

2932--A

2011-2012 Regular Sessions

I N S E N A T E

February 3, 2011

Introduced by Sen. JOHNSON -- read twice and ordered printed, and when printed to be committed to the Committee on Corporations, Authorities and Commissions -- recommitted to the Committee on Corporations, Authorities and Commissions in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 amended by chapter 550 of the laws of 2011, is amended to read
3 as 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 or a design professional service corporation
13 for pecuniary profit under this article for the purpose of rendering
14 such professional services as such individuals are authorized to prac-
15 tice, AND, FURTHER, PROVIDED THAT ONE OR MORE INDIVIDUALS DULY LICENSED
16 BY LAW TO PRACTICE MEDICINE AND WHO ARE CERTIFIED BY THE AMERICAN BOARD
17 OF OPHTHALMOLOGY, AND INDIVIDUALS LICENSED BY LAW TO PRACTICE OPTOMETRY
18 AND/OR OPHTHALMIC DISPENSING WITHIN THE STATE MAY ORGANIZE, OR CAUSE TO
19 BE ORGANIZED, A PROFESSIONAL SERVICE CORPORATION FOR PECUNIARY PROFIT

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

LBD01173-02-2

1 UNDER THIS ARTICLE FOR THE PURPOSE OF RENDERING PROFESSIONAL SERVICES AS
2 SUCH INDIVIDUALS ARE AUTHORIZED TO PRACTICE.

3 S 2. Section 1529 of the business corporation law, as amended by chap-
4 ter 576 of the laws of 1994, is amended to read as follows:

5 S 1529. Business corporation law applicable.

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

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

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

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

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

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

1 provision of this section, a professional service limited liability
2 company (i) authorized to practice law may only engage in another
3 profession or business or activities or (ii) which is engaged in a
4 profession or other business or activities other than law may only
5 engage in the practice of law, to the extent not prohibited by any other
6 law of this state or any rule adopted by the appropriate appellate divi-
7 sion of the supreme court or the court of appeals.

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

11 (b) With respect to a professional service limited liability company
12 formed to provide medical services as such services are defined in arti-
13 cle 131 of the education law, each member of such limited liability
14 company must be licensed pursuant to article 131 of the education law to
15 practice medicine in this state; PROVIDED, HOWEVER, THAT WITH RESPECT TO
16 A PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY FORMED TO PROVIDE
17 SERVICES DEFINED IN ARTICLE 131 OF THE EDUCATION LAW WITH SERVICES
18 DEFINED IN ARTICLE 143 AND/OR ARTICLE 144 OF THE EDUCATION LAW, EACH
19 MEMBER OF SUCH LIMITED LIABILITY COMPANY MUST BE LICENSED PURSUANT TO
20 ARTICLE 131 AND CERTIFIED BY THE AMERICAN BOARD OF OPHTHALMOLOGY, AND/OR
21 LICENSED PURSUANT TO ARTICLE 143 AND/OR ARTICLE 144 OF THE EDUCATION LAW
22 TO PRACTICE ONE OR MORE OF SUCH PROFESSIONS IN THIS STATE. With respect
23 to a professional service limited liability company formed to provide
24 dental services as such services are defined in article 133 of the
25 education law, each member of such limited liability company must be
26 licensed pursuant to article 133 of the education law to practice
27 dentistry in this state. With respect to a professional service limited
28 liability company formed to provide veterinary services as such services
29 are defined in article 135 of the education law, each member of such
30 limited liability company must be licensed pursuant to article 135 of
31 the education law to practice veterinary medicine in this state. With
32 respect to a professional service limited liability company formed to
33 provide professional engineering, land surveying, architectural and/or
34 landscape architectural services as such services are defined in article
35 145, article 147 and article 148 of the education law, each member of
36 such limited liability company must be licensed pursuant to article 145,
37 article 147 and/or article 148 of the education law to practice one or
38 more of such professions in this state. With respect to a professional
39 service limited liability company formed to provide licensed clinical
40 social work services as such services are defined in article 154 of the
41 education law, each member of such limited liability company shall be
42 licensed pursuant to article 154 of the education law to practice
43 licensed clinical social work in this state. With respect to a profes-
44 sional service limited liability company formed to provide creative arts
45 therapy services as such services are defined in article 163 of the
46 education law, each member of such limited liability company must be
47 licensed pursuant to article 163 of the education law to practice crea-
48 tive arts therapy in this state. With respect to a professional service
49 limited liability company formed to provide marriage and family therapy
50 services as such services are defined in article 163 of the education
51 law, each member of such limited liability company must be licensed
52 pursuant to article 163 of the education law to practice marriage and
53 family therapy in this state. With respect to a professional service
54 limited liability company formed to provide mental health counseling
55 services as such services are defined in article 163 of the education
56 law, each member of such limited liability company must be licensed

1 pursuant to article 163 of the education law to practice mental health
2 counseling in this state. With respect to a professional service limited
3 liability company formed to provide psychoanalysis services as such
4 services are defined in article 163 of the education law, each member of
5 such limited liability company must be licensed pursuant to article 163
6 of the education law to practice psychoanalysis in this state.

