

1384--A

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. CAHILL, LUPARDO, STIRPE -- Multi-Sponsored by --
M. of A. STEC -- read once and referred to the Committee on Higher
Education -- committee discharged, bill amended, ordered reprinted as
amended and recommitted to said committee

AN ACT to amend the limited liability company law, the business corpo-
ration law, the partnership law, the public health law and the educa-
tion law, in relation to authorizing ophthalmologists and ophthalmic
dispensing practices to form limited liability companies

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

1 Section 1. Subdivision (a) of section 1203 of the limited liability
2 company law, as separately amended by chapters 420 and 676 of the laws
3 of 2002, is amended to read as follows:
4 (a) Notwithstanding the education law or any other provision of law,
5 one or more professionals each of whom is authorized by law to render a
6 professional service within the state, or one or more professionals, at
7 least one of whom is authorized by law to render a professional service
8 within the state, may form, or cause to be formed, a professional
9 service limited liability company for pecuniary profit under this arti-
10 cle for the purpose of rendering the professional service or services as
11 such professionals are authorized to practice. With respect to a profes-
12 sional service limited liability company formed to provide medical
13 services as such services are defined in article 131 of the education
14 law, each member of such limited liability company must be licensed
15 pursuant to article 131 of the education law to practice medicine in
16 this state. With respect to a professional service limited liability
17 company formed to provide dental services as such services are defined
18 in article 133 of the education law, each member of such limited liabil-
19 ity company must be licensed pursuant to article 133 of the education
20 law to practice dentistry in this state. With respect to a professional

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

LBD03534-07-3

1 service limited liability company formed to provide veterinary services
2 as such services are defined in article 135 of the education law, each
3 member of such limited liability company must be licensed pursuant to
4 article 135 of the education law to practice veterinary medicine in this
5 state. With respect to a professional service limited liability company
6 formed to provide professional engineering, land surveying, architec-
7 tural and/or landscape architectural services as such services are
8 defined in article 145, article 147 and article 148 of the education
9 law, each member of such limited liability company must be licensed
10 pursuant to article 145, article 147 and/or article 148 of the education
11 law to practice one or more of such professions in this state. With
12 respect to a professional service limited liability company formed to
13 provide licensed clinical social work services as such services are
14 defined in article 154 of the education law, each member of such limited
15 liability company shall be licensed pursuant to article 154 of the
16 education law to practice licensed clinical social work in this state.
17 With respect to a professional service limited liability company formed
18 to provide creative arts therapy services as such services are defined
19 in article 163 of the education law, each member of such limited liabil-
20 ity company must be licensed pursuant to article 163 of the education
21 law to practice creative arts therapy in this state. With respect to a
22 professional service limited liability company formed to provide
23 marriage and family therapy services as such services are defined in
24 article 163 of the education law, each member of such limited liability
25 company must be licensed pursuant to article 163 of the education law to
26 practice marriage and family therapy in this state. With respect to a
27 professional service limited liability company formed to provide mental
28 health counseling services as such services are defined in article 163
29 of the education law, each member of such limited liability company must
30 be licensed pursuant to article 163 of the education law to practice
31 mental health counseling in this state. With respect to a professional
32 service limited liability company formed to provide psychoanalysis
33 services as such services are defined in article 163 of the education
34 law, each member of such limited liability company must be licensed
35 pursuant to article 163 of the education law to practice psychoanalysis
36 in this state. In addition to engaging in such profession or
37 professions, a professional service limited liability company may engage
38 in any other business or activities as to which a limited liability
39 company may be formed under section two hundred one of this chapter.
40 Notwithstanding any other provision of this section, a professional
41 service limited liability company (i) authorized to practice law may
42 only engage in another profession or business or activities or (ii)
43 which is engaged in a profession or other business or activities other
44 than law may only engage in the practice of law, to the extent not
45 prohibited by any other law of this state or any rule adopted by the
46 appropriate appellate division of the supreme court or the court of
47 appeals. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, WITH
48 RESPECT TO A LIMITED LIABILITY COMPANY FORMED TO PROVIDE INTEGRATED,
49 MULTIDISCIPLINARY MEDICAL SERVICES DEFINED IN ARTICLE 131 OF THE EDUCA-
50 TION LAW WITH OPTOMETRY AND/OR OPHTHALMIC DISPENSING SERVICES DEFINED IN
51 ARTICLE 143 AND/OR ARTICLE 144 OF THE EDUCATION LAW, (I) EACH MEMBER OF
52 SUCH LIMITED LIABILITY COMPANY MUST BE LICENSED PURSUANT TO ARTICLE 131
53 AND CERTIFIED BY THE AMERICAN BOARD OF OPHTHALMOLOGY, AND/OR LICENSED
54 PURSUANT TO ARTICLE 143 AND/OR ARTICLE 144 OF THE EDUCATION LAW TO PRAC-
55 TICE ONE OR MORE OF SUCH PROFESSIONS IN THIS STATE, (II) EACH MEMBER
56 SHALL ONLY PRACTICE HIS OR HER PROFESSION AS SPECIFIED IN HIS OR HER

