

# REGULATORY AGENDA

---

## Education Department

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 2011. 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 2011 Regulatory Agenda.

### OFFICE OF P-12 EDUCATION

Amendment of section 100.2 of the Commissioner's Regulations relating to general school requirements. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment to section 100.2 of the Commissioner's Regulations relating to accountability determinations and the school report card. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.2(h) of the Commissioner's Regulations relating to availability of career and technical education and arts sequences. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.2(j) of the Commissioner's Regulations relating to guidance programs. 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 revise the method for determining Adequate Yearly Progress for graduation rate in order to conform with regulations 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 section 100.4(b) of the Commissioner's Regulations relating to program requirements in grades five and six. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.4(c) of the Commissioner's Regulations relating to unit of study requirements in grades seven and eight. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.4(d) of the Commissioner's Regulations relating to grade eight acceleration for diploma credit. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.4(h) of the Commissioner's Regulations relating to models for Middle Level Education. A regulatory flex-

ibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.5(a), (b) and (c) 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 100.5(a)(5)(i) of the Commissioner's Regulations relating to the State Assessment System. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.5(d) of the Commissioner's Regulations relating to Career and Technical Education programs. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 120.5 of the Commissioner's Regulations relating to persistently dangerous schools. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment to Commissioner's Regulations relating to the instructional reporting and improvement system. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment to Commissioner's Regulations relating to the Early Warning System and the use of standardized student-level attendance rules. 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 Parts 100 and 200 of the Commissioner's Regulations to make certain technical amendments, including corrections to cross citations, as may be appropriate and to conform to possible changes made to federal regulations this year. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 136.3(e) of the Commissioner's Regulations, regarding hyperopia vision screening for new school entrants. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 144.11 of the Commissioner's Regulations to eliminate requirement that school districts have an Early Grade Class Size Reduction Plan. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 155.4(b)(2) of the Commissioner's Regulations to eliminate annual visual inspections. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 155.6 to eliminate school facilities report card. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 156.3(b)(5) of the Commissioner's Regulations to add flexibility for completing required semi-annual school bus driver refresher training programs. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 156.3 of the Commissioner's Regulations to eliminate requirements for anti-idling reports. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 200.2(b) of the Commissioner's Regulations relating to written policies for the declassification of students with disabilities, 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 200.2(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 section 200.3(a) and (c) of the Commissioner's Regulations relating to the membership of the Committee on Special Education (CSE), Subcommittee on Special Education, and Committee on Preschool Special Education, 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 200.1(aa) and 200.4(b) of the Commissioner's Regulations relating to initial evaluations, 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 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 200.5(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 section 200.5(c) of the Commissioner's Regulations relating to written notice to parents regarding CSE and Subcommittee meetings, 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(j) of the Commissioner's Regulations relating to the statute of limitations for requesting an impartial hearing, as may be necessary to conform to changes to State statute, and to conform the timelines for due process hearings to federal regulations. 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 school, 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 200.16 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, parent selection of a preschool evaluator, and the timeline to complete an initial evaluation of a preschool student suspected of having a disability, 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.

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

New York State Education Department

State Education Building, Room 125

89 Washington Avenue

Albany, New York 12234

(518) 474-3862

nysedp12@mail.nysed.gov

OFFICE OF HIGHER EDUCATION

Amendment of section 27-1.1 of the Rules of the Board of Regents to clarify the criteria and processes needed to determine a student's financial eligibility for the Higher Education Opportunity Program. A rural area flexibility analysis may be required.

Amendment of section 80-4.3 and 80-5.18 of the Regulations of the Commissioner to provide more teacher certification flexibility under a limited certificate for certified teachers in grades 5 through 8, who are in the process of completing required coursework for a full certificate. A rural area flexibility analysis may be required.

Amendment of section 80-3.10 to clarify that the School District Leader certificate is the only certificate required for a Superintendent also performing the roles of principal or business official in small school districts. A rural area flexibility analysis may be required.

Amendment of Parts 80 and 83 of the Regulations of the Commissioner of Education regarding moral character hearings and regarding the applicability to coaches of moral character and background check requirements. A rural area flexibility analysis may be required.

Amendment of section 87.5 of the Regulations of the Commissioner of Education regarding due process procedures for criminal history record check for prospective school employees and applicants for certification. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 145 of the Regulations of the Commissioner of Education regarding transfer fund grants to school districts and regarding innovative compensation incentive funds to school districts. A rural area 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 area flexibility analysis may be required.

Amendment of section 145-2.2 of the Regulations of the Commissioner of Education to clarify the requirements and processes used in the administration of TAP funds to ensure that students receiving awards are using them in the pursuit of an approved program of study and to make the regulatory requirements clearer to financial aid officers in implementing the intent that students be assisted in completing their academic program. A rural area flexibility analysis may be required.

Amendment of section 145-2.4 of the Regulations of the Commissioner of Education to clarify the criteria and processes needed to determine a student's matriculation status and the need for the decla-

ration of a major which is a registered academic program. 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: Valerie Grey

Acting Deputy Commissioner for the Office of Higher Education  
New York State Education Department  
Office of Higher Education  
Room 978, Education Building Annex  
89 Washington Avenue  
Albany, New York 12234  
(518) 486-3633  
sroberson@nysed.mail.gov

#### OFFICE OF THE PROFESSIONS

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 60 of the Commissioner's Regulations relating to the professional study of medicine. A rural area flexibility analysis may be required.

Amendment of Part 60 of the Commissioner's Regulations relating to the standards and procedures to be applied in assessing applications by international medical schools for approval to place their students in long-term clinical clerkships in New York State.

Amendment of Part 61 of the Commissioner's Regulations relating to dental anesthesia certification. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 62 of the Commissioner's Regulations relating to the requirements for continuing education for veterinarians and veterinary technicians. 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 Part 78 of the Regents Rules relating to the requirements for continuing education for massage therapists. A rural area flexibility analysis may be required.

