

REGULATORY AGENDA

DEPARTMENT OF AGRICULTURE AND MARKETS

Pursuant to sub-division 1 of section 202-d of the State Administrative Procedure Act, notice is hereby provided of the following rules which the Department of Agriculture and Markets is considering proposing but for which a rulemaking proceeding has not been commenced. All section and Part references are to Title 1 of the New York Code of Rules and Regulations.

DIVISION OF MILK CONTROL AND DAIRY SERVICES

Parts 2 & 3 Consider amending requirements for the production, processing and distribution of milk and milk products.

Section 2.8 Consider amending the pasteurized milk and pasteurized cultured product standards to include a zero tolerance standard for pathogenic coliform.

Part 17 Consider adoption of current federal standards of identity for milk and milk products.

Part 21 Consider amending the Western New York Milk Marketing Area to correspond with changes under the Federal Northeast Milk Marketing Area.

Part 24 Consider amending milk dealer licensing procedures to reduce certain reporting requirements for milk dealers and clarifying license classifications of such dealers.

Part 44 Consider adopting procedures for enforcement of milk price gouging prohibitions in the General Business Law.

Name of agency contact: Will Francis

Office Address: 10B Airline Drive, Albany, New York 12235

Telephone number: 518-457-1772

DIVISION OF ANIMAL INDUSTRY

Part 62 Consider adoption of requirements relating to the official identification of sheep and goats upon change of ownership to comply with the National Scrapie Program.

Part 60 Consider adoption of federal standards (UM & R) for tuberculosis testing for cattle, bison, swine, goats, and deer.

Part 61 Consider adoption of record keeping requirements for swine, cervid, camelid, goat, and sheep dealers and sanitation and record keeping requirements for poultry transporters.

Part 62 Consider amending existing Chronic Wasting Disease control provisions, to establish mandatory requirements applicable to captive cervid producers and hunting preserves.

Section 62.8 Consider adoption of requirements for the importation of deer to prevent the introduction of Chronic Wasting Disease into New York State. (Currently, a rule on the subject is in effect on an emergency basis.)

Name of agency contact: Dr. John Huntley

Office Address: 10B Airline Drive, Albany, New York 12235

Telephone number: 518-457-3502

DIVISION OF PLANT INDUSTRY

Section 95.3 Consider changing a reference to the "International Crop Improvement Association" to the organization's current name "Association of Official Seed Certifying Agencies."

Section 95.5 Consider changing the germination of vegetable seed standards for chives and upland cress, to conform with the Association of American Seed Control Officials Recommended Uniform State Seed Law.

Sections 96.12 Consider amending certified seed sample sizes to conform with other states'

& 96.14 Seed Certification Programs.

Part 127 Consider amending the Golden Nematode Quarantine areas. (Currently, a rule on the subject is in effect on an emergency basis.)

Part 153 Consider amending provisions governing the sale and analysis of commercial fertilizer to exempt certain compost products under specified conditions.

Name of agency contact: Robert Mungari

Office Address: 10B Airline Drive, Albany, New York 12235

Telephone number: 518-457-2087

BUREAU OF WEIGHTS AND MEASURES

Section 220.1 Consider changing the issuing authority for Certificates of Conformance to the National Conference on Weights and Measures under the National Type Evaluation Program and adding formal procedures to withdraw a Certificate of Type Approval.

Section 220.1 Consider granting authority to weights and measures officials to accept certain specified device types without prior approval by the Commissioner, provided the device is inspected for conformity with applicable standards and the official notifies the Commissioner.

Section 220.2 Consider adoption of the 2005 edition of NIST Handbook 44, which contains the specifications and tolerances for commercial weighing devices.

Sections 220.3, 220.4, & 220.12 Consider amending methods for collecting unpaid device testing fees and increasing fees for services.

Part 221 Consider adopting national standards, based on "NIST Handbook 130," for commodity labeling and methods of sale for foods and consumer commodities under the Department's jurisdiction.

Section 221.11 Consider adoption of the 2005 Edition of NIST Handbook 133 relating to procedures for testing packaged commodities.

Name of agency contact: Ross Andersen

Office Address: 10B Airline Drive, Albany, New York 12235
Telephone number: 518-457-3146

DIVISION OF FOOD SAFETY AND INSPECTION

- Part 245 Consider amending sanitation requirements for small animal slaughterhouses.
- Part 257 Considering amending requirements for the manufacture and distribution of commercial feed to exempt certain commercial feed manufacturers from facility registration requirements.
- Part 259 Consider adoption of federal standards (21 CFR Part 101) relative to the labeling of untreated fruit juices.
- Part 260 Consider adoption of federal standards (21 CFR Part 120) relative to the manufacturing of fruit juices.
- Part 262 Consider adoption of federal standards (21 CFR Part 123) relative to Fish and Fishery Products.

Name of agency contact: Joseph Corby
Office Address: 10B Airline Drive, Albany, New York 12235
Telephone number: 518-457-4492

EXECUTIVE DIVISION

- Parts 360 & 365 Consider amending regulations relating to public access to Department records.

Name of agency contact: Joan A. Kehoe
Office Address: 10B Airline Drive, Albany, New York 12235
Telephone number: 518-457-1059

**DIVISION OF AGRICULTURAL PROTECTION
AND DEVELOPMENT**

- Part 206 Consider adoption of a research and development market order for peaches and nectarines.
- Part 207 Consider adoption of a research and development market order for sweet cherries.
- Part 208 Consider adoption of a research and development market order for tart cherries.

Name of agency contact: William Kimball
Office Address: 10B Airline Drive, Albany, New York 12235
Telephone number: 518-457-7076

BANKING DEPARTMENT

First Half 2005

The New York State Banking Department is planning to seek comments on the following proposals:

1. Amendments to Part 14 of the General Regulations of the Banking Board (Investments in Corporations by Banks and Trust Companies) pertaining to investments by banks in subsidiary corporations, to cover various additional investments, such as investments in limited liability companies, joint ventures, trusts and minority-ownership investments; as well as review and possible updating of prior and after-the-fact notice procedures in Part 14.

2. Addition of new Part 414 to the Superintendent's Regulations to implement reporting requirements regarding instances of fraud or larceny in connection with a mortgage loan.

3. Addition of new Part 315 to the Superintendent's Regulations to determine eligibility of a bank or trust company to participate in a community bank deposit program established by Article 15-A of the New York State Finance Law, which authorizes the State Comptroller and the State Commissioner of Taxation and Finance to deposit state funds in community banking institutions that evidence a high degree of service to their local communities, in order to enhance the ability of such institutions to engage in commercial lending and promote economic development within their communities.

4. Addition of new Part 305 to the Superintendent's Regulations to make applicable to various entities chartered, licensed or registered by

the New York State Banking Department a suspicious activity reporting ("SAR") requirement under New York State law identical to that imposed by federal law.

5. Addition of new Parts 342 and 416 to the Superintendent's Regulations requiring the Department to consider money laundering compliance in all chartering, licensing, merger, change in control and branching applications filed with the Department.

6. Addition of new Parts 343 and 417 to the Superintendent's Regulations (Licensed Cashers of Checks) requiring institutions licensed or chartered by the Department to maintain Bank Secrecy Act and OFAC compliance programs.

7. Amendments to Part 406 of the Superintendent's Regulations (Money Transmitters) to provide standards for the use of agents and subagents by licensed money transmitters.

8. Amendments to Part 38 of the General Regulations of the Banking Board (Definitions of Terms; Advertising; Application and Commitment Disclosures and Procedures; Improper Conduct under Article 12-D) to add a definition of "electronic loan solicitation branch" and to formalize the definitions of "net branch" and "application." There also would be an accompanying proposal to amend Part 410.6 of the Superintendent's Regulations (Branch application; investigation fees; annual branch fees) to add electronic loan solicitation branches.

9. Amendments to Supervisory Procedure CB 105 (Application for Approval of the Formation of a Bank Holding Company, the Expansion of an Existing Bank Holding Company, the Voting by a Bank Holding Company of the Stock of a Banking Subsidiary, a Merger, a Consolidation, or a Purchase of Assets) to clarify the applicability of portions thereof to particular types of transactions.

10. Amendments to Supervisory Procedure CB 117 (Application for Companies Seeking to Acquire or Exercise Control of a Banking Institution Under Banking Law Section 143-b) to reflect current practice regarding waiver of particular information and/or acceptance of federal application information in its stead.

11. Amendments to Part 16 of the General Regulations of the Banking Board (Certain Mergers and Acquisitions of Assets involving Banking Institutions) regarding interstate transactions.

12. Addition of new Part 404 to the Superintendent's Regulations to set forth the requirements and standards of operation for entities licensed under Article 12-C of the New York Banking Law to conduct the business of budget planning when the licensees use the services of third party entities in making payments of debtor funds to creditor of the debtors. These amendments were adopted on December 9, 2004 on an emergency basis.

13. Amendments to Part 41 of the General Regulations of the Banking Board (Restrictions and Limitations on High Cost Loans) to ensure compliance with recently enacted predatory lending legislation. These amendments were adopted on November 25, 2004 on an emergency basis.

14. Amendment to Part 6 of the General Regulations of the Banking Board regarding extending the 23A "sister bank" exemption to New York State Banking Law Section 103 lending limit.

15. Amendments to Part 82 of the General Regulations of the Banking Board (Alternative Mortgage Instruments) to increase the loan-to-value ratio of up to 103% on alternative rate mortgage instruments to achieve parity with national banks.

16. Amendment to Part 32 of the General Regulations of the Banking Board regarding the ability of certain banking institutions to impose either a one-time fee or a daily maintenance fee in addition to a one-time fee when they pay checks for checking account customers who do not have overdraft loan agreements.

17. Amendments to Part 6 of the General Regulations of the Banking Board regarding wildcard action concerning the number of board meetings for savings banks and savings and loan associations.

18. Amendments to Part 6.5 of the General Regulations of the Banking Board regarding self-certification of investments in community development entities or projects to achieve parity with OCC regulations.

19. Amendments to Parts 80, 82, 84, and 96 of the General Regulations of the Banking Board (Mortgage Lending) regarding making appraisal requirements consistent with federal appraisal requirements.

20. Addition of new Part 6.7 to the General Regulations of the Banking Board implementing the wild card authority to permit underwriting of certain government securities, including municipal revenue bonds by New York banks and trust companies to the same extent as national banks.

21. Amendments to Part 73 of the General Regulations of the Banking Board (Electronic Facilities) and Supervisory Procedures CB 103, SB 101, SL 101 and G 108 to simplify branch application procedures and provide for expedited service for well-managed, well-capitalized institutions.

22. Amendments to Part 406 of the Superintendent's Regulations (Money Transmitters) to establish new reporting requirements for licensed money transmitters in order to provide the Department with more timely information on the business activities and financial status of the licensees.

