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Governor

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SENT VIA EMAIL
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January 16, 2024

Christopher DeMarco
State Register/Office of Information Services
New York State Department of State
One Commerce Plaza
99 Washington Avenue, Suite 650
Albany, NY 12231

Re: State Administrative Procedure Act Section 207
Three and Five-Year Review of Agency Rulemakings

Dear Christopher DeMarco:

Attached is the Department of Financial Services' initial three-year review and five-year review of rulemakings, prepared pursuant to Section 207 of the State Administrative Procedure Act, for publication in the January 31, 2024 State Register. The attached document is divided into four sections: (1) introduction; (2) Insurance rulemakings promulgated in 2021, 2019, 2014, 2009, 2002 and 1999; (3) Banking rulemakings promulgated in 2021, 2019, 2014, 2009, 2002 and 1999; and (4) Financial Services rulemakings promulgated in 2021, 2019, and 2014.

Sincerely yours,

Sally Geisel

Sally Geisel
Principal Attorney
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cc: Christine Tomczak
George Bogdan

1. INTRODUCTION

Pursuant to Section 207 of the State Administrative Procedure Act, the Department (as defined below) must review, after five years and at five-year intervals thereafter, rulemakings adopted on or after January 1, 1997. In addition, effective January 1, 2013, for any rule that requires a regulatory flexibility analysis, rural area flexibility analysis, or job impact statement, the Department must initially review that rule in the third calendar year after the year the rule first was adopted. The purpose of these reviews is to analyze the need and legal basis for the adopted rulemakings. Please note that all references to the "Department" and the "Superintendent" regarding rules adopted prior to October 3, 2011 mean, respectively, the former Insurance Department or Banking Department and the former Superintendent of Insurance or Superintendent of Banking, as appropriate to the context, and that the references to laws cited are as of the date of the amendment to the rules. For references to rules adopted on or after October 3, 2011, "Department" and "Superintendent" mean, respectively, the Department of Financial Services and the Superintendent of Financial Services.

Notice is hereby given of the following rules that the Department will review this year to determine whether they should be continued or modified. These rules were adopted in 2021, 2019, 2014, 2009, 2004 and 1999. These rules, as published in the State Register, contain a regulatory flexibility analysis, a rural area flexibility analysis, or a job impact statement. If one or more of those analyses was not filed, a statement setting forth why one or all those analyses was unnecessary was published in the State Register. Public comment on the continuation or modification of the following rules is invited. Comments must be received within 60 days of the date of publication of this notice.

Unless otherwise noted, the Superintendent intends to continue the rules discussed herein without modification, while continually monitoring the rules to ensure that the provisions remain consistent with related statutory and regulatory requirements.

2. INSURANCE RULEMAKINGS

The following Insurance rulemakings were adopted in 2021:

- Adoption of the second amendment to Part 103 (Insurance Regulation 213) (Principle-Based Reserving) of Title 11 NYCRR, effective March 31, 2021 (State Register March 31, 2021).

Statutory Authority: Financial Services Law Sections 202 and 302 and Insurance Law Sections 301, 308, 4217, and 4517.

The Department adopted its first amendment to Part 103 in 2020 (effective and published in the State Register on February 26, 2020) to conform to the 2009 revisions to the National Association of Insurance Commissioners' ("NAIC's") model Standard Valuation Law and comply with the NAIC's accreditation standards.

The second amendment to Part 103 clarified, and made certain adjustments to, the regulation and prescribed additional minimum standards for valuing statutory reserves that in the Superintendent's opinion are necessary to comply with the NAIC's Valuation Manual and to best serve New York policyholders by ensuring that the minimum standards for valuing statutory reserves are set at a level appropriate for the payment of future claims.

Three additional amendments were made to Part 103 in 2021 and 2023 (State Register publications dated December 29, 2021, March 1, 2023, and December 6, 2023) that were consensus rulemakings made generally for the purpose of adopting updated editions of the NAIC's Valuation Manuals.

- Adoption of a new Part 450 (Insurance Regulation 219) (Office of Pharmacy Benefits) of Title 11 NYCRR, effective April 7, 2021 (State Register April 7, 2021).

Statutory Authority: Financial Services Law Sections 102, 201, 202, 203, 205, 301, 302, 305, and 306; Insurance Law Sections 110, 111, 202, 301, 306, 308, 316, and 405; and Part XX of Chapter 56 of the Laws of 2020.

Part 450 created the Office of Pharmacy Benefits ("OPB"), an office within the Department made responsible for commencing investigations, issuing document demands, monitoring complaints, monitoring press related to drug price spikes, and providing assistance to the Drug Accountability Board ("DAB") that was established by Part XX of Chapter 56 of the Laws of 2020. After an investigation takes place, the OPB may refer a matter to the DAB to make statutory determinations and issue a report thereon.

The DAB makes determinations on such matters as a drug's impact on the premium cost for commercial insurance in New York, a drug's affordability and value to the public, whether any price increase for a drug is justified, whether a drug may be priced disproportionately to its therapeutic benefits, and upon any other question that the Superintendent may certify to the DAB. Part 450 was promulgated to provide rules regarding the operation of the DAB, including membership, authority of the Chair of the Board, meeting requirements, and board recusals.

The Department adopted the first amendment to Part 450 in 2022 (effective and published in the State Register on August 31, 2022) to rename the Office of Pharmacy Benefits as the Pharmacy Benefits Bureau ("PBB") and establish rules to operate the PBB. The PBB was established to provide the Department with the staff needed to regulate pharmacy benefits managers, as set forth in Insurance Law Sections 111, 2903, and 2906 and Public Health Law Section 280-a.

The Department adopted the second amendment to Part 450 in 2023 (effective and published in the State Register on November 15, 2023) as part of a consolidated rulemaking that added new Parts 453 (Insurance Regulation 223), 454 (Insurance Regulation 224), and 455 (Insurance Regulation 225). The amendment to Part 450 amended the definition section of that Part to include additional definitions for certain terms and words used throughout Chapter XXI of 11 NYCRR.

The Department had proposed a third amendment to Part 450 in 2023 as part of a consolidated rulemaking that was also amending Part 454 (Insurance Regulation 224) and adding new Part 456

(Insurance Regulation 226), Part 457 (Insurance Regulation 227), Part 458 (Insurance Regulation 228), and Part 459 (Insurance Regulation 229), but withdrew the proposal effective November 15, 2023 (State Register November 15, 2023). The Department currently is reviewing and working through the numerous comments it received on the proposed regulation, prior to its withdrawal, as it considers a new proposal.

- Adoption of the second amendment to Part 82 (Insurance Regulation 203) (Enterprise Risk Management and Own Risk and Solvency Assessment; Group-Wide Supervision) of title 11 NYCRR, effective August 13, 2021 (State Register July 14, 2021).

Statutory Authority: Financial Services Law Sections 202 and 302 and Insurance Law Sections 301, 1501, 1503(b), 1604(b), 1702(f), and 1717(b).

The amendment to Part 82 made explicit that cybersecurity, climate change, epidemics, and pandemics are examples of reasonably foreseeable and material risks that an enterprise risk management ("ERM") function should address and required entities and certain domestic insurers to describe their ERM functions in their enterprise risk reports to minimize the potential for specific harm to insurers and policyholders. The amendment also clarified that the rule applies to a United States branch of an alien insurer entered through this state and fixed a typographical error.

- Adoption of the seventh amendment to Part 25 (Insurance Regulation 10) (Public Adjusters) of title 11 NYCRR, effective October 8, 2021 (State Register August 11, 2021).

Statutory Authority: Financial Services Law Sections 202 and 302 and Insurance Law Sections 301, 2101(g)(2), 2108, 2110(a), and 2134.

Chapter 546 of the Laws of 2013 amended Insurance Law Section 2108 to state that every public adjuster has an affirmative duty to act on behalf and in the best interests of an insured, and to prohibit a public adjuster from receiving any compensation for referring an insured to certain persons unless the public adjuster discloses the compensation in writing, and if the public adjuster has a financial or

ownership interest in the person or is related to the person to the second degree of consanguinity, discloses in writing the relationship between the public adjuster and the person.

The seventh amendment to Part 25 reflected the changes made by Chapter 546, and also prohibited a public adjuster from receiving any compensation, either directly or indirectly, for a referral to an individual or entity when the public adjuster had a financial or ownership interest, directly or indirectly, in the individual or entity and the individual or entity performed services, work, or repairs, or when the public adjuster was the spouse of the individual having such an interest.

The amendment also authorized a public adjuster to charge a fee of up to 20 percent on a supplemental claim if the aggregate fee charged was less than or equal to 12.5 percent of the full claim payment and clarified that an insurer must follow the wishes and intents of the insured, subject to the interests of any loss payee or mortgagee, as to who must be named on the insurer's check.

- Adoption of the twelfth amendment to Part 125 (Insurance Regulation 20) (Credit for Reinsurance) of title 11 NYCRR, effective September 29, 2021 (State Register September 29, 2021).

Statutory Authority: Financial Services Law Sections 202 and 302, Insurance Law Sections 301, 1301(a)(9), 1301(c), 1308, and 4525(b), and 31 U.S.C. Sections 313 and 314.

On September 22, 2017 and December 19, 2018, the United States government entered into covered agreements with the European Union ("EU") and the United Kingdom ("UK") (collectively, the "covered agreements"). These covered agreements mandated credit for reinsurance ceded to reciprocal jurisdiction assuming insurers and eliminated collateral requirements on certain EU-domiciled and UK-domiciled assuming insurers that reinsured business from United States-domiciled ceding insurers provided that certain regulatory criteria were met.

The twelfth amendment to Part 125 effectuated the credit for reinsurance changes mandated to the states under threat of federal preemption by the covered agreements, as incorporated into the NAIC's

credit for reinsurance law and regulation models, which became an accreditation standard in 2022. The amendment also provided reciprocal jurisdiction status for accredited United States jurisdictions and qualified jurisdictions if they met certain requirements.

- Adoption of the sixth amendment to Part 20 (Insurance Regulations 9, 18, and 29) (Brokers, Agents and Certain Other Licensees - General) of title 11 NYCRR, effective November 12, 2021 (State Register October 13, 2021).

Statutory Authority: Financial Services Law Sections 202 and 302 and Insurance Law Sections 301, 2108(r), and 2132.

The amendment to Part 20 required, during the two-year licensing term, at least one ethics and professionalism continuing education ("CE") credit for all resident public adjusters and insurance producers, at least one diversity, inclusion, and elimination of bias CE credit for all resident public adjusters and insurance producers, at least one flood insurance CE credit for all property/casualty resident insurance producers, and at least three enhanced flood insurance CE credits for resident insurance producers who sell flood insurance through the National Flood Insurance Program. Also, during the first two years a public adjuster or producer was licensed, the amendment required at least one CE credit for an overview of the New York Insurance Law.

- Adoption of the consolidated rulemaking adding a new Part 77 (Insurance Regulation 220) (Risk-Based Capital) to, and amending Part 83 (Insurance Regulation 172) (Financial Statement Filings and Accounting Practices and Procedures) of, title 11 NYCRR, effective December 15, 2021 (State Register December 15, 2021).

Statutory Authority: Financial Services Law Sections 202 and 302, Insurance Law Sections 301, 307, 308, 1109, 1301, 1302, 1308, 1322, 1324, 1404, 1405, 1407, 1411, 1414, 1501, 1505, 3233, 4117, 4233, 4239, 4301, 4310, 4321-a, 4322-a, 4327, and 6404, and Public Health Law Article 44.

The consolidated rulemaking included the sixteenth amendment to Part 83 and a new Part 77. Section 83.2 adopted the NAIC's Accounting Practices and Procedures Manual ("AP&P Manual") as of March 2021. The AP&P Manual does not preempt states' legislative or regulatory authority, and Section 83.4 sets out New York's "Conflicts and Exceptions" to the AP&P Manual, making clear that in instances of conflict or deviation, New York statutes, regulations, and policies control.

The Department added new Part 77 to require, until January 1, 2027, that shares of an exchange traded fund ("ETF"), the portfolio of which consists of investments in fixed income securities, cash, and cash equivalents, be treated as bonds for the purpose of a domestic insurer's risk-based capital report if the ETF met certain criteria, and added a new Section 83.3(d) to require a foreign insurer to calculate its RBC consistent with Part 77 and report that RBC in the New York supplement to the annual financial statement.

