S T A T E O F N E W Y O R K

5385

2009-2010 Regular Sessions

I N S E N A T E

April 27, 2009

Introduced by Sen. SQUADRON -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law and the education law, in relation to the provision of evaluations, service coordination services and early intervention program services and to repeal certain provisions of the education law related thereto

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

Section 1. Section 2541 of the public health law, as added by chapter 428 of the laws of 1992, paragraph (a) of subdivision 8 as amended by section 1 of part B3 of chapter 62 of the laws of 2003 and subdivision 13-a as added by chapter 231 of the laws of 1993, is amended to read as follows:

S 2541. Definitions. As used in this title the following terms shall have the following meanings, unless the context clearly requires otherwise:

1. "AGENCY" MEANS AN ENTITY WHICH EMPLOYS QUALIFIED PERSONNEL, OR CONTRACTS WITH QUALIFIED PERSONNEL WHO ARE APPROVED BY THE DEPARTMENT, FOR THE PROVISION OF EARLY INTERVENTION PROGRAM EVALUATIONS, SERVICE COORDINATION OR EARLY INTERVENTION SERVICES, AND MEETS THE REQUIREMENTS SET FORTH IN PARAGRAPH (E) OF SUBDIVISION FOUR OF SECTION TWENTY-FIVE HUNDRED FIFTY-A OF THIS TITLE.

2. "Children at risk" means children who may experience a disability because of medical, biological or environmental factors which may produce developmental delay, as determined by the commissioner through regulation.

[2. "Coordinated standards and procedures" means standards and procedures developed by state early intervention service agencies pursuant to section twenty-five hundred fifty-one of this title.]

3. "Council" means the early intervention coordinating council established under section twenty-five hundred fifty-three of this title.

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

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4. "Developmental delay" means that a child has not attained developmental milestones expected for the child's chronological age, as measured by qualified professionals using appropriate diagnostic instruments and/or procedures and informed clinical opinion, in one or more of the following areas of development: cognitive, physical, communication, social or emotional, or adaptive.

5. "Disability" means:

(a) a developmental delay; or

(b) a diagnosed physical or mental condition that has a high probability of resulting in developmental delay, such as Down syndrome or other chromosomal abnormalities, sensory impairments, inborn errors of metabolism or fetal alcohol syndrome.

6. "Early intervention official" means an appropriate municipal official designated by the chief executive officer of a municipality and an appropriate designee of such official.

7. "Early intervention services" means developmental services that:

(a) are provided under public supervision;

(b) are selected in collaboration with the parents;

(c) are designed to meet a child's developmental needs in any one or more of the following areas:

(i) physical development, including vision and hearing,

(ii) cognitive development,

(iii) communication development,

(iv) social or emotional development, or

(v) adaptive development;

(d) meet [the coordinated standards and procedures] STANDARDS DEVELOPED BY THE LEAD AGENCY;

(e) are provided by qualified personnel;

(f) are provided in conformity with an IFSP;

(g) are, to the maximum extent appropriate, provided in natural environments, including the home and community settings where children without disabilities would participate;

(h) include, as appropriate:

(i) family training, counseling, home visits and parent support groups,

(ii) special instruction,

(iii) speech pathology and audiology,

(iv) occupational therapy,

(v) physical therapy,

(vi) psychological services,

(vii) case management services, hereafter referred to as service coordination services,

(viii) medical services for diagnostic or evaluation purposes, subject to reasonable prior approval requirements for exceptionally expensive services, as prescribed by the commissioner,

(ix) early identification, screening, and assessment services,

(x) health services necessary to enable the infant or toddler to benefit from the other early intervention services,

(xi) nursing services,

(xii) nutrition services,

(xiii) social work services,

(xiv) vision services,

(xv) assistive technology devices and assistive technology services,

(xvi) transportation and related costs that are necessary to enable a child and the child's family to receive early intervention services, and

(xvii) other appropriate services approved by the commissioner[.];

(i) are cost-effective.

8. (a) "Eligible child" means an infant or toddler from birth through age two who has a disability; provided, however, that any toddler with a disability who has been determined to be eligible for program services under section forty-four hundred ten of the education law and:

(i) who turns three years of age on or before the thirty-first day of August shall, if requested by the parent, be eligible to receive early intervention services contained in an IFSP until the first day of September of that calendar year; or

(ii) who turns three years of age on or after the first day of September shall, if requested by the parent and if already receiving services pursuant to this title, be eligible to continue receiving such services until the second day of January of the following calendar year.

(b) Notwithstanding the provisions of paragraph (a) of this subdivision, a child who receives services pursuant to section forty-four hundred ten of the education law shall not be an eligible child.

9. "Evaluation" means a multidisciplinary professional, objective assessment conducted by appropriately qualified personnel and conducted pursuant to section twenty-five hundred forty-four of this title to determine a child's eligibility under this title.

10. "Evaluator" means a team of two or more professionals approved pursuant to section twenty-five hundred fifty-one of this title to conduct screenings and evaluations.

11. "IFSP" means the individualized family service plan adopted in accordance with section twenty-five hundred forty-five of this title.

12. "INDIVIDUAL" SHALL MEAN A PERSON WHO HOLDS A STATE APPROVED OR RECOGNIZED CERTIFICATE, LICENSE OR REGISTRATION IN ONE OF THE DISCIPLINES SET FORTH IN SUBDIVISION FIFTEEN OF THIS SECTION.

13. "Lead agency" means the department of health, the public agency responsible for the administration of the early intervention system [in collaboration with the state early intervention service agencies].

[13.] 13-A. "Municipality" means a county outside the city of New York or the city of New York in the case of a county contained within the city of New York.

[13-a.] 13-B. Subject to federal law and regulations, "natural environment" or "natural setting" means a setting that is natural or normal for the child's age peers who have no disability.

14. "Parent" means parent or person in parental relation to the child. With respect to a child who has no parent or person in a parental relation, "parent" shall mean the person designated to serve in parental relation for the purposes of this title, pursuant to regulations of the commissioner promulgated in consultation with the commissioner of social services for children in foster care.

15. "Qualified personnel" means:

(a) persons holding a state approved or recognized certificate, license or registration in one of the following fields:

(i) special education teachers;

(ii) speech and language pathologists and audiologists;

(iii) occupational therapists;

(iv) physical therapists;

(v) social workers;

(vi) nurses;

(vii) dieticians or nutritionists;

(viii) other persons designated by the commissioner who meet requirements that apply to the area in which the person is providing early

intervention services, where not in conflict with existing professional licensing, certification and/or registration requirements.

(b) persons holding a state approved license in one of the following fields:

(i) psychologists; or

(ii) physicians.

16. "Service coordinator" means a person who:

(a) meets the qualifications established in federal law and regulation and demonstrates knowledge and understanding of:

(i) infants and toddlers who may be eligible for services under this title;

(ii) principles of family-centered services;

(iii) part H of the federal individuals with disabilities education act and its corresponding regulations;

(iv) the nature and scope of services available under this title; and

(v) the requirements for authorizing and paying for such services and other pertinent information;

(b) is responsible for:

(i) assisting eligible children and their families in gaining access to services listed on the IFSP;

(ii) coordinating early intervention services with other services such as medical and health services provided to the child;

(iii) coordinating the performance of evaluations and assessments;

(iv) participating in the development, monitoring and evaluation of the IFSP;

(v) assisting the parent in identifying available service providers;

(vi) coordinating service delivery;

(vii) informing the family of advocacy services;

(viii) where appropriate, facilitating the transition of the child to other appropriate services; and

(ix) assisting in resolving any disputes which may arise between the family and service providers, as necessary and appropriate; and

(c) meets such other standards as are specified pursuant to section twenty-five hundred fifty-one of this title.

