

REGULATORY AGENDA

Banking Department

The New York State Banking Department is considering proposing rules with respect to the following:

1. New rules to implement the provisions of legislation addressing the mortgage foreclosure crisis in the state, including:
 - a. Rules governing the registration of mortgage loan servicers (These rules were adopted on an emergency basis on June 13, 2010);
 - b. Rules governing the business conduct of mortgage loan servicers;
 - c. Rules determining the applicability of those mortgage loan servicer regulations to loans secured by interests in manufactured housing; and
 - d. Rules specifying disclosures to be made by mortgage brokers concerning payment of yield spread premiums.
2. Amending various regulations to conform to changes in Article 12-D of the Banking Law and to changes in the application process for mortgage bankers and brokers resulting from the requirements of the National Mortgage Licensing System and Registry.
3. Revising its regulations to conform to changes in Article 12-E of the Banking Law regarding the regulation of mortgage loan originators (These regulations were adopted on an emergency basis on June 13, 2010.)
4. Amending its regulations regarding the Banking Development District (BDD) program to implement the provisions of recently enacted legislation and to address the recommendations of a forthcoming report on the Department's assessment of the effectiveness of the BDD program.
5. Amending its regulations regarding compliance with the Community Reinvestment Act to provide more emphasis on qualitative factors as a way to encourage financial institutions to better respond to community credit needs.
6. Amending its regulations to codify the tangible net worth requirement for check cashers.
7. Amending Part 38 of the General Regulations of the Banking Board to address inconsistency between those regulations and the new requirements of Truth-in-Lending Regulation; incorporate certain disclosure requirements for brokers and bankers engaging in loan modification activity; and enhance the advertising provisions.
8. Amending Part 39 of the General Regulations of the Banking Board to clarify certain inconsistent language in the regulations regarding wholly owned subsidiaries and to eliminate the exemption provided to certain mortgage products.
9. Amending Part 41 of the General Regulations of the Banking Board to address threshold limits, the impact of yield spread premiums and otherwise to conform with the requirements of Section 6-l of the Banking Law.
10. Amending Part 79 of the General Regulations of the Banking Board to incorporate advertising requirements for reverse mortgage loans.
11. Amending Part 410 of the Superintendent's Regulations to clarify language on required notification to the Department.
12. Amending Part 413 of the Superintendent's Regulations to clarify requirements for separate brokers' surety bonds and also when a broker must submit an application for authorization under that Part.
13. Amending Part 82 of the General Regulations of the Banking Board to effectuate amendments to Section 6-f of the Banking Law with respect to shared appreciation mortgages.

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

Education Department

June 2010 Regulatory Agenda

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 2010. 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 2010 Regulatory Agenda.

OFFICE OF ELEMENTARY, MIDDLE, SECONDARY AND CONTINUING EDUCATION

Amendment of the Commissioner's Regulations, relating to Academic Intervention Services. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of the Commissioner's Regulations relating to Distinguished Educators. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of the Commissioner's Regulations relating to pupils with limited English proficiency. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of the Commissioner's Regulations relating to the creation of a Virtual High School Initiative. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of 91.2 of the Commissioner's Regulations to revise and update provisions on the employment of a school library media specialist. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 100 of the Commissioner's Regulations relating to implementation of a growth model. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 100 of the Commissioner's Regulations relating to graduation and diploma requirements. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.2.(p) of the Commissioner's Regulations to establish a graduation rate and targets to conform with regula-

tions promulgated by the United States Department of Education in October 2008. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.2(x), relating to the education of homeless children. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.2 (gg) of the Commissioner's Regulations to revise and update provisions on Violent and Disruptive Incident Reporting (VADIR). A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of 100.7 of the Commissioner's Regulations to clarify eligibility to take the GED. Currently Job Corp residents and home schooled students are not referenced to their eligibility. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 3.16 of the Rules of the Board of Regents, relating to delegation of authority to the Commissioner of Education to determine certain charter school charter revisions. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of the Commissioner's Regulations to conform to and implement Chapter 101 of the Laws of 2010, relating to charter schools. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 119 of the Commissioner's regulations to add a section pertaining to residency determinations of students attending charter schools. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 119 of the Commissioner's Regulations to add a section pertaining to procedures relating to complaints brought pursuant to Education Law section 2855. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment to section 119.1(e) of the Commissioner's Regulations relating to financing of charter schools. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 125 of the Commissioner's Regulations relating to nonpublic nursery schools and kindergartens. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 135.4 of the Commissioner's Regulations relating to duration of competition in interschool athletics. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 140 of the Commissioner's Regulations, relating to County Vocational Education and Extension Boards. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Subpart 151-1 of the Commissioner's Regulations to allow teachers employed by eligible agencies in collaboration with a school district to provide prekindergarten services to be employed without a bachelor's degree in early childhood education or a related field, or a teaching license or certificate valid for services in the childhood grades pursuant to 8 NYCRR Part 80, so long as the teacher has a written plan to obtain certification valid for service in the early childhood grades within 5 years of commencement of employment. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment to Part 154 of the Commissioner's Regulations to require that the Comprehensive Plan be reviewed/updated every two years and submitted to the bilingual office when requested as part of a compliance review process of the Department. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 155.22 of the Commissioner's Regulations, relating to procedures for the allocation of the State limitation amount to issuers of Qualified School Construction Bonds pursuant to 26 USC section 54F. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 155.22 of the Commissioner's Regulations, relating to updating citations relating to Qualified Zone Academy Bonds. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 156 of the Commissioner's Regulations to conform to Chapter 181 of the Laws of 2007 ("P.J.'s Law"), by promulgating regulations requiring school bus drivers and attendants on a bus transporting children with disabilities to complete training, at least once a year, on the special needs of children with disabilities. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 156 of the Commissioner's Regulations, regarding transportation, to revise and update the regulations. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of 164.2 (2)(g) of the Commissioner's Regulations to align the regulation with the requirements of the National Reporting System (NRS). The NRS requires that final student information be submitted by October 31st following the July 31st closing of the school year. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of the Commissioner's Regulations, relating to absentee ballots for boards of cooperative educational services (BOCES). A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of the Commissioner's Regulations, relating to school district and BOCES name changes. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of the Commissioner's Regulations, relating to school district financial management. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of the Commissioner's Regulations regarding BOCES installment purchase contracts and leases. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Commissioner's Regulations, relating to certified athletic trainers. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Commissioner's Regulations relating to persistently dangerous schools. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Agency Representative:

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

John B. King, Jr.

Senior Deputy Commissioner P-12

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OFFICE OF HIGHER EDUCATION

Amendment of Subpart 4-1 of the Rules of the Board of Regents to align the Rules for voluntary institutional accreditation by the Board of Regents with changes in the federal Higher Education Act and ensure compliance with U.S. Department of Education requirements for accrediting agencies. Changes will define and/or amplify terms and requirements related to distance education, teach-out plans, integrity of credit, and consumer information. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 30 of the Rules of the Board of Regents to designate a tenure area for each of the several teacher certificate titles that did not exist prior to February 2, 2004. A regulatory flexibility analysis and a rural area flexibility analysis may be required.

Amendment of Part 30 of the Rules of the Board of Regents and Part 80 of the Regulations of the Commissioner of Education relating to certification requirements and tenure rights for individuals teaching the Native American language. A regulatory flexibility analysis and rural area flexibility analysis may be required.

Amendment of Part 52 of the Regulations of the Commissioner of Education relating to the registration requirements for teacher education programs and to create standards for teachers. A rural flexibility analysis may be required.

Amendment of Parts 52 and 80 of the Regulations of the Commissioner of Education to restructure certification for teachers of special education. A rural flexibility analysis may be required.

Amendment of Part 80 of the Regulations of the Commissioner of Education relating to the certification requirements for teachers, including the teacher certification examinations and the creation of alternative preparation pathways for certification as a teacher. A rural flexibility analysis may be required.

Amendment of Part 80 of the Regulations of the Commissioner of Education: Relating to certification requirements for teachers, specifically in the area of teacher certification examinations, including the introduction of performance-based assessments. A regulatory flexibility analysis and a rural flexibility analysis may be required.

Amendment of Part 80 of the Regulations of the Commissioner of Education relating to the certification requirements for school building leaders. A rural flexibility analysis may be required.

Amendment of Part 80 of the Regulations of the Commissioner of Education to establish requirements for a certificate in educational interpreting. A rural flexibility analysis may be required.

Amendment of Part 80 of the Regulations of the Commissioner of Education to expand the scope of practice for holders of the School District Leader certificate and to establish a transitional certificate for School District Business Leaders. A rural flexibility analysis may be required.

Amendment of Part 80 of the Regulations of the Commissioner of Education to add enhancements to the individual evaluation pathway for first teaching certificates. A rural flexibility analysis may be required.

Amendment of Part 80 and section 100.2(dd) of the Regulations of the Commissioner of Education relating to changes in district professional development plans to account for changes in regulations related to the professional certification of school leaders. A regulatory flexibility analysis and a rural flexibility analysis may be required.

Amendment of Part 83 of the Regulations of the Commissioner of Education to define a process relating to revocation of teachers' certificates for sex offenders pursuant to Chapter 296 of the Laws of 2008; to make improvements to the existing hearing process; and to expand the Commissioner's ability to review hearing decisions. A regulatory flexibility analysis and rural flexibility analysis may be required.

Amendment of section 100.2 of the Regulations of the Commissioner of Education relating to the annual performance review requirements for teachers. A regulatory flexibility analysis and rural flexibility analysis may be required.

Amendment of section 100.2 of the Regulations of the Commissioner of Education to identify elements of a performance evaluation system for school leaders. A regulatory flexibility analysis and rural flexibility analysis may be required.

Amendment of section 145-2.1 of the Regulations of the Commissioner of Education to clarify the definitions of terms such as the length of a semester, the delineation of full-time, and the need for courses to be in support of a registered academic program. These definitions are used in the determinations of eligibility and awarding of funds under the Tuition Assistance Program. A rural flexibility analysis may be required.

Amendment of section 145-2.2 of the Regulations of the Commissioner of Education to clarify the criteria used to ensure that students receiving financial aid support maintain satisfactory academic progress in a registered academic program. A rural area flexibility analysis may be required.

Amendment of section 145-2.4 of the Regulations of the Commis-

sioner of Education to clarify the criteria and processes needed to determine a student's matriculation status and the need for the declaration of a major which is a registered academic program. A rural flexibility analysis may be required.

Agency Representative

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

Joseph P. Frey

Deputy Commissioner for Higher Education

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OFFICE OF THE PROFESSIONS

Amendment of section 3.57(b) of the Regents Rules, conferring the Doctor of Medicine degree, to eliminate the requirement of three years of licensed practice. A rural area flexibility analysis may be required.

Amendment of Part 17 of the Regents Rules to conform to the three member panel law. A rural area flexibility analysis may be required.

Amendment of Part 17 of the Regents Rules relating to the summary suspension procedure. A rural area flexibility analysis may be required.

Amendment of Part 18 of the Regents Rules relating to the provision of services to nurses with substance abuse problems. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of 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. A rural area flexibility analysis may be required.

Amendment of Part 29 of the Regents Rules relating to the packaging and dispensing of certain pharmaceuticals. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 29 of the Regents Rules relating to the use of identification badges for certain professionals. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 29 of the Regents Rules relating to the reporting of convictions and disciplinary actions by licensed professionals. A rural area flexibility analysis may be required.

Amendment of Part 29 of the Regents Rules relating to definitions of unprofessional conduct in the public accountancy and certified public accountancy professions. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Parts 52 and 77 of the Commissioner's Regulations relating to the educational standards necessary for licensure in Physical Therapy. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 59 of the Commissioner's Regulations relating to the use of ID cards in lieu of registration certificates. A rural area flexibility analysis may be required.

