

§93 - C.26:1A-2.1
§398 –
C.30:1A-14
§434 - Repealer

P.L.2012, CHAPTER 17, *approved June 29, 2012*
Assembly, No. 3104 (*First Reprint*)

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:

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 (1) the patient was unconscious;

2 (2) the medical procedure was undertaken without the consent
3 of the patient because the health care professional reasonably
4 believed that the medical procedure should be undertaken
5 immediately and that there was insufficient time to fully inform the
6 patient; or

7 (3) the medical procedure was performed on a person legally
8 incapable of giving informed consent, and the health care
9 professional reasonably believed that the medical procedure should
10 be undertaken immediately and that there was insufficient time to
11 obtain the informed consent of the person authorized to give such
12 consent for the patient.

13 The provisions of this subsection shall apply only to actions for
14 damages for an injury or death arising as a result of a health care
15 professional's failure to inform, and not to actions for damages
16 arising as a result of a health care professional's negligence in
17 rendering or failing to render treatment.

18 e. As used in this section:

19 (1) "Health care professional" means a physician, dentist, nurse,
20 or other health care professional whose professional practice is
21 regulated pursuant to Title 45 of the Revised Statutes and an
22 emergency medical technician or mobile intensive care paramedic
23 certified by the Commissioner of Health [and Senior Services]
24 pursuant to Title 26 of the Revised Statutes; and

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

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

31

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

33 2C:35-2. As used in this chapter:

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

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

45 "Controlled dangerous substance" means a drug, substance, or
46 immediate precursor in Schedules I through V, any substance the
47 distribution of which is specifically prohibited in N.J.S.2C:35-3, in
48 section 3 of P.L.1997, c.194 (C.2C:35-5.2), in section 5 of

1 P.L.1997, c.194 (C.2C:35-5.3), or in section 2 of P.L.2011, c.120
2 (C.2C:35-5.3a), and any drug or substance which, when ingested, is
3 metabolized or otherwise becomes a controlled dangerous substance
4 in the human body. When any statute refers to controlled dangerous
5 substances, or to a specific controlled dangerous substance, it shall
6 also be deemed to refer to any drug or substance which, when
7 ingested, is metabolized or otherwise becomes a controlled
8 dangerous substance or the specific controlled dangerous substance,
9 and to any substance that is an immediate precursor of a controlled
10 dangerous substance or the specific controlled dangerous substance.
11 The term shall not include distilled spirits, wine, malt beverages, as
12 those terms are defined or used in R.S.33:1-1 et seq., or tobacco and
13 tobacco products. The term, wherever it appears in any law or
14 administrative regulation of this State, shall include controlled
15 substance analogs.

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

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

34 "Deliver" or "delivery" means the actual, constructive, or
35 attempted transfer from one person to another of a controlled
36 dangerous substance or controlled substance analog, whether or not
37 there is an agency relationship.

38 "Dispense" means to deliver a controlled dangerous substance or
39 controlled substance analog to an ultimate user or research subject
40 by or pursuant to the lawful order of a practitioner, including the
41 prescribing, administering, packaging, labeling, or compounding
42 necessary to prepare the substance for that delivery. "Dispenser"
43 means a practitioner who dispenses.

44 "Distribute" means to deliver other than by administering or
45 dispensing a controlled dangerous substance or controlled substance
46 analog. "Distributor" means a person who distributes.

47 "Drugs" means (a) substances recognized in the official United
48 States Pharmacopoeia, official Homeopathic Pharmacopoeia of the

1 United States, or official National Formulary, or any supplement to
2 any of them; and (b) substances intended for use in the diagnosis,
3 cure, mitigation, treatment, or prevention of disease in man or other
4 animals; and (c) substances (other than food) intended to affect the
5 structure or any function of the body of man or other animals; and
6 (d) substances intended for use as a component of any article
7 specified in subsections (a), (b), and (c) of this section; but does not
8 include devices or their components, parts, or accessories.

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

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

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

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

1 "Narcotic drug" means any of the following, whether produced
2 directly or indirectly by extraction from substances of vegetable
3 origin, or independently by means of chemical synthesis, or by a
4 combination of extraction and chemical synthesis:

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

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

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

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

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

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

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

37 (a) "Physician" means a physician authorized by law to practice
38 medicine in this or any other state and any other person authorized
39 by law to treat sick and injured human beings in this or any other
40 state.

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

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

45 (d) "Hospital" means any federal institution, or any institution
46 for the care and treatment of the sick and injured, operated or
47 approved by the appropriate State department as proper to be

1 entrusted with the custody and professional use of controlled
2 dangerous substances or controlled substance analogs.

3 (e) "Laboratory" means a laboratory to be entrusted with the
4 custody of narcotic drugs and the use of controlled dangerous
5 substances or controlled substance analogs for scientific,
6 experimental^{1,1} and medical purposes and for purposes of
7 instruction approved by the [State] Department of Health [and
8 Senior Services].

9 "Production" includes the manufacture, planting, cultivation,
10 growing, or harvesting of a controlled dangerous substance or
11 controlled substance analog.

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

21 "Residential treatment facility" means any facility licensed and
22 approved by the Department of ¹[Health] ¹[and Senior Services]
23 ¹Human Services and which is approved by any county probation
24 department for the inpatient treatment and rehabilitation of drug or
25 alcohol dependent persons.

26 "Schedules I, II, III, IV, and V" are the schedules set forth in
27 sections 5 through 8 of P.L.1970, c.226 (C.24:21-5 through 24:21-
28 8) and in section 4 of P.L.1971, c.3 (C.24:21-8.1) and as modified
29 by any regulations issued by the ¹[Commissioner of Health] ¹[and
30 Senior Services] ¹Director of the Division of Consumer Affairs in
31 the Department of Law and Public Safety¹ pursuant to ¹[his] the
32 director's¹ authority as provided in section 3 of P.L.1970, c.226
33 (C.24:21-3).

34 "State" means the State of New Jersey.

35 "Ultimate user" means a person who lawfully possesses a
36 controlled dangerous substance or controlled substance analog for
37 his own use or for the use of a member of his household or for
38 administration to an animal owned by him or by a member of his
39 household.

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

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

4 "Stramonium plant" means the plant *Datura Stramonium* Linne,
5 including *Datura Tatula* Linne.

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

7

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

10 6. Discarding hypodermic needle or syringe.

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

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

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

19 b. A hypodermic needle is destroyed if the needle is broken
20 from the hub or mangled. A syringe is destroyed if the nipple of the
21 barrel is broken from the barrel, or the plunger and barrel are
22 melted. Alternatively, a hypodermic needle or syringe is destroyed
23 if it is discarded as a single unit, without recapping, into a rigid
24 container and the container is destroyed by grinding or crushing in a
25 compactor, or by burning in an incinerator approved by the
26 Department of Environmental Protection, or by another method
27 approved by the Department of Health [and Senior Services].

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

29

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

32 1. a. Notwithstanding any State law, rule, or regulation to the
33 contrary, a licensed pharmacy may sell a hypodermic syringe or
34 needle, or any other instrument adapted for the administration of
35 drugs by injection, to a person over 18 years of age who presents
36 valid photo identification to demonstrate proof of age or who
37 otherwise satisfies the seller that he is over 18 years of age, as
38 follows:

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

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

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

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

1 (2) make available to each person who purchases any such
2 instrument, at the time of purchase, information to be developed by
3 the Department of Health **【and Senior Services】** to the purchaser,
4 about:

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

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

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

13 d. The Department of Health **【and Senior Services】**, in
14 consultation with the Department of Human Services and the New
15 Jersey State Board of Pharmacy, may, pursuant to the
16 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
17 seq.), adopt rules and regulations to effectuate the purposes of
18 subsection b. of this section. The Department of Health **【and**
19 **Senior Services】** shall make the information that is to be developed
20 pursuant to subsection b. of this section available to pharmacies and
21 purchasers of hypodermic syringes or needles through its Internet
22 website.

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

24

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

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

32 The application shall describe the premises where the
33 establishment is located or is proposed to be located, the purpose or
34 purposes for which it is to be maintained, and shall be accompanied
35 by the written approval of the local municipal and health authorities
36 showing compliance with the local and State rules and regulations
37 governing location of and sanitation at such establishments.

38 b. All licenses issued for a kennel, pet shop, shelter, or pound
39 shall state the purpose for which the establishment is maintained,
40 and all **【such】** licenses shall expire on the last day of June of each
41 year, and be subject to revocation by the municipality on
42 recommendation of the **【State】** Department of Health **【and Senior**
43 **Services】** or the local board of health for failure to comply with the
44 rules and regulations of the State department or local board
45 governing the same, after the owner has been afforded a hearing by
46 either the State department or local board, except as provided in
47 subsection c. of this section.

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

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

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

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

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

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

33
34 6. Section 12 of P.L.1941, c.151 (C.4:19-15.12) is amended to
35 read as follows:

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

45 b. The governing body of each municipality, may, by
46 ordinance, fix the sum to be paid for a 3-year dog license and each
47 renewal thereof, which sum shall be not more than 3 times the sum

1 charged for an annual license under subsection a. of this section. In
2 the absence of such a local ordinance, the license fee for a 3-year
3 dog license shall be \$4.50. The Department of Health [and Senior
4 Services] shall promulgate appropriate regulations concerning
5 veterinarians' certificates for rabies inoculations of dogs for 3-year
6 periods in connection with licenses issued under this subsection.
7 (cf: P.L.2007, c.7, s.1)

8
9 7. Section 16 of P.L.1941, c.151 (C.4:19-15.16) is amended to
10 read as follows:

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

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

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

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

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

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

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

41 c. A notice required pursuant to this section may be served: (1)
42 by delivering it to the person on whom it is to be served, or by
43 leaving it at the person's usual or last known place of residence or
44 the address given on the collar, harness, or microchip identification;
45 or (2) by mailing the notice to that person at the person's usual or
46 last known place of residence, or to the address given on the collar,
47 harness or microchip identification.

1 d. A shelter, pound, or kennel operating as a shelter or pound
2 receiving an animal from a certified animal control officer pursuant
3 to subsection a. of this section, or from any other individual, group,
4 or organization, shall hold the animal for at least seven days before
5 offering it for adoption, or euthanizing, relocating, or sterilizing the
6 animal, except if:

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

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

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

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

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

22 f. Except as otherwise provided for under subsection e. of this
23 section, no shelter, pound, or kennel operating as a shelter or pound
24 receiving an animal from a certified animal control officer may
25 transfer the animal to an animal rescue organization facility or a
26 foster home until the shelter, pound, or kennel operating as a shelter
27 or pound has held the animal for at least seven days.

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

32 (1) shall, in the case of a cat or dog, release it to the owner or
33 person charged with its care, provided the owner or person charged
34 with the care of the animal provides proof of ownership, which may
35 include a valid cat or dog license, registration, rabies inoculation
36 certificate, or documentation from the owner's veterinarian that the
37 cat or dog has received regular care from that veterinarian;

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

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

45 h. If the animal remains unclaimed, is not claimed due to the
46 failure of the owner or other person to comply with the
47 requirements of this section, or is not adopted after seven days after
48 the date on which notice is served pursuant to subsection c. of this

1 section or, if no notice can be served, not less than seven days after
2 the date on which the animal was impounded, the impounded
3 animal may be placed in a foster home, transferred to another
4 shelter, pound, kennel operating as a shelter or pound, or animal
5 rescue organization facility, or euthanized in a manner causing as
6 little pain as possible and consistent with the provisions of
7 R.S.4:22-19.

8 i. At the time of adoption, the right of ownership in the animal
9 shall transfer to the new owner. No dog or other animal taken into
10 custody, impounded, sent or otherwise brought to a shelter, pound,
11 or kennel operating as a shelter or pound shall be sold or otherwise
12 be made available for the purpose of experimentation. Any person
13 who sells or otherwise makes available any such dog or other
14 animal for the purpose of experimentation shall be guilty of a crime
15 of the fourth degree.

16 j. Any animal seized under this section suspected of being
17 rabid shall be immediately reported to the executive officer of the
18 local board of health and to the Department of Health [and Senior
19 Services], and shall be quarantined, observed, and otherwise
20 handled and dealt with as appropriate for an animal suspected of
21 being rabid or as required by the Department of Health [and Senior
22 Services] for [such] the animals.

23 k. When a certified animal control officer takes into custody
24 and impounds, or causes to be taken into custody and impounded,
25 an animal, the certified animal control officer may place the animal
26 in the custody of, or cause the animal to be placed in the custody of,
27 only a licensed shelter, pound, or kennel operating as a shelter or
28 pound. The certified animal control officer may not place the
29 animal in the custody of, or cause the animal to be placed in the
30 custody of, any animal rescue organization facility, foster home, or
31 other unlicensed facility. However, the licensed shelter, pound, or
32 kennel operating as a shelter or pound may place the animal in an
33 animal rescue organization facility, foster home, or other unlicensed
34 facility if necessary pursuant to subsection e. or h. of this section.

35 l. Notwithstanding the provisions of this section and sections 3
36 and 4 of P.L.2011, c.142 (C.4:19-15.30 and C.4:19-15.31) to the
37 contrary, no cat or dog being transferred between shelters, pounds,
38 or kennels operating as shelters or pounds, or being transferred to
39 an animal rescue organization facility or placed in a foster home,
40 shall be required to be sterilized prior to that transfer.

41 (cf: P.L.2011, c.142, s.2)

42
43 8. Section 3 of P.L.1983, c.525 (C.4:19-15.16a) is amended to
44 read as follows:

45 3. a. The Commissioner of Health [and Senior Services] shall,
46 within 120 days after the effective date of P.L.1983, c.525, and
47 pursuant to the "Administrative Procedure Act," P.L.1968, c.410

1 (C.52:14B-1 et seq.), adopt rules and regulations concerning the
2 training and educational qualifications for the certification of
3 animal control officers, including, but not limited to, a course of
4 study approved by the commissioner and the Police Training
5 Commission, in consultation with the New Jersey Certified Animal
6 Control Officers Association, which acquaints a person with:

7 (1) The law as it affects animal control, animal welfare, and
8 animal cruelty;

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

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

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

22 Any person 18 years of age or older may satisfy the courses of
23 study established pursuant to this subsection at that person's own
24 time and expense; however, nothing in this section shall be
25 construed as authorizing a person to exercise the powers and duties
26 of an animal control officer absent municipal appointment or
27 authorization pursuant to section 4 of P.L.1983, c.525 (C.4:19-
28 15.16b).

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

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

45 c. (1) The commissioner shall establish a list of all persons
46 issued a certificate pursuant to subsection b. of this section (a) for
47 whom that certificate has been revoked, or (b) who have been
48 convicted of, or found civilly liable for, a violation of any provision

1 of chapter 22 of Title 4 of the Revised Statutes. The commissioner
2 shall provide each municipality in the State with a copy of this list
3 within 30 days after the list is established and not less often than
4 annually thereafter if no revised list required pursuant to paragraph
5 (2) of this subsection has been issued in the interim.

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

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

15

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

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

36 The governing body may authorize the certified animal control
37 officer to investigate and sign complaints, arrest violators, and
38 otherwise act as an officer for detection, apprehension, and arrest of
39 offenders against the animal control, animal welfare and animal
40 cruelty laws of the State, and ordinances of the municipality, if the
41 officer has completed the training required pursuant to paragraph 4
42 of subsection a. of section 3 of P.L.1983, c.525 (C.4:19-15.16a).
43 Only certified animal control officers who have completed the
44 training may be authorized by the governing body to so act as an
45 officer for detection, apprehension, and arrest of offenders;
46 however, officers who have completed the training shall not have
47 the authority to so act unless authorized by the governing body

1 which is employing the officer or contracting for the officer's
2 services.

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

4

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

7 19. Except as otherwise provided in this act, any person who
8 violates or who fails or refuses to comply with sections 2, 4, 6, 7, 8,
9 10, or 18 of this act or the rules and regulations promulgated by the
10 **【State】** Department of Health pursuant to section 14 of this act,
11 shall be liable to a penalty of not less than \$5.00 nor more than
12 **【\$50.00】** \$50 for each offense, to be recovered by and in the name
13 of the **【Director】** Commissioner of Health **【of the State of New**
14 **Jersey】**, or by and in the name of the local board of health of the
15 municipality, or by and in the name of the municipality, as the case
16 may be, except that for the first offense in cases of violations of
17 sections 2, 4, and 6 of this act, the penalty shall be not less than
18 \$1.00 nor more than **【\$50.00】** \$50, to be recovered in the same
19 manner.

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

21

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

24 20. Any penalty recovered in an action brought under the
25 provisions of this act shall be paid to the plaintiff therein. When the
26 plaintiff is the **【Director】** Commissioner of Health **【of the State of**
27 **New Jersey】**, the penalty shall be paid by **【said director】** the
28 commissioner into the treasury of the State. When the plaintiff is a
29 local board of health the penalty shall be paid by the local board
30 into the treasury of the municipality within which the local board
31 has jurisdiction.

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

33

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

36 3. a. The Department of Health **【and Senior Services】** shall
37 develop and establish a pilot program to be known as the "Pet
38 Sterilization Pilot Program." The pilot program shall operate in any
39 county with significant animal overpopulation issues that is selected
40 for the program by the Commissioner of Health **【and Senior**
41 **Services】** and agrees to participate in the program. Upon the
42 county's agreement to participate, every shelter, pound, and kennel
43 operating as a shelter or pound in the county shall participate in the
44 pilot program.

45 b. A shelter, pound, or kennel operating as a shelter or pound in
46 a county participating in the pilot program established under
47 subsection a. of this section shall require every cat or dog to be

1 sterilized before releasing it to a person adopting a cat or dog from
2 the shelter, pound, or kennel operating as a shelter or pound when
3 adoption is permitted pursuant to section 16 of P.L.1941, c.151
4 (C.4:19-15.16), except as provided under section 4 of P.L.2011,
5 c.142 (C.4:19-15.31). The shelter, pound, or kennel operating as a
6 shelter or pound may charge the person adopting the animal the cost
7 of sterilization.

8 c. The pilot program shall operate for a period of at least two
9 years. No later than two years after the pilot program is established
10 and becomes operative, the Commissioner of Health **[and Senior**
11 **Services]** shall submit a written report to the Governor and,
12 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the
13 Legislature. The report shall contain information on the
14 implementation of the pilot program and shall include the
15 recommendation of the commissioner on the feasibility of
16 implementing the pilot program on a Statewide basis.
17 (cf: P.L.2011, c.142, s.3)

18
19 13. Section 6 of P.L.2011, c.142 (C.4:19-15.33) is amended to
20 read as follows:

21 6. a. The Department of Health **[and Senior Services]** shall
22 establish a registry of animal rescue organizations and their
23 facilities in the State. Any animal rescue organization may
24 voluntarily participate in the registry.

25 b. The department, pursuant to the "Administrative Procedure
26 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), may adopt any rules
27 and regulations determined necessary to implement the voluntary
28 registry and coordinate its use with the provisions of P.L.2011,
29 c.142 (C.4:19-15.30 et al.) and section 16 of P.L.1941, c.151
30 (C.4:19-15.16).
31 (cf: P.L.2011, c.142, s.6)

32
33 14. Section 4 of P.L.2002, c.102 (C.4:19-41) is amended to read
34 as follows:

35 4. Whenever a duly licensed veterinarian surgically debarks or
36 silences a dog, the veterinarian shall prepare and file a written
37 statement with the **[State]** Department of Health **[and Senior**
38 **Services]** setting forth the veterinary basis for administering the
39 surgery and providing the name and address of the owner, keeper or
40 harbinger of the debarked or silenced dog. A veterinarian who fails
41 to comply with the provisions of this section shall be subject to
42 disciplinary action by the State Board of Veterinary Medical
43 Examiners.

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

45
46 15. Section 15 of P.L.1997, c.236 (C.4:27-15) is amended to
47 read as follows:

1 15. The Department of Agriculture:

2 a. in consultation with the Aquaculture Technology Transfer
3 Center, the Rutgers Cooperative Extension and the Department of
4 Environmental Protection, shall implement an aquaculture statistics
5 reporting program which may include the collection of information
6 on the numbers of jobs being created in aquaculture, the amount,
7 value and type of product being produced, and the overall economic
8 activity in the aquaculture industry;

9 b. in consultation with the Aquaculture Technology Transfer
10 Center, and the Rutgers Cooperative Extension, shall assist
11 aquaculturists in obtaining coverage from federal crop insurance
12 programs;

13 c. in consultation with the Aquaculture Technology Transfer
14 Center and the Rutgers Cooperative Extension, shall assist
15 aquaculturists in completing the proper paperwork and other
16 information necessary to develop eligibility for economic
17 emergency loans for disaster relief through the Farmers Services
18 Agency and other programs;

19 d. in consultation with the United States Department of
20 Agriculture and the National Association of State Aquaculture
21 Coordinators, shall develop a monthly wholesale market report for
22 aquaculture products;

23 e. in conjunction with the Aquaculture Technology Transfer
24 Center and the Department of Health **[and Senior Services]**, shall
25 assist the aquaculture industry in the development of necessary
26 quality control guidelines and specifications for production,
27 processing, and marketing of aquaculture products;

28 f. in conjunction with the Aquaculture Technology Transfer
29 Center, shall assist (1) the aquaculture industry in promoting its
30 products through techniques that may include the establishment and
31 use of a trademark and other specialized marketing efforts; and (2)
32 aquaculturists interested in developing coordinated efforts or
33 arrangements, including producer cooperatives, joint ventures,
34 market orders, and other forms of association; and

35 g. in conjunction with the Department of Health **[and Senior
36 Services]**, the Department of Commerce and Economic
37 Development, the Department of Environmental Protection shall
38 explore the possibilities of establishing private sector joint
39 processing facilities to accommodate agriculture, seafood, and
40 aquaculture products.

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

42

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

45 2. a. A person who is prohibited from gaming in a licensed
46 casino or simulcasting facility by any provision of P.L.1977, c.110
47 (C.5:12-1 et seq.) or any order of the director, commission, or court
48 of competent jurisdiction, including any person on the self-

1 exclusion list pursuant to section 1 of P.L.2001, c.39 (C.5:12-71.2),
2 shall not collect, in any manner or proceeding, any winnings or
3 recover any losses arising as a result of any prohibited gaming
4 activity.

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

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

21 Of any forfeited amount under \$100,000, one-half shall be
22 deposited into the State General Fund for appropriation by the
23 Legislature to the Department of **【Health and Senior】 Human**
24 **Services** to provide funds for compulsive gambling treatment and
25 prevention programs in the State and the remaining one-half shall
26 be deposited into the Casino Revenue Fund. Of any forfeited
27 amount of \$100,000 or more, \$50,000 shall be deposited into the
28 State General Fund for appropriation by the Legislature to the
29 Department of **【Health and Senior】 Human** **Services** to provide
30 funds for compulsive gambling treatment and prevention programs
31 and the remainder shall be deposited into the Casino Revenue Fund.

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

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

43

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

46 145. a. There is hereby created and established in the Department
47 of the Treasury a separate special account to be known as the
48 "Casino Revenue Fund," into which shall be deposited all revenues

1 from the tax imposed by section 144 of this act; the investment
2 alternative tax imposed by section 3 of P.L.1984, c.218 (C.5:12-
3 144.1); the taxes and fees imposed by sections 3, 4 and 6 of
4 P.L.2003, c.116 (C.5:12-148.1, C.5:12-148.2 and C.5:12-145.8) and
5 any interest and penalties imposed by the division relating to those
6 taxes; the percentage of the value of expired gaming related
7 obligations pursuant to section 24 of P.L.2009, c.36 (C.5:12-141.2);
8 and all penalties levied and collected by the division pursuant to
9 P.L.1977, c.110 (C.5:12-1 et seq.) and the regulations promulgated
10 thereunder, except that the first \$600,000 in penalties collected each
11 fiscal year shall be paid into the General Fund for appropriation by
12 the Legislature to the Department of **【Health and Senior】 Human**
13 **Services**, \$500,000 of which is to provide funds to the Council on
14 Compulsive Gambling of New Jersey and \$100,000 of which is to
15 provide funds for compulsive gambling treatment programs in the
16 State. In the event that less than \$600,000 in penalties are collected,
17 the Department of **【Health and Senior】 Human** **Services** shall
18 determine the allocation of funds between the Council and the
19 treatment programs eligible under the criteria developed pursuant to
20 section 2 of P.L.1993, c.229 (C.26:2-169).

21 b. The division shall require at least monthly deposits by the
22 licensee of the tax established pursuant to subsection a. of section
23 144 of P.L.1977, c.110 (C.5:12-144), at such times, under such
24 conditions, and in such depositories as shall be prescribed by the
25 State Treasurer. The deposits shall be deposited to the credit of the
26 Casino Revenue Fund. The division may require a monthly report
27 and reconciliation statement to be filed with it on or before the 10th
28 day of each month, with respect to gross revenues and deposits
29 received and made, respectively, during the preceding month.

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

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

43

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

46 1. There is created a commission to be known as the "Casino
47 Revenue Fund Advisory Commission." The commission shall
48 consist of 15 members to be appointed as follows: two members of

1 the Senate, appointed by the President of the Senate, not more than
2 one of whom shall be of the same political party; two members of
3 the General Assembly, appointed by the Speaker of the General
4 Assembly, not more than one of whom shall be of the same political
5 party; three public members who are senior citizens, one of whom is
6 appointed by the President of the Senate, one of whom is appointed
7 by the Speaker of the General Assembly, and one of whom is
8 appointed by the Governor; three public members who are disabled,
9 one of whom is appointed by the President of the Senate, one of
10 whom is appointed by the Speaker of the General Assembly, and
11 one of whom is appointed by the Governor; one public member who
12 is a representative of the casino industry to be appointed by the
13 Governor upon the recommendation of the Casino Association of
14 New Jersey; the President of the New Jersey Association of
15 Directors of Area Agencies on Aging, the Chairperson of the New
16 Jersey Association of County Representatives for Disabled Persons,
17 the Director of the Division **[on]** of Aging Services in the
18 Department of **[Community Affairs]** Human Services, and the
19 Legislative Budget and Finance Officer, or their designees, who
20 shall serve as ex officio members.

21 The legislative members shall serve during the two-year
22 legislative session in which the appointment is made. The senior
23 citizen and disabled members shall serve for three year terms or
24 until a successor is appointed; but of the members initially
25 appointed, one of the senior citizens and one of the disabled
26 members shall serve for a term of one year, one of the senior
27 citizens and one of the disabled members shall serve for a term of
28 two years, and one of the senior citizens and one of the disabled
29 members shall serve for a term of three years.

30 Vacancies in the membership of the commission shall be filled in
31 the same manner as the original appointments are made and a
32 member may be eligible for reappointment. Vacancies occurring
33 other than by expiration of a term shall be filled for the unexpired
34 term.

35 Members shall be eligible for reimbursement for necessary and
36 reasonable expenses incurred in the performance of their official
37 duties but reimbursement of expenses shall be within the limits of
38 funds appropriated or otherwise made available to the commission
39 for its purposes.

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

41

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

44 3. As used in this act:

45 "Child placed outside his home" means a child placed outside his
46 home by the Department of Human Services, the Department of
47 Children and Families, the Department of Health **[and Senior**
48 **Services]**, or a board of education.

1 "Department" means the Department of Human Services, the
2 Department of Children and Families, the Department of Health
3 **【and Senior Services】**, or board of education, as applicable.
4 (cf: P.L.2006, c.47, s.71)
5

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

8 5. The Departments of Human Services, Children and Families,
9 Health **【and Senior Services】**, and Education shall each prepare and
10 update at least every six months, and shall make available to the
11 public upon request, aggregate non-identifying data about children
12 under their care, custody, or supervision who are placed in out-of-
13 home settings, by category as appropriate. The data shall include
14 the following:

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

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

20 c. The reasons for placement of these children;

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

22 e. The length of time that these children have resided in these
23 settings;

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

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

29 h. The number of children who have been permanently placed
30 or returned to their homes during the six-month period, and a
31 projection of the number of children who will be permanently
32 placed or returned to their homes during the following six-month
33 period; and

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

37 (cf: P.L.2006, c.47, s.72)
38

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

41 6. The Commissioners of Human Services, Children and
42 Families, Health **【and Senior Services】**, and Education, pursuant to
43 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
44 seq.), shall each adopt rules and regulations to effectuate the
45 purposes of this act.

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

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

3 9. The Department of Health **[and Senior Services]** shall
4 prepare a fact sheet for distribution to unemancipated pregnant
5 minors who are seeking abortion services.

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

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

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

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

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

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

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

28

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

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

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

39

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

41 11A:11-2. a. The Department of Personnel is abolished as a
42 principal department in the Executive Branch of State government.
43 The offices and terms of the Commissioner of Personnel, the deputy
44 commissioner, assistant commissioners, and the directors of the
45 various divisions and offices of the Department of Personnel are
46 terminated, except as otherwise provided by P.L.2008, c.29.

47 b. The functions, powers, and duties of the Department of
48 Personnel, the Commissioner of Personnel, the deputy

1 commissioner, assistant commissioners, and directors of the various
2 divisions and offices of the Department of Personnel are continued
3 and transferred as provided by P.L.2008, c.29. The State Treasurer
4 may allocate the functions, powers, and duties transferred to the
5 Department of the Treasury or the State Treasurer by P.L.2008, c.29
6 among such divisions or subdivisions in the Department of the
7 Treasury as the State Treasurer deems appropriate or as the State
8 Treasurer may establish.

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

21 The Equal Employment Opportunity Advisory Commission as
22 constituted in the Department of Personnel is continued and
23 transferred to the Department of the Treasury to be allocated within
24 that department as the State Treasurer shall determine. The
25 members of the Equal Employment Opportunity Advisory
26 Commission shall continue as members of the commission for the
27 duration of their current terms and any reappointments and until
28 their successors are appointed, unless removed for cause.

29 (2) The planning and research unit and function as constituted in
30 the Department of Personnel is continued and transferred to the
31 Department of the Treasury to be allocated within that department
32 as the State Treasurer shall determine.

33 d. The Working Well NJ State employee wellness program as
34 constituted in the Department of Personnel is continued and
35 transferred to the Department of Health **[and Senior Services]** to be
36 allocated within that department as the commissioner shall
37 determine.

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

45 f. The New Jersey Employee Awards Committee as constituted
46 in the Department of Personnel is continued and transferred to the
47 Civil Service Commission. The members of the New Jersey
48 Employee Awards Committee shall continue as members of the

1 committee for the duration of their current terms and any
2 reappointments and until their successors are appointed, unless
3 removed for cause.

4 g. The commission shall develop a plan for the consolidation
5 and coordination of personnel and related functions, including, but
6 not limited to, classification, compensation, and workforce
7 planning, in the executive branch of State government and for
8 transfer to the commission of [such] employees, positions, funding,
9 facilities, equipment, powers, and duties from throughout the
10 executive branch of State government as necessary and appropriate
11 to effectuate such consolidation and coordination.

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

31 i. Each department, office, division, bureau, or agency in the
32 executive branch of State government shall cooperate with the
33 commission and make available to the commission such
34 information, personnel and assistance necessary to effectuate the
35 purposes of P.L.2008, c.29.

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

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

43

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

45 11A:11-3. Any law, rule, regulation, order, reorganization plan,
46 contract, document, judicial or administrative proceeding,
47 appropriation, or otherwise which refers to the Department of

1 Personnel, Commissioner of Personnel, or Merit System Board shall
2 mean the Department of the Treasury, State Treasurer, Civil Service
3 Commission, ¹[or] the¹ Department of Health [and Senior
4 Services] ¹, or the Department of Human Services¹, as provided by
5 P.L.2008, c.29.

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

7

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

9 11A:11-4. All rules of the Merit System Board or the Department
10 of Personnel in effect on the effective date of P.L.2008, c.29 shall
11 remain in effect except as changed or modified by this title or action
12 of the Civil Service Commission, State Treasurer, Commissioner of
13 Health [and Senior Services] ¹, Commissioner of Human Services¹,
14 or other authority, as appropriate.

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

16

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

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

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

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

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

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

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

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

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

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

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

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

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

5 c. Whenever the Commissioner of Environmental Protection or
6 the Commissioner of Health **[and Senior Services]** finds that a
7 person has violated this act, or any rule or regulation adopted
8 pursuant thereto, that commissioner may issue an order specifying
9 the provision or provisions of this act, or the rule or regulation
10 adopted pursuant thereto, of which the person is in violation, citing
11 the action that constituted the violation, ordering abatement of the
12 violation, and giving notice to the person of the person's right to a
13 hearing on the matters contained in the order. The ordered party
14 shall have 20 days from receipt of the order within which to deliver
15 to the commissioner a written request for a hearing. After the
16 hearing and upon finding that a violation has occurred, the
17 commissioner may issue a final order. If no hearing is requested,
18 the order shall become final after the expiration of the 20-day
19 period. A request for hearing shall not automatically stay the effect
20 of the order.

21 d. The Commissioner of Environmental Protection, the
22 Commissioner of Health **[and Senior Services]**, a local board of
23 health, or a county health department may institute an action or
24 proceeding in the Superior Court for injunctive and other relief,
25 including the appointment of a receiver for any violation of this act,
26 or of any rule or regulation adopted pursuant thereto, and the court
27 may proceed in the action in a summary manner. In any **[such]**
28 proceeding the court may grant temporary or interlocutory relief.

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

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

1 violation; the return earned or that may be earned on the amount of
2 avoided costs; any benefits accruing to the violator as a result of a
3 competitive market advantage enjoyed by reason of the violation; or
4 any other benefits resulting from the violation.

5 Assessments under this subsection shall be paid to the State
6 Treasurer, or to the local board of health, or to the county health
7 department, as the case may be, except that compensatory damages
8 may be paid by specific order of the court to any persons who have
9 been aggrieved by the violation.

10 If a proceeding is instituted by a local board of health or county
11 health department, notice thereof shall be served upon the
12 commissioners in the same manner as if the commissioners were
13 named parties to the action or proceeding. Either of the
14 departments may intervene as a matter of right in any proceeding
15 brought by a local board of health or county health department.

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

1 any civil administrative penalty assessed under this section in an
2 amount the department determines appropriate.

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

9 A person who violates an administrative order issued pursuant to
10 subsection c. of this section, or a court order issued pursuant to
11 subsection d. of this section, or who fails to pay an administrative
12 assessment in full pursuant to subsection e. of this section is subject
13 upon order of a court to a civil penalty not to exceed \$200,000 per
14 day for each violation.

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

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

25 g. A person who purposely or knowingly:

26 (1) disposes or stores regulated medical waste without
27 authorization from either the Department of Environmental
28 Protection or the Department of Health **and Senior Services**, as
29 appropriate, or in violation of this act, or any rule or regulation
30 adopted pursuant thereto;

31 (2) makes any false or misleading statement to any person who
32 prepares any regulated medical waste application, registration,
33 form, label, certification, manifest, record, report, or other
34 document required by this act, or any rule or regulation adopted
35 pursuant thereto;

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

40 (4) fails to properly treat certain types of regulated medical
41 waste designated by the Department of Health **and Senior**
42 **Services** in a prescribed manner; shall, upon conviction, be guilty
43 of a crime of the third degree and, notwithstanding the provisions of
44 N.J.S.2C:43-3, shall be subject to a fine of not more than \$100,000
45 for the first offense, and not more than \$200,000 for each
46 subsequent offense, and restitution, in addition to any other
47 appropriate disposition authorized by subsection b. of N.J.S.2C:43-
48 2.

- 1 h. A person who recklessly or negligently:
- 2 (1) disposes or stores regulated medical waste without
3 authorization from either the Department of Environmental
4 Protection or the Department of Health **【and Senior Services】**, as
5 appropriate, or in violation of this act, or any rule or regulation
6 adopted pursuant thereto;
- 7 (2) makes any false or misleading statement to any person who
8 prepares any regulated medical waste application, registration,
9 form, label, certification, manifest, record, report, or other
10 document required by this act, or any rule or regulation adopted
11 pursuant thereto;
- 12 (3) makes any false or misleading statement on any regulated
13 medical waste application, registration, form, label, certification,
14 manifest, record, report, or other document required by this act, or
15 any rule or regulation adopted pursuant thereto; or
- 16 (4) fails to properly treat certain types of regulated medical
17 waste designated by the Department of Health **【and Senior
18 Services】** in a manner prescribed thereby; shall, upon conviction, be
19 guilty of a crime of the fourth degree.
- 20 i. A person who, regardless of intent:
- 21 (1) transports any regulated medical waste to a facility or any
22 other place in the State that does not have authorization from the
23 Department of Environmental Protection to accept **【such】** the
24 waste, or in violation of this act, or any rule or regulation adopted
25 pursuant thereto; or
- 26 (2) transports, or receives transported, regulated medical waste
27 without completing and submitting a manifest in accordance with
28 this act, or any rule or regulation adopted pursuant thereto; shall,
29 upon conviction, be guilty of a crime of the fourth degree.
- 30 j. A person who purposely, knowingly, or recklessly:
- 31 (1) generates and causes or permits to be transported any
32 regulated medical waste to a facility or any other place in the State
33 that does not have authorization from the Department of
34 Environmental Protection to accept **【such】** the waste, or in
35 violation of this act, or any rule or regulation adopted pursuant
36 thereto; or
- 37 (2) violates any other provision of this act, or any rule or
38 regulation adopted pursuant thereto, for which no other criminal
39 penalty has been specifically provided for; shall, upon conviction,
40 be guilty of a crime of the fourth degree.
- 41 k. All conveyances used or intended for use in the willful
42 discharge, in violation of this act, or any rule or regulation adopted
43 pursuant thereto, of regulated medical waste are subject to forfeiture
44 to the State pursuant to P.L.1981, c.387 (C.13:1K-1 et seq.).
- 45 l. (Deleted by amendment, P.L.1997, c.325.)

1 m. No prosecution for a violation under this act shall be deemed
2 to preclude a prosecution for the violation of any other applicable
3 statute.

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

5

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

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

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

25 For the purposes of this act, "reportable communicable disease"
26 means those diseases required to be reported to the Department of
27 Health **【and Senior Services】** pursuant to N.J.A.C.8:57-1.3 through
28 8:57-1.6 and N.J.A.C.8:57-2.2 and 8:57-2.3.

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

30

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

33 2. The Commissioner of Banking and Insurance, in
34 consultation with the Commissioner of Health **【and Senior**
35 **Services】**, shall adopt regulations pursuant to the "Administrative
36 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) which
37 establish procedures that insurers shall use to notify applicants of
38 test results pursuant to this act.

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

40

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

43 1. Definitions.

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

47 a. An "affiliate" of, or person "affiliated" with, a specific
48 person, is a person that directly, or indirectly through one or more

1 intermediaries, controls, or is controlled by, or is under common
2 control with, the person specified.

3 b. The term "commissioner" shall mean the Commissioner of
4 Banking and Insurance or ~~his~~ the commissioner's deputies,
5 except that when a health maintenance organization is the subject of
6 an acquisition of control or merger, the commissioner shall consult
7 with the Commissioner of Health ~~and Senior Services~~ on matters
8 relating to quality of, and access to, health care services.

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

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

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

39 f. A "person" is an individual, a corporation, a partnership, an
40 association, a joint stock company, a trust, an unincorporated
41 organization, any similar entity or any combination of the foregoing
42 acting in concert.

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

44 h. A "subsidiary" of a specified person is an affiliate controlled
45 by such person directly, or indirectly through one or more
46 intermediaries.

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

1 j. "Acquisition" means any agreement, arrangement or activity,
2 the consummation of which results in a person acquiring directly or
3 indirectly the control of another person, and includes but is not
4 limited to the acquisition of voting securities, and assets, and bulk
5 reinsurance and mergers.

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

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

10
11 31. Section 1 of P.L.1998, c.129 (C.17:29A-35.1) is amended to
12 read as follows:

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

21 Whenever the division is unable to obtain a death certificate
22 from a person representing the estate of any driver on whom
23 surcharges have been levied and who was a resident of the State, the
24 **【division】** commission shall obtain a copy of the death certificate
25 by contacting the State registrar of vital statistics in the Department
26 of Health **【and Senior Services】** and, in these cases, the **【division】**
27 commission shall not require the estate of the driver to furnish a
28 death certificate.

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

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

33 27. a. There is established a Medical Malpractice Liability
34 Insurance Premium Assistance Fund within the Department of the
35 Treasury as a nonlapsing, revolving fund.

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

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

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

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

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

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

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

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

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

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

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

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

47 (1) \$17 million shall be allocated annually for the purpose of
48 providing relief towards the payment of medical malpractice

1 liability insurance premiums to health care providers in the State
2 who have experienced or are experiencing a liability insurance
3 premium increase in an amount as established by the commissioner
4 by regulation and meet the criteria established pursuant to section
5 28 of P.L.2004, c.17 (C.17:30D-30);

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

12 (3) \$1 million shall be allocated annually for a student loan
13 expense reimbursement program for obstetrician/gynecologists, to
14 be established pursuant to section 29 of P.L.2004, c.17
15 (C.18A:71C-49); and

16 (4) \$1.2 million shall be allocated annually to the Division of
17 Medical Assistance and Health Services in the Department of
18 Human Services for the purposes provided in section 30 of
19 P.L.2004, c.17 (C.30:4J-7).

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

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

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

39

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

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

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

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

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

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

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

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

24 (1) In order to be eligible for a subsidy from the fund, a
25 practitioner shall have received a medical malpractice liability
26 insurance premium increase in an amount as determined by the
27 commissioner by regulation, for one or more of the following: upon
28 renewal on or after January 1, 2004, from the amount paid by that
29 practitioner in calendar year 2003; upon renewal on or after January
30 1, 2005, from the amount paid by that practitioner in calendar year
31 2004; and upon renewal on or after January 1, 2006, from the
32 amount paid by that practitioner in calendar year 2005; or

33 (2) In the case of a health care provider providing professional
34 liability insurance protection through self-insured hospital funding
35 supplemented with purchased commercial insurance coverage, in
36 order to be eligible for a subsidy from the fund, that provider shall
37 have increased its total professional liability funding obligation in
38 an amount as determined by the commissioner by regulation, for
39 one or more of the following: upon renewal on or after January 1,
40 2004, from the professional liability funding obligation paid by that
41 provider in calendar year 2003; upon renewal on or after January 1,
42 2005, from the professional liability funding obligation paid by that
43 provider in calendar year 2004; and upon renewal on or after
44 January 1, 2006, from the professional liability funding obligation
45 paid by that provider in calendar year 2005.

46 (3) The amount of the subsidy shall be an amount, as
47 determined by the commissioner by regulation, of the increase from
48 the preceding year's premium or self-insured professional liability

1 funding obligation; except that no health care provider shall receive
2 a subsidy in any year that is greater than an amount as determined
3 by the commissioner by regulation.

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

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

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

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

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

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

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

40

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

43 34. a. A section of the Office of Insurance Fraud Prosecutor
44 shall be designated to be responsible for establishing a liaison and
45 continuing communication between the office and the Department
46 of Health **【and Senior Services】**, the Department of Human
47 Services, the Department of Labor and Workforce Development,
48 any professional board in the Division of Consumer Affairs in the

1 Department of Law and Public Safety, the Department of Banking
2 and Insurance, the Division of State Police, every county
3 prosecutor's office, [such] local government units as may be
4 necessary or practicable, and insurers.

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

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

19

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

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

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

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

45 c. Screening for newborn hearing loss by appropriate
46 electrophysiologic screening measures and periodic monitoring of
47 infants for delayed onset hearing loss, pursuant to P.L.2001, c.373
48 (C.26:2-103.1 et al.). Payment for this screening service shall be

1 separate and distinct from payment for routine new baby care in the
2 form of a newborn hearing screening fee as negotiated with the
3 provider and facility.

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

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

19

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

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

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

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

46 d. The expenses incurred in making any examination pursuant
47 to this section shall be assessed against and paid by the dental plan

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

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

9

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

12 1. As used in this act:

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

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

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

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

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

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

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

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

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

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

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

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

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

35

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

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

46 a. Screening by blood lead measurement for lead poisoning for
47 children, including confirmatory blood lead testing as specified by
48 the Department of Health **【and Senior Services】** pursuant to section

1 7 of P.L.1995, c.316 (C.26:2-137.1); and medical evaluation and
2 any necessary medical follow-up and treatment for lead poisoned
3 children.

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

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

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

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

35

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

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

46 "Service provider" means any person, public or private
47 institution, agency, or business concern lawfully providing an

1 ambulance service.
2 (cf: P.L.2007, c.194, s.1)

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

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

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

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

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

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

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

46 e. Any plan prepared pursuant to this section shall not be
47 considered a government record as defined in section 1 of P.L.1995,

1 c.23 (C.47:1A-1.1) and shall not be available for public inspection,
2 copying, or the purchase of copies.

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

4

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

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

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

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

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

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

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

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

47 Nothing in this section shall be construed to prohibit the
48 emergency administration of epinephrine via a pre-filled auto-

1 injector mechanism to a pupil for anaphylaxis by the school nurse
2 or other employees designated pursuant to this section when the
3 pupil is authorized to self-administer epinephrine pursuant to
4 section 1 of P.L.1993, c.308 (C.18A:40-12.3), or when there is a
5 coexisting diagnosis of asthma, or when a prescription is received
6 from a licensed health care professional for epinephrine coupled
7 with another form of medication.

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

9

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

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

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

23

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

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

34 b. The certified school nurse in consultation with the board of
35 education, or the school nurse in consultation with the chief school
36 administrator of a nonpublic school, shall recruit and train volunteer
37 designees who are determined acceptable candidates by the school
38 nurse within each school building as deemed necessary by the
39 nursing service plan.

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

41

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

44 3. The State Board of Education, in consultation with the
45 Commissioner of Health **[and Senior Services]**, shall adopt
46 regulations requiring each public school board of education to
47 develop policies for the administration of asthma medication

1 through the use of a nebulizer by the school nurse or other person
2 authorized by regulation. The regulations shall include:

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

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

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

16

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

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

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

29 c. The Commissioner of Health **[and Senior Services]** shall
30 adopt rules and regulations pursuant to the "Administrative
31 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to carry out
32 the purposes of this section.

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

34

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

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

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

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

18 c. The commissioner shall develop and distribute to the pilot
19 districts a form to document and provide information on each
20 comprehensive eye examination conducted under the program.
21 (cf: P.L.2007, c.122, c.3)
22

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

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

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

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

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

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

46 2. a. The Commissioner of Education, in consultation with the
47 Commissioner of Health **[and Senior Services]**, shall develop an
48 educational fact sheet about the human papillomavirus (HPV) for

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

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

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

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

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

19

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

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

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

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

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

1 program which has been approved by the Commissioner of Health
2 **【and Senior Services】**.

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

4

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

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

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

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

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

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

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

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

19

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

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

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

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

45

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

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

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

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

8 (c) "Drugs" means "drugs" and "devices" as defined in R.S.
9 24:1-1.

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

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

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

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

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

33

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

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

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

40 "Authenticate" means to affirmatively verify before any
41 distribution of a prescription drug that each transaction listed on the
42 pedigree has occurred.

43 "Authorized distributor" or "authorized distributor of record"
44 means a wholesale distributor with whom a manufacturer has
45 established an ongoing relationship to distribute the manufacturer's
46 product. An ongoing relationship is deemed to exist when the
47 wholesale distributor, or any member of its affiliated group as
48 defined in section 1504 of the Internal Revenue Code of 1986 (26

1 U.S.C. s.1504): is listed on the manufacturer's list of authorized
2 distributors; has a written agreement currently in effect with the
3 manufacturer; or has a verifiable account with the manufacturer and
4 meets or exceeds the following transaction or volume requirement
5 thresholds:

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

9 "Centralized prescription processing" means the processing by a
10 pharmacy of a request from another pharmacy to fill or refill a
11 prescription drug order or to perform processing functions such as
12 dispensing, drug utilization review, claims adjudication, refill
13 authorizations and therapeutic interventions.

14 "Chain pharmacy distribution center" means a distribution
15 facility or warehouse owned by and operated for the primary use of
16 a group of pharmacies that are under common or affiliated control
17 or ownership.

18 "Commissioner" means the Commissioner of Health **[and Senior**
19 **Services]**.

20 "Contraband" with respect to a prescription drug means:
21 counterfeit; stolen; misbranded; obtained by fraud; purchased by a
22 nonprofit institution for its own use and placed in commerce in
23 violation of the own use agreement; or the existing documentation
24 or pedigree, if required, for the prescription drug has been forged,
25 counterfeited, falsely created, or contains any altered, false, or
26 misrepresented information.

27 "Counterfeit prescription drug" means a prescription drug, or the
28 container, shipping container, seal, or labeling thereof, which,
29 without authorization, bears the trademark, trade name or other
30 identifying mark, imprint, or any likeness thereof, of a
31 manufacturer, processor, packer, or distributor other than the person
32 or persons who in fact manufactured, processed, packed, or
33 distributed **[such]** the prescription drug and which thereby falsely
34 purports or is represented to be the product of, or to have been
35 packed or distributed by, such other manufacturer, processor,
36 packer, or distributor.

37 "DEA" means the federal Drug Enforcement Administration.

38 "Department" means the Department of Health **[and Senior**
39 **Services]**.

40 "Designated representative" means an individual who is
41 designated by a wholesale prescription drug distributor to serve as
42 the primary contact person for the wholesale distributor with the
43 department, and who is responsible for managing the company's
44 operations at that licensed location.

45 "Distribute" means to sell, offer to sell, deliver, offer to deliver,
46 broker, give away, or transfer a prescription drug, whether by
47 passage of title, physical movement, or both. The term does not

1 mean to: dispense or administer; deliver or offer to deliver in the
2 usual course of business as a common carrier or logistics provider,
3 or provide a sample to a patient by a licensed practitioner, a health
4 care professional acting at the direction and under the supervision
5 of a practitioner, or the pharmacist of a health care facility licensed
6 pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) acting at the
7 direction of a practitioner.

8 "Drug" means: a. an article or substance recognized in the
9 official United States Pharmacopoeia, official Homeopathic
10 Pharmacopoeia of the United States or official National Formulary,
11 or any supplement to any of them; b. an article or substance
12 intended for use in the diagnosis, cure, mitigation, treatment,₂ or
13 prevention of disease in man or other animals; c. an article or
14 substance, other than food, intended to affect the structure of any
15 function of the body of man or animals; and d. an article or
16 substance intended for use as a component of any article or
17 substance specified in clause a., b.,₂ or c.; but does not include
18 devices or their components, parts,₂ or accessories. Drug includes a
19 prefilled syringe or needle.

20 "Immediate container" means a container but does not include
21 package liners.

22 "Logistics provider" means an entity that receives drugs from the
23 original manufacturer and delivers them at the direction of that
24 manufacturer, and does not purchase, sell, trade,₂ or take title to the
25 drugs.

26 "Misbranded" means a prescription drug with respect to which
27 the label is: false or misleading in any particular; does not bear the
28 name and address of the manufacturer, packer,₂ or distributor and
29 does not have an accurate statement of the quantities of the active
30 ingredients; or does not show an accurate monograph for legend
31 drugs; or is misbranded based upon other considerations as
32 provided in the Federal Food, Drug, and Cosmetic Act, 21 U.S.C.
33 s.301 et seq.

34 "Pedigree" means a statement or record identifying each previous
35 sale of a prescription drug, from the sale by a manufacturer through
36 acquisition and sale by a wholesale distributor, including each
37 distribution to an authorized distributor, starting with the last
38 authorized distributor, or the manufacturer if the prescription drug
39 has not been purchased previously by an authorized distributor or is
40 a prescription drug on the specified list of susceptible products. A
41 pedigree shall include the following information: the proprietary
42 and established name of the prescription drug; the dosage; container
43 size; number of containers; and the date, business name,₂ and
44 address of all parties to each prior transaction involving the
45 prescription drug starting with the last authorized distributor or the
46 manufacturer if the prescription drug has not been purchased
47 previously by an authorized distributor or is a prescription drug on
48 the specified list of susceptible products.

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

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

5 "Specified list of susceptible products" means a specific list of
6 prescription drugs, to be determined by the commissioner, that are
7 considered to be potential targets for adulteration, counterfeiting,
8 or diversion, which the commissioner shall provide to wholesale
9 distributors as prescription drugs are added to or removed from the
10 list, along with notification of those changes.

11 "Wholesale distribution" means the distribution of prescription
12 drugs in or into the State by a wholesale distributor to a person
13 other than a consumer or patient, and includes transfers of
14 prescription drugs from one pharmacy to another pharmacy if the
15 value of the goods transferred exceeds 5% of total prescription drug
16 sales revenue of either the transferor or transferee pharmacy during
17 any consecutive 12-month period. The term excludes:

18 a. the sale, purchase or trade of a prescription drug, an offer to
19 sell, purchase, or trade a prescription drug, or the dispensing of a
20 prescription drug pursuant to a prescription;

21 b. the sale, purchase or trade of a prescription drug, or an offer
22 to sell, purchase, or trade a prescription drug for emergency medical
23 reasons;

24 c. the sale, purchase or trade of a prescription drug, or an offer
25 to sell, purchase, or trade a prescription drug by pharmacies, chain
26 pharmacy distribution centers, and the associated transfer of goods
27 between chain pharmacy distribution centers and their servicing
28 wholesale distributors or manufacturers;

29 d. intracompany transactions or sales among wholesale
30 distributors, chain pharmacy distribution centers, and pharmacies,
31 and which are limited to those sales or transfers of a prescription
32 drug among members of an affiliated group, even if the members of
33 the affiliated group are separate legal entities;

34 e. the sale, purchase or trade of a prescription drug, or an offer
35 to sell, purchase, or trade a prescription drug among hospitals or
36 other health care entities licensed pursuant to P.L.1971, c.136
37 (C.26:2H-1 et seq.) that are under common control;

38 f. the sale, purchase or trade of a prescription drug, or offer to
39 sell, purchase, or trade a prescription drug by a charitable
40 organization exempt from taxation pursuant to section 501(c)(3) of
41 the Internal Revenue Code of 1986 (26 U.S.C. s.501(c)(3)) to a
42 nonprofit affiliate of the organization;

43 g. the purchase or other acquisition by a hospital or other
44 similar health care entity licensed pursuant to P.L.1971, c.136
45 (C.26:2H-1 et seq.) that is a member of a group purchasing
46 organization of a prescription drug for its own use from the group
47 purchasing organization or from other hospitals or similar health
48 care entities that are members of these organizations;

- 1 h. the transfer of prescription drugs between pharmacies
2 pursuant to a centralized prescription processing agreement;
- 3 i. the distribution of prescription drug samples by
4 manufacturers' representatives or wholesale distributors'
5 representatives;
- 6 j. the sale, purchase or trade of blood and blood components
7 intended for transfusion;
- 8 k. prescription drug returns, when conducted by a pharmacy,
9 chain pharmacy distribution center, hospital, health care entity
10 licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.),₂ or
11 charitable institution in accordance with regulations established by
12 the commissioner;
- 13 l. the sale of minimal quantities of prescription drugs by retail
14 pharmacies to licensed practitioners for office use;
- 15 m. the stockpiling and distribution of drugs under the
16 authorization of a State agency for the purpose of providing those
17 products in an emergency situation; or
- 18 n. the sale, transfer, merger,₂ or consolidation of all or part of
19 the business of a pharmacy or pharmacies from or with another
20 pharmacy or pharmacies whether accomplished as a purchase and
21 sale of stock or business assets.

22 "Wholesale distributor" means any person, other than the
23 manufacturer, pharmacy, logistics provider, or chain pharmacy
24 distribution center, engaged in wholesale distribution of
25 prescription drugs in or into the State and includes repackagers,
26 own-label distributors, private-label distributors, jobbers, brokers,
27 warehouses including distributors' warehouses, independent
28 prescription drug traders, and retail pharmacies that conduct
29 wholesale distribution.

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

31

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

34 5. As used in this act unless the context clearly indicates
35 otherwise:

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

39 b. "Brand name" means the proprietary name assigned to a
40 drug by the manufacturer thereof.

41 c. "Established name" with respect to a drug or ingredient
42 thereof, means (1) the applicable official name designated pursuant
43 to the Federal Food, Drug and Cosmetic Act (Title 21, U.S.C. s.301
44 et seq.), or (2) if there is no such official name and such drug or
45 ingredient is recognized in an official compendium, then the official
46 title thereof in such compendium, except that where a drug or
47 ingredient is recognized in the United States Pharmacopoeia and in
48 the Homeopathic Pharmacopoeia under different official titles, the

- 1 official title used in the United States Pharmacopoeia shall apply
2 unless it is labeled and offered for sale as a homeopathic drug, in
3 which case the official title used in the Homeopathic
4 Pharmacopoeia shall apply, or (3) if neither (1) nor (2) is
5 applicable, then the common or usual name, if any, of such drug or
6 ingredient.
- 7 d. "Prescription" means an order for drugs or combinations or
8 mixtures thereof, written or signed by a duly licensed physician,
9 dentist, veterinarian, or other medical practitioner licensed to write
10 prescriptions intended for the treatment or prevention of disease in
11 man or animals, and includes orders for drugs or medicines or
12 combinations or mixtures thereof transmitted to pharmacists
13 through word of mouth, telephone, telegraph, or other means of
14 communication by a duly licensed physician, dentist, veterinarian,
15 or other medical practitioner licensed to write prescriptions
16 intended for the treatment or prevention of disease in man or
17 animals.
- 18 e. "Department" means the Department of Health [and Senior
19 Services].
- 20 f. "Chemical equivalents" means those drug products that
21 contain the same amounts of the same therapeutically active
22 ingredients in the same dosage forms and that meet present
23 compendial standards.
- 24 g. "Reference drug product" means the product which is
25 adopted by the department as the standard for other chemically
26 equivalent drugs in terms of testing for the therapeutic equivalence.
27 In all cases, the reference drug product shall be a currently
28 marketed drug which is the subject of a full (not abbreviated) new
29 drug application approved by the Federal Food and Drug
30 Administration.
- 31 h. "Therapeutic equivalents" means chemical equivalents
32 which, when administered to the same individuals in the same
33 dosage regimen, will provide essentially the same efficacy or
34 toxicity as their respective reference drug products.
- 35 "Bioavailability" means the extent and rate of absorption from a
36 dosage form as reflected by the time-concentration curve of the
37 administered drug in the systemic circulation.
- 38 j. "Bioequivalents" means chemical equivalents which, when
39 administered to the same individuals in the same dosage regimen,
40 will result in comparable bioavailability.
- 41 k. "Pharmaceutical equivalents" means those drug products that
42 contain the same amounts of the same therapeutically active
43 ingredients in the same dosage form and that meet established
44 standards.
- 45 l. "Interchangeable drug products" means pharmaceutical
46 equivalents or bioequivalents that are determined to be therapeutic
47 equivalents by the department.

1 m. "Present compendial standards" means the official standards
2 for drug excipients and drug products listed in the latest revision of
3 the United States Pharmacopoeia (USP) and the National Formulary
4 (NF).

5 n. "Dosage form" means the physical formulation or medium in
6 which the product is intended, manufactured and made available for
7 use, including, but not limited to: tablets, capsules, oral solutions,
8 aerosols, inhalers, gels, lotions, creams, ointments, transdermals
9 and suppositories, and the particular form of the above which
10 utilizes a specific technology or mechanism to control, enhance, or
11 direct the release, targeting, systemic absorption, or other delivery
12 of a dosage regimen in the body.
13 (cf: P.L.2010, c.87, s.1)

14

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

17 2. A product that contains ephedrine alkaloids that is not a drug
18 as defined in R.S.24:1-1, shall not be sold or offered for sale in this
19 State after the effective date of this act unless its label indicates that
20 the sale of the product to minors under 18 years of age is prohibited
21 by State law, in accordance with regulations adopted by the
22 Commissioner of Health **[and Senior Services]**.

23 (cf: P.L.2003, c.57, s.2)

24

25 89. Section 3 of P.L.2003, c.57 (C.24:6H-3) is amended to read
26 as follows:

27 3. The Commissioner of Health **[and Senior Services]** shall
28 adopt rules and regulations pursuant to the "Administrative
29 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to carry out
30 the purposes of this act.

31 (cf: P.L.2003, c.57, s.3)

32

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

35 3. As used in this act:

36 "Bona fide physician-patient relationship" means a relationship
37 in which the physician has ongoing responsibility for the
38 assessment, care, and treatment of a patient's debilitating medical
39 condition.

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

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

46 "Debilitating medical condition" means:

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

4 (2) one of the following conditions, if severe or chronic pain,
5 severe nausea or vomiting, cachexia, or wasting syndrome results
6 from the condition or treatment thereof: positive status for human
7 immunodeficiency virus[.]; acquired immune deficiency
8 syndrome[.]; or cancer;

9 (3) amyotrophic lateral sclerosis, multiple sclerosis, terminal
10 cancer, muscular dystrophy, or inflammatory bowel disease,
11 including Crohn's disease;

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

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

16 "Department" means the Department of Health [and Senior
17 Services].

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

21 "Medical marijuana alternative treatment center" or "alternative
22 treatment center" means an organization approved by the
23 department to perform activities necessary to provide registered
24 qualifying patients with usable marijuana and related paraphernalia
25 in accordance with the provisions of this act. This term shall
26 include the organization's officers, directors, board members, and
27 employees.

28 "Medical use of marijuana" means the acquisition, possession,
29 transport, or use of marijuana or paraphernalia by a registered
30 qualifying patient as authorized by this act.

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

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

35 "Physician" means a person licensed to practice medicine and
36 surgery pursuant to Title 45 of the Revised Statutes with whom the
37 patient has a bona fide physician-patient relationship and who is the
38 primary care physician, hospice physician, or physician responsible
39 for the ongoing treatment of a patient's debilitating medical
40 condition, provided, however, that [such] the ongoing treatment
41 shall not be limited to the provision of authorization for a patient to
42 use medical marijuana or consultation solely for that purpose.

43 "Primary caregiver" or "caregiver" means a resident of the State
44 who:

45 a. is at least 18 years old;

46 b. has agreed to assist with a registered qualifying patient's
47 medical use of marijuana, is not currently serving as primary

1 caregiver for another qualifying patient, and is not the qualifying
2 patient's physician;

3 c. has never been convicted of possession or sale of a
4 controlled dangerous substance, unless such conviction occurred
5 after the effective date of this act and was for a violation of federal
6 law related to possession or sale of marijuana that is authorized
7 under this act;

8 d. has registered with the department pursuant to section 4 of
9 this act, and has satisfied the criminal history record background
10 check requirement of section 4 of this act; and

11 e. has been designated as primary caregiver on the qualifying
12 patient's application or renewal for a registry identification card or
13 in other written notification to the department.

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

17 "Registry identification card" means a document issued by the
18 department that identifies a person as a registered qualifying patient
19 or primary caregiver.

20 "Usable marijuana" means the dried leaves and flowers of
21 marijuana, and any mixture or preparation thereof, and does not
22 include the seeds, stems, stalks or roots of the plant.

23 (cf: P.L.2009, c.307, s.3)

24

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

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

36 b. The Division of State Police shall promptly notify the
37 Department of Health **[and Senior Services]** in the event an
38 applicant seeking to serve as a primary caregiver or an applicant for
39 a permit to operate as, or to be a director, officer, or employee of,
40 an alternative treatment center, who was the subject of a criminal
41 history record background check conducted pursuant to subsection
42 a. of this section, is convicted of a crime involving possession or
43 sale of a controlled dangerous substance.

44 (cf: P.L.2009, c.307, s.15)

45

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

48 2. As used in this act:

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

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

11 "Commissioner" means the Commissioner of Health [and Senior
12 Services].

13 "Controlled dangerous substance" means a drug, substance, or
14 immediate precursor in Schedules I through V of article 2 of
15 P.L.1970, c.226 (C.24:21-1 et seq.)[, as amended and
16 supplemented]. The term shall not include distilled spirits, wine,
17 malt beverages, as those terms are defined or used in R.S.33:1-1 et
18 seq., or tobacco and tobacco products.

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

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

31 "Director" means the Director of the Division of Consumer
32 Affairs in the Department of Law and Public Safety.

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

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

42 "Division" means the Division of Consumer Affairs in the
43 Department of Law and Public Safety.

44 "Drug Enforcement Administration" means the Drug
45 Enforcement Administration in the United States Department of
46 Justice.

47 "Drugs" means (a) substances recognized in the official United
48 States Pharmacopoeia, official Homeopathic Pharmacopoeia of the

1 United States, or official National Formulary, or any supplement to
2 any of them; and (b) substances intended for use in the diagnosis,
3 cure, mitigation, treatment, or prevention of disease in man or other
4 animals; and (c) substances (other than food) intended to affect the
5 structure or any function of the body of man or other animals; and
6 (d) substances intended for use as a component of any article
7 specified in subsections (a), (b), and (c) of this section; but does not
8 include devices or their components, parts or accessories.

9 "Drug dependent person" means a person who is using a
10 controlled dangerous substance and who is in a state of psychic or
11 physical dependence, or both, arising from the use of that controlled
12 dangerous substance on a continuous basis. Drug dependence is
13 characterized by behavioral and other responses, including but not
14 limited to a strong compulsion to take the substance on a recurring
15 basis in order to experience its psychic effects, or to avoid the
16 discomfort of its absence.

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

20 "Marihuana" means all parts of the plant Genus Cannabis L.,
21 whether growing or not; the seeds thereof; and every compound,
22 manufacture, salt, derivative, mixture, or preparation of [such] the
23 plant or its seeds, except those containing resin extracted from
24 [such] the plant; but shall not include the mature stalks of [such]
25 the plant, fiber produced from [such] the stalks, oil or cake made
26 from the seeds of [such] the plant, any other compound,
27 manufacture, salt, derivative, mixture, or preparation of such mature
28 stalks, fiber, oil, or cake, or the sterilized seed of [such] the plant
29 which is incapable of germination.

30 "Manufacture" means the production, preparation, propagation,
31 compounding, conversion, or processing of a controlled dangerous
32 substance, either directly or by extraction from substances of
33 natural origin, or independently by means of chemical synthesis, or
34 by a combination of extraction and chemical synthesis, and includes
35 any packaging or repackaging of the substance or labeling or
36 relabeling of its container, except that this term does not include the
37 preparation or compounding of a controlled dangerous substance by
38 an individual for his own use or the preparation, compounding,
39 packaging, or labeling of a controlled dangerous substance: (1) by a
40 practitioner as an incident to his administering or dispensing of a
41 controlled dangerous substance in the course of his professional
42 practice, or (2) by a practitioner (or under his supervision) for the
43 purpose of, or as an incident to, research, teaching, or chemical
44 analysis and not for sale.

45 "Narcotic drug" means any of the following, whether produced
46 directly or indirectly by extraction from substances of vegetable

1 origin, or independently by means of chemical synthesis, or by a
2 combination of extraction and chemical synthesis:

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

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

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

12 "Official written order" means an order written on a form
13 provided for that purpose by the Attorney General of the United
14 States or his delegate, under any laws of the United States making
15 provisions therefor, if such order forms are authorized and required
16 by the federal law, and if no such form is provided, then on an
17 official form provided for that purpose by the division. If
18 authorized by the Attorney General of the United States or the
19 division, the term shall also include an order transmitted by
20 electronic means.

21 "Opiate" means any dangerous substance having an addiction-
22 forming or addiction-sustaining liability similar to morphine or
23 being capable of conversion into a drug having such addiction-
24 forming or addiction-sustaining liability. It does not include, unless
25 specifically designated as controlled under section 3 of this act, the
26 dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its
27 salts (dextromethorphan). It does include its racemic and
28 levorotatory forms.

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

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

33 "Pharmacist" means a registered pharmacist of this State.

34 "Pharmacy owner" means the owner of a store or other place of
35 business where controlled dangerous substances are compounded or
36 dispensed by a registered pharmacist; but nothing in this chapter
37 contained shall be construed as conferring on a person who is not
38 registered or licensed as a pharmacist any authority, right, or
39 privilege that is not granted to him by the pharmacy laws of this
40 State.

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

43 "Practitioner" means a physician, dentist, veterinarian, scientific
44 investigator, laboratory, pharmacy, hospital, or other person
45 licensed, registered, or otherwise permitted to distribute, dispense,
46 conduct research with respect to, or administer a controlled
47 dangerous substance in the course of professional practice or
48 research in this State.

1 (a) "Physician" means a physician authorized by law to practice
2 medicine in this or any other state and any other person authorized
3 by law to treat sick and injured human beings in this or any other
4 state.

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

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

9 (d) "Hospital" means any federal institution, or any institution
10 for the care and treatment of the sick and injured, operated or
11 approved by the appropriate State department as proper to be
12 entrusted with the custody and professional use of controlled
13 dangerous substances.

14 (e) "Laboratory" means a laboratory to be entrusted with the
15 custody of narcotic drugs and the use of controlled dangerous
16 substances for scientific, experimental, and medical purposes and
17 for purposes of instruction approved by the Department of Health
18 **【and Senior Services】**.

19 "Production" includes the manufacture, planting, cultivation,
20 growing, or harvesting of a controlled dangerous substance.

21 "Immediate precursor" means a substance which the division has
22 found to be and by regulation designates as being the principal
23 compound commonly used or produced primarily for use, and
24 which is an immediate chemical intermediary used or likely to be
25 used in the manufacture of a controlled dangerous substance, the
26 control of which is necessary to prevent, curtail, or limit such
27 manufacture.

28 "State" means the State of New Jersey.

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

33 (cf: P.L. 2007, c.244, s.1)

34

35 93. (New section) a. The Department of Health, established
36 pursuant to P.L.1947, c.177 (C.26:1A-1 et seq.), and continued and
37 constituted and redesignated as the Department of Health and
38 Senior Services pursuant to Reorganization Plan No. 001-1996, is
39 continued and constituted and redesignated as the Department of
40 Health. The Commissioner of Health and Senior Services shall be
41 re-denominated as the Commissioner of Health.

42 b. Whenever the terms "Department of Health and Senior
43 Services" and "Commissioner of Health and Senior Services" occur
44 or any references are made thereto in any law, rule, regulation,
45 order, contract, document, judicial or administrative proceeding, or
46 otherwise, the same shall be deemed to mean or refer to the
47 "Department of Health" and the "Commissioner of Health,"
48 respectively.

1 c. The Commissioner of Health shall have the power, not
2 inconsistent with section 13 of P.L.1947, c.177 (C.26:1A-13) or the
3 provisions of P.L. , c. (C.) (pending before the Legislature as
4 this bill), to organize the work of the Department of Health in such
5 organizational units as the commissioner may determine to be
6 necessary for its efficient and effective operation.

7
8 94. Section 11 of P.L.1999, c.154 (C.26:1A-15.1) is amended to
9 read as follows:

10 11. The Commissioner of Health **【and Senior Services】**, in
11 consultation with the Commissioner of Banking and Insurance,
12 shall establish an advisory board to make recommendations to the
13 commissioners on health information electronic data interchange
14 technology policy, including a Statewide policy on electronic health
15 records, and measures to protect the confidentiality of medical
16 information. The members of the board shall include, at a
17 minimum, representation from health insurance carriers, health care
18 professionals and facilities, higher education, business and
19 organized labor, health care consumers, and the commissioner of
20 each department in the State that uses individuals' medical records
21 or processes claims for health care services. The members of the
22 board shall serve without compensation but shall be entitled to
23 reimbursement for reasonable expenses incurred in the performance
24 of their duties.

25 (cf: P.L.2005, c.352, s.18)

26
27 95. Section 12 of P.L.1999, c.154 (C.26:1A-15.2) is amended to
28 read as follows:

29 12. The Commissioner of Health **【and Senior Services】**, in
30 conjunction with the Commissioner of Banking and Insurance, shall
31 present an annual report to the Governor and the Legislature on the
32 development and use of health information electronic data
33 interchange technology in New Jersey. The report shall be prepared
34 in consultation with the advisory board established pursuant to
35 section 11 of P.L.1999, c.154 (C.26:1A-15.1). The report shall
36 include any recommendations, including proposals for regulatory
37 and legislative changes, to promote the development and use of
38 health information electronic data interchange technology in this
39 State.

40 (cf: P.L.1999, c.154, s.12)

41
42 96. Section 2 of P.L.1993, c.309 (C.26:1A-36.7) is amended to
43 read as follows:

44 2. The Department of Health **【and Senior Services】**, in
45 conjunction with the Departments of Education and Human
46 Services, shall establish a Statewide system of early intervention
47 services for eligible infants and toddlers from birth to age two,
48 inclusive, with physical, cognitive, communication, social, or

1 emotional, and adaptive developmental delays or disabilities in
2 accordance with Part H of the "Individuals with Disabilities
3 Education Act," Pub.L.91-230 (20 U.S.C. s.1471 et seq.).
4 (cf: P.L.2007, c.172, s.1)

5
6 97. Section 2 of P.L.2007, c.172 (C.26:1A-36.7a) is amended to
7 read as follows:

8 2. The Early Intervention Program in the Department of Health
9 **[and Senior Services]**, established pursuant to section 2 of
10 P.L.1993, c.309 (C.26:1A-36.7), shall conduct activities to address
11 the specific needs of children with autism spectrum disorders and
12 their families. These activities shall include, but not be limited to,
13 the following:

14 a. developing, in consultation with autism experts and
15 advocates, including, but not limited to, the Governor's Council for
16 Medical Research and Treatment of Autism, Autism Speaks, The
17 New Jersey Center for Outreach and Services for the Autism
18 Community, The Autism Center of New Jersey Medical School at
19 the University of Medicine and Dentistry of New Jersey, the
20 Statewide Parent Advocacy Network, Inc., and the New Jersey
21 chapter of the American Academy of Pediatrics, guidelines for
22 health care professionals to use in evaluating infants and toddlers
23 living in the State for autism and to ensure the timely referral by
24 health care professionals of infants and toddlers who are identified
25 as having autism or suspected of being on the autism spectrum to
26 the Early Intervention Program in order to provide appropriate
27 services to those infants and toddlers as early as possible;

28 b. referring affected children who are identified as having
29 autism or suspected of being on the autism spectrum and their
30 families to schools and agencies, including community, consumer,
31 and parent-based agencies, and organizations and other programs
32 mandated by Part C of the "Individuals with Disabilities Education
33 Act" (20 U.S.C. s.1431 et seq.), which offer programs specifically
34 designed to meet the unique needs of children with autism;

35 c. collecting data on Statewide autism screening, diagnosis,
36 and intervention programs and systems that can be used for applied
37 research, program evaluation, and policy development; and

38 d. disseminating information on the medical care of individuals
39 with autism to health care professionals and the general public.

40 (cf: P.L.2007, c.172, s.2)

41
42 98. Section 2 of P.L.1999, c.265 (C.26:1A-37.6) is amended to
43 read as follows:

44 2. There is established in the Department of Health **[and Senior
45 Services]** a New Jersey Council on Physical Fitness and Sports
46 which shall serve the citizens of the State by developing safe,
47 healthful, and enjoyable physical fitness and sports programs. The
48 council shall provide instruments of motivation and education, and

1 shall promote public awareness to ensure that all citizens of the
2 State have the opportunity to pursue a more healthful lifestyle.
3 (cf: P.L.1999, c.265, s.2)

4

5 99. Section 3 of P.L.1999, c.265 (C.26:1A-37.7) is amended to
6 read as follows:

7 3. a. The council shall consist of 16 members, including: the
8 Commissioner of Health **[and Senior Services]**, or **[his]** the
9 commissioner's designee, who shall serve as an ex officio member;
10 and 15 public members to be appointed by the Governor as follows:
11 one member each from the New Jersey Association of Health,
12 Physical Education, Recreation and Dance; the New Jersey
13 Recreation and Parks Association; the Medical Society of New
14 Jersey; the New Jersey State Interscholastic Athletic Association;
15 and such other persons or professionals as are interested in the
16 physical fitness of the citizens of the State. The council shall meet
17 and organize immediately after appointment of the members and
18 shall elect from its membership a chairperson and vice chairperson.

19 b. Each public member of the council shall serve for a term of
20 three years, expiring on January 1 in the appropriate year; except
21 that of the members first appointed, four shall be appointed for a
22 term of one year, five shall be appointed for a term of two years and
23 six shall be appointed for a term of three years, as determined by
24 the Governor. Each member shall hold office for the term of
25 appointment and until a successor is appointed and qualified. A
26 public member of the council shall be eligible for reappointment.
27 Members appointed to fill a vacancy occurring for any reason other
28 than the expiration of the term shall serve for the unexpired term
29 only.

30 c. Public members shall serve without compensation, but shall
31 be reimbursed for necessary expenses incurred in the performance
32 of their duties.

33 d. The council shall adopt rules for the transaction of its
34 business and shall keep a record of its business, including a record
35 of its resolutions, transactions, findings and determinations. A
36 majority of the members of the council shall constitute a quorum,
37 but a lesser number may hold a hearing.

38 e. The council shall meet at least once in each quarter of the
39 fiscal year, and as often thereafter as shall be deemed necessary by
40 the chairperson.

41 f. By a two-thirds vote of the council, a member may be
42 dismissed from membership for such reasons as the council may
43 establish, which reasons shall include lack of interest in council
44 duties or repeated absences from council meetings.

45 g. The council shall be administrated by the Department of
46 Health **[and Senior Services]**. The department shall employ
47 necessary staff to carry out the duties and functions of the council

1 as otherwise provided in this act or as otherwise provided by law.
2 (cf: P.L.1999, c.265, s.3)

3

4 100. Section 41 of P.L.1947, c.177 (C.26:1A-41) is amended to
5 read as follows:

6 41. The commissioner shall, in the name of the department,
7 issue the following licenses:

8 a. Health officer's license;

9 b. (Deleted by amendment, P.L.1997, c.416).

10 c. (Deleted by amendment, P.L.1997, c.416).

11 d. (Deleted by amendment, P.L.1997, c.416).

12 e. (Deleted by amendment, P.L.1997, c.416).

13 f. (Deleted by amendment, P.L.1997, c.416).

14 g. (Deleted by amendment, P.L.1997, c.416).

15 h. (Deleted by amendment, P.L.1997, c.416).

16 i. (Deleted by amendment, P.L.1997, c.416).

17 j. (Deleted by amendment, P.L.1997, c.416).

18 k. Registered environmental health specialist's license.

19 However, any health officer's license, sanitary inspector's
20 license, and plumbing inspector's license issued before the effective
21 date of P.L.1947, c.177 (C.26:1A-1 et seq.) by the **[State]**
22 Department of Health **[and Senior Services]** shall, unless
23 suspended or revoked in accordance with the provisions of sections
24 43 and 44 of that act, remain in effect during the employment as
25 such of the holder thereof. Upon enactment of P.L.1997, c.416
26 (C.26:1A-42.1 et al.) any existing Sanitary Inspector, First Grade
27 license shall become a Registered Environmental Health Specialist
28 license without any further action required of the licensee.

29 Any license eliminated by P.L.1997, c.416 (C.26:1A-42.1 et al.)
30 shall, unless suspended or revoked in accordance with the
31 provisions of sections 43 and 44 of P.L.1947, c.177 (C.26:1A-43
32 and C.26:1A-44), remain in effect until the holder thereof does not
33 renew the license within two years from the date of its expiration,
34 or the commissioner does not renew the license in accordance with
35 section 42 of that act, whichever comes first.

36 (cf: P.L.1997, c.416, s.6)

37

38 101. Section 43 of P.L.1947, c.177 (C.26:1A-43) is amended to
39 read as follows:

40 43. Any license issued in accordance with the provisions of this
41 article, and any health officer's license or sanitary inspector's
42 license heretofore issued by the **[State]** Department of Health **[and**
43 **Senior Services]**, may be suspended or revoked, after notice and
44 hearing conducted by an administrative law judge pursuant to the
45 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
46 seq.), for any of the following causes:

47 a. Violation of any of the provisions of this act or of any law
48 relating to public health;

- 1 b. Violation of any provision of the State Sanitary Code;
- 2 c. Violation of any applicable local health regulation or
3 ordinance;
- 4 d. Any act or happening occurring after the making of
5 application for such license which, if the same had occurred prior
6 to said time, would have prevented the issuance of such license; or
- 7 e. A conviction in a court of competent jurisdiction, either
8 within or outside this State, of a crime involving moral turpitude,
9 except that if the conviction is reversed and the holder of the license
10 is discharged or acquitted, or if the holder is pardoned or the civil
11 rights of the holder are restored, the holder may obtain a license.

12 Notwithstanding any provision of section 10 of P.L.1968, c.410
13 (C.52:14B-10) to the contrary, the commissioner, before adopting,
14 rejecting or modifying the recommended report and decision of an
15 administrative law judge, shall consult with the Public Health
16 Council.

17 The suspension or revocation of a license shall be effected by a
18 notice in writing of the suspension or revocation, designating the
19 effective date thereof, and in the case of a suspension, the term of
20 the suspension, which notice may be served upon the licensee
21 personally or by mailing the same by registered mail addressed to
22 the licensee at the licensee's home address.

23 The commissioner shall file a copy of the notice of suspension or
24 revocation of license with the local board of health.

25 (cf: P.L.1997, c.416, s.8)

26

27 102. Section 1 of P.L.1957, c.72 (C.26:1A-107) is amended to
28 read as follows:

29 1. a. There is hereby established in the Department of **【State】**
30 Human Services, a **【division】** Division **【on aging】** of Aging
31 Services, consisting of a director and the New Jersey State
32 Commission on Aging in accordance with the provisions of section
33 397 of P.L. , c. (C.) (pending before the Legislature as this
34 bill).

35 (cf: P.L.1966, c.61, s.2)

36

37 103. Section 6 of P.L.1957, c.72 (C.26:1A-112) is amended to
38 read as follows:

39 6. The **【Secretary of State】** Commissioner of Human Services
40 may appoint such professional, technical, and clerical assistants and
41 employees as may be necessary to enable the division and the
42 commission to perform the duties imposed upon it by this act and
43 their compensation shall be fixed within the limits of available
44 appropriations and as shall be provided by law. The **【said】**
45 assistants and employees, together with the director of the division,
46 shall be deemed to be the staff of the division and the commission.
47 The advisory commission shall meet at regular intervals and at least
48 4 times annually. The times and places for the said meetings shall

1 be fixed by the commission and special meetings may be called by
2 the director on not less than 10 days' written notice to each member,
3 and any such notice shall specify the object of the meeting.
4 (cf: P.L.1959, c.143, s.3)

5
6 104. Section 9 of P.L.1966, c.61 (C.26:1A-113.1) is amended to
7 read as follows:

8 9. The commission shall:

9 (1) Furnish consultation and advice to the Division **[on]** of
10 Aging Services on programs designed to carry out the division's
11 mandate.

12 (2) Provide leadership in the field of aging.

13 (3) Make recommendations to the Governor and Legislature
14 regarding new legislation needed in areas related to aging.

15 (4) Maintain liaison with other commissions and groups whose
16 activities relate to the broad field of aging.

17 (cf: P.L.1966, c.61, s.9)

18
19 105. Section 10 of P.L.1966, c.61 (C.26:1A-115.1) is amended
20 to read as follows:

21 10. The **[Secretary of State]** Commissioner of Human Services,
22 subject to the approval of the Governor, is authorized, on behalf of
23 the State of New Jersey, to enter into agreements with the Federal
24 Government or any agency thereof, under which the Division **[on]**
25 of Aging Services (1) will provide or otherwise secure the adoption
26 of **[such]** programs consonant with the objectives of this act and (2)
27 will receive reimbursement from the United States for any such
28 costs incurred, expenses paid, or allowances and benefits paid in
29 connection with said programs in accordance with said agreement
30 and the laws of this State or of the United States.

31 (cf: P.L.1966, c.61, s.10)

32
33 106. Section 2 of P.L.2001, c.376 (C.26:1A-124) is amended to
34 read as follows:

35 2. There is established the Office on Women's Health in the
36 Department of Health **[and Senior Services]**.

37 The office shall:

38 a. Provide grants to community-based organizations to conduct
39 special research, demonstration, and evaluation projects on women's
40 health concerns;

41 b. Develop and implement model public and private
42 partnerships throughout the State for health awareness campaigns
43 and to improve the access, acceptability, and use of public health
44 services;

45 c. Serve as an information and resource center for women's
46 health information and data;

- 1 d. Function as an advocate for the adoption and implementation
2 of effective measures to improve women's health;
- 3 e. Convene such task forces of experienced, knowledgeable
4 persons on specific women's health issues as the director deems
5 appropriate; and
- 6 f. Review the programs of the Departments of Health **[and**
7 **Senior Services]**, Human Services, **[Community Affairs]** Children
8 and Families, and Education and any other department of State
9 government, as appropriate, that concern women's health and make
10 recommendations to the departments that will enable them to better
11 coordinate and improve the effectiveness of their efforts.
12 (cf: P.L.2001, c.376, s.2)

13
14 107. Section 3 of P.L.2001, c.376 (C.26:1A-125) is amended to
15 read as follows:

- 16 3. The Commissioner of Health **[and Senior Services]** shall
17 appoint a director for the office who shall serve at the pleasure of
18 the commissioner during the commissioner's term of office and until
19 the appointment and qualification of the director's successor. The
20 director shall devote his entire time to the duties of the position and
21 shall receive a salary as provided by law.
22 (cf: P.L.2001, c.376, s.3)

23
24 108. Section 5 of P.L.2001, c.376 (C.26:1A-127) is amended to
25 read as follows:

- 26 5. There is established a Women's Health Advisory
27 Commission.

28 The commission shall consist of nine members, including the
29 Commissioner of Health **[and Senior Services]** or his designee,
30 who shall serve ex officio, and eight public members who are
31 residents of the State and who shall be appointed as follows: one
32 member who is a health care professional shall be appointed by the
33 President of the Senate; one member who is a health care
34 professional shall be appointed by the Speaker of the General
35 Assembly; and six members, at least two of whom are health care
36 professionals, at least one of whom represents health care facilities,
37 at least one of whom represents the health insurance industry, and at
38 least one of whom is a woman with a disability, shall be appointed
39 by the Governor with the advice and consent of the Senate. No less
40 than five of the public members shall be women.

41 The term of office of each public member shall be three years,
42 but of the members first appointed, two shall be appointed for a
43 term of one year, three shall be appointed for a term of two years
44 and three shall be appointed for a term of three years. A member
45 shall hold office for the term of his appointment and until his
46 successor has been appointed and qualified. All vacancies shall be
47 filled for the balance of the unexpired term in the same manner as

1 the original appointment. A member of the commission is eligible
2 for reappointment.

