

2932

2011-2012 Regular Sessions

I N   S E N A T E

February 3, 2011

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Introduced by Sen. JOHNSON -- read twice and ordered printed, and when printed to be committed to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the business corporation law, the limited liability company law and the partnership law, in relation to authorizing certain health care providers to form professional service entities

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Paragraph (a) of section 1503 of the business corporation  
2 law, as added by chapter 974 of the laws of 1970, is amended to read as  
3 follows:  
4     (a) Notwithstanding any other provision of law, one or more individ-  
5 uals duly authorized by law to render the same professional service  
6 within the state may organize, or cause to be organized, a professional  
7 service corporation for pecuniary profit under this article for the  
8 purpose of rendering the same professional service, [except] PROVIDED  
9 that one or more individuals duly authorized by law to practice profes-  
10 sional engineering, architecture, landscape architecture or land survey-  
11 ing within the state may organize, or cause to be organized, a profes-  
12 sional service corporation for pecuniary profit under this article for  
13 the purpose of rendering such professional services as such individuals  
14 are authorized to practice, AND, FURTHER, PROVIDED THAT ONE OR MORE  
15 INDIVIDUALS DULY LICENSED BY LAW TO PRACTICE MEDICINE AND WHO ARE CERTI-  
16 FIED BY THE AMERICAN BOARD OF OPHTHALMOLOGY, AND INDIVIDUALS LICENSED BY  
17 LAW TO PRACTICE OPTOMETRY AND/OR OPHTHALMIC DISPENSING WITHIN THE STATE  
18 MAY ORGANIZE, OR CAUSE TO BE ORGANIZED, A PROFESSIONAL SERVICE CORPO-  
19 RATION FOR PECUNIARY PROFIT UNDER THIS ARTICLE FOR THE PURPOSE OF  
20 RENDERING PROFESSIONAL SERVICES AS SUCH INDIVIDUALS ARE AUTHORIZED TO  
21 PRACTICE.  
22     S 2. Section 1529 of the business corporation law, as amended by chap-  
23 ter 576 of the laws of 1994, is amended to read as follows:

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1 S 1529. Business corporation law applicable.

2 Except for the provisions of sections thirteen hundred three, thirteen  
3 hundred four, thirteen hundred sixteen, thirteen hundred seventeen and  
4 thirteen hundred twenty, this chapter shall be applicable to a foreign  
5 professional service corporation to the extent that the provisions ther-  
6 eof are not in conflict with the provisions of this article. A foreign  
7 professional service corporation may practice in this state, or may  
8 consolidate or merge with another corporation, or may be a member of a  
9 professional service limited liability company, a foreign professional  
10 service limited liability company, a registered limited liability part-  
11 nership or foreign limited liability partnership, only if all of the  
12 professions practiced by such corporations, limited liability companies  
13 or limited liability partnerships could be practiced by a single profes-  
14 sional service corporation organized in this state; and, further, only  
15 if such foreign professional service corporation is domiciled in a state  
16 or territory of the United States the laws of which, at the time of  
17 application by such corporation under section fifteen hundred thirty of  
18 this article, contain a reciprocal provision under which professional  
19 service corporations domiciled in this state may similarly apply for the  
20 privilege of doing business in any such state or territory[; provided  
21 further however, that nothing herein].

22 (A) NOTHING IN THIS SECTION shall authorize a foreign professional  
23 service corporation practicing professional engineering, land surveying,  
24 architecture and/or landscape architecture to be a member or partner of  
25 a professional service limited liability company, a foreign professional  
26 service limited liability company, a registered limited liability part-  
27 nership or a foreign limited liability partnership unless all of the  
28 shareholders, directors and officers of such foreign professional  
29 service corporation are licensed to practice one or more of such  
30 professions in this state.

31 (B) NOTHING IN THIS SECTION SHALL AUTHORIZE A FOREIGN PROFESSIONAL  
32 SERVICE CORPORATION ORGANIZED TO PRACTICE MEDICINE WITH OPTOMETRY AND/OR  
33 OPHTHALMIC DISPENSING TO BE A MEMBER OR PARTNER OF A PROFESSIONAL  
34 SERVICE LIMITED LIABILITY COMPANY, A FOREIGN PROFESSIONAL SERVICE LIMIT-  
35 ED LIABILITY COMPANY, A REGISTERED LIMITED LIABILITY PARTNERSHIP OR A  
36 FOREIGN LIMITED LIABILITY PARTNERSHIP UNLESS ALL OF THE SHAREHOLDERS,  
37 DIRECTORS AND OFFICERS OF SUCH FOREIGN PROFESSIONAL SERVICE CORPORATION  
38 ARE LICENSED TO PRACTICE ONE OR MORE OF SUCH PROFESSIONS IN THIS STATE;  
39 PROVIDED, HOWEVER, THAT ANY SHAREHOLDER, DIRECTOR OR OFFICER LICENSED TO  
40 PRACTICE MEDICINE IN THIS STATE SHALL ALSO BE CERTIFIED BY THE AMERICAN  
41 BOARD OF OPHTHALMOLOGY.