Amendment of Part 59 of the Commissioner's Regulations relating to English language proficiency. A rural area flexibility analysis may be required.

Amendment of Part 63 of the Commissioner's Regulations relating to continuing education for pharmacists. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 63 of the Commissioner's Regulations relating to examination requirements for pharmacists. A rural area flexibility analysis may be required.

Amendment of Part 64 of the Commissioner's Regulations relating

to the orders required for administering immunizations. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 69 of the Commissioner's Regulations relating to the retention of examination credit in architecture. A rural area flexibility analysis may be required.

Amendment of Part 70 of the Commissioner's Regulations relating to the mandatory quality review program for public accountancy firms. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 74 and Subparts 79-9 through 79-12 of the Commissioner's Regulations relating to experience requirements for licensure as a social worker or as a mental health practitioner. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 76 of the Commissioner's Regulations relating to the supervision of occupational therapy assistants. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Subpart 79-5 relating to licensure requirements in midwifery. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Agency Representative:

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

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OFFICE OF VOCATIONAL AND EDUCATIONAL SERVICES FOR INDIVIDUALS WITH DISABILITIES

Amendment of section 100.5 of the Commissioner's Regulations relating to the use of Regents Competency Tests to earn a high school diploma for students with disabilities. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of sections 100.9 and 200.5 of the Commissioner's Regulations relating to high school individualized education program (IEP) diplomas. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 200.2(g) of the Commissioner's Regulations relating to special education space requirements plans, as may be necessary to conform to changes to State statute. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of sections 200.2(b) and 200.4(e) relating to school districts ensuring that a paper or electronic copy of an IEP is provided to each teacher or service provider responsible for the implementation of a student's IEP prior to implementation, as may be necessary to conform to changes to State statute. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 200.4(i) of the Commissioner's Regulations relating to written notice upon graduation or aging out, as may be necessary to conform to changes to State statute. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 200.5(b) of the Commissioner's Regulations relating to parental consent for initial provision of special education services in a 12-month special service and/or program, as may be necessary to conform to changes to State statute. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of sections 200.5(c) and (d) of the Commissioner's Regulations relating to meetings of the Committee on Special Education and Committee on Preschool Special Education to conform to federal regulations and written notice to parents regarding such meetings. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of 200.5(j) of the Commissioner's Regulations relating to the timeline for requesting an impartial hearing as may be necessary to conform to changes to State statute. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 200.6 of the Commissioner's Regulations relating to minimal level of service requirement for speech language services; establishing a waiver provision for the maximum number of students receiving integrated co-teaching services in a class; and a school district's responsibilities relating to placement of a student with a disability in an in-state or out-of-state private school. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of sections 200.7 and 200.20(a) of the Commissioner's Regulations relating to the program standards for private schools approved to serve students with disabilities. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment to section 200.7(d) of the Commissioner's Regulations relating to the approval of the Commissioner of Education in granting appointment of a student with a disability to a State-supported or State-operated school. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 200.13 of the Commissioner's Regulations relating to repeal of the minimum level of service requirement for instructional services to meet the individual language needs of students with autism. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 200.16 of the Commissioner's Regulations relating to the provision of services to preschool students with disabilities in an approved program as close as possible to the student's home, as may be necessary to conform to changes to State statute. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Parts 100 and 200 of the Commissioner's Regulations to make certain technical amendments, including corrections to cross citations, as may be appropriate. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Agency representative:

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

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OFFICE OF CULTURAL EDUCATION

Amendments to section 3.27 relating to Chartering and Registration of Museums and Historical Societies with Collections, and section 3.30 relating to Incorporation and Registration of Historical Societies Without Collections and Cultural Agencies, specifies criteria under which items in a collection may be deaccessioned; provides requirements for designation by a board of trustees of historic structures and buildings to be part of a museum's collection; specifies the circumstances under which an institution may use deaccession proceeds to preserve, protect or care for such designated structure; clarifies that deaccession proceeds may not be used for payment of outstanding debt or for capital expenses other than expenses incurred to preserve,

protect or care for a designated structure; adds “planetarium” to the definition of “museum”; makes clear that the requirement for larger institutions to be open to the public 1,000 hours a year applies to a museum or exhibit facility; limits collecting to those institutions having collecting as a stated purpose in their charter; corrects a drafting error by replacing the phrase “broad representation” with the phrase “board representation” in the requirements for geographically descriptive terms in a corporate name; eliminates reference to “associations of teachers, students [and] graduates of educational institutions” from the definition of “cultural agency”; and adds additional definitions. A rural area flexibility analysis may be required.

Agency representative:

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

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Amendment of Part 90 of the Commissioner’s Regulations, relating to the library and library system programs and services. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Agency Representative

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

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State Librarian and Assistant Commissioner for Libraries
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A proposed amendment to section 185.10 of the Commissioner’s regulations relating to local government records management improvement fund grants, to establish criteria and procedures for the award of formula grants for records management improvement to county clerks and, in the city of New York, to the New York register or other officer or agency having custody of real property records and any officer or agency having custody of supreme court records. A regulatory flexibility analysis for local government may be required.

A proposed amendment to section 189.3 of the Commissioner’s regulations relating to the Documentary Heritage program, to revise procedures for the award of grants and for the provision of field services. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Agency Representative:

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

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OFFICE OF MANAGEMENT SERVICES

Amendment of section 3.2 of the Rules of the Board of Regents relating to the standing committees of the Board of Regents.

Amendment of Parts 275 and 276 of the Commissioner’s Regulations to conform and implement Chapter 101 of the Laws of 2010, relating to expedited appeals to the Commissioner regarding charter schools and building usage plans. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Agency Representative:

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

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Acting Counsel and Deputy Commissioner for Legal Affairs
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Amendment of section 119.1 of the Commissioner’s regulations relating to school district payments to charter schools and procedures for requests for a State aid deduction upon nonpayment. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Agency Representative:

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

Burt Porter, Director of Education Finance, State Education Department, 89 Washington Ave., Rm. 139 EB, Albany, NY 12234, (518) 486-2422

Department of Health

The following regulatory actions are under consideration for submission as a Notice of Proposed Rulemaking from June through December 2010:

DESCRIPTION OF THE RULE SUBJECT MATTER

Title 10 NYCRR (Health)

Family Health Care Decisions Act - Promulgate regulations as required under Public Health Law section 2994-t (L. 2010, Ch. 8).

2.1 and 2.5 Communicable Diseases - Revise the list of reportable diseases in 10 NYCRR, section 2.1 to be consistent with those listed in section 2.5 (list of diseases for which physicians have a duty to submit specimens).

2.10(b) Communicable Diseases - Repeal the subdivision to make reporting for cases of chlamydia, gonorrhea and syphilis consistent with the reporting requirements for other communicable diseases or in Section 2.10, which require cases of syphilis, gonorrhea, chlamydia, lymphogranuloma venereum, and chancroid to be reported individually and by name.

2.14 Communicable Diseases - Update the rabies regulations to be consistent with changes enacted to the Public Health Law (PHL). The regulations will provide definitions and requirements for reporting human exposures, confinement of animals exposing people to rabies, quarantine of animals exposed to rabies, and county responsibility for establishing provisions for animal control related to rabies.

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

5-1 Public Water Systems - Amend the regulation to incorporate mandatory federal regulations to improve the control of lead and copper in public water supply systems; revise the provisions applicable to variances and exceptions; update provisions pertaining to backflow device tester certification requirements; and update and clarify specific code references.

5-1 Public Water Systems - Amend the regulation to incorporate mandatory regulations (federal Groundwater Rule) to protect against microbial pathogens occurring in ground water sources.

7-2 Children’s Camp - Amend the regulations relating to Camp Aquatic Director and Camp Health Director qualifications; incorporate PHL requirements for screening of camp employees through the State Sex Offender Registry, include a requirement that parents be provided with meningococcal meningitis information, implement new chapter law

and provisions pertaining to day camps and also to sleeping cabins in overnight camps, and include reflective triangles as an acceptable alternative to flares.

14-1, 14-2, 14-4, 14-5 Food Protection - Modify the requirements to meet changing food service issues; exempt certain operators and rescind certain provisions, address the legislative mandate regarding food worker training courses.

16 Ionizing Radiation - Amend the requirements to be compatible with federal regulations (U.S. Nuclear Regulatory Commission), including requirements for decommissioning, financial assurance and medical use of radioactive materials. Also update requirements for quality assurance for therapeutic use of ionizing radiation.

19 Clinical Laboratory Directors - Revise qualifications for directors of clinical laboratories to recognize professional boards accepted as qualifying under the federal Clinical Laboratory Improvement Amendments (CLIA); and codify the definition of assistant director; establish qualifications for directors of forensic identity testing.

22.3 Bureau of Environmental and Occupational Epidemiology Environmental Diseases - Amend the regulations by requiring the reporting of children up to 10 years of age with birth defects to the Congenital Malformations Registry. This change will support an improved ability to accurately document prevalence rates for certain birth defects, such as fetal alcohol syndrome and Duchenne muscular dystrophy, which are often not diagnosed until a child is older. Improved surveillance will also help monitor the impact of any preventive measures.

22.7 Reportable levels of heavy metals in blood and urine - Amend the regulation to remove the threshold levels for reporting cadmium, mercury and arsenic. All laboratory tests for cadmium, mercury and arsenic will be submitted to enable case monitoring to assist in assessing interventions and education to reduce elevated exposures.

22.11 Reporting of pesticide poisoning - Amend the regulation to incorporate Poison Control Centers as a reporting entity to assist in identifying and intervening in pesticide poisoning cases who do not go to an emergency department or a physician.

23.1 Sexually Transmitted Diseases - Amend the regulation to update the list of sexually transmitted diseases to change archaic terminology, to add Human Papilloma Virus and Hepatitis B Virus to the list; and to remove Genital Herpes Simplex from the list of conditions which require free treatment.

23.2 (d) Sexually Transmitted Diseases - Amend the regulation to modify the treatment requirements for Pelvic Inflammatory Disease to include permission for out-patient management through immediate referral.

23.2 (e) Sexually Transmitted Diseases - Amend the regulatory list of conditions which may be treated with a written prescription to include Yeast (Candida) Vaginitis, Bacterial Vaginosis, Pediculosis Pubis, and Scabies.

23.2 (f) Sexually Transmitted Diseases - Add a new subsection providing for management and treatment of Genital Herpes Simplex and Human Papilloma Virus infection by either prescription or referral.

23.3 Sexually Transmitted Diseases - Amend the regulation to eliminate the section to be consistent with the reporting requirements of communicable diseases as written in Section 2.10, which requires cases of syphilis, gonorrhea, chlamydia, lymphogranuloma venereum, and chancroid to be reported individually and by name.

23.5 Sexually Transmissible Diseases - Create a new Section 23.5 to build a regulatory structure for the recently signed legislation allowing expedited partner therapy. This regulation will provide definitions of terms, create criteria for providers to determine when EPT should be used, protects providers from charges of unprofessional conduct when they employ EPT, and creates a mechanism to perform quality assurance activities to assess the efficiency of the EPT system.

34 Health Care Practitioner Referrals and Laboratory Business Practices - Amend the regulation to consider federal compensation arrangement exceptions.

44 State Aid for Approved Vector Surveillance and Control Programs - Amend the regulations to update State aid provisions to be consistent with changes enacted to PHL in January 2007. The regula-

tions will provide new and updated definitions, add new vector borne diseases, and clarify eligible local health department activities for arthropod-borne disease surveillance, control and prevention.

