

7791

I N   S E N A T E

May 12, 2016

---

Introduced by Sens. LAVALLE, HANNON -- read twice and ordered printed,  
and when printed to be committed to the Committee on Higher Education

AN ACT to amend the education law, in relation to the requirement for  
fingerprinting of licensed professionals under Title VIII of such law,  
access to patient or client records in the investigation and prose-  
cution of professional licensing and misconduct proceedings and summa-  
ry suspension of professional licenses

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

1     Section 1. Section 6501 of the education law, as amended by chapter 81  
2     of the laws of 1995, is amended to read as follows:  
3     S 6501. Admission to a profession (licensing) AND CRIMINAL HISTORY  
4     RECORDS SEARCH. 1. ADMISSION. Admission to practice of a profession in  
5     this state is accomplished by a license being issued to a qualified  
6     applicant by the education department. To qualify for a license an  
7     applicant shall meet the requirements prescribed in the article for the  
8     particular profession and shall meet the requirements prescribed in  
9     section 3-503 of the general obligations law.  
10    2. MORAL CHARACTER REQUIREMENT. NOTWITHSTANDING ANY OTHER PROVISION OF  
11    LAW OR REGULATION TO THE CONTRARY, TO QUALIFY FOR A PROFESSIONAL LICENSE  
12    OR TO BE A REGISTERED ENTITY UNDER THIS TITLE, AN APPLICANT FOR LICEN-  
13    SURE OR REGISTRATION AS DEFINED BY THE COMMISSIONER IN REGULATIONS SHALL  
14    BE OF GOOD MORAL CHARACTER AS DETERMINED BY THE DEPARTMENT.  
15    3. CRIMINAL HISTORY RECORDS SEARCH. A. SEARCH. UPON RECEIPT OF AN  
16    APPLICATION FOR PROFESSIONAL LICENSURE UNDER THIS TITLE ON OR AFTER JULY  
17    FIRST, TWO THOUSAND SEVENTEEN, AS PRESCRIBED IN REGULATIONS OF THE  
18    COMMISSIONER, THE DEPARTMENT SHALL, SUBJECT TO THE RULES AND REGULATIONS  
19    OF THE DIVISION OF CRIMINAL JUSTICE SERVICES, INITIATE A CRIMINAL HISTO-  
20    RY RECORDS SEARCH OF THE PERSON MAKING APPLICATION. PRIOR TO INITIATING  
21    THE FINGERPRINTING PROCESS, THE DEPARTMENT SHALL FURNISH THE APPLICANT  
22    WITH THE FORM DESCRIBED IN PARAGRAPH B OF THIS SUBDIVISION AND SHALL  
23    OBTAIN THE APPLICANT'S CONSENT TO THE CRIMINAL HISTORY RECORDS SEARCH AS  
24    A CONDITION OF LICENSURE. THE DEPARTMENT SHALL THEN REQUIRE THE APPLI-  
25    CANT TO BE FINGERPRINTED, IN A MANNER AND TIMEFRAME PRESCRIBED BY THE

