

# REGULATORY AGENDA

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## Department of Agriculture and Markets

Pursuant to subdivision 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 rule making 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 and 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.

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 45 Consider adoption of federal standards (UM and R) for avian influenza control except where state regulations are more stringent.
- Parts 53 and 62 Consider amending import requirements for cattle, deer, goats and llamas to delete bluetongue test requirements.
- Part 60 Consider adoption of federal standards (UM and 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 68 Consider adoption of requirements for Captive Cervids to prevent the introduction and spread of Chronic Wasting Disease into New York State. (Currently, a rule on the subject is in effect on an emergency basis.)
- Part 75 Consider adoption of requirements for participation in the Animal Population Control Program by veterinary practices, shelters, and dog and cat owners.
- Section 351.6 Consider amending the animal health requirements for admission to fairs to require all cattle presented for admission to a fair to be accompanied by proof of a negative test for bovine viral diarrhea.

Name of agency contact: Dr. John Huntley  
Office Address: 10B Airline Drive, Albany, New York 12235  
Telephone number: 518-457-3502

### AGRICULTURAL PROTECTION AND DEVELOPMENT SERVICES

- Part 390 Consider amending the agricultural and farmland protection planning grant program to include municipalities as eligible applicants.

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

### BUREAU OF WEIGHTS AND MEASURES

- Sections 220.3, 220.4, and 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 224.3 Consider adopting standards for alternative fuels produced from biological sources such as biodiesel, blend stock ethanol, and alternative fuels such as E85 and E75.

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 257 Consider amending requirements for the manufacture and distribution of commercial feed to exempt certain commercial feed manufacturers from facility registration requirements.
- Part 271 Consider amending sanitation requirements for retail food stores to correspond with changes to the 2005 FDA Food Code.
- Part \_\_\_\_\_ Consider adopting regulations to implement Chapter 665 of the Laws of 2005, relative to the establishment of a food safety education certification program.

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

### DIVISION OF PLANT INDUSTRY

- Section 95.3 Consider amending seed germination testing provisions to conform with Agriculture and Markets Law section 137.
- Section 95.9 Consider amending to add seeds of additional weeds and undesirable grasses to the list of noxious weed seeds.

- Part 131 Consider amending the Pine Shoot Beetle Quarantine to add Columbia, Orange and Ulster Counties.
- Part 139 Consider amending the Asian Long Horned Beetle quarantine area to include areas within 1.5 miles of any newly detected infested trees.
- Part 154 Consider adopting regulations to implement Chapter 620 of the Laws of 2005, relative to ammonium nitrate and regulated ammonium nitrate materials. (Currently, a rule on the subject is in effect on an emergency basis.)

Name of agency contact: Robert Mungari  
Office Address: 10B Airline Drive, Albany, NY 12235  
Telephone number: 518-457-2087

## Office of Children and Family Services

July 1, 2006 - December 31, 2006

### REGULATORY PROPOSALS

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 rule making 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 review by OCFS:

#### 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 licensed or supervised by OCFS.

#### 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.

#### Positive Youth Development

Amending 9 NYCRR Part 182 concerning runaway and homeless youth to strengthen standards regarding health and safety and to reflect changes required by Chapter 57 of the Laws of 2005.

Amending 9 NYCRR Part 165 to update the regulations governing Youth Development and Delinquency Prevention Services and the Special Delinquency Prevention Program.

#### Child Care Services

Amending the regulations governing the operation, licensing and registration of day care programs to make minor technical changes.

#### Child Welfare Services

##### Child Protective

Amending the regulations to clarify procedures to be followed by caseworkers for interviewing collateral sources and accessing children.

##### Preventive Services

Amending the regulations to revise the casework contact standards and practices applicable to families to whom preventive services are being provided and where there are multiple categories of services provided.

##### Foster Care

Amending the regulations to permit Court Appointed Special Advocates to obtain foster and preventive records of a child under certain circumstances.

Amending the regulations to require criminal history screening for persons having regular and substantial contact with children placed with an authorized agency.

Amending the regulations to add 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.

Amending the regulations to revise the provisions governing reimbursement for and the purchase of child welfare services.

Amending the regulations to revise the standards for the provision of adolescent 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 in areas including behavior support, crisis prevention and intervention, privacy and searches, and unauthorized absences.

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

Amending the regulations regarding residential foster care programs to ban smoking by adolescents in such residences.

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

Amending the regulations to clarify health services standards for children in foster care.

Amending the regulations to revise the casework contact standards and practices applicable to certain children in foster care.

#### Foster/Adoption

Amending the regulations to conform with Chapter 3 of the Laws of 2005.

Amending 18 NYCRR Part 426 regarding eligibility for Title IV-E foster care and adoption assistance to require compliance with the federal requirements.

Amending the regulations regarding foster and adoptive parent medical examinations and certifications to permit performance by duly licensed nurse practitioners and physician's assistants.

#### Adoption

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 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 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 regarding discharge to adoption to expedite permanent placements for children.

#### 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.

**Juvenile Justice Residential Services**

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

Amending the regulations regarding visitation and the sending and receiving of mail and telephone calls by residents of facilities operated by OCFS.

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

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.

Amending the regulations regarding confidentiality for youth in OCFS facilities.

**Domestic Violence**

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

**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.

Any written questions or comments concerning the items listed in this agenda should be directed to: Kathleen R. DeCataldo, Esq., Director of Legislation and Special Projects, Office of Children and Family Services, 52 Washington St., Rm. 135N, Rensselaer, NY 12144, (518) 473-9551, e-mail: GG5107@ocfs.state.ny.us

**Education Department**

June 2006

Pursuant to section 202-d of the State Administrative Procedure Act, the State Education Department presents its regulatory agenda for the remainder of calendar year 2006. 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 June 2006 Regulatory Agenda.

**OFFICE OF ELEMENTARY, MIDDLE, SECONDARY AND CONTINUING EDUCATION**

Proposed amendment to section 100.2(p) of the Commissioner's Regulations to align the regulations with New York's revised No Child Left Behind Accountability Workbook, to incorporate implementation of grades 3-8 assessments and to make other adjustments to the methodology for determining whether schools and districts have made adequate yearly progress (AYP).

Proposed amendment to section 100.7 of the Commissioner's Regulations relating to fees for high school equivalency diploma and transcript replacement.

Repeal of section 175.43 of the Commissioner's Regulations relating to the Operating Standards Aid plan.

Proposed amendment to Part 117 of the Commissioner's Regulations relating to diagnostic screening of pupils.

Proposed amendment to Section 135.4 of the Commissioner's Regulations relating to the physical education requirements for students in grades 6-9 who are in a pre-professional training program for a career in dance or sports.

