

[First Reprint]

ASSEMBLY, No. 3104

STATE OF NEW JERSEY
215th LEGISLATURE

INTRODUCED JUNE 14, 2012

Sponsored by:

Assemblywoman MARY PAT ANGELINI

District 11 (Monmouth)

Assemblywoman DONNA M. SIMON

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Co-Sponsored by:

Assemblywoman Handlin, Senators T.Kean and Vitale

SYNOPSIS

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

CURRENT VERSION OF TEXT

As reported by the Assembly Budget Committee on June 21, 2012, with amendments.



(Sponsorship Updated As Of: 6/29/2012)

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

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly ABU committee amendments adopted June 21, 2012.

1 (3) the medical procedure was performed on a person legally
2 incapable of giving informed consent, and the health care
3 professional reasonably believed that the medical procedure should
4 be undertaken immediately and that there was insufficient time to
5 obtain the informed consent of the person authorized to give such
6 consent for the patient.

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

12 e. As used in this section:

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

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

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

25

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

27 2C:35-2. As used in this chapter:

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

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

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

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

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

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

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

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

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

41 "Drugs" means (a) substances recognized in the official United
42 States Pharmacopoeia, official Homeopathic Pharmacopoeia of the
43 United States, or official National Formulary, or any supplement to
44 any of them; and (b) substances intended for use in the diagnosis,
45 cure, mitigation, treatment, or prevention of disease in man or other
46 animals; and (c) substances (other than food) intended to affect the
47 structure or any function of the body of man or other animals; and
48 (d) substances intended for use as a component of any article

1 specified in subsections (a), (b), and (c) of this section; but does not
2 include devices or their components, parts or accessories.

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

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

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

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

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

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

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

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

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

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

19 "Person" means any corporation, association, partnership, trust,
20 other institution or entity^{1, 1} or one or more individuals.

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

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

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

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

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

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

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

45 (e) "Laboratory" means a laboratory to be entrusted with the
46 custody of narcotic drugs and the use of controlled dangerous
47 substances or controlled substance analogs for scientific,
48 experimental^{1, 1} and medical purposes and for purposes of

1 instruction approved by the [State] Department of Health [and
2 Senior Services].

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

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

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

20 "Schedules I, II, III, IV, and V" are the schedules set forth in
21 sections 5 through 8 of P.L.1970, c.226 (C.24:21-5 through 24:21-
22 8) and in section 4 of P.L.1971, c.3 (C.24:21-8.1) and as modified
23 by any regulations issued by the '[Commissioner of Health]' [and
24 Senior Services] 'Director of the Division of Consumer Affairs in
25 the Department of Law and Public Safety' pursuant to '[his] the
26 director's' authority as provided in section 3 of P.L.1970, c.226
27 (C.24:21-3).

28 "State" means the State of New Jersey.

29 "Ultimate user" means a person who lawfully possesses a
30 controlled dangerous substance or controlled substance analog for
31 his own use or for the use of a member of his household or for
32 administration to an animal owned by him or by a member of his
33 household.

34 "Prescription legend drug" means any drug which under federal
35 or State law requires dispensing by prescription or order of a
36 licensed physician, veterinarian^{1, 2} or dentist and is required to bear
37 the statement "Rx only" or similar wording indicating that such
38 drug may be sold or dispensed only upon the prescription of a
39 licensed medical practitioner and is not a controlled dangerous
40 substance or stramonium preparation.

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

44 "Stramonium plant" means the plant *Datura Stramonium* Linne,
45 including *Datura Tatula* Linne.

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

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

3 6. Discarding hypodermic needle or syringe.

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

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

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

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

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

22

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

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

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

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

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

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

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

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

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

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

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

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

16

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

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

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

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

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

44 c. The license for a pet shop shall be subject to review by the
45 municipality, upon recommendation by the **[State]** Department of
46 Health **[and Senior Services]** or the local health authority for
47 failure by the pet shop to comply with the rules and regulations of

1 the State department or local health authority governing pet shops
2 or if the pet shop meets the criteria for recommended suspension or
3 revocation provided under subsection c. or d. of section 5 of
4 P.L.1999, c.336 (C.56:8-96), after the owner of the pet shop has
5 been afforded a hearing pursuant to subsection e. of section 5 of
6 P.L.1999, c.336 (C.56:8-96).

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

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

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

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

25

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

47 i. At the time of adoption, the right of ownership in the animal
48 shall transfer to the new owner. No dog or other animal taken into

1 custody, impounded, sent or otherwise brought to a shelter, pound,
2 or kennel operating as a shelter or pound shall be sold or otherwise
3 be made available for the purpose of experimentation. Any person
4 who sells or otherwise makes available any such dog or other
5 animal for the purpose of experimentation shall be guilty of a crime
6 of the fourth degree.

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

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

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

33

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

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

45 (1) The law as it affects animal control, animal welfare, and
46 animal cruelty;

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

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

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

14 Any person 18 years of age or older may satisfy the courses of
15 study established pursuant to this subsection at that person's own
16 time and expense; however, nothing in this section shall be
17 construed as authorizing a person to exercise the powers and duties
18 of an animal control officer absent municipal appointment or
19 authorization pursuant to section 4 of P.L.1983, c.525 (C.4:19-
20 15.16b).

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

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

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

46 (2) Upon receipt of a notice required pursuant to section 3 or 4
47 of P.L.2003, c.67 (C.4:22-57 or C.2B:12-17.1) involving a person
48 who has been issued a certificate pursuant to subsection b. of this

1 section, the commissioner shall add to the list the name of the
2 person convicted of, or found civilly liable for, a violation of any
3 provision of chapter 22 of Title 4 of the Revised Statutes according
4 to the notice, and shall issue a copy of the revised list to each
5 municipality within 30 days after receipt of any [such] notice.

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

7

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

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

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

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

43

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

46 19. Except as otherwise provided in this act, any person who
47 violates or who fails or refuses to comply with sections 2, 4, 6, 7, 8,
48 10, or 18 of this act or the rules and regulations promulgated by the

1 【State】 Department of Health pursuant to section 14 of this act,
2 shall be liable to a penalty of not less than \$5.00 nor more than
3 【\$50.00】 \$50 for each offense, to be recovered by and in the name
4 of the 【Director】 Commissioner of Health 【of the State of New
5 Jersey】, or by and in the name of the local board of health of the
6 municipality, or by and in the name of the municipality, as the case
7 may be, except that for the first offense in cases of violations of
8 sections 2, 4, and 6 of this act, the penalty shall be not less than
9 \$1.00 nor more than【\$50.00】 \$50, to be recovered in the same
10 manner.

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

12

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

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

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

24

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

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

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

46 c. The pilot program shall operate for a period of at least two
47 years. No later than two years after the pilot program is established

1 and becomes operative, the Commissioner of Health [and Senior
2 Services] shall submit a written report to the Governor and,
3 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the
4 Legislature. The report shall contain information on the
5 implementation of the pilot program and shall include the
6 recommendation of the commissioner on the feasibility of
7 implementing the pilot program on a Statewide basis.

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

9

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

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

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

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

23

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

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

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

36

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

39 15. The Department of Agriculture:

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

1 b. in consultation with the Aquaculture Technology Transfer
2 Center, and the Rutgers Cooperative Extension, shall assist
3 aquaculturists in obtaining coverage from federal crop insurance
4 programs;

5 c. in consultation with the Aquaculture Technology Transfer
6 Center and the Rutgers Cooperative Extension, shall assist
7 aquaculturists in completing the proper paperwork and other
8 information necessary to develop eligibility for economic
9 emergency loans for disaster relief through the Farmers Services
10 Agency and other programs;

11 d. in consultation with the United States Department of
12 Agriculture and the National Association of State Aquaculture
13 Coordinators, shall develop a monthly wholesale market report for
14 aquaculture products;

15 e. in conjunction with the Aquaculture Technology Transfer
16 Center and the Department of Health [and Senior Services], shall
17 assist the aquaculture industry in the development of necessary
18 quality control guidelines and specifications for production,
19 processing, and marketing of aquaculture products;

20 f. in conjunction with the Aquaculture Technology Transfer
21 Center, shall assist (1) the aquaculture industry in promoting its
22 products through techniques that may include the establishment and
23 use of a trademark and other specialized marketing efforts; and (2)
24 aquaculturists interested in developing coordinated efforts or
25 arrangements, including producer cooperatives, joint ventures,
26 market orders, and other forms of association; and

27 g. in conjunction with the Department of Health [and Senior
28 Services], the Department of Commerce and Economic
29 Development, the Department of Environmental Protection shall
30 explore the possibilities of establishing private sector joint
31 processing facilities to accommodate agriculture, seafood, and
32 aquaculture products.

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

34
35 16. Section 2 of P.L.2001, c.39 (C.5:12-71.3) is amended to read
36 as follows:

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

45 b. For the purposes of P.L.1977, c.110 (C.5:12-1 et seq.), any
46 gaming activity in a licensed casino or simulcasting facility which
47 results in a prohibited person obtaining any money or thing of value
48 from, or being owed any money or thing of value by, the casino or

1 simulcasting facility shall be considered, solely for purposes of this
2 section, to be a fully executed gambling transaction.

3 c. In addition to any other penalty provided by law, any money
4 or thing or value which has been obtained by, or is owed to, any
5 prohibited person by a licensed casino or simulcasting facility as a
6 result of wagers made by a prohibited person shall be subject to
7 forfeiture following notice to the prohibited person and opportunity
8 to be heard. A licensed casino or simulcasting facility shall inform a
9 prohibited person of the availability of such notice on the division's
10 Internet website when ejecting the prohibited person and seizing
11 any chips, vouchers or other representative of money owed by a
12 casino to the prohibited person as authorized by this subsection.

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

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

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

35

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

38 145. a. There is hereby created and established in the Department
39 of the Treasury a separate special account to be known as the
40 "Casino Revenue Fund," into which shall be deposited all revenues
41 from the tax imposed by section 144 of this act; the investment
42 alternative tax imposed by section 3 of P.L.1984, c.218 (C.5:12-
43 144.1); the taxes and fees imposed by sections 3, 4 and 6 of
44 P.L.2003, c.116 (C.5:12-148.1, C.5:12-148.2 and C.5:12-145.8) and
45 any interest and penalties imposed by the division relating to those
46 taxes; the percentage of the value of expired gaming related
47 obligations pursuant to section 24 of P.L.2009, c.36 (C.5:12-141.2);
48 and all penalties levied and collected by the division pursuant to

1 P.L.1977, c.110 (C.5:12-1 et seq.) and the regulations promulgated
2 thereunder, except that the first \$600,000 in penalties collected each
3 fiscal year shall be paid into the General Fund for appropriation by
4 the Legislature to the Department of **【Health and Senior】** Human
5 Services, \$500,000 of which is to provide funds to the Council on
6 Compulsive Gambling of New Jersey and \$100,000 of which is to
7 provide funds for compulsive gambling treatment programs in the
8 State. In the event that less than \$600,000 in penalties are collected,
9 the Department of **【Health and Senior】** Human Services shall
10 determine the allocation of funds between the Council and the
11 treatment programs eligible under the criteria developed pursuant to
12 section 2 of P.L.1993, c.229 (C.26:2-169).

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

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

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

35

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

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

1 one of whom is appointed by the President of the Senate, one of
2 whom is appointed by the Speaker of the General Assembly, and
3 one of whom is appointed by the Governor; one public member who
4 is a representative of the casino industry to be appointed by the
5 Governor upon the recommendation of the Casino Association of
6 New Jersey; the President of the New Jersey Association of
7 Directors of Area Agencies on Aging, the Chairperson of the New
8 Jersey Association of County Representatives for Disabled Persons,
9 the Director of the Division **[on]** of Aging Services in the
10 Department of **[Community Affairs]** Human Services, and the
11 Legislative Budget and Finance Officer, or their designees, who
12 shall serve as ex officio members.

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

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

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

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

33

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

36 3. As used in this act:

37 "Child placed outside his home" means a child placed outside his
38 home by the Department of Human Services, the Department of
39 Children and Families, the Department of Health **[and Senior**
40 **Services]** , or a board of education.

41 "Department" means the Department of Human Services, the
42 Department of Children and Families, the Department of Health
43 **[and Senior Services]** , or board of education, as applicable.

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

45

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

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

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

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

13 c. The reasons for placement of these children;

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

15 e. The length of time that these children have resided in these
16 settings;

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

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

22 h. The number of children who have been permanently placed
23 or returned to their homes during the six-month period, and a
24 projection of the number of children who will be permanently
25 placed or returned to their homes during the following six-month
26 period; and

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

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

31
32 21. Section 6 of P.L.1991, c.290 (C.9:6B-6) is amended to read
33 as follows:

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

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

40
41 22. Section 9 of P.L.1999, c.145 (C.9:17A-1.8) is amended to
42 read as follows:

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

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

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

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

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

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

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

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

20

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

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

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

31

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

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

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

1 c. (1) The Division of Equal Employment Opportunity and
2 Affirmative Action as constituted in the Department of Personnel,
3 with its functions, powers, and duties, and those of the
4 Commissioner of Personnel and the Merit System Board with
5 regard to that division, is continued and transferred to the
6 Department of the Treasury, except with regard to the power to
7 adjudicate complaints of violations of the State policy against
8 discrimination which power shall remain with the Civil Service
9 Commission. The functions, powers, and duties of the Division of
10 Equal Employment Opportunity and Affirmative Action shall be
11 allocated within the department as the State Treasurer shall
12 determine.

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

21 (2) The planning and research unit and function as constituted in
22 the Department of Personnel is continued and transferred to the
23 Department of the Treasury to be allocated within that department
24 as the State Treasurer shall determine.

25 d. The Working Well NJ State employee wellness program as
26 constituted in the Department of Personnel is continued and
27 transferred to the Department of Health **[and Senior Services]** to be
28 allocated within that department as the commissioner shall
29 determine.

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

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

44 g. The commission shall develop a plan for the consolidation
45 and coordination of personnel and related functions, including, but
46 not limited to, classification, compensation, and workforce
47 planning, in the executive branch of State government and for
48 transfer to the commission of **[such]** employees, positions, funding,

1 facilities, equipment, powers, and duties from throughout the
2 executive branch of State government as necessary and appropriate
3 to effectuate such consolidation and coordination.

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

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

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

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

35

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

37 11A:11-3. Any law, rule, regulation, order, reorganization plan,
38 contract, document, judicial or administrative proceeding,
39 appropriation, or otherwise which refers to the Department of
40 Personnel, Commissioner of Personnel, or Merit System Board shall
41 mean the Department of the Treasury, State Treasurer, Civil Service
42 Commission, ¹**[or] the** Department of Health **[and Senior**
43 **Services]** ¹, or the Department of Human Services¹, as provided by
44 P.L.2008, c.29.

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

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

2 11A:11-4. All rules of the Merit System Board or the Department
3 of Personnel in effect on the effective date of P.L.2008, c.29 shall
4 remain in effect except as changed or modified by this title or action
5 of the Civil Service Commission, State Treasurer, Commissioner of
6 Health **[and Senior Services]** ¹, Commissioner of Human Services ¹,
7 or other authority, as appropriate.
8 (cf: P.L.2008, c.29, s.80)

9
10 27. Section 20 of P.L.1989, c.34 (C.13:1E-48.20) is amended to
11 read as follows:

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

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

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

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

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

30 b. Whenever the Commissioner of Environmental Protection or
31 the Commissioner of Health **[and Senior Service]** finds that a
32 person has violated this act, or any rule or regulation adopted
33 pursuant thereto, that commissioner shall:

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

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

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

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

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

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

46 c. Whenever the Commissioner of Environmental Protection or
47 the Commissioner of Health **[and Senior Services]** finds that a
48 person has violated this act, or any rule or regulation adopted

1 pursuant thereto, that commissioner may issue an order specifying
2 the provision or provisions of this act, or the rule or regulation
3 adopted pursuant thereto, of which the person is in violation, citing
4 the action that constituted the violation, ordering abatement of the
5 violation, and giving notice to the person of the person's right to a
6 hearing on the matters contained in the order. The ordered party
7 shall have 20 days from receipt of the order within which to deliver
8 to the commissioner a written request for a hearing. After the
9 hearing and upon finding that a violation has occurred, the
10 commissioner may issue a final order. If no hearing is requested,
11 the order shall become final after the expiration of the 20-day
12 period. A request for hearing shall not automatically stay the effect
13 of the order.

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

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

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

46 Assessments under this subsection shall be paid to the State
47 Treasurer, or to the local board of health, or to the county health
48 department, as the case may be, except that compensatory damages

1 may be paid by specific order of the court to any persons who have
2 been aggrieved by the violation.

3 If a proceeding is instituted by a local board of health or county
4 health department, notice thereof shall be served upon the
5 commissioners in the same manner as if the commissioners were
6 named parties to the action or proceeding. Either of the
7 departments may intervene as a matter of right in any proceeding
8 brought by a local board of health or county health department.

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

44 f. A person who violates this act, or any rule or regulation
45 adopted pursuant thereto, shall be liable for a penalty of not more
46 than \$100,000 per day for each violation, to be collected in a civil
47 action commenced by the Commissioner of Environmental

1 Protection, the Commissioner of Health **【and Senior Services】**, a
2 local board of health, or a county health department.

3 A person who violates an administrative order issued pursuant to
4 subsection c. of this section, or a court order issued pursuant to
5 subsection d. of this section, or who fails to pay an administrative
6 assessment in full pursuant to subsection e. of this section is subject
7 upon order of a court to a civil penalty not to exceed \$200,000 per
8 day for each violation.

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

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

19 g. A person who purposely or knowingly:

20 (1) disposes or stores regulated medical waste without
21 authorization from either the Department of Environmental
22 Protection or the Department of Health **【and Senior Services】**, as
23 appropriate, or in violation of this act, or any rule or regulation
24 adopted pursuant thereto;

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

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

34 (4) fails to properly treat certain types of regulated medical
35 waste designated by the Department of Health **【and Senior
36 Services】** in a prescribed manner; shall, upon conviction, be guilty
37 of a crime of the third degree and, notwithstanding the provisions of
38 N.J.S.2C:43-3, shall be subject to a fine of not more than \$100,000
39 for the first offense, and not more than \$200,000 for each
40 subsequent offense, and restitution, in addition to any other
41 appropriate disposition authorized by subsection b. of N.J.S.2C:43-
42 2.

43 h. A person who recklessly or negligently:

44 (1) disposes or stores regulated medical waste without
45 authorization from either the Department of Environmental
46 Protection or the Department of Health **【and Senior Services】**, as

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

3 (2) makes any false or misleading statement to any person who
4 prepares any regulated medical waste application, registration,
5 form, label, certification, manifest, record, report, or other
6 document required by this act, or any rule or regulation adopted
7 pursuant thereto;

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

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

16 i. A person who, regardless of intent:

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

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

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

27 (1) generates and causes or permits to be transported any
28 regulated medical waste to a facility or any other place in the State
29 that does not have authorization from the Department of
30 Environmental Protection to accept [such] the waste, or in
31 violation of this act, or any rule or regulation adopted pursuant
32 thereto; or

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

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

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

42 m. No prosecution for a violation under this act shall be deemed
43 to preclude a prosecution for the violation of any other applicable
44 statute.

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

46

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

1 1. An insurer who requires an applicant for insurance to submit
2 to medical testing as a condition of issuing, extending or renewing
3 the insurance shall obtain the applicant's written consent for the
4 test. If in the course of the testing the insurer determines that the
5 applicant has a reportable communicable disease, the insurer shall
6 promptly notify the applicant of the determination and recommend
7 that the applicant contact a physician or other medical professional
8 regarding the significance of the test result. The insurer shall also
9 promptly provide the Department of Health **[and Senior Services]**
10 and a physician or other medical professional designated by the
11 applicant with a copy of the results of the test. The provisions of
12 this act shall not be construed to require a physician or other
13 medical professional who receives a copy of the test result to
14 initiate contact with the applicant regarding the test result.

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

18 For the purposes of this act, "reportable communicable disease"
19 means those diseases required to be reported to the Department of
20 Health **[and Senior Services]** pursuant to N.J.A.C.8:57-1.3 through
21 8:57-1.6 and N.J.A.C.8:57-2.2 and 8:57-2.3.
22 (cf: P.L.1998, c.18, s.1)

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

26 2. The Commissioner of Banking and Insurance, in
27 consultation with the Commissioner of Health **[and Senior**
28 **Services]**, shall adopt regulations pursuant to the "Administrative
29 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) which
30 establish procedures that insurers shall use to notify applicants of
31 test results pursuant to this act.
32 (cf: P.L.1998, c.18, s.2)

33
34 30. Section 1 of P.L.1970, c.22 (C.17:27A-1) is amended to read
35 as follows:

36 1. Definitions.

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

40 a. An "affiliate" of, or person "affiliated" with, a specific
41 person, is a person that directly, or indirectly through one or more
42 intermediaries, controls, or is controlled by, or is under common
43 control with, the person specified.

44 b. The term "commissioner" shall mean the Commissioner of
45 Banking and Insurance or **[his]** the commissioner's deputies,
46 except that when a health maintenance organization is the subject of
47 an acquisition of control or merger, the commissioner shall consult

1 with the Commissioner of Health [and Senior Services] on matters
2 relating to quality of, and access to, health care services.

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

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

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

33 f. A "person" is an individual, a corporation, a partnership, an
34 association, a joint stock company, a trust, an unincorporated
35 organization, any similar entity or any combination of the foregoing
36 acting in concert.

37 g. (Deleted by amendment, P.L.1993, c.241[.])₂

38 h. A "subsidiary" of a specified person is an affiliate controlled
39 by such person directly, or indirectly through one or more
40 intermediaries.

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

43 j. "Acquisition" means any agreement, arrangement or activity,
44 the consummation of which results in a person acquiring directly or
45 indirectly the control of another person, and includes but is not
46 limited to the acquisition of voting securities, and assets, and bulk
47 reinsurance and mergers.

1 k. "Health maintenance organization" means any person
2 operating under a certificate of authority issued pursuant to
3 P.L.1973, c.337 (C.26:2J-1 et seq.).
4 (cf: P.L2001, c.2, s.2)
5

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

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

16 Whenever the division is unable to obtain a death certificate
17 from a person representing the estate of any driver on whom
18 surcharges have been levied and who was a resident of the State, the
19 **[division]** commission shall obtain a copy of the death certificate
20 by contacting the State registrar of vital statistics in the Department
21 of Health **[and Senior Services]** and, in these cases, the **[division]**
22 commission shall not require the estate of the driver to furnish a
23 death certificate.

24 (cf: P.L.1998, c.129, s.1)
25

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

28 27. a. There is established a Medical Malpractice Liability
29 Insurance Premium Assistance Fund within the Department of the
30 Treasury as a nonlapsing, revolving fund.

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

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

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

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

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

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

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

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

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

31 c. The State Treasurer shall deposit all **[moneys]** monies
32 collected **[by him]** pursuant to this section into the fund. Monies
33 credited to the fund may be invested in the same manner as assets of
34 the General Fund and any investment earnings on the fund shall
35 accrue to the fund and shall be available subject to the same terms
36 and conditions as other monies in the fund.

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

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

42 (1) \$17 million shall be allocated annually for the purpose of
43 providing relief towards the payment of medical malpractice
44 liability insurance premiums to health care providers in the State
45 who have experienced or are experiencing a liability insurance
46 premium increase in an amount as established by the commissioner
47 by regulation and meet the criteria established pursuant to section
48 28 of P.L.2004, c.17 (C.17:30D-30);

1 (2) \$6.9 million shall be allocated annually to the Health Care
2 Subsidy Fund established pursuant to section 8 of P.L.1992, c.160
3 (C.26:2H-18.58) for the purpose of providing payments to hospitals
4 in accordance with the formula used for the distribution of charity
5 care subsidies that are provided pursuant to P.L.1992, c.160
6 (C.26:2H-18.51 et al.);

7 (3) \$1 million shall be allocated annually for a student loan
8 expense reimbursement program for obstetrician/gynecologists, to
9 be established pursuant to section 29 of P.L.2004, c.17
10 (C.18A:71C-49); and

11 (4) \$1.2 million shall be allocated annually to the Division of
12 Medical Assistance and Health Services in the Department of
13 Human Services for the purposes provided in section 30 of
14 P.L.2004, c.17 (C.30:4J-7).

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

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

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

34

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

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

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

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

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

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

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

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

20 (1) In order to be eligible for a subsidy from the fund, a
21 practitioner shall have received a medical malpractice liability
22 insurance premium increase in an amount as determined by the
23 commissioner by regulation, for one or more of the following: upon
24 renewal on or after January 1, 2004, from the amount paid by that
25 practitioner in calendar year 2003; upon renewal on or after January
26 1, 2005, from the amount paid by that practitioner in calendar year
27 2004; and upon renewal on or after January 1, 2006, from the
28 amount paid by that practitioner in calendar year 2005; or

29 (2) In the case of a health care provider providing professional
30 liability insurance protection through self-insured hospital funding
31 supplemented with purchased commercial insurance coverage, in
32 order to be eligible for a subsidy from the fund, that provider shall
33 have increased its total professional liability funding obligation in
34 an amount as determined by the commissioner by regulation, for
35 one or more of the following: upon renewal on or after January 1,
36 2004, from the professional liability funding obligation paid by that
37 provider in calendar year 2003; upon renewal on or after January 1,
38 2005, from the professional liability funding obligation paid by that
39 provider in calendar year 2004; and upon renewal on or after
40 January 1, 2006, from the professional liability funding obligation
41 paid by that provider in calendar year 2005.

42 (3) The amount of the subsidy shall be an amount, as
43 determined by the commissioner by regulation, of the increase from
44 the preceding year's premium or self-insured professional liability
45 funding obligation; except that no health care provider shall receive
46 a subsidy in any year that is greater than an amount as determined
47 by the commissioner by regulation.

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

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

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

15 e. The commissioner may waive the criteria for eligibility for a
16 subsidy established pursuant to this section, if the commissioner
17 determines that access to care for a particular specialty is threatened
18 because of an inability of a sufficient number of practitioners in that
19 specialty or subspecialty to practice in a geographic area of the
20 State.

21 f. The State Board of Medical Examiners, the State Board of
22 Chiropractic Examiners, the New Jersey State Board of Dentistry,
23 and the New Jersey Board of Nursing shall each provide to the
24 commissioner, on a quarterly basis, the names of the practitioners
25 who have been subject to a disciplinary action or civil penalty by
26 the practitioner's respective licensing board.

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

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

37

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

40 34. a. A section of the Office of Insurance Fraud Prosecutor
41 shall be designated to be responsible for establishing a liaison and
42 continuing communication between the office and the Department
43 of Health **[and Senior Services]**, the Department of Human
44 Services, the Department of Labor and Workforce Development,
45 any professional board in the Division of Consumer Affairs in the
46 Department of Law and Public Safety, the Department of Banking
47 and Insurance, the Division of State Police, every county

1 prosecutor's office, [such] local government units as may be
2 necessary or practicable, and insurers.

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

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

17

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

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

28 a. Screening by blood lead measurement for lead poisoning for
29 children, including confirmatory blood lead testing as specified by
30 the Department of Health [and Senior Services] pursuant to section
31 7 of P.L.1995, c.316 (C.26:2-137.1); and medical evaluation and
32 any necessary medical follow-up and treatment for lead poisoned
33 children.

34 b. All childhood immunizations as recommended by the
35 Advisory Committee on Immunization Practices of the United
36 [State] States Public Health Service and the Department of Health
37 [and Senior Services] pursuant to section 7 of P.L.1995, c.316
38 (C.26:2-137.1). A hospital service corporation shall notify its
39 subscribers, in writing, of any change in coverage with respect to
40 childhood immunizations and any related changes in premium.
41 Such notification shall be in a form and manner to be determined by
42 the Commissioner of Banking and 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 benefits provided pursuant to this section shall be provided
4 to the same extent as for any other medical condition under the
5 contract, except that a deductible shall not be applied for benefits
6 provided pursuant to this section; however, with respect to a
7 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 benefits provided pursuant to this section which represent
12 preventive care as permitted by that federal law, and shall not be
13 applied as provided pursuant to section 6 of P.L.2005, c.248
14 (C.17:48-6dd). This section shall apply to all hospital service
15 corporation contracts in which the health service corporation has
16 reserved the right to change the premium.

17 (cf: P.L.2005, c.248, s.4)

18

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

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

36 b. For the purpose of the examination, the commissioner may,
37 within the limits of funds appropriated for such purpose, contract
38 with such persons as **he** the commissioner may deem advisable to
39 conduct the same or assist therein.

40 c. At the discretion of the commissioner, the Commissioner of
41 Health **and Senior Services** and the New Jersey State Board of
42 Dentistry may participate in the investigations and examinations
43 described in this section to verify the existence of an effective
44 dental plan.

45 d. The expenses incurred in making any examination pursuant
46 to this section shall be assessed against and paid by the dental plan
47 organization so examined. A dental plan organization having direct

1 premiums written in this State of less than \$2,000,000 in any
2 calendar year shall be subject to a limited scope examination with
3 expenses for that examination not to exceed \$5,000. Upon written
4 notice by the commissioner of the total amount of an assessment, a
5 dental plan organization shall become liable for and shall pay the
6 assessment to the commissioner.

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

8
9 37. Section 1 of P.L.1985, c.236 (C.17:48E-1) is amended to
10 read as follows:

11 1. As used in this act:

12 a. "Commissioner" means the Commissioner of Banking and
13 Insurance.

14 b. "Board" and "board of directors" means the board of
15 directors of the health service corporation.

16 c. "Elective surgical procedure" means any nonemergency
17 surgical procedure which may be scheduled at the convenience of
18 the patient or the surgeon without jeopardizing the patient's life or
19 causing serious impairment to the patient's bodily functions.

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

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

31 f. "Health service plan" means a plan under which contracts
32 are issued providing complete or partial prepayment or postpayment
33 of health care services and supplies eligible under the contracts for
34 a given period to persons covered under the contracts where
35 arrangements are made for payment for health care services and
36 supplies directly to the provider thereof or to a covered person
37 under those contracts.

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

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

44 i. "Provider of health care services" shall include, but not be
45 limited to: (1) a health service corporation, a hospital service
46 corporation or medical service corporation; (2) a hospital or health
47 care facility under contract with a health service corporation to
48 provide health care services or supplies to persons who become

1 subscribers under contracts with the health service corporation; (3)
2 a hospital or health care facility which is maintained by a state or
3 any of its political subdivisions; (4) a hospital or health care facility
4 licensed by the Department of Health **【and Senior Services】**; (5)
5 other hospitals or health care facilities, as designated by the
6 Department of Health **【and Senior Services】** to provide health care
7 services; (6) a registered nursing home providing convalescent care;
8 (7) a nonprofit voluntary visiting nurse organization providing
9 health care services other than in a hospital; (8) hospitals or other
10 health care facilities located in other states, which are subject to the
11 supervision of those states, which if located in this State would be
12 eligible to be licensed or designated by the Department of Health
13 **【and Senior Services】**; (9) nonprofit hospital, medical or health
14 service plans of other states approved by the commissioner; (10)
15 physicians licensed to practice medicine and surgery; (11) licensed
16 chiropractors; (12) licensed dentists; (13) licensed optometrists;
17 (14) licensed pharmacists; (15) licensed podiatrists; (16) registered
18 bio-analytical laboratories; (17) licensed psychologists; (18)
19 registered physical therapists; (19) certified nurse-midwives; (20)
20 registered professional nurses; (21) licensed health maintenance
21 organizations; (22) licensed audiologists; (23) licensed speech-
22 language pathologists; and (24) providers of other similar health
23 care services or supplies as are approved by the commissioner.

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

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

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

34

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

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

45 a. 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 b. 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 health service corporation shall notify its subscribers, in
8 writing, of any change in coverage with respect to childhood
9 immunizations and any related changes in premium. [Such] The
10 notification shall be in a form and manner to be determined by the
11 Commissioner of Banking and Insurance.

12 c. 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 section shall be provided
20 to the same extent as for any other medical condition under the
21 contract, except that a deductible shall not be applied for benefits
22 provided pursuant to this section; however, with respect to a
23 contract that qualifies as a high deductible health plan for which
24 qualified medical expenses are paid using a health savings account
25 established pursuant to section 223 of the federal Internal Revenue
26 Code of 1986 (26 U.S.C. s.223), a deductible shall not be applied
27 for any benefits provided pursuant to this section which represent
28 preventive care as permitted by that federal law, and shall not be
29 applied as provided pursuant to section 3 of P.L.2005, c.248
30 (C.17:48E-35.28). This section shall apply to all health service
31 corporation contracts in which the health service corporation has
32 reserved the right to change the premium.
33 (cf: P.L. 2005, c.248, s.1)

34
35 39. Section 3 of P.L.1999, c.409 (C.17:48H-3) is amended to
36 read as follows:

37 3. a. An organized delivery system which is not subject to
38 licensure requirements pursuant to this act shall submit an
39 application for certification to the Commissioner of [Health]
40 Banking and [Senior Services] Insurance. The organized delivery
41 system may continue to operate during the pendency of its
42 application, but in no case longer than 12 months after the date of
43 submission of the application to the Department of [Health]
44 Banking and [Senior Services] Insurance, unless the
45 commissioner, by regulation, extends the 12-month limitation. In
46 the event the application is denied, the applicant shall be treated as

1 an organized delivery system whose certification has been revoked
2 pursuant to sections 7 and 8 of this act.

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

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

9 c. A certified organized delivery system shall not directly issue
10 health benefits plans.

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

12

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41

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

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

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

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

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

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

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

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

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

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

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

30

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14

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

17 9. A certified organized delivery system shall pay to the
18 Commissioner of **[Health]** **Banking** and **[Senior Services]**
19 **Insurance** those application and examination fees as are established
20 by the commissioner by regulation.

21 (cf: P.L.1999, c.409, s.9)

22

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

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

35 (cf: P.L.1999, c.409, s.10)

36

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

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

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

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

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

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

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

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

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

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

34

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

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

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

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

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

1 that the system meets the standards provided for in this act,
2 including, but not limited to:

3 (1) All of the material required by section 12 of this act has been
4 filed;

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

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

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

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

15 (6) The applicant is financially sound and may reasonably be
16 expected to meet its obligations to enrollees, contract holders and
17 carriers. In making this determination, the commissioner shall
18 consider:

19 (a) The financial soundness of the applicant's compensation
20 arrangements for the provision of health care services;

21 (b) The adequacy of working capital, other sources of funding
22 and provisions for contingencies; and

23 (c) Whether any deposit of cash or securities, or any other
24 evidence of financial protection submitted, meets the requirements
25 set forth in this act or by the commissioner by regulation;

26 (7) Any deficiencies identified by the commissioner have been
27 corrected; and

28 (8) Any other factors determined by the commissioner to be
29 relevant have been addressed to the satisfaction of the
30 commissioner.

31 b. **【**The Commissioner of Banking and Insurance shall refer all
32 standard forms of provider agreements, quality assurance programs
33 and utilization management programs to be used by the organized
34 delivery system to the Commissioner of Health and Senior Services
35 for review. The Commissioner of Banking and Insurance shall
36 consult with the Commissioner of Health and Senior Services
37 regarding provider agreements, quality assurance programs, and
38 utilization management programs in determining whether the
39 applicant for a license:

40 (1) Has demonstrated the potential ability to assure that health
41 care services will be provided in a manner that will assure the
42 availability and accessibility of the services;

43 (2) Has adequate arrangements for an ongoing quality assurance
44 program, where applicable;

45 (3) Has established acceptable forms for provider agreements to
46 be used by the system; and

47 (4) Has demonstrated that the persons who are to perform the
48 health care services are properly qualified.】 (Deleted by

1 amendment, P.L. , c.) (pending before the Legislature as this
2 bill).

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

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

16

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

19 15. A licensed organized delivery system may:

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

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

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

30 (2) Indemnity benefits covering urgent care or emergency
31 services;

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

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

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

38

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

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

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

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

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

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

11

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

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

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

20

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

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

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

31

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

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

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

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

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

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

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

32

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

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

1 shall be rated in a separate rating pool for the purposes of
2 establishing a premium, but for the purpose of determining a
3 carrier's losses, these policies or contracts shall be aggregated with
4 the losses on the carrier's other business written pursuant to the
5 provisions of P.L.1992, c.161 (C.17B:27A-2 et al.).

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

7

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

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

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

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

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

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

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

1 d. After the board's establishment of the individual health
2 benefits plans required pursuant to section 3 of P.L.1992, c.161
3 (C.17B:27A-4), and notwithstanding any law to the contrary, a
4 carrier shall file the policy or contract forms with the commissioner
5 and certify to the commissioner that the health benefits plans to be
6 used by the carrier are in substantial compliance with the provisions
7 in the corresponding approved plans. The certification shall be
8 signed by the chief executive officer of the carrier. Upon receipt by
9 the commissioner of the certification, the certified plans may be
10 used until the commissioner, after notice and hearing, disapproves
11 their continued use.

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

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

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

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

43 The benefits provided pursuant to this subsection shall be
44 provided to the same extent as for any other medical condition
45 under the health benefits plan, except that a deductible shall not be
46 applied for benefits provided pursuant to this subsection; however,
47 with respect to a health benefits plan that qualifies as a high
48 deductible health plan for which qualified medical expenses are

1 paid using a health savings account established pursuant to section
2 223 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.223),
3 a deductible shall not be applied for any benefits provided pursuant
4 to this subsection that represent preventive care as permitted by that
5 federal law, and shall not be applied as provided pursuant to section
6 14 of P.L.2005, c.248 (C.17B:27A-7.11). This subsection shall
7 apply to all individual health benefits plans in which the carrier has
8 reserved the right to change the premium.

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

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

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

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

43 The benefits provided pursuant to this subsection shall be
44 provided to the same extent as for any other medical condition
45 under the health benefits plan, except that a deductible shall not be
46 applied for benefits provided pursuant to this subsection. This

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

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

4

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

7 3. a. Except as provided in subsection f. of this section, every
8 small employer carrier shall, as a condition of transacting business
9 in this State, offer to every small employer at least three of the
10 health benefit plans established by the board, as provided in this
11 section, and also offer and make a good faith effort to market
12 individual health benefits plans as provided in section 3 of
13 P.L.1992, c.161 (C.17B:27A-4). The board shall establish a
14 standard policy form for each of the plans, which except as
15 otherwise provided in subsection j. of this section, shall be the only
16 plans offered to small groups on or after January 1, 1994. One
17 policy form shall contain the benefits provided for in sections 55,
18 57, and 59 of P.L.1991, c.187 (C.17:48E-22.2, 17B:26B-2 and
19 26:2J-4.3). In the case of indemnity carriers, one policy form shall
20 be established which contains benefits and cost sharing levels which
21 are equivalent to the health benefits plans of health maintenance
22 organizations pursuant to the "Health Maintenance Organization
23 Act of 1973," Pub.L.93-222 (42 U.S.C. s.300e et seq.). The
24 remaining policy forms shall contain basic hospital and medical-
25 surgical benefits, including, but not limited to:

26 (1) Basic inpatient and outpatient hospital care;

27 (2) Basic and extended medical-surgical benefits;

28 (3) Diagnostic tests, including X-rays;

29 (4) Maternity benefits, including prenatal and postnatal care;

30 and

31 (5) Preventive medicine, including periodic physical
32 examinations and inoculations.

33 At least three of the forms shall provide for major medical
34 benefits in varying lifetime aggregates, one of which shall provide
35 at least \$1,000,000 in lifetime aggregate benefits. The policy forms
36 provided pursuant to this section shall contain benefits representing
37 progressively greater actuarial values.

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

1 b. Initially, a carrier shall offer a plan within 90 days of the
2 approval of such plan by the commissioner. Thereafter, the plans
3 shall be available to all small employers on a continuing basis.
4 Every small employer which elects to be covered under any health
5 benefits plan who pays the premium therefor and who satisfies the
6 participation requirements of the plan shall be issued a policy or
7 contract by the carrier.

8 c. The carrier may establish a premium payment plan which
9 provides installment payments and which may contain reasonable
10 provisions to ensure payment security, provided that provisions to
11 ensure payment security are uniformly applied.

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

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

19 f. Notwithstanding the provisions of this section to the
20 contrary, a health maintenance organization which is a qualified
21 health maintenance organization pursuant to the "Health
22 Maintenance Organization Act of 1973," Pub.L.93-222 (42 U.S.C.
23 s.300e et seq.) shall be permitted to offer health benefits plans
24 formulated by the board and approved by the commissioner which
25 are in accordance with the provisions of that law in lieu of the plans
26 required pursuant to this section.

27 Notwithstanding the provisions of this section to the contrary, a
28 health maintenance organization which is approved pursuant to
29 P.L.1973, c.337 (C.26:2J-1 et seq.) shall be permitted to offer health
30 benefits plans formulated by the board and approved by the
31 commissioner which are in accordance with the provisions of that
32 law in lieu of the plans required pursuant to this section, except that
33 the plans shall provide the same level of benefits as required for a
34 federally qualified health maintenance organization, including any
35 requirements concerning copayments by enrollees.

36 g. A carrier shall not be required to own or control a health
37 maintenance organization or otherwise affiliate with a health
38 maintenance organization in order to comply with the provisions of
39 this section, but the carrier shall be required to offer at least three of
40 the health benefits plans which are formulated by the board and
41 approved by the commissioner, including one plan which contains
42 benefits and cost sharing levels that are equivalent to those required
43 for health maintenance organizations.

44 h. Notwithstanding the provisions of subsection a. of this
45 section to the contrary, the board may modify the benefits provided
46 for in sections 55, 57 and 59 of P.L.1991, c.187 (C.17:48E-22.2,
47 17B:26B-2 and 26:2J-4.3).

1 i. (1) In addition to the rider packages provided for in
2 subsection d. of this section, every carrier may offer, in connection
3 with the health benefits plans required to be offered by this section,
4 any number of riders which may revise the coverage offered by the
5 plans in any way, provided, however, that any form of such rider or
6 amendment thereof which decreases benefits or decreases the
7 actuarial value of a plan shall be filed for informational purposes
8 with the board and for approval by the commissioner before such
9 rider may be sold. Any rider or amendment thereof which adds
10 benefits or increases the actuarial value of a plan shall be filed with
11 the board for informational purposes before such rider may be sold.
12 The added premium or reduction in premium for each rider, as
13 applicable, shall be listed separately from the premium for the
14 standard plan.

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

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

28 j. (1) Notwithstanding the provisions of P.L.1992, c.162
29 (C.17B:27A-17 et seq.) to the contrary, a health benefits plan issued
30 by or through a carrier, association, or multiple employer
31 arrangement prior to January 1, 1994 or, if the requirements of
32 subparagraph (c) of paragraph (6) of this subsection are met, issued
33 by or through an out-of-State trust prior to January 1, 1994, at the
34 option of a small employer policy or contract holder, may be
35 renewed or continued after February 28, 1994, or in the case of such
36 a health benefits plan whose anniversary date occurred between
37 March 1, 1994 and the effective date of P.L.1994, c.11 (C.17B:27A-
38 19.1 et al.), may be reinstated within 60 days of that anniversary
39 date and renewed or continued if, beginning on the first 12-month
40 anniversary date occurring on or after the sixtieth day after the
41 board adopts regulations concerning the implementation of the
42 rating factors permitted by section 9 of P.L.1992, c.162
43 (C.17B:27A-25) and, regardless of the situs of delivery of the health
44 benefits plan, the health benefits plan renewed, continued or
45 reinstated pursuant to this subsection complies with the provisions
46 of section 2, subsection b. of section 3, and sections 6, 7, 8, 9 and
47 11 of P.L.1992, c.162 (C.17B:27A-18, 17B:27A-19, 17B:27A-22,

1 17B:27A-23, 17B:27A-24, 17B:27A-25 and 17B:27A-27) and
2 section 7 of P.L.1995, c.340 (C.17B:27A-19.3).

3 Nothing in this subsection shall be construed to require an
4 association, multiple employer arrangement or out-of-State trust to
5 provide health benefits coverage to small employers that are not
6 contemplated by the organizational documents, bylaws, or other
7 regulations governing the purpose and operation of the association,
8 multiple employer arrangement or out-of-State trust.
9 Notwithstanding the foregoing provision to the contrary, an
10 association, multiple employer arrangement or out-of-State trust
11 that offers health benefits coverage to its members' employees and
12 dependents:

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

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

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

22 (2) Notwithstanding the provisions of this subsection to the
23 contrary, a carrier or out-of-State trust which writes the health
24 benefits plans required pursuant to subsection a. of this section shall
25 be required to offer those plans to any small employer, association
26 or multiple employer arrangement.

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

37 (b) A carrier which has renewed, continued or reinstated a
38 health benefits plan pursuant to this subsection that has not been
39 newly issued to a new small employer group since January 1, 1994,
40 may, upon approval of the commissioner, continue to establish its
41 rates for that plan based on the loss experience of that plan if the
42 carrier does not issue that health benefits plan to any new small
43 employer groups.

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

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

1 (6) (a) Except as otherwise provided in subparagraphs (b) and
2 (c) of this paragraph, a health benefits plan renewed, continued or
3 reinstated pursuant to this subsection shall be filed with the
4 commissioner for informational purposes within 30 days after its
5 renewal date. No later than 60 days after the board adopts
6 regulations concerning the implementation of the rating factors
7 permitted by section 9 of P.L.1992, c.162 (C.17B:27A-25) the filing
8 shall be amended to show any modifications in the plan that are
9 necessary to comply with the provisions of this subsection. The
10 commissioner shall monitor compliance of any such plan with the
11 requirements of this subsection, except that the board shall enforce
12 the loss ratio requirements.

13 (b) A health benefits plan filed with the commissioner pursuant
14 to subparagraph (a) of this paragraph may be amended as to its
15 benefit structure if the amendment does not reduce the actuarial
16 value and benefits coverage of the health benefits plan below that of
17 the lowest standard health benefits plan established by the board
18 pursuant to subsection a. of this section. The amendment shall be
19 filed with the commissioner for approval pursuant to the terms of
20 sections 4, 8, 12 and 25 of P.L.1995, c.73 (C.17:48-8.2, 17:48A-9.2,
21 17:48E-13.2 and 26:2J-43), N.J.S.17B:26-1 and N.J.S.17B:27-49, as
22 applicable, and shall comply with the provisions of sections 2 and 9
23 of P.L.1992, c.162 (C.17B:27A-18 and 17B:27A-25) and section 7
24 of P.L.1995, c.340 (C.17B:27A-19.3).

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

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

47 (8) Notwithstanding the provisions of P.L.1992, c.162
48 (C.17B:27A-17 et seq.) to the contrary, a carrier, association,

1 multiple employer arrangement or out-of-State trust may offer
2 coverage under a health benefits plan authorized to be renewed,
3 continued or reinstated pursuant to this subsection to new
4 employees of small employer groups covered by the health benefits
5 plan in accordance with the provisions of paragraph (1) of this
6 subsection.

7 (9) Notwithstanding the provisions of P.L.1992, c.162
8 (C.17B:27A-17 et seq.) or P.L.1992, c.161 (C.17B:27A-2 et al.) to
9 the contrary, any individual, who is eligible for small employer
10 coverage under a policy issued, renewed, continued or reinstated
11 pursuant to this subsection, but who would be subject to a
12 preexisting condition exclusion under the small employer health
13 benefits plan, or who is a member of a small employer group who
14 has been denied coverage under the small employer group health
15 benefits plan for health reasons, may elect to purchase or continue
16 coverage under an individual health benefits plan until such time as
17 the group health benefits plan covering the small employer group of
18 which the individual is a member complies with the provisions of
19 P.L.1992, c.162 (C.17B:27A-17 et seq.).

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

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

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

41 Notwithstanding the provisions of subparagraph (b) of paragraph
42 (6) of this subsection to the contrary, a small employer who changes
43 its health benefits plan's issuing carrier pursuant to the provisions of
44 this paragraph, shall not, upon changing carriers, modify the benefit
45 structure of that health benefits plan within six months of the date
46 the issuing carrier was changed.

47 k. Effective immediately for a health benefits plan issued on or
48 after the effective date of P.L.2005, c.248 (C.17:48E-35.27 et al.)

1 and effective on the first 12-month anniversary date of a health
2 benefits plan in effect on the effective date of P.L.2005, c.248
3 (C.17:48E-35.27 et al.), the health benefits plans required pursuant
4 to this section, including any plans offered by a State approved or
5 federally qualified health maintenance organization, shall contain
6 benefits for expenses incurred in the following:

7 (1) Screening by blood lead measurement for lead poisoning for
8 children, including confirmatory blood lead testing as specified by
9 the Department of Health [and Senior Services] pursuant to section
10 7 of P.L.1995, c.316 (C.26:2-137.1); and medical evaluation and
11 any necessary medical follow-up and treatment for lead poisoned
12 children.

13 (2) All childhood immunizations as recommended by the
14 Advisory Committee on Immunization Practices of the United
15 States Public Health Service and the Department of Health [and
16 Senior Services] pursuant to section 7 of P.L.1995, c.316 (C.26:2-
17 137.1). A carrier shall notify its insureds, in writing, of any change
18 in the health care services provided with respect to childhood
19 immunizations and any related changes in premium. Such
20 notification shall be in a form and manner to be determined by the
21 Commissioner of Banking and Insurance.

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

29 The benefits provided pursuant to this subsection shall be
30 provided to the same extent as for any other medical condition
31 under the health benefits plan, except that a deductible shall not be
32 applied for benefits provided pursuant to this subsection; however,
33 with respect to a small employer health benefits plan that qualifies
34 as a high deductible health plan for which qualified medical
35 expenses are paid using a health savings account established
36 pursuant to section 223 of the federal Internal Revenue Code of
37 1986 (26 U.S.C. s.223), a deductible shall not be applied for any
38 benefits that represent preventive care as permitted by that federal
39 law, and shall not be applied as provided pursuant to section 16 of
40 P.L.2005, c.248 (C.17B:27A-19.14). This subsection shall apply to
41 all small employer health benefits plans in which the carrier has
42 reserved the right to change the premium.

43 1. The board shall consider including benefits for speech-
44 language pathology and audiology services, as rendered by speech-
45 language pathologists and audiologists within the scope of their
46 practices, in at least one of the standard policies and in at least one
47 of the five riders to be developed under this section.

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

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

18 This subsection shall apply to all small employer health benefits
19 plans in which the carrier has reserved the right to change the
20 premium.

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

35 The benefits provided pursuant to this subsection shall be
36 provided to the same extent as for any other medical condition
37 under the health benefits plan, except that no deductible shall be
38 applied for benefits provided pursuant to this subsection. This
39 subsection shall apply to all small employer health benefits plans in
40 which the carrier has reserved the right to change the premium.

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

42

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

45 5. In addition to the standard health benefits plans offered by a
46 carrier on the effective date of this act, a carrier that writes small
47 employer health benefits plans pursuant to P.L.1992, c.162
48 (C.17B:27A-17 et seq.) may also offer one or more of the plans

1 through the carrier's network of providers, with no reimbursement
2 for any out-of-network benefits other than emergency care, urgent
3 care, and continuity of care. A carrier's network of providers shall
4 be subject to review and approval or disapproval by the
5 Commissioner of Banking and Insurance, in consultation with the
6 Commissioner of Health **[and Senior Services]**, pursuant to
7 regulations promulgated by the Department of Banking and
8 Insurance, including review and approval or disapproval before
9 plans with benefits provided through a carrier's network of
10 providers pursuant to this section may be offered by the carrier.
11 Policies or contracts written on this basis shall be rated in a separate
12 rating pool for the purposes of establishing a premium, but for the
13 purpose of determining a carrier's losses, these policies or contracts
14 shall be aggregated with the losses on the carrier's other business
15 written pursuant to the provisions of P.L.1992, c.162 (C.17B:27A-
16 17 et seq.).

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

18

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

21 13. a. Within 60 days of the effective date of this act, the
22 commissioner shall give notice to all members of the time and place
23 for the initial organizational meeting, which shall take place within
24 90 days of the effective date. The members shall elect the initial
25 board, subject to the approval of the commissioner. The board shall
26 consist of 10 elected public members and two ex officio members
27 who include the Commissioner of Health **[and Senior Services]** and
28 the commissioner or their designees. Initially, three of the public
29 members of the board shall be elected for a three-year term, three
30 shall be elected for a two-year term, and three shall be elected for a
31 one-year term. Thereafter, all elected board members shall serve for
32 a term of three years. The following categories shall be represented
33 among the elected public members:

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

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

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

42 (4) Two health maintenance organizations; and

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

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

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

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

1 The board shall hold an election for the two members added
2 pursuant to P.L.1995, c.298 within 90 days of the date of enactment
3 of that act. Initially, one of the two new members shall serve for a
4 term of one year and one of the two new members shall serve for a
5 term of two years. Thereafter, the new members shall serve for a
6 term of three years. The terms of the risk-assuming carrier and
7 reinsuring carrier shall terminate upon the election of the two new
8 members added pursuant to P.L.1995, c.298, notwithstanding the
9 provisions of this section to the contrary.

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

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

15 One representative of organized labor;

16 One physician licensed to practice medicine and surgery in this
17 State; and

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

20 The public members shall be appointed for a term of three years,
21 except that of the members first appointed, two shall be appointed
22 for a term of one year, two for a term of two years and two for a
23 term of three years.

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

27 b. If the initial board is not elected at the organizational
28 meeting, the commissioner shall appoint the public members within
29 15 days of the organizational meeting, in accordance with the
30 provisions of paragraphs (1) through (7) of subsection a. of this
31 section.

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

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

36 e. At least two copies of the minutes of every meeting of the
37 board shall be delivered forthwith to the commissioner.

38 (cf: P.L.2001, c.131, s.22)

39

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

42 4. The commission shall consist of 17 voting members as
43 follows: the Commissioners of Health **and Senior Services**,
44 Human Services and Banking and Insurance or their designees, who
45 shall serve ex officio; three public members appointed by the
46 President of the Senate, who shall include a representative of a
47 commercial health insurance company, a physician licensed in this
48 State who is a member of the Medical Society of New Jersey, and a

1 representative of the New Jersey Business and Industry Association,
2 no more than two of whom shall be from the same political party;
3 three public members appointed by the Speaker of the General
4 Assembly, who shall include a representative of a health service
5 corporation, a physician licensed in this State, and a representative
6 of organized labor, no more than two of whom shall be from the
7 same political party; and eight public members appointed by the
8 Governor, who shall include a medical educator from the University
9 of Medicine and Dentistry of New Jersey whose major field of
10 expertise is the study and evaluation of the cost of health care and
11 health insurance, a representative of the New Jersey Association of
12 Health Plans, a representative of the New Jersey Hospital
13 Association, a representative of the New Jersey State Nurses
14 Association, a representative of the New Jersey Dental Association,
15 a representative of a consumer advocacy organization and two
16 representatives of the general public who are knowledgeable about
17 health benefits plans.

18 The President of the Senate may appoint two members of the
19 Senate, no more than one of whom shall be from the same political
20 party, to serve as nonvoting members of the commission. The
21 Speaker of the General Assembly may appoint two members of the
22 General Assembly, no more than one of whom shall be from the
23 same political party, to serve as nonvoting members of the
24 commission. The legislative members shall serve during their
25 legislative term of office.

26 Of the voting members first appointed, four shall serve for a term
27 of two years, four for a term of three years, and three for a term of
28 four years.

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

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

35
36 62. Section 5 of P.L.2003, c.193 (C.17B:27D-5) is amended to
37 read as follows:

38 5. a. The commission shall organize and hold its first meeting
39 within 90 days after the appointment of its members and shall elect
40 a chairman and a vice chairman from among its members. The
41 commission may appoint a secretary, who need not be a member of
42 the commission.

43 b. The members of the commission shall serve without
44 compensation but may be allowed their actual and necessary
45 expenses incurred in the performance of their duties within the
46 limits of funds appropriated or otherwise made available to the
47 commission for this purpose.

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

4 d. The commission shall be entitled to call upon the services of
5 any State, county or municipal department, board, commission or
6 agency as it may require and as may be available to it for these
7 purposes, and to incur such traveling and other miscellaneous
8 expenses as it may deem necessary for the proper execution of its
9 duties and as may be within the limit of funds appropriated or
10 otherwise made available to it for these purposes.

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

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

15
16 63. Section 6 of P.L.2003, c.193 (C.17B:27D-6) is amended to
17 read as follows:

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

22 a. Whenever a bill containing a mandated health benefit is
23 introduced in the Legislature, the chairman of the standing
24 reference committee to which the bill has been referred in the
25 House in which it was introduced shall, upon introduction of the
26 bill, request the commission to prepare a written report that assesses
27 the social and financial effects and the medical efficacy of the
28 proposed mandated health benefit.

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

33 b. (1) For the period ending December 31, 2003, the
34 commission shall complete its review of a bill within 90 days after
35 the date the review is requested, and provide its comments and
36 recommendations in writing to the prime sponsor, committee
37 chairman and presiding officer of the House in which the bill is
38 pending. The commission may request an extension prior to the
39 90th day, in which case the presiding officer of the House in which
40 the bill is pending may grant an extension of up to 45 days for the
41 commission to complete its review.

42 (2) Beginning January 1, 2004, the commission shall complete
43 its review of a bill within 60 days after the date the review is
44 requested, and provide its comments and recommendations in
45 writing to the prime sponsor, committee chairman and presiding
46 officer of the House in which the bill is pending. The commission
47 may request an extension prior to the 60th day, in which case the
48 presiding officer of the House in which the bill is pending may

1 grant an extension of up to 45 days for the commission to complete
2 its review.

3 c. The House or standing reference committee, as applicable,
4 shall not consider or vote upon the bill until either: (1) the
5 commission completes its review and provides its comments and
6 recommendations in writing to the prime sponsor, committee
7 chairman and presiding officer of the House in which the bill is
8 pending, or (2) the 90th or 60th day, as applicable, after the date
9 the review is requested, if no extension was granted, or the
10 designated day for the end of the extension period, whichever is
11 later.

12 d. (1) If the presiding officer of the House in which the bill is
13 pending determines that the bill is an urgent matter, the presiding
14 officer shall so notify in writing the commission and the chairman
15 of the standing reference committee to which the bill was referred,
16 and the House or committee may consider and vote upon the bill as
17 soon as practicable.

18 (2) If the chairman of the standing reference committee to which
19 the bill is referred, in consultation with the Commissioner of Health
20 **【and Senior Services】**, determines that the bill is of such an urgent
21 nature that it would seriously impair the public health to wait for
22 the commission to issue its report, the chairman shall so notify in
23 writing the presiding officer of the House in which the bill is
24 pending, and the commission, of that determination, and the
25 standing reference committee, with the agreement of the presiding
26 officer of the House, may consider and vote upon the bill as soon as
27 practicable.

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

29

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

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

34 a. The social impact of mandating the health benefit, which
35 shall include:

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

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

43 (3) the demand for the proposed mandated health benefit from
44 the public and the source and extent of opposition to mandating the
45 health benefit;

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

- 1 (5) such other information with respect to the social impact as
2 the commission deems appropriate.
- 3 b. The financial impact of mandating the health benefit, which
4 shall include:
 - 5 (1) the extent to which the proposed mandated health benefit
6 would increase or decrease the cost for treatment or service;
 - 7 (2) the extent to which similar mandated health benefits in other
8 states have affected charges, costs and payments for services;
 - 9 (3) the extent to which the proposed mandated health benefit
10 would increase the appropriate use of the treatment or service;
 - 11 (4) the impact of the proposed mandated health benefit on total
12 costs to carriers and on administrative costs;
 - 13 (5) the impact of the proposed mandated health benefit on total
14 costs to purchasers and benefit costs;
 - 15 (6) the impact of the proposed mandated health benefit on the
16 total cost of health care within New Jersey; and
 - 17 (7) such other information with respect to the financial impact
18 as the commission deems appropriate.
- 19 c. The medical efficacy of mandating the health benefit, which
20 shall include:
 - 21 (1) if the proposed health benefit mandates coverage of a
22 particular treatment or therapy, the recommendation of a clinical
23 study or review article in a major peer-reviewed professional
24 journal;
 - 25 (2) if the proposed benefit mandates coverage of the services
26 provided by an additional class of practitioners, the results of at
27 least one professionally accepted, controlled trial comparing the
28 medical results achieved by the additional class of practitioners and
29 the practitioners already covered by benefits;
 - 30 (3) the results of other research;
 - 31 (4) the impact of the proposed benefit on the general availability
32 of health benefits coverage in New Jersey; and
 - 33 (5) such other information with respect to the medical efficacy
34 as the commission deems appropriate.
- 35 d. The effects of balancing the social, economic and medical
36 efficacy considerations, which shall include, but not be limited to:
 - 37 (1) the extent to which the need for coverage outweighs the
38 costs of mandating the health benefit; and
 - 39 (2) the extent to which the problem of coverage may be solved
40 by mandating the availability of the coverage as an option under a
41 health benefits plan.
- 42 e. An analysis of information collected from various sources,
43 including, but not limited to:
 - 44 (1) a State data collection system;
 - 45 (2) the Departments of Health **【and Senior Services】** and
46 Banking and Insurance;
 - 47 (3) health planning organizations;

1 (4) proponents and opponents of the proposed health benefit
2 mandate, who shall be encouraged to provide appropriate
3 documentation supporting their positions. The commission shall
4 examine such documentation to determine whether:

5 (a) the documentation is complete;

6 (b) the assumptions upon which the research is based are valid;

7 (c) the research cited in the documentation meets professional
8 standards;

9 (d) all relevant research respecting the proposed benefit has
10 been cited in the documentation;

11 (e) the conclusions and interpretations in the documentation are
12 consistent with the data submitted; and

13 (5) such other data sources as the commission deems
14 appropriate.

15 In analyzing information from the various sources, the
16 commission shall give substantial weight to the documentation
17 provided by the proponents and opponents of the mandate to the
18 extent that such documentation is made available to them.

19 (cf: P.L.2003, c.193, s.7)

20
21 65. Section 8 of P.L.2003, c.193 (C.17B:27D-8) is amended to
22 read as follows:

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

25 a. develop criteria for a system and program of data collection,
26 for use by the Departments of Health **【and Senior Services】** and
27 Banking and Insurance, to assess the impact of mandated health
28 benefits, including the cost to employers and carriers, impact of
29 treatment, cost savings in the health care system, number of
30 providers, and other data as may be appropriate; and

31 b. review and comment to any State department, board, bureau,
32 commission, or agency, with respect to any order or regulations
33 proposed or implemented thereby that affect mandated health
34 benefits.

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

36
37 66. Section 1 of P.L.1999, c.154 (C.17B:30-23) is amended to
38 read as follows:

39 1. a. (1) The Commissioner of Banking and Insurance, in
40 consultation with the Commissioner of Health **【and Senior**
41 **Services】**, shall establish, by regulation, a timetable for
42 implementation of the electronic receipt and transmission of health
43 care claim information by each hospital, medical **【or】** , and health
44 service corporation, individual and group health insurer, health
45 maintenance organization, dental service corporation, dental plan
46 organization, and prepaid prescription service organization,
47 respectively, and a subsidiary of such corporation, insurer, or

1 organization that processes health care benefits claims as a third
2 party administrator, authorized to do business in this State.

3 The Commissioner of Banking and Insurance shall establish the
4 timetable within 90 days of the date the federal Department of
5 Health and Human Services adopts rules establishing standards for
6 health care transactions, including: health claims or equivalent
7 encounter information, including institutional, professional,
8 pharmacy, and dental health claims; enrollment and disenrollment
9 in a health plan; eligibility for a health plan; health care payment
10 and remittance advice; health care premium payments; first report
11 of injury; health claim status; and referral certification and
12 authorization, respectively, pursuant to section 262 of Pub.L.104-
13 191 (42 U.S.C.s.1320d et seq.). The commissioner may adopt more
14 than one timetable, if necessary, to conform the requirements of this
15 section with the dates of adoption of the federal rules.

16 (2) The timetable for implementation adopted by the
17 commissioner shall provide for extensions and waivers of the
18 implementation requirement pursuant to paragraph (1) of this
19 subsection in cases when it has been demonstrated to the
20 commissioner's satisfaction that compliance with the timetable for
21 implementation will result in an undue hardship to a hospital,
22 medical or health service corporation, individual or group health
23 insurer, health maintenance organization, dental service
24 corporation, dental plan organization, or prepaid prescription
25 service organization, respectively, or a subsidiary of such
26 corporation, insurer, or organization that processes health care
27 benefits claims as a third party administrator, authorized to do
28 business in this State.

29 (3) The Commissioner of Banking and Insurance shall report to
30 the Governor and the Legislature within one year of establishing the
31 timetable pursuant to this subsection, on the number of extensions
32 and waivers of the implementation requirement that he has granted
33 pursuant to paragraph (2) of this subsection, and the reasons
34 therefor.

35 b. The Commissioner of Banking and Insurance, in
36 consultation with the Commissioner of Health [and Senior
37 Services], shall adopt, by regulation for each type of contract, as he
38 deems appropriate, one set of standard health care enrollment and
39 claim forms in paper and electronic formats to be used by each
40 hospital, medical, or health service corporation, individual and
41 group health insurer, health maintenance organization, dental
42 service corporation, dental plan organization, and prepaid
43 prescription service organization, and a subsidiary of such
44 corporation, insurer, or organization that processes health care
45 benefits claims as a third party administrator, authorized to do
46 business in this State.

47 The Commissioner of Banking and Insurance shall establish the
48 standard health care enrollment and claim forms within 90 days of

1 the date the federal Department of Health and Human Services
2 adopts rules establishing standards for the forms.

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

4

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

7 15. The Commissioner of Banking and Insurance, in
8 consultation with the Commissioner of Health **【and Senior**
9 **Services】**, shall adopt regulations to effectuate the purposes of
10 sections 1 through 10 of this act, pursuant to the "Administrative
11 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). To the
12 extent practicable, the regulations shall include any provisions the
13 commissioner deems appropriate that seek to reduce the amount of,
14 or to consolidate, the paper forms sent by hospital, medical, health,
15 and dental service corporations, and commercial insurers, health
16 maintenance organizations, dental plan organizations, and prepaid
17 prescription service organizations to health care providers and
18 covered persons.

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

20

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

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

31 The Departments of Health **【and Senior Services】** and Banking
32 and Insurance or any other department upon request shall cooperate
33 with and provide assistance to the college in carrying out its study
34 pursuant to this section.

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

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

38

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

41 2. As used in this act:

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

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

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

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

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

14 "Department" means the Department of Health [and Senior
15 Services].

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

18 "Health plan" means an individual or group health benefits plan
19 that provides or pays the cost of hospital and medical expenses,
20 dental or vision care, or prescription drugs, and is provided by or
21 through an insurer, health maintenance organization, the Medicaid
22 program, the Medicare program, a Medicare+Choice provider or
23 Medicare supplemental insurer, an employer-sponsored group
24 health benefits plan, government or church-sponsored health
25 benefits plan or a multi-employer welfare arrangement.

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

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

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

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

33

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

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

39 b. The hospital shall file with the department a notice
40 signifying its intent to participate voluntarily and certifying the
41 following:

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

47 (2) the hospital has submitted a "clean claim" pursuant to
48 P.L.1999, c.154 (C.17B:30-23 et al.) and P.L.1999, c.155

1 (C.17B:30-26 et seq.) to the patient, a responsible party, Medicaid,
2 Medicare or a health plan, as applicable, within a reasonable time
3 following the patient's discharge, or in the case of outpatient
4 service, the date of service;

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

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

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

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

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

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

26 f. Upon receipt of the voluntary assignment, the Department of
27 the Treasury shall send, on behalf of the department, a notice to the
28 person named as a debtor of the hospital, notifying the person as to
29 receipt of the assignment by the department, providing the person
30 with 30 days to challenge the validity of the debt, and providing
31 notice that in the absence of such challenge, a Certificate of Debt
32 will be filed with the Superior Court of New Jersey. The notice
33 shall also include a statement on the department's intention to take
34 action to set off the liability against any refund of taxes pursuant to
35 the "New Jersey Gross Income Tax Act" including an earned
36 income tax credit, a NJ SAVER rebate or a homestead rebate, or
37 other such funds as may be authorized by law.

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

45 h. If the person fails to respond within 30 days to the
46 department, the department may utilize the provisions of the Set off
47 of Individual Liability (SOIL) program established pursuant to
48 P.L.1981, c.239 (C.54A:9-8.1 et seq.), to collect any surcharge

1 levied under this section that is unpaid on or after the effective date
2 of this act.

3 As additional remedies, the department may utilize the services
4 of a collection agency to settle the debt and may also issue a
5 certificate to the Clerk of the Superior Court stating that the person
6 identified in the certificate is indebted under this law in such
7 amount as shall be stated in the certificate. The certificate shall
8 reference this act. Thereupon the clerk to whom such certificate
9 shall have been issued shall immediately enter upon the record of
10 docketed judgments: the name of the person as debtor; the State as
11 creditor; the address of the person, if shown in the certificate; the
12 amount of the debt so certified; a reference to this act under which
13 the debt is assessed; and the date of making the entries. The
14 docketing of the entries shall have the same force and effect as a
15 civil judgment docketed in the Superior Court, and the department
16 shall have all the remedies and may take all of the proceedings for
17 the collection thereof which may be had or taken upon the recovery
18 of a judgment in an action, but without prejudice to any right of
19 appeal. Upon entry by the clerk of the certificate in the record of
20 docketed judgments in accordance with this provision, interest in
21 the amount specified by the court rules for post-judgment interest
22 shall accrue from the date of the docketing of the certificate;
23 however, payment of the interest may be waived by the department.

24 i. Any collection efforts undertaken pursuant to this act shall
25 be undertaken in accordance with the "Health Insurance Portability
26 and Accountability Act of 1996," Pub.L.104-191 and 45 C.F.R.
27 160.101 to 164.534, or any other similar law. The department and
28 any other entity performing collection activities pursuant to this act
29 is authorized to enter into any agreements required to comply with
30 such laws, including, but not limited to, entering into agreements
31 with the hospitals and collection agencies to provide for appropriate
32 safeguarding of information.

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

34

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

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

39 "Authorization" means a determination required under a health
40 benefits plan, that based on the information provided, satisfies the
41 requirements under the member's health benefits plan for medical
42 necessity.

43 "Carrier" means an insurance company, health service
44 corporation, hospital service corporation, medical service
45 corporation, or health maintenance organization authorized to issue
46 health benefits plans in this State.

47 "Commissioner" means the Commissioner of Banking and
48 Insurance.

1 "Covered person" means a person on whose behalf a carrier
2 offering the plan is obligated to pay benefits or provide services
3 pursuant to the health benefits plan.

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

7 "Generally accepted standards of medical practice" means
8 standards that are based on: credible scientific evidence published
9 in peer-reviewed medical literature generally recognized by the
10 relevant medical community; physician and health care provider
11 specialty society recommendations; the views of physicians and
12 health care providers practicing in relevant clinical areas; and any
13 other relevant factor as determined by the commissioner by
14 regulation.

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

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

34 "Medical necessity" or "medically necessary" means or describes
35 a health care service that a health care provider, exercising his
36 prudent clinical judgment, would provide to a covered person for
37 the purpose of evaluating, diagnosing₂ or treating an illness, injury,
38 disease₂ or its symptoms and that is: in accordance with the
39 generally accepted standards of medical practice; clinically
40 appropriate, in terms of type, frequency, extent, site₂ and duration,
41 and considered effective for the covered person's illness, injury₂ or
42 disease; not primarily for the convenience of the covered person or
43 the health care provider; and not more costly than an alternative
44 service or sequence of services at least as likely to produce
45 equivalent therapeutic or diagnostic results as to the diagnosis or
46 treatment of that covered person's illness, injury₂ or disease.

1 "Network provider" means a participating hospital or physician
2 under contract or other agreement with a carrier to furnish health
3 care services to covered persons.

4 "Payer" means a carrier which requires that utilization
5 management be performed to authorize the approval of a health care
6 service and includes an organized delivery system that is certified
7 by the Commissioner of '[Health]' [and Senior Services]
8 'Banking and Insurance' or licensed by the commissioner pursuant
9 to P.L.1999, c.409 (C.17:48H-1 et seq.).

10 "Payer's agent" or "agent" means an intermediary contracted or
11 affiliated with the payer to provide authorization for service or
12 perform administrative functions including, but not limited to, the
13 payment of claims or the receipt, processing, or transfer of claims
14 or claim information.

15 "Physician" means a physician licensed pursuant to Title 45 of
16 the Revised Statutes.

17 "Utilization management" means a system for reviewing the
18 appropriate and efficient allocation of health care services under a
19 health benefits plan according to specified guidelines, in order to
20 recommend or determine whether, or to what extent, a health care
21 service given or proposed to be given to a covered person should or
22 will be reimbursed, covered, paid for, or otherwise provided under
23 the health benefits plan. The system may include, but shall not be
24 limited to: preadmission certification, the application of practice
25 guidelines, continued stay review, discharge planning,
26 preauthorization of ambulatory care procedures', and retrospective
27 review.

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

29

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

32 1. As used in this act:

33 "Ambulance service" means the provision of emergency health
34 care services, basic life support services, advanced life support
35 services, critical care services, mobile intensive care services, or
36 emergency medical transportation in a vehicle that is licensed,
37 equipped, and staffed in accordance with the requirements set forth
38 by the Commissioner of Health [and Senior Services].

39 "Assignment of benefits" means any written instrument executed
40 by the covered person or his authorized representative which
41 assigns a service provider the covered person's right to receive
42 reimbursement for a covered service rendered to the covered
43 person.

44 "Carrier" means an insurance company, health service
45 corporation, hospital service corporation, medical service
46 corporation, or health maintenance organization authorized to issue
47 health benefits plans in this State.

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

3 "Commissioner" means the Commissioner of Banking and
4 Insurance.

5 "Covered person" means a person on whose behalf a carrier
6 offering the health benefits plan is obligated to pay benefits or
7 provide services pursuant to the health benefits plan.

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

11 "Health benefits plan" means a hospital and medical expense
12 insurance policy; health service corporation contract; hospital
13 service corporation contract; medical service corporation contract;
14 health maintenance organization subscriber contract; or other plan
15 for medical care delivered or issued for delivery in this State. For
16 purposes of this act, health benefits plan shall not include one or
17 more, or any combination of, the following: coverage only for
18 accident, or disability income insurance, or any combination
19 thereof; coverage issued as a supplement to liability insurance;
20 liability insurance, including general liability insurance and
21 automobile liability insurance; stop loss or excess risk insurance;
22 workers' compensation or similar insurance; automobile medical
23 payment insurance; credit-only insurance; coverage for on-site
24 medical clinics; coverage for Medicaid services pursuant to a
25 contract with the State; and any other similar insurance coverage, as
26 specified in federal regulations, under which benefits for medical
27 care are secondary or incidental to other insurance benefits. Health
28 benefits plans shall not include the following benefits if they are
29 provided under a separate policy, certificate or contract of insurance
30 or are otherwise not an integral part of the plan: limited scope
31 dental or vision benefits; benefits for long-term care, nursing home
32 care, home health care, community-based care, or any combination
33 thereof; and such other similar, limited benefits as are specified in
34 federal regulations. Health benefits plan shall not include hospital
35 confinement indemnity coverage if the benefits are provided under
36 a separate policy, certificate or contract of insurance, there is no
37 coordination between the provision of the benefits and any
38 exclusion of benefits under any group health benefits plan
39 maintained by the same plan sponsor, and those benefits are paid
40 with respect to an event without regard to whether benefits are
41 provided with respect to such an event under any group health plan
42 maintained by the same plan sponsor.

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

1 "Service provider" means any person, public or private
2 institution, agency, or business concern lawfully providing an
3 ambulance service.

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

5
6 73. Section 1 of P.L.2011, c.214 (C.18A:3B-69) is amended to
7 read as follows:

8 1. a. The governing board of each institution of higher
9 education shall develop and coordinate an emergency operations
10 plan to ensure the continuity of essential institution functions under
11 all circumstances. The plan shall:

12 (1) identify a baseline of preparedness for all potential
13 emergencies, including pandemics, to establish a viable capability
14 to perform essential functions during any emergency that disrupts
15 normal operations; and

16 (2) be coordinated with State and local authorities including, but
17 not limited to, the State Office of Emergency Management, local
18 law enforcement officers, county and local health officers, county
19 offices of emergency management, and other emergency
20 responders.

21 b. The plan shall include, but not be limited to, the following
22 components: identification of essential functions, programs, and
23 personnel; procedures to implement the plan; delegation of
24 authority and lines of succession; identification of alternative
25 facilities and related infrastructure, including those for
26 communications; identification and protection of vital records and
27 databases; and schedules and procedures for periodic tests, training,
28 and exercises. The plan shall be consistent with the local emergency
29 operations plan of the municipality in which the institution is
30 located.

31 c. The governing board of the institution shall adopt and
32 submit for review an emergency operations plan to the Secretary of
33 Higher Education, the State Office of Emergency Management, the
34 Department of Health **【and Senior Services】**, and the Office of
35 Homeland Security and Preparedness within six months of the
36 effective date of this act. The governing board shall review, update,
37 and resubmit the plan to the offices every five years. If an
38 emergency incident occurs at an institution during the five-year
39 period, the plan shall be reviewed immediately.

40 d. The Office of Homeland Security and Preparedness, the
41 State Office of Emergency Management, the Department of Health
42 **【and Senior Services】**, and the Secretary of Higher Education shall
43 review the emergency operations plan submitted by an institution of
44 higher education pursuant to subsection c. of this section and, when
45 necessary, shall in coordination with other State agencies make
46 recommendations to the institution for improving the plan that are
47 deemed necessary.

1 e. Any plan prepared pursuant to this section shall not be
2 considered a government record as defined in section 1 of P.L.1995,
3 c.23 (C.47:1A-1.1) and shall not be available for public inspection,
4 copying, or the purchase of copies.
5 (cf: P.L.2011, c.214, s.1)

6
7 74. Section 2 of P.L.1997, c.368 (C.18A:40-12.6) is amended to
8 read as follows:

9 2. The policy for the administration of medication to a pupil
10 shall provide that the school nurse shall have the primary
11 responsibility for the administration of the epinephrine. The school
12 nurse shall designate, in consultation with the board of education, or
13 chief school administrator of a nonpublic school additional
14 employees of the school district or nonpublic school who volunteer
15 to administer epinephrine via a pre-filled auto-injector mechanism
16 to a pupil for anaphylaxis when the nurse is not physically present
17 at the scene. The school nurse shall determine that:

18 a. the designees have been properly trained in the
19 administration of the epinephrine via a pre-filled auto-injector
20 mechanism using standardized training protocols established by the
21 Department of Education in consultation with the Department of
22 Health **[and Senior Services]**;

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

26 c. the board or chief school administrator of a nonpublic school
27 informs the parents or guardians of the pupil in writing that the
28 district and its employees or agents or the nonpublic school and its
29 employees and agents shall have no liability as a result of any injury
30 arising from the administration of the epinephrine to the pupil;

31 d. the parents or guardians of the pupil sign a statement
32 acknowledging their understanding that the district or nonpublic
33 school shall have no liability as a result of any injury arising from
34 the administration of the epinephrine via a pre-filled auto-injector
35 mechanism to the pupil and that the parents or guardians shall
36 indemnify and hold harmless the district and its employees or
37 agents against any claims arising out of the administration of the
38 epinephrine via a pre-filled auto-injector mechanism to the pupil;
39 and

40 e. the permission is effective for the school year for which it is
41 granted and is renewed for each subsequent school year upon
42 fulfillment of the requirements in subsections a. through d. of this
43 section.

44 The Department of Education, in consultation with the
45 Department of Health **[and Senior Services]**, shall require trained
46 designees for students enrolled in a school who may require the
47 emergency administration of epinephrine for anaphylaxis when the
48 school nurse is not available.

1 Nothing in this section shall be construed to prohibit the
2 emergency administration of epinephrine via a pre-filled auto-
3 injector mechanism to a pupil for anaphylaxis by the school nurse
4 or other employees designated pursuant to this section when the
5 pupil is authorized to self-administer epinephrine pursuant to
6 section 1 of P.L.1993, c.308 (C.18A:40-12.3), or when there is a
7 coexisting diagnosis of asthma, or when a prescription is received
8 from a licensed health care professional for epinephrine coupled
9 with another form of medication.
10 (cf: P.L.2007, c.57, s.3)

11
12 75. Section 4 of P.L.2007, c.57 (C.18A:40-12.6a) is amended to
13 read as follows:

14 4. The Department of Education, in consultation with the
15 Department of Health **[and Senior Services]**, appropriate medical
16 experts, and professional organizations representing school nurses,
17 principals, teachers, and the food allergy community, shall establish
18 and disseminate to each board of education and chief school
19 administrator of a nonpublic school guidelines for the development
20 of a policy by a school district or nonpublic school for the
21 management of food allergies in the school setting and the
22 emergency administration of epinephrine to students for
23 anaphylaxis.
24 (cf: P.L.2007, c.57, s.4)

25
26 76. Section 6 of P.L.2007, c.57 (C.18A:40-12.6c) is amended to
27 read as follows:

28 6. a. In an effort to assist the certified school nurse in a public
29 school district and the school nurse in a nonpublic school in
30 recruiting and training additional school employees as volunteer
31 designees to administer epinephrine for anaphylaxis when the
32 school nurse is not physically present, the Department of Education
33 and the Department of Health **[and Senior Services]** shall jointly
34 develop training protocols, in consultation with the New Jersey
35 School Nurses Association.

36 b. The certified school nurse in consultation with the board of
37 education, or the school nurse in consultation with the chief school
38 administrator of a nonpublic school, shall recruit and train volunteer
39 designees who are determined acceptable candidates by the school
40 nurse within each school building as deemed necessary by the
41 nursing service plan.
42 (cf: P.L.2007, c.229, s.1)

43
44 77. Section 3 of P.L.2001, c.61 (C.18A:40-12.8) is amended to
45 read as follows:

46 3. The State Board of Education, in consultation with the
47 Commissioner of Health **[and Senior Services]**, shall adopt
48 regulations requiring each public school board of education to

1 develop policies for the administration of asthma medication
2 through the use of a nebulizer by the school nurse or other person
3 authorized by regulation. The regulations shall include:

4 a. a requirement that each certified nurse or other person
5 authorized to administer asthma medication receive training in
6 airway management and in the use of nebulizers and inhalers
7 consistent with nationally recognized standards, including, but not
8 limited to, those of the National Institutes of Health and the
9 American Association of Allergy and Immunology; and

10 b. a requirement that each pupil authorized to use asthma
11 medication pursuant to section 1 of P.L.1993, c.308 (C.18A: 40-
12 12.3), or a nebulizer have an asthma treatment plan prepared by the
13 physician of the pupil, which shall identify, at a minimum, asthma
14 triggers, the treatment plan, and such other elements as shall be
15 determined by the State Board of Education.

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

17

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

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

23 b. Beginning with the 2003-2004 school year, a principal,
24 director or other person in charge of a public or private school in
25 this State shall not knowingly admit or retain in grades nine through
26 12 a child whose parent or guardian has not submitted acceptable
27 evidence of the child's immunization for hepatitis B prior to or
28 during enrollment in ninth grade, as provided by regulation of the
29 Commissioner of Health **[and Senior Services]**.

30 c. 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.) to carry out
33 the purposes of this section.

34 (cf: P.L.2002, c.58, s.3)

35

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

38 3. a. The Commissioner of Education, in consultation with the
39 Commissioner of Health **[and Senior Services]**, shall establish a
40 three-year comprehensive eye examination pilot program for second
41 grade students. The purpose of the program shall be to eliminate
42 inappropriate referrals for special education programs and services
43 by examining students at the end of second grade for vision-related
44 problems that may go undiagnosed and result in special education
45 classification.

46 b. The commissioner shall select for participation in the pilot
47 program one school district in each of the northern, central, and
48 southern regions of the State, including an urban school district, a

1 suburban school district, and a rural school district. In selecting the
2 pilot school districts, the commissioner may consider the percentage
3 of students in the district classified as eligible for special education
4 programs and services, the percentage increase in such
5 classifications over the prior five school years, and the district's
6 interest in participating in the program. The commissioner shall
7 collaborate with each pilot school district on the procedures to be
8 implemented to conduct the comprehensive eye examinations,
9 including the coverage of any costs associated with the
10 examinations. In any agreement concerning the cost of providing
11 examinations, no parent or guardian of a student shall be required to
12 make any payment to the optometrist or ophthalmologist providing
13 a comprehensive eye examination, or the school district or any other
14 entity; except that if the student is covered by a health insurance
15 plan which has a copayment requirement, the parent or guardian
16 shall pay the health care provider the required copayment. In this
17 case, the parent or guardian may apply to the Comprehensive Eye
18 Examination Fund for reimbursement of the copayment.

19 c. The commissioner shall develop and distribute to the pilot
20 districts a form to document and provide information on each
21 comprehensive eye examination conducted under the program.

22 (cf: P.L.2007, c.122, c.3)

23

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

26 1. a. The Commissioner of Education, in consultation with the
27 Commissioner of Health **【and Senior Services】**, the American Heart
28 Association, and the American Academy of Pediatrics, shall
29 develop a pamphlet that provides information about sudden cardiac
30 death to the parents or guardians of student athletes. The pamphlet
31 shall include an explanation of sudden cardiac death, its incidence
32 among student athletes, a description of early warning signs, and an
33 overview of the options that are privately available to screen for
34 cardiac conditions that may lead to sudden cardiac death, including
35 a statement about the limitations of these options.

36 b. The commissioner shall distribute the pamphlet, at no
37 charge, to all school districts in the State. The commissioner shall
38 update the pamphlet as necessary, and shall make additional copies
39 available to nonpublic schools upon request.

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

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

44

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

47 2. a. The Commissioner of Education, in consultation with the
48 Commissioner of Health **【and Senior Services】**, shall develop an

1 educational fact sheet about the human papillomavirus (HPV) for
2 distribution to parents or guardians of students in grades seven
3 through 12. The educational fact sheet shall include information
4 about the causes, symptoms and means of transmission of HPV, and
5 where additional information can be obtained.

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

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

14 d. The Commissioner of Education also shall make the
15 educational fact sheet available to private schools educating
16 students in grades seven through 12. Such schools are encouraged,
17 but not required, to distribute the fact sheet to parents or guardians
18 of students at the school.

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

20
21 82. Section 5 of P.L.1987, c.387 (C.18A:40A-12) is amended to
22 read as follows:

23 5. a. Whenever it shall appear to any teaching staff member,
24 school nurse or other educational personnel of any public school in
25 this State that a pupil may be under the influence of substances as
26 defined pursuant to section 2 of this act, other than anabolic
27 steroids, that teaching staff member, school nurse, or other
28 educational personnel shall report the matter as soon as possible to
29 the school nurse or medical inspector, as the case may be, or to a
30 student assistance coordinator, and to the principal or, in his
31 absence, to his designee. The principal or his designee, shall
32 immediately notify the parent or guardian and the superintendent of
33 schools, if there be one, or the administrative principal and shall
34 arrange for an immediate examination of the pupil by a doctor
35 selected by the parent or guardian, or if that doctor is not
36 immediately available, by the medical inspector, if he is available.
37 If a doctor or medical inspector is not immediately available, the
38 pupil shall be taken to the emergency room of the nearest hospital
39 for examination accompanied by a member of the school staff
40 designated by the principal and a parent or guardian of the pupil if
41 available. The pupil shall be examined as soon as possible for the
42 purpose of diagnosing whether or not the pupil is under such
43 influence. A written report of that examination shall be furnished
44 within 24 hours by the examining physician to the parent or
45 guardian of the pupil and to the superintendent of schools or
46 administrative principal. If it is determined that the pupil was under
47 the influence of a substance, the pupil shall be returned to [his or
48 her] the pupil's home as soon as possible and shall not resume

1 attendance at school until the pupil submits to the principal a
2 written report certifying that [he or she] the pupil is physically and
3 mentally able to return thereto, which report shall be prepared by a
4 personal physician, the medical inspector, or the physician who
5 examined the pupil pursuant to the provisions of this act.

6 In addition, the pupil shall be interviewed by a student assistance
7 coordinator or another appropriately trained teaching staff member
8 for the purpose of determining the extent of the pupil's involvement
9 with these substances and possible need for treatment. In order to
10 make this determination the coordinator or other teaching staff
11 member may conduct a reasonable investigation which may include
12 interviews with the pupil's teachers and parents. The coordinator or
13 other teaching staff member may also consult with [such] experts
14 in the field of substance abuse as may be necessary and appropriate.
15 If it is determined that the pupil's involvement with and use of these
16 substances represents a danger to the pupil's health and well-being,
17 the coordinator or other teaching staff member shall refer the pupil
18 to an appropriate treatment program which has been approved by
19 the Commissioner of Health [and Senior Services].

20 b. Whenever any teaching staff member, school nurse, or other
21 educational personnel of any public school in this State shall have
22 reason to believe that a pupil has used or may be using anabolic
23 steroids, that teaching staff member, school nurse, or other
24 educational personnel shall report the matter as soon as possible to
25 the school nurse or medical inspector, as the case may be, or to a
26 student assistance coordinator, and to the principal or, in his
27 absence, to his designee. The principal or his designee, shall
28 immediately notify the parent or guardian and the superintendent of
29 schools, if there be one, or the administrative principal and shall
30 arrange for an examination of the pupil by a doctor selected by the
31 parent or guardian or by the medical inspector. The pupil shall be
32 examined as soon as possible for the purpose of diagnosing whether
33 or not the pupil has been using anabolic steroids. A written report
34 of that examination shall be furnished by the examining physician
35 to the parent or guardian of the pupil and to the superintendent of
36 schools or administrative principal. If it is determined that the pupil
37 has been using anabolic steroids, the pupil shall be interviewed by a
38 student assistance coordinator or another appropriately trained
39 teaching staff member for the purpose of determining the extent of
40 the pupil's involvement with these substances and possible need for
41 treatment. In order to make this determination the coordinator or
42 other teaching staff member may conduct a reasonable investigation
43 which may include interviews with the pupil's teachers and parents.
44 The coordinator or other teaching staff member may also consult
45 with [such] experts in the field of substance abuse as may be
46 necessary and appropriate. If it is determined that the pupil's
47 involvement with and use of these substances represents a danger to
48 the pupil's health and well-being, the coordinator or other teaching

1 staff member shall refer the pupil to an appropriate treatment
2 program which has been approved by the Commissioner of Health
3 **【and Senior Services】**.
4 (cf: P.L.2009, c.54, s.1)
5

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

8 11. The Commissioner of Education, in consultation with the
9 Commissioner of Health **【and Senior Services】**, shall develop and
10 administer a program which provides for the employment of student
11 assistance coordinators in certain school districts.

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

33 b. The position of student assistance coordinator shall be
34 separate and distinct from any other employment position in the
35 district, including, but not limited to district guidance counselors,
36 school social workers, and school psychologists. The State Board
37 of Education shall approve the education and experience criteria
38 necessary for employment as a student assistance coordinator. The
39 criteria shall include a requirement for certification by the State
40 Board of Examiners. In addition to the criteria established by the
41 State board, the Department of Education and the Department of
42 Health **【and Senior Services】** shall jointly conduct orientation and
43 training programs for student assistance coordinators, and shall also
44 provide for continuing education programs for coordinators.

45 c. It shall be the responsibility of student assistance
46 coordinators to assist local school districts in the effective
47 implementation of this act. Coordinators shall assist with the in
48 service training of school district staff concerning substance abuse

1 issues and the district program to combat substance abuse; serve as
2 an information resource for substance abuse curriculum
3 development and instruction; assist the district in revising and
4 implementing substance abuse policies and procedures; develop and
5 administer intervention services in the district; provide counseling
6 services to pupils regarding substance abuse problems; and, where
7 necessary and appropriate, cooperate with juvenile justice officials
8 in the rendering of substance abuse treatment services.

