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SENT VIA EMAIL
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January 14, 2025

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 29, 2025 State Register. The attached document is divided into four sections: (1) Introduction; (2) Insurance rulemakings promulgated in 2022, 2020, 2015, 2010, 2005 and 2000; (3) Banking rulemakings promulgated in 2022, 2020, 2015, 2010, 2005 and 2000; and (4) Financial Services rulemakings promulgated in 2022, 2020, and 2015.

Sincerely yours,

Sally Geisel

Sally Geisel
Principal Attorney
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cc: 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 2022, 2020, 2015, 2010, 2005, and 2000. 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 of 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.

PART 2. INSURANCE RULEMAKINGS

The following Insurance rulemakings were adopted in 2022:

- Adoption of the Sixty-Third 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 7, 2022 (State Register December 7, 2022).

Statutory Authority: Financial Services Law sections 202, 301, and 302; Insurance Law sections 301, 3217, 3217-a, 3217-b, 4324, and 4325; Public Health Law Sections 4406-c and 4408; and the federal No Surprises Act.

The sixty-third amendment to Part 52 implements the requirements of the Laws of 2022, Chapter 57, Part AA and the federal No Surprises Act (the “Federal Act”), which require 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 certified pursuant to Public Health Law article 44, and student health plans certified pursuant to Insurance Law section 1124 (collectively, “issuers”) to post provider directory information on their websites, make timely updates to their websites, and reimburse providers for out-of-network services if an issuer provides inaccurate network status information. The Federal Act also prohibits an issuer from imposing on an insured a cost-sharing amount that is greater than the cost-sharing amount that would be owed if the insured had received services from a participating provider when the insured receives a bill for out-of-network services resulting from an issuer providing inaccurate network status information to the insured. Accordingly, the regulation applies certain disclosure requirements in Insurance Law sections 3217-a and 4324 to stand-alone dental insurance and stand-alone vision insurance and prohibits an issuer of an accident and health insurance policy that uses a network of health care providers from imposing on an insured a copayment, coinsurance, or deductible that is greater than the

copayment, coinsurance, or deductible that would be owed if the insured had received services from a participating provider when the issuer fails to make timely updates to its provider directory information or fails to provide accurate information in response to a request from an insured. The regulation also requires an issuer to reimburse the provider for out-of-network services if the issuer provides inaccurate network status information to an insured. Part 52 was amended effective June 18, 2024 (State Register June 18, 2024) to conform to the Laws of 2023, chapter 655, which amended Insurance Law section 1117 to require insurers authorized to write accident and health insurance in New York, article 43 corporations, health maintenance organizations, and fraternal benefit societies writing long term care insurance to provide to a prospective insured, or its representative, a disclosure statement setting forth certain information prior to the earlier of the execution of a policy or certificate in connection with a plan providing a home care benefit or a nursing home benefit or both, or the payment of any premium or fee related to such a policy or certificate, to update certain information that must be included in long term care insurance disclosure statements.

- Adoption of the First Amendment to Part 450 (Insurance Regulation 219) (Pharmacy Benefits Bureau) of Title 11 NYCRR, effective August 31, 2022 (State Register August 31, 2022).

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, 405, 2903, and 2906; Public Health Law Section 280-a; Part XX of Chapter 56 of the Laws of 2020; and Chapter 828 of the Laws of 2021, as amended by Chapter 128 of the Laws of 2022.

The first amendment to Part 450 created a new Bureau, the Pharmacy Benefits Bureau, within the Department to replace the Office of Pharmacy Benefits to carry out the responsibilities and powers granted in Insurance Law sections 111, 2903 and 2906 and Public Health Law section 280-a. Part 450 was amended effective November 15, 2023 (State Register November 15, 2023) as part of a consolidated

rulemaking that also added new Parts 453-455 (Insurance Regulations 223-225) to 11 NYCRR to establish licensing, reporting and assessment standards for a pharmacy benefits manager to perform pharmacy benefit management services in New York under the framework established by Insurance Law article 29 and Public Health Law section 280-a. Specifically, Insurance Law section 2914 requires pharmacy benefit managers registered or licensed with the Department to be assessed and pay such assessments in an amount determined by the Superintendent to cover the Department's operating expenses as they relate to regulating pharmacy benefit managers. The amendment to Part 450 added new definitions and renumbered existing definitions. Part 453 established the frequency of and cost calculations for the assessments. Part 454 established licensing requirements. Part 455 established recordkeeping and reporting requirements.

- Adoption of New Part 451 (Insurance Regulation 221) (Registration of Pharmacy Benefit Managers) of Title 11 NYCRR, effective August 31, 2022 (State Register August 31, 2022).

Statutory Authority: Financial Services Law Sections 102, 201, 202, 301, 302, and 306; Insurance Law Sections 301, 316, 2902, 2903, and 2904; Public Health Law Section 280-a; and Chapter 828 of the Laws of 2021, as amended by Chapter 128 of the Laws of 2022.

New Part 451 established minimum registration standards, including the form, content, and manner of submission, and the first annual reporting standards, including the content, manner, and form for submission, required for a pharmacy benefit manager to perform pharmacy benefit management services in New York.

- Adoption of the Fourth Amendment to Part 50 (Insurance Regulation 47) (Separate Accounts and Separate Account Contracts) of Title 11 NYCRR, effective August 31, 2022 (State Register August 31, 2022).

Statutory Authority: Financial Services Law Sections 202 and 302 and Insurance Law Sections 301, 1106, 3201, 3222, 4240, and 4525.

The fourth amendment to Part 50 implements Insurance Law section 4240, as amended since 1970, and codifies the standards the Department developed during the policy form approval process, to ensure a level playing field and a consistent system of consumer protections. The amendment establishes nonforfeiture and other product standards for separate account contracts; extends certificate requirements to allocated group funding agreements; provides for nonforfeiture of the account value if the contract holder dies; expands the permissible types of incidental death benefits, or sets maximums for surrender charges; provides for a betterment of rates provision for variable annuities with a fixed annuity payout; clarifies amounts that may be insulated in a separate agreement and provides greater flexibility for insurers to meet asset maintenance requirements; establishes certain minimum standards and consumer protections for guaranteed lifetime withdrawal benefits; clarifies that the regulation applies uniformly, with limited exceptions, to all domestic, foreign, and alien insurers and fraternal benefit societies delivering separate account contracts in New York; and codifies existing procedures for foreign and alien insurers to submit separate account plans of operation for the Superintendent's determination of whether the method of operation substantially complies with the regulation.

- Adoption of the Second Amendment to Part 12 (Insurance Regulation 50) (Agent Training Allowance Subsidies for Certain Life Insurance and Annuity Business) of Title 11 NYCRR, effective August 24, 2022 (State Register August 24, 2022).

Statutory Authority: Financial Services Law sections 202 and 302 and Insurance Law sections 301 and 4228.

The second amendment to Part 12 increases the amount of training allowance subsidies an insurer may pay to insurance agents to reflect changes in the Consumer Price Index since the last amendment took effect in 2017.

- Adoption of the Sixty-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 July 15, 2022 (State Register June 15, 2022).

Statutory Authority: Financial Services Law sections 202, 301, and 302 and Insurance Law sections 301 and 3217.

The sixty-fourth amendment to Part 52 implements 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.

Additional amendments were made to Part 52 as described above.

The following Insurance rulemakings were adopted in 2020:

- 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 April 22, 2021 (State Register December 23, 2020).

Statutory Authority: Financial Services Law sections 202 and 302 and Insurance Law sections 301 and 3217.

The amendment to Part 52 requires that health insurance identification cards 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 requires health insurance identification cards to include a statement identifying whether the coverage is insured by the issuer or administered by the issuer through a self-funded arrangement.

Part 52 was amended effective July 28, 2020 as described below.

Part 52 was amended effective December 22, 2021 (State Register December 22, 2021) to clarify that the meaning of “telehealth” includes audio-only visits (e.g., telephone calls) and that an insurer may engage in reasonable fraud, waste, and abuse detection efforts, including efforts to prevent payments for services that do not warrant separate reimbursement.

Additional amendments were made to Part 52 as described above.

- Amendment to Part 83 (Insurance Regulation 172) (Financial Statement Filings and Accounting Practices and Procedures) of Title 11 NYCRR, effective December 30, 2020 (State Register December 30, 2020).

Statutory Authority: Financial Services Law sections 202 and 302; Insurance Law sections 107(a)(2), 301, 307, 308, 1109, 1301, 1302, 1308, 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.

Part 83 incorporates by reference the Accounting Practices and Procedures Manual (“AP&P Manual”) published by the National Association of Insurance Commissioners (“NAIC”) to enhance the consistency of the accounting treatment of assets, liabilities, reserves, income, and expenses, and to set forth the accounting practices and procedures to be followed in completing annual and quarterly financial statements required by law. The regulation was amended to adopt the March 2020 edition of the AP&P Manual; except from the adoption of the AP&P Manual the guidance prescribed in subparagraphs 4.a. and 4.b. of Statement of Statutory Accounting Principles (“SSAP”) No. 26R, “Bonds”, the third sentence of Footnote 1 of SSAP No. 97 and the guidance prescribed in paragraph 11, and Footnote 1 of SSAP No. 72, “Surplus and Quasi-Reorganizations”; and make various technical corrections.

Part 83 was amended effective December 15, 2021 (State Register December 15, 2021) as part of a consolidated rulemaking that also adopted new Part 77 to 11 NYCRR (Insurance Regulation 220). The rulemaking requires that, until January 1, 2027, the shares of an exchange traded fund (“ETF”), the

portfolio of which consists of fixed income securities, cash, and cash equivalents, be treated as bonds for the purpose of a domestic insurer's risk-based capital ("RBC") report if the ETF meets certain criteria. The rulemaking also requires that shares of an ETF that meets the criteria set forth in 11 NYCRR 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). The rulemaking further requires a foreign insurer to calculate its RBC consistent with 11 NYCRR Part 77 and to report that RBC in the New York supplement to the annual financial statement. The rulemaking also adopts the March 2021 edition of the AP&P Manual.

Part 83 was amended effective November 1, 2023 (State Register November 1, 2023) as a consensus rulemaking to adopt the NAIC's 2023 AP&P Manual, make non-substantive changes to section 83.4(f) and (p) by updating paragraph numbers in SSAP No. 25, and add clarifying language.

Part 83 was amended effective January 8, 2025 (State Register January 8, 2025) as a consensus rulemaking to adopt the NAIC's 2024 AP&P Manual.

The Department expects to adopt an amendment to Part 83 in 2025 to reference the next edition of the AP&P Manual published by the NAIC.

