

3756--A

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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the limited liability company law, the business corporation law, the partnership law, the public health law and the education law, in relation to authorizing ophthalmologists and ophthalmic dispensing practices to form limited liability companies

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

1 Section 1. Subdivision (a) of section 1203 of the limited liability
2 company law, as separately amended by chapters 420 and 676 of the laws
3 of 2002, is amended to read as follows:
4 (a) Notwithstanding the education law or any other provision of law,
5 one or more professionals each of whom is authorized by law to render a
6 professional service within the state, or one or more professionals, at
7 least one of whom is authorized by law to render a professional service
8 within the state, may form, or cause to be formed, a professional
9 service limited liability company for pecuniary profit under this arti-
10 cle for the purpose of rendering the professional service or services as
11 such professionals are authorized to practice. With respect to a profes-
12 sional service limited liability company formed to provide medical
13 services as such services are defined in article 131 of the education
14 law, each member of such limited liability company must be licensed
15 pursuant to article 131 of the education law to practice medicine in
16 this state. With respect to a professional service limited liability
17 company formed to provide dental services as such services are defined
18 in article 133 of the education law, each member of such limited liabil-
19 ity company must be licensed pursuant to article 133 of the education
20 law to practice dentistry in this state. With respect to a professional
21 service limited liability company formed to provide veterinary services

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

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1 as such services are defined in article 135 of the education law, each
2 member of such limited liability company must be licensed pursuant to
3 article 135 of the education law to practice veterinary medicine in this
4 state. With respect to a professional service limited liability company
5 formed to provide professional engineering, land surveying, architec-
6 tural and/or landscape architectural services as such services are
7 defined in article 145, article 147 and article 148 of the education
8 law, each member of such limited liability company must be licensed
9 pursuant to article 145, article 147 and/or article 148 of the education
10 law to practice one or more of such professions in this state. With
11 respect to a professional service limited liability company formed to
12 provide licensed clinical social work services as such services are
13 defined in article 154 of the education law, each member of such limited
14 liability company shall be licensed pursuant to article 154 of the
15 education law to practice licensed clinical social work in this state.
16 With respect to a professional service limited liability company formed
17 to provide creative arts therapy services as such services are defined
18 in article 163 of the education law, each member of such limited liabil-
19 ity company must be licensed pursuant to article 163 of the education
20 law to practice creative arts therapy in this state. With respect to a
21 professional service limited liability company formed to provide
22 marriage and family therapy services as such services are defined in
23 article 163 of the education law, each member of such limited liability
24 company must be licensed pursuant to article 163 of the education law to
25 practice marriage and family therapy in this state. With respect to a
26 professional service limited liability company formed to provide mental
27 health counseling services as such services are defined in article 163
28 of the education law, each member of such limited liability company must
29 be licensed pursuant to article 163 of the education law to practice
30 mental health counseling in this state. With respect to a professional
31 service limited liability company formed to provide psychoanalysis
32 services as such services are defined in article 163 of the education
33 law, each member of such limited liability company must be licensed
34 pursuant to article 163 of the education law to practice psychoanalysis
35 in this state. In addition to engaging in such profession or
36 professions, a professional service limited liability company may engage
37 in any other business or activities as to which a limited liability
38 company may be formed under section two hundred one of this chapter.
39 Notwithstanding any other provision of this section, a professional
40 service limited liability company (i) authorized to practice law may
41 only engage in another profession or business or activities or (ii)
42 which is engaged in a profession or other business or activities other
43 than law may only engage in the practice of law, to the extent not
44 prohibited by any other law of this state or any rule adopted by the
45 appropriate appellate division of the supreme court or the court of
46 appeals. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, WITH
47 RESPECT TO A LIMITED LIABILITY COMPANY FORMED TO PROVIDE INTEGRATED,
48 MULTIDISCIPLINARY MEDICAL SERVICES DEFINED IN ARTICLE 131 OF THE EDUCA-
49 TION LAW WITH OPTOMETRY AND/OR OPHTHALMIC DISPENSING SERVICES DEFINED IN
50 ARTICLE 143 AND/OR ARTICLE 144 OF THE EDUCATION LAW, (I) EACH MEMBER OF
51 SUCH LIMITED LIABILITY COMPANY MUST BE LICENSED PURSUANT TO ARTICLE 131
52 AND CERTIFIED BY THE AMERICAN BOARD OF OPHTHALMOLOGY, AND/OR LICENSED
53 PURSUANT TO ARTICLE 143 AND/OR ARTICLE 144 OF THE EDUCATION LAW TO PRAC-
54 TICE ONE OR MORE OF SUCH PROFESSIONS IN THIS STATE, (II) EACH MEMBER
55 SHALL ONLY PRACTICE HIS OR HER PROFESSION AS SPECIFIED IN HIS OR HER
56 RESPECTIVE PROFESSIONAL ENABLING STATUTE UNDER ARTICLE 131 OF THE EDUCA-