17. ["State early intervention service agencies" means the departments of health, education and social services and the offices of mental health, mental retardation and developmental disabilities and office of alcoholism and substance abuse services.

18.] "Year" shall mean the twelve-month period commencing July first unless otherwise specified.

S 2. The public health law is amended by adding a new section 2550-a to read as follows:

S 2550-A. PROVIDERS OF EVALUATIONS, SERVICE COORDINATION SERVICES OR EARLY INTERVENTION SERVICES. 1. INDIVIDUALS AND AGENCIES SHALL APPLY TO THE DEPARTMENT FOR APPROVAL TO PROVIDE EVALUATIONS, SERVICE COORDINATION SERVICES OR EARLY INTERVENTION SERVICES. SUCH APPROVAL SHALL BE VALID FOR A PERIOD OF TIME AS DETERMINED BY THE DEPARTMENT, NOT TO EXCEED FIVE YEARS. INDIVIDUALS AND AGENCIES SHALL THEREAFTER APPLY FOR RE-APPROVAL TO PROVIDE SUCH SERVICES.

2. ALL AGENCIES AND INDIVIDUALS APPROVED TO PROVIDE EVALUATIONS, SERVICE COORDINATION SERVICES OR EARLY INTERVENTION SERVICES SHALL BE ENROLLED AS PROVIDERS IN THE MEDICAL ASSISTANCE PROGRAM IN ACCORDANCE WITH THE PROCEDURES FOR SUCH ENROLLMENT ESTABLISHED BY THE DEPARTMENT.

3. THE DEPARTMENT IS HEREBY AUTHORIZED TO REVIEW PROVIDER CAPACITY AND DETERMINE PROVIDER SERVICE NEED BY MUNICIPALITY. THE DEPARTMENT MAY DENY APPROVAL TO AN APPLICANT WHO SEEKS TO PROVIDE SERVICES IN A MUNICIPALITY

WHERE THE DEPARTMENT HAS DETERMINED THAT SUFFICIENT PROVIDER CAPACITY EXISTS.

4. APPROVAL AND REAPPROVAL OF INDIVIDUALS AND AGENCIES SHALL BE BASED ON THE FOLLOWING CRITERIA:

(A) THE CHARACTER AND COMPETENCE OF THE INDIVIDUAL PERSON, OR IN THE CASE OF AGENCIES, THE OWNERS, OFFICERS, INCLUDING THE CHIEF EXECUTIVE OFFICER AND CHIEF FINANCIAL OFFICER, MEMBERS, SHAREHOLDERS WHO OWN TEN PERCENT OR MORE OF THE VOTING SHARES IN THE AGENCY, DIRECTORS OR SPONSORS, THE PROGRAM DIRECTOR AND OTHER KEY EMPLOYEES, AND THE BOARD OF DIRECTORS OF A NOT-FOR-PROFIT ENTITY AS DETERMINED BY THE DEPARTMENT;

(B) DOCUMENTED FISCAL VIABILITY;

(C) DOCUMENTED ABILITY TO PROVIDE EVALUATIONS, SERVICE COORDINATION SERVICES, OR EARLY INTERVENTION SERVICES IN CONFORMANCE WITH LAWS AND REGULATIONS APPLICABLE TO THE PRACTICE OF THE PROFESSIONS. FOR INDIVIDUALS, PROOF OF CURRENT LICENSURE, CERTIFICATION OR REGISTRATION IF REQUIRED FOR THE SERVICE PROVIDED. FOR AGENCIES:

(I) IDENTIFICATION OF ALL EMPLOYEES WHO WILL PROVIDE EARLY INTERVENTION PROGRAM SERVICES, AND WHERE APPLICABLE, THE EMPLOYEES' LICENSES, REGISTRATIONS, CERTIFICATIONS OR NATIONAL PROVIDER IDENTIFICATION NUMBERS AND EXPIRATION DATES; AND

(II) IDENTIFICATION OF ALL STATE-APPROVED AGENCY AND INDIVIDUAL CONTRACTORS WHO WILL BE UTILIZED TO PROVIDE SUCH SERVICES AND WHERE APPLICABLE, THE PERSONS' LICENSES, REGISTRATIONS, CERTIFICATIONS OR NATIONAL PROVIDER IDENTIFICATION NUMBERS AND EXPIRATION DATES;

(D) FOR AGENCY PROVIDERS, A QUALITY ASSURANCE PLAN THAT IS APPROVED BY THE DEPARTMENT FOR EACH TYPE OF PROFESSIONAL SERVICE OFFERED BY THE AGENCY, INCLUDING EVALUATIONS AND SERVICE COORDINATION, TO ENSURE THAT EVALUATIONS, SERVICE COORDINATION AND EARLY INTERVENTION PROGRAM SERVICES ARE PROVIDED IN A MANNER THAT COMPLIES WITH FEDERAL AND STATE LAWS AND REGULATIONS. THE PLAN SHALL INCLUDE A PROVISION FOR THE EMPLOYMENT OF A PROFESSIONAL OR PROFESSIONALS TO MONITOR AND OVERSEE IMPLEMENTATION OF THE PLAN AS REQUIRED BY SUBPARAGRAPH (II) OF PARAGRAPH (E) OF THIS SUBDIVISION;

(E) FOR AGENCY PROVIDERS, DOCUMENTATION THAT THE AGENCY HAS IN ITS EMPLOYMENT, OR IN ACCORDANCE WITH THIS PARAGRAPH, WILL HAVE IN ITS EMPLOYMENT, THE FOLLOWING PERSONNEL:

(I) A FULL-TIME EQUIVALENT EARLY INTERVENTION PROGRAM DIRECTOR WITH A MINIMUM OF TWO YEARS OF FULL-TIME EQUIVALENT EXPERIENCE IN AN EARLY INTERVENTION, CLINICAL PEDIATRIC, OR EARLY CHILDHOOD EDUCATION PROGRAM SERVING CHILDREN AGES BIRTH TO FIVE YEARS OF AGE, PROVIDED THAT:

(A) SUCH EXPERIENCE SHALL HAVE INCLUDED DIRECT EXPERIENCE IN DELIVERING SERVICES TO CHILDREN WITH DISABILITIES AND THEIR FAMILIES; AND

(B) AT LEAST ONE YEAR OF SUCH EXPERIENCE SHALL HAVE BEEN IN THE DELIVERY OF SERVICES TO CHILDREN LESS THAN THREE YEARS OF AGE AND THEIR FAMILIES; AND

(II) AT LEAST ONE LICENSED PROFESSIONAL FOR EACH TYPE OF SERVICE BEING OFFERED BY THE AGENCY, INCLUDING EVALUATIONS, WHO HOLDS A LICENSE, CERTIFICATION OR REGISTRATION IN AN OCCUPATION AUTHORIZED TO PROVIDE THAT TYPE OF SERVICE, AND WHOSE RESPONSIBILITIES INCLUDE MONITORING THE QUALITY ASSURANCE PLAN DEVELOPED BY THE AGENCY FOR THE SERVICE BEING RENDERED, TO THE EXTENT AUTHORIZED BY THE PROFESSIONAL'S LICENSURE, CERTIFICATION OR REGISTRATION; AND

(III) A MINIMUM OF TWO QUALIFIED PERSONNEL, IN ADDITION TO THE EARLY INTERVENTION PROGRAM DIRECTOR, EACH OF WHOM PROVIDES EVALUATIONS, SERVICE COORDINATION OR EARLY INTERVENTION SERVICES FOR A MINIMUM OF TWENTY HOURS PER WEEK.