The Department amended Section 83.4(t) to require that shares of an ETF that met the criteria set forth in Section 77.2(a) be accounted for as set forth in the AP&P Manual, including with respect to the asset valuation reserve and interest maintenance reserve, with the exception that the book adjusted carrying value of such shares must be set equal to fair value (and not systematic value). An insurer must support its determination that an ETF in its portfolio is eligible for bond-like capital treatment under Part 77.

The Department adopted the seventeenth amendment to Part 83 in 2023 (effective and published in the State Register on November 1, 2023) to adopt the 2023 edition of the AP&P Manual, replacing the regulation's reference to the 2021 edition of the AP&P Manual. The amendment also made non-substantive changes to subdivisions (f) and (p) of section 83.4 by updating the numbering of paragraphs referenced in SSAP 25 of the AP&P Manual, and clarified certain language in the regulation.

- Adoption of the sixty-second amendment to Part 52 (Insurance Regulation 62) (Minimum Standards for Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure) of title 11 NYCRR, effective December 22, 2021 (State Register December 22, 2021).

Statutory Authority: Financial Services Law Sections 202 and 302 and Insurance Law Sections 301, 3216, 3217, 3217-h, 3221, 4303, 4306-g.

The sixty-second amendment to Part 52 clarified that the meaning of "telehealth" includes audio-only visits (e.g., telephone calls) and that, for the purpose of telehealth, an insurer may engage in reasonable fraud, waste, and abuse detection efforts, including efforts to prevent payments for services that do not warrant a separate billable encounter. The amendment was not intended to require coverage for services for which no charge is normally made, consistent with Section 52.16(c)(8).

The Department adopted the sixty-third amendment to Part 52 in 2022 (effective and published in the State Register on December 7, 2022) to implement the requirements of Part AA of Chapter 57 of the Laws of 2022 and the Federal No Surprises Act by requiring insurers licensed to write accident and health insurance in New York State, corporations organized pursuant to Insurance Law Article 43, municipal cooperative health benefit plans certified pursuant to Insurance Law Article 47, health maintenance organizations ("HMOs") certified pursuant to Public Health Law Article 44, and student health plans certified pursuant to Insurance Law Section 1124 (collectively, "issuers") to provide network status information to an insured upon request, in writing through print or electronic means (e.g., email or Internet-based means, such as an online member portal) if the insured consented to electronic communication, within one business day for comprehensive health insurance or three business days for other policies using a network of providers. The amendment prohibited an issuer from imposing a cost-sharing amount, deductible, or out-of-pocket maximum that is greater than the amounts that would apply if the insured had received services from a participating provider when the issuer provided inaccurate

network status information. It also provided that if an issuer provided inaccurate network status information to an insured, the issuer would have to reimburse the provider for the out-of-network services regardless of whether the insured's coverage included out-of-network services. The amendment required an issuer to include in its hard copy provider directory a notification that the information contained in the directory was accurate as of the date of publication of such directory and that an insured should consult the provider directory posted on the issuer's website to obtain the most current information. It also applied certain disclosure requirements in Insurance Law Sections 3217-a and 4324 to stand-alone dental and vision insurance to ensure that insureds covered under such policies were provided accurate and up-to date information. Finally, the amendment held issuers responsible when they provided inaccurate network status information.

The Department adopted the sixty-fourth amendment to Part 52 in 2022 (effective July 15, 2022 and published in the State Register on June 15, 2022) to implement the federal No Surprises Act by setting forth additional minimum standards for the content of health insurance identification cards, including disclosure of the annual or plan year deductible for participating providers and the annual maximum out-of-pocket amount.

The following Insurance rulemakings were adopted in 2019:

- Adoption of a new Part 364 (Insurance Regulation 214) (Paid Family Leave Risk Adjustment Fund) of Title 11 NYCRR, effective May 15, 2019 (State Register May 15, 2019).

Statutory Authority: Financial Services Law Sections 202 and 302, Insurance Law Sections 301, 3201, 3217, 3221 and 4235, and Workers' Compensation Law Sections 204(2)(a), 208(2), and 209(3)(b).

Part 364 created the fund required to implement the risk adjustment mechanism referred to in Insurance Law Section 4235(n) and established by Part 363 of 11 NYCRR.

- Adoption of a new Part 103 (Insurance Regulation 213) (Principle-Based Reserving) of Title 11 NYCRR, effective May 15, 2019 (State Register May 15, 2019).

Statutory Authority: Financial Services Law Sections 202 and 302 and Insurance Law Sections 301, 4217, and 4517.

Part 103 clarified that the Superintendent may require a life insurer, including a fraternal benefit society issuing life insurance or annuity certificates, to change an assumption or method that in the Superintendent's opinion was necessary to comply with the NAIC's Valuation Manual adopted by the Superintendent and Insurance Law Section 4217(g), and clarified that a life insurer must adjust reserves as the Superintendent requires.

The Department adopted the first amendment to Part 103 in 2020 (effective and published in the State Register on February 26, 2020). The NAIC had revised its model Standard Valuation Law in 2009 to establish principle-based reserving (the funds set aside by insurers to pay insureds' claims). Beginning January 1, 2020, the 2009 revisions to the NAIC's Standard Valuation Law became an accreditation standard. The amendment conformed to the 2009 revisions to the NAIC's Standard Valuation Law to comply with the NAIC's accreditation standards.

Additional amendments were made to Part 103 since 2020 as described above.

- Adoption of the fifty-second amendment to Part 52 (Insurance Regulation 62) (Minimum Standards for Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure) of Title 11 NYCRR, effective August 11, 2019 (State Register June 12, 2019).

Statutory Authority: Financial Services Law Sections 202 and 302 and Insurance Law Sections 301, 1120, 3201, 3216(i)(17), 3217, 3217(d), 3217-g, 3221(l)(8), 4303(j), and 4306-f.

The fifty-second amendment to Part 52 required an insurance policy or contract, including a child health insurance plan, policy or contract, that provided coverage for direct access to maternal depression

screening and referral performed by a provider of obstetrical, gynecologic, or pediatric services of the mother's choice, to provide coverage for the screening and referral under the mother's policy and also under the infant's policy if the infant was covered under a different policy than the mother and a pediatric provider performed the screening and referral.

Additional amendments were made to Part 52 since 2019 as described below and above.

- Adoption of the thirty-fourth amendment to Part 68 (Insurance Regulation 83) (Charges for Professional Health Services) of Title 11 NYCRR, effective August 7, 2019 (State Register August 7, 2019).

Statutory Authority: Financial Services Law Sections 202 and 302 and Insurance Law Sections 301, 2601, 5221 and Article 51.

The thirty-fourth amendment to Part 68 delayed the effective date of the Workers' Compensation fee schedule increases for no-fault reimbursement.

The Department adopted the thirty-fifth amendment to Part 68 in 2020 (effective and published in the State Register on April 22, 2020) to implement Chapter 59, Part III, Section 19 of the Laws of 2019, which amended Insurance Law Section 3420(f) to require that any policy insuring against loss resulting from liability imposed by law for bodily injury or death suffered by any natural person arising out of the ownership, maintenance and use of an altered motor vehicle or stretch limousine, having a seating capacity of eight or more passengers and used in the business of carrying or transporting passengers for hire, provided supplementary uninsured/underinsured ("SUM") motorist coverage for bodily injury in an amount of a combined single limit of $1,500,000 because of bodily injury or death of one or more persons in any one accident. The amendment also added a definition of "altered motor vehicle" or "stretch limousine" consistent with the Department of Motor Vehicles' regulation 15 NYCRR Section 79.20(f)(2).

The Department adopted the thirty-sixth amendment to Part 68 in 2023 (effective and published in the State Register on February 15, 2023) to establish, for the purpose of no-fault insurance, the maximum reimbursement allowed for the purchase and total accumulated rental, as well as the maximum monthly rental charge, for durable medical equipment ("DME") supplies not listed in the Official New York Workers' Compensation Durable Medical Equipment fee schedule and for DME supplies listed in such DME fee schedule for which no fee had been assigned.

- Adoption of the fifty-fourth amendment to Part 52 (Insurance Regulation 62) (Minimum Standards for the Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure) of Title 11 NYCRR, effective January 1, 2020 (State Register November 6, 2019).

Statutory Authority: Financial Services Law Sections 202 and 302; Insurance Law Sections 301, 3216, 3217, 3221, and 4303; Chapter 25 of the Laws of 2019; and Part M of Chapter 57 of the Laws of 2019.

The fifty-fourth amendment to Part 52 established a process, including timeframes, for an insured, an insured's designee, or an insured's health care provider to request coverage of a non-covered contraceptive drug, device, or product in conformity with Chapter 25 of the Laws of 2019 and Part M of Chapter 57 of the Laws of 2019.

The Department adopted the fifty-third amendment to Part 52 in 2020 (effective April 22, 2021 and published in the State Register on December 23, 2020) to require that health insurance identification cards must include the names and identification numbers of the insured and dependents; the name of the issuer providing the coverage; the product or plan name; important telephone numbers; the issuer's website address; and cost-sharing information. Additionally, to eliminate confusion regarding self-funded plans, the amendment required that health insurance identification cards must include a statement

identifying whether the coverage is insured by the issuer or administered by the issuer through a self-funded arrangement.

The Department adopted the fifty-sixth amendment to Part 52 in 2020 (effective July 28, 2020 and published in the State Register on April 29, 2020) to implement Subpart D of Part J of Chapter 57 of the Laws of 2019, which amended Insurance Law Section 2607 and added Insurance Law Sections 3243 and 4330, by clarifying that discrimination prohibited by Insurance Law Sections 2607, 3243, and 4330 included certain activities, such as including a policy clause that purported to deny, limit, or exclude coverage based on an insured's sexual orientation, gender identity or expression, or transgender status or designating an insured's sexual orientation, gender identity or expression, or transgender status as a pre-existing condition for the purpose of denying, limiting, or excluding coverage. The amendment also implemented Insurance Law Sections 3216(i)(17)(E), 3221(l)(8)(E) and (F), and 4303(j)(3) by clarifying that coverage for preexposure prophylaxis with effective antiretroviral therapy to persons who were at high risk of HIV acquisition was included within preventive care and screenings and specifying the timing for coverage of preventive care and screenings.

Additional amendments were made to Part 52 since 2020 as described above.

- Adoption of the consolidated rulemaking amending Part 28 (Insurance Regulation 42) (Professional Bail Agents), Part 33 (Insurance Regulation 120) (Managing General Agents), and Part 66 (Insurance Regulation 76) (Surety Bond Forms – Waiver of the Filing and Prior Approval Requirements of Section 2317 of the Insurance Law) of Title 11 NYCRR, effective March 19, 2020 (State Register November 20, 2019).

Statutory Authority: Financial Services Law Sections 202 and 302 and Insurance Law Sections 301, 2307, 2314, and Article 68.

The consolidated rulemaking included the fourth amendment to Part 28, the third amendment to Part 33, and the third amendment to Part 66. The amendments to the regulations provided greater protection to consumers and raised the standards of integrity in the bail business.

The fourth amendment to Part 28 required, among other things, a bail agent to maintain a bail register; a bail agent to issue a receipt upon collecting and, if applicable, returning premium and collateral; an insurer, charitable bail organization ("CBO"), and bail agent to be liable for the return of all collateral received; a bail agent to prominently display in a headquarters location and each satellite office the license of the bail agent and any supervising person responsible for the place of business and a sign that states that a complaint may be filed with the Department; and a bail agent to provide certain disclosures to a potential indemnitor before the indemnitor signed any agreement. The amendments also codified Gevorkyan v. Judelson, 29 N.Y. 3d 452 (2017), which held that the full premium paid for a bail bond must be returned if the principal is not released from custody.

The third amendment to Part 33 defined "managing general agent" to mean any person or business entity that supervised or managed, on behalf of an insurer, bail agents appointed by the insurer, other than a person who was a full-time employee or officer of the insurer.

The third amendment to Part 66 required insurers and CBOs to file, for the approval of the Superintendent, all contracts and other forms that were signed by or provided to the indemnitor or principal, including the bail bond form.

- Adoption of a new Part 6 (Insurance Regulation 195) (Electronic Filings and Submissions) to Title 11 NYCRR, effective May 25, 2020 (State Register November 27, 2019).