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

LBD15421-01-6

1 DEPARTMENT, AND THE APPLICANT SHALL PAY ANY REQUIRED FEES TO BE FINGER-  
2 PRINTED, INCLUDING THE DIVISION OF CRIMINAL JUSTICE SERVICES PROCESSING  
3 FEE IMPOSED PURSUANT TO SUBDIVISION EIGHT-A OF SECTION EIGHT HUNDRED  
4 THIRTY-SEVEN OF THE EXECUTIVE LAW AND ANY FEE IMPOSED BY THE FEDERAL  
5 BUREAU OF INVESTIGATION. THE DEPARTMENT SHALL REQUIRE THE TRANSMISSION  
6 OF SUCH FINGERPRINTS AND FEES TO THE DIVISION OF CRIMINAL JUSTICE  
7 SERVICES FOR ITS FULL SEARCH AND RETAIN PROCESSING IN A TIMEFRAME AND  
8 MANNER PRESCRIBED BY THE DEPARTMENT. THE DIVISION OF CRIMINAL JUSTICE  
9 SERVICES IS AUTHORIZED TO SUBMIT THE FINGERPRINTS AND THE APPROPRIATE  
10 FEE TO THE FEDERAL BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL  
11 HISTORY RECORD CHECK. THE DIVISION OF CRIMINAL JUSTICE SERVICES AND THE  
12 FEDERAL BUREAU OF INVESTIGATION SHALL FORWARD SUCH CRIMINAL HISTORY  
13 RECORD TO THE DEPARTMENT IN A TIMELY MANNER. FOR THE PURPOSES OF THIS  
14 SECTION, THE TERM "CRIMINAL HISTORY RECORD" SHALL MEAN A RECORD OF ALL  
15 CONVICTIONS OF CRIMES AND ANY PENDING CRIMINAL CHARGES MAINTAINED ON AN  
16 INDIVIDUAL BY THE DIVISION OF CRIMINAL JUSTICE SERVICES AND THE FEDERAL  
17 BUREAU OF INVESTIGATION. THE DEPARTMENT MAY REQUIRE ADDITIONAL FINGER-  
18 PRINT SUPPORTED CRIMINAL HISTORY RECORDS SEARCHES FOR ISSUANCE OF ADDI-  
19 TIONAL LICENSES, PERMITS OR OTHER PROFESSIONAL PRACTICE CREDENTIALS  
20 UNDER THIS TITLE, IN ADDITION ITS CONSIDERATION OF OTHER EVIDENCE OF  
21 MORAL CHARACTER INCLUDING, BUT NOT LIMITED TO, INFORMATION RECEIVED FROM  
22 THE APPLICANT AND SUBSEQUENT CRIMINAL HISTORY NOTIFICATIONS FROM THE  
23 DIVISION OF CRIMINAL JUSTICE SERVICES.

24 B. FORM. THE DEPARTMENT SHALL DEVELOP A FORM TO BE PROVIDED TO ALL  
25 APPLICANTS THAT SHALL:

26 (I) INFORM THE APPLICANT THAT THE DEPARTMENT IS REQUIRED TO REQUEST  
27 HIS OR HER CRIMINAL HISTORY INFORMATION FROM THE DIVISION OF CRIMINAL  
28 JUSTICE SERVICES AND THE FEDERAL BUREAU OF INVESTIGATION AND REVIEW SUCH  
29 INFORMATION PURSUANT TO THIS SECTION, AND PROVIDE A DESCRIPTION OF THE  
30 MANNER IN WHICH HIS OR HER FINGERPRINTS WILL BE USED UPON SUBMISSION TO  
31 THE DIVISION OF CRIMINAL JUSTICE SERVICES;

32 (II) INFORM THE APPLICANT THAT HE OR SHE HAS THE RIGHT TO OBTAIN,  
33 REVIEW AND SEEK CORRECTION OF HIS OR HER CRIMINAL HISTORY INFORMATION  
34 PURSUANT TO REGULATIONS AND PROCEDURES ESTABLISHED BY THE DIVISION OF  
35 CRIMINAL JUSTICE SERVICES.

36 C. CONSENT. THE DEPARTMENT SHALL OBTAIN THE SIGNED, INFORMED CONSENT  
37 OF THE APPLICANT ON SUCH FORM SUPPLIED BY THE DEPARTMENT WHICH INDICATES  
38 THAT SUCH PERSON HAS:

39 (I) BEEN INFORMED OF THE RIGHT AND PROCEDURES NECESSARY TO OBTAIN,  
40 REVIEW AND SEEK CORRECTION OF HIS OR HER CRIMINAL HISTORY INFORMATION;

41 (II) BEEN INFORMED OF THE REASON FOR THE REQUEST FOR HIS OR HER CRIMI-  
42 NAL HISTORY INFORMATION;

43 (III) CONSENTED TO SUCH REQUEST FOR A REPORT;

44 (IV) SUPPLIED ON THE FORM A CURRENT MAILING OR HOME ADDRESS FOR THE  
45 APPLICANT;