42 S 3. Subdivision (a) of section 1203 of the limited liability company  
43 law, as separately amended by chapters 420 and 676 of the laws of 2002,  
44 is amended to read as follows:

45 (a) Notwithstanding the education law or any other provision of law,  
46 one or more professionals each of whom is authorized by law to render a  
47 professional service within the state, or one or more professionals, at  
48 least one of whom is authorized by law to render a professional service  
49 within the state, may form, or cause to be formed, a professional  
50 service limited liability company for pecuniary profit under this arti-  
51 cle for the purpose of rendering the professional service or services as  
52 such professionals are authorized to practice. With respect to a profes-  
53 sional service limited liability company formed to provide medical  
54 services as such services are defined in article 131 of the education  
55 law, each member of such limited liability company must be licensed  
56 pursuant to article 131 of the education law to practice medicine in

1 this state; PROVIDED, HOWEVER, THAT WITH RESPECT TO A PROFESSIONAL  
2 SERVICE LIMITED LIABILITY COMPANY FORMED TO PROVIDE MEDICAL SERVICES  
3 DEFINED IN ARTICLE 131 OF THE EDUCATION LAW WITH SERVICES DEFINED IN  
4 ARTICLE 143 AND/OR ARTICLE 144 OF THE EDUCATION LAW, EACH MEMBER OF SUCH  
5 LIMITED LIABILITY COMPANY MUST BE LICENSED PURSUANT TO ARTICLE 131 AND  
6 CERTIFIED BY THE AMERICAN BOARD OF OPHTHALMOLOGY, AND/OR LICENSED PURSU-  
7 ANT TO ARTICLE 143 AND/OR ARTICLE 144 OF THE EDUCATION LAW TO PRACTICE  
8 ONE OR MORE OF SUCH PROFESSIONS IN THIS STATE. With respect to a  
9 professional service limited liability company formed to provide dental  
10 services as such services are defined in article 133 of the education  
11 law, each member of such limited liability company must be licensed  
12 pursuant to article 133 of the education law to practice dentistry in  
13 this state. With respect to a professional service limited liability  
14 company formed to provide veterinary services as such services are  
15 defined in article 135 of the education law, each member of such limited  
16 liability company must be licensed pursuant to article 135 of the educa-  
17 tion law to practice veterinary medicine in this state. With respect to  
18 a professional service limited liability company formed to provide  
19 professional engineering, land surveying, architectural and/or landscape  
20 architectural services as such services are defined in article 145,  
21 article 147 and article 148 of the education law, each member of such  
22 limited liability company must be licensed pursuant to article 145,  
23 article 147 and/or article 148 of the education law to practice one or  
24 more of such professions in this state. With respect to a professional  
25 service limited liability company formed to provide licensed clinical  
26 social work services as such services are defined in article 154 of the  
27 education law, each member of such limited liability company shall be  
28 licensed pursuant to article 154 of the education law to practice  
29 licensed clinical social work in this state. With respect to a profes-  
30 sional service limited liability company formed to provide creative arts  
31 therapy services as such services are defined in article 163 of the  
32 education law, each member of such limited liability company must be  
33 licensed pursuant to article 163 of the education law to practice crea-  
34 tive arts therapy in this state. With respect to a professional service  
35 limited liability company formed to provide marriage and family therapy  
36 services as such services are defined in article 163 of the education  
37 law, each member of such limited liability company must be licensed  
38 pursuant to article 163 of the education law to practice marriage and  
39 family therapy in this state. With respect to a professional service  
40 limited liability company formed to provide mental health counseling  
41 services as such services are defined in article 163 of the education  
42 law, each member of such limited liability company must be licensed  
43 pursuant to article 163 of the education law to practice mental health  
44 counseling in this state. With respect to a professional service limited  
45 liability company formed to provide psychoanalysis services as such  
46 services are defined in article 163 of the education law, each member of  
47 such limited liability company must be licensed pursuant to article 163  
48 of the education law to practice psychoanalysis in this state. In addi-  
49 tion to engaging in such profession or professions, a professional  
50 service limited liability company may engage in any other business or  
51 activities as to which a limited liability company may be formed under  
52 section two hundred one of this chapter. Notwithstanding any other  
53 provision of this section, a professional service limited liability  
54 company (i) authorized to practice law may only engage in another  
55 profession or business or activities or (ii) which is engaged in a  
56 profession or other business or activities other than law may only

engage in the practice of law, to the extent not prohibited by any other law of this state or any rule adopted by the appropriate appellate division of the supreme court or the court of appeals.

