

**2008 -- H 7906 SUBSTITUTE A**

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**STATE OF RHODE ISLAND**

**IN GENERAL ASSEMBLY**

**JANUARY SESSION, A.D. 2008**

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A N A C T

RELATING TO STATUTES AND STATUTORY CONSTRUCTION

Introduced By: Representative Gordon D. Fox

Date Introduced: February 26, 2008

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1           SECTION 1. Sections 11-41.1-9 and 11-41.1-14 of the General Laws in Chapter 11-41.1  
2 entitled "Grocery and Laundry Carts, Milk Cases, Egg Baskets, and Bakery Containers" are  
3 hereby amended to read as follows:

4           **11-41.1-9. Unlawful removal of shopping carts, dairy cases, dispenser cases, egg**  
5 **baskets, poultry boxes, bakery containers, and plastic bulk ~~a shopping cart or dairy case or~~**  
6 **~~dispenser case or merchandise containers.~~** --It is a violation of this chapter for any person not  
7 in lawful possession of a shopping cart or dairy case or dispenser case or egg basket or poultry  
8 box or bakery container, or plastic bulk merchandise container to remove an egg basket, poultry  
9 box, or plastic bulk merchandise container from the premises, parking area or any other area of  
10 any processor, distributor, retailer, or food service establishment.

11           **11-41.1-14. Purchase of shopping carts, dairy cases, dispenser cases, egg baskets,**  
12 **bakery containers or plastic bulk merchandise containers for recycling, shredding, or**  
13 **destruction - Verification of seller's identity - Proof of ownership record.** – (a) Any person or  
14 entity purchasing shopping carts, dairy cases, dispenser cases, egg baskets, bakery containers or  
15 plastic bulk merchandise containers, who is in the business of recycling, shredding, or destruction  
16 of shopping carts, dairy cases, dispenser cases, egg baskets, bakery containers or plastic bulk  
17 merchandise containers shall obtain a proof of ownership record from a person selling five (5) or  
18 more shopping carts, dairy cases, dispenser cases, egg baskets, bakery containers or plastic bulk  
19 merchandise containers that shows that the person selling the carts, cases, baskets, or containers

1 has lawful possession or ownership of the carts, cases, baskets, or containers, and shall also verify  
2 the seller's identity by a driver's license or other government-issued photo identification. The  
3 proof of ownership record shall include all of the following information:

4 (1) The name, address, telephone number, and signature of the seller or the seller's  
5 authorized representative.

6 (2) The name and address of the buyer or consignee if not sold.

7 (3) A description of the product including number of units.

8 (4) The date of the transaction.

9 (b) The information required to be collected by this section shall be kept for one year  
10 from the date of purchase or delivery, whichever is later.

11 SECTION 2. Section 11-47-9 of the General Laws in Chapter 11-47 entitled  
12 "Weapons" is hereby amended to read as follows:

13 **11-47-9. Persons exempt from restrictions.** -- The provisions of section 11-47-8 shall  
14 not apply to sheriffs, deputy sheriffs, the superintendent and members of the state police,  
15 members of the Rhode Island airport police department, members of the Rhode Island state  
16 marshals, Rhode Island state fire marshal, chief; deputy state fire marshals, deputy state fire  
17 marshals assigned to the bomb squad, and those assigned to the investigation unit, correctional  
18 officers, all within the department of corrections, members of the city or town police force,  
19 capitol police investigators of the department of attorney general appointed pursuant to  
20 section 42-9-8.1, the witness protection coordinator for the witness protection review board as set  
21 forth in chapter 30 of title 12 and subject to the minimum qualifications of section 42-9-8.1, the  
22 director, assistant director, and other inspectors and agents at the Rhode Island state fugitive task  
23 force appointed pursuant to section 12-6-7.2, railroad police while traveling to and from official  
24 assignments or while on assignments, conservation officers, or other duly appointed law  
25 enforcement officers, nor to members of the Army, Navy, Air Force, and Marine Corps of the  
26 United States, the National Guard, or organized reserves, when on duty, nor to members of  
27 organizations by law authorized to purchase or receive firearms from the United States or this  
28 state, provided these members are at or going to or from their places of assembly or target  
29 practice, nor to officers or employees of the United States authorized by law to carry a concealed  
30 firearm, nor to any civilian guard or criminal investigator carrying sidearms or a concealed  
31 firearm in the performance of his or her official duties under the authority of the commanding  
32 officer of the military establishment in the state of Rhode Island where he or she is employed by  
33 the United States, nor to any civilian guard carrying sidearms or a concealed firearm in the  
34 performance of his or her official duties under the authority of the adjutant general where he or

1 she is employed guarding a national guard facility, provided, that the commanding officer of the  
2 military establishment shall have on file with the attorney general of this state a list of the names  
3 and addresses of all civilian guards and criminal investigators so authorized, nor to duly  
4 authorized military organizations when on duty, nor to members when at or going to or from their  
5 customary places of assembly, nor to any individual employed in the capacity of warden,  
6 associate warden, major, captain, lieutenant, sergeant, correctional officer or investigator at any  
7 project owned or operated by a municipal detention facility corporation, including the Donald W.  
8 Wyatt Detention Facility, nor to the regular and/or ordinary transportation of pistols as  
9 merchandise, nor to any person while carrying a pistol unloaded and securely wrapped from the  
10 place of purchase to his or her home or place of business, or in moving goods from one place of  
11 abode or business to another. Persons exempted by the provisions of this section from the  
12 provisions of section 11-47-8 shall have the right to carry concealed firearms everywhere within  
13 this state; provided, that this shall not be construed as giving the right to carry concealed firearms  
14 to a person transporting firearms as merchandise or as household or business goods.

15 SECTION 3. Section 14-1-6 of the General Laws in Chapter 14-1 entitled  
16 "Proceedings in Family Court" is hereby amended to read as follows:

17 **14-1-6. Retention of jurisdiction.** -- (a) When the court shall have obtained jurisdiction  
18 over any child prior to the child having attained the age of eighteen (18) years by the filing of a  
19 petition alleging that the child is wayward or delinquent pursuant to section 14-1-5, the child  
20 shall, except as specifically provided in this chapter, continue under the jurisdiction of the court  
21 until he or she becomes nineteen (19) years of age, unless discharged prior to turning nineteen  
22 (19). When the court shall have obtained jurisdiction over any child prior to the child's eighteenth  
23 (18<sup>th</sup>) birthday by the filing of a petition alleging that the child is dependent, neglected and abused  
24 pursuant to sections 14-1-5 and 40-11-7, the child shall, except as specifically provided in this  
25 chapter, continue under the jurisdiction of the court until he or she becomes eighteen (18) years of  
26 age; provided, that prior to an order of discharge or emancipation being entered, the court shall  
27 require the department of children, youth, and families to provide a description of the transition  
28 services afforded the child in placement or a detailed explanation as to the reason those services  
29 were not offered; provided further that any youth who comes within the jurisdiction of the court  
30 by the filing of a wayward or delinquent petition based upon an offense which was committed  
31 prior to July 1, 2007, including youth who are adjudicated and committed to the Rhode Island  
32 Training School and who are placed in a temporary community placement as authorized by the  
33 family court, may continue under the jurisdiction of the court until he or she turns twenty-one  
34 (21) years of age.

1 (b) In any case where the court shall not have acquired jurisdiction over any person prior  
2 to the person's eighteenth (18<sup>th</sup>) birthday by the filing of a petition alleging that the person had  
3 committed an offense, but a petition alleging that the person had committed an offense which  
4 would be punishable as a felony if committed by an adult has been filed before that person attains  
5 the age of nineteen (19) years of age, that person shall, except as specifically provided in this  
6 chapter, be subject to the jurisdiction of the court until he or she becomes nineteen (19) years of  
7 age, unless discharged prior to turning nineteen (19).

8 (c) In any case where the court shall not have acquired jurisdiction over any person prior  
9 to the person attaining the age of nineteen (19) years by the filing of a petition alleging that the  
10 person had committed an offense prior to the person attaining the age of eighteen (18) years  
11 which would be punishable as a felony if committed by an adult, that person shall be referred to  
12 the court which would have had jurisdiction over the offense if it had been committed by an adult.  
13 The court shall have jurisdiction to try that person for the offense committed prior to the person  
14 attaining the age of eighteen (18) years and, upon conviction, may impose a sentence not  
15 exceeding the maximum penalty provided for the conviction of that offense.

16 (d) In any case where the court has certified and adjudicated a child in accordance with  
17 the provisions of sections 14-1-7.2 and 14-1-7.3, the jurisdiction of the court shall encompass the  
18 power and authority to sentence the child to a period in excess of the age of nineteen (19) years.  
19 However, in no case shall the sentence be in excess of the maximum penalty provided by statute  
20 for the conviction of the offense.

21 (e) Nothing in this section shall be construed to affect the jurisdiction of other courts  
22 over offenses committed by any person after he or she reaches the age of eighteen (18) years.

23 SECTION 4. Sections 27-4-4, 27-4-24.4 and 27-4-24.5 of the General Laws in  
24 Chapter 27-4 entitled "Life Insurance Policies and Reserves" are hereby amended to read as  
25 follows:

26 **27-4-4. Penalty for unlawful discrimination.** -- Any life insurance company, and any  
27 officer or agent of any life insurance company, violating any of the provisions of sections 27-4-  
28 1 and 27-4-3 shall be subject to penalties determined in accordance with section ~~42-14-1~~ 42-14-  
29 16.

30 **27-4-24.4. Hearing on decisions of commissioner.** -- Any organization or insurer  
31 aggrieved by any order or decision of the commissioner, or by any rule or regulation promulgated  
32 and adopted by the commissioner, may, within thirty (30) days after notice of the order or  
33 decision to the organization or insurer, make written request to the commissioner for a hearing on  
34 the order or decision. The commissioner shall provide a hearing and issue a decision in

1 accordance with the Administrative Procedures Act, chapter ~~42-35-1~~ [42-35](#).

2 **27-4-24.5. Judicial review of orders and decisions.** -- Any final order or decision of the  
3 commissioner, including any order made after a hearing under the provisions of section 27-4-  
4 24.3 or 27-4-24.4, shall be subject to review in accordance with the Administrative Procedures  
5 Act, chapter ~~42-35-1~~ [42-35](#).

6 SECTION 5. Section 27-5-3.7 of the General Laws in Chapter 27-5 entitled "Fire  
7 Insurance Policies and Reserves" is hereby amended to read as follows:

8 **27-5-3.7. Hurricane deductibles, triggers and policyholder notice.** -- (a) The  
9 provisions of this section shall be applicable to policies issuing or renewing on or after July 1,  
10 2008.

11 (b) In all instances where an insurance company licensed to do business in this state  
12 offers or includes any deductible and/or mitigation measure related to such deductible for any  
13 type of personal lines residential property insurance on dwelling houses, the insurance company  
14 shall provide prominent and clear notice to insureds, that shall be included in the policy issuance  
15 or renewal package and shall fully disclose all details pertaining to any such deductible and/or  
16 mitigation measure.

17 (c) The insurer may apply a deductible specific to windstorm coverage where:

18 (i) The deductible is specifically approved by the director and shall not exceed five  
19 percent (5%) of the insured value.

20 (ii) The deductible shall be applicable to losses due to a hurricane during the period  
21 commencing with the issuance of a hurricane warning bulletin for any part of the state by the  
22 National Hurricane Center and concluding twenty-four (24) hours after the termination of the last  
23 hurricane warning bulletin for any part of the state.

24 (iii) The deductible, whether it is a flat dollar deductible or a percentage deductible shall  
25 be presented by at least two (2) examples that illustrate the application of the deductible to the  
26 insured. Nothing herein shall prohibit the insurer from providing any additional information to the  
27 insured to assist in the insured's understanding of the deductible to be applied to the insured's  
28 policy.

29 (iv) The deductible set forth above shall not be applied to any insured, if the insured has  
30 installed approved mitigation measures to protect against windstorm damage and the insurer has  
31 either inspected the property or the insured has submitted satisfactory proof of installation of the  
32 approved mitigation measures. The insurance commissioner, in consultation with the state  
33 building code commissioner, shall adopt and may amend or revise a list of mitigation measures,  
34 based so far as reasonably feasible on national standards for such measures and practices in other

1 comparable states. The list of mitigation measures adopted by the insurance commissioner shall  
2 be considered approved mitigation measures for purposes of this subdivision.

3 (d) Premium credits shall be applied to policies with deductibles as set forth in  
4 subsection 27-5-3.7(c).

5 (e) An insurer may require mitigation measures to protect against windstorm damage  
6 only after specific approval of the substance of such mitigation measures by the director;

7 (i) Mitigation measures to be taken by an insured are clearly explained, including a  
8 complete illustration of the dollar impact upon the premiums to be charged to insureds if the  
9 requested mitigation activities are undertaken;

10 (ii) No mandatory deductible for windstorm damage shall be included in the policy;

11 (iii) An insurer shall write the requested coverage at the premium rate that includes the  
12 premium credit to be realized with the completion of the mitigation efforts;

13 (iv) The insurer shall affirmatively state the length of time during which discount given  
14 for the mitigation efforts will apply; and

15 (v) No insurer shall subsequently non-renew an insured who has taken the mitigation  
16 steps requested by the insurer for reasons of the insurers exposure to catastrophe loss, unless for  
17 non-payment of premium, fraud, breach by the insured of a provision of the policy, reversal or a  
18 lack of maintenance of the mitigation steps, or insurer solvency concerns or adverse loss history.

19 (f) Penalties for failure to comply with the provisions of this section shall be  
20 administered by the director in accordance with the provisions of section 42-14-16.

21 (g) The department of business regulation shall have authority to adopt such rules,  
22 including emergency rules, as may be necessary or desirable to effectuate the purposes of this  
23 section.

24 SECTION 6. Section 27-10.2-2 of the General Laws in Chapter 27-10.2 entitled  
25 "Motor Vehicle Body Replacement Parts" is hereby amended to read as follows:

26 **27-10.2-2. Aftermarket parts - Time limit prohibition. [Effective January 1, 2008.] --**

27 (a) Whenever an insurance company, in adjusting a first party claim for motor vehicle physical  
28 damage, intends to specify the use of aftermarket parts, it shall notify the insured in writing. Any  
29 auto body repair shop conducting business in the state of Rhode Island shall not use non-original  
30 equipment manufactured (OEM) parts, also referred to as aftermarket parts, in the repair of any  
31 person's automobile, without that person giving the repairer his or her express written consent.

32 (b) No insurance company may require the use of aftermarket parts when negotiating  
33 repairs with any repairer unless the repairer has written consent from the vehicle owner to install  
34 aftermarket parts. The provisions of this section shall apply only to automobiles which are less

1 than thirty (30) months beyond the date of manufacture.

2 (c) For any automobile which is less than thirty (30) months beyond the date of  
3 ~~manufacturer~~ manufacture, the insurer and the auto body repairs shop must provide a written  
4 notice to the vehicle owner that: (i) he or she may require the insurer to pay for and the auto body  
5 shop to install "original equipment manufacturer parts " or "OEM parts" in the repair of a motor  
6 vehicle body replacement; or (ii) he or she may require the insurer to pay for and the auto body  
7 shop to install "non-original equipment manufacturer parts" (non-"OEM parts") in the repair of a  
8 motor vehicle body replacement. To comply with this provision, written notice may be provided  
9 on the appraisal written on behalf of the insurer and the estimate prepared by the auto body repair  
10 shop.

11 SECTION 7. Section 31-47.3-3 of the General Laws in Chapter 31-47.3 entitled "The  
12 Diesel Emissions Reduction Act" is hereby amended to read as follows:

13 **31-47.3-3. Reducing emissions from school buses.** -- (a) *Purpose.* To reduce health  
14 risks from diesel particulate matter (DPM) to Rhode Island school children by significantly  
15 reducing tailpipe emissions from school buses, and preventing engine emissions from entering the  
16 passenger cabin of the buses.

17 (b) Requirements for Rhode Island school buses:

18 (i) By September 1, 2010, no full-size school bus with an engine model year 1993 or  
19 older may be used to transport school children in Rhode Island; and,

20 (ii) Providing there is sufficient federal or state monies, by September 1, 2010, all full-  
21 sized school buses transporting children in Rhode Island must be retrofitted with a closed  
22 crankcase ventilation system and either: (A) be equipped with a level 1, level 2, or level 3 device  
23 verified by the US Environmental Protection Agency or the California Air Resources Board; or  
24 (B) be equipped with an engine of model year 2007 or newer; or (C) achieve the same or higher  
25 diesel PM reductions through the use of an alternative fuel such as compressed natural gas  
26 verified by CARB/EPA to reduce DPM emissions at a level equivalent to or higher than  
27 subsection (B) above.

28 (c) Financial assistance to defray costs of pollution reductions called for in (b)(ii):

29 (i) DEM shall work with the Rhode Island department of transportation or other  
30 authorized transit agencies to maximize the allocation of federal congestion mitigation and air  
31 quality (CMAQ) money for Rhode Island for diesel emissions reductions in federal FY 2008 and  
32 thereafter until the retrofit goals in this act are met. The (CMAQ) program is jointly administered  
33 by the federal highway administration (FHWA) and the federal transit administration (FTA), and  
34 was reauthorized by congress in 2005 under the safe, accountable, flexible, and efficient

1 transportation equity act: A legacy for users (SAFETEA-LU). The (SAFETEA-LU) requires  
2 states and MPOs to give priority in distributing CMAQ funds to diesel engine retrofits, and other  
3 cost-effective emission reduction and congestion mitigation activities that benefit air quality.

4 (ii) Drawing upon any available federal or state monies, the director shall establish and  
5 implement a system of providing incentives consistent with this section to municipalities,  
6 vendors, or school bus owners for the purchase and installation of any CARB/EPA-verified  
7 emission control retrofit device together with the purchase and installation of closed crankcase  
8 ventilation system (CCV) retrofit device. In 2007, the per-unit incentive shall not exceed one  
9 thousand two hundred fifty dollars (\$1,250) for a level 1 device plus a CCV, or two thousand five  
10 hundred dollars (\$2,500) for a level 2 device plus a CCV, or for model years 2003-2006 five  
11 thousand dollars (\$5,000) for a level 3 device plus a CCV. Incentive levels may be reevaluated  
12 annually, with the goal of maintaining competition in the market for retrofit devices. To the  
13 extent practicable, in kind services will also be utilized to offset some of the costs. Incentive  
14 recipients must also certify that newly purchased or retrofitted buses with a level 3 technology  
15 will operate in the state of Rhode Island for a minimum of four (4) years.

16 (d) Priority community provision:

17 (i) When penalty funds, state SEP funds, federal funds, or funds from other state or non-  
18 state sources become available, these should first be allocated toward further offsetting costs of  
19 achieving "best available" emissions control in "priority communities";

20 (ii) The "best available" standard is attained by all new buses (MY2007 and newer) and  
21 by diesel buses model year 2003 to 2006, inclusive that has been retrofitted with level 3-verified  
22 diesel particulate filters and closed crankcase ventilation systems, by diesel buses model year  
23 1994 to 2002, inclusive that has been retrofitted with at least level 2-verified diesel particulate  
24 filters and closed crankcase ventilation systems or could be achieved with a natural gas bus that  
25 achieves the same or better standards of cleanliness as a 2007 diesel bus standard; and

26 (iii) "Priority communities" (to be identified by the Rhode Island DEM) are Rhode Island  
27 communities that have high levels of ambient air pollution and high incidence of childhood  
28 respiratory impacts.

29 (e) To achieve the pressing public health and environmental goals of this act, DEM shall  
30 identify opportunities to achieve maximize PM reductions from diesel powered heavy duty  
31 vehicle or equipment that is owned by, operated by, or on behalf of, or leased by, or operating  
32 under a contract to a state agency or state or regional public authority (except vehicles that are  
33 specifically equipped for emergency response) and diesel powered waste collection and recycling  
34 vehicles that are owned, leased, or contracted to perform the removal or transfer or municipal,



1 commercial or residential waste, or recycling services. No later than January 1, 2008, DEM shall  
2 present a report to the general assembly, governor, house committee on environment and natural  
3 resources, and the senate committee on environment and agriculture on such opportunities to  
4 maximum PM reductions from the aforementioned fleets including legislative changes, regulatory  
5 changes, funding sources, contract requirements, procurement requirements, and other  
6 mechanisms that will bring about maximum PM reductions from these two priority fleets. This  
7 report shall explore funding sources beyond CMAQ, including but not limited to Diesel  
8 Reductions Emissions Reduction Act (DERA) funds under the Federal Energy Act.

9 (f) Severability. If any clause, sentence, paragraph, section or part of this act shall be  
10 adjudged by any court of competent jurisdiction to be invalid and after exhaustion of all further  
11 judicial review, the judgment shall not affect, impair or invalidate the remainder thereof, but shall  
12 be confined in its operation to the clause, sentence, paragraph, section or part of this act directly  
13 involved in the controversy in which the judgment shall have been rendered.

14 SECTION 8. Section 40-8-19 of the General Laws in Chapter 40-8 entitled "Medical  
15 Assistance" is hereby amended to read as follows:

16 **40-8-19. Rates of payment to nursing facilities.** – (a) *Rate reform.* The rates to be paid  
17 by the state to nursing facilities licensed pursuant to chapter 17 of title 23, and certified to  
18 participate in the Title XIX Medicaid program for services rendered to Medicaid-eligible  
19 residents, shall be reasonable and adequate to meet the costs which must be incurred by  
20 efficiently and economically operated facilities in accordance with 42 U.S.C. 1396a(a)(13). The  
21 department of human services shall promulgate or modify the principles of reimbursement for  
22 nursing facilities currently in effect on July 1, 2003 to be consistent with the provisions of this  
23 section and Title XIX, 42 U.S.C. 1396 et seq., of the Social Security Act.

24 (b) *Rate reform.* Subject to the phase-in provisions in subsections (c) and (d), the  
25 department shall, on or before October 1, 2005, modify the principles of reimbursement for  
26 nursing facilities to include the following elements:

- 27 (1) Annual base years;
- 28 (2) Four (4) cost centers: direct labor, property, other operating, and pass through items;
- 29 (3) Re-array of costs of all facilities in the labor and other operating cost centers every  
30 three (3) years beginning with calendar year 2002;
- 31 (4) A ceiling maximum for allowable costs in the direct labor cost center to be  
32 established by the department between one hundred ten percent (110%) and one hundred twenty-  
33 five percent (125%) of the median for all facilities for the most recent array year.

34 (5) A ceiling maximum for allowable costs in the other operating cost center to be

1 established by the department between ninety percent (90%) and one hundred fifteen percent  
2 (115%) of the median for all facilities for the most recent array year;

3 (6) Adjustment of costs and ceiling maximums by the increase in the National Nursing  
4 Home Price Index ("NNHPI") for the direct labor cost center and the other operating cost center  
5 for year between array years; such adjustments to be applied on October 1st of each year  
6 beginning October 1, 2003 for the direct labor cost center and October 1, 2005 for the other  
7 operating cost center, except for the fiscal year beginning July 1, 2006 for which the price index  
8 shall be applied on February 1, 2007 and for the fiscal year beginning October 1, 2007 for which  
9 the adjustment of costs and ceiling maximums shall be one and one-tenth percent (1.1%) percent.

10 (7) Application of a fair rental value system to be developed by the department for  
11 calculating allowable reimbursement for the property cost center;

12 (8) Such quality of care and cost containment incentives as may be established by  
13 departmental regulations.

14 (c) *Phase I Implementation.* The department shall file a state plan amendment with the  
15 U.S. Department of Health and Human Services on or before August 1, 2003 to modify the  
16 principles of reimbursement for nursing facilities, to be effective on October 1, 2003, or as soon  
17 thereafter as is authorized by an approved state plan amendment, to establish the direct labor cost  
18 center and the pass through items cost center utilizing calendar year 2002 cost data, and to apply  
19 the ceiling maximums in subsections (b)(4) and (b)(5). Nursing facilities whose allowable 2002  
20 direct labor costs are below the median in the direct labor cost center may make application to the  
21 department for a direct labor cost interim payment adjustment equal to twenty-five percent (25%)  
22 of the amount such allowable 2002 direct labor costs are below the median in the direct labor cost  
23 center, provided that the interim payment adjustment granted by the department on or after  
24 October 1, 2003 must be expended by the facility on expenses allowable within the direct labor  
25 cost center, and any portion of the interim payment not expended on allowable direct labor cost  
26 center expenses shall be subject to retroactive adjustment and recoupment by the department  
27 upon the department's determination of a final direct labor payment adjustment after review of the  
28 facility's actual direct labor expenditures. The final direct labor payment adjustment will be  
29 included in the facility's October 1, 2004 rate until the facility's next base year.

30 (d) *Phase II Implementation.* The department shall file a state plan amendment with the  
31 U.S. Department of Health and Human Services to modify the principles of reimbursement for  
32 nursing facilities, to be effective on September 1, 2004, or as soon thereafter as is authorized by  
33 an approved state plan amendment, to establish a fair rental value system for calculating  
34 allowable reimbursement for the property cost center in accordance with subsection (b)(7);

1 provided, however, that no facility shall receive a payment as of September 1, 2004 for property-  
2 related expenses pursuant to the fair rental value system that is less than the property-related  
3 payment they would have received for the other property-related ("OPR") cost center system in  
4 effect as of June 30, 2004.

5 SECTION 9. Section 42-7.2-5 of the General Laws in Chapter 42-7.2 entitled "Office  
6 of Health and Human Services " is hereby amended to read as follows:

7 **42-7.2-5. Duties of the secretary.** -- The secretary shall be subject to the direction and  
8 supervision of the governor for the oversight, coordination and cohesive direction of state  
9 administered health and human services and in ensuring the laws are faithfully executed, not  
10 withstanding any law to the contrary. In this capacity, the Secretary of Health and Human  
11 Services shall be authorized to:

12 ~~(a)~~ (1) Coordinate the administration and financing of health care benefits, human  
13 services and programs including those authorized by the Medicaid State Plan under Title XIX of  
14 the US Social Security Act. However, nothing in this section shall be construed as transferring to  
15 the secretary the powers, duties or functions conferred upon the departments by Rhode Island  
16 public and general laws for the administration of federal/state programs financed in whole or in  
17 part with Medicaid funds or the administrative responsibility for the preparation and submission  
18 of any state plans, state plan amendments, or authorized federal waiver applications.

19 ~~(b)~~ (2) Serve as the governor's chief advisor and liaison to federal policymakers on  
20 Medicaid reform issues as well as the principal point of contact in the state on any such related  
21 matters.

22 ~~(c)~~ (3) Review and ensure the coordination of any new departmental waiver requests and  
23 renewals as well as any initiatives and proposals requiring amendments to the Medicaid state plan  
24 with the potential to affect the scope, amount or duration of publicly-funded health care services,  
25 provider payments or reimbursements, or access to or the availability of benefits and services as  
26 provided by Rhode Island general and public laws. The secretary shall consider whether any such  
27 waivers or amendments are legally and fiscally sound and consistent with the state's policy and  
28 budget priorities. The secretary shall also assess whether a proposed waiver or amendment is  
29 capable of obtaining the necessary approvals from federal officials and achieving the expected  
30 positive consumer outcomes. Department directors shall, within the timelines specified, provide  
31 any information and resources the secretary deems necessary in order to perform the reviews  
32 authorized in this section;

33 ~~(d)~~ (4) Beginning in 2006, prepare and submit to the governor, the chairpersons of the  
34 house and senate finance committees, the caseload estimating conference, and to the joint

1 legislative committee for health care oversight, by no later than February 1 of each year, a  
2 comprehensive overview of all Medicaid expenditures outcomes, and utilization rates. The  
3 overview shall include, but not be limited to, the following information:

4 ~~(+)~~ (i) Expenditures under Titles XIX and XXI of the ~~social security act~~ Social Security  
5 Act, as amended;

6 ~~(+)~~ (ii) Expenditures, outcomes and utilization rates by population and sub-population  
7 served (e.g. families with children, children with disabilities, children in foster care, children  
8 receiving adoption assistance, adults with disabilities, and the elderly);

9 ~~(+)~~ (iii) Expenditures, outcomes and utilization rates by each state department or other  
10 municipal or public entity receiving federal reimbursement under Titles XIX and XXI of the  
11 ~~social security act~~ Social Security Act, as amended; and

12 ~~(+)~~ (iv) Expenditures, outcomes and utilization rates by type of service and/or service  
13 provider.

14 The directors of the departments, as well as local governments and school departments,  
15 shall assist and cooperate with the secretary in fulfilling this responsibility by providing whatever  
16 resources, information and support shall be necessary.

17 ~~(+)~~ (5) Resolve administrative, jurisdictional, operational, program, or policy conflicts  
18 among departments and their executive staffs and make necessary recommendations to the  
19 governor.

20 ~~(+)~~ (6) Assure continued progress toward improving the quality, the economy, the  
21 accountability and the efficiency of state-administered health and human services. In this  
22 capacity, the secretary shall:

23 ~~(+)~~ (i) Direct implementation of reforms in the human resources practices of the  
24 departments that streamline and upgrade services, achieve greater economies of scale and  
25 establish the coordinated system of the staff education, cross- training, and career development  
26 services necessary to recruit and retain a highly-skilled, responsive, and engaged health and  
27 human services workforce;

28 ~~(+)~~ (ii) Encourage the departments to utilize consumer-centered approaches to service  
29 design and delivery that expand their capacity to respond efficiently and responsibly to the  
30 diverse and changing needs of the people and communities they serve;

31 ~~(+)~~ (iii) Develop all opportunities to maximize resources by leveraging the state's  
32 purchasing power, centralizing fiscal service functions related to budget, finance, and  
33 procurement, centralizing communication, policy analysis and planning, and information systems  
34 and data management, pursuing alternative funding sources through grants, awards and

1 partnerships and securing all available federal financial participation for programs and services  
2 provided through the departments; and

3 ~~(iv)~~ (iv) Improve the coordination and efficiency of health and human services legal  
4 functions by centralizing adjudicative and legal services and overseeing their timely and judicious  
5 administration.

6 ~~(7)~~ (7) Prepare and integrate comprehensive budgets for the health and human services  
7 departments and any other functions and duties assigned to the office. The budgets shall be  
8 submitted to the state budget office by the secretary, for consideration by the governor, on behalf  
9 of the state's health and human services in accordance with the provisions set forth in section 35-  
10 3-4 of the Rhode Island general laws.

11 ~~(8)~~ (8) Utilize objective data to evaluate health and human services policy goals, resource  
12 use and outcome evaluation and to perform short and long-term policy planning and  
13 development.

14 ~~(9)~~ (9) Establishment of an integrated approach to interdepartmental information and data  
15 management that will facilitate the transition to consumer-centered system of state administered  
16 health and human services.

17 ~~(10)~~ (10) At the direction of the governor or the general assembly, conduct independent  
18 reviews of state-administered health and human services programs, policies and related agency  
19 actions and activities and assist the department directors in identifying strategies to address any  
20 issues or areas of concern that may emerge thereof. The department directors shall provide any  
21 information and assistance deemed necessary by the secretary when undertaking such  
22 independent reviews.

23 ~~(11)~~ (11) Provide regular and timely reports to the governor and make recommendations  
24 with respect to the state's health and human services agenda.

25 ~~(12)~~ (12) Employ such personnel and contract for such consulting services as may be  
26 required to perform the powers and duties lawfully conferred upon the secretary.

27 ~~(13)~~ (13) Implement the provisions of any general or public law or regulation related to  
28 the disclosure, confidentiality and privacy of any information or records, in the possession or  
29 under the control of the executive office or the departments assigned to the executive office, that  
30 may be developed or acquired for purposes directly connected with the secretary's duties set forth  
31 herein.

32 ~~(14)~~ (14) Hold the director of each health and human services department accountable for  
33 their administrative, fiscal and program actions in the conduct of the respective powers and duties  
34 of their agencies.

1                   SECTION 10. Section 42-14.5-3 of the General Laws in Chapter 42-14.5 entitled  
2 "The Rhode Island Health Care Reform Act of 2004 – Health Insurance Oversight " is hereby  
3 amended to read as follows:

4                   **42-14.5-3. Powers and duties. [Contingent effective date; see notes under section 42-**  
5 **14.5-1.]** --The health insurance commissioner shall have the following powers and duties:

6                   (a) To conduct an annual public meeting or meetings, separate and distinct from rate  
7 hearings pursuant to section 42-62-13, regarding the rates, services and operations of insurers  
8 licensed to provide health insurance in the state the effects of such rates, services and operations  
9 on consumers, medical care providers and patients, and the market environment in which such  
10 insurers operate. Notice of not less than ten (10) days of said hearing(s) shall go to the general  
11 assembly, the governor, the Rhode Island Medical Society, the Hospital Association of Rhode  
12 Island, the director of health, and the attorney general. Public notice shall be posted on the  
13 department's web site and given in the newspaper of general circulation, and to any entity in  
14 writing requesting notice.

15                   (b) To make recommendations to the governor and the joint legislative committee on  
16 health care oversight regarding health care insurance and the regulations, rates, services,  
17 administrative expenses, reserve requirements, and operations of insurers providing health  
18 insurance in the state, and to prepare or comment on, upon the request of the co-chairs of the joint  
19 committee on health care oversight or upon the request of the governor, draft legislation to  
20 improve the regulation of health insurance. In making such recommendations, the commissioner  
21 shall recognize that it is the intent of the legislature that the maximum disclosure be provided  
22 regarding the reasonableness of individual administrative expenditures as well as total  
23 administrative costs. The commissioner shall also make recommendations on the levels of  
24 reserves including consideration of: targeted reserve levels; trends in the increase or decrease of  
25 reserve levels; and insurer plans for distributing excess reserves.

26                   (c) To establish a consumer/business/labor/medical advisory council to obtain  
27 information and present concerns of consumers, business and medical providers affected by  
28 health insurance decisions. The council shall be involved in the planning and conduct of the  
29 public meeting in accordance with subsection (a) above. The advisory council shall assist in the  
30 design of an insurance complaint process to ensure that small businesses that experience  
31 extraordinary rate increases in a given year could request and receive a formal review by the  
32 department. The advisory council shall assess views of the health provider community relative to  
33 insurance rates of reimbursement, billing and reimbursement procedures, and the insurers' role in  
34 promoting efficient and high quality health care. The advisory council shall issue an annual report

1 of findings and recommendations to the governor and the joint legislative committee on health  
2 care oversight. The advisory council is to be diverse in interests and shall include representatives  
3 of community consumer organizations; small businesses, other than those involved in the sale of  
4 insurance products; and hospital, medical, and other health provider organizations. Such  
5 representatives shall be nominated by their respective organizations. The advisory council shall  
6 be co-chaired by the health insurance commissioner and a community consumer organization or  
7 small business member to be elected by the full advisory council.

8 (d) To establish and provide guidance and assistance to a subcommittee ("The  
9 Professional Provider-Health Plan Work Group") of the advisory council created pursuant to  
10 subsection (c) above, composed of health care providers and Rhode Island licensed health plans.  
11 This subcommittee shall develop a plan to implement the following activities:

12 (i) By January 1, 2006, a method whereby health plans shall disclose to contracted  
13 providers the fee schedules used to provide payment to those providers for services rendered to  
14 covered patients;

15 (ii) By April 1, 2006, a standardized provider application and credentials verification  
16 process, for the purpose of verifying professional qualifications of participating health care  
17 providers;

18 (iii) By September 1, 2006, a uniform health plan claim form to be utilized by  
19 participating providers;

20 (iv) By March 15, 2007, a report to the legislature on proposed methods for health  
21 maintenance organizations as defined by section 27-41-1, and nonprofit hospital or medical  
22 service corporations as defined by chapters 27-19 and 27-20, to make facility-specific data and  
23 other medical service-specific data available in reasonably consistent formats to patients  
24 regarding quality and costs. This information would help consumers make informed choices  
25 regarding the facilities and/or clinicians or physician practices at which to seek care. Among the  
26 items considered would be the unique health services and other public goods provided by  
27 facilities and/or clinicians or physician practices in establishing the most appropriate cost  
28 comparisons.

29 (v) By December 1, 2006, contractual disclosure to participating providers of the  
30 mechanisms for resolving health plan/provider disputes; and

31 (vi) By February 1, 2007, a uniform process for confirming in real time patient insurance  
32 enrollment status, benefits coverage, including co-pays and deductibles.

33 (vii) By December 1, 2007, a report to the legislature on the temporary credentialing of  
34 providers seeking to participate in the plan's network and the impact of said activity on health

1 plan accreditation;

2 (viii) By February 1, 2008, a report to the legislature on the feasibility of occasional  
3 contract renegotiations between plans and the providers in their networks.

4 (ix) By May 1, 2008, a report to the legislature reviewing impact of silent PPOs on  
5 physician practices.

6 A report on the work of the subcommittee shall be submitted by the health insurance  
7 commissioner to the joint legislative committee on health care oversight on March 1, 2006,  
8 March 1, 2007, and March 1, 2008.

9 (e) To enforce the provisions of Title 27 and Title 42 as set forth in section 42-14-5(d).

10 (f) There is hereby established the Rhode Island Affordable Health Plan Reinsurance  
11 Fund. The fund shall be used to effectuate the provisions of sections 27-18.5-8 and 27-50-17.

12 (g) To examine and study the impact of changing the rating guidelines and/or merging the  
13 individual health insurance market as defined in ~~section~~ [chapter](#) 27-18.5 and the small employer  
14 health insurance market as defined in chapter 27-50 in accordance with the following:

15 (i) The study shall forecast the likely rate increases required to effect the changes  
16 recommended pursuant to the preceding subsection (g) in the direct pay market and small  
17 employer health insurance market over the next five (5) years, based on the current rating  
18 structure, and current products.

19 (ii) The study shall include examining the impact of merging the individual and small  
20 employer markets on premiums charged to individuals and small employer groups.

21 (iii) The study shall include examining the impact on rates in each of the individual and  
22 small employer health insurance markets and the number of insureds in the context of possible  
23 changes to the rating guidelines used for small employer groups, including: community rating  
24 principles; expanding small employer rate ~~bands~~ [bonds](#) beyond the current range; increasing the  
25 employer group size in the small group market; and/or adding rating factors for broker and/or  
26 tobacco use.

27 (iv) The study shall include examining the adequacy of current statutory and regulatory  
28 oversight of the rating process and factors employed by the participants in the proposed new  
29 merged market.

30 (v) The study shall include assessment of possible reinsurance mechanisms and/or federal  
31 high-risk pool structures and funding to support the health insurance market in Rhode Island by  
32 reducing the risk of adverse selection and the incremental insurance premiums charged for this  
33 risk, and/or by making health insurance affordable for a selected at-risk population.

34 (vi) The health insurance commissioner shall establish an insurance market merger task



1 force to assist with the study. The task force shall be chaired by the health insurance  
2 commissioner and shall include, but not be limited to, representatives of the general assembly, the  
3 business community, small employer carriers as defined in section ~~27-50.3~~27-50-3, carriers  
4 offering coverage in the individual market in Rhode Island, health insurance brokers and  
5 members of the general public.

6 (vii) For the purposes of conducting this study, the commissioner may contract with an  
7 outside organization with expertise in fiscal analysis of the private insurance market. In  
8 conducting its study, the organization shall, to the extent possible, obtain and use actual health  
9 plan data. Said data shall be subject to state and federal laws and regulations governing  
10 confidentiality of health care and proprietary information.

11 (viii) The task force shall meet no later than October 1, 2007 and the commissioner shall  
12 file a report with the speaker of the house of representatives and the president of the senate no  
13 later than January 1, 2008.

14 SECTION 11. Section 42-46-2 of the General Laws in Chapter 42-46 entitled "Open  
15 Meetings" is hereby amended to read as follows:

16 **42-46-2. Definitions.** -- As used in this chapter:

17 ~~(a)~~(1) "*Meeting*" means the convening of a public body to discuss and/or act upon a  
18 matter over which the public body has supervision, control, jurisdiction, or advisory power. As  
19 used herein, the term "*meeting*" expressly includes, without limiting the generality of the  
20 foregoing, so-called "*workshop*," "*working*," or "*work*" sessions.

21 ~~(b)~~(2) "*Open call*" means a public announcement by the chairperson of the committee  
22 that the meeting is going to be held in executive session and the chairperson must indicate which  
23 exception of section 42-46-5 is being involved.

24 ~~(c)~~(3) "*Public body*" means any department, agency, commission, committee, board,  
25 council, bureau, or authority or any subdivision thereof of state or municipal government or any  
26 library that funded at least twenty-five percent (25%) of its operational budget in the prior budget  
27 year with public funds, and shall include all authorities defined in section 42-35-1(b). For  
28 purposes of this section, any political party, organization, or unit thereof meeting or convening is  
29 not and should not be considered to be a public body; provided, however, that no such meeting  
30 shall be used to circumvent the requirements of this chapter.

31 ~~(d)~~(4) "*Quorum*", unless otherwise defined by applicable law, means a simple majority  
32 of the membership of a public body.

33 ~~(e)~~(5) "*Prevailing plaintiff*" includes those persons and entities deemed "*prevailing*  
34 *parties*" pursuant to 42 U.S.C. 1988.

1           ⊕ (6) "Open forum" means the designated portion of an open meeting, if any, on a  
2 properly posted notice reserved for citizens to address comments to a public body relating to  
3 matters affecting the public business.

4           SECTION 12. Section 42-72-5 of the General Laws in Chapter 42-72 entitled  
5 "Department of Children, Youth, and Families" is hereby amended to read as follows:

6           **42-72-5. Powers and scope of activities.** -- (a) The department is the principal agency  
7 of the state to mobilize the human, physical and financial resources available to plan, develop,  
8 and evaluate a comprehensive and integrated statewide program of services designed to ensure  
9 the opportunity for children to reach their full potential. The services include prevention, early  
10 intervention, out-reach, placement, care and treatment, and after-care programs; provided,  
11 however, that the department notifies the state police and cooperates with local police  
12 departments when it receives and/or investigates a complaint of sexual assault on a minor and  
13 concludes that probable cause exists to support the allegations(s). The department also serves as  
14 an advocate for the needs of children.

15           (b) To accomplish the purposes and duties, as set forth in this chapter, the director is  
16 authorized and empowered:

17           (1) To establish those administrative and operational divisions of the department that the  
18 director determines is in the best interests of fulfilling the purposes and duties of this chapter;

19           (2) To assign different tasks to staff members that the director determines best suit the  
20 purposes of this chapter;

21           (3) To establish plans and facilities for emergency treatment, relocation and physical  
22 custody of abused or neglected children which may include, but are not limited to,  
23 homemaker/educator child case aides, specialized foster family programs, day care facilities,  
24 crisis teams, emergency parents, group homes for teenage parents, family centers within existing  
25 community agencies, and counseling services;

26           (4) To establish, monitor, and evaluate protective services for children including, but not  
27 limited to, purchase of services from private agencies and establishment of a policy and  
28 procedure manual to standardize protective services;

29           (5) To plan and initiate primary and secondary treatment programs for abused and  
30 neglected children;

31           (6) To evaluate the services of the department and to conduct periodic comprehensive  
32 needs assessment;

33           (7) To license, approve, monitor, and evaluate all residential and non-residential child  
34 care institutions, group homes, foster homes, and programs;

- 1 (8) To recruit and coordinate community resources, public and private;
- 2 (9) To promulgate rules and regulations concerning the confidentiality, disclosure and  
3 expungement of case records pertaining to matters under the jurisdiction of the department;
- 4 (10) To establish a minimum mandatory level of twenty (20) hours of training per year  
5 and provide ongoing staff development for all staff; provided, however, all social workers hired  
6 after June 15, 1991, within the department shall have a minimum of a bachelor's degree in social  
7 work or a closely related field, and must be appointed from a valid civil service list;
- 8 (11) To establish procedures for reporting suspected child abuse and neglect pursuant to  
9 chapter 11 of title 40;
- 10 (12) To promulgate all rules and regulations necessary for the execution of departmental  
11 powers pursuant to the Administrative Procedures Act, chapter 35 of title 42;
- 12 (13) To provide and act as a clearinghouse for information, data and other materials  
13 relative to children;
- 14 (14) To initiate and carry out studies and analysis which will aid in solving local, regional  
15 and statewide problems concerning children;
- 16 (15) To represent and act on behalf of the state in connection with federal grant programs  
17 applicable to programs for children in the functional areas described in this chapter;
- 18 (16) To seek, accept, and otherwise take advantage of all federal aid available to the  
19 department, and to assist other agencies of the state, local agencies, and community groups in  
20 taking advantage of all federal grants and subventions available for children;
- 21 (17) To review and coordinate those activities of agencies of the state and of any political  
22 subdivision of the state which affect the full and fair utilization of community resources for  
23 programs for children, and initiate programs that will help assure utilization;
- 24 (18) To administer the pilot juvenile restitution program, including the overseeing and  
25 coordinating of all local community based restitution programs, and the establishment of  
26 procedures for the processing of payments to children performing community service; and
- 27 (19) To adopt rules and regulations which:
- 28 (i) For the twelve (12) month period beginning on October 1, 1983, and for each  
29 subsequent twelve (12) month period, establish specific goals as to the maximum number of  
30 children who will remain in foster care for a period in excess of two (2) years; and
- 31 (ii) Are reasonably necessary to implement the child welfare services and foster care  
32 programs;
- 33 (20) May establish and conduct seminars for the purpose of educating children regarding  
34 sexual abuse;

1 (21) To establish fee schedules by regulations for the processing of requests from  
2 adoption placement agencies for adoption studies, adoption study updates, and supervision related  
3 to interstate and international adoptions. The fee shall equal the actual cost of the service(s)  
4 rendered, but in no event shall the fee exceed two thousand dollars (\$2,000);

5 (22) To be responsible for the education of all children who are placed, assigned, or  
6 otherwise accommodated for residence by the department in a state operated or supported  
7 community residence licensed by a Rhode Island state agency. In fulfilling this responsibility the  
8 department is authorized to enroll and pay for the education of students in the public schools or,  
9 when necessary and appropriate, to itself provide education in accordance with the regulations of  
10 the board of regents for elementary and secondary education either directly or through contract;

11 (23) To develop multidisciplinary service plans, in conjunction with the department of  
12 health, at hospitals prior to the discharge of any drug-exposed babies. The plan requires the  
13 development of a plan using all health care professionals.