Agency Representative:

Information may be obtained, and written comments may be submitted, concerning the above proposed amendments by contacting:

Jean C. Stevens  
Interim Deputy Commissioner  
New York State Education Department  
Office of Elementary, Middle, Secondary and Continuing Education  
89 Washington Avenue  
Room 875 EBA  
Albany, New York 12234  
(518) 474-5915

**OFFICE OF HIGHER EDUCATION**

Amendment to Part 27 of the Regents Rules relating to the economic eligibility criteria for non-public institutions of higher education and to the economic eligibility criteria for the City University of New York's SEEK and College Discovery programs and the State University of New York's Educational Opportunity Program.

Amendment of section 3.46 of the Rules of the Board of Regents, relating to the authority of new proprietary schools to confer degrees, including transfer of degree authority.

Sections 52.21, 80-1.2 and 80-5.13 of the Commissioner's Regulations, regarding requirements for alternative teacher certification program.

Amendment to Part 80 of the Commissioner's Regulations, relating to reciprocity of classroom teaching certificates issued by other states.

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

Amendment of Regents Rules and Part 80 of Commissioner's Regulations to establish a Committee on the Teaching Profession to determine substantial compliance with certification requirements in extraordinary circumstances.

Amendment to Part 4 of Regents Rules relating to Regents Accreditation, Subpart 4-1, Voluntary Institutional Accreditation, for Title IV purposes concerning possible changes to the Regents accreditation standards.

Amendment of Subpart 4-2 of Regents Rules, relating to a revised fee structure for Regents Accreditation of Teacher Education (RATE).  
Agency Representative

Information may be obtained, and written comments may be submitted, concerning the above-proposed amendments by contacting:

Johanna Duncan-Poitier  
Deputy Commissioner  
New York State Education Department  
Office of Higher Education and Office of the Professions  
89 Washington Avenue  
West Wing, Second Floor Mezzanine - EB  
Albany, New York 12234  
(518) 474-3862

**OFFICE OF THE PROFESSIONS**

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

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

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

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

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

Amendment to Part 24 of the Regents Rules relating to the approval by the committee on the professions of three-year limited licenses in dentistry, dental hygiene, veterinary medicine, veterinary technology, and pharmacy.

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

Amendment to Part 70 of the Commissioner's Regulations relating to education and endorsement requirements for licensed public accountants.

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

Amendment to Part 66 of the Commissioner's Regulations relating to continuing education in the practice of optometry in the area of therapeutic pharmaceutical agents.

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 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.

Agency Representative:

Information may be obtained, and written comments may be submitted, concerning the above-proposed amendments by contacting:

Johanna Duncan-Poitier

Deputy Commissioner

New York State Education Department

Office of Higher Education and Office of the Professions

89 Washington Avenue

West Wing, Second Floor Mezzanine - EB

Albany, NY 12234

(518) 474-3862

OFFICE OF VOCATIONAL AND EDUCATIONAL SERVICES FOR INDIVIDUALS WITH DISABILITIES

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 federal regulations implementing the Individuals with Disabilities Education Act of 2004.

Amendment to sections 200.1 and 200.6(d) through (h) of the Commissioner's Regulations relating to the continuum of special education services.

Amendment to sections 200.2(d), and 200.6(i) and 200.16(c) 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 Education Law section 4410(2).

Amendment to section 200.3 relating to the membership of the Committee on Special Education and Committee on Preschool Special Education.

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 IEP.

Amendment to section 200.4(c) to establish the criteria to determine if a student is a student with a learning disability.

Amendment to section 200.4(h) of the Commissioner's Regulations repealing the notice requirement to a parent when a student is not entitled to receive free educational services or remain in a residential educational program after the age of twenty-one or upon receipt of a high school diploma.

Amendment to section 200.7 of the Commissioner's Regulations relating to the approval process for private schools for reimbursement with public funds.

Amendment to section 200.9 of the Commissioner's Regulations relating to rate-setting and tuition rates for approved programs for students with disabilities.

Amendment to section 200.16 of the Commissioner's Regulations relating to the provision of special education services by a preschool child's third birthday.

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

Amendment to Part 200 of the Commissioner's Regulations relating to the provision of special education services to students with disabilities enrolled by their parents in nonpublic schools.

Amendment to section 19.5 of the Rules of the Board of Regents and amendment of sections 200.1, 200.4, 200.7, and promulgation of section 200.22, of the Commissioner's Regulations relating to positive behavioral interventions, the use of aversive or noxious stimuli and the use of restraints to address student behaviors.

Amendment to Part 247.14 of the Commissioner's Regulations relating to the specific rates set for meeting the costs of college study for individuals with disabilities participating in vocational rehabilitation services.

Amendment to Parts 246 and 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 this year.

Agency Representative:

Information may be obtained, and written comments may be submitted, concerning 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

Amendments 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, updating the list of State agencies paying annual fixed fees for records management services, authorizing local governments to dispose of paper original or micrographic copies of records having a retention period of ten years or more when those records are replaced by digitized images, and authorizing local governments to use locally-developed records retention and disposition schedules in lieu of or in conjunction with schedules

issued by the Commissioner provided that the consent of the Commissioner for the use of those locally-developed schedules is obtained.

Agency Representative:

Information may be obtained, and written comments may be submitted, concerning the above-proposed amendment by contacting:  
Christine Ward  
Assistant Commissioner for the State Archives  
New York State Education Department  
New York State Archives  
Room 9C49  
Cultural Education Center  
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  
Room 10C34  
Albany, NY 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  
89 Washington Avenue  
Room 121 EB  
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  
89 Washington Avenue  
Room 139 EB  
Albany, New York 12234  
(518) 486-2422

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(y) of the Commissioner's Regulations relating to procedures for appeals to the Commissioner 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  
Counsel and Deputy Commissioner for Legal Affairs  
New York State Education Department  
89 Washington Avenue  
Room 112 EB  
Albany, New York 12234  
(518) 474-6400  
legal@mail.nysed.gov

**OFFICE OF STATE REVIEW**

Amendment to section 279.1 relating to cross reference to statutory provisions for state-level review of hearings for students with disabilities.

Amendment to section 279.2 relating to timeline for serving and filing a Notice of Intention to Seek Review, and Petition for Review; clarification of purpose of Notice of Intention to Seek review; clarification that parent must be personally served by a petitioning district; clarification making notice consistent with 279.9 requirements regarding submission of hearing record.

Amendment to section 279.3 pertaining to change of filing address and where copies of regulations may be obtained.

Amendment to section 279.4 relating to petition as the pleading that initiates review and determines timeliness of appeal; to clarify that personal service is required.

Amendment to section 279.7 relating to failure to verify a pleading.