1 RESPECTIVE PROFESSIONAL ENABLING STATUTE UNDER ARTICLE 131 OF THE EDUCA-
2 TION LAW, AND (III) THE CLINICAL INTEGRATION OF PROFESSIONAL PRACTICES
3 WITHIN AN INTEGRATED, MULTIDISCIPLINARY ENTITY ORGANIZED UNDER THIS
4 SECTION DOES NOT ALTER, EXPAND OR CURTAIL THE SCOPE OF PRACTICE OF ANY
5 OF THE INDIVIDUALS LICENSED UNDER THE STATUTE OF HIS OR HER RESPECTIVE
6 PROFESSIONAL ENABLING LAW, PROVIDED THAT: (A) THE CLINICAL JUDGMENT,
7 MANAGEMENT AND CLINICAL DECISION-MAKING OF ONE OR MORE ARTICLE 131
8 PROVIDERS IN AN INTEGRATED, MULTIDISCIPLINARY PROFESSIONAL SERVICE
9 LIMITED LIABILITY COMPANY SHALL BE CONTROLLING, (B) MEMBERS LICENSED
10 UNDER ARTICLE 143 AND/OR ARTICLE 144 OF THE EDUCATION LAW, SHALL NOT,
11 DIRECTLY OR INDIRECTLY, INTERFERE WITH THE CLINICAL JUDGMENT OR LEGITI-
12 MATE CLINICAL PRACTICE OF A PROFESSIONAL LICENSED UNDER ARTICLE 131, AND
13 (C) INDIVIDUALS LICENSED UNDER ARTICLE 131 MAY NOT ORDER OR DIRECT A
14 PROFESSIONAL LICENSED UNDER ARTICLE 143 AND/OR ARTICLE 144 OF THE EDUCA-
15 TION LAW TO PRACTICE BEYOND THE SCOPE OF HIS OR HER LICENSE UNDER ARTI-
16 CLE 143 AND/OR ARTICLE 144 OF THE EDUCATION LAW, EVEN IF SUPERVISED
17 DIRECTLY OR INDIRECTLY BY A PROFESSIONAL LICENSED UNDER ARTICLE 131.

18 S 2. Subdivision (b) of section 1207 of the limited liability company
19 law, as separately amended by chapters 420 and 676 of the laws of 2002,
20 is amended to read as follows:

21 (b) With respect to a professional service limited liability company
22 formed to provide medical services as such services are defined in arti-
23 cle 131 of the education law, each member of such limited liability
24 company must be licensed pursuant to article 131 of the education law to
25 practice medicine in this state. With respect to a professional service
26 limited liability company formed to provide dental services as such
27 services are defined in article 133 of the education law, each member of
28 such limited liability company must be licensed pursuant to article 133
29 of the education law to practice dentistry in this state. With respect
30 to a professional service limited liability company formed to provide
31 veterinary services as such services are defined in article 135 of the
32 education law, each member of such limited liability company must be
33 licensed pursuant to article 135 of the education law to practice veter-
34 inary medicine in this state. With respect to a professional service
35 limited liability company formed to provide professional engineering,
36 land surveying, architectural and/or landscape architectural services as
37 such services are defined in article 145, article 147 and article 148 of
38 the education law, each member of such limited liability company must be
39 licensed pursuant to article 145, article 147 and/or article 148 of the
40 education law to practice one or more of such professions in this state.
41 With respect to a professional service limited liability company formed
42 to provide licensed clinical social work services as such services are
43 defined in article 154 of the education law, each member of such limited
44 liability company shall be licensed pursuant to article 154 of the
45 education law to practice licensed clinical social work in this state.
46 With respect to a professional service limited liability company formed
47 to provide creative arts therapy services as such services are defined
48 in article 163 of the education law, each member of such limited liabil-
49 ity company must be licensed pursuant to article 163 of the education
50 law to practice creative arts therapy in this state. With respect to a
51 professional service limited liability company formed to provide
52 marriage and family therapy services as such services are defined in
53 article 163 of the education law, each member of such limited liability
54 company must be licensed pursuant to article 163 of the education law to
55 practice marriage and family therapy in this state. With respect to a
56 professional service limited liability company formed to provide mental