9 d. The Commissioner of Education, in consultation with the
10 Commissioner of Health **【and Senior Services】**, shall implement a
11 plan to collect data on the effectiveness of the program in treating
12 problems associated with substance abuse and in reducing the
13 incidence of substance abuse in local school districts. Six months
14 prior to the expiration of the program authorized pursuant to this
15 section, the Commissioner of Education shall submit to the
16 Governor and the Legislature an evaluation of the program and a
17 recommendation on the advisability of its continuation or expansion
18 to all school districts in the State.

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

20

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

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

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

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

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

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

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

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

10 (c) "Drugs" means "drugs" and "devices" as defined in R.S.
11 24:1-1.

12 (d) "Person" means a natural person, partnership, corporation,₂ or
13 any other business association.

14 (e) "Registrant" means the person in whose name a drug
15 manufacturing business or wholesale non-prescription drug business
16 is registered.

17 (f) "Drug manufacturing business" means the business of
18 creating, making,₂ or producing drugs by compounding, growing,₂ or
19 other process. This definition shall apply to persons engaged in the
20 drug manufacturing business who do not maintain a manufacturing
21 location in this State but do operate distribution depots or
22 warehouses of such business in this State. This definition shall not
23 apply to licensed pharmacies or to licensed professional individuals
24 such as, but not limited to, pharmacists, physicians, dentists, or
25 veterinarians when engaged in the lawful pursuit of their
26 professions.

27 (g) "Wholesale drug business" means the business of supplying
28 non-prescription drugs to persons other than the ultimate consumer.
29 This definition shall not apply to licensed pharmacies or to licensed
30 professional individuals such as, but not limited to, pharmacists,
31 physicians, dentists,₂ or veterinarians when engaged in the lawful
32 pursuit of their professions, and shall not apply to a registered drug
33 manufacturing business.

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

35

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

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

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

42 "Authenticate" means to affirmatively verify before any
43 distribution of a prescription drug that each transaction listed on the
44 pedigree has occurred.

45 "Authorized distributor" or "authorized distributor of record"
46 means a wholesale distributor with whom a manufacturer has
47 established an ongoing relationship to distribute the manufacturer's
48 product. An ongoing relationship is deemed to exist when the

1 wholesale distributor, or any member of its affiliated group as
2 defined in section 1504 of the Internal Revenue Code of 1986 (26
3 U.S.C. s.1504): is listed on the manufacturer's list of authorized
4 distributors; has a written agreement currently in effect with the
5 manufacturer; or has a verifiable account with the manufacturer and
6 meets or exceeds the following transaction or volume requirement
7 thresholds:

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

11 "Centralized prescription processing" means the processing by a
12 pharmacy of a request from another pharmacy to fill or refill a
13 prescription drug order or to perform processing functions such as
14 dispensing, drug utilization review, claims adjudication, refill
15 authorizations and therapeutic interventions.

16 "Chain pharmacy distribution center" means a distribution
17 facility or warehouse owned by and operated for the primary use of
18 a group of pharmacies that are under common or affiliated control
19 or ownership.

20 "Commissioner" means the Commissioner of Health **[and Senior**
21 **Services]**.

22 "Contraband" with respect to a prescription drug means:
23 counterfeit; stolen; misbranded; obtained by fraud; purchased by a
24 nonprofit institution for its own use and placed in commerce in
25 violation of the own use agreement; or the existing documentation
26 or pedigree, if required, for the prescription drug has been forged,
27 counterfeited, falsely created, or contains any altered, false, or
28 misrepresented information.

29 "Counterfeit prescription drug" means a prescription drug, or the
30 container, shipping container, seal, or labeling thereof, which,
31 without authorization, bears the trademark, trade name or other
32 identifying mark, imprint, or any likeness thereof, of a
33 manufacturer, processor, packer, or distributor other than the person
34 or persons who in fact manufactured, processed, packed, or
35 distributed **[such] the** prescription drug and which thereby falsely
36 purports or is represented to be the product of, or to have been
37 packed or distributed by, such other manufacturer, processor,
38 packer, or distributor.

39 "DEA" means the federal Drug Enforcement Administration.

40 "Department" means the Department of Health **[and Senior**
41 **Services]**.

42 "Designated representative" means an individual who is
43 designated by a wholesale prescription drug distributor to serve as
44 the primary contact person for the wholesale distributor with the
45 department, and who is responsible for managing the company's
46 operations at that licensed location.

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

11 "Drug" means: a. an article or substance recognized in the
12 official United States Pharmacopoeia, official Homeopathic
13 Pharmacopoeia of the United States or official National Formulary,
14 or any supplement to any of them; b. an article or substance
15 intended for use in the diagnosis, cure, mitigation, treatment, or
16 prevention of disease in man or other animals; c. an article or
17 substance, other than food, intended to affect the structure of any
18 function of the body of man or animals; and d. an article or
19 substance intended for use as a component of any article or
20 substance specified in clause a., b., or c.; but does not include
21 devices or their components, parts, or accessories. Drug includes a
22 prefilled syringe or needle.

23 "Immediate container" means a container but does not include
24 package liners.

25 "Logistics provider" means an entity that receives drugs from the
26 original manufacturer and delivers them at the direction of that
27 manufacturer, and does not purchase, sell, trade, or take title to the
28 drugs.

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

37 "Pedigree" means a statement or record identifying each previous
38 sale of a prescription drug, from the sale by a manufacturer through
39 acquisition and sale by a wholesale distributor, including each
40 distribution to an authorized distributor, starting with the last
41 authorized distributor, or the manufacturer if the prescription drug
42 has not been purchased previously by an authorized distributor or is
43 a prescription drug on the specified list of susceptible products. A
44 pedigree shall include the following information: the proprietary
45 and established name of the prescription drug; the dosage; container
46 size; number of containers; and the date, business name, and
47 address of all parties to each prior transaction involving the
48 prescription drug starting with the last authorized distributor or the

1 manufacturer if the prescription drug has not been purchased
2 previously by an authorized distributor or is a prescription drug on
3 the specified list of susceptible products.

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

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

8 "Specified list of susceptible products" means a specific list of
9 prescription drugs, to be determined by the commissioner, that are
10 considered to be potential targets for adulteration, counterfeiting,
11 or diversion, which the commissioner shall provide to wholesale
12 distributors as prescription drugs are added to or removed from the
13 list, along with notification of those changes.

14 "Wholesale distribution" means the distribution of prescription
15 drugs in or into the State by a wholesale distributor to a person
16 other than a consumer or patient, and includes transfers of
17 prescription drugs from one pharmacy to another pharmacy if the
18 value of the goods transferred exceeds 5% of total prescription drug
19 sales revenue of either the transferor or transferee pharmacy during
20 any consecutive 12-month period. The term excludes:

21 a. the sale, purchase or trade of a prescription drug, an offer to
22 sell, purchase, or trade a prescription drug, or the dispensing of a
23 prescription drug pursuant to a prescription;

24 b. the sale, purchase or trade of a prescription drug, or an offer
25 to sell, purchase, or trade a prescription drug for emergency medical
26 reasons;

27 c. the sale, purchase or trade of a prescription drug, or an offer
28 to sell, purchase, or trade a prescription drug by pharmacies, chain
29 pharmacy distribution centers, and the associated transfer of goods
30 between chain pharmacy distribution centers and their servicing
31 wholesale distributors or manufacturers;

32 d. intracompany transactions or sales among wholesale
33 distributors, chain pharmacy distribution centers, and pharmacies,
34 and which are limited to those sales or transfers of a prescription
35 drug among members of an affiliated group, even if the members of
36 the affiliated group are separate legal entities;

37 e. the sale, purchase or trade of a prescription drug, or an offer
38 to sell, purchase, or trade a prescription drug among hospitals or
39 other health care entities licensed pursuant to P.L.1971, c.136
40 (C.26:2H-1 et seq.) that are under common control;

41 f. the sale, purchase or trade of a prescription drug, or offer to
42 sell, purchase, or trade a prescription drug by a charitable
43 organization exempt from taxation pursuant to section 501(c)(3) of
44 the Internal Revenue Code of 1986 (26 U.S.C. s.501(c)(3)) to a
45 nonprofit affiliate of the organization;

46 g. the purchase or other acquisition by a hospital or other
47 similar health care entity licensed pursuant to P.L.1971, c.136
48 (C.26:2H-1 et seq.) that is a member of a group purchasing

1 organization of a prescription drug for its own use from the group
2 purchasing organization or from other hospitals or similar health
3 care entities that are members of these organizations;

4 h. the transfer of prescription drugs between pharmacies
5 pursuant to a centralized prescription processing agreement;

6 i. the distribution of prescription drug samples by
7 manufacturers' representatives or wholesale distributors'
8 representatives;

9 j. the sale, purchase or trade of blood and blood components
10 intended for transfusion;

11 k. prescription drug returns, when conducted by a pharmacy,
12 chain pharmacy distribution center, hospital, health care entity
13 licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.),² or
14 charitable institution in accordance with regulations established by
15 the commissioner;

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

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

21 n. the sale, transfer, merger,² or consolidation of all or part of
22 the business of a pharmacy or pharmacies from or with another
23 pharmacy or pharmacies whether accomplished as a purchase and
24 sale of stock or business assets.

25 "Wholesale distributor" means any person, other than the
26 manufacturer, pharmacy, logistics provider, or chain pharmacy
27 distribution center, engaged in wholesale distribution of
28 prescription drugs in or into the State and includes repackagers,
29 own-label distributors, private-label distributors, jobbers, brokers,
30 warehouses including distributors' warehouses, independent
31 prescription drug traders, and retail pharmacies that conduct
32 wholesale distribution.

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

34

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

37 5. As used in this act unless the context clearly indicates
38 otherwise:

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

42 b. "Brand name" means the proprietary name assigned to a
43 drug by the manufacturer thereof.

44 c. "Established name" with respect to a drug or ingredient
45 thereof, means (1) the applicable official name designated pursuant
46 to the Federal Food, Drug and Cosmetic Act (Title 21, U.S.C. s.301
47 et seq.), or (2) if there is no such official name and such drug or
48 ingredient is recognized in an official compendium, then the official

1 title thereof in such compendium, except that where a drug or
2 ingredient is recognized in the United States Pharmacopoeia and in
3 the Homeopathic Pharmacopoeia under different official titles, the
4 official title used in the United States Pharmacopoeia shall apply
5 unless it is labeled and offered for sale as a homeopathic drug, in
6 which case the official title used in the Homeopathic
7 Pharmacopoeia shall apply, or (3) if neither (1) nor (2) is
8 applicable, then the common or usual name, if any, of such drug or
9 ingredient.

10 d. "Prescription" means an order for drugs or combinations or
11 mixtures thereof, written or signed by a duly licensed physician,
12 dentist, veterinarian, or other medical practitioner licensed to write
13 prescriptions intended for the treatment or prevention of disease in
14 man or animals, and includes orders for drugs or medicines or
15 combinations or mixtures thereof transmitted to pharmacists
16 through word of mouth, telephone, telegraph, or other means of
17 communication by a duly licensed physician, dentist, veterinarian,
18 or other medical practitioner licensed to write prescriptions
19 intended for the treatment or prevention of disease in man or
20 animals.

21 e. "Department" means the Department of Health [and Senior
22 Services].

23 f. "Chemical equivalents" means those drug products that
24 contain the same amounts of the same therapeutically active
25 ingredients in the same dosage forms and that meet present
26 compendial standards.

27 g. "Reference drug product" means the product which is
28 adopted by the department as the standard for other chemically
29 equivalent drugs in terms of testing for the therapeutic equivalence.
30 In all cases, the reference drug product shall be a currently
31 marketed drug which is the subject of a full (not abbreviated) new
32 drug application approved by the Federal Food and Drug
33 Administration.

34 h. "Therapeutic equivalents" means chemical equivalents
35 which, when administered to the same individuals in the same
36 dosage regimen, will provide essentially the same efficacy or
37 toxicity as their respective reference drug products.

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

41 j. "Bioequivalents" means chemical equivalents which, when
42 administered to the same individuals in the same dosage regimen,
43 will result in comparable bioavailability.

44 k. "Pharmaceutical equivalents" means those drug products that
45 contain the same amounts of the same therapeutically active
46 ingredients in the same dosage form and that meet established
47 standards.

1 l. "Interchangeable drug products" means pharmaceutical
2 equivalents or bioequivalents that are determined to be therapeutic
3 equivalents by the department.

4 m. "Present compendial standards" means the official standards
5 for drug excipients and drug products listed in the latest revision of
6 the United States Pharmacopoeia (USP) and the National Formulary
7 (NF).

8 n. "Dosage form" means the physical formulation or medium in
9 which the product is intended, manufactured and made available for
10 use, including, but not limited to: tablets, capsules, oral solutions,
11 aerosols, inhalers, gels, lotions, creams, ointments, transdermals
12 and suppositories, and the particular form of the above which
13 utilizes a specific technology or mechanism to control, enhance, or
14 direct the release, targeting, systemic absorption, or other delivery
15 of a dosage regimen in the body.

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

17

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

20 2. A product that contains ephedrine alkaloids that is not a drug
21 as defined in R.S.24:1-1, shall not be sold or offered for sale in this
22 State after the effective date of this act unless its label indicates that
23 the sale of the product to minors under 18 years of age is prohibited
24 by State law, in accordance with regulations adopted by the
25 Commissioner of Health **and Senior Services**.

26 (cf: P.L.2003, c.57, s.2)

27

28 89. Section 3 of P.L.2003, c.57 (C.24:6H-3) is amended to read
29 as follows:

30 3. 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.) to carry out
33 the purposes of this act.

34 (cf: P.L.2003, c.57, s.3)

35

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

38 3. As used in this act:

39 "Bona fide physician-patient relationship" means a relationship
40 in which the physician has ongoing responsibility for the
41 assessment, care, and treatment of a patient's debilitating medical
42 condition.

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

47 "Commissioner" means the Commissioner of Health **and Senior**
48 **Services**.

1 "Debilitating medical condition" means:

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

5 (2) one of the following conditions, if severe or chronic pain,
6 severe nausea or vomiting, cachexia, or wasting syndrome results
7 from the condition or treatment thereof: positive status for human
8 immunodeficiency virus[.]; acquired immune deficiency
9 syndrome[.]; or cancer;

10 (3) amyotrophic lateral sclerosis, multiple sclerosis, terminal
11 cancer, muscular dystrophy, or inflammatory bowel disease,
12 including Crohn's disease;

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

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

17 "Department" means the Department of Health [and Senior
18 Services].

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

22 "Medical marijuana alternative treatment center" or "alternative
23 treatment center" means an organization approved by the
24 department to perform activities necessary to provide registered
25 qualifying patients with usable marijuana and related paraphernalia
26 in accordance with the provisions of this act. This term shall
27 include the organization's officers, directors, board members, and
28 employees.

29 "Medical use of marijuana" means the acquisition, possession,
30 transport, or use of marijuana or paraphernalia by a registered
31 qualifying patient as authorized by this act.

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

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

36 "Physician" means a person licensed to practice medicine and
37 surgery pursuant to Title 45 of the Revised Statutes with whom the
38 patient has a bona fide physician-patient relationship and who is the
39 primary care physician, hospice physician, or physician responsible
40 for the ongoing treatment of a patient's debilitating medical
41 condition, provided, however, that [such] the ongoing treatment
42 shall not be limited to the provision of authorization for a patient to
43 use medical marijuana or consultation solely for that purpose.

44 "Primary caregiver" or "caregiver" means a resident of the State
45 who:

46 a. is at least 18 years old;

1 b. has agreed to assist with a registered qualifying patient's
2 medical use of marijuana, is not currently serving as primary
3 caregiver for another qualifying patient, and is not the qualifying
4 patient's physician;

5 c. has never been convicted of possession or sale of a
6 controlled dangerous substance, unless such conviction occurred
7 after the effective date of this act and was for a violation of federal
8 law related to possession or sale of marijuana that is authorized
9 under this act;

10 d. has registered with the department pursuant to section 4 of
11 this act, and has satisfied the criminal history record background
12 check requirement of section 4 of this act; and

13 e. has been designated as primary caregiver on the qualifying
14 patient's application or renewal for a registry identification card or
15 in other written notification to the department.

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

19 "Registry identification card" means a document issued by the
20 department that identifies a person as a registered qualifying patient
21 or primary caregiver.

22 "Usable marijuana" means the dried leaves and flowers of
23 marijuana, and any mixture or preparation thereof, and does not
24 include the seeds, stems, stalks or roots of the plant.

25 (cf: P.L.2009, c.307, s.3)

26

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

29 15. a. The Department of Health **【and Senior Services】** is
30 authorized to exchange fingerprint data with, and receive
31 information from, the Division of State Police in the Department of
32 Law and Public Safety and the Federal Bureau of Investigation for
33 use in reviewing applications for individuals seeking to serve as
34 primary caregivers pursuant to section 4 of P.L.2009, c.307
35 (C.24:6I-4), and for permits to operate as, or to be a director,
36 officer, or employee of, alternative treatment centers pursuant to
37 section 7 of P.L.2009, c.307 (C.24:6I-7).

38 b. The Division of State Police shall promptly notify the
39 Department of Health **【and Senior Services】** in the event an
40 applicant seeking to serve as a primary caregiver or an applicant for
41 a permit to operate as, or to be a director, officer, or employee of,
42 an alternative treatment center, who was the subject of a criminal
43 history record background check conducted pursuant to subsection
44 a. of this section, is convicted of a crime involving possession or
45 sale of a controlled dangerous substance.

46 (cf: P.L.2009, c.307, s.15)

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

3 2. As used in this act:

4 "Administer" means the direct application of a controlled
5 dangerous substance, whether by injection, inhalation, ingestion, or
6 any other means, to the body of a patient or research subject by: (1)
7 a practitioner (or, in his presence, by his lawfully authorized agent),
8 or (2) the patient or research subject at the lawful direction and in
9 the presence of the practitioner.

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

14 "Commissioner" means the Commissioner of Health [and Senior
15 Services].

16 "Controlled dangerous substance" means a drug, substance, or
17 immediate precursor in Schedules I through V of article 2 of
18 P.L.1970, c.226 (C.24:21-1 et seq.)[, as amended and
19 supplemented]. The term shall not include distilled spirits, wine,
20 malt beverages, as those terms are defined or used in R.S.33:1-1 et
21 seq., or tobacco and tobacco products.

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

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

34 "Director" means the Director of the Division of Consumer
35 Affairs in the Department of Law and Public Safety.

36 "Dispense" means to deliver a controlled dangerous substance to
37 an ultimate user or research subject by or pursuant to the lawful
38 order of a practitioner, including the prescribing, administering,
39 packaging, labeling, or compounding necessary to prepare the
40 substance for that delivery. "Dispenser" means a practitioner who
41 dispenses.

42 "Distribute" means to deliver other than by administering or
43 dispensing a controlled dangerous substance. "Distributor" means a
44 person who distributes.

45 "Division" means the Division of Consumer Affairs in the
46 Department of Law and Public Safety.

1 "Drug Enforcement Administration" means the Drug
2 Enforcement Administration in the United States Department of
3 Justice.

4 "Drugs" means (a) substances recognized in the official United
5 States Pharmacopoeia, official Homeopathic Pharmacopoeia of the
6 United States, or official National Formulary, or any supplement to
7 any of them; and (b) substances intended for use in the diagnosis,
8 cure, mitigation, treatment, or prevention of disease in man or other
9 animals; and (c) substances (other than food) intended to affect the
10 structure or any function of the body of man or other animals; and
11 (d) substances intended for use as a component of any article
12 specified in subsections (a), (b), and (c) of this section; but does not
13 include devices or their components, parts or accessories.

14 "Drug dependent person" means a person who is using a
15 controlled dangerous substance and who is in a state of psychic or
16 physical dependence, or both, arising from the use of that controlled
17 dangerous substance on a continuous basis. Drug dependence is
18 characterized by behavioral and other responses, including but not
19 limited to a strong compulsion to take the substance on a recurring
20 basis in order to experience its psychic effects, or to avoid the
21 discomfort of its absence.

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

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

35 "Manufacture" means the production, preparation, propagation,
36 compounding, conversion, or processing of a controlled dangerous
37 substance, either directly or by extraction from substances of
38 natural origin, or independently by means of chemical synthesis, or
39 by a combination of extraction and chemical synthesis, and includes
40 any packaging or repackaging of the substance or labeling or
41 relabeling of its container, except that this term does not include the
42 preparation or compounding of a controlled dangerous substance by
43 an individual for his own use or the preparation, compounding,
44 packaging, or labeling of a controlled dangerous substance: (1) by a
45 practitioner as an incident to his administering or dispensing of a
46 controlled dangerous substance in the course of his professional
47 practice, or (2) by a practitioner (or under his supervision) for the

1 purpose of, or as an incident to, research, teaching, or chemical
2 analysis and not for sale.

3 "Narcotic drug" means any of the following, whether produced
4 directly or indirectly by extraction from substances of vegetable
5 origin, or independently by means of chemical synthesis, or by a
6 combination of extraction and chemical synthesis:

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

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

10 (c) A substance (and any compound, manufacture, salt,
11 derivative, or preparation thereof) which is chemically identical
12 with any of the substances referred to in subsections (a) and (b),
13 except that the words "narcotic drug" as used in this act shall not
14 include decocainized coca leaves or extracts of coca leaves, which
15 extracts do not contain cocaine or ecgonine.

16 "Official written order" means an order written on a form
17 provided for that purpose by the Attorney General of the United
18 States or his delegate, under any laws of the United States making
19 provisions therefor, if such order forms are authorized and required
20 by the federal law, and if no such form is provided, then on an
21 official form provided for that purpose by the division. If
22 authorized by the Attorney General of the United States or the
23 division, the term shall also include an order transmitted by
24 electronic means.

25 "Opiate" means any dangerous substance having an addiction-
26 forming or addiction-sustaining liability similar to morphine or
27 being capable of conversion into a drug having such addiction-
28 forming or addiction-sustaining liability. It does not include, unless
29 specifically designated as controlled under section 3 of this act, the
30 dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its
31 salts (dextromethorphan). It does include its racemic and
32 levorotatory forms.

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

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

37 "Pharmacist" means a registered pharmacist of this State.

38 "Pharmacy owner" means the owner of a store or other place of
39 business where controlled dangerous substances are compounded or
40 dispensed by a registered pharmacist; but nothing in this chapter
41 contained shall be construed as conferring on a person who is not
42 registered or licensed as a pharmacist any authority, right, or
43 privilege that is not granted to him by the pharmacy laws of this
44 State.

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

47 "Practitioner" means a physician, dentist, veterinarian, scientific
48 investigator, laboratory, pharmacy, hospital, or other person

1 licensed, registered, or otherwise permitted to distribute, dispense,
2 conduct research with respect to, or administer a controlled
3 dangerous substance in the course of professional practice or
4 research in this State.

5 (a) "Physician" means a physician authorized by law to practice
6 medicine in this or any other state and any other person authorized
7 by law to treat sick and injured human beings in this or any other
8 state.

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

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

13 (d) "Hospital" means any federal institution, or any institution
14 for the care and treatment of the sick and injured, operated or
15 approved by the appropriate State department as proper to be
16 entrusted with the custody and professional use of controlled
17 dangerous substances.

18 (e) "Laboratory" means a laboratory to be entrusted with the
19 custody of narcotic drugs and the use of controlled dangerous
20 substances for scientific, experimental, and medical purposes and
21 for purposes of instruction approved by the Department of Health
22 **【and Senior Services】**.

23 "Production" includes the manufacture, planting, cultivation,
24 growing, or harvesting of a controlled dangerous substance.

25 "Immediate precursor" means a substance which the division has
26 found to be and by regulation designates as being the principal
27 compound commonly used or produced primarily for use, and
28 which is an immediate chemical intermediary used or likely to be
29 used in the manufacture of a controlled dangerous substance, the
30 control of which is necessary to prevent, curtail, or limit such
31 manufacture.

32 "State" means the State of New Jersey.

33 "Ultimate user" means a person who lawfully possesses a
34 controlled dangerous substance for his own use or for the use of a
35 member of his household or for administration to an animal owned
36 by him or by a member of his household.

37 (cf: P.L. 2007, c.244, s.1)

38

39 93. (New section) a. The Department of Health, established
40 pursuant to P.L.1947, c.177 (C.26:1A-1 et seq.), and continued and
41 constituted and redesignated as the Department of Health and
42 Senior Services pursuant to Reorganization Plan No. 001-1996, is
43 continued and constituted and redesignated as the Department of
44 Health. The Commissioner of Health and Senior Services shall be
45 re-denominated as the Commissioner of Health.

46 b. Whenever the terms "Department of Health and Senior
47 Services" and "Commissioner of Health and Senior Services" occur
48 or any references are made thereto in any law, rule, regulation,

1 order, contract, document, judicial or administrative proceeding, or
2 otherwise, the same shall be deemed to mean or refer to the
3 “Department of Health” and the “Commissioner of Health,”
4 respectively.

5 c. The Commissioner of Health shall have the power, not
6 inconsistent with section 13 of P.L.1947, c.177 (C.26:1A-13) or the
7 provisions of P.L. , c. (C.) (pending before the Legislature as
8 this bill), to organize the work of the Department of Health in such
9 organizational units as the commissioner may determine to be
10 necessary for its efficient and effective operation.

11

12 94. Section 11 of P.L.1999, c.154 (C.26:1A-15.1) is amended to
13 read as follows:

14 11. The Commissioner of Health **【and Senior Services】**, in
15 consultation with the Commissioner of Banking and Insurance,
16 shall establish an advisory board to make recommendations to the
17 commissioners on health information electronic data interchange
18 technology policy, including a Statewide policy on electronic health
19 records, and measures to protect the confidentiality of medical
20 information. The members of the board shall include, at a
21 minimum, representation from health insurance carriers, health care
22 professionals and facilities, higher education, business and
23 organized labor, health care consumers, and the commissioner of
24 each department in the State that uses individuals' medical records
25 or processes claims for health care services. The members of the
26 board shall serve without compensation but shall be entitled to
27 reimbursement for reasonable expenses incurred in the performance
28 of their duties.

29 (cf: P.L.2005, c.352, s.18)

30

31 95. Section 12 of P.L.1999, c.154 (C.26:1A-15.2) is amended to
32 read as follows:

33 12. The Commissioner of Health **【and Senior Services】**, in
34 conjunction with the Commissioner of Banking and Insurance, shall
35 present an annual report to the Governor and the Legislature on the
36 development and use of health information electronic data
37 interchange technology in New Jersey. The report shall be prepared
38 in consultation with the advisory board established pursuant to
39 section 11 of P.L.1999, c.154 (C.26:1A-15.1). The report shall
40 include any recommendations, including proposals for regulatory
41 and legislative changes, to promote the development and use of
42 health information electronic data interchange technology in this
43 State.

44 (cf: P.L.1999, c.154, s.12)

45

46 96. Section 2 of P.L.1993, c.309 (C.26:1A-36.7) is amended to
47 read as follows:

1 2. The Department of Health **【and Senior Services】**, in
2 conjunction with the Departments of Education and Human
3 Services, shall establish a Statewide system of early intervention
4 services for eligible infants and toddlers from birth to age two,
5 inclusive, with physical, cognitive, communication, social, or
6 emotional, and adaptive developmental delays or disabilities in
7 accordance with Part H of the "Individuals with Disabilities
8 Education Act," Pub.L.91-230 (20 U.S.C. s.1471 et seq.).
9 (cf: P.L.2007, c.172, s.1)

10
11 97. Section 2 of P.L.2007, c.172 (C.26:1A-36.7a) is amended to
12 read as follows:

13 2. The Early Intervention Program in the Department of Health
14 **【and Senior Services】**, established pursuant to section 2 of
15 P.L.1993, c.309 (C.26:1A-36.7), shall conduct activities to address
16 the specific needs of children with autism spectrum disorders and
17 their families. These activities shall include, but not be limited to,
18 the following:

19 a. developing, in consultation with autism experts and
20 advocates, including, but not limited to, the Governor's Council for
21 Medical Research and Treatment of Autism, Autism Speaks, The
22 New Jersey Center for Outreach and Services for the Autism
23 Community, The Autism Center of New Jersey Medical School at
24 the University of Medicine and Dentistry of New Jersey, the
25 Statewide Parent Advocacy Network, Inc., and the New Jersey
26 chapter of the American Academy of Pediatrics, guidelines for
27 health care professionals to use in evaluating infants and toddlers
28 living in the State for autism and to ensure the timely referral by
29 health care professionals of infants and toddlers who are identified
30 as having autism or suspected of being on the autism spectrum to
31 the Early Intervention Program in order to provide appropriate
32 services to those infants and toddlers as early as possible;

33 b. referring affected children who are identified as having
34 autism or suspected of being on the autism spectrum and their
35 families to schools and agencies, including community, consumer,
36 and parent-based agencies, and organizations and other programs
37 mandated by Part C of the "Individuals with Disabilities Education
38 Act" (20 U.S.C. s.1431 et seq.), which offer programs specifically
39 designed to meet the unique needs of children with autism;

40 c. collecting data on Statewide autism screening, diagnosis,
41 and intervention programs and systems that can be used for applied
42 research, program evaluation, and policy development; and

43 d. disseminating information on the medical care of individuals
44 with autism to health care professionals and the general public.

45 (cf: P.L.2007, c.172, s.2)

46
47 98. Section 2 of P.L.1999, c.265 (C.26:1A-37.6) is amended to
48 read as follows:

1 2. There is established in the Department of Health [and Senior
2 Services] a New Jersey Council on Physical Fitness and Sports
3 which shall serve the citizens of the State by developing safe,
4 healthful, and enjoyable physical fitness and sports programs. The
5 council shall provide instruments of motivation and education, and
6 shall promote public awareness to ensure that all citizens of the
7 State have the opportunity to pursue a more healthful lifestyle.
8 (cf: P.L.1999, c.265, s.2)

9
10 99. Section 3 of P.L.1999, c.265 (C.26:1A-37.7) is amended to
11 read as follows:

12 3. a. The council shall consist of 16 members, including: the
13 Commissioner of Health [and Senior Services], or [his] the
14 commissioner's designee, who shall serve as an ex officio member;
15 and 15 public members to be appointed by the Governor as follows:
16 one member each from the New Jersey Association of Health,
17 Physical Education, Recreation and Dance; the New Jersey
18 Recreation and Parks Association; the Medical Society of New
19 Jersey; the New Jersey State Interscholastic Athletic Association;
20 and such other persons or professionals as are interested in the
21 physical fitness of the citizens of the State. The council shall meet
22 and organize immediately after appointment of the members and
23 shall elect from its membership a chairperson and vice chairperson.

24 b. Each public member of the council shall serve for a term of
25 three years, expiring on January 1 in the appropriate year; except
26 that of the members first appointed, four shall be appointed for a
27 term of one year, five shall be appointed for a term of two years and
28 six shall be appointed for a term of three years, as determined by
29 the Governor. Each member shall hold office for the term of
30 appointment and until a successor is appointed and qualified. A
31 public member of the council shall be eligible for reappointment.
32 Members appointed to fill a vacancy occurring for any reason other
33 than the expiration of the term shall serve for the unexpired term
34 only.

35 c. Public members shall serve without compensation, but shall
36 be reimbursed for necessary expenses incurred in the performance
37 of their duties.

38 d. The council shall adopt rules for the transaction of its
39 business and shall keep a record of its business, including a record
40 of its resolutions, transactions, findings and determinations. A
41 majority of the members of the council shall constitute a quorum,
42 but a lesser number may hold a hearing.

43 e. The council shall meet at least once in each quarter of the
44 fiscal year, and as often thereafter as shall be deemed necessary by
45 the chairperson.

46 f. By a two-thirds vote of the council, a member may be
47 dismissed from membership for such reasons as the council may

1 establish, which reasons shall include lack of interest in council
2 duties or repeated absences from council meetings.

3 g. The council shall be administrated by the Department of
4 Health **【and Senior Services】**. The department shall employ
5 necessary staff to carry out the duties and functions of the council
6 as otherwise provided in this act or as otherwise provided by law.
7 (cf: P.L.1999, c.265, s.3)

8
9 100. Section 41 of P.L.1947, c.177 (C.26:1A-41) is amended to
10 read as follows:

11 41. The commissioner shall, in the name of the department,
12 issue the following licenses:

- 13 a. Health officer's license;
- 14 b. (Deleted by amendment, P.L.1997, c.416).
- 15 c. (Deleted by amendment, P.L.1997, c.416).
- 16 d. (Deleted by amendment, P.L.1997, c.416).
- 17 e. (Deleted by amendment, P.L.1997, c.416).
- 18 f. (Deleted by amendment, P.L.1997, c.416).
- 19 g. (Deleted by amendment, P.L.1997, c.416).
- 20 h. (Deleted by amendment, P.L.1997, c.416).
- 21 i. (Deleted by amendment, P.L.1997, c.416).
- 22 j. (Deleted by amendment, P.L.1997, c.416).
- 23 k. Registered environmental health specialist's license.

24 However, any health officer's license, sanitary inspector's
25 license, and plumbing inspector's license issued before the effective
26 date of P.L.1947, c.177 (C.26:1A-1 et seq.) by the **【State】**
27 Department of Health **【and Senior Services】** shall, unless
28 suspended or revoked in accordance with the provisions of sections
29 43 and 44 of that act, remain in effect during the employment as
30 such of the holder thereof. Upon enactment of P.L.1997, c.416
31 (C.26:1A-42.1 et al.) any existing Sanitary Inspector, First Grade
32 license shall become a Registered Environmental Health Specialist
33 license without any further action required of the licensee.

34 Any license eliminated by P.L.1997, c.416 (C.26:1A-42.1 et al.)
35 shall, unless suspended or revoked in accordance with the
36 provisions of sections 43 and 44 of P.L.1947, c.177 (C.26:1A-43
37 and C.26:1A-44), remain in effect until the holder thereof does not
38 renew the license within two years from the date of its expiration,
39 or the commissioner does not renew the license in accordance with
40 section 42 of that act, whichever comes first.

41 (cf: P.L.1997, c.416, s.6)

42
43 101. Section 43 of P.L.1947, c.177 (C.26:1A-43) is amended to
44 read as follows:

45 43. Any license issued in accordance with the provisions of this
46 article, and any health officer's license or sanitary inspector's
47 license heretofore issued by the **【State】** Department of Health **【and**

1 Senior Services], may be suspended or revoked, after notice and
2 hearing conducted by an administrative law judge pursuant to the
3 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
4 seq.), for any of the following causes:

- 5 a. Violation of any of the provisions of this act or of any law
6 relating to public health;
- 7 b. Violation of any provision of the State Sanitary Code;
- 8 c. Violation of any applicable local health regulation or
9 ordinance;
- 10 d. Any act or happening occurring after the making of
11 application for such license which, if the same had occurred prior
12 to said time, would have prevented the issuance of such license; or
- 13 e. A conviction in a court of competent jurisdiction, either
14 within or outside this State, of a crime involving moral turpitude,
15 except that if the conviction is reversed and the holder of the license
16 is discharged or acquitted, or if the holder is pardoned or the civil
17 rights of the holder are restored, the holder may obtain a license.

18 Notwithstanding any provision of section 10 of P.L.1968, c.410
19 (C.52:14B-10) to the contrary, the commissioner, before adopting,
20 rejecting or modifying the recommended report and decision of an
21 administrative law judge, shall consult with the Public Health
22 Council.

23 The suspension or revocation of a license shall be effected by a
24 notice in writing of the suspension or revocation, designating the
25 effective date thereof, and in the case of a suspension, the term of
26 the suspension, which notice may be served upon the licensee
27 personally or by mailing the same by registered mail addressed to
28 the licensee at the licensee's home address.

29 The commissioner shall file a copy of the notice of suspension or
30 revocation of license with the local board of health.

31 (cf: P.L.1997, c.416, s.8)

32

33 102. Section 1 of P.L.1957, c.72 (C.26:1A-107) is amended to
34 read as follows:

35 1. a. There is hereby established in the Department of [State]
36 Human Services, a [division] Division [on aging] of Aging
37 Services, consisting of a director and the New Jersey State
38 Commission on Aging in accordance with the provisions of section
39 397 of P.L. , c. (C.) (pending before the Legislature as this
40 bill).

41 (cf: P.L.1966, c.61, s.2)

42

43 103. Section 6 of P.L.1957, c.72 (C.26:1A-112) is amended to
44 read as follows:

45 6. The [Secretary of State] Commissioner of Human Services
46 may appoint such professional, technical, and clerical assistants and
47 employees as may be necessary to enable the division and the
48 commission to perform the duties imposed upon it by this act and

1 their compensation shall be fixed within the limits of available
2 appropriations and as shall be provided by law. The [said]
3 assistants and employees, together with the director of the division,
4 shall be deemed to be the staff of the division and the commission.
5 The advisory commission shall meet at regular intervals and at least
6 4 times annually. The times and places for the said meetings shall
7 be fixed by the commission and special meetings may be called by
8 the director on not less than 10 days' written notice to each member,
9 and any such notice shall specify the object of the meeting.
10 (cf: P.L.1959, c.143, s.3)

11

12 104. Section 9 of P.L.1966, c.61 (C.26:1A-113.1) is amended to
13 read as follows:

14 9. The commission shall:

15 (1) Furnish consultation and advice to the Division [on] of
16 Aging Services on programs designed to carry out the division's
17 mandate.

18 (2) Provide leadership in the field of aging.

19 (3) Make recommendations to the Governor and Legislature
20 regarding new legislation needed in areas related to aging.

21 (4) Maintain liaison with other commissions and groups whose
22 activities relate to the broad field of aging.

23 (cf: P.L.1966, c.61, s.9)

24

25 105. Section 10 of P.L.1966, c.61 (C.26:1A-115.1) is amended
26 to read as follows:

27 10. The [Secretary of State] Commissioner of Human Services,
28 subject to the approval of the Governor, is authorized, on behalf of
29 the State of New Jersey, to enter into agreements with the Federal
30 Government or any agency thereof, under which the Division [on]
31 of Aging Services (1) will provide or otherwise secure the adoption
32 of [such] programs consonant with the objectives of this act and (2)
33 will receive reimbursement from the United States for any such
34 costs incurred, expenses paid, or allowances and benefits paid in
35 connection with said programs in accordance with said agreement
36 and the laws of this State or of the United States.

37 (cf: P.L.1966, c.61, s.10)

38

39 106. Section 2 of P.L.2001, c.376 (C.26:1A-124) is amended to
40 read as follows:

41 2. There is established the Office on Women's Health in the
42 Department of Health [and Senior Services].

43 The office shall:

44 a. Provide grants to community-based organizations to conduct
45 special research, demonstration, and evaluation projects on women's
46 health concerns;

- 1 b. Develop and implement model public and private
2 partnerships throughout the State for health awareness campaigns
3 and to improve the access, acceptability, and use of public health
4 services;
- 5 c. Serve as an information and resource center for women's
6 health information and data;
- 7 d. Function as an advocate for the adoption and implementation
8 of effective measures to improve women's health;
- 9 e. Convene such task forces of experienced, knowledgeable
10 persons on specific women's health issues as the director deems
11 appropriate; and
- 12 f. Review the programs of the Departments of Health **[and**
13 **Senior Services]**, Human Services, **[Community Affairs]** Children
14 and Families, and Education and any other department of State
15 government, as appropriate, that concern women's health and make
16 recommendations to the departments that will enable them to better
17 coordinate and improve the effectiveness of their efforts.

18 (cf: P.L.2001, c.376, s.2)

19

20 107. Section 3 of P.L.2001, c.376 (C.26:1A-125) is amended to
21 read as follows:

22 3. The Commissioner of Health **[and Senior Services]** shall
23 appoint a director for the office who shall serve at the pleasure of
24 the commissioner during the commissioner's term of office and until
25 the appointment and qualification of the director's successor. The
26 director shall devote his entire time to the duties of the position and
27 shall receive a salary as provided by law.

28 (cf: P.L.2001, c.376, s.3)

29

30 108. Section 5 of P.L.2001, c.376 (C.26:1A-127) is amended to
31 read as follows:

32 5. There is established a Women's Health Advisory
33 Commission.

34 The commission shall consist of nine members, including the
35 Commissioner of Health **[and Senior Services]** or his designee,
36 who shall serve ex officio, and eight public members who are
37 residents of the State and who shall be appointed as follows: one
38 member who is a health care professional shall be appointed by the
39 President of the Senate; one member who is a health care
40 professional shall be appointed by the Speaker of the General
41 Assembly; and six members, at least two of whom are health care
42 professionals, at least one of whom represents health care facilities,
43 at least one of whom represents the health insurance industry, and at
44 least one of whom is a woman with a disability, shall be appointed
45 by the Governor with the advice and consent of the Senate. No less
46 than five of the public members shall be women.

47 The term of office of each public member shall be three years,
48 but of the members first appointed, two shall be appointed for a

1 term of one year, three shall be appointed for a term of two years
2 and three shall be appointed for a term of three years. A member
3 shall hold office for the term of his appointment and until his
4 successor has been appointed and qualified. All vacancies shall be
5 filled for the balance of the unexpired term in the same manner as
6 the original appointment. A member of the commission is eligible
7 for reappointment.

8 The public members of the commission shall not receive any
9 compensation for their services, but shall be reimbursed for the
10 actual and necessary expenses incurred in the performance of their
11 duties as members of the commission, within the limits of funds
12 available to the commission.

13 The members of the commission shall annually elect a chairman
14 and a vice-chairman from among the public members and may
15 select a secretary, who need not be a member of the commission.

16 The Office on Women's Health in the Department of Health [and
17 Senior Services] shall provide staff and assistance which the
18 commission requires to carry out its work.

19 (cf: P.L.2001, c.376, s.5)

20

21 109. Section 9 of P.L.2001, c.376, (C.26:1A-131) is amended to
22 read as follows:

23 9. The Commissioner of Health [and Senior Services] shall
24 adopt rules and regulations pursuant to the "Administrative
25 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to carry out
26 the purposes of this act.

27 (cf: P.L.2001, c.376, s.9)

28

29 110. Section 5 of P.L.2007, c.330 (C.26:1A-136) is amended to
30 read as follows:

31 5. a. There is established the New Jersey Health Information
32 Technology Commission. For the purpose of complying with the
33 provisions of Article V, Section IV, paragraph 1 of the New Jersey
34 Constitution, the commission is established within the Department
35 of Health [and Senior Services], but, notwithstanding the
36 establishment, the commission shall be independent of any
37 supervision or control by the department or any board or officer
38 thereof.

39 b. The commission shall collaborate with the Office for e-HIT
40 established pursuant to section 8 of this act (C.17:1D-1), concerning
41 all activities related to the development, implementation, and
42 oversight of the plan.

43 The commission shall be responsible for approving the Statewide
44 health information technology plan.

45 c. In providing advice on the development of the plan, the
46 commission shall, at a minimum, consider the following:

- 1 (1) the importance of the education of the general public and
2 health care professionals about the value of an electronic health
3 infrastructure for improving the delivery of patient care;
- 4 (2) the means for the creation of an effective, efficient,
5 Statewide use of electronic health information in patient care, health
6 care policymaking, clinical research, health care financing, and
7 continuous quality improvements;
- 8 (3) the means for the promotion of the use of national standards
9 for the development of an interoperative system, including
10 provisions relating to security, privacy, data content, structures and
11 format, vocabulary, and transmission protocols;
- 12 (4) the nature of proper strategic investments in equipment and
13 other infrastructure elements that will facilitate the ongoing
14 development of a Statewide infrastructure;
- 15 (5) funding needs for the ongoing development of health
16 information technology projects;
- 17 (6) actions needed to incorporate existing health care
18 information technology initiatives into the plan in order to avoid
19 incompatible systems and duplicative efforts;
- 20 (7) the proper means for the review and integration of the
21 recommendations, findings, and conclusions of the New Jersey
22 Health Information Security and Privacy Collaboration;
- 23 (8) the importance of recommending steps for the proper
24 resolution of issues related to data ownership, governance, and
25 confidentiality and security of patient information;
- 26 (9) the importance of promoting the deployment of health
27 information technology in primary care provider settings; and
- 28 (10) the roles that the development and use of open-source
29 electronic medical record software and the use of application
30 service provider software can play in effectuating the purposes of
31 paragraph (9) of this subsection.

32 d. The commission shall review the plan submitted by the
33 Office for e-HIT and notify it of any changes needed to approve the
34 plan.

35 (cf: P.L.2007, c.330, s.5)

36

37 111. Section 6 of P.L.2007, c.330 (C.26:1A-137) is amended to
38 read as follows:

39 6. a. The New Jersey Health Information Technology
40 Commission shall be comprised of 19 members as follows:

41 (1) the Commissioners of Health **【and Senior Services】**,
42 Banking and Insurance, Children and Families, and Human
43 Services, and the State Treasurer, or their designees, who shall
44 serve ex officio; and

45 (2) 14 public members, who shall be appointed by the Governor
46 no later than the 60th day after the effective date of this act, as
47 follows: three physicians engaged in private practice in this State,
48 one of whom is a pediatrician and one a psychiatrist; two persons

1 who represent acute care hospitals in this State, one of whom
2 represents a teaching hospital and the other a non-teaching hospital;
3 a registered professional nurse practicing in this State; a pharmacist
4 practicing in this State; a person who represents a clinical
5 laboratory operating in this State; an attorney practicing in this
6 State with demonstrated expertise in health privacy issues; a person
7 who represents a health insurance carrier operating in this State; a
8 person who represents a Quality Improvement Organization located
9 in New Jersey that contracts with the federal Centers for Medicare
10 **[and]** & Medicaid Services to improve the efficiency and
11 effectiveness, economy, and quality of services provided to
12 Medicare beneficiaries; and three members of the public with a
13 demonstrated professional expertise in issues relating to the work of
14 the commission, including one member with expertise in electronic
15 health information technology.

16 (3) The Governor shall designate a public member as chair of
17 the commission.

18 b. The public members shall serve for a term of three years;
19 except that, of the public members first appointed, five shall serve
20 for a term of three years, five for a term of two years, and four for a
21 term of one year. Vacancies in the membership of the commission
22 shall be filled in the same manner as the original appointments were
23 made.

24 c. The commission shall organize as soon as may be
25 practicable, but no later than the 45th day after the appointment of
26 its members. The public members shall serve without
27 compensation, but may be reimbursed for necessary expenses
28 incurred in the performance of their duties.

29 d. A majority of the total authorized membership of the
30 commission shall constitute a quorum at any meeting thereof.
31 Action may be taken and motions and resolutions adopted by the
32 commission at any meeting of the commission by the affirmative
33 vote of a majority of the quorum of the members who are present.
34 A vacancy in the membership of the commission shall not impair
35 the right of a quorum of the members to exercise all the powers and
36 perform all the duties of the commission.

37 e. The commission shall meet 2and confer with the Office for
38 e-HIT at least quarterly and may meet at other times at the call of
39 the commission chair. The meetings of the commission shall
40 comply with the provisions of the "Senator Byron M. Baer Open
41 Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.).

42 f. In addition to any other powers authorized by law, the
43 commission shall have the authority, in accordance with State law,
44 to:

45 (1) make and enter into contracts to purchase services and
46 supplies;

47 (2) develop and submit a proposed budget, not to exceed \$1
48 million annually;

1 (3) apply for, receive, and expend grants from governmental or
2 private nonprofit sources;

3 (4) recommend to the Department of Banking and Insurance the
4 necessary charges and assessments to be levied to collect payments
5 from persons and entities for the provision of services or as the
6 Office for e-HIT otherwise determines necessary to effectuate the
7 purposes of this act;

8 (5) receive and expend appropriations;

9 (6) provide such other services and perform such other functions
10 as the commission deems necessary to fulfill its responsibilities
11 under this act; and

12 (7) appoint, retain, or employ consultants on a contract basis or
13 otherwise, who are deemed necessary, and as may be within the
14 limits of funds appropriated or otherwise made available to it for its
15 purposes.

16 g. In collaboration with the Office for e-HIT, the commission
17 shall, no later than 18 months after its initial meeting and annually
18 thereafter, submit a joint report to the Governor, and to the
19 Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1),
20 concerning its activities and the status of, and actions taken
21 regarding development, implementation, and oversight of the
22 Statewide health information technology plan. The commission
23 shall include in that report any findings and recommendations that it
24 desires to make, along with any legislative bills that it desires to
25 recommend for adoption by the Legislature.

26 h. The commission shall develop and submit a proposed budget
27 to the Commissioner of Health **【and Senior Services】** to effectuate
28 its duties as set forth in this act.

29 The budget shall be subject to approval by the Commissioner of
30 Health **【and Senior Services】**.

31 i. The commission shall appoint a full-time executive director,
32 who shall serve as secretary to the commission. The executive
33 director shall serve at the pleasure of the commission and shall be
34 qualified by training and experience to perform the duties of the
35 position. The executive director shall be in the unclassified service
36 of the Civil Service and may hire properly qualified employees,
37 within the limits of funds appropriated or otherwise made available
38 to the commission, who shall also be employed in the unclassified
39 service of the Civil Service; except that employees performing
40 stenographic or clerical duties shall be in the career service and
41 appointed pursuant to Title 11A of the New Jersey Statutes.

42 (cf: P.L.2007, c.330, s.6)

43

44 112. Section 2 of P.L.2001, c.373 (C.26:2-103.2) is amended to
45 read as follows:

46 2. As used in this act:

47 "Commissioner" means the Commissioner of Health **【and Senior
48 Services】**.

1 "Department" means the Department of Health **【and Senior**
2 **Services】**.

3 "Electrophysiologic screening measures" means the electrical
4 result of the application of physiologic agents and includes, but is
5 not limited to, the procedures currently known as Auditory
6 Brainstem Response testing (ABR) and Otoacoustic Emissions
7 testing (OAE) and any other procedure adopted by regulation by the
8 commissioner.

9 "Hearing loss" means a hearing loss of 30dB or greater in the
10 frequency region important for speech recognition and
11 comprehension in one or both ears, which is approximately 500
12 through 4000 Hz., except that the commissioner may adopt a
13 standard which establishes a less severe hearing loss, as
14 appropriate.

15 "Newborn" means a child up to 28 days old.

16 "Parent" means a biological parent, stepparent, adoptive parent,
17 legal guardian, or other legal custodian of a child.

18 (cf: P.L.2001, c.373, s.2)

19

20 113. Section 2 of P.L.1977, c.266 (C.26:2-105) is amended to
21 read as follows:

22 2. The Department of Health **【and Senior Services】** shall
23 establish and maintain an up-to-date registry which shall include a
24 record of cases of cancer and specified cases of tumorous or
25 precancerous disease that occur in New Jersey, and such
26 information concerning these cases as it shall deem necessary and
27 appropriate in order to conduct thorough and complete
28 epidemiologic surveys of cancer and cancer-related diseases in this
29 State and to apply appropriate preventive and control measures.

30 (cf: P.L.2001, c.99, s.1)

31

32 114. Section 3 of P.L.1977, c.266 (C.26:2-106) is amended to
33 read as follows:

34 3. a. The Commissioner of Health **【and Senior Services】**, in
35 consultation with the Public Health Council, shall require the
36 reporting of cases of cancer and other specified tumorous and
37 precancerous diseases, and the submission of such specified
38 additional information on reported cases or control populations as
39 he deems necessary and appropriate for the recognition, prevention,
40 cure, or control of such diseases.

41 b. Pursuant to subsection a. of this section, the Commissioner
42 of Health **【and Senior Services】** is hereby authorized to adopt and
43 promulgate, in the manner prescribed by the applicable provisions
44 of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
45 1 et seq.) rules and regulations specifying the health care providers,
46 individuals, and other organizations obliged to make the report and
47 submissions required by subsection a. of this section, the related

1 information to be included in such reports, and the methods for such
2 reporting.

3 c. All abstracting work performed by a health care facility in
4 accordance with this section shall be performed by a certified tumor
5 registrar.

6 d. (1) The Department of Health [and Senior Services] shall
7 contract out its registry services to health care facilities which lack
8 adequate internal capabilities to report cases on a timely basis, as
9 provided in the regulations adopted pursuant to this section. Such
10 health care facilities shall reimburse the department for services
11 rendered.

12 (2) If a health care facility fails to correct deficiencies in its
13 reporting that are discovered on audit by the Department of Health
14 [and Senior Services] within 30 days, the department will conduct
15 the appropriate registrar activities and charge the facility for all
16 costs related to its services.

17 e. Health insurers and other third party health care payers
18 providing health benefits plans to residents of the State shall report
19 to the Department of Health [and Senior Services] cases of cancer
20 of State residents based upon selection criteria and in a format
21 specified by the department.

22 f. (1) A health care facility, health care provider, or health
23 insurer that fails to comply with the provisions of this section shall
24 be liable to a penalty of up to \$500 per unreported cancer case.

25 (2) A health care facility that fails to report cases of cancer
26 electronically, as required by regulation, shall be liable to a penalty
27 not to exceed \$1,000 per business day.

28 (3) A penalty sued for under the provisions of this subsection
29 shall be recovered by and in the name of the Department of Health
30 [and Senior Services] and shall be dedicated to the cancer registry.

31 g. All information reported to the Department of Health [and
32 Senior Services] for inclusion in the cancer registry pursuant to this
33 section shall be verified for accuracy by the department within six
34 months of receiving the information and shall be incorporated in the
35 registry. Aggregate or summary information, to include gender
36 distribution, age groupings of cases, and cancer types, shall be
37 made available to the public no later than six months after
38 verification by the department. The department shall not make
39 public any information reported to the department which discloses
40 the identity of any person to whom the information relates.

41 (cf: P.L.2001, c.99, s.2)

42

43 115. Section 4 of P.L.1977, c.266 (C.26:2-107) is amended to
44 read as follows:

45 4. The reports made pursuant to this act are to be used only by
46 the Department of Health [and Senior Services] and such other
47 agencies as may be designated by the Commissioner of Health [and

1 Senior Services] and shall not otherwise be divulged or made
2 public so as to disclose the identity of any person to whom they
3 relate; and to that end, such reports shall not be included under
4 materials available to public inspection pursuant to P.L.1963, c.73
5 (C.47:1A-1 et seq.).
6 (cf: P.L.2001, c.99, s.3)

7
8 116. Section 5 of P.L.1977, c.266 (C.26:2-108) is amended to
9 read as follows:

10 5. No individual or organization providing information to the
11 Department of Health [and Senior Services] in accordance with
12 this act shall be deemed to be, or held liable for, divulging
13 confidential information.
14 (cf: P.L.2001, c.99, s.4)

15
16 117. Section 1 of P.L.2004, c.12 (C.26:2-111.1) is amended to
17 read as follows:

18 1. a. A health care provider shall give an infant's parent or
19 guardian the option of consenting to the performance of testing by
20 qualified laboratories for disorders in infants for which testing is
21 not required pursuant to P.L.1977, c.321 (C.26:2-110 et seq.), on a
22 form and in a manner prescribed by the Commissioner of Health
23 [and Senior Services]. The health care provider shall not be
24 required to assume the cost of such testing.

25 As used in this section:

26 "Health care provider" means a health care professional licensed
27 pursuant to Title 45 of the Revised Statutes or a health care facility
28 licensed pursuant to Title 26 of the Revised Statutes that provides
29 health care services to newborn infants.

30 "Qualified laboratory" means a clinical laboratory not operated
31 by the Department of Health [and Senior Services], which is
32 certified by the Secretary of Health and Human Services pursuant to
33 the federal "Clinical Laboratory Improvement Amendments of
34 1988," Pub.L.100-578 (42 U.S.C. s.263a) and reports its test results
35 by using normal pediatric reference ranges.

36 b. (1) The Commissioner of Health [and Senior Services] shall
37 prepare and make available electronically, on the Internet website
38 of the Department of Health [and Senior Services], information
39 that explains the availability of testing performed by qualified
40 laboratories for disorders in infants for which testing is not required
41 pursuant to P.L.1977, c.321 (C.26:2-110 et seq.).

42 (2) A health care provider shall give an infant's parent or
43 guardian a hard copy of the information prepared pursuant to
44 paragraph (1) of this subsection and provide the parent or guardian
45 with a reasonable opportunity to read the information when giving

1 the parent or guardian the option of consenting to the performance
2 of testing pursuant to subsection a. of this section.

3 (cf: P.L.2004, c.12, s.1)

4

5 118. Section 4 of P.L.2007, c.218 (C.26:2-111.2) is amended to
6 read as follows:

7 4. a. The Commissioner of Health **[and Senior Services]** shall
8 require each birthing facility in the State to administer to a newborn
9 in its care a test for human immunodeficiency virus (HIV) if the
10 HIV status of the mother of the newborn is unknown.

11 A newborn shall not be denied testing for HIV on the basis of the
12 newborn's economic status.

13 b. The commissioner shall establish a comprehensive program
14 for the follow-up testing of newborns who test positive for HIV
15 pursuant to subsection a. of this section or whose mother is HIV-
16 positive, which shall include, but not be limited to, procedures for
17 the administration of HIV testing, counseling of the newborn's
18 mother, tracking the newborn, disclosure of HIV test results to the
19 mother, facility compliance reviews, and educational activities
20 related to the HIV testing.

21 c. The provisions of this section shall not apply to a newborn
22 whose parents object to the test as being in conflict with their
23 religious tenets and practices. The parents shall provide the health
24 care facility with a written statement of the objection, and the
25 statement shall be included in the newborn's medical record.

26 d. As used in this section, "birthing facility" means an inpatient
27 or ambulatory health care facility licensed by the Department of
28 Health **[and Senior Services]** that provides birthing and newborn
29 care services.

30 e. 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 purposes of this section.

34 (cf: P.L.2007, c.218, s.4)

35

36 119. Section 2 of P.L.2011, c.74 (C.26:2-111.4) is amended to
37 read as follows:

38 2. a. The Commissioner of Health **[and Senior Services]** shall
39 require each birthing facility licensed by the Department of Health
40 **[and Senior Services]** to perform a pulse oximetry screening, a
41 minimum of 24 hours after birth, on every newborn in its care.

42 b. As used in this section, "birthing facility" means an inpatient
43 or ambulatory health care facility licensed by the Department of
44 Health **[and Senior Services]** that provides birthing and newborn
45 care services.

1 c. The commissioner shall adopt rules and regulations,
2 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
3 (C.52:14B-1 et seq.), necessary to carry out the purposes of this act.
4 (cf: P.L.2011, c.74, s.2)

5
6 120. Section 1 of P.L.2011, c.175 (C.26:2-111.5) is amended to
7 read as follows:

8 1. a. All infants born in this State shall be tested for the
9 lysosomal storage disorders known as Krabbe, Pompe, Gaucher,
10 Fabry, and Niemann-Pick diseases within six months following the
11 occurrence of all of the following:

12 (1) the registration with the federal Food and Drug
13 Administration of the necessary reagents;

14 (2) the availability of the necessary reagents from the federal
15 Centers for Disease Control and Prevention;

16 (3) the availability of quality assurance testing methodology for
17 these processes; and

18 (4) the acquisition by the Department of Health **【and Senior**
19 **Services】** of the equipment necessary to implement the expanded
20 screening tests.

21 b. The Department of Health **【and Senior Services】** may
22 charge a reasonable fee for the tests performed pursuant to this
23 section. The amount of the fee and the procedures for collecting the
24 fee shall be determined by the Commissioner of Health **【and Senior**
25 **Services】**.

26 (cf: P.L.2011, c.175, s.1)

27
28 121. Section 4 of P.L.1987, c.370 (C.26:2-151) is amended to
29 read as follows:

30 4. There is established in the Executive Branch of the State
31 government, the Catastrophic Illness in Children Relief Fund
32 Commission. For the purposes of complying with the provisions of
33 Article V, section IV, paragraph 1 of the New Jersey Constitution,
34 the commission is allocated within the Department of Human
35 Services, but notwithstanding that allocation, the commission shall
36 be independent of any supervision or control by the department or
37 by any board or officer thereof.

38 The commission shall consist of the Commissioner of Health
39 **【and Senior Services】**, the Commissioner of Human Services, the
40 Commissioner of Children and Families, the Commissioner of
41 Banking and Insurance, and the State Treasurer, who shall be
42 members ex officio, and seven public members who are residents of
43 this State, appointed by the Governor with the advice and consent
44 of the Senate for terms of five years, two of whom are appointed
45 upon the recommendation of the President of the Senate, one of
46 whom is a provider of health care services to children in this State
47 and two of whom are appointed upon the recommendation of the

1 Speaker of the General Assembly, one of whom is a provider of
2 health care services to children in this State. The five public
3 members first appointed by the Governor shall serve for terms of
4 one, two, three, four and five years, respectively.

5 Each member shall hold office for the term of his appointment
6 and until his successor has been appointed and qualified. A
7 member of the commission is eligible for reappointment.

8 Each ex officio member of the commission may designate an
9 officer or employee of **[his]** the ex officio member's department to
10 represent **[him]** the member at meetings of the commission, and
11 each designee may lawfully vote and otherwise act on behalf of the
12 member for whom he constitutes the designee. Any designation
13 shall be in writing delivered to the commission and filed with the
14 office of the Secretary of State and shall continue in effect until
15 revoked or amended in the same manner as provided for
16 designation.

17 (cf: P.L.2007, c.342, s.1)

18

19 122. Section 2 of P.L.1991, c.401 (C.26:2-161) is amended to
20 read as follows:

21 2. a. There is established the New Jersey Office on Minority
22 and Multicultural Health in the Department of Health **[and Senior**
23 **Services]**.

24 b. Whenever the term "New Jersey Office on Minority Health"
25 occurs or any reference is made thereto in any law, contract,₂
26 document, the same shall be deemed to mean or refer to the "New
27 Jersey Office on Minority and Multicultural Health."

28 (cf: P.L.2001, c.205, s.3)

29

30 123. Section 3 of P.L.1991, c.401 (C.26:2-162) is amended to
31 read as follows:

32 3. The office shall:

33 a. Provide grants to community-based organizations to conduct
34 special research, demonstration,₂ and evaluation projects for targeted
35 at-risk racial and ethnic minority populations and to support
36 ongoing community-based programs that are designed to reduce or
37 eliminate racial and ethnic health disparities in the State;

38 b. Develop and implement model public and private
39 partnerships in racial and ethnic minority communities for health
40 awareness campaigns and to improve the access, acceptability,₂ and
41 use of public health services;

42 c. Serve as an information and resource center for racial and
43 ethnic minority specific health information and data and develop a
44 clearinghouse to collate and organize data on a county-by-county
45 basis and disseminate it upon request to interested parties;

46 d. Review, recommend,₂ and develop culturally appropriate
47 health education materials;

- 1 e. Provide assistance to local school districts to develop
2 programs in elementary and secondary schools which stress good
3 nutrition and healthy lifestyles;
- 4 f. Function as an advocate for the adoption and implementation
5 of effective measures to improve the health of racial and ethnic
6 minority populations in this State, which measures should lead to
7 the elimination of disparities among the various racial and ethnic
8 populations of this State with respect to access to high-quality
9 health care, utilization of health care services, and health status;
- 10 g. Improve existing data systems to ensure that the health
11 information that is collected includes specific race and ethnicity
12 identifiers;
- 13 h. Review the programs of the Departments of Health [and
14 Senior Services], Human Services, Community Affairs, and
15 Education and any other department of State government, as
16 appropriate, that concern multicultural or minority health and make
17 recommendations to the departments that will enable them to better
18 coordinate and improve the effectiveness of their efforts;
- 19 i. Develop a Statewide plan for increasing the number of racial
20 and ethnic minority health care professionals which includes
21 recommendations for the financing mechanisms and recruitment
22 strategies necessary to carry out the plan;
- 23 j. Work collaboratively with colleges of medicine and
24 dentistry in this State and other health care professional training
25 programs to develop cultural and language competency courses that
26 are designed to address the problem of racial and ethnicity
27 disparities in health care access, utilization, treatment decisions,
28 quality, and outcomes;
- 29 k. Develop recommendations for the most effective means of
30 providing outreach to racial and ethnic minority communities
31 throughout the State to ensure their maximum participation in
32 publicly funded health benefits programs;
- 33 l. Seek to establish a Statewide alliance with community-based
34 agencies and organizations, health care facilities, health care
35 provider organizations, managed care organizations, and
36 pharmaceutical manufacturers to promote the objectives of the
37 office; and
- 38 m. Evaluate multicultural or racial and ethnic minority health
39 programs in other states to assess their efficacy and potential for
40 replication in this State and make recommendations regarding the
41 adoption of such programs, as appropriate.
- 42 (cf: P.L.2001, c.205, s.4)
- 43

44 124. Section 4 of P.L.1991, c.401 (C.26:2-163) is amended to
45 read as follows:

- 46 4. The office is authorized to:
- 47 a. Adopt rules and regulations pursuant to the "Administrative
48 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), concerning

1 the operation of the office and other matters that may be necessary
2 to carry out the purposes of this act;

3 b. Maintain offices at such places within the State as it may
4 designate;

5 c. Employ a director and other personnel as may be necessary.
6 The director shall be appointed by the Commissioner of Health
7 [and Senior Services] and shall serve at the pleasure of the
8 commissioner during the commissioner's term of office and until the
9 appointment and qualification of the director's successor. The
10 director shall devote his entire time to the duties of the position and
11 shall receive a salary as provided by law;

12 d. Apply for and accept any grant of money from the federal
13 government, private foundations or other sources, which may be
14 available for programs related to multicultural or minority health;

15 e. Serve as the designated State agency for receipt of federal
16 funds specifically designated for multicultural or racial and ethnic
17 minority health programs; and

18 f. Enter into contracts with individuals, organizations, and
19 institutions necessary for the performance of its duties under this
20 act.

21 (cf: P.L.2001, c.205, s.5)

22
23 125. Section 5 of P.L.1991, c.401 (C.26:2-164) is amended to
24 read as follows:

25 5. There is established a New Jersey Office on Minority and
26 Multicultural Health Advisory Commission.

27 The commission shall consist of nine members, including the
28 Commissioner of Health [and Senior Services] or his designee,
29 who shall serve ex officio, and eight public members who are
30 residents of the State and who shall be appointed as follows: one
31 member who is a health care professional shall be appointed by the
32 President of the Senate; one member who is a health care
33 professional shall be appointed by the Speaker of the General
34 Assembly; and six members, at least two of whom are health care
35 professionals, at least one of whom represents health care facilities
36 and at least one of whom represents the health insurance industry,
37 shall be appointed by the Governor with the advice and consent of
38 the Senate.

39 The term of office of each public member shall be three years,
40 but of the members first appointed, two shall be appointed for a
41 term of one year, three shall be appointed for a term of two years
42 and three shall be appointed for a term of three years. A member
43 shall hold office for the term of his appointment and until his
44 successor has been appointed and qualified. All vacancies shall be
45 filled for the balance of the unexpired term in the same manner as
46 the original appointment. A member of the commission is eligible
47 for reappointment.

1 The public members of the commission shall not receive any
2 compensation for their services, but shall be reimbursed for the
3 actual and necessary expenses incurred in the performance of their
4 duties as members of the commission, within the limits of funds
5 available to the commission.

6 The members of the commission shall annually elect a chairman
7 and a vice-chairman from among the public members and may
8 select a secretary, who need not be a member of the commission.

9 The New Jersey Office on Minority and Multicultural Health
10 shall provide such staff and assistance as the commission requires
11 to carry out its work.

12 (cf. P.L.2001, c.205, s.6)

13

14 126. Section 1 of P.L.2004, c.137 (C.26:2-167.1) is amended to
15 read as follows:

16 1. The Commissioner of Health **[and Senior Services]** shall
17 establish the "Eliminating Health Disparities Initiative" in the
18 Office on Minority and Multicultural Health. The commissioner
19 shall require the office to develop and implement a comprehensive,
20 coordinated plan to reduce health disparities between White and
21 racial and ethnic minority populations in the State in the following
22 priority areas: asthma; infant mortality; breast, cervical, prostate
23 and colorectal cancer screening; kidney disease; HIV/AIDS;
24 hepatitis C; sexually transmitted diseases; adult and child
25 immunizations; cardiovascular disease; diabetes; and accidental
26 injuries and violence. As used in this act, "office" means the New
27 Jersey Office on Minority and Multicultural Health.

28 (cf: P.L.2004, c.137, s.1)

29

30 127. Section 3 of P.L.2004, c.137 (C.26:2-167.33) is amended to
31 read as follows:

32 3. The Commissioner of Health **[and Senior Services]** shall
33 adopt rules and regulations, pursuant to the "Administrative
34 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate
35 the purposes of this act.

36 (cf: P.L.2004, c.137, s.3)

37

38 128. Section 2 of P.L.1993, c.229 (C.26:2-169) is amended to
39 read as follows:

40 2. The Department of **[Health and Senior] Human** Services
41 shall develop criteria which prevention, education, and treatment
42 programs for compulsive gamblers shall meet in order to become
43 eligible for a grant from the funds made available for such programs
44 pursuant to section 145 of P.L.1977, c.110 (C.5:12-145). The
45 department shall also develop a formula for the distribution of
46 available funds which will result in an equitable distribution among
47 the programs which meet the eligibility criteria and apply for
48 grants.

1 The department shall submit a report to the Senate Budget and
2 Appropriations Committee and the Assembly Appropriations
3 Committee, or their successors, describing the criteria developed
4 pursuant to this section and detailing the amount of grants
5 distributed and the names of the programs receiving grants. The
6 department shall submit the report annually to both committees.
7 (cf: P.L.2001, c.199, s.40)

8
9 129. Section 2 of P.L.1997, c.229 (C.26:2-171) is amended to
10 read as follows:

11 2. a. There is established in the Executive Branch of the State
12 Government an Advisory Council on Adolescent Pregnancy. For
13 the purposes of complying with the provisions of Article V, Section
14 IV, paragraph 1 of the New Jersey Constitution, the advisory
15 council is allocated within the Department of Health [and Senior
16 Services], but notwithstanding that allocation, the advisory council
17 shall be independent of any supervision or control by the
18 department or by any board or officer thereof.

19 b. The advisory council shall consist of 24 members as follows:
20 the Commissioners of the Departments of Health [and Senior
21 Services], Human Services, Children and Families, Education,
22 Community Affairs, and Labor and Workforce Development, who
23 shall serve as ex officio members, and 18 public members, four of
24 whom shall be teenagers, including two teenage parents and two
25 teenagers who are not parents, and fourteen of whom shall be
26 representatives of community based religious, health, and social
27 service organizations which serve adolescents and health
28 professionals and educators with recognized expertise in the field of
29 adolescent pregnancy. Of the public members, three shall be
30 appointed by the President of the Senate, no more than two of
31 whom shall be of the same political party; three shall be appointed
32 by the Speaker of the General Assembly, no more than two of
33 whom shall be of the same political party; and 12 shall be appointed
34 by the Governor. Eight of the persons appointed by the Governor
35 shall be appointed with the advice and consent of the Senate, no
36 more than four of whom shall be of the same political party; and
37 four of the persons appointed by the Governor shall be teenagers.
38 The advisory council shall organize within 30 days after the
39 appointment of its members. The members shall select one person
40 from among them to serve as the chairperson and the members shall
41 select a secretary, who need not be a member of the advisory
42 council.

43 c. Each ex officio member may designate an employee of the
44 member's department to represent the member at hearings of the
45 advisory council. All designees may lawfully vote and otherwise
46 act on behalf of the member for whom they constitute the designee.

47 d. Each public member shall be appointed for a term of three
48 years, but of the members first appointed, six shall serve for a term

1 of one year, six for a term of two years, and six for a term of three
2 years. Members shall serve until their successors are appointed and
3 qualified. Vacancies shall be filled in the same manner as the
4 original appointments were made.

5 e. Members of the advisory council shall serve without
6 compensation but, within the limits of funds appropriated or
7 otherwise made available to it, shall be eligible for reimbursement
8 of necessary expenses incurred in the performance of their duties.

9 f. The Department of Health **and Senior Services** shall
10 provide such staff as the advisory council requests to carry out the
11 purposes of this act.

12 (cf: P.L.2008, c.63, s.1)

13

14 130. Section 2 of P.L.2000, c.167 (C.26:2-176) is amended to
15 read as follows:

16 2. The Commissioner of Health **and Senior Services**, in
17 conjunction with the State Board of Medical Examiners and the
18 New Jersey Board of Nursing, shall work with health care facilities
19 and licensed health care professionals in the State to develop
20 policies and procedures to achieve the following requirements
21 concerning postpartum depression:

22 a. Physicians, nurse midwives, and other licensed health care
23 professionals providing prenatal care to women shall provide
24 education to women and their families about postpartum depression
25 in order to lower the likelihood that new mothers will continue to
26 suffer from this illness in silence;

27 b. All birthing facilities in the State shall provide departing
28 new mothers and fathers and other family members, as appropriate,
29 with complete information about postpartum depression, including
30 its symptoms, methods of coping with the illness, and treatment
31 resources;

32 c. Physicians, nurse midwives, and other licensed health care
33 professionals providing postnatal care to women shall screen new
34 mothers for postpartum depression symptoms prior to discharge
35 from the birthing facility and at the first few postnatal check-up
36 visits; and

37 d. Physicians, nurse midwives, and other licensed health care
38 professionals providing prenatal and postnatal care to women shall
39 include fathers and other family members, as appropriate, in both
40 the education and treatment processes to help them better
41 understand the nature and causes of postpartum depression so that
42 they too can overcome the spillover effects of the illness and
43 improve their ability to be supportive of the new mother.

44 (cf: P.L.2006, c.12, s.1)

45

46 131. Section 3 of P.L.2000, c.167 (C.26:2-177) is amended to
47 read as follows:

1 3. The Commissioner of Health **[and Senior Services]** shall
2 establish a public awareness campaign to inform the general public
3 about the nature and causes of postpartum depression and its health
4 implications, including its symptoms, methods of coping with the
5 illness, and the most effective means of treatment.

6 (cf: P.L.2000, c.167, s.3)

7
8 132. Section 4 of P.L.2000, c.167 (C.26:2-178) is amended to
9 read as follows:

10 4. The Commissioner of Health **[and Senior Services]**,
11 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
12 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate
13 the purposes of this act.

14 (cf: P.L.2000, c.167, s.4)

15
16 133. Section 1 of P.L.2003, c.174 (C.26:2-179) is amended to
17 read as follows:

18 1. The Department of Health **[and Senior Services]**, in
19 consultation with the Department of Environmental Protection, shall
20 prepare a consumer's mercury alert notice for posting in all patient
21 areas of professional medical offices that provide gynecological,
22 obstetrical, or pediatric care and in the patient or client areas of all
23 maternal and child health and nutrition programs. The notice shall
24 explain the danger to women who expect to become pregnant,
25 women who are pregnant or breast feeding their children, and
26 young children, of eating mercury contaminated fish. The notice
27 shall summarize the State's and the federal government's most
28 current mercury health advisories concerning fish consumption and
29 shall contain such other information as the department deems
30 appropriate. The notice also shall list any telephone number that
31 may be established for State residents to call for further information
32 about the health advisories.

33 The department shall distribute the notice, at no charge, to all
34 professional medical offices that provide gynecological, obstetrical,
35 or pediatric care and to all publicly funded maternal and child
36 health and nutrition programs in the State. The department shall
37 update the notice as necessary, and shall make additional copies of
38 the notice available to health care providers upon request.

39 (cf: P.L.2003, c.174, s.1)

40
41 134. Section 2 of P.L.2005, c.98 (C.26:2-181) is amended to
42 read as follows:

43 2. The Commissioner of Health **[and Senior Services]** shall
44 establish a public awareness campaign to inform the general public
45 about post-polio sequelae, for which purpose the commissioner
46 shall provide for the development of educational materials, in
47 consultation with health care facilities and providers that have a
48 demonstrated record of expertise and interest in this subject, which

1 shall be made available to local boards of health, physicians,
2 hospitals, and clinics for distribution to consumers.

3 (cf: P.L.2005, c.98, s.2)

4

5 135. Section 1 of P.L.2005, c.280 (C.26:2-182) is amended to
6 read as follows:

7 1. a. There is established the "Task Force on Cancer
8 Prevention,
9 Early Detection and Treatment in New Jersey" within the
10 Department of Health **【and Senior Services】**.

11 b. The task force shall be comprised of the following members:

12 (1) the Commissioner of Health **【and Senior Services】**, or his
13 designee, who shall serve ex officio; and

14 (2) no more than 20 public members to be appointed by the
15 Governor, who shall include representatives from: the Public
16 Health Council; the New Jersey State Commission on Cancer
17 Research; the New Jersey Office on Minority and Multicultural
18 Health; the Medical Society of New Jersey; academic medical
19 centers and universities engaged in cancer education, research, and
20 treatment; providers of cancer treatment and support services;
21 pharmaceutical companies engaged in cancer research; community-
22 based organizations and coalitions engaged in cancer outreach,
23 education, and screening; and cancer survivors.

24 c. The public members shall serve for a term of one year.
25 Vacancies in the membership of the task force shall be filled in the
26 same manner as the original appointments were made.

27 d. The task force shall organize as soon as may be practicable,
28 but no later than the 30th day after the appointment of its members,
29 and shall select a chairperson from among the public members. The
30 chairperson shall appoint a secretary who need not be a member of
31 the task force. The public members shall serve without
32 compensation, but may be reimbursed for necessary expenses
33 incurred in the performance of their duties.

34 e. The Department of Health **【and Senior Services】** shall
35 supply such staff and resources, including a person to serve as
36 executive director of the task force, as the task force requires to
37 carry out its duties.

38 f. The task force is entitled to the assistance and services of the
39 employees of any State department, board, bureau, commission, or
40 agency as it may require and as may be available to it for its
41 purposes, and to incur traveling and other miscellaneous expenses
42 necessary to perform its duties, within the limits of funds
43 appropriated or otherwise made available to it for its purpose.

44 (cf: P.L.2005, c.280, s.1)

45

46 136. Section 2 of P.L.2005, c.280 (C.26:2-183) is amended to
47 read as follows:

48 2. a. The task force shall:

- 1 (1) evaluate current trends in cancer incidence, morbidity and
- 2 mortality, screening, diagnosis, and behaviors that increase risk;
- 3 (2) evaluate historic, current, and emerging cancer control
- 4 strategies;
- 5 (3) establish cancer reduction goals, which shall seek to reduce
- 6 mortality rates for breast, cervical, prostate, lung, and colorectal
- 7 cancer;
- 8 (4) establish specific goals for:
- 9 (a) reducing behavior that increases the risk of cancer, including
- 10 behavior related to smoking and diet;
- 11 (b) reversing the present trend of annual increases in the rate of
- 12 invasive melanoma;
- 13 (c) closing the gap in cancer mortality rates between the total
- 14 population and minorities;
- 15 (d) increasing the use of screening tests for cancer, especially
- 16 among elderly and minority populations; and
- 17 (e) increasing the percentage of cancers diagnosed at early
- 18 stages;
- 19 (5) develop an integrated set of priority strategies that are
- 20 necessary to achieve the goals established pursuant to this act; and
- 21 (6) delineate the respective roles and responsibilities for the
- 22 State and other entities in implementing the priority strategies
- 23 identified pursuant to this act.
- 24 b. (1) The task force shall report to the Governor, the
- 25 Commissioner of Health [and Senior Services], and the Legislature
- 26 on its findings, recommendations, and activities at least biennially.
- 27 (2) In addition, the cervical cancer workgroup, which the task
- 28 force shall establish in addition to such other workgroups as it
- 29 deems appropriate, shall report to the Governor, the Commissioner
- 30 of Health [and Senior Services], and the Legislature at least
- 31 biennially on its findings and recommendations regarding strategies
- 32 and actions to reduce the occurrence of, and burdens suffered from,
- 33 cervical cancer, along with any legislative bills that it desires to
- 34 recommend for adoption by the Legislature.
- 35 (cf: P.L.2005, c.280, s.2)

36
37 137. Section 3 of P.L.2005, c.280 (C.26:2-184) is amended to
38 read as follows:

39 3. The task force established pursuant to Executive Order No.
40 114 of 2000, together with its functions, powers, duties, and
41 workgroups, is continued in the Department of Health [and Senior
42 Services] as the "Task Force on Cancer Prevention, Early Detection
43 and Treatment in New Jersey" established pursuant to this act.
44 (cf: P.L.2005, c.280, s.3)

45
46 138. Section 2 of P.L.2011, c.155 (C.26:2-184.2) is amended to
47 read as follows:

1 2. a. The Commissioner of Health **【and Senior Services】** shall
2 establish a public awareness campaign to inform the general public
3 about the clinical significance of ovarian cancer and its public
4 health implications. The campaign shall include, at a minimum,
5 risk factors, symptoms, the need for early detection, and methods of
6 treatment.

7 b. The commissioner shall, at a minimum:

8 (1) provide for the development of printed educational materials
9 and public service announcements in English and Spanish; and

10 (2) disseminate information for distribution to the public,
11 through a variety of entities, including, but not limited to, local
12 health agencies and clinics, physicians, health care facilities, county
13 offices on aging, pharmacies, libraries, senior citizen centers, other
14 community-based outreach programs and organizations, and the
15 Department of **【Health and Senior Services'】** Health's official
16 website.

17 (cf: P.L.2011, c.155, s.2)

18

19 139. Section 2 of P.L.2007, c.170 (C.26:2-186) is amended to
20 read as follows:

21 2. a. A physician, psychologist, and any other health care
22 professional licensed pursuant to Title 45 of the Revised Statutes
23 who is qualified by training to make the diagnosis and who then
24 makes the diagnosis that a child has an autism spectrum disorder
25 shall report this diagnosis to the Department of Health **【and Senior
26 Services】** in a form and manner prescribed by the Commissioner of
27 Health **【and Senior Services】**.

28 b. The report shall be in writing and shall include the name and
29 address of the person submitting the report, the name, age, place of
30 birth, and address of the child diagnosed as having an autism
31 spectrum disorder, and other pertinent information as may be
32 required by the commissioner; except that, if the child's parent or
33 guardian objects to the reporting of the child's diagnosis for any
34 reason, the report shall not include any information that could be
35 used to identify the child.

36 c. The commissioner shall specify procedures for the health
37 care professional to inform the child's parent or guardian of the
38 requirements of subsections a. and b. of this section and the purpose
39 served by including this information in the registry established
40 pursuant to section 3 of P.L.2007, c.170 (C.26:2-187), as well as the
41 parent's or guardian's right to refuse to permit the reporting of any
42 information that could be used to identify the child.

43 cf: P.L.2009, c.204, s.3)

44

45 140. Section 4 of P.L.2009, c.204 (C.26:2-186.1) is amended to
46 read as follows:

1 4. a. An adult who has been diagnosed as having an autism
2 spectrum disorder by a physician, psychologist, or any other health
3 care professional licensed pursuant to Title 45 of the Revised
4 Statutes who is qualified by training to make the diagnosis, and
5 whose diagnosis has not been reported pursuant to section 2 of
6 P.L.2007, c.170 (C.26:2-186), may, at his discretion, report this
7 diagnosis, or request that a health care professional on his behalf
8 report this diagnosis, to the Department of Health **[and Senior**
9 **Services]** in a form and manner prescribed by the Commissioner of
10 Health **[and Senior Services]**.

11 b. The report shall be in writing and shall include the name and
12 address of the person submitting the report, the name, age, place of
13 birth, and address of the adult diagnosed as having an autism
14 spectrum disorder, and other pertinent information as may be
15 required by the commissioner.

16 c. The commissioner shall specify procedures for the health
17 care professional to inform the adult of the provisions of
18 subsections a. and b. of this section and the purpose served by
19 including this information in the registry established pursuant to
20 section 3 of P.L.2007, c.170 (C.26:2-187).

21 (cf: P.L.2009, c.204, s.4)

22

23 141. Section 3 of P.L.2007, c.170 (C.26:2-187) is amended to
24 read as follows:

25 3. The Department of Health **[and Senior Services]**, in
26 consultation with the Department of Human Services, shall
27 maintain an up-to-date registry which shall include a record of: all
28 reported cases of an autism spectrum disorder that occur in New
29 Jersey, including those reported pursuant to section 2 of P.L.2007,
30 c.170 (C.26:2-186) and section 4 of P.L.2009, c.204 (C.26:2-186.1);
31 each reported case of an autism spectrum disorder that occurs in
32 New Jersey in which the initial diagnosis is changed, lost, or
33 considered misdiagnosed; and any other information it deems
34 relevant and appropriate in order to conduct thorough and complete
35 epidemiologic surveys of autism spectrum disorders, to enable
36 analysis of this problem and to plan for and provide services to
37 children and adults with an autism spectrum disorder and their
38 families.

39 (cf: P.L.2009, c.204, s.5)

40

41 142. Section 4 of P.L.2007, c.170 (C.26:2-188) is amended to
42 read as follows:

43 4. a. The reports made pursuant to P.L.2007, c.170 (C.26:2-
44 185 et seq.) and section 4 of P.L.2009, c.204 (C.26:2-186.1) are to
45 be used only by the Department of Health **[and Senior Services]**
46 and other agencies as may be designated by the Commissioner of
47 Health **[and Senior Services]**, including the Department of Human

1 Services, and shall not otherwise be divulged or made public so as
2 to disclose the identity of any person to whom they relate; and, to
3 that end, the reports shall not be included under materials available
4 to public inspections pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.)
5 or P.L.2001, c.404 (C.47:1A-5 et al.).

6 b. A physician, psychologist, or health care professional
7 providing information to the department in accordance with
8 P.L.2007, c.170 (C.26:2-185 et seq.) or section 4 of P.L.2009, c.204
9 (C.26:2-186.1) shall not be deemed to be, or held liable for,
10 divulging confidential information.

11 c. Nothing in P.L.2007, c.170 (C.26:2-185 et seq.) or section 4
12 of P.L.2009, c.204 (C.26:2-186.1) shall be construed to compel a
13 child or adult who has been reported as having an autism spectrum
14 disorder to submit to medical or health examination or supervision
15 by the department.

16 (cf: P.L.2009, c.204, s.6)

17

18 143. Section 2 of P.L.2008, c.80 (C.26:2-190) is amended to
19 read as follows:

20 2. a. The Commissioner of Health **[and Senior Services]** and
21 the Commissioner of Human Services, in consultation with the New
22 Jersey Fire and Emergency Medical Services Institute and the New
23 Jersey State First Aid Council, shall develop a training curriculum
24 with the purpose of informing emergency responders of the risks
25 associated with autism or an intellectual or other developmental
26 disability, as well as providing instruction in appropriate
27 recognition and response techniques concerning these disabilities.
28 The curriculum shall be incorporated into existing time
29 requirements for training and continuing education of emergency
30 responders.

31 b. Prior to certification by the Department of Health **[and**
32 **Senior Services]**, each emergency medical technician trained in
33 basic life support services as defined in section 1 of P.L.1985, c.351
34 (C.26:2K-21) shall be required to satisfactorily complete the
35 training developed under subsection a. of this section. Every
36 emergency medical technician certified prior to the effective date of
37 this act shall, within 36 months of the effective date of this act,
38 satisfactorily complete the training in recognition and response
39 techniques concerning these disabilities, through existing
40 continuing education requirements.

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

45 (cf: P.L.2008, c.80, s.2)

46

47 144. Section 3 of P.L.2007, c.255 (C.26:2AA-3) is amended to
48 read as follows:

1 3. As used in this act:

2 "Commissioner" means the Commissioner of Health **[and Senior**
3 **Services]**; and

4 "Reflex sympathetic dystrophy syndrome" or "RSDS" means a
5 debilitating and progressively chronic condition characterized by
6 severe burning pain, pathological changes in bone and skin,
7 excessive sweating, tissue swelling, and extreme sensitivity to
8 touch.

9 (cf: P.L.2007, c.255, s.3)

10

11 145. Section 4 of P.L.2007, c.255 (C.26:2AA-4) is amended to
12 read as follows:

13 4. The commissioner shall establish a reflex sympathetic
14 dystrophy syndrome education and research program in the
15 Department of Health **[and Senior Services]**. The purpose of the
16 program is to promote public awareness of the causes of RSDS, the
17 value of early detection and the diagnosis of and possible treatments
18 for the syndrome, and to promote research, through public and
19 private sources, to accurately identify, diagnose, and treat RSDS.

20 (cf: P.L.2007, c.255, s.4)

21

22 146. Section 5 of P.L.2007, c.255 (C.26:2AA-5) is amended to
23 read as follows:

24 5. The Department of Health **[and Senior Services]** shall:

25 a. establish a public education program through the
26 department's website, to promote RSDS education, which will
27 enable individuals to make informed decisions about their health,
28 including, but not limited to the following elements:

29 (1) the cause and nature of RSDS;

30 (2) the risk factors that contribute to the manifestation of RSDS;

31 (3) available treatment options, including risks and benefits of
32 those options;

33 (4) environmental safety and injury prevention;

34 (5) rest and use of appropriate body mechanics;

35 (6) the availability of RSDS diagnostic, treatment, and outreach
36 services in the community; and

37 (7) any other factors or elements that might mitigate the effects
38 of RSDS;

39 b. notify local health departments, hospitals, clinics, and other
40 health care providers about the availability of information
41 concerning RSDS on the department's website;

42 c. within the limits of funds available to the department for this
43 purpose, coordinate, promote, and offer professional education
44 programs, through institutions of higher education, for health care
45 providers and health-related community-based organizations, which
46 may include, but are not limited to the following elements:

47 (1) research findings;

48 (2) the cause and nature of RSDS;

- 1 (3) the risk factors, including, but not limited to, lifestyle,
2 heredity, and drug interactions;
3 (4) the diagnostic procedures and appropriate indications for
4 their use;
5 (5) medical and surgical treatment options, including
6 experimental and established drug therapies and the risks and
7 benefits of each option;
8 (6) environmental safety and injury prevention; and
9 (7) the availability of RSDS diagnosis and treatment and support
10 services in the community; and
11 d. promote research, through both private and public funding
12 sources, to accurately identify, diagnose, and treat RSDS.
13 (cf: P.L.2007, c.255, s.5)

14
15 147. Section 1 of P.L.2006, c.48 (C.26:2D-82.1) is amended to
16 read as follows:

- 17 1. a. A tanning facility operator shall not permit a person who
18 is under 14 years of age to use a tanning facility.
19 b. A tanning facility operator shall not permit a person who is
20 at least 14 but less than 18 years of age to use a tanning facility
21 without written authorization of the person's parent or legal
22 guardian indicating that such parent or guardian has read and
23 understood the safety standards and warnings required pursuant to
24 section 3 of P.L.1989, c.234 (C.26:2D-83). An emancipated minor
25 shall be exempt from the authorization requirement of this
26 subsection upon legal proof documenting said emancipation.
27 c. The Commissioner of Health **[and Senior Services]** shall
28 establish by regulation:
29 (1) the contents required in the authorization form;
30 (2) the method for maintaining a record of the forms; and
31 (3) the frequency with which the forms shall be authorized or
32 reauthorized.
33 d. The penalties for violating the provisions of this section
34 shall be as provided in section 7 of P.L.1989, c.234 (C.26:2D-87).
35 (cf: P.L.2006, c.48, s.1)

36
37 148. Section 3 of P.L.1989, c.234 (C.26:2D-83) is amended to
38 read as follows:

- 39 3. The Commissioner of Health **[and Senior Services]**, in
40 consultation with the Commissioner of Environmental Protection,
41 shall, by regulation, establish minimum safety standards for tanning
42 facilities. The standards shall include, but not be limited to:
43 a. Establishment of a maximum safe time of exposure to
44 radiation and a maximum safe temperature at which tanning devices
45 may be operated;
46 b. A requirement that a patron at a tanning facility wear
47 protective eye glasses when using tanning equipment and that a

1 patron be supervised as to the length of time the patron uses tanning
2 equipment at the facility;

3 c. A requirement that the facility operator post easily legible,
4 permanent warning signs near the tanning equipment which state:
5 "DANGER-ULTRAVIOLET RADIATION FOLLOW ALL
6 INSTRUCTIONS";

7 d. A requirement that the facility have protective shielding for
8 tanning equipment in the facility; and

9 e. A requirement that the facility operator post a sign in
10 conspicuous view at or near the reception area which states:
11 "PERSONS UNDER AGE 14 SHALL NOT BE PERMITTED TO
12 USE THIS TANNING FACILITY. PERSONS BETWEEN 14
13 AND 18 YEARS OF AGE SHALL NOT BE PERMITTED TO USE
14 THIS TANNING FACILITY WITHOUT WRITTEN
15 AUTHORIZATION OF A PARENT OR LEGAL GUARDIAN."