Amendment of Subpart 79-5 of the Commissioner's Regulations 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: Valerie Grey

Chief Operating Officer  
New York State Education Department  
Office of the Professions  
89 Washington Avenue  
West Wing, Second Floor - Education Building

Albany, New York 12234  
(518) 486-1765  
opopr@mail.nysed.gov

#### OFFICE OF CULTURAL EDUCATION

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 amendment by contacting:

Bernard A. Margolis  
State Librarian and Assistant Commissioner for Libraries  
New York State Education Department  
New York State Library  
Room 10C34  
Albany, NY 12230  
(518) 474-5930  
bmargolis@mail.nysed.gov

Amendment of 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 and a rural area flexibility analysis may be required.

Amendment of 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.

Amendment to Part 188 of the Commissioner's Regulations related to state government archives and records management to update the agency fee list to match the current organizational structure of executive branch agencies and, in anticipation of passage of the Governors' Records Bill, to update and establish records and archival management policies and procedures relating to records of the governor, executive chamber, legislature, and the civil departments of state government. 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:

Christine Ward  
Assistant Commissioner for the State Archives  
9A49 Cultural Education Center  
Albany, New York 12230  
(518) 473-7091  
cward@mail.nysed.gov

#### OFFICE OF ADULT CAREER AND CONTINUING EDUCATION SERVICES

Amendment to Parts 246 and 247 of the Commissioner's Regulations relating to the State vocational rehabilitation program operated pursuant to Title I of the Rehabilitation Act, as may be appropriate in order to conform to possible changes made if Congress reauthorizes that act this year. A regulatory flexibility analysis for local government and a rural flexibility analysis may be required.

Agency Representative

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

Frank Coco, CRC  
Manager, VR Policy and Partnerships  
Office of Adult Career and Continuing Education Services  
New York State Education Department  
Room 1603, One Commerce Plaza

Albany, New York 12234  
(518) 486-3784  
feoco@mail.nysed.gov

Amendment of section 100.7(a)(2) of the Regulations of the Commissioner of Education to provide for the opportunity for adult students to earn a New York State High School Equivalency Diploma upon satisfactory completion of an External Diploma Program approved by the Commissioner of Education. A regulatory flexibility analysis for local governments 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:

Robert Purga, Supervisor  
ACCES-Adult Education  
99 Washington Avenue  
One Commerce Plaza  
Room 1622  
Albany, New York 12234

Amendment of Part 126 of the Commissioner's Regulations to require specific loan disbursement schedules for tuition payments. The schedules will take into consideration amounts designated for cost of living while attending. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 126 of the Commissioner's Regulations to initiate an Inspection of a newly licensed proprietary school within the first year of operation to determine the level of compliance. Technical assistance will be used to assist with bringing the school into compliance, with consideration of the nature of the violations when determining if any sanctions should occur. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 126 of the Commissioner's Regulations to change to "or UP TO double the documented amount from which the school benefited, whichever is greater." 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:

Carole W. Yates, Director  
Bureau of Proprietary School Supervision  
One Commerce Plaza, Room 1613  
Albany, NY 12234  
(518) 474-3969

OFFICE OF STATE REVIEW

Amendment of section 279.1 of the Commissioner's Regulations, relating to the incorporation and clarification of definitions and other provisions, as relevant to state-level review of hearings for students with disabilities, that are currently referenced in Parts 275 and 276; deletion of references to parts 275 and 276; clarification of the jurisdiction of a state review officer and procedures regarding state review proceedings; and clarification regarding the authority of a state review officer to review manifestation determinations. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 279.2 of the Commissioner's Regulations, relating to timelines for serving and filing a Notice of Intention to Seek Review; clarification of purpose of Notice of Intention to Seek review; clarification of timeframe in which to serve upon another party and file a Notice of Intention to Seek review; and addition of a notice of certification requirement. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 279.3 of the Commissioner's Regulations, relating to service of an answer. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 279.4 of the Commissioner's Regulations, relating to the initiation and scope of a review and the timeliness of an appeal, clarify sufficiency of content and time in which to serve the

petition for review and memorandum of law upon the opposing party; procedures for filing a petition for review with the Office of State Review; and add disclosure of whether a related action or proceeding is pending in another forum. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 279.5 of the Commissioner's Regulations, relating to the content and service of an answer and supporting papers upon the opposing party and filing with the Office of State Review. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 279.6 of the Commissioner's Regulations, relating to additional pleadings and new matters raised in an answer. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 279.7 of the Commissioner's Regulations, relating to verification of pleadings. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 279.8 of the Commissioner's Regulations, relating to the table of authorities, clarification of the requirement that pleadings be signed consistent with 22 NYCRR 130-1.1a(a); and submission of electronic copies of pleadings and memoranda of law. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 279.9 of the Commissioner's Regulations, relating to content and submission of record; certification of record and clarification that 279.9 (b) refers to complete record. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 279.10 of the Commissioner's Regulations, relating to requests for extensions of time and length of extensions permitted; submission of additional evidence; clarification of effect of agreements to extend the time in which to initiate a review. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 279.11 of the Commissioner's Regulations, relating to calculating date of mailing and type of mail. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 279.12 of the Commissioner's Regulations, clarifying provisions relating to the finality of state review officer decisions. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 279.13 of the Commissioner's Regulations, relating to service of petition for review. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Addition of 279.15 of the Commissioner's Regulations, relating to definitions of terms in Part 279. 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:

Justyn P. Bates  
Office of State Review  
80 Wolf Road, 2nd Floor  
Albany New York 12203  
(518) 485-9373

OFFICE OF MANAGEMENT SERVICES

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  
 New York State Education Department  
 89 Washington Avenue  
 Room 139 EB  
 Albany, New York 12234  
 (518) 486-2422

## Department of Environmental Conservation

The New York State Department of Environmental Conservation maintains an updated regulatory agenda on its website <http://www.dec.ny.gov/regulations/36816.html>.

## Department of Health

The following regulatory actions are under consideration for submission as a Notice of Proposed Rulemaking from June through December 2011:

### 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).

Statewide Health Information Network for New York (SHIN-NY) - Promulgate regulations as required under Public Health Law section 206(18-a)(b) (L. 2010, Ch. 58, Part A, § 11).