- Addition of New Part 230 (Insurance Regulation 218) (Mental Health and Substance Use Disorder Parity Compliance Program) to 11 NYCRR, effective December 29, 2020 (State Register September 30, 2020).

Statutory Authority: Financial Services Law sections 202 and 302 and Insurance Law sections 301, 316, 1124, 3201, 3216, 3217, 3221, and articles 43 and 47.

Part 230 establishes mental health and substance use disorder parity compliance program requirements to ensure that insurers are providing comparable coverage for benefits to treat mental health

and substance use disorder as required under both state and federal law. The new Part requires that such compliance programs establish corporate governance for parity compliance, identify discrepancies in coverage of services for the treatment of mental health conditions and substance use disorder, and ensure appropriate identification and remediation of improper practices.

- Amendment to Part 89 (Insurance Regulation 118) (Audited Financial Statements) of 11 NYCRR, effective November 9, 2020 (State Register May 13, 2020).

Statutory Authority: Financial Services Law sections 202 and 302 and Insurance Law sections 301, 307(b), 1109, and 1202(b).

The amendment to Part 89 requires authorized insurers, fraternal benefit societies, and managed care organizations that meet a certain premium threshold to establish and maintain an internal audit function. The internal audit function requirement became an NAIC accreditation standard as of January 1, 2020.

Part 89 was amended effective June 9, 2021 (State Register June 9, 2021) as part of a consolidated consensus rulemaking to remove a misplaced comma.

- Addition of new Part 90 (Insurance Regulation 215) (Corporate Governance) to 11 NYCRR, effective September 18, 2020 (State Register August 19, 2020).

Statutory Authority: Financial Services Law sections 202 and 302 and Insurance Law sections 110, 301, 309, 316, 1202, 1209, 1215, 1218, 1501, 1504(c), and articles 12, 15, 16, and 17.

The rulemaking conforms to the NAIC model act and regulation, which became an accreditation standard as of January 1, 2020, by requiring authorized insurers to adopt a corporate governance framework and to electronically file a corporate governance annual disclosure with the Superintendent. A corporate governance framework includes the structures, processes, information, and relationships used

to oversee, direct, control, and manage an insurer, or the system of which the insurer is a member, and to ensure compliance with legal and regulatory requirements.

- Addition of New Part 365 (Insurance Regulation 217) (Paid Family Leave COVID-19 Risk Adjustment Mechanism) to 11 NYCRR, effective September 9, 2020 (State Register September 9, 2020).

Statutory Authority: Laws of 2020, chapter 25; 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).

Chapter 25 of the Laws of 2020 allows individuals under COVID-19 quarantine order to receive paid sick leave, paid family leave ("PFL") benefits, and disability benefits, and requires the Department to promulgate regulations that create a risk adjustment mechanism to allow insurers to recoup disproportionate losses from the risk adjustment pool or from other insurers, to be repaid with interest.

New Part 365 was adopted to permit insurers to apply for loans once their COVID-19 claims on policies covering disability benefits or family leave benefits for any portion of the calendar year 2020 were equal to 20% of their surplus. The COVID-19 claims were to be reimbursed through a COVID-19 risk adjustment mechanism. The mechanism was to be funded by a surcharge on all PFL rates for a period of years as determined by the Superintendent, after the Department had obtained the total COVID-19 claims. At the end of the plan year (starting with the 2021 plan year), the mechanism was to collect from all insurers the COVID-19 surcharge funds, then redistribute those funds to insurers proportionately based on actual COVID-19 claims.

- 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 11 NYCRR, effective July 28, 2020 (State Register April 29, 2020).

Statutory Authority: Financial Services Law sections 202 and 302; Insurance Law sections 301, 3216, 3217, 3221, and 4303; and Laws of 2019, chapter 57, part J, subpart D.

The amendment to Part 52 implements 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 includes certain activities, such as including a policy clause that purports 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 implements 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 are at high risk of HIV acquisition is included within preventive care and screenings, and specifying the timing for coverage of preventive care and screenings.

Additional amendments were made to Part 52 as described above.

- Amendment to Part 82 (Insurance Regulation 203) (Enterprise Risk Management and Own Risk and Solvency Assessment; Group-Wide Supervision) of 11 NYCRR, effective June 3, 2020 (State Register June 3, 2020).

Statutory Authority: Financial Services Law sections 202 and 302 and Insurance Law sections 110, 301, 302, 308, 1503(b), 1504(c), 1604(b), and 1717.

The amendment to Part 82 authorizes the Superintendent to act as a group-wide supervisor (“GWS”) for an internationally active insurance group (“IAIG”). As a GWS, the Superintendent is 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.

Part 82 was amended effective August 13, 2021 (State Register July 14, 2021) to require a holding company and domestic insurer to describe their enterprise risk management (“ERM”) functions in their enterprise risk reports, which some holding companies and domestic insurers already were doing voluntarily at the time. The 2021 amendment makes clear that “domestic insurer”, as referenced in Part 82, includes a United States branch of an alien insurer entered through New York State; makes explicit that cybersecurity, climate change, epidemics, and pandemics are examples of reasonably foreseeable and material risks; and fixes a typographical error.

Part 82 was amended effective June 18, 2024 (State Register June 18, 2024) to incorporate the NAIC’s Insurance Holding Company System Regulatory Act amendments regarding group capital calculation (“GCC”) filings. Chapter 344 of the Laws of 2023 amended the Insurance Law, in relevant part, to impose an annual GCC filing requirement on certain ultimate holding companies and domestic insurers with subsidiaries for which New York is the lead state (collectively, “entities”), to comply with the covered agreements between the United States and European Union and the United States and United Kingdom. Chapter 344 permits the Superintendent to exempt an entity, when New York is the lead state, from filing an annual GCC or accept a limited GCC filing in accordance with criteria specified by the

Superintendent in a regulation. The model Regulation sets forth circumstances under which the Superintendent may further exempt entities from having to file a GCC or accept a limited GCC filing. The model Regulation also sets forth the criteria for when a non-United States jurisdiction is considered to “recognize and accept” the GCC for the purpose of determining whether an entity is exempt from filing a GCC under the law. The amendments to Part 82 adopt the language in the NAIC model regulation, and require entities to make GCC filings electronically, subject to a hardship exception already set forth in 11 NYCRR section 82.6.

- Repeal of Part 241 (Insurance Regulation 71) (Availability of Department Records) of 11 NYCRR, effective May 20, 2020 (State Register May 20, 2020).

Statutory Authority: Financial Services Law sections 202 and 302; Banking Law section 14; Insurance Law section 301; and Public Officers Law article 6.

The repeal of Part 241 of 11 NYCRR was part of a consolidated rulemaking that also added Part 3 to 23 NYCRR and repealed Supervisory Procedure Part G 106 of 3 NYCRR. The rulemaking repealed outdated Insurance and Banking 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 (“FOIL”).

- Consolidated Rulemaking Amending Part 98 (Insurance Regulation 147) (Valuation of Life Insurer Reserves) and Part 100 (Insurance Regulation 179) (Recognition of the 2001 CSO Mortality Table and the 2017 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 11 NYCRR, effective April 22, 2020 (State Register April 22, 2020).

Statutory Authority: Financial Services Law sections 202 and 302 and Insurance Law sections 301, 1304, 1308, 4217, 4218, 4221, 4224, 4240, and 4517.

The amendments allowed insurers that chose to continue using the 2015 reserve relief procedures to use them for one more year of policy issues, until they had to update their reserve procedures to comply with new Insurance Law section 4217(g).

- Amendment to Part 68 (Insurance Regulation 83) (Charges for Professional Health Services) of 11 NYCRR, effective April 22, 2020 (State Register April 22, 2020).

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

The amendment to Part 68 delayed the effective date of the Workers' Compensation Board's revised medical fee schedule of January 1, 2020 to October 1, 2020 for the no-fault system.

Part 68 was amended effective February 15, 2023 (State Register 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 has been assigned.

Part 68 was amended effective May 15, 2024 (State Register May 15, 2024) to update the website link to the Official New York Workers' Compensation DME Fee Schedule on the Workers' Compensation Board's website because the current link in the regulation was no longer valid.

Currently, the Department is working on amendments to Part 68 to update the durable medical equipment fee schedule rules applicable to no-fault regarding delivery/set-up/dispensing, and as part of two consolidated rulemakings conforming the regulation to statutory amendments.

- Amendment to Part 60-2 (Insurance Regulation 35-D) (Supplementary Uninsured/Underinsured Motorists Coverage) of 11 NYCRR, effective March 25, 2020 (State Register March 25, 2020).

Statutory Authority: Financial Services Law sections 202 and 302; Insurance Law sections 301 and 3420(f); and L. 2019, chapter 59, part III.

The rulemaking conforms to the legislative amendment to Insurance Law section 3420(f) by requiring 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, or 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 Motorists (“SUM”) insurance for bodily injury in an amount of a combined single limit of \$1.5 million because of bodily injury or death of one or more persons in any one accident.

Part 60-2 was amended effective February 8, 2023 (State Register February 8, 2023) as part of a consolidated rulemaking amending Parts 27, 60-1, 60-2, 60-4, 65-1, 65-3, 65-4, 169, and 216 to implement chapter 795 of the Laws of 2021 and chapter 129 of the Laws of 2022 that legalized peer-to-peer car sharing in New York, which aims to ensure that consumers will have appropriate insurance protection when using or operating a vehicle through a car sharing program.

Part 60-2 was amended effective May 15, 2024 (State Register May 15, 2024) to conform to the amendment to Insurance Law section 3420 that extends uninsured supplemental motorist coverage to police vehicles.

- Repeal of Part 4 (Insurance Regulations 3 and 97) (Rules Governing the Procedures for Adjudicatory Proceedings Before the Department of Financial Services) of 11 NYCRR, effective March 25, 2020 (State Register March 25, 2020).

Statutory Authority: Financial Services Law sections 202 and 302 and the State Administrative Procedures Act.

The repeal of Part 4 of 11 NYCRR was part of a consolidated rulemaking that also added Part 2 to 23 NYCRR and repealed Supervisory Procedure Part G 111 of 3 NYCRR. The rulemaking repealed the separate Insurance and Banking rules governing adjudicatory proceedings that existed before the former individual departments were consolidated into the Department and replaced those rules with a new regulation, Part 2 to 23 NYCRR, to unify the procedures for adjudicatory proceedings before the Department.

- Amendment to Part 103 (Insurance Regulation 213) (Principle-based Reserving) of 11 NYCRR, effective February 26, 2020 (State Register February 26, 2020).

