

8897--A

2009-2010 Regular Sessions

I N A S S E M B L Y

June 12, 2009

Introduced by M. of A. PRETLOW, GANTT, JOHN, KOON, HOYT, LUPARDO, PAULIN, DeLMONTE, JAFFEE -- Multi-Sponsored by -- M. of A. LATIMER, PEOPLES-STOKES, SCHIMEL, WEISENBERG -- -- read once and referred to the Committee on Higher Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to the registration of entities providing certain professional services and the licensure of certain professions; to amend chapter 420 of the laws of 2002, amending the education law relating to the profession of social work, in relation to the effect of such provisions on certain governmental entities and the effectiveness thereof; and to amend chapter 676 of the laws of 2002, amending the education law relating to the practice of psychology, in relation to the effect of such provisions on certain governmental entities and the effectiveness thereof

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

1 Section 1. The education law is amended by adding a new section 6503-a
2 to read as follows:
3 S 6503-A. WAIVER FOR ENTITIES PROVIDING CERTAIN PROFESSIONAL SERVICES.
4 1. A. NOTWITHSTANDING ANY LAWS TO THE CONTRARY, EXCEPT AS PROVIDED IN
5 SUBDIVISION TWO OF THIS SECTION, A NOT-FOR-PROFIT CORPORATION FORMED FOR
6 CHARITABLE, EDUCATIONAL, OR RELIGIOUS PURPOSES OR OTHER SIMILAR PURPOSES
7 DEEMED ACCEPTABLE BY THE DEPARTMENT; OR AN EDUCATION CORPORATION AS
8 DEFINED IN SUBDIVISION ONE OF SECTION TWO HUNDRED SIXTEEN-A OF THIS
9 CHAPTER MAY PROVIDE THE FOLLOWING SERVICES, PROVIDED THAT, EXCEPT AS
10 OTHERWISE PROVIDED IN PARAGRAPH B OF THIS SUBDIVISION, THE ENTITY WAS IN
11 EXISTENCE PRIOR TO THE EFFECTIVE DATE OF THIS SECTION AND HAS OBTAINED A
12 WAIVER ISSUED BY THE DEPARTMENT PURSUANT TO THIS SECTION BY NO LATER
13 THAN JULY FIRST, TWO THOUSAND TWELVE:
14 (I) SERVICES PROVIDED UNDER ARTICLE ONE HUNDRED FIFTY-FOUR OR ONE
15 HUNDRED SIXTY-THREE OF THIS TITLE FOR WHICH LICENSURE WOULD BE REQUIRED,
16 OR

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

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(II) SERVICES CONSTITUTING THE PROVISION OF PSYCHOTHERAPY AS DEFINED IN SUBDIVISION TWO OF SECTION EIGHTY-FOUR HUNDRED ONE OF THIS TITLE AND AUTHORIZED AND PROVIDED UNDER ARTICLE ONE HUNDRED THIRTY-ONE, ONE HUNDRED THIRTY-NINE, OR ONE HUNDRED FIFTY-THREE OF THIS TITLE.

SUCH SERVICES MAY BE PROVIDED EITHER DIRECTLY THROUGH THE ENTITY'S EMPLOYEES OR INDIRECTLY BY CONTRACT WITH INDIVIDUALS OR PROFESSIONAL ENTITIES DULY LICENSED, REGISTERED, OR AUTHORIZED TO PROVIDE SUCH SERVICES.

B. THE DEPARTMENT MAY ISSUE A WAIVER ON OR AFTER JULY FIRST, TWO THOUSAND TWELVE TO AN ENTITY WHICH WAS CREATED BEFORE, ON, OR AFTER THE EFFECTIVE DATE OF THIS SECTION IF THERE IS A DEMONSTRATION OF NEED OF THE ENTITY'S SERVICES SATISFACTORY TO THE DEPARTMENT.

C. WITHIN ONE HUNDRED TWENTY DAYS AFTER THE COMMISSIONER PRESCRIBES THE APPLICATION FORM AND POSTS NOTICE OF ITS AVAILABILITY ON THE DEPARTMENT'S WEBSITE, ANY ENTITY DESCRIBED IN PARAGRAPH A OF THIS SUBDIVISION PROVIDING SERVICES ON THE EFFECTIVE DATE OF THIS SECTION, MUST APPLY FOR A WAIVER. UPON SUBMISSION OF SUCH APPLICATION, THE ENTITY MAY CONTINUE TO OPERATE AND PROVIDE SERVICES UNTIL THE DEPARTMENT SHALL EITHER DENY OR APPROVE THE ENTITY'S APPLICATION. AFTER THE DEPARTMENT RENDERS A TIMELY INITIAL DETERMINATION THAT THE APPLICANT HAS SUBMITTED THE INFORMATION NECESSARY TO VERIFY THAT THE REQUIREMENTS OF PARAGRAPHS D, E, AND F OF THIS SUBDIVISION ARE SATISFIED, APPLICATIONS FOR WAIVERS SHALL BE APPROVED OR DENIED WITHIN NINETY DAYS; PROVIDED HOWEVER, THAT IF THE WAIVER APPLICATION IS DENIED THE ENTITY SHALL CEASE PROVIDING PROFESSIONAL SERVICES, PURSUANT TO PARAGRAPH A OF THIS SUBDIVISION, IN THE STATE OF NEW YORK.

D. SUCH WAIVER SHALL PROVIDE THAT SERVICES RENDERED PURSUANT TO THIS SECTION, DIRECTLY OR INDIRECTLY, SHALL BE PROVIDED ONLY BY A PERSON APPROPRIATELY LICENSED TO PROVIDE SUCH SERVICES PURSUANT TO ARTICLE ONE HUNDRED THIRTY-ONE, ONE HUNDRED THIRTY-NINE, ONE HUNDRED FIFTY-THREE, ONE HUNDRED FIFTY-FOUR, OR ONE HUNDRED SIXTY-THREE OF THIS TITLE, OR BY A PERSON OTHERWISE AUTHORIZED TO PROVIDE SUCH SERVICES UNDER SUCH ARTICLES, OR BY A PROFESSIONAL ENTITY AUTHORIZED BY LAW TO PROVIDE SUCH SERVICES.