3 The public members of the commission shall not receive any
4 compensation for their services, but shall be reimbursed for the
5 actual and necessary expenses incurred in the performance of their
6 duties as members of the commission, within the limits of funds
7 available to the commission.

8 The members of the commission shall annually elect a chairman
9 and a vice-chairman from among the public members and may
10 select a secretary, who need not be a member of the commission.

11 The Office on Women's Health in the Department of Health [and
12 Senior Services] shall provide staff and assistance which the
13 commission requires to carry out its work.

14 (cf: P.L.2001, c.376, s.5)

15

16 109. Section 9 of P.L.2001, c.376, (C.26:1A-131) is amended to
17 read as follows:

18 9. The Commissioner of Health [and Senior Services] shall
19 adopt rules and regulations pursuant to the "Administrative
20 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to carry out
21 the purposes of this act.

22 (cf: P.L.2001, c.376, s.9)

23

24 110. Section 5 of P.L.2007, c.330 (C.26:1A-136) is amended to
25 read as follows:

26 5. a. There is established the New Jersey Health Information
27 Technology Commission. For the purpose of complying with the
28 provisions of Article V, Section IV, paragraph 1 of the New Jersey
29 Constitution, the commission is established within the Department
30 of Health [and Senior Services], but, notwithstanding the
31 establishment, the commission shall be independent of any
32 supervision or control by the department or any board or officer
33 thereof.

34 b. The commission shall collaborate with the Office for e-HIT
35 established pursuant to section 8 of this act (C.17:1D-1), concerning
36 all activities related to the development, implementation, and
37 oversight of the plan.

38 The commission shall be responsible for approving the Statewide
39 health information technology plan.

40 c. In providing advice on the development of the plan, the
41 commission shall, at a minimum, consider the following:

42 (1) the importance of the education of the general public and
43 health care professionals about the value of an electronic health
44 infrastructure for improving the delivery of patient care;

45 (2) the means for the creation of an effective, efficient,
46 Statewide use of electronic health information in patient care, health
47 care policymaking, clinical research, health care financing, and
48 continuous quality improvements;

1 (3) the means for the promotion of the use of national standards
2 for the development of an interoperative system, including
3 provisions relating to security, privacy, data content, structures and
4 format, vocabulary, and transmission protocols;

5 (4) the nature of proper strategic investments in equipment and
6 other infrastructure elements that will facilitate the ongoing
7 development of a Statewide infrastructure;

8 (5) funding needs for the ongoing development of health
9 information technology projects;

10 (6) actions needed to incorporate existing health care
11 information technology initiatives into the plan in order to avoid
12 incompatible systems and duplicative efforts;

13 (7) the proper means for the review and integration of the
14 recommendations, findings, and conclusions of the New Jersey
15 Health Information Security and Privacy Collaboration;

16 (8) the importance of recommending steps for the proper
17 resolution of issues related to data ownership, governance, and
18 confidentiality and security of patient information;

19 (9) the importance of promoting the deployment of health
20 information technology in primary care provider settings; and

21 (10) the roles that the development and use of open-source
22 electronic medical record software and the use of application
23 service provider software can play in effectuating the purposes of
24 paragraph (9) of this subsection.

25 d. The commission shall review the plan submitted by the
26 Office for e-HIT and notify it of any changes needed to approve the
27 plan.

28 (cf: P.L.2007, c.330, s.5)

29
30 111. Section 6 of P.L.2007, c.330 (C.26:1A-137) is amended to
31 read as follows:

32 6. a. The New Jersey Health Information Technology
33 Commission shall be comprised of 19 members as follows:

34 (1) the Commissioners of Health **[and Senior Services]**,
35 Banking and Insurance, Children and Families, and Human
36 Services, and the State Treasurer, or their designees, who shall
37 serve ex officio; and

38 (2) 14 public members, who shall be appointed by the Governor
39 no later than the 60th day after the effective date of this act, as
40 follows: three physicians engaged in private practice in this State,
41 one of whom is a pediatrician and one a psychiatrist; two persons
42 who represent acute care hospitals in this State, one of whom
43 represents a teaching hospital and the other a non-teaching hospital;
44 a registered professional nurse practicing in this State; a pharmacist
45 practicing in this State; a person who represents a clinical
46 laboratory operating in this State; an attorney practicing in this
47 State with demonstrated expertise in health privacy issues; a person
48 who represents a health insurance carrier operating in this State; a

1 person who represents a Quality Improvement Organization located
2 in New Jersey that contracts with the federal Centers for Medicare
3 **[and]** & Medicaid Services to improve the efficiency and
4 effectiveness, economy, and quality of services provided to
5 Medicare beneficiaries; and three members of the public with a
6 demonstrated professional expertise in issues relating to the work of
7 the commission, including one member with expertise in electronic
8 health information technology.

9 (3) The Governor shall designate a public member as chair of
10 the commission.

11 b. The public members shall serve for a term of three years;
12 except that, of the public members first appointed, five shall serve
13 for a term of three years, five for a term of two years, and four for a
14 term of one year. Vacancies in the membership of the commission
15 shall be filled in the same manner as the original appointments were
16 made.

17 c. The commission shall organize as soon as may be
18 practicable, but no later than the 45th day after the appointment of
19 its members. The public members shall serve without
20 compensation, but may be reimbursed for necessary expenses
21 incurred in the performance of their duties.

22 d. A majority of the total authorized membership of the
23 commission shall constitute a quorum at any meeting thereof.
24 Action may be taken and motions and resolutions adopted by the
25 commission at any meeting of the commission by the affirmative
26 vote of a majority of the quorum of the members who are present.
27 A vacancy in the membership of the commission shall not impair
28 the right of a quorum of the members to exercise all the powers and
29 perform all the duties of the commission.

30 e. The commission shall meet 2and confer with the Office for
31 e-HIT at least quarterly and may meet at other times at the call of
32 the commission chair. The meetings of the commission shall
33 comply with the provisions of the "Senator Byron M. Baer Open
34 Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.).

35 f. In addition to any other powers authorized by law, the
36 commission shall have the authority, in accordance with State law,
37 to:

38 (1) make and enter into contracts to purchase services and
39 supplies;

40 (2) develop and submit a proposed budget, not to exceed \$1
41 million annually;

42 (3) apply for, receive, and expend grants from governmental or
43 private nonprofit sources;

44 (4) recommend to the Department of Banking and Insurance the
45 necessary charges and assessments to be levied to collect payments
46 from persons and entities for the provision of services or as the
47 Office for e-HIT otherwise determines necessary to effectuate the
48 purposes of this act;

1 (5) receive and expend appropriations;

2 (6) provide such other services and perform such other functions
3 as the commission deems necessary to fulfill its responsibilities
4 under this act; and

5 (7) appoint, retain, or employ consultants on a contract basis or
6 otherwise, who are deemed necessary, and as may be within the
7 limits of funds appropriated or otherwise made available to it for its
8 purposes.

9 g. In collaboration with the Office for e-HIT, the commission
10 shall, no later than 18 months after its initial meeting and annually
11 thereafter, submit a joint report to the Governor, and to the
12 Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1),
13 concerning its activities and the status of, and actions taken
14 regarding development, implementation, and oversight of the
15 Statewide health information technology plan. The commission
16 shall include in that report any findings and recommendations that it
17 desires to make, along with any legislative bills that it desires to
18 recommend for adoption by the Legislature.

19 h. The commission shall develop and submit a proposed budget
20 to the Commissioner of Health **【and Senior Services】** to effectuate
21 its duties as set forth in this act.

22 The budget shall be subject to approval by the Commissioner of
23 Health **【and Senior Services】**.

24 i. The commission shall appoint a full-time executive director,
25 who shall serve as secretary to the commission. The executive
26 director shall serve at the pleasure of the commission and shall be
27 qualified by training and experience to perform the duties of the
28 position. The executive director shall be in the unclassified service
29 of the Civil Service and may hire properly qualified employees,
30 within the limits of funds appropriated or otherwise made available
31 to the commission, who shall also be employed in the unclassified
32 service of the Civil Service; except that employees performing
33 stenographic or clerical duties shall be in the career service and
34 appointed pursuant to Title 11A of the New Jersey Statutes.
35 (cf: P.L.2007, c.330, s.6)

36
37 112. Section 2 of P.L.2001, c.373 (C.26:2-103.2) is amended to
38 read as follows:

39 2. As used in this act:

40 "Commissioner" means the Commissioner of Health **【and Senior**
41 **Services】**.

42 "Department" means the Department of Health **【and Senior**
43 **Services】**.

44 "Electrophysiologic screening measures" means the electrical
45 result of the application of physiologic agents and includes, but is
46 not limited to, the procedures currently known as Auditory
47 Brainstem Response testing (ABR) and Otoacoustic Emissions

1 testing (OAE) and any other procedure adopted by regulation by the
2 commissioner.

3 "Hearing loss" means a hearing loss of 30dB or greater in the
4 frequency region important for speech recognition and
5 comprehension in one or both ears, which is approximately 500
6 through 4000 Hz., except that the commissioner may adopt a
7 standard which establishes a less severe hearing loss, as
8 appropriate.

9 "Newborn" means a child up to 28 days old.

10 "Parent" means a biological parent, stepparent, adoptive parent,
11 legal guardian, or other legal custodian of a child.

12 (cf: P.L.2001, c.373, s.2)

13

14 113. Section 2 of P.L.1977, c.266 (C.26:2-105) is amended to
15 read as follows:

16 2. The Department of Health **[and Senior Services]** shall
17 establish and maintain an up-to-date registry which shall include a
18 record of cases of cancer and specified cases of tumorous or
19 precancerous disease that occur in New Jersey, and such
20 information concerning these cases as it shall deem necessary and
21 appropriate in order to conduct thorough and complete
22 epidemiologic surveys of cancer and cancer-related diseases in this
23 State and to apply appropriate preventive and control measures.

24 (cf: P.L.2001, c.99, s.1)

25

26 114. Section 3 of P.L.1977, c.266 (C.26:2-106) is amended to
27 read as follows:

28 3. a. The Commissioner of Health **[and Senior Services]**, in
29 consultation with the Public Health Council, shall require the
30 reporting of cases of cancer and other specified tumorous and
31 precancerous diseases, and the submission of such specified
32 additional information on reported cases or control populations as
33 he deems necessary and appropriate for the recognition, prevention,
34 cure, or control of such diseases.

35 b. Pursuant to subsection a. of this section, the Commissioner
36 of Health **[and Senior Services]** is hereby authorized to adopt and
37 promulgate, in the manner prescribed by the applicable provisions
38 of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
39 1 et seq.) rules and regulations specifying the health care providers,
40 individuals, and other organizations obliged to make the report and
41 submissions required by subsection a. of this section, the related
42 information to be included in such reports, and the methods for such
43 reporting.

44 c. All abstracting work performed by a health care facility in
45 accordance with this section shall be performed by a certified tumor
46 registrar.

47 d. (1) The Department of Health **[and Senior Services]** shall
48 contract out its registry services to health care facilities which lack

1 adequate internal capabilities to report cases on a timely basis, as
2 provided in the regulations adopted pursuant to this section. Such
3 health care facilities shall reimburse the department for services
4 rendered.

5 (2) If a health care facility fails to correct deficiencies in its
6 reporting that are discovered on audit by the Department of Health
7 **【and Senior Services】** within 30 days, the department will conduct
8 the appropriate registrar activities and charge the facility for all
9 costs related to its services.

10 e. Health insurers and other third party health care payers
11 providing health benefits plans to residents of the State shall report
12 to the Department of Health **【and Senior Services】** cases of cancer
13 of State residents based upon selection criteria and in a format
14 specified by the department.

15 f. (1) A health care facility, health care provider, or health
16 insurer that fails to comply with the provisions of this section shall
17 be liable to a penalty of up to \$500 per unreported cancer case.

18 (2) A health care facility that fails to report cases of cancer
19 electronically, as required by regulation, shall be liable to a penalty
20 not to exceed \$1,000 per business day.

21 (3) A penalty sued for under the provisions of this subsection
22 shall be recovered by and in the name of the Department of Health
23 **【and Senior Services】** and shall be dedicated to the cancer registry.

24 g. All information reported to the Department of Health **【and**
25 **Senior Services】** for inclusion in the cancer registry pursuant to this
26 section shall be verified for accuracy by the department within six
27 months of receiving the information and shall be incorporated in the
28 registry. Aggregate or summary information, to include gender
29 distribution, age groupings of cases, and cancer types, shall be
30 made available to the public no later than six months after
31 verification by the department. The department shall not make
32 public any information reported to the department which discloses
33 the identity of any person to whom the information relates.

34 (cf: P.L.2001, c.99, s.2)

35

36 115. Section 4 of P.L.1977, c.266 (C.26:2-107) is amended to
37 read as follows:

38 4. The reports made pursuant to this act are to be used only by
39 the Department of Health **【and Senior Services】** and such other
40 agencies as may be designated by the Commissioner of Health **【and**
41 **Senior Services】** and shall not otherwise be divulged or made
42 public so as to disclose the identity of any person to whom they
43 relate; and to that end, such reports shall not be included under
44 materials available to public inspection pursuant to P.L.1963, c.73
45 (C.47:1A-1 et seq.).

46 (cf: P.L.2001, c.99, s.3)

1 116. Section 5 of P.L.1977, c.266 (C.26:2-108) is amended to
2 read as follows:

3 5. No individual or organization providing information to the
4 Department of Health **【and Senior Services】** in accordance with
5 this act shall be deemed to be, or held liable for, divulging
6 confidential information.
7 (cf: P.L.2001, c.99, s.4)
8

9 117. Section 1 of P.L.2004, c.12 (C.26:2-111.1) is amended to
10 read as follows:

11 1. a. A health care provider shall give an infant's parent or
12 guardian the option of consenting to the performance of testing by
13 qualified laboratories for disorders in infants for which testing is
14 not required pursuant to P.L.1977, c.321 (C.26:2-110 et seq.), on a
15 form and in a manner prescribed by the Commissioner of Health
16 **【and Senior Services】**. The health care provider shall not be
17 required to assume the cost of such testing.

18 As used in this section:

19 "Health care provider" means a health care professional licensed
20 pursuant to Title 45 of the Revised Statutes or a health care facility
21 licensed pursuant to Title 26 of the Revised Statutes that provides
22 health care services to newborn infants.

23 "Qualified laboratory" means a clinical laboratory not operated
24 by the Department of Health **【and Senior Services】**, which is
25 certified by the Secretary of Health and Human Services pursuant to
26 the federal "Clinical Laboratory Improvement Amendments of
27 1988," Pub.L.100-578 (42 U.S.C. s.263a) and reports its test results
28 by using normal pediatric reference ranges.

29 b. (1) The Commissioner of Health **【and Senior Services】** shall
30 prepare and make available electronically, on the Internet website
31 of the Department of Health **【and Senior Services】**, information
32 that explains the availability of testing performed by qualified
33 laboratories for disorders in infants for which testing is not required
34 pursuant to P.L.1977, c.321 (C.26:2-110 et seq.).

35 (2) A health care provider shall give an infant's parent or
36 guardian a hard copy of the information prepared pursuant to
37 paragraph (1) of this subsection and provide the parent or guardian
38 with a reasonable opportunity to read the information when giving
39 the parent or guardian the option of consenting to the performance
40 of testing pursuant to subsection a. of this section.

41 (cf: P.L.2004, c.12, s.1)
42

43 118. Section 4 of P.L.2007, c.218 (C.26:2-111.2) is amended to
44 read as follows:

45 4. a. The Commissioner of Health **【and Senior Services】** shall
46 require each birthing facility in the State to administer to a newborn

1 in its care a test for human immunodeficiency virus (HIV) if the
2 HIV status of the mother of the newborn is unknown.

3 A newborn shall not be denied testing for HIV on the basis of the
4 newborn's economic status.

5 b. The commissioner shall establish a comprehensive program
6 for the follow-up testing of newborns who test positive for HIV
7 pursuant to subsection a. of this section or whose mother is HIV-
8 positive, which shall include, but not be limited to, procedures for
9 the administration of HIV testing, counseling of the newborn's
10 mother, tracking the newborn, disclosure of HIV test results to the
11 mother, facility compliance reviews, and educational activities
12 related to the HIV testing.

13 c. The provisions of this section shall not apply to a newborn
14 whose parents object to the test as being in conflict with their
15 religious tenets and practices. The parents shall provide the health
16 care facility with a written statement of the objection, and the
17 statement shall be included in the newborn's medical record.

18 d. As used in this section, "birthing facility" means an inpatient
19 or ambulatory health care facility licensed by the Department of
20 Health **【and Senior Services】** that provides birthing and newborn
21 care services.

22 e. The Commissioner of Health **【and Senior Services】** shall
23 adopt rules and regulations, pursuant to the "Administrative
24 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to
25 carry out the purposes of this section.

26 (cf: P.L.2007, c.218, s.4)

27

28 119. Section 2 of P.L.2011, c.74 (C.26:2-111.4) is amended to
29 read as follows:

30 2. a. The Commissioner of Health **【and Senior Services】** shall
31 require each birthing facility licensed by the Department of Health
32 **【and Senior Services】** to perform a pulse oximetry screening, a
33 minimum of 24 hours after birth, on every newborn in its care.

34 b. As used in this section, "birthing facility" means an inpatient
35 or ambulatory health care facility licensed by the Department of
36 Health **【and Senior Services】** that provides birthing and newborn
37 care services.

38 c. The commissioner shall adopt rules and regulations,
39 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
40 (C.52:14B-1 et seq.), necessary to carry out the purposes of this act.

41 (cf: P.L.2011, c.74, s.2)

42

43 120. Section 1 of P.L.2011, c.175 (C.26:2-111.5) is amended to
44 read as follows:

45 1. a. All infants born in this State shall be tested for the
46 lysosomal storage disorders known as Krabbe, Pompe, Gaucher,

1 Fabry, and Niemann-Pick diseases within six months following the
2 occurrence of all of the following:

3 (1) the registration with the federal Food and Drug
4 Administration of the necessary reagents;

5 (2) the availability of the necessary reagents from the federal
6 Centers for Disease Control and Prevention;

7 (3) the availability of quality assurance testing methodology for
8 these processes; and

9 (4) the acquisition by the Department of Health **【and Senior**
10 **Services】** of the equipment necessary to implement the expanded
11 screening tests.

12 b. The Department of Health **【and Senior Services】** may
13 charge a reasonable fee for the tests performed pursuant to this
14 section. The amount of the fee and the procedures for collecting the
15 fee shall be determined by the Commissioner of Health **【and Senior**
16 **Services】**.

17 (cf: P.L.2011, c.175, s.1)

18

19 121. Section 4 of P.L.1987, c.370 (C.26:2-151) is amended to
20 read as follows:

21 4. There is established in the Executive Branch of the State
22 government, the Catastrophic Illness in Children Relief Fund
23 Commission. For the purposes of complying with the provisions of
24 Article V, section IV, paragraph 1 of the New Jersey Constitution,
25 the commission is allocated within the Department of Human
26 Services, but notwithstanding that allocation, the commission shall
27 be independent of any supervision or control by the department or
28 by any board or officer thereof.

29 The commission shall consist of the Commissioner of Health
30 **【and Senior Services】**, the Commissioner of Human Services, the
31 Commissioner of Children and Families, the Commissioner of
32 Banking and Insurance, and the State Treasurer, who shall be
33 members ex officio, and seven public members who are residents of
34 this State, appointed by the Governor with the advice and consent
35 of the Senate for terms of five years, two of whom are appointed
36 upon the recommendation of the President of the Senate, one of
37 whom is a provider of health care services to children in this State
38 and two of whom are appointed upon the recommendation of the
39 Speaker of the General Assembly, one of whom is a provider of
40 health care services to children in this State. The five public
41 members first appointed by the Governor shall serve for terms of
42 one, two, three, four and five years, respectively.

43 Each member shall hold office for the term of his appointment
44 and until his successor has been appointed and qualified. A
45 member of the commission is eligible for reappointment.

46 Each ex officio member of the commission may designate an
47 officer or employee of **【his】** the ex officio member's department to

1 represent **him** the member at meetings of the commission, and
2 each designee may lawfully vote and otherwise act on behalf of the
3 member for whom he constitutes the designee. Any designation
4 shall be in writing delivered to the commission and filed with the
5 office of the Secretary of State and shall continue in effect until
6 revoked or amended in the same manner as provided for
7 designation.

8 (cf: P.L.2007, c.342, s.1)

9
10 122. Section 2 of P.L.1991, c.401 (C.26:2-161) is amended to
11 read as follows:

12 2. a. There is established the New Jersey Office on Minority
13 and Multicultural Health in the Department of Health **and Senior**
14 **Services**.

15 b. Whenever the term "New Jersey Office on Minority Health"
16 occurs or any reference is made thereto in any law, contract,
17 document, the same shall be deemed to mean or refer to the "New
18 Jersey Office on Minority and Multicultural Health."

19 (cf: P.L.2001, c.205, s.3)

20
21 123. Section 3 of P.L.1991, c.401 (C.26:2-162) is amended to
22 read as follows:

23 3. The office shall:

24 a. Provide grants to community-based organizations to conduct
25 special research, demonstration, and evaluation projects for targeted
26 at-risk racial and ethnic minority populations and to support
27 ongoing community-based programs that are designed to reduce or
28 eliminate racial and ethnic health disparities in the State;

29 b. Develop and implement model public and private
30 partnerships in racial and ethnic minority communities for health
31 awareness campaigns and to improve the access, acceptability, and
32 use of public health services;

33 c. Serve as an information and resource center for racial and
34 ethnic minority specific health information and data and develop a
35 clearinghouse to collate and organize data on a county-by-county
36 basis and disseminate it upon request to interested parties;

37 d. Review, recommend, and develop culturally appropriate
38 health education materials;

39 e. Provide assistance to local school districts to develop
40 programs in elementary and secondary schools which stress good
41 nutrition and healthy lifestyles;

42 f. Function as an advocate for the adoption and implementation
43 of effective measures to improve the health of racial and ethnic
44 minority populations in this State, which measures should lead to
45 the elimination of disparities among the various racial and ethnic
46 populations of this State with respect to access to high-quality
47 health care, utilization of health care services, and health status;

1 g. Improve existing data systems to ensure that the health
2 information that is collected includes specific race and ethnicity
3 identifiers;

4 h. Review the programs of the Departments of Health [and
5 Senior Services], Human Services, Community Affairs, and
6 Education and any other department of State government, as
7 appropriate, that concern multicultural or minority health and make
8 recommendations to the departments that will enable them to better
9 coordinate and improve the effectiveness of their efforts;

10 i. Develop a Statewide plan for increasing the number of racial
11 and ethnic minority health care professionals which includes
12 recommendations for the financing mechanisms and recruitment
13 strategies necessary to carry out the plan;

14 j. Work collaboratively with colleges of medicine and
15 dentistry in this State and other health care professional training
16 programs to develop cultural and language competency courses that
17 are designed to address the problem of racial and ethnicity
18 disparities in health care access, utilization, treatment decisions,
19 quality, and outcomes;

20 k. Develop recommendations for the most effective means of
21 providing outreach to racial and ethnic minority communities
22 throughout the State to ensure their maximum participation in
23 publicly funded health benefits programs;

24 l. Seek to establish a Statewide alliance with community-based
25 agencies and organizations, health care facilities, health care
26 provider organizations, managed care organizations, and
27 pharmaceutical manufacturers to promote the objectives of the
28 office; and

29 m. Evaluate multicultural or racial and ethnic minority health
30 programs in other states to assess their efficacy and potential for
31 replication in this State and make recommendations regarding the
32 adoption of such programs, as appropriate.

33 (cf: P.L.2001, c.205, s.4)

34
35 124. Section 4 of P.L.1991, c.401 (C.26:2-163) is amended to
36 read as follows:

37 4. The office is authorized to:

38 a. Adopt rules and regulations pursuant to the "Administrative
39 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), concerning
40 the operation of the office and other matters that may be necessary
41 to carry out the purposes of this act;

42 b. Maintain offices at such places within the State as it may
43 designate;

44 c. Employ a director and other personnel as may be necessary.
45 The director shall be appointed by the Commissioner of Health
46 [and Senior Services] and shall serve at the pleasure of the
47 commissioner during the commissioner's term of office and until the
48 appointment and qualification of the director's successor. The

1 director shall devote his entire time to the duties of the position and
2 shall receive a salary as provided by law;

3 d. Apply for and accept any grant of money from the federal
4 government, private foundations or other sources, which may be
5 available for programs related to multicultural or minority health;

6 e. Serve as the designated State agency for receipt of federal
7 funds specifically designated for multicultural or racial and ethnic
8 minority health programs; and

9 f. Enter into contracts with individuals, organizations, and
10 institutions necessary for the performance of its duties under this
11 act.

12 (cf: P.L.2001, c.205, s.5)

13

14 125. Section 5 of P.L.1991, c.401 (C.26:2-164) is amended to
15 read as follows:

16 5. There is established a New Jersey Office on Minority and
17 Multicultural Health Advisory Commission.

18 The commission shall consist of nine members, including the
19 Commissioner of Health [and Senior Services] or his designee,
20 who shall serve ex officio, and eight public members who are
21 residents of the State and who shall be appointed as follows: one
22 member who is a health care professional shall be appointed by the
23 President of the Senate; one member who is a health care
24 professional shall be appointed by the Speaker of the General
25 Assembly; and six members, at least two of whom are health care
26 professionals, at least one of whom represents health care facilities
27 and at least one of whom represents the health insurance industry,
28 shall be appointed by the Governor with the advice and consent of
29 the Senate.

30 The term of office of each public member shall be three years,
31 but of the members first appointed, two shall be appointed for a
32 term of one year, three shall be appointed for a term of two years
33 and three shall be appointed for a term of three years. A member
34 shall hold office for the term of his appointment and until his
35 successor has been appointed and qualified. All vacancies shall be
36 filled for the balance of the unexpired term in the same manner as
37 the original appointment. A member of the commission is eligible
38 for reappointment.

39 The public members of the commission shall not receive any
40 compensation for their services, but shall be reimbursed for the
41 actual and necessary expenses incurred in the performance of their
42 duties as members of the commission, within the limits of funds
43 available to the commission.

44 The members of the commission shall annually elect a chairman
45 and a vice-chairman from among the public members and may
46 select a secretary, who need not be a member of the commission.

1 The New Jersey Office on Minority and Multicultural Health
2 shall provide such staff and assistance as the commission requires
3 to carry out its work.

4 (cf. P.L.2001, c.205, s.6)

5

6 126. Section 1 of P.L.2004, c.137 (C.26:2-167.1) is amended to
7 read as follows:

8 1. The Commissioner of Health **[and Senior Services]** shall
9 establish the "Eliminating Health Disparities Initiative" in the
10 Office on Minority and Multicultural Health. The commissioner
11 shall require the office to develop and implement a comprehensive,
12 coordinated plan to reduce health disparities between White and
13 racial and ethnic minority populations in the State in the following
14 priority areas: asthma; infant mortality; breast, cervical, prostate
15 and colorectal cancer screening; kidney disease; HIV/AIDS;
16 hepatitis C; sexually transmitted diseases; adult and child
17 immunizations; cardiovascular disease; diabetes; and accidental
18 injuries and violence. As used in this act, "office" means the New
19 Jersey Office on Minority and Multicultural Health.

20 (cf: P.L.2004, c.137, s.1)

21

22 127. Section 3 of P.L.2004, c.137 (C.26:2-167.33) is amended to
23 read as follows:

24 3. The Commissioner of Health **[and Senior Services]** shall
25 adopt rules and regulations, pursuant to the "Administrative
26 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate
27 the purposes of this act.

28 (cf: P.L.2004, c.137, s.3)

29

30 128. Section 2 of P.L.1993, c.229 (C.26:2-169) is amended to
31 read as follows:

32 2. The Department of **[Health and Senior] Human** Services
33 shall develop criteria which prevention, education, and treatment
34 programs for compulsive gamblers shall meet in order to become
35 eligible for a grant from the funds made available for such programs
36 pursuant to section 145 of P.L.1977, c.110 (C.5:12-145). The
37 department shall also develop a formula for the distribution of
38 available funds which will result in an equitable distribution among
39 the programs which meet the eligibility criteria and apply for
40 grants.

41 The department shall submit a report to the Senate Budget and
42 Appropriations Committee and the Assembly Appropriations
43 Committee, or their successors, describing the criteria developed
44 pursuant to this section and detailing the amount of grants
45 distributed and the names of the programs receiving grants. The
46 department shall submit the report annually to both committees.

47 (cf: P.L.2001, c.199, s.40)

1 129. Section 2 of P.L.1997, c.229 (C.26:2-171) is amended to
2 read as follows:

3 2. a. There is established in the Executive Branch of the State
4 Government an Advisory Council on Adolescent Pregnancy. For
5 the purposes of complying with the provisions of Article V, Section
6 IV, paragraph 1 of the New Jersey Constitution, the advisory
7 council is allocated within the Department of Health [and Senior
8 Services], but notwithstanding that allocation, the advisory council
9 shall be independent of any supervision or control by the
10 department or by any board or officer thereof.

11 b. The advisory council shall consist of 24 members as follows:
12 the Commissioners of the Departments of Health [and Senior
13 Services], Human Services, Children and Families, Education,
14 Community Affairs, and Labor and Workforce Development, who
15 shall serve as ex officio members, and 18 public members, four of
16 whom shall be teenagers, including two teenage parents and two
17 teenagers who are not parents, and fourteen of whom shall be
18 representatives of community based religious, health, and social
19 service organizations which serve adolescents and health
20 professionals and educators with recognized expertise in the field of
21 adolescent pregnancy. Of the public members, three shall be
22 appointed by the President of the Senate, no more than two of
23 whom shall be of the same political party; three shall be appointed
24 by the Speaker of the General Assembly, no more than two of
25 whom shall be of the same political party; and 12 shall be appointed
26 by the Governor. Eight of the persons appointed by the Governor
27 shall be appointed with the advice and consent of the Senate, no
28 more than four of whom shall be of the same political party; and
29 four of the persons appointed by the Governor shall be teenagers.
30 The advisory council shall organize within 30 days after the
31 appointment of its members. The members shall select one person
32 from among them to serve as the chairperson and the members shall
33 select a secretary, who need not be a member of the advisory
34 council.

35 c. Each ex officio member may designate an employee of the
36 member's department to represent the member at hearings of the
37 advisory council. All designees may lawfully vote and otherwise
38 act on behalf of the member for whom they constitute the designee.

39 d. Each public member shall be appointed for a term of three
40 years, but of the members first appointed, six shall serve for a term
41 of one year, six for a term of two years, and six for a term of three
42 years. Members shall serve until their successors are appointed and
43 qualified. Vacancies shall be filled in the same manner as the
44 original appointments were made.

45 e. Members of the advisory council shall serve without
46 compensation but, within the limits of funds appropriated or
47 otherwise made available to it, shall be eligible for reimbursement
48 of necessary expenses incurred in the performance of their duties.

1 f. The Department of Health **【and Senior Services】** shall
2 provide such staff as the advisory council requests to carry out the
3 purposes of this act.

4 (cf: P.L.2008, c.63, s.1)

5

6 130. Section 2 of P.L.2000, c.167 (C.26:2-176) is amended to
7 read as follows:

8 2. The Commissioner of Health **【and Senior Services】**, in
9 conjunction with the State Board of Medical Examiners and the
10 New Jersey Board of Nursing, shall work with health care facilities
11 and licensed health care professionals in the State to develop
12 policies and procedures to achieve the following requirements
13 concerning postpartum depression:

14 a. Physicians, nurse midwives, and other licensed health care
15 professionals providing prenatal care to women shall provide
16 education to women and their families about postpartum depression
17 in order to lower the likelihood that new mothers will continue to
18 suffer from this illness in silence;

19 b. All birthing facilities in the State shall provide departing
20 new mothers and fathers and other family members, as appropriate,
21 with complete information about postpartum depression, including
22 its symptoms, methods of coping with the illness, and treatment
23 resources;

24 c. Physicians, nurse midwives, and other licensed health care
25 professionals providing postnatal care to women shall screen new
26 mothers for postpartum depression symptoms prior to discharge
27 from the birthing facility and at the first few postnatal check-up
28 visits; and

29 d. Physicians, nurse midwives, and other licensed health care
30 professionals providing prenatal and postnatal care to women shall
31 include fathers and other family members, as appropriate, in both
32 the education and treatment processes to help them better
33 understand the nature and causes of postpartum depression so that
34 they too can overcome the spillover effects of the illness and
35 improve their ability to be supportive of the new mother.

36 (cf: P.L.2006, c.12, s.1)

37

38 131. Section 3 of P.L.2000, c.167 (C.26:2-177) is amended to
39 read as follows:

40 3. The Commissioner of Health **【and Senior Services】** shall
41 establish a public awareness campaign to inform the general public
42 about the nature and causes of postpartum depression and its health
43 implications, including its symptoms, methods of coping with the
44 illness, and the most effective means of treatment.

45 (cf: P.L.2000, c.167, s.3)

46

47 132. Section 4 of P.L.2000, c.167 (C.26:2-178) is amended to
48 read as follows:

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

5 (cf: P.L.2000, c.167, s.4)

6
7 133. Section 1 of P.L.2003, c.174 (C.26:2-179) is amended to
8 read as follows:

9 1. The Department of Health **[and Senior Services]**, in
10 consultation with the Department of Environmental Protection, shall
11 prepare a consumer's mercury alert notice for posting in all patient
12 areas of professional medical offices that provide gynecological,
13 obstetrical, or pediatric care and in the patient or client areas of all
14 maternal and child health and nutrition programs. The notice shall
15 explain the danger to women who expect to become pregnant,
16 women who are pregnant or breast feeding their children, and
17 young children, of eating mercury contaminated fish. The notice
18 shall summarize the State's and the federal government's most
19 current mercury health advisories concerning fish consumption and
20 shall contain such other information as the department deems
21 appropriate. The notice also shall list any telephone number that
22 may be established for State residents to call for further information
23 about the health advisories.

24 The department shall distribute the notice, at no charge, to all
25 professional medical offices that provide gynecological, obstetrical,
26 or pediatric care and to all publicly funded maternal and child
27 health and nutrition programs in the State. The department shall
28 update the notice as necessary, and shall make additional copies of
29 the notice available to health care providers upon request.

30 (cf: P.L.2003, c.174, s.1)

31
32 134. Section 2 of P.L.2005, c.98 (C.26:2-181) is amended to
33 read as follows:

34 2. The Commissioner of Health **[and Senior Services]** shall
35 establish a public awareness campaign to inform the general public
36 about post-polio sequelae, for which purpose the commissioner
37 shall provide for the development of educational materials, in
38 consultation with health care facilities and providers that have a
39 demonstrated record of expertise and interest in this subject, which
40 shall be made available to local boards of health, physicians,
41 hospitals, and clinics for distribution to consumers.

42 (cf: P.L.2005, c.98, s.2)

43
44 135. Section 1 of P.L.2005, c.280 (C.26:2-182) is amended to
45 read as follows:

46 1. a. There is established the "Task Force on Cancer
47 Prevention,

1 Early Detection and Treatment in New Jersey" within the
2 Department of Health [and Senior Services].

3 b. The task force shall be comprised of the following members:

4 (1) the Commissioner of Health [and Senior Services], or his
5 designee, who shall serve ex officio; and

6 (2) no more than 20 public members to be appointed by the
7 Governor, who shall include representatives from: the Public
8 Health Council; the New Jersey State Commission on Cancer
9 Research; the New Jersey Office on Minority and Multicultural
10 Health; the Medical Society of New Jersey; academic medical
11 centers and universities engaged in cancer education, research, and
12 treatment; providers of cancer treatment and support services;
13 pharmaceutical companies engaged in cancer research; community-
14 based organizations and coalitions engaged in cancer outreach,
15 education, and screening; and cancer survivors.

16 c. The public members shall serve for a term of one year.
17 Vacancies in the membership of the task force shall be filled in the
18 same manner as the original appointments were made.

19 d. The task force shall organize as soon as may be practicable,
20 but no later than the 30th day after the appointment of its members,
21 and shall select a chairperson from among the public members. The
22 chairperson shall appoint a secretary who need not be a member of
23 the task force. The public members shall serve without
24 compensation, but may be reimbursed for necessary expenses
25 incurred in the performance of their duties.

26 e. The Department of Health [and Senior Services] shall
27 supply such staff and resources, including a person to serve as
28 executive director of the task force, as the task force requires to
29 carry out its duties.

30 f. The task force is entitled to the assistance and services of the
31 employees of any State department, board, bureau, commission, or
32 agency as it may require and as may be available to it for its
33 purposes, and to incur traveling and other miscellaneous expenses
34 necessary to perform its duties, within the limits of funds
35 appropriated or otherwise made available to it for its purpose.

36 (cf: P.L.2005, c.280, s.1)

37

38 136. Section 2 of P.L.2005, c.280 (C.26:2-183) is amended to
39 read as follows:

40 2. a. The task force shall:

41 (1) evaluate current trends in cancer incidence, morbidity and
42 mortality, screening, diagnosis, and behaviors that increase risk;

43 (2) evaluate historic, current, and emerging cancer control
44 strategies;

45 (3) establish cancer reduction goals, which shall seek to reduce
46 mortality rates for breast, cervical, prostate, lung, and colorectal
47 cancer;

48 (4) establish specific goals for:

- 1 (a) reducing behavior that increases the risk of cancer, including
2 behavior related to smoking and diet;
- 3 (b) reversing the present trend of annual increases in the rate of
4 invasive melanoma;
- 5 (c) closing the gap in cancer mortality rates between the total
6 population and minorities;
- 7 (d) increasing the use of screening tests for cancer, especially
8 among elderly and minority populations; and
- 9 (e) increasing the percentage of cancers diagnosed at early
10 stages;
- 11 (5) develop an integrated set of priority strategies that are
12 necessary to achieve the goals established pursuant to this act; and
- 13 (6) delineate the respective roles and responsibilities for the
14 State and other entities in implementing the priority strategies
15 identified pursuant to this act.
- 16 b. (1) The task force shall report to the Governor, the
17 Commissioner of Health **[and Senior Services]**, and the Legislature
18 on its findings, recommendations, and activities at least biennially.
- 19 (2) In addition, the cervical cancer workgroup, which the task
20 force shall establish in addition to such other workgroups as it
21 deems appropriate, shall report to the Governor, the Commissioner
22 of Health **[and Senior Services]**, and the Legislature at least
23 biennially on its findings and recommendations regarding strategies
24 and actions to reduce the occurrence of, and burdens suffered from,
25 cervical cancer, along with any legislative bills that it desires to
26 recommend for adoption by the Legislature.
27 (cf: P.L.2005, c.280, s.2)
- 28
- 29 137. Section 3 of P.L.2005, c.280 (C.26:2-184) is amended to
30 read as follows:
- 31 3. The task force established pursuant to Executive Order No.
32 114 of 2000, together with its functions, powers, duties, and
33 workgroups, is continued in the Department of Health **[and Senior
34 Services]** as the "Task Force on Cancer Prevention, Early Detection
35 and Treatment in New Jersey" established pursuant to this act.
36 (cf: P.L.2005, c.280, s.3)
- 37
- 38 138. Section 2 of P.L.2011, c.155 (C.26:2-184.2) is amended to
39 read as follows:
- 40 2. a. The Commissioner of Health **[and Senior Services]** shall
41 establish a public awareness campaign to inform the general public
42 about the clinical significance of ovarian cancer and its public
43 health implications. The campaign shall include, at a minimum,
44 risk factors, symptoms, the need for early detection, and methods of
45 treatment.
- 46 b. The commissioner shall, at a minimum:

1 (1) provide for the development of printed educational materials
2 and public service announcements in English and Spanish; and
3 (2) disseminate information for distribution to the public,
4 through a variety of entities, including, but not limited to, local
5 health agencies and clinics, physicians, health care facilities, county
6 offices on aging, pharmacies, libraries, senior citizen centers, other
7 community-based outreach programs and organizations, and the
8 Department of **Health and Senior Services'** Health's official
9 website.
10 (cf: P.L.2011, c.155, s.2)

11
12 139. Section 2 of P.L.2007, c.170 (C.26:2-186) is amended to
13 read as follows:

14 2. a. A physician, psychologist, and any other health care
15 professional licensed pursuant to Title 45 of the Revised Statutes
16 who is qualified by training to make the diagnosis and who then
17 makes the diagnosis that a child has an autism spectrum disorder
18 shall report this diagnosis to the Department of Health **and Senior**
19 **Services** in a form and manner prescribed by the Commissioner of
20 Health **and Senior Services**.

21 b. The report shall be in writing and shall include the name and
22 address of the person submitting the report, the name, age, place of
23 birth, and address of the child diagnosed as having an autism
24 spectrum disorder, and other pertinent information as may be
25 required by the commissioner; except that, if the child's parent or
26 guardian objects to the reporting of the child's diagnosis for any
27 reason, the report shall not include any information that could be
28 used to identify the child.

29 c. The commissioner shall specify procedures for the health
30 care professional to inform the child's parent or guardian of the
31 requirements of subsections a. and b. of this section and the purpose
32 served by including this information in the registry established
33 pursuant to section 3 of P.L.2007, c.170 (C.26:2-187), as well as the
34 parent's or guardian's right to refuse to permit the reporting of any
35 information that could be used to identify the child.

36 cf: P.L.2009, c.204, s.3)

37
38 140. Section 4 of P.L.2009, c.204 (C.26:2-186.1) is amended to
39 read as follows:

40 4. a. An adult who has been diagnosed as having an autism
41 spectrum disorder by a physician, psychologist, or any other health
42 care professional licensed pursuant to Title 45 of the Revised
43 Statutes who is qualified by training to make the diagnosis, and
44 whose diagnosis has not been reported pursuant to section 2 of
45 P.L.2007, c.170 (C.26:2-186), may, at his discretion, report this
46 diagnosis, or request that a health care professional on his behalf
47 report this diagnosis, to the Department of Health **and Senior**

1 Services] in a form and manner prescribed by the Commissioner of
2 Health [and Senior Services].

3 b. The report shall be in writing and shall include the name and
4 address of the person submitting the report, the name, age, place of
5 birth, and address of the adult diagnosed as having an autism
6 spectrum disorder, and other pertinent information as may be
7 required by the commissioner.

8 c. The commissioner shall specify procedures for the health
9 care professional to inform the adult of the provisions of
10 subsections a. and b. of this section and the purpose served by
11 including this information in the registry established pursuant to
12 section 3 of P.L.2007, c.170 (C.26:2-187).

13 (cf: P.L.2009, c.204, s.4)

14

15 141. Section 3 of P.L.2007, c.170 (C.26:2-187) is amended to
16 read as follows:

17 3. The Department of Health [and Senior Services], in
18 consultation with the Department of Human Services, shall
19 maintain an up-to-date registry which shall include a record of: all
20 reported cases of an autism spectrum disorder that occur in New
21 Jersey, including those reported pursuant to section 2 of P.L.2007,
22 c.170 (C.26:2-186) and section 4 of P.L.2009, c.204 (C.26:2-186.1);
23 each reported case of an autism spectrum disorder that occurs in
24 New Jersey in which the initial diagnosis is changed, lost, or
25 considered misdiagnosed; and any other information it deems
26 relevant and appropriate in order to conduct thorough and complete
27 epidemiologic surveys of autism spectrum disorders, to enable
28 analysis of this problem and to plan for and provide services to
29 children and adults with an autism spectrum disorder and their
30 families.

31 (cf: P.L.2009, c.204, s.5)

32

33 142. Section 4 of P.L.2007, c.170 (C.26:2-188) is amended to
34 read as follows:

35 4. a. The reports made pursuant to P.L.2007, c.170 (C.26:2-
36 185 et seq.) and section 4 of P.L.2009, c.204 (C.26:2-186.1) are to
37 be used only by the Department of Health [and Senior Services]
38 and other agencies as may be designated by the Commissioner of
39 Health [and Senior Services], including the Department of Human
40 Services, and shall not otherwise be divulged or made public so as
41 to disclose the identity of any person to whom they relate; and, to
42 that end, the reports shall not be included under materials available
43 to public inspections pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.)
44 or P.L.2001, c.404 (C.47:1A-5 et al.).

45 b. A physician, psychologist, or health care professional
46 providing information to the department in accordance with
47 P.L.2007, c.170 (C.26:2-185 et seq.) or section 4 of P.L.2009, c.204

1 (C.26:2-186.1) shall not be deemed to be, or held liable for,
2 divulging confidential information.

3 c. Nothing in P.L.2007, c.170 (C.26:2-185 et seq.) or section 4
4 of P.L.2009, c.204 (C.26:2-186.1) shall be construed to compel a
5 child or adult who has been reported as having an autism spectrum
6 disorder to submit to medical or health examination or supervision
7 by the department.

8 (cf: P.L.2009, c.204, s.6)

9

10 143. Section 2 of P.L.2008, c.80 (C.26:2-190) is amended to
11 read as follows:

12 2. a. The Commissioner of Health **[and Senior Services]** and
13 the Commissioner of Human Services, in consultation with the New
14 Jersey Fire and Emergency Medical Services Institute and the New
15 Jersey State First Aid Council, shall develop a training curriculum
16 with the purpose of informing emergency responders of the risks
17 associated with autism or an intellectual or other developmental
18 disability, as well as providing instruction in appropriate
19 recognition and response techniques concerning these disabilities.
20 The curriculum shall be incorporated into existing time
21 requirements for training and continuing education of emergency
22 responders.

23 b. Prior to certification by the Department of Health **[and**
24 **Senior Services]**, each emergency medical technician trained in
25 basic life support services as defined in section 1 of P.L.1985, c.351
26 (C.26:2K-21) shall be required to satisfactorily complete the
27 training developed under subsection a. of this section. Every
28 emergency medical technician certified prior to the effective date of
29 this act shall, within 36 months of the effective date of this act,
30 satisfactorily complete the training in recognition and response
31 techniques concerning these disabilities, through existing
32 continuing education requirements.

33 c. The Commissioner of Health **[and Senior Services]** shall
34 adopt rules and regulations, pursuant to the "Administrative
35 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate
36 the purposes of this act.

37 (cf: P.L.2008, c.80, s.2)

38

39 144. Section 3 of P.L.2007, c.255 (C.26:2AA-3) is amended to
40 read as follows:

41 3. As used in this act:

42 "Commissioner" means the Commissioner of Health **[and Senior**
43 **Services]**; and

44 "Reflex sympathetic dystrophy syndrome" or "RSDS" means a
45 debilitating and progressively chronic condition characterized by
46 severe burning pain, pathological changes in bone and skin,
47 excessive sweating, tissue swelling, and extreme sensitivity to

1 touch.

2 (cf: P.L.2007, c.255, s.3)

3

4 145. Section 4 of P.L.2007, c.255 (C.26:2AA-4) is amended to
5 read as follows:

6 4. The commissioner shall establish a reflex sympathetic
7 dystrophy syndrome education and research program in the
8 Department of Health **【and Senior Services】**. The purpose of the
9 program is to promote public awareness of the causes of RSDS, the
10 value of early detection and the diagnosis of and possible treatments
11 for the syndrome, and to promote research, through public and
12 private sources, to accurately identify, diagnose, and treat RSDS.

13 (cf: P.L.2007, c.255, s.4)

14

15 146. Section 5 of P.L.2007, c.255 (C.26:2AA-5) is amended to
16 read as follows:

17 5. The Department of Health **【and Senior Services】** shall:

18 a. establish a public education program through the
19 department's website, to promote RSDS education, which will
20 enable individuals to make informed decisions about their health,
21 including, but not limited to the following elements:

22 (1) the cause and nature of RSDS;

23 (2) the risk factors that contribute to the manifestation of RSDS;

24 (3) available treatment options, including risks and benefits of
25 those options;

26 (4) environmental safety and injury prevention;

27 (5) rest and use of appropriate body mechanics;

28 (6) the availability of RSDS diagnostic, treatment, and outreach
29 services in the community; and

30 (7) any other factors or elements that might mitigate the effects
31 of RSDS;

32 b. notify local health departments, hospitals, clinics, and other
33 health care providers about the availability of information
34 concerning RSDS on the department's website;

35 c. within the limits of funds available to the department for this
36 purpose, coordinate, promote, and offer professional education
37 programs, through institutions of higher education, for health care
38 providers and health-related community-based organizations, which
39 may include, but are not limited to the following elements:

40 (1) research findings;

41 (2) the cause and nature of RSDS;

42 (3) the risk factors, including, but not limited to, lifestyle,
43 heredity, and drug interactions;

44 (4) the diagnostic procedures and appropriate indications for
45 their use;

46 (5) medical and surgical treatment options, including
47 experimental and established drug therapies and the risks and
48 benefits of each option;

- 1 (6) environmental safety and injury prevention; and
2 (7) the availability of RSDS diagnosis and treatment and support
3 services in the community; and
4 d. promote research, through both private and public funding
5 sources, to accurately identify, diagnose, and treat RSDS.
6 (cf: P.L.2007, c.255, s.5)
7

8 147. Section 1 of P.L.2006, c.48 (C.26:2D-82.1) is amended to
9 read as follows:

10 1. a. A tanning facility operator shall not permit a person who
11 is under 14 years of age to use a tanning facility.

12 b. A tanning facility operator shall not permit a person who is
13 at least 14 but less than 18 years of age to use a tanning facility
14 without written authorization of the person's parent or legal
15 guardian indicating that such parent or guardian has read and
16 understood the safety standards and warnings required pursuant to
17 section 3 of P.L.1989, c.234 (C.26:2D-83). An emancipated minor
18 shall be exempt from the authorization requirement of this
19 subsection upon legal proof documenting said emancipation.

20 c. The Commissioner of Health **[and Senior Services]** shall
21 establish by regulation:

- 22 (1) the contents required in the authorization form;
23 (2) the method for maintaining a record of the forms; and
24 (3) the frequency with which the forms shall be authorized or
25 reauthorized.

26 d. The penalties for violating the provisions of this section
27 shall be as provided in section 7 of P.L.1989, c.234 (C.26:2D-87).
28 (cf: P.L.2006, c.48, s.1)
29

30 148. Section 3 of P.L.1989, c.234 (C.26:2D-83) is amended to
31 read as follows:

32 3. The Commissioner of Health **[and Senior Services]**, in
33 consultation with the Commissioner of Environmental Protection,
34 shall, by regulation, establish minimum safety standards for tanning
35 facilities. The standards shall include, but not be limited to:

36 a. Establishment of a maximum safe time of exposure to
37 radiation and a maximum safe temperature at which tanning devices
38 may be operated;

39 b. A requirement that a patron at a tanning facility wear
40 protective eye glasses when using tanning equipment and that a
41 patron be supervised as to the length of time the patron uses tanning
42 equipment at the facility;

43 c. A requirement that the facility operator post easily legible,
44 permanent warning signs near the tanning equipment which state:
45 "DANGER-ULTRAVIOLET RADIATION FOLLOW ALL
46 INSTRUCTIONS";

47 d. A requirement that the facility have protective shielding for
48 tanning equipment in the facility; and

1 e. A requirement that the facility operator post a sign in
2 conspicuous view at or near the reception area which states:
3 "PERSONS UNDER AGE 14 SHALL NOT BE PERMITTED TO
4 USE THIS TANNING FACILITY. PERSONS BETWEEN 14
5 AND 18 YEARS OF AGE SHALL NOT BE PERMITTED TO USE
6 THIS TANNING FACILITY WITHOUT WRITTEN
7 AUTHORIZATION OF A PARENT OR LEGAL GUARDIAN."

8 (cf: P.L.2006, c.48, s.2)

9

10 149. Section 5 of P.L.1989, c.234 (C.26:2D-85) is amended to
11 read as follows:

12 5. There is established in the Department of Health **[and Senior**
13 **Services]** a nonlapsing revolving fund known as the "Non-Ionizing
14 Radiation Fund." The fund shall be credited with all fees collected
15 pursuant to this act. Interest on monies in the fund shall be credited
16 to the fund, and all monies in the fund are appropriated for the
17 purposes of this act.

18 (cf: P.L.2006, c.48, s.3)

19

20 150. Section 6 of P.L.1989, c.234 (C.26:2D-86) is amended to
21 read as follows:

22 6. a. A tanning facility shall register annually with the
23 Department of Health **[and Senior Services]** on forms provided by
24 the department and shall pay to the department an annual
25 registration fee.

26 b. The Department of Health **[and Senior Services]** shall
27 establish a registration fee schedule, by regulation, to cover the
28 costs of implementing the provisions of this act, including the costs
29 incurred by local boards of health pursuant to section 4 of this act.

30 (cf: P.L.2006, c.48, s.4)

31

32 151. Section 7 of P.L.1989, c.234 (C.26:2D-87) is amended to
33 read as follows:

34 7. A person who violates the provisions of this act is subject to
35 a penalty of \$100 for the first offense and \$200 for each subsequent
36 offense. The penalty shall be sued for and collected in a court of
37 competent jurisdiction in a summary proceeding in accordance with
38 the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-
39 10 et seq.).

40 A penalty recovered under the provisions of this act shall be
41 recovered by and in the name of the Commissioner of Health **[and**
42 **Senior Services]** or by and in the name of the local board of health.
43 When the plaintiff is the Commissioner of Health **[and Senior**
44 **Services]** the penalty recovered shall be paid by the commissioner
45 into the treasury of the State. When the plaintiff is a local board of
46 health, the penalty recovered shall be paid by the local board of

1 health into the treasury of the municipality where the violation
2 occurred.

3 (cf: P.L.2006, c.48, s.5)

4

5 152. Section 8 of P.L.1989, c.234 (C.26:2D-88) is amended to
6 read as follows:

7 8. In accordance with the "Administrative Procedure Act,"
8 P.L.1968, c.410 (C.52:14B-1 et seq.), the Commissioner of Health
9 **【and Senior Services】**, in consultation with the Commissioner of
10 Environmental Protection, shall promulgate rules and regulations
11 necessary to carry out the purposes of this act.

12 (cf: P.L.2006, c.48, s.6)

13

14 153. Section 2 of P.L.1971, c.136 (C.26:2H-2) is amended to
15 read as follows:

16 **【"】**2. The following words or phrases, as used in this act, shall
17 have the following meanings, unless the context otherwise requires:

18 a. "Health care facility" means the facility or institution
19 whether public or private, engaged principally in providing services
20 for health maintenance organizations, diagnosis, or treatment of
21 human disease, pain, injury, deformity, or physical condition,
22 including, but not limited to, a general hospital, special hospital,
23 mental hospital, public health center, diagnostic center, treatment
24 center, rehabilitation center, extended care facility, skilled nursing
25 home, nursing home, intermediate care facility, tuberculosis
26 hospital, chronic disease hospital, maternity hospital, outpatient
27 clinic, dispensary, home health care agency, residential health care
28 facility, and bioanalytical laboratory (except as specifically
29 excluded hereunder) or central services facility serving one or more
30 such institutions but excluding institutions that provide healing
31 solely by prayer and excluding such bioanalytical laboratories as
32 are independently owned and operated, and are not owned,
33 operated, managed, or controlled, in whole or in part, directly or
34 indirectly by any one or more health care facilities, and the
35 predominant source of business of which is not by contract with
36 health care facilities within the State of New Jersey and which
37 solicit or accept specimens and operate predominantly in interstate
38 commerce.

39 b. "Health care service" means the preadmission, outpatient,
40 inpatient, and postdischarge care provided in or by a health care
41 facility, and such other items or services as are necessary for such
42 care, which are provided by or under the supervision of a physician
43 for the purpose of health maintenance organizations, diagnosis, or
44 treatment of human disease, pain, injury, disability, deformity, or
45 physical condition, including, but not limited to, nursing service,
46 home care nursing, and other paramedical service, ambulance
47 service, service provided by an intern, resident in training or
48 physician whose compensation is provided through agreement with

1 a health care facility, laboratory service, medical social service,
2 drugs, biologicals, supplies, appliances, equipment, bed and board,
3 but excluding services provided by a physician in his private
4 practice, except as provided in sections 7 and 12 of P.L.1971, c.136
5 (C.26:2H-7 and 26:2H-12), or by practitioners of healing solely by
6 prayer, and services provided by first aid, rescue and ambulance
7 squads as defined in the "New Jersey Highway Safety Act of 1971,"
8 P.L.1971, c.351 (C.27:5F-1 et seq.).

9 c. "Construction" means the erection, building, or substantial
10 acquisition, alteration, reconstruction, improvement, renovation,
11 extension, or modification of a health care facility, including its
12 equipment, the inspection and supervision thereof; and the studies,
13 surveys, designs, plans, working drawings, specifications,
14 procedures, and other actions necessary thereto.

15 d. "Board" means the Health Care Administration Board
16 established pursuant to this act.

17 e. (Deleted by amendment, P.L.1998, c.43).

18 f. "Government agency" means a department, board, bureau,
19 division, office, agency, public benefit, or other corporation, or any
20 other unit, however described, of the State or political subdivision
21 thereof.

22 g. (Deleted by amendment, P.L.1991, c.187).

23 h. (Deleted by amendment, P.L.1991, c.187).

24 **[I.] i.** "Department" means the **[State]** Department of Health
25 **[and Senior Services]**.

26 j. "Commissioner" means the **[State]** Commissioner of Health
27 **[and Senior Services]**.

28 k. "Preliminary cost base" means that proportion of a hospital's
29 current cost which may reasonably be required to be reimbursed to
30 a properly utilized hospital for the efficient and effective delivery of
31 appropriate and necessary health care services of high quality
32 required by such hospital's mix of patients. The preliminary cost
33 base initially may include costs identified by the commissioner and
34 approved or adjusted by the commission as being in excess of that
35 proportion of a hospital's current costs identified above, which
36 excess costs shall be eliminated in a timely and reasonable manner
37 prior to certification of the revenue base. The preliminary cost base
38 shall be established in accordance with regulations proposed by the
39 commissioner and approved by the board.

40 l. (Deleted by amendment, P.L.1992, c.160).

41 m. "Provider of health care" means an individual (1) who is a
42 direct provider of health care service in that the individual's primary
43 activity is the provision of health care services to individuals or the
44 administration of health care facilities in which such care is
45 provided and, when required by State law, the individual has
46 received professional training in the provision of such services or in
47 such administration and is licensed or certified for such provision or
48 administration; or (2) who is an indirect provider of health care in

1 that the individual (a) holds a fiduciary position with, or has a
2 fiduciary interest in, any entity described in subparagraph b(ii) or
3 subparagraph b(iv); provided, however, that a member of the
4 governing body of a county or any elected official shall not be
5 deemed to be a provider of health care unless he is a member of the
6 board of trustees of a health care facility or a member of a board,
7 committee or body with authority similar to that of a board of
8 trustees, or unless he participates in the direct administration of a
9 health care facility; or (b) received, either directly or through his
10 spouse, more than one-tenth of his gross annual income for any one
11 or more of the following:

12 (i) Fees or other compensation for research into or instruction in
13 the provision of health care services;

14 (ii) Entities engaged in the provision of health care services or
15 in research or instruction in the provision of health care services;

16 (iii) Producing or supplying drugs or other articles for
17 individuals or entities for use in the provision of or in research into
18 or instruction in the provision of health care services;

19 (iv) Entities engaged in producing drugs or such other articles.

20 n. "Private long-term health care facility" means a nursing
21 home, skilled nursing home, or intermediate care facility presently
22 in operation and licensed as such prior to the adoption of the 1967
23 Life Safety Code by the [State] Department of Health [and Senior
24 Services] in 1972 and which has a maximum 50-bed capacity and
25 which does not accommodate Medicare or Medicaid patients.

26 o. (Deleted by amendment, P.L.1998, c.43).

27 p. "State Health Planning Board" means the board established
28 pursuant to section 33 of P.L.1991, c.187 (C.26:2H-5.7) to conduct
29 certificate of need review activities.

30 (cf: P.L.2004, c.54, s.3)

31

32 154. Section 1 of P.L.2000, c.62 (C.26:2H-5b) is amended to
33 read as follows:

34 1. a. The Commissioner of Health [and Senior Services] shall
35 prescribe, by regulation, requirements to be adopted by health care
36 facilities licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.)
37 for the routine monitoring of pain as a fifth vital sign in patients, in
38 addition to blood pressure, pulse, respiration, and temperature.

39 For the purpose of this subsection, the commissioner shall
40 require health care facilities to:

41 (1) routinely inquire whether a patient is in pain;

42 (2) maintain policies and procedures as prescribed by the
43 commissioner for asking patients to rate their degree of pain for a
44 specified period of time and to record their responses; and

45 (3) routinely record levels of pain intensity on patient charts.

46 b. The requirements to be adopted pursuant to subsection a. of
47 this section shall take effect no later than the 180th day after the

1 effective date of this act.
2 (cf: P.L.2000, c.62, s.1)

3
4 155. Section 2 of P.L.2000, c.62 (C.26:2H-5c) is amended to
5 read as follows:

6 2. The Commissioner of Health **[and Senior Services]**,
7 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
8 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate
9 the purposes of this act, for which purpose the commissioner shall
10 consult, at a minimum, with: the State Board of Medical
11 Examiners, the New Jersey Board of Nursing, the Board of
12 Pharmacy, the New Jersey Hospital Association, the New Jersey
13 Association of Health Care Facilities, the Medical Society of New
14 Jersey, the New Jersey Association of Osteopathic Physicians and
15 Surgeons, the New Jersey State Nurses Association, the Home
16 Health Assembly of New Jersey, and the New Jersey Hospice and
17 Palliative Care Organization.

18 (cf: P.L.2000, c.62, s.2)

19

20 156. Section 1 of P.L.2002, c.81 (C.26:2H-5d) is amended to
21 read as follows:

22 1. a. The Commissioner of Health **[and Senior Services]**, in
23 consultation with the Director of the Division of Consumer Affairs
24 in the Department of Law and Public Safety, shall require that, no
25 later than the 180th day after the date of enactment of this act, each
26 home health agency licensed pursuant to P.L.1971, c.136 (C.26:2H-
27 1 et seq.) shall provide the following information to each patient
28 receiving home-based services from that agency, or to a person
29 designated by the patient:

30 (1) the name and certification or licensure title, as applicable, of
31 the homemaker-home health aide or other health care professional
32 whose practice is regulated pursuant to Title 45 of the Revised
33 Statutes, to be displayed on an identification tag as required for
34 homemaker-home health aides by regulation of the New Jersey
35 Board of Nursing, or as otherwise to be prescribed by regulation of
36 the commissioner for other health care professionals, that the
37 homemaker-home health aide or other health care professional shall
38 wear at all times while examining, observing, or caring for the
39 patient; and

40 (2) a copy of the most current edition of the consumer guide to
41 homemaker-home health aides published by the New Jersey Board
42 of Nursing.

43 b. The consumer guide required pursuant to subsection a. of
44 this section shall be provided:

45 (1) in advance of the provision of services to the patient,
46 whenever possible; and

47 (2) otherwise upon the homemaker-home health aide's initial
48 visit to the patient's home.

1 c. Beginning on the first day of the 13th month after the date of
2 enactment of this act, the identification tag required pursuant to
3 subsection a. of this section shall include a photograph of the
4 homemaker-home health aide or other health care professional.

5 d. The commissioner, pursuant to the "Administrative
6 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt
7 rules and regulations to effectuate the purposes of this section.

8 (cf: P.L.2002, c.81, s.1)

9

10 157. Section 1 of P.L.2004, c.90 (C.26:2H-5e) is amended to
11 read as follows:

12 1. A general or special hospital, nursing home or assisted living
13 residence licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.)
14 shall, commencing no later than the 180th day after the effective
15 date of this act and as prescribed by regulation of the Commissioner
16 of Health **【and Senior Services】**, adopt and maintain written
17 policies and procedures to delineate the responsibilities of its staff
18 for prompt notification of a family member, guardian, or other
19 designated person about a patient's death and confirmation and
20 written documentation of that notification.

21 (cf: P.L.2004, c.90, s.1)

22

23 158. Section 3 of P.L.2005, c.21 (C.26:2H-5h) is amended to
24 read as follows:

25 3. The Commissioner of Health **【and Senior Services】**,
26 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
27 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate
28 the purposes of this act, in consultation with the Quality
29 Improvement Advisory Committee established by the
30 commissioner. The regulations shall include, but not be limited to,
31 procedures for standardizing the reporting of information by general
32 hospitals and nursing homes that is required pursuant to subsection
33 d. of section 2 of this act.

34 (cf: P.L.2005, c.21, s.3)

35

36 159. Section 2 of P.L.2008, c.58 (C.26:2H-5.1a) is amended to
37 read as follows:

38 2. a. The Commissioner of Health **【and Senior Services】** shall
39 prescribe, by regulation: (1) specific indicators by which a general
40 hospital may be evaluated for financial soundness, and the
41 thresholds at which it may be considered to be in financial distress
42 or at risk of being in financial distress; and (2) the progressive
43 levels of monitoring and department participation in the
44 development and oversight of corrective measures to resolve a
45 general hospital's financial or potential financial difficulties,
46 including the various levels of involvement by an appointed
47 monitor. The indicators and progressive levels of monitoring and
48 intervention shall be guided by the indicators and levels of

1 monitoring and intervention identified in the final report of the New
2 Jersey Commission on Rationalizing Health Care Resources, issued
3 on January 24, 2008.

4 b. The thresholds of specified financial indicators and
5 corresponding Department of Health [and Senior Services]
6 involvement that may be triggered by them shall include, but are
7 not limited to, measures relating to:

8 (1) days cash-on-hand;

9 (2) cushion ratio;

10 (3) days in accounts receivable;

11 (4) average payment period;

12 (5) total margin;

13 (6) earnings before depreciation; and

14 (7) any other factor which the commissioner deems appropriate,
15 including failure to provide required or requested financial
16 information.

17 c. If the commissioner determines that a hospital is in financial
18 distress or at risk of being in financial distress after considering the
19 specified financial indicators set forth in subsection b. of this
20 section, then the commissioner may appoint, in consultation with
21 the hospital, a monitor to prevent further financial deterioration.
22 Payment for the monitor shall be determined through a contingency
23 contract established between the hospital and the monitor. The
24 contract shall be subject to approval by the department with regard
25 to the monitor's responsibilities. In no case shall a hospital bear
26 financial liability if no savings result from measures undertaken
27 pursuant to the contract.

28 The appointed monitor shall have demonstrated expertise in
29 hospital administration, management, or operations. A monitor: (1)
30 shall be authorized to attend all hospital board meetings, executive
31 committee meetings, finance committee meetings, steering
32 committee meetings, turnaround committee meetings, or any other
33 meetings concerning the hospital's fiscal matters; (2) may be
34 authorized to have voting and veto powers over actions taken in the
35 above mentioned meetings; (3) shall report to the commissioner and
36 the full hospital board of trustees in a manner prescribed by the
37 commissioner; and (4) shall serve for such period of time as may be
38 determined by the commissioner in consultation with the hospital.

39 The commissioner shall maintain continuing oversight of the
40 actions and recommendations of the monitor to ensure that the
41 public interest is protected.

42 (cf: P.L.2008, c.58, s.2)

43

44 160. Section 3 of P.L.2008, c.58 (C.26:2H-5.1b) is amended to
45 read as follows:

46 3. As a condition of licensure under P.L.1971, c.136 (C.26:2H-
47 1 et al.), a general hospital shall:

1 a. provide monthly unaudited financial information and annual
2 audited financial statements to the Department of Health [and
3 Senior Services], and such other financial information as the
4 department may request; and

5 b. permit the Commissioner of Health [and Senior Services],
6 or a monitor appointed by the commissioner, as applicable, to
7 oversee its financial operations, and, if the commissioner
8 determines that the hospital is at risk of being in financial distress
9 or is in financial distress based on criteria specified by regulation,
10 participate in the development and implementation of a corrective
11 plan to resolve the hospital's financial difficulties, pursuant to
12 section 2 of P.L.2008, c.58 (C.26:2H-5.1a).

13 (cf: P.L.2008, c.58, s.3)

14

15 161. Section 1 of P.L.2009, c.263, '[s.1]' (C.26:2H-5.1c) is
16 amended to read as follows:

17 1. An ambulatory care facility licensed to provide surgical
18 services pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) shall use a
19 common billing form, designated by the Commissioner of Health
20 [and Senior Services], for each patient when billing for health care
21 services. The information provided on the billing form shall, to the
22 extent applicable, be the same as that required of hospitals.

23 (cf: P.L.2009, c.263, s.1)

24

25 162. Section 3 of P.L.2009, c.263 (C.26:2H-5.1e) is amended to
26 read as follows:

27 3. a. An ambulatory care facility licensed to provide surgical
28 services pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) shall be
29 required to report quarterly to the Department of Health [and
30 Senior Services], in a form and manner prescribed by the
31 commissioner:

32 (1) process quality indicators of infection control as selected by
33 the commissioner in consultation with the Quality Improvement
34 Advisory Committee within the department; and

35 (2) beginning 30 days after the adoption of regulations pursuant
36 to this act, data on infection rates for the major site categories that
37 define facility-associated infection locations, multiple infections,
38 and device-related and non-device related infections, as selected by
39 the commissioner in consultation with the Quality Improvement
40 Advisory Committee within the department.

41 b. The information reported pursuant to this section shall be
42 transmitted in such a manner as to not include identifying
43 information about patients.

44 c. The commissioner shall promptly advise an ambulatory care
45 facility in the event that the commissioner determines, based on
46 information reported by the facility, that a change in facility
47 practices or policy is necessary to improve performance in the

1 prevention of facility-associated infection and quality of care
2 provided at the facility.

3 d. The commissioner shall make available to members of the
4 public, on the official Internet website of the department, the
5 information reported pursuant to this section, in such a format as the
6 commissioner deems appropriate to enable comparison among
7 ambulatory care facilities with respect to the information.

8 e. In order to effectuate the purposes of this section, the
9 commissioner, in consultation with the Quality Improvement
10 Advisory Committee in the department, shall, by regulation:
11 establish standard methods for identifying and reporting facility-
12 associated infections; identify the major site categories for which
13 infections shall be reported, taking into account the categories most
14 likely to improve the delivery and outcome of health care in the
15 State; and specify the methodology for presenting the data to the
16 public, including procedures to adjust for differences in case mix
17 and severity of infections among facilities.

18 (cf: P.L.2009, c.263, s.3)

19

20 163. Section 4 of P.L.2009, c.263 (C.26:2H-5.1f) is amended to
21 read as follows:

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

26 (cf: P.L.2009, c.263, s.4)

27

28 164. Section 33 of P.L.1991, c.187 (C.26:2H-5.7) is amended to
29 read as follows:

30 33. There is established in the Department of Health **【and Senior**
31 **Services】** a State Health Planning Board. The members of the
32 board shall include: the Commissioners of Health **【and Senior**
33 **Services】**, Children and Families, and Human Services, or their
34 designees, who shall serve as ex officio, nonvoting members; the
35 chairmen of the Health Care Administration Board and the Public
36 Health Council, or their designees, who shall serve as ex officio
37 members; and nine public members appointed by the Governor with
38 the advice and consent of the Senate, five of whom are consumers
39 of health care services who are neither providers of health care
40 services or persons with a fiduciary interest in a health care service.

41 Of the additional public members first appointed pursuant to
42 P.L.1998, c.43, two shall serve for a term of two years and two shall
43 serve for a term of three years. Following the expiration of the
44 original terms, the public members shall serve for a term of four
45 years and are eligible for reappointment. Public members serving
46 on the board on the effective date of P.L.1998, c.43 shall continue
47 to serve for the term of their appointment. Any vacancy shall be

1 filled in the same manner as the original appointment, for the
2 unexpired term. Public members shall continue to serve until their
3 successors are appointed. The public members shall serve without
4 compensation but may be reimbursed for reasonable expenses
5 incurred in the performance of their duties, within the limits of
6 funds available to the board.

7 a. A member or employee of the State Health Planning Board
8 shall not, by reason of his performance of any duty, function, or
9 activity required of, or authorized to be undertaken by the board, be
10 held civilly or criminally liable if that person acted within the scope
11 of his duty, function, or activity as a member or employee of the
12 board, without gross negligence or malice toward any person
13 affected thereby.

14 b. A member of the State Health Planning Board shall not vote
15 on any matter before the board concerning an individual or entity
16 with which the member has, or within the last 12 months has had,
17 any substantial ownership, employment, medical staff, fiduciary,
18 contractual, creditor, or consultative relationship. A member who
19 has or has had such a relationship with an individual or entity
20 involved in any matter before the board shall make a written
21 disclosure of the relationship before any action is taken by the
22 board with respect to the matter and shall make the relationship
23 public in any meeting in which action on the matter is to be taken.

24 (cf: P.L.2006, c.47, s.108)

25

26 165. Section 34 of P.L.1991, c.187 (C.26:2H-5.8) is amended to
27 read as follows:

28 34. a. (Deleted by amendment, P.L.1998, c.43).

29 b. The State Health Planning Board shall review applications
30 for certificates of need and make recommendations to the
31 Commissioner of Health **[and Senior Services]**.

32 c. In the case of an application for a certificate of need to
33 transfer ownership of an existing general acute care hospital or to
34 close or eliminate a health care facility or service that is subject to
35 review by the State Health Planning Board, the State Health
36 Planning Board shall hold at least one public hearing in the service
37 area of the health care facility or service; except that, in the event
38 the Attorney General or the Department of Health **[and Senior
39 Services]** is required by State law to hold a public hearing on the
40 transfer of ownership of the hospital, the State Health Planning
41 Board shall not be required to hold a public hearing on the
42 application for a certificate of need to transfer ownership of the
43 hospital. The public hearing shall be held no later than 30 days
44 after an application is deemed complete by the Commissioner of
45 Health **[and Senior Services]**. Public notice of the hearing shall be
46 provided at least two weeks in advance of the date of the hearing.

47 Notwithstanding the provisions of this subsection to the contrary,
48 in the event that the commissioner determines that a proposed

1 closure or elimination of a health care facility or service should be
2 considered on an expedited basis in order to preserve the quality of
3 health care provided to the community, the commissioner may
4 reduce the period of time required for public notice of the hearing.
5 (cf: P.L.1998, c.43, s.5)

6

7 166. Section 2 of P.L.1999, c.311 (C.26:2H-5.11) is amended to
8 read as follows:

9 2. As used in this act:

10 "Commissioner" means the Commissioner of Health **【and Senior**
11 **Services】**.

12 "Department" means the Department of Health **【and Senior**
13 **Services】**.

14 "Needle stick injury" means the parenteral introduction into the
15 body of a health care worker of blood or other potentially infectious
16 material by a needle or other sharp device during the worker's
17 performance of health care duties in a health care facility.

18 (cf: P.L.1999, c.311, s.2)

19

20 167. Section 6 of P.L.2007, c.236 (C.26:2H-5.22) is amended to
21 read as follows:

22 6. A covered health care facility licensed pursuant to P.L.1971,
23 c.136 (C.26:2H-1 et al.) that is in violation of the provisions of this
24 act shall be subject to such penalties as the Commissioner of Health
25 **【and Senior Services】** may determine pursuant to sections 13 and
26 14 of P.L.1971, c.136 (C.26:2H-13 and 26:2H-14).

27 (cf: P.L.2007, c.236, s.6)

28

29 168. Section 7 of P.L.2007, c.236 (C.26:2H-5.23) is amended to
30 read as follows:

31 7. The Commissioners of Health **【and Senior Services】** and
32 Human Services shall adopt rules and regulations pursuant to the
33 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
34 seq.) to carry out the purposes of this act.

35 (P.L.2007, c.236, s.7)

36

37 169. Section 7 of P.L.1971, c.136 (C.26:2H-7) is amended to
38 read as follows:

39 7. No health care facility shall be constructed or expanded, and
40 no new health care service shall be instituted after the effective date
41 of P.L.1971, c.136 (C.26:2H-1 et seq.) except upon application for
42 and receipt of a certificate of need as provided by P.L.1971, c.136
43 (C.26:2H-1 et seq.). No agency of the State or of any county or
44 municipal government shall approve any grant of funds for, or issue
45 any license to, a health care facility which is constructed or
46 expanded, or which institutes a new health care service, in violation
47 of the provisions of P.L.1971, c.136 (C.26:2H-1 et seq.).

1 Except as provided in section 19 of P.L.1992, c.160 (C.26:2H-
2 7a) and section 16 of P.L.1998, c.43 (C.26:2H-7c), the provisions of
3 this section shall apply to:

4 a. The initiation of any health care service as provided in
5 section 2 of P.L.1971, c.136 (C.26:2H-2);

6 b. The initiation by any person of a health care service which is
7 the subject of a health planning regulation adopted by the
8 Department of Health **【and Senior Services】**;

9 c. The purchase by any person of major moveable equipment
10 whose total cost is over \$2 million;

11 d. The expenditure by a licensed health care facility of over \$2
12 million for construction of a new health care facility; and

13 e. The construction of a facility by any person, whose total
14 project cost exceeds \$2 million, if the facility-type is the subject of
15 a health planning regulation adopted by the Department of Health
16 **【and Senior Services】**.

17 The commissioner may periodically increase the monetary
18 thresholds established in this section, by regulation, to reflect
19 inflationary increases in the costs of health care equipment or
20 construction.

21 For the purposes of this section, "health care service" shall
22 include any service which is the subject of a health planning
23 regulation adopted by the Department of Health **【and Senior
24 Services】**, and "person" shall include a corporation, company,
25 association, society, firm, partnership, and joint stock company, as
26 well as an individual.

27 A physician who initiates a health care service which is the
28 subject of a health planning regulation or purchases major moveable
29 equipment pursuant to subsection b. or c. of this section, may apply
30 to the commissioner for a waiver of the certificate of need
31 requirement if: the equipment or health care service is such an
32 essential, fundamental, and integral component of the physician's
33 practice specialty, that the physician would be unable to practice his
34 specialty according to the acceptable medical standards of that
35 specialty without the health care service or equipment; the
36 physician bills at least 75% of his total amount of charges in the
37 practice specialty which uses the health care service or equipment;
38 and the health care service or equipment is not otherwise available
39 and accessible to patients, pursuant to standards established by the
40 commissioner, by regulation. The commissioner shall make a
41 determination about whether to grant or deny the waiver, within 120
42 days from the date the request for the waiver is received by the
43 commissioner and shall so notify the physician who requested the
44 waiver. If the request is denied, the commissioner shall include in
45 that notification the reason for the denial. If the request is denied,
46 the initiation of a health care service or the purchase of major
47 moveable equipment shall be subject to the certificate of need
48 requirements pursuant to this section.

1 A health maintenance organization which furnishes at least basic
2 comprehensive care health services on a prepaid basis to enrollees
3 either through providers employed by the health maintenance
4 organization or through a medical group or groups which contract
5 directly with the health maintenance organization, which initiates a
6 health care service, or constructs a health care facility pursuant to
7 subsection a., b., d., or e. of this section, may apply to the
8 commissioner for a waiver of the certificate of need requirement if:
9 the initiation of the health care service or the construction is in the
10 best interests of State health planning; and the health maintenance
11 organization is in compliance with the provisions of P.L.1973,
12 c.337 (C.26:2J-1 et seq.) and complies with the provisions of
13 subsection d. of section 3 of P.L.1973, c.337 (C.26:2J-3) regarding
14 notification to the commissioner. The commissioner shall make a
15 determination about whether to grant or deny the waiver within 45
16 days from the date the request for the waiver is received by the
17 commissioner and shall so notify the health maintenance
18 organization. If the request for a waiver is denied on the basis that
19 the request would not be in the best interests of State health
20 planning, the commissioner shall state in that notification the reason
21 why the request would not be in the best interests of State health
22 planning. If the request for a waiver is denied, the health
23 maintenance organization's initiation of a health care service or
24 construction project shall be subject to the certificate of need
25 requirements pursuant to this section.

26 The requirement to obtain a certificate of need for major
27 moveable equipment pursuant to subsection c. of this section shall
28 not apply if a contract to purchase that equipment was entered into
29 prior to July 1, 1991.

30 (cf: P.L.1998, c.43, s.6)

31

32 170. Section 16 of P.L.1998, c.43 (C.26:2H-7c) is amended to
33 read as follows:

34 16. a. Notwithstanding the provisions of section 7 of P.L.1971,
35 c.136 (C.26:2H-7) to the contrary, 20 months after the effective
36 date of P.L.1998, c.43 the following shall be exempt from the
37 certificate of need requirement:

38 Extracorporeal shock wave lithotripter;

39 Hyperbaric chamber;

40 Positron emission tomography;

41 Residential drug and alcohol services;

42 Ambulatory surgical facilities;

43 Basic obstetric and pediatric services and birth centers, including
44 additions of basic obstetric and pediatric beds in hospitals; and

45 Linear accelerator, including Cobalt 60 unit.

46 b. Notwithstanding the provisions of subsection a. of this
47 section to the contrary, if the Commissioner of Health [and Senior
48 Services] determines that Department of Health [and Senior

1 Services] licensing standards for a health care service or facility
2 listed in subsection a. of this section have been adopted by
3 regulation of the department pursuant to the "Administrative
4 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the
5 commissioner may exempt the health care service or facility from
6 the provisions of section 7 of P.L.1971, c.136 (C.26:2H-7) prior to
7 the 20-month period established in subsection a. of this section.

8 The commissioner shall publish notice of any exemptions
9 established pursuant to this subsection in the New Jersey Register
10 and provide for 45 days' public notice prior to the effective date of
11 the exemption.

12 c. In the case of any health care service or facility that is not
13 exempted from the provisions of section 7 of P.L.1971, c.136
14 (C.26:2H-7) pursuant to this section or section 19 of P.L.1992,
15 c.160 (C.26:2H-7a) and is not subject to expedited review, the
16 commissioner shall publish a call schedule for the initiation of the
17 services or facilities within 90 days of the date of enactment of this
18 act. In the event that the commissioner determines that there is
19 insufficient need to support the initiation of the service or facility,
20 the commissioner is authorized to cancel the call. The
21 commissioner shall provide public notice of the cancellation at least
22 45 days prior to the scheduled call date.

23 (cf: P.L.1998, c.43, s.16)

24
25 171. Section 18 of P.L.1998, c.43 (C.26:2H-7d) is amended to
26 read as follows:

27 18. Notwithstanding the provisions of P.L.1971, c.136
28 (C.26:2H-1 et seq.) to the contrary, health care equipment which
29 involves new technology that is not identified in N.J.A.C.8:33 et
30 seq., shall not be subject to certificate of need requirements and
31 may be initiated in the State in accordance with the requirements of
32 this section.

33 a. The new technology shall be directly related to a health care
34 service for which the provider is already licensed and has obtained
35 a certificate of need, when required.

36 b. The provider shall notify the Commissioner of Health [and
37 Senior Services] about the intent to initiate the new technology at
38 least 60 days prior to the date the provider will begin use of the
39 technology.

40 c. The new technology shall have pre-market approval from the
41 federal Food and Drug Administration.

42 d. The provider shall use the new technology in accordance
43 with guidelines approved by [the] The Joint Commission [on
44 Accreditation of Health Care Organizations] until such time as the
45 Department of Health [and Senior Services] has adopted licensing
46 standards for the new technology. The provider shall be required to

1 comply with the department's licensing standards for the new
2 technology upon adoption of the standards.

3 e. The provider shall agree to submit to the department
4 appropriate patient information and other data concerning use of the
5 new technology to assist the department in establishing licensing
6 standards. The provider shall submit the information and other data
7 on a quarterly basis until such time as licensing standards are
8 adopted for the new technology.

9 f. The commissioner may suspend a provider's use of the new
10 technology if he determines that the provider is not in compliance
11 with the requirements of this section.

12 (cf: P.L.1998, c.43, s.18)

13

14 172. Section 3 of P.L.1996, c.102 (C.26:2H-7.6) is amended to
15 read as follows:

16 3. a. A hospital which proposes to utilize a portion of its
17 licensed bed capacity for the purpose of establishing a subacute care
18 unit shall be subject to the following requirements:

19 (1) the subacute care unit's beds shall be licensed by the
20 Department of Health **【and Senior Services】** as long-term care beds
21 and shall meet all applicable State licensing and federal certification
22 requirements, including the physical requirements for skilled
23 nursing beds under the federal Medicare program established
24 pursuant to Pub.L.89-97 (42 U.S.C.s.1395 et seq.), with reasonable
25 waiver provisions as determined by the commissioner or the federal
26 **【Health Care Financing Administration】** Centers for Medicare &
27 Medicaid Services, as appropriate;

28 (2) the maximum length of stay in the unit shall not exceed eight
29 days;

30 (3) the unit shall be certified to participate in the Medicare
31 program as a skilled nursing facility;

32 (4) the unit shall be comprised of not more than 7% of the
33 hospital's licensed medical-surgical bed capacity or 12 beds,
34 whichever is greater;

35 (5) the hospital's licensed medical-surgical bed capacity shall be
36 reduced, by the commissioner, by the number of beds used to
37 establish a subacute care unit under the provisions of this section.
38 Long-term care beds in a hospital's subacute care unit shall not be
39 transferred to, or combined with, a subacute care unit in another
40 hospital. Bed limitations for a hospital shall include both
41 conversions of existing acute care beds and any purchases or other
42 acquisitions or rentals of beds to be used by a hospital for the
43 provision of subacute care under this act;

44 (6) (Deleted by amendment, P.L.1998, c.43).

45 (7) the hospital shall be subject to the fee for the filing of an
46 application for a license for long-term care beds and any renewal
47 thereof as established by the Department of Health **【and Senior**
48 **Services】** pursuant to section 12 of P.L.1971, c.136 (C.26:2H-12).

1 b. Subacute care shall not be covered by the Medicaid program
2 established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.). The
3 long-term care beds in a subacute care unit shall not be included in
4 long-term care bed inventories for certificate of need review
5 purposes.