1 TION LAW, AND (III) THE CLINICAL INTEGRATION OF PROFESSIONAL PRACTICES
2 WITHIN AN INTEGRATED, MULTIDISCIPLINARY ENTITY ORGANIZED UNDER THIS
3 SECTION DOES NOT ALTER, EXPAND OR CURTAIL THE SCOPE OF PRACTICE OF ANY
4 OF THE INDIVIDUALS LICENSED UNDER THE STATUTE OF HIS OR HER RESPECTIVE
5 PROFESSIONAL ENABLING LAW, PROVIDED THAT: (A) THE CLINICAL JUDGMENT,
6 MANAGEMENT AND CLINICAL DECISION-MAKING OF ONE OR MORE ARTICLE 131
7 PROVIDERS IN AN INTEGRATED, MULTIDISCIPLINARY PROFESSIONAL SERVICE
8 LIMITED LIABILITY COMPANY SHALL BE CONTROLLING, (B) MEMBERS LICENSED
9 UNDER ARTICLE 143 AND/OR ARTICLE 144 OF THE EDUCATION LAW, SHALL NOT,
10 DIRECTLY OR INDIRECTLY, INTERFERE WITH THE CLINICAL JUDGMENT OR LEGITI-
11 MATE CLINICAL PRACTICE OF A PROFESSIONAL LICENSED UNDER ARTICLE 131, AND
12 (C) INDIVIDUALS LICENSED UNDER ARTICLE 131 MAY NOT ORDER OR DIRECT A
13 PROFESSIONAL LICENSED UNDER ARTICLE 143 AND/OR ARTICLE 144 OF THE EDUCA-
14 TION LAW TO PRACTICE BEYOND THE SCOPE OF HIS OR HER LICENSE UNDER ARTI-
15 CLE 143 AND/OR ARTICLE 144 OF THE EDUCATION LAW, EVEN IF SUPERVISED
16 DIRECTLY OR INDIRECTLY BY A PROFESSIONAL LICENSED UNDER ARTICLE 131.

17 S 2. Subdivision (b) of section 1207 of the limited liability company
18 law, as separately amended by chapters 420 and 676 of the laws of 2002,
19 is amended to read as follows:

20 (b) With respect to a professional service limited liability company
21 formed to provide medical services as such services are defined in arti-
22 cle 131 of the education law, each member of such limited liability
23 company must be licensed pursuant to article 131 of the education law to
24 practice medicine in this state. With respect to a professional service
25 limited liability company formed to provide dental services as such
26 services are defined in article 133 of the education law, each member of
27 such limited liability company must be licensed pursuant to article 133
28 of the education law to practice dentistry in this state. With respect
29 to a professional service limited liability company formed to provide
30 veterinary services as such services are defined in article 135 of the
31 education law, each member of such limited liability company must be
32 licensed pursuant to article 135 of the education law to practice veter-
33 inary medicine in this state. With respect to a professional service
34 limited liability company formed to provide professional engineering,
35 land surveying, architectural and/or landscape architectural services as
36 such services are defined in article 145, article 147 and article 148 of
37 the education law, each member of such limited liability company must be
38 licensed pursuant to article 145, article 147 and/or article 148 of the
39 education law to practice one or more of such professions in this state.
40 With respect to a professional service limited liability company formed
41 to provide licensed clinical social work services as such services are
42 defined in article 154 of the education law, each member of such limited
43 liability company shall be licensed pursuant to article 154 of the
44 education law to practice licensed clinical social work in this state.
45 With respect to a professional service limited liability company formed
46 to provide creative arts therapy services as such services are defined
47 in article 163 of the education law, each member of such limited liabil-
48 ity company must be licensed pursuant to article 163 of the education
49 law to practice creative arts therapy in this state. With respect to a
50 professional service limited liability company formed to provide
51 marriage and family therapy services as such services are defined in
52 article 163 of the education law, each member of such limited liability
53 company must be licensed pursuant to article 163 of the education law to
54 practice marriage and family therapy in this state. With respect to a
55 professional service limited liability company formed to provide mental
56 health counseling services as such services are defined in article 163

