4851b.

4 "Lead abatement" means a set of measures designed to  
5 permanently eliminate lead-based paint hazards in accordance with  
6 standards established by the Commissioner of Community Affairs  
7 in compliance with standards promulgated by the appropriate  
8 federal agencies. Such term includes:

9 a. the removal of lead-based paint and lead-contaminated dust,  
10 the permanent containment or encapsulation of lead-based paint, the  
11 replacement of lead-painted surfaces or fixtures, and the removal or  
12 covering of lead contaminated soil; and

13 b. all preparation, cleanup, disposal, and post-abatement  
14 clearance testing activities associated with such measures.

15 "Lead evaluation" means a surface-by-surface investigation to  
16 determine the presence of lead-based paint and the provision of a  
17 report explaining the results of the investigation.

18 "Lead hazard control work" means work to make housing lead-  
19 safe, or to mitigate, through the use of interim controls as permitted  
20 under federal law and as defined in 42 U.S.C.s.4851b, or to  
21 eliminate permanently lead-based paint hazards by abatement on a  
22 premises by a person certified to perform lead abatement work  
23 pursuant to sections 1 through 12 of P.L.1993, c.288 (C.26:2Q-1 et  
24 seq.) and sections 14 through 24 of P.L.1993, c.288 (C.52:27D-427  
25 et seq.).

26 "Lead-based paint" means paint or other surface coating material  
27 that contains lead in excess of 1.0 milligrams per centimeter  
28 squared or in excess of 0.5% by weight, or such other level as may  
29 be established by federal law.

30 "Lead-based paint hazard" means any condition that causes  
31 exposure to lead from lead-contaminated dust or soil or lead-  
32 contaminated paint that is deteriorated or present in surfaces, that  
33 would result in adverse human health effects.

34 "Lead-based paint hazard inspection" means an inspection of  
35 residential housing and the structure's interior common areas and  
36 exterior surface for the presence of lead-based paint hazards.

37 "Lead safe maintenance work" means those maintenance  
38 activities which are necessary to maintain surfaces in a lead safe  
39 condition and to prevent lead-based paint hazards from occurring or  
40 reoccurring.

41 "Surface" means an area such as an interior or exterior wall,  
42 ceiling, floor, door, door frame, window sill, window frame, porch,  
43 stair, handrail and spindle, or other abradable surface, soil,  
44 furniture, a carpet, a radiator or a water pipe.

45 (cf: P.L.2003, c.311, s.17)

46  
47 291. Section 2 of P.L.1997, c.191 (C.26:2R-2) is amended to  
48 read as follows:

1       2. As used in this act:

2       "Commissioner" means the Commissioner of **【Health and**  
3       **Senior】 Human Services.**

4       "Council" means the Interagency Council on Osteoporosis  
5       established pursuant to this act.

6       "Department" means the Department **【of Health and Senior】**  
7       **Human Services.**

8       "Program" means the osteoporosis prevention and education  
9       program established pursuant to this act.

10      (cf: P.L.1997, c.191, s.2)

11

12      292. Section 3 of P.L.1997, c.191 (C.26:2R-3) is amended to  
13      read as follows:

14      3. a. The Commissioner of **【Health and Senior】 Human Services**  
15      shall establish an osteoporosis prevention and education program in  
16      the Department of **【Health and Senior】 Human Services.** The  
17      purpose of the program is to promote: public awareness of the  
18      causes of osteoporosis; options for prevention; the value of early  
19      detection; and possible treatments, including the benefits and risks  
20      of those treatments. The department may accept, for that purpose,  
21      any special grant of money, services, or property from the federal  
22      government or any of its agencies, or from any foundation,  
23      organization, or medical school.

24      b. The program shall include the following:

25      (1) Development of a public education and outreach campaign  
26      to promote osteoporosis prevention and education, including, but  
27      not limited to, the following subjects:

28      (a) The cause and nature of the disease;

29      (b) Risk factors;

30      (c) The role of hysterectomy;

31      (d) Prevention of osteoporosis, including nutrition, diet, and  
32      physical exercise;

33      (e) Diagnostic procedures and appropriate indications for their  
34      use;

35      (f) Hormone replacement, including the benefits and risks;

36      (g) Environmental safety and injury prevention; and

37      (h) Availability of osteoporosis diagnostic treatment services in  
38      the community.

39      (2) Development of educational materials to be made available  
40      for consumers, particularly targeted to high-risk groups, through  
41      local boards of health, physicians, other health care providers,  
42      including, but not limited to, health maintenance organizations,  
43      hospitals, and clinics, and women's organizations.

44      (3) Development of professional education programs for health  
45      care providers to assist them in understanding research findings and  
46      the subjects set forth in paragraph (1) of this subsection.

(4) Development and maintenance of a list of current providers of specialized services for the prevention and treatment of osteoporosis. Dissemination of the list shall be accompanied by a description of diagnostic procedures, appropriate indications for their use, and a cautionary statement about the current status of osteoporosis research, prevention, and treatment. The statement shall also indicate that the department does not license, certify, or in any other way approve osteoporosis programs or centers in this State.

(cf: P.L.1997, c.191, s.3)

293. Section 1 of P.L.1999, c.330 (C.26:2R-3.1) is amended to read as follows:

1. The Department of **Health and Senior** Human Services shall prepare an informational pamphlet which describes the causes and nature of osteoporosis as well as methods which may be used to prevent and treat osteoporosis, including nutrition, diet, physical exercise, and medications. The department shall make a supply of these pamphlets available to all pharmacies registered with the New Jersey Board of Pharmacy for distribution to the public.

(cf: P.L.1999, c.330, s.1)

294. Section 2 of P.L.1997, c.192 (C.26:2S-2) is amended to read as follows:

2. As used in sections 2 through 19 of this act:

"Behavioral health care services" means procedures or services rendered by a health care provider for the treatment of mental illness, emotional disorders, or drug or alcohol abuse. "Behavioral health care services" does not include: any quality assurance or utilization management activities or treatment plan reviews conducted by a carrier, or a private entity on behalf of the carrier, pertaining to these services, whether administrative or clinical in nature; or any other administrative functions, including, but not limited to, accounting and financial reporting, billing and collection, data processing, debt or debt service, legal services, promotion and marketing, or provider credentialing.

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

"Commissioner" means the Commissioner of **Health** Banking and **Senior Services** Insurance.

"Contract holder" means an employer or organization that purchases a contract for services.

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

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

4 "Department" means the Department of **Health** Banking and  
5 Senior Services Insurance.

6 "Health benefits plan" means a benefits plan which pays or  
7 provides hospital and medical expense benefits for covered  
8 services, and is delivered or issued for delivery in this State by or  
9 through a carrier. Health benefits plan includes, but is not limited  
10 to, Medicare supplement coverage and risk contracts to the extent  
11 not otherwise prohibited by federal law. For the purposes of this  
12 act, health benefits plan shall not include the following plans,  
13 policies or contracts: accident only, credit, disability, long-term  
14 care, CHAMPUS supplement coverage, coverage arising out of a  
15 workers' compensation or similar law, automobile medical payment  
16 insurance, personal injury protection insurance issued pursuant to  
17 P.L.1972, c.70 (C.39:6A-1 et seq.) or hospital confinement  
18 indemnity coverage.

19 "Health care provider" means an individual or entity which,  
20 acting within the scope of its licensure or certification, provides a  
21 covered service defined by the health benefits plan. Health care  
22 provider includes, but is not limited to, a physician and other health  
23 care professionals licensed pursuant to Title 45 of the Revised  
24 Statutes, and a hospital and other health care facilities licensed  
25 pursuant to Title 26 of the Revised Statutes.

26 "Independent utilization review organization" means an  
27 independent entity comprised of physicians and other health care  
28 professionals who are representative of the active practitioners in  
29 the area in which the organization will operate and which is under  
30 contract with the department to provide medical necessity or  
31 appropriateness of services appeal reviews pursuant to this act.

32 "Managed behavioral health care organization" means an entity,  
33 other than a carrier, which contracts with a carrier to provide,  
34 undertake to arrange, or administer behavioral health care services  
35 to covered persons through health care providers employed by the  
36 managed behavioral health care organization or otherwise make  
37 behavioral health care services available to covered persons through  
38 contracts with health care providers. "Managed behavioral health  
39 care organization" does not include a person or entity that, for an  
40 administrative fee only, solely arranges a panel of health care  
41 providers for a carrier for the provision of behavioral health care  
42 services on a discounted fee-for-service basis.

43 "Managed care plan" means a health benefits plan that integrates  
44 the financing and delivery of appropriate health care services to  
45 covered persons by arrangements with participating providers, who  
46 are selected to participate on the basis of explicit standards, to  
47 furnish a comprehensive set of health care services and financial



1 incentives for covered persons to use the participating providers and  
2 procedures provided for in the plan.

3 "Subscriber" means, in the case of a group contract, a person  
4 whose employment or other status, except family status, is the basis  
5 for eligibility for enrollment by the carrier or, in the case of an  
6 individual contract, the person in whose name the contract is issued.

7 "Utilization management" means a system for reviewing the  
8 appropriate and efficient allocation of health care services under a  
9 health benefits plan according to specified guidelines, in order to  
10 recommend or determine whether, or to what extent, a health care  
11 service given or proposed to be given to a covered person should or  
12 will be reimbursed, covered, paid for, or otherwise provided under  
13 the health benefits plan. The system may include: preadmission  
14 certification, the application of practice guidelines, continued stay  
15 review, discharge planning, preauthorization of ambulatory care  
16 procedures and retrospective review.

17 (cf: P.L.2005, c.172, s.1)

18

19 295. Section 1 of P.L.2001, c.88 (C.26:2S-7.1) is amended to  
20 read as follows:

21 1. The Commissioner of **【Health】** Banking and **【Senior**  
22 **Services】** Insurance, in consultation with the New Jersey  
23 Association of Health Plans, the Health Insurance Association of  
24 America, the Medical Society of New Jersey, the New Jersey  
25 Hospital Association, and such other representatives of managed  
26 care plans as the commissioner deems appropriate, shall adopt by  
27 regulation, a universal physician application for participation form  
28 for use by carriers which offer managed care plans for the purpose  
29 of credentialing physicians who seek to participate in a carrier's  
30 provider network and for the purpose of credentialing physicians  
31 who are employed by hospitals or other health care facilities which  
32 seek to participate in a carrier's provider network.

33 The commissioner, in consultation with the New Jersey  
34 Association of Health Plans, the Health Insurance Association of  
35 America, the Medical Society of New Jersey, the New Jersey  
36 Hospital Association and such other representatives of managed  
37 care plans as the commissioner deems appropriate, shall also adopt  
38 by regulation a form for renewal of credentialing, which shall be an  
39 abbreviated version of the universal application form. The renewal  
40 form shall be designed to enable a physician to indicate changes in  
41 the information provided in the application form.

42 The commissioner shall revise the universal application and  
43 renewal forms, as necessary, to conform with industry-wide,  
44 national standards for credentialing.

45 In developing the forms, the commissioner shall consult with the  
46 Commissioner of Human Services to ensure that the credentialing  
47 requirements for participation in the Medicaid program, established  
48 pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.), **【the health care**

1 coverage program for children, established pursuant to P.L.1997,  
2 c.272 (C.30:4I-1 et seq.)】 and the NJ FamilyCare 【Health  
3 Coverage】 Program established pursuant to 【P.L.2000, c.71  
4 (C.30:4J-1 et seq.)】 P.L.2005, c.156 (C.30:4J-8 et al.) are  
5 adequately reflected on the application and renewal forms.  
6 (cf: P.L.2001, c.88, s.1)  
7

8 296. Section 1 of P.L.2000, c.121 (C.26:2S-10.1) is amended to  
9 read as follows:

10 1. A carrier which offers a managed care plan that provides  
11 benefits or health care services, as applicable, for the home  
12 treatment of bleeding episodes associated with hemophilia,  
13 including the purchase of blood products and blood infusion  
14 equipment, shall comply with the provisions of this section.

15 a. For the purpose of providing home treatment services for  
16 bleeding episodes associated with hemophilia, the carrier shall be  
17 required to contract with, and exclusively use, providers that  
18 comply with standards adopted by regulation of the Department of  
19 【Health】 Banking and 【Senior Services】 Insurance in consultation  
20 with the Hemophilia Association of New Jersey. At a minimum,  
21 the standards shall require that each provider:

22 (1) provide services pursuant to a prescription from the covered  
23 person's attending physician and not make any substitutions of  
24 blood products without prior approval of the attending physician;

25 (2) provide all brands of clotting factor products in low, medium  
26 and high-assay range levels to execute treatment regimens as  
27 prescribed by a covered person's attending physician, and all needed  
28 ancillary supplies for the treatment or prevention of bleeding  
29 episodes, including, but not limited to, needles, syringes, and cold  
30 compression packs;

31 (3) have the ability to deliver prescribed blood products,  
32 medications, and nursing services within three hours after receipt of  
33 a prescription for an emergent situation, and maintain 24-hour on-  
34 call service to accommodate this requirement;

35 (4) demonstrate experience with and knowledge of bleeding  
36 disorders and the management thereof;

37 (5) demonstrate the ability for appropriate and necessary record  
38 keeping and documentation, including the ability to expedite  
39 product recall or notification systems and the ability to assist  
40 covered persons in obtaining third party reimbursement;

41 (6) provide for proper removal and disposal of hazardous waste  
42 pursuant to State and federal law;

43 (7) provide covered persons with a written copy of the agency's  
44 policy regarding discontinuation of services related to loss of health  
45 benefits plan coverage or inability to pay; and

46 (8) provide covered persons, upon request, with information  
47 about the expected costs for medications and services provided by

1 the agency that are not otherwise covered by the covered person's  
2 health benefits plan.

3 b. The Department of **Health** Banking and **Senior Service**  
4 Insurance shall compile a list of providers who meet the minimum  
5 standards established pursuant to this section and shall make the list  
6 available to carriers and covered persons, upon request.

7 c. As used in this section: "blood product" includes, but is not  
8 limited to, Factor VIII, Factor IX and cryoprecipitate; and "blood  
9 infusion equipment" includes, but is not limited to, syringes and  
10 needles.

11 (cf: P.L.2000, c.121, s.1)

12

13 297. Section 11 of P.L.2000, c.121 (C.26:2S-10.3) is amended  
14 to read as follows:

15 11. The Department of **Health** Banking and **Senior Services**  
16 Insurance, pursuant to the "Administrative Procedure Act,"  
17 P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt regulations to  
18 carry out the provisions of sections 1 and 2 of this act.

19 (cf: P.L.2000, c.121, s.11)

20

21 298. Section 1 of P.L.2011, c.190 (C.26:2S-14.1) is amended to  
22 read as follows:

23 1. A general hospital licensed pursuant to P.L.1971, c.136  
24 (C.26:2H-1 et seq.) shall be required, as prescribed by regulation of  
25 the Commissioner of Health **[and Senior Services]**, to:

26 (1) post, in a conspicuous place in each of its waiting rooms for  
27 members of the general public, a notice, as prescribed pursuant to  
28 section 3 of P.L.2011, c.190 (C.26:2S-14.2), which provides  
29 information about the operation of, and how to apply for, the  
30 Independent Health Care Appeals Program established pursuant to  
31 section 11 of P.L.1997, c.192 (C.26:2S-11); and

32 (2) ensure that appropriate hospital staff, including direct patient  
33 care providers, staff that are concerned with billing for hospital  
34 services or provide financial counseling to patients, and staff  
35 otherwise engaged in providing patient advocacy or patient  
36 relations services, are made aware of the program and are able to  
37 provide information to patients and their family members, or other  
38 persons on the patient's behalf, about how to contact the program.

39 (cf: P.L.2011, c.190, s.1)

40

41 299. Section 3 of P.L.2011, c.190 (C.26:2S-14.2) is amended to  
42 read as follows:

43 3. The Commissioner of Banking and Insurance, in  
44 consultation with the Commissioner of Health **[and Senior**  
45 **Services]** and the State Board of Medical Examiners, shall  
46 prescribe the size, content, and format of the notice about the  
47 Independent Health Care Appeals Program to be posted in general

1 hospitals pursuant to section 1 of P.L.2011, c.190 (C.26:2S-14.1)  
2 and in physicians' medical offices pursuant to section 2 of P.L.2011,  
3 c.190 (C.45:9-22.26), and shall make the notice available to general  
4 hospitals and physicians, and to members of the general public, by  
5 posting it on the Internet website of the Department of Banking and  
6 Insurance.

7 (cf: P.L.2011, c.190, s.3)

8  
9 300. Section 4 of P.L.2011, c.190 (C.26:2S-14.3) is amended to  
10 read as follows:

11 4. The Commissioner of Health **【and Senior Services】** and the  
12 State Board of Medical Examiners, pursuant to the "Administrative  
13 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) and in  
14 consultation with each other and the Commissioner of Banking and  
15 Insurance, shall adopt rules and regulations to effectuate the  
16 purposes of this act.

17 (cf: P.L.2011, c.190, s.4)

18  
19 301. Section 2 of P.L.2001, c.14 (C.26:2S-20) is amended to  
20 read as follows:

21 2. As used in this act:

22 "Carrier" means a carrier as defined in section 2 of P.L.1997,  
23 c.192 (C.26:2S-2).

24 "Commissioner" means the Commissioner of **【Health】** Banking  
25 and **【Senior Services】** Insurance.

26 "Department" means the Department of **【Health】** Banking and  
27 **【Senior Services】** Insurance.

28 "Managed care plan" means a managed care plan as defined in  
29 section 2 of P.L.1997, c.192 (C.26:2S-2).

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

32 "Medicare" means the federal Medicare program established  
33 pursuant to the federal Social Security Act, Pub.L.89-97 (42 U.S.C.  
34 s.1395 et seq.).

35 "NJ FamilyCare" means the FamilyCare Health Coverage  
36 Program established pursuant to **【P.L.2000, c.71 (C.30:4J-1 et**  
37 **seq.)】** P.L.2005, c.156 (C.30:4J-8 et al.).

38 "Program" means the Managed Health Care Consumer  
39 Assistance Program established pursuant to this act.

40 (cf: P.L.2001, c.14, s.2)

41  
42 302. Section 3 of P.L.2001, c.14 (C.26:2S-21) is amended to  
43 read as follows:

44 3. a. There is established the Managed Health Care Consumer  
45 Assistance Program in the Department of **【Health】** Banking and  
46 **【Senior Services】** Insurance. The commissioner shall make  
47 agreements to operate the program as necessary, in consultation

1 with the Commissioner of Human Services [and the Commissioner  
2 of Banking and Insurance], to assure that citizens have reasonable  
3 access to services in all regions of the State.

4 b. The program shall:

5 (1) create and provide educational materials and training to  
6 consumers regarding their rights and responsibilities as enrollees in  
7 managed care plans, including materials and training specific to  
8 Medicaid, NJ FamilyCare, Medicare, and commercial managed care  
9 plans;

10 (2) assist and educate individual enrollees about the functions of  
11 the State and federal agencies that regulate managed care products,  
12 assist and educate enrollees about the various complaint, grievance,  
13 and appeal processes, including State fair hearings, provide  
14 assistance to individuals in determining which process is most  
15 appropriate for the individual to pursue when necessary, maintain  
16 and provide to individual enrollees the forms that may be necessary  
17 to submit a complaint, grievance or appeal with the State or federal  
18 agencies, and provide assistance to individual enrollees in  
19 completion of the forms, if necessary;

20 (3) maintain and provide information to individuals upon  
21 request about advocacy groups, including legal services programs  
22 Statewide and in each county that may be available to assist  
23 individuals, and maintain lists of State and Congressional  
24 representatives and the means by which to contact representatives,  
25 for distribution upon request;

26 (4) maintain a toll-free telephone number for consumers to call  
27 for information and assistance. The number shall be accessible to  
28 the deaf and hard of hearing, and staff or translation services shall  
29 be available to assist non-English proficient individuals who are  
30 members of language groups that meet population thresholds  
31 established by the department;

32 (5) ensure that individuals have timely access to the services of,  
33 and receive timely responses from, the program;

34 (6) provide feedback to managed care plans, beneficiary  
35 advisory groups and employers regarding enrollees' concerns and  
36 problems;

37 (7) provide nonpartisan information about federal and State  
38 activities relative to managed care, and provide assistance to  
39 individuals in obtaining copies of pending legislation, statutes, and  
40 regulations; and

41 (8) develop and maintain a data base monitoring the degree of  
42 each type of service provided by the program to individual  
43 enrollees, the types of concerns and complaints brought to the  
44 program and the entities about which complaints and concerns are  
45 brought.

46 c. In order to meet its objectives, the program shall have access  
47 to:

1 (1) the medical and other records of an individual enrollee  
2 maintained by a managed care plan, upon the specific written  
3 authorization of the enrollee or his legal representative;

4 (2) the administrative records, policies, and documents of  
5 managed care plans to which individuals or the general public have  
6 access; and

7 (3) all licensing, certification, and data reporting records  
8 maintained by the State or reported to the federal government by the  
9 State that are not proprietary information or otherwise protected by  
10 law, with copies thereof to be supplied to the program by the State  
11 upon the request of the program.

12 d. The program shall take such actions as are necessary to  
13 protect the identity and confidentiality of any complainant or other  
14 individual with respect to whom the program maintains files or  
15 records. Any medical or personally identifying information received  
16 or in the possession of the program shall be considered confidential  
17 and shall be used only by the department, the program and such  
18 other agencies as the commissioner designates and shall not be  
19 subject to public access, inspection or copying under P.L.1963, c.73  
20 (C.47:1A-1 et seq.) or the common law concerning access to public  
21 records. This subsection shall not be construed to limit the ability  
22 of the program to compile and report non-identifying data pursuant  
23 to paragraph (8) of subsection b. of this section.

24 e. The program shall seek to coordinate its activities with  
25 consumer advocacy organizations, legal assistance providers  
26 serving low-income and other vulnerable health care consumers,  
27 managed care and health insurance counseling assistance programs,  
28 and relevant federal and State agencies to assure that the  
29 information and assistance provided by the program are current and  
30 accurate.

31 f. Until such time as the program is developed, the  
32 commissioner shall make agreements with two independent, private  
33 nonprofit consumer advocacy organizations, which shall be the  
34 Community Health Law Project and New Jersey Protection and  
35 Advocacy, Inc. to operate the program on an interim basis. The  
36 interim program shall be in effect for one year from the effective  
37 date of this act. Any appropriation in this act for the program may  
38 be allocated for the interim program.

39 (cf: P.L.2001, c.14, s.3)

40

41 303. Section 8 of P.L.2001, c.14 (C.26:2S-25) is amended to  
42 read as follows:

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

47 (cf: P.2001, c.14, s.8)

1       304. Section 1 of P.L.1998, c.116 (C.26:2T-1) is amended to  
2 read as follows:

3       1. The Commissioner of Health **[and Senior Services]** shall  
4 provide for the inclusion of all newly diagnosed cases of hepatitis C  
5 among those communicable diseases which are required to be  
6 reported by health care providers or other designated persons to the  
7 Department of Health **[and Senior Services]** pursuant to  
8 N.J.A.C.8:57-1.4 and 8:57-1.5. The commissioner shall require that  
9 such information be reported directly to the department, rather than  
10 to local health departments, as **[he]** the commissioner determines  
11 necessary to assist the department to develop hepatitis C disease  
12 control measures, and shall revise these requirements as necessary  
13 to reflect technological advances which improve the ability to  
14 diagnose and treat the disease.

15 (cf: P.L.2001, c.357, s.6)

16

17       305. Section 2 of P.L.1998, c.116 (C.26:2T-2) is amended to  
18 read as follows:

19       2. The Commissioner of Health **[and Senior Services]** shall  
20 provide written guidance regarding screening for the hepatitis C  
21 virus to licensed physicians and public health officers which  
22 reflects current and accepted standards of medical and public health  
23 practice, consistent with the recommendations of the federal  
24 Centers for Disease Control and Prevention, and encourages  
25 appropriate screening and diagnosis of all persons at high risk for  
26 hepatitis C infection as defined by the federal centers, including,  
27 but not limited to:

28       (1) veterans of the United States armed forces;

29       (2) women who underwent a caesarian section or a premature  
30 delivery prior to 1990;

31       (3) persons who received blood or blood products prior to 1992;

32       (4) persons who received an organ or tissue transplant prior to  
33 1990;

34       (5) persons who have received invasive cosmetic procedures,  
35 including body piercing and tattooing;

36       (6) persons who have a history of multiple sexually transmitted  
37 diseases or multiple partners;

38       (7) persons with a history of intravenous drug use; and

39       (8) such other categories of persons at high risk for hepatitis C  
40 infection as may be determined by the commissioner.

41 (cf: P.L.1998, c.116, s.2)

42

43       306. Section 3 of P.L.1998, c.116 (C.26:2T-3) is amended to  
44 read as follows:

45       3. The Commissioner of Health **[and Senior Services]** shall  
46 make available to licensed physicians and public health officers, in  
47 printed and electronic format, hepatitis C education and prevention

information materials which reflect the recommendations of the federal Centers for Disease Control and Prevention and other relevant entities, including, but not limited to, the American Liver Foundation, for distribution to persons at high risk for hepatitis C infection as described in section 2 of this act.

(cf: P.L.1998, c.116, s.3)

307. Section 4 of P.L.1998, c.116 (C.26:2T-4) is amended to read as follows:

4. The Commissioner of Health [and Senior Services], pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate the purposes of this act.

(cf: P.1998, c.116, s.4)

308. Section 2 of P.L.2001, c.357 (C.26:2T-6) is amended to read as follows:

2. As used in this act:

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

"HCV" means the hepatitis C virus.

"Program" means the hepatitis C education, prevention, and screening program established pursuant to this act.

(cf: P.L.2001, c.357, s.2)

309. Section 3 of P.L.2001, c.357 (C.26:2T-7) is amended to read as follows:

3. In consultation with the hepatitis C advisory board established pursuant to section 4 of this act, the Commissioner of Health [and Senior Services] shall establish a hepatitis C education, prevention, and screening program that includes, but is not limited to, measures directed to physicians and other health care workers, police officers, correctional officers, firefighters, emergency services personnel, employees of the State's developmental centers, and the general public. The program shall be established in accordance with accepted public health practice and recommendations of the federal Centers for Disease Control and Prevention, the Surgeon General of the United States, the American Association for the Study of Liver Diseases, the National Institutes of Health and the American Liver Foundation and within the limits of resources available for the purposes thereof.

a. For the purposes of this program, the commissioner shall develop and implement the following:

(1) public education and outreach to raise awareness of hepatitis C among persons at high risk for hepatitis C as described in section 2 of P.L.1998, c.116 (C.26:2T-2), which includes police officers, firefighters, persons employed by correctional facilities, emergency response personnel, and other high-risk groups, including, but not



1 limited to, health care professionals and persons employed in  
2 primary care settings or health care facilities, which shall include, at  
3 a minimum, information on risk factors, the value of early detection  
4 and the options available for treating hepatitis C;

5 (2) measures to promote public awareness about the availability  
6 of hepatitis C screening, prevention and treatment services among  
7 persons at high risk for hepatitis C as determined by the  
8 commissioner based upon data provided by the federal Centers for  
9 Disease Control and Prevention, the Surgeon General of the United  
10 States, the American Association for the Study of Liver Diseases,  
11 the National Institutes of Health and the American Liver  
12 Foundation, and any other nationally recognized liver societies;

13 (3) educational activities for health care professionals in regard  
14 to the epidemiology, natural history, detection, and treatment of  
15 hepatitis C, which shall include information about coinfection with  
16 HCV and HIV and the implications of coinfection for HIV or AIDS  
17 treatment;

18 (4) educational and informational measures targeted at specific  
19 groups, including, but not limited to, activities designed to educate  
20 youth about the long-term consequences of infection with HCV;

21 (5) measures to prevent further transmission of HCV and to  
22 prevent onset of chronic liver disease caused by hepatitis C through  
23 outreach to detect and treat chronic HCV infection; and

24 (6) a collaborative effort with the Department of Corrections to  
25 develop screening services to identify inmates at risk for hepatitis C  
26 upon admission, and to provide education and counseling about  
27 treatment options to reduce the potential health risk to the  
28 community from these persons.

29 b. The commissioner shall evaluate existing hepatitis C support  
30 services in the community and assess the need for improving the  
31 quality and accessibility of these services.

32 c. The commissioner shall seek to establish public-private  
33 partnerships to promote outreach and increase awareness for the  
34 purposes of this act among employers, organized labor, health care  
35 providers, health insurers, and community-based organizations, and  
36 coalitions.

37 d. The commissioner shall take such actions as are reasonably  
38 necessary to ensure that the program established pursuant to this act  
39 provides clear, complete, and accurate hepatitis C education,  
40 information, and referral services in a multiculturally competent  
41 manner that is designed to provide appropriate linkages to health  
42 care services for persons in need thereof.

43 e. The commissioner shall seek to secure the use of such funds  
44 or other resources from private nonprofit or for-profit sources or the  
45 federal government to effectuate the purposes of this act as may be  
46 available therefor, which shall be used to supplement and shall not  
47 supplant State funds used to carry out the purposes of this act.

1 f. The commissioner shall seek, to the maximum extent  
2 practicable, to coordinate the activities of the program, as  
3 applicable, with services provided separately to specific  
4 populations, including, but not limited to, veterans of the United  
5 States armed forces, persons participating in private or public drug  
6 abuse or alcohol treatment programs, and persons with HIV.  
7 (cf: P.L.2001, c.357, s.3)

8  
9 310. Section 1 of P.L.1999, c.366 (C.26:2U-1) is amended to  
10 read as follows:

11 1. The Commissioner of Health **[and Senior Services]** shall  
12 establish a Statewide network of resources to provide the following  
13 services to persons with chronic fatigue syndrome, also known as  
14 chronic fatigue immune dysfunction syndrome: physician training  
15 and patient education programs, and a public awareness campaign.  
16 (cf: P.L.1999, c.66, s.1)

17  
18 311. Section 2 of P.L.1999, c.66 (C.26:2U-2) is amended to read  
19 as follows:

20 2. The Department of Health **[and Senior Services]**, in  
21 consultation with the New Jersey Chronic Fatigue Syndrome  
22 Association, Inc., the Academy of Medicine of New Jersey, and the  
23 University of Medicine and Dentistry of New Jersey, shall prepare  
24 and make available to all health care providers in the State, upon  
25 request, a manual which provides information about the clinical  
26 significance, diagnosis and treatment of chronic fatigue syndrome.  
27 The manual may contain any other information which the  
28 Commissioner of Health **[and Senior Services]** deems necessary  
29 and may be revised by the department whenever new information  
30 about chronic fatigue syndrome becomes available. The department  
31 shall publicize and make available the manual to the maximum  
32 extent possible.  
33 (cf: P.L.1999, c.66, s.2)

34  
35 312. Section 3 of P.L.1999, c.66 (C.26:2U-3) is amended to read  
36 as follows:

37 3. The Commissioner of Health **[and Senior Services]**,  
38 pursuant to the "Administrative Procedure Act," P.L.1968, c.410  
39 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate  
40 the purposes of this act.  
41 (cf: P.L.1999, c.66, s.3)

42  
43 313. Section 3 of P.L.1999, c.72 (C.26:2V-3) is amended to read  
44 as follows:

45 3. As used in this act:

46 "Commissioner" means the Commissioner of **[Health and**  
47 **Senior] Human Services.**

1 "Department" means the Department of **Health and Senior**  
2 Human Services.

3 "Initiative" means the arthritis quality of life initiative  
4 established pursuant to this act.

5 "Arthritis" means any of the more than 130 types of arthritis and  
6 rheumatic diseases.

7 (cf: P.L.1999, c.72, s.3)

8

9 314. Section 5 of P.L.1999, c.72 (C.26:2V-5) is amended to read  
10 as follows:

11 5. There is established an Advisory Council on Arthritis in the  
12 department to advise the commissioner on the development and  
13 implementation of the initiative. The council shall include: two  
14 members of the Senate, to be appointed by the President of the  
15 Senate, who shall not be of the same political party; two members  
16 of the General Assembly, to be appointed by the Speaker of the  
17 General Assembly, who shall not be of the same political party; the  
18 Senior Assistant Commissioner, Public Health Prevention and  
19 Protection and the **Assistant Commissioner,** Director of the  
20 Division of Senior Aging Services in the **department**  
21 Department of Human Services; the Director of the Division on  
22 Women in the Department of Community Affairs, and a member of  
23 the Interagency Council on Osteoporosis, as ex officio members;  
24 and 15 public members to be appointed by the commissioner who  
25 may include representatives of persons with arthritis, arthritis health  
26 organizations, public health educators, experts in arthritis research,  
27 prevention, and treatment and health care strategic planning, and  
28 health care providers including physicians and nurses. The public  
29 members of the council shall serve without compensation and may  
30 be reimbursed for any expenses incurred by them in the  
31 performance of their duties.

32 Legislative members shall serve during their terms of office.  
33 Public members shall serve for a term of three years from the date  
34 of their appointment and until their successors are appointed and  
35 qualified; except that of the first appointments made: five shall be  
36 for a term of one year, five for two years, and five for three years.

37 Vacancies shall be filled in the same manner as the original  
38 appointments were made.

39 The advisory council shall organize as soon as may be  
40 practicable after the appointment of its members and shall select a  
41 chairman from among its members and a secretary who need not be  
42 a member of the council.

43 (cf: P.L.1999, c.72, s.5)

44

45 315. Section 1 of P.L.1999, c.361 (C.26:2W-1) is amended to  
46 read as follows:

47 1. The Commissioner of Health **and Senior Services** shall  
48 establish a Cancer Awareness, Education and Research Program to

1 provide the following: support for cancer medical research;  
2 physician education and awareness; and patient education and  
3 screening services, particularly for members of minority groups.

4 (cf: P.L.1999, c.361, s.1)

5  
6 316. Section 2 of P.L.1999, c.361 (C.26:2W-2) is amended to  
7 read as follows:

8 2. The Commissioner of Health [and Senior Services],  
9 pursuant to the "Administrative Procedure Act," P.L.1968, c.410  
10 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate  
11 the purposes of this act.

12 (cf: P.L.1999, c.361, s.2)

13  
14 317. Section 1 of P.L.2001, c.196 (C.26:2W-3) is amended to  
15 read as follows:

16 1. a. The Commissioner of Health [and Senior Services] shall  
17 establish a breast cancer public awareness campaign, as a  
18 component of the Cancer Awareness, Education and Research  
19 Program established pursuant to P.L.1999, c.361 (C.26:2W-1 et  
20 seq.), to promote awareness and outreach throughout the State in  
21 regard to breast cancer screening services. The public awareness  
22 campaign shall be established in accordance with accepted public  
23 health practice and recommendations of the federal Centers for  
24 Disease Control and Prevention, and within the limits of funds  
25 appropriated pursuant to this act and any other resources available  
26 for the purposes thereof.

27 b. For the purposes of this act, the commissioner shall, at a  
28 minimum:

29 (1) develop and implement a Statewide plan to promote public  
30 awareness among members of the public, community-based  
31 organizations, and health care providers, and encourage more  
32 referrals to breast cancer screening services;

33 (2) distribute promotional incentives for free or discounted  
34 items to be provided to women by local retail businesses that will  
35 encourage them to undergo mammography and become educated  
36 about breast cancer;

37 (3) provide for the use of public service announcements and  
38 printed materials in both English and Spanish;

39 (4) seek to disseminate information through a variety of entities,  
40 including, but not limited to, primary care sites, health care  
41 facilities, local health departments and clinics, county offices on the  
42 aging, pharmacies, libraries, YWCAs and YMCAs, senior centers,  
43 houses of worship, programs that serve victims of domestic  
44 violence, other community-based outreach programs and  
45 organizations, and the Internet;

46 (5) consult and seek to collaborate with at least the following  
47 entities to effectuate the public awareness campaign: the New  
48 Jersey Primary Care Association, the American Cancer Society, the

1 Medical Society of New Jersey, the New Jersey Hospital  
2 Association, Planned Parenthood, AARP, the New Jersey Advisory  
3 Commission on the Status of Women, the New Jersey State  
4 Commission on Cancer Research, The Cancer Institute of New  
5 Jersey, the New Jersey Pharmacists Association, the Health  
6 Research and Educational Trust of New Jersey, and The Peer  
7 Review Organization of New Jersey, Inc.;

8 (6) establish and publicize the availability of a toll-free  
9 telephone number operated by the Department of Health [and  
10 Senior Services] to provide information and referral to members of  
11 the general public about breast screening services, with particular  
12 emphasis on facilitating free and reduced charge screening for low-  
13 income and uninsured women; and

14 (7) seek to secure the use of such funds or other resources from  
15 private nonprofit or for-profit sources or the federal government to  
16 effectuate the purposes of this act as may be available therefor,  
17 which shall be used to supplement and shall not supplant State  
18 funds used to carry out the purposes of this act.