16 (cf: P.L.2006, c.48, s.2)

17

18 149. Section 5 of P.L.1989, c.234 (C.26:2D-85) is amended to
19 read as follows:

20 5. There is established in the Department of Health **and Senior**
21 **Services** a nonlapsing revolving fund known as the "Non-Ionizing
22 Radiation Fund." The fund shall be credited with all fees collected
23 pursuant to this act. Interest on monies in the fund shall be credited
24 to the fund, and all monies in the fund are appropriated for the
25 purposes of this act.

26 (cf: P.L.2006, c.48, s.3)

27

28 150. Section 6 of P.L.1989, c.234 (C.26:2D-86) is amended to
29 read as follows:

30 6. a. A tanning facility shall register annually with the
31 Department of Health **and Senior Services** on forms provided by
32 the department and shall pay to the department an annual
33 registration fee.

34 b. The Department of Health **and Senior Services** shall
35 establish a registration fee schedule, by regulation, to cover the
36 costs of implementing the provisions of this act, including the costs
37 incurred by local boards of health pursuant to section 4 of this act.

38 (cf: P.L.2006, c.48, s.4)

39

40 151. Section 7 of P.L.1989, c.234 (C.26:2D-87) is amended to
41 read as follows:

42 7. A person who violates the provisions of this act is subject to
43 a penalty of \$100 for the first offense and \$200 for each subsequent
44 offense. The penalty shall be sued for and collected in a court of
45 competent jurisdiction in a summary proceeding in accordance with
46 the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-
47 10 et seq.).

1 A penalty recovered under the provisions of this act shall be
2 recovered by and in the name of the Commissioner of Health [and
3 Senior Services] or by and in the name of the local board of health.
4 When the plaintiff is the Commissioner of Health [and Senior
5 Services] the penalty recovered shall be paid by the commissioner
6 into the treasury of the State. When the plaintiff is a local board of
7 health, the penalty recovered shall be paid by the local board of
8 health into the treasury of the municipality where the violation
9 occurred.

10 (cf: P.L.2006, c.48, s.5)

11

12 152. Section 8 of P.L.1989, c.234 (C.26:2D-88) is amended to
13 read as follows:

14 8. 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 Environmental Protection, shall promulgate rules and regulations
18 necessary to carry out the purposes of this act.

19 (cf: P.L.2006, c.48, s.6)

20

21 153. Section 2 of P.L.1971, c.136 (C.26:2H-2) is amended to
22 read as follows:

23 ["]2. The following words or phrases, as used in this act, shall
24 have the following meanings, unless the context otherwise requires:

25 a. "Health care facility" means the facility or institution
26 whether public or private, engaged principally in providing services
27 for health maintenance organizations, diagnosis, or treatment of
28 human disease, pain, injury, deformity, or physical condition,
29 including, but not limited to, a general hospital, special hospital,
30 mental hospital, public health center, diagnostic center, treatment
31 center, rehabilitation center, extended care facility, skilled nursing
32 home, nursing home, intermediate care facility, tuberculosis
33 hospital, chronic disease hospital, maternity hospital, outpatient
34 clinic, dispensary, home health care agency, residential health care
35 facility, and bioanalytical laboratory (except as specifically
36 excluded hereunder) or central services facility serving one or more
37 such institutions but excluding institutions that provide healing
38 solely by prayer and excluding such bioanalytical laboratories as
39 are independently owned and operated, and are not owned,
40 operated, managed, or controlled, in whole or in part, directly or
41 indirectly by any one or more health care facilities, and the
42 predominant source of business of which is not by contract with
43 health care facilities within the State of New Jersey and which
44 solicit or accept specimens and operate predominantly in interstate
45 commerce.

46 b. "Health care service" means the preadmission, outpatient,
47 inpatient, and postdischarge care provided in or by a health care

1 facility, and such other items or services as are necessary for such
2 care, which are provided by or under the supervision of a physician
3 for the purpose of health maintenance organizations, diagnosis, or
4 treatment of human disease, pain, injury, disability, deformity, or
5 physical condition, including, but not limited to, nursing service,
6 home care nursing, and other paramedical service, ambulance
7 service, service provided by an intern, resident in training or
8 physician whose compensation is provided through agreement with
9 a health care facility, laboratory service, medical social service,
10 drugs, biologicals, supplies, appliances, equipment, bed and board,
11 but excluding services provided by a physician in his private
12 practice, except as provided in sections 7 and 12 of P.L.1971, c.136
13 (C.26:2H-7 and 26:2H-12), or by practitioners of healing solely by
14 prayer, and services provided by first aid, rescue and ambulance
15 squads as defined in the "New Jersey Highway Safety Act of 1971,"
16 P.L.1971, c.351 (C.27:5F-1 et seq.).

17 c. "Construction" means the erection, building, or substantial
18 acquisition, alteration, reconstruction, improvement, renovation,
19 extension, or modification of a health care facility, including its
20 equipment, the inspection and supervision thereof; and the studies,
21 surveys, designs, plans, working drawings, specifications,
22 procedures, and other actions necessary thereto.

23 d. "Board" means the Health Care Administration Board
24 established pursuant to this act.

25 e. (Deleted by amendment, P.L.1998, c.43).

26 f. "Government agency" means a department, board, bureau,
27 division, office, agency, public benefit, or other corporation, or any
28 other unit, however described, of the State or political subdivision
29 thereof.

30 g. (Deleted by amendment, P.L.1991, c.187).

31 h. (Deleted by amendment, P.L.1991, c.187).

32 **[I.] i.** "Department" means the **[State]** Department of Health
33 **[and Senior Services]**.

34 j. "Commissioner" means the **[State]** Commissioner of Health
35 **[and Senior Services]**.

36 k. "Preliminary cost base" means that proportion of a hospital's
37 current cost which may reasonably be required to be reimbursed to
38 a properly utilized hospital for the efficient and effective delivery of
39 appropriate and necessary health care services of high quality
40 required by such hospital's mix of patients. The preliminary cost
41 base initially may include costs identified by the commissioner and
42 approved or adjusted by the commission as being in excess of that
43 proportion of a hospital's current costs identified above, which
44 excess costs shall be eliminated in a timely and reasonable manner
45 prior to certification of the revenue base. The preliminary cost base
46 shall be established in accordance with regulations proposed by the
47 commissioner and approved by the board.

48 l. (Deleted by amendment, P.L.1992, c.160).

1 m. "Provider of health care" means an individual (1) who is a
2 direct provider of health care service in that the individual's primary
3 activity is the provision of health care services to individuals or the
4 administration of health care facilities in which such care is
5 provided and, when required by State law, the individual has
6 received professional training in the provision of such services or in
7 such administration and is licensed or certified for such provision or
8 administration; or (2) who is an indirect provider of health care in
9 that the individual (a) holds a fiduciary position with, or has a
10 fiduciary interest in, any entity described in subparagraph b(ii) or
11 subparagraph b(iv); provided, however, that a member of the
12 governing body of a county or any elected official shall not be
13 deemed to be a provider of health care unless he is a member of the
14 board of trustees of a health care facility or a member of a board,
15 committee or body with authority similar to that of a board of
16 trustees, or unless he participates in the direct administration of a
17 health care facility; or (b) received, either directly or through his
18 spouse, more than one-tenth of his gross annual income for any one
19 or more of the following:

20 (i) Fees or other compensation for research into or instruction in
21 the provision of health care services;

22 (ii) Entities engaged in the provision of health care services or
23 in research or instruction in the provision of health care services;

24 (iii) Producing or supplying drugs or other articles for
25 individuals or entities for use in the provision of or in research into
26 or instruction in the provision of health care services;

27 (iv) Entities engaged in producing drugs or such other articles.

28 n. "Private long-term health care facility" means a nursing
29 home, skilled nursing home, or intermediate care facility presently
30 in operation and licensed as such prior to the adoption of the 1967
31 Life Safety Code by the [State] Department of Health [and Senior
32 Services] in 1972 and which has a maximum 50-bed capacity and
33 which does not accommodate Medicare or Medicaid patients.

34 o. (Deleted by amendment, P.L.1998, c.43).

35 p. "State Health Planning Board" means the board established
36 pursuant to section 33 of P.L.1991, c.187 (C.26:2H-5.7) to conduct
37 certificate of need review activities.

38 (cf: P.L.2004, c.54, s.3)

39

40 154. Section 1 of P.L.2000, c.62 (C.26:2H-5b) is amended to
41 read as follows:

42 1. a. The Commissioner of Health [and Senior Services] shall
43 prescribe, by regulation, requirements to be adopted by health care
44 facilities licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.)
45 for the routine monitoring of pain as a fifth vital sign in patients, in
46 addition to blood pressure, pulse, respiration, and temperature.

47 For the purpose of this subsection, the commissioner shall
48 require health care facilities to:

1 (1) routinely inquire whether a patient is in pain;

2 (2) maintain policies and procedures as prescribed by the
3 commissioner for asking patients to rate their degree of pain for a
4 specified period of time and to record their responses; and

5 (3) routinely record levels of pain intensity on patient charts.

6 b. The requirements to be adopted pursuant to subsection a. of
7 this section shall take effect no later than the 180th day after the
8 effective date of this act.

9 (cf: P.L.2000, c.62, s.1)

10

11 155. Section 2 of P.L.2000, c.62 (C.26:2H-5c) is amended to
12 read as follows:

13 2. The Commissioner of Health **[and Senior Services]**,
14 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
15 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate
16 the purposes of this act, for which purpose the commissioner shall
17 consult, at a minimum, with: the State Board of Medical
18 Examiners, the New Jersey Board of Nursing, the Board of
19 Pharmacy, the New Jersey Hospital Association, the New Jersey
20 Association of Health Care Facilities, the Medical Society of New
21 Jersey, the New Jersey Association of Osteopathic Physicians and
22 Surgeons, the New Jersey State Nurses Association, the Home
23 Health Assembly of New Jersey, and the New Jersey Hospice and
24 Palliative Care Organization.

25 (cf: P.L.2000, c.62, s.2)

26

27 156. Section 1 of P.L.2002, c.81 (C.26:2H-5d) is amended to
28 read as follows:

29 1. a. The Commissioner of Health **[and Senior Services]**, in
30 consultation with the Director of the Division of Consumer Affairs
31 in the Department of Law and Public Safety, shall require that, no
32 later than the 180th day after the date of enactment of this act, each
33 home health agency licensed pursuant to P.L.1971, c.136 (C.26:2H-
34 1 et seq.) shall provide the following information to each patient
35 receiving home-based services from that agency, or to a person
36 designated by the patient:

37 (1) the name and certification or licensure title, as applicable, of
38 the homemaker-home health aide or other health care professional
39 whose practice is regulated pursuant to Title 45 of the Revised
40 Statutes, to be displayed on an identification tag as required for
41 homemaker-home health aides by regulation of the New Jersey
42 Board of Nursing, or as otherwise to be prescribed by regulation of
43 the commissioner for other health care professionals, that the
44 homemaker-home health aide or other health care professional shall
45 wear at all times while examining, observing, or caring for the
46 patient; and

1 (2) a copy of the most current edition of the consumer guide to
2 homemaker-home health aides published by the New Jersey Board
3 of Nursing.

4 b. The consumer guide required pursuant to subsection a. of
5 this section shall be provided:

6 (1) in advance of the provision of services to the patient,
7 whenever possible; and

8 (2) otherwise upon the homemaker-home health aide's initial
9 visit to the patient's home.

10 c. Beginning on the first day of the 13th month after the date of
11 enactment of this act, the identification tag required pursuant to
12 subsection a. of this section shall include a photograph of the
13 homemaker-home health aide or other health care professional.

14 d. The commissioner, pursuant to the "Administrative
15 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt
16 rules and regulations to effectuate the purposes of this section.

17 (cf: P.L.2002, c.81, s.1)

18
19 157. Section 1 of P.L.2004, c.90 (C.26:2H-5e) is amended to
20 read as follows:

21 1. A general or special hospital, nursing home or assisted living
22 residence licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.)
23 shall, commencing no later than the 180th day after the effective
24 date of this act and as prescribed by regulation of the Commissioner
25 of Health **【and Senior Services】**, adopt and maintain written
26 policies and procedures to delineate the responsibilities of its staff
27 for prompt notification of a family member, guardian, or other
28 designated person about a patient's death and confirmation and
29 written documentation of that notification.

30 (cf: P.L.2004, c.90, s.1)

31
32 158. Section 3 of P.L.2005, c.21 (C.26:2H-5h) is amended to
33 read as follows:

34 3. The Commissioner of Health **【and Senior Services】**,
35 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
36 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate
37 the purposes of this act, in consultation with the Quality
38 Improvement Advisory Committee established by the
39 commissioner. The regulations shall include, but not be limited to,
40 procedures for standardizing the reporting of information by general
41 hospitals and nursing homes that is required pursuant to subsection
42 d. of section 2 of this act.

43 (cf: P.L.2005, c.21, s.3)

44
45 159. Section 2 of P.L.2008, c.58 (C.26:2H-5.1a) is amended to
46 read as follows:

47 2. a. The Commissioner of Health **【and Senior Services】** shall
48 prescribe, by regulation: (1) specific indicators by which a general

1 hospital may be evaluated for financial soundness, and the
2 thresholds at which it may be considered to be in financial distress
3 or at risk of being in financial distress; and (2) the progressive
4 levels of monitoring and department participation in the
5 development and oversight of corrective measures to resolve a
6 general hospital's financial or potential financial difficulties,
7 including the various levels of involvement by an appointed
8 monitor. The indicators and progressive levels of monitoring and
9 intervention shall be guided by the indicators and levels of
10 monitoring and intervention identified in the final report of the New
11 Jersey Commission on Rationalizing Health Care Resources, issued
12 on January 24, 2008.

13 b. The thresholds of specified financial indicators and
14 corresponding Department of Health [and Senior Services]
15 involvement that may be triggered by them shall include, but are
16 not limited to, measures relating to:

- 17 (1) days cash-on-hand;
- 18 (2) cushion ratio;
- 19 (3) days in accounts receivable;
- 20 (4) average payment period;
- 21 (5) total margin;
- 22 (6) earnings before depreciation; and
- 23 (7) any other factor which the commissioner deems appropriate,
24 including failure to provide required or requested financial
25 information.

26 c. If the commissioner determines that a hospital is in financial
27 distress or at risk of being in financial distress after considering the
28 specified financial indicators set forth in subsection b. of this
29 section, then the commissioner may appoint, in consultation with
30 the hospital, a monitor to prevent further financial deterioration.
31 Payment for the monitor shall be determined through a contingency
32 contract established between the hospital and the monitor. The
33 contract shall be subject to approval by the department with regard
34 to the monitor's responsibilities. In no case shall a hospital bear
35 financial liability if no savings result from measures undertaken
36 pursuant to the contract.

37 The appointed monitor shall have demonstrated expertise in
38 hospital administration, management, or operations. A monitor: (1)
39 shall be authorized to attend all hospital board meetings, executive
40 committee meetings, finance committee meetings, steering
41 committee meetings, turnaround committee meetings, or any other
42 meetings concerning the hospital's fiscal matters; (2) may be
43 authorized to have voting and veto powers over actions taken in the
44 above mentioned meetings; (3) shall report to the commissioner and
45 the full hospital board of trustees in a manner prescribed by the
46 commissioner; and (4) shall serve for such period of time as may be
47 determined by the commissioner in consultation with the hospital.

1 The commissioner shall maintain continuing oversight of the
2 actions and recommendations of the monitor to ensure that the
3 public interest is protected.

4 (cf: P.L.2008, c.58, s.2)

5
6 160. Section 3 of P.L.2008, c.58 (C.26:2H-5.1b) is amended to
7 read as follows:

8 3. As a condition of licensure under P.L.1971, c.136 (C.26:2H-
9 1 et al.), a general hospital shall:

10 a. provide monthly unaudited financial information and annual
11 audited financial statements to the Department of Health [and
12 Senior Services], and such other financial information as the
13 department may request; and

14 b. permit the Commissioner of Health [and Senior Services],
15 or a monitor appointed by the commissioner, as applicable, to
16 oversee its financial operations, and, if the commissioner
17 determines that the hospital is at risk of being in financial distress
18 or is in financial distress based on criteria specified by regulation,
19 participate in the development and implementation of a corrective
20 plan to resolve the hospital's financial difficulties, pursuant to
21 section 2 of P.L.2008, c.58 (C.26:2H-5.1a).

22 (cf: P.L.2008, c.58, s.3)

23
24 161. Section 1 of P.L.2009, c.263, '[s.1]'¹ (C.26:2H-5.1c) is
25 amended to read as follows:

26 1. An ambulatory care facility licensed to provide surgical
27 services pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) shall use a
28 common billing form, designated by the Commissioner of Health
29 [and Senior Services], for each patient when billing for health care
30 services. The information provided on the billing form shall, to the
31 extent applicable, be the same as that required of hospitals.

32 (cf: P.L.2009, c.263, s.1)

33
34 162. Section 3 of P.L.2009, c.263 (C.26:2H-5.1e) is amended to
35 read as follows:

36 3. a. An ambulatory care facility licensed to provide surgical
37 services pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) shall be
38 required to report quarterly to the Department of Health [and
39 Senior Services], in a form and manner prescribed by the
40 commissioner:

41 (1) process quality indicators of infection control as selected by
42 the commissioner in consultation with the Quality Improvement
43 Advisory Committee within the department; and

44 (2) beginning 30 days after the adoption of regulations pursuant
45 to this act, data on infection rates for the major site categories that
46 define facility-associated infection locations, multiple infections,
47 and device-related and non-device related infections, as selected by

1 the commissioner in consultation with the Quality Improvement
2 Advisory Committee within the department.

3 b. The information reported pursuant to this section shall be
4 transmitted in such a manner as to not include identifying
5 information about patients.

6 c. The commissioner shall promptly advise an ambulatory care
7 facility in the event that the commissioner determines, based on
8 information reported by the facility, that a change in facility
9 practices or policy is necessary to improve performance in the
10 prevention of facility-associated infection and quality of care
11 provided at the facility.

12 d. The commissioner shall make available to members of the
13 public, on the official Internet website of the department, the
14 information reported pursuant to this section, in such a format as the
15 commissioner deems appropriate to enable comparison among
16 ambulatory care facilities with respect to the information.

17 e. In order to effectuate the purposes of this section, the
18 commissioner, in consultation with the Quality Improvement
19 Advisory Committee in the department, shall, by regulation:
20 establish standard methods for identifying and reporting facility-
21 associated infections; identify the major site categories for which
22 infections shall be reported, taking into account the categories most
23 likely to improve the delivery and outcome of health care in the
24 State; and specify the methodology for presenting the data to the
25 public, including procedures to adjust for differences in case mix
26 and severity of infections among facilities.

27 (cf: P.L.2009, c.263, s.3)

28

29 163. Section 4 of P.L.2009, c.263 (C.26:2H-5.1f) is amended to
30 read as follows:

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

35 (cf: P.L.2009, c.263, s.4)

36

37 164. Section 33 of P.L.1991, c.187 (C.26:2H-5.7) is amended to
38 read as follows:

39 33. There is established in the Department of Health **【and Senior**
40 **Services】** a State Health Planning Board. The members of the
41 board shall include: the Commissioners of Health **【and Senior**
42 **Services】**, Children and Families, and Human Services, or their
43 designees, who shall serve as ex officio, nonvoting members; the
44 chairmen of the Health Care Administration Board and the Public
45 Health Council, or their designees, who shall serve as ex officio
46 members; and nine public members appointed by the Governor with
47 the advice and consent of the Senate, five of whom are consumers

1 of health care services who are neither providers of health care
2 services or persons with a fiduciary interest in a health care service.

3 Of the additional public members first appointed pursuant to
4 P.L.1998, c.43, two shall serve for a term of two years and two shall
5 serve for a term of three years. Following the expiration of the
6 original terms, the public members shall serve for a term of four
7 years and are eligible for reappointment. Public members serving
8 on the board on the effective date of P.L.1998, c.43 shall continue
9 to serve for the term of their appointment. Any vacancy shall be
10 filled in the same manner as the original appointment, for the
11 unexpired term. Public members shall continue to serve until their
12 successors are appointed. The public members shall serve without
13 compensation but may be reimbursed for reasonable expenses
14 incurred in the performance of their duties, within the limits of
15 funds available to the board.

16 a. A member or employee of the State Health Planning Board
17 shall not, by reason of his performance of any duty, function, or
18 activity required of, or authorized to be undertaken by the board, be
19 held civilly or criminally liable if that person acted within the scope
20 of his duty, function, or activity as a member or employee of the
21 board, without gross negligence or malice toward any person
22 affected thereby.

23 b. A member of the State Health Planning Board shall not vote
24 on any matter before the board concerning an individual or entity
25 with which the member has, or within the last 12 months has had,
26 any substantial ownership, employment, medical staff, fiduciary,
27 contractual, creditor, or consultative relationship. A member who
28 has or has had such a relationship with an individual or entity
29 involved in any matter before the board shall make a written
30 disclosure of the relationship before any action is taken by the
31 board with respect to the matter and shall make the relationship
32 public in any meeting in which action on the matter is to be taken.
33 (cf: P.L.2006, c.47, s.108)

34
35 165. Section 34 of P.L.1991, c.187 (C.26:2H-5.8) is amended to
36 read as follows:

37 34. a. (Deleted by amendment, P.L.1998, c.43).

38 b. The State Health Planning Board shall review applications
39 for certificates of need and make recommendations to the
40 Commissioner of Health **[and Senior Services]**.

41 c. In the case of an application for a certificate of need to
42 transfer ownership of an existing general acute care hospital or to
43 close or eliminate a health care facility or service that is subject to
44 review by the State Health Planning Board, the State Health
45 Planning Board shall hold at least one public hearing in the service
46 area of the health care facility or service; except that, in the event
47 the Attorney General or the Department of Health **[and Senior
48 Services]** is required by State law to hold a public hearing on the

1 transfer of ownership of the hospital, the State Health Planning
2 Board shall not be required to hold a public hearing on the
3 application for a certificate of need to transfer ownership of the
4 hospital. The public hearing shall be held no later than 30 days
5 after an application is deemed complete by the Commissioner of
6 Health **[and Senior Services]**. Public notice of the hearing shall be
7 provided at least two weeks in advance of the date of the hearing.

8 Notwithstanding the provisions of this subsection to the contrary,
9 in the event that the commissioner determines that a proposed
10 closure or elimination of a health care facility or service should be
11 considered on an expedited basis in order to preserve the quality of
12 health care provided to the community, the commissioner may
13 reduce the period of time required for public notice of the hearing.
14 (cf: P.L.1998, c.43, s.5)

15
16 166. Section 2 of P.L.1999, c.311 (C.26:2H-5.11) is amended to
17 read as follows:

18 2. As used in this act:

19 "Commissioner" means the Commissioner of Health **[and Senior**
20 **Services]**.

21 "Department" means the Department of Health **[and Senior**
22 **Services]**.

23 "Needle stick injury" means the parenteral introduction into the
24 body of a health care worker of blood or other potentially infectious
25 material by a needle or other sharp device during the worker's
26 performance of health care duties in a health care facility.

27 (cf: P.L.1999, c.311, s.2)

28
29 167. Section 6 of P.L.2007, c.236 (C.26:2H-5.22) is amended to
30 read as follows:

31 6. 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 Commissioner 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.236, s.6)

37
38 168. Section 7 of P.L.2007, c.236 (C.26:2H-5.23) is amended to
39 read as follows:

40 7. The Commissioners of Health **[and Senior Services]** and
41 Human Services shall adopt rules and regulations pursuant to the
42 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
43 seq.) to carry out the purposes of this act.

44 (P.L.2007, c.236, s.7)

45
46 169. Section 7 of P.L.1971, c.136 (C.26:2H-7) is amended to
47 read as follows:

1 7. No health care facility shall be constructed or expanded, and
2 no new health care service shall be instituted after the effective date
3 of P.L.1971, c.136 (C.26:2H-1 et seq.) except upon application for
4 and receipt of a certificate of need as provided by P.L.1971, c.136
5 (C.26:2H-1 et seq.). No agency of the State or of any county or
6 municipal government shall approve any grant of funds for, or issue
7 any license to, a health care facility which is constructed or
8 expanded, or which institutes a new health care service, in violation
9 of the provisions of P.L.1971, c.136 (C.26:2H-1 et seq.).

10 Except as provided in section 19 of P.L.1992, c.160 (C.26:2H-
11 7a) and section 16 of P.L.1998, c.43 (C.26:2H-7c), the provisions of
12 this section shall apply to:

13 a. The initiation of any health care service as provided in
14 section 2 of P.L.1971, c.136 (C.26:2H-2);

15 b. The initiation by any person of a health care service which is
16 the subject of a health planning regulation adopted by the
17 Department of Health **【and Senior Services】**;

18 c. The purchase by any person of major moveable equipment
19 whose total cost is over \$2 million;

20 d. The expenditure by a licensed health care facility of over \$2
21 million for construction of a new health care facility; and

22 e. The construction of a facility by any person, whose total
23 project cost exceeds \$2 million, if the facility-type is the subject of
24 a health planning regulation adopted by the Department of Health
25 **【and Senior Services】**.

26 The commissioner may periodically increase the monetary
27 thresholds established in this section, by regulation, to reflect
28 inflationary increases in the costs of health care equipment or
29 construction.

30 For the purposes of this section, "health care service" shall
31 include any service which is the subject of a health planning
32 regulation adopted by the Department of Health **【and Senior**
33 **Services】**, and "person" shall include a corporation, company,
34 association, society, firm, partnership, and joint stock company, as
35 well as an individual.

36 A physician who initiates a health care service which is the
37 subject of a health planning regulation or purchases major moveable
38 equipment pursuant to subsection b. or c. of this section, may apply
39 to the commissioner for a waiver of the certificate of need
40 requirement if: the equipment or health care service is such an
41 essential, fundamental, and integral component of the physician's
42 practice specialty, that the physician would be unable to practice his
43 specialty according to the acceptable medical standards of that
44 specialty without the health care service or equipment; the
45 physician bills at least 75% of his total amount of charges in the
46 practice specialty which uses the health care service or equipment;
47 and the health care service or equipment is not otherwise available
48 and accessible to patients, pursuant to standards established by the

1 commissioner, by regulation. The commissioner shall make a
2 determination about whether to grant or deny the waiver, within 120
3 days from the date the request for the waiver is received by the
4 commissioner and shall so notify the physician who requested the
5 waiver. If the request is denied, the commissioner shall include in
6 that notification the reason for the denial. If the request is denied,
7 the initiation of a health care service or the purchase of major
8 moveable equipment shall be subject to the certificate of need
9 requirements pursuant to this section.

10 A health maintenance organization which furnishes at least basic
11 comprehensive care health services on a prepaid basis to enrollees
12 either through providers employed by the health maintenance
13 organization or through a medical group or groups which contract
14 directly with the health maintenance organization, which initiates a
15 health care service, or constructs a health care facility pursuant to
16 subsection a., b., d., or e. of this section, may apply to the
17 commissioner for a waiver of the certificate of need requirement if:
18 the initiation of the health care service or the construction is in the
19 best interests of State health planning; and the health maintenance
20 organization is in compliance with the provisions of P.L.1973,
21 c.337 (C.26:2J-1 et seq.) and complies with the provisions of
22 subsection d. of section 3 of P.L.1973, c.337 (C.26:2J-3) regarding
23 notification to the commissioner. The commissioner shall make a
24 determination about whether to grant or deny the waiver within 45
25 days from the date the request for the waiver is received by the
26 commissioner and shall so notify the health maintenance
27 organization. If the request for a waiver is denied on the basis that
28 the request would not be in the best interests of State health
29 planning, the commissioner shall state in that notification the reason
30 why the request would not be in the best interests of State health
31 planning. If the request for a waiver is denied, the health
32 maintenance organization's initiation of a health care service or
33 construction project shall be subject to the certificate of need
34 requirements pursuant to this section.

35 The requirement to obtain a certificate of need for major
36 moveable equipment pursuant to subsection c. of this section shall
37 not apply if a contract to purchase that equipment was entered into
38 prior to July 1, 1991.

39 (cf: P.L.1998, c.43, s.6)

40

41 170. Section 16 of P.L.1998, c.43 (C.26:2H-7c) is amended to
42 read as follows:

43 16. a. Notwithstanding the provisions of section 7 of P.L.1971,
44 c.136 (C.26:2H-7) to the contrary, 20 months after the effective
45 date of P.L.1998, c.43 the following shall be exempt from the
46 certificate of need requirement:

47 Extracorporeal shock wave lithotripter;

48 Hyperbaric chamber;

1 Positron emission tomography;
2 Residential drug and alcohol services;
3 Ambulatory surgical facilities;
4 Basic obstetric and pediatric services and birth centers, including
5 additions of basic obstetric and pediatric beds in hospitals; and
6 Linear accelerator, including Cobalt 60 unit.

7 b. Notwithstanding the provisions of subsection a. of this
8 section to the contrary, if the Commissioner of Health [and Senior
9 Services] determines that Department of Health [and Senior
10 Services] licensing standards for a health care service or facility
11 listed in subsection a. of this section have been adopted by
12 regulation of the department pursuant to the "Administrative
13 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the
14 commissioner may exempt the health care service or facility from
15 the provisions of section 7 of P.L.1971, c.136 (C.26:2H-7) prior to
16 the 20-month period established in subsection a. of this section.

17 The commissioner shall publish notice of any exemptions
18 established pursuant to this subsection in the New Jersey Register
19 and provide for 45 days' public notice prior to the effective date of
20 the exemption.

21 c. In the case of any health care service or facility that is not
22 exempted from the provisions of section 7 of P.L.1971, c.136
23 (C.26:2H-7) pursuant to this section or section 19 of P.L.1992,
24 c.160 (C.26:2H-7a) and is not subject to expedited review, the
25 commissioner shall publish a call schedule for the initiation of the
26 services or facilities within 90 days of the date of enactment of this
27 act. In the event that the commissioner determines that there is
28 insufficient need to support the initiation of the service or facility,
29 the commissioner is authorized to cancel the call. The
30 commissioner shall provide public notice of the cancellation at least
31 45 days prior to the scheduled call date.
32 (cf: P.L.1998, c.43, s.16)

33
34 171. Section 18 of P.L.1998, c.43 (C.26:2H-7d) is amended to
35 read as follows:

36 18. Notwithstanding the provisions of P.L.1971, c.136
37 (C.26:2H-1 et seq.) to the contrary, health care equipment which
38 involves new technology that is not identified in N.J.A.C.8:33 et
39 seq., shall not be subject to certificate of need requirements and
40 may be initiated in the State in accordance with the requirements of
41 this section.

42 a. The new technology shall be directly related to a health care
43 service for which the provider is already licensed and has obtained
44 a certificate of need, when required.

45 b. The provider shall notify the Commissioner of Health [and
46 Senior Services] about the intent to initiate the new technology at

1 least 60 days prior to the date the provider will begin use of the
2 technology.

3 c. The new technology shall have pre-market approval from the
4 federal Food and Drug Administration.

5 d. The provider shall use the new technology in accordance
6 with guidelines approved by **the** The Joint Commission **[on**
7 **Accreditation of Health Care Organizations]** until such time as the
8 Department of Health **[and Senior Services]** has adopted licensing
9 standards for the new technology. The provider shall be required to
10 comply with the department's licensing standards for the new
11 technology upon adoption of the standards.

12 e. The provider shall agree to submit to the department
13 appropriate patient information and other data concerning use of the
14 new technology to assist the department in establishing licensing
15 standards. The provider shall submit the information and other data
16 on a quarterly basis until such time as licensing standards are
17 adopted for the new technology.

18 f. The commissioner may suspend a provider's use of the new
19 technology if he determines that the provider is not in compliance
20 with the requirements of this section.

21 (cf: P.L.1998, c.43, s.18)

22

23 172. Section 3 of P.L.1996, c.102 (C.26:2H-7.6) is amended to
24 read as follows:

25 3. a. A hospital which proposes to utilize a portion of its
26 licensed bed capacity for the purpose of establishing a subacute care
27 unit shall be subject to the following requirements:

28 (1) the subacute care unit's beds shall be licensed by the
29 Department of Health **[and Senior Services]** as long-term care beds
30 and shall meet all applicable State licensing and federal certification
31 requirements, including the physical requirements for skilled
32 nursing beds under the federal Medicare program established
33 pursuant to Pub.L.89-97 (42 U.S.C.s.1395 et seq.), with reasonable
34 waiver provisions as determined by the commissioner or the federal
35 **[Health Care Financing Administration]** Centers for Medicare &
36 Medicaid Services, as appropriate;

37 (2) the maximum length of stay in the unit shall not exceed eight
38 days;

39 (3) the unit shall be certified to participate in the Medicare
40 program as a skilled nursing facility;

41 (4) the unit shall be comprised of not more than 7% of the
42 hospital's licensed medical-surgical bed capacity or 12 beds,
43 whichever is greater;

44 (5) the hospital's licensed medical-surgical bed capacity shall be
45 reduced, by the commissioner, by the number of beds used to
46 establish a subacute care unit under the provisions of this section.
47 Long-term care beds in a hospital's subacute care unit shall not be

1 transferred to, or combined with, a subacute care unit in another
2 hospital. Bed limitations for a hospital shall include both
3 conversions of existing acute care beds and any purchases or other
4 acquisitions or rentals of beds to be used by a hospital for the
5 provision of subacute care under this act;

6 (6) (Deleted by amendment, P.L.1998, c.43).

7 (7) the hospital shall be subject to the fee for the filing of an
8 application for a license for long-term care beds and any renewal
9 thereof as established by the Department of Health [and Senior
10 Services] pursuant to section 12 of P.L.1971, c.136 (C.26:2H-12).

11 b. Subacute care shall not be covered by the Medicaid program
12 established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.). The
13 long-term care beds in a subacute care unit shall not be included in
14 long-term care bed inventories for certificate of need review
15 purposes.

16
17 173. Section 2 of P.L.2000, c.143 (C.26:2H-7.11) is amended to
18 read as follows:

19 2. In addition to the requirements of P.L.1971, c.136 (C.26:2H-
20 1 et seq.) concerning certificate of need and licensure requirements,
21 a nonprofit hospital licensed pursuant to P.L.1971, c.136 (C.26:2H-
22 1 et seq.) shall satisfy the requirements of this act before applying
23 to the Superior Court of New Jersey for approval prior to entering
24 into a transaction that results in the acquisition of the hospital as
25 defined in this act. The proposed acquisition shall be subject to the
26 prior review of the Attorney General, in consultation with the
27 Commissioner of Health [and Senior Services], pursuant to the
28 provisions of this section. The Attorney General shall review the
29 application in furtherance of his common law responsibilities as
30 protector, supervisor, and enforcer of charitable trusts and
31 charitable corporations.

32 For the purposes of sections 2 and 3 of this act, "acquisition"
33 means the purchase, lease, exchange, conversion, restructuring,
34 merger, division, consolidation, transfer of control, or other
35 disposition of a substantial amount of assets or operations, whether
36 through a single transaction or series of transactions, with one or
37 more persons or entities.

38 This act shall not apply to a nonprofit hospital if the proposed
39 acquisition is in the usual and regular course of its activities and the
40 Attorney General has given the nonprofit hospital a written waiver
41 as to the proposed acquisition. As used in this section, a proposed
42 acquisition is not in the usual and regular course of a nonprofit
43 hospital's activities if it effects a fundamental corporate change that
44 involves transfer of ownership or control of charitable assets or a
45 change of the nonprofit hospital's mission or purpose.

46 a. (1) Within five working days of submitting an application
47 pursuant to this section, the nonprofit hospital shall publish a notice
48 of the proposed acquisition, in a form approved by the Attorney

1 General, in a newspaper of general circulation in the service area of
2 the hospital once per week for three weeks. The notice shall state
3 the names of the parties to the agreement, describe the contents of
4 the application to the Attorney General, and state the date by which
5 a person may submit written comments about the application to the
6 Attorney General.

7 (2) Within 30 days after receipt of an initial application, the
8 Attorney General shall advise the applicant in writing whether the
9 application is complete, and, if not, shall specify what additional
10 information is required.

11 (3) The Attorney General shall, upon receipt of the information
12 requested, notify the applicant in writing of the date of completion
13 of the application.

14 b. Within 90 days of the date of completion of the application,
15 the Attorney General, in consultation with the Commissioner of
16 Health [and Senior Services], shall review the application and
17 support the proposed acquisition, with or without any specific
18 modifications, or, if [he] the Attorney General finds that it is not in
19 the public interest, oppose the proposed acquisition. The Attorney
20 General or commissioner may, for good cause, extend the time for
21 review of an application submitted pursuant to this section.

22 The proposed acquisition shall not be considered to be in the
23 public interest unless the Attorney General determines that
24 appropriate steps have been taken to safeguard the value of the
25 charitable assets of the hospital and to ensure that any proceeds
26 from the proposed acquisition are irrevocably dedicated for
27 appropriate charitable health care purposes; and the Commissioner
28 of Health [and Senior Services] determines that the proposed
29 transaction is not likely to result in the deterioration of the quality,
30 availability or accessibility of health care services in the affected
31 communities.

32 c. In determining whether the acquisition meets the criteria of
33 subsection b. of this section, the Attorney General shall consider:

34 (1) Whether the acquisition is permitted under the "New Jersey
35 Nonprofit Corporation Act," Title 15A of the New Jersey Statutes,
36 and other applicable State statutes governing nonprofit entities,
37 trusts, or charities;

38 (2) Whether the nonprofit hospital exercised due diligence in
39 deciding to effectuate the acquisition, selecting the other party to
40 the acquisition and negotiating the terms and conditions of the
41 acquisition;

42 (3) The procedures used by the nonprofit hospital in making its
43 decision, including whether appropriate expert assistance was used;

44 (4) Whether conflict of interest was disclosed, including, but not
45 limited to, conflicts of interest related to board members of,
46 executives of and experts retained by the nonprofit hospital,
47 purchaser, or other parties to the acquisition;

1 (5) Whether any management contract under the acquisition is
2 for reasonable fair value;

3 (6) Whether the acquisition proceeds will be used for
4 appropriate charitable health care purposes consistent with the
5 nonprofit hospital's original purpose or for the support and
6 promotion of health care and whether the proceeds will be
7 controlled as charitable funds independently of the purchaser or
8 parties to the acquisition; and

9 (7) Any other criteria the Attorney General establishes by
10 regulation to determine whether the proposed acquisition is in the
11 public interest.

12 d. In determining whether an acquisition by any person or
13 entity other than a corporation organized in this State for charitable
14 purposes under Title 15A of the New Jersey Statutes meets the
15 criteria of subsection b. of this section, the Attorney General shall
16 consider, in addition to the criteria set forth in subsection c., the
17 following criteria:

18 (1) Whether the nonprofit hospital will receive full and fair
19 market value for its assets. The Attorney General may employ, at
20 the nonprofit hospital's expense, reasonably necessary expert
21 assistance in making this determination;

22 (2) Whether charitable funds are placed at unreasonable risk, if
23 the acquisition is financed in part by the nonprofit hospital;

24 (3) Whether a right of first refusal has been retained to
25 repurchase the assets by a successor nonprofit corporation or
26 foundation if, following the acquisition, the hospital is subsequently
27 sold to, acquired by or merged with another entity;

28 (4) Whether the nonprofit hospital established appropriate
29 criteria in deciding to pursue a conversion in relation to carrying out
30 its mission and purposes;

31 (5) Whether the nonprofit hospital considered the proposed
32 conversion as the only alternative or as the best alternative in
33 carrying out its mission and purposes;

34 (6) Whether the nonprofit hospital exercised due care in
35 assigning a value to the existing hospital and its charitable assets in
36 proceeding to negotiate the proposed conversion;

37 (7) Whether officers, directors, board members, or senior
38 management will receive future contracts in existing, new, or
39 affiliated hospitals or foundations; and

40 (8) Any other criteria the Attorney General establishes by
41 regulation to determine whether a proposed acquisition by any
42 person or entity other than a corporation organized in this State for
43 charitable purposes under Title 15A of the New Jersey Statutes is in
44 the public interest.

45 e. In his the Attorney General's review of the proposed
46 acquisition, the Attorney General may assess the entity proposing to
47 acquire the nonprofit hospital for reasonable costs related to the
48 review, as determined by the Attorney General to be necessary.

1 Reasonable costs may include expert review of the acquisition and a
2 process for educating the public about the acquisition and obtaining
3 public input.

4 f. The Attorney General and the Commissioner of Health [and
5 Senior Services] shall, during the course of the review pursuant to
6 this section, hold at least one public hearing in which any person
7 may file written comments and exhibits or appear and make a
8 statement. The public hearing may, if the Attorney General and
9 commissioner so agree, be conducted jointly. The commissioner
10 may satisfy the requirements of this subsection by conducting a
11 public hearing in conjunction with the certificate of need review
12 process pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.). The
13 Attorney General or the commissioner may subpoena additional
14 information or witnesses, including, but not limited to, information
15 about any transaction that is collateral to the proposed acquisition
16 and any related documents, require and administer oaths, require
17 sworn statements, take depositions and use related discovery
18 procedures for purposes of the hearing and at any time prior to
19 completing the review of the proposed acquisition.

20 The Attorney General shall make the information received
21 pursuant to this section, and the Department of Health [and Senior
22 Services] shall make any information in its records relating to the
23 proposed acquisition, available for inspection at no cost to the
24 public.

25 The public hearing shall be held no later than 60 days after the
26 date that an application from a nonprofit hospital is deemed
27 complete by the Attorney General. Public notice of the hearing
28 shall be provided at least two weeks in advance of the date of the
29 hearing.

30 g. In a proposed acquisition subject to review under subsection
31 d. of this section, the Attorney General, after consultation with the
32 principal parties to the transaction, shall make a determination as to
33 the amount of assets which the nonprofit hospital shall set aside as a
34 charitable obligation, based on the full and fair market value of the
35 hospital at the time of the proposed acquisition as determined by the
36 Attorney General.

37 h. Upon execution of a proposed acquisition subject to review
38 under subsection d. of this section, the amount determined by the
39 Attorney General to be set aside as a charitable obligation shall be
40 placed in a nonprofit charitable trust or one or more existing or
41 newly established tax-exempt charitable organizations operating
42 pursuant to 26 U.S.C. s. 501(c)(3). The charitable mission and
43 grant-making functions of any charitable entity that receives assets
44 pursuant to subsection g. of this section shall be dedicated to
45 serving the health care needs of the community historically served
46 by the predecessor nonprofit hospital. Any charitable entity that
47 receives assets pursuant to subsection g. of this section, the
48 directors, officers, and trustees of any such charitable entity, and the

1 assets of any such charitable entity, including any stock involved in
2 the acquisition, shall be independent of any influence or control by
3 the acquiring entity, its directors, officers, trustees, subsidiaries, or
4 affiliates.

5 (1) The governance of the charitable trust that results from the
6 acquisition or of any newly established charitable organization that
7 is to receive charitable assets pursuant to subsection g. of this
8 section shall be subject to review and approval by the Attorney
9 General. The governance of any existing charitable organization
10 that is to receive charitable assets pursuant to subsection g. of this
11 section shall be subject to review by the Attorney General. The
12 governance of the charitable trust or the charitable organization
13 shall be broadly based, and neither the trust or organization nor any
14 officer, director, or senior manager of the trust or organization shall
15 be affiliated with the acquiring entity and no officer, director, or
16 senior manager of the trust or organization shall be a full-time
17 employee of State government. No officer, director, or senior
18 manager of the trust or organization shall have been a director,
19 officer, agent, trustee, or employee of the nonprofit hospital during
20 the three years immediately preceding the effective date of the
21 acquisition, unless that person can demonstrate to the satisfaction of
22 the Attorney General that the person's assumption of the position of
23 officer, director, or senior manager of the trust or organization
24 would not constitute a breach of fiduciary duty or other conflict of
25 interest.

26 (2) The governing body of the charitable trust or organization
27 shall establish or demonstrate that it has in place, as the case may
28 be, a mechanism to avoid conflicts of interest and to prohibit grants
29 that benefit the board of directors and management of the acquiring
30 entity or its affiliates or subsidiaries.

31 (3) The governing body of the charitable trust or organization
32 shall provide the Attorney General with an annual report which
33 shall include an audited financial statement and a detailed
34 description of its grant-making and other charitable activities
35 related to its use of the charitable assets received pursuant to this
36 act. The annual report shall be made available to the public at both
37 the Attorney General's office and the office of the charitable trust or
38 organization. Nothing contained in this act shall affect the
39 obligations of an entity possessing endowment funds under
40 P.L.1975, c.26 (C.15:18-15 et seq.).

41 i. (1) The entity acquiring the nonprofit hospital, if determined
42 to be necessary by the Commissioner of Health **【and Senior**
43 **Services】**, shall provide funds, in an amount determined by the
44 Commissioner of Health **【and Senior Services】**, for the hiring by
45 the Department of Health **【and Senior Services】** of an independent
46 health care access monitor to monitor and report quarterly to the
47 Department of Health **【and Senior Services】** on community health

1 care access by the entity, including levels of uncompensated care
2 for indigent persons provided by the entity. The funding shall be
3 provided for three years after the date of the acquisition. The entity
4 acquiring the hospital shall provide the monitor with appropriate
5 access to the entity's records in order to enable the monitor to fulfill
6 this function.

7 To prevent the duplication of any information already reported
8 by the entity, the monitor shall, to the extent possible, utilize data
9 already provided by the entity to the Department of Health [and
10 Senior Services].

11 No personal identifiers shall be attached to any of the records
12 obtained by the monitor, and all such records shall be subject to the
13 privacy and confidentiality provisions of medical records provided
14 by law.

15 (2) Following the monitoring period, or in the event that no
16 monitoring period is established, if the Commissioner of Health
17 [and Senior Services] receives information indicating that the
18 acquiring entity is not fulfilling its commitment to the affected
19 service area pursuant to this act and determines that the information
20 is true, [he] the commissioner shall order the acquiring entity to
21 comply with a corrective action plan. The commissioner shall retain
22 oversight of the acquiring entity's obligations under the corrective
23 action plan for as long as necessary to ensure compliance with this
24 act.

25 j. The trustees and senior managers of the nonprofit hospital
26 are prohibited from investing in the acquiring entity for a period of
27 three years following the acquisition.

28 k. No director, officer, agent, trustee, or employee of the
29 nonprofit hospital shall benefit directly or indirectly from the
30 acquisition, including the receipt of any compensation directly
31 related to the proposed acquisition.

32 l. Upon completion by the Attorney General of the review of
33 the application required by this act, the nonprofit hospital shall
34 apply to the Superior Court for approval of the proposed
35 acquisition. In that proceeding, the Attorney General shall advise
36 the court as to whether [he] the Attorney General supports or
37 opposes the proposed acquisition, with or without any specific
38 modifications, and the basis for that position. Any person who filed
39 a written comment or exhibit or appeared and made a statement in
40 the public hearing held by the Attorney General pursuant to
41 subsection f. of this section shall be considered a party to the
42 proceeding, including consumers or community groups representing
43 the citizens of the State.

44 m. Notwithstanding the provisions of subsections a. and f. of
45 this section to the contrary, in the event that the Attorney General or
46 the Commissioner of Health [and Senior Services] determines that
47 a proposed acquisition should be considered on an expedited basis

1 in order to preserve the quality of health care provided to the
2 community, the Attorney General and the commissioner may
3 combine the public notice about the acquisition with the notice for a
4 public hearing as required in subsections a. and f., respectively, and
5 may reduce the period of time required for notice, as necessary. In
6 considering a proposed acquisition on an expedited basis, the
7 Attorney General and commissioner may agree to reduce the period
8 of time for review of a completed application to less than 90 days.

9 n. The Attorney General, in consultation with the
10 Commissioner of Health [and Senior Services], shall adopt
11 regulations pursuant to the "Administrative Procedure Act,"
12 P.L.1968, c.410, (C.52:14B-1 et seq.) to carry out the purposes of
13 this act.

14 (cf: P.L.2000, c.143, s.2)

15

16 174. Section 5 of P.L.2000, c.143 (C.26:2H-7.14) is amended to
17 read as follows:

18 5. Nothing in this act shall be construed to limit the existing
19 authority of the Attorney General, the Commissioner of Health [and
20 Senior Services], or any other government official or entity or the
21 court to review, approve or disapprove conditions related to an
22 acquisition, transaction, or disposition under current law.

23 (cf: P.L.2000, c.143, s.5)

24

25 175. Section 1 of P.L.1002, c.25 (C.26:2H-7.15) is amended to
26 read as follows:

27 1. As used in this act:

28 "Assisted living" means a coordinated array of supportive
29 personal and health services, available 24 hours per day, which
30 promote resident self-direction and participation in decisions that
31 emphasize independence, individuality, privacy, dignity, and
32 homelike surroundings to residents who have been assessed to need
33 these services, including residents who require formal long-term
34 care.

35 "Assisted living program" means the provision of or arrangement
36 for meals and assisted living services, when needed, to the residents
37 of publicly subsidized housing, which because of any federal, State,
38 or local housing laws, rules, regulation, or requirements cannot
39 become licensed as an assisted living residence.

40 "Assisted living residence" means a facility licensed by the
41 Department of Health [and Senior Services] to provide apartment-
42 style housing and congregate dining and to assure that assisted
43 living services are available when needed, for four or more adult
44 persons unrelated to the proprietor. Apartment units shall offer, at a
45 minimum, one unfurnished room, a private bathroom, a kitchenette,
46 and a lockable door on the unit entrance.

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

3 (cf: P.L.2002, c.25, s.1)

4

5 176. Section 8 of P.L.2002, c.25 (C.26:2H-7.21) is amended to
6 read as follows:

7 8. 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.2002, c.25, s.8)

12

13 177. Section 1 of P.L.1982, c.149 (C.26:2H-11.1) is amended to
14 read as follows:

15 1. In the case of an application for a certificate of need or
16 initial licensure, as applicable, for a narcotic and drug abuse
17 treatment center to be located within 500 feet from any building in
18 this State used for the instruction of children between the ages of
19 five and 18 years, the applicant shall notify the governing body of
20 the municipality within which **[he]** the applicant proposes to locate
21 the treatment center of **[his]** the applicant's intention to apply for
22 the certificate of need or licensure and the proposed location of the
23 center. Documentation of **[such]** the notice shall be filed with the
24 certificate of need or license application. The Commissioner of
25 Health **[and Senior Services]** is hereby authorized to adopt
26 reasonable rules and regulations, in accordance with the provisions
27 of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
28 1 et seq.), to effectuate the purposes of this act. For the purposes of
29 this act, the definition of "narcotic and drug abuse treatment center"
30 shall be identical to the definition in subsection (a) of section 2 of
31 P.L.1970, c.334 (C.26:2G-22). This act shall not apply to any
32 **[such]** narcotic and drug abuse treatment center for which an
33 application was filed prior to the effective date of this act.

34 (cf: P.L.1998, c.43, s.11)

35

36 178. Section 3 of P.L.1989, c.300 (C.26:2H-12.2a) is amended
37 to read as follows:

38 3. a. A health care entity shall maintain all records of all
39 documented complaints of events related to patient care about, and
40 disciplinary proceedings or actions against, a health care
41 professional who is employed by or has an affiliation with the
42 health care entity. The health care entity shall retain the
43 information for a period of seven years and make the records,
44 including any information the health care entity has pertaining to
45 records maintained on the health care professional prior to the
46 effective date of P.L.1989, c.300 (C.45:9-19.4 et al.), available to
47 the division, the board which licenses or otherwise authorizes the

1 health care professional to practice, the Medical Practitioner
2 Review Panel established pursuant to section 8 of P.L.1989, c.300
3 (C.45:9-19.8), and the Department of Health [and Senior Services],
4 as applicable, upon request.

5 b. A health care entity shall maintain for a period of four years
6 all records and source data relating to its mortality, morbidity,
7 complication, infection, and readmission and shall make the records
8 available to the division, the board which licenses, or otherwise
9 authorizes the health care professional, the review panel and the
10 Department of Health [and Senior Services], as applicable, upon
11 request.

12 c. A health care entity which fails to maintain the records
13 required pursuant to this section shall be subject to such penalties as
14 the Department of Health [and Senior Services] shall determine
15 pursuant to sections 13 and 14 of P.L.1971, c.136 (C.26:2H-13 and
16 26:2H-14) and section 16 of P.L.1997, c.192 (C.26:2S-16), or the
17 director shall determine pursuant to P.L.1989, c.331 (C.34:8-43 et
18 seq.), as applicable.
19 (cf: P.L.2005, c.83, s.3)

20

21 179. Section 2 of P.L.2005, c.83 (C.26:2H-12.2b) is amended to
22 read as follows:

23 2. a. A health care entity shall notify the division in writing if
24 a health care professional who is employed by, under contract to
25 render professional services to, or has privileges granted by, that
26 health care entity, or who provides such services pursuant to an
27 agreement with a health care services firm or staffing registry:

28 (1) for reasons relating to the health care professional's
29 impairment, incompetency, or professional misconduct, which
30 incompetency or professional misconduct relates adversely to
31 patient care or safety: (a) has full or partial privileges summarily or
32 temporarily revoked or suspended, or permanently reduced,
33 suspended, or revoked; (b) has been removed from the list of
34 eligible employees of a health services firm or staffing registry; (c)
35 has been discharged from the staff; or (d) has had a contract to
36 render professional services terminated or rescinded;

37 (2) has conditions or limitations placed on the exercise of
38 clinical privileges or practice within the health care entity for
39 reasons relating to the health care professional's impairment,
40 incompetency, or professional misconduct or, which incompetency
41 or professional misconduct relates adversely to patient care or
42 safety, including, but not limited to, second opinion requirements,
43 non-routine concurrent or retrospective review of admissions or
44 care, non-routine supervision by one or more members of the staff,
45 or the completion of remedial education or training;

46 (3) voluntarily resigns from the staff if: (a) the health care entity
47 is reviewing the health care professional's patient care or reviewing
48 whether, based upon its reasonable belief, the health care

1 professional's conduct demonstrates an impairment or incompetence
2 or is unprofessional, which incompetence or unprofessional conduct
3 relates adversely to patient care or safety; or (b) the health care
4 entity, through any member of the medical or administrative staff,
5 has expressed an intention to do such a review;

6 (4) voluntarily relinquishes any partial privilege or authorization
7 to perform a specific procedure if: (a) the health care entity is
8 reviewing the health care professional's patient care or reviewing
9 whether, based upon its reasonable belief, the health care
10 professional's conduct demonstrates an impairment or incompetence
11 or is unprofessional, which incompetence or unprofessional conduct
12 relates adversely to patient care or safety; or (b) the health care
13 entity, through any member of the medical or administrative staff,
14 has expressed an intention to do such a review;

15 (5) while under, or subsequent to, a review by the health care
16 entity of the health care professional's patient care or professional
17 conduct is granted a leave of absence for reasons relating to a
18 physical, mental, or emotional condition or drug or alcohol use
19 which impairs the health care professional's ability to practice with
20 reasonable skill and safety, except that no report is required for
21 pregnancy-related leaves of absence or if the health care
22 professional has sought assistance from a professional assistance or
23 intervention program approved or designated by the division or a
24 board to provide confidential oversight of the health care
25 professional and is following the treatment regimen or monitoring
26 as that program requires; or

27 (6) is a party to a medical malpractice liability suit, to which the
28 health care entity is also a party, and in which there is a settlement,
29 judgment, or arbitration award.

30 As used in this subsection, incompetence, professional
31 misconduct, and unprofessional conduct shall not include personal
32 conduct, such as tardiness, insubordination, or other similar
33 behavior, which does not relate to patient care or safety.

34 b. A health care entity shall notify the division in writing if it is
35 in possession of information that indicates that a health care
36 professional has failed to comply with a request to seek assistance
37 from a professional assistance or intervention program approved or
38 designated by the division or a board to provide confidential
39 oversight of the health care professional, or has failed to follow the
40 treatment regimen or monitoring program required by that program
41 to assure that the health care professional's physical, mental, or
42 emotional condition or drug or alcohol use does not impair the
43 health care professional's ability to practice with reasonable skill
44 and safety.

45 c. A health care entity shall notify the division in writing if any
46 health care professional who has been the subject of a report
47 pursuant to this section, has had conditions or limitations on the
48 exercise of clinical privileges or practice within the health care

- 1 entity altered, or privileges restored, or has resumed exercising
2 clinical privileges that had been voluntarily relinquished.
- 3 d. In the case of a health care professional who is providing
4 services at a health care entity pursuant to an agreement with a
5 health care services firm or staffing agency and is the subject of a
6 notice pursuant to this section, the health care entity shall, when it
7 submits a notice to the division concerning that health care
8 professional, provide a copy of the notice to the health care services
9 firm or staffing agency.
- 10 e. The form of notification shall be prescribed by the
11 Commissioner or Health [and Senior Services], in consultation
12 with the Commissioner of Human Services in the case of
13 psychiatric facilities and developmental centers, and shall contain
14 such information as may be required by the division and shall be
15 made within seven days of the date of the action, settlement,
16 judgment, or award.
- 17 f. A health care entity which fails to provide such notice to the
18 division or fails to cooperate with a request for information by the
19 division, the board or the Medical Practitioner Review Panel
20 established pursuant to section 8 of P.L.1989, c.300 (C.45:9-19.8)
21 shall be subject to such penalties as the Department of Health [and
22 Senior Services] may determine pursuant to sections 13 and 14 of
23 P.L.1971, c.136 (C.26:2H-13 and 26:2H-14).
- 24 g. A health care entity, or any employee thereof, which
25 provides information to the division, the board, the Medical
26 Practitioner Review Panel, a health care services firm or staffing
27 agency, or the Department of Health [and Senior Services], in good
28 faith and without malice, regarding a health care professional
29 pursuant to the provisions of this section or section 3 of P.L.1989,
30 c.300 (C.26:2H-12.2a), is not liable for civil damages in any cause
31 of action arising out of the provision or reporting of the
32 information.
- 33 h. A health care entity shall provide the health care
34 professional who is the subject of a notice pursuant to paragraphs
35 (1), (2), (4), and (5) of subsection a. of this section and subsection
36 c. of this section with a copy of the notice provided to the division,
37 when the health care entity submits the notice to the division.
- 38 i. For the purposes of this section, section 3 of P.L.1989, c.300
39 (C.26:2H-12.2a) and section 15 of P.L.2005, c.83 (C.26:2H-12.2c):
40 "Board" means a professional and occupational licensing board
41 within the Division of Consumer Affairs in the Department of Law
42 and Public Safety which licenses or otherwise authorizes a health
43 care professional to practice a health care profession.
44 "Division" means the Division of Consumer Affairs in the
45 Department of Law and Public Safety.
46 "Health care entity" means a health care facility licensed
47 pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), a health
48 maintenance organization authorized to operate pursuant to

1 P.L.1973, c.337 (C.26:2J-1 et seq.), a carrier which offers a
2 managed care plan regulated pursuant to P.L.1997, c.192 (C.26:2S-
3 1 et seq.), a State or county psychiatric hospital, a State
4 developmental center, a staffing registry, and a home care services
5 agency as defined in section 1 of P.L.1947, c.262 (C.45:11-23).

6 "Health care professional" means a person licensed or otherwise
7 authorized pursuant to Title 45 or Title 52 of the Revised Statutes to
8 practice a health care profession that is regulated by the Director of
9 the Division of Consumer Affairs or by one of the following boards:
10 the State Board of Medical Examiners, the New Jersey Board of
11 Nursing, the New Jersey State Board of Dentistry, the New Jersey
12 State Board of Optometrists, the New Jersey State Board of
13 Pharmacy, the State Board of Chiropractic Examiners, the
14 Acupuncture Examining Board, the State Board of Physical
15 Therapy, the State Board of Respiratory Care, the Orthotics and
16 Prosthetics Board of Examiners, the State Board of Psychological
17 Examiners, the State Board of Social Work Examiners, the State
18 Board of Veterinary Medical Examiners, the State Board of
19 Examiners of Ophthalmic Dispensers and Ophthalmic Technicians,
20 the Audiology and Speech-Language Pathology Advisory
21 Committee, the State Board of Marriage and Family Therapy
22 Examiners, the Occupational Therapy Advisory Council and the
23 Certified Psychoanalysts Advisory Committee. "Health care
24 professional" also includes a nurse aide and a personal care
25 assistant certified by the Department of Health [and Senior
26 Services].

27 (cf: P.L.2005, c.83, s.2)

28

29 180. Section 15 of P.L.2005, c.83 (C.26:2H-12.2c) is amended to
30 read as follows:

31 15. a. A health care entity, upon the inquiry of another health
32 care entity, shall truthfully:

33 (1) disclose whether, within the seven years preceding the
34 inquiry, it provided any notice to the division pursuant to section 2
35 of P.L.2005, c.83 (C.26:2H-12.2b), or to the review panel, as
36 required by section 3 of P.L.1989, c.300 (C.26:2H-12.2a), with
37 respect to the health care professional about whom the inquiry has
38 been made, providing a copy of the form of notification and any
39 supporting documentation that was provided to the division, a
40 professional or occupational licensing board in the Division of
41 Consumer Affairs in the Department of Law and Public Safety, or
42 the review panel; and

43 (2) provide information about a current or former employee's
44 job performance as it relates to patient care, as provided in this
45 section, and, in the case of a former employee, the reason for the
46 employee's separation.

47 b. For the purposes of this section, "job performance" shall
48 relate to the suitability of the employee for re-employment at a

1 health care entity, and the employee's skills and abilities as they
2 relate to suitability for future employment at a health care entity.
3 Information about a current or former employee's job performance
4 pursuant to this paragraph shall be based on the employee's
5 performance evaluation, and provided to another health care entity
6 only if: (1) the evaluation has been signed by the evaluator and
7 shared with the employee; (2) the employee has had the opportunity
8 to respond; and (3) the employee's response, if any, has been taken
9 into consideration when providing the information to another health
10 care entity.

11 Job performance as it relates to patient care shall not include the
12 current or former employee's participation in labor activities
13 pursuant to the "National Labor Relations Act," 29 U.S.C. s.151 et
14 seq.

15 c. A health care entity, or any employee designated by the
16 entity, which, pursuant to this section, provides information in good
17 faith and without malice to another health care entity concerning a
18 health care professional, including information about a current or
19 former employee's job performance as it relates to patient care, is
20 not liable for civil damages in any cause of action arising out of the
21 provision or reporting of the information.

22 d. A health care entity which fails to truthfully disclose
23 information to another health care entity making an inquiry
24 pursuant to this section or fails to cooperate with such request for
25 information by the other health care entity shall be subject to such
26 penalties as the Department of Health **【and Senior Services】** may
27 determine pursuant to sections 13 and 14 of P.L.1971, c.136
28 (C.26:2H-13 and 26:2H-14) and section 16 of P.L.1997, c.192
29 (C.26:2S-16), or the director shall determine pursuant to P.L.1989,
30 c.331 (C.34:8-43 et seq.), as applicable.

31 (cf: P.L.2005, c.83, s.15)

32

33 181. Section 1 of P.L.1998, c.136 (C.26:2H-12.6a) is amended
34 to read as follows:

35 1. a. The Department of Children and Families, in consultation
36 with the Department of Health **【and Senior Services】**, shall prepare
37 a resource guide in both English and Spanish which provides
38 information on child abuse and neglect to all parents of newborn
39 infants born in this State. The resource guide shall be distributed to
40 each parent present during the infant's birth, by the personnel at a
41 hospital or birthing facility, prior to the mother's discharge, as part
42 of the hospital or birthing facility's discharge procedures.

43 b. The resource guide shall include information on the signs of
44 child abuse and neglect, the services provided by the State which
45 help in preventing child abuse and neglect, including the
46 availability of home visitation resources, the legal ramifications of
47 abusing or neglecting a child, and tips on child safety.

1 c. The department shall distribute the resource guide, at no
2 charge, to all the hospitals and birthing facilities in the State. The
3 department shall update the resource guide as necessary, and shall
4 make additional copies of the resource guide available to health
5 care providers upon request.

6 d. In addition to the resource guide prepared pursuant to
7 subsection a. of this section, the department, in consultation with
8 the Department of Health [and Senior Services], shall prepare a
9 pamphlet in both English and Spanish that includes information on
10 the prevention of shaken baby syndrome and detailed suggestions
11 for how to cope with a crying baby. The pamphlet shall be
12 distributed to each parent present during the infant's birth, by the
13 personnel at a hospital or birthing facility, prior to the mother's
14 discharge, as part of the hospital or birthing facility's discharge
15 procedures. The department shall: distribute the pamphlet, at no
16 charge, to all hospitals and birthing facilities in the State; update the
17 pamphlet as necessary; and make additional copies of the pamphlet
18 available to health care providers upon request.

19 (cf: P.L.2010, c.67, s.1)

20
21 182. Section 1 of P.L.2005, c.50 (C.26:2H-12.6b) is amended to
22 read as follows:

23 1. As used in this act:

24 "Commissioner" means the Commissioner of Health [and Senior
25 Services].

26 "Division on Women" means the Division on Women in the
27 Department of Community Affairs.

28 "Emergency care to sexual assault victims" means a medical
29 examination, procedure, or service provided by an emergency
30 health care facility to a sexual assault victim following an alleged
31 sexual offense.

32 "Emergency contraception" means one or more prescription
33 drugs to prevent pregnancy, used separately or in combination,
34 administered to or self-administered by a patient within a medically
35 recommended time after sexual intercourse, dispensed for that
36 purpose in accordance with professional standards of practice and
37 determined to be safe by the United States Food and Drug
38 Administration.

39 "Emergency health care facility" means a general hospital or
40 satellite emergency department licensed pursuant to P.L.1971, c.136
41 (C.26:2H-1 et seq.).

42 "Medically and factually accurate and objective" means verified
43 or supported by the weight of research conducted in compliance
44 with accepted scientific methods and standards, published in peer-
45 reviewed journals and recognized as accurate and objective by
46 leading professional organizations and agencies with relevant
47 expertise in the field of obstetrics and gynecology.

1 "Sexual Assault Nurse Examiner program" means the Statewide
2 Sexual Assault Nurse Examiner program in the Division of
3 Criminal Justice in the Department of Law and Public Safety,
4 established pursuant to P.L.2001, c.81 (C.52:4B-50 et seq.).

5 "Sexual assault victim" means a female who alleges or is alleged
6 to have suffered a personal, physical, or psychological injury as a
7 result of a sexual offense.

8 "Sexual offense" means sexual assault and aggravated sexual
9 assault as set forth in N.J.S.2C:14-2, criminal sexual contact and
10 aggravated criminal sexual contact as set forth in N.J.S.2C:14-3,
11 fourth degree lewdness as set forth in subsection b. of N.J.S.2C:14-
12 4 and endangering the welfare of a child by engaging in sexual
13 conduct which would impair or debauch the morals of the child as
14 set forth in N.J.S.2C:24-4.

15 (cf: P.L.2005, c.50, s.1)

16

17 183. Section 2 of P.L.1989, c.170 (C.26:2H-12.8) is amended to
18 read as follows:

19 2. Every person admitted to a general hospital as licensed by
20 the **[State]** Department of Health **[and Senior Services]** pursuant to
21 P.L.1971, c.136 (C.26:2H-1 et al.) shall have the right:

22 a. To considerate and respectful care consistent with sound
23 nursing and medical practices, which shall include being informed
24 of the name and licensure status of a student nurse or facility staff
25 member who examines, observes, or treats the patient and the right
26 to expect and receive appropriate assessment, management, and
27 treatment of pain as an integral component of that person's care;

28 b. To be informed of the name of the physician responsible for
29 coordinating his care;

30 c. To obtain from the physician complete, current information
31 concerning his diagnosis, treatment, and prognosis in terms he can
32 reasonably be expected to understand. When it is not medically
33 advisable to give this information to the patient, it shall be made
34 available to another person designated by the patient on his behalf;

35 d. To receive from the physician information necessary to give
36 informed consent prior to the start of any procedure or treatment
37 and which, except for those emergency situations not requiring an
38 informed consent, shall include as a minimum the specific
39 procedure or treatment, the medically significant risks involved, and
40 the possible duration of incapacitation, if any, as well as an
41 explanation of the significance of the patient's informed consent.
42 The patient shall be advised of any medically significant
43 alternatives for care or treatment, however, this does not include
44 experimental treatments that are not yet accepted by the medical
45 establishment;

46 e. To refuse treatment to the extent permitted by law and to be
47 informed of the medical consequences of this act;

- 1 f. To privacy to the extent consistent with providing adequate
2 medical care to the patient. This shall not preclude discussion of a
3 patient's case or examination of a patient by appropriate health care
4 personnel;
- 5 g. To privacy and confidentiality of all records pertaining to
6 **his** the patient's treatment, except as otherwise provided by law
7 or third party payment contract, and to access to those records,
8 including receipt of a copy thereof at reasonable cost, upon request,
9 unless **his** the patient's physician states in writing that access by
10 the patient is not medically advisable;
- 11 h. To expect that within its capacity, the hospital will make
12 reasonable response to **his** the patient's request for services,
13 including the services of an interpreter in a language other than
14 English if 10% or more of the population in the hospital's service
15 area speaks that language;
- 16 i. To be informed by **his** the patient's physician of any
17 continuing health care requirements which may follow discharge
18 and to receive assistance from the physician and appropriate
19 hospital staff in arranging for required follow-up care after
20 discharge;
- 21 j. To be informed by the hospital of the necessity of transfer to
22 another facility prior to the transfer and of any alternatives to it
23 which may exist, which transfer shall not be effected unless it is
24 determined by the physician to be medically necessary;
- 25 k. To be informed, upon request, of other health care and
26 educational institutions that the hospital has authorized to
27 participate in his treatment;
- 28 l. To be advised if the hospital proposes to engage in or
29 perform human research or experimentation and to refuse to
30 participate in these projects. For the purposes of this subsection
31 "human research" does not include the mere collecting of statistical
32 data;
- 33 m. To examine and receive an explanation of **his** the patient's
34 bill, regardless of source of payment, and to receive information or
35 be advised on the availability of sources of financial assistance to
36 help pay for the patient's care, as necessary;
- 37 n. To expect reasonable continuity of care;
- 38 o. To be advised of the hospital rules and regulations that apply
39 to his conduct as a patient;
- 40 p. To treatment without discrimination as to race, age, religion,
41 sex, national origin, or source of payment; and
- 42 q. To contract directly with a New Jersey licensed registered
43 professional nurse of the patient's choosing for private professional
44 nursing care during his hospitalization. A registered professional
45 nurse so contracted shall adhere to hospital policies and procedures
46 in regard to treatment protocols and policies and procedures so long
47 as those policies and procedures are the same for private duty and

1 regularly employed nurses. The registered professional nurse shall
2 not be considered an agent or employee of the hospital for purposes
3 of any financial liabilities, including, but not limited to, State or
4 federal employee taxes, worker's compensation payments or
5 coverage for professional liability.

6 The hospital, upon a patient's or **[his]** the patient's designee's
7 request for private professional nursing care, shall provide the
8 patient or **[his]** the patient's designee with a list of local nonprofit
9 professional nurses association registries that refer nurses for
10 private professional nursing care.

11 (cf: P.L.2000, c.65, s.1)

12

13 184. Section 14 of P.L.1999, c.154 (C.26:2H-12.12) is amended
14 to read as follows:

15 14. Effective 12 months after the adoption of regulations
16 establishing standard health care enrollment and claim forms by the
17 Commissioner of Banking and Insurance pursuant to section 1 of
18 P.L.1999, c.154 (C.17B:30-23), a health care facility licensed
19 pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) is responsible for
20 filing all claims for third party payment, including claims filed on
21 behalf of the health care facility's patient for any health care service
22 provided by the health care facility that is eligible for third party
23 payment, except that at the patient's option, the patient may file the
24 claim for third party payment.

25 a. In the case of a claim filed on behalf of the health care
26 facility's patient, the health care facility shall file the claim within
27 60 days of the last date of service for a course of treatment, on the
28 standard claim form adopted by the Commissioner of Banking and
29 Insurance pursuant to section 1 of P.L.1999, c.154 (C.17B:30-23).

30 b. In the case of a claim in which the patient has assigned **[his]**
31 the patient's benefits to the health care facility, the health care
32 facility shall file the claim within 180 days of the last date of
33 service for a course of treatment, on the standard claim form
34 adopted by the Commissioner of Banking and Insurance pursuant to
35 section 1 of P.L.1999, c.154 (C.17B:30-23). If the health care
36 facility does not file the claim within 180 days of the last date of
37 service for a course of treatment, the third party payer shall reserve
38 the right to deny payment of the claim, in accordance with
39 regulations established by the Commissioner of Banking and
40 Insurance, and the health care facility shall be prohibited from
41 seeking any payment directly from the patient.

42 (1) In establishing the standards for denial of payment, the
43 Commissioner of Banking and Insurance shall consider the length
44 of delay in filing the claim, the good faith use of information
45 provided by the patient to the health care facility with respect to the
46 identity of the patient's third party payer, delays in filing a claim
47 related to coordination of benefits between third party payers and
48 any other factors the commissioner deems appropriate, and,

1 accordingly, shall define specific instances where the sanctions
2 permitted pursuant to this subsection shall not apply.

3 (2) A health care facility which fails to file a claim within 180
4 days and whose claim for payment has been denied by the third
5 party payer in accordance with this subsection may, in the
6 discretion of a judge of the Superior Court, be permitted to refile
7 the claim if the third party payer has not been substantially
8 prejudiced thereby. Application to the court for permission to refile
9 a claim shall be made within 14 days of notification of denial of
10 payment and shall be made upon motion based upon affidavits
11 showing sufficient reasons for the failure to file the claim with the
12 third party payer within 180 days.

13 c. The provisions of this section shall not apply to any claims
14 filed pursuant to P.L.1972, c.70 (C.39:6A-1 et seq.).

15 d. A health care facility which violates the provisions of
16 subsection a. of this section may be subject to a civil penalty of
17 \$250 for each violation plus \$50 for each day after the 60th day that
18 the health care facility fails to submit a claim. The penalty shall be
19 sued for and collected by the Department of Health [and Senior
20 Services] pursuant to ["the penalty enforcement law," N.J.S.2A:58-
21 1 et seq.] the "Penalty Enforcement Law of 1999," P.L.1999, c.274
22 (C.2A:58-10 et seq.).

23 (cf: PL.1999, c.154, s.14)

24

25 185. Section 3 of P.L.1999, c.362 (C.26:2H-12.13) is amended
26 to read as follows:

27 3. a. The owner or operator of a general hospital who is
28 required to prepare a Consumer Confidence Report pursuant to the
29 "Safe Drinking Water Act Amendments of 1996," 42 U.S.C.s.300f et
30 al., or who receives a Consumer Confidence Report from the owner
31 or operator of a public community water system, shall post each
32 Consumer Confidence Report it prepares or receives in the area of
33 each major entrance and in each admitting room in the hospital.

34 b. The owner or operator of a general hospital who is a supplier
35 of water but is not required to prepare a Consumer Confidence
36 Report pursuant to the "Safe Drinking Water Act Amendments of
37 1996," and who is required to conduct tests of its drinking water by
38 the Department of Environmental Protection, shall post a chart
39 setting forth the results of the water tests, including the level of
40 detection and, as appropriate for each contaminant, the maximum
41 contaminant level, highest level allowed, action level, treatment
42 technique, or other expression of an acceptable level, for each
43 contaminant, in the area of each major entrance and in each
44 admitting room in the general hospital. The chart also shall include
45 in bold print the statement required to be included in a Consumer
46 Confidence Report pursuant to 40 CFR s.141.154(a). The chart
47 shall not include contaminants that are not detected.

1 c. As used in this section, "general hospital" shall mean any
2 general hospital licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et
3 seq.).

4 d. The provisions of this section shall be enforced by the
5 Department of Health **[and Senior Services]**. The Department of
6 Health **[and Senior Services]** shall not be required to conduct on-
7 site inspections to determine compliance with this section more
8 frequently than any on-site inspections of general hospitals are
9 conducted by the department pursuant to any other law.

10 (cf: P.L.1999, c.362, s.3)

11
12 186. Section 4 of P.L.1999, c.362 (C.26:2H-12.14) is amended
13 to read as follows:

14 4. a. The owner or operator of a rehabilitation center, extended
15 care facility, skilled nursing home, or nursing home who is required
16 to prepare a Consumer Confidence Report pursuant to the "Safe
17 Drinking Water Act Amendments of 1996," 42 U.S.C.s.300f et al.,
18 or who receives a Consumer Confidence Report from the owner or
19 operator of a public community water system, shall post each
20 Consumer Confidence Report it prepares or receives in at least one
21 conspicuous location in the rehabilitation center, extended care
22 facility, skilled nursing home, or nursing home.

23 b. The owner or operator of a rehabilitation center, extended
24 care facility, skilled nursing home, or nursing home who is a
25 supplier of water but is not required to prepare a Consumer
26 Confidence Report pursuant to the "Safe Drinking Water Act
27 Amendments of 1996," and who is required to conduct tests of its
28 drinking water by the Department of Environmental Protection,
29 shall post a chart setting forth the results of the water tests,
30 including the level of detection and, as appropriate for each
31 contaminant, the maximum contaminant level, highest level
32 allowed, action level, treatment technique, or other expression of an
33 acceptable level, for each contaminant, in at least one conspicuous
34 location in the rehabilitation center, extended care facility, skilled
35 nursing home, or nursing home. The chart also shall include in bold
36 print the statement required to be included in a Consumer
37 Confidence Report pursuant to 40 CFR s.141.154(a). The chart shall
38 not include contaminants that are not detected.

39 c. As used in this section, "rehabilitation center," "extended
40 care facility," "skilled nursing home," and "nursing home" shall
41 mean a rehabilitation center, extended care facility, skilled nursing
42 home, or nursing home licensed pursuant to P.L.1971, c.136
43 (C.26:2H-1 et seq.).

44 d. The provisions of this section shall be enforced by the
45 Department of Health **[and Senior Services]**. The Department of
46 Health **[and Senior Services]** shall not be required to conduct on-
47 site inspections to determine compliance with this section more
48 frequently than any on-site inspections of rehabilitation centers,

1 extended care facilities, skilled nursing homes, or nursing homes
2 are conducted by the department pursuant to any other law.

3 (cf: P.L.1999, c.362, s.4)

4

5 187. Section 2 of P.L.1999, c.436 (C.26:2H-12.15) is amended
6 to read as follows:

7 2. a. The Commissioner of Health **[and Senior Services]**,
8 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
9 (C.52:14B-1 et seq.), shall adopt regulations governing the use of
10 unlicensed assistive personnel in licensed health care facilities, in
11 consultation with at least the following: the Director of the Division
12 of Consumer Affairs in the Department of Law and Public Safety,
13 the New Jersey Hospital Association, the New Jersey Association of
14 Health Care Facilities, the Medical Society of New Jersey, and the
15 New Jersey State Nurses Association.

16 As used in this section, "unlicensed assistive personnel" means
17 any unlicensed or uncertified personnel employed by a licensed
18 health care facility that perform nursing tasks which do not require
19 the skill or judgment of a registered professional nurse and which
20 are assigned to them by, and carried out under the supervision of, a
21 registered professional nurse.

22 b. The regulations adopted pursuant to subsection a. of this
23 section, shall require, at a minimum, that:

24 (1) unlicensed assistive personnel employed by a health care
25 facility meet the standards and requirements for education and
26 competency evaluation prescribed by the New Jersey Board of
27 Nursing pursuant to paragraph (26) of subsection d. of section 2 of
28 P.L.1947, c.262 (C.45:11-24); and

29 (2) a health care facility, prior to implementing the use of
30 unlicensed assistive personnel, establish a multidisciplinary
31 committee, including representation from registered professional
32 nurses, physicians, administrative staff, and unlicensed assistive
33 personnel, to evaluate the need for using these personnel, formulate
34 and adopt a plan to implement their use, and monitor the
35 implementation of the plan.

36 c. The plan for implementing the use of unlicensed assistive
37 personnel pursuant to paragraph (2) of subsection b. of this section
38 shall, at a minimum:

39 (1) require the use and specify the composition of
40 multidisciplinary patient care teams operating under the plan;

41 (2) prescribe materials and protocols for the orientation and
42 training of health care facility staff with respect to implementing
43 the plan;

44 (3) provide for the periodic monitoring and evaluation of the use
45 of unlicensed assistive personnel by the multidisciplinary
46 committee established pursuant to subsection b. of this section; and

47 (4) require in-service training and educational programming for
48 both registered professional nurses and unlicensed assistive

1 personnel which include subject matter relating to the delegation of
2 nursing tasks to unlicensed assistive personnel and the supervision
3 of these personnel by registered professional nurses.

4 (cf: P.L.1999, c.436, s.2)

5

6 188. Section 2 of P.L.2001, c.234 (C.26:2H-12.17) is amended
7 to read as follows:

8 2. The Commissioner of Health **【and Senior Services】** may
9 waive the 10% utilization requirement or reduce the required
10 percentage by regulation for specific regions of the State or
11 Statewide if **【he】** the commissioner determines that sufficient
12 numbers of assisted living beds are available in the State to meet the
13 needs of Medicaid-eligible persons within the limits of the federal
14 waiver to provide assisted living services through the Medicaid
15 program.

16 (cf: P.L.2001, c.234, s.2)

17

18 189. Section 6 of P.L.2001, c.234 (C.26:2H-12.21) is amended
19 to read as follows:

20 6. The Commissioner of Health **【and Senior Services】** shall
21 adopt regulations pursuant to the "Administrative Procedure Act,"
22 P.L.1968, c.410 (C.52:14B-1 et seq.) necessary to carry out the
23 purposes of this act.

24 (cf: P.L.2001, c.234, s.6)

25

26 190. Section 3 of P.L.2004, c.9 (C.26:2H-12.25) is amended to
27 read as follows:

28 3. a. As used in this act:

29 "Adverse event" means an event that is a negative consequence
30 of care that results in unintended injury or illness, which may or
31 may not have been preventable.

32 "Anonymous" means that information is presented in a form and
33 manner that prevents the identification of the person filing the
34 report.

35 "Commissioner" means the Commissioner of Health **【and Senior
36 Services】**.

37 "Department" means the Department of Health **【and Senior
38 Services】**.

39 "Event" means a discrete, auditable, and clearly defined
40 occurrence.

41 "Health care facility" or "facility" means a health care facility
42 licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) and a State
43 psychiatric hospital operated by the Department of Human Services
44 and listed in R.S.30:1-7.

45 "Health care professional" means an individual who, acting
46 within the scope of **【his】** the individual's licensure or certification,
47 provides health care services, and includes, but is not limited to, a

1 physician, dentist, nurse, pharmacist, or other health care
2 professional whose professional practice is regulated pursuant to
3 Title 45 of the Revised Statutes.

4 "Near-miss" means an occurrence that could have resulted in an
5 adverse event but the adverse event was prevented.

6 "Preventable event" means an event that could have been
7 anticipated and prepared against, but occurs because of an error or
8 other system failure.

9 "Serious preventable adverse event" means an adverse event that
10 is a preventable event and results in death or loss of a body part, or
11 disability or loss of bodily function lasting more than seven days or
12 still present at the time of discharge from a health care facility.

13 b. In accordance with the requirements established by the
14 commissioner by regulation, pursuant to this act, a health care
15 facility shall develop and implement a patient safety plan for the
16 purpose of improving the health and safety of patients at the
17 facility.

18 The patient safety plan shall, at a minimum, include:

19 (1) a patient safety committee, as prescribed by regulation;

20 (2) a process for teams of facility staff, which teams are
21 comprised of personnel who are representative of the facility's
22 various disciplines and have appropriate competencies, to conduct
23 ongoing analysis and application of evidence-based patient safety
24 practices in order to reduce the probability of adverse events
25 resulting from exposure to the health care system across a range of
26 diseases and procedures;

27 (3) a process for teams of facility staff, which teams are
28 comprised of personnel who are representative of the facility's
29 various disciplines and have appropriate competencies, to conduct
30 analyses of near-misses, with particular attention to serious
31 preventable adverse events and adverse events; and

32 (4) a process for the provision of ongoing patient safety training
33 for facility personnel.

34 The provisions of this subsection shall not be construed to
35 eliminate or lessen a hospital's obligation under current law or
36 regulation to have a continuous quality improvement program.

37 c. A health care facility shall report to the department or, in the
38 case of a State psychiatric hospital, to the Department of Human
39 Services, in a form and manner established by the commissioner,
40 every serious preventable adverse event that occurs in that facility.

41 d. A health care facility shall assure that the patient affected by
42 a serious preventable adverse event or an adverse event specifically
43 related to an allergic reaction, or, in the case of a minor or a patient
44 who is incapacitated, the patient's parent or guardian or other
45 family member, as appropriate, is informed of the serious
46 preventable adverse event or adverse event specifically related to an
47 allergic reaction, no later than the end of the episode of care, or, if
48 discovery occurs after the end of the episode of care, in a timely

1 fashion as established by the commissioner by regulation. The time,
2 date, participants, and content of the notification shall be
3 documented in the patient's medical record in accordance with rules
4 and regulations adopted by the commissioner. The content of the
5 documentation shall be determined in accordance with the rules and
6 regulations of the commissioner. If the patient's physician
7 determines that the disclosure would seriously and adversely affect
8 the patient's health, then the facility shall assure that the family
9 member, if available, is notified in accordance with rules and
10 regulations adopted by the commissioner. In the event that an adult
11 patient is not informed of the serious preventable adverse event or
12 adverse event specifically related to an allergic reaction, the facility
13 shall assure that the physician includes a statement in the patient's
14 medical record that provides the reason for not informing the
15 patient pursuant to this section.

16 e. (1) A health care professional or other employee of a health
17 care facility is encouraged to make anonymous reports to the
18 department or, in the case of a State psychiatric hospital, to the
19 Department of Human Services, in a form and manner established
20 by the commissioner, regarding near-misses, preventable events,
21 and adverse events that are otherwise not subject to mandatory
22 reporting pursuant to subsection c. of this section.

23 (2) The commissioner shall establish procedures for and a
24 system to collect, store, and analyze information voluntarily
25 reported to the department pursuant to this subsection. The
26 repository shall function as a clearinghouse for trend analysis of the
27 information collected pursuant to this subsection.

28 f. Any documents, materials, or information received by the
29 department, or the Department of Human Services, as applicable,
30 pursuant to the provisions of subsections c. and e. of this section
31 concerning serious preventable adverse events, near-misses,
32 preventable events, and adverse events that are otherwise not
33 subject to mandatory reporting pursuant to subsection c. of this
34 section, shall not be:

35 (1) subject to discovery or admissible as evidence or otherwise
36 disclosed in any civil, criminal, or administrative action or
37 proceeding;

38 (2) considered a public record under P.L.1963, c.73 (C.47:1A-1
39 et seq.) or P.L.2001, c.404 (C.47:1A-5 et al.); or

40 (3) used in an adverse employment action or in the evaluation of
41 decisions made in relation to accreditation, certification,
42 credentialing, or licensing of an individual, which is based on the
43 individual's participation in the development, collection, reporting
44 or storage of information in accordance with this section. The
45 provisions of this paragraph shall not be construed to limit a health
46 care facility from taking disciplinary action against a health care
47 professional in a case in which the professional has displayed
48 recklessness, gross negligence, or willful misconduct, or in which

1 there is evidence, based on other similar cases known to the facility,
2 of a pattern of significant substandard performance that resulted in
3 serious preventable adverse events.

4 The information received by the department, or the Department
5 of Human Services, as applicable, shall be shared with the Attorney
6 General in accordance with rules and regulations adopted pursuant
7 to subsection j. of this section, and may be used by the department,
8 the Department of Human Services, and the Attorney General for
9 the purposes of this act and for oversight of facilities and health
10 care professionals; however, the departments and the Attorney
11 General shall not use the information for any other purpose.

12 In using the information to exercise oversight, the department,
13 Department of Human Services, and Attorney General, as
14 applicable, shall place primary emphasis on assuring effective
15 corrective action by the facility or health care professional,
16 reserving punitive enforcement or disciplinary action for those
17 cases in which the facility or the professional has displayed
18 recklessness, gross negligence, or willful misconduct, or in which
19 there is evidence, based on other similar cases known to the
20 department, Department of Human Services or the Attorney
21 General, of a pattern of significant substandard performance that
22 has the potential for or actually results in harm to patients.

23 g. Any documents, materials, or information developed by a
24 health care facility as part of a process of self-critical analysis
25 conducted pursuant to subsection b. of this section concerning
26 preventable events, near-misses, and adverse events, including
27 serious preventable adverse events, and any document or oral
28 statement that constitutes the disclosure provided to a patient or the
29 patient's family member or guardian pursuant to subsection d. of
30 this section, shall not be:

31 (1) subject to discovery or admissible as evidence or otherwise
32 disclosed in any civil, criminal, or administrative action or
33 proceeding; or

34 (2) used in an adverse employment action or in the evaluation of
35 decisions made in relation to accreditation, certification,
36 credentialing, or licensing of an individual, which is based on the
37 individual's participation in the development, collection, reporting,
38 or storage of information in accordance with subsection b. of this
39 section. The provisions of this paragraph shall not be construed to
40 limit a health care facility from taking disciplinary action against a
41 health care professional in a case in which the professional has
42 displayed recklessness, gross negligence or **willful** willful
43 misconduct, or in which there is evidence, based on other similar
44 cases known to the facility, of a pattern of significant substandard
45 performance that resulted in serious preventable adverse events.

46 h. Notwithstanding the fact that documents, materials, or
47 information may have been considered in the process of self-critical
48 analysis conducted pursuant to subsection b. of this section, or

1 received by the department or the Department of Human Services
2 pursuant to the provisions of subsection c. or e. of this section, the
3 provisions of this act shall not be construed to increase or decrease,
4 in any way, the availability, discoverability, admissibility, or use of
5 any such documents, materials, or information if obtained from any
6 source or context other than those specified in this act.

7 i. The investigative and disciplinary powers conferred on the
8 boards and commissions established pursuant to Title 45 of the
9 Revised Statutes, the Director of the Division of Consumer Affairs
10 in the Department of Law and Public Safety and the Attorney
11 General under the provisions of P.L.1978, c.73 (C.45:1-14 et seq.)
12 or any other law, rule, or regulation, as well as the investigative and
13 enforcement powers conferred on the department and the
14 commissioner under the provisions of Title 26 of the Revised
15 Statutes or any other law, rule or regulation, shall not be exercised
16 in such a manner so as to unduly interfere with a health care
17 facility's implementation of its patient safety plan established
18 pursuant to this section. However, this act shall not be construed to
19 otherwise affect, in any way, the exercise of such investigative,
20 disciplinary, and enforcement powers.

21 j. The commissioner shall, pursuant to the "Administrative
22 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt such
23 rules and regulations necessary to carry out the provisions of this
24 act. The regulations shall establish: criteria for a health care
25 facility's patient safety plan and patient safety committee; the time
26 frame and format for mandatory reporting of serious preventable
27 adverse events at a health care facility; the types of events that
28 qualify as serious preventable adverse events and adverse events
29 specifically related to an allergic reaction; the circumstances under
30 which a health care facility is not required to inform a patient or the
31 patient's family about a serious preventable adverse event or
32 adverse event specifically related to an allergic reaction; and a
33 system for the sharing of information received by the department
34 and the Department of Human Services pursuant to subsections c.
35 and e. of this section with the Attorney General. In establishing the
36 criteria for reporting serious preventable adverse events, the
37 commissioner shall, to the extent feasible, use criteria for these
38 events that have been or are developed by organizations engaged in
39 the development of nationally recognized standards.