23. Addition of new Part 114 to the General Regulations of the Banking Board regarding supervision and regulation of Article XII investment company holding companies and their subsidiaries for purposes of the European Union Financial Conglomerates Directive. These amendments were adopted on December 1, 2004 on an emergency basis.

24. Amendments to Part 400 of the Superintendent's Regulations (Licensed Cashers of Checks) implementing L. 2004, Ch. 432 regarding the regulation of commercial check cashing and changing signage requirements for check cashers. These amendments were adopted on October 14, 2004 on an emergency basis.

25. Amendments to Parts 95, 96, 97 and 113 of the General Regulations of the Banking Board and the addition of new Parts 326 and 327 to conform the regulations to the provisions of L.2003, ch.679 which are intended to provide New York chartered credit unions with powers comparable to, and competitive with, federally chartered credit unions. These amendments were adopted on October 21, 2004 on an emergency basis.

Contact Person: Sam L. Abram, Secretary of the Banking Board, One State Street, New York, NY 10004, (212) 709-1658.

OFFICE OF CHILDREN AND FAMILY SERVICES

January 1, 2005 –June 30, 2005

Pursuant to subdivision 1 of section 202-d of the State Administrative Procedure Act (SAPA), notice is hereby provided of the following rules, which the Office of Children and Family Services (OCFS) is considering proposing but for which a rulemaking proceeding has not been commenced. The public is welcome to send written comments on the OCFS Regulatory Agenda to the contact person at the end of this list.

Below is a brief description of the regulations, by subject matter, that are under consideration by OCFS:

Child Care Services

Amending the regulations to clarify the day care licensing regulations governing administration of medications concerning administration of over-the-counter medications, use of stocked medications, and documentation of changes in instructions on the administration of medications, and to clarify ambiguity concerning which persons are subject to criminal history review requirements.

Amending the child care subsidy market rate regulations in accordance with federal requirements.

Child Welfare Services

Amending the regulations to implement the Child Welfare Financing legislation including: revising the standards for independent living services; adding provisions authorizing OCFS to award incentives to, and impose fiscal penalties against, social services districts based on their compliance with federal performance outcomes and standards; adding provisions authorizing OCFS to impose fiscal penalties against voluntary child care agencies operating residential foster care programs for the failure to comply with licensing and operating standards; and revising the provisions governing reimbursement for and the purchase of child welfare services.

Amending the regulations regarding foster family boarding homes to require safety plans for the safe evacuation of children and adults in the case of fire or other emergencies.

Amending the regulations regarding residential care for children to achieve greater consistency among the operational standards for programs directly operated by OCFS and programs licensed by OCFS, to clarify and streamline requirements, and to authorize the dual use of certain programs.

Amending the regulations regarding residential foster care programs concerning overnight supervision.

Amending the regulations regarding residential foster care programs for adolescents regarding operational standards, including banning smoking by adolescents in such residences.

Amending the regulations regarding Supervised Independent Living Programs to incorporate new statutory provisions established by Chapter 160 of the Laws of 2004.

Amending the regulations to expand the circumstances under which a foster home may receive emergency approval/certification.

Amending the Uniform Case Recording (UCR) regulations in 18 NYCRR Parts 428 and 429 and the Service Plan requirements in 18 NYCRR Part 428 to improve the usefulness of the documents and to make them consistent with the requirements of the Adoption and Safe Families Act and the Family Court forms promulgated by Office of Court Administration.

Amending 18 NYCRR Part 426 regarding eligibility for Title IV-E foster care and adoption assistance to reflect changes in the federal requirements.

Amending the adoption subsidy regulations to exempt adoption subsidy payments made on behalf of a child who is later placed in foster care from child support enforcement collection when such an exemption is in the best interests of the child.

Amending the adoption subsidy regulations to address the issue of the ability to pay adoption subsidies to persons who are approved as adoptive parents without having been previously approved as foster parents.

Amending the regulations to require the continuation of adoption facilitation activities while a foster child is in an Office of Mental Retardation and Developmental Disabilities (OMRDD) or Office of Mental Health (OMH) facility.

Amending the regulations regarding discharge to adoption to expedite permanent placements for children.

Juvenile Justice Residential Services

Amending the regulations to clarify the status of, and procedures necessary for, youth who are away without leave from a facility operated by OCFS.

Amending the regulations to eliminate the Independent Review Board (IRB), so that this function may be performed by a committee of the OCFS Advisory Board.

Amending the regulations regarding visitation to residents of facilities operated by OCFS.

Amending the regulations regarding resident rules to define more clearly prohibitions against gang-related behavior.

Amending the regulations regarding telephone calls to and from residents of facilities operated by OCFS.

Amending the regulations regarding the sending and receiving of mail by residents of OCFS facilities.

Amending the regulations on personnel searches to expand the scope beyond secure facilities to limited secure and non-secure OCFS facilities.

Amending the regulations governing Good Behavior Allowances for juvenile offenders.

Amending the regulations regarding disciplinary actions in OCFS-operated secure facilities to modify the penalty structure and time in which a resident may appeal his or her penalty.

Detention Services

Amending the regulations regarding juvenile detention facilities to establish cost standards and reporting requirements for secure and non-secure detention programs.

Amending the regulations regarding juvenile detention facilities to provide for a methodology to assess the need for new juvenile detention capacity as a criterion for issuing operating certificates.

Amending the regulations regarding secure and non-secure juvenile detention facilities pertaining to the implementation of fiscal sanctions for non-compliance with juvenile detention regulations and the provision of administrative hearings to challenge enforcement actions taken by OCFS.

Preventive Services

Amending the regulations regarding residential programs for victims of domestic violence regulations regarding the disclosure of the location or address of a domestic violence shelter, pursuant to Social Services Law section 459(h).

Positive Youth Development

Amending 9 NYCRR Part 182 concerning runaway and homeless youth to strengthen standards regarding health and safety.

Protective Services for Adults

Amending 18 NYCRR Part 457 regarding Protective Services for Adults to clarify that social services district staff are authorized under law to have access to financial information from banks concerning adult protective services clients without the need of consent from the client for the purpose of determining if the client is the victim of financial exploitation.

Amending 18 NYCRR Part 489 regarding Family Type Homes for Adults concerning admission standards, supervision, furnishings and equipment, safety procedures, personnel and special needs functions. Bureau of Special Hearings

Amending the regulations governing the procedures used in hearings conducted by the Bureau of Special Hearings pursuant to Articles 2, 5, 6 and 7 of the Social Services Law.

General Administrative Regulations

Amending the regulations regarding Freedom of Information Law (FOIL) and Personal Privacy Protection Act (PPPA) requests or disclosures.

Amending the regulations regarding health screening for prospective and current employees having regular and substantial contact with children in programs directly operated by OCFS and programs licensed or supervised by OCFS.

Any questions or comments concerning the items listed in this agenda should be referred to:

Kathleen R. DeCataldo

Director of Legislation and Special Projects

Office of Children and Family Services

52 Washington Street, Room 135N

Rensselaer, NY 12144

Telephone: (518) 473-9551

Email address: GG5107@dfa.state.ny.us

EDUCATION DEPARTMENT

Pursuant to section 202-d of the State Administrative Procedure Act, the State Education Department presents its regulatory agenda for the calendar year 2005. All section and part references are to Title 8 of the New York Code of Rules and Regulations. The State Education Department reserves the right to add, delete or modify, without further notice, except as required by the State Administrative Procedure Act, any item or information presented herein as relating to the 2005 Regulatory Agenda.

OFFICE OF ELEMENTARY, MIDDLE, SECONDARY AND CONTINUING EDUCATION

Amendment to section 100.2(p) of the Commissioner's Regulations relating to the definition of annual high school and high school alternative cohorts.

Amendment to Part 100 of the Commissioner's Regulations relating to the State learning standards for mathematics.

Amendment to Part 100 of the Commissioner's Regulations relating to general education requirements for middle-level education and schools with middle-level grades to implement Regents policy.

Amendment to Section 114.3 of the Commissioner's Regulations relating to the bidding exemption for direct purchasing for a school food service program.

Amendment to Part 100 of the Commissioner's Regulations relating to diploma and graduation requirements to implement Regents policy.

Amendment to Section 100.2 of the Commissioner's Regulations to align the regulations with amendments to the State's No Child Left Behind accountability plan and to reflect implementation of the grades 3-8 annual testing in English language arts and mathematics.

Amendment to Section 100.2 (gg) of the Commissioner's Regulations to create more specific categories of violent incidents for the Uniform Violent Incident Reporting System and to establish clearer definitions within those categories.

Amendment to Section 104 of the Commissioner's Regulations relating to pupil attendance and the reporting of truancy rates as required under the No Child Left Behind Act.

Agency Representative:

Information may be obtained, and written comments may be submitted, concerning any of the above proposed amendments by contacting: James A. Kadamus Deputy Commissioner New York State Education Department Office of Elementary, Middle, Secondary and Continuing Education Room 875 EBA Albany, New York 12234 (518) 474-5915

Amendment to the Commissioner's Regulations to conform to Chapter 91 of the Laws of 2002 and Chapter 123 of the Laws of 2003, relating to New York City School District governance.

Amendment to Part 113 of the Commissioner's Regulations relating to the powers and duties of the New York City Board of Education in determining certain appeals.

Amendment to Parts 275 and 276 and section 100.2(x) of the Commissioner's Regulations relating to procedures for appeals involving homeless children brought pursuant to Education Law section 310. Agency Representative:

Information may be obtained, and written comments may be submitted, concerning the above-proposed amendments by contacting: Kathy A. Ahearn Chief of Staff and Counsel and Deputy Commissioner for Legal Affairs New York State Education Department State Education Building, Room 148 Albany, New York 12234 (518) 474-6400 legal@mail.nysed.gov

OFFICE OF HIGHER EDUCATION

Amendment to Part 30 of Commissioner's Regulations to align Part 30 tenure areas with the Part 80 certificate titles.

Amendment to Part 80-3 of Commissioner's Regulations relating to the preparation, certification and assessment requirements for school leaders.

Amendment to Part 80-1.7 of Commissioner's Regulations to extend an option to renew a lapsed provisional certificate for administrative and support personnel.

Amendment to Part 80 of Commissioner's Regulations relating to Pupil Personnel Service certification.

Amendment to Part 80-3 of Commissioner's Regulations to establish certification requirements for school educational interpreters.

Amendment to Part 80-5.12 of Commissioner's Regulations to extend authority for districts to apply for experiment in organization for middle school after February 1, 2004.

Amendment to Part 80-3.10 of Commissioner's Regulations to provide an expedited pathway for licensed psychologists to acquire certification as school psychologists plus access to bilingual extension.

Amendment to Part 87 of Commissioner's Regulations relating to oral arguments.

Amendment to part 80-5.6 of Commissioner's Regulations relating to the duration of the Teaching Assistant- Level 1 certificate.