S 4. Subdivision (b) of section 1207 of the limited liability company law, as separately amended by chapters 420 and 676 of the laws of 2002, is amended to read as follows:

(b) With respect to a professional service limited liability company formed to provide medical services as such services are defined in article 131 of the education law, each member of such limited liability company must be licensed pursuant to article 131 of the education law to practice medicine in this state; PROVIDED, HOWEVER, THAT WITH RESPECT TO A PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY FORMED TO PROVIDE SERVICES DEFINED IN ARTICLE 131 OF THE EDUCATION LAW WITH SERVICES DEFINED IN ARTICLE 143 AND/OR ARTICLE 144 OF THE EDUCATION LAW, EACH MEMBER OF SUCH LIMITED LIABILITY COMPANY MUST BE LICENSED PURSUANT TO ARTICLE 131 AND CERTIFIED BY THE AMERICAN BOARD OF OPHTHALMOLOGY, AND/OR LICENSED PURSUANT TO ARTICLE 143 AND/OR ARTICLE 144 OF THE EDUCATION LAW TO PRACTICE ONE OR MORE OF SUCH PROFESSIONS IN THIS STATE. With respect to a professional service limited liability company formed to provide dental services as such services are defined in article 133 of the education law, each member of such limited liability company must be licensed pursuant to article 133 of the education law to practice dentistry in this state. With respect to a professional service limited liability company formed to provide veterinary services as such services are defined in article 135 of the education law, each member of such limited liability company must be licensed pursuant to article 135 of the education law to practice veterinary medicine in this state. With respect to a professional service limited liability company formed to provide professional engineering, land surveying, architectural and/or landscape architectural services as such services are defined in article 145, article 147 and article 148 of the education law, each member of such limited liability company must be licensed pursuant to article 145, article 147 and/or article 148 of the education law to practice one or more of such professions in this state. With respect to a professional service limited liability company formed to provide licensed clinical social work services as such services are defined in article 154 of the education law, each member of such limited liability company shall be licensed pursuant to article 154 of the education law to practice licensed clinical social work in this state. With respect to a professional service limited liability company formed to provide creative arts therapy services as such services are defined in article 163 of the education law, each member of such limited liability company must be licensed pursuant to article 163 of the education law to practice creative arts therapy in this state. With respect to a professional service limited liability company formed to provide marriage and family therapy services as such services are defined in article 163 of the education law, each member of such limited liability company must be licensed pursuant to article 163 of the education law to practice marriage and family therapy in this state. With respect to a professional service limited liability company formed to provide mental health counseling services as such services are defined in article 163 of the education law, each member of such limited liability company must be licensed pursuant to article 163 of the education law to practice mental health counseling in this state. With respect to a professional service limited liability company formed to provide psychoanalysis services as such services are defined in article 163 of the education law, each member of

1 such limited liability company must be licensed pursuant to article 163  
2 of the education law to practice psychoanalysis in this state.

3 S 5. Subdivision (a) of section 1301 of the limited liability company  
4 law, as separately amended by chapters 420 and 676 of the laws of 2002,  
5 is amended to read as follows:

6 (a) "Foreign professional service limited liability company" means a  
7 professional service limited liability company, whether or not denomi-  
8 nated as such, organized under the laws of a jurisdiction other than  
9 this state, (i) each of whose members and managers, if any, is a profes-  
10 sional authorized by law to render a professional service within this  
11 state and who is or has been engaged in the practice of such profession  
12 in such professional service limited liability company or a predecessor  
13 entity, or will engage in the practice of such profession in the profes-  
14 sional service limited liability company within thirty days of the date  
15 such professional becomes a member, or each of whose members and manag-  
16 ers, if any, is a professional at least one of such members is author-  
17 ized by law to render a professional service within this state and who  
18 is or has been engaged in the practice of such profession in such  
19 professional service limited liability company or a predecessor entity,  
20 or will engage in the practice of such profession in the professional  
21 service limited liability company within thirty days of the date such  
22 professional becomes a member, or (ii) authorized by, or holding a  
23 license, certificate, registration or permit issued by the licensing  
24 authority pursuant to, the education law to render a professional  
25 service within this state; except that all members and managers, if any,  
26 of a foreign professional service limited liability company that  
27 provides health services in this state shall be licensed in this state.  
28 With respect to a foreign professional service limited liability company  
29 which provides veterinary services as such services are defined in arti-  
30 cle 135 of the education law, each member of such foreign professional  
31 service limited liability company shall be licensed pursuant to article  
32 135 of the education law to practice veterinary medicine. With respect  
33 to a foreign professional service limited liability company which  
34 provides medical services as such services are defined in article 131 of  
35 the education law, each member of such foreign professional service  
36 limited liability company must be licensed pursuant to article 131 of  
37 the education law to practice medicine in this state; PROVIDED, HOWEVER,  
38 THAT WITH RESPECT TO A FOREIGN PROFESSIONAL SERVICE LIMITED LIABILITY  
39 COMPANY FORMED TO PROVIDE SERVICES DEFINED IN ARTICLE 131 OF THE EDUCA-  
40 TION LAW WITH SERVICES DEFINED IN ARTICLE 143 AND/OR ARTICLE 144 OF THE  
41 EDUCATION LAW, EACH MEMBER OF SUCH FOREIGN PROFESSIONAL SERVICE LIMITED  
42 LIABILITY COMPANY MUST BE LICENSED PURSUANT TO ARTICLE 131 AND CERTIFIED  
43 BY THE AMERICAN BOARD OF OPHTHALMOLOGY, AND/OR LICENSED PURSUANT TO  
44 ARTICLE 143 AND/OR ARTICLE 144 OF THE EDUCATION LAW TO PRACTICE ONE OR  
45 MORE OF SUCH PROFESSIONS IN THIS STATE. With respect to a foreign  
46 professional service limited liability company which provides dental  
47 services as such services are defined in article 133 of the education  
48 law, each member of such foreign professional service limited liability  
49 company must be licensed pursuant to article 133 of the education law to  
50 practice dentistry in this state. With respect to a foreign professional  
51 service limited liability company which provides professional engineer-  
52 ing, land surveying, architectural and/or landscape architectural  
53 services as such services are defined in article 145, article 147 and  
54 article 148 of the education law, each member of such foreign profes-  
55 sional service limited liability company must be licensed pursuant to  
56 article 145, article 147 and/or article 148 of the education law to

1 practice one or more of such professions in this state. With respect to  
2 a foreign professional service limited liability company which provides  
3 licensed clinical social work services as such services are defined in  
4 article 154 of the education law, each member of such foreign profes-  
5 sional service limited liability company shall be licensed pursuant to  
6 article 154 of the education law to practice clinical social work in  
7 this state. With respect to a foreign professional service limited  
8 liability company which provides creative arts therapy services as such  
9 services are defined in article 163 of the education law, each member of  
10 such foreign professional service limited liability company must be  
11 licensed pursuant to article 163 of the education law to practice crea-  
12 tive arts therapy in this state. With respect to a foreign professional  
13 service limited liability company which provides marriage and family  
14 therapy services as such services are defined in article 163 of the  
15 education law, each member of such foreign professional service limited  
16 liability company must be licensed pursuant to article 163 of the educa-  
17 tion law to practice marriage and family therapy in this state. With  
18 respect to a foreign professional service limited liability company  
19 which provides mental health counseling services as such services are  
20 defined in article 163 of the education law, each member of such foreign  
21 professional service limited liability company must be licensed pursuant  
22 to article 163 of the education law to practice mental health counseling  
23 in this state. With respect to a foreign professional service limited  
24 liability company which provides psychoanalysis services as such  
25 services are defined in article 163 of the education law, each member of  
26 such foreign professional service limited liability company must be  
27 licensed pursuant to article 163 of the education law to practice  
28 psychoanalysis in this state.

29 S 6. Subdivision (q) of section 121-1500 of the partnership law, as  
30 separately amended by chapters 420 and 676 of the laws of 2002, is  
31 amended to read as follows:

32 (q) Each partner of a registered limited liability partnership formed  
33 to provide medical services in this state must be licensed pursuant to  
34 article 131 of the education law to practice medicine in this state and  
35 each partner of a registered limited liability partnership formed to  
36 provide dental services in this state must be licensed pursuant to arti-  
37 cle 133 of the education law to practice dentistry in this state;  
38 PROVIDED, HOWEVER, THAT WITH RESPECT TO A REGISTERED LIMITED LIABILITY  
39 PARTNERSHIP FORMED TO PROVIDE SERVICES DEFINED IN ARTICLE 131 OF THE  
40 EDUCATION LAW WITH SERVICES DEFINED IN ARTICLE 143 AND/OR ARTICLE 144 OF  
41 THE EDUCATION LAW, EACH MEMBER OF SUCH REGISTERED LIMITED LIABILITY  
42 PARTNERSHIP MUST BE LICENSED PURSUANT TO ARTICLE 131 AND CERTIFIED BY  
43 THE AMERICAN BOARD OF OPHTHALMOLOGY, AND/OR LICENSED PURSUANT TO ARTICLE  
44 143 AND/OR ARTICLE 144 OF THE EDUCATION LAW TO PRACTICE ONE OR MORE OF  
45 SUCH PROFESSIONS IN THIS STATE. Each partner of a registered limited  
46 liability partnership formed to provide veterinary services in this  
47 state must be licensed pursuant to article 135 of the education law to  
48 practice veterinary medicine in this state. Each partner of a registered  
49 limited liability partnership formed to provide professional engineer-  
50 ing, land surveying, architectural and/or landscape architectural  
51 services in this state must be licensed pursuant to article 145, article  
52 147 and/or article 148 of the education law to practice one or more of  
53 such professions in this state. Each partner of a registered limited  
54 liability partnership formed to provide licensed clinical social work  
55 services in this state must be licensed pursuant to article 154 of the  
56 education law to practice clinical social work in this state. Each part-

ner of a registered limited liability partnership formed to provide creative arts therapy services in this state must be licensed pursuant to article 163 of the education law to practice creative arts therapy in this state. Each partner of a registered limited liability partnership formed to provide marriage and family therapy services in this state must be licensed pursuant to article 163 of the education law to practice marriage and family therapy in this state. Each partner of a registered limited liability partnership formed to provide mental health counseling services in this state must be licensed pursuant to article 163 of the education law to practice mental health counseling in this state. Each partner of a registered limited liability partnership formed to provide psychoanalysis services in this state must be licensed pursuant to article 163 of the education law to practice psychoanalysis in this state.

S 7. Subdivision (q) of section 121-1502 of the partnership law, as amended by chapter 230 of the laws of 2004, is amended to read as follows:

(q) Each partner of a foreign limited liability partnership which provides medical services in this state must be licensed pursuant to article 131 of the education law to practice medicine in the state and each partner of a foreign limited liability partnership which provides dental services in the state must be licensed pursuant to article 133 of the education law to practice dentistry in this state; PROVIDED, HOWEVER, THAT WITH RESPECT TO A FOREIGN LIMITED LIABILITY PARTNERSHIP FORMED TO PROVIDE SERVICES DEFINED IN ARTICLE 131 OF THE EDUCATION LAW WITH SERVICES DEFINED IN ARTICLE 143 AND/OR ARTICLE 144 OF THE EDUCATION LAW, EACH MEMBER OF SUCH FOREIGN LIMITED LIABILITY PARTNERSHIP MUST BE LICENSED PURSUANT TO ARTICLE 131 AND CERTIFIED BY THE AMERICAN BOARD OF OPHTHALMOLOGY, AND/OR LICENSED PURSUANT TO ARTICLE 143 AND/OR ARTICLE 144 OF THE EDUCATION LAW TO PRACTICE ONE OR MORE OF SUCH PROFESSIONS IN THIS STATE. Each partner of a foreign limited liability partnership which provides veterinary service in the state shall be licensed pursuant to article 135 of the education law to practice veterinary medicine in this state. Each partner of a foreign limited liability partnership which provides professional engineering, land surveying, architectural and/or landscape architectural services in this state must be licensed pursuant to article 145, article 147 and/or article 148 of the education law to practice one or more of such professions. Each partner of a foreign limited liability partnership which provides licensed clinical social work services in this state must be licensed pursuant to article 154 of the education law to practice licensed clinical social work in this state. Each partner of a foreign limited liability partnership which provides creative arts therapy services in this state must be licensed pursuant to article 163 of the education law to practice creative arts therapy in this state. Each partner of a foreign limited liability partnership which provides marriage and family therapy services in this state must be licensed pursuant to article 163 of the education law to practice marriage and family therapy in this state. Each partner of a foreign limited liability partnership which provides mental health counseling services in this state must be licensed pursuant to article 163 of the education law to practice mental health counseling in this state. Each partner of a foreign limited liability partnership which provides psychoanalysis services in this state must be licensed pursuant to article 163 of the education law to practice psychoanalysis in this state.

S 8. This act shall take effect immediately.