1 health counseling services as such services are defined in article 163
2 of the education law, each member of such limited liability company must
3 be licensed pursuant to article 163 of the education law to practice
4 mental health counseling in this state. With respect to a professional
5 service limited liability company formed to provide psychoanalysis
6 services as such services are defined in article 163 of the education
7 law, each member of such limited liability company must be licensed
8 pursuant to article 163 of the education law to practice psychoanalysis
9 in this state. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION,
10 WITH RESPECT TO A PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY FORMED
11 TO PROVIDE INTEGRATED MULTIDISCIPLINARY MEDICAL SERVICES DEFINED IN
12 ARTICLE 131 OF THE EDUCATION LAW WITH OPTOMETRY AND/OR OPHTHALMIC
13 DISPENSING SERVICES DEFINED IN ARTICLE 143 AND/OR ARTICLE 144 OF THE
14 EDUCATION LAW, (I) EACH MEMBER OF SUCH LIMITED LIABILITY COMPANY MUST BE
15 LICENSED PURSUANT TO ARTICLE 131 AND CERTIFIED BY THE AMERICAN BOARD OF
16 OPHTHALMOLOGY, AND/OR LICENSED PURSUANT TO ARTICLE 143 AND/OR ARTICLE
17 144 OF THE EDUCATION LAW TO PRACTICE ONE OR MORE OF SUCH PROFESSIONS IN
18 THIS STATE, (II) EACH MEMBER SHALL ONLY PRACTICE HIS OR HER PROFESSION
19 AS SPECIFIED IN HIS OR HER RESPECTIVE PROFESSIONAL ENABLING STATUTE
20 UNDER ARTICLE 131, ARTICLE 143, OR ARTICLE 144 OF THE EDUCATION LAW, AND
21 (III) THE CLINICAL INTEGRATION OF PROFESSIONAL PRACTICES WITHIN AN INTE-
22 GRATED, MULTIDISCIPLINARY ENTITY ORGANIZED UNDER THIS SECTION DOES NOT
23 ALTER, EXPAND OR CURTAIL THE SCOPE OF PRACTICE OF ANY OF THE INDIVIDUALS
24 LICENSED UNDER THE STATUTE OF HIS OR HER RESPECTIVE PROFESSIONAL ENABL-
25 ING LAW, PROVIDED THAT: (A) THE CLINICAL JUDGMENT, MANAGEMENT AND CLIN-
26 ICAL DECISION-MAKING OF ONE OR MORE ARTICLE 131 PROVIDERS IN AN INTE-
27 GRATED, MULTIDISCIPLINARY PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY
28 SHALL BE CONTROLLING, (B) MEMBERS LICENSED UNDER ARTICLE 143 AND/OR
29 ARTICLE 144 OF THE EDUCATION LAW, SHALL NOT, DIRECTLY OR INDIRECTLY,
30 INTERFERE WITH THE CLINICAL JUDGMENT OR LEGITIMATE CLINICAL PRACTICE OF
31 A PROFESSIONAL LICENSED UNDER ARTICLE 131, AND (C) INDIVIDUALS LICENSED
32 UNDER ARTICLE 131 MAY NOT ORDER OR DIRECT A PROFESSIONAL LICENSED UNDER
33 ARTICLE 143 AND/OR ARTICLE 144 OF THE EDUCATION LAW TO PRACTICE BEYOND
34 THE SCOPE OF HIS OR HER LICENSE UNDER ARTICLE 143 AND/OR ARTICLE 144 OF
35 THE EDUCATION LAW, EVEN IF SUPERVISED DIRECTLY OR INDIRECTLY BY A
36 PROFESSIONAL LICENSED UNDER ARTICLE 131.