Amendment to section to 279.8 relating to length of answer that includes cross appeal, table of authorities, manner of submission, non-compliance with form requirements; and clarifying requirement that pleadings be signed consistent with 22 NYCRR 130-1.1a(a).

Amendment to 279.9 relating to submission of hearing record.

Amendment to section to 279.10 pertaining to extensions of time to answer or reply.

Amendment to section to 279.11 pertaining to calculating date of mailing and type of mail.

Amendment to section 279.12 relating to parties receiving copies of state review officer's decisions.

Amendment to section 279.13 relating to timeline for and service of petition for review.

Agency Representative:

Information may be obtained, and written comments may be submitted, concerning the above-proposed amendments by contacting:  
Paul F. Kelly  
Assistant Counsel and State Review Officer  
Office of State Review  
80 Wolf Road, 2nd Floor  
Albany New York 12203  
(518) 485-9373

**Department of Health**

The following rules are under consideration for submission as a Notice of Proposed Rule making during the calendar year June 2006:

**DESCRIPTION OF THE RULE SUBJECT MATTER**

**Title 9 NYCRR (Executive)**

9600.4(c) Provision of Information By The EPIC Program - Enable the provision of information to OTDA by EPIC regarding participants who are enrolled in the Medicare Prescription Drug Card Program, thereby assisting these participants to receive an enhanced medical deduction in the calculation of food stamp benefits.

**Title 10 NYCRR (Health)**

2.1 and 2.5 Reportable Communicable Diseases - Neonatal herpes infections (those in infants 60 days of age or less) will be added to the

list of reportable communicable diseases in the State Sanitary Code. This amendment will make available New York State data which is needed to accurately measure the incidence of this disease, and to identify missed opportunities for prevention.

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 - Update regulation to extend to all reptiles rather than being limited to turtles, to reflect current understanding of potential sources of disease. Revise regulation to include a requirement for pet shops to provide written warnings at the point of sale. Amend to specify warnings posted at display sites where reptiles are not for sale but may be handled by the public.

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); 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 - 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 amend regulations for supervision and safety requirements.

6-3 Recreational Aquatic Spray Grounds - Create a new Subpart that will contain regulations for Recreational Aquatic Spray Grounds that use re-circulated water. The regulations will contain design and operational standards to ensure patron health and safety. Facilities must obtain a permit to operate from the local health department having jurisdiction.

7-1 Temporary Residences - Amend to remove campground specific requirements contained in 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.

7-2 Children's Camp - Amend Camp Aquatic Director qualifications contained in Section 7-2.5 (e) and Camp Health Director qualifications in 7-2.8 to clarify and update minimum experience, certification, and training needed to hold the position.

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 of the Code provides job titles and minimum job qualifications for local health

department personnel. The Code, last updated in 1979, will be updated to ensure that minimum qualifications for the positions of public health director, 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 Ionizing Radiation - Add/amend requirements for standards for decommissioning, reporting, transportation, definitions and human research to be compatible with federal regulations and replace outdated requirements. Clarify the requirements for reporting of misadministrations. Revise reporting requirements to be consistent with NYPORTS. Update quality assurance requirements. Update equipment requirements for dental x-ray facilities. Includes basic quality control requirements for dental x-ray films, and requirements for computed tomography units used for maxillofacial and/or dental examinations.

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; and establish qualifications for directors of clinical laboratories that limit forensic toxicology services to use of Department-waived initial testing methods.

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

53 Drinking Water State Revolving Fund - Revise 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.

55-2 Environmental Laboratories - Technical revisions to ELAP program standards to ensure consistency, where applicable, with national consensus standards promulgated by NELAP.

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 federal CLIA standards; establish standards for tracking and referral of critical agent specimens; establish standards for laboratory verification of technical and clinical validity of analytical methods; establish permit qualifications and record keeping standards for laboratories that limit their services to CLIA-designated waived tests and provider-performed microscopic procedures; and establish standards for multiple-site permits.

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 donor age to 16 years with parental/guardian consent.

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.

60-1.1 WIC Program Violations & 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 and sanctions for the WIC program.

63 HIV/AIDS Testing, Reporting and Confidentiality of HIV-Related Information - Amendments proposed to require reporting of HIV resistance and nondetectable viral load tests and to delete the existing HIV consent form and records release form from the regulations. Additional laboratory reporting will enable more complete monitoring of the epidemic and the deletion of the forms and placing revised forms (e.g. HIPAA compliant release) on the department's website will facilitate updating patient and provider accessibility and convenience.

66-1 Immunizations - Update regulations to be consistent with changes enacted to the Public Health Law in 2004. The regulations will add pertussis and tetanus to the list of required pre-school immunizations and also address the requirement that children born between January 1, 1994 and December 31, 1997 be immunized against varicella by the time they enter sixth grade.

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.

67-1 Lead Screening and Follow-up - Amendments would clarify the current regulation that follow-up (case management) services are required for all children regardless of age, and are not limited to children under the age of six and reduce the capillary blood lead level at which a result must be confirmed by venous test from 15 mcg/dL to 10 mcg/dL, which is consistent with CDC guidance and our forthcoming case management guidelines. This would also implement a change to lower the blood lead level requiring environmental intervention and management from 20 mcg/dL to 15 mcg/dL which would provide an opportunity to increase the number of housing units receiving remediation or abatement of lead hazards thereby preventing further lead exposure for the child with an EBLL, and prevent lead exposure for future children residing in the house.

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

67-3 Reporting of Blood Lead Levels - The proposed changes would require all laboratories to transition to electronic reporting over a specified time period; would expand the number of fields required on a laboratory report; and would tighten accountability for labs and physicians in reporting to improve compliance. All of these changes would help counties coordinate follow-up for children with elevated lead levels and would strengthen our capacity for meaningful analysis of surveillance data to target our screening promotion efforts.

69-1 Newborn Screening - Expand the Department's Newborn Screening Panel to include tests for Krabbe disease, an inborn error of metabolism.

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

74 Approval of Realty Subdivisions - Revise/update standards for realty subdivision design and plan approval, including water quality standards for proposed on site water systems.

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.

77.5 Funeral Establishments - Prohibit the recovery of tissue within a funeral establishment and not allow non-transplant anatomical banks

to operate within such establishments.

80 and 94 Physician Assistant's and Special Assistant's - Inpatient Medical Orders - Amend the requirement that requires written medical orders by registered physician's assistants to be countersigned by the supervising physician within 24 hours to be consistent with a recent change in the Public Health Law, Section 3703.

80 and 910 Serialized Official New York State Prescription Form - All prescriptions written in New York State must be written on an official NYS prescription form beginning on April 19, 2006.