46 (V) BEEN INFORMED THAT HE OR SHE MAY WITHDRAW HIS OR HER APPLICATION  
47 FOR LICENSURE PURSUANT TO THIS SECTION, WITHOUT PREJUDICE, AT ANY TIME  
48 BEFORE THE LICENSE IS ISSUED, REGARDLESS OF WHETHER THE DEPARTMENT HAS  
49 REVIEWED SUCH APPLICANT'S CRIMINAL HISTORY INFORMATION;

50 (VI) BEEN INFORMED THAT IN THE EVENT HIS OR HER LICENSE IS DENIED, THE  
51 DEPARTMENT SHALL NOTIFY THE DIVISION OF CRIMINAL JUSTICE SERVICES OF  
52 SUCH DENIAL, AND THE DIVISION OF CRIMINAL JUSTICE SERVICES SHALL DESTROY  
53 THE FINGERPRINTS OF SUCH PERSON. SUCH PERSON MAY REQUEST THAT THE  
54 DEPARTMENT NOTIFY THE DIVISION OF CRIMINAL JUSTICE SERVICES THAT HIS OR  
55 HER FINGERPRINTS SHALL BE DESTROYED PRIOR TO THE DENIAL OF HIS OR HER  
56 LICENSE IN WHICH CASE THE DEPARTMENT SHALL NOTIFY THE DIVISION OF CRIMI-

NAL JUSTICE SERVICES AND THE DIVISION SHALL DESTROY THE FINGERPRINTS OF SUCH PERSON PROMPTLY UPON RECEIPT OF THE REQUEST; AND

(VII) BEEN INFORMED OF THE MANNER IN WHICH HE OR SHE MAY SUBMIT TO THE DEPARTMENT ANY INFORMATION THAT MAY BE RELEVANT TO THE CONSIDERATION OF HIS OR HER APPLICATION FOR LICENSURE INCLUDING, WHERE APPLICABLE, INFORMATION IN REGARD TO HIS OR HER GOOD CONDUCT AND REHABILITATION.

D. FEES. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, APPLICANTS FOR LICENSURE MAY BE CHARGED FEES IN AN AMOUNT EQUAL TO THE FEES ESTABLISHED PURSUANT TO LAW BY THE DIVISION OF CRIMINAL JUSTICE SERVICES AND THE FEDERAL BUREAU OF INVESTIGATION AND ANY OTHER ADMINISTRATIVE FEES FOR THE SEARCHES MANDATED BY THIS SECTION.

E. QUESTION OF MORAL CHARACTER. WHEN THE DEPARTMENT DETERMINES THAT THE APPLICANT MAY NOT HAVE THE REQUISITE MORAL CHARACTER FOR LICENSURE, BASED UPON THE INFORMATION CONTAINED IN THE CRIMINAL HISTORY RECORD, THE APPLICANT SHALL BE AFFORDED NOTICE AND THE RIGHT TO BE HEARD AND OFFER PROOF IN OPPOSITION TO SUCH DETERMINATION IN ACCORDANCE WITH THE REGULATIONS OF THE DEPARTMENT.

F. DUTIES OF THE DEPARTMENT; SUBMISSION OF FINGERPRINTS. (I) THE DEPARTMENT SHALL REQUIRE APPLICANTS FOR LICENSURE TO SUBMIT FINGERPRINTS FOR A CRIMINAL HISTORY RECORDS SEARCH, IN A MANNER PRESCRIBED BY THE COMMISSIONER IN REGULATIONS. THE DIVISION OF CRIMINAL JUSTICE SERVICES AND THE FEDERAL BUREAU OF INVESTIGATION SHALL FORWARD SUCH CRIMINAL HISTORY RECORD TO THE DEPARTMENT IN A TIMELY MANNER. FOR THE PURPOSES OF THIS SECTION, THE TERM "CRIMINAL HISTORY RECORD" SHALL MEAN A RECORD OF ALL CONVICTIONS OF CRIMES AND ANY PENDING CRIMINAL CHARGES MAINTAINED ON AN INDIVIDUAL BY THE DIVISION OF CRIMINAL JUSTICE SERVICES AND THE FEDERAL BUREAU OF INVESTIGATION.