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

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

1 services as such services are defined in article 145, article 147 and
2 article 148 of the education law, each member of such foreign profes-
3 sional service limited liability company must be licensed pursuant to
4 article 145, article 147 and/or article 148 of the education law to
5 practice one or more of such professions in this state. With respect to
6 a foreign professional service limited liability company which provides
7 licensed clinical social work services as such services are defined in
8 article 154 of the education law, each member of such foreign profes-
9 sional service limited liability company shall be licensed pursuant to
10 article 154 of the education law to practice clinical social work in
11 this state. With respect to a foreign professional service limited
12 liability company which provides creative arts therapy services as such
13 services are defined in article 163 of the education law, each member of
14 such foreign professional service limited liability company must be
15 licensed pursuant to article 163 of the education law to practice crea-
16 tive arts therapy in this state. With respect to a foreign professional
17 service limited liability company which provides marriage and family
18 therapy services as such services are defined in article 163 of the
19 education law, each member of such foreign professional service limited
20 liability company must be licensed pursuant to article 163 of the educa-
21 tion law to practice marriage and family therapy in this state. With
22 respect to a foreign professional service limited liability company
23 which provides mental health counseling services as such services are
24 defined in article 163 of the education law, each member of such foreign
25 professional service limited liability company must be licensed pursuant
26 to article 163 of the education law to practice mental health counseling
27 in this state. With respect to a foreign professional service limited
28 liability company which provides psychoanalysis services as such
29 services are defined in article 163 of the education law, each member of
30 such foreign professional service limited liability company must be
31 licensed pursuant to article 163 of the education law to practice
32 psychoanalysis in this state.

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

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

1 such professions in this state. Each partner of a registered limited
2 liability partnership formed to provide licensed clinical social work
3 services in this state must be licensed pursuant to article 154 of the
4 education law to practice clinical social work in this state. Each part-
5 ner of a registered limited liability partnership formed to provide
6 creative arts therapy services in this state must be licensed pursuant
7 to article 163 of the education law to practice creative arts therapy in
8 this state. Each partner of a registered limited liability partnership
9 formed to provide marriage and family therapy services in this state
10 must be licensed pursuant to article 163 of the education law to prac-
11 tice marriage and family therapy in this state. Each partner of a regis-
12 tered limited liability partnership formed to provide mental health
13 counseling services in this state must be licensed pursuant to article
14 163 of the education law to practice mental health counseling in this
15 state. Each partner of a registered limited liability partnership formed
16 to provide psychoanalysis services in this state must be licensed pursu-
17 ant to article 163 of the education law to practice psychoanalysis in
18 this state.

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

22 (q) Each partner of a foreign limited liability partnership which
23 provides medical services in this state must be licensed pursuant to
24 article 131 of the education law to practice medicine in the state and
25 each partner of a foreign limited liability partnership which provides
26 dental services in the state must be licensed pursuant to article 133 of
27 the education law to practice dentistry in this state; PROVIDED, HOWEV-
28 ER, THAT WITH RESPECT TO A FOREIGN LIMITED LIABILITY PARTNERSHIP FORMED
29 TO PROVIDE SERVICES DEFINED IN ARTICLE 131 OF THE EDUCATION LAW WITH
30 SERVICES DEFINED IN ARTICLE 143 AND/OR ARTICLE 144 OF THE EDUCATION LAW,
31 EACH MEMBER OF SUCH FOREIGN LIMITED LIABILITY PARTNERSHIP MUST BE
32 LICENSED PURSUANT TO ARTICLE 131 AND CERTIFIED BY THE AMERICAN BOARD OF
33 OPHTHALMOLOGY, AND/OR LICENSED PURSUANT TO ARTICLE 143 AND/OR ARTICLE
34 144 OF THE EDUCATION LAW TO PRACTICE ONE OR MORE OF SUCH PROFESSIONS IN
35 THIS STATE. Each partner of a foreign limited liability partnership
36 which provides veterinary service in the state shall be licensed pursu-
37 ant to article 135 of the education law to practice veterinary medicine
38 in this state. Each partner of a foreign limited liability partnership
39 which provides professional engineering, land surveying, architectural
40 and/or landscape architectural services in this state must be licensed
41 pursuant to article 145, article 147 and/or article 148 of the education
42 law to practice one or more of such professions. Each partner of a
43 foreign limited liability partnership which provides licensed clinical
44 social work services in this state must be licensed pursuant to article
45 154 of the education law to practice licensed clinical social work in
46 this state. Each partner of a foreign limited liability partnership
47 which provides creative arts therapy services in this state must be
48 licensed pursuant to article 163 of the education law to practice crea-
49 tive arts therapy in this state. Each partner of a foreign limited
50 liability partnership which provides marriage and family therapy
51 services in this state must be licensed pursuant to article 163 of the
52 education law to practice marriage and family therapy in this state.
53 Each partner of a foreign limited liability partnership which provides
54 mental health counseling services in this state must be licensed pursu-
55 ant to article 163 of the education law to practice mental health coun-
56 seling in this state. Each partner of a foreign limited liability part-

1 nership which provides psychoanalysis services in this state must be
2 licensed pursuant to article 163 of the education law to practice
3 psychoanalysis in this state.
4 S 8. This act shall take effect immediately.