

# REGULATORY AGENDA

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## Office of Children and Family Services

Pursuant to section 202-d of the State Administrative Procedure Act (SAPA), the Office of Children and Family Services (OCFS) is required to publish a regulatory agenda for those regulations it is considering for publication in the State Register. Set forth below is an agenda for 2019. OCFS reserves the right to add, delete or modify, without further notice, except as required by SAPA, any item or information presented herein as relating to its 2019 Regulatory Agenda. Section 202-d of SAPA does not preclude OCFS from proposing for adoption a regulation that is not described in this agenda, nor does it require OCFS to propose for adoption a regulation that is described in this agenda.

Amendment of Parts 404, 413, 414, 415, 416, 417, 418-1 and 418-2 of Title 18 of NYCRR to clarify and amend specific existing regulatory citations, correct spelling and numbering issues, add needed health and safety requirements, rescind unnecessary regulations, and conform regulations that are inconsistent with external regulatory and statutory requirements. A regulatory flexibility analysis and rural area flexibility analysis may be required.

Amendment of Subpart 180-1 of Title 9 of the NYCRR regarding uniform standards and procedures for the operation of secure detention facilities. A regulatory flexibility analysis and rural area flexibility analysis may be required.

Amendment of Subpart 180-2 of Title 9 of the NYCRR regarding uniform standards and procedures for the operation of non-secure detention facilities. A regulatory flexibility analysis and rural area flexibility analysis may be required.

Amendment of Part 182 of Title 9 of the NYCRR regarding the approval, certification and operation of runaway and homeless youth residential programs. A regulatory flexibility analysis and rural area flexibility analysis may be required.

Any questions, comments or requests for information concerning the items listed in this agenda may be referred to Leslie Robinson, Senior Attorney, Office of Children and Family Services, 52 Washington Street, Rensselaer, NY 12144, (518) 474-3333, e-mail: regcomments@ocfs.ny.gov. This regulatory agenda may also be accessed on OCFS' website at <http://ocfs.ny.gov/main/legal/Regulatory/>.

## Department of Financial Services

Pursuant to State Administrative Procedure Act ("SAPA") Section 202-d, the following Regulatory Agenda is a list of the regulatory additions and amendments to Titles 3, 11, and 23 of the NYCRR that the New York State Department of Financial Services ("Department") is presently considering proposing during 2019. Some of these items were previously published in the January 2018 Regulatory Agenda. Items that have already been published in the State Register as "proposed" actions are not included on the list. The Department's regulatory plans are subject to change, and the Department reserves the right to add to, delete from, or modify items in the Regulatory 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 required by Sections 202-b and 202-bb of SAPA.

### I. Insurance Regulations

For inquiries about a specific item, please contact the person identified in the item. For general inquiries about the Insurance Regulations included in this Regulatory Agenda, or to obtain copies of current Insurance Regulations, please contact:

Sally Geisel  
Supervising Attorney  
New York State Department of Financial Services  
One State Street  
New York, NY 10004  
Telephone Number: (212) 480-7608

1. Summary description of proposal: Amendment of 11 NYCRR 390 (Service Contracts) (Insurance Regulation 155) to conform its provisions to later-enacted amendments to the service contract law and to strengthen consumer and financial protection provisions in the regulation. Agency contact: Barbara A. Kluger, Principal Attorney, Office of General Counsel – (212) 480-7211.

2. Summary description of proposal: Adoption of a new Part 5 to 11 NYCRR (Insurance Regulation 195) to implement the authority of the Superintendent of Financial Services under Insurance Law Section 316 to require an insurer or other person or entity making a filing or submission with the Superintendent to do so 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: Joana Lucashuk, Supervising Attorney, Office of General Counsel – (212) 480-2125.

3. Summary description of proposal: Amendment of 11 NYCRR 82 (Enterprise Risk Management and Own Risk and Solvency Assessment) (Insurance Regulation 203) to permit the Superintendent of Financial Services to act as group-wide supervisor for an internationally active insurance group. Agency contact: Joana Lucashuk, Supervising Attorney, Office of General Counsel – (212) 480-2125.

4. Summary description of proposal: Amendment of 11 NYCRR 25 (Public Adjusters) (Insurance Regulation 10) to address amendments made to the Insurance Law by Chapter 546 of the Laws of 2013. Agency contact: Joana Lucashuk, Supervising Attorney, Office of General Counsel – (212) 480-2125.

5. Summary description of proposal: Amendment of 11 NYCRR 82 (Enterprise Risk Management and Own Risk and Solvency Assessment) (Insurance Regulation 203) to require a holding company and certain domestic insurers to describe their enterprise risk management functions in their enterprise risk reports and to clarify certain language. Agency contact: Joana Lucashuk, Supervising Attorney, Office of General Counsel – (212) 480-2125.