19 (cf: P.L.2001, c.196, s.1)

20

21 318. Section 1 of P.L.2000, c.25 (C.26:2X-1) is amended to read  
22 as follows:

23 1. The Commissioner of Health [and Senior Services] shall  
24 establish a public awareness campaign to inform the general public  
25 about the clinical significance of meningitis and its public health  
26 implications, including its causes and the most effective means of  
27 prevention and treatment.

28 (cf: P.L.2000, c.25, s.1)

29

30 319. Section 3 of P.L.2000, c.25 (C.26:2X-2) is amended to read  
31 as follows:

32 3. The Commissioner of Health [and Senior Services],  
33 pursuant to the "Administrative Procedure Act," P.L.1968, c.410  
34 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate  
35 the purposes of this act.

36 (cf: P.L.2000, c.25, s.3)

37

38 320. Section 1 of P.L.2006, c.64 (C.26:2X-3) is amended to read  
39 as follows:

40 1. The Commissioner of Health [and Senior Services], in  
41 consultation with the Commissioner of Education, shall develop an  
42 educational fact sheet concerning meningococcal meningitis for  
43 distribution to parents or guardians of students in grades 6 through  
44 12, pursuant to section 2 of P.L.2006, c.64 (C.18A:40-21.2). The  
45 educational fact sheet shall include, but need not be limited to, the  
46 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.

1 "Adult family care caregiver" means a person licensed to provide  
2 care and services in the daily operation of an adult family care  
3 home, but does not include the owner or lessor of the building in  
4 which the adult family care home is situated unless the owner or  
5 lessor is also the provider of care and services in the adult family  
6 care home.

7 "Adult family care home" means a residence regulated by the  
8 department and housing no more than three clients, in which  
9 personal care and other supportive services are provided by an  
10 individual who has been licensed by the department as an adult  
11 family care caregiver. "Adult family care home" shall not include  
12 a rooming or boarding house used and operated under license of the  
13 Department of Community Affairs pursuant to P.L.1979, c.496  
14 (C.55:13B-1 et seq.).

15 "Adult family care sponsor agency" means an entity licensed by  
16 the department to administer an adult family care program within a  
17 given area, which provides essential administrative and clerical  
18 support services to two or more caregivers, and which shall not be  
19 considered to be a health care facility as defined in section 2 of  
20 P.L.1971, c.136 (C.26:2H-2).

21 "Client" means an elder or person with physical disabilities  
22 enrolled in adult family care.

23 "Commissioner" means the Commissioner of Health [and Senior  
24 Services].

25 "Department" means the Department of Health [and Senior  
26 Services].

27 "Elder" means a person sixty years of age or older.  
28 (cf: P.L.2001, c.304, s.3)

29

30 323. Section 13 of P.L.2001, c.304 (C.26:2Y-11) is amended to  
31 read as follows:

32 13. The Commissioner of Health [and Senior Services],  
33 pursuant to the "Administrative Procedure Act," P.L.1968, c.410  
34 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate  
35 the purposes of this act.

36 (cf: P.L.2001, c.304, s.13)

37

38 324. Section 2 of P.L.2005, c.274 (C.26:2MM-2) is amended to  
39 read s follows:

40 2. As used in this act:

41 "Alcohol and drug counselor" means a person who is a certified  
42 alcohol and drug counselor or a licensed clinical alcohol and drug  
43 counselor pursuant to P.L.1997, c.331 (C.45:2D-1 et seq.).

44 "Attempted suicide" means destructive behavior intended by the  
45 actor to result in the actor's harm or death.

46 "Completed suicide" means a death that is known or reasonably  
47 suspected to have resulted from an intentional act of the deceased,

1 regardless of whether it has been ruled a suicide by a medical  
2 examiner.

3 "Council" means the New Jersey Elderly Person Suicide  
4 Prevention Advisory Council established pursuant to section 3 of  
5 this act.

6 "Department" means the Department of **[Health and Senior]**  
7 Human Services.

8 "Elderly person" means a person 65 years of age and older.

9 "Licensed clinical social worker" means a person who holds a  
10 current, valid license issued pursuant to subsection a. of section 6 or  
11 subsection a. or d. of section 8 of P.L.1991, c.134 (C.45:15BB-1 et  
12 seq.).

13 (cf: P.L.2005, c.274, s.2)

14

15 325. Section 3 of P.L.2005, c.274 (C.26:2MM-3) is amended to  
16 read as follows:

17 3. There is established in the Department of **[Health and**  
18 **Senior]** Human Services the New Jersey Elderly Person Suicide  
19 Prevention Advisory Council.

20 a. The purpose of the council shall be to examine existing  
21 needs of and services for elderly persons at risk of suicide and make  
22 recommendations to the department for suicide prevention and  
23 intervention strategies to help reduce the incidence of attempted and  
24 completed suicides among elderly persons.

25 b. The council shall consist of nine members as follows:

26 (1) the Commissioners of Health **[and Senior Services]** and  
27 Human Services and the chairman of the Community Mental Health  
28 Citizens Advisory Board established pursuant to P.L.1957, c.146  
29 (C.30:9A-1 et seq.), or their designees, who shall serve ex officio;

30 (2) two public members appointed by the Governor, one of  
31 whom shall be a person with personal or family experience with  
32 suicide of an elderly person and one of whom shall be an alcohol  
33 and drug counselor;

34 (3) two public members appointed by the Speaker of the General  
35 Assembly, who are not members of the same political party, one of  
36 whom shall be a registered professional nurse and one of whom  
37 shall be a licensed clinical social worker; and

38 (4) two public members appointed by the President of the  
39 Senate, who are not members of the same political party, one of  
40 whom shall be a physician who has been specially trained in caring  
41 for elderly persons and has a certificate of added qualifications in  
42 geriatrics and one of whom shall be a geropsychiatrist.

43 c. The public members shall be appointed no later than 60 days  
44 after the enactment of this act.

45 d. The public members shall serve for a term of five years; but,  
46 of the members first appointed, two shall serve for a term of three  
47 years, two shall serve for a term of four years and two shall serve  
48 for a term of five years. Members are eligible for reappointment



1 upon the expiration of their terms. Vacancies in the membership of  
2 the council shall be filled in the same manner provided for the  
3 original appointments.

4 e. The council shall organize as soon as practicable following  
5 the appointment of its members and shall select a chairperson and  
6 vice-chairperson from among the members. The chairperson shall  
7 appoint a secretary who need not be a member of the council.

8 f. The public members shall serve without compensation, but  
9 shall be reimbursed for necessary expenses incurred in the  
10 performance of their duties and within the limits of funds available  
11 to the council.

12 g. The council shall be entitled to call to its assistance and avail  
13 itself of the services of the employees of any State, county, or  
14 municipal department, board, bureau, commission, or agency as it  
15 may require and as may be available to it for its purposes.

16 h. The Department of **Health and Senior Service** Human  
17 Services shall provide staff support to the council.

18 (cf: P.L.2005, c.274, s.3)

19

20 326. Section 115 of P.L.2008, c.29 (C.26:2NN-1) is amended to  
21 read as follows:

22 115. a. The Department of **Health and Senior** Human Services  
23 shall maintain a toll-free information "Law Enforcement Officer  
24 Crisis Intervention Services" telephone hotline on a 24-hour basis.

25 The hotline shall receive and respond to calls from law  
26 enforcement officers and sheriff's officers who have been involved  
27 in any event or incident which has produced personal or job-related  
28 depression, anxiety, stress, or other psychological or emotional  
29 tension, trauma, or disorder for the officer and officers who have  
30 been wounded in the line of duty. The operators of the hotline shall  
31 seek to identify those officers who should be referred to further  
32 debriefing, and counseling services, and to provide such referrals.  
33 In the case of wounded officers, those services may include peer  
34 counseling, diffusing, debriefing, group therapy and individual  
35 therapy as part of a coordinated assistance program, to be known as  
36 the "Blue Heart Law Enforcement Assistance Program," designed  
37 and implemented by the University of Medicine and Dentistry of  
38 New Jersey's University Behavioral Healthcare Unit.

39 b. The operators of the hotline shall be trained by the  
40 Department of **Health and Senior** Human Services and, to the  
41 greatest extent possible, shall be persons, who by experience or  
42 education, are: (1) familiar with post trauma disorders and the  
43 emotional and psychological tensions, depressions, and anxieties  
44 unique to law enforcement officers and sheriff's officers; or (2)  
45 trained to provide counseling services involving marriage and  
46 family life, substance abuse, personal stress management, and other  
47 emotional or psychological disorders or conditions which may be

1 likely to adversely affect the personal and professional well-being  
2 of a law enforcement officer and a sheriff's officer.

3 c. To ensure the integrity of the telephone hotline and to  
4 encourage officers to utilize it, the commissioner shall provide for  
5 the confidentiality of the names of the officers calling, the  
6 information discussed by that officer and the operator, and any  
7 referrals for further debriefing or counseling; provided, however,  
8 the commissioner may, by rule and regulation, (1) establish  
9 guidelines providing for the tracking of any officer who exhibits a  
10 severe emotional or psychological disorder or condition which the  
11 operator handling the call reasonably believes might result in harm  
12 to the officer or others and (2) establish a confidential registry of  
13 wounded New Jersey law enforcement officers.

14 (cf: P.L.2008, c.29, s.115)

15  
16 327. Section 16 of P.L.2008, c.39 (C.26:2NN-2) is amended to  
17 read as follows:

18 116. The Commissioner of **Health and Senior** Human Services  
19 shall prepare a list of appropriately licensed or certified  
20 psychiatrists, psychologists, and social workers; other appropriately  
21 trained and qualified counselors; and experienced former law  
22 enforcement officers who are willing to accept referrals and to  
23 participate in the debriefing and counseling offered law  
24 enforcement officers and sheriff's officers under the provisions of  
25 sections 115 to 116 of P.L.2008, c.29 (C.26:2NN-1 to C.26:2NN-2).  
26 (cf: P.L.2008, c.29, s.116)

27  
28 328. Section 2 of P.L.2005, c.3 (C.26:3A2-36) is amended to  
29 read as follows:

30 2. a. The Department of Environmental Protection, with the  
31 concurrence of the Department of Health **[and Senior Services]**and  
32 the State Office of Emergency Management in the Division of State  
33 Police in the Department of Law and Public Safety, shall develop a  
34 comprehensive plan for the standardization and coordination of  
35 county hazardous material response programs to effectively address  
36 all incidents involving hazardous materials, including, but not  
37 limited to, chemical, biological, radiological, nuclear, or explosive  
38 incidents.

39 The plan shall include procedures for State, county, and local  
40 response to incidents involving hazardous materials, including, but  
41 not limited to, chemical, biological, radiological, nuclear, or  
42 explosive incidents, and planning, training, exercising, and  
43 equipment requirements designed to assure that local responders  
44 have the capacity, competency and capability to protect the public  
45 from exposure to those materials, and shall include the adoption of  
46 environmental health performance standards and standards of  
47 administrative procedures for county hazardous materials response.

1       b. The certified local health agency in each county shall  
2 develop, in consultation with their county office of emergency  
3 management, a comprehensive, coordinated county-wide emergency  
4 response program for incidents involving hazardous materials,  
5 including, but not limited to, chemical, biological, radiological,  
6 nuclear, or explosive incidents for the county that is consistent with  
7 the plan developed by the department pursuant to subsection a. of  
8 this section.

9       c. In any county in which there is no certified local health  
10 agency, the board of chosen freeholders shall designate a local  
11 health agency from the county to develop, in consultation with the  
12 county office of emergency management and the Department of  
13 Health [and Senior Services], a comprehensive, coordinated  
14 county-wide emergency response program for incidents involving  
15 hazardous materials, including, but not limited to, chemical,  
16 biological, radiological, nuclear, or explosive incidents for the  
17 county that is consistent with the plan developed by the department  
18 pursuant to subsection a. of this section.

19 (cf: P.L.2005, c.3, s.2)

20  
21       329. Section 4 of P.L.2005, c.3 (C.26:3A2-38) is amended to  
22 read as follows:

23       4. a. The Department of Environmental Protection, with the  
24 concurrence of the Department of Health [and Senior Services] and  
25 the State Office of Emergency Management in the Division of State  
26 Police in the Department of Law and Public Safety, and in  
27 consultation with representatives of certified local health agencies,  
28 shall adopt, pursuant to the "Administrative Procedure Act,"  
29 P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations that:

30       (1) establish criteria and procedures for the award of grants to  
31 certified local health agencies, or local health agencies, as  
32 appropriate, pursuant to section 3 of P.L.2005, c.3 (C.26:3A2-37);

33       (2) establish environmental health performance standards and  
34 standards of administrative procedures for county hazardous  
35 materials response for incidents involving hazardous materials,  
36 including, but not limited to, chemical, biological, radiological,  
37 nuclear, or explosive incidents; and

38       (3) establish criteria and procedures for the development of  
39 inter-local agreements to facilitate the creation of a Statewide  
40 mutual aid network for responding to incidents involving hazardous  
41 materials, including, but not limited to, chemical, biological,  
42 radiological, nuclear, or explosive incidents

43       b. Prior to the adoption of rules and regulations pursuant to  
44 subsection a. of this section, and notwithstanding the provisions of  
45 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
46 seq.) to the contrary, the Commissioner of Environmental  
47 Protection may, immediately upon filing the proper notice with the  
48 Office of Administrative Law, adopt such temporary rules and

1 regulations as the commissioner determines are necessary to  
2 implement the provisions of P.L.2005, c.3 (C.26:3A2-36 et al.).  
3 The temporary rules and regulations shall be in effect for a period  
4 not to exceed 270 days after the date of the filing, except that in no  
5 case shall the temporary rules and regulations be in effect one year  
6 after the effective date of P.L.2005, c.3 (C.26:3A2-36 et al.). The  
7 temporary rules and regulations shall thereafter be amended,  
8 adopted or readopted by the commissioner as the commissioner  
9 determines is necessary in accordance with the requirements of the  
10 "Administrative Procedure Act."

11 (cf: P.L.2005, c.3, s.4)

12

13 330. Section 8 of P.L.2005, c.383 (C.26:3D-62) is amended to  
14 read as follows:

15 8. a. The person having control of an indoor public place or  
16 workplace shall order any person smoking in violation of this act to  
17 comply with the provisions of this act. A person, after being so  
18 ordered, who smokes in violation of this act is subject to a fine of  
19 not less than \$250 for the first offense, \$500 for the second offense  
20 and \$1,000 for each subsequent offense. A penalty shall be  
21 recovered in accordance with the provisions of subsections c. and d.  
22 of this section.

23 b. The Department of Health **[and Senior Services]** or the local  
24 board of health or the board, body, or officers exercising the  
25 functions of the local board of health according to law, upon written  
26 complaint or having reason to suspect that an indoor public place or  
27 workplace covered by the provisions of this act is or may be in  
28 violation of the provisions of this act, shall, by written notification,  
29 advise the person having control of the place accordingly, and order  
30 appropriate action to be taken. A person receiving that notice who  
31 fails or refuses to comply with the order is subject to a fine of not  
32 less than \$250 for the first offense, \$500 for the second offense, and  
33 \$1,000 for each subsequent offense. In addition to the penalty  
34 provided herein, the court may order immediate compliance with  
35 the provisions of this act.

36 c. A penalty recovered under the provisions of this act shall be  
37 recovered by and in the name of the Commissioner of Health **[and**  
38 **Senior Services]** or by and in the name of the local board of health.  
39 When the plaintiff is the Commissioner of Health **[and Senior**  
40 **Services]**, the penalty recovered shall be paid by the commissioner  
41 into the treasury of the State. When the plaintiff is a local board of  
42 health, the penalty recovered shall be paid by the local board into  
43 the treasury of the municipality where the violation occurred.

44 d. A municipal court shall have jurisdiction over proceedings  
45 to enforce and collect any penalty imposed because of a violation of  
46 this act if the violation has occurred within the territorial  
47 jurisdiction of the court. The proceedings shall be summary and in

1 accordance with the "Penalty Enforcement Law of 1999," P.L.1999,  
2 c.274 (C.2A:58-10 et seq.). Process shall be in the nature of a  
3 summons or warrant and shall issue only at the suit of the  
4 Commissioner of Health **【and Senior Services】**, or the local board  
5 of health, as the case may be, as plaintiff.

6 e. The penalties provided in subsections a. and b. of this  
7 section shall be the only civil remedy for a violation of this act, and  
8 there shall be no private right of action against a party for failure to  
9 comply with the provisions of this act.

10 (cf: P.L.2005, c.383, s.8)

11  
12 331. Section 10 of P.L.2005, c.383 (C.26:3D-64) is amended to  
13 read as follows:

14 10. The Commissioner of Health **【and Senior Services】**,  
15 pursuant to the "Administrative Procedure Act," P.L.1968, c.410  
16 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate  
17 the purposes of this act.

18 (cf: P.L.2005, c.383, s.10)

19  
20 332. Section 1 of P.L.2005, c.26 (C.26:3E-14) is amended to  
21 read as follows:

22 1. The Commissioner of Health **【and Senior Services】**, in  
23 consultation with the New Jersey Restaurant Association, shall  
24 prepare a fact sheet, to be directed to restaurant managers and staff,  
25 which is designed to explain nut allergies and the health-related  
26 consequences to persons with **【such】** nut allergies who are exposed  
27 to food items that contain or are prepared with nut products, and  
28 includes a recommendation that restaurants identify such food items  
29 on their menus. The commissioner shall make this fact sheet  
30 available to local boards of health by electronic or other means of  
31 distribution, and local health officers shall furnish this information  
32 to restaurants at the time of inspection.

33 As used in this section:

34 "Nut" means~~【:]~~ peanuts and tree nuts, including, but not limited  
35 to, almonds, brazil nuts, cashews, hazelnuts, filberts, macadamia  
36 nuts, pecans, pistachios, and walnuts; and

37 "Restaurant" means an establishment in which the principal  
38 business is the sale of food for consumption on the premises.

39 (cf: P.L.2005, c.26, s.1)

40  
41 333. Section 2 of P.L.2005, c.26 (C.26:3E-15) is amended to  
42 read as follows:

43 2. The Commissioner of Health **【and Senior Services】** shall  
44 conduct, within the limits of monies appropriated pursuant to this  
45 act, a public information campaign regarding food allergies, to be  
46 known as "Ask Before You Eat." The public information campaign  
47 shall be designed to inform the public about food allergies and the

1 health-related consequences, including anaphylaxis, to persons with  
2 such allergies who are exposed to food items that contain or are  
3 prepared with ingredients that trigger severe allergic reactions, such  
4 as peanuts, tree nuts, and seafood.

5 (cf: P.L.2005, c.26, s.2)

6  
7 334. Section 2 of P.L.2009, c.306 (C.26:3E-17) is amended to  
8 read as follows:

9 2. Notwithstanding any provision of law to the contrary:

10 a. (1) A retail food establishment using a standard printed menu  
11 shall list next to each food or beverage item on the menu, the total  
12 number of calories for that item as usually prepared and offered for  
13 sale;

14 (2) A retail food establishment using a menu board system or  
15 similar signage shall list next to each food or beverage item on the  
16 board or sign, the total number of calories for that item as usually  
17 prepared and offered for sale;

18 (3) A retail food establishment that has a drive-through window  
19 shall display calorie content values either on the drive-through  
20 menu board or on an adjacent stanchion visible at the point of  
21 ordering, and the calorie content values shall be posted adjacent to  
22 their respective menu item names as clearly and conspicuously as  
23 the price or menu item is on the drive-through menu board; and

24 (4) A retail food establishment which offers alcoholic beverages  
25 for sale may, as an alternative to listing calorie information for each  
26 individual alcoholic beverage, list the average caloric value for  
27 beers, wines, and spirits as established by the United States  
28 Department of Agriculture, Agriculture Research Service in the  
29 National Nutrient Database for Standard Reference.

30 A retail food establishment that lists the average caloric values  
31 for alcoholic beverages pursuant to this paragraph shall add to the  
32 labeling the following statement: "Signature drinks or liqueurs with  
33 added ingredients may increase calorie content."

34 b. The calorie information listed pursuant to paragraphs (1) and  
35 (2) of subsection a. of this section shall be posted clearly and  
36 conspicuously adjacent or in close proximity to the applicable menu  
37 item using a font and format that is at least as prominent, in size and  
38 appearance, as that used to post either the name or price of the  
39 menu item.

40 The calorie content values required by this act shall be based  
41 upon a verifiable analysis of the menu item, which may include the  
42 use of nutrient databases, laboratory testing, or other reliable  
43 methods of analysis, and shall be rounded to the nearest 10 calories  
44 for calorie content values above 50 calories and to the nearest five  
45 calories for calorie content values 50 calories and below.

46 c. The provisions of this section shall apply to each menu item  
47 that is served in portions the size and content of which are  
48 standardized.

1       d. For menu items that come in different flavors and varieties  
2 but that are listed as a single menu item, the minimum to maximum  
3 numbers of calories for all flavors and varieties of that item shall be  
4 listed on the menu, menu board, or stanchion, as applicable, for  
5 each size offered for sale.

6       e. (1) The disclosure of calorie information on a menu, menu  
7 board, or stanchion next to a standard menu item that is a  
8 combination of at least two standard menu items on the menu, menu  
9 board, or stanchion, shall, based upon all possible combinations for  
10 that standard menu item, include both the minimum and the  
11 maximum amount of calories. If there is only one possible total  
12 amount of calories, that total shall be disclosed.

13       (2) The disclosure of calorie information on a menu, menu  
14 board, or stanchion next to a standard menu item that is not an  
15 appetizer or dessert, but is intended to serve more than one  
16 individual, shall include both:

17       (a) the number of individuals intended to be served by the  
18 standard menu item; and

19       (b) the calorie information per individual serving.

20       If the standard menu item is a combination of at least two  
21 standard menu items, the disclosure shall, based upon all possible  
22 combinations for that standard menu item, include both the  
23 minimum and the maximum amount of calories. If there is only one  
24 possible total amount of calories, that total shall be disclosed.

25       f. Nothing in this section shall prohibit a retail food  
26 establishment from providing additional nutrition information to its  
27 customers for each food or beverage item listed on its menu.

28       g. The provisions of this section shall not apply to any:

29       (1) item not listed on a standard printed menu or menu board  
30 system or similar signage, including, but not limited to, condiments  
31 or other products placed on a table or counter for general use; or

32       (2) daily specials, temporary menu items appearing on the menu  
33 for less than 60 days per calendar year, customized orders, or food  
34 or beverage items from a consumer self-serve salad bar or buffet.

35       h. (1) The Department of Health **and Senior Services** or the  
36 local board of health or the board, body, or officers exercising the  
37 functions of the local board of health according to law, upon written  
38 complaint or having reason to suspect that a violation of this act has  
39 occurred, shall, by written notification, advise the proprietor of the  
40 retail food establishment accordingly and order appropriate action  
41 to be taken.

42       (2) A proprietor of a retail food establishment who violates the  
43 provisions of this section by failing to provide the information  
44 about food and beverage items as required in this section, or  
45 knowingly misstating the number of calories in a food or beverage  
46 item, shall be subject to a penalty of not less than \$50 or more than  
47 \$100 for the first offense, and not less than \$250 or more than \$500  
48 for the second or any subsequent offense. A municipal court shall

1 have jurisdiction over proceedings to enforce and collect any  
2 penalty imposed because of a violation of this act, if the violation  
3 has occurred within the territorial jurisdiction of the court. The  
4 proceedings shall be summary and in accordance with the "Penalty  
5 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).  
6 Process shall be in the nature of a summons or warrant and shall  
7 issue only at the suit of the Commissioner of Health [and Senior  
8 Services], or the local board of health, as the case may be, as  
9 plaintiff.

10 When the plaintiff is the Commissioner of Health [and Senior  
11 Services], the penalty recovered shall be paid by the commissioner  
12 into the treasury of the State. When the plaintiff is a local board of  
13 health, the penalty recovered shall be paid by the local board into  
14 the treasury of the municipality where the violation occurred.

15 i. The provisions of this section shall not be construed to  
16 create or enhance any claim, right of action, or civil liability that  
17 did not previously exist under State law or limit any claim, right of  
18 action, or civil liability that otherwise exists under State law.

19 j. There shall be no private right of action against the  
20 proprietor of a retail food establishment for failure to comply with  
21 the provisions of this section.

22 k. To the extent consistent with federal law, the provisions of  
23 this section, as well as any other State law that regulates the  
24 disclosure of caloric information, shall be a matter of Statewide  
25 concern and shall occupy the entire field of regulation regarding the  
26 disclosure of caloric information by a retail food establishment, as  
27 well as content required to be posted on menus, menu board  
28 systems or similar signage, or stanchions, as applicable. No  
29 ordinance or regulation of a local government or local board of  
30 health shall regulate the dissemination of caloric information or the  
31 content required to be placed on menus, menu board systems or  
32 similar signage, or stanchions by a retail food establishment. Any  
33 local government or local board of health ordinance or regulation  
34 that violates this prohibition is void and shall have no force or  
35 effect.

36 l. As used in this section, "retail food establishment" means a  
37 fixed restaurant or any similar place that is part of a chain with 20  
38 or more locations nationally and doing business

39 (1) under the same trade name or under common ownership or  
40 control or

41 (2) as franchised outlets of a parent business,  
42 the principal activity of which consists of preparing for  
43 consumption within the establishment a meal or food to be eaten on  
44 the premises or picked up at a drive-through window.

45 (cf: P.L.2009, c.306, s.2)

46

47 335. Section 3 of P.L.2009, c.306 (C.26:3E-18) is amended to  
48 read as follows:



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

5 (cf: P.L.2009, c.306, s.3)

6  
7       336. R.S.26:4-2 is amended to read as follows:

8       26:4-2. In order to prevent the spread of disease affecting  
9 humans, the Department of Health **【and Senior Services】**, and the  
10 local boards of health within their respective jurisdictions and  
11 subject to the State sanitary code, shall have power to:

12       a. Declare what diseases are communicable.

13       b. Declare when any communicable disease has become  
14 epidemic.

15       c. Require the reporting of communicable diseases.

16       d. Maintain and enforce proper and sufficient quarantine,  
17 wherever deemed necessary.

18       e. Remove any person infected with a communicable disease to  
19 a suitable place, if in its judgment removal is necessary and can be  
20 accomplished without any undue risk to the person infected.

21       f. Disinfect any premises when deemed necessary.

22       g. Remove to a proper place to be designated by it all articles  
23 within its jurisdiction, which, in its opinion, shall be infected with  
24 any matter likely to communicate disease and to destroy such  
25 articles, when in its opinion the safety of the public health requires  
26 it.

27       In the event the Governor declares a public health emergency,  
28 the department shall oversee the uniform exercise of these powers  
29 in the State and the local board of health shall be subject to the  
30 department's exercise of authority under this section.

31 (cf: P.L.2005, c.222, s.31)

32  
33       337. Section 3 of P.L.2007, c.134 (C.26:4-95.4) is amended to  
34 read s follows:

35       3. a. The Commissioner of Health **【and Senior Services】**, in  
36 consultation with the Commissioner of Education and the Director  
37 of the Division on Women in the Department of Community  
38 Affairs, shall establish a public awareness campaign to inform the  
39 general public about the clinical significance and public health  
40 implications of the human papillomavirus, including its causes and  
41 the most effective means of prevention and treatment. The public  
42 awareness campaign shall be established in accordance with  
43 accepted public health practice and recommendations of the federal  
44 Centers for Disease Control and Prevention, and within the limits of  
45 available funds and any other resources available for the purposes  
46 thereof.

47       b. The commissioner shall prepare a patient information  
48 brochure regarding the human papillomavirus, including its causes

1 and the most effective means of prevention and treatment. The  
2 department shall distribute the pamphlet, at no charge, to all  
3 pediatricians in the State. The department shall update the  
4 pamphlet as necessary, and shall make additional copies of the  
5 pamphlet available to other health care providers upon request.

6 (cf: P.L.2007, c.134, s.3)

8 338. Section 3 of P.L.2004, c.138 (C.26:4-133) is amended to  
9 read as follows:

10 3. As used in this act:

11 "Commissioner" means the Commissioner of Health [and Senior  
12 Services].

13 "Department" means the Department of Health [and Senior  
14 Services].

15 "Health care provider" means a health care facility licensed  
16 pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) or a health care  
17 professional whose practice is regulated pursuant to Title 45 of the  
18 Revised Statutes.

19 "Registry" means the New Jersey Immunization Information  
20 System established pursuant to this act.

21 (cf: P.L.2004, c.138, s.3)

23 339. Section 4 of P.L.2004, c.138 (C.26:4-134) is amended to  
24 read as follows:

25 4. a. There is established a Statewide automated and electronic  
26 immunization registry, to be designated as the New Jersey  
27 Immunization Information System, in the Department of Health  
28 [and Senior Services]. The registry shall be designed to serve as a  
29 single repository of immunization records to aid, coordinate, and  
30 help promote effective and cost-efficient disease screening,  
31 prevention, and control efforts in the State.

32 b. A newborn infant in New Jersey, who is born on or after  
33 January 1, 1998, shall be enrolled in the registry immediately  
34 following birth unless the parent or legal guardian of the infant  
35 provides a written request to not participate in the registry.

36 A child born prior to January 1, 1998 may be enrolled in the  
37 registry at the parent's or legal guardian's written request.

38 c. Access to the information in the registry shall be limited to:  
39 health care providers, schools, colleges, licensed child care centers,  
40 and public agencies, and private organizations as determined by  
41 regulation of the commissioner. A registrant, or the registrant's  
42 parent or legal guardian if the registrant is a minor, shall have  
43 access to the registrant's immunization and other preventive health  
44 screening information in the registry.

45 d. The information contained in the registry shall be used for  
46 the following purposes:

1 (1) to help ensure that registrants receive all recommended  
2 immunizations in a timely manner by providing access to the  
3 registrants' immunization records;

4 (2) to help improve immunization rates by providing notice to  
5 registrants of overdue or upcoming immunizations; and

6 (3) to help control communicable diseases by assisting in the  
7 identification of persons who require immediate immunization in  
8 the event of a vaccine-preventable disease outbreak.

9 e. The authentic immunization and other preventive health  
10 screening record of a child, which shall consist of a paper or  
11 electronic copy of the registry entry that is a true and accurate  
12 representation of the information contained therein, obtained from  
13 the registry shall be accepted as a valid immunization and  
14 preventive health screening record of the registrant for the purpose  
15 of meeting immunization and preventive health screening  
16 documentation requirements for admission to a school, college, or  
17 licensed child care center.

18 f. A health care provider shall not discriminate in any way  
19 against a person solely because the person elects not to participate  
20 in the registry.

21 g. An authorized user granted access as provided in subsection  
22 c. of this section shall only access information in the registry on a  
23 specific patient or client who is presently receiving services, is  
24 under the user's care or is within the applicable governmental health  
25 authority's jurisdiction.

26 h. An agency, organization, or other entity authorized to access  
27 information in the registry shall not use any report made by a health  
28 care provider pursuant to this act in any punitive manner against the  
29 provider.

30 i. The commissioner, in consultation with the Public Health  
31 Council, shall adopt rules and regulations, pursuant to the  
32 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
33 seq.), to effectuate the purposes of this act, including, but not  
34 limited to:

35 (1) the establishment and maintenance of the registry;

36 (2) the methods for submitting, and the content of, reports of  
37 immunizations to the registry, for which purpose the commissioner  
38 shall provide, to the maximum extent practicable, for reporting  
39 options to facilitate compliance with the requirements of subsection  
40 b. of this section;

41 (3) procedures for the birth hospital of a newborn infant or  
42 health care provider, as applicable, to inform the parent or legal  
43 guardian of a newborn infant or minor of the purpose of the registry  
44 and its potential uses by parties having authorized access to registry  
45 information, and the content of that information;

46 (4) procedures for a registrant, or the registrant's parent or legal  
47 guardian if the registrant is a minor, to review and correct  
48 information contained in the registry;

1 (5) procedures for the parent or legal guardian of a newborn  
2 infant or minor, or a person over 18 years of age, to request to not  
3 participate in the registry at any time and to remove or inactivate  
4 information from the registry;

5 (6) limits on, and methods of, access to the registry by those  
6 authorized pursuant to subsection c. of this section;

7 (7) procedures for health insurers to obtain immunization  
8 information from the registry concerning only their covered  
9 persons, as well as summary statistics, which information or  
10 statistics shall not be used or disclosed for any other purpose than  
11 to:

12 (a) improve patient care;

13 (b) provide quality assurance to employers purchasing group  
14 coverage and to health care providers;

15 (c) improve outreach and education efforts with respect to their  
16 covered persons and health care providers; and

17 (d) monitor and improve quality of care standards as developed  
18 by professional organizations, accreditation agencies and  
19 government agencies in collaboration with the department; and

20 (8) procedures for the department to disseminate statistical  
21 information and supporting commentary.

22 (cf: P.L.2004, c.138, s.4)

23  
24 340. Section 10 of P.L.2011, c.210 (C.26:5B-6) is amended to  
25 read as follows:

26 10. a. The Department of Health **and Senior Services**, in  
27 consultation with the Medical Society of New Jersey and the  
28 University of Medicine and Dentistry of New Jersey, shall prepare,  
29 and make available on its Internet website, information in English  
30 and Spanish, which is designed to be easily understandable by the  
31 general public, about the genetic risk factors associated with, and  
32 the symptoms and treatment of, sickle cell anemia, in addition to  
33 any other information that the Commissioner of Health **and Senior**  
34 **Services** deems necessary for the purposes of this act. The  
35 department shall revise this information whenever new information  
36 about sickle cell anemia becomes available.

37 b. The department shall prepare an informational booklet in  
38 English and Spanish that contains the information posted on its  
39 website pursuant to subsection a. of this section, as funds become  
40 available for that purpose. The department shall make a supply of  
41 booklets available to all licensed health care facilities engaged in  
42 the diagnosis or treatment of sickle cell anemia, as well as to health  
43 care professionals, community health centers, members of the  
44 public, and social services agencies upon their request.

45 (cf: P.L.2011, c.210, s.10)

46  
47 341. Section 1 of P.L.1995, c.174 (C.26:5C-15) is amended to  
48 read as follows:

1       1. As used in this act:

2       "AIDS" means acquired immune deficiency syndrome as defined  
3 by the Centers for Disease Control and Prevention of the United  
4 States Public Health Service.

5       "Commissioner" means the Commissioner of Health **【and Senior**  
6 **Services】**.

7       "Department" means the Department of Health **【and Senior**  
8 **Services】**.

9       "HIV" means the human immunodeficiency virus or any other  
10 related virus identified as a probable causative agent of AIDS.

11 (cf: P.L.2007, c.218, s.1)

12

13       342. Section 2 of P.L.1997, c.246 (C.26:5C-22) is amended to  
14 read as follows:

15       2. a. A semen bank shall perform an HIV test on a potential  
16 donor prior to that person donating semen and shall freeze all  
17 donated semen for a waiting period of at least six months, in  
18 accordance with standards adopted by the United States Centers for  
19 Disease Control and Prevention.

20       b. A semen bank shall perform the HIV test only after the donor  
21 has provided written informed consent according to standards  
22 adopted by the Commissioner of Health and Senior Services. A  
23 donor who refuses to provide written informed consent to an HIV  
24 test or tests positive for HIV shall not be permitted to donate semen.

