

5879

2009-2010 Regular Sessions

I N A S S E M B L Y

February 23, 2009

Introduced by M. of A. CAHILL -- read once and referred 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 ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Paragraph (a) of section 1503 of the business corporation
2 law, as added by chapter 974 of the laws of 1970, is amended to read as
3 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 for pecuniary profit under this article for
13 the purpose of rendering such professional services as such individuals
14 are authorized to practice, AND, FURTHER, PROVIDED THAT ONE OR MORE
15 INDIVIDUALS DULY LICENSED BY LAW TO PRACTICE MEDICINE AND WHO ARE CERTI-
16 FIED BY THE AMERICAN BOARD OF OPHTHALMOLOGY, AND INDIVIDUALS LICENSED BY
17 LAW TO PRACTICE OPTOMETRY AND/OR OPHTHALMIC DISPENSING WITHIN THE STATE
18 MAY ORGANIZE, OR CAUSE TO BE ORGANIZED, A PROFESSIONAL SERVICE CORPO-
19 RATION FOR PECUNIARY PROFIT UNDER THIS ARTICLE FOR THE PURPOSE OF
20 RENDERING PROFESSIONAL SERVICES AS SUCH INDIVIDUALS ARE AUTHORIZED TO
21 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:
24 S 1529. Business corporation law applicable.

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

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

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

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

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

44 (a) Notwithstanding the education law or any other provision of law,
45 one or more professionals each of whom is authorized by law to render a
46 professional service within the state, or one or more professionals, at
47 least one of whom is authorized by law to render a professional service
48 within the state, may form, or cause to be formed, a professional
49 service limited liability company for pecuniary profit under this arti-
50 cle for the purpose of rendering the professional service or services as
51 such professionals are authorized to practice. With respect to a profes-
52 sional service limited liability company formed to provide medical
53 services as such services are defined in article 131 of the education
54 law, each member of such limited liability company must be licensed
55 pursuant to article 131 of the education law to practice medicine in
56 this state; PROVIDED, HOWEVER, THAT WITH RESPECT TO A PROFESSIONAL

1 SERVICE LIMITED LIABILITY COMPANY FORMED TO PROVIDE MEDICAL SERVICES
2 DEFINED IN ARTICLE 131 OF THE EDUCATION LAW WITH SERVICES DEFINED IN
3 ARTICLE 143 AND/OR ARTICLE 144 OF THE EDUCATION LAW, EACH MEMBER OF SUCH
4 LIMITED LIABILITY COMPANY MUST BE LICENSED PURSUANT TO ARTICLE 131 AND
5 CERTIFIED BY THE AMERICAN BOARD OF OPHTHALMOLOGY, AND/OR LICENSED PURSU-
6 ANT TO ARTICLE 143 AND/OR ARTICLE 144 OF THE EDUCATION LAW TO PRACTICE
7 ONE OR MORE OF SUCH PROFESSIONS IN THIS STATE. With respect to a
8 professional service limited liability company formed to provide dental
9 services as such services are defined in article 133 of the education
10 law, each member of such limited liability company must be licensed
11 pursuant to article 133 of the education law to practice dentistry in
12 this state. With respect to a professional service limited liability
13 company formed to provide veterinary services as such services are
14 defined in article 135 of the education law, each member of such limited
15 liability company must be licensed pursuant to article 135 of the educa-
16 tion law to practice veterinary medicine in this state. With respect to
17 a professional service limited liability company formed to provide
18 professional engineering, land surveying, architectural and/or landscape
19 architectural services as such services are defined in article 145,
20 article 147 and article 148 of the education law, each member of such
21 limited liability company must be licensed pursuant to article 145,
22 article 147 and/or article 148 of the education law to practice one or
23 more of such professions in this state. With respect to a professional
24 service limited liability company formed to provide licensed clinical
25 social work services as such services are defined in article 154 of the
26 education law, each member of such limited liability company shall be
27 licensed pursuant to article 154 of the education law to practice
28 licensed clinical social work in this state. With respect to a profes-
29 sional service limited liability company formed to provide creative arts
30 therapy services as such services are defined in article 163 of the
31 education law, each member of such limited liability company must be
32 licensed pursuant to article 163 of the education law to practice crea-
33 tive arts therapy in this state. With respect to a professional service
34 limited liability company formed to provide marriage and family therapy
35 services as such services are defined in article 163 of the education
36 law, each member of such limited liability company must be licensed
37 pursuant to article 163 of the education law to practice marriage and
38 family therapy in this state. With respect to a professional service
39 limited liability company formed to provide mental health counseling
40 services as such services are defined in article 163 of the education
41 law, each member of such limited liability company must be licensed
42 pursuant to article 163 of the education law to practice mental health
43 counseling in this state. With respect to a professional service limited
44 liability company formed to provide psychoanalysis services as such
45 services are defined in article 163 of the education law, each member of
46 such limited liability company must be licensed pursuant to article 163
47 of the education law to practice psychoanalysis in this state. In addi-
48 tion to engaging in such profession or professions, a professional
49 service limited liability company may engage in any other business or
50 activities as to which a limited liability company may be formed under
51 section two hundred one of this chapter. Notwithstanding any other
52 provision of this section, a professional service limited liability
53 company (i) authorized to practice law may only engage in another
54 profession or business or activities or (ii) which is engaged in a
55 profession or other business or activities other than law may only
56 engage in the practice of law, to the extent not prohibited by any other

1 law of this state or any rule adopted by the appropriate appellate divi-
2 sion of the supreme court or the court of appeals.