6. Summary description of proposal: Addition of a new subpart 65-6 to 11 NYCRR (Insurance Regulation 65-F), amendment of 11 NYCRR 65 (Regulations Implementing the Comprehensive Motor Vehicle Insurance Repairs Act) (Insurance Regulation 68), and amendment of 11 NYCRR 68 (Charges for Professional Health Services) (Insurance Regulation 83) to implement an alternative dispute resolution process for disputes involving claims of independent livery

drivers that are processed pursuant to pre-authorization procedures and medical treatment guidelines set forth in 12 NYCRR 324, and other applicable provisions of Article 2 of the Workers' Compensation Law. Agency contact: Camielle A. Barclay, Associate Attorney, Office of General Counsel – (212) 480-5299.

7. Summary description of proposal: Adoption of a new Part 90 to 11 NYCRR to require an insurer to adopt a corporate governance function and submit to the Superintendent of Financial Services a corporate governance annual disclosure. Agency contact: Joana Lucashuk, Supervising Attorney, Office of General Counsel – (212) 480-2125.

8. Summary description of proposal: Amendment of 11 NYCRR 89 (Audited Financial Statements) (Insurance Regulation 118) to require an internal audit function, conform to an amendment to Insurance Law Section 1202, and make other technical amendments. Agency contact: Joana Lucashuk, Supervising Attorney, Office of General Counsel – (212) 480-2125.

9. Summary description of proposal: Adoption of a new Part 11 to 11 NYCRR to establish standards for insurers and certain other regulated persons regarding disaster planning, preparedness, and response. Agency contact: Joana Lucashuk, Supervising Attorney, Office of General Counsel – (212) 480-2125.

10. Summary description of proposal: Repeal of Part 4 of 11 NYCRR (Rules Governing the Procedures for Adjudicatory Proceedings Before the Department of Financial Services) (Insurance Regulations 3 and 97), in connection with the proposed adoption of a new Part 2 to 23 NYCRR establishing uniform rules governing the procedures for adjudicatory proceedings before the Department of Financial Services. Agency contact: Eamon Rock, Senior Attorney, Office of General Counsel – (518) 474-4567.

11. Summary description of proposal: Amendment of 11 NYCRR 216 (Unfair Claims Settlement Practices and Claim Cost Control Measures) (Insurance Regulation 64) to update Section 216.7 to clarify certain provisions in the regulation regarding motor vehicle physical damage claims. Agency contact: Hoda Nairooz, Supervising Insurance Examiner, Property Bureau – (212) 480-5595.

12. Summary description of proposal: Amendment of 11 NYCRR 65-4 (Arbitration) (Insurance Regulation 68-D) to amend rules related to both the manner in which the first party motor vehicle insurance arbitration programs are administered and the manner in which the costs of these programs are assessed to the insurance industry. Agency contact: Hoda Nairooz, Supervising Insurance Examiner, Property Bureau – (212) 480-5595.

13. Summary description of proposal: Amendment of 11 NYCRR 30 (Producer Compensation Transparency) (Insurance Regulation 194) to incorporate more detailed consumer disclosure of producer compensation and material conflicts of interest. Agency contact: James Regalbuto, Deputy Superintendent for Life Insurance, (212) 480-5027.

14. Summary description of proposal: Amendment of 11 NYCRR 98 (Valuation of Life Insurance Reserves) (Insurance Regulation 147) to adopt the 2017 Commissioners Standard Guaranteed Issue Mortality Table (2017 CSGL). Agency contact: Amanda Fenwick, Assistant Chief Life Actuary, Life Bureau – (518) 474-7929.

15. Summary description of proposal: Amendment of 11 NYCRR 53 (Life and Annuity Cost Disclosure and Sales Illustrations) (Insurance Regulation 74) to revise and clarify the delivery, signature and certification form requirements for life insurance sales illustrations, including electronic delivery, for policies marketed with an illustration; to modify the basis used for illustrations for life insurance policies with non-guaranteed elements, including universal life; to add additional requirements on the disciplined current scale underlying the illustrations; and to require additional disclosures for such policies. Agency contact: Rebecca Bollam, Associate Insurance Attorney, Life Bureau – (518) 474-4552.

16. Summary description of proposal: Amendment of 11 NYCRR 50 (Separate Accounts and Separate Account Annuities) (Insurance Regulation 47) to establish revised standards for the operation of separate accounts, contract provisions, and actuarial requirements to reflect statutory changes, recent innovations in product design, and changes in contract administration of separate account and variable annuity products. Agency contact: Peter Dumar, Chief Insurance Attorney, Life Bureau – (518) 474-4552.

17. Summary description of proposal: Adoption of a new Part to 11 NYCRR to establish Principle Based Reserving standards for life insurance companies. Agency contact: Amanda Fenwick, Assistant Chief Life Actuary, Life Bureau – (518) 474-7929.