52 Tissue Banks and Nontransplant Anatomic Banks - Revise requirements for procurement of tissue from deceased donors, including setting restrictions on banks' ownership and business relationships with funeral directors and funeral firms, and limiting recovery of tissue to hospitals and appropriately licensed banks.

53 Drinking Water State Revolving Fund - Amend Drinking Water State Revolving Fund (DWSRF) regulations to insure funding conditions established in the federal 2010 appropriation bill are satisfied, as well as revising scoring criteria to promote "green" infrastructure, energy efficiency and/or water system asset management.

57 Rabies - Dogs at large in rabies areas - Delete this provision. It is outdated since rabies is endemic in wildlife in New York. Important provisions are being included in Section 2.14. This Part is no longer needed.

58-1 Clinical Laboratories - Revise laboratory personnel requirements to reflect industry standards; consolidate existing requirements for clarity; codify quality systems, performance testing and other requirements as necessary to align with federal CLIA standards; distinguish between director of record and assistant director; establish standards for tracking and referral of critical agent and communicable disease specimens; and establish standards for laboratory verification of technical and clinical validity of test methods.

58-2 Blood Banks - Amend the regulation to permit emergency medical technicians, with additional training, to administer transfusions during inter-facility transport; enhance donor and patient safeguards; update technical requirements; eliminate obsolete requirements; clarify regulatory intent; meet federal requirements as directed by the Centers for Medicare and Medicaid Services; provide regulated parties with greater flexibility in complying with regulations regarding emergency transfusions, qualifying donors over 75 and apheresis donors, and provide options for equivalent electronic records.

58-4 Direct Access Testing - Amend the regulation to establish record keeping and reporting standards for direct access testing, codify circumstances for direct access testing for drugs-of-abuse.

59 Chemical Analyses Of Blood, Urine, Breath Or Saliva For Alcoholic Content - Revise 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 the National Highway Traffic Safety Administration model specifications for device certification.

63.8(j) HIV/AIDS Testing, Reporting and Confidentiality of HIV-Related Information - Remove the restriction on retention for more than one year of contact information collected in the course of public health contact notification activities. Keeping information beyond one year would allow individuals to be located, learn of their exposure, receive HIV counseling and testing and, if infected, access care more quickly, thereby achieving better treatment outcomes.

63.8(m) HIV/AIDS Testing, Reporting and Confidentiality of HIV-Related Information - Remove barriers to disclosure of a source patient's HIV status when an occupationally exposed emergency responder or health care worker is HIV-infected.

63.10 HIV/AIDS Testing, Reporting and Confidentiality of HIV-Related Information - Amend Section 63.10's definition of "significant risk" in order for Section 63.10 to be consistent with proposed amendments of Section 63.8(m) and to recognize the issues raised by exposure of an HIV-infected person to an HIV-infected source patient. At present, Section 63.10 includes exposures of non-infected persons, only, as a significant risk.

66-1.1 thru 66-1.10 and 66-2.1 through 66-2.9 Immunization - Update the regulations to be consistent with changes enacted to the PHL. The regulations will add pertussis, tetanus and pneumococcal disease to the list of required pre-school immunizations and also address the requirement that children receive a booster for varicella and tetanus, diphtheria and pertussis, by the time they enter sixth grade. Various regulatory changes are also proposed to update immunization

recommendations to reflect current recommendations, including the requirement of a second dose of varicella and mumps vaccine. Language will also be added to clarify medical exemptions and annual school immunization survey requirements, and change physician diagnosis standards for measles and mumps to reflect the rarity of these diseases.

66-3 Immunization - Amend the regulations to add Subpart 66-3 to Title 10 to require certain regulated facilities to document as a precondition of employment and annually, immunizations for influenza virus for specified health care personnel employed or affiliated with a health care facility. The requirement is subject to the availability of an adequate supply of the necessary vaccine and exemptions for medical contraindications. In addition, parallel regulatory changes are proposed to Sections 405.3 (hospitals), 751.6 (diagnostic and treatment facilities), 763.13 and 766.11 (home health agencies and programs), and 793.5 (hospices) of Title 10. Any facility defined as a hospital or diagnostic and treatment centers pursuant to PHL Article 28, home care agency within PHL Article 36, or hospice within PHL Article 40 will be required to comply with the referenced requirements detailed in Subpart 66-3.

67-2 Lead Poisoning Control - Amend the regulations regarding environmental assessment and lead paint hazard control to be consistent with federal requirements and improve public health response when children are identified with an elevated blood lead level.

69-1 Newborn Screening - Amend the regulations to update the list of conditions for which screening is offered; codify the Department's policy on retention and use of residual blood spots, which includes using the blood for specific purposes, contingent on IRB approval with an allowance for parents to opt out of use for research and request the material be destroyed.

69-4 Early Intervention Program - Amendments may be needed to conform current state regulations to final federal regulations under the Individuals with Disabilities Education Improvement Act of 2004, when issued (a notice of proposed rulemaking was issued on May 9, 2007, by the U.S. Department of Education).

69-4 Early Intervention Program - Amend the regulations in order to implement changes to the reimbursement methodology or related policies that may result from recommendations made to the Department by the Reimbursement Advisory Panel.

69-8 Newborn Hearing Screening - Amend the regulation to specify follow-up where conditions of the screening are considered to contribute to invalid results; require reporting of individualized, identifiable data to the department; require staff involved in newborn hearing screenings to complete training; require that infants who fail an initial screening receive at least one additional screening prior to discharge; require that a re-screening post discharge from a facility occur within 8 weeks of discharge; require that an infant be referred to the early intervention program as an at-risk child, unless the parent objects, if the results of a follow-up outpatient screening are not returned to the facility within 45 days post discharge; require reporting to an electronic data system.

73 Asbestos Safety Training Program Requirements - Amend the regulations to incorporate changes made by the New York State Department of Labor to Code Rule 56 and changes in the industry to reflect training practices.

Part 75 - Standards for Individual Water Supplies and Individual Sewage Treatment Systems and Appendix 75C - Individual Water Well Quality Standards - Amend the individual water supplies and sewage treatment system regulations to clarify design submittal and approval procedures; add new regulations for individual water wells in order to establish water quality reference standards for individual household wells.

77 Funeral Establishments, Registrations, Funeral Directing, and Misconduct - Amend the regulations to prohibit the recovery of tissue within a funeral establishment and not allow non-transplant anatomical banks to operate within such establishments or the requesting of consent for an anatomical donation by a funeral director or employees of a funeral firm.

77.3 Registered Residents - Amend the regulations to clarify the responsibilities of a sponsor.

80 Controlled Substances - Amend the regulations to allow pharmacies to maintain electronic records of controlled substance prescriptions and to allow a pharmacist to endorse those records with an electronic signature or equivalent when refilling a controlled substance prescription. Also amend regulations to allow pharmacists to reduce an oral prescription for a controlled substance to an electronic record and to endorse such electronic record with an electronic signature or equivalent when dispensing the prescription. Allow practitioners the option of issuing a prescription for a controlled substance electronically and the pharmacy to receive, dispense and archive these electronic prescriptions. Outline the training requirements associated with certification of Euthanasia Technicians (for animals) as required by Section 374 (3)(b) of the Agriculture and Markets Law.

81.5 Investigation and Determination - Amend the residential health care facilities regulations to allow the Department to initiate an onsite investigation within two working days versus the current 48 hours. The proposed amendment will conform with federal requirements for investigating an allegation in which the provider's noncompliance with one or more requirements of federal participation has caused, or is likely to cause, serious injury, harm, impairment, or death to a resident.

85.40 and 86-4.36 Prenatal Care Assistance Program Policy and Payment - Repeal the regulation. This program has been replaced by new prenatal care standards with reimbursement occurring pursuant to new methodology.

86-1 Inpatient Hospital Reform - Amend the regulations to establish a new methodology to address potentially preventable readmissions and complications. Amend regulations to implement revised APR-DRGs, Service Intensity Weights, cost outlier thresholds and average length of stay effective January 1, 2011.

86-1 Inpatient Psychiatric Reform - Amend the regulations to establish a new payment methodology for hospital inpatient psychiatric services.

86-2 Nursing Home Reform - Amend the regulations to establish a regional pricing model for nursing homes.

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

86-8.7 APGs and Relative Rates - Amend the regulation to revise the January 2010 weights and add new hospital peer groups.

89 Practice of Radiologic Technology - Amend the regulation to update scope of practice descriptions and to clarify continuing education requirements.

94.2 Physician Assistants - Amend the regulation to allow a Registered Physician Assistant to prescribe controlled substances, including Schedule II substances, for patient's under the care of the supervising physician in conformance with Public Health Law Section 3703 (3).

98-1.5 Application for a Certificate of Authority - Revise the regulations to require electronic submission of the managed care organization's provider network, consistent with the filing requirements in 98-1.16(j). Modify Section (b)(6)(e)(2) to specify that an independent provider association (IPA) performing management functions should have requirements detailed in a contract separate and apart from the IPA provider agreement.

98-1.6 Issuance of the Certificate of Authority - Revise regulations to add a provision requiring managed care organizations (MCOs) to maintain a complete file on each request for health care services or benefits and associated appeals pursuant to Article 49 of the Public Health Law and federal law and regulations.

98-1.8 Continuance of a Certificate of Authority - Amend the regulations to clarify that managed care organizations must maintain compliance with the requirements of PHL Articles 44 and 49 and 10 NYCRR Part 98, including provisions related to initial application and certification standards, in order to maintain their certificate of authority.

98-1.13 Assurance of Access to Care - Amend the regulations to require that each member select a primary care provider from which the member receives all primary care services; to require that MCOs

contracting with a medical group have a process whereby a new provider joining the group can receive payment for services rendered to enrollees until the credentialing process is completed for the new provider; to ensure an enrollee who is referred by an out-of-network provider to in-network services incurs no additional financial liability than they would normally incur had the services been referred by a participating provider; and to be consistent with changes to the PHL. Conforming regulations will address new requirements related to subdivision 5-c to Section 4406-c which imposes a "cooling off" period after the termination or non renewal of a contract between an Article 44 managed care organization and a hospital.

98-1.14 Enrollee Services and Grievance Procedures - Amend the regulation to require MCOs to issue notice to enrollees upon approval, denial or failure to pay for a request for a covered benefit or referral when the determination is not subject to the provisions of PHL Article 49.

98-1.21 Fraud and Abuse Prevention Plans and Special Investigation Units - Amend the regulations to delete a requirement for MCOs to develop procedures for detecting repetitive fraud across plans; to expand and clarify requirements for a fraud and abuse awareness program to include a confidential toll free telephone number to report suspected cases of fraud and abuse; and, to expand and clarify the required content of the fraud and abuse detection manual to include all available guidance on identification and referral of suspected cases of fraud and abuse.

98-1 Various Technical Amendments - Revise regulations, making technical corrections to: 1) 98-1.2(oo), clarify the definition of "transitional period" such that it extends for at least 90 days; 2) 98-1.9(b)(3), require MCOs to provide assurances of continuing compliance with Article 49 of the Public Health Law, in addition to Article 44 and Part 98; 3) 98-1.11(h), restore language that prohibits HMOs from discriminating in enrollments and services provision (this language was inadvertently deleted when the regulation was revised); 4) 98-1.11(k)(4), clarify that the MCO is responsible for monitoring contractors' fiscal stability; 5) 98-1.11(p), clarify that MCOs must comply with Article 49 of the Public Health Law, in addition to Article 44 and Part 98; and, 6) 98-1.13(c)(iii), correct a 2005 change which inadvertently limited provider contract assignments to within one year of promulgation of the rule.