(IV) FOR PURPOSES OF THIS SUBDIVISION, IF THE AGENCY APPLYING FOR INITIAL APPROVAL HAS NOT, AT THE TIME OF APPLICATION, EMPLOYED THE PERSONNEL REQUIRED IN SUBPARAGRAPHS (I), (II) AND (III) OF THIS PARAGRAPH, THE AGENCY MAY VERIFY THAT IT WILL EMPLOY SUCH PERSONNEL WITHIN THREE MONTHS OF APPROVAL. IF APPROVED BY THE DEPARTMENT, AT THE END OF THE THREE MONTH PERIOD, THE AGENCY SHALL SUBMIT DOCUMENTATION OF THE EMPLOYMENT OF SUCH PERSONNEL IN ACCORDANCE WITH SAID REQUIREMENTS;

(V) AN AGENCY APPLYING FOR REAPPROVAL SHALL, AT THE TIME OF APPLICATION, SUBMIT DOCUMENTATION THAT IT HAS IN ITS EMPLOYMENT THE PERSONNEL REQUIRED IN SUBPARAGRAPHS (I), (II) AND (III) OF THIS PARAGRAPH;

(F) ADHERENCE TO, AND FOR PURPOSES OF REAPPROVAL, EVIDENCE OF DEMONSTRATED COMPLIANCE WITH ALL APPLICABLE FEDERAL AND STATE LAWS, REGULATIONS, STANDARDS AND GUIDELINES;

(G) DELIVERY OF SERVICES ON A TWELVE-MONTH BASIS AND FLEXIBILITY IN THE HOURS OF SERVICE DELIVERY, INCLUDING WEEKEND AND EVENING HOURS IN ACCORDANCE WITH ELIGIBLE CHILDREN'S IFSPS;

(H) AGREEMENT TO PARTICIPATE AND, FOR PURPOSES OF REAPPROVAL, EVIDENCE OF PARTICIPATION IN CONTINUING PROFESSIONAL AND CLINICAL EDUCATION RELEVANT TO EARLY INTERVENTION SERVICES AND IN-SERVICE TRAINING ON STATE AND LOCAL POLICIES AND PROCEDURES ON THE EARLY INTERVENTION PROGRAM, INCLUDING DEPARTMENT-SPONSORED TRAINING;

(I) ADHERENCE TO, AND FOR PURPOSES OF REAPPROVAL, DEMONSTRATED COMPLIANCE WITH THE CONFIDENTIALITY REQUIREMENTS APPLICABLE TO THE EARLY INTERVENTION PROGRAM AS SET FORTH IN FEDERAL AND STATE LAW AND REGULATIONS;

(J) PROVISION OF COPIES OF ALL ORGANIZATIONAL DOCUMENTS AS REQUESTED BY THE DEPARTMENT AND DOCUMENTATION OF LICENSURE OR APPROVAL GRANTED TO THE INDIVIDUAL OR AGENCY BY OTHER REGULATORY AGENCIES;

(K) FOR THE PURPOSES OF REAPPROVAL, DOCUMENTATION THAT CORRECTIVE ACTIONS REQUIRED BY THE DEPARTMENT HAVE BEEN IMPLEMENTED AND NON-COMPLIANCE CORRECTED TO THE SATISFACTION OF THE DEPARTMENT;

(L) PROVISION OF CONSOLIDATED FISCAL REPORTS TO THE DEPARTMENT OR ANY OTHER SUCH COMPARABLE INFORMATION ON REVENUES AND EXPENSES, AS REQUESTED AND IN A FORM DEVELOPED BY THE DEPARTMENT;

(M) FOR PURPOSES OF REAPPROVAL OF INDIVIDUAL PROVIDERS, DOCUMENTATION THAT THE PROVIDER HAS SERVED A MINIMUM OF TEN CHILDREN ANNUALLY IN THE PROGRAM ON AVERAGE OVER THE PRIOR APPROVAL PERIOD; PROVIDED HOWEVER THAT THE DEPARTMENT MAY WAIVE THIS REQUIREMENT IF THE INDIVIDUAL PROVIDES SERVICES IN A GEOGRAPHIC AREA WHERE THERE IS INSUFFICIENT CAPACITY OR OTHERWISE MEETS A NEED FOR WHICH SUFFICIENT CAPACITY DOES NOT EXIST AS EITHER DETERMINED BY THE DEPARTMENT, OR IDENTIFIED BY A MUNICIPALITY AND APPROVED BY THE DEPARTMENT;

(N) DOCUMENTATION FROM A MUNICIPALITY INDICATING THAT THE MUNICIPALITY INTENDS TO CONTRACT WITH THE APPLICANT UPON THE APPLICANT'S RECEIPT OF DEPARTMENT APPROVAL; AND

(O) PROVISION OF SUCH ADDITIONAL PERTINENT INFORMATION OR DOCUMENTS NECESSARY FOR APPROVAL OR REAPPROVAL, AS REQUESTED BY THE DEPARTMENT.

5. PROVIDERS APPROVED AND REAPPROVED TO DELIVER EARLY INTERVENTION EVALUATIONS, SERVICE COORDINATION SERVICES AND EARLY INTERVENTION PROGRAM SERVICES SHALL MEET WITH OR OTHERWISE COMMUNICATE WITH PARENTS AND OTHER SERVICE PROVIDERS, INCLUDING PARTICIPATION IN CASE CONFERENCING AND CONSULTATION. AN AGENCY SHALL FURTHER REQUIRE THAT ITS EMPLOYEES COMPLY WITH THE PROVISIONS OF THIS SECTION.

6. AN AGENCY'S APPROVAL TO PROVIDE SERVICES IN THE EARLY INTERVENTION PROGRAM SHALL TERMINATE UPON THE TRANSFER, ASSIGNMENT OR OTHER DISPOSITION OF TEN PERCENT OR MORE OF AN INTEREST OR VOTING RIGHTS IN THE

APPROVED AGENCY. IF THERE IS A TRANSFER, ASSIGNMENT OR OTHER DISPOSITION OF LESS THAN TEN PERCENT OF AN INTEREST OR VOTING RIGHTS IN THE APPROVED AGENCY, BUT THE TRANSFER, ASSIGNMENT OR OTHER DISPOSITION TOGETHER WITH ALL PRIOR TRANSFERS, ASSIGNMENTS OR OTHER DISPOSITIONS WITHIN THE LAST FIVE YEARS WOULD, IN THE AGGREGATE INVOLVE TEN PERCENT OR MORE OF AN INTEREST IN THE APPROVED AGENCY, THE AGENCY'S APPROVAL TO PROVIDE SERVICES IN THE EARLY INTERVENTION PROGRAM SHALL TERMINATE UPON SUCH TRANSFER, ASSIGNMENT OR DISPOSITION. IF THE AGENCY'S APPROVAL TERMINATES AS SET FORTH IN THIS SUBDIVISION, THE AGENCY SHALL APPLY FOR APPROVAL IN ACCORDANCE WITH THIS SECTION TO PROVIDE SERVICES IN THE EARLY INTERVENTION PROGRAM AND, IF APPROVED, SAID AGENCY SHALL BE DEEMED IN EXISTENCE AFTER THE EFFECTIVE DATE OF THIS SECTION.