37 S 3. Subdivision (a) of section 1301 of the limited liability company
38 law, as separately amended by chapters 420 and 676 of the laws of 2002,
39 is amended to read as follows:

40 (a) "Foreign professional service limited liability company" means a
41 professional service limited liability company, whether or not denomi-
42 nated as such, organized under the laws of a jurisdiction other than
43 this state, (i) each of whose members and managers, if any, is a profes-
44 sional authorized by law to render a professional service within this
45 state and who is or has been engaged in the practice of such profession
46 in such professional service limited liability company or a predecessor
47 entity, or will engage in the practice of such profession in the profes-
48 sional service limited liability company within thirty days of the date
49 such professional becomes a member, or each of whose members and manag-
50 ers, if any, is a professional at least one of such members is author-
51 ized by law to render a professional service within this state and who
52 is or has been engaged in the practice of such profession in such
53 professional service limited liability company or a predecessor entity,
54 or will engage in the practice of such profession in the professional
55 service limited liability company within thirty days of the date such
56 professional becomes a member, or (ii) authorized by, or holding a

1 license, certificate, registration or permit issued by the licensing
2 authority pursuant to, the education law to render a professional
3 service within this state; except that all members and managers, if any,
4 of a foreign professional service limited liability company that
5 provides health services in this state shall be licensed in this state.
6 With respect to a foreign professional service limited liability company
7 which provides veterinary services as such services are defined in arti-
8 cle 135 of the education law, each member of such foreign professional
9 service limited liability company shall be licensed pursuant to article
10 135 of the education law to practice veterinary medicine. With respect
11 to a foreign professional service limited liability company which
12 provides medical services as such services are defined in article 131 of
13 the education law, each member of such foreign professional service
14 limited liability company must be licensed pursuant to article 131 of
15 the education law to practice medicine in this state. With respect to a
16 foreign professional service limited liability company which provides
17 dental services as such services are defined in article 133 of the
18 education law, each member of such foreign professional service limited
19 liability company must be licensed pursuant to article 133 of the educa-
20 tion law to practice dentistry in this state. With respect to a foreign
21 professional service limited liability company which provides profes-
22 sional engineering, land surveying, architectural and/or landscape
23 architectural services as such services are defined in article 145,
24 article 147 and article 148 of the education law, each member of such
25 foreign professional service limited liability company must be licensed
26 pursuant to article 145, article 147 and/or article 148 of the education
27 law to practice one or more of such professions in this state. With
28 respect to a foreign professional service limited liability company
29 which provides licensed clinical social work services as such services
30 are defined in article 154 of the education law, each member of such
31 foreign professional service limited liability company shall be licensed
32 pursuant to article 154 of the education law to practice clinical social
33 work in this state. With respect to a foreign professional service
34 limited liability company which provides creative arts therapy services
35 as such services are defined in article 163 of the education law, each
36 member of such foreign professional service limited liability company
37 must be licensed pursuant to article 163 of the education law to prac-
38 tice creative arts therapy in this state. With respect to a foreign
39 professional service limited liability company which provides marriage
40 and family therapy services as such services are defined in article 163
41 of the education law, each member of such foreign professional service
42 limited liability company must be licensed pursuant to article 163 of
43 the education law to practice marriage and family therapy in this state.
44 With respect to a foreign professional service limited liability company
45 which provides mental health counseling services as such services are
46 defined in article 163 of the education law, each member of such foreign
47 professional service limited liability company must be licensed pursuant
48 to article 163 of the education law to practice mental health counseling
49 in this state. With respect to a foreign professional service limited
50 liability company which provides psychoanalysis services as such
51 services are defined in article 163 of the education law, each member of
52 such foreign professional service limited liability company must be
53 licensed pursuant to article 163 of the education law to practice
54 psychoanalysis in this state. WITH RESPECT TO A FOREIGN PROFESSIONAL
55 SERVICE LIMITED LIABILITY COMPANY FORMED TO PROVIDE INTEGRATED MULTIDIS-
56 CIPLINARY MEDICAL SERVICES DEFINED IN ARTICLE 131 OF THE EDUCATION LAW

