

STATE OF NEW YORK

7409

2021-2022 Regular Sessions

IN ASSEMBLY

May 7, 2021

Introduced by M. of A. CUSICK -- read once and referred to the Committee on Higher Education

AN ACT to amend the education law, in relation to the effectiveness of certain provisions relating to persons practicing in certain licensed programs or services who are exempt from practice requirements of professionals licensed by the department of education; to amend part Y of chapter 57 of the laws of 2018, amending the education law relating to persons practicing in certain licensed programs or services who are exempt from practice requirements of professionals licensed by the department of education, in relation to the effectiveness thereof; to amend chapter 420 of the laws of 2002, amending the education law relating to the profession of social work, in relation to extending the expiration of certain provisions thereof; to amend chapter 676 of the laws of 2002, amending the education law relating to the practice of psychology, in relation to extending the expiration of certain provisions; and to amend chapter 130 of the laws of 2010, amending the education law and other laws relating to the registration of entities providing certain professional services and licensure of certain professions, in relation to extending certain provisions thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 12 section 7605 of the education law, as added
2 by section 2 of part Y of chapter 57 of the laws of 2018, is amended to
3 read as follows:
4 12. Notwithstanding any other provision of law to the contrary, noth-
5 ing in this article shall be construed to prohibit or limit the activ-
6 ities or services provided under this article by any person who is
7 employed or who commences employment in a program or service operated,
8 regulated, funded, or approved by the department of mental hygiene, the
9 office of children and family services, or a local governmental unit as
10 that term is defined in section 41.03 of the mental hygiene law or a

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

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1 social services district as defined in section sixty-one of the social
2 services law on or before one year from the date that the [~~regulations~~]
3 joint executive agencies report issued in accordance with subdivision
4 two of section six of [~~the~~] part Y of chapter fifty-seven of the laws of
5 two thousand eighteen which added this subdivision [~~appear in the state~~
6 ~~register or are adopted, whichever is later~~]. Such prohibitions or limi-
7 tations shall not apply to such employees for as long as they remain
8 employed by such programs or services and whether they remain employed
9 by the same or other employers providing such programs or services.
10 Provided, however, that any person who commences employment in such
11 program or service after such date and performs services that are
12 restricted under this article shall be appropriately licensed or author-
13 ized under this article. Each state oversight agency shall create and
14 maintain a process to verify employment history of individuals exempt
15 under this subdivision.

16 § 2. Subdivision 8 of section 7706 of the education law, as added by
17 section 4 of part Y of chapter 57 of the laws of 2018, is amended to
18 read as follows:

19 8. Notwithstanding any other provision of law to the contrary, nothing
20 in this article shall be construed to prohibit or limit the activities
21 or services provided under this article by any person who is employed or
22 who commences employment in a program or service operated, regulated,
23 funded, or approved by the department of mental hygiene, the office of
24 children and family services, the department of corrections and communi-
25 ty supervision, the office of temporary and disability assistance, the
26 state office for the aging and the department of health or a local
27 governmental unit as that term is defined in section 41.03 of the mental
28 hygiene law or a social services district as defined in section sixty-
29 one of the social services law on or before one year from the date that
30 the [~~regulations~~] joint executive agencies report issued in accordance
31 with subdivision two of section six of [~~the~~] part Y of chapter fifty-
32 seven of the laws of two thousand eighteen which added this subdivision
33 [~~appear in the state register or are adopted, whichever is later~~]. Such
34 prohibitions or limitations shall not apply to such employees for as
35 long as they remain employed by such programs or services and whether
36 they remain employed by the same or other employers providing such
37 programs or services. Provided however, that any person who commences
38 employment in such program or service after such date and performs
39 services that are restricted under this article shall be appropriately
40 licensed or authorized under this article. Each state oversight agency
41 shall create and maintain a process to verify employment history of
42 individuals exempt under this subdivision.

43 § 3. Subdivision 9 of section 8410 of the education law, as added by
44 section 5 of part Y of chapter 57 of the laws of 2018, is amended to
45 read as follows:

46 9. Notwithstanding any other provision of law to the contrary, nothing
47 in this article shall be construed to prohibit or limit the activities
48 or services provided under this article by any person who is employed or
49 who commences employment in a program or service operated, regulated,
50 funded, or approved by the department of mental hygiene, the office of
51 children and family services, the department of corrections and communi-
52 ty supervision, the office of temporary and disability assistance, the
53 state office for the aging and the department of health or a local
54 governmental unit as that term is defined in section 41.03 of the mental
55 hygiene law or a social services district as defined in section sixty-
56 one of the social services law on or before one year from the date that

1 the [~~regulations~~] joint executive agencies report issued in accordance
2 with subdivision two of section six of [~~the~~] part Y of chapter fifty-
3 seven of the laws of two thousand eighteen which added this subdivision
4 [~~appear in the state register or are adopted, whichever is later~~]. Such
5 prohibitions or limitations shall not apply to such employees for as
6 long as they remain employed by such programs or services and whether
7 they remain employed by the same or other employers providing such
8 programs or services. Provided however, that any person who commences
9 employment in such program or service after such date and performs
10 services that are restricted under this article shall be appropriately
11 licensed or authorized under this article. Each state oversight agency
12 shall create and maintain a process to verify employment history of
13 individuals exempt under this subdivision.

