

8246

2009-2010 Regular Sessions

I N A S S E M B L Y

May 11, 2009

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

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:

1 Section 1. Section 2541 of the public health law, as added by chapter
2 428 of the laws of 1992, paragraph (a) of subdivision 8 as amended by
3 section 1 of part B3 of chapter 62 of the laws of 2003 and subdivision
4 13-a as added by chapter 231 of the laws of 1993, is amended to read as
5 follows:

6 S 2541. Definitions. As used in this title the following terms shall
7 have the following meanings, unless the context clearly requires other-
8 wise:

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

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

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

22 3. "Council" means the early intervention coordinating council estab-
23 lished 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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- 1 4. "Developmental delay" means that a child has not attained develop-
2 mental milestones expected for the child's chronological age, as meas-
3 ured by qualified professionals using appropriate diagnostic instruments
4 and/or procedures and informed clinical opinion, in one or more of the
5 following areas of development: cognitive, physical, communication,
6 social or emotional, or adaptive.
- 7 5. "Disability" means:
8 (a) a developmental delay; or
9 (b) a diagnosed physical or mental condition that has a high probabilit-
10 ity of resulting in developmental delay, such as Down syndrome or other
11 chromosomal abnormalities, sensory impairments, inborn errors of meta-
12 bolism or fetal alcohol syndrome.
- 13 6. "Early intervention official" means an appropriate municipal offi-
14 cial designated by the chief executive officer of a municipality and an
15 appropriate designee of such official.
- 16 7. "Early intervention services" means developmental services that:
17 (a) are provided under public supervision;
18 (b) are selected in collaboration with the parents;
19 (c) are designed to meet a child's developmental needs in any one or
20 more of the following areas:
21 (i) physical development, including vision and hearing,
22 (ii) cognitive development,
23 (iii) communication development,
24 (iv) social or emotional development, or
25 (v) adaptive development;
26 (d) meet [the coordinated standards and procedures] STANDARDS DEVEL-
27 OPED BY THE LEAD AGENCY;
28 (e) are provided by qualified personnel;
29 (f) are provided in conformity with an IFSP;
30 (g) are, to the maximum extent appropriate, provided in natural envi-
31 ronments, including the home and community settings where children with-
32 out disabilities would participate;
33 (h) include, as appropriate:
34 (i) family training, counseling, home visits and parent support
35 groups,
36 (ii) special instruction,
37 (iii) speech pathology and audiology,
38 (iv) occupational therapy,
39 (v) physical therapy,
40 (vi) psychological services,
41 (vii) case management services, hereafter referred to as service coor-
42 dination services,
43 (viii) medical services for diagnostic or evaluation purposes, subject
44 to reasonable prior approval requirements for exceptionally expensive
45 services, as prescribed by the commissioner,
46 (ix) early identification, screening, and assessment services,
47 (x) health services necessary to enable the infant or toddler to bene-
48 fit from the other early intervention services,
49 (xi) nursing services,
50 (xii) nutrition services,
51 (xiii) social work services,
52 (xiv) vision services,
53 (xv) assistive technology devices and assistive technology services,
54 (xvi) transportation and related costs that are necessary to enable a
55 child and the child's family to receive early intervention services, and
56 (xvii) other appropriate services approved by the commissioner[.];

1 (i) are cost-effective.

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

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

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

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

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

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

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

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

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

32 [13.] 13-A. "Municipality" means a county outside the city of New York
33 or the city of New York in the case of a county contained within the
34 city of New York.

35 [13-a.] 13-B. Subject to federal law and regulations, "natural envi-
36 ronment" or "natural setting" means a setting that is natural or normal
37 for the child's age peers who have no disability.

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

44 15. "Qualified personnel" means:

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

47 (i) special education teachers;

48 (ii) speech and language pathologists and audiologists;

49 (iii) occupational therapists;

50 (iv) physical therapists;

51 (v) social workers;

52 (vi) nurses;

53 (vii) dietitians or nutritionists;

54 (viii) other persons designated by the commissioner who meet require-
55 ments that apply to the area in which the person is providing early

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

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

5 (i) psychologists; or

6 (ii) physicians.