80.3 Exceptions Reclassification and Exemption of Scheduled Controlled Substances - Exempt certain anabolic steroid preparations from scheduling as controlled substances. These products were exempted from federal scheduling as controlled substances because they lack abuse potential.

80.138 Opioid Overdose Prevention Programs - Implement Chapter 413 of the Laws of 2005 which calls for the establishment of standards for opioid overdose prevention programs to prevent fatalities due to overdose.

86 Fair Market Value for Public Hospital Capital Costs - Develop a fair market value reimbursement methodology for capital costs incurred by public hospitals.

86-1, 86-2 and 86-4 CPA Certifications for Article 28 Facilities - Require that all cost reports submitted by Article 28 facilities (hospitals, nursing homes, diagnostic and treatment centers, and home care providers) include a Certified Public Accountant certification.

86-2 Updating Criteria for Determining Nursing Home Hospital-Based Status - Eliminate regulations referencing the designation of hospital-based nursing homes by the federal government since they no longer make that distinction.

86-2 Nursing Home Pay for Performance - Provide an enhanced rate adjustment for those nursing facilities that meet or exceed defined quality measures.

86-2.10 and 86-2.15 Behavioral Intervention Services - Establish a distinct Medicaid payment rate for nursing facilities that operate a discrete unit to care for individuals with neurobehavioral challenges (identified as behavioral intervention step-down units) that no longer require the intensity of the secure specialized behavioral units already in regulation.

86-4 Ambulatory Care Data Collection (SPARCS) - Authorize collection of medical record information for all patients in an ambulatory care setting.

86-4.9 Units of Service, Social Work Services in Article 28 Clinics - Allows Medicaid to reimburse for the services of Licensed Master Social Workers and Licensed Clinical Social Workers to provide individual psychotherapy services in Article 28 clinics.

86-4.9 Units of Service, Social Work Services in Article 28 Federally Qualified Health Centers (FQHCs) - Review.

86-5 and 86-6 Reimbursement Rates for Medically Fragile Children - Provide increased rates to certified home health agencies (CHHAs), long term home health care programs (LTHHCPs), AIDS Home Care, hospices, and long-term managed care programs for continuous nursing services provided to medically fragile children.

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 Article 28B of the Public Health Law.

89 Practice of X-ray Technology - Update obsolete language and establish certificate and standards for radiographers who inject contrast media.

96 License and Practice of Nursing Home Administration - Refine and streamline existing regulations and ensure their consistency with the policies and directives of the Board of Examiners of Nursing Home Administrators.

98-1 Health Maintenance Organization (HMO) - Service Authorizations and Complaints and Appeals - 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.

98-1 Non-discrimination in enrollments and service provision - A technical correction will be made to the regulation by adding back language that prohibits HMOs from discriminating in enrollments and services provision. This language was inadvertently deleted when the regulation was revised.

98-2 External Appeals of Adverse Determinations - Amend the existing regulation to establish new and revised standards and procedures for the external appeal process and to clarify the requirements for external appeal agents.

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.

402, 415.26, 763.13, and 766.11 - Addition of new Part and amend existing regulations that require all nursing homes, certified home health agencies, licensed home care services agencies and long term home health care programs to request criminal background checks of certain unlicensed prospective employees to be hired on and after

September 1, 2006. The department is required to act on such requests through a review of state and national criminal history information.

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.

405.11 Infection Control (Hospitals) - Pursuant to PHL 2819, the NYSDOH will implement new regulations to enact Hospital-Acquired Infection Reporting requirements.

415 Neurobehavioral Step Down Unit - Establish new nursing home regulations for a specialized program for nursing home residents requiring less restrictive behavioral interventions than provided in a discrete neurobehavioral unit. A neurobehavioral step down unit shall mean a discrete unit with a planned combination of services with staffing, equipment and physical facilities designed to serve individuals whose behavior cannot be managed in a RHCf without presenting as an undue risk or threat to self or others, but whose behavior does not require the program and services of a discrete neurobehavioral unit.

600.8 Criteria for Determining the Operation of Diagnostic or Treatment Center Under Article 28 of the Public Health Law - Review.

700, 717, 790, 791 and 794 Hospice Residence Dual Certification - Authorize the dual certification of up to two beds in a hospice residence, and update and clarify certain standards contained in the hospice residence regulations.

708 Appropriateness Review - Amend Trauma Designation Centers. Add a new section to designate regional trauma centers as Coordinating Centers to take on regional leadership roles. Modify existing trauma designation standards and update provisions to conform to the 2005 Emergency Medical, Trauma Care and Disaster Preparedness Act.

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 and 766 Reporting Requirements for Licensed Home Care Services Agencies - To implement recent statutory changes to PHL which require licensed home care services agencies to submit annual cost reports and comply with the annual administrative and general cost requirements applied to certified home health agencies.

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

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. Codify regulatory requirements for Advance Life Support First Response Agencies. Codify regulatory requirements for Basic Life Support Providers. Make updates to EMS certification and training regulations. Establish a new section on the mobilization and/or sharing of resources in the event of a declared disaster.

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, Judgements, 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.

1001 Assisted Living Residences - Further the goals of Article 46B of the Public Health Law (Assisted Living Reform Act) by creating the regulatory framework necessary for implementation of the provisions therein.

Implementation of Article 4A of PHL - Body Piercing and Tattooing - The law requires a permit to perform body piercing and tattooing and the establishment of a permit fund. Rules and regulations to be promulgated will include guidance on infection control practices to prevent the transmission of diseases, especially bloodborne pathogens, sterilization and disinfection of equipment, as well as administration and enforcement of the law.

Implementation of Article 35-A of PHL - Ultraviolet Radiation Devices, Tanning Facilities The law requires a license to operate a tanning facility. It also provides for the promulgation of rules and regulations establishing standards for cleanliness, hygiene and safety of such operations, as well as administration and enforcement of the law.

#### Title 18 NYCRR (Social Services)

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 the move.

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 LTC Eligibility Changes Required by the Deficit Reduction Act (DRA) of 2005 - The Medicaid eligibility regulations and transfer of assets provisions require amendment to reflect the provisions contained by the DRA and amended State statute.

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.

360-4.4 Transfer under the NYS Partnership for Long-Term Care - If transfer is made within a look-back period, the amount of transfer will be used in the calculation of protected assets under the dollar for dollar Partnership.

360-4.6(a)(2)(xxv) Interest/Dividend Income Exclusion - Provides for the exclusion of most interest/dividend income for SSI-related individuals.

360-4.6(2)(a)(xxvi) and 360-4.6(b)(2)(x) Education-Related Income and Resource Exclusion - Provides for the disregard of gifts used for tuition, fees, or other necessary educational expenses as countable income, and, for nine months, as countable resources for SSI-related individuals.