Statutory Authority: Financial Services Law Sections 202 and 302 and Insurance Law Sections 301 and 316.

Part 6 required an insurer or other entity subject to the regulation to make certain filings or submissions electronically, such as insurance fraud prevention plans and reports, rates and forms, annual and quarterly statements and supplements, and holding company and parent corporation applications and reports. Filers for whom electronic filing would cause a hardship may request from the Superintendent an exemption from this regulation.

- Adoption of the first amendment to Part 58 (Insurance Regulation 193) (Minimum Standards for Form, Content and Sale of Medicare Supplement and Medicare Select Insurance, Including Standards of Full and Fair Disclosure) of Title 11 NYCRR, effective January 1, 2020 (State Register November 27, 2019).

Statutory Authority: Financial Services Law Sections 202 and 302 and Insurance Law Sections 301, 3201, 3216, 3217, 3218, 3221, 3231, and 4235 and Article 43.

The amendment to Part 58 required insurers issuing Medicare supplement insurance policies to conform to the revised NAIC model regulation for Medicare supplement insurance, as required by 42 U.S.C. Section 1395ss of the federal Social Security Act.

- Adoption of the second amendment to Part 350 (Insurance Regulation 140) (Continuing Care Retirement Communities) of Title 11 NYCRR, effective December 27, 2019 (State Register November 27, 2019).

Statutory Authority: Financial Services Law Sections 202 and 302; Insurance Law Section 1119; and Public Health Law Sections 4604(4)(a), 4607, and 4611.

The amendment to Part 350 modernized the parameters of the framework for the financial oversight of Continuing Care Retirement Communities ("CCRCs") to better fit the needs of both CCRCs and the Department by broadening the range of permitted investments for CCRCs, clarifying the oversight of numerous financial transactions between CCRCs and affiliated entities, adding an annual financial

reporting requirement related to the transfer or sale of capital assets, and adding a reference to the new type of optional contract, the continuing care at home contract.

- Adoption of the third amendment to Part 41 (Insurance Regulation 143) (Accelerated Payment of the Death Benefit Under a Life Insurance Policy) of Title 11 NYCRR, effective November 27, 2019 (State Register November 27, 2019).

Statutory Authority: Financial Services Law Sections 202 and 302 and Insurance Law Sections 301, 1113, 1304, 3201, 3209, 3230, 4217 and 4517.

The amendment to Part 41 implemented statutory amendments made by the Laws of 2017, Chapter 300; Laws of 2014, Chapter 465; Laws of 2014, Chapter 448; and Laws of 2010, Chapter 563 related to the acceleration of life insurance death benefits, including an amendment that an insurer that issued accelerated death benefits under Insurance Law Section 1113(a)(1)(D) was no longer required to be a qualified long-term care insurance carrier under Internal Revenue Code section 4980C (26 U.S.C. Section 4980C).

The following Insurance rulemakings were adopted in 2014:

- Adoption of a new Part 226 (Insurance Regulation 200) (Unclaimed Life Insurance Benefits and Policy Identification) of Title 11 NYCRR, effective February 12, 2014 (State Register February 12, 2014).

Statutory Authority: Financial Services Law Sections 202 and 302, and Insurance Law Sections 301, 316, 1102, 1104, 2601, 3240 (Unclaimed benefits), 4521, and 4525 and Article 24.

Part 226 ensured that policy owners and beneficiaries were provided with all the benefits for which they had paid and to which they were entitled, by requiring insurers to implement reasonable procedures to identify unclaimed death benefits, locate beneficiaries, and make prompt payments. This rulemaking also required insurers to respond to requests from the Superintendent to search for policies insuring the

life of, or owned by, decedents, and to initiate the claims process for any death benefits that are identified because of those requests.

- Adoption of a new Part 244 (Insurance Regulation 168) (Confidentiality Protocols for Victims of Domestic Violence and Endangered Individuals) of Title 11 NYCRR, effective April 9, 2014 (State Register April 9, 2014).

Statutory Authority: Financial Services Law Sections 202 and 302, and Insurance Law Sections 301 and 2612.

Part 244 implemented the requirement contained in Insurance Law § 2612 that the Superintendent, in consultation with the Commissioner of Health, the Office of Children and Family Services, and the Office for the Prevention of Domestic Violence, promulgate rules to guide and enable insurers to guard against the disclosure of confidential information relating to victims of domestic violence and endangered individuals protected by Insurance Law § 2612.

- Adoption of the first amendment to Part 97 (Insurance Regulation 128) (Market Value Separate Accounts Funding Guaranteed Benefits; Separate Account Operations and Reserve Requirements) of Title 11 NYCRR, effective June 25, 2014 (State Register June 25, 2014).

Statutory Authority: Financial Services Law Sections 202 and 302 and Insurance Law Sections 301, 1403, 1405, 1414, 4217, and 4240.

The amendment to Part 97 prescribed minimum and maximum rates for discounting guaranteed benefit cash flows to ensure that life insurers maintained prudent levels of reserves. The amendment also changed the filing due date of the actuarial memorandum that life insurers were required to file with the Department, pursuant to Section 97.6, between March 1 and March 15 to allow insurers adequate time to prepare their filings (several other statutory filings were due by March 1).

- Adoption of a new Part 82 (Insurance Regulation 203) (Enterprise Risk Management and Own Risk and Solvency Assessment) of Title 11 NYCRR, effective June 25, 2014 (State Register June 25, 2014).

Statutory Authority: Financial Services Law Sections 202 and 302 and Insurance Law Sections 110, 301, 309, 316, 1115, 1501, 1503, 1504(c), 1604, 1702, and 1717, and Articles 15, 16, and 17.

In 2010, the NAIC amended its model Insurance Holding Company System Regulatory Act ("model Holding Company Act") and Insurance Holding Company System Model Regulation to require a holding company to adopt a formal enterprise risk management ("ERM") function and file an enterprise risk report. The NAIC also adopted a new Risk Management and Own Risk and Solvency Assessment Model Act ("model ORSA Act") and an accompanying ORSA guidance manual, which required a domestic insurer (or its holding company system) to complete a self-assessment of its risk management, stress tests, and capital adequacy annually. Chapter 238 of the Laws of 2013 incorporated the model Holding Company Act's requirement that a holding company or domestic insurer with subsidiaries adopt a formal ERM function and file an enterprise risk report. New Part 82 prescribed specific requirements for an ERM function and enterprise risk report, and required certain domestic insurers to conduct an assessment of their risk management and file an ORSA summary report to minimize the potential for specific harm to the insurers and their policyholders.

The Department adopted the first amendment to Part 82 in 2020 (effective and published in the State Register on June 3, 2020) to authorize the Superintendent of Financial Services ("Superintendent") to act as a group-wide supervisor ("GWS") for an internationally active insurance group ("IAIG"). As a GWS, the Superintendent would be authorized to: (1) assess the enterprise risks within an IAIG; (2) request, from any member of an IAIG subject to the Superintendent's supervision, information necessary and appropriate to assess enterprise risk; (3) coordinate and, through the authority of the regulatory

officials of the jurisdictions where members of the IAIG are domiciled, compel development and implementation of reasonable measures designed to ensure that the IAIG is able timely to recognize and mitigate enterprise risks to members of the IAIG that are engaged in the business of insurance; (4) communicate with other state, federal, and international regulatory agencies for members of the IAIG and share relevant information; (5) enter into agreements with or obtain documentation from any registered insurer, any member of the IAIG, and any other state, federal, and international regulatory agencies for members of the IAIG; and (6) engage in other group-wide supervision activities as necessary.

An additional amendment was made to Part 82 since 2020 as described above.

- Adoption of the third amendment to Part 99 (Insurance Regulation 151) (Valuation of Annuity, Single Premium Life Insurance, Guaranteed Interest Contract, and Other Deposit Reserves) of Title 11 NYCRR, effective August 27, 2014 (State Register August 27, 2014).

Statutory Authority: Financial Services Law Sections 202 and 302 and Insurance Law Sections 301, 1304, 4217, and 4517.

The amendment to Part 99 incorporated a new individual annuity mortality table, which was adopted by the NAIC, to be used to calculate reserves on individual annuities and pure endowments issued or purchased on or after January 1, 2015. The table included projection scales to reflect mortality improvement.

- Adoption of the fourteenth amendment to Part 27 (Insurance Regulation 41) (Excess Line Placements Governing Standards) of Title 11 NYCRR, effective October 8, 2014 (State Register October 8, 2014).

Statutory Authority: Financial Services Law Sections 202 and 302; Insurance Law Sections 301, 316, 1213, 2101, 2104, 2105, 2110, 2116, 2117, 2118, 2121, 2122, 2130, 3103, 5907, 5909, 5911, and

9102 and Articles 21 and 59; Chapter 225 of the Laws of 1997, Chapter 587 of the Laws of 2002, and Chapter 61 of the Laws of 2011.

The fourteenth amendment to Part 27 implemented the provisions and purposes of Chapter 61 of the Laws of 2011, which amended the Insurance Law to conform to the Non-admitted and Reinsurance Reform Act ("NRRA"), a portion of the federal Dodd-Frank Act. The NRRA and Chapter 61 took effect on July 21, 2011.

The Department adopted the fifteenth amendment to Part 27 in 2017 (effective and published in the State Register on October 25, 2017) as part of a consolidated rulemaking that also amended Sub-Part 60-1 (Insurance Regulation 35-A), Sub-Part 60-2 (Insurance Regulation 35-D), Sub-Part 65-1 (Insurance Regulation 68-A), Sub-Part 65-3 (Insurance Regulation 68-C), Sub-Part 65-4 (Insurance Regulation 68-D), Part 169 (Insurance Regulation 100), and Part 216 (Insurance Regulation 64), and added a new Sub-Part 60-3 (Insurance Regulation 35-E). Section 27.5(d) was amended to address the excess line affidavit requirement in the context of a transportation network company (TNC) group insurance policy, and Section 27.10(a) was amended to prohibit legal expense coverage within limits or claims-made policies with respect to a TNC group insurance policy placed in the excess line market.

The Department adopted the sixteenth amendment to Part 27 in 2023 (effective and published in the State Register on February 8, 2023) as part of a consolidated rulemaking that also amended Sub-Part 60-1 (Insurance Regulation 35-A), Sub-Part 60-2 (Insurance Regulation 35-D), Sub-Part 65-1 (Insurance Regulation 68-A), Sub-Part 65-3 (Insurance Regulation 68-C), Sub-Part 65-4 (Insurance Regulation 68-D), Part 169 (Insurance Regulation 100) and Part 216 (Insurance Regulation 64), and added a new Sub-Part 60-4 (Insurance Regulation 35-F). Section 27.5(d)(3) was added to provide that an excess line insurance placement may be completed and executed by an excess line broker or producing broker, on behalf of shared vehicle owners and shared vehicle drivers of a peer-to-peer car sharing program

administrator, when a group policy had been obtained by an administrator as the group policyholder pursuant to Insurance Law Section 3458, with respect to coverages provided without option by the group policyholder. Section 27.10(a) was amended to add a reference to Insurance Law Section 3458.

The Department adopted the seventeenth amendment to Part 27, a consensus rulemaking, in 2023 (effective and published in the State Register on July 12, 2023) to make technical amendments to conform Part 27 to amendments made to Insurance Law Section 2118(b)(3)(C) by Chapter 833 of the Laws of 2022 and Chapter 93 of the Laws of 2023, with regard to excess line affidavits. It also made technical amendments to Part 27 to conform to changes to Insurance Law Section 2105 previously made by the Legislature and to change references to the Department's Licensing Bureau to the Licensing Unit.

- Adoption of the fifth amendment to Sub-Part 80-1 (Insurance Regulation 52) (Holding Companies) of Title 11 NYCRR, effective November 12, 2014 (State Register November 12, 2014).

Statutory Authority: Financial Services Law Sections 202 and 302 and Insurance Law Sections 301, 1504, and 1506.

The amendment to Sub-Part 80-1 added new requirements and advised applicants that, in determining whether an acquisition may be harmful to the people of this state, the Superintendent may require additional information or impose certain additional conditions to help ensure that an acquisition does not financially harm a New York domestic insurer and is not likely to be hazardous or prejudicial to the insurer's policyholders or shareholders. The amendment also clarified that the submission to the Superintendent of a detailed plan of operations, including five-year financial projections, was mandatory because in practice, the Superintendent always had required, and applicants always had submitted, a detailed plan of operations, together with financial projections.