14 (24) To be responsible for the delivery of appropriate mental health services to seriously  
15 emotionally disturbed children and children with functional developmental disabilities.  
16 Appropriate mental health services may include hospitalization, placement in a residential  
17 treatment facility, or treatment in a community based setting. The department is charged with the  
18 responsibility for developing the public policy and programs related to the needs of seriously  
19 emotionally disturbed children and children with functional developmental disabilities.

20 In fulfilling its responsibilities the department shall:

21 (i) Plan a diversified and comprehensive network of programs and services to meet the  
22 needs of seriously emotionally disturbed children and children with functional developmental  
23 disabilities;

24 (ii) Provide the overall management and supervision of the state program for seriously  
25 emotionally disturbed children and children with functional developmental disabilities;

26 (iii) Promote the development of programs for preventing and controlling emotional or  
27 behavioral disorders in children;

28 (iv) Coordinate the efforts of several state departments and agencies to meet the needs of  
29 seriously emotionally disturbed children and children with functional developmental disabilities  
30 and to work with private agencies serving those children;

31 (v) Promote the development of new resources for program implementation in providing  
32 services to seriously emotionally disturbed children and children with functional developmental  
33 disabilities.

34 The department shall adopt rules and regulations, which are reasonably necessary to

1 implement a program of mental health services for seriously emotionally disturbed children.

2 Each community, as defined in chapter 7 of title 16, shall contribute to the department, at  
3 least in accordance with rules and regulations to be adopted by the department, at least its average  
4 per pupil cost for special education for the year in which placement commences, as its share of  
5 the cost of educational services furnished to a seriously emotionally disturbed child pursuant to  
6 this section in a residential treatment program which includes the delivery of educational services.

7 "Seriously emotionally disturbed child" means any person under the age of eighteen (18)  
8 years or any person under the age of twenty-one (21) years who began to receive services from  
9 the department prior to attaining eighteen (18) years of age and has continuously received those  
10 services thereafter who has been diagnosed as having an emotional, behavioral or mental disorder  
11 under the current edition of the Diagnostic and Statistical Manual and that disability has been on-  
12 going for one year or more or has the potential of being ongoing for one year or more, and the  
13 child is in need of multi-agency intervention, and the child is in an out-of-home placement or is at  
14 risk of placement because of the disability.

15 A child with a "functional developmental disability" means any person under the age of  
16 eighteen (18) years or any person under the age of twenty-one (21) years who began to receive  
17 services from the department prior to attaining eighteen (18) years of age and has continuously  
18 received those services thereafter.

19 The term "functional developmental disability" includes autism spectrum disorders and  
20 means a severe, chronic disability of a person which:

21 (a) Is attributable to a mental or physical impairment or combination of mental physical  
22 impairments;

23 (b) Is manifested before the person attains age eighteen (18);

24 (c) Is likely to continue indefinitely;

25 (d) Results in age- appropriate substantial functional limitations in three (3) or more of  
26 the following areas of major life activity.

27 (i) Self-care;

28 (ii) Receptive and expressive language;

29 (iii) Learning;

30 (iv) Mobility;

31 (v) Self-direction;

32 (vi) Capacity for Independent Living; and

33 (vii) Economic self-sufficiency; and

34 (e) Reflects the person's need for a combination and sequence of special,

1 interdisciplinary, or generic care, treatment, or other services which are of life-long or extended  
2 duration and are individually planned and coordinated.

3 (25) To provide access to services to any person under the age of eighteen (18) years or  
4 any person under the age of twenty-one (21) years who began to receive child welfare services  
5 from the department prior to attaining eighteen (18) years of age, has continuously received those  
6 services thereafter and elects to continue to receive such services after attaining the age of  
7 eighteen (18) years.

8 (26) To develop and maintain, in collaboration with other state and private agencies, a  
9 comprehensive continuum of care in this state for children in the care and custody of the  
10 department or at risk of being in state care. This continuum of care should be family-centered and  
11 community-based with the focus of maintaining children safely within their families or, when a  
12 child cannot live at home, within as close proximity to home as possible based on the needs of the  
13 child and resource availability. The continuum should include community-based prevention,  
14 family support and crisis intervention services as well as a full array of foster care and residential  
15 services, including residential services designed to meet the needs of children who are seriously  
16 emotionally disturbed, children who have a functional developmental disability and youth who  
17 have juvenile justice issues. The director shall make reasonable efforts to provide a  
18 comprehensive continuum of care for children in the care and custody of the DCYF, taking into  
19 account the availability of public and private resources and financial appropriations and the  
20 director shall submit an annual report to the general assembly as to the status of his or her efforts  
21 in accordance with the provisions of subsection 42-72-4(b)(13).

22 (27) To administer funds under the John H. Chafee Foster Care Independence and  
23 Educational And Training Voucher (ETV) Programs of Title IV-E of the Social Security Act, and  
24 the DCYF Higher Education Opportunity Grant Program as outlined in RIGL section 42-72.8, in  
25 accordance with rules and regulations as promulgated by the director of the department.

26 (c) In order to assist in the discharge of his or her duties, the director may request from  
27 any agency of the state information pertinent to the affairs and problems of children.

28 (d) Funding for these clients shall include funds that are transferred to the Department of  
29 Human Services as part of the Managed Health Care program transfer. However, the expenditures  
30 relating to these clients shall not be part of the Department of Human Services' Caseload  
31 estimated for the semi-annual Caseload Estimating Conference. The expenditures shall be  
32 accounted for separately.

33 (e) The assembly has included funding in the FY 2008 Department of Children, Youth  
34 and Families budget in the amount of \$10.5 million from all sources of funds and \$6.0 million

1 from general revenues to provide a managed system to care for children serviced between 18 to  
2 21 years of age. The department shall manage this caseload to this level of funding.

3 ~~(27) To administer funds under the John H. Chafee Foster Care Independence and~~  
4 ~~Educational And Training Voucher (ETV) Programs of Title IV E of the Social Security Act, and~~  
5 ~~the DCYF Higher Education Opportunity Grant Program as outlined in RIGL section 42-72.8, in~~  
6 ~~accordance with rules and regulations as promulgated by the director of the department.~~

7 SECTION 13. Section 42-141-5 of the General Laws in Chapter 42-141 entitled  
8 "Affordable Energy" is hereby amended to read as follows:

9 **42-141-5. Affordable energy fund. -- (a) Fund established.**

10 (1) A special account is hereby established in the state treasury to be called the  
11 "affordable energy fund."

12 (2) Money remaining in the fund at the end of a fiscal year shall remain available for  
13 expenditure in successive fiscal years.

14 (3) The fund shall be used for only those purposes enumerated in subsection (d).

15 (b) *Financing of the fund.* The fund shall consist of the following sources:

16 (1) Sums the legislature may appropriate;

17 (2) Moneys received from federal, state, private donor or other sources for the purpose of  
18 energy affordability by low income households;

19 (3) Fees required pursuant to subsection (c); and

20 (4) Any interest earned on the moneys in the fund.

21 (c) Affordable energy fees.

22 (1) An affordable energy fee in an amount set forth in this subsection shall be imposed on  
23 gross receipts of electricity and gas companies and gross receipts on the sale of heating fuels not  
24 used for residential heating. The fee shall be remitted to the division of taxation according to the  
25 applicable schedule for the remission of the gross receipts tax as provided for in chapter 44-13 or  
26 the sales and use as provided for in chapter 44-18. The fees shall be as follows:

27 (i) *Gas.* Effective January 1, 2009, one-quarter of one percent (0.25%) of the gross  
28 receipts tax of gas companies subject to the provisions of chapter 44-13 "Public Service  
29 Corporation Tax". Effective January 1, 2010, one-half of one percent (0.50%) of the gross  
30 receipts of gas companies subject to the provisions of chapter 44-13 "Public Service Corporation  
31 Tax". Effective January 1, 2011 three-quarters of one percent (0.75%) of the gross receipts of gas  
32 companies subject to the provisions of chapter 44-13 "Public Service Corporation Tax". Effective  
33 January 1, 2012 and each January 1 thereafter one percent (1%) of the gross receipts of gas  
34 companies subject to the provisions of chapter 44-13, "Public Service Corporation Tax".

1           (ii) *Electricity*. Effective January 1, 2009, one-quarter of one percent (0.25%) of the gross  
2 receipts tax of electric companies subject to the provisions of chapter 44-13 "Public Service  
3 Corporation Tax". Effective January 1, 2010, one-half of one percent (0.50%) of the gross  
4 receipts of electric companies subject to the provisions of chapter 44-13 "Public Service  
5 Corporation Tax". Effective January 1, 2011, three-quarters of one percent (0.75%) of the gross  
6 receipts of electric companies subject to the provisions of chapter 44-13 "Public Service  
7 Corporation Tax". Effective January 1, 2012 and each January 1 thereafter, one percent (1%) of  
8 the gross receipts of electric companies subject to the provisions of chapter 44-13, "Public  
9 Service Corporation Tax".

10           (iii) *Heating fuel other than natural gas and electricity*. Effective January 1, 2009, one-  
11 half percent (.50%) of gross receipts from the sales and use of heating fuel subject to the  
12 provisions of chapter 44-18 "Sales and Use Taxes - Liability and Computation". Effective  
13 January 1, 2010, one percent (1.0%) of gross receipts from the sales and use of heating fuel  
14 subject to the provisions of chapter 44-18 "Sales and Use Taxes - Liability and Computation".  
15 Effective January 1, 2011, one and one-half percent (1.5%) of gross receipts from the sales and  
16 use of heating fuel subject to the provisions of chapter 44-18. Effective January 1, 2012 and each  
17 January 1 thereafter two percent (2%) of gross receipts from the sales and use of heating fuel  
18 subject to the provisions of chapter 44-18. "Sales and Use Taxes - Liability and Computation".

19           (2) Every person from whom an affordable energy fee is due shall be liable for the fee  
20 until it has been paid to the state.

21           (d) *Purposes of the fund*.

22           (1) The commissioner may use money from the fund to:

23           (i) Support weatherization and energy conservation educational programs and  
24 weatherization and energy conservation services for low-income and very low income  
25 households;

26           (ii) Compensate electric and gas distribution companies for revenues lost due to the  
27 reductions in distribution and customer charges, in accordance with a plan approved by the  
28 commission, to very low income households, and if feasible to low income households, which  
29 shall, as a first priority, be used to provide up to a fifty percent (50%) reduction in the distribution  
30 and customer charges for a reasonable and prudent use by very low-income households of gas  
31 and electricity that does not exceed average use for comparable dwelling units.

32           (iii) Defray the cost of heating fuel delivered to very low income households by an  
33 amount not to exceed twenty-five percent (25%) of the allowable cost of heating fuel and a total  
34 usage by the household, supported assistance from all sources overseen by the commissioner, that



1 is reasonable and prudent and does not exceed average use for comparable dwelling units.

2 (iv) Provide supplemental funds as may be necessary to augment the LIHEAP program in  
3 order to accomplish the purposes of this chapter; it is not the purpose of the fund to reduce the  
4 amount of assistance a household would otherwise receive from LIHEAP and other sources in the  
5 absence of the fund or to subsidize utility rates in effect as of July 1, 2006, and provided for by  
6 law.

7 (2) If the commissioner determines it is in the public interest to allocate funds for the  
8 purposes set forth in subparagraph (1)(ii) above, the commissioner shall notify the commission of  
9 the amount of funds to be allocated for a specified period. The commission shall then direct the  
10 electric and/or gas distribution companies to file amendments to the appropriate tariffs to  
11 implement rate reductions designed to provide the rate reduction consistent with the amount  
12 allocated for the period designated, which amendments are subject to the review and approval of  
13 the commission. Once approval is given, the allocated funds shall be transferred to the gas and/or  
14 electric distribution company. Any funds held after transfer shall accumulate interest at the  
15 customer deposit rate ("interest"). If, at the end of the rate reduction period, there are any unused  
16 dollars from the fund, such dollars shall be returned to the affordable energy fund with interest.  
17 Likewise, if at the end of the rate reduction period, there were not enough funds allocated to  
18 cover the rate reduction as designed, the shortfall will be reimbursed from the affordable energy  
19 fund with interest; provided, however, if there are no additional funds available from the fund,  
20 such shortfall or uncovered balance of such shortfall will be recovered with interest from all  
21 customers in a manner and over the period approved by the commission.

22 (e) *Administration and records of the fund.*

23 (1) The commissioner shall administer the fund in accordance with this chapter.

24 (2) The commissioner in consultation with the department shall adopt procedures  
25 governing the expenditure of, and accounting for, money expended from the fund.

26 (3) The commissioner is responsible for insuring that there are adequate moneys available  
27 in the fund to carry out the purposes of this section.

28 (4) The commissioner shall maintain accounting records showing the income and  
29 expenses of the fund.

30 (f) *Expenditure of fund money.* Disbursements may be made from the fund for the  
31 following purposes:

32 (1) Necessary administrative expenses, personnel expenses and equipment costs of the  
33 office related to this section which shall not exceed ten percent (10%) of the revenue of the fund;

34 (2) All costs to effectuate the purposes of the fund as set forth in subsection (d).

1 (g) *Report to the legislature.* The commissioner shall submit a report to the legislature  
2 not later than the tenth (10th) day following the convening of each regular session of the  
3 legislature. The report may include information considered significant by the commissioner but  
4 must include:

5 (1) The amount of money expended under section 42-141-5 during the preceding fiscal  
6 year;

7 (2) The amount and source of money received during the preceding fiscal year;

8 (3) A detailed summary of activities funded by the fund during the preceding fiscal year;

9 (4) The projected cost to the fund for affordable energy programs in the next fiscal year.

10 SECTION 14. Section 44-1-7.1 of the General Laws in Chapter 44-1 entitled "State Tax  
11 Officials" is hereby amended to read as follows:

12 **44-1-7.1. Interest on overpayments.** -- ~~(a) Notwithstanding any general or specific~~  
13 ~~statute to the contrary, overpayments of state taxes or surcharges that are remitted to the tax~~  
14 ~~division in accordance with section 39-21.1-14, shall bear interest at the rate provided in~~  
15 ~~section 44-1-7 from the date the tax was paid, or from the date including any extensions of the~~  
16 ~~date the tax became due, whichever of the dates occurs later.~~

17 (a) Each January 1 the tax administrator shall compute the rate of interest to be in effect  
18 for that calendar year by reference to the prime rate, which was in effect on October 1 of the  
19 preceding year. The term "prime rate" shall mean the predominant prime rate quoted by  
20 commercial banks to large businesses as determined by the board of governors of the Federal  
21 Reserve System.

22 (b) Notwithstanding any general or specific statute to the contrary, overpayments of state  
23 taxes or surcharges that are remitted to the tax division pursuant to section 39-21.1-14, shall bear  
24 interest at the prime rate as defined in section 44-1-7.1(a) from the date the tax or the surcharge  
25 that is referenced in this provision was paid, or from the date including any extensions of the date  
26 the tax became due, whichever of the dates occurs later.

27 (c) If any overpayment of state tax is refunded within ninety (90) days after the last date  
28 prescribed (or permitted by extension of time) for filing the return of the tax, or within ninety (90)  
29 days after the return is in fact filed, no interest shall be allowed under this section on the  
30 overpayment.

31 (d) For the purposes of this section, if any overpayment of state tax results from a carry-  
32 back of a net operating loss, the overpayment is deemed not to have been made prior to the close  
33 of the taxable year in which the net operating loss arises.

34 (e) If any overpayment of a surcharge referenced in subsection (b) of this section is

1 refunded within ninety (90) days after notification of overpayment of the surcharge, no interest  
2 shall be allowed under this section on the overpayment.

3 SECTION 15. Section 44-11-14 of the General Laws in Chapter 44-11 entitled  
4 "Business Corporation Tax" is hereby amended to read as follows:

5 **44-11-14. Allocation of income from business partially within state.** -- (a) In the case  
6 of a taxpayer deriving its income from sources both within and outside of this state or engaging in  
7 any activities or transactions both within and outside of this state for the purpose of profit or gain,  
8 its net income shall be apportioned to this state by means of an allocation fraction to be computed  
9 as a simple arithmetical mean of three (3) fractions:

10 (1) The first of these fractions shall represent that part held or owned within this state of  
11 the average net book value of the total tangible property (real estate and tangible personal  
12 property) held or owned by the taxpayer during the taxable year, without deduction on account of  
13 any encumbrance thereon;

14 (2) The second fraction shall represent that part of the taxpayer's total receipts from sales  
15 or other sources during the taxable year which is attributable to the taxpayer's activities or  
16 transactions within this state during the taxable year; meaning and including within that part, as  
17 being thus attributable, receipts from:

18 (i) Gross sales of its tangible personal property (inventory sold in the ordinary course of  
19 business) where:

20 (A) Shipments are made to points within this state; or

21 (B) Shipments are made from an office, store, warehouse, factory or other place of  
22 storage in this state and the taxpayer is not taxable in the state of the purchase ~~and the taxpayer is~~  
23 ~~not taxable in the state of the purchase.~~

24 (ii) Gross income from services performed within the state;

25 (iii) Gross income from rentals from property situated within the state;

26 (iv) Net income from the sale of real and personal property, other than inventory sold in  
27 the ordinary course of business as described in paragraph (i) of this subdivision, or other capital  
28 assets located in the state;

29 (v) Net income from the sale or other disposition of securities or financial obligations;  
30 and

31 (vi) Gross income from all other receipts within the state;

32 (3) The third fraction shall represent that part of the total wages, salaries, and other  
33 compensation to officers, employees, and agents paid or incurred by the taxpayer during the  
34 taxable year which is attributable to services performed in connection with the taxpayer's

1 activities or transactions within this state during the taxable year.

2 (b) Notwithstanding any of the provisions of this section, revenue and expenses subject  
3 to the gross earnings tax pursuant to chapter 13 of this title shall not be included in the calculation  
4 described in this section.

5 SECTION 16. Sections 5-56.1-8 and 5-56.1-9 of the General Laws in Chapter 5-56.1  
6 entitled "Designers of Individual Sewage Disposal Systems" are hereby amended to read as  
7 follows:

8 **5-56.1-8. Denial, suspension and revocation of licenses - Censure.** -- (a) The licensing  
9 authority may deny, suspend or revoke a designer's license if the person or licensed designer fails  
10 to comply with the requirements prescribed in this chapter or any regulation promulgated under  
11 this chapter or where the person or licensed designer:

12 (1) Provided incorrect, incomplete or misleading information in obtaining a designer's  
13 license; or

14 (2) Demonstrated gross or repeated negligence, incompetence or misconduct in the  
15 representation of site conditions in an application to the department of environmental  
16 management, design of an ISDS, or inspection or certification of an installation of an ISDS; or

17 (3) Committed a felony involving moral turpitude; or

18 (4) Failed or neglected to comply with continuing education requirements  
19 established by the licensing authority.

20 (b) An action to suspend or revoke a designer's license pursuant to subsection (a) of this  
21 section may not be taken until after the licensed designer has an opportunity to have a hearing  
22 before the licensing authority. This hearing shall be held within thirty (30) days of written notice  
23 of intent to suspend or revoke the license.

24 (c) The licensing authority shall appoint a review panel consisting of five (5)  
25 members at least three (3) of whom shall be licensed designers not employed by the  
26 licensing authority, for the purpose of reviewing and hearing disciplinary actions  
27 contemplated under subsection (b) of this section. The review board shall make  
28 recommendations to the licensing authority to suspend or revoke licenses. All final  
29 decisions shall be made by the licensing authority.

30 (d) Any person aggrieved by the denial of an application for a license pursuant to § 5-  
31 56.1-4 or a denial, suspension or revocation of a license pursuant to this section may request a  
32 formal hearing pursuant to ~~§ 42-17.1-2(u)~~ [§ 42-17.1-2\(21\)](#) which shall be granted, if requested, in  
33 writing by the aggrieved applicant or licensee within ten (10) days of the denial, suspension or

1 revocation.

2 (e) The licensing authority may publicly censure any licensed designer whose  
3 license was suspended or revoked.

4 **5-56.1-9. Penalties.** -- The penalties for noncompliance with any section of this chapter  
5 shall be the same as stated in ~~§§ 42-17.1-2(v)~~ [§ 42-17.1-2\(22\)](#) and chapter ~~17.6 of title 42~~ [42-](#)  
6 [17.6](#).

7 SECTION 17. Section 16-67.1-3 of the General Laws in Chapter 16-67.1 entitled "Rhode  
8 Island High School Dropout Prevention Act of 2007" is hereby amended to read as follows:

9 **16-67.1-3. Defining the age and protocol for a student to leave school.** -- (a) Children  
10 who have completed sixteen (16) years of life and who have not yet attained eighteen (18) years  
11 of age may not withdraw from school before graduation unless:

12 (1) The student, the student's parent(s)/guardian and an administrator agree to the  
13 withdrawal;

14 (2) At the exit interview, the student and the student's parent(s)/guardian provide written  
15 acknowledgement of the withdrawal that meets the requirements of ~~subsection (D)~~ [paragraph](#)  
16 [\(4\)\(D\) of this subsection](#);

17 (3) The school principal provides written consent for the student to withdraw from  
18 school; and/or

19 (4) The withdrawal is ~~due to~~:

20 (A) [Due to](#) documented financial hardship and the need of the individual to be employed  
21 to support the individual's family or a dependent;

22 (B) [Due to](#) documented illness;

23 (C) By order of a court that has jurisdiction over the student; and

24 (D) Accompanied by a written acknowledgement of a withdrawal under ~~subsection (b)(2)~~  
25 [subdivision \(2\) of this subsection](#) which must include a statement that the student and the  
26 student's parent(s)/guardian understand that withdrawal from school is likely to reduce the  
27 student's future earnings and increase the student's likelihood of being unemployed in the future;

28 (b) If a child of the age described in [subsection \(a\)](#) is habitually absent from school and  
29 the school is unable to contact the parent(s)/guardian, the school may withdraw the child from  
30 enrollment provided that its attempts to contact the parent(s)/guardian by telephone, regular and  
31 registered mail, and home visit are documented. If a child who has been withdrawn from  
32 enrollment under this subsection returns to school, or if the school mistakenly withdraws the child  
33 from enrollment, the child shall promptly be re-enrolled.

34 SECTION 18. Section 23-81-6 of the General Laws in Chapter 23-81 entitled "Rhode

1 Island Coordinated Health Planning Act of 2006" is hereby amended to read as follows:

2 **23-81-6. Funding.** -- The department of health may apply for and receive private and/or  
3 public funds to carry out the requirements of this ~~act~~ [chapter](#).

4 SECTION 19. Section 28-53-8 of the General Laws in Chapter 28-53 entitled "Rhode  
5 Island Uninsured Employers Fund" is hereby amended to read as follows:

6 **28-53-8. Limitations on payments to injured employees.** -- (a) Where the director  
7 determines by experience or other appropriate accounting and actuarial methods that the reserves  
8 in the fund are insufficient to pay all claims presented or pending, the director shall petition the  
9 workers' compensation court for an order to make appropriate, proportionate reductions in the  
10 payments being made to injured employees by the fund or to suspend all payments to injured  
11 employees until such time as the reserves maintained by the fund are sufficient to resume the  
12 payment of benefits. The matter shall be heard by the chief judge. If the court determines that the  
13 monies held by the fund are insufficient to fully pay all claims as they fall due, the court shall  
14 issue an order directing that a proportionate reduction be made in the payments made to those  
15 employees receiving benefits from the fund. In considering the fund's request for relief, the court  
16 shall give due weight to the policy of the workers' compensation act that benefits are to be paid  
17 weekly and that the unwarranted reduction or interruption in the employee's weekly  
18 compensation benefit will impose financial hardship upon the injured worker.

19 (b) The chief judge shall hear the director's petition within twenty-one (21) days of the  
20 date the matter is filed with the court. The petition shall set forth the names and addresses of each  
21 employee who may be affected by the reduction in benefits and the court shall provide notice to  
22 each employee. The attorney general shall appear on behalf of the employees receiving benefits  
23 from the fund and shall take such action as he or she feels is necessary to protect the rights of the  
24 injured employees.

25 (c) In the event that the court determines that a reduction or suspension of payments is  
26 necessary to maintain the fiscal integrity of the fund, the court shall schedule a mandatory review  
27 date to determine whether the financial status of the fund warrants a continuation of the order  
28 reducing such payments and shall reinstitute payments only upon finding that the reserves  
29 maintained by the fund are sufficient to pay all future claims as they fall due.

30 SECTION 20. Section 39-2-5 of the General Laws in Chapter 39-2 entitled "Duties of  
31 Utilities and Carriers" is hereby amended to read as follows:

32 **39-2-5. Exceptions to anti-discrimination provisions.** -- The provisions of §§ 39-2-2 -  
33 39-2-4 shall be subject to the following exceptions:

34 (1) A public utility may issue or give free transportation or service to its employees and

1 their families, its officers, agents, surgeons, physicians, and attorneys at law, and to the officers,  
2 agents, and employees, and their families of any other public utility.

3 (2) With the approval of the division any public utility may give free transportation or  
4 service, upon such conditions as the public utility may impose, or grant special rates therefor to  
5 the state, to any town or city, or to any water or fire district, and to the officers thereof, for public  
6 purposes, and also to any special class or classes of persons, not otherwise referred to in this  
7 section, in cases where the same shall seem to the division just and reasonable, or required in the  
8 interests of the public, and not unjustly discriminatory.

9 (3) With the approval of the division any public utility operating a railroad or street  
10 railway may furnish to the publishers of newspapers and magazines, and to their employees,  
11 passenger transportation in return for advertising in the newspapers or magazines at full rates.

12 (4) With the approval of the division any public utility may exchange its service for the  
13 service of any other public utility furnishing a different class of service.

14 (5) Nothing in this section or any other provision of the law shall be construed to prohibit  
15 the giving by any public utility, free or reduced rate service to an elderly person as defined by the  
16 division.

17 (6) Any motor carrier of persons, as defined in chapter 13 of this title, may elect to file a  
18 tariff providing for a rate reduction of twenty-five percent (25%) below its one-way fare tariff  
19 applying to any person who is sixty-five (65) years of age or older and any person assisting and  
20 traveling with a blind passenger who is not required to pay any fare pursuant to the provisions of  
21 § 39-2-13 for bus rides between the hours of ten o'clock (10:00) a.m. and three o'clock (3:00) p.m.  
22 of each day. In such event, the reduced fare shall be paid in part by the passenger and in part by  
23 the state. That part of the reduced fare payable by the state shall be one half (1/2) of the reduced  
24 fare adjusted upward to end in the nearest zero (0) or five cents (.05), and that part payable by the  
25 passenger shall be the balance of the reduced fare. Payments by the state under this section shall  
26 be paid monthly under procedures agreed upon by the department of transportation and the  
27 carrier.

28 (7) [Deleted by P.L. 2004, ch. 378, § 4, and by P.L. 2004, ch. 504, § 4.]

29 (8) Any person, firm, or corporation or any officer, agent, servant, or employee thereof  
30 who shall violate the provisions of subsection (7) of this section by fraudulently obtaining a  
31 telecommunications device shall, upon conviction, be fined not exceeding five hundred dollars  
32 (\$500) or be imprisoned for a term not exceeding one year.

33 (9) (i) Nothing in this section or any other provision of the general laws shall be  
34 construed to prohibit the commission from taking actions to enable the state to participate in a

1 federal communications commission telephone lifeline program. The commission may set a  
2 subscriber funded monthly residence basic exchange lifeline telephone service credit in an  
3 amount not to exceed the federal subscriber line access charge or the monthly basic service  
4 charge, whichever is less, for those persons who receive supplemental social security income  
5 (SSI), aid to families with dependent children (AFDC), general public assistance (GPA), aid from  
6 the Rhode Island medical assistance program, or food stamps issued pursuant to the Food Stamp  
7 Act of 1964 as amended (public law 88-525 and amendments made thereto, 7 U.S.C. § 2011 et  
8 seq.), assistance from the low-income home energy assistance program (LIHEAP) as  
9 administered by the department of administration, division of planning, and effective April 1,  
10 1993, assistance from the Rhode Island pharmaceutical assistance program administered by the  
11 department of elderly affairs. The public utilities commission may promulgate regulations to  
12 implement this section. The department of human services and the department of administration,  
13 division of planning shall certify subscriber eligibility for the programs in accordance with public  
14 utilities commission and federal communications commission guidelines.

15 (ii) The department of human services shall report monthly to the governor and to the  
16 house of representatives fiscal advisor the number of persons newly eligible for the lifeline  
17 telephone service credit hereunder solely by virtue of their eligibility to receive food stamp  
18 assistance and the department of administration, division of planning shall, also, report monthly  
19 to the governor and to the house of representatives fiscal advisor the number of persons newly  
20 eligible for the lifeline telephone service credit hereunder solely by virtue of their participation in  
21 the low-income home energy assistance program (LIHEAP).

22 (10) Nothing in this section or any other provision of the general laws shall be construed  
23 to prohibit any public utility with the approval of the commission, from forgiving arrearages of  
24 any person in accordance with the provisions of subsection ~~39-2-1(e)~~ [39-2-1\(d\)](#).

25 (11) Nothing in this section or any other provision of the law shall be construed to  
26 prohibit any utility company from cutting, disconnecting, or removing mains, poles,  
27 wires, conduits, or fixtures free of charge to nonprofit housing development corporations  
28 prior to moving a building to be used as affordable housing for at least a ten (10) year  
29 period.

30 (12) Nothing in this section or any other provision of the general laws shall be construed  
31 to prohibit any telecommunications provider with the approval of the commission, from offering  
32 any person, firm or corporation a reduced rate, provided such rate covers all costs.

33 (13) A gas or electric distribution company may provide discounts to low income  
34 customers in accordance with the affordable energy plan provisions of subsection 42-



1 141-5(d). Nothing contained herein shall prohibit the continuation of any low income  
2 discounts approved by the commission prior to January 1, 2006, and in effect as of that  
3 date.

4 SECTION 21. Section 39-18-9 of the General Laws in Chapter 39-18 entitled "Rhode  
5 Island Public Transit Authority" is hereby amended to read as follows:

6 **39-18-9. Revenues.** -- The authority is hereby authorized and empowered to fix and  
7 revise from time to time, such schedules of service and such rates of fare and charges for service  
8 furnished or operated as it determines to be reasonable. The schedules of service, rates of fare,  
9 and charges for service shall not be subject to supervision or regulation by any commission,  
10 board, bureau, or agency of the state or of any municipality or other political subdivision of the  
11 state; except as provided in § 39-18-4. Provided, however, if there are any changes in frequency  
12 of services of more than fifteen percent (15%), providers of service, rates of service, other than  
13 system wide changes, and charges for service shall be presented for comment at least one public  
14 hearing scheduled in an accessible location in each county affected, and the hearing shall be  
15 scheduled in two (2) sessions, one during daytime business hours and one during evening hours.  
16 The revenues derived from the authority's operations and any other funds or property received or  
17 to be received by the authority (including, without limitation, any funds or other property  
18 received or to be received by the authority pursuant to § ~~39-18-4(10)~~ 39-18-4(a)(10), in whole or  
19 in part, at any time and from time to time, may be pledged to, and charged with, the payment of  
20 the principal of and the interest on some or all of the authority's bonds as provided for in the  
21 resolution authorizing the issuance of the bonds or in the trust agreement securing the bonds. The  
22 pledge shall be valid and binding from the time when the pledge is made; the revenues, funds, or  
23 other property so pledged, and thereafter received by the authority, shall immediately be subject  
24 to the lien of the pledge without any physical delivery thereof or further act, and the lien of any  
25 pledge shall be valid and binding as against all parties having claims of any kind in tort, contract,  
26 or otherwise against the authority, irrespective of whether the parties have notice thereof. Neither  
27 the resolution nor any trust agreement by which a pledge is created need be filed or recorded  
28 except in the records of the authority.

29 SECTION 22. Section 42-17-1 of the General Laws in Chapter 42-17 entitled  
30 "Department of Agriculture and Conservation" is hereby repealed.

31 ~~**42-17-1. Department established -- Responsibilities.** -- There shall be a department of  
32 agriculture and conservation. The head of the department shall be the director of agriculture and  
33 conservation who shall carry out, except as otherwise provided in this title, the provisions of  
34 chapters 1 to 3, inclusive, 6, 9 to 12, inclusive, 14, 15, and 17 to 19, inclusive of title 2; chapters~~

~~2, 4, 5, 8, and 12 of title 4; chapters 1 to 6, inclusive, 9 to 13, inclusive, 18, 19, 21, 24 to 32, inclusive, and 34 of title 20; chapters 2, 4 to 7, inclusive, 17, 18, and 20 of title 21; and any and all other general laws and public laws heretofore carried out by the existing director of agriculture and conservation and department of agriculture and conservation.~~

SECTION 23. Section 42-17.1-2.3 of the General Laws in Chapter 42-17.1 entitled "Department of Environmental Management" is hereby amended to read as follows:

**42-17.1-2.3. Watershed-based management.** -- (a) In order to accomplish the duties and responsibilities for the protection, development, planning, and utilization of the natural resources of the state, the director is authorized: (1) to plan, coordinate, integrate, manage, exercise and/or implement the powers set forth in this chapter on a watershed basis for the purposes of preserving and/or improving ecosystem functionality, protecting public health, safety and welfare, and providing for the use of natural resources, including for recreational and agricultural purposes; (2) to work in conjunction with the Rhode Island rivers council and in cooperation with federal, interstate, state, local and private agencies and community organizations and watershed groups and associations and persons to effectuate watershed-based management, as appropriate and desirable; (3) to cooperate with the coastal resources management council in the preparation and adoption of a marine resources development plan as provided for in § 46-23-6(1)(v)(A); and (4) to coordinate and administer the activities of the department to achieve the purposes of systems level planning by the state; and within areas subject to the jurisdiction of the coastal resources management council, to administer its programs and exercise its powers and duties consistent with the marine resources development plan and in those areas which are not subject to the jurisdiction of the coastal resources management council to administer its programs and exercise its powers and duties in a manner that contributes to meeting the purposes and goals of the marine resources development plan.

(b) Cumulative effects and potential cumulative effects of regulatory actions, including, but not limited to, the issuance of permits and approvals, on a geographic basis, shall be incorporated, subject to the limitations set forth in subsection ~~42-17.1-2(n)~~ 42-17.1-2(14), to the extent practicable and reasonable by the department into watershed-based management and planning.

SECTION 24. Section 42-64-7.9 of the General Laws in Chapter 42-64 entitled "Rhode Island Economic Development Corporation" is hereby amended to read as follows:

**42-64-7.9. Orders as to pretreatment of sewage.** -- (a) Without limiting the generality of the foregoing, the authority vested in the Rhode Island economic development corporation shall include the authority to limit, reject, or prohibit any direct or indirect discharge of pollutants

1 or combination of pollutants as defined by applicable federal or state law, into any treatment  
2 facility operated by the corporation, to require that any person or class of user shall submit any  
3 and all discharges into the corporation's wastewater collection and treatment system to those  
4 pretreatment standards and requirements as prescribed by the corporation.

5 (b) The corporation shall adopt rules, regulations and permit requirements for  
6 pretreatment. The corporation shall adopt rules, regulations and permit requirements necessary to  
7 ensure compliance by all parties with:

8 (1) Applicable federal and state laws

9 (2) State and federal discharge permit limitations for the corporation's wastewater  
10 treatment facility

11 (3) Necessary and appropriate local limitations.

12 (c) The Rhode Island economic development corporation shall have the authority to  
13 issue or deny permits to any person for the direct or indirect discharge of any pollutants into any  
14 corporation wastewater treatment facility and to require the development of a compliance  
15 schedule by each discharger to insure compliance with any pretreatment required by the  
16 corporation. No person shall discharge any pollutant into the corporation's wastewater facility  
17 except as in compliance with the provisions of this section and any rules and regulations  
18 promulgated under this chapter and pursuant to all terms and conditions of a permit.

19 (d) The Rhode Island economic development corporation may, by regulation, order,  
20 permit or otherwise require any person who discharges into any wastewater treatment facility  
21 owned by the corporation to:

22 (1) Establish and maintain records as required by federal or state statute, or by rule,  
23 regulation, compliance order, or permit terms;

24 (2) Make any and all reports as required by federal or state statute or by rule, regulation,  
25 compliance order or permit terms;

26 (3) Install, calibrate, use and maintain any and all monitoring equipment or testing  
27 procedures including, where appropriate, biological monitoring methods;

28 (4) Sample any discharges and effluents in accordance with the methods and at the  
29 locations and at the intervals and in a manner as the corporation may prescribe, and

30 (5) Provide any other information relating to discharges into the facilities of the  
31 corporation that the corporation may reasonably require to insure compliance with prescribed  
32 pretreatment. The information shall include, but is not limited to, those records, reports and  
33 procedures required by applicable federal and state laws.

34 (e) Notwithstanding any other provision of this section, the Rhode Island economic

1 development corporation shall have the authority, and shall accordingly prescribe the appropriate  
2 procedures, to immediately and effectively halt or prevent any discharge of pollutants into the  
3 facilities of the corporation which reasonably appears to present an imminent danger to human  
4 health or the environment. The Rhode Island economic development corporation shall also have  
5 the authority and shall prescribe the appropriate procedures, which shall include notice to the  
6 affected discharger and an opportunity to respond, to hold or prevent any discharge into the  
7 facilities of the corporation, which presents or may present a threat to the operation of the  
8 wastewater collection and/or treatment system. Procedures prescribed under this subsection,  
9 which comply in form to those provided in § ~~42-17.1-2(e)~~ 42-17.1-2(21) shall be deemed to be  
10 appropriate.

11 SECTION 25. Section 42-125-6 of the General Laws in Chapter 42-125 entitled "Rhode  
12 Island Greenways Act of 1995" is hereby amended to read as follows:

13 **42-125-6. Powers and duties.** -- The council has the following powers:

14 (1) To be entitled to ask for and receive from any commission, board, officer or agency of  
15 the state any information, cooperation, assistance, and advice as shall be reasonable and proper in  
16 view of the nature of the council's functions;

17 (2) To assess and evaluate the current programs and policies of the state as they relate to  
18 the creation and maintenance of systems of greenways throughout the state and to make  
19 recommendations regarding the coordination of activities within state government to create and  
20 maintain systems of greenways as part of the state's twenty-first century infrastructure;

21 (3) To make any recommendations that may be necessary to the state planning  
22 council to maintain a greenways element of the state guide plan as described in § 42-11-  
23 10;

24 (4) To make recommendations to the executive director of the Rhode Island economic  
25 development corporation regarding the inclusion of greenways in programs to promote tourism  
26 and encourage the location and development of recreational facilities ~~as provided for in § 42-63-~~  
27 ~~2(a) [repealed]~~;

28 (5) To make recommendations to the director of the department of environmental  
29 management regarding the inclusion of greenways in (1) the department's cooperation with the  
30 Rhode Island economic development corporation in planning and promotional functions relating  
31 to recreation as provided for in § ~~42-17.1-2(f)~~ 42-17.1-2(6), and (2) the department's general  
32 functions relating to parks and recreation, preservation of wetlands and habitat, and planning and  
33 development as provided for in § 42-17.1-4;

34 (6) To make recommendations to the director of the department of transportation

1 regarding the inclusion of greenways in plans and implementation programs for transportation as  
2 provided for in § 42-13-1;

3 (7) To provide advice and assistance to political subdivisions, businesses, citizen groups,  
4 and nonprofit organizations regarding the creation and maintenance of greenways;

5 (8) To foster public involvement in greenways planning and development;

6 (9) To apply for, contract for, and expend federal and other grants or assistance,  
7 appropriate to the purposes of this chapter, and

8 (10) To approve and submit an annual report within ninety (90) days after the end of the  
9 fiscal year to the governor, the speaker of the house of representatives, the president of the senate,  
10 and the secretary of state of its activities during that fiscal year. The report shall provide: an  
11 operating statement summarizing meetings or hearings held, including meeting minutes, subjects  
12 addressed, decisions rendered, studies conducted, policies developed, and programs administered  
13 or initiated; a consolidated financial statement of all funds received and expended including the  
14 source of the funds, a listing of any staff supported by these funds, and a summary of any clerical,  
15 administrative or technical support received; a summary of performance during the previous  
16 fiscal year including accomplishments, shortcomings and remedies; a synopsis of any legal  
17 matters related to the authority of the council; a summary of any training courses held pursuant to  
18 subsection 42-125-6(11), a briefing on anticipated activities in the upcoming fiscal year; and  
19 findings and recommendations for improvements. The report shall be posted as prescribed in §  
20 42-20-8.2. The director of the department of administration shall be responsible for the  
21 enforcement of this provision.

22 (11) To conduct a training course for newly appointed and qualified members and new  
23 designees of ex officio members within six (6) months of their qualification or designation. The  
24 course shall be developed by the chair of the council, approved by the council, and conducted by  
25 the chair of the council. The council may approve the use of any council or staff members of  
26 other individuals to assist with training. The course shall include instruction in the following  
27 areas: the provisions of chapter 42-125; § 42-11-10; subsections ~~42-17.1-2(f)~~ 42-17.1-2(6), and  
28 (2); § 42-17.1-4; § 42-13-1; chapter 42-46; chapter 36-14; chapter 38-2; and the council's  
29 operating procedures. The director of the department of administration shall, within ninety (90)  
30 days of ~~the effective date of this act~~ [May 3, 2006], prepare and disseminate training materials  
31 relating to the provisions of chapters 42-46, 36-14 and 38-2.

32 SECTION 26. Section 42-141-12 of the General Laws in Chapter 42-141 entitled  
33 "Affordable Energy" is hereby amended to read as follows:

34 **42-141-12. Transitional provision.** -- Effective September 1, 2006, in order to provide

1 for transitional assistance to very low-income customers during fiscal year 2007, notwithstanding  
2 any law or order to the contrary, the following provisions shall apply to eligibility for restoration  
3 of gas and/or electric service to a very low-income customer who has been terminated from  
4 service in calendar year 2006; the very low-income customer shall pay eighteen percent (18%) of  
5 the customer's unpaid balance and shall agree to remain current with payments for current usage  
6 and to pay one thirty-sixth (1/36) of one-half (1/2) of the remaining balance per month through  
7 June 2007; a very low income customer who complies with the provisions of this section shall be  
8 transitioned to the provision of subsection ~~39-2-1(e)(ii)~~ 39-2-1(d)(1)(ii) and (iii) effective July 1,  
9 2007, and the monthly payments on the remaining balance that have been made pursuant to such  
10 agreement shall be credited to the requirements of subdivision ~~39-2-1(e)(iv)~~ 39-2-1(d)(1)(iv) for  
11 the forgiveness of arrearages. A very low-income customer who elects to use the provisions of  
12 this section and who fails to comply with the terms of the agreement for the restoration of service  
13 under the provisions of this section shall be ineligible to apply for restoration of service under the  
14 provisions of subdivision ~~39-2-1(e)~~ 39-2-1(d) and shall be subject to termination of service  
15 effective April 15, 2007, and any unpaid balance shall be due in full and shall be payable in  
16 accordance with the rules of the commission. The provisions of this section shall be repealed  
17 effective July 2, 2007.

18 SECTION 27. Section 45-2-50 of the General Laws in Chapter 45-2 entitled "General  
19 Powers" is hereby amended to read as follows:

20 **45-2-50. Town of Exeter -- Municipal court.** -- (a) The town council of the town of  
21 Exeter may establish a municipal court and confer upon that court original jurisdiction,  
22 notwithstanding any other provisions of the general laws, to hear and determine causes involving  
23 the violation of any ordinance, including, but not limited to, municipal code violations, animal  
24 regulation violations, traffic and parking violations, minimum housing ordinances of the town and  
25 any violation of the provisions of chapter 24.3 of this title, entitled the "Rhode Island Housing  
26 Maintenance and Occupancy Code"; provided, however, that any defendant found guilty of any  
27 offense, excluding violations of the minimum housing ordinances or chapter 24.3 of this title  
28 within the jurisdiction of the court, may within seven (7) days of the conviction, file an appeal  
29 from the conviction to the superior court and be entitled in the latter court to a trial de novo; and  
30 provided further, however, that any defendant found guilty of any violation of a minimum  
31 housing ordinance or of chapter 24.3 of this title, may within seven (7) days of conviction, file an  
32 appeal from the conviction to the fourth division of the district court and be entitled to a trial de  
33 novo in accordance with §§ 8-8-3(a)(4) and 8-8-3.2.

34 (b) With respect to violations of either municipal ordinances dealing with minimum

1 housing or chapter 24.3 et seq., of this title dealing with housing maintenance and occupancy, the  
2 town council may also confer upon the municipal court, in furtherance of the court's jurisdiction,  
3 the power to proceed according to equity:

- 4 (1) To restrain, prevent, enjoin, abate, or correct a violation;
- 5 (2) To order the repair, vacation, or demolition of any dwelling existing in violation; or
- 6 (3) To otherwise compel compliance with all of the provisions of those ordinances and  
7 ~~statues~~ [statutes](#).

8 (c) The town council of the town of Exeter is authorized and empowered to appoint a  
9 judge of the municipal court. The judge shall serve for a term of two (2) years, or concurrent with  
10 the term of each appointing council. The town council of the town is authorized and empowered  
11 to enact ordinances governing the personnel, operation, and procedure to be followed in the court  
12 and to establish a schedule of fees and costs, and to otherwise provide for the operation and  
13 management of the court. The municipal court may impose sentences not to exceed thirty (30)  
14 days in jail and impose fines not in excess of five hundred dollars (\$500), or both. The court is  
15 empowered to administer oaths, compel the attendance of witnesses, and punish persons for  
16 contempt, and to authorize and execute search warrants to the extent the warrants could be  
17 authorized and executed by a justice of the district court.

18 SECTION 28. Section 46-12-38 of the General Laws in Chapter 46-12 entitled "Water  
19 Pollution" is hereby amended to read as follows:

20 **46-12-38. Licensing of underground storage tank tightness testing.** -- (a) Definitions.