Statutory Authority: Financial Services Law sections 201, 202, 301, and 302 and Insurance Law sections 301, 4217, and 4517.

The amendment to Part 103 prescribes the minimum standards for valuing statutory reserves subject to the requirements of the NAIC's valuation manual ("Manual") adopted by the Superintendent and Insurance Law section 4217(g). Insurance Law section 4217(g) authorizes the Superintendent to deviate, through regulations, from the reserve standards, valuation methods, assumptions, and related requirements in the Manual, provided that such deviations shall not result in reserve valuations that are lower than the minimum standards prescribed in the Manual.

Part 103 was amended effective March 31, 2021 (State Register March 31, 2021) to clarify and make certain adjustments to the regulation, and to prescribe additional minimum standards for valuing statutory reserves that in the Superintendent's opinion were necessary to comply with the Manual to best serve the policyholders of New York State by ensuring that the minimum standards for valuing statutory reserves were set at a level appropriate for the payment of future claims.

Part 103 was amended effective December 29, 2021 (State Register December 29, 2021), to update the reference to the Manual from the 2020 edition to the 2021 edition.

Part 103 was amended effective March 1, 2023 (State Register March 1, 2023) to update the reference to the Manual from the 2021 edition to the 2022 edition; expand the scope of the regulation's section 103.4 to include individual certificates issued under a group term life contract; and make technical corrections by fixing certain citations in section 103.8(c).

Part 103 was amended effective December 6, 2023 (State Register December 6, 2023) to update the reference to the Manual from the 2022 edition to the 2023 edition.

Part 103 was amended effective October 9, 2024 (State Register October 9, 2024) to update the reference to the Manual from the 2023 edition to the 2024 edition.

The Department expects to adopt an amendment to Part 103 in 2025 to reference the next edition of the AP&P Manual published by the NAIC.

The following Insurance rulemakings were adopted in 2015:

- Amendment to Subpart 65-4 (Insurance Regulation 68-D) (Regulations Implementing the Comprehensive Motor Vehicle Insurance Reparations Act - Arbitration) of Title 11 NYCRR, effective February 4, 2015 (State Register February 4, 2015).

Statutory Authority: Financial Services Law sections 202 and 302, and Insurance Law sections 301 and 5221 and article 51 of the Insurance Law.

This amendment to Subpart 65-4: (1) eliminates the \$60 minimum attorney's fee; (2) eliminates the \$60-or-\$80 attorney-fee limit that applies during the conciliation phase of the arbitration process; and (3) increases the maximum fee to be awarded to an attorney who prevails in court or at arbitration to \$1,360. These changes to the current fee structure should reduce the backlog of pending lawsuits and arbitrations by creating a more expeditious process to resolve disputes. The amendment should also

reduce no-fault fraud and abuse by making billing practices more transparent, because when an action is consolidated, multiple services billed by a health service provider will be presented in a single legal action, allowing the finder of fact in arbitration or court to identify any questionable billing patterns, whereas with separate legal proceedings, billed services are spread out among multiple arbitrators or judges, making fraudulent and abusive billing more difficult to detect.

Subpart 65-4 was amended effective October 25, 2017 (State Register October 25, 2017) as part of a consolidated rulemaking also amending Parts 27, 60-1, 60-2, 60-3, 65-1, 65-3, 65-4, 169, and 216 to implement part AAA of chapter 59 of the Laws of 2017, which recognizes the authorization for transportation network companies (“TNCs”) to operate prearranged trips in New York and helps ensure that the public will have appropriate insurance protection when using a TNC vehicle.

Subpart 65-4 was amended effective February 8, 2023 (State Register February 8, 2023) as part of a consolidated rulemaking also amending Parts 27, 60-1, 60-2, 60-4, 65-1, 65-3, 169, and 216 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, with the aim of ensuring that consumers will have appropriate insurance protection when using or operating a vehicle through a car sharing program.

Currently, the Department is working on amendments to Subpart 65-4 to amend rules related to both the manner in which the first party motor vehicle insurance arbitration programs are administered and the manner in which the costs of these programs are assessed to the insurance industry, and as part of a consolidated rulemaking to modernize claims practices and rules.

- Addition of New Part 227 (Insurance Regulation 202) (Regulation of Force-Placed Insurance) of Title 11 NYCRR, effective February 6, 2015 (State Register January 7, 2015).

Statutory Authority: Financial Services Law sections 202, 301, and 302, and Insurance Law sections 301, 308, 2110, 2303, and 2304 and articles 21, 23, 24 and 34.

This new Part 227 ensures that force-placed insurance market participants comply with New York law. This rule is also necessary to protect homeowners and investors from the harm caused by multiple law violations.

- Amendment to Part 67 (Insurance Regulation 79) (Mandatory Underwriting Inspection Requirements for Private Passenger Automobiles) of Title 11 NYCRR, effective April 1, 2015 (State Register December 31, 2014).

Statutory Authority: Financial Services Law sections 202 and 302 and Insurance Law sections 301, 3411, 5303, and article 53.

Inspections of automobiles have been mandatory since 1977 to combat insurance fraud, and only under limited circumstances has the rule permitted insurers to waive or defer inspections. However, with advances in technology to combat automobile physical damage insurance fraud, certain provisions of the rule have been rendered obsolete or unduly burdensome to insurers and insureds. This amendment to Part 67 has been updated to reduce unnecessary expenses to insurers and consumers, while maintaining necessary requirements to combat fraud. The amendment also clarifies various provisions of the regulation, including the types of automobiles subject to the inspection requirement, and expands the optional inspection waivers available to insurers.

Part 67 was amended effective May 20, 2015 (State Register May 20, 2015) as a consensus rulemaking to delete duplicate language that existed in another provision of the regulation, and to make other technical corrections and amendments to comport with other provisions of the regulation.

Part 67 was amended effective June 18, 2024 (State Register June 18, 2024) to conform to changes made to Insurance Law section 3411, which required insurers to inspect private passenger automobiles insured for physical damage coverage, except as provided for in a regulation prescribed by the Superintendent. The Legislature amended Insurance Law section 3411 to permit an automobile insurer to

waive the requirement to inspect some or all automobiles prior to providing physical damage coverage provided that the automobile insurer filed a revised plan of operations with the Superintendent that specified which vehicles are subject to inspection.

- Consolidated Amendment to Parts 98 (Insurance Regulation 147) (Valuation of Life Insurance Reserves) and 100 (Insurance Regulation 179) (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 April 1, 2015 (State Register April 1, 2015).

Statutory Authority: Financial Services Law sections 202 and 302 and Insurance Law sections 301, 1304, 1308, 4217, 4218, 4221, 4224, 4240, and 4517.

Part 98 was amended to recognize mortality improvement beyond the valuation date for universal life policies that guarantee that coverage remains in force as long as the accumulation of premiums paid satisfies the secondary guarantee requirement, issued on or after January 1, 2015. Additionally, a lapse rate of two percent could be used for the first five years, followed by a rate of no more than one percent for the remaining life of the policy.

Part 100 was amended consistent with mortality improvement. Because insureds are generally living longer, the amendment applied a 1.0 percent mortality improvement factor to the current mortality table (2001 CSO) for up to 40 years, and it applied a 0.5 percent mortality improvement factor thereafter through attained age 80. The mortality rates linearly grade from attained ages 81 through 90. These factors applied only during the first segment.

Parts 98 and 100 were amended effective May 17, 2017 (State Register May 17, 2017) as part of a consolidated consensus rulemaking to adopt 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 specify that the Fifth and Sixth Amendments to Regulation 147 and the Third and Fourth Amendments to Regulation 179 would only apply 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.

Parts 98 and 100 were amended effective January 2, 2019 (State Register January 2, 2019) as part of a consolidated consensus rulemaking to specify that two prior amendments to the regulations (i.e., the Fifth and Sixth Amendments to Regulation 147 and the Third and Fourth Amendments to Regulation 179) would only apply 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 January 31, 2019. The concurrent amendments to Insurance Regulations 147 and 179 allowed insurers to apply these two prior amendments, if optionally elected, for one additional year of policy issues.

Parts 98 and 100 were amended effective April 22, 2020 (State Register April 22, 2020) as part of a consolidated rulemaking to allow insurers that chose to continue using the 2015 reserve relief procedures to use them for one more year of policy issues, until they had to update their reserve procedures to comply with new Insurance Law section 4217(g).

- Amendment to Part 21 (Insurance Regulation 60) (Replacement of Life Insurance Policies and Annuity Contracts) of Title 11 NYCRR, April 21, 2015 (State Register January 21, 2015).

Statutory Authority: Financial Services Law sections 202 and 302 and Insurance Law sections 301, 2123, 2403 and 4226.

This amendment to Part 21 changes the time in which a completed disclosure statement must be presented or delivered to an applicant from “no later than at the time the applicant signs the application” to “prior to the delivery of the replacement policy,” achieving the stated goals of the National Association

of Insurance and Financial Advisors – New York State and gaining the life insurance industry’s support while still retaining the regulation’s significant consumer protections. In addition, this amendment will benefit insureds, insurance producers and insurers by:

- allowing an insurance producer to bind coverage for a consumer more quickly, subject to an insurer’s underwriting requirements, because the insurance producer will be able to accept the consumer’s application immediately without waiting for a completed disclosure statement;
- enabling the underwriting process to proceed immediately, thereby expediting the policy issuance process. Applicants who are determined to replace their existing coverage are, reportedly, often aggravated or upset that they must wait several weeks to apply for new coverage. Some applicants seek a quick exit from their current policies to avoid market losses (such as with variable annuities), but must wait several weeks before a new application can be completed;
- facilitating more insurance purchased over the internet. The current process of having to wait several weeks for a response from the replaced insurer effectively inhibits internet sales when replacements are involved;
- reducing the number of “revised” disclosure statements that are currently necessary to account for changes that occurred between the time the application was taken and the date that the policy is ultimately issued. The issuance of multiple disclosure statements can be confusing to policyholders, and this amendment is expected to dramatically reduce the number of instances where “revised” disclosure statements are necessary;
- preserving the disclosure statement as a valuable tool for consumers to compare policies at the time of policy issuance and to review later if they have questions about the new coverage; and

- making it easier for insurance producers and insurers to comply with the regulation. Moving the disclosure statement to the back-end of the process will streamline the process and eliminate many of the technical issues that insurers encountered in the past.