3 S 4. Subdivision (b) of section 1207 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 (b) With respect to a professional service limited liability company
7 formed to provide medical services as such services are defined in arti-
8 cle 131 of the education law, each member of such limited liability
9 company must be licensed pursuant to article 131 of the education law to
10 practice medicine in this state; PROVIDED, HOWEVER, THAT WITH RESPECT TO
11 A PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY FORMED TO PROVIDE
12 SERVICES DEFINED IN ARTICLE 131 OF THE EDUCATION LAW WITH SERVICES
13 DEFINED IN ARTICLE 143 AND/OR ARTICLE 144 OF THE EDUCATION LAW, EACH
14 MEMBER OF SUCH LIMITED LIABILITY COMPANY MUST BE LICENSED PURSUANT TO
15 ARTICLE 131 AND CERTIFIED BY THE AMERICAN BOARD OF OPHTHALMOLOGY, AND/OR
16 LICENSED PURSUANT TO ARTICLE 143 AND/OR ARTICLE 144 OF THE EDUCATION LAW
17 TO PRACTICE ONE OR MORE OF SUCH PROFESSIONS IN THIS STATE. With respect
18 to a professional service limited liability company formed to provide
19 dental services as such services are defined in article 133 of the
20 education law, each member of such limited liability company must be
21 licensed pursuant to article 133 of the education law to practice
22 dentistry in this state. With respect to a professional service limited
23 liability company formed to provide veterinary services as such services
24 are defined in article 135 of the education law, each member of such
25 limited liability company must be licensed pursuant to article 135 of
26 the education law to practice veterinary medicine in this state. With
27 respect to a professional service limited liability company formed to
28 provide professional engineering, land surveying, architectural and/or
29 landscape architectural services as such services are defined in article
30 145, article 147 and article 148 of the education law, each member of
31 such limited liability company must be licensed pursuant to article 145,
32 article 147 and/or article 148 of the education law to practice one or
33 more of such professions in this state. With respect to a professional
34 service limited liability company formed to provide licensed clinical
35 social work services as such services are defined in article 154 of the
36 education law, each member of such limited liability company shall be
37 licensed pursuant to article 154 of the education law to practice
38 licensed clinical social work in this state. With respect to a profes-
39 sional service limited liability company formed to provide creative arts
40 therapy services as such services are defined in article 163 of the
41 education law, each member of such limited liability company must be
42 licensed pursuant to article 163 of the education law to practice crea-
43 tive arts therapy in this state. With respect to a professional service
44 limited liability company formed to provide marriage and family therapy
45 services as such services are defined in article 163 of the education
46 law, each member of such limited liability company must be licensed
47 pursuant to article 163 of the education law to practice marriage and
48 family therapy in this state. With respect to a professional service
49 limited liability company formed to provide mental health counseling
50 services as such services are defined in article 163 of the education
51 law, each member of such limited liability company must be licensed
52 pursuant to article 163 of the education law to practice mental health
53 counseling in this state. With respect to a professional service limited
54 liability company formed to provide psychoanalysis services as such
55 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-

ner 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.

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

(q) Each partner of a foreign limited liability partnership which provides medical services in this state must be licensed pursuant to article 131 of the education law to practice medicine in the state and each partner of a foreign limited liability partnership which provides dental services in the state must be licensed pursuant to article 133 of the education law to practice dentistry in this state; PROVIDED, HOWEVER, THAT WITH RESPECT TO A FOREIGN LIMITED LIABILITY PARTNERSHIP 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 FOREIGN LIMITED LIABILITY PARTNERSHIP 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. Each partner of a foreign limited liability partnership which provides veterinary service in the state shall be licensed pursuant to article 135 of the education law to practice veterinary medicine in this state. Each partner of a foreign limited liability partnership which provides 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. Each partner of a foreign limited liability partnership which provides licensed clinical social work services in this state must be licensed pursuant to article 154 of the education law to practice licensed clinical social work in this state. Each partner of a foreign limited liability partnership which provides 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 foreign limited liability partnership which provides 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 foreign limited liability partnership which provides 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 foreign limited liability partnership which provides psychoanalysis services in this state must be licensed pursuant to article 163 of the education law to practice psychoanalysis in this state.

S 8. This act shall take effect immediately.