360-4.6(b)(2)(v) and 360-4.6(b)(2)(ix) Resource Exclusion - Provides for a resource exclusion period of nine months for retroactive SSI and Social Security benefit payments, federal child tax credit payments, and federal earned income tax credit payments for SSI-related individuals.

360-5.5 Examination - The reference to 18 NYCRR 595.3(b) is inaccurate. The fiscal regulations were changed in 1988. This appears to have been an oversight at that time.

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's Program - Eliminates the dual prior approval for certain services for Medicaid eligible children.

360-7.7 Payment of Medicare Coinsurance - 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.

360-7.12 Co-Payments by Recipients - Revise the regulation to conform with recently enacted statutory changes to Medicaid co-payments that eliminates the pharmacy co-payment exemption for managed care recipients, and increases the pharmacy co-payment \$.50 to \$1.00 for generic drugs, \$2.00 to \$3.00 for brand name drugs, and the annual cap from \$100 to \$200.

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.

501 Consumer Directed Personal Assistance Program - New regulations for operation of Consumer Directed Personal Assistance Programs (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.

504.3 (j) through (m) Medicaid Provider Responsibilities - Three new sections are added to Part 504.3 (j) through (l) defining the responsibility of Medicaid enrolled providers to treat Medicaid patients during federal or State declared emergencies. A fourth section (m) is added to clarify that Title XVIII Medicare enrollment is required for all providers eligible to participate in Medicare as a condition of enrollment in the New York State Medicaid Program.

505.3 Pharmacy - Amends the regulation to identify Medicaid reimbursement associated with the reasonable administrative costs incurred by 340B covered entities or an authorized contract pharmacy when billing Medicaid at 340B prices.

505.8 Reimbursement Rates for Medically Fragile Children - Provide increased rates to private duty nurses for services provided to medically fragile children.

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.

505.10 Transportation Services - Pending final 2006-07 budget negotiation, revise the regulation to conform with legislation changing transportation services from a program service to an administrative service.

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.

505.31(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.

511 Continuing Day Treatment Utilization Thresholds - Utilization thresholds is a program in which Medicaid recipients are subject to service limits for certain types of Medicaid reimbursed categories of service and treatment during their recipient benefit year. These services formerly did not induce limits for continuing day treatment. Article 7, Budget Bill of 2005 requires that the exclusion of CDT from utilization thresholds be changed.

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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 second half of 2006. Many of these items were previously published in the January, 2006 Regulatory Agenda. Items that have been published in the State Register as "Proposed" actions 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, a contact person is named in the item. For general inquiries regarding the Insurance Department's Regulatory Agenda, contact:

Sam Wachtel  
 Supervising Attorney  
 Office of General Counsel  
 New York State Insurance Department  
 25 Beaver Street  
 New York, NY 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.

Numbers 1 through 21: Agency Contact Person: Buffy Cheung, Principal Insurance Examiner, Property Bureau (212-480-5587):

1. Summary description of proposal: Amendment of 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 clarify that the use of digital photography and electronic access to inspection report data are permitted.  
 2. Summary description of proposal: Amendment of 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 accounts and surcharge accounts information to the Insurance Department; and amendment of Section 70.13 which currently requires that medical malpractice insurers offer both occurrence and claims-made policies.

3. Summary description of proposal: Amendment of 11 NYCRR 152 (Physicians and Surgeons Professional Insurance Merit Rating Plan) (Regulation 124) (1) to provide requirements for internet-based risk management courses which are submitted to the Superintendent for approval; (2) to provide requirements for risk management courses in which insureds must participate in order to be eligible for the excess medical malpractice insurance program and (3) reflect the change in law (Chapter 420, Laws of 2005) that permits physicians, surgeons, and dentists participating in the excess medical malpractice insurance program, that have already completed an initial basic risk management course, to take a follow-up risk management course every two years instead of once a year in order to be eligible to participate in the excess program.

4. 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.

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

6. Summary description of proposal: Amendment of 11 NYCRR 301 (Purchasing Groups) (Regulation 134) to eliminate provisions referencing Affidavit Part B which was originally required by 11 NYCRR 27 (Regulation 41) but has since been deleted from Regulation 41.

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

8. Summary description of proposal: Amendment of 11 NYCRR 27 (Excess Line Placements Governing Standards) (Regulation 41) to establish procedures for the filing of required affidavits on a consolidated basis for "legitimate" group placements under 11 NYCRR 153 (Regulation 135) similar to those in place for Purchasing Groups under 11 NYCRR 301 (Regulation 134).

9. Summary description of proposal: Amendment of 11 NYCRR 65-1, 65-2, 65-3, 65-4 (Regulations Implementing the Comprehensive Motor Vehicle Insurance Repairs Act) (Regulations 68-A, 68-B, 68-C & 68-D) to revise No-fault endorsements, requirements for insurer claim practices, and rules related to the manner in which the organization designated by the Superintendent to administer the first party motor vehicle insurance arbitration programs assesses the costs of these programs to the insurance industry.

10. 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 became effective in April, 2005.

11. Summary description of proposal: Amendment of 11 NYCRR 68 (Charges for Professional Health Services) (Regulation 83) to update the dental fee schedule.

12. Summary description of proposal: Amendment of 11 NYCRR 262 (Legal Services Insurance) (Regulation 162), to eliminate the filing requirement for liability policies containing legal service insurance

provisions if the liability policy is eligible for and has been placed as special risk insurance pursuant to Article 63 of the Insurance Law.

13. Summary description of proposal: Amendment of 11 NYCRR 390 (Service Contracts) (Regulation 155) that will provide clarification of the requirements and conditions for appointment of a claims trustee, the minimum affirmations and attestations in the use of a "parental guarantee" of a subsidiary Service Contract Provider ("SCP") and specifications for the determination that an SCP is deemed insolvent.

14. Summary of description of proposal: Adoption of a new part to 11 NYCRR to provide clarification and rules regarding inland and ocean marine insurance.

15. Summary of description of proposal: Amendment of 11 NYCRR 218 (Prohibition of Geographical Redlining in Writing Private Passenger Automobile and Fire or Fire and Extended Coverage Insurance Policies) (Regulation 90) to reflect changes to the Insurance Law (adding a new Section 3429-a and amending Section 3430) made by Chapter 259 of the Laws of 2005 regarding homeowner's insurance.

16. Summary description of proposal: Amendment of 11 NYCRR 216 (Unfair Claims Settlement Practices and Claim Cost Control Measures) (Regulation 64) to provide notice and time frame requirements regarding third party claims.