Amendment to Part 80-2.3 of Commissioner's Regulations relating to School Social Worker certification.

Amendment to Part 126 of Commissioner's Regulations to formally set forth the five tenths of one percent gross tuition assessment for ESL schools, assigning three tenths of that one percent of that one percent to the Tuition Reimbursement Account (TRA) and the remaining two tenths to the Bureau of Proprietary School Supervision; set forth different assessment calculations for ESL schools which operated prior to certification as opposed to those that did not; and clarify the assessment calculations for new private schools, business schools, and computer training facilities that did not operate prior to licensure/registration.

Amendment to Part 52 relating to the certification examination requirement for program completion.

Agency Representative

Information may be obtained, and written comments may be submitted, concerning the above-proposed amendments by contacting: Johanna Duncan-Poitier Deputy Commissioner Office of Higher Education and Office of the Professions New York State Education Department West Wing, Second Floor Mezzanine Albany, New York 12234 (518) 474-3862

OFFICE OF PROFESSIONAL EDUCATION

Amendment to section 3.57(b) of the Rules of the Board of Regents, conferring the Doctor of Medicine degree, to eliminate the requirement of three years of licensed practice.

Amendment to Part 17 of the Rules of the Board of Regents to conform to the new three member panel law.

Amendment to Part 18 of the Rules of the Board of Regents relating to the provision of services to nurses with substance abuse problems.

Amendment to Part 24 of the Rules of the Board of Regents relating to the application period for the restoration of professional licenses.

Amendment to Part 24 of the Rules of the Board of Regents relating to the waiver of citizenship requirement for licensure in veterinary medicine, dentistry, dental hygiene and pharmacy.

Amendment to Part 28 of the Rules of the Board of Regents relating to the determination of good moral character to streamline current procedures and processes.

Amendment to Part 29 of the Rules of the Board of Regents relating to misconduct rules for newly created professionals.

Amendment to Part 29 of the Rules of the Board of Regents relating to the packaging and dispensing of certain pharmaceuticals.

Amendment to Part 29 of the Rules of the Board of Regents and Part 70 of the Commissioner's Regulations relating to unprofessional conduct with respect to experience and endorsement requirements.

Amendment to Part 31 of the Rules of the Board of Regents relating to the prohibition against illegal practice.

Amendment to Part 52 of the Commissioner's Regulations relating to the qualifications of licensure qualifying programs.

Amendment to Part 59 of the Commissioner's Regulations relating to the general licensing provisions for the professions.

Amendment to Part 64 of the Commissioner's Regulations relating to the provision of services by nurse practitioners (elimination of alternate criteria for nurse practitioners).

Amendment to Part 70 of the Commissioner's Regulations relating to auditor independence and practice quality controls in public accountancy.

Amendment to Part 73 of the Commissioner's Regulations relating to education and examination requirements for licensure in chiropractic.

Amendment to Part 74 of the Commissioner's Regulations relating to the implementation of the newly created professions of Licensed Master Social Worker, Licensed Clinical Social Worker, Licensed Marriage and Family Therapist, Licensed Mental Health Counselor, Licensed Psychoanalyst and Licensed Creative Arts Therapist.

Amendment to Part 75 of the Commissioner's Regulations relating to education and experience standards for speech- language pathology and audiology.

Amendment to Part 76 of the Commissioner's Regulations relating to the supervision of occupational therapy assistants.

Amendment to Part 78 of the Commissioner's Regulations relating to licensure by endorsement in the profession of massage therapy. Agency Representative:

Information may be obtained, and written comments may be submitted, concerning any of the above-proposed amendments by contacting: Johanna Duncan-Poitier Deputy Commissioner Office of Higher Education and Office of the Professions New York State Education Department State Education Building West Wing, Second Floor Mezzanine Albany, NY 12234 (518) 474-3862

OFFICE OF VOCATIONAL AND EDUCATIONAL SERVICES FOR INDIVIDUALS WITH DISABILITIES

Amendment to Part 101 of the Commissioner's Regulations to repeal exemptions from attendance for students with disabilities.

Amendment to section 200.3 of the Commissioner's Regulations, relating to the additional parent member on the Committee on Special Education to conform to Chapter 194 of the Laws of 2004.

Amendments to sections 200.1-200.16 and Part 201 of the Commissioner's Regulations, relating to definitions, board of education responsibilities, committees on special education, evaluations, development and implementation of the individualized education program (IEP), procedural due process, continuum of services, the provision of education services to preschool students with disabilities and discipline provisions as may be required to conform to amendments to the Individuals with Disabilities Education Act.

Amendment to sections 200.1 and 200.6(d) through (h) of the Commissioner's Regulations, relating to special classes, transitional support services and minimum levels of service for resource room, consultant teacher and speech and language therapy.

Amendment to sections 200.2(d), and 200.6(i) of the Commissioner's Regulations, relating to a school district placement of a student with a disability in an in-state or out-of-state school.

Amendment to sections 200.2 and 200.16 of the Commissioner's Regulations, relating to the role of school districts in providing special

education services and programs to preschool children in accordance with section 4410.2 of the Education Law.

Amendment to sections 200.4 and 200.5 of the Commissioner's Regulations to mandate the format for required special education forms and notices and the individualized education program (IEP).

Amendment to section 200.7(a)(2)(i) and (ii) of the Commissioner's Regulations, relating to the approval process for the private schools for reimbursement with public funds, eliminating conditional approval and revising the site visit requirements.

Amendment to section 200.21 of the Commissioner's Regulations, relating to impartial hearing officer compensation rates.

Amendment to Part 200 of the Commissioner's Regulations to add a new section 200.22, relating to State monitoring, enforcement and technical assistance to school districts.

Amendment to Part 247 of the Commissioner's Regulations, relating to the vocational rehabilitation program operated pursuant to Title I of the Rehabilitation Act, as may be appropriate in order to conform to possible changes made when Congress reauthorizes that act.

Agency representative:

Information may be obtained, and written comments may be submitted, concerning any of the above-proposed amendments by contacting: Rebecca Cort Deputy Commissioner New York State Education Department Office of Vocational and Educational Services for Individuals with Disabilities One Commerce Plaza, Room 1606 Albany, New York 12234 (518) 474-2714 rcort@mail.nysed.gov

OFFICE OF CULTURAL EDUCATION

Amendment to sections 3.27 and 3.30 of the Rules of the Board of Regents, relating to the chartering and registration of museums and historical societies, to clarify the standards that museums and historical societies must meet to obtain an absolute charter; provide that all-volunteer-run historical societies without a collection may be incorporated by the Regents rather than chartered; provide a process every five years to certify that institutions holding an absolute charter continue to meet Regents standards; and provide a peer review process in which institutions are visited, advised and assisted by qualified professionals from neighboring institutions.

Agency Representative:

Information may be obtained, and written comments may be submitted, concerning any of the above-proposed amendments by contacting: Clifford A. Siegfried, Assistant Commissioner and Director New York State Museum Room 3140 Cultural Education Center Albany, NY 12230 Phone (518) 474-5812

Amendment to Parts 185 and 188 of the Commissioner's Regulations relating to Local Government Records Management and State Agency Records Management to update and correct various requirements affecting the management of records, including revising technical language, removing outdated requirements, authorizing the disposition of paper original or micrographic copies of records having a retention period of 10 years or more when those records are replaced by digitized images, and authorizing local governments to use locally-developed retention and disposition schedules in lieu of or in conjunction with schedules issued by the Commissioner provided that the consent of the Commissioner is obtained.

Amendment to section 188.21 of the Commissioner's Regulations relating to fees for records management services to State agencies, to make necessary changes and updates to the list of annual fixed fees paid by State agencies and to the charges for storage of records in the records center facility operated by the State Archives.

Agency Representative:

Information may be obtained, and written comments may be submitted, concerning the above-proposed amendments by contacting: Christine Ward Assistant Commissioner for the State Archives New

York State Education Department State Archives Room 9C35 Cultural Education Center Empire State Plaza Albany, New York 12230 (518) 474-6926

Amendment to Part 90 of the Commissioner's Regulations relating to library and library system programs and services.

Agency Representative:

Information may be obtained, and written comments may be submitted, concerning the above-proposed amendment by contacting: Janet M. Welch State Librarian and Assistant Commissioner for Libraries New York State Education Department Office of Cultural Education New York State Library, Room 10C34 Empire State Plaza Albany, New York 12230 (518) 474-5930 jwelch2@mail.nysed.gov

OFFICE OF MANAGEMENT SERVICES

Amendment to the Commissioner's Regulations pursuant to the Electronic Signatures in Global and National Commerce Act (P.L. 106-229) relating to performance standards to ensure accuracy, record integrity and accessibility of records that are required to be retained.

Agency Representative:

Information may be obtained, and written comments may be submitted, concerning the above-proposed amendment by contacting: David Walsh Chief Information Officer New York State Education Department Office of Management Services State Education Building, Room 121 Albany, New York 12234 (518) 486-1702

Amendment to the Commissioner's Regulations relating to school district payments to charter schools for educational costs, pursuant to section 102 of Part H of Chapter 83 of the Laws of 2002.

Agency Representative:

Information may be obtained, and written comments may be submitted, concerning the above-proposed amendment by contacting: Burt Porter New York State Education Department State Education Building, Room 139 Albany, New York 12234 (518) 486-2422

DEPARTMENT OF HEALTH

The following rules are under consideration for submission as a Notice of Proposed Rulemaking during the calendar year January 2005:

DESCRIPTION OF THE RULE SUBJECT MATTER

Title 10 NYCRR

2.1 Reportable Communicable Diseases - Addition of laboratory-confirmed influenza as a reportable disease.

2.1 and 2.5 Reportable Communicable Diseases - Addition of vibriosis, Vancomycin-intermediate resistant *Staphylococcus aureus* (VISA), Vancomycin-resistant *Staphylococcus aureus* (VRSA), Shiga toxin-producing *Escherichia coli* (STEC), transmissible spongiform encephalopathy (TSE), and varicella as reportable diseases.

2.14 Communicable Diseases - Rabies regulations will be updated to be consistent with changes enacted to the Public Health Law in December 2002. The regulations will provide new definitions, and clarification of requirements for reporting, authorization of treatment, release of information, confinement and observation, exceptions to euthanasia and testing, and animal vaccinations.

2.19 Reporting Cases or Suspect Cases of Communicable Disease by Laboratories - Utilization of the Electronic Clinical Laboratory Reporting System (ECLRS) by laboratories to meet their public health reporting requirements for Communicable Disease reporting.