1 of the education law, each member of such limited liability company must
2 be licensed pursuant to article 163 of the education law to practice
3 mental health counseling in this state. With respect to a professional
4 service limited liability company formed to provide psychoanalysis
5 services as such services are defined in article 163 of the education
6 law, each member of such limited liability company must be licensed
7 pursuant to article 163 of the education law to practice psychoanalysis
8 in this state. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION,
9 WITH RESPECT TO A PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY FORMED
10 TO PROVIDE INTEGRATED MULTIDISCIPLINARY MEDICAL SERVICES DEFINED IN
11 ARTICLE 131 OF THE EDUCATION LAW WITH OPTOMETRY AND/OR OPHTHALMIC
12 DISPENSING SERVICES DEFINED IN ARTICLE 143 AND/OR ARTICLE 144 OF THE
13 EDUCATION LAW, (I) EACH MEMBER OF SUCH LIMITED LIABILITY COMPANY MUST BE
14 LICENSED PURSUANT TO ARTICLE 131 AND CERTIFIED BY THE AMERICAN BOARD OF
15 OPHTHALMOLOGY, AND/OR LICENSED PURSUANT TO ARTICLE 143 AND/OR ARTICLE
16 144 OF THE EDUCATION LAW TO PRACTICE ONE OR MORE OF SUCH PROFESSIONS IN
17 THIS STATE, (II) EACH MEMBER SHALL ONLY PRACTICE HIS OR HER PROFESSION
18 AS SPECIFIED IN HIS OR HER RESPECTIVE PROFESSIONAL ENABLING STATUTE
19 UNDER ARTICLE 131, ARTICLE 143, OR ARTICLE 144 OF THE EDUCATION LAW, AND
20 (III) THE CLINICAL INTEGRATION OF PROFESSIONAL PRACTICES WITHIN AN INTE-
21 GRATED, MULTIDISCIPLINARY ENTITY ORGANIZED UNDER THIS SECTION DOES NOT
22 ALTER, EXPAND OR CURTAIL THE SCOPE OF PRACTICE OF ANY OF THE INDIVIDUALS
23 LICENSED UNDER THE STATUTE OF HIS OR HER RESPECTIVE PROFESSIONAL ENABL-
24 ING LAW, PROVIDED THAT: (A) THE CLINICAL JUDGMENT, MANAGEMENT AND CLIN-
25 ICAL DECISION-MAKING OF ONE OR MORE ARTICLE 131 PROVIDERS IN AN INTE-
26 GRATED, MULTIDISCIPLINARY PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY
27 SHALL BE CONTROLLING, (B) MEMBERS LICENSED UNDER ARTICLE 143 AND/OR
28 ARTICLE 144 OF THE EDUCATION LAW, SHALL NOT, DIRECTLY OR INDIRECTLY,
29 INTERFERE WITH THE CLINICAL JUDGMENT OR LEGITIMATE CLINICAL PRACTICE OF
30 A PROFESSIONAL LICENSED UNDER ARTICLE 131, AND (C) INDIVIDUALS LICENSED
31 UNDER ARTICLE 131 MAY NOT ORDER OR DIRECT A PROFESSIONAL LICENSED UNDER
32 ARTICLE 143 AND/OR ARTICLE 144 OF THE EDUCATION LAW TO PRACTICE BEYOND
33 THE SCOPE OF HIS OR HER LICENSE UNDER ARTICLE 143 AND/OR ARTICLE 144 OF
34 THE EDUCATION LAW, EVEN IF SUPERVISED DIRECTLY OR INDIRECTLY BY A
35 PROFESSIONAL LICENSED UNDER ARTICLE 131.

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

39 (a) "Foreign professional service limited liability company" means a
40 professional service limited liability company, whether or not denomi-
41 nated as such, organized under the laws of a jurisdiction other than
42 this state, (i) each of whose members and managers, if any, is a profes-
43 sional authorized by law to render a professional service within this
44 state and who is or has been engaged in the practice of such profession
45 in such professional service limited liability company or a predecessor
46 entity, or will engage in the practice of such profession in the profes-
47 sional service limited liability company within thirty days of the date
48 such professional becomes a member, or each of whose members and manag-
49 ers, if any, is a professional at least one of such members is author-
50 ized by law to render a professional service within this state and who
51 is or has been engaged in the practice of such profession in such
52 professional service limited liability company or a predecessor entity,
53 or will engage in the practice of such profession in the professional
54 service limited liability company within thirty days of the date such
55 professional becomes a member, or (ii) authorized by, or holding a
56 license, certificate, registration or permit issued by the licensing

1 authority pursuant to, the education law to render a professional
2 service within this state; except that all members and managers, if any,
3 of a foreign professional service limited liability company that
4 provides health services in this state shall be licensed in this state.
5 With respect to a foreign professional service limited liability company
6 which provides veterinary services as such services are defined in arti-
7 cle 135 of the education law, each member of such foreign professional
8 service limited liability company shall be licensed pursuant to article
9 135 of the education law to practice veterinary medicine. With respect
10 to a foreign professional service limited liability company which
11 provides medical services as such services are defined in article 131 of
12 the education law, each member of such foreign professional service
13 limited liability company must be licensed pursuant to article 131 of
14 the education law to practice medicine in this state. With respect to a
15 foreign professional service limited liability company which provides
16 dental services as such services are defined in article 133 of the
17 education law, each member of such foreign professional service limited
18 liability company must be licensed pursuant to article 133 of the educa-
19 tion law to practice dentistry in this state. With respect to a foreign
20 professional service limited liability company which provides profes-
21 sional engineering, land surveying, architectural and/or landscape
22 architectural services as such services are defined in article 145,
23 article 147 and article 148 of the education law, each member of such
24 foreign professional service limited liability company must be licensed
25 pursuant to article 145, article 147 and/or article 148 of the education
26 law to practice one or more of such professions in this state. With
27 respect to a foreign professional service limited liability company
28 which provides licensed clinical social work services as such services
29 are defined in article 154 of the education law, each member of such
30 foreign professional service limited liability company shall be licensed
31 pursuant to article 154 of the education law to practice clinical social
32 work in this state. With respect to a foreign professional service
33 limited liability company which provides creative arts therapy services
34 as such services are defined in article 163 of the education law, each
35 member of such foreign professional service limited liability company
36 must be licensed pursuant to article 163 of the education law to prac-
37 tice creative arts therapy in this state. With respect to a foreign
38 professional service limited liability company which provides marriage
39 and family therapy services as such services are defined in article 163
40 of the education law, each member of such foreign professional service
41 limited liability company must be licensed pursuant to article 163 of
42 the education law to practice marriage and family therapy in this state.
43 With respect to a foreign professional service limited liability company
44 which provides mental health counseling services as such services are
45 defined in article 163 of the education law, each member of such foreign
46 professional service limited liability company must be licensed pursuant
47 to article 163 of the education law to practice mental health counseling
48 in this state. With respect to a foreign professional service limited
49 liability company which provides psychoanalysis services as such
50 services are defined in article 163 of the education law, each member of
51 such foreign professional service limited liability company must be
52 licensed pursuant to article 163 of the education law to practice
53 psychoanalysis in this state. WITH RESPECT TO A FOREIGN PROFESSIONAL
54 SERVICE LIMITED LIABILITY COMPANY FORMED TO PROVIDE INTEGRATED MULTIDIS-
55 CIPLINARY MEDICAL SERVICES DEFINED IN ARTICLE 131 OF THE EDUCATION LAW
56 WITH OPTOMETRY AND/OR OPHTHALMIC DISPENSING SERVICES DEFINED IN ARTICLE