25       c. The cost of the HIV test shall be borne by the recipient of the  
26 donation.

27       d. The Commissioner of Health **【and Senior Services】** shall  
28 establish procedures for notification by a semen bank to donors of  
29 screening results and referrals to appropriate counseling and health  
30 care services as necessary.

31 (cf: P.L.1997, c.246, s.2)

32

33       343. Section 4 of P.L.1997, c.246 (C.26:5C-24) is amended to  
34 read as follows:

35       4. The Commissioner of Health **【and Senior Services】**, pursuant  
36 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-  
37 1 et seq.), shall adopt rules and regulations to effectuate the  
38 purposes of this act.

39 (cf: P.L.1997, c.246, s.4)

40

41       344. Section 3 of P.L.2006, c.99 (C.26:5C-27) is amended to  
42 read as follows:

43       3. The Commissioner of Health **【and Senior Services】** shall  
44 establish a demonstration program to permit up to six municipalities  
45 to operate a sterile syringe access program in accordance with the  
46 provisions of this act. For the purposes of the demonstration  
47 program, the commissioner shall prescribe by regulation

1 requirements for a municipality to establish, or otherwise authorize  
2 the operation within that municipality of, a sterile syringe access  
3 program to provide for the exchange of hypodermic syringes and  
4 needles in accordance with the provisions of this act.

5 a. The commissioner shall:

6 (1) request an application, to be submitted on a form and in a  
7 manner to be prescribed by the commissioner, from any  
8 municipality that seeks to establish a sterile syringe access program,  
9 or from other entities authorized to operate a sterile syringe access  
10 program within that municipality as provided in paragraph (2) of  
11 subsection a. of section 4 of this act;

12 (2) approve those applications that meet the requirements  
13 established by regulation of the commissioner and contract with the  
14 municipalities or entities whose applications are approved to  
15 establish a sterile syringe access program as provided in paragraph  
16 (2) of subsection a. of section 4 of this act to operate a sterile  
17 syringe access program in any municipality in which the governing  
18 body has authorized the operation of sterile syringe access programs  
19 within that municipality by ordinance;

20 (3) support and facilitate, to the maximum extent practicable,  
21 the linkage of sterile syringe access programs to [such] health care  
22 facilities and programs as may provide appropriate health care  
23 services, including mental health and substance abuse treatment,  
24 and to housing assistance, career employment-related counseling,  
25 and education counseling to consumers participating in [any such]  
26 a sterile syringe access program;

27 (4) provide for the adoption of a uniform identification card or  
28 other uniform Statewide means of identification for consumers,  
29 staff, and volunteers of a sterile syringe access program pursuant to  
30 paragraph (8) of subsection b. of section 4 of this act; and

31 (5) maintain a record of the data reported to the commissioner  
32 by sterile syringe access programs pursuant to paragraph (10) of  
33 subsection b. of section 4 of this act.

34 b. The commissioner shall be authorized to accept [such]  
35 funding as may be made available from the private sector to  
36 effectuate the purposes of this act.

37 (cf: P.L.2006, c.99, s.3)

38  
39 345. Section 3 of P.L.2008, c.49 (C.26:6-70) is amended to read  
40 as follows:

41 3. As used in this act:

42 "Anatomical research recovery organization" means a nonprofit  
43 corporation engaged in the recovery of a human body or part  
44 donated for education, research, or the advancement of medical,  
45 dental, or mortuary science pursuant to P.L.1969, c.161 (C.26:6-57  
46 et seq.) or any subsequent statute adopted pursuant thereto, where  
47 part or all of the recovery takes place in this State. Anatomical  
48 research recovery organization shall not include an accredited

1 institution of higher education in this State that uses an anatomical  
2 gift for its own educational or research purposes and is not engaged  
3 in the distribution of a human body or part to another person or  
4 entity.

5 "Commissioner" means the Commissioner of Health **[and Senior**  
6 **Services]**.

7 "Department" means the Department of Health **[and Senior**  
8 **Services]**.

9 "Distribution" means the removal of a human body or part from a  
10 storage location to any other location for educational or research  
11 use, or the advancement of medical, dental, or mortuary science.

12 "Education" means the use of the whole body or parts for  
13 purposes of teaching or training individuals, including medical or  
14 dental professionals and students, with regard to the anatomy and  
15 characteristics of the human body.

16 "Human body part" or "part" means organs, tissues, eyes, bones,  
17 blood vessels, and any other portions of a deceased human body  
18 which are subject to an anatomical gift pursuant to P.L.1969, c.161  
19 (C.26:6-57) or any subsequent statute adopted pursuant thereto, but  
20 does not include blood collected pursuant to P.L.1945, c.301  
21 (C.26:2A-1).

22 "Recovery" means the obtaining of a human body or part,  
23 including, but not limited to, determining or obtaining consent or  
24 authorization for donation of the human body or part, performing  
25 surgical or other technical procedures for recovering the body or  
26 part, and processing the body or part. Recovery does not include  
27 actions taken by a medical examiner or coroner as part of his  
28 professional duties.

29 "Research" means the conduct of scientific testing and  
30 observation designed to result in the acquisition of generalizable  
31 knowledge. Research does not include an autopsy or other  
32 investigation conducted for the purpose of obtaining information  
33 related to the decedent.

34 (cf: P.L.2008, c.49, s.3)

35

36 346. Section 4 of P.L.2008, c.49 (C.26:6-71) is amended to read  
37 as follows:

38 4. a. No person shall engage in the recovery of a human body or  
39 part donated in this State for education, research, or the  
40 advancement of medical, dental, or mortuary science pursuant to  
41 P.L.1969, c.161 (C.26:6-57 et seq.) or any subsequent statute  
42 adopted pursuant thereto, unless the person is registered as an  
43 anatomical research recovery organization with the Department of  
44 Health **[and Senior Services]** pursuant to this act.

45 The registration required pursuant to this act shall be in addition  
46 to any license or permit required by a local board of health, other  
47 local health agency, or any State or federal agency.

1       b. The registration shall be valid for a one-year period and may  
2 be renewed subject to compliance with the requirements of this act.  
3 The commissioner shall establish such registration and renewal fees  
4 as may be reasonable and necessary to carry out the purposes of this  
5 act.

6       c. The commissioner may enter and inspect the premises of any  
7 anatomical research recovery organization and the books and  
8 records as is reasonably necessary to carry out the provisions of this  
9 act.

10 (cf: P.L.2008, c.49, s.4)

11

12       347. Section 28 of P.L.2003, c.221 (C.26:8-21.1) is amended to  
13 read as follows:

14       28. The Commissioner of Health **【and Senior Services】**,  
15 pursuant to the "Administrative Procedure Act," P.L.1968, c.410  
16 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate  
17 the purposes of this act.

18 (cf: P.L.2003, c.221, s.28)

19

20       348. R.S.26:8-23 is amended to read as follows:

21       26:8-23. The Department of Health **【and Senior Services】** shall  
22 have charge of the registration of births, deaths, fetal deaths,  
23 marriages, civil unions, and domestic partnerships and shall procure  
24 the prompt and accurate registration of the same in each registration  
25 district and in the department. The department may promulgate any  
26 rule or regulation which it deems necessary for the uniform and  
27 thorough enforcement of this section.

28       The department may decline permission to examine any record  
29 except in the presence of an officer or employee of the department.

30 (cf: P.L.2006, c.103, s.40)

31

32       349. Section 17 of P.L.2003, c.221 (C.26:8-24.2) is amended to  
33 read as follows:

34       17. a. There is established the "New Jersey Electronic Death  
35 Registration Support Fund" as a nonlapsing, revolving fund to be  
36 administered by the Commissioner of Health **【and Senior Services】**  
37 and credited with monies received pursuant to subsection c. of  
38 R.S.26:8-62.

39       b. The State Treasurer is the custodian of the fund and all  
40 disbursements from the fund shall be made by the treasurer upon  
41 vouchers signed by the commissioner. The monies in the fund shall  
42 be invested and reinvested by the Director of the Division of  
43 Investment in the Department of the Treasury as are other trust  
44 funds in the custody of the State Treasurer in the manner provided  
45 by law. Interest received on the monies in the fund shall be credited  
46 to the fund.

47       c. The monies in the fund and the interest earned thereon shall  
48 be used to meet the development and operational costs of the NJ-



1 EDRS, including, but not limited to, costs associated with:  
2 personnel; hardware purchases and maintenance; software and  
3 communications infrastructure; website hosting; and licensing fees,  
4 royalties and transaction expenses incurred in the development,  
5 installation, maintenance and operation of electronic payment  
6 security, authentication and encryption systems, and user training  
7 and education.

8 d. **[`]**The Commissioner of Health **[and Senior Services]**  
9 shall, no later than 30 months after the date of enactment of  
10 P.L.2003, c.221, report to the chairs of the Senate Health, Human  
11 Services and Senior Citizens Committee, the Senate Budget and  
12 Appropriations Committee, the Assembly Health and Human  
13 Services Committee and the Assembly Appropriations Committee,  
14 or their successors, concerning the sources and uses of monies in  
15 the fund. The report shall include a description of the methodology  
16 used by the State registrar to set the fee imposed pursuant to  
17 subsection c. of R.S.26:8-62, a summary of the monies credited to  
18 fund, and a summary of expenditures by category from the fund  
19 pursuant to the authority of this section and the requirements of  
20 section 16 of P.L.2003, c.221 (C.26:8-24.1), together with any  
21 recommendations by the State registrar or the commissioner for  
22 changes that either considers should be made in the law concerning  
23 the implementation of the NJ-EDRS or the fees imposed pursuant to  
24 subsection c. of R.S.26:8-62.

25 (cf: P.L.2003, c.221, s.17)

26  
27 350. Section 2 of P.L.1983, c.291 (C.26:8-40.21) is amended to  
28 read as follows:

29 2. a. The Department of Health **[and Senior Services]** shall  
30 establish and maintain a birth defects and severe neonatal jaundice  
31 registry, which shall contain a confidential record of all birth  
32 defects and all cases of severe hyperbilirubinemia that occur in New  
33 Jersey and any other information that the department deems  
34 necessary and appropriate in order to conduct thorough and  
35 complete epidemiologic surveys of birth defects and cases of severe  
36 hyperbilirubinemia that occur in this State and plan for and provide  
37 services to children with birth defects and severe  
38 hyperbilirubinemia and their families.

39 b. The department shall make available electronically on its  
40 Internet website, in English and Spanish, information on the  
41 characteristics and effects of severe neonatal jaundice.

42 (cf: P.L.2005, c.176, s.2)

43  
44 351. Section 3 of P.L.1983, c.291 (C.26:8-40.22) is amended to  
45 read as follows:

46 3. a. The Commissioner of Health **[and Senior Services]**, in  
47 consultation with the Public Health Council, shall require the  
48 confidential reporting to the Department of Health **[and Senior**

1 Services] of all cases where an infant is diagnosed with severe  
2 hyperbilirubinemia, and where a pregnancy results in a naturally  
3 aborted fetus or infant affected by a birth defect, and an electively  
4 aborted fetus that exhibits or is known to have a birth defect after  
5 15 weeks of gestation. The reporting requirement shall apply to all  
6 infants from birth through five years of age.

7 b. The Commissioner of Health [and Senior Services] shall  
8 determine the health care providers and facilities which shall be  
9 required to report all birth defects and all cases of severe  
10 hyperbilirubinemia, the types of conditions or defects that shall be  
11 reported, the type of information that shall be contained in the  
12 confidential report and the method for making the report. In reports  
13 concerning all fetuses with anomalies, the name of the mother shall  
14 not be submitted.

15 (cf: P.L.2005, c.176, s.3)

16  
17 352. R.S.26:8-69 is amended to read as follows:

18 26:8-69. Except as otherwise specifically provided in this chapter  
19 and R.S.37:1-1 et seq., any person who shall:

20 a. Fail or refuse to furnish correctly any information in [his]  
21 the person's possession; or

22 b. Willfully and knowingly furnish false information affecting  
23 any certificate or record required by this chapter; or

24 c. Willfully alter, otherwise than is provided by R.S.26:8-48 et  
25 seq., or willfully or knowingly falsify, any certificate or record  
26 established by this chapter; or

27 d. Fail to fill out and transmit any certificate or record in the  
28 manner required by this chapter; or

29 e. Being a local registrar, deputy registrar, alternate deputy  
30 registrar or subregistrar, shall fail to perform [his] the person's  
31 duty as required by this chapter and by the directions of the State  
32 registrar thereunder; or

33 f. Violate any of the provisions of this chapter or fail to  
34 discharge any duty required by this chapter-

35 Shall be subject to a penalty of not less than \$100 nor more than  
36 \$250 for each first offense and not less than \$250 nor more than  
37 \$500 for each subsequent offense.

38 The penalties shall be recovered in a civil action in the name of  
39 the Department of Health [and Senior Services] or local board in  
40 any court of competent jurisdiction.

41 The Superior Court or municipal court shall have jurisdiction  
42 over proceedings to enforce and collect any such penalty, if the  
43 violation has occurred within the territorial jurisdiction of the court.  
44 The proceedings shall be summary and in accordance with the  
45 "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10  
46 et seq.).

1       Notwithstanding the provisions of this section to the contrary,  
2       the State registrar may refer a violation of this chapter by a  
3       physician, nurse, or funeral director who is licensed pursuant to  
4       Title 45 of the Revised Statutes to the appropriate professional  
5       board in the Division of Consumer Affairs in the Department of  
6       Law and Public Safety, which shall, in accordance with the  
7       "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
8       seq.), assess the penalty provided for in this subsection and assume  
9       enforcement responsibility on the same basis as it would for a  
10      violation of the statute or regulations governing the practice of  
11      those persons regulated by that board.  
12      (cf: P.L.2003, c.221, s.26)

13

14      353. Section 3 of P.L.2003, c.246 (C.26:8A-3) is amended to  
15      read as follows:

16      3. As used in sections 1 through 9 of P.L.2003, c.246  
17      (C.26:8A-1 through C.26:8A-9) and in R.S.26:8-1 et seq.:

18      "Affidavit of Domestic Partnership" means an affidavit that sets  
19      forth each party's name and age, the parties' common mailing  
20      address, and a statement that, at the time the affidavit is signed,  
21      both parties meet the requirements of this act for entering into a  
22      domestic partnership and wish to enter into a domestic partnership  
23      with each other.

24      "Basic living expenses" means the cost of basic food and shelter,  
25      and any other cost, including, but not limited to, the cost of health  
26      care, if some or all of the cost is paid as a benefit because a person  
27      is another person's domestic partner.

28      "Certificate of Domestic Partnership" means a certificate that  
29      includes: the full names of the domestic partners, a statement that  
30      the two individuals are members of a registered domestic  
31      partnership recognized by the State of New Jersey, the date that the  
32      domestic partnership was entered into, and a statement that the  
33      partners are entitled to all the rights, privileges and responsibilities  
34      accorded to domestic partners under the law. The certificate shall  
35      bear the seal of the State of New Jersey.

36      "Commissioner" means the Commissioner of Health [and Senior  
37      Services].

38      "Domestic partner" or "partner" means a person who is in a  
39      relationship that satisfies the definition of a domestic partnership as  
40      set forth in this act.

41      "Have a common residence" means that two persons share the  
42      same place to live in this State, or share the same place to live in  
43      another jurisdiction when at least one of the persons is a member of  
44      a State-administered retirement system, regardless of whether or  
45      not: the legal right to possess the place is in both of their names;  
46      one or both persons have additional places to live; or one person  
47      temporarily leaves the shared place of residence to reside  
48      elsewhere, on either a short-term or long-term basis, for reasons that

1 include, but are not limited to, medical care, incarceration,  
2 education, a sabbatical, or employment, but intends to return to the  
3 shared place of residence.

4 "Jointly responsible" means that each domestic partner agrees to  
5 provide for the other partner's basic living expenses if the other  
6 partner is unable to provide for himself.

7 "Notice of Rights and Obligations of Domestic Partners" means a  
8 form that advises domestic partners, or persons seeking to become  
9 domestic partners, of the procedural requirements for establishing,  
10 maintaining, and terminating a domestic partnership, and includes  
11 information about the rights and responsibilities of the partners.

12 (cf: P.L.2003, c.246, s.3)

13  
14 354. Section 59 of P.L.2003, c.246 (C.26:8A-12) is amended to  
15 read as follows:

16 59. a. The Commissioner of Health **[and Senior Services]**,  
17 pursuant to the "Administrative Procedure Act," P.L.1968, c.410  
18 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate  
19 the purposes of sections 1 through 10 and 13 through 35 of this act.

20 b. The Commissioner of Banking and Insurance, pursuant to  
21 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
22 seq.), shall adopt rules and regulations to effectuate the purposes of  
23 sections 47 through 52, 55 and 56 of this act.

24 c. The New Jersey Individual Health Coverage Program Board,  
25 pursuant to the "Administrative Procedure Act," P.L.1968, c.410  
26 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate  
27 the purposes of section 53 of this act.

28 d. The New Jersey Small Employer Health Benefits Program  
29 Board, pursuant to the "Administrative Procedure Act," P.L.1968,  
30 c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations to  
31 effectuate the purposes of section 54 of this act.

32 (cf: P.L.2003, c.246, s.59)

33  
34 355. Section 2 of P.L.2005, c.222 (C.26:13-2) is amended to  
35 read as follows:

36 2. As used in this act:

37 "Biological agent" means any microorganism, virus, bacterium,  
38 rickettsiae, fungus, toxin, infectious substance, or biological  
39 product that may be naturally occurring or engineered as a result of  
40 biotechnology, or any naturally occurring or bioengineered  
41 component of any such microorganism, virus, bacterium,  
42 rickettsiae, fungus, infectious substance, or biological product,  
43 capable of causing death, disease, or other biological malfunction in  
44 a human, an animal, a plant, or another living organism.

45 "Bioterrorism" means the intentional use or threat of use of any  
46 biological agent, to cause death, disease, or other biological  
47 malfunction in a human, animal, plant, or other living organism, or  
48 degrade the quality and safety of the food, air, or water supply.

1 "Chemical weapon" means a toxic chemical and its precursors,  
2 except where intended for a lawful purpose as long as the type and  
3 quantity is consistent with such a purpose. Chemical weapon  
4 includes, but is not limited to: nerve agents, choking agents, blood  
5 agents, and incapacitating agents.

6 "Commissioner" means the Commissioner of Health [and Senior  
7 Services], or the commissioner's designee.

8 "Contagious disease" means an infectious disease that can be  
9 transmitted from person to person.

10 "Department" means the Department of Health [and Senior  
11 Services].

12 "Health care facility" means any non-federal institution, building  
13 or agency, or portion thereof whether public or private for profit or  
14 nonprofit that is used, operated or designed to provide health  
15 services, medical or dental treatment or nursing, rehabilitative, or  
16 preventive care to any person. Health care facility includes, but is  
17 not limited to: an ambulatory surgical facility, home health agency,  
18 hospice, hospital, infirmary, intermediate care facility, dialysis  
19 center, long-term care facility, medical assistance facility, mental  
20 health center, paid and volunteer emergency medical services,  
21 outpatient facility, public health center, rehabilitation facility,  
22 residential treatment facility, skilled nursing facility, and adult day  
23 care center. Health care facility also includes, but is not limited to,  
24 the following related property when used for or in connection with  
25 the foregoing: a laboratory, research facility, pharmacy, laundry  
26 facility, health personnel training and lodging facility, patient, guest  
27 and health personnel food service facility, and the portion of an  
28 office or office building used by persons engaged in health care  
29 professions or services.

30 "Health care provider" means any person or entity who provides  
31 health care services including, but not limited to: a health care  
32 facility, bioanalytical laboratory director, perfusionist, physician,  
33 physician assistant, pharmacist, dentist, nurse, paramedic,  
34 respiratory care practitioner, medical or laboratory technician, and  
35 ambulance and emergency medical workers.

36 "Infectious disease" means a disease caused by a living organism  
37 or other pathogen, including a fungus, bacteria, parasite, protozoan,  
38 virus, or prion. An infectious disease may, or may not, be  
39 transmissible from person to person, animal to person, or insect to  
40 person.

41 "Isolation" means the physical separation and confinement of an  
42 individual or groups of individuals who are infected or reasonably  
43 believed to be infected, on the basis of signs, symptoms or  
44 laboratory analysis, with a contagious or possibly contagious  
45 disease from non-isolated individuals, to prevent or limit the  
46 transmission of the disease to non-isolated individuals.

47 "Local health agency" means a county, regional, municipal, or  
48 other governmental agency organized for the purpose of providing

1 health services, administered by a full-time health officer and  
2 conducting a public health program pursuant to law.

3 "Local Information Network and Communications System  
4 Agency" or " LINCS agency" means the lead local public health  
5 agency in each county or identified city, as designated and  
6 determined by the commissioner pursuant to section 21 of this act,  
7 responsible for providing central planning, coordination, and  
8 delivery of specialized services within the designated county or  
9 city, in partnership with the other local health agencies within that  
10 jurisdiction, in order to prepare for and respond to acts of  
11 bioterrorism and other forms of terrorism or other public health  
12 emergencies or threats, and to discharge the activities as specified  
13 under this act.

14 "Microorganism" includes, but is not limited to, bacteria, viruses,  
15 fungi, rickettsiae, or protozoa.

16 "Nuclear or radiological device" means: any nuclear device  
17 which is an explosive device designed to cause a nuclear yield; an  
18 explosive radiological dispersal device used directly or indirectly to  
19 spread radioactive material; or a simple radiological dispersal  
20 device which is any act, container or any other device used to  
21 release radiological material for use as a weapon.

22 "Overlap agent or toxin" means: any microorganism or toxin that  
23 poses a risk to both human and animal health and includes:

24 Anthrax - *Bacillus anthracis*

25 Botulism - *Clostridium botulinum* toxin, *Botulinum* neurotoxins,  
26 *Botulinum* neurotoxin producing species of *Clostridium*

27 Plague - *Yersinia pestis*

28 Tularemia - *Francisella tularensis*

29 Viral Hemorrhagic Fevers - Ebola, Marburg, Lassa, Machupo

30 Brucellosis- *Brucellosis* species

31 Glanders - *Burkholderia mallei*

32 Melioidosis - *Burkholderia pseudomallei*

33 Psittacosis - *Chlamydophila psittaci*

34 Coccidioidomycosis - *Coccidioides immitis*

35 Q Fever - *Coxiella burnetii*

36 Typhus Fever - *Rickettsia prowazekii*

37 Viral Encephalitis - VEE (Venezuelan equine encephalitis virus),  
38 EEE (Eastern equine encephalitis), WEE (Western equine  
39 encephalitis)

40 Toxins - *Ricinus communis*, *Clostridium perfringens*, *Staph.*  
41 *Aureus*, Staphylococcal enterotoxins, T-2 toxin, Shigatoxin

42 Nipah - Nipah virus

43 Hantavirus - Hantavirus

44 West Nile Fever - West Nile virus

45 Hendra - Hendra virus

46 Rift Valley Fever - Rift Valley Fever virus

47 Highly Pathogenic Avian Influenza

1 "Public health emergency" means an occurrence or imminent  
2 threat of an occurrence that:

3 a. is caused or is reasonably believed to be caused by any of  
4 the following: (1) bioterrorism or an accidental release of one or  
5 more biological agents; (2) the appearance of a novel or previously  
6 controlled or eradicated biological agent; (3) a natural disaster; (4) a  
7 chemical attack or accidental release of toxic chemicals; or (5) a  
8 nuclear attack or nuclear accident; and

9 b. poses a high probability of any of the following harms: (1) a  
10 large number of deaths, illness, or injury in the affected population;  
11 (2) a large number of serious or long-term impairments in the  
12 affected population; or (3) exposure to a biological agent or  
13 chemical that poses a significant risk of substantial future harm to a  
14 large number of people in the affected population.

15 "Quarantine" means the physical separation and confinement of  
16 an individual or groups of individuals, who are or may have been  
17 exposed to a contagious or possibly contagious disease and who do  
18 not show signs or symptoms of a contagious disease, from non-  
19 quarantined individuals, to prevent or limit the transmission of the  
20 disease to non-quarantined individuals.

21 "Toxin" means the toxic material of plants, animals,  
22 microorganisms, viruses, fungi, or infectious substances, or a  
23 recombinant molecule, whatever its origin or method of production,  
24 including:

25 a. any poisonous substance or biological product that may be  
26 engineered as a result of biotechnology or produced by a living  
27 organism; or

28 b. any poisonous isomer or biological product, homolog, or  
29 derivative of such a substance.

30 (cf: P.L.2005, c.222, s.2)

31

32 356. Section 24 of P.L.2005, c.222 (C.26:13-24) is amended to  
33 read as follows:

34 24. a. There is hereby established in the Department of Health  
35 **【and Senior Services】** a State Public Health Emergency Claim  
36 Reimbursement Board. The board shall include the following  
37 members: the Commissioner of Health **【and Senior Services】**, who  
38 shall be the presiding officer, the Attorney General, the Adjutant  
39 General of the Department of Military and Veterans' Affairs, the  
40 State Director of Emergency Management, the Secretary of  
41 Agriculture, the Commissioner of Banking and Insurance, the  
42 Commissioner of Environmental Protection, the Commissioner of  
43 Community Affairs, the State Medical Examiner, and the State  
44 Treasurer, or their designees. The members of the board shall serve  
45 without pay in connection with all such duties as are prescribed in  
46 this act.

47 b. The board shall meet at such times as may be necessary to  
48 fulfill the requirements set forth herein. The Commissioner of

1 Health [and Senior Services] shall convene the board within 45  
2 days of the filing of a complete petition. The concurrence of six  
3 members of the board shall be necessary for the validity of all acts  
4 of the board.

5 c. Subject to available appropriations, the board shall have the  
6 authority to award reasonable reimbursement, as determined by the  
7 board, for any services required of any person under the provisions  
8 of this act, which shall be paid at the prevailing established rate for  
9 services of a like or similar nature as determined by the board.  
10 Subject to available appropriations, the board shall have the  
11 authority to award reasonable reimbursement, as determined by the  
12 board, for any property employed, taken, or used under the  
13 provisions of this act.

14 d. All awards shall be paid from any funds appropriated by the  
15 State, any political subdivision of the State, or the federal  
16 government, for such purpose. In awarding reimbursement under  
17 this section, the board shall take into account any funds, or any  
18 other thing of value, received by a claimant from any other source,  
19 including but not limited to private donations, contributions, and  
20 insurance proceeds. The board shall not award reimbursement  
21 unless the claimant has demonstrated, to the satisfaction of the  
22 board, that the claimant has first sought reimbursement for any loss  
23 incurred due to the declaration of a public health emergency from  
24 any and all appropriate third party payers.

25 (cf: P.L.2005, c.222, s.24)

26  
27 357. Section 25 of P.L.2005, c.222 (C.26:13-25) is amended to  
28 read as follows:

29 25. a. Any person making a claim for reimbursement for private  
30 property or services employed, taken or used for a public purpose  
31 under this act shall, subsequent to the termination of the public  
32 health emergency, file a petition for an award with the State Public  
33 Health Emergency Claim Reimbursement Board, established  
34 pursuant to section 24 of this act, through the Commissioner of  
35 Health [and Senior Services]. The petition shall be signed by the  
36 claimant and shall set forth the following:

37 (1) a description of the services or property employed, taken, or  
38 used;

39 (2) the dates of the employment, taking, or usage;

40 (3) the person or entity ordering the employment, taking, or  
41 usage;

42 (4) such additional information as the petitioner deems relevant  
43 to a full consideration of the claim; and

44 (5) any additional information that the board may require.

45 b. The board may establish such forms, documents, and  
46 procedures as may be necessary to expedite the processing of  
47 claims, and all claimants shall utilize and follow the forms,  
48 documents, and procedures, if so established. Subsequent to the



1 filing of an initial petition, the board may request such additional  
2 information as it deems necessary from any claimant and may  
3 require the claimant, and any other person with knowledge of facts  
4 and circumstances relevant to the claim, to appear before the board  
5 for a hearing. No petition shall be filed with the board more than  
6 180 days from the last date the services or property were employed,  
7 taken or used, except that this deadline may be extended by the  
8 board as is necessary to further the purposes of this act.

9 c. The board's determination concerning a claimant's petition  
10 for reimbursement shall be transmitted to the claimant in writing.  
11 The claimant may appeal the decision to the Superior Court subject  
12 to the Rules of Court regarding the review of State agency actions.

13 d. Any person seeking reimbursement under this act shall  
14 proceed in accordance with the provisions of this section unless the  
15 declaration of public health emergency which gives rise to the claim  
16 or petition for reimbursement is superseded by order of the  
17 Governor pursuant to P.L.1942, c.251 (C.App.A:9-33 et seq.). Upon  
18 the declaration of an emergency by the Governor pursuant to  
19 P.L.1942, c.251 which supersedes the declaration of a public health  
20 emergency, the person shall proceed in accordance with the  
21 provisions of P.L.1942, c.251 and the person's rights, remedies and  
22 entitlement to reimbursement shall be limited to that which is  
23 afforded in that act.

24 e. Notwithstanding the provisions of this section to the  
25 contrary, in the event funds are otherwise made available for  
26 reimbursement, a person shall not be required to file a petition for  
27 an award with the board pursuant to this section.

28 (cf: P.L.2005, c.222, s.25)

29  
30 358. Section 6 of P.L.1968, c.413 (C.30:4D-6) is amended to  
31 read as follows:

32 6. a. Subject to the requirements of Title XIX of the federal  
33 Social Security Act, the limitations imposed by this act and by the  
34 rules and regulations promulgated pursuant thereto, the department  
35 shall provide medical assistance to qualified applicants, including  
36 authorized services within each of the following classifications:

37 (1) Inpatient hospital services;

38 (2) Outpatient hospital services;

39 (3) Other laboratory and X-ray services;

40 (4) (a) Skilled nursing or intermediate care facility services;

41 (b) **【Such early】** Early and periodic screening and diagnosis of  
42 individuals who are eligible under the program and are under age  
43 21, to ascertain their physical or mental defects and **【such】** the  
44 health care, treatment, and other measures to correct or ameliorate  
45 defects and chronic conditions discovered thereby, as may be  
46 provided in regulations of the Secretary of the federal Department  
47 of Health and Human Services and approved by the commissioner;

1 (5) Physician's services furnished in the office, the patient's  
2 home, a hospital, a skilled nursing, or intermediate care facility or  
3 elsewhere.

4 As used in this subsection, "laboratory and X-ray services"  
5 includes HIV drug resistance testing, including, but not limited to,  
6 genotype assays that have been cleared or approved by the federal  
7 Food and Drug Administration, laboratory developed genotype  
8 assays, phenotype assays, and other assays using phenotype  
9 prediction with genotype comparison, for persons diagnosed with  
10 HIV infection or AIDS.

11 b. Subject to the limitations imposed by federal law, by this  
12 act, and by the rules and regulations promulgated pursuant thereto,  
13 the medical assistance program may be expanded to include  
14 authorized services within each of the following classifications:

15 (1) Medical care not included in subsection a.(5) above, or any  
16 other type of remedial care recognized under State law, furnished  
17 by licensed practitioners within the scope of their practice, as  
18 defined by State law;

19 (2) Home health care services;

20 (3) Clinic services;

21 (4) Dental services;

22 (5) Physical therapy and related services;

23 (6) Prescribed drugs, dentures, and prosthetic devices; and  
24 eyeglasses prescribed by a physician skilled in diseases of the eye  
25 or by an optometrist, whichever the individual may select;

26 (7) Optometric services;

27 (8) Podiatric services;

28 (9) Chiropractic services;

29 (10) Psychological services;

30 (11) Inpatient psychiatric hospital services for individuals under  
31 21 years of age, or under age 22 if they are receiving such services  
32 immediately before attaining age 21;

33 (12) Other diagnostic, screening, preventive, and rehabilitative  
34 services, and other remedial care;

35 (13) Inpatient hospital services, nursing facility services, and  
36 intermediate care facility services for individuals 65 years of age or  
37 over in an institution for mental diseases;

38 (14) Intermediate care facility services;

39 (15) Transportation services;

40 (16) Services in connection with the inpatient or outpatient  
41 treatment or care of drug abuse, when the treatment is prescribed by  
42 a physician and provided in a licensed hospital or in a narcotic and  
43 drug abuse treatment center approved by the Department of Health  
44 [and Senior] Services pursuant to P.L.1970, c.334 (C.26:2G-21 et  
45 seq.) and whose staff includes a medical director, and limited to  
46 those services eligible for federal financial participation under Title  
47 XIX of the federal Social Security Act;

1 (17) Any other medical care and any other type of remedial care  
2 recognized under State law, specified by the Secretary of the federal  
3 Department of Health and Human Services, and approved by the  
4 commissioner;

5 (18) Comprehensive maternity care, which may include: the  
6 basic number of prenatal and postpartum visits recommended by the  
7 American College of Obstetrics and Gynecology; additional  
8 prenatal and postpartum visits that are medically necessary;  
9 necessary laboratory, nutritional assessment and counseling, health  
10 education, personal counseling, managed care, outreach, and  
11 follow-up services; treatment of conditions which may complicate  
12 pregnancy; and physician or certified nurse-midwife delivery  
13 services;

14 (19) Comprehensive pediatric care, which may include:  
15 ambulatory, preventive, and primary care health services. The  
16 preventive services shall include, at a minimum, the basic number  
17 of preventive visits recommended by the American Academy of  
18 Pediatrics;

19 (20) Services provided by a hospice which is participating in the  
20 Medicare program established pursuant to Title XVIII of the Social  
21 Security Act, Pub.L.89-97 (42 U.S.C. s.1395 et seq.). Hospice  
22 services shall be provided subject to approval of the Secretary of  
23 the federal Department of Health and Human Services for federal  
24 reimbursement;

25 (21) Mammograms, subject to approval of the Secretary of the  
26 federal Department of Health and Human Services for federal  
27 reimbursement, including one baseline mammogram for women  
28 who are at least 35 but less than 40 years of age; one mammogram  
29 examination every two years or more frequently, if recommended  
30 by a physician, for women who are at least 40 but less than 50 years  
31 of age; and one mammogram examination every year for women  
32 age 50 and over.

33 c. Payments for the foregoing services, goods, and supplies  
34 furnished pursuant to this act shall be made to the extent authorized  
35 by this act, the rules and regulations promulgated pursuant thereto  
36 and, where applicable, subject to the agreement of insurance  
37 provided for under this act. **[Said]** The payments shall constitute  
38 payment in full to the provider on behalf of the recipient. Every  
39 provider making a claim for payment pursuant to this act shall  
40 certify in writing on the claim submitted that no additional amount  
41 will be charged to the recipient, **[his]** the recipient's family, **[his]**  
42 the recipient's representative or others on **[his]** the recipient's  
43 behalf for the services, goods, and supplies furnished pursuant to  
44 this act.

45 No provider whose claim for payment pursuant to this act has  
46 been denied because the services, goods, or supplies were  
47 determined to be medically unnecessary shall seek reimbursement  
48 from the recipient, his family, his representative or others on his

1   behalf for such services, goods, and supplies provided pursuant to  
2   this act; provided, however, a provider may seek reimbursement  
3   from a recipient for services, goods, or supplies not authorized by  
4   this act, if the recipient elected to receive the services, goods or  
5   supplies with the knowledge that they were not authorized.

6   d. Any individual eligible for medical assistance (including  
7   drugs) may obtain such assistance from any person qualified to  
8   perform the service or services required (including an organization  
9   which provides such services, or arranges for their availability on a  
10   prepayment basis), who undertakes to provide **[him]** the individual  
11   such services.

12   No copayment or other form of cost-sharing shall be imposed on  
13   any individual eligible for medical assistance, except as mandated  
14   by federal law as a condition of federal financial participation.