128 New York City Watershed Rules - Amend the regulations to incorporate regulations intended to protect NYC's Watersheds and preserve NYC's Filtration Avoidance Determination by providing various limitations on watershed activities and construction.

400 All Facilities - General Requirements - Amend the regulations to require that Article 28 facilities make available to the public and others information regarding nurse staffing and patient outcomes.

400.15 and 700.4 The Role of the Licensed Practical Nurse (LPN) in Intravenous Therapy Procedures - Amend the regulations to be consistent with the LPN scope of practice.

400.18 Statewide Planning and Research Cooperative System (SPARCS) - Repeal Section 400.18 and add a new Section 400.18 to reflect current practices of SPARCS. New Section 400.18 will permit SPARCS to collect all other outpatient clinic data not presently being collected by SPARCS from general hospitals and diagnostic and treatment centers licensed under Article 28 of the Public Health Law. As a result of the changes to Section 400.18 the following will be repealed: Appendix C-2, Appendix C-3, Appendix C-5, Section 755.10, and Section 405.27. Section 407.5 and Section 400.14 will be amended to coordinate to the revised Section 400.18.

400.25 Disclosure of Nursing Quality Indicators - Amend the regulations to create a new section 400.25 in response to Chapter 422 of the Laws of 2009, the Nursing Care Quality Protection Act, signed into law on September 16, 2009. The law requires Article 28 facilities to disclose identified nursing quality indicator information upon request to any member of the public, any state agency licensing the facility or responsible for overseeing the delivery of services by the facility, or any organization accrediting the facility. The law requires promulgation of regulations to enable disclosure of this information to requestors.

403 Home Care Worker Registry - Amend the regulations to add a

new section to develop and maintain a home care services worker registry of home care services workers.

405.3 Administration - Amend the regulations to add certain requirements for immunizations and TB testing for healthcare workers and to exempt telemedicine personnel from immunization requirements as a condition of employment.

405.7 Patients' Rights - Amend the regulations to specify that patients have the right to treatment without discrimination regardless of age. Amend the requirements limiting the use of physical restraints to be consistent with federal guidelines

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

405.9 Admission/Discharge - Revise regulations to clarify that all donor and procurement responsibilities must be carried out before a dead body is removed from a hospital.

405.11 Infection Control - Amend the regulations to conform to PHL Section 2819(2). The proposed regulation would define requirements for hospitals to report select hospital acquired infections using methods, definitions and protocols defined by the Department, ensures patient privacy in collection and release of data and creates standards for publication and release of the data reported.

405.19 Emergency Services - Amend the regulation requiring one year of experience for Emergency Department Nurses.

405.20 Outpatient Services - Amend the regulations to review the possibility of cross referencing 752.2 for hospital based free standing emergency facilities.

405.22 Critical Care and Special Care Services - Update the regulations regarding the organ transplant center provisions; and provide specific minimum standards for pediatric intensive care units (ICUs) similar to adult ICUs, recognizing differences between adult and pediatric ICUs beyond just the size and weight of the patients.

405.27 Information, Policy and Other Reporting Requirements - Repeal this section since the authority for the reporting requirements are detailed in either Section 400.18 (SPARCS data), or section 86-1.3 and 86-1.4 (Uniform financial report and uniform statistical reports).

413.1 Consumer Information - Amend the regulations requiring the Department to issue to each nursing home consumer, information based on the findings from any onsite regulatory visit. This information includes, in part, a residential health care facility (RHCF) survey profile which summarizes the results of the regulatory visit. This information is now available electronically.

415 Nurse Aide Registry - Amend the regulations to allow the Department to remove from the State's Nurse Aide Registry any individual found to have acquired nurse aide certification through fraudulent means.

415.3(h) Resident Rights - Amend the regulations to require nursing home providers to issue a valid written transfer/discharge notice to the resident and his or her designated representative. Such notice shall include date of notice, resident's identity, effective date of proposed transfer/discharge, reason for proposed discharge or transfer, notice of the resident's right to an evidentiary hearing to appeal the proposed discharge, contact information for the NYS Long Term Care Ombudsman, contact information for the agency responsible for the protection and advocacy of individuals with mental illness or development disabilities, and notice of the resident's right to remain in the facility (except in cases of imminent danger), pending the appeal hearing decision.

415.41 Neurobehavioral Step Down Unit Program - Amend the regulations to provide a new level of appropriate behavioral intervention care in skilled nursing facilities facilitating individual transition to least restrictive settings. This all inclusive regulatory package will include amendments and updates of Life Safety and Architectural Standards for Neurobehavioral and Neurobehavioral Step Down Units pursuant to section 713-2.5 of Title 10 NYCRR and a new subdivision (x) of section 86-2.10 establishing a separate and distinct payment rate for residents meeting the criteria for section 415.41.

600.2, 610.3, 620.2, 620.3 Establishment of Hospitals - Amend the

regulations to revise the criteria for review of the character and competence of proposed owners/operators of Article 28 facilities. This will include criteria relating to the establishment of dialysis facilities pursuant to PHL Section 2801(a)(15).

708 Appropriateness Review - Revise regulations regarding the Trauma Center Designation Standards for consistency with the current practice of trauma care in New York State.

709 Determination of Public Need for Medical Facility Construction - Amend the regulations related to the liver and human heart transplantation services provisions.

709.3 Residential Health Care Facility Beds - Revise the regulations concerning the need methodology for residential health care facility (nursing home) beds.

709.17 Long-term Ventilator Beds - Revise the regulations concerning the need methodology for ventilator beds in residential health care facilities (nursing homes).

710.5 Amendment of CON Applications - Amend the regulation to revise the cost thresholds for amendments to CON applications, for consistency with changes in cost thresholds in 710.1.

711, 712, 713, 715 and 716 Medical Facility Construction - Revise the regulations concerning the Medical Facilities Construction Code.

732 Worker's Compensation - Amend the regulation to reflect 2007 changes in the Worker's Compensation Law Sections 351 and 354 which allow the State Insurance Fund to contract with certified PPOs, by reducing network adequacy requirements, and by granting the Commissioner waiver authority if a plan cannot meet such requirements.

750-759 Treatment Center and Diagnostic Center Operation - Update the regulations addressing the Department's New York Patient Occurrence Reporting and Tracking System (NYPORTS) provisions for Diagnostic and Treatment Centers to reflect current practice. Amend the regulations to add certain immunization requirements for healthcare workers. Consistent with federal provisions, allow individuals qualified to administer anesthesia, and not just physicians, to evaluate patients for proper anesthesia recovery. Amend the Free-Standing Ambulatory Surgery Services provisions to be consistent with recent federal requirements.

752-2 Up-Graded Diagnostic and Treatment Center Services - Revise the regulations, if necessary, which address freestanding emergency department classification.

757 Chronic Renal Dialysis Services - Revise the regulations to be consistent with federal changes to 42 CFR regarding Medicare and Medicaid Programs; Conditions for Coverage for End-Stage Renal Disease Facilities.

760 and 761 Home Health Services - Amend the regulations to update the current need methodology for establishment of certified home health agencies and to reflect statutory modification of Certified Home Health Agency Charity Care program requirements.

760.2 Establishment of Certified Home Health Agencies (CHHA) - Amend the regulation to revise the criteria for review of the character and competence of proposed owners/operators of CHHA's established under Article 36.

766 Licensed Home Care Services Agencies - Amend the regulations to update and modernize provisions to improve service delivery, training and surveillance activities.

790 Hospices - Add regulations implementing changes in the federal Conditions of Participation.

790.1, 790.2, 790.11 Establishment of Hospices - Amend the regulation to revise the criteria for review of the character and competence of proposed owners/operators of hospices established under Article 40.

800 Emergency Medical Services (EMS) - General - Amend the regulations to conform with federal requirements/recommendations, current medical practice standards, and national safety standards. Add regulations related to the use and application by members of the public of automatic external defibrillators; 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; and establish a new section on the mobilization and/or sharing of resources in the event of a declared disaster.

1001 Assisted Living Residences - Amend the regulations to implement judicial decisions and/or settlement agreements on this matter.

Title 18 NYCRR (Social Services)

300.12 Monroe County Medicaid Plan - Repeal section 300.12 since the Medicaid program no longer exists. Medicaid was an early Medicaid managed care program. All Medicaid managed care regulations will be codified in 360-10.

360-6.7 Managed Care - Repeal the regulations to modify and consolidate 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.

360-7.3(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 - Amend the regulations to eliminate the dual prior approval for certain services for Medicaid eligible children.

360-7.7 Payments of deductibles and coinsurance under title XVIII of the Social Security Act (Medicare) - Amend the regulations to reinforce the policy that Medicaid prior approval is not necessary if the item or service is covered by Medicare. If Medicare denies payment based on lack of medical necessity, Medicaid prior approval and/or reimbursement will not be considered. Services that are statutorily excluded from Medicare payment but covered by Medicaid would be payable if medically necessary.

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

360-10 Medicaid Managed Care Program - Replace the existing regulations to conform to changes authorized by 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, and add provider prohibitions specific to the Medicaid managed care/Family Health Plus programs.

360-11 Medicaid Managed Care - Repeal the regulations describing 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 for these populations.

460 and 461 Adult Homes, Enriched Housing Programs and Residences for Adults - Amend the regulations to improve the health and safety of New York residents living in adult care facilities by expanding current DOH authority regarding penalties and suspensions of operating licenses, timeframes for inspections of facilities and written plan of corrections and requiring plans for quality assurance activities; amend the regulations regarding reporting to appropriate law enforcement authorities felony crimes committed against a resident; amend the regulations by providing for additional rights of residents of ACFs choosing their own health care providers and to be fully informed by the physicians and by creating the legal presumptions that the actions and reports of state representatives shall be exempt from personal liability for the statements therein made, if they acted in good faith; adding a section providing that an individual or entity which is not the duly approved operator of an ACF shall not participate in the total gross income or net revenue of such facility or residence; and clarifying rules regarding rental fees based on fair market value and charitable contribution of state monies, medical assistance payments or social security or supplemental security income.

485, 486, 487, 488 and 490 Adult Homes, Enriched Housing Programs and Residences for Adults - Amend the regulations to consolidate and streamline provisions relating to adult homes, enriched housing programs and residences for adults, to reflect recent past legislative and regulatory initiatives and the changing environments of these types of facilities. Amendments will provide clarification and consistency to residents, operators and the public with regards to adult care facilities.

504.3 (j) through (m) Medicaid Provider Responsibilities - Add three new sections 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 Personal Emergency Response Services (PERS) - Amend the regulations to allow for annual authorizations and to delete the requirement that authorization of PERS be contingent upon a reduction/elimination of personal care aide/home health aide hours.

505 Consumer Directed Personal Assistance Program (CDPAP) - Amend the regulations to establish discrete CDPAP rules.

505.5 Fiscal Orders - Change the fiscal order requirements for medical surgical supplies to allow filling within 60 days, rather than 14 days of the date written, in concurrence with current policy; add fiscal order requirements for durable medical equipment, orthotics, prosthetics and prescription footwear requiring that the order must be filled within 180 days unless otherwise stated by the Department in concurrence with current policy; specifically define acceptable paper and electronic formats for fiscal orders.

505.5 Durable Medical Equipment (DME) - Amend the regulations to define the procedures for pursuing Medicaid Waiver reimbursement for Assistive Technology (AT) devices that do not meet the definition of DME and, therefore not covered by the Medicaid State Plan, including those AT devices that would be covered under federal EPSDT statute; also specify that exclusive utilization of HIPAA-compliant HCPCS codes and proper use of miscellaneous codes is required for prior approval and claims submission.