1 143 AND/OR ARTICLE 144 OF THE EDUCATION LAW, (I) EACH MEMBER OF SUCH
2 LIMITED LIABILITY COMPANY MUST BE LICENSED PURSUANT TO ARTICLE 131 AND
3 CERTIFIED BY THE AMERICAN BOARD OF OPHTHALMOLOGY, AND/OR LICENSED PURSU-
4 ANT TO ARTICLE 143 AND/OR ARTICLE 144 OF THE EDUCATION LAW TO PRACTICE
5 ONE OR MORE OF SUCH PROFESSIONS IN THIS STATE, (II) EACH MEMBER SHALL
6 ONLY PRACTICE HIS OR HER PROFESSION AS SPECIFIED IN HIS OR HER RESPEC-
7 TIVE PROFESSIONAL ENABLING STATUTE UNDER ARTICLE 131, ARTICLE 143, OR
8 ARTICLE 144 OF THE EDUCATION LAW, AND (III) THE CLINICAL INTEGRATION OF
9 PROFESSIONAL PRACTICES WITHIN AN INTEGRATED, MULTIDISCIPLINARY ENTITY
10 ORGANIZED UNDER THIS SECTION DOES NOT ALTER, EXPAND OR CURTAIL THE SCOPE
11 OF PRACTICE OF ANY OF THE INDIVIDUALS LICENSED UNDER THE STATUTE OF HIS
12 OR HER RESPECTIVE PROFESSIONAL ENABLING LAW, PROVIDED THAT: (A) THE
13 CLINICAL JUDGMENT, MANAGEMENT AND CLINICAL DECISION-MAKING OF ONE OR
14 MORE ARTICLE 131 PROVIDERS IN AN INTEGRATED, MULTIDISCIPLINARY PROFES-
15 SIONAL SERVICE LIMITED LIABILITY COMPANY SHALL BE CONTROLLING, (B)
16 MEMBERS LICENSED UNDER ARTICLE 143 AND/OR ARTICLE 144 OF THE EDUCATION
17 LAW, SHALL NOT, DIRECTLY OR INDIRECTLY, INTERFERE WITH THE CLINICAL
18 JUDGMENT OR LEGITIMATE CLINICAL PRACTICE OF A PROFESSIONAL LICENSED
19 UNDER ARTICLE 131, AND (C) INDIVIDUALS LICENSED UNDER ARTICLE 131 MAY
20 NOT ORDER OR DIRECT A PROFESSIONAL LICENSED UNDER ARTICLE 143 AND/OR
21 ARTICLE 144 OF THE EDUCATION LAW TO PRACTICE BEYOND THE SCOPE OF HIS OR
22 HER LICENSE UNDER ARTICLE 143 AND/OR ARTICLE 144 OF THE EDUCATION LAW,
23 EVEN IF SUPERVISED DIRECTLY OR INDIRECTLY BY A PROFESSIONAL LICENSED
24 UNDER ARTICLE 131.

25 S 4. Paragraph (a) of section 1503 of the business corporation law, as
26 amended by chapter 550 of the laws of 2011, is amended to read as
27 follows:

28 (a) Notwithstanding any other provision of law, (I) one or more indi-
29 viduals duly authorized by law to render the same professional service
30 within the state may organize, or cause to be organized, a professional
31 service corporation for pecuniary profit under this article for the
32 purpose of rendering the same professional service, except that one or
33 more individuals duly authorized by law to practice professional engi-
34 neering, architecture, landscape architecture or land surveying within
35 the state may organize, or cause to be organized, a professional service
36 corporation or a design professional service corporation for pecuniary
37 profit under this article for the purpose of rendering such professional
38 services as such individuals are authorized to practice, AND, (II) ONE
39 OR MORE INDIVIDUALS DULY LICENSED TO PRACTICE MEDICINE AND WHO ARE
40 CERTIFIED BY THE AMERICAN BOARD OF OPHTHALMOLOGY, AND ONE OR MORE OPTO-
41 METRIST AND/OR OPHTHALMIC DISPENSER LICENSED UNDER ARTICLE 143 AND/OR
42 ARTICLE 144 OF THE EDUCATION LAW, WHO MAY BE BOARD CERTIFIED OR QUALI-
43 FIED BY HIS OR HER RESPECTIVE PROFESSIONAL SPECIALTY BOARDS, MAY ORGAN-
44 IZE, OR CAUSE TO BE ORGANIZED, FOR BUSINESS PURPOSES ONLY, A MULTIDISCI-
45 PLINARY PROFESSIONAL SERVICE CORPORATION FORMED FOR PECUNIARY PROFIT
46 UNDER THIS ARTICLE FOR THE PURPOSE OF RENDERING INTEGRATED AND NON-INTE-
47 GRATED PROFESSIONAL SERVICES WITHIN SUCH A CORPORATION AS SUCH INDIVID-
48 UALS ARE AUTHORIZED TO PRACTICE INDIVIDUALLY IN HIS OR HER RESPECTIVE
49 PROFESSIONS, PROVIDED THAT THE CLINICAL INTEGRATION OF PROFESSIONAL
50 PRACTICES WITHIN AN ENTITY ORGANIZED UNDER THIS SECTION DOES NOT ALTER,
51 EXPAND OR CURTAIL THE SCOPE OF PRACTICE OF ANY OF THE INDIVIDUALS
52 LICENSED UNDER THE STATUTE OF HIS OR HER RESPECTIVE PROFESSIONAL ENABL-
53 ING LAW; THAT THE CLINICAL JUDGMENT, MANAGEMENT AND CLINICAL
54 DECISION-MAKING OF ONE OR MORE ARTICLE 131 PROVIDERS IN AN INTEGRATED,
55 MULTIDISCIPLINARY PRACTICE SHALL BE CONTROLLING; THAT MEMBERS LICENSED
56 UNDER ARTICLE 143 AND/OR ARTICLE 144 OF THE EDUCATION LAW, SHALL NOT,