1.31 Disclosure of Confidential Cancer Information for Research Purposes - Amend the existing regulations which specifies that confidential cancer data can only be disclosed for governmental or government-sponsored research projects to be more consistent with current cancer research needs and sponsorship practices. The regulations will provide clearer definitions of the circumstances under which confidential cancer information can be released for research and non-research purposes.

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 regulations to incorporate mandatory federal regulations to improve control of microbial pathogens (federal LT2SWTR) 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 regulations to incorporate mandatory federal regulations to improve the control of lead and copper in public water supply systems. This will include the federal minor revisions and short-term revisions to the Lead and Copper Rule (LCR).

5-1 Public Water Systems - Amend the regulations to update provisions pertaining to backflow device tester certification requirements; revise the provisions applicable to variances and exceptions and update and clarify specific code references.

5-1 Public Water Systems - Amend the regulations 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 activities with a significant risk of injury at day camps and also to sleeping cabins in overnight camps, and include reflective triangles as an acceptable alternative to flares.

11 Qualifications of Public Health Personnel - Amend the regulations that describe job duties and minimum job qualifications for local public health personnel by adding a job title and minimum qualifications for Medical Consultant, eliminating the requirement that the Commissioner of Health approve the local health officer (other than a Commissioner of Health or a public health director) and consider other changes as needed to ensure that the job descriptions and minimum qualifications support the ability of local health departments to hire competent, appropriately trained individuals able to meet the ongoing and emerging public health needs of local communities.

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 regulations to be consistent with federal regulations and mandates applicable to medical and industrial use of radioactive material, radiation protection standards and license termination/decommissioning standards. Update and revise the quality assurance requirements for radiation therapy to align with current treatment delivery system technology to ensure patient safety and add a requirement for facility certification. Update the quality assurance requirements for diagnostic x-ray equipment, including computed tomography, to align with current equipment and imaging modalities to ensure patient safety. Consolidate current requirements in 12 NYCRR Part 38 (NYS DOL Ionizing Radiation) into 10 NYCRR Part 16, consistent with the merger of the NYS DOL Radiological Health unit into the DOH/CEH/BERP program in 2006.

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; and establish qualifications for directors of forensic identity and other categories not currently specified in the regulation.

22.3 Supplementary Reports of Certain Congenital Anomalies for Epidemiological Surveillance; Filing - Amend the regulations by requiring the reporting of children up to 10 years of age with certain 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 regulations 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.

23.1 Sexually Transmitted Diseases - Amend the regulations to update the list of sexually transmitted diseases to change archaic terminology, to add Human Papilloma 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 regulations 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 regulations 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, gonorrhoea, chlamydia, lymphogranuloma venereum, and chancroid to be reported individually and by name.

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

40-2 and 40-3 State Aid for Public Health Services: Counties and Cities - Amend the regulations to repeal Subpart 40-3 and amend Subpart 40-2 to add new Subparts 40-2.240, 40-2.241, 40-2.250 and 40-2.251 to allow certified counties and New York City, when authorized by the Department to receive aid to implement Part 16 of the State Sanitary Code to inspect x-ray installations; and also to authorize New York City to license and inspect radioactive materials facilities.

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 regulations 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, and enhancing monitoring and enforcement of restrictions on the sale of human tissue for transplant. In addition, update technical requirements to reflect advances in technology and changes in industry standards.

Subpart 52-12 Therapeutic Cell Banks - Promulgate a new subpart addressing technical standards for the collection, processing, storage, and distribution of nucleated cells, including, but not limited to, mesenchymal cells, embryonic stem cells, dendritic cells, and stromal cells, intended for a clinical transplantation purpose other than hematopoietic reconstitution or reproduction.

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, and is proposed for deletion.

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; clarify assistant director responsibilities; establish standards for tracking and referral of critical agent and communicable disease specimens; and establish standards for demonstrating the technical and clinical validity of test methods.

58-2 Blood Banks - Amend the regulations 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 (DAT) - Amend the regulations to establish record keeping and reporting standards for DAT, codify circumstances for DAT for drugs-of-abuse.

Subpart 58-5 Hematopoietic Progenitor Cell Banks - Update requirements for donor suitability determination, infectious disease testing, and record keeping related to hematopoietic progenitor cell (HPC) donation. Amend the regulations to require the HPC bank medical director to establish a policy regarding testing allogeneic donors for West Nile virus, Trypanosoma cruzi, and hemoglobinopathies.

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 process for approving modified ignition interlock devices and delete references to expired pilot program; and codify the National Highway Traffic Safety Administration model specifications for device certification.

63 HIV/AIDS Testing, Reporting and Confidentiality of HIV-Related Information - Amend relevant sections of Part 63 to be consistent with Chapter 308 of the Laws of 2010, the HIV Testing Law.

66-3 Immunization - Amend the regulations to add Subpart 66-3 to Title 10 to require all health care personnel employed or affiliated with a health care facility, document as a precondition of employment and annually, immunizations for influenza virus. 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 release of residual dried blood spots to address conditions for retention and release, an opt-out allowance, and parental requests for the blood spots to 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).

69-8 Newborn Hearing Screening - Amend the regulations 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.

72-2 Body Piercing and Tattooing - Amend the regulations to be consistent with Public Health Law Article 4-A - Regulation of Body Piercing and Tattooing. The regulations will provide definitions and requirements for permit, inspection, and operation of tattooing facilities and the licensing of tattoo artists.

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 as well as changes that have occurred in the industry that should be reflected in the training programs.

74 Approval of Realty Subdivisions - Amend the regulations to update and clarify requirements for plan submittals and approvals of realty subdivisions.

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.

80 Controlled Substances - Amend the regulations to allow for electronic transmission, documentation, recordkeeping and endorsement of controlled substance and hypodermic needle and syringe prescriptions to allow for transfer of needle and hypodermic syringe prescriptions and eliminate the requirement for a written follow-up prescription for oral prescriptions (authorizations) for needles and syringes. Amend regulations to permit prescribing of needles and syringes pursuant to a patient specific order form, as defined in State Education Law Section 6810 (7)(b). Amend Part 80 to update reporting requirements for Methadone Maintenance Treatment Programs enacted by Public Health Law Section 3352 statutory changes. 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.