505.8 of Title 18 NYCRR and 85.33 of Title 10 NYCRR Private Duty Nursing Services - Amend the regulations to replace and update the current language controlling the amount, duration, and scope for the provision of private duty nursing services under the Medicaid Program.

505.9 Reserved Bed Day Payment - Amend the regulation to reduce bed reservation payments to nursing homes for resident hospitalization and to remove preapproval language.

505.11 Rehabilitation Services - Amend Medicaid regulations to align with State Education law and current standards of practice; clarify who can order rehabilitation services, particularly speech-language pathology services provided to Medicaid recipients; clarify supervision requirements for services provided "under the direction of" speech-language pathologists, occupational therapists, and physical therapists.

505.15. Psychiatric Care - Amend Medicaid regulations to align with federal requirements regarding who may provide school supportive health services, including "under the direction of" (supervision) requirements.

505.16 Case Management - Amend the regulation to reflect a change in the frequency of program monitoring by the Office of Mental Health.

505.18. Clinical Psychological Services - Amend the regulation language to update qualified personnel that may provide school supportive health services to Medicaid recipients, including "under the direction of" (supervision) requirements.

505.23 Home Health Services - Consensus regulation to amend this section to reflect statutory changes and/or court ordered mandates that have been implemented.

505.25 Personalized Recovery Oriented Services (PROS) - Amend the regulations to reflect approved Title 14 OMH regulations for PROS, a comprehensive outpatient recovery oriented program for persons with severe and persistent mental illness.

505.31(d)(e)(1) of Title 18 NYCRR and Part 85.39 of Title 10 NYCRR Audiology, Hearing Aid Services and Products - Amend the regulations to eliminate the designation of the Physically Handicapped Children's Program speech and hearing centers as the only providers of hearing assessments to Medicaid eligible children.

506.2 and 506.6 Dental Vans - Amend the regulations, in light of increasing interest in Medicaid reimbursement for services provided in dental vans used as private offices, to define a mobile setting and allow a mobile setting as a valid dental place of service, and to specify what provider qualifications are necessary for use of dental vans.

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

533.6 Radiology - Repeal the entire regulation since the regulation is outdated and reimbursement to radiologists has changed as of January 2009. Physicians will no longer be paid 40% of the global fee. The reimbursement to physicians will be a percent of the Medicare rate.

540.6 Billing for Medical Assistance - Revise the regulations to specifically state that Medicare enrollment, whenever possible, is a requirement for participation in the Medicaid program.

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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 that the Insurance Department is presently considering proposing during the second half of 2010. Many of these items were previously published in the January 2010 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 also is 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 by sections 202-b and 202-bb of SAPA.

For inquiries pertaining to a specific item, please contact the agency contact person identified in the item. For general inquiries about the Insurance Department's Regulatory Agenda, please contact:

Sam Wachtel

Supervising Attorney

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New York State Insurance Department

25 Beaver Street

New York, N.Y. 10004

Telephone Number: 212-480-5269

Copies of current regulations may be obtained from the Department's Public Affairs Bureau by writing to the New York City address above, or by calling 212-480-2283.

1. Summary description of proposal: Amendment of 11 NYCRR 20 (Brokers and Agents-General) (Regulation 29) to permit the use of internet and out-of-state banks for producer premium accounts.

Agency Contact: Paul Zuckerman, Assistant Deputy Superintendent & Counsel, Office of General Counsel (212) 480-5286.

2. Summary Description of Proposal: Adoption of a new part to 11 NYCRR to address certain business practices in the title insurance industry and supervision of title insurers authorized to write title insurance in this state. Agency Contact: D. Monica Marsh, Associate Attorney, Office of General Counsel (212) 480-5298.

3. Summary description of proposal: Adoption of a new part to 11 NYCRR to incorporate and implement the “best practices” procedures for financial guaranty insurers set forth in Department Circular Letter 19 (2008). Agency Contact: Ann Logan, Associate Tax Counsel, Office of General Counsel (212) 480-6297.

4. Summary description of proposal: Amendment of 11 NYCRR 151 (Regulation 119) to implement Chapter 6 of the Laws of 2007, which amended section 15(8)(h) of the Workers’ Compensation Law, in order to close the Special Disability Fund and contract, pursuant to WCL section 32, with carriers, self insured employers, or the State Insurance Fund to assume the liability for claims. The law mandates the Superintendent to set a reserve standard specific to transactions authorized by WCL section 32. This regulation would establish the required reserve standards. Agency Contact: Sam Wachtel, Supervising Attorney, Office of General Counsel (212) 480-5269.

5. Summary of description of proposal: Amendment of 11 NYCRR 151 (Regulation 119) to implement Chapter 392 of the Laws of 2008, which authorizes the creation of a new Independent Livery Driver Benefit Fund (the “Fund”) to provide coverage to livery drivers dispatched by independent livery bases that are members of the Fund. The law also confers the Superintendent authority to authorize insurers licensed to write workers’ compensation and employers’ liability to issue policies to provide coverage as authorized pursuant to Executive Law Article 6-G. This regulation would authorize workers’ compensation and employers’ liability insurers to provide coverage as afforded under Executive Law Article 6-G. Agency Contact: Alex Tisch, Associate Counsel, Office of General Counsel (212) 480-5288.

6. Summary of description of proposal: Amendment of 11 NYCRR 151 (Regulation 119) to implement Chapter 56 of the Laws of 2009 (“Part QQ”), which amended Workers’ Compensation Law sections 15(8)(h)(4) and 151(2)(b), to change the basis upon which the New York workers’ compensation board collects the portion of the allocation from each insurer. Agency Contact: Sapna Maloor, Senior Attorney, Office of General Counsel (212) 480-4668.

7. Summary description of proposal: Amendment of 11 NYCRR 216.6 (Unfair Claims Settlement Practices and Claim Cost Control Measures - Standards for prompt, fair and equitable settlements) (Regulation 64) to codify the Insurance Department’s current interpretation with regard to releases of liability. Agency Contact: Joanna Lucashuk, Senior Attorney, Office of General Counsel (212) 480-2125.

8. Summary description of proposal: Amendment of 11 NYCRR 71 (Legal Defense Costs in Liability Policies) (Regulation 107) and 11 NYCRR 72 (Indemnification of Directors and Officers) (Regulation 110) to permit non-duty to defend liability policies for directors and officers insurance. Agency Contact: Brenda Gibbs, Senior Attorney, Office of General Counsel (518) 408-3451.

9. Summary description of proposal: Amendment of 11 NYCRR 89 (Audited Financial Statements) (Regulation 118) to improve the Department’s surveillance of the financial condition of insurers by requiring an annual audit of financial statements by independent certified public accountants, and the filing of audit reports and other related documents. Agency Contact: Joseph Fritsch, Director of Insurance Accounting Policy (212) 480-2299.

10. Summary description of proposal: Amendment of 11 NYCRR 16 (Special Risk Insurance) (Regulation 86) to add various risks to the Class 2 Special Risk category of Regulation 86. Agency Contact: Buffy Cheung, Supervising Insurance Examiner, Property Bureau (212) 480-5587.

11. Summary description of proposal: Amendment of 11 NYCRR 60-2 (Supplementary Uninsured/ Underinsured Motorists Insurance) (Regulation 35-D) to revise all references in sections 60-2.3 and 60-2.4 from “AAA/American Arbitration Association” to “designated

organization”, amend rules related to the manner in which the organization designated by the Superintendent to administer the SUM arbitration program assesses the cost of the program to the insurance industry, and various editorial revisions to the prescribed endorsement and other portions of the regulation to clarify the intent and application of the coverage. Agency Contact: Buffy Cheung, Supervising Insurance Examiner, Property Bureau (212) 480-5587.

12. 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. Agency Contact: Buffy Cheung, Supervising Insurance Examiner, Property Bureau (212) 480-5587.

13. 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 and requirements for insurer claim practices and to amend rules related to both the manner in which the organization designated by the Superintendent administers the first party motor vehicle insurance arbitration programs and assesses the costs of these programs to the insurance industry. Agency Contact: Buffy Cheung, Supervising Insurance Examiner, Property Bureau (212) 480-5587.

14. Summary description of proposal: Amendment of 11 NYCRR 68 (Charges for Professional Health Services) (Regulation 83) to adopt a fee schedule for health services rendered by licensed acupuncturists. Agency Contact: Buffy Cheung, Supervising Insurance Examiner, Property Bureau (212) 480-5587.

15. Summary of description of proposal: Adoption of a new part to 11 NYCRR to provide clarification and rules regarding inland and ocean marine insurance. Agency Contact: Buffy Cheung, Supervising Insurance Examiner, Property Bureau (212) 480-5587.

16. Summary description of proposal: Amendment of 11 NYCRR 216 (Unfair Claims Settlement Practices and Claim Cost Control Measures) (Regulation 64) to update the entire regulation to, inter alia, provide notice and time frame requirements for third party claims. Agency Contact: Buffy Cheung, Supervising Insurance Examiner, Property Bureau (212) 480-5587.

17. Summary of description of proposal: Amendment of 11 NYCRR 80-1 (Holding Companies) (Regulation 52) to increase property/casualty insurers’ required threshold necessary to provide prior notice to the Superintendent concerning related party transactions; to establish that the Annual Holding Company Registration Statements may be filed electronically; and to allow the Superintendent to permit, at his discretion, alternatives to the audited financial statements when making filings pursuant to this Regulation. Agency Contact: Buffy Cheung, Supervising Insurance Examiner, Property Bureau (212) 480-5587.

18. Summary description of proposal: Amendment of 11 NYCRR 68 (Charges for Professional Health Services) (Regulation 83) to adopt the fee schedule implemented by the Workers’ Compensation Board for health services rendered by licensed dentists. Agency Contact: Buffy Cheung, Supervising Insurance Examiner, Property Bureau (212) 480-5587.

19. Summary description of proposal: Amendment of 11 NYCRR 152 (Physicians and Surgeons Professional Insurance Merit Rating Plan) (Regulation No. 124) to permit credits for successful completion of additional risk management programs (supplementary risk management programs). Agency Contact: Buffy Cheung, Supervising Insurance Examiner, Property Bureau (212) 480-5587.

20. Summary description of proposal: Amendment of 11 NYCRR 27 (Excess Line Placements Governing Standards) (Regulation 41) to increase the minimum capital and surplus requirements of excess line insurers. Agency Contact: Buffy Cheung, Supervising Insurance Examiner, Property Bureau (212) 480-5587.

21. 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. Agency Contact: Buffy Cheung, Supervising Insurance Examiner, Property Bureau (212) 480-5587.

22. Summary of description of proposal: Adoption of a new part to 11 NYCRR to provide requirements regarding policies written to cover owner-controlled and contractor-controlled insurance programs (wrap-ups). Agency Contact: Buffy Cheung, Supervising Insurance Examiner, Property Bureau (212) 480-5587.

23. Summary of description of proposal: Amendment of 11 NYCRR 125 (Credit for Reinsurance from Unauthorized Insurers) (Regulation 20) to allow alternative credit for cessions to unauthorized reinsurers that maintain a minimum financial strength rating from specified rating agencies. Agency Contact: Buffy Cheung, Supervising Insurance Examiner, Property Bureau (212) 480-5587.

24. Summary description of proposal: Amendment of 11 NYCRR 74 (Homeowner's Insurance Disclosure Information) (Regulation 159) to provide minimum standards for the uniform use of mandatory hurricane deductibles in homeowner and dwelling fire personal lines policies. Agency Contact: Buffy Cheung, Supervising Insurance Examiner, Property Bureau (212) 480-5587.