15   e. Anything in this act to the contrary notwithstanding, no  
16   payments for medical assistance shall be made under this act with  
17   respect to care or services for any individual who:

18   (1) Is an inmate of a public institution (except as a patient in a  
19   medical institution); provided, however, that an individual who is  
20   otherwise eligible may continue to receive services for the month in  
21   which he becomes an inmate, should the commissioner determine to  
22   expand the scope of Medicaid eligibility to include such an  
23   individual, subject to the limitations imposed by federal law and  
24   regulations, or

25   (2) Has not attained 65 years of age and who is a patient in an  
26   institution for mental diseases, or

27   (3) Is over 21 years of age and who is receiving inpatient  
28   psychiatric hospital services in a psychiatric facility; provided,  
29   however, that an individual who was receiving such services  
30   immediately prior to attaining age 21 may continue to receive such  
31   services until **[he]** the individual reaches age 22. Nothing in this  
32   subsection shall prohibit the commissioner from extending medical  
33   assistance to all eligible persons receiving inpatient psychiatric  
34   services; provided that there is federal financial participation  
35   available.

36   f. (1) A third party as defined in section 3 of P.L.1968, c.413  
37   (C.30:4D-3) shall not consider a person's eligibility for Medicaid in  
38   this or another state when determining the person's eligibility for  
39   enrollment or the provision of benefits by that third party.

40   (2) In addition, any provision in a contract of insurance, health  
41   benefits plan, or other health care coverage document, will, trust,  
42   agreement, court order, or other instrument which reduces or  
43   excludes coverage or payment for health care-related goods and  
44   services to or for an individual because of that individual's actual or  
45   potential eligibility for or receipt of Medicaid benefits shall be null  
46   and void, and no payments shall be made under this act as a result  
47   of any such provision.

1 (3) Notwithstanding any provision of law to the contrary, the  
2 provisions of paragraph (2) of this subsection shall not apply to a  
3 trust agreement that is established pursuant to 42 U.S.C.  
4 s.1396p(d)(4)(A) or (C) to supplement and augment assistance  
5 provided by government entities to a person who is disabled as  
6 defined in section 1614(a)(3) of the federal Social Security Act (42  
7 U.S.C. s.1382c (a)(3)).

8 g. The following services shall be provided to eligible  
9 medically needy individuals as follows:

10 (1) Pregnant women shall be provided prenatal care and delivery  
11 services and postpartum care, including the services cited in  
12 subsection a.(1), (3),<sub>2</sub> and (5) of this section and subsection b.(1)-  
13 (10), (12), (15),<sub>2</sub> and (17) of this section, and nursing facility  
14 services cited in subsection b.(13) of this section.

15 (2) Dependent children shall be provided with services cited in  
16 subsection a.(3) and (5) of this section and subsection b.(1), (2), (3),  
17 (4), (5), (6), (7), (10), (12), (15),<sub>2</sub> and (17) of this section, and  
18 nursing facility services cited in subsection b.(13) of this section.

19 (3) Individuals who are 65 years of age or older shall be  
20 provided with services cited in subsection a.(3) and (5) of this  
21 section and subsection b.(1)-(5), (6) excluding prescribed drugs, (7),  
22 (8), (10), (12), (15),<sub>2</sub> and (17) of this section, and nursing facility  
23 services cited in subsection b.(13) of this section.

24 (4) Individuals who are blind or disabled shall be provided with  
25 services cited in subsection a.(3) and (5) of this section and  
26 subsection b.(1)-(5), (6) excluding prescribed drugs, (7), (8), (10),  
27 (12), (15),<sub>2</sub> and (17) of this section, and nursing facility services  
28 cited in subsection b.(13) of this section.

29 (5) (a) Inpatient hospital services, subsection a.(1) of this  
30 section, shall only be provided to eligible medically needy  
31 individuals, other than pregnant women, if the federal Department  
32 of Health and Human Services discontinues the State's waiver to  
33 establish inpatient hospital reimbursement rates for the Medicare  
34 and Medicaid programs under the authority of section 601(c)(3) of  
35 the Social Security Act Amendments of 1983, Pub.L.98-21 (42  
36 U.S.C. s.1395ww(c)(5)). Inpatient hospital services may be  
37 extended to other eligible medically needy individuals if the federal  
38 Department of Health and Human Services directs that these  
39 services be included.

40 (b) Outpatient hospital services, subsection a.(2) of this section,  
41 shall only be provided to eligible medically needy individuals if the  
42 federal Department of Health and Human Services discontinues the  
43 State's waiver to establish outpatient hospital reimbursement rates  
44 for the Medicare and Medicaid programs under the authority of  
45 section 601(c)(3) of the Social Security Amendments of 1983,  
46 Pub.L.98-21 (42 U.S.C. s.1395ww(c)(5)). Outpatient hospital  
47 services may be extended to all or to certain medically needy  
48 individuals if the federal Department of Health and Human Services

1 directs that these services be included. However, the use of  
2 outpatient hospital services shall be limited to clinic services and to  
3 emergency room services for injuries and significant acute medical  
4 conditions.

5 (c) The division shall monitor the use of inpatient and outpatient  
6 hospital services by medically needy persons.

7 h. In the case of a qualified disabled and working individual  
8 pursuant to section 6408 of Pub.L.101-239 (42 U.S.C. s.1396d), the  
9 only medical assistance provided under this act shall be the  
10 payment of premiums for Medicare part A under 42 U.S.C.  
11 ss.1395i-2 and 1395r.

12 i. In the case of a specified low-income Medicare beneficiary  
13 pursuant to 42 U.S.C. s.1396a(a)(10)(E)iii, the only medical  
14 assistance provided under this act shall be the payment of premiums  
15 for Medicare part B under 42 U.S.C. s.1395r as provided for in 42  
16 U.S.C. s.1396d(p)(3)(A)(ii).

17 j. In the case of a qualified individual pursuant to 42 U.S.C.  
18 s.1396a(aa), the only medical assistance provided under this act  
19 shall be payment for authorized services provided during the period  
20 in which the individual requires treatment for breast or cervical  
21 cancer, in accordance with criteria established by the commissioner.  
22 (cf: P.L.2003, c.294, s.1)

23  
24 359. Section 3 of P.L.1981, c.134 (C.30:4D-6.4) is amended to  
25 read as follows:

26 3. After consulting with the Commissioner of Human Services,  
27 the Commissioner of Health **[and Senior Services]** is authorized  
28 and empowered to issue and enforce, or cause to be issued and  
29 enforced through the division, all necessary rules, regulations, and  
30 administrative orders with respect to:

31 a. The development of minimum requirements concerning the  
32 equipment, supplies, and vehicles of providers of mobility  
33 assistance vehicle services;

34 b. The establishment of standards for the amount of liability  
35 insurance each provider must maintain in order to be eligible to  
36 provide mobility assistance vehicle services. Evidence of such  
37 insurance, including the name of the insurer and the policy number,  
38 shall be filed at the time of application for approval by the division  
39 and from time to time as the division shall deem necessary; and

40 c. The establishment of standards for certified trained personnel  
41 employed by providers of mobility assistance vehicle services.

42 (cf: P.L.1997, c.102, s.3)

43  
44 360. Section 7 of P.L.1968, c.413 (C.30:4D-7) is amended to  
45 read as follows:

46 7. Duties of commissioner. The commissioner is authorized  
47 and empowered to issue, or to cause to be issued through the  
48 Division of Medical Assistance and Health Services, all necessary

1 rules and regulations and administrative orders, and to do or cause  
2 to be done all other acts and things necessary to secure for the State  
3 of New Jersey the maximum federal participation that is available  
4 with respect to a program of medical assistance, consistent with  
5 fiscal responsibility and within the limits of funds available for any  
6 fiscal year, and to the extent authorized by the medical assistance  
7 program plan; to adopt fee schedules with regard to medical  
8 assistance benefits and otherwise to accomplish the purposes of this  
9 act, including specifically the following:

10 a. Subject to the limits imposed by this act, to submit a plan for  
11 medical assistance, as required by Title XIX of the federal Social  
12 Security Act, to the federal Department of Health and Human  
13 Services for approval pursuant to the provisions of such law; to act  
14 for the State in making negotiations relative to the submission and  
15 approval of such plan, to make such arrangements, not inconsistent  
16 with the law, as may be required by or pursuant to federal law to  
17 obtain and retain such approval and to secure for the State the  
18 benefits of the provisions of such law;

19 b. Subject to the limits imposed by this act, to determine the  
20 amount and scope of services to be covered, that the amounts to be  
21 paid are reasonable, and the duration of medical assistance to be  
22 furnished; provided, however, that the department shall provide  
23 medical assistance on behalf of all recipients of categorical  
24 assistance and such other related groups as are mandatory under  
25 federal laws and rules and regulations, as they now are or as they  
26 may be hereafter amended, in order to obtain federal matching  
27 funds for such purposes and, in addition, provide medical assistance  
28 for the resource family children specified in subsection i.(7) of  
29 section 3 of P.L.1968, c.413 (C.30:4D-3). The medical assistance  
30 provided for these groups shall not be less in scope, duration, or  
31 amount than is currently furnished [such] these groups, and in  
32 addition, shall include at least the minimum services required under  
33 federal laws and rules and regulations to obtain federal matching  
34 funds for such purposes.

35 The commissioner is authorized and empowered, at such times as  
36 he may determine feasible, within the limits of appropriated funds  
37 for any fiscal year, to extend the scope, duration, and amount of  
38 medical assistance on behalf of these groups of categorical  
39 assistance recipients, related groups as are mandatory, and resource  
40 family children authorized pursuant to section 3i. (7) of this act, so  
41 as to include, in whole or in part, the optional medical services  
42 authorized under federal laws and rules and regulations, and the  
43 commissioner shall have the authority to establish and maintain the  
44 priorities given such optional medical services; provided, however,  
45 that medical assistance shall be provided to at least such groups and  
46 in such scope, duration, and amount as are required to obtain  
47 federal matching funds.

1       The commissioner is further authorized and empowered, at such  
2 times as he may determine feasible, within the limits of  
3 appropriated funds for any fiscal year, to issue, or cause to be  
4 issued through the Division of Medical Assistance and Health  
5 Services, all necessary rules, regulations and administrative orders,  
6 and to do or cause to be done all other acts and things necessary to  
7 implement and administer demonstration projects pursuant to Title  
8 XI, section 1115 of the federal Social Security Act, including, but  
9 not limited to waiving compliance with specific provisions of this  
10 act, to the extent and for the period of time the commissioner deems  
11 necessary, as well as contracting with any legal entity, including but  
12 not limited to corporations organized pursuant to Title 14A, New  
13 Jersey Statutes (N.J.S.14A:1-1 et seq.), Title 15, Revised Statutes  
14 (R.S.15:1-1 et seq.), and Title 15A, New Jersey Statutes  
15 (N.J.S.15A:1-1 et seq.) as well as boards, groups, agencies, persons,  
16 and other public or private entities;

17       c. To administer the provisions of this act;

18       d. To make reports to the federal Department of Health and  
19 Human Services as from time to time may be required by such  
20 federal department and to the New Jersey Legislature as hereinafter  
21 provided;

22       e. To assure that any applicant, qualified applicant or recipient  
23 shall be afforded the opportunity for a hearing should ~~his~~ the  
24 person's claim for medical assistance be denied, reduced,  
25 terminated, or not acted upon within a reasonable time;

26       f. To assure that providers shall be afforded the opportunity for  
27 an administrative hearing within a reasonable time on any valid  
28 complaint arising out of the claim payment process;

29       g. To provide safeguards to restrict the use or disclosure of  
30 information concerning applicants and recipients to purposes  
31 directly connected with administration of this act;

32       h. To take all necessary action to recover any and all payments  
33 incorrectly made to or illegally received by a provider from such  
34 provider or his estate or from any other person, firm, corporation,  
35 partnership, or entity responsible for or receiving the benefit or  
36 possession of the incorrect or illegal payments or their estates,  
37 successors or assigns, and to assess and collect such penalties as are  
38 provided for herein;

39       i. To take all necessary action to recover the cost of benefits  
40 incorrectly provided to or illegally obtained by a recipient,  
41 including those made after a voluntary divestiture of real or  
42 personal property or any interest or estate in property for less than  
43 adequate consideration made for the purpose of qualifying for  
44 assistance. The division shall take action to recover the cost of  
45 benefits from a recipient, legally responsible relative, representative  
46 payee, or any other party or parties whose action or inaction  
47 resulted in the incorrect or illegal payments or who received the  
48 benefit of the divestiture, or from their respective estates, as the



1 case may be and to assess and collect the penalties as are provided  
2 for herein, except that no lien shall be imposed against property of  
3 the recipient prior to his death except in accordance with section 17  
4 of P.L.1968, c.413 (C.30:4D-17). No recovery action shall be  
5 initiated more than five years after an incorrect payment has been  
6 made to a recipient when the incorrect payment was due solely to an  
7 error on the part of the State or any agency, agent, or subdivision  
8 thereof;

9 j. To take all necessary action to recover the cost of benefits  
10 correctly provided to a recipient from the estate of said recipient in  
11 accordance with sections 6 through 12 of this amendatory and  
12 supplementary act;

13 k. To take all reasonable measures to ascertain the legal or  
14 equitable liability of third parties to pay for care and services  
15 (available under the plan) arising out of injury, disease, or  
16 disability; where it is known that a third party has a liability, to treat  
17 such liability as a resource of the individual on whose behalf the  
18 care and services are made available for purposes of determining  
19 eligibility; and in any case where such a liability is found to exist  
20 after medical assistance has been made available on behalf of the  
21 individual, to seek reimbursement for such assistance to the extent  
22 of such liability;

23 l. To compromise, waive, or settle and execute a release of any  
24 claim arising under this act including interest or other penalties, or  
25 designate another to compromise, waive, or settle and execute a  
26 release of any claim arising under this act. The commissioner or  
27 **[his]** the commissioner's designee whose title shall be specified by  
28 regulation may compromise, settle or waive any such claim in  
29 whole or in part, either in the interest of the Medicaid program or  
30 for any other reason which the commissioner by regulation shall  
31 establish;

32 m. To pay or credit to a provider any net amount found by final  
33 audit as defined by regulation to be owing to the provider. Such  
34 payment, if it is not made within 45 days of the final audit, shall  
35 include interest on the amount due at the maximum legal rate in  
36 effect on the date the payment became due, except that such interest  
37 shall not be paid on any obligation for the period preceding  
38 September 15, 1976. This subsection shall not apply until federal  
39 financial participation is available for such interest payments;

40 n. To issue, or designate another to issue, **[subpenas]**  
41 subpoenas to compel the attendance of witnesses and the production  
42 of books, records, accounts, papers, and documents of any party,  
43 whether or not that party is a provider, which directly or indirectly  
44 relate to goods or services provided under this act, for the purpose  
45 of assisting in any investigation, examination, or inspection, or in  
46 any suspension, debarment, disqualification, recovery, or other  
47 proceeding arising under this act;

1       o. To solicit, receive, and review bids pursuant to the  
2 provisions of P.L.1954, c.48 (C.52:34-6 et seq.) and all amendments  
3 and supplements thereto, by any corporation doing business in the  
4 State of New Jersey, including nonprofit hospital service  
5 corporations, medical service corporations, health service  
6 corporations, or dental service corporations incorporated in New  
7 Jersey and authorized to do business pursuant to P.L.1938, c.366  
8 (C.17:48-1 et seq.), P.L.1940, c.74 (C.17:48A-1 et seq.), P.L.1985,  
9 c.236 (C.17:48E-1 et seq.), or P.L.1968, c.305 (C.17:48C-1 et seq.),  
10 and to make recommendations in connection therewith to the State  
11 Medicaid Commission;

12       p. To contract, or otherwise provide as in this act provided, for  
13 the payment of claims in the manner approved by the State  
14 Medicaid Commission;

15       q. Where necessary, to advance funds to the underwriter or  
16 fiscal agent to enable such underwriter or fiscal agent, in  
17 accordance with terms of its contract, to make payments to  
18 providers;

19       r. To enter into contracts with federal, State, or local  
20 governmental agencies, or other appropriate parties, when necessary  
21 to carry out the provisions of this act;

22       s. To assure that the nature and quality of the medical  
23 assistance provided for under this act shall be uniform and  
24 equitable to all recipients;

25       t. To provide for the reimbursement of State and county-  
26 administered skilled nursing and intermediate care facilities through  
27 the use of a governmental peer grouping system, subject to federal  
28 approval and the availability of federal reimbursement.

29       (1) In establishing a governmental peer grouping system, the  
30 State's financial participation is limited to an amount equal to the  
31 nonfederal share of the reimbursement which would be due each  
32 facility if the governmental peer grouping system was not  
33 established, and each county's financial participation in this  
34 reimbursement system is equal to the nonfederal share of the  
35 increase in reimbursement for its facility or facilities which results  
36 from the establishment of the governmental peer grouping system.

37       (2) On or before December 1 of each year, the commissioner  
38 shall estimate and certify to the Director of the Division of Local  
39 Government Services in the Department of Community Affairs the  
40 amount of increased federal reimbursement a county may receive  
41 under the governmental peer grouping system. On or before  
42 December 15 of each year, the Director of the Division of Local  
43 Government Services shall certify the increased federal  
44 reimbursement to the chief financial officer of each county. If the  
45 amount of increased federal reimbursement to a county exceeds or  
46 is less than the amount certified, the certification for the next year  
47 shall account for the actual amount of federal reimbursement that  
48 the county received during the prior calendar year.

1       (3) The governing body of each county entitled to receive  
2 increased federal reimbursement under the provisions of this  
3 amendatory act shall, by March 31 of each year, submit a report to  
4 the commissioner on the intended use of the savings in county  
5 expenditures which result from the increased federal  
6 reimbursement. The governing body of each county, with the  
7 advice of agencies providing social and health related services, shall  
8 use not less than 10% and no more than 50% of the savings in  
9 county expenditures which result from the increased federal  
10 reimbursement for community-based social and health related  
11 programs for elderly and disabled persons who may otherwise  
12 require nursing home care. This percentage shall be negotiated  
13 annually between the governing body and the commissioner and  
14 shall take into account a county's social, demographic, and fiscal  
15 conditions, a county's social and health related expenditures and  
16 needs, and estimates of federal revenues to support county  
17 operations in the upcoming year, particularly in the areas of social  
18 and health related services.

19       (4) The commissioner, subject to approval by law, may  
20 terminate the governmental peer grouping system if federal  
21 reimbursement is significantly reduced or if the Medicaid program  
22 is significantly altered or changed by the federal government  
23 subsequent to the enactment of this amendatory act. The  
24 commissioner, prior to terminating the governmental peer grouping  
25 system, shall submit to the Legislature and to the governing body of  
26 each county a report as to the reasons for terminating the  
27 governmental peer grouping system;

28       u. The commissioner, in consultation with the Commissioner of  
29 Health **[and Senior Services]**, shall:

30       (1) Develop criteria and standards for comprehensive maternity  
31 or pediatric care providers and determine whether a provider who  
32 requests to become a comprehensive maternity or pediatric care  
33 provider meets the department's criteria and standards;

34       (2) Develop a program of comprehensive maternity care  
35 services which defines the type of services to be provided, the level  
36 of services to be provided, and the frequency with which qualified  
37 applicants are to receive services pursuant to P.L.1968, c.413  
38 (C.30:4D-1 et seq.);

39       (3) Develop a program of comprehensive pediatric care services  
40 which defines the type of services to be provided, the level of  
41 services to be provided, and the frequency with which qualified  
42 applicants are to receive services pursuant to P.L.1968, c.413  
43 (C.30:4D-1 et seq.);

44       (4) Develop and implement a system for monitoring the quality  
45 and delivery of comprehensive maternity and pediatric care services  
46 and a system for evaluating the effectiveness of the services  
47 programs in meeting their objectives;

1 (5) Establish provider reimbursement rates for the  
2 comprehensive maternity and pediatric care services;

3 v. The commissioner, jointly with the Commissioner of Health  
4 **【and Senior Services】**, shall report to the Governor and the  
5 Legislature no later than two years following the date of enactment  
6 of P.L.1987, c.115 (C.30:4D-2.1 et al.) and annually thereafter on  
7 the status of the comprehensive maternity and pediatric care  
8 services and their effectiveness in meeting the objectives set forth  
9 in section 1 of P.L.1987, c.115 (C.30:4D-2.1) accompanying the  
10 report with any recommendations for changes in the law governing  
11 the services that the commissioners deem necessary.

12 (cf: P.L.2004, c.130, s.94)

13  
14 361. Section 2 of P.L. 2009, c.268 (C.30:4D-7l) is amended to  
15 read as follows:

16 2. The Department of Health **【and Senior Services】** shall  
17 adjust the Family Planning Services Grant-in-Aid appropriation and  
18 transfer the appropriate amount of State funds to the Division of  
19 Medical Assistance and Health Services in the Department of  
20 Human Services to facilitate the implementation of section 1 of this  
21 act. The Department of Health **【and Senior Services】** shall notify  
22 the Legislative Budget and Finance Officer as to the amount that is  
23 transferred.

24 (cf: P.L.2009, c.268, s.2)

25  
26 362. Section 4 of P.L.2011, c.114 (C.30:4D-8.4) is amended to  
27 read as follows:

28 4. a. The department shall accept applications for certification  
29 from demonstration project applicants beginning 60 days following  
30 the effective date of this act, and shall certify an applicant as a  
31 Medicaid ACO for participation in the demonstration project  
32 following its determination that the applicant meets the  
33 requirements specified in this section. The department may deny  
34 certification of any ACO applicant that the department determines  
35 does not meet the requirements of this act. The department may  
36 consider applications for approval, including revised applications  
37 submitted by an ACO not previously approved to participate in the  
38 demonstration project.

39 b. The department, in consultation with the Department of  
40 Health **【and Senior Services】**, may certify as many ACOs for  
41 participation in the demonstration project as it determines  
42 appropriate, but shall certify no more than one ACO for each  
43 designated area.

44 c. Prior to certification, a demonstration project applicant shall  
45 demonstrate that it meets the following minimum standards:

46 (1) The applicant has been formed as a nonprofit corporation  
47 pursuant to the "New Jersey Nonprofit Corporation Act," P.L.1983,  
48 c.127 (C.15A:1-1 et seq.), for the purposes described in this act;

- 1       (2) The applicant's governing board includes:
  - 2           a) individuals representing the interests of: health care
  - 3 providers, including, but not limited to, general hospitals, clinics,
  - 4 private practice offices, physicians, behavioral health care
  - 5 providers, and dentists~~;~~, patients~~;~~, and other social service
  - 6 agencies or organizations located in the designated area; and
  - 7           (b) voting representation from at least two consumer
  - 8 organizations capable of advocating on behalf of patients residing
  - 9 within the designated area of the ACO. At least one of the
  - 10 organizations shall have extensive leadership involvement by
  - 11 individuals residing within the designated area of the ACO, and
  - 12 shall have a physical location within the designated area.
  - 13 Additionally, at least one of the individuals representing a consumer
  - 14 organization shall be an individual who resides within the
  - 15 designated area served by the ACO;
- 16       (3) The applicant has support of its application by: all of the
- 17 general hospitals located in the designated area served by the ACO;
- 18 no fewer than 75% of the qualified primary care providers located
- 19 in the designated area; and at least four qualified behavioral health
- 20 care providers located in the designated area;
- 21       (4) The applicant has a process for receipt of gainsharing
- 22 payments from the department and any voluntarily participating
- 23 Medicaid managed care organizations, and the subsequent
- 24 distribution of such gainsharing payments in accordance with a
- 25 quality improvement and gainsharing plan to be approved by the
- 26 department, in consultation with the Department of Health ~~and~~
- 27 Senior Services];
- 28       (5) The applicant has a process for engaging members of the
- 29 community and for receiving public comments with respect to its
- 30 gainsharing plan;
- 31       (6) The applicant has a commitment to become accountable for
- 32 the health outcomes, quality, cost, and access to care of Medicaid
- 33 recipients residing in the designated area for a period of at least
- 34 three years following certification; and
- 35       (7) The applicant has a commitment to ensure the use of
- 36 electronic prescribing and electronic medical records by health care
- 37 providers located in the designated area.
- 38       d. Nothing in this act shall be construed to prevent the
- 39 department from certifying an applicant as a Medicaid ACO that
- 40 also participates in a Medicare ACO demonstration project
- 41 approved by the federal Centers for Medicare ~~and~~ & Medicaid
- 42 Services.
- 43 (cf: P.L.2011, c.114, s.4)
- 44
- 45       363. Section 5 of P.L.2011, c.114 (C.30:4D-8.5) is amended to
- 46 read as follows:
- 47       5. a. A certified Medicaid ACO shall be eligible to receive and
- 48 distribute gainsharing payments only after having received approval

1 from the department of its gainsharing plan, which approval may be  
2 requested by the ACO at the time of certification or at any time  
3 within one year of certification. An ACO may seek to amend its  
4 gainsharing plan at any time following the plan's initial approval by  
5 submitting amendments to the department for approval.

6 b. The department, with input from the Department of Health  
7 **【and Senior Services】** and utilizing outcome evaluation data  
8 provided by the Rutgers Center for State Health Policy, shall  
9 approve only those gainsharing plans that promote: improvements  
10 in health outcomes and quality of care, as measured by objective  
11 benchmarks as well as patient experience of care; expanded access  
12 to primary and behavioral health care services; and the reduction of  
13 unnecessary and inefficient costs associated with care rendered to  
14 Medicaid recipients residing in the ACO's designated area. The  
15 department and the Department of Health **【and Senior Services】**  
16 shall provide all data necessary to the Rutgers Center for State  
17 Health Policy for analysis in support of the department's review of  
18 gainsharing plans. Criteria to be considered by the department and  
19 the Department of Health **【and Senior Services】** in approving a  
20 gainsharing plan shall include, but are not limited to:

21 (1) whether the plan promotes: care coordination through multi-  
22 disciplinary teams, including care coordination of patients with  
23 chronic diseases and the elderly; expansion of the medical home  
24 and chronic care models; increased patient medication adherence  
25 and use of medication therapy management services; use of health  
26 information technology and sharing of health information; and use  
27 of open access scheduling in clinical and behavioral health care  
28 settings;

29 (2) whether the plan encourages services such as patient or  
30 family health education and health promotion, home-based services,  
31 telephonic communication, group care, and culturally and  
32 linguistically appropriate care;

33 (3) whether the gainsharing payment system is structured to  
34 reward quality and improved patient outcomes and experience of  
35 care;

36 (4) whether the plan funds interdisciplinary collaboration  
37 between behavioral health and primary care providers for patients  
38 with complex care needs likely to inappropriately access an  
39 emergency department and general hospital for preventable  
40 conditions;

41 (5) whether the plan funds improved access to dental services  
42 for high-risk patients likely to inappropriately access an emergency  
43 department and general hospital for untreated dental conditions; and

44 (6) whether the plan has been developed with community input  
45 and will be made available for inspection by members of the  
46 community served by the ACO.

47 c. The gainsharing plan shall include an appropriate proposed  
48 time period beginning and ending on specified dates prior to the

1 commencement of the demonstration project, which shall be the  
2 benchmark period against which cost savings can be measured on  
3 an annual basis going forward. Savings shall be calculated in  
4 accordance with a methodology that:

5 (1) identifies expenditures per recipient by the Medicaid fee-for-  
6 service program during the benchmark period, adjusted for  
7 characteristics of recipients and local conditions that predict future  
8 Medicaid spending but are not amenable to the care coordination or  
9 management activities of an ACO which shall serve as the  
10 benchmark payment calculation;

11 (2) compares the benchmark payment calculation to amounts  
12 paid by the Medicaid fee-for-service program for all such resident  
13 recipients during subsequent periods; and

14 (3) provides that the benchmark payment calculation shall  
15 remain fixed for a period of three years following approval of the  
16 gainsharing plan.

17 d. The percentage of cost savings identified pursuant to  
18 subsection c. of this section to be distributed to the ACO, retained  
19 by any voluntarily participating Medicaid managed care  
20 organization, and retained by the State, shall be identified in the  
21 gainsharing plan and shall remain in effect for a period of three  
22 years following approval of the gainsharing plan. **【Such】** The  
23 percentages shall be designed to ensure that:

24 (1) the State can achieve meaningful savings and support the  
25 ongoing operation of the demonstration project, and

26 (2) the ACO receives a sufficient portion of the shared savings  
27 necessary to achieve its mission and expand its scope of activities.

28 e. Notwithstanding the provisions of this section to the  
29 contrary, the department shall not approve a gainsharing plan that  
30 provides direct or indirect financial incentives for the reduction or  
31 limitation of medically necessary and appropriate items or services  
32 provided to patients under a health care provider's clinical care in  
33 violation of federal law.

34 f. Notwithstanding the provisions of this section to the  
35 contrary, a gainsharing plan that provides for shared savings  
36 between general hospitals and physicians related to acute care  
37 admissions utilizing the methodological component of the  
38 Physician-Hospital Collaboration Demonstration awarded by the  
39 federal Centers for Medicare **【and】** & Medicaid Services to the  
40 New Jersey Care Integration Consortium, shall not be required to be  
41 approved by the department. The department shall not be under any  
42 obligation to participate in the Physician-Hospital Collaboration  
43 Demonstration.

44 g. The department shall consider using a portion of any savings  
45 generated to expand the nursing, primary care, behavioral health  
46 care, and dental workforces and services in the area served by the  
47 ACO.

1       h. A gainsharing plan submitted to the department for this  
2 ACO demonstration project shall contain an assessment of the  
3 expected impact of revenues on hospitals that agree to participate.  
4 The assessment shall include estimates for changes in both direct  
5 patient care reimbursement and indirect revenue, such as  
6 disproportionate share payments, graduate medical education  
7 payments, and other similar payments. The assessment shall  
8 include a review of whether participation in the demonstration  
9 project could significantly impact the financial stability of any  
10 hospital through rapid reductions in revenue and how this impact  
11 will be mitigated. The gainsharing plan shall include a letter of  
12 support from all participating hospitals in order to be accepted by  
13 the department.

14 (cf: P.L.2011, c.114, s.5)

15  
16       364. Section 8 of P.L.2011, c.114 (C.30:4D-8.8) is amended to  
17 read as follows:

18       8. a. The department, in consultation with the Department of  
19 Health **【and Senior Services】**, shall:

20       (1) design and implement the application process for approval of  
21 participating ACOs in the demonstration project;

22       (2) collect data from participants in the demonstration project;  
23 and

24       (3) approve a methodology proposed by the Medicaid ACO  
25 applicant for calculation of cost savings and for monitoring of  
26 health outcomes and quality of care under the demonstration  
27 project.

28       b. The department and the Department of Health **【and Senior**  
29 **Services】** shall be authorized to jointly seek public and private  
30 grants to implement and operate the demonstration project.

31 (cf: P.L.2011, c.114, s.8)

32  
33       365. Section 9 of P.L.2011, c.114 (C.30:4D-8.9) is amended to  
34 read as follows:

35       9. The department, in consultation with the Department of  
36 Health **【and Senior Services】**, shall evaluate the demonstration  
37 project annually to assess whether: cost savings, including, but not  
38 limited to, savings in administrative costs and savings due to  
39 improved health outcomes, are achieved through implementation of  
40 the demonstration project.

41       The department, in consultation with the Department of Health  
42 **【and Senior Services】**, and with the assistance of the Rutgers  
43 Center for State Health Policy, shall evaluate the demonstration  
44 project annually to assess whether there is improvement in the rates  
45 of health screening, the outcomes and hospitalization rates for  
46 persons with chronic illnesses, and the hospitalization and  
47 readmission rates for patients residing in the designated areas



1 served by the ACOs. The department and the Department of Health  
2 **【and Senior Services】** shall provide the Rutgers Center for State  
3 Health Policy with all data necessary to perform the annual  
4 evaluation of the demonstration project.

5 (cf: P.L.2011, c.114, s.9)

6  
7 366. Section 12 of P.L.2011, c.114 (C.30:4D-8.12) is amended  
8 to read as follows:

9 12. a. Under the demonstration project, payment shall continue to  
10 be made to providers of services and suppliers participating in the  
11 Medicaid ACO for services provided to managed care recipients or  
12 individuals who receive services on a fee-for-service basis in the  
13 same manner as they would otherwise be made, except that the  
14 ACO is eligible to receive gainsharing payments under sections 5  
15 and 6 of this act if it meets the requirements set forth therein.

16 b. Nothing in this act shall be construed to authorize the  
17 Departments of Human Services or Health **【and Senior Services】** to  
18 waive or limit any provisions of federal or State law or  
19 reimbursement methodologies governing Medicaid reimbursement  
20 to federally qualified health centers, including, but not limited to,  
21 Medicaid prospective payment reimbursement and any  
22 supplemental payments made to a federally qualified health center  
23 providing services to Medicaid managed care recipients.

24 (cf: P.L.2011, c.114, s.12)

25  
26 367. Section 14 of P.L.2001, c.114 (C.30:4D-8.14) is amended  
27 to read as follows:

28 14. Upon completion of the demonstration project, the  
29 Commissioners of Human Services and Health **【and Senior**  
30 **Services】** shall report to the Governor, and to the Legislature  
31 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), on the  
32 demonstration project, and include in the report the findings of the  
33 evaluation carried out pursuant to section 9 of this act. The  
34 commissioners shall make such recommendations as they deem  
35 appropriate.

36 If, after three years following enactment of this act, the  
37 commissioners find the demonstration project was successful in  
38 reducing costs and improving health outcomes and the quality of  
39 care for Medicaid recipients, the commissioners may recommend  
40 that Medicaid ACOs be established on a permanent basis and in  
41 additional communities in which Medicaid recipients reside.

42 (cf: P.L.2011, c.114, s.14)

43  
44 368. Section 15 of P.L.2011, c.114 (C.30:4D-8.15) is amended  
45 to read as follows:

46 15. The Commissioner of Human Services, in accordance with  
47 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et

1 seq.) and with input from the Commissioner of Health [and Senior  
2 Services], shall, within 180 days of the effective date of this act,  
3 adopt rules and regulations establishing the standards for  
4 gainsharing plans submitted by Medicaid ACOs. The  
5 Commissioner of Human Services shall also adopt, with input from  
6 the Commissioner of Health [and Senior Services,] such rules and  
7 regulations governing the ongoing oversight and monitoring of the  
8 quality of care delivered to Medicaid recipients in the designated  
9 areas served by the Medicaid ACOs, and such other requirements as  
10 the Commissioner of Human Services deems necessary to carry out  
11 the provisions of this act.

12 (cf: P.L.2011, c.114, s.15)

13

14 369. Section 2 of P.L.1998, c.41 (C.30:4D-17.17a) is amended  
15 to read as follows:

16 2. a. There is established the Drug Utilization Review Board in  
17 the department to advise the department on the implementation of a  
18 drug utilization review program pursuant to P.L.1993, c.16  
19 (C.30:4D-17.16 et seq.) and this section. The board shall establish  
20 a Senior Drug Utilization Review Committee to address the specific  
21 prescribing needs of the elderly and an AIDS/HIV Drug Utilization  
22 Review Committee to address the specific prescribing needs of  
23 persons with AIDS/HIV, in addition to such other committees as it  
24 deems necessary. It shall be the responsibility of each committee to  
25 evaluate the specific prescribing needs of its beneficiary population,  
26 and to submit recommendations to the board in regard thereto.

27 The board shall consist of 17 members, including the  
28 Commissioners of Human Services and Health [and Senior  
29 Services] or their designees, who shall serve as nonvoting ex  
30 officio members, and 15 public members. The public members  
31 shall be appointed by the Governor with the advice and consent of  
32 the Senate. The appointments shall be made as follows: six  
33 persons licensed and actively engaged in the practice of medicine in  
34 this State, including one who is a psychiatrist and at least two who  
35 specialize in geriatric medicine and two who specialize in  
36 AIDS/HIV care, one of whom who is a pediatric AIDS/HIV  
37 specialist, four of whom shall be appointed upon the  
38 recommendation of the Medical Society of New Jersey and two  
39 upon the recommendation of the New Jersey Association of  
40 Osteopathic Physicians and Surgeons; one person licensed as a  
41 physician in this State who is actively engaged in academic  
42 medicine; four persons licensed in and actively practicing or  
43 teaching pharmacy in this State, who shall be appointed from a list  
44 of pharmacists recommended by the New Jersey Pharmacists  
45 Association, the New Jersey Council of Chain Drug Stores, the  
46 Garden State Pharmacy Owners, Inc., the New Jersey Society of  
47 Hospital Pharmacists, the Academy of Consultant Pharmacists and

1 the College of Pharmacy of Rutgers, The State University; one  
2 additional health care professional; two persons certified as  
3 advanced practice nurses in this State, who shall be appointed upon  
4 the recommendation of the New Jersey State Nurses Association;  
5 and one member to be appointed upon the recommendation of the  
6 Pharmaceutical Research and Manufacturers of America.