6
7 173. Section 2 of P.L.2000, c.143 (C.26:2H-7.11) is amended to
8 read as follows:

9 2. In addition to the requirements of P.L.1971, c.136 (C.26:2H-
10 1 et seq.) concerning certificate of need and licensure requirements,
11 a nonprofit hospital licensed pursuant to P.L.1971, c.136 (C.26:2H-
12 1 et seq.) shall satisfy the requirements of this act before applying
13 to the Superior Court of New Jersey for approval prior to entering
14 into a transaction that results in the acquisition of the hospital as
15 defined in this act. The proposed acquisition shall be subject to the
16 prior review of the Attorney General, in consultation with the
17 Commissioner of Health [and Senior Services], pursuant to the
18 provisions of this section. The Attorney General shall review the
19 application in furtherance of his common law responsibilities as
20 protector, supervisor, and enforcer of charitable trusts and
21 charitable corporations.

22 For the purposes of sections 2 and 3 of this act, "acquisition"
23 means the purchase, lease, exchange, conversion, restructuring,
24 merger, division, consolidation, transfer of control, or other
25 disposition of a substantial amount of assets or operations, whether
26 through a single transaction or series of transactions, with one or
27 more persons or entities.

28 This act shall not apply to a nonprofit hospital if the proposed
29 acquisition is in the usual and regular course of its activities and the
30 Attorney General has given the nonprofit hospital a written waiver
31 as to the proposed acquisition. As used in this section, a proposed
32 acquisition is not in the usual and regular course of a nonprofit
33 hospital's activities if it effects a fundamental corporate change that
34 involves transfer of ownership or control of charitable assets or a
35 change of the nonprofit hospital's mission or purpose.

36 a. (1) Within five working days of submitting an application
37 pursuant to this section, the nonprofit hospital shall publish a notice
38 of the proposed acquisition, in a form approved by the Attorney
39 General, in a newspaper of general circulation in the service area of
40 the hospital once per week for three weeks. The notice shall state
41 the names of the parties to the agreement, describe the contents of
42 the application to the Attorney General, and state the date by which
43 a person may submit written comments about the application to the
44 Attorney General.

45 (2) Within 30 days after receipt of an initial application, the
46 Attorney General shall advise the applicant in writing whether the
47 application is complete, and, if not, shall specify what additional
48 information is required.

1 (3) The Attorney General shall, upon receipt of the information
2 requested, notify the applicant in writing of the date of completion
3 of the application.

4 b. Within 90 days of the date of completion of the application,
5 the Attorney General, in consultation with the Commissioner of
6 Health [and Senior Services], shall review the application and
7 support the proposed acquisition, with or without any specific
8 modifications, or, if [he] the Attorney General finds that it is not in
9 the public interest, oppose the proposed acquisition. The Attorney
10 General or commissioner may, for good cause, extend the time for
11 review of an application submitted pursuant to this section.

12 The proposed acquisition shall not be considered to be in the
13 public interest unless the Attorney General determines that
14 appropriate steps have been taken to safeguard the value of the
15 charitable assets of the hospital and to ensure that any proceeds
16 from the proposed acquisition are irrevocably dedicated for
17 appropriate charitable health care purposes; and the Commissioner
18 of Health [and Senior Services] determines that the proposed
19 transaction is not likely to result in the deterioration of the quality,
20 availability or accessibility of health care services in the affected
21 communities.

22 c. In determining whether the acquisition meets the criteria of
23 subsection b. of this section, the Attorney General shall consider:

24 (1) Whether the acquisition is permitted under the "New Jersey
25 Nonprofit Corporation Act," Title 15A of the New Jersey Statutes,
26 and other applicable State statutes governing nonprofit entities,
27 trusts, or charities;

28 (2) Whether the nonprofit hospital exercised due diligence in
29 deciding to effectuate the acquisition, selecting the other party to
30 the acquisition and negotiating the terms and conditions of the
31 acquisition;

32 (3) The procedures used by the nonprofit hospital in making its
33 decision, including whether appropriate expert assistance was used;

34 (4) Whether conflict of interest was disclosed, including, but not
35 limited to, conflicts of interest related to board members of,
36 executives of and experts retained by the nonprofit hospital,
37 purchaser, or other parties to the acquisition;

38 (5) Whether any management contract under the acquisition is
39 for reasonable fair value;

40 (6) Whether the acquisition proceeds will be used for
41 appropriate charitable health care purposes consistent with the
42 nonprofit hospital's original purpose or for the support and
43 promotion of health care and whether the proceeds will be
44 controlled as charitable funds independently of the purchaser or
45 parties to the acquisition; and

46 (7) Any other criteria the Attorney General establishes by
47 regulation to determine whether the proposed acquisition is in the
48 public interest.

1 d. In determining whether an acquisition by any person or
2 entity other than a corporation organized in this State for charitable
3 purposes under Title 15A of the New Jersey Statutes meets the
4 criteria of subsection b. of this section, the Attorney General shall
5 consider, in addition to the criteria set forth in subsection c., the
6 following criteria:

7 (1) Whether the nonprofit hospital will receive full and fair
8 market value for its assets. The Attorney General may employ, at
9 the nonprofit hospital's expense, reasonably necessary expert
10 assistance in making this determination;

11 (2) Whether charitable funds are placed at unreasonable risk, if
12 the acquisition is financed in part by the nonprofit hospital;

13 (3) Whether a right of first refusal has been retained to
14 repurchase the assets by a successor nonprofit corporation or
15 foundation if, following the acquisition, the hospital is subsequently
16 sold to, acquired by or merged with another entity;

17 (4) Whether the nonprofit hospital established appropriate
18 criteria in deciding to pursue a conversion in relation to carrying out
19 its mission and purposes;

20 (5) Whether the nonprofit hospital considered the proposed
21 conversion as the only alternative or as the best alternative in
22 carrying out its mission and purposes;

23 (6) Whether the nonprofit hospital exercised due care in
24 assigning a value to the existing hospital and its charitable assets in
25 proceeding to negotiate the proposed conversion;

26 (7) Whether officers, directors, board members, or senior
27 management will receive future contracts in existing, new, or
28 affiliated hospitals or foundations; and

29 (8) Any other criteria the Attorney General establishes by
30 regulation to determine whether a proposed acquisition by any
31 person or entity other than a corporation organized in this State for
32 charitable purposes under Title 15A of the New Jersey Statutes is in
33 the public interest.

34 e. In **[his]** the Attorney General's review of the proposed
35 acquisition, the Attorney General may assess the entity proposing to
36 acquire the nonprofit hospital for reasonable costs related to the
37 review, as determined by the Attorney General to be necessary.
38 Reasonable costs may include expert review of the acquisition and a
39 process for educating the public about the acquisition and obtaining
40 public input.

41 f. The Attorney General and the Commissioner of Health **[and**
42 **Senior Services]** shall, during the course of the review pursuant to
43 this section, hold at least one public hearing in which any person
44 may file written comments and exhibits or appear and make a
45 statement. The public hearing may, if the Attorney General and
46 commissioner so agree, be conducted jointly. The commissioner
47 may satisfy the requirements of this subsection by conducting a
48 public hearing in conjunction with the certificate of need review

1 process pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.). The
2 Attorney General or the commissioner may subpoena additional
3 information or witnesses, including, but not limited to, information
4 about any transaction that is collateral to the proposed acquisition
5 and any related documents, require and administer oaths, require
6 sworn statements, take depositions and use related discovery
7 procedures for purposes of the hearing and at any time prior to
8 completing the review of the proposed acquisition.

9 The Attorney General shall make the information received
10 pursuant to this section, and the Department of Health [and Senior
11 Services] shall make any information in its records relating to the
12 proposed acquisition, available for inspection at no cost to the
13 public.

14 The public hearing shall be held no later than 60 days after the
15 date that an application from a nonprofit hospital is deemed
16 complete by the Attorney General. Public notice of the hearing
17 shall be provided at least two weeks in advance of the date of the
18 hearing.

19 g. In a proposed acquisition subject to review under subsection
20 d. of this section, the Attorney General, after consultation with the
21 principal parties to the transaction, shall make a determination as to
22 the amount of assets which the nonprofit hospital shall set aside as a
23 charitable obligation, based on the full and fair market value of the
24 hospital at the time of the proposed acquisition as determined by the
25 Attorney General.

26 h. Upon execution of a proposed acquisition subject to review
27 under subsection d. of this section, the amount determined by the
28 Attorney General to be set aside as a charitable obligation shall be
29 placed in a nonprofit charitable trust or one or more existing or
30 newly established tax-exempt charitable organizations operating
31 pursuant to 26 U.S.C. s. 501(c)(3). The charitable mission and
32 grant-making functions of any charitable entity that receives assets
33 pursuant to subsection g. of this section shall be dedicated to
34 serving the health care needs of the community historically served
35 by the predecessor nonprofit hospital. Any charitable entity that
36 receives assets pursuant to subsection g. of this section, the
37 directors, officers, and trustees of any such charitable entity, and the
38 assets of any such charitable entity, including any stock involved in
39 the acquisition, shall be independent of any influence or control by
40 the acquiring entity, its directors, officers, trustees, subsidiaries, or
41 affiliates.

42 (1) The governance of the charitable trust that results from the
43 acquisition or of any newly established charitable organization that
44 is to receive charitable assets pursuant to subsection g. of this
45 section shall be subject to review and approval by the Attorney
46 General. The governance of any existing charitable organization
47 that is to receive charitable assets pursuant to subsection g. of this
48 section shall be subject to review by the Attorney General. The

1 governance of the charitable trust or the charitable organization
2 shall be broadly based, and neither the trust or organization nor any
3 officer, director, or senior manager of the trust or organization shall
4 be affiliated with the acquiring entity and no officer, director, or
5 senior manager of the trust or organization shall be a full-time
6 employee of State government. No officer, director, or senior
7 manager of the trust or organization shall have been a director,
8 officer, agent, trustee, or employee of the nonprofit hospital during
9 the three years immediately preceding the effective date of the
10 acquisition, unless that person can demonstrate to the satisfaction of
11 the Attorney General that the person's assumption of the position of
12 officer, director, or senior manager of the trust or organization
13 would not constitute a breach of fiduciary duty or other conflict of
14 interest.

15 (2) The governing body of the charitable trust or organization
16 shall establish or demonstrate that it has in place, as the case may
17 be, a mechanism to avoid conflicts of interest and to prohibit grants
18 that benefit the board of directors and management of the acquiring
19 entity or its affiliates or subsidiaries.

20 (3) The governing body of the charitable trust or organization
21 shall provide the Attorney General with an annual report which
22 shall include an audited financial statement and a detailed
23 description of its grant-making and other charitable activities
24 related to its use of the charitable assets received pursuant to this
25 act. The annual report shall be made available to the public at both
26 the Attorney General's office and the office of the charitable trust or
27 organization. Nothing contained in this act shall affect the
28 obligations of an entity possessing endowment funds under
29 P.L.1975, c.26 (C.15:18-15 et seq.).

30 i. (1) The entity acquiring the nonprofit hospital, if determined
31 to be necessary by the Commissioner of Health **[and Senior**
32 **Services]**, shall provide funds, in an amount determined by the
33 Commissioner of Health **[and Senior Services]**, for the hiring by
34 the Department of Health **[and Senior Services]** of an independent
35 health care access monitor to monitor and report quarterly to the
36 Department of Health **[and Senior Services]** on community health
37 care access by the entity, including levels of uncompensated care
38 for indigent persons provided by the entity. The funding shall be
39 provided for three years after the date of the acquisition. The entity
40 acquiring the hospital shall provide the monitor with appropriate
41 access to the entity's records in order to enable the monitor to fulfill
42 this function.

43 To prevent the duplication of any information already reported
44 by the entity, the monitor shall, to the extent possible, utilize data
45 already provided by the entity to the Department of Health **[and**
46 **Senior Services]**.

1 No personal identifiers shall be attached to any of the records
2 obtained by the monitor, and all such records shall be subject to the
3 privacy and confidentiality provisions of medical records provided
4 by law.

5 (2) Following the monitoring period, or in the event that no
6 monitoring period is established, if the Commissioner of Health
7 **【and Senior Services】** receives information indicating that the
8 acquiring entity is not fulfilling its commitment to the affected
9 service area pursuant to this act and determines that the information
10 is true, **【he】** the commissioner shall order the acquiring entity to
11 comply with a corrective action plan. The commissioner shall retain
12 oversight of the acquiring entity's obligations under the corrective
13 action plan for as long as necessary to ensure compliance with this
14 act.

15 j. The trustees and senior managers of the nonprofit hospital
16 are prohibited from investing in the acquiring entity for a period of
17 three years following the acquisition.

18 k. No director, officer, agent, trustee, or employee of the
19 nonprofit hospital shall benefit directly or indirectly from the
20 acquisition, including the receipt of any compensation directly
21 related to the proposed acquisition.

22 l. Upon completion by the Attorney General of the review of
23 the application required by this act, the nonprofit hospital shall
24 apply to the Superior Court for approval of the proposed
25 acquisition. In that proceeding, the Attorney General shall advise
26 the court as to whether **【he】** the Attorney General supports or
27 opposes the proposed acquisition, with or without any specific
28 modifications, and the basis for that position. Any person who filed
29 a written comment or exhibit or appeared and made a statement in
30 the public hearing held by the Attorney General pursuant to
31 subsection f. of this section shall be considered a party to the
32 proceeding, including consumers or community groups representing
33 the citizens of the State.

34 m. Notwithstanding the provisions of subsections a. and f. of
35 this section to the contrary, in the event that the Attorney General or
36 the Commissioner of Health **【and Senior Services】** determines that
37 a proposed acquisition should be considered on an expedited basis
38 in order to preserve the quality of health care provided to the
39 community, the Attorney General and the commissioner may
40 combine the public notice about the acquisition with the notice for a
41 public hearing as required in subsections a. and f., respectively, and
42 may reduce the period of time required for notice, as necessary. In
43 considering a proposed acquisition on an expedited basis, the
44 Attorney General and commissioner may agree to reduce the period
45 of time for review of a completed application to less than 90 days.

46 n. The Attorney General, in consultation with the
47 Commissioner of Health **【and Senior Services】**, shall adopt

1 regulations pursuant to the "Administrative Procedure Act,"
2 P.L.1968, c.410, (C.52:14B-1 et seq.) to carry out the purposes of
3 this act.

4 (cf: P.L.2000, c.143, s.2)

5

6 174. Section 5 of P.L.2000, c.143 (C.26:2H-7.14) is amended to
7 read as follows:

8 5. Nothing in this act shall be construed to limit the existing
9 authority of the Attorney General, the Commissioner of Health [and
10 Senior Services], or any other government official or entity or the
11 court to review, approve or disapprove conditions related to an
12 acquisition, transaction, or disposition under current law.

13 (cf: P.L.2000, c.143, s.5)

14

15 175. Section 1 of P.L.1002, c.25 (C.26:2H-7.15) is amended to
16 read as follows:

17 1. As used in this act:

18 "Assisted living" means a coordinated array of supportive
19 personal and health services, available 24 hours per day, which
20 promote resident self-direction and participation in decisions that
21 emphasize independence, individuality, privacy, dignity, and
22 homelike surroundings to residents who have been assessed to need
23 these services, including residents who require formal long-term
24 care.

25 "Assisted living program" means the provision of or arrangement
26 for meals and assisted living services, when needed, to the residents
27 of publicly subsidized housing, which because of any federal, State,
28 or local housing laws, rules, regulation, or requirements cannot
29 become licensed as an assisted living residence.

30 "Assisted living residence" means a facility licensed by the
31 Department of Health [and Senior Services] to provide apartment-
32 style housing and congregate dining and to assure that assisted
33 living services are available when needed, for four or more adult
34 persons unrelated to the proprietor. Apartment units shall offer, at a
35 minimum, one unfurnished room, a private bathroom, a kitchenette,
36 and a lockable door on the unit entrance.

37 "Commissioner" means the Commissioner of Health [and Senior
38 Services].

39 (cf: P.L.2002, c.25, s.1)

40

41 176. Section 8 of P.L.2002, c.25 (C.26:2H-7.21) is amended to
42 read as follows:

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

47 (cf: P.L.2002, c.25, s.8)

1 177. Section 1 of P.L.1982, c.149 (C.26:2H-11.1) is amended to
2 read as follows:

3 1. In the case of an application for a certificate of need or
4 initial licensure, as applicable, for a narcotic and drug abuse
5 treatment center to be located within 500 feet from any building in
6 this State used for the instruction of children between the ages of
7 five and 18 years, the applicant shall notify the governing body of
8 the municipality within which **[he]** the applicant proposes to locate
9 the treatment center of **[his]** the applicant's intention to apply for
10 the certificate of need or licensure and the proposed location of the
11 center. Documentation of **[such]** the notice shall be filed with the
12 certificate of need or license application. The Commissioner of
13 Health **[and Senior Services]** is hereby authorized to adopt
14 reasonable rules and regulations, in accordance with the provisions
15 of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
16 1 et seq.), to effectuate the purposes of this act. For the purposes of
17 this act, the definition of "narcotic and drug abuse treatment center"
18 shall be identical to the definition in subsection (a) of section 2 of
19 P.L.1970, c.334 (C.26:2G-22). This act shall not apply to any
20 **[such]** narcotic and drug abuse treatment center for which an
21 application was filed prior to the effective date of this act.
22 (cf: P.L.1998, c.43, s.11)

23

24 178. Section 3 of P.L.1989, c.300 (C.26:2H-12.2a) is amended
25 to read as follows:

26 3. a. A health care entity shall maintain all records of all
27 documented complaints of events related to patient care about, and
28 disciplinary proceedings or actions against, a health care
29 professional who is employed by or has an affiliation with the
30 health care entity. The health care entity shall retain the
31 information for a period of seven years and make the records,
32 including any information the health care entity has pertaining to
33 records maintained on the health care professional prior to the
34 effective date of P.L.1989, c.300 (C.45:9-19.4 et al.), available to
35 the division, the board which licenses or otherwise authorizes the
36 health care professional to practice, the Medical Practitioner
37 Review Panel established pursuant to section 8 of P.L.1989, c.300
38 (C.45:9-19.8)₂ and the Department of Health **[and Senior Services]**,
39 as applicable, upon request.

40 b. A health care entity shall maintain for a period of four years
41 all records and source data relating to its mortality, morbidity,
42 complication, infection₂ and readmission and shall make the records
43 available to the division, the board which licenses₂ or otherwise
44 authorizes the health care professional, the review panel and the
45 Department of Health **[and Senior Services]**, as applicable, upon
46 request.

1 c. A health care entity which fails to maintain the records
2 required pursuant to this section shall be subject to such penalties as
3 the Department of Health [and Senior Services] shall determine
4 pursuant to sections 13 and 14 of P.L.1971, c.136 (C.26:2H-13 and
5 26:2H-14) and section 16 of P.L.1997, c.192 (C.26:2S-16), or the
6 director shall determine pursuant to P.L.1989, c.331 (C.34:8-43 et
7 seq.), as applicable.

8 (cf: P.L.2005, c.83, s.3)

9

10 179. Section 2 of P.L.2005, c.83 (C.26:2H-12.2b) is amended to
11 read as follows:

12 2. a. A health care entity shall notify the division in writing if
13 a health care professional who is employed by, under contract to
14 render professional services to, or has privileges granted by, that
15 health care entity, or who provides such services pursuant to an
16 agreement with a health care services firm or staffing registry:

17 (1) for reasons relating to the health care professional's
18 impairment, incompetency, or professional misconduct, which
19 incompetency or professional misconduct relates adversely to
20 patient care or safety: (a) has full or partial privileges summarily or
21 temporarily revoked or suspended, or permanently reduced,
22 suspended, or revoked; (b) has been removed from the list of
23 eligible employees of a health services firm or staffing registry; (c)
24 has been discharged from the staff; or (d) has had a contract to
25 render professional services terminated or rescinded;

26 (2) has conditions or limitations placed on the exercise of
27 clinical privileges or practice within the health care entity for
28 reasons relating to the health care professional's impairment,
29 incompetency, or professional misconduct or, which incompetency
30 or professional misconduct relates adversely to patient care or
31 safety, including, but not limited to, second opinion requirements,
32 non-routine concurrent or retrospective review of admissions or
33 care, non-routine supervision by one or more members of the staff,
34 or the completion of remedial education or training;

35 (3) voluntarily resigns from the staff if: (a) the health care entity
36 is reviewing the health care professional's patient care or reviewing
37 whether, based upon its reasonable belief, the health care
38 professional's conduct demonstrates an impairment or incompetence
39 or is unprofessional, which incompetence or unprofessional conduct
40 relates adversely to patient care or safety; or (b) the health care
41 entity, through any member of the medical or administrative staff,
42 has expressed an intention to do such a review;

43 (4) voluntarily relinquishes any partial privilege or authorization
44 to perform a specific procedure if: (a) the health care entity is
45 reviewing the health care professional's patient care or reviewing
46 whether, based upon its reasonable belief, the health care
47 professional's conduct demonstrates an impairment or incompetence
48 or is unprofessional, which incompetence or unprofessional conduct

1 relates adversely to patient care or safety; or (b) the health care
2 entity, through any member of the medical or administrative staff,
3 has expressed an intention to do such a review;

4 (5) while under, or subsequent to, a review by the health care
5 entity of the health care professional's patient care or professional
6 conduct is granted a leave of absence for reasons relating to a
7 physical, mental, or emotional condition or drug or alcohol use
8 which impairs the health care professional's ability to practice with
9 reasonable skill and safety, except that no report is required for
10 pregnancy-related leaves of absence or if the health care
11 professional has sought assistance from a professional assistance or
12 intervention program approved or designated by the division or a
13 board to provide confidential oversight of the health care
14 professional and is following the treatment regimen or monitoring
15 as that program requires; or

16 (6) is a party to a medical malpractice liability suit, to which the
17 health care entity is also a party, and in which there is a settlement,
18 judgment, or arbitration award.

19 As used in this subsection, incompetence, professional
20 misconduct, and unprofessional conduct shall not include personal
21 conduct, such as tardiness, insubordination, or other similar
22 behavior, which does not relate to patient care or safety.

23 b. A health care entity shall notify the division in writing if it is
24 in possession of information that indicates that a health care
25 professional has failed to comply with a request to seek assistance
26 from a professional assistance or intervention program approved or
27 designated by the division or a board to provide confidential
28 oversight of the health care professional, or has failed to follow the
29 treatment regimen or monitoring program required by that program
30 to assure that the health care professional's physical, mental, or
31 emotional condition or drug or alcohol use does not impair the
32 health care professional's ability to practice with reasonable skill
33 and safety.

34 c. A health care entity shall notify the division in writing if any
35 health care professional who has been the subject of a report
36 pursuant to this section, has had conditions or limitations on the
37 exercise of clinical privileges or practice within the health care
38 entity altered, or privileges restored, or has resumed exercising
39 clinical privileges that had been voluntarily relinquished.

40 d. In the case of a health care professional who is providing
41 services at a health care entity pursuant to an agreement with a
42 health care services firm or staffing agency and is the subject of a
43 notice pursuant to this section, the health care entity shall, when it
44 submits a notice to the division concerning that health care
45 professional, provide a copy of the notice to the health care services
46 firm or staffing agency.

47 e. The form of notification shall be prescribed by the
48 Commissioner or Health [and Senior Services], in consultation

1 with the Commissioner of Human Services in the case of
2 psychiatric facilities and developmental centers, and shall contain
3 such information as may be required by the division and shall be
4 made within seven days of the date of the action, settlement,
5 judgment, or award.

6 f. A health care entity which fails to provide such notice to the
7 division or fails to cooperate with a request for information by the
8 division, the board or the Medical Practitioner Review Panel
9 established pursuant to section 8 of P.L.1989, c.300 (C.45:9-19.8)
10 shall be subject to such penalties as the Department of Health [and
11 Senior Services] may determine pursuant to sections 13 and 14 of
12 P.L.1971, c.136 (C.26:2H-13 and 26:2H-14).

13 g. A health care entity, or any employee thereof, which
14 provides information to the division, the board, the Medical
15 Practitioner Review Panel, a health care services firm or staffing
16 agency, or the Department of Health [and Senior Services], in good
17 faith and without malice, regarding a health care professional
18 pursuant to the provisions of this section or section 3 of P.L.1989,
19 c.300 (C.26:2H-12.2a), is not liable for civil damages in any cause
20 of action arising out of the provision or reporting of the
21 information.

22 h. A health care entity shall provide the health care
23 professional who is the subject of a notice pursuant to paragraphs
24 (1), (2), (4), and (5) of subsection a. of this section and subsection
25 c. of this section with a copy of the notice provided to the division,
26 when the health care entity submits the notice to the division.

27 i. For the purposes of this section, section 3 of P.L.1989, c.300
28 (C.26:2H-12.2a) and section 15 of P.L.2005, c.83 (C.26:2H-12.2c):

29 "Board" means a professional and occupational licensing board
30 within the Division of Consumer Affairs in the Department of Law
31 and Public Safety which licenses or otherwise authorizes a health
32 care professional to practice a health care profession.

33 "Division" means the Division of Consumer Affairs in the
34 Department of Law and Public Safety.

35 "Health care entity" means a health care facility licensed
36 pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), a health
37 maintenance organization authorized to operate pursuant to
38 P.L.1973, c.337 (C.26:2J-1 et seq.), a carrier which offers a
39 managed care plan regulated pursuant to P.L.1997, c.192 (C.26:2S-
40 1 et seq.), a State or county psychiatric hospital, a State
41 developmental center, a staffing registry, and a home care services
42 agency as defined in section 1 of P.L.1947, c.262 (C.45:11-23).

43 "Health care professional" means a person licensed or otherwise
44 authorized pursuant to Title 45 or Title 52 of the Revised Statutes to
45 practice a health care profession that is regulated by the Director of
46 the Division of Consumer Affairs or by one of the following boards:
47 the State Board of Medical Examiners, the New Jersey Board of
48 Nursing, the New Jersey State Board of Dentistry, the New Jersey

1 State Board of Optometrists, the New Jersey State Board of
2 Pharmacy, the State Board of Chiropractic Examiners, the
3 Acupuncture Examining Board, the State Board of Physical
4 Therapy, the State Board of Respiratory Care, the Orthotics and
5 Prosthetics Board of Examiners, the State Board of Psychological
6 Examiners, the State Board of Social Work Examiners, the State
7 Board of Veterinary Medical Examiners, the State Board of
8 Examiners of Ophthalmic Dispensers and Ophthalmic Technicians,
9 the Audiology and Speech-Language Pathology Advisory
10 Committee, the State Board of Marriage and Family Therapy
11 Examiners, the Occupational Therapy Advisory Council and the
12 Certified Psychoanalysts Advisory Committee. "Health care
13 professional" also includes a nurse aide and a personal care
14 assistant certified by the Department of Health [and Senior
15 Services].

16 (cf: P.L.2005, c.83, s.2)

17

18 180. Section 15 of P.L.2005, c.83 (C.26:2H-12.2c) is amended to
19 read as follows:

20 15. a. A health care entity, upon the inquiry of another health
21 care entity, shall truthfully:

22 (1) disclose whether, within the seven years preceding the
23 inquiry, it provided any notice to the division pursuant to section 2
24 of P.L.2005, c.83 (C.26:2H-12.2b), or to the review panel, as
25 required by section 3 of P.L.1989, c.300 (C.26:2H-12.2a), with
26 respect to the health care professional about whom the inquiry has
27 been made, providing a copy of the form of notification and any
28 supporting documentation that was provided to the division, a
29 professional or occupational licensing board in the Division of
30 Consumer Affairs in the Department of Law and Public Safety, or
31 the review panel; and

32 (2) provide information about a current or former employee's
33 job performance as it relates to patient care, as provided in this
34 section, and, in the case of a former employee, the reason for the
35 employee's separation.

36 b. For the purposes of this section, "job performance" shall
37 relate to the suitability of the employee for re-employment at a
38 health care entity, and the employee's skills and abilities as they
39 relate to suitability for future employment at a health care entity.
40 Information about a current or former employee's job performance
41 pursuant to this paragraph shall be based on the employee's
42 performance evaluation, and provided to another health care entity
43 only if: (1) the evaluation has been signed by the evaluator and
44 shared with the employee; (2) the employee has had the opportunity
45 to respond; and (3) the employee's response, if any, has been taken
46 into consideration when providing the information to another health
47 care entity.

1 Job performance as it relates to patient care shall not include the
2 current or former employee's participation in labor activities
3 pursuant to the "National Labor Relations Act," 29 U.S.C. s.151 et
4 seq.

5 c. A health care entity, or any employee designated by the
6 entity, which, pursuant to this section, provides information in good
7 faith and without malice to another health care entity concerning a
8 health care professional, including information about a current or
9 former employee's job performance as it relates to patient care, is
10 not liable for civil damages in any cause of action arising out of the
11 provision or reporting of the information.

12 d. A health care entity which fails to truthfully disclose
13 information to another health care entity making an inquiry
14 pursuant to this section or fails to cooperate with such request for
15 information by the other health care entity shall be subject to such
16 penalties as the Department of Health **[and Senior Services]** may
17 determine pursuant to sections 13 and 14 of P.L.1971, c.136
18 (C.26:2H-13 and 26:2H-14) and section 16 of P.L.1997, c.192
19 (C.26:2S-16), or the director shall determine pursuant to P.L.1989,
20 c.331 (C.34:8-43 et seq.), as applicable.

21 (cf: P.L.2005, c.83, s.15)

22

23 181. Section 1 of P.L.1998, c.136 (C.26:2H-12.6a) is amended
24 to read as follows:

25 1. a. The Department of Children and Families, in consultation
26 with the Department of Health **[and Senior Services]**, shall prepare
27 a resource guide in both English and Spanish which provides
28 information on child abuse and neglect to all parents of newborn
29 infants born in this State. The resource guide shall be distributed to
30 each parent present during the infant's birth, by the personnel at a
31 hospital or birthing facility, prior to the mother's discharge, as part
32 of the hospital or birthing facility's discharge procedures.

33 b. The resource guide shall include information on the signs of
34 child abuse and neglect, the services provided by the State which
35 help in preventing child abuse and neglect, including the
36 availability of home visitation resources, the legal ramifications of
37 abusing or neglecting a child, and tips on child safety.

38 c. The department shall distribute the resource guide, at no
39 charge, to all the hospitals and birthing facilities in the State. The
40 department shall update the resource guide as necessary, and shall
41 make additional copies of the resource guide available to health
42 care providers upon request.

43 d. In addition to the resource guide prepared pursuant to
44 subsection a. of this section, the department, in consultation with
45 the Department of Health **[and Senior Services]**, shall prepare a
46 pamphlet in both English and Spanish that includes information on
47 the prevention of shaken baby syndrome and detailed suggestions
48 for how to cope with a crying baby. The pamphlet shall be

1 distributed to each parent present during the infant's birth, by the
2 personnel at a hospital or birthing facility, prior to the mother's
3 discharge, as part of the hospital or birthing facility's discharge
4 procedures. The department shall: distribute the pamphlet, at no
5 charge, to all hospitals and birthing facilities in the State; update the
6 pamphlet as necessary; and make additional copies of the pamphlet
7 available to health care providers upon request.

8 (cf: P.L.2010, c.67, s.1)

9

10 182. Section 1 of P.L.2005, c.50 (C.26:2H-12.6b) is amended to
11 read as follows:

12 1. As used in this act:

13 "Commissioner" means the Commissioner of Health **[and Senior**
14 **Services]**.

15 "Division on Women" means the Division on Women in the
16 Department of Community Affairs.

17 "Emergency care to sexual assault victims" means a medical
18 examination, procedure, or service provided by an emergency
19 health care facility to a sexual assault victim following an alleged
20 sexual offense.

21 "Emergency contraception" means one or more prescription
22 drugs to prevent pregnancy, used separately or in combination,
23 administered to or self-administered by a patient within a medically
24 recommended time after sexual intercourse, dispensed for that
25 purpose in accordance with professional standards of practice and
26 determined to be safe by the United States Food and Drug
27 Administration.

28 "Emergency health care facility" means a general hospital or
29 satellite emergency department licensed pursuant to P.L.1971, c.136
30 (C.26:2H-1 et seq.).

31 "Medically and factually accurate and objective" means verified
32 or supported by the weight of research conducted in compliance
33 with accepted scientific methods and standards, published in peer-
34 reviewed journals and recognized as accurate and objective by
35 leading professional organizations and agencies with relevant
36 expertise in the field of obstetrics and gynecology.

37 "Sexual Assault Nurse Examiner program" means the Statewide
38 Sexual Assault Nurse Examiner program in the Division of
39 Criminal Justice in the Department of Law and Public Safety,
40 established pursuant to P.L.2001, c.81 (C.52:4B-50 et seq.).

41 "Sexual assault victim" means a female who alleges or is alleged
42 to have suffered a personal, physical, or psychological injury as a
43 result of a sexual offense.

44 "Sexual offense" means sexual assault and aggravated sexual
45 assault as set forth in N.J.S.2C:14-2, criminal sexual contact and
46 aggravated criminal sexual contact as set forth in N.J.S.2C:14-3,
47 fourth degree lewdness as set forth in subsection b. of N.J.S.2C:14-
48 4 and endangering the welfare of a child by engaging in sexual

1 conduct which would impair or debauch the morals of the child as
2 set forth in N.J.S.2C:24-4.

3 (cf: P.L.2005, c.50, s.1)

4

5 183. Section 2 of P.L.1989, c.170 (C.26:2H-12.8) is amended to
6 read as follows:

7 2. Every person admitted to a general hospital as licensed by
8 the **[State]** Department of Health **[and Senior Services]** pursuant to
9 P.L.1971, c.136 (C.26:2H-1 et al.) shall have the right:

10 a. To considerate and respectful care consistent with sound
11 nursing and medical practices, which shall include being informed
12 of the name and licensure status of a student nurse or facility staff
13 member who examines, observes, or treats the patient and the right
14 to expect and receive appropriate assessment, management, and
15 treatment of pain as an integral component of that person's care;

16 b. To be informed of the name of the physician responsible for
17 coordinating his care;

18 c. To obtain from the physician complete, current information
19 concerning his diagnosis, treatment, and prognosis in terms he can
20 reasonably be expected to understand. When it is not medically
21 advisable to give this information to the patient, it shall be made
22 available to another person designated by the patient on his behalf;

23 d. To receive from the physician information necessary to give
24 informed consent prior to the start of any procedure or treatment
25 and which, except for those emergency situations not requiring an
26 informed consent, shall include as a minimum the specific
27 procedure or treatment, the medically significant risks involved, and
28 the possible duration of incapacitation, if any, as well as an
29 explanation of the significance of the patient's informed consent.
30 The patient shall be advised of any medically significant
31 alternatives for care or treatment, however, this does not include
32 experimental treatments that are not yet accepted by the medical
33 establishment;

34 e. To refuse treatment to the extent permitted by law and to be
35 informed of the medical consequences of this act;

36 f. To privacy to the extent consistent with providing adequate
37 medical care to the patient. This shall not preclude discussion of a
38 patient's case or examination of a patient by appropriate health care
39 personnel;

40 g. To privacy and confidentiality of all records pertaining to
41 **[his]** the patient's treatment, except as otherwise provided by law
42 or third party payment contract, and to access to those records,
43 including receipt of a copy thereof at reasonable cost, upon request,
44 unless **[his]** the patient's physician states in writing that access by
45 the patient is not medically advisable;

46 h. To expect that within its capacity, the hospital will make
47 reasonable response to **[his]** the patient's request for services,
48 including the services of an interpreter in a language other than

- 1 English if 10% or more of the population in the hospital's service
2 area speaks that language;
- 3 i. To be informed by **【his】** the patient's physician of any
4 continuing health care requirements which may follow discharge
5 and to receive assistance from the physician and appropriate
6 hospital staff in arranging for required follow-up care after
7 discharge;
- 8 j. To be informed by the hospital of the necessity of transfer to
9 another facility prior to the transfer and of any alternatives to it
10 which may exist, which transfer shall not be effected unless it is
11 determined by the physician to be medically necessary;
- 12 k. To be informed, upon request, of other health care and
13 educational institutions that the hospital has authorized to
14 participate in his treatment;
- 15 l. To be advised if the hospital proposes to engage in or
16 perform human research or experimentation and to refuse to
17 participate in these projects. For the purposes of this subsection
18 "human research" does not include the mere collecting of statistical
19 data;
- 20 m. To examine and receive an explanation of **【his】** the patient's
21 bill, regardless of source of payment, and to receive information or
22 be advised on the availability of sources of financial assistance to
23 help pay for the patient's care, as necessary;
- 24 n. To expect reasonable continuity of care;
- 25 o. To be advised of the hospital rules and regulations that apply
26 to his conduct as a patient;
- 27 p. To treatment without discrimination as to race, age, religion,
28 sex, national origin, or source of payment; and
- 29 q. To contract directly with a New Jersey licensed registered
30 professional nurse of the patient's choosing for private professional
31 nursing care during his hospitalization. A registered professional
32 nurse so contracted shall adhere to hospital policies and procedures
33 in regard to treatment protocols and policies and procedures so long
34 as those policies and procedures are the same for private duty and
35 regularly employed nurses. The registered professional nurse shall
36 not be considered an agent or employee of the hospital for purposes
37 of any financial liabilities, including, but not limited to, State or
38 federal employee taxes, worker's compensation payments or
39 coverage for professional liability.
- 40 The hospital, upon a patient's or **【his】** the patient's designee's
41 request for private professional nursing care, shall provide the
42 patient or **【his】** the patient's designee with a list of local nonprofit
43 professional nurses association registries that refer nurses for
44 private professional nursing care.
45 (cf: P.L.2000, c.65, s.1)
46
- 47 184. Section 14 of P.L.1999, c.154 (C.26:2H-12.12) is amended
48 to read as follows:

1 14. Effective 12 months after the adoption of regulations
2 establishing standard health care enrollment and claim forms by the
3 Commissioner of Banking and Insurance pursuant to section 1 of
4 P.L.1999, c.154 (C.17B:30-23), a health care facility licensed
5 pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) is responsible for
6 filing all claims for third party payment, including claims filed on
7 behalf of the health care facility's patient for any health care service
8 provided by the health care facility that is eligible for third party
9 payment, except that at the patient's option, the patient may file the
10 claim for third party payment.

11 a. In the case of a claim filed on behalf of the health care
12 facility's patient, the health care facility shall file the claim within
13 60 days of the last date of service for a course of treatment, on the
14 standard claim form adopted by the Commissioner of Banking and
15 Insurance pursuant to section 1 of P.L.1999, c.154 (C.17B:30-23).

16 b. In the case of a claim in which the patient has assigned **[his]**
17 the patient's benefits to the health care facility, the health care
18 facility shall file the claim within 180 days of the last date of
19 service for a course of treatment, on the standard claim form
20 adopted by the Commissioner of Banking and Insurance pursuant to
21 section 1 of P.L.1999, c.154 (C.17B:30-23). If the health care
22 facility does not file the claim within 180 days of the last date of
23 service for a course of treatment, the third party payer shall reserve
24 the right to deny payment of the claim, in accordance with
25 regulations established by the Commissioner of Banking and
26 Insurance, and the health care facility shall be prohibited from
27 seeking any payment directly from the patient.

28 (1) In establishing the standards for denial of payment, the
29 Commissioner of Banking and Insurance shall consider the length
30 of delay in filing the claim, the good faith use of information
31 provided by the patient to the health care facility with respect to the
32 identity of the patient's third party payer, delays in filing a claim
33 related to coordination of benefits between third party payers and
34 any other factors the commissioner deems appropriate, and,
35 accordingly, shall define specific instances where the sanctions
36 permitted pursuant to this subsection shall not apply.

37 (2) A health care facility which fails to file a claim within 180
38 days and whose claim for payment has been denied by the third
39 party payer in accordance with this subsection may, in the
40 discretion of a judge of the Superior Court, be permitted to refile
41 the claim if the third party payer has not been substantially
42 prejudiced thereby. Application to the court for permission to refile
43 a claim shall be made within 14 days of notification of denial of
44 payment and shall be made upon motion based upon affidavits
45 showing sufficient reasons for the failure to file the claim with the
46 third party payer within 180 days.

47 c. The provisions of this section shall not apply to any claims
48 filed pursuant to P.L.1972, c.70 (C.39:6A-1 et seq.).

1 d. A health care facility which violates the provisions of
2 subsection a. of this section may be subject to a civil penalty of
3 \$250 for each violation plus \$50 for each day after the 60th day that
4 the health care facility fails to submit a claim. The penalty shall be
5 sued for and collected by the Department of Health **and Senior**
6 **Services**] pursuant to **["the penalty enforcement law," N.J.S.2A:58-**
7 **1 et seq.]** the "Penalty Enforcement Law of 1999," P.L.1999, c.274
8 (C.2A:58-10 et seq.).
9 (cf: PL.1999, c.154, s.14)

10
11 185. Section 3 of P.L.1999, c.362 (C.26:2H-12.13) is amended
12 to read as follows:

13 3. a. The owner or operator of a general hospital who is
14 required to prepare a Consumer Confidence Report pursuant to the
15 "Safe Drinking Water Act Amendments of 1996," 42 U.S.C.s.300f et
16 al., or who receives a Consumer Confidence Report from the owner
17 or operator of a public community water system, shall post each
18 Consumer Confidence Report it prepares or receives in the area of
19 each major entrance and in each admitting room in the hospital.

20 b. The owner or operator of a general hospital who is a supplier
21 of water but is not required to prepare a Consumer Confidence
22 Report pursuant to the "Safe Drinking Water Act Amendments of
23 1996," and who is required to conduct tests of its drinking water by
24 the Department of Environmental Protection, shall post a chart
25 setting forth the results of the water tests, including the level of
26 detection and, as appropriate for each contaminant, the maximum
27 contaminant level, highest level allowed, action level, treatment
28 technique, or other expression of an acceptable level, for each
29 contaminant, in the area of each major entrance and in each
30 admitting room in the general hospital. The chart also shall include
31 in bold print the statement required to be included in a Consumer
32 Confidence Report pursuant to 40 CFR s.141.154(a). The chart
33 shall not include contaminants that are not detected.

34 c. As used in this section, "general hospital" shall mean any
35 general hospital licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et
36 seq.).

37 d. The provisions of this section shall be enforced by the
38 Department of Health **and Senior Services**]. The Department of
39 Health **and Senior Services**] shall not be required to conduct on-
40 site inspections to determine compliance with this section more
41 frequently than any on-site inspections of general hospitals are
42 conducted by the department pursuant to any other law.

43 (cf: P.L.1999, c.362, s.3)

44
45 186. Section 4 of P.L.1999, c.362 (C.26:2H-12.14) is amended
46 to read as follows:

1 4. a. The owner or operator of a rehabilitation center, extended
2 care facility, skilled nursing home, or nursing home who is required
3 to prepare a Consumer Confidence Report pursuant to the "Safe
4 Drinking Water Act Amendments of 1996," 42 U.S.C.s.300f et al.,
5 or who receives a Consumer Confidence Report from the owner or
6 operator of a public community water system, shall post each
7 Consumer Confidence Report it prepares or receives in at least one
8 conspicuous location in the rehabilitation center, extended care
9 facility, skilled nursing home, or nursing home.

10 b. The owner or operator of a rehabilitation center, extended
11 care facility, skilled nursing home, or nursing home who is a
12 supplier of water but is not required to prepare a Consumer
13 Confidence Report pursuant to the "Safe Drinking Water Act
14 Amendments of 1996," and who is required to conduct tests of its
15 drinking water by the Department of Environmental Protection,
16 shall post a chart setting forth the results of the water tests,
17 including the level of detection and, as appropriate for each
18 contaminant, the maximum contaminant level, highest level
19 allowed, action level, treatment technique, or other expression of an
20 acceptable level, for each contaminant, in at least one conspicuous
21 location in the rehabilitation center, extended care facility, skilled
22 nursing home, or nursing home. The chart also shall include in bold
23 print the statement required to be included in a Consumer
24 Confidence Report pursuant to 40 CFR s.141.154(a). The chart shall
25 not include contaminants that are not detected.

26 c. As used in this section, "rehabilitation center," "extended
27 care facility," "skilled nursing home," and "nursing home" shall
28 mean a rehabilitation center, extended care facility, skilled nursing
29 home, or nursing home licensed pursuant to P.L.1971, c.136
30 (C.26:2H-1 et seq.).

31 d. The provisions of this section shall be enforced by the
32 Department of Health **[and Senior Services]**. The Department of
33 Health **[and Senior Services]** shall not be required to conduct on-
34 site inspections to determine compliance with this section more
35 frequently than any on-site inspections of rehabilitation centers,
36 extended care facilities, skilled nursing homes, or nursing homes
37 are conducted by the department pursuant to any other law.
38 (cf: P.L.1999, c.362, s.4)

39
40 187. Section 2 of P.L.1999, c.436 (C.26:2H-12.15) is amended
41 to read as follows:

42 2. a. The Commissioner of Health **[and Senior Services]**,
43 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
44 (C.52:14B-1 et seq.), shall adopt regulations governing the use of
45 unlicensed assistive personnel in licensed health care facilities, in
46 consultation with at least the following: the Director of the Division
47 of Consumer Affairs in the Department of Law and Public Safety,
48 the New Jersey Hospital Association, the New Jersey Association of

1 Health Care Facilities, the Medical Society of New Jersey, and the
2 New Jersey State Nurses Association.

3 As used in this section, "unlicensed assistive personnel" means
4 any unlicensed or uncertified personnel employed by a licensed
5 health care facility that perform nursing tasks which do not require
6 the skill or judgment of a registered professional nurse and which
7 are assigned to them by, and carried out under the supervision of, a
8 registered professional nurse.

9 b. The regulations adopted pursuant to subsection a. of this
10 section, shall require, at a minimum, that:

11 (1) unlicensed assistive personnel employed by a health care
12 facility meet the standards and requirements for education and
13 competency evaluation prescribed by the New Jersey Board of
14 Nursing pursuant to paragraph (26) of subsection d. of section 2 of
15 P.L.1947, c.262 (C.45:11-24); and

16 (2) a health care facility, prior to implementing the use of
17 unlicensed assistive personnel, establish a multidisciplinary
18 committee, including representation from registered professional
19 nurses, physicians, administrative staff, and unlicensed assistive
20 personnel, to evaluate the need for using these personnel, formulate
21 and adopt a plan to implement their use, and monitor the
22 implementation of the plan.

23 c. The plan for implementing the use of unlicensed assistive
24 personnel pursuant to paragraph (2) of subsection b. of this section
25 shall, at a minimum:

26 (1) require the use and specify the composition of
27 multidisciplinary patient care teams operating under the plan;

28 (2) prescribe materials and protocols for the orientation and
29 training of health care facility staff with respect to implementing
30 the plan;

31 (3) provide for the periodic monitoring and evaluation of the use
32 of unlicensed assistive personnel by the multidisciplinary
33 committee established pursuant to subsection b. of this section; and

34 (4) require in-service training and educational programming for
35 both registered professional nurses and unlicensed assistive
36 personnel which include subject matter relating to the delegation of
37 nursing tasks to unlicensed assistive personnel and the supervision
38 of these personnel by registered professional nurses.

39 (cf: P.L.1999, c.436, s.2)

40

41 188. Section 2 of P.L.2001, c.234 (C.26:2H-12.17) is amended
42 to read as follows:

43 2. The Commissioner of Health **[and Senior Services]** may
44 waive the 10% utilization requirement or reduce the required
45 percentage by regulation for specific regions of the State or
46 Statewide if **[he]** the commissioner determines that sufficient
47 numbers of assisted living beds are available in the State to meet the
48 needs of Medicaid-eligible persons within the limits of the federal

1 waiver to provide assisted living services through the Medicaid
2 program.

3 (cf: P.L.2001, c.234, s.2)

4

5 189. Section 6 of P.L.2001, c.234 (C.26:2H-12.21) is amended
6 to read as follows:

7 6. The Commissioner of Health **[and Senior Services]** shall
8 adopt regulations pursuant to the "Administrative Procedure Act,"
9 P.L.1968, c.410 (C.52:14B-1 et seq.) necessary to carry out the
10 purposes of this act.

11 (cf: P.L.2001, c.234, s.6)

12

13 190. Section 3 of P.L.2004, c.9 (C.26:2H-12.25) is amended to
14 read as follows:

15 3. a. As used in this act:

16 "Adverse event" means an event that is a negative consequence
17 of care that results in unintended injury or illness, which may or
18 may not have been preventable.

19 "Anonymous" means that information is presented in a form and
20 manner that prevents the identification of the person filing the
21 report.

22 "Commissioner" means the Commissioner of Health **[and Senior
23 Services]**.

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

26 "Event" means a discrete, auditable, and clearly defined
27 occurrence.

28 "Health care facility" or "facility" means a health care facility
29 licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) and a State
30 psychiatric hospital operated by the Department of Human Services
31 and listed in R.S.30:1-7.

32 "Health care professional" means an individual who, acting
33 within the scope of **[his] the individual's** licensure or certification,
34 provides health care services, and includes, but is not limited to,
35 a physician, dentist, nurse, pharmacist, or other health care
36 professional whose professional practice is regulated pursuant to
37 Title 45 of the Revised Statutes.

38 "Near-miss" means an occurrence that could have resulted in an
39 adverse event but the adverse event was prevented.

40 "Preventable event" means an event that could have been
41 anticipated and prepared against, but occurs because of an error or
42 other system failure.

43 "Serious preventable adverse event" means an adverse event that
44 is a preventable event and results in death or loss of a body part, or
45 disability or loss of bodily function lasting more than seven days or
46 still present at the time of discharge from a health care facility.

1 b. In accordance with the requirements established by the
2 commissioner by regulation, pursuant to this act, a health care
3 facility shall develop and implement a patient safety plan for the
4 purpose of improving the health and safety of patients at the
5 facility.

6 The patient safety plan shall, at a minimum, include:

7 (1) a patient safety committee, as prescribed by regulation;

8 (2) a process for teams of facility staff, which teams are
9 comprised of personnel who are representative of the facility's
10 various disciplines and have appropriate competencies, to conduct
11 ongoing analysis and application of evidence-based patient safety
12 practices in order to reduce the probability of adverse events
13 resulting from exposure to the health care system across a range of
14 diseases and procedures;

15 (3) a process for teams of facility staff, which teams are
16 comprised of personnel who are representative of the facility's
17 various disciplines and have appropriate competencies, to conduct
18 analyses of near-misses, with particular attention to serious
19 preventable adverse events and adverse events; and

20 (4) a process for the provision of ongoing patient safety training
21 for facility personnel.

22 The provisions of this subsection shall not be construed to
23 eliminate or lessen a hospital's obligation under current law or
24 regulation to have a continuous quality improvement program.

25 c. A health care facility shall report to the department or, in the
26 case of a State psychiatric hospital, to the Department of Human
27 Services, in a form and manner established by the commissioner,
28 every serious preventable adverse event that occurs in that facility.

29 d. A health care facility shall assure that the patient affected by
30 a serious preventable adverse event or an adverse event specifically
31 related to an allergic reaction, or, in the case of a minor or a patient
32 who is incapacitated, the patient's parent or guardian or other
33 family member, as appropriate, is informed of the serious
34 preventable adverse event or adverse event specifically related to an
35 allergic reaction, no later than the end of the episode of care, or, if
36 discovery occurs after the end of the episode of care, in a timely
37 fashion as established by the commissioner by regulation. The time,
38 date, participants, and content of the notification shall be
39 documented in the patient's medical record in accordance with rules
40 and regulations adopted by the commissioner. The content of the
41 documentation shall be determined in accordance with the rules and
42 regulations of the commissioner. If the patient's physician
43 determines that the disclosure would seriously and adversely affect
44 the patient's health, then the facility shall assure that the family
45 member, if available, is notified in accordance with rules and
46 regulations adopted by the commissioner. In the event that an adult
47 patient is not informed of the serious preventable adverse event or
48 adverse event specifically related to an allergic reaction, the facility

1 shall assure that the physician includes a statement in the patient's
2 medical record that provides the reason for not informing the
3 patient pursuant to this section.

4 e. (1) A health care professional or other employee of a health
5 care facility is encouraged to make anonymous reports to the
6 department or, in the case of a State psychiatric hospital, to the
7 Department of Human Services, in a form and manner established
8 by the commissioner, regarding near-misses, preventable events,
9 and adverse events that are otherwise not subject to mandatory
10 reporting pursuant to subsection c. of this section.

11 (2) The commissioner shall establish procedures for and a
12 system to collect, store, and analyze information voluntarily
13 reported to the department pursuant to this subsection. The
14 repository shall function as a clearinghouse for trend analysis of the
15 information collected pursuant to this subsection.

16 f. Any documents, materials, or information received by the
17 department, or the Department of Human Services, as applicable,
18 pursuant to the provisions of subsections c. and e. of this section
19 concerning serious preventable adverse events, near-misses,
20 preventable events, and adverse events that are otherwise not
21 subject to mandatory reporting pursuant to subsection c. of this
22 section, shall not be:

23 (1) subject to discovery or admissible as evidence or otherwise
24 disclosed in any civil, criminal, or administrative action or
25 proceeding;

26 (2) considered a public record under P.L.1963, c.73 (C.47:1A-1
27 et seq.) or P.L.2001, c.404 (C.47:1A-5 et al.); or

28 (3) used in an adverse employment action or in the evaluation of
29 decisions made in relation to accreditation, certification,
30 credentialing, or licensing of an individual, which is based on the
31 individual's participation in the development, collection, reporting
32 or storage of information in accordance with this section. The
33 provisions of this paragraph shall not be construed to limit a health
34 care facility from taking disciplinary action against a health care
35 professional in a case in which the professional has displayed
36 recklessness, gross negligence, or willful misconduct, or in which
37 there is evidence, based on other similar cases known to the facility,
38 of a pattern of significant substandard performance that resulted in
39 serious preventable adverse events.

40 The information received by the department, or the Department
41 of Human Services, as applicable, shall be shared with the Attorney
42 General in accordance with rules and regulations adopted pursuant
43 to subsection j. of this section, and may be used by the department,
44 the Department of Human Services, and the Attorney General for
45 the purposes of this act and for oversight of facilities and health
46 care professionals; however, the departments and the Attorney
47 General shall not use the information for any other purpose.

1 In using the information to exercise oversight, the department,
2 Department of Human Services, and Attorney General, as
3 applicable, shall place primary emphasis on assuring effective
4 corrective action by the facility or health care professional,
5 reserving punitive enforcement or disciplinary action for those
6 cases in which the facility or the professional has displayed
7 recklessness, gross negligence, or willful misconduct, or in which
8 there is evidence, based on other similar cases known to the
9 department, Department of Human Services or the Attorney
10 General, of a pattern of significant substandard performance that
11 has the potential for or actually results in harm to patients.

12 g. Any documents, materials, or information developed by a
13 health care facility as part of a process of self-critical analysis
14 conducted pursuant to subsection b. of this section concerning
15 preventable events, near-misses, and adverse events, including
16 serious preventable adverse events, and any document or oral
17 statement that constitutes the disclosure provided to a patient or the
18 patient's family member or guardian pursuant to subsection d. of
19 this section, shall not be:

20 (1) subject to discovery or admissible as evidence or otherwise
21 disclosed in any civil, criminal, or administrative action or
22 proceeding; or

23 (2) used in an adverse employment action or in the evaluation of
24 decisions made in relation to accreditation, certification,
25 credentialing, or licensing of an individual, which is based on the
26 individual's participation in the development, collection, reporting,
27 or storage of information in accordance with subsection b. of this
28 section. The provisions of this paragraph shall not be construed to
29 limit a health care facility from taking disciplinary action against a
30 health care professional in a case in which the professional has
31 displayed recklessness, gross negligence or **willful** willful
32 misconduct, or in which there is evidence, based on other similar
33 cases known to the facility, of a pattern of significant substandard
34 performance that resulted in serious preventable adverse events.

35 h. Notwithstanding the fact that documents, materials, or
36 information may have been considered in the process of self-critical
37 analysis conducted pursuant to subsection b. of this section, or
38 received by the department or the Department of Human Services
39 pursuant to the provisions of subsection c. or e. of this section, the
40 provisions of this act shall not be construed to increase or decrease,
41 in any way, the availability, discoverability, admissibility, or use of
42 any such documents, materials, or information if obtained from any
43 source or context other than those specified in this act.

44 i. The investigative and disciplinary powers conferred on the
45 boards and commissions established pursuant to Title 45 of the
46 Revised Statutes, the Director of the Division of Consumer Affairs
47 in the Department of Law and Public Safety and the Attorney
48 General under the provisions of P.L.1978, c.73 (C.45:1-14 et seq.)

1 or any other law, rule, or regulation, as well as the investigative and
2 enforcement powers conferred on the department and the
3 commissioner under the provisions of Title 26 of the Revised
4 Statutes or any other law, rule or regulation, shall not be exercised
5 in such a manner so as to unduly interfere with a health care
6 facility's implementation of its patient safety plan established
7 pursuant to this section. However, this act shall not be construed to
8 otherwise affect, in any way, the exercise of such investigative,
9 disciplinary, and enforcement powers.

10 j. The commissioner shall, pursuant to the "Administrative
11 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt such
12 rules and regulations necessary to carry out the provisions of this
13 act. The regulations shall establish: criteria for a health care
14 facility's patient safety plan and patient safety committee; the time
15 frame and format for mandatory reporting of serious preventable
16 adverse events at a health care facility; the types of events that
17 qualify as serious preventable adverse events and adverse events
18 specifically related to an allergic reaction; the circumstances under
19 which a health care facility is not required to inform a patient or the
20 patient's family about a serious preventable adverse event or
21 adverse event specifically related to an allergic reaction; and a
22 system for the sharing of information received by the department
23 and the Department of Human Services pursuant to subsections c.
24 and e. of this section with the Attorney General. In establishing the
25 criteria for reporting serious preventable adverse events, the
26 commissioner shall, to the extent feasible, use criteria for these
27 events that have been or are developed by organizations engaged in
28 the development of nationally recognized standards.

29 The commissioner shall consult with the Commissioner of
30 Human Services with respect to rules and regulations affecting the
31 State psychiatric hospitals and with the Attorney General with
32 respect to rules and regulations regarding the establishment of 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.

36 k. Nothing in this act shall be construed to increase or decrease
37 the discoverability, in accordance with *Christy v. Salem*, No. A-
38 6448-02T3 (Superior Court of New Jersey, Appellate Division,
39 February 17, 2004)(2004 WL291160), of any documents, materials
40 or information if obtained from any source or context other than
41 those specified in this act.

42 (cf: P.L.2004, c.9, s.3)

43

44 191. Section 8 of P.L.2007, c.196 (C.26:2H-12.25a) is amended
45 to read as follows:

46 8. The Commissioner of Health **and Senior Services** and the
47 Commissioner of Human Services shall compile their findings and
48 recommendations for operational changes related to patient safety

1 in health care facilities, based on information reported to the
2 commissioners pursuant to the "Patient Safety Act," P.L.2004, c.9
3 (C.26:2H-12.23 et seq.).

4 The commissioners shall jointly issue an annual report of their
5 findings and recommendations to the Governor, and to the
6 Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1),
7 to be made available on the official Internet website of the
8 Department of Health **【and Senior Services】**.

9 (cf: P.L.2007, c.196, s.8)

10

11 192. Section 1 of P.L.2009, c.122 (C.26:2H-12.25b) is amended
12 to read as follows:

13 1. a. The Department of Health **【and Senior Services】** shall
14 include in the New Jersey Hospital Performance Report issued
15 annually by the department hospital-specific data from hospital
16 procedure and diagnosis codes concerning the following patient
17 safety indicators:

18 (1) Foreign body left during procedure (PSI 05);

19 (2) Iatrogenic pneumothorax (PSI 06);

20 (3) Postoperative hip fracture (PSI 08);

21 (4) Postoperative hemorrhage or hematoma (PSI 09);

22 (5) Postoperative deep vein thrombosis (DVT) or pulmonary
23 embolism (PE) (PSI 12);

24 (6) Postoperative sepsis (PSI 13);

25 (7) Postoperative wound dehiscence (PSI 14);

26 (8) Accidental puncture or laceration (PSI 15);

27 (9) Transfusion reaction (PSI 16);

28 (10) Birth trauma (PSI 17);

29 (11) Obstetric trauma-vaginal delivery with instrument (PSI 18);

30 (12) Obstetric trauma-vaginal delivery without instrument (PSI
31 19);

32 (13) Air embolism; and

33 (14) Surgery on the wrong side, wrong body part, or wrong
34 person, or wrong surgery performed on a patient.

35 b. The Commissioner of Health **【and Senior Services】**, in
36 consultation with the Quality Improvement Advisory Committee in
37 the Department of Health **【and Senior Services】**, may include
38 additional patient safety indicators in the annual report, by
39 regulation. The commissioner shall consider indicators that: (1) are
40 recommended by the federal Agency for Healthcare Research and
41 Quality or the Centers for Medicare **【and】** & Medicaid Services; (2)
42 are suitable for comparative reporting and public accountability,
43 and are risk adjusted; (3) have a strong evidence base with no
44 substantial evidence against their use for comparative reporting; and
45 (4) can be measured through data that are available through hospital
46 procedure and diagnosis codes.

1 c. The commissioner shall request the Quality Improvement
2 Advisory Committee to study and make recommendations to the
3 commissioner on how to expand public reporting by the department
4 of patient pressure ulcers, patient infections due to hospital care,
5 and falls by patients in general hospitals.

6 d. The commissioner shall, in accordance with the
7 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
8 seq.), adopt such rules and regulations as the commissioner deems
9 necessary to carry out the provisions of this act.
10 (cf: P.L.2009, c.122, s.1)

11
12 193. Section 2 of P.L.2004, c.136 (C.26:2H-12.28) is amended
13 to read as follows:

14 2. The Commissioner of Health **[and Senior Services]** shall
15 designate hospitals that meet the criteria set forth in this act as
16 primary or comprehensive stroke centers.

17 a. A hospital shall apply to the commissioner for designation
18 and shall demonstrate to the satisfaction of the commissioner that
19 the hospital meets the criteria set forth in section 3 or 4 of this act
20 for a primary or comprehensive stroke center, respectively.

21 b. The commissioner shall designate as many hospitals as
22 primary stroke centers as apply for the designation, provided that
23 the hospital meets the criteria set forth in section 3 of this act. In
24 addition to the criteria set forth in section 3 of this act, the
25 commissioner is encouraged to take into consideration whether the
26 hospital contracts with carriers that provide coverage through the
27 State Medicaid program, established pursuant to P.L.1968, c.413
28 (C.30:4D-1 et seq.)**],** the Children's Health Care Coverage Program,
29 established pursuant to P.L.1997, c.272 (C.30:4I-1 et seq.),**]** and the
30 NJ FamilyCare [Health Coverage] Program, established pursuant
31 to **[P.L.2000, c.71 (C.30:4J-1 et seq.)] P.L.2005, c.156 (C.30:4J-8**
32 **et al.)**.

33 c. The commissioner shall designate as many hospitals as
34 comprehensive stroke centers as apply for the designation, provided
35 that the hospital meets the criteria set forth in section 4 of this act.

36 d. The commissioner may suspend or revoke a hospital's
37 designation as a stroke center, after notice and hearing, if the
38 commissioner determines that the hospital is not in compliance with
39 the requirements of this act.
40 (cf: P.L.2004, c.136, s.2)

41
42 194. Section 4 of P.L.2004, c.136 (C.26:2H-12.30) is amended
43 to read as follows:

44 4. A hospital designated as a comprehensive stroke center shall
45 use proven state-of-the-art technology and medical techniques and,
46 at a minimum, meet the criteria set forth in this section.

- 1 a. The hospital shall meet all of the criteria required for a
2 primary stroke center pursuant to section 3 of this act.
- 3 b. With respect to patient care, the hospital shall:
- 4 (1) maintain a neurosurgical team that is capable of assessing
5 and treating complex stroke and stroke-like syndromes;
- 6 (2) maintain on staff a neuro-radiologist with Certificate of
7 Added Qualifications and a physician with neuro-interventional
8 angiographic training and skills;
- 9 (3) provide comprehensive rehabilitation services either on site
10 or by transfer agreement with another health care facility; and
- 11 (4) enter into and maintain written transfer agreements with
12 primary stroke centers to accept transfer of patients with complex
13 strokes when clinically warranted.
- 14 c. With respect to support services, the hospital shall:
- 15 (1) have magnetic resonance imaging and computed tomography
16 angiography capabilities;
- 17 (2) have digital subtraction angiography and a suite equipped
18 for neuro-interventional procedures;
- 19 (3) develop and maintain sophisticated outcomes assessment
20 and performance improvement capability that incorporates data
21 from affiliated primary stroke centers and integrates regional, State,
22 and national data;
- 23 (4) provide guidance and continuing medical education to
24 primary stroke centers;
- 25 (5) provide graduate medical education in stroke; and
- 26 (6) conduct research on stroke-related topics.
- 27 d. If the Commissioner of Health **[and Senior Services]**
28 determines that a new drug, device, technique, or technology has
29 become available for the treatment of stroke that provides a
30 diagnostic or therapeutic advantage over existing elements included
31 in the criteria established in this section or in section 3 of this act,
32 the commissioner may, by regulation, revise or update the criteria
33 accordingly.

34 (cf: P.L.2004, c.136, s.4.)

35

36 195. Section 5 of P.L.2004, c.136 (C.26:2H-12.31) is amended
37 to read as follows:

38 5. a. In order to encourage and ensure the establishment of
39 stroke centers throughout the State, the Commissioner of Health
40 **[and Senior Services]** shall award matching grants to hospitals that
41 seek designation as stroke centers and demonstrate a need for
42 financial assistance to develop the necessary infrastructure,
43 including personnel and equipment, in order to satisfy the criteria
44 for designation provided pursuant to this act. The matching grants
45 shall not exceed \$250,000 or 50% of the hospital's cost for
46 developing the necessary infrastructure, whichever is less.

47 b. A hospital seeking designation as a stroke center shall apply
48 to the commissioner for a matching grant, in a manner and on a

1 form required by the commissioner, and provide such information
2 as the commissioner deems necessary to determine if the hospital is
3 eligible for the grant.

4 c. The commissioner may provide matching grants to as many
5 hospitals as the commissioner deems appropriate, except that:

6 (1) Matching grant awards shall be made to at least two
7 applicant hospitals in the northern region of this State (comprising
8 Bergen, Hudson, Essex, Passaic, Morris, Sussex, and Warren
9 counties), at least two applicant hospitals in the central region of
10 this State (comprising Union, Somerset, Hunterdon, Mercer,
11 Middlesex, and Monmouth counties) and at least two applicant
12 hospitals in the southern region of this State (comprising
13 Burlington, Camden, Gloucester, Salem, Cumberland, Cape May,
14 Atlantic, and Ocean counties), provided in the case of each region
15 that the applicant hospitals receiving the awards must be eligible
16 therefor under the provisions of this act; and

17 (2) No more than 20% of the funds appropriated pursuant to this
18 act shall be allocated to hospitals that seek designation as
19 comprehensive stroke centers.

20 (cf: P.L.2004, c.136, s.5)

21

22 196. Section 6 of P.L.2004, c.136 (C.26:2H-12.32) is amended
23 to read as follows:

24 6. The Commissioner of Health **[and Senior Services]** shall,
25 not later than September 1, 2005, prepare and submit to the
26 Governor, the President of the Senate, and the Speaker of the
27 General Assembly a report indicating, as of June 30, 2005, the total
28 number of hospitals that shall have applied for grants under section
29 5 of this act and the number of those applicants that shall have been
30 found to be eligible for such grants, the total number of grants
31 awarded, the name and address of each grantee hospital and the
32 amount of the award to each, and the amount of each award that
33 shall have been paid to the grantee.

34 (cf: P.L.2004, c.136, s.6)

35

36 197. Section 1 of P.L.2007, c.65 (C.26:2H-12.33) is amended to
37 read as follows:

38 1. a. The Department of Health **[and Senior Services]** shall
39 make available to the public, through its official department
40 website, information regarding:

41 (1) the ownership of each long-term care facility and adult day
42 health services facility licensed by the department; and

43 (2) any violation of statutory standards or rules and regulations
44 of the department pertaining to the care of patients or physical plant
45 standards found at any such facility by the department.

46 b. The information made available to the public pursuant to
47 subsection a. of this section shall be provided in a manner that
48 would enable a member of the public to search the website by name

1 of a facility or its owner in order to access the information. The
2 department shall also make the information available in writing,
3 upon request.

4 c. The information regarding the ownership of a long-term care
5 or adult day health services facility that is made available to the
6 public pursuant to subsection a. of this section shall provide, at a
7 minimum: the name of the owner of a facility as listed on the
8 facility's license and, if there is more than one owner or the facility
9 is owned by a corporation, the name of each person who holds at
10 least a 10% interest in the facility; the name of any other licensed
11 long-term care or adult day health services facility in the State
12 owned by this owner, corporation, and each person who holds at
13 least a 10% interest in the facility, as applicable; and the address
14 and contact information for the facility.

15 d. The information that is displayed on the official department
16 website pursuant to subsection a. of this section shall include
17 Internet web links to the New Jersey Report Card for Nursing
18 Homes maintained by the department and the Medicare Nursing
19 Home Compare database maintained by the federal Centers for
20 Medicare & Medicaid Services.

21 (cf: P.L.2007, c.65, s.1)

22

23 198. Section 1 of P.L.2007, c.74 (C.26:2H-12.34) is amended to
24 read as follows:

25 1. a. (1) As a condition of serving as a member of the board of
26 trustees of a general hospital licensed pursuant to P.L.1971, c.136
27 (C.26:2H-1 et al.), a person shall be required to complete a training
28 program approved by the Commissioner of Health [and Senior
29 Services] that is designed to clarify the roles and duties of a
30 hospital trustee and is at least one day in length.

31 (2) The training shall be completed no later than six months
32 after the date that the person is appointed as a member of the board,
33 except that a person who is appointed as a member of a hospital
34 board of trustees on or after the date of enactment of this act but
35 prior to the effective date thereof shall complete the training no
36 later than six months after the effective date.

37 (3) A person who was appointed as a member of a hospital
38 board of trustees prior to the date of enactment of P.L.2007, c.74
39 shall complete the training no later than six months after the
40 effective date of P.L.2008, c.57.

41 b. The commissioner shall, in consultation with the New Jersey
42 Hospital Association, the Hospital Alliance of New Jersey, and the
43 New Jersey Council of Teaching Hospitals:

44 (1) prescribe the subject matter of the training, which shall
45 include, but need not be limited to, a review of the types of
46 financial, organizational, legal, regulatory, and ethical issues that a
47 hospital trustee may be required to consider in the course of
48 discharging the trustee's governance responsibilities;

- 1 (2) arrange for, or specify, the entity or entities to provide the
- 2 training;
- 3 (3) specify the timeframe within which the training is to be
- 4 completed;
- 5 (4) certify completion of the training for each trustee upon
- 6 receipt of documentation thereof, as provided on a form and in a
- 7 manner prescribed by the commissioner, or otherwise arrange for
- 8 certification by the training entity; and
- 9 (5) take such other actions as the commissioner determines
- 10 appropriate to effectuate the purposes of this act.
- 11 (cf: P.L.2008, c.57, s.1)

12
13 199. Section 2 of P.L.2007, c.120 (C.26:2H-12.36) is amended
14 to read as follows:

15 2. a. Within one month after the effective date of this act, all
16 general hospitals licensed by the Department of Health **[and Senior**
17 **Services]** pursuant to P.L.1971, c.136 (C.26:2H-1 et al.) shall
18 implement an infection prevention program in their intensive care
19 unit or units, as applicable, and if the hospital has no intensive care
20 unit, then in another high-risk unit such as a surgical unit, or other
21 unit where there is significant risk of facility-acquired infections.

22 Ultimately, the hospital shall expand the infection prevention
23 program to all areas of the hospital, with the exception of an
24 inpatient psychiatric unit, if applicable. The expansion of the
25 infection prevention program shall be completed as quickly as
26 feasible, taking into account the hospital's patient population,
27 physical plant, and other facility-specific circumstances.

28 b. In addition to any other best practices and effective
29 strategies, the hospital shall incorporate the following strategies:

30 (1) identification and isolation of both colonized and infected
31 patients by screening patients upon admission in order to break the
32 chain of transmission;

33 (2) contact precautions for patients found to be MRSA positive,
34 as "contact precautions" is defined by the Centers for Disease
35 Control and Prevention;

36 (3) patient cultures for MRSA upon discharge or transfer from
37 the unit where the infection prevention program has been
38 implemented, and flagging of patients who are readmitted to the
39 hospital;

40 (4) strict adherence to hygiene guidelines;

41 (5) a written infections prevention and control policy with input
42 from frontline caregivers; and

43 (6) a worker education requirement regarding modes of
44 transmission of MRSA, use of protective equipment, disinfection
45 policies and procedures, and other preventive measures.

46 c. A general hospital shall report to the Department of Health
47 **[and Senior Services]**, in a manner and according to a schedule
48 prescribed by the Commissioner of Health **[and Senior Services]**,

1 the number of cases of hospital-acquired MRSA that occur in its
2 facility.

3 (cf: P.L.2007, c.120, s.2)

4

5 200. Section 3 of P.L.2007, c.120 (C.26:2H-12.37) is amended
6 to read as follows:

7 3. A general hospital that is in violation of the provisions of
8 this act shall be subject to such penalties as the Commissioner of
9 Health **[and Senior Services]** may determine pursuant to sections
10 13 and 14 of P.L.1971, c.136 (C.26:2H-13 and 26:2H-14).

11 (cf: P.L.2007, c.20, s.3)

12

13 201. Section 2 of P.L.2007, c.196 (C.26:2H-12.40) is amended
14 to read as follows:

15 2. The Legislature finds and declares:

16 a. Health care facility-associated infections constitute a major
17 public health problem in this country, affecting from 5% to 10% of
18 hospitalized patients annually, resulting in an estimated two million
19 infections, and 90,000 deaths, and adding an estimated \$4.5 to \$5.7
20 billion in health care costs;

21 b. Many health care facility-associated infections can be
22 prevented, and a goal of zero health care facility-associated
23 infections is desirable. There are many simple and effective
24 practices in hospitals that can dramatically reduce the incidence of
25 health care facility-associated infections, such as hand washing,
26 using gloves and properly sterilized equipment, and following the
27 same established best practices, every time, for procedures such as
28 the insertion of an intravenous tube to deliver fluids and
29 medication;

30 c. The uniform reporting of health care facility-associated
31 infections to the State, and the review and analysis of this data by
32 the Department of Health **[and Senior Services]**, will provide a
33 measurable means to assist hospitals in improving patient
34 outcomes;

35 d. The federal Centers for Disease Control and Prevention
36 recommends that states establishing public reporting systems for
37 health care facility-associated infections focus on major site
38 categories to report rates of health care facility-associated infections
39 related to procedures and conditions including, but not limited to,
40 urinary tract infections, surgical site infections, ventilator-
41 associated pneumonia, and central line-related bloodstream
42 infections. A focus on major site categories helps ensure that data
43 collection is concentrated in populations where health care facility-
44 associated infections are more prevalent, and that the infection rates
45 reported are most useful for targeting prevention practices and
46 making comparisons among hospitals and within hospitals, over
47 time;

1 e. The Department of Health **[and Senior Services]** currently
2 provides comparative hospital performance data in its annual New
3 Jersey Hospital Performance Report, and including information
4 about hospital infection rates will further enhance the value of the
5 report to the public and health care providers; and

6 f. Therefore, it is a matter of public health and fiscal policy
7 that patients in New Jersey's hospitals receive health care that
8 incorporates best practices in infection control, not only to protect
9 their health and lives, but also to ensure the economic viability of
10 New Jersey's hospitals.

11 (cf: P.L.2007, c.196, s.2)

12

13 202. Section 3 of P.L.2007, c.196 (C.26:2H-12.41) is amended
14 to read as follows:

15 3. A general hospital licensed pursuant to P.L.1971, c.136
16 (C.26:2H-1 et al.) shall be required to report quarterly to the
17 Department of Health **[and Senior Services]**, in a form and manner
18 prescribed by the Commissioner of Health **[and Senior Services]**:

19 a. process quality indicators of hospital infection control that
20 have been identified by the federal Centers for Medicare **[and]** &
21 Medicaid Services, as selected by the commissioner in consultation
22 with the Quality Improvement Advisory Committee within the
23 department; and

24 b. beginning 30 days after the adoption of regulations pursuant
25 to this act, data on infection rates for the major site categories that
26 define health care facility-associated infection locations, multiple
27 infections, and device-related and non-device related infections,
28 identified by the federal Centers for Disease Control and
29 Prevention, as selected by the commissioner in consultation with
30 the Quality Improvement Advisory Committee within the
31 department.

32 (cf: P.L.2011, c.42, s.1)

33

34 203. Section 5 of P.L.2007, c.196 (C.26:2H-12.43) is amended
35 to read as follows:

36 5. The commissioner shall make available to members of the
37 public, on the official Internet website of the Department of Health
38 **[and Senior Services]**, the information reported pursuant to this act,
39 in such a format as the commissioner deems appropriate to enable
40 comparison among hospitals, with respect to the information, and
41 shall include information in the New Jersey Hospital Performance
42 Report annually issued by the commissioner that measures the
43 performance of general hospitals in the State with respect to process
44 quality indicators and health care facility-associated infection
45 among patients.

46 (cf: P.L.2007, c.196, s.5)

1 204. Section 3 of P.L.2007, c.247 (C.26:2H-12.48) is amended
2 to read as follows:

3 3. A health care professional shall provide to each patient to
4 whom that individual is providing prenatal care, as early as
5 practicable in the health care professional's therapeutic relationship
6 with the patient, preferably in the first trimester, a copy of the
7 brochure prepared by the Division of Family Health Services in the
8 Department of Health **【and Senior Services】** that may be
9 downloaded from the website of the department, which is designed
10 to answer common questions about umbilical cord and placental
11 blood donation and storage, including the NMDP-affiliated public
12 umbilical cord blood bank and private umbilical cord blood bank
13 options and the differences between and benefits of these options.
14 The health care professional shall offer to discuss the information
15 contained in the brochure with the patient.

16 (cf: P.L.2007, c.247, s.3)

17

18 205. Section 2 of P.L.2008, c.59 (C.26:2H-12.51) is amended to
19 read as follows:

20 2. The Department of Health **【and Senior Services】** shall post
21 the notice of a hospital's annual public meeting on the department's
22 website.

23 (cf: P.L.2008, c.59, s.2)

24

25 206. Section 1 of P.L.2008, c.60 (C.26:2H-12.52) is amended to
26 read as follows:

27 1. A hospital licensed by the Department of Health **【and Senior**
28 **Services】** pursuant to P.L.1971, c.136 (C.26:2H-1 et al.) shall
29 charge a patient who is an uninsured resident of this State, and
30 whose family gross income is less than 500% of the federal poverty
31 level, an amount no greater than 115% of the applicable payment
32 rate under the federal Medicare program, established pursuant to
33 Pub.L.89-97 (42 U.S.C.s.1395 et seq.), for the health care services
34 rendered to the patient. The amount shall be in accordance with the
35 sliding scale based on income developed by the department
36 pursuant to this act.

37 (cf: P.L.2008, c.60, s.1)

38

39 207. Section 2 of P.L.2008, c.60 (C.26:2H-12.53) is amended to
40 read as follows:

41 2. The Department of Health **【and Senior Services】** shall
42 establish a sliding scale based on income which stipulates the
43 percentage of a hospital charge that an uninsured resident of this
44 State whose family gross income is less than 500% of the federal
45 poverty level is required to pay for health care services rendered at
46 a hospital.

47 (cf: P.L.2008, c.60, s.2)

1 208. Section 2 of P.L.2009, c.61 (C.26:2H-12.57) is amended to
2 read as follows:

3 2. The Department of Health **【and Senior Services】**, in
4 consultation with the Division of Medical Assistance and Health
5 Services in the Department of Human Services, shall prepare a
6 written informational sheet for assisted living facilities that explains
7 eligibility for participation in a federally approved 1915(c)
8 Medicaid waiver program that provides assisted living services.
9 The informational sheets shall be available on the website of the
10 Department of Health **【and Senior Services】** and shall be updated
11 by the Department of Health **【and Senior Services】** as necessary to
12 reflect a change in eligibility for the programs.

13 (cf: P.L.2009, c.61, s.2)

14

15 209. Section 3 of P.L.2009, c.61 (C.26:2H-12.58) is amended to
16 read as follows:

17 3. The Department of Health **【and Senior Services】** shall
18 distribute the applicable informational sheets, prepared and updated
19 pursuant to section 2 of this act, to all licensed assisted living
20 facilities in the State.

21 (cf: P.L.2009, c.61, s.3)

22

23 210. Section 1 of P.L.2010, c.61 (C.26:2H-12.59) is amended to
24 read as follows:

25 1. a. The Commissioner of Health **【and Senior Services】** shall
26 prepare an online brochure for display on the Internet website of the
27 Department of Health **【and Senior Services】**, based upon
28 information derived from the National Marrow Donor Program, or
29 NMDP, which may be downloaded by physicians and utilized by
30 the commissioner for the purposes of subsection c. of this section,
31 and shall be designed to inform patients of the option to become a
32 bone marrow or peripheral blood stem cell, or PBSC, donor by
33 registering with the NMDP and to answer common questions about
34 bone marrow and peripheral blood stem cell, or PBSC, donation.

35 b. The brochure shall describe:

36 (1) the health benefits to the community from making a bone
37 marrow or PBSC donation through the NMDP;

38 (2) how to register with the NMDP;

39 (3) the procedures for making a bone marrow or PBSC donation
40 through the NMDP, including notice that there is no charge to the
41 donor or the donor's family for making the donation;

42 (4) the circumstances and procedures by which a patient may
43 receive a transfusion of the patient's previously donated blood; and

44 (5) any other aspects of bone marrow or PBSC donation that the
45 commissioner deems appropriate for the purposes of this act.

46 c. The commissioner, within the limits of resources available to
47 the Department of Health **【and Senior Services】** for this purpose,

1 shall seek to promote awareness among physicians and the general
2 public in this State about the option to become a bone marrow or
3 PBSC donor. In doing so, the commissioner shall consult with at
4 least the following: the Medical Society of New Jersey, the Institute
5 of Medicine and Public Health of New Jersey, the NMDP, and other
6 organizations that are seeking to increase bone marrow and PBSC
7 donation among various ethnic groups within the State in need of
8 these donations.

9 (cf: P.L.2010, c.61, s.1)

10
11 211. Section 1 of P.L.2011, c.16 (C.26:2H-12.61) is amended to
12 read as follows:

13 1. a. If a facility licensed to operate as an assisted living
14 residence or comprehensive personal care home pursuant to
15 P.L.1971, c.136 (C.26:2H-1 et seq.) opts to surrender its license and
16 has promised a resident of the facility or the resident's responsible
17 party, in writing through a resident agreement or other instrument,
18 or through a condition of licensure or certificate of need with the
19 Department of Health **[and Senior Services]**, that it will not
20 discharge a resident who becomes Medicaid-eligible, as that term is
21 defined in section 1 of P.L.2001, c.234 (C.26:2H-12.16), the facility
22 shall escrow sufficient funds, as determined by the Commissioner
23 of Health **[and Senior Services]**, to cover the cost of providing
24 **[such]** a resident with care in an alternate State-licensed assisted
25 living residence or comprehensive personal care home for as long as
26 the resident shall require **[such]** care.

27 b. The facility shall cover any costs necessary to utilize **[such]**
28 actuarial services as the Department of Health **[and Senior**
29 **Services]** may require to determine the amount to be escrowed
30 pursuant to subsection a. of this section.

31 c. In the event of a facility bankruptcy, any monies left over
32 after all creditors have been paid shall be used, to the maximum
33 extent practicable, to cover the cost of care provided to a resident in
34 an alternate State-licensed assisted living residence or
35 comprehensive personal care home pursuant to subsection a. of this
36 section.

37 (cf: P.L.2011, c.16, s.1)

38
39 212. Section 7 of P.L.2007, c.225 (C.26:2H-14.14) is amended
40 to read as follows:

41 7. A covered health care facility licensed pursuant to P.L.1971,
42 c.136 (C.26:2H-1 et al.) that is in violation of the provisions of this
43 act shall be subject to such penalties as the Department of Health
44 **[and Senior Services]** may determine pursuant to sections 13 and
45 14 of P.L.1971, c.136 (C.26:2H-13 and 26:2H-14).

46 (cf: P.L.2007, c.225, s.7)

1 213. Section 8 of P.L.2007, c.225, s.8 (C.26:2H-14.15) is
2 amended to read as follows:

3 8. The Commissioner of Health **[and Senior Services]** shall
4 adopt rules and regulations pursuant to the "Administrative
5 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), within 12
6 months of the date of enactment of this act, to carry out the
7 purposes of this act.

8 (cf: P.L.2007, c.225, s.8)

9

10 214. Section 3 of P.L.1987, c.299 (C.26:2H-18c) is amended to
11 read as follows:

12 3. a. The Commissioner of Health **[and Senior Services]**,
13 subject to the provisions of subsection b. of this section, shall
14 designate Cooper University Hospital in the City of Camden as the
15 State's specialty acute care children's hospital in southern New
16 Jersey for the counties of Atlantic, Burlington, Camden, Cape May,
17 Cumberland, Gloucester, and Salem.

18 b. The designation by the Commissioner of Health **[and Senior
19 Services]** pursuant to subsection a. of this section shall be made
20 subsequent to, and shall be contingent upon, the execution of a
21 written agreement between Cooper University Hospital and a
22 majority of the acute care hospitals providing inpatient pediatric
23 services which are located in the counties listed in subsection a. of
24 this section.

25 The written agreement shall state that the other facility
26 recognizes Cooper University Hospital as the State's specialty acute
27 care children's hospital for the counties listed in subsection a. of
28 this section and shall set forth the basis on which the other facility
29 shall make referrals to Cooper University Hospital.

30 (cf: P.L.2005, c.116, s.2)

31

32 215. Section 1 of P.L.1992, c.181 (C.26:2H-18d) is amended to
33 read as follows:

34 1. a. The Commissioner of Health **[and Senior Services]**,
35 subject to the provisions of subsection b. of this section, shall
36 designate Robert Wood Johnson University Hospital/St. Peter's
37 University Hospital in the City of New Brunswick as the State's
38 specialty acute care children's hospital in central New Jersey for the
39 counties of Hunterdon, Mercer, Middlesex, and Somerset.

