

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

5921--A

2009-2010 Regular Sessions

I N S E N A T E

June 18, 2009

Introduced by Sens. STAVISKY, KRUEGER -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- recommended to the Committee on Higher Education in accordance with Senate Rule 6, sec. 8 -- 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
17 (II) SERVICES CONSTITUTING THE PROVISION OF PSYCHOTHERAPY AS DEFINED
18 IN SUBDIVISION TWO OF SECTION EIGHTY-FOUR HUNDRED ONE OF THIS TITLE AND

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

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1 AUTHORIZED AND PROVIDED UNDER ARTICLE ONE HUNDRED THIRTY-ONE, ONE
2 HUNDRED THIRTY-NINE, OR ONE HUNDRED FIFTY-THREE OF THIS TITLE.

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

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

11 C. WITHIN ONE HUNDRED TWENTY DAYS AFTER THE COMMISSIONER PRESCRIBES
12 THE APPLICATION FORM AND POSTS NOTICE OF ITS AVAILABILITY ON THE DEPART-
13 MENT'S WEBSITE, ANY ENTITY DESCRIBED IN PARAGRAPH A OF THIS SUBDIVISION
14 PROVIDING SERVICES ON THE EFFECTIVE DATE OF THIS SECTION, MUST APPLY FOR
15 A WAIVER. UPON SUBMISSION OF SUCH APPLICATION, THE ENTITY MAY CONTINUE
16 TO OPERATE AND PROVIDE SERVICES UNTIL THE DEPARTMENT SHALL EITHER DENY
17 OR APPROVE THE ENTITY'S APPLICATION. AFTER THE DEPARTMENT RENDERS A
18 TIMELY INITIAL DETERMINATION THAT THE APPLICANT HAS SUBMITTED THE INFOR-
19 MATION NECESSARY TO VERIFY THAT THE REQUIREMENTS OF PARAGRAPHS D, E, AND
20 F OF THIS SUBDIVISION ARE SATISFIED, APPLICATIONS FOR WAIVERS SHALL BE
21 APPROVED OR DENIED WITHIN NINETY DAYS; PROVIDED HOWEVER, THAT IF THE
22 WAIVER APPLICATION IS DENIED THE ENTITY SHALL CEASE PROVIDING PROFES-
23 SIONAL SERVICES, PURSUANT TO PARAGRAPH A OF THIS SUBDIVISION, IN THE
24 STATE OF NEW YORK.

25 D. SUCH WAIVER SHALL PROVIDE THAT SERVICES RENDERED PURSUANT TO THIS
26 SECTION, DIRECTLY OR INDIRECTLY, SHALL BE PROVIDED ONLY BY A PERSON
27 APPROPRIATELY LICENSED TO PROVIDE SUCH SERVICES PURSUANT TO ARTICLE ONE
28 HUNDRED THIRTY-ONE, ONE HUNDRED THIRTY-NINE, ONE HUNDRED FIFTY-THREE,
29 ONE HUNDRED FIFTY-FOUR, OR ONE HUNDRED SIXTY-THREE OF THIS TITLE, OR BY
30 A PERSON OTHERWISE AUTHORIZED TO PROVIDE SUCH SERVICES UNDER SUCH ARTI-
31 CLES, OR BY A PROFESSIONAL ENTITY AUTHORIZED BY LAW TO PROVIDE SUCH
32 SERVICES.

33 E. AN APPLICATION FOR A WAIVER TO PROVIDE PROFESSIONAL SERVICES PURSU-
34 ANT TO THIS SECTION SHALL BE ON A FORM PRESCRIBED BY THE COMMISSIONER.
35 SUCH APPLICATION SHALL INCLUDE:

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

40 (IV) AN ATTESTATION MADE BY AN OFFICER AUTHORIZED BY THE ENTITY TO
41 MAKE SUCH ATTESTATION THAT IDENTIFIES THE SCOPE OF SERVICES TO BE
42 PROVIDED; INCLUDES A LIST OF PROFESSIONS UNDER THIS TITLE IN WHICH
43 PROFESSIONAL SERVICES WILL BE PROVIDED BY SUCH ENTITY; INCLUDES A STATE-
44 MENT THAT, UNLESS OTHERWISE AUTHORIZED BY LAW, THE ENTITY SHALL ONLY
45 PROVIDE PROFESSIONAL SERVICES AUTHORIZED UNDER THIS SECTION; INCLUDES A
46 STATEMENT THAT ONLY A LICENSED PROFESSIONAL, A PERSON OTHERWISE AUTHOR-
47 IZED TO PROVIDE SUCH SERVICES, OR A PROFESSIONAL ENTITY AUTHORIZED BY
48 LAW TO PROVIDE SUCH SERVICES SHALL PROVIDE SUCH PROFESSIONAL SERVICES AS
49 AUTHORIZED UNDER THIS SECTION; AND ATTESTS TO THE ADEQUACY OF THE ENTI-
50 TY'S FISCAL AND FINANCIAL RESOURCES TO PROVIDE SUCH SERVICES.