- Adoption of the consolidated amendment to Part 98 (Insurance Regulation 147) and Part 100 (Insurance Regulation 179) (Valuation of Life Insurance Reserves and Recognition of the 2001 CSO

Mortality Table for Use in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits and Recognition and Application of Preferred Mortality Tables for Use in Determining Minimum Reserve Liabilities) of Title 11 NYCRR, effective December 10, 2014 (State Register December 10, 2014).

Statutory Authority: Financial Services Law Section 202 and 302 and Insurance Law Sections 301, 1304, 1308, 4217, 4218, 4221, 4240, and 4517.

The consolidated rulemaking included the fifth amendment to Part 98 and the third amendment to Part 100. The fifth amendment to Part 98 replaced the previous one-year full preliminary term ("FPT") with a two-year FPT for term life insurance. A two-year FPT results in a lower proportion of the first and second year premiums being held to pay claims that will not arise until well into the future, leading to a buildup in reserves after the second, rather than first, policy year.

The third amendment to Part 100 was consistent with mortality improvement. Because insureds are generally living longer, the amendment applied a one percent mortality improvement factor to the current mortality table (2001 CSO) for rates associated with calendar years 2008-2047, and applied a 0.5 percent mortality improvement factor for each year thereafter. These factors apply during the initial level premium period.

The Department adopted the consolidated sixth amendment to Part 98 and fourth amendment to Part 100 in 2015 (effective and published in the State Register on April 1, 2015). The sixth amendment to Part 98 recognized mortality improvement beyond the valuation date for universal life policies issued on or after January 1, 2015, which guaranteed that coverage remained in force if the accumulation of premiums paid satisfied the secondary guarantee requirement. Additionally, a lapse rate of two percent may have been used for the first five years, followed by a rate of no more than one percent for the remaining life of the policy. The fourth amendment to Part 100 made it consistent with mortality improvement.

The Department adopted the consensus rulemaking adopting the consolidated seventh amendment to Part 98 and fifth amendment to Part 100 in 2017 (effective and published in the State Register on May 17, 2017). The amendments adopted the 2017 CSO Mortality Table as the minimum valuation standard for applicable life insurance policies issued on or after January 1, 2020, or if optionally elected, on or after January 1, 2017, replacing the 2001 CSO Mortality Table. The amendments also specified that the fifth and sixth amendments to Part 98 and the third and fourth amendments to Part 100 only applied to policies issued on or after January 1, 2015 and prior to January 1, 2017, or on or after January 1, 2015 and prior to January 1, 2018 with written notification provided to the Superintendent by June 30, 2017.

The Department adopted the consensus rulemaking adopting the consolidated eighth amendment to Part 98 and sixth amendment to Part 100 in 2019 (effective and published in the State Register on January 2, 2019) to modify both Parts to specify that two prior amendments to the regulations (i.e., the fifth and sixth amendments to Part 98 and the third and fourth amendments to Part 100) only applied to policies issued on or after January 1, 2015 and prior to January 1, 2017, or on or after January 1, 2015 and prior to January 1, 2019 with written notification provided to the Superintendent by December 31, 2018. The concurrent amendments allowed insurers to apply the two prior amendments, if optionally elected, for one additional year of policy issuance.

The Department adopted the consolidated ninth amendment to Part 98 and seventh amendment to Part 100 in 2020 (effective and published in the State Register on April 22, 2020) to specify that the fifth and sixth amendments to Part 98 and the third and fourth amendments to Part 100 applied only to policies issued on or after January 1, 2015 and prior to January 1, 2017, or on or after January 1, 2015 and prior to January 1, 2020 with written notification provided to the Superintendent by February 28, 2020. The amendments allowed insurers to apply the two prior amendments, if optionally elected, for one additional year of policy issuance. This rulemaking also prescribed the ultimate form of the 2001 CSO Mortality

Table as the minimum valuation standard for guaranteed issue life insurance policies issued on or after January 1, 2020.

The following Insurance rulemakings were adopted in 2009:

- Adoption of the consolidated rulemaking amending Part 52 (Insurance Regulation 62) (Minimum Standards for the Form, Content and Sale of Health Insurance, including Standards of Full and Fair Disclosure) and Part 217 (Insurance Regulation 178) (Processing of Health Insurance Claims) of Title 11 NYCRR, effective July 15, 2009 (State Register April 1, 2009).

Statutory Authority: Insurance Law Sections 201, 301, 1109, 2403, 3216, 3221, 3224-a, 3224-b, 4304, and 4305 and Article 43.

The consolidated rulemaking included the fortieth amendment to Part 52 and second amendment to Part 217. The amendments to Parts 52 and 217 established guidelines for the timely processing of healthcare claims for persons covered by more than one health insurance policy. Part 217 established procedures that an insurer, an HMO, or a private health services plan must follow when it is determined that other coverage may exist. The amendment also established requirements for the provider if the provider wished to seek payment from the other insurer, and the time in which the provider must act. The procedures included guidelines for those cases when the claim already had been paid before the existence of other coverage was established, as well as when the existence of other coverage was established before any claim payment was made. The guidelines also changed the timely filing requirements for those cases where other coverage existed. The time began to run from the date of notification of other coverage, not from the date of service. Ultimately, the procedures prevented providers from being left with unpaid claims when an insurer recouped payment and the other plan denied the claim for late filing. The amendment to Part 52 cross-referenced the two regulations.

Additional amendments were made to Part 52 as described below and above.

- Adoption of the eleventh amendment to Part 27 (Insurance Regulation 41) (Excess Line Placements Governing Standards) of Title 11 NYCRR, effective September 2, 2009 (State Register September 2, 2009).

Statutory Authority: Insurance Law Sections 201, 301, 2101, 2104, 2105, 2110, 2116, 2117, 2118, 2121, 2130, 3103, and 9102 and Article 59.

The eleventh amendment to Part 27 added additional coverages to the "export" list and reduced the requisite declinations for several other coverages. Part 27 governs the placement of excess line insurance. The purpose of the excess line law is to enable consumers who are unable to obtain insurance from authorized insurers to obtain coverage from eligible excess line insurers. An excess line broker is generally required to obtain declinations from authorized insurers before placing the business with an excess line broker. However, the broker does not have to obtain the declinations for certain hard-to-place risks that have been placed on an "export" list. Adding to the ''export'' list coverages that are hard to place and whose declinations become pro forma (since New York authorized companies are not writing adequate coverage) facilitates placement by excess line brokers of coverage with an eligible excess line insurer.

The Department adopted the twelfth amendment to Part 27 in 2011 (effective and published in the State Register on May 4, 2011) to increase the minimum surplus to policyholders required to be maintained by new and current excess line insurers.

The Department adopted the thirteenth amendment to Part 27 (effective and published in the State Register on April 10, 2013) to update the "export" list of coverages pursuant to Insurance Law Section 2118(b)(4).

An additional amendment was made to Part 27 since 2013 as described above.

- Adoption of a new Part 102 (Insurance Regulation 192) (Minimum Standards for Determining Reserve Liabilities and Nonforfeiture Values for Preneed Life Insurance) of Title 11 NYCRR, effective October 28, 2009 (State Register October 28, 2009).

Statutory Authority: Insurance Law Sections 201, 301, 1304, 1308, 4217, 4218, 4221, 4240, and 4517.

Part 102 established minimum standards for determining reserve liabilities and nonforfeiture values for preneed life insurance in accordance with statutory reserve formulae.

- Adoption of the forty-first amendment to Part 52 (Insurance Regulation 62) (Minimum Standards for the Form, Content, and Sale of Health Insurance, Including Standards of Full and Fair Disclosure) of Title 11 NYCRR, effective December 9, 2009 (State Register December 9, 2009).

Statutory authority: Insurance Law Sections 201, 301, 1009, and 3234.

The forty-first amendment to Part 52 was promulgated to conform with the decision by the New York Court of Appeals in Benesowitz v. Metropolitan Life Insurance Company, 8 N.Y.3d 661 (2007). In Benesowitz, the Court of Appeals unanimously construed Insurance Law Section 3234(a)(2) to establish a waiting period, rather than a total bar, for coverage of disabilities due to a pre-existing condition that manifests itself within the first 12 months after an insured's effective date of coverage. In so holding, however, the Court noted that neither its decision nor Section 3234(b) of the Insurance Law prevents insurers from excluding or limiting disability coverage based on an individual's prior medical history other than, or in addition to, a pre-existing condition.

The Department adopted the forty-second amendment to Part 52 in 2010 (effective and published in the State Register on May 5, 2010) as part of a consolidated rulemaking also amending Part 215 (Insurance Regulation 34), Part 360 (Insurance Regulation 145) and Part 361 (Insurance Regulation 146), and adding Part 58 (Insurance Regulation 193) to establish a framework for the form, content and sale of

Medicare supplement insurance. States were required to have a Medicare supplement insurance regulatory program that provided a minimum level of coverage as established by federal law, 42 U.S.C. § 1395ss.

The Department adopted the forty-third amendment to Part 52 in 2011 (effective and published in the State Register on March 30, 2011) to establish minimum standards for internal appeal procedures for long term care insurance, nursing home & home care insurance, nursing home insurance only, and home care insurance only. Long term care insurance had been sold in New York for nearly 25 years at that time. Due to the long-tailed nature of the product, consumers purchased the policy not expecting to make a claim for benefits for many years. As more consumers purchased long term care insurance and filed claims on their coverage, the amendment was expected to help ensure that consumers were adequately protected at the time of their claims by requiring insurers to have an internal appeal procedure available to insureds, subscribers and their authorized representatives that met the minimum standards established in the regulation.

The Department adopted the forty-fourth amendment to Part 52 in 2013 (effective August 1, 2013 and published in the State Register on June 5, 2013) as part of a large consolidated consensus rulemaking that revised outdated references resulting from the consolidation of the New York State Insurance and Banking Departments into the Department of Financial Services.

The Department adopted the forty-fifth amendment to Part 52 in 2016 (effective on September 18, 2016 and published in the State Register on July 20, 2016) to prohibit any insurer from providing coverage in any insurance policy or contract delivered or issued for delivery in New York for conversion therapy for any individual under the age of 18 years.

The Department adopted the forty-sixth amendment to Part 52 in 2016 (effective and published in the State Register on November 16, 2016). General Business Law ("GBL") Section 1015(11) required

every licensed promoter of authorized combative sports and professional wrestling to provide accident insurance for the protection of licensed professionals and wrestlers appearing in authorized combative sports matches or professional wrestling exhibitions on and after September 1, 2016, and authorized the State Athletic Commission to promulgate regulations necessary to implement the legislation. In accordance with GBL section 1015(11), the State Athletic Commission repealed 19 NYCRR 208 and promulgated a new Part 208, which, among other things, provided that the accident insurance policy may be either primary or secondary to any other applicable insurance coverage held by the licensed professional or wrestler participant. Pursuant to Insurance Law Section 3201, accident insurance policies are subject to the approval of the Superintendent. The policies are subject to the requirements of Part 52. In order for the accident insurance policy to be secondary to other coverage, an amendment to Part 52 was needed. The forty-sixth amendment to Part 52 allowed a blanket accident insurance policy that is issued in accordance with GBL section 1015(11) to contain a provision that its benefits are excess or always secondary to any plan.

The Department adopted the forty-seventh amendment to Part 52 in 2017 (effective August 4, 2017 and published in the State Register on June 21, 2017) to require an insurer to allow, where the prescription provides, for the dispensing of an initial three-month supply of a contraceptive to an insured, and up to a 12-month prescribed supply for any subsequent dispensing of the same contraceptive covered under the same policy or contract or renewal thereof.

The Department adopted the forty-eighth amendment to Part 52 in 2017 (effective August 21, 2017 and published in the State Register on June 21, 2017) to make explicit that individual, group and blanket insurance policies and contracts that provided hospital, surgical, or medical expense coverage delivered or issued for delivery in New York may not exclude coverage for medically necessary abortions and must provide such coverage at no cost sharing. It also provided for an optional, limited exemption for

religious employers while ensuring that medically necessary abortion coverage is maintained for all insureds at no premium to be charged to the certificate holder, religious employer, or qualified religious organization employer.