7 16. "Service coordinator" means a person who:

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

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

12 (ii) principles of family-centered services;

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

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

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

18 (b) is responsible for:

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

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

23 (iii) coordinating the performance of evaluations and assessments;

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

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

27 (vi) coordinating service delivery;

28 (vii) informing the family of advocacy services;

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

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

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

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

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

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

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

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

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

1 WHERE THE DEPARTMENT HAS DETERMINED THAT SUFFICIENT PROVIDER CAPACITY
2 EXISTS.

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

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

11 (B) DOCUMENTED FISCAL VIABILITY;

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

17 (I) IDENTIFICATION OF ALL EMPLOYEES WHO WILL PROVIDE EARLY INTER-
18 VENTION PROGRAM SERVICES, AND WHERE APPLICABLE, THE EMPLOYEES' LICENSES,
19 REGISTRATIONS, CERTIFICATIONS OR NATIONAL PROVIDER IDENTIFICATION
20 NUMBERS AND EXPIRATION DATES; AND

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

25 (D) FOR AGENCY PROVIDERS, A QUALITY ASSURANCE PLAN THAT IS APPROVED BY
26 THE DEPARTMENT FOR EACH TYPE OF PROFESSIONAL SERVICE OFFERED BY THE
27 AGENCY, INCLUDING EVALUATIONS AND SERVICE COORDINATION, TO ENSURE THAT
28 EVALUATIONS, SERVICE COORDINATION AND EARLY INTERVENTION PROGRAM
29 SERVICES ARE PROVIDED IN A MANNER THAT COMPLIES WITH FEDERAL AND STATE
30 LAWS AND REGULATIONS. THE PLAN SHALL INCLUDE A PROVISION FOR THE EMPLOY-
31 MENT OF A PROFESSIONAL OR PROFESSIONALS TO MONITOR AND OVERSEE IMPLEMEN-
32 TATION OF THE PLAN AS REQUIRED BY SUBPARAGRAPH (II) OF PARAGRAPH (E) OF
33 THIS SUBDIVISION;

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

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

41 (A) SUCH EXPERIENCE SHALL HAVE INCLUDED DIRECT EXPERIENCE IN DELIVER-
42 ING SERVICES TO CHILDREN WITH DISABILITIES AND THEIR FAMILIES; AND

43 (B) AT LEAST ONE YEAR OF SUCH EXPERIENCE SHALL HAVE BEEN IN THE DELIV-
44 ERY OF SERVICES TO CHILDREN LESS THAN THREE YEARS OF AGE AND THEIR FAMI-
45 LIES; AND

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

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

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

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

11 (F) ADHERENCE TO, AND FOR PURPOSES OF REAPPROVAL, EVIDENCE OF DEMON-
12 STRATED COMPLIANCE WITH ALL APPLICABLE FEDERAL AND STATE LAWS, REGU-
13 LATIONS, STANDARDS AND GUIDELINES;

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

17 (H) AGREEMENT TO PARTICIPATE AND, FOR PURPOSES OF REAPPROVAL, EVIDENCE
18 OF PARTICIPATION IN CONTINUING PROFESSIONAL AND CLINICAL EDUCATION RELE-
19 VANT TO EARLY INTERVENTION SERVICES AND IN-SERVICE TRAINING ON STATE AND
20 LOCAL POLICIES AND PROCEDURES ON THE EARLY INTERVENTION PROGRAM, INCLUD-
21 ING DEPARTMENT-SPONSORED TRAINING;

22 (I) ADHERENCE TO, AND FOR PURPOSES OF REAPPROVAL, DEMONSTRATED COMPLI-
23 ANCE WITH THE CONFIDENTIALITY REQUIREMENTS APPLICABLE TO THE EARLY
24 INTERVENTION PROGRAM AS SET FORTH IN FEDERAL AND STATE LAW AND REGU-
25 LATIONS;