40 b. The designation by the Commissioner of Health **[and Senior
41 Services]** pursuant to subsection a. of this section shall be made
42 subsequent to, and shall be contingent upon, the execution of a
43 written agreement between Robert Wood Johnson University
44 Hospital/St. Peter's University Hospital and a majority of the acute
45 care hospitals providing inpatient pediatric services which are
46 located in the counties listed in subsection a. of this section.

1 The written agreement shall state that the other facility
2 recognizes Robert Wood Johnson University Hospital/St. Peter's
3 University Hospital as the State's specialty acute care children's
4 hospital for the counties listed in subsection a. of this section and
5 shall set forth the basis on which the other facility shall make
6 referrals to Robert Wood Johnson University Hospital/St. Peter's
7 University Hospital.

8 (cf: P.L.2005, c.116, s.3)

9

10 216. Section 1 of P.L.1993, c.374 (C.26:2H-18e) is amended to
11 read as follows:

12 1. a. The Commissioner of Health **[and Senior Services]**,
13 subject to the provisions of subsection b. of this section, shall
14 designate St. Joseph's Hospital and Medical Center in the City of
15 Paterson as the State's specialty acute care children's hospital for the
16 counties of Bergen, Passaic, Sussex, and Warren.

17 b. The designation by the Commissioner of Health **[and Senior**
18 **Services]** pursuant to subsection a. of this section shall be made
19 subsequent to, and shall be contingent upon, the execution of a
20 written agreement between St. Joseph's Hospital and Medical
21 Center and a majority of the acute care hospitals providing inpatient
22 pediatric services which are located in the counties listed in
23 subsection a. of this section.

24 The written agreement shall state that the other facility
25 recognizes St. Joseph's Hospital and Medical Center as the State's
26 specialty acute care children's hospital for the counties listed in
27 subsection a. of this section and shall set forth the basis on which
28 the other facility shall make referrals to St. Joseph's Hospital and
29 Medical Center.

30 (cf: P.L.2003, c.98, s.3)

31

32 217. Section 2 of P.L.2003, c.98 (C.26:2H-18f) is amended to
33 read as follows:

34 2. a. The Commissioner of Health **[and Senior Services]**,
35 subject to the provisions of subsection b. of this section, shall
36 designate Morristown Memorial Hospital as the State's specialty
37 acute care children's hospital for Morris and Union counties.

38 b. The designation by the Commissioner of Health **[and Senior**
39 **Services]** pursuant to subsection a. of this section shall be made
40 subsequent to, and shall be contingent upon, the execution of
41 written transfer agreements between Morristown Memorial Hospital
42 and a majority of the acute care hospitals providing inpatient
43 pediatric services which are located in Morris and Union counties.

44 The written agreement shall state that the other facility
45 recognizes Morristown Memorial Hospital as the State's specialty
46 acute care children's hospital for Morris and Union counties and

1 shall set forth the basis on which the other facility shall make
2 referrals to Morristown Memorial Hospital.

3 (cf: P.L.2003, c.98, s.2)

4

5 218. Section 1 of P.L.2005, c.116 (C.26:2H-18g) is amended to
6 read as follows:

7 1. a. The Commissioner of Health **[and Senior Services]**,
8 subject to the provisions of subsection b. of this section, shall
9 designate Jersey Shore University Medical Center and Monmouth
10 Medical Center, each, as the State's specialty acute care children's
11 hospitals for Monmouth and Ocean counties, subject to the
12 commissioner's determination that each hospital meets all of the
13 licensure criteria that apply to a children's hospital and has met and
14 complied with all of the requirements to obtain State authorization
15 to offer the component services that constitute a children's hospital.
16 The commissioner's determination and the designation pursuant
17 thereto shall be made separately for each hospital; and the
18 commissioner's decision on the designation of each hospital shall be
19 made independently of, and shall not be contingent upon, the
20 decision on the designation of the other hospital.

21 b. The designation of each hospital by the Commissioner of
22 Health **[and Senior Services]** pursuant to subsection a. of this
23 section shall be made subsequent to, and shall be contingent upon,
24 the execution of written transfer agreements, respectively, between:
25 Jersey Shore University Medical Center and a majority of the acute
26 care hospitals providing inpatient pediatric services located in
27 Monmouth and Ocean counties; and Monmouth Medical Center and
28 a majority of the acute care hospitals providing inpatient pediatric
29 services located in Monmouth and Ocean counties.

30 The written agreement shall state that the other facility
31 recognizes Jersey Shore University Medical Center and Monmouth
32 Medical Center, as applicable, as the State's specialty acute care
33 children's hospitals for Monmouth and Ocean counties and shall set
34 forth the basis on which the other facility shall make referrals to
35 Jersey Shore University Medical Center or Monmouth Medical
36 Center, as applicable.

37 (cf: P.L.2005, c.116, s.1)

38

39 219. Section 1 of P.L.2011, c.208 (C.26:2H-18h) is amended to
40 read as follows:

41 1. a. The Commissioner of Health **[and Senior Services]** may
42 issue a nursing facility license for a facility that provides care for
43 Huntington's Disease.

44 b. The commissioner, pursuant to the "Administrative
45 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), may adopt
46 rules and regulations to effectuate the purposes of this act.

47 (cf: P.L.2011, c.208, s.1)

1 220. Section 2 of P.L.1992, c.160 (C.26:2H-18.52) is amended
2 to read as follows:

3 2. As used in sections 1 through 17 of P.L.1992, c.160
4 (C.26:2H-18.51 through 26:2H-18.67), sections 12 through 15 of
5 P.L.1995, c.133 (C.26:2H-18.59a through C.26:2H-18.59d),
6 sections 7 through 12 of P.L.1996, c.28 (C.26:2H-18.59e et al.) and
7 sections 6, 8, 10 and 11 of P.L.1997, c.263 (C.26:2H-18.58e,
8 C.26:2H-18.58f, C.26:2H-18.58d and C.26:2H-18.59h):

9 "Administrator" means the administrator of the Health Care
10 Subsidy Fund appointed by the commissioner.

11 "Charity care" means care provided at disproportionate share
12 hospitals that may be eligible for a charity care subsidy pursuant to
13 this act.

14 "Charity care subsidy" means the component of the
15 disproportionate share payment that is attributable to care provided
16 at a disproportionate share hospital to persons unable to pay for that
17 care, as provided in this act.

18 "Commission" means the New Jersey Essential Health Services
19 Commission established pursuant to section 4 of this act.

20 "Commissioner" means the Commissioner of Health **[and Senior**
21 **Services]**.

22 "Department" means the Department of Health **[and Senior**
23 **Services]**.

24 "Disproportionate share hospital" means a hospital designated by
25 the Commissioner of Human Services pursuant to Pub.L.89-97 (42
26 U.S.C. s.1396a et seq.) and Pub.L.102-234.

27 "Disproportionate share payment" means those payments made
28 by the Division of Medical Assistance and Health Services in the
29 Department of Human Services to hospitals defined as
30 disproportionate share hospitals by the Commissioner of Human
31 Services in accordance with federal laws and regulations applicable
32 to hospitals serving a disproportionate number of low income
33 patients.

34 "Fund" means the Health Care Subsidy Fund established
35 pursuant to section 8 of this act.

36 "Hospital" means an acute care hospital licensed by the
37 Department of Health **[and Senior Services]** pursuant to P.L.1971,
38 c.136 (C.26:2H-1 et al.).

39 "Medicaid" means the New Jersey Medical Assistance and
40 Health Services Program in the Department of Human Services
41 established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).

42 "Medicare" means the program established pursuant to Pub.L.89-
43 97 (42 U.S.C. s.1395 et seq.).

44 (cf: P.L.1997, c.263, s.1)

45

46 221. Section 2 of P.L.2006, c.87 (C.26:2H-18.55a) is amended
47 to read as follows:

1 2. a. The Commissioner of Health **[and Senior Services]** shall
2 compile, to the extent data are available, the following information
3 about recipients of charity care who are employed:

4 (1) the employer's name and address;

5 (2) the number of recipients of charity care who are employed
6 by the employer; and

7 (3) the cost to the State of providing charity care for the
8 employer's employees and their dependents.

9 b. In order to compile the information required pursuant to this
10 section, the commissioner may require hospitals and other health
11 care facilities to submit such information as may be necessary for
12 this purpose.

13 c. The commissioner may include comparable information
14 about recipients of other public health care coverage programs, and
15 **[such]** other information as the commissioner deems appropriate
16 regarding employer-based coverage for persons covered under
17 public insurance programs.

18 d. The information compiled by the commissioner shall not
19 include the name of any charity care recipient or any family
20 member of a recipient.

21 e. The commissioner shall provide the information required
22 pursuant to this section to the Commissioner of Human Services for
23 inclusion in the annual report on Access to Employer-Based Health
24 Insurance, as provided in section 1 of P.L.2006, c.87 (C.30:4J-17).
25 (cf: P.L.2006, c.87, s.2)

26

27 222. Section 7 of P.L.1992, c.160 (C.26:2H-18.57) is amended
28 to read as follows:

29 7. a. Effective January 1, 1994, the Department of Health **[and**
30 **Senior Services]** shall assess each hospital a per adjusted admission
31 charge of **[\$10.00]** \$10.

32 Of the revenues raised by the hospital per adjusted admission
33 charge, **[\$5.00]** \$5 per adjusted admission shall be used by the
34 department to carry out its duties pursuant to P.L.1992, c.160
35 (C.26:2H-18.51 et al.) and **[\$5.00]** \$5 per adjusted admission shall
36 be used by the department for administrative costs related to health
37 planning.

38 b. Effective July 1, 2004, the department shall assess each
39 licensed ambulatory care facility that is licensed to provide one or
40 more of the following ambulatory care services: ambulatory
41 surgery, computerized axial tomography, comprehensive outpatient
42 rehabilitation, extracorporeal shock wave lithotripsy, magnetic
43 resonance imaging, megavoltage radiation oncology, positron
44 emission tomography, orthotripsy, and sleep disorder services. The
45 Commissioner of Health **[and Senior Services]** may, by regulation,
46 add additional categories of ambulatory care services that shall be
47 subject to the assessment if such services are added to the list of

1 services provided in N.J.A.C.8:43A-2.2(b) after the effective date
2 of P.L.2004, c.54.

3 The assessment established in this subsection shall not apply to
4 an ambulatory care facility that is licensed to a hospital in this State
5 as an off-site ambulatory care service facility.

6 (1) For Fiscal Year 2005, the assessment on an ambulatory care
7 facility providing one or more of the services listed in this
8 subsection shall be based on gross receipts for the 2003 tax year as
9 follows:

10 (a) a facility with less than \$300,000 in gross receipts shall not
11 pay an assessment; and

12 (b) a facility with at least \$300,000 in gross receipts shall pay an
13 assessment equal to 3.5% of its gross receipts or \$200,000,
14 whichever amount is less.

15 The commissioner shall provide notice no later than August 15,
16 2004 to all facilities that are subject to the assessment that the first
17 payment of the assessment is due October 1, 2004 and that proof of
18 gross receipts for the facility's tax year ending in calendar year 2003
19 shall be provided by the facility to the commissioner no later than
20 September 15, 2004. If a facility fails to provide proof of gross
21 receipts by September 15, 2004, the facility shall be assessed the
22 maximum rate of \$200,000 for Fiscal Year 2005.

23 The Fiscal Year 2005 assessment shall be payable to the
24 department in four installments, with payments due October 1,
25 2004, January 1, 2005, March 15, 2005 and June 15, 2005.

26 (2) For Fiscal Year 2006, the commissioner shall use the
27 calendar year 2004 data submitted in accordance with subsection c.
28 of this section to calculate a uniform gross receipts assessment rate
29 for each facility with gross receipts over \$300,000 that is subject to
30 the assessment, except that no facility shall pay an assessment
31 greater than \$200,000. The rate shall be calculated so as to raise the
32 same amount in the aggregate as was assessed in Fiscal Year 2005.
33 A facility shall pay its assessment to the department in four
34 payments in accordance with a timetable prescribed by the
35 commissioner.

36 (3) Beginning in Fiscal Year 2007 and for each fiscal year
37 thereafter through Fiscal Year 2010, the uniform gross receipts
38 assessment rate calculated in accordance with paragraph (2) of this
39 subsection shall be applied to each facility subject to the assessment
40 with gross receipts over \$300,000, as those gross receipts are
41 documented in the facility's most recent annual report to the
42 department, except that no facility shall pay an assessment greater
43 than \$200,000. A facility shall pay its annual assessment to the
44 department in four payments in accordance with a timetable
45 prescribed by the commissioner.

46 (4) Beginning in Fiscal Year 2011 and for each fiscal year
47 thereafter, the uniform gross receipts assessment shall be applied at
48 the rate of 2.95% to each facility subject to the assessment with

1 gross receipts over \$300,000, as those gross receipts are
2 documented in the facility's most recent annual report submitted to
3 the department pursuant to subsection c. of this section, except that
4 no facility shall pay an assessment greater than \$350,000. A
5 facility shall pay its annual assessment to the department in four
6 payments in accordance with a timetable prescribed by the
7 commissioner.

8 c. Each ambulatory care facility that is subject to the
9 assessment provided in subsection b. of this section shall submit an
10 annual report including, at a minimum, data on volume of patient
11 visits, charges, and gross revenues, by payer type, for patient
12 services, beginning with calendar year 2004 data. The annual
13 report shall be submitted to the department according to a timetable
14 and in a form and manner prescribed by the commissioner.

15 The department may audit selected annual reports in order to
16 determine their accuracy.

17 d. (1) If, upon audit as provided for in subsection c. of this
18 section, it is determined that an ambulatory care facility understated
19 its gross receipts in its annual report to the department, the facility's
20 assessment for the fiscal year that was based on the defective report
21 shall be retroactively increased to the appropriate amount and the
22 facility shall be liable for a penalty in the amount of the difference
23 between the original and corrected assessment.

24 (2) A facility that fails to provide the information required
25 pursuant to subsection c. of this section shall be liable for a civil
26 penalty not to exceed \$500 for each day in which the facility is not
27 in compliance.

28 (3) A facility that is operating one or more of the ambulatory
29 care services listed in subsection b. of this section without a license
30 from the department, on or after July 1, 2004, shall be liable for
31 double the amount of the assessment provided for in subsection b.
32 of this section, in addition to such other penalties as the department
33 may impose for operating an ambulatory care facility without a
34 license.

35 (4) The commissioner shall recover any penalties provided for
36 in this subsection in an administrative proceeding in accordance
37 with the "Administrative Procedure Act," P.L.1968, c.410
38 (C.52:14B-1 et seq.).

39 e. The revenues raised by the ambulatory care facility
40 assessment pursuant to this section shall be deposited in the Health
41 Care Subsidy Fund established pursuant to section 8 of P.L.1992,
42 c.160 (C.26:2H-18.58).
43 (cf: P.L.2010, c.23, s.1)

44
45 223. Section 8 of P.L.1992, c.160 (C.26:2H-18.58) is amended
46 to read as follows:

47 8. There is established the Health Care Subsidy Fund in the
48 Department of Health **[and Senior Services]**.

1 a. The fund shall be comprised of revenues from employee and
2 employer contributions made pursuant to section 29 of P.L.1992,
3 c.160 (C.43:21-7b), revenues from the hospital assessment made
4 pursuant to section 12 of P.L.1992, c.160 (C.26:2H-18.62),
5 revenues pursuant to section 11 of P.L.1996, c.28 (C.26:2H-
6 18.58c), revenues from interest and penalties collected pursuant to
7 this act and revenues from [such] other sources as the Legislature
8 shall determine. Interest earned on the monies in the fund shall be
9 credited to the fund. The fund shall be a nonlapsing fund dedicated
10 for use by the State to: (1) distribute charity care and other
11 uncompensated care disproportionate share payments to hospitals,
12 and other eligible providers pursuant to section 8 of P.L.1996, c.28
13 (C.26:2H-18.59f), provide subsidies for the Health Access New
14 Jersey program established pursuant to section 15 of P.L.1992,
15 c.160 (C.26:2H-18.65), and provide funding for children's health
16 care coverage in the NJ FamilyCare Program pursuant to
17 **[P.L.1997, c.272 (C.30:4I-1 et seq.)] P.L.2005, c.156 (C.30:4J-8 et**
18 **al.)**; (2) provide funding for federally qualified health centers
19 pursuant to section 12 of P.L.1992, c.160 (C.26:2H-18.62); and (3)
20 provide for the payment in State fiscal year 2002 of appropriate
21 Medicaid expenses, subject to the approval of the Director of the
22 Division of Budget and Accounting.

23 b. The fund shall be administered by a person appointed by the
24 commissioner.

25 The administrator of the fund is responsible for overseeing and
26 coordinating the collection and reimbursement of fund monies. The
27 administrator is responsible for promptly informing the
28 commissioner if monies are not or are not reasonably expected to be
29 collected or disbursed.

30 c. The commissioner shall adopt rules and regulations to ensure
31 the integrity of the fund, pursuant to the "Administrative Procedure
32 Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

33 d. The administrator shall establish separate accounts for the
34 charity care component of the disproportionate share hospital
35 subsidy, other uncompensated care component of the
36 disproportionate share hospital subsidy, federally qualified health
37 centers funding, and the payments for subsidies for insurance
38 premiums to provide care in disproportionate share hospitals,
39 known as the Health Access New Jersey subsidy account,
40 respectively.

41 e. In the event that the charity care component of the
42 disproportionate share hospital subsidy account has a surplus in a
43 given year after payments are distributed pursuant to the
44 methodology established in section 13 of P.L.1995, c.133 (C.26:2H-
45 18.59b) and section 7 of P.L.1996, c.28 (C.26:2H-18.59e) and
46 within the limitations provided in subsection e. of section 9 of
47 P.L.1992, c.160 (C.26:2H-18.59), the surplus monies in calendar
48 years 2002, 2003 and 2004 shall lapse to the unemployment

1 compensation fund established pursuant to R.S.43:21-9, and each
2 year thereafter shall lapse to the charity care component of the
3 disproportionate share hospital subsidy account for distribution in
4 subsequent years.

5 (cf: P.L.2005, c.237, s.1)

6

7 224. Section 6 of P.L.1997, c.263 (C.26:2H-18.58e) is amended
8 to read as follows:

9 6. a. The Commissioner of Health **【and Senior Services】** shall
10 transfer to the Hospital Health Care Subsidy account, known as the
11 Hospital Relief Fund, in the Division of Medical Assistance and
12 Health Services in the Department of Human Services from the
13 Health Care Subsidy Fund, \$50.75 million in fiscal year 998 and
14 \$101.5 million each fiscal year thereafter, according to a schedule
15 to be determined by the Commissioner of Health **【and Senior**
16 **Services】** in consultation with the Commissioner of Human
17 Services. These funds shall be distributed to eligible
18 disproportionate share hospitals according to a methodology
19 adopted by the Commissioner of Human Services pursuant to
20 N.J.A.C.10:52-8.2, using hospital expenditure data for the most
21 recent calendar year available for reimbursements from these funds.

22 b. In fiscal year 1998 and each fiscal year thereafter, the
23 Governor shall recommend and the Legislature shall appropriate to
24 the Hospital Health Care Subsidy account for distribution to
25 disproportionate share hospitals which are eligible for
26 reimbursement pursuant to subsection a. of this section, those
27 federal funds received in connection with the provision of hospital
28 reimbursements from that account.

29 (cf: P.L.1997, c.263, s.6)

30

31 225. Section 8 of P.L.1997, c.263 (C.26:2H-18.58f) is amended
32 to read as follows:

33 8. a. The Commissioner of Health **【and Senior Services】** shall
34 transfer to the Division of Medical Assistance and Health Services
35 in the Department of Human Services from the Health Care Subsidy
36 Fund, \$23.8 million in fiscal year 1998, \$47.6 million in fiscal year
37 1999, and an amount in each succeeding fiscal year that is
38 necessary to obtain the maximum amount of federal funds to which
39 the State is entitled in order to provide children's health care
40 coverage in the NJ FamilyCare Program pursuant to **【P.L.1997,**
41 **c.272 (C.30:4I-1 et seq.)】** P.L.2005, c.156 (C.30:4J-8 et al.),
42 according to a schedule to be determined by the Commissioner of
43 Health **【and Senior Services】** in consultation with the
44 Commissioner of Human Services. These funds shall be expended
45 to provide children's health care coverage in the NJ FamilyCare
46 Program pursuant to **【P.L.1997, c.272 (C.30:4I-1 et seq.)】**
47 P.L.2005, c.156.

1 b. In fiscal year 1999 and each fiscal year thereafter, the
2 Governor shall recommend and the Legislature shall appropriate to
3 the Division of Medical Assistance and Health Services for the
4 purposes of subsection a. of this section, those federal funds
5 received in connection with the provision of children's health care
6 coverage in the NJ FamilyCare Program pursuant to [P.L.1997,
7 c.272 (C.30:4I-1 et seq.)] P.L.2005, c.156.
8 (cf: P.L.1997, c.263, s.8)

9
10 226. Section 4 of P.L.1997, c.264 (C.26:2H-18.58g) is amended
11 to read as follows:

12 4. Notwithstanding the provisions of any other law to the
13 contrary,

14 a. commencing July 1, 1998 and ending June 30, 2006: after
15 the deposit required pursuant to section 5 of P.L.1982, c.40
16 (C.54:40A-37.1), the first \$150,000,000 of revenue collected
17 annually from the cigarette tax imposed pursuant to P.L.1948, c.65
18 (C.54:40A-1 et seq.) and the first \$5,000,000 of revenue collected
19 annually from the "Tobacco Products Wholesale Sales and Use Tax
20 Act," P.L.1990, c.39 (C.54:40B-1 et seq.), shall be deposited into
21 the Health Care Subsidy Fund established pursuant to section 8 of
22 P.L.1992, c.160 (C.26:2H-18.58); and the next \$390,000,000 of
23 revenue collected annually from the cigarette tax imposed pursuant
24 to P.L.1948, c.65 (C.54:40A-1 et seq.) shall be appropriated
25 annually for health programs, and the next \$50,000,000 of revenue
26 collected annually from the cigarette tax imposed pursuant to
27 P.L.1948, c.65 (C.54:40A-1 et seq.) shall be appropriated annually
28 to the New Jersey Economic Development Authority for payment of
29 debt service incurred by the authority for school facilities projects
30 and in fiscal years commencing July 1, 2002 and July 1, 2003, the
31 next \$30,000,000 of revenue collected annually from the cigarette
32 tax imposed pursuant to P.L.1948, c.65 (C.54:40A-1 et seq.) shall
33 be directed to the Department of Health [and Senior Services] to
34 fund anti-smoking initiatives, except that the amount shall be
35 \$40,000,000 in the fiscal year commencing July 1, 2004 and
36 \$45,000,000 in the fiscal year commencing July 1, 2005; and

37 b. commencing with fiscal years beginning on and after July 1,
38 2006, after the deposit required pursuant to section 5 of P.L.1982,
39 c.40 (C.54:40A-37.1), the first \$150,000,000 of revenue collected
40 annually from the cigarette tax imposed pursuant to P.L.1948, c.65
41 (C.54:40A-1 et seq.) and the first \$5,000,000 of revenue collected
42 annually from the "Tobacco Products Wholesale Sales and Use Tax
43 Act," P.L.1990, c.39 (C.54:40B-1 et seq.), shall be deposited into
44 the Health Care Subsidy Fund established pursuant to section 8 of
45 P.L.1992, c.160 (C.26:2H-18.58). In addition, commencing with
46 fiscal years beginning on and after July 1, 2006 but before July 1,
47 2009, there shall be deposited \$215,000,000 of revenue collected
48 annually from the cigarette tax imposed pursuant to P.L.1948, c.65

1 (C.54:40A-1 et seq.) in accordance with the provisions of section 5
 2 of P.L.2004, c.68 (C.34:1B-21.20), and, commencing with fiscal
 3 years beginning on and after July 1, 2009, there shall be deposited
 4 \$241,500,000 of revenue collected annually from the cigarette tax
 5 imposed pursuant to P.L.1948, c.65 (C.54:40A-1 et seq.) in
 6 accordance with the provisions of section 5 of P.L.2004, c.68
 7 (C.34:1B-21.20).

8 (cf: P.L.2009, c.70, s.3)

9

10 227. Section 9 of P.L.1997, c.263 (C.26:2H-18.59) is amended
 11 to read as follows:

12 9. a. The commissioner shall allocate such funds as specified
 13 in subsection e. of this section to the charity care component of the
 14 disproportionate share hospital subsidy account. In a given year,
 15 the department shall transfer from the fund to the Division of
 16 Medical Assistance and Health Services in the Department of
 17 Human Services such funds as may be necessary for the total
 18 approved charity care disproportionate share payments to hospitals
 19 for that year.

20 b. For the period January 1, 1993 to December 31, 1993, the
 21 commission shall allocate \$500 million to the charity care
 22 component of the disproportionate share hospital subsidy account.
 23 The Department of Health [and Senior Services] shall recommend
 24 the amount that the Division of Medical Assistance and Health
 25 Services shall pay to an eligible hospital on a provisional, monthly
 26 basis pursuant to paragraphs (1) and (2) of this subsection. The
 27 department shall also advise the commission and each eligible
 28 hospital of the amount a hospital is entitled to receive.

29 (1) The department shall determine if a hospital is eligible to
 30 receive a charity care subsidy in 1993 based on the following:

31 Hospital Specific Approved Uncompensated Care-1991

32

33

34

Hospital Specific Preliminary Cost Base-1992

35

36

= Hospital Specific % Uncompensated Care (%UC)

37

38 A hospital is eligible for a charity care subsidy in 1993 if, upon
 39 establishing a rank order of the %UC for all hospitals, the hospital
 40 is among the 80% of hospitals with the highest %UC.

41

42 (2) The maximum amount of the charity care subsidy an eligible
 43 hospital may receive in 1993 shall be based on the following:

44

45

Hospital Specific Approved Uncompensated Care-1991

46

47

48 Total approved Uncompensated Care All Eligible Hospitals-1991

1 X \$500 million

2
3 = Maximum Amount of Hospital Specific Charity Care Subsidy for
4 1993

5
6 (3) A hospital shall be required to submit all claims for charity
7 care cost reimbursement, as well as demographic information about
8 the persons who qualify for charity care, to the department in a
9 manner and time frame specified by the Commissioner of Health
10 [and Senior Services], in order to continue to be eligible for a
11 charity care subsidy in 1993 and in subsequent years.

12 The demographic information shall include the recipient's age,
13 sex, marital status, employment status, type of health insurance
14 coverage, if any, and if the recipient is a child under 18 years of age
15 who does not have health insurance coverage or a married person
16 who does not have health insurance coverage, whether the child's
17 parent or the married person's spouse, as the case may be, has health
18 insurance.

19 (4) A hospital shall be reimbursed for the cost of eligible charity
20 care at the same rate paid to that hospital by the Medicaid program;
21 except that charity care services provided to emergency room
22 patients who do not require those services on an emergency basis
23 shall be reimbursed at a rate appropriate for primary care, according
24 to a schedule of payments developed by the commission.

25 (5) The department shall provide for an audit of a hospital's
26 charity care for 1993 within a time frame established by the
27 department.

28 c. For the period January 1, 1994 to December 31, 1994, a
29 hospital shall receive disproportionate share payments from the
30 Division of Medical Assistance and Health Services based on the
31 amount of charity care submitted to the commission or its
32 designated agent, in a form and manner specified by the
33 commission. The commission or its designated agent shall review
34 and price all charity care claims and notify the Division of Medical
35 Assistance and Health Services of the amount it shall pay to each
36 hospital on a monthly basis based on actual services rendered.

37 (1) (Deleted by amendment, P.L.1995, c.133.)

38 (2) If the commission is not able to fully implement the charity
39 care claims pricing system by January 1, 1994, the commission
40 shall continue to make provisional disproportionate share payments
41 to eligible hospitals, through the Division of Medical Assistance
42 and Health Services, based on the charity care costs incurred by all
43 hospitals in 1993, until such time as the commission is able to
44 implement the claims pricing system.

45 If there are additional charity care balances available after the
46 1994 distribution based on 1993 charity care costs, the department
47 shall transfer these available balances from the fund to the Division
48 of Medical Assistance and Health Services for an approved one-

1 time additional disproportionate share payment to hospitals
2 according to the methodology provided in section 12 of P.L.1995,
3 c.133 (C.26:2H-18.59a). The total payment for all hospitals shall
4 not exceed \$75.5 million.

5 (3) A hospital shall be reimbursed for the cost of eligible charity
6 care at the same rate paid to that hospital by the Medicaid program;
7 except that charity care services provided to emergency room
8 patients who do not require those services on an emergency basis
9 shall be reimbursed at a rate appropriate for primary care, according
10 to a schedule of payments developed by the commission.

11 (4) (Deleted by amendment, P.L.1995, c.133.)

12 d. (Deleted by amendment, P.L.1995, c.133.)

13 e. The total amount allocated for charity care subsidy payments
14 shall be: in 1994, \$450 million; in 1995, \$400 million; in 1996,
15 \$310 million; in 1997, \$300 million; for the period January 1, 1998
16 through June 30, 1998, \$160 million; and in fiscal year 1999 and
17 each fiscal year thereafter through fiscal year 2004, \$320 million.
18 Total payments to hospitals shall not exceed the amount allocated
19 for each given year.

20 f. Beginning January 1, 1995:

21 (1) The charity care subsidy shall be determined pursuant to
22 section 13 of P.L.1995, c.133 (C.26:2H-18.59b).

23 (2) A charity care claim shall be valued at the same rate paid to
24 that hospital by the Medicaid program, except that charity care
25 services provided to emergency room patients who do not require
26 those services on an emergency basis shall be valued at a rate
27 appropriate for primary care according to a schedule of payments
28 adopted by the commissioner.

29 (3) The department shall provide for an audit of a hospital's
30 charity care within a time frame established by the commissioner.

31 (cf: P.L.2004, c.113, s.1)

32

33 228. Section 9 of P.L.1996, c.28 (C.26:2H-18.59g) is amended
34 to read as follows:

35 9. The Commissioner of Health **[and Senior Services]**, in
36 consultation with the State Treasurer, shall establish a technology
37 infrastructure to support the provision of charity care pursuant to
38 P.L.1992, c.160 (C.26:2H-18.51 et al.).

39 The State Treasurer, in consultation with the Commissioners of
40 Health **[and Senior Services]** and Human Services may, if deemed
41 to be in the State's best interests, include system features and
42 provisions in the technology infrastructure to satisfy the
43 requirements of multiple programs and purposes, including, but not
44 limited to, programs such as, Medicaid, food stamps, public
45 assistance, and purposes such as the exchange and consolidation of
46 health care information permitted by law, eligibility and identity
47 verification, claims processing, the use of electronic patient

1 identification technology, and electronic data interchange.
2 (cf: P.L.1998, c.37, s.3)

3

4 229. Section 3 of P.L.2004, c.113 (C.26:2H-18.59i) is amended
5 to read as follows:

6 3. a. Beginning July 1, 2004 and each year thereafter:

7 (1) Reimbursed documented charity care shall be equal to the
8 Medicaid-priced amounts of charity care claims submitted to the
9 Department of Health **【and Senior Services】** for the most recent
10 calendar year, adjusted, as necessary, to reflect the annual audit
11 results. These amounts shall be augmented to reflect payments to
12 hospitals by the Medicaid program for Graduate Medical Education
13 and Indirect Medical Education based on the most recent Graduate
14 Medical Education and Indirect Medical Education formulas
15 utilized by the federal Medicare program.

16 (2) Hospital-specific reimbursed documented charity care shall
17 be equal to the Medicaid-priced dollar amount of charity care
18 provided by a hospital as submitted to the Department of Health
19 **【and Senior Services】** for the most recent calendar year. A sample
20 of the claims submitted by the hospital to the department shall be
21 subject to an annual audit conducted pursuant to applicable charity
22 care eligibility criteria.

23 b. Beginning July 1, 2004 and each year thereafter, the charity
24 care subsidy shall be determined according to the following
25 methodology:

26 (1) Each hospital shall be ranked in order of its hospital-
27 specific, relative charity care percentage, or RCCP, by dividing the
28 amount of hospital-specific gross revenue for charity care patients
29 by the hospital's total gross revenue for all patients.

30 (2) The nine hospitals with the highest RCCPs shall receive a
31 charity care payment equal to 96% of each hospital's hospital-
32 specific reimbursed documented charity care. The hospital ranked
33 number 10 shall receive a charity care payment equal to 94% of its
34 hospital-specific reimbursed documented charity care, and each
35 hospital ranked number 11 and below shall receive two percentage
36 points less than the hospital ranked immediately above that hospital.

37 (3) Notwithstanding the provisions of paragraph (2) of this
38 subsection to the contrary, each of the hospitals located in the 10
39 municipalities in the State with the lowest median annual household
40 income according to the most recent census data, shall be ranked
41 from the hospital with the highest hospital-specific reimbursed
42 documented charity care to the hospital with the lowest hospital-
43 specific reimbursed documented charity care. The hospital in each
44 of the 10 municipalities, if any, with the highest documented
45 hospital-specific charity care shall receive a charity care payment
46 equal to 96% of its hospital-specific reimbursed documented charity
47 care.

1 (4) Notwithstanding the provisions of this subsection to the
2 contrary, no hospital shall receive reimbursement for less than 43%
3 of its hospital-specific reimbursed documented charity care.

4 c. To ensure that charity care subsidy payments remain viable
5 and appropriate, the State shall maintain the charity care subsidy at
6 an amount not less than 75% of the Medicaid-priced amounts of
7 charity care provided by hospitals in the State. In addition, these
8 amounts shall be augmented to reflect payments to hospitals by the
9 Medicaid program for Graduate Medical Education and Indirect
10 Medical Education based on the most recent Graduate Medical
11 Education and Indirect Medical Education formulas utilized by the
12 federal Medicare program.

13 d. Notwithstanding any other provisions of this section to the
14 contrary, in the event that the change from the charity care subsidy
15 formula in effect for fiscal year 2004 to the formula established
16 pursuant to this section in effect for fiscal year 2005, reduces, for
17 any reason, the amount of the charity care subsidy payment to a
18 hospital below the amount that the hospital received under the
19 formula in effect in fiscal year 2004, the hospital shall receive a
20 payment equal to the amount it would have received under the
21 formula in effect for fiscal year 2004.

22 (cf: P.L.2004, c.113, s.3)

23
24 230. Section 6 of P.L.2008, c.38 (C.26:2H-18.59j) is amended to
25 read as follows:

26 6. Notwithstanding the provisions of section 3 of P.L.2004,
27 c.113 (C.26:2H-18.59i) to the contrary, a hospital shall not submit
28 charity care claims to the Department of Health **[and Senior**
29 **Services]** for health care services provided to a child under 19 years
30 of age who presents at a hospital for emergency care and who may
31 be deemed presumptively eligible for NJ FamilyCare coverage
32 pursuant to P.L.2005, c.156 (C.30:4J-8 et al.) or Medicaid coverage
33 pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).

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

35
36 231. Section 3 of P.L.2007, c.217 (C.26:2H-18.60c) is amended
37 to read as follows:

38 3. The Commissioner of Health **[and Senior Services]** shall
39 require the use of procedures by hospitals to ensure their uniform
40 collection from applicants for charity care pursuant to section 10 of
41 P.L.1992, c.160 (C.26:2H-18.60) and the transmission to the
42 Department of Health **[and Senior Services]** of **[such]**
43 demographic and financial information as the commissioner
44 requires pursuant to section 14 of P.L.1995, c.133 (C.26:2H-18.59c)
45 and any other information that the commissioner determines
46 necessary to ensure the efficient, cost-effective operation of the
47 hospital charity care subsidy program and to prevent and detect

1 fraudulent charity care claims.

2 (cf: P.L.2007, c.217, s.3)

3

4 232. Section 4 of P.L.2007, c.217 (C.26:2H-18.60d) is amended
5 to read as follows:

6 4. a. The Commissioner of Health **[and Senior Services]** and
7 the Medicaid Inspector General shall establish an inter-agency
8 agreement under which the staff and resources of the Office of the
9 Medicaid Inspector General are utilized to:

10 (1) investigate charity care claims, which that office or the
11 Department of Health **[and Senior Services]** reasonably suspects
12 may be fraudulent, with the same authority as that granted to the
13 Medicaid Inspector General to investigate complaints related to
14 Medicaid integrity, fraud, and abuse pursuant to P.L.2007, c.58
15 (C.30:4D-53 et al.); and

16 (2) recover monies from third party payers that were paid as
17 charity care subsidies based upon fraudulent charity care claims.

18 b. The commissioner and the Medicaid Inspector General shall
19 take such actions as are necessary to ensure that any monies
20 recovered pursuant to subsection a. of this section are deposited in
21 the Health Care Subsidy Fund and used for the purposes of
22 providing charity care subsidies pursuant to P.L.1992, c.160
23 (C.26:2H-18.51 et al.).

24 (cf: P.L.2007, c.217, s.4)

25

26 233. Section 5 of P.L.2007, c.217 (C.26:2H-18.60e) is amended
27 to read as follows:

28 5. The Commissioner of Health **[and Senior Services]** and the
29 State Treasurer shall establish an inter-agency agreement under
30 which the staff and resources of the Division of Taxation in the
31 Department of the Treasury are utilized to conduct random checks
32 of personal State income tax returns filed by persons determined
33 eligible for charity care pursuant to section 10 of P.L.1992, c.160
34 (C.26:2H-18.60), in consultation with the commissioner, and with
35 the Medicaid Inspector General pursuant to section 4 of P.L.2007,
36 c.217 (C.26:2H-18.60d), for the purposes of determining the
37 validity of charity care claims for health care services provided to
38 those persons.

39 (cf: P.L.2007, c.217, s.5)

40

41 234. Section 7 of P.L.2007, c.217 (C.26:2H-18.60f) is amended
42 to read as follows:

43 7. The Commissioner of Health **[and Senior Services]** shall
44 establish a mechanism, by means of a toll-free telephone hotline or
45 electronic mail, through which persons may confidentially report
46 suspected incidents of fraudulent charity care claims to the

1 Department of Health **【and Senior Services】**.

2 (cf: P.L.2007, c.217, s.7)

3

4 235. Section 12 of P.L.1992, c.160 (C.26:2H-18.62) is amended
5 to read as follows:

6 12. a. (Deleted by amendment, P.L.2005, c.237).

7 b. (Deleted by amendment, P.L.2005, c.237).

8 c. (1) Notwithstanding any law to the contrary, each general
9 hospital and each specialty heart hospital shall pay .53% of its total
10 operating revenue to the department for deposit in the Health Care
11 Subsidy Fund. The hospital shall make monthly payments to the
12 department beginning July 1, 1993. The commissioner shall
13 determine the manner in which the payments shall be made.

14 For the purposes of this subsection, "total operating revenue"
15 shall be defined by the department in accordance with financial
16 reporting requirements established pursuant to N.J.A.C.8:31B-3.3
17 and shall include revenue from any ambulatory care facility that is
18 licensed to a general hospital as an off-site ambulatory care service
19 facility.

20 (2) The commissioner shall allocate the monies paid by
21 hospitals pursuant to paragraph (1) of this subsection as follows:

22 (a) In State fiscal years 2006 and 2007, \$35 million of those
23 monies shall be allocated to the support of federally qualified health
24 centers in this State, and the remainder shall be allocated to the
25 support of (i) the infant mortality reduction program in the
26 Department of Health **【and Senior Services】**, (ii) the primary care
27 physician and dentist loan redemption program established in the
28 Higher Education Student Assistance Authority by article 3 of
29 P.L.1999, c.46 (C.18A:71C-32 et seq.), and (iii) the development
30 and use of health information electronic data interchange
31 technology pursuant to P.L.1999, c.154 (C.17B:30-23 et al.); and

32 (b) In State fiscal year 2008 and thereafter, \$40 million of those
33 monies shall be allocated to the support of federally qualified health
34 centers in this State.

35 Monies allocated to the support of federally qualified health
36 centers in the State under this paragraph shall be used for the
37 purpose of compensating them for health care services provided to
38 uninsured patients.

39 d. The monies paid by the hospitals and allocated under
40 subsection c. of this section for the support of federally qualified
41 health centers shall be credited to the federally qualified health
42 centers account.

43 e. (1) Monies paid by hospitals under subsection c. of this
44 section in excess of \$40 million, federal matching funds received on
45 account of such monies, and interest received on such payments and
46 funds shall be allocated exclusively to support funding to hospitals.

47 (2) In the event that any approval, application, or other
48 condition necessary for the implementation of this subsection and

1 the distribution of funds pursuant thereto consistent with the Fiscal
2 Year 2011 annual appropriations act is not obtained, granted, or
3 satisfied, the Departments of Health **[and Senior Services]** and
4 Human Services shall jointly prepare a plan concerning charity care
5 and related hospital funding, which shall be subject to the approval
6 of the Joint Budget Oversight Committee.

7 (cf: P.L.2010, c.23, s.2)

8

9 236. Section 3 of P.L.2008, c.33 (C.26:2H-18.76) is amended to
10 read as follows:

11 3. a. The Health Care Stabilization Fund is established as a
12 nonlapsing, revolving fund in the Department of Health **[and Senior**
13 **Services]**. The fund shall be administered by the Department of
14 Health **[and Senior Services]** in consultation with the Department
15 of the Treasury. The fund shall be comprised of **[such]** revenues as
16 are appropriated by the Legislature from time to time, along with
17 any interest earned on monies in the fund.

18 b. Monies from the fund shall be disbursed solely as grants to
19 qualifying licensed health care facilities pursuant to eligibility
20 criteria, and subject to conditions, prescribed by the Commissioner
21 of Health **[and Senior Services]** in accordance with the
22 requirements of this act.

23 (cf: P.L.2008, c.33, s.3)

24

25 237. Section 4 of P.L.2008, c.33 (C.26:2H-18.77) is amended to
26 read as follows:

27 4. The Commissioner of Health **[and Senior Services]**, in
28 consultation with the State Treasurer and the New Jersey Health
29 Care Facilities Financing Authority, may award a grant to a hospital
30 or other licensed health care facility from the fund if the
31 commissioner determines that, due to extraordinary circumstances,
32 the grant is necessary to maintain access to essential health care
33 services or referral sources, as appropriate. In determining whether
34 to award a grant to a licensed health care facility, the commissioner
35 shall consider whether, at a minimum, the following factors are
36 present:

37 a. Extraordinary circumstances threaten access to essential
38 health services for residents in a community;

39 b. Persons in a community will be without ready access to
40 essential health care services in the absence of the award of a grant
41 from the fund;

42 c. Funding is unavailable from other sources to preserve or
43 provide essential health care services;

44 d. A grant from the fund is likely to stabilize access to the
45 essential health care services;

46 e. There is a reasonable likelihood that the essential health care
47 services will be sustainable upon the termination of the grant;

1 f. The proposed recipient of the grant agrees to conditions
2 established by the commissioner for receipt of a grant; and

3 g. The hospital or other licensed health care facility serves a
4 significant number of uninsured and underinsured persons.

5 (cf: P.L.2008, c.33, s.4)

6

7 238. Section 5 of P.L.2008, c.33 (C.26:2H-18.78) is amended to
8 read as follows:

9 5. a. The Commissioner of Health **【and Senior Services】** shall
10 set reasonable conditions for the receipt of a grant by a general
11 hospital or other licensed health care facility, which conditions may
12 include, but need not be limited to, requirements to assure the
13 efficient and effective delivery of health care services.

14 The facility shall agree to: the provision of essential health care
15 services to the community as determined by the commissioner;
16 facilitating the enrollment of individuals in appropriate government
17 insurance programs; and providing the Department of Health **【and**
18 **Senior Services】** with **【such】** quality of care, utilization, and
19 financial information as determined by the commissioner to be
20 reasonable and necessary. In the case of a facility whose financial
21 condition created or contributed to the extraordinary circumstances
22 necessitating the award of the grant, the facility shall agree to such
23 corrective steps to its governance, management, and business
24 operations as the commissioner deems reasonable and appropriate
25 in light of the facility's circumstances and the health care needs of
26 the community.

27 b. Within one year of the award of a grant from the fund, the
28 commissioner, in consultation with the State Comptroller, shall
29 cause to be conducted an audit to evaluate:

30 (1) whether a grantee's use of the funds was consistent with the
31 provisions of this act, the commissioner's regulations, and any
32 conditions imposed upon the award of the grant; and

33 (2) whether a grantee's use of the funds furthered the purposes
34 of this act.

35 c. The commissioner, pursuant to the "Administrative
36 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt
37 such rules and regulations as are necessary to effectuate the
38 purposes of this act. The regulations shall specify eligibility criteria
39 for, and conditions that must be met by, a health care facility to
40 receive a grant from the fund.

41 Notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1
42 et seq.) to the contrary, the commissioner may adopt immediately
43 upon filing with the Office of Administrative Law such regulations
44 as the commissioner deems necessary to implement the provisions
45 of this act, which shall be effective for a period not to exceed 270
46 days following enactment of this act and may thereafter be
47 amended, adopted, or readopted by the department in accordance
48 with the requirements of P.L.1968, c.410.

1 d. The commissioner shall annually, by March 1 of each year,
2 submit a report on the Health Care Stabilization Fund to the
3 Governor, and to the Legislature pursuant to section 2 of P.L.1991,
4 c.164 (C.52:14-19.1). The commissioner shall include a copy of the
5 report on the department's website.

6 The report shall identify the health care facilities that received
7 grants during the reporting period, the purpose for which the grant
8 was allocated to the facility, and the extent to which the awarding
9 of the grant furthered the purposes of this act. The report shall
10 include a copy of any audits conducted pursuant to subsection b. of
11 this section.

12 (cf: P.L.2008, c.33, s.5)

13

14 239. Section 3 of P.L.1997, c.78 (C.26:2H-81) is amended to
15 read as follows:

16 3. The Commissioner of Health **[and Senior Services]** shall
17 adopt rules and regulations pursuant to the "Administrative
18 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) necessary to
19 carry out the provisions of this act.

20 (cf: P.L.1997, c.78, s.3)

21

22 240. Section 2 of P.L.1997, c.100 (C.26:2H-83) is amended to
23 read as follows:

24 2. a. The Department of Health **[and Senior Services]** shall
25 not issue a nurse aide or personal care assistant certification to any
26 applicant, except on a conditional basis as provided for in
27 subsection d. of section 3 of P.L.1997, c.100 (C.26:2H-84), unless
28 the Commissioner of Health **[and Senior Services]** first determines,
29 consistent with the requirements of sections 2 through 6 of
30 P.L.1997, c.100 (C.26:2H-83 through 87), that no criminal history
31 record information exists on file in the Federal Bureau of
32 Investigation, Identification Division, or in the State Bureau of
33 Identification in the Division of State Police, which would
34 disqualify that person from being certified. A nurse aide or personal
35 care assistant certified by the department prior to the effective date
36 of P.L.2000, c.20 upon whom a criminal history record background
37 check has not been conducted pursuant to sections 2 through 6 of
38 P.L.1997, c.100 (C.26:2H-83 through 87), shall be required to
39 undergo that criminal history record background check as a
40 condition of that individual's initial recertification following the
41 effective date of P.L.2000, c.20.

42 In addition, a follow-up criminal history record background
43 check of federal records shall be conducted at least once every two
44 years as a condition of recertification for every certified nurse aide
45 and personal care assistant; except that the commissioner, in lieu of
46 conducting follow-up criminal history record background checks
47 for purposes of recertification, may provide for an alternative means
48 of determining whether a certified nurse aide or personal care

1 assistant has been convicted of a crime or disorderly persons
2 offense which would disqualify that person from certification,
3 including, but not limited to, a match of a person's Social Security
4 number or other identifying information with records of criminal
5 proceedings in this and other states. If the commissioner elects to
6 implement this alternative means of determining whether a certified
7 nurse aide or personal care assistant has been convicted of a crime
8 or disorderly persons offense which would disqualify that person
9 from certification, the commissioner shall report to the Governor
10 and the Legislature prior to its implementation on the projected
11 costs and procedures to be followed with respect to its
12 implementation and setting forth the rationale therefor.

13 A person shall be disqualified from certification if that person's
14 criminal history record background check reveals a record of
15 conviction of any of the following crimes and offenses:

16 (1) In New Jersey, any crime or disorderly persons offense:

17 (a) involving danger to the person, meaning those crimes and
18 disorderly persons offenses set forth in N.J.S.2C:11-1 et seq.,
19 N.J.S.2C:12-1 et seq., N.J.S.2C:13-1 et seq., N.J.S.2C:14-1 et seq.
20 or N.J.S.2C:15-1 et seq.; or

21 (b) against the family, children, or incompetents, meaning those
22 crimes and disorderly persons offenses set forth in N.J.S.2C:24-1 et
23 seq.; or

24 (c) involving theft as set forth in chapter 20 of Title 2C of the
25 New Jersey Statutes; or

26 (d) involving any controlled dangerous substance or controlled
27 substance analog as set forth in chapter 35 of Title 2C of the New
28 Jersey Statutes except paragraph (4) of subsection a. of
29 N.J.S.2C:35-10.

30 (2) In any other state or jurisdiction, of conduct which, if
31 committed in New Jersey, would constitute any of the crimes or
32 disorderly persons offenses described in paragraph (1) of this
33 subsection.

34 b. Notwithstanding the provisions of subsection a. of this
35 section, no person shall be disqualified from certification on the
36 basis of any conviction disclosed by a criminal history record
37 background check performed pursuant to sections 2 through 6 and
38 section 14 of P.L.1997, c.100 (C.26:2H-83 through 87 and C.53:1-
39 20.9a) if the person has affirmatively demonstrated to the
40 Commissioner of Health **[and Senior Services]** clear and
41 convincing evidence of the person's rehabilitation. In determining
42 whether a person has affirmatively demonstrated rehabilitation, the
43 following factors shall be considered:

44 (1) the nature and responsibility of the position which the
45 convicted person would hold, has held or currently holds, as the
46 case may be;

47 (2) the nature and seriousness of the offense;

48 (3) the circumstances under which the offense occurred;

- 1 (4) the date of the offense;
- 2 (5) the age of the person when the offense was committed;
- 3 (6) whether the offense was an isolated or repeated incident;
- 4 (7) any social conditions which may have contributed to the
- 5 offense; and
- 6 (8) any evidence of rehabilitation, including good conduct in
- 7 prison or in the community, counseling or psychiatric treatment
- 8 received, acquisition of additional academic or vocational
- 9 schooling, successful participation in correctional work-release
- 10 programs, or the recommendation of those who have had the person
- 11 under their supervision.

12 c. If a person subject to the provisions of sections 2 through 6
13 of P.L.1997, c.100 (C.26:2H-83 through 87) refuses to consent to,
14 or cooperate in, the securing of a criminal history record
15 background check, the commissioner shall, as applicable:

16 (1) not issue a nurse aide or personal care assistant certification
17 and shall notify the applicant, and the applicant's employer if the
18 applicant is conditionally employed as provided in subsection d. of
19 section 3 of P.L.1997, c.100 (C.26:2H-84) or the applicant's
20 prospective employer if known, of that denial; or

21 (2) revoke the person's current nurse aide or personal care
22 assistant certification and notify the person, and the person's
23 employer, if known, of that revocation.

24 (cf: P.L.2000, c.20, s.1)

25

26 241. Section 3 of P.L.1997, c.100 (C.26:2H-84) is amended to
27 read as follows:

28 3. a. An applicant for certification, or a certified nurse aide or
29 personal care assistant who is required to undergo a criminal history
30 record background check pursuant to section 2 of P.L.1997, c.100
31 (C.26:2H-83), shall submit to the Commissioner of Health [and
32 Senior Services] that individual's name, address, and fingerprints
33 taken on standard fingerprint cards by a State or municipal law
34 enforcement agency. The commissioner is authorized to exchange
35 fingerprint data with and receive criminal history record
36 information from the Federal Bureau of Investigation and the
37 Division of State Police for use in making the determinations
38 required by sections 2 through 6 of P.L.1997, c.100 (C.26:2H-83
39 through 87).

40 b. Upon receipt of the criminal history record information for a
41 person from the Federal Bureau of Investigation or the Division of
42 State Police, the commissioner shall immediately notify, in writing,
43 the applicant, and the applicant's employer if the applicant is
44 conditionally employed as provided in subsection d. of this section
45 or the applicant's prospective employer if known, or a certified
46 nurse aide or personal care assistant who is required to undergo a
47 criminal history record background check pursuant to section 2 of
48 P.L.1997, c.100 (C.26:2H-83) and that person's employer, as

1 applicable, of the person's qualification or disqualification for
2 certification under sections 2 through 6 of P.L.1997, c.100
3 (C.26:2H-83 through 87). If the person is disqualified, the
4 conviction or convictions which constitute the basis for the
5 disqualification shall be identified in the notice to the person, but
6 shall not be identified in the notice to the person's employer or
7 prospective employer.

8 c. The person who is the subject of the background check shall
9 have 30 days from the date of the written notice of disqualification
10 to petition the commissioner for a hearing on the accuracy of the
11 person's criminal history record information or to establish the
12 person's rehabilitation under subsection b. of section 2 of P.L.1997,
13 c.100 (C.26:2H-83). The commissioner shall notify the person's
14 employer or prospective employer of the person's petition for a
15 hearing within five days following the receipt of the petition from
16 the person. Upon the issuance of a final decision upon a petition to
17 the commissioner pursuant to this subsection, the commissioner
18 shall notify the person and the person's employer or prospective
19 employer as to whether the person remains disqualified from
20 certification under sections 2 through 6 of P.L.1997, c.100
21 (C.26:2H-83 through 87).

22 d. An applicant for certification may be issued conditional
23 certification and may be employed as a nurse aide or a personal care
24 assistant conditionally for a period not to exceed 60 days, pending
25 completion of a criminal history record background check required
26 under sections 2 through 6 of P.L.1997, c.100 (C.26:2H-83 through
27 87) by the Division of State Police in the Department of Law and
28 Public Safety based upon an examination of its own files in
29 accordance with section 14 of P.L.1997, c.100 (C.53:1-20.9a), and
30 for an additional period not to exceed 60 days pending completion
31 of a criminal history record background check by federal authorities
32 as arranged for by the Division of State Police pursuant to section
33 14 of P.L.1997, c.100 (C.53:1-20.9a), if the person submits to the
34 commissioner a sworn statement attesting that the person has not
35 been convicted of any crime or disorderly persons offense as
36 described in section 2 of P.L.1997, c.100 (C.26:2H-83). A person
37 who submits a false sworn statement shall be disqualified from
38 certification as a nurse aide or a personal care assistant, as the case
39 may be, and shall not have an opportunity to establish rehabilitation
40 pursuant to subsection b. of section 2 of P.L.1997, c.100 (C.26:2H-
41 83).

42 A conditionally employed person, or an employed person
43 certified as a nurse aide or a personal care assistant, who disputes
44 the accuracy of the criminal history record information and who
45 files a petition requesting a hearing pursuant to subsection c. of this
46 section may remain employed by that person's employer until the
47 commissioner rules on the person's petition but, pending the
48 commissioner's ruling, the employer shall not permit the person to

1 have unsupervised contact with patients, residents, or clients, as the
2 case may be, who are 60 years of age or older.

3 e. (1) A licensed health care facility or other entity that has
4 received an application from or conditionally employs an applicant
5 for nurse aide or personal care assistant certification, or employs a
6 certified nurse aide or personal care assistant, and:

7 (a) receives notice from the Commissioner of Health [and
8 Senior Services] that the applicant or certified nurse aide or
9 personal care assistant, as applicable, has been determined by the
10 commissioner to be disqualified from certification as a nurse aide or
11 personal care assistant pursuant to sections 2 through 6 of P.L.1997,
12 c.100 (C.26:2H-83 through 87); or

13 (b) terminates its employment of a conditionally employed
14 applicant for nurse aide or personal care assistant certification or a
15 certified nurse aide or personal care assistant because the person
16 was disqualified from employment at the health care facility or
17 other entity on the basis of a conviction of a crime or disorderly
18 persons offense as described in section 2 of P.L.1997, c.100
19 (C.26:2H-83) after commencing employment at the health care
20 facility or other entity;

21 shall be immune from liability for disclosing that disqualification or
22 termination in good faith to another licensed health care facility or
23 other entity that is qualified by statute or regulation to employ the
24 person as a nurse aide or personal care assistant.

25 (2) A licensed health care facility or other entity which discloses
26 information pursuant to paragraph (1) of this subsection shall be
27 presumed to be acting in good faith unless it is shown by clear and
28 convincing evidence that the health care facility or other entity
29 acted with actual malice toward the person who is the subject of the
30 information.

31 f. (1) A licensed health care facility or other entity, upon
32 receiving notice from the Commissioner of Health [and Senior
33 Services] that a person employed by it as a nurse aide or personal
34 care assistant, including a conditionally employed person, has been
35 convicted of a crime or disorderly persons offense as described in
36 section 2 of P.L.1997, c.100 (C.26:2H-83) after commencing
37 employment at the health care facility or other entity, shall:

38 (a) immediately terminate the person's employment as a nurse
39 aide or personal care assistant; and

40 (b) report information about the termination to the
41 Commissioner of Health [and Senior Services] in a manner
42 prescribed by the commissioner, who shall thereupon deem the
43 person to be disqualified from certification as a nurse aide or
44 personal care assistant, subject to the provisions of paragraph (3) of
45 this subsection.

46 (2) A licensed health care facility or other entity shall be
47 immune from liability for any actions taken in good faith pursuant

1 to paragraph (1) of this subsection and shall be presumed to be
2 acting in good faith unless it is shown by clear and convincing
3 evidence that the health care facility or other entity acted with
4 actual malice toward the employee.

5 (3) The person terminated from employment pursuant to
6 paragraph (1) of this subsection shall have 30 days from the date of
7 the termination to petition the commissioner for a hearing on the
8 accuracy of the information about the conviction reported to the
9 commissioner or to establish why the person should not be
10 terminated from employment, and disqualified from certification, as
11 a nurse aide or personal care assistant. The commissioner shall
12 notify the person's employer of the person's petition for a hearing
13 within five days following the receipt of the petition from the
14 person. Upon the issuance of a final decision upon a petition to the
15 commissioner pursuant to this paragraph, the commissioner shall
16 notify the person and the person's employer as to whether:

17 (a) the person is to be reinstated in **【his】** the person's
18 employment as a nurse aide or personal care assistant and retain
19 **【his】** the person's certification; or

20 (b) the person's termination from employment as a nurse aide or
21 personal care assistant stands and the person remains disqualified
22 from certification.

23 g. The commissioner shall provide for a registry of all persons
24 who have successfully completed all training and competency
25 evaluation requirements for certification as a nurse aide or personal
26 care assistant and shall provide for the inclusion in the registry of
27 information about the disqualification of any person from
28 certification pursuant to sections 2 through 6 of P.L.1997, c.100
29 (C.26:2H-83 through 87); for which purposes, the commissioner
30 may use an existing registry established pursuant to statute or
31 regulation, subject to the requirements of federal law. The registry
32 shall include the specific documented findings constituting the basis
33 for that disqualification, except that the information shall indicate
34 that the person was convicted of a crime or disorderly persons
35 offense as described in section 2 of P.L.1997, c.100 (C.26:2H-83),
36 but shall not identify the conviction or convictions which constitute
37 the basis for the disqualification.

38 (cf: P.L.2000, c.20, s.2)

39

40 242. Section 4 of P.L.1997, c.100 (C.26:2H-85) is amended to
41 read as follows:

42 4. The Department of Health **【and Senior Services】** shall
43 assume the cost of the criminal history record background check
44 conducted on an applicant for nurse aide or personal care assistant
45 certification, or a certified nurse aide or personal care assistant, as
46 the case may be, pursuant to sections 2 through 6 and section 14 of
47 P.L.1997, c.100 (C.26:2H-83 through 87 and C.53:1-20.9a).

48 (cf: P.L.2000, c.20, s.3)

1 243. Section 5 of P.L.1997, c.100 (C.26:2H-86) is amended to
2 read as follows:

3 5. In accordance with the "Administrative Procedure Act,"
4 P.L.1968, c.410 (C.52:14B-1 et seq.), the Commissioner of Health
5 **【and Senior Services】** shall adopt rules and regulations necessary to
6 implement the provisions of sections 1 through 4 and section 6 of
7 P.L.1997, c.100 (C.26:2H-82 through C.26:2H-85 and C.26:2H-87).
8 (cf: P.L.1997, c.100, s.5)

9
10 244. Section 6 of P.L.1997, c.100 (C.26:2H-87) is amended to
11 read as follows:

12 6. Any person submitting a false sworn statement pursuant to
13 section 3 of P.L.1997, c.100 (C.26:2H-84) shall be subject to a fine
14 of not more than \$1,000, which may be assessed by the
15 Commissioner of Health **【and Senior Services】**.
16 (cf: P.L.1997, c.284, s.5)

17
18 245. Section 2 of P.L.1997, c.296 (C.26:2H-89) is amended to
19 read as follows:

20 2. A PACE or Pre-PACE program shall operate in the State
21 only in accordance with a contract with the Department of **【Health**
22 **and Senior】** Human Services ¹**【,** which shall be prepared in
23 consultation with the Department of Human Services, **and】**¹
24 pursuant to the provisions of this act.

25 The programs shall not be subject to the requirements of
26 P.L.1973, c.337 (C.26:2J-1 et seq.).
27 (cf: P.L.1997 c.296, s.2)

28
29 246. Section 3 of P.L.2003, c.105 (C.26:2H-94) is amended to
30 read as follows:

31 3. As used in this act:

32 "Commissioner" means the Commissioner of **【Health and Senior**
33 **Services】** Human Services.

34 "Department" means the Department of **【Health and Senior**
35 **Services】** Human Services.

36 "Director" means the Director of the Division of Taxation in the
37 Department of the Treasury.

38 "Fund" means the "Nursing Home Quality of Care Improvement
39 Fund" established pursuant to this act.

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

42 "Nursing home" means a long-term care facility licensed
43 pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), as well as the
44 distinct part of another health care facility or continuing care
45 retirement community that is licensed to provide skilled nursing
46 care services pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.). For
47 the purposes of this act, nursing home shall not include: an acute

1 care hospital; assisted living facility; comprehensive personal care
2 home; residential health care facility; adult day health care facility;
3 alternate family care program; adult family care program; home
4 health care agency; State psychiatric hospital; county health care
5 facility, including, but not limited to, county geriatric center, county
6 nursing home or other county long-term care facility; the New
7 Jersey Firemen's Home; or a health care facility operated by the
8 Department of Military and Veterans' Affairs.

9 (cf: P.L.2004, c.41, s.1)

10

11 247. Section 4 of P.L.2003, c.105 (C.26:2H-95) is amended to
12 read as follows:

13 4. The "Nursing Home Quality of Care Improvement Fund" is
14 established as a nonlapsing fund in the Department of the Treasury.
15 The fund shall be administered by the State Treasurer, in
16 consultation with the Commissioner of ~~Health and Senior~~
17 ~~Services~~ Human Services or ~~his~~ the commissioner's designee,
18 who shall be responsible for the oversight, coordination, and
19 disbursement of fund monies, and shall be credited with monies
20 received pursuant to section 6 of this act, except for those monies
21 which are deposited into the General Fund in accordance with the
22 provisions of that section.

23 a. The fund shall be comprised of:

24 (1) revenues from assessments paid by nursing homes pursuant
25 to section 5 of this act;

26 (2) matching federal funds received pursuant to Title XIX of the
27 federal Social Security Act (42 U.S.C. s.1396 et seq.) that result
28 from the expenditure of revenues from assessments collected
29 pursuant to section 5 of this act;

30 (3) General Fund revenues, as necessary, to allow for the per
31 diem add-on payments pursuant to subsection d. of section 6 of this
32 act until the revenue from the assessment has been collected. Upon
33 collection of the revenue from the assessment, the General Fund
34 shall be repaid within 90 days; and

35 (4) any interest or other income earned on monies deposited into
36 the fund.

37 b. Any disbursement of monies from the fund shall be used
38 solely for Medicaid nursing home add-ons as provided for under
39 section 6 of this act, which shall not in any manner render the
40 assessment mechanism set forth in section 5 of this act to be in
41 violation of the hold harmless provisions of 42 C.F.R. s.433.68(f).

42 c. The State Treasurer shall provide by regulation for such
43 measures as are required to ensure the integrity of the fund.

44 d. The State Treasurer shall establish separate accounts within
45 the fund as are needed to efficiently manage and disburse fund
46 monies.

47 e. Monies in the fund shall not be used to supplant
48 appropriations from the General Fund to the department ~~or the~~

1 Department of Human Services] for use in securing matching
2 federal funds not otherwise provided for in this act.

3 f. The Director of the Division of Taxation shall be responsible
4 for collecting the assessments.

5 (cf: P.L.2003, c.105, s.4)

6

7 248. Section 3 of P.L.2005, c.233 (C.26:2H-104) is amended to
8 read as follows:

9 3. As used in this act:

10 "Adult" means an individual 18 years of age or older.

11 "Advance directive for mental health care" or "advance
12 directive" means a writing executed in accordance with the
13 requirements of this act. An "advance directive" may include a
14 proxy directive or an instruction directive, or both.

15 "Decision-making capacity" means a patient's ability to
16 understand and appreciate the nature and consequences of mental
17 health care decisions, including the benefits and risks of each, and
18 alternatives to any proposed mental health care, and to reach an
19 informed decision. A patient's decision-making capacity is
20 evaluated relative to the demands of a particular mental health care
21 decision.

22 "Declarant" means a competent adult who executes an advance
23 directive for mental health care.

24 "Domestic partner" means a domestic partner as defined in
25 section 3 of P.L.2003, c.246 (C.26:8A-3).

26 "Instruction directive" means a writing which provides
27 instructions and direction regarding the declarant's wishes for
28 mental health care in the event that the declarant subsequently lacks
29 decision-making capacity.

30 "Mental health care decision" means a decision to accept or
31 refuse any treatment, service, or procedure used to diagnose, treat,
32 or care for a patient's mental condition. "Mental health care
33 decision" also means a decision to accept or refuse the services of a
34 particular mental health care professional or psychiatric facility,
35 including a decision to accept or to refuse a transfer of care.

36 "Mental health care professional" means an individual licensed
37 or certified by this State to provide or administer mental health care
38 in the ordinary course of business or practice of a profession.

39 "Mental health care representative" means the individual
40 designated by a declarant pursuant to the proxy directive part of an
41 advance directive for mental health care for the purpose of making
42 mental health care decisions on the declarant's behalf, and includes
43 an individual designated as an alternate mental health care
44 representative who is acting as the declarant's mental health care
45 representative in accordance with the terms and order of priority
46 stated in an advance directive for mental health care.

47 "Patient" means an individual who is under the care of a mental
48 health care professional.

1 "Proxy directive" means a writing which designates a mental
2 health care representative in the event that the declarant
3 subsequently lacks decision-making capacity.

4 "Psychiatric facility" means a State psychiatric facility listed in
5 R.S.30:1-7, a county psychiatric hospital or the psychiatric unit of a
6 county hospital, a short-term care facility, special psychiatric
7 hospital or psychiatric unit of a general hospital or other health care
8 facility licensed by the Department of Health **【and Senior Services】**
9 pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), or a hospital or
10 community-based mental health center or other entity licensed or
11 funded by the Department of Human Services to provide
12 community-based mental health services.

13 "Responsible mental health care professional" means a person
14 licensed or certified by the State to provide or administer mental
15 health care who is selected by, or assigned to, the patient and has
16 primary responsibility for the care and treatment of the patient.

17 "State" means a state, territory, or possession of the United
18 States, the District of Columbia, or the Commonwealth of Puerto
19 Rico.

20 (cf: P.L.2005 c.233, s.3)

21

22 249. Section 16 of P.L.2005, c.233 (C.26:2H-117) is amended to
23 read as follows:

24 16. 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】**, in consultation with the Commissioner of
27 Human Services, shall adopt rules and regulations, with respect to
28 psychiatric facilities licensed by the Department of Health **【and**
29 **Senior Services】**, to:

30 a. provide for the annual reporting by those psychiatric
31 facilities to the Department of Health **【and Senior Services】**, and
32 the gathering of such additional data, as is reasonably necessary to
33 oversee and evaluate the implementation of this act; except that the
34 commissioner shall seek to minimize the burdens of record-keeping
35 imposed by the rules and regulations and ensure the appropriate
36 confidentiality of patient records; and

37 b. require those psychiatric facilities to adopt policies and
38 practices designed to:

39 (1) make routine inquiry, at the time of admission and at such
40 other times as are appropriate under the circumstances, concerning
41 the existence and location of an advance directive for mental health
42 care;

43 (2) provide appropriate informational materials concerning
44 advance directives for mental health care, including information
45 about the registry of advance directives for mental health care
46 established or designated pursuant to section 17 of this act, to all
47 interested patients and their families and mental health care

1 representatives, and to assist patients interested in discussing and
2 executing an advance directive for mental health care, as well as to
3 encourage declarants to periodically review their advance directives
4 for mental health care as needed;

5 (3) inform mental health care professionals of their rights and
6 responsibilities under this act, to assure that the rights and
7 responsibilities are understood, and to provide a forum for
8 discussion and consultation regarding the requirements of this act;
9 and

10 (4) otherwise comply with the provisions of this act.

11 (cf: P.L.2005, c.233, s.16)

12

13 250. Section 18 of P.L.2005, c.233 (C.26:2H-118) is amended to
14 read as follows:

15 18. The Department of Health **[and Senior Services]** and the
16 Department of Human Services shall jointly evaluate the
17 implementation of this act and report to the Governor and the
18 Legislature, including recommendations for any changes deemed
19 necessary, within five years after the effective date of this act.

20 (cf: P.L.2005, c.233, s.18)

21

22 251. Section 19 of P.L.2005, c.233 (C.26:2H-119) is amended to
23 read as follows:

24 19. a. A mental health care representative shall not be subject to
25 criminal or civil liability for any actions performed in good faith
26 and in accordance with the provisions of this act to carry out the
27 terms of an advance directive for mental health care.

28 b. A mental health care professional shall not be subject to
29 criminal or civil liability, or to discipline by the psychiatric facility
30 or the respective State licensing board for professional misconduct,
31 for any actions performed to carry out the terms of an advance
32 directive for mental health care in good faith and in accordance
33 with: the provisions of this act; any rules and regulations adopted
34 by the Commissioner of Health **[and Senior Services]** or the
35 Commissioner of Human Services pursuant to this act; and accepted
36 professional standards.

37 c. A psychiatric facility shall not be subject to criminal or civil
38 liability for any actions performed in good faith and in accordance
39 with the provisions of this act to carry out the terms of an advance
40 directive for mental health care.

41 (cf: P.L.2005, c.233, s.19)

42

43 252. Section 1 of P.L.2006, c.75 (C.26:2H-126) is amended as
44 follows:

45 1. a. Except as provided in subsection b. of this section, at
46 least 60 days prior to the proposed date of the closing or relocation
47 of a nursing home or assisted living residence licensed pursuant to
48 P.L.1971, c.136 (C.26:2H-1 et seq.), the nursing home or assisted

1 living administrator shall notify, in writing, a resident of the
2 facility, the resident's legal representative, if applicable, and the
3 Department of Health [and Senior Services] of the closing or
4 relocation of the facility.

5 b. The Commissioner of Health [and Senior Services] may
6 waive the 60-day notice requirement in subsection a. of this section
7 if the commissioner determines that an emergency situation
8 warrants a more immediate closure or relocation of the nursing
9 home or assisted living residence. In the case of such an emergency
10 situation, the administrator of the facility shall notify, in writing, a
11 resident, the resident's legal representative, if applicable, and the
12 Department of Health [and Senior Services] of the closure or
13 relocation as soon as practicable.

14 As used in this section, an "emergency situation" may include:
15 the suspension or revocation of the facility license by the
16 commissioner; decertification of the facility by the federal Medicare
17 program established pursuant to Title XVIII of the "Social Security
18 Act," Pub.L.89-97 (42 U.S.C. s.1395 et seq.), or the Medicaid
19 program established pursuant to P.L.1968, c.413 (C.30:4D-1 et
20 seq.); or any other event as prescribed by regulation of the
21 commissioner.

22 (cf: P.L.2006, c.75, s.1)

23

24 253. Section 1 of P.L.2009, c.55 (C.26:2H-127) is amended to
25 read as follows:

26 1. a. An assisted living facility licensed by the Department of
27 Health [and Senior Services] pursuant to P.L.1971, c.136
28 (C.26:2H-1 et seq.) that requires a new resident, as a condition of
29 admission to the facility, to pay a one-time security deposit, which
30 is in addition to the regular monthly rental and services charges,
31 shall provide that the deposit plus interest earned on the deposit is
32 refundable to the resident or other designated person upon the
33 resident's vacating the facility if the resident provides the facility
34 with 30 days' notice that the resident intends to vacate the facility.

35 b. The facility may deduct an amount not to exceed one percent
36 per annum of the amount of the invested or deposited security
37 deposit for the cost of servicing and processing an account
38 containing a security deposit.

39 (cf: P.L.2009, c.55, s.1)

40

41 254. Section 1 of P.L.2011, c.58 (C.26:2H-128) is amended to
42 read as follows:

43 1. a. Each assisted living facility and comprehensive personal
44 care home provider licensed pursuant to P.L.1971, c.136 (C.26:2H-
45 1 et seq.) shall distribute to each resident and post in a conspicuous,
46 public place in the facility or home, as applicable, a statement of
47 resident rights. The statement of rights shall include, at a minimum,
48 the rights set forth in subsection b. of this section. Each resident,

1 resident family member, and legally appointed guardian, as
2 applicable, shall be informed of the resident rights, and provided
3 with explanations if needed. The provider shall ensure that each
4 resident, or the resident's legally appointed guardian, as applicable,
5 signs a copy of the statement of rights.

6 b. Every resident of an assisted living facility or
7 comprehensive personal care home that is licensed in the State shall
8 have the right to:

9 (1) receive personalized services and care in accordance with
10 the resident's individualized general service or health service plan;

11 (2) receive a level of care and services that address the resident's
12 changing physical and psychosocial status;

13 (3) have **【his or her】** the resident's independence and
14 individuality;

15 (4) be treated with respect, courtesy, consideration, and dignity;

16 (5) make choices with respect to services and lifestyle;

17 (6) privacy;

18 (7) have or not to have families' and friends' participation in
19 resident service planning and implementation;

20 (8) receive pain management as needed, in accordance with
21 Department of Health **【and Senior Services】** regulations;

22 (9) choose a physician, advanced practice nurse, or physician
23 assistant;

24 (10) appeal an involuntary discharge as specified in department
25 regulations;

26 (11) receive written documentation that fee increases based on a
27 higher level of care are based on reassessment of the resident and in
28 accordance with department regulations;

29 (12) receive a written explanation of fee increases that are not
30 related to increased services, upon request by the resident;

31 (13) participate, to the fullest extent that the resident is able, in
32 planning **【his or her】** the resident's own medical treatment and
33 care;

34 (14) refuse medication and treatment after the resident has been
35 informed, in language that the resident understands, of the possible
36 consequences of this decision;

37 (15) refuse to participate in experimental research, including the
38 investigations of new drugs and medical devices, and to be included
39 in experimental research only when the resident gives informed,
40 written consent to such participation;

41 (16) be free from physical and mental abuse and neglect;

42 (17) be free from chemical and physical restraints, unless a
43 physician, advanced practice nurse, or physician assistant
44 authorizes the use for a limited period of time to protect the resident
45 or others from injury. Under no circumstances shall a resident be
46 confined in a locked room, or restrained, including with the use of
47 excessive drugs, for punishment or for the convenience of staff;

- 1 (18) manage the resident's own finances, and to delegate that
2 responsibility to a family member, assigned guardian, facility
3 administrator, or some other individual with power of attorney. The
4 resident's authorization delegating such authority shall be witnessed
5 and in writing;
- 6 (19) receive prior to or at the time of admission, and afterwards
7 through addenda, an admission agreement that complies with all
8 applicable State and federal laws, describes the services provided
9 and the related charges, and includes the policies for payment of
10 fees, deposits, and refunds;
- 11 (20) receive a quarterly written account of the resident's funds,
12 the itemized property deposited with the facility for the resident's
13 use and safekeeping, and all financial transactions with the resident,
14 next-of-kin, or guardian, which account shall show the amount of
15 property in the account at the beginning and end of the accounting
16 period, as well as a list of all deposits and withdrawals,
17 substantiated by receipts given to the resident or the resident's
18 guardian;
- 19 (21) have daily access during specified hours to the money and
20 property that the resident has deposited with the facility, and to
21 delegate, in writing, this right of access to a representative;
- 22 (22) live in safe and clean conditions that do not admit more
23 residents than can safely be accommodated;
- 24 (23) not be arbitrarily and capriciously moved to a different bed
25 or room;
- 26 (24) wear the resident's own clothes;
- 27 (25) keep and use the resident's personal property, unless doing
28 so would be unsafe, impractical, or an infringement on the rights of
29 other residents;
- 30 (26) reasonable opportunities for private and intimate physical
31 and social interaction with other people, including the opportunity
32 to share a room with another individual unless it is medically
33 inadvisable;
- 34 (27) confidential treatment with regard to information about the
35 resident, subject to the requirements of law;
- 36 (28) receive and send mail in unopened envelopes, unless the
37 resident requests otherwise, and the right to request and receive
38 assistance in reading and writing correspondence unless medically
39 contraindicated;
- 40 (29) have a private telephone in the resident's living quarters at
41 the resident's own expense;
- 42 (30) meet with any visitors of the resident's choice, at any time,
43 in accordance with facility policies and procedures;
- 44 (31) take part in activities, and to meet with and participate in the
45 activities of any social, religious, and community groups, as long as
46 these activities do not disrupt the lives of other residents;
- 47 (32) refuse to perform services for the facility;

- 1 (33) request visits at any time by representatives of the religion
2 of the resident's choice and, upon the resident's request, to attend
3 outside religious services at the resident's own expense;
- 4 (34) participate in meals, recreation, and social activities without
5 being subjected to discrimination based on age, race, religion, sex,
6 marital status, nationality, or disability;
- 7 (35) organize and participate in a resident council that presents
8 residents' concerns to the administrator of the facility;
- 9 (36) be transferred or discharged only in accordance with the
10 terms of the admission agreement and with N.J.A.C. 8:36-5.1(d);
- 11 (37) receive written notice at least 30 days in advance when the
12 facility requests the resident's transfer or discharge, except in an
13 emergency, which notice shall include the name and contact
14 information for the New Jersey Office of the Ombudsman for the
15 Institutionalized Elderly;
- 16 (38) receive a written statement of resident rights and any
17 regulations established by the facility involving resident rights and
18 responsibilities;
- 19 (39) retain and exercise all constitutional, civil, and legal rights
20 to which the resident is entitled by law;
- 21 (40) voice complaints without fear of interference, discharge,
22 reprisal, and obtain contact information respecting government
23 agencies to which residents can complain and ask questions, which
24 information also shall be posted in a conspicuous place in the
25 facility;
- 26 (41) hire a private caregiver or companion at the resident's
27 expense and responsibility, as long as the caregiver or companion
28 complies with the facility's policies and procedures; and
- 29 (42) obtain medications from a pharmacy of the resident's
30 choosing, as long as the pharmacy complies with the facility's
31 medication administration system, if applicable.
- 32 (cf: P.L.2011, c.58, s.1)

33

34 255. Section 3 of P.L.2011, c.145 (C.26:2H-131) is amended to
35 read as follows:

36 3. As used in sections 1 through 12 of this act:

37 "Advance directive" means an advance directive for health care
38 as defined in section 3 of P.L.1991, c.201 (C.26:2H-55).

39 "Advanced practice nurse" or "APN" means a person who is
40 certified as an advanced practice nurse pursuant to P.L.1991, c.377
41 (C.45:11-45 et seq.).

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

44 "Decision-making capacity" means a patient's ability to
45 understand and appreciate the nature and consequences of a
46 particular health care decision, including the benefits and risks of
47 that decision, and alternatives to any proposed health care, and to
48 reach an informed decision.

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

3 "Emergency care" means the use of resuscitative measures and
4 other immediate treatment provided in response to a sudden, acute,
5 and unanticipated medical crisis in order to avoid injury,
6 impairment, or death.

7 "Emergency care provider" means an emergency medical
8 technician, paramedic, or member of a first aid, ambulance, or
9 rescue squad.

10 "Health care decision" means a decision to accept, withdraw, or
11 refuse a treatment, service, or procedure used to diagnose, treat, or
12 care for a person's physical or mental condition, including life-
13 sustaining treatment.

14 "Health care institution" means a health care facility licensed
15 pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), a psychiatric
16 facility as defined in section 2 of P.L.1987, c.116 (C.30:4-27.2), or
17 a State developmental center listed in R.S.30:1-7.

18 "Health care professional" means a health care professional who
19 is licensed or otherwise authorized to practice a health care
20 profession pursuant to Title 45 or 52 of the Revised Statutes and is
21 currently engaged in that practice.

22 "Life-sustaining treatment" means the use of any medical device
23 or procedure, artificially provided fluids and nutrition, drugs,
24 surgery, or therapy that uses mechanical or other artificial means to
25 sustain, restore, or supplant a vital bodily function, and thereby
26 increase the expected life span of a patient.

27 "Patient" means a person who is under the care of a physician or
28 APN.

29 "Patient's representative" means an individual who is designated
30 by a patient or otherwise authorized under law to make health care
31 decisions on the patient's behalf if the patient lacks decision-making
32 capacity.

33 "Physician" means a person who is licensed to practice medicine
34 and surgery pursuant to chapter 9 of Title 45 of the Revised
35 Statutes.

36 "Physician Orders for Life-Sustaining Treatment form" or
37 "POLST form" means a standardized printed document that is
38 uniquely identifiable and has a uniform color, which:

39 a. is recommended for use on a voluntary basis by patients who
40 have advanced chronic progressive illness or a life expectancy of
41 less than five years, or who otherwise wish to further define their
42 preferences for health care;

43 b. does not qualify as an advance directive;

44 c. is not valid unless it meets the requirements for a completed
45 POLST form as set forth in this act;

46 d. provides a means by which to indicate whether the patient
47 has made an anatomical gift pursuant to P.L.2008, c.50 (C.26:6-77
48 et al.);

1 e. is intended to provide direction to emergency care personnel
2 regarding the use of emergency care, and to a health care
3 professional regarding the use of life-sustaining treatment, with
4 respect to the patient, by indicating the patient's preference
5 concerning the use of specified interventions and the intensity of
6 treatment for each intervention;

7 f. is intended to accompany the patient, and to be honored by
8 all personnel attending the patient, across the full range of possible
9 health care settings, including the patient's home, a health care
10 institution, or otherwise at the scene of a medical emergency; and

11 g. may be modified or revoked at any time by a patient with
12 decision-making capacity or the patient's representative in
13 accordance with the provisions of section 7 of this act.

14 "Resuscitative measures" means cardiopulmonary resuscitation
15 provided in the event that a patient suffers a cardiac or respiratory
16 arrest.

17 (cf: P.L.2011, c.145, s.3)

18
19 256. Section 5 of P.L.2011, c.145 (C.26:2H-133) is amended to
20 read as follows:

21 5. The Commissioner of Health **[and Senior Services]** shall
22 designate a patient safety organization (PSO) operating in this State
23 pursuant to the federal "Patient Safety and Quality Improvement
24 Act of 2005," Pub.L.109-41, to carry out the following
25 responsibilities, by mutual written agreement of the commissioner
26 and that PSO:

27 a. prescribe a POLST form and the procedures for completion,
28 modification, and revocation of the form;

29 b. seek to promote awareness among health care professionals,
30 emergency care providers, and the general public in this State about
31 the option to complete a POLST form;

32 c. provide ongoing training of health care professionals and
33 emergency care providers about the use of the POLST form, in
34 consultation with organizations representing, and educational
35 programs serving, health care professionals and emergency care
36 providers, respectively, in this State;

37 d. prescribe additional requirements for the completion of a
38 POLST form that may be applicable in the case of a patient with
39 mental illness or a developmental disability in consultation with
40 organizations that represent persons with mental illness and
41 developmental disabilities, respectively;

42 e. provide for ongoing evaluation of the design and use of
43 POLST forms through the use of such data as the PSO determines
44 reasonably necessary for that purpose, subject to the commissioner's
45 written approval; and

46 f. seek to minimize any record-keeping burden imposed on a
47 health care institution pursuant to this act and take such actions as

1 are necessary to ensure the confidentiality of any [such] data
2 furnished to the PSO that may contain patient-specific information.
3 (cf: P.L.2011, c.145, s.5)

4

5 257. Section 11 of P.L.2011, c.145 (C.26:2H-139) is amended to
6 read as follows:

7 11. a. A health care professional who intentionally fails to act in
8 accordance with the requirements of this act is subject to discipline
9 for professional misconduct pursuant to section 8 of P.L.1978, c.73
10 (C.45:1-21).

11 b. A health care institution that intentionally fails to act in
12 accordance with the requirements of this act shall be liable to a civil
13 penalty of not more than \$1,000 for each offense. For the purposes
14 of this subsection, each violation shall constitute a separate offense.
15 The civil penalty shall be collected in a summary proceeding,
16 brought in the name of the State in a court of competent jurisdiction
17 pursuant to the "Penalty Enforcement Law of 1999," P.L.1999,
18 c.274 (C.2A:58-10 et seq.).

19 c. An emergency care provider subject to regulation by the
20 Department of Health [and Senior Services] who intentionally fails
21 to act in accordance with the requirements of this act is subject to
22 such disciplinary measures as the commissioner deems necessary
23 and within his statutory authority to impose.

24 d. A person who commits any of the following acts is guilty of
25 a crime of the fourth degree:

26 (1) willfully concealing, canceling, defacing, obliterating, or
27 withholding personal knowledge of a completed POLST form or a
28 modification or revocation thereof, without the patient's consent;

29 (2) falsifying or forging a completed POLST form or a
30 modification or revocation thereof of another person;

31 (3) coercing or fraudulently inducing the completion of a
32 POLST form or a modification or revocation thereof; or

33 (4) requiring or prohibiting the completion of a POLST form or
34 a modification or revocation thereof as a condition of coverage
35 under any policy of health or life insurance or an annuity, or a
36 public benefits program, or as a condition of the provision of health
37 care.