2.58 Communicable Diseases - Current regulations place restrictions on the sale of turtles by size to prevent transmission of salmonellosis and other diseases, and have requirements for public posting of warnings. Due to recognition of many disease outbreaks from other reptiles, the regulation will be updated by including all reptiles in the requirement for posting of warnings, and includes a new requirement to provide warnings at the point of sale. Section 2.58 will be revised to

remove veterinarians and pediatricians from the requirement to provide disease information to owners and potential purchasers of reptiles. It is the intent of the Department of Health to regulate sellers of reptiles and not physicians.

5-1 Public Water Systems - Amend to incorporate mandatory federal regulations revising the maximum contaminant level for arsenic and requirements for new source contaminant monitoring; revising the provisions applicable to variances and exceptions; updating provisions pertaining to control of lead and copper in public water supply systems; and updating and clarifying specific code references.

5-1 Public Water Systems - Revise to incorporate mandatory federal regulations revising the maximum contaminant level for radionuclides.

5-1 Public Water Systems - Amend to incorporate mandatory federal regulations to improve control of microbial pathogens (LT2ESWTR) while limiting risks associated with the formation of and exposure to disinfection byproducts (Stage 2 D/DBP).

5-1 Public Water Systems - Amend to incorporate mandatory federal regulations to protect against microbial pathogens in drinking water from ground water sources.

5-6 Bottled and Bulk Water Standards - Modify to be consistent with FDA standards.

6-1 Swimming Pools - Update pool design standards reflecting new technologies and processes.

7-1 Temporary Residences - Amend to remove campground specific requirements contained in Section 7-1.60, which are now contained in a separate Subpart 7-3. Amend and update fire safety requirements to reflect statewide applicability, of the Uniform Fire Prevention and Building Code to new construction.

7-4 Mass Gatherings - Create new Subpart to include the provisions for mass gatherings currently included as part of Subpart 7-1. Revise various sections to better address crowd control, camping and installation and maintenance of services and facilities.

8 Nuisances - Modify to address current needs/concerns of local health departments.

11 Qualifications of Public Health Personnel - This section provides job titles and minimum job qualifications for local health department personnel. The section, last updated in 1979, needs to be reviewed and updated to ensure that minimum qualifications for the positions of public health nurse, health educator, and environmental health titles are appropriate to meet the infrastructure needs of effective local public health systems.

14-1, 14-2, 14-4, 14-5 Food Protection - Modify requirements and create a more user-friendly document; exempt certain operators and rescind certain provisions, address legislative mandate regarding food worker training courses.

16 Radiation Equipment - Revise to eliminate obsolete language and conflicts with the Federal Mammography Quality Standards Act, to require information showing the efficacy of the proposed screening program prior to department approval.

16 Radiation Therapy - Reduce the required frequency for external audits from annual to biennial. Change the requirements to eliminate reports of certain misadministration (fractional doses). Revise reporting requirements to be consistent with NYPORTS.

16 Compatibility/Updates - Add/amend requirements for standards for decommissioning, reporting, transportation, waste disposal, definitions and human research to be compatible with federal regulations and replace outdated requirements.

16 Dental Radiographic - Revisions to bring up to date equipment requirements and to codify long-standing standards for basic quality control for dental x-ray facilities. Includes basic quality control requirements for dental x-ray films, patient radiation exposure limits for intra-oral dental equipment, requirements for computed tomography

unit used for maxillofacial and/or dental examinations and an exemption for a positive pressure timer requirement for computed tomography (CT) units.

17 Mobile Home Parks - Update regulations and consider revision.

19 Limited Testing Site Directors - Establish qualifications for directors of clinical laboratories that limit their services to CLIA-designated waived tests and provider-performed microscopic procedures.

34 Health Care Practitioner Referrals and Laboratory Business Practices - Technical amendments to align with federal compensation arrangement exceptions.

40 State Aid for Public Health Services: Counties and Cities - This section is written pursuant to Article 6 of the Public Health Law and provides general provisions for the administration of the General Public Health Work program, performance standards for basic and optional public health services, and describes the fees to be collected by the Department of Health. This section was last updated in 1988 and needs to be reviewed and updated to ensure that the information within reflects the current practice of public health.

52-11 Non-Transplant Anatomic Banks - Establish standards for acquisition and use of whole bodies and body segments for research and educational purposes.

53 State Revolving Fund Scoring Criteria - Revise existing regulations to amend the scoring criteria to 1) accommodate priority ranking to residential housing served by private wells into agreement with criteria for existing water supply systems and 2) promote projects intended to improve PWS security against terrorism/vandalism.

57 Rabies - Obsolete administrative requirements for dogs at large in rabies designated areas will be removed, and replaced with regulations to clarify administrative issues for reporting, cost responsibility, and reimbursement of rabies expenses.

58-1 Clinical Laboratories - Reorganize and consolidate existing requirements for clarity, codify QA, PT and other requirements to align with CLIA; establish standards for a multiple-site permit; and establish standards for tracking and referral of clinical specimens and isolates testing presumptively positive for a critical agent.

58-1 Clinical Laboratories - Codify policy for Department evaluation of technical and clinical validity of laboratories' analytical methods and approval of laboratories to offer validated tests.

58-1 Clinical Laboratories - Establish permit qualifications and record keeping standards for clinical laboratories that limit their services to CLIA-designated waived tests and provider-performed microscopic procedures.

58-1 Clinical Laboratories - Establish cytotechnologist work standard for cytotechnologists using automated devices for the examination of cytological material (Pap smears).

58-2 Blood Banks - Technical amendments for collection, processing, testing, and storage of blood and blood components; labeling of blood specimens intended for pre-transfusion testing; and equipment calibration, temperature and record keeping requirements. Amend qualifications of cytopheresis collection site staff, and lower blood donation level to 16 years with parental/guardian consent and notification of parent/guardian of positive test results.

58-4 Direct Access Testing - Establish record keeping and reporting standards for direct access testing, a business model for clinical laboratories authorized by Chapter 572 of the Laws of 2002.

59 Chemical Analyses Of Blood, Urine, Breath Or Saliva For Alcoholic Content - Technical amendments to provisions for breath alcohol testing to simplify enforcement of Vehicle and Traffic Law; codify list of approved ignition interlock devices and delete references to expired pilot program; and codify NHTSA model specifications for device certification.

66-1.1 WIC Program Violations and Hearings - Modify provisions related to WIC food vendor enrollment criteria, violations & sanctions and WIC participant violations & sanctions. These changes are required to conform with federal changes in 7 CFR 246 establishing nationally uniform vendor and participant violations & sanctions for the WIC program.

66-1.1 thru 66-1.10 and 66-2.1 through 66-2.9 Immunizations - Various regulatory changes are proposed to delete obsolete technical information, update immunization recommendations, revise language related to medical exemptions and to the annual school immunization survey requirements, and ensure consistency in regulations.

67-2 Lead Poisoning Control - Revise and update regulation to be consistent with federal regulations and guidelines on environmental assessment and abatement.

67-3 Laboratory reporting of blood lead levels for public health follow-up - Revise and update regulation to establish mandatory electronic reporting of blood lead test results. Add/amend reporting format. Add provisions for noncompliance with reporting in a format prescribed by the Commissioner of Health. Strengthen language clarifying obligation of health care provider, and when a laboratory refers a blood lead sample to another laboratory for analysis to facilitate follow-up of elevated individuals.

69-1 Newborn Screening - Expand the Department's Newborn Screening Panel to include tests for inborn errors of metabolism that result in abnormalities including organic acidemias; fatty acid oxidation disorders; and amino acid disorders.

69-4 Early Intervention Program - Include a reimbursement methodology for paraprofessionals that deliver behavioral therapies to children with autism.

69-4 Early Intervention Program - Regulations need to be reviewed and updated to be consistent with recently enacted changes to the Public Health Law. Conforming regulations will address new requirements related to transition procedures for children aging-out of the Early Intervention Program; procedures for IFSP amendments; collection of insurance information and social security numbers from parents for eligible children; establishment of standards for evaluators, service coordinators, and providers of early intervention services; approval and periodic re-approval of evaluators, service coordinators, and providers of early intervention services who meet Department standards; Department auditing procedures; and, fiscal management and claiming standards. In addition, regulations may need to be revised to conform with legislation currently pending with respect to several aspects of the Early Intervention Program, if enacted by the Legislature and Governor.

69-4 Early Intervention Program - Include standards for behavioral aids, approval of providers, and reimbursement methodology to deliver for delivery of behavioral therapies to children with autism.

69-4 Early Intervention Program - Amend regulations to include or clarify programmatic and reimbursement requirements for the program, including at a minimum the following: criteria for eligibility and ongoing eligibility; criteria for referral of children at risk for disability; criteria and procedures for sanctioning and disqualification of evaluators, service coordinators, and providers of early intervention services; health and safety standards to be maintained by service providers; requirements for documentation of records and record retention; mediation and impartial hearing procedures; service taxonomy definitions; and billing rules for early intervention services.

70 Management of Regulated Medical Waste - An amendment is being proposed to the Department's regulation for the management of regulated medical waste in clinical laboratories and hospitals. This amendment to Part 70 for the most part, mirrors Department regulated medical waste guidelines published in 1995. These standards relax and clarify some areas, while at the same time are made more stringent in

the area pertaining to bioterrorism products such as select agents and toxins to be consistent with Federal requirements.

74 Approval of Realty Subdivisions - Revise and update to reflect current standards.

Appendix 75A Wastewater Treatment Standards - Individual Household Systems - Revise/update design standards to address clarification and new technology.

77.3 Funeral Directing, Undertaking and Embalming - Registered residents - Responsibilities of sponsor.

80.11, 80.47, 80.49 and 80.50 Controlled Substances - Amendment to authorize the administration of controlled substances from a sealed emergency medication kit in a class 3a health care facility in an emergency situation and authorize possession of limited supplies of controlled substances in such kits.

86-1 Federally Qualified Health Centers (FQHCs) - Incorporate new federal rules to permit Medicaid reimbursement to a FQHC when a patient receives care off-site by a physician or other qualified practitioner.

86-1.46 Limited Home Care Services Agency - Establish a reimbursement cap on administrative and general costs.

86-2.9 Adult Day Health Care Program Reimbursement - Modify the existing regulations and provide more specifics on the implementation of existing reimbursement regulations. Transportation costs will be reimbursed on a fee for service basis only.

87.22 and 400.22 Increase Department of Health Fees for the Operational Period - Increase the annual fee charged during the operational period from .2% to .3% for hospital and nursing home mortgages financed under Article 28A and 28B of the Public Health Law.

96 License and Practice of Nursing Home Administration - Amend existing regulations for nursing home administrator licensure to reflect current practice established by the Board of Examiners of Nursing Home Administrators under New York Public Health Law Article 28-D.

98-1 Health Maintenance Organization (HMO) - The regulation will be revised to create a uniform process for the handling of service authorizations and complaints and appeals to comply with federal regulations. The proposed revisions will synchronize the requirements for a service authorization/utilization review process and grievance process with those found in federal regulations. The proposed revisions will change timeframes for responding to a service authorization request and resolving a complaint or appeal, add new definitions, and identify notice requirements for both processes.