The following Insurance rulemakings were adopted in 2010:

- Repeal of Part 163 and Adoption of a New Part 163 (Insurance Regulation 153) (Flexible Rating for Nonbusiness Automobile Insurance Policies) of Title 11 NYCRR, effective January 6, 2010 (State Register January 6, 2010).

Statutory Authority: Insurance Law sections 201, 301, 2350 and article 23.

This new Part 163 adopted rule re-established flexible rating for nonbusiness automobile insurance policies as required by Insurance Law section 2350, which was enacted by section 13 of chapter 136 of the Laws of 2008. Section 2350 permits insurers to put into effect nonbusiness automobile insurance rates without the Superintendent's prior approval, provided that the overall average rate level does not result in an increase above five percent from the insurer's prior rate level in effect during the preceding 12 months. Section 2350 also limits the overall average rate level decreases without prior approval up to five percent from the insurer's current rate level regardless of when it went into effect. The former Part 163, implementing the former flex rating system, had been repealed when the former section 2350 had expired and a new Part 163 was adopted to establish rules and provide guidance to insurers to implement the requirements of the newly enacted Section 2350.

- Adoption of a New Part 30 (Insurance Regulation 194) (Producer Compensation Transparency) of Title 11 NYCRR, effective January 1, 2011 (State Register February 10, 2010).

Statutory Authority: Insurance Law sections 201, 301 and article 21.

Part 30 requires an insurance producer to disclose the following: its role in the transaction; that the producer will receive compensation from the insurer based upon the sale of the policy; that the

compensation paid by insurers may vary; and that the purchaser may obtain from the producer, upon request, information about the compensation the producer expects to receive from the sale of the policy. The regulation also requires that upon the customer's request, the producer disclose the amount of compensation for the policy selected and any alternative quotes presented. The required disclosures should minimize the potential conflicts that arise from producer compensation because insurance customers can request information about the compensation for the insurance policy and alternative policies quoted.

- Repeal of Part 135 (Insurance Regulation 67) (Reporting of Reserve Liabilities by Public Retirement Systems) of Title 11 NYCRR, effective February 24, 2010 (State Register February 24, 2010).

Statutory Authority: Insurance Law sections 201, 301, 307(a); Retirement and Social Security Law sections 15, 315; Education Law section 523; Administrative Code of the City of New York sections 13-183, 13-266, 13-378, 13-562; and the Rules and Regulations of the Retirement Board of the Board of Education of the City of New York section 25.

Part 135 required reporting of certain financial transactions and reserve liabilities by public retirement systems maintained by the City of New York and the State of New York. The regulation referred to items in an annual statement form that was made obsolete by its replacement with a new form in 2007, which included the reporting requirements and filing instructions that were formerly set forth in Part 135. Thus, Part 135 was repealed to eliminate requirements relating to a previous annual statement form that is no longer in use and eliminated regulatory provisions that are no longer applicable to any person.

- Addition of New Subpart 151-3 (Insurance Regulation 119) (Workplace Safety and Loss Prevention Incentive Program) of Title 11 NYCRR, effective April 21, 2010 (State Register April 21, 2010).

Statutory Authority: Insurance Law sections 201, 301 and 308, and chapter 6 of the Laws of 2007.

Subpart 151-3 was adopted to comply with Workers' Compensation Law section 134(6)(c), which requires the Superintendent to promulgate regulations to establish workers compensation premium credits for employers insured by the State Insurance Fund or another workers compensation insurer that implements a safety incentive program, drug and alcohol prevention program, or a return to work program, and to require re-certification on an annual basis.

Subpart 151-3 was amended effective June 1, 2013 (State Register April 24, 2013) as part of a consolidated consensus rulemaking to revise references that were outdated as a result of the consolidation of the New York State Insurance and Banking Departments into the Department of Financial Services, and made certain other technical changes (e.g., grammatical corrections and repeal of obsolete forms). The rulemaking was amended effective August 1, 2013 (State Register June 5, 2013) to change the effective date.

Subpart 151-3 was amended effective November 23, 2016 (State Register November 23, 2016) to implement part A of chapter 60 of the Laws of 2014 by requiring, for each workers' compensation insurance policy issued or renewed in New York State, an insurer to provide a credit to a health care facility that implements and maintains a safe patient handling program that meets the requirements of Public Health Law section 2997-(k)(2). The amount of the credit and the manner in which it is applied must be in accordance with the approved manual filed by the rate service organization ("RSO") of which the insurer is a member. The rule also required every workers' compensation RSO to file certain information with the Superintendent by June 1 of each year so that the Superintendent could collect information for the statutorily-required reports that were due to the Legislature in 2018 and 2020.

- Consolidated Amendment of Parts 52 (Insurance Regulation 62) (Minimum Standards for the Form, Content and Sale of Health Insurance, Including Standards for Full and Fair Disclosure), 215

(Insurance Regulation 34) (Advertisements of Accident and Health Insurance), 360 (Insurance Regulation 145) (Rules to Assure an Orderly Implementation of Ongoing Operation of Open Enrollment and Community Rating of Individual and Small Group Health Insurance), 361 (Insurance Regulation 146) (Establishment and Operation of Market Stabilization Mechanisms for Individual and Small Group Health Insurance and Medicare Supplement Insurance), and Addition of Part 58 (Insurance Regulation 193) (Minimum Standards for the Form, Content and Sale of Medicare Supplement Insurance) to Title 11 NYCRR, effective May 5, 2010 (State Register May 5, 2010) .

Statutory Authority: Federal Social Security Act (42 U.S.C. section 1395ss); Insurance Law sections 201, 301, 3201, 3216, 3217, 3218, 3221, 3231, 3232, 4235, and article 43.

In 1992, Congress enacted the federal Omnibus Budget Reconciliation Act of 1990 which establishes uniform requirements to govern Medicare supplement insurance. In 1992, the Department amended regulatory provisions pertaining to the rules for the regulation of Medicare supplement insurance to ensure compliance with federal standards. In 2008, Congress amended federal law to revise the standards governing Medicare supplement insurance plans. These regulations were amended to conform to federal requirements, as set forth in the revised NAIC Medicare Supplement Insurance Minimum Standards Model Act.

Part 52 was amended effective March 30, 2011 (State Register March 30, 2011) to establish minimum standards for internal appeal procedures for long-term care insurance, nursing home and home care insurance, nursing home insurance only, and home care insurance only.

Parts 52, 58, 215, and 360 were amended effective June 1, 2013 (State Register April 24, 2013) as part of a consolidated consensus rulemaking to revise references that were outdated as a result of the consolidation of the New York State Insurance and Banking Departments into the Department of Financial Services, and made certain other technical changes (e.g., grammatical corrections and repeal of obsolete

forms). The rulemaking was amended effective August 1, 2013 (State Register June 5, 2013) to change the effective date.

Part 52 was amended effective September 18, 2016 (State Register 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. Conversion therapy refers to any practice by a mental health professional that seeks to change an individual's sexual orientation or gender identity, including efforts to change behaviors, gender expressions, or to eliminate or reduce sexual or romantic attractions or feelings toward individuals of the same sex. Conversion therapy has been repudiated and discredited by medical and professional organizations as same-sex attraction and orientation in adolescents is not abnormal or a mental disorder, and conversion therapy has been found to be harmful to patients. The amendment therefore prohibits insurers from providing coverage for conversion therapy for insureds under 18 years old.

Part 52 was amended effective November 16, 2016 (State Register November 16, 2016) to allow a blanket accident insurance policy that is issued in accordance with General Business Law section 1015.11 to contain a provision that its benefits are excess or always secondary to any plan, with respect to insurance for professional combative sports and professional wrestling in New York State.

Part 52 was amended effective August 4, 2017 (State Register June 21, 2017) to require an insurer to allow, where the insured's physician's prescription so 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.

Part 52 was amended effective August 4, 2017 (State Register June 21, 2017) to make explicit that individual, group and blanket accident insurance policies and contracts that provide 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. The amendment provides for an optional, limited exemption for religious employers.

Part 52 was amended effective October 3, 2018 (State Register 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 provides 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 (“EHBs”) if the EHB provisions in 42 U.S.C. section 18022 and 45 C.F.R. section 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 will continue to have coverage for these benefits. The rule, with regard to a small or large group or individual accident and health insurance policy that provides 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, reaffirms that an issuer (i.e., insurer or health maintenance organization) is 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.

Part 52 was amended effective October 31, 2018 (State Register 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.

Part 52 was amended effective November 25, 2018 (State Register September 26, 2018) to provide that every insurer that delivers or issues for delivery in New York State an accident and health insurance

policy that provides hospital, surgical, or medical expense coverage and provides coverage for medication for the detoxification or maintenance treatment of a substance use disorder shall include in the policy processes that allow 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.

Part 52 was amended effective August 11, 2019 (State Register June 12, 2019) to require an insurance policy or contract, including a child health insurance plan policy or contract, that provides 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 is covered under a different policy than the mother and a pediatric provider performs the screening and referral.

Part 52 was amended effective January 1, 2020 (State Register November 6, 2019) to implement Chapter 25 of the Laws of 2019 and Part M of Chapter 57 of the Laws of 2019, which amended Insurance Law sections 3216(i)(17)(E), 3221(l)(16), and 4303(cc) to require every policy or contract that provides medical, major medical, or similar comprehensive type coverage to provide broad contraceptive coverage, including coverage for all U.S. Food and Drug Administration-approved contraceptive drugs, devices, and other products. Chapter 25 also requires the Superintendent to promulgate regulations establishing 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. This amendment establishes such a process.

Additional amendments were made to Part 52 as described above.

Part 58 (Insurance Regulation 193) was amended effective January 1, 2020 (State Register November 27, 2019) to require insurers issuing Medicare supplement insurance policies to conform with

the revised NAIC model regulation for Medicare supplement insurance, as required by 42 U.S.C. section 1395ss of the federal Social Security Act.

The federal Medicare Access and CHIP Reauthorization Act of 2015 (“MACRA”) included changes to the standardized Medicare supplement insurance plans. On August 29, 2016, the NAIC adopted a revised model regulation to implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act. Federal law provides that a state will lose its ability to regulate Medicare supplement insurance unless it amends its regulatory programs to implement all new federal statutory requirements and applicable changes to the NAIC Model standards. On or after January 1, 2020, insurers could not offer Plans C or F to newly eligible Medicare beneficiaries. Existing insureds covered under Plans C or F prior to January 1, 2020 could continue to renew their coverage pursuant to guaranteed renewability. “Newly eligible” is defined as those individuals who first become eligible for Medicare due to age, disability, or end-stage renal disease on or after January 1, 2020. On or after January 1, 2020, insurers offering Medicare supplement plans must offer either Plan D or G in addition to Plans A and B. A new High Deductible Plan G was created and could be offered starting January 1, 2020. The changes required by MACRA, as set forth in the NAIC Model Regulation, were the only substantive changes being made to New York’s Medicare supplement insurance regulatory program.