7 Each member of the board shall have expertise in the clinically  
8 appropriate prescribing and dispensing of outpatient drugs.

9 b. All appointments to the board shall be made no later than the  
10 60th day after the effective date of this act. The public members  
11 shall be appointed for two-year terms and shall serve until a  
12 successor is appointed and qualified, and are eligible for  
13 reappointment; except that of the public members first appointed,  
14 eight shall be appointed for a term of two years and five for a term  
15 of one year.

16 c. Vacancies in the membership of the board shall be filled in  
17 the same manner as the original appointments were made but for the  
18 unexpired term only. Members of the board shall serve with  
19 compensation for the time and expenses incurred in the  
20 performance of their duties as board members, as determined by the  
21 Commissioners of Human Services and Health [and Senior  
22 Services], subject to the approval of the Director of the Division of  
23 Budget and Accounting in the Department of the Treasury.

24 d The board shall select a chairman from among the public  
25 members, who shall serve a one-year term, and a secretary. The  
26 chairman may serve consecutive terms. The board shall adopt  
27 bylaws. The board shall meet at least quarterly and may meet at  
28 other times at the call of the chairman. The board shall in all  
29 respects comply with the provisions of the "Open Public Meetings  
30 Act," P.L.1975, c.231 (C.10:4-6 et seq.). No motion to take any  
31 action by the board shall be valid except upon the affirmative vote  
32 of a majority of the authorized membership of the board.

33 e. The duties of the board shall include the development and  
34 application of the criteria and standards to be used in retrospective  
35 and prospective drug utilization review. The criteria and standards  
36 shall be based on the compendia and developed with professional  
37 input in a consensus fashion. There shall be provisions for timely  
38 reassessments and revisions as necessary and provisions for input  
39 by persons acting as patient advocates. The drug utilization review  
40 standards shall reflect the local practices of prescribers, in order to  
41 monitor:

- 42 (1) therapeutic appropriateness;
- 43 (2) overutilization or underutilization;
- 44 therapeutic duplication;
- 45 (4) drug-disease contraindications;
- 46 (5) drug-drug interactions;
- 47 (6) incorrect drug dosage;
- 48 (7) duration of drug treatment; and

1 (8) clinical drug abuse or misuse.

2 The board shall recommend to the department criteria for denials  
3 of claims and establish standards for a medical exception process.  
4 The board shall also consider relevant information provided by  
5 interested parties outside of the board and, if appropriate, shall  
6 make revisions to the criteria and standards in a timely manner  
7 based upon this information.

8 f. The board, with the approval of the department, shall be  
9 responsible for the development, selection, application, and  
10 assessment of interventions or remedial strategies for prescribers,  
11 pharmacists, and beneficiaries that are educational and not punitive  
12 in nature to improve the quality of care, including:

13 (1) Information disseminated to prescribers and pharmacists to  
14 ensure that they are aware of the duties and powers of the board;

15 (2) Written, oral, or electronic reminders of patient-specific or  
16 drug-specific information that are designed to ensure prescriber,  
17 pharmacist, and beneficiary confidentiality, and suggested changes  
18 in the prescribing or dispensing practices designed to improve the  
19 quality of care;

20 (3) The development of an educational program, using data  
21 provided through drug utilization review as a part of active and  
22 ongoing educational outreach activities to improve prescribing and  
23 dispensing practices as provided in this section. These educational  
24 outreach activities shall include accurate, balanced, and timely  
25 information about drugs and their effect on a patient. If the board  
26 contracts with another entity to provide this program, that entity  
27 shall publicly disclose any financial interest or benefit that accrues  
28 to it from the products selected or used in this program;

29 (4) Use of face-to-face discussion between experts in drug  
30 therapy and the prescriber or pharmacist who has been designated  
31 by the board for educational intervention;

32 (5) Intensified reviews or monitoring of selected prescribers or  
33 pharmacists;

34 (6) The timely evaluation of interventions to determine whether  
35 the interventions have improved the quality of care; and

36 (7) The review of case profiles prior to the conducting of an  
37 intervention.

38 (cf: P.L.2003, c.262, s.1)

39

40 370. Section 3 of P.L.1993, c.163 (C.30:4D-17.18) is amended  
41 to read as follows:

42 3. The department shall be responsible for:

43 a. (Deleted by amendment, P.L.1998, c.41).

44 b. The implementation of a drug utilization review program,  
45 subject to the approval of the Commissioner of Health [and Senior  
46 Services], to ensure that prescriptions are appropriate, medically  
47 necessary, and not likely to result in adverse medical outcomes,  
48 including the approval of the provisions of any contractual

1 agreement between the State pharmaceutical benefits program and  
2 other entities processing and reviewing drug claims and profiles for  
3 the drug utilization review program.

4 The program shall include both retrospective and prospective  
5 drug utilization review. Retrospective drug utilization review shall  
6 include an analysis of drug claims processing data in order to  
7 identify patterns of fraud, abuse, or gross overuse, and inappropriate  
8 or medically unnecessary care, and to assess data on drug use  
9 against standards that are based on the compendia and other  
10 sources. Prospective drug utilization review shall include a review  
11 conducted by the pharmacist at the point of sale.

12 c. (Deleted by amendment, P.L.1998, c.41).

13 d. (Deleted by amendment, P.L.1998, c.41).

14 e. The submission of an annual report, which shall be subject  
15 to public comment prior to its issuance, to the federal Department  
16 of Health and Human Services by December 1 of each year. The  
17 annual report shall also be submitted to the Governor, the  
18 Legislature, the New Jersey Pharmaceutical Association and the  
19 Medical Society of New Jersey by December 1 of each year. The  
20 report shall include the following information:

21 (1) An overview of the activities of the board and the drug  
22 utilization review program;

23 (2) Interventions used and their ability to improve the quality of  
24 care; however, this information shall not disclose the identities of  
25 individual prescribers, pharmacists, or beneficiaries, but shall  
26 specify whether the intervention was a result of underutilization or  
27 overutilization of drugs;

28 (3) The costs of administering the drug utilization review  
29 program;

30 (4) Any cost impact to other areas of the State pharmaceutical  
31 benefits program resulting from the drug utilization review  
32 program, such as hospitalization rates or changes in long-term care;

33 (5) A quantitative assessment of how drug utilization review has  
34 improved beneficiaries' quality of care;

35 (6) A review of the total number of prescriptions and medical  
36 exception requests reviewed by drug therapeutic class;

37 (7) An assessment of the impact of the educational program  
38 established pursuant to subsection f. of section 2 of P.L.1998, c.41  
39 (C.30:4D-17.17a) and interventions on prescribing or dispensing  
40 practices, total program costs, quality of care, and other pertinent  
41 patient patterns; and

42 (8) Recommendations for improvement of the drug utilization  
43 review program.

44 f. The development of a working agreement between the board  
45 and other boards or agencies, including, but not limited to: the  
46 Board of Pharmacy of the State of New Jersey and the State Board  
47 of Medical Examiners, in order to clarify any overlapping areas of  
48 responsibility.

- 1       g. The establishment of an appeal process for prescribers,  
2 pharmacists, and beneficiaries pursuant to P.L.1993, c.16 (C.30:4D-  
3 17.16 et seq.) and section 2 of P.L.1998, c.41 (C.30:4D-17.17a).
- 4       h. The publication and dissemination of medically correct and  
5 balanced educational information to prescribers and pharmacists to  
6 identify and reduce the frequency of patterns of fraud, abuse, gross  
7 overuse, or inappropriate or medically unnecessary care among  
8 prescribers, pharmacists, and beneficiaries, including:
- 9       (1) potential or actual reactions to drugs;  
10       (2) therapeutic appropriateness;  
11       (3) overutilization or underutilization;  
12       (4) appropriate use of generic drugs;  
13       (5) therapeutic duplication;  
14       (6) drug-disease contraindications;  
15       (7) drug-drug interactions;  
16       (8) incorrect drug dosage or duration of drug treatment;  
17       (9) drug allergy interactions; and  
18       (10) clinical abuse or misuse.
- 19       i. The development and publication, with the input of the  
20 Board of Pharmacy of the State of New Jersey, of the guidelines to  
21 be used by pharmacists, including mail order pharmacies, in their  
22 counseling of beneficiaries.
- 23       j. The adoption and implementation of procedures designed to  
24 ensure the confidentiality of any information collected, stored,  
25 retrieved, assessed, or analyzed by the board, staff to the board, or  
26 contractors to the drug utilization review program, that identifies  
27 individual prescribers, pharmacists, or beneficiaries. The board  
28 may have access to identifying information for purposes of carrying  
29 out intervention activities, but the identifying information may not  
30 be released to anyone other than a member of the board, except that  
31 the board may release cumulative nonidentifying information for  
32 purposes of legitimate research. The improper release of  
33 identifying information in violation of this act may subject that  
34 person to criminal or civil penalties.
- 35       k. The determination of whether nursing or long-term care  
36 facilities under 42 CFR 483.60 are exempt from the provisions of  
37 this act.
- 38       l. The establishment of a medical exception process by  
39 regulation.
- 40       m. The provision of such staff and other resources as the board  
41 requires.  
42 (cf: P.L.1998, c.41, s.3)
- 43
- 44       371. Section 4 of P.L.1998, c.41 (C.30:4D-17.18a) is amended  
45 to read as follows:
- 46       4. The Commissioner of Human Services, pursuant to the  
47 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
48 seq.), and subject to the approval of the Commissioner of Health

1   **【and Senior Services】** as appropriate, shall adopt rules and  
2 regulations to effectuate the purposes of P.L.1993, c.16 (C.30:4D-  
3 17.16 et seq.) and section 2 of P.L.1998, c.41 (C.30:4D-17.17a);  
4 except that, notwithstanding any provision of P.L.1968, c.410  
5 (C.52:14B-1 et seq.) to the contrary, the Commissioner of Human  
6 Services **【**, subject to the approval of the Commissioner of Health  
7 and Senior Services**】**, may adopt, immediately upon filing with the  
8 Office of Administrative Law, such regulations as the commissioner  
9 deems necessary to implement the provisions of P.L.1993, c.16  
10 (C.30:4D-17.16 et seq.) and section 2 of P.L.1998, c.41 (C.30:4D-  
11 17.17a), which shall be effective for a period not to exceed six  
12 months and may thereafter be amended, adopted or re-adopted by  
13 the Commissioner of Human Services**【**, subject to the approval of  
14 the Commissioner of Health and Senior Services**】**, in accordance  
15 with the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).  
16 (cf: P.L.1998, c.41, s.4)  
17

18       372. Section 2 of P.L.2006, c.23 (C30:4D-17.24) is amended to  
19 read as follows:

20       2. The Legislature finds and declares that:

21       a. The current population of adults 60 years of age and older in  
22 New Jersey is about 1.4 million, and this number is expected to  
23 double in size over the next 25 years;

24       b. A primary objective of public policy governing access to  
25 long-term care in this State shall be to promote the independence,  
26 dignity and lifestyle choice of older adults and persons with  
27 physical disabilities or Alzheimer's disease and related disorders;

28       c. Many states are actively seeking to "rebalance" their long-  
29 term care programs and budgets in order to support consumer  
30 choice and offer more choices for older adults and persons with  
31 disabilities to live in their homes and communities;

32       d. New Jersey has been striving to redirect long-term care away  
33 from an over-reliance on institutional care toward more home and  
34 community-based options; however, it is still often easier for older  
35 adults and persons with disabilities to qualify for Medicaid long-  
36 term care coverage if they are admitted to a nursing home than if  
37 they seek to obtain services through one of the Medicaid home and  
38 community-based long-term care options available in this State,  
39 such as the Community Care Program for the Elderly and Disabled,  
40 Assisted Living, Adult Family Care, Caregiver Assistance Program,  
41 Adult Day Health Services, Traumatic Brain Injury, AIDS  
42 Community Care Alternatives Program, Community Resources for  
43 People with Disabilities, or Community Resources for People with  
44 Disabilities Private Duty Nursing;

45       e. The federal "New Freedom Initiative" was launched in 2001  
46 for the purpose of promoting the goal of independent living for  
47 persons with disabilities; and Executive Order No. 13217, issued by

1 the President of the United States on June 18, 2001, called upon the  
2 federal government to assist states and localities to swiftly  
3 implement the 1999 United States Supreme Court decision in  
4 *Olmstead v. L.C.* and directed federal agencies to evaluate their  
5 policies, programs, statutes, and regulations to determine whether  
6 any should be revised or modified to improve the availability of  
7 community-based services for qualified persons with disabilities;

8 f. Executive Order No. 100, issued by the Governor on March  
9 23, 2004, directed the Commissioner of Health [and Senior  
10 Services], in consultation with the State Treasurer, to prepare an  
11 analysis and recommendations for developing a global long-term  
12 care budgeting process designed to provide the Department of  
13 Health [and Senior Services] with the authority and flexibility to  
14 move Medicaid recipients into the appropriate level of care based  
15 on their individual needs, and to identify specific gaps and  
16 requirements necessary to streamline paperwork and expedite the  
17 process of obtaining Medicaid eligibility for home care options for  
18 those who qualify;

19 g. Executive Order No. 31, issued by the Governor on April 21,  
20 2005, established a "money follows the person" pilot program and  
21 set aside funding in fiscal year 2006 for home and community-  
22 based long-term care;

23 h. Older adults and those with physical disabilities or  
24 Alzheimer's disease and related disorders that require a nursing  
25 facility level of care should not be forced to choose between going  
26 into a nursing home or giving up the medical assistance that pays  
27 for their needed services, and thereby be denied the right to choose  
28 where they receive those services; their eligibility for home and  
29 community-based long-term care services under Medicaid should be  
30 based upon the same income and asset standards as those used to  
31 determine eligibility for long-term care in an institutional setting;  
32 and

33 i. The enactment of [this bill] P.L.2006, c.23 (C.30:4D-17.23  
34 et seq) will ensure that, in the case of Medicaid-funded long-term  
35 care services, "the money follows the person" to allow maximum  
36 flexibility between nursing homes and home and community-based  
37 settings when it does not compromise federal funding or services in  
38 the nursing home and, in so doing, significantly expands the choices  
39 available to consumers of these services and thereby fulfills the goal  
40 of personal independence so highly valued by the growing number  
41 of older adults and persons with disabilities in this State.

42 (cf: P.L.2006, c.23, s.2)

43  
44 373. Section 3 of P.L.2006, c.23 (C.30:4D-17.25) is amended to  
45 read as follows:

46 3. As used in this act:



1 "Commissioner" means the Commissioner of **Health and**  
2 **Senior Human Services**.

3 "Funding parity between nursing home care and home and  
4 community-based care" means that the distribution of the amounts  
5 expended for these two categories of long-term care under the  
6 Medicaid program reflects an appropriate balance between the  
7 service delivery costs of those persons whose needs and preferences  
8 can most appropriately be met in a nursing home and those persons  
9 whose needs and preferences can most appropriately be met in a  
10 home or community-based setting.

11 "Home and community-based care" means Medicaid home and  
12 community-based long-term care options available in this State,  
13 including, but not limited to, the Community Care Program for the  
14 Elderly and Disabled, Assisted Living, Adult Family Care,  
15 Caregiver Assistance Program, Adult Day Health Services,  
16 Traumatic Brain Injury, AIDS Community Care Alternatives  
17 Program, Community Resources for People with Disabilities, and  
18 Community Resources for People with Disabilities Private Duty  
19 Nursing.

20 (cf: P.L.2006, c.23, s.3)

21

22 374. Section 4 of P.L.2006, c.23 (C.30:4D-17.26) is amended to  
23 read as follows:

24 4. a. (1) Beginning in fiscal year 2008, and in each succeeding  
25 fiscal year through fiscal year 2013, the commissioner, in  
26 consultation with the State Treasurer **and the Commissioner of**  
27 **Human Services** and in accordance with the provisions of this  
28 section, shall implement a process that rebalances the overall  
29 allocation of funding within the Department of **Health and Senior**  
30 **Human Services** for long-term care services through the expansion  
31 of home and community-based services for persons eligible for  
32 long-term care as defined by regulation of the commissioner. The  
33 expansion of home and community-based services shall be funded,  
34 within the existing level of appropriations, by diverting persons in  
35 need of long-term care to allow maximum flexibility between  
36 nursing home placements and home and community-based services.  
37 The State Treasurer, after review and analysis, shall determine the  
38 transfer of such funding to home and community-based services  
39 provided by the **Departments of Health and Senior Services and**  
40 **Department of Human Services** as is necessary to effectuate the  
41 purposes of this act.

42 (2) Beginning in fiscal year 2008, and in each succeeding fiscal  
43 year through fiscal year 2013, funds equal to the amount of the  
44 reduction in the projected growth of Medicaid expenditures for  
45 nursing home care pursuant to paragraph (1) of this subsection, for  
46 State dollars only plus the percentage anticipated for programs and  
47 persons that will receive federal matching dollars, shall be

1 reallocated to home and community-based care through a global  
2 budget and expended solely for such care, until the commissioner  
3 determines that total Medicaid expenditures for long-term care have  
4 been sufficiently rebalanced to achieve funding parity between  
5 nursing home care and home and community-based care. Any  
6 funds so reallocated, which are not expended in the fiscal year in  
7 which they are reallocated, shall be reserved for expenditures for  
8 home and community-based care in a subsequent fiscal year.

9 (3) Subject to federal approval, the home and community-based  
10 services to which funds are reallocated pursuant to this act shall  
11 include services designated by the commissioner[, in consultation  
12 with the Commissioner of Human Services] and the Medicaid  
13 Long-Term Care Funding Advisory Council established pursuant to  
14 this act.

15 (4) Notwithstanding the provisions of this subsection to the  
16 contrary, this act shall not be construed to authorize a reduction in  
17 funding for Medicaid-approved services based upon the approved  
18 State Medicaid nursing home reimbursement methodology,  
19 including existing cost screens used to determine daily rates, annual  
20 rebasing and inflationary adjustments.

21 b. The commissioner[, in consultation with the Commissioner  
22 of Human Services,] shall adopt modifications to the Medicaid  
23 long-term care intake system that promote increased use of home  
24 and community-based services. These modifications shall include,  
25 but not be limited to, the following:

26 (1) commencing March 1, 2007, on a pilot basis in Atlantic and  
27 Warren counties, pursuant to Executive Order No. 31 of 2005:

28 (a) the provision of home and community-based services  
29 available under Medicaid, as designated by the commissioner, in  
30 consultation with [the Commissioner of Human Services and] the  
31 Medicaid Long-Term Care Funding Advisory Council established  
32 pursuant to this act, pending completion of a formal Medicaid  
33 financial eligibility determination for the recipient of services, for a  
34 period that does not exceed a time limit established by the  
35 commissioner; except that the cost of any services provided  
36 pursuant to this subparagraph to a person who is subsequently  
37 determined to be ineligible for Medicaid may be recovered from  
38 that person; and

39 (b) the use of mechanisms for making fast-track Medicaid  
40 eligibility determinations, a revised clinical assessment instrument,  
41 and a computerized tracking system for Medicaid long-term care  
42 expenditures; and

43 (2) commencing March 1, 2008, expansion of the services and  
44 measures provided for in paragraph (1) of this subsection to all of  
45 the remaining counties in the State, subject to the commissioner  
46 conducting or otherwise providing for an evaluation of the pilot  
47 programs in Atlantic and Warren counties prior to that date and

1 determining from that evaluation that the pilot programs are cost-  
2 effective and should be expanded Statewide.

3 (cf: P.L.2006, c.23, s.4)

4  
5 375. Section 6 of P.L.2006, c.23 (C.30:4D-17.28) is amended to  
6 read as follows:

7 6. The commissioner, in consultation with the Medicaid Long-  
8 Term Care Funding Advisory Council established pursuant to this  
9 act, shall:

10 a. Implement, by such time as the commissioner certifies to the  
11 Governor and the Legislature that funding parity has been achieved  
12 pursuant to subsection b. of section 5 of this act, a comprehensive  
13 data system to track long-term care expenditures and services and  
14 consumer profiles and preferences. The data system shall include,  
15 but not be limited to: the number of vacant nursing home beds  
16 annually and the number of nursing home residents transferred to  
17 home and community-based care pursuant to this act; annual long-  
18 term care expenditures for nursing home care and each of the home  
19 and community based long-term care options available to Medicaid  
20 recipients; and annual percentage changes in both long-term care  
21 expenditures for, and the number of Medicaid recipients utilizing,  
22 nursing home care and each of the home and community based  
23 long-term care options, respectively;

24 b. Commence the following no later than January 1, 2008:

25 (1) implement a system of Statewide long-term care service  
26 coordination and management designed to minimize administrative  
27 costs, improve access to services, and minimize obstacles to the  
28 delivery of long-term care services to people in need;

29 (2) identify home and community based long-term care service  
30 models that are determined by the commissioner to be efficient and  
31 cost-effective alternatives to nursing home care, and develop clear  
32 and concise performance standards for those services for which  
33 standards are not already available in a home and community-based  
34 services waiver;

35 (3) develop and implement [with the Commissioner of Human  
36 Services] a comprehensive consumer assessment instrument that is  
37 designed to facilitate an expedited process to authorize the  
38 provision of home and community-based care to a person through  
39 fast track eligibility prior to completion of a formal financial  
40 eligibility determination; and

41 (4) develop and implement a comprehensive quality assurance  
42 system with appropriate and regular assessments that is designed to  
43 ensure that all forms of long-term care available to consumers in  
44 this State are financially viable, cost-effective, and promote and  
45 sustain consumer independence; and

46 c. Seek to make information available to the general public on  
47 a Statewide basis, through print and electronic media, regarding the  
48 various forms of long-term care available in this State and the rights

1 accorded to long-term care consumers by statute and regulation, as  
2 well as information about public and nonprofit agencies and  
3 organizations that provide informational and advocacy services to  
4 assist long-term care consumers and their families.

5 (cf: P.L.2006, c.23, s.6)

6  
7 376. Section 7 of P.L.2006, c.23 (C.30:4D-17.29) is amended to  
8 read as follows:

9 7. a. There is established the Medicaid Long-Term Care Funding  
10 Advisory Council within the Department of **[Health and Senior]**  
11 **Human** Services. The advisory council shall meet at least quarterly  
12 during each fiscal year until such time as the commissioner certifies  
13 to the Governor and the Legislature that funding parity has been  
14 achieved pursuant to subsection b. of section 5 of this act, and shall  
15 be entitled to receive such information from the Departments of  
16 Health **[and Senior Services]**, Human Services, and the Treasury as  
17 the advisory council deems necessary to carry out its  
18 responsibilities under this act.

19 b. The advisory council shall:

20 (1) monitor and assess, and advise the commissioner on, the  
21 implementation and operation of the Medicaid long-term care  
22 expenditure reforms and other provisions of this act; and

23 (2) develop recommendations for a program to recruit and train  
24 a stable workforce of home care providers, including  
25 recommendations for changes to provider reimbursement under  
26 Medicaid home and community-based care programs.

27 c. The advisory council shall comprise **[15]** 14 members as  
28 follows:

29 (1) the commissioner**[, the Commissioner of Human Services]**  
30 and the State Treasurer, or their designees, as ex officio members;  
31 and

32 (2) 12 public members to be appointed by the commissioner as  
33 follows: one person appointed upon the recommendation of AARP;  
34 one person upon the recommendation of the New Jersey  
35 Association of Area Agencies on Aging, one person upon the  
36 recommendation of the New Jersey Association of County Offices  
37 for the Disabled; one person upon the recommendation of the  
38 Health Care Association of New Jersey; one person upon the  
39 recommendation of the New Jersey Association of Non-Profit  
40 Homes for the Aging; one person upon the recommendation of the  
41 New Jersey Hospital Association; one person upon the  
42 recommendation of the Rutgers Center for State Health Policy; one  
43 person upon the recommendation of the New Jersey Elder Rights  
44 Coalition; one person upon the recommendation of the County  
45 Welfare Directors Association of New Jersey; one person upon the  
46 recommendation of the New Jersey Adult Day Services  
47 Association; one person upon the recommendation of a labor union

1 that represents home and community-based health care workers;  
2 and one person who is a representative of the home care industry.

3 d. The advisory council shall organize as soon as possible after  
4 the appointment of its members, and shall annually select from its  
5 membership a chairman who shall serve until his successor is  
6 elected and qualifies. The members shall also select a secretary  
7 who need not be a member of the advisory council.

8 e. The department shall provide such staff and administrative  
9 support to the advisory council as it requires to carry out its  
10 responsibilities.

11 (cf: P.L.2006, c.23, s.7)

12

13 377. Section 8 of P.L.2006, c.23 (C.30:4D-17.30) is amended to  
14 read as follows:

15 8. The Commissioner of Human Services[, with the approval  
16 of the Commissioner of Health and Senior Services,] shall apply to  
17 the federal Centers for Medicare [and] & Medicaid Services for  
18 any waiver of federal requirements, or for any State plan  
19 amendments or home and community-based services waiver  
20 amendments, which may be necessary to obtain federal financial  
21 participation for State Medicaid expenditures in order to effectuate  
22 the purposes of this act.

23 (c.f. P.L.2006, c.23, s.8)

24

25 378. Section 9 of P.L.2006, c.23 (C.30:4D-17.31) is amended to  
26 read as follows:

27 9. The commissioner [, in consultation with the Commissioner  
28 of Human Services,] shall track Medicaid long-term care  
29 expenditures necessary to carry out the provisions of this act.

30 (cf: P.L.2006, c.23, s.9)

31

32 379. Section 2 of P.L.2000, c.28 (C.30:4D-19.3) is amended to  
33 read as follows:

34 2. As used in this act:

35 "Bank" means a State or federally chartered bank, savings bank,  
36 or savings and loan association located in this State that is  
37 authorized to receive public funds and that is selected by the  
38 participating governmental entities to carry out the provisions of  
39 this act.

40 "Intergovernmental transfer" means the transfer of money to the  
41 State account by a participating governmental entity as  
42 contemplated by an intergovernmental transfer agreement.

43 "Intergovernmental transfer agreement" means an agreement  
44 among the State Treasurer, the Commissioners of Human Services  
45 and Health [and Senior Services], and a participating governmental  
46 entity pertaining to participation in and implementation of the  
47 intergovernmental transfer program.

1 "Intergovernmental transfer program" or "program" means a  
2 program to enhance federal financial participation under the  
3 Medicaid program by using intergovernmental transfers.

4 "Medicaid" means the "New Jersey Medical Assistance and  
5 Health Services Program" established pursuant to P.L.1968, c.413  
6 (C.30:4D-1 et seq.).

7 "Medicaid State plan" means the plan submitted by the State to  
8 the federal **【Health Care Financing Administration】** Centers for  
9 Medicare & Medicaid Services in the Department of Health and  
10 Human Services, including any amendments thereto.

11 "Participant accounts" means the accounts maintained at the  
12 bank by each participating governmental entity for the purpose of  
13 effectuating the intergovernmental transfer program.

14 "Participating governmental entity" means any governmental  
15 entity that owns a nursing facility enrolled in the Medicaid program  
16 and qualifies for a supplemental payment under the Medicaid State  
17 plan, and which signs an intergovernmental transfer agreement.

18 "State account" means the account maintained at the bank by the  
19 State Treasurer for the purpose of the intergovernmental transfer  
20 program.

21 "Supplemental payment" means the Medicaid payment made by  
22 the State to a participating governmental entity for a specified fiscal  
23 year, as set forth and provided for in an intergovernmental transfer  
24 agreement.

25 (cf: P.L.2000, c.28, s.2)

26

27 380. Section 3 of P.L.2000, c.28 (C.30:4D-19.4) is amended to  
28 read as follows:

29 3. There is established an intergovernmental transfer program  
30 subject to the provisions of this act.

31 a. Notwithstanding the provisions of any other law to the  
32 contrary, a governmental entity eligible to receive a supplemental  
33 payment is authorized to participate in the intergovernmental  
34 transfer program and to take all actions necessary to effectuate  
35 completion of the intergovernmental transfer program, including,  
36 but not limited to:

37 (1) entering into agreements, including an intergovernmental  
38 transfer agreement, with any entity, including the State Treasurer,  
39 the Commissioner of Human Services, the Commissioner of Health  
40 **【and Senior Services】** , and other participating governmental  
41 entities;

42 (2) cooperating with a bank in the execution of any additional  
43 documentation required by the bank to effect the borrowing by any  
44 participating governmental entity through the issuance of short-term  
45 notes in the manner prescribed for the issuance of tax anticipation  
46 notes pursuant to N.J.S.40A:4-64, except that the short-term notes  
47 shall not be subject to the provisions of N.J.S.40A:4-66, or in any  
48 other manner permitted by law, and to pledge to the bank a security

1 interest in all of its right, title and interest in and to its participant  
2 account for repayment of short-term notes;

3 (3) transferring participating governmental entity funds to the  
4 State account;

5 (4) executing certifications, letters of instruction or other  
6 instruments necessary to effectuate the intergovernmental transfer  
7 program; and

8 (5) receiving and utilizing supplemental payments received in  
9 accordance with the Medicaid State plan, in the manner set forth  
10 under the terms of an intergovernmental transfer agreement and as  
11 may be necessary to achieve the purposes of the intergovernmental  
12 transfer agreement.

13 b. Notwithstanding any other law to the contrary, the State  
14 Treasurer, the Commissioner of Human Services and the  
15 Commissioner of Health [and Senior Services], acting on behalf of  
16 the State, are authorized to participate in the intergovernmental  
17 transfer program and to take all actions and make payments in  
18 connection with the completion of the intergovernmental transfer  
19 program, including, but not limited to:

20 (1) entering into agreements, including the intergovernmental  
21 transfer agreement, with any entity, including participating  
22 governmental entities, upon such terms and conditions as the State  
23 Treasurer deems necessary or desirable to allow for the entity's  
24 participation in the intergovernmental transfer program;

25 (2) cooperating with any bank in the execution of any additional  
26 documentation required by the bank to transfer supplemental  
27 payments to the participant accounts and otherwise effectuate the  
28 intergovernmental transfer program; and

29 (3) executing, approving, and authorizing certifications, letters  
30 of instruction, legal opinions, or other instruments as the State  
31 Treasurer deems necessary or desirable to effectuate the  
32 intergovernmental transfer program.

33 (cf: P.L.2000, c.28, s.3)

34

35 381. Section 4 of P.L.2000, c.28 (C.30:4D-19.5) is amended to  
36 read as follows:

37 4. a. There are appropriated to the Department of [Health and  
38 Senior] Human Services such sums as are determined necessary by  
39 the Director of the Division of Budget and Accounting in the  
40 Department of the Treasury to make supplemental payments in  
41 accordance with the Medicaid State plan under the  
42 intergovernmental transfer program. The sums so appropriated  
43 shall be deposited in the State account and used to make  
44 supplemental payments to the participant accounts pursuant to this  
45 subsection and as set forth in an intergovernmental transfer  
46 agreement.

1       b. There are appropriated to the Department of [Health and  
2 Senior] Human Services and Department of the Treasury such  
3 additional sums as are determined necessary by the Director of the  
4 Division of Budget and Accounting in the Department of the  
5 Treasury to pay costs incurred by the State in connection with the  
6 execution and delivery of any agreements authorized hereunder,  
7 including the costs of professional services, attorneys, and any other  
8 costs necessary to complete the intergovernmental transfer program.  
9 (cf: P.L.2000, c.28, s.4)

10  
11       382. Section 1 of P.L. 2003, c.281 (C.30:4D-21.4) is amended to  
12 read as follows:

13       1. a. Notwithstanding the provisions of any other law to the  
14 contrary, a recipient of benefits under the "Pharmaceutical  
15 Assistance to the Aged and Disabled" program, established pursuant  
16 to P.L.1975, c.194 (C.30:4D-20 et seq.), shall notify the Department  
17 of [Health and Senior] Human Services if the recipient  
18 unintentionally errs in estimating annual income to determine  
19 eligibility for the program due to an unanticipated payment which  
20 would render the recipient ineligible for the program. Notification  
21 to the department shall be made in the time and manner prescribed  
22 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 pursuant to subsection  
39 a. of this section.

40 (cf: P.L.2003, c.281, s.1)

41  
42       383. Section 1 of P.L.2009, c.272 (C.30:4D-21.5) is amended to  
43 read as follows:

44       1. a. If a person who is a recipient of benefits under the  
45 "Pharmaceutical Assistance to the Aged and Disabled," or PAAD,  
46 program becomes ineligible for PAAD because the person's income  
47 exceeds the program's income eligibility limit and the person still  
48 remains eligible for the "Senior Gold Prescription Discount



1 Program," the person shall be enrolled automatically in the "Senior  
2 Gold Prescription Discount Program."

3 b. If a person who is a recipient of benefits under the "Senior  
4 Gold Prescription Discount Program" has a decrease in income that  
5 renders the person eligible for PAAD, the person shall  
6 automatically be enrolled in PAAD.

7 c. The Department of **【Health and Senior】** Human Services  
8 shall establish one application form for use in applying for the  
9 PAAD program and the "Senior Gold Prescription Discount  
10 Program." The form shall provide for the inclusion of all  
11 information necessary to determine eligibility for both programs  
12 and advise applicants of the automatic enrollment provisions of  
13 subsections a. and b. of this section.

14 (cf: P.L.2009, c.272, s.1)

15

16 384. Section 2 of P.L.2003, c.281 (C.30:4D-38.1) is amended to  
17 read as follows:

18 2. a. Notwithstanding the provisions of any other law to the  
19 contrary, a recipient of benefits under the "Hearing Aid Assistance  
20 for the Aged and Disabled" program, established pursuant to  
21 P.L.1987, c.298 (C.30:4D-36 et seq.), shall notify the Department  
22 of **【Health and Senior】** Human Services if the recipient  
23 unintentionally errs in estimating annual income to determine  
24 eligibility for the program due to an unanticipated payment which  
25 would render the recipient ineligible for the program. Notification  
26 to the department shall be made in the time and manner prescribed  
27 by the department.

28 b. If the department determines that the payment was  
29 unanticipated, the recipient shall reimburse the program for only  
30 those benefits that were paid by the program after the recipient  
31 received the unanticipated payment.

32 c. If the department determines that the payment was not  
33 unanticipated, the recipient shall reimburse the program for all  
34 benefits that were paid by the program in the calendar year in which  
35 the payment was received.

36 d. Within 30 days of receipt of a determination by the  
37 department that the payment was not unanticipated, a recipient may  
38 request a hearing, which shall be conducted pursuant to the  
39 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
40 seq.).

41 e. Nothing in this section shall preclude a recipient from  
42 reapplying for benefits in the calendar year following the year in  
43 which the recipient notified the department pursuant to subsection  
44 a. of this section.

45 (cf: P.L.2003, c.281, s.2)

46

47 385. Section 2 of P.L.2001, c.96 (C.30:4D-44) is amended to  
48 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:

- 1 (1) arrangements for providing notice of the availability of the
- 2 program and the distribution of application forms therefor;
- 3 (2) a system of payments to pharmacies that includes the same
- 4 dispensing fee structure that is used for PAAD and a system for
- 5 determining eligibility for the program, including evidence of
- 6 complete or partial coverage of prescription drug costs by any other
- 7 program or plan of assistance or insurance; and
- 8 (3) the issuance of program identification cards to persons who
- 9 are determined eligible for the program.
- 10 (cf: P.L.2001, c.96, s.3)

11

12 387. Section 3 of P.L.2003, c.281 (C.30:4D-45.1) is amended to

13 read as follows:

14 3. a. Notwithstanding the provisions of any other law to the

15 contrary, a recipient of benefits under the "Senior Gold Prescription

16 Discount Program," established pursuant to P.L.2001, c.96

17 (C.30:4D-43 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 pursuant to subsection

39 a. of this section.