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

53 F. EACH OFFICER AND DIRECTOR OF SUCH ENTITY SHALL PROVIDE AN ATTESTA-
54 TION REGARDING HIS OR HER GOOD MORAL CHARACTER AS REQUIRED PURSUANT TO
55 PARAGRAPH H OF THIS SUBDIVISION. SUCH STATEMENT SHALL SET FORTH ANY
56 CRIMINAL CONVICTIONS, PENDING CRIMINAL CHARGES, DETERMINATIONS OF

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

52 (3) Experience: have two years of supervised employment or engagement
53 in appropriate psychology activities satisfactory to the board and in
54 accordance with the commissioner's regulations. SATISFACTORY EXPERIENCE
55 OBTAINED IN AN ENTITY OPERATING PURSUANT TO A WAIVER ISSUED BY THE
56 DEPARTMENT PURSUANT TO SECTION SIXTY-FIVE HUNDRED THREE-A OF THIS TITLE

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

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

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

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

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

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

55 (c) Experience: The completion of at least one thousand five hundred
56 client contact hours of supervised clinical experience, by persons hold-

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

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

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

36 S 12. Paragraph (c) of subdivision 3 of section 8405 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: Have completed a minimum of fifteen hundred hours of
40 supervised clinical practice satisfactory to the department and in
41 accordance with the commissioner's regulations. SATISFACTORY EXPERIENCE
42 OBTAINED IN AN ENTITY OPERATING UNDER A WAIVER ISSUED BY THE DEPARTMENT
43 PURSUANT TO SECTION SIXTY-FIVE HUNDRED THREE-A OF THIS TITLE MAY BE
44 ACCEPTED BY THE DEPARTMENT, NOTWITHSTANDING THAT SUCH EXPERIENCE MAY
45 HAVE BEEN OBTAINED PRIOR TO THE EFFECTIVE DATE OF SUCH SECTION
46 SIXTY-FIVE HUNDRED THREE-A AND/OR PRIOR TO THE ENTITY HAVING OBTAINED A
47 WAIVER. THE DEPARTMENT MAY, FOR GOOD CAUSE SHOWN, ACCEPT SATISFACTORY
48 EXPERIENCE THAT WAS OBTAINED IN A SETTING THAT WOULD HAVE BEEN ELIGIBLE
49 FOR A WAIVER BUT WHICH HAS NOT OBTAINED A WAIVER FROM THE DEPARTMENT OR
50 EXPERIENCE THAT WAS OBTAINED IN GOOD FAITH BY THE APPLICANT UNDER THE
51 BELIEF THAT APPROPRIATE AUTHORIZATION HAD BEEN OBTAINED FOR THE EXPERI-
52 ENCE, PROVIDED THAT SUCH EXPERIENCE MEETS ALL OTHER REQUIREMENTS FOR
53 ACCEPTABLE EXPERIENCE;

54 S 13. Section 9 of chapter 420 of the laws of 2002 amending the educa-
55 tion law relating to the profession of social work, as amended by

1 section 1 of part II of chapter 57 of the laws of 2009, is amended to
2 read as follows:

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

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

45 S 17-a. [Nothing] A. IN RELATION TO ACTIVITIES AND SERVICES PROVIDED
46 UNDER ARTICLE 153 OF THE EDUCATION LAW, NOTHING in this act shall
47 prohibit or limit [the] SUCH activities or services on the part of any
48 person in the employ of a program or service operated, regulated, fund-
49 ed, or approved by the department of mental hygiene or the office of
50 children and family services, or a local governmental unit as that term
51 is defined in article 41 of the mental hygiene law or a social services
52 district as defined in section 61 of the social services law[, provided,
53 however, this section shall not authorize the use of any title author-
54 ized pursuant to article 153 or 163 of the education law, except as
55 otherwise provided by such articles, except that this section shall be
56 deemed repealed on June 1, 2010]. IN RELATION TO ACTIVITIES AND SERVICES

1 PROVIDED UNDER ARTICLE 163 OF THE EDUCATION LAW, NOTHING IN THIS ACT
2 SHALL PROHIBIT OR LIMIT SUCH ACTIVITIES OR SERVICES ON THE PART OF ANY
3 PERSON IN THE EMPLOY OF A PROGRAM OR SERVICE OPERATED, REGULATED, FUND-
4 ED, OR APPROVED BY THE DEPARTMENT OF MENTAL HYGIENE, THE OFFICE OF CHIL-
5 DREN AND FAMILY SERVICES, THE DEPARTMENT OF CORRECTIONAL SERVICES, THE
6 STATE OFFICE FOR THE AGING AND THE DEPARTMENT OF HEALTH OR A LOCAL
7 GOVERNMENTAL UNIT AS THAT TERM IS DEFINED IN ARTICLE 41 OF THE MENTAL
8 HYGIENE LAW OR A SOCIAL SERVICES DISTRICT AS DEFINED IN SECTION 61 OF
9 THE SOCIAL SERVICES LAW, PURSUANT TO AUTHORITY GRANTED BY LAW. THIS
10 SECTION SHALL NOT AUTHORIZE THE USE OF ANY TITLE AUTHORIZED PURSUANT TO
11 ARTICLE 153 OR 163 OF THE EDUCATION LAW BY ANY SUCH EMPLOYED PERSON,
12 EXCEPT AS OTHERWISE PROVIDED BY SUCH ARTICLES RESPECTIVELY.

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

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