40 The commissioner shall consult with the Commissioner of
41 Human Services with respect to rules and regulations affecting the
42 State psychiatric hospitals and with the Attorney General with
43 respect to rules and regulations regarding the establishment of a
44 system for the sharing of information received by the department
45 and the Department of Human Services pursuant to subsections c.
46 and e. of this section with the Attorney General.

47 k. Nothing in this act shall be construed to increase or decrease
48 the discoverability, in accordance with *Christy v. Salem*, No. A-

1 6448-02T3 (Superior Court of New Jersey, Appellate Division,
2 February 17, 2004)(2004 WL291160), of any documents, materials
3 or information if obtained from any source or context other than
4 those specified in this act.

5 (cf: P.L.2004, c.9, s.3)

6

7 191. Section 8 of P.L.2007, c.196 (C.26:2H-12.25a) is amended
8 to read as follows:

9 8. The Commissioner of Health **【and Senior Services】** and the
10 Commissioner of Human Services shall compile their findings and
11 recommendations for operational changes related to patient safety
12 in health care facilities, based on information reported to the
13 commissioners pursuant to the "Patient Safety Act," P.L.2004, c.9
14 (C.26:2H-12.23 et seq.).

15 The commissioners shall jointly issue an annual report of their
16 findings and recommendations to the Governor, and to the
17 Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1),
18 to be made available on the official Internet website of the
19 Department of Health **【and Senior Services】**.

20 (cf: P.L.2007, c.196, s.8)

21

22 192. Section 1 of P.L.2009, c.122 (C.26:2H-12.25b) is amended
23 to read as follows:

24 1. a. The Department of Health **【and Senior Services】** shall
25 include in the New Jersey Hospital Performance Report issued
26 annually by the department hospital-specific data from hospital
27 procedure and diagnosis codes concerning the following patient
28 safety indicators:

29 (1) Foreign body left during procedure (PSI 05);

30 (2) Iatrogenic pneumothorax (PSI 06);

31 (3) Postoperative hip fracture (PSI 08);

32 (4) Postoperative hemorrhage or hematoma (PSI 09);

33 (5) Postoperative deep vein thrombosis (DVT) or pulmonary
34 embolism (PE) (PSI 12);

35 (6) Postoperative sepsis (PSI 13);

36 (7) Postoperative wound dehiscence (PSI 14);

37 (8) Accidental puncture or laceration (PSI 15);

38 (9) Transfusion reaction (PSI 16);

39 (10) Birth trauma (PSI 17);

40 (11) Obstetric trauma-vaginal delivery with instrument (PSI 18);

41 (12) Obstetric trauma-vaginal delivery without instrument (PSI
42 19);

43 (13) Air embolism; and

44 (14) Surgery on the wrong side, wrong body part, or wrong
45 person, or wrong surgery performed on a patient.

46 b. The Commissioner of Health **【and Senior Services】**, in
47 consultation with the Quality Improvement Advisory Committee in

1 the Department of Health **[and Senior Services]**, may include
2 additional patient safety indicators in the annual report, by
3 regulation. The commissioner shall consider indicators that: (1) are
4 recommended by the federal Agency for Healthcare Research and
5 Quality or the Centers for Medicare **[and] &** Medicaid Services; (2)
6 are suitable for comparative reporting and public accountability,
7 and are risk adjusted; (3) have a strong evidence base with no
8 substantial evidence against their use for comparative reporting; and
9 (4) can be measured through data that are available through hospital
10 procedure and diagnosis codes.

11 c. The commissioner shall request the Quality Improvement
12 Advisory Committee to study and make recommendations to the
13 commissioner on how to expand public reporting by the department
14 of patient pressure ulcers, patient infections due to hospital care,
15 and falls by patients in general hospitals.

16 d. The commissioner shall, in accordance with the
17 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
18 seq.), adopt such rules and regulations as the commissioner deems
19 necessary to carry out the provisions of this act.

20 (cf: P.L.2009, c.122, s.1)

21

22 193. Section 2 of P.L.2004, c.136 (C.26:2H-12.28) is amended
23 to read as follows:

24 2. The Commissioner of Health **[and Senior Services]** shall
25 designate hospitals that meet the criteria set forth in this act as
26 primary or comprehensive stroke centers.

27 a. A hospital shall apply to the commissioner for designation
28 and shall demonstrate to the satisfaction of the commissioner that
29 the hospital meets the criteria set forth in section 3 or 4 of this act
30 for a primary or comprehensive stroke center, respectively.

31 b. The commissioner shall designate as many hospitals as
32 primary stroke centers as apply for the designation, provided that
33 the hospital meets the criteria set forth in section 3 of this act. In
34 addition to the criteria set forth in section 3 of this act, the
35 commissioner is encouraged to take into consideration whether the
36 hospital contracts with carriers that provide coverage through the
37 State Medicaid program, established pursuant to P.L.1968, c.413
38 (C.30:4D-1 et seq.)**[, the Children's Health Care Coverage Program,**
39 **established pursuant to P.L.1997, c.272 (C.30:4I-1 et seq.),]** and the
40 NJ FamilyCare [Health Coverage] Program, established pursuant
41 to **[P.L.2000, c.71 (C.30:4J-1 et seq.)] P.L.2005, c.156 (C.30:4J-8**
42 **et al.)**.

43 c. The commissioner shall designate as many hospitals as
44 comprehensive stroke centers as apply for the designation, provided
45 that the hospital meets the criteria set forth in section 4 of this act.

46 d. The commissioner may suspend or revoke a hospital's
47 designation as a stroke center, after notice and hearing, if the

1 commissioner determines that the hospital is not in compliance with
2 the requirements of this act.

3 (cf: P.L.2004, c.136, s.2)

4

5 194. Section 4 of P.L.2004, c.136 (C.26:2H-12.30) is amended
6 to read as follows:

7 4. A hospital designated as a comprehensive stroke center shall
8 use proven state-of-the-art technology and medical techniques and,
9 at a minimum, meet the criteria set forth in this section.

10 a. The hospital shall meet all of the criteria required for a
11 primary stroke center pursuant to section 3 of this act.

12 b. With respect to patient care, the hospital shall:

13 (1) maintain a neurosurgical team that is capable of assessing
14 and treating complex stroke and stroke-like syndromes;

15 (2) maintain on staff a neuro-radiologist with Certificate of
16 Added Qualifications and a physician with neuro-interventional
17 angiographic training and skills;

18 (3) provide comprehensive rehabilitation services either on site
19 or by transfer agreement with another health care facility; and

20 (4) enter into and maintain written transfer agreements with
21 primary stroke centers to accept transfer of patients with complex
22 strokes when clinically warranted.

23 c. With respect to support services, the hospital shall:

24 (1) have magnetic resonance imaging and computed tomography
25 angiography capabilities;

26 (2) have digital subtraction angiography and a suite equipped
27 for neuro-interventional procedures;

28 (3) develop and maintain sophisticated outcomes assessment
29 and performance improvement capability that incorporates data
30 from affiliated primary stroke centers and integrates regional, State,
31 and national data;

32 (4) provide guidance and continuing medical education to
33 primary stroke centers;

34 (5) provide graduate medical education in stroke; and

35 (6) conduct research on stroke-related topics.

36 d. If the Commissioner of Health **[and Senior Services]**
37 determines that a new drug, device, technique, or technology has
38 become available for the treatment of stroke that provides a
39 diagnostic or therapeutic advantage over existing elements included
40 in the criteria established in this section or in section 3 of this act,
41 the commissioner may, by regulation, revise or update the criteria
42 accordingly.

43 (cf: P.L.2004, c.136, s.4.)

44

45 195. Section 5 of P.L.2004, c.136 (C.26:2H-12.31) is amended
46 to read as follows:

47 5. a. In order to encourage and ensure the establishment of
48 stroke centers throughout the State, the Commissioner of Health

1 **【and Senior Services】** shall award matching grants to hospitals that
2 seek designation as stroke centers and demonstrate a need for
3 financial assistance to develop the necessary infrastructure,
4 including personnel and equipment, in order to satisfy the criteria
5 for designation provided pursuant to this act. The matching grants
6 shall not exceed \$250,000 or 50% of the hospital's cost for
7 developing the necessary infrastructure, whichever is less.

8 b. A hospital seeking designation as a stroke center shall apply
9 to the commissioner for a matching grant, in a manner and on a
10 form required by the commissioner, and provide such information
11 as the commissioner deems necessary to determine if the hospital is
12 eligible for the grant.

13 c. The commissioner may provide matching grants to as many
14 hospitals as the commissioner deems appropriate, except that:

15 (1) Matching grant awards shall be made to at least two
16 applicant hospitals in the northern region of this State (comprising
17 Bergen, Hudson, Essex, Passaic, Morris, Sussex, and Warren
18 counties), at least two applicant hospitals in the central region of
19 this State (comprising Union, Somerset, Hunterdon, Mercer,
20 Middlesex, and Monmouth counties) and at least two applicant
21 hospitals in the southern region of this State (comprising
22 Burlington, Camden, Gloucester, Salem, Cumberland, Cape May,
23 Atlantic, and Ocean counties), provided in the case of each region
24 that the applicant hospitals receiving the awards must be eligible
25 therefor under the provisions of this act; and

26 (2) No more than 20% of the funds appropriated pursuant to this
27 act shall be allocated to hospitals that seek designation as
28 comprehensive stroke centers.

29 (cf: P.L.2004, c.136, s.5)

30

31 196. Section 6 of P.L.2004, c.136 (C.26:2H-12.32) is amended
32 to read as follows:

33 6. The Commissioner of Health **【and Senior Services】** shall,
34 not later than September 1, 2005, prepare and submit to the
35 Governor, the President of the Senate, and the Speaker of the
36 General Assembly a report indicating, as of June 30, 2005, the total
37 number of hospitals that shall have applied for grants under section
38 5 of this act and the number of those applicants that shall have been
39 found to be eligible for such grants, the total number of grants
40 awarded, the name and address of each grantee hospital and the
41 amount of the award to each, and the amount of each award that
42 shall have been paid to the grantee.

43 (cf: P.L.2004, c.136, s.6)

44

45 197. Section 1 of P.L.2007, c.65 (C.26:2H-12.33) is amended to
46 read as follows:

1 1. a. The Department of Health **and Senior Services** shall
2 make available to the public, through its official department
3 website, information regarding:

4 (1) the ownership of each long-term care facility and adult day
5 health services facility licensed by the department; and

6 (2) any violation of statutory standards or rules and regulations
7 of the department pertaining to the care of patients or physical plant
8 standards found at any such facility by the department.

9 b. The information made available to the public pursuant to
10 subsection a. of this section shall be provided in a manner that
11 would enable a member of the public to search the website by name
12 of a facility or its owner in order to access the information. The
13 department shall also make the information available in writing,
14 upon request.

15 c. The information regarding the ownership of a long-term care
16 or adult day health services facility that is made available to the
17 public pursuant to subsection a. of this section shall provide, at a
18 minimum: the name of the owner of a facility as listed on the
19 facility's license and, if there is more than one owner or the facility
20 is owned by a corporation, the name of each person who holds at
21 least a 10% interest in the facility; the name of any other licensed
22 long-term care or adult day health services facility in the State
23 owned by this owner, corporation, and each person who holds at
24 least a 10% interest in the facility, as applicable; and the address
25 and contact information for the facility.

26 d. The information that is displayed on the official department
27 website pursuant to subsection a. of this section shall include
28 Internet web links to the New Jersey Report Card for Nursing
29 Homes maintained by the department and the Medicare Nursing
30 Home Compare database maintained by the federal Centers for
31 Medicare & Medicaid Services.

32 (cf: P.L.2007, c.65, s.1)

33

34 198. Section 1 of P.L.2007, c.74 (C.26:2H-12.34) is amended to
35 read as follows:

36 1. a. (1) As a condition of serving as a member of the board of
37 trustees of a general hospital licensed pursuant to P.L.1971, c.136
38 (C.26:2H-1 et al.), a person shall be required to complete a training
39 program approved by the Commissioner of Health **and Senior**
40 **Services** that is designed to clarify the roles and duties of a
41 hospital trustee and is at least one day in length.

42 (2) The training shall be completed no later than six months
43 after the date that the person is appointed as a member of the board,
44 except that a person who is appointed as a member of a hospital
45 board of trustees on or after the date of enactment of this act but
46 prior to the effective date thereof shall complete the training no
47 later than six months after the effective date.

1 (3) A person who was appointed as a member of a hospital
2 board of trustees prior to the date of enactment of P.L.2007, c.74
3 shall complete the training no later than six months after the
4 effective date of P.L.2008, c.57.

5 b. The commissioner shall, in consultation with the New Jersey
6 Hospital Association, the Hospital Alliance of New Jersey, and the
7 New Jersey Council of Teaching Hospitals:

8 (1) prescribe the subject matter of the training, which shall
9 include, but need not be limited to, a review of the types of
10 financial, organizational, legal, regulatory, and ethical issues that a
11 hospital trustee may be required to consider in the course of
12 discharging the trustee's governance responsibilities;

13 (2) arrange for, or specify, the entity or entities to provide the
14 training;

15 (3) specify the timeframe within which the training is to be
16 completed;

17 (4) certify completion of the training for each trustee upon
18 receipt of documentation thereof, as provided on a form and in a
19 manner prescribed by the commissioner, or otherwise arrange for
20 certification by the training entity; and

21 (5) take such other actions as the commissioner determines
22 appropriate to effectuate the purposes of this act.

23 (cf: P.L.2008, c.57, s.1)

24
25 199. Section 2 of P.L.2007, c.120 (C.26:2H-12.36) is amended
26 to read as follows:

27 2. a. Within one month after the effective date of this act, all
28 general hospitals licensed by the Department of Health [and Senior
29 Services] pursuant to P.L.1971, c.136 (C.26:2H-1 et al.) shall
30 implement an infection prevention program in their intensive care
31 unit or units, as applicable, and if the hospital has no intensive care
32 unit, then in another high-risk unit such as a surgical unit, or other
33 unit where there is significant risk of facility-acquired infections.

34 Ultimately, the hospital shall expand the infection prevention
35 program to all areas of the hospital, with the exception of an
36 inpatient psychiatric unit, if applicable. The expansion of the
37 infection prevention program shall be completed as quickly as
38 feasible, taking into account the hospital's patient population,
39 physical plant, and other facility-specific circumstances.

40 b. In addition to any other best practices and effective
41 strategies, the hospital shall incorporate the following strategies:

42 (1) identification and isolation of both colonized and infected
43 patients by screening patients upon admission in order to break the
44 chain of transmission;

45 (2) contact precautions for patients found to be MRSA positive,
46 as "contact precautions" is defined by the Centers for Disease
47 Control and Prevention;

1 (3) patient cultures for MRSA upon discharge or transfer from
2 the unit where the infection prevention program has been
3 implemented, and flagging of patients who are readmitted to the
4 hospital;

5 (4) strict adherence to hygiene guidelines;

6 (5) a written infections prevention and control policy with input
7 from frontline caregivers; and

8 (6) a worker education requirement regarding modes of
9 transmission of MRSA, use of protective equipment, disinfection
10 policies and procedures, and other preventive measures.

11 c. A general hospital shall report to the Department of Health
12 **【and Senior Services】**, in a manner and according to a schedule
13 prescribed by the Commissioner of Health **【and Senior Services】**,
14 the number of cases of hospital-acquired MRSA that occur in its
15 facility.

16 (cf: P.L.2007, c.120, s.2)

17

18 200. Section 3 of P.L.2007, c.120 (C.26:2H-12.37) is amended
19 to read as follows:

20 3. A general hospital that is in violation of the provisions of
21 this act shall be subject to such penalties as the Commissioner of
22 Health **【and Senior Services】** may determine pursuant to sections
23 13 and 14 of P.L.1971, c.136 (C.26:2H-13 and 26:2H-14).

24 (cf: P.L.2007, c.20, s.3)

25

26 201. Section 2 of P.L.2007, c.196 (C.26:2H-12.40) is amended
27 to read as follows:

28 2. The Legislature finds and declares:

29 a. Health care facility-associated infections constitute a major
30 public health problem in this country, affecting from 5% to 10% of
31 hospitalized patients annually, resulting in an estimated two million
32 infections, and 90,000 deaths, and adding an estimated \$4.5 to \$5.7
33 billion in health care costs;

34 b. Many health care facility-associated infections can be
35 prevented, and a goal of zero health care facility-associated
36 infections is desirable. There are many simple and effective
37 practices in hospitals that can dramatically reduce the incidence of
38 health care facility-associated infections, such as hand washing,
39 using gloves and properly sterilized equipment, and following the
40 same established best practices, every time, for procedures such as
41 the insertion of an intravenous tube to deliver fluids and
42 medication;

43 c. The uniform reporting of health care facility-associated
44 infections to the State, and the review and analysis of this data by
45 the Department of Health **【and Senior Services】**, will provide a
46 measurable means to assist hospitals in improving patient
47 outcomes;

1 d. The federal Centers for Disease Control and Prevention
2 recommends that states establishing public reporting systems for
3 health care facility-associated infections focus on major site
4 categories to report rates of health care facility-associated infections
5 related to procedures and conditions including, but not limited to,
6 urinary tract infections, surgical site infections, ventilator-
7 associated pneumonia, and central line-related bloodstream
8 infections. A focus on major site categories helps ensure that data
9 collection is concentrated in populations where health care facility-
10 associated infections are more prevalent, and that the infection rates
11 reported are most useful for targeting prevention practices and
12 making comparisons among hospitals and within hospitals, over
13 time;

14 e. The Department of Health **[and Senior Services]** currently
15 provides comparative hospital performance data in its annual New
16 Jersey Hospital Performance Report, and including information
17 about hospital infection rates will further enhance the value of the
18 report to the public and health care providers; and

19 f. Therefore, it is a matter of public health and fiscal policy
20 that patients in New Jersey's hospitals receive health care that
21 incorporates best practices in infection control, not only to protect
22 their health and lives, but also to ensure the economic viability of
23 New Jersey's hospitals.

24 (cf: P.L.2007, c.196, s.2)

25

26 202. Section 3 of P.L.2007, c.196 (C.26:2H-12.41) is amended
27 to read as follows:

28 3. A general hospital licensed pursuant to P.L.1971, c.136
29 (C.26:2H-1 et al.) shall be required to report quarterly to the
30 Department of Health **[and Senior Services]**, in a form and manner
31 prescribed by the Commissioner of Health **[and Senior Services]**:

32 a. process quality indicators of hospital infection control that
33 have been identified by the federal Centers for Medicare **[and]** &
34 Medicaid Services, as selected by the commissioner in consultation
35 with the Quality Improvement Advisory Committee within the
36 department; and

37 b. beginning 30 days after the adoption of regulations pursuant
38 to this act, data on infection rates for the major site categories that
39 define health care facility-associated infection locations, multiple
40 infections, and device-related and non-device related infections,
41 identified by the federal Centers for Disease Control and
42 Prevention, as selected by the commissioner in consultation with
43 the Quality Improvement Advisory Committee within the
44 department.

45 (cf: P.L.2011, c.42, s.1)

46

47 203. Section 5 of P.L.2007, c.196 (C.26:2H-12.43) is amended
48 to read as follows:

1 5. The commissioner shall make available to members of the
2 public, on the official Internet website of the Department of Health
3 **【and Senior Services】**, the information reported pursuant to this act,
4 in such a format as the commissioner deems appropriate to enable
5 comparison among hospitals, with respect to the information, and
6 shall include information in the New Jersey Hospital Performance
7 Report annually issued by the commissioner that measures the
8 performance of general hospitals in the State with respect to process
9 quality indicators and health care facility-associated infection
10 among patients.

11 (cf: P.L.2007, c.196, s.5)

12

13 204. Section 3 of P.L.2007, c.247 (C.26:2H-12.48) is amended
14 to read as follows:

15 3. A health care professional shall provide to each patient to
16 whom that individual is providing prenatal care, as early as
17 practicable in the health care professional's therapeutic relationship
18 with the patient, preferably in the first trimester, a copy of the
19 brochure prepared by the Division of Family Health Services in the
20 Department of Health **【and Senior Services】** that may be
21 downloaded from the website of the department, which is designed
22 to answer common questions about umbilical cord and placental
23 blood donation and storage, including the NMDP-affiliated public
24 umbilical cord blood bank and private umbilical cord blood bank
25 options and the differences between and benefits of these options.
26 The health care professional shall offer to discuss the information
27 contained in the brochure with the patient.

28 (cf: P.L.2007, c.247, s.3)

29

30 205. Section 2 of P.L.2008, c.59 (C.26:2H-12.51) is amended to
31 read as follows:

32 2. The Department of Health **【and Senior Services】** shall post
33 the notice of a hospital's annual public meeting on the department's
34 website.

35 (cf: P.L.2008, c.59, s.2)

36

37 206. Section 1 of P.L.2008, c.60 (C.26:2H-12.52) is amended to
38 read as follows:

39 1. A hospital licensed by the Department of Health **【and Senior
40 Services】** pursuant to P.L.1971, c.136 (C.26:2H-1 et al.) shall
41 charge a patient who is an uninsured resident of this State, and
42 whose family gross income is less than 500% of the federal poverty
43 level, an amount no greater than 115% of the applicable payment
44 rate under the federal Medicare program, established pursuant to
45 Pub.L.89-97 (42 U.S.C.s.1395 et seq.), for the health care services
46 rendered to the patient. The amount shall be in accordance with the

1 sliding scale based on income developed by the department
2 pursuant to this act.

3 (cf: P.L.2008, c.60, s.1)

4

5 207. Section 2 of P.L.2008, c.60 (C.26:2H-12.53) is amended to
6 read as follows:

7 2. The Department of Health **【and Senior Services】** shall
8 establish a sliding scale based on income which stipulates the
9 percentage of a hospital charge that an uninsured resident of this
10 State whose family gross income is less than 500% of the federal
11 poverty level is required to pay for health care services rendered at
12 a hospital.

13 (cf: P.L.2008, c.60, s.2)

14

15 208. Section 2 of P.L.2009, c.61 (C.26:2H-12.57) is amended to
16 read as follows:

17 2. The Department of Health **【and Senior Services】**, in
18 consultation with the Division of Medical Assistance and Health
19 Services in the Department of Human Services, shall prepare a
20 written informational sheet for assisted living facilities that explains
21 eligibility for participation in a federally approved 1915(c)
22 Medicaid waiver program that provides assisted living services.
23 The informational sheets shall be available on the website of the
24 Department of Health **【and Senior Services】** and shall be updated
25 by the Department of Health **【and Senior Services】** as necessary to
26 reflect a change in eligibility for the programs.

27 (cf: P.L.2009, c.61, s.2)

28

29 209. Section 3 of P.L.2009, c.61 (C.26:2H-12.58) is amended to
30 read as follows:

31 3. The Department of Health **【and Senior Services】** shall
32 distribute the applicable informational sheets, prepared and updated
33 pursuant to section 2 of this act, to all licensed assisted living
34 facilities in the State.

35 (cf: P.L.2009, c.61, s.3)

36

37 210. Section 1 of P.L.2010, c.61 (C.26:2H-12.59) is amended to
38 read as follows:

39 1. a. The Commissioner of Health **【and Senior Services】** shall
40 prepare an online brochure for display on the Internet website of the
41 Department of Health **【and Senior Services】**, based upon
42 information derived from the National Marrow Donor Program, or
43 NMDP, which may be downloaded by physicians and utilized by
44 the commissioner for the purposes of subsection c. of this section,
45 and shall be designed to inform patients of the option to become a
46 bone marrow or peripheral blood stem cell, or PBSC, donor by

1 registering with the NMDP and to answer common questions about
2 bone marrow and peripheral blood stem cell, or PBSC, donation.

3 b. The brochure shall describe:

4 (1) the health benefits to the community from making a bone
5 marrow or PBSC donation through the NMDP;

6 (2) how to register with the NMDP;

7 (3) the procedures for making a bone marrow or PBSC donation
8 through the NMDP, including notice that there is no charge to the
9 donor or the donor's family for making the donation;

10 (4) the circumstances and procedures by which a patient may
11 receive a transfusion of the patient's previously donated blood; and

12 (5) any other aspects of bone marrow or PBSC donation that the
13 commissioner deems appropriate for the purposes of this act.

14 c. The commissioner, within the limits of resources available to
15 the Department of Health **[and Senior Services]** for this purpose,
16 shall seek to promote awareness among physicians and the general
17 public in this State about the option to become a bone marrow or
18 PBSC donor. In doing so, the commissioner shall consult with at
19 least the following: the Medical Society of New Jersey, the Institute
20 of Medicine and Public Health of New Jersey, the NMDP, and other
21 organizations that are seeking to increase bone marrow and PBSC
22 donation among various ethnic groups within the State in need of
23 these donations.

24 (cf: P.L.2010, c.61, s.1)

25

26 211. Section 1 of P.L.2011, c.16 (C.26:2H-12.61) is amended to
27 read as follows:

28 1. a. If a facility licensed to operate as an assisted living
29 residence or comprehensive personal care home pursuant to
30 P.L.1971, c.136 (C.26:2H-1 et seq.) opts to surrender its license and
31 has promised a resident of the facility or the resident's responsible
32 party, in writing through a resident agreement or other instrument,
33 or through a condition of licensure or certificate of need with the
34 Department of Health **[and Senior Services]**, that it will not
35 discharge a resident who becomes Medicaid-eligible, as that term is
36 defined in section 1 of P.L.2001, c.234 (C.26:2H-12.16), the facility
37 shall escrow sufficient funds, as determined by the Commissioner
38 of Health **[and Senior Services]**, to cover the cost of providing
39 **[such]** a resident with care in an alternate State-licensed assisted
40 living residence or comprehensive personal care home for as long as
41 the resident shall require **[such]** care.

42 b. The facility shall cover any costs necessary to utilize **[such]**
43 actuarial services as the Department of Health **[and Senior**
44 **Services]** may require to determine the amount to be escrowed
45 pursuant to subsection a. of this section.

46 c. In the event of a facility bankruptcy, any monies left over
47 after all creditors have been paid shall be used, to the maximum

1 extent practicable, to cover the cost of care provided to a resident in
2 an alternate State-licensed assisted living residence or
3 comprehensive personal care home pursuant to subsection a. of this
4 section.

5 (cf: P.L.2011, c.16, s.1)

6

7 212. Section 7 of P.L.2007, c.225 (C.26:2H-14.14) is amended
8 to read as follows:

9 7. 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 Department 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.225, s.7)

15

16 213. Section 8 of P.L.2007, c.225, s.8 (C.26:2H-14.15) is
17 amended to read as follows:

18 8. 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.), within 12
21 months of the date of enactment of this act, to carry out the
22 purposes of this act.

23 (cf: P.L.2007, c.225, s.8)

24

25 214. Section 3 of P.L.1987, c.299 (C.26:2H-18c) is amended to
26 read as follows:

27 3. a. The Commissioner of Health **【and Senior Services】**,
28 subject to the provisions of subsection b. of this section, shall
29 designate Cooper University Hospital in the City of Camden as the
30 State's specialty acute care children's hospital in southern New
31 Jersey for the counties of Atlantic, Burlington, Camden, Cape May,
32 Cumberland, Gloucester, and Salem.

33 b. The designation by the Commissioner of Health **【and Senior
34 Services】** pursuant to subsection a. of this section shall be made
35 subsequent to, and shall be contingent upon, the execution of a
36 written agreement between Cooper University Hospital and a
37 majority of the acute care hospitals providing inpatient pediatric
38 services which are located in the counties listed in subsection a. of
39 this section.

40 The written agreement shall state that the other facility
41 recognizes Cooper University Hospital as the State's specialty acute
42 care children's hospital for the counties listed in subsection a. of
43 this section and shall set forth the basis on which the other facility
44 shall make referrals to Cooper University Hospital.

45 (cf: P.L.2005, c.116, s.2)

1 215. Section 1 of P.L.1992, c.181 (C.26:2H-18d) is amended to
2 read as follows:

3 1. a. The Commissioner of Health **[and Senior Services]**,
4 subject to the provisions of subsection b. of this section, shall
5 designate Robert Wood Johnson University Hospital/St. Peter's
6 University Hospital in the City of New Brunswick as the State's
7 specialty acute care children's hospital in central New Jersey for the
8 counties of Hunterdon, Mercer, Middlesex, and Somerset.

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 Robert Wood Johnson University
13 Hospital/St. Peter's University Hospital and a majority of the acute
14 care hospitals providing inpatient pediatric services which are
15 located in the counties listed in subsection a. of this section.

16 The written agreement shall state that the other facility
17 recognizes Robert Wood Johnson University Hospital/St. Peter's
18 University Hospital as the State's specialty acute care children's
19 hospital for the counties listed in subsection a. of this section and
20 shall set forth the basis on which the other facility shall make
21 referrals to Robert Wood Johnson University Hospital/St. Peter's
22 University Hospital.

23 (cf: P.L.2005, c.116, s.3)

24

25 216. Section 1 of P.L.1993, c.374 (C.26:2H-18e) is amended to
26 read as follows:

27 1. a. The Commissioner of Health **[and Senior Services]**,
28 subject to the provisions of subsection b. of this section, shall
29 designate St. Joseph's Hospital and Medical Center in the City of
30 Paterson as the State's specialty acute care children's hospital for the
31 counties of Bergen, Passaic, Sussex, and Warren.

32 b. The designation by the Commissioner of Health **[and Senior**
33 **Services]** pursuant to subsection a. of this section shall be made
34 subsequent to, and shall be contingent upon, the execution of a
35 written agreement between St. Joseph's Hospital and Medical
36 Center and a majority of the acute care hospitals providing inpatient
37 pediatric services which are located in the counties listed in
38 subsection a. of this section.

39 The written agreement shall state that the other facility
40 recognizes St. Joseph's Hospital and Medical Center as the State's
41 specialty acute care children's hospital for the counties listed in
42 subsection a. of this section and shall set forth the basis on which
43 the other facility shall make referrals to St. Joseph's Hospital and
44 Medical Center.

45 (cf: P.L.2003, c.98, s.3)

1 217. Section 2 of P.L.2003, c.98 (C.26:2H-18f) is amended to
2 read as follows:

3 2. a. The Commissioner of Health **[and Senior Services]**,
4 subject to the provisions of subsection b. of this section, shall
5 designate Morristown Memorial Hospital as the State's specialty
6 acute care children's hospital for Morris and Union counties.

7 b. The designation by the Commissioner of Health **[and Senior**
8 **Services]** pursuant to subsection a. of this section shall be made
9 subsequent to, and shall be contingent upon, the execution of
10 written transfer agreements between Morristown Memorial Hospital
11 and a majority of the acute care hospitals providing inpatient
12 pediatric services which are located in Morris and Union counties.

13 The written agreement shall state that the other facility
14 recognizes Morristown Memorial Hospital as the State's specialty
15 acute care children's hospital for Morris and Union counties and
16 shall set forth the basis on which the other facility shall make
17 referrals to Morristown Memorial Hospital.

18 (cf: P.L.2003, c.98, s.2)

19

20 218. Section 1 of P.L.2005, c.116 (C.26:2H-18g) is amended to
21 read as follows:

22 1. a. The Commissioner of Health **[and Senior Services]**,
23 subject to the provisions of subsection b. of this section, shall
24 designate Jersey Shore University Medical Center and Monmouth
25 Medical Center, each, as the State's specialty acute care children's
26 hospitals for Monmouth and Ocean counties, subject to the
27 commissioner's determination that each hospital meets all of the
28 licensure criteria that apply to a children's hospital and has met and
29 complied with all of the requirements to obtain State authorization
30 to offer the component services that constitute a children's hospital.
31 The commissioner's determination and the designation pursuant
32 thereto shall be made separately for each hospital; and the
33 commissioner's decision on the designation of each hospital shall be
34 made independently of, and shall not be contingent upon, the
35 decision on the designation of the other hospital.

36 b. The designation of each hospital by the Commissioner of
37 Health **[and Senior Services]** pursuant to subsection a. of this
38 section shall be made subsequent to, and shall be contingent upon,
39 the execution of written transfer agreements, respectively, between:
40 Jersey Shore University Medical Center and a majority of the acute
41 care hospitals providing inpatient pediatric services located in
42 Monmouth and Ocean counties; and Monmouth Medical Center and
43 a majority of the acute care hospitals providing inpatient pediatric
44 services located in Monmouth and Ocean counties.

45 The written agreement shall state that the other facility
46 recognizes Jersey Shore University Medical Center and Monmouth
47 Medical Center, as applicable, as the State's specialty acute care

1 children's hospitals for Monmouth and Ocean counties and shall set
2 forth the basis on which the other facility shall make referrals to
3 Jersey Shore University Medical Center or Monmouth Medical
4 Center, as applicable.

5 (cf: P.L.2005, c.116, s.1)

6

7 219. Section 1 of P.L.2011, c.208 (C.26:2H-18h) is amended to
8 read as follows:

9 1. a. The Commissioner of Health **[and Senior Services]** may
10 issue a nursing facility license for a facility that provides care for
11 Huntington's Disease.

12 b. The commissioner, pursuant to the "Administrative
13 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), may adopt
14 rules and regulations to effectuate the purposes of this act.

15 (cf: P.L.2011, c.208, s.1)

16

17 220. Section 2 of P.L.1992, c.160 (C.26:2H-18.52) is amended
18 to read as follows:

19 2. As used in sections 1 through 17 of P.L.1992, c.160
20 (C.26:2H-18.51 through 26:2H-18.67), sections 12 through 15 of
21 P.L.1995, c.133 (C.26:2H-18.59a through C.26:2H-18.59d),
22 sections 7 through 12 of P.L.1996, c.28 (C.26:2H-18.59e et al.) and
23 sections 6, 8, 10 and 11 of P.L.1997, c.263 (C.26:2H-18.58e,
24 C.26:2H-18.58f, C.26:2H-18.58d and C.26:2H-18.59h):

25 "Administrator" means the administrator of the Health Care
26 Subsidy Fund appointed by the commissioner.

27 "Charity care" means care provided at disproportionate share
28 hospitals that may be eligible for a charity care subsidy pursuant to
29 this act.

30 "Charity care subsidy" means the component of the
31 disproportionate share payment that is attributable to care provided
32 at a disproportionate share hospital to persons unable to pay for that
33 care, as provided in this act.

34 "Commission" means the New Jersey Essential Health Services
35 Commission established pursuant to section 4 of this act.

36 "Commissioner" means the Commissioner of Health **[and Senior
37 Services]**.

38 "Department" means the Department of Health **[and Senior
39 Services]**.

40 "Disproportionate share hospital" means a hospital designated by
41 the Commissioner of Human Services pursuant to Pub.L.89-97 (42
42 U.S.C. s.1396a et seq.) and Pub.L.102-234.

43 "Disproportionate share payment" means those payments made
44 by the Division of Medical Assistance and Health Services in the
45 Department of Human Services to hospitals defined as
46 disproportionate share hospitals by the Commissioner of Human
47 Services in accordance with federal laws and regulations applicable

1 to hospitals serving a disproportionate number of low income
2 patients.

3 "Fund" means the Health Care Subsidy Fund established
4 pursuant to section 8 of this act.

5 "Hospital" means an acute care hospital licensed by the
6 Department of Health [and Senior Services] pursuant to P.L.1971,
7 c.136 (C.26:2H-1 et al.).

8 "Medicaid" means the New Jersey Medical Assistance and
9 Health Services Program in the Department of Human Services
10 established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).

11 "Medicare" means the program established pursuant to Pub.L.89-
12 97 (42 U.S.C. s.1395 et seq.).
13 (cf: P.L.1997, c.263, s.1)

14

15 221. Section 2 of P.L.2006, c.87 (C.26:2H-18.55a) is amended
16 to read as follows:

17 2. a. The Commissioner of Health [and Senior Services] shall
18 compile, to the extent data are available, the following information
19 about recipients of charity care who are employed:

20 (1) the employer's name and address;

21 (2) the number of recipients of charity care who are employed
22 by the employer; and

23 (3) the cost to the State of providing charity care for the
24 employer's employees and their dependents.

25 b. In order to compile the information required pursuant to this
26 section, the commissioner may require hospitals and other health
27 care facilities to submit such information as may be necessary for
28 this purpose.

29 c. The commissioner may include comparable information
30 about recipients of other public health care coverage programs, and
31 [such] other information as the commissioner deems appropriate
32 regarding employer-based coverage for persons covered under
33 public insurance programs.

34 d. The information compiled by the commissioner shall not
35 include the name of any charity care recipient or any family
36 member of a recipient.

37 e. The commissioner shall provide the information required
38 pursuant to this section to the Commissioner of Human Services for
39 inclusion in the annual report on Access to Employer-Based Health
40 Insurance, as provided in section 1 of P.L.2006, c.87 (C.30:4J-17).
41 (cf: P.L.2006, c.87, s.2)

42

43 222. Section 7 of P.L.1992, c.160 (C.26:2H-18.57) is amended
44 to read as follows:

45 7. a. Effective January 1, 1994, the Department of Health [and
46 Senior Services] shall assess each hospital a per adjusted admission
47 charge of **[\$10.00]** \$10.

1 Of the revenues raised by the hospital per adjusted admission
2 charge, **[\$5.00]** \$5 per adjusted admission shall be used by the
3 department to carry out its duties pursuant to P.L.1992, c.160
4 (C.26:2H-18.51 et al.) and **[\$5.00]** \$5 per adjusted admission shall
5 be used by the department for administrative costs related to health
6 planning.

7 b. Effective July 1, 2004, the department shall assess each
8 licensed ambulatory care facility that is licensed to provide one or
9 more of the following ambulatory care services: ambulatory
10 surgery, computerized axial tomography, comprehensive outpatient
11 rehabilitation, extracorporeal shock wave lithotripsy, magnetic
12 resonance imaging, megavoltage radiation oncology, positron
13 emission tomography, orthotripsy, and sleep disorder services. The
14 Commissioner of Health **[and Senior Services]** may, by regulation,
15 add additional categories of ambulatory care services that shall be
16 subject to the assessment if such services are added to the list of
17 services provided in N.J.A.C.8:43A-2.2(b) after the effective date
18 of P.L.2004, c.54.

19 The assessment established in this subsection shall not apply to
20 an ambulatory care facility that is licensed to a hospital in this State
21 as an off-site ambulatory care service facility.

22 (1) For Fiscal Year 2005, the assessment on an ambulatory care
23 facility providing one or more of the services listed in this
24 subsection shall be based on gross receipts for the 2003 tax year as
25 follows:

26 (a) a facility with less than \$300,000 in gross receipts shall not
27 pay an assessment; and

28 (b) a facility with at least \$300,000 in gross receipts shall pay an
29 assessment equal to 3.5% of its gross receipts or \$200,000,
30 whichever amount is less.

31 The commissioner shall provide notice no later than August 15,
32 2004 to all facilities that are subject to the assessment that the first
33 payment of the assessment is due October 1, 2004 and that proof of
34 gross receipts for the facility's tax year ending in calendar year 2003
35 shall be provided by the facility to the commissioner no later than
36 September 15, 2004. If a facility fails to provide proof of gross
37 receipts by September 15, 2004, the facility shall be assessed the
38 maximum rate of \$200,000 for Fiscal Year 2005.

39 The Fiscal Year 2005 assessment shall be payable to the
40 department in four installments, with payments due October 1,
41 2004, January 1, 2005, March 15, 2005 and June 15, 2005.

42 (2) For Fiscal Year 2006, the commissioner shall use the
43 calendar year 2004 data submitted in accordance with subsection c.
44 of this section to calculate a uniform gross receipts assessment rate
45 for each facility with gross receipts over \$300,000 that is subject to
46 the assessment, except that no facility shall pay an assessment
47 greater than \$200,000. The rate shall be calculated so as to raise the
48 same amount in the aggregate as was assessed in Fiscal Year 2005.

1 A facility shall pay its assessment to the department in four
2 payments in accordance with a timetable prescribed by the
3 commissioner.

4 (3) Beginning in Fiscal Year 2007 and for each fiscal year
5 thereafter through Fiscal Year 2010, the uniform gross receipts
6 assessment rate calculated in accordance with paragraph (2) of this
7 subsection shall be applied to each facility subject to the assessment
8 with gross receipts over \$300,000, as those gross receipts are
9 documented in the facility's most recent annual report to the
10 department, except that no facility shall pay an assessment greater
11 than \$200,000. A facility shall pay its annual assessment to the
12 department in four payments in accordance with a timetable
13 prescribed by the commissioner.

14 (4) Beginning in Fiscal Year 2011 and for each fiscal year
15 thereafter, the uniform gross receipts assessment shall be applied at
16 the rate of 2.95% to each facility subject to the assessment with
17 gross receipts over \$300,000, as those gross receipts are
18 documented in the facility's most recent annual report submitted to
19 the department pursuant to subsection c. of this section, except that
20 no facility shall pay an assessment greater than \$350,000. A
21 facility shall pay its annual assessment to the department in four
22 payments in accordance with a timetable prescribed by the
23 commissioner.

24 c. Each ambulatory care facility that is subject to the
25 assessment provided in subsection b. of this section shall submit an
26 annual report including, at a minimum, data on volume of patient
27 visits, charges, and gross revenues, by payer type, for patient
28 services, beginning with calendar year 2004 data. The annual
29 report shall be submitted to the department according to a timetable
30 and in a form and manner prescribed by the commissioner.

31 The department may audit selected annual reports in order to
32 determine their accuracy.

33 d. (1) If, upon audit as provided for in subsection c. of this
34 section, it is determined that an ambulatory care facility understated
35 its gross receipts in its annual report to the department, the facility's
36 assessment for the fiscal year that was based on the defective report
37 shall be retroactively increased to the appropriate amount and the
38 facility shall be liable for a penalty in the amount of the difference
39 between the original and corrected assessment.

40 (2) A facility that fails to provide the information required
41 pursuant to subsection c. of this section shall be liable for a civil
42 penalty not to exceed \$500 for each day in which the facility is not
43 in compliance.

44 (3) A facility that is operating one or more of the ambulatory
45 care services listed in subsection b. of this section without a license
46 from the department, on or after July 1, 2004, shall be liable for
47 double the amount of the assessment provided for in subsection b.
48 of this section, in addition to such other penalties as the department

1 may impose for operating an ambulatory care facility without a
2 license.

3 (4) The commissioner shall recover any penalties provided for
4 in this subsection in an administrative proceeding in accordance
5 with the "Administrative Procedure Act," P.L.1968, c.410
6 (C.52:14B-1 et seq.).

7 e. The revenues raised by the ambulatory care facility
8 assessment pursuant to this section shall be deposited in the Health
9 Care Subsidy Fund established pursuant to section 8 of P.L.1992,
10 c.160 (C.26:2H-18.58).

11 (cf: P.L.2010, c.23, s.1)

12

13 223. Section 8 of P.L.1992, c.160 (C.26:2H-18.58) is amended
14 to read as follows:

15 8. There is established the Health Care Subsidy Fund in the
16 Department of Health **[and Senior Services]**.

17 a. The fund shall be comprised of revenues from employee and
18 employer contributions made pursuant to section 29 of P.L.1992,
19 c.160 (C.43:21-7b), revenues from the hospital assessment made
20 pursuant to section 12 of P.L.1992, c.160 (C.26:2H-18.62),
21 revenues pursuant to section 11 of P.L.1996, c.28 (C.26:2H-
22 18.58c), revenues from interest and penalties collected pursuant to
23 this act and revenues from **[such]** other sources as the Legislature
24 shall determine. Interest earned on the monies in the fund shall be
25 credited to the fund. The fund shall be a nonlapsing fund dedicated
26 for use by the State to: (1) distribute charity care and other
27 uncompensated care disproportionate share payments to hospitals,
28 and other eligible providers pursuant to section 8 of P.L.1996, c.28
29 (C.26:2H-18.59f), provide subsidies for the Health Access New
30 Jersey program established pursuant to section 15 of P.L.1992,
31 c.160 (C.26:2H-18.65), and provide funding for children's health
32 care coverage in the NJ FamilyCare Program pursuant to
33 **[P.L.1997, c.272 (C.30:4I-1 et seq.)] P.L.2005, c.156 (C.30:4J-8 et**
34 **al.)**; (2) provide funding for federally qualified health centers
35 pursuant to section 12 of P.L.1992, c.160 (C.26:2H-18.62); and (3)
36 provide for the payment in State fiscal year 2002 of appropriate
37 Medicaid expenses, subject to the approval of the Director of the
38 Division of Budget and Accounting.

39 b. The fund shall be administered by a person appointed by the
40 commissioner.

41 The administrator of the fund is responsible for overseeing and
42 coordinating the collection and reimbursement of fund monies. The
43 administrator is responsible for promptly informing the
44 commissioner if monies are not or are not reasonably expected to be
45 collected or disbursed.

46 c. The commissioner shall adopt rules and regulations to ensure
47 the integrity of the fund, pursuant to the "Administrative Procedure
48 Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

1 d. The administrator shall establish separate accounts for the
2 charity care component of the disproportionate share hospital
3 subsidy, other uncompensated care component of the
4 disproportionate share hospital subsidy, federally qualified health
5 centers funding, and the payments for subsidies for insurance
6 premiums to provide care in disproportionate share hospitals,
7 known as the Health Access New Jersey subsidy account,
8 respectively.

9 e. In the event that the charity care component of the
10 disproportionate share hospital subsidy account has a surplus in a
11 given year after payments are distributed pursuant to the
12 methodology established in section 13 of P.L.1995, c.133 (C.26:2H-
13 18.59b) and section 7 of P.L.1996, c.28 (C.26:2H-18.59e) and
14 within the limitations provided in subsection e. of section 9 of
15 P.L.1992, c.160 (C.26:2H-18.59), the surplus monies in calendar
16 years 2002, 2003 and 2004 shall lapse to the unemployment
17 compensation fund established pursuant to R.S.43:21-9, and each
18 year thereafter shall lapse to the charity care component of the
19 disproportionate share hospital subsidy account for distribution in
20 subsequent years.

21 (cf: P.L.2005, c.237, s.1)

22
23 224. Section 6 of P.L.1997, c.263 (C.26:2H-18.58e) is amended
24 to read as follows:

25 6. a. The Commissioner of Health **【and Senior Services】** shall
26 transfer to the Hospital Health Care Subsidy account, known as the
27 Hospital Relief Fund, in the Division of Medical Assistance and
28 Health Services in the Department of Human Services from the
29 Health Care Subsidy Fund, \$50.75 million in fiscal year 998 and
30 \$101.5 million each fiscal year thereafter, according to a schedule
31 to be determined by the Commissioner of Health **【and Senior**
32 **Services】** in consultation with the Commissioner of Human
33 Services. These funds shall be distributed to eligible
34 disproportionate share hospitals according to a methodology
35 adopted by the Commissioner of Human Services pursuant to
36 N.J.A.C.10:52-8.2, using hospital expenditure data for the most
37 recent calendar year available for reimbursements from these funds.

38 b. In fiscal year 1998 and each fiscal year thereafter, the
39 Governor shall recommend and the Legislature shall appropriate to
40 the Hospital Health Care Subsidy account for distribution to
41 disproportionate share hospitals which are eligible for
42 reimbursement pursuant to subsection a. of this section, those
43 federal funds received in connection with the provision of hospital
44 reimbursements from that account.

45 (cf: P.L.1997, c.263, s.6)

46
47 225. Section 8 of P.L.1997, c.263 (C.26:2H-18.58f) is amended
48 to read as follows:

1 8. a. The Commissioner of Health **【and Senior Services】** shall
2 transfer to the Division of Medical Assistance and Health Services
3 in the Department of Human Services from the Health Care Subsidy
4 Fund, \$23.8 million in fiscal year 1998, \$47.6 million in fiscal year
5 1999, and an amount in each succeeding fiscal year that is
6 necessary to obtain the maximum amount of federal funds to which
7 the State is entitled in order to provide children's health care
8 coverage in the NJ FamilyCare Program pursuant to **【P.L.1997,**
9 **c.272 (C.30:4I-1 et seq.)】** P.L.2005, c.156 (C.30:4J-8 et al.),
10 according to a schedule to be determined by the Commissioner of
11 Health **【and Senior Services】** in consultation with the
12 Commissioner of Human Services. These funds shall be expended
13 to provide children's health care coverage in the NJ FamilyCare
14 Program pursuant to **【P.L.1997, c.272 (C.30:4I-1 et seq.)】**
15 P.L.2005, c.156.

16 b. In fiscal year 1999 and each fiscal year thereafter, the
17 Governor shall recommend and the Legislature shall appropriate to
18 the Division of Medical Assistance and Health Services for the
19 purposes of subsection a. of this section, those federal funds
20 received in connection with the provision of children's health care
21 coverage in the NJ FamilyCare Program pursuant to **【P.L.1997,**
22 **c.272 (C.30:4I-1 et seq.)】** P.L.2005, c.156.

23 (cf: P.L.1997, c.263, s.8)

24

25 226. Section 4 of P.L.1997, c.264 (C.26:2H-18.58g) is amended
26 to read as follows:

27 4. Notwithstanding the provisions of any other law to the
28 contrary,

29 a. commencing July 1, 1998 and ending June 30, 2006: after
30 the deposit required pursuant to section 5 of P.L.1982, c.40
31 (C.54:40A-37.1), the first \$150,000,000 of revenue collected
32 annually from the cigarette tax imposed pursuant to P.L.1948, c.65
33 (C.54:40A-1 et seq.) and the first \$5,000,000 of revenue collected
34 annually from the "Tobacco Products Wholesale Sales and Use Tax
35 Act," P.L.1990, c.39 (C.54:40B-1 et seq.), shall be deposited into
36 the Health Care Subsidy Fund established pursuant to section 8 of
37 P.L.1992, c.160 (C.26:2H-18.58); and the next \$390,000,000 of
38 revenue collected annually from the cigarette tax imposed pursuant
39 to P.L.1948, c.65 (C.54:40A-1 et seq.) shall be appropriated
40 annually for health programs, and the next \$50,000,000 of revenue
41 collected annually from the cigarette tax imposed pursuant to
42 P.L.1948, c.65 (C.54:40A-1 et seq.) shall be appropriated annually
43 to the New Jersey Economic Development Authority for payment of
44 debt service incurred by the authority for school facilities projects
45 and in fiscal years commencing July 1, 2002 and July 1, 2003, the
46 next \$30,000,000 of revenue collected annually from the cigarette
47 tax imposed pursuant to P.L.1948, c.65 (C.54:40A-1 et seq.) shall

1 be directed to the Department of Health **【and Senior Services】** to
2 fund anti-smoking initiatives, except that the amount shall be
3 \$40,000,000 in the fiscal year commencing July 1, 2004 and
4 \$45,000,000 in the fiscal year commencing July 1, 2005; and

5 b. commencing with fiscal years beginning on and after July 1,
6 2006, after the deposit required pursuant to section 5 of P.L.1982,
7 c.40 (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). In addition, commencing with
14 fiscal years beginning on and after July 1, 2006 but before July 1,
15 2009, there shall be deposited \$215,000,000 of revenue collected
16 annually from the cigarette tax imposed pursuant to P.L.1948, c.65
17 (C.54:40A-1 et seq.) in accordance with the provisions of section 5
18 of P.L.2004, c.68 (C.34:1B-21.20), and, commencing with fiscal
19 years beginning on and after July 1, 2009, there shall be deposited
20 \$241,500,000 of revenue collected annually from the cigarette tax
21 imposed pursuant to P.L.1948, c.65 (C.54:40A-1 et seq.) in
22 accordance with the provisions of section 5 of P.L.2004, c.68
23 (C.34:1B-21.20).

24 (cf: P.L.2009, c.70, s.3)

25

26 227. Section 9 of P.L.1997, c.263 (C.26:2H-18.59) is amended
27 to read as follows:

28 9. a. The commissioner shall allocate such funds as specified
29 in subsection e. of this section to the charity care component of the
30 disproportionate share hospital subsidy account. In a given year,
31 the department shall transfer from the fund to the Division of
32 Medical Assistance and Health Services in the Department of
33 Human Services such funds as may be necessary for the total
34 approved charity care disproportionate share payments to hospitals
35 for that year.

36 b. For the period January 1, 1993 to December 31, 1993, the
37 commission shall allocate \$500 million to the charity care
38 component of the disproportionate share hospital subsidy account.
39 The Department of Health **【and Senior Services】** shall recommend
40 the amount that the Division of Medical Assistance and Health
41 Services shall pay to an eligible hospital on a provisional, monthly
42 basis pursuant to paragraphs (1) and (2) of this subsection. The
43 department shall also advise the commission and each eligible
44 hospital of the amount a hospital is entitled to receive.

45 (1) The department shall determine if a hospital is eligible to
46 receive a charity care subsidy in 1993 based on the following:

1 Hospital Specific Approved Uncompensated Care-1991

2

3

4 Hospital Specific Preliminary Cost Base-1992

5

6 = Hospital Specific % Uncompensated Care (%UC)

7

8 A hospital is eligible for a charity care subsidy in 1993 if, upon
9 establishing a rank order of the %UC for all hospitals, the hospital
10 is among the 80% of hospitals with the highest %UC.

11

12 (2) The maximum amount of the charity care subsidy an eligible
13 hospital may receive in 1993 shall be based on the following:

14

15 Hospital Specific Approved Uncompensated Care-1991

16

17

18 Total approved Uncompensated Care All Eligible Hospitals-1991

19

20 X \$500 million

21

22 = Maximum Amount of Hospital Specific Charity Care Subsidy for
23 1993

24

25 (3) A hospital shall be required to submit all claims for charity
26 care cost reimbursement, as well as demographic information about
27 the persons who qualify for charity care, to the department in a
28 manner and time frame specified by the Commissioner of Health
29 **[and Senior Services]**, in order to continue to be eligible for a
30 charity care subsidy in 1993 and in subsequent years.

31 The demographic information shall include the recipient's age,
32 sex, marital status, employment status, type of health insurance
33 coverage, if any, and if the recipient is a child under 18 years of age
34 who does not have health insurance coverage or a married person
35 who does not have health insurance coverage, whether the child's
36 parent or the married person's spouse, as the case may be, has health
37 insurance.

38 (4) A hospital shall be reimbursed for the cost of eligible charity
39 care at the same rate paid to that hospital by the Medicaid program;
40 except that charity care services provided to emergency room
41 patients who do not require those services on an emergency basis
42 shall be reimbursed at a rate appropriate for primary care, according
43 to a schedule of payments developed by the commission.

44 (5) The department shall provide for an audit of a hospital's
45 charity care for 1993 within a time frame established by the
46 department.

47 c. For the period January 1, 1994 to December 31, 1994, a
48 hospital shall receive disproportionate share payments from the

1 Division of Medical Assistance and Health Services based on the
2 amount of charity care submitted to the commission or its
3 designated agent, in a form and manner specified by the
4 commission. The commission or its designated agent shall review
5 and price all charity care claims and notify the Division of Medical
6 Assistance and Health Services of the amount it shall pay to each
7 hospital on a monthly basis based on actual services rendered.

8 (1) (Deleted by amendment, P.L.1995, c.133.)

9 (2) If the commission is not able to fully implement the charity
10 care claims pricing system by January 1, 1994, the commission
11 shall continue to make provisional disproportionate share payments
12 to eligible hospitals, through the Division of Medical Assistance
13 and Health Services, based on the charity care costs incurred by all
14 hospitals in 1993, until such time as the commission is able to
15 implement the claims pricing system.

16 If there are additional charity care balances available after the
17 1994 distribution based on 1993 charity care costs, the department
18 shall transfer these available balances from the fund to the Division
19 of Medical Assistance and Health Services for an approved one-
20 time additional disproportionate share payment to hospitals
21 according to the methodology provided in section 12 of P.L.1995,
22 c.133 (C.26:2H-18.59a). The total payment for all hospitals shall
23 not exceed \$75.5 million.

24 (3) A hospital shall be reimbursed for the cost of eligible charity
25 care at the same rate paid to that hospital by the Medicaid program;
26 except that charity care services provided to emergency room
27 patients who do not require those services on an emergency basis
28 shall be reimbursed at a rate appropriate for primary care, according
29 to a schedule of payments developed by the commission.

30 (4) (Deleted by amendment, P.L.1995, c.133.)

31 d. (Deleted by amendment, P.L.1995, c.133.)

32 e. The total amount allocated for charity care subsidy payments
33 shall be: in 1994, \$450 million; in 1995, \$400 million; in 1996,
34 \$310 million; in 1997, \$300 million; for the period January 1, 1998
35 through June 30, 1998, \$160 million; and in fiscal year 1999 and
36 each fiscal year thereafter through fiscal year 2004, \$320 million.
37 Total payments to hospitals shall not exceed the amount allocated
38 for each given year.

39 f. Beginning January 1, 1995:

40 (1) The charity care subsidy shall be determined pursuant to
41 section 13 of P.L.1995, c.133 (C.26:2H-18.59b).

42 (2) A charity care claim shall be valued at the same rate paid to
43 that hospital by the Medicaid program, except that charity care
44 services provided to emergency room patients who do not require
45 those services on an emergency basis shall be valued at a rate
46 appropriate for primary care according to a schedule of payments
47 adopted by the commissioner.

1 (3) The department shall provide for an audit of a hospital's
2 charity care within a time frame established by the commissioner.

3 (cf: P.L.2004, c.113, s.1)

4
5 228. Section 9 of P.L.1996, c.28 (C.26:2H-18.59g) is amended
6 to read as follows:

7 9. The Commissioner of Health **[and Senior Services]**, in
8 consultation with the State Treasurer, shall establish a technology
9 infrastructure to support the provision of charity care pursuant to
10 P.L.1992, c.160 (C.26:2H-18.51 et al.).

11 The State Treasurer, in consultation with the Commissioners of
12 Health **[and Senior Services]** and Human Services may, if deemed
13 to be in the State's best interests, include system features and
14 provisions in the technology infrastructure to satisfy the
15 requirements of multiple programs and purposes, including, but not
16 limited to, programs such as, Medicaid, food stamps, public
17 assistance, and purposes such as the exchange and consolidation of
18 health care information permitted by law, eligibility and identity
19 verification, claims processing, the use of electronic patient
20 identification technology, and electronic data interchange.

21 (cf: P.L.1998, c.37, s.3)

22
23 229. Section 3 of P.L.2004, c.113 (C.26:2H-18.59i) is amended
24 to read as follows:

25 3. a. Beginning July 1, 2004 and each year thereafter:

26 (1) Reimbursed documented charity care shall be equal to the
27 Medicaid-priced amounts of charity care claims submitted to the
28 Department of Health **[and Senior Services]** for the most recent
29 calendar year, adjusted, as necessary, to reflect the annual audit
30 results. These amounts shall be augmented to reflect payments to
31 hospitals by the Medicaid program for Graduate Medical Education
32 and Indirect Medical Education based on the most recent Graduate
33 Medical Education and Indirect Medical Education formulas
34 utilized by the federal Medicare program.

35 (2) Hospital-specific reimbursed documented charity care shall
36 be equal to the Medicaid-priced dollar amount of charity care
37 provided by a hospital as submitted to the Department of Health
38 **[and Senior Services]** for the most recent calendar year. A sample
39 of the claims submitted by the hospital to the department shall be
40 subject to an annual audit conducted pursuant to applicable charity
41 care eligibility criteria.

42 b. Beginning July 1, 2004 and each year thereafter, the charity
43 care subsidy shall be determined according to the following
44 methodology:

45 (1) Each hospital shall be ranked in order of its hospital-
46 specific, relative charity care percentage, or RCCP, by dividing the
47 amount of hospital-specific gross revenue for charity care patients
48 by the hospital's total gross revenue for all patients.

1 (2) The nine hospitals with the highest RCCPs shall receive a
2 charity care payment equal to 96% of each hospital's hospital-
3 specific reimbursed documented charity care. The hospital ranked
4 number 10 shall receive a charity care payment equal to 94% of its
5 hospital-specific reimbursed documented charity care, and each
6 hospital ranked number 11 and below shall receive two percentage
7 points less than the hospital ranked immediately above that hospital.

8 (3) Notwithstanding the provisions of paragraph (2) of this
9 subsection to the contrary, each of the hospitals located in the 10
10 municipalities in the State with the lowest median annual household
11 income according to the most recent census data, shall be ranked
12 from the hospital with the highest hospital-specific reimbursed
13 documented charity care to the hospital with the lowest hospital-
14 specific reimbursed documented charity care. The hospital in each
15 of the 10 municipalities, if any, with the highest documented
16 hospital-specific charity care shall receive a charity care payment
17 equal to 96% of its hospital-specific reimbursed documented charity
18 care.

19 (4) Notwithstanding the provisions of this subsection to the
20 contrary, no hospital shall receive reimbursement for less than 43%
21 of its hospital-specific reimbursed documented charity care.

22 c. To ensure that charity care subsidy payments remain viable
23 and appropriate, the State shall maintain the charity care subsidy at
24 an amount not less than 75% of the Medicaid-priced amounts of
25 charity care provided by hospitals in the State. In addition, these
26 amounts shall be augmented to reflect payments to hospitals by the
27 Medicaid program for Graduate Medical Education and Indirect
28 Medical Education based on the most recent Graduate Medical
29 Education and Indirect Medical Education formulas utilized by the
30 federal Medicare program.

31 d. Notwithstanding any other provisions of this section to the
32 contrary, in the event that the change from the charity care subsidy
33 formula in effect for fiscal year 2004 to the formula established
34 pursuant to this section in effect for fiscal year 2005, reduces, for
35 any reason, the amount of the charity care subsidy payment to a
36 hospital below the amount that the hospital received under the
37 formula in effect in fiscal year 2004, the hospital shall receive a
38 payment equal to the amount it would have received under the
39 formula in effect for fiscal year 2004.

40 (cf: P.L.2004, c.113, s.3)

41

42 230. Section 6 of P.L.2008, c.38 (C.26:2H-18.59j) is amended to
43 read as follows:

44 6. Notwithstanding the provisions of section 3 of P.L.2004,
45 c.113 (C.26:2H-18.59i) to the contrary, a hospital shall not submit
46 charity care claims to the Department of Health [and Senior
47 Services] for health care services provided to a child under 19 years
48 of age who presents at a hospital for emergency care and who may

1 be deemed presumptively eligible for NJ FamilyCare coverage
2 pursuant to P.L.2005, c.156 (C.30:4J-8 et al.) or Medicaid coverage
3 pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).
4 (cf: P.L.2008, c.38, s.6)

5
6 231. Section 3 of P.L.2007, c.217 (C.26:2H-18.60c) is amended
7 to read as follows:

8 3. The Commissioner of Health **【and Senior Services】** shall
9 require the use of procedures by hospitals to ensure their uniform
10 collection from applicants for charity care pursuant to section 10 of
11 P.L.1992, c.160 (C.26:2H-18.60) and the transmission to the
12 Department of Health **【and Senior Services】** of **【such】**
13 demographic and financial information as the commissioner
14 requires pursuant to section 14 of P.L.1995, c.133 (C.26:2H-18.59c)
15 and any other information that the commissioner determines
16 necessary to ensure the efficient, cost-effective operation of the
17 hospital charity care subsidy program and to prevent and detect
18 fraudulent charity care claims.
19 (cf: P.L.2007, c.217, s.3)

20
21 232. Section 4 of P.L.2007, c.217 (C.26:2H-18.60d) is amended
22 to read as follows:

23 4. a. The Commissioner of Health **【and Senior Services】** and
24 the Medicaid Inspector General shall establish an inter-agency
25 agreement under which the staff and resources of the Office of the
26 Medicaid Inspector General are utilized to:

27 (1) investigate charity care claims, which that office or the
28 Department of Health **【and Senior Services】** reasonably suspects
29 may be fraudulent, with the same authority as that granted to the
30 Medicaid Inspector General to investigate complaints related to
31 Medicaid integrity, fraud, and abuse pursuant to P.L.2007, c.58
32 (C.30:4D-53 et al.); and

33 (2) recover monies from third party payers that were paid as
34 charity care subsidies based upon fraudulent charity care claims.

35 b. The commissioner and the Medicaid Inspector General shall
36 take such actions as are necessary to ensure that any monies
37 recovered pursuant to subsection a. of this section are deposited in
38 the Health Care Subsidy Fund and used for the purposes of
39 providing charity care subsidies pursuant to P.L.1992, c.160
40 (C.26:2H-18.51 et al.).

41 (cf: P.L.2007, c.217, s.4)

42
43 233. Section 5 of P.L.2007, c.217 (C.26:2H-18.60e) is amended
44 to read as follows:

45 5. The Commissioner of Health **【and Senior Services】** and the
46 State Treasurer shall establish an inter-agency agreement under
47 which the staff and resources of the Division of Taxation in the

1 Department of the Treasury are utilized to conduct random checks
2 of personal State income tax returns filed by persons determined
3 eligible for charity care pursuant to section 10 of P.L.1992, c.160
4 (C.26:2H-18.60), in consultation with the commissioner, and with
5 the Medicaid Inspector General pursuant to section 4 of P.L.2007,
6 c.217 (C.26:2H-18.60d), for the purposes of determining the
7 validity of charity care claims for health care services provided to
8 those persons.

9 (cf: P.L.2007, c.217, s.5)

10

11 234. Section 7 of P.L.2007, c.217 (C.26:2H-18.60f) is amended
12 to read as follows:

13 7. The Commissioner of Health **[and Senior Services]** shall
14 establish a mechanism, by means of a toll-free telephone hotline or
15 electronic mail, through which persons may confidentially report
16 suspected incidents of fraudulent charity care claims to the
17 Department of Health **[and Senior Services]**.

18 (cf: P.L.2007, c.217, s.7)

19

20 235. Section 12 of P.L.1992, c.160 (C.26:2H-18.62) is amended
21 to read as follows:

22 12. a. (Deleted by amendment, P.L.2005, c.237).

23 b. (Deleted by amendment, P.L.2005, c.237).

24 c. (1) Notwithstanding any law to the contrary, each general
25 hospital and each specialty heart hospital shall pay .53% of its total
26 operating revenue to the department for deposit in the Health Care
27 Subsidy Fund. The hospital shall make monthly payments to the
28 department beginning July 1, 1993. The commissioner shall
29 determine the manner in which the payments shall be made.

30 For the purposes of this subsection, "total operating revenue"
31 shall be defined by the department in accordance with financial
32 reporting requirements established pursuant to N.J.A.C.8:31B-3.3
33 and shall include revenue from any ambulatory care facility that is
34 licensed to a general hospital as an off-site ambulatory care service
35 facility.

36 (2) The commissioner shall allocate the monies paid by
37 hospitals pursuant to paragraph (1) of this subsection as follows:

38 (a) In State fiscal years 2006 and 2007, \$35 million of those
39 monies shall be allocated to the support of federally qualified health
40 centers in this State, and the remainder shall be allocated to the
41 support of (i) the infant mortality reduction program in the
42 Department of Health **[and Senior Services]**, (ii) the primary care
43 physician and dentist loan redemption program established in the
44 Higher Education Student Assistance Authority by article 3 of
45 P.L.1999, c.46 (C.18A:71C-32 et seq.), and (iii) the development
46 and use of health information electronic data interchange
47 technology pursuant to P.L.1999, c.154 (C.17B:30-23 et al.); and

1 (b) In State fiscal year 2008 and thereafter, \$40 million of those
2 monies shall be allocated to the support of federally qualified health
3 centers in this State.

4 Monies allocated to the support of federally qualified health
5 centers in the State under this paragraph shall be used for the
6 purpose of compensating them for health care services provided to
7 uninsured patients.

8 d. The monies paid by the hospitals and allocated under
9 subsection c. of this section for the support of federally qualified
10 health centers shall be credited to the federally qualified health
11 centers account.

12 e. (1) Monies paid by hospitals under subsection c. of this
13 section in excess of \$40 million, federal matching funds received on
14 account of such monies, and interest received on such payments and
15 funds shall be allocated exclusively to support funding to hospitals.

16 (2) In the event that any approval, application, or other
17 condition necessary for the implementation of this subsection and
18 the distribution of funds pursuant thereto consistent with the Fiscal
19 Year 2011 annual appropriations act is not obtained, granted, or
20 satisfied, the Departments of Health **[and Senior Services]** and
21 Human Services shall jointly prepare a plan concerning charity care
22 and related hospital funding, which shall be subject to the approval
23 of the Joint Budget Oversight Committee.

24 (cf: P.L.2010, c.23, s.2)

25

26 236. Section 3 of P.L.2008, c.33 (C.26:2H-18.76) is amended to
27 read as follows:

28 3. a. The Health Care Stabilization Fund is established as a
29 nonlapsing, revolving fund in the Department of Health **[and Senior
30 Services]**. The fund shall be administered by the Department of
31 Health **[and Senior Services]** in consultation with the Department
32 of the Treasury. The fund shall be comprised of **[such]** revenues as
33 are appropriated by the Legislature from time to time, along with
34 any interest earned on monies in the fund.

35 b. Monies from the fund shall be disbursed solely as grants to
36 qualifying licensed health care facilities pursuant to eligibility
37 criteria, and subject to conditions, prescribed by the Commissioner
38 of Health **[and Senior Services]** in accordance with the
39 requirements of this act.

40 (cf: P.L.2008, c.33, s.3)

41

42 237. Section 4 of P.L.2008, c.33 (C.26:2H-18.77) is amended to
43 read as follows:

44 4. The Commissioner of Health **[and Senior Services]**, in
45 consultation with the State Treasurer and the New Jersey Health
46 Care Facilities Financing Authority, may award a grant to a hospital
47 or other licensed health care facility from the fund if the

1 commissioner determines that, due to extraordinary circumstances,
2 the grant is necessary to maintain access to essential health care
3 services or referral sources, as appropriate. In determining whether
4 to award a grant to a licensed health care facility, the commissioner
5 shall consider whether, at a minimum, the following factors are
6 present:

7 a. Extraordinary circumstances threaten access to essential
8 health services for residents in a community;

9 b. Persons in a community will be without ready access to
10 essential health care services in the absence of the award of a grant
11 from the fund;

12 c. Funding is unavailable from other sources to preserve or
13 provide essential health care services;

14 d. A grant from the fund is likely to stabilize access to the
15 essential health care services;

16 e. There is a reasonable likelihood that the essential health care
17 services will be sustainable upon the termination of the grant;

18 f. The proposed recipient of the grant agrees to conditions
19 established by the commissioner for receipt of a grant; and

20 g. The hospital or other licensed health care facility serves a
21 significant number of uninsured and underinsured persons.

22 (cf: P.L.2008, c.33, s.4)

23

24 238. Section 5 of P.L.2008, c.33 (C.26:2H-18.78) is amended to
25 read as follows:

26 5. a. The Commissioner of Health **[and Senior Services]** shall
27 set reasonable conditions for the receipt of a grant by a general
28 hospital or other licensed health care facility, which conditions may
29 include, but need not be limited to, requirements to assure the
30 efficient and effective delivery of health care services.

31 The facility shall agree to: the provision of essential health care
32 services to the community as determined by the commissioner;
33 facilitating the enrollment of individuals in appropriate government
34 insurance programs; and providing the Department of Health **[and**
35 **Senior Services]** with **[such]** quality of care, utilization, and
36 financial information as determined by the commissioner to be
37 reasonable and necessary. In the case of a facility whose financial
38 condition created or contributed to the extraordinary circumstances
39 necessitating the award of the grant, the facility shall agree to such
40 corrective steps to its governance, management, and business
41 operations as the commissioner deems reasonable and appropriate
42 in light of the facility's circumstances and the health care needs of
43 the community.

44 b. Within one year of the award of a grant from the fund, the
45 commissioner, in consultation with the State Comptroller, shall
46 cause to be conducted an audit to evaluate:

1 (1) whether a grantee's use of the funds was consistent with the
2 provisions of this act, the commissioner's regulations, and any
3 conditions imposed upon the award of the grant; and

4 (2) whether a grantee's use of the funds furthered the purposes
5 of this act.

6 c. The commissioner, pursuant to the "Administrative
7 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt
8 such rules and regulations as are necessary to effectuate the
9 purposes of this act. The regulations shall specify eligibility criteria
10 for, and conditions that must be met by, a health care facility to
11 receive a grant from the fund.

12 Notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1
13 et seq.) to the contrary, the commissioner may adopt immediately
14 upon filing with the Office of Administrative Law such regulations
15 as the commissioner deems necessary to implement the provisions
16 of this act, which shall be effective for a period not to exceed 270
17 days following enactment of this act and may thereafter be
18 amended, adopted, or readopted by the department in accordance
19 with the requirements of P.L.1968, c.410.

20 d. The commissioner shall annually, by March 1 of each year,
21 submit a report on the Health Care Stabilization Fund to the
22 Governor, and to the Legislature pursuant to section 2 of P.L.1991,
23 c.164 (C.52:14-19.1). The commissioner shall include a copy of the
24 report on the department's website.

25 The report shall identify the health care facilities that received
26 grants during the reporting period, the purpose for which the grant
27 was allocated to the facility, and the extent to which the awarding
28 of the grant furthered the purposes of this act. The report shall
29 include a copy of any audits conducted pursuant to subsection b. of
30 this section.

31 (cf: P.L.2008, c.33, s.5)

32

33 239. Section 3 of P.L.1997, c.78 (C.26:2H-81) is amended to
34 read as follows:

35 3. The Commissioner of Health **[and Senior Services]** shall
36 adopt rules and regulations pursuant to the "Administrative
37 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) necessary to
38 carry out the provisions of this act.

39 (cf: P.L.1997, c.78, s.3)

40

41 240. Section 2 of P.L.1997, c.100 (C.26:2H-83) is amended to
42 read as follows:

43 2. a. The Department of Health **[and Senior Services]** shall
44 not issue a nurse aide or personal care assistant certification to any
45 applicant, except on a conditional basis as provided for in
46 subsection d. of section 3 of P.L.1997, c.100 (C.26:2H-84), unless
47 the Commissioner of Health **[and Senior Services]** first determines,
48 consistent with the requirements of sections 2 through 6 of

1 P.L.1997, c.100 (C.26:2H-83 through 87), that no criminal history
2 record information exists on file in the Federal Bureau of
3 Investigation, Identification Division, or in the State Bureau of
4 Identification in the Division of State Police, which would
5 disqualify that person from being certified. A nurse aide or personal
6 care assistant certified by the department prior to the effective date
7 of P.L.2000, c.20 upon whom a criminal history record background
8 check has not been conducted pursuant to sections 2 through 6 of
9 P.L.1997, c.100 (C.26:2H-83 through 87), shall be required to
10 undergo that criminal history record background check as a
11 condition of that individual's initial recertification following the
12 effective date of P.L.2000, c.20.

13 In addition, a follow-up criminal history record background
14 check of federal records shall be conducted at least once every two
15 years as a condition of recertification for every certified nurse aide
16 and personal care assistant; except that the commissioner, in lieu of
17 conducting follow-up criminal history record background checks
18 for purposes of recertification, may provide for an alternative means
19 of determining whether a certified nurse aide or personal care
20 assistant has been convicted of a crime or disorderly persons
21 offense which would disqualify that person from certification,
22 including, but not limited to, a match of a person's Social Security
23 number or other identifying information with records of criminal
24 proceedings in this and other states. If the commissioner elects to
25 implement this alternative means of determining whether a certified
26 nurse aide or personal care assistant has been convicted of a crime
27 or disorderly persons offense which would disqualify that person
28 from certification, the commissioner shall report to the Governor
29 and the Legislature prior to its implementation on the projected
30 costs and procedures to be followed with respect to its
31 implementation and setting forth the rationale therefor.

32 A person shall be disqualified from certification if that person's
33 criminal history record background check reveals a record of
34 conviction of any of the following crimes and offenses:

35 (1) In New Jersey, any crime or disorderly persons offense:

36 (a) involving danger to the person, meaning those crimes and
37 disorderly persons offenses set forth in N.J.S.2C:11-1 et seq.,
38 N.J.S.2C:12-1 et seq., N.J.S.2C:13-1 et seq., N.J.S.2C:14-1 et seq.
39 or N.J.S.2C:15-1 et seq.; or

40 (b) against the family, children, or incompetents, meaning those
41 crimes and disorderly persons offenses set forth in N.J.S.2C:24-1 et
42 seq.; or

43 (c) involving theft as set forth in chapter 20 of Title 2C of the
44 New Jersey Statutes; or

45 (d) involving any controlled dangerous substance or controlled
46 substance analog as set forth in chapter 35 of Title 2C of the New
47 Jersey Statutes except paragraph (4) of subsection a. of
48 N.J.S.2C:35-10.

1 (2) In any other state or jurisdiction, of conduct which, if
2 committed in New Jersey, would constitute any of the crimes or
3 disorderly persons offenses described in paragraph (1) of this
4 subsection.

5 b. Notwithstanding the provisions of subsection a. of this
6 section, no person shall be disqualified from certification on the
7 basis of any conviction disclosed by a criminal history record
8 background check performed pursuant to sections 2 through 6 and
9 section 14 of P.L.1997, c.100 (C.26:2H-83 through 87 and C.53:1-
10 20.9a) if the person has affirmatively demonstrated to the
11 Commissioner of Health [and Senior Services] clear and
12 convincing evidence of the person's rehabilitation. In determining
13 whether a person has affirmatively demonstrated rehabilitation, the
14 following factors shall be considered:

15 (1) the nature and responsibility of the position which the
16 convicted person would hold, has held or currently holds, as the
17 case may be;

18 (2) the nature and seriousness of the offense;

19 (3) the circumstances under which the offense occurred;

20 (4) the date of the offense;

21 (5) the age of the person when the offense was committed;

22 (6) whether the offense was an isolated or repeated incident;

23 (7) any social conditions which may have contributed to the
24 offense; and

25 (8) any evidence of rehabilitation, including good conduct in
26 prison or in the community, counseling or psychiatric treatment
27 received, acquisition of additional academic or vocational
28 schooling, successful participation in correctional work-release
29 programs, or the recommendation of those who have had the person
30 under their supervision.

31 c. If a person subject to the provisions of sections 2 through 6
32 of P.L.1997, c.100 (C.26:2H-83 through 87) refuses to consent to,
33 or cooperate in, the securing of a criminal history record
34 background check, the commissioner shall, as applicable:

35 (1) not issue a nurse aide or personal care assistant certification
36 and shall notify the applicant, and the applicant's employer if the
37 applicant is conditionally employed as provided in subsection d. of
38 section 3 of P.L.1997, c.100 (C.26:2H-84) or the applicant's
39 prospective employer if known, of that denial; or

40 (2) revoke the person's current nurse aide or personal care
41 assistant certification and notify the person, and the person's
42 employer, if known, of that revocation.

43 (cf: P.L.2000, c.20, s.1)

44

45 241. Section 3 of P.L.1997, c.100 (C.26:2H-84) is amended to
46 read as follows:

47 3. a. An applicant for certification, or a certified nurse aide or
48 personal care assistant who is required to undergo a criminal history

1 record background check pursuant to section 2 of P.L.1997, c.100
2 (C.26:2H-83), shall submit to the Commissioner of Health [and
3 Senior Services] that individual's name, address, and fingerprints
4 taken on standard fingerprint cards by a State or municipal law
5 enforcement agency. The commissioner is authorized to exchange
6 fingerprint data with and receive criminal history record
7 information from the Federal Bureau of Investigation and the
8 Division of State Police for use in making the determinations
9 required by sections 2 through 6 of P.L.1997, c.100 (C.26:2H-83
10 through 87).

11 b. Upon receipt of the criminal history record information for a
12 person from the Federal Bureau of Investigation or the Division of
13 State Police, the commissioner shall immediately notify, in writing,
14 the applicant, and the applicant's employer if the applicant is
15 conditionally employed as provided in subsection d. of this section
16 or the applicant's prospective employer if known, or a certified
17 nurse aide or personal care assistant who is required to undergo a
18 criminal history record background check pursuant to section 2 of
19 P.L.1997, c.100 (C.26:2H-83) and that person's employer, as
20 applicable, of the person's qualification or disqualification for
21 certification under sections 2 through 6 of P.L.1997, c.100
22 (C.26:2H-83 through 87). If the person is disqualified, the
23 conviction or convictions which constitute the basis for the
24 disqualification shall be identified in the notice to the person, but
25 shall not be identified in the notice to the person's employer or
26 prospective employer.

27 c. The person who is the subject of the background check shall
28 have 30 days from the date of the written notice of disqualification
29 to petition the commissioner for a hearing on the accuracy of the
30 person's criminal history record information or to establish the
31 person's rehabilitation under subsection b. of section 2 of P.L.1997,
32 c.100 (C.26:2H-83). The commissioner shall notify the person's
33 employer or prospective employer of the person's petition for a
34 hearing within five days following the receipt of the petition from
35 the person. Upon the issuance of a final decision upon a petition to
36 the commissioner pursuant to this subsection, the commissioner
37 shall notify the person and the person's employer or prospective
38 employer as to whether the person remains disqualified from
39 certification under sections 2 through 6 of P.L.1997, c.100
40 (C.26:2H-83 through 87).

41 d. An applicant for certification may be issued conditional
42 certification and may be employed as a nurse aide or a personal care
43 assistant conditionally for a period not to exceed 60 days, pending
44 completion of a criminal history record background check required
45 under sections 2 through 6 of P.L.1997, c.100 (C.26:2H-83 through
46 87) by the Division of State Police in the Department of Law and
47 Public Safety based upon an examination of its own files in
48 accordance with section 14 of P.L.1997, c.100 (C.53:1-20.9a), and

1 for an additional period not to exceed 60 days pending completion
2 of a criminal history record background check by federal authorities
3 as arranged for by the Division of State Police pursuant to section
4 14 of P.L.1997, c.100 (C.53:1-20.9a), if the person submits to the
5 commissioner a sworn statement attesting that the person has not
6 been convicted of any crime or disorderly persons offense as
7 described in section 2 of P.L.1997, c.100 (C.26:2H-83). A person
8 who submits a false sworn statement shall be disqualified from
9 certification as a nurse aide or a personal care assistant, as the case
10 may be, and shall not have an opportunity to establish rehabilitation
11 pursuant to subsection b. of section 2 of P.L.1997, c.100 (C.26:2H-
12 83).

13 A conditionally employed person, or an employed person
14 certified as a nurse aide or a personal care assistant, who disputes
15 the accuracy of the criminal history record information and who
16 files a petition requesting a hearing pursuant to subsection c. of this
17 section may remain employed by that person's employer until the
18 commissioner rules on the person's petition but, pending the
19 commissioner's ruling, the employer shall not permit the person to
20 have unsupervised contact with patients, residents, or clients, as the
21 case may be, who are 60 years of age or older.

22 e. (1) A licensed health care facility or other entity that has
23 received an application from or conditionally employs an applicant
24 for nurse aide or personal care assistant certification, or employs a
25 certified nurse aide or personal care assistant, and:

26 (a) receives notice from the Commissioner of Health [and
27 Senior Services] that the applicant or certified nurse aide or
28 personal care assistant, as applicable, has been determined by the
29 commissioner to be disqualified from certification as a nurse aide or
30 personal care assistant pursuant to sections 2 through 6 of P.L.1997,
31 c.100 (C.26:2H-83 through 87); or

32 (b) terminates its employment of a conditionally employed
33 applicant for nurse aide or personal care assistant certification or a
34 certified nurse aide or personal care assistant because the person
35 was disqualified from employment at the health care facility or
36 other entity on the basis of a conviction of a crime or disorderly
37 persons offense as described in section 2 of P.L.1997, c.100
38 (C.26:2H-83) after commencing employment at the health care
39 facility or other entity;

40 shall be immune from liability for disclosing that disqualification or
41 termination in good faith to another licensed health care facility or
42 other entity that is qualified by statute or regulation to employ the
43 person as a nurse aide or personal care assistant.

44 (2) A licensed health care facility or other entity which discloses
45 information pursuant to paragraph (1) of this subsection shall be
46 presumed to be acting in good faith unless it is shown by clear and
47 convincing evidence that the health care facility or other entity

1 acted with actual malice toward the person who is the subject of the
2 information.

3 f. (1) A licensed health care facility or other entity, upon
4 receiving notice from the Commissioner of Health [and Senior
5 Services] that a person employed by it as a nurse aide or personal
6 care assistant, including a conditionally employed person, has been
7 convicted of a crime or disorderly persons offense as described in
8 section 2 of P.L.1997, c.100 (C.26:2H-83) after commencing
9 employment at the health care facility or other entity, shall:

10 (a) immediately terminate the person's employment as a nurse
11 aide or personal care assistant; and

12 (b) report information about the termination to the
13 Commissioner of Health [and Senior Services] in a manner
14 prescribed by the commissioner, who shall thereupon deem the
15 person to be disqualified from certification as a nurse aide or
16 personal care assistant, subject to the provisions of paragraph (3) of
17 this subsection.

18 (2) A licensed health care facility or other entity shall be
19 immune from liability for any actions taken in good faith pursuant
20 to paragraph (1) of this subsection and shall be presumed to be
21 acting in good faith unless it is shown by clear and convincing
22 evidence that the health care facility or other entity acted with
23 actual malice toward the employee.

24 (3) The person terminated from employment pursuant to
25 paragraph (1) of this subsection shall have 30 days from the date of
26 the termination to petition the commissioner for a hearing on the
27 accuracy of the information about the conviction reported to the
28 commissioner or to establish why the person should not be
29 terminated from employment, and disqualified from certification, as
30 a nurse aide or personal care assistant. The commissioner shall
31 notify the person's employer of the person's petition for a hearing
32 within five days following the receipt of the petition from the
33 person. Upon the issuance of a final decision upon a petition to the
34 commissioner pursuant to this paragraph, the commissioner shall
35 notify the person and the person's employer as to whether:

36 (a) the person is to be reinstated in [his] the person's
37 employment as a nurse aide or personal care assistant and retain
38 [his] the person's certification; or

39 (b) the person's termination from employment as a nurse aide or
40 personal care assistant stands and the person remains disqualified
41 from certification.

42 g. The commissioner shall provide for a registry of all persons
43 who have successfully completed all training and competency
44 evaluation requirements for certification as a nurse aide or personal
45 care assistant and shall provide for the inclusion in the registry of
46 information about the disqualification of any person from
47 certification pursuant to sections 2 through 6 of P.L.1997, c.100

1 (C.26:2H-83 through 87); for which purposes, the commissioner
2 may use an existing registry established pursuant to statute or
3 regulation, subject to the requirements of federal law. The registry
4 shall include the specific documented findings constituting the basis
5 for that disqualification, except that the information shall indicate
6 that the person was convicted of a crime or disorderly persons
7 offense as described in section 2 of P.L.1997, c.100 (C.26:2H-83),
8 but shall not identify the conviction or convictions which constitute
9 the basis for the disqualification.
10 (cf: P.L.2000, c.20, s.2)

11
12 242. Section 4 of P.L.1997, c.100 (C.26:2H-85) is amended to
13 read as follows:

14 4. The Department of Health **【and Senior Services】** shall
15 assume the cost of the criminal history record background check
16 conducted on an applicant for nurse aide or personal care assistant
17 certification, or a certified nurse aide or personal care assistant, as
18 the case may be, pursuant to sections 2 through 6 and section 14 of
19 P.L.1997, c.100 (C.26:2H-83 through 87 and C.53:1-20.9a).
20 (cf: P.L.2000, c.20, s.3)

21
22 243. Section 5 of P.L.1997, c.100 (C.26:2H-86) is amended to
23 read as follows:

24 5. In accordance with the "Administrative Procedure Act,"
25 P.L.1968, c.410 (C.52:14B-1 et seq.), the Commissioner of Health
26 **【and Senior Services】** shall adopt rules and regulations necessary to
27 implement the provisions of sections 1 through 4 and section 6 of
28 P.L.1997, c.100 (C.26:2H-82 through C.26:2H-85 and C.26:2H-87).
29 (cf: P.L.1997, c.100, s.5)

30
31 244. Section 6 of P.L.1997, c.100 (C.26:2H-87) is amended to
32 read as follows:

33 6. Any person submitting a false sworn statement pursuant to
34 section 3 of P.L.1997, c.100 (C.26:2H-84) shall be subject to a fine
35 of not more than \$1,000, which may be assessed by the
36 Commissioner of Health **【and Senior Services】**.
37 (cf: P.L.1997, c.284, s.5)

38
39 245. Section 2 of P.L.1997, c.296 (C.26:2H-89) is amended to
40 read as follows:

41 2. A PACE or Pre-PACE program shall operate in the State
42 only in accordance with a contract with the Department of **【Health**
43 **and Senior】** Human Services ¹**【,** which shall be prepared in
44 consultation with the Department of Human Services, and**】**¹
45 pursuant to the provisions of this act.

1 The programs shall not be subject to the requirements of
2 P.L.1973, c.337 (C.26:2J-1 et seq.).

3 (cf: P.L.1997 c.296, s.2)

4

5 246. Section 3 of P.L.2003, c.105 (C.26:2H-94) is amended to
6 read as follows:

7 3. As used in this act:

8 "Commissioner" means the Commissioner of **Health and Senior**
9 **Services** Human Services.

10 "Department" means the Department of **Health and Senior**
11 **Services** Human Services.

12 "Director" means the Director of the Division of Taxation in the
13 Department of the Treasury.

14 "Fund" means the "Nursing Home Quality of Care Improvement
15 Fund" established pursuant to this act.

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

18 "Nursing home" means a long-term care facility licensed
19 pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), as well as the
20 distinct part of another health care facility or continuing care
21 retirement community that is licensed to provide skilled nursing
22 care services pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.). For
23 the purposes of this act, nursing home shall not include: an acute
24 care hospital; assisted living facility; comprehensive personal care
25 home; residential health care facility; adult day health care facility;
26 alternate family care program; adult family care program; home
27 health care agency; State psychiatric hospital; county health care
28 facility, including, but not limited to, county geriatric center, county
29 nursing home or other county long-term care facility; the New
30 Jersey Firemen's Home; or a health care facility operated by the
31 Department of Military and Veterans' Affairs.

32 (cf: P.L.2004, c.41, s.1)

33

34 247. Section 4 of P.L.2003, c.105 (C.26:2H-95) is amended to
35 read as follows:

36 4. The "Nursing Home Quality of Care Improvement Fund" is
37 established as a nonlapsing fund in the Department of the Treasury.
38 The fund shall be administered by the State Treasurer, in
39 consultation with the Commissioner of **Health and Senior**
40 **Services** Human Services or **his** the commissioner's designee,
41 who shall be responsible for the oversight, coordination, and
42 disbursement of fund monies, and shall be credited with monies
43 received pursuant to section 6 of this act, except for those monies
44 which are deposited into the General Fund in accordance with the
45 provisions of that section.

46 a. The fund shall be comprised of:

1 (1) revenues from assessments paid by nursing homes pursuant
2 to section 5 of this act;

3 (2) matching federal funds received pursuant to Title XIX of the
4 federal Social Security Act (42 U.S.C. s.1396 et seq.) that result
5 from the expenditure of revenues from assessments collected
6 pursuant to section 5 of this act;

7 (3) General Fund revenues, as necessary, to allow for the per
8 diem add-on payments pursuant to subsection d. of section 6 of this
9 act until the revenue from the assessment has been collected. Upon
10 collection of the revenue from the assessment, the General Fund
11 shall be repaid within 90 days; and

12 (4) any interest or other income earned on monies deposited into
13 the fund.

14 b. Any disbursement of monies from the fund shall be used
15 solely for Medicaid nursing home add-ons as provided for under
16 section 6 of this act, which shall not in any manner render the
17 assessment mechanism set forth in section 5 of this act to be in
18 violation of the hold harmless provisions of 42 C.F.R. s.433.68(f).

19 c. The State Treasurer shall provide by regulation for such
20 measures as are required to ensure the integrity of the fund.

21 d. The State Treasurer shall establish separate accounts within
22 the fund as are needed to efficiently manage and disburse fund
23 monies.

24 e. Monies in the fund shall not be used to supplant
25 appropriations from the General Fund to the department [or the
26 Department of Human Services] for use in securing matching
27 federal funds not otherwise provided for in this act.

28 f. The Director of the Division of Taxation shall be responsible
29 for collecting the assessments.

30 (cf: P.L.2003, c.105, s.4)

31

32 248. Section 3 of P.L.2005, c.233 (C.26:2H-104) is amended to
33 read as follows:

34 3. As used in this act:

35 "Adult" means an individual 18 years of age or older.