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

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

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

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

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

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

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

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

1 APPROVED AGENCY. IF THERE IS A TRANSFER, ASSIGNMENT OR OTHER DISPOSITION
2 OF LESS THAN TEN PERCENT OF AN INTEREST OR VOTING RIGHTS IN THE APPROVED
3 AGENCY, BUT THE TRANSFER, ASSIGNMENT OR OTHER DISPOSITION TOGETHER WITH
4 ALL PRIOR TRANSFERS, ASSIGNMENTS OR OTHER DISPOSITIONS WITHIN THE LAST
5 FIVE YEARS WOULD, IN THE AGGREGATE INVOLVE TEN PERCENT OR MORE OF AN
6 INTEREST IN THE APPROVED AGENCY, THE AGENCY'S APPROVAL TO PROVIDE
7 SERVICES IN THE EARLY INTERVENTION PROGRAM SHALL TERMINATE UPON SUCH
8 TRANSFER, ASSIGNMENT OR DISPOSITION. IF THE AGENCY'S APPROVAL TERMINATES
9 AS SET FORTH IN THIS SUBDIVISION, THE AGENCY SHALL APPLY FOR APPROVAL IN
10 ACCORDANCE WITH THIS SECTION TO PROVIDE SERVICES IN THE EARLY INTER-
11 VENTION PROGRAM AND, IF APPROVED, SAID AGENCY SHALL BE DEEMED IN EXIST-
12 ENCE AFTER THE EFFECTIVE DATE OF THIS SECTION.

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

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

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

32 10. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW, THE APPROVAL OF
33 INDIVIDUALS AND AGENCIES THAT ARE IN EXISTENCE ON OR BEFORE THE EFFEC-
34 TIVE DATE OF THIS SECTION THAT WERE APPROVED TO DELIVER EARLY INTER-
35 VENTION SERVICES BY THE DEPARTMENT OF EDUCATION SHALL REMAIN IN EFFECT;
36 PROVIDED, HOWEVER THAT SUCH INDIVIDUALS OR AGENCIES SHALL BE SUBJECT TO
37 THE REQUIREMENTS OF THIS SECTION AND SHALL, WHEN REQUESTED BY THE
38 DEPARTMENT, APPLY FOR AND OBTAIN REAPPROVAL BY THE DEPARTMENT TO CONTIN-
39 UE PROVIDING SERVICES IN THE EARLY INTERVENTION PROGRAM.

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

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

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

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

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

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

1 2. NO APPROVAL SHALL BE REVOKED, SUSPENDED, LIMITED OR ANNULLED WITH-
2 OUT FIRST PROVIDING THE INDIVIDUAL OR AGENCY AN OPPORTUNITY TO BE HEARD.
3 THE DEPARTMENT SHALL NOTIFY THE INDIVIDUAL OR AGENCY IN WRITING OF THE
4 PROPOSED ACTION AND SHALL AFFORD THE INDIVIDUAL OR AGENCY AN OPPORTUNITY
5 TO BE HEARD IN PERSON OR BY COUNSEL. SUCH NOTICE MAY BE SERVED BY
6 PERSONAL DELIVERY TO THE INDIVIDUAL OR AGENCY OR BY MAILING IT BY CERTI-
7 FIED MAIL TO THE LAST KNOWN ADDRESS ON FILE WITH THE DEPARTMENT OR BY
8 ANY METHOD AUTHORIZED BY THE CIVIL PRACTICE LAW AND RULES FOR THE
9 SERVICE OF A SUMMONS. THE HEARING SHALL BE AT SUCH TIME AND PLACE AS THE
10 DEPARTMENT SHALL PRESCRIBE.

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

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

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

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

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

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

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

36 B. AN APPROVED PROGRAM MAY BE FORMED AS AN EDUCATION CORPORATION, OR,
37 WITH THE CONSENT OF THE COMMISSIONER, AS A NOT-FOR-PROFIT CORPORATION,
38 BUSINESS CORPORATION OR LIMITED LIABILITY COMPANY. IN ADDITION, AN
39 APPROVED PROGRAM OR GROUP OF APPROPRIATELY LICENSED OR CERTIFIED PROFES-
40 SIONALS MAY BE FORMED AS A PROFESSIONAL SERVICE LIMITED LIABILITY COMPA-
41 NY OR AS A FOREIGN PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY IN
42 ACCORDANCE WITH THE APPLICABLE PROVISIONS OF ARTICLES TWELVE AND THIR-
43 TEEN OF THE LIMITED LIABILITY COMPANY LAW OR AS A REGISTERED LIMITED
44 LIABILITY PARTNERSHIP IN ACCORDANCE WITH SECTION 121-1500 OF THE PART-
45 NERSHIP LAW OR AS A NEW YORK REGISTERED FOREIGN LIMITED LIABILITY PART-
46 NERSHIP IN ACCORDANCE WITH SECTION 121-1502 OF THE PARTNERSHIP LAW. AN
47 APPROVED PROGRAM FORMED AS SUCH A PROFESSIONAL SERVICE LIMITED LIABILITY
48 COMPANY OR REGISTERED LIMITED LIABILITY PARTNERSHIP MAY BE AUTHORIZED TO
49 PROVIDE SPECIAL EDUCATION ITINERANT SERVICES OR OTHER EDUCATIONAL
50 SERVICES NOT INVOLVING PRACTICE OF A PROFESSION UNDER TITLE EIGHT OF
51 THIS CHAPTER. AN APPROVED PROGRAM OR GROUP OF PROFESSIONALS FORMED AS
52 SUCH A PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY OR REGISTERED
53 LIMITED LIABILITY PARTNERSHIP MAY CONTRACT WITH INDIVIDUALS LICENSED OR
54 OTHERWISE AUTHORIZED TO PRACTICE, OR A PROFESSIONAL SERVICE CORPORATION,
55 PARTNERSHIP OR OTHER ENTITY LEGALLY AUTHORIZED TO PRACTICE, ANY PROFES-
56 SION UNDER TITLE EIGHT OF THIS CHAPTER IN WHICH THE COMPANY WOULD NOT BE