14 § 4. Subdivision 2 of section 6 of part Y of chapter 57 of the laws of
15 2018, amending the education law relating to persons practicing in
16 certain licensed programs or services who are exempt from practice
17 requirements of professionals licensed by the department of education,
18 is amended to read as follows:

19 2. Not later than one year and sixty days from the adoption of the
20 regulations required by this section, the executive agencies together
21 shall issue a single report to the governor, the temporary president of
22 the senate, the speaker of the assembly, and the state education depart-
23 ment that may include but not be limited to, all matters where any indi-
24 vidual agency objects to or has concerns regarding regulations or guid-
25 ance issued by the department pursuant to subdivision one of this
26 section; a projected fiscal impact or effect of any regulations or guid-
27 ance on each executive agency; identification of licensed professions
28 shortage areas under each executive agency; identification of appropri-
29 ate rate, policy, or legislative changes that may address workforce
30 shortages in licensed professions or access to services; an analysis and
31 identification of the need for resources and investment to fortify the
32 state's mental health workforce; an identification of barriers to hiring
33 licensees and the mechanism and oversight structure used to track indi-
34 viduals that are subject to: subdivision 12 of section 7605 of the
35 education law, subdivision 8 of section 7706 of the education law, or
36 subdivision 9 of section 8410 of the education law; or any other perti-
37 nent information.

38 § 5. Subdivision a of section 9 of chapter 420 of the laws of 2002
39 amending the education law relating to the profession of social work, as
40 amended by section 8 of part Y of chapter 57 of the laws of 2018, is
41 amended to read as follows:

42 a. Nothing in this act shall prohibit or limit the activities or
43 services on the part of any person in the employ of a program or service
44 operated, regulated, funded, or approved by the department of mental
45 hygiene, the office of children and family services, the office of
46 temporary and disability assistance, the department of corrections and
47 community supervision, the state office for the aging, the department of
48 health, or a local governmental unit as that term is defined in article
49 41 of the mental hygiene law or a social services district as defined in
50 section 61 of the social services law, provided, however, this section
51 shall not authorize the use of any title authorized pursuant to article
52 154 of the education law, except that this section shall be deemed
53 repealed one year from the date that the [~~regulations~~] joint executive
54 agencies report is issued in accordance with subdivision two of section
55 six of part Y of [~~the~~] chapter fifty-seven of the laws of 2018 which
56 amended this subdivision [~~appear in the state register, or the date such~~

~~regulations are adopted, whichever is later~~]; provided however that the state education department shall notify the legislative bill drafting commission upon the occurrence of the date ~~[such]~~ regulations required by section six of part Y of chapter fifty-seven of the laws of 2018 appear in the state register and the date of their adoption in order that the commission may maintain an accurate and timely effective database of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law.

§ 6. Subdivision a of section 17-a of chapter 676 of the laws of 2002, amending the education law relating to the practice of psychology, as amended by section 9 of part Y of chapter 57 of the laws of 2018, is amended to read as follows:

a. In relation to activities and services provided under article 153 of the education law, nothing in this act shall prohibit or limit such activities or services on the part of any person in the employ of a program or service operated, regulated, funded, or approved by the department of mental hygiene or the office of children and family services, or a local governmental unit as that term is defined in article 41 of the mental hygiene law or a social services district as defined in section 61 of the social services law. In relation to activities and services provided under article 163 of the education law, nothing in this act shall prohibit or limit such activities or services on the part of any person in the employ of a program or service operated, regulated, funded, or approved by the department of mental hygiene, the office of children and family services, the department of corrections and community supervision, the office of temporary and disability assistance, the state office for the aging and the department of health or a local governmental unit as that term is defined in article 41 of the mental hygiene law or a social services district as defined in section 61 of the social services law, pursuant to authority granted by law. This section shall not authorize the use of any title authorized pursuant to article 153 or 163 of the education law by any such employed person, except as otherwise provided by such articles respectively. This section shall be deemed repealed one year from the date that the ~~[regulations]~~ joint executive agencies report is issued in accordance with subdivision two of section six of part Y of ~~[the]~~ chapter fifty-seven of the laws of 2018 which amended this subdivision ~~[appear in the state register, or the date such regulations are adopted, whichever is later]~~; provided however that the state education department shall notify the legislative bill drafting commission upon the occurrence of the date ~~[such]~~ regulations required by section six of part Y of chapter fifty-seven of the laws of 2018 appear in the state register and the date of their adoption in order that the commission may maintain an accurate and timely effective database of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law.

§ 7. Section 16 of chapter 130 of the laws of 2010, amending the education law and other laws relating to the registration of entities providing certain professional services and the licensure of certain professions, as amended by section 10 of part Y of chapter 57 of the laws of 2018, is amended to read as follows:

§ 16. This act shall take effect immediately; provided that sections thirteen, fourteen and fifteen of this act shall take effect immediately and shall be deemed to have been in full force and effect on and after

1 June 1, 2010 and such sections shall be deemed repealed one year from
2 the date that the [~~regulations~~] joint executive agencies report issued
3 in accordance with subdivision two of section six of part Y of [~~the~~]
4 chapter fifty-seven of the laws of 2018 which amended this section
5 [~~appear in the state register, or the date such regulations are adopted,~~
6 ~~whichever is later~~]; provided however that the state education depart-
7 ment shall notify the legislative bill drafting commission upon the
8 occurrence of the date [~~such~~] regulations required by section six of
9 part Y of chapter fifty-seven of the laws of 2018 appear in the state
10 register and the date of their adoption in order that the commission may
11 maintain an accurate and timely effective database of the official text
12 of the laws of the state of New York in furtherance of effectuating the
13 provisions of section 44 of the legislative law and section 70-b of the
14 public officers law; provided further that the amendments to section 9
15 of chapter 420 of the laws of 2002 amending the education law relating
16 to the profession of social work made by section thirteen of this act
17 shall repeal on the same date as such section repeals; provided further
18 that the amendments to section 17-a of chapter 676 of the laws of 2002
19 amending the education law relating to the practice of psychology made
20 by section fourteen of this act shall repeal on the same date as such
21 section repeals.

22 § 8. This act shall take effect immediately.