128 New York City Watershed Rules - Amend to incorporate regulations intended to protect NYC's Watersheds including the various reservoirs and tributaries by providing various limitations on activities and construction.

400.18 - Information policy and other reporting requirements - Modify this regulation to permit use of Statewide Planning and Research Cooperative System (SPARCS) hospital discharge data to develop hospital report cards implemented in accordance with Public Health Law section 2995-b. The amendments will provide definitions and requirements for SPARCS data used to develop and update hospital report card information.

400.10 All Facilities Health Provider Network Access and Reporting Requirements - Require all facilities defined as a hospital in Public Health Law Article 28 to establish and maintain accounts in the Department's Health Provider Network (HPN).

400.22 - Statewide Perinatal Data System - New regulations designed to implement a Statewide Perinatal Data System (SPDS). These regulations respond to the Department's need for timely data about birth outcomes and to recent State statute, requiring prompt enrollment of newborns into the Medicaid program. The SPDS will

simplify data collection for hospitals by supporting multiple data functions, including vital records, Medicaid eligibility, newborn screening, birth logs and internal quality improvement.

405, 405.8, 405.24 Hospitals - Minimum Standards - Update to address Perinatal Regionalization System. Update for Rape Crisis Centers. Update the New York Patient Occurrence Reporting Tracking System (NYPORTS) requirements.

405.3 (Hospitals), 415.26 (Nursing Homes), 751.6 (Treatment Center and Diagnostic Center Operations), 763.13 (Certified Home Health Agencies, Licensed Home Care Service Agencies, and AIDS Health Care Programs), 766.1 (Licensed Home Care Services Agencies), 793.5 (Hospice Operations) - Regulations for personnel in these facilities include the requirement for an annual tuberculosis assessment. Current regulations specify a "ppd (Mantoux) skin test for tuberculosis prior to employment or affiliation and no less than every year thereafter for negative findings. Positive findings shall require appropriate clinical follow-up but no repeat skin test. . ." These regulations will be updated to permit the use of FDA-approved blood assays for the detection of latent TB infection, as an alternative to the skin test.

405.8 - Incident Reporting - Update the Department's New York Patient Occurrence Reporting and Tracking System (NYPORTS) provisions for hospitals to reflect current practice.

Section 405.9, 405.19 (revised) and new Part 722 - Standards for Hospital-based Sexual Assault Forensic Examiner (SAFE) Programs - Public Health Law 2805-i(4)(b) requires the Commissioner to designate qualified hospitals as sites of Sexual Assault Forensic Examiner (SAFE) Programs. On October 1, 2003, legislation was signed that requires hospitals to provide to sexual assault patients, upon request, prophylaxis against pregnancy. The regulatory proposal will include: requirements of hospitals providing services to patients who have been sexually assaulted; operating standards for SAFE programs; new standards for patient care at all hospitals consistent with statute; and appropriate cross-references with existing hospital admission and discharge as well as emergency service standards.

405.21 (revised) and Part 721 - Perinatal Regionalization. These regulations are designed to: enhance quality of maternal and newborn care through regional organization and oversight; clarify and update relationships between regional perinatal centers and other hospitals to accommodate changes in health care system; revise requirements for affiliation agreements between regional perinatal centers and other hospitals; and update terminology related to perinatal care.

405.22 and 709.14 Cardiac Care - Technical update of cross-reference.

415 Nursing Homes - Minimum Standards - Amend regulations pertaining to discharge and transfer of nursing home residents.

415.18 Pharmacy Services in Nursing Homes - Modify language to allow facilities greater flexibility in maintaining emergency medication kits. Modify the language as to who could accept verbal orders and revise the prohibition on the return of medications to the vendor pharmacy for credit to the nursing home under certain conditions.

431 Treatment Centers and Diagnostic Centers - Repeal obsolete requirements.

708 Appropriateness Review - Update the trauma care definition and trauma services provisions to reflect current practice.

708.5(a) Need Methodology for Therapeutic Radiology - Revision of the review criteria for therapeutic radiology devices.

709.17 Need Methodology for Long-Term Ventilator Beds

711, 712, 713, 715 and 716 Medical Facility Construction - Revision of the Medical Facilities Construction Code.

750-759 Treatment Center and Diagnostic Center Operation - Update to reflect changes since last major review. Update the Department's New York Patient Occurrence Reporting and Tracking System (NYPORTS) provisions for Diagnostic and Treatment Centers to reflect current practice.

763.11 Certified Home Health Agency, Long Term Home Health Care Program and AIDS Home Care Programs Health Provider Network Access and Reporting Requirements – These facilities will be required to establish and maintain accounts in the Department's Health Provider Network.

766.9 Licensed Home Care Services Agency Health Provider Network Access and Reporting Requirements – Licensed Home Care Services Agencies will be required to establish and maintain accounts in the Department's Health Provider Network.

767 Home Medical Equipment - Create new Part to include provisions for licensing and oversight of Home Medical Equipment providers, pursuant to newly enacted statute.

793.1 Hospice Health Provider Network Access and Reporting Requirements – All hospices will be required to establish and maintain accounts in the Department's Health Provider Network.

800 Emergency Medical Services - General - Use and application by members of the public of automatic external defibrillators. Use and application of epinephrine auto-injectors in an emergency situation. Give EMS Agencies added flexibility in managing EMS service needs. Other initiatives to enhance program effectiveness. Codify regulatory requirements for Advanced Life Support (ALS) First Response Agencies. Make updates to EMS certification and training. Establish a new section on the mobilization and/or sharing of resources in the event of a declared disaster.

Part 910 - Serialized Official New York State Prescription Form – A transition period for all prescriptions will be required to be written on the Official New York State Prescription form.

1000.1 Physician Profiling Definitions - Modify this regulation to define physician membership other than "board certification". The amendments will provide definitions and requirements for physician information posted under the field "membership" on the physician profiling system.

1000.3 Malpractice Awards, Judgments, and Settlements - a physician has 30 days within which to appeal the disclosure of the settlement information in the instance where – physician has 2 or fewer settlements. The regulation would clarify the circumstances under which a physician may be granted an extension because of physical incapacitation, etc.

1000.5 Physician Profiling Updating Self-Reported Information - Add the requirement that physicians must notify the department at least annually if there are no changes in profile information, using the department's secure website or on forms prescribed by the department.

N/A PHL 461 Tattoo and Body Piercing - Chapter 562 of the laws of 2001 amends Section 461. The law requires permits to perform body piercing and tattooing and establishes a tattoo and body piercing regulation and permit fund. The regulations will include guidance on infection control practices to prevent the transmission of diseases, especially blood-borne pathogens. The guidelines set forth on sterilization and disinfection will be consistent with the Association for the Advancement of Medical Instrumentation guidelines as well.

Title 18 NYCRR

311.3(a)(2) District of Fiscal Responsibility for Medicaid - Revise the regulation to conform with Chapter 150 of the Laws of 2001 which requires that when a recipient of Medical Assistance moves from one district to another within the State and continues to be eligible, the "from" district remains responsible for providing Medicaid for the month in which the move takes place and for the month following the month of move.

311.4 (a) Residency Rules for Residents of Adult Care Facilities - Provides that residents of certain Adult Care facilities do not gain residence in the county where the facility is located.

360 Medicaid Buy-In Program for Working People with Disabilities - Medicaid eligibility requirements for working people with disabilities.

360 Family Health Plus (FHP) Program - Implements the FHP program.

360 Medicaid Managed Care Program - Replace the existing regulations to conform with changes authorized by Chapter 165 of the Laws of 1991, Chapter 649 of the Laws of 1996 and Chapters 433 and 436 of the Laws of 1997. The proposed regulations will clarify provisions of law, provide clearer guidance regarding marketing and enrollment in the Medicaid managed care/Family Health Plus programs, add fair hearing rights and requirements specific to Medicaid managed care/Family Health Plus, require providers to accept payment from a managed care plan as payment in full, add provider prohibitions specific to the Medicaid managed care/Family Health Plus programs and establish billing timeframes (that mirror the Medicaid billing timeframes) for Medicaid enrolled providers who treat a Medicaid managed care or Family Health Plus enrollee but who do not have a contract with the enrollee's managed care plan.

360-2.3(c) Attestation of Resources for Medicaid - Revise regulation to conform with HCRA 2001 allowing Medicaid applicants/recipients to attest to resources if they do not need long term care services.

360-3.2(j) Conditions of Eligibility - Implements citizenship/alien status requirements of eligibility for Medicaid.

360-3.2(m) Finger Imaging Requirements - Eliminates finger imaging requirements for Medicaid-only.

360-3.3, 3.7, 4.1, 4.7, 4.8 Eligibility Requirements for PCAP, Infants and Children Ages 6 through 18 - Updates the Medicaid levels and poverty levels for pregnant women and infants to be covered up to 200% FPL.

360-4.3(3) In-kind Income - Revise the regulation to count as income, in-kind income received in food, clothing and shelter rather than in cash.

360-4.10(a)(7) and 360-4(b)(4) Higher Personal Needs Allowance (PNA) for Persons Receiving Home and Community-Based Services and for Non-Institutional PACE Participants - Changes the personal needs allowance (PNA) amount that is given to spousal cases where the "institutionalized spouse" is receiving waiver or PACE services in the community.

360-4.10(a)(9) Treatment of Income and Resources of Institutionalized Spouses - Clarifies that a community spouse's pension fund or individual retirement account is an includable resource for purposes of determining the institutionalized spouse's Medicaid eligibility.

360-5.5 Examination - This is a technical correction involving an incorrect reference to 18 NYCRR 595.3(b). 360-5.5 relates to payment of the costs by the local social service districts for examinations, consultations, completion of medical forms, and tests required by Medicaid only disability review teams. It states that reimbursement for these services is an administrative expense under 595.3(b). The fiscal regulations were changed in 1988. This proposal would change the reference from 595.3(b) to 609.5(b).

360-5.9(a) Trial Work Period - Revises the threshold amounts for counting a month toward a 9-month trial work period.

360-6.7 Managed Care - This section will be repealed and its provisions will be modified and consolidated with a new Part 360. The provisions describe the standards and processes by which managed care enrollees may disenroll from a managed care organization and will be revised to reflect Chapter 649 of the Laws of 1996 and Chapter 433 of the Laws of 1997.

360-7.2 Medicaid Program as Payment of Last Resort - Clarification of the definition of third party by adding the words "or entity".

360-7.3(c)(1) of Title 18 NYCRR and Part 85.13 of Title 10 NYCRR Use of Health, Hospital or Accident Insurance & Physically Handicapped Children Program - Eliminates the dual prior approval for certain services for Medicaid eligible children.