(II) NO CAUSE OF ACTION AGAINST THE COMMISSIONER, THE DEPARTMENT OR THE DIVISION OF CRIMINAL JUSTICE SERVICES, OR THEIR OFFICERS OR EMPLOYEES, FOR DAMAGES RELATED TO THE DISSEMINATION OF CRIMINAL HISTORY RECORDS PURSUANT TO THIS SECTION SHALL EXIST WHEN THE COMMISSIONER, DEPARTMENT OR DIVISION OF CRIMINAL JUSTICE SERVICES, OR THEIR OFFICERS OR EMPLOYEES HAVE REASONABLY AND IN GOOD FAITH RELIED UPON THE ACCURACY AND COMPLETENESS OF CRIMINAL HISTORY INFORMATION FURNISHED TO IT BY QUALIFIED AGENCIES. THE PROVISION OF SUCH INFORMATION BY THE DIVISION OF CRIMINAL JUSTICE SERVICES SHALL BE SUBJECT TO THE PROVISIONS OF SUBDIVISION SIXTEEN OF SECTION TWO HUNDRED NINETY-SIX OF THE EXECUTIVE LAW. THE CONSIDERATION OF SUCH CRIMINAL HISTORY RECORD BY THE DEPARTMENT SHALL BE SUBJECT TO ARTICLE TWENTY-THREE-A OF THE CORRECTION LAW.

(III) AFTER RECEIPT OF A CRIMINAL HISTORY RECORD FROM THE DIVISION OF CRIMINAL JUSTICE SERVICES AND THE FEDERAL BUREAU OF INVESTIGATION THE DEPARTMENT SHALL REVIEW THE CRIMINAL HISTORY RECORD TO DETERMINE IF A REASONABLE QUESTION EXISTS AS TO THE APPLICANT'S MORAL CHARACTER AND, UPON SUCH A DETERMINATION, CONDUCT A MORAL CHARACTER REVIEW PURSUANT TO THE RULES OF THE BOARD OF REGENTS. WHEN THE DEPARTMENT MAKES A DETERMINATION THAT THE APPLICANT LACKS THE REQUISITE MORAL CHARACTER FOR A PROFESSIONAL LICENSE, SUCH APPLICANT SHALL BE AFFORDED NOTICE AND THE RIGHT TO BE HEARD AND OFFER PROOF IN OPPOSITION TO SUCH DETERMINATION IN ACCORDANCE WITH THE REGULATIONS OF THE DEPARTMENT.

(IV) THE DEPARTMENT AND THE DIVISION OF CRIMINAL JUSTICE SERVICES SHALL ENTER INTO AN AGREEMENT FOR THE PURPOSES OF IMPLEMENTING THE PROVISIONS OF THIS SECTION.

4. MANDATORY REPORTING OF CONVICTIONS AND PENDING CRIMINAL CHARGES AND ADVERSE EMPLOYMENT ACTIONS. A. ALL LICENSED PROFESSIONALS AS DEFINED BY THE COMMISSIONER IN REGULATION, SHALL BE REQUIRED TO REPORT TO THE DEPARTMENT WITHIN THIRTY DAYS ANY RECORD OF A CONVICTION OF A CRIME

1 AND/OR ANY PENDING CRIMINAL CHARGES. SUCH REPORTING REQUIREMENTS SHALL  
2 NOT APPLY FOR TRAFFIC VIOLATIONS, ACQUITTALS OR DISMISSED CHARGES.  
3 LICENSEES SHALL ALSO REPORT TO THE DEPARTMENT WITHIN THIRTY DAYS ANY  
4 CHARGES OF PROFESSIONAL MISCONDUCT IN ANY JURISDICTION AND/OR ANY  
5 ADVERSE ACTIONS UNDERTAKEN BY A HOSPITAL, INSTITUTION OR EMPLOYER AS A  
6 RESULT OF THE LICENSEE'S PROFESSIONAL DUTIES. FAILURE OF A LICENSED  
7 PROFESSIONAL TO PROVIDE SUCH A REPORT TO THE DEPARTMENT WITHIN THIRTY  
8 DAYS OF THE ACTION, SHALL BE GROUNDS FOR PROFESSIONAL MISCONDUCT PURSU-  
9 ANT TO SECTION SIXTY-FIVE HUNDRED TEN OF THIS ARTICLE.