The Department adopted the forty-ninth amendment to Part 52 in 2018 (effective and published in the State Register on October 3, 2018) to require every individual and small group accident and health insurance policy or contract (other than a grandfathered health plan) delivered or issued for delivery in New York that provided hospital, surgical, or medical expense coverage and every student accident and health insurance policy or contract delivered or issued for delivery in New York to continue providing coverage of at least the enumerated ten categories of essential health benefits ("EHB") if the EHB provisions in 42 U.S.C. Section 18022 and 45 C.F.R. 156.100 et seq. are no longer in effect or are modified as determined by the Superintendent to ensure that people covered under individual, small group, and student accident and health insurance policies and contracts would continue to have coverage for such benefits. With respect to a small or large group or individual accident and health insurance policy that provided hospital, surgical, or medical expense coverage and a student accident and health insurance policy or contract delivered or issued for delivery in New York State, the amendment reaffirmed that an issuer (i.e., insurer or HMO) was prohibited from discriminating because of race, color, creed, national origin, sex, age, marital status, disability, or a preexisting condition and to clarify the scope of such prohibitions.

The Department adopted the fiftieth amendment to Part 52 in 2018 (effective November 25, 2018 and published in the State Register on September 26, 2018) to provide that every insurer that delivered or issued for delivery in New York an accident and health insurance policy that provided hospital, surgical, or medical expense coverage and provided coverage for medication for the detoxification or maintenance treatment of a substance use disorder must include in the policy processes that allowed a formulary

exception and access to clinically-appropriate medication for the detoxification or maintenance treatment of a substance use disorder not otherwise covered by the policy.

The Department adopted the fifty-first amendment to Part 52 in 2018 (effective and published in the State Register on October 31, 2018) to establish minimum standards for volunteer firefighter enhanced cancer insurance policies that, pursuant to General Municipal Law Section 205-cc, every legally organized fire district, department or company in this State must provide and maintain for each eligible volunteer firefighter unless the fire district, department or company self-funds the benefits.

Additional amendments were made to Part 52 as described above.

The following Insurance rulemakings were adopted in 2004:

- Repeal of Parts 140, 141, 142, 143, and 144, and adoption of a new Part 140 (Insurance Regulation 32-A) (Private Passenger and Commercial Automobile Statistical Plans) of Title 11 NYCRR, effective February 4, 2004 (State Register February 4, 2004).

Statutory Authority: Insurance Law Sections 201, 301, 2304, 2315, 2331, 2332, 2333, and 2334.

The rulemaking repealed Parts 140-144 and adopted a new Part 140 to remove obsolete references and to provide a simplified framework for the approval and implementation of revisions to statistical plans as market conditions warranted. By eliminating the specific statistical codes from the regulation and clarifying that the Department had to approve all statistical plans, the rulemaking benefited industry by giving it the flexibility to modify the plans as market conditions warranted while being in conformity with the revised wording of the regulation.

- Adoption of the first amendment to Part 362 (Insurance Regulation 171) (The Healthy New York Program and The Direct Payment Stop Loss Relief Program) of Title 11 NYCRR, effective February 11, 2004 (State Register February 11, 2004).

Statutory Authority: Insurance Law Sections 201, 301, 1109, 3201, 3216, 3217, 3221, 4235, 4303, 4304, 4305, 4318, 4326, and 4327.

The Legislature enacted Chapter 1 of the Laws of 1999 to provide for the Healthy New York Program, an initiative designed to encourage small employers that had not then provided health insurance coverage to their employees to offer such coverage, as well as to make coverage available to uninsured employees whose employers did not provide group health insurance coverage. In 2001, the Department adopted Part 362 to establish certain procedures and requirements necessary for effective implementation of the legislation. The first amendment to Part 362 clarified eligibility for the Healthy New York Program and simplified the application and administrative process for both enrollees and providers. Clarifying which persons were to be considered household members eliminated the uncertainty involved in determining household income levels. The correct calculation of household income is crucial because it is a major component in determining eligibility for the Healthy NY Program. Additionally, a simplified standardized application form streamlined the eligibility and administrative process, thereby facilitating enrollment. The amendment enhanced the implementation and operation of the Healthy NY Program while improving the efficiency that individuals and small employers enjoyed in accessing comprehensive health insurance, since the standard application form was made available from many sources.

The Department adopted the second amendment to Part 362 in 2007 (effective April 25, 2007 and published in the State Register on January 31, 2007) to establish a second Healthy New York benefit package at a reduced premium rate. The second benefit package provided for a lower-cost alternative and permitted individuals and small businesses to choose a benefit package that met their needs. The amendment also eliminated the well-child copayment applicable to the Healthy New York Program to enhance access to preventive and primary care for children, and permitted the Healthy New York Program to be considered qualifying health insurance under the Federal Trade Act of 2002 to allow those qualifying

for a federal tax credit to benefit from that credit. The amendment also revised the eligibility requirements relating to employment to lessen complexity and enhance access.

The Department adopted the third amendment to Part 362 in 2007 (effective and published in the State Register on November 7, 2007), to require HMOs and participating insurers to offer high deductible health plans using the Healthy New York small employer and individual programs. The option provided New Yorkers with access to a tax-advantaged method of purchasing health insurance. The amendment also provided for prostate cancer screening and a limited home health care and physical therapy benefit.

The Department adopted the fourth amendment to Part 362 (effective and published in the State Register on November 28, 2012), to limit new applicants for coverage effective January 1, 2012 or later, to Healthy New York's high deductible health plans only, in response to an increase in enrollment and claims in the Healthy New York Program ("Program"), which resulted in health plans applying for significant rate increases to the detriment of the Program's low income enrollees and applicants. The Department believed the approach would strike a balance between protecting existing enrollees from unaffordable rate increases and maintaining an affordable option for those purchasing coverage.

- Adoption of a new Part 100 (Insurance Regulation 179) (Recognition of the 2001 CSO Mortality Tables for Use in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits) of Title 11 NYCRR, effective June 23, 2004 (State Register June 23, 2004).

Statutory Authority: Insurance Law Sections 201, 301, 1304, 4217, 4218, 4221, 4224, 4240 and 4517 and Articles 24 and 26.

Part 100 was adopted to recognize, permit, and prescribe the use of the 2001 commissioners standard ordinary ("CSO") mortality table for life insurance in accordance with Insurance Law Sections 4217, 4221, and 4517. The 2001 CSO table was based on mortality experience from the 1990s supplied by insurers that participated in a Society of Actuaries study on mortality. This table replaced the existing

1980 CSO table for valuing the minimum standards for ordinary life insurance. According to the American Academy of Actuaries Task Force Report, it was expected that the 2001 CSO table would produce overall reserves (excluding deficiency reserves) that would be approximately 20 percent lower than those produced by the 1980 CSO table. Since the use of the table lowered the reserves on ordinary life business, insurers could use the 2001 CSO table only if they provided an Actuarial Opinion based on asset adequacy analysis that complied with 11 NYCRR 95. The adoption of Part 100 gave domestic insurance companies and foreign insurance companies authorized to do business in New York State the ability to compete effectively with companies doing business in other states.

The Department adopted the first amendment to Part 100 in 2007 (effective and published in the State Register on December 26, 2007) to recognize and permit the use of the 2001 CSO Preferred Class Structure Mortality Table for preferred lives for individual life insurance and group life insurance products sold to individuals by certificate with premium rates guaranteed from issue for at least two years in accordance with sections 4217 and 4517 of the Insurance Law.

The Department adopted the second amendment to Part 100 in 2011 (effective and published in the State Register on March 16, 2011) to extend the use of the 2001 CSO Preferred Structure Mortality Table to policies issued on or after January 1, 2004. Use of the table allowed for the reserves to better match the risks associated with different underwriting classifications.

Part 100 also was amended as part of a consolidated amendment with Part 98 as discussed above.

- Adoption of the twenty-ninth amendment to Part 68 (Insurance Regulation 83) (Charges for Professional Health Services) of Title 11 NYCRR, effective October 6, 2004 (State Register October 6, 2004).

Statutory Authority: Insurance Law Sections 201, 301, 2601, and 5221 and Article 51.

The twenty-ninth amendment to Part 68 adopted the fee schedule set forth in the New York State Medicaid Management Information System Provider Manual for durable medical equipment, medical/surgical supplies, orthopedic footwear, and orthotic and prosthetic appliances as the schedule that would be used for fees payable for the purchase and rental of durable medical equipment, medical/surgical supplies, orthotic footwear, and orthotic and prosthetic appliances in no-fault. The regulation also provided that the Workers' Compensation fee schedule ground rules would control when determining the proper reimbursement amount when a licensed non-physician provided care under the supervision of a licensed health provider. This would apply in any instance where a ground rule permitted a licensed non-physician to bill at the supervising licensed health provider's rate, such as in the case of a Physical or Occupation Therapist (PT/OT) working under the supervision of a physician. In all other instances, if not specifically controlled by the Workers' Compensation fee schedule, the fee payable was based on the fee schedule of the treating provider. The regulation did not apply reimbursement rates for a physician when the physician personally performed the service.

The Department adopted the thirtieth amendment to Part 68 in 2008 (effective and published in the State Register on April 16, 2008), which repealed the fee schedules that the Department had previously established for prescription drugs, durable medical equipment, medical/surgical supplies, orthopedic footwear, and orthotic and prosthetic appliances, and clarified that a pharmacy was deemed to be a provider of health services for purposes of eligibility for direct payments under 11 NYCRR 65-3.

The Department adopted the thirty-first amendment to Part 68 in 2010 (effective and published in the State Register on September 22, 2010) to adopt the Worker's Compensation Board's dental fee schedule that had taken effect on March 1, 2009. This amendment also repealed the fee schedule for dental services that the Department had previously adopted in the absence of a fee schedule established by the Worker's Compensation Board.

The Department adopted the thirty-second amendment to Part 68 in 2013 (effective August 1, 2013 and published in the State Register on June 5, 2013) as part of a large consolidated consensus rulemaking that revised outdated references resulting from the consolidation of the New York State Insurance and Banking Departments into the Department of Financial Services.

The Department adopted the thirty-third amendment to Part 68 in 2017 (effective January 9, 2018 and published in the State Register on October 25, 2017) to limit insurers' reimbursement of no-fault health care services provided outside the State at the election of a New York State eligible injured person to the lowest of (1) the amount of the fee in the region in New York State that had the highest applicable amount in the fee schedule for that service; (2) the amount the provider charged; and (3) the prevailing fee in the geographic location of the provider. If the jurisdiction where the out-of-state provider rendered treatment established a fee schedule for services rendered in connection with motor vehicle-related injuries, the prevailing fee would be the amount prescribed in that fee schedule for the respective service. This limit on reimbursement did not apply to services provided out-of-state that would constitute emergency care, that was provided to a non-resident of this State, or provided to a resident of this State who, at the time of treatment, resided in the jurisdiction where the treatment was rendered for reasons unrelated to the treatment.

Additional amendments were made to Part 68 as described above.

- Adoption of the thirty-second amendment to Part 52 (Insurance Regulation 62) (Minimum Standards for the Form, Content, and Sale of Health Insurance, Including Standards for Full and Fair Disclosure) of Title 11 NYCRR, effective October 27, 2004 (State Register October 27, 2004).

Statutory Authority: Insurance Law Sections 201, 301, 1109, 3201, 3217, 3221, and 4303; and Chapter 82 of the Laws of 2002.

Chapter 82 of the Laws of 2002 enhanced Insurance Law Sections 3221(k)(6) and 4303(s) by adding coverage for procedures used to diagnose and treat infertility when certain conditions were met, and by adding a prescription drug benefit for coverage of prescription drugs approved by the Food and Drug Administration for use in the diagnosis and treatment of infertility. The law directed the Superintendent, in consultation with the Commissioner of Health, to promulgate regulations that would stipulate the guidelines and standards to be used in carrying out the mandates of the legislation.

The amendment to Part 52 directed insurers to use standards and guidelines no less favorable than those established and adopted by the American Society for Reproductive Medicine in relation to the determination of infertility, the identification of experimental procedures and treatments not covered for the diagnosis and treatment of infertility, the identification of the required training, experience and other standards for health care providers for the provision of procedures and treatments for the diagnosis and treatment of infertility, and the determination of appropriate medical candidates by the treating physician. The amendment also provided insurers with guidance in interpreting the mandates of Chapter 82 of the Laws of 2002.