38 e. The commission of an act identified in paragraph (1), (2), or
39 (3) of subsection d. of this section, which results in the involuntary
40 earlier death of a patient, shall constitute a crime of the first degree.

41 f. The provisions of this section shall not be construed to
42 repeal any sanctions applicable under any other law.

43 (cf: P.L.2011, c.145, s.11)

44

45 258. Section 3 of P.L.1972, c.29 (C.26:2I-3) is amended to read
46 as follows:

1 3. As used in this act, the following words and terms shall have
2 the following meanings, unless the context indicates or requires
3 another or different meaning or intent:

4 "Authority" means the New Jersey Health Care Facilities
5 Financing Authority created by this act or any board, body,
6 commission, department, or officer succeeding to the principal
7 functions thereof or to whom the powers conferred upon the
8 authority by this act shall be given by law.

9 "Bond" means bonds, notes, or other evidences of indebtedness
10 of the authority issued pursuant to this act.

11 "Commissioner" means the Commissioner of Health [and Senior
12 Services].

13 "Credit agreement" means a loan agreement, revolving credit
14 agreement, agreement establishing a line of credit, letter of credit,
15 reimbursement agreement, interest exchange agreement, insurance
16 contract, surety bond, commitment to purchase bonds, purchase or
17 sale agreement, or commitment or other contract or agreement
18 authorized and approved by the authority in connection with the
19 authorization, issuance, security or payment of bonds.

20 "Health care organization" means an organization located in this
21 State which is authorized or permitted by law, whether directly or
22 indirectly through a holding corporation, partnership, or other
23 entity, to provide health care-related services, including, but not
24 limited to, hospital, outpatient, public health, home health care,
25 residential care, assisted living, hospice, health maintenance
26 organization, blood bank, alcohol or drug abuse, half-way house,
27 diagnostic, treatment, rehabilitation, extended care, skilled nursing
28 care, nursing care, intermediate care, tuberculosis care, chronic
29 disease care, maternity, mental health, boarding or sheltered care or
30 day care, services provided by a physician in his office, or any other
31 service offered in connection with health care services or by an
32 entity affiliated with a health care organization or an integrated
33 delivery system.

34 "Hospital asset transformation program" means the hospital asset
35 transformation program established pursuant to subsection g. of
36 section 7 of P.L.1972, c.29 (C.26:2I-7).

37 "Integrated delivery system" means a group of legally affiliated
38 health care organizations.

39 "Public health care organization" means a State, county, or
40 municipal health care organization.

41 "Project" or "health care organization project" means the
42 acquisition, construction, improvement, renovation, or
43 rehabilitation of lands, buildings, fixtures, equipment, and articles
44 of personal property, or other tangible or intangible assets that are
45 necessary or useful in the development, establishment, or operation
46 of a health care organization pursuant to this act, and "project" or
47 "health care organization project" may include: the financing,
48 refinancing, or consolidation of secured or unsecured debt,

1 borrowings, or obligations, or the provision of financing for any
2 other expense incurred in the ordinary course of business, all of
3 which lands, buildings, fixtures, equipment, and articles of personal
4 property are to be used or occupied by any person in the health care
5 organization; the acquisition of an entity interest, including capital
6 stock, in a corporation; or any combination thereof; and may
7 include any combination of the foregoing undertaken jointly by any
8 health care organization with one or more other health care
9 organizations.

10 "Project cost" or "health care organization project cost" means
11 the sum total of all or any part of costs incurred or estimated to be
12 incurred by the authority or by a health care organization which are
13 reasonable and necessary for carrying out all works and
14 undertakings and providing all necessary equipment for the
15 development of a project, exclusive of the amount of any private or
16 federal, State, or local financial assistance for and received by a
17 health care organization for the payment of such project cost. Such
18 costs shall include, but are not necessarily limited to: interest prior
19 to, during and for a reasonable period after such development; start-
20 up costs and costs of operation and maintenance during the
21 construction period and for a reasonable additional period
22 thereafter; organization, administration, operation, and other
23 expenses of the health care organization prior to and during
24 construction; the cost of necessary studies, surveys, plans, and
25 specifications, architectural, engineering, legal, or other special
26 services; the cost of acquisition of land, buildings, and
27 improvements thereon (including payments for the relocation of
28 persons displaced by such acquisition), site preparation and
29 development, construction, reconstruction, equipment, including
30 fixtures, equipment, and cost of demolition and removal, and
31 articles of personal property required; the reasonable cost of
32 financing incurred by a health care organization or the authority in
33 the course of the development of the project; reserves for debt
34 service; the fees imposed upon a health care organization by the
35 commissioner and by the authority; other fees charged, and
36 necessary expenses incurred in connection with the initial
37 occupancy of the project; and the cost of such other items as may be
38 reasonable and necessary for the development of a project; as well
39 as provision or reserves for working capital, operating or
40 maintenance or replacement expenses, or for payment or security of
41 principal of, or interest on, bonds.

42 (cf: P.L.2000, c.98, s.2)

43

44 259. Section 4 of P.L.1972, c.29 (C.26:2I-4) is amended to read
45 as follows:

46 4. a. There is hereby established in the Department of Health
47 **[and Senior Services]**, a public body corporate and politic, with
48 corporate succession, to be known as the "New Jersey Health Care

1 Facilities Financing Authority." The authority shall constitute a
2 political subdivision of the State established as an instrumentality
3 exercising public and essential governmental functions, and the
4 exercise by the authority of the powers conferred by this act shall be
5 deemed and held to be an essential governmental function.

6 b. The authority shall consist of seven members, three of whom
7 shall be the commissioner, who shall be the chairman, the
8 Commissioner of Banking and Insurance, and the Commissioner of
9 Human Services, who shall serve during their terms of office, or
10 when so designated by them, their deputies or other representatives,
11 who shall serve at their pleasure, and four public members who are
12 citizens of the State to be appointed by the Governor, with the
13 advice and consent of the Senate for terms of four years; provided
14 that the four members first appointed by the Governor shall serve
15 terms expiring on the first, second, third, and fourth, respectively,
16 April 30 ensuing after the enactment of this act. Each member
17 shall hold office for the term of ~~his~~ the member's appointment
18 and until ~~his~~ the member's successor shall have been appointed
19 and qualified. Any vacancy among the public members shall be
20 filled by appointment for the unexpired term only.

21 c. Any member of the authority appointed by the Governor
22 may be removed from office by the Governor for cause after a
23 public hearing.

24 d. The members of the authority shall serve without
25 compensation, but the authority may reimburse its members for
26 necessary expenses incurred in the discharge of their official duties.

27 e. The authority, upon the first appointment of its members and
28 thereafter on or after April 30 in each year, shall annually elect
29 from among its members a vice chairman who shall hold office
30 until April 30 next ensuing and shall continue to serve during the
31 term of his successor and until his successor shall have been
32 appointed and qualified. The authority may also appoint, retain,
33 and employ, without regard to the provisions of Title 11A, Civil
34 Service, of the New Jersey Statutes, such officers, agents, and
35 employees as it may require, and it shall determine their
36 qualifications, terms of office, duties, services, and compensation.

37 f. The powers of the authority shall be vested in the members
38 thereof in office from time to time and a majority of the total
39 authorized membership of the authority shall constitute a quorum at
40 any meeting thereof. Action may be taken and motions and
41 resolutions adopted by the authority at any meeting thereof by the
42 affirmative vote of a majority of the members present, unless in
43 any case the bylaws of the authority shall require a larger number.
44 No vacancy in the membership of the authority shall impair the
45 right of a quorum to exercise all the rights and perform all the
46 duties of the authority.

47 g. Each member and the treasurer of the authority shall execute
48 a bond to be conditioned upon the faithful performance of the duties

1 of such member or treasurer, as the case may be, in such form and
2 amount as may be prescribed by the Attorney General. Such bonds
3 shall be filed in the office of the Secretary of State. At all times
4 thereafter the members and treasurer of the authority shall maintain
5 such bonds in full force and effect. All costs of such bonds shall be
6 borne by the authority.

7 h. No trustee, director, officer, or employee of a health care
8 organization may serve as a member of the authority.

9 i. At least two true copies of the minutes of every meeting of
10 the authority shall be forthwith delivered by and under the
11 certification of the secretary thereof, to the Governor. No action
12 taken at such meeting by the authority shall have force or effect
13 until 10 days, exclusive of Saturdays, Sundays, and public holidays,
14 after such copies of the minutes shall have been so delivered or at
15 such earlier time as the Governor shall sign a statement of approval
16 thereof. If, in said 10-day period, the Governor returns a copy of
17 the minutes with veto of any action taken by the authority or any
18 member thereof at such meeting, such action shall be null and of no
19 effect. If the Governor shall not return the minutes within said 10-
20 day period, any action therein recited shall have force and effect
21 according to the wording thereof. At any time prior to the
22 expiration of the said 10-day period, the Governor may sign a
23 statement of approval of all or any such action of the authority.

24 The powers conferred in this subsection upon the Governor shall
25 be exercised with due regard for the rights of the holders of bonds
26 of the authority at any time outstanding.

27 (cf: P.L.1997, c.435, s.4)

28

29 260. Section 5 of P.L.1972, c.29 (C.26:2I-5) is amended to read
30 as follows:

31 5. Powers of authority. The authority shall have power:

32 a. To adopt bylaws for the regulation of its affairs and the
33 conduct of its business and to alter and revise such bylaws from
34 time to time at its discretion.

35 b. To adopt and have an official seal and alter the same at
36 pleasure.

37 c. To maintain an office at such place or places within the State
38 as it may designate.

39 d. To sue and be sued in its own name.

40 e. To borrow money and to issue bonds of the authority and to
41 provide for the rights of the holders thereof as provided in this act.

42 f. To acquire, lease as lessee or lessor, hold and dispose of real
43 and personal property or any interest therein, in the exercise of its
44 powers and the performance of its duties under this act.

45 g. To acquire in the name of the authority by purchase or
46 otherwise, on such terms and conditions and in such manner as it
47 may deem proper, any land or interest therein and other property
48 which it may determine is reasonably necessary for any project; and

1 to hold and use the same and to sell, convey, lease^{1,1} or otherwise
2 dispose of property so acquired, no longer necessary for the
3 authority's purposes, for fair consideration after public notice.

4 h. To receive and accept, from any federal or other public
5 agency or governmental entity directly or through the Department
6 of Health ¹【and Senior Services】¹ or any other agency of the State
7 or any health care organization, grants or loans for or in aid of the
8 acquisition or construction of any project, and to receive and accept
9 aid or contributions from any other source, of either money,
10 property, labor or other things of value, to be held, used^{1,1} and
11 applied only for the purposes for which such grants, loans and^{1,1}
12 contributions may be made.

13 i. To prepare or cause to be prepared plans, specifications,
14 designs^{1,1} and estimates of costs for the construction and equipment
15 of health care organization projects for health care organizations
16 under the provisions of this act, and from time to time to modify
17 such plans, specifications, designs^{1,1} or estimates.

18 j. By contract or contracts with and for health care
19 organizations only, to construct, acquire, reconstruct, rehabilitate
20 and improve, and furnish and equip health care organization
21 projects. The authority, in the exercise of its authority to make and
22 enter into contracts and agreements necessary or incidental to the
23 performance of its duties and the execution of its powers, shall
24 adopt standing rules and procedures providing that, except as
25 hereinafter provided, no contract on behalf of the authority shall be
26 entered into for the doing of any work, or for the hiring of
27 equipment or vehicles, where the sum to be expended exceeds the
28 sum of ¹【\$7,500.00】 \$7,500¹ or the amount determined as provided
29 in this subsection, unless the authority shall first publicly advertise
30 for bids therefor, and shall award the contract to the lowest
31 responsible bidder; provided, however, that such advertising shall
32 not be required where the contract to be entered into is one for the
33 furnishing or performing of services of a professional nature or for
34 the supplying of any product or the rendering of any service by a
35 public utility subject to the jurisdiction of the Board of Public
36 Utilities, and tariffs and schedules of the charges, made, charged, or
37 exacted by the public utility for any such products to be supplied or
38 services to be rendered are filed with said board. The Governor, in
39 consultation with the Department of the Treasury, shall, no later
40 than March 1 of each odd-numbered year, adjust the threshold
41 amount set forth in this subsection, or subsequent to 1985 the
42 threshold amount resulting from any adjustment under this
43 subsection or section 17 of P.L.1985, c.469, in direct proportion to
44 the rise or fall of the Consumer Price Index for all urban consumers
45 in the New York City and the Philadelphia areas as reported by the
46 United States Department of Labor. The Governor shall, no later
47 than June 1 of each odd-numbered year, notify the authority of the

1 adjustment. The adjustment shall become effective July 1 of each
2 odd-numbered year.

3 k. To determine the location and character of any project to be
4 undertaken, subject to the provisions of this act, and subject to State
5 health and environmental laws, to construct, reconstruct, maintain,
6 repair, lease as lessee or lessor, and regulate the same and operate
7 the same in the event of default by a health care organization of its
8 obligations and agreements with the authority; to enter into
9 contracts for any or all such purposes; and to enter into contracts for
10 the management and operation of a project in the event of default as
11 herein provided. The authority shall use its best efforts to conclude
12 its position as an operator as herein provided as soon as is
13 practicable.

14 l. To establish rules and regulations for the use of a project or
15 any portion thereof and to designate a health care organization as its
16 agent to establish rules and regulations for the use of a project
17 undertaken by such a health care organization.

18 m. Generally to fix and revise from time to time and to charge
19 and collect rates, rents, fees^{1,1} and other charges for the use of and
20 for the services furnished or to be furnished by a project or any
21 portion thereof and to contract with holders of its bonds and with
22 any other person, party, association, corporation or other body,
23 public or private, in respect thereof.

24 n. To enter into agreements, credit agreements or contracts,
25 execute any and all instruments, and do and perform any and all
26 acts or things necessary, convenient or desirable for the purposes of
27 the authority or to carry out any power expressly given in this act.

28 o. To invest any moneys held in reserve or sinking funds, or
29 any moneys not required for immediate use or disbursement, at the
30 discretion of the authority, in such obligations as are authorized by
31 resolution of the authority.

32 p. To obtain, or aid in obtaining, from any department or
33 agency of the United States any insurance or guarantee as to, or of,
34 or for the payment or repayment of interest or principal, or both, or
35 any part thereof, on any loan or any instrument evidencing or
36 securing the same, made or entered into pursuant to the provisions
37 of this act; and notwithstanding any other provisions of this act, to
38 enter into agreement, contract^{1,1} or any other instrument
39 whatsoever with respect to any such insurance or guarantee, and
40 accept payment in such manner and form as provided therein in the
41 event of default by the borrower.

42 q. To obtain from any department or agency of the United
43 States or a private insurance company any insurance or guarantee as
44 to, or of, or for the payment or repayment of interest or principal, or
45 both, or any part thereof, on any bonds issued by the authority
46 pursuant to the provisions of this act; and notwithstanding any other
47 provisions of this act, to enter into any agreement, contract^{1,1} or
48 any other instrument whatsoever with respect to any such insurance

1 or guarantee, except to the extent that such action would in any way
2 impair or interfere with the authority's ability to perform and fulfill
3 the terms of any agreement made with the holders of the bonds of
4 the authority.

5 r. To receive and accept, from any department or agency of the
6 United States or of the State or from any other entity, any grant,
7 appropriation^{1, 1} or other moneys to be used for or applied to any
8 corporate purpose of the authority, including without limitation the
9 meeting of debt service obligations of the authority in respect of its
10 bonds.

11 s. Subject to the approval of the State Treasurer, to grant or
12 loan all or any portion of the funds received pursuant to subsection
13 g. of section 7 of P.L.1972, c.29 (C.26:2I-7) in connection with the
14 hospital asset transformation program.

15 (cf: P.L.2000, c.98, s.3)

16

17 261. Section 21 of P.L.1972, c.29 (C.26:2I-21) is amended to
18 read as follows:

19 21. The Department of Health **[and Senior Services]**, or the
20 commissioner or their representatives, may visit, examine into, and
21 inspect, the authority and may require, as often as desired, duly
22 verified reports therefrom giving such information and in such form
23 as **[such]** the department or commissioner shall prescribe.

24 (cf: P.L.1997, c.435, s.8)

25

26 262. Section 23 of P.L.1972, c.29 (C.26:2I-23) is amended to
27 read as follows:

28 23. In order to provide new health care organizations and to
29 enable the construction and financing thereof, to refinance
30 indebtedness hereafter created by the authority for the purpose of
31 providing one or more health care organizations or additions or
32 improvements thereto or modernization thereof or for any one or
33 more of said purposes but for no other purpose unless authorized by
34 law, each of the following bodies shall have the powers hereafter
35 enumerated to be exercised upon such terms and conditions,
36 including the fixing of fair consideration or rental to be paid or
37 received, as it shall determine by resolution as to such property and
38 each shall be subject to the performance of the duties hereafter
39 enumerated, that is to say, the Department of Health **[and Senior
40 Services]** as to such as are located on land owned by, or owned by
41 the State and held for, any State institution or on lands of the
42 institutions under the jurisdiction of the Department of Health **[and
43 Senior Services]** or of the Department of Human Services, or by the
44 authority, the Commissioner of Human Services as to State
45 institutions operated by that department, the board of trustees or
46 governing body of any public health care organization, the board of
47 trustees of the University of Medicine and Dentistry of New Jersey,

1 as to such as are located on land owned by the university, or by the
2 State for the university, the State or by the particular public health
3 care organization, respectively, namely:

4 a. The power to sell and to convey to the authority title in fee
5 simple in any such land and any existing health care facility thereon
6 owned by the State and held for any department thereof or of any of
7 the institutions under the jurisdiction of the Department of Health
8 **【and Senior Services】** or the power to sell and to convey to the
9 authority such title as the State or the public health care
10 organization, respectively, may have in any such land and any
11 existing health care facility thereon.

12 b. The power to lease to the authority any land and any existing
13 health care facility thereon so owned for a term or terms not
14 exceeding 50 years each.

15 c. The power to lease or sublease from the authority, and to
16 make available, any such land and existing health care facility
17 conveyed or leased to the authority under subsections a. and b. of
18 this section, and any new health care facility erected upon such land
19 or upon any other land owned by the authority.

20 d. The power and duty, upon receipt of notice of any
21 assignment by the authority of any lease or sublease made under
22 subsection c. of this section, or of any of its rights under any such
23 lease or sublease, to recognize and give effect to such assignment,
24 and to pay to the assignee thereof rentals or other payments then
25 due or which may become due under any such lease or sublease
26 which has been so assigned by the authority.

27 (cf: P.L.1997, c.435, s.9)

28

29 263. Section 6 of P.L.1991, c.279 (C.26:2J-4.4) is amended to
30 read as follows:

31 6. Notwithstanding any provision of law to the contrary, a
32 certificate of authority to establish and operate a health maintenance
33 organization in this State shall not be issued or continued by the
34 Commissioner of **'【Health】' 【and Senior Services】 'Banking and**
35 **Insurance'** on or after the effective date of this act unless the health
36 maintenance organization provides health care services to any
37 enrollee for the conduct of: one baseline mammogram examination
38 for women who are at least 35 but less than 40 years of age; a
39 mammogram examination every year for women age 40 and over;
40 and, in the case of a woman who is under 40 years of age and has a
41 family history of breast cancer or other breast cancer risk factors, a
42 mammogram examination at such age and intervals as deemed
43 medically necessary by the woman's health care provider.

44 These health care services shall be provided to the same extent as
45 for any other sickness under the enrollee agreement.

46 The provisions of this section shall apply to all enrollee
47 agreements in which the health maintenance organization has

1 reserved the right to change the schedule of charges.
2 (cf: P.L.2004, c.86, s.6)

3

4 264. Section 8 of P.L.1993, c.327 (C.26:2J-4.6) is amended to
5 read as follows:

6 8. a. Notwithstanding any provision of this act or any other law
7 to the contrary, a certificate of authority to establish and operate a
8 health maintenance organization in this State shall not be issued or
9 continued by the Commissioner of Health **【and Senior Services】** on
10 or after the effective date of this act unless the health maintenance
11 organization provides health care services to any enrollee which
12 include a health promotion program providing health wellness
13 examinations and **【counselling】** counseling, which program shall
14 include, but not be limited to, the following tests and services:

15 (1) For all persons 20 years of age and older, annual tests to
16 determine blood hemoglobin, blood pressure, blood glucose level,
17 and blood cholesterol level or, alternatively, low-density lipoprotein
18 (LDL) level, and blood high-density lipoprotein (HDL) level;

19 (2) For all persons 35 years of age or older, a glaucoma eye test
20 every five years;

21 (3) For all persons 40 years of age or older, an annual stool
22 examination for presence of blood;

23 (4) For all persons 45 years of age or older, a left-sided colon
24 examination of 35 to 60 centimeters every five years;

25 (5) For all women 20 years of age or older, a pap smear
26 pursuant to the provisions of section 5 of P.L.1995, c.415 (C.26:2J-
27 4.12);

28 (6) For all women 40 years of age or older, a mammogram
29 examination pursuant to the provisions of section 6 of P.L.1991,
30 c.279 (C.26:2J-4.4);

31 (7) For all adults, recommended immunizations; and

32 (8) For all persons 20 years of age or older, an annual
33 consultation with a health care provider to discuss lifestyle
34 behaviors that promote health and well-being including, but not
35 limited to, smoking control, nutrition and diet recommendations,
36 exercise plans, lower back protection, weight control, immunization
37 practices, breast self-examination, testicular self-examination, and
38 seat belt usage in motor vehicles.

39 Notwithstanding the provisions of this subsection to the contrary,
40 if a physician or other health care provider recommends that it
41 would be medically appropriate for an enrollee to receive a different
42 schedule of tests and services than that provided for under this
43 subsection, the health maintenance organization shall provide
44 coverage for the tests or services actually provided, within the
45 limits of the amounts listed in subsection b. of this section.

46 b. A health maintenance organization shall not be required to
47 offer services to enrollees set forth in subsection a. of this section
48 for which the value exceeds: \$125 a year for each person between

1 the ages of 20 to 39, inclusive; \$145 a year for each man age 40 and
2 over; and \$235 a year for each woman age 40 and over; except that
3 for persons 45 years of age or older, the value of a left-sided colon
4 examination shall not be included in the above amount; however, no
5 health maintenance organization shall be required to provide
6 services to enrollees for a left-sided colon examination with a value
7 in excess of \$150.

8 c. The Commissioner of Health **[and Senior Services]**, in
9 consultation with the Department of the Treasury, shall annually
10 adjust the threshold amounts provided by subsection b. of this
11 section in direct proportion to the increase or decrease in the
12 consumer price index for all urban consumers in the New York City
13 and Philadelphia areas as reported by the United States Department
14 of Labor. The adjustment shall become effective on July 1 of the
15 year in which it is reported.

16 d. Nothing in this act shall be construed to require that a health
17 maintenance organization take any actions which conflict with the
18 health benefits, underwriting and rating standards established by the
19 federal government pursuant to subchapter XI of Pub.L.93-222 (42
20 U.S.C. s.300e et seq.).

21 e. This section shall apply to all health maintenance
22 organization contracts in which the right to change the enrollee
23 charge has been reserved.

24 f. The provisions of this section shall not apply to a health
25 benefits plan subject to the provisions of P.L.1992, c.161
26 (C.17B:27A-2 et seq.) or P.L.1992, c.162 (C.17B:27A-17 et seq.).
27 (cf: P.L.1999, c.339, s.6)

28

29 265. Section 4 of P.L.1995, c.316 (C.26:2J-4.10) is amended to
30 read as follows:

31 4. A certificate of authority to establish and operate a health
32 maintenance organization in this State shall not be issued or
33 continued by the Commissioner of **[Health] Banking and [Senior
34 Services] Insurance** on or after the effective date of P.L.2005, c.248
35 (C.17:48E-35.27 et al.) unless the health maintenance organization
36 offers health care services to any enrollee which include:

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

43 b. All childhood immunizations as recommended by the
44 Advisory Committee on Immunization Practices of the United
45 States Public Health Service and the Department of Health **[and
46 Senior Services]** pursuant to section 7 of P.L.1995, c.316 (C.26:2-
47 137.1). A health maintenance organization shall notify its

1 enrollees, in writing, of any change in the health care services
2 provided with respect to childhood immunizations and any related
3 changes in premium. **【Such】** The notification shall be in a form
4 and manner to be determined by the Commissioner of Banking and
5 Insurance.

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

13 The health care services provided pursuant to this section shall
14 be provided to the same extent as for any other medical condition
15 under the contract, except that a deductible shall not be applied for
16 services provided pursuant to this section; however, with respect to
17 a contract that qualifies as a high deductible health plan for which
18 qualified medical expenses are paid using a health savings account
19 established pursuant to section 223 of the federal Internal Revenue
20 Code of 1986 (26 U.S.C. s.223), a deductible shall not be applied
21 for any services provided pursuant to this section that represent
22 preventive care as permitted by that federal law, and shall not be
23 applied as provided pursuant to section 12 of P.L.2005, c.248
24 (C.26:2J-4.29). This section shall apply to all contracts under
25 which the health maintenance organization has reserved the right to
26 change the schedule of charges for enrollee coverage.

27 (cf: P.L.2005, c.248, s.10)

28

29 266. Section 5 of P.L.1995, c.415 (C.26:2J-4.12) is amended to
30 read as follows:

31 5. A certificate of authority to establish and operate a health
32 maintenance organization in this State shall not be issued or
33 continued by the Commissioner of **【Health】** Banking and **【Senior**
34 **Services】** Insurance on or after the effective date of this act unless
35 the health maintenance organization offers health care services to
36 any enrollee or other person covered thereunder which include a
37 Pap smear. The health care services shall be provided to the same
38 extent as for any other medical condition under the contract.

39 As used in this section, and notwithstanding the provisions of
40 this section to the contrary, "Pap smear" means an initial Pap smear
41 and any confirmatory test when medically necessary and as ordered
42 by the covered person's physician and includes all laboratory costs
43 associated with the initial Pap smear and any **【such】** confirmatory
44 test.

45 The provisions of this section shall apply to all contracts for
46 health care services by health maintenance organizations under
47 which the right to change the schedule of charges for enrollee

1 coverage is reserved.
2 (cf: P.L.2001, c.227, s.5)

3
4 267. Section 6 of P.L.1997, c.75 (C.26:2J-4.14) is amended to
5 read as follows:

6 6. A certificate of authority to establish and operate a health
7 maintenance organization in this State pursuant to P.L.1973, c.337
8 (C.26:2J-1 et seq.) shall not be issued or continued by the
9 Commissioner of **【Health】** Banking and **【Senior Services】**
10 Insurance on or after the effective date of P.L.1997, c.75 unless the
11 health maintenance organization provides health care services to
12 any enrollee, following a mastectomy on one breast or both breasts,
13 for reconstructive breast surgery, surgery to restore and achieve
14 symmetry between the two breasts, and prostheses and, under any
15 contract for health care services providing outpatient x-ray or
16 radiation therapy, outpatient chemotherapy following surgical
17 procedures in connection with the treatment of breast cancer shall
18 be included as a part of the outpatient x-ray or radiation therapy.

19 The health care services shall be provided to the same extent as
20 for any other medical condition under the contract for health care
21 services.

22 The provisions of this section shall apply to all contracts for
23 health care services by health maintenance organizations under
24 which the right to change the schedule of charges for enrollee
25 coverage is reserved.

26 (cf: P.L.1997, c.75, s.6)

27
28 268. Section 8 of P.L.1997, c.149 (C.26:2J-4.15) is amended to
29 read as follows:

30 8. a. Every enrollee agreement that provides hospital or
31 medical expense benefits and is delivered, issued, executed, or
32 renewed in this State pursuant to P.L.1973, c.337 (C.26:2J-1 et seq.)
33 or approved for issuance or renewal in this State by the
34 Commissioner of **【Health】** Banking and **【Senior Services】**
35 Insurance on or after the effective date of this act shall provide
36 health care services for a minimum of 72 hours of inpatient care
37 following a modified radical mastectomy and a minimum of 48
38 hours of inpatient care following a simple mastectomy. The enrollee
39 agreement shall not require a health care provider to obtain
40 authorization from the health maintenance organization for
41 prescribing 72 or 48 hours, as appropriate, of inpatient care as
42 provided for in this section.

43 The provisions of this section shall not be construed to: require a
44 patient to receive inpatient care for 72 or 48 hours, as appropriate, if
45 the patient in consultation with the patient's physician determines
46 that a shorter length of stay is medically appropriate; or relieve a
47 patient or a patient's physician, if appropriate, of any notification

1 requirements to the health maintenance organization under the
2 enrollee agreement.

3 The health care services shall be provided to the same extent as
4 for any other sickness under the enrollee agreement.

5 The provisions of this section shall apply to enrollee agreements
6 in which the health maintenance organization has reserved the right
7 to change the schedule of charges.

8 b. The Commissioner of **【Health】 Banking** and **【Senior**
9 **Services】 Insurance** shall adopt regulations pursuant to the
10 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
11 seq.) to implement the provisions of this section.

12 (cf: P.L.1997, c.149, s.8)

13

14 269. Section 8 of P.L.1997, c.338 (C.26:2J-4.17) is amended to
15 read as follows:

16 8. Notwithstanding any provision of law to the contrary, a
17 certificate of authority to establish and operate a health maintenance
18 organization in this State shall not be issued or continued by the
19 Commissioner of **【Health】 Banking** and **【Senior Services】**
20 **Insurance** on or after the effective date of this act unless the health
21 maintenance organization provides health care services to each
22 enrollee for the therapeutic treatment of inherited metabolic
23 diseases, including the purchase of medical foods and low protein
24 modified food products, when diagnosed and determined to be
25 medically necessary by the enrollee's physician.

26 For the purposes of this section, "inherited metabolic disease"
27 means a disease caused by an inherited abnormality of body
28 chemistry for which testing is mandated pursuant to P.L.1977, c.321
29 (C.26:2-110 et seq.); "low protein modified food product" means a
30 food product that is specially formulated to have less than one gram
31 of protein per serving and is intended to be used under the direction
32 of a physician for the dietary treatment of an inherited metabolic
33 disease, but does not include a natural food that is naturally low in
34 protein; and "medical food" means a food that is intended for the
35 dietary treatment of a disease or condition for which nutritional
36 requirements are established by medical evaluation and is
37 formulated to be consumed or administered enterally under
38 direction of a physician.

39 The health care services shall be provided to the same extent as
40 for any other medical condition under the contract.

41 The provisions of this section shall apply to all contracts for
42 health care services by health maintenance organizations under
43 which the right to change the schedule of charges for enrollee
44 coverage is reserved.

45 (cf: P.L.1997, c.338, s.8)

46

47 270. Section 6 of P.L.1999, c.49 (C.26:2J-4.19) is amended to
48 read as follows:

1 6. a. A certificate of authority to establish and operate a health
2 maintenance organization in this State pursuant to P.L.1973, c.337
3 (C.26:2J-1 et seq.), shall not be issued or continued by the
4 Commissioner of **【Health】 Banking** and **【Senior Services】**
5 **Insurance** on or after the effective date of this amendatory and
6 supplementary act unless the health maintenance organization
7 provides health care services to an enrollee who is severely disabled
8 or a child age five or under for: (1) general anesthesia and
9 hospitalization for dental services; or (2) a medical condition
10 covered by the enrollee agreement which requires hospitalization or
11 general anesthesia for dental services rendered by a participating
12 dentist regardless of where the dental services are provided.

13 b. A health maintenance organization may require prior
14 authorization of hospitalization for dental services in the same
15 manner that prior authorization is required for hospitalization for
16 other covered diseases or conditions.

17 c. This section shall apply to all contracts for health care
18 services in which the health maintenance organization has reserved
19 the right to change the schedule of charges.

20 (cf: P.L.1999, c.49, s.6)

21

22 271. Section 8 of P.L.1999, c.108 (C.26:2J-4.20) is amended to
23 read as follows:

24 8. a. Every enrollee agreement delivered, issued, executed, or
25 renewed in this State pursuant to P.L.1973, c.337 (C.26:2J-1 et seq.)
26 or approved for issuance or renewal in this State by the
27 Commissioner of **【Health】 Banking** and **【Senior Services】**
28 **Insurance**, on or after the effective date of this act shall provide
29 health care services for biologically-based mental illness under the
30 same terms and conditions as provided for any other sickness under
31 the agreement. "Biologically-based mental illness" means a mental
32 or nervous condition that is caused by a biological disorder of the
33 brain and results in a clinically significant or psychological
34 syndrome or pattern that substantially limits the functioning of the
35 person with the illness, including but not limited to, schizophrenia,
36 schizoaffective disorder, major depressive disorder, bipolar
37 disorder, paranoia and other psychotic disorders, obsessive-
38 compulsive disorder, panic disorder and pervasive developmental
39 disorder, or autism. "Same terms and conditions" means that the
40 health maintenance organization cannot apply different copayments,
41 deductibles, or health care services limits to biologically-based
42 mental health care services than those applied to other medical or
43 surgical health care services.

44 b. Nothing in this section shall be construed to change the
45 manner in which a health maintenance organization determines:

46 (1) whether a mental health care service meets the medical
47 necessity standard as established by the health maintenance
48 organization; or

1 (2) which providers shall be entitled to reimbursement or to be
2 participating providers, as appropriate, for mental health services
3 under the enrollee agreement.

4 c. The provisions of this section shall apply to enrollee
5 agreements in which the health maintenance organization has
6 reserved the right to change the premium.
7 (cf: P.L.1999, c.106, s.8)

8
9 272. Section 1 of P.L.1999, c.332 (C.26:2J-4.21) is amended to
10 read as follows:

11 1. a. 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 in
16 conformance with the provisions of subsection b. of this section.

17 b. If an enrollee is a resident of a skilled nursing facility,
18 continuing care retirement community, or a retirement community
19 which operates a skilled nursing facility on the premises of the
20 community, regardless of whether the health maintenance
21 organization is under contract with the skilled nursing facility or the
22 skilled nursing facility at the continuing care retirement community
23 or retirement community, the enrollee's primary care physician shall
24 refer the enrollee to the skilled nursing facility or the community's
25 Medicare-certified skilled nursing unit, as applicable, rather than to
26 a skilled nursing facility separate from the facility or the
27 community of origin, if:

28 (1) the skilled nursing facility or the continuing care retirement
29 community or retirement community with a skilled nursing facility
30 has the capacity to provide the services the enrollee needs;

31 (2) the primary care physician, in consultation with the enrollee
32 or a representative of the enrollee's family, determines that the
33 referral is in the best interest of the enrollee;

34 (3) the skilled nursing facility or the continuing care retirement
35 community or retirement community with a skilled nursing facility
36 agrees to be reimbursed at the same contract rate negotiated by the
37 health maintenance organization with similar providers for the same
38 services and supplies in the same geographic area; and

39 (4) the skilled nursing facility or the continuing care retirement
40 community or retirement community with a skilled nursing facility
41 meets all applicable State licensing and certification requirements

42 c. For the purposes of this act, "continuing care retirement
43 community" means a continuing care facility operating under a
44 certificate of authority issued by the Department of Community
45 Affairs pursuant to P.L.1986, c.103 (C.52:27D-330 et seq.), and
46 "retirement community" means a retirement community which is
47 registered with the Department of Community Affairs pursuant to

1 P.L.1977, c.419 (C.45:22A-21 et seq.).

2 (cf: P.L.1999, c.332, s.1)

3

4 273. Section 8 of P.L.2001, c.295 (C.26:2J-4.24) is amended to
5 read as follows:

6 8. Every enrollee agreement that provides hospital or medical
7 expense benefits and is delivered, issued, executed, or renewed in
8 this State pursuant to P.L.1973, c.337 (C.26:2J-1 et seq.), or
9 approved for issuance or renewal in this State by the Commissioner
10 of **【Health】 Banking** and **【Senior Services】 Insurance** on or after
11 the effective date of this act, shall provide health care services to
12 any enrollee or other person covered thereunder for expenses
13 incurred in conducting colorectal cancer screening at regular
14 intervals for persons age 50 and over and for persons of any age
15 who are considered to be at high risk for colorectal cancer. The
16 methods of screening for which benefits shall be provided shall
17 include: a screening fecal occult blood test, flexible sigmoidoscopy,
18 colonoscopy, barium enema, or any combination thereof; or the
19 most reliable, medically recognized screening test available. The
20 method and frequency of screening to be utilized shall be in
21 accordance with the most recent published guidelines of the
22 American Cancer Society and as determined medically necessary by
23 the covered person's physician, in consultation with the covered
24 person.

25 As used in this section, "high risk for colorectal cancer" means a
26 person has:

27 a. a family history of: familial adenomatous polyposis;
28 hereditary non-polyposis colon cancer; or breast, ovarian,
29 endometrial, or colon cancer or polyps;

30 b. chronic inflammatory bowel disease; or

31 c. a background, ethnicity, or lifestyle that the physician
32 believes puts the person at elevated risk for colorectal cancer.

33 The health care services shall be provided to the same extent as
34 for any other medical condition under the enrollee agreement.

35 The provisions of this section shall apply to all enrollee
36 agreements in which the health maintenance organization has
37 reserved the right to change the schedule of charges.

38 (cf: P.L.2001, c.295, s.8)

39

40 274. Section 11 of P.L.2005, c.248 (C.26:2J-4.28) is amended to
41 read as follows:

42 11. A certificate of authority to establish and operate a health
43 maintenance organization, which organization offers a contract that
44 qualifies as a high deductible health plan for which qualified
45 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), shall not be issued or continued by
48 the Commissioner of **【Health】 Banking** and **【Senior Services】**

1 Insurance on or after the effective date of P.L.2005, c.248
2 (C.17:48E-35.27 et al.), unless the health maintenance organization
3 offers health care services to any enrollee which include services
4 provided in-network which represent medically necessary
5 preventive care as permitted by that federal law.

6 The services provided pursuant to this section shall be provided
7 to the same extent as for any other medical condition under the
8 contract, except that a deductible shall not be applied for services
9 provided pursuant to this section. This section shall apply to all
10 contracts under which the health maintenance organization has
11 reserved the right to change the schedule of charges for enrollee
12 coverage.

13 (cf: P.L.2005, c.248, s.11)

14

15 275. Section 12 of P.L.2005, c.248 (C.26:2J-4.29) is amended to
16 read as follows:

17 12. Notwithstanding the provisions of section 4 of P.L.1995,
18 c.316 (C.26:2J-4.10) regarding deductibles for a high deductible
19 health plan, a contract offered by a health maintenance
20 organization, which certificate of authority to establish and operate
21 is issued or continued by the Commissioner of **【Health】 Banking**
22 and **【Senior Services】 Insurance** on or after the effective date of
23 P.L.2005, c.248 (C.17:48E-35.27 et al.), that qualifies as a high
24 deductible health plan for which qualified medical expenses are
25 paid using a health savings account established pursuant to section
26 223 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.223),
27 shall not apply a deductible for any benefits in which a deductible is
28 not applicable pursuant to any law enacted after the effective date
29 of P.L.2005, c.248 (C.17:48E-35.27 et al.).

30 This section shall apply to all contracts under which the health
31 maintenance organization has reserved the right to change the
32 schedule of charges for enrollee coverage.

33 (cf: P.L.2005, c.248, s.12)

34

35 276. Section 8 of P.L.2007, c.345 (C.26:2J-4.31) is amended to
36 read as follows:

37 8. a. A certificate of authority to establish and operate a health
38 maintenance organization in this State pursuant to P.L.1973, c.337
39 (C.26:2J-1 et seq.) shall not be issued or continued by the
40 Commissioner of **【Health】 Banking** and **【Senior Services】**
41 Insurance on or after the effective date of this act unless the health
42 maintenance organization provides health care services for any
43 person covered thereunder for expenses incurred in obtaining an
44 orthotic or prosthetic appliance from any licensed orthotist or
45 prosthetist, or any certified pedorthist, as determined medically
46 necessary by the covered person's physician.

47 As used in this section, "orthotic appliance," "prosthetic
48 appliance," **【"licensed orthotist"】** "licensed orthotist," and "licensed

1 prosthetist" have the meaning assigned to them in section 3 of
2 P.L.1991, c.512 (C.45:12B-3) and "certified pedorthist" has the
3 meaning assigned to it in subsection j. of section 18 of P.L.1991,
4 c.512 (C.45:12B-18).

5 b. On and after the effective date of this act, a health
6 maintenance organization shall reimburse for orthotic and prosthetic
7 appliances at the same rate as reimbursement for such appliances
8 under the federal Medicare reimbursement schedule.

9 c. The benefits shall be provided to the same extent as for any
10 other medical condition under the enrollee agreement.

11 d. The provisions of this section shall apply to all enrollee
12 agreements in which the health maintenance organization has
13 reserved the right to change the schedule of charges.

14 (cf: P.L.2007, c.345, s.8)

15

16 277. Section 23 of P.L.1973, c.337 (C.26:2J-23) is amended to
17 read as follows:

18 23. Every health maintenance organization subject to this act
19 shall pay to the commissioner the following fees:

20 a. for filing an application for a certificate of authority or
21 amendment thereto, \$100.00;

22 b. for filing each annual report, \$10.00; and

23 c. for the purpose of supporting the activities of the
24 Department of **Health** Banking and **Senior Services** Insurance
25 associated with the regulation of health maintenance organizations,
26 \$1.50 per life per year, with payment being made annually no later
27 than July 15 for the preceding calendar year. Payments made by a
28 health maintenance organization pursuant to this act shall not in any
29 way reduce payments that may be owed by a health maintenance
30 organization pursuant to P.L.1995, c.156 (C.17:1C-19 et seq.) and
31 subsequent amendments thereto. No such payment shall be
32 required for any per life per year that is funded through the
33 Medicaid program established pursuant to P.L.1968, c.413
34 (C.30:4D-1 et seq.)**],** the "Children's Health Care Coverage
35 Program" established pursuant to P.L.1997, c.272 (C.30:4I-1 et
36 seq.),**]** or the **["FamilyCare Health Coverage Program"]** NJ
37 FamilyCare Program established pursuant to **[P.L.2000, c.71**
38 **(C.30:4J-1 et seq.)]** P.L.2005, c.156 (C.30:4J-8 et al.).

39 In accordance with the "Administrative Procedure Act,"
40 P.L.1968, c.410 (C.52:14B-1 et seq.), the commissioner may
41 promulgate rules and regulations directing that additional fees be
42 paid.

43 From fees collected under the provisions of subsection c. of this
44 section, the Legislature shall in each fiscal year appropriate to the
45 community health law project the sum of \$100,000 to fund a grant
46 in support of a program to provide any senior citizen resident of this
47 State who is covered as an enrollee in or beneficiary of a health

1 plan administered by a health maintenance organization with
2 information concerning the person's rights under the program and
3 assistance with the procedures for receiving the benefits to which
4 the person is entitled under the program.

5 (cf: P.L.2002, c.34, s.18)

6
7 278. Section 1 of P.L.1986, c.106 (C.26:2K-35) is amended to
8 read as follows:

9 1. As used in this act:

10 a. "Commissioner" means the Commissioner of [the
11 Department of] Health [and Senior Services].

12 b. "Dispatch" means the coordinated request for and dispatch
13 of the emergency medical service helicopter response unit by a
14 central communications center located in the service area, following
15 protocols developed by the mobile intensive care hospital, the
16 regional trauma or critical care center, the commissioner, and the
17 superintendent.

18 c. "Emergency medical service helicopter response unit" means
19 a specially equipped hospital-based emergency medical service
20 helicopter staffed by advanced life support personnel and operated
21 for the provision of advanced life support services under the
22 medical direction of a mobile intensive care program and the
23 regional trauma or critical care center authorized by the
24 commissioner.

25 d. "Emergency medical transportation" means the prehospital
26 or interhospital transportation of an acutely ill or injured patient by
27 a dedicated emergency medical service helicopter response unit
28 operated, maintained and piloted by the Division of State Police of
29 the Department of Law and Public Safety, pursuant to regulations
30 adopted by the commissioner under chapter 40 of Title 8 of the New
31 Jersey Administrative Code.

32 e. "Medical direction" means the medical control and medical
33 orders transmitted from the physician of the mobile intensive care
34 hospital or from the physician at the regional trauma or critical care
35 center to the staff of the helicopter. The mobile intensive care unit
36 coordinating center and regional trauma or critical care center shall
37 have the ability to cross patch and consult with each other as
38 approved by the commissioner.

39 f. "Mobile intensive care hospital" means a hospital authorized
40 by the commissioner to develop and maintain a mobile intensive
41 care unit to provide advanced life support services in accordance
42 with P.L.1984, c.146 (C.26:2K-7 et al.).

43 g. "Regional trauma center" means a State designated level one
44 hospital-based trauma center equipped and staffed to provide
45 emergency medical services to an accident or trauma victim,
46 including, but not limited to, the level one trauma centers at the
47 University of Medicine and Dentistry of New Jersey-University

1 Hospital in Newark, known as the "Eric Munoz Trauma Center,"
2 and at the Cooper Hospital/University Medical Center in Camden.

3 h. "Critical care center" means a hospital authorized by the
4 commissioner to provide regional critical care services, such as
5 trauma, burn, spinal cord, cardiac, poison, or neonatal care.

6 i. "Superintendent" means the Superintendent of the Division
7 of State Police of the Department of Law and Public Safety.

8 (cf: P.L.2010, c.80, s.1)

9

10 279. Section 1 of P.L.2003, c.1 (C.26:2K-47.1) is amended to
11 read as follows:

12 1. As used in this act:

13 "Commissioner" means the Commissioner of Health **[and Senior**
14 **Services]**;

15 "Emergency medical service" means a program in a hospital
16 staffed 24 hours-a-day by a licensed physician trained in emergency
17 medicine;

18 "Emergency medical technician" means a person trained in basic
19 life support services as defined in section 1 of P.L.1985, c.351
20 (C.26:2K-21) and who is certified by the Department of Health
21 **[and Senior Services]** to provide that level of care.

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

23

24 280. Section 2 of P.L.2003, c.1 (C.26:2K-47.2) is amended to
25 read as follows:

26 2. a. An emergency medical technician who has been certified
27 by the commissioner pursuant to subsection b. of this section to
28 administer an epinephrine auto-injector device shall administer,
29 maintain and dispose of the device in accordance with rules and
30 regulations adopted by the commissioner.

31 Each administration of an auto-injector device pursuant to this
32 act shall be reported to the Department of Health **[and Senior**
33 **Services]** in a manner determined by the commissioner.

34 b. The commissioner shall establish written standards and
35 application procedures which an emergency medical technician
36 shall meet in order to obtain certification. The commissioner shall
37 certify a candidate who: provides evidence of satisfactory
38 completion of an educational program which is approved by the
39 commissioner and includes training in the administration of
40 epinephrine auto-injector devices; and passes an examination in the
41 administration of the devices which is approved by the
42 commissioner.

43 c. The commissioner shall maintain a registry of all persons
44 certified pursuant to this section, which shall include, but not be
45 limited to:

- 46 (1) the person's name and residence; and
47 (2) the date that certification was granted.

1 d. The commissioner shall annually compile a list of
2 emergency medical technicians who have obtained certification to
3 administer an epinephrine auto-injector device pursuant to this
4 section, which shall be available to the public.

5 e. A fee may be charged to a person enrolled in an educational
6 program approved by the department which includes training in the
7 administration of an epinephrine auto-injector device in order to
8 cover the cost of training and testing for certification pursuant to
9 this section, if the entity that provides the educational program is
10 not reimbursed for the cost of that training and testing from the
11 "Emergency Medical Technician Training Fund" established
12 pursuant to section 3 of P.L.1992, c.143 (C.26:2K-56).

13 (cf: P.L.2003, c.1, s.2)

14
15 281. Section 10 of P.L.2003, c.1 (C.26:2K-47.9) is amended to
16 read as follows:

17 10. Pursuant to the "Administrative Procedure Act," P.L.1968,
18 c.410 (C.52:14B-1 et seq.), the Commissioner of Health **[and**
19 **Senior Services]** shall adopt rules and regulations to effectuate the
20 purposes of this act, including medical protocols for the
21 administration of epinephrine auto-injector devices, in consultation
22 with the State **[mobil] mobile** intensive care advisory council and
23 the New Jersey State First Aid Council, Inc. The rules and
24 regulations shall address age appropriateness in the administration
25 of epinephrine.

26 (cf: P.L.2003, c.1, s.10)

27
28 282. Section 1 of P.L.2009, c.174 (C.26:2K-63) is amended to
29 read as follows:

30 1. Certification of a person as an emergency medical technician
31 by the Commissioner of Health **[and Senior Services]**, when that
32 person meets the requirements therefor as prescribed by regulation
33 of the commissioner, shall be valid for a period of five years.

34 (cf: P.L.2009, c.174, s.1)

35
36 283. Section 2 of P.L.2009, c.174 (C.26:2K-64) is amended to
37 read as follows:

38 2. The Commissioner of Health **[and Senior Services]**,
39 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
40 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate
41 the purposes of this act.

42 (cf: P.L.2009, c.174, s.2)

43
44 284. Section 1 of P.L.2003, c.269 (C.26:2M-7.2) is amended to
45 read as follows:

46 1. a. The Commissioner of Health **[and Senior Services]** shall
47 establish a mandatory training program for long-term care facility

1 staff, as described in subsection b. of this section, in the specialized
2 care of patients who are diagnosed by a physician as having
3 Alzheimer's disease or a related disorder. The training program
4 shall include the causes and progression of Alzheimer's disease and
5 related disorders and methods to deal with the specific problems
6 encountered in the care of patients with Alzheimer's disease and
7 related disorders, including, but not limited to: communicating with
8 patients with Alzheimer's disease and related disorders;
9 psychological, social and physical needs of patients with
10 Alzheimer's disease and related disorders; and safety measures
11 which need to be taken for a patient with Alzheimer's disease and
12 related disorders.

13 b. A long-term care facility shall annually provide training,
14 under the training program established pursuant to subsection a. of
15 this section, to a certified nurse aide, licensed practical nurse,
16 registered professional nurse, and other health care professionals, as
17 appropriate, who provide direct care to a patient in the facility who
18 is diagnosed as having Alzheimer's disease or a related disorder.

19 (cf: P.L.2003, c.269, s.1)

20

21 285. Section 2 of P.L.1988, c.114 (C.26:2M-10) is amended to
22 read as follows:

23 2. As used in this act:

24 a. "Adult day care" means a community-based group program
25 designed to meet the needs of functionally or cognitively impaired
26 adults through an individual plan of care structured to provide a
27 variety of health, social, and related support services in a protective
28 setting during any part of a day but less than 24 hours.

29 b. "Alzheimer's Disease and related disorders" means forms of
30 dementia characterized by a general loss of intellectual abilities of
31 sufficient severity to interfere with social or occupational
32 functioning.

33 c. "Care needs or behavioral problems" means the
34 manifestations of dementia which may include, but need not be
35 limited to, progressive memory loss, confusion, inability to
36 communicate, extreme personality change, and eventual inability to
37 perform the most basic tasks.

38 d. "Commissioner" means the Commissioner of **the State**
39 **Department of Health and Senior Human Services.**

40 e. "Department" means the **State** Department of **Health and**
41 **Senior Human Services.**

42 f. "Grantee" means a public agency, private for profit agency,
43 or private nonprofit agency selected by the department to establish
44 an adult day care program for participants pursuant to this act.

45 g. "Participant" means an individual with Alzheimer's disease
46 or a related disorder, particularly those in the moderate to severe
47 stages. To be eligible for services, a participant shall have

1 documentation from a physician that the participant has Alzheimer's
2 disease or a related disorder.

3 (cf: P.L.1999, c.285, s.1)
4

5 286. Section 2 of P.L.2011, c.76 (C.26:2M-17) is amended to
6 read as follows:

7 2. a. There is established the New Jersey Alzheimer's Disease
8 Study Commission in the Department of **Health and Senior**
9 Human Services.

10 b. The commission shall consist of 15 members as follows:

11 (1) the Commissioners of Health **and Senior Services** and
12 Human Services, or their designees, who shall serve ex officio;

13 (2) two members of the Senate, to be appointed by the President
14 of the Senate, who shall not be of the same political party;

15 (3) two members of the General Assembly, to be appointed by
16 the Speaker of the General Assembly, who shall not be of the same
17 political party; and

18 (4) nine members appointed by the Governor, as follows: two
19 persons recommended by the Alzheimer's Association, one of
20 whom shall be a representative of the Greater New Jersey Chapter
21 and one of whom shall be a representative of the Alzheimer's
22 Association Delaware Valley Chapter; three health care
23 professionals who are currently involved in the provision of direct
24 services, one of whom shall be a representative of an agency that
25 provides home care services to persons with dementia, one of whom
26 shall be a representative of an assisted living facility that provides
27 specialized services to persons with dementia, and one of whom
28 shall be a representative of a licensed nursing home that provides
29 specialized services to persons with dementia; one representative
30 from the clergy who has experience providing emotional and
31 spiritual care and support for persons with Alzheimer's disease and
32 their families; two persons who by reason of family relationship or
33 legal guardianship bear or have borne responsibility in caring for a
34 person with Alzheimer's disease; and one attorney who is currently
35 licensed and practicing in New Jersey, has expertise in legal and
36 financial planning and elder care issues, and has extensive
37 community-based experience working with persons with
38 Alzheimer's disease and their families.

39 c. Vacancies in the membership of the commission shall be
40 filled in the same manner provided for the original appointments.

41 d. The commission shall organize as soon as practicable
42 following the appointment of its members and shall select a
43 chairperson from among the members. The chairperson shall
44 appoint a secretary who need not be a member of the commission.

45 e. Members of the commission shall serve without
46 compensation, but shall be reimbursed for necessary expenses
47 incurred in the performance of their duties as members of the

1 commission, within the limits of funds appropriated or otherwise
2 made available to the commission for its purposes.

3 f. The commission shall be entitled to call to its assistance and
4 avail itself of the services of the employees of any State, county, or
5 municipal department, board, bureau, commission, or agency as it
6 may require and as may be available to it for its purposes.

7 g. The Department of **[Health and Senior Service]** Human
8 Services shall provide staff support to the commission, as
9 necessary.

10 (cf: P.L.2011, c.76, s.2)

11

12 287. Section 2 of P.L.2003, c.257 (C.26:2N-9) is amended to
13 read as follows:

14 2. a. Prior to administering a second dose of the measles-
15 mumps-rubella (MMR) vaccine to a child, a health care provider
16 may give the child's parent or guardian the option of consenting to
17 the administration of an antibody titer to determine whether or not
18 the child has already developed immunity to MMR in response to a
19 previously administered dose of the vaccine and would not require
20 the second dose.

21 b. Documented laboratory evidence of immunity from MMR
22 shall exempt a child from further vaccination for MMR, as may be
23 required pursuant to Department of Health **[and Senior Services]**
24 regulations.

25 (cf: P.L.2003, c.257, s.2)

26

27 288. Section 3 of P.L.2003, c.257 (C.26:2N-10) is amended to
28 read as follows:

29 3. The Commissioner of Health **[and Senior Services]** shall
30 prepare and make available to all health care providers in the State a
31 pamphlet that explains the nature and purpose of the MMR vaccine
32 and the antibody titer used to determine immunity pursuant to
33 section 2 of this act.

34 The commissioner shall send a copy of the pamphlet to every
35 licensed health care provider in the State who administers the MMR
36 vaccine, with a cover letter advising the health care provider that
37 the pamphlet was prepared in accordance with the requirements of
38 P.L.2003, c. 257 (C.26:2N-8 et seq.), known as "Holly's Law," and
39 how the health care provider can obtain additional copies of the
40 pamphlet from the Department of Health **[and Senior Services]**.

41 (cf: P.L.2003, c.257, s.3)

42

43 289. Section 4 of P.L.2003, c.257 (C.26:2N-11) is amended to
44 read as follows:

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

1 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to
2 carry out the provisions of this act.

3 (cf: P.L.2003, c.257, s.4)

4

5 290. Section 2 of P.L.1993, c.288 (C.26:2Q-2) is amended to
6 read as follows:

7 2. As used in sections 1 through 12 of P.L.1993, c.288
8 (C.26:2Q-1 through C.26:2Q-12):

9 "Commissioner" means the Commissioner of Health **[and Senior**
10 **Services]**.

11 "Department" means the Department of Health **[and Senior**
12 **Services]**.

13 "Interim controls" means a set of measures designed to reduce
14 temporarily human exposure or likely exposure to lead-based paint
15 hazards, including specialized cleaning, repairs, maintenance,
16 painting, temporary containment, ongoing monitoring of lead-based
17 paint hazards or potential hazards, and the establishment and
18 operation of management and resident education programs, or as the
19 term is defined under 42 U.S.C.s.4851b.

20 "Lead abatement" means a set of measures designed to
21 permanently eliminate lead-based paint hazards in accordance with
22 standards established by the Commissioner of Community Affairs
23 in compliance with standards promulgated by the appropriate
24 federal agencies. Such term includes:

25 a. the removal of lead-based paint and lead-contaminated dust,
26 the permanent containment or encapsulation of lead-based paint, the
27 replacement of lead-painted surfaces or fixtures, and the removal or
28 covering of lead contaminated soil; and

29 b. all preparation, cleanup, disposal, and post-abatement
30 clearance testing activities associated with such measures.

31 "Lead evaluation" means a surface-by-surface investigation to
32 determine the presence of lead-based paint and the provision of a
33 report explaining the results of the investigation.

34 "Lead hazard control work" means work to make housing lead-
35 safe, or to mitigate, through the use of interim controls as permitted
36 under federal law and as defined in 42 U.S.C.s.4851b, or to
37 eliminate permanently lead-based paint hazards by abatement on a
38 premises by a person certified to perform lead abatement work
39 pursuant to sections 1 through 12 of P.L.1993, c.288 (C.26:2Q-1 et
40 seq.) and sections 14 through 24 of P.L.1993, c.288 (C.52:27D-427
41 et seq.).

42 "Lead-based paint" means paint or other surface coating material
43 that contains lead in excess of 1.0 milligrams per centimeter
44 squared or in excess of 0.5% by weight, or such other level as may
45 be established by federal law.

46 "Lead-based paint hazard" means any condition that causes
47 exposure to lead from lead-contaminated dust or soil or lead-

1 contaminated paint that is deteriorated or present in surfaces, that
2 would result in adverse human health effects.

3 "Lead-based paint hazard inspection" means an inspection of
4 residential housing and the structure's interior common areas and
5 exterior surface for the presence of lead-based paint hazards.

6 "Lead safe maintenance work" means those maintenance
7 activities which are necessary to maintain surfaces in a lead safe
8 condition and to prevent lead-based paint hazards from occurring or
9 reoccurring.

10 "Surface" means an area such as an interior or exterior wall,
11 ceiling, floor, door, door frame, window sill, window frame, porch,
12 stair, handrail and spindle, or other abradable surface, soil,
13 furniture, a carpet, a radiator or a water pipe.

14 (cf: P.L.2003, c.311, s.17)

15

16 291. Section 2 of P.L.1997, c.191 (C.26:2R-2) is amended to
17 read as follows:

18 2. As used in this act:

19 "Commissioner" means the Commissioner of **【Health and**
20 **Senior】 Human Services.**

21 "Council" means the Interagency Council on Osteoporosis
22 established pursuant to this act.

23 "Department" means the Department **【of Health and Senior】**
24 **Human Services.**

25 "Program" means the osteoporosis prevention and education
26 program established pursuant to this act.

27 (cf: P.L.1997, c.191, s.2)

28

29 292. Section 3 of P.L.1997, c.191 (C.26:2R-3) is amended to
30 read as follows:

31 3. a. The Commissioner of **【Health and Senior】 Human**
32 **Services** shall establish an osteoporosis prevention and education
33 program in the Department of **【Health and Senior】 Human**
34 **Services**. The purpose of the program is to promote: public
35 awareness of the causes of osteoporosis; options for prevention; the
36 value of early detection; and possible treatments, including the
37 benefits and risks of those treatments. The department may accept,
38 for that purpose, any special grant of money, services, or property
39 from the federal government or any of its agencies, or from any
40 foundation, organization, or medical school.

41 b. The program shall include the following:

42 (1) Development of a public education and outreach campaign
43 to promote osteoporosis prevention and education, including, but
44 not limited to, the following subjects:

45 (a) The cause and nature of the disease;

46 (b) Risk factors;

47 (c) The role of hysterectomy;

- 1 (d) Prevention of osteoporosis, including nutrition, diet, and
2 physical exercise;
- 3 (e) Diagnostic procedures and appropriate indications for their
4 use;
- 5 (f) Hormone replacement, including the benefits and risks;
- 6 (g) Environmental safety and injury prevention; and
- 7 (h) Availability of osteoporosis diagnostic treatment services in
8 the community.
- 9 (2) Development of educational materials to be made available
10 for consumers, particularly targeted to high-risk groups, through
11 local boards of health, physicians, other health care providers,
12 including, but not limited to, health maintenance organizations,
13 hospitals, and clinics, and women's organizations.
- 14 (3) Development of professional education programs for health
15 care providers to assist them in understanding research findings and
16 the subjects set forth in paragraph (1) of this subsection.
- 17 (4) Development and maintenance of a list of current providers
18 of specialized services for the prevention and treatment of
19 osteoporosis. Dissemination of the list shall be accompanied by a
20 description of diagnostic procedures, appropriate indications for
21 their use, and a cautionary statement about the current status of
22 osteoporosis research, prevention, and treatment. The statement
23 shall also indicate that the department does not license, certify, or in
24 any other way approve osteoporosis programs or centers in this
25 State.
- 26 (cf: P.L.1997, c.191, s.3)

27
28 293. Section 1 of P.L.1999, c.330 (C.26:2R-3.1) is amended to
29 read as follows:

- 30 1. The Department of **[Health and Senior] Human** Services
31 shall prepare an informational pamphlet which describes the causes
32 and nature of osteoporosis as well as methods which may be used to
33 prevent and treat osteoporosis, including nutrition, diet, physical
34 exercise, and medications. The department shall make a supply of
35 these pamphlets available to all pharmacies registered with the New
36 Jersey Board of Pharmacy for distribution to the public.
- 37 (cf: P.L.1999, c.330, s.1)

38
39 294. Section 2 of P.L.1997, c.192 (C.26:2S-2) is amended to
40 read as follows:

- 41 2. As used in sections 2 through 19 of this act:

42 "Behavioral health care services" means procedures or services
43 rendered by a health care provider for the treatment of mental
44 illness, emotional disorders, or drug or alcohol abuse. "Behavioral
45 health care services" does not include: any quality assurance or
46 utilization management activities or treatment plan reviews
47 conducted by a carrier, or a private entity on behalf of the carrier,
48 pertaining to these services, whether administrative or clinical in

1 nature; or any other administrative functions, including, but not
2 limited to, accounting and financial reporting, billing and
3 collection, data processing, debt or debt service, legal services,
4 promotion and marketing, or provider credentialing.

5 "Carrier" means an insurance company, health service
6 corporation, hospital service corporation, medical service
7 corporation^{1,1} or health maintenance organization authorized to
8 issue health benefits plans in this State.

9 "Commissioner" means the Commissioner of **【Health】 Banking**
10 and **【Senior Services】 Insurance**.

11 "Contract holder" means an employer or organization that
12 purchases a contract for services.

13 "Covered person" means a person on whose behalf a carrier
14 offering the plan is obligated to pay benefits or provide services
15 pursuant to the health benefits plan.

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

19 "Department" means the Department of **【Health】 Banking** and
20 **【Senior Services】 Insurance**.

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

34 "Health care provider" means an individual or entity which,
35 acting within the scope of its licensure or certification, provides a
36 covered service defined by the health benefits plan. Health care
37 provider includes, but is not limited to, a physician and other health
38 care professionals licensed pursuant to Title 45 of the Revised
39 Statutes, and a hospital and other health care facilities licensed
40 pursuant to Title 26 of the Revised Statutes.

41 "Independent utilization review organization" means an
42 independent entity comprised of physicians and other health care
43 professionals who are representative of the active practitioners in
44 the area in which the organization will operate and which is under
45 contract with the department to provide medical necessity or
46 appropriateness of services appeal reviews pursuant to this act.

1 "Managed behavioral health care organization" means an entity,
2 other than a carrier, which contracts with a carrier to provide,
3 undertake to arrange, or administer behavioral health care services
4 to covered persons through health care providers employed by the
5 managed behavioral health care organization or otherwise make
6 behavioral health care services available to covered persons through
7 contracts with health care providers. "Managed behavioral health
8 care organization" does not include a person or entity that, for an
9 administrative fee only, solely arranges a panel of health care
10 providers for a carrier for the provision of behavioral health care
11 services on a discounted fee-for-service basis.

12 "Managed care plan" means a health benefits plan that integrates
13 the financing and delivery of appropriate health care services to
14 covered persons by arrangements with participating providers, who
15 are selected to participate on the basis of explicit standards, to
16 furnish a comprehensive set of health care services and financial
17 incentives for covered persons to use the participating providers and
18 procedures provided for in the plan.

19 "Subscriber" means, in the case of a group contract, a person
20 whose employment or other status, except family status, is the basis
21 for eligibility for enrollment by the carrier or, in the case of an
22 individual contract, the person in whose name the contract is issued.

23 "Utilization management" means a system for reviewing the
24 appropriate and efficient allocation of health care services under a
25 health benefits plan according to specified guidelines, in order to
26 recommend or determine whether, or to what extent, a health care
27 service given or proposed to be given to a covered person should or
28 will be reimbursed, covered, paid for, or otherwise provided under
29 the health benefits plan. The system may include: preadmission
30 certification, the application of practice guidelines, continued stay
31 review, discharge planning, preauthorization of ambulatory care
32 procedures¹ and retrospective review.

33 (cf: P.L.2005, c.172, s.1)

34

35 295. Section 1 of P.L.2001, c.88 (C.26:2S-7.1) is amended to
36 read as follows:

37 1. The Commissioner of **【Health】** Banking and **【Senior**
38 **Services】** Insurance, in consultation with the New Jersey
39 Association of Health Plans, the Health Insurance Association of
40 America, the Medical Society of New Jersey, the New Jersey
41 Hospital Association, and such other representatives of managed
42 care plans as the commissioner deems appropriate, shall adopt by
43 regulation, a universal physician application for participation form
44 for use by carriers which offer managed care plans for the purpose
45 of credentialing physicians who seek to participate in a carrier's
46 provider network and for the purpose of credentialing physicians
47 who are employed by hospitals or other health care facilities which
48 seek to participate in a carrier's provider network.

1 The commissioner, in consultation with the New Jersey
2 Association of Health Plans, the Health Insurance Association of
3 America, the Medical Society of New Jersey, the New Jersey
4 Hospital Association and such other representatives of managed
5 care plans as the commissioner deems appropriate, shall also adopt
6 by regulation a form for renewal of credentialing, which shall be an
7 abbreviated version of the universal application form. The renewal
8 form shall be designed to enable a physician to indicate changes in
9 the information provided in the application form.

10 The commissioner shall revise the universal application and
11 renewal forms, as necessary, to conform with industry-wide,
12 national standards for credentialing.

13 In developing the forms, the commissioner shall consult with the
14 Commissioner of Human Services to ensure that the credentialing
15 requirements for participation in the Medicaid program, established
16 pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.), [the health care
17 coverage program for children, established pursuant to P.L.1997,
18 c.272 (C.30:4I-1 et seq.)] and the NJ FamilyCare [Health
19 Coverage] Program established pursuant to [P.L.2000, c.71
20 (C.30:4J-1 et seq.)] P.L.2005, c.156 (C.30:4J-8 et al.) are
21 adequately reflected on the application and renewal forms.
22 (cf: P.L.2001, c.88, s.1)

23

24 ¹296. Section 3 of P.L.2001, c.88 (C.26:2S-7.3) is amended to
25 read as follows:

26 3. The Commissioner of [Health] Banking and [Senior
27 Services] Insurance shall adopt regulations within 180 days of the
28 date of enactment of this act, pursuant to the "Administrative
29 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to
30 carry out the purposes of this act.¹

31 (cf: P.L.2001, c.88, s.3)

32

33 ¹[296.] 297.¹ Section 1 of P.L.2000, c.121 (C.26:2S-10.1) is
34 amended to read as follows:

35 1. A carrier which offers a managed care plan that provides
36 benefits or health care services, as applicable, for the home
37 treatment of bleeding episodes associated with hemophilia,
38 including the purchase of blood products and blood infusion
39 equipment, shall comply with the provisions of this section.

40 a. For the purpose of providing home treatment services for
41 bleeding episodes associated with hemophilia, the carrier shall be
42 required to contract with, and exclusively use, providers that
43 comply with standards adopted by regulation of the Department of
44 [Health] Banking and [Senior Services] Insurance in consultation
45 with the Hemophilia Association of New Jersey. At a minimum,
46 the standards shall require that each provider:

- 1 (1) provide services pursuant to a prescription from the covered
2 person's attending physician and not make any substitutions of
3 blood products without prior approval of the attending physician;
- 4 (2) provide all brands of clotting factor products in low, medium
5 and high-assay range levels to execute treatment regimens as
6 prescribed by a covered person's attending physician, and all needed
7 ancillary supplies for the treatment or prevention of bleeding
8 episodes, including, but not limited to, needles, syringes, and cold
9 compression packs;
- 10 (3) have the ability to deliver prescribed blood products,
11 medications, and nursing services within three hours after receipt of
12 a prescription for an emergent situation, and maintain 24-hour on-
13 call service to accommodate this requirement;
- 14 (4) demonstrate experience with and knowledge of bleeding
15 disorders and the management thereof;
- 16 (5) demonstrate the ability for appropriate and necessary record
17 keeping and documentation, including the ability to expedite
18 product recall or notification systems and the ability to assist
19 covered persons in obtaining third party reimbursement;
- 20 (6) provide for proper removal and disposal of hazardous waste
21 pursuant to State and federal law;
- 22 (7) provide covered persons with a written copy of the agency's
23 policy regarding discontinuation of services related to loss of health
24 benefits plan coverage or inability to pay; and
- 25 (8) provide covered persons, upon request, with information
26 about the expected costs for medications and services provided by
27 the agency that are not otherwise covered by the covered person's
28 health benefits plan.

29 b. The Department of **Health** Banking and **Senior Service**
30 Insurance shall compile a list of providers who meet the minimum
31 standards established pursuant to this section and shall make the list
32 available to carriers and covered persons, upon request.

33 c. As used in this section: "blood product" includes, but is not
34 limited to, Factor VIII, Factor IX and cryoprecipitate; and "blood
35 infusion equipment" includes, but is not limited to, syringes and
36 needles.

37 (cf: P.L.2000, c.121, s.1)

38

39 ¹**[297.] 298.** Section 11 of P.L.2000, c.121 (C.26:2S-10.3) is
40 amended to read as follows:

41 11. The Department of **Health** Banking and **Senior Services**
42 Insurance, pursuant to the "Administrative Procedure Act,"
43 P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt regulations to
44 carry out the provisions of sections 1 and 2 of this act.

45 (cf: P.L.2000, c.121, s.11)

46

47 ¹**[298.] 299.** Section 1 of P.L.2011, c.190 (C.26:2S-14.1) is
48 amended to read as follows:

1 1. A general hospital licensed pursuant to P.L.1971, c.136
2 (C.26:2H-1 et seq.) shall be required, as prescribed by regulation of
3 the Commissioner of Health **[and Senior Services]**, to:

4 (1) post, in a conspicuous place in each of its waiting rooms for
5 members of the general public, a notice, as prescribed pursuant to
6 section 3 of P.L.2011, c.190 (C.26:2S-14.2), which provides
7 information about the operation of, and how to apply for, the
8 Independent Health Care Appeals Program established pursuant to
9 section 11 of P.L.1997, c.192 (C.26:2S-11); and

10 (2) ensure that appropriate hospital staff, including direct patient
11 care providers, staff that are concerned with billing for hospital
12 services or provide financial counseling to patients, and staff
13 otherwise engaged in providing patient advocacy or patient
14 relations services, are made aware of the program and are able to
15 provide information to patients and their family members, or other
16 persons on the patient's behalf, about how to contact the program.

17 (cf: P.L.2011, c.190, s.1)

18
19 ¹**[299.] 300.**¹ Section 3 of P.L.2011, c.190 (C.26:2S-14.2) is
20 amended to read as follows:

21 3. The Commissioner of Banking and Insurance, in
22 consultation with the Commissioner of Health **[and Senior**
23 **Services]** and the State Board of Medical Examiners, shall
24 prescribe the size, content, and format of the notice about the
25 Independent Health Care Appeals Program to be posted in general
26 hospitals pursuant to section 1 of P.L.2011, c.190 (C.26:2S-14.1)
27 and in physicians' medical offices pursuant to section 2 of P.L.2011,
28 c.190 (C.45:9-22.26), and shall make the notice available to general
29 hospitals and physicians, and to members of the general public, by
30 posting it on the Internet website of the Department of Banking and
31 Insurance.

32 (cf: P.L.2011, c.190, s.3)

33
34 ¹**[300.] 301.**¹ Section 4 of P.L.2011, c.190 (C.26:2S-14.3) is
35 amended to read as follows:

36 4. The Commissioner of Health **[and Senior Services]** and the
37 State Board of Medical Examiners, pursuant to the "Administrative
38 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) and in
39 consultation with each other and the Commissioner of Banking and
40 Insurance, shall adopt rules and regulations to effectuate the
41 purposes of this act.

42 (cf: P.L.2011, c.190, s.4)

43
44 ¹**[301.] 302.**¹ Section 2 of P.L.2001, c.14 (C.26:2S-20) is
45 amended to read as follows:

46 2. As used in this act:

1 "Carrier" means a carrier as defined in section 2 of P.L.1997,
2 c.192 (C.26:2S-2).

3 "Commissioner" means the Commissioner of **【Health】 Banking**
4 and **【Senior Services】 Insurance**.

5 "Department" means the Department of **【Health】 Banking** and
6 **【Senior Services】 Insurance**.

7 "Managed care plan" means a managed care plan as defined in
8 section 2 of P.L.1997, c.192 (C.26:2S-2).

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

11 "Medicare" means the federal Medicare program established
12 pursuant to the federal Social Security Act, Pub.L.89-97 (42 U.S.C.
13 s.1395 et seq.).

14 "NJ FamilyCare" means the FamilyCare Health Coverage
15 Program established pursuant to **【P.L.2000, c.71 (C.30:4J-1 et**
16 **seq.)】 P.L.2005, c.156 (C.30:4J-8 et al.)**.

17 "Program" means the Managed Health Care Consumer
18 Assistance Program established pursuant to this act.
19 (cf: P.L.2001, c.14, s.2)

20

21 ¹**【302.】 303.** Section 3 of P.L.2001, c.14 (C.26:2S-21) is
22 amended to read as follows:

23 3. a. There is established the Managed Health Care Consumer
24 Assistance Program in the Department of **【Health】 Banking** and
25 **【Senior Services】 Insurance**. The commissioner shall make
26 agreements to operate the program as necessary, in consultation
27 with the Commissioner of Human Services **【and the Commissioner**
28 **of Banking and Insurance】**, to assure that citizens have reasonable
29 access to services in all regions of the State.

30 b. The program shall:

31 (1) create and provide educational materials and training to
32 consumers regarding their rights and responsibilities as enrollees in
33 managed care plans, including materials and training specific to
34 Medicaid, NJ FamilyCare, Medicare, and commercial managed care
35 plans;

36 (2) assist and educate individual enrollees about the functions of
37 the State and federal agencies that regulate managed care products,
38 assist and educate enrollees about the various complaint, grievance,
39 and appeal processes, including State fair hearings, provide
40 assistance to individuals in determining which process is most
41 appropriate for the individual to pursue when necessary, maintain
42 and provide to individual enrollees the forms that may be necessary
43 to submit a complaint, grievance or appeal with the State or federal
44 agencies, and provide assistance to individual enrollees in
45 completion of the forms, if necessary;

46 (3) maintain and provide information to individuals upon
47 request about advocacy groups, including legal services programs

1 Statewide and in each county that may be available to assist
2 individuals, and maintain lists of State and Congressional
3 representatives and the means by which to contact representatives,
4 for distribution upon request;

5 (4) maintain a toll-free telephone number for consumers to call
6 for information and assistance. The number shall be accessible to
7 the deaf and hard of hearing, and staff or translation services shall
8 be available to assist non-English proficient individuals who are
9 members of language groups that meet population thresholds
10 established by the department;

11 (5) ensure that individuals have timely access to the services of,
12 and receive timely responses from, the program;

13 (6) provide feedback to managed care plans, beneficiary
14 advisory groups and employers regarding enrollees' concerns and
15 problems;

16 (7) provide nonpartisan information about federal and State
17 activities relative to managed care, and provide assistance to
18 individuals in obtaining copies of pending legislation, statutes, and
19 regulations; and

20 (8) develop and maintain a data base monitoring the degree of
21 each type of service provided by the program to individual
22 enrollees, the types of concerns and complaints brought to the
23 program and the entities about which complaints and concerns are
24 brought.

25 c. In order to meet its objectives, the program shall have access
26 to:

27 (1) the medical and other records of an individual enrollee
28 maintained by a managed care plan, upon the specific written
29 authorization of the enrollee or his legal representative;

30 (2) the administrative records, policies, and documents of
31 managed care plans to which individuals or the general public have
32 access; and

33 (3) all licensing, certification, and data reporting records
34 maintained by the State or reported to the federal government by the
35 State that are not proprietary information or otherwise protected by
36 law, with copies thereof to be supplied to the program by the State
37 upon the request of the program.

38 d. The program shall take such actions as are necessary to
39 protect the identity and confidentiality of any complainant or other
40 individual with respect to whom the program maintains files or
41 records. Any medical or personally identifying information received
42 or in the possession of the program shall be considered confidential
43 and shall be used only by the department, the program and such
44 other agencies as the commissioner designates and shall not be
45 subject to public access, inspection or copying under P.L.1963, c.73
46 (C.47:1A-1 et seq.) or the common law concerning access to public
47 records. This subsection shall not be construed to limit the ability

1 of the program to compile and report non-identifying data pursuant
2 to paragraph (8) of subsection b. of this section.

3 e. The program shall seek to coordinate its activities with
4 consumer advocacy organizations, legal assistance providers
5 serving low-income and other vulnerable health care consumers,
6 managed care and health insurance counseling assistance programs,
7 and relevant federal and State agencies to assure that the
8 information and assistance provided by the program are current and
9 accurate.

10 f. Until such time as the program is developed, the
11 commissioner shall make agreements with two independent, private
12 nonprofit consumer advocacy organizations, which shall be the
13 Community Health Law Project and New Jersey Protection and
14 Advocacy, Inc. to operate the program on an interim basis. The
15 interim program shall be in effect for one year from the effective
16 date of this act. Any appropriation in this act for the program may
17 be allocated for the interim program.

18 (cf: P.L.2001, c.14, s.3)

19

20 ¹~~303.~~ 304. Section 8 of P.L.2001, c.14 (C.26:2S-25) is
21 amended to read as follows:

22 8. The Commissioner of **Health** Banking and **Senior**
23 **Services** Insurance, pursuant to the "Administrative Procedure
24 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and
25 regulations to effectuate the purposes of this act.

26 (cf: P.2001, c.14, s.8)

27

28 ¹~~304.~~ 305. Section 1 of P.L.1998, c.116 (C.26:2T-1) is
29 amended to read as follows:

30 1. The Commissioner of Health **and Senior Services** shall
31 provide for the inclusion of all newly diagnosed cases of hepatitis C
32 among those communicable diseases which are required to be
33 reported by health care providers or other designated persons to the
34 Department of Health **and Senior Services** pursuant to
35 N.J.A.C.8:57-1.4 and 8:57-1.5. The commissioner shall require that
36 such information be reported directly to the department, rather than
37 to local health departments, as **he** the commissioner determines
38 necessary to assist the department to develop hepatitis C disease
39 control measures, and shall revise these requirements as necessary
40 to reflect technological advances which improve the ability to
41 diagnose and treat the disease.

42 (cf: P.L.2001, c.357, s.6)

43

44 ¹~~305.~~ 306. Section 2 of P.L.1998, c.116 (C.26:2T-2) is
45 amended to read as follows:

46 2. The Commissioner of Health **and Senior Services** shall
47 provide written guidance regarding screening for the hepatitis C

1 virus to licensed physicians and public health officers which
2 reflects current and accepted standards of medical and public health
3 practice, consistent with the recommendations of the federal
4 Centers for Disease Control and Prevention, and encourages
5 appropriate screening and diagnosis of all persons at high risk for
6 hepatitis C infection as defined by the federal centers, including,
7 but not limited to:

- 8 (1) veterans of the United States armed forces;
- 9 (2) women who underwent a caesarian section or a premature
10 delivery prior to 1990;
- 11 (3) persons who received blood or blood products prior to 1992;
- 12 (4) persons who received an organ or tissue transplant prior to
13 1990;
- 14 (5) persons who have received invasive cosmetic procedures,
15 including body piercing and tattooing;
- 16 (6) persons who have a history of multiple sexually transmitted
17 diseases or multiple partners;
- 18 (7) persons with a history of intravenous drug use; and
- 19 (8) such other categories of persons at high risk for hepatitis C
20 infection as may be determined by the commissioner.

21 (cf: P.L.1998, c.116, s.2)

22

23 ¹[306.] 307.¹ Section 3 of P.L.1998, c.116 (C.26:2T-3) is
24 amended to read as follows:

25 3. The Commissioner of Health **[and Senior Services]** shall
26 make available to licensed physicians and public health officers, in
27 printed and electronic format, hepatitis C education and prevention
28 information materials which reflect the recommendations of the
29 federal Centers for Disease Control and Prevention and other
30 relevant entities, including, but not limited to, the American Liver
31 Foundation, for distribution to persons at high risk for hepatitis C
32 infection as described in section 2 of this act.

33 (cf: P.L.1998, c.116, s.3)

34

35 ¹[307.] 308.¹ Section 4 of P.L.1998, c.116 (C.26:2T-4) is
36 amended to read as follows:

37 4. The Commissioner of Health **[and Senior Services]**,
38 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
39 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate
40 the purposes of this act.

41 (cf: P.1998, c.116, s.4)

42

43 ¹[308.] 309.¹ Section 2 of P.L.2001, c.357 (C.26:2T-6) is
44 amended to read as follows:

45 2. As used in this act:

46 "Commissioner" means the Commissioner of Health **[and Senior
47 Services]**.

1 "HCV" means the hepatitis C virus.

2 "Program" means the hepatitis C education, prevention, and
3 screening program established pursuant to this act.

4 (cf: P.L.2001, c.357, s.2)

5

6 '[309.] 310.' Section 3 of P.L.2001, c.357 (C.26:2T-7) is
7 amended to read as follows:

8 3. In consultation with the hepatitis C advisory board
9 established pursuant to section 4 of this act, the Commissioner of
10 Health [and Senior Services] shall establish a hepatitis C
11 education, prevention, and screening program that includes, but is
12 not limited to, measures directed to physicians and other health care
13 workers, police officers, correctional officers, firefighters,
14 emergency services personnel, employees of the State's
15 developmental centers, and the general public. The program shall
16 be established in accordance with accepted public health practice
17 and recommendations of the federal Centers for Disease Control
18 and Prevention, the Surgeon General of the United States, the
19 American Association for the Study of Liver Diseases, the National
20 Institutes of Health and the American Liver Foundation and within
21 the limits of resources available for the purposes thereof.

22 a. For the purposes of this program, the commissioner shall
23 develop and implement the following:

24 (1) public education and outreach to raise awareness of hepatitis
25 C among persons at high risk for hepatitis C as described in section
26 2 of P.L.1998, c.116 (C.26:2T-2), which includes police officers,
27 firefighters, persons employed by correctional facilities, emergency
28 response personnel, and other high-risk groups, including, but not
29 limited to, health care professionals and persons employed in
30 primary care settings or health care facilities, which shall include, at
31 a minimum, information on risk factors, the value of early detection
32 and the options available for treating hepatitis C;

33 (2) measures to promote public awareness about the availability
34 of hepatitis C screening, prevention and treatment services among
35 persons at high risk for hepatitis C as determined by the
36 commissioner based upon data provided by the federal Centers for
37 Disease Control and Prevention, the Surgeon General of the United
38 States, the American Association for the Study of Liver Diseases,
39 the National Institutes of Health and the American Liver
40 Foundation, and any other nationally recognized liver societies;

41 (3) educational activities for health care professionals in regard
42 to the epidemiology, natural history, detection, and treatment of
43 hepatitis C, which shall include information about coinfection with
44 HCV and HIV and the implications of coinfection for HIV or AIDS
45 treatment;

46 (4) educational and informational measures targeted at specific
47 groups, including, but not limited to, activities designed to educate
48 youth about the long-term consequences of infection with HCV;

1 (5) measures to prevent further transmission of HCV and to
2 prevent onset of chronic liver disease caused by hepatitis C through
3 outreach to detect and treat chronic HCV infection; and

4 (6) a collaborative effort with the Department of Corrections to
5 develop screening services to identify inmates at risk for hepatitis C
6 upon admission, and to provide education and counseling about
7 treatment options to reduce the potential health risk to the
8 community from these persons.

9 b. The commissioner shall evaluate existing hepatitis C support
10 services in the community and assess the need for improving the
11 quality and accessibility of these services.

12 c. The commissioner shall seek to establish public-private
13 partnerships to promote outreach and increase awareness for the
14 purposes of this act among employers, organized labor, health care
15 providers, health insurers, and community-based organizations, and
16 coalitions.

17 d. The commissioner shall take such actions as are reasonably
18 necessary to ensure that the program established pursuant to this act
19 provides clear, complete, and accurate hepatitis C education,
20 information, and referral services in a multiculturally competent
21 manner that is designed to provide appropriate linkages to health
22 care services for persons in need thereof.

23 e. The commissioner shall seek to secure the use of such funds
24 or other resources from private nonprofit or for-profit sources or the
25 federal government to effectuate the purposes of this act as may be
26 available therefor, which shall be used to supplement and shall not
27 supplant State funds used to carry out the purposes of this act.

28 f. The commissioner shall seek, to the maximum extent
29 practicable, to coordinate the activities of the program, as
30 applicable, with services provided separately to specific
31 populations, including, but not limited to, veterans of the United
32 States armed forces, persons participating in private or public drug
33 abuse or alcohol treatment programs, and persons with HIV.