7. APPROVED PROVIDERS SHALL NOT DISSEMINATE, OR CAUSE TO BE DISSEMINATED ON THEIR BEHALF, MARKETING MATERIALS THAT ARE FALSE, DECEPTIVE, OR MISLEADING. THE DEPARTMENT IS AUTHORIZED TO REQUIRE THAT PROVIDERS PERIODICALLY SUBMIT COPIES OF MARKETING MATERIALS FOR REVIEW. MARKETING MATERIALS THAT DO NOT COMPLY WITH THE PROVISIONS OF THIS SUBDIVISION MAY BE A BASIS FOR ACTION AGAINST THE PROVIDER'S APPROVAL IN ACCORDANCE WITH THE PROVISIONS OF SECTION TWENTY-FIVE HUNDRED FIFTY-B OF THIS TITLE. THE DEPARTMENT SHALL DEVELOP STANDARDS ON APPROPRIATE MARKETING MATERIALS.

8. AN INDIVIDUAL PROVIDER SHALL NOTIFY THE DEPARTMENT WITHIN TWO BUSINESS DAYS IF HIS OR HER LICENSE IS SUSPENDED, REVOKED, LIMITED OR ANNULLED OR IF A CONTRACT THE PROVIDER HOLDS WITH A MUNICIPALITY OR AGENCY PROVIDER IS TERMINATED. AGENCY PROVIDERS SHALL ENSURE THAT SERVICES ARE DELIVERED BY THOSE AUTHORIZED TO DO SO AND SHALL ONLY EMPLOY OR CONTRACT WITH QUALIFIED PERSONNEL WHO ARE LICENSED, REGISTERED OR CERTIFIED IN COMPLIANCE WITH APPLICABLE PROVISIONS OF LAW, IF SUCH LICENSE, REGISTRATION OR CERTIFICATION IS REQUIRED FOR THE SERVICE THAT IS BEING PROVIDED.

9. INDIVIDUAL AND AGENCY PROVIDERS SHALL VERIFY THE ACCURACY OF ALL BILLING RECORDS PRIOR TO SUBMISSION OF SUCH BILLING FOR PAYMENT.

10. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW, THE APPROVAL OF INDIVIDUALS AND AGENCIES THAT ARE IN EXISTENCE ON OR BEFORE THE EFFECTIVE DATE OF THIS SECTION THAT WERE APPROVED TO DELIVER EARLY INTERVENTION SERVICES BY THE DEPARTMENT OF EDUCATION SHALL REMAIN IN EFFECT; PROVIDED, HOWEVER THAT SUCH INDIVIDUALS OR AGENCIES SHALL BE SUBJECT TO THE REQUIREMENTS OF THIS SECTION AND SHALL, WHEN REQUESTED BY THE DEPARTMENT, APPLY FOR AND OBTAIN REAPPROVAL BY THE DEPARTMENT TO CONTINUE PROVIDING SERVICES IN THE EARLY INTERVENTION PROGRAM.

S 3. The public health law is amended by adding a new section 2550-b to read as follows:

S 2550-B. PROCEEDINGS INVOLVING THE APPROVAL OF AN INDIVIDUAL OR AGENCY. 1. AN AGENCY'S OR INDIVIDUAL'S APPROVAL TO DELIVER EVALUATIONS, SERVICE COORDINATION SERVICES AND EARLY INTERVENTION PROGRAM SERVICES MAY BE REVOKED, SUSPENDED, LIMITED OR ANNULLED BY THE COMMISSIONER UPON A FINDING THAT THE AGENCY OR INDIVIDUAL PROVIDER:

(A) HAS FAILED TO COMPLY WITH THE PROVISIONS OF THIS ARTICLE OR RULES AND REGULATIONS PROMULGATED THEREUNDER;

(B) NO LONGER MEETS ONE OF THE CRITERIA FOR APPROVAL OR REAPPROVAL AS SET FORTH IN SUBDIVISION FOUR OF SECTION TWENTY-FIVE HUNDRED FIFTY-A OF THIS TITLE;

(C) DOES NOT HAVE CURRENT LICENSURE, REGISTRATION OR CERTIFICATION TO DELIVER SERVICES IN THE EARLY INTERVENTION PROGRAM; OR

(D) FOR AGENCY PROVIDERS, USED PERSONNEL, WHETHER BY CONTRACT OR UNDER EMPLOYMENT, TO PROVIDE AN EARLY INTERVENTION PROGRAM SERVICE WHO DID NOT HOLD A LICENSE, REGISTRATION OR CERTIFICATION TO PROVIDE SUCH SERVICE.

2. NO APPROVAL SHALL BE REVOKED, SUSPENDED, LIMITED OR ANNULLED WITHOUT FIRST PROVIDING THE INDIVIDUAL OR AGENCY AN OPPORTUNITY TO BE HEARD. THE DEPARTMENT SHALL NOTIFY THE INDIVIDUAL OR AGENCY IN WRITING OF THE PROPOSED ACTION AND SHALL AFFORD THE INDIVIDUAL OR AGENCY AN OPPORTUNITY TO BE HEARD IN PERSON OR BY COUNSEL. SUCH NOTICE MAY BE SERVED BY PERSONAL DELIVERY TO THE INDIVIDUAL OR AGENCY OR BY MAILING IT BY CERTIFIED MAIL TO THE LAST KNOWN ADDRESS ON FILE WITH THE DEPARTMENT OR BY ANY METHOD AUTHORIZED BY THE CIVIL PRACTICE LAW AND RULES FOR THE SERVICE OF A SUMMONS. THE HEARING SHALL BE AT SUCH TIME AND PLACE AS THE DEPARTMENT SHALL PRESCRIBE.

3. APPROVAL MAY BE TEMPORARILY SUSPENDED OR LIMITED WITHOUT A HEARING FOR A PERIOD NOT EXCEEDING ONE HUNDRED TWENTY DAYS UPON WRITTEN NOTICE TO THE PROVIDER AND AN OPPORTUNITY FOR A HEARING FOLLOWING A FINDING BY THE DEPARTMENT THAT THE HEALTH OR SAFETY OF A CHILD, PARENTS OR STAFF OF THE MUNICIPALITY IN WHICH THE PROVIDER IS UNDER CONTRACT IS IN IMMINENT RISK OF DANGER OR THERE EXISTS ANY CONDITION OR PRACTICE OR A CONTINUING PATTERN OF CONDITIONS OR PRACTICES WHICH POSES IMMINENT DANGER TO THE HEALTH OR SAFETY OF SUCH CHILDREN, PARENTS OR STAFF OF THE MUNICIPALITY IN WHICH THE PROVIDER IS UNDER CONTRACT. UPON SUCH A FINDING AND NOTICE, THE DEPARTMENT MAY ALSO:

(A) PROHIBIT OR LIMIT THE ASSIGNMENT OF CHILDREN TO THE PROVIDER;

(B) REMOVE OR CAUSE TO BE REMOVED SOME OR ALL OF THE CHILDREN THE PROVIDER CURRENTLY SERVES; AND

(C) SUSPEND OR LIMIT OR CAUSE TO BE SUSPENDED OR LIMITED PAYMENT FOR SERVICES TO THE PROVIDER.

S 4. Subdivision 18 of section 4403 of the education law is REPEALED.

S 5. Subdivision 6 of section 4410 of the education law is REPEALED and a new subdivision 6 is added to read as follows:

6. PROFESSIONAL PRACTICE ISSUES. A. APPROVED PROGRAMS OPERATED BY PRIVATE PROVIDERS SHALL BE SUBJECT TO REGISTRATION TO THE EXTENT PROVIDED IN SECTION SIXTY-FIVE HUNDRED THREE-A OF THIS CHAPTER, AND, IF REQUIRED TO BE REGISTERED, SHALL BE AUTHORIZED TO EMPLOY LICENSED PROFESSIONALS OR CONTRACT WITH LICENSED PROFESSIONALS OR ENTITIES LEGALLY AUTHORIZED TO PROVIDE PROFESSIONAL SERVICES IN ACCORDANCE WITH SUCH SECTION SIXTY-FIVE HUNDRED THREE-A.