40 (cf: P.L.2003, c.281, s.3)

41

42 388. Section 8 of P.L.2001, c.96 (C.30:4D-50) is amended to

43 read as follows:

44 8. The Commissioner of **Health and Senior** Human Services,

45 pursuant to the "Administrative Procedure Act," P.L.1968, c.410

46 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate

1 the purposes of this act.  
2 (cf: P.L.2001, c.96, s.8)

3  
4 389. Section 9 of P.L.2001, c.96 (C.30:4D-51) is amended to  
5 read as follows:

6 9. Notwithstanding the provisions of any law to the contrary,  
7 no funds appropriated for the Senior Gold Prescription Discount  
8 Program established pursuant to this act shall be expended unless  
9 participating pharmaceutical manufacturing companies execute  
10 contracts with the Department of [Health and Senior Services  
11 through the Department of] Human Services providing for the  
12 payment of rebates to the State under terms substantially similar to  
13 those of rebate payment contracts under PAAD, provided that the  
14 manufacturer's rebates for the Senior Gold Prescription Discount  
15 Program shall apply only to the amount paid by the State under the  
16 program.  
17 (cf: P.L.2001, c.96, s.9)

18  
19 390. Section 10 of P.L.2001, c.96 (C.30:4D-52) is amended to  
20 read as follows:

21 10. Amounts received as rebates under rebate payment contracts  
22 executed pursuant to section 9 of this act are appropriated to the  
23 Department of [Health and Senior] Human Services for the support  
24 of the Senior Gold Prescription Discount Program.  
25 (cf: P.L.2001, c.96, s.10)

26  
27 391. Section 2 of P.L.2007, c.58 (C.30:4D-54) is amended to  
28 read as follows:

29 2. The Legislature finds and declares that:

30 a. The State of New Jersey expends more than \$9 billion in  
31 taxpayer funds to fund the Medicaid program each year;

32 b. The State has a continuing responsibility to ensure that funds  
33 expended under the Medicaid program are used appropriately and  
34 efficiently to promote the public health;

35 c. Fraud, waste, and abuse by providers and recipients in the  
36 Medicaid program reduces the ability of the State to properly fund  
37 the program and results in harm to the health of the citizens of this  
38 State;

39 d. Controlling fraud, waste, and abuse in the Medicaid program  
40 includes preventing, detecting, and investigating such fraud, waste,  
41 and abuse, and referring it for civil or criminal action when  
42 appropriate;

43 e. The current system for controlling Medicaid fraud, waste,  
44 and abuse is based largely on formal and informal agreements  
45 among the Department of Human Services, the Medicaid Fraud  
46 Control Unit of the Department of Law and Public Safety, the  
47 Department of Health [and Senior Services,] and other local, State,  
48 and federal agencies whose clients are served by the Medicaid

1 program or who are otherwise responsible for the control of  
2 Medicaid fraud, waste, and abuse;

3 f. Centralizing fraud recovery efforts and establishing an  
4 independent Office of the Medicaid Inspector General by statute to  
5 prevent, detect, and investigate fraud and abuse and coordinate the  
6 anti-fraud efforts of all State agencies funded by Medicaid will  
7 enhance the efforts of the State to control Medicaid costs;

8 g. The current efforts to control Medicaid fraud, waste, and  
9 abuse in New Jersey range from investigating providers before they  
10 enroll in the Medicaid program to identifying fraud, waste, and  
11 abuse on the part of both providers and recipients;

12 h. Changes in federal and State law, as well as in the health  
13 care industry and in available technology, suggest that it is time for  
14 a comprehensive review of the Medicaid fraud, waste, and abuse  
15 control infrastructure in this State;

16 i. Toward that end, the Governor has appointed the New Jersey  
17 Commission on Government Efficiency and Reform to evaluate the  
18 budget, structure, and organization of government in New Jersey,  
19 including State agencies, instrumentalities and independent  
20 authorities, local and county government and school districts, and  
21 advise the Governor on governmental restructuring, effectiveness,  
22 best practices, efficiencies, cost-saving measures, and how best to  
23 achieve economies of scale in the delivery of services and  
24 programs, at the lowest possible cost, consistent with mission and  
25 quality; and

26 j. While the State examines and prepares to implement such  
27 fundamental, long-term structural changes, the immediate  
28 coordination of State efforts to control Medicaid fraud, waste, and  
29 abuse at all levels of government is essential.

30 (cf: P.L.2007, c.58, s.2)

31

32 392. Section 5 of P.L.2007, c.58 (C.30:4D-57) is amended to  
33 read as follows:

34 5. a. The Medicaid Inspector General shall have the following  
35 general functions, duties, powers, and responsibilities:

36 (1) To appoint such deputies, directors, assistants, and other  
37 officers and employees as may be needed for the office to meet its  
38 responsibilities, and to prescribe their duties and fix their  
39 compensation in accordance with State law and within the amounts  
40 appropriated therefor;

41 (2) To conduct and supervise all State government activities,  
42 except those of the Medicaid Fraud Control Unit in the Department  
43 of Law and Public Safety, relating to Medicaid integrity, fraud, and  
44 abuse;

45 (3) To call upon any department, office, division, or agency of  
46 State government to provide such information, resources, or other  
47 assistance as the Medicaid Inspector General deems necessary to  
48 discharge the duties and functions and to fulfill the responsibilities

1 of the Medicaid Inspector General under this act. Each department,  
2 office, division, and agency of this State shall cooperate with the  
3 Medicaid Inspector General and furnish the office with the  
4 assistance necessary to accomplish the purposes of this act;

5 (4) To coordinate activities to prevent, detect, and investigate  
6 Medicaid fraud and abuse among the following: the Departments of  
7 Human Services, Health [and Senior Services], Education, and  
8 Treasury; the Office of the Attorney General; and the special  
9 investigative unit maintained by each health insurer providing a  
10 Medicaid managed care plan within the State;

11 (5) To apply for and receive federal grants and monies with all  
12 necessary assistance as the Medicaid Inspector General shall require  
13 from the department;

14 (6) To enter into any applicable federal pilot programs and  
15 demonstration projects and coordinate with the department in order  
16 for the department to apply as requested by the Medicaid Inspector  
17 General, for necessary federal waivers;

18 (7) To recommend and implement policies relating to Medicaid  
19 integrity, fraud, and abuse, and monitor the implementation of any  
20 recommendations made by the office to other agencies or entities  
21 responsible for the administration of Medicaid;

22 (8) To perform any other functions that are necessary or  
23 appropriate in furtherance of the mission of the office; and

24 (9) To direct all public or private Medicaid service providers or  
25 recipients to cooperate with the office and provide such information  
26 or assistance as shall be reasonably required by the office.

27 b. As it relates to ensuring compliance with applicable  
28 Medicaid standards and requirements, identifying and reducing  
29 fraud and abuse, and improving the efficiency and effectiveness of  
30 Medicaid, the functions, duties, powers, and responsibilities of the  
31 Medicaid Inspector General shall include, but not be limited to, the  
32 following:

33 (1) To establish, in consultation with the department and the  
34 Attorney General, guidelines under which the withholding of  
35 payments or exclusion from Medicaid may be imposed on a  
36 provider or shall automatically be imposed on a provider;

37 (2) To review the utilization of Medicaid services to ensure that  
38 Medicaid funds, regardless of which agency administers the service,  
39 are appropriately spent to improve the health of Medicaid  
40 recipients;

41 (3) To review and audit contracts, cost reports, claims, bills, and  
42 all other expenditures of Medicaid funds to determine compliance  
43 with applicable laws, regulations, guidelines, and standards, and  
44 enhance program integrity;

45 (4) To consult with the department to optimize the Medicaid  
46 management information system in furtherance of the mission of  
47 the office. The department shall consult with the Medicaid  
48 Inspector General on matters that concern the operation, upgrade

- 1 and implementation of the Medicaid management information  
2 system;
- 3 (5) To coordinate the implementation of information technology  
4 relating to Medicaid integrity, fraud, and abuse; and
- 5 (6) To conduct educational programs for Medicaid providers,  
6 vendors, contractors, and recipients designed to limit Medicaid  
7 fraud and abuse.
- 8 c. As it relates to investigating allegations of Medicaid fraud  
9 and abuse and enforcing applicable laws, rules, regulations, and  
10 standards, the functions, duties, powers, and responsibilities of the  
11 Medicaid Inspector General shall include, but not be limited to, the  
12 following:
- 13 (1) To conduct investigations concerning any acts of misconduct  
14 within Medicaid;
- 15 (2) To refer information and evidence to regulatory agencies and  
16 professional and occupational licensing boards;
- 17 (3) To coordinate the investigations of the office with the  
18 Attorney General, the State Inspector General, law enforcement  
19 authorities, and any prosecutor of competent jurisdiction, and  
20 endeavor to develop these investigations in a manner that expedites  
21 and facilitates criminal prosecutions and the recovery of improperly  
22 expended Medicaid funds, including:
- 23 (a) keeping detailed records for cases processed by the State  
24 Inspector General and the Attorney General and county prosecutors.  
25 The records shall include: information on the total number of cases  
26 processed and, for each case, the agency and division to which the  
27 case is referred for investigation; the date on which the case is  
28 referred; and the nature of the suspected fraud, waste, or abuse; and
- 29 (b) receiving notice from the Attorney General of each case that  
30 the Attorney General declines to prosecute or prosecutes  
31 unsuccessfully;
- 32 (4) To make information and evidence relating to suspected  
33 criminal acts which the Medicaid Inspector General may obtain in  
34 carrying out his duties available to the Medicaid Fraud Control Unit  
35 pursuant to the requirements of federal law, as well as to other law  
36 enforcement officials when appropriate, and consult with the  
37 Attorney General and county prosecutors in order to coordinate  
38 criminal investigations and prosecutions;
- 39 (5) To refer complaints alleging criminal conduct to the  
40 Attorney General or other appropriate prosecutorial authority. If  
41 the Attorney General or other appropriate prosecutorial authority  
42 decides not to investigate or prosecute the matter, the Attorney  
43 General or other appropriate prosecutorial authority shall promptly  
44 notify the Medicaid Inspector General. The Attorney General or the  
45 prosecutorial authority shall inform the Medicaid Inspector General  
46 as to whether an investigation is ongoing with regard to any matter  
47 so referred. The Medicaid Inspector General shall preserve the



1 confidentiality of the existence of any ongoing criminal  
2 investigation.

3 (a) If the Attorney General or the prosecutorial authority  
4 decides not to investigate or act upon the matter referred, the  
5 Inspector General is authorized to continue an investigation after  
6 the receipt of such a notice.

7 (b) Upon the completion of an investigation or, in a case in  
8 which the investigation leads to prosecution, upon completion of  
9 the prosecution, the Attorney General or the prosecutorial authority  
10 shall report promptly the findings and results to the Medicaid  
11 Inspector General. In the course of informing the Medicaid  
12 Inspector General, the Attorney General or prosecutorial authority  
13 shall give full consideration to the authority, duties, functions, and  
14 responsibilities of the Medicaid Inspector General, the public  
15 interest in disclosure, and the need for protecting the confidentiality  
16 of complainants and informants.

17 (c) The Medicaid Inspector General shall maintain a record of  
18 all matters referred and the responses received and shall be  
19 authorized to disclose information received as appropriate and as  
20 may be necessary to resolve the matter referred, to the extent  
21 consistent with the public interest in disclosure and the need for  
22 protecting the confidentiality of complainants and informants and  
23 preserving the confidentiality of ongoing criminal investigations.

24 (d) Notwithstanding any referral made pursuant to this  
25 subsection, the Medicaid Inspector General may pursue any  
26 administrative or civil remedy under the law;

27 (6) In furtherance of an investigation, to compel at a specific  
28 time and place, by subpoena, the appearance and sworn testimony  
29 of any person whom the Medicaid Inspector General reasonably  
30 believes may be able to give information relating to a matter under  
31 investigation;

32 (a) For this purpose, the Medicaid Inspector General is  
33 empowered to administer oaths and examine witnesses under oath,  
34 and compel any person to produce at a specific time and place, by  
35 subpoena, any documents, books, records, papers, objects, or other  
36 evidence that the Medicaid Inspector General reasonably believes  
37 may relate to a matter under investigation.

38 (b) If any person to whom a subpoena is issued fails to appear  
39 or, having appeared, refuses to give testimony, or fails to produce  
40 the books, papers, or other documents required, the Medicaid  
41 Inspector General may apply to the Superior Court and the court  
42 may order the person to appear and give testimony or produce the  
43 books, papers, or other documents, as applicable. Any person  
44 failing to obey that order may be punished by the court as for  
45 contempt;

46 (7) Subject to applicable State and federal law, to have full and  
47 unrestricted access to all records, reports, audits, reviews,  
48 documents, papers, data, recommendations, or other material

1 available to State and local departments of health and human  
2 services, other State and local government agencies, and Medicaid  
3 service providers relating to programs and operations with respect  
4 to which the office has responsibilities under this act;

5 (8) To solicit, receive, and investigate complaints related to  
6 Medicaid integrity, fraud, and abuse;

7 (9) To prepare cases, provide expert testimony, and support  
8 administrative hearings and other legal proceedings; and

9 (10) Upon reasonable belief of the commission of a fraudulent  
10 or abusive act, to conduct on-site facility inspections.

11 d. As it relates to recovering improperly expended Medicaid  
12 funds, imposing administrative sanctions, damages or penalties,  
13 negotiating settlements, and developing an effective third-party  
14 liability program to assure that all private or other governmental  
15 medical resources have been exhausted before a claim is paid by  
16 Medicaid or that reimbursement is sought when there is discovered  
17 a liable third party after payment of a claim, the functions, duties,  
18 powers, and responsibilities of the Medicaid Inspector General shall  
19 include, but not be limited to, the following:

20 (1) On behalf of the department, to collect all overpayments for  
21 reimbursable services that are self-disclosed by providers pursuant  
22 to current law;

23 (2) To pursue civil and administrative enforcement actions  
24 against those who engage in fraud, abuse, or illegal acts perpetrated  
25 within Medicaid, including providers, contractors, agents,  
26 recipients, individuals, or other entities involved directly or  
27 indirectly with the provision of Medicaid care, services, and  
28 supplies. These civil and administrative enforcement actions shall  
29 include the imposition of administrative sanctions, penalties,  
30 suspension of fraudulent, abusive, or illegal payments, and actions  
31 for civil recovery and seizure of property or other assets connected  
32 with such payments;

33 (3) To initiate civil suits consistent with the provisions of this  
34 act, maintain actions for civil recovery on behalf of the State, and  
35 enter into civil settlements;

36 (4) To withhold payments to any provider for Medicaid services  
37 if the provider unreasonably fails to produce complete and accurate  
38 records related to an investigation that is initiated by the office with  
39 reasonable cause;

40 (5) To ensure that Medicaid is the payor of last resort, and to  
41 provide for the coordination of benefits with each health insurer  
42 operating in the State and the recoupment of any duplicate  
43 reimbursement paid by the State. Every such health insurer shall be  
44 required to provide such information and reports as may be deemed  
45 necessary by the Medicaid Inspector General for the coordination of  
46 benefits and shall maintain files in a manner and format approved  
47 by the department; and

1 (6) To monitor and pursue the recoupment of Medicaid  
2 overpayments, damages, penalties, and sanctions.

3 (cf: P.L.2007, c.58, s.5)  
4

5 393. Section 7 of P.L.2007, c.58 (C.30:4D-59) is amended to  
6 read as follows:

7 7. a. The Medicaid audit, program integrity, fraud, and abuse  
8 prevention and recovery functions, all officers and employees that  
9 the Medicaid Inspector General deems qualified and substantially  
10 engaged therein, and any documents and records that the Medicaid  
11 Inspector General deems necessary and related to the transfer of  
12 such functions and personnel, shall be transferred to the Office of  
13 the Medicaid Inspector General from the Medicaid Office of  
14 Program Integrity Unit and the Third Party Liability Unit in the  
15 Division of Medical Assistance and Health Services, the Division of  
16 Aging Services, the Division of Disability Services, the Division of  
17 Developmental Disabilities, the Division of Mental Health and  
18 Addiction Services, the Division of Youth and Family Services, the  
19 Division of Child Behavioral Health Services, the Department of  
20 Health [and Senior Services] and the Department of the Treasury.  
21 The Medicaid Inspector General shall consult with the head of each  
22 department or agency from which such function is to be transferred  
23 to determine the officers and employees to be transferred.

24 b. The Medicaid Inspector General shall have general  
25 managerial control over the office and shall establish the  
26 organizational structure of the office as the Medicaid Inspector  
27 General deems appropriate to carry out the responsibilities and  
28 functions of the office. Within the limits of funds appropriated  
29 therefor, the Medicaid Inspector General may hire such employees  
30 in the unclassified service as are necessary to administer the office.  
31 These employees shall serve at the pleasure of the Medicaid  
32 Inspector General. Subject to the availability of appropriations, the  
33 Medicaid Inspector General may obtain the services of certified  
34 public accountants, qualified management consultants, professional  
35 auditors, or other professionals necessary to independently perform  
36 the functions of the office.

37 (cf: P.L.2007, c.58, s.7)  
38

39 394. Section 10 of P.L.1985, c.307 (C.30:4G-10) is amended to  
40 read as follows:

41 10. a. There is established in the department an Advisory  
42 Council on Personal Attendant Services which consists of 19  
43 members as follows: the [Commissioner of Health and Senior  
44 Services, the] Director of the Division of Youth and Family  
45 Services in the Department of Children and Families, the Director  
46 of the Division of Aging Services, the Director of the Division of  
47 Developmental Disabilities, and the Director of the Division of  
48 Medical Assistance and Health Services in the Department of

1 Human Services, the Director of the Division of Veterans' Services  
2 in the Department of Military and Veterans' Affairs, and the  
3 Director of the Division of Vocational Rehabilitation Services in  
4 the Department of Labor and Workforce Development, or their  
5 designees, who shall serve ex officio, and 13 members appointed by  
6 the commissioner who are residents of this State, one of whom is a  
7 member of the New Jersey Association of County Representatives  
8 of Disabled Persons, four of whom represent providers of personal  
9 attendant services, five of whom represent consumers of personal  
10 attendant services and three of whom represent advocacy groups or  
11 agencies for the physically disabled.

12 A vacancy in the membership of the council shall be filled in the  
13 same manner as the original appointment.

14 The members of the council shall serve without compensation,  
15 but the department shall reimburse the members for the reasonable  
16 expenses incurred in the performance of their duties.

17 b. The council shall hold an organizational meeting within 30  
18 days after the appointment of its members. The members of the  
19 council shall elect from among them a **[chairman]** chairperson,  
20 who shall be the chief executive officer of the council and the  
21 members shall elect a secretary, who need not be a member of the  
22 council.

23 c. The council shall:

24 (1) Advise the commissioner on matters pertaining to personal  
25 attendant services and the development of the personal attendant  
26 program, upon the request of the commissioner;

27 (2) Review the rules and regulations promulgated for the  
28 implementation of the personal attendant program and make  
29 recommendations to the commissioner, as appropriate;

30 (3) Evaluate the effectiveness of the personal attendant program  
31 in achieving the purposes of this act; and

32 (4) Assess the Statewide need for personal attendant services  
33 and the projected cost for providing these services Statewide.

34 (cf: P.L.2006, c.47, s.160)

35

36 395. Section 1 of P.L.2006, c.87 (C.30:4J-17) is amended to  
37 read as follows:

38 1. The Commissioner of Human Services, in consultation with  
39 the Commissioners of Health **[and Senior Services]**, Labor and  
40 Workforce Development, and Banking and Insurance, as  
41 appropriate, shall prepare, to the extent data are available, an annual  
42 report on Access to Employer-Based Health Insurance, as provided  
43 in this act.

44 a. The report shall include the following information about  
45 each employer in the State with an aggregate of 50 or more NJ  
46 FamilyCare enrollees or Medicaid recipients:

47 (1) the employer's name and address, unless the employer has  
48 more than one work site, in which case the employer's name and the

1 number of work sites and the counties in which the work sites are  
2 located;

3 (2) the number of NJ FamilyCare enrollees and Medicaid  
4 recipients who are employed by the employer;

5 (3) the number of NJ FamilyCare enrollees and Medicaid  
6 recipients who are spouses or dependents of employees of the  
7 employer;

8 (4) whether the employer offers health insurance coverage to its  
9 employees; and

10 (5) the cost to the State of providing NJ FamilyCare and  
11 Medicaid coverage for the employer's employees and their  
12 dependents.

13 The commissioner may include comparable information about  
14 recipients of other public health care coverage programs, and such  
15 other information as **[he]** the commissioner deems appropriate  
16 regarding employer-based coverage for persons covered under  
17 public insurance programs.

18 The commissioner shall also include the information compiled  
19 by the Commissioner of Health **[and Senior Services]** concerning  
20 recipients of charity care pursuant to section 2 of P.L.2006, c.87  
21 (C.26:2H-18.55a). With respect to the information provided by the  
22 Commissioner of Health **[and Senior Services]**, the commissioner,  
23 in consultation with the Commissioners of Labor and Workforce  
24 Development and Banking and Insurance, shall ascertain whether  
25 the employer of a recipient of charity care offers health insurance  
26 coverage to its employees. The commissioner shall include that  
27 information about employers in the report.

28 In addition, the commissioner may make any recommendations  
29 **[he]** the commissioner deems appropriate for legislative action.

30 b. The report shall not include the name of any NJ FamilyCare  
31 enrollee or Medicaid recipient or any family member of an enrollee  
32 or recipient.

33 c. The commissioner shall submit the report by September 1 of  
34 each year to the Governor and the chairmen of the Senate and  
35 Assembly standing reference committees on human services, health,  
36 and appropriations.

37 (cf: P.L.2006, c.87, s.1)

38

39 396. Section 27 of P.L.2008, c.38 (C.30:4J-19) is amended to  
40 read as follows:

41 27. The Commissioner of Human Services shall establish an  
42 Outreach, Enrollment, and Retention Working Group to develop a  
43 plan to carry out ongoing and sustainable measures to strengthen  
44 outreach to low and moderate income families who may be eligible  
45 for Medicaid, NJ FamilyCare, or NJ FamilyCare Advantage, to  
46 maximize enrollment in these programs, and to ensure retention of  
47 enrollees in these programs.

48 a. The members of the working group shall include:

1 (1) The Commissioners of Human Services, Health [and Senior  
2 Services], Banking and Insurance, Labor and Workforce  
3 Development, Education, and Community Affairs, and the  
4 Secretary of Agriculture [, and the Child Advocate], or their  
5 designees, who shall serve ex officio; and

6 (2) Six public members appointed by the Commissioner of  
7 Human Services who shall include: one person who represents  
8 racial and ethnic minorities in this State; one person who represents  
9 managed care organizations that participate in the Medicaid and NJ  
10 FamilyCare programs; one person who represents the vendor under  
11 contract with the Division of Medical Assistance and Health  
12 Services to provide NJ FamilyCare eligibility, enrollment, and  
13 health benefit coordinator services to the division; one person who  
14 represents New Jersey Policy Perspective; one person who  
15 represents the [Association] Advocates for Children of New Jersey;  
16 and one person who represents Legal Services of New Jersey.

17 b. As part of the plan, the working group shall:

18 (1) determine if there are obstacles to enrollment of minorities  
19 in the State in the Medicaid, NJ FamilyCare<sub>2</sub> and NJ FamilyCare  
20 Advantage programs due to ethnic and cultural differences and, if  
21 so, develop strategies for the Department of Human Services to  
22 overcome these obstacles and increase enrollment among  
23 minorities;

24 (2) recommend outreach strategies to identify and enroll all  
25 eligible children in the Medicaid, NJ FamilyCare<sub>2</sub> and NJ  
26 FamilyCare Advantage programs and to retain enrollment of  
27 children and their parents in the programs;

28 (3) establish monthly enrollment goals for the number of  
29 children who need to be enrolled in Medicaid, NJ FamilyCare, and  
30 NJ FamilyCare Advantage in order to ensure that as many children  
31 as possible who are eligible for these programs are enrolled within a  
32 reasonable period of time, in accordance with the mandate  
33 established pursuant to section 2 of P.L.2008, c.38 (C.26:15-2); and

34 (4) make such other recommendations to the Commissioner of  
35 Human Services as the working group determines necessary and  
36 appropriate to achieve the purposes of this section.

37 c. The working group shall organize as soon as practicable  
38 following the appointment of its members and shall select a  
39 chairperson and vice-chairperson from among the members. The  
40 chairperson shall appoint a secretary who need not be a member of  
41 the working group.

42 (1) The public members shall serve without compensation, but  
43 shall be reimbursed for necessary expenses incurred in the  
44 performance of their duties and within the limits of funds available  
45 to the working group.

46 (2) The working group shall be entitled to call to its assistance  
47 and avail itself of the services of the employees of any State,  
48 county<sub>2</sub> or municipal department, board, bureau, commission<sub>2</sub> or

1 agency as it may require and as may be available to it for its  
2 purposes.

3 d. Upon completion of the plan, the working group shall report  
4 on its activities to the **【chairmen】** chairperson of the Senate and  
5 Assembly standing reference committees on health and human  
6 services, and include a copy of the plan and any recommendations  
7 for legislative action it deems appropriate.

8 e. The Commissioner of Human Services shall post the plan on  
9 the department's Internet website and include a table showing the  
10 monthly enrollment goals established in the plan and the actual new  
11 and continued enrollments for that month. The commissioner shall  
12 update the table monthly.

13 f. The Department of Human Services shall provide staff  
14 support to the working group.  
15 (cf: P.L.2008, c.38, s.27)  
16

17 397. (New section) a. There is established the Division of  
18 Aging Services in the Department of Human Services.

19 b. The functions, powers, and duties of the Department of  
20 Health and Senior Services, redesignated as the Department of  
21 Health pursuant to section 93 of P.L. , c. (C. ) (pending before  
22 the Legislature as this bill), to the extent that they relate to the  
23 provision of programs or services for senior citizens, including the  
24 New Jersey State Commission on Aging established pursuant to  
25 section 1 of P.L.1957, c.72 (C.26:1A-107), the Division on Aging  
26 and Community Services, and any other division relating to senior  
27 benefits, are transferred to the Division of Aging Services, subject  
28 to the provisions of P.L. , c. (C. ) (pending before the  
29 Legislature as this bill) and in accordance with the "State Agency  
30 Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.).

31 c. All appropriations and other monies available, and to become  
32 available, that relate to the provision of programs or services for  
33 senior citizens are continued in the Division of Aging Services and  
34 shall be available for the objects and purposes for which these  
35 monies are appropriated, subject to the provisions of P.L. ,  
36 c. (C. ) (pending before the Legislature as this bill) and any  
37 other terms, restrictions, limitations, or other requirements imposed  
38 by law.

39 d. The administrator and head of the office shall be a director  
40 who shall be known as the Director of the Division of Aging  
41 Services. The director shall be a person qualified by training and  
42 experience to perform the duties of the office and shall devote his  
43 entire time to the performance of those duties. The director shall be  
44 appointed by the commissioner.

45 e. The commissioner shall appoint and remove officers and  
46 employees of the division subject to the provisions of Title 11A of  
47 the New Jersey Statutes and other applicable statutes as are  
48 necessary to enable the division to perform its duties pursuant to

1 this act and shall fix their compensation within the limits of  
2 available appropriations and as is provided by law.

3 f. Whenever, in any law, rule, regulation, order, contract,  
4 document, judicial or administrative proceeding or otherwise,  
5 reference is made to the Division on Aging in either the Department  
6 of State, the Department of Community Affairs, or the Department  
7 of Health or Senior Services, the same shall mean and refer to the  
8 Division of Aging Services in the Department of Human Services.

9  
10 398. Section 1 of P.L.1997, c.364 (C.34:5A-10.1) is amended to  
11 read as follows:

12 1. As used in this act:

13 "Child care center" means a child care center licensed pursuant  
14 to the provisions of P.L.1983, c.492 (C.30:5B-1 et seq.);

15 "Hazardous substance" means any substance, or substance in a  
16 mixture, included on the hazardous substance list developed by the  
17 Department of Health [and Senior Services] pursuant to the  
18 "Worker and Community Right to Know Act," P.L.1983, c.315  
19 (C.34:5A-1 et seq.).

20 "Hazardous substance" shall not include:

21 (1) Any article containing a hazardous substance if the  
22 hazardous substance is present in a solid form which does not pose  
23 any acute or chronic health hazard to any person exposed to it;

24 (2) Any hazardous substance constituting less than one percent  
25 of a mixture unless the hazardous substance is present in an  
26 aggregate amount of 500 pounds or more in a container in a public  
27 or private school or child care center building;

28 (3) Any hazardous substance which is a special health hazardous  
29 substance constituting less than the threshold percentage established  
30 by the Department of Health [and Senior Services] pursuant to  
31 P.L.1983, c.315 (C.34:5A-1 et seq.), for that special health  
32 hazardous substance when present in a mixture;

33 (4) Any hazardous substance present in the same form and  
34 concentration as a product packaged for distribution and use by  
35 consumers and which is not a product intended primarily for  
36 commercial use;

37 (5) Any fuel in a motor vehicle;

38 (6) Tobacco or tobacco products;

39 (7) Wood or wood products;

40 (8) Foods, drugs, or cosmetics;

41 (9) Hazardous substances which are an integral part of a  
42 building's structure or furnishings;

43 (10) Products which are personal property and are intended for  
44 personal use; and

45 (11) Any substance used in the routine maintenance of a public  
46 or private school or child care center building or its grounds, any  
47 substance used in a classroom science laboratory, any substance  
48 used in a school occupational training facility, including



1 laboratories and shops, and any substance used in the normal  
2 operation of the classrooms or administrative offices of a public or  
3 private school or child care center , including any substance used in  
4 the heating or cooling of the school or child care center;

5 "Hazardous substance fact sheet" means the hazardous substance  
6 fact sheets prepared by the Department of Health [and Senior  
7 Services] pursuant to the "Worker and Community Right to Know  
8 Act," P.L.1983, c.315 (C.34:5A-1 et seq.);

9 "Public school or private school" have the same meaning as set  
10 forth in N.J.S.18A:1-1.

11 (cf: P.L.1997, c.364, s.1)

12

13 399. Section 2 of P.L.1997, c.364 (C.34:5A-10.2) is amended to  
14 read as follows:

15 2. a. No person shall use or allow the use of any hazardous  
16 substance in or on any building or grounds used as a public school,  
17 a private school, or child care center at any time when children are  
18 expected to be present in the building. The provisions of this  
19 subsection shall not apply when an emergency condition, as deemed  
20 by the Board of Education or the chief school administrator in the  
21 case of any public school, or the person having responsibility for  
22 the operation of any private school or child care center, necessitates  
23 the use of a hazardous substance when children are present.

24 b. Any person who uses or stores, or causes or allows the use  
25 or storage of any hazardous substance in or on any building or  
26 grounds used as a public school, a private school, or child care  
27 center shall ensure that the use or storage of that hazardous  
28 substance is in compliance with the regulations adopted by the  
29 Department of Health [and Senior Services] pursuant to section 5  
30 of P.L.1997, c.364 (C.34:5A-10.5).

31 (cf: P.L.1997, c.364, s.2)

32

33 400. Section 5 of P.L.1997, c.364 (C.34:5A-10.5) is amended to  
34 read as follows:

35 5. The Department of Health [and Senior Services], in  
36 consultation with the Departments of Education, Human Services,  
37 Children and Families and Environmental Protection, and within  
38 180 days of the enactment of P.L.1997, c.364 (C.34:5A-10.1 et  
39 seq.), shall adopt, pursuant to the "Administrative Procedure Act,"  
40 P.L.1968, c.410 (C.52:14B-1 et seq.), regulations necessary to  
41 implement the provisions of this act which are consistent with  
42 federal and State indoor air quality standards and standards  
43 governing the exposure of children to hazardous substances as they  
44 are adopted by the federal government.

45 (cf: P.L.2006, c.47, s.183)

46

47 401. Section 14 of P.L.1983, c.315 (C.34:5A-14) is amended to  
48 read as follows:

1       14. a. Every employer shall have until October 30, 1985 to take  
2 any action necessary to assure that every container at the employer's  
3 facility containing a hazardous substance shall bear a label  
4 indicating the chemical name and Chemical Abstracts Service  
5 number of the hazardous substance or the trade secret registry  
6 number assigned to the hazardous substance. The labels on all  
7 containers except pipelines and underground storage tanks shall be  
8 designed and affixed in such a manner to ensure that if there is a  
9 flood or other natural disaster when the container is transported or  
10 stored, the label shall remain in place and visible. Employers may  
11 label containers in a research and development laboratory by means  
12 of a code or number system, if the code or number system will  
13 enable an employee to readily make a cross-reference to a  
14 hazardous substance fact sheet which will provide the employee  
15 with the chemical name and Chemical Abstracts Service number of  
16 the hazardous substance contained in the container, or the trade  
17 secret registry number assigned to the hazardous substance. The  
18 code or number system shall be designed to allow the employee free  
19 and ready access at all times to the chemical name and Chemical  
20 Abstracts Service number of the hazardous substance in the  
21 container, shall be designed to allow the employee access to this  
22 information without the permission or assistance of management,  
23 and shall be available to the employee at close proximity to the  
24 employee's specific job location or locations. Employers shall be  
25 required to label pipelines only at the valve or valves located at the  
26 point at which a hazardous substance enters a facility's pipeline  
27 system, and at normally operated valves, outlets, vents, drains, and  
28 sample connections designed to allow the release of a hazardous  
29 substance from the pipeline.

30       b. Within two years of the effective date of this act, every  
31 employer shall take any action necessary to assure that every  
32 container at the employer's facility bears a label indicating the  
33 chemical name and Chemical Abstracts Service number of the  
34 substance in the container, except as provided in subsection d. of  
35 this section, or the trade secret registry number assigned to the  
36 substance. Employers may label containers in a research and  
37 development laboratory by means of a code or number system, if  
38 the code or number system will enable an employee to readily make  
39 a cross-reference to documentary material retained on file by the  
40 employer at the facility which will provide the employee with the  
41 chemical name and Chemical Abstracts Service number of the  
42 substance contained in the container, except as provided in  
43 subsection d. of this section, or the trade secret registry number  
44 assigned to the substance. The code or number system shall be  
45 designed to allow the employee free and ready access at all times to  
46 the chemical name and Chemical Abstracts Service number of the  
47 substance in the container, shall be designed to allow the employee  
48 access to this information without the permission or assistance of

1 management, and shall be available to the employee at close  
2 proximity to the employee's specific job location or locations. If a  
3 container contains a mixture, an employer shall be required to  
4 insure that the label identify the chemical names and Chemical  
5 Abstracts Service numbers, except as provided in subsection d. of  
6 this section, or the trade secret registry numbers, of the five most  
7 predominant substances contained in the mixture. The provisions of  
8 this subsection shall not apply to any substance constituting less  
9 than 1% of a mixture unless the substance is present at the facility  
10 in an aggregate amount of 500 pounds or more. Employers shall be  
11 required to label pipelines only at the valve or valves located at the  
12 point at which a substance enters a facility's pipeline system, and at  
13 normally operated valves, outlets, vents, drains, and sample  
14 connections designed to allow the release of a substance from the  
15 pipeline. One year after the effective date of this act the  
16 Department of Health [and Senior Services] shall establish criteria  
17 for containers which, because of the finished and durable  
18 characteristics of their contents, shall be exempt from the provisions  
19 of this subsection. These standards shall be consistent with the  
20 intent of this subsection to provide for the labeling of every  
21 container which may contain a substance which is potentially  
22 hazardous.