1 AUTHORIZED TO PROVIDE PROFESSIONAL SERVICES UNDER THE APPLICABLE
2 PROVISIONS OF SECTION TWELVE HUNDRED THREE OR SUBDIVISION (A) OF SECTION
3 THIRTEEN HUNDRED ONE OF THE LIMITED LIABILITY COMPANY LAW OR SECTION
4 121-1500 OR 121-1502 OF THE PARTNERSHIP LAW, SOLELY FOR THE PURPOSES OF
5 CONDUCTING A MULTI-DISCIPLINARY EVALUATION OF A PRESCHOOL CHILD
6 SUSPECTED OF HAVING A DISABILITY OR A PRESCHOOL CHILD WITH A DISABILITY
7 OR PROVIDING RELATED SERVICES SPECIFIED IN THE INDIVIDUALIZED EDUCATION
8 PROGRAM OF A PRESCHOOL CHILD.

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

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

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

28 a. (1) Providers of special services or programs shall apply to the
29 commissioner for program approval on a form prescribed by the commis-
30 sioner; such application shall include, but not be limited to, a listing
31 of the services to be provided, the population to be served, a plan for
32 providing services in the least restrictive environment and a
33 description of its evaluation component, if any. [Providers of early
34 intervention services seeking approval pursuant to subdivision seven of
35 section twenty-five hundred fifty-one of the public health law shall
36 apply to the commissioner for such approval on a form prescribed by the
37 commissioner.] The commissioner shall approve programs in accordance
38 with regulations adopted for such purpose and shall periodically review
39 such programs at which time the commissioner shall provide the munic-
40 ipality in which the program is located or for which the municipality
41 bears fiscal responsibility an opportunity for comment within thirty
42 days of the review. In collaboration with municipalities and represen-
43 tatives of approved programs, the commissioner shall develop procedures
44 for conducting such reviews. Municipalities shall be allowed to partic-
45 ipate in such departmental review process. Such review shall be
46 conducted by individuals with appropriate experience as determined by
47 the commissioner and shall be conducted not more than once every three
48 years.

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

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

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

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

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

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

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

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

21 Such application shall include, but not be limited to, a description
22 of the multi-disciplinary evaluation services proposed to be provided
23 and a demonstration that all agency employees and staff who provide such
24 evaluation services shall have appropriate licensure and/or certifi-
25 cation and that the individual who shall have direct supervision
26 responsibilities over such staff shall have an appropriate level of
27 experience in providing evaluation or services to preschool or kinder-
28 garten-aged children with [handicapping conditions] DISABILITIES. TO BE
29 ELIGIBLE FOR APPROVAL AS AN EVALUATOR ON AND AFTER JULY FIRST, TWO THOU-
30 SAND NINE, A GROUP OF APPROPRIATELY LICENSED OR CERTIFIED PROFESSIONALS
31 SHALL BE FORMED AS A PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY,
32 FOREIGN PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY, REGISTERED
33 LIMITED LIABILITY PARTNERSHIP OR NEW YORK FOREIGN REGISTERED LIMITED
34 LIABILITY PARTNERSHIP. THE APPROVAL OF ANY GROUPS OF LICENSED OR CERTI-
35 FIED PROFESSIONALS THAT ARE IN EXISTENCE ON JULY FIRST, TWO THOUSAND
36 NINE AND WOULD NOT BE ELIGIBLE FOR APPROVAL THEREAFTER SHALL TERMINATE
37 ON JULY FIRST, TWO THOUSAND TEN.