B. AN APPROVED PROGRAM MAY BE FORMED AS AN EDUCATION CORPORATION, OR, WITH THE CONSENT OF THE COMMISSIONER, AS A NOT-FOR-PROFIT CORPORATION, BUSINESS CORPORATION OR LIMITED LIABILITY COMPANY. IN ADDITION, AN APPROVED PROGRAM OR GROUP OF APPROPRIATELY LICENSED OR CERTIFIED PROFESSIONALS MAY BE FORMED AS A PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY OR AS A FOREIGN PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY IN ACCORDANCE WITH THE APPLICABLE PROVISIONS OF ARTICLES TWELVE AND THIRTEEN OF THE LIMITED LIABILITY COMPANY LAW OR AS A REGISTERED LIMITED LIABILITY PARTNERSHIP IN ACCORDANCE WITH SECTION 121-1500 OF THE PARTNERSHIP LAW OR AS A NEW YORK REGISTERED FOREIGN LIMITED LIABILITY PARTNERSHIP IN ACCORDANCE WITH SECTION 121-1502 OF THE PARTNERSHIP LAW. AN APPROVED PROGRAM FORMED AS SUCH A PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY OR REGISTERED LIMITED LIABILITY PARTNERSHIP MAY BE AUTHORIZED TO PROVIDE SPECIAL EDUCATION ITINERANT SERVICES OR OTHER EDUCATIONAL SERVICES NOT INVOLVING PRACTICE OF A PROFESSION UNDER TITLE EIGHT OF THIS CHAPTER. AN APPROVED PROGRAM OR GROUP OF PROFESSIONALS FORMED AS SUCH A PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY OR REGISTERED LIMITED LIABILITY PARTNERSHIP MAY CONTRACT WITH INDIVIDUALS LICENSED OR OTHERWISE AUTHORIZED TO PRACTICE, OR A PROFESSIONAL SERVICE CORPORATION, PARTNERSHIP OR OTHER ENTITY LEGALLY AUTHORIZED TO PRACTICE, ANY PROFESSION UNDER TITLE EIGHT OF THIS CHAPTER IN WHICH THE COMPANY WOULD NOT BE

AUTHORIZED TO PROVIDE PROFESSIONAL SERVICES UNDER THE APPLICABLE PROVISIONS OF SECTION TWELVE HUNDRED THREE OR SUBDIVISION (A) OF SECTION THIRTEEN HUNDRED ONE OF THE LIMITED LIABILITY COMPANY LAW OR SECTION 121-1500 OR 121-1502 OF THE PARTNERSHIP LAW, SOLELY FOR THE PURPOSES OF CONDUCTING A MULTI-DISCIPLINARY EVALUATION OF A PRESCHOOL CHILD SUSPECTED OF HAVING A DISABILITY OR A PRESCHOOL CHILD WITH A DISABILITY OR PROVIDING RELATED SERVICES SPECIFIED IN THE INDIVIDUALIZED EDUCATION PROGRAM OF A PRESCHOOL CHILD.

C. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE EXEMPTION IN SUBDIVISION TWO OF SECTION EIGHTY-TWO HUNDRED SEVEN OF THIS CHAPTER SHALL APPLY TO PERSONS EMPLOYED BY A CENTER-BASED PROGRAM APPROVED PURSUANT TO SUBDIVISION NINE OF THIS SECTION TO PERFORM THE DUTIES OF A SPEECH-LANGUAGE PATHOLOGIST, AUDIOLOGIST, TEACHER OF THE SPEECH AND HEARING IMPAIRED OR TEACHER OF THE DEAF TO STUDENTS ENROLLED IN SUCH APPROVED CENTER-BASED PROGRAM IN THE COURSE OF THEIR EMPLOYMENT.

D. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE EXEMPTION IN SUBDIVISION ONE OF SECTION SEVENTY-SIX HUNDRED FIVE OF THIS CHAPTER SHALL APPLY TO PERSONS EMPLOYED BY A CENTER-BASED PROGRAM APPROVED PURSUANT TO SUBDIVISION NINE OF THIS SECTION AS A SCHOOL PSYCHOLOGIST TO PROVIDE ACTIVITIES, SERVICES AND USE OF THE TITLE PSYCHOLOGIST TO STUDENTS ENROLLED IN SUCH APPROVED CENTER-BASED PROGRAM IN THE COURSE OF THEIR EMPLOYMENT.

S 6. Paragraphs a, b and d of subdivision 9 of section 4410 of the education law, paragraph a as amended by chapter 82 of the laws of 1995, subparagraph (iii) of paragraph a as amended by section 57-a of part H of chapter 83 of the laws of 2002 and subdivisions b and d as amended by chapter 705 of the laws of 1992, are amended to read as follows:

a. (1) Providers of special services or programs shall apply to the commissioner for program approval on a form prescribed by the commissioner; such application shall include, but not be limited to, a listing of the services to be provided, the population to be served, a plan for providing services in the least restrictive environment and a description of its evaluation component, if any. [Providers of early intervention services seeking approval pursuant to subdivision seven of section twenty-five hundred fifty-one of the public health law shall apply to the commissioner for such approval on a form prescribed by the commissioner.] The commissioner shall approve programs in accordance with regulations adopted for such purpose and shall periodically review such programs at which time the commissioner shall provide the municipality in which the program is located or for which the municipality bears fiscal responsibility an opportunity for comment within thirty days of the review. In collaboration with municipalities and representatives of approved programs, the commissioner shall develop procedures for conducting such reviews. Municipalities shall be allowed to participate in such departmental review process. Such review shall be conducted by individuals with appropriate experience as determined by the commissioner and shall be conducted not more than once every three years.

[(iii)] (2) Commencing July first, nineteen hundred ninety-six and continuing through June thirtieth, two thousand three, a moratorium on the approval of any new or expanded programs in settings which include only preschool children with disabilities is established. Exceptions shall be made for cases in which school districts document a critical need for a new or expanded program in a setting which includes only preschool children with disabilities, to meet the projected demand for services for preschool children in the least restrictive environment.

Applications for new or expanded programs may be made directly to the state education department. Nothing herein shall prohibit the commissioner from approving the modification of a full-day program into half-day sessions.

(3) Commencing July [1, 1999] FIRST, NINETEEN HUNDRED NINETY-NINE the department shall only approve any new or expanded programs in settings which include only preschool children with disabilities, if the applicant can document a critical need for a new or expanded program in a setting which includes only preschool children with disabilities to meet the projected demand for services for preschool children in the least restrictive environment. If the department determines that approval will not be granted, it must notify the applicant, in writing, of its reasons for not granting such approval. The department shall establish guidelines, within [90] NINETY days of the effective date of this section which shall state the criteria used to determine if the applicant has demonstrated such a critical need. The department is authorized to consult with the local school district to verify any data submitted.