25. Summary description of proposal: Amendment of 11 NYCRR 19 (Homeowner's Insurance; Application for Withdrawal from Marketplace) (Regulation 154) to revise the definition of "material reduction of volume of policies" to include a reduction of the net number of homeowner policies within a county. Agency Contact: Buffy Cheung, Supervising Insurance Examiner, Property Bureau (212) 480-5587.

26. Summary description of proposal: Adoption of a new part to 11 NYCRR to set forth standards and procedures for the sale and purchase of annuities and variable life insurance to ensure that annuities and variable life insurance are suitable for the insurance needs and financial objectives of consumers. Agency Contact: Michael Maffei, Chief, Life Bureau (212) 480-5027.

27. Summary description of proposal: Amendment to 11 NYCRR 51 (Replacement of Life Insurance Policies and Annuity Contracts) (Regulation 60) to allow agents some flexibility in completing the disclosure statement and to allow the completion of the application without waiting twenty days for a response from the replaced insurer. Agency Contact: Michael Maffei, Chief, Life Bureau (212) 480-5027.

28. Summary description of proposal: Amendments of 11 NYCRR 136 (Standards for the Management of the New York City and New York State Retirement Systems) (Regulation 85) to establish high ethical standards, strengthen internal controls and governance, and enhance the operational transparency of the city and state retirement systems. Agency Contact: Michael Maffei, Chief, Life Bureau (212) 480-5027.

29. Summary description of proposal: Adoption of a new part to 11 NYCRR to adopt minimum surplus and disclosure requirements for fraternal benefit societies. Agency Contact: Ruth Gumaer, Supervising Insurance Examiner, Life Bureau (212) 480-4763.

30. Summary description of proposal: Repeal of 11 NYCRR 380 (Viatical Settlements) (Regulation 148) and adoption of a new part to 11 NYCRR to implement Article 78 (Life Settlements) of the Insurance Law. Agency Contact: Ruth Gumaer, Supervising Insurance Examiner, Life Bureau (212) 480-4763.

31. Summary description of proposal: Amendment of 11 NYCRR 94 (Valuation of Individual and Group Accident and Health Insurance Reserves) (Regulation 56) to reduce the lapse rate used to calculate reserves on long-term care policies. Agency Contact: Fred Andersen, Supervising Actuary, Life Bureau (518) 474-7929.

32. Summary description of proposal: Amendment of 11 NYCRR 42 (Term Life Issuance and Renewal Restrictions; Nonforfeiture Values for Certain Life Insurance Policies) (Regulation 149) to provide requirements for life policies with intermediate endowment values and make technical corrections to 42-2.11 dealing with nonforfeiture values for policies where the terms are effected by an index. Agency Contact: Thomas Hartman, Principal Actuary, Life Bureau (518) 486-2126.

33. Summary description of proposal: Adoption of a new part to 11

NYCRR to establish minimum standards for non-guaranteed elements of life and annuity insurance policies and to establish minimum standards for written criteria set by the board of directors or a committee thereof for determining non-guaranteed elements. Agency Contact: Dennis Lauzon, Assistant Chief Actuary, Life Bureau (518) 474-7929.

34. Summary description of proposal: Amendment of 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. Agency Contact: Ralph D. Spaulding, Supervising Insurance Attorney, Life Bureau (518) 486-5258.

35. Summary description of proposal: Adoption of a new part to 11 NYCRR 48 (Key Person Company-Owned Life Insurance) (Regulation 180) to provide guidance to insurers in defining key persons for purpose of complying with section 3205(a)(1)(B) and (d) of the Insurance Law. Agency Contact: Ralph D. Spaulding, Supervising Insurance Attorney, Life Bureau (518) 486-5258.

36. Summary description of proposal: Amendment of 11 NYCRR 53 (Life and Annuity Disclosure and Sales Illustration) (Regulation 74) to set forth the information mandated by section 3209 of the Insurance Law, including the standards governing the content, format and use of sales illustrations and other disclosure requirements for fixed and/or variable annuity products, equity index products and funding agreements. Agency Contact: Peter Dumar, Associate Insurance Attorney, Life Bureau (518) 474-4552.

37. Summary description of proposal: Amendment of 11 NYCRR 98 (Valuation of Life Insurance Reserves) (Regulation 147) to allow the use of preferred mortality tables for the contract segmentation method and to remove some constraints from the X factors when calculating deficiency reserves; additionally, to revise existing standards for term life insurance and universal life insurance products with secondary guarantees for life insurers in consideration of possible changes to NAIC standards, and to establish reserve standards for equity indexed life insurance. Agency Contact: Fred Andersen, Supervising Actuary, Life Bureau (518) 474-7929.

38. Summary description of proposal: Amendment of 11 NYCRR 100 (Recognition Of The 2001 CSO Mortality Table for Use in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits and Recognition and Application of Preferred Mortality Tables for Use in Determining Minimum Reserve Liabilities) (Regulation 179) to expand the use of the preferred tables for policies issued on or after January 1, 2004 with the approval of the superintendent and to adopt potential new mortality tables. Agency Contact: Fred Andersen, Supervising Actuary, Life Bureau (518) 474-7929.

39. Summary description of proposal: Amendment of 11 NYCRR 99 (Valuation of Annuity, Single Premium Life Insurance, Guaranteed Interest Contract and Other Deposit Reserves) (Regulation 151) to ensure safeguards are maintained related to variable annuity reserves. Agency Contact: Fred Andersen, Supervising Actuary, Life Bureau (518) 474-7929.

40. Summary description of proposal: Repeal of 11 NYCRR 57 (Smoker/Nonsmoker Mortality Tables For Use In Determining Minimum Nonforfeiture Benefits And Minimum Reserve Liabilities) (Regulation 113) and adoption of a new part to 11 NYCRR to update requirements regarding smoker/nonsmoker classification and mortality tables and to reflect the use of newer mortality tables. Agency Contact: James Hulme, Senior Insurance Policy Examiner, Life Bureau (518) 474-4552.

41. 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 establishment of rules for determining the rating methodology to be used for rating point-of-service products sold to large groups, and to clarify the application and effect of rolling rates and annual level subscriber rates. Agency Contact: Robert Solomon, Supervising Insurance Examiner, Health Bureau (212) 480-5246.

42. 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 39 (Minimum Standards for the New York State Partnership for Long-Term Care Program) (Regulation 144) and adoption of a new Part to 11 NYCRR to: 1) update minimum standards for Partnership and non-Partnership long term care coverages; and 2) establish minimum standards and/or requirements for long term care insurance products as new long term care financing options are enacted. Agency Contact: Austin J. Rinella, Supervising Insurance Attorney, Health Bureau (518) 486-7815.

43. Summary description of proposal: Adoption of a new part to 11 NYCRR or amendment of existing parts of 11 NYCRR to: 1) establish standards so the internal appeal procedures of long term care insurers are stated in the form language of long term care insurance products; 2) establish requirements and standards for long term care insurers to notify the Insurance Department when the insurers make available for purchase a long term care insurance form in New York State or when the insurers discontinue selling a long term care insurance form in New York State; 3) state by amendment an update on the annual rescission report due date and to state the requirements of federal law for annual long term care reports on claims denials and lapse/replacements and their due dates; 4) establish rules and targeted penalties regarding deceptive advertising and/or deceptive marketing practices targeting senior citizens; 5) establish targeted penalties regarding untimely payment of long term care insurance claims; 6) establish procedures regarding external appeals of long term care insurance claims. Agency Contact: Austin J. Rinella, Supervising Insurance Attorney, Health Bureau (518) 486-7815.

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) to: 1) establish criteria to require long term care insurers to blend the experience of closed blocks of long term care insurance with the experience of open blocks of long term care insurance to lessen or avoid premium rate spirals on closed blocks of long term care insurance; 2) require notification and acknowledgement at the point of sale of potential rate increases for long term care insurance; 3) expand the large group long term care insurance market by requiring group long term care insurers to: offer long term care coverage during a limited "open enrollment" period for certain large groups, offer spousal coverage under certain circumstances, and offer long term care insurance coverage at retirement. Agency Contact: Colleen M. Rumsey, Associate Insurance Attorney, Health Bureau (518) 486-7815.

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) 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. Agency Contact: Jeffrey Pohl, Associate Insurance Attorney, Health Bureau (518) 473-7470.

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 describe the circumstances under which a health insurance policy may impose a cost-sharing differential between x-rays and high-tech radiology services. Agency Contact: Thomas Fusco, Supervising Insurance Attorney, Health Bureau (518) 473-7470.

47. 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 conform to the final regulations promulgated under the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA). Agency Contact: Jeffrey Pohl, Associate Insurance Attorney, Health Bureau (518) 473-7470.

48. 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 coverage of emergency services under health insurance policies that provide coverage for inpatient hospital care. Agency Contact: Lisette Johnson, Assistant Chief, Health Bureau (518) 486-7815.

49. 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 establish minimum standards for prescription drug coverage written by Article 43 corporations, HMOs and commercial insurers. Agency Contact: Thomas Fusco, Supervising Insurance Attorney, Health Bureau (518) 473-7470.

50. 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. Agency Contact: Thomas Fusco, Supervising Insurance Attorney, Health Bureau (518) 473-7470.

51. Summary description of proposal: Adoption of a new part to 11 NYCRR to provide for enhanced disclosure of terms, conditions and parameters of health insurance coverage. Agency Contact: Lisette Johnson, Assistant Chief, Health Bureau (518) 486-7815.

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), and 11 NYCRR 410 (External Appeals of Adverse Determinations of Health Care Plans) (Regulation 166), and adoption of a new part to 11 NYCRR to: (1) establish standards for coverage determinations and appeals for conformance with federal requirements and (2) implement the requirements of Chapter 451 of the Laws of 2007 and Chapter 237 of the Laws of 2009 regarding contract terminations, pre-authorization requirements, and external appeals. Agency Contact: Lisette Johnson, Assistant Chief, Health Bureau (518) 486-7815.

53. Summary description of proposal: Adoption of a new part to 11 NYCRR to require accident and health insurers and HMOs to file annually with the Superintendent or designated statistical agent a statistical report showing a classification schedule of premiums, losses and related expenses, as well as a list of the most frequently used current procedure terminology (CPT) codes on accident and health insurance business subject to the Insurance Law, and such other information as the Superintendent may deem necessary. Agency Contact: Lisette Johnson, Assistant Chief, Health Bureau (518) 486-7815.

54. 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/or adoption of a new part to 11 NYCRR to establish an appeals process for disability claims. Agency Contact: Lisette Johnson, Assistant Chief, Health Bureau (518) 486-7815.

55. Summary description of proposal: Adoption of a new part to 11 NYCRR to establish requirements for contracts between insurers and providers and to establish network adequacy requirements for EPO and PPO products. Agency Contact: Lisette Johnson, Assistant Chief, Health Bureau (518) 486-7815.

56. Summary description of proposal: Adoption of a new part to 11 NYCRR to standardize the forms and claims processes used by insurers and HMOs. Agency Contact: Lisette Johnson, Assistant Chief, 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 clarify to insurers and HMOs the requirements of the alternate procedure for submission of rate increases or decreases set forth in Insurance Law sections 3231(e)(2)(A) or 4308(g), and to provide further clarification as to calculating and reporting loss ratios and issuing dividends or credits when using the alternate filing procedure as required by Insurance Law sections 3231(e)(2)(B) or 4308(h). Agency Contact: Lisette Johnson, Assistant Chief, Health Bureau (518) 486-7815.

58. Summary description of proposal: Adoption of a new part to 11 NYCRR to establish standards for insurer and HMO provider ranking programs. Agency Contact: Lisette Johnson, Assistant Chief, Health Bureau (518) 486-7815.