Part 361 (Insurance Regulation 146) was amended effective August 15, 2018 (State Register August 15, 2018) to implement a market stabilization pool for the individual and small group health insurance markets if, after reviewing the impact of the federal risk adjustment program on this market, the Superintendent determines that a market stabilization mechanism is a necessary amelioration. This rule ameliorates a possible disproportionate impact that federal risk adjustment may have on insurers and health maintenance organizations, addresses the needs of the individual and small group health insurance markets in New York, and prevents unnecessary instability in the overall health insurance market.

- Amendment to Part 68 (Insurance Regulation 83) (Charges for Professional Health Services) of Title 11 NYCRR, effective September 22, 2010 (September 22, 2010).

Statutory authority: Insurance Law sections 201, 301, 2601, 5221, and article 51.

This rule established, for the purposes of no-fault reimbursement, a fee schedule for dental services because at the time the Workers' Compensation Board had not established a fee schedule for such services. In 2009, the Workers' Compensation Board adopted a dental fee schedule effective March 1, 2009. This amendment repealed Part A of Appendix 17-C to Part 68 that pertains to the fee schedule previously established by the then-Insurance Department for dental services. The charges for dental services are covered by the fee schedule established by the Workers' Compensation Board.

Subpart 68 was amended effective June 1, 2013 (State Register April 24, 2013) as part of a consolidated consensus rulemaking to revise references that were outdated as a result of the consolidation of the New York State Insurance and Banking Departments into the Department of Financial Services, and made certain other technical changes (e.g., grammatical corrections and repeal of obsolete forms). The rulemaking was amended effective August 1, 2013 (State Register June 5, 2013) to change the effective date.

Part 68 was amended effective January 9, 2018 (State Register 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 has 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 renders treatment has established a fee schedule for services rendered in connection with motor vehicle-related injuries, the prevailing fee shall be the amount prescribed in that fee schedule for the respective service. This limit on reimbursement does not apply to services provided

out-of-state that would constitute emergency care, that is provided to a non-resident of this State, or provided to a resident of this State who, at the time of treatment, is residing in the jurisdiction where the treatment is being rendered for reasons unrelated to the treatment.

The amendment was necessary to combat the marked increase in the submission of over-inflated claims from out-of-state providers, largely because of the lack of a uniform interpretation of the prevailing fees outside the State.

Part 68 was amended effective August 7, 2019 (State Register August 7, 2019) to delay for 18 months the adoption of amendments to the workers' compensation fee schedules, with certain exceptions, that are required to be used in the no-fault system pursuant to Insurance Law section 5108. Because health service payments account for more than 90% of the total loss costs in no-fault, insurers needed time to study the impact of the changes in the medical fee schedules on no-fault to appropriately adjust no-fault premium rates to absorb the noticeable increase in no-fault claims costs.

Additional amendments were made to Part 68 as described above.

- Amendment to Part 125 (Insurance Regulations 17, 20, and 20-A) (Credit for Reinsurance from Unauthorized Insurers) of Title 11 NYCRR, effective January 1, 2011 (State Register December 8, 2010).

Statutory Authority: Insurance Law sections 110, 201, 301, 307(a), 308, 332, 1301(a)(9), 1301(c), and 1308.

This rule applies to insurers authorized to do business in New York State and addresses whether a ceding insurer may take credit on its balance sheet, as an asset or deduction from reserves, for reinsurance recoverable from an unauthorized assuming insurer. The amendment established certain requirements for ceding insurers and reinsurers and placed the onus on ceding insurers to prudently manage their risk.

Part 125 was amended effective March 20, 2013 (State Register March 20, 2013), to establish rules governing when an authorized ceding insurer may take credit on its balance sheet for a reinsurance recoverable.

Part 125 was amended effective September 29, 2021 (State Register September 29, 2021) to conform to the covered agreements entered into between the United States (“U.S.”) and the European Union (“E.U.”) and the U.S. and the United Kingdom (“U.K.”) by eliminating reinsurance collateral requirements and local presence requirements for certain E.U.-domiciled and U.K.-domiciled assuming insurers. The amendment also provides reciprocal jurisdiction status for accredited U.S. jurisdictions and qualified jurisdictions if they meet certain requirements.

The following Insurance rulemakings were adopted in 2005:

- Amendment to Part 39 (Insurance Regulation 144) (Minimum Standards for the New York State Partnership for Long-Term Care Program) of Title 11 NYCRR, effective January 26, 2005 (State Register January 26, 2005).

Statutory Authority: Insurance Law sections 201, 301, 3201, 3217, 3221, 3229, 4235, 4237 and article 43; Social Services Law section 367-f.

By chapter 454 of the Laws of 1989, as amended by chapter 659 of the Laws of 1997, the Legislature enacted the Partnership for Long-Term Care Program (“Program”) to provide that citizens of New York State who purchase a long-term care insurance policy/certificate under the Program, and who exhaust benefits under such policy/certificate, will become eligible for long-term care protection through the New York State Medicaid program. Part 39 establishes the standards and requirements relating to the Program. This amendment was necessary to expand the plan design options under the Program. Prior to the amendment, there was only one plan design offered.

Part 39 was amended effective June 1, 2012 (State Register May 16, 2012) to amend minimum standards for inflation protection, to add a new plan, and to add disclosure requirements relating to reciprocity.

Part 39 was amended effective June 1, 2013 (State Register April 24, 2013) as part of a consolidated consensus rulemaking to revise references that were outdated as a result of the consolidation of the New York State Insurance and Banking Departments into the Department of Financial Services, and made certain other technical changes (e.g., grammatical corrections and repeal of obsolete forms). The rulemaking was amended effective August 1, 2013 (State Register June 5, 2013) to change the effective date.

Part 39 was amended as a consensus rulemaking effective January 1, 2014 (State Register November 13, 2013) to update the minimum daily benefit amounts (“DBAs”) for the partnership long term care (“PLTC”) coverage. The amendment set forth the minimum DBAs for PLTC coverage for the period January 1, 2014 – January 1, 2023.

Part 39 was amended as a consensus rulemaking, filed December 19, 2023 and effective January 3, 2024 (State Register January 3, 2024), to update the current minimum DBAs for PLTC coverage for the period January 1, 2024 – January 1, 2033, using the minimum inflation protection amount of three and one-half percent required in the regulation.

- Addition of New Part 217 (Insurance Regulation 178) (Prompt Payment of Health Insurance Claims) to Title 11 NYCRR, effective February 2, 2005 (State Register February 2, 2005).

Statutory Authority: Insurance Law sections 201, 301, 1109, 2403, 3224 and 3224-a.

Chapters 637 and 666 of the Laws of 1997, which amended the Insurance Law relating to the settlement of claims for health care and payment for health care services, took effect January 22, 1998. The legislation was intended to set timeframes within which insurers and health maintenance

organizations must pay undisputed claims for health care services submitted by subscribers and health care providers. One area of continuing concern had been determining when a claim was deemed to be “clean,” and therefore ready for payment. This regulation created claims payment guidelines for determining when a health care insurance claim is considered complete and ready for payment. By its terms, the regulation is applicable only to claims submitted on paper.

Part 217 was amended effective December 27, 2006 (State Register December 27, 2006) to update the claim payment guidelines for determining when a health care insurance claim is considered complete and ready for payment.

Part 217 was amended effective July 15, 2009 (State Register April 1, 2009) as part of a consolidated rulemaking also amending Part 52 to facilitate the timely processing and payment of health insurance claims in those circumstances where the patient is covered by more than one policy issued by different insurers.

- 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 September 7, 2005 (State Register September 7, 2005).

Statutory Authority: Federal Social Security Act (42 U.S.C. section 1395ss) and Insurance Law sections 201, 301, 3201, 3216, 3217, 3218, 3221, 3231, 3232, 4235, 4237, and article 43.

The federal Medicare Prescription Drug, Improvement and Modernization Act of 2003 (“MMA”) included several changes to the standardized Medicare supplement insurance plans. The MMA charged the NAIC’s Senior Issues Task Force with the task of updating the standards for Medicare supplement insurance. This updating of standards was accomplished through adoption of a revised Model Regulation to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act on September 8, 2004. This amendment conforms Regulation 62 to the requirements of the MMA.

Part 52 was amended effective November 7, 2007 (State Register November 7, 2007) to clarify when health plans may exclude coverage for cosmetic surgery.

Part 52 was amended effective July 15, 2009 (State Register April 1, 2009) as part of a consolidated rulemaking also amending Part 217 to facilitate the timely processing and payment of health insurance claims in those circumstances where the patient is covered by more than one policy issued by different insurers.

Part 52 was amended effective December 9, 2009 (State Register December 9, 2009) to comply with Insurance Law section 3234(b), pursuant to *Benesowitz v. Metropolitan Life Insurance Company*.

Additional amendments were made to Part 52 as described above.

- Amendment to Part 41 (Insurance Regulation 143) (Accelerated Payment of Death Benefits under a Life Insurance Policy) of Title 11 NYCRR, effective December 7, 2005 (State Register December 7, 2005).

Statutory Authority: Insurance Law sections 201, 301, 1113, 1304, 3201, 3209, 4217 and 4517.

Chapter 537 of the Laws of 2000 added section 1113(a)(1)(C) and (D) to the Insurance Law, allowing insurers to offer an insured the option of accelerating the death benefit under a life insurance policy when the insured is chronically ill and may need additional financial resources to assist with meeting long term needs and expenses. Access to the death benefit of a life insurance policy provides an alternate way for insureds to meet increasing long-term care needs and related expenses. The legislation also required that the accelerated death benefit payments for chronic illness be federally tax-qualified. The standards set forth by this regulation provide consumers with proper disclosure about this benefit, and they have helped to ensure the favorable federal tax treatment for the payment of the benefits.

Part 41 was amended effective June 1, 2013 (State Register April 24, 2013) as part of a consolidated consensus rulemaking to revise references that were outdated as a result of the consolidation

of the New York State Insurance and Banking Departments into the Department of Financial Services, and made certain other technical changes (e.g., grammatical corrections and repeal of obsolete forms). The rulemaking was amended effective August 1, 2013 (State Register June 5, 2013) to change the effective date.