360-7.5 Reimbursement of Paid Medical Expenses - Amendments required as a result of litigation concerning reimbursement to Medicaid recipients for expenses that should have been paid by the Medicaid program.

360-7.7 Payment of Coinsurance and Deductibles - Amend the regulation to indicate that Medicaid will reimburse providers 20% of the Medicare Part B coinsurance for dually eligible Medicare/Medicaid recipients in instances where what Medicare pays exceeds the Medicaid fee.

360-7.11 Revision to Medicaid Recoveries - Lowers the age for estate recoveries and includes the category of undue hardship as required by federal regulations.

360-11 Medicaid Managed Care - This section describes the standards and processes by which special needs populations may obtain specialty care services with the Medicaid managed care program. It will be repealed because it was made obsolete by passage of Chapter 649 of the Laws of 1996, which authorized the development of Special Needs Plans (SNPs) for these populations.

485, 486, 487, 488 and 490 - Consolidating and streamlining provisions relating to adult homes, enriched housing programs and residences for adults, to reflect recent past legislative and regulatory initiatives and the changing environments of these types of facilities. Provide clarification and consistency to residents, operators and the public with regards to adult care facilities.

486 Adult Care Facility Inspection Reports - Conforming regulations to statute, requiring the Department's inspection reports to find whether each area of an ACF operation is or is not in compliance with regulations, pursuant to recent State Supreme Court decision.

487, 488 and 490 Adult Care Facilities - All adult care facilities will be required to establish and maintain DOH Health Provider Network (HPN) accounts.

495 Medications Management in Adult Care Facilities - To assure resident health and safety in ACFs by clarifying current regulatory authority for medication assistance, through focused initiatives relating to the procurement, storage, assistance/recording, and disposal of pharmaceuticals. Creates new Part to apply uniformly to adult homes, enriched housing programs and residences for adults.

496 Assisted Living Residences, Enhanced Assisted Living, Special Needs Assisted Living - Create new Part to carry out the requirements of newly enacted statute requiring licensure of assisted living residences. Additionally provides standards and guidelines pertaining to new certificate classifications of enhanced and special needs assisted living.

501 Consumer Directed Personal Assistance Program - New regulations for operation of the Consumer Directed Personal Assistance Program (CDPAP) under the State Medicaid Program.

501.23 Home Health Services - Prior Approval - Regulations will be developed to require prior approval of home health services for persons defined as long term users, pursuant to an initiative enacted into law in the 2003-04 budget.

505.8 of Title 18 NYCRR and 85.33 of Title 10 NYCRR Private Duty Nursing Services - Standardize policies regarding the provision of private duty nursing services. The need for this regulation is dependent on whether this service is eliminated in this year's State budget.

505.11 Speech Pathologists - Amend regulations to conform with State Education requirement allowing equivalently certified and educated individuals to provide speech services in schools.

505.14 Personal Care - The regulation must be updated to remove content which is no longer supported in statute or was successfully challenged in litigation and to move it from Title 18 to Title 10.

505.17(c)(9) Licensed Midwives - Adds licensed midwives to the list of practitioners that can perform radiology procedures.

505.31(d)(e)(1) of Title 18 NYCRR and Part 85.39 of Title 10 NYCRR Audiology, Hearing Aid Services and Products - Eliminates

the designation of the Physically Handicapped Children's Program speech and hearing centers as only providers of hearing assessments to Medicaid eligible children.

506.4 of Title 18 NYCRR and Part 85.45 of Title 10 NYCRR Orthodontic Care - Eliminates the Physically Handicapped Children's Program sole review role in the area of orthodontia; removes the reference to panel orthodontists; and updates the qualifications for orthodontists and eligibility criteria for these services.

507 Health Supervision and Medical Care for Children - Places in regulation Medicaid payment standards for foster care agencies' Medicaid per diems.

508 Child Teen Health Program - Updates the medical standards and periodicity schedule for examinations to coincide with those recently issued by the American Academy of Pediatrics and revises the activities to be performed by the local departments of social services in light of managed care.

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INSURANCE DEPARTMENT

Pursuant to Section 202-d of the State Administrative Procedure Act (SAPA), the following Regulatory Agenda is a list of the regulatory additions and amendments to Title 11 of the NYCRR which the Insurance Department is presently considering proposing during the first half of 2005. Many of these items were previously published in the June, 2004 Regulatory Agenda. Proposed items that have been published in the State Register are not included on the list. The Insurance Department's regulatory plans are subject to change and the Department reserves the right to add to, delete from, or modify items on the Agenda without further notice.

This notice is also intended to provide small businesses, local governments and public and private interests in rural areas with the opportunity to participate in the rule making process, as provided for in Sections 202-b and 202-bb of SAPA.

For inquiries pertaining to a specific item, contact the agency contact person following the item. For general inquiries regarding the Insurance Department's Regulatory Agenda, contact:

Sam Wachtel
 Associate Attorney
 Office of General Counsel
 New York State Insurance Department
 25 Beaver Street
 New York, N.Y. 10004
 Telephone Number: 212-480-5269

Copies of current regulations may be obtained from the Department's Public Affairs Bureau at the New York City address. The telephone number is 212-480-2283.

Number 1: Agency Contact person: Sam Wachtel, Associate Attorney (212-480-5269):

1. Summary description of proposal: Amendment to 11 NYCRR 17 (Standard Health Insurance Claim forms for the services of Physicians, Dentists and Hospitals) (Regulation 88), to delete numerous obsolete provisions and adopt new standard claim forms for services of physi-

cians, dentists and hospitals that are submitted on paper or by facsimile.

Numbers 2 through 13: Agency Contact Person: Buffy Cheung, Principal Insurance Examiner, Property Bureau (212-480-5587):

2. Summary description of proposal: Amendment to 11 NYCRR 67 (Mandatory Underwriting Inspection Requirements for Private Passenger Automobiles)(Regulation 79) to include additional circumstances under which an insurer may voluntarily waive mandatory inspection of a motor vehicle for physical damage coverage and to permit the use of digital photography and electronic access to inspection report data.

3. Summary description of proposal: Amendment to 11 NYCRR 70 (Medical Malpractice Insurance Rate Modifications, Provisional Rates, Required Policy Provisions and Availability of Additional Coverages) (Regulation 101) to establish primary and excess physicians and surgeons liability insurance rates. Consideration is also being given to amendment of Sections 70.8(h), 70.9(l) and 70.9(m) which contain the instructions and forms used to report segregated and surcharge account information to the Insurance Department; and to amendment of Section 70.13 which currently requires that medical malpractice insurers offer both occurrence and claims-made policies.

4. Summary description of proposal: Amendment to 11 NYCRR 153 (Property/Casualty Insurance Group and Quasi-Group Standards) (Regulation 135) and repeal of 11 NYCRR 13 (Mass Merchandising of Personal Property-Liability Insurance)(Regulation 58) to incorporate provisions of Regulation 58 into Regulation 135 and to modify restrictions on certain types of group insurance purchases.

5. Summary description of proposal: Amendment of 11 NYCRR 152 (Physicians and Surgeons Professional Insurance Merit Rating Plan) (Regulation 124) to provide requirements for internet-based risk management course which are submitted to the Superintendent for approval and to provide requirements for risk management courses in which insureds must participate in order to be eligible for the excess medical malpractice insurance program.

6. Summary description of proposal: Adoption of a new part to 11 NYCRR to set forth requirements as authorized by Section 3447 of the Insurance Law relating to policies of insurance which qualify for the environmental remediation insurance tax credit provided for under Section 23 of the Tax Law. The insurance tax credit applies to taxable years beginning on or after April 1, 2005.

7. Summary description of proposal: Amendment to 11 NYCRR 60-2 (Supplementary Uninsured/Underinsured Motorists Insurance)(Regulation 35-D) To revise references in Section 60-2.3 and 60-2.4 related to all references to "AAA/American Arbitration Association" to "designated organization".

8. Summary description of proposal: Amendment to 11 NYCRR 27 (Excess Line Placements Governing Standards) (Regulation 41) To revise Section 27.17 and 27.18 by combining separate legends that appear in both sections of regulation into one generic legend. The legends are stamped onto the insurance documents by the excess line broker advising insured that placement is being made with an insurer not licensed and subject to the safeguards of NY Insurance Department. The revision is being made in order to facilitate the eventual conversion of ELANY's affidavit system into an electronic filing system.

9. Summary description of proposal: Amendment to 11 NYCRR 301 (Purchasing Groups) (Regulation 134) to eliminate provisions of the regulation which are inconsistent with revisions already made to 11 NYCRR 27 (Regulation 41) regarding Affidavit Part B.

10. Summary description of proposal: Amendment to 11 NYCRR 153 (Property/Casualty Insurance Groups and Quasi-Group Standards) (Regulation 135) to update the preamble to the regulation regarding the recent statutory amendments authorizing additional kinds of insurance and additional types of groups to be written on a group basis.

11. Summary description of proposal: Amendment to 11 NYCRR 27 (Excess Line Placements Governing Standards) (Regulation 41) to

amend regulation in order to establish procedures for the filing of required affidavits on a consolidated basis for "legitimate" group placements (Regulation 135) similar to those in place for Purchasing Groups (Regulation. 134)

12. Summary description of proposal: Amendment to 11 NYCRR 65-1, 65-2, 65-3, 65-4 (Regulations Implementing the Comprehensive Motor Vehicle Insurance Repairs Act) (Regulations 65-1, 65-2, 65-3 & 63-4) To revise No-fault endorsements to clarify that insurers can perform peer reviews and medical examinations using licensed health practitioners, e.g., neurologist, acupuncturist. To revise requirements for insurer claim practices to assure that peer reviews and medical examinations are performed by providers in the same discipline as the treating provider, e.g. neurologist reviews neurologist, acupuncturist reviews acupuncturist. To revise insurer billing for the use of the No-fault arbitration system to quarterly and to permit an interest penalty to be imposed on insurers that do not pay their assessment timely.

13. Summary description of proposal: Adoption of a new part to 11 NYCRR to set forth requirements as authorized by new Article 28 of the Insurance Law applicable to an insurer's use of credit scoring in rating and underwriting of personal lines insurance policies so that consumers are afforded certain protections with respect to the use of such information. The new law becomes effective in April, 2005.

Number 14: Agency Contact Person: Linda Connolly, Assistant Chief, Life Bureau (212-480-5023):

14. Summary description of proposal: Amendment to 11 NYCRR 51 (Replacement of Life Insurance Policies and Annuity Contracts) (Regulation 60) to allow the agents some flexibility in completing the disclosure statement, in order to allow the completion of the application without waiting twenty days for a response from the replaced insurer.

Number 15: Agency Contact Person: Ruth Gumaer, Supervising Insurance Examiner, Life Bureau (212-480-4763):

15. Summary description of proposal: Adoption of a new part to 11 NYCRR to establish standards and provide guidance for the valuation, maintenance and disposal of property gifted to charitable annuity societies.