21 As used in this section and in conjunction with this chapter these terms shall be construed to  
22 mean:

23 (1) "Test" means a tank tightness test capable of detecting a five hundredths (.05) gallon  
24 per hour leak from any portion of an underground storage tank (including but not limited to  
25 piping) that routinely contains petroleum products or hazardous materials while accounting for  
26 effects such as thermal expansion or contraction of the petroleum product or hazardous materials,  
27 vapor pockets, tank deformation, evaporation or condensation, the location of the water table, or  
28 other conditions that could affect test results and which have been approved, in writing, by the  
29 director for use in the state of Rhode Island.

30 (2) "Tester" means an individual who performs tightness tests on underground storage  
31 tanks.

32 (3) "Testing business" means a person who employs or subcontracts with testers  
33 in the regular course of business.

34 (b) Authority of the director. The director shall promulgate rules and regulations

1 consistent with this chapter and with chapter 13.1 of title 46 entitled "Groundwater Protection"  
2 for the licensing of testers and testing businesses. Nothing in this section shall limit the director's  
3 powers and duties as set forth in this chapter.

4 (c) License requirement and fee.

5 (1) No person shall test underground storage tanks or operate a testing business without a  
6 license issued by the director in accordance with this section.

7 (2) The director shall charge an annual fee of one hundred dollars (\$100) to each tester to  
8 whom he or she issues a license. No licensure shall be issued unless the tester and testing business  
9 have paid the license fee. The director shall deposit the fees collected into the water and air  
10 protection program account created pursuant to § ~~42-17.1-2(z)~~ 42-17.1-2(26).

11 (3) The results of any test performed by or on behalf of an unlicensed tester or testing  
12 business shall be considered null and void. Where it is determined that test(s) have been  
13 performed by an unlicensed tester or testing business, the owner or operator of the underground  
14 storage tank(s) shall, within ten (10) days of discovery, either have the underground storage  
15 tank(s) retested by a duly licensed tester or testing business, or have the underground storage  
16 tank(s) emptied and removed from the ground as if they had failed the test(s). Any unlicensed  
17 tester or testing business that conducts business in the state of Rhode Island shall be strictly liable  
18 for the cost of any retesting performed in accordance with this section.

19 (4) No license shall be issued unless the tester and/or testing business shall demonstrate  
20 that they, jointly or severally, possess liability insurance in an amount satisfactory to the director  
21 for any environmental harm, property damage and bodily injury resulting from tank tightness  
22 testing activities, including, but not limited to, performance of tests; the collection, calculation  
23 and analysis of test data; handling, calibration, operation and maintenance of testing equipment;  
24 and the preparation of test results. The amount of liability insurance shall be established by the  
25 director.

26 (5) The rules and regulations promulgated by the director in accordance with this section  
27 may, without limitation, require that testers hold and maintain certain certifications, and/or pass  
28 written or practical examinations as a prerequisite to licensure. The director may assess a  
29 reasonable fee to cover the cost of any examination administered by or on behalf of the  
30 department of environmental management.

31 (d) Revocation of license. The director shall revoke the license of any tester or testing  
32 business who fails to comply with this section or with the rules and regulations promulgated  
33 hereunder after the director has provided the party with notice and the opportunity to be heard in  
34 accordance with chapter 35 of title 42.



1 SECTION 29. Section 46-12.5.1-12 of the General Laws in Chapter 46-12.5.1 entitled  
2 "Oil Pollution Control" is hereby amended to read as follows:

3 **46-12.5.1-12. Notices of violations and compliance orders.** -- (a) The director shall  
4 follow the procedures provided in § ~~42-17.1-2(e)~~ 42-17.1-2(21) in issuing any notice of violation  
5 or compliance order authorized pursuant to this chapter or any rules, regulations, or permits  
6 promulgated thereunder.

7 (b) Where an order of the director does not otherwise specify, the person against  
8 whom an order is entered shall, within seventy-two (72) hours of the receipt of the order  
9 and before proceeding to install a system or means to contain, abate, control, and remove  
10 the discharged oil, submit to the director a plan or a statement describing the system or  
11 means that the person intends to implement.

12 SECTION 30. Sections 46-12.9-5 and 46-12.9-6 of the General Laws in Chapter 46-12.9  
13 entitled "Rhode Island Underground Storage Tank Financial Responsibility Act" are hereby  
14 amended to read as follows:

15 **46-12.9-5. Purpose of fund.** -- (a) The purpose of the fund shall be to facilitate the  
16 clean-up of releases from leaking underground storage tanks, underground storage tank systems,  
17 including those located on sites or government sites in order to protect the environment including  
18 drinking water supplies and public health and to take necessary action to proactively prevent such  
19 releases.

20 (b) The fund shall provide reimbursement to responsible parties for the eligible costs  
21 incurred by them as a result of releases of certain petroleum from underground storage tanks or  
22 underground storage tank systems as provided herein. Monies in the fund shall be dispensed only  
23 upon the order of the review board or its designee for the following purposes.

24 (1) The fund shall pay not more than one million dollars (\$1,000,000) per incident and up  
25 to two million dollars (\$2,000,000) in the aggregate for damages of eligible costs, as defined in  
26 regulations promulgated hereunder and, as further defined in § 46-12.9-3 excluding legal costs  
27 and expenses, incurred by a responsible party as a result of a release of petroleum from an  
28 underground storage tank or underground storage tank system; provided, however, that a  
29 responsible party shall be responsible for the first twenty thousand dollars (\$20,000) of said  
30 eligible costs;

31 (2) Reimbursement for any third party claim including, but not limited to, claims for  
32 bodily injury, property damage and damage to natural resources which are asserted against a  
33 responsible party and which have arisen as a result of a release of petroleum from an underground  
34 storage tank or underground storage tank system in an amount not to exceed one million dollars

1 (\$1,000,000) for each release as set forth in subsection ~~(a)~~ [\(b\)\(1\)](#) of this section; provided, that  
2 such claims are found by the review board to be justified, reasonable, related to the release of  
3 petroleum and not excessive or spurious in nature; and

4 (3) Eligible costs incurred by the department in carrying out the investigative, remedial  
5 and corrective action activities at sites of a petroleum release associated with an underground  
6 storage tank or underground storage tank system where the responsible party fails to comply with  
7 an order of the department to take such corrective action. In the event of such failure, the  
8 department may access the fund to perform the ordered work and shall proceed to recover from  
9 the responsible party on behalf of the fund any amount expended from the fund by the  
10 department.

11 (4) Nothing contained in this chapter shall be construed to prevent subrogation by the  
12 state of Rhode Island against any responsible party other than the owner and/or operator for all  
13 sums of money which the fund shall be obligated to pay hereunder plus reasonable attorneys' fees  
14 and costs of litigation and such right of subrogation is hereby created.

15 (5) Eligible costs incurred by the department to support the fund, including, but not  
16 limited to, all personnel support to process and review of claims in order to formulate  
17 recommendations for reimbursement for consideration by the review board, and providing  
18 meeting space for board meetings; provided, however, that no more than five hundred and fifty  
19 thousand dollars (\$550,000) shall be dispensed from the fund for administrative purposes during  
20 any fiscal year. The department shall directly access the fund, pursuant to the limits set forth in ~~§~~  
21 ~~46-12.9-5(1)~~ [above subdivision 46-12.9-5\(b\)\(1\)](#), to pay for such expenses.

22 (6) Grants to any third party for purposes of removal of underground storage tanks and/or  
23 replacement of underground storage tanks with other fuel storage and distribution systems,  
24 including aboveground storage tanks, when such removal and/or replacement will minimize the  
25 potential future exposure of the fund to major expenses related to reimbursement of costs incurred  
26 in response or remediation should a future release occur. Grants under this section shall be limited  
27 to fifty thousand dollars (\$50,000) per site and shall be in addition to any eligible reimbursement  
28 for clean up expenses at that site.

29 **46-12.9-6. Eligibility.** -- (a) In order to be eligible for reimbursement from the fund for  
30 eligible costs a responsible party must be subject to financial responsibility as required by the  
31 EPA (40 CFR part 280 subpart H) and:

32 (1) Have substantially complied with all state technical requirements for underground  
33 storage tanks and underground storage tank systems as promulgated by the department of  
34 environmental management pursuant to chapter 12 of this title and chapter 17.1 of title 42,

1 including, but not limited to, requirements for registration, proper installation, spill containment,  
2 line leak detection, corrosion protection, leak detection, tank tightness testing, inventory control,  
3 closure and leak or spill reporting;

4 (2) Have incurred an eligible cost in excess of the deductible amount specified in § ~~46-~~  
5 ~~12.9-5(2)~~ 46-12.9-5(b)(1) whether for clean-up or related matters or for claims of third parties as  
6 set forth in § 46-12.9-3 resulting from a release of petroleum, subject to the motor and special  
7 fuels tax from an underground storage tank or underground storage tank system. In order to apply  
8 for reimbursement from the fund, it shall not be necessary that the third party and the responsible  
9 party complete adjudication of any claim before submission to the review board; provided,  
10 however, that all such claims shall be reasonably verified and must be demonstrated to the  
11 reasonable satisfaction of the review board in order to be considered eligible for reimbursement.

12 (b) Notwithstanding the financial responsibility requirement of this section, responsible  
13 parties may be eligible for reimbursement of eligible costs incurred for government sites provided  
14 that:

15 (1) A city, town, the state or a state agency is the responsible party for a release at the  
16 government site and was the owner of the site at the time of the release;

17 (2) A city, town, the state or a state agency is the responsible party and owner of the  
18 government site at the time of application on which a release occurred prior to the city, town or  
19 state agency's ownership, provided that the government entity purchased the property prior to  
20 March 1, 1998; or

21 (3) A city, town, the state or a state agency was the responsible party at the time of the  
22 release and the government site is owned by a successor in interest at the time of application.

23 (c) Notwithstanding the requirement that the released petroleum be subject to the motor  
24 and special fuels tax, underground storage tanks containing petroleum products for which the  
25 motor and special fuels tax is inapplicable including, but not limited to, underground storage  
26 tanks used for the distribution of No. 2 heating oil, used/waste oil, kerosene or other materials as  
27 deemed appropriate by the review board may be eligible for reimbursement with the following  
28 exceptions:

29 (1) Underground storage tanks containing heating or fuel oils used solely for onsite  
30 consumption shall not be eligible.

31 (2) Underground storage tanks exempted from the department's "regulations for  
32 underground storage facilities used for petroleum products and hazardous materials" under  
33 Section 5.03 and Section 9.01 (A-D) shall not be eligible.

34 SECTION 31. Section 46-25-25 of the General Laws in Chapter 46-25 entitled

1 "Narragansett Bay Commission" is hereby amended to read as follows:

2 **46-25-25. Orders as to pretreatment of sewage.** -- (a) Without limiting the generality  
3 of the foregoing, the authority hereby vested in the commission shall include the authority to  
4 limit, reject, or prohibit any direct or indirect discharge of pollutants or combination of pollutants,  
5 as defined by applicable federal or state law, into the facilities of the project; to require that any  
6 person or class of user shall cause pollutants from his or her property, prior to their entry into the  
7 facilities of the project, to be submitted to such pretreatment standards and requirements as the  
8 commission may prescribe by rule or regulation. The commission shall prescribe such rules and  
9 regulations for pretreatment as in the opinion of the commission:

- 10 (1) Are required by applicable federal or state law,
- 11 (2) Are required under the terms of the project's federal permit(s), or
- 12 (3) Are necessary and appropriate for the project.

13 (b) The commission shall have the authority to issue or deny permits to any person for  
14 the direct or indirect discharge of any pollutants into the facilities of the project; to require the  
15 development of a compliance schedule by each person to insure compliance with such  
16 pretreatment as the commission may prescribe. No person shall discharge any pollutant into the  
17 facilities, except as in compliance with the provisions of this section, and any rules and  
18 regulations promulgated hereunder, and pursuant to the terms and conditions of a permit.

19 (c) The commission may, by regulation, order, permit, or otherwise require any person  
20 who discharges into the facilities of the project to:

- 21 (1) Establish and maintain such records;
- 22 (2) Make such reports;
- 23 (3) Install, calibrate, use, and maintain such monitoring equipment or methods, including  
24 where appropriate, biological monitoring methods;
- 25 (4) Sample such discharges and effluents, in accordance with such methods, at such  
26 locations, at such intervals, and in such manner as the commission shall prescribe; and
- 27 (5) Provide such other information relating to discharges into the facilities of the project  
28 as the commission may reasonably require to insure compliance with prescribed pretreatment.

29 The information shall include, but not be limited to, those records, reports, and procedures  
30 required by applicable federal law.

31 (d) Notwithstanding any other provision of this section, the commission shall have the  
32 authority, and shall prescribe the appropriate procedures, after informal notice to the discharger,  
33 immediately and effectively to halt or prevent any discharge of pollutants into the facilities of the  
34 project which reasonably appears to present an imminent endangerment to the health or welfare

1 of persons. Halting or preventing may include, but shall not be limited to, physically plugging  
2 and/or blocking the discharger's connection to the facilities of the project. The commission shall  
3 also have the authority, and shall prescribe the appropriate procedures, which shall include notice  
4 to the affected discharger and an opportunity to respond, to hold, or prevent any discharge into  
5 the facilities of the project which presents or may present an endangerment to the environment or  
6 which threatens to interfere with the operation of the project. Procedures prescribed under this  
7 subsection which comply in form with those provided in § ~~42-17.1-2(u)~~ [42-17.1-2\(21\)](#) shall be  
8 deemed to be appropriate.

9 SECTION 32. Section 23-1-46 of the General Laws in Chapter 23-1 entitled "Department  
10 of Health" is hereby amended to read as follows:

11 **23-1-46. Insurers.** -- (a) Beginning in the fiscal year 2007, each insurer licensed or  
12 regulated pursuant to the provisions of chapters 18, 19, 20, and 41 of title 27 shall be assessed a  
13 child immunization assessment and an adult immunization assessment for the purposes set forth  
14 in this section. The department of health shall make available to each insurer, upon its request,  
15 information regarding the department of health's immunization programs and the costs related to  
16 the program. Further, the department of health shall submit to the general assembly an annual  
17 report on the immunization programs and cost related to the programs, on or before February 1 of  
18 each year. Annual assessments shall be based on direct premiums written in the year prior to the  
19 assessment and for the child immunization program shall not include any Medicare Supplement  
20 Policy (as defined in § ~~27-18-2.1(g)~~ [27-18.2-1\(g\)](#)), Medicaid or Medicare premiums. Adult  
21 influenza immunization program annual assessments shall include contributions related to the  
22 program costs from Medicare, Medicaid and Medicare Managed Care. As to accident and  
23 sickness insurance, the direct premium written shall include, but is not limited to, group, blanket,  
24 and individual policies. Those insurers assessed greater than ten thousand dollars (\$10,000) for  
25 the year shall be assessed four (4) quarterly payments of twenty-five percent (25%) of their total  
26 assessment. Beginning July 1, 2001, the annual rate of assessment shall be determined by the  
27 ~~Director~~ [director](#) of ~~Health~~ [health](#) in concurrence with the ~~Primary Payors~~ [primary payors](#), those  
28 being insurers assessed at greater than ten thousand dollars (\$10,000) for the previous year. This  
29 rate shall be calculated by the projected costs for ~~advisory committee on immunization practices~~  
30 [the Advisory Committee on Immunization Practices](#) (ACIP) recommended and state mandated  
31 vaccines after the federal share has been determined by the ~~centers for disease control and~~  
32 ~~prevention~~ [Centers for Disease Control and Prevention](#). The primary payors shall be informed of  
33 any recommended change in rates at least six (6) months in advance, and rates shall be adjusted  
34 no more frequently than one time annually. For the childhood vaccine program the director of the

1 department of health shall deposit these amounts in the “childhood immunization account”. These  
2 assessments shall be used solely for the purposes of the “childhood immunization programs” and  
3 no other. For the adult immunization program the director of the department of health shall  
4 deposit these amounts in the “adult immunization account”.

5 (b) Any funds collected in excess of funds needed to carry-out ACIP recommendations  
6 shall be deducted from the subsequent year's assessments.

7 SECTION 33. Section 23-1.8-2.1 of the General Laws in Chapter 23-1.8 entitled  
8 "Commission on the Deaf and Hard-of-Hearing" is hereby amended to read as follows:

9 **23-1.8-2.1. Sign language interpreter referral service.** -- The commission shall  
10 administer the sign language interpreter referral service for all certified licensee, licensee,  
11 grandparent licensee, and special licensee interpreters, as provided in chapter 71 of title 5, who  
12 hold a valid interpreter for the deaf license issued by the state board of examiners of interpreters  
13 for the deaf pursuant to § 5-71-9 or § 5-71-12 [\[repealed\]](#) or hold a valid license, certificate, or  
14 equivalent issued with another state with reciprocity pursuant to § 5-71-10. The commission shall  
15 not impose any limits on the practice of certified licensees, licensees, grandparent licensees, or  
16 special licensees beyond those imposed by the state board of examiners for interpreters for the  
17 deaf. Prior to January 1, 1998 the commission's sign language interpreter referral service shall be  
18 open to all interpreters for the deaf who meet or exceed qualifications for license in § 5-71-9, 5-  
19 71-10, 5-71-11 [\[repealed\]](#), or 5-71-12 [\[repealed\]](#). The commission shall refer any complaints  
20 regarding the conduct or performance of any interpreter utilizing their referral service to the state  
21 board of examiners for interpreters for the deaf for appropriate action pursuant to § 5-71-13. The  
22 commission shall upon receipt of notice of revocation or suspension of a license by the state  
23 board of examiners for interpreters for the deaf, immediately cease to refer customers to that  
24 licensee, unless and until the license is restored.

25 SECTION 34. Sections 23-3-1 and 23-3-25 of the General Laws in Chapter 23-3 entitled  
26 "Vital Records" are hereby amended to read as follows:

27 **23-3-1. Definitions.** -- As used in this chapter:

28 (1) “Community of resident” means the city or town within the state of a person's home  
29 address at the time of his or her marriage or death, or of his or her mother's home address at the  
30 time of his or her birth.

31 (2) “Dead body” means a lifeless human body or parts of a lifeless human body or its  
32 bones from the state of which it reasonably may be concluded that death recently occurred.

33 (3) “Fetal death” means death prior to the complete expulsion or extraction from its  
34 mother of a product of human conception, irrespective of the duration of pregnancy; the death is

1 indicated by the fact that after the expulsion or extraction the fetus does not breathe or show any  
2 other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite  
3 movement of the voluntary muscles.

4 (4) "Filing" means the presentation of a certificate, report, or other record provided for in  
5 this chapter, of a birth, death, fetal death, adoption, marriage, or divorce for registration by the  
6 division of vital records.

7 (5) "Final disposition" means the burial, interment, cremation, or other disposition of a  
8 dead body or fetus.

9 (6) "Institution" means any establishment, public or private, which provides in-patient  
10 medical, surgical, or diagnostic care or treatment, or nursing, custodial or domiciliary care to two  
11 (2) or more unrelated individuals, or to which persons are committed by law.

12 (7) "Live birth" means the complete expulsion or extraction from its mother of a product  
13 of human conception, irrespective of the duration of pregnancy, which, after that expulsion or  
14 extraction, breathes or shows any other evidences of life such as beating of the heart, pulsation of  
15 the umbilical cord, or definite movement of the voluntary muscles, whether or not the umbilical  
16 cord has been cut or the placenta is attached.

17 (8) "Physician" means a person authorized or licensed to practice medicine pursuant to  
18 chapter 37 of title 5.

19 (9) "Registration" means the acceptance by the division of vital records and the  
20 incorporation in its official records of certificates, reports, or other records provided for in this  
21 chapter, or births, deaths, fetal deaths, adoptions, marriages, or divorces.

22 (10) "Signing" or "Signature" means the application of either a hand signature to a paper  
23 record or an electronic process approved by the state registrar of vital records.

24 (11) ~~(10)~~ "System of vital records" means the registration, collection, preservation,  
25 amendment, and certification of vital statistics records, and activities related to them including the  
26 tabulation, analysis, and publication of statistical data derived from those records.

27 (12) ~~(11)~~ "Vital records" means records of birth, death, fetal death, marriage, divorce, and  
28 data related to those records.

29 ~~(12) "Signing" or "Signature" means the application of either a hand signature to a paper~~  
30 ~~record or an electronic process approved by the state registrar of vital records.~~

31 **23-3-25. Fees for copies and searches.** -- (a) The state registrar shall charge fees for  
32 searches and copies as follows:

33 (1) For a search of two (2) consecutive calendar years under one name and for issuance of  
34 a certified copy of a certificate of birth, fetal death, death, or marriage, or a certification of birth,

1 or a certification that the record cannot be found, the fee is twenty dollars (\$20.00). For each  
2 duplicate copy of a certificate or certification issued at the same time, the fee is fifteen dollars  
3 (\$15.00).

4 (2) For each additional calendar year search, if applied for at the same time or within  
5 three (3) months of the original request and if proof of payment for the basic search is submitted,  
6 the fee is two dollars (\$2.00).

7 (3) For providing expedited service, the additional handling fee is seven dollars (\$7.00).

8 (4) For processing of adoptions, legitimations, or paternity determinations as specified in  
9 §§ 23-3-14 and 23-3-15, there shall be a fee of fifteen dollars (\$15.00).

10 (5) For making authorized corrections, alterations, and additions, the fee is ten dollars  
11 (\$10.00); provided, no fee shall be collected for making authorized corrections or alterations and  
12 additions on records filed before one year of the date on which the event recorded has occurred.

13 (6) For examination of documentary proof and the filing of a delayed record, a fee of  
14 twenty dollars (\$20.00); and in addition to that fee, the fee is twenty dollars (\$20.00); for the  
15 issuance of a certified copy of a delayed record.

16 (b) Fees collected under this section by the state registrar shall be deposited in the  
17 general fund of this state, according to the procedures established by the state treasurer.

18 (c) The local registrar shall charge fees for searches and copies of records as follows:

19 (1) For a search of two (2) consecutive calendar years under one name and for issuance of  
20 a certified copy of a certificate of birth, fetal death, death, delayed birth, or marriage, or a  
21 certification of birth or a certification that the record cannot be found, the fee is twenty dollars  
22 (\$20.00). For each duplicate copy of a certificate or certification issued at the same time, the fee  
23 is fifteen dollars (\$15.00).

24 (2) For each additional calendar year search, if applied for at the same time or within  
25 three (3) months of the original request and if proof of payment for the basic search is submitted,  
26 the fee is two dollars (\$2.00).

27 (d) Fees collected under this section by the local registrar shall be deposited in the city or  
28 town treasury according to the procedures established by the city or town treasurer except that six  
29 dollars (\$6.00) of the certified copy fees shall be submitted to the state registrar for deposit in the  
30 general fund of this state.

31 SECTION 35. Section 23-4-6 of the General Laws in Chapter 23-4 entitled "Office of  
32 State Medical Examiners" is hereby amended to read as follows:

33 **23-4-6. State medical examiners commission.** -- (a) There is established the state  
34 medical examiners commission. The commission shall hear and determine appeals to decisions



1 by chief medical examiners regarding the undertaking of investigations, inquests, and autopsies,  
2 and shall advise the chief medical examiner on matters of public concern.

3 (b) The commission shall consist of twelve (12) members, three (3) of whom shall be ex  
4 officio members, viz., the director of health, the attorney general, the superintendent of state  
5 police, and nine (9) citizens of the state to be appointed by the governor with the advice and  
6 consent of the senate for the term of three (3) years. The governor shall give due consideration to  
7 any recommendations for nominations submitted to him or her by the president of the Rhode  
8 Island Medical Society, the president of the Rhode Island Society of Pathologists, the president of  
9 the Rhode Island Bar Association, the vice president of Brown University Division of Biological  
10 and Medical Sciences and the president of the Rhode Island Funeral Directors Association. Each  
11 citizen member shall hold office for the term of his or her appointment and until his or her  
12 successor is appointed. Vacancies for citizen members shall be filled by appointment for the  
13 unexpired term only.

14 (c) The director of health and the attorney general shall be the chairperson and vice  
15 chairperson, respectively, of the commission. The chief medical examiner of the office of state  
16 medical examiners shall serve as the executive secretary of the commission, and the expenses of  
17 the commission shall be a responsibility of the department of health. The board may elect from  
18 among its members such other officers as it deems necessary. Seven (7) members of the board  
19 shall constitute a quorum and the vote of a majority of those present and voting shall be required  
20 for action. The commission shall meet at the call of its chairperson and at least four (4) times each  
21 year, the time and the place for each meeting to be fixed by the chairperson.

22 (d) Members of the commission shall be removable by the governor pursuant to the  
23 provisions of § 36-1-7 of the general laws and for cause only, and removal solely for partisan or  
24 personal reasons unrelated to capacity or fitness for the office shall be unlawful.

25 (e) Within ninety (90) days after the end of each fiscal year, the commission shall  
26 approve and submit an annual report to the governor, the speaker of the house of representatives,  
27 the president of the senate, and the secretary of state, of its activities during that fiscal year. The  
28 report shall provide an operating statement summarizing meetings or hearings held, including  
29 meeting minutes, subjects addressed, decisions rendered, appeals considered and their disposition,  
30 rules or regulations promulgated, studies conducted, policies and plans developed, approved, or  
31 modified, and programs administered or initiated; a consolidated financial statement of all funds  
32 received and expended including the source of the funds, a listing of any staff supported by these  
33 funds, and a summary of any clerical, administrative or technical support received; a summary of  
34 performance during the previous fiscal year including accomplishments, shortcomings and

1 remedies; a synopsis of hearing, complaints, suspensions, or other legal matters related to the  
2 authority of the commission; a summary of any training courses held pursuant to this chapter; a  
3 briefing on anticipated activities in the upcoming fiscal year; and findings and recommendations  
4 for improvements. The report shall be posted electronically on the websites of the general  
5 assembly and the secretary of state pursuant to the provisions of § 42-20-8.2. The director of the  
6 department of administration shall be responsible for the enforcement of the provisions of this  
7 subsection.

8 (f) ~~To~~ The commission shall conduct a training course for newly appointed and qualified  
9 members within six (6) months of their qualification or designation. The course shall be  
10 developed by the chair of the commission, be approved by the commission, and be conducted by  
11 the chair of the commission. The commission may approve the use of any commission and/or  
12 staff members and/or individuals to assist with training. The training course shall include  
13 instruction in the following areas: the provisions of chapters 42-46, 36-14 and 38-2; and the  
14 commission's rules and regulations. The director of the department of administration shall, within  
15 ninety (90) days of ~~the effective date of this act~~ [June 16, 2006], prepare and disseminate training  
16 materials relating to the provisions of chapters 42-46, 36-14, and 38-2.

17 SECTION 36. Section 23-4-14.1 of the General Laws in Chapter 23-4 entitled "Office of  
18 State Medical Examiners" is hereby repealed.

19 ~~**23-4-14.1. Quality Improvement — Reporting to the governor and legislature.**~~

20 ~~The office of the state medical examiners shall issue a status report to the governor and the  
21 general assembly on or before September 15, 2005 and March 15, 2006 on efforts and outcomes  
22 during the prior six (6) month period. Said report shall include, but may not be limited to, the  
23 following areas of quality improvement:~~

- 24 ~~? Volume of investigations~~
- 25 ~~? Turnaround time for investigations~~
- 26 ~~? Organ/Tissue donation activities~~
- 27 ~~? External reviews of the OSME, including progress toward national accreditation~~
- 28 ~~? Budget and staffing~~
- 29 ~~? Plans for continued quality and performance improvement.~~

30 SECTION 37. Section 23-4.8-3 of the General Laws in Chapter 23-4.8 entitled "Spousal  
31 Notice for Abortion" is hereby amended to read as follows:

32 ~~**23-4.8-3. Exceptions. --**~~ The requirements of § 23-4.8-2 shall not apply if:

33 (1) The woman having the abortion furnishes to the physician who is to perform the  
34 abortion or the physician's authorized agent prior to the abortion being performed a written

1 statement that she has given notice to her husband of the proposed abortion or a written statement  
2 that the fetus was not fathered by her husband;

3 (2) The woman ~~or~~ and her husband are living separate and apart or either spouse has filed  
4 a petition or complaint for divorce in a court of competent jurisdiction;

5 (3) The physician who is to perform the abortion or his or her authorized agent receives  
6 the written affirmation of the husband that he has been notified of the proposed abortion; or

7 (4) There is an emergency requiring immediate action. In the case of an emergency, the  
8 woman's attending physician shall certify in writing on the patient's medical record that an  
9 emergency exists and the medical basis for his or her opinion.

10 SECTION 38. Sections 23-6-14, 23-6-20 and 23-6-24 of the General Laws in Chapter  
11 23-6 entitled "Prevention and Suppression of Contagious Diseases" are hereby amended to read  
12 as follows:

13 **23-6-14. Exceptions.** -- A physician or other health care provider may secure a test  
14 sample for the presence of HIV without consent under the following conditions:

15 (1) When the person to be tested is under one year of age;

16 (2) When the person to be tested is between one and thirteen (13) years of age and  
17 appears to be symptomatic for HIV;

18 (3) When the person to be tested is a minor under the care and authority of the  
19 department of children, youth, and families, and the director of that department certifies that an  
20 HIV test is necessary to secure health or human services for that person;

21 (4) When a person (the complainant) can document significant exposure to blood or other  
22 bodily fluids of another person (the individual to be tested), during the performance of the  
23 complainant's occupation, providing:

24 (i) The complainant completes an incident report within forty-eight (48) hours of the  
25 exposure, identifying the parties to the exposure, witnesses, time, place, and nature of the event;

26 (ii) The complainant submits to a baseline HIV test and is negative on that test for the  
27 presence of HIV, within seventy-two (72) hours of the exposure;

28 (iii) There has been a significant percutaneous or mucus membrane exposure, i.e.,  
29 needlestick, bite, splash over open wound, broken skin, or mucus membrane, by blood or bodily  
30 fluids of the person to be tested of a type and in sufficient concentration to permit transmission of  
31 HIV if present in those fluids; and

32 (iv) If a sample of the patient's blood is not otherwise available and the patient refuses to  
33 grant informed consent, then the complainant may petition the superior court for a court order  
34 mandating that the test be performed.

1 (5) (i) In a licensed health care facility or in the private office of a physician in the event  
2 that an occupational health representative or physician, registered nurse practitioner, physician  
3 assistant, or nurse-midwife not directly involved in the exposure, determines that a health care  
4 provider, other than one in a supervisory position to the person making the determination had a  
5 significant exposure to the blood and/or body fluids of a patient and the patient or the patient's  
6 guardian refuses to grant consent for an HIV test to determine whether the patient has HIV, then,  
7 if a sample of the patient's blood is available, that blood shall be tested for HIV.

8 (ii) If a sample of the patient's blood is not otherwise available and the patient refuses to  
9 grant informed consent, then the health care worker may petition the superior court for a court  
10 order mandating that the test be performed.

11 (iii) Before a patient or a sample of the patient's blood is required to undergo an HIV test,  
12 the health care provider must submit to a baseline HIV test within seventy-two (72) hours of the  
13 exposure.

14 (iv) No person who determines that a health care worker has sustained a significant  
15 exposure and authorizes the HIV testing of a patient, nor any person or health care facility who  
16 acts in good faith and recommends the test be performed, shall have any liability as a result of  
17 their actions carried out under this chapter, unless those persons are proven to have acted in bad  
18 faith.

19 (6) In an emergency, where due to a grave medical or psychiatric condition, it is  
20 impossible to obtain consent from the patient or the patient's parent, guardian, or agent.

21 (7) As permitted under §§ ~~23-18.6-12~~ [23-18.6.1-14\(c\)](#) and [\(d\)](#) (organ transplant), 23-1-38  
22 (sperm donation), and 23-8-1.1 (person under eighteen (18) years may give consent for testing for  
23 communicable diseases).

24 (8) Mandatory testing for human immunodeficiency virus (HIV) conducted pursuant to  
25 §§ 42-56-37 (testing at ACI), 11-34-10 (prostitution), and 21-28-4.20 (IDU and needles).

26 **23-6-20. Notification of disclosure.** -- In all cases when an individual's HIV test results  
27 are disclosed to a third party, other than a person involved in the care and treatment of the  
28 individual, and except as permitted by subsections [\(a\)\(1\)](#), [\(a\)\(2\)\(i\)](#), [\(a\)\(2\)\(ii\)](#), [\(a\)\(2\)\(iv\)](#), or [\(a\)\(4\)](#)  
29 of § 23-6-17 (permitted disclosures re: confidentiality), and permitted by and disclosed in  
30 accordance with the Federal Health Insurance Portability and Accountability Act of 1996 (Public  
31 law 104-191) enacted on August 21, 1996 and as thereafter amended, the person so disclosing  
32 shall make reasonable efforts to inform that individual in advance of:

33 (1) The nature and purpose of the disclosure;

34 (2) The date of disclosure;

1 (3) The recipient of the disclosed information.

2 **23-6-24. Insurance exemption.** -- (a) Sections 23-6-10 — 23-6-23 do not apply to the  
3 offering or sale of life insurance in Rhode Island; provided, however, that any insurance company  
4 offering or selling life insurance within Rhode Island that requires an individual to be tested for  
5 infection with human immunodeficiency virus (HIV) or any other identified causative agent of  
6 HIV for purposes of determining insurability shall: (1) give that individual prior written notice of  
7 those requirements, and (2) proceed with that testing only upon the written authorization of the  
8 individual or in the event the individual is a minor, the individual's parent or guardian.  
9 Notwithstanding anything in §§ 23-6-10 — 23-6-23 to the contrary, life insurance companies  
10 offering or selling life insurance in Rhode Island may otherwise obtain or disclose HIV test  
11 results in accordance with § 23-6-17(3). Nothing in this chapter prohibits that company from  
12 collecting data for statistical purposes, so long as the insured is not identified. However, nothing  
13 in this section shall be construed to permit that insurance company to cancel or refuse to renew a  
14 life insurance policy that by its terms has not lapsed on the basis of a positive HIV test result.

15 (b) (1) “Health benefits” include accident and sickness, including disability or health  
16 insurance, health benefit plans and/or policies, hospital, health, or medical service plans, or any  
17 health maintenance organization plan pursuant to title 27 or otherwise.

18 (2) The provisions of §§ 23-6-10 — 23-6-23 apply to the offer or sale of health benefits  
19 in this state by any company regulated under the laws of this state, including, but not limited to,  
20 title 27 and chapter 62 of title 42; provided, however, §§ 23-6-10 — 23-6-23 do not apply to the  
21 following:

22 (i) Individual health benefit policies;

23 (ii) Small group health benefits plans, i.e., groups having fewer than twenty-five (25)  
24 employees eligible to participate in an employer sponsored plan, or, in the case of non-employer  
25 groups, a group having fewer than twenty-five (25) employees;

26 (iii) Late entrants into any group health benefits plan, regardless of the size of the group.  
27 A late entrant shall be defined as any individual who does not enroll into a health plan when first  
28 eligible under the plan, but who later seeks coverage under the group plan;

29 (iv) Where an individual seeks to become eligible for an amount of group disability  
30 income benefit, which benefit would be in excess of the insurer's non-medical maximum as  
31 defined under the group plan.

32 (3) Any company offering or selling health benefits in this state and regulated under the  
33 laws of this state that requires an individual to be tested for infection with HIV or any other  
34 identified causative agent of HIV as permitted in paragraphs (2)(i) to (iv) for purposes of

1 determining insurability shall: (i) give that individual prior written notice of those requirements,  
2 and (ii) proceed with that testing only upon the written authorization of the individual, or in the  
3 event the individual is a minor, the individual's parent or guardian. Notwithstanding anything in  
4 this chapter to the contrary, companies offering or selling health benefits in this state may  
5 otherwise obtain or disclose HIV test results in accordance with § ~~23-6-17(3)~~ 23-6-17(a)(3).  
6 Nothing in this chapter shall prohibit that company from collecting data for statistical purposes so  
7 long as the insured's name is not identified.

8 (4) Nothing in this chapter shall be construed to permit any company that offers or sells  
9 health benefits in this state to cancel or refuse to renew a health benefit, which has not by its  
10 terms lapsed, on the basis of a positive HIV test result.

11 (c) (1) There is established a commission to develop and recommend to the legislature a  
12 risk pool plan under which all insurers issuing health insurance in the state shall participate and  
13 share a proportion of the risk and cost of insuring people with HIV.

14 (2) The commission consists of eleven (11) members; three (3) of whom shall be  
15 members of the house of representatives, not more than two (2) from the same political party, to  
16 be appointed by the speaker of the house; two (2) of whom shall be members of the senate, not  
17 more than one of whom shall be from the same political party, to be appointed by the president of  
18 the senate; one of whom shall be the director of the department of health, or his or her designee;  
19 one of whom shall be the director of the department of business regulation, or his or her designee;  
20 two (2) of whom shall be representatives of the insurance community, to be appointed by the  
21 governor; and two (2) of whom shall be representatives of AIDS project Rhode Island, to be  
22 appointed by the governor.

23 (3) The commission shall meet at the call of the speaker.

24 SECTION 39. Section 23-7-6.2 of the General Laws in Chapter 23-7 entitled "Mosquito  
25 Abatement" is hereby amended to read as follows:

26 **23-7-6.2. Board training.** -- Newly appointed and qualified members of the board and  
27 new designees of ex officio members are required to complete a training course within six (6)  
28 months of their qualification or designation. The course shall be developed by the chair of the  
29 board, approved by the board and conducted by the chair of the board. The board may approve  
30 the use of any board or staff members or other individuals to assist with training. The course shall  
31 include instruction in the following areas: the provisions of chapters 23-7, 42-46, 36-14 and 38-2;  
32 and the board's rules and regulations. The director of the department of administration shall,  
33 within ninety (90) days ~~of the effective date of this act~~ [April 20, 2006], prepare and disseminate  
34 training materials relating to the provisions of chapters 42-46, 36-14 and 38-2.

1 SECTION 40. Sections 23-9-14, 23-9-15, 23-9-16, 23-9-17, 23-9-18 and 23-9-21 of the  
2 General Laws in Chapter 23-9 entitled "Quarantine of Vessels" are hereby amended to read as  
3 follows:

4 **23-9-14. Hoisting of quarantine colors. --** The commander of a vessel as described in ~~§~~  
5 ~~23-9-13 [repealed]~~ [this chapter](#), on his or her arrival in any of the waters of the state, shall  
6 immediately hoist and keep his or her colors in the shrouds of that vessel as a signal that he or she  
7 has come from some infected place or has infection or contagion on board.

8 **23-9-15. Unauthorized departure from infected vessel. --** If any person shall come on  
9 shore from on board a vessel as described in ~~§ 23-9-13 [repealed]~~ [this chapter](#) without first  
10 obtaining a license, the city or town council may immediately send that offender back on board  
11 that vessel, or confine him or her on shore in a convenient place that appears to the city or town  
12 council most effectual to prevent the spreading of any infection; and the offending person shall  
13 satisfy and pay all charges that shall arise on the confinement, and shall be fined forty dollars  
14 (\$40.00).

15 **23-9-16. Examination of vessel - Guards to prevent unauthorized communication. --**  
16 The city or town council of the city or town where a vessel as described in ~~§ 23-9-13 [repealed]~~  
17 [this chapter](#) arrives shall send a physician or other suitable person to examine and report to them  
18 of the true state of that vessel and the people on board, at the charge of the master or owner of  
19 that vessel; and they shall immediately put on board that vessel some suitable person or persons  
20 to secure that vessel and effectually prevent any communication with that vessel, at the like  
21 charge of the master or owner of that vessel.

22 **23-9-17. Confinement or removal of persons on board. --** The city or town council of  
23 the city or town where a vessel as described in ~~§ 23-9-13 [repealed]~~ [this chapter](#) arrives shall  
24 confine on board that vessel, or send to some hospital or other suitable place, all persons who  
25 came in that vessel, for a convenient time, until those of them that have, or are likely to have, the  
26 smallpox or other infectious or contagious distemper are perfectly recovered and cleansed from  
27 that distemper, or have passed a suitable quarantine, and also all persons who have gone on board  
28 that vessel without license, at the charge and expense of those persons respectively.

29 **23-9-18. Disinfection of imported goods. --** The city or town council of a city or town  
30 where a vessel as described in ~~§ 23-9-13 [repealed]~~ [this chapter](#) arrives shall appoint suitable  
31 persons to take effectual care that all goods, wares, and merchandise imported in that vessel  
32 which they think may hold and communicate the infection or contagion are landed in some  
33 suitable place to be appointed by the council and cleansed in the manner directed by the council  
34 before they are permitted to be brought into any house, shop, or warehouse, other than that in

1 which they are cleansed.

2 **23-9-21. Forfeiture of unlawfully imported goods.** -- All goods imported in a vessel as  
3 described in ~~§ 23-9-13 [repealed]~~ [this chapter](#) that shall be clandestinely landed or brought into  
4 any house, shop, or warehouse without a certificate and allowance as provided in § 23-9-19, or  
5 that shall be imported by land as provided in § 23-9-20 and not cleansed or aired by order of the  
6 city or town council, shall be forfeited; one-third (1/3) of those goods to the use of the state and  
7 two-thirds (2/3) to the use of the person who shall sue for the goods.

8 SECTION 41. Section 23-11-17 of the General Laws in Chapter 23-11 entitled "Sexually  
9 Transmitted Diseases" is hereby amended to read as follows:

10 **23-11-17. Human immunodeficiency virus (HIV) testing.** -- (a)(1) The physician or  
11 health care provider attending any person for a suspected sexually transmitted disease shall offer  
12 testing for human immunodeficiency virus (HIV). All testing pursuant to this section shall be  
13 performed in accordance with §§ 23-6-17 (confidentiality) and 23-6-18 (protection of the medical  
14 record) and the informed consent standards contained in chapter 6 of title 23.

15 (2) Each person tested and counseled shall first be provided with an “informed consent  
16 form” as provided by subsection 23-6-11(3), and shall specifically be given the opportunity to  
17 decline or opt-out of testing, which he or she shall sign and date in acknowledgment of his/her  
18 election to be tested.

19 (b) In the event an individual consents to anonymous testing and tests positive for HIV,  
20 the HIV testing counselor shall provide the client an informed consent form as provided by  
21 subsection 23-6-11(3). If an individual is tested anonymously and is found positive on the initial  
22 screening test or during a post-test consultation, the counselor shall discuss, with the client,  
23 options regarding referrals and reporting of this positive screening, including the necessity of  
24 accessing a physician. The department of health shall maintain sites for providing both  
25 anonymous and confidential HIV testing, and HIV counseling and referral. Each site, funded by  
26 the department of health, shall offer free testing, counseling and referral for indigent parties and  
27 other individuals without health insurance, offer a sliding scale for payment for all other  
28 individuals and, in the case of confidential testing, screen, for ability to pay through a third-party  
29 insurer. In the case of nonfunded sites for HIV testing, organizations and/or institutions  
30 performing the test shall offer free testing, counseling and referral for indigent parties and other  
31 individuals without health insurance.

32 (c) All persons tested under this section shall be counseled and tested in accordance with  
33 regulations promulgated by the department of health; provided, however, that the counseling shall  
34 be in accordance with acceptable medical standards, and no test results shall be given by any



1 means (e.g. phone, mail, e-mail, fax, etc.) other than in person. Counselors for HIV counseling,  
2 testing and referral must undergo training given by the department of health to become a qualified  
3 professional counselor.

4 SECTION 42. Sections 23-13-13, 23-13-17, 23-13-22, 23-13-23, and 23-13-26 of the  
5 General Laws in Chapter 23-13 entitled "Maternal and Child Health Services for Children with  
6 Special Health Care Needs" are hereby amended to read as follows:

7 **23-13-13. Testing for hearing impairments.** -- (a) It is declared to be the public policy  
8 of this state that every newborn infant be evaluated by procedures approved by the state  
9 department of health for the detection of hearing impairments, in order to prevent many of the  
10 consequences of these disorders. No hearing impairment test shall be made as to any newborn  
11 infant if the parents of that child object to the test on the grounds that a hearing impairment test  
12 would conflict with their religious tenets or practices.

13 (b) The physician attending a newborn child shall cause the child to be subject to hearing  
14 impairment tests as described in department of health regulations.

15 (c) In addition, the department of health is authorized to establish by rules and  
16 regulations a reasonable fee structure for hearing impairment testing to cover program costs not  
17 otherwise covered by federal grant funds specifically secured for this purpose. This testing shall  
18 be a covered benefit reimbursable by all health insurers, as defined in § ~~27-38-6 [repealed]~~ [27-](#)  
19 [38.2-2\(1\)](#) except for supplemental policies that only provide coverage for specific diseases,  
20 hospital indemnity, Medicare supplement, or other supplemental policies. The department of  
21 human services shall pay for hearing impairment testing when the patient is eligible for medical  
22 assistance under the provisions of chapter 8 of title 40. In the absence of a third party payor the  
23 charges for hearing impairment testing shall be paid by the hospital or other health care facility  
24 where the birth occurred. Nothing in this section shall preclude the hospital or health care facility  
25 from billing the patient directly. Those fees shall be deposited into the general fund as general  
26 revenues.

27 (d) There is created a hearing impairments testing advisory committee which shall advise  
28 the director of the department of health regarding the validity and cost of testing procedures. That  
29 advisory committee shall:

30 (1) Meet at least four (4) times per year;

31 (2) Be chaired by the director or his or her designee;

32 (3) Be composed of seven (7) members appointed by the director from the following  
33 professions or organizations:

34 (i) A representative of the health insurance industry;

- 1 (ii) A pediatrician, designated by the R.I. chapter of the American Academy of Pediatrics;
- 2 (iii) An audiologist, designated by the R.I. chapter of the American Speech and Hearing
- 3 Association;
- 4 (iv) Two (2) representatives of hospital neonatal nurseries;
- 5 (v) A representative of special education designated by the department of elementary and
- 6 secondary education; and
- 7 (vi) The director of health or his or her designee.