34 (cf: P.L.2001, c.357, s.3)

35
36 ¹**[310.] 311.** Section 1 of P.L.1999, c.366 (C.26:2U-1) is
37 amended to read as follows:

38 1. The Commissioner of Health **[and Senior Services]** shall
39 establish a Statewide network of resources to provide the following
40 services to persons with chronic fatigue syndrome, also known as
41 chronic fatigue immune dysfunction syndrome: physician training
42 and patient education programs, and a public awareness campaign.

43 (cf: P.L.1999, c.66, s.1)

44
45 ¹**[311.] 312.** Section 2 of P.L.1999, c.66 (C.26:2U-2) is
46 amended to read as follows:

47 2. The Department of Health **[and Senior Services]**, in
48 consultation with the New Jersey Chronic Fatigue Syndrome

1 Association, Inc., the Academy of Medicine of New Jersey, and the
2 University of Medicine and Dentistry of New Jersey, shall prepare
3 and make available to all health care providers in the State, upon
4 request, a manual which provides information about the clinical
5 significance, diagnosis and treatment of chronic fatigue syndrome.
6 The manual may contain any other information which the
7 Commissioner of Health [and Senior Services] deems necessary
8 and may be revised by the department whenever new information
9 about chronic fatigue syndrome becomes available. The department
10 shall publicize and make available the manual to the maximum
11 extent possible.

12 (cf: P.L.1999, c.66, s.2)

13

14 ¹[312.] 313.¹ Section 3 of P.L.1999, c.66 (C.26:2U-3) is
15 amended to read as follows:

16 3. The Commissioner of Health [and Senior Services],
17 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
18 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate
19 the purposes of this act.

20 (cf: P.L.1999, c.66, s.3)

21

22 ¹[313.] 314.¹ Section 3 of P.L.1999, c.72 (C.26:2V-3) is
23 amended to read as follows:

24 3. As used in this act:

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

27 "Department" means the Department of [Health and Senior]
28 Human Services.

29 "Initiative" means the arthritis quality of life initiative
30 established pursuant to this act.

31 "Arthritis" means any of the more than 130 types of arthritis and
32 rheumatic diseases.

33 (cf: P.L.1999, c.72, s.3)

34

35 ¹[314.] 315.¹ Section 5 of P.L.1999, c.72 (C.26:2V-5) is
36 amended to read as follows:

37 5. There is established an Advisory Council on Arthritis in the
38 department to advise the commissioner on the development and
39 implementation of the initiative. The council shall include: two
40 members of the Senate, to be appointed by the President of the
41 Senate, who shall not be of the same political party; two members
42 of the General Assembly, to be appointed by the Speaker of the
43 General Assembly, who shall not be of the same political party; the
44 Senior Assistant Commissioner, Public Health Prevention and
45 Protection and the [Assistant Commissioner,] Director of the
46 Division of [Senior] Aging Services in the [department]
47 Department of Human Services; the Director of the Division on

1 Women in the Department of Community Affairs, and a member of
2 the Interagency Council on Osteoporosis, as ex officio members;
3 and 15 public members to be appointed by the commissioner who
4 may include representatives of persons with arthritis, arthritis health
5 organizations, public health educators, experts in arthritis research,
6 prevention, and treatment and health care strategic planning, and
7 health care providers including physicians and nurses. The public
8 members of the council shall serve without compensation and may
9 be reimbursed for any expenses incurred by them in the
10 performance of their duties.

11 Legislative members shall serve during their terms of office.
12 Public members shall serve for a term of three years from the date
13 of their appointment and until their successors are appointed and
14 qualified; except that of the first appointments made: five shall be
15 for a term of one year, five for two years, and five for three years.

16 Vacancies shall be filled in the same manner as the original
17 appointments were made.

18 The advisory council shall organize as soon as may be
19 practicable after the appointment of its members and shall select a
20 chairman from among its members and a secretary who need not be
21 a member of the council.

22 (cf: P.L.1999, c.72, s.5)

23

24 ¹**[315.] 316.** Section 1 of P.L.1999, c.361 (C.26:2W-1) is
25 amended to read as follows:

26 1. The Commissioner of Health **[and Senior Services]** shall
27 establish a Cancer Awareness, Education and Research Program to
28 provide the following: support for cancer medical research;
29 physician education and awareness; and patient education and
30 screening services, particularly for members of minority groups.

31 (cf: P.L.1999, c.361, s.1)

32

33 ¹**[316.] 317.** Section 2 of P.L.1999, c.361 (C.26:2W-2) is
34 amended to read as follows:

35 2. 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.1999, c.361, s.2)

40

41 ¹**[317.] 318.** Section 1 of P.L.2001, c.196 (C.26:2W-3) is
42 amended to read as follows:

43 1. a. The Commissioner of Health **[and Senior Services]** shall
44 establish a breast cancer public awareness campaign, as a
45 component of the Cancer Awareness, Education and Research
46 Program established pursuant to P.L.1999, c.361 (C.26:2W-1 et
47 seq.), to promote awareness and outreach throughout the State in

1 regard to breast cancer screening services. The public awareness
2 campaign shall be established in accordance with accepted public
3 health practice and recommendations of the federal Centers for
4 Disease Control and Prevention, and within the limits of funds
5 appropriated pursuant to this act and any other resources available
6 for the purposes thereof.

7 b. For the purposes of this act, the commissioner shall, at a
8 minimum:

9 (1) develop and implement a Statewide plan to promote public
10 awareness among members of the public, community-based
11 organizations, and health care providers, and encourage more
12 referrals to breast cancer screening services;

13 (2) distribute promotional incentives for free or discounted
14 items to be provided to women by local retail businesses that will
15 encourage them to undergo mammography and become educated
16 about breast cancer;

17 (3) provide for the use of public service announcements and
18 printed materials in both English and Spanish;

19 (4) seek to disseminate information through a variety of entities,
20 including, but not limited to, primary care sites, health care
21 facilities, local health departments and clinics, county offices on the
22 aging, pharmacies, libraries, YWCAs and YMCAs, senior centers,
23 houses of worship, programs that serve victims of domestic
24 violence, other community-based outreach programs and
25 organizations, and the Internet;

26 (5) consult and seek to collaborate with at least the following
27 entities to effectuate the public awareness campaign: the New
28 Jersey Primary Care Association, the American Cancer Society, the
29 Medical Society of New Jersey, the New Jersey Hospital
30 Association, Planned Parenthood, AARP, the New Jersey Advisory
31 Commission on the Status of Women, the New Jersey State
32 Commission on Cancer Research, The Cancer Institute of New
33 Jersey, the New Jersey Pharmacists Association, the Health
34 Research and Educational Trust of New Jersey, and The Peer
35 Review Organization of New Jersey, Inc.;

36 (6) establish and publicize the availability of a toll-free
37 telephone number operated by the Department of Health [and
38 Senior Services] to provide information and referral to members of
39 the general public about breast screening services, with particular
40 emphasis on facilitating free and reduced charge screening for low-
41 income and uninsured women; and

42 (7) seek to secure the use of such funds or other resources from
43 private nonprofit or for-profit sources or the federal government to
44 effectuate the purposes of this act as may be available therefor,
45 which shall be used to supplement and shall not supplant State
46 funds used to carry out the purposes of this act.

47 (cf: P.L.2001, c.196, s.1)

1 ¹~~[318.]~~ 319. Section 1 of P.L.2000, c.25 (C.26:2X-1) is
2 amended to read as follows:

3 1. The Commissioner of Health **[and Senior Services]** shall
4 establish a public awareness campaign to inform the general public
5 about the clinical significance of meningitis and its public health
6 implications, including its causes and the most effective means of
7 prevention and treatment.

8 (cf: P.L.2000, c.25, s.1)

9

10 ¹~~[319.]~~ 320. Section 3 of P.L.2000, c.25 (C.26:2X-2) is
11 amended to read as follows:

12 3. The Commissioner of Health **[and Senior Services]**,
13 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
14 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate
15 the purposes of this act.

16 (cf: P.L.2000, c.25, s.3)

17

18 ¹~~[320.]~~ 321. Section 1 of P.L.2006, c.64 (C.26:2X-3) is
19 amended to read as follows:

20 1. The Commissioner of Health **[and Senior Services]**, in
21 consultation with the Commissioner of Education, shall develop an
22 educational fact sheet concerning meningococcal meningitis for
23 distribution to parents or guardians of students in grades 6 through
24 12, pursuant to section 2 of P.L.2006, c.64 (C.18A:40-21.2). The
25 educational fact sheet shall include, but need not be limited to, the
26 following information:

27 a. the causes, symptoms, and means of transmission of
28 meningococcal meningitis;

29 b. the availability, effectiveness, and risks of the meningitis
30 vaccine; and

31 c. where additional information concerning the disease can be
32 obtained.

33 (cf: P.L.2006, c.64, s.1)

34

35 ¹~~[321.]~~ 322. Section 2 of P.L.2001, c.304 (C.26:2Y-2) is
36 amended to read as follows:

37 2. The Legislature finds and declares that:

38 a. In the absence of appropriate housing with supportive
39 services, many elders or people with physical disabilities are often
40 subject to inappropriate, premature, or overextended
41 institutionalization. This results in the overutilization of costly
42 services and the negative impact of the institutional environment on
43 the individual's emotional and physical well-being. A need exists to
44 fill this gap in the housing continuum between independent living
45 and institutionalization for those elders and physically disabled
46 citizens who are in need of shelter and services to remain in the
47 community.

1 b. Adult family care has proven to be a successful and cost-
2 effective means of fulfilling basic shelter and everyday service
3 needs of elders and physically disabled adults, thereby enabling
4 them to preserve their independence, choice and dignity in a secure
5 environment.

6 c. Therefore, it is the policy of this State to promote the health,
7 safety and welfare of its elderly and physically disabled citizens by
8 encouraging the development of adult family care homes for elders
9 and physically disabled adults and to provide for the licensing of
10 caregivers and regulation of such adult family care homes by the
11 Department of Health [and Senior Services].

12 (cf: P.L.2001, c.304, s.2)

13
14 '【322.】 323.' Section 3 of P.L.2001, c.304 (C.26:2Y-3) is
15 amended to read as follows:

16 3. As used in this act:

17 "Activities of daily living" or "ADL" means functions and tasks
18 for self-care which are performed either independently or with
19 supervision or assistance, which include, but are not limited to,
20 mobility, transferring, walking, grooming, bathing, dressing and
21 undressing, eating, and toileting.

22 "Adult family care" means a 24-hour per day living arrangement
23 for persons who, because of age or physical disability, need
24 assistance with activities of daily living, and for whom services
25 designed to meet their individual needs are provided by licensed
26 caregivers in approved adult family care homes.

27 "Adult family care caregiver" means a person licensed to provide
28 care and services in the daily operation of an adult family care
29 home, but does not include the owner or lessor of the building in
30 which the adult family care home is situated unless the owner or
31 lessor is also the provider of care and services in the adult family
32 care home.

33 "Adult family care home" means a residence regulated by the
34 department and housing no more than three clients, in which
35 personal care and other supportive services are provided by an
36 individual who has been licensed by the department as an adult
37 family care caregiver. "Adult family care home" shall not include
38 a rooming or boarding house used and operated under license of the
39 Department of Community Affairs pursuant to P.L.1979, c.496
40 (C.55:13B-1 et seq.).

41 "Adult family care sponsor agency" means an entity licensed by
42 the department to administer an adult family care program within a
43 given area, which provides essential administrative and clerical
44 support services to two or more caregivers, and which shall not be
45 considered to be a health care facility as defined in section 2 of
46 P.L.1971, c.136 (C.26:2H-2).

47 "Client" means an elder or person with physical disabilities
48 enrolled in adult family care.

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

3 "Department" means the Department of Health [and Senior
4 Services].

5 "Elder" means a person sixty years of age or older.
6 (cf: P.L.2001, c.304, s.3)

7
8 ¹[323.] 324. Section 13 of P.L.2001, c.304 (C.26:2Y-11) is
9 amended to read as follows:

10 13. 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.2001, c.304, s.13)

15

16 ¹[324.] 325. Section 2 of P.L.2005, c.274 (C.26:2MM-2) is
17 amended to read s follows:

18 2. As used in this act:

19 "Alcohol and drug counselor" means a person who is a certified
20 alcohol and drug counselor or a licensed clinical alcohol and drug
21 counselor pursuant to P.L.1997, c.331 (C.45:2D-1 et seq.).

22 "Attempted suicide" means destructive behavior intended by the
23 actor to result in the actor's harm or death.

24 "Completed suicide" means a death that is known or reasonably
25 suspected to have resulted from an intentional act of the deceased,
26 regardless of whether it has been ruled a suicide by a medical
27 examiner.

28 "Council" means the New Jersey Elderly Person Suicide
29 Prevention Advisory Council established pursuant to section 3 of
30 this act.

31 "Department" means the Department of [Health and Senior]
32 Human Services.

33 "Elderly person" means a person 65 years of age and older.

34 "Licensed clinical social worker" means a person who holds a
35 current, valid license issued pursuant to subsection a. of section 6 or
36 subsection a. or d. of section 8 of P.L.1991, c.134 (C.45:15BB-1 et
37 seq.).

38 (cf: P.L.2005, c.274, s.2)

39

40 ¹[325.] 326. Section 3 of P.L.2005, c.274 (C.26:2MM-3) is
41 amended to read as follows:

42 3. There is established in the Department of [Health and
43 Senior] Human Services the New Jersey Elderly Person Suicide
44 Prevention Advisory Council.

45 a. The purpose of the council shall be to examine existing
46 needs of and services for elderly persons at risk of suicide and make
47 recommendations to the department for suicide prevention and

1 intervention strategies to help reduce the incidence of attempted and
2 completed suicides among elderly persons.

3 b. The council shall consist of nine members as follows:

4 (1) the Commissioners of Health **and Senior Services** and
5 Human Services and the chairman of the Community Mental Health
6 Citizens Advisory Board established pursuant to P.L.1957, c.146
7 (C.30:9A-1 et seq.), or their designees, who shall serve ex officio;

8 (2) two public members appointed by the Governor, one of
9 whom shall be a person with personal or family experience with
10 suicide of an elderly person and one of whom shall be an alcohol
11 and drug counselor;

12 (3) two public members appointed by the Speaker of the General
13 Assembly, who are not members of the same political party, one of
14 whom shall be a registered professional nurse and one of whom
15 shall be a licensed clinical social worker; and

16 (4) two public members appointed by the President of the
17 Senate, who are not members of the same political party, one of
18 whom shall be a physician who has been specially trained in caring
19 for elderly persons and has a certificate of added qualifications in
20 geriatrics and one of whom shall be a geropsychiatrist.

21 c. The public members shall be appointed no later than 60 days
22 after the enactment of this act.

23 d. The public members shall serve for a term of five years; but,
24 of the members first appointed, two shall serve for a term of three
25 years, two shall serve for a term of four years and two shall serve
26 for a term of five years. Members are eligible for reappointment
27 upon the expiration of their terms. Vacancies in the membership of
28 the council shall be filled in the same manner provided for the
29 original appointments.

30 e. The council shall organize as soon as practicable following
31 the appointment of its members and shall select a chairperson and
32 vice-chairperson from among the members. The chairperson shall
33 appoint a secretary who need not be a member of the council.

34 f. The public members shall serve without compensation, but
35 shall be reimbursed for necessary expenses incurred in the
36 performance of their duties and within the limits of funds available
37 to the council.

38 g. The council shall be entitled to call to its assistance and avail
39 itself of the services of the employees of any State, county, or
40 municipal department, board, bureau, commission, or agency as it
41 may require and as may be available to it for its purposes.

42 h. The Department of **Health and Senior Service** Human
43 Services shall provide staff support to the council.

44 (cf: P.L.2005, c.274, s.3)

45

46 ¹[326.] 327.¹ Section 115 of P.L.2008, c.29 (C.26:2NN-1) is
47 amended to read as follows:

1 115. a. The Department of **[Health and Senior]** Human Services
2 shall maintain a toll-free information "Law Enforcement Officer
3 Crisis Intervention Services" telephone hotline on a 24-hour basis.

4 The hotline shall receive and respond to calls from law
5 enforcement officers and sheriff's officers who have been involved
6 in any event or incident which has produced personal or job-related
7 depression, anxiety, stress, or other psychological or emotional
8 tension, trauma, or disorder for the officer and officers who have
9 been wounded in the line of duty. The operators of the hotline shall
10 seek to identify those officers who should be referred to further
11 debriefing, and counseling services, and to provide such referrals.
12 In the case of wounded officers, those services may include peer
13 counseling, diffusing, debriefing, group therapy and individual
14 therapy as part of a coordinated assistance program, to be known as
15 the "Blue Heart Law Enforcement Assistance Program," designed
16 and implemented by the University of Medicine and Dentistry of
17 New Jersey's University Behavioral Healthcare Unit.

18 b. The operators of the hotline shall be trained by the
19 Department of **[Health and Senior]** Human Services and, to the
20 greatest extent possible, shall be persons, who by experience or
21 education, are: (1) familiar with post trauma disorders and the
22 emotional and psychological tensions, depressions, and anxieties
23 unique to law enforcement officers and sheriff's officers; or (2)
24 trained to provide counseling services involving marriage and
25 family life, substance abuse, personal stress management, and other
26 emotional or psychological disorders or conditions which may be
27 likely to adversely affect the personal and professional well-being
28 of a law enforcement officer and a sheriff's officer.

29 c. To ensure the integrity of the telephone hotline and to
30 encourage officers to utilize it, the commissioner shall provide for
31 the confidentiality of the names of the officers calling, the
32 information discussed by that officer and the operator, and any
33 referrals for further debriefing or counseling; provided, however,
34 the commissioner may, by rule and regulation, (1) establish
35 guidelines providing for the tracking of any officer who exhibits a
36 severe emotional or psychological disorder or condition which the
37 operator handling the call reasonably believes might result in harm
38 to the officer or others and (2) establish a confidential registry of
39 wounded New Jersey law enforcement officers.

40 (cf: P.L.2008, c.29, s.115)

41
42 ¹**[327.] 328.** Section 16 of P.L.2008, c.39 (C.26:2NN-2) is
43 amended to read as follows:

44 116. The Commissioner of **[Health and Senior]** Human Services
45 shall prepare a list of appropriately licensed or certified
46 psychiatrists, psychologists, and social workers; other appropriately
47 trained and qualified counselors; and experienced former law
48 enforcement officers who are willing to accept referrals and to

1 participate in the debriefing and counseling offered law
2 enforcement officers and sheriff's officers under the provisions of
3 sections 115 to 116 of P.L.2008, c.29 (C.26:2NN-1 to C.26:2NN-2).
4 (cf: P.L.2008, c.29, s.116)

5
6 ¹[328.] 329. Section 2 of P.L.2005, c.3 (C.26:3A2-36) is
7 amended to read as follows:

8 2. a. The Department of Environmental Protection, with the
9 concurrence of the Department of Health [and Senior Services]and
10 the State Office of Emergency Management in the Division of State
11 Police in the Department of Law and Public Safety, shall develop a
12 comprehensive plan for the standardization and coordination of
13 county hazardous material response programs to effectively address
14 all incidents involving hazardous materials, including, but not
15 limited to, chemical, biological, radiological, nuclear, or explosive
16 incidents.

17 The plan shall include procedures for State, county, and local
18 response to incidents involving hazardous materials, including, but
19 not limited to, chemical, biological, radiological, nuclear, or
20 explosive incidents, and planning, training, exercising, and
21 equipment requirements designed to assure that local responders
22 have the capacity, competency and capability to protect the public
23 from exposure to those materials, and shall include the adoption of
24 environmental health performance standards and standards of
25 administrative procedures for county hazardous materials response.

26 b. The certified local health agency in each county shall
27 develop, in consultation with their county office of emergency
28 management, a comprehensive, coordinated county-wide emergency
29 response program for incidents involving hazardous materials,
30 including, but not limited to, chemical, biological, radiological,
31 nuclear, or explosive incidents for the county that is consistent with
32 the plan developed by the department pursuant to subsection a. of
33 this section.

34 c. In any county in which there is no certified local health
35 agency, the board of chosen freeholders shall designate a local
36 health agency from the county to develop, in consultation with the
37 county office of emergency management and the Department of
38 Health [and Senior Services], a comprehensive, coordinated
39 county-wide emergency response program for incidents involving
40 hazardous materials, including, but not limited to, chemical,
41 biological, radiological, nuclear, or explosive incidents for the
42 county that is consistent with the plan developed by the department
43 pursuant to subsection a. of this section.

44 (cf: P.L.2005, c.3, s.2)

45
46 ¹[329.] 330. Section 4 of P.L.2005, c.3 (C.26:3A2-38) is
47 amended to read as follows:

1 4. a. The Department of Environmental Protection, with the
2 concurrence of the Department of Health **[and Senior Services]** and
3 the State Office of Emergency Management in the Division of State
4 Police in the Department of Law and Public Safety, and in
5 consultation with representatives of certified local health agencies,
6 shall adopt, pursuant to the "Administrative Procedure Act,"
7 P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations that:

8 (1) establish criteria and procedures for the award of grants to
9 certified local health agencies, or local health agencies, as
10 appropriate, pursuant to section 3 of P.L.2005, c.3 (C.26:3A2-37);

11 (2) establish environmental health performance standards and
12 standards of administrative procedures for county hazardous
13 materials response for incidents involving hazardous materials,
14 including, but not limited to, chemical, biological, radiological,
15 nuclear, or explosive incidents; and

16 (3) establish criteria and procedures for the development of
17 inter-local agreements to facilitate the creation of a Statewide
18 mutual aid network for responding to incidents involving hazardous
19 materials, including, but not limited to, chemical, biological,
20 radiological, nuclear, or explosive incidents

21 b. Prior to the adoption of rules and regulations pursuant to
22 subsection a. of this section, and notwithstanding the provisions of
23 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
24 seq.) to the contrary, the Commissioner of Environmental
25 Protection may, immediately upon filing the proper notice with the
26 Office of Administrative Law, adopt such temporary rules and
27 regulations as the commissioner determines are necessary to
28 implement the provisions of P.L.2005, c.3 (C.26:3A2-36 et al.).
29 The temporary rules and regulations shall be in effect for a period
30 not to exceed 270 days after the date of the filing, except that in no
31 case shall the temporary rules and regulations be in effect one year
32 after the effective date of P.L.2005, c.3 (C.26:3A2-36 et al.). The
33 temporary rules and regulations shall thereafter be amended,
34 adopted or readopted by the commissioner as the commissioner
35 determines is necessary in accordance with the requirements of the
36 "Administrative Procedure Act."

37 (cf: P.L.2005, c.3, s.4)

38
39 ¹**[330.] 331.** Section 8 of P.L.2005, c.383 (C.26:3D-62) is
40 amended to read as follows:

41 8. a. The person having control of an indoor public place or
42 workplace shall order any person smoking in violation of this act to
43 comply with the provisions of this act. A person, after being so
44 ordered, who smokes in violation of this act is subject to a fine of
45 not less than \$250 for the first offense, \$500 for the second offense
46 and \$1,000 for each subsequent offense. A penalty shall be
47 recovered in accordance with the provisions of subsections c. and d.
48 of this section.

1 b. The Department of Health **[and Senior Services]** or the local
2 board of health or the board, body, or officers exercising the
3 functions of the local board of health according to law, upon written
4 complaint or having reason to suspect that an indoor public place or
5 workplace covered by the provisions of this act is or may be in
6 violation of the provisions of this act, shall, by written notification,
7 advise the person having control of the place accordingly, and order
8 appropriate action to be taken. A person receiving that notice who
9 fails or refuses to comply with the order is subject to a fine of not
10 less than \$250 for the first offense, \$500 for the second offense, and
11 \$1,000 for each subsequent offense. In addition to the penalty
12 provided herein, the court may order immediate compliance with
13 the provisions of this act.

14 c. A penalty recovered under the provisions of this act shall be
15 recovered by and in the name of the Commissioner of Health **[and**
16 **Senior Services]** or by and in the name of the local board of health.
17 When the plaintiff is the Commissioner of Health **[and Senior**
18 **Services]**, the penalty recovered shall be paid by the commissioner
19 into the treasury of the State. When the plaintiff is a local board of
20 health, the penalty recovered shall be paid by the local board into
21 the treasury of the municipality where the violation occurred.

22 d. A municipal court shall have jurisdiction over proceedings
23 to enforce and collect any penalty imposed because of a violation of
24 this act if the violation has occurred within the territorial
25 jurisdiction of the court. The proceedings shall be summary and in
26 accordance with the "Penalty Enforcement Law of 1999," P.L.1999,
27 c.274 (C.2A:58-10 et seq.). Process shall be in the nature of a
28 summons or warrant and shall issue only at the suit of the
29 Commissioner of Health **[and Senior Services]**, or the local board
30 of health, as the case may be, as plaintiff.

31 e. The penalties provided in subsections a. and b. of this
32 section shall be the only civil remedy for a violation of this act, and
33 there shall be no private right of action against a party for failure to
34 comply with the provisions of this act.

35 (cf: P.L.2005, c.383, s.8)

36

37 '**[331.] 332.**' Section 10 of P.L.2005, c.383 (C.26:3D-64) is
38 amended to read as follows:

39 10. The Commissioner of Health **[and Senior Services]**,
40 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
41 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate
42 the purposes of this act.

43 (cf: P.L.2005, c.383, s.10)

44

45 '**[332.] 333.**' Section 1 of P.L.2005, c.26 (C.26:3E-14) is
46 amended to read as follows:

1 1. The Commissioner of Health **[and Senior Services]**, in
2 consultation with the New Jersey Restaurant Association, shall
3 prepare a fact sheet, to be directed to restaurant managers and staff,
4 which is designed to explain nut allergies and the health-related
5 consequences to persons with **[such]** nut allergies who are exposed
6 to food items that contain or are prepared with nut products, and
7 includes a recommendation that restaurants identify such food items
8 on their menus. The commissioner shall make this fact sheet
9 available to local boards of health by electronic or other means of
10 distribution, and local health officers shall furnish this information
11 to restaurants at the time of inspection.

12 As used in this section:

13 "Nut" means~~[:]~~ peanuts and tree nuts, including, but not limited
14 to, almonds, brazil nuts, cashews, hazelnuts, filberts, macadamia
15 nuts, pecans, pistachios, and walnuts; and

16 "Restaurant" means an establishment in which the principal
17 business is the sale of food for consumption on the premises.

18 (cf: P.L.2005, c.26, s.1)

19

20 ~~'[333.] 334.'~~ Section 2 of P.L.2005, c.26 (C.26:3E-15) is
21 amended to read as follows:

22 2. The Commissioner of Health **[and Senior Services]** shall
23 conduct, within the limits of monies appropriated pursuant to this
24 act, a public information campaign regarding food allergies, to be
25 known as "Ask Before You Eat." The public information campaign
26 shall be designed to inform the public about food allergies and the
27 health-related consequences, including anaphylaxis, to persons with
28 such allergies who are exposed to food items that contain or are
29 prepared with ingredients that trigger severe allergic reactions, such
30 as peanuts, tree nuts, and seafood.

31 (cf: P.L.2005, c.26, s.2)

32

33 ~~'[334.] 335.'~~ Section 2 of P.L.2009, c.306 (C.26:3E-17) is
34 amended to read as follows:

35 2. Notwithstanding any provision of law to the contrary:

36 a. (1) A retail food establishment using a standard printed
37 menu shall list next to each food or beverage item on the menu, the
38 total number of calories for that item as usually prepared and
39 offered for sale;

40 (2) A retail food establishment using a menu board system or
41 similar signage shall list next to each food or beverage item on the
42 board or sign, the total number of calories for that item as usually
43 prepared and offered for sale;

44 (3) A retail food establishment that has a drive-through window
45 shall display calorie content values either on the drive-through
46 menu board or on an adjacent stanchion visible at the point of
47 ordering, and the calorie content values shall be posted adjacent to

1 their respective menu item names as clearly and conspicuously as
2 the price or menu item is on the drive-through menu board; and

3 (4) A retail food establishment which offers alcoholic beverages
4 for sale may, as an alternative to listing calorie information for each
5 individual alcoholic beverage, list the average caloric value for
6 beers, wines, and spirits as established by the United States
7 Department of Agriculture, Agriculture Research Service in the
8 National Nutrient Database for Standard Reference.

9 A retail food establishment that lists the average caloric values
10 for alcoholic beverages pursuant to this paragraph shall add to the
11 labeling the following statement: "Signature drinks or liqueurs with
12 added ingredients may increase calorie content."

13 b. The calorie information listed pursuant to paragraphs (1) and
14 (2) of subsection a. of this section shall be posted clearly and
15 conspicuously adjacent or in close proximity to the applicable menu
16 item using a font and format that is at least as prominent, in size and
17 appearance, as that used to post either the name or price of the
18 menu item.

19 The calorie content values required by this act shall be based
20 upon a verifiable analysis of the menu item, which may include the
21 use of nutrient databases, laboratory testing, or other reliable
22 methods of analysis, and shall be rounded to the nearest 10 calories
23 for calorie content values above 50 calories and to the nearest five
24 calories for calorie content values 50 calories and below.

25 c. The provisions of this section shall apply to each menu item
26 that is served in portions the size and content of which are
27 standardized.

28 d. For menu items that come in different flavors and varieties
29 but that are listed as a single menu item, the minimum to maximum
30 numbers of calories for all flavors and varieties of that item shall be
31 listed on the menu, menu board, or stanchion, as applicable, for
32 each size offered for sale.

33 e. (1) The disclosure of calorie information on a menu, menu
34 board, or stanchion next to a standard menu item that is a
35 combination of at least two standard menu items on the menu, menu
36 board, or stanchion, shall, based upon all possible combinations for
37 that standard menu item, include both the minimum and the
38 maximum amount of calories. If there is only one possible total
39 amount of calories, that total shall be disclosed.

40 (2) The disclosure of calorie information on a menu, menu
41 board, or stanchion next to a standard menu item that is not an
42 appetizer or dessert, but is intended to serve more than one
43 individual, shall include both:

44 (a) the number of individuals intended to be served by the
45 standard menu item; and

46 (b) the calorie information per individual serving.

47 If the standard menu item is a combination of at least two
48 standard menu items, the disclosure shall, based upon all possible

1 combinations for that standard menu item, include both the
2 minimum and the maximum amount of calories. If there is only one
3 possible total amount of calories, that total shall be disclosed.

4 f. Nothing in this section shall prohibit a retail food
5 establishment from providing additional nutrition information to its
6 customers for each food or beverage item listed on its menu.

7 g. The provisions of this section shall not apply to any:

8 (1) item not listed on a standard printed menu or menu board
9 system or similar signage, including, but not limited to, condiments
10 or other products placed on a table or counter for general use; or

11 (2) daily specials, temporary menu items appearing on the menu
12 for less than 60 days per calendar year, customized orders, or food
13 or beverage items from a consumer self-serve salad bar or buffet.

14 h. (1) The Department of Health **【and Senior Services】** or the
15 local board of health or the board, body, or officers exercising the
16 functions of the local board of health according to law, upon written
17 complaint or having reason to suspect that a violation of this act has
18 occurred, shall, by written notification, advise the proprietor of the
19 retail food establishment accordingly and order appropriate action
20 to be taken.

21 (2) A proprietor of a retail food establishment who violates the
22 provisions of this section by failing to provide the information
23 about food and beverage items as required in this section, or
24 knowingly misstating the number of calories in a food or beverage
25 item, shall be subject to a penalty of not less than \$50 or more than
26 \$100 for the first offense, and not less than \$250 or more than \$500
27 for the second or any subsequent offense. A municipal court shall
28 have jurisdiction over proceedings to enforce and collect any
29 penalty imposed because of a violation of this act, if the violation
30 has occurred within the territorial jurisdiction of the court. The
31 proceedings shall be summary and in accordance with the "Penalty
32 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).
33 Process shall be in the nature of a summons or warrant and shall
34 issue only at the suit of the Commissioner of Health **【and Senior
35 Services】**, or the local board of health, as the case may be, as
36 plaintiff.

37 When the plaintiff is the Commissioner of Health **【and Senior
38 Services】**, the penalty recovered shall be paid by the commissioner
39 into the treasury of the State. When the plaintiff is a local board of
40 health, the penalty recovered shall be paid by the local board into
41 the treasury of the municipality where the violation occurred.

42 i. The provisions of this section shall not be construed to
43 create or enhance any claim, right of action, or civil liability that
44 did not previously exist under State law or limit any claim, right of
45 action, or civil liability that otherwise exists under State law.

1 j. There shall be no private right of action against the
2 proprietor of a retail food establishment for failure to comply with
3 the provisions of this section.

4 k. To the extent consistent with federal law, the provisions of
5 this section, as well as any other State law that regulates the
6 disclosure of caloric information, shall be a matter of Statewide
7 concern and shall occupy the entire field of regulation regarding the
8 disclosure of caloric information by a retail food establishment, as
9 well as content required to be posted on menus, menu board
10 systems or similar signage, or stanchions, as applicable. No
11 ordinance or regulation of a local government or local board of
12 health shall regulate the dissemination of caloric information or the
13 content required to be placed on menus, menu board systems or
14 similar signage, or stanchions by a retail food establishment. Any
15 local government or local board of health ordinance or regulation
16 that violates this prohibition is void and shall have no force or
17 effect.

18 l. As used in this section, "retail food establishment" means a
19 fixed restaurant or any similar place that is part of a chain with 20
20 or more locations nationally and doing business

21 (1) under the same trade name or under common ownership or
22 control or

23 (2) as franchised outlets of a parent business,
24 the principal activity of which consists of preparing for
25 consumption within the establishment a meal or food to be eaten on
26 the premises or picked up at a drive-through window.

27 (cf: P.L.2009, c.306, s.2)

28

29 ¹**[335.] 336.**¹ Section 3 of P.L.2009, c.306 (C.26:3E-18) is
30 amended to read as follows:

31 3. The Commissioner of Health **[and Senior Services]** shall
32 adopt rules and regulations, pursuant to the "Administrative
33 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate
34 the purposes of this act.

35 (cf: P.L.2009, c.306, s.3)

36

37 ¹**[336.] 337.**¹ R.S.26:4-2 is amended to read as follows:

38 26:4-2. In order to prevent the spread of disease affecting
39 humans, the Department of Health **[and Senior Services]**, and the
40 local boards of health within their respective jurisdictions and
41 subject to the State sanitary code, shall have power to:

42 a. Declare what diseases are communicable.

43 b. Declare when any communicable disease has become
44 epidemic.

45 c. Require the reporting of communicable diseases.

46 d. Maintain and enforce proper and sufficient quarantine,
47 wherever deemed necessary.

1 e. Remove any person infected with a communicable disease to
2 a suitable place, if in its judgment removal is necessary and can be
3 accomplished without any undue risk to the person infected.

4 f. Disinfect any premises when deemed necessary.

5 g. Remove to a proper place to be designated by it all articles
6 within its jurisdiction, which, in its opinion, shall be infected with
7 any matter likely to communicate disease and to destroy such
8 articles, when in its opinion the safety of the public health requires
9 it.

10 In the event the Governor declares a public health emergency,
11 the department shall oversee the uniform exercise of these powers
12 in the State and the local board of health shall be subject to the
13 department's exercise of authority under this section.

14 (cf: P.L.2005, c.222, s.31)

15
16 ¹~~337.~~ 338. Section 3 of P.L.2007, c.134 (C.26:4-95.4) is
17 amended to read s follows:

18 3. a. The Commissioner of Health **and Senior Services**, in
19 consultation with the Commissioner of Education and the Director
20 of the Division on Women in the Department of Community
21 Affairs, shall establish a public awareness campaign to inform the
22 general public about the clinical significance and public health
23 implications of the human papillomavirus, including its causes and
24 the most effective means of prevention and treatment. The public
25 awareness campaign shall be established in accordance with
26 accepted public health practice and recommendations of the federal
27 Centers for Disease Control and Prevention, and within the limits of
28 available funds and any other resources available for the purposes
29 thereof.

30 b. The commissioner shall prepare a patient information
31 brochure regarding the human papillomavirus, including its causes
32 and the most effective means of prevention and treatment. The
33 department shall distribute the pamphlet, at no charge, to all
34 pediatricians in the State. The department shall update the
35 pamphlet as necessary, and shall make additional copies of the
36 pamphlet available to other health care providers upon request.

37 (cf: P.L.2007, c.134, s.3)

38
39 ¹~~338.~~ 339. Section 3 of P.L.2004, c.138 (C.26:4-133) is
40 amended to read as follows:

41 3. As used in this act:

42 "Commissioner" means the Commissioner of Health **and Senior**
43 **Services**.

44 "Department" means the Department of Health **and Senior**
45 **Services**.

46 "Health care provider" means a health care facility licensed
47 pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) or a health care

1 professional whose practice is regulated pursuant to Title 45 of the
2 Revised Statutes.

3 "Registry" means the New Jersey Immunization Information
4 System established pursuant to this act.

5 (cf: P.L.2004, c.138, s.3)

6

7 ¹ ~~339.~~ 340. Section 4 of P.L.2004, c.138 (C.26:4-134) is
8 amended to read as follows:

9 4. a. There is established a Statewide automated and electronic
10 immunization registry, to be designated as the New Jersey
11 Immunization Information System, in the Department of Health
12 **[and Senior Services]**. The registry shall be designed to serve as a
13 single repository of immunization records to aid, coordinate, and
14 help promote effective and cost-efficient disease screening,
15 prevention, and control efforts in the State.

16 b. A newborn infant in New Jersey, who is born on or after
17 January 1, 1998, shall be enrolled in the registry immediately
18 following birth unless the parent or legal guardian of the infant
19 provides a written request to not participate in the registry.

20 A child born prior to January 1, 1998 may be enrolled in the
21 registry at the parent's or legal guardian's written request.

22 c. Access to the information in the registry shall be limited to:
23 health care providers, schools, colleges, licensed child care centers,
24 and public agencies, and private organizations as determined by
25 regulation of the commissioner. A registrant, or the registrant's
26 parent or legal guardian if the registrant is a minor, shall have
27 access to the registrant's immunization and other preventive health
28 screening information in the registry.

29 d. The information contained in the registry shall be used for
30 the following purposes:

31 (1) to help ensure that registrants receive all recommended
32 immunizations in a timely manner by providing access to the
33 registrants' immunization records;

34 (2) to help improve immunization rates by providing notice to
35 registrants of overdue or upcoming immunizations; and

36 (3) to help control communicable diseases by assisting in the
37 identification of persons who require immediate immunization in
38 the event of a vaccine-preventable disease outbreak.

39 e. The authentic immunization and other preventive health
40 screening record of a child, which shall consist of a paper or
41 electronic copy of the registry entry that is a true and accurate
42 representation of the information contained therein, obtained from
43 the registry shall be accepted as a valid immunization and
44 preventive health screening record of the registrant for the purpose
45 of meeting immunization and preventive health screening
46 documentation requirements for admission to a school, college, or
47 licensed child care center.

1 f. A health care provider shall not discriminate in any way
2 against a person solely because the person elects not to participate
3 in the registry.

4 g. An authorized user granted access as provided in subsection
5 c. of this section shall only access information in the registry on a
6 specific patient or client who is presently receiving services, is
7 under the user's care or is within the applicable governmental health
8 authority's jurisdiction.

9 h. An agency, organization, or other entity authorized to access
10 information in the registry shall not use any report made by a health
11 care provider pursuant to this act in any punitive manner against the
12 provider.

13 i. The commissioner, in consultation with the Public Health
14 Council, shall adopt rules and regulations, pursuant to the
15 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
16 seq.), to effectuate the purposes of this act, including, but not
17 limited to:

18 (1) the establishment and maintenance of the registry;

19 (2) the methods for submitting, and the content of, reports of
20 immunizations to the registry, for which purpose the commissioner
21 shall provide, to the maximum extent practicable, for reporting
22 options to facilitate compliance with the requirements of subsection
23 b. of this section;

24 (3) procedures for the birth hospital of a newborn infant or
25 health care provider, as applicable, to inform the parent or legal
26 guardian of a newborn infant or minor of the purpose of the registry
27 and its potential uses by parties having authorized access to registry
28 information, and the content of that information;

29 (4) procedures for a registrant, or the registrant's parent or legal
30 guardian if the registrant is a minor, to review and correct
31 information contained in the registry;

32 (5) procedures for the parent or legal guardian of a newborn
33 infant or minor, or a person over 18 years of age, to request to not
34 participate in the registry at any time and to remove or inactivate
35 information from the registry;

36 (6) limits on, and methods of, access to the registry by those
37 authorized pursuant to subsection c. of this section;

38 (7) procedures for health insurers to obtain immunization
39 information from the registry concerning only their covered
40 persons, as well as summary statistics, which information or
41 statistics shall not be used or disclosed for any other purpose than
42 to:

43 (a) improve patient care;

44 (b) provide quality assurance to employers purchasing group
45 coverage and to health care providers;

46 (c) improve outreach and education efforts with respect to their
47 covered persons and health care providers; and

1 (d) monitor and improve quality of care standards as developed
2 by professional organizations, accreditation agencies and
3 government agencies in collaboration with the department; and

4 (8) procedures for the department to disseminate statistical
5 information and supporting commentary.

6 (cf: P.L.2004, c.138, s.4)

7
8 ¹**[340.] 341.** Section 10 of P.L.2011, c.210 (C.26:5B-6) is
9 amended to read as follows:

10 10. a. The Department of Health **[and Senior Services]**, in
11 consultation with the Medical Society of New Jersey and the
12 University of Medicine and Dentistry of New Jersey, shall prepare,
13 and make available on its Internet website, information in English
14 and Spanish, which is designed to be easily understandable by the
15 general public, about the genetic risk factors associated with, and
16 the symptoms and treatment of, sickle cell anemia, in addition to
17 any other information that the Commissioner of Health **[and Senior
18 Services]** deems necessary for the purposes of this act. The
19 department shall revise this information whenever new information
20 about sickle cell anemia becomes available.

21 b. The department shall prepare an informational booklet in
22 English and Spanish that contains the information posted on its
23 website pursuant to subsection a. of this section, as funds become
24 available for that purpose. The department shall make a supply of
25 booklets available to all licensed health care facilities engaged in
26 the diagnosis or treatment of sickle cell anemia, as well as to health
27 care professionals, community health centers, members of the
28 public, and social services agencies upon their request.

29 (cf: P.L.2011, c.210, s.10)

30
31 ¹**[341.] 342.** Section 1 of P.L.1995, c.174 (C.26:5C-15) is
32 amended to read as follows:

33 1. As used in this act:

34 "AIDS" means acquired immune deficiency syndrome as defined
35 by the Centers for Disease Control and Prevention of the United
36 States Public Health Service.

37 "Commissioner" means the Commissioner of Health **[and Senior
38 Services]**.

39 "Department" means the Department of Health **[and Senior
40 Services]**.

41 "HIV" means the human immunodeficiency virus or any other
42 related virus identified as a probable causative agent of AIDS.

43 (cf: P.L.2007, c.218, s.1)

44
45 ¹**[342.] 343.** Section 2 of P.L.1997, c.246 (C.26:5C-22) is
46 amended to read as follows:

1 2. a. A semen bank shall perform an HIV test on a potential
2 donor prior to that person donating semen and shall freeze all
3 donated semen for a waiting period of at least six months, in
4 accordance with standards adopted by the United States Centers for
5 Disease Control and Prevention.

6 b. A semen bank shall perform the HIV test only after the
7 donor has provided written informed consent according to standards
8 adopted by the Commissioner of Health and Senior Services. A
9 donor who refuses to provide written informed consent to an HIV
10 test or tests positive for HIV shall not be permitted to donate semen.

11 c. The cost of the HIV test shall be borne by the recipient of
12 the donation.

13 d. The Commissioner of Health **[and Senior Services]** shall
14 establish procedures for notification by a semen bank to donors of
15 screening results and referrals to appropriate counseling and health
16 care services as necessary.

17 (cf: P.L.1997, c.246, s.2)

18
19 ¹**[343.] 344.**¹ Section 4 of P.L.1997, c.246 (C.26:5C-24) is
20 amended to read as follows:

21 4. The Commissioner of Health **[and Senior Services]**,
22 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
23 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate
24 the purposes of this act.

25 (cf: P.L.1997, c.246, s.4)

26
27 ¹**[344.] 345.**¹ Section 3 of P.L.2006, c.99 (C.26:5C-27) is
28 amended to read as follows:

29 3. The Commissioner of Health **[and Senior Services]** shall
30 establish a demonstration program to permit up to six municipalities
31 to operate a sterile syringe access program in accordance with the
32 provisions of this act. For the purposes of the demonstration
33 program, the commissioner shall prescribe by regulation
34 requirements for a municipality to establish, or otherwise authorize
35 the operation within that municipality of, a sterile syringe access
36 program to provide for the exchange of hypodermic syringes and
37 needles in accordance with the provisions of this act.

38 a. The commissioner shall:

39 (1) request an application, to be submitted on a form and in a
40 manner to be prescribed by the commissioner, from any
41 municipality that seeks to establish a sterile syringe access program,
42 or from other entities authorized to operate a sterile syringe access
43 program within that municipality as provided in paragraph (2) of
44 subsection a. of section 4 of this act;

45 (2) approve those applications that meet the requirements
46 established by regulation of the commissioner and contract with the
47 municipalities or entities whose applications are approved to

1 establish a sterile syringe access program as provided in paragraph
2 (2) of subsection a. of section 4 of this act to operate a sterile
3 syringe access program in any municipality in which the governing
4 body has authorized the operation of sterile syringe access programs
5 within that municipality by ordinance;

6 (3) support and facilitate, to the maximum extent practicable,
7 the linkage of sterile syringe access programs to [such] health care
8 facilities and programs as may provide appropriate health care
9 services, including mental health and substance abuse treatment,
10 and to housing assistance, career employment-related counseling,
11 and education counseling to consumers participating in [any such]
12 a sterile syringe access program;

13 (4) provide for the adoption of a uniform identification card or
14 other uniform Statewide means of identification for consumers,
15 staff, and volunteers of a sterile syringe access program pursuant to
16 paragraph (8) of subsection b. of section 4 of this act; and

17 (5) maintain a record of the data reported to the commissioner
18 by sterile syringe access programs pursuant to paragraph (10) of
19 subsection b. of section 4 of this act.

20 b. The commissioner shall be authorized to accept [such]
21 funding as may be made available from the private sector to
22 effectuate the purposes of this act.

23 (cf: P.L.2006, c.99, s.3)

24

25 ¹[345.] 346.¹ Section 3 of P.L.2008, c.49 (C.26:6-70) is
26 amended to read as follows:

27 3. As used in this act:

28 "Anatomical research recovery organization" means a nonprofit
29 corporation engaged in the recovery of a human body or part
30 donated for education, research, or the advancement of medical,
31 dental, or mortuary science pursuant to P.L.1969, c.161 (C.26:6-57
32 et seq.) or any subsequent statute adopted pursuant thereto, where
33 part or all of the recovery takes place in this State. Anatomical
34 research recovery organization shall not include an accredited
35 institution of higher education in this State that uses an anatomical
36 gift for its own educational or research purposes and is not engaged
37 in the distribution of a human body or part to another person or
38 entity.

39 "Commissioner" means the Commissioner of Health [and Senior
40 Services].

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

43 "Distribution" means the removal of a human body or part from a
44 storage location to any other location for educational or research
45 use, or the advancement of medical, dental, or mortuary science.

46 "Education" means the use of the whole body or parts for
47 purposes of teaching or training individuals, including medical or

1 dental professionals and students, with regard to the anatomy and
2 characteristics of the human body.

3 "Human body part" or "part" means organs, tissues, eyes, bones,
4 blood vessels, and any other portions of a deceased human body
5 which are subject to an anatomical gift pursuant to P.L.1969, c.161
6 (C.26:6-57) or any subsequent statute adopted pursuant thereto, but
7 does not include blood collected pursuant to P.L.1945, c.301
8 (C.26:2A-1).

9 "Recovery" means the obtaining of a human body or part,
10 including, but not limited to, determining or obtaining consent or
11 authorization for donation of the human body or part, performing
12 surgical or other technical procedures for recovering the body or
13 part, and processing the body or part. Recovery does not include
14 actions taken by a medical examiner or coroner as part of his
15 professional duties.

16 "Research" means the conduct of scientific testing and
17 observation designed to result in the acquisition of generalizable
18 knowledge. Research does not include an autopsy or other
19 investigation conducted for the purpose of obtaining information
20 related to the decedent.

21 (cf: P.L.2008, c.49, s.3)

22

23 ¹[346.] 347.¹ Section 4 of P.L.2008, c.49 (C.26:6-71) is
24 amended to read as follows:

25 4. a. No person shall engage in the recovery of a human body
26 or part donated in this State for education, research, or the
27 advancement of medical, dental, or mortuary science pursuant to
28 P.L.1969, c.161 (C.26:6-57 et seq.) or any subsequent statute
29 adopted pursuant thereto, unless the person is registered as an
30 anatomical research recovery organization with the Department of
31 Health **[and Senior Services]** pursuant to this act.

32 The registration required pursuant to this act shall be in addition
33 to any license or permit required by a local board of health, other
34 local health agency, or any State or federal agency.

35 b. The registration shall be valid for a one-year period and may
36 be renewed subject to compliance with the requirements of this act.
37 The commissioner shall establish such registration and renewal fees
38 as may be reasonable and necessary to carry out the purposes of this
39 act.

40 c. The commissioner may enter and inspect the premises of any
41 anatomical research recovery organization and the books and
42 records as is reasonably necessary to carry out the provisions of this
43 act.

44 (cf: P.L.2008, c.49, s.4)

45

46 ¹[347.] 348.¹ Section 28 of P.L.2003, c.221 (C.26:8-21.1) is
47 amended to read as follows:

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

5 (cf: P.L.2003, c.221, s.28)

6
7 ¹~~[348.]~~ 349. R.S.26:8-23 is amended to read as follows:

8 26:8-23. The Department of Health **[and Senior Services]** shall
9 have charge of the registration of births, deaths, fetal deaths,
10 marriages, civil unions, and domestic partnerships and shall procure
11 the prompt and accurate registration of the same in each registration
12 district and in the department. The department may promulgate any
13 rule or regulation which it deems necessary for the uniform and
14 thorough enforcement of this section.

15 The department may decline permission to examine any record
16 except in the presence of an officer or employee of the department.

17 (cf: P.L.2006, c.103, s.40)

18
19 ¹~~[349.]~~ 350. Section 17 of P.L.2003, c.221 (C.26:8-24.2) is
20 amended to read as follows:

21 17. a. There is established the "New Jersey Electronic Death
22 Registration Support Fund" as a nonlapsing, revolving fund to be
23 administered by the Commissioner of Health **[and Senior Services]**
24 and credited with monies received pursuant to subsection c. of
25 R.S.26:8-62.

26 b. The State Treasurer is the custodian of the fund and all
27 disbursements from the fund shall be made by the treasurer upon
28 vouchers signed by the commissioner. The monies in the fund shall
29 be invested and reinvested by the Director of the Division of
30 Investment in the Department of the Treasury as are other trust
31 funds in the custody of the State Treasurer in the manner provided
32 by law. Interest received on the monies in the fund shall be credited
33 to the fund.

34 c. The monies in the fund and the interest earned thereon shall
35 be used to meet the development and operational costs of the NJ-
36 EDRS, including, but not limited to, costs associated with:
37 personnel; hardware purchases and maintenance; software and
38 communications infrastructure; website hosting; and licensing fees,
39 royalties and transaction expenses incurred in the development,
40 installation, maintenance and operation of electronic payment
41 security, authentication and encryption systems, and user training
42 and education.

43 d. ~~[]~~ **[]**The Commissioner of Health **[and Senior Services]**
44 shall, no later than 30 months after the date of enactment of
45 P.L.2003, c.221, report to the chairs of the Senate Health, Human
46 Services and Senior Citizens Committee, the Senate Budget and
47 Appropriations Committee, the Assembly Health and Human

1 Services Committee and the Assembly Appropriations Committee,
2 or their successors, concerning the sources and uses of monies in
3 the fund. The report shall include a description of the methodology
4 used by the State registrar to set the fee imposed pursuant to
5 subsection c. of R.S.26:8-62, a summary of the monies credited to
6 fund, and a summary of expenditures by category from the fund
7 pursuant to the authority of this section and the requirements of
8 section 16 of P.L.2003, c.221 (C.26:8-24.1), together with any
9 recommendations by the State registrar or the commissioner for
10 changes that either considers should be made in the law concerning
11 the implementation of the NJ-EDRS or the fees imposed pursuant to
12 subsection c. of R.S.26:8-62.
13 (cf: P.L.2003, c.221, s.17)

14

15 ¹~~350.~~ 351. Section 2 of P.L.1983, c.291 (C.26:8-40.21) is
16 amended to read as follows:

17 2. a. The Department of Health **[and Senior Services]** shall
18 establish and maintain a birth defects and severe neonatal jaundice
19 registry, which shall contain a confidential record of all birth
20 defects and all cases of severe hyperbilirubinemia that occur in New
21 Jersey and any other information that the department deems
22 necessary and appropriate in order to conduct thorough and
23 complete epidemiologic surveys of birth defects and cases of severe
24 hyperbilirubinemia that occur in this State and plan for and provide
25 services to children with birth defects and severe
26 hyperbilirubinemia and their families.

27 b. The department shall make available electronically on its
28 Internet website, in English and Spanish, information on the
29 characteristics and effects of severe neonatal jaundice.

30 (cf: P.L.2005, c.176, s.2)

31

32 ¹~~351.~~ 352. Section 3 of P.L.1983, c.291 (C.26:8-40.22) is
33 amended to 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 confidential reporting to the Department of Health **[and Senior
37 Services]** of all cases where an infant is diagnosed with severe
38 hyperbilirubinemia, and where a pregnancy results in a naturally
39 aborted fetus or infant affected by a birth defect, and an electively
40 aborted fetus that exhibits or is known to have a birth defect after
41 15 weeks of gestation. The reporting requirement shall apply to all
42 infants from birth through five years of age.

43 b. The Commissioner of Health **[and Senior Services]** shall
44 determine the health care providers and facilities which shall be
45 required to report all birth defects and all cases of severe
46 hyperbilirubinemia, the types of conditions or defects that shall be
47 reported, the type of information that shall be contained in the

1 confidential report and the method for making the report. In reports
2 concerning all fetuses with anomalies, the name of the mother shall
3 not be submitted.

4 (cf: P.L.2005, c.176, s.3)

5

6 **'[352.] 353.'**¹ R.S.26:8-69 is amended to read as follows:

7 26:8-69. Except as otherwise specifically provided in this chapter
8 and R.S.37:1-1 et seq., any person who shall:

9 a. Fail or refuse to furnish correctly any information in **[his]**
10 the person's possession; or

11 b. Willfully and knowingly furnish false information affecting
12 any certificate or record required by this chapter; or

13 c. Willfully alter, otherwise than is provided by R.S.26:8-48 et
14 seq., or willfully or knowingly falsify, any certificate or record
15 established by this chapter; or

16 d. Fail to fill out and transmit any certificate or record in the
17 manner required by this chapter; or

18 e. Being a local registrar, deputy registrar, alternate deputy
19 registrar or subregistrar, shall fail to perform **[his]** the person's
20 duty as required by this chapter and by the directions of the State
21 registrar thereunder; or

22 f. Violate any of the provisions of this chapter or fail to
23 discharge any duty required by this chapter-

24 Shall be subject to a penalty of not less than \$100 nor more than
25 \$250 for each first offense and not less than \$250 nor more than
26 \$500 for each subsequent offense.

27 The penalties shall be recovered in a civil action in the name of
28 the Department of Health **[and Senior Services]** or local board in
29 any court of competent jurisdiction.

30 The Superior Court or municipal court shall have jurisdiction
31 over proceedings to enforce and collect any such penalty, if the
32 violation has occurred within the territorial jurisdiction of the court.
33 The proceedings shall be summary and in accordance with the
34 "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10
35 et seq.).

36 Notwithstanding the provisions of this section to the contrary,
37 the State registrar may refer a violation of this chapter by a
38 physician, nurse, or funeral director who is licensed pursuant to
39 Title 45 of the Revised Statutes to the appropriate professional
40 board in the Division of Consumer Affairs in the Department of
41 Law and Public Safety, which shall, in accordance with the
42 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
43 seq.), assess the penalty provided for in this subsection and assume
44 enforcement responsibility on the same basis as it would for a
45 violation of the statute or regulations governing the practice of
46 those persons regulated by that board.

47 (cf: P.L.2003, c.221, s.26)

1 '【353.】 354.' Section 3 of P.L.2003, c.246 (C.26:8A-3) is
2 amended to read as follows:

3 3. As used in sections 1 through 9 of P.L.2003, c.246
4 (C.26:8A-1 through C.26:8A-9) and in R.S.26:8-1 et seq.:

5 "Affidavit of Domestic Partnership" means an affidavit that sets
6 forth each party's name and age, the parties' common mailing
7 address, and a statement that, at the time the affidavit is signed,
8 both parties meet the requirements of this act for entering into a
9 domestic partnership and wish to enter into a domestic partnership
10 with each other.

11 "Basic living expenses" means the cost of basic food and shelter,
12 and any other cost, including, but not limited to, the cost of health
13 care, if some or all of the cost is paid as a benefit because a person
14 is another person's domestic partner.

15 "Certificate of Domestic Partnership" means a certificate that
16 includes: the full names of the domestic partners, a statement that
17 the two individuals are members of a registered domestic
18 partnership recognized by the State of New Jersey, the date that the
19 domestic partnership was entered into, and a statement that the
20 partners are entitled to all the rights, privileges and responsibilities
21 accorded to domestic partners under the law. The certificate shall
22 bear the seal of the State of New Jersey.

23 "Commissioner" means the Commissioner of Health **【and Senior**
24 **Services】**.

25 "Domestic partner" or "partner" means a person who is in a
26 relationship that satisfies the definition of a domestic partnership as
27 set forth in this act.

28 "Have a common residence" means that two persons share the
29 same place to live in this State, or share the same place to live in
30 another jurisdiction when at least one of the persons is a member of
31 a State-administered retirement system, regardless of whether or
32 not: the legal right to possess the place is in both of their names;
33 one or both persons have additional places to live; or one person
34 temporarily leaves the shared place of residence to reside
35 elsewhere, on either a short-term or long-term basis, for reasons that
36 include, but are not limited to, medical care, incarceration,
37 education, a sabbatical, or employment, but intends to return to the
38 shared place of residence.

39 "Jointly responsible" means that each domestic partner agrees to
40 provide for the other partner's basic living expenses if the other
41 partner is unable to provide for himself.

42 "Notice of Rights and Obligations of Domestic Partners" means a
43 form that advises domestic partners, or persons seeking to become
44 domestic partners, of the procedural requirements for establishing,
45 maintaining, and terminating a domestic partnership, and includes
46 information about the rights and responsibilities of the partners.

47 (cf: P.L.2003, c.246, s.3)

1 ¹**[354.] 355.**¹ Section 59 of P.L.2003, c.246 (C.26:8A-12) is
2 amended to read as follows:

3 59. a. The Commissioner of Health **[and Senior Services]**,
4 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
5 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate
6 the purposes of sections 1 through 10 and 13 through 35 of this act.

7 b. The Commissioner of Banking and Insurance, pursuant to
8 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
9 seq.), shall adopt rules and regulations to effectuate the purposes of
10 sections 47 through 52, 55 and 56 of this act.

11 c. The New Jersey Individual Health Coverage Program Board,
12 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
13 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate
14 the purposes of section 53 of this act.

15 d. The New Jersey Small Employer Health Benefits Program
16 Board, pursuant to the "Administrative Procedure Act," P.L.1968,
17 c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations to
18 effectuate the purposes of section 54 of this act.

19 (cf: P.L.2003, c.246, s.59)

20

21 ¹**[355.] 356.**¹ Section 2 of P.L.2005, c.222 (C.26:13-2) is
22 amended to read as follows:

23 2. As used in this act:

24 "Biological agent" means any microorganism, virus, bacterium,
25 rickettsiae, fungus, toxin, infectious substance, or biological
26 product that may be naturally occurring or engineered as a result of
27 biotechnology, or any naturally occurring or bioengineered
28 component of any such microorganism, virus, bacterium,
29 rickettsiae, fungus, infectious substance, or biological product,
30 capable of causing death, disease, or other biological malfunction in
31 a human, an animal, a plant, or another living organism.

32 "Bioterrorism" means the intentional use or threat of use of any
33 biological agent, to cause death, disease, or other biological
34 malfunction in a human, animal, plant, or other living organism, or
35 degrade the quality and safety of the food, air, or water supply.

36 "Chemical weapon" means a toxic chemical and its precursors,
37 except where intended for a lawful purpose as long as the type and
38 quantity is consistent with such a purpose. Chemical weapon
39 includes, but is not limited to: nerve agents, choking agents, blood
40 agents, and incapacitating agents.

41 "Commissioner" means the Commissioner of Health **[and Senior
42 Services]**, or the commissioner's designee.

43 "Contagious disease" means an infectious disease that can be
44 transmitted from person to person.

45 "Department" means the Department of Health **[and Senior
46 Services]**.

1 "Health care facility" means any non-federal institution, building
2 or agency, or portion thereof whether public or private for profit or
3 nonprofit that is used, operated or designed to provide health
4 services, medical or dental treatment or nursing, rehabilitative, or
5 preventive care to any person. Health care facility includes, but is
6 not limited to: an ambulatory surgical facility, home health agency,
7 hospice, hospital, infirmary, intermediate care facility, dialysis
8 center, long-term care facility, medical assistance facility, mental
9 health center, paid and volunteer emergency medical services,
10 outpatient facility, public health center, rehabilitation facility,
11 residential treatment facility, skilled nursing facility, and adult day
12 care center. Health care facility also includes, but is not limited to,
13 the following related property when used for or in connection with
14 the foregoing: a laboratory, research facility, pharmacy, laundry
15 facility, health personnel training and lodging facility, patient, guest
16 and health personnel food service facility, and the portion of an
17 office or office building used by persons engaged in health care
18 professions or services.

19 "Health care provider" means any person or entity who provides
20 health care services including, but not limited to: a health care
21 facility, bioanalytical laboratory director, perfusionist, physician,
22 physician assistant, pharmacist, dentist, nurse, paramedic,
23 respiratory care practitioner, medical or laboratory technician, and
24 ambulance and emergency medical workers.

25 "Infectious disease" means a disease caused by a living organism
26 or other pathogen, including a fungus, bacteria, parasite, protozoan,
27 virus, or prion. An infectious disease may, or may not, be
28 transmissible from person to person, animal to person, or insect to
29 person.

30 "Isolation" means the physical separation and confinement of an
31 individual or groups of individuals who are infected or reasonably
32 believed to be infected, on the basis of signs, symptoms or
33 laboratory analysis, with a contagious or possibly contagious
34 disease from non-isolated individuals, to prevent or limit the
35 transmission of the disease to non-isolated individuals.

36 "Local health agency" means a county, regional, municipal, or
37 other governmental agency organized for the purpose of providing
38 health services, administered by a full-time health officer and
39 conducting a public health program pursuant to law.

40 "Local Information Network and Communications System
41 Agency" or "LINCS agency" means the lead local public health
42 agency in each county or identified city, as designated and
43 determined by the commissioner pursuant to section 21 of this act,
44 responsible for providing central planning, coordination, and
45 delivery of specialized services within the designated county or
46 city, in partnership with the other local health agencies within that
47 jurisdiction, in order to prepare for and respond to acts of
48 bioterrorism and other forms of terrorism or other public health

1 emergencies or threats, and to discharge the activities as specified
2 under this act.

3 "Microorganism" includes, but is not limited to, bacteria, viruses,
4 fungi, rickettsiae, or protozoa.

5 "Nuclear or radiological device" means: any nuclear device
6 which is an explosive device designed to cause a nuclear yield; an
7 explosive radiological dispersal device used directly or indirectly to
8 spread radioactive material; or a simple radiological dispersal
9 device which is any act, container or any other device used to
10 release radiological material for use as a weapon.

11 "Overlap agent or toxin" means: any microorganism or toxin that
12 poses a risk to both human and animal health and includes:

13 Anthrax - *Bacillus anthracis*

14 Botulism - *Clostridium botulinum* toxin, Botulinum neurotoxins,
15 Botulinum neurotoxin producing species of *Clostridium*

16 Plague - *Yersinia pestis*

17 Tularemia - *Francisella tularensis*

18 Viral Hemorrhagic Fevers - Ebola, Marburg, Lassa, Machupo

19 Brucellosis- Brucellosis species

20 Glanders - *Burkholderia mallei*

21 Melioidosis - *Burkholderia pseudomallei*

22 Psittacosis - *Chlamydia psittaci*

23 Coccidioidomycosis - *Coccidioides immitis*

24 Q Fever - *Coxiella burnetii*

25 Typhus Fever - *Rickettsia prowazekii*

26 Viral Encephalitis - VEE (Venezuelan equine encephalitis virus),
27 EEE (Eastern equine encephalitis), WEE (Western equine
28 encephalitis)

29 Toxins - *Ricinus communis*, *Clostridium perfringens*, Staph.
30 Aureus, Staphylococcal enterotoxins, T-2 toxin, Shigatoxin

31 Nipah - Nipah virus

32 Hantavirus - Hantavirus

33 West Nile Fever - West Nile virus

34 Hendra - Hendra virus

35 Rift Valley Fever - Rift Valley Fever virus

36 Highly Pathogenic Avian Influenza

37 "Public health emergency" means an occurrence or imminent
38 threat of an occurrence that:

39 a. is caused or is reasonably believed to be caused by any of
40 the following: (1) bioterrorism or an accidental release of one or
41 more biological agents; (2) the appearance of a novel or previously
42 controlled or eradicated biological agent; (3) a natural disaster; (4) a
43 chemical attack or accidental release of toxic chemicals; or (5) a
44 nuclear attack or nuclear accident; and

45 b. poses a high probability of any of the following harms: (1) a
46 large number of deaths, illness, or injury in the affected population;
47 (2) a large number of serious or long-term impairments in the
48 affected population; or (3) exposure to a biological agent or

1 chemical that poses a significant risk of substantial future harm to a
2 large number of people in the affected population.

3 "Quarantine" means the physical separation and confinement of
4 an individual or groups of individuals, who are or may have been
5 exposed to a contagious or possibly contagious disease and who do
6 not show signs or symptoms of a contagious disease, from non-
7 quarantined individuals, to prevent or limit the transmission of the
8 disease to non-quarantined individuals.

9 "Toxin" means the toxic material of plants, animals,
10 microorganisms, viruses, fungi, or infectious substances, or a
11 recombinant molecule, whatever its origin or method of production,
12 including:

13 a. any poisonous substance or biological product that may be
14 engineered as a result of biotechnology or produced by a living
15 organism; or

16 b. any poisonous isomer or biological product, homolog, or
17 derivative of such a substance.

18 (cf: P.L.2005, c.222, s.2)

19

20 ¹[356.] 357. Section 24 of P.L.2005, c.222 (C.26:13-24) is
21 amended to read as follows:

22 24. a. There is hereby established in the Department of Health
23 **[and Senior Services]** a State Public Health Emergency Claim
24 Reimbursement Board. The board shall include the following
25 members: the Commissioner of Health **[and Senior Services]**, who
26 shall be the presiding officer, the Attorney General, the Adjutant
27 General of the Department of Military and Veterans' Affairs, the
28 State Director of Emergency Management, the Secretary of
29 Agriculture, the Commissioner of Banking and Insurance, the
30 Commissioner of Environmental Protection, the Commissioner of
31 Community Affairs, the State Medical Examiner, and the State
32 Treasurer, or their designees. The members of the board shall serve
33 without pay in connection with all such duties as are prescribed in
34 this act.

35 b. The board shall meet at such times as may be necessary to
36 fulfill the requirements set forth herein. The Commissioner of
37 Health **[and Senior Services]** shall convene the board within 45
38 days of the filing of a complete petition. The concurrence of six
39 members of the board shall be necessary for the validity of all acts
40 of the board.

41 c. Subject to available appropriations, the board shall have the
42 authority to award reasonable reimbursement, as determined by the
43 board, for any services required of any person under the provisions
44 of this act, which shall be paid at the prevailing established rate for
45 services of a like or similar nature as determined by the board.
46 Subject to available appropriations, the board shall have the
47 authority to award reasonable reimbursement, as determined by the

1 board, for any property employed, taken, or used under the
2 provisions of this act.

3 d. All awards shall be paid from any funds appropriated by the
4 State, any political subdivision of the State, or the federal
5 government, for such purpose. In awarding reimbursement under
6 this section, the board shall take into account any funds, or any
7 other thing of value, received by a claimant from any other source,
8 including but not limited to private donations, contributions, and
9 insurance proceeds. The board shall not award reimbursement
10 unless the claimant has demonstrated, to the satisfaction of the
11 board, that the claimant has first sought reimbursement for any loss
12 incurred due to the declaration of a public health emergency from
13 any and all appropriate third party payers.

14 (cf: P.L.2005, c.222, s.24)

15

16 ¹[357.] 358. Section 25 of P.L.2005, c.222 (C.26:13-25) is
17 amended to read as follows:

18 25. a. Any person making a claim for reimbursement for private
19 property or services employed, taken or used for a public purpose
20 under this act shall, subsequent to the termination of the public
21 health emergency, file a petition for an award with the State Public
22 Health Emergency Claim Reimbursement Board, established
23 pursuant to section 24 of this act, through the Commissioner of
24 Health [and Senior Services]. The petition shall be signed by the
25 claimant and shall set forth the following:

26 (1) a description of the services or property employed, taken, or
27 used;

28 (2) the dates of the employment, taking, or usage;

29 (3) the person or entity ordering the employment, taking, or
30 usage;

31 (4) such additional information as the petitioner deems relevant
32 to a full consideration of the claim; and

33 (5) any additional information that the board may require.

34 b. The board may establish such forms, documents, and
35 procedures as may be necessary to expedite the processing of
36 claims, and all claimants shall utilize and follow the forms,
37 documents, and procedures, if so established. Subsequent to the
38 filing of an initial petition, the board may request such additional
39 information as it deems necessary from any claimant and may
40 require the claimant, and any other person with knowledge of facts
41 and circumstances relevant to the claim, to appear before the board
42 for a hearing. No petition shall be filed with the board more than
43 180 days from the last date the services or property were employed,
44 taken or used, except that this deadline may be extended by the
45 board as is necessary to further the purposes of this act.

46 c. The board's determination concerning a claimant's petition
47 for reimbursement shall be transmitted to the claimant in writing.

1 The claimant may appeal the decision to the Superior Court subject
2 to the Rules of Court regarding the review of State agency actions.

3 d. Any person seeking reimbursement under this act shall
4 proceed in accordance with the provisions of this section unless the
5 declaration of public health emergency which gives rise to the claim
6 or petition for reimbursement is superseded by order of the
7 Governor pursuant to P.L.1942, c.251 (C.App.A:9-33 et seq.). Upon
8 the declaration of an emergency by the Governor pursuant to
9 P.L.1942, c.251 which supersedes the declaration of a public health
10 emergency, the person shall proceed in accordance with the
11 provisions of P.L.1942, c.251 and the person's rights, remedies and
12 entitlement to reimbursement shall be limited to that which is
13 afforded in that act.

14 e. Notwithstanding the provisions of this section to the
15 contrary, in the event funds are otherwise made available for
16 reimbursement, a person shall not be required to file a petition for
17 an award with the board pursuant to this section.

18 (cf: P.L.2005, c.222, s.25)

19

20 **'[358.] 359.'** Section 6 of P.L.1968, c.413 (C.30:4D-6) is
21 amended to read as follows:

22 6. a. Subject to the requirements of Title XIX of the federal
23 Social Security Act, the limitations imposed by this act and by the
24 rules and regulations promulgated pursuant thereto, the department
25 shall provide medical assistance to qualified applicants, including
26 authorized services within each of the following classifications:

27 (1) Inpatient hospital services;

28 (2) Outpatient hospital services;

29 (3) Other laboratory and X-ray services;

30 (4) (a) Skilled nursing or intermediate care facility services;

31 (b) **【Such early】** Early and periodic screening and diagnosis of
32 individuals who are eligible under the program and are under age
33 21, to ascertain their physical or mental defects and **【such】** the
34 health care, treatment, and other measures to correct or ameliorate
35 defects and chronic conditions discovered thereby, as may be
36 provided in regulations of the Secretary of the federal Department
37 of Health and Human Services and approved by the commissioner;

38 (5) Physician's services furnished in the office, the patient's
39 home, a hospital, a skilled nursing, or intermediate care facility or
40 elsewhere.

41 As used in this subsection, "laboratory and X-ray services"
42 includes HIV drug resistance testing, including, but not limited to,
43 genotype assays that have been cleared or approved by the federal
44 Food and Drug Administration, laboratory developed genotype
45 assays, phenotype assays, and other assays using phenotype
46 prediction with genotype comparison, for persons diagnosed with
47 HIV infection or AIDS.

1 b. Subject to the limitations imposed by federal law, by this
2 act, and by the rules and regulations promulgated pursuant thereto,
3 the medical assistance program may be expanded to include
4 authorized services within each of the following classifications:

5 (1) Medical care not included in subsection a.(5) above, or any
6 other type of remedial care recognized under State law, furnished
7 by licensed practitioners within the scope of their practice, as
8 defined by State law;

9 (2) Home health care services;

10 (3) Clinic services;

11 (4) Dental services;

12 (5) Physical therapy and related services;

13 (6) Prescribed drugs, dentures, and prosthetic devices; and
14 eyeglasses prescribed by a physician skilled in diseases of the eye
15 or by an optometrist, whichever the individual may select;

16 (7) Optometric services;

17 (8) Podiatric services;

18 (9) Chiropractic services;

19 (10) Psychological services;

20 (11) Inpatient psychiatric hospital services for individuals under
21 21 years of age, or under age 22 if they are receiving such services
22 immediately before attaining age 21;

23 (12) Other diagnostic, screening, preventive, and rehabilitative
24 services, and other remedial care;

25 (13) Inpatient hospital services, nursing facility services, and
26 intermediate care facility services for individuals 65 years of age or
27 over in an institution for mental diseases;

28 (14) Intermediate care facility services;

29 (15) Transportation services;

30 (16) Services in connection with the inpatient or outpatient
31 treatment or care of drug abuse, when the treatment is prescribed by
32 a physician and provided in a licensed hospital or in a narcotic and
33 drug abuse treatment center approved by the Department of Health
34 **【and Senior】** Services pursuant to P.L.1970, c.334 (C.26:2G-21 et
35 seq.) and whose staff includes a medical director, and limited to
36 those services eligible for federal financial participation under Title
37 XIX of the federal Social Security Act;

38 (17) Any other medical care and any other type of remedial care
39 recognized under State law, specified by the Secretary of the federal
40 Department of Health and Human Services, and approved by the
41 commissioner;

42 (18) Comprehensive maternity care, which may include: the
43 basic number of prenatal and postpartum visits recommended by the
44 American College of Obstetrics and Gynecology; additional
45 prenatal and postpartum visits that are medically necessary;
46 necessary laboratory, nutritional assessment and counseling, health
47 education, personal counseling, managed care, outreach, and
48 follow-up services; treatment of conditions which may complicate

1 pregnancy; and physician or certified nurse-midwife delivery
2 services;

3 (19) Comprehensive pediatric care, which may include:
4 ambulatory, preventive, and primary care health services. The
5 preventive services shall include, at a minimum, the basic number
6 of preventive visits recommended by the American Academy of
7 Pediatrics;

8 (20) Services provided by a hospice which is participating in the
9 Medicare program established pursuant to Title XVIII of the Social
10 Security Act, Pub.L.89-97 (42 U.S.C. s.1395 et seq.). Hospice
11 services shall be provided subject to approval of the Secretary of
12 the federal Department of Health and Human Services for federal
13 reimbursement;

14 (21) Mammograms, subject to approval of the Secretary of the
15 federal Department of Health and Human Services for federal
16 reimbursement, including one baseline mammogram for women
17 who are at least 35 but less than 40 years of age; one mammogram
18 examination every two years or more frequently, if recommended
19 by a physician, for women who are at least 40 but less than 50 years
20 of age; and one mammogram examination every year for women
21 age 50 and over.

22 c. Payments for the foregoing services, goods, and supplies
23 furnished pursuant to this act shall be made to the extent authorized
24 by this act, the rules and regulations promulgated pursuant thereto
25 and, where applicable, subject to the agreement of insurance
26 provided for under this act. **[Said]** The payments shall constitute
27 payment in full to the provider on behalf of the recipient. Every
28 provider making a claim for payment pursuant to this act shall
29 certify in writing on the claim submitted that no additional amount
30 will be charged to the recipient, **[his]** the recipient's family, **[his]**
31 the recipient's representative or others on **[his]** the recipient's
32 behalf for the services, goods, and supplies furnished pursuant to
33 this act.

34 No provider whose claim for payment pursuant to this act has
35 been denied because the services, goods, or supplies were
36 determined to be medically unnecessary shall seek reimbursement
37 from the recipient, his family, his representative or others on his
38 behalf for such services, goods, and supplies provided pursuant to
39 this act; provided, however, a provider may seek reimbursement
40 from a recipient for services, goods, or supplies not authorized by
41 this act, if the recipient elected to receive the services, goods or
42 supplies with the knowledge that they were not authorized.

43 d. Any individual eligible for medical assistance (including
44 drugs) may obtain such assistance from any person qualified to
45 perform the service or services required (including an organization
46 which provides such services, or arranges for their availability on a
47 prepayment basis), who undertakes to provide **[him]** the individual
48 such services.

1 No copayment or other form of cost-sharing shall be imposed on
2 any individual eligible for medical assistance, except as mandated
3 by federal law as a condition of federal financial participation.

4 e. Anything in this act to the contrary notwithstanding, no
5 payments for medical assistance shall be made under this act with
6 respect to care or services for any individual who:

7 (1) Is an inmate of a public institution (except as a patient in a
8 medical institution); provided, however, that an individual who is
9 otherwise eligible may continue to receive services for the month in
10 which he becomes an inmate, should the commissioner determine to
11 expand the scope of Medicaid eligibility to include such an
12 individual, subject to the limitations imposed by federal law and
13 regulations, or

14 (2) Has not attained 65 years of age and who is a patient in an
15 institution for mental diseases, or

16 (3) Is over 21 years of age and who is receiving inpatient
17 psychiatric hospital services in a psychiatric facility; provided,
18 however, that an individual who was receiving such services
19 immediately prior to attaining age 21 may continue to receive such
20 services until **[he]** the individual reaches age 22. Nothing in this
21 subsection shall prohibit the commissioner from extending medical
22 assistance to all eligible persons receiving inpatient psychiatric
23 services; provided that there is federal financial participation
24 available.

25 f. (1) A third party as defined in section 3 of P.L.1968, c.413
26 (C.30:4D-3) shall not consider a person's eligibility for Medicaid in
27 this or another state when determining the person's eligibility for
28 enrollment or the provision of benefits by that third party.

29 (2) In addition, any provision in a contract of insurance, health
30 benefits plan, or other health care coverage document, will, trust,
31 agreement, court order, or other instrument which reduces or
32 excludes coverage or payment for health care-related goods and
33 services to or for an individual because of that individual's actual or
34 potential eligibility for or receipt of Medicaid benefits shall be null
35 and void, and no payments shall be made under this act as a result
36 of any such provision.

37 (3) Notwithstanding any provision of law to the contrary, the
38 provisions of paragraph (2) of this subsection shall not apply to a
39 trust agreement that is established pursuant to 42 U.S.C.
40 s.1396p(d)(4)(A) or (C) to supplement and augment assistance
41 provided by government entities to a person who is disabled as
42 defined in section 1614(a)(3) of the federal Social Security Act (42
43 U.S.C. s.1382c (a)(3)).

44 g. The following services shall be provided to eligible
45 medically needy individuals as follows:

46 (1) Pregnant women shall be provided prenatal care and delivery
47 services and postpartum care, including the services cited in
48 subsection a.(1), (3), and (5) of this section and subsection b.(1)-

1 (10), (12), (15)₂ and (17) of this section, and nursing facility
2 services cited in subsection b.(13) of this section.

3 (2) Dependent children shall be provided with services cited in
4 subsection a.(3) and (5) of this section and subsection b.(1), (2), (3),
5 (4), (5), (6), (7), (10), (12), (15)₂ and (17) of this section, and
6 nursing facility services cited in subsection b.(13) of this section.

7 (3) Individuals who are 65 years of age or older shall be
8 provided with services cited in subsection a.(3) and (5) of this
9 section and subsection b.(1)-(5), (6) excluding prescribed drugs, (7),
10 (8), (10), (12), (15)₂ and (17) of this section, and nursing facility
11 services cited in subsection b.(13) of this section.

12 (4) Individuals who are blind or disabled shall be provided with
13 services cited in subsection a.(3) and (5) of this section and
14 subsection b.(1)-(5), (6) excluding prescribed drugs, (7), (8), (10),
15 (12), (15)₂ and (17) of this section, and nursing facility services
16 cited in subsection b.(13) of this section.

17 (5) (a) Inpatient hospital services, subsection a.(1) of this
18 section, shall only be provided to eligible medically needy
19 individuals, other than pregnant women, if the federal Department
20 of Health and Human Services discontinues the State's waiver to
21 establish inpatient hospital reimbursement rates for the Medicare
22 and Medicaid programs under the authority of section 601(c)(3) of
23 the Social Security Act Amendments of 1983, Pub.L.98-21 (42
24 U.S.C. s.1395ww(c)(5)). Inpatient hospital services may be
25 extended to other eligible medically needy individuals if the federal
26 Department of Health and Human Services directs that these
27 services be included.

28 (b) Outpatient hospital services, subsection a.(2) of this section,
29 shall only be provided to eligible medically needy individuals if the
30 federal Department of Health and Human Services discontinues the
31 State's waiver to establish outpatient hospital reimbursement rates
32 for the Medicare and Medicaid programs under the authority of
33 section 601(c)(3) of the Social Security Amendments of 1983,
34 Pub.L.98-21 (42 U.S.C. s.1395ww(c)(5)). Outpatient hospital
35 services may be extended to all or to certain medically needy
36 individuals if the federal Department of Health and Human Services
37 directs that these services be included. However, the use of
38 outpatient hospital services shall be limited to clinic services and to
39 emergency room services for injuries and significant acute medical
40 conditions.

41 (c) The division shall monitor the use of inpatient and outpatient
42 hospital services by medically needy persons.

43 h. In the case of a qualified disabled and working individual
44 pursuant to section 6408 of Pub.L.101-239 (42 U.S.C. s.1396d), the
45 only medical assistance provided under this act shall be the
46 payment of premiums for Medicare part A under 42 U.S.C.
47 ss.1395i-2 and 1395r.

1 i. In the case of a specified low-income Medicare beneficiary
2 pursuant to 42 U.S.C. s.1396a(a)10(E)iii, the only medical
3 assistance provided under this act shall be the payment of premiums
4 for Medicare part B under 42 U.S.C. s.1395r as provided for in 42
5 U.S.C. s.1396d(p)(3)(A)(ii).

6 j. In the case of a qualified individual pursuant to 42 U.S.C.
7 s.1396a(aa), the only medical assistance provided under this act
8 shall be payment for authorized services provided during the period
9 in which the individual requires treatment for breast or cervical
10 cancer, in accordance with criteria established by the commissioner.
11 (cf: P.L.2003, c.294, s.1)

12
13 ¹**[359.] 360.** Section 3 of P.L.1981, c.134 (C.30:4D-6.4) is
14 amended to read as follows:

15 3. After consulting with the Commissioner of Human Services,
16 the Commissioner of Health **[and Senior Services]** is authorized
17 and empowered to issue and enforce, or cause to be issued and
18 enforced through the division, all necessary rules, regulations, and
19 administrative orders with respect to:

20 a. The development of minimum requirements concerning the
21 equipment, supplies, and vehicles of providers of mobility
22 assistance vehicle services;

23 b. The establishment of standards for the amount of liability
24 insurance each provider must maintain in order to be eligible to
25 provide mobility assistance vehicle services. Evidence of such
26 insurance, including the name of the insurer and the policy number,
27 shall be filed at the time of application for approval by the division
28 and from time to time as the division shall deem necessary; and

29 c. The establishment of standards for certified trained
30 personnel employed by providers of mobility assistance vehicle
31 services.

32 (cf: P.L.1997, c.102, s.3)

33
34 ¹**[360.] 361.** Section 7 of P.L.1968, c.413 (C.30:4D-7) is
35 amended to read as follows:

36 7. Duties of commissioner. The commissioner is authorized
37 and empowered to issue, or to cause to be issued through the
38 Division of Medical Assistance and Health Services, all necessary
39 rules and regulations and administrative orders, and to do or cause
40 to be done all other acts and things necessary to secure for the State
41 of New Jersey the maximum federal participation that is available
42 with respect to a program of medical assistance, consistent with
43 fiscal responsibility and within the limits of funds available for any
44 fiscal year, and to the extent authorized by the medical assistance
45 program plan; to adopt fee schedules with regard to medical
46 assistance benefits and otherwise to accomplish the purposes of this
47 act, including specifically the following:

1 a. Subject to the limits imposed by this act, to submit a plan for
2 medical assistance, as required by Title XIX of the federal Social
3 Security Act, to the federal Department of Health and Human
4 Services for approval pursuant to the provisions of such law; to act
5 for the State in making negotiations relative to the submission and
6 approval of such plan, to make such arrangements, not inconsistent
7 with the law, as may be required by or pursuant to federal law to
8 obtain and retain such approval and to secure for the State the
9 benefits of the provisions of such law;

10 b. Subject to the limits imposed by this act, to determine the
11 amount and scope of services to be covered, that the amounts to be
12 paid are reasonable, and the duration of medical assistance to be
13 furnished; provided, however, that the department shall provide
14 medical assistance on behalf of all recipients of categorical
15 assistance and such other related groups as are mandatory under
16 federal laws and rules and regulations, as they now are or as they
17 may be hereafter amended, in order to obtain federal matching
18 funds for such purposes and, in addition, provide medical assistance
19 for the resource family children specified in subsection i.(7) of
20 section 3 of P.L.1968, c.413 (C.30:4D-3). The medical assistance
21 provided for these groups shall not be less in scope, duration, or
22 amount than is currently furnished [such] these groups, and in
23 addition, shall include at least the minimum services required under
24 federal laws and rules and regulations to obtain federal matching
25 funds for such purposes.