36 "Advance directive for mental health care" or "advance
37 directive" means a writing executed in accordance with the
38 requirements of this act. An "advance directive" may include a
39 proxy directive or an instruction directive, or both.

40 "Decision-making capacity" means a patient's ability to
41 understand and appreciate the nature and consequences of mental
42 health care decisions, including the benefits and risks of each, and
43 alternatives to any proposed mental health care, and to reach an
44 informed decision. A patient's decision-making capacity is
45 evaluated relative to the demands of a particular mental health care
46 decision.

47 "Declarant" means a competent adult who executes an advance
48 directive for mental health care.

1 "Domestic partner" means a domestic partner as defined in
2 section 3 of P.L.2003, c.246 (C.26:8A-3).

3 "Instruction directive" means a writing which provides
4 instructions and direction regarding the declarant's wishes for
5 mental health care in the event that the declarant subsequently lacks
6 decision-making capacity.

7 "Mental health care decision" means a decision to accept or
8 refuse any treatment, service, or procedure used to diagnose, treat,
9 or care for a patient's mental condition. "Mental health care
10 decision" also means a decision to accept or refuse the services of a
11 particular mental health care professional or psychiatric facility,
12 including a decision to accept or to refuse a transfer of care.

13 "Mental health care professional" means an individual licensed
14 or certified by this State to provide or administer mental health care
15 in the ordinary course of business or practice of a profession.

16 "Mental health care representative" means the individual
17 designated by a declarant pursuant to the proxy directive part of an
18 advance directive for mental health care for the purpose of making
19 mental health care decisions on the declarant's behalf, and includes
20 an individual designated as an alternate mental health care
21 representative who is acting as the declarant's mental health care
22 representative in accordance with the terms and order of priority
23 stated in an advance directive for mental health care.

24 "Patient" means an individual who is under the care of a mental
25 health care professional.

26 "Proxy directive" means a writing which designates a mental
27 health care representative in the event that the declarant
28 subsequently lacks decision-making capacity.

29 "Psychiatric facility" means a State psychiatric facility listed in
30 R.S.30:1-7, a county psychiatric hospital or the psychiatric unit of a
31 county hospital, a short-term care facility, special psychiatric
32 hospital or psychiatric unit of a general hospital or other health care
33 facility licensed by the Department of Health **and Senior Services**
34 pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), or a hospital or
35 community-based mental health center or other entity licensed or
36 funded by the Department of Human Services to provide
37 community-based mental health services.

38 "Responsible mental health care professional" means a person
39 licensed or certified by the State to provide or administer mental
40 health care who is selected by, or assigned to, the patient and has
41 primary responsibility for the care and treatment of the patient.

42 "State" means a state, territory, or possession of the United
43 States, the District of Columbia, or the Commonwealth of Puerto
44 Rico.

45 (cf: P.L.2005 c.233, s.3)

46

47 249. Section 16 of P.L.2005, c.233 (C.26:2H-117) is amended to
48 read as follows:

1 16. In accordance with the "Administrative Procedure Act,"
2 P.L.1968, c.410 (C.52:14B-1 et seq.), the Commissioner of Health
3 **【and Senior Services】**, in consultation with the Commissioner of
4 Human Services, shall adopt rules and regulations, with respect to
5 psychiatric facilities licensed by the Department of Health **【and**
6 **Senior Services】**, to:

7 a. provide for the annual reporting by those psychiatric
8 facilities to the Department of Health **【and Senior Services】**, and
9 the gathering of such additional data, as is reasonably necessary to
10 oversee and evaluate the implementation of this act; except that the
11 commissioner shall seek to minimize the burdens of record-keeping
12 imposed by the rules and regulations and ensure the appropriate
13 confidentiality of patient records; and

14 b. require those psychiatric facilities to adopt policies and
15 practices designed to:

16 (1) make routine inquiry, at the time of admission and at such
17 other times as are appropriate under the circumstances, concerning
18 the existence and location of an advance directive for mental health
19 care;

20 (2) provide appropriate informational materials concerning
21 advance directives for mental health care, including information
22 about the registry of advance directives for mental health care
23 established or designated pursuant to section 17 of this act, to all
24 interested patients and their families and mental health care
25 representatives, and to assist patients interested in discussing and
26 executing an advance directive for mental health care, as well as to
27 encourage declarants to periodically review their advance directives
28 for mental health care as needed;

29 (3) inform mental health care professionals of their rights and
30 responsibilities under this act, to assure that the rights and
31 responsibilities are understood, and to provide a forum for
32 discussion and consultation regarding the requirements of this act;
33 and

34 (4) otherwise comply with the provisions of this act.

35 (cf: P.L.2005, c.233, s.16)

36

37 250. Section 18 of P.L.2005, c.233 (C.26:2H-118) is amended to
38 read as follows:

39 18. The Department of Health **【and Senior Services】** and the
40 Department of Human Services shall jointly evaluate the
41 implementation of this act and report to the Governor and the
42 Legislature, including recommendations for any changes deemed
43 necessary, within five years after the effective date of this act.

44 (cf: P.L.2005, c.233, s.18)

45

46 251. Section 19 of P.L.2005, c.233 (C.26:2H-119) is amended to
47 read as follows:

1 19. a. A mental health care representative shall not be subject to
2 criminal or civil liability for any actions performed in good faith
3 and in accordance with the provisions of this act to carry out the
4 terms of an advance directive for mental health care.

5 b. A mental health care professional shall not be subject to
6 criminal or civil liability, or to discipline by the psychiatric facility
7 or the respective State licensing board for professional misconduct,
8 for any actions performed to carry out the terms of an advance
9 directive for mental health care in good faith and in accordance
10 with: the provisions of this act; any rules and regulations adopted
11 by the Commissioner of Health **[and Senior Services]** or the
12 Commissioner of Human Services pursuant to this act; and accepted
13 professional standards.

14 c. A psychiatric facility shall not be subject to criminal or civil
15 liability for any actions performed in good faith and in accordance
16 with the provisions of this act to carry out the terms of an advance
17 directive for mental health care.

18 (cf: P.L.2005, c.233, s.19)

19
20 252. Section 1 of P.L.2006, c.75 (C.26:2H-126) is amended as
21 follows:

22 1. a. Except as provided in subsection b. of this section, at
23 least 60 days prior to the proposed date of the closing or relocation
24 of a nursing home or assisted living residence licensed pursuant to
25 P.L.1971, c.136 (C.26:2H-1 et seq.), the nursing home or assisted
26 living administrator shall notify, in writing, a resident of the
27 facility, the resident's legal representative, if applicable, and the
28 Department of Health **[and Senior Services]** of the closing or
29 relocation of the facility.

30 b. The Commissioner of Health **[and Senior Services]** may
31 waive the 60-day notice requirement in subsection a. of this section
32 if the commissioner determines that an emergency situation
33 warrants a more immediate closure or relocation of the nursing
34 home or assisted living residence. In the case of such an emergency
35 situation, the administrator of the facility shall notify, in writing, a
36 resident, the resident's legal representative, if applicable, and the
37 Department of Health **[and Senior Services]** of the closure or
38 relocation as soon as practicable.

39 As used in this section, an "emergency situation" may include:
40 the suspension or revocation of the facility license by the
41 commissioner; decertification of the facility by the federal Medicare
42 program established pursuant to Title XVIII of the "Social Security
43 Act," Pub.L.89-97 (42 U.S.C. s.1395 et seq.), or the Medicaid
44 program established pursuant to P.L.1968, c.413 (C.30:4D-1 et
45 seq.); or any other event as prescribed by regulation of the
46 commissioner.

47 (cf: P.L.2006, c.75, s.1)

1 253. Section 1 of P.L.2009, c.55 (C.26:2H-127) is amended to
2 read as follows:

3 1. a. An assisted living facility licensed by the Department of
4 Health **【and Senior Services】** pursuant to P.L.1971, c.136
5 (C.26:2H-1 et seq.) that requires a new resident, as a condition of
6 admission to the facility, to pay a one-time security deposit, which
7 is in addition to the regular monthly rental and services charges,
8 shall provide that the deposit plus interest earned on the deposit is
9 refundable to the resident or other designated person upon the
10 resident's vacating the facility if the resident provides the facility
11 with 30 days' notice that the resident intends to vacate the facility.

12 b. The facility may deduct an amount not to exceed one percent
13 per annum of the amount of the invested or deposited security
14 deposit for the cost of servicing and processing an account
15 containing a security deposit.

16 (cf: P.L.2009, c.55, s.1)

17

18 254. Section 1 of P.L.2011, c.58 (C.26:2H-128) is amended to
19 read as follows:

20 1. a. Each assisted living facility and comprehensive personal
21 care home provider licensed pursuant to P.L.1971, c.136 (C.26:2H-
22 1 et seq.) shall distribute to each resident and post in a conspicuous,
23 public place in the facility or home, as applicable, a statement of
24 resident rights. The statement of rights shall include, at a minimum,
25 the rights set forth in subsection b. of this section. Each resident,
26 resident family member, and legally appointed guardian, as
27 applicable, shall be informed of the resident rights, and provided
28 with explanations if needed. The provider shall ensure that each
29 resident, or the resident's legally appointed guardian, as applicable,
30 signs a copy of the statement of rights.

31 b. Every resident of an assisted living facility or
32 comprehensive personal care home that is licensed in the State shall
33 have the right to:

34 (1) receive personalized services and care in accordance with
35 the resident's individualized general service or health service plan;

36 (2) receive a level of care and services that address the resident's
37 changing physical and psychosocial status;

38 (3) have **【his or her】** the resident's independence and
39 individuality;

40 (4) be treated with respect, courtesy, consideration, and dignity;

41 (5) make choices with respect to services and lifestyle;

42 (6) privacy;

43 (7) have or not to have families' and friends' participation in
44 resident service planning and implementation;

45 (8) receive pain management as needed, in accordance with
46 Department of Health **【and Senior Services】** regulations;

47 (9) choose a physician, advanced practice nurse, or physician
48 assistant;

- 1 (10) appeal an involuntary discharge as specified in department
2 regulations;
- 3 (11) receive written documentation that fee increases based on a
4 higher level of care are based on reassessment of the resident and in
5 accordance with department regulations;
- 6 (12) receive a written explanation of fee increases that are not
7 related to increased services, upon request by the resident;
- 8 (13) participate, to the fullest extent that the resident is able, in
9 planning **【his or her】** the resident's own medical treatment and
10 care;
- 11 (14) refuse medication and treatment after the resident has been
12 informed, in language that the resident understands, of the possible
13 consequences of this decision;
- 14 (15) refuse to participate in experimental research, including the
15 investigations of new drugs and medical devices, and to be included
16 in experimental research only when the resident gives informed,
17 written consent to such participation;
- 18 (16) be free from physical and mental abuse and neglect;
- 19 (17) be free from chemical and physical restraints, unless a
20 physician, advanced practice nurse, or physician assistant
21 authorizes the use for a limited period of time to protect the resident
22 or others from injury. Under no circumstances shall a resident be
23 confined in a locked room, or restrained, including with the use of
24 excessive drugs, for punishment or for the convenience of staff;
- 25 (18) manage the resident's own finances, and to delegate that
26 responsibility to a family member, assigned guardian, facility
27 administrator, or some other individual with power of attorney. The
28 resident's authorization delegating such authority shall be witnessed
29 and in writing;
- 30 (19) receive prior to or at the time of admission, and afterwards
31 through addenda, an admission agreement that complies with all
32 applicable State and federal laws, describes the services provided
33 and the related charges, and includes the policies for payment of
34 fees, deposits, and refunds;
- 35 (20) receive a quarterly written account of the resident's funds,
36 the itemized property deposited with the facility for the resident's
37 use and safekeeping, and all financial transactions with the resident,
38 next-of-kin, or guardian, which account shall show the amount of
39 property in the account at the beginning and end of the accounting
40 period, as well as a list of all deposits and withdrawals,
41 substantiated by receipts given to the resident or the resident's
42 guardian;
- 43 (21) have daily access during specified hours to the money and
44 property that the resident has deposited with the facility, and to
45 delegate, in writing, this right of access to a representative;
- 46 (22) live in safe and clean conditions that do not admit more
47 residents than can safely be accommodated;

- 1 (23) not be arbitrarily and capriciously moved to a different bed
- 2 or room;
- 3 (24) wear the resident's own clothes;
- 4 (25) keep and use the resident's personal property, unless doing
- 5 so would be unsafe, impractical, or an infringement on the rights of
- 6 other residents;
- 7 (26) reasonable opportunities for private and intimate physical
- 8 and social interaction with other people, including the opportunity
- 9 to share a room with another individual unless it is medically
- 10 inadvisable;
- 11 (27) confidential treatment with regard to information about the
- 12 resident, subject to the requirements of law;
- 13 (28) receive and send mail in unopened envelopes, unless the
- 14 resident requests otherwise, and the right to request and receive
- 15 assistance in reading and writing correspondence unless medically
- 16 contraindicated;
- 17 (29) have a private telephone in the resident's living quarters at
- 18 the resident's own expense;
- 19 (30) meet with any visitors of the resident's choice, at any time,
- 20 in accordance with facility policies and procedures;
- 21 (31) take part in activities, and to meet with and participate in the
- 22 activities of any social, religious, and community groups, as long as
- 23 these activities do not disrupt the lives of other residents;
- 24 (32) refuse to perform services for the facility;
- 25 (33) request visits at any time by representatives of the religion
- 26 of the resident's choice and, upon the resident's request, to attend
- 27 outside religious services at the resident's own expense;
- 28 (34) participate in meals, recreation, and social activities without
- 29 being subjected to discrimination based on age, race, religion, sex,
- 30 marital status, nationality, or disability;
- 31 (35) organize and participate in a resident council that presents
- 32 residents' concerns to the administrator of the facility;
- 33 (36) be transferred or discharged only in accordance with the
- 34 terms of the admission agreement and with N.J.A.C. 8:36-5.1(d);
- 35 (37) receive written notice at least 30 days in advance when the
- 36 facility requests the resident's transfer or discharge, except in an
- 37 emergency, which notice shall include the name and contact
- 38 information for the New Jersey Office of the Ombudsman for the
- 39 Institutionalized Elderly;
- 40 (38) receive a written statement of resident rights and any
- 41 regulations established by the facility involving resident rights and
- 42 responsibilities;
- 43 (39) retain and exercise all constitutional, civil, and legal rights
- 44 to which the resident is entitled by law;
- 45 (40) voice complaints without fear of interference, discharge,
- 46 reprisal, and obtain contact information respecting government
- 47 agencies to which residents can complain and ask questions, which

1 information also shall be posted in a conspicuous place in the
2 facility;

3 (41) hire a private caregiver or companion at the resident's
4 expense and responsibility, as long as the caregiver or companion
5 complies with the facility's policies and procedures; and

6 (42) obtain medications from a pharmacy of the resident's
7 choosing, as long as the pharmacy complies with the facility's
8 medication administration system, if applicable.

9 (cf: P.L.2011, c.58, s.1)

10

11 255. Section 3 of P.L.2011, c.145 (C.26:2H-131) is amended to
12 read as follows:

13 3. As used in sections 1 through 12 of this act:

14 "Advance directive" means an advance directive for health care
15 as defined in section 3 of P.L.1991, c.201 (C.26:2H-55).

16 "Advanced practice nurse" or "APN" means a person who is
17 certified as an advanced practice nurse pursuant to P.L.1991, c.377
18 (C.45:11-45 et seq.).

19 "Commissioner" means the Commissioner of Health [and Senior
20 Services].

21 "Decision-making capacity" means a patient's ability to
22 understand and appreciate the nature and consequences of a
23 particular health care decision, including the benefits and risks of
24 that decision, and alternatives to any proposed health care, and to
25 reach an informed decision.

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

28 "Emergency care" means the use of resuscitative measures and
29 other immediate treatment provided in response to a sudden, acute,
30 and unanticipated medical crisis in order to avoid injury,
31 impairment, or death.

32 "Emergency care provider" means an emergency medical
33 technician, paramedic, or member of a first aid, ambulance, or
34 rescue squad.

35 "Health care decision" means a decision to accept, withdraw, or
36 refuse a treatment, service, or procedure used to diagnose, treat, or
37 care for a person's physical or mental condition, including life-
38 sustaining treatment.

39 "Health care institution" means a health care facility licensed
40 pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), a psychiatric
41 facility as defined in section 2 of P.L.1987, c.116 (C.30:4-27.2), or
42 a State developmental center listed in R.S.30:1-7.

43 "Health care professional" means a health care professional who
44 is licensed or otherwise authorized to practice a health care
45 profession pursuant to Title 45 or 52 of the Revised Statutes and is
46 currently engaged in that practice.

47 "Life-sustaining treatment" means the use of any medical device
48 or procedure, artificially provided fluids and nutrition, drugs,

1 surgery, or therapy that uses mechanical or other artificial means to
2 sustain, restore, or supplant a vital bodily function, and thereby
3 increase the expected life span of a patient.

4 "Patient" means a person who is under the care of a physician or
5 APN.

6 "Patient's representative" means an individual who is designated
7 by a patient or otherwise authorized under law to make health care
8 decisions on the patient's behalf if the patient lacks decision-making
9 capacity.

10 "Physician" means a person who is licensed to practice medicine
11 and surgery pursuant to chapter 9 of Title 45 of the Revised
12 Statutes.

13 "Physician Orders for Life-Sustaining Treatment form" or
14 "POLST form" means a standardized printed document that is
15 uniquely identifiable and has a uniform color, which:

16 a. is recommended for use on a voluntary basis by patients who
17 have advanced chronic progressive illness or a life expectancy of
18 less than five years, or who otherwise wish to further define their
19 preferences for health care;

20 b. does not qualify as an advance directive;

21 c. is not valid unless it meets the requirements for a completed
22 POLST form as set forth in this act;

23 d. provides a means by which to indicate whether the patient
24 has made an anatomical gift pursuant to P.L.2008, c.50 (C.26:6-77
25 et al.);

26 e. is intended to provide direction to emergency care personnel
27 regarding the use of emergency care, and to a health care
28 professional regarding the use of life-sustaining treatment, with
29 respect to the patient, by indicating the patient's preference
30 concerning the use of specified interventions and the intensity of
31 treatment for each intervention;

32 f. is intended to accompany the patient, and to be honored by
33 all personnel attending the patient, across the full range of possible
34 health care settings, including the patient's home, a health care
35 institution, or otherwise at the scene of a medical emergency; and

36 g. may be modified or revoked at any time by a patient with
37 decision-making capacity or the patient's representative in
38 accordance with the provisions of section 7 of this act.

39 "Resuscitative measures" means cardiopulmonary resuscitation
40 provided in the event that a patient suffers a cardiac or respiratory
41 arrest.

42 (cf: P.L.2011, c.145, s.3)

43

44 256. Section 5 of P.L.2011, c.145 (C.26:2H-133) is amended to
45 read as follows:

46 5. The Commissioner of Health **[and Senior Services]** shall
47 designate a patient safety organization (PSO) operating in this State
48 pursuant to the federal "Patient Safety and Quality Improvement

1 Act of 2005," Pub.L.109-41, to carry out the following
2 responsibilities, by mutual written agreement of the commissioner
3 and that PSO:

4 a. prescribe a POLST form and the procedures for completion,
5 modification, and revocation of the form;

6 b. seek to promote awareness among health care professionals,
7 emergency care providers, and the general public in this State about
8 the option to complete a POLST form;

9 c. provide ongoing training of health care professionals and
10 emergency care providers about the use of the POLST form, in
11 consultation with organizations representing, and educational
12 programs serving, health care professionals and emergency care
13 providers, respectively, in this State;

14 d. prescribe additional requirements for the completion of a
15 POLST form that may be applicable in the case of a patient with
16 mental illness or a developmental disability in consultation with
17 organizations that represent persons with mental illness and
18 developmental disabilities, respectively;

19 e. provide for ongoing evaluation of the design and use of
20 POLST forms through the use of such data as the PSO determines
21 reasonably necessary for that purpose, subject to the commissioner's
22 written approval; and

23 f. seek to minimize any record-keeping burden imposed on a
24 health care institution pursuant to this act and take such actions as
25 are necessary to ensure the confidentiality of any [such] data
26 furnished to the PSO that may contain patient-specific information.
27 (cf: P.L.2011, c.145, s.5)

28

29 257. Section 11 of P.L.2011, c.145 (C.26:2H-139) is amended to
30 read as follows:

31 11. a. A health care professional who intentionally fails to act in
32 accordance with the requirements of this act is subject to discipline
33 for professional misconduct pursuant to section 8 of P.L.1978, c.73
34 (C.45:1-21).

35 b. A health care institution that intentionally fails to act in
36 accordance with the requirements of this act shall be liable to a civil
37 penalty of not more than \$1,000 for each offense. For the purposes
38 of this subsection, each violation shall constitute a separate offense.
39 The civil penalty shall be collected in a summary proceeding,
40 brought in the name of the State in a court of competent jurisdiction
41 pursuant to the "Penalty Enforcement Law of 1999," P.L.1999,
42 c.274 (C.2A:58-10 et seq.).

43 c. An emergency care provider subject to regulation by the
44 Department of Health [and Senior Services] who intentionally fails
45 to act in accordance with the requirements of this act is subject to
46 such disciplinary measures as the commissioner deems necessary
47 and within his statutory authority to impose.

1 d. A person who commits any of the following acts is guilty of
2 a crime of the fourth degree:

3 (1) willfully concealing, canceling, defacing, obliterating, or
4 withholding personal knowledge of a completed POLST form or a
5 modification or revocation thereof, without the patient's consent;

6 (2) falsifying or forging a completed POLST form or a
7 modification or revocation thereof of another person;

8 (3) coercing or fraudulently inducing the completion of a
9 POLST form or a modification or revocation thereof; or

10 (4) requiring or prohibiting the completion of a POLST form or
11 a modification or revocation thereof as a condition of coverage
12 under any policy of health or life insurance or an annuity, or a
13 public benefits program, or as a condition of the provision of health
14 care.

15 e. The commission of an act identified in paragraph (1), (2), or
16 (3) of subsection d. of this section, which results in the involuntary
17 earlier death of a patient, shall constitute a crime of the first degree.

18 f. The provisions of this section shall not be construed to
19 repeal any sanctions applicable under any other law.

20 (cf: P.L.2011, c.145, s.11)

21

22 258. Section 3 of P.L.1972, c.29 (C.26:2I-3) is amended to read
23 as follows:

24 3. As used in this act, the following words and terms shall have
25 the following meanings, unless the context indicates or requires
26 another or different meaning or intent:

27 "Authority" means the New Jersey Health Care Facilities
28 Financing Authority created by this act or any board, body,
29 commission, department, or officer succeeding to the principal
30 functions thereof or to whom the powers conferred upon the
31 authority by this act shall be given by law.

32 "Bond" means bonds, notes, or other evidences of indebtedness
33 of the authority issued pursuant to this act.

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

36 "Credit agreement" means a loan agreement, revolving credit
37 agreement, agreement establishing a line of credit, letter of credit,
38 reimbursement agreement, interest exchange agreement, insurance
39 contract, surety bond, commitment to purchase bonds, purchase or
40 sale agreement, or commitment or other contract or agreement
41 authorized and approved by the authority in connection with the
42 authorization, issuance, security or payment of bonds.

43 "Health care organization" means an organization located in this
44 State which is authorized or permitted by law, whether directly or
45 indirectly through a holding corporation, partnership, or other
46 entity, to provide health care-related services, including, but not
47 limited to, hospital, outpatient, public health, home health care,
48 residential care, assisted living, hospice, health maintenance

1 organization, blood bank, alcohol or drug abuse, half-way house,
2 diagnostic, treatment, rehabilitation, extended care, skilled nursing
3 care, nursing care, intermediate care, tuberculosis care, chronic
4 disease care, maternity, mental health, boarding or sheltered care or
5 day care, services provided by a physician in his office, or any other
6 service offered in connection with health care services or by an
7 entity affiliated with a health care organization or an integrated
8 delivery system.

9 "Hospital asset transformation program" means the hospital asset
10 transformation program established pursuant to subsection g. of
11 section 7 of P.L.1972, c.29 (C.26:2I-7).

12 "Integrated delivery system" means a group of legally affiliated
13 health care organizations.

14 "Public health care organization" means a State, county, or
15 municipal health care organization.

16 "Project" or "health care organization project" means the
17 acquisition, construction, improvement, renovation, or
18 rehabilitation of lands, buildings, fixtures, equipment, and articles
19 of personal property, or other tangible or intangible assets that are
20 necessary or useful in the development, establishment, or operation
21 of a health care organization pursuant to this act, and "project" or
22 "health care organization project" may include: the financing,
23 refinancing, or consolidation of secured or unsecured debt,
24 borrowings, or obligations, or the provision of financing for any
25 other expense incurred in the ordinary course of business, all of
26 which lands, buildings, fixtures, equipment, and articles of personal
27 property are to be used or occupied by any person in the health care
28 organization; the acquisition of an entity interest, including capital
29 stock, in a corporation; or any combination thereof; and may
30 include any combination of the foregoing undertaken jointly by any
31 health care organization with one or more other health care
32 organizations.

33 "Project cost" or "health care organization project cost" means
34 the sum total of all or any part of costs incurred or estimated to be
35 incurred by the authority or by a health care organization which are
36 reasonable and necessary for carrying out all works and
37 undertakings and providing all necessary equipment for the
38 development of a project, exclusive of the amount of any private or
39 federal, State, or local financial assistance for and received by a
40 health care organization for the payment of such project cost. Such
41 costs shall include, but are not necessarily limited to: interest prior
42 to, during and for a reasonable period after such development; start-
43 up costs and costs of operation and maintenance during the
44 construction period and for a reasonable additional period
45 thereafter; organization, administration, operation, and other
46 expenses of the health care organization prior to and during
47 construction; the cost of necessary studies, surveys, plans, and
48 specifications, architectural, engineering, legal, or other special

1 services; the cost of acquisition of land, buildings, and
2 improvements thereon (including payments for the relocation of
3 persons displaced by such acquisition), site preparation and
4 development, construction, reconstruction, equipment, including
5 fixtures, equipment, and cost of demolition and removal, and
6 articles of personal property required; the reasonable cost of
7 financing incurred by a health care organization or the authority in
8 the course of the development of the project; reserves for debt
9 service; the fees imposed upon a health care organization by the
10 commissioner and by the authority; other fees charged, and
11 necessary expenses incurred in connection with the initial
12 occupancy of the project; and the cost of such other items as may be
13 reasonable and necessary for the development of a project; as well
14 as provision or reserves for working capital, operating or
15 maintenance or replacement expenses, or for payment or security of
16 principal of, or interest on, bonds.

17 (cf: P.L.2000, c.98, s.2)

18

19 259. Section 4 of P.L.1972, c.29 (C.26:2I-4) is amended to read
20 as follows:

21 4. a. There is hereby established in the Department of Health
22 **【and Senior Services】**, a public body corporate and politic, with
23 corporate succession, to be known as the "New Jersey Health Care
24 Facilities Financing Authority." The authority shall constitute a
25 political subdivision of the State established as an instrumentality
26 exercising public and essential governmental functions, and the
27 exercise by the authority of the powers conferred by this act shall be
28 deemed and held to be an essential governmental function.

29 b. The authority shall consist of seven members, three of whom
30 shall be the commissioner, who shall be the chairman, the
31 Commissioner of Banking and Insurance, and the Commissioner of
32 Human Services, who shall serve during their terms of office, or
33 when so designated by them, their deputies or other representatives,
34 who shall serve at their pleasure, and four public members who are
35 citizens of the State to be appointed by the Governor, with the
36 advice and consent of the Senate for terms of four years; provided
37 that the four members first appointed by the Governor shall serve
38 terms expiring on the first, second, third, and fourth, respectively,
39 April 30 ensuing after the enactment of this act. Each member
40 shall hold office for the term of **【his】** the member's appointment
41 and until **【his】** the member's successor shall have been appointed
42 and qualified. Any vacancy among the public members shall be
43 filled by appointment for the unexpired term only.

44 c. Any member of the authority appointed by the Governor
45 may be removed from office by the Governor for cause after a
46 public hearing.

- 1 d. The members of the authority shall serve without
2 compensation, but the authority may reimburse its members for
3 necessary expenses incurred in the discharge of their official duties.
- 4 e. The authority, upon the first appointment of its members and
5 thereafter on or after April 30 in each year, shall annually elect
6 from among its members a vice chairman who shall hold office
7 until April 30 next ensuing and shall continue to serve during the
8 term of his successor and until his successor shall have been
9 appointed and qualified. The authority may also appoint, retain,
10 and employ, without regard to the provisions of Title 11A, Civil
11 Service, of the New Jersey Statutes, such officers, agents, and
12 employees as it may require, and it shall determine their
13 qualifications, terms of office, duties, services, and compensation.
- 14 f. The powers of the authority shall be vested in the members
15 thereof in office from time to time and a majority of the total
16 authorized membership of the authority shall constitute a quorum at
17 any meeting thereof. Action may be taken and motions and
18 resolutions adopted by the authority at any meeting thereof by the
19 affirmative vote of a majority of the members present, unless in
20 any case the bylaws of the authority shall require a larger number.
21 No vacancy in the membership of the authority shall impair the
22 right of a quorum to exercise all the rights and perform all the
23 duties of the authority.
- 24 g. Each member and the treasurer of the authority shall execute
25 a bond to be conditioned upon the faithful performance of the duties
26 of such member or treasurer, as the case may be, in such form and
27 amount as may be prescribed by the Attorney General. Such bonds
28 shall be filed in the office of the Secretary of State. At all times
29 thereafter the members and treasurer of the authority shall maintain
30 such bonds in full force and effect. All costs of such bonds shall be
31 borne by the authority.
- 32 h. No trustee, director, officer, or employee of a health care
33 organization may serve as a member of the authority.
- 34 i. At least two true copies of the minutes of every meeting of
35 the authority shall be forthwith delivered by and under the
36 certification of the secretary thereof, to the Governor. No action
37 taken at such meeting by the authority shall have force or effect
38 until 10 days, exclusive of Saturdays, Sundays, and public holidays,
39 after such copies of the minutes shall have been so delivered or at
40 such earlier time as the Governor shall sign a statement of approval
41 thereof. If, in said 10-day period, the Governor returns a copy of
42 the minutes with veto of any action taken by the authority or any
43 member thereof at such meeting, such action shall be null and of no
44 effect. If the Governor shall not return the minutes within said 10-
45 day period, any action therein recited shall have force and effect
46 according to the wording thereof. At any time prior to the
47 expiration of the said 10-day period, the Governor may sign a
48 statement of approval of all or any such action of the authority.

1 The powers conferred in this subsection upon the Governor shall
2 be exercised with due regard for the rights of the holders of bonds
3 of the authority at any time outstanding.

4 (cf: P.L.1997, c.435, s.4)

5
6 260. Section 5 of P.L.1972, c.29 (C.26:2I-5) is amended to read
7 as follows:

8 5. Powers of authority. The authority shall have power:

9 a. To adopt bylaws for the regulation of its affairs and the
10 conduct of its business and to alter and revise such bylaws from
11 time to time at its discretion.

12 b. To adopt and have an official seal and alter the same at
13 pleasure.

14 c. To maintain an office at such place or places within the State
15 as it may designate.

16 d. To sue and be sued in its own name.

17 e. To borrow money and to issue bonds of the authority and to
18 provide for the rights of the holders thereof as provided in this act.

19 f. To acquire, lease as lessee or lessor, hold and dispose of real
20 and personal property or any interest therein, in the exercise of its
21 powers and the performance of its duties under this act.

22 g. To acquire in the name of the authority by purchase or
23 otherwise, on such terms and conditions and in such manner as it
24 may deem proper, any land or interest therein and other property
25 which it may determine is reasonably necessary for any project; and
26 to hold and use the same and to sell, convey, lease^{1,1} or otherwise
27 dispose of property so acquired, no longer necessary for the
28 authority's purposes, for fair consideration after public notice.

29 h. To receive and accept, from any federal or other public
30 agency or governmental entity directly or through the Department
31 of Health ¹【and Senior Services】¹ or any other agency of the State
32 or any health care organization, grants or loans for or in aid of the
33 acquisition or construction of any project, and to receive and accept
34 aid or contributions from any other source, of either money,
35 property, labor or other things of value, to be held, used^{1,1} and
36 applied only for the purposes for which such grants, loans and^{1,1}
37 contributions may be made.

38 i. To prepare or cause to be prepared plans, specifications,
39 designs^{1,1} and estimates of costs for the construction and equipment
40 of health care organization projects for health care organizations
41 under the provisions of this act, and from time to time to modify
42 such plans, specifications, designs^{1,1} or estimates.

43 j. By contract or contracts with and for health care
44 organizations only, to construct, acquire, reconstruct, rehabilitate
45 and improve, and furnish and equip health care organization
46 projects. The authority, in the exercise of its authority to make and
47 enter into contracts and agreements necessary or incidental to the

1 performance of its duties and the execution of its powers, shall
2 adopt standing rules and procedures providing that, except as
3 hereinafter provided, no contract on behalf of the authority shall be
4 entered into for the doing of any work, or for the hiring of
5 equipment or vehicles, where the sum to be expended exceeds the
6 sum of ¹[\$7,500.00] \$7,500¹ or the amount determined as provided
7 in this subsection, unless the authority shall first publicly advertise
8 for bids therefor, and shall award the contract to the lowest
9 responsible bidder; provided, however, that such advertising shall
10 not be required where the contract to be entered into is one for the
11 furnishing or performing of services of a professional nature or for
12 the supplying of any product or the rendering of any service by a
13 public utility subject to the jurisdiction of the Board of Public
14 Utilities, and tariffs and schedules of the charges, made, charged, or
15 exacted by the public utility for any such products to be supplied or
16 services to be rendered are filed with said board. The Governor, in
17 consultation with the Department of the Treasury, shall, no later
18 than March 1 of each odd-numbered year, adjust the threshold
19 amount set forth in this subsection, or subsequent to 1985 the
20 threshold amount resulting from any adjustment under this
21 subsection or section 17 of P.L.1985, c.469, in direct proportion to
22 the rise or fall of the Consumer Price Index for all urban consumers
23 in the New York City and the Philadelphia areas as reported by the
24 United States Department of Labor. The Governor shall, no later
25 than June 1 of each odd-numbered year, notify the authority of the
26 adjustment. The adjustment shall become effective July 1 of each
27 odd-numbered year.

28 k. To determine the location and character of any project to be
29 undertaken, subject to the provisions of this act, and subject to State
30 health and environmental laws, to construct, reconstruct, maintain,
31 repair, lease as lessee or lessor, and regulate the same and operate
32 the same in the event of default by a health care organization of its
33 obligations and agreements with the authority; to enter into
34 contracts for any or all such purposes; and to enter into contracts for
35 the management and operation of a project in the event of default as
36 herein provided. The authority shall use its best efforts to conclude
37 its position as an operator as herein provided as soon as is
38 practicable.

39 l. To establish rules and regulations for the use of a project or
40 any portion thereof and to designate a health care organization as its
41 agent to establish rules and regulations for the use of a project
42 undertaken by such a health care organization.

43 m. Generally to fix and revise from time to time and to charge
44 and collect rates, rents, fees^{1,1} and other charges for the use of and
45 for the services furnished or to be furnished by a project or any
46 portion thereof and to contract with holders of its bonds and with
47 any other person, party, association, corporation or other body,
48 public or private, in respect thereof.

1 n. To enter into agreements, credit agreements or contracts,
2 execute any and all instruments, and do and perform any and all
3 acts or things necessary, convenient or desirable for the purposes of
4 the authority or to carry out any power expressly given in this act.

5 o. To invest any moneys held in reserve or sinking funds, or
6 any moneys not required for immediate use or disbursement, at the
7 discretion of the authority, in such obligations as are authorized by
8 resolution of the authority.

9 p. To obtain, or aid in obtaining, from any department or
10 agency of the United States any insurance or guarantee as to, or of,
11 or for the payment or repayment of interest or principal, or both, or
12 any part thereof, on any loan or any instrument evidencing or
13 securing the same, made or entered into pursuant to the provisions
14 of this act; and notwithstanding any other provisions of this act, to
15 enter into agreement, contract^{1,1} or any other instrument
16 whatsoever with respect to any such insurance or guarantee, and
17 accept payment in such manner and form as provided therein in the
18 event of default by the borrower.

19 q. To obtain from any department or agency of the United
20 States or a private insurance company any insurance or guarantee as
21 to, or of, or for the payment or repayment of interest or principal, or
22 both, or any part thereof, on any bonds issued by the authority
23 pursuant to the provisions of this act; and notwithstanding any other
24 provisions of this act, to enter into any agreement, contract^{1,1} or
25 any other instrument whatsoever with respect to any such insurance
26 or guarantee, except to the extent that such action would in any way
27 impair or interfere with the authority's ability to perform and fulfill
28 the terms of any agreement made with the holders of the bonds of
29 the authority.

30 r. To receive and accept, from any department or agency of the
31 United States or of the State or from any other entity, any grant,
32 appropriation^{1,1} or other moneys to be used for or applied to any
33 corporate purpose of the authority, including without limitation the
34 meeting of debt service obligations of the authority in respect of its
35 bonds.

36 s. Subject to the approval of the State Treasurer, to grant or
37 loan all or any portion of the funds received pursuant to subsection
38 g. of section 7 of P.L.1972, c.29 (C.26:2I-7) in connection with the
39 hospital asset transformation program.

40 (cf: P.L.2000, c.98, s.3)

41
42 261. Section 21 of P.L.1972, c.29 (C.26:2I-21) is amended to
43 read as follows:

44 21. The Department of Health **[and Senior Services]**, or the
45 commissioner or their representatives, may visit, examine into₂ and
46 inspect, the authority and may require, as often as desired, duly

1 verified reports therefrom giving such information and in such form
2 as **[such]** the department or commissioner shall prescribe.

3 (cf: P.L.1997, c.435, s.8)

4

5 262. Section 23 of P.L.1972, c.29 (C.26:2I-23) is amended to
6 read as follows:

7 23. In order to provide new health care organizations and to
8 enable the construction and financing thereof, to refinance
9 indebtedness hereafter created by the authority for the purpose of
10 providing one or more health care organizations or additions or
11 improvements thereto or modernization thereof or for any one or
12 more of said purposes but for no other purpose unless authorized by
13 law, each of the following bodies shall have the powers hereafter
14 enumerated to be exercised upon such terms and conditions,
15 including the fixing of fair consideration or rental to be paid or
16 received, as it shall determine by resolution as to such property and
17 each shall be subject to the performance of the duties hereafter
18 enumerated, that is to say, the Department of Health **[and Senior**
19 **Services]** as to such as are located on land owned by, or owned by
20 the State and held for, any State institution or on lands of the
21 institutions under the jurisdiction of the Department of Health **[and**
22 **Senior Services]** or of the Department of Human Services, or by the
23 authority, the Commissioner of Human Services as to State
24 institutions operated by that department, the board of trustees or
25 governing body of any public health care organization, the board of
26 trustees of the University of Medicine and Dentistry of New Jersey,
27 as to such as are located on land owned by the university, or by the
28 State for the university, the State or by the particular public health
29 care organization, respectively, namely:

30 a. The power to sell and to convey to the authority title in fee
31 simple in any such land and any existing health care facility thereon
32 owned by the State and held for any department thereof or of any of
33 the institutions under the jurisdiction of the Department of Health
34 **[and Senior Services]** or the power to sell and to convey to the
35 authority such title as the State or the public health care
36 organization, respectively, may have in any such land and any
37 existing health care facility thereon.

38 b. The power to lease to the authority any land and any existing
39 health care facility thereon so owned for a term or terms not
40 exceeding 50 years each.

41 c. The power to lease or sublease from the authority, and to
42 make available, any such land and existing health care facility
43 conveyed or leased to the authority under subsections a. and b. of
44 this section, and any new health care facility erected upon such land
45 or upon any other land owned by the authority.

46 d. The power and duty, upon receipt of notice of any
47 assignment by the authority of any lease or sublease made under

1 subsection c. of this section, or of any of its rights under any such
2 lease or sublease, to recognize and give effect to such assignment,
3 and to pay to the assignee thereof rentals or other payments then
4 due or which may become due under any such lease or sublease
5 which has been so assigned by the authority.

6 (cf: P.L.1997, c.435, s.9)

7

8 263. Section 6 of P.L.1991, c.279 (C.26:2J-4.4) is amended to
9 read as follows:

10 6. Notwithstanding any provision of law to the contrary, a
11 certificate of authority to establish and operate a health maintenance
12 organization in this State shall not be issued or continued by the
13 Commissioner of '【Health】' 【and Senior Services】 'Banking and
14 Insurance' on or after the effective date of this act unless the health
15 maintenance organization provides health care services to any
16 enrollee for the conduct of: one baseline mammogram examination
17 for women who are at least 35 but less than 40 years of age; a
18 mammogram examination every year for women age 40 and over;
19 and, in the case of a woman who is under 40 years of age and has a
20 family history of breast cancer or other breast cancer risk factors, a
21 mammogram examination at such age and intervals as deemed
22 medically necessary by the woman's health care provider.

23 These health care services shall be provided to the same extent as
24 for any other sickness under the enrollee agreement.

25 The provisions of this section shall apply to all enrollee
26 agreements in which the health maintenance organization has
27 reserved the right to change the schedule of charges.

28 (cf: P.L.2004, c.86, s.6)

29

30 264. Section 8 of P.L.1993, c.327 (C.26:2J-4.6) is amended to
31 read as follows:

32 8. a. Notwithstanding any provision of this act or any other law
33 to the contrary, a certificate of authority to establish and operate a
34 health maintenance organization in this State shall not be issued or
35 continued by the Commissioner of Health 【and Senior Services】 on
36 or after the effective date of this act unless the health maintenance
37 organization provides health care services to any enrollee which
38 include a health promotion program providing health wellness
39 examinations and 【counselling】 counseling, which program shall
40 include, but not be limited to, the following tests and services:

41 (1) For all persons 20 years of age and older, annual tests to
42 determine blood hemoglobin, blood pressure, blood glucose level,
43 and blood cholesterol level or, alternatively, low-density lipoprotein
44 (LDL) level, and blood high-density lipoprotein (HDL) level;

45 (2) For all persons 35 years of age or older, a glaucoma eye test
46 every five years;

47 (3) For all persons 40 years of age or older, an annual stool
48 examination for presence of blood;

- 1 (4) For all persons 45 years of age or older, a left-sided colon
2 examination of 35 to 60 centimeters every five years;
- 3 (5) For all women 20 years of age or older, a pap smear
4 pursuant to the provisions of section 5 of P.L.1995, c.415 (C.26:2J-
5 4.12);
- 6 (6) For all women 40 years of age or older, a mammogram
7 examination pursuant to the provisions of section 6 of P.L.1991,
8 c.279 (C.26:2J-4.4);
- 9 (7) For all adults, recommended immunizations; and
- 10 (8) For all persons 20 years of age or older, an annual
11 consultation with a health care provider to discuss lifestyle
12 behaviors that promote health and well-being including, but not
13 limited to, smoking control, nutrition and diet recommendations,
14 exercise plans, lower back protection, weight control, immunization
15 practices, breast self-examination, testicular self-examination, and
16 seat belt usage in motor vehicles.
- 17 Notwithstanding the provisions of this subsection to the contrary,
18 if a physician or other health care provider recommends that it
19 would be medically appropriate for an enrollee to receive a different
20 schedule of tests and services than that provided for under this
21 subsection, the health maintenance organization shall provide
22 coverage for the tests or services actually provided, within the
23 limits of the amounts listed in subsection b. of this section.
- 24 b. A health maintenance organization shall not be required to
25 offer services to enrollees set forth in subsection a. of this section
26 for which the value exceeds: \$125 a year for each person between
27 the ages of 20 to 39, inclusive; \$145 a year for each man age 40 and
28 over; and \$235 a year for each woman age 40 and over; except that
29 for persons 45 years of age or older, the value of a left-sided colon
30 examination shall not be included in the above amount; however, no
31 health maintenance organization shall be required to provide
32 services to enrollees for a left-sided colon examination with a value
33 in excess of \$150.
- 34 c. The Commissioner of Health **[and Senior Services]**, in
35 consultation with the Department of the Treasury, shall annually
36 adjust the threshold amounts provided by subsection b. of this
37 section in direct proportion to the increase or decrease in the
38 consumer price index for all urban consumers in the New York City
39 and Philadelphia areas as reported by the United States Department
40 of Labor. The adjustment shall become effective on July 1 of the
41 year in which it is reported.
- 42 d. Nothing in this act shall be construed to require that a health
43 maintenance organization take any actions which conflict with the
44 health benefits, underwriting and rating standards established by the
45 federal government pursuant to subchapter XI of Pub.L.93-222 (42
46 U.S.C. s.300e et seq.).

1 e. This section shall apply to all health maintenance
2 organization contracts in which the right to change the enrollee
3 charge has been reserved.

4 f. The provisions of this section shall not apply to a health
5 benefits plan subject to the provisions of P.L.1992, c.161
6 (C.17B:27A-2 et seq.) or P.L.1992, c.162 (C.17B:27A-17 et seq.).
7 (cf: P.L.1999, c.339, s.6)

8
9 265. Section 4 of P.L.1995, c.316 (C.26:2J-4.10) is amended to
10 read as follows:

11 4. A certificate of authority to establish and operate a health
12 maintenance organization in this State shall not be issued or
13 continued by the Commissioner of **Health Banking** and **Senior**
14 **Services Insurance** on or after the effective date of P.L.2005, c.248
15 (C.17:48E-35.27 et al.) unless the health maintenance organization
16 offers health care services to any enrollee which include:

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

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

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

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

1 for any services provided pursuant to this section that represent
2 preventive care as permitted by that federal law, and shall not be
3 applied as provided pursuant to section 12 of P.L.2005, c.248
4 (C.26:2J-4.29). This section shall apply to all contracts under
5 which the health maintenance organization has reserved the right to
6 change the schedule of charges for enrollee coverage.
7 (cf: P.L.2005, c.248, s.10)

8
9 266. Section 5 of P.L.1995, c.415 (C.26:2J-4.12) is amended to
10 read as follows:

11 5. A certificate of authority to establish and operate a health
12 maintenance organization in this State shall not be issued or
13 continued by the Commissioner of **【Health】 Banking** and **【Senior**
14 **Services】 Insurance** on or after the effective date of this act unless
15 the health maintenance organization offers health care services to
16 any enrollee or other person covered thereunder which include a
17 Pap smear. The health care services shall be provided to the same
18 extent as for any other medical condition under the contract.

19 As used in this section, and notwithstanding the provisions of
20 this section to the contrary, "Pap smear" means an initial Pap smear
21 and any confirmatory test when medically necessary and as ordered
22 by the covered person's physician and includes all laboratory costs
23 associated with the initial Pap smear and any **【such】** confirmatory
24 test.

25 The provisions of this section shall apply to all contracts for
26 health care services by health maintenance organizations under
27 which the right to change the schedule of charges for enrollee
28 coverage is reserved.

29 (cf: P.L.2001, c.227, s.5)

30
31 267. Section 6 of P.L.1997, c.75 (C.26:2J-4.14) is amended to
32 read as follows:

33 6. A certificate of authority to establish and operate a health
34 maintenance organization in this State pursuant to P.L.1973, c.337
35 (C.26:2J-1 et seq.) shall not be issued or continued by the
36 Commissioner of **【Health】 Banking** and **【Senior Services】**
37 **Insurance** on or after the effective date of P.L.1997, c.75 unless the
38 health maintenance organization provides health care services to
39 any enrollee, following a mastectomy on one breast or both breasts,
40 for reconstructive breast surgery, surgery to restore and achieve
41 symmetry between the two breasts, and prostheses and, under any
42 contract for health care services providing outpatient x-ray or
43 radiation therapy, outpatient chemotherapy following surgical
44 procedures in connection with the treatment of breast cancer shall
45 be included as a part of the outpatient x-ray or radiation therapy.

46 The health care services shall be provided to the same extent as
47 for any other medical condition under the contract for health care
48 services.

1 The provisions of this section shall apply to all contracts for
2 health care services by health maintenance organizations under
3 which the right to change the schedule of charges for enrollee
4 coverage is reserved.

5 (cf: P.L.1997, c.75, s.6)

6

7 268. Section 8 of P.L.1997, c.149 (C.26:2J-4.15) is amended to
8 read as follows:

9 8. a. Every enrollee agreement that provides hospital or
10 medical expense benefits and is delivered, issued, executed, or
11 renewed in this State pursuant to P.L.1973, c.337 (C.26:2J-1 et seq.)
12 or approved for issuance or renewal in this State by the
13 Commissioner of **【Health】 Banking** and **【Senior Services】**
14 **Insurance** on or after the effective date of this act shall provide
15 health care services for a minimum of 72 hours of inpatient care
16 following a modified radical mastectomy and a minimum of 48
17 hours of inpatient care following a simple mastectomy. The enrollee
18 agreement shall not require a health care provider to obtain
19 authorization from the health maintenance organization for
20 prescribing 72 or 48 hours, as appropriate, of inpatient care as
21 provided for in this section.

22 The provisions of this section shall not be construed to: require a
23 patient to receive inpatient care for 72 or 48 hours, as appropriate, if
24 the patient in consultation with the patient's physician determines
25 that a shorter length of stay is medically appropriate; or relieve a
26 patient or a patient's physician, if appropriate, of any notification
27 requirements to the health maintenance organization under the
28 enrollee agreement.

29 The health care services shall be provided to the same extent as
30 for any other sickness under the enrollee agreement.

31 The provisions of this section shall apply to enrollee agreements
32 in which the health maintenance organization has reserved the right
33 to change the schedule of charges.

34 b. The Commissioner of **【Health】 Banking** and **【Senior**
35 **Services】 Insurance** shall adopt regulations pursuant to the
36 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
37 seq.) to implement the provisions of this section.

38 (cf: P.L.1997, c.149, s.8)

39

40 269. Section 8 of P.L.1997, c.338 (C.26:2J-4.17) is amended to
41 read as follows:

42 8. Notwithstanding any provision of law to the contrary, a
43 certificate of authority to establish and operate a health maintenance
44 organization in this State shall not be issued or continued by the
45 Commissioner of **【Health】 Banking** and **【Senior Services】**
46 **Insurance** on or after the effective date of this act unless the health
47 maintenance organization provides health care services to each
48 enrollee for the therapeutic treatment of inherited metabolic

1 diseases, including the purchase of medical foods and low protein
2 modified food products, when diagnosed and determined to be
3 medically necessary by the enrollee's physician.

4 For the purposes of this section, "inherited metabolic disease"
5 means a disease caused by an inherited abnormality of body
6 chemistry for which testing is mandated pursuant to P.L.1977, c.321
7 (C.26:2-110 et seq.); "low protein modified food product" means a
8 food product that is specially formulated to have less than one gram
9 of protein per serving and is intended to be used under the direction
10 of a physician for the dietary treatment of an inherited metabolic
11 disease, but does not include a natural food that is naturally low in
12 protein; and "medical food" means a food that is intended for the
13 dietary treatment of a disease or condition for which nutritional
14 requirements are established by medical evaluation and is
15 formulated to be consumed or administered enterally under
16 direction of a physician.

17 The health care services shall be provided to the same extent as
18 for any other medical condition under the contract.

19 The provisions of this section shall apply to all contracts for
20 health care services by health maintenance organizations under
21 which the right to change the schedule of charges for enrollee
22 coverage is reserved.

23 (cf: P.L.1997, c.338, s.8)

24

25 270. Section 6 of P.L.1999, c.49 (C.26:2J-4.19) is amended to
26 read as follows:

27 6. a. A certificate of authority to establish and operate a health
28 maintenance organization in this State pursuant to P.L.1973, c.337
29 (C.26:2J-1 et seq.), shall not be issued or continued by the
30 Commissioner of **Health** Banking and **Senior Services**
31 Insurance on or after the effective date of this amendatory and
32 supplementary act unless the health maintenance organization
33 provides health care services to an enrollee who is severely disabled
34 or a child age five or under for: (1) general anesthesia and
35 hospitalization for dental services; or (2) a medical condition
36 covered by the enrollee agreement which requires hospitalization or
37 general anesthesia for dental services rendered by a participating
38 dentist regardless of where the dental services are provided.

39 b. A health maintenance organization may require prior
40 authorization of hospitalization for dental services in the same
41 manner that prior authorization is required for hospitalization for
42 other covered diseases or conditions.

43 c. This section shall apply to all contracts for health care
44 services in which the health maintenance organization has reserved
45 the right to change the schedule of charges.

46 (cf: P.L.1999, c.49, s.6)

1 271. Section 8 of P.L.1999, c.108 (C.26:2J-4.20) is amended to
2 read as follows:

3 8. a. Every enrollee agreement delivered, issued, executed, or
4 renewed in this State pursuant to P.L.1973, c.337 (C.26:2J-1 et seq.)
5 or approved for issuance or renewal in this State by the
6 Commissioner of **【Health】 Banking** and **【Senior Services】**
7 **Insurance**, on or after the effective date of this act shall provide
8 health care services for biologically-based mental illness under the
9 same terms and conditions as provided for any other sickness under
10 the agreement. "Biologically-based mental illness" means a mental
11 or nervous condition that is caused by a biological disorder of the
12 brain and results in a clinically significant or psychological
13 syndrome or pattern that substantially limits the functioning of the
14 person with the illness, including but not limited to, schizophrenia,
15 schizoaffective disorder, major depressive disorder, bipolar
16 disorder, paranoia and other psychotic disorders, obsessive-
17 compulsive disorder, panic disorder and pervasive developmental
18 disorder, or autism. "Same terms and conditions" means that the
19 health maintenance organization cannot apply different copayments,
20 deductibles, or health care services limits to biologically-based
21 mental health care services than those applied to other medical or
22 surgical health care services.

23 b. Nothing in this section shall be construed to change the
24 manner in which a health maintenance organization determines:

25 (1) whether a mental health care service meets the medical
26 necessity standard as established by the health maintenance
27 organization; or

28 (2) which providers shall be entitled to reimbursement or to be
29 participating providers, as appropriate, for mental health services
30 under the enrollee agreement.

31 c. The provisions of this section shall apply to enrollee
32 agreements in which the health maintenance organization has
33 reserved the right to change the premium.

34 (cf: P.L.1999, c.106, s.8)

35

36 272. Section 1 of P.L.1999, c.332 (C.26:2J-4.21) is amended to
37 read as follows:

38 1. a. A certificate of authority to establish and operate a health
39 maintenance organization in this State shall not be issued or
40 continued by the Commissioner of **【Health】 Banking** and **【Senior**
41 **Services】 Insurance** on or after the effective date of this act unless
42 the health maintenance organization offers health care services in
43 conformance with the provisions of subsection b. of this section.

44 b. If an enrollee is a resident of a skilled nursing facility,
45 continuing care retirement community, or a retirement community
46 which operates a skilled nursing facility on the premises of the
47 community, regardless of whether the health maintenance
48 organization is under contract with the skilled nursing facility or the

1 skilled nursing facility at the continuing care retirement community
2 or retirement community, the enrollee's primary care physician shall
3 refer the enrollee to the skilled nursing facility or the community's
4 Medicare-certified skilled nursing unit, as applicable, rather than to
5 a skilled nursing facility separate from the facility or the
6 community of origin, if:

7 (1) the skilled nursing facility or the continuing care retirement
8 community or retirement community with a skilled nursing facility
9 has the capacity to provide the services the enrollee needs;

10 (2) the primary care physician, in consultation with the enrollee
11 or a representative of the enrollee's family, determines that the
12 referral is in the best interest of the enrollee;

13 (3) the skilled nursing facility or the continuing care retirement
14 community or retirement community with a skilled nursing facility
15 agrees to be reimbursed at the same contract rate negotiated by the
16 health maintenance organization with similar providers for the same
17 services and supplies in the same geographic area; and

18 (4) the skilled nursing facility or the continuing care retirement
19 community or retirement community with a skilled nursing facility
20 meets all applicable State licensing and certification requirements

21 c. For the purposes of this act, "continuing care retirement
22 community" means a continuing care facility operating under a
23 certificate of authority issued by the Department of Community
24 Affairs pursuant to P.L.1986, c.103 (C.52:27D-330 et seq.), and
25 "retirement community" means a retirement community which is
26 registered with the Department of Community Affairs pursuant to
27 P.L.1977, c.419 (C.45:22A-21 et seq.).

28 (cf: P.L.1999, c.332, s.1)

29

30 273. Section 8 of P.L.2001, c.295 (C.26:2J-4.24) is amended to
31 read as follows:

32 8. Every enrollee agreement that provides hospital or medical
33 expense benefits and is delivered, issued, executed, or renewed in
34 this State pursuant to P.L.1973, c.337 (C.26:2J-1 et seq.), or
35 approved for issuance or renewal in this State by the Commissioner
36 of **Health Banking** and **Senior Services Insurance** on or after
37 the effective date of this act, shall provide health care services to
38 any enrollee or other person covered thereunder for expenses
39 incurred in conducting colorectal cancer screening at regular
40 intervals for persons age 50 and over and for persons of any age
41 who are considered to be at high risk for colorectal cancer. The
42 methods of screening for which benefits shall be provided shall
43 include: a screening fecal occult blood test, flexible sigmoidoscopy,
44 colonoscopy, barium enema, or any combination thereof; or the
45 most reliable, medically recognized screening test available. The
46 method and frequency of screening to be utilized shall be in
47 accordance with the most recent published guidelines of the
48 American Cancer Society and as determined medically necessary by

1 the covered person's physician, in consultation with the covered
2 person.

3 As used in this section, "high risk for colorectal cancer" means a
4 person has:

5 a. a family history of: familial adenomatous polyposis;
6 hereditary non-polyposis colon cancer; or breast, ovarian,
7 endometrial, or colon cancer or polyps;

8 b. chronic inflammatory bowel disease; or

9 c. a background, ethnicity, or lifestyle that the physician
10 believes puts the person at elevated risk for colorectal cancer.

11 The health care services shall be provided to the same extent as
12 for any other medical condition under the enrollee agreement.

13 The provisions of this section shall apply to all enrollee
14 agreements in which the health maintenance organization has
15 reserved the right to change the schedule of charges.

16 (cf: P.L.2001, c.295, s.8)

17

18 274. Section 11 of P.L.2005, c.248 (C.26:2J-4.28) is amended to
19 read as follows:

20 11. A certificate of authority to establish and operate a health
21 maintenance organization, which organization offers a contract that
22 qualifies as a high deductible health plan for which qualified
23 medical expenses are paid using a health savings account
24 established pursuant to section 223 of the federal Internal Revenue
25 Code of 1986 (26 U.S.C. s.223), shall not be issued or continued by
26 the Commissioner of **【Health】 Banking** and **【Senior Services】**
27 **Insurance** on or after the effective date of P.L.2005, c.248
28 (C.17:48E-35.27 et al.), unless the health maintenance organization
29 offers health care services to any enrollee which include services
30 provided in-network which represent medically necessary
31 preventive care as permitted by that federal law.

32 The services provided pursuant to this section shall be provided
33 to the same extent as for any other medical condition under the
34 contract, except that a deductible shall not be applied for services
35 provided pursuant to this section. This section shall apply to all
36 contracts under which the health maintenance organization has
37 reserved the right to change the schedule of charges for enrollee
38 coverage.

39 (cf: P.L.2005, c.248, s.11)

40

41 275. Section 12 of P.L.2005, c.248 (C.26:2J-4.29) is amended to
42 read as follows:

43 12. Notwithstanding the provisions of section 4 of P.L.1995,
44 c.316 (C.26:2J-4.10) regarding deductibles for a high deductible
45 health plan, a contract offered by a health maintenance
46 organization, which certificate of authority to establish and operate
47 is issued or continued by the Commissioner of **【Health】 Banking**
48 and **【Senior Services】 Insurance** on or after the effective date of

1 P.L.2005, c.248 (C.17:48E-35.27 et al.), that qualifies as a high
2 deductible health plan for which qualified medical expenses are
3 paid using a health savings account established pursuant to section
4 223 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.223),
5 shall not apply a deductible for any benefits in which a deductible is
6 not applicable pursuant to any law enacted after the effective date
7 of P.L.2005, c.248 (C.17:48E-35.27 et al.).

8 This section shall apply to all contracts under which the health
9 maintenance organization has reserved the right to change the
10 schedule of charges for enrollee coverage.

11 (cf: P.L.2005, c.248, s.12)

12

13 276. Section 8 of P.L.2007, c.345 (C.26:2J-4.31) is amended to
14 read as follows:

15 8. a. A certificate of authority to establish and operate a health
16 maintenance organization in this State pursuant to P.L.1973, c.337
17 (C.26:2J-1 et seq.) shall not be issued or continued by the
18 Commissioner of **Health** Banking and **Senior Services**
19 Insurance on or after the effective date of this act unless the health
20 maintenance organization provides health care services for any
21 person covered thereunder for expenses incurred in obtaining an
22 orthotic or prosthetic appliance from any licensed orthotist or
23 prosthetist, or any certified pedorthist, as determined medically
24 necessary by the covered person's physician.

25 As used in this section, "orthotic appliance," "prosthetic
26 appliance," **["licensed orthotist"]** "licensed orthotist," and "licensed
27 prosthetist" have the meaning assigned to them in section 3 of
28 P.L.1991, c.512 (C.45:12B-3) and "certified pedorthist" has the
29 meaning assigned to it in subsection j. of section 18 of P.L.1991,
30 c.512 (C.45:12B-18).

31 b. On and after the effective date of this act, a health
32 maintenance organization shall reimburse for orthotic and prosthetic
33 appliances at the same rate as reimbursement for such appliances
34 under the federal Medicare reimbursement schedule.

35 c. The benefits shall be provided to the same extent as for any
36 other medical condition under the enrollee agreement.

37 d. The provisions of this section shall apply to all enrollee
38 agreements in which the health maintenance organization has
39 reserved the right to change the schedule of charges.

40 (cf: P.L.2007, c.345, s.8)

41

42 277. Section 23 of P.L.1973, c.337 (C.26:2J-23) is amended to
43 read as follows:

44 23. Every health maintenance organization subject to this act
45 shall pay to the commissioner the following fees:

46 a. for filing an application for a certificate of authority or
47 amendment thereto, \$100.00;

48 b. for filing each annual report, \$10.00; and

1 c. for the purpose of supporting the activities of the
2 Department of **[Health] Banking** and **[Senior Services] Insurance**
3 associated with the regulation of health maintenance organizations,
4 \$1.50 per life per year, with payment being made annually no later
5 than July 15 for the preceding calendar year. Payments made by a
6 health maintenance organization pursuant to this act shall not in any
7 way reduce payments that may be owed by a health maintenance
8 organization pursuant to P.L.1995, c.156 (C.17:1C-19 et seq.) and
9 subsequent amendments thereto. No such payment shall be
10 required for any per life per year that is funded through the
11 Medicaid program established pursuant to P.L.1968, c.413
12 (C.30:4D-1 et seq.), the "Children's Health Care Coverage
13 Program" established pursuant to P.L.1997, c.272 (C.30:4I-1 et
14 seq.), or the **["FamilyCare Health Coverage Program"] NJ**
15 **FamilyCare Program** established pursuant to **[P.L.2000, c.71**
16 **(C.30:4J-1 et seq.)] P.L.2005, c.156 (C.30:4J-8 et al.)**.

17 In accordance with the "Administrative Procedure Act,"
18 P.L.1968, c.410 (C.52:14B-1 et seq.), the commissioner may
19 promulgate rules and regulations directing that additional fees be
20 paid.

21 From fees collected under the provisions of subsection c. of this
22 section, the Legislature shall in each fiscal year appropriate to the
23 community health law project the sum of \$100,000 to fund a grant
24 in support of a program to provide any senior citizen resident of this
25 State who is covered as an enrollee in or beneficiary of a health
26 plan administered by a health maintenance organization with
27 information concerning the person's rights under the program and
28 assistance with the procedures for receiving the benefits to which
29 the person is entitled under the program.

30 (cf: P.L.2002, c.34, s.18)

31

32 278. Section 1 of P.L.1986, c.106 (C.26:2K-35) is amended to
33 read as follows:

34 1. As used in this act:

35 a. "Commissioner" means the Commissioner of **[the**
36 **Department of] Health [and Senior Services]**.

37 b. "Dispatch" means the coordinated request for and dispatch
38 of the emergency medical service helicopter response unit by a
39 central communications center located in the service area, following
40 protocols developed by the mobile intensive care hospital, the
41 regional trauma or critical care center, the commissioner, and the
42 superintendent.

43 c. "Emergency medical service helicopter response unit" means
44 a specially equipped hospital-based emergency medical service
45 helicopter staffed by advanced life support personnel and operated
46 for the provision of advanced life support services under the
47 medical direction of a mobile intensive care program and the

1 regional trauma or critical care center authorized by the
2 commissioner.

3 d. "Emergency medical transportation" means the prehospital
4 or interhospital transportation of an acutely ill or injured patient by
5 a dedicated emergency medical service helicopter response unit
6 operated, maintained and piloted by the Division of State Police of
7 the Department of Law and Public Safety, pursuant to regulations
8 adopted by the commissioner under chapter 40 of Title 8 of the New
9 Jersey Administrative Code.

10 e. "Medical direction" means the medical control and medical
11 orders transmitted from the physician of the mobile intensive care
12 hospital or from the physician at the regional trauma or critical care
13 center to the staff of the helicopter. The mobile intensive care unit
14 coordinating center and regional trauma or critical care center shall
15 have the ability to cross patch and consult with each other as
16 approved by the commissioner.

17 f. "Mobile intensive care hospital" means a hospital authorized
18 by the commissioner to develop and maintain a mobile intensive
19 care unit to provide advanced life support services in accordance
20 with P.L.1984, c.146 (C.26:2K-7 et al.).

21 g. "Regional trauma center" means a State designated level one
22 hospital-based trauma center equipped and staffed to provide
23 emergency medical services to an accident or trauma victim,
24 including, but not limited to, the level one trauma centers at the
25 University of Medicine and Dentistry of New Jersey-University
26 Hospital in Newark, known as the "Eric Munoz Trauma Center,"
27 and at the Cooper Hospital/University Medical Center in Camden.

28 h. "Critical care center" means a hospital authorized by the
29 commissioner to provide regional critical care services, such as
30 trauma, burn, spinal cord, cardiac, poison, or neonatal care.

31 i. "Superintendent" means the Superintendent of the Division
32 of State Police of the Department of Law and Public Safety.
33 (cf: P.L.2010, c.80, s.1)

34

35 279. Section 1 of P.L.2003, c.1 (C.26:2K-47.1) is amended to
36 read as follows:

37 1. As used in this act:

38 "Commissioner" means the Commissioner of Health **[and Senior**
39 **Services]**;

40 "Emergency medical service" means a program in a hospital
41 staffed 24 hours-a-day by a licensed physician trained in emergency
42 medicine;

43 "Emergency medical technician" means a person trained in basic
44 life support services as defined in section 1 of P.L.1985, c.351
45 (C.26:2K-21) and who is certified by the Department of Health
46 **[and Senior Services]** to provide that level of care.

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

1 280. Section 2 of P.L.2003, c.1 (C.26:2K-47.2) is amended to
2 read as follows:

3 2. a. An emergency medical technician who has been certified
4 by the commissioner pursuant to subsection b. of this section to
5 administer an epinephrine auto-injector device shall administer,
6 maintain and dispose of the device in accordance with rules and
7 regulations adopted by the commissioner.

8 Each administration of an auto-injector device pursuant to this
9 act shall be reported to the Department of Health [and Senior
10 Services] in a manner determined by the commissioner.

11 b. The commissioner shall establish written standards and
12 application procedures which an emergency medical technician
13 shall meet in order to obtain certification. The commissioner shall
14 certify a candidate who: provides evidence of satisfactory
15 completion of an educational program which is approved by the
16 commissioner and includes training in the administration of
17 epinephrine auto-injector devices; and passes an examination in the
18 administration of the devices which is approved by the
19 commissioner.

20 c. The commissioner shall maintain a registry of all persons
21 certified pursuant to this section, which shall include, but not be
22 limited to:

- 23 (1) the person's name and residence; and
24 (2) the date that certification was granted.

25 d. The commissioner shall annually compile a list of
26 emergency medical technicians who have obtained certification to
27 administer an epinephrine auto-injector device pursuant to this
28 section, which shall be available to the public.

29 e. A fee may be charged to a person enrolled in an educational
30 program approved by the department which includes training in the
31 administration of an epinephrine auto-injector device in order to
32 cover the cost of training and testing for certification pursuant to
33 this section, if the entity that provides the educational program is
34 not reimbursed for the cost of that training and testing from the
35 "Emergency Medical Technician Training Fund" established
36 pursuant to section 3 of P.L.1992, c.143 (C.26:2K-56).

37 (cf: P.L.2003, c.1, s.2)

38

39 281. Section 10 of P.L.2003, c.1 (C.26:2K-47.9) is amended to
40 read as follows:

41 10. Pursuant to the "Administrative Procedure Act," P.L.1968,
42 c.410 (C.52:14B-1 et seq.), the Commissioner of Health [and
43 Senior Services] shall adopt rules and regulations to effectuate the
44 purposes of this act, including medical protocols for the
45 administration of epinephrine auto-injector devices, in consultation
46 with the State [mobil] mobile intensive care advisory council and
47 the New Jersey State First Aid Council, Inc. The rules and

1 regulations shall address age appropriateness in the administration
2 of epinephrine.

3 (cf: P.L.2003, c.1. s.10)

4

5 282. Section 1 of P.L.2009, c.174 (C.26:2K-63) is amended to
6 read as follows:

7 1. Certification of a person as an emergency medical technician
8 by the Commissioner of Health **【and Senior Services】**, when that
9 person meets the requirements therefor as prescribed by regulation
10 of the commissioner, shall be valid for a period of five years.

11 (cf: P.L.2009, c.174, s.1)

12

13 283. Section 2 of P.L.2009, c.174 (C.26:2K-64) is amended to
14 read as follows:

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

19 (cf: P.L.2009, c.174, s.2)

20

21 284. Section 1 of P.L.2003, c.269 (C.26:2M-7.2) is amended to
22 read as follows:

23 1. a. The Commissioner of Health **【and Senior Services】** shall
24 establish a mandatory training program for long-term care facility
25 staff, as described in subsection b. of this section, in the specialized
26 care of patients who are diagnosed by a physician as having
27 Alzheimer's disease or a related disorder. The training program
28 shall include the causes and progression of Alzheimer's disease and
29 related disorders and methods to deal with the specific problems
30 encountered in the care of patients with Alzheimer's disease and
31 related disorders, including, but not limited to: communicating with
32 patients with Alzheimer's disease and related disorders;
33 psychological, social and physical needs of patients with
34 Alzheimer's disease and related disorders; and safety measures
35 which need to be taken for a patient with Alzheimer's disease and
36 related disorders.

37 b. A long-term care facility shall annually provide training,
38 under the training program established pursuant to subsection a. of
39 this section, to a certified nurse aide, licensed practical nurse,
40 registered professional nurse, and other health care professionals, as
41 appropriate, who provide direct care to a patient in the facility who
42 is diagnosed as having Alzheimer's disease or a related disorder.

43 (cf: P.L.2003, c.269, s.1)

44

45 285. Section 2 of P.L.1988, c.114 (C.26:2M-10) is amended to
46 read as follows:

47 2. As used in this act:

- 1 a. "Adult day care" means a community-based group program
2 designed to meet the needs of functionally or cognitively impaired
3 adults through an individual plan of care structured to provide a
4 variety of health, social, and related support services in a protective
5 setting during any part of a day but less than 24 hours.
- 6 b. "Alzheimer's Disease and related disorders" means forms of
7 dementia characterized by a general loss of intellectual abilities of
8 sufficient severity to interfere with social or occupational
9 functioning.
- 10 c. "Care needs or behavioral problems" means the
11 manifestations of dementia which may include, but need not be
12 limited to, progressive memory loss, confusion, inability to
13 communicate, extreme personality change, and eventual inability to
14 perform the most basic tasks.
- 15 d. "Commissioner" means the Commissioner of **[the State**
16 **Department of Health and Senior] Human Services.**
- 17 e. "Department" means the **[State] Department of [Health and**
18 **Senior] Human Services.**
- 19 f. "Grantee" means a public agency, private for profit agency,
20 or private nonprofit agency selected by the department to establish
21 an adult day care program for participants pursuant to this act.
- 22 g. "Participant" means an individual with Alzheimer's disease
23 or a related disorder, particularly those in the moderate to severe
24 stages. To be eligible for services, a participant shall have
25 documentation from a physician that the participant has Alzheimer's
26 disease or a related disorder.
27 (cf: P.L.1999, c.285, s.1)

28
29 286. Section 2 of P.L.2011, c.76 (C.26:2M-17) is amended to
30 read as follows:

- 31 2. a. There is established the New Jersey Alzheimer's Disease
32 Study Commission in the Department of **[Health and Senior]**
33 **Human Services.**
- 34 b. The commission shall consist of 15 members as follows:
- 35 (1) the Commissioners of Health **[and Senior Services]** and
36 Human Services, or their designees, who shall serve ex officio;
- 37 (2) two members of the Senate, to be appointed by the President
38 of the Senate, who shall not be of the same political party;
- 39 (3) two members of the General Assembly, to be appointed by
40 the Speaker of the General Assembly, who shall not be of the same
41 political party; and
- 42 (4) nine members appointed by the Governor, as follows: two
43 persons recommended by the Alzheimer's Association, one of
44 whom shall be a representative of the Greater New Jersey Chapter
45 and one of whom shall be a representative of the Alzheimer's
46 Association Delaware Valley Chapter; three health care
47 professionals who are currently involved in the provision of direct

1 services, one of whom shall be a representative of an agency that
2 provides home care services to persons with dementia, one of whom
3 shall be a representative of an assisted living facility that provides
4 specialized services to persons with dementia, and one of whom
5 shall be a representative of a licensed nursing home that provides
6 specialized services to persons with dementia; one representative
7 from the clergy who has experience providing emotional and
8 spiritual care and support for persons with Alzheimer's disease and
9 their families; two persons who by reason of family relationship or
10 legal guardianship bear or have borne responsibility in caring for a
11 person with Alzheimer's disease; and one attorney who is currently
12 licensed and practicing in New Jersey, has expertise in legal and
13 financial planning and elder care issues, and has extensive
14 community-based experience working with persons with
15 Alzheimer's disease and their families.

16 c. Vacancies in the membership of the commission shall be
17 filled in the same manner provided for the original appointments.

18 d. The commission shall organize as soon as practicable
19 following the appointment of its members and shall select a
20 chairperson from among the members. The chairperson shall
21 appoint a secretary who need not be a member of the commission.

22 e. Members of the commission shall serve without
23 compensation, but shall be reimbursed for necessary expenses
24 incurred in the performance of their duties as members of the
25 commission, within the limits of funds appropriated or otherwise
26 made available to the commission for its purposes.

27 f. The commission shall be entitled to call to its assistance and
28 avail itself of the services of the employees of any State, county, or
29 municipal department, board, bureau, commission, or agency as it
30 may require and as may be available to it for its purposes.

31 g. The Department of **[Health and Senior Service]** Human
32 Services shall provide staff support to the commission, as
33 necessary.

34 (cf: P.L.2011, c.76, s.2)

35

36 287. Section 2 of P.L.2003, c.257 (C.26:2N-9) is amended to
37 read as follows:

38 2. a. Prior to administering a second dose of the measles-
39 mumps-rubella (MMR) vaccine to a child, a health care provider
40 may give the child's parent or guardian the option of consenting to
41 the administration of an antibody titer to determine whether or not
42 the child has already developed immunity to MMR in response to a
43 previously administered dose of the vaccine and would not require
44 the second dose.

45 b. Documented laboratory evidence of immunity from MMR
46 shall exempt a child from further vaccination for MMR, as may be

1 required pursuant to Department of Health **[and Senior Services]**
2 regulations.

3 (cf: P.L.2003, c.257, s.2)

4

5 288. Section 3 of P.L.2003, c.257 (C.26:2N-10) is amended to
6 read as follows:

7 3. The Commissioner of Health **[and Senior Services]** shall
8 prepare and make available to all health care providers in the State a
9 pamphlet that explains the nature and purpose of the MMR vaccine
10 and the antibody titer used to determine immunity pursuant to
11 section 2 of this act.

12 The commissioner shall send a copy of the pamphlet to every
13 licensed health care provider in the State who administers the MMR
14 vaccine, with a cover letter advising the health care provider that
15 the pamphlet was prepared in accordance with the requirements of
16 P.L.2003, c. 257 (C.26:2N-8 et seq.), known as "Holly's Law," and
17 how the health care provider can obtain additional copies of the
18 pamphlet from the Department of Health **[and Senior Services]**.

19 (cf: P.L.2003, c.257, s.3)

20

21 289. Section 4 of P.L.2003, c.257 (C.26:2N-11) is amended to
22 read as follows:

23 4. The Commissioner of Health **[and Senior Services]** shall
24 adopt rules and regulations, pursuant to the "Administrative
25 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to
26 carry out the provisions of this act.

27 (cf: P.L.2003, c.257, s.4)

28

29 290. Section 2 of P.L.1993, c.288 (C.26:2Q-2) is amended to
30 read as follows:

31 2. As used in sections 1 through 12 of P.L.1993, c.288
32 (C.26:2Q-1 through C.26:2Q-12):

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

35 "Department" means the Department of Health **[and Senior**
36 **Services]**.

37 "Interim controls" means a set of measures designed to reduce
38 temporarily human exposure or likely exposure to lead-based paint
39 hazards, including specialized cleaning, repairs, maintenance,
40 painting, temporary containment, ongoing monitoring of lead-based
41 paint hazards or potential hazards, and the establishment and
42 operation of management and resident education programs, or as the
43 term is defined under 42 U.S.C.s.4851b.

44 "Lead abatement" means a set of measures designed to
45 permanently eliminate lead-based paint hazards in accordance with
46 standards established by the Commissioner of Community Affairs

1 in compliance with standards promulgated by the appropriate
2 federal agencies. Such term includes:

3 a. the removal of lead-based paint and lead-contaminated dust,
4 the permanent containment or encapsulation of lead-based paint, the
5 replacement of lead-painted surfaces or fixtures, and the removal or
6 covering of lead contaminated soil; and

7 b. all preparation, cleanup, disposal, and post-abatement
8 clearance testing activities associated with such measures.

9 "Lead evaluation" means a surface-by-surface investigation to
10 determine the presence of lead-based paint and the provision of a
11 report explaining the results of the investigation.

12 "Lead hazard control work" means work to make housing lead-
13 safe, or to mitigate, through the use of interim controls as permitted
14 under federal law and as defined in 42 U.S.C.s.4851b, or to
15 eliminate permanently lead-based paint hazards by abatement on a
16 premises by a person certified to perform lead abatement work
17 pursuant to sections 1 through 12 of P.L.1993, c.288 (C.26:2Q-1 et
18 seq.) and sections 14 through 24 of P.L.1993, c.288 (C.52:27D-427
19 et seq.).

20 "Lead-based paint" means paint or other surface coating material
21 that contains lead in excess of 1.0 milligrams per centimeter
22 squared or in excess of 0.5% by weight, or such other level as may
23 be established by federal law.

24 "Lead-based paint hazard" means any condition that causes
25 exposure to lead from lead-contaminated dust or soil or lead-
26 contaminated paint that is deteriorated or present in surfaces, that
27 would result in adverse human health effects.

28 "Lead-based paint hazard inspection" means an inspection of
29 residential housing and the structure's interior common areas and
30 exterior surface for the presence of lead-based paint hazards.

31 "Lead safe maintenance work" means those maintenance
32 activities which are necessary to maintain surfaces in a lead safe
33 condition and to prevent lead-based paint hazards from occurring or
34 reoccurring.

35 "Surface" means an area such as an interior or exterior wall,
36 ceiling, floor, door, door frame, window sill, window frame, porch,
37 stair, handrail and spindle, or other abradable surface, soil,
38 furniture, a carpet, a radiator or a water pipe.

39 (cf: P.L.2003, c.311, s.17)

40

41 291. Section 2 of P.L.1997, c.191 (C.26:2R-2) is amended to
42 read as follows:

43 2. As used in this act:

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

46 "Council" means the Interagency Council on Osteoporosis
47 established pursuant to this act.

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

3 "Program" means the osteoporosis prevention and education
4 program established pursuant to this act.

5 (cf: P.L.1997, c.191, s.2)

6
7 292. Section 3 of P.L.1997, c.191 (C.26:2R-3) is amended to
8 read as follows:

9 3. a. The Commissioner of **[Health and Senior]** Human
10 Services shall establish an osteoporosis prevention and education
11 program in the Department of **[Health and Senior]** Human
12 Services. The purpose of the program is to promote: public
13 awareness of the causes of osteoporosis; options for prevention; the
14 value of early detection; and possible treatments, including the
15 benefits and risks of those treatments. The department may accept,
16 for that purpose, any special grant of money, services, or property
17 from the federal government or any of its agencies, or from any
18 foundation, organization, or medical school.

19 b. The program shall include the following:

20 (1) Development of a public education and outreach campaign
21 to promote osteoporosis prevention and education, including, but
22 not limited to, the following subjects:

23 (a) The cause and nature of the disease;

24 (b) Risk factors;

25 (c) The role of hysterectomy;

26 (d) Prevention of osteoporosis, including nutrition, diet, and
27 physical exercise;

28 (e) Diagnostic procedures and appropriate indications for their
29 use;

30 (f) Hormone replacement, including the benefits and risks;

31 (g) Environmental safety and injury prevention; and

32 (h) Availability of osteoporosis diagnostic treatment services in
33 the community.

34 (2) Development of educational materials to be made available
35 for consumers, particularly targeted to high-risk groups, through
36 local boards of health, physicians, other health care providers,
37 including, but not limited to, health maintenance organizations,
38 hospitals, and clinics, and women's organizations.

39 (3) Development of professional education programs for health
40 care providers to assist them in understanding research findings and
41 the subjects set forth in paragraph (1) of this subsection.

42 (4) Development and maintenance of a list of current providers
43 of specialized services for the prevention and treatment of
44 osteoporosis. Dissemination of the list shall be accompanied by a
45 description of diagnostic procedures, appropriate indications for
46 their use, and a cautionary statement about the current status of
47 osteoporosis research, prevention, and treatment. The statement
48 shall also indicate that the department does not license, certify, or in

1 any other way approve osteoporosis programs or centers in this
2 State.

3 (cf: P.L.1997, c.191, s.3)

4

5 293. Section 1 of P.L.1999, c.330 (C.26:2R-3.1) is amended to
6 read as follows:

7 1. The Department of **【Health and Senior】** Human Services
8 shall prepare an informational pamphlet which describes the causes
9 and nature of osteoporosis as well as methods which may be used to
10 prevent and treat osteoporosis, including nutrition, diet, physical
11 exercise, and medications. The department shall make a supply of
12 these pamphlets available to all pharmacies registered with the New
13 Jersey Board of Pharmacy for distribution to the public.

14 (cf: P.L.1999, c.330, s.1)

15

16 294. Section 2 of P.L.1997, c.192 (C.26:2S-2) is amended to
17 read as follows:

18 2. As used in sections 2 through 19 of this act:

19 "Behavioral health care services" means procedures or services
20 rendered by a health care provider for the treatment of mental
21 illness, emotional disorders, or drug or alcohol abuse. "Behavioral
22 health care services" does not include: any quality assurance or
23 utilization management activities or treatment plan reviews
24 conducted by a carrier, or a private entity on behalf of the carrier,
25 pertaining to these services, whether administrative or clinical in
26 nature; or any other administrative functions, including, but not
27 limited to, accounting and financial reporting, billing and
28 collection, data processing, debt or debt service, legal services,
29 promotion and marketing, or provider credentialing.

30 "Carrier" means an insurance company, health service
31 corporation, hospital service corporation, medical service
32 corporation^{1,1}, or health maintenance organization authorized to
33 issue health benefits plans in this State.

34 "Commissioner" means the Commissioner of **【Health】** Banking
35 and **【Senior Services】** Insurance.

36 "Contract holder" means an employer or organization that
37 purchases a contract for services.

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

41 "Covered service" means a health care 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 "Department" means the Department of **【Health】** Banking and
45 **【^{1,1} Senior Services】** Insurance.

46 "Health benefits plan" means a benefits plan which pays or
47 provides hospital and medical expense benefits for covered

1 services, and is delivered or issued for delivery in this State by or
2 through a carrier. Health benefits plan includes, but is not limited
3 to, Medicare supplement coverage and risk contracts to the extent
4 not otherwise prohibited by federal law. For the purposes of this
5 act, health benefits plan shall not include the following plans,
6 policies^{1,1} or contracts: accident only, credit, disability, long-term
7 care, CHAMPUS supplement coverage, coverage arising out of a
8 workers' compensation or similar law, automobile medical payment
9 insurance, personal injury protection insurance issued pursuant to
10 P.L.1972, c.70 (C.39:6A-1 et seq.)^{1,1} or hospital confinement
11 indemnity coverage.

12 "Health care provider" means an individual or entity which,
13 acting within the scope of its licensure or certification, provides a
14 covered service defined by the health benefits plan. Health care
15 provider includes, but is not limited to, a physician and other health
16 care professionals licensed pursuant to Title 45 of the Revised
17 Statutes, and a hospital and other health care facilities licensed
18 pursuant to Title 26 of the Revised Statutes.

19 "Independent utilization review organization" means an
20 independent entity comprised of physicians and other health care
21 professionals who are representative of the active practitioners in
22 the area in which the organization will operate and which is under
23 contract with the department to provide medical necessity or
24 appropriateness of services appeal reviews pursuant to this act.

25 "Managed behavioral health care organization" means an entity,
26 other than a carrier, which contracts with a carrier to provide,
27 undertake to arrange, or administer behavioral health care services
28 to covered persons through health care providers employed by the
29 managed behavioral health care organization or otherwise make
30 behavioral health care services available to covered persons through
31 contracts with health care providers. "Managed behavioral health
32 care organization" does not include a person or entity that, for an
33 administrative fee only, solely arranges a panel of health care
34 providers for a carrier for the provision of behavioral health care
35 services on a discounted fee-for-service basis.

36 "Managed care plan" means a health benefits plan that integrates
37 the financing and delivery of appropriate health care services to
38 covered persons by arrangements with participating providers, who
39 are selected to participate on the basis of explicit standards, to
40 furnish a comprehensive set of health care services and financial
41 incentives for covered persons to use the participating providers and
42 procedures provided for in the plan.

43 "Subscriber" means, in the case of a group contract, a person
44 whose employment or other status, except family status, is the basis
45 for eligibility for enrollment by the carrier or, in the case of an
46 individual contract, the person in whose name the contract is issued.

47 "Utilization management" means a system for reviewing the
48 appropriate and efficient allocation of health care services under a

1 health benefits plan according to specified guidelines, in order to
2 recommend or determine whether, or to what extent, a health care
3 service given or proposed to be given to a covered person should or
4 will be reimbursed, covered, paid for, or otherwise provided under
5 the health benefits plan. The system may include: preadmission
6 certification, the application of practice guidelines, continued stay
7 review, discharge planning, preauthorization of ambulatory care
8 procedures^{1, 1} and retrospective review.
9 (cf: P.L.2005, c.172, s.1)

10

11 295. Section 1 of P.L.2001, c.88 (C.26:2S-7.1) is amended to
12 read as follows:

13 1. The Commissioner of **Health** Banking and **Senior**
14 **Services** Insurance, in consultation with the New Jersey
15 Association of Health Plans, the Health Insurance Association of
16 America, the Medical Society of New Jersey, the New Jersey
17 Hospital Association, and such other representatives of managed
18 care plans as the commissioner deems appropriate, shall adopt by
19 regulation, a universal physician application for participation form
20 for use by carriers which offer managed care plans for the purpose
21 of credentialing physicians who seek to participate in a carrier's
22 provider network and for the purpose of credentialing physicians
23 who are employed by hospitals or other health care facilities which
24 seek to participate in a carrier's provider network.

25 The commissioner, in consultation with the New Jersey
26 Association of Health Plans, the Health Insurance Association of
27 America, the Medical Society of New Jersey, the New Jersey
28 Hospital Association and such other representatives of managed
29 care plans as the commissioner deems appropriate, shall also adopt
30 by regulation a form for renewal of credentialing, which shall be an
31 abbreviated version of the universal application form. The renewal
32 form shall be designed to enable a physician to indicate changes in
33 the information provided in the application form.

34 The commissioner shall revise the universal application and
35 renewal forms, as necessary, to conform with industry-wide,
36 national standards for credentialing.

37 In developing the forms, the commissioner shall consult with the
38 Commissioner of Human Services to ensure that the credentialing
39 requirements for participation in the Medicaid program, established
40 pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.), **the health care**
41 **coverage program for children, established pursuant to P.L.1997,**
42 **c.272 (C.30:4I-1 et seq.)** and the NJ FamilyCare **Health**
43 **Coverage** Program established pursuant to **P.L.2000, c.71**
44 **(C.30:4J-1 et seq.)** P.L.2005, c.156 (C.30:4J-8 et al.) are
45 adequately reflected on the application and renewal forms.

46 (cf: P.L.2001, c.88, s.1)

1 ¹296. Section 3 of P.L.2001, c.88 (C.26:2S-7.3) is amended to
2 read as follows:

3 3. The Commissioner of **【Health】 Banking** and **【Senior**
4 **Services】 Insurance** shall adopt regulations within 180 days of the
5 date of enactment of this act, pursuant to the "Administrative
6 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to
7 carry out the purposes of this act.¹

8 (cf: P.L.2001, c.88, s.3)

9

10 ¹~~【296.】~~ 297.¹ Section 1 of P.L.2000, c.121 (C.26:2S-10.1) is
11 amended to read as follows:

12 1. A carrier which offers a managed care plan that provides
13 benefits or health care services, as applicable, for the home
14 treatment of bleeding episodes associated with hemophilia,
15 including the purchase of blood products and blood infusion
16 equipment, shall comply with the provisions of this section.

17 a. For the purpose of providing home treatment services for
18 bleeding episodes associated with hemophilia, the carrier shall be
19 required to contract with, and exclusively use, providers that
20 comply with standards adopted by regulation of the Department of
21 **【Health】 Banking** and **【Senior Services】 Insurance** in consultation
22 with the Hemophilia Association of New Jersey. At a minimum,
23 the standards shall require that each provider:

24 (1) provide services pursuant to a prescription from the covered
25 person's attending physician and not make any substitutions of
26 blood products without prior approval of the attending physician;

27 (2) provide all brands of clotting factor products in low, medium
28 and high-assay range levels to execute treatment regimens as
29 prescribed by a covered person's attending physician, and all needed
30 ancillary supplies for the treatment or prevention of bleeding
31 episodes, including, but not limited to, needles, syringes, and cold
32 compression packs;

33 (3) have the ability to deliver prescribed blood products,
34 medications, and nursing services within three hours after receipt of
35 a prescription for an emergent situation, and maintain 24-hour on-
36 call service to accommodate this requirement;

37 (4) demonstrate experience with and knowledge of bleeding
38 disorders and the management thereof;

39 (5) demonstrate the ability for appropriate and necessary record
40 keeping and documentation, including the ability to expedite
41 product recall or notification systems and the ability to assist
42 covered persons in obtaining third party reimbursement;

43 (6) provide for proper removal and disposal of hazardous waste
44 pursuant to State and federal law;

45 (7) provide covered persons with a written copy of the agency's
46 policy regarding discontinuation of services related to loss of health
47 benefits plan coverage or inability to pay; and

1 (8) provide covered persons, upon request, with information
2 about the expected costs for medications and services provided by
3 the agency that are not otherwise covered by the covered person's
4 health benefits plan.

5 b. The Department of **[Health] Banking** and **[Senior Service]**
6 **Insurance** shall compile a list of providers who meet the minimum
7 standards established pursuant to this section and shall make the list
8 available to carriers and covered persons, upon request.