(4) On December [1, 2003] FIRST, TWO THOUSAND THREE the commissioner shall submit a report to the board of regents, the majority leader of the senate, the speaker of the assembly and governor evaluating the impact of such moratorium on the availability of preschool special education services. The report shall include: (i) information regarding the number of applications for new programs and program expansions and the disposition of those applications by the commissioner; (ii) an assessment of the projected need for additional classes serving only disabled children and those serving disabled children with their non-disabled peers and in other less restrictive settings; (iii) an assessment of the projected need for additional programs due to program closings in the region, number of children receiving early intervention services and existing waiting lists; (iv) an assessment of the distance that children must be transported to receive preschool special education services; (v) an evaluation of the programmatic performance and cost-effectiveness of existing programs; (vi) recommendations regarding ways in which improved quality and cost-effectiveness could be achieved through the selective expansion of effective programs and/or the curtailment of less effective programs; and (vii) an assessment of the availability and effectiveness of approved programs providing services to preschool children with autism.

b. As part of an application submitted pursuant to paragraph a of this subdivision, a provider of special services or programs shall submit a description of its multi-disciplinary evaluation component, if any, which shall be subject to the approval of the commissioner in accordance with regulations adopted for such purpose after consultation with the appropriate advisory committee. Such components or program may rely in part on formal written agreements or affiliations with appropriately certified or licensed professionals, or agencies employing such professionals, provided that such professionals or agencies perform their responsibilities in conformance with regulations of the commissioner and that providers fully disclose any such arrangements on all applications for program approval, AND PROVIDED FURTHER THAT THE PROVIDER CERTIFIES THAT IT WILL APPLY FOR AND OBTAIN REGISTRATION PURSUANT TO SECTION SIXTY-FIVE HUNDRED THREE-A OF THIS CHAPTER PRIOR TO PROVIDING EVALUATION SERVICES PURSUANT TO SUCH WRITTEN AGREEMENTS OR AFFILIATIONS. Nothing [herein] IN THIS SECTION shall require a provider of special services or programs to have a multidisciplinary evaluation program.

d. Providers may make application to conduct a program that relies on formal written agreements or affiliations with other approved programs or appropriately certified or licensed professionals, provided that such arrangements are fully disclosed on all applications to the commissioner for program approval, AND PROVIDED FURTHER THAT THE PROVIDER CERTIFIES THAT IT WILL APPLY FOR AND OBTAIN REGISTRATION PURSUANT TO SECTION SIXTY-FIVE HUNDRED THREE-A OF THIS CHAPTER PRIOR TO PROVIDING RELATED SERVICES PURSUANT TO ANY SUCH WRITTEN AGREEMENTS OR AFFILIATIONS INVOLVING LICENSED PROFESSIONALS.

S 7. Paragraph (a) of subdivision 9-a of section 4410 of the education law, as added by chapter 82 of the laws of 1995, is amended to read as follows:

(a) A school district or a group of appropriately licensed and/or certified professionals associated with a public or private agency may apply to the commissioner for approval as an evaluator on a form prescribed by the commissioner. The commissioner shall approve evaluators pursuant to this subdivision consistent with the approval process for the multi-disciplinary evaluation component of programs approved pursuant to subdivision nine of this section consistent with regulations adopted pursuant to such subdivision.

Such application shall include, but not be limited to, a description of the multi-disciplinary evaluation services proposed to be provided and a demonstration that all agency employees and staff who provide such evaluation services shall have appropriate licensure and/or certification and that the individual who shall have direct supervision responsibilities over such staff shall have an appropriate level of experience in providing evaluation or services to preschool or kindergarten-aged children with [handicapping conditions] DISABILITIES. TO BE ELIGIBLE FOR APPROVAL AS AN EVALUATOR ON AND AFTER JULY FIRST, TWO THOUSAND NINE, A GROUP OF APPROPRIATELY LICENSED OR CERTIFIED PROFESSIONALS SHALL BE FORMED AS A PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY, FOREIGN PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY, REGISTERED LIMITED LIABILITY PARTNERSHIP OR NEW YORK FOREIGN REGISTERED LIMITED LIABILITY PARTNERSHIP. THE APPROVAL OF ANY GROUPS OF LICENSED OR CERTIFIED PROFESSIONALS THAT ARE IN EXISTENCE ON JULY FIRST, TWO THOUSAND NINE AND WOULD NOT BE ELIGIBLE FOR APPROVAL THEREAFTER SHALL TERMINATE ON JULY FIRST, TWO THOUSAND TEN.

S 8. The education law is amended by adding a new section 6503-a to read as follows:

S 6503-A. REGISTRATION OF CERTAIN SPECIAL EDUCATION SCHOOLS AND EARLY INTERVENTION AGENCIES. 1. DEFINITIONS. AS USED IN THIS SECTION:

A. "SPECIAL EDUCATION SCHOOL" MEANS AN APPROVED PROGRAM AS DEFINED IN PARAGRAPH A OF SUBDIVISION ONE OF SECTION FORTY-FOUR HUNDRED TEN OF THIS CHAPTER THAT IS LAWFULLY OPERATED BY A PRIVATE CORPORATION, LIMITED LIABILITY COMPANY, REGISTERED LIMITED LIABILITY PARTNERSHIP, OR OTHER PRIVATE ENTITY; AN APPROVED PRIVATE NONRESIDENTIAL OR RESIDENTIAL SCHOOL FOR THE EDUCATION OF STUDENTS WITH DISABILITIES THAT IS LOCATED WITHIN THE STATE; A CHILD CARE INSTITUTION AS DEFINED IN SECTION FOUR THOUSAND ONE OF THIS CHAPTER THAT OPERATES A PRIVATE SCHOOL FOR THE EDUCATION OF STUDENTS WITH DISABILITIES OR AN INSTITUTION FOR THE DEAF OR BLIND OPERATING PURSUANT TO ARTICLE EIGHTY-FIVE OF THIS CHAPTER THAT EITHER: (1) CONDUCTS A MULTI-DISCIPLINARY EVALUATION FOR PURPOSES OF ARTICLE EIGHTY-ONE OR EIGHTY-NINE OF THIS CHAPTER THAT INVOLVES THE PRACTICE OF ONE OR MORE PROFESSIONS FOR WHICH A LICENSE IS REQUIRED PURSUANT TO THIS TITLE AND NO EXCEPTION FROM CORPORATE PRACTICE RESTRICTIONS APPLIES, OR (2) PROVIDES RELATED SERVICES TO STUDENTS ENROLLED IN THE SCHOOL OR

APPROVED PROGRAM THAT INVOLVES THE PRACTICE OF ONE OR MORE PROFESSIONS FOR WHICH A LICENSE IS REQUIRED PURSUANT TO THIS TITLE AND NO EXCEPTION FROM PRACTICE RESTRICTIONS APPLIES. SUCH TERM SHALL NOT INCLUDE A SCHOOL DISTRICT, BOARD OF COOPERATIVE EDUCATIONAL SERVICES, MUNICIPALITY, STATE AGENCY OR OTHER PUBLIC ENTITY. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO REQUIRE REGISTRATION OF A CHILD CARE INSTITUTION THAT CONDUCTS MULTI-DISCIPLINARY EVALUATIONS OR PROVIDES RELATED SERVICES THROUGH AN APPROVED PRIVATE NONRESIDENTIAL SCHOOL OPERATED BY SUCH CHILD CARE INSTITUTION, PROVIDED THAT SUCH SCHOOL IS REGISTERED PURSUANT TO THIS SECTION.

B. "EARLY INTERVENTION AGENCY" FOR PURPOSES OF THIS SECTION MEANS AN AGENCY AS DEFINED IN SECTION TWENTY-FIVE HUNDRED FORTY-ONE OF THE PUBLIC HEALTH LAW WHICH IS APPROVED OR IS SEEKING APPROVAL IN ACCORDANCE WITH SECTION TWENTY-FIVE HUNDRED FIFTY-A OF THE PUBLIC HEALTH LAW TO DELIVER EARLY INTERVENTION PROGRAM MULTI-DISCIPLINARY EVALUATIONS, SERVICE COORDINATION SERVICES AND EARLY INTERVENTION PROGRAM SERVICES, AND IS LAWFULLY OPERATED BY A NOT-FOR-PROFIT CORPORATION, PRIVATE CORPORATION, LIMITED LIABILITY COMPANY, REGISTERED LIMITED LIABILITY PARTNERSHIP, OR OTHER PRIVATE ENTITY.