DIRECTLY OR INDIRECTLY, INTERFERE WITH THE CLINICAL JUDGMENT OR LEGITIMATE CLINICAL PRACTICE OF A PROFESSIONAL LICENSED UNDER ARTICLE 131; AND THAT INDIVIDUALS LICENSED UNDER ARTICLE 131 MAY NOT ORDER OR DIRECT A PROFESSIONAL LICENSED UNDER ARTICLE 143 AND/OR ARTICLE 144 OF THE EDUCATION LAW TO PRACTICE BEYOND THE SCOPE OF HIS OR HER LICENSE UNDER ARTICLE 143 AND/OR ARTICLE 144 OF THE EDUCATION LAW IN A PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY, EVEN IF SUPERVISED DIRECTLY OR INDIRECTLY BY A PROFESSIONAL LICENSED UNDER ARTICLE 131.

S 5. Subdivision (q) of section 121-1500 of the partnership law, as separately amended by chapters 420 and 676 of the laws of 2002, is amended to read as follows:

(q) Each partner of a registered limited liability partnership formed to provide medical services in this state must be licensed pursuant to article 131 of the education law to practice medicine in this state and each partner of a registered limited liability partnership formed to provide dental services in this state must be licensed pursuant to article 133 of the education law to practice dentistry in this state. Each partner of a registered limited liability partnership formed to provide veterinary services in this state must be licensed pursuant to article 135 of the education law to practice veterinary medicine in this state. Each partner of a registered limited liability partnership formed to provide 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 in this state. Each partner of a registered limited liability partnership formed to provide licensed clinical social work services in this state must be licensed pursuant to article 154 of the education law to practice clinical social work in this state. Each partner 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. EACH PARTNER OF A REGISTERED LIMITED LIABILITY PARTNERSHIP FORMED TO PROVIDE INTEGRATED, MULTIDISCIPLINARY MEDICAL SERVICES DEFINED IN ARTICLE 131 OF THE EDUCATION LAW WITH OPTOMETRY AND/OR OPHTHALMIC DISPENSING SERVICES DEFINED IN ARTICLE 143 AND/OR ARTICLE 144 OF THE EDUCATION LAW, (I) 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, (II) SHALL ONLY PRACTICE HIS OR HER PROFESSION AS SPECIFIED IN HIS OR HER RESPECTIVE PROFESSIONAL ENABLING STATUTE UNDER ARTICLE 131, ARTICLE 143, OR ARTICLE 144 OF THE EDUCATION LAW, AND (III) THE CLINICAL INTEGRATION OF PROFESSIONAL PRACTICES WITHIN AN INTEGRATED, MULTI-DISCIPLINARY ENTITY ORGANIZED UNDER THIS SECTION DOES NOT ALTER, EXPAND OR CURTAIL THE SCOPE OF PRACTICE OF ANY OF THE INDIVIDUALS LICENSED UNDER THE STATUTE OF HIS OR HER RESPECTIVE

1 PROFESSIONAL ENABLING LAW, PROVIDED THAT: (A) THE CLINICAL JUDGMENT,
2 MANAGEMENT AND CLINICAL DECISION-MAKING OF ONE OR MORE ARTICLE 131
3 PROVIDERS IN AN INTEGRATED, MULTIDISCIPLINARY PROFESSIONAL SERVICE
4 LIMITED LIABILITY COMPANY SHALL BE CONTROLLING, (B) MEMBERS LICENSED
5 UNDER ARTICLE 143 AND/OR ARTICLE 144 OF THE EDUCATION LAW, SHALL NOT,
6 DIRECTLY OR INDIRECTLY, INTERFERE WITH THE CLINICAL JUDGMENT OR LEGITI-
7 MATE CLINICAL PRACTICE OF A PROFESSIONAL LICENSED UNDER ARTICLE 131, AND
8 (C) INDIVIDUALS LICENSED UNDER ARTICLE 131 MAY NOT ORDER OR DIRECT A
9 PROFESSIONAL LICENSED UNDER ARTICLE 143 AND/OR ARTICLE 144 OF THE EDUCA-
10 TION LAW TO PRACTICE BEYOND THE SCOPE OF HIS OR HER LICENSE UNDER ARTI-
11 CLE 143 AND/OR ARTICLE 144 OF THE EDUCATION LAW, EVEN IF SUPERVISED
12 DIRECTLY OR INDIRECTLY BY A PROFESSIONAL LICENSED UNDER ARTICLE 131.