9 c. As used in this section: "blood product" includes, but is not
10 limited to, Factor VIII, Factor IX and cryoprecipitate; and "blood
11 infusion equipment" includes, but is not limited to, syringes and
12 needles.

13 (cf: P.L.2000, c.121, s.1)

14

15 ¹**[297.] 298.** Section 11 of P.L.2000, c.121 (C.26:2S-10.3) is
16 amended to read as follows:

17 11. The Department of **[Health] Banking** and **[Senior Services]**
18 **Insurance**, pursuant to the "Administrative Procedure Act,"
19 P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt regulations to
20 carry out the provisions of sections 1 and 2 of this act.

21 (cf: P.L.2000, c.121, s.11)

22

23 ¹**[298.] 299.** Section 1 of P.L.2011, c.190 (C.26:2S-14.1) is
24 amended to read as follows:

25 1. A general hospital licensed pursuant to P.L.1971, c.136
26 (C.26:2H-1 et seq.) shall be required, as prescribed by regulation of
27 the Commissioner of Health **[and Senior Services]**, to:

28 (1) post, in a conspicuous place in each of its waiting rooms for
29 members of the general public, a notice, as prescribed pursuant to
30 section 3 of P.L.2011, c.190 (C.26:2S-14.2), which provides
31 information about the operation of, and how to apply for, the
32 Independent Health Care Appeals Program established pursuant to
33 section 11 of P.L.1997, c.192 (C.26:2S-11); and

34 (2) ensure that appropriate hospital staff, including direct patient
35 care providers, staff that are concerned with billing for hospital
36 services or provide financial counseling to patients, and staff
37 otherwise engaged in providing patient advocacy or patient
38 relations services, are made aware of the program and are able to
39 provide information to patients and their family members, or other
40 persons on the patient's behalf, about how to contact the program.

41 (cf: P.L.2011, c.190, s.1)

42

43 ¹**[299.] 300.** Section 3 of P.L.2011, c.190 (C.26:2S-14.2) is
44 amended to read as follows:

45 3. The Commissioner of Banking and Insurance, in
46 consultation with the Commissioner of Health **[and Senior**
47 **Services]** and the State Board of Medical Examiners, shall

1 prescribe the size, content, and format of the notice about the
2 Independent Health Care Appeals Program to be posted in general
3 hospitals pursuant to section 1 of P.L.2011, c.190 (C.26:2S-14.1)
4 and in physicians' medical offices pursuant to section 2 of P.L.2011,
5 c.190 (C.45:9-22.26), and shall make the notice available to general
6 hospitals and physicians, and to members of the general public, by
7 posting it on the Internet website of the Department of Banking and
8 Insurance.

9 (cf: P.L.2011, c.190, s.3)

10

11 ¹**[300.] 301.** Section 4 of P.L.2011, c.190 (C.26:2S-14.3) is
12 amended to read as follows:

13 4. The Commissioner of Health **[and Senior Services]** and the
14 State Board of Medical Examiners, pursuant to the "Administrative
15 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) and in
16 consultation with each other and the Commissioner of Banking and
17 Insurance, shall adopt rules and regulations to effectuate the
18 purposes of this act.

19 (cf: P.L.2011, c.190, s.4)

20

21 ¹**[301.] 302.** Section 2 of P.L.2001, c.14 (C.26:2S-20) is
22 amended to read as follows:

23 2. As used in this act:

24 "Carrier" means a carrier as defined in section 2 of P.L.1997,
25 c.192 (C.26:2S-2).

26 "Commissioner" means the Commissioner of **[Health] Banking**
27 and **[Senior Services] Insurance**.

28 "Department" means the Department of **[Health] Banking** and
29 **[Senior Services] Insurance**.

30 "Managed care plan" means a managed care plan as defined in
31 section 2 of P.L.1997, c.192 (C.26:2S-2).

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

34 "Medicare" means the federal Medicare program established
35 pursuant to the federal Social Security Act, Pub.L.89-97 (42 U.S.C.
36 s.1395 et seq.).

37 "NJ FamilyCare" means the FamilyCare Health Coverage
38 Program established pursuant to **[P.L.2000, c.71 (C.30:4J-1 et**
39 **seq.)] P.L.2005, c.156 (C.30:4J-8 et al.)**.

40 "Program" means the Managed Health Care Consumer
41 Assistance Program established pursuant to this act.

42 (cf: P.L.2001, c.14, s.2)

43

44 ¹**[302.] 303.** Section 3 of P.L.2001, c.14 (C.26:2S-21) is
45 amended to read as follows:

46 3. a. There is established the Managed Health Care Consumer
47 Assistance Program in the Department of **[Health] Banking** and

1 **【Senior Services】** Insurance. The commissioner shall make
2 agreements to operate the program as necessary, in consultation
3 with the Commissioner of Human Services **【and the Commissioner**
4 **of Banking and Insurance】**, to assure that citizens have reasonable
5 access to services in all regions of the State.

6 b. The program shall:

7 (1) create and provide educational materials and training to
8 consumers regarding their rights and responsibilities as enrollees in
9 managed care plans, including materials and training specific to
10 Medicaid, NJ FamilyCare, Medicare, and commercial managed care
11 plans;

12 (2) assist and educate individual enrollees about the functions of
13 the State and federal agencies that regulate managed care products,
14 assist and educate enrollees about the various complaint, grievance,
15 and appeal processes, including State fair hearings, provide
16 assistance to individuals in determining which process is most
17 appropriate for the individual to pursue when necessary, maintain
18 and provide to individual enrollees the forms that may be necessary
19 to submit a complaint, grievance or appeal with the State or federal
20 agencies, and provide assistance to individual enrollees in
21 completion of the forms, if necessary;

22 (3) maintain and provide information to individuals upon
23 request about advocacy groups, including legal services programs
24 Statewide and in each county that may be available to assist
25 individuals, and maintain lists of State and Congressional
26 representatives and the means by which to contact representatives,
27 for distribution upon request;

28 (4) maintain a toll-free telephone number for consumers to call
29 for information and assistance. The number shall be accessible to
30 the deaf and hard of hearing, and staff or translation services shall
31 be available to assist non-English proficient individuals who are
32 members of language groups that meet population thresholds
33 established by the department;

34 (5) ensure that individuals have timely access to the services of,
35 and receive timely responses from, the program;

36 (6) provide feedback to managed care plans, beneficiary
37 advisory groups and employers regarding enrollees' concerns and
38 problems;

39 (7) provide nonpartisan information about federal and State
40 activities relative to managed care, and provide assistance to
41 individuals in obtaining copies of pending legislation, statutes, and
42 regulations; and

43 (8) develop and maintain a data base monitoring the degree of
44 each type of service provided by the program to individual
45 enrollees, the types of concerns and complaints brought to the
46 program and the entities about which complaints and concerns are
47 brought.

1 c. In order to meet its objectives, the program shall have access
2 to:

3 (1) the medical and other records of an individual enrollee
4 maintained by a managed care plan, upon the specific written
5 authorization of the enrollee or his legal representative;

6 (2) the administrative records, policies, and documents of
7 managed care plans to which individuals or the general public have
8 access; and

9 (3) all licensing, certification, and data reporting records
10 maintained by the State or reported to the federal government by the
11 State that are not proprietary information or otherwise protected by
12 law, with copies thereof to be supplied to the program by the State
13 upon the request of the program.

14 d. The program shall take such actions as are necessary to
15 protect the identity and confidentiality of any complainant or other
16 individual with respect to whom the program maintains files or
17 records. Any medical or personally identifying information received
18 or in the possession of the program shall be considered confidential
19 and shall be used only by the department, the program and such
20 other agencies as the commissioner designates and shall not be
21 subject to public access, inspection or copying under P.L.1963, c.73
22 (C.47:1A-1 et seq.) or the common law concerning access to public
23 records. This subsection shall not be construed to limit the ability
24 of the program to compile and report non-identifying data pursuant
25 to paragraph (8) of subsection b. of this section.

26 e. The program shall seek to coordinate its activities with
27 consumer advocacy organizations, legal assistance providers
28 serving low-income and other vulnerable health care consumers,
29 managed care and health insurance counseling assistance programs,
30 and relevant federal and State agencies to assure that the
31 information and assistance provided by the program are current and
32 accurate.

33 f. Until such time as the program is developed, the
34 commissioner shall make agreements with two independent, private
35 nonprofit consumer advocacy organizations, which shall be the
36 Community Health Law Project and New Jersey Protection and
37 Advocacy, Inc. to operate the program on an interim basis. The
38 interim program shall be in effect for one year from the effective
39 date of this act. Any appropriation in this act for the program may
40 be allocated for the interim program.

41 (cf: P.L.2001, c.14, s.3)

42

43 ¹~~303.~~ 304.¹ Section 8 of P.L.2001, c.14 (C.26:2S-25) is
44 amended to read as follows:

45 8. The Commissioner of ~~Health~~ Banking and ~~Senior~~
46 ~~Services~~ Insurance, pursuant to the "Administrative Procedure

1 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and
2 regulations to effectuate the purposes of this act.

3 (cf: P.2001, c.14, s.8)

4

5 **'[304.] 305.'** Section 1 of P.L.1998, c.116 (C.26:2T-1) is
6 amended to read as follows:

7 1. The Commissioner of Health **[and Senior Services]** shall
8 provide for the inclusion of all newly diagnosed cases of hepatitis C
9 among those communicable diseases which are required to be
10 reported by health care providers or other designated persons to the
11 Department of Health **[and Senior Services]** pursuant to
12 N.J.A.C.8:57-1.4 and 8:57-1.5. The commissioner shall require that
13 such information be reported directly to the department, rather than
14 to local health departments, as **[he]** the commissioner determines
15 necessary to assist the department to develop hepatitis C disease
16 control measures, and shall revise these requirements as necessary
17 to reflect technological advances which improve the ability to
18 diagnose and treat the disease.

19 (cf: P.L.2001, c.357, s.6)

20

21 **'[305.] 306.'** Section 2 of P.L.1998, c.116 (C.26:2T-2) is
22 amended to read as follows:

23 2. The Commissioner of Health **[and Senior Services]** shall
24 provide written guidance regarding screening for the hepatitis C
25 virus to licensed physicians and public health officers which
26 reflects current and accepted standards of medical and public health
27 practice, consistent with the recommendations of the federal
28 Centers for Disease Control and Prevention, and encourages
29 appropriate screening and diagnosis of all persons at high risk for
30 hepatitis C infection as defined by the federal centers, including,
31 but not limited to:

32 (1) veterans of the United States armed forces;

33 (2) women who underwent a caesarian section or a premature
34 delivery prior to 1990;

35 (3) persons who received blood or blood products prior to 1992;

36 (4) persons who received an organ or tissue transplant prior to
37 1990;

38 (5) persons who have received invasive cosmetic procedures,
39 including body piercing and tattooing;

40 (6) persons who have a history of multiple sexually transmitted
41 diseases or multiple partners;

42 (7) persons with a history of intravenous drug use; and

43 (8) such other categories of persons at high risk for hepatitis C
44 infection as may be determined by the commissioner.

45 (cf: P.L.1998, c.116, s.2)

1 ¹**[306.] 307.** Section 3 of P.L.1998, c.116 (C.26:2T-3) is
2 amended to read as follows:

3 3. The Commissioner of Health **[and Senior Services]** shall
4 make available to licensed physicians and public health officers, in
5 printed and electronic format, hepatitis C education and prevention
6 information materials which reflect the recommendations of the
7 federal Centers for Disease Control and Prevention and other
8 relevant entities, including, but not limited to, the American Liver
9 Foundation, for distribution to persons at high risk for hepatitis C
10 infection as described in section 2 of this act.

11 (cf: P.L.1998, c.116, s.3)

12

13 ¹**[307.] 308.** Section 4 of P.L.1998, c.116 (C.26:2T-4) is
14 amended to read as follows:

15 4. The Commissioner of Health **[and Senior Services]**,
16 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
17 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate
18 the purposes of this act.

19 (cf: P.1998, c.116, s.4)

20

21 ¹**[308.] 309.** Section 2 of P.L.2001, c.357 (C.26:2T-6) is
22 amended to read as follows:

23 2. As used in this act:

24 "Commissioner" means the Commissioner of Health **[and Senior**
25 **Services]**.

26 "HCV" means the hepatitis C virus.

27 "Program" means the hepatitis C education, prevention, and
28 screening program established pursuant to this act.

29 (cf: P.L.2001, c.357, s.2)

30

31 ¹**[309.] 310.** Section 3 of P.L.2001, c.357 (C.26:2T-7) is
32 amended to read as follows:

33 3. In consultation with the hepatitis C advisory board
34 established pursuant to section 4 of this act, the Commissioner of
35 Health **[and Senior Services]** shall establish a hepatitis C
36 education, prevention, and screening program that includes, but is
37 not limited to, measures directed to physicians and other health care
38 workers, police officers, correctional officers, firefighters,
39 emergency services personnel, employees of the State's
40 developmental centers, and the general public. The program shall
41 be established in accordance with accepted public health practice
42 and recommendations of the federal Centers for Disease Control
43 and Prevention, the Surgeon General of the United States, the
44 American Association for the Study of Liver Diseases, the National
45 Institutes of Health and the American Liver Foundation and within
46 the limits of resources available for the purposes thereof.

- 1 a. For the purposes of this program, the commissioner shall
2 develop and implement the following:
 - 3 (1) public education and outreach to raise awareness of hepatitis
4 C among persons at high risk for hepatitis C as described in section
5 2 of P.L.1998, c.116 (C.26:2T-2), which includes police officers,
6 firefighters, persons employed by correctional facilities, emergency
7 response personnel, and other high-risk groups, including, but not
8 limited to, health care professionals and persons employed in
9 primary care settings or health care facilities, which shall include, at
10 a minimum, information on risk factors, the value of early detection
11 and the options available for treating hepatitis C;
 - 12 (2) measures to promote public awareness about the availability
13 of hepatitis C screening, prevention and treatment services among
14 persons at high risk for hepatitis C as determined by the
15 commissioner based upon data provided by the federal Centers for
16 Disease Control and Prevention, the Surgeon General of the United
17 States, the American Association for the Study of Liver Diseases,
18 the National Institutes of Health and the American Liver
19 Foundation, and any other nationally recognized liver societies;
 - 20 (3) educational activities for health care professionals in regard
21 to the epidemiology, natural history, detection, and treatment of
22 hepatitis C, which shall include information about coinfection with
23 HCV and HIV and the implications of coinfection for HIV or AIDS
24 treatment;
 - 25 (4) educational and informational measures targeted at specific
26 groups, including, but not limited to, activities designed to educate
27 youth about the long-term consequences of infection with HCV;
 - 28 (5) measures to prevent further transmission of HCV and to
29 prevent onset of chronic liver disease caused by hepatitis C through
30 outreach to detect and treat chronic HCV infection; and
 - 31 (6) a collaborative effort with the Department of Corrections to
32 develop screening services to identify inmates at risk for hepatitis C
33 upon admission, and to provide education and counseling about
34 treatment options to reduce the potential health risk to the
35 community from these persons.
- 36 b. The commissioner shall evaluate existing hepatitis C support
37 services in the community and assess the need for improving the
38 quality and accessibility of these services.
- 39 c. The commissioner shall seek to establish public-private
40 partnerships to promote outreach and increase awareness for the
41 purposes of this act among employers, organized labor, health care
42 providers, health insurers, and community-based organizations, and
43 coalitions.
- 44 d. The commissioner shall take such actions as are reasonably
45 necessary to ensure that the program established pursuant to this act
46 provides clear, complete, and accurate hepatitis C education,
47 information, and referral services in a multiculturally competent

1 manner that is designed to provide appropriate linkages to health
2 care services for persons in need thereof.

3 e. The commissioner shall seek to secure the use of such funds
4 or other resources from private nonprofit or for-profit sources or the
5 federal government to effectuate the purposes of this act as may be
6 available therefor, which shall be used to supplement and shall not
7 supplant State funds used to carry out the purposes of this act.

8 f. The commissioner shall seek, to the maximum extent
9 practicable, to coordinate the activities of the program, as
10 applicable, with services provided separately to specific
11 populations, including, but not limited to, veterans of the United
12 States armed forces, persons participating in private or public drug
13 abuse or alcohol treatment programs, and persons with HIV.

14 (cf: P.L.2001, c.357, s.3)

15

16 ¹[310.] 311. Section 1 of P.L.1999, c.366 (C.26:2U-1) is
17 amended to read as follows:

18 1. The Commissioner of Health **[and Senior Services]** shall
19 establish a Statewide network of resources to provide the following
20 services to persons with chronic fatigue syndrome, also known as
21 chronic fatigue immune dysfunction syndrome: physician training
22 and patient education programs, and a public awareness campaign.

23 (cf: P.L.1999, c.66, s.1)

24

25 ¹[311.] 312. Section 2 of P.L.1999, c.66 (C.26:2U-2) is
26 amended to read as follows:

27 2. The Department of Health **[and Senior Services]**, in
28 consultation with the New Jersey Chronic Fatigue Syndrome
29 Association, Inc., the Academy of Medicine of New Jersey, and the
30 University of Medicine and Dentistry of New Jersey, shall prepare
31 and make available to all health care providers in the State, upon
32 request, a manual which provides information about the clinical
33 significance, diagnosis and treatment of chronic fatigue syndrome.
34 The manual may contain any other information which the
35 Commissioner of Health **[and Senior Services]** deems necessary
36 and may be revised by the department whenever new information
37 about chronic fatigue syndrome becomes available. The department
38 shall publicize and make available the manual to the maximum
39 extent possible.

40 (cf: P.L.1999, c.66, s.2)

41

42 ¹[312.] 313. Section 3 of P.L.1999, c.66 (C.26:2U-3) is
43 amended to read as follows:

44 3. The Commissioner of Health **[and Senior Services]**,
45 pursuant to the "Administrative Procedure Act," P.L.1968, c.410

1 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate
2 the purposes of this act.

3 (cf: P.L.1999, c.66, s.3)

4

5 ¹[313.] 314.¹ Section 3 of P.L.1999, c.72 (C.26:2V-3) is
6 amended to read as follows:

7 3. As used in this act:

8 "Commissioner" means the Commissioner of **[Health and**
9 **Senior] Human Services.**

10 "Department" means the Department of **[Health and Senior]**
11 **Human Services.**

12 "Initiative" means the arthritis quality of life initiative
13 established pursuant to this act.

14 "Arthritis" means any of the more than 130 types of arthritis and
15 rheumatic diseases.

16 (cf: P.L.1999, c.72, s.3)

17

18 ¹[314.] 315.¹ Section 5 of P.L.1999, c.72 (C.26:2V-5) is
19 amended to read as follows:

20 5. There is established an Advisory Council on Arthritis in the
21 department to advise the commissioner on the development and
22 implementation of the initiative. The council shall include: two
23 members of the Senate, to be appointed by the President of the
24 Senate, who shall not be of the same political party; two members
25 of the General Assembly, to be appointed by the Speaker of the
26 General Assembly, who shall not be of the same political party; the
27 Senior Assistant Commissioner, Public Health Prevention and
28 Protection and the **[Assistant Commissioner,] Director of the**
29 **Division of [Senior] Aging Services in the [department]**
30 **Department of Human Services**; the Director of the Division on
31 Women in the Department of Community Affairs, and a member of
32 the Interagency Council on Osteoporosis, as ex officio members;
33 and 15 public members to be appointed by the commissioner who
34 may include representatives of persons with arthritis, arthritis health
35 organizations, public health educators, experts in arthritis research,
36 prevention, and treatment and health care strategic planning, and
37 health care providers including physicians and nurses. The public
38 members of the council shall serve without compensation and may
39 be reimbursed for any expenses incurred by them in the
40 performance of their duties.

41 Legislative members shall serve during their terms of office.
42 Public members shall serve for a term of three years from the date
43 of their appointment and until their successors are appointed and
44 qualified; except that of the first appointments made: five shall be
45 for a term of one year, five for two years, and five for three years.

46 Vacancies shall be filled in the same manner as the original
47 appointments were made.

1 The advisory council shall organize as soon as may be
2 practicable after the appointment of its members and shall select a
3 chairman from among its members and a secretary who need not be
4 a member of the council.

5 (cf: P.L.1999, c.72, s.5)

6

7 ¹~~315.~~ 316. Section 1 of P.L.1999, c.361 (C.26:2W-1) is
8 amended to read as follows:

9 1. The Commissioner of Health **[and Senior Services]** shall
10 establish a Cancer Awareness, Education and Research Program to
11 provide the following: support for cancer medical research;
12 physician education and awareness; and patient education and
13 screening services, particularly for members of minority groups.

14 (cf: P.L.1999, c.361, s.1)

15

16 ¹~~316.~~ 317. Section 2 of P.L.1999, c.361 (C.26:2W-2) is
17 amended to read as follows:

18 2. The Commissioner of Health **[and Senior Services]**,
19 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
20 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate
21 the purposes of this act.

22 (cf: P.L.1999, c.361, s.2)

23

24 ¹~~317.~~ 318. Section 1 of P.L.2001, c.196 (C.26:2W-3) is
25 amended to read as follows:

26 1. a. The Commissioner of Health **[and Senior Services]** shall
27 establish a breast cancer public awareness campaign, as a
28 component of the Cancer Awareness, Education and Research
29 Program established pursuant to P.L.1999, c.361 (C.26:2W-1 et
30 seq.), to promote awareness and outreach throughout the State in
31 regard to breast cancer screening services. The public awareness
32 campaign shall be established in accordance with accepted public
33 health practice and recommendations of the federal Centers for
34 Disease Control and Prevention, and within the limits of funds
35 appropriated pursuant to this act and any other resources available
36 for the purposes thereof.

37 b. For the purposes of this act, the commissioner shall, at a
38 minimum:

39 (1) develop and implement a Statewide plan to promote public
40 awareness among members of the public, community-based
41 organizations, and health care providers, and encourage more
42 referrals to breast cancer screening services;

43 (2) distribute promotional incentives for free or discounted
44 items to be provided to women by local retail businesses that will
45 encourage them to undergo mammography and become educated
46 about breast cancer;

1 (3) provide for the use of public service announcements and
2 printed materials in both English and Spanish;

3 (4) seek to disseminate information through a variety of entities,
4 including, but not limited to, primary care sites, health care
5 facilities, local health departments and clinics, county offices on the
6 aging, pharmacies, libraries, YWCAs and YMCAs, senior centers,
7 houses of worship, programs that serve victims of domestic
8 violence, other community-based outreach programs and
9 organizations, and the Internet;

10 (5) consult and seek to collaborate with at least the following
11 entities to effectuate the public awareness campaign: the New
12 Jersey Primary Care Association, the American Cancer Society, the
13 Medical Society of New Jersey, the New Jersey Hospital
14 Association, Planned Parenthood, AARP, the New Jersey Advisory
15 Commission on the Status of Women, the New Jersey State
16 Commission on Cancer Research, The Cancer Institute of New
17 Jersey, the New Jersey Pharmacists Association, the Health
18 Research and Educational Trust of New Jersey, and The Peer
19 Review Organization of New Jersey, Inc.;

20 (6) establish and publicize the availability of a toll-free
21 telephone number operated by the Department of Health [and
22 Senior Services] to provide information and referral to members of
23 the general public about breast screening services, with particular
24 emphasis on facilitating free and reduced charge screening for low-
25 income and uninsured women; and

26 (7) seek to secure the use of such funds or other resources from
27 private nonprofit or for-profit sources or the federal government to
28 effectuate the purposes of this act as may be available therefor,
29 which shall be used to supplement and shall not supplant State
30 funds used to carry out the purposes of this act.

31 (cf: P.L.2001, c.196, s.1)

32

33 ¹[318.] 319.¹ Section 1 of P.L.2000, c.25 (C.26:2X-1) is
34 amended to read as follows:

35 1. The Commissioner of Health [and Senior Services] shall
36 establish a public awareness campaign to inform the general public
37 about the clinical significance of meningitis and its public health
38 implications, including its causes and the most effective means of
39 prevention and treatment.

40 (cf: P.L.2000, c.25, s.1)

41

42 ¹[319.] 320.¹ Section 3 of P.L.2000, c.25 (C.26:2X-2) is
43 amended to read as follows:

44 3. The Commissioner of Health [and Senior Services],
45 pursuant to the "Administrative Procedure Act," P.L.1968, c.410

1 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate
2 the purposes of this act.

3 (cf: P.L.2000, c.25, s.3)

4

5 **'[320.] 321.'** Section 1 of P.L.2006, c.64 (C.26:2X-3) is
6 amended to read as follows:

7 1. The Commissioner of Health **[and Senior Services]**, in
8 consultation with the Commissioner of Education, shall develop an
9 educational fact sheet concerning meningococcal meningitis for
10 distribution to parents or guardians of students in grades 6 through
11 12, pursuant to section 2 of P.L.2006, c.64 (C.18A:40-21.2). The
12 educational fact sheet shall include, but need not be limited to, the
13 following information:

14 a. the causes, symptoms, and means of transmission of
15 meningococcal meningitis;

16 b. the availability, effectiveness, and risks of the meningitis
17 vaccine; and

18 c. where additional information concerning the disease can be
19 obtained.

20 (cf: P.L.2006, c.64, s.1)

21

22 **'[321.] 322.'** Section 2 of P.L.2001, c.304 (C.26:2Y-2) is
23 amended to read as follows:

24 2. The Legislature finds and declares that:

25 a. In the absence of appropriate housing with supportive
26 services, many elders or people with physical disabilities are often
27 subject to inappropriate, premature, or overextended
28 institutionalization. This results in the overutilization of costly
29 services and the negative impact of the institutional environment on
30 the individual's emotional and physical well-being. A need exists to
31 fill this gap in the housing continuum between independent living
32 and institutionalization for those elders and physically disabled
33 citizens who are in need of shelter and services to remain in the
34 community.

35 b. Adult family care has proven to be a successful and cost-
36 effective means of fulfilling basic shelter and everyday service
37 needs of elders and physically disabled adults, thereby enabling
38 them to preserve their independence, choice and dignity in a secure
39 environment.

40 c. Therefore, it is the policy of this State to promote the health,
41 safety and welfare of its elderly and physically disabled citizens by
42 encouraging the development of adult family care homes for elders
43 and physically disabled adults and to provide for the licensing of
44 caregivers and regulation of such adult family care homes by the
45 Department of Health **[and Senior Services]**.

46 (cf: P.L.2001, c.304, s.2)

1 ¹[322.] 323.¹ Section 3 of P.L.2001, c.304 (C.26:2Y-3) is
2 amended to read as follows:

3 3. As used in this act:

4 "Activities of daily living" or "ADL" means functions and tasks
5 for self-care which are performed either independently or with
6 supervision or assistance, which include, but are not limited to,
7 mobility, transferring, walking, grooming, bathing, dressing and
8 undressing, eating, and toileting.

9 "Adult family care" means a 24-hour per day living arrangement
10 for persons who, because of age or physical disability, need
11 assistance with activities of daily living, and for whom services
12 designed to meet their individual needs are provided by licensed
13 caregivers in approved adult family care homes.

14 "Adult family care caregiver" means a person licensed to provide
15 care and services in the daily operation of an adult family care
16 home, but does not include the owner or lessor of the building in
17 which the adult family care home is situated unless the owner or
18 lessor is also the provider of care and services in the adult family
19 care home.

20 "Adult family care home" means a residence regulated by the
21 department and housing no more than three clients, in which
22 personal care and other supportive services are provided by an
23 individual who has been licensed by the department as an adult
24 family care caregiver. "Adult family care home" shall not include
25 a rooming or boarding house used and operated under license of the
26 Department of Community Affairs pursuant to P.L.1979, c.496
27 (C.55:13B-1 et seq.).

28 "Adult family care sponsor agency" means an entity licensed by
29 the department to administer an adult family care program within a
30 given area, which provides essential administrative and clerical
31 support services to two or more caregivers, and which shall not be
32 considered to be a health care facility as defined in section 2 of
33 P.L.1971, c.136 (C.26:2H-2).

34 "Client" means an elder or person with physical disabilities
35 enrolled in adult family care.

36 "Commissioner" means the Commissioner of Health **[and Senior**
37 **Services]**.

38 "Department" means the Department of Health **[and Senior**
39 **Services]**.

40 "Elder" means a person sixty years of age or older.

41 (cf: P.L.2001, c.304, s.3)

42

43 ¹[323.] 324.¹ Section 13 of P.L.2001, c.304 (C.26:2Y-11) is
44 amended to read as follows:

45 13. The Commissioner of Health **[and Senior Services]**,
46 pursuant to the "Administrative Procedure Act," P.L.1968, c.410

1 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate
2 the purposes of this act.

3 (cf: P.L.2001, c.304, s.13)

4

5 ¹[324.] 325.¹ Section 2 of P.L.2005, c.274 (C.26:2MM-2) is
6 amended to read s follows:

7 2. As used in this act:

8 "Alcohol and drug counselor" means a person who is a certified
9 alcohol and drug counselor or a licensed clinical alcohol and drug
10 counselor pursuant to P.L.1997, c.331 (C.45:2D-1 et seq.).

11 "Attempted suicide" means destructive behavior intended by the
12 actor to result in the actor's harm or death.

13 "Completed suicide" means a death that is known or reasonably
14 suspected to have resulted from an intentional act of the deceased,
15 regardless of whether it has been ruled a suicide by a medical
16 examiner.

17 "Council" means the New Jersey Elderly Person Suicide
18 Prevention Advisory Council established pursuant to section 3 of
19 this act.

20 "Department" means the Department of **[Health and Senior]**
21 Human Services.

22 "Elderly person" means a person 65 years of age and older.

23 "Licensed clinical social worker" means a person who holds a
24 current, valid license issued pursuant to subsection a. of section 6 or
25 subsection a. or d. of section 8 of P.L.1991, c.134 (C.45:15BB-1 et
26 seq.).

27 (cf: P.L.2005, c.274, s.2)

28

29 ¹[325.] 326.¹ Section 3 of P.L.2005, c.274 (C.26:2MM-3) is
30 amended to read as follows:

31 3. There is established in the Department of **[Health and**
32 **Senior]** Human Services the New Jersey Elderly Person Suicide
33 Prevention Advisory Council.

34 a. The purpose of the council shall be to examine existing
35 needs of and services for elderly persons at risk of suicide and make
36 recommendations to the department for suicide prevention and
37 intervention strategies to help reduce the incidence of attempted and
38 completed suicides among elderly persons.

39 b. The council shall consist of nine members as follows:

40 (1) the Commissioners of Health **[and Senior Services]** and
41 Human Services and the chairman of the Community Mental Health
42 Citizens Advisory Board established pursuant to P.L.1957, c.146
43 (C.30:9A-1 et seq.), or their designees, who shall serve ex officio;

44 (2) two public members appointed by the Governor, one of
45 whom shall be a person with personal or family experience with
46 suicide of an elderly person and one of whom shall be an alcohol
47 and drug counselor;

1 (3) two public members appointed by the Speaker of the General
2 Assembly, who are not members of the same political party, one of
3 whom shall be a registered professional nurse and one of whom
4 shall be a licensed clinical social worker; and

5 (4) two public members appointed by the President of the
6 Senate, who are not members of the same political party, one of
7 whom shall be a physician who has been specially trained in caring
8 for elderly persons and has a certificate of added qualifications in
9 geriatrics and one of whom shall be a geropsychiatrist.

10 c. The public members shall be appointed no later than 60 days
11 after the enactment of this act.

12 d. The public members shall serve for a term of five years; but,
13 of the members first appointed, two shall serve for a term of three
14 years, two shall serve for a term of four years and two shall serve
15 for a term of five years. Members are eligible for reappointment
16 upon the expiration of their terms. Vacancies in the membership of
17 the council shall be filled in the same manner provided for the
18 original appointments.

19 e. The council shall organize as soon as practicable following
20 the appointment of its members and shall select a chairperson and
21 vice-chairperson from among the members. The chairperson shall
22 appoint a secretary who need not be a member of the council.

23 f. The public members shall serve without compensation, but
24 shall be reimbursed for necessary expenses incurred in the
25 performance of their duties and within the limits of funds available
26 to the council.

27 g. The council shall be entitled to call to its assistance and avail
28 itself of the services of the employees of any State, county, or
29 municipal department, board, bureau, commission, or agency as it
30 may require and as may be available to it for its purposes.

31 h. The Department of **[Health and Senior Service]** Human
32 Services shall provide staff support to the council.

33 (cf: P.L.2005, c.274, s.3)

34
35 ¹**[326.] 327.** Section 115 of P.L.2008, c.29 (C.26:2NN-1) is
36 amended to read as follows:

37 115. a. The Department of **[Health and Senior]** Human Services
38 shall maintain a toll-free information "Law Enforcement Officer
39 Crisis Intervention Services" telephone hotline on a 24-hour basis.

40 The hotline shall receive and respond to calls from law
41 enforcement officers and sheriff's officers who have been involved
42 in any event or incident which has produced personal or job-related
43 depression, anxiety, stress, or other psychological or emotional
44 tension, trauma, or disorder for the officer and officers who have
45 been wounded in the line of duty. The operators of the hotline shall
46 seek to identify those officers who should be referred to further
47 debriefing, and counseling services, and to provide such referrals.
48 In the case of wounded officers, those services may include peer

1 counseling, diffusing, debriefing, group therapy and individual
2 therapy as part of a coordinated assistance program, to be known as
3 the "Blue Heart Law Enforcement Assistance Program," designed
4 and implemented by the University of Medicine and Dentistry of
5 New Jersey's University Behavioral Healthcare Unit.

6 b. The operators of the hotline shall be trained by the
7 Department of **[Health and Senior] Human** Services and, to the
8 greatest extent possible, shall be persons, who by experience or
9 education, are: (1) familiar with post trauma disorders and the
10 emotional and psychological tensions, depressions, and anxieties
11 unique to law enforcement officers and sheriff's officers; or (2)
12 trained to provide counseling services involving marriage and
13 family life, substance abuse, personal stress management, and other
14 emotional or psychological disorders or conditions which may be
15 likely to adversely affect the personal and professional well-being
16 of a law enforcement officer and a sheriff's officer.

17 c. To ensure the integrity of the telephone hotline and to
18 encourage officers to utilize it, the commissioner shall provide for
19 the confidentiality of the names of the officers calling, the
20 information discussed by that officer and the operator, and any
21 referrals for further debriefing or counseling; provided, however,
22 the commissioner may, by rule and regulation, (1) establish
23 guidelines providing for the tracking of any officer who exhibits a
24 severe emotional or psychological disorder or condition which the
25 operator handling the call reasonably believes might result in harm
26 to the officer or others and (2) establish a confidential registry of
27 wounded New Jersey law enforcement officers.

28 (cf: P.L.2008, c.29, s.115)

29
30 ¹**[327.] 328.** Section 16 of P.L.2008, c.39 (C.26:2NN-2) is
31 amended to read as follows:

32 116. The Commissioner of **[Health and Senior] Human** Services
33 shall prepare a list of appropriately licensed or certified
34 psychiatrists, psychologists, and social workers; other appropriately
35 trained and qualified counselors; and experienced former law
36 enforcement officers who are willing to accept referrals and to
37 participate in the debriefing and counseling offered law
38 enforcement officers and sheriff's officers under the provisions of
39 sections 115 to 116 of P.L.2008, c.29 (C.26:2NN-1 to C.26:2NN-2).
40 (cf: P.L.2008, c.29, s.116)

41
42 ¹**[328.] 329.** Section 2 of P.L.2005, c.3 (C.26:3A2-36) is
43 amended to read as follows:

44 2. a. The Department of Environmental Protection, with the
45 concurrence of the Department of Health **[and Senior Services]**and
46 the State Office of Emergency Management in the Division of State
47 Police in the Department of Law and Public Safety, shall develop a

1 comprehensive plan for the standardization and coordination of
2 county hazardous material response programs to effectively address
3 all incidents involving hazardous materials, including, but not
4 limited to, chemical, biological, radiological, nuclear, or explosive
5 incidents.

6 The plan shall include procedures for State, county, and local
7 response to incidents involving hazardous materials, including, but
8 not limited to, chemical, biological, radiological, nuclear, or
9 explosive incidents, and planning, training, exercising, and
10 equipment requirements designed to assure that local responders
11 have the capacity, competency and capability to protect the public
12 from exposure to those materials, and shall include the adoption of
13 environmental health performance standards and standards of
14 administrative procedures for county hazardous materials response.

15 b. The certified local health agency in each county shall
16 develop, in consultation with their county office of emergency
17 management, a comprehensive, coordinated county-wide emergency
18 response program for incidents involving hazardous materials,
19 including, but not limited to, chemical, biological, radiological,
20 nuclear, or explosive incidents for the county that is consistent with
21 the plan developed by the department pursuant to subsection a. of
22 this section.

23 c. In any county in which there is no certified local health
24 agency, the board of chosen freeholders shall designate a local
25 health agency from the county to develop, in consultation with the
26 county office of emergency management and the Department of
27 Health **[and Senior Services]**, a comprehensive, coordinated
28 county-wide emergency response program for incidents involving
29 hazardous materials, including, but not limited to, chemical,
30 biological, radiological, nuclear, or explosive incidents for the
31 county that is consistent with the plan developed by the department
32 pursuant to subsection a. of this section.

33 (cf: P.L.2005, c.3, s.2)

34

35 **'[329.] 330.'**¹ Section 4 of P.L.2005, c.3 (C.26:3A2-38) is
36 amended to read as follows:

37 4. a. The Department of Environmental Protection, with the
38 concurrence of the Department of Health **[and Senior Services]** and
39 the State Office of Emergency Management in the Division of State
40 Police in the Department of Law and Public Safety, and in
41 consultation with representatives of certified local health agencies,
42 shall adopt, pursuant to the "Administrative Procedure Act,"
43 P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations that:

44 (1) establish criteria and procedures for the award of grants to
45 certified local health agencies, or local health agencies, as
46 appropriate, pursuant to section 3 of P.L.2005, c.3 (C.26:3A2-37);

47 (2) establish environmental health performance standards and
48 standards of administrative procedures for county hazardous

1 materials response for incidents involving hazardous materials,
2 including, but not limited to, chemical, biological, radiological,
3 nuclear, or explosive incidents; and

4 (3) establish criteria and procedures for the development of
5 inter-local agreements to facilitate the creation of a Statewide
6 mutual aid network for responding to incidents involving hazardous
7 materials, including, but not limited to, chemical, biological,
8 radiological, nuclear, or explosive incidents

9 b. Prior to the adoption of rules and regulations pursuant to
10 subsection a. of this section, and notwithstanding the provisions of
11 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
12 seq.) to the contrary, the Commissioner of Environmental
13 Protection may, immediately upon filing the proper notice with the
14 Office of Administrative Law, adopt such temporary rules and
15 regulations as the commissioner determines are necessary to
16 implement the provisions of P.L.2005, c.3 (C.26:3A2-36 et al.).
17 The temporary rules and regulations shall be in effect for a period
18 not to exceed 270 days after the date of the filing, except that in no
19 case shall the temporary rules and regulations be in effect one year
20 after the effective date of P.L.2005, c.3 (C.26:3A2-36 et al.). The
21 temporary rules and regulations shall thereafter be amended,
22 adopted or readopted by the commissioner as the commissioner
23 determines is necessary in accordance with the requirements of the
24 "Administrative Procedure Act."

25 (cf: P.L.2005, c.3, s.4)

26

27 ¹[330.] 331.¹ Section 8 of P.L.2005, c.383 (C.26:3D-62) is
28 amended to read as follows:

29 8. a. The person having control of an indoor public place or
30 workplace shall order any person smoking in violation of this act to
31 comply with the provisions of this act. A person, after being so
32 ordered, who smokes in violation of this act is subject to a fine of
33 not less than \$250 for the first offense, \$500 for the second offense
34 and \$1,000 for each subsequent offense. A penalty shall be
35 recovered in accordance with the provisions of subsections c. and d.
36 of this section.

37 b. The Department of Health **[and Senior Services]** or the local
38 board of health or the board, body, or officers exercising the
39 functions of the local board of health according to law, upon written
40 complaint or having reason to suspect that an indoor public place or
41 workplace covered by the provisions of this act is or may be in
42 violation of the provisions of this act, shall, by written notification,
43 advise the person having control of the place accordingly, and order
44 appropriate action to be taken. A person receiving that notice who
45 fails or refuses to comply with the order is subject to a fine of not
46 less than \$250 for the first offense, \$500 for the second offense, and
47 \$1,000 for each subsequent offense. In addition to the penalty

1 provided herein, the court may order immediate compliance with
2 the provisions of this act.

3 c. A penalty recovered under the provisions of this act shall be
4 recovered by and in the name of the Commissioner of Health [and
5 Senior Services] or by and in the name of the local board of health.
6 When the plaintiff is the Commissioner of Health [and Senior
7 Services], the penalty recovered shall be paid by the commissioner
8 into the treasury of the State. When the plaintiff is a local board of
9 health, the penalty recovered shall be paid by the local board into
10 the treasury of the municipality where the violation occurred.

11 d. A municipal court shall have jurisdiction over proceedings
12 to enforce and collect any penalty imposed because of a violation of
13 this act if the violation has occurred within the territorial
14 jurisdiction of the court. The proceedings shall be summary and in
15 accordance with the "Penalty Enforcement Law of 1999," P.L.1999,
16 c.274 (C.2A:58-10 et seq.). Process shall be in the nature of a
17 summons or warrant and shall issue only at the suit of the
18 Commissioner of Health [and Senior Services], or the local board
19 of health, as the case may be, as plaintiff.

20 e. The penalties provided in subsections a. and b. of this
21 section shall be the only civil remedy for a violation of this act, and
22 there shall be no private right of action against a party for failure to
23 comply with the provisions of this act.

24 (cf: P.L.2005, c.383, s.8)

25

26 ¹[331.] 332.¹ Section 10 of P.L.2005, c.383 (C.26:3D-64) is
27 amended to read as follows:

28 10. The Commissioner of Health [and Senior Services],
29 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
30 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate
31 the purposes of this act.

32 (cf: P.L.2005, c.383, s.10)

33

34 ¹[332.] 333.¹ Section 1 of P.L.2005, c.26 (C.26:3E-14) is
35 amended to read as follows:

36 1. The Commissioner of Health [and Senior Services], in
37 consultation with the New Jersey Restaurant Association, shall
38 prepare a fact sheet, to be directed to restaurant managers and staff,
39 which is designed to explain nut allergies and the health-related
40 consequences to persons with [such] nut allergies who are exposed
41 to food items that contain or are prepared with nut products, and
42 includes a recommendation that restaurants identify such food items
43 on their menus. The commissioner shall make this fact sheet
44 available to local boards of health by electronic or other means of
45 distribution, and local health officers shall furnish this information
46 to restaurants at the time of inspection.

47 As used in this section:

1 "Nut" means[:] peanuts and tree nuts, including, but not limited
2 to, almonds, brazil nuts, cashews, hazelnuts, filberts, macadamia
3 nuts, pecans, pistachios, and walnuts; and

4 "Restaurant" means an establishment in which the principal
5 business is the sale of food for consumption on the premises.

6 (cf: P.L.2005, c.26, s.1)

7

8 ¹[333.] 334.¹ Section 2 of P.L.2005, c.26 (C.26:3E-15) is
9 amended to read as follows:

10 2. The Commissioner of Health [and Senior Services] shall
11 conduct, within the limits of monies appropriated pursuant to this
12 act, a public information campaign regarding food allergies, to be
13 known as "Ask Before You Eat." The public information campaign
14 shall be designed to inform the public about food allergies and the
15 health-related consequences, including anaphylaxis, to persons with
16 such allergies who are exposed to food items that contain or are
17 prepared with ingredients that trigger severe allergic reactions, such
18 as peanuts, tree nuts, and seafood.

19 (cf: P.L.2005, c.26, s.2)

20

21 ¹[334.] 335.¹ Section 2 of P.L.2009, c.306 (C.26:3E-17) is
22 amended to read as follows:

23 2. Notwithstanding any provision of law to the contrary:

24 a. (1) A retail food establishment using a standard printed
25 menu shall list next to each food or beverage item on the menu, the
26 total number of calories for that item as usually prepared and
27 offered for sale;

28 (2) A retail food establishment using a menu board system or
29 similar signage shall list next to each food or beverage item on the
30 board or sign, the total number of calories for that item as usually
31 prepared and offered for sale;

32 (3) A retail food establishment that has a drive-through window
33 shall display calorie content values either on the drive-through
34 menu board or on an adjacent stanchion visible at the point of
35 ordering, and the calorie content values shall be posted adjacent to
36 their respective menu item names as clearly and conspicuously as
37 the price or menu item is on the drive-through menu board; and

38 (4) A retail food establishment which offers alcoholic beverages
39 for sale may, as an alternative to listing calorie information for each
40 individual alcoholic beverage, list the average caloric value for
41 beers, wines, and spirits as established by the United States
42 Department of Agriculture, Agriculture Research Service in the
43 National Nutrient Database for Standard Reference.

44 A retail food establishment that lists the average caloric values
45 for alcoholic beverages pursuant to this paragraph shall add to the
46 labeling the following statement: "Signature drinks or liqueurs with
47 added ingredients may increase calorie content."

1 b. The calorie information listed pursuant to paragraphs (1) and
2 (2) of subsection a. of this section shall be posted clearly and
3 conspicuously adjacent or in close proximity to the applicable menu
4 item using a font and format that is at least as prominent, in size and
5 appearance, as that used to post either the name or price of the
6 menu item.

7 The calorie content values required by this act shall be based
8 upon a verifiable analysis of the menu item, which may include the
9 use of nutrient databases, laboratory testing, or other reliable
10 methods of analysis, and shall be rounded to the nearest 10 calories
11 for calorie content values above 50 calories and to the nearest five
12 calories for calorie content values 50 calories and below.

13 c. The provisions of this section shall apply to each menu item
14 that is served in portions the size and content of which are
15 standardized.

16 d. For menu items that come in different flavors and varieties
17 but that are listed as a single menu item, the minimum to maximum
18 numbers of calories for all flavors and varieties of that item shall be
19 listed on the menu, menu board, or stanchion, as applicable, for
20 each size offered for sale.

21 e. (1) The disclosure of calorie information on a menu, menu
22 board, or stanchion next to a standard menu item that is a
23 combination of at least two standard menu items on the menu, menu
24 board, or stanchion, shall, based upon all possible combinations for
25 that standard menu item, include both the minimum and the
26 maximum amount of calories. If there is only one possible total
27 amount of calories, that total shall be disclosed.

28 (2) The disclosure of calorie information on a menu, menu
29 board, or stanchion next to a standard menu item that is not an
30 appetizer or dessert, but is intended to serve more than one
31 individual, shall include both:

32 (a) the number of individuals intended to be served by the
33 standard menu item; and

34 (b) the calorie information per individual serving.

35 If the standard menu item is a combination of at least two
36 standard menu items, the disclosure shall, based upon all possible
37 combinations for that standard menu item, include both the
38 minimum and the maximum amount of calories. If there is only one
39 possible total amount of calories, that total shall be disclosed.

40 f. Nothing in this section shall prohibit a retail food
41 establishment from providing additional nutrition information to its
42 customers for each food or beverage item listed on its menu.

43 g. The provisions of this section shall not apply to any:

44 (1) item not listed on a standard printed menu or menu board
45 system or similar signage, including, but not limited to, condiments
46 or other products placed on a table or counter for general use; or

1 (2) daily specials, temporary menu items appearing on the menu
2 for less than 60 days per calendar year, customized orders, or food
3 or beverage items from a consumer self-serve salad bar or buffet.

4 h. (1) The Department of Health **【and Senior Services】** or the
5 local board of health or the board, body, or officers exercising the
6 functions of the local board of health according to law, upon written
7 complaint or having reason to suspect that a violation of this act has
8 occurred, shall, by written notification, advise the proprietor of the
9 retail food establishment accordingly and order appropriate action
10 to be taken.

11 (2) A proprietor of a retail food establishment who violates the
12 provisions of this section by failing to provide the information
13 about food and beverage items as required in this section, or
14 knowingly misstating the number of calories in a food or beverage
15 item, shall be subject to a penalty of not less than \$50 or more than
16 \$100 for the first offense, and not less than \$250 or more than \$500
17 for the second or any subsequent offense. A municipal court shall
18 have jurisdiction over proceedings to enforce and collect any
19 penalty imposed because of a violation of this act, if the violation
20 has occurred within the territorial jurisdiction of the court. The
21 proceedings shall be summary and in accordance with the "Penalty
22 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).
23 Process shall be in the nature of a summons or warrant and shall
24 issue only at the suit of the Commissioner of Health **【and Senior
25 Services】**, or the local board of health, as the case may be, as
26 plaintiff.

27 When the plaintiff is the Commissioner of Health **【and Senior
28 Services】**, the penalty recovered shall be paid by the commissioner
29 into the treasury of the State. When the plaintiff is a local board of
30 health, the penalty recovered shall be paid by the local board into
31 the treasury of the municipality where the violation occurred.

32 i. The provisions of this section shall not be construed to
33 create or enhance any claim, right of action, or civil liability that
34 did not previously exist under State law or limit any claim, right of
35 action, or civil liability that otherwise exists under State law.

36 j. There shall be no private right of action against the
37 proprietor of a retail food establishment for failure to comply with
38 the provisions of this section.

39 k. To the extent consistent with federal law, the provisions of
40 this section, as well as any other State law that regulates the
41 disclosure of caloric information, shall be a matter of Statewide
42 concern and shall occupy the entire field of regulation regarding the
43 disclosure of caloric information by a retail food establishment, as
44 well as content required to be posted on menus, menu board
45 systems or similar signage, or stanchions, as applicable. No
46 ordinance or regulation of a local government or local board of
47 health shall regulate the dissemination of caloric information or the

1 content required to be placed on menus, menu board systems or
2 similar signage, or stanchions by a retail food establishment. Any
3 local government or local board of health ordinance or regulation
4 that violates this prohibition is void and shall have no force or
5 effect.

6 1. As used in this section, "retail food establishment" means a
7 fixed restaurant or any similar place that is part of a chain with 20
8 or more locations nationally and doing business

9 (1) under the same trade name or under common ownership or
10 control or

11 (2) as franchised outlets of a parent business,
12 the principal activity of which consists of preparing for
13 consumption within the establishment a meal or food to be eaten on
14 the premises or picked up at a drive-through window.

15 (cf: P.L.2009, c.306, s.2)

16

17 ¹[335.] 336.¹ Section 3 of P.L.2009, c.306 (C.26:3E-18) is
18 amended to read as follows:

19 3. The Commissioner of Health **[and Senior Services]** shall
20 adopt rules and regulations, pursuant to the "Administrative
21 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate
22 the purposes of this act.

23 (cf: P.L.2009, c.306, s.3)

24

25 ¹[336.] 337.¹ R.S.26:4-2 is amended to read as follows:

26 26:4-2. In order to prevent the spread of disease affecting
27 humans, the Department of Health **[and Senior Services]**, and the
28 local boards of health within their respective jurisdictions and
29 subject to the State sanitary code, shall have power to:

30 a. Declare what diseases are communicable.

31 b. Declare when any communicable disease has become
32 epidemic.

33 c. Require the reporting of communicable diseases.

34 d. Maintain and enforce proper and sufficient quarantine,
35 wherever deemed necessary.

36 e. Remove any person infected with a communicable disease to
37 a suitable place, if in its judgment removal is necessary and can be
38 accomplished without any undue risk to the person infected.

39 f. Disinfect any premises when deemed necessary.

40 g. Remove to a proper place to be designated by it all articles
41 within its jurisdiction, which, in its opinion, shall be infected with
42 any matter likely to communicate disease and to destroy such
43 articles, when in its opinion the safety of the public health requires
44 it.

45 In the event the Governor declares a public health emergency,
46 the department shall oversee the uniform exercise of these powers

1 in the State and the local board of health shall be subject to the
2 department's exercise of authority under this section.

3 (cf: P.L.2005, c.222, s.31)

4

5 ¹[337.] 338. Section 3 of P.L.2007, c.134 (C.26:4-95.4) is
6 amended to read s follows:

7 3. a. The Commissioner of Health **[and Senior Services]**, in
8 consultation with the Commissioner of Education and the Director
9 of the Division on Women in the Department of Community
10 Affairs, shall establish a public awareness campaign to inform the
11 general public about the clinical significance and public health
12 implications of the human papillomavirus, including its causes and
13 the most effective means of prevention and treatment. The public
14 awareness campaign shall be established in accordance with
15 accepted public health practice and recommendations of the federal
16 Centers for Disease Control and Prevention, and within the limits of
17 available funds and any other resources available for the purposes
18 thereof.

19 b. The commissioner shall prepare a patient information
20 brochure regarding the human papillomavirus, including its causes
21 and the most effective means of prevention and treatment. The
22 department shall distribute the pamphlet, at no charge, to all
23 pediatricians in the State. The department shall update the
24 pamphlet as necessary, and shall make additional copies of the
25 pamphlet available to other health care providers upon request.

26 (cf: P.L.2007, c.134, s.3)

27

28 ¹[338.] 339. Section 3 of P.L.2004, c.138 (C.26:4-133) is
29 amended to read as follows:

30 3. As used in this act:

31 "Commissioner" means the Commissioner of Health **[and Senior
32 Services]**.

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

35 "Health care provider" means a health care facility licensed
36 pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) or a health care
37 professional whose practice is regulated pursuant to Title 45 of the
38 Revised Statutes.

39 "Registry" means the New Jersey Immunization Information
40 System established pursuant to this act.

41 (cf: P.L.2004, c.138, s.3)

42

43 ¹[339.] 340. Section 4 of P.L.2004, c.138 (C.26:4-134) is
44 amended to read as follows:

45 4. a. There is established a Statewide automated and electronic
46 immunization registry, to be designated as the New Jersey
47 Immunization Information System, in the Department of Health

1 **【and Senior Services】**. The registry shall be designed to serve as a
2 single repository of immunization records to aid, coordinate, and
3 help promote effective and cost-efficient disease screening,
4 prevention, and control efforts in the State.

5 b. A newborn infant in New Jersey, who is born on or after
6 January 1, 1998, shall be enrolled in the registry immediately
7 following birth unless the parent or legal guardian of the infant
8 provides a written request to not participate in the registry.

9 A child born prior to January 1, 1998 may be enrolled in the
10 registry at the parent's or legal guardian's written request.

11 c. Access to the information in the registry shall be limited to:
12 health care providers, schools, colleges, licensed child care centers,
13 and public agencies, and private organizations as determined by
14 regulation of the commissioner. A registrant, or the registrant's
15 parent or legal guardian if the registrant is a minor, shall have
16 access to the registrant's immunization and other preventive health
17 screening information in the registry.

18 d. The information contained in the registry shall be used for
19 the following purposes:

20 (1) to help ensure that registrants receive all recommended
21 immunizations in a timely manner by providing access to the
22 registrants' immunization records;

23 (2) to help improve immunization rates by providing notice to
24 registrants of overdue or upcoming immunizations; and

25 (3) to help control communicable diseases by assisting in the
26 identification of persons who require immediate immunization in
27 the event of a vaccine-preventable disease outbreak.

28 e. The authentic immunization and other preventive health
29 screening record of a child, which shall consist of a paper or
30 electronic copy of the registry entry that is a true and accurate
31 representation of the information contained therein, obtained from
32 the registry shall be accepted as a valid immunization and
33 preventive health screening record of the registrant for the purpose
34 of meeting immunization and preventive health screening
35 documentation requirements for admission to a school, college, or
36 licensed child care center.

37 f. A health care provider shall not discriminate in any way
38 against a person solely because the person elects not to participate
39 in the registry.

40 g. An authorized user granted access as provided in subsection
41 c. of this section shall only access information in the registry on a
42 specific patient or client who is presently receiving services, is
43 under the user's care or is within the applicable governmental health
44 authority's jurisdiction.

45 h. An agency, organization, or other entity authorized to access
46 information in the registry shall not use any report made by a health
47 care provider pursuant to this act in any punitive manner against the
48 provider.

1 i. The commissioner, in consultation with the Public Health
2 Council, shall adopt rules and regulations, pursuant to the
3 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
4 seq.), to effectuate the purposes of this act, including, but not
5 limited to:

6 (1) the establishment and maintenance of the registry;

7 (2) the methods for submitting, and the content of, reports of
8 immunizations to the registry, for which purpose the commissioner
9 shall provide, to the maximum extent practicable, for reporting
10 options to facilitate compliance with the requirements of subsection
11 b. of this section;

12 (3) procedures for the birth hospital of a newborn infant or
13 health care provider, as applicable, to inform the parent or legal
14 guardian of a newborn infant or minor of the purpose of the registry
15 and its potential uses by parties having authorized access to registry
16 information, and the content of that information;

17 (4) procedures for a registrant, or the registrant's parent or legal
18 guardian if the registrant is a minor, to review and correct
19 information contained in the registry;

20 (5) procedures for the parent or legal guardian of a newborn
21 infant or minor, or a person over 18 years of age, to request to not
22 participate in the registry at any time and to remove or inactivate
23 information from the registry;

24 (6) limits on, and methods of, access to the registry by those
25 authorized pursuant to subsection c. of this section;

26 (7) procedures for health insurers to obtain immunization
27 information from the registry concerning only their covered
28 persons, as well as summary statistics, which information or
29 statistics shall not be used or disclosed for any other purpose than
30 to:

31 (a) improve patient care;

32 (b) provide quality assurance to employers purchasing group
33 coverage and to health care providers;

34 (c) improve outreach and education efforts with respect to their
35 covered persons and health care providers; and

36 (d) monitor and improve quality of care standards as developed
37 by professional organizations, accreditation agencies and
38 government agencies in collaboration with the department; and

39 (8) procedures for the department to disseminate statistical
40 information and supporting commentary.

41 (cf: P.L.2004, c.138, s.4)

42

43 ¹[340.] 341.¹ Section 10 of P.L.2011, c.210 (C.26:5B-6) is
44 amended to read as follows:

45 10. a. The Department of Health **【and Senior Services】**, in
46 consultation with the Medical Society of New Jersey and the
47 University of Medicine and Dentistry of New Jersey, shall prepare,
48 and make available on its Internet website, information in English

1 and Spanish, which is designed to be easily understandable by the
2 general public, about the genetic risk factors associated with, and
3 the symptoms and treatment of, sickle cell anemia, in addition to
4 any other information that the Commissioner of Health [and Senior
5 Services] deems necessary for the purposes of this act. The
6 department shall revise this information whenever new information
7 about sickle cell anemia becomes available.

8 b. The department shall prepare an informational booklet in
9 English and Spanish that contains the information posted on its
10 website pursuant to subsection a. of this section, as funds become
11 available for that purpose. The department shall make a supply of
12 booklets available to all licensed health care facilities engaged in
13 the diagnosis or treatment of sickle cell anemia, as well as to health
14 care professionals, community health centers, members of the
15 public, and social services agencies upon their request.

16 (cf: P.L.2011, c.210, s.10)

17

18 ¹[341.] 342. Section 1 of P.L.1995, c.174 (C.26:5C-15) is
19 amended to read as follows:

20 1. As used in this act:

21 "AIDS" means acquired immune deficiency syndrome as defined
22 by the Centers for Disease Control and Prevention of the United
23 States Public Health Service.

24 "Commissioner" means the Commissioner of Health [and Senior
25 Services].

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

28 "HIV" means the human immunodeficiency virus or any other
29 related virus identified as a probable causative agent of AIDS.

30 (cf: P.L.2007, c.218, s.1)

31

32 ¹[342.] 343. Section 2 of P.L.1997, c.246 (C.26:5C-22) is
33 amended to read as follows:

34 2. a. A semen bank shall perform an HIV test on a potential
35 donor prior to that person donating semen and shall freeze all
36 donated semen for a waiting period of at least six months, in
37 accordance with standards adopted by the United States Centers for
38 Disease Control and Prevention.

39 b. A semen bank shall perform the HIV test only after the
40 donor has provided written informed consent according to standards
41 adopted by the Commissioner of Health and Senior Services. A
42 donor who refuses to provide written informed consent to an HIV
43 test or tests positive for HIV shall not be permitted to donate semen.

44 c. The cost of the HIV test shall be borne by the recipient of
45 the donation.

46 d. The Commissioner of Health [and Senior Services] shall
47 establish procedures for notification by a semen bank to donors of

1 screening results and referrals to appropriate counseling and health
2 care services as necessary.

3 (cf: P.L.1997, c.246, s.2)

4

5 ¹~~['343.] 344.~~ Section 4 of P.L.1997, c.246 (C.26:5C-24) is
6 amended to 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.1997, c.246, s.4)

12

13 ¹~~['344.] 345.~~ Section 3 of P.L.2006, c.99 (C.26:5C-27) is
14 amended to read as follows:

15 3. The Commissioner of Health ~~and Senior Services~~ shall
16 establish a demonstration program to permit up to six municipalities
17 to operate a sterile syringe access program in accordance with the
18 provisions of this act. For the purposes of the demonstration
19 program, the commissioner shall prescribe by regulation
20 requirements for a municipality to establish, or otherwise authorize
21 the operation within that municipality of, a sterile syringe access
22 program to provide for the exchange of hypodermic syringes and
23 needles in accordance with the provisions of this act.

24 a. The commissioner shall:

25 (1) request an application, to be submitted on a form and in a
26 manner to be prescribed by the commissioner, from any
27 municipality that seeks to establish a sterile syringe access program,
28 or from other entities authorized to operate a sterile syringe access
29 program within that municipality as provided in paragraph (2) of
30 subsection a. of section 4 of this act;

31 (2) approve those applications that meet the requirements
32 established by regulation of the commissioner and contract with the
33 municipalities or entities whose applications are approved to
34 establish a sterile syringe access program as provided in paragraph
35 (2) of subsection a. of section 4 of this act to operate a sterile
36 syringe access program in any municipality in which the governing
37 body has authorized the operation of sterile syringe access programs
38 within that municipality by ordinance;

39 (3) support and facilitate, to the maximum extent practicable,
40 the linkage of sterile syringe access programs to ~~such~~ health care
41 facilities and programs as may provide appropriate health care
42 services, including mental health and substance abuse treatment,
43 and to housing assistance, career employment-related counseling,
44 and education counseling to consumers participating in ~~any such~~
45 a sterile syringe access program;

46 (4) provide for the adoption of a uniform identification card or
47 other uniform Statewide means of identification for consumers,

1 staff, and volunteers of a sterile syringe access program pursuant to
2 paragraph (8) of subsection b. of section 4 of this act; and

3 (5) maintain a record of the data reported to the commissioner
4 by sterile syringe access programs pursuant to paragraph (10) of
5 subsection b. of section 4 of this act.

6 b. The commissioner shall be authorized to accept [such]
7 funding as may be made available from the private sector to
8 effectuate the purposes of this act.

9 (cf: P.L.2006, c.99, s.3)

10

11 ¹[345.] 346.¹ Section 3 of P.L.2008, c.49 (C.26:6-70) is
12 amended to read as follows:

13 3. As used in this act:

14 "Anatomical research recovery organization" means a nonprofit
15 corporation engaged in the recovery of a human body or part
16 donated for education, research, or the advancement of medical,
17 dental, or mortuary science pursuant to P.L.1969, c.161 (C.26:6-57
18 et seq.) or any subsequent statute adopted pursuant thereto, where
19 part or all of the recovery takes place in this State. Anatomical
20 research recovery organization shall not include an accredited
21 institution of higher education in this State that uses an anatomical
22 gift for its own educational or research purposes and is not engaged
23 in the distribution of a human body or part to another person or
24 entity.

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

27 "Department" means the Department of Health [and Senior
28 Services].

29 "Distribution" means the removal of a human body or part from a
30 storage location to any other location for educational or research
31 use, or the advancement of medical, dental, or mortuary science.

32 "Education" means the use of the whole body or parts for
33 purposes of teaching or training individuals, including medical or
34 dental professionals and students, with regard to the anatomy and
35 characteristics of the human body.

36 "Human body part" or "part" means organs, tissues, eyes, bones,
37 blood vessels, and any other portions of a deceased human body
38 which are subject to an anatomical gift pursuant to P.L.1969, c.161
39 (C.26:6-57) or any subsequent statute adopted pursuant thereto, but
40 does not include blood collected pursuant to P.L.1945, c.301
41 (C.26:2A-1).

42 "Recovery" means the obtaining of a human body or part,
43 including, but not limited to, determining or obtaining consent or
44 authorization for donation of the human body or part, performing
45 surgical or other technical procedures for recovering the body or
46 part, and processing the body or part. Recovery does not include

1 actions taken by a medical examiner or coroner as part of his
2 professional duties.

3 "Research" means the conduct of scientific testing and
4 observation designed to result in the acquisition of generalizable
5 knowledge. Research does not include an autopsy or other
6 investigation conducted for the purpose of obtaining information
7 related to the decedent.

8 (cf: P.L.2008, c.49, s.3)

9

10 ¹[346.] 347.¹ Section 4 of P.L.2008, c.49 (C.26:6-71) is
11 amended to read as follows:

12 4. a. No person shall engage in the recovery of a human body
13 or part donated in this State for education, research, or the
14 advancement of medical, dental, or mortuary science pursuant to
15 P.L.1969, c.161 (C.26:6-57 et seq.) or any subsequent statute
16 adopted pursuant thereto, unless the person is registered as an
17 anatomical research recovery organization with the Department of
18 Health **[and Senior Services]** pursuant to this act.

19 The registration required pursuant to this act shall be in addition
20 to any license or permit required by a local board of health, other
21 local health agency, or any State or federal agency.

22 b. The registration shall be valid for a one-year period and may
23 be renewed subject to compliance with the requirements of this act.
24 The commissioner shall establish such registration and renewal fees
25 as may be reasonable and necessary to carry out the purposes of this
26 act.

27 c. The commissioner may enter and inspect the premises of any
28 anatomical research recovery organization and the books and
29 records as is reasonably necessary to carry out the provisions of this
30 act.

31 (cf: P.L.2008, c.49, s.4)

32

33 ¹[347.] 348.¹ Section 28 of P.L.2003, c.221 (C.26:8-21.1) is
34 amended to read as follows:

35 28. The Commissioner of Health **[and Senior Services]**,
36 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
37 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate
38 the purposes of this act.

39 (cf: P.L.2003, c.221, s.28)

40

41 ¹[348.] 349.¹ R.S.26:8-23 is amended to read as follows:

42 26:8-23. The Department of Health **[and Senior Services]** shall
43 have charge of the registration of births, deaths, fetal deaths,
44 marriages, civil unions, and domestic partnerships and shall procure
45 the prompt and accurate registration of the same in each registration
46 district and in the department. The department may promulgate any

1 rule or regulation which it deems necessary for the uniform and
2 thorough enforcement of this section.

3 The department may decline permission to examine any record
4 except in the presence of an officer or employee of the department.
5 (cf: P.L.2006, c.103, s.40)

6
7 ¹[349.] 350. Section 17 of P.L.2003, c.221 (C.26:8-24.2) is
8 amended to read as follows:

9 17. a. There is established the "New Jersey Electronic Death
10 Registration Support Fund" as a nonlapsing, revolving fund to be
11 administered by the Commissioner of Health **[and Senior Services]**
12 and credited with monies received pursuant to subsection c. of
13 R.S.26:8-62.

14 b. The State Treasurer is the custodian of the fund and all
15 disbursements from the fund shall be made by the treasurer upon
16 vouchers signed by the commissioner. The monies in the fund shall
17 be invested and reinvested by the Director of the Division of
18 Investment in the Department of the Treasury as are other trust
19 funds in the custody of the State Treasurer in the manner provided
20 by law. Interest received on the monies in the fund shall be credited
21 to the fund.

22 c. The monies in the fund and the interest earned thereon shall
23 be used to meet the development and operational costs of the NJ-
24 EDRS, including, but not limited to, costs associated with:
25 personnel; hardware purchases and maintenance; software and
26 communications infrastructure; website hosting; and licensing fees,
27 royalties and transaction expenses incurred in the development,
28 installation, maintenance and operation of electronic payment
29 security, authentication and encryption systems, and user training
30 and education.

31 d. **[]**The Commissioner of Health **[and Senior Services]**
32 shall, no later than 30 months after the date of enactment of
33 P.L.2003, c.221, report to the chairs of the Senate Health, Human
34 Services and Senior Citizens Committee, the Senate Budget and
35 Appropriations Committee, the Assembly Health and Human
36 Services Committee and the Assembly Appropriations Committee,
37 or their successors, concerning the sources and uses of monies in
38 the fund. The report shall include a description of the methodology
39 used by the State registrar to set the fee imposed pursuant to
40 subsection c. of R.S.26:8-62, a summary of the monies credited to
41 fund, and a summary of expenditures by category from the fund
42 pursuant to the authority of this section and the requirements of
43 section 16 of P.L.2003, c.221 (C.26:8-24.1), together with any
44 recommendations by the State registrar or the commissioner for
45 changes that either considers should be made in the law concerning
46 the implementation of the NJ-EDRS or the fees imposed pursuant to
47 subsection c. of R.S.26:8-62.

48 (cf: P.L.2003, c.221, s.17)

1 ¹**[350.] 351.**¹ Section 2 of P.L.1983, c.291 (C.26:8-40.21) is
2 amended to read as follows:

3 2. a. The Department of Health **[and Senior Services]** shall
4 establish and maintain a birth defects and severe neonatal jaundice
5 registry, which shall contain a confidential record of all birth
6 defects and all cases of severe hyperbilirubinemia that occur in New
7 Jersey and any other information that the department deems
8 necessary and appropriate in order to conduct thorough and
9 complete epidemiologic surveys of birth defects and cases of severe
10 hyperbilirubinemia that occur in this State and plan for and provide
11 services to children with birth defects and severe
12 hyperbilirubinemia and their families.

13 b. The department shall make available electronically on its
14 Internet website, in English and Spanish, information on the
15 characteristics and effects of severe neonatal jaundice.
16 (cf: P.L.2005, c.176, s.2)

17

18 ¹**[351.] 352.**¹ Section 3 of P.L.1983, c.291 (C.26:8-40.22) is
19 amended to read as follows:

20 3. a. The Commissioner of Health **[and Senior Services]**, in
21 consultation with the Public Health Council, shall require the
22 confidential reporting to the Department of Health **[and Senior
23 Services]** of all cases where an infant is diagnosed with severe
24 hyperbilirubinemia, and where a pregnancy results in a naturally
25 aborted fetus or infant affected by a birth defect, and an electively
26 aborted fetus that exhibits or is known to have a birth defect after
27 15 weeks of gestation. The reporting requirement shall apply to all
28 infants from birth through five years of age.

29 b. The Commissioner of Health **[and Senior Services]** shall
30 determine the health care providers and facilities which shall be
31 required to report all birth defects and all cases of severe
32 hyperbilirubinemia, the types of conditions or defects that shall be
33 reported, the type of information that shall be contained in the
34 confidential report and the method for making the report. In reports
35 concerning all fetuses with anomalies, the name of the mother shall
36 not be submitted.

37 (cf: P.L.2005, c.176, s.3)

38

39 ¹**[352.] 353.**¹ R.S.26:8-69 is amended to read as follows:

40 26:8-69. Except as otherwise specifically provided in this chapter
41 and R.S.37:1-1 et seq., any person who shall:

42 a. Fail or refuse to furnish correctly any information in **[his]**
43 the person's possession; or

44 b. Willfully and knowingly furnish false information affecting
45 any certificate or record required by this chapter; or

1 c. Willfully alter, otherwise than is provided by R.S.26:8-48 et
2 seq., or willfully or knowingly falsify, any certificate or record
3 established by this chapter; or

4 d. Fail to fill out and transmit any certificate or record in the
5 manner required by this chapter; or

6 e. Being a local registrar, deputy registrar, alternate deputy
7 registrar or subregistrar, shall fail to perform **[his]** the person's
8 duty as required by this chapter and by the directions of the State
9 registrar thereunder; or

10 f. Violate any of the provisions of this chapter or fail to
11 discharge any duty required by this chapter-

12 Shall be subject to a penalty of not less than \$100 nor more than
13 \$250 for each first offense and not less than \$250 nor more than
14 \$500 for each subsequent offense.

15 The penalties shall be recovered in a civil action in the name of
16 the Department of Health **[and Senior Services]** or local board in
17 any court of competent jurisdiction.

18 The Superior Court or municipal court shall have jurisdiction
19 over proceedings to enforce and collect any such penalty, if the
20 violation has occurred within the territorial jurisdiction of the court.
21 The proceedings shall be summary and in accordance with the
22 "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10
23 et seq.).

24 Notwithstanding the provisions of this section to the contrary,
25 the State registrar may refer a violation of this chapter by a
26 physician, nurse, or funeral director who is licensed pursuant to
27 Title 45 of the Revised Statutes to the appropriate professional
28 board in the Division of Consumer Affairs in the Department of
29 Law and Public Safety, which shall, in accordance with the
30 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
31 seq.), assess the penalty provided for in this subsection and assume
32 enforcement responsibility on the same basis as it would for a
33 violation of the statute or regulations governing the practice of
34 those persons regulated by that board.

35 (cf: P.L.2003, c.221, s.26)

36

37 ¹**[353.]** 354.¹ Section 3 of P.L.2003, c.246 (C.26:8A-3) is
38 amended to read as follows:

39 3. As used in sections 1 through 9 of P.L.2003, c.246
40 (C.26:8A-1 through C.26:8A-9) and in R.S.26:8-1 et seq.:

41 "Affidavit of Domestic Partnership" means an affidavit that sets
42 forth each party's name and age, the parties' common mailing
43 address, and a statement that, at the time the affidavit is signed,
44 both parties meet the requirements of this act for entering into a
45 domestic partnership and wish to enter into a domestic partnership
46 with each other.

47 "Basic living expenses" means the cost of basic food and shelter,
48 and any other cost, including, but not limited to, the cost of health

1 care, if some or all of the cost is paid as a benefit because a person
2 is another person's domestic partner.

3 "Certificate of Domestic Partnership" means a certificate that
4 includes: the full names of the domestic partners, a statement that
5 the two individuals are members of a registered domestic
6 partnership recognized by the State of New Jersey, the date that the
7 domestic partnership was entered into, and a statement that the
8 partners are entitled to all the rights, privileges and responsibilities
9 accorded to domestic partners under the law. The certificate shall
10 bear the seal of the State of New Jersey.

11 "Commissioner" means the Commissioner of Health **[and Senior**
12 **Services]**.

13 "Domestic partner" or "partner" means a person who is in a
14 relationship that satisfies the definition of a domestic partnership as
15 set forth in this act.

16 "Have a common residence" means that two persons share the
17 same place to live in this State, or share the same place to live in
18 another jurisdiction when at least one of the persons is a member of
19 a State-administered retirement system, regardless of whether or
20 not: the legal right to possess the place is in both of their names;
21 one or both persons have additional places to live; or one person
22 temporarily leaves the shared place of residence to reside
23 elsewhere, on either a short-term or long-term basis, for reasons that
24 include, but are not limited to, medical care, incarceration,
25 education, a sabbatical, or employment, but intends to return to the
26 shared place of residence.

27 "Jointly responsible" means that each domestic partner agrees to
28 provide for the other partner's basic living expenses if the other
29 partner is unable to provide for himself.

30 "Notice of Rights and Obligations of Domestic Partners" means a
31 form that advises domestic partners, or persons seeking to become
32 domestic partners, of the procedural requirements for establishing,
33 maintaining, and terminating a domestic partnership, and includes
34 information about the rights and responsibilities of the partners.

35 (cf: P.L.2003, c.246, s.3)

36

37 ¹**[354.] 355.**¹ Section 59 of P.L.2003, c.246 (C.26:8A-12) is
38 amended to read as follows:

39 59. a. 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 sections 1 through 10 and 13 through 35 of this act.

43 b. The Commissioner of Banking and Insurance, pursuant to
44 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
45 seq.), shall adopt rules and regulations to effectuate the purposes of
46 sections 47 through 52, 55 and 56 of this act.

47 c. The New Jersey Individual Health Coverage Program Board,
48 pursuant to the "Administrative Procedure Act," P.L.1968, c.410

1 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate
2 the purposes of section 53 of this act.

3 d. The New Jersey Small Employer Health Benefits Program
4 Board, pursuant to the "Administrative Procedure Act," P.L.1968,
5 c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations to
6 effectuate the purposes of section 54 of this act.
7 (cf: P.L.2003, c.246, s.59)

8
9 '【355.】 356.' Section 2 of P.L.2005, c.222 (C.26:13-2) is
10 amended to read as follows:

11 2. As used in this act:

12 "Biological agent" means any microorganism, virus, bacterium,
13 rickettsiae, fungus, toxin, infectious substance, or biological
14 product that may be naturally occurring or engineered as a result of
15 biotechnology, or any naturally occurring or bioengineered
16 component of any such microorganism, virus, bacterium,
17 rickettsiae, fungus, infectious substance, or biological product,
18 capable of causing death, disease, or other biological malfunction in
19 a human, an animal, a plant, or another living organism.

20 "Bioterrorism" means the intentional use or threat of use of any
21 biological agent, to cause death, disease, or other biological
22 malfunction in a human, animal, plant, or other living organism, or
23 degrade the quality and safety of the food, air, or water supply.

24 "Chemical weapon" means a toxic chemical and its precursors,
25 except where intended for a lawful purpose as long as the type and
26 quantity is consistent with such a purpose. Chemical weapon
27 includes, but is not limited to: nerve agents, choking agents, blood
28 agents, and incapacitating agents.

29 "Commissioner" means the Commissioner of Health 【and Senior
30 Services】, or the commissioner's designee.

31 "Contagious disease" means an infectious disease that can be
32 transmitted from person to person.

33 "Department" means the Department of Health 【and Senior
34 Services】.

35 "Health care facility" means any non-federal institution, building
36 or agency, or portion thereof whether public or private for profit or
37 nonprofit that is used, operated or designed to provide health
38 services, medical or dental treatment or nursing, rehabilitative, or
39 preventive care to any person. Health care facility includes, but is
40 not limited to: an ambulatory surgical facility, home health agency,
41 hospice, hospital, infirmary, intermediate care facility, dialysis
42 center, long-term care facility, medical assistance facility, mental
43 health center, paid and volunteer emergency medical services,
44 outpatient facility, public health center, rehabilitation facility,
45 residential treatment facility, skilled nursing facility, and adult day
46 care center. Health care facility also includes, but is not limited to,
47 the following related property when used for or in connection with

1 the foregoing: a laboratory, research facility, pharmacy, laundry
2 facility, health personnel training and lodging facility, patient, guest
3 and health personnel food service facility, and the portion of an
4 office or office building used by persons engaged in health care
5 professions or services.

6 "Health care provider" means any person or entity who provides
7 health care services including, but not limited to: a health care
8 facility, bioanalytical laboratory director, perfusionist, physician,
9 physician assistant, pharmacist, dentist, nurse, paramedic,
10 respiratory care practitioner, medical or laboratory technician, and
11 ambulance and emergency medical workers.

12 "Infectious disease" means a disease caused by a living organism
13 or other pathogen, including a fungus, bacteria, parasite, protozoan,
14 virus, or prion. An infectious disease may, or may not, be
15 transmissible from person to person, animal to person, or insect to
16 person.

17 "Isolation" means the physical separation and confinement of an
18 individual or groups of individuals who are infected or reasonably
19 believed to be infected, on the basis of signs, symptoms or
20 laboratory analysis, with a contagious or possibly contagious
21 disease from non-isolated individuals, to prevent or limit the
22 transmission of the disease to non-isolated individuals.

23 "Local health agency" means a county, regional, municipal, or
24 other governmental agency organized for the purpose of providing
25 health services, administered by a full-time health officer and
26 conducting a public health program pursuant to law.

27 "Local Information Network and Communications System
28 Agency" or "LINCS agency" means the lead local public health
29 agency in each county or identified city, as designated and
30 determined by the commissioner pursuant to section 21 of this act,
31 responsible for providing central planning, coordination, and
32 delivery of specialized services within the designated county or
33 city, in partnership with the other local health agencies within that
34 jurisdiction, in order to prepare for and respond to acts of
35 bioterrorism and other forms of terrorism or other public health
36 emergencies or threats, and to discharge the activities as specified
37 under this act.

38 "Microorganism" includes, but is not limited to, bacteria, viruses,
39 fungi, rickettsiae, or protozoa.

40 "Nuclear or radiological device" means: any nuclear device
41 which is an explosive device designed to cause a nuclear yield; an
42 explosive radiological dispersal device used directly or indirectly to
43 spread radioactive material; or a simple radiological dispersal
44 device which is any act, container or any other device used to
45 release radiological material for use as a weapon.

46 "Overlap agent or toxin" means: any microorganism or toxin that
47 poses a risk to both human and animal health and includes:

48 Anthrax - *Bacillus anthracis*

- 1 Botulism - Clostridium botulinum toxin, Botulinum neurotoxins,
- 2 Botulinum neurotoxin producing species of Clostridium
- 3 Plague - Yersinia pestis
- 4 Tularemia - Francisella tularensis
- 5 Viral Hemorrhagic Fevers - Ebola, Marburg, Lassa, Machupo
- 6 Brucellosis- Brucellosis species
- 7 Glanders - Burkholderia mallei
- 8 Melioidosis - Burkholderia pseudomallei
- 9 Psittacosis - Chlamydomyces psittaci
- 10 Coccidioidomycosis - Coccidioides immitis
- 11 Q Fever - Coxiella burnetii
- 12 Typhus Fever - Rickettsia prowazekii
- 13 Viral Encephalitis - VEE (Venezuelan equine encephalitis virus),
- 14 EEE (Eastern equine encephalitis), WEE (Western equine
- 15 encephalitis)
- 16 Toxins - Ricinus communis, Clostridium perfringens, Staph.
- 17 Aureus, Staphylococcal enterotoxins, T-2 toxin, Shigatoxin
- 18 Nipah - Nipah virus
- 19 Hantavirus - Hantavirus
- 20 West Nile Fever - West Nile virus
- 21 Hendra - Hendra virus
- 22 Rift Valley Fever - Rift Valley Fever virus
- 23 Highly Pathogenic Avian Influenza
- 24 "Public health emergency" means an occurrence or imminent
- 25 threat of an occurrence that:
- 26 a. is caused or is reasonably believed to be caused by any of
- 27 the following: (1) bioterrorism or an accidental release of one or
- 28 more biological agents; (2) the appearance of a novel or previously
- 29 controlled or eradicated biological agent; (3) a natural disaster; (4) a
- 30 chemical attack or accidental release of toxic chemicals; or (5) a
- 31 nuclear attack or nuclear accident; and
- 32 b. poses a high probability of any of the following harms: (1) a
- 33 large number of deaths, illness, or injury in the affected population;
- 34 (2) a large number of serious or long-term impairments in the
- 35 affected population; or (3) exposure to a biological agent or
- 36 chemical that poses a significant risk of substantial future harm to a
- 37 large number of people in the affected population.
- 38 "Quarantine" means the physical separation and confinement of
- 39 an individual or groups of individuals, who are or may have been
- 40 exposed to a contagious or possibly contagious disease and who do
- 41 not show signs or symptoms of a contagious disease, from non-
- 42 quarantined individuals, to prevent or limit the transmission of the
- 43 disease to non-quarantined individuals.
- 44 "Toxin" means the toxic material of plants, animals,
- 45 microorganisms, viruses, fungi, or infectious substances, or a
- 46 recombinant molecule, whatever its origin or method of production,
- 47 including:

1 a. any poisonous substance or biological product that may be
2 engineered as a result of biotechnology or produced by a living
3 organism; or

4 b. any poisonous isomer or biological product, homolog, or
5 derivative of such a substance.

6 (cf: P.L.2005, c.222, s.2)

7

8 ¹[356.] 357. Section 24 of P.L.2005, c.222 (C.26:13-24) is
9 amended to read as follows:

10 24. a. There is hereby established in the Department of Health
11 **[and Senior Services]** a State Public Health Emergency Claim
12 Reimbursement Board. The board shall include the following
13 members: the Commissioner of Health **[and Senior Services]**, who
14 shall be the presiding officer, the Attorney General, the Adjutant
15 General of the Department of Military and Veterans' Affairs, the
16 State Director of Emergency Management, the Secretary of
17 Agriculture, the Commissioner of Banking and Insurance, the
18 Commissioner of Environmental Protection, the Commissioner of
19 Community Affairs, the State Medical Examiner, and the State
20 Treasurer, or their designees. The members of the board shall serve
21 without pay in connection with all such duties as are prescribed in
22 this act.

23 b. The board shall meet at such times as may be necessary to
24 fulfill the requirements set forth herein. The Commissioner of
25 Health **[and Senior Services]** shall convene the board within 45
26 days of the filing of a complete petition. The concurrence of six
27 members of the board shall be necessary for the validity of all acts
28 of the board.

29 c. Subject to available appropriations, the board shall have the
30 authority to award reasonable reimbursement, as determined by the
31 board, for any services required of any person under the provisions
32 of this act, which shall be paid at the prevailing established rate for
33 services of a like or similar nature as determined by the board.
34 Subject to available appropriations, the board shall have the
35 authority to award reasonable reimbursement, as determined by the
36 board, for any property employed, taken, or used under the
37 provisions of this act.

38 d. All awards shall be paid from any funds appropriated by the
39 State, any political subdivision of the State, or the federal
40 government, for such purpose. In awarding reimbursement under
41 this section, the board shall take into account any funds, or any
42 other thing of value, received by a claimant from any other source,
43 including but not limited to private donations, contributions, and
44 insurance proceeds. The board shall not award reimbursement
45 unless the claimant has demonstrated, to the satisfaction of the
46 board, that the claimant has first sought reimbursement for any loss

1 incurred due to the declaration of a public health emergency from
2 any and all appropriate third party payers.

3 (cf: P.L.2005, c.222, s.24)

4

5 ¹[357.] 358. Section 25 of P.L.2005, c.222 (C.26:13-25) is
6 amended to read as follows:

7 25. a. Any person making a claim for reimbursement for private
8 property or services employed, taken or used for a public purpose
9 under this act shall, subsequent to the termination of the public
10 health emergency, file a petition for an award with the State Public
11 Health Emergency Claim Reimbursement Board, established
12 pursuant to section 24 of this act, through the Commissioner of
13 Health **[and Senior Services]**. The petition shall be signed by the
14 claimant and shall set forth the following:

15 (1) a description of the services or property employed, taken, or
16 used;

17 (2) the dates of the employment, taking, or usage;

18 (3) the person or entity ordering the employment, taking, or
19 usage;

20 (4) such additional information as the petitioner deems relevant
21 to a full consideration of the claim; and

22 (5) any additional information that the board may require.

23 b. The board may establish such forms, documents, and
24 procedures as may be necessary to expedite the processing of
25 claims, and all claimants shall utilize and follow the forms,
26 documents, and procedures, if so established. Subsequent to the
27 filing of an initial petition, the board may request such additional
28 information as it deems necessary from any claimant and may
29 require the claimant, and any other person with knowledge of facts
30 and circumstances relevant to the claim, to appear before the board
31 for a hearing. No petition shall be filed with the board more than
32 180 days from the last date the services or property were employed,
33 taken or used, except that this deadline may be extended by the
34 board as is necessary to further the purposes of this act.

35 c. The board's determination concerning a claimant's petition
36 for reimbursement shall be transmitted to the claimant in writing.
37 The claimant may appeal the decision to the Superior Court subject
38 to the Rules of Court regarding the review of State agency actions.

39 d. Any person seeking reimbursement under this act shall
40 proceed in accordance with the provisions of this section unless the
41 declaration of public health emergency which gives rise to the claim
42 or petition for reimbursement is superseded by order of the
43 Governor pursuant to P.L.1942, c.251 (C.App.A:9-33 et seq.). Upon
44 the declaration of an emergency by the Governor pursuant to
45 P.L.1942, c.251 which supersedes the declaration of a public health
46 emergency, the person shall proceed in accordance with the
47 provisions of P.L.1942, c.251 and the person's rights, remedies and

1 entitlement to reimbursement shall be limited to that which is
2 afforded in that act.

3 e. Notwithstanding the provisions of this section to the
4 contrary, in the event funds are otherwise made available for
5 reimbursement, a person shall not be required to file a petition for
6 an award with the board pursuant to this section.

7 (cf: P.L.2005, c.222, s.25)

8

9 **'[358.] 359.'** Section 6 of P.L.1968, c.413 (C.30:4D-6) is
10 amended to read as follows:

11 6. a. Subject to the requirements of Title XIX of the federal
12 Social Security Act, the limitations imposed by this act and by the
13 rules and regulations promulgated pursuant thereto, the department
14 shall provide medical assistance to qualified applicants, including
15 authorized services within each of the following classifications:

16 (1) Inpatient hospital services;

17 (2) Outpatient hospital services;

18 (3) Other laboratory and X-ray services;

19 (4) (a) Skilled nursing or intermediate care facility services;

20 (b) **【Such early】** Early and periodic screening and diagnosis of
21 individuals who are eligible under the program and are under age
22 21, to ascertain their physical or mental defects and **【such】** the
23 health care, treatment, and other measures to correct or ameliorate
24 defects and chronic conditions discovered thereby, as may be
25 provided in regulations of the Secretary of the federal Department
26 of Health and Human Services and approved by the commissioner;

27 (5) Physician's services furnished in the office, the patient's
28 home, a hospital, a skilled nursing, or intermediate care facility or
29 elsewhere.

30 As used in this subsection, "laboratory and X-ray services"
31 includes HIV drug resistance testing, including, but not limited to,
32 genotype assays that have been cleared or approved by the federal
33 Food and Drug Administration, laboratory developed genotype
34 assays, phenotype assays, and other assays using phenotype
35 prediction with genotype comparison, for persons diagnosed with
36 HIV infection or AIDS.

37 b. Subject to the limitations imposed by federal law, by this
38 act, and by the rules and regulations promulgated pursuant thereto,
39 the medical assistance program may be expanded to include
40 authorized services within each of the following classifications:

41 (1) Medical care not included in subsection a.(5) above, or any
42 other type of remedial care recognized under State law, furnished
43 by licensed practitioners within the scope of their practice, as
44 defined by State law;

45 (2) Home health care services;

46 (3) Clinic services;

47 (4) Dental services;

48 (5) Physical therapy and related services;

- 1 (6) Prescribed drugs, dentures, and prosthetic devices; and
2 eyeglasses prescribed by a physician skilled in diseases of the eye
3 or by an optometrist, whichever the individual may select;
- 4 (7) Optometric services;
- 5 (8) Podiatric services;
- 6 (9) Chiropractic services;
- 7 (10) Psychological services;
- 8 (11) Inpatient psychiatric hospital services for individuals under
9 21 years of age, or under age 22 if they are receiving such services
10 immediately before attaining age 21;
- 11 (12) Other diagnostic, screening, preventive, and rehabilitative
12 services, and other remedial care;
- 13 (13) Inpatient hospital services, nursing facility services, and
14 intermediate care facility services for individuals 65 years of age or
15 over in an institution for mental diseases;
- 16 (14) Intermediate care facility services;
- 17 (15) Transportation services;
- 18 (16) Services in connection with the inpatient or outpatient
19 treatment or care of drug abuse, when the treatment is prescribed by
20 a physician and provided in a licensed hospital or in a narcotic and
21 drug abuse treatment center approved by the Department of Health
22 **【and Senior】** Services pursuant to P.L.1970, c.334 (C.26:2G-21 et
23 seq.) and whose staff includes a medical director, and limited to
24 those services eligible for federal financial participation under Title
25 XIX of the federal Social Security Act;
- 26 (17) Any other medical care and any other type of remedial care
27 recognized under State law, specified by the Secretary of the federal
28 Department of Health and Human Services, and approved by the
29 commissioner;
- 30 (18) Comprehensive maternity care, which may include: the
31 basic number of prenatal and postpartum visits recommended by the
32 American College of Obstetrics and Gynecology; additional
33 prenatal and postpartum visits that are medically necessary;
34 necessary laboratory, nutritional assessment and counseling, health
35 education, personal counseling, managed care, outreach, and
36 follow-up services; treatment of conditions which may complicate
37 pregnancy; and physician or certified nurse-midwife delivery
38 services;
- 39 (19) Comprehensive pediatric care, which may include:
40 ambulatory, preventive, and primary care health services. The
41 preventive services shall include, at a minimum, the basic number
42 of preventive visits recommended by the American Academy of
43 Pediatrics;
- 44 (20) Services provided by a hospice which is participating in the
45 Medicare program established pursuant to Title XVIII of the Social
46 Security Act, Pub.L.89-97 (42 U.S.C. s.1395 et seq.). Hospice
47 services shall be provided subject to approval of the Secretary of

1 the federal Department of Health and Human Services for federal
2 reimbursement;

3 (21) Mammograms, subject to approval of the Secretary of the
4 federal Department of Health and Human Services for federal
5 reimbursement, including one baseline mammogram for women
6 who are at least 35 but less than 40 years of age; one mammogram
7 examination every two years or more frequently, if recommended
8 by a physician, for women who are at least 40 but less than 50 years
9 of age; and one mammogram examination every year for women
10 age 50 and over.