Numbers 16 and 17: Agency Contact Person: William Carmello, Deputy Chief Actuary, Life Bureau (518-474-7929):

16. Summary description of proposal: Amendment to 11 NYCRR 94 (Minimum Reserves for Individual Accident and Health Policies) (Regulation 56) to update reserve standards for individual accident and health products and to establish reserve standards for group accident and health products as mandated by Section 4217(d) of the Insurance Law.

17. Summary description of proposal: Amendment to 11 NYCRR 97 (Market Value Separate Accounts Funding Guaranteed Benefits) (Regulation 128) to update the reserve standards for group separate account products with guaranteed benefits and to establish reserve standards for individual separate accounts with guaranteed benefits.

Number 18: Agency Contact Person: Dennis Lauzon, Supervising Actuary, Life Bureau (518-474-7929)

18. Summary description of proposal: Amendment to 11 NYCRR 42 (Term Life Renewal Restrictions; Cash Surrender Values for Certain Life Insurance Plans) (Regulation 149) to eliminate the age 80 renewal limitation and to substantially modify the nonforfeiture requirements for certain life insurance plans.

Numbers 19 through 20: Agency Contact Person: Michael Cebula, Supervising Actuary, Life Bureau (518-474-7929):

19. Summary description of proposal: Amendment to 11 NYCRR 99 (Valuation of Annuity, Single Premium Life Insurance, Guaranteed Interest Contracts and Other Deposits) (Regulation 151) to revise existing standards for variable annuities for life insurers to be consistent with recently adopted and pending NAIC standards.

20. Summary description of proposal: Amendment to 11 NYCRR 98 (Valuation of Life Insurance Reserves) (Regulation 147) to revise

existing standards for universal life insurance products with secondary guarantees for life insurers to be consistent with recently adopted and pending NAIC standards.

Number 21: Agency Contact Person: Deborah Kahn, Associate Insurance Attorney, Life Bureau (518-474-4552):

21. Summary description of proposal: Amendment to 11 NYCRR 41 (Accelerated Payment of the Death Benefit under a Life Insurance Policy) (Regulation 143) to establish additional standards for accelerated payments of life insurance benefits in the event that the insured is confined in a long term care facility and/or qualifies for long term care benefits as defined by law.

Numbers 22 through 24: Agency Contact Person: Ralph D. Spaulding, Supervising Insurance Attorney, Life Bureau (518-486- 5258):

22. Summary description of proposal: Amendment to 11 NYCRR 50 (Separate Account and Separate Account Annuities) (Regulation 47) to establish revised standards for the operation of separate accounts, contract provisions and actuarial requirements to reflect statutory changes and recent innovations in product design and changes in contract administration of separate account and variable annuity products.

23. Summary description of proposal: Amendment to 11 NYCRR 53 (Life and Annuity Cost Disclosure and Sales Illustration) (Regulation 74) to set forth the information mandated by Section 3209 of the Insurance Law including the standards governing the content, format and use of sales illustrations and other disclosure requirements for fixed annuity products and funding agreements. Also to include changes that provide for enhanced disclosure to buyers of life insurance and annuity products.

24. Summary description of proposal: Adoption of a new part to 11 NYCRR 48 (Key Person Company-Owned Life Insurance) (Regulation 180) to provide guidance to insurers in defining key persons for purpose of complying with Section 3205(a)(1)(B) and (d) of the Insurance Law.

Number 25: Agency Contact Person: Theresa Bobear, Associate Insurance Attorney, Life Bureau (518-486-5258):

25. Summary description of proposal: Adoption of a new part to 11 NYCRR 46 (Unemployment Lapse Protection Benefit for Life Insurance) (Regulation 174) to establish minimum standards for waiver of premium due to unemployment authorized by Section 1113(a)(1) and Section 3201(c)(12) of the Insurance Law.

Number 26: Agency Contact Person: Robert Solomon, Principal Insurance Examiner, Health Bureau (212-480-5246):

26. Summary description of proposal: Amendment to 11 NYCRR 52 (Minimum Standards for Form, Content and Sale of Health Insurance, including Standards of Full and Fair Disclosure) (Regulation 62) and 11 NYCRR 360 (Open Enrollment and Community Rating of Individual and Small Group Health Insurance) (Regulation 145) to clarify, for Article 43 Corporations, HMOs, and commercial insurers that write accident and health insurance, requirements for prior approval of forms and rates, including the establishing of rules for determining the rating methodology to be used for rating point-of-service products sold by large groups, to clarify the application and effect of rolling rates and annual level subscriber rates, and to implement Sections 4308(g) and (h) and 3231(e)(2) of the Insurance Law relating to the alternate methodology for submissions of rates by Article 43 Corporations and Health Maintenance Organizations, and submissions of loss ratios for contracts subject to the alternate methodology.

Numbers 27 through 28: Agency Contact Person: Austin J. Rinella, Supervising Insurance Attorney, Health Bureau (518-474-4098):

27. Summary description of proposal: Amendments to 11 NYCRR 52 (Minimum Standards for Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure) (Regulation 62), 11 NYCRR 360 (Open Enrollment and Community Rating of Individual and Small Group Health Insurance) (Regulation 145), 11 NYCRR 361 (Market Stabilization Mechanisms) (Regulation 146), 11 NYCRR 59

(Minimum Standards for Certificates Deemed to Have Been Delivered in New York) (Regulation 123), 11 NYCRR 39 (Minimum Standards for the Partnership for Long Term Care Program Established Under Chapter 454 of the Laws of 1989 as amended by Chapter 659 of the Laws of 1997) (Regulation 144) and adoption of new Part to 11 NYCRR to: 1) establish minimum standards for such products as managed care and point of service arrangements as well as other health insurance products as ongoing changes occur in the health insurance field; 2) make changes to state regulations which may be required due to implementation of the Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191), Chapter 661 of the Laws of 1997 and other federal and state enactments; 3) establish minimum standards and requirements for specified disease coverage, 4) make changes to minimum standards for Partnership and non-Partnership coverages.

28. Summary description of proposal: Amendment to 11 NYCRR 17 (Standard Health Insurance Claims Forms for the Services of Physicians, Dentists and Hospitals) (Regulation 88) to delete obsolete provisions.

Numbers 29 through 30: Agency Contact Person: Deborah A. Kozemko, Supervising Insurance Attorney, Health Bureau (518-486-7815):

29. Summary description of proposal: Amendments to 11 NYCRR 52 (Minimum Standards for Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure) (Regulation 62), 11 NYCRR 410 (External Appeals of Adverse Determinations of Health Care Plans) (Regulation 166) and adoption of a new Part to 11 NYCRR to establish standards for coverage determinations and benefit determinations, including standards for utilization review.

30. Summary description of proposal: Amendment to 11 NYCRR 52 (Minimum Standards for Form, Content and Sale of Health Insurance, including Standards of Full and Fair Disclosure) (Regulation 62) and 11 NYCRR 360 (Open Enrollment and Community Rating of Individual and Small Group Health Insurance) (Regulation 145) to implement Chapter 557 of the Laws of 2002 relating to health insurance coverage for individual proprietors.

Number 31: Agency Contact Person: Carol Leith, Principal Actuary, Health Bureau (518-474-4562):

31. Summary description of proposal: Amendment to 11 NYCRR 52 (Minimum Standards for Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure) (Regulation 62) to provide instructions and format for calculating and reporting loss ratios and issuing dividends or credits as required in section 3231 (e)(2)(B), in instances where the alternate filing procedure as defined in section 3231(e)(2)(A) has been utilized.

Numbers 32 through 33: Agency Contact Person: Lisette Johnson, Supervising Insurance Attorney, Health Bureau (518-474-4098):

32. Summary description of proposal: Amendment to 11 NYCRR 361 (Establishment and Operation of Market Stabilization Mechanisms for Individual and Small Group Health Insurance and Medicare Supplement Insurance) (Regulation 146) to revise certain market stabilization mechanism requirements as required by Chapter 504 of the Laws of 1995.

33. Summary description of proposal: Amendment to 11 NYCRR 410 (External Appeals of Adverse Determinations of Health Care Plans) (Regulation 166) to establish new and revised standards and procedures for the external appeal process.

Number 34: Agency Contact Person: Gary Teitel, Supervising Actuary, Health Bureau (212-480-7709):

34. Summary description of proposal: Amendment to 11 NYCRR 350 (Life Care Communities) (Regulation 140) to modify and clarify the actuarial reserve calculation, solvency testing, distribution allowances, fee adequacy, and to better define needed filing requirements, all recognizing marketplace expansion in both the number and types of Life Care Communities.

Number 35: Agency Contact Person: Stephen Rings, Senior Insurance Attorney, Health Bureau (518-474-4899):

35. Summary description of proposal: Amendment to 11 NYCRR 52 (Minimum Standards for Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure) (Regulation 62) to clarify extension of benefits and "no loss, no gain" requirements for individual, group and group remittance health insurance contracts.

Number 36: Agency Contact Person: Doris Kullman, Senior Insurance Attorney, Health Bureau (518-474-4899):

36. Summary description of proposal: Amendments to 11 NYCRR 362 (The Healthy New York Program and the Direct Payment Stop Loss Relief Program) (Regulation 171) to adjust the stop loss standards and reimbursement corridors for Healthy NY, simplify Healthy NY eligibility and re-certification, improve and provide options with respect to Healthy NY benefits, clarify employer contribution requirements, allow insurers to reinsure Healthy NY business, ensure accurate reporting from Healthy NY insurers, and qualify Healthy NY as coverage eligible for a federal tax credit (available to certain individuals as defined in federal law).

Number 37: Agency Contact Person: Mary Frances Sabo, Senior Insurance Attorney, Health Bureau (518-474-4098):

37. Summary description of proposal: Amendment to 11 NYCRR 362 (The Healthy New York Program and The Direct Payment Stop Loss Relief Program) (Regulation 171) to enable HMOs and insurers to offer a high deductible health plan under the Healthy New York Program to subscribers or small employers establishing a Health Savings Account.

Numbers 38 through 39: Agency Contact Person: Janet A. Graham, Senior Insurance Attorney, Health Bureau (518-474-4098):

38. Summary description of proposal: Amendment to 11 NYCRR 52 (Minimum Standards for Form, Content and Sale of Health Insurance, including Standards of Full and Fair Disclosure) (Regulation 62) to enable HMOs to offer a high deductible health plan on a direct payment basis to subscribers establishing a Health Savings Account.

39. Summary description of proposal: Amendment to 11 NYCRR 52 (Minimum Standards for Form, Content and Sale of Health Insurance, including Standards of Full and Fair Disclosure) (Regulation 62) to clarify the cosmetic surgery exclusion and dental exclusion in health insurance policies.