59. Summary description of proposal: Amendment of 11 NYCRR 350 (Continuing Care Retirement Communities) (Regulation 140) to modify and clarify the actuarial reserve calculation, solvency testing, distribution allowances, fee adequacy, allowable investments, and needed filing requirements, in view of marketplace expansion in both the number and types of Continuing Care Retirement Communities. Agency Contact: Gary Teitel, Assistant Chief Actuary, Health Bureau (212) 480-7709.

60. Summary description of proposal: Adoption of a new part to 11 NYCRR to prohibit discretionary clauses in accident and health insurance policy forms and life insurance and annuity policy forms. Agency Contact: Stephen Rings, Associate Insurance Attorney, Health Bureau (518) 486-7815.

61. 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. Agency Contact: Kalo Daisy Wong, Principal Insurance Examiner, Health Bureau (212) 480-5062.

62. 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 prohibit cold call sales of Medicare supplement insurance, including door-to-door solicitation, direct in-person contact, and direct telephone calls without the prospective applicant initiating the contact. Agency Contact: Sarah L. Allen, Associate Insurance Attorney, Health Bureau (518) 486-7815.

63. 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 procedures and requirements for filing of accident and health insurance policy forms and rate submissions, including electronic filing of such submissions. Agency Contact: Doris Kullman, Supervising Insurance Attorney, Health Bureau (518) 486-7815.

64. Summary Description of Proposal: Adoption of a new part to 11 NYCRR to establish requirements for evaluating, approving and regulating matters relating to premium rates, enrollee contracts and fiscal solvency of Managed Long Term Care Plans, including reserves, surplus and provider contracts to the extent such contracts relate to fiscal solvency matters. Agency Contact: Jose Joseph, Associate Insurance Examiner, Health Bureau (212) 480-3345.

65. Summary Description of Proposal: Amendment of 11 NYCRR 105 and 109 (Operating Expense Classification for Annual Statement Purposes / Allocation of Salaries and Other Expenses) (Regulation 30) to include Article 42 accident and health Insurers, Article 43 corporations and health maintenance organizations. Agency Contact: Charles Lovejoy, Supervising Insurance Examiner, Health Bureau (212) 480-5045.

66. Summary Description of Proposal: Amendment of 11 NYCRR 94 (Valuation of Individual and Group Accident and Health Insurance Reserves) (Regulation 56) to extend the requirements to Article 42 accident and health Insurers, Article 43 corporations and health maintenance organizations, and to clarify the minimum solvency requirements for accident and health Insurers. Agency Contact: Yvonne Rowser, Principal Insurance Examiner, Health Bureau (212) 480-3883.

67. 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 and update the available benefit packages and/or cost sharing to make the products more marketable. Agency Contact: Leigha Basini, Associate Insurance Attorney, Health Bureau (518) 486-7815.

68. Summary description of proposal: Adoption of a new part to 11 NYCRR or amendment of existing parts of 11 NYCRR to implement

changes required by the federal Patient Protection and Affordable Care Act of 2010. Agency Contact: Eileen Hayes, Assistant Chief, Health Bureau (518) 486-7815.

69. 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 adopt requirements for maintaining and monitoring of experience data for group and blanket insurance. Agency Contact: K. Gloria Dee, Supervising Actuary, Health Bureau (518) 473-7716.

70. 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. Agency Contact: John Chaskey, Supervising Examiner, Consumer Services Bureau (518) 474-4556.

71. 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 prohibit the use of door-to-door sales for Medicare Supplemental policies. Agency Contact: Laura Dillon, Principal Examiner, Consumer Services Bureau (518) 486-9105.

72. 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/or adoption of a new part to 11 NYCRR to establish an appeals process for long term care claims. Agency Contact: Laura Dillon, Principal Examiner, Consumer Services Bureau (518) 486-9105.

73. Summary Description of proposal: Adoption of a new part to 11 NYCRR to provide that cancellation notices subject to section 3425 of the Insurance Law should include the date and hour of cancellation, the date of the notice, and, for nonpayment of premium cancellations, a statement informing the consumer that cancellation will not take place if the consumer makes timely payment of the premium. Agency Contact: John Capuano, Associate Examiner, Consumer Services Bureau (518) 486-9107.

74. Summary of description of proposal: Adoption of a new part to 11 NYCRR to provide rules and guidelines to assure full disclosure of all relevant information within advertisements which describe or solicit the purchase of property and casualty insurance coverage that are published, issued or distributed through various advertising media. Agency Contact: Barry Bistreich, Principal Insurance Examiner, Consumer Services Bureau (212) 480-4693.

75. Summary Description of proposal: Amendment of 11 NYCRR 26 (Independent Adjusters) (Regulation 25) to establish a crop adjuster's license and examination for that license. New York will tailor the license and exam to comply with federal requirements necessary for the state to continue licensing supervision over adjusters who adjust claims for damages to crops insured under the federal insurance program for crop multi-peril. Agency Contact: Stephen Welsh, Senior Insurance Examiner, Consumer Services and Licensing Bureau (518) 474-4556.

76. Summary description of proposal: Amendment of 11 NYCRR 86.6 (Fraud Prevention Plans and Special Investigations Unit) (Regulation 95) to establish a requirement that any amendment to a fraud prevention plan that the Frauds Bureau has previously approved must be submitted to the Frauds Bureau within thirty days of its implementation. Agency Contact: Edward Ferrity, Insurance Frauds Bureau Counsel, (212) 480-5683.

Department of Labor

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

1. Add language to Title 12 NYCRR, Chapter II, Subchapter E, to establish regulations regarding the hours and conditions of work necessary to safeguard the health, education, morals and general

- welfare of child performers, as required by Chapter 89 of the Laws of 2008.
2. Add a new Section to 12 NYCRR to establish an Advisory Council to gather information and advice from interested parties in assisting the Commissioner in developing unemployment insurance policies and legislation.
 3. Amend Title 12 NYCRR Section 23-8.5, which sets forth special provisions for crane operators, to revise the procedures regarding the administration of the practical examination and the conduct of hearings regarding the suspension, revocation, refusal to renew, or denial of a crane operator's certificate of competence.
 4. Amend Title 12 NYCRR to address the procedures for granting, renewing and revoking the occupational licenses listed in Article 28-D of the General Business Law. This includes crane operators, blasters, laser operators, and pyrotechnicians.
 5. Amend Title 12 NYCRR Part 39 "Possession, Handling, Storage and Transportation of Explosives to provide for additional security measures for storage sites.
 6. Amend Title 12 NYCRR Part 45 to implement regulations required by Chapter 368 of the Laws of 2006 requiring the Commissioner, in consultation with the Amusement Safety Advisory Board, to establish rules and regulations providing standards for the design, manufacture, testing, inspection, quality assurance and terminology of amusement devices. The rules and regulations will be consistent with the national standards for amusement devices, as established by the American Society of Testing and Materials.
 7. Amend Title 12 NYCRR Part 56 to clarify fire/life safety regulatory requirements at asbestos projects within New York State. This revision will also incorporate Asbestos Successor Law definitions and minor clarifications.
 8. Amend Title 12 NYCRR Part 82 to increase the processing fees for Certificates of Competence for Blasters, Crane Operators, Laser Operators and Pyrotechnicians, as well as the fees charged for the certification of explosive magazines storage facilities.
 9. Repeal Title 12 NYCRR Part 127 to remove procedures for the Special September Eleventh Bidders Registry. The statutory authority for this rule was deemed repealed September 1, 2008, pursuant to L. 2002 c. 350, § 12. The statute has not been extended.
 10. Amend Title 12 NYCRR Parts 137 and 138 to consolidate the Restaurant and Hotel Wage Orders into one Hospitality Wage Order, and various other amendments to these provisions. Some of these amendments were included in a November 2009 Report and Recommendation made by a Wage Board to the Commissioner of Labor.
 11. Amend Title 12 NYCRR to add a new Part 177 relating to mandatory overtime, staffing plans, and on-call responsibilities for nurses.
 12. Amend Title 12 NYCRR adding Part 198 to allow assurance organizations to satisfy the registration requirements of Article 31 of the Labor Law for the professional employer organizations who have retained the services of the assurance organization.
 13. Amend Title 12 NYCRR Part 470, Part 471, Part 472, Part 473, Part 480, and Part 481 to bring those parts into conformity with changes in the Labor Law and/or federal law, as well as to clarify the terminology being used; conform to current practices and to repeal obsolete provisions.
 14. Amend Title 12 Part 482 to broaden the Department's interpretations with regard to approvable training programs and providers for programs under Section 599 of the Labor Law.
 15. Addition of Part 551 to Title 12 NYCRR to implement regulations required by Chapter 601 of the Laws of 2002 that provide for the Department to promulgate regulations describing the form and content of the financial records required by Section 211-a of the Labor Law as well as advisory regulations to State entities relating to the implementation of contractual and administrative measures to enforce Section 211-a.
 16. Amend title 12 NYCRR Part 601 to adopt Apprenticeship Regulations in order to comply with the recently adopted Federal Apprenticeship Regulation, 29 CFR Part 29.
 17. Amend Title 12 NYCRR Part 700 to implement regulations required by 20 CFR 603 regarding public access to Unemployment Insurance Records.
 18. Amend Title 12 NYCRR Part 701 to revise the procedures for adjudicatory proceedings held by the Commissioner of Labor in those situations where no specific rule or regulation is applicable to the subject matter of the hearing. This Part does not apply to orders, determinations or rulings within the jurisdiction of the Industrial Board of Appeals, the Unemployment Insurance Appeal Board or any other board within the Department of Labor.
 19. Amend Title 12 NYCRR Part 800 to incorporate by reference into New York Occupational Safety and Health standards those safety and health standards adopted by the United States Department of Labor Occupational Safety and Health Administration.
 20. Amend Title 12 Part 800 to include provisions for operational safety for firefighters.
- To obtain information or submit written comments regarding this regulatory agenda, contact Maria L. Colavito, Esq., Counsel, New York State Department of Labor, Building 12, State Office Campus, Counsel's Office, Room 508, Albany, New York 12240, Maria.Colavito@labor.state.ny.us, (518) 457-4380.

Office of Real Property Services

Pursuant to section 202-d of the State Administrative Procedure Act, the New York State Office of Real Property Services presents its Regulatory Agenda for the remainder of calendar year 2010. The New York State Office of Real Property Services is developing proposals to amend the following rules:

Revisions to the minimum qualification standards and continuing education requirements for appointed assessors and county directors contained in Part 188 of Title 9;

Revisions to the annual license fees for users of the Real Property System (RPS) contained in Part 190 of Title 9;

Revisions to form RP-5217 for reporting real property transfers contained in section 191-2.1 of Title 9;

Revisions to the real property transfer reporting requirements for villages contained in subdivision 191-2.4(a) of Title 9;

Revisions to the assessor reporting requirements related to modifications in assessments resulting from court orders, administrative correction of errors or small claims court contained in Part 193 of Title 9;

Revisions to the reporting requirements for cable television companies found in Part 197 of Title 9;

Revisions to the provisions for the transmission of information concerning taxable state land contained in Part 199 of Title 9.

To obtain information or submit written comments regarding this regulatory agenda, contact James J. O'Keeffe, General Counsel, New York State Office of Real Property Services, 16 Sheridan Avenue, Albany, 12210-2714, (518) 474-8821. An updated regulatory agenda for the New York State Office of Real Property Services is available at <http://www.orps.state.ny.us/>.