80.131 and 80.137 Expanded Syringe Access Demonstration Program - Sale and possession of hypodermic syringes and hypodermic needles without a prescription under the Expanded Syringe Access Demonstration Project (ESAP) - Amend Section 3381 by removing "Demonstration" from the title of the program and formally adopt "Expanded Syringe Access Program" as the name of the program since the program has now been made permanent pursuant to Chapter 58 of the Laws of 2009.

81.5 Investigation and Determination - Amend the regulations to align with federal requirement for onsite investigation timeframes.

86-1.2 Accountant's Certification - Amend the regulations to require an accountant's certification of institutional cost reports only for years prior to 2010.

86-1.4 Institutional Cost Reports/Audits - Amend the regulations to establish a fee for filing institutional cost reports and to fund Department audits of medical facilities.

86-1.13-a Certified Home Health Care Agency Ceilings - Amend the regulations to control over-utilization of Certified Home Health Agency (CHHA) services by applying an average annual per-patient spending limit to all CHHAs, based on a blended average of the provider's base year cost and the statewide average adjusted for case mix index and regional wage differences.

86-1.13-b Episodic Pricing System for Certified Home Health Agencies - Amend the regulations by adding a new section to make Medicaid payments for certified home health agencies based on 60-day episodes of care, with adjustments for patient acuity and regional wage differences.

86-1.31 Merged Rates - Amend the regulations to eliminate the requirement that a merger, acquisition or consolidation needs to occur on or after the year the rate is based upon in the case of a hospital receiving a temporary rate adjustment as a result of such merger, acquisition or consolidation. Amend the regulations to expand the temporary rate adjustment to hospital closures or hospitals affected by the closure, merger, acquisition or consolidation of another hospital.

86-1.40 Inappropriate Use of Cesarean Deliveries - Amend the regulations to limit payment for cesarean deliveries to a hospital's average Medicaid payment for vaginal deliveries, with provisions for appeal.

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 Outpatient Services Ambulatory Patient Groups (APG) - Amend the regulations to: (1) revise the list of services subject to various APG logic; and (2) establish rates for certain services excluded from APG reimbursement including changing discounting logic and special payment rules.

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

86-8.7 APGs and Relative Rates - Amend the regulations to revise the July and October 2011 weights.

94.2 Physician Assistants - Amend the regulations 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 Various Technical Amendments - Revise the regulations, making technical corrections: 1) 98-1.9(b)(3), requiring managed care organizations (MCOs) to provide assurances of continuing compliance with Article 49 of the Public Health Law, in addition to Article 44 and Part 98; 2) 98-1.11(h), restoring language that prohibits health maintenance organizations (HMOs) from discriminating in enrollments and services provisions; 3) 98-1.11(k)(4), clarifying that the MCO is responsible for monitoring contractors' fiscal stability; 4) 98-1.11(q), clarifying that MCOs must comply with Article 49 of the Public Health Law, in addition to Article 44 and Part 98; 5) 98-1.13(c)(iii), correcting a 2005 change which inadvertently limited provider contract assignments to within one year of promulgation of the rule to reflect that the rule applies prospectively; and 6) amending 98-1.5(6)(e)(2) the MCO management functions to reflect that if an independent practice association (IPA) is delegated MCO management functions, then a separate management contract is required and it must be separate from the delivery of service contract.

98-1.5 Application for a Certificate of Authority - Amend 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)(vii)(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 - Amend the 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.

98-1.11(e) Operational and Financial Requirements for MCOs - Amend the regulations to specify criteria that would be used to evaluate requests for approval of asset transfers or loans. Section 98-1.11(e) would be amended to temporarily lower the contingent reserve requirement applied to revenues from the Medicaid managed care and Family Health Plus programs.

98-1.13 Assurance of Access to Care - Amend the regulations to: 1) require that managed care organizations (MCOs) ensure each member has selected a primary care provider from which the member receives all primary care services; 2) address requirements related to subdivision 5-d to Section 4406-c which imposes a "cooling off" period after termination or non renewal of a contract between an MCO and a hospital; 3) amend regulations to clarify that certain out-of-network service denial notices must include internal MCO and external appeal rights afforded by Section 4904(1-a); and 4) promote consistency of initial adverse determination notices issued in accordance with Section 4903(5) by clarifying notice content requirements.

98-1.16(c) Preparation and Filing of Audited Financial Statements - Amend this part and new section 98-3 to establish standards for the preparation and filing of audited financial statements by PHSPs, HIV SNPs, and managed long term care plans that are consistent with the National Association of Insurance Commissioners (NAIC) model audit rules already adopted by the New York State Insurance Department for other insurers.

98-1.18(a) MCO Agreements - Amend the regulations to add this section as it applies to MCO agreements with licensed pharmacies and laboratories acting as benefit managers arranging for services, equipment and supplies.

98-2 External Appeals of Adverse Determinations - Amend the regulations to reflect changes to Article 49 of the Public Health Law made by Chapter 237 of the Laws of 2009 and Chapter 451 of the

Laws of 2007 and the Patient Protection and Affordable Care Act (PPACA).

128 New York City Watershed Rules and Regulations - Amend the regulations to incorporate requirements 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. 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.

402 Criminal History Record Check - Amend the regulations to provide specific timeframe requirements for scanning the fingerprints of covered employees.

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 Pediatric Amendments - Amend the regulations to incorporate various pediatric amendments into the Hospital Minimum Standards provisions.

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 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 regulations to authorize and provide operating standards for observation units.

405.20 Outpatient Services - Amend the regulations to cross reference 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 because 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 to provide flexibility in meeting the requirement that the Department issue to each nursing home consumer, information based on the findings from any onsite regulatory visit.

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. The proposed amendment outlines the Department's interim policy in effect since December 1, 2004.