18. Summary description of proposal: Amendment of 11 NYCRR 45 (Applications for Life Insurance) (Insurance Regulation 19) to expand Insurance Regulation 19 to apply to all life insurance policy forms containing any war or travel exclusion or restriction and to implement the amendment to Insurance Law Section 3201(c)(4) by expanding and describing the permissible formats for the disclosure required by Section 3201(c)(4) to appear on the face page of policy forms containing any war or travel exclusion or restriction. Agency contact: Rebecca Bollam, Associate Insurance Attorney, Life Bureau – (518) 474-4552.

19. Summary description of proposal: Amendment of 11 NYCRR 41 (Accelerated Payment of the Death Benefit Under a Life Insurance Policy) (Insurance Regulation 143) to address amendments made to the Insurance Law by Chapter 300 of the Laws of 2017 regarding accelerated payments of death benefits pursuant to Insurance Law § 1113(a)(1)(D) and to establish standards for accelerated payments pursuant to Insurance Law § 1113(a)(1)(E) and (F). Agency contact: Rebecca Bollam, Associate Insurance Attorney, Life Bureau – (518) 474-4552.

20. Summary description of proposal: Amendment of 11 NYCRR 51 (Replacement of Life Insurance Policies and Annuity Contracts) (Insurance Regulation 60) to amend the regulation and revise the exhibits contained therein to accommodate new products, features and sales processes. Agency contact: James Regalbuto, Deputy Superintendent for Life Insurance, (212) 480-5027.

21. 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) (Insurance Regulation 62) to establish minimum standards for the form, content, and sale of policies and contracts of accident and fixed indemnity insurance. Agency contact: Jason St. James, Senior Attorney (Financial Services), Health Bureau – (518) 486-7815.

22. Summary description of proposal: Adoption of a new Part 228 to 11 NYCRR (Issuance of Stop-Loss and Health Insurance Policies to Small Groups) to establish standards relating to the activities of insurers issuing stop-loss and health insurance policies to small groups in order to preserve and maintain the small group health insurance market in New York. Agency contact: Jon Thayer, Associate Attorney, Health Bureau – (518) 486-9088.

23. 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) (Insurance Regulation 62) to establish minimum standards for the form, content, and sale of policies and contracts of dental insurance. Agency contact: Ryan Harrison, Senior Attorney (Financial Services), Health Bureau – (518) 486-7815.

24. Summary description of proposal: Amendment of 11 NYCRR 58 (Insurance Regulation 193) to conform the minimum standards for the form, content and sale of Medicare supplement insurance to federal law. Agency contact: Jeremy O. Bollam, Senior Attorney (Financial Services), Health Bureau – (518) 474-8975.

25. Summary description of proposal: Amendment of 11 NYCRR 350 (Insurance Regulation 140) to broaden the range of permitted investments for Continuing Care Retirement Communities (CCRCs), clarify the oversight of numerous financial transactions between CCRCs and affiliated entities, add an annual financial reporting requirement related to the transfer or sale of capital assets, and add a new type of optional contract, the continuing care at home contract. Agency contact: Martin J. Wojcik, Associate Attorney (Financial Services), Health Bureau – (518) 474-8975.

26. Summary description of proposal: Amendment of 11 NYCRR 86 (Fraud Prevention Plans and Special Investigations Unit) (Insurance Regulation 95) to establish a requirement that a licensee required to submit a fraud prevention plan must revise its fraud prevention plan to reflect changes to the holding company, the lines of business that affect the Special Investigations Unit (“SIU”), and changes to SIU

personnel or the provider of SIU services. Also, to revise Section 86.6(d) to correct the due date of the filing of the annual report from January 15 to March 15, in compliance with Insurance Law Section 409(g). Agency contact: Kathleen Grogan, Principal Examiner, Criminal Investigations Unit – (212) 480-5683.

27. Summary description of proposal: Amendment of 11 NYCRR 86 (Fraud Prevention Plans and Special Investigations Unit) (Insurance Regulation 95) to modify certain fraud warning requirements for hospital, medical and dental insurance claim forms that the Superintendent has established as standard forms under 11 NYCRR 17 (Insurance Regulation 88), to facilitate the usage of standard claims forms developed by the Centers for Medicare and Medicaid Services and the American Dental Association. Agency contact: Kathleen Grogan, Principal Examiner, Criminal Investigations Unit – (212) 480-5683.