11 c. Payments for the foregoing services, goods, and supplies
12 furnished pursuant to this act shall be made to the extent authorized
13 by this act, the rules and regulations promulgated pursuant thereto
14 and, where applicable, subject to the agreement of insurance
15 provided for under this act. **[Said]** The payments shall constitute
16 payment in full to the provider on behalf of the recipient. Every
17 provider making a claim for payment pursuant to this act shall
18 certify in writing on the claim submitted that no additional amount
19 will be charged to the recipient, **[his]** the recipient's family, **[his]**
20 the recipient's representative or others on **[his]** the recipient's
21 behalf for the services, goods, and supplies furnished pursuant to
22 this act.

23 No provider whose claim for payment pursuant to this act has
24 been denied because the services, goods, or supplies were
25 determined to be medically unnecessary shall seek reimbursement
26 from the recipient, his family, his representative or others on his
27 behalf for such services, goods, and supplies provided pursuant to
28 this act; provided, however, a provider may seek reimbursement
29 from a recipient for services, goods, or supplies not authorized by
30 this act, if the recipient elected to receive the services, goods or
31 supplies with the knowledge that they were not authorized.

32 d. Any individual eligible for medical assistance (including
33 drugs) may obtain such assistance from any person qualified to
34 perform the service or services required (including an organization
35 which provides such services, or arranges for their availability on a
36 prepayment basis), who undertakes to provide **[him]** the individual
37 such services.

38 No copayment or other form of cost-sharing shall be imposed on
39 any individual eligible for medical assistance, except as mandated
40 by federal law as a condition of federal financial participation.

41 e. Anything in this act to the contrary notwithstanding, no
42 payments for medical assistance shall be made under this act with
43 respect to care or services for any individual who:

44 (1) Is an inmate of a public institution (except as a patient in a
45 medical institution); provided, however, that an individual who is
46 otherwise eligible may continue to receive services for the month in
47 which he becomes an inmate, should the commissioner determine to
48 expand the scope of Medicaid eligibility to include such an

1 individual, subject to the limitations imposed by federal law and
2 regulations, or

3 (2) Has not attained 65 years of age and who is a patient in an
4 institution for mental diseases, or

5 (3) Is over 21 years of age and who is receiving inpatient
6 psychiatric hospital services in a psychiatric facility; provided,
7 however, that an individual who was receiving such services
8 immediately prior to attaining age 21 may continue to receive such
9 services until **[he]** the individual reaches age 22. Nothing in this
10 subsection shall prohibit the commissioner from extending medical
11 assistance to all eligible persons receiving inpatient psychiatric
12 services; provided that there is federal financial participation
13 available.

14 f. (1) A third party as defined in section 3 of P.L.1968, c.413
15 (C.30:4D-3) shall not consider a person's eligibility for Medicaid in
16 this or another state when determining the person's eligibility for
17 enrollment or the provision of benefits by that third party.

18 (2) In addition, any provision in a contract of insurance, health
19 benefits plan, or other health care coverage document, will, trust,
20 agreement, court order, or other instrument which reduces or
21 excludes coverage or payment for health care-related goods and
22 services to or for an individual because of that individual's actual or
23 potential eligibility for or receipt of Medicaid benefits shall be null
24 and void, and no payments shall be made under this act as a result
25 of any such provision.

26 (3) Notwithstanding any provision of law to the contrary, the
27 provisions of paragraph (2) of this subsection shall not apply to a
28 trust agreement that is established pursuant to 42 U.S.C.
29 s.1396p(d)(4)(A) or (C) to supplement and augment assistance
30 provided by government entities to a person who is disabled as
31 defined in section 1614(a)(3) of the federal Social Security Act (42
32 U.S.C. s.1382c (a)(3)).

33 g. The following services shall be provided to eligible
34 medically needy individuals as follows:

35 (1) Pregnant women shall be provided prenatal care and delivery
36 services and postpartum care, including the services cited in
37 subsection a.(1), (3), and (5) of this section and subsection b.(1)-
38 (10), (12), (15), and (17) of this section, and nursing facility
39 services cited in subsection b.(13) of this section.

40 (2) Dependent children shall be provided with services cited in
41 subsection a.(3) and (5) of this section and subsection b.(1), (2), (3),
42 (4), (5), (6), (7), (10), (12), (15), and (17) of this section, and
43 nursing facility services cited in subsection b.(13) of this section.

44 (3) Individuals who are 65 years of age or older shall be
45 provided with services cited in subsection a.(3) and (5) of this
46 section and subsection b.(1)-(5), (6) excluding prescribed drugs, (7),
47 (8), (10), (12), (15), and (17) of this section, and nursing facility
48 services cited in subsection b.(13) of this section.

1 (4) Individuals who are blind or disabled shall be provided with
2 services cited in subsection a.(3) and (5) of this section and
3 subsection b.(1)-(5), (6) excluding prescribed drugs, (7), (8), (10),
4 (12), (15), and (17) of this section, and nursing facility services
5 cited in subsection b.(13) of this section.

6 (5) (a) Inpatient hospital services, subsection a.(1) of this
7 section, shall only be provided to eligible medically needy
8 individuals, other than pregnant women, if the federal Department
9 of Health and Human Services discontinues the State's waiver to
10 establish inpatient hospital reimbursement rates for the Medicare
11 and Medicaid programs under the authority of section 601(c)(3) of
12 the Social Security Act Amendments of 1983, Pub.L.98-21 (42
13 U.S.C. s.1395ww(c)(5)). Inpatient hospital services may be
14 extended to other eligible medically needy individuals if the federal
15 Department of Health and Human Services directs that these
16 services be included.

17 (b) Outpatient hospital services, subsection a.(2) of this section,
18 shall only be provided to eligible medically needy individuals if the
19 federal Department of Health and Human Services discontinues the
20 State's waiver to establish outpatient hospital reimbursement rates
21 for the Medicare and Medicaid programs under the authority of
22 section 601(c)(3) of the Social Security Amendments of 1983,
23 Pub.L.98-21 (42 U.S.C. s.1395ww(c)(5)). Outpatient hospital
24 services may be extended to all or to certain medically needy
25 individuals if the federal Department of Health and Human Services
26 directs that these services be included. However, the use of
27 outpatient hospital services shall be limited to clinic services and to
28 emergency room services for injuries and significant acute medical
29 conditions.

30 (c) The division shall monitor the use of inpatient and outpatient
31 hospital services by medically needy persons.

32 h. In the case of a qualified disabled and working individual
33 pursuant to section 6408 of Pub.L.101-239 (42 U.S.C. s.1396d), the
34 only medical assistance provided under this act shall be the
35 payment of premiums for Medicare part A under 42 U.S.C.
36 ss.1395i-2 and 1395r.

37 i. In the case of a specified low-income Medicare beneficiary
38 pursuant to 42 U.S.C. s.1396a(a)10(E)iii, the only medical
39 assistance provided under this act shall be the payment of premiums
40 for Medicare part B under 42 U.S.C. s.1395r as provided for in 42
41 U.S.C. s.1396d(p)(3)(A)(ii).

42 j. In the case of a qualified individual pursuant to 42 U.S.C.
43 s.1396a(aa), the only medical assistance provided under this act
44 shall be payment for authorized services provided during the period
45 in which the individual requires treatment for breast or cervical
46 cancer, in accordance with criteria established by the commissioner.
47 (cf: P.L.2003, c.294, s.1)

1 ¹[359.] 360. Section 3 of P.L.1981, c.134 (C.30:4D-6.4) is
2 amended to read as follows:

3 3. After consulting with the Commissioner of Human Services,
4 the Commissioner of Health **[and Senior Services]** is authorized
5 and empowered to issue and enforce, or cause to be issued and
6 enforced through the division, all necessary rules, regulations, and
7 administrative orders with respect to:

8 a. The development of minimum requirements concerning the
9 equipment, supplies, and vehicles of providers of mobility
10 assistance vehicle services;

11 b. The establishment of standards for the amount of liability
12 insurance each provider must maintain in order to be eligible to
13 provide mobility assistance vehicle services. Evidence of such
14 insurance, including the name of the insurer and the policy number,
15 shall be filed at the time of application for approval by the division
16 and from time to time as the division shall deem necessary; and

17 c. The establishment of standards for certified trained
18 personnel employed by providers of mobility assistance vehicle
19 services.

20 (cf: P.L.1997, c.102, s.3)

21

22 ¹[360.] 361. Section 7 of P.L.1968, c.413 (C.30:4D-7) is
23 amended to read as follows:

24 7. Duties of commissioner. The commissioner is authorized
25 and empowered to issue, or to cause to be issued through the
26 Division of Medical Assistance and Health Services, all necessary
27 rules and regulations and administrative orders, and to do or cause
28 to be done all other acts and things necessary to secure for the State
29 of New Jersey the maximum federal participation that is available
30 with respect to a program of medical assistance, consistent with
31 fiscal responsibility and within the limits of funds available for any
32 fiscal year, and to the extent authorized by the medical assistance
33 program plan; to adopt fee schedules with regard to medical
34 assistance benefits and otherwise to accomplish the purposes of this
35 act, including specifically the following:

36 a. Subject to the limits imposed by this act, to submit a plan for
37 medical assistance, as required by Title XIX of the federal Social
38 Security Act, to the federal Department of Health and Human
39 Services for approval pursuant to the provisions of such law; to act
40 for the State in making negotiations relative to the submission and
41 approval of such plan, to make such arrangements, not inconsistent
42 with the law, as may be required by or pursuant to federal law to
43 obtain and retain such approval and to secure for the State the
44 benefits of the provisions of such law;

45 b. Subject to the limits imposed by this act, to determine the
46 amount and scope of services to be covered, that the amounts to be
47 paid are reasonable, and the duration of medical assistance to be
48 furnished; provided, however, that the department shall provide

1 medical assistance on behalf of all recipients of categorical
2 assistance and such other related groups as are mandatory under
3 federal laws and rules and regulations, as they now are or as they
4 may be hereafter amended, in order to obtain federal matching
5 funds for such purposes and, in addition, provide medical assistance
6 for the resource family children specified in subsection i.(7) of
7 section 3 of P.L.1968, c.413 (C.30:4D-3). The medical assistance
8 provided for these groups shall not be less in scope, duration, or
9 amount than is currently furnished [such] these groups, and in
10 addition, shall include at least the minimum services required under
11 federal laws and rules and regulations to obtain federal matching
12 funds for such purposes.

13 The commissioner is authorized and empowered, at such times as
14 he may determine feasible, within the limits of appropriated funds
15 for any fiscal year, to extend the scope, duration, and amount of
16 medical assistance on behalf of these groups of categorical
17 assistance recipients, related groups as are mandatory, and resource
18 family children authorized pursuant to section 3i. (7) of this act, so
19 as to include, in whole or in part, the optional medical services
20 authorized under federal laws and rules and regulations, and the
21 commissioner shall have the authority to establish and maintain the
22 priorities given such optional medical services; provided, however,
23 that medical assistance shall be provided to at least such groups and
24 in such scope, duration, and amount as are required to obtain
25 federal matching funds.

26 The commissioner is further authorized and empowered, at such
27 times as he may determine feasible, within the limits of
28 appropriated funds for any fiscal year, to issue, or cause to be
29 issued through the Division of Medical Assistance and Health
30 Services, all necessary rules, regulations and administrative orders,
31 and to do or cause to be done all other acts and things necessary to
32 implement and administer demonstration projects pursuant to Title
33 XI, section 1115 of the federal Social Security Act, including, but
34 not limited to waiving compliance with specific provisions of this
35 act, to the extent and for the period of time the commissioner deems
36 necessary, as well as contracting with any legal entity, including but
37 not limited to corporations organized pursuant to Title 14A, New
38 Jersey Statutes (N.J.S.14A:1-1 et seq.), Title 15, Revised Statutes
39 (R.S.15:1-1 et seq.), and Title 15A, New Jersey Statutes
40 (N.J.S.15A:1-1 et seq.) as well as boards, groups, agencies, persons,
41 and other public or private entities;

42 c. To administer the provisions of this act;

43 d. To make reports to the federal Department of Health and
44 Human Services as from time to time may be required by such
45 federal department and to the New Jersey Legislature as hereinafter
46 provided;

47 e. To assure that any applicant, qualified applicant or recipient
48 shall be afforded the opportunity for a hearing should [his] the

- 1 person's claim for medical assistance be denied, reduced,
2 terminated, or not acted upon within a reasonable time;
- 3 f. To assure that providers shall be afforded the opportunity for
4 an administrative hearing within a reasonable time on any valid
5 complaint arising out of the claim payment process;
- 6 g. To provide safeguards to restrict the use or disclosure of
7 information concerning applicants and recipients to purposes
8 directly connected with administration of this act;
- 9 h. To take all necessary action to recover any and all payments
10 incorrectly made to or illegally received by a provider from such
11 provider or his estate or from any other person, firm, corporation,
12 partnership, or entity responsible for or receiving the benefit or
13 possession of the incorrect or illegal payments or their estates,
14 successors or assigns, and to assess and collect such penalties as are
15 provided for herein;
- 16 i. To take all necessary action to recover the cost of benefits
17 incorrectly provided to or illegally obtained by a recipient,
18 including those made after a voluntary divestiture of real or
19 personal property or any interest or estate in property for less than
20 adequate consideration made for the purpose of qualifying for
21 assistance. The division shall take action to recover the cost of
22 benefits from a recipient, legally responsible relative, representative
23 payee, or any other party or parties whose action or inaction
24 resulted in the incorrect or illegal payments or who received the
25 benefit of the divestiture, or from their respective estates, as the
26 case may be and to assess and collect the penalties as are provided
27 for herein, except that no lien shall be imposed against property of
28 the recipient prior to his death except in accordance with section 17
29 of P.L.1968, c.413 (C.30:4D-17). No recovery action shall be
30 initiated more than five years after an incorrect payment has been
31 made to a recipient when the incorrect payment was due solely to an
32 error on the part of the State or any agency, agent, or subdivision
33 thereof;
- 34 j. To take all necessary action to recover the cost of benefits
35 correctly provided to a recipient from the estate of said recipient in
36 accordance with sections 6 through 12 of this amendatory and
37 supplementary act;
- 38 k. To take all reasonable measures to ascertain the legal or
39 equitable liability of third parties to pay for care and services
40 (available under the plan) arising out of injury, disease, or
41 disability; where it is known that a third party has a liability, to treat
42 such liability as a resource of the individual on whose behalf the
43 care and services are made available for purposes of determining
44 eligibility; and in any case where such a liability is found to exist
45 after medical assistance has been made available on behalf of the
46 individual, to seek reimbursement for such assistance to the extent
47 of such liability;

- 1 l. To compromise, waive, or settle and execute a release of any
2 claim arising under this act including interest or other penalties, or
3 designate another to compromise, waive, or settle and execute a
4 release of any claim arising under this act. The commissioner or
5 **[his]** the commissioner's designee whose title shall be specified by
6 regulation may compromise, settle or waive any such claim in
7 whole or in part, either in the interest of the Medicaid program or
8 for any other reason which the commissioner by regulation shall
9 establish;
- 10 m. To pay or credit to a provider any net amount found by final
11 audit as defined by regulation to be owing to the provider. Such
12 payment, if it is not made within 45 days of the final audit, shall
13 include interest on the amount due at the maximum legal rate in
14 effect on the date the payment became due, except that such interest
15 shall not be paid on any obligation for the period preceding
16 September 15, 1976. This subsection shall not apply until federal
17 financial participation is available for such interest payments;
- 18 n. To issue, or designate another to issue, **[subpenas]**
19 subpoenas to compel the attendance of witnesses and the production
20 of books, records, accounts, papers, and documents of any party,
21 whether or not that party is a provider, which directly or indirectly
22 relate to goods or services provided under this act, for the purpose
23 of assisting in any investigation, examination, or inspection, or in
24 any suspension, debarment, disqualification, recovery, or other
25 proceeding arising under this act;
- 26 o. To solicit, receive, and review bids pursuant to the
27 provisions of P.L.1954, c.48 (C.52:34-6 et seq.) and all amendments
28 and supplements thereto, by any corporation doing business in the
29 State of New Jersey, including nonprofit hospital service
30 corporations, medical service corporations, health service
31 corporations, or dental service corporations incorporated in New
32 Jersey and authorized to do business pursuant to P.L.1938, c.366
33 (C.17:48-1 et seq.), P.L.1940, c.74 (C.17:48A-1 et seq.), P.L.1985,
34 c.236 (C.17:48E-1 et seq.), or P.L.1968, c.305 (C.17:48C-1 et seq.),
35 and to make recommendations in connection therewith to the State
36 Medicaid Commission;
- 37 p. To contract, or otherwise provide as in this act provided, for
38 the payment of claims in the manner approved by the State
39 Medicaid Commission;
- 40 q. Where necessary, to advance funds to the underwriter or
41 fiscal agent to enable such underwriter or fiscal agent, in
42 accordance with terms of its contract, to make payments to
43 providers;
- 44 r. To enter into contracts with federal, State, or local
45 governmental agencies, or other appropriate parties, when necessary
46 to carry out the provisions of this act;

1 s. To assure that the nature and quality of the medical
2 assistance provided for under this act shall be uniform and
3 equitable to all recipients;

4 t. To provide for the reimbursement of State and county-
5 administered skilled nursing and intermediate care facilities through
6 the use of a governmental peer grouping system, subject to federal
7 approval and the availability of federal reimbursement.

8 (1) In establishing a governmental peer grouping system, the
9 State's financial participation is limited to an amount equal to the
10 nonfederal share of the reimbursement which would be due each
11 facility if the governmental peer grouping system was not
12 established, and each county's financial participation in this
13 reimbursement system is equal to the nonfederal share of the
14 increase in reimbursement for its facility or facilities which results
15 from the establishment of the governmental peer grouping system.

16 (2) On or before December 1 of each year, the commissioner
17 shall estimate and certify to the Director of the Division of Local
18 Government Services in the Department of Community Affairs the
19 amount of increased federal reimbursement a county may receive
20 under the governmental peer grouping system. On or before
21 December 15 of each year, the Director of the Division of Local
22 Government Services shall certify the increased federal
23 reimbursement to the chief financial officer of each county. If the
24 amount of increased federal reimbursement to a county exceeds or
25 is less than the amount certified, the certification for the next year
26 shall account for the actual amount of federal reimbursement that
27 the county received during the prior calendar year.

28 (3) The governing body of each county entitled to receive
29 increased federal reimbursement under the provisions of this
30 amendatory act shall, by March 31 of each year, submit a report to
31 the commissioner on the intended use of the savings in county
32 expenditures which result from the increased federal
33 reimbursement. The governing body of each county, with the
34 advice of agencies providing social and health related services, shall
35 use not less than 10% and no more than 50% of the savings in
36 county expenditures which result from the increased federal
37 reimbursement for community-based social and health related
38 programs for elderly and disabled persons who may otherwise
39 require nursing home care. This percentage shall be negotiated
40 annually between the governing body and the commissioner and
41 shall take into account a county's social, demographic, and fiscal
42 conditions, a county's social and health related expenditures and
43 needs, and estimates of federal revenues to support county
44 operations in the upcoming year, particularly in the areas of social
45 and health related services.

46 (4) The commissioner, subject to approval by law, may
47 terminate the governmental peer grouping system if federal
48 reimbursement is significantly reduced or if the Medicaid program

1 is significantly altered or changed by the federal government
2 subsequent to the enactment of this amendatory act. The
3 commissioner, prior to terminating the governmental peer grouping
4 system, shall submit to the Legislature and to the governing body of
5 each county a report as to the reasons for terminating the
6 governmental peer grouping system;

7 u. The commissioner, in consultation with the Commissioner of
8 Health **【and Senior Services】**, shall:

9 (1) Develop criteria and standards for comprehensive maternity
10 or pediatric care providers and determine whether a provider who
11 requests to become a comprehensive maternity or pediatric care
12 provider meets the department's criteria and standards;

13 (2) Develop a program of comprehensive maternity care
14 services which defines the type of services to be provided, the level
15 of services to be provided, and the frequency with which qualified
16 applicants are to receive services pursuant to P.L.1968, c.413
17 (C.30:4D-1 et seq.);

18 (3) Develop a program of comprehensive pediatric care services
19 which defines the type of services to be provided, the level of
20 services to be provided, and the frequency with which qualified
21 applicants are to receive services pursuant to P.L.1968, c.413
22 (C.30:4D-1 et seq.);

23 (4) Develop and implement a system for monitoring the quality
24 and delivery of comprehensive maternity and pediatric care services
25 and a system for evaluating the effectiveness of the services
26 programs in meeting their objectives;

27 (5) Establish provider reimbursement rates for the
28 comprehensive maternity and pediatric care services;

29 v. The commissioner, jointly with the Commissioner of Health
30 **【and Senior Services】**, shall report to the Governor and the
31 Legislature no later than two years following the date of enactment
32 of P.L.1987, c.115 (C.30:4D-2.1 et al.) and annually thereafter on
33 the status of the comprehensive maternity and pediatric care
34 services and their effectiveness in meeting the objectives set forth
35 in section 1 of P.L.1987, c.115 (C.30:4D-2.1) accompanying the
36 report with any recommendations for changes in the law governing
37 the services that the commissioners deem necessary.

38 (cf: P.L.2004, c.130, s.94)

39

40 ¹**【361.】** 362.¹ Section 2 of P.L. 2009, c.268 (C.30:4D-7l) is
41 amended to read as follows:

42 2. The Department of Health **【and Senior Services】** shall
43 adjust the Family Planning Services Grant-in-Aid appropriation and
44 transfer the appropriate amount of State funds to the Division of
45 Medical Assistance and Health Services in the Department of
46 Human Services to facilitate the implementation of section 1 of this
47 act. The Department of Health **【and Senior Services】** shall notify

1 the Legislative Budget and Finance Officer as to the amount that is
2 transferred.

3 (cf: P.L.2009, c.268, s.2)

4

5 ¹[362.] 363. Section 4 of P.L.2011, c.114 (C.30:4D-8.4) is
6 amended to read as follows:

7 4. a. The department shall accept applications for certification
8 from demonstration project applicants beginning 60 days following
9 the effective date of this act, and shall certify an applicant as a
10 Medicaid ACO for participation in the demonstration project
11 following its determination that the applicant meets the
12 requirements specified in this section. The department may deny
13 certification of any ACO applicant that the department determines
14 does not meet the requirements of this act. The department may
15 consider applications for approval, including revised applications
16 submitted by an ACO not previously approved to participate in the
17 demonstration project.

18 b. The department, in consultation with the Department of
19 Health **[and Senior Services]**, may certify as many ACOs for
20 participation in the demonstration project as it determines
21 appropriate, but shall certify no more than one ACO for each
22 designated area.

23 c. Prior to certification, a demonstration project applicant shall
24 demonstrate that it meets the following minimum standards:

25 (1) The applicant has been formed as a nonprofit corporation
26 pursuant to the "New Jersey Nonprofit Corporation Act," P.L.1983,
27 c.127 (C.15A:1-1 et seq.), for the purposes described in this act;

28 (2) The applicant's governing board includes:

29 a) individuals representing the interests of: health care
30 providers, including, but not limited to, general hospitals, clinics,
31 private practice offices, physicians, behavioral health care
32 providers, and dentists**;**, patients**;**, and other social service
33 agencies or organizations located in the designated area; and

34 (b) voting representation from at least two consumer
35 organizations capable of advocating on behalf of patients residing
36 within the designated area of the ACO. At least one of the
37 organizations shall have extensive leadership involvement by
38 individuals residing within the designated area of the ACO, and
39 shall have a physical location within the designated area.
40 Additionally, at least one of the individuals representing a consumer
41 organization shall be an individual who resides within the
42 designated area served by the ACO;

43 (3) The applicant has support of its application by: all of the
44 general hospitals located in the designated area served by the ACO;
45 no fewer than 75% of the qualified primary care providers located
46 in the designated area; and at least four qualified behavioral health
47 care providers located in the designated area;

1 (4) The applicant has a process for receipt of gainsharing
2 payments from the department and any voluntarily participating
3 Medicaid managed care organizations, and the subsequent
4 distribution of such gainsharing payments in accordance with a
5 quality improvement and gainsharing plan to be approved by the
6 department, in consultation with the Department of Health [and
7 Senior Services];

8 (5) The applicant has a process for engaging members of the
9 community and for receiving public comments with respect to its
10 gainsharing plan;

11 (6) The applicant has a commitment to become accountable for
12 the health outcomes, quality, cost, and access to care of Medicaid
13 recipients residing in the designated area for a period of at least
14 three years following certification; and

15 (7) The applicant has a commitment to ensure the use of
16 electronic prescribing and electronic medical records by health care
17 providers located in the designated area.

18 d. Nothing in this act shall be construed to prevent the
19 department from certifying an applicant as a Medicaid ACO that
20 also participates in a Medicare ACO demonstration project
21 approved by the federal Centers for Medicare [and] & Medicaid
22 Services.

23 (cf: P.L.2011, c.114, s.4)

24

25 ¹[363.] 364.¹ Section 5 of P.L.2011, c.114 (C.30:4D-8.5) is
26 amended to read as follows:

27 5. a. A certified Medicaid ACO shall be eligible to receive and
28 distribute gainsharing payments only after having received approval
29 from the department of its gainsharing plan, which approval may be
30 requested by the ACO at the time of certification or at any time
31 within one year of certification. An ACO may seek to amend its
32 gainsharing plan at any time following the plan's initial approval by
33 submitting amendments to the department for approval.

34 b. The department, with input from the Department of Health
35 [and Senior Services] and utilizing outcome evaluation data
36 provided by the Rutgers Center for State Health Policy, shall
37 approve only those gainsharing plans that promote: improvements
38 in health outcomes and quality of care, as measured by objective
39 benchmarks as well as patient experience of care; expanded access
40 to primary and behavioral health care services; and the reduction of
41 unnecessary and inefficient costs associated with care rendered to
42 Medicaid recipients residing in the ACO's designated area. The
43 department and the Department of Health [and Senior Services]
44 shall provide all data necessary to the Rutgers Center for State
45 Health Policy for analysis in support of the department's review of
46 gainsharing plans. Criteria to be considered by the department and

1 the Department of Health [and Senior Services] in approving a
2 gainsharing plan shall include, but are not limited to:

3 (1) whether the plan promotes: care coordination through multi-
4 disciplinary teams, including care coordination of patients with
5 chronic diseases and the elderly; expansion of the medical home
6 and chronic care models; increased patient medication adherence
7 and use of medication therapy management services; use of health
8 information technology and sharing of health information; and use
9 of open access scheduling in clinical and behavioral health care
10 settings;

11 (2) whether the plan encourages services such as patient or
12 family health education and health promotion, home-based services,
13 telephonic communication, group care, and culturally and
14 linguistically appropriate care;

15 (3) whether the gainsharing payment system is structured to
16 reward quality and improved patient outcomes and experience of
17 care;

18 (4) whether the plan funds interdisciplinary collaboration
19 between behavioral health and primary care providers for patients
20 with complex care needs likely to inappropriately access an
21 emergency department and general hospital for preventable
22 conditions;

23 (5) whether the plan funds improved access to dental services
24 for high-risk patients likely to inappropriately access an emergency
25 department and general hospital for untreated dental conditions; and

26 (6) whether the plan has been developed with community input
27 and will be made available for inspection by members of the
28 community served by the ACO.

29 c. The gainsharing plan shall include an appropriate proposed
30 time period beginning and ending on specified dates prior to the
31 commencement of the demonstration project, which shall be the
32 benchmark period against which cost savings can be measured on
33 an annual basis going forward. Savings shall be calculated in
34 accordance with a methodology that:

35 (1) identifies expenditures per recipient by the Medicaid fee-for-
36 service program during the benchmark period, adjusted for
37 characteristics of recipients and local conditions that predict future
38 Medicaid spending but are not amenable to the care coordination or
39 management activities of an ACO which shall serve as the
40 benchmark payment calculation;

41 (2) compares the benchmark payment calculation to amounts
42 paid by the Medicaid fee-for-service program for all such resident
43 recipients during subsequent periods; and

44 (3) provides that the benchmark payment calculation shall
45 remain fixed for a period of three years following approval of the
46 gainsharing plan.

47 d. The percentage of cost savings identified pursuant to
48 subsection c. of this section to be distributed to the ACO, retained

1 by any voluntarily participating Medicaid managed care
2 organization, and retained by the State, shall be identified in the
3 gainsharing plan and shall remain in effect for a period of three
4 years following approval of the gainsharing plan. **[Such]** The
5 percentages shall be designed to ensure that:

6 (1) the State can achieve meaningful savings and support the
7 ongoing operation of the demonstration project, and

8 (2) the ACO receives a sufficient portion of the shared savings
9 necessary to achieve its mission and expand its scope of activities.

10 e. Notwithstanding the provisions of this section to the
11 contrary, the department shall not approve a gainsharing plan that
12 provides direct or indirect financial incentives for the reduction or
13 limitation of medically necessary and appropriate items or services
14 provided to patients under a health care provider's clinical care in
15 violation of federal law.

16 f. Notwithstanding the provisions of this section to the
17 contrary, a gainsharing plan that provides for shared savings
18 between general hospitals and physicians related to acute care
19 admissions utilizing the methodological component of the
20 Physician-Hospital Collaboration Demonstration awarded by the
21 federal Centers for Medicare **[and]** & Medicaid Services to the
22 New Jersey Care Integration Consortium, shall not be required to be
23 approved by the department. The department shall not be under any
24 obligation to participate in the Physician-Hospital Collaboration
25 Demonstration.

26 g. The department shall consider using a portion of any savings
27 generated to expand the nursing, primary care, behavioral health
28 care, and dental workforces and services in the area served by the
29 ACO.

30 h. A gainsharing plan submitted to the department for this
31 ACO demonstration project shall contain an assessment of the
32 expected impact of revenues on hospitals that agree to participate.
33 The assessment shall include estimates for changes in both direct
34 patient care reimbursement and indirect revenue, such as
35 disproportionate share payments, graduate medical education
36 payments, and other similar payments. The assessment shall
37 include a review of whether participation in the demonstration
38 project could significantly impact the financial stability of any
39 hospital through rapid reductions in revenue and how this impact
40 will be mitigated. The gainsharing plan shall include a letter of
41 support from all participating hospitals in order to be accepted by
42 the department.

43 (cf: P.L.2011, c.114, s.5)

44
45 ¹**[364.]** 365.¹ Section 8 of P.L.2011, c.114 (C.30:4D-8.8) is
46 amended to read as follows:

47 8. a. The department, in consultation with the Department of
48 Health **[and Senior Services]**, shall:

1 (1) design and implement the application process for approval of
2 participating ACOs in the demonstration project;

3 (2) collect data from participants in the demonstration project;
4 and

5 (3) approve a methodology proposed by the Medicaid ACO
6 applicant for calculation of cost savings and for monitoring of
7 health outcomes and quality of care under the demonstration
8 project.

9 b. The department and the Department of Health [and Senior
10 Services] shall be authorized to jointly seek public and private
11 grants to implement and operate the demonstration project.

12 (cf: P.L.2011, c.114, s.8)

13

14 '365.] 366.' Section 9 of P.L.2011, c.114 (C.30:4D-8.9) is
15 amended to read as follows:

16 9. The department, in consultation with the Department of
17 Health [and Senior Services], shall evaluate the demonstration
18 project annually to assess whether: cost savings, including, but not
19 limited to, savings in administrative costs and savings due to
20 improved health outcomes, are achieved through implementation of
21 the demonstration project.

22 The department, in consultation with the Department of Health
23 [and Senior Services], and with the assistance of the Rutgers
24 Center for State Health Policy, shall evaluate the demonstration
25 project annually to assess whether there is improvement in the rates
26 of health screening, the outcomes and hospitalization rates for
27 persons with chronic illnesses, and the hospitalization and
28 readmission rates for patients residing in the designated areas
29 served by the ACOs. The department and the Department of Health
30 [and Senior Services] shall provide the Rutgers Center for State
31 Health Policy with all data necessary to perform the annual
32 evaluation of the demonstration project.

33 (cf: P.L.2011, c.114, s.9)

34

35 '366.] 367.' Section 12 of P.L.2011, c.114 (C.30:4D-8.12) is
36 amended to read as follows:

37 12. a. Under the demonstration project, payment shall continue
38 to be made to providers of services and suppliers participating in
39 the Medicaid ACO for services provided to managed care recipients
40 or individuals who receive services on a fee-for-service basis in the
41 same manner as they would otherwise be made, except that the
42 ACO is eligible to receive gainsharing payments under sections 5
43 and 6 of this act if it meets the requirements set forth therein.

44 b. Nothing in this act shall be construed to authorize the
45 Departments of Human Services or Health [and Senior Services] to
46 waive or limit any provisions of federal or State law or
47 reimbursement methodologies governing Medicaid reimbursement

1 to federally qualified health centers, including, but not limited to,
2 Medicaid prospective payment reimbursement and any
3 supplemental payments made to a federally qualified health center
4 providing services to Medicaid managed care recipients.
5 (cf: P.L.2011, c.114, s.12)

6
7 ¹**[367.] 368.** Section 14 of P.L.2001, c.114 (C.30:4D-8.14) is
8 amended to read as follows:

9 14. Upon completion of the demonstration project, the
10 Commissioners of Human Services and Health **[and Senior**
11 **Services]** shall report to the Governor, and to the Legislature
12 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), on the
13 demonstration project, and include in the report the findings of the
14 evaluation carried out pursuant to section 9 of this act. The
15 commissioners shall make such recommendations as they deem
16 appropriate.

17 If, after three years following enactment of this act, the
18 commissioners find the demonstration project was successful in
19 reducing costs and improving health outcomes and the quality of
20 care for Medicaid recipients, the commissioners may recommend
21 that Medicaid ACOs be established on a permanent basis and in
22 additional communities in which Medicaid recipients reside.
23 (cf: P.L.2011, c.114, s.14)

24
25 ¹**[368.] 369.** Section 15 of P.L.2011, c.114 (C.30:4D-8.15) is
26 amended to read as follows:

27 15. The Commissioner of Human Services, in accordance with
28 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
29 seq.) and with input from the Commissioner of Health **[and Senior**
30 **Services]**, shall, within 180 days of the effective date of this act,
31 adopt rules and regulations establishing the standards for
32 gainsharing plans submitted by Medicaid ACOs. The
33 Commissioner of Human Services shall also adopt, with input from
34 the Commissioner of Health **[and Senior Services,]** such rules and
35 regulations governing the ongoing oversight and monitoring of the
36 quality of care delivered to Medicaid recipients in the designated
37 areas served by the Medicaid ACOs, and such other requirements as
38 the Commissioner of Human Services deems necessary to carry out
39 the provisions of this act.
40 (cf: P.L.2011, c.114, s.15)

41
42 ¹**[369.] 370.** Section 2 of P.L.1998, c.41 (C.30:4D-17.17a) is
43 amended to read as follows:

44 2. a. There is established the Drug Utilization Review Board in
45 the department to advise the department on the implementation of a
46 drug utilization review program pursuant to P.L.1993, c.16
47 (C.30:4D-17.16 et seq.) and this section. The board shall establish

1 a Senior Drug Utilization Review Committee to address the specific
2 prescribing needs of the elderly and an AIDS/HIV Drug Utilization
3 Review Committee to address the specific prescribing needs of
4 persons with AIDS/HIV, in addition to such other committees as it
5 deems necessary. It shall be the responsibility of each committee to
6 evaluate the specific prescribing needs of its beneficiary population,
7 and to submit recommendations to the board in regard thereto.

8 The board shall consist of 17 members, including the
9 Commissioners of Human Services and Health [and Senior
10 Services] or their designees, who shall serve as nonvoting ex
11 officio members, and 15 public members. The public members
12 shall be appointed by the Governor with the advice and consent of
13 the Senate. The appointments shall be made as follows: six
14 persons licensed and actively engaged in the practice of medicine in
15 this State, including one who is a psychiatrist and at least two who
16 specialize in geriatric medicine and two who specialize in
17 AIDS/HIV care, one of whom who is a pediatric AIDS/HIV
18 specialist, four of whom shall be appointed upon the
19 recommendation of the Medical Society of New Jersey and two
20 upon the recommendation of the New Jersey Association of
21 Osteopathic Physicians and Surgeons; one person licensed as a
22 physician in this State who is actively engaged in academic
23 medicine; four persons licensed in and actively practicing or
24 teaching pharmacy in this State, who shall be appointed from a list
25 of pharmacists recommended by the New Jersey Pharmacists
26 Association, the New Jersey Council of Chain Drug Stores, the
27 Garden State Pharmacy Owners, Inc., the New Jersey Society of
28 Hospital Pharmacists, the Academy of Consultant Pharmacists and
29 the College of Pharmacy of Rutgers, The State University; one
30 additional health care professional; two persons certified as
31 advanced practice nurses in this State, who shall be appointed upon
32 the recommendation of the New Jersey State Nurses Association;
33 and one member to be appointed upon the recommendation of the
34 Pharmaceutical Research and Manufacturers of America.

35 Each member of the board shall have expertise in the clinically
36 appropriate prescribing and dispensing of outpatient drugs.

37 b. All appointments to the board shall be made no later than the
38 60th day after the effective date of this act. The public members
39 shall be appointed for two-year terms and shall serve until a
40 successor is appointed and qualified, and are eligible for
41 reappointment; except that of the public members first appointed,
42 eight shall be appointed for a term of two years and five for a term
43 of one year.

44 c. Vacancies in the membership of the board shall be filled in
45 the same manner as the original appointments were made but for the
46 unexpired term only. Members of the board shall serve with
47 compensation for the time and expenses incurred in the
48 performance of their duties as board members, as determined by the

1 Commissioners of Human Services and Health [and Senior
2 Services], subject to the approval of the Director of the Division of
3 Budget and Accounting in the Department of the Treasury.

4 d The board shall select a chairman from among the public
5 members, who shall serve a one-year term, and a secretary. The
6 chairman may serve consecutive terms. The board shall adopt
7 bylaws. The board shall meet at least quarterly and may meet at
8 other times at the call of the chairman. The board shall in all
9 respects comply with the provisions of the "Open Public Meetings
10 Act," P.L.1975, c.231 (C.10:4-6 et seq.). No motion to take any
11 action by the board shall be valid except upon the affirmative vote
12 of a majority of the authorized membership of the board.

13 e. The duties of the board shall include the development and
14 application of the criteria and standards to be used in retrospective
15 and prospective drug utilization review. The criteria and standards
16 shall be based on the compendia and developed with professional
17 input in a consensus fashion. There shall be provisions for timely
18 reassessments and revisions as necessary and provisions for input
19 by persons acting as patient advocates. The drug utilization review
20 standards shall reflect the local practices of prescribers, in order to
21 monitor:

- 22 (1) therapeutic appropriateness;
- 23 (2) overutilization or underutilization;
- 24 therapeutic duplication;
- 25 (4) drug-disease contraindications;
- 26 (5) drug-drug interactions;
- 27 (6) incorrect drug dosage;
- 28 (7) duration of drug treatment; and
- 29 (8) clinical drug abuse or misuse.

30 The board shall recommend to the department criteria for denials
31 of claims and establish standards for a medical exception process.
32 The board shall also consider relevant information provided by
33 interested parties outside of the board and, if appropriate, shall
34 make revisions to the criteria and standards in a timely manner
35 based upon this information.

36 f. The board, with the approval of the department, shall be
37 responsible for the development, selection, application, and
38 assessment of interventions or remedial strategies for prescribers,
39 pharmacists, and beneficiaries that are educational and not punitive
40 in nature to improve the quality of care, including:

- 41 (1) Information disseminated to prescribers and pharmacists to
42 ensure that they are aware of the duties and powers of the board;
- 43 (2) Written, oral, or electronic reminders of patient-specific or
44 drug-specific information that are designed to ensure prescriber,
45 pharmacist, and beneficiary confidentiality, and suggested changes
46 in the prescribing or dispensing practices designed to improve the
47 quality of care;

1 (3) The development of an educational program, using data
2 provided through drug utilization review as a part of active and
3 ongoing educational outreach activities to improve prescribing and
4 dispensing practices as provided in this section. These educational
5 outreach activities shall include accurate, balanced, and timely
6 information about drugs and their effect on a patient. If the board
7 contracts with another entity to provide this program, that entity
8 shall publicly disclose any financial interest or benefit that accrues
9 to it from the products selected or used in this program;

10 (4) Use of face-to-face discussion between experts in drug
11 therapy and the prescriber or pharmacist who has been designated
12 by the board for educational intervention;

13 (5) Intensified reviews or monitoring of selected prescribers or
14 pharmacists;

15 (6) The timely evaluation of interventions to determine whether
16 the interventions have improved the quality of care; and

17 (7) The review of case profiles prior to the conducting of an
18 intervention.

19 (cf: P.L.2003, c.262, s.1)

20

21 ¹[370.] 371. Section 3 of P.L.1993, c.163 (C.30:4D-17.18) is
22 amended to read as follows:

23 3. The department shall be responsible for:

24 a. (Deleted by amendment, P.L.1998, c.41).

25 b. The implementation of a drug utilization review program,
26 subject to the approval of the Commissioner of Health **[and Senior**
27 **Services]**, to ensure that prescriptions are appropriate, medically
28 necessary, and not likely to result in adverse medical outcomes,
29 including the approval of the provisions of any contractual
30 agreement between the State pharmaceutical benefits program and
31 other entities processing and reviewing drug claims and profiles for
32 the drug utilization review program.

33 The program shall include both retrospective and prospective
34 drug utilization review. Retrospective drug utilization review shall
35 include an analysis of drug claims processing data in order to
36 identify patterns of fraud, abuse, or gross overuse, and inappropriate
37 or medically unnecessary care, and to assess data on drug use
38 against standards that are based on the compendia and other
39 sources. Prospective drug utilization review shall include a review
40 conducted by the pharmacist at the point of sale.

41 c. (Deleted by amendment, P.L.1998, c.41).

42 d. (Deleted by amendment, P.L.1998, c.41).

43 e. The submission of an annual report, which shall be subject
44 to public comment prior to its issuance, to the federal Department
45 of Health and Human Services by December 1 of each year. The
46 annual report shall also be submitted to the Governor, the
47 Legislature, the New Jersey Pharmaceutical Association and the

1 Medical Society of New Jersey by December 1 of each year. The
2 report shall include the following information:

3 (1) An overview of the activities of the board and the drug
4 utilization review program;

5 (2) Interventions used and their ability to improve the quality of
6 care; however, this information shall not disclose the identities of
7 individual prescribers, pharmacists, or beneficiaries, but shall
8 specify whether the intervention was a result of underutilization or
9 overutilization of drugs;

10 (3) The costs of administering the drug utilization review
11 program;

12 (4) Any cost impact to other areas of the State pharmaceutical
13 benefits program resulting from the drug utilization review
14 program, such as hospitalization rates or changes in long-term care;

15 (5) A quantitative assessment of how drug utilization review has
16 improved beneficiaries' quality of care;

17 (6) A review of the total number of prescriptions and medical
18 exception requests reviewed by drug therapeutic class;

19 (7) An assessment of the impact of the educational program
20 established pursuant to subsection f. of section 2 of P.L.1998, c.41
21 (C.30:4D-17.17a) and interventions on prescribing or dispensing
22 practices, total program costs, quality of care, and other pertinent
23 patient patterns; and

24 (8) Recommendations for improvement of the drug utilization
25 review program.

26 f. The development of a working agreement between the board
27 and other boards or agencies, including, but not limited to: the
28 Board of Pharmacy of the State of New Jersey and the State Board
29 of Medical Examiners, in order to clarify any overlapping areas of
30 responsibility.

31 g. The establishment of an appeal process for prescribers,
32 pharmacists, and beneficiaries pursuant to P.L.1993, c.16 (C.30:4D-
33 17.16 et seq.) and section 2 of P.L.1998, c.41 (C.30:4D-17.17a).

34 h. The publication and dissemination of medically correct and
35 balanced educational information to prescribers and pharmacists to
36 identify and reduce the frequency of patterns of fraud, abuse, gross
37 overuse, or inappropriate or medically unnecessary care among
38 prescribers, pharmacists, and beneficiaries, including:

39 (1) potential or actual reactions to drugs;

40 (2) therapeutic appropriateness;

41 (3) overutilization or underutilization;

42 (4) appropriate use of generic drugs;

43 (5) therapeutic duplication;

44 (6) drug-disease contraindications;

45 (7) drug-drug interactions;

46 (8) incorrect drug dosage or duration of drug treatment;

47 (9) drug allergy interactions; and

48 (10) clinical abuse or misuse.

1 i. The development and publication, with the input of the
2 Board of Pharmacy of the State of New Jersey, of the guidelines to
3 be used by pharmacists, including mail order pharmacies, in their
4 counseling of beneficiaries.

5 j. The adoption and implementation of procedures designed to
6 ensure the confidentiality of any information collected, stored,
7 retrieved, assessed, or analyzed by the board, staff to the board, or
8 contractors to the drug utilization review program, that identifies
9 individual prescribers, pharmacists, or beneficiaries. The board
10 may have access to identifying information for purposes of carrying
11 out intervention activities, but the identifying information may not
12 be released to anyone other than a member of the board, except that
13 the board may release cumulative nonidentifying information for
14 purposes of legitimate research. The improper release of
15 identifying information in violation of this act may subject that
16 person to criminal or civil penalties.

17 k. The determination of whether nursing or long-term care
18 facilities under 42 CFR 483.60 are exempt from the provisions of
19 this act.

20 l. The establishment of a medical exception process by
21 regulation.

22 m. The provision of such staff and other resources as the board
23 requires.

24 (cf: P.L.1998, c.41, s.3)

25
26 ¹**[371.] 372.** Section 4 of P.L.1998, c.41 (C.30:4D-17.18a) is
27 amended to read as follows:

28 4. The Commissioner of Human Services, pursuant to the
29 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
30 seq.), and subject to the approval of the Commissioner of Health
31 **[and Senior Services]** as appropriate, shall adopt rules and
32 regulations to effectuate the purposes of P.L.1993, c.16 (C.30:4D-
33 17.16 et seq.) and section 2 of P.L.1998, c.41 (C.30:4D-17.17a);
34 except that, notwithstanding any provision of P.L.1968, c.410
35 (C.52:14B-1 et seq.) to the contrary, the Commissioner of Human
36 Services **[**, subject to the approval of the Commissioner of Health
37 and Senior Services**]**, may adopt, immediately upon filing with the
38 Office of Administrative Law, such regulations as the commissioner
39 deems necessary to implement the provisions of P.L.1993, c.16
40 (C.30:4D-17.16 et seq.) and section 2 of P.L.1998, c.41 (C.30:4D-
41 17.17a), which shall be effective for a period not to exceed six
42 months and may thereafter be amended, adopted or re-adopted by
43 the Commissioner of Human Services**[**, subject to the approval of
44 the Commissioner of Health and Senior Services**]**, in accordance
45 with the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).

46 (cf: P.L.1998, c.41, s.4)

- 1 ¹~~372.~~ 373.¹ Section 2 of P.L.2006, c.23 (C30:4D-17.24) is
2 amended to read as follows:
- 3 2. The Legislature finds and declares that:
- 4 a. The current population of adults 60 years of age and older in
5 New Jersey is about 1.4 million, and this number is expected to
6 double in size over the next 25 years;
- 7 b. A primary objective of public policy governing access to
8 long-term care in this State shall be to promote the independence,
9 dignity and lifestyle choice of older adults and persons with
10 physical disabilities or Alzheimer's disease and related disorders;
- 11 c. Many states are actively seeking to "rebalance" their long-
12 term care programs and budgets in order to support consumer
13 choice and offer more choices for older adults and persons with
14 disabilities to live in their homes and communities;
- 15 d. New Jersey has been striving to redirect long-term care away
16 from an over-reliance on institutional care toward more home and
17 community-based options; however, it is still often easier for older
18 adults and persons with disabilities to qualify for Medicaid long-
19 term care coverage if they are admitted to a nursing home than if
20 they seek to obtain services through one of the Medicaid home and
21 community-based long-term care options available in this State,
22 such as the ¹~~Community Care Program for the Elderly and~~
23 ~~Disabled, Assisted Living, Adult Family Care, Caregiver Assistance~~
24 ~~Program]~~ Global Options Waiver¹, Adult Day Health Services,
25 Traumatic Brain Injury, AIDS Community Care Alternatives
26 Program, Community Resources for People with Disabilities, or
27 Community Resources for People with Disabilities Private Duty
28 Nursing;
- 29 e. The federal "New Freedom Initiative" was launched in 2001
30 for the purpose of promoting the goal of independent living for
31 persons with disabilities; and Executive Order No. 13217, issued by
32 the President of the United States on June 18, 2001, called upon the
33 federal government to assist states and localities to swiftly
34 implement the 1999 United States Supreme Court decision in
35 *Olmstead v. L.C.* and directed federal agencies to evaluate their
36 policies, programs, statutes, and regulations to determine whether
37 any should be revised or modified to improve the availability of
38 community-based services for qualified persons with disabilities;
- 39 f. Executive Order No. 100, issued by the Governor on March
40 23, 2004, directed the Commissioner of Health ~~and Senior~~
41 ~~Services]~~, in consultation with the State Treasurer, to prepare an
42 analysis and recommendations for developing a global long-term
43 care budgeting process designed to provide the Department of
44 Health ~~and Senior Services]~~ with the authority and flexibility to
45 move Medicaid recipients into the appropriate level of care based
46 on their individual needs, and to identify specific gaps and
47 requirements necessary to streamline paperwork and expedite the

1 process of obtaining Medicaid eligibility for home care options for
2 those who qualify;

3 g. Executive Order No. 31, issued by the Governor on April 21,
4 2005, established a "money follows the person" pilot program and
5 set aside funding in fiscal year 2006 for home and community-
6 based long-term care;

7 h. Older adults and those with physical disabilities or
8 Alzheimer's disease and related disorders that require a nursing
9 facility level of care should not be forced to choose between going
10 into a nursing home or giving up the medical assistance that pays
11 for their needed services, and thereby be denied the right to choose
12 where they receive those services; their eligibility for home and
13 community-based long-term care services under Medicaid should be
14 based upon the same income and asset standards as those used to
15 determine eligibility for long-term care in an institutional setting;
16 and

17 i. The enactment of **[this bill]** P.L. 2006, c.23 (C.30:4D-17.23
18 et seq) will ensure that, in the case of Medicaid-funded long-term
19 care services, "the money follows the person" to allow maximum
20 flexibility between nursing homes and home and community-based
21 settings when it does not compromise federal funding or services in
22 the nursing home and, in so doing, significantly expands the choices
23 available to consumers of these services and thereby fulfills the goal
24 of personal independence so highly valued by the growing number
25 of older adults and persons with disabilities in this State.
26 (cf: P.L.2006, c.23, s.2)

27

28 ¹**[373.] 374.**¹ Section 3 of P.L.2006, c.23 (C.30:4D-17.25) is
29 amended to read as follows:

30 3. As used in this act:

31 "Commissioner" means the Commissioner of **[Health and**
32 **Senior] Human** Services.

33 "Funding parity between nursing home care and home and
34 community-based care" means that the distribution of the amounts
35 expended for these two categories of long-term care under the
36 Medicaid program reflects an appropriate balance between the
37 service delivery costs of those persons whose needs and preferences
38 can most appropriately be met in a nursing home and those persons
39 whose needs and preferences can most appropriately be met in a
40 home or community-based setting.

41 "Home and community-based care" means Medicaid home and
42 community-based long-term care options available in this State,
43 including, but not limited to, the ¹**[Community Care Program for**
44 **the Elderly and Disabled, Assisted Living, Adult Family Care,**
45 **Caregiver Assistance Program]** Global Options Waiver¹, Adult Day
46 Health Services, Traumatic Brain Injury, AIDS Community Care
47 Alternatives Program, Community Resources for People with

1 Disabilities, and Community Resources for People with Disabilities
2 Private Duty Nursing.
3 (cf: P.L.2006, c.23, s.3)
4

5 ¹~~['374.]~~ 375. Section 4 of P.L.2006, c.23 (C.30:4D-17.26) is
6 amended to read as follows:

7 4. a. (1) Beginning in fiscal year 2008, and in each succeeding
8 fiscal year through fiscal year 2013, the commissioner, in
9 consultation with the State Treasurer ~~and the Commissioner of~~
10 ~~Human Services~~ and in accordance with the provisions of this
11 section, shall implement a process that rebalances the overall
12 allocation of funding within the Department of ~~Health and Senior~~
13 Human Services for long-term care services through the expansion
14 of home and community-based services for persons eligible for
15 long-term care as defined by regulation of the commissioner. The
16 expansion of home and community-based services shall be funded,
17 within the existing level of appropriations, by diverting persons in
18 need of long-term care to allow maximum flexibility between
19 nursing home placements and home and community-based services.
20 The State Treasurer, after review and analysis, shall determine the
21 transfer of such funding to home and community-based services
22 provided by the ~~Departments of Health and Senior Services and~~
23 Department of Human Services as is necessary to effectuate the
24 purposes of this act.

25 (2) Beginning in fiscal year 2008, and in each succeeding fiscal
26 year through fiscal year 2013, funds equal to the amount of the
27 reduction in the projected growth of Medicaid expenditures for
28 nursing home care pursuant to paragraph (1) of this subsection, for
29 State dollars only plus the percentage anticipated for programs and
30 persons that will receive federal matching dollars, shall be
31 reallocated to home and community-based care through a global
32 budget and expended solely for such care, until the commissioner
33 determines that total Medicaid expenditures for long-term care have
34 been sufficiently rebalanced to achieve funding parity between
35 nursing home care and home and community-based care. Any
36 funds so reallocated, which are not expended in the fiscal year in
37 which they are reallocated, shall be reserved for expenditures for
38 home and community-based care in a subsequent fiscal year.

39 (3) Subject to federal approval, the home and community-based
40 services to which funds are reallocated pursuant to this act shall
41 include services designated by the commissioner~~, in consultation~~
42 ~~with the Commissioner of Human Services~~ and the Medicaid
43 Long-Term Care Funding Advisory Council established pursuant to
44 this act.

45 (4) Notwithstanding the provisions of this subsection to the
46 contrary, this act shall not be construed to authorize a reduction in
47 funding for Medicaid-approved services based upon the approved

1 State Medicaid nursing home reimbursement methodology,
2 including existing cost screens used to determine daily rates, annual
3 rebasing and inflationary adjustments.

4 b. The commissioner[, in consultation with the Commissioner
5 of Human Services,] shall adopt modifications to the Medicaid
6 long-term care intake system that promote increased use of home
7 and community-based services. These modifications shall include,
8 but not be limited to, the following:

9 (1) commencing March 1, 2007, on a pilot basis in Atlantic and
10 Warren counties, pursuant to Executive Order No. 31 of 2005:

11 (a) the provision of home and community-based services
12 available under Medicaid, as designated by the commissioner, in
13 consultation with [the Commissioner of Human Services and] the
14 Medicaid Long-Term Care Funding Advisory Council established
15 pursuant to this act, pending completion of a formal Medicaid
16 financial eligibility determination for the recipient of services, for a
17 period that does not exceed a time limit established by the
18 commissioner; except that the cost of any services provided
19 pursuant to this subparagraph to a person who is subsequently
20 determined to be ineligible for Medicaid may be recovered from
21 that person; and

22 (b) the use of mechanisms for making fast-track Medicaid
23 eligibility determinations, a revised clinical assessment instrument,
24 and a computerized tracking system for Medicaid long-term care
25 expenditures; and

26 (2) commencing March 1, 2008, expansion of the services and
27 measures provided for in paragraph (1) of this subsection to all of
28 the remaining counties in the State, subject to the commissioner
29 conducting or otherwise providing for an evaluation of the pilot
30 programs in Atlantic and Warren counties prior to that date and
31 determining from that evaluation that the pilot programs are cost-
32 effective and should be expanded Statewide.

33 (cf: P.L.2006, c.23, s.4)

34

35 ' [375.] 376. ' Section 6 of P.L.2006, c.23 (C.30:4D-17.28) is
36 amended to read as follows:

37 6. The commissioner, in consultation with the Medicaid Long-
38 Term Care Funding Advisory Council established pursuant to this
39 act, shall:

40 a. Implement, by such time as the commissioner certifies to the
41 Governor and the Legislature that funding parity has been achieved
42 pursuant to subsection b. of section 5 of this act, a comprehensive
43 data system to track long-term care expenditures and services and
44 consumer profiles and preferences. The data system shall include,
45 but not be limited to: the number of vacant nursing home beds
46 annually and the number of nursing home residents transferred to
47 home and community-based care pursuant to this act; annual long-
48 term care expenditures for nursing home care and each of the home

1 and community based long-term care options available to Medicaid
2 recipients; and annual percentage changes in both long-term care
3 expenditures for, and the number of Medicaid recipients utilizing,
4 nursing home care and each of the home and community based
5 long-term care options, respectively;

6 b. Commence the following no later than January 1, 2008:

7 (1) implement a system of Statewide long-term care service
8 coordination and management designed to minimize administrative
9 costs, improve access to services, and minimize obstacles to the
10 delivery of long-term care services to people in need;

11 (2) identify home and community based long-term care service
12 models that are determined by the commissioner to be efficient and
13 cost-effective alternatives to nursing home care, and develop clear
14 and concise performance standards for those services for which
15 standards are not already available in a home and community-based
16 services waiver;

17 (3) develop and implement [with the Commissioner of Human
18 Services] a comprehensive consumer assessment instrument that is
19 designed to facilitate an expedited process to authorize the
20 provision of home and community-based care to a person through
21 fast track eligibility prior to completion of a formal financial
22 eligibility determination; and

23 (4) develop and implement a comprehensive quality assurance
24 system with appropriate and regular assessments that is designed to
25 ensure that all forms of long-term care available to consumers in
26 this State are financially viable, cost-effective, and promote and
27 sustain consumer independence; and

28 c. Seek to make information available to the general public on
29 a Statewide basis, through print and electronic media, regarding the
30 various forms of long-term care available in this State and the rights
31 accorded to long-term care consumers by statute and regulation, as
32 well as information about public and nonprofit agencies and
33 organizations that provide informational and advocacy services to
34 assist long-term care consumers and their families.

35 (cf: P.L.2006, c.23, s.6)

36

37 ¹[376.] 377.¹ Section 7 of P.L.2006, c.23 (C.30:4D-17.29) is
38 amended to read as follows:

39 7. a. There is established the Medicaid Long-Term Care
40 Funding Advisory Council within the Department of [Health and
41 Senior] Human Services. The advisory council shall meet at least
42 quarterly during each fiscal year until such time as the
43 commissioner certifies to the Governor and the Legislature that
44 funding parity has been achieved pursuant to subsection b. of
45 section 5 of this act, and shall be entitled to receive such
46 information from the Departments of Health [and Senior Services],

1 Human Services, and the Treasury as the advisory council deems
2 necessary to carry out its responsibilities under this act.

3 b. The advisory council shall:

4 (1) monitor and assess, and advise the commissioner on, the
5 implementation and operation of the Medicaid long-term care
6 expenditure reforms and other provisions of this act; and

7 (2) develop recommendations for a program to recruit and train
8 a stable workforce of home care providers, including
9 recommendations for changes to provider reimbursement under
10 Medicaid home and community-based care programs.

11 c. The advisory council shall comprise ~~15~~ 14 members as
12 follows:

13 (1) the commissioner~~], the Commissioner of Human Services]~~
14 and the State Treasurer, or their designees, as ex officio members;
15 and

16 (2) 12 public members to be appointed by the commissioner as
17 follows: one person appointed upon the recommendation of AARP;
18 one person upon the recommendation of the New Jersey
19 Association of Area Agencies on Aging, one person upon the
20 recommendation of the New Jersey Association of County Offices
21 for the Disabled; one person upon the recommendation of the
22 Health Care Association of New Jersey; one person upon the
23 recommendation of the New Jersey Association of Non-Profit
24 Homes for the Aging; one person upon the recommendation of the
25 New Jersey Hospital Association; one person upon the
26 recommendation of the Rutgers Center for State Health Policy; one
27 person upon the recommendation of the New Jersey Elder Rights
28 Coalition; one person upon the recommendation of the County
29 Welfare Directors Association of New Jersey; one person upon the
30 recommendation of the New Jersey Adult Day Services
31 Association; one person upon the recommendation of a labor union
32 that represents home and community-based health care workers;
33 and one person who is a representative of the home care industry.

34 d. The advisory council shall organize as soon as possible after
35 the appointment of its members, and shall annually select from its
36 membership a chairman who shall serve until his successor is
37 elected and qualifies. The members shall also select a secretary
38 who need not be a member of the advisory council.

39 e. The department shall provide such staff and administrative
40 support to the advisory council as it requires to carry out its
41 responsibilities.

42 (cf: P.L.2006, c.23, s.7)

43

44 ¹~~[377.]~~ 378.¹ Section 8 of P.L.2006, c.23 (C.30:4D-17.30) is
45 amended to read as follows:

46 8. The Commissioner of Human Services~~], with the approval~~
47 of the Commissioner of Health and Senior Services,~~]~~ shall apply to

1 the federal Centers for Medicare **[and]** & Medicaid Services for
2 any waiver of federal requirements, or for any State plan
3 amendments or home and community-based services waiver
4 amendments, which may be necessary to obtain federal financial
5 participation for State Medicaid expenditures in order to effectuate
6 the purposes of this act.

7 (c.f. P.L.2006, c.23, s.8)

8

9 ¹**[378.]** 379.¹ Section 9 of P.L.2006, c.23 (C.30:4D-17.31) is
10 amended to read as follows:

11 9. The commissioner **[,** in consultation with the Commissioner
12 of Human Services,**]** shall track Medicaid long-term care
13 expenditures necessary to carry out the provisions of this act.

14 (cf: P.L.2006, c.23, s.9)

15

16 ¹**[379.]** 380.¹ Section 2 of P.L.2000, c.28 (C.30:4D-19.3) is
17 amended to read as follows:

18 2. As used in this act:

19 "Bank" means a State or federally chartered bank, savings bank,
20 or savings and loan association located in this State that is
21 authorized to receive public funds and that is selected by the
22 participating governmental entities to carry out the provisions of
23 this act.

24 "Intergovernmental transfer" means the transfer of money to the
25 State account by a participating governmental entity as
26 contemplated by an intergovernmental transfer agreement.

27 "Intergovernmental transfer agreement" means an agreement
28 among the State Treasurer, the Commissioners of Human Services
29 and Health **[and Senior Services]**, and a participating governmental
30 entity pertaining to participation in and implementation of the
31 intergovernmental transfer program.

32 "Intergovernmental transfer program" or "program" means a
33 program to enhance federal financial participation under the
34 Medicaid program by using intergovernmental transfers.

35 "Medicaid" means the "New Jersey Medical Assistance and
36 Health Services Program" established pursuant to P.L.1968, c.413
37 (C.30:4D-1 et seq.).

38 "Medicaid State plan" means the plan submitted by the State to
39 the federal **[Health Care Financing Administration]** Centers for
40 Medicare & Medicaid Services in the Department of Health and
41 Human Services, including any amendments thereto.

42 "Participant accounts" means the accounts maintained at the
43 bank by each participating governmental entity for the purpose of
44 effectuating the intergovernmental transfer program.

45 "Participating governmental entity" means any governmental
46 entity that owns a nursing facility enrolled in the Medicaid program

1 and qualifies for a supplemental payment under the Medicaid State
2 plan, and which signs an intergovernmental transfer agreement.

3 "State account" means the account maintained at the bank by the
4 State Treasurer for the purpose of the intergovernmental transfer
5 program.

6 "Supplemental payment" means the Medicaid payment made by
7 the State to a participating governmental entity for a specified fiscal
8 year, as set forth and provided for in an intergovernmental transfer
9 agreement.

10 (cf: P.L.2000, c.28, s.2)

11

12 ¹~~['380.]~~ 381. Section 3 of P.L.2000, c.28 (C.30:4D-19.4) is
13 amended to read as follows:

14 3. There is established an intergovernmental transfer program
15 subject to the provisions of this act.

16 a. Notwithstanding the provisions of any other law to the
17 contrary, a governmental entity eligible to receive a supplemental
18 payment is authorized to participate in the intergovernmental
19 transfer program and to take all actions necessary to effectuate
20 completion of the intergovernmental transfer program, including,
21 but not limited to:

22 (1) entering into agreements, including an intergovernmental
23 transfer agreement, with any entity, including the State Treasurer,
24 the Commissioner of Human Services, the Commissioner of Health
25 **[and Senior Services]** , and other participating governmental
26 entities;

27 (2) cooperating with a bank in the execution of any additional
28 documentation required by the bank to effect the borrowing by any
29 participating governmental entity through the issuance of short-term
30 notes in the manner prescribed for the issuance of tax anticipation
31 notes pursuant to N.J.S.40A:4-64, except that the short-term notes
32 shall not be subject to the provisions of N.J.S.40A:4-66, or in any
33 other manner permitted by law, and to pledge to the bank a security
34 interest in all of its right, title and interest in and to its participant
35 account for repayment of short-term notes;

36 (3) transferring participating governmental entity funds to the
37 State account;

38 (4) executing certifications, letters of instruction or other
39 instruments necessary to effectuate the intergovernmental transfer
40 program; and

41 (5) receiving and utilizing supplemental payments received in
42 accordance with the Medicaid State plan, in the manner set forth
43 under the terms of an intergovernmental transfer agreement and as
44 may be necessary to achieve the purposes of the intergovernmental
45 transfer agreement.

46 b. Notwithstanding any other law to the contrary, the State
47 Treasurer, the Commissioner of Human Services and the
48 Commissioner of Health **[and Senior Services]**, acting on behalf of

1 the State, are authorized to participate in the intergovernmental
2 transfer program and to take all actions and make payments in
3 connection with the completion of the intergovernmental transfer
4 program, including, but not limited to:

5 (1) entering into agreements, including the intergovernmental
6 transfer agreement, with any entity, including participating
7 governmental entities, upon such terms and conditions as the State
8 Treasurer deems necessary or desirable to allow for the entity's
9 participation in the intergovernmental transfer program;

10 (2) cooperating with any bank in the execution of any additional
11 documentation required by the bank to transfer supplemental
12 payments to the participant accounts and otherwise effectuate the
13 intergovernmental transfer program; and

14 (3) executing, approving, and authorizing certifications, letters
15 of instruction, legal opinions, or other instruments as the State
16 Treasurer deems necessary or desirable to effectuate the
17 intergovernmental transfer program.

18 (cf: P.L.2000, c.28, s.3)

19

20 ¹~~381.~~ 382. Section 4 of P.L.2000, c.28 (C.30:4D-19.5) is
21 amended to read as follows:

22 4. a. There are appropriated to the Department of ~~Health and~~
23 ~~Senior~~ Human Services such sums as are determined necessary by
24 the Director of the Division of Budget and Accounting in the
25 Department of the Treasury to make supplemental payments in
26 accordance with the Medicaid State plan under the
27 intergovernmental transfer program. The sums so appropriated
28 shall be deposited in the State account and used to make
29 supplemental payments to the participant accounts pursuant to this
30 subsection and as set forth in an intergovernmental transfer
31 agreement.

32 b. There are appropriated to the Department of ~~Health and~~
33 ~~Senior~~ Human Services and Department of the Treasury such
34 additional sums as are determined necessary by the Director of the
35 Division of Budget and Accounting in the Department of the
36 Treasury to pay costs incurred by the State in connection with the
37 execution and delivery of any agreements authorized hereunder,
38 including the costs of professional services, attorneys, and any other
39 costs necessary to complete the intergovernmental transfer program.
40 (cf: P.L.2000, c.28, s.4)

41

42 ¹~~382.~~ 383. Section 1 of P.L. 2003, c.281 (C.30:4D-21.4) is
43 amended to read as follows:

44 1. a. Notwithstanding the provisions of any other law to the
45 contrary, a recipient of benefits under the "Pharmaceutical
46 Assistance to the Aged and Disabled" program, established pursuant
47 to P.L.1975, c.194 (C.30:4D-20 et seq.), shall notify the Department

1 of **【Health and Senior】** Human Services if the recipient
2 unintentionally errs in estimating annual income to determine
3 eligibility for the program due to an unanticipated payment which
4 would render the recipient ineligible for the program. Notification
5 to the department shall be made in the time and manner prescribed
6 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 pursuant to subsection
23 a. of this section.

24 (cf: P.L.2003, c.281, s.1)

25

26 ¹**【383.】** 384.¹ Section 1 of P.L.2009, c.272 (C.30:4D-21.5) is
27 amended to read as follows:

28 1. a. If a person who is a recipient of benefits under the
29 "Pharmaceutical Assistance to the Aged and Disabled," or PAAD,
30 program becomes ineligible for PAAD because the person's income
31 exceeds the program's income eligibility limit and the person still
32 remains eligible for the "Senior Gold Prescription Discount
33 Program," the person shall be enrolled automatically in the "Senior
34 Gold Prescription Discount Program."

35 b. If a person who is a recipient of benefits under the "Senior
36 Gold Prescription Discount Program" has a decrease in income that
37 renders the person eligible for PAAD, the person shall
38 automatically be enrolled in PAAD.

39 c. The Department of **【Health and Senior】** Human Services
40 shall establish one application form for use in applying for the
41 PAAD program and the "Senior Gold Prescription Discount
42 Program." The form shall provide for the inclusion of all
43 information necessary to determine eligibility for both programs
44 and advise applicants of the automatic enrollment provisions of
45 subsections a. and b. of this section.

46 (cf: P.L.2009, c.272, s.1)

1 ¹~~384.~~ 385. Section 2 of P.L.2003, c.281 (C.30:4D-38.1) is
2 amended to read as follows:

3 2. a. Notwithstanding the provisions of any other law to the
4 contrary, a recipient of benefits under the "Hearing Aid Assistance
5 for the Aged and Disabled" program, established pursuant to
6 P.L.1987, c.298 (C.30:4D-36 et seq.), shall notify the Department
7 of ~~Health and Senior~~ Human Services if the recipient
8 unintentionally errs in estimating annual income to determine
9 eligibility for the program due to an unanticipated payment which
10 would render the recipient ineligible for the program. Notification
11 to the department shall be made in the time and manner prescribed
12 by the department.

13 b. If the department determines that the payment was
14 unanticipated, the recipient shall reimburse the program for only
15 those benefits that were paid by the program after the recipient
16 received the unanticipated payment.

17 c. If the department determines that the payment was not
18 unanticipated, the recipient shall reimburse the program for all
19 benefits that were paid by the program in the calendar year in which
20 the payment was received.

21 d. Within 30 days of receipt of a determination by the
22 department that the payment was not unanticipated, a recipient may
23 request a hearing, which shall be conducted pursuant to the
24 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
25 seq.).

26 e. Nothing in this section shall preclude a recipient from
27 reapplying for benefits in the calendar year following the year in
28 which the recipient notified the department pursuant to subsection
29 a. of this section.

30 (cf: P.L.2003, c.281, s.2)

31

32 ¹~~385.~~ 386. Section 2 of P.L.2001, c.96 (C.30:4D-44) is
33 amended to read as follows:

34 2. As used in this act:

35 "Commissioner" means the Commissioner of ~~Health and~~
36 ~~Senior~~ Human Services.

37 "Department" means the Department of ~~Health and Senior~~
38 Human Services.

39 "PAAD" means the program of pharmaceutical assistance to the
40 aged and disabled established pursuant to P.L.1975, c.194
41 (C.30:4D-20 et seq.).

42 "Prescription drug" means any legend drug which is covered by
43 PAAD.

44 "Program" means the "Senior Gold Prescription Discount
45 Program" established pursuant to this act.

46 "Reasonable cost" means the cost of a prescription drug as
47 established for PAAD.

1 "Resident" means a resident as defined in section 3 of P.L.1975,
2 c.194 (C.30:4D-22) for purposes of eligibility for PAAD.
3 (cf: P.L.2001, c.96, s.2)

4
5 '386.] 387.' Section 3 of P.L.2001, c.96 (C.30:4D-45) is
6 amended to read as follows:

7 3. a. There is established the "Senior Gold Prescription
8 Discount Program" in the Department of [Health and Senior]
9 Human Services.

10 b. A resident of this State shall be eligible for the program if
11 the person is:

12 (1) either 65 years of age or older or a recipient of disability
13 insurance benefits under Title II of the federal Social Security Act
14 (42 U.S.C. s.401 et seq.);

15 (2) receiving an annual income, the amount of which is not
16 more than \$10,000 above the applicable PAAD income eligibility
17 limits for single and married persons, which amount is to be
18 determined on the same basis as income is determined for the
19 purpose of eligibility for PAAD; and

20 (3) not eligible for any other program of State-funded
21 prescription drug benefits.

22 c. The program shall provide a payment to a pharmacy that is
23 participating in the program for the reasonable cost of one or more
24 prescription drugs purchased by an eligible person who presents an
25 identification card issued by the program in an amount that exceeds
26 the copayment paid by the eligible person. The payments to
27 pharmacies shall commence no later than 120 days after the
28 effective date of this act or after enactment, whichever is later.

29 At the time of each purchase of a prescription drug, the eligible
30 person shall pay a copayment that shall not be waived, discounted,
31 or rebated in whole or in part, and shall be equal to:

32 (1) \$15 plus 50% of the remaining amount of the reasonable
33 cost for the prescription drug, or the reasonable cost for the
34 prescription drug, whichever is less; or

35 (2) \$15, or the reasonable cost for the prescription drug,
36 whichever is less, in the case of an eligible person who has incurred
37 out-of-pocket expenditures, including copayments and deductibles,
38 for the purchase of prescription drugs, which are not reimbursable
39 by any other plan of assistance or insurance and are credited to that
40 person's account for each 12-month period of eligibility in
41 accordance with procedures established by the commissioner, in the
42 following amounts: \$2,000 for a single person and \$3,000 for a
43 married couple. These out-of-pocket expense amounts shall include
44 only expenses incurred on or after the date that the person received
45 proof of eligibility for the program from the department.

46 d. If an interchangeable drug product contained in the latest list
47 approved and published by the Drug Utilization Review Council

1 pursuant to section 7 of P.L.1977, c.240 (C.24:6E-6) is available for
2 the prescribed prescription drug, an eligible person shall either:

3 (1) purchase an interchangeable drug product, the cost of which
4 is equal to or less than the maximum allowable cost as determined
5 by the commissioner; or

6 (2) if the prescriber specifically indicates that substitution is not
7 permissible, purchase the prescribed drug product that is higher in
8 cost than the maximum allowable cost as determined by the
9 commissioner and pay the amount of the price above that maximum
10 allowable cost, in addition to the amount of the copayment paid by
11 the eligible person pursuant to subsection c. of this section.

12 e. An eligible person whose prescription drug costs are covered
13 in part by any other program or plan of assistance or insurance may
14 be required to receive reduced assistance under the Senior Gold
15 Prescription Discount Program. If an eligible person's prescription
16 drug costs are covered in whole or in part by any other program or
17 plan of assistance or insurance, the other program or plan shall be
18 the primary payer and the Senior Gold Prescription Discount
19 Program shall be the payer of last resort.

20 f. The commissioner may establish limits on the day supply or
21 maximum quantity of prescription drugs which may be purchased
22 by an eligible person under the program in a manner equivalent to
23 those established for prescription drug purchases under PAAD.

24 g. An eligible person under the program shall, upon the
25 submission of an application and proof of expenditure as the
26 department may prescribe, be reimbursed for 50% of the cost of
27 each prescription drug purchased by that person in an amount that
28 exceeds the required copayment, during the period commencing 30
29 days after the person's properly completed application was received
30 by the department and ending on the date on which the person
31 received proof of eligibility from the department; except that no
32 reimbursement under this act shall be made for a prescription drug
33 purchased prior to the effective date of this act.

34 h. The commissioner shall by regulation provide for:

35 (1) arrangements for providing notice of the availability of the
36 program and the distribution of application forms therefor;

37 (2) a system of payments to pharmacies that includes the same
38 dispensing fee structure that is used for PAAD and a system for
39 determining eligibility for the program, including evidence of
40 complete or partial coverage of prescription drug costs by any other
41 program or plan of assistance or insurance; and

42 (3) the issuance of program identification cards to persons who
43 are determined eligible for the program.

44 (cf: P.L.2001, c.96, s.3)

45

46 ¹[387.] 388.¹ Section 3 of P.L.2003, c.281 (C.30:4D-45.1) is
47 amended to read as follows:

1 3. a. Notwithstanding the provisions of any other law to the
2 contrary, a recipient of benefits under the "Senior Gold Prescription
3 Discount Program," established pursuant to P.L.2001, c.96
4 (C.30:4D-43 et seq.), shall notify the Department of **Health and**
5 **Senior** Human Services if the recipient unintentionally errs in
6 estimating annual income to determine eligibility for the program
7 due to an unanticipated payment which would render the recipient
8 ineligible for the program. Notification to the department shall be
9 made in the time and manner prescribed by the department.

10 b. If the department determines that the payment was
11 unanticipated, the recipient shall reimburse the program for only
12 those benefits that were paid by the program after the recipient
13 received the unanticipated payment.

14 c. If the department determines that the payment was not
15 unanticipated, the recipient shall reimburse the program for all
16 benefits that were paid by the program in the calendar year in which
17 the payment was received.

18 d. Within 30 days of receipt of a determination by the
19 department that the payment was not unanticipated, a recipient may
20 request a hearing, which shall be conducted pursuant to the
21 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
22 seq.).

23 e. Nothing in this section shall preclude a recipient from
24 reapplying for benefits in the calendar year following the year in
25 which the recipient notified the department pursuant to subsection
26 a. of this section.

27 (cf: P.L.2003, c.281, s.3)

28
29 ¹~~388.~~ 389.¹ Section 8 of P.L.2001, c.96 (C.30:4D-50) is
30 amended to read as follows:

31 8. The Commissioner of **Health and Senior** Human Services,
32 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
33 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate
34 the purposes of this act.

35 (cf: P.L.2001, c.96, s.8)

36
37 ¹~~389.~~ 390.¹ Section 9 of P.L.2001, c.96 (C.30:4D-51) is
38 amended to read as follows:

39 9. Notwithstanding the provisions of any law to the contrary,
40 no funds appropriated for the Senior Gold Prescription Discount
41 Program established pursuant to this act shall be expended unless
42 participating pharmaceutical manufacturing companies execute
43 contracts with the Department of **Health and Senior Services**
44 through the Department of **Human** Services providing for the
45 payment of rebates to the State under terms substantially similar to
46 those of rebate payment contracts under PAAD, provided that the
47 manufacturer's rebates for the Senior Gold Prescription Discount

1 Program shall apply only to the amount paid by the State under the
2 program.

3 (cf: P.L.2001, c.96, s.9)

4

5 '[390.] 391.' Section 10 of P.L.2001, c.96 (C.30:4D-52) is
6 amended to read as follows:

7 10. Amounts received as rebates under rebate payment contracts
8 executed pursuant to section 9 of this act are appropriated to the
9 Department of [Health and Senior] Human Services for the support
10 of the Senior Gold Prescription Discount Program.

11 (cf: P.L.2001, c.96, s.10)

12

13 '[391.] 392.' Section 2 of P.L.2007, c.58 (C.30:4D-54) is
14 amended to read as follows:

15 2. The Legislature finds and declares that:

16 a. The State of New Jersey expends more than \$9 billion in
17 taxpayer funds to fund the Medicaid program each year;

18 b. The State has a continuing responsibility to ensure that funds
19 expended under the Medicaid program are used appropriately and
20 efficiently to promote the public health;

21 c. Fraud, waste, and abuse by providers and recipients in the
22 Medicaid program reduces the ability of the State to properly fund
23 the program and results in harm to the health of the citizens of this
24 State;

25 d. Controlling fraud, waste, and abuse in the Medicaid program
26 includes preventing, detecting, and investigating such fraud, waste,
27 and abuse, and referring it for civil or criminal action when
28 appropriate;

29 e. The current system for controlling Medicaid fraud, waste,
30 and abuse is based largely on formal and informal agreements
31 among the Department of Human Services, the Medicaid Fraud
32 Control Unit of the Department of Law and Public Safety, the
33 Department of Health [and Senior Services,] and other local, State,
34 and federal agencies whose clients are served by the Medicaid
35 program or who are otherwise responsible for the control of
36 Medicaid fraud, waste, and abuse;

37 f. Centralizing fraud recovery efforts and establishing an
38 independent Office of the Medicaid Inspector General by statute to
39 prevent, detect, and investigate fraud and abuse and coordinate the
40 anti-fraud efforts of all State agencies funded by Medicaid will
41 enhance the efforts of the State to control Medicaid costs;

42 g. The current efforts to control Medicaid fraud, waste, and
43 abuse in New Jersey range from investigating providers before they
44 enroll in the Medicaid program to identifying fraud, waste, and
45 abuse on the part of both providers and recipients;

46 h. Changes in federal and State law, as well as in the health
47 care industry and in available technology, suggest that it is time for

1 a comprehensive review of the Medicaid fraud, waste, and abuse
2 control infrastructure in this State;

3 i. Toward that end, the Governor has appointed the New Jersey
4 Commission on Government Efficiency and Reform to evaluate the
5 budget, structure, and organization of government in New Jersey,
6 including State agencies, instrumentalities and independent
7 authorities, local and county government and school districts, and
8 advise the Governor on governmental restructuring, effectiveness,
9 best practices, efficiencies, cost-saving measures, and how best to
10 achieve economies of scale in the delivery of services and
11 programs, at the lowest possible cost, consistent with mission and
12 quality; and

13 j. While the State examines and prepares to implement such
14 fundamental, long-term structural changes, the immediate
15 coordination of State efforts to control Medicaid fraud, waste, and
16 abuse at all levels of government is essential.

17 (cf: P.L.2007, c.58, s.2)

18

19 ¹~~['392.]~~ 393. Section 5 of P.L.2007, c.58 (C.30:4D-57) is
20 amended to read as follows:

21 5. a. The Medicaid Inspector General shall have the following
22 general functions, duties, powers, and responsibilities:

23 (1) To appoint such deputies, directors, assistants, and other
24 officers and employees as may be needed for the office to meet its
25 responsibilities, and to prescribe their duties and fix their
26 compensation in accordance with State law and within the amounts
27 appropriated therefor;

28 (2) To conduct and supervise all State government activities,
29 except those of the Medicaid Fraud Control Unit in the Department
30 of Law and Public Safety, relating to Medicaid integrity, fraud, and
31 abuse;

32 (3) To call upon any department, office, division, or agency of
33 State government to provide such information, resources, or other
34 assistance as the Medicaid Inspector General deems necessary to
35 discharge the duties and functions and to fulfill the responsibilities
36 of the Medicaid Inspector General under this act. Each department,
37 office, division, and agency of this State shall cooperate with the
38 Medicaid Inspector General and furnish the office with the
39 assistance necessary to accomplish the purposes of this act;

40 (4) To coordinate activities to prevent, detect, and investigate
41 Medicaid fraud and abuse among the following: the Departments of
42 Human Services, Health ~~and Senior Services~~, Education, and
43 Treasury; the Office of the Attorney General; and the special
44 investigative unit maintained by each health insurer providing a
45 Medicaid managed care plan within the State;

46 (5) To apply for and receive federal grants and monies with all
47 necessary assistance as the Medicaid Inspector General shall require
48 from the department;

1 (6) To enter into any applicable federal pilot programs and
2 demonstration projects and coordinate with the department in order
3 for the department to apply as requested by the Medicaid Inspector
4 General, for necessary federal waivers;

5 (7) To recommend and implement policies relating to Medicaid
6 integrity, fraud, and abuse, and monitor the implementation of any
7 recommendations made by the office to other agencies or entities
8 responsible for the administration of Medicaid;

9 (8) To perform any other functions that are necessary or
10 appropriate in furtherance of the mission of the office; and

11 (9) To direct all public or private Medicaid service providers or
12 recipients to cooperate with the office and provide such information
13 or assistance as shall be reasonably required by the office.

14 b. As it relates to ensuring compliance with applicable
15 Medicaid standards and requirements, identifying and reducing
16 fraud and abuse, and improving the efficiency and effectiveness of
17 Medicaid, the functions, duties, powers, and responsibilities of the
18 Medicaid Inspector General shall include, but not be limited to, the
19 following:

20 (1) To establish, in consultation with the department and the
21 Attorney General, guidelines under which the withholding of
22 payments or exclusion from Medicaid may be imposed on a
23 provider or shall automatically be imposed on a provider;

24 (2) To review the utilization of Medicaid services to ensure that
25 Medicaid funds, regardless of which agency administers the service,
26 are appropriately spent to improve the health of Medicaid
27 recipients;

28 (3) To review and audit contracts, cost reports, claims, bills, and
29 all other expenditures of Medicaid funds to determine compliance
30 with applicable laws, regulations, guidelines, and standards, and
31 enhance program integrity;

32 (4) To consult with the department to optimize the Medicaid
33 management information system in furtherance of the mission of
34 the office. The department shall consult with the Medicaid
35 Inspector General on matters that concern the operation, upgrade
36 and implementation of the Medicaid management information
37 system;

38 (5) To coordinate the implementation of information technology
39 relating to Medicaid integrity, fraud, and abuse; and

40 (6) To conduct educational programs for Medicaid providers,
41 vendors, contractors, and recipients designed to limit Medicaid
42 fraud and abuse.

43 c. As it relates to investigating allegations of Medicaid fraud
44 and abuse and enforcing applicable laws, rules, regulations, and
45 standards, the functions, duties, powers, and responsibilities of the
46 Medicaid Inspector General shall include, but not be limited to, the
47 following:

- 1 (1) To conduct investigations concerning any acts of misconduct
2 within Medicaid;
- 3 (2) To refer information and evidence to regulatory agencies and
4 professional and occupational licensing boards;
- 5 (3) To coordinate the investigations of the office with the
6 Attorney General, the State Inspector General, law enforcement
7 authorities, and any prosecutor of competent jurisdiction, and
8 endeavor to develop these investigations in a manner that expedites
9 and facilitates criminal prosecutions and the recovery of improperly
10 expended Medicaid funds, including:
 - 11 (a) keeping detailed records for cases processed by the State
12 Inspector General and the Attorney General and county prosecutors.
13 The records shall include: information on the total number of cases
14 processed and, for each case, the agency and division to which the
15 case is referred for investigation; the date on which the case is
16 referred; and the nature of the suspected fraud, waste, or abuse; and
 - 17 (b) receiving notice from the Attorney General of each case that
18 the Attorney General declines to prosecute or prosecutes
19 unsuccessfully;
- 20 (4) To make information and evidence relating to suspected
21 criminal acts which the Medicaid Inspector General may obtain in
22 carrying out his duties available to the Medicaid Fraud Control Unit
23 pursuant to the requirements of federal law, as well as to other law
24 enforcement officials when appropriate, and consult with the
25 Attorney General and county prosecutors in order to coordinate
26 criminal investigations and prosecutions;
- 27 (5) To refer complaints alleging criminal conduct to the
28 Attorney General or other appropriate prosecutorial authority. If
29 the Attorney General or other appropriate prosecutorial authority
30 decides not to investigate or prosecute the matter, the Attorney
31 General or other appropriate prosecutorial authority shall promptly
32 notify the Medicaid Inspector General. The Attorney General or the
33 prosecutorial authority shall inform the Medicaid Inspector General
34 as to whether an investigation is ongoing with regard to any matter
35 so referred. The Medicaid Inspector General shall preserve the
36 confidentiality of the existence of any ongoing criminal
37 investigation.
 - 38 (a) If the Attorney General or the prosecutorial authority
39 decides not to investigate or act upon the matter referred, the
40 Inspector General is authorized to continue an investigation after
41 the receipt of such a notice.
 - 42 (b) Upon the completion of an investigation or, in a case in
43 which the investigation leads to prosecution, upon completion of
44 the prosecution, the Attorney General or the prosecutorial authority
45 shall report promptly the findings and results to the Medicaid
46 Inspector General. In the course of informing the Medicaid
47 Inspector General, the Attorney General or prosecutorial authority
48 shall give full consideration to the authority, duties, functions, and

1 responsibilities of the Medicaid Inspector General, the public
2 interest in disclosure, and the need for protecting the confidentiality
3 of complainants and informants.

4 (c) The Medicaid Inspector General shall maintain a record of
5 all matters referred and the responses received and shall be
6 authorized to disclose information received as appropriate and as
7 may be necessary to resolve the matter referred, to the extent
8 consistent with the public interest in disclosure and the need for
9 protecting the confidentiality of complainants and informants and
10 preserving the confidentiality of ongoing criminal investigations.

11 (d) Notwithstanding any referral made pursuant to this
12 subsection, the Medicaid Inspector General may pursue any
13 administrative or civil remedy under the law;

14 (6) In furtherance of an investigation, to compel at a specific
15 time and place, by subpoena, the appearance and sworn testimony
16 of any person whom the Medicaid Inspector General reasonably
17 believes may be able to give information relating to a matter under
18 investigation;

19 (a) For this purpose, the Medicaid Inspector General is
20 empowered to administer oaths and examine witnesses under oath,
21 and compel any person to produce at a specific time and place, by
22 subpoena, any documents, books, records, papers, objects, or other
23 evidence that the Medicaid Inspector General reasonably believes
24 may relate to a matter under investigation.

25 (b) If any person to whom a subpoena is issued fails to appear
26 or, having appeared, refuses to give testimony, or fails to produce
27 the books, papers, or other documents required, the Medicaid
28 Inspector General may apply to the Superior Court and the court
29 may order the person to appear and give testimony or produce the
30 books, papers, or other documents, as applicable. Any person
31 failing to obey that order may be punished by the court as for
32 contempt;

33 (7) Subject to applicable State and federal law, to have full and
34 unrestricted access to all records, reports, audits, reviews,
35 documents, papers, data, recommendations, or other material
36 available to State and local departments of health and human
37 services, other State and local government agencies, and Medicaid
38 service providers relating to programs and operations with respect
39 to which the office has responsibilities under this act;

40 (8) To solicit, receive, and investigate complaints related to
41 Medicaid integrity, fraud, and abuse;

42 (9) To prepare cases, provide expert testimony, and support
43 administrative hearings and other legal proceedings; and

44 (10) Upon reasonable belief of the commission of a fraudulent or
45 abusive act, to conduct on-site facility inspections.