The Department adopted the thirty-fourth amendment to Part 52 in 2005 (effective and published in the State Register on September 7, 2005) to adopt revised minimum standards for the form, content, and sale of Medicare supplement insurance as a result of changes to the federal standards for Medicare supplement insurance enacted by the Medicare Prescription Drug, Improvement and Modernization Act of 2003 ("MMA"). The MMA included a number of changes to the standardized Medicare supplement insurance plans. The Act charged the NAIC's Senior Issues Task Force with the task of updating the standards for Medicare supplement insurance. This was done through adoption of a revised Model Regulation to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act on September 8, 2004. The states were required to adopt the revised standards by September 8, 2005. The

revised standards included the addition of two new standardized plans, K and L. The plans introduced a cost-sharing feature which distributed costs between the plan and the insured. The plans also had out-of-pocket expenditure maximums. The plans offered Medicare beneficiaries a new option to supplement their coverage. A full description of the plans and a new outline of coverage had been added, detailing the benefits of each plan. As a result of the introduction of the new Medicare Part D, the Medicare supplement insurance standards also required revision to remove reference to outpatient prescription drug coverage. Medicare Part D enrollees could not have any other type of prescription drug coverage. As of January 1, 2006, insureds enrolled in Plans H, I, or J (the prescription drug plans) and Part D, had to either have the outpatient prescription drug coverage stripped from their Medicare supplement insurance plan or enroll in a different plan that did not include the drug coverage. However, if an insured were enrolled in Plan H, I, or J and opted not to enroll in Part D, the enrollee could keep the Medicare supplement outpatient prescription drug coverage. This amendment included those changes.

The MMA also added changes to the Medicare benefit package. As result, the Medicare supplement benefit plans had to be restructured to accommodate the changes. For example, preventive testing was added to the Medicare benefit package. Therefore, the preventive care benefits in Medicare supplement insurance Plans E and J required modification. As CMS had changed the name of the Medicare managed care plans from “Medicare + Choice” to “Medicare Advantage”, all references to the plans also had to be revised. The above changes also necessitated changes to the requirements for Medicare supplement insurance application forms and disclosure notices.

The Department adopted the thirty-fifth amendment to Part 52 in 2007 (effective and published in the Stare Register on November 7, 2007) as part of a consolidated rulemaking that also added a new Part 56 to 11 NYCRR. The rulemaking modified existing health insurance policy provisions and associated claims processing procedures by clarifying the requirements related to the cosmetic surgery exclusion

contained in Part 52. Insurance Law Article 49 and Public Health Law Article 49 require health plans to conduct utilization reviews to determine whether services are medically necessary, and then provide external appeal rights if services are denied. The amendment to Part 52, and the addition of Part 56 was necessary to establish uniformity among health plans and ensure that cosmetic surgery denials were appropriately reviewed.

The Department adopted the thirty-eighth amendment to Part 52 in 2008 (effective and published in the State Register on March 12, 2008). Chapter 748 of the Laws of 2006, commonly referred to as "Timothy's Law", became effective on January 1, 2007. The law amended Insurance Law Sections 3221 and 4303 to require health insurance coverage for inpatient and outpatient mental health services. Insurers, Article 43 corporations, and HMOs were required to amend policies and contracts and/or modify rates to comply with the requirements of Timothy's Law. Because the bill became effective two weeks after it was signed, affected insurers, Article 43 corporations, and HMOs were not able to obtain prior approval of policy form and rate submissions that pertained to the mental health benefits. Nonetheless, policyholders, certificateholders and members needed to be made aware of the impact of Timothy's Law on their benefits as soon possible. Thus, the amendment required affected insurers, Article 43 corporations, and HMOs to provide written notification explaining the key features of the mental health benefits required under Timothy's Law to affected policyholders, certificateholders, and members. The amendment required the notice to state that a formal contract and/or certificate amendment would be sent that would explain the new benefits in greater detail.

Additional amendments were made to Part 52 since 2008 as described above.

The following Insurance rulemakings were adopted in 1999:

- Adoption of the third amendment to Sub-Part 60-2 (Insurance Regulation 35-D) (Supplementary Uninsured/Underinsured Motorists Insurance) of Title 11 NYCRR, effective January 27, 1999 (State Register January 27, 1999).

Statutory Authority: Insurance Law Sections 201, 301, and 3420; and Chapter 568 of the Laws of 1997.

The amendment to Sub-Part 60-2, which implemented Chapter 568 of the Laws of 1997, increased the amounts of supplementary uninsured/underinsured motorists ("SUM") coverage required to be offered to an insured. The amendment also revised the specific information that had to be included in the mandatory availability notices and retitled the mandatory SUM coverage endorsement.

The Department adopted the fifth amendment to Sub-Part 60-2 in 2013 (effective and published on September 25, 2013) to implement Chapter 11 of the Laws of 2013, which required SUM coverage for employees of fire departments and ambulance services.

The Department adopted the sixth amendment to Sub-Part 60-2 in 2017 (effective on August 1, 2017 and published in the State Register on July 26, 2017) to clarify an inadvertent misinterpretation to ensure that the SUM coverage would not provide fewer benefits than the mandatory uninsured/underinsured motorist coverage. In addition, the amendment amended the 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, in accordance with the recommendation and authorization of the Supplementary Uninsured Motorist Optional Arbitration Advisory Committee, and amended all references in Sections 60-2.3 and 60-2.4 to "AAA/American Arbitration Association" to read "designated organization." Furthermore, the amendment incorporated various editorial revisions to the prescribed endorsement and other portions of the regulation to clarify the intent and application of the coverage.

The Department adopted the eighth amendment to Sub-Part 60-2 in 2018 (effective and published in the State Register on November 28, 2018) to comply with Chapter 490 of the Laws of 2017 and Chapter 15 of the Laws of 2018. Chapter 490 added a new Insurance Law Section 3420(f)(2-a) and Chapter 15 made amendments thereto. Insurance Law Section 3420(f)(2-a) required an insurer that issued a motor vehicle liability insurance policy originally entered into on or after June 16, 2018, other than a commercial risk insurance policy, to provide SUM insurance coverage for bodily injury, in an amount equal to the bodily injury liability insurance limits of coverage provided under the motor vehicle liability insurance policy, unless the first-named insured declined the SUM insurance or selected a lower amount of coverage through a written, signed waiver. The rule also clarified which policies were commercial risk policies and which were not, as well as how the law applied to transportation network company policies.

The Department adopted the ninth amendment to Sub-Part 60-2 in 2020 (effective and published in the State Register on March 25, 2020) to implement Chapter 59, Part III, Section 19 of the Laws of 2019, which amended Insurance Law Section 3420(f) to require that any policy insuring against loss resulting from liability imposed by law for bodily injury or death suffered by any natural person arising out of the ownership, maintenance and use of an altered motor vehicle or stretch limousine, having a seating capacity of eight or more passengers and used in the business of carrying or transporting passengers for hire, provide supplementary uninsured/underinsured motorist ("SUM") coverage for bodily injury in an amount of a combined single limit of $1,500,000 because of bodily injury or death of one or more persons in any one accident. The amendment also added a definition of "altered motor vehicle" or "stretch limousine" consistent with Department of Motor Vehicles regulation 15 NYCRR Section 79.20(f)(2).

The Department adopted the tenth amendment to Sub-Part 60-2 in 2023 (effective and published in the State Register on February 8, 2023) as part of a consolidated rulemaking that also adopted the

sixteenth amendment to Part 27 (Insurance Regulation 41), eleventh amendment to Sub-Part 60-1 (Insurance Regulation 35-A), fourth amendment to Sub-Part 65-1 (Insurance Regulation 68-A), ninth amendment to Sub-Part 65-3 (Insurance Regulation 68-C), eighth amendment to Sub-Part 65-4 (Insurance Regulation 68-D), seventh amendment to Part 169 (Insurance Regulation 100), and nineteenth amendment to Part 216 (Insurance Regulation 64) and added a new Sub-Part 60-4 (Insurance Regulation 35-F) to implement Chapter 795 of the Laws of 2021 and Chapter 129 of the Laws of 2022, which legalized peer-to-peer car sharing in New York and to ensure that consumers would have appropriate insurance protection when using or operating a vehicle through a car sharing program.

- Repeal of Part 53 of, and the adoption of new Part 53 (Insurance Regulation 74) (Life and Annuity Cost Disclosure and Sales Illustrations) to, Title 11 NYCRR, effective February 10, 1999 (State Register February 10, 1999).

Statutory Authority: Insurance Law Sections 201, 301, 308, 1313, 2123, 2208, 2405, 3201, 3203, 3209, 3219, 3222, 4221, 4223, 4226, 4231, 4232, 4240, 4510, 4511, 4513, and 4518; and Banking Law Section 263.

The adoption of Part 53 established requirements for the content and format of the preliminary information and policy summary forms and the content and format for sales illustrations of life insurance and annuity contracts. The rule required insurance companies to retain for six years copies of sales illustrations that were used, or company certifications that no sales illustrations were used. The rule required the appointment of an illustration actuary to provide annual certifications to the Department.

- Adoption of a new Part 74 (Insurance Regulation 159) (Homeowner's Insurance Disclosure Information) to Title 11 NYCRR, effective March 31, 1999 (State Register March 31, 1999).

Statutory Authority: Insurance Law Sections 201, 301, and 3445.

Chapter 44 of the Laws of 1998 added a new Section 3445 to the Insurance Law requiring the Superintendent to establish, by regulation, disclosure requirements with respect to the operation of any deductible in a homeowner's insurance policy or a dwelling fire personal lines policy that applied as the result of a windstorm.

Part 74 prescribed standards for the uniform display of windstorm deductibles, which consisted of hurricane and non-hurricane deductibles, in policy declarations. It also set forth the minimum provisions to be contained in the policyholder disclosure notice, which explained the purpose and operation of a hurricane deductible, and which was required to accompany new and renewal policies containing such deductibles.

The Department adopted the first amendment to Part 74 in 2007 (effective and published in the State Register on August 8, 2007) to implement Chapter 162 of the Laws of 2006, which required that when a policyholder received a notice of cancellation, nonrenewal, or conditional renewal for a homeowner's insurance policy with respect to property located in an area served by a market assistance program established by the Superintendent for the purpose of facilitating the placement of homeowners insurance, the policyholder also had to receive notice from the insurer of possible eligibility for coverage through a market assistance program or through the New York Property Insurance Underwriting Association ("NYPIUA"). The amendment established certain minimum notification requirements to ensure that policyholders who may have been eligible for a market assistance program or NYPIUA would receive proper notice of their options, including information necessary to apply for coverage.

- Adoption of the twenty-fifth amendment to Part 70 (Insurance Regulation 101) (Medical Malpractice Insurance: Required Notices and Rate Modification) of Title 11 NYCRR, effective April 7, 1999 (State Register April 7, 1999).

Statutory Authority: Insurance Law Sections 201, 301, 1113(a)(13) and (14), 3426, 3436, 5504, 5907, 6302, and 6303 and Article 23; and Chapter 639 of the Laws of 1996.

Chapter 639 of the Laws of 1996 authorized the Superintendent to establish rates and surcharges for policies of primary and excess medical malpractice insurance to maintain the stability and availability of insurance in the voluntary market. Part 70 established the framework for the rates and forms of policies of physicians' medical malpractice insurance. The amendment to Part 70 permitted insurers to use rates established by the Superintendent for the Medical Liability Mutual Insurance Company ("MLMIC") modified by any differences in expenses incurred by the insurer, as opposed to those incurred by MLMIC. Prior to the amendment, insurers were required to use the rates established for MLMIC without any such modification. Part 70 was amended after it was determined that the marketplace for medical malpractice insurance had been stable for some time, and as such, that competitive forces should be allowed a greater role in determining rates.

The Department adopted the twenty-sixth amendment to Part 70 in 2000 (effective and published in the State Register on July 12, 2000) to establish physicians and surgeons' medical malpractice insurance rates and appropriate surcharges for the policy year July 1, 1999 through June 30, 2000, and to establish rules to collect and allocate surcharges to recover deficits based on past experience.

The Department adopted the twenty-seventh amendment to Part 70 in 2001 (effective and published in the State Register on June 20, 2001) to establish rates and surcharges for primary policies for physicians and surgeons' medical malpractice insurance effective July 1, 2000.