26 The commissioner is authorized and empowered, at such times as
27 he may determine feasible, within the limits of appropriated funds
28 for any fiscal year, to extend the scope, duration, and amount of
29 medical assistance on behalf of these groups of categorical
30 assistance recipients, related groups as are mandatory, and resource
31 family children authorized pursuant to section 3i. (7) of this act, so
32 as to include, in whole or in part, the optional medical services
33 authorized under federal laws and rules and regulations, and the
34 commissioner shall have the authority to establish and maintain the
35 priorities given such optional medical services; provided, however,
36 that medical assistance shall be provided to at least such groups and
37 in such scope, duration, and amount as are required to obtain
38 federal matching funds.

39 The commissioner is further authorized and empowered, at such
40 times as he may determine feasible, within the limits of
41 appropriated funds for any fiscal year, to issue, or cause to be
42 issued through the Division of Medical Assistance and Health
43 Services, all necessary rules, regulations and administrative orders,
44 and to do or cause to be done all other acts and things necessary to
45 implement and administer demonstration projects pursuant to Title
46 XI, section 1115 of the federal Social Security Act, including, but
47 not limited to waiving compliance with specific provisions of this
48 act, to the extent and for the period of time the commissioner deems

1 necessary, as well as contracting with any legal entity, including but
2 not limited to corporations organized pursuant to Title 14A, New
3 Jersey Statutes (N.J.S.14A:1-1 et seq.), Title 15, Revised Statutes
4 (R.S.15:1-1 et seq.), and Title 15A, New Jersey Statutes
5 (N.J.S.15A:1-1 et seq.) as well as boards, groups, agencies, persons,
6 and other public or private entities;

7 c. To administer the provisions of this act;

8 d. To make reports to the federal Department of Health and
9 Human Services as from time to time may be required by such
10 federal department and to the New Jersey Legislature as hereinafter
11 provided;

12 e. To assure that any applicant, qualified applicant or recipient
13 shall be afforded the opportunity for a hearing should **[his]** the
14 person's claim for medical assistance be denied, reduced,
15 terminated, or not acted upon within a reasonable time;

16 f. To assure that providers shall be afforded the opportunity for
17 an administrative hearing within a reasonable time on any valid
18 complaint arising out of the claim payment process;

19 g. To provide safeguards to restrict the use or disclosure of
20 information concerning applicants and recipients to purposes
21 directly connected with administration of this act;

22 h. To take all necessary action to recover any and all payments
23 incorrectly made to or illegally received by a provider from such
24 provider or his estate or from any other person, firm, corporation,
25 partnership, or entity responsible for or receiving the benefit or
26 possession of the incorrect or illegal payments or their estates,
27 successors or assigns, and to assess and collect such penalties as are
28 provided for herein;

29 i. To take all necessary action to recover the cost of benefits
30 incorrectly provided to or illegally obtained by a recipient,
31 including those made after a voluntary divestiture of real or
32 personal property or any interest or estate in property for less than
33 adequate consideration made for the purpose of qualifying for
34 assistance. The division shall take action to recover the cost of
35 benefits from a recipient, legally responsible relative, representative
36 payee, or any other party or parties whose action or inaction
37 resulted in the incorrect or illegal payments or who received the
38 benefit of the divestiture, or from their respective estates, as the
39 case may be and to assess and collect the penalties as are provided
40 for herein, except that no lien shall be imposed against property of
41 the recipient prior to his death except in accordance with section 17
42 of P.L.1968, c.413 (C.30:4D-17). No recovery action shall be
43 initiated more than five years after an incorrect payment has been
44 made to a recipient when the incorrect payment was due solely to an
45 error on the part of the State or any agency, agent, or subdivision
46 thereof;

47 j. To take all necessary action to recover the cost of benefits
48 correctly provided to a recipient from the estate of said recipient in

1 accordance with sections 6 through 12 of this amendatory and
2 supplementary act;

3 k. To take all reasonable measures to ascertain the legal or
4 equitable liability of third parties to pay for care and services
5 (available under the plan) arising out of injury, disease, or
6 disability; where it is known that a third party has a liability, to treat
7 such liability as a resource of the individual on whose behalf the
8 care and services are made available for purposes of determining
9 eligibility; and in any case where such a liability is found to exist
10 after medical assistance has been made available on behalf of the
11 individual, to seek reimbursement for such assistance to the extent
12 of such liability;

13 l. To compromise, waive, or settle and execute a release of any
14 claim arising under this act including interest or other penalties, or
15 designate another to compromise, waive, or settle and execute a
16 release of any claim arising under this act. The commissioner or
17 **[his]** the commissioner's designee whose title shall be specified by
18 regulation may compromise, settle or waive any such claim in
19 whole or in part, either in the interest of the Medicaid program or
20 for any other reason which the commissioner by regulation shall
21 establish;

22 m. To pay or credit to a provider any net amount found by final
23 audit as defined by regulation to be owing to the provider. Such
24 payment, if it is not made within 45 days of the final audit, shall
25 include interest on the amount due at the maximum legal rate in
26 effect on the date the payment became due, except that such interest
27 shall not be paid on any obligation for the period preceding
28 September 15, 1976. This subsection shall not apply until federal
29 financial participation is available for such interest payments;

30 n. To issue, or designate another to issue, **[subpenas]**
31 subpoenas to compel the attendance of witnesses and the production
32 of books, records, accounts, papers, and documents of any party,
33 whether or not that party is a provider, which directly or indirectly
34 relate to goods or services provided under this act, for the purpose
35 of assisting in any investigation, examination, or inspection, or in
36 any suspension, debarment, disqualification, recovery, or other
37 proceeding arising under this act;

38 o. To solicit, receive, and review bids pursuant to the
39 provisions of P.L.1954, c.48 (C.52:34-6 et seq.) and all amendments
40 and supplements thereto, by any corporation doing business in the
41 State of New Jersey, including nonprofit hospital service
42 corporations, medical service corporations, health service
43 corporations, or dental service corporations incorporated in New
44 Jersey and authorized to do business pursuant to P.L.1938, c.366
45 (C.17:48-1 et seq.), P.L.1940, c.74 (C.17:48A-1 et seq.), P.L.1985,
46 c.236 (C.17:48E-1 et seq.), or P.L.1968, c.305 (C.17:48C-1 et seq.),
47 and to make recommendations in connection therewith to the State
48 Medicaid Commission;

1 p. To contract, or otherwise provide as in this act provided, for
2 the payment of claims in the manner approved by the State
3 Medicaid Commission;

4 q. Where necessary, to advance funds to the underwriter or
5 fiscal agent to enable such underwriter or fiscal agent, in
6 accordance with terms of its contract, to make payments to
7 providers;

8 r. To enter into contracts with federal, State, or local
9 governmental agencies, or other appropriate parties, when necessary
10 to carry out the provisions of this act;

11 s. To assure that the nature and quality of the medical
12 assistance provided for under this act shall be uniform and
13 equitable to all recipients;

14 t. To provide for the reimbursement of State and county-
15 administered skilled nursing and intermediate care facilities through
16 the use of a governmental peer grouping system, subject to federal
17 approval and the availability of federal reimbursement.

18 (1) In establishing a governmental peer grouping system, the
19 State's financial participation is limited to an amount equal to the
20 nonfederal share of the reimbursement which would be due each
21 facility if the governmental peer grouping system was not
22 established, and each county's financial participation in this
23 reimbursement system is equal to the nonfederal share of the
24 increase in reimbursement for its facility or facilities which results
25 from the establishment of the governmental peer grouping system.

26 (2) On or before December 1 of each year, the commissioner
27 shall estimate and certify to the Director of the Division of Local
28 Government Services in the Department of Community Affairs the
29 amount of increased federal reimbursement a county may receive
30 under the governmental peer grouping system. On or before
31 December 15 of each year, the Director of the Division of Local
32 Government Services shall certify the increased federal
33 reimbursement to the chief financial officer of each county. If the
34 amount of increased federal reimbursement to a county exceeds or
35 is less than the amount certified, the certification for the next year
36 shall account for the actual amount of federal reimbursement that
37 the county received during the prior calendar year.

38 (3) The governing body of each county entitled to receive
39 increased federal reimbursement under the provisions of this
40 amendatory act shall, by March 31 of each year, submit a report to
41 the commissioner on the intended use of the savings in county
42 expenditures which result from the increased federal
43 reimbursement. The governing body of each county, with the
44 advice of agencies providing social and health related services, shall
45 use not less than 10% and no more than 50% of the savings in
46 county expenditures which result from the increased federal
47 reimbursement for community-based social and health related
48 programs for elderly and disabled persons who may otherwise

1 require nursing home care. This percentage shall be negotiated
2 annually between the governing body and the commissioner and
3 shall take into account a county's social, demographic, and fiscal
4 conditions, a county's social and health related expenditures and
5 needs, and estimates of federal revenues to support county
6 operations in the upcoming year, particularly in the areas of social
7 and health related services.

8 (4) The commissioner, subject to approval by law, may
9 terminate the governmental peer grouping system if federal
10 reimbursement is significantly reduced or if the Medicaid program
11 is significantly altered or changed by the federal government
12 subsequent to the enactment of this amendatory act. The
13 commissioner, prior to terminating the governmental peer grouping
14 system, shall submit to the Legislature and to the governing body of
15 each county a report as to the reasons for terminating the
16 governmental peer grouping system;

17 u. The commissioner, in consultation with the Commissioner of
18 Health **[and Senior Services]**, shall:

19 (1) Develop criteria and standards for comprehensive maternity
20 or pediatric care providers and determine whether a provider who
21 requests to become a comprehensive maternity or pediatric care
22 provider meets the department's criteria and standards;

23 (2) Develop a program of comprehensive maternity care
24 services which defines the type of services to be provided, the level
25 of services to be provided, and the frequency with which qualified
26 applicants are to receive services pursuant to P.L.1968, c.413
27 (C.30:4D-1 et seq.);

28 (3) Develop a program of comprehensive pediatric care services
29 which defines the type of services to be provided, the level of
30 services to be provided, and the frequency with which qualified
31 applicants are to receive services pursuant to P.L.1968, c.413
32 (C.30:4D-1 et seq.);

33 (4) Develop and implement a system for monitoring the quality
34 and delivery of comprehensive maternity and pediatric care services
35 and a system for evaluating the effectiveness of the services
36 programs in meeting their objectives;

37 (5) Establish provider reimbursement rates for the
38 comprehensive maternity and pediatric care services;

39 v. The commissioner, jointly with the Commissioner of Health
40 **[and Senior Services]**, shall report to the Governor and the
41 Legislature no later than two years following the date of enactment
42 of P.L.1987, c.115 (C.30:4D-2.1 et al.) and annually thereafter on
43 the status of the comprehensive maternity and pediatric care
44 services and their effectiveness in meeting the objectives set forth
45 in section 1 of P.L.1987, c.115 (C.30:4D-2.1) accompanying the
46 report with any recommendations for changes in the law governing
47 the services that the commissioners deem necessary.

48 (cf: P.L.2004, c.130, s.94)

1 ¹~~['361.]~~ 362.¹ Section 2 of P.L. 2009, c.268 (C.30:4D-7l) is
2 amended to read as follows:

3 2. The Department of Health ~~and Senior Services~~ shall
4 adjust the Family Planning Services Grant-in-Aid appropriation and
5 transfer the appropriate amount of State funds to the Division of
6 Medical Assistance and Health Services in the Department of
7 Human Services to facilitate the implementation of section 1 of this
8 act. The Department of Health ~~and Senior Services~~ shall notify
9 the Legislative Budget and Finance Officer as to the amount that is
10 transferred.

11 (cf: P.L.2009, c.268, s.2)

12

13 ¹~~['362.]~~ 363.¹ Section 4 of P.L.2011, c.114 (C.30:4D-8.4) is
14 amended to read as follows:

15 4. a. The department shall accept applications for certification
16 from demonstration project applicants beginning 60 days following
17 the effective date of this act, and shall certify an applicant as a
18 Medicaid ACO for participation in the demonstration project
19 following its determination that the applicant meets the
20 requirements specified in this section. The department may deny
21 certification of any ACO applicant that the department determines
22 does not meet the requirements of this act. The department may
23 consider applications for approval, including revised applications
24 submitted by an ACO not previously approved to participate in the
25 demonstration project.

26 b. The department, in consultation with the Department of
27 Health ~~and Senior Services~~, may certify as many ACOs for
28 participation in the demonstration project as it determines
29 appropriate, but shall certify no more than one ACO for each
30 designated area.

31 c. Prior to certification, a demonstration project applicant shall
32 demonstrate that it meets the following minimum standards:

33 (1) The applicant has been formed as a nonprofit corporation
34 pursuant to the "New Jersey Nonprofit Corporation Act," P.L.1983,
35 c.127 (C.15A:1-1 et seq.), for the purposes described in this act;

36 (2) The applicant's governing board includes:

37 a) individuals representing the interests of: health care
38 providers, including, but not limited to, general hospitals, clinics,
39 private practice offices, physicians, behavioral health care
40 providers, and dentists~~;~~, patients~~;~~, and other social service
41 agencies or organizations located in the designated area; and

42 (b) voting representation from at least two consumer
43 organizations capable of advocating on behalf of patients residing
44 within the designated area of the ACO. At least one of the
45 organizations shall have extensive leadership involvement by
46 individuals residing within the designated area of the ACO, and
47 shall have a physical location within the designated area.

1 Additionally, at least one of the individuals representing a consumer
2 organization shall be an individual who resides within the
3 designated area served by the ACO;

4 (3) The applicant has support of its application by: all of the
5 general hospitals located in the designated area served by the ACO;
6 no fewer than 75% of the qualified primary care providers located
7 in the designated area; and at least four qualified behavioral health
8 care providers located in the designated area;

9 (4) The applicant has a process for receipt of gainsharing
10 payments from the department and any voluntarily participating
11 Medicaid managed care organizations, and the subsequent
12 distribution of such gainsharing payments in accordance with a
13 quality improvement and gainsharing plan to be approved by the
14 department, in consultation with the Department of Health [and
15 Senior Services];

16 (5) The applicant has a process for engaging members of the
17 community and for receiving public comments with respect to its
18 gainsharing plan;

19 (6) The applicant has a commitment to become accountable for
20 the health outcomes, quality, cost, and access to care of Medicaid
21 recipients residing in the designated area for a period of at least
22 three years following certification; and

23 (7) The applicant has a commitment to ensure the use of
24 electronic prescribing and electronic medical records by health care
25 providers located in the designated area.

26 d. Nothing in this act shall be construed to prevent the
27 department from certifying an applicant as a Medicaid ACO that
28 also participates in a Medicare ACO demonstration project
29 approved by the federal Centers for Medicare [and] & Medicaid
30 Services.

31 (cf: P.L.2011, c.114, s.4)

32

33 ¹[363.] 364.¹ Section 5 of P.L.2011, c.114 (C.30:4D-8.5) is
34 amended to read as follows:

35 5. a. A certified Medicaid ACO shall be eligible to receive and
36 distribute gainsharing payments only after having received approval
37 from the department of its gainsharing plan, which approval may be
38 requested by the ACO at the time of certification or at any time
39 within one year of certification. An ACO may seek to amend its
40 gainsharing plan at any time following the plan's initial approval by
41 submitting amendments to the department for approval.

42 b. The department, with input from the Department of Health
43 [and Senior Services] and utilizing outcome evaluation data
44 provided by the Rutgers Center for State Health Policy, shall
45 approve only those gainsharing plans that promote: improvements
46 in health outcomes and quality of care, as measured by objective
47 benchmarks as well as patient experience of care; expanded access

1 to primary and behavioral health care services; and the reduction of
2 unnecessary and inefficient costs associated with care rendered to
3 Medicaid recipients residing in the ACO's designated area. The
4 department and the Department of Health **[and Senior Services]**
5 shall provide all data necessary to the Rutgers Center for State
6 Health Policy for analysis in support of the department's review of
7 gainsharing plans. Criteria to be considered by the department and
8 the Department of Health **[and Senior Services]** in approving a
9 gainsharing plan shall include, but are not limited to:

10 (1) whether the plan promotes: care coordination through multi-
11 disciplinary teams, including care coordination of patients with
12 chronic diseases and the elderly; expansion of the medical home
13 and chronic care models; increased patient medication adherence
14 and use of medication therapy management services; use of health
15 information technology and sharing of health information; and use
16 of open access scheduling in clinical and behavioral health care
17 settings;

18 (2) whether the plan encourages services such as patient or
19 family health education and health promotion, home-based services,
20 telephonic communication, group care, and culturally and
21 linguistically appropriate care;

22 (3) whether the gainsharing payment system is structured to
23 reward quality and improved patient outcomes and experience of
24 care;

25 (4) whether the plan funds interdisciplinary collaboration
26 between behavioral health and primary care providers for patients
27 with complex care needs likely to inappropriately access an
28 emergency department and general hospital for preventable
29 conditions;

30 (5) whether the plan funds improved access to dental services
31 for high-risk patients likely to inappropriately access an emergency
32 department and general hospital for untreated dental conditions; and

33 (6) whether the plan has been developed with community input
34 and will be made available for inspection by members of the
35 community served by the ACO.

36 c. The gainsharing plan shall include an appropriate proposed
37 time period beginning and ending on specified dates prior to the
38 commencement of the demonstration project, which shall be the
39 benchmark period against which cost savings can be measured on
40 an annual basis going forward. Savings shall be calculated in
41 accordance with a methodology that:

42 (1) identifies expenditures per recipient by the Medicaid fee-for-
43 service program during the benchmark period, adjusted for
44 characteristics of recipients and local conditions that predict future
45 Medicaid spending but are not amenable to the care coordination or
46 management activities of an ACO which shall serve as the
47 benchmark payment calculation;

1 (2) compares the benchmark payment calculation to amounts
2 paid by the Medicaid fee-for-service program for all such resident
3 recipients during subsequent periods; and

4 (3) provides that the benchmark payment calculation shall
5 remain fixed for a period of three years following approval of the
6 gainsharing plan.

7 d. The percentage of cost savings identified pursuant to
8 subsection c. of this section to be distributed to the ACO, retained
9 by any voluntarily participating Medicaid managed care
10 organization, and retained by the State, shall be identified in the
11 gainsharing plan and shall remain in effect for a period of three
12 years following approval of the gainsharing plan. ~~Such~~ The
13 percentages shall be designed to ensure that:

14 (1) the State can achieve meaningful savings and support the
15 ongoing operation of the demonstration project, and

16 (2) the ACO receives a sufficient portion of the shared savings
17 necessary to achieve its mission and expand its scope of activities.

18 e. Notwithstanding the provisions of this section to the
19 contrary, the department shall not approve a gainsharing plan that
20 provides direct or indirect financial incentives for the reduction or
21 limitation of medically necessary and appropriate items or services
22 provided to patients under a health care provider's clinical care in
23 violation of federal law.

24 f. Notwithstanding the provisions of this section to the
25 contrary, a gainsharing plan that provides for shared savings
26 between general hospitals and physicians related to acute care
27 admissions utilizing the methodological component of the
28 Physician-Hospital Collaboration Demonstration awarded by the
29 federal Centers for Medicare ~~and~~ & Medicaid Services to the
30 New Jersey Care Integration Consortium, shall not be required to be
31 approved by the department. The department shall not be under any
32 obligation to participate in the Physician-Hospital Collaboration
33 Demonstration.

34 g. The department shall consider using a portion of any savings
35 generated to expand the nursing, primary care, behavioral health
36 care, and dental workforces and services in the area served by the
37 ACO.

38 h. A gainsharing plan submitted to the department for this
39 ACO demonstration project shall contain an assessment of the
40 expected impact of revenues on hospitals that agree to participate.
41 The assessment shall include estimates for changes in both direct
42 patient care reimbursement and indirect revenue, such as
43 disproportionate share payments, graduate medical education
44 payments, and other similar payments. The assessment shall
45 include a review of whether participation in the demonstration
46 project could significantly impact the financial stability of any
47 hospital through rapid reductions in revenue and how this impact
48 will be mitigated. The gainsharing plan shall include a letter of

1 support from all participating hospitals in order to be accepted by
2 the department.

3 (cf: P.L.2011, c.114, s.5)

4

5 ¹**[364.] 365.** Section 8 of P.L.2011, c.114 (C.30:4D-8.8) is
6 amended to read as follows:

7 8. a. The department, in consultation with the Department of
8 Health **[and Senior Services]**, shall:

9 (1) design and implement the application process for approval of
10 participating ACOs in the demonstration project;

11 (2) collect data from participants in the demonstration project;
12 and

13 (3) approve a methodology proposed by the Medicaid ACO
14 applicant for calculation of cost savings and for monitoring of
15 health outcomes and quality of care under the demonstration
16 project.

17 b. The department and the Department of Health **[and Senior
18 Services]** shall be authorized to jointly seek public and private
19 grants to implement and operate the demonstration project.

20 (cf: P.L.2011, c.114, s.8)

21

22 ¹**[365.] 366.** Section 9 of P.L.2011, c.114 (C.30:4D-8.9) is
23 amended to read as follows:

24 9. The department, in consultation with the Department of
25 Health **[and Senior Services]**, shall evaluate the demonstration
26 project annually to assess whether: cost savings, including, but not
27 limited to, savings in administrative costs and savings due to
28 improved health outcomes, are achieved through implementation of
29 the demonstration project.

30 The department, in consultation with the Department of Health
31 **[and Senior Services]**, and with the assistance of the Rutgers
32 Center for State Health Policy, shall evaluate the demonstration
33 project annually to assess whether there is improvement in the rates
34 of health screening, the outcomes and hospitalization rates for
35 persons with chronic illnesses, and the hospitalization and
36 readmission rates for patients residing in the designated areas
37 served by the ACOs. The department and the Department of Health
38 **[and Senior Services]** shall provide the Rutgers Center for State
39 Health Policy with all data necessary to perform the annual
40 evaluation of the demonstration project.

41 (cf: P.L.2011, c.114, s.9)

42

43 ¹**[366.] 367.** Section 12 of P.L.2011, c.114 (C.30:4D-8.12) is
44 amended to read as follows:

45 12. a. Under the demonstration project, payment shall continue
46 to be made to providers of services and suppliers participating in
47 the Medicaid ACO for services provided to managed care recipients

1 or individuals who receive services on a fee-for-service basis in the
2 same manner as they would otherwise be made, except that the
3 ACO is eligible to receive gainsharing payments under sections 5
4 and 6 of this act if it meets the requirements set forth therein.

5 b. Nothing in this act shall be construed to authorize the
6 Departments of Human Services or Health **[and Senior Services]** to
7 waive or limit any provisions of federal or State law or
8 reimbursement methodologies governing Medicaid reimbursement
9 to federally qualified health centers, including, but not limited to,
10 Medicaid prospective payment reimbursement and any
11 supplemental payments made to a federally qualified health center
12 providing services to Medicaid managed care recipients.

13 (cf: P.L.2011, c.114, s.12)

14
15 ¹**[367.] 368.** Section 14 of P.L.2001, c.114 (C.30:4D-8.14) is
16 amended to read as follows:

17 14. Upon completion of the demonstration project, the
18 Commissioners of Human Services and Health **[and Senior**
19 **Services]** shall report to the Governor, and to the Legislature
20 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), on the
21 demonstration project, and include in the report the findings of the
22 evaluation carried out pursuant to section 9 of this act. The
23 commissioners shall make such recommendations as they deem
24 appropriate.

25 If, after three years following enactment of this act, the
26 commissioners find the demonstration project was successful in
27 reducing costs and improving health outcomes and the quality of
28 care for Medicaid recipients, the commissioners may recommend
29 that Medicaid ACOs be established on a permanent basis and in
30 additional communities in which Medicaid recipients reside.

31 (cf: P.L.2011, c.114, s.14)

32
33 ¹**[368.] 369.** Section 15 of P.L.2011, c.114 (C.30:4D-8.15) is
34 amended to read as follows:

35 15. The Commissioner of Human Services, in accordance with
36 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
37 seq.) and with input from the Commissioner of Health **[and Senior**
38 **Services]**, shall, within 180 days of the effective date of this act,
39 adopt rules and regulations establishing the standards for
40 gainsharing plans submitted by Medicaid ACOs. The
41 Commissioner of Human Services shall also adopt, with input from
42 the Commissioner of Health **[and Senior Services,]** such rules and
43 regulations governing the ongoing oversight and monitoring of the
44 quality of care delivered to Medicaid recipients in the designated
45 areas served by the Medicaid ACOs, and such other requirements as
46 the Commissioner of Human Services deems necessary to carry out

1 the provisions of this act.
2 (cf: P.L.2011, c.114, s.15)

3

4 ¹~~369.~~ 370. Section 2 of P.L.1998, c.41 (C.30:4D-17.17a) is
5 amended to read as follows:

6 2. a. There is established the Drug Utilization Review Board in
7 the department to advise the department on the implementation of a
8 drug utilization review program pursuant to P.L.1993, c.16
9 (C.30:4D-17.16 et seq.) and this section. The board shall establish
10 a Senior Drug Utilization Review Committee to address the specific
11 prescribing needs of the elderly and an AIDS/HIV Drug Utilization
12 Review Committee to address the specific prescribing needs of
13 persons with AIDS/HIV, in addition to such other committees as it
14 deems necessary. It shall be the responsibility of each committee to
15 evaluate the specific prescribing needs of its beneficiary population,
16 and to submit recommendations to the board in regard thereto.

17 The board shall consist of 17 members, including the
18 Commissioners of Human Services and Health ~~and Senior~~
19 ~~Services~~ or their designees, who shall serve as nonvoting ex
20 officio members, and 15 public members. The public members
21 shall be appointed by the Governor with the advice and consent of
22 the Senate. The appointments shall be made as follows: six
23 persons licensed and actively engaged in the practice of medicine in
24 this State, including one who is a psychiatrist and at least two who
25 specialize in geriatric medicine and two who specialize in
26 AIDS/HIV care, one of whom who is a pediatric AIDS/HIV
27 specialist, four of whom shall be appointed upon the
28 recommendation of the Medical Society of New Jersey and two
29 upon the recommendation of the New Jersey Association of
30 Osteopathic Physicians and Surgeons; one person licensed as a
31 physician in this State who is actively engaged in academic
32 medicine; four persons licensed in and actively practicing or
33 teaching pharmacy in this State, who shall be appointed from a list
34 of pharmacists recommended by the New Jersey Pharmacists
35 Association, the New Jersey Council of Chain Drug Stores, the
36 Garden State Pharmacy Owners, Inc., the New Jersey Society of
37 Hospital Pharmacists, the Academy of Consultant Pharmacists and
38 the College of Pharmacy of Rutgers, The State University; one
39 additional health care professional; two persons certified as
40 advanced practice nurses in this State, who shall be appointed upon
41 the recommendation of the New Jersey State Nurses Association;
42 and one member to be appointed upon the recommendation of the
43 Pharmaceutical Research and Manufacturers of America.

44 Each member of the board shall have expertise in the clinically
45 appropriate prescribing and dispensing of outpatient drugs.

46 b. All appointments to the board shall be made no later than the
47 60th day after the effective date of this act. The public members
48 shall be appointed for two-year terms and shall serve until a

1 successor is appointed and qualified, and are eligible for
2 reappointment; except that of the public members first appointed,
3 eight shall be appointed for a term of two years and five for a term
4 of one year.

5 c. Vacancies in the membership of the board shall be filled in
6 the same manner as the original appointments were made but for the
7 unexpired term only. Members of the board shall serve with
8 compensation for the time and expenses incurred in the
9 performance of their duties as board members, as determined by the
10 Commissioners of Human Services and Health [and Senior
11 Services], subject to the approval of the Director of the Division of
12 Budget and Accounting in the Department of the Treasury.

13 d. The board shall select a chairman from among the public
14 members, who shall serve a one-year term, and a secretary. The
15 chairman may serve consecutive terms. The board shall adopt
16 bylaws. The board shall meet at least quarterly and may meet at
17 other times at the call of the chairman. The board shall in all
18 respects comply with the provisions of the "Open Public Meetings
19 Act," P.L.1975, c.231 (C.10:4-6 et seq.). No motion to take any
20 action by the board shall be valid except upon the affirmative vote
21 of a majority of the authorized membership of the board.

22 e. The duties of the board shall include the development and
23 application of the criteria and standards to be used in retrospective
24 and prospective drug utilization review. The criteria and standards
25 shall be based on the compendia and developed with professional
26 input in a consensus fashion. There shall be provisions for timely
27 reassessments and revisions as necessary and provisions for input
28 by persons acting as patient advocates. The drug utilization review
29 standards shall reflect the local practices of prescribers, in order to
30 monitor:

- 31 (1) therapeutic appropriateness;
- 32 (2) overutilization or underutilization;
- 33 therapeutic duplication;
- 34 (4) drug-disease contraindications;
- 35 (5) drug-drug interactions;
- 36 (6) incorrect drug dosage;
- 37 (7) duration of drug treatment; and
- 38 (8) clinical drug abuse or misuse.

39 The board shall recommend to the department criteria for denials
40 of claims and establish standards for a medical exception process.
41 The board shall also consider relevant information provided by
42 interested parties outside of the board and, if appropriate, shall
43 make revisions to the criteria and standards in a timely manner
44 based upon this information.

45 f. The board, with the approval of the department, shall be
46 responsible for the development, selection, application, and
47 assessment of interventions or remedial strategies for prescribers,

- 1 pharmacists, and beneficiaries that are educational and not punitive
2 in nature to improve the quality of care, including:
- 3 (1) Information disseminated to prescribers and pharmacists to
4 ensure that they are aware of the duties and powers of the board;
- 5 (2) Written, oral, or electronic reminders of patient-specific or
6 drug-specific information that are designed to ensure prescriber,
7 pharmacist, and beneficiary confidentiality, and suggested changes
8 in the prescribing or dispensing practices designed to improve the
9 quality of care;
- 10 (3) The development of an educational program, using data
11 provided through drug utilization review as a part of active and
12 ongoing educational outreach activities to improve prescribing and
13 dispensing practices as provided in this section. These educational
14 outreach activities shall include accurate, balanced, and timely
15 information about drugs and their effect on a patient. If the board
16 contracts with another entity to provide this program, that entity
17 shall publicly disclose any financial interest or benefit that accrues
18 to it from the products selected or used in this program;
- 19 (4) Use of face-to-face discussion between experts in drug
20 therapy and the prescriber or pharmacist who has been designated
21 by the board for educational intervention;
- 22 (5) Intensified reviews or monitoring of selected prescribers or
23 pharmacists;
- 24 (6) The timely evaluation of interventions to determine whether
25 the interventions have improved the quality of care; and
- 26 (7) The review of case profiles prior to the conducting of an
27 intervention.

28 (cf: P.L.2003, c.262, s.1)

29
30 ¹[370.] 371. Section 3 of P.L.1993, c.163 (C.30:4D-17.18) is
31 amended to read as follows:

32 3. The department shall be responsible for:

33 a. (Deleted by amendment, P.L.1998, c.41).

34 b. The implementation of a drug utilization review program,
35 subject to the approval of the Commissioner of Health [and Senior
36 Services], to ensure that prescriptions are appropriate, medically
37 necessary, and not likely to result in adverse medical outcomes,
38 including the approval of the provisions of any contractual
39 agreement between the State pharmaceutical benefits program and
40 other entities processing and reviewing drug claims and profiles for
41 the drug utilization review program.

42 The program shall include both retrospective and prospective
43 drug utilization review. Retrospective drug utilization review shall
44 include an analysis of drug claims processing data in order to
45 identify patterns of fraud, abuse, or gross overuse, and inappropriate
46 or medically unnecessary care, and to assess data on drug use
47 against standards that are based on the compendia and other

- 1 sources. Prospective drug utilization review shall include a review
2 conducted by the pharmacist at the point of sale.
- 3 c. (Deleted by amendment, P.L.1998, c.41).
- 4 d. (Deleted by amendment, P.L.1998, c.41).
- 5 e. The submission of an annual report, which shall be subject
6 to public comment prior to its issuance, to the federal Department
7 of Health and Human Services by December 1 of each year. The
8 annual report shall also be submitted to the Governor, the
9 Legislature, the New Jersey Pharmaceutical Association and the
10 Medical Society of New Jersey by December 1 of each year. The
11 report shall include the following information:
- 12 (1) An overview of the activities of the board and the drug
13 utilization review program;
- 14 (2) Interventions used and their ability to improve the quality of
15 care; however, this information shall not disclose the identities of
16 individual prescribers, pharmacists, or beneficiaries, but shall
17 specify whether the intervention was a result of underutilization or
18 overutilization of drugs;
- 19 (3) The costs of administering the drug utilization review
20 program;
- 21 (4) Any cost impact to other areas of the State pharmaceutical
22 benefits program resulting from the drug utilization review
23 program, such as hospitalization rates or changes in long-term care;
- 24 (5) A quantitative assessment of how drug utilization review has
25 improved beneficiaries' quality of care;
- 26 (6) A review of the total number of prescriptions and medical
27 exception requests reviewed by drug therapeutic class;
- 28 (7) An assessment of the impact of the educational program
29 established pursuant to subsection f. of section 2 of P.L.1998, c.41
30 (C.30:4D-17.17a) and interventions on prescribing or dispensing
31 practices, total program costs, quality of care, and other pertinent
32 patient patterns; and
- 33 (8) Recommendations for improvement of the drug utilization
34 review program.
- 35 f. The development of a working agreement between the board
36 and other boards or agencies, including, but not limited to: the
37 Board of Pharmacy of the State of New Jersey and the State Board
38 of Medical Examiners, in order to clarify any overlapping areas of
39 responsibility.
- 40 g. The establishment of an appeal process for prescribers,
41 pharmacists, and beneficiaries pursuant to P.L.1993, c.16 (C.30:4D-
42 17.16 et seq.) and section 2 of P.L.1998, c.41 (C.30:4D-17.17a).
- 43 h. The publication and dissemination of medically correct and
44 balanced educational information to prescribers and pharmacists to
45 identify and reduce the frequency of patterns of fraud, abuse, gross
46 overuse, or inappropriate or medically unnecessary care among
47 prescribers, pharmacists, and beneficiaries, including:
- 48 (1) potential or actual reactions to drugs;

- 1 (2) therapeutic appropriateness;
 - 2 (3) overutilization or underutilization;
 - 3 (4) appropriate use of generic drugs;
 - 4 (5) therapeutic duplication;
 - 5 (6) drug-disease contraindications;
 - 6 (7) drug-drug interactions;
 - 7 (8) incorrect drug dosage or duration of drug treatment;
 - 8 (9) drug allergy interactions; and
 - 9 (10) clinical abuse or misuse.
- 10 i. The development and publication, with the input of the
11 Board of Pharmacy of the State of New Jersey, of the guidelines to
12 be used by pharmacists, including mail order pharmacies, in their
13 counseling of beneficiaries.
- 14 j. The adoption and implementation of procedures designed to
15 ensure the confidentiality of any information collected, stored,
16 retrieved, assessed, or analyzed by the board, staff to the board, or
17 contractors to the drug utilization review program, that identifies
18 individual prescribers, pharmacists, or beneficiaries. The board
19 may have access to identifying information for purposes of carrying
20 out intervention activities, but the identifying information may not
21 be released to anyone other than a member of the board, except that
22 the board may release cumulative nonidentifying information for
23 purposes of legitimate research. The improper release of
24 identifying information in violation of this act may subject that
25 person to criminal or civil penalties.
- 26 k. The determination of whether nursing or long-term care
27 facilities under 42 CFR 483.60 are exempt from the provisions of
28 this act.
- 29 l. The establishment of a medical exception process by
30 regulation.
- 31 m. The provision of such staff and other resources as the board
32 requires.
- 33 (cf: P.L.1998, c.41, s.3)

34

35 ¹**[371.] 372.**¹ Section 4 of P.L.1998, c.41 (C.30:4D-17.18a) is
36 amended to read as follows:

37 4. The Commissioner of Human Services, pursuant to the
38 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
39 seq.), and subject to the approval of the Commissioner of Health
40 **[and Senior Services]** as appropriate, shall adopt rules and
41 regulations to effectuate the purposes of P.L.1993, c.16 (C.30:4D-
42 17.16 et seq.) and section 2 of P.L.1998, c.41 (C.30:4D-17.17a);
43 except that, notwithstanding any provision of P.L.1968, c.410
44 (C.52:14B-1 et seq.) to the contrary, the Commissioner of Human
45 Services **[**, subject to the approval of the Commissioner of Health
46 and Senior Services**]**, may adopt, immediately upon filing with the
47 Office of Administrative Law, such regulations as the commissioner
48 deems necessary to implement the provisions of P.L.1993, c.16

1 (C.30:4D-17.16 et seq.) and section 2 of P.L.1998, c.41 (C.30:4D-
2 17.17a), which shall be effective for a period not to exceed six
3 months and may thereafter be amended, adopted or re-adopted by
4 the Commissioner of Human Services[, subject to the approval of
5 the Commissioner of Health and Senior Services], in accordance
6 with the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).
7 (cf: P.L.1998, c.41, s.4)

8
9 ¹[372.] 373.¹ Section 2 of P.L.2006, c.23 (C30:4D-17.24) is
10 amended to read as follows:

11 2. The Legislature finds and declares that:

12 a. The current population of adults 60 years of age and older in
13 New Jersey is about 1.4 million, and this number is expected to
14 double in size over the next 25 years;

15 b. A primary objective of public policy governing access to
16 long-term care in this State shall be to promote the independence,
17 dignity and lifestyle choice of older adults and persons with
18 physical disabilities or Alzheimer's disease and related disorders;

19 c. Many states are actively seeking to "rebalance" their long-
20 term care programs and budgets in order to support consumer
21 choice and offer more choices for older adults and persons with
22 disabilities to live in their homes and communities;

23 d. New Jersey has been striving to redirect long-term care away
24 from an over-reliance on institutional care toward more home and
25 community-based options; however, it is still often easier for older
26 adults and persons with disabilities to qualify for Medicaid long-
27 term care coverage if they are admitted to a nursing home than if
28 they seek to obtain services through one of the Medicaid home and
29 community-based long-term care options available in this State,
30 such as the ¹[Community Care Program for the Elderly and
31 Disabled, Assisted Living, Adult Family Care, Caregiver Assistance
32 Program] Global Options Waiver¹, Adult Day Health Services,
33 Traumatic Brain Injury, AIDS Community Care Alternatives
34 Program, Community Resources for People with Disabilities, or
35 Community Resources for People with Disabilities Private Duty
36 Nursing;

37 e. The federal "New Freedom Initiative" was launched in 2001
38 for the purpose of promoting the goal of independent living for
39 persons with disabilities; and Executive Order No. 13217, issued by
40 the President of the United States on June 18, 2001, called upon the
41 federal government to assist states and localities to swiftly
42 implement the 1999 United States Supreme Court decision in
43 *Olmstead v. L.C.* and directed federal agencies to evaluate their
44 policies, programs, statutes, and regulations to determine whether
45 any should be revised or modified to improve the availability of
46 community-based services for qualified persons with disabilities;

1 f. Executive Order No. 100, issued by the Governor on March
2 23, 2004, directed the Commissioner of Health [and Senior
3 Services], in consultation with the State Treasurer, to prepare an
4 analysis and recommendations for developing a global long-term
5 care budgeting process designed to provide the Department of
6 Health [and Senior Services] with the authority and flexibility to
7 move Medicaid recipients into the appropriate level of care based
8 on their individual needs, and to identify specific gaps and
9 requirements necessary to streamline paperwork and expedite the
10 process of obtaining Medicaid eligibility for home care options for
11 those who qualify;

12 g. Executive Order No. 31, issued by the Governor on April 21,
13 2005, established a "money follows the person" pilot program and
14 set aside funding in fiscal year 2006 for home and community-
15 based long-term care;

16 h. Older adults and those with physical disabilities or
17 Alzheimer's disease and related disorders that require a nursing
18 facility level of care should not be forced to choose between going
19 into a nursing home or giving up the medical assistance that pays
20 for their needed services, and thereby be denied the right to choose
21 where they receive those services; their eligibility for home and
22 community-based long-term care services under Medicaid should be
23 based upon the same income and asset standards as those used to
24 determine eligibility for long-term care in an institutional setting;
25 and

26 i. The enactment of [this bill] P.L. 2006, c.23 (C.30:4D-17.23
27 et seq) will ensure that, in the case of Medicaid-funded long-term
28 care services, "the money follows the person" to allow maximum
29 flexibility between nursing homes and home and community-based
30 settings when it does not compromise federal funding or services in
31 the nursing home and, in so doing, significantly expands the choices
32 available to consumers of these services and thereby fulfills the goal
33 of personal independence so highly valued by the growing number
34 of older adults and persons with disabilities in this State.
35 (cf: P.L.2006, c.23, s.2)

36
37 ¹[373.] 374.¹ Section 3 of P.L.2006, c.23 (C.30:4D-17.25) is
38 amended to read as follows:

39 3. As used in this act:

40 "Commissioner" means the Commissioner of [Health and
41 Senior] Human Services.

42 "Funding parity between nursing home care and home and
43 community-based care" means that the distribution of the amounts
44 expended for these two categories of long-term care under the
45 Medicaid program reflects an appropriate balance between the
46 service delivery costs of those persons whose needs and preferences
47 can most appropriately be met in a nursing home and those persons

1 whose needs and preferences can most appropriately be met in a
2 home or community-based setting.

3 "Home and community-based care" means Medicaid home and
4 community-based long-term care options available in this State,
5 including, but not limited to, the ¹【Community Care Program for
6 the Elderly and Disabled, Assisted Living, Adult Family Care,
7 Caregiver Assistance Program】 Global Options Waiver¹, Adult Day
8 Health Services, Traumatic Brain Injury, AIDS Community Care
9 Alternatives Program, Community Resources for People with
10 Disabilities, and Community Resources for People with Disabilities
11 Private Duty Nursing.
12 (cf: P.L.2006, c.23, s.3)

13

14 ¹【374.】 375.¹ Section 4 of P.L.2006, c.23 (C.30:4D-17.26) is
15 amended to read as follows:

16 4. a. (1) Beginning in fiscal year 2008, and in each succeeding
17 fiscal year through fiscal year 2013, the commissioner, in
18 consultation with the State Treasurer 【and the Commissioner of
19 Human Services】 and in accordance with the provisions of this
20 section, shall implement a process that rebalances the overall
21 allocation of funding within the Department of 【Health and Senior】
22 Human Services for long-term care services through the expansion
23 of home and community-based services for persons eligible for
24 long-term care as defined by regulation of the commissioner. The
25 expansion of home and community-based services shall be funded,
26 within the existing level of appropriations, by diverting persons in
27 need of long-term care to allow maximum flexibility between
28 nursing home placements and home and community-based services.
29 The State Treasurer, after review and analysis, shall determine the
30 transfer of such funding to home and community-based services
31 provided by the 【Departments of Health and Senior Services and】
32 Department of Human Services as is necessary to effectuate the
33 purposes of this act.

34 (2) Beginning in fiscal year 2008, and in each succeeding fiscal
35 year through fiscal year 2013, funds equal to the amount of the
36 reduction in the projected growth of Medicaid expenditures for
37 nursing home care pursuant to paragraph (1) of this subsection, for
38 State dollars only plus the percentage anticipated for programs and
39 persons that will receive federal matching dollars, shall be
40 reallocated to home and community-based care through a global
41 budget and expended solely for such care, until the commissioner
42 determines that total Medicaid expenditures for long-term care have
43 been sufficiently rebalanced to achieve funding parity between
44 nursing home care and home and community-based care. Any
45 funds so reallocated, which are not expended in the fiscal year in
46 which they are reallocated, shall be reserved for expenditures for
47 home and community-based care in a subsequent fiscal year.

1 (3) Subject to federal approval, the home and community-based
2 services to which funds are reallocated pursuant to this act shall
3 include services designated by the commissioner[, in consultation
4 with the Commissioner of Human Services] and the Medicaid
5 Long-Term Care Funding Advisory Council established pursuant to
6 this act.

7 (4) Notwithstanding the provisions of this subsection to the
8 contrary, this act shall not be construed to authorize a reduction in
9 funding for Medicaid-approved services based upon the approved
10 State Medicaid nursing home reimbursement methodology,
11 including existing cost screens used to determine daily rates, annual
12 rebasing and inflationary adjustments.

13 b. The commissioner[, in consultation with the Commissioner
14 of Human Services,] shall adopt modifications to the Medicaid
15 long-term care intake system that promote increased use of home
16 and community-based services. These modifications shall include,
17 but not be limited to, the following:

18 (1) commencing March 1, 2007, on a pilot basis in Atlantic and
19 Warren counties, pursuant to Executive Order No. 31 of 2005:

20 (a) the provision of home and community-based services
21 available under Medicaid, as designated by the commissioner, in
22 consultation with [the Commissioner of Human Services and] the
23 Medicaid Long-Term Care Funding Advisory Council established
24 pursuant to this act, pending completion of a formal Medicaid
25 financial eligibility determination for the recipient of services, for a
26 period that does not exceed a time limit established by the
27 commissioner; except that the cost of any services provided
28 pursuant to this subparagraph to a person who is subsequently
29 determined to be ineligible for Medicaid may be recovered from
30 that person; and

31 (b) the use of mechanisms for making fast-track Medicaid
32 eligibility determinations, a revised clinical assessment instrument,
33 and a computerized tracking system for Medicaid long-term care
34 expenditures; and

35 (2) commencing March 1, 2008, expansion of the services and
36 measures provided for in paragraph (1) of this subsection to all of
37 the remaining counties in the State, subject to the commissioner
38 conducting or otherwise providing for an evaluation of the pilot
39 programs in Atlantic and Warren counties prior to that date and
40 determining from that evaluation that the pilot programs are cost-
41 effective and should be expanded Statewide.

42 (cf: P.L.2006, c.23, s.4)

43
44 ¹[375.] 376.¹ Section 6 of P.L.2006, c.23 (C.30:4D-17.28) is
45 amended to read as follows:

1 6. The commissioner, in consultation with the Medicaid Long-
2 Term Care Funding Advisory Council established pursuant to this
3 act, shall:

4 a. Implement, by such time as the commissioner certifies to the
5 Governor and the Legislature that funding parity has been achieved
6 pursuant to subsection b. of section 5 of this act, a comprehensive
7 data system to track long-term care expenditures and services and
8 consumer profiles and preferences. The data system shall include,
9 but not be limited to: the number of vacant nursing home beds
10 annually and the number of nursing home residents transferred to
11 home and community-based care pursuant to this act; annual long-
12 term care expenditures for nursing home care and each of the home
13 and community based long-term care options available to Medicaid
14 recipients; and annual percentage changes in both long-term care
15 expenditures for, and the number of Medicaid recipients utilizing,
16 nursing home care and each of the home and community based
17 long-term care options, respectively;

18 b. Commence the following no later than January 1, 2008:

19 (1) implement a system of Statewide long-term care service
20 coordination and management designed to minimize administrative
21 costs, improve access to services, and minimize obstacles to the
22 delivery of long-term care services to people in need;

23 (2) identify home and community based long-term care service
24 models that are determined by the commissioner to be efficient and
25 cost-effective alternatives to nursing home care, and develop clear
26 and concise performance standards for those services for which
27 standards are not already available in a home and community-based
28 services waiver;

29 (3) develop and implement [with the Commissioner of Human
30 Services] a comprehensive consumer assessment instrument that is
31 designed to facilitate an expedited process to authorize the
32 provision of home and community-based care to a person through
33 fast track eligibility prior to completion of a formal financial
34 eligibility determination; and

35 (4) develop and implement a comprehensive quality assurance
36 system with appropriate and regular assessments that is designed to
37 ensure that all forms of long-term care available to consumers in
38 this State are financially viable, cost-effective, and promote and
39 sustain consumer independence; and

40 c. Seek to make information available to the general public on
41 a Statewide basis, through print and electronic media, regarding the
42 various forms of long-term care available in this State and the rights
43 accorded to long-term care consumers by statute and regulation, as
44 well as information about public and nonprofit agencies and
45 organizations that provide informational and advocacy services to
46 assist long-term care consumers and their families.

47 (cf: P.L.2006, c.23, s.6)

1 ¹[376.] 377. Section 7 of P.L.2006, c.23 (C.30:4D-17.29) is
2 amended to read as follows:

3 7. a. There is established the Medicaid Long-Term Care
4 Funding Advisory Council within the Department of **[Health and**
5 **Senior] Human Services. The advisory council shall meet at least**
6 quarterly during each fiscal year until such time as the
7 commissioner certifies to the Governor and the Legislature that
8 funding parity has been achieved pursuant to subsection b. of
9 section 5 of this act, and shall be entitled to receive such
10 information from the Departments of Health **[and Senior Services],**
11 Human Services, and the Treasury as the advisory council deems
12 necessary to carry out its responsibilities under this act.

13 b. The advisory council shall:

14 (1) monitor and assess, and advise the commissioner on, the
15 implementation and operation of the Medicaid long-term care
16 expenditure reforms and other provisions of this act; and

17 (2) develop recommendations for a program to recruit and train
18 a stable workforce of home care providers, including
19 recommendations for changes to provider reimbursement under
20 Medicaid home and community-based care programs.

21 c. The advisory council shall comprise **[15] 14** members as
22 follows:

23 (1) the commissioner**[, the Commissioner of Human Services]**
24 and the State Treasurer, or their designees, as ex officio members;
25 and

26 (2) 12 public members to be appointed by the commissioner as
27 follows: one person appointed upon the recommendation of AARP;
28 one person upon the recommendation of the New Jersey
29 Association of Area Agencies on Aging, one person upon the
30 recommendation of the New Jersey Association of County Offices
31 for the Disabled; one person upon the recommendation of the
32 Health Care Association of New Jersey; one person upon the
33 recommendation of the New Jersey Association of Non-Profit
34 Homes for the Aging; one person upon the recommendation of the
35 New Jersey Hospital Association; one person upon the
36 recommendation of the Rutgers Center for State Health Policy; one
37 person upon the recommendation of the New Jersey Elder Rights
38 Coalition; one person upon the recommendation of the County
39 Welfare Directors Association of New Jersey; one person upon the
40 recommendation of the New Jersey Adult Day Services
41 Association; one person upon the recommendation of a labor union
42 that represents home and community-based health care workers;
43 and one person who is a representative of the home care industry.

44 d. The advisory council shall organize as soon as possible after
45 the appointment of its members, and shall annually select from its
46 membership a chairman who shall serve until his successor is

1 elected and qualifies. The members shall also select a secretary
2 who need not be a member of the advisory council.

3 e. The department shall provide such staff and administrative
4 support to the advisory council as it requires to carry out its
5 responsibilities.

6 (cf: P.L.2006, c.23, s.7)

7

8 ¹~~377.~~ 378.¹ Section 8 of P.L.2006, c.23 (C.30:4D-17.30) is
9 amended to read as follows:

10 8. The Commissioner of Human Services~~],~~ with the approval
11 of the Commissioner of Health and Senior Services,~~]~~ shall apply to
12 the federal Centers for Medicare ~~and~~ & Medicaid Services for
13 any waiver of federal requirements, or for any State plan
14 amendments or home and community-based services waiver
15 amendments, which may be necessary to obtain federal financial
16 participation for State Medicaid expenditures in order to effectuate
17 the purposes of this act.

18 (c.f. P.L.2006, c.23, s.8)

19

20 ¹~~378.~~ 379.¹ Section 9 of P.L.2006, c.23 (C.30:4D-17.31) is
21 amended to read as follows:

22 9. The commissioner ~~],~~ in consultation with the Commissioner
23 of Human Services,~~]~~ shall track Medicaid long-term care
24 expenditures necessary to carry out the provisions of this act.

25 (cf: P.L.2006, c.23, s.9)

26

27 ¹~~379.~~ 380.¹ Section 2 of P.L.2000, c.28 (C.30:4D-19.3) is
28 amended to read as follows:

29 2. As used in this act:

30 "Bank" means a State or federally chartered bank, savings bank,
31 or savings and loan association located in this State that is
32 authorized to receive public funds and that is selected by the
33 participating governmental entities to carry out the provisions of
34 this act.

35 "Intergovernmental transfer" means the transfer of money to the
36 State account by a participating governmental entity as
37 contemplated by an intergovernmental transfer agreement.

38 "Intergovernmental transfer agreement" means an agreement
39 among the State Treasurer, the Commissioners of Human Services
40 and Health ~~and Senior Services~~, and a participating governmental
41 entity pertaining to participation in and implementation of the
42 intergovernmental transfer program.

43 "Intergovernmental transfer program" or "program" means a
44 program to enhance federal financial participation under the
45 Medicaid program by using intergovernmental transfers.

1 "Medicaid" means the "New Jersey Medical Assistance and
2 Health Services Program" established pursuant to P.L.1968, c.413
3 (C.30:4D-1 et seq.).

4 "Medicaid State plan" means the plan submitted by the State to
5 the federal **【Health Care Financing Administration】** Centers for
6 Medicare & Medicaid Services in the Department of Health and
7 Human Services, including any amendments thereto.

8 "Participant accounts" means the accounts maintained at the
9 bank by each participating governmental entity for the purpose of
10 effectuating the intergovernmental transfer program.

11 "Participating governmental entity" means any governmental
12 entity that owns a nursing facility enrolled in the Medicaid program
13 and qualifies for a supplemental payment under the Medicaid State
14 plan, and which signs an intergovernmental transfer agreement.

15 "State account" means the account maintained at the bank by the
16 State Treasurer for the purpose of the intergovernmental transfer
17 program.

18 "Supplemental payment" means the Medicaid payment made by
19 the State to a participating governmental entity for a specified fiscal
20 year, as set forth and provided for in an intergovernmental transfer
21 agreement.

22 (cf: P.L.2000, c.28, s.2)

23

24 ¹**【380.】 381.**¹ Section 3 of P.L.2000, c.28 (C.30:4D-19.4) is
25 amended to read as follows:

26 3. There is established an intergovernmental transfer program
27 subject to the provisions of this act.

28 a. Notwithstanding the provisions of any other law to the
29 contrary, a governmental entity eligible to receive a supplemental
30 payment is authorized to participate in the intergovernmental
31 transfer program and to take all actions necessary to effectuate
32 completion of the intergovernmental transfer program, including,
33 but not limited to:

34 (1) entering into agreements, including an intergovernmental
35 transfer agreement, with any entity, including the State Treasurer,
36 the Commissioner of Human Services, the Commissioner of Health
37 **【and Senior Services】** , and other participating governmental
38 entities;

39 (2) cooperating with a bank in the execution of any additional
40 documentation required by the bank to effect the borrowing by any
41 participating governmental entity through the issuance of short-term
42 notes in the manner prescribed for the issuance of tax anticipation
43 notes pursuant to N.J.S.40A:4-64, except that the short-term notes
44 shall not be subject to the provisions of N.J.S.40A:4-66, or in any
45 other manner permitted by law, and to pledge to the bank a security
46 interest in all of its right, title and interest in and to its participant
47 account for repayment of short-term notes;

1 (3) transferring participating governmental entity funds to the
2 State account;

3 (4) executing certifications, letters of instruction or other
4 instruments necessary to effectuate the intergovernmental transfer
5 program; and

6 (5) receiving and utilizing supplemental payments received in
7 accordance with the Medicaid State plan, in the manner set forth
8 under the terms of an intergovernmental transfer agreement and as
9 may be necessary to achieve the purposes of the intergovernmental
10 transfer agreement.

11 b. Notwithstanding any other law to the contrary, the State
12 Treasurer, the Commissioner of Human Services and the
13 Commissioner of Health **[and Senior Services]**, acting on behalf of
14 the State, are authorized to participate in the intergovernmental
15 transfer program and to take all actions and make payments in
16 connection with the completion of the intergovernmental transfer
17 program, including, but not limited to:

18 (1) entering into agreements, including the intergovernmental
19 transfer agreement, with any entity, including participating
20 governmental entities, upon such terms and conditions as the State
21 Treasurer deems necessary or desirable to allow for the entity's
22 participation in the intergovernmental transfer program;

23 (2) cooperating with any bank in the execution of any additional
24 documentation required by the bank to transfer supplemental
25 payments to the participant accounts and otherwise effectuate the
26 intergovernmental transfer program; and

27 (3) executing, approving, and authorizing certifications, letters
28 of instruction, legal opinions, or other instruments as the State
29 Treasurer deems necessary or desirable to effectuate the
30 intergovernmental transfer program.

31 (cf: P.L.2000, c.28, s.3)

32

33 ¹**[381.]** 382. Section 4 of P.L.2000, c.28 (C.30:4D-19.5) is
34 amended to read as follows:

35 4. a. There are appropriated to the Department of **[Health and**
36 **Senior] Human** Services such sums as are determined necessary by
37 the Director of the Division of Budget and Accounting in the
38 Department of the Treasury to make supplemental payments in
39 accordance with the Medicaid State plan under the
40 intergovernmental transfer program. The sums so appropriated
41 shall be deposited in the State account and used to make
42 supplemental payments to the participant accounts pursuant to this
43 subsection and as set forth in an intergovernmental transfer
44 agreement.

45 b. There are appropriated to the Department of **[Health and**
46 **Senior] Human** Services and Department of the Treasury such
47 additional sums as are determined necessary by the Director of the

1 Division of Budget and Accounting in the Department of the
2 Treasury to pay costs incurred by the State in connection with the
3 execution and delivery of any agreements authorized hereunder,
4 including the costs of professional services, attorneys, and any other
5 costs necessary to complete the intergovernmental transfer program.
6 (cf: P.L.2000, c.28, s.4)

7
8 ¹~~382.~~ 383. Section 1 of P.L. 2003, c.281 (C.30:4D-21.4) is
9 amended to read as follows:

10 1. a. Notwithstanding the provisions of any other law to the
11 contrary, a recipient of benefits under the "Pharmaceutical
12 Assistance to the Aged and Disabled" program, established pursuant
13 to P.L.1975, c.194 (C.30:4D-20 et seq.), shall notify the Department
14 of ~~Health and Senior~~ Human Services if the recipient
15 unintentionally errs in estimating annual income to determine
16 eligibility for the program due to an unanticipated payment which
17 would render the recipient ineligible for the program. Notification
18 to the department shall be made in the time and manner prescribed
19 by the department.

20 b. If the department determines that the payment was
21 unanticipated, the recipient shall reimburse the program for only
22 those benefits that were paid by the program after the recipient
23 received the unanticipated payment.

24 c. If the department determines that the payment was not
25 unanticipated, the recipient shall reimburse the program for all
26 benefits that were paid by the program in the calendar year in which
27 the payment was received.

28 d. Within 30 days of receipt of a determination by the
29 department that the payment was not unanticipated, a recipient may
30 request a hearing, which shall be conducted pursuant to the
31 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
32 seq.).

33 e. Nothing in this section shall preclude a recipient from
34 reapplying for benefits in the calendar year following the year in
35 which the recipient notified the department pursuant to subsection
36 a. of this section.

37 (cf: P.L.2003, c.281, s.1)

38
39 ¹~~383.~~ 384. Section 1 of P.L.2009, c.272 (C.30:4D-21.5) is
40 amended to read as follows:

41 1. a. If a person who is a recipient of benefits under the
42 "Pharmaceutical Assistance to the Aged and Disabled," or PAAD,
43 program becomes ineligible for PAAD because the person's income
44 exceeds the program's income eligibility limit and the person still
45 remains eligible for the "Senior Gold Prescription Discount
46 Program," the person shall be enrolled automatically in the "Senior
47 Gold Prescription Discount Program."

1 b. If a person who is a recipient of benefits under the "Senior
2 Gold Prescription Discount Program" has a decrease in income that
3 renders the person eligible for PAAD, the person shall
4 automatically be enrolled in PAAD.

5 c. The Department of **【Health and Senior】** Human Services
6 shall establish one application form for use in applying for the
7 PAAD program and the "Senior Gold Prescription Discount
8 Program." The form shall provide for the inclusion of all
9 information necessary to determine eligibility for both programs
10 and advise applicants of the automatic enrollment provisions of
11 subsections a. and b. of this section.

12 (cf: P.L.2009, c.272, s.1)

13
14 ¹**【384.】** 385.¹ Section 2 of P.L.2003, c.281 (C.30:4D-38.1) is
15 amended to read as follows:

16 2. a. Notwithstanding the provisions of any other law to the
17 contrary, a recipient of benefits under the "Hearing Aid Assistance
18 for the Aged and Disabled" program, established pursuant to
19 P.L.1987, c.298 (C.30:4D-36 et seq.), shall notify the Department
20 of **【Health and Senior】** Human Services if the recipient
21 unintentionally errs in estimating annual income to determine
22 eligibility for the program due to an unanticipated payment which
23 would render the recipient ineligible for the program. Notification
24 to the department shall be made in the time and manner prescribed
25 by the department.

26 b. If the department determines that the payment was
27 unanticipated, the recipient shall reimburse the program for only
28 those benefits that were paid by the program after the recipient
29 received the unanticipated payment.

30 c. If the department determines that the payment was not
31 unanticipated, the recipient shall reimburse the program for all
32 benefits that were paid by the program in the calendar year in which
33 the payment was received.

34 d. Within 30 days of receipt of a determination by the
35 department that the payment was not unanticipated, a recipient may
36 request a hearing, which shall be conducted pursuant to the
37 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
38 seq.).

39 e. Nothing in this section shall preclude a recipient from
40 reapplying for benefits in the calendar year following the year in
41 which the recipient notified the department pursuant to subsection
42 a. of this section.

43 (cf: P.L.2003, c.281, s.2)

44
45 ¹**【385.】** 386.¹ Section 2 of P.L.2001, c.96 (C.30:4D-44) is
46 amended to read as follows:

47 2. As used in this act:

1 "Commissioner" means the Commissioner of **Health and**
2 **Senior Human Services**.

3 "Department" means the Department of **Health and Senior**
4 **Human Services**.

5 "PAAD" means the program of pharmaceutical assistance to the
6 aged and disabled established pursuant to P.L.1975, c.194
7 (C.30:4D-20 et seq.).

8 "Prescription drug" means any legend drug which is covered by
9 PAAD.

10 "Program" means the "Senior Gold Prescription Discount
11 Program" established pursuant to this act.

12 "Reasonable cost" means the cost of a prescription drug as
13 established for PAAD.

14 "Resident" means a resident as defined in section 3 of P.L.1975,
15 c.194 (C.30:4D-22) for purposes of eligibility for PAAD.
16 (cf: P.L.2001, c.96, s.2)

17

18 ¹~~386.~~ 387. Section 3 of P.L.2001, c.96 (C.30:4D-45) is
19 amended to read as follows:

20 3. a. There is established the "Senior Gold Prescription
21 Discount Program" in the Department of **Health and Senior**
22 **Human Services**.

23 b. A resident of this State shall be eligible for the program if
24 the person is:

25 (1) either 65 years of age or older or a recipient of disability
26 insurance benefits under Title II of the federal Social Security Act
27 (42 U.S.C. s.401 et seq.);

28 (2) receiving an annual income, the amount of which is not
29 more than \$10,000 above the applicable PAAD income eligibility
30 limits for single and married persons, which amount is to be
31 determined on the same basis as income is determined for the
32 purpose of eligibility for PAAD; and

33 (3) not eligible for any other program of State-funded
34 prescription drug benefits.

35 c. The program shall provide a payment to a pharmacy that is
36 participating in the program for the reasonable cost of one or more
37 prescription drugs purchased by an eligible person who presents an
38 identification card issued by the program in an amount that exceeds
39 the copayment paid by the eligible person. The payments to
40 pharmacies shall commence no later than 120 days after the
41 effective date of this act or after enactment, whichever is later.

42 At the time of each purchase of a prescription drug, the eligible
43 person shall pay a copayment that shall not be waived, discounted,
44 or rebated in whole or in part, and shall be equal to:

45 (1) \$15 plus 50% of the remaining amount of the reasonable
46 cost for the prescription drug, or the reasonable cost for the
47 prescription drug, whichever is less; or

1 (2) \$15, or the reasonable cost for the prescription drug,
2 whichever is less, in the case of an eligible person who has incurred
3 out-of-pocket expenditures, including copayments and deductibles,
4 for the purchase of prescription drugs, which are not reimbursable
5 by any other plan of assistance or insurance and are credited to that
6 person's account for each 12-month period of eligibility in
7 accordance with procedures established by the commissioner, in the
8 following amounts: \$2,000 for a single person and \$3,000 for a
9 married couple. These out-of-pocket expense amounts shall include
10 only expenses incurred on or after the date that the person received
11 proof of eligibility for the program from the department.

12 d. If an interchangeable drug product contained in the latest list
13 approved and published by the Drug Utilization Review Council
14 pursuant to section 7 of P.L.1977, c.240 (C.24:6E-6) is available for
15 the prescribed prescription drug, an eligible person shall either:

16 (1) purchase an interchangeable drug product, the cost of which
17 is equal to or less than the maximum allowable cost as determined
18 by the commissioner; or

19 (2) if the prescriber specifically indicates that substitution is not
20 permissible, purchase the prescribed drug product that is higher in
21 cost than the maximum allowable cost as determined by the
22 commissioner and pay the amount of the price above that maximum
23 allowable cost, in addition to the amount of the copayment paid by
24 the eligible person pursuant to subsection c. of this section.

25 e. An eligible person whose prescription drug costs are covered
26 in part by any other program or plan of assistance or insurance may
27 be required to receive reduced assistance under the Senior Gold
28 Prescription Discount Program. If an eligible person's prescription
29 drug costs are covered in whole or in part by any other program or
30 plan of assistance or insurance, the other program or plan shall be
31 the primary payer and the Senior Gold Prescription Discount
32 Program shall be the payer of last resort.

33 f. The commissioner may establish limits on the day supply or
34 maximum quantity of prescription drugs which may be purchased
35 by an eligible person under the program in a manner equivalent to
36 those established for prescription drug purchases under PAAD.

37 g. An eligible person under the program shall, upon the
38 submission of an application and proof of expenditure as the
39 department may prescribe, be reimbursed for 50% of the cost of
40 each prescription drug purchased by that person in an amount that
41 exceeds the required copayment, during the period commencing 30
42 days after the person's properly completed application was received
43 by the department and ending on the date on which the person
44 received proof of eligibility from the department; except that no
45 reimbursement under this act shall be made for a prescription drug
46 purchased prior to the effective date of this act.

47 h. The commissioner shall by regulation provide for:

- 1 (1) arrangements for providing notice of the availability of the
2 program and the distribution of application forms therefor;
- 3 (2) a system of payments to pharmacies that includes the same
4 dispensing fee structure that is used for PAAD and a system for
5 determining eligibility for the program, including evidence of
6 complete or partial coverage of prescription drug costs by any other
7 program or plan of assistance or insurance; and
- 8 (3) the issuance of program identification cards to persons who
9 are determined eligible for the program.
- 10 (cf: P.L.2001, c.96, s.3)

11

12 ¹[387.] 388.¹ Section 3 of P.L.2003, c.281 (C.30:4D-45.1) is
13 amended to read as follows:

14 3. a. Notwithstanding the provisions of any other law to the
15 contrary, a recipient of benefits under the "Senior Gold Prescription
16 Discount Program," established pursuant to P.L.2001, c.96
17 (C.30:4D-43 et seq.), shall notify the Department of **[Health and**
18 **Senior]** Human Services if the recipient unintentionally errs in
19 estimating annual income to determine eligibility for the program
20 due to an unanticipated payment which would render the recipient
21 ineligible for the program. Notification to the department shall be
22 made in the time and manner prescribed by the department.

23 b. If the department determines that the payment was
24 unanticipated, the recipient shall reimburse the program for only
25 those benefits that were paid by the program after the recipient
26 received the unanticipated payment.

27 c. If the department determines that the payment was not
28 unanticipated, the recipient shall reimburse the program for all
29 benefits that were paid by the program in the calendar year in which
30 the payment was received.

31 d. Within 30 days of receipt of a determination by the
32 department that the payment was not unanticipated, a recipient may
33 request a hearing, which shall be conducted pursuant to the
34 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
35 seq.).

36 e. Nothing in this section shall preclude a recipient from
37 reapplying for benefits in the calendar year following the year in
38 which the recipient notified the department pursuant to subsection
39 a. of this section.

40 (cf: P.L.2003, c.281, s.3)

41

42 ¹[388.] 389.¹ Section 8 of P.L.2001, c.96 (C.30:4D-50) is
43 amended to read as follows:

44 8. The Commissioner of **[Health and Senior]** Human Services,
45 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
46 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate

1 the purposes of this act.
2 (cf: P.L.2001, c.96, s.8)

3

4 '【389.】 390.' Section 9 of P.L.2001, c.96 (C.30:4D-51) is
5 amended to read as follows:

6 9. Notwithstanding the provisions of any law to the contrary,
7 no funds appropriated for the Senior Gold Prescription Discount
8 Program established pursuant to this act shall be expended unless
9 participating pharmaceutical manufacturing companies execute
10 contracts with the Department of 【Health and Senior Services
11 through the Department of】 Human Services providing for the
12 payment of rebates to the State under terms substantially similar to
13 those of rebate payment contracts under PAAD, provided that the
14 manufacturer's rebates for the Senior Gold Prescription Discount
15 Program shall apply only to the amount paid by the State under the
16 program.

17 (cf: P.L.2001, c.96, s.9)

18

19 '【390.】 391.' Section 10 of P.L.2001, c.96 (C.30:4D-52) is
20 amended to read as follows:

21 10. Amounts received as rebates under rebate payment contracts
22 executed pursuant to section 9 of this act are appropriated to the
23 Department of 【Health and Senior】 Human Services for the support
24 of the Senior Gold Prescription Discount Program.

25 (cf: P.L.2001, c.96, s.10)

26

27 '【391.】 392.' Section 2 of P.L.2007, c.58 (C.30:4D-54) is
28 amended to read as follows:

29 2. The Legislature finds and declares that:

30 a. The State of New Jersey expends more than \$9 billion in
31 taxpayer funds to fund the Medicaid program each year;

32 b. The State has a continuing responsibility to ensure that funds
33 expended under the Medicaid program are used appropriately and
34 efficiently to promote the public health;

35 c. Fraud, waste, and abuse by providers and recipients in the
36 Medicaid program reduces the ability of the State to properly fund
37 the program and results in harm to the health of the citizens of this
38 State;

39 d. Controlling fraud, waste, and abuse in the Medicaid program
40 includes preventing, detecting, and investigating such fraud, waste,
41 and abuse, and referring it for civil or criminal action when
42 appropriate;

43 e. The current system for controlling Medicaid fraud, waste,
44 and abuse is based largely on formal and informal agreements
45 among the Department of Human Services, the Medicaid Fraud
46 Control Unit of the Department of Law and Public Safety, the
47 Department of Health 【and Senior Services,】 and other local, State,

1 and federal agencies whose clients are served by the Medicaid
2 program or who are otherwise responsible for the control of
3 Medicaid fraud, waste, and abuse;

4 f. Centralizing fraud recovery efforts and establishing an
5 independent Office of the Medicaid Inspector General by statute to
6 prevent, detect, and investigate fraud and abuse and coordinate the
7 anti-fraud efforts of all State agencies funded by Medicaid will
8 enhance the efforts of the State to control Medicaid costs;

9 g. The current efforts to control Medicaid fraud, waste, and
10 abuse in New Jersey range from investigating providers before they
11 enroll in the Medicaid program to identifying fraud, waste, and
12 abuse on the part of both providers and recipients;

13 h. Changes in federal and State law, as well as in the health
14 care industry and in available technology, suggest that it is time for
15 a comprehensive review of the Medicaid fraud, waste, and abuse
16 control infrastructure in this State;

17 i. Toward that end, the Governor has appointed the New Jersey
18 Commission on Government Efficiency and Reform to evaluate the
19 budget, structure, and organization of government in New Jersey,
20 including State agencies, instrumentalities and independent
21 authorities, local and county government and school districts, and
22 advise the Governor on governmental restructuring, effectiveness,
23 best practices, efficiencies, cost-saving measures, and how best to
24 achieve economies of scale in the delivery of services and
25 programs, at the lowest possible cost, consistent with mission and
26 quality; and

27 j. While the State examines and prepares to implement such
28 fundamental, long-term structural changes, the immediate
29 coordination of State efforts to control Medicaid fraud, waste, and
30 abuse at all levels of government is essential.

31 (cf: P.L.2007, c.58, s.2)

32

33 ¹[392.] 393.¹ Section 5 of P.L.2007, c.58 (C.30:4D-57) is
34 amended to read as follows:

35 5. a. The Medicaid Inspector General shall have the following
36 general functions, duties, powers, and responsibilities:

37 (1) To appoint such deputies, directors, assistants, and other
38 officers and employees as may be needed for the office to meet its
39 responsibilities, and to prescribe their duties and fix their
40 compensation in accordance with State law and within the amounts
41 appropriated therefor;

42 (2) To conduct and supervise all State government activities,
43 except those of the Medicaid Fraud Control Unit in the Department
44 of Law and Public Safety, relating to Medicaid integrity, fraud, and
45 abuse;

46 (3) To call upon any department, office, division, or agency of
47 State government to provide such information, resources, or other
48 assistance as the Medicaid Inspector General deems necessary to

1 discharge the duties and functions and to fulfill the responsibilities
2 of the Medicaid Inspector General under this act. Each department,
3 office, division, and agency of this State shall cooperate with the
4 Medicaid Inspector General and furnish the office with the
5 assistance necessary to accomplish the purposes of this act;

6 (4) To coordinate activities to prevent, detect, and investigate
7 Medicaid fraud and abuse among the following: the Departments of
8 Human Services, Health [and Senior Services], Education, and
9 Treasury; the Office of the Attorney General; and the special
10 investigative unit maintained by each health insurer providing a
11 Medicaid managed care plan within the State;

12 (5) To apply for and receive federal grants and monies with all
13 necessary assistance as the Medicaid Inspector General shall require
14 from the department;

15 (6) To enter into any applicable federal pilot programs and
16 demonstration projects and coordinate with the department in order
17 for the department to apply as requested by the Medicaid Inspector
18 General, for necessary federal waivers;

19 (7) To recommend and implement policies relating to Medicaid
20 integrity, fraud, and abuse, and monitor the implementation of any
21 recommendations made by the office to other agencies or entities
22 responsible for the administration of Medicaid;

23 (8) To perform any other functions that are necessary or
24 appropriate in furtherance of the mission of the office; and

25 (9) To direct all public or private Medicaid service providers or
26 recipients to cooperate with the office and provide such information
27 or assistance as shall be reasonably required by the office.

28 b. As it relates to ensuring compliance with applicable
29 Medicaid standards and requirements, identifying and reducing
30 fraud and abuse, and improving the efficiency and effectiveness of
31 Medicaid, the functions, duties, powers, and responsibilities of the
32 Medicaid Inspector General shall include, but not be limited to, the
33 following:

34 (1) To establish, in consultation with the department and the
35 Attorney General, guidelines under which the withholding of
36 payments or exclusion from Medicaid may be imposed on a
37 provider or shall automatically be imposed on a provider;

38 (2) To review the utilization of Medicaid services to ensure that
39 Medicaid funds, regardless of which agency administers the service,
40 are appropriately spent to improve the health of Medicaid
41 recipients;

42 (3) To review and audit contracts, cost reports, claims, bills, and
43 all other expenditures of Medicaid funds to determine compliance
44 with applicable laws, regulations, guidelines, and standards, and
45 enhance program integrity;

46 (4) To consult with the department to optimize the Medicaid
47 management information system in furtherance of the mission of
48 the office. The department shall consult with the Medicaid

1 Inspector General on matters that concern the operation, upgrade
2 and implementation of the Medicaid management information
3 system;

4 (5) To coordinate the implementation of information technology
5 relating to Medicaid integrity, fraud, and abuse; and

6 (6) To conduct educational programs for Medicaid providers,
7 vendors, contractors, and recipients designed to limit Medicaid
8 fraud and abuse.

9 c. As it relates to investigating allegations of Medicaid fraud
10 and abuse and enforcing applicable laws, rules, regulations, and
11 standards, the functions, duties, powers, and responsibilities of the
12 Medicaid Inspector General shall include, but not be limited to, the
13 following:

14 (1) To conduct investigations concerning any acts of misconduct
15 within Medicaid;

16 (2) To refer information and evidence to regulatory agencies and
17 professional and occupational licensing boards;

18 (3) To coordinate the investigations of the office with the
19 Attorney General, the State Inspector General, law enforcement
20 authorities, and any prosecutor of competent jurisdiction, and
21 endeavor to develop these investigations in a manner that expedites
22 and facilitates criminal prosecutions and the recovery of improperly
23 expended Medicaid funds, including:

24 (a) keeping detailed records for cases processed by the State
25 Inspector General and the Attorney General and county prosecutors.
26 The records shall include: information on the total number of cases
27 processed and, for each case, the agency and division to which the
28 case is referred for investigation; the date on which the case is
29 referred; and the nature of the suspected fraud, waste, or abuse; and

30 (b) receiving notice from the Attorney General of each case that
31 the Attorney General declines to prosecute or prosecutes
32 unsuccessfully;

33 (4) To make information and evidence relating to suspected
34 criminal acts which the Medicaid Inspector General may obtain in
35 carrying out his duties available to the Medicaid Fraud Control Unit
36 pursuant to the requirements of federal law, as well as to other law
37 enforcement officials when appropriate, and consult with the
38 Attorney General and county prosecutors in order to coordinate
39 criminal investigations and prosecutions;

40 (5) To refer complaints alleging criminal conduct to the
41 Attorney General or other appropriate prosecutorial authority. If
42 the Attorney General or other appropriate prosecutorial authority
43 decides not to investigate or prosecute the matter, the Attorney
44 General or other appropriate prosecutorial authority shall promptly
45 notify the Medicaid Inspector General. The Attorney General or the
46 prosecutorial authority shall inform the Medicaid Inspector General
47 as to whether an investigation is ongoing with regard to any matter
48 so referred. The Medicaid Inspector General shall preserve the

1 confidentiality of the existence of any ongoing criminal
2 investigation.

3 (a) If the Attorney General or the prosecutorial authority
4 decides not to investigate or act upon the matter referred, the
5 Inspector General is authorized to continue an investigation after
6 the receipt of such a notice.

7 (b) Upon the completion of an investigation or, in a case in
8 which the investigation leads to prosecution, upon completion of
9 the prosecution, the Attorney General or the prosecutorial authority
10 shall report promptly the findings and results to the Medicaid
11 Inspector General. In the course of informing the Medicaid
12 Inspector General, the Attorney General or prosecutorial authority
13 shall give full consideration to the authority, duties, functions, and
14 responsibilities of the Medicaid Inspector General, the public
15 interest in disclosure, and the need for protecting the confidentiality
16 of complainants and informants.

17 (c) The Medicaid Inspector General shall maintain a record of
18 all matters referred and the responses received and shall be
19 authorized to disclose information received as appropriate and as
20 may be necessary to resolve the matter referred, to the extent
21 consistent with the public interest in disclosure and the need for
22 protecting the confidentiality of complainants and informants and
23 preserving the confidentiality of ongoing criminal investigations.

24 (d) Notwithstanding any referral made pursuant to this
25 subsection, the Medicaid Inspector General may pursue any
26 administrative or civil remedy under the law;

27 (6) In furtherance of an investigation, to compel at a specific
28 time and place, by subpoena, the appearance and sworn testimony
29 of any person whom the Medicaid Inspector General reasonably
30 believes may be able to give information relating to a matter under
31 investigation;

32 (a) For this purpose, the Medicaid Inspector General is
33 empowered to administer oaths and examine witnesses under oath,
34 and compel any person to produce at a specific time and place, by
35 subpoena, any documents, books, records, papers, objects, or other
36 evidence that the Medicaid Inspector General reasonably believes
37 may relate to a matter under investigation.

38 (b) If any person to whom a subpoena is issued fails to appear
39 or, having appeared, refuses to give testimony, or fails to produce
40 the books, papers, or other documents required, the Medicaid
41 Inspector General may apply to the Superior Court and the court
42 may order the person to appear and give testimony or produce the
43 books, papers, or other documents, as applicable. Any person
44 failing to obey that order may be punished by the court as for
45 contempt;

46 (7) Subject to applicable State and federal law, to have full and
47 unrestricted access to all records, reports, audits, reviews,
48 documents, papers, data, recommendations, or other material

1 available to State and local departments of health and human
2 services, other State and local government agencies, and Medicaid
3 service providers relating to programs and operations with respect
4 to which the office has responsibilities under this act;

5 (8) To solicit, receive, and investigate complaints related to
6 Medicaid integrity, fraud, and abuse;

7 (9) To prepare cases, provide expert testimony, and support
8 administrative hearings and other legal proceedings; and

9 (10) Upon reasonable belief of the commission of a fraudulent or
10 abusive act, to conduct on-site facility inspections.

11 d. As it relates to recovering improperly expended Medicaid
12 funds, imposing administrative sanctions, damages or penalties,
13 negotiating settlements, and developing an effective third-party
14 liability program to assure that all private or other governmental
15 medical resources have been exhausted before a claim is paid by
16 Medicaid or that reimbursement is sought when there is discovered
17 a liable third party after payment of a claim, the functions, duties,
18 powers, and responsibilities of the Medicaid Inspector General shall
19 include, but not be limited to, the following:

20 (1) On behalf of the department, to collect all overpayments for
21 reimbursable services that are self-disclosed by providers pursuant
22 to current law;

23 (2) To pursue civil and administrative enforcement actions
24 against those who engage in fraud, abuse, or illegal acts perpetrated
25 within Medicaid, including providers, contractors, agents,
26 recipients, individuals, or other entities involved directly or
27 indirectly with the provision of Medicaid care, services, and
28 supplies. These civil and administrative enforcement actions shall
29 include the imposition of administrative sanctions, penalties,
30 suspension of fraudulent, abusive, or illegal payments, and actions
31 for civil recovery and seizure of property or other assets connected
32 with such payments;

33 (3) To initiate civil suits consistent with the provisions of this
34 act, maintain actions for civil recovery on behalf of the State, and
35 enter into civil settlements;

36 (4) To withhold payments to any provider for Medicaid services
37 if the provider unreasonably fails to produce complete and accurate
38 records related to an investigation that is initiated by the office with
39 reasonable cause;

40 (5) To ensure that Medicaid is the payor of last resort, and to
41 provide for the coordination of benefits with each health insurer
42 operating in the State and the recoupment of any duplicate
43 reimbursement paid by the State. Every such health insurer shall be
44 required to provide such information and reports as may be deemed
45 necessary by the Medicaid Inspector General for the coordination of
46 benefits and shall maintain files in a manner and format approved
47 by the department; and

1 (6) To monitor and pursue the recoupment of Medicaid
2 overpayments, damages, penalties, and sanctions.

3 (cf: P.L.2007, c.58, s.5)

4

5 '[393.] 394.' Section 7 of P.L.2007, c.58 (C.30:4D-59) is
6 amended to read as follows:

7 7. a. The Medicaid audit, program integrity, fraud, and abuse
8 prevention and recovery functions, all officers and employees that
9 the Medicaid Inspector General deems qualified and substantially
10 engaged therein, and any documents and records that the Medicaid
11 Inspector General deems necessary and related to the transfer of
12 such functions and personnel, shall be transferred to the Office of
13 the Medicaid Inspector General from the Medicaid Office of
14 Program Integrity Unit and the Third Party Liability Unit in the
15 Division of Medical Assistance and Health Services, the Division of
16 Aging Services, the Division of Disability Services, the Division of
17 Developmental Disabilities, the Division of Mental Health and
18 Addiction Services, the Division of Youth and Family Services, the
19 Division of Child Behavioral Health Services, the Department of
20 Health [and Senior Services] and the Department of the Treasury.
21 The Medicaid Inspector General shall consult with the head of each
22 department or agency from which such function is to be transferred
23 to determine the officers and employees to be transferred.

24 b. The Medicaid Inspector General shall have general
25 managerial control over the office and shall establish the
26 organizational structure of the office as the Medicaid Inspector
27 General deems appropriate to carry out the responsibilities and
28 functions of the office. Within the limits of funds appropriated
29 therefor, the Medicaid Inspector General may hire such employees
30 in the unclassified service as are necessary to administer the office.
31 These employees shall serve at the pleasure of the Medicaid
32 Inspector General. Subject to the availability of appropriations, the
33 Medicaid Inspector General may obtain the services of certified
34 public accountants, qualified management consultants, professional
35 auditors, or other professionals necessary to independently perform
36 the functions of the office.

37 (cf: P.L.2007, c.58, s.7)

38

39 '[394.] 395.' Section 10 of P.L.1985, c.307 (C.30:4G-10) is
40 amended to read as follows:

41 10. a. There is established in the department an Advisory
42 Council on Personal Attendant Services which consists of 19
43 members as follows: the [Commissioner of Health and Senior
44 Services, the] Director of the Division of Youth and Family
45 Services in the Department of Children and Families, the Director
46 of the Division of Aging Services, the Director of the Division of
47 Developmental Disabilities, and the Director of the Division of

1 Medical Assistance and Health Services in the Department of
2 Human Services, the Director of the Division of Veterans' Services
3 in the Department of Military and Veterans' Affairs, and the
4 Director of the Division of Vocational Rehabilitation Services in
5 the Department of Labor and Workforce Development, or their
6 designees, who shall serve ex officio, and 13 members appointed by
7 the commissioner who are residents of this State, one of whom is a
8 member of the New Jersey Association of County Representatives
9 of Disabled Persons, four of whom represent providers of personal
10 attendant services, five of whom represent consumers of personal
11 attendant services and three of whom represent advocacy groups or
12 agencies for the physically disabled.

13 A vacancy in the membership of the council shall be filled in the
14 same manner as the original appointment.

15 The members of the council shall serve without compensation,
16 but the department shall reimburse the members for the reasonable
17 expenses incurred in the performance of their duties.