415.18(f) Pharmacy Services - Amend the regulations to require the appropriate return of unused, properly packaged medications in long term care (LTC) facilities to the vendor pharmacies, and the reimbursement or credit of Medicaid for such drug products.

425.18 Adult Day Health Care (Services for Registrants with Acquired Immune Deficiency Syndrome) - Amend the regulations to establish a step-down aftercare program for Adult Day Care Program enrollees achieving a level of physical and mental health stability to transition to a less intensive model.

600.1 - 600.7; 610.1 - 610.2; 620.1 - 620.3; 630.1; 640.2 - 640.3; 650.1 - 650.2; 670.1 - 670.6; 680.2; 680.4 - 680.6; 680.8 - 680.10, 705.9 - Amend the regulations to change references to the Public Health Council to the Public Health and Health Planning Council; and to delete references to the State Hospital Review and Planning Council.

705.7, 708.1, 710.1, 710.2, 710.5 - Amend the regulations to change references to the State Hospital Review and Planning Council to the Public Health and Health Planning Council.

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

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

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

710.1, 710.4 and 710.7 Approval of Medical Facility Construction - Amend the regulations to clarify procedures for certification of required architectural information and documentation; and to clarify information needed for approval to commence construction of approved projects.

732 Worker's Compensation - Amend the regulations 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.

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

757 Chronic Renal Dialysis Services - Amend 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.

759 Adult Day Health Care (Services for Registrants with AIDS) - Amend the regulations to establish a step-down aftercare program for Adult Day Care Program enrollees achieving a level of physical and mental health stability to transition to a less intensive model.

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.

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.

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 address recent litigation settlements.

#### Title 18 NYCRR (Social Services)

300.12 Monroe County Medicap Plan - Repeal section 300.12 since the Medicap program no longer exists. Medicap 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.

360-7.7 Payments of deductibles and coinsurance under title XVIII of the Social Security Act (Medicare) - Amend the regulations to reflect reductions made effective by Section 65 and 65-a of Chapter 29 of the Laws of 2011 in Medicare cost sharing amounts for services provided by hospital outpatient facilities and diagnostic and treatment centers to Medicare/Medicaid dual eligible enrollees.

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; amend the regulations relating to the actions and reports of state representatives when acting 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 legislative changes 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, including role of nurse practitioners and physician assistants.

505.3(i) Drugs - Amend the regulations to allow the Department outside the RFP process to create a mail order pharmacy benefit for maintenance drugs utilizing any willing pharmacy that agrees to accept reduced reimbursement rates.

505.9(d) Reserved Bed Day Payment - Amend the regulations to change the reserved bed day reimbursement policy for residential health care facilities (nursing homes).

505.11 Rehabilitation Services - Amend the regulations to align with State Education law, federal guidelines, 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.

505.14 Personal Care Services Program - Amend the regulations to reflect statutory changes regarding limitations and definitions of services and recent federal audit findings.

505.15 Psychiatric Care - Amend Medicaid regulations to align with federal requirements regarding who may provide school supportive health services.

505.16 Case Management - Amend the regulations to reflect changes in program monitoring.

505.18. Clinical Psychological Services - Amend the regulations to align with federal guidelines and current standards of practice and clarify which practitioners are qualified to provide services in the Preschool/School Supportive Health Services Program to Medicaid recipients.

505.23 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.

505.28 Consumer Directed Personal Assistance Program (CDPAP) - Amend the regulations to reflect the statutory change regarding the limitation of housekeeping services to 8 hours weekly.

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 only providers of hearing assessments to Medicaid eligible children; align Medicaid regulations with federal guidelines, State Education law and current standards of practice and clarify who can order audiology services.

## 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 2011. Many of these items were previously published in the January 2011 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 person identified in the item. For general inquiries about the Insurance Department's Regulatory Agenda, please contact:

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

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

1. Summary description of proposal: Amendment to 11 NYCRR 83 (Financial Statement Filings and Accounting Practices and Procedures) (Regulation 172), in response to amendments to the Accounting Practices and Procedures Manual, including Statements of Statutory Accounting Principles (published by the National Association of Insurance Commissioners), which is incorporated by reference in the regulation. Sam Wachtel, Supervising Attorney, Office of General Counsel - (212) 480-5269.

2. Summary description of proposal: Amendment of 11 NYCRR 20 (Brokers and Agents - General) (Regulation 29) to permit brokers and agents to use internet and other out-of-state banks with respect to producer premium accounts. Agency Contact: Paul Zuckerman, Assistant Deputy Superintendent & Counsel, Office of General Counsel - (212) 480-5286.

3. Summary description of proposal: Adoption of a new part to 11 NYCRR to address certain business practices in the title insurance industry and the supervision of title insurers authorized to write title insurance in this state. Agency Contact: Sapna Maloor, Senior Attorney, Office of General Counsel - (212) 480-4668.

4. Summary description of proposal: Adoption of a new part to 11 NYCRR (Regulation 195) to exercise the Superintendent's authority under section 316 of the Insurance Law to require an insurer or other person or entity making a filing or submission with the Superintendent to submit the filing or submission by electronic means, unless the insurer or other person or entity applies for, and the Superintendent grants, an exemption from the electronic filing requirement. Agency Contact: Barbara Kluger, Principal Attorney, Office of General Counsel - (212) 480-7211.

5. Summary description of proposal: Amendment of 11 NYCRR 151 (Workers' Compensation Insurance) (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.

6. 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: Joana Lucashuk, Senior Attorney, Office of General Counsel - (212) 480-2125.

7. Summary description of proposal: Amendment of 11 NYCRR 71 (Legal Defense Costs in Liability Policies) (Regulation 107) to permit the inclusion of a non-duty-to-defend provision in directors and officers liability insurance policies under certain circumstances. Agency Contact: Brenda Gibbs, Senior Attorney, Office of General Counsel - (518) 408-3451.

8. Summary description of proposal: Amendment of 11 NYCRR 72

(Indemnification of Directors and Officers) (Regulation 110) to specify co-insurance and retention amounts for state credit unions and make technical corrections. 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, Deputy Superintendent for Accounting and International Affairs - (212) 480-2299.