Department of State

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 Department of State is considering proposing but for which a rule making proceeding has not been commenced. All references are to Title 19 of the New York Code of Rules and Regulations unless otherwise noted. The Department of State's regulatory plans are subject to change and the Department reserves the right to add, delete, or modify any item herein. The Department is not required to propose for adoption any rule summarized in this regulatory agenda. In addition, the Department may propose a rule for adoption which

was not under consideration at the time that this regulatory agenda was submitted for publication.

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. Each rule listed below may require a regulatory flexibility analysis or a rural area impact statement pursuant to SAPA sections 202-b and 202-bb, respectively.

As required by SAPA 102-a, it is anticipated that small business guides will be developed for each rule being considered by the Division of Licensing Services. It is not anticipated that small business guides will be developed for rules being considered by any other division of the Department of State.

The public is welcome to send written comments on the Department of State's Regulatory Agenda to the contact person at the end of this list.

DIVISION OF CEMETERIES

Part 200

Considering amending provisions concerning financial reporting by cemeteries.

Section 201.17

Considering amending section 201.17 dealing with lawn crypts.

Part 203

Considering repealing those regulations which have been codified under Not-for-Profit Corporation Law section 1517, and adding several new regulations concerning crematory maintenance and operations.

DIVISION OF COASTAL RESOURCES

Parts 600 - 603

Considering making various amendments to New York State Coastal and Inland Waterway Regulations affecting federal, state, local, and individual actions concerned with Article 42 of the New York State Executive Law ("Waterfront Revitalization of Coastal Areas and Inland Waterways") and implementation of the Federal Coastal Zone Management Act in New York as described in the New York Coastal Management Program.

DIVISION OF CODE ENFORCEMENT AND ADMINISTRATION

Parts 910 and 911

Considering adding a new Chapter XXX comprised of Parts 910 and 911 containing provisions relating to energy efficiency standards for appliances and equipment. Certain such provisions have been adopted as emergency measures from time to time, commencing in December, 2006.

Part 1202

Considering amending this Part to make the provisions relating to the administration of the Uniform Fire Prevention and Building Code by the Department of State in certain local governments and counties substantially similar to the corresponding provisions in revised Part 1203 (which became effective on January 1, 2007), and to update the fee schedule currently contained in section 1202.7.

Part 1203

Considering amending this Part concerning normally unoccupied buildings to establish more appropriate inspection intervals for these buildings and to clarify the language found in this Part.

Part 1205

Considering amending this Part to make the procedures for variances under the State Uniform Fire Prevention and Building Code applicable to variances under the State Energy Conservation Construction Code, to add new provisions relating to variances under the State Energy Conservation Construction Code, to revise procedures for appeals on variance matters, to address reopening and rehearing of variance hearings, and to establish procedures for decisions to be made on a written record.

Part 1208

Considering amending provisions relating to the minimum qualifications of code enforcement personnel.

Part 1209

Considering amending this Part concerning factory manufactured housing to update it and increase fees for plan review and Insignias of Approval.

Parts 1219-1228

Considering amending the Uniform Fire Prevention and Building Code to update its provisions.

Part 1240

Considering amending the State Energy Conservation Construction Code to update its provisions.

OFFICE OF ADMINISTRATIVE HEARINGS

Part 400

Considering amending the Department's hearing rules of procedure.

OFFICE OF FIRE PREVENTION AND CONTROL

Part 429

Considering amending existing rule pertaining to fire safety standards for cigarettes to implement the provisions of Chapter 583 of the Laws of 2006.

Part 452

Considering amending the schedule of fees imposed for courses offered by and the use of the Academy of Fire Science.

Considering adding a new Part to implement the provisions of section 156-f of the General Municipal Law (added by Chapter 21 of the Laws of 2006) pertaining to evacuation drills in buildings owned or leased in whole by the state or any agency thereof.

Considering adding a new Part to implement the provision of section 156-g of the General Municipal Law (added by Chapter 303 of the Law of 2007) pertaining to the creation of urban search and rescue teams and a technical rescue resource accreditation program.

Part 205 of Title 9 NYCRR

Considering amending/updating the Fire Mobilization and Mutual Aid Plan and moving Part 205 from Title 9 NYCRR to Title 19 NYCRR.

STATE ATHLETIC COMMISSION

Part 218

Considering adding a new Part 218 concerning special rules for review, addition, and removal of single-discipline martial arts sanctioning organizations in New York State.

Considering repealing obsolete sections of part 217 regarding professional wrestling to achieve consistency with Title 25 of the Unconsolidated Laws.

The Department of State maintains a continuously updated regulatory agenda on its website. The address of this website is: www.dos.state.ny.us.

To obtain information about or submit written comments concerning any item in this Regulatory Agenda, contact: David Treacy, Office of General Counsel, New York State Department of State, One Commerce Plaza, 99 Washington Avenue, Suite 1120, Albany, New York 12231-0001.

Office of Temporary and Disability Assistance

Pursuant to section 202-d of the State Administrative Procedure Act (SAPA), the Office of Temporary and Disability Assistance (OTDA) is required to publish a regulatory agenda for those regulations that it is considering for publication in the State Register. Set forth below is an agenda for the second half of 2010. Section 202-d of SAPA does not preclude OTDA from proposing for adoption a regulation that is not described in the agenda, nor does it require OTDA to propose for adoption a regulation that is described in the agenda.

All references are to Title 18 of the New York Code of Rules and Regulations (NYCRR) unless otherwise noted. The agenda items are organized pursuant to the Part or the Subchapter of Title 18 NYCRR that most likely would be amended. However, the agenda items eventually could require amendments to different Parts or Subchapters than those listed below and/or to more than one Part or Subchapter of Title 18 NYCRR.

Part 340 – Public Access to Department Records under Freedom of Information Law

Update regulations concerning public access to records under the Freedom of Information Law to reflect statutory amendments.*

Part 346 – Support Collection

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.*

Revise existing regulation concerning process for applying for child support services to clarify process and require written application and provision of necessary family information by use of State application form.*

Part 347 – Establishment of Paternity and Enforcement of Child Support

Amend location definition and procedures concerning the financial investigation of a putative father to facilitate the establishment of a child support order.*

Update regulation pertaining to the calculation of basic child support obligations and repeal the child support standards chart.*

Revise regulations for the distribution and assignment of child support collections to reflect the requirements of Chapter 57 of the Laws of 2008 and federal law and to conform with the Personal Responsibility Work Opportunity Reconciliation Act's elimination of excess current support.*

Revise regulation pertaining to federal incentive payments.*

Address annual service fee for never assistance cases and revise legal services section clarifying the responsibilities of an attorney who provides child support services on behalf of a local district child support enforcement unit.*

Revise desk review procedures addressing the accounting and disbursement of child support for certain current and former recipients of Public Assistance.*

Promulgate regulations for establishing and enforcing medical support obligations.*

Part 349 – General Provisions

Update provisions regarding persons who are permanently residing in the United States under the color of law (PRUCOL).*

Part 351 – Investigation and Eligibility

Clarify provisions concerning the submission of a social security number as a condition of eligibility for Public Assistance.*

Amend regulations to add timeliness provisions for reporting changes in income for Public Assistance.*

Remove quarterly reporting as a district optional requirement for Public Assistance programs.*

Delete the regulatory provisions relating to the Learnfare program.

Require local districts to make all applicants for and recipients of public assistance aware of their option to receive information appropriate for victims of sexual assault consistent with Chapter 427 of the Laws of 2009.*

Part 352 – Standards of Assistance

Provide consistency between the Family Assistance program and the Safety Net Assistance program concerning the treatment of bona fide loans.*

Amend regulations to establish new schedules for the standard of monthly need for determining eligibility for all categories of public assistance.

Amend regulations to meet the requirements of Chapter 53 of the Laws of 2009 to authorize social services districts to provide shelter allowance supplements at local option to all Public Assistance households in order to prevent eviction and address homelessness.*

Amend regulations which govern Emergency Shelter Allowances to reflect Chapters 53 of the Laws of 2008 and 2009.*

Part 358 – Fair Hearings

Eliminate the requirement that a fair hearing request concerning the

Home Energy Assistance Program (HEAP) must be made within 105 days of the social services district's termination of the receipt of HEAP applications for the program year.*

Revise fair hearings regulations to clarify the distinction between the standard of proof required at the hearing and the standard required for judicial review.*

Amend fair hearings regulations to add provisions concerning a telephone hearings process.*

Amend the definition of the fair hearing record as it pertains to decisions without a hearing.*

Amend fair hearings regulations to remove the time frames within which an Appellant or Appellant's authorized representative must request that a fair hearing be rescheduled.*

Part 366 – Child Assistance Program

Clarify that the poverty level for Child Assistance Program purposes is reported by the federal Department of Health and Human Services.

Part 385 – Public Assistance and Food Stamp Employment Program Requirements

Revise assessment regulations to clarify that the requirements for exempt individuals in households without dependent children are consistent with those for exempt individuals in households with dependent children.*

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

Establish additional guidelines regarding work activity definitions and work documentation and verification procedures to make them consistent with standards required by federal regulations.*

Implement changes to participation rate regulations to conform to amendments to the 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 participating in community service and time limited vocational education training, job search and job readiness assistance.*

Revise regulations for employment to comply with final federal regulations.*

Revise Food Stamp employment and training regulations to conform with federal regulations.*

Clarify how participation rates are calculated based on federal reporting requirements 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.

Identify cases that may be excluded from participation rates pursuant to federal Temporary Assistance for Needy Families (TANF) regulations.*

Repeal provisions which permit foster care parents and individuals who are caring for a disabled household member to be deemed as community service participants as required by federal regulations.

Authorize shift of certain cases to non-TANF Family Assistance or to non-MOE (non-Maintenance of Effort) Safety Net Assistance to facilitate implementation of changes as required by federal regulations.*

Part 387 – Food Stamps Program

Revise Food Stamp regulations concerning the special definition of the "head of the household."*

Update the determination of Food Stamp eligibility regulations to include Supplemental Security Income (SSI) live-alone New York State Nutrition Improvement Program provisions and education grant exclusions.*

Delete Food Stamp monthly reporting/retrospective budgeting references and add provisions for change reporting.*

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.*

Generally update Food Stamp regulations to conform to the Food,

Conservation, and Energy Act of 2008 and to recent changes in the federal regulations.*

Amend regulations to accommodate the Statewide implementation of the Working Families Food Stamp Initiative.*

Amend regulations to reflect expanded categorical eligibility for the Food Stamp program.*

Amend Food Stamp reporting requirements for elderly and disabled persons.*

Update regulations for the Food Stamp transitional benefit alternative program.*

Amend regulations governing intentional program violations to make the State's requirements for a ten year disqualification from the Food Stamp program consistent with the federal requirements set forth in the Code of Federal Regulations. *

Part 388 – Food Assistance Program

Repeal provisions relating to the Food Assistance Program.

Part 393 – Home Energy Assistance Program

Amend HEAP regulations to reflect current practices and the provisions of the federally accepted HEAP State Plan.*

Subchapter F – Finance; Claims for Reimbursement by Social Services Districts

Amend regulations concerning reimbursement claiming to reflect current Federal and State requirements and current State and local district practices.*

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.*

Remove administrative cost cap section as this process is no longer in existence.*

It is not anticipated that small business regulation guides will need to be developed for the proposals set forth in this agenda.

* The asterisks identify rules for which a regulatory flexibility analysis or a rural area flexibility analysis may be required.

Any questions or comments concerning the items listed in this agenda can be referred to Jeanine Stander Behuniak, New York State Office of Temporary and Disability Assistance, 40 North Pearl Street 16C, Albany, New York 12243. Telephone: (518) 474-9779. E-mail: Jeanine.Behuniak@OTDA.state.ny.us. The regulatory agenda may be accessed on OTDA's website at www.otda.state.ny.us.