E. AN APPLICATION FOR A WAIVER TO PROVIDE PROFESSIONAL SERVICES PURSUANT TO THIS SECTION SHALL BE ON A FORM PRESCRIBED BY THE COMMISSIONER. SUCH APPLICATION SHALL INCLUDE:

(I) THE NAME OF THE ENTITY,
(II) THE NAMES OF THE DIRECTORS AND OFFICERS OF SUCH ENTITY,
(III) A LISTING OF ANY OTHER JURISDICTIONS WHERE THE ENTITY MAY PROVIDE SERVICES, AND

(IV) AN ATTESTATION MADE BY AN OFFICER AUTHORIZED BY THE ENTITY TO MAKE SUCH ATTESTATION THAT IDENTIFIES THE SCOPE OF SERVICES TO BE PROVIDED; INCLUDES A LIST OF PROFESSIONS UNDER THIS TITLE IN WHICH PROFESSIONAL SERVICES WILL BE PROVIDED BY SUCH ENTITY; INCLUDES A STATEMENT THAT, UNLESS OTHERWISE AUTHORIZED BY LAW, THE ENTITY SHALL ONLY PROVIDE PROFESSIONAL SERVICES AUTHORIZED UNDER THIS SECTION; INCLUDES A STATEMENT THAT ONLY A LICENSED PROFESSIONAL, A PERSON OTHERWISE AUTHORIZED TO PROVIDE SUCH SERVICES, OR A PROFESSIONAL ENTITY AUTHORIZED BY LAW TO PROVIDE SUCH SERVICES SHALL PROVIDE SUCH PROFESSIONAL SERVICES AS AUTHORIZED UNDER THIS SECTION; AND ATTESTS TO THE ADEQUACY OF THE ENTITY'S FISCAL AND FINANCIAL RESOURCES TO PROVIDE SUCH SERVICES.

SUCH APPLICATION SHALL ALSO INCLUDE ANY OTHER INFORMATION RELATED TO THE APPLICATION AS MAY BE REQUIRED BY THE DEPARTMENT.

F. EACH OFFICER AND DIRECTOR OF SUCH ENTITY SHALL PROVIDE AN ATTESTATION REGARDING HIS OR HER GOOD MORAL CHARACTER AS REQUIRED PURSUANT TO

1 PARAGRAPH H OF THIS SUBDIVISION. SUCH STATEMENT SHALL SET FORTH ANY
2 CRIMINAL CONVICTIONS, PENDING CRIMINAL CHARGES, DETERMINATIONS OF
3 PROFESSIONAL MISCONDUCT, PENDING CHARGES OF PROFESSIONAL MISCONDUCT, OR
4 ANY LIMITATIONS ON PROFESSIONAL PRACTICE. THE COMMISSIONER SHALL BE
5 FURTHER AUTHORIZED TO PROMULGATE RULES OR REGULATIONS RELATING TO THE
6 STANDARDS OF THE WAIVER FOR ENTITIES PURSUANT TO THIS SECTION. SUCH
7 REGULATIONS SHALL INCLUDE STANDARDS RELATING TO THE ENTITY'S ABILITY TO
8 PROVIDE SERVICES, THE ENTITY'S MAINTENANCE OF PATIENT AND BUSINESS
9 RECORDS, THE ENTITY'S FISCAL POLICIES, AND SUCH OTHER STANDARDS AS MAY
10 BE PRESCRIBED BY THE COMMISSIONER.

11 G. THE ENTITY OPERATING PURSUANT TO A WAIVER SHALL DISPLAY, AT EACH
12 SITE WHERE PROFESSIONAL SERVICES ARE PROVIDED TO THE PUBLIC, A CERTIF-
13 ICATE OF SUCH WAIVER ISSUED BY THE DEPARTMENT PURSUANT TO THIS SECTION,
14 WHICH SHALL CONTAIN THE NAME OF THE ENTITY AND THE ADDRESS OF THE SITE.
15 SUCH ENTITIES SHALL OBTAIN FROM THE DEPARTMENT ADDITIONAL CERTIFICATES
16 FOR EACH SITE AT WHICH PROFESSIONAL SERVICES ARE PROVIDED TO THE PUBLIC.
17 EACH ENTITY SHALL BE REQUIRED TO RE-APPLY FOR A WAIVER EVERY THREE
18 YEARS. IF ANY INFORMATION SUPPLIED TO THE DEPARTMENT REGARDING THE ENTI-
19 TY SHALL CHANGE, THE ENTITY SHALL BE REQUIRED TO PROVIDE SUCH UPDATED
20 INFORMATION TO THE DEPARTMENT WITHIN SIXTY DAYS.

21 H. ENTITIES OPERATING UNDER A WAIVER PURSUANT TO THIS SECTION SHALL BE
22 UNDER THE SUPERVISION OF THE REGENTS AND SHALL BE SUBJECT TO DISCIPLI-
23 NARY PROCEEDINGS AND PENALTIES. THE WAIVERS FOR SUCH ENTITIES SHALL BE
24 SUBJECT TO SUSPENSION, REVOCATION OR ANNULMENT FOR CAUSE IN THE SAME
25 MANNER AND TO THE SAME EXTENT AS INDIVIDUALS AND PROFESSIONAL SERVICES
26 CORPORATIONS WITH RESPECT TO THEIR LICENSES, CERTIFICATES, AND REGISTRA-
27 TIONS, AS APPLICABLE, AS PROVIDED IN THIS TITLE RELATING TO THE APPLICA-
28 BLE PROFESSION. ALL OFFICERS AND DIRECTORS OF SUCH ENTITIES SHALL BE OF
29 GOOD MORAL CHARACTER. ENTITIES OPERATING PURSUANT TO A WAIVER AND THEIR
30 OFFICERS AND DIRECTORS SHALL BE ENTITLED TO THE SAME DUE PROCESS PROCE-
31 DURES AS ARE PROVIDED TO SUCH INDIVIDUALS AND PROFESSIONAL SERVICES
32 CORPORATIONS. NO WAIVER ISSUED UNDER THIS SECTION SHALL BE TRANSFERABLE
33 OR ASSIGNABLE, AS SUCH TERMS ARE DEFINED IN THE REGULATIONS OF THE
34 COMMISSIONER.