17. Summary description of proposal: Adoption of a new 11 NYCRR 65-5 (Regulation 68-E) and amendment of 11 NYCRR 68 (Charges for Professional Health Services) (Regulation 83) to implement Chapter 424 of the Laws of 2005. These will be developed in consultation with the Commissioner of Health and the Commissioner of Education to create a process by which a health provider's authority to seek reimbursement for the treatment of No-fault patients can be suspended or removed under certain circumstances.

18. Summary description of proposal: Amendment of 11 NYCRR 65-3 and 65-4 (Claims for Personal Injury Protection Benefits & Arbitration) (Regulations 68-C & 68-D), respectively, to require insurers to issue no-fault denials with specific wording so that the applicants will be aware that they can apply for special expedited arbitration to resolve disputes regarding the designation of the insurer for first party benefits and to provide the procedures for administration of the special expedited arbitration for disputes regarding the designation of the insurer for first party benefits.

19. Summary description of proposal: Amendment of 11 NYCRR 27 (Excess Line Placements Governing Standards) (Regulation 41) To amend Section 27.14(f) and (i)(2) in order to implement new alien trust funding standards to be agreed upon by the International Insurers Division (IID) of the NAIC.

20. Summary description of proposal: Adoption of a new part to 11 NYCRR regarding standards for coverages, limitations and exclusions related to damages caused by mold and related remediation.

21. Summary description of proposal: Amendment of 11 NYCRR 79 (Letters of Credit) (Regulation 133) to allow credit for unauthorized reinsurance for letters of credit with effective dates, as opposed to issue dates, prior to the date of determination and in the possession of the ceding insurer prior to the filing of the financial statement.

Number 22: Agency Contact Person: Daniel Gumaer, Supervising Insurance Examiner, Life Bureau (212-480-5040):

22. Summary description of proposal: Amendment to 11 NYCRR 51 (Replacement of Life Insurance Policies and Annuity Contracts) (Regulation 60) to allow for a preliminary disclosure statement that can be prepared without waiting twenty days for a response from the replaced insurer, in order to allow the application to be completed on the first visit. The amendment would also require a complete disclosure statement to be given to the applicant prior to policy delivery.

Numbers 23 through 25: Agency Contact Person: Ruth Gumaer, Supervising Insurance Examiner, Life Bureau (212-480-4763):

23. 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 "other property" gifted to charitable annuity societies pursuant to Insurance Law Section 1110(a).

24. Summary description of proposal: Amendment to 11 NYCRR 219 (Rules Governing Advertisements of Life Insurance and Annuity Contracts) (Regulation 34A) to establish standards for joint advertisements.

25. Summary description of proposal: Adoption of a new part to 11 NYCRR to adopt the NAIC Risk Based Capital standard for fraternal benefit societies.

Numbers 26 through 29: Agency Contact Person: Fred Andersen, Supervising Actuary, Life Bureau (518-474-5462):

26. Summary description of proposal: Amendment to 11 NYCRR 94 (Valuation of Individual and Group Accident and Health Insurance Reserves) (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.

27. 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.

28. Summary description of proposal: Amendment to 11 NYCRR 100 (Recognition of the 2001 CSO Mortality Table for Use In Determining Minimum Reserve Liabilities and Nonforfeiture Benefits) (Regulation 179) to include a split of the 2001 CSO Mortality Table to reflect preferred underwriting criteria.

29. Summary description of proposal: Amendment to 11 NYCRR 95 (Regulations Governing an Actuarial Opinion and Memorandum) (Regulation 126) to add guidance regarding sensitivity tests, disclosure items, and other requirements related to asset adequacy analysis.

Numbers 30 and 31: Agency Contact Person: Michael Cebula, Assistant Chief Actuary, Life Bureau (518-474-6805):

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

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

Number 32 through 34: Agency Contact Person: Dennis Lauzon, Assistant Chief Actuary, Life Bureau (518-474-5462):

32. 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.

33. Summary description of proposal: Addition of a part to 11 NYCRR to establish minimum standards for form, content and sale of life insurance, annuities and funding agreements, including standards for full and fair disclosure.

34. Summary description of proposal: Addition of a part to 11 NYCRR to establish standards for self-support requirements for life insurance, annuities and funding agreements issued on an individual or group basis. Numbers 35 through 37: Agency Contact Person: Ralph D. Spaulding, Supervising Insurance Attorney, Life Bureau (518-486-5258):

35. Summary description of proposal: Amendment to 11 NYCRR 50 (Separate Accounts 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.

36. Summary description of proposal: Adoption of a new part 48 to 11 NYCRR (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.

37. Summary description of proposal: Amendment of 11 NYCRR 54 (Variable Life Insurance) (Regulation 77) to provide for exceptional treatment of private placement variable life insurance, especially with respect to the deferral of payments for death benefits, surrender benefits and policy loans.

Number 38: Agency Contact Person: Peter Dumar, Associate Insurance Attorney, Life Bureau (518-474-4552):

38. Summary description of proposal: Amendment to 11 NYCRR 53 (Life and Annuity Disclosure and Sales Illustrations) (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 and variable annuity products and funding agreements. Also to include changes that provide for enhanced disclosure to buyers of life insurance and annuity products.

Number 39: Agency Contact Person: Theresa Bobear, Associate Insurance Attorney, Life Bureau (518-486-5258):

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

Number 40: Agency Contact Person: Robert Solomon, Principal Insurance Examiner, Health Bureau (212-480-5246):

40. Summary description of proposal: Amendment of 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 the 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 to large groups, to clarify the application and effect of rolling rates and annual level subscriber rates, and to implement Sections 4308(g) and (h) (for Article 43 Corporations and HMOs) and 3231(e)(2) of the Insurance Law (for commercial insurers that write accident and health insurance) relating respectively 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 41 through 42: Agency Contact Person: Austin J. Rinella, Supervising Insurance Attorney, Health Bureau (518-474-4098):

41. Summary description of proposal: Amendments of: 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 (Rules to Assure an Orderly Implementation and Ongoing Operation of Open Enrollment and Community Rating of Individual and Small Group Health Insurance) (Regulation 145), 11 NYCRR 361 (Establishment and Operation of Market Stabilization Mechanisms for Individual and Small Group Health Insurance and Medicare Supplement Insurance) (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 New York State Partnership for Long-Term Care Program) (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, and 4) make changes to minimum standards for Partnership and non-Partnership coverages.

42. Summary description of proposal: Amendment of 11 NYCRR 17 (Standard Health Insurance Claims Forms for the Services of Physicians, Dentists and Hospitals) (Regulation 88) to delete obsolete provisions. Number 43 through 45: Agency Contact Person: Deborah A. Kozemko, Supervising Insurance Attorney, Health Bureau (518-486-7815):

43. Summary description of proposal: Amendment of 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 (Rules to Assure an Orderly Implementation and Ongoing Operation of 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.