23 c. The labeling requirements of subsections a. and b. of this  
24 section shall not apply to containers labeled pursuant to the  
25 "Federal Insecticide, Fungicide, and Rodenticide Act," 61 Stat. 163  
26 (7 U.S.C. s.121 et al.), except that the label for any such container  
27 except pipelines and underground storage tanks shall be designed  
28 and affixed in such a manner to ensure that if there is a flood or  
29 other natural disaster when the container is transported or stored,  
30 the label shall remain in place and visible. The Department of  
31 Health [and Senior Services] may, by rule and regulation, certify  
32 containers labeled pursuant to any other federal act as labeled in  
33 compliance with the provisions of this section.

34 d. One year after the effective date of this act the Department  
35 of Health [and Senior Services] shall adopt, pursuant to the  
36 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
37 seq.), a list of substances the containers of which may be labeled  
38 with the common names and Chemical Abstracts Service numbers  
39 of their contents. The department shall include on the list adopted  
40 pursuant to this subsection only substances which are widely  
41 recognized by their common names. An employer shall provide the  
42 chemical name of a substance in a container labeled pursuant to this  
43 subsection within five working days of the request therefor.

44 (cf: P.L.2007, c.190, s.1)

45  
46 402. Section 21 of P.L.1983, c.315 (C.34:5A-21) is amended to  
47 read as follows:

1       21. The Department of Health [and Senior Services], the  
2 Department of Environmental Protection, and the Department of  
3 Labor and Workforce Development shall jointly establish a  
4 procedure for annually receiving information from the public and  
5 any other interested party, concerning any revision of the workplace  
6 hazardous substance list and any revision of the environmental  
7 hazardous substance list. This procedure shall include a mechanism  
8 for revising the workplace hazardous substance list and the  
9 environmental hazardous substance list. Any revision of the  
10 workplace hazardous substance list or environmental hazardous  
11 substance list shall be based on documented scientific evidence.  
12 The Department of Health [and Senior Services] and the  
13 Department of Environmental Protection shall publicly announce  
14 any revisions of the workplace hazardous substance list or the  
15 environmental hazardous substance list, and any such additions or  
16 revisions shall be made pursuant to the provisions of the  
17 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
18 seq.).  
19 (cf: P.L.2010, c.87, s.19)

20

21       403. Section 26 of P.L.1983, c.315 (C.34:5A-26) is amended to  
22 read as follows:

23       26. a. There is established in the Department of the Treasury a  
24 nonlapsing, revolving fund to be known as the "Worker and  
25 Community Right To Know Fund." The "Worker and Community  
26 Right To Know Fund" shall be credited with all fees collected  
27 pursuant to paragraph (1) of subsection b. of this section and  
28 interest on moneys in the "Worker and Community Right To Know  
29 Fund" shall be credited to the "Worker and Community Right To  
30 Know Fund" and all moneys in the "Worker and Community Right  
31 To Know Fund" are appropriated for the purposes of the "Worker  
32 and Community Right To Know Fund", and no moneys shall be  
33 expended for those purposes without the specific appropriation  
34 thereof by the Legislature. The State Treasurer shall be the  
35 administrator of the "Worker and Community Right To Know  
36 Fund", and all disbursements from the "Worker and Community  
37 Right To Know Fund" shall be made by the State Treasurer upon  
38 the warrant of the Director of the Division of Budget and  
39 Accounting.

40       b. (1) The Department of Labor and Workforce Development  
41 shall annually assess each employer a fee of not less than \$75.00  
42 nor more than an amount equal to \$4.00 per employee to provide  
43 for the implementation of the provisions of this act. All fees  
44 collected by the department pursuant to this paragraph shall be  
45 deposited in the "Worker and Community Right To Know Fund".

46       (2) The Department of Labor and Workforce Development shall  
47 annually assess each employer a fee of \$2.00 per employee for the  
48 implementation of P.L.1991, c.235 (C.13:1D-35 et seq.). All fees

1 collected by the department pursuant to this paragraph shall be  
2 deposited in the "Pollution Prevention Fund" established pursuant  
3 to section 16 of P.L.1991, c.235 (C.13:1D-50), and shall be used  
4 only for the implementation of P.L.1991, c.235 (C.13:1D-35 et  
5 seq.).

6 c. The moneys in the "Worker and Community Right To Know  
7 Fund" shall be disbursed only for the following purposes:

8 (1) Expenses approved by the Director of the Division of  
9 Budget and Accounting and incurred by the Department of Health  
10 [and Senior Services], the Department of Environmental  
11 Protection, the Department of Labor and Workforce Development,  
12 the Department of the Treasury, and the county health departments  
13 in implementing the provisions of this act; and

14 (2) Repayment to the General Fund of any moneys appropriated  
15 by law in order to implement the provisions of this act.

16 d. The State Treasurer shall annually disburse the moneys in  
17 the "Worker and Community Right To Know Fund" for  
18 expenditures approved by the Director of the Division of Budget  
19 and Accounting pursuant to paragraph (1) of subsection c. of this  
20 section, but in no case in an amount to the several departments that  
21 is greater than the following percentages of the "Worker and  
22 Community Right To Know Fund" available in any one year: the  
23 Department of Health [and Senior Services], 40%; the Department  
24 of Environmental Protection, 20%; the county health departments,  
25 15%; the Department of Labor and Workforce Development, 15%;  
26 and the Department of the Treasury, 10%.

27 e. Beginning two years after the effective date of this act, the  
28 State Treasurer shall make an annual audit of the "Worker and  
29 Community Right To Know Fund" to determine the adequacy of  
30 moneys on deposit in the "Worker and Community Right To Know  
31 Fund" to support the implementation of the provisions of this act. If  
32 the State Treasurer, in consultation with the Department of Health  
33 [and Senior Services], the Department of Environmental  
34 Protection, and the Department of Labor and Workforce  
35 Development makes a determination that the revenues in the  
36 "Worker and Community Right To Know Fund" are sufficient to  
37 warrant a reduction in the fees imposed pursuant to paragraph (1) of  
38 subsection b. of this section for the ensuing year, [he] the State  
39 Treasurer may reduce the amount of the fees imposed during that  
40 year by an amount warranted by the balance in the "Worker and  
41 Community Right To Know Fund" at the time of the determination.  
42 (cf: P.L.2003, c.117, s.19)

43  
44 404. Section 10 of P.L.1984, c.173 (C.34:5A-41) is amended to  
45 read as follows:

46 10. Any person who knowingly hinders or delays the  
47 [Commissioner] Commissioners of Labor and Workforce

1    Development or Health **【and Senior Services】** or the authorized  
2    representative thereof, in the performance of the duty to enforce this  
3    act, or knowingly submits false or misleading information on any  
4    license or permit application required by this act, or fails to obtain  
5    licenses or permits required by the provisions of this act, or refuses  
6    to make these licenses or permits accessible to either commissioner,  
7    or the authorized representative thereof, or otherwise violates any  
8    provision of this act or any regulation adopted under this act, shall,  
9    upon conviction, be guilty of a crime of the third degree and,  
10   notwithstanding the provisions of N.J.S.2C:43-3, shall be subject to  
11   a fine of not more than \$25,000 in addition to any other appropriate  
12   disposition authorized by subsection b. of N.J.S.2C:43-2.  
13   (cf: PL.1997, c.325, s.5)

14

15        405. Section 8 of P.L.1983, c.516 (C.34:6A-32) is amended to  
16   read as follows:

17        8. The commissioner shall, in consultation with the  
18   Commissioner of Health **【and Senior Services】** and the  
19   Commissioner of Community Affairs and with the advice of the  
20   advisory board, promulgate all regulations which **【he】** the  
21   commissioner deems necessary for the proper administration and  
22   enforcement of this act. A variance may be granted if the  
23   commissioner determines that the applicant is in compliance with  
24   the requirements for a permanent variance as set forth in subsection  
25   c. of section 15 of this act. The variance shall not be deemed to be  
26   a variation approved pursuant to the "State Uniform Construction  
27   Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) or the "Uniform  
28   Fire Safety Act," P.L.1983, c.383 (C.52:27D-192 et al.) or any other  
29   building or fire safety standard or code.

30        Space leased by a public employer shall be subject to current  
31   health or safety rules and regulations. Any deficiency, including a  
32   deficiency resulting either from occupant use or deferred  
33   maintenance by the lessor, shall be subject to correction in  
34   accordance with the governing rules and regulations at the time that  
35   the deficiency is cited by the commissioner or the Commissioner of  
36   Health **【and Senior Services】**. However, a lease of any duration  
37   may not be entered into unless the leased property is in  
38   conformance with such rules and regulations as are in effect at the  
39   time the lease is executed.

40        No fire company, first aid, or rescue squad, whether paid, part-  
41   paid, or volunteer, shall be required to pay to the Department of  
42   Labor and Workforce Development or the Department of Health  
43   **【and Senior Services】** any registration or inspection fee imposed  
44   by rule or regulation with regard to the filling of air cylinders for  
45   respiratory equipment used by the fire company, first aid, or rescue  
46   squad.

47   (cf: P.L.2000, c.126, s.6)

1       406. Section 1 of P.L.1997, c.92 (C.39:3-27.90) is amended to  
2 read as follows:

3       1. a. The **【Director of the Division of Motor Vehicles】** Chief  
4 Administrator of the New Jersey Motor Vehicle Commission may  
5 issue for a motor vehicle owned or leased and registered in the State  
6 special license plates bearing, in addition to the registration number  
7 and other markings or identification otherwise prescribed by law,  
8 the slogan "Conquer Cancer." These plates may include an  
9 emblem, to be designed by the Commissioner of Health **【and Senior**  
10 **Services】** and approved by the **【Director of the Division of Motor**  
11 **Vehicles】** chief administrator, indicating support for, or an interest  
12 in, finding new methods of treating and preventing cancer.

13       b. Application for issuance of a "Conquer Cancer" license plate  
14 shall be made to the **【director】** chief administrator on **【such】** forms  
15 and in **【such】** a manner as may be prescribed by the **【director】**  
16 chief administrator. The **【director】** chief administrator shall collect  
17 for each set of plates issued an application fee of \$50, and an annual  
18 renewal fee of \$10, in addition to the fees otherwise prescribed by  
19 law for the registration of motor vehicles.

20       c. Monies collected from all fees for "Conquer Cancer" license  
21 plates shall be deposited in the Cancer Research Fund, established  
22 in the Department of Health **【and Senior Services】** pursuant to  
23 section 5 of P.L.1982, c.40 (C.54:40A-37.1). Any monetary  
24 donation made available to the State to support the provisions of  
25 **【this bill】** P.L.1997, c.92 (C.39:3-27.90 et seq.) shall be deposited  
26 in the Cancer Research Fund for use as set forth in this section.  
27 Interest or other income earned on monies deposited under this act  
28 into the Cancer Research Fund shall be credited to the fund for use  
29 as set forth in this section.

30       Funds shall be utilized by the New Jersey State Commission on  
31 Cancer Research: (1) first to reimburse the **【Division of Motor**  
32 **Vehicles】** commission for all costs, including those costs associated  
33 with computer programming changes, incurred in producing,  
34 issuing, renewing, and publicizing the availability of "Conquer  
35 Cancer" license plates; (2) to reimburse the Department of Health  
36 **【and Senior Services】** for the design and printing of notices, posters  
37 and signs to be utilized by the **【Division of Motor Vehicles】**  
38 commission; and (3) for approved research projects as defined in  
39 section 3 of P.L.1983, c.6 (C.52:9U-3).

40       d. The **【director】** chief administrator shall annually certify to  
41 the Commissioner of Health **【and Senior Services】** the average cost  
42 per license plate incurred in the immediately preceding year by the  
43 **【Division of Motor Vehicles】** commission in producing, issuing,  
44 renewing, and publicizing the availability of "Conquer Cancer"  
45 license plates. The commissioner shall annually report the

1 Department of **Health and Senior Services's** Health's costs and the  
2 division's costs to the Office of Management and Budget.

3 e. The **director** chief administrator shall notify eligible  
4 motorists of the opportunity to obtain "Conquer Cancer" license  
5 plates by including a notice with all motor vehicle registration  
6 renewals, and by posting appropriate posters or signs in all  
7 **division** commission facilities and offices, as may be provided by  
8 the Department of Health **and Senior Services**. The notices,  
9 posters, and signs shall be designed by the Commissioner of Health  
10 **and Senior Services** after consulting with the New Jersey State  
11 Commission on Cancer Research. The designs shall be subject to  
12 the approval of the **director** chief administrator. The Department  
13 of Health **and Senior Services** shall supply the **division**  
14 commission with the notices, posters, and signs to be circulated or  
15 posted by the **division** commission.

16 f. The Commissioner of Health **and Senior Services**, the New  
17 Jersey State Commission on Cancer Research, and the **director**  
18 chief administrator shall develop and enter into an interagency  
19 memorandum of agreement setting forth the procedures to be  
20 followed by the Department of Health **and Senior Services**, the  
21 commission and the **division** Motor Vehicle Commission in  
22 carrying out their respective responsibilities under this act.

23 g. In the event that the average cost per license plate, as certified  
24 by the **director** chief administrator and approved by the Joint  
25 Budget Oversight Committee, or its successor, is greater than the  
26 \$50 application fee established in subsection b. of this section in  
27 two consecutive fiscal years, the **director** chief administrator may  
28 discontinue the issuance of the "Conquer Cancer" license plate.

29 (cf: P.L.1997, c.92, s.1)

30  
31 407. Section 6 of P.L.1970, c. 248 (C.40:23-6.43) is amended to  
32 read as follows:

33 6. There shall be appropriated and paid annually to each county  
34 office on aging, subject to the approval of the Commissioner of **the**  
35 Department of Community Affairs **Human Services**, an amount  
36 equal to one-half of the amount of annual expense of the county  
37 office on aging; provided, however, that no county shall receive  
38 more than **[\$20,000.00]** \$20,000 in State aid hereunder in any  
39 calendar year. Payments shall be made by the State Treasurer, upon  
40 certificate of the Commissioner of **the** Department of Community  
41 Affairs **Human Services** and warrant of the Director of the  
42 Division of Budget and Accounting, on or before December 31 of  
43 each calendar year. This payment shall constitute reimbursement to  
44 the county for the State aid portion of the annual expense of each



1 county office on aging during the year in which the payment is  
2 made.

3 (cf: P.L.1970, c.248, s.6)

4  
5 408. Section 12 of P.L.1989, c.300 (C.45:9-19.12) is amended to  
6 read as follows:

7 12. The State Board of Medical Examiners shall, by regulation,  
8 provide for the issuance of permits to, or registration of, persons  
9 engaging in the practice of medicine or surgery or podiatric  
10 medicine while in training, and establish the scope of permissible  
11 practice by these persons within the context of an accredited  
12 graduate medical education program conducted at a hospital  
13 licensed by the Department of Health [and Senior Services]. A  
14 permit holder shall be permitted to engage in practice outside the  
15 context of a graduate medical education program for additional  
16 remuneration only if that practice is:

17 a. Approved by the director of the graduate medical education  
18 program in which the permit holder is participating; and

19 b. With respect to any practice at or through a health care  
20 facility licensed by the Department of Health [and Senior  
21 Services], supervised by a plenary licensee who shall either remain  
22 on the premises of the health care facility or be available through  
23 electronic communications; or

24 c. With respect to any practice outside of a health care facility  
25 licensed by the Department of Health [and Senior Services],  
26 supervised by a plenary licensee who shall remain on the premises.

27 (cf: P.L.2005, c.259, s.15)

28  
29 409. Section 2 of P.L.1989, c.19 (C.45:9-22.5) is amended to  
30 read as follows:

31 2. a. A practitioner shall not refer a patient or direct an employee  
32 of the practitioner to refer a patient to a health care service in which  
33 the practitioner, or the practitioner's immediate family, or the  
34 practitioner in combination with the practitioner's immediate family  
35 has a significant beneficial interest; except that, in the case of a  
36 practitioner, a practitioner's immediate family, or a practitioner in  
37 combination with the practitioner's immediate family who had the  
38 significant beneficial interest prior to the effective date of P.L.1991,  
39 c.187 (C.26:2H-18.24 et al.), and in the case of a significant  
40 beneficial interest in a health care service that provides lithotripsy  
41 or radiation therapy pursuant to an oncological protocol that was  
42 held prior to the effective date of this section of P.L.2009, c.24, the  
43 practitioner may continue to refer a patient or direct an employee to  
44 do so if that practitioner discloses the significant beneficial interest  
45 to the patient.

46 b. If a practitioner is permitted to refer a patient to a health care  
47 service pursuant to this section, the practitioner shall provide the  
48 patient with a written disclosure form, prepared pursuant to section

1 3 of P.L.1989, c.19 (C.45:9-22.6), and post a copy of this disclosure  
2 form in a conspicuous public place in the practitioner's office.

3 c. The restrictions on referral of patients established in this  
4 section shall not apply to:

5 (1) medical treatment or a procedure that is provided at the  
6 practitioner's medical office and for which a bill is issued directly in  
7 the name of the practitioner or the practitioner's medical office;

8 (2) renal dialysis; and

9 (3) ambulatory surgery or procedures requiring anesthesia  
10 performed at a surgical practice registered with the Department of  
11 Health [and Senior Services] pursuant to subsection g. of section  
12 12 of P.L.1971, c.136 (C.26:2H-12) or at an ambulatory care  
13 facility licensed by the Department of Health [and Senior Services]  
14 to perform surgical and related services, if the following conditions  
15 are met:

16 (a) the practitioner who provided the referral personally  
17 performs the procedure;

18 (b) the practitioner's remuneration as an owner of or investor in  
19 the practice or facility is directly proportional to [his] the  
20 practioner's ownership interest and not to the volume of patients the  
21 practitioner refers to the practice or facility;

22 (c) all clinically-related decisions at a facility owned in part by  
23 non-practitioners are made by practitioners and are in the best  
24 interests of the patient; and

25 (d) disclosure of the referring practitioner's significant  
26 beneficial interest in the practice or facility is made to the patient in  
27 writing, at or prior to the time that the referral is made, consistent  
28 with the provisions of section 3 of P.L.1989, c.19 (C.45:9-22.6).

29 (cf; P.L.2009, c.24, s.2)

30  
31 410. Section 4 of P.L.2009, c.24 (C.45:9-22.5a) is amended to  
32 read as follows:

33 4. a. A referral for ambulatory surgery or a procedure requiring  
34 anesthesia made prior to the effective date of this section of  
35 P.L.2009, c.24 by a practitioner to a surgical practice or ambulatory  
36 care facility licensed by the Department of Health [and Senior  
37 Services] to perform surgical and related services shall be deemed  
38 to comply with the provisions of section 2 of P.L.1989, c.19  
39 (C.45:9-22.5) if the practitioner personally performed the procedure  
40 that is the subject of the referral.

41 b. As used in this section, "surgical practice" means a structure  
42 or suite of rooms that has the following characteristics:

43 (1) has no more than one room dedicated for use as an operating  
44 room which is specifically equipped to perform surgery, and is  
45 designed and constructed to accommodate invasive diagnostic and  
46 surgical procedures;

1 (2) has one or more post-anesthesia care units or a dedicated  
2 recovery area where the patient may be closely monitored and  
3 observed until discharged; and

4 (3) is established by a physician, physician professional  
5 association surgical practice, or other professional practice form  
6 specified by the State Board of Medical Examiners pursuant to  
7 N.J.A.C.13:35-6.16(f) solely for the physician's, association's or  
8 other professional entity's private medical practice.

9 "Surgical practice" includes an unlicensed entity that is certified  
10 by the Centers for Medicare and Medicaid Services as an  
11 ambulatory surgery center provider.

12 (cf: P.L.2009, c.24, s.4)

13  
14 411. Section 4 of P.L. 2003, c.281 (C.48:2-29.16a) is amended  
15 to read as follows:

16 4. a. Notwithstanding the provisions of any other law to the  
17 contrary, a recipient of benefits under the "Lifeline Credit  
18 Program," established pursuant to P.L.1979, c.197 (C.48:2-29.15 et  
19 seq.), shall notify the Department of **Health and Senior** Human  
20 Services if the recipient unintentionally errs in estimating annual  
21 income to determine eligibility for the program due to an  
22 unanticipated payment which would render the recipient ineligible  
23 for the program. Notification to the department shall be made in  
24 the time and manner prescribed by the department office.

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.4)

43  
44 412. Section 5 of P.L.2003, c.281 (C.48:2-29.32a) is amended to  
45 read as follows:

46 5. a. Notwithstanding the provisions of any other law to the  
47 contrary, a recipient of benefits under the "Tenants' Lifeline  
48 Assistance Program," established pursuant to P.L.1981, c.210

1 (C.48:2-29.30 et seq.), shall notify the Department of [Health and  
2 Senior] Human Services if the recipient unintentionally errs in  
3 estimating annual income to determine eligibility for the program  
4 due to an unanticipated payment which would render the recipient  
5 ineligible for the program. Notification to the department shall be  
6 made in the time and manner prescribed by the department.

7 b. If the department determines that the payment was  
8 unanticipated, the recipient shall reimburse the program for only  
9 those benefits that were paid by the program after the recipient  
10 received the unanticipated payment.

11 c. If the department determines that the payment was not  
12 unanticipated, the recipient shall reimburse the program for all  
13 benefits that were paid by the program in the calendar year in which  
14 the payment was received.

15 d. Within 30 days of receipt of a determination by the  
16 department that the payment was not unanticipated, a recipient may  
17 request a hearing, which shall be conducted pursuant to the  
18 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
19 seq.).

20 e. Nothing in this section shall preclude a recipient from  
21 reapplying for benefits in the calendar year following the year in  
22 which the recipient notified the department to subsection a. of this  
23 section.

24 (cf: P.L.2003, c.281, s.5)

25

26 413. Section 1 of P.L.1987, c.133 (C.52:27D-29.17) is amended  
27 to read as follows:

28 1. a. "Commissioner" means the Commissioner of [the  
29 Department of Community Affairs] Human Services.

30 b. "Department" means the Department of [Community  
31 Affairs] Human Services.

32 c. "Eligible participant" means a resident of this State who is 60  
33 years of age or older and homebound by reason of illness,  
34 incapacitating disability, or is otherwise isolated.

35 d. "Home delivered nutrition services" means home delivered  
36 meals as defined by the "Older Americans Act of 1965," Pub.L. 89-  
37 73 (42 U.S.C. s. 3001 et seq.).

38 e. "Program" means the Home Delivered Meals Expansion  
39 Program in the Division [on] of Aging Services, in the Department  
40 of [Community Affairs] Human Services.

41 (cf: P.L.1987, c.133, s.1)

42

43 414. Section 2 of P.L.1987, c.133 (C.52:27D-29.18) is amended  
44 to read as follows:

45 2. The commissioner shall establish a Home Delivered Meals  
46 Expansion Program in the Division of Aging Services, in the  
47 Department of [Community Affairs] Human Services, to provide

1 home delivered nutrition services to eligible participants on  
2 weekends and holidays.

3 (cf: P.L.1987, c.133, s.2)

4  
5 415. Section 6 of P.L.1987, c.133 (C.52:27D-29.22) is amended  
6 to read as follows:

7 6. a. There is appropriated ~~[\$1,000,000.00]~~ \$1,000,000 from  
8 the Casino Revenue Fund to the Department of ~~Community~~  
9 ~~Affairs]~~ Human Services to effectuate the purposes of this act.

10 b. The department shall allocate not less than 95% of the funds  
11 appropriated for the purposes of this act to the county offices on  
12 aging, and these funds shall be disbursed to the county offices on  
13 aging according to the formula used to disburse funds for the home  
14 delivered nutrition services provided under Title III of the "Older  
15 Americans Act of 1965," Pub.L. 89-73 (42 U.S.C. s. 3001 et seq.).

16 c. The county shall match the State funds allocated to a county  
17 office on aging for this program with an amount equal to 20% of the  
18 State funds. The county share may be cash or in kind.

19 (cf: P.L.1987, c.133, s.6)

20  
21 416. Section 2 of P.L.1993, c.4 (C.52:27D-29.33) is amended to  
22 read as follows:

23 2. As used in this act:

24 "County office on aging" means a county office on aging which  
25 is also designated as an area agency on aging for funding under the  
26 "Older Americans Act of 1965," Pub.L.89-73 (42 U.S.C. s.3001 et  
27 seq.).

28 "Director" means the Director of the Division ~~[on]~~ of Aging  
29 Services in the Department of ~~Community Affairs]~~ Human  
30 Services.

31 "Senior citizen" means a person 60 years of age or older.

32 (cf: P.L.1993, c.4, s.2)

33  
34 417. Section 3 of P.L.1993, c.4 (C.52:27D-29.34) is amended to  
35 read as follows:

36 3. a. There is established in the Division ~~[on]~~ of Aging  
37 Services in the Department of ~~Community Affairs]~~ Human  
38 Services a Senior Health Insurance Counseling Program to provide  
39 health insurance information and assistance by trained volunteer  
40 counselors to senior citizens.

41 b. The Director of the Division ~~[on]~~ of Aging Services shall  
42 establish the program in all counties in the State through the county  
43 offices on aging or other appropriate agencies designated by the  
44 director.

45 (cf: P.L.1993, c.4, s.3)

1       418. Section 6 of P.L.1993, c.4 (C.52:27D-29.36) is amended to  
2 read

3       6. The Director of the Division ~~of~~ on Aging Services in the  
4 Department of ~~Community Affairs~~ Human Services shall  
5 establish a legal representation program to assist Medicare  
6 beneficiaries under Title XVIII of the Social Security Act who are  
7 65 years of age or older, or disabled, in appeals of unfairly denied  
8 Medicare coverage. The services provided under this program shall  
9 include, but not be limited to, the following: outreach to Medicare  
10 beneficiaries, the development and dissemination of educational  
11 materials pertaining to the Medicare program and the claims appeal  
12 process, the development and dissemination of materials for  
13 Medicare beneficiaries to submit their own appeals, and the offer of  
14 direct legal representation to appeal unfairly denied coverage under  
15 Part A and Part B of the Medicare program. Such legal  
16 representation may include, but not be limited to, appeals within the  
17 administrative appeals structure and appeals to the United States  
18 District Court.

19 (cf: P.L.1993, c.4, s.6)

20

21       419. Section 40 of P.L.1966, c.293 (C.52:27D-40) is amended to  
22 read as follows:

23       40. Whenever the term "Division of Local Government" occurs  
24 or any reference is made thereto in any law, contract or document,  
25 the same shall be deemed to mean or refer to the Division of Local  
26 Finance in the Department of Community Affairs established  
27 hereunder.

28       Whenever the term "Director of the Division of Local  
29 Government" occurs or any reference is made thereto in any law,  
30 contract or document, the same shall be deemed to mean or refer to  
31 the Director of the Division of Local Finance in the Department of  
32 Community Affairs established hereunder.

33       Whenever the term "Local Government Board" occurs or any  
34 reference is made thereto in any law, contract or document, the  
35 same shall be deemed to mean or refer to the Local Finance Board  
36 of the Division of Local Finance in the Department of Community  
37 Affairs established hereunder.

38       Whenever the term "public housing and development authority"  
39 occurs or any reference is made thereto in any law, contract or  
40 document, the same shall be deemed to mean or refer to the public  
41 housing and development authority in the Department of  
42 Community Affairs established hereunder.

43       Whenever the term "State Housing Council" occurs or any  
44 reference is made thereto in any law, contract or document, the  
45 same shall be deemed to mean or refer to the State Housing Council  
46 in the Department of Community Affairs established hereunder.

47       Whenever the term "Bureau of Tenement House Supervision"  
48 occurs or any reference is made thereto in any law, contract or

1 document, the same shall be deemed to mean or refer to the Bureau  
2 of Housing Inspection of the Division of Housing and Urban  
3 Renewal in the Department of Community Affairs established  
4 hereunder.

5 Whenever the term "Board of Tenement House Supervision"  
6 occurs or any reference is made thereto in any law, contract or  
7 document, the same shall be deemed to mean or refer to the Board  
8 of Housing Inspection in the Division of Housing and Urban  
9 Renewal of the Department of Community Affairs established  
10 hereunder.

11 Whenever the term "office of supervisor of hotel fire safety"  
12 occurs or any reference is made thereto in any law, contract or  
13 document, the same shall be deemed to mean or refer to the office  
14 of supervisor of hotel fire safety in the Bureau of Housing  
15 Inspection of the Division of Housing and Urban Renewal in the  
16 Department of Community Affairs established hereunder.

17 Whenever the term "Division of State and Regional Planning"  
18 occurs or any reference is made thereto in any law, contract or  
19 document, the same shall be deemed to mean or refer to the  
20 Division of State and Regional Planning in the Department of  
21 Community Affairs established hereunder.

22 Whenever the term "Director of the Division of State and  
23 Regional Planning" occurs or any reference is made thereto in any  
24 law, contract or document, the same shall be deemed to mean or  
25 refer to the Director of the Division of State and Regional Planning  
26 in the Department of Community Affairs established hereunder.

27 Whenever the term "Division on Aging" occurs or any reference  
28 is made thereto in any law, contract, or document, the same shall be  
29 deemed to mean or refer to the Division **【on Aging in the**  
30 **Department of Community Affairs established hereunder】** of Aging  
31 Services in the Department of Human Services.

32 Whenever the term "Director of the Division on Aging" occurs  
33 or any reference is made thereto in any law, contract, or document,  
34 the same shall be deemed to mean or refer to the Director of the  
35 Division **【on Aging in the Department of Community Affairs**  
36 **established hereunder】** of Aging Services in the Department of  
37 Human Services.

38 Whenever the term "New Jersey State Commission on Aging"  
39 occurs or any reference is made thereto in any law, contract, or  
40 document, the same shall be deemed to mean or refer to the New  
41 Jersey State Commission on Aging in the Division **【on Aging in the**  
42 **Department of Community Affairs established hereunder】** of Aging  
43 Services in the Department of Human Services.

44 Whenever the terms "Youth Division" or "Division of Youth"  
45 occur or any reference is made thereto in any law, contract or  
46 document, the same shall be deemed to mean or refer to the

1 Division of Youth in the Department of Community Affairs  
2 established hereunder.

3 Whenever the terms "Director of the Youth Division" or  
4 "Director of the Division of Youth" occur or any reference is made  
5 thereto in any law, contract or document, the same shall be deemed  
6 to mean or refer to the Director of the Division of Youth in the  
7 Department of Community Affairs established hereunder.

8 Whenever the term "New Jersey State Youth Commission"  
9 occurs or any reference is made thereto in any law, contract or  
10 document, the same shall be deemed to mean or refer to the New  
11 Jersey State Youth Commission of the Division of Youth in the  
12 Department of Community Affairs established hereunder.

13 Whenever the term "New Jersey Office of Economic  
14 Opportunity" occurs or any reference is made thereto in any law,  
15 contract or document, the same shall be deemed to mean or refer to  
16 the New Jersey Office of Economic Opportunity in the Department  
17 of Community Affairs established hereunder.

18 (cf: P.L.1967, c.42, s.8)

19

20 420. Section 2 of P.L.2007, c.1 (C.52:27D-130.5) is amended to  
21 read as follows:

22 2. a. (1) No construction permit shall be issued pursuant to  
23 section 12 of P.L.1975, c.217 (C.52:27D-130) for the  
24 reconstruction, alteration, conversion, or repair of any building or  
25 structure to be used for a child care center licensed pursuant to the  
26 provisions of P.L.1983, c.492 (C.30:5B-1 et seq.), or for  
27 educational purposes, if that building or structure was previously  
28 used for industrial, storage, or high hazard purposes, as a nail salon,  
29 dry cleaning facility, or gasoline station, or is on a contaminated  
30 site, on a site on which there is suspected contamination, or on an  
31 industrial site that is subject to the provisions of the "Industrial Site  
32 Recovery Act," P.L.1983, c.330 (C.13:1K-6 et al.), except upon the  
33 submission of the certification issued by the Department of Health  
34 [and Senior Services] pursuant to section 1 of P.L.2007, c.1  
35 (C.52:27D-130.4) to the construction official by the applicant, that  
36 the building or structure has been evaluated and assessed for  
37 contaminants, and that the building or structure is safe for use as a  
38 child care center licensed pursuant to the provisions of P.L.1983,  
39 c.492, or for educational purposes.

40 (2) Notwithstanding the provisions of paragraph (1) of this  
41 subsection to the contrary, a construction permit may be issued for  
42 the construction or alteration of any building or structure to be used  
43 as a child care center licensed pursuant to the provisions of  
44 P.L.1983, c.492, or for educational purposes, if the construction  
45 permit is necessary to perform work in the building or structure in  
46 order to comply with the rules and regulations adopted pursuant to  
47 subsection a. of section 1 of P.L.2007, c.1 (C.52:27D-130.4) and  
48 obtain the certification issued by the Department of Health [and



1 Senior Services] pursuant to subsection c. of section 1 of P.L.2007,  
2 c.1 (C.52:27D-130.4).

3 A construction permit issued pursuant to this paragraph shall be  
4 limited to the construction or alterations necessary to comply with  
5 the rules and regulations adopted pursuant to subsection a. of  
6 section 1 of P.L.2007, c.1 (C.52:27D-130.4).

7 (3) The appropriate enforcing agency shall not grant a certificate  
8 of occupancy for any building or structure to be used as a child care  
9 center licensed pursuant to the provisions of P.L.1983, c.492, or for  
10 educational purposes, that received a construction permit pursuant  
11 to paragraph (2) of this subsection, except upon the submission of  
12 the certification issued by the Department of Health [and Senior  
13 Services] pursuant to subsection c. of section 1 of P.L.2007, c.1  
14 (C.52:27D-130.4) to the construction official by the applicant, that  
15 the building or structure has been evaluated and assessed for  
16 contaminants, and that the building or structure is safe for use as a  
17 child care center licensed pursuant to the provisions of P.L.1983,  
18 c.492, or for educational purposes.

19 b. (1) No construction permit shall be issued for the  
20 construction or alteration of any building or structure to be used as  
21 a child care center licensed pursuant to the provisions of P.L.1983,  
22 c.492, or for educational purposes, on a site that was previously  
23 used for industrial, storage, or high hazard purposes, as a nail salon,  
24 dry cleaning facility, or gasoline station, or on a contaminated site,  
25 on a site on which there is suspected contamination, or on an  
26 industrial site that is subject to the provisions of the "Industrial Site  
27 Recovery Act," P.L.1983, c.330 (C.13:1K-6 et al.), except after  
28 submission by the applicant to the construction official of  
29 documentation sufficient to establish that the Department of  
30 Environmental Protection has approved a remedial action workplan  
31 for the entire site or that the site has been remediated consistent  
32 with the remediation standards and other remediation requirements  
33 established pursuant to section 35 of P.L.1993, c.139 (C.58:10B-12)  
34 and a no further action letter has been issued by the Department of  
35 Environmental Protection for the entire site.

36 (2) Notwithstanding the provisions of paragraph (1) of this  
37 subsection to the contrary, a construction permit may be issued for  
38 the construction or alteration of any building or structure to be used  
39 as a child care center licensed pursuant to the provisions of  
40 P.L.1983, c.492, or for educational purposes, on a site that was  
41 previously used for industrial, storage, or high hazard purposes, as a  
42 nail salon, dry cleaning facility, or gasoline station, or on a  
43 contaminated site, on a site on which there is suspected  
44 contamination, or on an industrial site that is subject to the  
45 provisions of the "Industrial Site Recovery Act," P.L.1983, c.330  
46 (C.13:1K-6 et al.), if the construction permit is necessary to  
47 remediate the site consistent with the remediation standards and  
48 other remediation requirements established pursuant to section 35

1 of P.L.1993, c.139 (C.58:10B-12) in order to obtain a no further  
2 action letter from the Department of Environmental Protection.

3 A construction permit issued pursuant to this paragraph shall be  
4 limited to the construction or alterations necessary to develop a  
5 remedial action workplan to be submitted to the Department of  
6 Environmental Protection for approval or to remediate the site  
7 consistent with the remediation standards and other remediation  
8 requirements established pursuant to section 35 of P.L.1993, c.139  
9 (C.58:10B-12) and receive a no further action letter from the  
10 Department of Environmental Protection.