35 I. AN ENTITY OPERATING PURSUANT TO A WAIVER SHALL NOT PRACTICE ANY
36 PROFESSION LICENSED PURSUANT TO THIS TITLE OR HOLD ITSELF OUT TO THE
37 PUBLIC AS AUTHORIZED TO PROVIDE PROFESSIONAL SERVICES PURSUANT TO THIS
38 TITLE EXCEPT AS SPECIFICALLY AUTHORIZED BY THIS SECTION OR AS OTHERWISE
39 AUTHORIZED BY LAW.

40 2. NO WAIVER PURSUANT TO THIS SECTION SHALL BE REQUIRED OF:

41 A. ANY ENTITY OPERATED UNDER AN OPERATING CERTIFICATE APPROPRIATELY
42 ISSUED IN ACCORDANCE WITH ARTICLE SIXTEEN, THIRTY-ONE, OR THIRTY-TWO OF
43 THE MENTAL HYGIENE LAW, ARTICLE TWENTY-EIGHT OF THE PUBLIC HEALTH LAW,
44 OR COMPARABLE PROCEDURES BY A NEW YORK STATE OR FEDERAL AGENCY, POLI-
45 TICAL SUBDIVISION, MUNICIPAL CORPORATION, OR LOCAL GOVERNMENT AGENCY OR
46 UNIT, IN ACCORDANCE WITH THE SCOPE OF THE AUTHORITY OF SUCH OPERATING
47 CERTIFICATE; OR

48 B. A UNIVERSITY FACULTY PRACTICE CORPORATION DULY INCORPORATED PURSU-
49 ANT TO THE NOT-FOR-PROFIT CORPORATION LAW; OR

50 C. AN INSTITUTION OF HIGHER EDUCATION AUTHORIZED TO PROVIDE A PROGRAM
51 LEADING TO LICENSURE IN A PROFESSION DEFINED UNDER ARTICLE ONE HUNDRED
52 THIRTY-ONE, ONE HUNDRED THIRTY-NINE, ONE HUNDRED FIFTY-THREE, ONE
53 HUNDRED FIFTY-FOUR OR ONE HUNDRED SIXTY-THREE OF THIS TITLE, TO THE
54 EXTENT THAT THE SCOPE OF SUCH SERVICES IS LIMITED TO THE SERVICES
55 AUTHORIZED TO BE PROVIDED WITHIN SUCH REGISTERED PROGRAM; OR

1 D. AN INSTITUTION OF HIGHER EDUCATION PROVIDING COUNSELING ONLY TO THE
2 STUDENTS, STAFF, OR FAMILY MEMBERS OF STUDENTS AND STAFF OF SUCH INSTI-
3 TUTION; OR

4 E. ANY OTHER ENTITY AS MAY BE DEFINED IN THE REGULATIONS OF THE
5 COMMISSIONER, PROVIDED THAT SUCH ENTITY IS OTHERWISE AUTHORIZED TO
6 PROVIDE SUCH SERVICES PURSUANT TO LAW AND ONLY TO THE EXTENT SUCH
7 SERVICES ARE AUTHORIZED UNDER ANY CERTIFICATES OF INCORPORATION OR SUCH
8 OTHER ORGANIZING DOCUMENTS AS MAY BE APPLICABLE.

9 3. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT THE AUTHORITY
10 OF ANOTHER STATE AGENCY TO CERTIFY, LICENSE OR OTHERWISE AUTHORIZE AN
11 ENTITY APPLYING FOR A WAIVER PURSUANT TO THIS SECTION, IF SUCH STATE
12 AGENCY IS OTHERWISE AUTHORIZED UNDER ANOTHER PROVISION OF LAW TO CERTI-
13 FY, LICENSE OR AUTHORIZE SUCH AN ENTITY, NOR SHALL A WAIVER PURSUANT TO
14 THIS SECTION BE CONSTRUED TO PROVIDE AN EXEMPTION OF SUCH ENTITY FROM
15 ANY CERTIFICATION, LICENSURE OR ANY OTHER SUCH REQUIREMENT ESTABLISHED
16 UNDER ANY OTHER PROVISION OF LAW. IF A STATE AGENCY DETERMINES THAT SUCH
17 CERTIFICATION, LICENSURE OR OTHER AUTHORIZATION IS REQUIRED, A WAIVER
18 PURSUANT TO THIS SECTION SHALL NOT INDEPENDENTLY HAVE THE EFFECT OF
19 AUTHORIZING THE PROVISION OF PROFESSIONAL SERVICES UNDER THE JURISDIC-
20 TION OF SUCH AGENCY IN THE ABSENCE OF CERTIFICATION, LICENSURE OR OTHER
21 AUTHORIZATION FROM SUCH AGENCY, AND THE DEPARTMENT SHALL CONSULT WITH
22 SUCH AGENCY REGARDING THE NEED FOR LICENSURE, CERTIFICATION OR AUTHORI-
23 ZATION TO THE EXTENT REQUIRED IN THE REGULATIONS OF THE COMMISSIONER. IN
24 DETERMINING AN APPLICATION FOR A WAIVER PURSUANT TO THIS SECTION, THE
25 DEPARTMENT SHALL CONSIDER AS A FACTOR IN SUCH DETERMINATION ANY DENIAL
26 OF AN OPERATING CERTIFICATE OR OTHER AUTHORITY TO PROVIDE THE SERVICES
27 AUTHORIZED PURSUANT TO THIS SECTION BY A NEW YORK STATE OR FEDERAL AGEN-
28 CY, POLITICAL SUBDIVISION, MUNICIPAL CORPORATION, OR LOCAL GOVERNMENT
29 AGENCY OR UNIT.

