

Notice of Emergency Adoption

Financial Services, Department of

(SUBMITTING AGENCY)

☒ Approval has been granted by Executive Chamber to file this rule making.

☐ This rule making does not require Executive Chamber approval.

☒ This adoption will amend the NYCRR.

☐ This adoption will not amend the NYCRR.

NOTE: Typing and submission instructions are at the end of this form. Please be sure to COMPLETE ALL ITEMS. Incomplete forms and nonscannable text attachments will be cause for rejection of this notice. change in text

1. Action taken:

First Amendment to Part 451 to 11 NYCRR (Insurance Regulation 221)

2. Effective date of emergency rule:

☒ Date of filing.

☐ Other date (specify): _____

3. History of emergency actions (check only one box):

☒ This is the first time this emergency rule has been adopted (first emergency, effective for 90 days). No public comment required.

☐ This is the first readoption of an emergency rule (second emergency, effective for 60 days). No public comment required, and a Notice of Proposed rule making has been submitted, I.D. No. _____ - _____, issue date: _____.

☐ This is the second (or greater) readoption of an emergency rule (third emergency or greater, effective for 60 days). Public comment is required, see Item 18.

4. Statutory authority under which the rule was adopted:

Financial Services Law sections 102, 201, 202, 301, 302, and 306; Insurance Law sections 301 and 316; and Public Health Law section 280-a

5. This emergency rule is necessary for the preservation of:

☒ public health

☐ public safety

☒ general welfare

6. The specific reasons underlying the finding of necessity, above, are as follows:

7. Subject of the rule:

Registration of Pharmacy Benefit Managers

8. Purpose of the rule:

To maintain status quo while the Department promulgates permanent regulations under Public Health Law section 280-a.

9. *Terms of rule* (SELECT A, B or C. Item D is required.)

- A. ☒ The full text of the rule is attached because it does not exceed 2,000 words.
- B. ☐ A summary of the rule is attached because the full text of the rule exceeds 2,000 words.

☐ Full text is posted on the following State website. [Pursuant to SAPA §202(7)(d), provide sufficient information to enable the public to access the full text without extensive searching. For example, provide a URL or a title to either a webpage or a specific section of the website where the full text is posted]:

- C. ☐ Pursuant to SAPA §202(7)(b), the agency elects to print a description of the subject, purpose and substance of the rule as defined in SAPA §102(2)(a)(ii) [Rate Making]. Web posting of full text of such rule is not required [SAPA §202(1)(a)].

D. Signed certification of adoption and full text of the rule are attached:

☒ Signed certification of adoption (scanned pdf).

☐ Full text of the rule (MS Word).

10. *Type of notice:*

- ☐ This notice is intended to serve only as an emergency adoption, to be valid for 90 days or less.
- ☐ This notice is intended to serve only as a notice of emergency adoption; however, the agency intends to adopt the provisions of this emergency as a permanent rule, having submitted to the Department of State a notice of emergency/proposed or proposed rule making I.D. No. _____, Issue of: _____.
- ☒ This notice is intended to serve only as a notice of emergency adoption; however, the agency intends to submit a notice of proposed rule making in the future.
- ☐ The agency adopted the provisions of this emergency rule as a permanent rule, pursuant to SAPA section 202(6)(c), because the purposes of the emergency measure would be frustrated if subsequent notice procedures were required.

11. *Emergency expiration date* (A first emergency rule is effective and enforceable for up to 90 days from the **date of filing**. Second and subsequent emergency rules are effective and enforceable for up to 60 days from their **date of filing** UNLESS the agency specifies an earlier date). This rule expires:

☒ 90 days after filing

☐ 60 days after filing

☐ Other (*specify date*): _____

- **A notice of proposed rule making must be published to adopt this rule permanently and before a first emergency rule can be readopted.**

12. *The text of the final rule and any required statements and analyses may be obtained from:*

Agency contact Eamon Rock, Deputy General Counsel

Agency name NYS Department of Financial Services

Office address One Commerce Plaza

Albany NY 12203

Telephone (518) 474-4567

E-mail Eamon.Rock@dfs.ny.gov

13. *Additional matter required by statute:*

- ☐ YES (include below material required by statute).

- ☒ No additional material required by statute.

14. Regulatory Impact Statement (RIS)

(SELECT AND COMPLETE ONE; ALL ATTACHMENTS MUST BE 2,000 WORDS OR LESS)

A. The attached RIS contains:

- ☒ the full text of the RIS.
☐ a summary of the RIS.

☐ Full text is posted on the following State website. [Pursuant to SAPA §202(7)(d), provide sufficient information to enable the public to access the full text without extensive searching. For example, provide a URL or a title to either a webpage or a specific section of the website where the full text is posted]:

- ☐ a consolidated RIS, because this rule is one of a series of closely related and simultaneously proposed rules or is virtually identical to rules proposed during the same year.

B. An RIS is **not** attached:

- ☐ because this rule is subject to a consolidated RIS printed in the *Register* under I.D. No.: _____ - _____; issue date: _____.

- ☐ because this rule is exempt, as defined in SAPA §102(2)(a)(ii) [Rate Making].
☐ but will be published in the *Register* within 30 days of the rule's effective date.