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

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

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

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

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

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

25 D. "MULTI-DISCIPLINARY EVALUATION FOR PURPOSES OF A SPECIAL EDUCATION
26 SCHOOL" MEANS A MULTI-DISCIPLINARY EVALUATION OF A PRESCHOOL CHILD
27 SUSPECTED OF HAVING A DISABILITY OR A PRESCHOOL CHILD WITH A DISABILITY
28 THAT IS CONDUCTED PURSUANT TO SECTION FORTY-FOUR HUNDRED TEN OF THIS
29 CHAPTER OR AN EVALUATION OF A SCHOOL-AGE CHILD SUSPECTED OF HAVING A
30 DISABILITY OR WITH A DISABILITY WHICH IS CONDUCTED BY A CHILD CARE
31 INSTITUTION THAT OPERATES A SPECIAL EDUCATION SCHOOL OR THE SPECIAL
32 EDUCATION SCHOOL OPERATED BY SUCH INSTITUTION PURSUANT TO SUBDIVISION
33 THREE OF SECTION FOUR THOUSAND TWO OF THIS CHAPTER OR BY AN INSTITUTION
34 FOR THE DEAF OR BLIND OPERATING PURSUANT TO ARTICLE EIGHTY-FIVE OF THIS
35 CHAPTER OR AN EVALUATION OF A SCHOOL-AGE CHILD SUSPECTED OF HAVING A
36 DISABILITY OR WITH A DISABILITY THAT IS AUTHORIZED TO BE CONDUCTED BY A
37 SPECIAL EDUCATION SCHOOL PURSUANT TO ANY OTHER PROVISION OF THIS CHAPTER
38 AND THE REGULATIONS OF THE COMMISSIONER FOR PURPOSES OF IDENTIFICATION
39 OF THE CHILD AS A CHILD WITH A DISABILITY OR THE DEVELOPMENT OF AN INDI-
40 VIDUALIZED EDUCATION PROGRAM FOR THE CHILD.

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

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

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

1 ENROLLED IN THE SCHOOL, AND NO SPECIAL EDUCATION SCHOOL MAY PROVIDE SUCH
2 AN EVALUATION COMPONENT OR RELATED SERVICES BY CONTRACT WITH AN INDIVID-
3 UAL LICENSED OR OTHERWISE AUTHORIZED TO PRACTICE PURSUANT TO THIS ARTI-
4 CLE OR A PROFESSIONAL SERVICE CORPORATION, PROFESSIONAL SERVICE LIMITED
5 LIABILITY COMPANY, OR REGISTERED LIMITED LIABILITY PARTNERSHIP AUTHOR-
6 IZED BY LAW TO PROVIDE PROFESSIONAL SERVICES, UNLESS SUCH SCHOOL IS
7 REGISTERED PURSUANT TO THIS SECTION. ALL SPECIAL EDUCATION SCHOOLS
8 APPROVED BY THE COMMISSIONER AS OF THE EFFECTIVE DATE OF THIS SECTION
9 SHALL BE DEEMED REGISTERED PURSUANT TO THIS SECTION FOR A PERIOD
10 COMMENCING ON SUCH EFFECTIVE DATE AND ENDING ON JULY FIRST, TWO THOUSAND
11 TEN.