11 (3) The appropriate enforcing agency shall not grant a certificate  
12 of occupancy for any building or structure to be used as a child care  
13 center licensed pursuant to the provisions of P.L.1983, c.492, or for  
14 educational purposes, that received a construction permit pursuant  
15 to paragraph (2) of this subsection, except after submission by the  
16 applicant to the construction official of documentation sufficient to  
17 establish that the site has been remediated consistent with the  
18 remediation standards and other remediation requirements  
19 established pursuant to section 35 of P.L.1993, c.139 (C.58:10B-12)  
20 and a no further action letter has been issued by the Department of  
21 Environmental Protection for the entire site.

22 c. As used in this section: "contaminated site" means any real  
23 property on which there is contamination; "contamination,"  
24 "remediation" or "remediate," and "no further action letter" shall  
25 have the same meanings as provided in section 23 of P.L.1993,  
26 c.139 (C.58:10B-1); and "educational purposes" means for the  
27 purposes of a private school or public school as defined in  
28 N.J.S.18A:1-1, or a charter school as defined pursuant to P.L.1995,  
29 c.426 (C.18A:36A-1 et seq.).

30 (cf: P.L.2007, c.1, s.2)

31

32 421. Section 1 of P.L. 2011, c.125 (C.52:27D-191.1) is amended  
33 to read as follows:

34 l. a. The Department of **Health and Senior** Human Services  
35 shall ensure that a person receiving services under the Congregate  
36 Housing Services Program including, but not limited to, meal  
37 preparation, housekeeping, shopping, laundry, linens change,  
38 companionship, and personal care, receives those services in a  
39 manner that promotes the dignity of and shows respect for the  
40 person.

41 b. A Congregate Housing Services Program shall make  
42 information related to its services available to the manager of a  
43 subsidized housing facility that has contracted with the State to  
44 provide a Congregate Housing Services Program. The manager  
45 shall be responsible for the distribution and dissemination of the  
46 information to its residents and shall include in that information a  
47 statement that the services provided by the program shall be  
48 provided to:

- 1 (1) help meet the needs of a resident;
- 2 (2) foster the independence and individuality of a resident;
- 3 (3) treat a resident with respect, courtesy, consideration, and
- 4 dignity; and
- 5 (4) assure a resident the right to make choices with respect to
- 6 services and lifestyle.

7 c. A Congregate Housing Services Program shall:

8 (1) advise a resident receiving congregate housing services, in

9 writing, of the availability of information from the Division of

10 Aging [and Community] Services in the Department of [Health

11 and Senior] Human Services about issues that may be of concern to

12 a resident; and

13 (2) make available, upon request, the qualifications of a

14 counselor or other professional who is providing services to

15 residents under the Congregate Housing Services Program.

16 (cf: P.L.2011, c.125, s.1)

17

18 422. Section 28 of P.L.1986, c.103, s.28 (C.52:27D-357) is

19 amended to read as follows:

20 28. a. There is created a Continuing Care Advisory Council

21 which consists of 13 members as follows: the Commissioners of

22 [the Departments of Community Affairs,] Human Services, Health

23 [and Senior Services], and Banking and Insurance, or their

24 designees, who shall serve ex officio and shall be non-voting

25 members; 10 public members appointed by the Governor, with the

26 advice and consent of the Senate, who are residents of the State and

27 two of whom are administrators of continuing care facilities in this

28 State, one of whom is a representative of the business community

29 and knowledgeable in the area of management, one of whom is a

30 certified public accountant, one of whom is an attorney licensed to

31 practice in this State, three of whom are residents of continuing care

32 retirement communities in this State who are recommended by the

33 Organization of Residents Associations of New Jersey, one of

34 whom is a trustee or director of a continuing care retirement

35 community in this State and one of whom is a representative of the

36 New Jersey Association of Non-Profit Homes for the Aging.

37 b. The term of office for each public member is three years, or

38 until the member's successor has been appointed; except that of the

39 public members first appointed, two shall be appointed for a term of

40 one year, two for a term of two years and three for a term of three

41 years.

42 A vacancy in the membership of the council shall be filled in the

43 same manner as the original appointment, but for the unexpired

44 term. A member of the council is eligible for reappointment.

45 The members of the council shall serve without compensation,

46 but the council shall reimburse the members for the reasonable

47 expenses incurred in the performance of their duties.

1 c. The council shall hold an organizational meeting within 30  
2 days after the appointment of its members. The members of the  
3 council shall elect from among them a **【chairman】** chairperson,  
4 who shall be the chief executive officer of the council, and the  
5 members shall elect a secretary, who need not be a member of the  
6 council.

7 d. The council shall meet at least four times a year but may  
8 meet more frequently at the discretion of the **【chairman】**  
9 chairperson or the commissioner.

10 e. The council may call to its assistance and avail itself of the  
11 services and assistance of any officials and employees of the  
12 Department of Community Affairs or other State agency and  
13 political subdivisions and their departments, boards, bureaus,  
14 commissions, and agencies as it requires and as is available to it for  
15 this purpose and may expend any funds that are appropriated or  
16 otherwise made available to it pursuant to this act.

17 f. The council shall:

18 (1) Advise and provide information to the commissioner on  
19 matters pertaining to the operation and regulation of continuing care  
20 retirement facilities, upon request of the commissioner;

21 (2) Review and comment upon, as appropriate, any proposed  
22 rules and regulations and legislation pertaining to continuing care  
23 retirement facilities;

24 (3) Make recommendations to the commissioner about any  
25 needed changes in rules and regulations and State and federal laws  
26 pertaining to continuing care retirement facilities; and

27 (4) Assist in the rehabilitation of a continuing care retirement  
28 facility, upon request of the commissioner.

29 g. The commissioner shall report annually to the Governor and  
30 the Legislature, the commissioner's and the council's findings and  
31 recommendations concerning continuing care retirement  
32 communities and the implementation of this act.

33 (cf: P.L.2007, c.192, s.2)

34

35 423. Section 2 of P.L.1993, c.249 (C.52:27D-407) is amended to  
36 read as follows:

37 2. As used in this act:

38 "Abuse" means the willful infliction of physical pain, injury or  
39 mental anguish, unreasonable confinement, or the willful  
40 deprivation of services which are necessary to maintain a person's  
41 physical and mental health.

42 "Caretaker" means a person who has assumed the responsibility  
43 for the care of a vulnerable adult as a result of family relationship or  
44 who has assumed responsibility for the care of a vulnerable adult  
45 voluntarily, by contract, or by order of a court of competent  
46 jurisdiction, whether or not they reside together.

47 "Commissioner" means the Commissioner of **【Health and**  
48 **Senior】** Human Services.

1 "Community setting" means a private residence or any  
2 noninstitutional setting in which a person may reside alone or with  
3 others, but shall not include residential health care facilities,  
4 rooming houses or boarding homes or any other facility or living  
5 arrangement subject to licensure by, operated by, or under contract  
6 with, a State department or agency.

7 "County adult protective services provider" means a county  
8 Board of Social Services or other public or nonprofit agency with  
9 experience as a New Jersey provider of protective services for  
10 adults, designated by the county and approved by the commissioner.  
11 The county adult protective services provider receives reports made  
12 pursuant to this act, maintains pertinent records and provides,  
13 arranges, or recommends protective services.

14 "County director" means the director of a county adult protective  
15 services provider.

16 "Department" means the Department of **[Health and Senior]**  
17 Human Services.

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 and  
21 Senior Services to provide that level of care.

22 "Exploitation" means the act or process of illegally or improperly  
23 using a person or his resources for another person's profit or  
24 advantage.

25 "Firefighter" means a paid or volunteer firefighter.

26 "Health care professional" means a health care professional who  
27 is licensed or otherwise authorized, pursuant to Title 45 or Title 52  
28 of the Revised Statutes, to practice a health care profession that is  
29 regulated by one of the following boards or by the Director of the  
30 Division of Consumer Affairs: the State Board of Medical  
31 Examiners, the New Jersey Board of Nursing, the New Jersey State  
32 Board of Dentistry, the New Jersey State Board of Optometrists, the  
33 New Jersey State Board of Pharmacy, the State Board of  
34 Chiropractic Examiners, the Acupuncture Examining Board, the  
35 State Board of Physical Therapy, the State Board of Respiratory  
36 Care, the Orthotics and Prosthetics Board of Examiners, the State  
37 Board of Psychological Examiners, the State Board of Social Work  
38 Examiners, the State Board of Examiners of Ophthalmic Dispensers  
39 and Ophthalmic Technicians, the Audiology and Speech-Language  
40 Pathology Advisory Committee, the State Board of Marriage and  
41 Family Therapy Examiners, the Occupational Therapy Advisory  
42 Council, the Certified Psychoanalysts Advisory Committee, and the  
43 State Board of Polysomnography. "Health care professional" also  
44 means a nurse aide or personal care assistant who is certified by the  
45 Department of Health and Senior Services.

46 "Neglect" means an act or failure to act by a vulnerable adult or  
47 his caretaker which results in the inadequate provision of care or  
48 services necessary to maintain the physical and mental health of the

1 vulnerable adult, and which places the vulnerable adult in a  
2 situation which can result in serious injury or which is life-  
3 threatening.

4 "Protective services" means voluntary or court-ordered social,  
5 legal, financial, medical or psychiatric services necessary to  
6 safeguard a vulnerable adult's rights and resources, and to protect a  
7 vulnerable adult from abuse, neglect or exploitation. Protective  
8 services include, but are not limited to: evaluating the need for  
9 services, providing or arranging for appropriate services, obtaining  
10 financial benefits to which a person is entitled, and arranging for  
11 guardianship and other legal actions.

12 "Vulnerable adult" means a person 18 years of age or older who  
13 resides in a community setting and who, because of a physical or  
14 mental illness, disability or deficiency, lacks sufficient  
15 understanding or capacity to make, communicate, or carry out  
16 decisions concerning his well-being and is the subject of abuse,  
17 neglect or exploitation. A person shall not be deemed to be the  
18 subject of abuse, neglect or exploitation or in need of protective  
19 services for the sole reason that the person is being furnished  
20 nonmedical remedial treatment by spiritual means through prayer  
21 alone or in accordance with a recognized religious method of  
22 healing in lieu of medical treatment, and in accordance with the  
23 tenets and practices of the person's established religious tradition.

24 (cf: P.L.2009, c.276, s.1)

25

26 424. Section 21 of P.L.1993, c.249 (C.52:27D-426) is amended  
27 to read as follows:

28 21. a. All funding, programs, and positions created to provide  
29 adult protective services [by the Division of Youth and Family  
30 Services in the Department of Human Services] are continued and  
31 shall be transferred to the [Department of Community Affairs,  
32 however, for federal funding and reporting purposes, the]  
33 Department of Human Services [shall remain the designated agency  
34 for such programs]. The Department of Community Affairs shall  
35 provide the Department of Human Services with such information  
36 as the Department of Human Services requires to fulfill its federal  
37 funding and reporting requirements.

38 b. The transfers directed by this act shall be made in accordance  
39 with the "State Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1  
40 et seq.).

41 (cf: P.L.1993, c.249, s.21)

42

43 425. Section 15 of P.L.1993, c.288 (C.52:27D-428) is amended  
44 to read as follows:

45 15. a. A business firm shall neither directly nor indirectly  
46 perform lead evaluation or abatement work without first obtaining  
47 certification from the department. Certification may be issued to

1 perform lead evaluation or abatement work if the business firm  
2 employs or will employ sufficient numbers and types of personnel  
3 certified by the Department of Health [and Senior Services]  
4 pursuant to section 3 of P.L.1993, c.288 (C.26:2Q-3) to perform  
5 lead abatement work and meets all other requirements that the  
6 commissioner may establish pursuant to section 23 of P.L.1993,  
7 c.288 (C.52:27D-436). The certification shall be in writing, shall  
8 contain an expiration date, and shall be signed by the commissioner.

9 b. A person or business firm shall not undertake a project  
10 involving lead abatement work without first obtaining a  
11 construction permit for that project pursuant to section 12 of  
12 P.L.1975, c.217 (C.52:27D-130). No permit shall be issued for lead  
13 abatement work, except to:

14 (1) an owner undertaking work on his own premises using his  
15 own employees, if those employees are certified by the Department  
16 of Health [and Senior Services] pursuant to section 3 of P.L.1993,  
17 c.288 (C.26:2Q-3);

18 (2) a homeowner proposing to perform lead abatement work  
19 himself on a dwelling unit that he owns and occupies as a primary  
20 place of residence; or

21 (3) a business firm certified pursuant to this section to perform  
22 such work.

23 The issuance of a construction permit to an individual  
24 homeowner proposing to perform lead abatement work on a  
25 dwelling unit that he owns and occupies as a primary place of  
26 residence shall be accompanied by written information developed  
27 by the department explaining the dangers of improper lead  
28 abatement, procedures for conducting safe lead abatement, and the  
29 availability of certified lead abatement contractors, or of any  
30 available training for homeowners.

31 c. Nothing in this section shall be construed to restrict or  
32 otherwise affect the right of any business firm to engage in painting,  
33 woodworking, structural renovation, or other indoor or outdoor  
34 contracting services that may result in the disturbance of paint, or to  
35 engage in lead safe maintenance work or lead hazard control work,  
36 but a business firm shall not hold itself out as certified by the  
37 department or otherwise represent that it has specialized  
38 competency to perform lead evaluation or abatement work unless it  
39 has been certified or otherwise specifically authorized pursuant to  
40 this section.

41 A business firm that seeks to engage in lead safe maintenance  
42 work or lead hazard control work shall do so using only persons  
43 who, prior to engaging in such work, shall have completed such  
44 training courses as may be prescribed by the commissioner and  
45 provided by a training provider accredited by the Commissioner of  
46 Health [and Senior Services].

47 A business firm that utilizes interim controls to reduce the risk of  
48 lead-based paint exposure shall utilize only those methods approved

1 by the appropriate federal agencies, including specialized cleaning,  
2 repairs, maintenance, painting, temporary containment, ongoing  
3 monitoring of lead-based paint hazards or potential hazards, as may  
4 be set forth under 42 U.S.C.s.4851b, or those methods set forth in  
5 guidelines established by the commissioner, but shall not be  
6 required to be certified pursuant to this section unless performing  
7 lead abatement.

8 (cf: P.L.2003, c.311, s.23)

9  
10 426. Section 24 of P.L. 2003, c.311 (C.52:27D-437.15) is  
11 amended to read as follows:

12 24. The Commissioner of Banking and Insurance and the  
13 Commissioner of Health **【and Senior Services】** shall consult with  
14 the Commissioner of Community Affairs and shall modify all  
15 regulations concerning lead hazards in accordance with the  
16 provisions of P.L.2003, c.311 (C.52:27D-437.1 et al.), to recognize  
17 lead hazard control work as an authorized alternative method to  
18 lead abatement in control of lead hazards.

19 (cf: P.L.2003, c.311, s.24)

20  
21 427. Section 4 of P.L.1985, c.298 (C.52:27G-23) is amended to  
22 read as follows:

23 4. There is created in the Executive Branch of the State  
24 Government the Office of the Public Guardian for Elderly Adults.  
25 For the purpose of complying with the provisions of Article V,  
26 Section IV, paragraph 1 of the New Jersey Constitution, the Office  
27 of the Public Guardian for Elderly Adults is allocated to the  
28 Department of **【Community Affairs】** Human Services, but  
29 notwithstanding this allocation, the office shall be independent of  
30 any supervision or control by the department or any board or officer  
31 thereof.

32 (cf: P.L.1985, c.298, s.4.)

33  
34 428. Section 15 of P.L.2005, c.37 (C.52:27G-42) is amended to  
35 read as follows:

36 15. a. There is established in the Department of **【Health and**  
37 **Senior】** Human Services a special non-lapsing fund to be known as  
38 the Registered Professional Guardian Fund, which shall be a  
39 dedicated fund to serve as a depository for monies collected from  
40 the estate of an incapacitated adult pursuant to this section. The  
41 fund shall be administered by the Office of the Public Guardian for  
42 Elderly Adults, and all interest on monies in the fund shall be  
43 credited to the fund. The monies in the fund shall be made available  
44 to the Office of the Public Guardian for Elderly Adults to be used  
45 exclusively for the implementation of this act.

46 b. Sixty days after receiving plenary letters of guardianship or  
47 letters of guardianship of property, a guardian appointed by the  
48 Superior Court of New Jersey, with the exception of the



1 appointment of the public guardian pursuant to P.L.1985, c.298  
2 (C.52:27G-20 et seq.), a guardian for a veteran pursuant to  
3 N.J.S.3B:13-1 et seq. and guardianship services provided by the  
4 Bureau of Guardianship Services in the Division of Developmental  
5 Disabilities in the Department of Human Services pursuant to  
6 P.L.1965, c.59 (C.30:4-165.1 et seq.), shall pay out of the estate of  
7 the incapacitated adult a fee of \$150 to the Office of the Public  
8 Guardian for Elderly Adults for deposit into the fund, except that no  
9 such charge shall be made to an incapacitated adult's estate for an  
10 incapacitated adult whose income is less than 150% of the federal  
11 poverty level and whose assets are less than \$50,000.

12 c. If the guardian seeks an exemption from the fee based on the  
13 ward's income or assets, as set forth in subsection b. of this section,  
14 the guardian shall make an application to the Office of the Public  
15 Guardian for Elderly Adults on forms adopted by that office.

16 d. If a guardian who is obligated to pay an assessment imposed  
17 pursuant to subsection b. of this section fails to pay the assessment,  
18 upon application by the Office of the Public Guardian for Elderly  
19 Adults, the court shall afford the guardian notice and an opportunity  
20 to be heard on the issue of default. Failure to make the assessed  
21 payment when due shall be considered a default. The standard of  
22 proof shall be by a preponderance of the evidence, and the burden  
23 of establishing good cause for a default shall be on the guardian  
24 who has defaulted. If the court finds that the guardian has defaulted  
25 without good cause, the court may:

26 (1) compel the guardian of the estate to account and ascertain  
27 the financial condition of the incapacitated adult's estate;

28 (2) remove the guardian;

29 (3) enter judgment against the guardian of the estate for the  
30 amount of the assessment; or

31 (4) take such other action as may be permitted by law.

32 (cf: P.L.2005, c.370, s.15)

33

34 429. Section 16 of P.L.2005, c.37 (C.52:27G-43) is amended to  
35 read as follows:

36 16. a. The Commissioner of **【Health and Senior】** Human  
37 Services, pursuant to the "Administrative Procedure Act," P.L.1968,  
38 c.410 (C.52:14B-1 et seq.), may adopt rules and regulations  
39 necessary for the implementation of this act.

40 b. The Supreme Court may adopt Rules of Court for the  
41 implementation of this act.

42 (cf: P.L.2005, c.370, s.16)

43

44 430. Section 1 of P.L.1997, c.348 (C.54:4-8.67) is amended to  
45 read as follows:

46 1. As used in this act:

47 "Base year" means, in the case of a person who is an eligible  
48 claimant on or before December 31, 1997, the tax year 1997; and in

1 the case of a person who first becomes an eligible claimant after  
2 December 31, 1997, the tax year in which the person first becomes  
3 an eligible claimant. In the case of an eligible claimant who  
4 subsequently moves from the homestead for which the initial  
5 eligibility was established, the base year shall be the first full tax  
6 year during which the person resides in the new homestead.  
7 Provided however, a base year for an eligible claimant after such a  
8 move shall not apply to tax years commencing prior to January 1,  
9 2009.

10 "Commissioner" means the Commissioner of [Health and Senior  
11 Services] Community Affairs.

12 "Director" means the Director of the Division of Taxation.

13 "Condominium" means the form of real property ownership  
14 provided for under the "Condominium Act," P.L.1969, c.257  
15 (C.46:8B-1 et seq.).

16 "Cooperative" means a housing corporation or association which  
17 entitles the holder of a share or membership interest thereof to  
18 possess and occupy for dwelling purposes a house, apartment or  
19 other unit of housing owned or leased by the corporation or  
20 association, or to lease or purchase a unit of housing constructed or  
21 to be constructed by the corporation or association.

22 "Disabled person" means an individual receiving monetary  
23 payments pursuant to Title II of the federal Social Security Act (42  
24 U.S.C. s.401 et seq.) on December 31, 1998, or on December 31 in  
25 all or any part of the year for which a homestead property tax  
26 reimbursement under this act is claimed.

27 "Dwelling house" means any residential property assessed as real  
28 property which consists of not more than four units, of which not  
29 more than one may be used for commercial purposes, but shall not  
30 include a unit in a condominium, cooperative, horizontal property  
31 regime or mutual housing corporation.

32 "Eligible claimant" means a person who:

33 is 65 or more years of age, or who is a disabled person;  
34 is an owner of a homestead, or the lessee of a site in a mobile  
35 home park on which site the applicant owns a manufactured or  
36 mobile home;

37 has an annual income of less than \$17,918 in tax year 1998, less  
38 than \$18,151 in tax year 1999, or less than \$37,174 in tax year  
39 2000, if single, or, if married, whose annual income combined with  
40 that of the spouse is less than \$21,970 in tax year 1998, less than  
41 \$22,256 in tax year 1999, or less than \$45,582 in tax year 2000,  
42 which income eligibility limits for single and married persons shall  
43 be subject to adjustments in tax years 2001 through 2006 pursuant  
44 to section 9 of P.L.1997, c.348 (C.54:4-8.68);

45 has an annual income of \$60,000 or less in tax year 2007,  
46 \$70,000 or less in tax year 2008, or \$80,000 or less in tax year  
47 2009, if single or married, which income eligibility limits shall be

1 subject to adjustments in subsequent tax years pursuant to section 9  
2 of P.L.1997, c.348 (C.54:4-8.68);

3 as a renter or homeowner, has made a long-term contribution to  
4 the fabric, social structure and finances of one or more communities  
5 in this State, as demonstrated through the payment of property taxes  
6 directly, or through rent, on any homestead or rental unit used as a  
7 principal residence in this State for at least 10 consecutive years at  
8 least three of which as owner of the homestead for which a  
9 homestead property tax reimbursement is sought prior to the date  
10 that an initial application for a homestead property tax  
11 reimbursement is filed. A person who has been an eligible claimant  
12 for a previous tax year shall qualify as an eligible claimant  
13 beginning the second full tax year following a move to another  
14 homestead in New Jersey, despite not meeting the three-year  
15 minimum residency and ownership requirement required for initial  
16 claimants under this paragraph; provided that the person satisfies  
17 the income eligibility limits for the tax year. Provided however,  
18 eligibility beginning in a second full tax year after such a move  
19 shall not apply to tax years commencing prior to January 1, 2010.

20 "Homestead" means:

21 a dwelling house and the land on which that dwelling house is  
22 located which constitutes the place of the eligible claimant's  
23 domicile and is owned and used by the eligible claimant as the  
24 eligible claimant's principal residence;

25 a site in a mobile home park equipped for the installation of  
26 manufactured or mobile homes, where these sites are under  
27 common ownership and control for the purpose of leasing each site  
28 to the owner of a manufactured or mobile home for the installation  
29 thereof and such site is used by the eligible claimant as the eligible  
30 claimant's principal residence;

31 a dwelling house situated on land owned by a person other than  
32 the eligible claimant which constitutes the place of the eligible  
33 claimant's domicile and is owned and used by the eligible claimant  
34 as the eligible claimant's principal residence;

35 a condominium unit or a unit in a horizontal property regime or a  
36 continuing care retirement community which constitutes the place  
37 of the eligible claimant's domicile and is owned and used by the  
38 eligible claimant as the eligible claimant's principal residence.

39 In addition to the generally accepted meaning of "owned" or  
40 "ownership," a homestead shall be deemed to be owned by a person  
41 if that person is a tenant for life or a tenant under a lease for 99  
42 years or more, is entitled to and actually takes possession of the  
43 homestead under an executory contract for the sale thereof or under  
44 an agreement with a lending institution which holds title as security  
45 for a loan, or is a resident of a continuing care retirement  
46 community pursuant to a contract for continuing care for the life of  
47 that person which requires the resident to bear, separately from any

1 other charges, the proportionate share of property taxes attributable  
2 to the unit that the resident occupies;

3 a unit in a cooperative or mutual housing corporation which  
4 constitutes the place of domicile of a residential shareholder or  
5 lessee therein, or of a lessee or shareholder who is not a residential  
6 shareholder therein, which is used by the eligible claimant as the  
7 eligible claimant's principal residence.

8 "Homestead property tax reimbursement" means payment of the  
9 difference between the amount of property tax or site fee  
10 constituting property tax due and paid in any year on any  
11 homestead, exclusive of improvements not included in the  
12 assessment on the real property for the base year, and the amount of  
13 property tax or site fee constituting property tax due and paid in the  
14 base year, when the amount paid in the base year is the lower  
15 amount; but such calculations shall be reduced by any current year  
16 property tax reductions or reductions in site fees constituting  
17 property taxes resulting from judgments entered by county boards  
18 of taxation or the State Tax Court.

19 "Horizontal property regime" means the form of real property  
20 ownership provided for under the "Horizontal Property Act,"  
21 P.L.1963, c.168 (C.46:8A-1 et seq.).

22 "Manufactured home" or "mobile home" means a unit of housing  
23 which:

24 (1) Consists of one or more transportable sections which are  
25 substantially constructed off site and, if more than one section, are  
26 joined together on site;

27 (2) Is built on a permanent chassis;

28 (3) Is designed to be used, when connected to utilities, as a  
29 dwelling on a permanent or nonpermanent foundation; and

30 (4) Is manufactured in accordance with the standards  
31 promulgated for a manufactured home by the Secretary of the  
32 United States Department of Housing and Urban Development  
33 pursuant to the "National Manufactured Housing Construction and  
34 Safety Standards Act of 1974," Pub.L.93-383 (42 U.S.C. s.5401 et  
35 seq.) and the standards promulgated for a manufactured or mobile  
36 home by the commissioner pursuant to the "State Uniform  
37 Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.).

38 "Mobile home park" means a parcel of land, or two or more  
39 parcels of land, containing no fewer than 10 sites equipped for the  
40 installation of manufactured or mobile homes, where these sites are  
41 under common ownership and control for the purpose of leasing  
42 each site to the owner of a manufactured or mobile home for the  
43 installation thereof, and where the owner or owners provide  
44 services, which are provided by the municipality in which the park  
45 is located for property owners outside the park, which services may  
46 include but shall not be limited to:

47 (1) The construction and maintenance of streets;

48 (2) Lighting of streets and other common areas;

- 1 (3) Garbage removal;
- 2 (4) Snow removal; and
- 3 (5) Provisions for the drainage of surface water from home sites
- 4 and common areas.

5 "Mutual housing corporation" means a corporation not-for-profit,  
6 incorporated under the laws of this State on a mutual or cooperative  
7 basis within the scope of section 607 of the Langham Act (National  
8 Defense Housing), Pub.L.849, (42 U.S.C. s.1521 et seq.), as  
9 amended, which acquired a National Defense Housing Project  
10 pursuant to that act.

11 "Income" means income as determined pursuant to P.L.1975,  
12 c.194 (C:30:4D-20 et seq.).

13 "Principal residence" means a homestead actually and  
14 continually occupied by an eligible claimant as his or her permanent  
15 residence, as distinguished from a vacation home, property owned  
16 and rented or offered for rent by the claimant, and other secondary  
17 real property holdings.

18 "Property tax" means the general property tax due and paid as set  
19 forth in this section, on a homestead, but does not include special  
20 assessments and interest and penalties for delinquent taxes. For the  
21 sole purpose of qualifying for a benefit under P.L.1997, c.348  
22 (C.54:4-8.67 et seq.), property taxes paid by June 1 of the year  
23 following the year for which the benefit is claimed will be deemed  
24 to be timely paid.

25 "Site fee constituting property tax" means 18 percent of the  
26 annual site fee paid or payable to the owner of a mobile home park.

27 "Tax year" means the calendar year in which a homestead is  
28 assessed and the property tax is levied thereon and it means the  
29 calendar year in which income is received or accrued.

30 (cf: P.L. 2009, c.129)

31

32 431. Section 4 of P.L.1999, c.129 (C.56:8-14.5) is amended to  
33 read as follows:

34 4. The Director of the Division of Consumer Affairs in the  
35 Department of Law and Public Safety, in consultation with the  
36 Director of the Division ~~on~~ of Aging ~~in the~~ in the Department of  
37 Community Affairs Services in the Department of Human  
38 Services, the directors of the New Jersey Association of Area  
39 Agencies on Aging, and the New Jersey Association of County  
40 Offices for Disabled Persons, shall develop and implement an  
41 educational program to inform senior citizens and persons with  
42 disabilities about consumer protection laws and consumer rights,  
43 subject to funds made available pursuant to subsection b. of section  
44 5 of P.L.1999, c.129 (C.56:8-14.6) or any other source. Functions  
45 of the program may include:

46 a. The preparation of educational materials regarding consumer  
47 protection laws and consumer rights that are of particular interest to  
48 senior citizens and persons with disabilities and distribution of

1 those materials to the appropriate State and county agencies for  
2 dissemination to senior citizens, persons with disabilities and the  
3 public; and

4 b. The underwriting of educational seminars and other forms of  
5 educational projects for the benefit of senior citizens and persons  
6 with disabilities.

7 (cf: P.L.1999, c.129, s.4)

8  
9 432. Section 5 of P.L.1999, c.336 (C.56:8-96) is amended to  
10 read as follows:

11 5. a. Any consumer who purchases from a pet shop an animal  
12 that becomes sick or dies after the date of purchase may take the  
13 sick or dead animal to a veterinarian within the period of time  
14 required pursuant to the notification form provided upon the date of  
15 purchase, receive certification from the veterinarian of the health  
16 and condition of the animal, and pursue the recourse provided for  
17 under the circumstances indicated by the veterinarian certification,  
18 as required and provided for pursuant to section 4 of P.L.1999,  
19 c.336 (C.56:8-95).

20 b. Upon receipt of the certification from the veterinarian, the  
21 consumer may report the sickness or death of the animal and the pet  
22 shop where the animal was purchased to the local health authority  
23 with jurisdiction over the municipality in which the pet shop where  
24 the animal was purchased is located, and to the Director of the  
25 Division of Consumer Affairs in the Department of Law and Public  
26 Safety. The consumer shall provide a copy of the veterinarian  
27 certificate with any [such] report. The director shall forward to the  
28 appropriate local health authority a copy of any [such] report the  
29 division receives. The local health authority shall record and retain  
30 the records of any [such] report and documentation submitted by a  
31 consumer.

32 c. By the May 1 immediately following the effective date of  
33 this act, and annually thereafter, the local health authority with  
34 jurisdiction over pet shops shall review any files it has concerning  
35 reports filed pursuant to subsection b. of this section and shall  
36 recommend to the municipality in which the pet shop is located the  
37 revocation of the license of any pet shop with reports filed as  
38 follows:

39 (1) 15% of the total number of animals sold in a year by the pet  
40 shop were certified by a veterinarian to be unfit for purchase due to  
41 congenital or hereditary cause or condition, or a sickness brought  
42 on by a congenital or hereditary cause or condition;

43 (2) 25% of the total number of animals sold in a year by the pet  
44 shop were certified by a veterinarian to be unfit for purchase due to  
45 a non-congenital cause or condition;

46 (3) 10% of the total number of animals sold in a year by the pet  
47 shop died and were certified by a veterinarian to have died from a  
48 non-congenital cause or condition; or

1 (4) 5% 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 congenital or hereditary cause or condition, or a sickness brought  
4 on by a congenital or hereditary cause or condition.

5 d. By the May 1 immediately following the effective date of  
6 this act, and annually thereafter, the local health authority with  
7 jurisdiction over pet shops shall review any files it has concerning  
8 reports filed pursuant to subsection b. of this section and shall  
9 recommend to the municipality in which the pet shop is located a  
10 90-day suspension of the license of any pet shop with reports filed  
11 as follows:

12 (1) 10% of the total number of animals sold in a year by the pet  
13 shop were certified by a veterinarian to be unfit for purchase due to  
14 congenital or hereditary cause or condition, or a sickness brought  
15 on by a congenital or hereditary cause or condition;

16 (2) 15% of the total number of animals sold in a year by the pet  
17 shop were certified by a veterinarian to be unfit for purchase due to  
18 a non-congenital cause or condition;

19 (3) 5% of the total number of animals sold in a year by the pet  
20 shop died and were certified by a veterinarian to have died from a  
21 non-congenital cause or condition; or

22 (4) 3% 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 congenital or hereditary cause or condition, or a sickness brought  
25 on by a congenital or hereditary cause or condition.

26 e. Pursuant to the authority and requirements provided in  
27 section 8 of P.L.1941, c.151 (C.4:19-15.8), the owner of the pet  
28 shop shall be afforded a hearing and, upon the recommendation by  
29 the local health authority pursuant to subsection c. or d. of this  
30 section, the local health authority, in consultation with the **[State]**  
31 Department of Health **[and Senior Services]**, shall set a date for the  
32 hearing to be held by the local health authority or the State  
33 Department of Health **[and Senior Services]** and shall notify the pet  
34 shop involved. The municipality may suspend or revoke the  
35 license, or part thereof, that authorizes the pet shop to sell cats or  
36 dogs after **[such]** the hearing has been held and as provided in  
37 section 8 of P.L.1941, c.151 (C.4:19-15.8). At the hearing, the  
38 local health authority or the **[State]** Department of Health **[and**  
39 **Senior Services]**, whichever entity is holding the hearing, shall  
40 receive testimony from the pet shop and shall determine if the pet  
41 shop: (1) failed to maintain proper hygiene and exercise reasonable  
42 care in safeguarding the health of animals in its custody, or (2) sold  
43 a substantial number of animals that the pet shop knew, or  
44 reasonably should have known, to be unfit for purchase.

45 f. No provision of subsection c. shall be construed to restrict  
46 the local health authority or the **[State]** Department of Health **[and**  
47 **Senior Services]** from holding a hearing concerning any pet shop in

1 the State irrespective of the criteria for recommendation of license  
2 suspension or revocation named in subsection c. or d., or from  
3 recommending to a municipality the suspension or revocation of the  
4 license of a pet shop within its jurisdiction for other violations  
5 under other sections of law, or rules and regulations adopted  
6 pursuant thereto.

7 g. No action taken by the local health authority or municipality  
8 pursuant to this section or section 8 of P.L.1941, c.151 (C.4:19-  
9 15.8) shall be construed to limit or replace any action, hearing or  
10 review of complaints concerning the pet shop by the Division of  
11 Consumer Affairs in the Department of Law and Public Safety to  
12 enforce consumer fraud laws or other protections to which the  
13 consumer is entitled.

14 h. The requirements of this section shall be posted in a  
15 prominent place in each pet shop in the State along with the name,  
16 address, and telephone number of the local health authority that has  
17 jurisdiction over the pet shop, and this information shall be  
18 provided in writing at the time of purchase to each consumer and to  
19 each licensed veterinarian contracted for services by the pet shop  
20 upon contracting the veterinarian.

21 i. The Director of the Division of Consumer Affairs may  
22 investigate and pursue enforcement against any pet shop reported  
23 by a consumer pursuant to subsection b. of this section.

24 (cf: P.L.1999, c.336, s.5)

25

26 433. Section 4 of P.L.1999, c.174 (C.26:1A-15.3), section 28 of  
27 P.L.1966 c.293 (C.52:27D-28), section 2 of P.L.1975, c.36,  
28 (C.52:27D-28.2), section 1 of P.L.1985, c.357 (C.52:27D-28.5), and  
29 section 29 of P.L.1966, c.293 (C. 52:27D-29) are repealed.

30

31 434. This act shall take effect immediately.

32

33

34

#### STATEMENT

35

36 This bill reorganizes and renames the Department of Health and  
37 Senior Services (DHSS) as the Department of Health, establishes a  
38 Division of Aging Services in the Department of Human Services  
39 (DHS) and transfers certain services and program for senior citizens  
40 from DHSS to the new Division of Aging Services in DHS.

41 This bill repeals provisions concerning the Division on Aging the  
42 Department of Community Affairs as it is no longer operative.