C. ☐ A **statement is attached** claiming exemption pursuant to SAPA §202-a (technical amendment).**15. Regulatory Flexibility Analysis (RFA) for small businesses and local governments**

(SELECT AND COMPLETE ONE; ALL ATTACHMENTS MUST BE 2,000 WORDS OR LESS)

A. The attached RFA contains:

- ☐ the full text of the RFA.
☐ a summary of the RFA.

☐ Full text is posted on the following State website. [Pursuant to SAPA §202(7)(d), provide sufficient information to enable the public to access the full text without extensive searching. For example, provide a URL or a title to either a webpage or a specific section of the website where the full text is posted]:

- ☐ a consolidated RFA, because this rule is one of a series of closely related rules.

B. ☒ A **statement is attached** explaining why a RFA is not required. This statement is in scanner format and explains the agency's finding that the rule will not impose any adverse economic impact or reporting, recordkeeping or other compliance requirements on small businesses or local governments and the reason(s) upon which the finding was made, including any measures used to determine that the rule will not impose such adverse economic impacts or compliance requirements.

C. A RFA is **not** attached:

- ☐ because this rule is subject to a consolidated RFA printed in the *Register* under I.D. No.: _____ - _____; issue date: _____.
☐ because this rule is exempt, as defined in SAPA §102(2)(a)(ii) [Rate Making].
☐ but will be published in the *Register* within 30 days of the rule's effective date.

16. Rural Area Flexibility Analysis (RAFA)

(SELECT AND COMPLETE ONE; ALL ATTACHMENTS MUST BE 2,000 WORDS OR LESS)

A. The attached RAFA contains:

☐ the full text of the RAFA.☐ a summary of the RAFA.

☐ Full text is posted on the following State website. [Pursuant to SAPA §202(7)(d), provide sufficient information to enable the public to access the full text without extensive searching. For example, provide a URL or a title to either a webpage or a specific section of the website where the full text is posted]:

☐ a consolidated RAFA, because this rule is one of a series of closely related rules.

B. ☒ A **statement is attached** explaining why a RAFA is not required. This statement is in scanner format and explains the agency's finding that the rule will not impose any adverse impact on rural areas or reporting, recordkeeping or other compliance requirements on public or private entities in rural areas and the reason(s) upon which the finding was made, including what measures were used to determine that the rule will not impose such adverse impact or compliance requirements.

C. A RAFA is **not** attached:☐ because this rule is subject to a consolidated RAFA printed in the *Register* under I.D. No.: _____ - _____; issue date: _____.☐ because this rule is exempt, as defined in SAPA §102(2)(a)(ii) [Rate Making].☐ but will be published in the *Register* within 30 days of the rule's effective date.**17. Job Impact Statement (JIS)**

(SELECT AND COMPLETE ONE; ALL ATTACHMENTS MUST BE 2,000 WORDS OR LESS)

A. The attached JIS contains:

☐ the full text of the JIS.☐ a summary of the JIS.

☐ Full text is posted on the following State website. [Pursuant to SAPA §202(7)(d), provide sufficient information to enable the public to access the full text without extensive searching. For example, provide a URL or a title to either a webpage or a specific section of the website where the full text is posted]:

☐ a consolidated JIS, because this rule is one of a series of closely related rules.

B. ☒ A **statement is attached** explaining why a JIS is not required. This statement is in scanner format and explains the agency's finding that the rule will not have a substantial adverse impact on jobs and employment opportunities (as apparent from its nature and purpose) and will have a positive impact or no impact on jobs and employment opportunities; except when it is evident from the subject matter of the rule that it could only have a positive impact or no impact on jobs and employment opportunities, the statement shall include a summary of the information and methodology underlying that determination.

☐ A JIS/Request for Assistance [SAPA §201-a(2)(c)] is attached.C. A JIS is **not attached** :☐ because this rule is subject to a consolidated JIS printed in the *Register* under I.D. No.: _____ - _____; issue date: _____.☐ because this rule is exempt, as defined in SAPA §102(2)(a)(ii) [Rate Making].☐ because this rule is submitted by the State Comptroller or Attorney General.☐ but will be published in the *Register* within 30 days of the rule's effective date.**18. Assessment of Public Comment**—required for second or subsequent readoptions (check applicable box).☐ An assessment of public comment is attached (less than 2,000 words).☐ An assessment of public comment is not attached because the rule is within the definition of SAPA §102(2)(a)(ii) [Rate Making].☐ The agency received no public comment since publication of the last assessment of public comment.☒ The agency received no public comment.

19. **Referenced material** (check one box):☒ No information is being incorporated by reference in this rule.☐ This rule contains referenced material in the following Parts, sections, subdivisions or paragraphs:

AGENCY CERTIFICATION (To be completed by the person who PREPARED the notice)

I have reviewed this form and the information submitted with it. The information contained in this notice is correct to the best of my knowledge.

I have reviewed Article 2 of SAPA and Parts 260 through 263 of 19 NYCRR, and I hereby certify that this notice complies with all applicable provisions.

Name Sally Geisel

Signature

Address New York State Department of Financial Services, One State Street, New York, NY 10004Telephone (212) 480-7608E-Mail Sally.Geisel@dfs.ny.govDate 03/27/2023

Please read before submitting this notice:

1. Except for this form itself, all text must be typed in the prescribed format as described in the Department of State's *Register* procedures manual, *Rule Making in New York*.
2. Rule making notices, with any necessary attachments (in MS Word unless otherwise specified), should be e-filed via the Department of State website.