30 4. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT THE AUTHORITY
31 OF THE FOLLOWING ENTITIES TO PROVIDE PROFESSIONAL SERVICES THEY ARE
32 AUTHORIZED BY LAW TO PROVIDE:

33 A. ANY APPROPRIATELY ORGANIZED PROFESSIONAL ENTITY, INCLUDING, BUT NOT
34 LIMITED TO, THOSE ESTABLISHED UNDER THE BUSINESS CORPORATION LAW, THE
35 LIMITED LIABILITY COMPANY LAW OR THE PARTNERSHIP LAW; OR

36 B. ANY ENTITY OPERATED BY A NEW YORK STATE OR FEDERAL AGENCY, POLI-
37 TICAL SUBDIVISION, MUNICIPAL CORPORATION, OR LOCAL GOVERNMENT AGENCY OR
38 UNIT PURSUANT TO AUTHORITY GRANTED BY LAW, INCLUDING BUT NOT LIMITED TO
39 ANY ENTITY OPERATED BY THE OFFICE OF MENTAL HEALTH, THE OFFICE OF MENTAL
40 RETARDATION AND DEVELOPMENTAL DISABILITIES, OR THE OFFICE OF ALCOHOLISM
41 AND SUBSTANCE ABUSE SERVICES UNDER ARTICLES SEVEN, THIRTEEN, AND NINE-
42 TEEN OF THE MENTAL HYGIENE LAW, RESPECTIVELY.

43 5. FOR THE PURPOSES OF THIS SECTION, "PROFESSIONAL ENTITY" SHALL MEAN
44 AND INCLUDE SOLE PROPRIETORSHIPS AND ANY PROFESSIONAL SERVICES ORGANIZA-
45 TION ESTABLISHED PURSUANT TO ARTICLE FIFTEEN OF THE BUSINESS CORPORATION
46 LAW, ARTICLE TWELVE OF THE LIMITED LIABILITY COMPANY LAW AND SECTION TWO
47 AND ARTICLE EIGHT-B OF THE PARTNERSHIP LAW.

48 S 2. Section 6527 of the education law is amended by adding a new
49 subdivision 8 to read as follows:

50 8. NOTHING IN THIS ARTICLE SHALL PROHIBIT THE PROVISION OF PSYCHOTHER-
51 APY AS DEFINED IN SUBDIVISION TWO OF SECTION EIGHTY-FOUR HUNDRED ONE OF
52 THIS TITLE TO THE EXTENT PERMISSIBLE WITHIN THE SCOPE OF PRACTICE OF
53 MEDICINE, BY ANY NOT-FOR-PROFIT CORPORATION OR EDUCATION CORPORATION
54 PROVIDING SERVICES WITHIN THE STATE OF NEW YORK AND OPERATING UNDER A
55 WAIVER PURSUANT TO SECTION SIXTY-FIVE HUNDRED THREE-A OF THIS TITLE,
56 PROVIDED THAT SUCH ENTITIES OFFERING SUCH PSYCHOTHERAPY SERVICES SHALL

1 ONLY PROVIDE SUCH SERVICES THROUGH AN INDIVIDUAL APPROPRIATELY LICENSED
2 OR OTHERWISE AUTHORIZED TO PROVIDE SUCH SERVICES OR A PROFESSIONAL ENTI-
3 TY AUTHORIZED BY LAW TO PROVIDE SUCH SERVICES.

4 S 3. Subdivision 1 of section 6908 of the education law is amended by
5 adding a new paragraph h to read as follows:

6 H. AS PROHIBITING THE PROVISION OF PSYCHOTHERAPY AS DEFINED IN SUBDI-
7 VISION TWO OF SECTION EIGHTY-FOUR HUNDRED ONE OF THIS TITLE TO THE
8 EXTENT PERMISSIBLE WITHIN THE SCOPE OF PRACTICE OF NURSING AS DEFINED IN
9 THIS TITLE, BY ANY NOT-FOR-PROFIT CORPORATION OR EDUCATION CORPORATION
10 PROVIDING SERVICES WITHIN THE STATE AND OPERATING UNDER A WAIVER PURSU-
11 ANT TO SECTION SIXTY-FIVE HUNDRED THREE-A OF THIS TITLE, PROVIDED THAT
12 SUCH ENTITIES OFFERING SUCH PSYCHOTHERAPY SERVICES SHALL ONLY PROVIDE
13 SUCH SERVICES THROUGH AN INDIVIDUAL APPROPRIATELY LICENSED OR OTHERWISE
14 AUTHORIZED TO PROVIDE SUCH SERVICES OR A PROFESSIONAL ENTITY AUTHORIZED
15 BY LAW TO PROVIDE SUCH SERVICES.

16 S 4. Section 7605 of the education law is amended by adding a new
17 subdivision 9 to read as follows:

18 9. THE PROVISION OF PSYCHOTHERAPY AS DEFINED IN SUBDIVISION TWO OF
19 SECTION EIGHTY-FOUR HUNDRED ONE OF THIS TITLE TO THE EXTENT PERMISSIBLE
20 WITHIN THE SCOPE OF PRACTICE OF PSYCHOLOGY, BY ANY NOT-FOR-PROFIT CORPO-
21 RATION OR EDUCATION CORPORATION PROVIDING SERVICES WITHIN THE STATE OF
22 NEW YORK AND OPERATING UNDER A WAIVER PURSUANT TO SECTION SIXTY-FIVE
23 HUNDRED THREE-A OF THIS TITLE, PROVIDED THAT SUCH ENTITIES OFFERING
24 PSYCHOLOGY SERVICES SHALL ONLY PROVIDE SUCH SERVICES THROUGH AN INDIVID-
25 UAL APPROPRIATELY LICENSED OR OTHERWISE AUTHORIZED TO PROVIDE SUCH
26 SERVICES OR A PROFESSIONAL ENTITY AUTHORIZED BY LAW TO PROVIDE SUCH
27 SERVICES.

28 S 5. Section 7706 of the education law is amended by adding a new
29 subdivision 6 to read as follows:

30 6. PROHIBIT THE PRACTICE OF LICENSED MASTER SOCIAL WORK OR LICENSED
31 CLINICAL SOCIAL WORK, TO THE EXTENT PERMISSIBLE WITHIN THE SCOPE OF
32 PRACTICE OF SUCH PROFESSIONS, BY ANY NOT-FOR-PROFIT CORPORATION OR
33 EDUCATION CORPORATION PROVIDING SERVICES WITHIN THE STATE OF NEW YORK
34 AND OPERATING UNDER A WAIVER PURSUANT TO SECTION SIXTY-FIVE HUNDRED
35 THREE-A OF THIS TITLE, PROVIDED THAT SUCH ENTITIES OFFERING LICENSED
36 MASTER SOCIAL WORK OR LICENSED CLINICAL SOCIAL WORK SERVICES SHALL ONLY
37 PROVIDE SUCH SERVICES THROUGH AN INDIVIDUAL APPROPRIATELY LICENSED OR
38 OTHERWISE AUTHORIZED TO PROVIDE SUCH SERVICES OR A PROFESSIONAL ENTITY
39 AUTHORIZED BY LAW TO PROVIDE SUCH SERVICES.