8 **23-13-17. Special supplemental food program for women, infants, and children**

9 **(WIC).** -- (a) The director of health shall administer a program to be called the WIC program, to

10 provide supplemental foods and nutrition education to pregnant, postpartum, and breastfeeding

11 women, infants, and young children from families who meet financial eligibility standards

12 established by the department and who are at special risk with respect to their physical and mental

13 health by reason of inadequate nutrition, or health care, or both. The WIC program shall be

14 administered in a manner consistent with applicable federal law, 42 U.S.C. § 1786, and the

15 provision of this chapter.

16 (b) All applicants and participants who are eligible shall be entitled to participate in the

17 WIC program.

18 (c) The cost of the program shall not exceed two hundred thousand dollars (\$200,000).

19 (d) Every person, party, entity, partnership, corporation, or other business, governmental,

20 or nonprofit entity which embezzles, willfully misapplies, steals, or obtains by fraud or deception

21 any funds, assets or property provided under § 7 of the Child Nutrition Act of ~~1986~~ 1966, 42

22 U.S.C. § ~~1756~~ 1776, or under this chapter, whether received directly or indirectly from the United

23 States department of agriculture or the Rhode Island department of health, or receives, conceals,

24 or retains those funds, assets, or property for his or her own interest, knowing those funds, assets,

25 or property have been embezzled, willfully misapplied, stolen, or obtained by fraud or deception

26 shall, if the amount of funds, assets, or property are of the value of five hundred dollars (\$500) or

27 more, be fined not more than ten thousand dollars (\$10,000), or if the amount of funds, assets, or

28 property are of a value of less than five hundred dollars (\$500), shall be fined not more than one

29 thousand dollars (\$1,000). The amount of funds, assets, or property provided under the special

30 supplemental food program for women, infants, and children misdirected in violation of this

31 chapter shall be calculated as the aggregate from any and all incidents or acts prohibited by this

32 chapter occurring in any consecutive twelve (12) month period.

33 (e) Every person, party, entity, partnership, corporation, or other business, governmental,

34 or nonprofit entity which duplicates, causes to be duplicated, creates, manufactures, or causes to

1 be created or manufactured any copy or facsimile of any article or method employed by the  
2 Rhode Island department of health to identify food vendors which redeem food instruments of the  
3 special supplemental food program for women, infants, and children (WIC program) without the  
4 express written authorization of the Rhode Island department of health or whoever obtains, steals,  
5 conceals or retains a WIC program vendor identifier knowing the identifier has been copied or  
6 created without department of health authorization or obtains or retains an identifier or copy or  
7 facsimile of it, without the express written authorization of the Rhode Island department of  
8 health, shall, if the WIC program vendor identifier is used in the acceptance, redemption, or  
9 deposit of WIC program food instruments, be fined not more than ten thousand dollars (\$10,000),  
10 or if the unauthorized vendor identifier is not shown to have been used in the acceptance,  
11 redemption, or deposit of WIC program food instruments, shall be fined not more than one  
12 thousand dollars (\$1,000).

13 (f) Every person, party, entity, firm, or corporation which misrepresents itself as, or in  
14 any other manner improperly, fraudulently or deceptively holds itself out to be, authorized by any  
15 unit of the federal, state, or local government or other entity to accept, redeem, or deposit WIC  
16 program food instruments, such as WIC checks, or which otherwise attempts or solicits to accept,  
17 redeem, or deposit WIC food instruments without the express authorization of the department in  
18 any manner shall, if the action is accompanied by the unauthorized acceptance, redemption, or  
19 deposit of WIC program food instruments, be fined not more than ten thousand dollars (\$10,000),  
20 or if those actions are not shown to have been accompanied by the acceptance, redemption, or  
21 deposit of WIC program food instruments, shall be fined not more than one thousand dollars  
22 (\$1,000).

23 (g) The possession of any funds, assets, property, vendor identifier, or WIC food  
24 instruments shall be evidence of guilty knowledge by the person having possession that the  
25 property was embezzled, willfully misapplied, stolen, or obtained by fraud or deception or created  
26 or received without authorization except the person shows that it was acquired in the due course  
27 of trade and for adequate consideration.

28 (h) Any penalty imposed under this chapter shall be in addition to immediate repayment  
29 of any claim made under the provisions of the Rhode Island state plan of operation and  
30 administration of the special supplemental food program for women, infants, and children for  
31 funds improperly obtained or received.

32 (i) Any fine imposed under this chapter does not preclude any other sanctions or  
33 penalties set forth in state or federal regulations, rules or the provisions of the Rhode Island state  
34 plan of operation and administration for the special supplemental food program or the provisions

1 of the vendor participation agreement in force between the Rhode Island department of health and  
2 any WIC program vendor.

3 **23-13-22. Early intervention program for developmentally disabled infants. --**

4 (a) The director of the department of human services shall ensure that all  
5 developmentally disabled infants from birth to three (3) years of age shall be enrolled in the early  
6 intervention program. Regulations governing the delivery of services under this program,  
7 including eligibility criteria, shall be promulgated by the department of human services, with the  
8 advice of the interagency coordinating council; provided, however, that all regulations  
9 promulgated by the department of health shall remain in full force and effect until the time they  
10 are replaced by regulations promulgated by the department of human services. The regulations  
11 shall stipulate, at a minimum, the following provisions that are consistent with the intent of this  
12 chapter:

13 (1) The director shall develop and maintain a procedure for the earliest possible  
14 identification and efficient referral of all developmentally disabled infants;

15 (2) The director shall ensure that every infant identified and referred to this program is  
16 enrolled as soon as possible after birth; and further, that for infants placed on a waiting list for  
17 facility based group programming, an early intervention program shall be made available within a  
18 thirty (30) day period from the time a need is identified in the individual program plan;

19 (3) Unless parents refuse the service, the home visiting component of the program shall  
20 commence as soon as the infant has been identified as having a possible developmental disability;

21 (4) Any parent(s) who is/are dissatisfied with decisions or termination of service or with  
22 practices and procedures of a particular agency or the department of human services shall notify  
23 the director of the department of human services in writing within thirty (30) calendar days and  
24 the complaint shall be reviewed in accordance with department of health policy and procedures,  
25 as amended, and the Administrative Procedures Act, chapter 35 of title 42.

26 (5) An early intervention program for purposes of this section shall mean a  
27 comprehensive array of educational, developmental, health, and social services provided on a  
28 calendar year basis to eligible infants, children, and their families as specified in program  
29 regulations.

30 (b) Within ninety (90) days after ~~the effective date of this act~~ [October 1, 2004], an  
31 evaluation plan describing outcome measures that document the program's successes and  
32 shortcomings from the previous fiscal year shall be submitted to the speaker of the house of  
33 representatives, the president of the senate and the house oversight committee and the governor  
34 and the interagency coordinating council. Development of the plan shall be made in consultation

1 with the entities with expertise in this area and the interagency coordinating council. The plan  
2 shall include a memorandum of understanding between the department of health, department of  
3 human services and the department of elementary and secondary education that demonstrates  
4 coordination and continuity of early intervention services among these departments.

5 (c) Within six (6) months after ~~the effective date of this act~~ [January 1, 2005] where  
6 prescribed outcomes documented in the evaluation plan have not been accomplished the  
7 responsible agencies shall submit written explanations for the shortfalls, together with their  
8 proposed remedies. The report shall also include evaluation of the progress of the coordination  
9 efforts between the department of health and the department of human services and the  
10 department of elementary and secondary education and the interagency coordinating council and  
11 shall include any recommendations regarding modifications of the reimbursement mechanisms of  
12 this chapter.

13 (d) Within twelve (12) months after ~~the effective date of this article~~ [August 1, 2005] a  
14 final report shall include the progress of the coordination efforts between the department of health  
15 and the department of human services and department of elementary and secondary education,  
16 interagency coordinating council and shall include any recommendations regarding modifications  
17 to the comprehensive array of educational, developmental, health and social services provided on  
18 a calendar year basis to eligible infants, children and their families as specified in an early  
19 intervention system.

20 (e) All reports or documents required to be produced pursuant to 20 U.S.C. § 1471 et  
21 seq., shall be submitted to the speaker of the house, president of the senate and the chairpersons  
22 of the appropriate house of representatives and senate oversight committees and the governor and  
23 the interagency coordinating council. Adherence to such plans and reporting requirements, and  
24 budgets and the timely achievement of goals contained therein shall be considered by the  
25 oversight committees of the house of representatives and senate, among other relevant factors, in  
26 determining appropriations or other systemic changes.

27 **23-13-23. Interagency coordinating council.** -- The interagency coordinating council,  
28 which is composed in accordance with 20 U.S.C. § 1441, as added by Public Law ~~105-17~~ [108-](#)  
29 [446](#), shall monitor the multiagency operation of the early intervention program and to provide a  
30 forum where problems may be addressed relating to the delivery of services in the early  
31 intervention program.

32 **23-13-26. Technology-dependent children - Definitions - Caretakers' skills.** -- (a) For  
33 the purposes of this section, the following definitions apply:

34 (1) "Advanced skills" means familiarity and current experience with the following:

- 1 (i) Pediatric intensive care assessments skills;
- 2 (ii) Ventilator and respirator equipment;
- 3 (iii) Maintenance in oxygen therapy and pulse oximeter equipment;
- 4 (iv) Tracheostomy care — daily and emergency care;
- 5 (v) Respiratory suctioning and maintenance of suctioning equipment;
- 6 (vi) Administration of respiratory treatment and chest therapy;
- 7 (vii) Gastrostomy and naso-gastric care and gavage/pump feedings;
- 8 (viii) Administration and familiarity of multiple cardio — pulmonary medications; and
- 9 (ix) Basic life support certification and periodic recertification.

10 (2) “Medical devices or equipment” include, but are not limited to, the following:

- 11 (i) Respirator;
- 12 (ii) Tracheostomy;
- 13 (iii) Oxygen;
- 14 (iv) Naso-gastric or gastrostomy tube;
- 15 (v) Indwelling catheter;
- 16 (vi) Intravenous device;
- 17 (vii) Total parenteral nutritional support; and
- 18 (viii) Peritoneal or hemodialysis.

19 (3) “Technology-dependent children” means:

20 (i) Children who have severe, chronic disabilities attributable to a mental or physical  
21 impairment or combination of mental and physical impairments, which disability is manifested  
22 before the person attains the age of twenty-two (22), is likely to continue indefinitely, results in  
23 substantial functional limitations in three (3) or more of the following areas of major life activity:

- 24 (A) Self-care;
- 25 (B) Receptive and expressive language;
- 26 (C) Learning;
- 27 (D) Mobility;
- 28 (E) Self-direction;
- 29 (F) Capacity for independent living; or
- 30 (G) Economic self-sufficiency; and

31 (ii) Who requires medical devices or equipment to compensate for the chronic, persistent  
32 reduction or absence of a vital body function.

33 (b) Certified school nurse teachers, as defined in § 16-21-8, who provide direct care for  
34 technology-dependent children shall have advanced skills which include, but are not limited to,

1 those skills in subsection (a)(1) of this section.

2 (c) The specific guidelines for the care of technology-dependent children in schools shall  
3 be included in the rules and regulations issued jointly by the director of the department of health  
4 and the board of regents for elementary and secondary education under the provisions of U.S.  
5 Public Law ~~94-142~~ [108-446](#), 20 U.S.C. § 1400 et seq., and chapter 24 of title 16 as part of the  
6 school health program.

7 (d) Nothing in § 16-11-2 shall be construed to prevent the board of regents from  
8 promulgating regulations requiring certified nurse teachers who provide direct care for  
9 technology-dependent children to obtain the advanced skills required under this section.

10 (e) The obligation of a school district to provide the services set forth in this section shall  
11 be determined in accordance with other applicable state and federal laws and regulations.

12 SECTION 43. Section 23-13.2-1 of the General Laws in Chapter 23-13.2 entitled  
13 "Nursing Working Mothers" is hereby amended to read as follows:

14 **23-13.2-1. Workplace policies protecting a woman's choice to breastfeed.** -- (a) An  
15 employer may provide reasonable unpaid break time each day to an employee who needs to  
16 breastfeed or express breast milk for her infant child to maintain milk supply and comfort. The  
17 break time must, if possible, run concurrently with any break time already provided to the  
18 employee. An employer is not required to provide break time under this section if to do so would  
19 create an undue hardship on the operations of the employer.

20 (b) An employer shall make a reasonable effort to provide a private, secure and sanitary  
21 room or other location in close proximity to the work area, other than a toilet stall, where an  
22 employee can express her milk or breastfeed her child.

23 (c) The department of health shall issue periodic reports on breastfeeding rates,  
24 complaints received and benefits reported by both working breastfeeding mothers and employers.

25 (d) As used in this section:

26 (1) "Employer" means a person engaged in business who has one or more employees,  
27 including the state and any political subdivision of the state;

28 (2) "Employee" means any person engaged in service to an employer in the business of  
29 the employer;

30 (3) "Reasonable efforts" means any effort that would not impose an undue hardship on  
31 the operation of the employer's business; and

32 (4) "Undue hardship" means any action that requires significant difficulty or expense  
33 when considered in relation to factors such as the size of the business, its financial resources and  
34 the nature and structure of its operation.

1 SECTION 44. Sections 23-13.3-1 and 23-13.3-4 of the General Laws in Chapter 23-13.3  
2 entitled "Birth Defects Surveillance and Information System" are hereby amended to read as  
3 follows:

4 **23-13.3-1. Preamble to birth defects surveillance and information system. --**

5 Whereas birth defects are a major cause of infants deaths and childhood disabilities; and whereas  
6 early recognition and response to birth defects often prevents more serious effects; and whereas  
7 the epidemiological patterns of specific birth defects may provide keys to improved birth  
8 outcomes. An active birth defects surveillance and information system is essential to developing  
9 programs and disseminating information that can reduce birth defects and infant mortality. An  
10 active birth defects surveillance and information system serves to:

- 11 ~~(a)~~ (1) Describe occurrence of birth defects in the newborn and children up to five (5);  
12 ~~(b)~~ (2) Detect trends of morbidity and mortality, stimulate epidemiological research  
13 diminish the impact of birth defects and infant mortality;  
14 ~~(c)~~ (3) Identify newborns and children with birth defects to intervene on a timely basis for  
15 treatment.

16 **23-13.3-4. Advisory council. --** (a) Not later than thirty (30) days after ~~the effective~~  
17 ~~date of this act~~ July 7, 2003, the director shall appoint a council to advise the department on the  
18 establishment and implementation of the birth defects reporting, surveillance and information  
19 system.

20 (b) The council shall recommend to the director a list of birth defects to be reported to  
21 the surveillance system.

22 (c) The council shall include not more than fifteen (15) persons who collectively bring  
23 the following expertise: (1) representative of the Children's Cabinet; (2) health care services; (3)  
24 the Rhode Island March of Dimes and other community organizations concerned with birth  
25 defects; (4) parents of children with birth defects; and (5) the public.

26 (d) Members may serve for two ~~(2)~~ three (3) year terms. Terms for each appointee begin  
27 at the initial appointment date.

28 (e) Not later than thirty (30) days after the initial appointments are made the director  
29 shall convene the first meeting of the council. In consultation with and with the approval of the  
30 council, the director shall appoint, at the first meeting of the council, the chairperson and vice  
31 chairperson of the council from among the members of the council. The chairperson may call  
32 additional meetings, as the chairperson considers appropriate.

33 (f) The council may establish rules of procedure as necessary to facilitate the council's  
34 orderly conduct of business.



1 (g) Council members shall serve without compensation.

2 SECTION 45. Sections 23-13.4-1, 23-13.4-2, 23-13.4-3, 23-13.4-4, and 23-13.4-5 of the  
3 General Laws in Chapter 23-13.4 entitled "Hazardous Chemicals – Contamination of Breast Milk  
4 and Environment" are hereby amended to read as follows:

5 **23-13.4-1. Legislative findings.** -- The legislature finds and declares all of the following:

6 ~~(a)~~ (1) Chemicals known as brominated flame retardants (BFRs) are widely used in  
7 Rhode Island. To meet stringent fire standards, manufacturers add BFRs to a multitude of  
8 products, including plastic housing of electronics and computers, circuit boards, and the foam and  
9 textiles used in furniture.

10 ~~(b)~~ (2) Polybrominated diphenyl ether (PBDE), which is a subcategory of BFRs, has  
11 increased fortyfold in human breast milk since the 1970s.

12 ~~(c)~~ (3) PBDE has the potential to disrupt thyroid hormone balance and contribute to a  
13 variety of developmental deficits, including low intelligence and learning disabilities. PBDE may  
14 also have the potential to cause cancer.

15 ~~(d)~~ (4) Substantial efforts to eliminate BFRs from products have been made throughout  
16 the world, including private and public sectors. These efforts have made available numerous  
17 alternatives safe to human health while meeting stringent fire standards. To meet market demand,  
18 it is in the interest of Rhode Island manufacturers to eliminate the use of BFRs.

19 ~~(e)~~ (5) In order to protect the public health and the environment, the legislature believes it  
20 is necessary for the state to develop a precautionary approach regarding the production, use,  
21 storage, and disposal of products containing brominated fire retardants.

22 **23-13.4-2. Definitions.** -- For purposes of this chapter, the following words shall have the  
23 following meanings:

24 ~~(a)~~ (1) "DecaBDE" means decabromodiphenyl ether.

25 ~~(b)~~ (2) "OctaBDE" means octabrominated diphenyl ether or any technical mixture in  
26 which octabrominated diphenyl ether is a predominate congener.

27 ~~(c)~~ (3) "PBDE" means polybrominated diphenyl ether.

28 ~~(d)~~ (4) "PentaBDE" means pentabrominated diphenyl ether or any technical mixture in  
29 which pentabrominated diphenyl ether is a predominate congener including, but not limited to,  
30 metal furniture, machinery, major appliances, electronic products, and wood-burning stoves.

31 **23-13.4-3. Manufacturing, processing or distribution.** -- (a) Effective January 1, 2007,  
32 a person may not manufacture, process, or distribute in commerce a product or a flame-retardant  
33 part of a product containing more than one-tenth (1/10%) of one percent (1%) of pentaBDE or  
34 octaBDE.

1 (b) Subsection (a) of this section does not apply to the following:

2 (1) The sale by a business, charity, or private party of any used product containing PBDE.

3 (2) The distribution in commerce of original equipment manufacturer replacement service  
4 parts manufactured prior to ~~the effective date of this act~~ [July 14, 2006](#).

5 (3) The processing of recycled material containing pentaBDE or octaBDE in compliance  
6 with applicable state and federal laws.

7 (4) Use of products containing small quantities of PBDEs that are produced or used or  
8 used for scientific research on the health or environmental effects of PBDEs.

9 **23-13.4-4. "DecaBDE" Study.** -- By January 2, 2007, the department of environmental  
10 management, shall submit to the general assembly a report that reviews the latest available  
11 scientific research to address the following issues:

12 ~~(a)~~ [\(1\)](#) Whether decaBDE is bio-accumulating in humans and the environment, and if so,  
13 whether the levels of decaBDE are increasing, decreasing, or staying the same;

14 ~~(b)~~ [\(2\)](#) How are humans exposed to decaBDE;

15 ~~(c)~~ [\(3\)](#) What health effects could result from exposure to decaBDE, and are current levels  
16 of exposure at levels that could produce these effects;

17 ~~(d)~~ [\(4\)](#) Whether decaBDE breaks down into more harmful chemicals that could damage  
18 public health; and

19 ~~(e)~~ [\(5\)](#) Whether effective flame retardants are available for decaBDE uses, and whether  
20 the use of available alternatives reduce health risks while still maintaining an adequate level of  
21 flame retardant performance.

22 **23-13.4-5. Review of "decaBDE" Study.** -- By February 28, 2007, the department of  
23 health, shall submit to the general assembly a report that reviews the department of environmental  
24 management's decaBDE study. In addition to a review of any public health implications the  
25 department of health believes would result from exposure to decaBDE, it shall also comment on  
26 the following:

27 ~~(a)~~ [\(1\)](#) The known exposure pathways for humans to decaBDE;

28 ~~(b)~~ [\(2\)](#) What scientific evidence exists to demonstrate that decaBDE breaks down into  
29 other chemicals that could pose public health concerns; and

30 ~~(c)~~ [\(3\)](#) What research and analysis exists on the potential human health effects of flame  
31 retardants that could be used as alternative to decaBDE.

32 SECTION 46. Section 23-14.1-5 of the General Laws in Chapter 23-14.1 entitled "Health  
33 Professional Loan Repayment Program" is hereby amended to read as follows:

34 **23-14.1-5. Duties of the board.** -- The board shall:

1 (1) Determine which areas of the state shall be eligible to participate in the loan  
2 repayment program each year, based on health professional shortage area designations.

3 (2) Receive and consider all applications for loan repayment made by eligible health  
4 professionals.

5 (3) Conduct a careful and full investigation of the ability, character, financial needs, and  
6 qualifications of each applicant.

7 (4) Consider the intent of the applicant to practice in a health professional shortage area  
8 and to adhere to all the requirements for participation in the loan repayment program.

9 (5) Submit to the director a list of those individuals eligible for loan repayment and  
10 amount of loan repayment to be granted.

11 (6) Promulgate rules and regulations to ensure an effective implementation and  
12 administration of the program.

13 (7) Within ninety (90) days after the end of each fiscal year, the board shall approve and  
14 submit an annual report to the governor, the speaker of the house of representatives, the president  
15 of the senate, and the secretary of state, of its activities during that fiscal year. The report shall  
16 provide: an operating statement summarizing meetings or hearings held, including meeting  
17 minutes, subjects addressed, decisions rendered, applications considered and their disposition,  
18 rules or regulations promulgated, studies conducted, polices and plans developed, approved, or  
19 modified, and programs administered or initiated; a consolidated financial statement of all funds  
20 received and expended including the source of the funds, a listing of any staff supported by these  
21 funds, and a summary of any clerical, administrative or technical support received; a summary of  
22 performance during the previous fiscal year including accomplishments, shortcomings and  
23 remedies; a synopsis of hearings, complaints, suspensions, or other legal matters related to the  
24 committee; a summary of any training courses held pursuant to this chapter; a briefing on  
25 anticipated activities in the upcoming fiscal year, and findings and recommendations for  
26 improvements. The report shall be posted electronically on the websites of the general assembly  
27 and the secretary of state pursuant to the provisions of § 42-20-8.2. The director of the department  
28 of administration shall be responsible for the enforcement of the provisions of this subsection.

29 (8) ~~To conduct~~ Conduct a training course for newly appointed and qualified members  
30 within six (6) months of their qualification or designation. The course shall be developed by the  
31 chair of the board, be approved by the board, and be conducted by the chair of the board. The  
32 board may approve the use of any board and/or staff members and/or individuals to assist with  
33 training. The training course shall include instruction in the following areas: the provisions of  
34 chapters 42-46, 36-14 and 38-2; and the board's rules and regulations. The director of the

1 department of administration shall, within ninety (90) days of ~~the effective date of this act~~ [June  
2 16, 2006], prepare and disseminate training materials relating to the provisions of chapters 42-46,  
3 36-14, and 38-2.

4 SECTION 47. Section 23-16.3-8 of the General Laws in Chapter 23-16.3 entitled  
5 "Clinical Laboratory Science Practice" is hereby amended to read as follows:

6 **23-16.3-8. Standards for licensure.** -- (a) Clinical laboratory scientist (technologist).  
7 The department of health shall issue a clinical laboratory scientist's license to an individual who  
8 meets the qualifications developed by the board, including at least one of the following  
9 qualifications:

10 (1) A baccalaureate degree in clinical laboratory science (medical technology) from an  
11 accredited college or university whose curriculum included appropriate clinical education;

12 (2) A baccalaureate degree in biological, chemical, or physical science from an accredited  
13 college or university, and subsequent to graduation has at least twelve (12) months of appropriate  
14 clinical education in an accredited clinical laboratory science program;

15 (3) A baccalaureate degree which includes a minimum of thirty-six (36) semester (or  
16 equivalent) hours in the biological, chemical, and physical sciences from an accredited college or  
17 university plus two (2) years of full-time work experience including a minimum of four (4)  
18 months in each of the four (4) major disciplines of laboratory practice (clinical chemistry, clinical  
19 microbiology, hematology, immunology/immunohematology); or

20 (4) A baccalaureate degree consisting of ninety (90) semester (or equivalent) hours,  
21 thirty-six (36) of which must be in the biological, chemical, or physical sciences, from an  
22 accredited university, and appropriate clinical education in an accredited clinical laboratory  
23 science program.

24 (5) A clinical laboratory scientist (technologist) who previously qualified under federal  
25 regulatory requirements such as ~~493.1433~~ 42 CFR § 493.1433 of the March 14, 1990 federal  
26 register or other regulations or criteria which may be established by the board.

27 (b) Clinical laboratory technician. The department of health shall issue a clinical  
28 laboratory technician's license to an individual who meets the qualifications promulgated by the  
29 board, including at least one of the following qualifications:

30 (1) An associate degree or completion of sixty (60) semester (or equivalent) hours from a  
31 clinical laboratory technician program (MLT or equivalent) accredited by an agency recognized  
32 by the United States ~~department~~ Department of ~~education~~ Education that included a structured  
33 curriculum in clinical laboratory techniques;

34 (2) A high school diploma (or equivalent) and (i) completion of twelve (12) months in a

1 technician training program in an accredited school such as CLA (ASCP) clinical laboratory  
2 assistant (American Society of Clinical Pathologists), and MLT-C medical laboratory technician-  
3 certificate programs approved by the board; or (ii) successful completion of an official military  
4 medical laboratory procedure course of at least fifty (50) weeks duration and has held the military  
5 enlisted occupational specialty of medical laboratory specialist (laboratory technician); or

6 (3) A clinical laboratory technician who previously qualified under federal regulatory  
7 requirements such as ~~493.1441~~ [42 CFR § 493.1441](#) of the March 14, 1990 federal register which  
8 meet or exceed the requirements for licensure set forth by the board.

9 (c) Clinical histologic technician. The department of health shall issue a clinical  
10 histologic technician license to an individual who meets the qualifications promulgated by the  
11 board, including at least one of the following:

12 (1) Associate degree or at least sixty (60) semester hours (or equivalent) from an  
13 accredited college/university to include a combination of mathematics and at least twelve (12)  
14 semester hours of biology and chemistry, and successfully complete an accredited program in  
15 histologic technique or one full year of training in histologic technique under the supervision of a  
16 certified histotechnologist or an appropriately certified histopathology supervisor with at least  
17 three (3) years experience.

18 (2) High school graduation (or equivalent) and two (2) years full time acceptable  
19 experience under the supervision of a certified/licensed clinical histologic technician at a licensed  
20 clinical laboratory in histologic technique.

21 (d) Cytotechnologist. The department of health shall issue a cytotechnologist license to  
22 an individual who meets the qualifications promulgated by the board including at least one of the  
23 following:

24 (1) A baccalaureate degree from an accredited college or university with twenty (20)  
25 semester hours (30 quarter hours) of biological science, eight (8) semester hours (12 quarter  
26 hours) of chemistry, and three (3) semester hours (4 quarter hours) of mathematics and successful  
27 completion of a twelve (12) month cytotechnology program.

28 (2) A baccalaureate degree from an accredited college or university with twenty (20)  
29 semester hours (30 quarter hours) of biological science, eight (8) semester hours (12 quarter  
30 hours) of chemistry, and three (3) semester hours (4 quarter hours) of mathematics and five (5)  
31 years full time acceptable clinical laboratory experience including cytopreparatory techniques,  
32 microscopic analysis, and evaluation of the body systems within the last ten (10) years. At least  
33 two (2) of these years must be subsequent to the completion of the academic component and at  
34 least two (2) years must be under the supervision of a licensed physician who is a pathologist,

1 certified, or eligible for certification, by the American Board of Pathology in anatomic pathology  
2 or has other suitable qualifications acceptable to the board.

3 (3) A cytotechnologist who previously qualified under federal regulatory requirements  
4 such as ~~493.1437~~ [42 CFR § 493.1437](#) of the March 14, 1990 federal register.

5 (e) The board shall recommend standards for any other clinical laboratory science  
6 practitioners specializing in areas such as nuclear medical technology, radioimmunoassay,  
7 electron microscopy, forensic science, molecular biology, or similar recognized academic and  
8 scientific disciplines with approval of the director of health.

9 SECTION 48. Sections 23-17-10.5, 23-17-12.1, 23-17-51 and 23-17-59 of the General  
10 Laws in Chapter 23-17 entitled "Licensing of Health Care Facilities" are hereby amended to read  
11 as follows:

12 **23-17-10.5. Medical director and attending physician file.** -- (a) Each nursing facility  
13 licensed under this chapter shall designate a physician to serve as medical director. The medical  
14 director shall be responsible for implementation of resident care policies and for the coordination  
15 of medical care in the facility. Such responsibilities shall include, but not be limited to: the  
16 implementation of facility policies and procedures related to the medical care delivered in the  
17 facility; physician and advanced practice practitioner credentialing; practitioner performance  
18 reviews; employee health including infection control measures; evaluation of health care delivery,  
19 including oversight of medical records and participation in quality improvement; provision of  
20 staff education on medical issues; participation in state survey process, including the resolution of  
21 deficiencies as needed; and such other duties and responsibilities as may be stipulated in  
22 regulations promulgated by the department of health.

23 (b) The medical director, charged with the aforementioned duties and responsibilities for  
24 the delivery of medical care in the nursing facility, shall be immune from civil or criminal  
25 prosecution for reporting to the board of medical licensure and discipline the unprofessional  
26 conduct, incompetence or negligence of a nursing facility physician or limited registrant;  
27 provided, that the report, testimony or other communication was made in good faith and while  
28 acting within the scope of authority conferred by this section. Each nursing facility shall maintain  
29 an active file of all current attending physicians including their phone number and address, an  
30 emergency phone number, their current medical license number, and their preferred hospital  
31 admitting privileges. The director of the department of health is hereby authorized to promulgate  
32 rules and regulations to implement the provisions of this section.

33 **23-17-12.1. Scope of inspections.** -- (a) Inspections and investigations shall include  
34 health, sanitation, nursing care, and dietary and other conditions immediately affecting the

1 patients.

2 (b) The department shall assign responsibility for verifying compliance with licensing  
3 requirements and issuing renewal licenses to an individual or office independent of the inspection  
4 process.

5 (c) The department shall establish written procedures to: ~~(i)~~ (1) track all deficiencies  
6 identified during and after the inspection and investigation processes; and ~~(ii)~~ (2) clearly define  
7 the internal process for appealing deficiency citations.

8 (d) The department shall establish procedures to verify the implementation of plans of  
9 correction and remediation.

10 **23-17-51. Magnetic resonance imaging - Quality assurance standards.** -- (a) Except  
11 as otherwise provided in subsection (b) of this section, a magnetic resonance imaging  
12 examination eligible for reimbursement under the provisions of any individual or group health  
13 insurance contract, plan or policy delivered in this state shall be reimbursed only if the facility at  
14 which the examination has been conducted and processed is accredited by either the American  
15 College of Radiology (ACR), the ~~Intersoeital~~ [Intersocietal](#) Accreditation Commission (IAC), or  
16 an alternate nationally recognized accrediting organization whose accreditation standards are  
17 substantially similar to and no less stringent than current or subsequent ACR or IAC standards  
18 and have been reviewed and deemed adequate by the department of health. All accreditation  
19 standards under this section, whether promulgated by the ACR, IAC, or an alternate nationally  
20 recognized accrediting organization, shall include, but shall not be limited to, provisions for  
21 establishing the qualifications of the physician, standards for quality control and routine  
22 performance monitoring by a medical physicist, qualifications of the technologist including  
23 minimum standards of supervised clinical experience, personnel and patient safety guidelines,  
24 and standards for initial and ongoing quality control using clinical image review and quantitative  
25 testing.

26 (b) Any facility conducting and processing magnetic resonance imaging examinations  
27 which, as of June 30, 2006, is receiving reimbursement for such services by a health insurer,  
28 health maintenance organization or health plan, but is not accredited pursuant to subsection (a),  
29 shall file its application for accreditation within eighteen (18) months of ~~the effective date of this~~  
30 ~~section~~ ~~[July 14, 2006]~~. Such accreditation shall be obtained not later than twelve (12) months  
31 after submission of its application. A facility which begins conducting and processing of  
32 magnetic resonance imaging examinations after June 30, 2006 shall file its application for  
33 accreditation within twelve (12) months of the date of initiation of the magnetic resonance  
34 imaging examinations. Such accreditation shall be obtained not later than twelve (12) months

1 after submission of its application. After such accreditation is obtained, a facility conducting and  
2 processing magnetic resonance imaging examinations shall, at all times, maintain accreditation  
3 with the appropriate accrediting body. Notwithstanding anything herein to the contrary, any  
4 facility which has filed for accreditation pursuant to this subsection (b) and which has not been  
5 refused accreditation or withdrawn its application, will be deemed provisionally accredited for the  
6 twelve (12) month period dating from the application filing date. Provided, further, that  
7 notwithstanding any provision of the general laws or public laws to the contrary, any facility  
8 conducting and processing magnetic resonance imaging examinations shall conform to the  
9 standards of the appropriate accrediting body at all times, including during the accreditation  
10 process and shall certify said conformance to any reimbursing health insurer, health maintenance  
11 organization or health plan.

12 **23-17-59. Safe patient handling.** -- ~~(a)~~ (a) Definitions. As used in this chapter:

13 ~~(a)~~ (1) “Safe patient handling” means the use of engineering controls, transfer aids, or  
14 assistive devices whenever feasible and appropriate instead of manual lifting to perform the acts  
15 of lifting, transferring, and/or repositioning health care patients and residents.

16 ~~(a)~~ (2) “Safe patient handling policy” means protocols established to implement safe  
17 patient handling.

18 ~~(a)~~ (3) “Health care facility” means a hospital or a nursing facility.

19 ~~(a)~~ (4) “Lift team” means health care facility employees specially trained to perform  
20 patient lifts, transfers, and repositioning in accordance with safe patient handling policy.

21 ~~(a)~~ (5) “Musculoskeletal disorders” means conditions that involve the nerves, tendons,  
22 muscles, and supporting structures of the body.

23 ~~(a)~~ (b) Licensure requirements. Each licensed health care facility shall comply with the  
24 following as a condition of licensure:

25 ~~(a)~~ (1) Each licensed health care facility shall establish a safe patient handling committee,  
26 which shall be chaired by a professional nurse or other appropriate licensed health care  
27 professional. A health care facility may utilize any appropriately configured committee to  
28 perform the responsibilities of this section. At least half of the members of the committee shall be  
29 hourly, non-managerial employees who provide direct patient care.

30 ~~(a)~~ (2) By July 1, 2007, each licensed health care facility shall develop a written safe  
31 patient handling program, with input from the safe patient handling committee, to prevent  
32 musculoskeletal disorders among health care workers and injuries to patients. As part of this  
33 program, each licensed health care facility shall:

34 (i) By July 1, 2008, implement a safe patient handling policy for all shifts and units of the



1 facility that will achieve the maximum reasonable reduction of manual lifting, transferring, and  
2 repositioning of all or most of a patient's weight, except in emergency, life-threatening, or  
3 otherwise exceptional circumstances;

4 (ii) Conduct a patient handling hazard assessment. This assessment should consider such  
5 variables as patient-handling tasks, types of nursing units, patient populations, and the physical  
6 environment of patient care areas;

7 (iii) Develop a process to identify the appropriate use of the safe patient handling policy  
8 based on the patient's physical and mental condition, the patient's choice, and the availability of  
9 lifting equipment or lift teams. The policy shall include a means to address circumstances under  
10 which it would be medically contraindicated to use lifting or transfer aids or assistive devices for  
11 particular patients;

12 (iv) Designate and train a registered nurse or other appropriate licensed health care  
13 professional to serve as an expert resource, and train all clinical staff on safe patient handling  
14 policies, equipment, and devices before implementation, and at least annually or as changes are  
15 made to the safe patient handling policies, equipment and/or devices being used;

16 (v) Conduct an annual performance evaluation of the safe patient handling with the  
17 results of the evaluation reported to the safe patient handling committee or other appropriately  
18 designated committee. The evaluation shall determine the extent to which implementation of the  
19 program has resulted in a reduction in musculoskeletal disorder claims and days of lost work  
20 attributable to musculoskeletal disorder caused by patient handling, and include recommendations  
21 to increase the program's effectiveness; and

22 (vi) Submit an annual report to the safe patient handling committee of the facility, which  
23 shall be made available to the public upon request, on activities related to the identification,  
24 assessment, development, and evaluation of strategies to control risk of injury to patients, nurses  
25 and other health care workers associated with the lifting, transferring, repositioning, or movement  
26 of a patient.

27 ~~(e)~~ (3) Nothing in this section precludes lift team members from performing other duties  
28 as assigned during their shift.

29 ~~(d)~~ (4) An employee may, in accordance with established facility protocols, report to the  
30 committee, as soon as possible, after being required to perform a patient handling activity that  
31 he/she believes in good faith exposed the patient and/or employee to an unacceptable risk of  
32 injury. Such employee reporting shall not be cause for discipline or be subject to other adverse  
33 consequences by his/her employer. These reportable incidents shall be included in the facility's  
34 annual performance evaluation.

1 SECTION 49. Section 23-17.7.1-17 of the General Laws in Chapter 23-17.7.1 entitled  
2 "Licensing of Nursing Service Agencies" is hereby amended to read as follows:

3 **23-17.7.1-17. Criminal records review.** -- (a) Any person seeking employment in a  
4 facility which is or is required to be licensed or registered with the department of health if that  
5 employment involves routine contact with a patient or resident without the presence of other  
6 employees, shall undergo a criminal background check, which shall be initiated prior to, or within  
7 one week of, employment. All employees hired prior to the enactment of this section shall be  
8 exempted from the requirements of this section.

9 (b) The director of the department of health may, by rule, identify those positions  
10 requiring criminal background checks. The employee, through the employer, shall apply to the  
11 bureau of criminal identification of the state police or local police department for a statewide  
12 criminal records check. Fingerprinting shall not be required. Upon the discovery of any  
13 disqualifying information as defined in § ~~23-17.7.1-19~~ [23-17.7.1-20](#) and in accordance with the  
14 rule promulgated by the director of the department of health, the bureau of criminal identification  
15 of the state police or the local police department will inform the applicant, in writing, of the  
16 nature of the disqualifying information; and, without disclosing the nature of the disqualifying  
17 information, will notify the employer, in writing, that disqualifying information has been  
18 discovered.

19 (c) An employee against whom disqualifying information under § ~~23-17.7.1-19(b)~~ [23-](#)  
20 [17.7.1-20\(b\)](#) has been found may request that a copy of the criminal background report be sent to  
21 the employer who shall make a judgment regarding the continued employment of the employee.

22 (d) In those situations in which no disqualifying information has been found, the bureau  
23 of criminal identification of the state police or the local police shall inform the applicant and the  
24 employer, in writing, of this fact.

25 (e) The employer shall maintain on file, subject to inspection by the department of  
26 health, evidence that criminal records checks have been initiated on all employees. Failure to  
27 maintain that evidence would be grounds to revoke the license or registration of the employer.

28 (f) It shall be the responsibility of the bureau of criminal identification of the state police  
29 or the local police department to conduct the criminal records check to the applicant for  
30 employment without charge to either the employee or the employer.

31 SECTION 50. Sections 23-17.12-5 and 23-17.12-9 of the General Laws in Chapter 23-  
32 17.12 entitled "Health Care Services – Utilization Review Act" are hereby amended to read as  
33 follows:

34 **23-17.12-5. General application requirements.** -- An application for certification or

1 recertification shall be accompanied by documentation to evidence the following:

2 ~~(a)~~ (1) The requirement that the review agent provide patients and providers with a  
3 summary of its utilization review plan including a summary of the standards, procedures and  
4 methods to be used in evaluating proposed or delivered health care services;

5 ~~(b)~~ (2) The circumstances, if any, under which utilization review may be delegated to any  
6 other utilization review program and evidence that the delegated agency is a certified utilization  
7 review agency delegated to perform utilization review pursuant to all of the requirements of this  
8 chapter;

9 ~~(c)~~ (3) A complaint resolution process consistent with subsection 23-17.12-2(6) and  
10 acceptable to the department, whereby patients, their physicians, or other health care providers  
11 may seek resolution of complaints and other matters of which the review agent has received  
12 written notice;

13 ~~(d)~~ (4) The type and qualifications of personnel (employed or under contract) authorized  
14 to perform utilization review, including a requirement that only a practitioner with the same  
15 license status as the ordering practitioner, or a licensed physician or dentist, is permitted to make  
16 a prospective or concurrent adverse determination;

17 ~~(e)~~ (5) The requirement that a representative of the review agent is reasonably accessible  
18 to patients, patient's family and providers at least five (5) days a week during normal business in  
19 Rhode Island and during the hours of the agency's review operations;

20 ~~(f)~~ (6) The policies and procedures to ensure that all applicable state and federal laws to  
21 protect the confidentiality of individual medical records are followed;

22 ~~(g)~~ (7) The policies and procedures regarding the notification and conduct of patient  
23 interviews by the review agent;

24 ~~(h)~~ (8) The requirement that no employee of, or other individual rendering an adverse  
25 determination for, a review agent may receive any financial incentives based upon the number of  
26 denials of certification made by that employee or individual;

27 ~~(i)~~ (9) The requirement that the utilization review agent shall not impede the provision of  
28 health care services for treatment and/or hospitalization or other use of a provider's services or  
29 facilities for any patient;

30 ~~(j)~~ (10) Evidence that the review agent has not entered into a compensation agreement or  
31 contract with its employees or agents whereby the compensation of its employees or its agents is  
32 based upon a reduction of services or the charges for those services, the reduction of length of  
33 stay, or utilization of alternative treatment settings; provided, nothing in this chapter shall prohibit  
34 agreements and similar arrangements; and

1           ~~(11)~~ (11) An adverse determination and internal appeals process consistent with § 23-  
2 17.12-9 and acceptable to the department, whereby patients, their physicians, or other health care  
3 providers may seek prompt reconsideration or appeal of adverse determinations by the review  
4 agent.

5           **23-17.12-9. Review agency requirement for adverse determination and internal**  
6 **appeals.** -- (a) The adverse determination and appeals process of the review agent shall conform  
7 to the following:

8           (1) Notification of a prospective adverse determination by the review agent shall be  
9 mailed or otherwise communicated to the provider of record and to the patient or other  
10 appropriate individual as follows:

11           (i) Within fifteen (15) business days of receipt of all the information necessary to  
12 complete a review of non-urgent and/or non-emergent services;

13           (ii) Within seventy-two (72) hours of receipt of all the information necessary to complete  
14 a review of urgent and/or emergent services; and

15           (iii) Prior to the expected date of service.

16           (2) Notification of a concurrent adverse determination shall be mailed or otherwise  
17 communicated to the patient and to the provider of record period as follows:

18           (i) To the provider(s) prior to the end of the current certified period; and

19           (ii) To the patient within one business day of making the adverse determination.

20           (3) Notification of a retrospective adverse determination shall be mailed or otherwise  
21 communicated to the patient and to the provider of record within thirty (30) business days of  
22 receipt of a request for payment with all supporting documentation for the covered benefit being  
23 reviewed.

24           (4) A utilization review agency shall not retrospectively deny authorization for health  
25 care services provided to a covered person when an authorization has been obtained for that  
26 service from the review agent unless the approval was based upon inaccurate information  
27 material to the review or the health care services were not provided consistent with the provider's  
28 submitted plan of care and/or any restrictions included in the prior approval granted by the review  
29 agent.

30           (5) Any notice of an adverse determination shall include:

31           (i) The principal reasons for the adverse determination, to include explicit documentation  
32 of the criteria not met and/or the clinical rationale utilized by the agency's clinical reviewer in  
33 making the adverse determination. The criteria shall be in accordance with the agency criteria  
34 noted in subsection 23-17.12-9(d) and shall be made available within the first level appeal

1 timeframe if requested unless otherwise provided as part of the adverse determination notification  
2 process;

3 (ii) The procedures to initiate an appeal of the adverse determination, including the name  
4 and telephone number of the person to contract with regard to an appeal;

5 (iii) The necessary contact information to complete the two-way direct communication  
6 defined in subdivision 23-17.12-9(a)(7); and

7 (iv) The information noted in subdivision 23-27.12-9(a)(5)(i)(ii)(iii) for all verbal  
8 notifications followed by written notification to the patient and provider(s).

9 (6) All initial retrospective adverse determinations of a health care service that had been  
10 ordered by a physician, dentist or other practitioner shall be made, documented and signed  
11 consistent with the regulatory requirements which shall be developed by the department with the  
12 input of review agents, providers and other affected parties.

13 (7) A level one appeal decision of an adverse determination shall not be made until an  
14 appropriately qualified and licensed review physician, dentist or other practitioner has spoken to,  
15 or otherwise provided for, an equivalent two-way direct communication with the patient's  
16 attending physician, dentist, other practitioner, other designated or qualified professional or  
17 provider responsible for treatment of the patient concerning the medical care, with the exception  
18 of the following:

19 (i) When the attending provider is not reasonably available;

20 (ii) When the attending provider chooses not to speak with agency staff;

21 (iii) When the attending provider has negotiated an agreement with the review agent for  
22 alternative care; and/or

23 (iv) When the attending provider requests a peer to peer communication prior to the  
24 adverse determination, the review agency shall then comply with subdivision 23-17.12-9(c)(1) in  
25 responding to such a request. Such requests shall be on the case specific basis unless otherwise  
26 arranged for in advance by the provider.

27 (8) All initial, prospective and concurrent adverse determinations of a health care service  
28 that had been ordered by a physician, dentist or other practitioner shall be made, documented and  
29 signed by a licensed practitioner with the same licensure status as the ordering practitioner or a  
30 licensed physician or dentist. This does not prohibit appropriately qualified review agency staff  
31 from engaging in discussions with the attending provider, the attending provider's designee or  
32 appropriate health care facility and office personnel regarding alternative service and treatment  
33 options. Such a discussion shall not constitute an adverse determination provided though that any  
34 change to the provider's original order and/or any decision for an alternative level of care must be

1 made and/or appropriately consented to by the attending provider or the provider's designee  
2 responsible for treating the patient.