46 d. As it relates to recovering improperly expended Medicaid
47 funds, imposing administrative sanctions, damages or penalties,
48 negotiating settlements, and developing an effective third-party

1 liability program to assure that all private or other governmental
2 medical resources have been exhausted before a claim is paid by
3 Medicaid or that reimbursement is sought when there is discovered
4 a liable third party after payment of a claim, the functions, duties,
5 powers, and responsibilities of the Medicaid Inspector General shall
6 include, but not be limited to, the following:

7 (1) On behalf of the department, to collect all overpayments for
8 reimbursable services that are self-disclosed by providers pursuant
9 to current law;

10 (2) To pursue civil and administrative enforcement actions
11 against those who engage in fraud, abuse, or illegal acts perpetrated
12 within Medicaid, including providers, contractors, agents,
13 recipients, individuals, or other entities involved directly or
14 indirectly with the provision of Medicaid care, services, and
15 supplies. These civil and administrative enforcement actions shall
16 include the imposition of administrative sanctions, penalties,
17 suspension of fraudulent, abusive, or illegal payments, and actions
18 for civil recovery and seizure of property or other assets connected
19 with such payments;

20 (3) To initiate civil suits consistent with the provisions of this
21 act, maintain actions for civil recovery on behalf of the State, and
22 enter into civil settlements;

23 (4) To withhold payments to any provider for Medicaid services
24 if the provider unreasonably fails to produce complete and accurate
25 records related to an investigation that is initiated by the office with
26 reasonable cause;

27 (5) To ensure that Medicaid is the payor of last resort, and to
28 provide for the coordination of benefits with each health insurer
29 operating in the State and the recoupment of any duplicate
30 reimbursement paid by the State. Every such health insurer shall be
31 required to provide such information and reports as may be deemed
32 necessary by the Medicaid Inspector General for the coordination of
33 benefits and shall maintain files in a manner and format approved
34 by the department; and

35 (6) To monitor and pursue the recoupment of Medicaid
36 overpayments, damages, penalties, and sanctions.

37 (cf: P.L.2007, c.58, s.5)

38

39 ¹[393.] 394.¹ Section 7 of P.L.2007, c.58 (C.30:4D-59) is
40 amended to read as follows:

41 7. a. The Medicaid audit, program integrity, fraud, and abuse
42 prevention and recovery functions, all officers and employees that
43 the Medicaid Inspector General deems qualified and substantially
44 engaged therein, and any documents and records that the Medicaid
45 Inspector General deems necessary and related to the transfer of
46 such functions and personnel, shall be transferred to the Office of
47 the Medicaid Inspector General from the Medicaid Office of
48 Program Integrity Unit and the Third Party Liability Unit in the

1 Division of Medical Assistance and Health Services, the Division of
2 Aging Services, the Division of Disability Services, the Division of
3 Developmental Disabilities, the Division of Mental Health and
4 Addiction Services, the Division of Youth and Family Services, the
5 Division of Child Behavioral Health Services, the Department of
6 Health [and Senior Services] and the Department of the Treasury.
7 The Medicaid Inspector General shall consult with the head of each
8 department or agency from which such function is to be transferred
9 to determine the officers and employees to be transferred.

10 b. The Medicaid Inspector General shall have general
11 managerial control over the office and shall establish the
12 organizational structure of the office as the Medicaid Inspector
13 General deems appropriate to carry out the responsibilities and
14 functions of the office. Within the limits of funds appropriated
15 therefor, the Medicaid Inspector General may hire such employees
16 in the unclassified service as are necessary to administer the office.
17 These employees shall serve at the pleasure of the Medicaid
18 Inspector General. Subject to the availability of appropriations, the
19 Medicaid Inspector General may obtain the services of certified
20 public accountants, qualified management consultants, professional
21 auditors, or other professionals necessary to independently perform
22 the functions of the office.

23 (cf: P.L.2007, c.58, s.7)

24
25 ' [394.] 395. ' Section 10 of P.L.1985, c.307 (C.30:4G-10) is
26 amended to read as follows:

27 10. a. There is established in the department an Advisory
28 Council on Personal Attendant Services which consists of 19
29 members as follows: the [Commissioner of Health and Senior
30 Services, the] Director of the Division of Youth and Family
31 Services in the Department of Children and Families, the Director
32 of the Division of Aging Services, the Director of the Division of
33 Developmental Disabilities, and the Director of the Division of
34 Medical Assistance and Health Services in the Department of
35 Human Services, the Director of the Division of Veterans' Services
36 in the Department of Military and Veterans' Affairs, and the
37 Director of the Division of Vocational Rehabilitation Services in
38 the Department of Labor and Workforce Development, or their
39 designees, who shall serve ex officio, and 13 members appointed by
40 the commissioner who are residents of this State, one of whom is a
41 member of the New Jersey Association of County Representatives
42 of Disabled Persons, four of whom represent providers of personal
43 attendant services, five of whom represent consumers of personal
44 attendant services and three of whom represent advocacy groups or
45 agencies for the physically disabled.

46 A vacancy in the membership of the council shall be filled in the
47 same manner as the original appointment.

1 The members of the council shall serve without compensation,
2 but the department shall reimburse the members for the reasonable
3 expenses incurred in the performance of their duties.

4 b. The council shall hold an organizational meeting within 30
5 days after the appointment of its members. The members of the
6 council shall elect from among them a **[chairman]** chairperson,
7 who shall be the chief executive officer of the council and the
8 members shall elect a secretary, who need not be a member of the
9 council.

10 c. The council shall:

11 (1) Advise the commissioner on matters pertaining to personal
12 attendant services and the development of the personal attendant
13 program, upon the request of the commissioner;

14 (2) Review the rules and regulations promulgated for the
15 implementation of the personal attendant program and make
16 recommendations to the commissioner, as appropriate;

17 (3) Evaluate the effectiveness of the personal attendant program
18 in achieving the purposes of this act; and

19 (4) Assess the Statewide need for personal attendant services
20 and the projected cost for providing these services Statewide.

21 (cf: P.L.2006, c.47, s.160)

22
23 ¹**[395.]** 396. Section 1 of P.L.2006, c.87 (C.30:4J-17) is
24 amended to read as follows:

25 1. The Commissioner of Human Services, in consultation with
26 the Commissioners of Health **[and Senior Services]**, Labor and
27 Workforce Development, and Banking and Insurance, as
28 appropriate, shall prepare, to the extent data are available, an annual
29 report on Access to Employer-Based Health Insurance, as provided
30 in this act.

31 a. The report shall include the following information about
32 each employer in the State with an aggregate of 50 or more NJ
33 FamilyCare enrollees or Medicaid recipients:

34 (1) the employer's name and address, unless the employer has
35 more than one work site, in which case the employer's name and the
36 number of work sites and the counties in which the work sites are
37 located;

38 (2) the number of NJ FamilyCare enrollees and Medicaid
39 recipients who are employed by the employer;

40 (3) the number of NJ FamilyCare enrollees and Medicaid
41 recipients who are spouses or dependents of employees of the
42 employer;

43 (4) whether the employer offers health insurance coverage to its
44 employees; and

45 (5) the cost to the State of providing NJ FamilyCare and
46 Medicaid coverage for the employer's employees and their
47 dependents.

1 The commissioner may include comparable information about
2 recipients of other public health care coverage programs, and such
3 other information as **[he]** the commissioner deems appropriate
4 regarding employer-based coverage for persons covered under
5 public insurance programs.

6 The commissioner shall also include the information compiled
7 by the Commissioner of Health **[and Senior Services]** concerning
8 recipients of charity care pursuant to section 2 of P.L.2006, c.87
9 (C.26:2H-18.55a). With respect to the information provided by the
10 Commissioner of Health **[and Senior Services]**, the commissioner,
11 in consultation with the Commissioners of Labor and Workforce
12 Development and Banking and Insurance, shall ascertain whether
13 the employer of a recipient of charity care offers health insurance
14 coverage to its employees. The commissioner shall include that
15 information about employers in the report.

16 In addition, the commissioner may make any recommendations
17 **[he]** the commissioner deems appropriate for legislative action.

18 b. The report shall not include the name of any NJ FamilyCare
19 enrollee or Medicaid recipient or any family member of an enrollee
20 or recipient.

21 c. The commissioner shall submit the report by September 1 of
22 each year to the Governor and the chairmen of the Senate and
23 Assembly standing reference committees on human services, health,
24 and appropriations.

25 (cf: P.L.2006, c.87, s.1)

26

27 ¹**[396.] 397.** Section 27 of P.L.2008, c.38 (C.30:4J-19) is
28 amended to read as follows:

29 27. The Commissioner of Human Services shall establish an
30 Outreach, Enrollment, and Retention Working Group to develop a
31 plan to carry out ongoing and sustainable measures to strengthen
32 outreach to low and moderate income families who may be eligible
33 for Medicaid, NJ FamilyCare, or NJ FamilyCare Advantage, to
34 maximize enrollment in these programs, and to ensure retention of
35 enrollees in these programs.

36 a. The members of the working group shall include:

37 (1) The Commissioners of Human Services, Health **[and Senior**
38 **Services]**, Banking and Insurance, Labor and Workforce
39 Development, Education, and Community Affairs, and the
40 Secretary of Agriculture **[, and the Child Advocate]**, or their
41 designees, who shall serve ex officio; and

42 (2) Six public members appointed by the Commissioner of
43 Human Services who shall include: one person who represents
44 racial and ethnic minorities in this State; one person who represents
45 managed care organizations that participate in the Medicaid and NJ
46 FamilyCare programs; one person who represents the vendor under
47 contract with the Division of Medical Assistance and Health

1 Services to provide NJ FamilyCare eligibility, enrollment, and
2 health benefit coordinator services to the division; one person who
3 represents New Jersey Policy Perspective; one person who
4 represents the **【Association】** Advocates for Children of New Jersey;
5 and one person who represents Legal Services of New Jersey.

6 b. As part of the plan, the working group shall:

7 (1) determine if there are obstacles to enrollment of minorities
8 in the State in the Medicaid, NJ FamilyCare, and NJ FamilyCare
9 Advantage programs due to ethnic and cultural differences and, if
10 so, develop strategies for the Department of Human Services to
11 overcome these obstacles and increase enrollment among
12 minorities;

13 (2) recommend outreach strategies to identify and enroll all
14 eligible children in the Medicaid, NJ FamilyCare, and NJ
15 FamilyCare Advantage programs and to retain enrollment of
16 children and their parents in the programs;

17 (3) establish monthly enrollment goals for the number of
18 children who need to be enrolled in Medicaid, NJ FamilyCare, and
19 NJ FamilyCare Advantage in order to ensure that as many children
20 as possible who are eligible for these programs are enrolled within a
21 reasonable period of time, in accordance with the mandate
22 established pursuant to section 2 of P.L.2008, c.38 (C.26:15-2); and

23 (4) make such other recommendations to the Commissioner of
24 Human Services as the working group determines necessary and
25 appropriate to achieve the purposes of this section.

26 c. The working group shall organize as soon as practicable
27 following the appointment of its members and shall select a
28 chairperson and vice-chairperson from among the members. The
29 chairperson shall appoint a secretary who need not be a member of
30 the working group.

31 (1) The public members shall serve without compensation, but
32 shall be reimbursed for necessary expenses incurred in the
33 performance of their duties and within the limits of funds available
34 to the working group.

35 (2) The working group shall be entitled to call to its assistance
36 and avail itself of the services of the employees of any State,
37 county, or municipal department, board, bureau, commission, or
38 agency as it may require and as may be available to it for its
39 purposes.

40 d. Upon completion of the plan, the working group shall report
41 on its activities to the **【chairmen】** chairperson of the Senate and
42 Assembly standing reference committees on health and human
43 services, and include a copy of the plan and any recommendations
44 for legislative action it deems appropriate.

45 e. The Commissioner of Human Services shall post the plan on
46 the department's Internet website and include a table showing the
47 monthly enrollment goals established in the plan and the actual new

1 and continued enrollments for that month. The commissioner shall
2 update the table monthly.

3 f. The Department of Human Services shall provide staff
4 support to the working group.

5 (cf: P.L.2008, c.38, s.27)

6

7 ¹[397.] 398. (New section) a. There is established the Division
8 of Aging Services in the Department of Human Services.

9 b. The functions, powers, and duties of the Department of
10 Health and Senior Services, redesignated as the Department of
11 Health pursuant to section 93 of P.L. , c. (C.) (pending
12 before the Legislature as this bill), to the extent that they relate to
13 the provision of programs or services for senior citizens, including
14 the New Jersey State Commission on Aging established pursuant to
15 section 1 of P.L.1957, c.72 (C.26:1A-107), the Division on Aging
16 and Community Services, and any other division relating to senior
17 benefits, are transferred to the Division of Aging Services, subject
18 to the provisions of P.L. , c. (C.) (pending before the
19 Legislature as this bill) and in accordance with the "State Agency
20 Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.).

21 c. All appropriations and other monies available, and to
22 become available, that relate to the provision of programs or
23 services for senior citizens are continued in the Division of Aging
24 Services and shall be available for the objects and purposes for
25 which these monies are appropriated, subject to the provisions of
26 P.L. , c. (C.) (pending before the Legislature as this bill) and
27 any other terms, restrictions, limitations, or other requirements
28 imposed by law.

29 d. The administrator and head of the office shall be a director
30 who shall be known as the Director of the Division of Aging
31 Services. The director shall be a person qualified by training and
32 experience to perform the duties of the office and shall devote his
33 entire time to the performance of those duties. The director shall be
34 appointed by the commissioner.

35 e. The commissioner shall appoint and remove officers and
36 employees of the division subject to the provisions of Title 11A of
37 the New Jersey Statutes and other applicable statutes as are
38 necessary to enable the division to perform its duties pursuant to
39 this act and shall fix their compensation within the limits of
40 available appropriations and as is provided by law.

41 f. Whenever, in any law, rule, regulation, order, contract,
42 document, judicial or administrative proceeding or otherwise,
43 reference is made to the Division on Aging in either the Department
44 of State, the Department of Community Affairs, or the Department
45 of Health or Senior Services, the same shall mean and refer to the
46 Division of Aging Services in the Department of Human Services.

1 '【398.】 399.' Section 1 of P.L.1997, c.364 (C.34:5A-10.1) is
2 amended to read as follows:

3 1. As used in this act:

4 "Child care center" means a child care center licensed pursuant
5 to the provisions of P.L.1983, c.492 (C.30:5B-1 et seq.);

6 "Hazardous substance" means any substance, or substance in a
7 mixture, included on the hazardous substance list developed by the
8 Department of Health 【and Senior Services】 pursuant to the
9 "Worker and Community Right to Know Act," P.L.1983, c.315
10 (C.34:5A-1 et seq.).

11 "Hazardous substance" shall not include:

12 (1) Any article containing a hazardous substance if the
13 hazardous substance is present in a solid form which does not pose
14 any acute or chronic health hazard to any person exposed to it;

15 (2) Any hazardous substance constituting less than one percent
16 of a mixture unless the hazardous substance is present in an
17 aggregate amount of 500 pounds or more in a container in a public
18 or private school or child care center building;

19 (3) Any hazardous substance which is a special health hazardous
20 substance constituting less than the threshold percentage established
21 by the Department of Health 【and Senior Services】 pursuant to
22 P.L.1983, c.315 (C.34:5A-1 et seq.), for that special health
23 hazardous substance when present in a mixture;

24 (4) Any hazardous substance present in the same form and
25 concentration as a product packaged for distribution and use by
26 consumers and which is not a product intended primarily for
27 commercial use;

28 (5) Any fuel in a motor vehicle;

29 (6) Tobacco or tobacco products;

30 (7) Wood or wood products;

31 (8) Foods, drugs, or cosmetics;

32 (9) Hazardous substances which are an integral part of a
33 building's structure or furnishings;

34 (10) Products which are personal property and are intended for
35 personal use; and

36 (11) Any substance used in the routine maintenance of a public
37 or private school or child care center building or its grounds, any
38 substance used in a classroom science laboratory, any substance
39 used in a school occupational training facility, including
40 laboratories and shops, and any substance used in the normal
41 operation of the classrooms or administrative offices of a public or
42 private school or child care center, including any substance used in
43 the heating or cooling of the school or child care center;

44 "Hazardous substance fact sheet" means the hazardous substance
45 fact sheets prepared by the Department of Health 【and Senior
46 Services】 pursuant to the "Worker and Community Right to Know
47 Act," P.L.1983, c.315 (C.34:5A-1 et seq.);

1 "Public school or private school" have the same meaning as set
2 forth in N.J.S.18A:1-1.

3 (cf: P.L.1997, c.364, s.1)

4

5 ¹**[399.] 400.** Section 2 of P.L.1997, c.364 (C.34:5A-10.2) is
6 amended to read as follows:

7 2. a. No person shall use or allow the use of any hazardous
8 substance in or on any building or grounds used as a public school,
9 a private school, or child care center at any time when children are
10 expected to be present in the building. The provisions of this
11 subsection shall not apply when an emergency condition, as deemed
12 by the Board of Education or the chief school administrator in the
13 case of any public school, or the person having responsibility for
14 the operation of any private school or child care center, necessitates
15 the use of a hazardous substance when children are present.

16 b. Any person who uses or stores, or causes or allows the use
17 or storage of any hazardous substance in or on any building or
18 grounds used as a public school, a private school, or child care
19 center shall ensure that the use or storage of that hazardous
20 substance is in compliance with the regulations adopted by the
21 Department of Health **[and Senior Services]** pursuant to section 5
22 of P.L.1997, c.364 (C.34:5A-10.5).

23 (cf: P.L.1997, c.364, s.2)

24

25 ¹**[400.] 401.** Section 5 of P.L.1997, c.364 (C.34:5A-10.5) is
26 amended to read as follows:

27 5. The Department of Health **[and Senior Services]**, in
28 consultation with the Departments of Education, Human Services,
29 Children and Families and Environmental Protection, and within
30 180 days of the enactment of P.L.1997, c.364 (C.34:5A-10.1 et
31 seq.), shall adopt, pursuant to the "Administrative Procedure Act,"
32 P.L.1968, c.410 (C.52:14B-1 et seq.), regulations necessary to
33 implement the provisions of this act which are consistent with
34 federal and State indoor air quality standards and standards
35 governing the exposure of children to hazardous substances as they
36 are adopted by the federal government.

37 (cf: P.L.2006, c.47, s.183)

38

39 ¹**[401.] 402.** Section 14 of P.L.1983, c.315 (C.34:5A-14) is
40 amended to read as follows:

41 14. a. Every employer shall have until October 30, 1985 to take
42 any action necessary to assure that every container at the employer's
43 facility containing a hazardous substance shall bear a label
44 indicating the chemical name and Chemical Abstracts Service
45 number of the hazardous substance or the trade secret registry
46 number assigned to the hazardous substance. The labels on all
47 containers except pipelines and underground storage tanks shall be

1 designed and affixed in such a manner to ensure that if there is a
2 flood or other natural disaster when the container is transported or
3 stored, the label shall remain in place and visible. Employers may
4 label containers in a research and development laboratory by means
5 of a code or number system, if the code or number system will
6 enable an employee to readily make a cross-reference to a
7 hazardous substance fact sheet which will provide the employee
8 with the chemical name and Chemical Abstracts Service number of
9 the hazardous substance contained in the container, or the trade
10 secret registry number assigned to the hazardous substance. The
11 code or number system shall be designed to allow the employee free
12 and ready access at all times to the chemical name and Chemical
13 Abstracts Service number of the hazardous substance in the
14 container, shall be designed to allow the employee access to this
15 information without the permission or assistance of management,
16 and shall be available to the employee at close proximity to the
17 employee's specific job location or locations. Employers shall be
18 required to label pipelines only at the valve or valves located at the
19 point at which a hazardous substance enters a facility's pipeline
20 system, and at normally operated valves, outlets, vents, drains, and
21 sample connections designed to allow the release of a hazardous
22 substance from the pipeline.

23 b. Within two years of the effective date of this act, every
24 employer shall take any action necessary to assure that every
25 container at the employer's facility bears a label indicating the
26 chemical name and Chemical Abstracts Service number of the
27 substance in the container, except as provided in subsection d. of
28 this section, or the trade secret registry number assigned to the
29 substance. Employers may label containers in a research and
30 development laboratory by means of a code or number system, if
31 the code or number system will enable an employee to readily make
32 a cross-reference to documentary material retained on file by the
33 employer at the facility which will provide the employee with the
34 chemical name and Chemical Abstracts Service number of the
35 substance contained in the container, except as provided in
36 subsection d. of this section, or the trade secret registry number
37 assigned to the substance. The code or number system shall be
38 designed to allow the employee free and ready access at all times to
39 the chemical name and Chemical Abstracts Service number of the
40 substance in the container, shall be designed to allow the employee
41 access to this information without the permission or assistance of
42 management, and shall be available to the employee at close
43 proximity to the employee's specific job location or locations. If a
44 container contains a mixture, an employer shall be required to
45 insure that the label identify the chemical names and Chemical
46 Abstracts Service numbers, except as provided in subsection d. of
47 this section, or the trade secret registry numbers, of the five most
48 predominant substances contained in the mixture. The provisions of

1 this subsection shall not apply to any substance constituting less
2 than 1% of a mixture unless the substance is present at the facility
3 in an aggregate amount of 500 pounds or more. Employers shall be
4 required to label pipelines only at the valve or valves located at the
5 point at which a substance enters a facility's pipeline system, and at
6 normally operated valves, outlets, vents, drains, and sample
7 connections designed to allow the release of a substance from the
8 pipeline. One year after the effective date of this act the
9 Department of Health **[and Senior Services]** shall establish criteria
10 for containers which, because of the finished and durable
11 characteristics of their contents, shall be exempt from the provisions
12 of this subsection. These standards shall be consistent with the
13 intent of this subsection to provide for the labeling of every
14 container which may contain a substance which is potentially
15 hazardous.

16 c. The labeling requirements of subsections a. and b. of this
17 section shall not apply to containers labeled pursuant to the
18 "Federal Insecticide, Fungicide, and Rodenticide Act," 61 Stat. 163
19 (7 U.S.C. s.121 et al.), except that the label for any such container
20 except pipelines and underground storage tanks shall be designed
21 and affixed in such a manner to ensure that if there is a flood or
22 other natural disaster when the container is transported or stored,
23 the label shall remain in place and visible. The Department of
24 Health **[and Senior Services]** may, by rule and regulation, certify
25 containers labeled pursuant to any other federal act as labeled in
26 compliance with the provisions of this section.

27 d. One year after the effective date of this act the Department
28 of Health **[and Senior Services]** shall adopt, pursuant to the
29 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
30 seq.), a list of substances the containers of which may be labeled
31 with the common names and Chemical Abstracts Service numbers
32 of their contents. The department shall include on the list adopted
33 pursuant to this subsection only substances which are widely
34 recognized by their common names. An employer shall provide the
35 chemical name of a substance in a container labeled pursuant to this
36 subsection within five working days of the request therefor.

37 (cf: P.L.2007, c.190, s.1)

38

39 ¹**[402.] 403.**¹ Section 21 of P.L.1983, c.315 (C.34:5A-21) is
40 amended to read as follows:

41 21. The Department of Health **[and Senior Services]**, the
42 Department of Environmental Protection, and the Department of
43 Labor and Workforce Development shall jointly establish a
44 procedure for annually receiving information from the public and
45 any other interested party, concerning any revision of the workplace
46 hazardous substance list and any revision of the environmental
47 hazardous substance list. This procedure shall include a mechanism

1 for revising the workplace hazardous substance list and the
2 environmental hazardous substance list. Any revision of the
3 workplace hazardous substance list or environmental hazardous
4 substance list shall be based on documented scientific evidence.
5 The Department of Health [and Senior Services] and the
6 Department of Environmental Protection shall publicly announce
7 any revisions of the workplace hazardous substance list or the
8 environmental hazardous substance list, and any such additions or
9 revisions shall be made pursuant to the provisions of the
10 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
11 seq.).

12 (cf: P.L.2010, c.87, s.19)

13

14 '【403.】 404.' Section 26 of P.L.1983, c.315 (C.34:5A-26) is
15 amended to read as follows:

16 26. a. There is established in the Department of the Treasury a
17 nonlapsing, revolving fund to be known as the "Worker and
18 Community Right To Know Fund." The "Worker and Community
19 Right To Know Fund" shall be credited with all fees collected
20 pursuant to paragraph (1) of subsection b. of this section and
21 interest on moneys in the "Worker and Community Right To Know
22 Fund" shall be credited to the "Worker and Community Right To
23 Know Fund" and all moneys in the "Worker and Community Right
24 To Know Fund" are appropriated for the purposes of the "Worker
25 and Community Right To Know Fund", and no moneys shall be
26 expended for those purposes without the specific appropriation
27 thereof by the Legislature. The State Treasurer shall be the
28 administrator of the "Worker and Community Right To Know
29 Fund", and all disbursements from the "Worker and Community
30 Right To Know Fund" shall be made by the State Treasurer upon
31 the warrant of the Director of the Division of Budget and
32 Accounting.

33 b. (1) The Department of Labor and Workforce Development
34 shall annually assess each employer a fee of not less than \$75.00
35 nor more than an amount equal to \$4.00 per employee to provide
36 for the implementation of the provisions of this act. All fees
37 collected by the department pursuant to this paragraph shall be
38 deposited in the "Worker and Community Right To Know Fund".

39 (2) The Department of Labor and Workforce Development shall
40 annually assess each employer a fee of \$2.00 per employee for the
41 implementation of P.L.1991, c.235 (C.13:1D-35 et seq.). All fees
42 collected by the department pursuant to this paragraph shall be
43 deposited in the "Pollution Prevention Fund" established pursuant
44 to section 16 of P.L.1991, c.235 (C.13:1D-50), and shall be used
45 only for the implementation of P.L.1991, c.235 (C.13:1D-35 et
46 seq.).

47 c. The moneys in the "Worker and Community Right To Know
48 Fund" shall be disbursed only for the following purposes:

1 (1) Expenses approved by the Director of the Division of
2 Budget and Accounting and incurred by the Department of Health
3 **【and Senior Services】**, the Department of Environmental
4 Protection, the Department of Labor and Workforce Development,
5 the Department of the Treasury, and the county health departments
6 in implementing the provisions of this act; and

7 (2) Repayment to the General Fund of any moneys appropriated
8 by law in order to implement the provisions of this act.

9 d. The State Treasurer shall annually disburse the moneys in
10 the "Worker and Community Right To Know Fund" for
11 expenditures approved by the Director of the Division of Budget
12 and Accounting pursuant to paragraph (1) of subsection c. of this
13 section, but in no case in an amount to the several departments that
14 is greater than the following percentages of the "Worker and
15 Community Right To Know Fund" available in any one year: the
16 Department of Health **【and Senior Services】**, 40%; the Department
17 of Environmental Protection, 20%; the county health departments,
18 15%; the Department of Labor and Workforce Development, 15%;
19 and the Department of the Treasury, 10%.

20 e. Beginning two years after the effective date of this act, the
21 State Treasurer shall make an annual audit of the "Worker and
22 Community Right To Know Fund" to determine the adequacy of
23 moneys on deposit in the "Worker and Community Right To Know
24 Fund" to support the implementation of the provisions of this act. If
25 the State Treasurer, in consultation with the Department of Health
26 **【and Senior Services】**, the Department of Environmental
27 Protection, and the Department of Labor and Workforce
28 Development makes a determination that the revenues in the
29 "Worker and Community Right To Know Fund" are sufficient to
30 warrant a reduction in the fees imposed pursuant to paragraph (1) of
31 subsection b. of this section for the ensuing year, **【he】** the State
32 Treasurer may reduce the amount of the fees imposed during that
33 year by an amount warranted by the balance in the "Worker and
34 Community Right To Know Fund" at the time of the determination.
35 (cf: P.L.2003, c.117, s.19)

36
37 ¹**【404.】** 405.¹ Section 10 of P.L.1984, c.173 (C.34:5A-41) is
38 amended to read as follows:

39 10. Any person who knowingly hinders or delays the
40 **【Commissioner】** Commissioners of Labor and Workforce
41 Development or Health **【and Senior Services】** or the authorized
42 representative thereof, in the performance of the duty to enforce this
43 act, or knowingly submits false or misleading information on any
44 license or permit application required by this act, or fails to obtain
45 licenses or permits required by the provisions of this act, or refuses
46 to make these licenses or permits accessible to either commissioner,
47 or the authorized representative thereof, or otherwise violates any

1 provision of this act or any regulation adopted under this act, shall,
2 upon conviction, be guilty of a crime of the third degree and,
3 notwithstanding the provisions of N.J.S.2C:43-3, shall be subject to
4 a fine of not more than \$25,000 in addition to any other appropriate
5 disposition authorized by subsection b. of N.J.S.2C:43-2.

6 (cf: PL.1997, c.325, s.5)

7
8 ¹**[405.] 406.** Section 8 of P.L.1983, c.516 (C.34:6A-32) is
9 amended to read as follows:

10 8. The commissioner shall, in consultation with the
11 Commissioner of Health **[and Senior Services]** and the
12 Commissioner of Community Affairs and with the advice of the
13 advisory board, promulgate all regulations which **[he]** the
14 commissioner deems necessary for the proper administration and
15 enforcement of this act. A variance may be granted if the
16 commissioner determines that the applicant is in compliance with
17 the requirements for a permanent variance as set forth in subsection
18 c. of section 15 of this act. The variance shall not be deemed to be
19 a variation approved pursuant to the "State Uniform Construction
20 Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) or the "Uniform
21 Fire Safety Act," P.L.1983, c.383 (C.52:27D-192 et al.) or any other
22 building or fire safety standard or code.

23 Space leased by a public employer shall be subject to current
24 health or safety rules and regulations. Any deficiency, including a
25 deficiency resulting either from occupant use or deferred
26 maintenance by the lessor, shall be subject to correction in
27 accordance with the governing rules and regulations at the time that
28 the deficiency is cited by the commissioner or the Commissioner of
29 Health **[and Senior Services]**. However, a lease of any duration
30 may not be entered into unless the leased property is in
31 conformance with such rules and regulations as are in effect at the
32 time the lease is executed.

33 No fire company, first aid₂ or rescue squad, whether paid, part-
34 paid, or volunteer, shall be required to pay to the Department of
35 Labor and Workforce Development or the Department of Health
36 **[and Senior Services]** any registration or inspection fee imposed
37 by rule or regulation with regard to the filling of air cylinders for
38 respiratory equipment used by the fire company, first aid₂ or rescue
39 squad.

40 (cf: P.L.2000, c.126, s.6)

41
42 ¹**[406.] 407.** Section 1 of P.L.1997, c.92 (C.39:3-27.90) is
43 amended to read as follows:

44 1. a. The **[Director of the Division of Motor Vehicles]** Chief
45 Administrator of the New Jersey Motor Vehicle Commission may
46 issue for a motor vehicle owned or leased and registered in the State
47 special license plates bearing, in addition to the registration number

1 and other markings or identification otherwise prescribed by law,
2 the slogan "Conquer Cancer." These plates may include an
3 emblem, to be designed by the Commissioner of Health [and Senior
4 Services] and approved by the [Director of the Division of Motor
5 Vehicles] chief administrator, indicating support for, or an interest
6 in, finding new methods of treating and preventing cancer.

7 b. Application for issuance of a "Conquer Cancer" license plate
8 shall be made to the [director] chief administrator on [such] forms
9 and in [such] a manner as may be prescribed by the [director]
10 chief administrator. The [director] chief administrator shall collect
11 for each set of plates issued an application fee of \$50, and an annual
12 renewal fee of \$10, in addition to the fees otherwise prescribed by
13 law for the registration of motor vehicles.

14 c. Monies collected from all fees for "Conquer Cancer" license
15 plates shall be deposited in the Cancer Research Fund, established
16 in the Department of Health [and Senior Services] pursuant to
17 section 5 of P.L.1982, c.40 (C.54:40A-37.1). Any monetary
18 donation made available to the State to support the provisions of
19 [this bill] P.L.1997, c.92 (C.39:3-27.90 et seq.) shall be deposited
20 in the Cancer Research Fund for use as set forth in this section.
21 Interest or other income earned on monies deposited under this act
22 into the Cancer Research Fund shall be credited to the fund for use
23 as set forth in this section.

24 Funds shall be utilized by the New Jersey State Commission on
25 Cancer Research: (1) first to reimburse the [Division of Motor
26 Vehicles] commission for all costs, including those costs associated
27 with computer programming changes, incurred in producing,
28 issuing, renewing, and publicizing the availability of "Conquer
29 Cancer" license plates; (2) to reimburse the Department of Health
30 [and Senior Services] for the design and printing of notices, posters
31 and signs to be utilized by the [Division of Motor Vehicles]
32 commission; and (3) for approved research projects as defined in
33 section 3 of P.L.1983, c.6 (C.52:9U-3).

34 d. The [director] chief administrator shall annually certify to
35 the Commissioner of Health [and Senior Services] the average cost
36 per license plate incurred in the immediately preceding year by the
37 [Division of Motor Vehicles] commission in producing, issuing,
38 renewing, and publicizing the availability of "Conquer Cancer"
39 license plates. The commissioner shall annually report the
40 Department of [Health and Senior Services's] Health's costs and the
41 division's costs to the Office of Management and Budget.

42 e. The [director] chief administrator shall notify eligible
43 motorists of the opportunity to obtain "Conquer Cancer" license
44 plates by including a notice with all motor vehicle registration
45 renewals, and by posting appropriate posters or signs in all
46 [division] commission facilities and offices, as may be provided by

1 the Department of Health [and Senior Services]. The notices,
2 posters, and signs shall be designed by the Commissioner of Health
3 [and Senior Services] after consulting with the New Jersey State
4 Commission on Cancer Research. The designs shall be subject to
5 the approval of the [director] chief administrator. The Department
6 of Health [and Senior Services] shall supply the [division]
7 commission with the notices, posters, and signs to be circulated or
8 posted by the [division] commission.

9 f. The Commissioner of Health [and Senior Services], the
10 New Jersey State Commission on Cancer Research, and the
11 [director] chief administrator shall develop and enter into an
12 interagency memorandum of agreement setting forth the procedures
13 to be followed by the Department of Health [and Senior Services],
14 the commission and the [division] Motor Vehicle Commission in
15 carrying out their respective responsibilities under this act.

16 g. In the event that the average cost per license plate, as certified
17 by the [director] chief administrator and approved by the Joint
18 Budget Oversight Committee, or its successor, is greater than the
19 \$50 application fee established in subsection b. of this section in
20 two consecutive fiscal years, the [director] chief administrator may
21 discontinue the issuance of the "Conquer Cancer" license plate.

22 (cf: P.L.1997, c.92, s.1)

23

24 ¹[407.] 408. Section 6 of P.L.1970, c. 248 (C.40:23-6.43) is
25 amended to read as follows:

26 6. There shall be appropriated and paid annually to each county
27 office on aging, subject to the approval of the Commissioner of [the
28 Department of Community Affairs] Human Services, an amount
29 equal to one-half of the amount of annual expense of the county
30 office on aging; provided, however, that no county shall receive
31 more than [\$20,000.00] \$20,000 in State aid hereunder in any
32 calendar year. Payments shall be made by the State Treasurer, upon
33 certificate of the Commissioner of [the Department of Community
34 Affairs] Human Services and warrant of the Director of the
35 Division of Budget and Accounting, on or before December 31 of
36 each calendar year. This payment shall constitute reimbursement to
37 the county for the State aid portion of the annual expense of each
38 county office on aging during the year in which the payment is
39 made.

40 (cf: P.L.1970, c.248, s.6)

41

42 ¹[408.] 409. Section 12 of P.L.1989, c.300 (C.45:9-19.12) is
43 amended to read as follows:

44 12. The State Board of Medical Examiners shall, by regulation,
45 provide for the issuance of permits to, or registration of, persons
46 engaging in the practice of medicine or surgery or podiatric

1 medicine while in training, and establish the scope of permissible
2 practice by these persons within the context of an accredited
3 graduate medical education program conducted at a hospital
4 licensed by the Department of Health **[and Senior Services]**. A
5 permit holder shall be permitted to engage in practice outside the
6 context of a graduate medical education program for additional
7 remuneration only if that practice is:

8 a. Approved by the director of the graduate medical education
9 program in which the permit holder is participating; and

10 b. With respect to any practice at or through a health care
11 facility licensed by the Department of Health **[and Senior
12 Services]**, supervised by a plenary licensee who shall either remain
13 on the premises of the health care facility or be available through
14 electronic communications; or

15 c. With respect to any practice outside of a health care facility
16 licensed by the Department of Health **[and Senior Services]**,
17 supervised by a plenary licensee who shall remain on the premises.

18 (cf: P.L.2005, c.259, s.15)

19

20 **'[409.] 410.'** Section 2 of P.L.1989, c.19 (C.45:9-22.5) is
21 amended to read as follows:

22 2. a. A practitioner shall not refer a patient or direct an
23 employee of the practitioner to refer a patient to a health care
24 service in which the practitioner, or the practitioner's immediate
25 family, or the practitioner in combination with the practitioner's
26 immediate family has a significant beneficial interest; except that,
27 in the case of a practitioner, a practitioner's immediate family, or a
28 practitioner in combination with the practitioner's immediate family
29 who had the significant beneficial interest prior to the effective date
30 of P.L.1991, c.187 (C.26:2H-18.24 et al.), and in the case of a
31 significant beneficial interest in a health care service that provides
32 lithotripsy or radiation therapy pursuant to an oncological protocol
33 that was held prior to the effective date of this section of P.L.2009,
34 c.24, the practitioner may continue to refer a patient or direct an
35 employee to do so if that practitioner discloses the significant
36 beneficial interest to the patient.

37 b. If a practitioner is permitted to refer a patient to a health care
38 service pursuant to this section, the practitioner shall provide the
39 patient with a written disclosure form, prepared pursuant to section
40 3 of P.L.1989, c.19 (C.45:9-22.6), and post a copy of this disclosure
41 form in a conspicuous public place in the practitioner's office.

42 c. The restrictions on referral of patients established in this
43 section shall not apply to:

44 (1) medical treatment or a procedure that is provided at the
45 practitioner's medical office and for which a bill is issued directly in
46 the name of the practitioner or the practitioner's medical office;

47 (2) renal dialysis; and

1 (3) ambulatory surgery or procedures requiring anesthesia
2 performed at a surgical practice registered with the Department of
3 Health [and Senior Services] pursuant to subsection g. of section
4 12 of P.L.1971, c.136 (C.26:2H-12) or at an ambulatory care
5 facility licensed by the Department of Health [and Senior Services]
6 to perform surgical and related services, if the following conditions
7 are met:

8 (a) the practitioner who provided the referral personally
9 performs the procedure;

10 (b) the practitioner's remuneration as an owner of or investor in
11 the practice or facility is directly proportional to [his] the
12 practioner's ownership interest and not to the volume of patients the
13 practitioner refers to the practice or facility;

14 (c) all clinically-related decisions at a facility owned in part by
15 non-practitioners are made by practitioners and are in the best
16 interests of the patient; and

17 (d) disclosure of the referring practitioner's significant
18 beneficial interest in the practice or facility is made to the patient in
19 writing, at or prior to the time that the referral is made, consistent
20 with the provisions of section 3 of P.L.1989, c.19 (C.45:9-22.6).

21 (cf; P.L.2009, c.24, s.2)

22
23 '[410.] 411.' Section 4 of P.L.2009, c.24 (C.45:9-22.5a) is
24 amended to read as follows:

25 4. a. A referral for ambulatory surgery or a procedure requiring
26 anesthesia made prior to the effective date of this section of
27 P.L.2009, c.24 by a practitioner to a surgical practice or ambulatory
28 care facility licensed by the Department of Health [and Senior
29 Services] to perform surgical and related services shall be deemed
30 to comply with the provisions of section 2 of P.L.1989, c.19
31 (C.45:9-22.5) if the practitioner personally performed the procedure
32 that is the subject of the referral.

33 b. As used in this section, "surgical practice" means a structure
34 or suite of rooms that has the following characteristics:

35 (1) has no more than one room dedicated for use as an operating
36 room which is specifically equipped to perform surgery, and is
37 designed and constructed to accommodate invasive diagnostic and
38 surgical procedures;

39 (2) has one or more post-anesthesia care units or a dedicated
40 recovery area where the patient may be closely monitored and
41 observed until discharged; and

42 (3) is established by a physician, physician professional
43 association surgical practice, or other professional practice form
44 specified by the State Board of Medical Examiners pursuant to
45 N.J.A.C.13:35-6.16(f) solely for the physician's, association's or
46 other professional entity's private medical practice.

1 "Surgical practice" includes an unlicensed entity that is certified
2 by the Centers for Medicare and Medicaid Services as an
3 ambulatory surgery center provider.

4 (cf: P.L.2009, c.24, s.4)

5

6 ¹[411.] 412. Section 4 of P.L. 2003, c.281 (C.48:2-29.16a) is
7 amended to read as follows:

8 4. a. Notwithstanding the provisions of any other law to the
9 contrary, a recipient of benefits under the "Lifeline Credit
10 Program," established pursuant to P.L.1979, c.197 (C.48:2-29.15 et
11 seq.), shall notify the Department of **Health and Senior** Human
12 Services if the recipient unintentionally errs in estimating annual
13 income to determine eligibility for the program due to an
14 unanticipated payment which would render the recipient ineligible
15 for the program. Notification to the department shall be made in
16 the time and manner prescribed by the department office.

17 b. If the department determines that the payment was
18 unanticipated, the recipient shall reimburse the program for only
19 those benefits that were paid by the program after the recipient
20 received the unanticipated payment.

21 c. If the department determines that the payment was not
22 unanticipated, the recipient shall reimburse the program for all
23 benefits that were paid by the program in the calendar year in which
24 the payment was received.

25 d. Within 30 days of receipt of a determination by the
26 department that the payment was not unanticipated, a recipient may
27 request a hearing, which shall be conducted pursuant to the
28 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
29 seq.).

30 e. Nothing in this section shall preclude a recipient from
31 reapplying for benefits in the calendar year following the year in
32 which the recipient notified the department pursuant to subsection
33 a. of this section.

34 (cf: P.L.2003, c.281, s.4)

35

36 ¹[412.] 413. Section 5 of P.L.2003, c.281 (C.48:2-29.32a) is
37 amended to read as follows:

38 5. a. Notwithstanding the provisions of any other law to the
39 contrary, a recipient of benefits under the "Tenants' Lifeline
40 Assistance Program," established pursuant to P.L.1981, c.210
41 (C.48:2-29.30 et seq.), shall notify the Department of **Health and**
42 **Senior** Human Services if the recipient unintentionally errs in
43 estimating annual income to determine eligibility for the program
44 due to an unanticipated payment which would render the recipient
45 ineligible for the program. Notification to the department shall be
46 made in the time and manner prescribed by the department.

1 b. If the department determines that the payment was
2 unanticipated, the recipient shall reimburse the program for only
3 those benefits that were paid by the program after the recipient
4 received the unanticipated payment.

5 c. If the department determines that the payment was not
6 unanticipated, the recipient shall reimburse the program for all
7 benefits that were paid by the program in the calendar year in which
8 the payment was received.

9 d. Within 30 days of receipt of a determination by the
10 department that the payment was not unanticipated, a recipient may
11 request a hearing, which shall be conducted pursuant to the
12 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
13 seq.).

14 e. Nothing in this section shall preclude a recipient from
15 reapplying for benefits in the calendar year following the year in
16 which the recipient notified the department to subsection a. of this
17 section.

18 (cf: P.L.2003, c.281, s.5)

19

20 ¹~~413.~~ 414. Section 1 of P.L.1987, c.133 (C.52:27D-29.17) is
21 amended to read as follows:

22 1. a. "Commissioner" means the Commissioner of ~~the~~
23 ~~Department of Community Affairs~~ Human Services.

24 b. "Department" means the Department of ~~Community~~
25 ~~Affairs~~ Human Services.

26 c. "Eligible participant" means a resident of this State who is
27 60 years of age or older and homebound by reason of illness,
28 incapacitating disability, or is otherwise isolated.

29 d. "Home delivered nutrition services" means home delivered
30 meals as defined by the "Older Americans Act of 1965," Pub.L. 89-
31 73 (42 U.S.C. s. 3001 et seq.).

32 e. "Program" means the Home Delivered Meals Expansion
33 Program in the Division ~~on~~ of Aging Services, in the Department
34 of ~~Community Affairs~~ Human Services.

35 (cf: P.L.1987, c.133, s.1)

36

37 ¹~~414.~~ 415. Section 2 of P.L.1987, c.133 (C.52:27D-29.18) is
38 amended to read as follows:

39 2. The commissioner shall establish a Home Delivered Meals
40 Expansion Program in the Division of Aging Services, in the
41 Department of ~~Community Affairs~~ Human Services, to provide
42 home delivered nutrition services to eligible participants on
43 weekends and holidays.

44 (cf: P.L.1987, c.133, s.2)

45

46 ¹~~415.~~ 416. Section 6 of P.L.1987, c.133 (C.52:27D-29.22) is
47 amended to read as follows:

1 6. a. There is appropriated ~~[\$1,000,000.00]~~ \$1,000,000 from
2 the Casino Revenue Fund to the Department of ~~[Community~~
3 ~~Affairs]~~ Human Services to effectuate the purposes of this act.

4 b. The department shall allocate not less than 95% of the funds
5 appropriated for the purposes of this act to the county offices on
6 aging, and these funds shall be disbursed to the county offices on
7 aging according to the formula used to disburse funds for the home
8 delivered nutrition services provided under Title III of the "Older
9 Americans Act of 1965," Pub.L. 89-73 (42 U.S.C. s. 3001 et seq.).

10 c. The county shall match the State funds allocated to a county
11 office on aging for this program with an amount equal to 20% of the
12 State funds. The county share may be cash or in kind.

13 (cf: P.L.1987, c.133, s.6)

14

15 ¹~~[416.]~~ 417.¹ Section 2 of P.L.1993, c.4 (C.52:27D-29.33) is
16 amended to read as follows:

17 2. As used in this act:

18 "County office on aging" means a county office on aging which
19 is also designated as an area agency on aging for funding under the
20 "Older Americans Act of 1965," Pub.L.89-73 (42 U.S.C. s.3001 et
21 seq.).

22 "Director" means the Director of the Division ~~[on]~~ of Aging
23 Services in the Department of ~~[Community Affairs]~~ Human
24 Services.

25 "Senior citizen" means a person 60 years of age or older.

26 (cf: P.L.1993, c.4, s.2)

27

28 ¹~~[417.]~~ 418.¹ Section 3 of P.L.1993, c.4 (C.52:27D-29.34) is
29 amended to read as follows:

30 3. a. There is established in the Division ~~[on]~~ of Aging
31 Services in the Department of ~~[Community Affairs]~~ Human
32 Services a Senior Health Insurance Counseling Program to provide
33 health insurance information and assistance by trained volunteer
34 counselors to senior citizens.

35 b. The Director of the Division ~~[on]~~ of Aging Services shall
36 establish the program in all counties in the State through the county
37 offices on aging or other appropriate agencies designated by the
38 director.

39 (cf: P.L.1993, c.4, s.3)

40

41 ¹~~[418.]~~ 419.¹ Section 6 of P.L.1993, c.4 (C.52:27D-29.36) is
42 amended to read

43 6. The Director of the Division ~~[on]~~ of Aging Services in the
44 Department of ~~[Community Affairs]~~ Human Services shall
45 establish a legal representation program to assist Medicare
46 beneficiaries under Title XVIII of the Social Security Act who are
47 65 years of age or older, or disabled, in appeals of unfairly denied

1 Medicare coverage. The services provided under this program shall
2 include, but not be limited to, the following: outreach to Medicare
3 beneficiaries, the development and dissemination of educational
4 materials pertaining to the Medicare program and the claims appeal
5 process, the development and dissemination of materials for
6 Medicare beneficiaries to submit their own appeals, and the offer of
7 direct legal representation to appeal unfairly denied coverage under
8 Part A and Part B of the Medicare program. Such legal
9 representation may include, but not be limited to, appeals within the
10 administrative appeals structure and appeals to the United States
11 District Court.

12 (cf: P.L.1993, c.4, s.6)

13

14 ¹[419.] 420.¹ Section 40 of P.L.1966, c.293 (C.52:27D-40) is
15 amended to read as follows:

16 40. Whenever the term "Division of Local Government" occurs
17 or any reference is made thereto in any law, contract or document,
18 the same shall be deemed to mean or refer to the Division of Local
19 Finance in the Department of Community Affairs established
20 hereunder.

21 Whenever the term "Director of the Division of Local
22 Government" occurs or any reference is made thereto in any law,
23 contract or document, the same shall be deemed to mean or refer to
24 the Director of the Division of Local Finance in the Department of
25 Community Affairs established hereunder.

26 Whenever the term "Local Government Board" occurs or any
27 reference is made thereto in any law, contract or document, the
28 same shall be deemed to mean or refer to the Local Finance Board
29 of the Division of Local Finance in the Department of Community
30 Affairs established hereunder.

31 Whenever the term "public housing and development authority"
32 occurs or any reference is made thereto in any law, contract or
33 document, the same shall be deemed to mean or refer to the public
34 housing and development authority in the Department of
35 Community Affairs established hereunder.

36 Whenever the term "State Housing Council" occurs or any
37 reference is made thereto in any law, contract or document, the
38 same shall be deemed to mean or refer to the State Housing Council
39 in the Department of Community Affairs established hereunder.

40 Whenever the term "Bureau of Tenement House Supervision"
41 occurs or any reference is made thereto in any law, contract or
42 document, the same shall be deemed to mean or refer to the Bureau
43 of Housing Inspection of the Division of Housing and Urban
44 Renewal in the Department of Community Affairs established
45 hereunder.

46 Whenever the term "Board of Tenement House Supervision"
47 occurs or any reference is made thereto in any law, contract or
48 document, the same shall be deemed to mean or refer to the Board

1 of Housing Inspection in the Division of Housing and Urban
2 Renewal of the Department of Community Affairs established
3 hereunder.

4 Whenever the term "office of supervisor of hotel fire safety"
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 office
7 of supervisor of hotel fire safety in the Bureau of Housing
8 Inspection of the Division of Housing and Urban Renewal in the
9 Department of Community Affairs established hereunder.

10 Whenever the term "Division of State and Regional Planning"
11 occurs or any reference is made thereto in any law, contract or
12 document, the same shall be deemed to mean or refer to the
13 Division of State and Regional Planning in the Department of
14 Community Affairs established hereunder.

15 Whenever the term "Director of the Division of State and
16 Regional Planning" occurs or any reference is made thereto in any
17 law, contract or document, the same shall be deemed to mean or
18 refer to the Director of the Division of State and Regional Planning
19 in the Department of Community Affairs established hereunder.

20 Whenever the term "Division on Aging" occurs or any reference
21 is made thereto in any law, contract, or document, the same shall be
22 deemed to mean or refer to the Division **[on Aging in the**
23 **Department of Community Affairs established hereunder]** of Aging
24 Services in the Department of Human Services.

25 Whenever the term "Director of the Division on Aging" occurs
26 or any reference is made thereto in any law, contract, or document,
27 the same shall be deemed to mean or refer to the Director of the
28 Division **[on Aging in the Department of Community Affairs**
29 **established hereunder]** of Aging Services in the Department of
30 Human Services.

31 Whenever the term "New Jersey State Commission on Aging"
32 occurs or any reference is made thereto in any law, contract, or
33 document, the same shall be deemed to mean or refer to the New
34 Jersey State Commission on Aging in the Division **[on Aging in the**
35 **Department of Community Affairs established hereunder]** of Aging
36 Services in the Department of Human Services.

37 Whenever the terms "Youth Division" or "Division of Youth"
38 occur or any reference is made thereto in any law, contract or
39 document, the same shall be deemed to mean or refer to the
40 Division of Youth in the Department of Community Affairs
41 established hereunder.

42 Whenever the terms "Director of the Youth Division" or
43 "Director of the Division of Youth" occur or any reference is made
44 thereto in any law, contract or document, the same shall be deemed
45 to mean or refer to the Director of the Division of Youth in the
46 Department of Community Affairs established hereunder.

1 Whenever the term "New Jersey State Youth Commission"
2 occurs or any reference is made thereto in any law, contract or
3 document, the same shall be deemed to mean or refer to the New
4 Jersey State Youth Commission of the Division of Youth in the
5 Department of Community Affairs established hereunder.

6 Whenever the term "New Jersey Office of Economic
7 Opportunity" occurs or any reference is made thereto in any law,
8 contract or document, the same shall be deemed to mean or refer to
9 the New Jersey Office of Economic Opportunity in the Department
10 of Community Affairs established hereunder.

11 (cf: P.L.1967, c.42, s.8)

12

13 ¹~~420.~~ 421. Section 2 of P.L.2007, c.1 (C.52:27D-130.5) is
14 amended to read as follows:

15 2. a. (1) No construction permit shall be issued pursuant to
16 section 12 of P.L.1975, c.217 (C.52:27D-130) for the
17 reconstruction, alteration, conversion, or repair of any building or
18 structure to be used for a child care center licensed pursuant to the
19 provisions of P.L.1983, c.492 (C.30:5B-1 et seq.), or for
20 educational purposes, if that building or structure was previously
21 used for industrial, storage, or high hazard purposes, as a nail salon,
22 dry cleaning facility, or gasoline station, or is on a contaminated
23 site, on a site on which there is suspected contamination, or on an
24 industrial site that is subject to the provisions of the "Industrial Site
25 Recovery Act," P.L.1983, c.330 (C.13:1K-6 et al.), except upon the
26 submission of the certification issued by the Department of Health
27 **[and Senior Services]** pursuant to section 1 of P.L.2007, c.1
28 (C.52:27D-130.4) to the construction official by the applicant, that
29 the building or structure has been evaluated and assessed for
30 contaminants, and that the building or structure is safe for use as a
31 child care center licensed pursuant to the provisions of P.L.1983,
32 c.492, or for educational purposes.

33 (2) Notwithstanding the provisions of paragraph (1) of this
34 subsection to the contrary, a construction permit may be issued for
35 the construction or alteration of any building or structure to be used
36 as a child care center licensed pursuant to the provisions of
37 P.L.1983, c.492, or for educational purposes, if the construction
38 permit is necessary to perform work in the building or structure in
39 order to comply with the rules and regulations adopted pursuant to
40 subsection a. of section 1 of P.L.2007, c.1 (C.52:27D-130.4) and
41 obtain the certification issued by the Department of Health **[and**
42 **Senior Services]** pursuant to subsection c. of section 1 of P.L.2007,
43 c.1 (C.52:27D-130.4).

44 A construction permit issued pursuant to this paragraph shall be
45 limited to the construction or alterations necessary to comply with
46 the rules and regulations adopted pursuant to subsection a. of
47 section 1 of P.L.2007, c.1 (C.52:27D-130.4).

1 (3) The appropriate enforcing agency shall not grant a certificate
2 of occupancy for any building or structure to be used as a child care
3 center licensed pursuant to the provisions of P.L.1983, c.492, or for
4 educational purposes, that received a construction permit pursuant
5 to paragraph (2) of this subsection, except upon the submission of
6 the certification issued by the Department of Health [and Senior
7 Services] pursuant to subsection c. of section 1 of P.L.2007, c.1
8 (C.52:27D-130.4) to the construction official by the applicant, that
9 the building or structure has been evaluated and assessed for
10 contaminants, and that the building or structure is safe for use as a
11 child care center licensed pursuant to the provisions of P.L.1983,
12 c.492, or for educational purposes.

13 b. (1) No construction permit shall be issued for the
14 construction or alteration of any building or structure to be used as
15 a child care center licensed pursuant to the provisions of P.L.1983,
16 c.492, or for educational purposes, on a site that was previously
17 used for industrial, storage, or high hazard purposes, as a nail salon,
18 dry cleaning facility, or gasoline station, or on a contaminated site,
19 on a site on which there is suspected contamination, or on an
20 industrial site that is subject to the provisions of the "Industrial Site
21 Recovery Act," P.L.1983, c.330 (C.13:1K-6 et al.), except after
22 submission by the applicant to the construction official of
23 documentation sufficient to establish that the Department of
24 Environmental Protection has approved a remedial action workplan
25 for the entire site or that the site has been remediated consistent
26 with the remediation standards and other remediation requirements
27 established pursuant to section 35 of P.L.1993, c.139 (C.58:10B-12)
28 and a no further action letter has been issued by the Department of
29 Environmental Protection for the entire site.

30 (2) Notwithstanding the provisions of paragraph (1) of this
31 subsection to the contrary, a construction permit may be issued for
32 the construction or alteration of any building or structure to be used
33 as a child care center licensed pursuant to the provisions of
34 P.L.1983, c.492, or for educational purposes, on a site that was
35 previously used for industrial, storage, or high hazard purposes, as a
36 nail salon, dry cleaning facility, or gasoline station, or on a
37 contaminated site, on a site on which there is suspected
38 contamination, or on an industrial site that is subject to the
39 provisions of the "Industrial Site Recovery Act," P.L.1983, c.330
40 (C.13:1K-6 et al.), if the construction permit is necessary to
41 remediate the site consistent with the remediation standards and
42 other remediation requirements established pursuant to section 35
43 of P.L.1993, c.139 (C.58:10B-12) in order to obtain a no further
44 action letter from the Department of Environmental Protection.

45 A construction permit issued pursuant to this paragraph shall be
46 limited to the construction or alterations necessary to develop a
47 remedial action workplan to be submitted to the Department of
48 Environmental Protection for approval or to remediate the site

1 consistent with the remediation standards and other remediation
2 requirements established pursuant to section 35 of P.L.1993, c.139
3 (C.58:10B-12) and receive a no further action letter from the
4 Department of Environmental Protection.

5 (3) The appropriate enforcing agency shall not grant a certificate
6 of occupancy for any building or structure to be used as a child care
7 center licensed pursuant to the provisions of P.L.1983, c.492, or for
8 educational purposes, that received a construction permit pursuant
9 to paragraph (2) of this subsection, except after submission by the
10 applicant to the construction official of documentation sufficient to
11 establish that the site has been remediated consistent with the
12 remediation standards and other remediation requirements
13 established pursuant to section 35 of P.L.1993, c.139 (C.58:10B-12)
14 and a no further action letter has been issued by the Department of
15 Environmental Protection for the entire site.

16 c. As used in this section: "contaminated site" means any real
17 property on which there is contamination; "contamination,"
18 "remediation" or "remediate," and "no further action letter" shall
19 have the same meanings as provided in section 23 of P.L.1993,
20 c.139 (C.58:10B-1); and "educational purposes" means for the
21 purposes of a private school or public school as defined in
22 N.J.S.18A:1-1, or a charter school as defined pursuant to P.L.1995,
23 c.426 (C.18A:36A-1 et seq.).

24 (cf: P.L.2007, c.1, s.2)

25

26 ¹[421.] 422.¹ Section 1 of P.L. 2011, c.125 (C.52:27D-191.1) is
27 amended to read as follows:

28 1. a. The Department of **[Health and Senior] Human Services**
29 shall ensure that a person receiving services under the Congregate
30 Housing Services Program including, but not limited to, meal
31 preparation, housekeeping, shopping, laundry, linens change,
32 companionship, and personal care, receives those services in a
33 manner that promotes the dignity of and shows respect for the
34 person.

35 b. A Congregate Housing Services Program shall make
36 information related to its services available to the manager of a
37 subsidized housing facility that has contracted with the State to
38 provide a Congregate Housing Services Program. The manager
39 shall be responsible for the distribution and dissemination of the
40 information to its residents and shall include in that information a
41 statement that the services provided by the program shall be
42 provided to:

43 (1) help meet the needs of a resident;

44 (2) foster the independence and individuality of a resident;

45 (3) treat a resident with respect, courtesy, consideration, and
46 dignity; and

47 (4) assure a resident the right to make choices with respect to
48 services and lifestyle.

1 c. A Congregate Housing Services Program shall:

2 (1) advise a resident receiving congregate housing services, in
3 writing, of the availability of information from the Division of
4 Aging **【and Community】** Services in the Department of **【Health**
5 **and Senior】** Human Services about issues that may be of concern to
6 a resident; and

7 (2) make available, upon request, the qualifications of a
8 counselor or other professional who is providing services to
9 residents under the Congregate Housing Services Program.

10 (cf: P.L.2011, c.125, s.1)

11

12 ¹**【422.】** 423.¹ Section 28 of P.L.1986, c.103, s.28 (C.52:27D-
13 357) is amended to read as follows:

14 28. a. There is created a Continuing Care Advisory Council
15 which consists of 13 members as follows: the Commissioners of
16 **【the Departments of Community Affairs,】** Human Services, Health
17 **【and Senior Services】**, and Banking and Insurance, or their
18 designees, who shall serve ex officio and shall be non-voting
19 members; 10 public members appointed by the Governor, with the
20 advice and consent of the Senate, who are residents of the State and
21 two of whom are administrators of continuing care facilities in this
22 State, one of whom is a representative of the business community
23 and knowledgeable in the area of management, one of whom is a
24 certified public accountant, one of whom is an attorney licensed to
25 practice in this State, three of whom are residents of continuing care
26 retirement communities in this State who are recommended by the
27 Organization of Residents Associations of New Jersey, one of
28 whom is a trustee or director of a continuing care retirement
29 community in this State and one of whom is a representative of the
30 New Jersey Association of Non-Profit Homes for the Aging.

31 b. The term of office for each public member is three years, or
32 until the member's successor has been appointed; except that of the
33 public members first appointed, two shall be appointed for a term of
34 one year, two for a term of two years and three for a term of three
35 years.

36 A vacancy in the membership of the council shall be filled in the
37 same manner as the original appointment, but for the unexpired
38 term. A member of the council is eligible for reappointment.

39 The members of the council shall serve without compensation,
40 but the council shall reimburse the members for the reasonable
41 expenses incurred in the performance of their duties.

42 c. The council shall hold an organizational meeting within 30
43 days after the appointment of its members. The members of the
44 council shall elect from among them a **【chairman】** chairperson,
45 who shall be the chief executive officer of the council, and the
46 members shall elect a secretary, who need not be a member of the
47 council.

1 d. The council shall meet at least four times a year but may
2 meet more frequently at the discretion of the **[chairman]**
3 chairperson or the commissioner.

4 e. The council may call to its assistance and avail itself of the
5 services and assistance of any officials and employees of the
6 Department of Community Affairs or other State agency and
7 political subdivisions and their departments, boards, bureaus,
8 commissions, and agencies as it requires and as is available to it for
9 this purpose and may expend any funds that are appropriated or
10 otherwise made available to it pursuant to this act.

11 f. The council shall:

12 (1) Advise and provide information to the commissioner on
13 matters pertaining to the operation and regulation of continuing care
14 retirement facilities, upon request of the commissioner;

15 (2) Review and comment upon, as appropriate, any proposed
16 rules and regulations and legislation pertaining to continuing care
17 retirement facilities;

18 (3) Make recommendations to the commissioner about any
19 needed changes in rules and regulations and State and federal laws
20 pertaining to continuing care retirement facilities; and

21 (4) Assist in the rehabilitation of a continuing care retirement
22 facility, upon request of the commissioner.

23 g. The commissioner shall report annually to the Governor and
24 the Legislature, the commissioner's and the council's findings and
25 recommendations concerning continuing care retirement
26 communities and the implementation of this act.

27 (cf: P.L.2007, c.192, s.2)

28

29 ¹**[423.] 424.** Section 2 of P.L.1993, c.249 (C.52:27D-407) is
30 amended to read as follows:

31 2. As used in this act:

32 "Abuse" means the willful infliction of physical pain, injury or
33 mental anguish, unreasonable confinement, or the willful
34 deprivation of services which are necessary to maintain a person's
35 physical and mental health.

36 "Caretaker" means a person who has assumed the responsibility
37 for the care of a vulnerable adult as a result of family relationship or
38 who has assumed responsibility for the care of a vulnerable adult
39 voluntarily, by contract, or by order of a court of competent
40 jurisdiction, whether or not they reside together.

41 "Commissioner" means the Commissioner of **[Health and**
42 **Senior] Human Services.**

43 "Community setting" means a private residence or any
44 noninstitutional setting in which a person may reside alone or with
45 others, but shall not include residential health care facilities,
46 rooming houses or boarding homes or any other facility or living
47 arrangement subject to licensure by, operated by, or under contract
48 with, a State department or agency.

1 "County adult protective services provider" means a county
2 Board of Social Services or other public or nonprofit agency with
3 experience as a New Jersey provider of protective services for
4 adults, designated by the county and approved by the commissioner.
5 The county adult protective services provider receives reports made
6 pursuant to this act, maintains pertinent records and provides,
7 arranges, or recommends protective services.

8 "County director" means the director of a county adult protective
9 services provider.

10 "Department" means the Department of **[Health and Senior]**
11 Human Services.

12 "Emergency medical technician" means a person trained in basic
13 life support services as defined in section 1 of P.L.1985, c.351
14 (C.26:2K-21) and who is certified by the Department of Health and
15 Senior Services to provide that level of care.

16 "Exploitation" means the act or process of illegally or improperly
17 using a person or his resources for another person's profit or
18 advantage.

19 "Firefighter" means a paid or volunteer firefighter.

20 "Health care professional" means a health care professional who
21 is licensed or otherwise authorized, pursuant to Title 45 or Title 52
22 of the Revised Statutes, to practice a health care profession that is
23 regulated by one of the following boards or by the Director of the
24 Division of Consumer Affairs: the State Board of Medical
25 Examiners, the New Jersey Board of Nursing, the New Jersey State
26 Board of Dentistry, the New Jersey State Board of Optometrists, the
27 New Jersey State Board of Pharmacy, the State Board of
28 Chiropractic Examiners, the Acupuncture Examining Board, the
29 State Board of Physical Therapy, the State Board of Respiratory
30 Care, the Orthotics and Prosthetics Board of Examiners, the State
31 Board of Psychological Examiners, the State Board of Social Work
32 Examiners, the State Board of Examiners of Ophthalmic Dispensers
33 and Ophthalmic Technicians, the Audiology and Speech-Language
34 Pathology Advisory Committee, the State Board of Marriage and
35 Family Therapy Examiners, the Occupational Therapy Advisory
36 Council, the Certified Psychoanalysts Advisory Committee, and the
37 State Board of Polysomnography. "Health care professional" also
38 means a nurse aide or personal care assistant who is certified by the
39 Department of Health and Senior Services.

40 "Neglect" means an act or failure to act by a vulnerable adult or
41 his caretaker which results in the inadequate provision of care or
42 services necessary to maintain the physical and mental health of the
43 vulnerable adult, and which places the vulnerable adult in a
44 situation which can result in serious injury or which is life-
45 threatening.

46 "Protective services" means voluntary or court-ordered social,
47 legal, financial, medical or psychiatric services necessary to
48 safeguard a vulnerable adult's rights and resources, and to protect a

1 vulnerable adult from abuse, neglect or exploitation. Protective
2 services include, but are not limited to: evaluating the need for
3 services, providing or arranging for appropriate services, obtaining
4 financial benefits to which a person is entitled, and arranging for
5 guardianship and other legal actions.

6 "Vulnerable adult" means a person 18 years of age or older who
7 resides in a community setting and who, because of a physical or
8 mental illness, disability or deficiency, lacks sufficient
9 understanding or capacity to make, communicate, or carry out
10 decisions concerning his well-being and is the subject of abuse,
11 neglect or exploitation. A person shall not be deemed to be the
12 subject of abuse, neglect or exploitation or in need of protective
13 services for the sole reason that the person is being furnished
14 nonmedical remedial treatment by spiritual means through prayer
15 alone or in accordance with a recognized religious method of
16 healing in lieu of medical treatment, and in accordance with the
17 tenets and practices of the person's established religious tradition.

18 (cf: P.L.2009, c.276, s.1)

19

20 ¹**[424.] 425.**¹ Section 21 of P.L.1993, c.249 (C.52:27D-426) is
21 amended to read as follows:

22 21. a. All funding, programs, and positions created to provide
23 adult protective services **[by the Division of Youth and Family**
24 **Services in the Department of Human Services]** are continued and
25 shall be transferred to the **[Department of Community Affairs,**
26 **however, for federal funding and reporting purposes, the]**
27 **Department of Human Services [shall remain the designated agency**
28 **for such programs].** The Department of Community Affairs shall
29 provide the Department of Human Services with such information
30 as the Department of Human Services requires to fulfill its federal
31 funding and reporting requirements.

32 b. The transfers directed by this act shall be made in
33 accordance with the "State Agency Transfer Act," P.L.1971, c.375
34 (C.52:14D-1 et seq.).

35 (cf: P.L.1993, c.249, s.21)

36

37 ¹**[425.] 426.**¹ Section 15 of P.L.1993, c.288 (C.52:27D-428) is
38 amended to read as follows:

39 15. a. A business firm shall neither directly nor indirectly
40 perform lead evaluation or abatement work without first obtaining
41 certification from the department. Certification may be issued to
42 perform lead evaluation or abatement work if the business firm
43 employs or will employ sufficient numbers and types of personnel
44 certified by the Department of Health **[and Senior Services]**
45 pursuant to section 3 of P.L.1993, c.288 (C.26:2Q-3) to perform
46 lead abatement work and meets all other requirements that the
47 commissioner may establish pursuant to section 23 of P.L.1993,

1 c.288 (C.52:27D-436). The certification shall be in writing, shall
2 contain an expiration date, and shall be signed by the commissioner.

3 b. A person or business firm shall not undertake a project
4 involving lead abatement work without first obtaining a
5 construction permit for that project pursuant to section 12 of
6 P.L.1975, c.217 (C.52:27D-130). No permit shall be issued for lead
7 abatement work, except to:

8 (1) an owner undertaking work on his own premises using his
9 own employees, if those employees are certified by the Department
10 of Health [and Senior Services] pursuant to section 3 of P.L.1993,
11 c.288 (C.26:2Q-3);

12 (2) a homeowner proposing to perform lead abatement work
13 himself on a dwelling unit that he owns and occupies as a primary
14 place of residence; or

15 (3) a business firm certified pursuant to this section to perform
16 such work.

17 The issuance of a construction permit to an individual
18 homeowner proposing to perform lead abatement work on a
19 dwelling unit that he owns and occupies as a primary place of
20 residence shall be accompanied by written information developed
21 by the department explaining the dangers of improper lead
22 abatement, procedures for conducting safe lead abatement, and the
23 availability of certified lead abatement contractors, or of any
24 available training for homeowners.

25 c. Nothing in this section shall be construed to restrict or
26 otherwise affect the right of any business firm to engage in painting,
27 woodworking, structural renovation, or other indoor or outdoor
28 contracting services that may result in the disturbance of paint, or to
29 engage in lead safe maintenance work or lead hazard control work,
30 but a business firm shall not hold itself out as certified by the
31 department or otherwise represent that it has specialized
32 competency to perform lead evaluation or abatement work unless it
33 has been certified or otherwise specifically authorized pursuant to
34 this section.

35 A business firm that seeks to engage in lead safe maintenance
36 work or lead hazard control work shall do so using only persons
37 who, prior to engaging in such work, shall have completed such
38 training courses as may be prescribed by the commissioner and
39 provided by a training provider accredited by the Commissioner of
40 Health [and Senior Services].

41 A business firm that utilizes interim controls to reduce the risk of
42 lead-based paint exposure shall utilize only those methods approved
43 by the appropriate federal agencies, including specialized cleaning,
44 repairs, maintenance, painting, temporary containment, ongoing
45 monitoring of lead-based paint hazards or potential hazards, as may
46 be set forth under 42 U.S.C.s.4851b, or those methods set forth in
47 guidelines established by the commissioner, but shall not be

1 required to be certified pursuant to this section unless performing
2 lead abatement.

3 (cf: P.L.2003, c.311, s.23)

4

5 ¹**[426.] 427.**¹ Section 24 of P.L. 2003, c.311 (C.52:27D-437.15)
6 is amended to read as follows:

7 24. The Commissioner of Banking and Insurance and the
8 Commissioner of Health **[and Senior Services]** shall consult with
9 the Commissioner of Community Affairs and shall modify all
10 regulations concerning lead hazards in accordance with the
11 provisions of P.L.2003, c.311 (C.52:27D-437.1 et al.), to recognize
12 lead hazard control work as an authorized alternative method to
13 lead abatement in control of lead hazards.

14 (cf: P.L.2003, c.311, s.24)

15

16 ¹**[427.] 428.**¹ Section 4 of P.L.1985, c.298 (C.52:27G-23) is
17 amended to read as follows:

18 4. There is created in the Executive Branch of the State
19 Government the Office of the Public Guardian for Elderly Adults.
20 For the purpose of complying with the provisions of Article V,
21 Section IV, paragraph 1 of the New Jersey Constitution, the Office
22 of the Public Guardian for Elderly Adults is allocated to the
23 Department of **[Community Affairs]** Human Services, but
24 notwithstanding this allocation, the office shall be independent of
25 any supervision or control by the department or any board or officer
26 thereof.

27 (cf: P.L.1985, c.298, s.4.)

28

29 ¹**[428.] 429.**¹ Section 15 of P.L.2005, c.37 (C.52:27G-42) is
30 amended to read as follows:

31 15. a. There is established in the Department of **[Health and**
32 **Senior]** Human Services a special non-lapsing fund to be known as
33 the Registered Professional Guardian Fund, which shall be a
34 dedicated fund to serve as a depository for monies collected from
35 the estate of an incapacitated adult pursuant to this section. The
36 fund shall be administered by the Office of the Public Guardian for
37 Elderly Adults, and all interest on monies in the fund shall be
38 credited to the fund. The monies in the fund shall be made available
39 to the Office of the Public Guardian for Elderly Adults to be used
40 exclusively for the implementation of this act.

41 b. Sixty days after receiving plenary letters of guardianship or
42 letters of guardianship of property, a guardian appointed by the
43 Superior Court of New Jersey, with the exception of the
44 appointment of the public guardian pursuant to P.L.1985, c.298
45 (C.52:27G-20 et seq.), a guardian for a veteran pursuant to
46 N.J.S.3B:13-1 et seq. and guardianship services provided by the
47 Bureau of Guardianship Services in the Division of Developmental

1 Disabilities in the Department of Human Services pursuant to
2 P.L.1965, c.59 (C.30:4-165.1 et seq.), shall pay out of the estate of
3 the incapacitated adult a fee of \$150 to the Office of the Public
4 Guardian for Elderly Adults for deposit into the fund, except that no
5 such charge shall be made to an incapacitated adult's estate for an
6 incapacitated adult whose income is less than 150% of the federal
7 poverty level and whose assets are less than \$50,000.

8 c. If the guardian seeks an exemption from the fee based on the
9 ward's income or assets, as set forth in subsection b. of this section,
10 the guardian shall make an application to the Office of the Public
11 Guardian for Elderly Adults on forms adopted by that office.

12 d. If a guardian who is obligated to pay an assessment imposed
13 pursuant to subsection b. of this section fails to pay the assessment,
14 upon application by the Office of the Public Guardian for Elderly
15 Adults, the court shall afford the guardian notice and an opportunity
16 to be heard on the issue of default. Failure to make the assessed
17 payment when due shall be considered a default. The standard of
18 proof shall be by a preponderance of the evidence, and the burden
19 of establishing good cause for a default shall be on the guardian
20 who has defaulted. If the court finds that the guardian has defaulted
21 without good cause, the court may:

22 (1) compel the guardian of the estate to account and ascertain
23 the financial condition of the incapacitated adult's estate;

24 (2) remove the guardian;

25 (3) enter judgment against the guardian of the estate for the
26 amount of the assessment; or

27 (4) take such other action as may be permitted by law.

28 (cf: P.L.2005, c.370, s.15)

29

30 ¹[429.] 430.¹ Section 16 of P.L.2005, c.37 (C.52:27G-43) is
31 amended to read as follows:

32 16. a. The Commissioner of **[Health and Senior] Human**
33 **Services**, pursuant to the "Administrative Procedure Act," P.L.1968,
34 c.410 (C.52:14B-1 et seq.), may adopt rules and regulations
35 necessary for the implementation of this act.

36 b. The Supreme Court may adopt Rules of Court for the
37 implementation of this act.

38 (cf: P.L.2005, c.370, s.16)

39

40 ¹[430.] 431.¹ Section 1 of P.L.1997, c.348 (C.54:4-8.67) is
41 amended to read as follows:

42 1. As used in this act:

43 "Base year" means, in the case of a person who is an eligible
44 claimant on or before December 31, 1997, the tax year 1997; and in
45 the case of a person who first becomes an eligible claimant after
46 December 31, 1997, the tax year in which the person first becomes
47 an eligible claimant. In the case of an eligible claimant who
48 subsequently moves from the homestead for which the initial

1 eligibility was established, the base year shall be the first full tax
2 year during which the person resides in the new homestead.
3 Provided however, a base year for an eligible claimant after such a
4 move shall not apply to tax years commencing prior to January 1,
5 2009.

6 "Commissioner" means the Commissioner of **[Health and Senior**
7 **Services]** Community Affairs.

8 "Director" means the Director of the Division of Taxation.

9 "Condominium" means the form of real property ownership
10 provided for under the "Condominium Act," P.L.1969, c.257
11 (C.46:8B-1 et seq.).

12 "Cooperative" means a housing corporation or association which
13 entitles the holder of a share or membership interest thereof to
14 possess and occupy for dwelling purposes a house, apartment or
15 other unit of housing owned or leased by the corporation or
16 association, or to lease or purchase a unit of housing constructed or
17 to be constructed by the corporation or association.

18 "Disabled person" means an individual receiving monetary
19 payments pursuant to Title II of the federal Social Security Act (42
20 U.S.C. s.401 et seq.) on December 31, 1998, or on December 31 in
21 all or any part of the year for which a homestead property tax
22 reimbursement under this act is claimed.

23 "Dwelling house" means any residential property assessed as real
24 property which consists of not more than four units, of which not
25 more than one may be used for commercial purposes, but shall not
26 include a unit in a condominium, cooperative, horizontal property
27 regime or mutual housing corporation.

28 "Eligible claimant" means a person who:

29 is 65 or more years of age, or who is a disabled person;

30 is an owner of a homestead, or the lessee of a site in a mobile
31 home park on which site the applicant owns a manufactured or
32 mobile home;

33 has an annual income of less than \$17,918 in tax year 1998, less
34 than \$18,151 in tax year 1999, or less than \$37,174 in tax year
35 2000, if single, or, if married, whose annual income combined with
36 that of the spouse is less than \$21,970 in tax year 1998, less than
37 \$22,256 in tax year 1999, or less than \$45,582 in tax year 2000,
38 which income eligibility limits for single and married persons shall
39 be subject to adjustments in tax years 2001 through 2006 pursuant
40 to section 9 of P.L.1997, c.348 (C.54:4-8.68);

41 has an annual income of \$60,000 or less in tax year 2007,
42 \$70,000 or less in tax year 2008, or \$80,000 or less in tax year
43 2009, if single or married, which income eligibility limits shall be
44 subject to adjustments in subsequent tax years pursuant to section 9
45 of P.L.1997, c.348 (C.54:4-8.68);

46 as a renter or homeowner, has made a long-term contribution to
47 the fabric, social structure and finances of one or more communities
48 in this State, as demonstrated through the payment of property taxes

1 directly, or through rent, on any homestead or rental unit used as a
2 principal residence in this State for at least 10 consecutive years at
3 least three of which as owner of the homestead for which a
4 homestead property tax reimbursement is sought prior to the date
5 that an initial application for a homestead property tax
6 reimbursement is filed. A person who has been an eligible claimant
7 for a previous tax year shall qualify as an eligible claimant
8 beginning the second full tax year following a move to another
9 homestead in New Jersey, despite not meeting the three-year
10 minimum residency and ownership requirement required for initial
11 claimants under this paragraph; provided that the person satisfies
12 the income eligibility limits for the tax year. Provided however,
13 eligibility beginning in a second full tax year after such a move
14 shall not apply to tax years commencing prior to January 1, 2010.

15 "Homestead" means:

16 a dwelling house and the land on which that dwelling house is
17 located which constitutes the place of the eligible claimant's
18 domicile and is owned and used by the eligible claimant as the
19 eligible claimant's principal residence;

20 a site in a mobile home park equipped for the installation of
21 manufactured or mobile homes, where these sites are under
22 common ownership and control for the purpose of leasing each site
23 to the owner of a manufactured or mobile home for the installation
24 thereof and such site is used by the eligible claimant as the eligible
25 claimant's principal residence;

26 a dwelling house situated on land owned by a person other than
27 the eligible claimant which constitutes the place of the eligible
28 claimant's domicile and is owned and used by the eligible claimant
29 as the eligible claimant's principal residence;

30 a condominium unit or a unit in a horizontal property regime or a
31 continuing care retirement community which constitutes the place
32 of the eligible claimant's domicile and is owned and used by the
33 eligible claimant as the eligible claimant's principal residence.

34 In addition to the generally accepted meaning of "owned" or
35 "ownership," a homestead shall be deemed to be owned by a person
36 if that person is a tenant for life or a tenant under a lease for 99
37 years or more, is entitled to and actually takes possession of the
38 homestead under an executory contract for the sale thereof or under
39 an agreement with a lending institution which holds title as security
40 for a loan, or is a resident of a continuing care retirement
41 community pursuant to a contract for continuing care for the life of
42 that person which requires the resident to bear, separately from any
43 other charges, the proportionate share of property taxes attributable
44 to the unit that the resident occupies;

45 a unit in a cooperative or mutual housing corporation which
46 constitutes the place of domicile of a residential shareholder or
47 lessee therein, or of a lessee or shareholder who is not a residential

1 shareholder therein, which is used by the eligible claimant as the
2 eligible claimant's principal residence.

3 "Homestead property tax reimbursement" means payment of the
4 difference between the amount of property tax or site fee
5 constituting property tax due and paid in any year on any
6 homestead, exclusive of improvements not included in the
7 assessment on the real property for the base year, and the amount of
8 property tax or site fee constituting property tax due and paid in the
9 base year, when the amount paid in the base year is the lower
10 amount; but such calculations shall be reduced by any current year
11 property tax reductions or reductions in site fees constituting
12 property taxes resulting from judgments entered by county boards
13 of taxation or the State Tax Court.

14 "Horizontal property regime" means the form of real property
15 ownership provided for under the "Horizontal Property Act,"
16 P.L.1963, c.168 (C.46:8A-1 et seq.).

17 "Manufactured home" or "mobile home" means a unit of housing
18 which:

19 (1) Consists of one or more transportable sections which are
20 substantially constructed off site and, if more than one section, are
21 joined together on site;

22 (2) Is built on a permanent chassis;

23 (3) Is designed to be used, when connected to utilities, as a
24 dwelling on a permanent or nonpermanent foundation; and

25 (4) Is manufactured in accordance with the standards
26 promulgated for a manufactured home by the Secretary of the
27 United States Department of Housing and Urban Development
28 pursuant to the "National Manufactured Housing Construction and
29 Safety Standards Act of 1974," Pub.L.93-383 (42 U.S.C. s.5401 et
30 seq.) and the standards promulgated for a manufactured or mobile
31 home by the commissioner pursuant to the "State Uniform
32 Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.).

33 "Mobile home park" means a parcel of land, or two or more
34 parcels of land, containing no fewer than 10 sites equipped for the
35 installation of manufactured or mobile homes, where these sites are
36 under common ownership and control for the purpose of leasing
37 each site to the owner of a manufactured or mobile home for the
38 installation thereof, and where the owner or owners provide
39 services, which are provided by the municipality in which the park
40 is located for property owners outside the park, which services may
41 include but shall not be limited to:

42 (1) The construction and maintenance of streets;

43 (2) Lighting of streets and other common areas;

44 (3) Garbage removal;

45 (4) Snow removal; and

46 (5) Provisions for the drainage of surface water from home sites
47 and common areas.

1 "Mutual housing corporation" means a corporation not-for-profit,
2 incorporated under the laws of this State on a mutual or cooperative
3 basis within the scope of section 607 of the Langham Act (National
4 Defense Housing), Pub.L.849, (42 U.S.C. s.1521 et seq.), as
5 amended, which acquired a National Defense Housing Project
6 pursuant to that act.

7 "Income" means income as determined pursuant to P.L.1975,
8 c.194 (C:30:4D-20 et seq.).

9 "Principal residence" means a homestead actually and
10 continually occupied by an eligible claimant as his or her permanent
11 residence, as distinguished from a vacation home, property owned
12 and rented or offered for rent by the claimant, and other secondary
13 real property holdings.

14 "Property tax" means the general property tax due and paid as set
15 forth in this section, on a homestead, but does not include special
16 assessments and interest and penalties for delinquent taxes. For the
17 sole purpose of qualifying for a benefit under P.L.1997, c.348
18 (C.54:4-8.67 et seq.), property taxes paid by June 1 of the year
19 following the year for which the benefit is claimed will be deemed
20 to be timely paid.

21 "Site fee constituting property tax" means 18 percent of the
22 annual site fee paid or payable to the owner of a mobile home park.

23 "Tax year" means the calendar year in which a homestead is
24 assessed and the property tax is levied thereon and it means the
25 calendar year in which income is received or accrued.
26 (cf: P.L. 2009, c.129)

27
28 '431.] 432.' Section 4 of P.L.1999, c.129 (C.56:8-14.5) is
29 amended to read as follows:

30 4. The Director of the Division of Consumer Affairs in the
31 Department of Law and Public Safety, in consultation with the
32 Director of the Division **[on] of Aging** **[in the Department of**
33 **Community Affairs]** Services in the Department of Human
34 Services, the directors of the New Jersey Association of Area
35 Agencies on Aging, and the New Jersey Association of County
36 Offices for Disabled Persons, shall develop and implement an
37 educational program to inform senior citizens and persons with
38 disabilities about consumer protection laws and consumer rights,
39 subject to funds made available pursuant to subsection b. of section
40 5 of P.L.1999, c.129 (C.56:8-14.6) or any other source. Functions
41 of the program may include:

42 a. The preparation of educational materials regarding consumer
43 protection laws and consumer rights that are of particular interest to
44 senior citizens and persons with disabilities and distribution of
45 those materials to the appropriate State and county agencies for
46 dissemination to senior citizens, persons with disabilities and the
47 public; and

1 b. The underwriting of educational seminars and other forms of
2 educational projects for the benefit of senior citizens and persons
3 with disabilities.

4 (cf: P.L.1999, c.129, s.4)

5
6 ¹[432.] 433.¹ Section 5 of P.L.1999, c.336 (C.56:8-96) is
7 amended to read as follows:

8 5. a. Any consumer who purchases from a pet shop an animal
9 that becomes sick or dies after the date of purchase may take the
10 sick or dead animal to a veterinarian within the period of time
11 required pursuant to the notification form provided upon the date of
12 purchase, receive certification from the veterinarian of the health
13 and condition of the animal, and pursue the recourse provided for
14 under the circumstances indicated by the veterinarian certification,
15 as required and provided for pursuant to section 4 of P.L.1999,
16 c.336 (C.56:8-95).

17 b. Upon receipt of the certification from the veterinarian, the
18 consumer may report the sickness or death of the animal and the pet
19 shop where the animal was purchased to the local health authority
20 with jurisdiction over the municipality in which the pet shop where
21 the animal was purchased is located, and to the Director of the
22 Division of Consumer Affairs in the Department of Law and Public
23 Safety. The consumer shall provide a copy of the veterinarian
24 certificate with any [such] report. The director shall forward to the
25 appropriate local health authority a copy of any [such] report the
26 division receives. The local health authority shall record and retain
27 the records of any [such] report and documentation submitted by a
28 consumer.

29 c. By the May 1 immediately following the effective date of
30 this act, and annually thereafter, the local health authority with
31 jurisdiction over pet shops shall review any files it has concerning
32 reports filed pursuant to subsection b. of this section and shall
33 recommend to the municipality in which the pet shop is located the
34 revocation of the license of any pet shop with reports filed as
35 follows:

36 (1) 15% of the total number of animals sold in a year by the pet
37 shop were certified by a veterinarian to be unfit for purchase due to
38 congenital or hereditary cause or condition, or a sickness brought
39 on by a congenital or hereditary cause or condition;

40 (2) 25% of the total number of animals sold in a year by the pet
41 shop were certified by a veterinarian to be unfit for purchase due to
42 a non-congenital cause or condition;

43 (3) 10% of the total number of animals sold in a year by the pet
44 shop died and were certified by a veterinarian to have died from a
45 non-congenital cause or condition; or

46 (4) 5% 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

1 congenital or hereditary cause or condition, or a sickness brought
2 on by a congenital or hereditary cause or condition.

3 d. By the May 1 immediately following the effective date of
4 this act, and annually thereafter, the local health authority with
5 jurisdiction over pet shops shall review any files it has concerning
6 reports filed pursuant to subsection b. of this section and shall
7 recommend to the municipality in which the pet shop is located a
8 90-day suspension of the license of any pet shop with reports filed
9 as follows:

10 (1) 10% of the total number of animals sold in a year by the pet
11 shop were certified by a veterinarian to be unfit for purchase due to
12 congenital or hereditary cause or condition, or a sickness brought
13 on by a congenital or hereditary cause or condition;

14 (2) 15% of the total number of animals sold in a year by the pet
15 shop were certified by a veterinarian to be unfit for purchase due to
16 a non-congenital cause or condition;

17 (3) 5% of the total number of animals sold in a year by the pet
18 shop died and were certified by a veterinarian to have died from a
19 non-congenital cause or condition; or

20 (4) 3% of the total number of animals sold in a year by the pet
21 shop died and were certified by a veterinarian to have died from a
22 congenital or hereditary cause or condition, or a sickness brought
23 on by a congenital or hereditary cause or condition.

24 e. Pursuant to the authority and requirements provided in
25 section 8 of P.L.1941, c.151 (C.4:19-15.8), the owner of the pet
26 shop shall be afforded a hearing and, upon the recommendation by
27 the local health authority pursuant to subsection c. or d. of this
28 section, the local health authority, in consultation with the **[State]**
29 **Department of Health [and Senior Services]**, shall set a date for the
30 hearing to be held by the local health authority or the State
31 **Department of Health [and Senior Services]** and shall notify the pet
32 shop involved. The municipality may suspend or revoke the
33 license, or part thereof, that authorizes the pet shop to sell cats or
34 dogs after **[such]** the hearing has been held and as provided in
35 section 8 of P.L.1941, c.151 (C.4:19-15.8). At the hearing, the
36 local health authority or the **[State]** **Department of Health [and**
37 **Senior Services]**, whichever entity is holding the hearing, shall
38 receive testimony from the pet shop and shall determine if the pet
39 shop: (1) failed to maintain proper hygiene and exercise reasonable
40 care in safeguarding the health of animals in its custody, or (2) sold
41 a substantial number of animals that the pet shop knew, or
42 reasonably should have known, to be unfit for purchase.

43 f. No provision of subsection c. shall be construed to restrict
44 the local health authority or the **[State]** **Department of Health [and**
45 **Senior Services]** from holding a hearing concerning any pet shop in
46 the State irrespective of the criteria for recommendation of license
47 suspension or revocation named in subsection c. or d., or from

1 recommending to a municipality the suspension or revocation of the
2 license of a pet shop within its jurisdiction for other violations
3 under other sections of law, or rules and regulations adopted
4 pursuant thereto.

5 g. No action taken by the local health authority or municipality
6 pursuant to this section or section 8 of P.L.1941, c.151 (C.4:19-
7 15.8) shall be construed to limit or replace any action, hearing or
8 review of complaints concerning the pet shop by the Division of
9 Consumer Affairs in the Department of Law and Public Safety to
10 enforce consumer fraud laws or other protections to which the
11 consumer is entitled.

12 h. The requirements of this section shall be posted in a
13 prominent place in each pet shop in the State along with the name,
14 address, and telephone number of the local health authority that has
15 jurisdiction over the pet shop, and this information shall be
16 provided in writing at the time of purchase to each consumer and to
17 each licensed veterinarian contracted for services by the pet shop
18 upon contracting the veterinarian.

19 i. The Director of the Division of Consumer Affairs may
20 investigate and pursue enforcement against any pet shop reported
21 by a consumer pursuant to subsection b. of this section.

22 (cf: P.L.1999, c.336, s.5)

23

24 ¹[433.] 434.¹ Section 4 of P.L.1999, c.174 (C.26:1A-15.3),
25 section 28 of P.L.1966 c.293 (C.52:27D-28), section 2 of P.L.1975,
26 c.36, (C.52:27D-28.2), section 1 of P.L.1985, c.357 (C.52:27D-
27 28.5), and section 29 of P.L.1966, c.293 (C. 52:27D-29) are
28 repealed.

29

30 ¹[434.] 435.¹ This act shall take effect immediately.