10. Summary description of proposal: Amendment of 11 NYCRR 16 (Special Risk Insurance) (Regulation 86) to add to, and revise various risks in, the Class 2 Special Risk category, and other changes (Free Trade Zone). Agency Contact: Hoda Nairooz, 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 make various editorial revisions to the prescribed endorsement and other portions of the regulation to clarify the intent and application of the coverage. Agency Contact: Hoda Nairooz, 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, and to make other changes consistent therewith, and to revise the various sections of Regulation 134 to conform with the requirements of the Non-Admitted Reinsurance and Reform Act of 2010 (NRRRA). Agency Contact: Hoda Nairooz, 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 the manner in which the organization designated by the Superintendent both administers the first party motor vehicle insurance arbitration programs and assesses the costs of these programs to the insurance industry. Agency Contact: Hoda Nairooz, Supervising Insurance Examiner, Property Bureau - (212) 480-5587.

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

15. 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, among other things, provide notice and time frame requirements for third party claims. Agency Contact: Hoda Nairooz, Supervising Insurance Examiner, Property Bureau - (212) 480-5587.

16. Summary description of proposal: Amendment of 11 NYCRR 80-1 (Holding Companies) (Regulation 52) to revise holding company filing requirements. Agency Contact: Hoda Nairooz, Supervising Insurance Examiner, Property Bureau - (212) 480-5587.

17. 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: Hoda Nairooz, Principal Insurance Examiner, Property Bureau - (212) 480-5587.

18. Summary 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: Hoda Nairooz, Principal Insurance Examiner, Property Bureau - (212) 480-5587.

19. 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: Hoda Nairooz, Principal Insurance Examiner, Property Bureau - (212) 480-5587.

20. 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 in the net number of homeowner policies within a county. Agency Contact: Hoda Nairooz, Principal Insurance Examiner, Property Bureau - (212) 480-5587.

21. Summary description of proposal: Amendment of 11 NYCRR 27 (Excess Line Placements Governing Standards) (Regulation 41) to add coverages to the export list. Agency Contact: Hoda Nairooz, Principal Insurance Examiner, Property Bureau - (212) 480-5587.

22. Summary description of proposal: Amendment of 11 NYCRR 27 (Excess Line Placements Governing Standards) (Regulation 41) to revise the various sections of Regulation 41 to conform with the requirements of the Non-Admitted Reinsurance and Reform Act of 2010 (NRA). Agency Contact: Hoda Nairooz, Principal Insurance Examiner, Property Bureau - (212) 480-5587.

23. Summary description of proposal: Adoption of a new part to 11 NYCRR to specify additional types of groups made eligible for group travel insurance pursuant to section 3452 of the Insurance Law. Agency Contact: Hoda Nairooz, Supervising Insurance Examiner, Property Bureau - (212) 480-5587.

24. Summary description of proposal: Amendment of 11 NYCRR 125 (Credit for Reinsurance) (Regulation 20) to revise the introduction and provide clarification regarding certain provisions in the regulation. Agency Contact: Hoda Nairooz, Principal Insurance Examiner, Property Bureau - (212) 480-5587.

25. 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 to ensure that annuities are suitable for the insurance needs and financial objectives of consumers. Agency Contact: Michael Maffei, Chief, Life Bureau - (212) 480-5027.

26. Summary description of proposal: Adoption of a new part to 11 NYCRR to set forth standards to protect consumers from misleading and fraudulent marketing practices with respect to the use of senior-specific certifications and professional designations in the solicitation, sale or purchase of, or advice made in connection with, a life insurance policy or annuity contract. Agency Contact: Michael Maffei, Chief, Life Bureau - (212) 480-5027.

27. 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 higher 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.

28. 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.

29. 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.

30. 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.

31. 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 affected by an index. Agency Contact: Thomas Hartman, Principal Actuary, Life Bureau - (518) 486-2126.

32. 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.

33. 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 annuity contracts. Agency Contact: Peter Dumar, Associate Insurance Attorney, Life Bureau - (518) 474-4552.

34. Summary description of proposal: Amendment of 11 NYCRR 53 (Life and Annuity Disclosure and Sales Illustration) (Regulation 74) to address the delivery and signature requirements when a life insurance sales illustration is shown on a computer, if no illustration is used in the sale or if the policy is applied for other than as illustrated; and 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 equity index products. Agency Contact: Deborah Kahn, Associate Insurance Attorney, Life Bureau - (518) 474-4552.

35. Summary description of proposal: Amendment of 11 NYCRR 54 (Variable Life Insurance) (Regulation 77) to provide for exceptional treatment of private placement variable life insurance, especially with respect to the deferral of payments for death benefits, surrender benefits, partial withdrawals and policy loans. Agency Contact: Deborah Kahn, Associate Insurance Attorney, Life Bureau - (518) 474-4552.

36. Summary description of proposal: Amendment of 11 NYCRR 98 (Valuation of Life Insurance Reserves) (Regulation 147) to establish or revise reserve standards for equity indexed life insurance plus other new product designs. Agency Contact: Fred Andersen, Supervising Actuary, Life Bureau - (518) 474-7929.

37. Summary description of proposal: Amendment of 11 NYCRR 57 (Smoker/Nonsmoker Mortality Tables For Use In Determining Minimum Nonforfeiture Benefits And Minimum Reserve Liabilities) (Regulation 113) to update requirements regarding smoker/nonsmoker classifications and mortality tables and to reflect the use of newer mortality tables. Agency Contact: Dennis Lauzon, Assistant Chief Actuary, Life Bureau - (518) 474-7929.

38. Summary description of proposal: Amendment of 11 NYCRR 41 (Accelerated Payment of the Death Benefit under a Life Insurance Policy) (Regulation 143) to establish requirements for accelerated death benefits provided pursuant to section 1113(a)(1)(E) of the Insurance Law. Agency Contact: Kathleen Nelligan, Chief Insurance Attorney, Life Bureau - (518) 474-4552.

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 update the reserve standards for variable annuities to reflect additional market volatility observed since the 2008 financial crisis. Agency Contact: Fred Andersen, Supervising Actuary, Life Bureau - (518) 474-7929.