- Repeal of Part 185 of, and the adoption of new Part 185 (Insurance Regulation 27A) (Policy Provision and Rating Standards for Credit Life and Credit Disability Insurance) to, Title 11 NYCRR, effective May 12, 1999 (State Register May 12, 1999).

Statutory Authority: Insurance Law Sections 201, 301, 3201, 4205, 4216, 4224, and 4235.

Insurance Law Sections 4216 and 4235 authorized credit life insurance and credit accident and health insurance as permitted coverages in New York. Part 185, as promulgated in 1999, streamlined some of the requirements applicable to insurers authorized to offer credit life insurance and credit accident and health insurance, and generally provided for modest increases in rates with a resultant increase in the expense margins. The regulation also balanced the dual legislative objectives of having the product available while ensuring that insured parties receive fair value for their premium dollar.

The Department adopted the first amendment to Part 185 in 2001 (effective and published in the State Register on May 30, 2001) to permit rates for blocks of vendor business to be based on actual experience. The amendment also balanced the legislative objective of having the product available with the legislative objective that insureds receive fair value for their premium dollar.

- Adoption of the fourth amendment to Part 27 (Insurance Regulation 41) (Excess Line Placements Governing Standards) of Title 11 NYCRR, effective May 19, 1999 (State Register May 19, 1999).

Statutory Authority: Insurance Law Sections 201, 301, 2101, 2104, 2105, 2110, 2116, 2117, 2118, 2121, 2122, 2130, 3103, 5907, 5911, and 9102; Chapter 225 of the Laws of 1997, and Chapter 282 of the Laws of 1998.

Chapter 225 of the Laws of 1997 amended Insurance Law Sections 2117 and 2118 to provide that a licensed excess line broker may exercise binding authority and execute an authority to bind coverage on behalf of an insurer not licensed or authorized to do business in New York. The law required brokers to file binding agreements with the Excess Line Association of New York ("ELANY").

The amendment to Part 27 clarified the information required to be included in a broker's filing with ELANY, and required ELANY to file with the Superintendent monthly reports containing information on excess line brokers' binding authority agreements. The amendment also permitted the Superintendent to lower a syndicate's trusteed account requirements, subject to certain factors.

The Department adopted the fifth amendment to Part 27 in 1999 (effective and published in the State Register on June 2, 1999) to implement Chapter 498 of the Laws of 1996, which eliminated the requirement that both the excess line broker and the insured must complete an affidavit affirming that the broker had advised the insured that coverage had been placed with an unauthorized insurer. The amendment prescribed specific requirements concerning information that the broker had to disclose to the insured prior to making a placement with an unauthorized insurer. It also adopted trust deposit requirements for alien insurers that were adopted by the NAIC in 1998.

The Department adopted the tenth amendment to Part 27 in 2007 (effective and published in the State Register on December 19, 2007) to change the amount of funds required to be held in trust by alien excess line insurers and associations of insurance underwriters ("associations"), and resolve the existing inequity in the trust fund obligations imposed upon alien excess line insurers, as compared to the obligations imposed upon associations. Specifically, the amount of funds to be held in trust by alien excess line insurers increased, and the amount of funds to be held in trust by associations decreased.

Additional amendments were made to Part 27 since 2007 as described above.

- Adoption of a new Part 220 (Insurance Regulation 160) (Holocaust Victims Insurance Claims and Reports) to Title 11 NYCRR, effective June 2, 1999 (State Register June 2, 1999).

Statutory Authority: Insurance Law Sections 201, 301, 2701(d), 2703(a)(2), 2710, and Article 27; and Chapter 259 of the Laws of 1998.

Part 220 implemented the provisions of Chapter 259 of the Laws of 1998, which added a new Article 27 to the Insurance Law to provide a framework for the expeditious and equitable resolution of insurance claims by Holocaust victims as defined in Insurance Law Section 2701(a).

- Adoption of the eighth amendment to Part 216 (Insurance Regulation 64) (Unfair Claims Settlement Practices and Claim Cost Control Measures) of Title 11 NYCRR, effective September 15, 1999 (State Register September 15, 1999).

Statutory Authority: Insurance Law Sections 201, 301, 2601, 3411, and 3412.

Chapter 360 of the Laws of 1997 amended Vehicle and Traffic Law Section 429 to require full disclosure of the applicable status of a motor vehicle to a potential purchaser of that vehicle – specifically, to disclose when a vehicle being transferred was rebuilt salvage – and imposed a civil penalty on any person who knowingly and intentionally defrauded a purchaser by failing to make such disclosure. The amendment to Part 216 required that in certain instances, the insurer, when authorizing repair of a vehicle after a covered loss, was required to obtain the vehicle title from the owner and forward it to the Department of Motor Vehicles so that it may be branded as "rebuilt salvage" and then returned to the vehicle's owner.

Additional amendments were made to Part 216 since 1999 as described above.

- Adoption of the seventh amendment to Sub-Part 62-4 (Insurance Regulation 96) (Anti-Arson Application) of Title 11 NYCRR, effective September 15, 1999 (State Register September 15, 1999).

Statutory Authority: Insurance Law Sections 201, 301, and 3403.

Sub-Part 62-4 implemented a new two-tier anti-arson application that included questions to be answered by applicants for new or renewal policies or binders covering the perils of fire or explosion. Since the regulation was first adopted in 1981, other sections of law applicable to such coverage had been amended, and certain requirements in Sub-Part 62-4 became inconsistent with the related provisions. The amendment brought the regulation into conformity with other applicable statutes and regulations.

The Department adopted the eighth amendment to Sub-Part 62-4 in 2000 (effective and published in the State Register on September 27, 2000) to implement Chapter 456 of the Laws of 1999, which

enacted a new subsection (h) to Insurance Law Section 3403 that required the Superintendent to establish procedures by which an insurer may suspend or waive the requirement that the insurer use the anti-arson application upon renewal of policies, provided that the insurer could demonstrate that substantially equivalent information could be obtained through other means.

Additional amendments were made to Sub-Part 62-4 since 1999 as described above.

- Adoption of the twenty-fourth amendment to Part 52 (Insurance Regulation 62) (Medicare Supplement Insurance) of Title 11 NYCRR, effective December 8, 1999 (State Register November 3, 1999).

Statutory Authority: Insurance Law Sections 201, 301, 3201, 3216, 3217, 3218, 3221, 3231, 3232, 4235, 4237, and Article 43.

The twenty-fourth amendment to Part 52 revised the minimum standards for the form, content, and sale of Medicare supplement insurance to conform with, inter alia, the enactment of the Balanced Budget Act of 1997 (Public Law 105-33), which changed the federal minimum standards for Medicare supplement insurance.

The Department adopted the twenty-seventh amendment to Part 52 in 2001 (effective and published in the State Register on March 21, 2001) to revise the minimum standards for the form, content, and sale of Medicare supplement insurance to conform with the enactment of the Balanced Budget Act of 1997, the Balanced Budget Refinement Act of 1999 (Public Law 106-170), and the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106-113), which changed the federal minimum standards for Medicare supplement insurance.

The Department adopted the twenty-eighth amendment to Part 52 in 2002 (effective and published in the State Register on June 19, 2002) to revise the minimum standards for the form, content, and sale of

Medicare supplement insurance to conform with changes to the federal minimum standards for Medicare supplement insurance.

Additional amendments were made to Part 52 since 2002 as described above and below.

- Adoption of the twenty-fifth amendment to Part 52 (Insurance Regulation 62) (Minimum Standards for the Form, Content, and Sale of Health Insurance; Dental Care Exclusion) to Title 11 NYCRR, effective December 8, 1999 (State Register December 8, 1999).

Statutory Authority: Insurance Law Sections 201, 301, 3201, 3216, 3217, 3221, 4235, and 4237 and Article 43.

The amendment to Part 52 clarified that the dental exclusion permitted in health insurance policies did not extend to dental care or treatment necessary due to congenital disease or anomaly.

Additional amendments were made to Part 52 since 2002 as described above and below.

Comments on the Insurance rulemakings may be submitted to Sally Geisel, Principal Attorney – Sally.Geisel@dfs.ny.gov; (212) 480-7608; New York State Department of Financial Services, One State Street, New York, NY 10004.

3. BANKING RULEMAKINGS

The following Banking rulemakings were adopted in 2021:

- Adoption of new Part 7 of the General Regulations of the Superintendent (Information Subject to Confidential Treatment Under Section 36.10 of the Banking Law) to Title 3 NYCRR, effective April 7, 2021 (State Register April 7, 2021).

Statutory Authority: Banking Law Sections 10, 14 and 36.10.

The rule outlines the limited exceptions to prior approval for disclosure of confidential supervisory information under Banking Law § 36.10 by regulated entities to third-parties such as legal counsel, independent auditors and corporate affiliates, disclosure to federal and state supervisory agencies, along

with guidance for responding to requests, subpoenas, orders, motions to compel, or other judicial or administrative process seeking confidential supervisory information.

The rule was necessary to clarify the obligations of regulated entities with respect to the disclosure of confidential supervisory information under Banking Law § 36.10 to legal counsel, independent auditors, corporate affiliates, and federal and state regulatory agencies and to explain the requirements for responding to requests, subpoenas, orders, motions to compel, or other judicial or administrative process seeking confidential supervisory information. In addition, the Department wished to harmonize its confidential supervisory information disclosure practices with those of federal banking regulators.

The following Banking rulemakings were adopted in 2019:

- Adoption of New Part 418 of the Superintendent's Regulations (Mortgage Loan Servicers: Registration Requirements; Financial Responsibility Requirements) to Title 3 NYCRR, effective July 17, 2019 (State Register July 17, 2019).

Statutory Authority: Banking Law, Articles 12-D, 12-E, 12D, § 14 as amended by the Laws of 2011, Chapter 62, Part A § 104(e), (g); Financial Services Law §§ 202, 302.

The rule describes the registration and financial responsibility requirements of mortgage loan servicers in New York.

The rule is necessary to set forth the registration and financial responsibility requirements of mortgage loan servicers in New York.

- Amendment to Part 301.6 of the Superintendent's Regulations (Security at Automated Teller Machines: Report of Compliance) to Title 3 NYCRR, effective August 21, 2019 (State Register August 21, 2019).

Statutory Authority: Banking Law §§ 12, 75-n, as amended by Laws of 2011, Chapter 62, Part A, 104(e), and Financial Services Law §§ 202, 302.

The rule describes the report of compliance required to be filed with the Department pursuant to Banking Law Section 75-g.

The rule is necessary to clarify when the report must be filed and the required language of the report.

- Adoption of New Part 409 of the Superintendent's Regulations (Student Loan Servicers) to Title 3 NYCRR, effective October 16, 2019 (State Register October 16, 2019).

Statutory Authority: Banking Law §§ 10, 11, 14, 718 and Article 14-A and Financial Services Law §§ 102, 201, 202, 301 and 302.

The rule describes the regulation of student loan servicers by the Department.

The rule is necessary to set forth the requirements and duties of student loan servicers in New York.

- Amendment to Part 400.11 of the Superintendent's Regulations (Maximum Fees) to Title 3 NYCRR, effective December 18, 2019 (State Register December 18, 2019).

Statutory Authority: Banking Law §§ 12, 37.3, 367, 369, 371 and 372.

The rule outlines the permissible fees for the cashing of checks, drafts or money orders by licensed check cashers in New York.

The amendment was made to increase the maximum permissible fee that may be charged for the cashing of checks, drafts or money orders by licensed check cashers in New York. In 2023, the rule was amended to reset this maximum amount and eliminate a provision in the regulation by which the maximum check cashing fee increased every year based upon an increase in the consumer price index for the New York - Newark - Jersey City, NY - NJ - PA area for all urban consumers.

- Adoption of New Part 419 of the Superintendent's Regulations (Servicing Mortgage Loan Loans: Business Conduct Rules) to Title 3 NYCRR, effective December 18, 2019 (State Register December 18, 2019).

Statutory Authority: Banking Law, Articles 12-D, 12-E, 12D, § 14 as amended by the Laws of 2011, Chapter 62, Part A § 104(e), (g); Financial Services Law §§ 202, 302.

The rule describes the business conduct rules of mortgage loan servicers in New York.

The rule is necessary to set forth the business conduct rules of mortgage loan servicers in New York.