Number 40: Agency Contact Person: Sarah Allen, Associate Insurance Attorney, Health Bureau (518-486-7815):

40. Summary description of proposal: Amendment to 11 NYCRR 52 (Minimum Standards for Form, Content and Sale of Health Insurance, including Standards of Full and Fair Disclosure) (Regulation 62) to make revisions to the standards for Medicare supplement insurance as required by the federal Medicare Prescription Drug, Improvement, and Modernization Act of 2003.

Number 41: Agency Contact Person: Thomas Fusco, Associate Insurance Attorney, Health Bureau (716-847-7618):

41. Summary description of proposal: Amendment to 11 NYCRR 52 (Minimum Standards for Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure) (Regulation 62) to clarify for Article 43 corporations, HMOs and commercial insurers that write prescription drug coverage the permissible and prohibited limitations on such coverage.

Number 42: Agency Contact Person: David Doran, Principal Insurance Examiner, Health Bureau (212-480-5046)

42. Summary Description of proposal: Amendment to 11 NYCRR 83 (Implementation of Financial Statement Filings and Accounting Practices and Procedures) (Regulation No. 172) to develop standards and guidelines for real estate appraisals and accounting methodologies under which Insurance Law Article 43 corporations and Public Health Law Article 44 Health Maintenance Organizations may evaluate real

estate in ordinary course of business. Further, this amendment will be updated for the 2004 published depreciation schedules.

Number 43: Agency Contact Person: John Chaskey, Principal Examiner, Consumer Services Bureau (518-474-9845)

43. Summary Description of proposal: Amendment to 11 NYCRR 28 (Bail Bond Agents) (Regulation 42) to establish minimum record-keeping requirements and identify prohibited charges in conjunction with (1) the issuance of a bail bond and (2) requiring collateral in order to secure the issuance of a bail bond.

Numbers 44 through 45: Agency Contact Person: Jim Everett, Associate Counsel, Capital Markets Bureau (518-408-1593):

44. Summary description of proposal: Amendment to 11 NYCRR 125 (Credit for Reinsurance from Unauthorized Insurers) (Regulation 20) to limit securities that are funded by cash flows from alien insurers for inclusion in a trust fund under Regulation 20. Proposal will apply other standards to these securities, including non-affiliation with the alien insurer setting up the trust and approval of the Superintendent.

45. Summary description of proposal: Amendment to 11 NYCRR to set forth standards for banks, trust companies and security broker/dealers that qualify to act as custodians for insurance company assets.

Number 46: Agency Contact Person: Jody Wald, Captive Coordinator, Captive Insurance Group (212-480-2757)

46. Summary description of proposal: Adoption of a new part to 11 NYCRR to clarify certain statutory provisions as they apply to captive insurance companies licensed in the State of New York pursuant to Article 70 of the New York Insurance Law.

Number 47: Agency Contact Person: Hazel Stewart, Deputy Director, Frauds Bureau (212-480-5688)

47. Summary Description of proposal: Amendment to 11 NYCRR 216 (Unfair Claims Settlement Practices) (Regulation 64) to specify that the central organization for reporting of data on private passenger automobiles involved in total losses shall be designated by the superintendent.

DEPARTMENT OF LABOR

Pursuant to subdivision 1 of section 202-d of the State Administrative Procedure Act, as amended by chapter 635 of the laws of 1995, notice is hereby provided of the following rules that the Department of Labor is considering proposing, but for which a rulemaking proceeding has not been commenced.

1. Amendment to Title 12 NYCRR Part 800 to incorporate by reference into New York Occupational Safety and Health standards those safety and health standards adopted by the United States Department of Labor Occupational Safety and Health Administration.

2. Amendment to Title 12 NYCRR Part 38 to conform the present version of the Part to new provisions contained in the 10 CFR Parts 20, 30, 34, 36, 40, 70 & 71, to correct errors in the existing Part, and to correctly reference the applicable section of the federal regulations.

3. Amendments to Title 12 NYCRR Part 56 to modify and clarify the requirements and procedures for the licensing and certification of asbestos workers and contractors and the notification of and procedures for asbestos projects.

4. Amendment to Title 12 NYCRR Part 4 and Part 14 to modify the frequency of inspection of certain boilers.

5. Addition of Part 551 to Title 12 NYCRR to implement regulations required by Chapter 601 of the Laws of 2002 that provide for the Department to promulgate regulations describing the form and content of the financial records required by Section 211-a of the Labor Law as well as advisory regulations to State entities relating to the implementation of contractual and administrative measures to enforce Section 211-a. The regulations would require employers that received funds

appropriated by the State to establish and maintain financial records that demonstrate State funds were not spent on activities that either encouraged or discouraged union organization. The regulation also requires employers to certify compliance with Section 211-a as part of every State contract.

6. Amendment to Title 12 NYCRR Part 82 to increase several fee categories to ensure efficient administration, on-site inspections and issuances of certificates and licenses and to more accurately cover the current processing and inspection costs and expenses.

7. Addition to Title 12 NYCRR, Chapter II, Subchapter E, regarding the Child Performer Education & Trust Act as required by Chapter 630 of the Laws of 2003.

8. Addition to Title 12 NYCRR pursuant to Chapter 721 of the Laws of 2004 which requires that rules and regulations be promulgated to detail what information must be included in written statements provided by licensed employment agencies to certain applicants for employment and their employers.

To obtain information or submit written comments regarding this regulatory agenda, contact Diane Wallace Wehner, Legal Assistant II, New York State Department of Labor, Building 12, State Office Campus, Counsel's Office, Room 509, Albany, New York 12240, diane.wehner@labor.state.ny.us, (518) 457-4380.

OFFICE OF REAL PROPERTY SERVICES

The New York State Office of Real Property Services has begun the process for approval by the Governor's Office of Regulatory Reform of two sets of amendments: Part 185 of Title 9 would be amended to incorporate the provisions of chapter 450 of the Laws of 2004 and Part 188 would be amended to allow payment of late reimbursement vouchers at the end of the State fiscal if funds remain from the annual appropriation.

In addition the agency plans to conduct a review of Parts 190 and 192 concerning Inventory Standards of Property Characteristics, which are also the subject of a five-year review pursuant to section 207 of SAPA. A group of agency staff and local officials are reviewing the training programs for local officials in Part 188. That review may result in proposed amendments in 2005. Agency staff will review aspects of special franchise assessments (9 NYCRR 197) and railroad ceilings (9 NYCRR 200) that may result in proposed amendments during 2005. At this time, there has been no rulemaking procedure undertaken in regard to any of these matters.

To obtain information or submit written comments regarding this regulatory agenda, contact James J. O'Keefe, Associate Attorney, New York State Office of Real Property Services, 16 Sheridan Avenue, Albany, 12210-2714, (518) 474-8821

OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE

Pursuant to Chapter 402 of the Laws of 1994, and Chapter 635 of the Laws of 1995, the Department of Social Services was required to publish a regulatory agenda for those regulations that the Department is considering for publication in the State Register. Chapter 436 of the Laws of 1997 renamed the Department of Social Services as the Department of Family Assistance with two distinct offices, the Office of Temporary and Disability Assistance and the Office of Children and Family Services. Set forth below is an agenda for those regulations that the Office of Temporary and Disability Assistance is considering proposing during the first half of 2005. Chapters 402 and 635 do not preclude the Office from proposing for adoption a regulation that is not described in the agenda nor do Chapters 402 and 635 require the Office to propose for adoption a regulation described in the agenda.

Child Support

Revise procedures for the distribution of child support collections to reflect changes in Federal requirements.

Revise the method for calculating the amount of additional deductions for income executions.

Revise the Child Support Standards Act tables to reflect the 2005 self-support reserve.

Establish criteria for closing child support cases.

Temporary Assistance

Reflect current policy regarding standards of assistance and allowances for persons not living in their own homes.

Establish a reasonable shelter allowance schedule for individuals and families receiving temporary assistance and rent subsidies under the section 8 voucher program.

Implement Chapter 373 of the Laws of 2003 concerning the receipt of nonrecurring lump sum income and the establishment of a separate bank account for the purpose of paying tuition in a two-year accredited post-secondary education institution.

Clarify that only an 18 year old child must verify school attendance in order to be categorically eligible for benefits under the Temporary Assistance for Needy Families program.

Expand the definition of temporary absence to cover recipients of all public assistance programs, not just federally-aided programs.

Clarify that the resource limit applies to individuals 60 years of age.

Extend the deeming of an alien sponsor's income and resources to Federally funded safety net assistance.

Conform State regulations to Federal requirements concerning eligibility of qualified aliens for public assistance.

Extend finger-imaging requirements to authorized representatives and payees.

Provide consistency between the Family Assistance program and the Safety Net Assistance program concerning the treatment of loans, income and resources.

Allow the matching of finger images with the Division of Criminal Justice Services to identify clients who are fugitive felons parole/probation violators and clients who are incarcerated.

Allow State and local correctional facilities to confiscate public assistance benefits and identification cards given to or sent to inmates while they are incarcerated.

Implement changes concerning the provision of temporary housing assistance and provide safeguards to individuals and families in receipt of such assistance.

Food Stamps

Conform regulations concerning in-office interviews for food stamp applicants with federal requirements.

Modify the regulations concerning income, resources and group home budgeting consistent with federal changes.

Clarify the policy regarding claims establishment and the collection process for food stamp overpayments.

Modify the food stamp standard utility allowance provisions.

Require an applicant for or recipient of food stamps to cooperate in establishing paternity and securing support as a condition of eligibility for food stamps.

Clarify the food stamp intentional program violation disqualification policy to reflect welfare reform changes.

Implement a transitional food stamp program.

Implement federal regulations concerning non-citizen eligibility and certification provisions.

Reimbursement and Claims

Amend provisions concerning sampling of cases for quality control purposes.

Update administrative cap section on changes to exemptions.

Amend maintenance assistance sections to reflect new program categories under Welfare Reform.

Change the child support enforcement section to eliminate provision that collections are used to reduce the program claims.

Add a section on fiscal penalties/sanctions that may be applied to social services districts resulting from Welfare Reform requirements.

Hearings

Recodify fair hearing regulations.

Administration

Update the regulations concerning the minimum qualifications for commissioners and deputy commissioners of social services districts.

Technical Amendments

Amend 18 NYCRR to reflect the transfer of functions resulting from Chapter 436 of the Laws of 1997 that transferred certain functions of the Department of Social Services to new and existing State agencies.

Remove duplicative Emergency Assistance for Adults AIDS budgeting references.

Revise the regulations concerning eligibility for public assistance to reflect current terminology and policy.

Any questions concerning the items listed in this agenda can be referred to Ronald Speier; Office of Temporary and Disability Assistance; 40 North Pearl Street; Albany, New York 12243. Telephone: (518) 474-6573.

The regulatory agenda may be accessed on the Office of Temporary and Disability Assistance's website at www.dfa.state.ny.us