3 (9) The requirement that, upon written request made by or on behalf of a patient, any  
4 adverse determination and/or appeal shall include the written evaluation and findings of the  
5 reviewing physician, dentist or other practitioner. The review agent is required to accept a verbal  
6 request made by or on behalf of a patient for any information where a provider or patient can  
7 demonstrate that a timely response is urgent.

8 (b) The review agent shall conform to the following for the appeal of an adverse  
9 determination:

10 (1) The review agent shall maintain and make available a written description of the  
11 appeal procedure by which either the patient or the provider of record may seek review of  
12 determinations not to authorize a health care service. The process established by each review  
13 agent may include a reasonable period within which an appeal must be filed to be considered and  
14 that period shall not be less than sixty (60) days.

15 (2) The review agent shall notify, in writing, the patient and provider of record of its  
16 decision on the appeal as soon as practical, but in no case later than fifteen (15) or twenty-one  
17 (21) business days if verbal notice is given within fifteen (15) business days after receiving the  
18 required documentation on the appeal.

19 (3) The review agent shall also provide for an expedited appeals process for emergency  
20 or life threatening situations. Each review agent shall complete the adjudication of expedited  
21 appeals within two (2) business days of the date the appeal is filed and all information necessary  
22 to complete the appeal is received by the review agent.

23 (4) All first level appeals of determinations not to authorize a health care service that had  
24 been ordered by a physician, dentist, or other practitioner shall be made, documented, and signed  
25 by a licensed practitioner with the same licensure status as the ordering practitioner or a licensed  
26 physician or a licensed dentist.

27 (5) All second level appeal decisions shall be made, signed, and documented by a  
28 licensed practitioner in the same or a similar general specialty as typically manages the medical  
29 condition, procedure, or treatment under discussion.

30 (6) The review agent shall maintain records of written appeals and their resolution, and  
31 shall provide reports as requested by the department.

32 (c) The review agency must conform to the following requirements when making its  
33 adverse determination and appeal decisions:

34 (1) The review agent must assure that the licensed practitioner or licensed physician is

1 reasonably available to review the case as required under subdivision 23-17.12-9(a)(7) and shall  
2 conform to the following:

3 (i) Each agency peer reviewer shall have access to and review all necessary information  
4 as requested by the agency and/or submitted by the provider(s) and/or patients;

5 (ii) Each agency shall provide accurate peer review contact information to the provider at  
6 the time of service, if requested, and/or prior to such service, if requested. This contact  
7 information must provide a mechanism for direct communication with the agency's peer  
8 reviewer;

9 (iii) Agency peer reviewers shall respond to the provider's request for a two-way direct  
10 communication defined in subdivision 23-17.12-9(a)(7)(iv) as follows:

11 ~~(A)~~ (A) For a prospective review of non-urgent and non-emergent health care services, a  
12 response within one (1) business day of the request for a peer discussion;

13 ~~(B)~~ (B) For concurrent and prospective reviews of urgent and emergent health care  
14 services, a response within a reasonable period of time of the request for a peer discussion; and

15 ~~(C)~~ (C) For retrospective reviews, prior to the first level appeal decision.

16 (iv) The review agency will have met the requirements of a two-way direct  
17 communication, when requested and/or as required prior to the first level of appeal, when it has  
18 made two (2) reasonable attempts to contact the attending provider directly.

19 (v) Repeated violations of this section shall be deemed to be substantial violations  
20 pursuant to § 23-17.12-14 and shall be cause for the imposition of penalties under that section.

21 (2) No reviewer at any level under this section shall be compensated or paid a bonus or  
22 incentive based on making or upholding an adverse determination.

23 (3) No reviewer under this section who has been involved in prior reviews of the case  
24 under appeal or who has participated in the direct care of the patient may participate as the sole  
25 reviewer in reviewing a case under appeal; provided, however, that when new information has  
26 been made available at the first level of appeal, then the review may be conducted by the same  
27 reviewer who made the initial adverse determination.

28 (4) A review agent is only entitled to review information or data relevant to the utilization  
29 review process. A review agent may not disclose or publish individual medical records or any  
30 confidential medical information obtained in the performance of utilization review activities. A  
31 review agent shall be considered a third party health insurer for the purposes of § 5-37.3-6(b)(6)  
32 of this state and shall be required to maintain the security procedures mandated in § 5-37.3-4(c).

33 (5) Notwithstanding any other provision of law, the review agent, the department, and all  
34 other parties privy to information which is the subject of this chapter shall comply with all state

1 and federal confidentiality laws, including, but not limited to, chapter 37.3 of title 5  
2 (Confidentiality of Health Care Communications and Information Act) and specifically § 5-37.3-  
3 4(c), which requires limitation on the distribution of information which is the subject of this  
4 chapter on a “need to know” basis, and § 40.1-5-26.

5 (6) The department may, in response to a complaint that is provided in written form to the  
6 review agent, review an appeal regarding any adverse determination, and may request  
7 information of the review agent, provider or patient regarding the status, outcome or rationale  
8 regarding the decision.

9 (d) The requirement that each review agent shall utilize and provide upon request, by  
10 Rhode Island licensed hospitals and the Rhode Island Medical Society, in either electronic or  
11 paper format, written medically acceptable screening criteria and review procedures which are  
12 established and periodically evaluated and updated with appropriate consultation with Rhode  
13 Island licensed physicians, hospitals, including practicing physicians, and other health care  
14 providers in the same specialty as would typically treat the services subject to the criteria as  
15 follows:

16 (1) Utilization review agents shall consult with no fewer than five (5) Rhode Island  
17 licensed physicians or other health care providers. Further, in instances where the screening  
18 criteria and review procedures are applicable to inpatients and/or outpatients of hospitals, the  
19 medical director of each licensed hospital in Rhode Island shall also be consulted. Utilization  
20 review agents who utilize screening criteria and review procedures provided by another entity  
21 may satisfy the requirements of this section if the utilization review agent demonstrates to the  
22 satisfaction of the director that the entity furnishing the screening criteria and review procedures  
23 has complied with the requirements of this section.

24 (2) Utilization review agents seeking initial certification shall conduct the consultation  
25 for all screening and review criteria to be utilized. Utilization review agents who have been  
26 certified for one year or longer shall be required to conduct the consultation on a periodic basis  
27 for the utilization review agent's highest volume services subject to utilization review during the  
28 prior year; services subject to the highest volume of adverse determinations during the prior year;  
29 and for any additional services identified by the director.

30 (3) Utilization review agents shall not include in the consultations as required under  
31 paragraph (1) of this subdivision, any physicians or other health services providers who have  
32 financial relationships with the utilization review agent other than financial relationships for  
33 provisions of direct patient care to utilization review agent enrollees and reasonable compensation  
34 for consultation as required by paragraph (1) of this subdivision.



1 (4) All documentation regarding required consultations, including comments and/or  
2 recommendations provided by the health care providers involved in the review of the screening  
3 criteria, as well as the utilization review agent's action plan or comments on any  
4 recommendations, shall be in writing and shall be furnished to the department on request. The  
5 documentation shall also be provided on request to any licensed health care provider at a nominal  
6 cost that is sufficient to cover the utilization review agent's reasonable costs of copying and  
7 mailing.

8 (5) Utilization review agents may utilize non-Rhode Island licensed physicians or other  
9 health care providers to provide the consultation as required under paragraph (1) of this  
10 subdivision, when the utilization review agent can demonstrate to the satisfaction of the director  
11 that the related services are not currently provided in Rhode Island or that another substantial  
12 reason requires such approach.

13 (6) Utilization review agents whose annualized data reported to the department  
14 demonstrate that the utilization review agent will review fewer than five hundred (500) such  
15 requests for authorization may request a variance from the requirements of this section.

16 SECTION 51. Section 23-17.13-3 of the General Laws in Chapter 23-17.13 entitled  
17 "Health Care Accessibility and Quality Assurance Act" is hereby amended to read as follows:

18 **23-17.13-3. Certification of health plans.** -- (a) Certification process.

19 (1) Certification.

20 (i) The director shall establish a process for certification of health plans meeting the  
21 requirements of certification in subsection (b).

22 (ii) The director shall act upon the health plan's completed application for certification  
23 within ninety (90) days of receipt of such application for certification.

24 (2) Review and recertification. To ensure compliance with subsection (b), the director  
25 shall establish procedures for the periodic review and recertification of qualified health plans not  
26 less than every five (5) years; provided, however, that the director may review the certification of  
27 a qualified health plan at any time if there exists evidence that a qualified health plan may be in  
28 violation of subsection (b).

29 (3) Cost of certification. The total cost of obtaining and maintaining certification under  
30 this title and compliance with the requirements of the applicable rules and regulations are borne  
31 by the entities so certified and shall be one hundred and fifty percent (150%) of the total salaries  
32 paid to the certifying personnel of the department engaged in those certifications less any salary  
33 reimbursements and shall be paid to the director to and for the use of the department. That  
34 assessment shall be in addition to any taxes and fees otherwise payable to the state.

1 (4) Standard definitions. To help ensure a patient's ability to make informed decisions  
2 regarding their health care, the director shall promulgate regulation(s) to provide for standardized  
3 definitions (unless defined in existing statute) of the following terms in this subdivision,  
4 provided, however, that no definition shall be construed to require a health care entity to add any  
5 benefit, to increase the scope of any benefit, or to increase any benefit under any contract:

- 6 (i) Allowable charge;
- 7 (ii) Capitation;
- 8 (iii) Co-payments;
- 9 (iv) Co-insurance;
- 10 (v) Credentialing;
- 11 (vi) Formulary;
- 12 (vii) Grace period;
- 13 (viii) Indemnity insurance;
- 14 (ix) In-patient care;
- 15 (x) Maximum lifetime cap;
- 16 (xi) Medical necessity;
- 17 (xii) Out-of-network;
- 18 (xiii) Out-patient;
- 19 (xiv) Pre-existing conditions;
- 20 (xv) Point of service;
- 21 (xvi) Risk sharing;
- 22 (xvii) Second opinion;
- 23 (xviii) Provider network;
- 24 (xix) Urgent care.

25 (b) Requirements for certification. The director shall establish standards and procedures  
26 for the certification of qualified health plans that conduct business in this state and who have  
27 demonstrated the ability to ensure that health care services will be provided in a manner to assure  
28 availability and accessibility, adequate personnel and facilities, and continuity of service, and has  
29 demonstrated arrangements for ongoing quality assurance programs regarding care processes and  
30 outcomes; other standards shall consist of, but are not limited to, the following:

31 (1) Prospective and current enrollees in health plans must be provided information as to  
32 the terms and conditions of the plan consistent with the rules and regulations promulgated under  
33 chapter 12.3 of title 42 so that they can make informed decisions about accepting and utilizing the  
34 health care services of the health plan. This must be standardized so that customers can compare

1 the attributes of the plans, and all information required by this paragraph shall be updated at  
2 intervals determined by the director. Of those items required under this section, the director shall  
3 also determine which items shall be routinely distributed to prospective and current enrollees as  
4 listed in this subsection and which items may be made available upon request. The items to be  
5 disclosed are:

6 (i) Coverage provisions, benefits, and any restriction or limitations on health care  
7 services, including but not limited to, any exclusions as follows: by category of service, and if  
8 applicable, by specific service, by technology, procedure, medication, provider or treatment  
9 modality, diagnosis and condition, the latter three (3) of which shall be listed by name.

10 (ii) Experimental treatment modalities that are subject to change with the advent of new  
11 technology; may be listed solely by the broad category "Experimental Treatments". The  
12 information provided to consumers shall include the plan's telephone number and address where  
13 enrollees may call or write for more information or to register a complaint regarding the plan or  
14 coverage provision.

15 (2) Written statement of the enrollee's right to seek a second opinion, and reimbursement  
16 if applicable.

17 (3) Written disclosure regarding the appeals process described in § 23-17.12-1 et seq. and  
18 in the rules and regulations for the utilization review of care services, promulgated by the  
19 department of health, the telephone numbers and addresses for the plan's office which handles  
20 complaints as well as for the office which handles the appeals process under § 23-17.12-1 et seq.  
21 and the rules and regulations for the utilization of health.

22 (4) Written statement of prospective and current enrollees' right to confidentiality of all  
23 health care record and information in the possession and/or control of the plan, its employees, its  
24 agents and parties with whom a contractual agreement exists to provide utilization review or who  
25 in any way have access to care information. A summary statement of the measures taken by the  
26 plan to ensure confidentiality of an individual's health care records shall be disclosed.

27 (5) Written disclosure of the enrollee's right to be free from discrimination by the health  
28 plan and the right to refuse treatment without jeopardizing future treatment.

29 (6) Written disclosure of a plan's policy to direct enrollees to particular providers. Any  
30 limitations on reimbursement should the enrollee refuse the referral must be disclosed.

31 (7) A summary of prior authorization or other review requirements including  
32 preauthorization review, concurrent review, post-service review, post-payment review and any  
33 procedure that may lead the patient to be denied coverage for or not be provided a particular  
34 service.

1 (8) Any health plan that operates a provider incentive plan shall not enter into any  
2 compensation agreement with any provider of covered services or pharmaceutical manufacturer  
3 pursuant to which specific payment is made directly or indirectly to the provider as an  
4 inducement or incentive to reduce or limit services, to reduce the length of stay or the use of  
5 alternative treatment settings or the use of a particular medication with respect to an individual  
6 patient, provided however, that capitation agreements and similar risk sharing arrangements are  
7 not prohibited.

8 (9) Health plans must disclose to prospective and current enrollees the existence of  
9 financial arrangements for capitated or other risk sharing arrangements that exist with providers  
10 in a manner described in paragraphs (i), (ii), and (iii):

11 (i) "This health plan utilizes capitated arrangements, with its participating providers, or  
12 contains other similar risk sharing arrangements;

13 (ii) This health plan may include a capitated reimbursement arrangement or other similar  
14 risk sharing arrangement, and other financial arrangements with your provider;

15 (iii) This health plan is not capitated and does not contain other risk sharing  
16 arrangements."

17 (10) Written disclosure of criteria for accessing emergency health care services as well as  
18 a statement of the plan's policies regarding payment for examinations to determine if emergency  
19 health care services are necessary, the emergency care itself, and the necessary services following  
20 emergency treatment or stabilization. The health plan must respond to the request of the treating  
21 provider for post-stabilization treatment by approving or denying it as soon as possible.

22 (11) Explanation of how health plan limitations impact enrollees, including information  
23 on enrollee financial responsibility for payment for co-insurance, co-payment, or other non-  
24 covered, out-of-pocket, or out-of-plan services. This shall include information on deductibles and  
25 benefits limitations including, but not limited to, annual limits and maximum lifetime benefits.

26 (12) The terms under which the health plan may be renewed by the plan enrollee,  
27 including any reservation by the plan of any right to increase premiums.

28 (13) Summary of criteria used to authorize treatment.

29 (14) A schedule of revenues and expenses, including direct service ratios and other  
30 statistical information which meets the requirements set forth below on a form prescribed by the  
31 director.

32 (15) Plan costs of health care services, including but not limited to all of the following:

33 (i) Physician services;

34 (ii) Hospital services, including both inpatients and outpatient services;

- 1 (iii) Other professional services;
- 2 (iv) Pharmacy services, excluding pharmaceutical products dispensed in a physician's  
3 office;
- 4 (v) Health education;
- 5 (vi) Substance abuse services and mental health services.
- 6 (16) Plan complaint, adverse decision, and prior authorization statistics. This statistical  
7 data shall be updated annually:
- 8 (i) The ratio of the number of complaints received to the total number of covered persons,  
9 reported by category, listed in paragraphs (b)(15)(i) — (vi);
- 10 (ii) The ratio of the number of adverse decisions issued to the number of complaints  
11 received, reported by category;
- 12 (iii) The ratio of the number of prior authorizations denied to the number of prior  
13 authorizations requested, reported by category;
- 14 (iv) The ratio of the number of successful enrollee appeals to the total number of appeals  
15 filed.
- 16 (17) Plans must demonstrate that:
- 17 (i) They have reasonable access to providers, so that all covered health care services will  
18 be provided. This requirement cannot be waived and must be met in all areas where the health  
19 plan has enrollees;
- 20 (ii) Urgent health care services, if covered, shall be available within a time frame that  
21 meets standards set by the director.
- 22 (18) A comprehensive list of participating providers listed by office location, specialty if  
23 applicable, and other information as determined by the director, updated annually.
- 24 (19) Plans must provide to the director, at intervals determined by the director, enrollee  
25 satisfaction measures. The director is authorized to specify reasonable requirements for these  
26 measures consistent with industry standards to assure an acceptable degree of statistical validity  
27 and comparability of satisfaction measures over time and among plans. The director shall publish  
28 periodic reports for the public providing information on health plan enrollee satisfaction.
- 29 (c) Issuance of certification.
- 30 (1) Upon receipt of an application for certification, the director shall notify and afford the  
31 public an opportunity to comment upon the application.
- 32 (2) A health care plan will meet the requirements of certification, subsection (b) by  
33 providing information required in subsection (b) to any state or federal agency in conformance  
34 with any other applicable state or federal law, or in conformity with standards adopted by an

1 accrediting organization provided that the director determines that the information is substantially  
2 similar to the previously mentioned requirements and is presented in a format that provides a  
3 meaningful comparison between health plans.

4 (3) All health plans shall be required to establish a mechanism, under which providers,  
5 including local providers participating in the plan, provide input into the plan's health care policy,  
6 including technology, medications and procedures, utilization review criteria and procedures,  
7 quality and credentialing criteria, and medical management procedures.

8 (4) All health plans shall be required to establish a mechanism under which local  
9 individual subscribers to the plan provide input into the plan's procedures and processes regarding  
10 the delivery of health care services.

11 (5) A health plan shall not refuse to contract with or compensate for covered services an  
12 otherwise eligible provider or non-participating provider solely because that provider has in good  
13 faith communicated with one or more of his or her patients regarding the provisions, terms or  
14 requirements of the insurer's products as they relate to the needs of that provider's patients.

15 (6) (i) All health plans shall be required to publicly notify providers within the health  
16 plans' geographic service area of the opportunity to apply for credentials. This notification  
17 process shall be required only when the plan contemplates adding additional providers and may  
18 be specific as to geographic area and provider specialty. Any provider not selected by the health  
19 plan may be placed on a waiting list.

20 (ii) This credentialing process shall begin upon acceptance of an application from a  
21 provider to the plan for inclusion.

22 (iii) Each application shall be reviewed by the plan's credentialing body.

23 (iv) All health plans shall develop and maintain credentialing criteria to be utilized in  
24 adding providers from the plans' network. Credentialing criteria shall be based on input from  
25 providers credentialed in the plan and these standards shall be available to applicants. When  
26 economic considerations are part of the decisions, the criteria must be available to applicants.  
27 Any economic profiling must factor the specialty utilization and practice patterns and general  
28 information comparing the applicant to his or her peers in the same ~~speciality~~ specialty will be  
29 made available. Any economic profiling of providers must be adjusted to recognize case mix,  
30 severity of illness, age of patients and other features of a provider's practice that may account for  
31 higher than or lower than expected costs. Profiles must be made available to those so profiled.

32 (7) A health plan shall not exclude a provider of covered services from participation in its  
33 provider network based solely on:

34 (i) The provider's degree or license as applicable under state law; or

1 (ii) The provider of covered services lack of affiliation with, or admitting privileges at a  
2 hospital, if that lack of affiliation is due solely to the provider's type of license.

3 (8) Health plans shall not discriminate against providers solely because the provider treats  
4 a substantial number of patients who require expensive or uncompensated medical care.

5 (9) The applicant shall be provided with all reasons used if the application is denied.

6 (10) Plans shall not be allowed to include clauses in physician or other provider contracts  
7 that allow for the plan to terminate the contract "without cause"; provided, however, cause shall  
8 include lack of need due to economic considerations.

9 (11) (i) There shall be due process for non-institutional providers for all adverse decisions  
10 resulting in a change of privileges of a credentialed non-institutional provider. The details of the  
11 health plan's due process shall be included in the plan's provider contracts.

12 (ii) A health plan is deemed to have met the adequate notice and hearing requirement of  
13 this section with respect to a non-institutional provider if the following conditions are met (or are  
14 waived voluntarily by the non-institutional provider):

15 (A) The provider shall be notified of the proposed actions and the reasons for the  
16 proposed action.

17 (B) The provider shall be given the opportunity to contest the proposed action.

18 (C) The health plan has developed an internal appeals process that has reasonable time  
19 limits for the resolution of an internal appeal.

20 (12) If the plan places a provider or provider group at financial risk for services not  
21 provided by the provider or provider group, the plan must require that a provider or group has met  
22 all appropriate standards of the department of business regulation.

23 (13) A health plan shall not include a most favored rate clause in a provider contract.

24 SECTION 52. Section 23-17.14-22 of the General Laws in Chapter 23-17.14 entitled  
25 "The Hospital Conversions Act" is hereby amended to read as follows:

26 **23-17.14-22. Distribution of proceeds from acquisition - Selection and establishment**  
27 **of an independent foundation.** -- (a) In the event of the approval of a hospital conversion

28 involving a not-for-profit corporation and a for-profit corporation results in a new entity as  
29 provided for in § 23-17.14-7(c)(25)(i), it shall be required that the proceeds from the sale and any  
30 endowments, restricted, unrestricted and specific purpose funds shall be transferred to a charitable  
31 foundation operated by a board of directors.

32 (b) The presiding justice of the superior court shall have the authority to:

33 (1) Appoint the initial board of directors.

34 (2) Approve, modify, or reject proposed bylaws and/or articles of incorporation provided

1 by the transacting parties and/or the initial board of directors.

2 (c) The board of directors shall consist of at least seven (7) members and the executive  
3 director, who shall serve ex officio. The board members may include one or more members with  
4 experience in matters including financial, legal, business, labor, investments, community purpose,  
5 grant-making, health care and members who represent diverse populations of the affected  
6 community and not more than three (3) members of the board may be prior board members of the  
7 existing hospital.

8 (d) The membership terms shall be staggered and shall be four (4) years in duration. The  
9 board shall annually elect a chairperson from among its members and other officers it deems  
10 necessary for the performance of its duties and board members shall not receive compensation.

11 (e) Control of the distribution of the proceeds of the fund is vested solely in the board;  
12 provided, however, the investment responsibility of the proceeds shall be through the Rhode  
13 Island Foundation.

14 (f) Vacancies occurring on the board may be filled by a majority vote of the remaining  
15 board members.

16 SECTION 53. Sections 23-17.17-2 and 23-17.17-8 of the General Laws in Chapter 23-  
17 17.17 entitled "Health Care Quality Program" are hereby amended to read as follows:

18 **23-17.17-2. Definitions.** – (a) “Clinical outcomes” means information about the results  
19 of patient care and treatment.

20 (b) “Director” means the director of the department of health or his or her duly  
21 authorized agent.

22 (c) “Health care facility” has the same meaning as contained in the regulations  
23 promulgated by the director of health pursuant to chapter 17 of this title.

24 (d) “Health care provider” means any physician, or other licensed practitioners with  
25 responsibility for the care, treatment, and services rendered to a patient.

26 (e) “Insurer” means any entity subject to the insurance laws and regulations of this state,  
27 that contracts or offers to contract to provide, deliver, arrange for, pay for, or reimburse any of the  
28 costs of health care services, including, without limitation, an insurance company offering  
29 accident and sickness insurance, a health maintenance organization, as defined by § 27-41-1, a  
30 nonprofit hospital or medical service corporation, as defined by chapters 27-19 and 27-20, or any  
31 other entity providing a plan of health insurance or health benefits.

32 ~~(d)~~ (f) “Patient satisfaction” means the degree to which the facility or provider meets or  
33 exceeds the patients' expectations as perceived by the patient by focusing on those aspects of care  
34 that the patient can judge.



1 (g) “Performance measure” means a quantitative tool that provides an indication of an  
2 organization's performance in relation to a specified process or outcome.

3 ~~(e)~~ (h) “Quality of care” means the result or outcome of health care efforts.

4 (i) “Reporting program” means an objective feedback mechanism regarding individual  
5 or facility performance that can be used internally to support performance improvement activities  
6 and externally to demonstrate accountability to the public and other purchasers, payers, and  
7 stakeholders.

8 ~~(f)~~ (j) “Risk-adjusted” means the use of statistically valid techniques to account for  
9 patient variables that may include, but need not to be limited to, age, chronic disease history, and  
10 physiologic data.

11 ~~(g) “Performance measure” means a quantitative tool that provides an indication of an~~  
12 ~~organization's performance in relation to a specified process or outcome.~~

13 ~~(h) “Reporting program” means an objective feedback mechanism regarding individual~~  
14 ~~or facility performance that can be used internally to support performance improvement activities~~  
15 ~~and externally to demonstrate accountability to the public and other purchasers, payers, and~~  
16 ~~stakeholders.~~

17 ~~(i) “Health care provider” means any physician, or other licensed practitioners with~~  
18 ~~responsibility for the care, treatment, and services rendered to a patient.~~

19 ~~(j) “Insurer” means any entity subject to the insurance laws and regulations of this state,~~  
20 ~~that contracts or offers to contract to provide, deliver, arrange for, pay for, or reimburse any of the~~  
21 ~~costs of health care services, including, without limitation, an insurance company offering~~  
22 ~~accident and sickness insurance, a health maintenance organization, as defined by § 27-41-1, a~~  
23 ~~nonprofit hospital or medical service corporation, as defined by chapters 27-19 and 27-20, or any~~  
24 ~~other entity providing a plan of health insurance or health benefits.~~

25 **23-17.17-8. Annual hospital staffing report.** -- (a) Annually in the month of January,  
26 every licensed hospital shall submit to the Rhode Island department of health, its core-staffing  
27 plan. Such plan shall specify for each patient care unit and each shift, the number of registered  
28 nurses, licensed practical nurses and/or certified nursing assistants who shall ordinarily be  
29 assigned to provide direct patient care and the average number of patients upon which such  
30 staffing levels are based.

31 (b) For the purposes of this section:

32 (1) “Core-staffing plan” shall mean the projected complement of nonmanagerial nursing  
33 staff that shall be assigned on each shift to a specified patient care unit.

34 (2) “Nonmanagerial nursing staff” shall mean registered nurses, licensed practical nurses

1 and/or certified nursing assistants who perform nonmanagerial direct patient care functions for  
2 more than fifty percent (50%) of their scheduled hours on a given patient care unit.

3 (3) “Patient care unit” shall mean a designated area for assigning patients and staff for  
4 which discrete budget and staffing plans exist.

5 SECTION 54. Section 23-17.20-2 of the General Laws in Chapter 23-17.20 entitled  
6 "Health Care Facilities Staffing" is hereby amended to read as follows:

7 **23-17.20-2. Definitions.** -- As used in this chapter:

8 (1) “Employee” means a nurse licensed pursuant to chapter 5-34, and a certified nurse  
9 assistant registered pursuant to chapter 23-17.9, provided further, that such term shall not include  
10 certified registered nurse anesthetists or resident physicians; and provided further, that for  
11 purposes of this chapter, said nurse and/or nursing assistant shall be paid on the basis of an hourly  
12 wage. As used in this chapter, the term “employee” shall not include a person who is paid an  
13 annual salary, and shall not include employees who are working pre-scheduled “on-call time” in  
14 the surgical department of a health care facility.

15 (2) “Employer” means a person, partnership, association, corporation or group of persons  
16 acting directly or indirectly in the interest of a health care facility;

17 (3) “Health care facility” means any private, public or state hospital;

18 (4) “On-call time” means time spent by an employee who is not working on the premises  
19 of the place of employment but who is compensated for availability or who, as a condition of  
20 employment, has agreed to be available to return to the premises of the place of employment on  
21 short notice if the need arises;

22 (5) “Reasonable efforts” means that the employer shall:

23 (i) Seek persons who volunteer to work extra time from all available qualified staff who  
24 are working at the time of the unforeseeable emergent circumstance;

25 (ii) Contact all qualified employees who have made themselves available to work extra  
26 time; and

27 (iii) Seek the use of per diem staff;

28 ~~(4)~~ (6) “Regular hourly wage” means the amount that an employee is regularly paid for  
29 each hour of work as determined by dividing the total hours of work during the week into the  
30 employee's total earnings for the week, exclusive of pay for overtime work;

31 ~~(5)~~ (7) “Unforeseeable emergent circumstance” means an unpredictable occurrence  
32 relating to health care delivery that requires immediate action, and which shall include a major  
33 power outage, a public health emergency, an irregular increase in patient census, or an irregular  
34 increase in the number of employees not reporting for predetermined scheduled work shifts.

1 ~~(6) "On call time" means time spent by an employee who is not working on the premises~~  
2 ~~of the place of employment but who is compensated for availability or who, as a condition of~~  
3 ~~employment, has agreed to be available to return to the premises of the place of employment on~~  
4 ~~short notice if the need arises.~~

5 ~~(7) "Reasonable efforts" means that the employer shall: (a) seek persons who volunteer to~~  
6 ~~work extra time from all available qualified staff who are working at the time of the~~  
7 ~~unforeseeable emergent circumstance; (b) contact all qualified employees who have made~~  
8 ~~themselves available to work extra time; and (c) seek the use of per diem staff.~~

9 SECTION 55. Section 23-18-11.1 of the General Laws in Chapter 23-18 entitled  
10 "Cemeteries" is hereby amended to read as follows:

11 **23-18-11.1. Permit required to alter or remove historic cemetery - Powers of city or**

12 **town council - Appeal.** -- (a) Before an agency or a property owner may authorize or commence  
13 alteration or removal of any historic cemetery, the agency or owner must apply to the city or town  
14 council where the historic cemetery is located for a permit to alter or remove. The city or town  
15 council shall prescribe by ordinance standards to regulate the alteration or removal of any historic  
16 cemetery within its municipal limits, but shall at a minimum provide that:

17 (1) The applicant examine all alternatives, and demonstrate that no prudent or feasible  
18 alternative to the proposed alteration is possible;

19 (2) The city or town provide for notification and participation in the permitting process of  
20 parties which may be interested in the proposed alteration or removal by virtue of their status as a  
21 governmental health or historic preservation authority, or as a private or nonprofit historical,  
22 ~~geneological~~ genealogical or civic organization, or, in the case of American Indian cemeteries  
23 and burial grounds, the appropriate tribal organization; and

24 (3) The city or town provide for due consideration of the rights of descendants in any  
25 application to substantially alter or remove a historic cemetery.

26 (b) When an application for alteration or removal of a historic cemetery has been made  
27 and the boundary is unknown or in doubt, the city or town may require that the applicant, at its  
28 own expense, conduct an archaeological investigation to determine the actual size of the cemetery  
29 prior to final consideration by the city or town of the application to alter or remove.

30 (c) After due consideration, the city or town council may grant the application to alter or  
31 remove the historic cemetery in whole or in part, under the supervision of an archaeologist and  
32 with any restrictions and stipulations that it deems necessary to effectuate the purposes of this  
33 section, or deny the application in its entirety. Any person or persons aggrieved by a decision of  
34 the city or town council shall have the right of appeal concerning the decision to the superior

1 court and from the superior court to the supreme court by writ of certiorari.

2 (d) Nothing in this section shall be deemed to contravene the authority of municipal  
3 bodies under § 45-5-12 to hold, manage, repair, or maintain any neglected burial ground.

4 SECTION 56. Sections 23-19-6 and 23-19-35.1 of the General Laws in Chapter 23-19  
5 entitled "Rhode Island Resource Recovery Corporation" are hereby amended to read as follows:

6 **23-19-6. Creation, membership, and terms of the Rhode Island Resource Recovery**

7 **Corporation.** -- (a) There is authorized, created, and established a public corporation of the  
8 state, having a distinct legal existence from the state and not constituting a department of the state  
9 government, with the politic and corporate powers set forth in this chapter, to be known as the  
10 Rhode Island resource recovery corporation, ("the corporation") to carry out the provisions of this  
11 chapter. The corporation is constituted a public instrumentality and agency exercising public and  
12 essential governmental functions, and the exercise by the corporation of the powers conferred by  
13 this chapter shall be deemed and held to be the performance of an essential governmental  
14 function of the state.

15 (b) It is the intent of the general assembly by the passage of this chapter to create and  
16 establish a public corporation and instrumentality and agency of the state for the purpose of the  
17 activities authorized by this chapter, and to vest the corporation with all powers, authority, rights,  
18 privileges, and titles that may be necessary to enable it to accomplish those purposes. This  
19 chapter shall be liberally construed in conformance with the purpose expressed in this section.

20 (c) The powers of the corporation shall be vested in eight (8) commissioners, consisting  
21 of the director of administration, or the director's designee, who shall be a subordinate within the  
22 department of administration, who shall serve as a nonvoting ex-officio member, and seven (7)  
23 public members to be appointed by the governor with advice and consent of the senate, at least  
24 two (2) of whom shall be a resident of the town of Johnston. In making these appointments, the  
25 governor shall give due consideration to recommendations from the mayor of the town of  
26 Johnston and from the League of Cities and Towns. The governor shall also give due  
27 consideration to recommendations from representatives of the commercial waste haulers, and  
28 environmental advocacy organizations, and shall consider persons experienced in the field of  
29 recycling. Those members of the corporation as of ~~the effective date of this act~~ [May 4, 2006]  
30 who were appointed to the corporation by members of the general assembly shall cease to be  
31 members of the corporation on ~~the effective date of this act~~ [May 4, 2006], and the governor shall  
32 thereupon nominate one new member who shall serve the balance of the unexpired term of his or  
33 her predecessor. Those members of the corporation as of ~~the effective date of this act~~ [May 4,  
34 2006] who were appointed to the corporation by the governor shall continue to serve the balance

1 of their current terms. Thereafter, the appointments shall be made by the governor with advice  
2 and consent of the senate as prescribed in this section.

3 (d) All public members shall serve staggered three (3) year terms except as otherwise  
4 provided in subsection (c) of this section. In the month of June each year thereafter, the governor  
5 shall appoint the successor(s) to the commissioners the governor has appointed whose terms  
6 expire that year, to serve for a term of three (3) years commencing on the day they are qualified.  
7 All public members shall serve until their respective successors are appointed and qualified. The  
8 members of the corporation shall be eligible to succeed themselves.

9 (e) Any vacancy occurring in the office of a member by death, resignation, or otherwise  
10 shall be filled by the governor with advice and consent of the senate in the same manner as the  
11 original appointment for the balance of the unexpired term of the former member as prescribed in  
12 subsection 23-19-6(c).

13 (f) Members of the corporation shall be removable by the governor pursuant to § 36-1-7  
14 of the Rhode Island general laws, and removal solely for partisan or personal reasons unrelated to  
15 capacity or fitness for the office shall be unlawful.

16 (g) The commissioners shall annually elect from among their number a chair, vice chair  
17 and a treasurer, and any other officers that they may determine. Meetings shall be held at the call  
18 of the chair or whenever two (2) commissioners so request. Four (4) commissioners shall  
19 constitute a quorum, and any action taken by the corporation under the provisions of this chapter  
20 may be authorized by resolution approved by a majority of the commissioners present and voting  
21 at any regular or special meeting. No vacancy in the membership of the corporation's board of  
22 commissioners shall impair the right of a quorum to exercise all the rights and perform all the  
23 duties of the corporation.

24 (h) Commissioners shall receive no compensation for the performance of their duties, but  
25 the commissioner shall be reimbursed for his or her reasonable expenses incurred in carrying out  
26 the duties under this chapter.

27 (i) The commissioners of the corporation shall at regular intervals at least eight (8) times  
28 a year conduct business meetings for the purpose of carrying out its general business. The  
29 meetings shall be open to the public and all records and minutes will be a matter of public record.  
30 The corporation shall be considered a "public body" and shall be subject to the provisions of the  
31 Open Meetings Law, chapter 42-46 and to the provisions of title 38 concerning public records.

32 (j) The corporation shall continue until its existence is terminated by law. At that time its  
33 holdings and assets shall pass to and become vested in the state.

34 (k) The state shall indemnify and hold harmless every past, present, or future

1 commissioner, officer, or employee of the corporation who is made a party to or is required to  
2 testify in any action, investigation, or other proceeding in connection with or arising out of the  
3 performance or alleged lack of performance of that person's duties on behalf of the corporation.  
4 These persons shall be indemnified and held harmless, whether they are sued individually or in  
5 their capacities as commissioners, officers, or employees of the corporation, for all expenses,  
6 legal fees and/or costs incurred by them during or resulting from the proceedings, and for any  
7 award or judgment arising out of their service to the corporation that is not paid by the  
8 corporation and is sought to be enforced against a person individually, as expenses, legal fees,  
9 costs, awards or judgments occur. Provided, however, that neither the state nor the corporation  
10 shall indemnify any commissioner, officer, or employee:

11 (1) For acts or omissions not in good faith or which involve intentional misconduct or a  
12 knowing violation of law;

13 (2) For any transaction from which the member derived an improper personal benefit; or

14 (3) For any malicious act.

15 (l) No one shall be eligible for appointment unless he or she is a resident of the state.

16 **23-19-35.1. Use of acquired property.** -- (a) In addition to any other permitted use, the  
17 houses and structures acquired per §§ 23-19-34 and 23-19-35 may, in accordance with procedures  
18 set forth in regulation(s) adopted by the corporation, be:

19 (i) Sold by the corporation in order to be salvaged or moved to another location;

20 (ii) Razed or salvaged by the corporation; or

21 (iii) Moved by the corporation to a location greater than one thousand feet (1000') from  
22 the entire operational area of the central landfill.

23 (b) Notwithstanding any law or regulation to the contrary, in order to return some of the  
24 property purchased pursuant to § 23-19-34 or § 23-19-35 to the tax rolls, the corporation may sell,  
25 for any use permitted by local zoning, any property acquired pursuant to § 23-19-34 or § 23-19-  
26 35 that is located north of Central Avenue in Johnston, and greater than one thousand feet (1000')  
27 from the entire operational boundary of the central landfill. In addition, a ~~convenant~~ covenant  
28 shall be placed in the deed of any real property so sold notifying the purchaser of the presence of  
29 the landfill and protecting the corporation from any legal action by the purchaser with respect to  
30 the environmental impact of it.

31 (c) (1) Notwithstanding any law or regulation to the contrary, in order to return some of  
32 the property purchased pursuant to §§ 23-19-34 and 23-19-35 to the tax rolls, the corporation  
33 shall in addition to any other permitted use have the right to sell, rent, lease, transfer or otherwise  
34 convey or encumber, any and all land acquired per § 23-19-34 or per § 23-19-35, provided the

1 land is used solely for industrial/business uses in conformance with the dimensional requirements  
2 of the local zoning ordinance. In addition, a covenant shall be placed in the deed of any real  
3 property so sold notifying the purchaser of the presence of the landfill and protecting the  
4 corporation from any legal action by the purchaser with respect to the environmental impact of it.

5 (2) The corporation's development of an industrial/business park pursuant to this chapter shall be  
6 in accordance with the following:

7 (i) The corporation may utilize any and all property acquired pursuant to §§ 23-19-34 and  
8 23-19-35 and/or any property owned by the corporation located south of Central Pike, west of  
9 Old Pocasset Road, to the intersection of Old Pocasset Road and Scituate Avenue, then west of  
10 Route 295, bounded to the south by the northern shore (mean high water line) of the Upper  
11 Simmons Reservoir and the Lower Simmons Reservoir, for the development of the  
12 industrial/business park.

13 (ii) The corporation may retain ownership of the land that comprises the  
14 industrial/business park and/or may sell or lease portions of the industrial/business park to other  
15 public or private entities.

16 (iii) The industrial/business park may be utilized for any and all permitted business,  
17 manufacturing and/or industrial uses authorized by the town of Johnston zoning ordinance in any  
18 zoning district for all zoning districts notwithstanding the underlining zoning district designation  
19 of the subject land.

20 (iv) The corporation may not extend the operational portion of the central landfill into  
21 any portion of the industrial/business park.

22 (v) The corporation's development of the industrial/business park shall be in compliance  
23 with the dimensional requirements of the town of Johnston zoning ordinance.

24 (vi) The corporation shall maintain a one hundred (100) foot wide vegetated buffer  
25 between any portion of the industrial/business park and any adjacent property being used for  
26 residential purposes.

27 (vii) The corporation's development of the industrial/business park shall not be effected  
28 by any change in the town of Johnston's zoning or subdivision ordinances enacted after December  
29 31, 2000.

30 (d) Notwithstanding any law or regulation to the contrary, in order to return some of the  
31 property purchased pursuant to § 23-19-35 to the tax rolls, the corporation may sell, for any use  
32 permitted by local zoning, any property acquired to § 23-19-35 in which the primary structure on  
33 the property is located greater than two thousand feet (2000') from the entire operational portion  
34 of the central landfill. The corporation may sell all of these parcels and all structures thereon for

1 any use permitted by local zoning. In addition, a ~~covenant~~ covenant shall be placed in the deed  
2 of any real property so sold notifying the purchaser of the presence of the landfill and protecting  
3 the corporation from any legal action by the purchaser with respect to the environmental impact  
4 of it.

5 SECTION 57. Section 23-19.1-21 of the General Laws in Chapter 23-19.1 entitled  
6 "Hazardous Waste Management" is hereby amended to read as follows:

7 **23-19.1-21. Applicability of chapter - No effect on public utilities and carriers. --**

8 Nothing in this chapter shall be construed as affecting or in any way invalidating any existing  
9 regulatory jurisdiction and authority pursuant to title 39, as amended, of the public utilities  
10 commission and the division of public utilities and carriers over motor vehicles, railroads, or  
11 other modes of transportation, or over the use, storage, and transportation of ~~liquified~~ liquefied  
12 natural gas, as the term is defined in § 39-1-2, or any other existing regulatory jurisdiction and  
13 authority as set forth in any other statute of the general laws of the state.

14 SECTION 58. Section 23-19.3.1-5 of the General Laws in Chapter 23-19.3.1 entitled  
15 "Residential Sanitary Sewer Connections" is hereby amended to read as follows:

16 **23-19.3.1-5. Rules and regulations. --** The state building code standards committee shall  
17 adopt rules and regulations that will incorporate the standards in §§ 23-19.3.1-3 and 23-19.3.1-4  
18 into the state building code as established in ~~section~~ chapter 23-27.3 of the Rhode Island general  
19 laws.

20 SECTION 59. Sections 23-19.6-5 and 23-19.6-8 of the General Laws in Chapter 23-19.6  
21 entitled "Used Oil Recycling" are hereby amended to read as follows:

22 **23-19.6-5. Prohibited conduct. --** No person shall collect, transport, transfer, store,  
23 recycle, use, or dispose of used oil by discharge to sewers, drainage systems, surface or ground  
24 water, watercourses, or marine waters, or by incineration or deposit on land, unless in accordance  
25 with the Hazardous Waste Management Act, chapter ~~19-7~~ 19.1 of this title, the Water Pollution  
26 Law, chapter 12 of title 46, and the ~~Air Pollution Law~~ Clean Air Act, chapter 23 of this title, and  
27 any regulation promulgated pursuant to them.

28 **23-19.6-8. Sale of recycled oil products. --** A person may represent any product made in  
29 whole or in part from used oil to be substantially equivalent to a product made from new oil for a  
30 particular end use, if substantial equivalency has been determined in accordance with rules  
31 prescribed by the federal trade commission under the federal Energy Policy and Conservation  
32 Act, 42 U.S.C. § 6201 et seq., or if the product conforms fully with the specifications applicable  
33 to that product made from new oil.

34 SECTION 60. Section 23-19.14-5.2 of the General Laws in Chapter 23-19.14 entitled



1 "Industrial Property Remediation and Reuse Act" is hereby amended to read as follows:

2 **23-19.14-5.2. Entry of registered professional engineers onto certain property. --**

3 Any registered professional engineer who is employed, retained and/or otherwise acting on behalf  
4 of a municipality of this state may enter, examine or survey, at any reasonable time, such places  
5 and real property which is either owned by a municipality or real property in which the  
6 municipality has a legal interest arising from a real property tax lien, on which property owner  
7 has made no payments for a period of at least two (2) years, for the purpose of performing an  
8 environmental site assessment or investigation. An environmental site assessment or investigation  
9 under this section shall be conducted in accordance with and shall be subject to the same  
10 guidelines and limitations provided for an administrative inspection or, where appropriate, a  
11 criminal investigation, pursuant to the provisions of § ~~42-17.1-2~~(+) 42-17.1-2(20).

12 SECTION 61. Sections 23-19.15-5, 23-19.15-8 and 23-19.15-9 of the General Laws in  
13 Chapter 23-19.15 entitled "The Rhode Island Cesspool Act of 2007" are hereby amended to read  
14 as follows:

15 **23-19.15-5. Inspection. --** (a) Unless exempted under subsection 23-19.15-8(a), the  
16 owner of property served by a cesspool in the following areas shall cause an inspection to be  
17 performed on said cesspool by a system inspector in accordance with a schedule established by  
18 the department, but no later than January 1, 2012:

19 ~~(i)~~ (1) Which cesspool is within two hundred feet (200') of the inland edge of a shoreline  
20 feature bordering a tidal water area [corresponding to the jurisdiction of the RI Coastal Resources  
21 Management Council];

22 ~~(ii)~~ (2) Which cesspool is within two hundred feet (200') of a public drinking water well;  
23 and

24 ~~(iii)~~ (3) Which cesspool is within two hundred feet (200') of a surface drinking water  
25 supply, specifically the impoundment from which water is drawn via the intake.

26 The inspection shall be conducted and reported in accordance with procedures required  
27 by the department, and the results shall be recorded on forms prescribed by the department.

28 (b) Pursuant to § 5-20.8-13, every contract for the purchase and sale of real estate which  
29 is or may be served by a private cesspool, shall provide that potential purchasers be permitted a  
30 ten (10) day period, unless the parties mutually agree upon a different period of time, to conduct  
31 an inspection of the property's on-site sewage system in accordance with procedures required by  
32 the department in subsection 23-19.15-5(a), before becoming obligated under the contract to  
33 purchase.