12 B. NO EARLY INTERVENTION AGENCY MAY EMPLOY OR CONTRACT WITH INDIVID-
13 UALS LICENSED PURSUANT TO THIS ARTICLE OR WITH A PROFESSIONAL SERVICE
14 CORPORATION, PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY, PARTNERSHIP
15 OR REGISTERED LIMITED LIABILITY PARTNERSHIP AUTHORIZED BY LAW TO PROVIDE
16 THE APPLICABLE PROFESSIONAL SERVICES, TO CONDUCT AN EARLY INTERVENTION
17 PROGRAM MULTI-DISCIPLINARY EVALUATION, PROVIDE SERVICE COORDINATION
18 SERVICES OR EARLY INTERVENTION PROGRAM SERVICES UNLESS SUCH AGENCY IS
19 REGISTERED PURSUANT TO THIS SECTION AND APPROVED IN ACCORDANCE WITH
20 TITLE TWO-A OF ARTICLE TWENTY-FIVE OF THE PUBLIC HEALTH LAW AS AN EARLY
21 INTERVENTION PROGRAM PROVIDER. ALL EARLY INTERVENTION AGENCIES IN EXIST-
22 ENCE AS OF THE EFFECTIVE DATE OF THIS SECTION SHALL BE DEEMED REGISTERED
23 PURSUANT TO THIS SECTION FOR A PERIOD COMMENCING ON SUCH EFFECTIVE DATE
24 AND ENDING ON JULY FIRST, TWO THOUSAND TEN. NOTHING IN THIS SECTION
25 SHALL BE CONSTRUED TO REQUIRE AN AGENCY AS DEFINED IN SECTION
26 TWENTY-FIVE HUNDRED FORTY-ONE OF THE PUBLIC HEALTH LAW TO REGISTER IN
27 ACCORDANCE WITH THIS SECTION PROVIDED THAT IT IS OTHERWISE AUTHORIZED BY
28 LAW TO PROVIDE THE APPLICABLE PROFESSIONAL SERVICES.

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

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

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

38 4. ALL SPECIAL EDUCATION SCHOOL AND EARLY INTERVENTION AGENCY REGIS-
39 TRATIONS SHALL BE RENEWED ON DATES SET BY THE DEPARTMENT. THE TRIENNIAL
40 REGISTRATION FEE SHALL BE TWO HUNDRED SIXTY DOLLARS OR A PRO-RATED
41 PORTION THEREOF AS DETERMINED BY THE DEPARTMENT. IF AN APPLICANT SIMUL-
42 TANEOUSLY APPLIES FOR TRIENNIAL REGISTRATION AS A SPECIAL EDUCATION
43 SCHOOL AND FOR TRIENNIAL REGISTRATION AS AN EARLY INTERVENTION AGENCY,
44 THE APPLICANT SHALL PAY ONE FEE OF TWO HUNDRED SIXTY DOLLARS OR A
45 PRO-RATED PORTION THEREOF AS DETERMINED BY THE DEPARTMENT FOR BOTH
46 TRIENNIAL RENEWAL REGISTRATION APPLICATIONS. AN EARLY INTERVENTION AGEN-
47 CY'S REGISTRATION SHALL NOT BE RENEWED UNLESS THE AGENCY IS APPROVED TO
48 PROVIDE EARLY INTERVENTION PROGRAM MULTI-DISCIPLINARY EVALUATIONS,
49 SERVICE COORDINATION OR EARLY INTERVENTION PROGRAM SERVICES IN ACCORD-
50 ANCE WITH SECTION TWENTY-FIVE HUNDRED FIFTY-A OF THE PUBLIC HEALTH LAW.

51 5. IN THE EVENT THAT A CHANGE IN THE LOCATION OF THE CHIEF ADMINISTRA-
52 TIVE OFFICES OF A SPECIAL EDUCATION SCHOOL OR EARLY INTERVENTION AGENCY
53 IS CONTEMPLATED, THE OWNER SHALL NOTIFY THE OFFICE OF PROFESSIONS OF THE
54 DEPARTMENT OF THE CHANGE OF LOCATION AT LEAST THIRTY DAYS PRIOR TO RELO-
55 CATION.

1 6. AN APPLICANT FOR REGISTRATION AS A SPECIAL EDUCATION SCHOOL OR
2 EARLY INTERVENTION AGENCY SHALL BE OF GOOD MORAL CHARACTER, AS DETER-
3 MINED BY THE DEPARTMENT. IN THE CASE OF A CORPORATE APPLICANT, THE
4 REQUIREMENT SHALL EXTEND TO ALL OFFICERS AND DIRECTORS AND TO STOCKHOLD-
5 ERS HAVING A TEN PERCENT OR GREATER INTEREST IN THE CORPORATION.