13 S 6. Subdivision (q) of section 121-1502 of the partnership law, as
14 amended by chapter 230 of the laws of 2004, is amended to read as
15 follows:

16 (q) Each partner of a foreign limited liability partnership which
17 provides medical services in this state must be licensed pursuant to
18 article 131 of the education law to practice medicine in the state and
19 each partner of a foreign limited liability partnership which provides
20 dental services in the state must be licensed pursuant to article 133 of
21 the education law to practice dentistry in this state. Each partner of a
22 foreign limited liability partnership which provides veterinary service
23 in the state shall be licensed pursuant to article 135 of the education
24 law to practice veterinary medicine in this state. Each partner of a
25 foreign limited liability partnership which provides professional engi-
26 neering, land surveying, architectural and/or landscape architectural
27 services in this state must be licensed pursuant to article 145, article
28 147 and/or article 148 of the education law to practice one or more of
29 such professions. Each partner of a foreign limited liability partner-
30 ship which provides licensed clinical social work services in this state
31 must be licensed pursuant to article 154 of the education law to prac-
32 tice licensed clinical social work in this state. Each partner of a
33 foreign limited liability partnership which provides creative arts ther-
34 apy services in this state must be licensed pursuant to article 163 of
35 the education law to practice creative arts therapy in this state. Each
36 partner of a foreign limited liability partnership which provides
37 marriage and family therapy services in this state must be licensed
38 pursuant to article 163 of the education law to practice marriage and
39 family therapy in this state. Each partner of a foreign limited liabil-
40 ity partnership which provides mental health counseling services in this
41 state must be licensed pursuant to article 163 of the education law to
42 practice mental health counseling in this state. Each partner of a
43 foreign limited liability partnership which provides psychoanalysis
44 services in this state must be licensed pursuant to article 163 of the
45 education law to practice psychoanalysis in this state. EACH PARTNER OF
46 A FOREIGN LIMITED LIABILITY PARTNERSHIP FORMED TO PROVIDE INTEGRATED,
47 MULTIDISCIPLINARY MEDICAL SERVICES DEFINED IN ARTICLE 131 OF THE EDUCA-
48 TION LAW WITH OPTOMETRY AND/OR OPHTHALMIC DISPENSING SERVICES DEFINED IN
49 ARTICLE 143 AND/OR ARTICLE 144 OF THE EDUCATION LAW, (I) EACH MEMBER OF
50 SUCH LIMITED LIABILITY COMPANY MUST BE LICENSED PURSUANT TO ARTICLE 131
51 AND CERTIFIED BY THE AMERICAN BOARD OF OPHTHALMOLOGY, AND/OR LICENSED
52 PURSUANT TO ARTICLE 143 AND/OR ARTICLE 144 OF THE EDUCATION LAW TO PRAC-
53 TICE ONE OR MORE OF SUCH PROFESSIONS IN THIS STATE, (II) SHALL ONLY
54 PRACTICE HIS OR HER PROFESSION AS SPECIFIED IN HIS OR HER RESPECTIVE
55 PROFESSIONAL ENABLING STATUTE UNDER ARTICLE 131, ARTICLE 143, OR ARTICLE
56 144 OF THE EDUCATION LAW, AND (III) THE CLINICAL INTEGRATION OF PROFES-

SIONAL PRACTICES WITHIN AN INTEGRATED, MULTIDISCIPLINARY ENTITY ORGANIZED UNDER THIS SECTION DOES NOT ALTER, EXPAND OR CURTAIL THE SCOPE OF PRACTICE OF ANY OF THE INDIVIDUALS LICENSED UNDER THE STATUTE OF HIS OR HER RESPECTIVE PROFESSIONAL ENABLING LAW, PROVIDED THAT: (A) THE CLINICAL JUDGMENT, MANAGEMENT AND CLINICAL DECISION-MAKING OF ONE OR MORE ARTICLE 131 PROVIDERS IN AN INTEGRATED, MULTIDISCIPLINARY PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY SHALL BE CONTROLLING, (B) MEMBERS NOT LICENSED UNDER ARTICLE 131 OF THE EDUCATION LAW, SHALL NOT, DIRECTLY OR INDIRECTLY, INTERFERE WITH THE CLINICAL JUDGMENT OR LEGITIMATE CLINICAL PRACTICE OF A PROFESSIONAL LICENSED UNDER ARTICLE 131, AND (C) INDIVIDUALS LICENSED UNDER ARTICLE 131 MAY NOT ORDER OR DIRECT A PROFESSIONAL LICENSED UNDER ARTICLE 143 AND/OR ARTICLE 144 OF THE EDUCATION LAW TO PRACTICE BEYOND THE SCOPE OF HIS OR HER LICENSE UNDER ARTICLE 143 AND/OR ARTICLE 144 OF THE EDUCATION LAW, EVEN IF SUPERVISED DIRECTLY OR INDIRECTLY BY A PROFESSIONAL LICENSED UNDER ARTICLE 131.