Part 41 was amended effective November 27, 2019 (State Register November 27, 2019) to comport with amendments made to the Insurance Law, including an amendment that an insurer issuing accelerated death benefits under Insurance Law section 1113(a)(1)(D) is no longer required to be a qualified long-term care insurance carrier under Internal Revenue Code section 4980C (26 U.S.C.S. section 4980C).

The following Insurance rulemakings were adopted in 2000:

- Addition of Part 261 (Insurance Regulation 161) (Prepaid Legal Services Plans), Addition of Part 262 (Insurance Regulation 162) (Legal Services Insurance), Amendment to Part 26 (Insurance Regulation 25) (Independent Adjusters), Amendment to Part 161 (Insurance Regulation 129) (Flexible Rating System; Rating Plans; Tort Reform Re-filing Requirements), Amendment to Part 260 (Insurance Regulation 132) (Experimental Monoline Prepaid Legal Services Plans), Amendment to Part 73 (Insurance Regulation 121) (Claims-Made Policies; Scope of Application; Minimum Standards), and Amendment to Part 71 (Insurance Regulation 107) (Legal Defense Costs in Liability Policies) (State Register of March 22, 2000) of Title 11 NYCRR, effective March 22, 2000 (State Register March 22, 2000).

Statutory Authority: Insurance Law sections 201, 301, 1113(a)(29), and 1116, and article 23; chapter 65 of the Laws of 1998.

Prior to enactment of chapter 65 of the Laws of 1998 (“Chapter 65”), Insurance Law section 1116 authorized insurers to offer experimental plans of prepaid legal services insurance, and, except in connection with such plans, the Insurance Law did not authorize insurers to provide legal services

insurance. Chapter 65 added a new paragraph 29 to Insurance Law section 1111(a), effective April 1, 1999, setting forth a new kind of insurance entitled “legal services insurance.” Legal services insurance means insurance providing legal services or reimbursement of the cost of legal services. Chapter 65 also amended Insurance Law section 1116 (retitled “Prepaid legal services plans and legal services insurance”).

The new regulations and amendments to existing regulations implemented the legislative purpose to make affordable legal services insurance and prepaid legal services plans available in New York, subject to appropriate safeguards and limitations.

Part 71 was amended effective April 17, 2002 (State Register April 17, 2002) to establish lines of insurance that may be written to provide for defense of a claim to be provided within policy limits (defense within limits).

Parts 261 and 262 were amended and Part 260 was repealed effective August 13, 2003 (State Register August 13, 2003) to implement chapter 28 of the Laws of 2003, which made permanent the provisions of the Insurance Law authorizing the writing of prepaid legal services plans and legal services insurance and repealing the authorization for the writing of experimental monoline legal services insurance.

Part 26 was amended effective May 7, 2003 (State Register May 7, 2003) as part of a consolidated consensus rulemaking to update regulations and statutory references in compliance with the Insurance Law recodification, and to add limited liability companies to the list of permissible applicants for certain licenses under Insurance Law article 21.

Part 26 was amended effective March 31, 2004 (State Register March 31, 2004) to conform language relating to notification to the Insurance Department of licensees’ changes of address to reflect statutory changes implemented in chapter 687 of the Laws of 2003.

Part 261 was amended effective February 15, 2006 (State Register February 15, 2006) to establish requirements for prepaid legal service plans authorized pursuant to Insurance Law section 1116, including the recognition of groups to whom policies and certificates may be issued on a group basis. This rulemaking establishes that a group policy may be issued to a college, school or other institution of learning, or to the head or principal thereof (who or which shall be deemed the policyholder), covering the students of such college, school, or other institution of learning.

Part 261 was amended effective January 10, 2007 (State Register January 10, 2007) to permit legal services insurance to qualify as a special risk only if the coverage of the policy of liability insurance of which it is a part also qualifies as special risk coverage pursuant to Insurance Law article 63 and 11 NYCRR Part 16, and the policy is written on that basis. Prior to this amendment, legal services insurance that was written as part of a policy of liability insurance was subject to the filing and approval requirements of Insurance Law article 23 and did not qualify as a special risk coverage pursuant to 11 NYCRR Part 16. Thus, a liability policy that might otherwise be exempt from article 23 filing requirements, except for the fact that it includes legal services insurance coverage, was required to be submitted to the Department for approval before it could be used.

Parts 26, 73, 161, and 261 were amended effective June 1, 2013 (State Register April 24, 2013) as part of a consolidated consensus rulemaking to revise references that were outdated as a result of the consolidation of the New York State Insurance and Banking Departments into the Department of Financial Services, and made certain other technical changes (e.g., grammatical corrections and repeal of obsolete forms). The rulemaking was amended effective August 1, 2013 (State Register June 5, 2013) to change the effective date.

- Amendment to Part 50 (Insurance Regulation 47) (Separate Accounts and Separate Account Annuities) of Title 11 NYCRR, effective April 26, 2000 (State Register April 26, 2000).

Statutory Authority: Insurance Law sections 201, 301, 3201, 4240 and 4527.

New York Insurance Law section 4240 authorizes insurers to provide life insurance and annuity benefits that vary according to the investment experience of an insurer's separate account. This amendment to Insurance Regulation 47 allows insurers to use additional methods in calculating variable annuity payments where the Superintendent has determined the methods to be fair, equitable, reasonable and not less favorable to participants or annuitants than the methods previously employed. The amendment is consistent with the legislative objective of permitting insurers to provide variable annuity income payments to consumers that equitably reflect the investment performance of the separate account.

Part 50 was amended effective June 26, 2002 (State Register June 26, 2002) as part of a consolidated consensus rulemaking to update the regulations and eliminate obsolete provisions.

Part 50 was amended in 2022 as described above.

- Amendment to Part 70 (Insurance Regulation 101) (Medical Malpractice Insurance Rate Modifications, Provisional Rates, Required Policy Provisions and Availability of Additional Coverages) of Title 11 NYCRR, effective July 12, 2000 (State Register July 12, 2000).

Statutory Authority: Insurance Law sections 201, 301, 1113(a)(13) and (14), 3426, 3436, 5504, 5907, 6302, 6303 and article 23 of the Insurance Law; and chapter 147 of the Laws of 1999 as amended by part JJ of chapter 407 of the Laws of 1999.

This amendment establishes physicians and surgeons' medical malpractice insurance rates and appropriate surcharges for the policy year July 1, 1999 through June 30, 2000 and establishes rules to collect and allocate surcharges to recover deficits based on past experience.

Part 70 was amended effective June 20, 2001 (State Register June 20, 2001) to establish the rates and surcharges for primary policies of physicians and surgeons' medical malpractice insurance effective July 1, 2000.

Since 2001, the Superintendent has continued to establish physicians and surgeons' medical malpractice insurance rates and appropriate surcharges pursuant to section 40 of chapter 266 of the Laws of 1986 and amendments thereto. The Superintendent's authority has been extended periodically by the Legislature.

Part 70 was amended effective June 1, 2013 (State Register April 24, 2013) as part of a consolidated consensus rulemaking to revise references that were outdated as a result of the consolidation of the New York State Insurance and Banking Departments into the Department of Financial Services, and made certain other technical changes (e.g., grammatical corrections and repeal of obsolete forms). The rulemaking was amended effective August 1, 2013 (State Register June 5, 2013) to change the effective date.

- Amendment to Part 126 (Insurance Regulation 114) (Trust Agreements) of Title 11 NYCRR, effective August 2, 2000 (State Register August 2, 2000).

Statutory Authority: Insurance Law sections 201, 301, and 1301(a)(14).

This amendment specifically permits a trust company to be the trustee under a trust agreement. Previously, the regulation required that the trustee be a bank that either was a member of the Federal Reserve or had a New York State charter.

- Amendment to Subpart 62-4 (Insurance Regulation 96) (Anti-Arson Application) of Title 11 NYCRR, effective September 27, 2000 (State Register September 27, 2000).

Statutory Authority: Insurance Law sections 201, 301, and 340.

New York Insurance Law section 3403 specifies the circumstances under which an anti-arson application must be completed by an applicant for a new or renewal policy or binder covering the perils of fire or explosion. Subpart 62-4 creates the anti-arson application form that elicits the disclosure of

certain types of information. The regulation also provides for cancellation of coverage if the application is not received within the statutorily mandated time frame.

Chapter 456 of the Laws of 1999 added a new subsection to Insurance Law section 3403 that allows the Superintendent to suspend or waive the requirement that the insurer use the anti-arson application upon renewal of policies if substantially equivalent information can be obtained by the insurer by other means. This amendment to Subpart 62-4 establishes a procedure whereby an insurer may request such suspension or waiver.

Subpart 62-4 was amended effective June 1, 2013 (State Register April 24, 2013) as part of a consolidated consensus rulemaking to revise references that were outdated as a result of the consolidation of the New York State Insurance and Banking Departments into the Department of Financial Services, and made certain other technical changes (e.g., grammatical corrections and repeal of obsolete forms). The rulemaking was amended effective August 1, 2013 (State Register June 5, 2013) to change the effective date.

Subpart 62-4 was amended effective June 9, 2021 (State Register June 9, 2021) as part of a consolidated consensus rulemaking to comport with an amended statute and update the statutory and regulatory authorities cited therein.

- Amendment to Part 360 (Insurance Regulation 145) (Open Enrollment and Community Rating of Individual and Small Group Health Insurance) of Title 11 NYCRR, adopted December 12, 2000, effective January 3, 2001 (State Register January 3, 2001).

Statutory authority: Insurance Law sections 201, 301, 1109, 3201, 3216, 3217, 3221, 3232, 3233, 4235, 4237, articles 43 and 45; and chapter 501 of the Laws of 1992.

Chapter 501 of the Laws of 1992 was enacted to increase access to affordable health insurance coverage through mandatory community rating and open enrollment. Part 360 was first promulgated in

1993 to ensure that the objectives of the legislation were realized. This amendment prohibits premium discounts and per case charges – mechanisms that tended to result in coverage for smaller groups becoming more expensive and less accessible relative to larger groups. The amendment also prohibits insurers from establishing commission payment schedules that would make agents and brokers reluctant to spend time and resources selling and procuring coverage for smaller groups.

Part 360 was amended effective June 1, 2013 (State Register April 24, 2013) as part of a consolidated consensus rulemaking to revise references that were outdated as a result of the consolidation of the New York State Insurance and Banking Departments into the Department of Financial Services, and made certain other technical changes (e.g., grammatical corrections and repeal of obsolete forms). The rulemaking was amended effective August 1, 2013 (State Register June 5, 2013) to change the effective date.

- Amendment to Part 361 (Insurance Regulation 146) (Pooling Mechanism for Individual and Small Group Health Insurance) of Title 11 NYCRR, effective December 13, 2000 (State Register December 13, 2000).