C. "EARLY INTERVENTION PROGRAM SERVICES" MEANS EARLY INTERVENTION SERVICES AS DEFINED IN SUBDIVISION SEVEN OF SECTION TWENTY-FIVE HUNDRED FORTY-ONE OF THE PUBLIC HEALTH LAW THAT ARE PROVIDED UNDER THE EARLY INTERVENTION PROGRAM AND AUTHORIZED IN AN ELIGIBLE CHILD'S INDIVIDUALIZED FAMILY SERVICES PLAN.

D."MULTI-DISCIPLINARY EVALUATION FOR PURPOSES OF A SPECIAL EDUCATION SCHOOL" MEANS A MULTI-DISCIPLINARY EVALUATION OF A PRESCHOOL CHILD SUSPECTED OF HAVING A DISABILITY OR A PRESCHOOL CHILD WITH A DISABILITY THAT IS CONDUCTED PURSUANT TO SECTION FORTY-FOUR HUNDRED TEN OF THIS CHAPTER OR AN EVALUATION OF A SCHOOL-AGE CHILD SUSPECTED OF HAVING A DISABILITY OR WITH A DISABILITY WHICH IS CONDUCTED BY A CHILD CARE INSTITUTION THAT OPERATES A SPECIAL EDUCATION SCHOOL OR THE SPECIAL EDUCATION SCHOOL OPERATED BY SUCH INSTITUTION PURSUANT TO SUBDIVISION THREE OF SECTION FOUR THOUSAND TWO OF THIS CHAPTER OR BY AN INSTITUTION FOR THE DEAF OR BLIND OPERATING PURSUANT TO ARTICLE EIGHTY-FIVE OF THIS CHAPTER OR AN EVALUATION OF A SCHOOL-AGE CHILD SUSPECTED OF HAVING A DISABILITY OR WITH A DISABILITY THAT IS AUTHORIZED TO BE CONDUCTED BY A SPECIAL EDUCATION SCHOOL PURSUANT TO ANY OTHER PROVISION OF THIS CHAPTER AND THE REGULATIONS OF THE COMMISSIONER FOR PURPOSES OF IDENTIFICATION OF THE CHILD AS A CHILD WITH A DISABILITY OR THE DEVELOPMENT OF AN INDIVIDUALIZED EDUCATION PROGRAM FOR THE CHILD.

E. "MULTI-DISCIPLINARY EVALUATION FOR PURPOSES OF THE EARLY INTERVENTION PROGRAM" MEANS A PROFESSIONAL, OBJECTIVE ASSESSMENT CONDUCTED BY APPROPRIATELY QUALIFIED PERSONNEL IN ACCORDANCE WITH SECTION TWENTY-FIVE HUNDRED FORTY-FOUR OF THE PUBLIC HEALTH LAW AND ITS IMPLEMENTING REGULATIONS TO DETERMINE A CHILD'S ELIGIBILITY FOR EARLY INTERVENTION PROGRAM SERVICES.

F. "RELATED SERVICES" MEANS RELATED SERVICES AS DEFINED IN PARAGRAPH G OF SUBDIVISION TWO OF SECTION FOUR THOUSAND TWO OF THIS CHAPTER, PARAGRAPH K OF SUBDIVISION TWO OF SECTION FORTY-FOUR HUNDRED ONE OF THIS CHAPTER, OR PARAGRAPH J OF SUBDIVISION ONE OF SECTION FORTY-FOUR HUNDRED TEN OF THIS CHAPTER PROVIDED TO A CHILD WITH A DISABILITY PURSUANT TO SUCH CHILD'S INDIVIDUALIZED EDUCATION PROGRAM.

2. A. NO SPECIAL EDUCATION SCHOOL MAY EMPLOY INDIVIDUALS LICENSED PURSUANT TO THIS ARTICLE TO CONDUCT COMPONENTS OF A MULTI-DISCIPLINARY EVALUATION OF A CHILD WITH A DISABILITY OR A CHILD SUSPECTED OF HAVING A DISABILITY OR TO PROVIDE RELATED SERVICES TO CHILDREN WITH DISABILITIES

ENROLLED IN THE SCHOOL, AND NO SPECIAL EDUCATION SCHOOL MAY PROVIDE SUCH AN EVALUATION COMPONENT OR RELATED SERVICES BY CONTRACT WITH AN INDIVIDUAL LICENSED OR OTHERWISE AUTHORIZED TO PRACTICE PURSUANT TO THIS ARTICLE OR A PROFESSIONAL SERVICE CORPORATION, PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY, OR REGISTERED LIMITED LIABILITY PARTNERSHIP AUTHORIZED BY LAW TO PROVIDE PROFESSIONAL SERVICES, UNLESS SUCH SCHOOL IS REGISTERED PURSUANT TO THIS SECTION. ALL SPECIAL EDUCATION SCHOOLS APPROVED BY THE COMMISSIONER AS OF THE EFFECTIVE DATE OF THIS SECTION SHALL BE DEEMED REGISTERED PURSUANT TO THIS SECTION FOR A PERIOD COMMENCING ON SUCH EFFECTIVE DATE AND ENDING ON JULY FIRST, TWO THOUSAND TEN.

B. NO EARLY INTERVENTION AGENCY MAY EMPLOY OR CONTRACT WITH INDIVIDUALS LICENSED PURSUANT TO THIS ARTICLE OR WITH A PROFESSIONAL SERVICE CORPORATION, PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY, PARTNERSHIP OR REGISTERED LIMITED LIABILITY PARTNERSHIP AUTHORIZED BY LAW TO PROVIDE THE APPLICABLE PROFESSIONAL SERVICES, TO CONDUCT AN EARLY INTERVENTION PROGRAM MULTI-DISCIPLINARY EVALUATION, PROVIDE SERVICE COORDINATION SERVICES OR EARLY INTERVENTION PROGRAM SERVICES UNLESS SUCH AGENCY IS REGISTERED PURSUANT TO THIS SECTION AND APPROVED IN ACCORDANCE WITH TITLE TWO-A OF ARTICLE TWENTY-FIVE OF THE PUBLIC HEALTH LAW AS AN EARLY INTERVENTION PROGRAM PROVIDER. ALL EARLY INTERVENTION AGENCIES IN EXISTENCE AS OF THE EFFECTIVE DATE OF THIS SECTION SHALL BE DEEMED REGISTERED PURSUANT TO THIS SECTION FOR A PERIOD COMMENCING ON SUCH EFFECTIVE DATE AND ENDING ON JULY FIRST, TWO THOUSAND TEN. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO REQUIRE AN AGENCY AS DEFINED IN SECTION TWENTY-FIVE HUNDRED FORTY-ONE OF THE PUBLIC HEALTH LAW TO REGISTER IN ACCORDANCE WITH THIS SECTION PROVIDED THAT IT IS OTHERWISE AUTHORIZED BY LAW TO PROVIDE THE APPLICABLE PROFESSIONAL SERVICES.

3. A SPECIAL EDUCATION SCHOOL AND EARLY INTERVENTION AGENCY SHALL BE REGISTERED AS FOLLOWS:

A. APPLICATION FOR REGISTRATION SHALL BE MADE ON A FORM PRESCRIBED BY THE DEPARTMENT.

B. THE APPLICATION FOR INITIAL REGISTRATION SHALL BE ACCOMPANIED BY A FEE OF THREE HUNDRED FORTY-FIVE DOLLARS. IF AN APPLICANT SIMULTANEOUSLY APPLIES FOR REGISTRATION AS A SPECIAL EDUCATION SCHOOL AND FOR REGISTRATION AS AN EARLY INTERVENTION AGENCY, THE APPLICANT SHALL PAY ONE FEE OF THREE HUNDRED FORTY-FIVE DOLLARS FOR BOTH REGISTRATION APPLICATIONS.