10 B. THE DEPARTMENT SHALL PROMULGATE A FORM TO BE PROVIDED TO ALL LICEN-  
11 SEES BY WHICH THEY MUST REPORT CHARGES AS DEFINED IN PARAGRAPH A OF THIS  
12 SUBDIVISION.

13 C. ALL SUCH RECORDS PROCESSED AND SUBMITTED PURSUANT TO THIS SUBDIVI-  
14 SION SHALL BE CONFIDENTIAL PURSUANT TO THE APPLICABLE FEDERAL AND STATE  
15 LAWS, RULES AND REGULATIONS, AND SHALL NOT BE PUBLISHED OR IN ANY WAY  
16 DISCLOSED TO PERSONS OTHER THAN THE DEPARTMENT PERSONNEL, UNLESS OTHER-  
17 WISE AUTHORIZED BY LAW. NO CAUSE OF ACTION AGAINST THE COMMISSIONER,  
18 THE DEPARTMENT OR THE DIVISION OF CRIMINAL JUSTICE SERVICES FOR DAMAGES  
19 RELATED TO THE DISSEMINATION OF RECORDS PURSUANT TO THIS SUBDIVISION  
20 SHALL EXIST WHEN THE COMMISSIONER, DEPARTMENT OR DIVISION OF CRIMINAL  
21 JUSTICE SERVICES HAVE REASONABLY AND IN GOOD FAITH RELIED UPON THE ACCU-  
22 RACY AND COMPLETENESS OF INFORMATION FURNISHED TO IT BY THE LICENSEE OR  
23 QUALIFIED AGENCIES.

24 D. UPON RECEIPT OF A REPORT FROM A LICENSED PROFESSIONAL THAT THEY  
25 HAVE BEEN THE SUBJECT OF A CRIMINAL CONVICTION OR DISCIPLINARY ACTION,  
26 THE DEPARTMENT MAY REFER THE REPORT TO THE PROFESSIONAL CONDUCT OFFICER  
27 FOR AN INVESTIGATION OF POTENTIAL DISCIPLINARY ACTION UNDER THE APPLICA-  
28 BLE PROVISIONS OF THIS SECTION.

29 E. IN THE EVENT THAT A LICENSED PROFESSIONAL IS CONVICTED OF ANY  
30 CRIME, THE DISTRICT ATTORNEY SHALL PROVIDE NOTICE THEREOF TO THE COMMIS-  
31 SIONER. UPON RECEIVING NOTICE OF A CONVICTION FROM A DISTRICT ATTORNEY  
32 PURSUANT TO THIS PARAGRAPH, THE COMMISSIONER SHALL, WITHOUT DELAY,  
33 PROCEED TO DETERMINE WHETHER THE INDIVIDUAL POSSESSES GOOD MORAL CHARAC-  
34 TER, IN ACCORDANCE WITH THE REGULATIONS OF THE COMMISSIONER. NOTHING IN  
35 THIS ARTICLE SHALL BE CONSTRUED AS CREATING ANY AUTHORITY TO TAKE AN  
36 ADVERSE ACTION AGAINST A LICENSE BY VIRTUE OF A REPORT PURSUANT TO THIS  
37 PARAGRAPH WHICH HAS NOT BEEN SUBSTANTIATED.