18 b. The council shall hold an organizational meeting within 30
19 days after the appointment of its members. The members of the
20 council shall elect from among them a **[chairman]** chairperson,
21 who shall be the chief executive officer of the council and the
22 members shall elect a secretary, who need not be a member of the
23 council.

24 c. The council shall:

25 (1) Advise the commissioner on matters pertaining to personal
26 attendant services and the development of the personal attendant
27 program, upon the request of the commissioner;

28 (2) Review the rules and regulations promulgated for the
29 implementation of the personal attendant program and make
30 recommendations to the commissioner, as appropriate;

31 (3) Evaluate the effectiveness of the personal attendant program
32 in achieving the purposes of this act; and

33 (4) Assess the Statewide need for personal attendant services
34 and the projected cost for providing these services Statewide.

35 (cf: P.L.2006, c.47, s.160)

36

37 **'[395.] 396.'** Section 1 of P.L.2006, c.87 (C.30:4J-17) is
38 amended to read as follows:

39 1. The Commissioner of Human Services, in consultation with
40 the Commissioners of Health **[and Senior Services]**, Labor and
41 Workforce Development, and Banking and Insurance, as
42 appropriate, shall prepare, to the extent data are available, an annual
43 report on Access to Employer-Based Health Insurance, as provided
44 in this act.

45 a. The report shall include the following information about
46 each employer in the State with an aggregate of 50 or more NJ
47 FamilyCare enrollees or Medicaid recipients:

1 (1) the employer's name and address, unless the employer has
2 more than one work site, in which case the employer's name and the
3 number of work sites and the counties in which the work sites are
4 located;

5 (2) the number of NJ FamilyCare enrollees and Medicaid
6 recipients who are employed by the employer;

7 (3) the number of NJ FamilyCare enrollees and Medicaid
8 recipients who are spouses or dependents of employees of the
9 employer;

10 (4) whether the employer offers health insurance coverage to its
11 employees; and

12 (5) the cost to the State of providing NJ FamilyCare and
13 Medicaid coverage for the employer's employees and their
14 dependents.

15 The commissioner may include comparable information about
16 recipients of other public health care coverage programs, and such
17 other information as **[he]** the commissioner deems appropriate
18 regarding employer-based coverage for persons covered under
19 public insurance programs.

20 The commissioner shall also include the information compiled
21 by the Commissioner of Health **[and Senior Services]** concerning
22 recipients of charity care pursuant to section 2 of P.L.2006, c.87
23 (C.26:2H-18.55a). With respect to the information provided by the
24 Commissioner of Health **[and Senior Services]**, the commissioner,
25 in consultation with the Commissioners of Labor and Workforce
26 Development and Banking and Insurance, shall ascertain whether
27 the employer of a recipient of charity care offers health insurance
28 coverage to its employees. The commissioner shall include that
29 information about employers in the report.

30 In addition, the commissioner may make any recommendations
31 **[he]** the commissioner deems appropriate for legislative action.

32 b. The report shall not include the name of any NJ FamilyCare
33 enrollee or Medicaid recipient or any family member of an enrollee
34 or recipient.

35 c. The commissioner shall submit the report by September 1 of
36 each year to the Governor and the chairmen of the Senate and
37 Assembly standing reference committees on human services, health,
38 and appropriations.

39 (cf: P.L.2006, c.87, s.1)

40

41 ¹**[396.] 397.** Section 27 of P.L.2008, c.38 (C.30:4J-19) is
42 amended to read as follows:

43 27. The Commissioner of Human Services shall establish an
44 Outreach, Enrollment, and Retention Working Group to develop a
45 plan to carry out ongoing and sustainable measures to strengthen
46 outreach to low and moderate income families who may be eligible
47 for Medicaid, NJ FamilyCare, or NJ FamilyCare Advantage, to

1 maximize enrollment in these programs, and to ensure retention of
2 enrollees in these programs.

3 a. The members of the working group shall include:

4 (1) The Commissioners of Human Services, Health [and Senior
5 Services], Banking and Insurance, Labor and Workforce
6 Development, Education, and Community Affairs, and the
7 Secretary of Agriculture [, and the Child Advocate], or their
8 designees, who shall serve ex officio; and

9 (2) Six public members appointed by the Commissioner of
10 Human Services who shall include: one person who represents
11 racial and ethnic minorities in this State; one person who represents
12 managed care organizations that participate in the Medicaid and NJ
13 FamilyCare programs; one person who represents the vendor under
14 contract with the Division of Medical Assistance and Health
15 Services to provide NJ FamilyCare eligibility, enrollment, and
16 health benefit coordinator services to the division; one person who
17 represents New Jersey Policy Perspective; one person who
18 represents the [Association] Advocates for Children of New Jersey;
19 and one person who represents Legal Services of New Jersey.

20 b. As part of the plan, the working group shall:

21 (1) determine if there are obstacles to enrollment of minorities
22 in the State in the Medicaid, NJ FamilyCare, and NJ FamilyCare
23 Advantage programs due to ethnic and cultural differences and, if
24 so, develop strategies for the Department of Human Services to
25 overcome these obstacles and increase enrollment among
26 minorities;

27 (2) recommend outreach strategies to identify and enroll all
28 eligible children in the Medicaid, NJ FamilyCare, and NJ
29 FamilyCare Advantage programs and to retain enrollment of
30 children and their parents in the programs;

31 (3) establish monthly enrollment goals for the number of
32 children who need to be enrolled in Medicaid, NJ FamilyCare, and
33 NJ FamilyCare Advantage in order to ensure that as many children
34 as possible who are eligible for these programs are enrolled within a
35 reasonable period of time, in accordance with the mandate
36 established pursuant to section 2 of P.L.2008, c.38 (C.26:15-2); and

37 (4) make such other recommendations to the Commissioner of
38 Human Services as the working group determines necessary and
39 appropriate to achieve the purposes of this section.

40 c. The working group shall organize as soon as practicable
41 following the appointment of its members and shall select a
42 chairperson and vice-chairperson from among the members. The
43 chairperson shall appoint a secretary who need not be a member of
44 the working group.

45 (1) The public members shall serve without compensation, but
46 shall be reimbursed for necessary expenses incurred in the
47 performance of their duties and within the limits of funds available
48 to the working group.

1 (2) The working group shall be entitled to call to its assistance
2 and avail itself of the services of the employees of any State,
3 county, or municipal department, board, bureau, commission, or
4 agency as it may require and as may be available to it for its
5 purposes.

6 d. Upon completion of the plan, the working group shall report
7 on its activities to the [chairmen] chairperson of the Senate and
8 Assembly standing reference committees on health and human
9 services, and include a copy of the plan and any recommendations
10 for legislative action it deems appropriate.

11 e. The Commissioner of Human Services shall post the plan on
12 the department's Internet website and include a table showing the
13 monthly enrollment goals established in the plan and the actual new
14 and continued enrollments for that month. The commissioner shall
15 update the table monthly.

16 f. The Department of Human Services shall provide staff
17 support to the working group.

18 (cf: P.L.2008, c.38, s.27)

19

20 ¹[397.] 398. (New section) a. There is established the Division
21 of Aging Services in the Department of Human Services.

22 b. The functions, powers, and duties of the Department of
23 Health and Senior Services, redesignated as the Department of
24 Health pursuant to section 93 of P.L. , c. (C.) (pending
25 before the Legislature as this bill), to the extent that they relate to
26 the provision of programs or services for senior citizens, including
27 the New Jersey State Commission on Aging established pursuant to
28 section 1 of P.L.1957, c.72 (C.26:1A-107), the Division on Aging
29 and Community Services, and any other division relating to senior
30 benefits, are transferred to the Division of Aging Services, subject
31 to the provisions of P.L. , c. (C.) (pending before the
32 Legislature as this bill) and in accordance with the "State Agency
33 Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.).

34 c. All appropriations and other monies available, and to
35 become available, that relate to the provision of programs or
36 services for senior citizens are continued in the Division of Aging
37 Services and shall be available for the objects and purposes for
38 which these monies are appropriated, subject to the provisions of
39 P.L. , c. (C.) (pending before the Legislature as this bill) and
40 any other terms, restrictions, limitations, or other requirements
41 imposed by law.

42 d. The administrator and head of the office shall be a director
43 who shall be known as the Director of the Division of Aging
44 Services. The director shall be a person qualified by training and
45 experience to perform the duties of the office and shall devote his
46 entire time to the performance of those duties. The director shall be
47 appointed by the commissioner.

1 e. The commissioner shall appoint and remove officers and
2 employees of the division subject to the provisions of Title 11A of
3 the New Jersey Statutes and other applicable statutes as are
4 necessary to enable the division to perform its duties pursuant to
5 this act and shall fix their compensation within the limits of
6 available appropriations and as is provided by law.

7 f. Whenever, in any law, rule, regulation, order, contract,
8 document, judicial or administrative proceeding or otherwise,
9 reference is made to the Division on Aging in either the Department
10 of State, the Department of Community Affairs, or the Department
11 of Health or Senior Services, the same shall mean and refer to the
12 Division of Aging Services in the Department of Human Services.

13
14 ¹[398.] 399. Section 1 of P.L.1997, c.364 (C.34:5A-10.1) is
15 amended to read as follows:

16 1. As used in this act:

17 "Child care center" means a child care center licensed pursuant
18 to the provisions of P.L.1983, c.492 (C.30:5B-1 et seq.);

19 "Hazardous substance" means any substance, or substance in a
20 mixture, included on the hazardous substance list developed by the
21 Department of Health **[and Senior Services]** pursuant to the
22 "Worker and Community Right to Know Act," P.L.1983, c.315
23 (C.34:5A-1 et seq.).

24 "Hazardous substance" shall not include:

25 (1) Any article containing a hazardous substance if the
26 hazardous substance is present in a solid form which does not pose
27 any acute or chronic health hazard to any person exposed to it;

28 (2) Any hazardous substance constituting less than one percent
29 of a mixture unless the hazardous substance is present in an
30 aggregate amount of 500 pounds or more in a container in a public
31 or private school or child care center building;

32 (3) Any hazardous substance which is a special health hazardous
33 substance constituting less than the threshold percentage established
34 by the Department of Health **[and Senior Services]** pursuant to
35 P.L.1983, c.315 (C.34:5A-1 et seq.), for that special health
36 hazardous substance when present in a mixture;

37 (4) Any hazardous substance present in the same form and
38 concentration as a product packaged for distribution and use by
39 consumers and which is not a product intended primarily for
40 commercial use;

41 (5) Any fuel in a motor vehicle;

42 (6) Tobacco or tobacco products;

43 (7) Wood or wood products;

44 (8) Foods, drugs, or cosmetics;

45 (9) Hazardous substances which are an integral part of a
46 building's structure or furnishings;

47 (10) Products which are personal property and are intended for
48 personal use; and

1 (11) Any substance used in the routine maintenance of a public
2 or private school or child care center building or its grounds, any
3 substance used in a classroom science laboratory, any substance
4 used in a school occupational training facility, including
5 laboratories and shops, and any substance used in the normal
6 operation of the classrooms or administrative offices of a public or
7 private school or child care center, including any substance used in
8 the heating or cooling of the school or child care center;

9 "Hazardous substance fact sheet" means the hazardous substance
10 fact sheets prepared by the Department of Health [and Senior
11 Services] pursuant to the "Worker and Community Right to Know
12 Act," P.L.1983, c.315 (C.34:5A-1 et seq.);

13 "Public school or private school" have the same meaning as set
14 forth in N.J.S.18A:1-1.

15 (cf: P.L.1997, c.364, s.1)

16
17 ¹[399.] 400.¹ Section 2 of P.L.1997, c.364 (C.34:5A-10.2) is
18 amended to read as follows:

19 2. a. No person shall use or allow the use of any hazardous
20 substance in or on any building or grounds used as a public school,
21 a private school, or child care center at any time when children are
22 expected to be present in the building. The provisions of this
23 subsection shall not apply when an emergency condition, as deemed
24 by the Board of Education or the chief school administrator in the
25 case of any public school, or the person having responsibility for
26 the operation of any private school or child care center, necessitates
27 the use of a hazardous substance when children are present.

28 b. Any person who uses or stores, or causes or allows the use
29 or storage of any hazardous substance in or on any building or
30 grounds used as a public school, a private school, or child care
31 center shall ensure that the use or storage of that hazardous
32 substance is in compliance with the regulations adopted by the
33 Department of Health [and Senior Services] pursuant to section 5
34 of P.L.1997, c.364 (C.34:5A-10.5).

35 (cf: P.L.1997, c.364, s.2)

36
37 ¹[400.] 401.¹ Section 5 of P.L.1997, c.364 (C.34:5A-10.5) is
38 amended to read as follows:

39 5. The Department of Health [and Senior Services], in
40 consultation with the Departments of Education, Human Services,
41 Children and Families and Environmental Protection, and within
42 180 days of the enactment of P.L.1997, c.364 (C.34:5A-10.1 et
43 seq.), shall adopt, pursuant to the "Administrative Procedure Act,"
44 P.L.1968, c.410 (C.52:14B-1 et seq.), regulations necessary to
45 implement the provisions of this act which are consistent with
46 federal and State indoor air quality standards and standards

1 governing the exposure of children to hazardous substances as they
2 are adopted by the federal government.

3 (cf: P.L.2006, c.47, s.183)

4

5 '401.] 402.' Section 14 of P.L.1983, c.315 (C.34:5A-14) is
6 amended to read as follows:

7 14. a. Every employer shall have until October 30, 1985 to take
8 any action necessary to assure that every container at the employer's
9 facility containing a hazardous substance shall bear a label
10 indicating the chemical name and Chemical Abstracts Service
11 number of the hazardous substance or the trade secret registry
12 number assigned to the hazardous substance. The labels on all
13 containers except pipelines and underground storage tanks shall be
14 designed and affixed in such a manner to ensure that if there is a
15 flood or other natural disaster when the container is transported or
16 stored, the label shall remain in place and visible. Employers may
17 label containers in a research and development laboratory by means
18 of a code or number system, if the code or number system will
19 enable an employee to readily make a cross-reference to a
20 hazardous substance fact sheet which will provide the employee
21 with the chemical name and Chemical Abstracts Service number of
22 the hazardous substance contained in the container, or the trade
23 secret registry number assigned to the hazardous substance. The
24 code or number system shall be designed to allow the employee free
25 and ready access at all times to the chemical name and Chemical
26 Abstracts Service number of the hazardous substance in the
27 container, shall be designed to allow the employee access to this
28 information without the permission or assistance of management,
29 and shall be available to the employee at close proximity to the
30 employee's specific job location or locations. Employers shall be
31 required to label pipelines only at the valve or valves located at the
32 point at which a hazardous substance enters a facility's pipeline
33 system, and at normally operated valves, outlets, vents, drains, and
34 sample connections designed to allow the release of a hazardous
35 substance from the pipeline.

36 b. Within two years of the effective date of this act, every
37 employer shall take any action necessary to assure that every
38 container at the employer's facility bears a label indicating the
39 chemical name and Chemical Abstracts Service number of the
40 substance in the container, except as provided in subsection d. of
41 this section, or the trade secret registry number assigned to the
42 substance. Employers may label containers in a research and
43 development laboratory by means of a code or number system, if
44 the code or number system will enable an employee to readily make
45 a cross-reference to documentary material retained on file by the
46 employer at the facility which will provide the employee with the
47 chemical name and Chemical Abstracts Service number of the
48 substance contained in the container, except as provided in

1 subsection d. of this section, or the trade secret registry number
2 assigned to the substance. The code or number system shall be
3 designed to allow the employee free and ready access at all times to
4 the chemical name and Chemical Abstracts Service number of the
5 substance in the container, shall be designed to allow the employee
6 access to this information without the permission or assistance of
7 management, and shall be available to the employee at close
8 proximity to the employee's specific job location or locations. If a
9 container contains a mixture, an employer shall be required to
10 insure that the label identify the chemical names and Chemical
11 Abstracts Service numbers, except as provided in subsection d. of
12 this section, or the trade secret registry numbers, of the five most
13 predominant substances contained in the mixture. The provisions of
14 this subsection shall not apply to any substance constituting less
15 than 1% of a mixture unless the substance is present at the facility
16 in an aggregate amount of 500 pounds or more. Employers shall be
17 required to label pipelines only at the valve or valves located at the
18 point at which a substance enters a facility's pipeline system, and at
19 normally operated valves, outlets, vents, drains, and sample
20 connections designed to allow the release of a substance from the
21 pipeline. One year after the effective date of this act the
22 Department of Health [and Senior Services] shall establish criteria
23 for containers which, because of the finished and durable
24 characteristics of their contents, shall be exempt from the provisions
25 of this subsection. These standards shall be consistent with the
26 intent of this subsection to provide for the labeling of every
27 container which may contain a substance which is potentially
28 hazardous.

29 c. The labeling requirements of subsections a. and b. of this
30 section shall not apply to containers labeled pursuant to the
31 "Federal Insecticide, Fungicide, and Rodenticide Act," 61 Stat. 163
32 (7 U.S.C. s.121 et al.), except that the label for any such container
33 except pipelines and underground storage tanks shall be designed
34 and affixed in such a manner to ensure that if there is a flood or
35 other natural disaster when the container is transported or stored,
36 the label shall remain in place and visible. The Department of
37 Health [and Senior Services] may, by rule and regulation, certify
38 containers labeled pursuant to any other federal act as labeled in
39 compliance with the provisions of this section.

40 d. One year after the effective date of this act the Department
41 of Health [and Senior Services] shall adopt, pursuant to the
42 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
43 seq.), a list of substances the containers of which may be labeled
44 with the common names and Chemical Abstracts Service numbers
45 of their contents. The department shall include on the list adopted
46 pursuant to this subsection only substances which are widely
47 recognized by their common names. An employer shall provide the

1 chemical name of a substance in a container labeled pursuant to this
2 subsection within five working days of the request therefor.

3 (cf: P.L.2007, c.190, s.1)

4

5 ¹~~402.~~ 403. Section 21 of P.L.1983, c.315 (C.34:5A-21) is
6 amended to read as follows:

7 21. The Department of Health ~~and Senior Services~~, the
8 Department of Environmental Protection, and the Department of
9 Labor and Workforce Development shall jointly establish a
10 procedure for annually receiving information from the public and
11 any other interested party, concerning any revision of the workplace
12 hazardous substance list and any revision of the environmental
13 hazardous substance list. This procedure shall include a mechanism
14 for revising the workplace hazardous substance list and the
15 environmental hazardous substance list. Any revision of the
16 workplace hazardous substance list or environmental hazardous
17 substance list shall be based on documented scientific evidence.
18 The Department of Health ~~and Senior Services~~ and the
19 Department of Environmental Protection shall publicly announce
20 any revisions of the workplace hazardous substance list or the
21 environmental hazardous substance list, and any such additions or
22 revisions shall be made pursuant to the provisions of the
23 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
24 seq.).

25 (cf: P.L.2010, c.87, s.19)

26

27 ¹~~403.~~ 404. Section 26 of P.L.1983, c.315 (C.34:5A-26) is
28 amended to read as follows:

29 26. a. There is established in the Department of the Treasury a
30 nonlapsing, revolving fund to be known as the "Worker and
31 Community Right To Know Fund." The "Worker and Community
32 Right To Know Fund" shall be credited with all fees collected
33 pursuant to paragraph (1) of subsection b. of this section and
34 interest on moneys in the "Worker and Community Right To Know
35 Fund" shall be credited to the "Worker and Community Right To
36 Know Fund" and all moneys in the "Worker and Community Right
37 To Know Fund" are appropriated for the purposes of the "Worker
38 and Community Right To Know Fund", and no moneys shall be
39 expended for those purposes without the specific appropriation
40 thereof by the Legislature. The State Treasurer shall be the
41 administrator of the "Worker and Community Right To Know
42 Fund", and all disbursements from the "Worker and Community
43 Right To Know Fund" shall be made by the State Treasurer upon
44 the warrant of the Director of the Division of Budget and
45 Accounting.

46 b. (1) The Department of Labor and Workforce Development
47 shall annually assess each employer a fee of not less than \$75.00
48 nor more than an amount equal to \$4.00 per employee to provide

1 for the implementation of the provisions of this act. All fees
2 collected by the department pursuant to this paragraph shall be
3 deposited in the "Worker and Community Right To Know Fund".

4 (2) The Department of Labor and Workforce Development shall
5 annually assess each employer a fee of \$2.00 per employee for the
6 implementation of P.L.1991, c.235 (C.13:1D-35 et seq.). All fees
7 collected by the department pursuant to this paragraph shall be
8 deposited in the "Pollution Prevention Fund" established pursuant
9 to section 16 of P.L.1991, c.235 (C.13:1D-50), and shall be used
10 only for the implementation of P.L.1991, c.235 (C.13:1D-35 et
11 seq.).

12 c. The moneys in the "Worker and Community Right To Know
13 Fund" shall be disbursed only for the following purposes:

14 (1) Expenses approved by the Director of the Division of
15 Budget and Accounting and incurred by the Department of Health
16 **【and Senior Services】**, the Department of Environmental
17 Protection, the Department of Labor and Workforce Development,
18 the Department of the Treasury, and the county health departments
19 in implementing the provisions of this act; and

20 (2) Repayment to the General Fund of any moneys appropriated
21 by law in order to implement the provisions of this act.

22 d. The State Treasurer shall annually disburse the moneys in
23 the "Worker and Community Right To Know Fund" for
24 expenditures approved by the Director of the Division of Budget
25 and Accounting pursuant to paragraph (1) of subsection c. of this
26 section, but in no case in an amount to the several departments that
27 is greater than the following percentages of the "Worker and
28 Community Right To Know Fund" available in any one year: the
29 Department of Health **【and Senior Services】**, 40%; the Department
30 of Environmental Protection, 20%; the county health departments,
31 15%; the Department of Labor and Workforce Development, 15%;
32 and the Department of the Treasury, 10%.

33 e. Beginning two years after the effective date of this act, the
34 State Treasurer shall make an annual audit of the "Worker and
35 Community Right To Know Fund" to determine the adequacy of
36 moneys on deposit in the "Worker and Community Right To Know
37 Fund" to support the implementation of the provisions of this act. If
38 the State Treasurer, in consultation with the Department of Health
39 **【and Senior Services】**, the Department of Environmental
40 Protection, and the Department of Labor and Workforce
41 Development makes a determination that the revenues in the
42 "Worker and Community Right To Know Fund" are sufficient to
43 warrant a reduction in the fees imposed pursuant to paragraph (1) of
44 subsection b. of this section for the ensuing year, **【he】** the State
45 Treasurer may reduce the amount of the fees imposed during that
46 year by an amount warranted by the balance in the "Worker and
47 Community Right To Know Fund" at the time of the determination.
48 (cf: P.L.2003, c.117, s.19)

1 '【404.】 405.' Section 10 of P.L.1984, c.173 (C.34:5A-41) is
2 amended to read as follows:

3 10. Any person who knowingly hinders or delays the
4 **【Commissioner】** Commissioners of Labor and Workforce
5 Development or Health **【and Senior Services】** or the authorized
6 representative thereof, in the performance of the duty to enforce this
7 act, or knowingly submits false or misleading information on any
8 license or permit application required by this act, or fails to obtain
9 licenses or permits required by the provisions of this act, or refuses
10 to make these licenses or permits accessible to either commissioner,
11 or the authorized representative thereof, or otherwise violates any
12 provision of this act or any regulation adopted under this act, shall,
13 upon conviction, be guilty of a crime of the third degree and,
14 notwithstanding the provisions of N.J.S.2C:43-3, shall be subject to
15 a fine of not more than \$25,000 in addition to any other appropriate
16 disposition authorized by subsection b. of N.J.S.2C:43-2.
17 (cf: PL.1997, c.325, s.5)

18
19 '【405.】 406.' Section 8 of P.L.1983, c.516 (C.34:6A-32) is
20 amended to read as follows:

21 8. The commissioner shall, in consultation with the
22 Commissioner of Health **【and Senior Services】** and the
23 Commissioner of Community Affairs and with the advice of the
24 advisory board, promulgate all regulations which **【he】** the
25 commissioner deems necessary for the proper administration and
26 enforcement of this act. A variance may be granted if the
27 commissioner determines that the applicant is in compliance with
28 the requirements for a permanent variance as set forth in subsection
29 c. of section 15 of this act. The variance shall not be deemed to be
30 a variation approved pursuant to the "State Uniform Construction
31 Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) or the "Uniform
32 Fire Safety Act," P.L.1983, c.383 (C.52:27D-192 et al.) or any other
33 building or fire safety standard or code.

34 Space leased by a public employer shall be subject to current
35 health or safety rules and regulations. Any deficiency, including a
36 deficiency resulting either from occupant use or deferred
37 maintenance by the lessor, shall be subject to correction in
38 accordance with the governing rules and regulations at the time that
39 the deficiency is cited by the commissioner or the Commissioner of
40 Health **【and Senior Services】**. However, a lease of any duration
41 may not be entered into unless the leased property is in
42 conformance with such rules and regulations as are in effect at the
43 time the lease is executed.

44 No fire company, first aid₂ or rescue squad, whether paid, part-
45 paid, or volunteer, shall be required to pay to the Department of
46 Labor and Workforce Development or the Department of Health
47 **【and Senior Services】** any registration or inspection fee imposed

1 by rule or regulation with regard to the filling of air cylinders for
2 respiratory equipment used by the fire company, first aid, or rescue
3 squad.

4 (cf: P.L.2000, c.126, s.6)

5
6 ¹[406.] 407. Section 1 of P.L.1997, c.92 (C.39:3-27.90) is
7 amended to read as follows:

8 1. a. The **[Director of the Division of Motor Vehicles]** Chief
9 Administrator of the New Jersey Motor Vehicle Commission may
10 issue for a motor vehicle owned or leased and registered in the State
11 special license plates bearing, in addition to the registration number
12 and other markings or identification otherwise prescribed by law,
13 the slogan "Conquer Cancer." These plates may include an
14 emblem, to be designed by the Commissioner of Health **[and Senior**
15 **Services]** and approved by the **[Director of the Division of Motor**
16 **Vehicles]** chief administrator, indicating support for, or an interest
17 in, finding new methods of treating and preventing cancer.

18 b. Application for issuance of a "Conquer Cancer" license plate
19 shall be made to the **[director]** chief administrator on **[such]** forms
20 and in **[such]** a manner as may be prescribed by the **[director]**
21 chief administrator. The **[director]** chief administrator shall collect
22 for each set of plates issued an application fee of \$50, and an annual
23 renewal fee of \$10, in addition to the fees otherwise prescribed by
24 law for the registration of motor vehicles.

25 c. Monies collected from all fees for "Conquer Cancer" license
26 plates shall be deposited in the Cancer Research Fund, established
27 in the Department of Health **[and Senior Services]** pursuant to
28 section 5 of P.L.1982, c.40 (C.54:40A-37.1). Any monetary
29 donation made available to the State to support the provisions of
30 **[this bill]** P.L.1997, c.92 (C.39:3-27.90 et seq.) shall be deposited
31 in the Cancer Research Fund for use as set forth in this section.
32 Interest or other income earned on monies deposited under this act
33 into the Cancer Research Fund shall be credited to the fund for use
34 as set forth in this section.

35 Funds shall be utilized by the New Jersey State Commission on
36 Cancer Research: (1) first to reimburse the **[Division of Motor**
37 **Vehicles]** commission for all costs, including those costs associated
38 with computer programming changes, incurred in producing,
39 issuing, renewing, and publicizing the availability of "Conquer
40 Cancer" license plates; (2) to reimburse the Department of Health
41 **[and Senior Services]** for the design and printing of notices, posters
42 and signs to be utilized by the **[Division of Motor Vehicles]**
43 commission; and (3) for approved research projects as defined in
44 section 3 of P.L.1983, c.6 (C.52:9U-3).

45 d. The **[director]** chief administrator shall annually certify to
46 the Commissioner of Health **[and Senior Services]** the average cost

1 per license plate incurred in the immediately preceding year by the
2 **[Division of Motor Vehicles]** commission in producing, issuing,
3 renewing, and publicizing the availability of "Conquer Cancer"
4 license plates. The commissioner shall annually report the
5 Department of **[Health and Senior Services's]** Health's costs and the
6 division's costs to the Office of Management and Budget.

7 e. The **[director]** chief administrator shall notify eligible
8 motorists of the opportunity to obtain "Conquer Cancer" license
9 plates by including a notice with all motor vehicle registration
10 renewals, and by posting appropriate posters or signs in all
11 **[division]** commission facilities and offices, as may be provided by
12 the Department of Health **[and Senior Services]**. The notices,
13 posters, and signs shall be designed by the Commissioner of Health
14 **[and Senior Services]** after consulting with the New Jersey State
15 Commission on Cancer Research. The designs shall be subject to
16 the approval of the **[director]** chief administrator. The Department
17 of Health **[and Senior Services]** shall supply the **[division]**
18 commission with the notices, posters, and signs to be circulated or
19 posted by the **[division]** commission.

20 f. The Commissioner of Health **[and Senior Services]**, the
21 New Jersey State Commission on Cancer Research, and the
22 **[director]** chief administrator shall develop and enter into an
23 interagency memorandum of agreement setting forth the procedures
24 to be followed by the Department of Health **[and Senior Services]**,
25 the commission and the **[division]** Motor Vehicle Commission in
26 carrying out their respective responsibilities under this act.

27 g. In the event that the average cost per license plate, as certified
28 by the **[director]** chief administrator and approved by the Joint
29 Budget Oversight Committee, or its successor, is greater than the
30 \$50 application fee established in subsection b. of this section in
31 two consecutive fiscal years, the **[director]** chief administrator may
32 discontinue the issuance of the "Conquer Cancer" license plate.
33 (cf: P.L.1997, c.92, s.1)

34
35 ¹**[407.] 408.** Section 6 of P.L.1970, c. 248 (C.40:23-6.43) is
36 amended to read as follows:

37 6. There shall be appropriated and paid annually to each county
38 office on aging, subject to the approval of the Commissioner of **[the**
39 **Department of Community Affairs]** Human Services, an amount
40 equal to one-half of the amount of annual expense of the county
41 office on aging; provided, however, that no county shall receive
42 more than **[\$20,000.00]** \$20,000 in State aid hereunder in any
43 calendar year. Payments shall be made by the State Treasurer, upon
44 certificate of the Commissioner of **[the Department of Community**
45 **Affairs]** Human Services and warrant of the Director of the
46 Division of Budget and Accounting, on or before December 31 of

1 each calendar year. This payment shall constitute reimbursement to
2 the county for the State aid portion of the annual expense of each
3 county office on aging during the year in which the payment is
4 made.

5 (cf: P.L.1970, c.248, s.6)

6

7 **'[408.] 409.'** Section 12 of P.L.1989, c.300 (C.45:9-19.12) is
8 amended to read as follows:

9 12. The State Board of Medical Examiners shall, by regulation,
10 provide for the issuance of permits to, or registration of, persons
11 engaging in the practice of medicine or surgery or podiatric
12 medicine while in training, and establish the scope of permissible
13 practice by these persons within the context of an accredited
14 graduate medical education program conducted at a hospital
15 licensed by the Department of Health **[and Senior Services]**. A
16 permit holder shall be permitted to engage in practice outside the
17 context of a graduate medical education program for additional
18 remuneration only if that practice is:

19 a. Approved by the director of the graduate medical education
20 program in which the permit holder is participating; and

21 b. With respect to any practice at or through a health care
22 facility licensed by the Department of Health **[and Senior
23 Services]**, supervised by a plenary licensee who shall either remain
24 on the premises of the health care facility or be available through
25 electronic communications; or

26 c. With respect to any practice outside of a health care facility
27 licensed by the Department of Health **[and Senior Services]**,
28 supervised by a plenary licensee who shall remain on the premises.

29 (cf: P.L.2005, c.259, s.15)

30

31 **'[409.] 410.'** Section 2 of P.L.1989, c.19 (C.45:9-22.5) is
32 amended to read as follows:

33 2. a. A practitioner shall not refer a patient or direct an
34 employee of the practitioner to refer a patient to a health care
35 service in which the practitioner, or the practitioner's immediate
36 family, or the practitioner in combination with the practitioner's
37 immediate family has a significant beneficial interest; except that,
38 in the case of a practitioner, a practitioner's immediate family, or a
39 practitioner in combination with the practitioner's immediate family
40 who had the significant beneficial interest prior to the effective date
41 of P.L.1991, c.187 (C.26:2H-18.24 et al.), and in the case of a
42 significant beneficial interest in a health care service that provides
43 lithotripsy or radiation therapy pursuant to an oncological protocol
44 that was held prior to the effective date of this section of P.L.2009,
45 c.24, the practitioner may continue to refer a patient or direct an
46 employee to do so if that practitioner discloses the significant
47 beneficial interest to the patient.

1 b. If a practitioner is permitted to refer a patient to a health care
2 service pursuant to this section, the practitioner shall provide the
3 patient with a written disclosure form, prepared pursuant to section
4 3 of P.L.1989, c.19 (C.45:9-22.6), and post a copy of this disclosure
5 form in a conspicuous public place in the practitioner's office.

6 c. The restrictions on referral of patients established in this
7 section shall not apply to:

8 (1) medical treatment or a procedure that is provided at the
9 practitioner's medical office and for which a bill is issued directly in
10 the name of the practitioner or the practitioner's medical office;

11 (2) renal dialysis; and

12 (3) ambulatory surgery or procedures requiring anesthesia
13 performed at a surgical practice registered with the Department of
14 Health [and Senior Services] pursuant to subsection g. of section
15 12 of P.L.1971, c.136 (C.26:2H-12) or at an ambulatory care
16 facility licensed by the Department of Health [and Senior Services]
17 to perform surgical and related services, if the following conditions
18 are met:

19 (a) the practitioner who provided the referral personally
20 performs the procedure;

21 (b) the practitioner's remuneration as an owner of or investor in
22 the practice or facility is directly proportional to [his] the
23 practitioner's ownership interest and not to the volume of patients the
24 practitioner refers to the practice or facility;

25 (c) all clinically-related decisions at a facility owned in part by
26 non-practitioners are made by practitioners and are in the best
27 interests of the patient; and

28 (d) disclosure of the referring practitioner's significant
29 beneficial interest in the practice or facility is made to the patient in
30 writing, at or prior to the time that the referral is made, consistent
31 with the provisions of section 3 of P.L.1989, c.19 (C.45:9-22.6).

32 (cf; P.L.2009, c.24, s.2)

33
34 ¹[410.] 411.¹ Section 4 of P.L.2009, c.24 (C.45:9-22.5a) is
35 amended to read as follows:

36 4. a. A referral for ambulatory surgery or a procedure requiring
37 anesthesia made prior to the effective date of this section of
38 P.L.2009, c.24 by a practitioner to a surgical practice or ambulatory
39 care facility licensed by the Department of Health [and Senior
40 Services] to perform surgical and related services shall be deemed
41 to comply with the provisions of section 2 of P.L.1989, c.19
42 (C.45:9-22.5) if the practitioner personally performed the procedure
43 that is the subject of the referral.

44 b. As used in this section, "surgical practice" means a structure
45 or suite of rooms that has the following characteristics:

46 (1) has no more than one room dedicated for use as an operating
47 room which is specifically equipped to perform surgery, and is

1 designed and constructed to accommodate invasive diagnostic and
2 surgical procedures;

3 (2) has one or more post-anesthesia care units or a dedicated
4 recovery area where the patient may be closely monitored and
5 observed until discharged; and

6 (3) is established by a physician, physician professional
7 association surgical practice, or other professional practice form
8 specified by the State Board of Medical Examiners pursuant to
9 N.J.A.C.13:35-6.16(f) solely for the physician's, association's or
10 other professional entity's private medical practice.

11 "Surgical practice" includes an unlicensed entity that is certified
12 by the Centers for Medicare and Medicaid Services as an
13 ambulatory surgery center provider.

14 (cf: P.L.2009, c.24, s.4)

15

16 ¹[411.] 412.¹ Section 4 of P.L. 2003, c.281 (C.48:2-29.16a) is
17 amended to read as follows:

18 4. a. Notwithstanding the provisions of any other law to the
19 contrary, a recipient of benefits under the "Lifeline Credit
20 Program," established pursuant to P.L.1979, c.197 (C.48:2-29.15 et
21 seq.), shall notify the Department of **[Health and Senior] Human**
22 **Services** if the recipient unintentionally errs in estimating annual
23 income to determine eligibility for the program due to an
24 unanticipated payment which would render the recipient ineligible
25 for the program. Notification to the department shall be made in
26 the time and manner prescribed by the department office.

27 b. If the department determines that the payment was
28 unanticipated, the recipient shall reimburse the program for only
29 those benefits that were paid by the program after the recipient
30 received the unanticipated payment.

31 c. If the department determines that the payment was not
32 unanticipated, the recipient shall reimburse the program for all
33 benefits that were paid by the program in the calendar year in which
34 the payment was received.

35 d. Within 30 days of receipt of a determination by the
36 department that the payment was not unanticipated, a recipient may
37 request a hearing, which shall be conducted pursuant to the
38 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
39 seq.).

40 e. Nothing in this section shall preclude a recipient from
41 reapplying for benefits in the calendar year following the year in
42 which the recipient notified the department pursuant to subsection
43 a. of this section.

44 (cf: P.L.2003, c.281, s.4)

45

46 ¹[412.] 413.¹ Section 5 of P.L.2003, c.281 (C.48:2-29.32a) is
47 amended to read as follows:

1 5. a. Notwithstanding the provisions of any other law to the
2 contrary, a recipient of benefits under the "Tenants' Lifeline
3 Assistance Program," established pursuant to P.L.1981, c.210
4 (C.48:2-29.30 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 to subsection a. of this
26 section.

27 (cf: P.L.2003, c.281, s.5)

28
29 ¹**[413.] 414.** Section 1 of P.L.1987, c.133 (C.52:27D-29.17) is
30 amended to read as follows:

31 1. a. "Commissioner" means the Commissioner of **[the**
32 **Department of Community Affairs] Human Services.**

33 b. "Department" means the Department of **[Community**
34 **Affairs] Human Services.**

35 c. "Eligible participant" means a resident of this State who is
36 60 years of age or older and homebound by reason of illness,
37 incapacitating disability, or is otherwise isolated.

38 d. "Home delivered nutrition services" means home delivered
39 meals as defined by the "Older Americans Act of 1965," Pub.L. 89-
40 73 (42 U.S.C. s. 3001 et seq.).

41 e. "Program" means the Home Delivered Meals Expansion
42 Program in the Division **[on] of Aging Services**, in the Department
43 of **[Community Affairs] Human Services.**

44 (cf: P.L.1987, c.133, s.1)

45
46 ¹**[414.] 415.** Section 2 of P.L.1987, c.133 (C.52:27D-29.18) is
47 amended to read as follows:

1 2. The commissioner shall establish a Home Delivered Meals
2 Expansion Program in the Division of Aging Services, in the
3 Department of **【Community Affairs】** Human Services, to provide
4 home delivered nutrition services to eligible participants on
5 weekends and holidays.

6 (cf: P.L.1987, c.133, s.2)

7
8 ¹**【415.】** 416.¹ Section 6 of P.L.1987, c.133 (C.52:27D-29.22) is
9 amended to read as follows:

10 6. a. There is appropriated **【\$1,000,000.00】** \$1,000,000 from
11 the Casino Revenue Fund to the Department of **【Community**
12 **Affairs】** Human Services to effectuate the purposes of this act.

13 b. The department shall allocate not less than 95% of the funds
14 appropriated for the purposes of this act to the county offices on
15 aging, and these funds shall be disbursed to the county offices on
16 aging according to the formula used to disburse funds for the home
17 delivered nutrition services provided under Title III of the "Older
18 Americans Act of 1965," Pub.L. 89-73 (42 U.S.C. s. 3001 et seq.).

19 c. The county shall match the State funds allocated to a county
20 office on aging for this program with an amount equal to 20% of the
21 State funds. The county share may be cash or in kind.

22 (cf: P.L.1987, c.133, s.6)

23
24 ¹**【416.】** 417.¹ Section 2 of P.L.1993, c.4 (C.52:27D-29.33) is
25 amended to read as follows:

26 2. As used in this act:

27 "County office on aging" means a county office on aging which
28 is also designated as an area agency on aging for funding under the
29 "Older Americans Act of 1965," Pub.L.89-73 (42 U.S.C. s.3001 et
30 seq.).

31 "Director" means the Director of the Division **【on】** of Aging
32 Services in the Department of **【Community Affairs】** Human
33 Services.

34 "Senior citizen" means a person 60 years of age or older.

35 (cf: P.L.1993, c.4, s.2)

36
37 ¹**【417.】** 418.¹ Section 3 of P.L.1993, c.4 (C.52:27D-29.34) is
38 amended to read as follows:

39 3. a. There is established in the Division **【on】** of Aging
40 Services in the Department of **【Community Affairs】** Human
41 Services a Senior Health Insurance Counseling Program to provide
42 health insurance information and assistance by trained volunteer
43 counselors to senior citizens.

44 b. The Director of the Division **【on】** of Aging Services shall
45 establish the program in all counties in the State through the county
46 offices on aging or other appropriate agencies designated by the

1 director.
2 (cf: P.L.1993, c.4, s.3)

3
4 ¹~~418.~~ 419. Section 6 of P.L.1993, c.4 (C.52:27D-29.36) is
5 amended to read

6 6. The Director of the Division ~~on~~ of Aging Services in the
7 Department of ~~Community Affairs~~ Human Services shall
8 establish a legal representation program to assist Medicare
9 beneficiaries under Title XVIII of the Social Security Act who are
10 65 years of age or older, or disabled, in appeals of unfairly denied
11 Medicare coverage. The services provided under this program shall
12 include, but not be limited to, the following: outreach to Medicare
13 beneficiaries, the development and dissemination of educational
14 materials pertaining to the Medicare program and the claims appeal
15 process, the development and dissemination of materials for
16 Medicare beneficiaries to submit their own appeals, and the offer of
17 direct legal representation to appeal unfairly denied coverage under
18 Part A and Part B of the Medicare program. Such legal
19 representation may include, but not be limited to, appeals within the
20 administrative appeals structure and appeals to the United States
21 District Court.

22 (cf: P.L.1993, c.4, s.6)

23
24 ¹~~419.~~ 420. Section 40 of P.L.1966, c.293 (C.52:27D-40) is
25 amended to read as follows:

26 40. Whenever the term "Division of Local Government" occurs
27 or any reference is made thereto in any law, contract or document,
28 the same shall be deemed to mean or refer to the Division of Local
29 Finance in the Department of Community Affairs established
30 hereunder.

31 Whenever the term "Director of the Division of Local
32 Government" occurs or any reference is made thereto in any law,
33 contract or document, the same shall be deemed to mean or refer to
34 the Director of the Division of Local Finance in the Department of
35 Community Affairs established hereunder.

36 Whenever the term "Local Government Board" 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 Local Finance Board
39 of the Division of Local Finance in the Department of Community
40 Affairs established hereunder.

41 Whenever the term "public housing and development authority"
42 occurs or any reference is made thereto in any law, contract or
43 document, the same shall be deemed to mean or refer to the public
44 housing and development authority in the Department of
45 Community Affairs established hereunder.

46 Whenever the term "State Housing Council" occurs or any
47 reference is made thereto in any law, contract or document, the

1 same shall be deemed to mean or refer to the State Housing Council
2 in the Department of Community Affairs established hereunder.

3 Whenever the term "Bureau of Tenement House Supervision"
4 occurs or any reference is made thereto in any law, contract or
5 document, the same shall be deemed to mean or refer to the Bureau
6 of Housing Inspection of the Division of Housing and Urban
7 Renewal in the Department of Community Affairs established
8 hereunder.

9 Whenever the term "Board of Tenement House Supervision"
10 occurs or any reference is made thereto in any law, contract or
11 document, the same shall be deemed to mean or refer to the Board
12 of Housing Inspection in the Division of Housing and Urban
13 Renewal of the Department of Community Affairs established
14 hereunder.

15 Whenever the term "office of supervisor of hotel fire safety"
16 occurs or any reference is made thereto in any law, contract or
17 document, the same shall be deemed to mean or refer to the office
18 of supervisor of hotel fire safety in the Bureau of Housing
19 Inspection of the Division of Housing and Urban Renewal in the
20 Department of Community Affairs established hereunder.

21 Whenever the term "Division of State and Regional Planning"
22 occurs or any reference is made thereto in any law, contract or
23 document, the same shall be deemed to mean or refer to the
24 Division of State and Regional Planning in the Department of
25 Community Affairs established hereunder.

26 Whenever the term "Director of the Division of State and
27 Regional Planning" occurs or any reference is made thereto in any
28 law, contract or document, the same shall be deemed to mean or
29 refer to the Director of the Division of State and Regional Planning
30 in the Department of Community Affairs established hereunder.

31 Whenever the term "Division on Aging" occurs or any reference
32 is made thereto in any law, contract, or document, the same shall be
33 deemed to mean or refer to the Division **[on Aging in the**
34 **Department of Community Affairs established hereunder]** of Aging
35 Services in the Department of Human Services.

36 Whenever the term "Director of the Division on Aging" occurs
37 or any reference is made thereto in any law, contract, or document,
38 the same shall be deemed to mean or refer to the Director of the
39 Division **[on Aging in the Department of Community Affairs**
40 **established hereunder]** of Aging Services in the Department of
41 Human Services.

42 Whenever the term "New Jersey State Commission on Aging"
43 occurs or any reference is made thereto in any law, contract, or
44 document, the same shall be deemed to mean or refer to the New
45 Jersey State Commission on Aging in the Division **[on Aging in the**
46 **Department of Community Affairs established hereunder]** of Aging
47 Services in the Department of Human Services.

1 Whenever the terms "Youth Division" or "Division of Youth"
2 occur or any reference is made thereto in any law, contract or
3 document, the same shall be deemed to mean or refer to the
4 Division of Youth in the Department of Community Affairs
5 established hereunder.

6 Whenever the terms "Director of the Youth Division" or
7 "Director of the Division of Youth" occur or any reference is made
8 thereto in any law, contract or document, the same shall be deemed
9 to mean or refer to the Director of the Division of Youth in the
10 Department of Community Affairs established hereunder.

11 Whenever the term "New Jersey State Youth Commission"
12 occurs or any reference is made thereto in any law, contract or
13 document, the same shall be deemed to mean or refer to the New
14 Jersey State Youth Commission of the Division of Youth in the
15 Department of Community Affairs established hereunder.

16 Whenever the term "New Jersey Office of Economic
17 Opportunity" occurs or any reference is made thereto in any law,
18 contract or document, the same shall be deemed to mean or refer to
19 the New Jersey Office of Economic Opportunity in the Department
20 of Community Affairs established hereunder.

21 (cf: P.L.1967, c.42, s.8)

22

23 ¹[420.] 421.¹ Section 2 of P.L.2007, c.1 (C.52:27D-130.5) is
24 amended to read as follows:

25 2. a. (1) No construction permit shall be issued pursuant to
26 section 12 of P.L.1975, c.217 (C.52:27D-130) for the
27 reconstruction, alteration, conversion, or repair of any building or
28 structure to be used for a child care center licensed pursuant to the
29 provisions of P.L.1983, c.492 (C.30:5B-1 et seq.), or for
30 educational purposes, if that building or structure was previously
31 used for industrial, storage, or high hazard purposes, as a nail salon,
32 dry cleaning facility, or gasoline station, or is on a contaminated
33 site, on a site on which there is suspected contamination, or on an
34 industrial site that is subject to the provisions of the "Industrial Site
35 Recovery Act," P.L.1983, c.330 (C.13:1K-6 et al.), except upon the
36 submission of the certification issued by the Department of Health
37 **[and Senior Services]** pursuant to section 1 of P.L.2007, c.1
38 (C.52:27D-130.4) to the construction official by the applicant, that
39 the building or structure has been evaluated and assessed for
40 contaminants, and that the building or structure is safe for use as a
41 child care center licensed pursuant to the provisions of P.L.1983,
42 c.492, or for educational purposes.

43 (2) Notwithstanding the provisions of paragraph (1) of this
44 subsection to the contrary, a construction permit may be issued for
45 the construction or alteration of any building or structure to be used
46 as a child care center licensed pursuant to the provisions of
47 P.L.1983, c.492, or for educational purposes, if the construction
48 permit is necessary to perform work in the building or structure in

1 order to comply with the rules and regulations adopted pursuant to
2 subsection a. of section 1 of P.L.2007, c.1 (C.52:27D-130.4) and
3 obtain the certification issued by the Department of Health [and
4 Senior Services] pursuant to subsection c. of section 1 of P.L.2007,
5 c.1 (C.52:27D-130.4).

6 A construction permit issued pursuant to this paragraph shall be
7 limited to the construction or alterations necessary to comply with
8 the rules and regulations adopted pursuant to subsection a. of
9 section 1 of P.L.2007, c.1 (C.52:27D-130.4).

10 (3) The appropriate enforcing agency shall not grant a certificate
11 of occupancy for any building or structure to be used as a child care
12 center licensed pursuant to the provisions of P.L.1983, c.492, or for
13 educational purposes, that received a construction permit pursuant
14 to paragraph (2) of this subsection, except upon the submission of
15 the certification issued by the Department of Health [and Senior
16 Services] pursuant to subsection c. of section 1 of P.L.2007, c.1
17 (C.52:27D-130.4) to the construction official by the applicant, that
18 the building or structure has been evaluated and assessed for
19 contaminants, and that the building or structure is safe for use as a
20 child care center licensed pursuant to the provisions of P.L.1983,
21 c.492, or for educational purposes.

22 b. (1) No construction permit shall be issued for the
23 construction or alteration of any building or structure to be used as
24 a child care center licensed pursuant to the provisions of P.L.1983,
25 c.492, or for educational purposes, on a site that was previously
26 used for industrial, storage, or high hazard purposes, as a nail salon,
27 dry cleaning facility, or gasoline station, or on a contaminated site,
28 on a site on which there is suspected contamination, or on an
29 industrial site that is subject to the provisions of the "Industrial Site
30 Recovery Act," P.L.1983, c.330 (C.13:1K-6 et al.), except after
31 submission by the applicant to the construction official of
32 documentation sufficient to establish that the Department of
33 Environmental Protection has approved a remedial action workplan
34 for the entire site or that the site has been remediated consistent
35 with the remediation standards and other remediation requirements
36 established pursuant to section 35 of P.L.1993, c.139 (C.58:10B-12)
37 and a no further action letter has been issued by the Department of
38 Environmental Protection for the entire site.

39 (2) Notwithstanding the provisions of paragraph (1) of this
40 subsection to the contrary, a construction permit may be issued for
41 the construction or alteration of any building or structure to be used
42 as a child care center licensed pursuant to the provisions of
43 P.L.1983, c.492, or for educational purposes, on a site that was
44 previously used for industrial, storage, or high hazard purposes, as a
45 nail salon, dry cleaning facility, or gasoline station, or on a
46 contaminated site, on a site on which there is suspected
47 contamination, or on an industrial site that is subject to the
48 provisions of the "Industrial Site Recovery Act," P.L.1983, c.330

1 (C.13:1K-6 et al.), if the construction permit is necessary to
2 remediate the site consistent with the remediation standards and
3 other remediation requirements established pursuant to section 35
4 of P.L.1993, c.139 (C.58:10B-12) in order to obtain a no further
5 action letter from the Department of Environmental Protection.

6 A construction permit issued pursuant to this paragraph shall be
7 limited to the construction or alterations necessary to develop a
8 remedial action workplan to be submitted to the Department of
9 Environmental Protection for approval or to remediate the site
10 consistent with the remediation standards and other remediation
11 requirements established pursuant to section 35 of P.L.1993, c.139
12 (C.58:10B-12) and receive a no further action letter from the
13 Department of Environmental Protection.

14 (3) The appropriate enforcing agency shall not grant a certificate
15 of occupancy for any building or structure to be used as a child care
16 center licensed pursuant to the provisions of P.L.1983, c.492, or for
17 educational purposes, that received a construction permit pursuant
18 to paragraph (2) of this subsection, except after submission by the
19 applicant to the construction official of documentation sufficient to
20 establish that the site has been remediated consistent with the
21 remediation standards and other remediation requirements
22 established pursuant to section 35 of P.L.1993, c.139 (C.58:10B-12)
23 and a no further action letter has been issued by the Department of
24 Environmental Protection for the entire site.

25 c. As used in this section: "contaminated site" means any real
26 property on which there is contamination; "contamination,"
27 "remediation" or "remediate," and "no further action letter" shall
28 have the same meanings as provided in section 23 of P.L.1993,
29 c.139 (C.58:10B-1); and "educational purposes" means for the
30 purposes of a private school or public school as defined in
31 N.J.S.18A:1-1, or a charter school as defined pursuant to P.L.1995,
32 c.426 (C.18A:36A-1 et seq.).
33 (cf: P.L.2007, c.1, s.2)
34

35 ¹[421.] 422.¹ Section 1 of P.L. 2011, c.125 (C.52:27D-191.1) is
36 amended to read as follows:

37 1. a. The Department of **[Health and Senior] Human** Services
38 shall ensure that a person receiving services under the Congregate
39 Housing Services Program including, but not limited to, meal
40 preparation, housekeeping, shopping, laundry, linens change,
41 companionship, and personal care, receives those services in a
42 manner that promotes the dignity of and shows respect for the
43 person.

44 b. A Congregate Housing Services Program shall make
45 information related to its services available to the manager of a
46 subsidized housing facility that has contracted with the State to
47 provide a Congregate Housing Services Program. The manager
48 shall be responsible for the distribution and dissemination of the

1 information to its residents and shall include in that information a
2 statement that the services provided by the program shall be
3 provided to:

- 4 (1) help meet the needs of a resident;
- 5 (2) foster the independence and individuality of a resident;
- 6 (3) treat a resident with respect, courtesy, consideration, and
7 dignity; and
- 8 (4) assure a resident the right to make choices with respect to
9 services and lifestyle.

10 c. A Congregate Housing Services Program shall:

- 11 (1) advise a resident receiving congregate housing services, in
12 writing, of the availability of information from the Division of
13 Aging **[and Community]** Services in the Department of **[Health**
14 **and Senior]** Human Services about issues that may be of concern to
15 a resident; and
- 16 (2) make available, upon request, the qualifications of a
17 counselor or other professional who is providing services to
18 residents under the Congregate Housing Services Program.

19 (cf: P.L.2011, c.125, s.1)

20

21 ¹**[422.] 423.**¹ Section 28 of P.L.1986, c.103, s.28 (C.52:27D-
22 357) is amended to read as follows:

23 28. a. There is created a Continuing Care Advisory Council
24 which consists of 13 members as follows: the Commissioners of
25 **[the Departments of Community Affairs,]** Human Services, Health
26 **[and Senior Services]**, and Banking and Insurance, or their
27 designees, who shall serve ex officio and shall be non-voting
28 members; 10 public members appointed by the Governor, with the
29 advice and consent of the Senate, who are residents of the State and
30 two of whom are administrators of continuing care facilities in this
31 State, one of whom is a representative of the business community
32 and knowledgeable in the area of management, one of whom is a
33 certified public accountant, one of whom is an attorney licensed to
34 practice in this State, three of whom are residents of continuing care
35 retirement communities in this State who are recommended by the
36 Organization of Residents Associations of New Jersey, one of
37 whom is a trustee or director of a continuing care retirement
38 community in this State and one of whom is a representative of the
39 New Jersey Association of Non-Profit Homes for the Aging.

40 b. The term of office for each public member is three years, or
41 until the member's successor has been appointed; except that of the
42 public members first appointed, two shall be appointed for a term of
43 one year, two for a term of two years and three for a term of three
44 years.

45 A vacancy in the membership of the council shall be filled in the
46 same manner as the original appointment, but for the unexpired
47 term. A member of the council is eligible for reappointment.

1 The members of the council shall serve without compensation,
2 but the council shall reimburse the members for the reasonable
3 expenses incurred in the performance of their duties.

4 c. 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 d. The council shall meet at least four times a year but may
11 meet more frequently at the discretion of the **[chairman]**
12 chairperson or the commissioner.

13 e. The council may call to its assistance and avail itself of the
14 services and assistance of any officials and employees of the
15 Department of Community Affairs or other State agency and
16 political subdivisions and their departments, boards, bureaus,
17 commissions, and agencies as it requires and as is available to it for
18 this purpose and may expend any funds that are appropriated or
19 otherwise made available to it pursuant to this act.

20 f. The council shall:

21 (1) Advise and provide information to the commissioner on
22 matters pertaining to the operation and regulation of continuing care
23 retirement facilities, upon request of the commissioner;

24 (2) Review and comment upon, as appropriate, any proposed
25 rules and regulations and legislation pertaining to continuing care
26 retirement facilities;

27 (3) Make recommendations to the commissioner about any
28 needed changes in rules and regulations and State and federal laws
29 pertaining to continuing care retirement facilities; and

30 (4) Assist in the rehabilitation of a continuing care retirement
31 facility, upon request of the commissioner.

32 g. The commissioner shall report annually to the Governor and
33 the Legislature, the commissioner's and the council's findings and
34 recommendations concerning continuing care retirement
35 communities and the implementation of this act.

36 (cf: P.L.2007, c.192, s.2)

37
38 ¹**[423.] 424.** ¹ Section 2 of P.L.1993, c.249 (C.52:27D-407) is
39 amended to read as follows:

40 2. As used in this act:

41 "Abuse" means the willful infliction of physical pain, injury or
42 mental anguish, unreasonable confinement, or the willful
43 deprivation of services which are necessary to maintain a person's
44 physical and mental health.

45 "Caretaker" means a person who has assumed the responsibility
46 for the care of a vulnerable adult as a result of family relationship or
47 who has assumed responsibility for the care of a vulnerable adult

1 voluntarily, by contract, or by order of a court of competent
2 jurisdiction, whether or not they reside together.

3 "Commissioner" means the Commissioner of **【Health and**
4 **Senior】** Human Services.

5 "Community setting" means a private residence or any
6 noninstitutional setting in which a person may reside alone or with
7 others, but shall not include residential health care facilities,
8 rooming houses or boarding homes or any other facility or living
9 arrangement subject to licensure by, operated by, or under contract
10 with, a State department or agency.

11 "County adult protective services provider" means a county
12 Board of Social Services or other public or nonprofit agency with
13 experience as a New Jersey provider of protective services for
14 adults, designated by the county and approved by the commissioner.
15 The county adult protective services provider receives reports made
16 pursuant to this act, maintains pertinent records and provides,
17 arranges, or recommends protective services.

18 "County director" means the director of a county adult protective
19 services provider.

20 "Department" means the Department of **【Health and Senior】**
21 Human Services.

22 "Emergency medical technician" means a person trained in basic
23 life support services as defined in section 1 of P.L.1985, c.351
24 (C.26:2K-21) and who is certified by the Department of Health and
25 Senior Services to provide that level of care.

26 "Exploitation" means the act or process of illegally or improperly
27 using a person or his resources for another person's profit or
28 advantage.

29 "Firefighter" means a paid or volunteer firefighter.

30 "Health care professional" means a health care professional who
31 is licensed or otherwise authorized, pursuant to Title 45 or Title 52
32 of the Revised Statutes, to practice a health care profession that is
33 regulated by one of the following boards or by the Director of the
34 Division of Consumer Affairs: the State Board of Medical
35 Examiners, the New Jersey Board of Nursing, the New Jersey State
36 Board of Dentistry, the New Jersey State Board of Optometrists, the
37 New Jersey State Board of Pharmacy, the State Board of
38 Chiropractic Examiners, the Acupuncture Examining Board, the
39 State Board of Physical Therapy, the State Board of Respiratory
40 Care, the Orthotics and Prosthetics Board of Examiners, the State
41 Board of Psychological Examiners, the State Board of Social Work
42 Examiners, the State Board of Examiners of Ophthalmic Dispensers
43 and Ophthalmic Technicians, the Audiology and Speech-Language
44 Pathology Advisory Committee, the State Board of Marriage and
45 Family Therapy Examiners, the Occupational Therapy Advisory
46 Council, the Certified Psychoanalysts Advisory Committee, and the
47 State Board of Polysomnography. "Health care professional" also

1 means a nurse aide or personal care assistant who is certified by the
2 Department of Health and Senior Services.

3 "Neglect" means an act or failure to act by a vulnerable adult or
4 his caretaker which results in the inadequate provision of care or
5 services necessary to maintain the physical and mental health of the
6 vulnerable adult, and which places the vulnerable adult in a
7 situation which can result in serious injury or which is life-
8 threatening.

9 "Protective services" means voluntary or court-ordered social,
10 legal, financial, medical or psychiatric services necessary to
11 safeguard a vulnerable adult's rights and resources, and to protect a
12 vulnerable adult from abuse, neglect or exploitation. Protective
13 services include, but are not limited to: evaluating the need for
14 services, providing or arranging for appropriate services, obtaining
15 financial benefits to which a person is entitled, and arranging for
16 guardianship and other legal actions.

17 "Vulnerable adult" means a person 18 years of age or older who
18 resides in a community setting and who, because of a physical or
19 mental illness, disability or deficiency, lacks sufficient
20 understanding or capacity to make, communicate, or carry out
21 decisions concerning his well-being and is the subject of abuse,
22 neglect or exploitation. A person shall not be deemed to be the
23 subject of abuse, neglect or exploitation or in need of protective
24 services for the sole reason that the person is being furnished
25 nonmedical remedial treatment by spiritual means through prayer
26 alone or in accordance with a recognized religious method of
27 healing in lieu of medical treatment, and in accordance with the
28 tenets and practices of the person's established religious tradition.

29 (cf: P.L.2009, c.276, s.1)

30

31 ¹[424.] 425.¹ Section 21 of P.L.1993, c.249 (C.52:27D-426) is
32 amended to read as follows:

33 21. a. All funding, programs, and positions created to provide
34 adult protective services **【by the Division of Youth and Family
35 Services in the Department of Human Services】** are continued and
36 shall be transferred to the **【Department of Community Affairs,
37 however, for federal funding and reporting purposes, the】**
38 Department of Human Services **【shall remain the designated agency
39 for such programs】**. The Department of Community Affairs shall
40 provide the Department of Human Services with such information
41 as the Department of Human Services requires to fulfill its federal
42 funding and reporting requirements.

43 b. The transfers directed by this act shall be made in
44 accordance with the "State Agency Transfer Act," P.L.1971, c.375
45 (C.52:14D-1 et seq.).

46 (cf: P.L.1993, c.249, s.21)

1 ¹[425.] 426.¹ Section 15 of P.L.1993, c.288 (C.52:27D-428) is
2 amended to read as follows:

3 15. a. A business firm shall neither directly nor indirectly
4 perform lead evaluation or abatement work without first obtaining
5 certification from the department. Certification may be issued to
6 perform lead evaluation or abatement work if the business firm
7 employs or will employ sufficient numbers and types of personnel
8 certified by the Department of Health [and Senior Services]
9 pursuant to section 3 of P.L.1993, c.288 (C.26:2Q-3) to perform
10 lead abatement work and meets all other requirements that the
11 commissioner may establish pursuant to section 23 of P.L.1993,
12 c.288 (C.52:27D-436). The certification shall be in writing, shall
13 contain an expiration date, and shall be signed by the commissioner.

14 b. A person or business firm shall not undertake a project
15 involving lead abatement work without first obtaining a
16 construction permit for that project pursuant to section 12 of
17 P.L.1975, c.217 (C.52:27D-130). No permit shall be issued for lead
18 abatement work, except to:

19 (1) an owner undertaking work on his own premises using his
20 own employees, if those employees are certified by the Department
21 of Health [and Senior Services] pursuant to section 3 of P.L.1993,
22 c.288 (C.26:2Q-3);

23 (2) a homeowner proposing to perform lead abatement work
24 himself on a dwelling unit that he owns and occupies as a primary
25 place of residence; or

26 (3) a business firm certified pursuant to this section to perform
27 such work.

28 The issuance of a construction permit to an individual
29 homeowner proposing to perform lead abatement work on a
30 dwelling unit that he owns and occupies as a primary place of
31 residence shall be accompanied by written information developed
32 by the department explaining the dangers of improper lead
33 abatement, procedures for conducting safe lead abatement, and the
34 availability of certified lead abatement contractors, or of any
35 available training for homeowners.

36 c. Nothing in this section shall be construed to restrict or
37 otherwise affect the right of any business firm to engage in painting,
38 woodworking, structural renovation, or other indoor or outdoor
39 contracting services that may result in the disturbance of paint, or to
40 engage in lead safe maintenance work or lead hazard control work,
41 but a business firm shall not hold itself out as certified by the
42 department or otherwise represent that it has specialized
43 competency to perform lead evaluation or abatement work unless it
44 has been certified or otherwise specifically authorized pursuant to
45 this section.

46 A business firm that seeks to engage in lead safe maintenance
47 work or lead hazard control work shall do so using only persons
48 who, prior to engaging in such work, shall have completed such

1 training courses as may be prescribed by the commissioner and
2 provided by a training provider accredited by the Commissioner of
3 Health **[and Senior Services]**.

4 A business firm that utilizes interim controls to reduce the risk of
5 lead-based paint exposure shall utilize only those methods approved
6 by the appropriate federal agencies, including specialized cleaning,
7 repairs, maintenance, painting, temporary containment, ongoing
8 monitoring of lead-based paint hazards or potential hazards, as may
9 be set forth under 42 U.S.C.s.4851b₂ or those methods set forth in
10 guidelines established by the commissioner, but shall not be
11 required to be certified pursuant to this section unless performing
12 lead abatement.

13 (cf: P.L.2003, c.311, s.23)

14

15 ¹**[426.] 427.** Section 24 of P.L. 2003, c.311 (C.52:27D-437.15)
16 is amended to read as follows:

17 24. The Commissioner of Banking and Insurance and the
18 Commissioner of Health **[and Senior Services]** shall consult with
19 the Commissioner of Community Affairs and shall modify all
20 regulations concerning lead hazards in accordance with the
21 provisions of P.L.2003, c.311 (C.52:27D-437.1 et al.), to recognize
22 lead hazard control work as an authorized alternative method to
23 lead abatement in control of lead hazards.

24 (cf: P.L.2003, c.311, s.24)

25

26 ¹**[427.] 428.** Section 4 of P.L.1985, c.298 (C.52:27G-23) is
27 amended to read as follows:

28 4. There is created in the Executive Branch of the State
29 Government the Office of the Public Guardian for Elderly Adults.
30 For the purpose of complying with the provisions of Article V,
31 Section IV, paragraph 1 of the New Jersey Constitution, the Office
32 of the Public Guardian for Elderly Adults is allocated to the
33 Department of **[Community Affairs]** Human Services, but
34 notwithstanding this allocation, the office shall be independent of
35 any supervision or control by the department or any board or officer
36 thereof.

37 (cf: P.L.1985, c.298, s.4.)

38

39 ¹**[428.] 429.** Section 15 of P.L.2005, c.37 (C.52:27G-42) is
40 amended to read as follows:

41 15. a. There is established in the Department of **[Health and**
42 **Senior]** Human Services a special non-lapsing fund to be known as
43 the Registered Professional Guardian Fund, which shall be a
44 dedicated fund to serve as a depository for monies collected from
45 the estate of an incapacitated adult pursuant to this section. The
46 fund shall be administered by the Office of the Public Guardian for
47 Elderly Adults, and all interest on monies in the fund shall be

1 credited to the fund. The monies in the fund shall be made available
2 to the Office of the Public Guardian for Elderly Adults to be used
3 exclusively for the implementation of this act.

4 b. Sixty days after receiving plenary letters of guardianship or
5 letters of guardianship of property, a guardian appointed by the
6 Superior Court of New Jersey, with the exception of the
7 appointment of the public guardian pursuant to P.L.1985, c.298
8 (C.52:27G-20 et seq.), a guardian for a veteran pursuant to
9 N.J.S.3B:13-1 et seq. and guardianship services provided by the
10 Bureau of Guardianship Services in the Division of Developmental
11 Disabilities in the Department of Human Services pursuant to
12 P.L.1965, c.59 (C.30:4-165.1 et seq.), shall pay out of the estate of
13 the incapacitated adult a fee of \$150 to the Office of the Public
14 Guardian for Elderly Adults for deposit into the fund, except that no
15 such charge shall be made to an incapacitated adult's estate for an
16 incapacitated adult whose income is less than 150% of the federal
17 poverty level and whose assets are less than \$50,000.

18 c. If the guardian seeks an exemption from the fee based on the
19 ward's income or assets, as set forth in subsection b. of this section,
20 the guardian shall make an application to the Office of the Public
21 Guardian for Elderly Adults on forms adopted by that office.

22 d. If a guardian who is obligated to pay an assessment imposed
23 pursuant to subsection b. of this section fails to pay the assessment,
24 upon application by the Office of the Public Guardian for Elderly
25 Adults, the court shall afford the guardian notice and an opportunity
26 to be heard on the issue of default. Failure to make the assessed
27 payment when due shall be considered a default. The standard of
28 proof shall be by a preponderance of the evidence, and the burden
29 of establishing good cause for a default shall be on the guardian
30 who has defaulted. If the court finds that the guardian has defaulted
31 without good cause, the court may:

32 (1) compel the guardian of the estate to account and ascertain
33 the financial condition of the incapacitated adult's estate;

34 (2) remove the guardian;

35 (3) enter judgment against the guardian of the estate for the
36 amount of the assessment; or

37 (4) take such other action as may be permitted by law.

38 (cf: P.L.2005, c.370, s.15)

39

40 ¹[429.] 430.¹ Section 16 of P.L.2005, c.37 (C.52:27G-43) is
41 amended to read as follows:

42 16. a. The Commissioner of **Health and Senior** Human
43 Services, pursuant to the "Administrative Procedure Act," P.L.1968,
44 c.410 (C.52:14B-1 et seq.), may adopt rules and regulations
45 necessary for the implementation of this act.

46 b. The Supreme Court may adopt Rules of Court for the
47 implementation of this act.

48 (cf: P.L.2005, c.370, s.16)

1 '【430.】 431.' Section 1 of P.L.1997, c.348 (C.54:4-8.67) is
2 amended to read as follows:

3 1. As used in this act:

4 "Base year" means, in the case of a person who is an eligible
5 claimant on or before December 31, 1997, the tax year 1997; and in
6 the case of a person who first becomes an eligible claimant after
7 December 31, 1997, the tax year in which the person first becomes
8 an eligible claimant. In the case of an eligible claimant who
9 subsequently moves from the homestead for which the initial
10 eligibility was established, the base year shall be the first full tax
11 year during which the person resides in the new homestead.
12 Provided however, a base year for an eligible claimant after such a
13 move shall not apply to tax years commencing prior to January 1,
14 2009.

15 "Commissioner" means the Commissioner of **【Health and Senior**
16 **Services】** Community Affairs.

17 "Director" means the Director of the Division of Taxation.

18 "Condominium" means the form of real property ownership
19 provided for under the "Condominium Act," P.L.1969, c.257
20 (C.46:8B-1 et seq.).

21 "Cooperative" means a housing corporation or association which
22 entitles the holder of a share or membership interest thereof to
23 possess and occupy for dwelling purposes a house, apartment or
24 other unit of housing owned or leased by the corporation or
25 association, or to lease or purchase a unit of housing constructed or
26 to be constructed by the corporation or association.

27 "Disabled person" means an individual receiving monetary
28 payments pursuant to Title II of the federal Social Security Act (42
29 U.S.C. s.401 et seq.) on December 31, 1998, or on December 31 in
30 all or any part of the year for which a homestead property tax
31 reimbursement under this act is claimed.

32 "Dwelling house" means any residential property assessed as real
33 property which consists of not more than four units, of which not
34 more than one may be used for commercial purposes, but shall not
35 include a unit in a condominium, cooperative, horizontal property
36 regime or mutual housing corporation.

37 "Eligible claimant" means a person who:

38 is 65 or more years of age, or who is a disabled person;

39 is an owner of a homestead, or the lessee of a site in a mobile
40 home park on which site the applicant owns a manufactured or
41 mobile home;

42 has an annual income of less than \$17,918 in tax year 1998, less
43 than \$18,151 in tax year 1999, or less than \$37,174 in tax year
44 2000, if single, or, if married, whose annual income combined with
45 that of the spouse is less than \$21,970 in tax year 1998, less than
46 \$22,256 in tax year 1999, or less than \$45,582 in tax year 2000,
47 which income eligibility limits for single and married persons shall

1 be subject to adjustments in tax years 2001 through 2006 pursuant
2 to section 9 of P.L.1997, c.348 (C.54:4-8.68);

3 has an annual income of \$60,000 or less in tax year 2007,
4 \$70,000 or less in tax year 2008, or \$80,000 or less in tax year
5 2009, if single or married, which income eligibility limits shall be
6 subject to adjustments in subsequent tax years pursuant to section 9
7 of P.L.1997, c.348 (C.54:4-8.68);

8 as a renter or homeowner, has made a long-term contribution to
9 the fabric, social structure and finances of one or more communities
10 in this State, as demonstrated through the payment of property taxes
11 directly, or through rent, on any homestead or rental unit used as a
12 principal residence in this State for at least 10 consecutive years at
13 least three of which as owner of the homestead for which a
14 homestead property tax reimbursement is sought prior to the date
15 that an initial application for a homestead property tax
16 reimbursement is filed. A person who has been an eligible claimant
17 for a previous tax year shall qualify as an eligible claimant
18 beginning the second full tax year following a move to another
19 homestead in New Jersey, despite not meeting the three-year
20 minimum residency and ownership requirement required for initial
21 claimants under this paragraph; provided that the person satisfies
22 the income eligibility limits for the tax year. Provided however,
23 eligibility beginning in a second full tax year after such a move
24 shall not apply to tax years commencing prior to January 1, 2010.

25 "Homestead" means:

26 a dwelling house and the land on which that dwelling house is
27 located which constitutes the place of the eligible claimant's
28 domicile and is owned and used by the eligible claimant as the
29 eligible claimant's principal residence;

30 a site in a mobile home park equipped for the installation of
31 manufactured or mobile homes, where these sites are under
32 common ownership and control for the purpose of leasing each site
33 to the owner of a manufactured or mobile home for the installation
34 thereof and such site is used by the eligible claimant as the eligible
35 claimant's principal residence;

36 a dwelling house situated on land owned by a person other than
37 the eligible claimant which constitutes the place of the eligible
38 claimant's domicile and is owned and used by the eligible claimant
39 as the eligible claimant's principal residence;

40 a condominium unit or a unit in a horizontal property regime or a
41 continuing care retirement community which constitutes the place
42 of the eligible claimant's domicile and is owned and used by the
43 eligible claimant as the eligible claimant's principal residence.

44 In addition to the generally accepted meaning of "owned" or
45 "ownership," a homestead shall be deemed to be owned by a person
46 if that person is a tenant for life or a tenant under a lease for 99
47 years or more, is entitled to and actually takes possession of the
48 homestead under an executory contract for the sale thereof or under

1 an agreement with a lending institution which holds title as security
2 for a loan, or is a resident of a continuing care retirement
3 community pursuant to a contract for continuing care for the life of
4 that person which requires the resident to bear, separately from any
5 other charges, the proportionate share of property taxes attributable
6 to the unit that the resident occupies;

7 a unit in a cooperative or mutual housing corporation which
8 constitutes the place of domicile of a residential shareholder or
9 lessee therein, or of a lessee or shareholder who is not a residential
10 shareholder therein, which is used by the eligible claimant as the
11 eligible claimant's principal residence.

12 "Homestead property tax reimbursement" means payment of the
13 difference between the amount of property tax or site fee
14 constituting property tax due and paid in any year on any
15 homestead, exclusive of improvements not included in the
16 assessment on the real property for the base year, and the amount of
17 property tax or site fee constituting property tax due and paid in the
18 base year, when the amount paid in the base year is the lower
19 amount; but such calculations shall be reduced by any current year
20 property tax reductions or reductions in site fees constituting
21 property taxes resulting from judgments entered by county boards
22 of taxation or the State Tax Court.

23 "Horizontal property regime" means the form of real property
24 ownership provided for under the "Horizontal Property Act,"
25 P.L.1963, c.168 (C.46:8A-1 et seq.).

26 "Manufactured home" or "mobile home" means a unit of housing
27 which:

28 (1) Consists of one or more transportable sections which are
29 substantially constructed off site and, if more than one section, are
30 joined together on site;

31 (2) Is built on a permanent chassis;

32 (3) Is designed to be used, when connected to utilities, as a
33 dwelling on a permanent or nonpermanent foundation; and

34 (4) Is manufactured in accordance with the standards
35 promulgated for a manufactured home by the Secretary of the
36 United States Department of Housing and Urban Development
37 pursuant to the "National Manufactured Housing Construction and
38 Safety Standards Act of 1974," Pub.L.93-383 (42 U.S.C. s.5401 et
39 seq.) and the standards promulgated for a manufactured or mobile
40 home by the commissioner pursuant to the "State Uniform
41 Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.).

42 "Mobile home park" means a parcel of land, or two or more
43 parcels of land, containing no fewer than 10 sites equipped for the
44 installation of manufactured or mobile homes, where these sites are
45 under common ownership and control for the purpose of leasing
46 each site to the owner of a manufactured or mobile home for the
47 installation thereof, and where the owner or owners provide
48 services, which are provided by the municipality in which the park

1 is located for property owners outside the park, which services may
2 include but shall not be limited to:

- 3 (1) The construction and maintenance of streets;
- 4 (2) Lighting of streets and other common areas;
- 5 (3) Garbage removal;
- 6 (4) Snow removal; and
- 7 (5) Provisions for the drainage of surface water from home sites
8 and common areas.

9 "Mutual housing corporation" means a corporation not-for-profit,
10 incorporated under the laws of this State on a mutual or cooperative
11 basis within the scope of section 607 of the Langham Act (National
12 Defense Housing), Pub.L.849, (42 U.S.C. s.1521 et seq.), as
13 amended, which acquired a National Defense Housing Project
14 pursuant to that act.

15 "Income" means income as determined pursuant to P.L.1975,
16 c.194 (C:30:4D-20 et seq.).

17 "Principal residence" means a homestead actually and
18 continually occupied by an eligible claimant as his or her permanent
19 residence, as distinguished from a vacation home, property owned
20 and rented or offered for rent by the claimant, and other secondary
21 real property holdings.

22 "Property tax" means the general property tax due and paid as set
23 forth in this section, on a homestead, but does not include special
24 assessments and interest and penalties for delinquent taxes. For the
25 sole purpose of qualifying for a benefit under P.L.1997, c.348
26 (C.54:4-8.67 et seq.), property taxes paid by June 1 of the year
27 following the year for which the benefit is claimed will be deemed
28 to be timely paid.

29 "Site fee constituting property tax" means 18 percent of the
30 annual site fee paid or payable to the owner of a mobile home park.

31 "Tax year" means the calendar year in which a homestead is
32 assessed and the property tax is levied thereon and it means the
33 calendar year in which income is received or accrued.

34 (cf: P.L. 2009, c.129)

35
36 ¹[431.] 432.¹ Section 4 of P.L.1999, c.129 (C.56:8-14.5) is
37 amended to read as follows:

38 4. The Director of the Division of Consumer Affairs in the
39 Department of Law and Public Safety, in consultation with the
40 Director of the Division **[on] of Aging** **[in the Department of**
41 **Community Affairs]** Services in the Department of Human
42 Services, the directors of the New Jersey Association of Area
43 Agencies on Aging, and the New Jersey Association of County
44 Offices for Disabled Persons, shall develop and implement an
45 educational program to inform senior citizens and persons with
46 disabilities about consumer protection laws and consumer rights,
47 subject to funds made available pursuant to subsection b. of section

1 5 of P.L.1999, c.129 (C.56:8-14.6) or any other source. Functions
2 of the program may include:

3 a. The preparation of educational materials regarding consumer
4 protection laws and consumer rights that are of particular interest to
5 senior citizens and persons with disabilities and distribution of
6 those materials to the appropriate State and county agencies for
7 dissemination to senior citizens, persons with disabilities and the
8 public; and

9 b. The underwriting of educational seminars and other forms of
10 educational projects for the benefit of senior citizens and persons
11 with disabilities.

12 (cf: P.L.1999, c.129, s.4)

13

14 ¹[432.] 433.¹ Section 5 of P.L.1999, c.336 (C.56:8-96) is
15 amended to read as follows:

16 5. a. Any consumer who purchases from a pet shop an animal
17 that becomes sick or dies after the date of purchase may take the
18 sick or dead animal to a veterinarian within the period of time
19 required pursuant to the notification form provided upon the date of
20 purchase, receive certification from the veterinarian of the health
21 and condition of the animal, and pursue the recourse provided for
22 under the circumstances indicated by the veterinarian certification,
23 as required and provided for pursuant to section 4 of P.L.1999,
24 c.336 (C.56:8-95).

25 b. Upon receipt of the certification from the veterinarian, the
26 consumer may report the sickness or death of the animal and the pet
27 shop where the animal was purchased to the local health authority
28 with jurisdiction over the municipality in which the pet shop where
29 the animal was purchased is located, and to the Director of the
30 Division of Consumer Affairs in the Department of Law and Public
31 Safety. The consumer shall provide a copy of the veterinarian
32 certificate with any [such] report. The director shall forward to the
33 appropriate local health authority a copy of any [such] report the
34 division receives. The local health authority shall record and retain
35 the records of any [such] report and documentation submitted by a
36 consumer.

37 c. By the May 1 immediately following the effective date of
38 this act, and annually thereafter, the local health authority with
39 jurisdiction over pet shops shall review any files it has concerning
40 reports filed pursuant to subsection b. of this section and shall
41 recommend to the municipality in which the pet shop is located the
42 revocation of the license of any pet shop with reports filed as
43 follows:

44 (1) 15% of the total number of animals sold in a year by the pet
45 shop were certified by a veterinarian to be unfit for purchase due to
46 congenital or hereditary cause or condition, or a sickness brought
47 on by a congenital or hereditary cause or condition;

1 (2) 25% of the total number of animals sold in a year by the pet
2 shop were certified by a veterinarian to be unfit for purchase due to
3 a non-congenital cause or condition;

4 (3) 10% of the total number of animals sold in a year by the pet
5 shop died and were certified by a veterinarian to have died from a
6 non-congenital cause or condition; or

7 (4) 5% of the total number of animals sold in a year by the pet
8 shop died and were certified by a veterinarian to have died from a
9 congenital or hereditary cause or condition, or a sickness brought
10 on by a congenital or hereditary cause or condition.

11 d. By the May 1 immediately following the effective date of
12 this act, and annually thereafter, the local health authority with
13 jurisdiction over pet shops shall review any files it has concerning
14 reports filed pursuant to subsection b. of this section and shall
15 recommend to the municipality in which the pet shop is located a
16 90-day suspension of the license of any pet shop with reports filed
17 as follows:

18 (1) 10% of the total number of animals sold in a year by the pet
19 shop were certified by a veterinarian to be unfit for purchase due to
20 congenital or hereditary cause or condition, or a sickness brought
21 on by a congenital or hereditary cause or condition;

22 (2) 15% of the total number of animals sold in a year by the pet
23 shop were certified by a veterinarian to be unfit for purchase due to
24 a non-congenital cause or condition;

25 (3) 5% of the total number of animals sold in a year by the pet
26 shop died and were certified by a veterinarian to have died from a
27 non-congenital cause or condition; or

28 (4) 3% of the total number of animals sold in a year by the pet
29 shop died and were certified by a veterinarian to have died from a
30 congenital or hereditary cause or condition, or a sickness brought
31 on by a congenital or hereditary cause or condition.

32 e. Pursuant to the authority and requirements provided in
33 section 8 of P.L.1941, c.151 (C.4:19-15.8), the owner of the pet
34 shop shall be afforded a hearing and, upon the recommendation by
35 the local health authority pursuant to subsection c. or d. of this
36 section, the local health authority, in consultation with the **[State]**
37 **Department of Health [and Senior Services]**, shall set a date for the
38 hearing to be held by the local health authority or the State
39 **Department of Health [and Senior Services]** and shall notify the pet
40 shop involved. The municipality may suspend or revoke the
41 license, or part thereof, that authorizes the pet shop to sell cats or
42 dogs after **[such]** the hearing has been held and as provided in
43 section 8 of P.L.1941, c.151 (C.4:19-15.8). At the hearing, the
44 local health authority or the **[State]** **Department of Health [and**
45 **Senior Services]**, whichever entity is holding the hearing, shall
46 receive testimony from the pet shop and shall determine if the pet
47 shop: (1) failed to maintain proper hygiene and exercise reasonable

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

4 f. No provision of subsection c. shall be construed to restrict
5 the local health authority or the [State] Department of Health [and
6 Senior Services] from holding a hearing concerning any pet shop in
7 the State irrespective of the criteria for recommendation of license
8 suspension or revocation named in subsection c. or d., or from
9 recommending to a municipality the suspension or revocation of the
10 license of a pet shop within its jurisdiction for other violations
11 under other sections of law, or rules and regulations adopted
12 pursuant thereto.

13 g. No action taken by the local health authority or municipality
14 pursuant to this section or section 8 of P.L.1941, c.151 (C.4:19-
15 15.8) shall be construed to limit or replace any action, hearing or
16 review of complaints concerning the pet shop by the Division of
17 Consumer Affairs in the Department of Law and Public Safety to
18 enforce consumer fraud laws or other protections to which the
19 consumer is entitled.

20 h. The requirements of this section shall be posted in a
21 prominent place in each pet shop in the State along with the name,
22 address, and telephone number of the local health authority that has
23 jurisdiction over the pet shop, and this information shall be
24 provided in writing at the time of purchase to each consumer and to
25 each licensed veterinarian contracted for services by the pet shop
26 upon contracting the veterinarian.

27 i. The Director of the Division of Consumer Affairs may
28 investigate and pursue enforcement against any pet shop reported
29 by a consumer pursuant to subsection b. of this section.

30 (cf: P.L.1999, c.336, s.5)

31

32 ¹[433.] 434.¹ Section 4 of P.L.1999, c.174 (C.26:1A-15.3),
33 section 28 of P.L.1966 c.293 (C.52:27D-28), section 2 of P.L.1975,
34 c.36, (C.52:27D-28.2), section 1 of P.L.1985, c.357 (C.52:27D-
35 28.5), and section 29 of P.L.1966, c.293 (C. 52:27D-29) are
36 repealed.

37

38 ¹[434.] 435.¹ This act shall take effect immediately.

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