4. ALL SPECIAL EDUCATION SCHOOL AND EARLY INTERVENTION AGENCY REGISTRATIONS SHALL BE RENEWED ON DATES SET BY THE DEPARTMENT. THE TRIENNIAL REGISTRATION FEE SHALL BE TWO HUNDRED SIXTY DOLLARS OR A PRO-RATED PORTION THEREOF AS DETERMINED BY THE DEPARTMENT. IF AN APPLICANT SIMULTANEOUSLY APPLIES FOR TRIENNIAL REGISTRATION AS A SPECIAL EDUCATION SCHOOL AND FOR TRIENNIAL REGISTRATION AS AN EARLY INTERVENTION AGENCY, THE APPLICANT SHALL PAY ONE FEE OF TWO HUNDRED SIXTY DOLLARS OR A PRO-RATED PORTION THEREOF AS DETERMINED BY THE DEPARTMENT FOR BOTH TRIENNIAL RENEWAL REGISTRATION APPLICATIONS. AN EARLY INTERVENTION AGENCY'S REGISTRATION SHALL NOT BE RENEWED UNLESS THE AGENCY IS APPROVED TO PROVIDE EARLY INTERVENTION PROGRAM MULTI-DISCIPLINARY EVALUATIONS, SERVICE COORDINATION OR EARLY INTERVENTION PROGRAM SERVICES IN ACCORDANCE WITH SECTION TWENTY-FIVE HUNDRED FIFTY-A OF THE PUBLIC HEALTH LAW.

5. IN THE EVENT THAT A CHANGE IN THE LOCATION OF THE CHIEF ADMINISTRATIVE OFFICES OF A SPECIAL EDUCATION SCHOOL OR EARLY INTERVENTION AGENCY IS CONTEMPLATED, THE OWNER SHALL NOTIFY THE OFFICE OF PROFESSIONS OF THE DEPARTMENT OF THE CHANGE OF LOCATION AT LEAST THIRTY DAYS PRIOR TO RELOCATION.

6. AN APPLICANT FOR REGISTRATION AS A SPECIAL EDUCATION SCHOOL OR EARLY INTERVENTION AGENCY SHALL BE OF GOOD MORAL CHARACTER, AS DETERMINED BY THE DEPARTMENT. IN THE CASE OF A CORPORATE APPLICANT, THE REQUIREMENT SHALL EXTEND TO ALL OFFICERS AND DIRECTORS AND TO STOCKHOLDERS HAVING A TEN PERCENT OR GREATER INTEREST IN THE CORPORATION.

7. A. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, A REGISTERED SPECIAL EDUCATION SCHOOL MAY EMPLOY INDIVIDUALS LICENSED OR OTHERWISE AUTHORIZED TO PRACTICE ANY PROFESSION PURSUANT TO THIS ARTICLE TO CONDUCT COMPONENTS OF A MULTI-DISCIPLINARY EVALUATION OF A CHILD WITH A DISABILITY OR A CHILD SUSPECTED OF HAVING A DISABILITY OR TO PROVIDE RELATED SERVICES TO CHILDREN WITH DISABILITIES ENROLLED IN THE SCHOOL OR MAY PROVIDE COMPONENTS OF SUCH AN EVALUATION OR SUCH RELATED SERVICES BY CONTRACT WITH AN INDIVIDUAL LICENSED OR OTHERWISE AUTHORIZED TO PRACTICE PURSUANT TO THIS ARTICLE OR A PROFESSIONAL SERVICE CORPORATION, PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY, PARTNERSHIP OR REGISTERED LIMITED LIABILITY PARTNERSHIP AUTHORIZED BY LAW TO PROVIDE THE APPLICABLE PROFESSIONAL SERVICES.

B. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, A REGISTERED EARLY INTERVENTION AGENCY THAT IS APPROVED IN ACCORDANCE WITH SECTION TWENTY-FIVE HUNDRED FIFTY-A OF THE PUBLIC HEALTH LAW MAY EMPLOY OR CONTRACT WITH INDIVIDUALS LICENSED OR OTHERWISE AUTHORIZED TO PRACTICE ANY PROFESSION PURSUANT TO THIS ARTICLE, OR WITH A PROFESSIONAL SERVICE CORPORATION, PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY, PARTNERSHIP OR REGISTERED LIMITED LIABILITY PARTNERSHIP AUTHORIZED TO CONDUCT EARLY INTERVENTION PROGRAM MULTI-DISCIPLINARY EVALUATIONS, PROVIDE SERVICES COORDINATION SERVICES AND EARLY INTERVENTION PROGRAM SERVICES.

C. A REGISTERED SPECIAL EDUCATION SCHOOL OR EARLY INTERVENTION AGENCY SHALL NOT HOLD ITSELF OUT TO THE PUBLIC AS AUTHORIZED TO PROVIDE PROFESSIONAL SERVICES EXCEPT AS AUTHORIZED BY THIS SECTION.

8. A SPECIAL EDUCATION SCHOOL AND EARLY INTERVENTION AGENCY SHALL BE UNDER THE SUPERVISION OF THE REGENTS OF THE UNIVERSITY OF THE STATE OF NEW YORK AND THE DEPARTMENT PURSUANT TO THIS TITLE AND BE SUBJECT TO DISCIPLINARY PROCEEDINGS AND PENALTIES IN THE SAME MANNER AND TO THE SAME EXTENT AS IS PROVIDED WITH RESPECT TO INDIVIDUALS AND THEIR LICENSES, CERTIFICATES, AND REGISTRATIONS IN THE PROVISIONS OF THIS TITLE RELATING TO THE APPLICABLE PROFESSION, AND THE REGISTRATION OF A SPECIAL EDUCATION SCHOOL OR EARLY INTERVENTION AGENCY SHALL BE SUBJECT TO SUSPENSION, REVOCATION OR ANNULMENT FOR CAUSE. NOTWITHSTANDING THE PROVISIONS OF THIS SUBDIVISION, A SPECIAL EDUCATION SCHOOL OR EARLY INTERVENTION AGENCY THAT CONDUCTS OR CONTRACTS FOR A COMPONENT OF A MULTI-DISCIPLINARY EVALUATION THAT INVOLVES THE PRACTICE OF MEDICINE SHALL BE SUBJECT TO THE PRE-HEARING PROCEDURES AND HEARING PROCEDURES AS IS PROVIDED WITH RESPECT TO INDIVIDUAL PHYSICIANS AND THEIR LICENSES IN TITLE TWO-A OF ARTICLE TWO OF THE PUBLIC HEALTH LAW. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, UPON REVOCATION OR OTHER TERMINATION BY THE COMMISSIONER OF APPROVAL OF THE SPECIAL EDUCATION SCHOOL PURSUANT TO ARTICLE EIGHTY-NINE OF THIS CHAPTER AND THE REGULATIONS OF THE COMMISSIONER IMPLEMENTING SUCH ARTICLE, OR OF THE EARLY INTERVENTION AGENCY BY THE COMMISSIONER OF HEALTH PURSUANT TO SECTION TWENTY-FIVE HUNDRED FIFTY-B OF THE PUBLIC HEALTH LAW AND IMPLEMENTING REGULATIONS, THE SCHOOL'S OR EARLY INTERVENTION AGENCY'S REGISTRATION PURSUANT TO THIS SECTION SHALL BE DEEMED REVOKED AND ANNULLED.

S 9. This act shall take effect immediately.