38 S 2. Section 6510 of the education law is amended by adding a new  
39 subdivision 10 to read as follows:

40 10. SUMMARY ACTION. A. WHENEVER THE COMMISSIONER OR HIS OR HER DESIG-  
41 NEE, (I) AFTER BEING PRESENTED WITH INFORMATION INDICATING THAT A LICEN-  
42 SEE OR A REGISTERED ENTITY IS CAUSING OR ENGAGING IN CONDUCT WHICH HAS  
43 RESULTED IN PATIENT AND/OR CLIENT HARM AND IF IN THE COMMISSIONER'S  
44 OPINION IT WOULD BE PREJUDICIAL TO THE INTERESTS OF THE PEOPLE TO DELAY  
45 ACTION UNTIL AN OPPORTUNITY FOR A HEARING CAN BE PROVIDED IN ACCORDANCE  
46 WITH THE PREHEARING AND HEARING PROVISIONS OF THIS SECTION; OR (II)  
47 AFTER AN INVESTIGATION AND A RECOMMENDATION BY THE COMMISSIONER THAT  
48 BASED UPON A DETERMINATION THAT A LICENSEE IS CAUSING OR ENGAGING IN  
49 CONDUCT WHICH IN THE COMMISSIONER'S OPINION CONSTITUTES AN IMMINENT  
50 DANGER TO THE HEALTH AND/OR SAFETY OF THE PEOPLE, AND THAT IT THEREFORE  
51 APPEARS TO BE PREJUDICIAL TO THE INTERESTS OF THE PEOPLE TO DELAY ACTION  
52 UNTIL AN OPPORTUNITY FOR A HEARING CAN BE PROVIDED IN ACCORDANCE WITH  
53 THE PREHEARING AND HEARING PROVISIONS OF THIS SECTION; THE COMMISSIONER  
54 MAY ORDER THE LICENSEE, BY WRITTEN NOTICE, TO DISCONTINUE SUCH DANGEROUS  
55 CONDUCT, WHICH SHALL INCLUDE THE SUSPENSION OF ANY PRIVILEGES TO PRAC-  
56 TICE THE PROFESSION PURSUANT TO TITLE EIGHT OF THIS CHAPTER IN THE STATE