## II. Banking Regulations

For inquiries about the Banking Regulations included in this Regulatory Agenda, or to obtain copies of current Banking Regulations, please contact:

Christine M. Tomczak

Assistant Counsel

New York State Department of Financial Services

One State Street

New York, NY 10004

Telephone Number: (212) 709-1642

1. Summary description of proposal: Adoption of new rules to implement the provisions of legislation addressing the mortgage foreclosure-related issues in the state, including:

(a) rules governing the registration and financial responsibility requirements for mortgage loan servicers (rules on this subject were adopted on an emergency basis most recently on October 5, 2018); and

(b) rules governing the business conduct of mortgage loan servicers (rules on this subject were adopted on an emergency basis most recently on October 15, 2018).

2. Summary description of proposal: Amendments of Part 38 of the General Regulations of the Superintendent to enhance advertising, disclosure and conduct rules for mortgage bankers and brokers and to incorporate applicable changes under federal laws and regulations.

3. Summary description of proposal: Amendment of the Superintendent's Regulations regarding the Banking Development District program.

4. Summary description of proposal: Various amendments of the Superintendent's Regulations regarding check cashers, licensed lenders, money transmitters, sales finance companies, premium finance agencies and budget planners.

5. Summary description of proposal: Amendment of Part 41 of the General Regulations of the Superintendent to address threshold limits, the impact of lender paid fees, and otherwise to conform to the requirements of Section 6-1 of the Banking Law.

6. Summary description of proposal: Amendment of Part 79 of the General Regulations of the Superintendent to incorporate advertising requirements for reverse mortgage loans and clarify the applicability of disclosure and filing requirements for U.S. Department of Housing and Urban Development 's ("HUD's") Home Equity Conversion Mortgage program.

7. Summary description of proposal: Amendment of Parts 410 and 413 of the Superintendent's Regulations and Supervisory Procedures 101, 102, 103 and 104 to eliminate certain outdated regulatory requirements and to clarify language, the minimum licensing standards, and other requirements in connection with mortgage banker and mortgage broker applications.

8. Summary description of proposal: Adoption of new rules clarifying that when financial statements submitted to the Department are required by law or regulation to be audited, the external auditors who provide the audit opinion on the statements may not also perform bookkeeping services for the audited entity.

9. Summary description of proposal: Amendment of Supervisory Procedure CB 117 in connection with the Department's consideration

of adopting the interagency change of control application used by the federal financial institutions regulatory agencies.

10. Summary description of proposal: Adoption of a new regulation formalizing the assessment process for persons regulated under the Banking Law. (Rules on this subject were adopted on an emergency basis most recently on November 8, 2018.)

11. Summary description of proposal: Amendment of Part 322.7 of the Superintendent's Regulations in connection with the elimination by the Federal Reserve System of the Strength of Support Assessment (SOSA) rating for all foreign banking organizations subject to the interagency program for supervising the U.S. operations of foreign banking organizations.

12. Summary description of proposal: Repeal of Supervisory Procedure G 111 of 3 NYCRR (Administrative Adjudication Policy and Plan; Procedural Requirements), in connection with the proposed adoption of a new Part 2 to 23 NYCRR establishing uniform rules governing the procedures for adjudicatory proceedings before the Department of Financial Services. Agency contact: Eamon Rock, Senior Attorney, Office of General Counsel – (518) 474-4567.

## III. Financial Services Regulations

For specific inquiries about the Financial Services Regulations included in this Regulatory Agenda, or to obtain copies of current Financial Services Regulations, please contact the person identified in the item.

1. Summary description of proposal: Repeal of Supervisory Procedure G 111 of 3 NYCRR (Administrative Adjudication Policy and Plan; Procedural Requirements) and Part 4 of 11 NYCRR (Rules Governing the Procedures for Adjudicatory Proceedings Before the Department of Financial Services) (Insurance Regulations 3 and 97), in connection with the adoption of a new Part 2 to 23 NYCRR to establish uniform rules governing the procedures for adjudicatory proceedings before the Department of Financial Services. Agency contact: Eamon Rock, Senior Attorney, Office of General Counsel – (518) 474-4567.

## Office of Mental Health

1. Part 512 of the Regulations of the Office of Mental Health related to Medicaid reimbursement for those receiving Clinical Treatment at an Article 31 Clinic. This amendment will remove restriction (identified below with strike through) to allow PROS participants, if desired, to receive CT from Art. 31 Clinic operated by the same agency.

2. Part 551 of the Regulations of the Office of Mental Health related to OMHs Prior Approval Review process. This amendment will streamline and modernize OMH's Prior Approval Review (PAR) rules and processes relative to certification and construction.

3. Part 587-588 of the Regulations of the Office of Mental Health related to Partial Hospitalization Programs. This amendment will update and clarify NYS's expectations relative to the delivery of and billing for services provided by Partial Hospitalization Programs (PHPs).

4. Part 590 of the Regulations of the Office of Mental Health related to Comprehensive Psychiatric Emergency Programs. This amendment will update and clarify NYS's expectations for the delivery of services by Comprehensive Psychiatric Emergency Programs (CPEPs).