S 7. Subdivision 1 of section 2801 of the public health law, as separately amended by chapters 297 and 416 of the laws of 1983, is amended to read as follows:

1. "Hospital" means a facility or institution engaged principally in providing services by or under the supervision of a physician or, in the case of a dental clinic or dental dispensary, of a dentist, for the prevention, diagnosis or treatment of human disease, pain, injury, deformity or physical condition, including, but not limited to, a general hospital, public health center, diagnostic center, treatment center, dental clinic, dental dispensary, rehabilitation center other than a facility used solely for vocational rehabilitation, nursing home, tuberculosis hospital, chronic disease hospital, maternity hospital, lying-in-asylum, out-patient department, out-patient lodge, dispensary and a laboratory or central service facility serving one or more such institutions, but the term hospital shall not include an institution, sanitarium or other facility engaged principally in providing services for the prevention, diagnosis or treatment of mental disability and which is subject to the powers of visitation, examination, inspection and investigation of the department of mental hygiene except for those distinct parts of such a facility which provide hospital service. The provisions of this article shall not apply to a facility or institution engaged principally in providing services by or under the supervision of the bona fide members and adherents of a recognized religious organization whose teachings include reliance on spiritual means through prayer alone for healing in the practice of the religion of such organization and where services are provided in accordance with those teachings OR TO A BUSINESS CORPORATION, LIMITED LIABILITY CORPORATION OR PARTNERSHIP BETWEEN A MEDICAL DOCTOR AND A DULY LICENSED TITLE VIII HEALTHCARE PROFESSIONAL.

S 8. Subdivision 19 of section 6530 of the education law, as added by chapter 606 of the laws of 1991, is amended to read as follows:

19. Permitting any person to share in the fees for professional services, other than: a partner, employee, associate in a professional firm or corporation, professional subcontractor or consultant authorized to practice medicine, or a legally authorized trainee practicing under the supervision of a licensee OR AN OPTOMETRIST AND/OR OPHTHALMIC DISPENSER PROVIDING PROFESSIONAL SERVICES IN THE SAME PRACTICE. This prohibition shall include any arrangement or agreement whereby the amount received in payment for furnishing space, facilities, equipment or personnel services used by a licensee constitutes a percentage of, or is otherwise dependent upon, the income or receipts of the licensee from

1 such practice, except as otherwise provided by law with respect to a
2 facility licensed pursuant to article twenty-eight of the public health
3 law or article thirteen of the mental hygiene law;

4 S 9. Section 6509-a of the education law, as amended by chapter 555 of
5 the laws of 1993, is amended to read as follows:

6 S 6509-a. Additional definition of professional misconduct; limited
7 application. Notwithstanding any inconsistent provision of this article
8 or of any other provision of law to the contrary, the license or regis-
9 tration of a person subject to the provisions of articles one hundred
10 thirty-two, one hundred thirty-three, one hundred thirty-six, one
11 hundred thirty-seven, one hundred thirty-nine, one hundred forty-one,
12 one hundred forty-three, one hundred forty-four, one hundred fifty-six,
13 one hundred fifty-nine and one hundred sixty-four of this chapter may be
14 revoked, suspended or annulled or such person may be subject to any
15 other penalty provided in section sixty-five hundred eleven of this
16 article in accordance with the provisions and procedure of this article
17 for the following:

18 That any person subject to the above enumerated articles, has directly
19 or indirectly requested, received or participated in the division,
20 transference, assignment, rebate, splitting or refunding of a fee for,
21 or has directly requested, received or profited by means of a credit or
22 other valuable consideration as a commission, discount or gratuity in
23 connection with the furnishing of professional care, or service, includ-
24 ing x-ray examination and treatment, or for or in connection with the
25 sale, rental, supplying or furnishing of clinical laboratory services or
26 supplies, x-ray laboratory services or supplies, inhalation therapy
27 service or equipment, ambulance service, hospital or medical supplies,
28 physiotherapy or other therapeutic service or equipment, artificial
29 limbs, teeth or eyes, orthopedic or surgical appliances or supplies,
30 optical appliances, supplies or equipment, devices for aid of hearing,
31 drugs, medication or medical supplies or any other goods, services or
32 supplies prescribed for medical diagnosis, care or treatment under this
33 chapter, except payment, not to exceed thirty-three and one-third per
34 centum of any fee received for x-ray examination, diagnosis or treat-
35 ment, to any hospital furnishing facilities for such examination, diag-
36 nosis or treatment. Nothing contained in this section shall prohibit
37 such persons from practicing as partners, in groups or as a professional
38 corporation or as a university faculty practice corporation nor from
39 pooling fees and moneys received, either by the partnerships, profes-
40 sional corporations, university faculty practice corporations or groups
41 by the individual members thereof, for professional services furnished
42 by any individual professional member, or employee of such partnership,
43 corporation or group, nor shall the professionals constituting the part-
44 nerships, corporations or groups be prohibited from sharing, dividing or
45 apportioning the fees and moneys received by them or by the partnership,
46 corporation or group in accordance with a partnership or other agree-
47 ment; provided that no such practice as partners, corporations or in
48 groups or pooling of fees or moneys received or shared, division or
49 apportionment of fees shall be permitted with respect to care and treat-
50 ment under the workers' compensation law except as expressly authorized
51 by the workers' compensation law. NOTHING CONTAINED IN THIS SECTION,
52 SHALL PROHIBIT AN INTEGRATED, MULTIDISCIPLINARY MEDICAL AND OPTOMETRY
53 AND/OR OPHTHALMIC DISPENSING PRACTICE FORMED PURSUANT TO SUBDIVISION (A)
54 OR (B) OF SECTION TWELVE HUNDRED THREE OF THE LIMITED LIABILITY COMPANY
55 LAW, SUBDIVISION (A) OF SECTION THIRTEEN HUNDRED ONE OF THE LIMITED
56 LIABILITY COMPANY LAW, PARAGRAPH (A) OF SECTION FIFTEEN HUNDRED THREE OF