1 OF NEW YORK, OR TAKE CERTAIN ACTION IMMEDIATELY AND FOR A PERIOD OF  
2 NINETY DAYS FROM THE DATE OF SERVICE OF THE ORDER. WITHIN TEN DAYS FROM  
3 THE DATE OF SERVICE OF THE SAID ORDER, THE DEPARTMENT SHALL REGULARLY  
4 SCHEDULE SUCH HEARING PROCEEDINGS AS REQUIRED BY THIS SECTION, PROVIDED,  
5 HOWEVER, THAT THE HEARING SHALL BE COMPLETED WITHIN NINETY DAYS OF THE  
6 DATE OF SERVICE OF THE ORDER. TO THE EXTENT THAT THE ISSUE OF IMMINENT  
7 DANGER OR HARM CAN BE PROVEN WITHOUT THE ATTORNEY REPRESENTING THE  
8 DEPARTMENT PUTTING IN ITS ENTIRE CASE, THE COMMISSIONER SHALL FIRST  
9 DETERMINE WHETHER BY A PREPONDERANCE OF THE EVIDENCE THE LICENSEE IS  
10 CAUSING, ENGAGING IN OR MAINTAINING A CONDITION OR ACTIVITY WHICH  
11 CONSTITUTES AN IMMINENT DANGER OR HARM TO THE HEALTH OF THE PEOPLE. THE  
12 ATTORNEY REPRESENTING THE DEPARTMENT SHALL HAVE THE BURDEN OF GOING  
13 FORWARD AND PROVING BY A PREPONDERANCE OF THE EVIDENCE THAT THE  
14 LICENSEE'S CONDUCT, ACTIVITY OR PRACTICE RESULTED IN PATIENT OR CLIENT  
15 HARM, OR SUCH PRACTICE CONSTITUTES AN IMMINENT DANGER TO THE HEALTH  
16 AND/OR SAFETY OF THE PEOPLE. THE LICENSEE SHALL HAVE AN OPPORTUNITY TO  
17 BE HEARD AND TO PRESENT PROOF. WHEN BOTH THE DEPARTMENT AND THE LICENSEE  
18 HAVE COMPLETED THEIR CASES WITH RESPECT TO THE QUESTION OF HARM OR IMMI-  
19 NENT DANGER, THE COMMISSIONER OR HIS OR HER DESIGNEE SHALL PROMPTLY MAKE  
20 A RECOMMENDATION TO A SINGLE MEMBER OF THE BOARD OF REGENTS, APPOINTED  
21 BY THE CHANCELLOR OF THE BOARD OF REGENTS OR HIS OR HER DESIGNEE, ON THE  
22 ISSUE OF HARM OR IMMINENT DANGER AND DETERMINE WHETHER THE SUMMARY ORDER  
23 SHOULD BE LEFT IN EFFECT, MODIFIED OR VACATED, AND CONTINUE THE HEARING  
24 ON ALL THE REMAINING CHARGES, IF ANY, IN ACCORDANCE WITH PARAGRAPH F OF  
25 SUBDIVISION ONE OF THIS SECTION. WITHIN TEN DAYS OF THE COMMISSIONER OR  
26 HIS OR HER DESIGNEE'S RECOMMENDATION, THE SINGLE MEMBER OF THE BOARD OF  
27 REGENTS, AS APPOINTED BY THE CHANCELLOR OF THE BOARD OF REGENTS OR HIS  
28 OR HER DESIGNEE, SHALL DETERMINE WHETHER OR NOT TO ADOPT THE RECOMMENDA-  
29 TIONS OF THE COMMISSIONER OR HIS OR HER DESIGNEE, IN WHOLE OR IN PART,  
30 AND SHALL LEAVE IN EFFECT, MODIFY OR VACATE THE SUMMARY ORDER. WHERE THE  
31 ORDER OF THE COMMISSIONER REMAINS IN EFFECT EITHER IN WHOLE OR IN PART,  
32 A HEARING ON THE REMAINING CHARGES OF PROFESSIONAL MISCONDUCT SHALL BE  
33 COMMENCED PURSUANT TO THE PROVISIONS OF THIS SECTION. THE DEPARTMENT  
34 MUST MAKE A REASONABLE EFFORT TO AVOID ANY DELAY IN COMPLETING AND  
35 DETERMINING SUCH PROCEEDINGS. IF, AT THE CONCLUSION OF THE INITIAL  
36 HEARING, (A) THE SINGLE BOARD MEMBER OF THE BOARD OF REGENTS DETERMINES  
37 THAT THE BASIS OF THE CHARGES CONSTITUTED IMMINENT DANGER OR HARM AND  
38 THAT THE SUMMARY ORDER SHALL CONTINUE, AND (B) THE NINETY DAY TERM OF  
39 THE ORDER HAS NOT EXPIRED, THE SUMMARY ORDER SHALL REMAIN IN FULL FORCE  
40 AND EFFECT UNTIL A FINAL DECISION HAS BEEN RENDERED BY THE BOARD OF  
41 REGENTS PURSUANT TO THE APPLICABLE PROVISIONS OF THIS SECTION. NOTWITH-  
42 STANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, A SUMMARY ORDER  
43 SHALL BE PUBLIC UPON ISSUANCE.

44 B. WHEN A LICENSEE HAS PLEADED OR BEEN FOUND GUILTY OR CONVICTED OF  
45 COMMITTING AN ACT CONSTITUTING A FELONY UNDER NEW YORK STATE LAW OR  
46 FEDERAL LAW, OR THE LAW OF ANOTHER JURISDICTION WHICH, IF COMMITTED  
47 WITHIN THIS STATE, WOULD HAVE CONSTITUTED A FELONY UNDER NEW YORK STATE  
48 LAW, OR WHEN THE DULY AUTHORIZED PROFESSIONAL DISCIPLINARY AGENCY OF  
49 ANOTHER JURISDICTION HAS MADE A FINDING SUBSTANTIALLY EQUIVALENT TO A  
50 FINDING THAT THE PRACTICE OF THE PROFESSION BY THE LICENSEE IN THAT  
51 JURISDICTION CONSTITUTES AN IMMINENT DANGER TO THE HEALTH OF ITS PEOPLE,  
52 OR WHEN A LICENSEE HAS BEEN DISCIPLINED BY A DULY AUTHORIZED PROFES-  
53 SIONAL DISCIPLINARY AGENCY OF ANOTHER JURISDICTION FOR ACTS WHICH IF  
54 COMMITTED IN THIS STATE WOULD HAVE CONSTITUTED THE BASIS FOR SUMMARY  
55 ACTION BY THE DEPARTMENT PURSUANT TO PARAGRAPH A OF THIS SUBDIVISION, A  
56 SINGLE BOARD MEMBER OF THE BOARD OF REGENTS, APPOINTED BY THE CHANCELLOR