34 **23-19.15-8. Exemption. --** (a) The provisions of § 23-19.15-5 and subsection 23-19.15-

1 6(a) shall not apply to any cesspool located in an area of a community covered by municipal on-  
2 site wastewater management ordinance that requires the risk-based phase-out of cesspools on an  
3 alternative schedule that meets the purposes of this act.

4 (b) The provisions of subsection 23-19.15-6(a) shall not apply to any cesspool located on  
5 a property that is properly designated to be sewerred no later than five (5) years after the  
6 applicable deadlines provided in subsection 23-19.15-6(a) provided: ~~(i)~~ (1) it is not a failed  
7 cesspool as defined herein; ~~(ii)~~ (2) the owner does not increase the design sewage flow into the  
8 cesspool or add bedrooms to the building served by the cesspool; ~~(iii)~~ (3) the municipality holds  
9 bonding authorization or some other dedicated financial surety for expansion of sewers to the area  
10 of the building served by the cesspool; and ~~(iv)~~ (4) the property owner certifies, in writing, that  
11 the dwelling/building will be connected to the sewer system within six (6) months of receipt of  
12 the notification to connect to the sewer system.

13 **23-19.15-9. Notice to remove and replace cesspools.--** (a) The owner of any cesspool  
14 who has not complied with the requirements pursuant to this chapter shall be in violation of this  
15 chapter and subject to enforcement action by the department in accordance with chapters ~~17.4-2~~  
16 [17.1](#) and 17.6 of title 42 of the general laws.

17 (b) Notwithstanding the above provisions, the director may require the abandonment and  
18 replacement of any cesspool with an approved ISDS prior to the dates specified in subsection 23-  
19 19.15-6(a) if the cesspool is a large capacity cesspool as defined pursuant to applicable federal  
20 regulations governing underground injection control (UIC) facilities.

21 SECTION 62. Sections 23-20.10-6 and 23-20.10-9 of the General Laws in Chapter 23-  
22 20.10 entitled "Public Health and Workplace Safety Act" are hereby amended to read as follows:

23 **23-20.10-6. Where smoking not regulated. --** (a) Notwithstanding any other provision  
24 of this chapter to the contrary, the following areas shall be exempt from the provisions of this  
25 ~~chapter.~~ [chapter:](#)

26 (1) Private residences, except when used as a licensed child care, adult day care or health  
27 care facility;

28 (2) Hotel and motel rooms that are rented to guests and are designated as smoking rooms;  
29 provided, however, that not more than fifty percent (50%) of rooms rented to guests in a hotel or  
30 motel may be so designated;

31 (3) Retail tobacco stores; provided that smoke from these places does not infiltrate into  
32 areas where smoking is prohibited under the provisions of this chapter;

33 (4) Private and semi-private rooms or designated areas in assisted living residences and  
34 nursing facilities as allowed by regulation of the department of health under chapters 17.4 and 17

1 of this title;

2 (5) Outdoor areas of places of employment, except those covered by the provisions of §  
3 23-20.10-5;

4 (6) Any smoking bar as defined in § 23-20.10-2(15);

5 (7) [Deleted by P.L. 2005, ch. 22, § 1 and P.L. 2005, ch. 23, § 1].

6 (8) [Deleted by P.L. 2005, ch. 22, § 1 and P.L. 2005, ch. 23, § 1].

7 (b) The provisions of this chapter shall not apply to any stage performance provided that  
8 smoking is part of a theatrical production.

9 **23-20.10-9. Enforcement.** -- (a) The director of health shall promulgate such rules and  
10 regulations including the complaint forms, as are necessary to carry out the mandates of this  
11 chapter within one hundred eighty (180) days of passage [\[June 29, 2004\]](#).

12 (b) Notice of the provisions of this chapter shall be given to all applicants for a business  
13 license in the state of Rhode Island, to all law enforcement agencies, and to any business required  
14 to be registered with the secretary of state's office.

15 (c) Any citizen who desires to register a complaint under this chapter may initiate such a  
16 complaint with the department of health.

17 (d) The department of health, having received a written and signed letter of complaint  
18 citing a violation of this chapter, shall enforce this entire chapter against violations by either of  
19 the following actions:

20 (1) Serving written notice to comply to an employer, with a copy of the notice to the  
21 complaining individual, requiring the employer to correct immediately any violation or section of  
22 this chapter.

23 (2) Upon receiving a second complaint at the department of health for the same or  
24 continued violation by the same employer, the complaint shall be resolved by notifying the city or  
25 town solicitor, having jurisdiction over the licensed holder, to initiate, without delay, an action for  
26 injunction to enforce the provisions of this chapter, to cause the correction of such violation or  
27 section, and for assessment and recovery of a civil penalty for such violation.

28 (e) The department of health, local fire department, or their designees shall, while an  
29 establishment is undergoing otherwise mandated inspections, inspect for compliance with this  
30 chapter.

31 (f) An owner, manager, operator, or employee of an establishment regulated by this  
32 chapter shall inform persons violating this chapter of the appropriate provisions thereof.

33 (g) In addition to the remedies provided by the provisions of this section, the department  
34 of health, aggrieved by the failure of the owner, operator, manager or other person in control of a

1 public place or place of employment to comply with the provisions of this chapter, may apply for  
2 injunctive relief to enforce those provisions in any court of competent jurisdiction.

3 SECTION 63. Section 23-20.10-15 of the General Laws in Chapter 23-20.10 entitled  
4 "Public Health and Workplace Safety Act" is hereby repealed.

5 ~~23-20.10-15. Statewide uniformity. [Effective until October 1, 2006.] It is the~~  
6 ~~declared policy of this state that there be uniformity in the application and enforcement of~~  
7 ~~smoking prohibitions as defined in this chapter. Any enactment relating to prohibitions in an area~~  
8 ~~defined in this chapter shall be by statute as enacted by the general assembly; provided, however,~~  
9 ~~that the general assembly may by statute delegate such authority to the cities and towns.~~

10 SECTION 64. Sections 23-20.11-2 and 23-20.11-3 of the General Laws in Chapter 23-  
11 20.11 entitled "Reduced Cigarette Ignition Propensity and Firefighter Protection" are hereby  
12 amended to read as follows:

13 **23-20.11-2. Legislative findings.** -- It is hereby found and declared as follows:

14 (a) (1) The general assembly finds that cigarettes are one of the leading causes of fire  
15 deaths in this state and in the nation. Each year 700-900 people are killed in the United States due  
16 to cigarette fires; 3,000 are injured in fires ignited by cigarettes. A high proportion of the victims  
17 of cigarette fires are nonsmokers, including senior citizens and young children. Cigarette-caused  
18 fires result in billions of dollars of property losses and damage in the United States and millions  
19 of dollars in this state. Cigarette fires unnecessarily jeopardize firefighters and result in avoidable  
20 emergency response costs for municipalities.

21 (b) (2) The general assembly further finds that the state of New York has enacted a  
22 cigarette fire safety regulation effective June 28, 2004 that requires that cigarettes sold in that  
23 state meet the fire safety performance standards. In 2005, the states of Vermont and California  
24 signed into law cigarette fire safety acts that directly incorporate New York's regulation into  
25 statute; and in 2006, the states of Illinois, New Hampshire, and Massachusetts did the same.  
26 Canada implemented the New York State fire safety standard as of October 2005, becoming the  
27 first nation to have a cigarette fire safety standard.

28 (c) (3) The general assembly finds that New York State's cigarette fire safety standard is  
29 based upon decades of research by the National Institute of Standards and Technology,  
30 Congressional research groups and private industry.

31 (d) (4) It is the general assembly's intent that the state of Rhode Island adopt the cigarette  
32 fire safety standard that is in effect in New York State, and the other states listed above, to reduce  
33 the likelihood that cigarettes will cause fires and result in deaths, injuries and property damage. It  
34 is further the legislature's intent to adopt such a cigarette fire safety standard with a minimum of

1 cost to the state and with minimum burden to cigarette manufacturers, distributors and retail  
2 sellers as set forth herein.

3 **23-20.11-3. Definitions.** – The following terms shall have the following meanings as  
4 used in this chapter:

5 (a) (1) “Agent” shall mean any person authorized by the state to purchase and affix tax  
6 stamps on packages of cigarettes.

7 (b) (2) “Cigarette” shall mean any roll for smoking whether made wholly or in part of  
8 tobacco or any other substance, irrespective of size or shape and whether or not such tobacco or  
9 substance is flavored, adulterated or mixed with any other ingredient, the wrapper or cover of  
10 which is made of paper or any other substance or material except tobacco, and that because of its  
11 size, appearance, the type of tobacco used in its filler, or its packaging or labeling, is likely to be  
12 offered to, or purchased by, consumers as a cigarette or cigarette equivalent.

13 (c) (3) “Director” shall mean the director of the Rhode Island department of health.

14 (d) (4) “Manufacturer” shall mean:

15 (i) Any entity which manufactures or otherwise produces cigarettes or causes  
16 cigarettes to be manufactured or produced anywhere that such manufacturer intends to be sold in  
17 this state, including cigarettes intended to be sold in the United States through an importer; or

18 (ii) The first purchaser anywhere that intends to resell in the United States cigarettes  
19 manufactured anywhere that the original manufacturer or maker does not intend to be sold in the  
20 United States; or

21 (iii) Any entity that becomes a successor of an entity described in paragraph (a) or (b)  
22 of this subdivision.

23 (e) (5) “Repeatability” shall mean the range of values within which the repeat results of  
24 cigarette test trails from a single laboratory will fall ninety-five percent (95%) of the time.

25 (f) (6) “Retail dealer” shall mean any person other than a manufacturer or wholesale  
26 dealer engaged in selling cigarettes or tobacco products.

27 (g) (7) “Sale” shall mean any transfer of title or possession or both, exchange or barter,  
28 conditional or otherwise, in any manner or by any means whatever or any agreement therefor. In  
29 addition to cash and credit sales, the giving of cigarettes as samples, prizes or gifts, and the  
30 exchanging of cigarettes for any consideration other than money are considered sales.

31 (h) (8) “Sell” shall mean to sell, or to offer or agree to do the same.

32 (i) (9) “Quality control and quality assurance program” shall mean the laboratory  
33 procedures implemented to ensure that operator bias, systematic and nonsystematic  
34 methodological errors, and equipment-related problems do not affect the results of the testing.

1 This program ensures that the testing repeatability remains within the required repeatability  
2 values stated in subsection 23-20.11-4(a) of this act for all test trials used to certify cigarettes in  
3 accordance with this law.

4 ~~(9)~~ (10) “Wholesale dealer” shall mean any person who sells cigarettes or tobacco  
5 products to retail dealers or other persons for purposes of resale, and any person who owns,  
6 operates or maintains one or more cigarette or tobacco product vending machines in, at or upon  
7 premises owned or occupied by any other person.

8 SECTION 65. Section 23-21.1-1 of the General Laws in Chapter 23-21.1 entitled  
9 "Sanitation Standards for Bathing Beaches" is hereby amended to read as follows:

10 **23-21.1-1. Definitions.** -- For the purposes of this chapter, the following definitions  
11 apply:

12 (1) “Bathing beach” shall mean any area or tract of land, which is used in connection  
13 with swimming and/or bathing in any waters of the state except that land contiguous to the  
14 Atlantic Ocean provided:

15 ~~(a)~~ (i) It is open to the public with or without permit and/or payment of a fee;

16 ~~(b)~~ (ii) It is maintained as a private club or association requiring membership fees or  
17 dues; or

18 ~~(c)~~ (iii) It is maintained with or without charge for the recreation of groups of ten (10) or  
19 more children.

20 (2) “Bathing water” shall mean fresh, salt, or estuarine water adjacent to any bathing  
21 beach within the state, except the Atlantic Ocean.

22 (3) “Department” shall mean the Rhode Island Department of Health.

23 (4) “Director” shall mean the director of health or his or her duly appointed agents.

24 SECTION 66. Section 23-22-1 of the General Laws in Chapter 23-22 entitled "Licensing  
25 of Swimming Pools" is hereby amended to read as follows:

26 **23-22-1. Definitions.** -- ~~(a)~~ (a) “Person” as used in this chapter includes any partnership,  
27 association, corporation, city, or town.

28 ~~(b)~~ (b) “Swimming pool,” as used in this chapter, includes all swimming pools, wading  
29 pools, and therapeutic pools owned or maintained by any person, partnership, association,  
30 corporation, city, or town, or the state, except swimming pools maintained by an individual for  
31 the sole use of the individual's household and guests without charge for admission and not for the  
32 purpose of profit or in connection with any business operated for the purpose of profit, and except  
33 also swimming pools owned or maintained by the United States. The term “swimming pools”  
34 wherever the context requires shall be construed to include the apparatus, structure, and

1 equipment pertaining to the swimming pool, the premises on which the swimming pool is located,  
2 and the premises appurtenant to this.

3 SECTION 67. Section 23-23-29.1 of the General Laws in Chapter 23-23 entitled "Air  
4 Pollution" is hereby amended to read as follows:

5 **23-23-29.1. Findings of fact.** -- The general assembly hereby finds as follows:

6 ~~(a)~~ [\(1\)](#) Motor vehicle exhaust is the largest source of air pollution in Rhode Island, and  
7 idling vehicles emit higher concentrations of harmful pollutants than moving vehicles;

8 ~~(b)~~ [\(2\)](#) Vehicle exhaust is hazardous to human health. Studies have linked pollution from  
9 vehicles to increased rates of cancer, lung and heart disease, asthma and allergies, urban smog  
10 and climate change;

11 ~~(c)~~ [\(3\)](#) Fine particulate matter in diesel exhaust is particularly harmful to children and  
12 seniors. Tiny particles can lodge deep within human lungs, where they can trigger asthma attacks  
13 and stunt lung growth in children, and contribute to chronic obstructive pulmonary disorder and  
14 heart attacks in seniors;

15 ~~(d)~~ [\(4\)](#) Asthma is reaching epidemic proportions in Rhode Island. More than one hundred  
16 thousand (100,000) people in Rhode Island have been diagnosed with asthma, including one out  
17 of every ten (10) children. Asthma is the most common chronic disease in children and  
18 responsible for the most school absences in Rhode Island;

19 ~~(e)~~ [\(5\)](#) Vehicle idling waste money. On average, an idling truck burns one gallon of fuel  
20 per hour. A locomotive or other heavy duty engine may burn anywhere from three (3) to eleven  
21 (11) gallons per hour;

22 ~~(f)~~ [\(6\)](#) Excessive idling creates the need for more frequent oil and oil filter changes, and  
23 speeds engine wear, reducing the amount of time before an engine needs to be rebuilt;

24 ~~(g)~~ [\(7\)](#) Even on the coldest winter days, modern engines need no more than five (5)  
25 minutes to warm up; and

26 ~~(h)~~ [\(8\)](#) To date, other states including Connecticut and Massachusetts have passed laws  
27 that limit the amount of time vehicles are permitted to idle.

28 SECTION 68. Section 23-24.10-5 of the General Laws in Chapter 23-24.10 entitled  
29 "Electronic Waste Prevention, Refuse and Recycling Act" is hereby amended to read as follows:

30 **23-24.10-5. Disposal ban.** -- (1) After July 1, 2008, no person shall dispose of any of the  
31 covered electronic products in a manner other than by recycling or disposal as hazardous waste.

32 (2) This ban on disposal shall apply to whole units of covered electronic products, as  
33 well as to the constituent subunits and materials from which the units are made.

34 (3) No solid waste landfill or transfer station regulated pursuant to ~~section~~ [chapter](#) 23-

1 18.9 shall accept any covered electronic products for the purposes of disposal after July 1, 2008.  
2 All solid waste landfills and transfer stations regulated pursuant to ~~section~~ [chapter](#) 23-18.9 shall  
3 establish procedures to promote segregation of covered electronic products from the waste  
4 stream, shall document those procedures in the facility operating plan, and shall implement those  
5 procedures as part of the operation of the facility.

6 SECTION 69. Section 23-25-37 of the General Laws in Chapter 23-25 entitled "Pesticide  
7 Control" is hereby amended to read as follows:

8 **23-25-37. Pesticide applications and notification of pesticide applications at schools.**

9 == (a) The department of environmental management and the department of health shall develop  
10 regulations as follows: (1) to restrict the use of hazardous pesticides in schools, pre-schools and  
11 child care centers in Rhode Island; (2) for the promotion and implementation of integrated pest  
12 management (IPM) as defined in § 23-25.2-2; (3) to cover situations where an emergency  
13 application of pesticide must be conducted to eliminate an immediate threat to human health, and  
14 establish reporting requirements for these emergency applications.

15 (b) On and after July 1, 2001, no person other than a licensed or certified commercial  
16 applicator as defined in § 23-25-4, shall apply pesticide within any building or on the grounds of  
17 any school. This section shall not apply in the case of an emergency application of pesticide to  
18 eliminate an immediate threat to human health, where it is impractical to obtain the services of  
19 any such applicator; provided the emergency application does not involve a restricted use or state  
20 limited use pesticide. For purposes of this section, "emergency" means a sudden need to mitigate  
21 or eliminate a pest which threatens the health or safety of a student or staff member.

22 (c) (1) On and after July 1, 2002, at the beginning of each school year, each local school  
23 authority shall provide the staff of each school and the parents or guardians of each child enrolled  
24 in each school with a written statement of the committee's policy on pesticide application on  
25 school property and a description of any pesticide applications made at the school during the  
26 previous school year.

27 (2) The statement and description shall be provided to the parents or guardians of any  
28 child who transfers to a school during the school year. The statement shall: (i) indicate that the  
29 staff, parents, or guardians may register for prior notice of pesticide applications at the school;  
30 and (ii) describe the emergency notification procedures provided for in this section. Notice of any  
31 modification to the pesticide application policy shall be sent to any person who registers for  
32 notice under this section.

33 (d) On and after July 1, 2002, parents or guardians of children in any school and school  
34 staff may register for prior notice of pesticide application at their school. Each school shall



1 maintain a registry of persons requesting the notice. Prior to providing for any application of  
2 pesticide within any building or on the grounds of any school, the local school authority shall  
3 provide for the distribution of notice to parents and guardians who have registered for prior notice  
4 under this section, such that the notice is received no later than twenty-four (24) hours prior to the  
5 application. Notice shall be given by any means practicable to school staff who have registered  
6 for the notice. Notice under this subsection shall include: (1) the common or trade name and the  
7 name of the active ingredient; (2) the EPA registration number as listed on the pesticide label; (3)  
8 the target pest; (4) the exact location of the application on the school property; (5) the date of the  
9 application; and (6) the name of the school administrator, or a designee, who may be contacted  
10 for further information.

11 (e) On and after July 1, 2003, no application of pesticide may be made in any building or  
12 on the grounds of any school during regular school hours or during planned activities at any  
13 school. No child shall enter an area where the application has been made until it is safe to do so  
14 according to the provisions on the pesticide label. This section shall not apply to the use of  
15 germicides, disinfectants, sanitizers, deodorizers, antimicrobial agents, insecticidal gels, non-  
16 volatile insect or rodent bait in a tamper resistant container, insect repellants or the application of  
17 a pesticide classified by the United States Environmental Protection Agency as an exempt  
18 material under ~~40 CFR part 152.25~~ [40 CFR 152.25](#).

19 (f) On and after July 1, 2002, a local school authority may make an emergency  
20 application of pesticide without prior notice under this section in the event of an immediate threat  
21 to human health, provided the board provides for notice, by any means practicable, on or before  
22 the day that the application is to take place, to any person who has requested prior notice under  
23 this section.

24 (g) On and after July 1, 2002, notice of any pesticide application at a school shall be  
25 given, by any means practicable, to the parents or guardians of any child enrolled at the school  
26 and to the staff of the school not later than one week after the application. The notice shall  
27 include: (1) the common or trade name and the name of the active ingredient; (2) the EPA  
28 registration number as listed on the pesticide label; (3) the target pest; (4) the exact location of the  
29 application on the school property; (5) the date of the application; and (6) the name of the school  
30 administrator, or a designee, who may be contacted for further information. A copy of the record  
31 of each pesticide application at a school shall be maintained at the school for a period of five (5)  
32 years.

33 (h) Not later than July 1, 2002, the department of environmental management and the  
34 department of health shall jointly establish a task force which shall specifically address methods

1 to promote public education and professional training about pesticides, their potential health  
2 effects and IPM least toxic alternatives, and for evaluation and analysis of current pest control  
3 practices at school and child care facilities.

4 SECTION 70. Sections 23-25.4-3 and 23-25.4-5 of the General Laws in Chapter 23-25.4  
5 entitled "Utilization of Unused Prescription Drugs Act" are hereby amended to read as follows:

6 **23-25.4-3. Definitions.** -- For the purposes of this chapter:

7 ~~(a)~~ (1) "Assisted living residence" has the same meaning as such term is defined in § 23-  
8 17.4-2 and the regulations promulgated thereunder.

9 ~~(b)~~ (2) "Blister packages" means multi-dose containers of a specific medication  
10 repackaged by the pharmacy in accordance with section 13.7 of the regulations promulgated  
11 under chapter 19.1 of title 5 and intended for a specific patient.

12 ~~(c)~~ (3) "Cancer drugs" means any of several drugs that control or kill neoplastic cells,  
13 commonly referred to as "cancer-fighting chemotherapy" to destroy cancer cells.

14 (4) "Charitable clinic" means an organized ambulatory care facility licensed pursuant to  
15 chapter 17 of title 23 organized as a nonprofit corporation pursuant to § 7-6-2 that:

16 (1) Holds a valid exemption from federal income taxation issued pursuant to Section  
17 501(a) of the Internal Revenue Code, 26 U.S.C. § 501(1);

18 (2) Has a licensed outpatient pharmacy located at the organized ambulatory care facility  
19 or a contract with a retail pharmacy to participate in the program established under this chapter.

20 ~~(d)~~ (5) "Health care prescriber" means any of the following persons licensed and  
21 authorized to prescribe drugs or to provide medical, dental, or other health-related diagnoses, care  
22 or treatment within the scope of their professional license:

23 (i) A physician holding a current license to practice medicine pursuant to chapter 37 of  
24 title 5;

25 (ii) A certified registered nurse practitioner licensed pursuant to chapter 34 of title 5;

26 (iii) A physician assistant licensed pursuant to chapter 54 of title 5;

27 (iv) A dentist licensed pursuant to chapter 31.1 of title 5;

28 (v) An optometrist licensed pursuant to chapter 35 of title 5; and

29 (vi) A pharmacist licensed pursuant to chapter 19.1 of title 5.

30 (vii) A nurse — midwife licensed pursuant to chapter 13 of title 23; and

31 (viii) A psychiatric and mental health clinical nurse specialist licensed pursuant to chapter  
32 34 of title 5.

33 ~~(e)~~ (6) "Medically indigent" means a person eligible to receive Medicaid or Medicare or  
34 a person who has no health insurance and who otherwise lacks reasonable means to purchase

1 prescribed drugs.

2 ~~(f) “Charitable clinic” means an organized ambulatory care facility licensed pursuant to~~  
3 ~~chapter 17 of title 23 organized as a nonprofit corporation pursuant to § 7-6-2 that:~~

4 ~~(1) Holds a valid exemption from federal income taxation issued pursuant to Section~~  
5 ~~501(a) of the Internal Revenue Code (26 U.S.C., Section 501(1));~~

6 ~~(2) Has a licensed outpatient pharmacy located at the organized ambulatory care facility~~  
7 ~~or a contract with a retail pharmacy to participate in the program established under this chapter.~~

8 ~~(g)~~ (7) “Prescription drug” means a drug that may be dispensed only upon prescription  
9 by a health care prescriber authorized by his or her licensing authority and as defined in chapter  
10 5-19.1.

11 ~~(h)~~ (8) “Unit-dose container” is one that is designed to hold a quantity of a drug intended  
12 for use as a single dose and used promptly after the container is opened. The immediate container,  
13 and/or the outer container or protective packaging shall be designed to show evidence of any  
14 tampering with the contents. Each individual container shall be fully identifiable containing a  
15 single dose of a single entity and shall protect the integrity of the dosage form. Labeling shall be  
16 in accordance with USP standards compendia and federal and state law and shall include the  
17 identity, quantity, and strength of the product, name of the manufacturer, and lot number and  
18 expiration date of the article.

19 **23-25.4-5. Criteria.** -- The following criteria shall be used in soliciting and accepting  
20 unused prescription drugs for use pursuant to this chapter:

21 ~~(a)~~ (1) Nursing facilities and assisted living residences that have entered into an  
22 agreement to participate with a charitable clinic shall document residents' participation in the  
23 program with a written statement that their excess and otherwise eligible unused prescription  
24 drugs shall be donated to a charitable clinic for the purpose of re-dispensing to medically indigent  
25 persons. Participation in this program by residents of participating nursing facilities and assisted  
26 living residences shall be strictly voluntary.

27 ~~(b)~~ (2) Only prescription drugs in their original sealed multi-dose blister packages, unit  
28 dose containers or perforated blister packages shall be accepted and re-dispensed;

29 ~~(c)~~ (3) Expired or beyond use date prescription drugs shall not be accepted;

30 ~~(d)~~ (4) A prescription drug shall not be accepted or re-dispensed if the pharmacist  
31 accepting or re-dispensing the drug, in his or her judgment has reason to believe that the drug is  
32 adulterated, mislabeled, or has been improperly stored;

33 ~~(e)~~ (5) No controlled substances shall be accepted; and

34 ~~(f)~~ (6) Subject to the limitation specified in this section, unused prescription drugs

1 dispensed for purposes of a medical assistance program may be accepted and re-dispensed  
2 pursuant to this chapter.

3 SECTION 71. Section 23-27.3-114.1 of the General Laws in Chapter 23-27.3 entitled  
4 "State Building Code" is hereby amended to read as follows:

5 **23-27.3-114.1. Action on application.** -- (a) The building official shall examine or cause  
6 to be examined all applications for permits and amendments thereto within fifteen (15) days after  
7 filing. Before a permit is granted for the excavation or for the erection of any building or  
8 structure, a written statement shall be furnished by the owner from a town or city engineer as to  
9 the established grades. If the application or plans do not conform to the requirements of this code  
10 or of all applicable laws, the building official shall reject the application citing the specific  
11 sections of this code or applicable law upon which the rejection is based. If the building official is  
12 satisfied that the proposed work conforms to the requirements of this code and all laws applicable  
13 thereto, he or she shall issue a permit.

14 (b) In cases where the permit application is for the construction or rehabilitation of a  
15 residential dwelling occupied by one, two (2), and/or three (3) families, the building official shall  
16 reject the application or issue the permit within sixty (60) calendar days after the filing of the  
17 application. If after sixty (60) calendar days the application has not been either rejected or a  
18 permit issued, the permit fee shall be reduced by fifty percent (50%). The review period shall  
19 begin on the date when the application is filed with the building official and shall include any  
20 actions on the application required by subsection (a) herein, subsection ~~23-28.1-2(2)~~ [23-28.1-](#)  
21 [2\(b\)\(2\)](#) and 23-28.1-6 and actions by any other departments with authority over the issuance of  
22 the permit.

23 (c) If an application requires access by driveway to a state highway or state highway  
24 right of way, or the placement or alteration of curbs, or the connecting to, pumping or draining  
25 water to, the state highway drainage system, or making any alteration to the state highway  
26 system, a physical alteration permit shall first be obtained from the director of the department of  
27 transportation pursuant to rules and regulations promulgated under §§ 24-8-9, 24-8-33 and 24-8-  
28 34. The director shall render a decision within ninety (90) days of receipt of request for access.

29 SECTION 72. Section 27-1-2.1 of the General Laws in Chapter 27-1 entitled "Domestic  
30 Insurance Companies" is hereby amended to read as follows:

31 **27-1-2.1. Corporate governance standards [Effective July 1, 2008].**-- (a) The  
32 importance of good corporate governance is crucial in promoting integrity in an insurance  
33 company's business practices and in maintaining public confidence and policyholder trust. The  
34 size and ownership structure of a company often determines the corporate governance standards

1 employed by the company. All Rhode Island domestic insurers, regardless of their size or  
2 ownership structure, shall establish the following minimum corporate governance standards:

3 (1) The board of directors must be comprised of a minimum of five (5) and a maximum  
4 of twenty-one (21) members.

5 (2) The board must meet at least two (2) times per year, however, four (4) times per year  
6 is encouraged.

7 (3) The board must establish a written attendance policy.

8 (4) The board shall have authority to meet in executive session.

9 (5) There must be an audit committee established by and amongst the board of directors  
10 for the purpose of overseeing the accounting and financial reporting processes of the insurer and  
11 audits of the financial statement of the insurer. If no such committee exists, the entire board of  
12 directors shall act as the audit committee.

13 (6) The board must review the minutes of the audit committee.

14 (7) The audit committee must meet at least two (2) times per year.

15 (8) There must be a written audit committee charter.

16 (9) At least one member of the audit committee must have knowledge of statutory  
17 accounting principles or generally accepted accounting principles.

18 (10) The internal audit function should have a direct reporting relationship to the audit  
19 committee for critical matters such as the audit plan, resources and budgets.

20 (11) The audit committee must approve the selection of the independent auditor that  
21 performs any audit required by the Rhode Island regulation governing annual audited financial  
22 reports.

23 (12) The audit committee shall require the independent accountant that performs any  
24 audit required by Rhode Island regulation governing annual audited financial reports, to timely  
25 report to the audit committee in accordance with the requirements of Statement of Auditing  
26 Standards No. 61, communications with audit committee, or its replacement, including:

27 (i) All significant accounting policies and material permitted practices;

28 (ii) All material alternative treatments of financial information within statutory  
29 accounting principles that have been discussed with management officials of the insurer,  
30 ramifications of the use of the alternative disclosures and treatments, and the treatment preferred  
31 by the accountant; and

32 (iii) Other material written communications between the accountant and the management  
33 of the insurer, such as any management letter or schedule of unadjusted differences.

34 (13) There must be a written code of ethics covering directors and officers that includes

1 the insurer's conflict of interest policy.

2 (14) There should be a written policy encouraging employees to come forward with  
3 observations of improprieties or other malfeasance.

4 (15) On or after ~~the effective date of this act~~ [July 1, 2008](#) no domestic insurer or any  
5 affiliate member of its holding company system (as defined in § 27-35-1 et seq.) may extend or  
6 maintain credit, arrange for the extension of credit, or renew an extension of credit in the form of  
7 a personal loan to or for any director or officer of a domestic insurer. The terms and purpose of  
8 any such existing extensions of credit made to any director or officer of a domestic insurer must  
9 be disclosed to the director. For purposes of this subsection, benefits that are offered to directors  
10 or officers as policyholders of a domestic insurer, or benefits that are offered to the general public  
11 in the insurer's normal course of business, shall not be considered a violation of this subsection.

12 (b) In addition to the standards enumerated in subsection (a) of this section, the  
13 following corporate governance standards must be employed by all Rhode Island domestic  
14 mutual insurance companies and all domestic insurance companies writing more than one  
15 hundred million dollars (\$100,000,000) in premium, in any jurisdiction, on a direct and/or  
16 assumed basis, as determined at the end of the previous calendar year:

17 (1) The board must have an independent majority of members.

18 (2) The audit committee must have an independent majority of members.

19 (3) The audit committee must approve all related party transactions, which ~~include,~~  
20 [include](#) transaction between the company and its affiliates and those between the company and its  
21 officers and directors. The company may establish materiality thresholds, however, they must be  
22 clearly stated in its audit committee charter as required by subdivision (a)(8), but in no event shall  
23 the materiality thresholds exceed those established in chapter 35 of title 27.

24 (c) For purposes of this section, an independent board or audit committee member is  
25 defined as an individual: (1) who is not being compensated by the domestic insurer or any  
26 company within its holding company system (“organization”), other than any reasonable  
27 compensation and benefits for services as a director, and has not been compensated within the  
28 past twelve (12) months including full-time and part-time compensation as an employee or an  
29 independent contractor, except for reasonable compensation as a director; (2) whose own  
30 compensation is not determined by individuals who are compensated by the organization, except  
31 for reasonable compensation paid to the director; (3) who does not receive material financial  
32 benefits; (i.e. service contracts, grants or other payments) from the organization; or (4) who is not  
33 related to (as a spouse, sibling, parent, or child) or the domestic partner of an individual  
34 compensated by or who receives material financial benefits from the organization. Policyholders

1 of a domestic insurer may be considered independent providing they meet the requirements as  
2 defined in this subsection.

3 (d) Any Rhode Island domestic insurer that does not currently employ one or more of the  
4 standards enumerated in subsections (a) and (b) of this section, must submit a plan of corrective  
5 action to the director for his or her approval. The director, at his or her discretion, may waive any  
6 of the requirements in this section for a period not exceeding thirty-six (36) months. The  
7 director's refusal to approve a plan of corrective action after reviewing such plan of corrective  
8 action for a period of sixty (60) days shall, constitute a final order for purposes of the Rhode  
9 Island Administrative Procedures Act allowing the party to appeal to the superior court.

10 (e) Nothing contained in the company's by-laws shall conflict with the corporate  
11 governance standards set forth in this act. Any amendments to a domestic insurance company's  
12 by-laws shall be submitted in writing to the department.

13 (f) A domestic insurer that is a member of an insurance holding company system as  
14 defined in chapter 35 of title 27, is exempt from this section if it can demonstrate that it is  
15 controlled by an entity that either is required to be compliant with, or voluntarily is compliant  
16 with, all of the following provisions of the Sarbanes-Oxley Act of ~~2002~~; 2002: (i) the preapproval  
17 requirements of § 201 (§ 10A(i) of the Securities Exchange Act of 1934); (ii) the audit  
18 committee independence requirements of § 301 (§ 10A(m)(3) of the Securities Exchange Act of  
19 1934); and (iii) the internal control over financial reporting requirements of § 404 (Item 308 of  
20 SEC regulation S-K) — (“SOX Compliant Entity”). If the department makes a determination, as a  
21 result of its statutory examination or financial analysis, that the domestic insurer is not controlled  
22 by a SOX Compliant Entity or that the insurer's interests and affairs are not adequately considered  
23 and evaluated by the SOX Compliant Entity, the domestic insurer must take steps to comply with  
24 this act.

25 (g) A Rhode Island domestic insurer that is a wholly-owned subsidiary of another Rhode  
26 Island domestic insurer that is compliant with the provisions of subsection ~~A~~ (a), and if applicable  
27 the requirements of subsection ~~B~~ (b), shall be exempt from compliance with any other  
28 requirements of this act.

29 (h) The requirements of this section, 27-1-2.1, shall not apply to entities regulated  
30 pursuant to chapters 19, 20, 20.1, 20.2, 20.3 and 41 of title 27 and shall not ~~superecede~~ supersede  
31 or replace any specific statutory corporate governance standards otherwise applicable to domestic  
32 insurance companies.

33 SECTION 73. Section 27-2.4-2 of the General Laws in Chapter 27-2.4 entitled "Producer  
34 Licensing Act" is hereby amended to read as follows:

1           **27-2.4-2. Definitions.** -- The following definitions apply to this chapter:

2           ~~(1) “Insurance commissioner” means the director of the department of business~~  
3 ~~regulation or his or her designee;~~

4           ~~(2)~~ (1) “Department” means the department of business regulation;

5           ~~(3)~~ (2) “Home state” means any state or territory of the United States, or the District of  
6 Columbia, in which an insurance producer maintains his or her principal place of residence or  
7 principal place of business and is licensed to act as an insurance producer;

8           ~~(4)~~ (3) “Insurance” means any of the lines of authority set forth in this title;

9           (4) “Insurance commissioner” means the director of the department of business  
10 regulation or his or her designee;

11           (5) “Insurance producer” means a person required to be licensed under the laws of this  
12 state to sell, solicit or negotiate insurance;

13           (6) “Insurer” means: (i) any person, reciprocal exchange, interinsurer, Lloyds insurer,  
14 fraternal benefit society, and any other legal entity engaged in the business of insurance,  
15 including insurance producers; (ii) notwithstanding §§ 27-19-2, 27-20-2, 27-20.1-2, 27-20.2-2,  
16 27-20.3-2, and 27-41-22, all of whom shall be engaged in the business of insurance for the  
17 purpose of this chapter, nonprofit hospital and/or medical service corporation, a nonprofit dental  
18 service corporation, a nonprofit optometric service corporation, a nonprofit legal service  
19 corporation, a health maintenance organization as defined in chapter 41 of this title or as defined  
20 in chapter 62 of title 42, or any other entity providing a plan of health benefits subject to state  
21 insurance regulation; and (iii) an organization that for consideration assumes certain risks for an  
22 insured. Insurer organizations may include corporations, stock companies, mutual companies, risk  
23 retention groups, reciprocals, captives, Lloyds associations, and government residual plans.

24           (7) “License” means a document issued by this state's insurance commissioner  
25 authorizing a person to act as an insurance producer for the lines of authority specified in the  
26 document. The license itself does not create any authority, actual, apparent or inherent, in the  
27 holder to represent or commit an insurance carrier;

28           (8) “Limited line credit insurance” includes credit life, credit disability, credit property,  
29 credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage  
30 disability, guaranteed automobile protection (gap) insurance, and any other form of insurance  
31 offered in connection with an extension of credit that is limited to partially or wholly  
32 extinguishing that credit obligation that the insurance commissioner determines should be  
33 designated a form of limited line credit insurance;

34           (9) “Limited line credit insurance producer” means a person who sells, solicits or



1 negotiates one or more forms of limited line credit insurance coverage to individuals through a  
2 master, corporate, group or individual policy;

3 (10) "Limited lines insurance" means those lines of insurance that the insurance  
4 commissioner deems necessary to recognize for purposes of complying with § 27-2.4-10(e);

5 (11) "Limited lines producer" means a person authorized by the insurance commissioner  
6 to sell, solicit or negotiate limited lines insurance;

7 (12) "NAIC" means National Association of Insurance Commissioners;

8 (13) "Negotiate" means the act of conferring directly with or offering advice directly to a  
9 purchaser or prospective purchaser of a particular contract of insurance concerning any of the  
10 substantive benefits, terms or conditions of the contract, provided that the person engaged in that  
11 act either sells insurance or obtains insurance from insurers for purchasers;

12 (14) "Person" means an individual;

13 (15) "Resident" means a person who either resides in Rhode Island or maintains an office  
14 in Rhode Island where the business of producing insurance is transacted and designates Rhode  
15 Island as the residence for purposes of licensure;

16 (16) "Sell" means to exchange a contract of insurance by any means, for money or its  
17 equivalent, on behalf of an insurance company;

18 (17) "Solicit" means attempting to sell insurance or asking or urging a person to apply for  
19 a particular kind of insurance from a particular company;

20 (18) "Terminate" means the cancellation of the relationship between an insurance  
21 producer and the insurer or the termination of an insurance producer's authority to transact  
22 insurance;

23 (19) "Uniform application" means the current version of the NAIC uniform application  
24 for resident and nonresident insurance producer licensing.

25 SECTION 74. Section 27-4.4-3 of the General Laws in Chapter 27-4.4 entitled "The  
26 Standard Nonforfeiture Law for Individual Deferred Annuities" is hereby amended to read as  
27 follows:

28 **27-4.4-3. Nonforfeiture requirements.** -- (a) In the case of contracts issued on or after  
29 ~~the effective date of this act~~ [July 7, 2004], no contract of annuity, except as stated in § 27-4.4-2,  
30 shall be delivered or issued for delivery in this state unless it contains in substance the following  
31 provisions, or corresponding provisions which in the opinion of the commissioner of insurance  
32 are at least as favorable to the contract holder, upon cessation of payment of considerations under  
33 the contract:

34 (1) That upon cessation of payment of considerations under contract, or upon written

1 request of the contract owner, the company shall grant a paid-up annuity benefit on a plan  
2 stipulated in the contract of such value as is specified in §§ 27-4.4-5 — 27-4.4-8 and 27-4.4-10;

3 (2) If a contract provides for a lump sum settlement at maturity, or at any other time, that  
4 upon surrender of the contract at or prior to the commencement of any annuity payments, the  
5 company shall pay in lieu of any paid up annuity benefit a cash surrender benefit of such amount  
6 as is specified in §§ 27-4.4-5, 27-4.4-6, 27-4.4-8 and 27-4.4-10. The company may reserve the  
7 right to defer the payment of the cash surrender benefit for a period not to exceed six (6) months  
8 after demand therefore with surrender of the contract after making a written request and receiving  
9 written approval of the commissioner. The request shall address the necessity and equitability to  
10 all policyholders of the deferral;

11 (3) A statement of the mortality table, if any, and interest rates used in calculating any  
12 minimum paid up annuity, cash surrender, or death benefits that are guaranteed under the  
13 contract, together with sufficient information to determine the amounts of the benefits; and

14 (4) A statement that any paid-up annuity, cash surrender, or death benefits that may be  
15 available under the contract are not less than the minimum benefits required by any statute of the  
16 state in which the contract is delivered and an explanation of the manner in which the benefits are  
17 altered by the existence of any additional amounts credited by the company to the contract, any  
18 indebtedness to the company on the contract, or any prior withdrawals from or partial surrenders  
19 of the contract.

20 (b) Notwithstanding the requirements of this section, any deferred annuity contract may  
21 provide that if no considerations have been received under a contract for a period of two (2) full  
22 years and the portion of the paid-up annuity benefit at maturity on the plan stipulated in the  
23 contract arising from considerations paid prior to the period would be less than twenty dollars  
24 (\$20.00) monthly, the company may at its option terminate the contract by payment in cash of the  
25 then present value of the portion of the paid up annuity benefit, calculated on the basis on the  
26 mortality table, if any, and interest rate specified in the contract for determining the paid-up  
27 annuity benefit, and by the payment shall be relieved of any further obligation under the contract.

28 SECTION 75. Sections 27-4.7-10 and 27-4.7-11 of the General Laws in Chapter 27-4.7  
29 entitled "Risk-Based Capital (RBC) for Health Organizations Act" are hereby amended to read as  
30 follows:

31 **27-4.7-10. Supplemental provisions - Rules -Exemption.** -- (a) The provisions of this  
32 chapter are supplemental to any other provisions of the laws of this state, and shall not preclude  
33 or limit any other powers or duties of the commissioner under those laws, including, but not  
34 limited to, chapters 41, 19, 20, 20.1, 20.2, 20.3, 14.1, 14.2, and 14.3 of this title. The provisions

1 of this chapter shall ~~supereede~~ supersede any provisions of this title in conflict with this chapter.

2 (b) The commissioner may adopt reasonable rules necessary for the implementation of  
3 this chapter.

4 (c) The commissioner may exempt from the application of this chapter or modify the  
5 requirements of this chapter for:

6 (1) A domestic health organization that:

7 (i) Writes direct business only in this state;

8 (ii) Assumes no reinsurance in excess of five percent (5%) of direct premium written; and

9 (iii) Writes direct annual premiums for comprehensive medical business of two million  
10 dollars (\$2,000,000) or less; or

11 (iv) Is a limited health service organization that covers less than two thousand (2,000)  
12 lives; or

13 (2) A domestic health organization that provides a plan of health insurance, health  
14 benefits, or health services to members, eighty-five percent (85%) or greater of which are  
15 participants in the RIte Care program administered by the State of Rhode Island, if the health  
16 organization has contracts with insurers, hospital or medical service corporations, governments,  
17 or other organizations that are sufficient to reasonably assure the performance of its obligations;  
18 provided, that in no event shall the net worth or total adjusted capital requirement be less than one  
19 hundred thousand dollars (\$100,000).

20 **27-4.7-11. Foreign health organizations.** -- (a)(1) A foreign health organization shall,  
21 upon the written request of the commissioner, submit to the commissioner an RBC report as of  
22 the end of the calendar year just ended the later of:

23 (i) The date an RBC report would be required to be filed by a domestic health  
24 organization under this chapter;

25 (ii) Fifteen (15) days after the request is received by the foreign health organization.

26 (2) A foreign health organization shall, at the written request of the commissioner,  
27 promptly submit to the commissioner a copy of any RBC plan that is filed with the insurance  
28 commissioner of any other state.

29 (b) In the event of a company action level event, regulatory action level event, or  
30 authorized control level event with respect to a foreign health organization as determined under  
31 the RBC statute applicable in the state of domicile of the health organization (or, if no RBC  
32 statute is in force in that state, under the provisions of this chapter), if the insurance commissioner  
33 of the state of domicile of the foreign health organization fails to require the foreign health  
34 organization to file an RBC plan in the manner specified under that state's RBC statute (or, if no

1 RBC statute is in force in that state, under § 27-4.7-4), the commissioner may require the foreign  
2 health organization to file an RBC plan with the commissioner. In that event, the failure of the  
3 foreign health organization to file an RBC plan with the commissioner is grounds to order the  
4 health organization to cease and desist from writing new insurance business in this state.

5 (c) In the event of a mandatory control level event with respect to a foreign health  
6 organization, if no domiciliary receiver has been appointed with respect to the foreign health  
7 organization under the rehabilitation and liquidation ~~statue~~ statute applicable in the state of  
8 domicile of the foreign health organization, the commissioner may make application to the  
9 superior court of the county of Providence permitted under chapter 14.3 of this title with respect  
10 to the liquidation of property of foreign health organizations found in this state, and the  
11 occurrence of the mandatory control level event shall be considered adequate grounds for the  
12 application.

13 SECTION 76. Sections 27-5-3.7 and 27-5-3.8 of the General Laws in Chapter 27-5  
14 entitled "Fire Insurance Policies and Reserves" are hereby amended to read as follows:

15 **27-5-3.7. Hurricane deductibles, triggers and policyholder notice.** -- (a) The  
16 provisions of this section shall be applicable to policies issuing or renewing on or after July 1,  
17 2008.

18 (b) In all instances where an insurance company licensed to do business in this state  
19 offers or includes any deductible and/or mitigation measure related to such deductible for any  
20 type of personal lines residential property insurance on dwelling houses, the insurance company  
21 shall provide prominent and clear notice to insureds, that shall be included in the policy issuance  
22 or renewal package and shall fully disclose all details pertaining to any such deductible and/or  
23 mitigation measure.