40 S 6. Section 8410 of the education law is amended by adding a new
41 subdivision 7 to read as follows:

42 7. PROHIBIT THE PRACTICE OF MENTAL HEALTH COUNSELING, MARRIAGE AND
43 FAMILY THERAPY, CREATIVE ARTS THERAPY OR PSYCHOANALYSIS, TO THE EXTENT
44 PERMISSIBLE WITHIN THE SCOPE OF PRACTICE OF SUCH PROFESSIONS, BY ANY
45 NOT-FOR-PROFIT CORPORATION OR EDUCATION CORPORATION PROVIDING SERVICES
46 WITHIN THE STATE OF NEW YORK AND OPERATING UNDER A WAIVER PURSUANT TO
47 SECTION SIXTY-FIVE HUNDRED THREE-A OF THIS TITLE, PROVIDED THAT SUCH
48 ENTITIES OFFERING MENTAL HEALTH COUNSELING, MARRIAGE AND FAMILY THERAPY,
49 CREATIVE ARTS THERAPY OR PSYCHOANALYSIS SERVICES SHALL ONLY PROVIDE SUCH
50 SERVICES THROUGH AN INDIVIDUAL APPROPRIATELY LICENSED OR OTHERWISE
51 AUTHORIZED TO PROVIDE SUCH SERVICES OR A PROFESSIONAL ENTITY AUTHORIZED
52 BY LAW TO PROVIDE SUCH SERVICES.

53 S 7. Subdivision 3 of section 7603 of the education law, as added by
54 chapter 987 of the laws of 1971, is amended to read as follows:

55 (3) Experience: have two years of supervised employment or engagement
56 in appropriate psychology activities satisfactory to the board and in

1 accordance with the commissioner's regulations. SATISFACTORY EXPERIENCE
2 OBTAINED IN AN ENTITY OPERATING PURSUANT TO A WAIVER ISSUED BY THE
3 DEPARTMENT PURSUANT TO SECTION SIXTY-FIVE HUNDRED THREE-A OF THIS TITLE
4 MAY BE ACCEPTED BY THE DEPARTMENT, NOTWITHSTANDING THAT SUCH EXPERIENCE
5 MAY HAVE BEEN OBTAINED PRIOR TO THE EFFECTIVE DATE OF SUCH SECTION
6 SIXTY-FIVE HUNDRED THREE-A AND/OR PRIOR TO THE ENTITY HAVING OBTAINED A
7 WAIVER. THE DEPARTMENT MAY, FOR GOOD CAUSE SHOWN, ACCEPT SATISFACTORY
8 EXPERIENCE THAT WAS OBTAINED IN A SETTING THAT WOULD HAVE BEEN ELIGIBLE
9 FOR A WAIVER BUT WHICH HAS NOT OBTAINED A WAIVER WITH THE DEPARTMENT OR
10 EXPERIENCE THAT WAS OBTAINED IN GOOD FAITH BY THE APPLICANT UNDER THE
11 BELIEF THAT APPROPRIATE AUTHORIZATION HAD BEEN OBTAINED FOR THE EXPERI-
12 ENCE, PROVIDED THAT SUCH EXPERIENCE MEETS ALL OTHER REQUIREMENTS FOR
13 ACCEPTABLE EXPERIENCE;

14 S 8. Paragraph (c) of subdivision 2 of section 7704 of the education
15 law, as amended by chapter 230 of the laws of 2004, is amended to read
16 as follows:

17 (c) Experience: have at least three years full-time supervised post-
18 graduate clinical social work experience in diagnosis, psychotherapy,
19 and assessment-based treatment plans, or its part-time equivalent,
20 obtained over a continuous period not to exceed six years, under the
21 supervision, satisfactory to the department, of a psychiatrist, a
22 licensed psychologist, or a licensed clinical social worker in a facili-
23 ty setting or other supervised settings approved by the department.
24 SATISFACTORY EXPERIENCE OBTAINED IN AN ENTITY OPERATING UNDER A WAIVER
25 ISSUED BY THE DEPARTMENT PURSUANT TO SECTION SIXTY-FIVE HUNDRED THREE-A
26 OF THIS TITLE MAY BE ACCEPTED BY THE DEPARTMENT, NOTWITHSTANDING THAT
27 SUCH EXPERIENCE MAY HAVE BEEN OBTAINED PRIOR TO THE EFFECTIVE DATE OF
28 SUCH SECTION SIXTY-FIVE HUNDRED THREE-A AND/OR PRIOR TO THE ENTITY
29 HAVING OBTAINED A WAIVER. THE DEPARTMENT MAY, FOR GOOD CAUSE SHOWN,
30 ACCEPT SATISFACTORY EXPERIENCE THAT WAS OBTAINED IN A SETTING THAT WOULD
31 HAVE BEEN ELIGIBLE FOR A WAIVER BUT WHICH HAS NOT OBTAINED A WAIVER FROM
32 THE DEPARTMENT OR EXPERIENCE THAT WAS OBTAINED IN GOOD FAITH BY THE
33 APPLICANT UNDER THE BELIEF THAT APPROPRIATE AUTHORIZATION HAD BEEN
34 OBTAINED FOR THE EXPERIENCE, PROVIDED THAT SUCH EXPERIENCE MEETS ALL
35 OTHER REQUIREMENTS FOR ACCEPTABLE EXPERIENCE;

36 S 9. Paragraph (c) of subdivision 3 of section 8402 of the education
37 law, as added by chapter 676 of the laws of 2002, is amended to read as
38 follows:

39 (c) Experience: An applicant shall complete a minimum of three thou-
40 sand hours of post-master's supervised experience relevant to the prac-
41 tice of mental health counseling satisfactory to the board and in
42 accordance with the commissioner's regulations. SATISFACTORY EXPERIENCE
43 OBTAINED IN AN ENTITY OPERATING UNDER A WAIVER ISSUED BY THE DEPARTMENT
44 PURSUANT TO SECTION SIXTY-FIVE HUNDRED THREE-A OF THIS TITLE MAY BE
45 ACCEPTED BY THE DEPARTMENT, NOTWITHSTANDING THAT SUCH EXPERIENCE MAY
46 HAVE BEEN OBTAINED PRIOR TO THE EFFECTIVE DATE OF SUCH SECTION
47 SIXTY-FIVE HUNDRED THREE-A AND/OR PRIOR TO THE ENTITY HAVING OBTAINED A
48 WAIVER. THE DEPARTMENT MAY, FOR GOOD CAUSE SHOWN, ACCEPT SATISFACTORY
49 EXPERIENCE THAT WAS OBTAINED IN A SETTING THAT WOULD HAVE BEEN ELIGIBLE
50 FOR A WAIVER BUT WHICH HAS NOT OBTAINED A WAIVER FROM THE DEPARTMENT OR
51 EXPERIENCE THAT WAS OBTAINED IN GOOD FAITH BY THE APPLICANT UNDER THE
52 BELIEF THAT APPROPRIATE AUTHORIZATION HAD BEEN OBTAINED FOR THE EXPERI-
53 ENCE, PROVIDED THAT SUCH EXPERIENCE MEETS ALL OTHER REQUIREMENTS FOR
54 ACCEPTABLE EXPERIENCE;

1 S 10. Paragraph (c) of subdivision 3 of section 8403 of the education
2 law, as added by chapter 676 of the laws of 2002, is amended to read as
3 follows:

4 (c) Experience: The completion of at least one thousand five hundred
5 client contact hours of supervised clinical experience, by persons hold-
6 ing a degree from a master's or doctoral program, or the substantial
7 equivalent, in accordance with the commissioner's regulations or the
8 completion of at least one thousand five hundred client hours of super-
9 vised post-master's clinical experience in marriage and family therapy
10 satisfactory to the department in accordance with the commissioner's
11 regulations. SATISFACTORY EXPERIENCE OBTAINED IN AN ENTITY OPERATING
12 UNDER A WAIVER ISSUED BY THE DEPARTMENT PURSUANT TO SECTION SIXTY-FIVE
13 HUNDRED THREE-A OF THIS TITLE MAY BE ACCEPTED BY THE DEPARTMENT,
14 NOTWITHSTANDING THAT SUCH EXPERIENCE MAY HAVE BEEN OBTAINED PRIOR TO THE
15 EFFECTIVE DATE OF SUCH SECTION SIXTY-FIVE HUNDRED THREE-A AND/OR PRIOR
16 TO THE ENTITY HAVING OBTAINED A WAIVER. THE DEPARTMENT MAY, FOR GOOD
17 CAUSE SHOWN, ACCEPT SATISFACTORY EXPERIENCE THAT WAS OBTAINED IN A
18 SETTING THAT WOULD HAVE BEEN ELIGIBLE FOR A WAIVER BUT WHICH HAS NOT
19 OBTAINED A WAIVER FROM THE DEPARTMENT OR EXPERIENCE THAT WAS OBTAINED IN
20 GOOD FAITH BY THE APPLICANT UNDER THE BELIEF THAT APPROPRIATE AUTHORI-
21 ZATION HAD BEEN OBTAINED FOR THE EXPERIENCE, PROVIDED THAT SUCH EXPERI-
22 ENCE MEETS ALL OTHER REQUIREMENTS FOR ACCEPTABLE EXPERIENCE;

23 S 11. Paragraph (c) of subdivision 3 of section 8404 of the education
24 law, as added by chapter 676 of the laws of 2002, is amended to read as
25 follows:

26 (c) Experience: Have completed at least fifteen hundred hours of post-
27 master's supervised experience in one or more creative arts therapies
28 satisfactory to the department and in accordance with the commissioner's
29 regulations. SATISFACTORY EXPERIENCE OBTAINED IN AN ENTITY OPERATING
30 UNDER A WAIVER ISSUED BY THE DEPARTMENT PURSUANT TO SECTION SIXTY-FIVE
31 HUNDRED THREE-A OF THIS TITLE MAY BE ACCEPTED BY THE DEPARTMENT,
32 NOTWITHSTANDING THAT SUCH EXPERIENCE MAY HAVE BEEN OBTAINED PRIOR TO THE
33 EFFECTIVE DATE OF SUCH SECTION SIXTY-FIVE HUNDRED THREE-A AND/OR PRIOR
34 TO THE ENTITY HAVING OBTAINED A WAIVER. THE DEPARTMENT MAY, FOR GOOD
35 CAUSE SHOWN, ACCEPT SATISFACTORY EXPERIENCE THAT WAS OBTAINED IN A
36 SETTING THAT WOULD HAVE BEEN ELIGIBLE FOR A WAIVER BUT WHICH HAS NOT
37 OBTAINED A WAIVER FROM THE DEPARTMENT OR EXPERIENCE THAT WAS OBTAINED IN
38 GOOD FAITH BY THE APPLICANT UNDER THE BELIEF THAT APPROPRIATE AUTHORI-
39 ZATION HAD BEEN OBTAINED FOR THE EXPERIENCE, PROVIDED THAT SUCH EXPERI-
40 ENCE MEETS ALL OTHER REQUIREMENTS FOR ACCEPTABLE EXPERIENCE;

41 S 12. Paragraph (c) of subdivision 3 of section 8405 of the education
42 law, as added by chapter 676 of the laws of 2002, is amended to read as
43 follows:

44 (c) Experience: Have completed a minimum of fifteen hundred hours of
45 supervised clinical practice satisfactory to the department and in
46 accordance with the commissioner's regulations. SATISFACTORY EXPERIENCE
47 OBTAINED IN AN ENTITY OPERATING UNDER A WAIVER ISSUED BY THE DEPARTMENT
48 PURSUANT TO SECTION SIXTY-FIVE HUNDRED THREE-A OF THIS TITLE MAY BE
49 ACCEPTED BY THE DEPARTMENT, NOTWITHSTANDING THAT SUCH EXPERIENCE MAY
50 HAVE BEEN OBTAINED PRIOR TO THE EFFECTIVE DATE OF SUCH SECTION
51 SIXTY-FIVE HUNDRED THREE-A AND/OR PRIOR TO THE ENTITY HAVING OBTAINED A
52 WAIVER. THE DEPARTMENT MAY, FOR GOOD CAUSE SHOWN, ACCEPT SATISFACTORY
53 EXPERIENCE THAT WAS OBTAINED IN A SETTING THAT WOULD HAVE BEEN ELIGIBLE
54 FOR A WAIVER BUT WHICH HAS NOT OBTAINED A WAIVER FROM THE DEPARTMENT OR
55 EXPERIENCE THAT WAS OBTAINED IN GOOD FAITH BY THE APPLICANT UNDER THE
56 BELIEF THAT APPROPRIATE AUTHORIZATION HAD BEEN OBTAINED FOR THE EXPERI-

1 ENCE, PROVIDED THAT SUCH EXPERIENCE MEETS ALL OTHER REQUIREMENTS FOR
2 ACCEPTABLE EXPERIENCE;

3 S 13. Section 9 of chapter 420 of the laws of 2002 amending the educa-
4 tion law relating to the profession of social work, as amended by
5 section 1 of part II of chapter 57 of the laws of 2009, is amended to
6 read as follows:

7 S 9. Nothing in this act shall prohibit or limit the activities or
8 services on the part of any person in the employ of a program or service
9 operated, regulated, funded, or approved by the department of mental
10 hygiene [or], the office of children and family services, THE DEPARTMENT
11 OF CORRECTIONAL SERVICES, THE STATE OFFICE FOR THE AGING, THE DEPARTMENT
12 OF HEALTH, or a local governmental unit as that term is defined in arti-
13 cle 41 of the mental hygiene law or a social services district as
14 defined in section 61 of the social services law, provided, however,
15 this section shall not authorize the use of any title authorized pursu-
16 ant to article 154 of the education law, except that this section shall
17 be deemed repealed on [June 1, 2010] JULY 1, 2013; PROVIDED, FURTHER,
18 HOWEVER, THAT ON OR BEFORE JULY 1, 2011, EACH SUCH STATE AGENCY, LOCAL
19 GOVERNMENTAL UNIT, AND SOCIAL SERVICES DISTRICT, EITHER INDIVIDUALLY OR
20 ON A GROUP BASIS, SHALL SUBMIT TO THE COMMISSIONER OF EDUCATION A REPORT
21 ON THE UTILIZATION OF PERSONNEL SUBJECT TO THE PROVISIONS OF THIS
22 SECTION. SUCH REPORT SHALL INCLUDE BUT NOT BE LIMITED TO: IDENTIFICATION
23 OF TASKS AND ACTIVITIES PERFORMED BY SUCH PERSONNEL CATEGORIZED AS TASKS
24 AND FUNCTIONS RESTRICTED TO LICENSED PERSONNEL AND TASKS AND FUNCTIONS
25 THAT DO NOT REQUIRE A LICENSE UNDER ARTICLE 154 OF THE EDUCATION LAW;
26 ANALYSIS OF COSTS ASSOCIATED WITH EMPLOYING ONLY APPROPRIATELY LICENSED
27 OR OTHERWISE AUTHORIZED PERSONNEL TO PERFORM TASKS AND FUNCTIONS THAT
28 REQUIRE LICENSURE UNDER SUCH ARTICLE 154, INCLUDING SALARY COSTS AND
29 COSTS ASSOCIATED WITH PROVIDING SUPPORT TO UNLICENSED PERSONNEL IN
30 OBTAINING APPROPRIATE LICENSURE. SUCH REPORT SHALL ALSO INCLUDE AN
31 ACTION PLAN DETAILING MEASURES THROUGH WHICH EACH SUCH ENTITY SHALL, NO
32 LATER THAN JULY 1, 2013, EMPLOY ONLY LICENSED OR OTHERWISE AUTHORIZED
33 PERSONNEL TO PERFORM TASKS AND FUNCTIONS REQUIRING LICENSURE, AND SHALL
34 INCLUDE PLANS TO ASSIST THE ENTITY'S EMPLOYEES TO BECOME LICENSED,
35 RECOMMENDATIONS ON ALTERNATIVE PATHWAYS TOWARD LICENSURE, INFORMATION
36 RELATED TO REASSIGNMENT, REAPPOINTMENT, TRANSFER, OR RECLASSIFICATION OF
37 PERSONNEL, AND ANY OTHER SUCH SUPPORT NECESSARY TO ENSURE AN APPROPRI-
38 ATELY LICENSED WORKFORCE. THE COMMISSIONER OF EDUCATION SHALL, AFTER
39 CONSULTATION WITH STATE AGENCIES, NOT-FOR-PROFIT PROVIDERS, PROFESSIONAL
40 ASSOCIATIONS, CONSUMERS, AND OTHER KEY STAKEHOLDERS, SUBMIT A REPORT TO
41 THE SPEAKER OF THE ASSEMBLY, THE TEMPORARY PRESIDENT OF THE SENATE, AND
42 THE CHAIRS OF THE SENATE AND ASSEMBLY EDUCATION COMMITTEES BY JULY 1,
43 2012 TO RECOMMEND ANY AMENDMENTS TO LAW, RULE OR REGULATION NECESSARY TO
44 FULLY IMPLEMENT THE REQUIREMENTS FOR LICENSURE BY JULY 1, 2013.