1 OF THE BOARD OF REGENTS OR HIS OR HER DESIGNEE, AFTER A RECOMMENDATION  
2 BY THE COMMISSIONER OR HIS OR HER DESIGNEE, MAY ORDER THE LICENSEE, BY  
3 WRITTEN NOTICE, TO DISCONTINUE OR REFRAIN FROM PRACTICING THE PROFESSION  
4 IN WHOLE OR IN PART OR TO TAKE CERTAIN IMMEDIATE ACTIONS AUTHORIZED  
5 PURSUANT TO THIS TITLE. THE ORDER OF THE SINGLE MEMBER OF THE BOARD OF  
6 REGENTS SHALL CONSTITUTE SUMMARY ACTION AGAINST THE LICENSEE AND BECOME  
7 PUBLIC UPON ISSUANCE. THE SUMMARY SUSPENSION SHALL REMAIN IN EFFECT  
8 UNTIL THE FINAL DETERMINATION OF THE REGENTS REVIEW COMMITTEE, WHICH  
9 SHALL COMMENCE WITHIN NINETY DAYS OF THE DATE OF SERVICE OF THE DEPART-  
10 MENT'S ORDER AND OTHERWISE BE HELD IN ACCORDANCE WITH PARAGRAPH A OF  
11 THIS SUBDIVISION.

12 S 3. Subdivision 8 of section 6506 of the education law, as amended by  
13 chapter 866 of the laws of 1980, is amended to read as follows:

14 (8) Designate a professional conduct officer, who shall be the chief  
15 administrative officer of the office of the professions, or his desig-  
16 nee, in connection with professional licensing and misconduct  
17 proceedings and criminal matters, such officer to be empowered to issue  
18 subpoenas and administer oaths in connection with such proceedings.  
19 NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, SAID PROFESSIONAL  
20 CONDUCT OFFICER, OR HIS OR HER REPRESENTATIVES, MAY EXAMINE AND OBTAIN  
21 RECORDS OF PATIENTS OR CLIENTS IN ANY INVESTIGATION OR PROCEEDING BY THE  
22 DEPARTMENT ACTING WITHIN THE SCOPE OF ITS AUTHORIZATION. UNLESS EXPRESS  
23 CONSENT IS OBTAINED FROM THE PATIENT OR CLIENT, ANY INFORMATION SO  
24 OBTAINED SHALL BE CONFIDENTIAL AND SHALL NOT BE FURTHER DISCLOSED EXCEPT  
25 TO THE EXTENT NECESSARY FOR THE PROPER FUNCTION OF THE DEPARTMENT, AND  
26 THE NAME OF THE PATIENT OR CLIENT MAY NOT BE DISCLOSED BY THE DEPARTMENT  
27 OR ITS EMPLOYEES AT ANY STAGE OF THE PROCEEDINGS UNLESS THE PATIENT OR  
28 CLIENT HAS EXPRESSLY CONSENTED. ANY OTHER USE OR DISSEMINATION OF INFOR-  
29 MATION FROM SUCH RECORDS BY ANY PERSON BY ANY MEANS, UNLESS IT IS PURSU-  
30 ANT TO A VALID COURT ORDER OR OTHERWISE AUTHORIZED BY LAW, SHALL BE  
31 PROHIBITED;

32 S 4. This act shall take effect on the one hundred eightieth day after  
33 it shall have become a law; provided, that subdivision 3 of section 6501  
34 of the education law as added by section one of this act shall only  
35 apply to applicants seeking licensure on or after July 1, 2017 and  
36 provided further, that effective immediately, the addition, amendment  
37 and/or repeal of any rule or regulation by the department of education  
38 necessary for the implementation of this act on its effective date are  
39 authorized to be made and completed on or before such date.