24 (c) The insurer may apply a deductible specific to windstorm coverage where:

25 ~~(i)~~ (1) The deductible is specifically approved by the director and shall not exceed five  
26 percent (5%) of the insured value.

27 ~~(ii)~~ (2) The deductible shall be applicable to losses due to a hurricane during the period  
28 commencing with the issuance of a hurricane warning bulletin for any part of the state by the  
29 National Hurricane Center and concluding twenty-four (24) hours after the termination of the last  
30 hurricane warning bulletin for any part of the state.

31 ~~(iii)~~ (3) The deductible, whether it is a flat dollar deductible or a percentage deductible  
32 shall be presented by at least two (2) examples that illustrate the application of the deductible to  
33 the insured. Nothing herein shall prohibit the insurer from providing any additional information to  
34 the insured to assist in the insured's understanding the deductible to applied to the insured's

1 policy.

2 ~~(iv)~~ (4) The deductible set forth above shall not be applied to any insured, if the insured  
3 has installed approved mitigation measures to protect against windstorm damage and the insurer  
4 has either inspected the property or the insured has submitted satisfactory proof of installation of  
5 the approved mitigation measures. The insurance commissioner, in consultation with the state  
6 building code commissioner, shall adopt and may amend or revise a list of mitigation measures,  
7 based so far as reasonably feasible on national standards for such measures and practices in other  
8 comparable states. The list of mitigation measures adopted by the insurance commissioner shall  
9 be considered approved mitigation measures for purposes of this subdivision.

10 (d) Premium credits shall be applied to policies with deductibles as set forth in subsection  
11 27-5-3.7(c).

12 (e)(1) An insurer may require mitigation measures to protect against windstorm damage  
13 only after specific approval of the substance of such mitigation measures by the director;

14 ~~(i)~~ (2) Mitigation measures to be taken by an insured are clearly explained, including a  
15 complete illustration of the dollar impact upon the premiums to be charged to insureds if the  
16 requested mitigation activities are undertaken;

17 ~~(ii)~~ (3) No mandatory deductible for windstorm damage shall be included in the policy;

18 ~~(iii)~~ (4) An insurer shall write the requested coverage at the premium rate that includes  
19 the premium credit to be realized with the completion of the mitigation efforts;

20 ~~(iv)~~ (5) The insurer shall affirmatively state the length of time during which discount  
21 given for the mitigation efforts will apply; and

22 ~~(v)~~ (6) No insurer shall subsequently non-renew an insured who has taken the mitigation  
23 steps requested by the insurer for reasons of the insurers exposure to catastrophe loss, unless for  
24 non-payment of premium, fraud, breach by the insured of a provision of the policy, reversal or a  
25 lack of maintenance of the mitigation steps, or insurer solvency concerns or adverse loss history.

26 (f) Penalties for failure to comply with the provisions of this section shall be administered  
27 by the director in accordance with the provisions of § 42-14-16.

28 (g) The department of business regulation shall have authority to adopt such rules,  
29 including emergency rules, as may be necessary or desirable to effectuate the purposes of this  
30 section.

31 **27-5-3.8. Rhode Island commission on hurricane loss projection methodology. –**

32 ~~(a)~~ (a) Legislative findings and intent. ~~(1)~~ (1) Reliable projections of hurricane losses are  
33 necessary in order to assure that rates for residential property insurance meet the statutory  
34 requirement that rates be neither excessive nor inadequate.

1           ~~(b)~~ (2) The general assembly recognizes the need for expert evaluation of computer  
2 models and other recently developed or improved actuarial methodologies for projecting  
3 hurricane losses, in order to resolve conflicts among actuarial professionals, and in order to  
4 provide both immediate and continuing improvement in the sophistication of actuarial methods  
5 used to set rates charged to consumers.

6           ~~(b)~~ (3) It is the intent of the general assembly to create the Rhode Island commission on  
7 hurricane loss projection methodology as a panel of experts to provide the most actuarially  
8 sophisticated guidelines and standards for projection of hurricane losses possible, given the  
9 current state of actuarial science.

10           ~~(b)~~ (b) Commission created. ~~(b)~~ (1) There is created the Rhode Island commission on  
11 hurricane loss projection methodology. For the purposes of this section, the term “commission”  
12 means the Rhode Island commission on hurricane loss projection methodology. The commission  
13 shall be administratively housed within the department of administration, but it shall  
14 independently exercise the powers and duties specified in this section.

15           ~~(b)~~ (2) The commission shall consist of the following eight (8) members:

16           ~~(b)~~ (i) The director of business regulation, acting as the administrator of insurance, or  
17 designee;

18           ~~(b)~~ (ii) The adjutant general of the Rhode Island emergency management agency;

19           ~~(b)~~ (iii) A member of the board of directors of the Rhode Island Joint reinsurance  
20 Association appointed by the governor;

21           ~~(b)~~ (iv) Five (5) members directly appointed by the governor, as follows:

22           (A) An actuary who is employed full-time by a property and casualty insurer which was  
23 responsible for at least one percent of the aggregate statewide direct written premium for  
24 homeowner's insurance in the calendar year preceding the member's appointment to the  
25 commission;

26           (B) An expert in insurance finance who has a background in actuarial science;

27           (C) An expert in statistics who has a background in insurance;

28           (D) An expert in computer system design.

29           (E) An expert in meteorology who specializes in hurricanes.

30           ~~(b)~~ (3) Members designated under subparagraphs ~~(b)(1)-(4)~~ (b)(2)(i)-(iii) shall serve on  
31 the commission as long as they maintain the respective offices designated in subparagraphs  
32 ~~(b)(1)-(4)~~ (b)(2)(i)-(iii). Members under subparagraph ~~(b)(5)(A)-(E)~~ (b)(2)(iv)(A)-(E) shall serve  
33 for a term of three (3) years, and may be reappointed to the commission. All members may be  
34 removed by the governor prior to the expiration of their term, for cause. Vacancies on the

1 commission shall be filled in the same manner as the original appointment.

2 ~~(e)~~ (4) The governor shall annually appoint one of the members of the commission to  
3 serve as chair.

4 ~~(e)~~ (5) Members of the commission shall serve without compensation, but shall be  
5 reimbursed for per diem and travel expenses.

6 ~~(e)~~ (6) There shall be no liability on the part of, and no cause of action of any nature shall  
7 arise against, any member of the commission for any action taken in the performance of their  
8 duties under this section. In addition, the commission may, in writing, waive any potential cause  
9 of action for negligence of a consultant, contractor, or contract employee engaged to assist the  
10 commission.

11 ~~(c)~~ (c) Adoption and effect of standards and guidelines. ~~(1)~~ (1) The commission shall  
12 consider any actuarial methods, principles, standards, models, or output ranges that have the  
13 potential for improving the accuracy of or reliability of the hurricane loss projections used in  
14 residential property insurance rate filings. The commission shall, from time to time, adopt  
15 findings as to the accuracy or reliability of particular methods, principles, standards, models, or  
16 output ranges.

17 ~~(2)~~ (2) The commission shall adopt revisions to previously adopted actuarial methods,  
18 principles, standards, models, or output ranges at least annually.

19 ~~(3)(i)~~ (3)(i) A trade secret that is used in designing and constructing a hurricane loss model  
20 and that is provided pursuant to this section, by a private company, to the commission, is  
21 confidential and shall not be deemed a public record pursuant to the provisions of chapter 2 of  
22 title 38.

23 ~~(ii)~~ (ii) That portion of a meeting of the commission or of a rate proceeding on an  
24 insurer's rate filing at which a trade secret made confidential and exempt by this paragraph is  
25 discussed shall be deemed confidential and not open to disclosure pursuant to the open meetings  
26 act, but may be discussed at a closed meeting as provided for in chapter 46 of title 42.

27 ~~(d)~~ (d) The Rhode Island commission is hereby authorized to form a multi-state  
28 commission with the states of Massachusetts, Connecticut and any other interested state in  
29 furtherance of the goals of this act.

30 SECTION 77. Section 27-7.1-12.1 of the General Laws in Chapter 27-7.1 entitled  
31 "Workers' Compensation Insurance" is hereby amended to read as follows:

32 **27-7.1-12.1. Acts reducing competition prohibited.** -- (a) In this section, "insurer"  
33 includes two (2) or more affiliated insurers: (1) under common management; or (2) under  
34 common controlling ownership or under common effective legal control and in fact engaged in

1 joint or cooperative underwriting, investment management, marketing, servicing, or  
2 administration of their business and affairs as insurers.

3 (b) Neither the advisory organization nor any insurer may:

4 (1) Monopolize, attempt to monopolize, or combine or conspire with any other person or  
5 persons to monopolize the business of insurance of any kind, subdivision, or class;

6 (2) Agree with any other insurer or the advisory organization to charge or adhere to any  
7 rate or rating plan other than the uniform experience rating plan or rating rule except as needed to  
8 comply with the requirements of § 27-7.1-10 [\[Repealed\]](#);

9 (3) Make an agreement with any other insurer, the advisory organization, or other person  
10 to unreasonably restrain trade or substantially lessen competition in the business of insurance of  
11 any kind, subdivision, or class; or

12 (4) Make any agreement with any other insurer or the advisory organization to refuse to  
13 deal with any person in connection with the sale of insurance.

14 (c) The fact that two (2) or more insurers, whether or not members or subscribers to the  
15 advisory organization, use consistently or intermittently the same rules rating plans, rating  
16 schedules, rating rules, policy forms, rate classification, underwriting rules, surveys, inspections,  
17 or similar materials is not sufficient in itself to support a finding that an agreement exists.

18 (d) The advisory organization and any member or subscriber of it may not interfere with  
19 the right of any insurer to make its rates independently of the advisory organization.

20 (e) Except as required by § 27-7.1-10 [\[Repealed\]](#), the advisory organization may not  
21 have or adopt any rule or exact any agreement or formulate or engage in any program which  
22 would require any member, subscriber, or other insurer to:

23 (1) Utilize some or all of its service;

24 (2) Adhere to its rates, rating plan, rating systems, or underwriting rules; or

25 (3) Prevent any insurer from acting independently.

26 SECTION 78. Section 27-8-11 of the General Laws in Chapter 27-8 entitled "Casualty  
27 Insurance Generally" is hereby amended to read as follows:

28 **27-8-11. Regulations on cancellation and renewal.** -- (a) In addition to and not in lieu  
29 of any other power the commissioner has to issue rules and regulations, the commissioner of  
30 insurance may promulgate, in accordance with the procedure established in chapter 35 of title 42,  
31 reasonable rules and regulations concerning cancellation and renewal of liability and property  
32 damage insurance for automobiles rated as private passenger automobiles. Those regulations may  
33 require that the insurer shall furnish to the named insured the reason or reasons for cancellation or  
34 nonrenewal. Those regulations shall also require that the insurer furnish, at least thirty (30) days



1 prior to renewal, written notice of material coverage modifications approved by the insurance  
2 division with respect to those types of insurance defined in § ~~27-8-1(1)~~ ~~(9)~~ 27-8-1(1)-(8),  
3 issued to non-business insured and bodily injury and property damage liability coverage issued to  
4 non-business insured. There shall be no liability on the part of, and no cause of action of any  
5 nature shall arise against, the commissioner of insurance or any insurer, their authorized  
6 representatives, agents, or employees, or any firm, person, or corporation furnishing to the insurer  
7 or commissioner information as to the reasons for cancellation or nonrenewal, for any statement  
8 made by any of them in any written notice of cancellation or nonrenewal, or in any other  
9 communication oral or written specifying the reasons for cancellation or nonrenewal, or for the  
10 providing of information pertaining to the cancellation or nonrenewal, or for statements made or  
11 evidence submitted at any hearing conducted in connection with the cancellation or nonrenewal.

12 (b) The commissioner shall promulgate regulations with respect to personal motor  
13 vehicle insurance, homeowners insurance, and residential fire insurance, or any components of  
14 that insurance requiring notification to policyholders upon renewal of any material changes in  
15 policy deductibles, limits, coverage, conditions or definitions, unless the change was requested by  
16 the policyholder.

17 SECTION 79. Section 27-10-1 of the General Laws in Chapter 27-10 entitled "Claim  
18 Adjusters" is hereby amended to read as follows:

19 **27-10-1. Applicability.** -- The provisions of this chapter shall apply to insurance claim  
20 adjusters. For the purposes of this chapter "insurance claim adjusters" means any person, who or  
21 which:

22 (1) Engages for compensation in negotiating adjustments of insurance claims on behalf of  
23 an insurance company, other than life and accident and health insurance claims, under any  
24 policies of insurance or who advertises or holds himself or herself out as engaging in that activity  
25 or who solicits that activity;

26 (2) Is known or holds himself, herself, or itself out as a "public adjuster". A public  
27 adjuster is any person who, for compensation or any other thing of value on behalf of the insured:

28 ~~(a)~~ (i) Acts or aids, solely in relation to first party claims arising under insurance  
29 contracts, other than automobile, life, accident and health, that insure the real or personal property  
30 of the insured, on behalf of an insured in negotiating for, or effecting the settlement of, a claim  
31 for loss or damage covered by an insurance contract;

32 ~~(b)~~ (ii) Advertises for employment as a public adjuster of insurance claims or solicits  
33 business or represents himself or herself to the public as a public adjuster of first party insurance  
34 claims for losses or damages arising out of policies of insurance that insure real or personal

1 property;

2 ~~(e)~~ (iii) Directly or indirectly solicits business, investigates or adjusts losses, or advises an  
3 insured about first party claims for losses or damages arising out of policies of insurance that  
4 insure real or personal property for another person engaged in the business of adjusting losses or  
5 damages covered by an insurance policy, for the insured; or

6 (3) Advertises or solicits business as an adjuster, or holds himself or herself out to the  
7 public as engaging in adjusting as a business.

8 SECTION 80. Sections 27-14.3-25, 27-14.3-46 and 27-14.3-63 of the General Laws in  
9 Chapter 27-14.3 entitled "Insurers' Rehabilitation and Liquidation Act" are hereby amended to  
10 read as follows:

11 **27-14.3-25. Powers of liquidator.** -- (a) The liquidator shall have the power:

12 (1) To appoint a special deputy or deputies to act for him or her under this chapter, and to  
13 determine his or her reasonable compensation. The special deputy shall have all of the powers of  
14 the liquidator granted by this section. The special deputy shall serve at the pleasure of the  
15 liquidator;

16 (2) To employ employees and agents, legal counsel, actuaries, accountants, appraisers,  
17 consultants, and any other personnel as he or she may deem necessary to assist in the liquidation;

18 (3) To appoint, with the approval of the court, an advisory committee of policyholders,  
19 claimants, or other creditors including guaranty associations should a committee be deemed  
20 necessary; provided, that if a nonprofit hospital service corporation, nonprofit medical service  
21 corporation, or nonprofit dental service corporation is subject to an order of liquidation, the  
22 commissioner shall appoint an advisory committee of creditors to include Rhode Island nonprofit  
23 hospitals. The committee shall serve at the pleasure of the commissioner and shall serve without  
24 compensation other than reimbursement for reasonable travel and per diem living expenses. No  
25 other committee of any nature shall be appointed by the commissioner or the court in liquidation  
26 proceedings conducted under this chapter;

27 (4) To fix the reasonable compensation of employees and agents, legal counsel, actuaries,  
28 accountants, appraisers, and consultants with the approval of the court and may reimburse from  
29 the assets of the insurer the division of insurance and its agents and consultants at the statutory  
30 examination rate and/or reasonable agents' or consultants' rates for reasonable costs incurred in  
31 the examination and investigation in anticipation of liquidation, and in the liquidation of the  
32 insurer, those fees are to be Class 1 expenses of administration pursuant to § 27-14.3-46;

33 (5) To pay reasonable compensation to persons appointed and to defray from the funds or  
34 assets of the insurer all of the expenses of taking possession of, conserving, conducting,

1 liquidating, disposing of, or dealing with the business and property of the insurer. In the event  
2 that the property of the insurer does not contain sufficient cash or liquid assets to defray the  
3 incurred costs, the commissioner may advance the incurred costs out of any appropriation for the  
4 maintenance of the insurance department. Any advanced amounts for the expenses of  
5 administration shall be repaid to the commissioner for the use of the insurance department out of  
6 the first available moneys of the insurer;

7 (6) To hold hearings, to subpoena witnesses to compel their attendance, to administer  
8 oaths, to examine any person under oath, and to compel any person to subscribe to his or her  
9 testimony after it has been correctly reduced to writing, and in connection with this to require the  
10 production of any books, papers, records or other documents which he or she deems relevant to  
11 the inquiry;

12 (7) To audit the books and records of all agents or insurance producers of the insurer  
13 insofar as those records relate to the business activities of the insurer;

14 (8) To collect all debts and moneys due and claims belonging to the insurer, wherever  
15 located, and for this purpose:

16 (i) To institute timely action in other jurisdictions in order to forestall garnishment and  
17 attachment proceedings against the debts;

18 (ii) To do any other acts as are necessary or expedient to collect, conserve, or protect its  
19 assets or property, including the power to sell, compound, compromise, or assign debts for the  
20 purposes of collection upon any terms and conditions as he or she deems best; and

21 (iii) To pursue any creditor's remedies available to enforce his or her claims;

22 (9) To conduct public and private sales of the property of the insurer;

23 (10) To use assets of the estate of an insurer under a liquidation order to transfer policy  
24 obligations to a solvent assuming insurer, if the transfer can be arranged without prejudice to  
25 applicable priorities under § 27-14.3-46;

26 (11) To acquire, hypothecate, encumber, lease, improve, sell, transfer, abandon, or  
27 dispose of or deal with any property of the insurer at its market value or upon terms and  
28 conditions as are fair and reasonable. He or she shall also have the power to execute,  
29 acknowledge, and deliver any and all deeds, assignments, releases, and other instruments  
30 necessary or proper to effectuate any sale of property or other transaction in connection with the  
31 liquidation;

32 (12) To borrow money on the security of the insurer's assets or without security and to  
33 execute and deliver all documents necessary to that transaction for the purpose of facilitating the  
34 liquidation. Any funds borrowed may be repaid as an administrative expense and have priority

1 over any other claims in § ~~27-14.3-46(1)~~ 27-14.3-46(a)(1), Class 1, under the priority of  
2 distribution;

3 (13) To enter into any contracts as are necessary to carry out the order to liquidate, and to  
4 affirm or disavow any contracts to which the insurer is a party;

5 (14) To continue to prosecute and to institute in the name of the insurer or in his or her  
6 own name any and all suits and other legal proceedings, in this state or another place, and to  
7 abandon the prosecution of claims he or she deems unprofitable to pursue further. If the insurer is  
8 dissolved under § 27-14.3-24, he or she shall have the power to apply to any court in this state or  
9 another place for leave to substitute himself for the insurer as plaintiff;

10 (15) To prosecute any action which may exist in behalf of the creditors, members,  
11 policyholders, or shareholders of the insurer against any officer or director of the insurer, or any  
12 other person;

13 (16) To remove any or all records and property of the insurer to the offices of the  
14 commissioner or to any other place as may be convenient for the purposes of efficient and orderly  
15 execution of the liquidation. Guaranty associations and foreign guaranty associations shall have  
16 reasonable access to the records of the insurer as is necessary for them to carry out their statutory  
17 obligations;

18 (17) To deposit in one or more banks in this state those sums as are required for meeting  
19 current administration expenses and dividend distributions;

20 (18) To invest all sums not currently needed, unless the court orders otherwise;

21 (19) To file any necessary documents for record in the office of any recorder of deeds or  
22 record office in this state or another place where property of the insurer is located;

23 (20) To assert all defenses available to the insurer as against third persons, including  
24 statutes of limitations, statutes of frauds, and the defense of usury. A waiver of any defense by the  
25 insurer after a petition in liquidation has been filed shall not bind the liquidator. Whenever a  
26 guaranty association or foreign guaranty association has an obligation to defend any suit, the  
27 liquidator shall give precedence to that obligation and may defend only in the absence of a  
28 defense by the guaranty associations;

29 (21) To exercise and enforce all of the rights, remedies, and powers of any creditor,  
30 shareholder, policyholder, or member including any power to avoid any transfer or lien that may  
31 be given by the general laws and that is not included with §§ 27-14.3-30 — 27-14.3-32;

32 (22) To intervene in any proceeding wherever instituted that might lead to the  
33 appointment of a receiver or trustee, and to act as the receiver or trustee whenever the  
34 appointment is offered;

1 (23) To enter into agreements with any receiver or commissioner of any other state  
2 relating to the rehabilitation, liquidation, conservation, or dissolution of an insurer doing business  
3 in both states; and

4 (24) To exercise all of the powers now held or after this conferred upon receivers by the  
5 laws of this state not inconsistent with the provisions of this chapter.

6 (b) The enumeration in this section of the powers and authority of the liquidator shall not  
7 be construed as a limitation upon him or her, nor shall it exclude in any manner his or her right to  
8 do any other acts not specifically enumerated or provided for in this section as may be necessary  
9 or appropriate for the accomplishment of or in aid of the purpose of liquidation.

10 (c) Notwithstanding the powers of the liquidator as stated in subsections (a) and (b) of  
11 this section, the liquidator shall have no obligation to defend claims or to continue to defend  
12 claims subsequent to the entry of a liquidation order.

13 **27-14.3-46. Priority of distribution.** -- (a) The priority of distribution of claims from the  
14 insurer's estate shall be in accordance with the order in which each class of claims is set forth in  
15 this section. Every claim in each class shall be paid in full or adequate funds retained for such  
16 payment before the members of the next class receive any payment. Once such funds are retained  
17 by the liquidator and approved by the court, the insurer's estate shall have no further liability to  
18 members of that class except to the extent of the retained funds and any other undistributed funds.  
19 No subclasses shall be established within any class except as provided in § ~~27-14.3-25(12)~~ 27-  
20 14.3-25(a)(12). No claim by a shareholder, policyholder, or other creditor shall be permitted to  
21 circumvent the priority classes through the use of equitable remedies. The order of distribution of  
22 claims shall be:

23 (1) Class 1. The costs and expenses of administration expressly approved by the receiver,  
24 including, but not limited to, the following:

25 (i) The actual and necessary costs of preserving or recovering the assets of the insurer;  
26 (ii) Compensation for all authorized services rendered in the conservation, rehabilitation  
27 or liquidation;

28 (iii) Any necessary filing fees;

29 (iv) The fees and mileage payable to witnesses; and

30 (v) Authorized reasonable attorney's fees and other professional services rendered in the  
31 conservation, rehabilitation or liquidation.

32 (2) Class 2. The administrative expenses of guaranty associations. For purposes of this  
33 section these expenses shall be the reasonable expenses incurred by guaranty associations where  
34 the expenses are not payments or expenses which are required to be incurred as direct policy

1 benefits in fulfillment of the terms of the insurance contract or policy, and that are of the type and  
2 nature that, but for the activities of the guaranty association otherwise would have been incurred  
3 by the receiver, including, but not limited to, evaluations of policy coverage, activities involved in  
4 the adjustment and settlement of claims under policies, including those of in-house or outside  
5 adjusters, and the reasonable expenses incurred in connection with the arrangements for ongoing  
6 coverage through transfer to other insurers, policy exchanges or maintaining policies in force.  
7 The receiver may in his or her sole discretion approve as an administrative expense under this  
8 section any other reasonable expenses of the guaranty association if the receiver finds:

9 (i) The expenses are not expenses required to be paid or incurred as direct policy benefits  
10 by the terms of the policy; and

11 (ii) The expenses were incurred in furtherance of activities that provided a material  
12 economic benefit to the estate as a whole, irrespective of whether the activities resulted in  
13 additional benefits to covered claimants. The court shall approve such expenses unless it finds the  
14 receiver abused his or her discretion in approving the expenses.

15 If the receiver determines that the assets of the estate will be sufficient to pay all Class 1  
16 claims in full, Class 2 claims shall be paid currently, provided that the liquidator shall secure from  
17 each of the associations receiving disbursements pursuant to this section and agreement to return  
18 to the liquidator such disbursements, together with investment income actually earned on such  
19 disbursements, as may be required to pay Class 1 claims. No bond shall be required of any such  
20 association.

21 (3) Class 3. (i) All claims under policies including claims of the federal or any state or  
22 local government for losses incurred, (“loss claims”) including third party claims, claims for  
23 unearned premiums, and all claims of guaranty association for reasonable expenses other than  
24 those included in Class 2. All claims under life and health insurance and annuity policies, whether  
25 for death proceeds, health benefits, annuity proceeds, or investment values shall be treated as loss  
26 claims. That portion of any loss, indemnification for which is provided by other benefits or  
27 advantages recovered by the claimant, shall not be included in this class, other than benefits or  
28 advantages recovered or recoverable in discharge of familial obligation of support or by way of  
29 succession at death or as proceeds of life insurance, or as gratuities. No payment by an employer  
30 to his or her employee shall be treated as a gratuity;

31 (ii) Notwithstanding the foregoing, the following claims shall be excluded from Class 3  
32 priority:

33 (A) Obligations of the insolvent insurer arising out of reinsurance contracts;

34 (B) Obligations incurred after the expiration date of the insurance policy or after the

1 policy has been replaced by the insured or canceled at the insured's request or after the policy has  
2 been canceled as provided in this chapter;

3 ~~(iii)~~ (C) Obligations to insurers, insurance pools or underwriting associations and their  
4 claims for contribution, indemnity or subrogation, equitable or otherwise;

5 ~~(iv)~~ (D) Any claim which is in excess of any applicable limits provided in the insurance  
6 policy issued by the insolvent insurer;

7 ~~(v)~~ (E) Any amount accrued as punitive or exemplary damages unless expressly covered  
8 under the terms of the policy; and

9 ~~(vi)~~ (F) Tort claims of any kind against the insurer, and claims against the insurer for bad  
10 faith or wrongful settlement practices.

11 (4) Class 4. Claims of the federal government other than those claims included in Class 3.

12 (5) Class 5. Debts due to employees for services, benefits, contractual or otherwise due  
13 arising out of such reasonable compensation to employees for services performed to the extent  
14 that they do not exceed two (2) months of monetary compensation and represent payment for  
15 services performed within six (6) months before the filing of the petition for liquidation or, if  
16 rehabilitation preceded liquidation within one year before the filing of the petition for  
17 rehabilitation. Principal officers and directors shall not be entitled to the benefit of this priority  
18 except as otherwise approved by the liquidator and the court. This priority shall be in lieu of any  
19 other similar priority which may be authorized by law as to wages or compensation of employees.

20 (6) Class 6. Claims of any person, including claims of state or local governments, except  
21 those specifically classified elsewhere in this section. Claims of attorneys for fees and expenses  
22 owed them by a person for services rendered in opposing a formal delinquency proceeding. In  
23 order to prove the claim, the claimant must show that the insurer which is the subject of the  
24 delinquency proceeding incurred such fees and expenses based on its best knowledge,  
25 information and belief, formed after reasonable inquiry indicating opposition was in the best  
26 interests of the person, was well grounded in fact and was warranted by existing law or a good  
27 faith argument for the extension, modification or reversal of existing law, and that opposition was  
28 not pursued for any improper purpose, such as to harass or to cause unnecessary delay or needless  
29 increase in the cost of the litigation.

30 (7) Class 7. Surplus claims of any state or local government for a penalty or forfeiture,  
31 but only to the extent of the pecuniary loss sustained from the act, transaction or proceeding out  
32 of which the penalty or forfeiture arose with reasonable and actual costs occasioned thereby. The  
33 remainder of such claims shall be postponed to the class of claims under subdivision 8.

34 (8) Class 8. Surplus or contribution notes or similar obligations, premium refunds on

1 assessable policies, interest on claims of Classes 1 through 7 and any other claims specifically  
2 subordinated to this class.

3 (9) Class 9. Claims of shareholders or other owners arising out of their capacity as  
4 shareholders or other owners, or any other capacity except as they may be qualified in Class 3 or  
5 6 above.

6 (b) If any claimant of this state, another state or foreign country shall be entitled to or  
7 shall receive a dividend upon his or her claim out of a statutory deposit or the proceeds of any  
8 bond or other asset located in another state or foreign country, unless such deposit or proceeds  
9 shall have been delivered to the domiciliary liquidator, then the claimants shall not be entitled to  
10 any further dividend from the receiver until and unless all other claimants of the same class,  
11 irrespective of residence or place of the acts or contracts upon which their claims are based, shall  
12 have received an equal dividend upon their claims, and after such equalization, such claimants  
13 shall be entitled to share in the distribution of further dividends by the receiver, along with and  
14 like all other creditors of the same class, wheresoever residing.

15 (c) Upon the declaration of a dividend, the receiver shall apply the amount of the  
16 dividend against any indebtedness owed to the insurer by the person entitled to the dividend.  
17 There shall be no claim allowed for any deductible charged by a guaranty association or entity  
18 performing a similar function.

19 **27-14.3-63. Subordination of claims for noncooperation.** -- If an ancillary receiver in  
20 another state or foreign country, whether called by that name or not, fails to transfer to the  
21 domiciliary liquidator in this state any assets within his or her control other than special deposits,  
22 diminished only by the expenses of the ancillary receivership, if any, the claims filed in the  
23 ancillary receivership other than special deposit claims or secured claims shall be placed in the  
24 class of claims under § ~~27-14.3-46(8)~~ 27-14.3-46(a)(8).

25 SECTION 81. Sections 27-18-64 and 27-18-66 of the General Laws in Chapter 27-18  
26 entitled "Accident and Sickness Insurance Policies" are hereby amended to read as follows:

27 **27-18-64. Coverage for early intervention services.** -- (a) Every individual or group  
28 hospital or medical expense insurance policy or contract providing coverage for dependent  
29 children, delivered or renewed in this state on or after ~~the effective date of this act~~ [July 1, 2004],  
30 shall include coverage of early intervention services which coverage shall take effect no later than  
31 January 1, 2005. Such coverage shall be limited to a benefit of five thousand dollars (\$5,000) per  
32 dependent child per policy or calendar year and shall not be subject to deductibles and  
33 coinsurance factors. Any amount paid by an insurer under this section for a dependent child shall  
34 not be applied to any annual or lifetime maximum benefit contained in the policy or contract. For



1 the purpose of this section, “early intervention services” means, but is not limited to, speech and  
2 language therapy, occupational therapy, physical therapy, evaluation, case management, nutrition,  
3 service plan development and review, nursing services, and assistive technology services and  
4 devices for dependents from birth to age three (3) who are certified by the department of human  
5 services as eligible for services under part C of the Individuals with Disabilities Education Act  
6 (20 U.S.C. § 1471 et seq.).

7 (b) Subject to the annual limits provided in this section, insurers shall reimburse certified  
8 early intervention providers, who are designated as such by the Department of Human Services,  
9 for early intervention services as defined in this section at rates of reimbursement equal to or  
10 greater than the prevailing integrated state/Medicaid rate for early intervention services as  
11 established by the Department of Human Services.

12 (c) This section shall not apply to insurance coverage providing benefits for: (1) hospital  
13 confinement indemnity; (2) disability income; (3) accident only; (4) long-term care; (5) Medicare  
14 supplement; (6) limited benefit health; (7) specified disease indemnity; (8) sickness or bodily  
15 injury or death by accident or both; and (9) other limited benefit policies.

16 **27-18-66. Tobacco cessation programs.** -- ~~(a)~~ (a) Every individual or group health  
17 insurance contract, plan or policy delivered, issued for delivery or renewed in this state on or after  
18 January 1, 2007, which provides medical coverage that includes coverage for physician services  
19 in a physician's office, and every policy which provides major medical or similar comprehensive-  
20 type coverage, shall include coverage for smoking cessation treatment, provided that if such  
21 medical coverage does not include prescription drug coverage, such contract, plan or policy shall  
22 not be required to include coverage for prescription nicotine replacement therapy.

23 ~~(b)~~ (b) As used in this section, smoking cessation treatment includes the use of an over-  
24 the-counter (OTC) or prescription US Food and Drug Administration (FDA) approved nicotine  
25 replacement therapy, when recommended and prescribed by a prescriber who holds prescriptive  
26 privileges in the state in which they are licensed, and used in combination with an annual  
27 outpatient benefit of eight (8) one-half (1/2) hour smoking cessation counseling sessions provided  
28 by a qualified practitioner for each covered individual. Smoking cessation treatment may be  
29 further defined through regulation promulgated by the health insurance commissioner.

30 ~~(c)~~ (c) Health insurance contracts, plans, or policies to which this section applies, may  
31 impose copayments and/or deductibles for the benefits mandated by this section consistent with  
32 the contracts', plans' or policies' copayments and/or deductibles for physician services and  
33 medications. Nothing contained in this section shall impact the reimbursement, medical necessity  
34 or utilization review, managed care, or case management practices of these health insurance

1 contracts, plans or policies.

2 ~~(d)~~ (d) This section shall not apply to insurance coverage providing benefits for:

3 ~~(1)~~ (1) Hospital confinement indemnity;

4 ~~(2)~~ (2) Disability income;

5 ~~(3)~~ (3) Accident only;

6 ~~(4)~~ (4) Long-term care;

7 ~~(5)~~ (5) Medicare supplement;

8 ~~(6)~~ (6) Limited benefit health;

9 ~~(7)~~ (7) Specified disease indemnity;

10 ~~(8)~~ (8) Sickness or bodily injury or death by accident or both; and

11 ~~(9)~~ (9) Other limited benefit policies.

12 SECTION 82. Section 27-18.5-8 of the General Laws in Chapter 27-18.5 entitled  
13 "Individual Health Insurance Coverage" is hereby amended to read as follows:

14 **27-18.5-8. Wellness health benefit plan.** -- All carriers that offer health insurance in the  
15 individual market shall actively market and offer the wellness health direct benefit plan to eligible  
16 individuals. The wellness health direct benefit plan shall be determined by regulation  
17 promulgated by the office of the health insurance commissioner (OHIC). The OHIC shall develop  
18 the criteria for the direct wellness health benefit plan, including, but not limited to, benefit levels,  
19 cost sharing levels, exclusions and limitations in accordance with the following:

20 ~~(1)~~ (1) Form and utilize an advisory committee in accordance with subsection 27-50-  
21 10(5).

22 ~~(2)~~ (2) Set a target for the average annualized individual premium rate for the direct  
23 wellness health benefit plan to be less than ten percent (10%) of the average annual statewide  
24 wage, dependent upon the availability of reinsurance funds, as reported by the Rhode Island  
25 department of labor and training, in their report entitled "Quarterly Census of Rhode Island  
26 Employment and Wages." In the event that this report is no longer available, or the OHIC  
27 determines that it is no longer appropriate for the determination of maximum annualized  
28 premium, an alternative method shall be adopted in regulation by the OHIC. The maximum  
29 annualized individual premium rate shall be determined no later than August 1st of each year, to  
30 be applied to the subsequent calendar year premiums rates.

31 ~~(3)~~ (3) Ensure that the direct wellness health benefit plan creates appropriate incentives  
32 for employers, providers, health plans and consumers to, among other things:

33 ~~(i)~~ (i) Focus on primary care, prevention and wellness;

34 ~~(ii)~~ (ii) Actively manage the chronically ill population;

- 1           ⊕ (iii) Use the least cost, most appropriate setting; and  
2           ⊕ (iv) Use evidence based, quality care.  
3           ⊕ (4) The plan shall be made available in accordance with title 27, chapter 18.5 as  
4 required by regulation on or before May 1, 2007.

5           SECTION 83. Sections 27-19-46, 27-19-55 and 27-19-57 of the General Laws in Chapter  
6 27-19 entitled "Nonprofit Hospital Service Corporations" are hereby amended to read as follows:

7           **27-19-46. Magnetic resonance imaging - Quality assurance standards.** -- (a) Except  
8 as otherwise provided in subsection (b) of this section, a magnetic resonance imaging  
9 examination eligible for reimbursement under the provisions of any individual or group health  
10 insurance contract, plan or policy delivered in this state shall be reimbursed only if the facility at  
11 which the examination has been conducted and processed is accredited by either the American  
12 College of Radiology (ACR), the Intersocietal Accreditation Commission (IAC) or an alternate  
13 nationally recognized accrediting organization whose accreditation standards are substantially  
14 similar to and no less stringent than current or subsequent ACR or IAC standards and have been  
15 reviewed and deemed adequate by the department of health. All accreditation standards under this  
16 section, whether promulgated by the ACR, IAC, or an alternate nationally recognized accrediting  
17 organization, shall include, but shall not be limited to, provisions for establishing the  
18 qualifications of the physician, standards for quality control and routine performance monitoring  
19 by a medical physicist, qualifications of the technologist including minimum standards of  
20 supervised clinical experience, personnel and patient safety guidelines, and standards for initial  
21 and ongoing quality control using clinical image review and quantitative testing.

22           (b) Any facility conducting and processing magnetic resonance imaging examinations  
23 which, as of June 30, 2006 is receiving reimbursement for such services by a health insurer,  
24 health maintenance organization or health plan, but is not accredited pursuant to subsection (a),  
25 shall file its application for accreditation within eighteen (18) months of ~~the effective date of this~~  
26 ~~section~~ [June 28, 2007]. Such accreditation shall be obtained not later than twelve (12) months  
27 after submission of its application. A facility which begins conducting and processing, of  
28 magnetic resonance imaging examinations after June 30, 2006 shall file its application for  
29 accreditation within twelve (12) months of the date of initiation of the magnetic resonance  
30 imaging examinations. Such accreditation shall be obtained not later than twelve (12) months  
31 after submission of its application. After such accreditation is obtained, a facility conducting and  
32 processing, of magnetic resonance imaging examinations shall, at all times, maintain  
33 accreditation with the appropriate accrediting body. Notwithstanding anything herein to the  
34 contrary, any facility which has filed for accreditation pursuant to this subsection (b) and which

1 has not been refused accreditation or withdrawn its application, will be deemed provisionally  
2 accredited for the twelve (12) month period dating from the application filing date. Provided,  
3 further, that notwithstanding any provisions of the general or public laws to the contrary, any  
4 facility conducting and processing magnetic resonance imaging examinations shall conform to  
5 the standards of the appropriate accrediting body at all times, including during the accreditation  
6 process and shall certify said conformance to any reimbursing health insurer, health maintenance  
7 organization or health plan.

8 **27-19-55. Coverage for early intervention services.** -- (a) Every individual or group  
9 hospital or medical expense insurance policy or contract providing coverage for dependent  
10 children, delivered or renewed in this state on or after ~~the effective date of this act~~ [July 1, 2004],  
11 shall include coverage of early intervention services which coverage shall take effect no later than  
12 January 1, 2005. Such coverage shall be limited to a benefit of five thousand dollars (\$5,000) per  
13 dependent child per policy or calendar year and shall not be subject to deductibles and  
14 coinsurance factors. Any amount paid by an insurer under this section for a dependent child shall  
15 not be applied to any annual or lifetime maximum benefit contained in the policy or contract. For  
16 the purpose of this section, “early intervention services” means, but is not limited to, speech and  
17 language therapy, occupational therapy, physical therapy, evaluation, case management, nutrition,  
18 service plan development and review, nursing services, and assistive technology services and  
19 devices for dependents from birth to age three (3) who are certified by the department of human  
20 services as eligible for services under part C of the Individuals with Disabilities Education Act  
21 (20 U.S.C. § 1471 et seq.).

22 (b) Subject to the annual limits provided in this section, insurers shall reimburse certified  
23 early intervention providers, who are designated as such by the Department of Human Services,  
24 for early intervention services as defined in this section at rates of reimbursement equal to or  
25 greater than the prevailing integrated state/Medicaid rate for early intervention services as  
26 established by the Department of Human Services.

27 (c) This section shall not apply to insurance coverage providing benefits for: (1) hospital  
28 confinement indemnity; (2) disability income; (3) accident only; (4) long-term care; (5) Medicare  
29 supplement; (6) limited benefit health; (7) specified disease indemnity; (8) sickness or bodily  
30 injury or death by accident or both; and (9) other limited benefit policies.

31 **27-19-57. Tobacco cessation programs.** -- ~~(a)~~ (a) Every individual or group health  
32 insurance contract, plan or policy delivered, issued for delivery or renewed in this state on or after  
33 January 1, 2007, which provides medical coverage that includes coverage for physician services  
34 in a physician's office, and every policy which provides major medical or similar comprehensive-

1 type coverage, shall include coverage for smoking cessation treatment, provided that if such  
2 medical coverage does not include prescription drug coverage, such contract, plan or policy shall  
3 not be required to include coverage for prescription nicotine replacement therapy.

4 (b) As used in this section, smoking cessation treatment includes the use of an over-  
5 the-counter (OTC) or prescription US Food and Drug Administration (FDA) approved nicotine  
6 replacement therapy, when recommended and prescribed by a prescriber who holds prescriptive  
7 privileges in the state in which they are licensed, and used in combination with an annual  
8 outpatient benefit of eight (8) one-half (1/2) hour smoking cessation counseling sessions provided  
9 by a qualified practitioner for each covered individual. Smoking cessation treatment may be  
10 further defined through regulation promulgated by the health insurance commissioner.

11 (c) Health insurance contracts, plans, or policies to which this section applies, may  
12 impose copayments and/or deductibles for the benefits mandated by this section consistent with  
13 the contracts', plans' or policies' copayments and/or deductibles for physician services and  
14 medications. Nothing contained in this section shall impact the reimbursement, medical necessity  
15 or utilization review, managed care, or case management practices of these health insurance  
16 contracts, plans or policies.

17 (d) This section shall not apply to insurance coverage providing benefits for:

18 (1) Hospital confinement indemnity;

19 (2) Disability income;

20 (3) Accident only;

21 (4) Long-term care;

22 (5) Medicare supplement;

23 (6) Limited benefit health;

24 (7) Specified disease indemnity;

25 (8) Sickness or bodily injury or death by accident or both; and

26 (9) Other limited benefit policies.

27 SECTION 84. Section 27-19.2-6 of the General Laws in Chapter 27-19.2 entitled  
28 "Nonprofit Hospital and Medical Service Corporations" is hereby amended to read as follows:

29 **27-19.2-6. Actions requiring supermajority board approval.** -- Neither a nonprofit  
30 hospital service corporation, nor an affiliate (as defined in § ~~42-14.5-1~~ 27-19.2-2(a)) that is an  
31 insurer (as defined in § 27-20.6-1(1)), may take any of the following actions without the prior  
32 approval of at least two-thirds percent (66.67%) of the ~~corporations~~ corporation's entire board of  
33 directors:

34 (1) Authorize a conversion as defined in § 27-66-4(3);

- 1 (2) Withdraw a health insurance product previously offered in the individual market; or
- 2 (3) Result in the withdrawal from a geographic region.

3 SECTION 85. Sections 27-20-41, 27-20-50 and 27-20-53 of the General Laws in Chapter  
4 27-19.2 entitled "Nonprofit Medical Service Corporations" are hereby amended to read as  
5 follows:

6 **27-20-41. Magnetic resonance imaging - Quality assurance standards.** -- (a) Except  
7 as otherwise provided in subsection (b) of this section, a magnetic resonance imaging  
8 examination eligible for reimbursement under the provisions of any individual or group health  
9 insurance contract, plan or policy delivered in this state shall be reimbursed only if the facility at  
10 which the examination has been conducted and processed is accredited by either the American  
11 College of Radiology (ACR), the Intersocietal Accreditation Commission (IAC) or an alternate  
12 nationally recognized accrediting organization whose accreditation standards are substantially  
13 similar to and no less stringent than current or subsequent ACR or IAC standards and have been  
14 reviewed and deemed adequate by the department of health. All accreditation standards under this  
15 section, whether promulgated by the ACR, IAC, or an alternate nationally recognized accrediting  
16 organization, shall include, but shall not be limited to, provisions for establishing the  
17 qualifications of the physician, standards for quality control and routine performance monitoring  
18 by a medical physicist, qualifications of the technologist including minimum standards of  
19 supervised clinical experience, personnel and patient safety guidelines, and standards for initial  
20 and ongoing quality control using clinical image review and quantitative testing.

21 (b) Any facility conducting and processing magnetic resonance imaging examinations  
22 which, as of June 30, 2006 is receiving reimbursement for such services by a health insurer,  
23 health maintenance organization or health plan, but is not accredited pursuant to subsection (a),  
24 shall file its application for accreditation within eighteen (18) months of ~~the effective date of this~~  
25 ~~section~~ [June 28, 2007]. Such accreditation shall be obtained not later than twelve (12) months  
26 after submission of its application. A facility which begins conducting and processing, of  
27 magnetic resonance imaging examinations after June 30, 2006 shall file its application for  
28 accreditation within twelve (12) months of the date of initiation of the magnetic resonance  
29 imaging examinations. Such accreditation shall be obtained not later than twelve (12) months  
30 after submission of its application. After such accreditation is obtained, a facility conducting and  
31 processing, magnetic resonance imaging examinations shall, at all times, maintain accreditation  
32 with the appropriate accrediting body. Notwithstanding anything herein to the contrary, any  
33 facility which has filed for accreditation pursuant to this subsection (b) and which has not been  
34 refused accreditation or withdrawn its application, will be deemed provisionally accredited for the

1 twelve (12) month period dating from the application filing date. Provided, further, that  
2 notwithstanding any provisions of the general or public laws to the contrary, any facility  
3 conducting and processing magnetic resonance imaging examinations shall conform to the  
4 standards of the appropriate accrediting body at all times, including during the accreditation  
5 process and shall certify said conformance to any reimbursing health insurer, health maintenance  
6 organization or health plan.

7 **27-20-50. Coverage for early intervention services.** -- (a) Every individual or group  
8 hospital or medical expense insurance policy or contract providing coverage for dependent  
9 children, delivered or renewed in this state on or after ~~the effective date of this act~~ [July 1, 2004],  
10 shall include coverage of early intervention services which coverage shall take effect no later than  
11 January 1, 2005. Such coverage shall be limited to a benefit of five thousand dollars (\$5,000) per  
12 dependent child per policy or calendar year and shall not be subject to deductibles and  
13 coinsurance factors. Any amount paid by an insurer under this section for a dependent child shall  
14 not be applied to any annual or lifetime maximum benefit contained in the policy or contract. For  
15 the purpose of this section, “early intervention services” means, but is not limited to, speech and  
16 language therapy, occupational therapy, physical therapy, evaluation, case management, nutrition,  
17 service plan development and review, nursing services, and assistive technology services and  
18 devices for dependents from birth to age three (3) who are certified by the department of human  
19 services as eligible for services under part C of the Individuals with Disabilities Education Act  
20 (20 U.S.C. § 1471 et seq.).

