

3756

2013-2014 Regular Sessions

I N S E N A T E

February 13, 2013

Introduced by Sen. RANZENHOFER -- 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 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
20 UNDER THIS ARTICLE FOR THE PURPOSE OF RENDERING PROFESSIONAL SERVICES AS
21 SUCH INDIVIDUALS ARE AUTHORIZED TO 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-

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

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

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

56 S 8. This act shall take effect immediately.