6 7. A. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, A
7 REGISTERED SPECIAL EDUCATION SCHOOL MAY EMPLOY INDIVIDUALS LICENSED OR
8 OTHERWISE AUTHORIZED TO PRACTICE ANY PROFESSION PURSUANT TO THIS ARTICLE
9 TO CONDUCT COMPONENTS OF A MULTI-DISCIPLINARY EVALUATION OF A CHILD WITH
10 A DISABILITY OR A CHILD SUSPECTED OF HAVING A DISABILITY OR TO PROVIDE
11 RELATED SERVICES TO CHILDREN WITH DISABILITIES ENROLLED IN THE SCHOOL OR
12 MAY PROVIDE COMPONENTS OF SUCH AN EVALUATION OR SUCH RELATED SERVICES BY
13 CONTRACT WITH AN INDIVIDUAL LICENSED OR OTHERWISE AUTHORIZED TO PRACTICE
14 PURSUANT TO THIS ARTICLE OR A PROFESSIONAL SERVICE CORPORATION, PROFES-
15 SIONAL SERVICE LIMITED LIABILITY COMPANY, PARTNERSHIP OR REGISTERED
16 LIMITED LIABILITY PARTNERSHIP AUTHORIZED BY LAW TO PROVIDE THE APPLICA-
17 BLE PROFESSIONAL SERVICES.

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

28 C. A REGISTERED SPECIAL EDUCATION SCHOOL OR EARLY INTERVENTION AGENCY
29 SHALL NOT HOLD ITSELF OUT TO THE PUBLIC AS AUTHORIZED TO PROVIDE PROFES-
30 SIONAL SERVICES EXCEPT AS AUTHORIZED BY THIS SECTION.

31 8. A SPECIAL EDUCATION SCHOOL AND EARLY INTERVENTION AGENCY SHALL BE
32 UNDER THE SUPERVISION OF THE REGENTS OF THE UNIVERSITY OF THE STATE OF
33 NEW YORK AND THE DEPARTMENT PURSUANT TO THIS TITLE AND BE SUBJECT TO
34 DISCIPLINARY PROCEEDINGS AND PENALTIES IN THE SAME MANNER AND TO THE
35 SAME EXTENT AS IS PROVIDED WITH RESPECT TO INDIVIDUALS AND THEIR
36 LICENSES, CERTIFICATES, AND REGISTRATIONS IN THE PROVISIONS OF THIS
37 TITLE RELATING TO THE APPLICABLE PROFESSION, AND THE REGISTRATION OF A
38 SPECIAL EDUCATION SCHOOL OR EARLY INTERVENTION AGENCY SHALL BE SUBJECT
39 TO SUSPENSION, REVOCATION OR ANNULMENT FOR CAUSE. NOTWITHSTANDING THE
40 PROVISIONS OF THIS SUBDIVISION, A SPECIAL EDUCATION SCHOOL OR EARLY
41 INTERVENTION AGENCY THAT CONDUCTS OR CONTRACTS FOR A COMPONENT OF A
42 MULTI-DISCIPLINARY EVALUATION THAT INVOLVES THE PRACTICE OF MEDICINE
43 SHALL BE SUBJECT TO THE PRE-HEARING PROCEDURES AND HEARING PROCEDURES AS
44 IS PROVIDED WITH RESPECT TO INDIVIDUAL PHYSICIANS AND THEIR LICENSES IN
45 TITLE TWO-A OF ARTICLE TWO OF THE PUBLIC HEALTH LAW. NOTWITHSTANDING ANY
46 OTHER PROVISION OF LAW TO THE CONTRARY, UPON REVOCATION OR OTHER TERMI-
47 NATION BY THE COMMISSIONER OF APPROVAL OF THE SPECIAL EDUCATION SCHOOL
48 PURSUANT TO ARTICLE EIGHTY-NINE OF THIS CHAPTER AND THE REGULATIONS OF
49 THE COMMISSIONER IMPLEMENTING SUCH ARTICLE, OR OF THE EARLY INTERVENTION
50 AGENCY BY THE COMMISSIONER OF HEALTH PURSUANT TO SECTION TWENTY-FIVE
51 HUNDRED FIFTY-B OF THE PUBLIC HEALTH LAW AND IMPLEMENTING REGULATIONS,
52 THE SCHOOL'S OR EARLY INTERVENTION AGENCY'S REGISTRATION PURSUANT TO
53 THIS SECTION SHALL BE DEEMED REVOKED AND ANNULLED.

54 S 9. This act shall take effect immediately.