40. 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.

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) 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.

42. 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) or adoption of a new part to 11 NYCRR to clarify coverage of emergency services under health insurance policies that provide coverage for inpatient hospital care; to provide for enhanced disclosure of terms, conditions and parameters of health insurance coverage; and to establish standards for network adequacy in order to protect consumers from unexpected medical bills. Agency Contact: Lisette Johnson, Assistant Chief, Health Bureau - (518) 486-7815.

43. Summary description of proposal: Amendment of 11 NYCRR 52 (Minimum Standards for Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure) (Regulation 62) to adopt requirements for maintaining and monitoring experience data for student blanket accident and health insurance. Agency Contact: Sarah L. Allen, Associate Insurance Attorney, Health Bureau (518-486-7815).

44. 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) or adoption of a new part to 11 NYCRR to: 1) update minimum standards for Partnership and non-Partnership long term care coverages; 2) add new plan designs to the New York State Partnership for Long-Term Care Program; and 3) add disclosure requirements on the availability of Medicaid extended coverage for Partnership insureds who have non-New York State Partnership coverage and for New York Partnership insureds who relocate outside of New York. Agency Contact: Austin J. Rinella, Supervising Insurance Attorney, Health Bureau - (518) 486-7815.

45. 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.

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 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.

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) to clarify extension of benefits requirements for individual, group and group remittance health insurance contracts. Agency Contact: Thomas Fusco, Supervising 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) 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.

49. Summary description of proposal: Amendment of 11 NYCRR 58 (Minimum Standards for Form, Content, and Sale of Medicare Supplement Insurance, Including Standards of Full and Fair Disclosure)

(Regulation 193) and Amendment of 11 NYCRR 215 (Advertisements of Accident and Health Insurance) (Regulation 34) 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.

50. Summary description of proposal: Amendment of 11 NYCRR 52 (Minimum Standards for Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure) (Regulation 62) to clarify the procedures and requirements for filing accident and health insurance policy forms and rate submissions, including the electronic filing of such submissions. Agency Contact: Doris Kullman, Supervising Insurance Attorney, Health Bureau - (518) 486-7815.

51. 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) or adoption of a new part to 11 NYCRR to: 1) establish requirements and standards for long term care insurers to notify the Insurance Department when insurers make available for purchase a long term care insurance form in New York State or when insurers discontinue selling a long term care insurance form in New York State; 2) 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; 3) require notification and acknowledgement at the point of sale of potential rate increases for long term care insurance; 4) establish minimum standards and/or requirements for long term care insurance products as new long term care financing options are enacted; and 5) establish procedures regarding external appeals of long term care insurance claims. Agency Contact: Austin J. Rinella, Supervising Insurance Attorney, Health Bureau - (518) 486-7815.

52. 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.

53. 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.

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) 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.

55. 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.

56. 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.

57. Summary description of proposal: Adoption of a new part to 11 NYCRR (Regulation 35-B) to provide rules and guidelines to assure full disclosure of all relevant information in advertisements that describe or solicit the purchase of property/casualty insurance coverage, which are published, issued or distributed through various advertising media. Agency Contact: Barry Bistreich, Principal Insurance Examiner, Consumer Services Bureau - (212) 480-4693.

58. 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, tailoring the license and exam to comply with federal requirements that necessitate the state to continue licensing supervision of 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.

59. 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 had 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.

60. Summary description of proposal: Amendment of 11 NYCRR 79 (Letters Of Credit) (Regulation 133) to recognize Letters of Credit issued pursuant to International Chamber of Commerce Uniform Customs and Practice for Documentary Credits (ICC Publication No. 600) for various accounting purposes. Agency Contact: Jim Everett, Associate Counsel, Capital Markets Counsel - (518) 408-1593.

### 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. Amend Title 12 NYCRR Part 39 "Possession, Handling, Storage and Transportation of Explosives to provide for additional security measures for storage sites.

2. 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.

3. 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.

4. 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.

5. 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.

6. Amend Title 12 NYCRR Part 146 to conform the notice requirements to the recently enacted Wage Theft Prevention Act, which went into effect on April 9, 2011.

7. Amend Title 12 NYCRR to add a new 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.

8. Amend Title 12 NYCRR Part 470, Part 472 (specifically, Sections 472.1 - 472.5 and 472.7 - 472.10), Part 473, Part 480 (specifically, Section 480.1 and 480.10), 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.

9. Amend Title 12 NYCRR Section 471.1 to allow blanket elections of specified groups of employees for liability purposes and to amend regulations consistent with the purposes set forth in Executive Order 25.

10. Amend Title 12 NYCRR Section 472.6 to strengthen the notice requirements for transfers of business and to amend regulations consistent with the purposes set forth in Executive Order 25.

11. Amend Title 12 NYCRR Part 480 (specifically, Sections 480.2 - 480.9, 480.11, and 480.12) to make them consistent with the purposes set forth in Executive Order 25.

12. Amend Title 12 NYCRR 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.

13. Add a new 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.

14. Amend Title 12 NYCRR Part 601 to provide for the suspension of an Apprentice's training program due to military service, health issues, lack of work, etc. and to address equal employment opportunity issues in apprenticeship programs.

15. Amend Title 12 NYCRR Part 700 to implement regulations required by 20 CFR 603 regarding public access to Unemployment Insurance Records.

16. 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.

17. 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.

18. Amend Title 12 NYCRR 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, Department of Labor, Bldg. 12, State Office Campus, Counsel's Office, Rm. 508, Albany, NY 12240, e-mail: Maria.Colavito@labor.state.ny.us, (518) 457-4380*

### Office of Medicaid Inspector General

Updated Regulatory Agendas may be found at the website of the Office of the Medicaid Inspector General at <http://www.omig.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 that 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.

The public is welcome to send written comments on the Depart-

ment of State's Regulatory Agenda to the contact person at the end of this list.

#### DIVISION OF CEMETERIES

##### Section 201.17

Considering amending section 201.17 dealing with lawn crypts.