1 THE BUSINESS CORPORATION LAW, SUBDIVISION (Q) OF SECTION 121-1500 OF THE
2 PARTNERSHIP LAW, OR SUBDIVISION (Q) OF SECTION 121-1502 OF THE PARTNER-
3 SHIP LAW FROM POOLING FEES OR MONIES RECEIVED. Nothing contained in this
4 chapter shall prohibit a medical or dental expense indemnity corporation
5 pursuant to its contract with the subscriber from prorationing a medical
6 or dental expense indemnity allowance among two or more professionals in
7 proportion to the services rendered by each such professional at the
8 request of the subscriber, provided that prior to payment thereof such
9 professionals shall submit both to the medical or dental expense indem-
10 nity corporation and to the subscriber statements itemizing the services
11 rendered by each such professional and the charges therefor.

12 S 10. Section 6531 of the education law, as amended by chapter 555 of
13 the laws of 1993, is amended to read as follows:

14 S 6531. Additional definition of professional misconduct, limited
15 application. Notwithstanding any inconsistent provision of this article
16 or any other provisions of law to the contrary, the license or registra-
17 tion of a person subject to the provisions of this article and article
18 one hundred thirty-one-B of this chapter may be revoked, suspended, or
19 annulled or such person may be subject to any other penalty provided in
20 section two hundred thirty-a of the public health law in accordance with
21 the provisions and procedures of this article for the following:

22 That any person subject to the above-enumerated articles has directly
23 or indirectly requested, received or participated in the division,
24 transference, assignment, rebate, splitting, or refunding of a fee for,
25 or has directly requested, received or profited by means of a credit or
26 other valuable consideration as a commission, discount or gratuity, in
27 connection with the furnishing of professional care or service, includ-
28 ing x-ray examination and treatment, or for or in connection with the
29 sale, rental, supplying, or furnishing of clinical laboratory services
30 or supplies, x-ray laboratory services or supplies, inhalation therapy
31 service or equipment, ambulance service, hospital or medical supplies,
32 physiotherapy or other therapeutic service or equipment, artificial
33 limbs, teeth or eyes, orthopedic or surgical appliances or supplies,
34 optical appliances, supplies, or equipment, devices for aid of hearing,
35 drugs, medication, or medical supplies, or any other goods, services, or
36 supplies prescribed for medical diagnosis, care, or treatment under this
37 chapter, except payment, not to exceed thirty-three and one-third
38 percent of any fee received for x-ray examination, diagnosis, or treat-
39 ment, to any hospital furnishing facilities for such examination, diag-
40 nosis, or treatment. Nothing contained in this section shall prohibit
41 such persons from practicing as partners, in groups or as a professional
42 corporation or as a university faculty practice corporation, nor from
43 pooling fees and moneys received, either by the partnerships, profes-
44 sional corporations, or university faculty practice corporations or
45 groups by the individual members thereof, for professional services
46 furnished by an individual professional member, or employee of such
47 partnership, corporation, or group, nor shall the professionals consti-
48 tuting the partnerships, corporations or groups be prohibited from shar-
49 ing, dividing, or apportioning the fees and moneys received by them or
50 by the partnership, corporation, or group in accordance with a partner-
51 ship or other agreement; provided that no such practice as partners,
52 corporations, or groups, or pooling of fees or moneys received or
53 shared, division or apportionment of fees shall be permitted with
54 respect to and treatment under the workers' compensation law. NOTHING
55 CONTAINED IN THIS SECTION, SHALL PROHIBIT AN INTEGRATED, MULTIDISCIPLI-
56 NARY MEDICAL AND OPTOMETRY AND/OR OPHTHALMIC DISPENSING PRACTICE FORMED

1 PURSUANT TO SUBDIVISION (A) OR (B) OF SECTION TWELVE HUNDRED THREE OF
2 THE LIMITED LIABILITY COMPANY LAW, SUBDIVISION (A) OF SECTION THIRTEEN
3 HUNDRED ONE OF THE LIMITED LIABILITY COMPANY LAW, PARAGRAPH (A) OF
4 SECTION FIFTEEN HUNDRED THREE OF THE BUSINESS CORPORATION LAW, SUBDIVI-
5 SION (Q) OF SECTION 121-1500 OF THE PARTNERSHIP LAW, OR SUBDIVISION (Q)
6 OF SECTION 121-1502 OF THE PARTNERSHIP LAW FROM POOLING FEES OR MONIES
7 RECEIVED. Nothing contained in this chapter shall prohibit a corporation
8 licensed pursuant to article forty-three of the insurance law pursuant
9 to its contract with the subscriber from prorationing a medical or
10 dental expenses indemnity allowance among two or more professionals in
11 proportion to the services rendered by each such professional at the
12 request of the subscriber, provided that prior to payment thereof such
13 professionals shall submit both to the corporation licensed pursuant to
14 article forty-three of the insurance law and to the subscriber state-
15 ments itemizing the services rendered by each such professional and the
16 charges therefor.

17 S 11. This act shall take effect on the thirtieth day after it shall
18 have become a law.