45 S 14. Section 17-a of chapter 676 of the laws of 2002 amending the
46 education law relating to the practice of psychology, as amended by
47 section 2 of part II of chapter 57 of the laws of 2009, is amended to
48 read as follows:

49 S 17-a. [Nothing] A. IN RELATION TO ACTIVITIES AND SERVICES PROVIDED
50 UNDER ARTICLE 153 OF THE EDUCATION LAW, NOTHING in this act shall
51 prohibit or limit [the] SUCH activities or services on the part of any
52 person in the employ of a program or service operated, regulated, fund-
53 ed, or approved by the department of mental hygiene or the office of
54 children and family services, or a local governmental unit as that term
55 is defined in article 41 of the mental hygiene law or a social services
56 district as defined in section 61 of the social services law[, provided,

1 however, this section shall not authorize the use of any title author-
2 ized pursuant to article 153 or 163 of the education law, except as
3 otherwise provided by such articles, except that this section shall be
4 deemed repealed on June 1, 2010]. IN RELATION TO ACTIVITIES AND SERVICES
5 PROVIDED UNDER ARTICLE 163 OF THE EDUCATION LAW, NOTHING IN THIS ACT
6 SHALL PROHIBIT OR LIMIT SUCH ACTIVITIES OR SERVICES ON THE PART OF ANY
7 PERSON IN THE EMPLOY OF A PROGRAM OR SERVICE OPERATED, REGULATED, FUND-
8 ED, OR APPROVED BY THE DEPARTMENT OF MENTAL HYGIENE, THE OFFICE OF CHIL-
9 DREN AND FAMILY SERVICES, THE DEPARTMENT OF CORRECTIONAL SERVICES, THE
10 STATE OFFICE FOR THE AGING AND THE DEPARTMENT OF HEALTH OR A LOCAL
11 GOVERNMENTAL UNIT AS THAT TERM IS DEFINED IN ARTICLE 41 OF THE MENTAL
12 HYGIENE LAW OR A SOCIAL SERVICES DISTRICT AS DEFINED IN SECTION 61 OF
13 THE SOCIAL SERVICES LAW, PURSUANT TO AUTHORITY GRANTED BY LAW. THIS
14 SECTION SHALL NOT AUTHORIZE THE USE OF ANY TITLE AUTHORIZED PURSUANT TO
15 ARTICLE 153 OR 163 OF THE EDUCATION LAW BY ANY SUCH EMPLOYED PERSON,
16 EXCEPT AS OTHERWISE PROVIDED BY SUCH ARTICLES RESPECTIVELY.

17 B. THIS SECTION SHALL BE DEEMED REPEALED JULY 1, 2013 PROVIDED, HOWEV-
18 ER, THAT ON OR BEFORE JULY 1, 2011, EACH SUCH STATE AGENCY, LOCAL
19 GOVERNMENTAL UNIT, AND SOCIAL SERVICES DISTRICT, EITHER INDIVIDUALLY OR
20 ON A GROUP BASIS, SHALL SUBMIT TO THE COMMISSIONER OF EDUCATION A REPORT
21 ON THE UTILIZATION OF PERSONNEL SUBJECT TO THE PROVISIONS OF THIS
22 SECTION. SUCH REPORT SHALL INCLUDE BUT NOT BE LIMITED TO: IDENTIFICATION
23 OF TASKS AND ACTIVITIES PERFORMED BY SUCH PERSONNEL CATEGORIZED AS TASKS
24 AND FUNCTIONS RESTRICTED TO LICENSED PERSONNEL AND TASKS AND FUNCTIONS
25 THAT DO NOT REQUIRE A LICENSE UNDER ARTICLE 153 OR 163 OF THE EDUCATION
26 LAW; ANALYSIS OF COSTS ASSOCIATED WITH EMPLOYING ONLY APPROPRIATELY
27 LICENSED OR OTHERWISE AUTHORIZED PERSONNEL TO PERFORM TASKS AND FUNC-
28 TIONS THAT REQUIRE LICENSURE UNDER SUCH ARTICLE 153 OR 163, INCLUDING
29 SALARY COSTS AND COSTS ASSOCIATED WITH PROVIDING SUPPORT TO UNLICENSED
30 PERSONNEL IN OBTAINING APPROPRIATE LICENSURE. SUCH REPORT SHALL ALSO
31 INCLUDE AN ACTION PLAN DETAILING MEASURES THROUGH WHICH EACH SUCH ENTITY
32 SHALL, NO LATER THAN JULY 1, 2013, EMPLOY ONLY LICENSED OR OTHERWISE
33 AUTHORIZED PERSONNEL TO PERFORM TASKS AND FUNCTIONS REQUIRING LICENSURE,
34 AND SHALL INCLUDE PLANS TO ASSIST THE ENTITY'S EMPLOYEES TO BECOME
35 LICENSED, RECOMMENDATIONS ON ALTERNATIVE PATHWAYS TOWARD LICENSURE,
36 INFORMATION RELATED TO REASSIGNMENT, REAPPOINTMENT, TRANSFER, OR RECLAS-
37 SIFICATION OF PERSONNEL, AND ANY OTHER SUCH SUPPORT NECESSARY TO ENSURE
38 AN APPROPRIATELY LICENSED WORKFORCE. THE COMMISSIONER OF EDUCATION
39 SHALL, AFTER CONSULTATION WITH STATE AGENCIES, NOT-FOR-PROFIT PROVIDERS,
40 PROFESSIONAL ASSOCIATIONS, CONSUMERS, AND OTHER KEY STAKEHOLDERS, SUBMIT
41 A REPORT TO THE SPEAKER OF THE ASSEMBLY, THE TEMPORARY PRESIDENT OF THE
42 SENATE, AND THE CHAIRS OF THE SENATE AND ASSEMBLY HIGHER EDUCATION
43 COMMITTEES BY JULY 1, 2012 TO RECOMMEND ANY AMENDMENTS TO LAW, RULE OR
44 REGULATION NECESSARY TO FULLY IMPLEMENT THE REQUIREMENTS FOR LICENSURE
45 BY JULY 1, 2013.

46 S 15. This act shall take effect immediately; provided that if this
47 act shall have become a law after June 1, 2010, sections thirteen and
48 fourteen of this act shall take effect immediately and shall be deemed
49 to have been in full force and effect on and after June 1, 2010;
50 provided further that the amendments to section 9 of chapter 420 of the
51 laws of 2002 amending the education law relating to the profession of
52 social work made by section thirteen of this act shall repeal on the
53 same date as such section repeals; provided further that the amendments
54 to section 17-a of chapter 676 of the laws of 2002 amending the educa-
55 tion law relating to the practice of psychology made by section fourteen
56 of this act shall repeal on the same date as such section repeals.