Statutory authority: Insurance Law sections 201, 301, 1109, 3201, 3216, 3217, 3221, 3231, 3232, 3233, 4235, 4304, 4305, 4317, 4318, 4321, 4322, and article 45; and chapter 501 of the Laws of 1992, and chapter 504 of the Laws of 1995.

Chapter 501 of the Laws of 1992 established requirements for open enrollment, community rating, and portability of individual and small group health insurance coverage, and it also provided for a pooling mechanism for individual and small group health insurance to ensure the stabilization of health insurance markets and premium rates. Chapter 504 of the Laws of 1995 specifically required the phase-out of demographic based pooling mechanisms and the expansion of pooling processes designed to share the risk of or equalize high cost claims or the claims of high cost persons.

This amendment implements the legislative objective of chapter 504, while also retaining and enhancing consumer protections, by assuring that coverage is made available to all segments of the population at reasonable rates.

Effective May 22, 2002 (State Register May 22, 2002), the Department adopted another amendment to Part 361 to implement and assure the ongoing operation of open enrollment and community rating, including mechanisms designed to ensure the stability of the individual and small group health insurance markets. Chapter 504 of the Laws of 1995 (“Chapter 504”) provided for modification of pooling processes designed to share the risk of insurers and health maintenance organizations (“HMOs”) providing individual and small group health insurance coverage.

This amendment exercises the statutory authority and responsibility placed upon the Superintendent to implement and assure the ongoing operation of open enrollment and community rating, including mechanisms designed to ensure the stability of the individual and small group health insurance markets. Chapter 504 permitted the Superintendent, after January 1, 2000, to establish more than one type of mechanism for insurers and HMOs to share risks or prevent undue variation in claims costs. This amendment phased out (as of January 1, 2000) pooling based on demographics for individual and small group coverage, other than Medicare supplement insurance, and replaced them with modified specified medical condition pools. The rule continues a demographic pooling mechanism for Medicare supplement insurance.

Effective June 25, 2008 (State Register June 25, 2008), the Department adopted another amendment to Part 361 to phase out the existing market stabilization pool. Payments, collections, and data reports were not required in 2005, and the new pooling methodology established by the amendment was established in 2006 and became fully operational in 2008.

Effective May 5, 2010 (State Register May 5, 2010), Part 361 was amended as part of a consolidation of regulations that were amended to address Medicare Supplement Insurance as discussed *supra*.

Effective August 15, 2018 (State Register August 15, 2018), the Department amended Part 361 to authorize the Superintendent to implement a market stabilization pool for the small group health insurance market if, after reviewing the impact of the federal risk adjustment program on this market, the Superintendent determines that a market stabilization mechanism is a necessary amelioration. The rule: (1) ameliorates a possible disproportionate impact that federal risk adjustment may have on insurers and health maintenance organizations; (2) addresses the needs of the small group health insurance market in New York; and (3) prevents unnecessary instability in the health insurance market.

- Adoption of Part 310 (Regulation 167) (Product or System Group Policies) of Title 11 NYCRR, effective October 18, 2000 (State Register October 18, 2000).

Statutory Authority: Insurance Law sections 201, 301, 3446 and article 23 and chapter 187 of the Laws of 1999.

Chapter 187 of the Laws of 1999 added a new section 3446 to the Insurance Law that permits a group policy to be issued to a manufacturer, distributor, or installer of a product or system, or to a trustee on behalf of more than one manufacturer, distributor, or installer. The regulation implements Insurance Law section 3446 by establishing requirements for issuance of certificates to group members, payment of premium, and cancellation and renewal.

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.

PART 2. BANKING RULEMAKINGS

The following Banking rulemakings were adopted in 2022:

- Amendment to Part 400.11 of the Superintendent's Regulations (Maximum Fees) of Title 3 NYCRR, filed with the Department of State on December 28, 2022, and effective January 18, 2023 (State Register January 18, 2023).

Statutory Authority: Banking Law sections 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 decrease the maximum fee check cashers may charge customers and to eliminate a provision for automatic annual inflation adjustments of the maximum fees.

The following Banking rulemakings were adopted in 2020:

- Amendment to Part 9.3 of the Superintendent's Regulations (Basic Banking Accounts: Required Features) of Title 3 NYCRR, effective January 22, 2020 (State Register January 22, 2020).

Statutory Authority: Banking Law sections 14.1 and 14-f.

The rule outlines the minimum number of withdrawal transactions that may be made during any periodic cycle at no additional charge to the account holder for a basic banking account in New York. The amendment sets forth the minimum number of withdrawal transactions that may be made during any periodic cycle at no additional charge to the account holder for account holders 65 years of age and older and account holders under 65 years of age.

The Department issued an Industry Letter (Offering Bank On Accounts as an Alternative to New York Basic Banking Accounts) on April 15, 2022, which is available on the Department's website at dfs.ny.gov/industry_guidance/industry_letters. Based on the Department's interpretation of Part 9.7, the Industry Letter provided banks with an alternative means to satisfy the requirements of Part 9.

- Adoption of new Part 79 to the Superintendent’s Regulations (Reverse Mortgage Loans) of Title 3 NYCRR, effective July 29, 2020 (State Register July 29, 2020).

Statutory Authority: Banking Law sections 6-h, 14; Real Property Law sections 280, 280-a and 280-b; Financial Services Law sections 202 and 302.

The rulemaking repealed the former Part 79 and replaced it with a new Part 79 to implement Real Property Law section 280-b (Federal Home Equity Conversion Mortgage Regulation).

- Repeal of Supervisory Procedure G 106 (Public Access to Department of Financial Services Records) of Title 3 NYCRR, effective May 20, 2020 (State Register May 20, 2020).

Statutory Authority: Banking Law section 14 and Financial Services Law sections 202, 302.

Supervisory Procedure G 106 was repealed and replaced by new Part 3 of Title 23. See Financial Services rulemakings below.

- Repeal of Supervisory Procedure G 111 (Administrative Adjudication Policy and Plan; Procedural Requirements) of Title 3 NYCRR, effective March 25, 2020 (State Register March 25, 2020).

Statutory Authority: Financial Services Law sections 202, 302 and State Administrative Procedure Act Article 3.

Supervisory Procedure G 111 was repealed and replaced by Part 2 of Title 23. See Financial Services rulemakings below.

There were no Banking rulemakings adopted in 2015 or 2010.

The following Banking rulemakings were adopted in 2005:

- Adoption of New Part 6.7 of the General Regulations of the Superintendent (Additional Authority of Banks, Trust Companies, Savings Banks and Savings and Loan Associations Pursuant to Banking Law §§ 14-g and 14-h; Additional Authority of Banks and Trust Companies to Underwrite and Deal in Certain

Securities, including Municipal Bonds) of Title 3 NYCRR, effective November 9, 2005 (State Register November 9, 2005).

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

This rule gives New York state-chartered banks and trust companies the power to underwrite and deal in certain securities including municipal bonds. This rulemaking is necessary to give New York state-chartered banks and trust companies parity with national banks in underwriting and dealing in municipal revenue bonds and other government securities.

- Amendment to Part 70.2 of the General Regulations of the Superintendent (Interlocking Directors and Officers of Banking Organizations and Bank Holding Companies: Exceptions) of Title 3 NYCRR, effective September 21, 2005 (State Register September 21, 2005).

Statutory Authority: Banking Law sections 130(3)(b), 143(3)(b), 209(3), 247(5)(b), 399(5)(b) and 399-a(2).

This rule allows for an executive officer of a bank, trust company, bank holding company, foreign banking corporation, national bank, savings bank, savings and loan association, or federal savings and loan association to be the executive officer of any other such institution. This rulemaking is needed to eliminate the requirement that interlock permissions granted by the Banking Board must be expressed in a special regulation.

- Adoption of Consolidated Rulemaking Repealing Section 95.2 of Part 95 (Borrowings by Credit Unions) and Part 113 (Investment by Credit Unions in the Shares of Central Credit Unions Located in this State) of the General Regulations of the Superintendent; Amending Parts 96 (Lending Limits for Credit Unions) and 97 (Investment in Credit Union Organizations) of the General Regulations of the Superintendent; and Adding New Parts 326 (Maintenance of Reserves by Credit Unions) and 327 of the Superintendent's Regulations of Title 3 NYCRR, effective June 22, 2005 (State Register June 22, 2005).

Statutory Authority: Banking Law sections 14(1), 453(5), 454, 458(9), and 458-a.

The consolidated rulemaking repealed section 95.2, which outlined borrowings by credit unions, and Part 113, which set forth the limitations of investment by credit unions in the shares of central credit unions located in this state.

The rulemaking amended section 96.2, which describes how a credit union may make a loan to a member secured by that member's shares.

The rulemaking amended section 96.6, which provides the maximum amount that a credit union may lend to a member without permission of the Superintendent and that a loan to a member may not exceed 25 percent of the net worth of the credit union.

The rulemaking amended section 97.5, which sets forth the aggregate limit of a credit union's investments in the stock, capital notes, and debentures of credit union organizations.

The rulemaking added new Part 326, which outlines the maintenance of reserves by credit unions.

The rulemaking added new Part 327, which outlines the requirements for investments by credit unions in the shares of corporate credit unions located in New York.

The consolidated rulemaking was needed to conform the regulations to changes in the Banking Law intended to provide New York state-chartered credit unions with powers comparable to, and competitive with, those of federally chartered credit unions.

- Amendments to Part 207 of the General Regulations of the Superintendent (Permission to Serve as an Executive Officer, Director or Trustee of Banks, Trust Companies, Savings Banks, Savings and Loan Associations, Foreign Banking Corporations, National Banks, Federal Savings and Loan Associations and Banking Holding Companies) of Title 3 NYCRR, effective September 21, 2005 (State Register September 21, 2005).

Statutory Authority: Banking Law sections 130(3)(b), 143(3)(b), 209(3), 247(5)(b) and 399-a(2).

This rule allows executive officer and director interlocks at banking organizations. This rulemaking is needed to allow an individual to serve as both an executive officer of an institution and a director of another institution.

- Amendment to Part 301.5 of the Superintendent’s Regulations (Security at Automated Teller Machines: Type and Frequency of Video Tapes or Digital Recording Media for ATM surveillance systems) of Title 3 NYCRR effective February 16, 2005 (State Register February 16, 2005).

Statutory Authority: Banking Law sections 12 and 75-n.