The following rulemakings were adopted in 2014:

- Amendments to Part 420 (Mortgage Loan Originators; Licensing; Education Requirements) to Title 3 NYCRR, effective October 1, 2014 (State Register October 1, 2014).

Statutory Authority: Banking Law Sections: 39, 44; Articles: 12-D and 12-E.

The rule pertains to the licensing and education requirements for mortgage loan originators.

This rule is necessary to implement the Superintendent's authority to license mortgage loan originators and sets forth the educational requirements to obtain a mortgage loan originator license. This rule needs to be amended to reflect a change in federal law. Section 5117 of the federal SAFE Act now grants qualified federally registered mortgage loan originators seeking state licensure, and qualified state licensed mortgage loan originators seeking licensure in another state, temporary authority to act as a mortgage loan originator and originate loans while completing certain state-specific requirements for licensure ("Temporary Authority"). For now, the Department has issued a guidance letter concerning the use of Temporary Authority.

The following rulemakings were adopted in 2009:

- Amendments to Part 38.1 of the General Regulations of the Superintendent (Definitions of Terms; Advertising; Application and Commitment Disclosures and Procedures; Improper Conduct under Article 12-D: Definitions) to Title 3 NYCRR, effective December 23, 2009 (State Register December 23, 2009).

Statutory Authority: Banking Law Sections 6-l, 14, 590(3), 595-a.

The rule pertains to various mortgage loan requirements regarding advertising, application and commitment disclosures and procedures and improper conduct under Banking Law Article 12-D.

The rule is necessary to clarify and define certain mortgage loan terms.

- Amendments to Part 38.3 of the General Regulations of the Superintendent (Definitions of Terms; Advertising; Application and Commitment Disclosures and Procedures; Improper Conduct under Article 12-D: Applications Disclosures and Procedures) to Title 3 NYCRR, effective December 23, 2009 (State Register December 23, 2009).

Statutory Authority: Banking Law Sections 6-l, 14, 590(3), 595-a.

The rule pertains to various mortgage loan requirements regarding application and commitment disclosures and procedures.

The rule is necessary to clarify and define the application disclosures and procedures with respect to mortgage loan applications.

- Amendments to Part 38.11 of the General Regulations of the Superintendent (Definitions of Terms; Advertising; Application and Commitment Disclosures and Procedures; Improper Conduct under Article 12-D: Requirements for Branches) to Title 3 NYCRR, effective December 23, 2009 (State Register December 23, 2009).

Statutory Authority: Banking Law Sections 6-l, 14, 590(3), 595-a.

The rule pertains to the various requirements for the establishment and operation of branch offices by mortgage bankers or mortgage brokers.

The rule is necessary to describe and clarify the requirements of the establishment and operation of branch offices of mortgage bankers and mortgage brokers.

- Amendments to Part 410.5 of the Superintendent's Regulations (Mortgage Bankers: Licensing Requirements; Mortgage Brokers: Registration Requirements; Branch Applications: Notifications: Books and Records; Annual Reports: Surety Bonds; and Consultants of Licensed Mortgage Bankers and Registered Mortgage Brokers: Branch Application; investigation fees) to Title 3 NYCRR, effective December 23, 2009 (State Register December 23, 2009).

Statutory Authority: Banking Law Section 12.

The rule outlines the specific branch application and investigation fees.

The rule is necessary because it clarifies where one may locate a mortgage banker or mortgage broker branch application and the fees for each application.

- Amendments to Part 413.3 of the Superintendent's Regulations (Procedures and Requirements for Mortgage Brokers to Act as FHA Mortgage Loan Correspondents: Minimum Standards required for Approval) to Title 3 NYCRR, effective December 23, 2009 (State Register December 23, 2009).

Statutory Authority: Banking Law Section 590.

The rule outlines the minimum standards required to be approved to make FHA insured mortgage loans.

The rule is necessary because it explains how a mortgage broker may obtain the approval of the Superintendent to make FHA insured mortgage loans.

- Amendments to Supervisory Procedure MB 106 (Application to Act as an FHA Mortgage Loan Correspondent: Information and Documents required to be Submitted) to Title 3 NYCRR, effective December 23, 2009 (State Register December 23, 2009).

Statutory Authority: Banking Law Sections: 10, 37(3), 39, 44, 371, 646, 649.

The rule pertains to the informational requirements for an application to act as an FHA Mortgage Loan Correspondent.

The rule is necessary because it outlines the informational requirements for an FHA Mortgage Loan Correspondent application.

- Amendments to Supervisory Policy G 8 (Registration of Domestic Representative Offices)

Statutory Authority: Banking Law Sections 39, 44 to Title 3 NYCRR, effective April 29, 2009 (State Register April 29, 2009).

The rule pertains to the informational requirements for a banking institution seeking to establish or maintain a representative office in New York.

The rule is necessary because it outlines the informational requirements for an out-of-state banking institution seeking approval from the Department to establish or maintain a representative office in New York.

The following rulemakings were adopted in 2004:

- Amendment to Part 400.12 (renumbered as section 400.11 in 2008) of the Superintendent's Regulations (Licensed Cashers of Checks) to Title 3 NYCRR, effective June 23, 2004 (State Register June 23, 2004).

Statutory Authority: Banking Law Section 372.

The amendment increased the maximum percentage rate that may be charged by licensed check cashers as a fee for cashing checks from 1.4 percent to 1.5 percent. The amendment also provided for automatic annual adjustments of that maximum rate based on changes in the consumer price.

As discussed above, the Department amended section 400.11 again in 2019 and 2023.

- Amendments to Part 402 of the Superintendent's Regulations (Budget Planners) to Title 3 NYCRR, effective May 26, 2004 (State Register May 26, 2004).

Statutory Authority: Banking Law Sections 12, 587.

The rule implemented new statutory requirements relating to budget planners operating in New York.

The rule is necessary as it sets forth and clarifies the requirements for a budget planner to be licensed and operate in New York.

- Amendments to Part 410 of the Superintendent's Regulations of the Superintendent (Mortgage Bankers: Licensing Requirements; Mortgage Brokers: Registration Requirements; Branch Applications: Notifications: Books and Records; Annual Reports; Surety Bonds; and Consultants of Licensed Mortgage Bankers and Registered Mortgage Brokers) to Title 3 NYCRR, effective September 22, 2004 (State Register September 22, 2004).

Statutory Authority: Banking Law Section 12, Article 12-D.

The rule outlines the various requirements proscribed for mortgage bankers and mortgage brokers in New York.

The rule is necessary to implement legislation regarding surety bond requirements for mortgage bankers, mortgage brokers and consultants by establishing a schedule of bond amounts and imposes more stringent recordkeeping requirements on mortgage bankers.

- Amendments to Supervisory Policy G 8 (Registration of Domestic Representative Offices) to Title 3 NYCRR, effective April 21, 2004 (State Register April 21, 2004).

Statutory Authority: Banking Law Sections 14(1), 132, 258.

The rule describes the registration process for a banking institution to register a domestic representative office.

The Department further amended this rule in 2009, as noted above.

- Amendments to Supervisory Policy G 106 (Public Access to Banking Department Records) to Title 3 NYCRR, effective November 17, 2004 (State Register November 17, 2004).

Statutory Authority: Banking Law Sections 1, 36.10; Public Officers Law Sections 87, 89.

The rule explained the Banking Department's Freedom of Information Law procedures.

The rule was necessary because it outlined the Banking Department's Freedom of Information Law procedures.

The Department repealed Supervisory Policy G 106 in 2020 (effective and published in the State Register on May 20, 2020) as part of a consolidated rulemaking that also added Part 3 to 23 NYCRR and repealed Part 241 of 11 NYCRR. The rulemaking repealed outdated Banking and Insurance regulations regarding public access to agency records, and added a new regulation to provide updated information regarding public access to records of the Department, in conformity with Public Officers Law Article 6.

The following rulemakings were adopted in 1999:

- Amendments to Part 6.5 of the General Regulations of the Superintendent (Investments in Community Development Entities or Projects) to Title 3 NYCRR, effective August 25, 1999 (State Register August 25, 1999).

Statutory Authority: Banking Law Sections 13.4, 14, 14-g, 14-h.

The rule pertains to equity investments made by banks or trust companies in community development entities or projects.

The rule is necessary because it provides New York state-chartered banks parity with national banks to self-certify equity investments that are designed primarily to promote the public welfare, including the welfare of low - and moderate - income areas or individuals.

- Amendments to Part 14.3 of the General Regulations of the Superintendent (Investment Procedures for Operating Subsidiaries and Edge Act Subsidiaries) to Title 3 NYCRR, effective August 25,1999 (State Register August 25, 1999).

Statutory Authority: Banking Law Sections 14, 97(4-a).

The rule pertains to the specific capital, examination rating, and supervisory characteristics of a bank or trust company in order for it to acquire, establish or invest in an operating subsidiary using after-the-fact notice.

The rule is necessary because it provides New York state-chartered bank parity with national banks in that it streamlines New York's application and review process with respect to investments in operating subsidiaries.

- Amendments to Part 14.4 of the General Regulations of the Superintendent (Investment Procedures for Other Stock Investments) to Title 3 NYCRR, effective August 25,1999 (State Register August 25, 1999).

Statutory Authority: Banking Law Sections 14, 97(4-a).

The rule pertains to additional investments by a bank or trust company in corporations where the initial investments were already approved by the Superintendent.

The rule is necessary because it permits a bank or trust company to make additional investments in a corporation for which it already has received Superintendent approval using the 30-day advance notice provisions of section 14.3(a).

- Amendments to Part 32.4 of the General Regulations of the Superintendent (Required Disclosures) to Title 3 NYCRR, effective August 9, 1999 (State Register August 9, 1999).

Statutory Authority: Banking Law Sections 14.1, 108.8, 202, 235-c, 383.13.

The rule pertains to the required disclosures for maximum charges for payments made against insufficient funds, uncollected balances and return items.

The rule is necessary because it requires banks to disclose in writing to its depositors the order in which it pays items drawn against a depositor's account. This disclosure requirement was modified in 2006.

Comments on Banking Rulemakings may be submitted to Christine Tomczak, Assistant Counsel – Christine.Tomczak@dfs.ny.gov; (212) 709-1642; New York State Department of Financial Services, One State Street, New York, NY 10004.

4. FINANCIAL SERVICES RULEMAKINGS

The following Financial Services rulemakings were adopted in 2021:

- Adoption of the first amendment to Part 400 (Independent Dispute Resolution for Emergency Services and Surprise Bills) to Title 23 NYCRR, effective August 13, 2021 (State Register July 14, 2021).

Statutory Authority: Financial Services Law Sections 202, 301, 302, and Article 6 and Insurance Law Section 301.

The amendment expanded the independent dispute resolution process to include disputes involving hospital bills for emergency services and inpatient services that followed an emergency room visit, and required health maintenance organizations, insurers authorized to do business in New York State, and physicians to provide certain notices and forms related to surprise bills and bills for emergency services to insureds.

Comments on this rulemaking may be submitted to Emily Donovan, Associate Attorney – Emily.Donovan@dfs.ny.gov; (518) 473-4177; New York State Department of Financial Services, One Commerce Plaza, Albany, NY 12257.

There were no new or amended Financial Services rulemakings adopted in 2019.

The following Financial Services rulemakings were adopted in 2014:

- Adoption of a new Part 1 (Debt Collection) to Title 23 NYCRR, effective March 3, 2015 (State Register December 3, 2014).

Statutory Authority: Financial Services Law Sections 202, 302 and 408

Part 1 set the standards for debt collection practices in New York, including necessary disclosures to consumers and requirements to verify a debt when an alleged debtor disputed the validity or amount of the debt.

The Department adopted the first amendment to Part 1 in 2015 (effective and published in the State Register on September 9, 2015) to eliminate the word "written" since such direction already was included in the rule and was repetitive and unnecessary; eliminate the option that a debt collector may provide a copy of a judgment against a consumer in order to substantiate a debt because the rule does not regulate collections of money judgments; and amend the required disclosure of consumers' rights under the Exempt Income Protection Act for clarity and consistency with the rest of the regulation.

Comments on this rulemaking may be submitted to Meredith Weill, Deputy General Counsel for Consumer Protection and Financial Enforcement, Office of General Counsel, – Meredith.Weill@dfs.ny.gov; (212) 480-5279; New York State Department of Financial Services, One State Street, New York, NY 10004.