44. Summary description of proposal: Amendment of 11 NYCRR 52 (Minimum Standards for the Form Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure) (Regulation 62) and 11 NYCRR 360 (Rules to Assure an Orderly Implementation and Ongoing Operation of Open Enrollment and Community Rating of Individual and Small Group Health Insurance) (Regulation 145) to set forth requirements regarding the payment of commissions, fees and other compensation to agents and brokers.

45. Summary description of proposal: Amendment of 11 NYCRR 52 (Minimum Standards for the Form, Content and Sale of Health Insurance, including Standards of Full and Fair Disclosure) (Regulation 62) to update the requirements for coordination of benefits (COB) among health insurance policies.

Number 46: Agency Contact Person: Carol Leith, Principal Actuary, Health Bureau (518-474-4562):

46. Summary description of proposal: Amendment of 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) of the Insurance Law, in instances where the alternate filing procedure as defined in Section 3231(e)(2)(A) has been utilized.

Numbers 47 through 50: Agency Contact Person: Lisette Johnson, Supervising Insurance Attorney, Health Bureau (518-474-4098):

47. Summary description of proposal: Amendment of 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.

48. Summary description of proposal: Amendment of 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 and to clarify the requirements in existing law in relation to external appeal agents.

49. Summary description of proposal: Amendments of 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 addition of a new Part to 11 NYCRR to establish standards for coverage determinations and benefit determinations, including standards for utilization review.

50. Summary description of proposal: Amendment of 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 in health insurance policies.  
 Number 51: Agency Contact Person: Gary Teitel, Supervising Actuary, Health Bureau (212-480-7709):  
 51. Summary description of proposal: Amendment of 11 NYCRR 350 (Life Care Communities) (Regulation 140) to modify and clarify the actuarial reserve calculation, solvency testing, distribution allowances, fee adequacy, allowable investments, and to better define needed filing requirements, all recognizing marketplace expansion in both the number and types of Life Care Communities.  
 Number 52: Agency Contact Person: Stephen Rings, Senior Insurance Attorney, Health Bureau (518-474-4899):  
 52. Summary description of proposal: Amendment of 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 53: Agency Contact Person: Doris Kullman, Senior Insurance Attorney, Health Bureau (518-474-4899):  
 53. Summary description of proposal: Amendment of 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 54: Agency Contact Person: Mary Frances Sabo, Senior Insurance Attorney, Health Bureau (518-474-4098):  
 54. Summary description of proposal: Amendment of 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 55 through 56: Agency Contact Person: Janet A. Graham, Senior Insurance Attorney, Health Bureau (518-474-4098):  
 55. Summary description of proposal: Amendment of 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.  
 56. Summary description of proposal: Amendment of 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 dental exclusion in health insurance policies.  
 Number 57: Agency Contact Person: Julie Silverstein, Senior Insurance Attorney, Health Bureau (518-486-7815):  
 57. Summary description of proposal: Amendment of 11 NYCRR 52 (Minimum Standards for Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure) (Regulation 62) to implement denial of coverage procedures in relation to restricting certain covered prescription drugs, procedures and supplies in the treatment of erectile dysfunction when prescribed for use by a person who is required to register as a sex offender and covered under a standardized individual enrollee direct payment contract.  
 Numbers 58 through 59: Agency Contact Person: Thomas Fusco, Associate Insurance Attorney, Health Bureau (716-847-7618):  
 58. Summary description of proposal: Amendment of 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 permissible and prohibited limitations on prescription drug

coverage written by Article 43 corporations, HMOs and commercial insurers.  
 59. Summary description of proposal: Amendment of 11 NYCRR 52 (Minimum Standards for the Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure) (Regulation 62) to establish requirements for insurance policies that use a usual and customary or reasonable form of reimbursement.  
 Number 60: Agency Contact Person: David Doran, Principal Insurance Examiner, Health Bureau (212-480-5046):  
 60. Summary Description of proposal: Amendment of 11 NYCRR 83 (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 2006 published depreciation schedules.  
 Number 61: Agency Contact Person: Shannon Tahoe, Senior Insurance Attorney, Health Bureau (518-486-7815):  
 61. Summary description of proposal: To create a new regulation to establish uniformity in the use and application of codes in the processing of health care claims to avoid claim delay and to require every accident and health insurer and HMO to annually file with the superintendent or designee (statistical agent) a statistical report showing a classification schedule of its premiums, losses and related expenses on all kinds or types of accident and health insurance business subject to the insurance law and such other information as the superintendent may deem necessary. This basically establishes a uniform statistical plan for the health insurance industry, where there is currently no consistency in the methods of data collection, classification (other than by aggregated lines of business), and reporting.  
 Number 62: Agency Contact Person: John Chaskey, Supervising Examiner, Consumer Services Bureau (518-474-9845):  
 62. Summary Description of proposal: Amendment of 11 NYCRR 28 (Professional Bail Bond Agents) (Regulation 42) to establish minimum recordkeeping 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.  
 Number 63: Agency Contact Person: Laura Dillon, Associate Examiner, Consumer Services Bureau (518 486-9105):  
 63. Summary Description of proposal: Amendment of 11 NYCRR 216 (Unfair Claims Settlement Practices and Claim Cost Control Measures) (Regulation 64) to require health insurers to add a standardized paragraph to all "Explanation of Benefits" forms advising insureds that they may file a complaint with the Insurance Department for investigation when any element of a health insurance claim is rejected, and to clarify the applicability of the regulation to accident and health insurance written pursuant to the provisions of 1113 (a) (3) and the provisions of article 43 of the Insurance Law.  
 Number 64: Agency Contact Person: Janet Davignon, Associate Examiner, Consumer Services Bureau (518-474-5154):  
 64. Summary Description of proposal: Amendment of 11 NYCRR 215 (Advertisements of Accident and Health Insurance) (Regulation 34) to require accident and health insurers providing long term care insurance as defined in 11 NYCRR 52.12 to submit a copy of any advertisement for long term care insurance intended for use in this State to the superintendent.  
 Number 65: Agency Contact Person: Jim Everett, Associate Counsel, Capital Markets Bureau (518-408-1593):  
 65. Summary description of proposal: Amendment of 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 66: Agency Contact Person: Jody Wald, Captive Coordinator, Captive Insurance Group (212-480-2757):

66. Summary description of proposal: Adoption of a new part to 11 NYCRR to clarify certain statutory provisions made applicable to captive insurance companies licensed in the State of New York pursuant to Article 70 of the New York Insurance Law by Section 7001.