21 (b) Subject to the annual limits provided in this section, insurers shall reimburse certified  
22 early intervention providers, who are designated as such by the Department of Human Services,  
23 for early intervention services as defined in this section at rates of reimbursement equal to or  
24 greater than ~~he~~ prevailing integrated state/Medicaid rate for early intervention services as  
25 established by the Department of Human Services.

26 (c) This section shall not apply to insurance coverage providing benefits for: (1) hospital  
27 confinement indemnity; (2) disability income; (3) accident only; (4) long-term care; (5) Medicare  
28 supplement; (6) limited benefit health; (7) specified disease indemnity; (8) sickness or bodily  
29 injury or death by accident or both; and (9) other limited benefit policies.

30 **27-20-53. Tobacco cessation programs.** -- ~~(+)~~ (a) Every individual or group health  
31 insurance contract, plan or policy delivered, issued for delivery or renewed in this state on or after  
32 January 1, 2007, which provides medical coverage that includes coverage for physician services  
33 in a physician's office, and every policy which provides major medical or similar comprehensive-  
34 type coverage, shall include coverage for smoking cessation treatment, provided that if such

1 medical coverage does not include prescription drug coverage, such contract, plan or policy shall  
2 not be required to include coverage for prescription nicotine replacement therapy.

3 ~~(a)~~ (b) As used in this section, smoking cessation treatment includes the use of an over-  
4 the-counter (OTC) or prescription US Food and Drug Administration (FDA) approved nicotine  
5 replacement therapy, when recommended and prescribed by a prescriber who holds prescriptive  
6 privileges in the state in which they are licensed, and used in combination with an annual  
7 outpatient benefit of eight (8) one-half (1/2) hour smoking cessation counseling sessions provided  
8 by a qualified practitioner for each covered individual. Smoking cessation treatment may be  
9 further defined through regulation promulgated by the health insurance commissioner.

10 ~~(a)~~ (c) Health insurance contracts, plans, or policies to which this section applies, may  
11 impose copayments and/or deductibles for the benefits mandated by this section consistent with  
12 the contracts', plans' or policies' copayments and/or deductibles for physician services and  
13 medications. Nothing contained in this section shall impact the reimbursement, medical necessity  
14 or utilization review, managed care, or case management practices of these health insurance  
15 contracts, plans or policies.

16 ~~(a)~~ (d) This section shall not apply to insurance coverage providing benefits for:

17 ~~(a)~~ (1) Hospital confinement indemnity;

18 ~~(a)~~ (2) Disability income;

19 ~~(a)~~ (3) Accident only;

20 ~~(a)~~ (4) Long-term care;

21 ~~(a)~~ (5) Medicare supplement;

22 ~~(a)~~ (6) Limited benefit health;

23 ~~(a)~~ (7) Specified disease indemnity;

24 ~~(a)~~ (8) Sickness or bodily injury or death by accident or both; and

25 ~~(a)~~ (9) Other limited benefit policies.

26 SECTION 86. Section 27-20.8-1 of the General Laws in Chapter 27-20.8 entitled  
27 "Prescription Drug Benefits" is hereby amended to read as follows:

28 **27-20.8-1. Definitions.** -- For the purposes of this chapter, the following terms shall  
29 mean:

30 ~~(a)~~ (1) "Director" shall mean the director of the department of business regulation.

31 ~~(a)~~ (2) "Health plan" shall mean an insurance carrier as defined in chapters 18, 19, 20 and  
32 41 of this title.

33 ~~(a)~~ (3) "Insured" shall mean any person who is entitled to have pharmacy services paid  
34 by a health plan pursuant to a policy, certificate, contract or agreement of insurance or coverage



1 including those administered for the health plan under a contract with a third-party administrator  
2 that manages pharmacy benefits or pharmacy network contracts.

3 SECTION 87. Section 27-20.9-1 of the General Laws in Chapter 27-20.9 entitled  
4 "Contract with Health Care Providers" is hereby amended to read as follows:

5 **27-20.9-1. Health care contracts - Required provisions - Definitions.** -- (a) On and  
6 after January 1, 2008, a health insurer that contracts with a health care provider shall comply with  
7 the provisions of this chapter and shall include the provisions required by this chapter in the  
8 health care contract. A contract in existence prior to January 1, 2008, that is renewed or renews  
9 by its terms shall comply with the provisions of this chapter no later than December 31, 2008.

10 (b) As used in this chapter, unless the context otherwise requires:

11 ~~(1)~~ (1) "Health care contract" means a contract entered into or renewed between a health  
12 insurer and a health care provider for the delivery of health care services to others.

13 ~~(2)~~ (2) "Health care provider" means a person licensed or certified in this state to practice  
14 medicine, pharmacy, chiropractic, nursing, physical therapy, podiatry, dentistry, optometry,  
15 occupational therapy, or other healing arts.

16 ~~(3)~~ (3) "Health insurer" means every nonprofit medical service corporation, hospital  
17 service corporation, health maintenance organization, or other insurer offering and/or insuring  
18 health services; the term shall in addition include any entity defined as an insurer under § 42-62-4  
19 and any third-party administrator when interacting with health care providers and enrollees on  
20 behalf of such an insurer.

21 SECTION 88. Section 27-29-17.1 of the General Laws in Chapter 27-29 entitled "Unfair  
22 Competition and Practices" is hereby amended to read as follows:

23 **27-29-17.1. Definitions.** -- For the purpose of §§ 27-29-17 — 27-29-17.4:

24 (1) "Commissioner" means the commissioner of insurance.

25 (2) "Expiration date" means the date upon which coverage under a policy ends. It also  
26 means, for a policy written for a term longer than one year or with no fixed expiration date, each  
27 annual anniversary date of such policy.

28 (3) "Nonrenewal" means termination of a policy at its expiration date.

29 ~~(4)~~ (4) "Renewal" or "to renew" means the issuance of or the offer by an insurer to issue  
30 a policy succeeding a policy previously issued and delivered by the same insurer or an insurer  
31 within the same group of insurers, or the issuance of a certificate or notice extending the term of  
32 an existing policy for a specified period beyond its expiration date.

33 ~~(b) "Expiration date" means the date upon which coverage under a policy ends. It also~~  
34 ~~means, for a policy written for a term longer than one year or with no fixed expiration date, each~~

1 ~~annual anniversary date of such policy.~~

2 ~~(e) “Nonrenewal” means termination of a policy at its expiration date.~~

3 ~~(d) “Commissioner” means the commissioner of insurance.~~

4 SECTION 89. Sections 27-29.1-1 and 27-29.1-5 of the General Laws in Chapter 27-29.1  
5 entitled "Pharmacy Freedom of Choice – Fair Competition and Practices" are hereby amended to  
6 read as follows:

7 **27-29.1-1. Definitions.** -- For purposes of this chapter, the following terms shall mean:

8 ~~(a)~~ (1) “Director” shall mean the director of the department of business regulation.

9 ~~(b)~~ (2) “Eligible bidder” shall mean a retail pharmacy, community pharmacy or pharmacy  
10 department registered pursuant to chapter 19 of title 5, irrespective of corporate structure or  
11 number of locations at which it conducts business, located within the geographical service area of  
12 a carrier and willing to bid for participation in a restricted pharmacy network contract.

13 ~~(e)~~ (3) “Insurer” shall mean an insurance carrier as defined in chapters 18, 19, 20 and 41  
14 of title 27.

15 ~~(d)~~ (4) “Insured” shall mean any person who is entitled to have pharmacy services paid  
16 by an insurer pursuant to a policy, certificate, contract or agreement of insurance or coverage.

17 ~~(e)~~ (5) “Non-restricted pharmacy network” shall mean a network that permits any  
18 pharmacy to participate on substantially uniform terms and conditions established by an insurer  
19 or pharmacy benefits manager.

20 ~~(f)~~ (6) “Pharmacy benefits manager” shall mean any person or entity that is not licensed  
21 in Rhode Island as an insurer and that develops or manages pharmacy benefits, pharmacy  
22 network contracts, or the pharmacy benefit bid process.

23 ~~(g)~~ (7) “Restricted pharmacy network” shall mean an arrangement for the provision of  
24 pharmaceutical drug services to insureds which under the terms of an insurer's policy, certificate,  
25 contract or agreement of insurance or coverage requires an insured or creates a financial incentive  
26 for an insured to obtain prescription drug services from one or more participating pharmacies that  
27 have entered into a specific contractual relationship with the carrier.

28 **27-29.1-5. Participation of independent community pharmacies.** -- (a) Any  
29 pharmacies licensed in the state of Rhode Island that are not owned or controlled, directly or  
30 indirectly by an entity that owns pharmacies licensed in two (2) or more jurisdictions other than  
31 Rhode Island, which are not participating in an insurer's restricted pharmacy network contract  
32 shall nevertheless have the right to provide prescription drug services to the insurer's insureds and  
33 be paid by the insurer as if the pharmacy were participating in the insurer's restricted pharmacy  
34 network, provided that such non-network independent pharmacies agree:

1 (1) To accept as the insurer's payments in full the price required of pharmacies in the  
2 insurer's restricted pharmacy network;

3 (2) To bill to the insured up to and not in excess of any copayment, coinsurance,  
4 deductible, other amount required of an insured by the insurer, or for other uncovered services;

5 (3) To be reimbursed on the same methodological basis, including, but not limited to,  
6 capitation or other risk-sharing methodology, as required of pharmacies, in the insurer's restricted  
7 pharmacy network;

8 (4) To participate in the insurer's utilization review and quality assurance programs,  
9 including utilization and drug management reports as required of pharmacies in the carrier's  
10 restricted pharmacy network;

11 (5) To provide computerized online eligibility determinations and claims submissions as  
12 required of pharmacies in the insurer's restricted pharmacy network;

13 (6) To participate in the insurer's satisfaction surveys and complaint resolution programs  
14 for its insureds;

15 (7) To protect the insurer's proprietary information and an insured's confidentiality and  
16 privacy;

17 (8) To abide by the insurer's performance standards with respect to waiting times, fill  
18 rates and inventory management, including formulary restrictions;

19 (9) To comply with the insurer's claims audit provisions; and

20 (10) To certify, using audit results or accountant statements, the fiscal soundness of the  
21 non-network pharmacy.

22 (b) An insurer may waive any of the aforementioned agreements in arranging for the  
23 provision of pharmaceutical drug benefits to insureds through a non-network pharmacy. An  
24 insurer shall not impose any agreements, terms or conditions on any non-network independent  
25 community pharmacy, or on any association of pharmacies, which are more restrictive than those  
26 required of pharmacies in the insurer's restricted pharmacy network. The failure of a non-network  
27 pharmacy to abide by the aforementioned agreements may, at the option of the insurer, serve as  
28 the basis for cancellation of the non-network pharmacy's participation.

29 SECTION 90. Section 27-29.2-2 of the General Laws in Chapter 27-29.2 entitled  
30 "Freedom of Choice for Orthotic or Prosthetic Services" is hereby amended to read as follows:

31 **27-29.2-2. Definitions.** -- As used in this chapter:

32 (a) (1) "Orthosis" means a custom fabricated brace or support that is designed based on  
33 medical necessity. "Orthosis" does not include prefabricated or direct-formed orthotic devices, or  
34 any of the following assistive technology devices: Commercially available knee orthoses used

1 following injury or surgery; spastic muscle-tone inhibiting orthoses; upper extremity adaptive  
2 equipment; finger splints; hand splints; wrists gauntlets; face masks used following burns;  
3 wheelchair seating that is an integral part of the wheelchair and not worn by the patient  
4 independent of the wheelchair; fabric or elastic supports; corsets; low-temperature formed plastic  
5 splints; trusses; elastic hose; canes; crutches; cervical collars; dental appliances; and other similar  
6 devices as determined by the director of the department of business regulation such as those  
7 commonly carried in stock by a pharmacy, department store, corset shop, or surgical supply  
8 facility.

9 ~~(b)~~ (2) “Orthotics” means the science and practice of evaluating, measuring, designing,  
10 fabricating, assembling, fitting, adjusting or servicing, as well as providing the initial training  
11 necessary to accomplish the fitting of an orthosis for the support, correction, or alleviation of  
12 neuromuscular or musculoskeletal dysfunction, disease, injury or deformity. The practice of  
13 orthotics encompasses evaluation, treatment and consultation with basic observational gait and  
14 postural analysis. Orthotists assess and design orthoses to maximize function and provide not  
15 only the support but the alignment necessary to either prevent or correct deformity or to improve  
16 the safety and efficiency of mobility or locomotion, or both. Orthotic practice includes, providing  
17 continuing patient care in order to assess its effect on the patient's tissues and to assure proper fit  
18 and function of the orthotic device by periodic evaluation.

19 ~~(c)~~ (3) “Prosthesis” means an artificial limb that is alignable or, in lower extremity  
20 applications, capable of weight bearing. Prosthesis means an artificial medical device that is not  
21 surgically implanted and that is used to replace a missing limb, appendage, or other external  
22 human body part including an artificial limb, hand, or foot. The term does not include artificial  
23 eyes, ears, noses, dental appliances, osotmy products, or devices such as eyelashes or wigs.

24 ~~(d)~~ (4) “Prosthetics” means the science and practice of evaluating, measuring, designing,  
25 fabricating, assembling, fitting, aligning, adjusting or servicing, as well as providing the initial  
26 training necessary to accomplish the fitting of a prosthesis through the replacement of external  
27 parts of a human body lost due to amputation or congenital deformities or absences. The practice  
28 of prosthetics also includes the generation of an image, form, or mold that replicates the patient's  
29 body or body segment and that requires rectification of dimensions, contours and volumes for use  
30 in the design and fabrication of a socket to accept a residual anatomic limb to, in turn, create an  
31 artificial appendage that is designed either to support body weight or to improve or restore  
32 function or cosmesis, or both. Involved in the practice of prosthetics is observational gait analysis  
33 and clinical assessment of the requirements necessary to refine and mechanically fix the relative  
34 position of various parts of the prosthesis to maximize function, stability, and safety of the

1 patient. The practice of prosthetics includes providing and continuing patient care in order to  
2 assess the prosthetic device's effect on the patient's tissues and to assure proper fit and function of  
3 the prosthetic device by periodic evaluation.

4 SECTION 91. Section 27-34.2-21 of the General Laws in Chapter 27-34.2 entitled "Long  
5 Term Care Insurance" is hereby amended to read as follows:

6 **27-34.2-21. Producer training requirements.** -- (a) On or after January 1, 2008, an  
7 individual may not sell, solicit or negotiate long-term care insurance unless the individual is  
8 licensed as an insurance producer for accident and health or sickness or life and has completed a  
9 one-time training course. The training shall meet the requirements set forth in this section.

10 (b) An individual already licensed and selling, soliciting or negotiating long-term care  
11 insurance on ~~the effective date of this act~~ [July 3, 2007] may not continue to sell, solicit or  
12 negotiate long-term care insurance unless the individual has completed a one-time training course  
13 as set forth in the section, within one year from ~~the effective date of this act~~ [July 3, 2007].

14 (c) In addition to the one-time training course required in this section, an individual who  
15 sells, solicits or negotiates long-term care insurance shall complete ongoing training as set forth  
16 in this section.

17 (d) The training requirements of this section may be approved as continuing education  
18 courses.

19 (e) The one-time training required by this section shall be no less than eight (8) hours  
20 and the ongoing training required by this section shall be no less than four (4) hours every  
21 twenty-four (24) months.

22 (f) The training required under paragraph (a) shall consist of topics related to long-term  
23 care insurance, long-term care services and, if applicable, qualified state long-term care  
24 insurance. Partnership programs, including, but not limited to:

25 (1) State and federal regulations and requirements and the relationship between qualified  
26 state long-term care insurance partnership programs and other public and private coverage of  
27 long-term services, including Medicaid;

28 (2) Available long-term care services and providers;

29 (3) Changes or improvements in long-term care services or providers;

30 (4) Alternatives to the purchase of private long-term care insurance;

31 (5) The effect of inflation on benefits and the importance of inflation protection; and

32 (6) Consumer suitability standards and guidelines.

33 (g) The training required by this section shall not include training that is insurer or  
34 company product specific or that includes any sales or marketing information, materials, or

1 training, other than those required by state or federal law.

2 (h) Insurers subject to this act shall obtain verification that a producer receives training  
3 required by this section before a producer is permitted to sell, solicit or negotiate the insurer's  
4 long-term care insurance products, maintain records subject to the state's record retention  
5 requirements, and make that verification available to the commissioner upon request.

6 (i) Insurers subject to this act shall maintain records with respect to the training of its  
7 producers concerning the distribution of its partnership policies that will allow the state insurance  
8 department to provide assurance to the state Medicaid agency that producers have received the  
9 training contained in this section and that producers have demonstrated an understanding of the  
10 partnership policies and their relationship to public and private coverage of long-term care,  
11 including Medicaid, in this state. These records shall be maintained in accordance with the state's  
12 record retention requirements and shall be made available to the commissioner upon request.

13 (j) The satisfaction of these training requirements in any state shall be deemed to satisfy  
14 the training requirements in this state.

15 SECTION 92. Sections 27-34.3-6 and 27-34.3-7 of the General Laws in Chapter 27-34.3  
16 entitled "Rhode Island Life and Health Insurance Guaranty Association Act" are hereby amended  
17 to read as follows:

18 **27-34.3-6. Creation of the association.** -- (a) There is created a nonprofit legal entity to  
19 be known as the Rhode Island life and health insurance guaranty association. All member insurers  
20 shall be and remain members of the association as a condition of their authority to transact  
21 insurance in this state. The association shall perform its functions under the plan of operation  
22 established and approved under § 27-34.3-10, or as previously established and approved under §  
23 27-34.1-11 [\[Repealed.\]](#) and shall exercise its powers through a board of directors established  
24 under § 27-34.3-7 or as previously established under § 27-34.1-8 [\[Repealed.\]](#). For purposes of  
25 administration and assessment, the association shall maintain two (2) accounts:

26 (1) The life insurance and annuity account which includes the following subaccounts:

27 (i) Life insurance account;

28 (ii) Annuity account; which shall include annuity contracts owned by a governmental  
29 retirement plan (or its trustee) established under section 401, 403(b) or 457 of the United States  
30 Internal Revenue Code, 26 U.S.C. section 401, 403(b) or 457, but shall otherwise exclude  
31 unallocated annuities; and

32 (iii) Unallocated annuity account which shall exclude contracts owned by a governmental  
33 retirement benefit plan (or its trustee) established under § 401, 403(b) or 457 of the United States  
34 Internal Revenue Code, 26 U.S.C. § 401, 403(b) or 457.

1 (2) The health insurance account.

2 (b) The association shall come under the immediate supervision of the commissioner and  
3 shall be subject to the applicable provisions of the insurance laws of this state. Meetings or  
4 records of the association may be open to the public upon majority vote of the board of directors.

5 **27-34.3-7. Board of directors.** -- (a) The board of directors of the association shall  
6 consist of not less than five (5) nor more than nine (9) member insurers serving terms as  
7 established in the plan of operation. The insurer members of the board shall be selected by  
8 member insurers subject to the approval of the commissioner. The board of directors, previously  
9 established under § 27-34.1-8 [\[Repealed.\]](#), shall continue to operate in accordance with the  
10 provision of this section. Vacancies on the board shall be filled for the remaining period of the  
11 term by a majority vote of the remaining board members, subject to the approval of the  
12 commissioner.

13 (b) In approving selections to the board, the commissioner shall consider, among other  
14 things, whether all member insurers are fairly represented.

15 (c) Members of the board may be reimbursed from the assets of the association for  
16 expenses incurred by them as members of the board of directors but members of the board shall  
17 not be compensated by the association for their services.

18 SECTION 93. Section 27-38.2-3 of the General Laws in Chapter 27-38.2 entitled  
19 "Insurance Coverage for Mental Illness and Substance Abuse" is hereby amended to read as  
20 follows:

21 **27-38.2-3. Medical necessity and appropriateness of treatment.** -- (a) Upon request of  
22 the reimbursing health insurers, all providers of treatment of mental illness shall furnish medical  
23 records or other necessary data which substantiates that initial or continued treatment is at all  
24 times medically necessary and appropriate. When the provider cannot establish the medical  
25 necessity and/or appropriateness of the treatment modality being provided, neither the health  
26 insurer nor the patient shall be obligated to reimburse for that period or type of care that was not  
27 established. The exception to the preceding can only be made if the patient has been informed of  
28 the provisions of this subsection and has agreed in writing to continue to receive treatment at his  
29 or her own expense.

30 [\(b\)](#) The health insurers, when making the determination of medically necessary and  
31 appropriate treatment, must do so in a manner consistent with that used to make the determination  
32 for the treatment of other diseases or injuries covered under the health insurance policy or  
33 agreement.

34 ~~(b)~~ [\(c\)](#) Any subscriber who is aggrieved by a denial of benefits provided under this

1 chapter may appeal a denial in accordance with the rules and regulations promulgated by the  
2 department of health pursuant to chapter 17.12 of title 23.

3 SECTION 94. Sections 27-41-56, 27-41-68 and 27-41-70 of the General Laws in Chapter  
4 27-41 entitled "Health Maintenance Organizations" are hereby amended to read as follows:

5 **27-41-56. Magnetic resonance imaging - Quality assurance standards.** -- (a) Except  
6 as otherwise provided in subsection (b) of this section, a magnetic resonance imaging  
7 examination eligible for reimbursement under the provisions of any individual or group health  
8 insurance contract, plan or policy delivered in this state shall be reimbursed only if the facility at  
9 which the examination has been conducted and processed is accredited by either the American  
10 College of Radiology (ACR), the Intersocietal Accreditation Commission (IAC) or an alternate  
11 nationally recognized accrediting organization whose accreditation standards are substantially  
12 similar to and no less stringent than current or subsequent ACR or IAC standards and have been  
13 reviewed and deemed adequate by the department of health. All accreditation standards under this  
14 section, whether promulgated by the ACR, IAC, or an alternate nationally recognized accrediting  
15 organization, shall include, but shall not be limited to, provisions for establishing the  
16 qualifications of the physician, standards for quality control and routine performance monitoring  
17 by a medical physicist, qualifications of the technologist including minimum standards of  
18 supervised clinical experience, personnel and patient safety guidelines, and standards for initial  
19 and ongoing quality control using clinical image review and quantitative testing.

20 (b) Any facility conducting and processing magnetic resonance imaging examinations  
21 which, as of June 30, 2006 is receiving reimbursement for such services by a health insurer,  
22 health maintenance organization or health plan, but is not accredited pursuant to subsection (a),  
23 shall file its application for accreditation within eighteen (18) months of the ~~effective date of this~~  
24 ~~section~~ ~~[June 28, 2007]~~. Such accreditation shall be obtained not later than twelve (12) months  
25 after submission of its application. A facility which begins conducting and processing, of  
26 magnetic resonance imaging examinations after June 30, 2006 shall file its application for  
27 accreditation within twelve (12) months of the date of initiation of the magnetic resonance  
28 imaging examinations. Such accreditation shall be obtained not later than twelve (12) months  
29 after submission of its application. After such accreditation is obtained, a facility conducting and  
30 processing, magnetic resonance imaging examinations shall, at all times, maintain accreditation  
31 with the appropriate accrediting body. Notwithstanding anything herein to the contrary, any  
32 facility which has filed for accreditation pursuant to this subsection (b) and which has not been  
33 refused accreditation or withdrawn its application, will be deemed provisionally accredited for the  
34 twelve (12) month period dating from the application filing date. Provided, further, that



1 notwithstanding any provisions of the general or public laws to the contrary, any facility  
2 conducting and processing magnetic resonance imaging examinations shall conform to the  
3 standards of the appropriate accrediting body at all times, including during the accreditation  
4 process and shall certify said conformance to any reimbursing health insurer, health maintenance  
5 organization or health plan.

6 **27-41-68. Coverage for early intervention services.** -- (a) Every individual or group  
7 hospital or medical expense insurance policy or contract providing coverage for dependent  
8 children, delivered or renewed in this state on or after ~~the effective date of this act~~ [July 1, 2004],  
9 shall include coverage of early intervention services which coverage shall take effect no later than  
10 January 1, 2005. Such coverage shall be limited to a benefit of five thousand dollars (\$5,000) per  
11 dependent child per policy or calendar year and shall not be subject to deductibles and  
12 coinsurance factors. Any amount paid by an insurer under this section for a dependent child shall  
13 not be applied to any annual or lifetime maximum benefit contained in the policy or contract. For  
14 the purpose of this section, “early intervention services” means, but is not limited to, speech and  
15 language therapy, occupational therapy, physical therapy, evaluation, case management, nutrition,  
16 service plan development and review, nursing services, and assistive technology services and  
17 devices for dependents from birth to age three (3) who are certified by the department of human  
18 services as eligible for services under part C of the Individuals with Disabilities Education Act  
19 (20 U.S.C. § 1471 et seq.).

20 (b) Subject to the annual limits provided in this section, insurers shall reimburse certified  
21 early intervention providers, who are designated as such by the Department of Human Services,  
22 for early intervention services as defined in this section at rates of reimbursement equal to or  
23 greater than the prevailing integrated state/Medicaid rate for early intervention services as  
24 established by the Department of Human Services.

25 (c) This section shall not apply to insurance coverage providing benefits for: (1) hospital  
26 confinement indemnity; (2) disability income; (3) accident only; (4) long-term care; (5) Medicare  
27 supplement; (6) limited benefit health; (7) specified disease indemnity; (8) sickness or bodily  
28 injury or death by accident or both; and (9) other limited benefit policies.

29 **27-41-70. Tobacco cessation programs.** -- ~~(a)~~ (a) Every individual or group health  
30 insurance contract, plan or policy delivered, issued for delivery or renewed in this state on or after  
31 January 1, 2007, which provides medical coverage that includes coverage for physician services  
32 in a physician's office, and every policy which provides major medical or similar comprehensive-  
33 type coverage, shall include coverage for smoking cessation treatment, provided that if such  
34 medical coverage does not include prescription drug coverage, such contract, plan or policy shall

1 not be required to include coverage for prescription nicotine replacement therapy.

2 ~~(b)~~ (b) As used in this section, smoking cessation treatment includes the use of an over-  
3 the-counter (OTC) or prescription US Food and Drug Administration (FDA) approved nicotine  
4 replacement therapy, when recommended and prescribed by a prescriber who holds prescriptive  
5 privileges in the state in which they are licensed, and used in combination with an annual  
6 outpatient benefit of eight (8) one-half (1/2) hour smoking cessation counseling sessions provided  
7 by a qualified practitioner for each covered individual. Smoking cessation treatment may be  
8 further defined through regulation promulgated by the health insurance commissioner.

9 ~~(c)~~ (c) Health insurance contracts, plans, or policies to which this section applies, may  
10 impose copayments and/or deductibles for the benefits mandated by this section consistent with  
11 the contracts', plans' or policies' copayments and/or deductibles for physician services and  
12 medications. Nothing contained in this section shall impact the reimbursement, medical necessity  
13 or utilization review, managed care, or case management practices of these health insurance  
14 contracts, plans or policies.

15 ~~(d)~~ (d) This section shall not apply to insurance coverage providing benefits for:

16 ~~(1)~~ (1) Hospital confinement indemnity;

17 ~~(2)~~ (2) Disability income;

18 ~~(3)~~ (3) Accident only;

19 ~~(4)~~ (4) Long-term care;

20 ~~(5)~~ (5) Medicare supplement;

21 ~~(6)~~ (6) Limited benefit health;

22 ~~(7)~~ (7) Specified disease indemnity;

23 ~~(8)~~ (8) Sickness or bodily injury or death by accident or both; and

24 ~~(9)~~ (9) Other limited benefit policies.

25 SECTION 95. Section 27-49-3.1 of the General Laws in Chapter 27-49 entitled "Motor  
26 Vehicle Theft and Motor Vehicle Insurance Fraud Reporting – Immunity Act" is hereby amended  
27 to read as follows:

28 **27-49-3.1. Disclosure of personal information obtained in connection with motor**  
29 **vehicle records.** -- (a) Purpose. The purpose of this section is to implement the federal Driver's  
30 Privacy Protection Act of 1994 ("DPPA"), 18 U.S.C. § 2721 et seq..

31 (b) Definitions. As defined in 18 U.S.C. § 2725, the following definitions apply to this  
32 section:

33 (1) "Motor vehicle record" means any record that pertains to a motor vehicle operator's  
34 permit, motor vehicle title, motor vehicle registration, or identification card issued by the

1 department of motor vehicles;

2 (2) "Person" means an individual, organization, or entity, but does not include a state or  
3 agency of a state; and

4 (3) "Personal information" means information that identifies an individual, including an  
5 individual's photograph, social security number, driver identification number, name, address (but  
6 not the 5 digit zip code), telephone number, and medical or disability information, but does not  
7 include information on vehicular accidents, driving violations, and driver's status.

8 (c) Prohibition on release and use of certain personal information from state motor  
9 vehicle records.

10 (1) In general. Except as provided in subdivision (2) of this section, the division of motor  
11 vehicles, and any officer, employee, or contractor of the division, shall not knowingly disclose or  
12 make available to any person or entity personal information about any individual obtained by the  
13 division in connection with a motor vehicle record.

14 (2) Permissible uses. Personal information referred to in subdivision (1) of this section  
15 shall be disclosed for use in connection with matters of motor vehicle or driver safety and theft,  
16 motor vehicle emissions, motor vehicle product alterations, recalls, or advisories, performance  
17 monitoring of motor vehicles and dealers by motor vehicle manufacturers, and removal of  
18 nonowner records from the original owner records of motor vehicles manufacturers to carry out  
19 the purposes of the Automobile Information Disclosure Act, 15 U.S.C. § 1231 et seq., the Motor  
20 Vehicle Information and Cost Saving Act (see now 49 U.S.C. § 32101 et seq.), the National  
21 Traffic and Motor Vehicle Safety Act of 1966 (see now 49 U.S.C. § 30101 et seq.), and Anti-Car  
22 Theft Act of 1992 (see now 49 U.S.C. § 32101 et seq.), and the Clean Air Act, 42 U.S.C. § 7401  
23 et seq., and may be disclosed as follows:

24 (i) For use by any government agency, including any court or law enforcement agency, in  
25 carrying out its functions, or any private person or entity acting on behalf of a federal, state, or  
26 local agency in carrying out its functions.

27 (ii) use in connection with matters of motor vehicle or driver safety and theft; motor  
28 vehicle emissions; motor vehicle product alterations, recalls or advisories; performance  
29 monitoring of motor vehicles, motor vehicle parts and dealers; motor vehicle market research  
30 activities, including survey research; and removal of nonowner records from the original owner  
31 records of motor vehicle manufacturers.

32 (iii) For use in the normal course of business by a legitimate business or its agents,  
33 employees, or contractors, but only:

34 (A) To verify the accuracy of personal information submitted by the individual to the

1 business of its agents, employees, or contractors, and

2 (B) If the information as submitted is not correct or is no longer correct, to obtain the  
3 correct information, but only for the purposes of preventing fraud by pursuing legal remedies  
4 against, or recovering on a debt or security interest against, the individual.

5 (iv) For use in connection with any civil, criminal, administrative, or arbitral proceeding  
6 in any federal, state, or local agency or before any self-regulatory body, including the service of  
7 process, investigation in anticipation of litigation, and the execution or enforcement of judgments  
8 and orders, or pursuant to an order of a federal, state, or local court.

9 (v) For use in research activities, and for use in producing statistical reports, so long as  
10 the personal information is not published, redisclosed, or used to contact the individuals.

11 (vi) For use by any insurer or insurance support organization, or by a self-insured entity,  
12 or its agents, employees, or contractors in connection with claims investigation activities, anti-  
13 fraud activities, rating or underwriting.

14 (vii) For use in providing notice to the owners of towed or impounded vehicles.

15 (viii) For use by any licensed private investigative agency or licensed security service for  
16 any purpose permitted under this subsection.

17 (ix) For use by an employer or its agent or insurer to obtain or verify information relating  
18 to a holder of a commercial driver's license that is required under the Commercial Motor Vehicle  
19 Safety Act of 1986 (see now 49 U.S.C. § 31301 et seq.).

20 (x) For use in connection with the operation of private toll transportation facilities.

21 (xi) For any other use in response to a request for individual motor vehicle records, unless  
22 that use is prohibited by the individual.

23 (xii) For bulk distribution for surveys, marketing or solicitations, provided that the  
24 information will be used, rented or sold solely for bulk distribution for surveys, marketing, and  
25 solicitations and that surveys, marketing, and solicitations will not be directed at those individuals  
26 who have requested in a timely fashion that they not be directed at them.

27 (3) Notice. The division of motor vehicles shall provide in a clear and conspicuous  
28 manner on forms for issuance or renewal of operators permits, titles, registrations or identification  
29 cards, notice that personal information collected by the division may be disclosed to any business  
30 or person and provide in a clear and conspicuous manner on the forms an opportunity to prohibit  
31 the disclosures; provided, that social security numbers and medical or disability information shall  
32 not be subject to disclosure under this chapter.

33 SECTION 96. Sections 27-50-5 and 27-50-17 of the General Laws in Chapter 27-50  
34 entitled "Small Employer Health Insurance Availability Act" are hereby amended to read as

1 follows:

2 **27-50-5. Restrictions relating to premium rates.** -- (a) Premium rates for health benefit  
3 plans subject to this chapter are subject to the following provisions:

4 (1) Subject to subdivision (2) of this subsection, a small employer carrier shall develop its  
5 rates based on an adjusted community rate and may only vary the adjusted community rate for:

- 6 (i) Age;  
7 (ii) Gender; and  
8 (iii) Family composition.

9 (2) A small employer carrier who as of June 1, 2000, varied rates by health status may  
10 vary the adjusted community rates for health status by ten percent (10%), provided that the  
11 resulting rates comply with the other requirements of this section, including subdivision (5) of  
12 this subsection.

13 (3) The adjustment for age in paragraph (1)(i) of this subsection may not use age brackets  
14 smaller than five (5) year increments and these shall begin with age thirty (30) and end with age  
15 sixty-five (65).

16 (4) The small employer carriers are permitted to develop separate rates for individuals  
17 age sixty-five (65) or older for coverage for which Medicare is the primary payer and coverage  
18 for which Medicare is not the primary payer. Both rates are subject to the requirements of this  
19 subsection.

20 (5) For each health benefit plan offered by a carrier, the highest premium rate for each  
21 family composition type shall not exceed four (4) times the premium rate that could be charged to  
22 a small employer with the lowest premium rate for that family composition.

23 (6) Premium rates for bona fide associations except for the Rhode Island Builders'  
24 Association whose membership is limited to those who are actively involved in supporting the  
25 construction industry in Rhode Island shall comply with the requirements of § 27-50-5.

26 (b) The premium charged for a health benefit plan may not be adjusted more frequently  
27 than annually except that the rates may be changed to reflect:

- 28 (1) Changes to the enrollment of the small employer;  
29 (2) Changes to the family composition of the employee; or  
30 (3) Changes to the health benefit plan requested by the small employer.

31 (c) Premium rates for health benefit plans shall comply with the requirements of this  
32 section.

33 (d) Small employer carriers shall apply rating factors consistently with respect to all  
34 small employers. Rating factors shall produce premiums for identical groups that differ only by

1 the amounts attributable to plan design and do not reflect differences due to the nature of the  
2 groups assumed to select particular health benefit plans. Nothing in this section shall be construed  
3 to prevent a group health plan and a health insurance carrier offering health insurance coverage  
4 from establishing premium discounts or rebates or modifying otherwise applicable copayments or  
5 deductibles in return for adherence to programs of health promotion and disease prevention,  
6 including those included in affordable health benefit plans, provided that the resulting rates  
7 comply with the other requirements of this section, including subdivision (a)(5) of this section.

8 The calculation of premium discounts, rebates, or modifications to otherwise applicable  
9 copayments or deductibles for affordable health benefit plans shall be made in a manner  
10 consistent with accepted actuarial standards and based on actual or reasonably anticipated small  
11 employer claims experience. As used in the preceding sentence, “accepted actuarial standards”  
12 includes actuarially appropriate use of relevant data from outside the claims experience of small  
13 employers covered by affordable health plans, including, but not limited to, experience derived  
14 from the large group market, as this term is defined in § ~~27-18.6-2(20)~~ 27-18.6-2(19).

15 (e) For the purposes of this section, a health benefit plan that contains a restricted  
16 network provision shall not be considered similar coverage to a health benefit plan that does not  
17 contain such a provision, provided that the restriction of benefits to network providers results in  
18 substantial differences in claim costs.

19 (f) The director may establish regulations to implement the provisions of this section and  
20 to assure that rating practices used by small employer carriers are consistent with the purposes of  
21 this chapter, including regulations that assure that differences in rates charged for health benefit  
22 plans by small employer carriers are reasonable and reflect objective differences in plan design or  
23 coverage (not including differences due to the nature of the groups assumed to select particular  
24 health benefit plans or separate claim experience for individual health benefit plans).

25 (g) In connection with the offering for sale of any health benefit plan to a small employer,  
26 a small employer carrier shall make a reasonable disclosure, as part of its solicitation and sales  
27 materials, of all of the following:

28 (1) The provisions of the health benefit plan concerning the small employer carrier's right  
29 to change premium rates and the factors, other than claim experience, that affect changes in  
30 premium rates;

31 (2) The provisions relating to renewability of policies and contracts;

32 (3) The provisions relating to any preexisting condition provision; and

33 (4) A listing of and descriptive information, including benefits and premiums, about all  
34 benefit plans for which the small employer is qualified.

1 (h) (1) Each small employer carrier shall maintain at its principal place of business a  
2 complete and detailed description of its rating practices and renewal underwriting practices,  
3 including information and documentation that demonstrate that its rating methods and practices  
4 are based upon commonly accepted actuarial assumptions and are in accordance with sound  
5 actuarial principles.

6 (2) Each small employer carrier shall file with the director annually on or before March  
7 15 an actuarial certification certifying that the carrier is in compliance with this chapter and that  
8 the rating methods of the small employer carrier are actuarially sound. The certification shall be  
9 in a form and manner, and shall contain the information, specified by the director. A copy of the  
10 certification shall be retained by the small employer carrier at its principal place of business.

11 (3) A small employer carrier shall make the information and documentation described in  
12 subdivision (1) of this subsection available to the director upon request. Except in cases of  
13 violations of this chapter, the information shall be considered proprietary and trade secret  
14 information and shall not be subject to disclosure by the director to persons outside of the  
15 department except as agreed to by the small employer carrier or as ordered by a court of  
16 competent jurisdiction.

17 (4) For the wellness health benefit plan described in § 27-50-10, the rates proposed to be  
18 charged and the plan design to be offered by any carrier shall be filed by the carrier at the office  
19 of the health insurance commissioner no less than thirty (30) days prior to their proposed date of  
20 use. The carrier shall be required to establish that the rates proposed to be charged and the plan  
21 design to be offered are consistent with the proper conduct of its business and with the interest of  
22 the public. The health insurance commissioner may approve, disapprove, or modify the rates  
23 and/or approve or disapprove the plan design proposed to be offered by the carrier. Any  
24 disapproval by the health insurance commissioner of a plan design proposed to be offered shall be  
25 based upon a determination that the plan design is not consistent with the criteria established  
26 pursuant to subsection 27-50-10(b).

27 (i) The requirements of this section apply to all health benefit plans issued or renewed on  
28 or after October 1, 2000.

29 **27-50-17. Affordable health plan reinsurance program for small businesses.** -- (a)  
30 The commissioner shall allocate funds from the affordable health plan reinsurance fund for the  
31 affordable health reinsurance program.

32 (b) The affordable health reinsurance program for small businesses shall only be  
33 available to low wage firms, as defined in § 27-50-3, who pay a minimum of fifty percent (50%),  
34 as defined in § 27-50-3, of single coverage premiums for their eligible employees, and who

1 purchase the wellness health benefit plan pursuant to § 27-50-10. Eligibility shall be determined  
2 based on state and federal corporate tax filings. All eligible employees, as defined in § 27-50-3,  
3 employed by low wage ~~forms~~ firms as defined in § 27-50-3-(oo) shall be eligible for the  
4 reinsurance program if at least one low wage eligible employee as defined in regulation is  
5 enrolled in the employer's wellness health benefit plan.

6 (c) The affordable health plan reinsurance shall be in the firms of a carrier cost-sharing  
7 arrangement, which encourages carriers to offer a discounted premium rate to participating  
8 individuals, and whereby the reinsurance fund subsidizes the carriers' losses within a prescribed  
9 corridor of risk as determined by regulation.

10 (d) The specific structure of the reinsurance arrangement shall be defined by regulations  
11 promulgated by the commissioner.

12 (e) All carriers who participate in the Rhode Island RItE Care program as defined in § 42-  
13 12.3-4 and the procurement process for the Rhode Island state employee account, as described in  
14 chapter 36-12, must participate in the affordable health plan reinsurance program.

15 (f) The commissioner shall determine total eligible enrollment under qualifying small  
16 group health insurance contracts by dividing the funds available for distribution from the  
17 reinsurance fund by the estimated per member annual cost of claims reimbursement from the  
18 reinsurance fund.

19 (g) The commissioner shall suspend the enrollment of new employers under qualifying  
20 small group health insurance contracts if the director determines that the total enrollment reported  
21 under such contracts is projected to exceed the total eligible enrollment, thereby resulting in  
22 anticipated annual expenditures from the reinsurance fund in excess of ninety-five percent (95%)  
23 of the total funds available for distribution from the fund.

24 (h) In the event the available funds in the affordable health reinsurance fund as created in  
25 § 42-14.5-3 are insufficient to satisfy all claims submitted to the fund in any calendar year, those  
26 claims in excess of the available funds shall be due and payable in the succeeding calendar year,  
27 or when sufficient funds become available whichever shall first occur. Unpaid claims from any  
28 prior year shall take precedence over new claims submitted in any one year.

29 (i) The commissioner shall provide the health maintenance organization, health insurers  
30 and health plans with notification of any enrollment suspensions as soon as practicable after  
31 receipt of all enrollment data. However, the suspension of issuance of qualifying small group  
32 health insurance contracts shall not preclude the addition of new employees of an employer  
33 already covered under such a contract or new dependents of employees already covered under  
34 such contracts.



1 (j) The premiums of qualifying small group health insurance contracts must be no more  
2 than ninety percent (90%) of the actuarially-determined and commissioner approved premium for  
3 this health plan without the reinsurance program assistance.

4 (k) The commissioner shall prepare periodic public reports in order to facilitate  
5 evaluation and ensure orderly operation of the funds, including, but not limited to, an annual  
6 report of the affairs and operations of the fund, containing an accounting of the administrative  
7 expenses charged to the fund. Such reports shall be delivered to the co-chairs of the joint  
8 legislative committee on health care oversight by March 1st of each year.

9 SECTION 97. Section 27-64-6 of the General Laws in Chapter 27-64 entitled "The  
10 Protected Cell Companies Act" is hereby amended to read as follows:

11 **27-64-6. Reach of creditors and other claimants.** – (a) (1) Protected cell assets shall  
12 only be available to the creditors of the protected cell company that are creditors in respect to that  
13 protected cell and shall be entitled, in conformity with the provisions of this ~~Aet~~ [chapter](#), to have  
14 recourse to the protected cell assets attributable to that protected cell, and shall be absolutely  
15 protected from the creditors of the protected cell company that are not creditors in respect of that  
16 protected cell and, who accordingly, shall not be entitled to have recourse to the protected cell  
17 assets attributable to that protected cell. Creditors with respect to a protected cell shall not be  
18 entitled to have recourse against the protected cell assets of other protected cells or the assets of  
19 the protected cell company's general account.

20 (2) Protected cell assets shall only be available to creditors of a protected cell company  
21 after all protected cell liabilities have been extinguished or provided for in accordance with the  
22 plan of operation relating to that protected cell.

23 (b) When an obligation of a protected cell company to a person arises from a transaction,  
24 or is imposed, in respect of a protected cell: (1) that obligation of the protected cell company shall  
25 extend only to the protected cell assets attributable to that protected cell, and the person shall,  
26 with respect to that obligation, be entitled to have recourse only to the protected cell assets  
27 attributable to that protected cell, and (2) that obligation of the company shall not extend to the  
28 protected cell assets of any other protected cell or the assets of the protected cell company's  
29 general account, and that person shall not, with respect to that obligation, be entitled to have  
30 recourse to the protected cell assets of any other protected cell or the assets of the protected cell  
31 company's general account.

32 (c) When an obligation of a protected cell company relates solely to the general account,  
33 the obligation of the protected cell company shall extend only to, and that creditor shall, with  
34 respect to that obligation, be entitled to have recourse only to the assets of the protected cell

1 company's general account.

2 (d) The activities, assets, and obligations relating to a protected cell are not subject to the  
3 provisions of chapters 34, 34.1 and 34.3 of this title and neither a protected cell nor a protected  
4 cell company shall be assessed by or be required to contribute to any guaranty fund or guaranty  
5 association in this state with respect to the activities, assets or obligations of a protected cell.  
6 Nothing in this section shall affect the activities or obligations of an insurer's general account.

7 (e) In no event shall the establishment of one or more protected cells alone constitute or  
8 be deemed to be a fraudulent conveyance, an intent by the protected cell company to defraud  
9 creditors or the carrying out of business by the protected cell company for any other fraudulent  
10 purpose.

11 SECTION 98. This act shall take effect upon passage.

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LC01091/SUB A  
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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO STATUTES AND STATUTORY CONSTRUCTION

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- 1 This act would make technical adjustments to various statutes as recommended by the
- 2 Law Revision Office of the Joint Committee on Legislative Services.
- 3 This act would take effect upon passage.

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LC01091/SUB A  
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