The rule sets forth the requirements for the quality and maintenance of surveillance equipment at Automatic Teller Machines. The amendment to Part 301.5 provides detailed standards regarding the retention of surveillance image records.

- Consolidated Rulemaking Amending Supervisory Policies and Procedures (“SPP”) G 4 (Public Accommodation Offices, Adjoining Facilities, and Adjacent Facilities), G 6 (Branching Policy for Banking Organizations), G 104 (Application for a Public Accommodation Office), G 105 (Application for a Change of Location or a Change of Designation of Principal Office), G 108 (Evidence of Compliance with Executive Law § 296-a), CB 103 (Application for Commercial Bank Branch Offices), SB 101 (Application for Savings Bank Branch Offices), and SL 101 (Authorization for Trust Powers for Savings and Loan Associations) of Title 3 NYCRR, effective July 27, 2005 (State Register July 27, 2005).

Statutory Authority: Banking Law sections 9-d, 14(1), 28, 29, and 195.

SPP G 4 outlines the procedure for the establishment of public accommodation offices, adjoining facilities, and adjacent facilities.

SPP G 6 outlines the Department’s policy regarding authorization of branches of state-chartered banking organizations.

SPP G 104 describes the requirements for a public accommodation office application.

SPP G 105 describes the process for the filing of a change of location or a change of designation of principal office.

SPP G 108 describes the procedure that a person, corporation, partnership, or other entity must follow when filing certain applications to evidence that it is in compliance with Executive Law § 296-a.

SPP CB 103 describes the application process for institutions wishing to open branch offices. SPP SB 101 describes the application process for savings banks wishing to open branch offices.

SPP SL 101 describes the application process for savings and loan associations wishing to open branch offices.

The rulemaking was needed to provide for an expedited branch application process for well-rated institutions; provide simplified application forms; eliminate outdated or unnecessary informational requirements; and establish more consistent application requirements for different types of banking institutions.

The following Banking rulemakings were adopted in 2000:

- Adoption of New Part 41 of the General Regulations of the Superintendent (Restrictions and Limitations on High Cost Home Loans) of Title 3 NYCRR, effective November 22, 2000 (State Register November 22, 2000).

Statutory Authority: Banking Law sections 6-i, 6-l, 13 and 14.

The rule sets forth the guidelines for the making of high-cost mortgage loans by regulated lenders. The adoption of Part 41 establishes various consumer protections with regard to the making of high-cost mortgage loans.

- Amendment to Part 301.5 of the Superintendent's Regulations (Security at Automated Teller Machines: Type and Frequency of Video Tapes or Digital Recording Media for ATM surveillance systems) of Title 3 NYCRR, effective June 21, 2000 (State Register June 21, 2000).

Statutory Authority: Banking Law sections 12 and 75-n.

The rule sets forth the requirements for the quality and maintenance of surveillance equipment at Automatic Teller Machines. The amendment to Part 301.5 provides detailed standards regarding video tape quality and usage.

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.

PART 3. FINANCIAL SERVICES REGULATIONS

The following Financial Services rulemakings were adopted in 2022:

- Amendment to Part 2 (Rules Governing the Procedures for Adjudicatory Proceedings Before the Department of Financial Services) of Title 23 NYCRR, effective June 22, 2022 (State Register June 22, 2022).
- Statutory Authority: Financial Services Law sections 102, 201, 202, 302 and 305 and State Administrative Procedure Act section 301.

The amendment to Part 2 added a new section 2.19 specifying that the Department will hold administrative hearings by videoconference unless a hearing officer determines to conduct a hearing where the parties, witnesses, and the hearing officer are physically present at the same location, or upon a finding of good cause shown by a party that a hearing should be so conducted.

Section 2.19 was amended effective July 6, 2022 (State Register July 6, 2022) to make a non-substantive change to subdivision (b) by replacing the word “within” with the words “at least”.

The following Financial Services rulemakings were adopted in 2020:

- Addition of new Part 3 (Public Access to Department Records) to Title 23 NYCRR, effective May 20, 2020 (State Register May 20, 2020).

Statutory Authority: Financial Services Law sections 202 and 302; Banking Law section 14; Insurance Law section 301; and Public Officers Law Article 6.

The addition of Part 3 to 23 NYCRR was part of a consolidated rulemaking that also repealed Supervisory Procedure Part G 106 of 3 NYCRR and 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 the Freedom of Information Law.

Comments on this rulemaking may be submitted to Pascale Jean-Baptiste, Principal Attorney – Pascale.JeanBaptiste@dfs.ny.gov; (212) 480-5289; New York State Department of Financial Services, One State Street, New York, NY 10004.

- Amendment to Part 500 (Certification of Compliance; Due Date) of Title 23 NYCRR, effective April 22, 2020 (State Register April 22, 2020).

Statutory Authority: Financial Services Law sections 102, 201, 202, 301, 302, and 408.

The amendment changed the date, from February to April, by which certificates of compliance required to be submitted to the Department under Part 500 must be received.

The Department adopted a second amendment to Part 500, effective November 1, 2023, to ensure that all entities regulated by DFS continue to have and maintain cybersecurity programs that meet certain minimum cybersecurity standards in order to protect consumers, continue operating in a safe and sound manner, protect the stability of our financial system, and address new and evolving cybersecurity threats with the most effective cybersecurity controls and best practices.

Comments on the amendments to Part 500 may be submitted to Joanne Berman, Counsel to the Cybersecurity Division - Joanne.Berman@dfs.ny.gov; (212) 709-1675; New York State Department of Financial Services, One State Street, New York, NY 10004.

- Addition of new Part 2 (Rules Governing the Procedures for Adjudicatory Proceedings Before the Department of Financial Services) to Title 23, effective March 25, 2020 (State Register March 25, 2020).

Statutory Authority: Financial Services Law sections 202 and 302 and the State Administrative Procedures Act.

The addition of Part 2 to 23 NYCRR was part of a consolidated rulemaking that also repealed Supervisory Procedure Part G 111 of 3 NYCRR and Part 4 of 11 NYCRR. The rulemaking repealed the separate Banking and Insurance rules governing adjudicatory proceedings that existed before the former individual departments were consolidated into the Department and replaced those rules with a new regulation to unify the procedures for adjudicatory proceedings before the Department.

Part 2 was amended on June 22, 2022 (State Register June 22, 2022) to add section 2.19 for the conduction of hearings by videoconference. The amendment was modified to correct a technical error on July 6, 2022 (State Register July 6, 2022).

Comments on this rulemaking 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.

- Addition of new Part 101 (Banking Division Assessments) to Title 23 NYCRR, effective February 12, 2020 (State Register February 12, 2020).

Statutory Authority: Banking Law sections 10, 11, and 14 and Financial Services Law sections 102, 201, 202, 206, 301, and 302.

All institutions regulated by the Department’s Banking Division are subject to assessment by the Department. The regulation merely formalizes the assessment methodology used by the Department’s Banking Division. The regulation also includes an additional special assessment provision that allows

certain costs of examinations to be borne by the entity examined and permits the Superintendent to exempt not-for-profit entities from assessments if the public benefit warrants an exemption.

Comments on this rulemaking may be submitted to George Bogdan, Senior Attorney – George.Bogdan@dfs.ny.gov; (212) 480-4758, New York State Department of Financial Services, One State Street, New York, NY 10004.

The following Financial Services rulemakings were adopted in 2015:

- Amendment to Part 1 (Debt Collection by Third-Party Debt Collectors and Debt Buyers) of Title 23 NYCRR, effective September 9, 2015 (State Register September 9, 2015).

Statutory Authority: Financial Services Law sections 202, 302, and 408.

The Financial Services Law is intended to promote the reduction and elimination of fraud, criminal abuse, and unethical conduct by, and with respect to, banking, insurance and other financial services institutions and their customers. Debt collectors have the potential to cause significant harm to New York’s consumers and residents when engaging in overzealous, mistaken, or fraudulent debt collection. Debt collection practices can contribute to personal bankruptcies, marital instability, loss of jobs, and invasions of individual privacy. The adopted rule is intended to ensure that any debt collector who collects on debt from a New York consumer or resident meets certain minimum disclosure standards, such as requiring additional information in the debt collector’s initial communications with a consumer and disclosing when a statute of limitations for a debt may be expired, prior to accepting payment on the debt. It also requires debt collectors to provide additional documentation to New York consumers or residents who dispute the validity of a charged-off debt or right of the debt collector to collect on a charged-off debt.

Comments on this rulemaking may be submitted to Meredith Weill, Deputy General Counsel – Meredith.Weill@dfs.ny.gov; (212) 480-5279.

- Adoption of new Part 200 (Virtual Currencies) of Title 23 NYCRR, effective June 24, 2015 (State Register June 24, 2015).

Statutory Authority: Financial Services Law sections 102, 104, 201, 202, 206, 301, 302, 303, 304-a, 305, 306, 309, 404 and 408; Banking Law sections 10, 14, 36, 37, 39, 40, 44, 44-a, 78, 128, 225-a, 600, 601-a and 601-b; and Executive Law section 63.

The adopted rule provides a comprehensive framework for the licensing and supervision by the Department of persons who engage in virtual currency business activity. Consistent with the goals of the Financial Services Law, this framework is intended to protect New York consumers and users of virtual currency, to ensure that virtual currency businesses operate safely and soundly, and to support continued growth and innovation in this constantly developing area of financial services.

Comments on this rulemaking may be submitted to Thomas S. Eckmier, Deputy General Counsel – Tom.Eckmier@dfs.ny.gov; (212) 709-1661.

- Adoption of new Part 400 (Independent Dispute Resolution for Emergency Services and Surprise Bills) of Title 23 NYCRR, effective June 3, 2015 (State Register June 3, 2015).

Statutory Authority: Financial Services Law sections 202, 301, 302, and Article 6, Insurance Law section 301, and Part H of Chapter 60 of the Laws of 2014.

Part H of Chapter 60 of the Laws of 2014 provided new rights and obligations, effective March 31, 2015, concerning disputes involving bills by health care providers. Health care plans, physicians, and when applicable, other health care providers and patients, have the right to request a review by an independent dispute resolution entity (“IDRE”) to resolve a payment dispute regarding a bill for certain emergency services or surprise bills. This Part implements the requirements of Financial Services Law Article 6 by establishing a dispute resolution process and the standards for such process, including criteria and the process for certifying and selecting an IDRE.

The Department is working on an amendment to Part 400 to incorporate requirements from the federal No Surprises Act and make other updates to the regulation.

Comments on this rulemaking may be submitted to Emily Donovan, Associate Attorney – emily.donovan@dfs.ny.gov; (518) 473-4177.