#### 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 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.

##### Chapter XXXII

Consider adding new Part(s) and/or amended existing Parts to establish rules, regulations, standards and procedures relating to (a) the approval of code enforcement training programs for code enforcement personnel charged with enforcement of the Uniform Fire Prevention and Building Code and/or the State Energy Conservation Construction Code and for certified code technicians (CCTs), and the revocation of such approvals; (b) minimum courses of study, attendance requirements, and equipment and facilities to be required for approved code enforcement training programs for code enforcement personnel and CCTs; (c) minimum qualifications for instructors for approved code enforcement training programs for code enforcement personnel and CCTs; (d) the requirements of minimum basic training which code enforcement personnel and CCTs shall complete in order to be eligible for continued employment or permanent appointment, and the time within which such basic training must be completed following such appointment; (e) the requirements for in-service training programs designed to assist code enforcement personnel and CCTs in maintaining skills and being informed of technological advances; (f) categories or classifications of advanced in-service training programs and minimum courses of study and attendance requirements with respect to such categories or classifications; (g) granting exemptions from some or all of the foregoing provisions with respect to a county, city, town or village, and the revocation in whole or in part of such any exemption; (h) approval of code enforcement training programs for code enforcement personnel and CCTs, the issuance of certificates of approval to such programs, and the revocation of such approvals and certificates; (i) certification, as qualified, instructors for approved code enforcement training programs for code enforcement personnel and CCTs and the issuance of appropriate certificates to such instructors, and the revocation of such approvals and certificates; (j) certification of code enforcement personnel and CCTs who have satisfactorily completed basic training programs and in-service training programs, the issuance of appropriate certificates to such code enforcement personnel and CCTs, and the revocation of such certificates; and (k) measurement of the rate of compliance with the State Energy Conservation Construction Code, and requirements that such rate of compliance be measured on an annual basis; and otherwise to implement Chapter 560 of the Laws of 2010 and section 376-a of the Executive Law.

##### 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 to (1) establish more appropriate inspection intervals for normally unoccupied buildings; (2) clarify the language found in this Part; (3) make such changes to this Part as may be required or appropriate to reflect the applicability of this Part to enforcement of the State Energy Conservation Construction Code; (4) make such other changes to this Part as may be required or appropriate to implement Chapter 560 of the Laws of 2010 and Section 376-a of the Executive Law; and (5) delete the requirement that local governments and counties file annual reports related to their code enforcement activities.

##### Part 1204

Considering amending this Part to make the provisions relating to the administration of the Uniform Fire Prevention and Building Code by State Agencies substantially similar to the corresponding provisions in revised Part 1203 (which became effective on January 1, 2007).

##### 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, add new provisions relating to variances under the State Energy Conservation Construction Code, revise procedures for appeals on variance matters, address reopening and rehearing of variance hearings, and 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.

##### Part 1210

Considering updating and amending this Part concerning manufactured homes and the certification and training of manufacturers, retailers, installers and mechanics of manufactured homes.

##### Parts 1219-1228

Considering amending the Uniform Fire Prevention and Building Code (Uniform Code) to amend provisions applicable to abandoned buildings, make technical corrections to the updated version of the Uniform Code adopted in 2010, and otherwise update the provisions of the Uniform Code.

##### Part 1240

Considering amending the State Energy Conservation Construction Code (Energy Code) to make technical corrections to the updated version of the Energy Code adopted in 2010, make such changes as may be necessary or appropriate to implement Chapter 560 of the Laws of 2010, and otherwise update the provisions of the Energy Code.

##### Part 1260

Considering amending or repealing the provisions relating to Certificates of Acceptability.

#### DIVISION OF CONSUMER PROTECTION

##### Part 400.8; and Title 21, Parts 4602 & 4603

Considering amending provisions in Part 400.8 concerning adjudicatory hearings, and Parts 4602 & 4603 regarding do-not-call law.

#### DIVISION OF LOCAL GOVERNMENT SERVICES

##### Part 816

Considering adding a new Part 816 to conform definitions within the Local Government Efficiency Grant Program with definitions in recently enacted Article 17-A of the General Municipal Law.

#### 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 the Regulatory Agenda on its website: [www.dos.state.ny.us](http://www.dos.state.ny.us).

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

## Office of Temporary and Disability Assistance

Pursuant to State Administrative Procedure Act (SAPA) § 202-d, 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 2011. SAPA § 202-d 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 Codes, 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 or signed petition and provision of necessary family information.\*

Update regulations to address State statutory amendments, and an exemption thereof, concerning property execution provisions.\*

### Part 347 - Establishment of Paternity and Enforcement of Child Support

Update regulation pertaining to the calculation of basic child support obligations, repeal the child support standards chart, and further update regulation to reflect Chapter 182 of the Laws of 2010 as it pertains to the modification of child support orders.\*

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.\*

Update regulation setting forth definitions used in this Part.\*

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

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.\*

Promulgate regulations for establishing and enforcing medical support obligations.\*

Revise regulation concerning confidentiality of information based on September 26, 2008 federal final rule.\*

Revise regulation concerning case closure to add new criterion based on July 2, 2010 federal final rule.\*

### 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.\*

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.\*

Require applicants and recipients to utilize available fee waivers when seeking information or verification from a third party.\*

### Part 352 - Standards of Assistance

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

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 governing Emergency Shelter Allowances to reflect Chapters 53 of the Laws of 2008 and 2009, Chapters 58 and 110 of the Laws of 2010, and Chapter 53 of the Laws of 2011.\*

Update regulations to comply with the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010.\*

### 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.\*

### 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 384 - Automated Finger Imaging System

Clarify the finger imaging and other information that is retained for individuals applying for certain Public Assistance benefits.\*

### 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 incorporate 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 Benefits Alternative Program.\*

Amend regulations to expand the timeframe from five to seven calendar days for local social services districts to process a food stamp application for applicant households eligible for expedited processing of said application.\*

#### 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, Office of*

Temporary and Disability Assistance, 40 N. Pearl St., 16C, Albany, NY 12243, (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](http://www.otda.state.ny.us)