## 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 second half of 2006. 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.

Establish criteria for closing child support cases.

Amend references to and chart showing calculations of child support obligation to reflect annual change in the federal poverty income guidelines amount and the self-support reserve.

Establish guidelines for the local child support enforcement units to follow in determining whether and under what circumstances a passport, which has been revoked, denied or suspended by the US Department of State due to non-payment of child support, may be released.

### Employment and Transitional Supports

Revise regulations relating to methods of payment to conform to current policy.

Authorize the provision of public assistance to residents of adult homes and enriched housing programs when such facilities become classified as congregate care level 3.

Clarify provisions concerning the submission of a social security number as a condition of eligibility for public assistance.

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

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

Revise food stamp employment and training regulations to conform to federal regulations.

Revise assessment regulations to make the requirements for exempt individuals in households without dependent children consistent with those for exempt individuals in households with dependent children.

Provide local districts the opportunity to request waivers of face-to-face recertification interviews for Temporary Assistance recipients.

Subject to certain exceptions, require a shared living reduction when a recipient of Temporary Assistance resides in the same dwelling unit as a person who is not in receipt of Temporary Assistance.

Implement changes to participation rate regulations to conform to amendments to Social Services Law which require social services districts to expand the countable work activities available to Safety Net Assistance participants without children to include community service programs, the provision of child care services to an individual participat-

ing in community service and time limited vocational education training and job search and job readiness assistance.

Clarify how participation rates are calculated based on federal reporting guidance and clarify the calculation of two distinct Safety Net Assistance work participation rates.

Correct a technical error in regulation related to good cause for failing to comply with work requirements.

Update the determination of food stamp eligibility regulations to include SSI live-alone New York State Nutrition Improvement Program provisions, and education grant exclusions, implementation of the Group Home Standardized Benefit program, delete monthly reporting/retrospective budgeting references and add provisions for change reporting.

Delete provisions relating to Food Assistance Program.

Delete the provision that alternate housing must be explored prior to issuing a Home Energy Assistance Program (HEAP) benefit, and delete as an emergency provision and add a separate provision on heating equipment repair and replacement.

Conform adequate notice requirements for HEAP to reflect current policy and practice.

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

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

Amend employment program provisions for notices of conciliation and notices of discontinuance or reduction to implement plain language requirements.

Authorize shift of certain cases to non-TANF Family Assistance to facilitate implementation of changes made by the Deficit Reduction Act of 2005.

Establish additional guidelines regarding work activity definitions and work documentation procedures anticipated as needed after promulgation of federal TANF regulations implementing the Deficit Reduction Act of 2005.

Generally update Food Stamp regulations to conform to recent changes in the federal regulations.

### Program Support and Quality Improvement

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.

### Reimbursement and Claims

Amend provisions concerning sampling of cases for quality control purposes.

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

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

Replace administrative cost cap section with new material regarding the Flexible Fund for Family Services (FFFS) and the Local Administration Fund (LAF).

Amend employment section to reflect new program categories under Welfare Reform.

### Technical Amendments

Implement provisions of Chapter 22 of the Laws of 2005, concerning the time to respond to requests for records under the Freedom of Information Law.

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

Update references to the employment program from 12 NYCRR Part 1300 to 18 NYCRR Part 385.

Any questions concerning the items listed in this agenda can be referred to Jeanine Stander Behuniak, Office of Temporary and Disability Assistance, 40 North Pearl Street 16C, Albany, New York 12243. Tele-

phone: (518) 474-9779. E-mail: Jeanine.Behuniak@ OTDA.state.ny.us.  
The regulatory agenda may be accessed on the Office of Temporary and Disability Assistance's website at [www.otda.state.ny.us](http://www.otda.state.ny.us).

## Workers' Compensation Board June 2006

Pursuant to section 202-d of the State Administrative Procedures Act, the Workers' Compensation Board presents its regulatory agenda for January 2006. All references are to Title 12 of the New York Code of Rules and Regulations. The Board reserves the right to add, delete or modify any item presented in this agenda.

The Workers' Compensation Board is considering proposing the following:

1. Add a new Part 304 to implement the provisions contained within Chapter 638 of the Laws of 2004, as amended by Chapter 70 of the Laws of 2005. Chapter 638 of the Laws of 2004 provided for the direct deposit of workers' compensation benefit payments upon written request of the injured employee. Chapter 70 of the Laws of 2005 clarified that participation by employers in the direct deposit program was voluntary and not mandated.

2. Add a new Part 325-9, pursuant to Workers' Compensation Law sections 13 (e) and 20, to establish guidelines and parameters for the use of impartial medical specialists when an established claim requires an expert opinion or examination.

3. Amend Section 300.2 regarding independent medical examinations regarding the time period within which reports of such examinations must be filed with the Board and served on all others, procedures for review of records without an examination of a claimant, process to revoke the authorization of an independent medical examiner whose medical license has been restricted or Board Certification revoked, and process to rescind the registration of independent medical examination entities who engage in misconduct.

4. Add a new Section 325-1.25 to set forth the process for temporary suspensions of medical professionals who are authorized to treat or conduct independent medical examinations of claimants.

5. Repeal Part 310.1, pursuant to Chapter 635, Section 58 of the Laws of 1996, which omitted Section 110(b) of the Workers' Compensation Law and made Rule 310.1 obsolete.

6. Amend Sections 300.22, 300.23, 300.29, and 403.1 to eliminate references to obsolete forms.

7. Amend Part 300 to remove references to obsolete bureaus, and board staff, as well as provide for technological advancements and the appropriate location of the Board's executive offices.

8. Amend Parts 300, 315, 316, 317, 355, 356, 357, 358-1, 358-3, 359, 360, 361, 362, 363, 364, 375, 376, 377, 378, 379, 390, 391, and 393 to change all references from "Chairman", "chairman" and "chair" to "Chair" for uniformity and to connote gender neutrality and to correct punctuation, grammatical and typographical errors. Subpart 358-3 and sections 363.12 and 378(1) are being amended so that the headings conform to the text of the rules contained in the subpart and sections. Section 363.11(a) is being further amended to comply with notice filing requirements established in section 217 of the Workers' Compensation Law.

The Board will continue to review its rules in an effort to provide for clearer and more accurate references to Board policies and procedures, while also eliminating typographical errors and obsolete forms/practices, etc.

To obtain information or submit written comments regarding this regulatory agenda, contact Cheryl M. Wood, General Counsel, Workers' Compensation Board, 20 Park Street, Rm. 401, Albany, NY 12207, (518) 486-9564, e-mail: [OfficeofGeneralCounsel@wcb.state.ny.us](mailto:OfficeofGeneralCounsel@wcb.state.ny.us)