1 WITH OPTOMETRY AND/OR OPHTHALMIC DISPENSING SERVICES DEFINED IN ARTICLE
2 143 AND/OR ARTICLE 144 OF THE EDUCATION LAW, (I) EACH MEMBER OF SUCH
3 LIMITED LIABILITY COMPANY MUST BE LICENSED PURSUANT TO ARTICLE 131 AND
4 CERTIFIED BY THE AMERICAN BOARD OF OPHTHALMOLOGY, AND/OR LICENSED PURSU-
5 ANT TO ARTICLE 143 AND/OR ARTICLE 144 OF THE EDUCATION LAW TO PRACTICE
6 ONE OR MORE OF SUCH PROFESSIONS IN THIS STATE, (II) EACH MEMBER SHALL
7 ONLY PRACTICE HIS OR HER PROFESSION AS SPECIFIED IN HIS OR HER RESPEC-
8 TIVE PROFESSIONAL ENABLING STATUTE UNDER ARTICLE 131, ARTICLE 143, OR
9 ARTICLE 144 OF THE EDUCATION LAW, AND (III) THE CLINICAL INTEGRATION OF
10 PROFESSIONAL PRACTICES WITHIN AN INTEGRATED, MULTIDISCIPLINARY ENTITY
11 ORGANIZED UNDER THIS SECTION DOES NOT ALTER, EXPAND OR CURTAIL THE SCOPE
12 OF PRACTICE OF ANY OF THE INDIVIDUALS LICENSED UNDER THE STATUTE OF HIS
13 OR HER RESPECTIVE PROFESSIONAL ENABLING LAW, PROVIDED THAT: (A) THE
14 CLINICAL JUDGMENT, MANAGEMENT AND CLINICAL DECISION-MAKING OF ONE OR
15 MORE ARTICLE 131 PROVIDERS IN AN INTEGRATED, MULTIDISCIPLINARY PROFES-
16 SIONAL SERVICE LIMITED LIABILITY COMPANY SHALL BE CONTROLLING, (B)
17 MEMBERS LICENSED UNDER ARTICLE 143 AND/OR ARTICLE 144 OF THE EDUCATION
18 LAW, SHALL NOT, DIRECTLY OR INDIRECTLY, INTERFERE WITH THE CLINICAL
19 JUDGMENT OR LEGITIMATE CLINICAL PRACTICE OF A PROFESSIONAL LICENSED
20 UNDER ARTICLE 131, AND (C) INDIVIDUALS LICENSED UNDER ARTICLE 131 MAY
21 NOT ORDER OR DIRECT A PROFESSIONAL LICENSED UNDER ARTICLE 143 AND/OR
22 ARTICLE 144 OF THE EDUCATION LAW TO PRACTICE BEYOND THE SCOPE OF HIS OR
23 HER LICENSE UNDER ARTICLE 143 AND/OR ARTICLE 144 OF THE EDUCATION LAW,
24 EVEN IF SUPERVISED DIRECTLY OR INDIRECTLY BY A PROFESSIONAL LICENSED
25 UNDER ARTICLE 131.

26 S 4. Paragraph (a) of section 1503 of the business corporation law, as
27 amended by chapter 550 of the laws of 2011, is amended to read as
28 follows:

29 (a) Notwithstanding any other provision of law, (I) one or more indi-
30 viduals duly authorized by law to render the same professional service
31 within the state may organize, or cause to be organized, a professional
32 service corporation for pecuniary profit under this article for the
33 purpose of rendering the same professional service, except that one or
34 more individuals duly authorized by law to practice professional engi-
35 neering, architecture, landscape architecture or land surveying within
36 the state may organize, or cause to be organized, a professional service
37 corporation or a design professional service corporation for pecuniary
38 profit under this article for the purpose of rendering such professional
39 services as such individuals are authorized to practice, AND, (II) ONE
40 OR MORE INDIVIDUALS DULY LICENSED TO PRACTICE MEDICINE AND WHO ARE
41 CERTIFIED BY THE AMERICAN BOARD OF OPHTHALMOLOGY, AND ONE OR MORE OPTO-
42 METRIST AND/OR OPHTHALMIC DISPENSER LICENSED UNDER ARTICLE 143 AND/OR
43 ARTICLE 144 OF THE EDUCATION LAW, WHO MAY BE BOARD CERTIFIED OR QUALI-
44 FIED BY HIS OR HER RESPECTIVE PROFESSIONAL SPECIALTY BOARDS, MAY ORGAN-
45 IZE, OR CAUSE TO BE ORGANIZED, FOR BUSINESS PURPOSES ONLY, A MULTIDISCI-
46 PLINARY PROFESSIONAL SERVICE CORPORATION FORMED FOR PECUNIARY PROFIT
47 UNDER THIS ARTICLE FOR THE PURPOSE OF RENDERING INTEGRATED AND NON-INTE-
48 GRATED PROFESSIONAL SERVICES WITHIN SUCH A CORPORATION AS SUCH INDIVID-
49 UALS ARE AUTHORIZED TO PRACTICE INDIVIDUALLY IN HIS OR HER RESPECTIVE
50 PROFESSIONS, PROVIDED THAT THE CLINICAL INTEGRATION OF PROFESSIONAL
51 PRACTICES WITHIN AN ENTITY ORGANIZED UNDER THIS SECTION DOES NOT ALTER,
52 EXPAND OR CURTAIL THE SCOPE OF PRACTICE OF ANY OF THE INDIVIDUALS
53 LICENSED UNDER THE STATUTE OF HIS OR HER RESPECTIVE PROFESSIONAL ENABL-
54 ING LAW; THAT THE CLINICAL JUDGMENT, MANAGEMENT AND CLINICAL
55 DECISION-MAKING OF ONE OR MORE ARTICLE 131 PROVIDERS IN AN INTEGRATED,
56 MULTIDISCIPLINARY PRACTICE SHALL BE CONTROLLING; THAT MEMBERS LICENSED

1 UNDER ARTICLE 143 AND/OR ARTICLE 144 OF THE EDUCATION LAW, SHALL NOT,
2 DIRECTLY OR INDIRECTLY, INTERFERE WITH THE CLINICAL JUDGMENT OR LEGITI-
3 MATE CLINICAL PRACTICE OF A PROFESSIONAL LICENSED UNDER ARTICLE 131; AND
4 THAT INDIVIDUALS LICENSED UNDER ARTICLE 131 MAY NOT ORDER OR DIRECT A
5 PROFESSIONAL LICENSED UNDER ARTICLE 143 AND/OR ARTICLE 144 OF THE EDU-
6 CATION LAW TO PRACTICE BEYOND THE SCOPE OF HIS OR HER LICENSE UNDER ARTI-
7 CLE 143 AND/OR ARTICLE 144 OF THE EDUCATION LAW IN A PROFESSIONAL
8 SERVICE LIMITED LIABILITY COMPANY, EVEN IF SUPERVISED DIRECTLY OR INDI-
9 RECTLY BY A PROFESSIONAL LICENSED UNDER ARTICLE 131.

10 S 5. Subdivision (q) of section 121-1500 of the partnership law, as
11 separately amended by chapters 420 and 676 of the laws of 2002, is
12 amended to read as follows:

13 (q) Each partner of a registered limited liability partnership formed
14 to provide medical services in this state must be licensed pursuant to
15 article 131 of the education law to practice medicine in this state and
16 each partner of a registered limited liability partnership formed to
17 provide dental services in this state must be licensed pursuant to arti-
18 cle 133 of the education law to practice dentistry in this state. Each
19 partner of a registered limited liability partnership formed to provide
20 veterinary services in this state must be licensed pursuant to article
21 135 of the education law to practice veterinary medicine in this state.
22 Each partner of a registered limited liability partnership formed to
23 provide professional engineering, land surveying, architectural and/or
24 landscape architectural services in this state must be licensed pursuant
25 to article 145, article 147 and/or article 148 of the education law to
26 practice one or more of such professions in this state. Each partner of
27 a registered limited liability partnership formed to provide licensed
28 clinical social work services in this state must be licensed pursuant to
29 article 154 of the education law to practice clinical social work in
30 this state. Each partner of a registered limited liability partnership
31 formed to provide creative arts therapy services in this state must be
32 licensed pursuant to article 163 of the education law to practice crea-
33 tive arts therapy in this state. Each partner of a registered limited
34 liability partnership formed to provide marriage and family therapy
35 services in this state must be licensed pursuant to article 163 of the
36 education law to practice marriage and family therapy in this state.
37 Each partner of a registered limited liability partnership formed to
38 provide mental health counseling services in this state must be licensed
39 pursuant to article 163 of the education law to practice mental health
40 counseling in this state. Each partner of a registered limited liability
41 partnership formed to provide psychoanalysis services in this state must
42 be licensed pursuant to article 163 of the education law to practice
43 psychoanalysis in this state. EACH PARTNER OF A REGISTERED LIMITED
44 LIABILITY PARTNERSHIP FORMED TO PROVIDE INTEGRATED, MULTIDISCIPLINARY
45 MEDICAL SERVICES DEFINED IN ARTICLE 131 OF THE EDUCATION LAW WITH OPTO-
46 METRY AND/OR OPHTHALMIC DISPENSING SERVICES DEFINED IN ARTICLE 143
47 AND/OR ARTICLE 144 OF THE EDUCATION LAW, (I) EACH MEMBER OF SUCH LIMITED
48 LIABILITY COMPANY MUST BE LICENSED PURSUANT TO ARTICLE 131 AND CERTIFIED
49 BY THE AMERICAN BOARD OF OPHTHALMOLOGY, AND/OR LICENSED PURSUANT TO
50 ARTICLE 143 AND/OR ARTICLE 144 OF THE EDUCATION LAW TO PRACTICE ONE OR
51 MORE OF SUCH PROFESSIONS IN THIS STATE, (II) SHALL ONLY PRACTICE HIS OR
52 HER PROFESSION AS SPECIFIED IN HIS OR HER RESPECTIVE PROFESSIONAL ENABL-
53 ING STATUTE UNDER ARTICLE 131, ARTICLE 143, OR ARTICLE 144 OF THE EDU-
54 CATION LAW, AND (III) THE CLINICAL INTEGRATION OF PROFESSIONAL PRACTICES
55 WITHIN AN INTEGRATED, MULTI-DISCIPLINARY ENTITY ORGANIZED UNDER THIS
56 SECTION DOES NOT ALTER, EXPAND OR CURTAIL THE SCOPE OF PRACTICE OF ANY

1 OF THE INDIVIDUALS LICENSED UNDER THE STATUTE OF HIS OR HER RESPECTIVE
2 PROFESSIONAL ENABLING LAW, PROVIDED THAT: (A) THE CLINICAL JUDGMENT,
3 MANAGEMENT AND CLINICAL DECISION-MAKING OF ONE OR MORE ARTICLE 131
4 PROVIDERS IN AN INTEGRATED, MULTIDISCIPLINARY PROFESSIONAL SERVICE
5 LIMITED LIABILITY COMPANY SHALL BE CONTROLLING, (B) MEMBERS LICENSED
6 UNDER ARTICLE 143 AND/OR ARTICLE 144 OF THE EDUCATION LAW, SHALL NOT,
7 DIRECTLY OR INDIRECTLY, INTERFERE WITH THE CLINICAL JUDGMENT OR LEGITI-
8 MATE CLINICAL PRACTICE OF A PROFESSIONAL LICENSED UNDER ARTICLE 131, AND
9 (C) INDIVIDUALS LICENSED UNDER ARTICLE 131 MAY NOT ORDER OR DIRECT A
10 PROFESSIONAL LICENSED UNDER ARTICLE 143 AND/OR ARTICLE 144 OF THE EDUCA-
11 TION LAW TO PRACTICE BEYOND THE SCOPE OF HIS OR HER LICENSE UNDER ARTI-
12 CLE 143 AND/OR ARTICLE 144 OF THE EDUCATION LAW, EVEN IF SUPERVISED
13 DIRECTLY OR INDIRECTLY BY A PROFESSIONAL LICENSED UNDER ARTICLE 131.

14 S 6. Subdivision (q) of section 121-1502 of the partnership law, as
15 amended by chapter 230 of the laws of 2004, is amended to read as
16 follows:

17 (q) Each partner of a foreign limited liability partnership which
18 provides medical services in this state must be licensed pursuant to
19 article 131 of the education law to practice medicine in the state and
20 each partner of a foreign limited liability partnership which provides
21 dental services in the state must be licensed pursuant to article 133 of
22 the education law to practice dentistry in this state. Each partner of a
23 foreign limited liability partnership which provides veterinary service
24 in the state shall be licensed pursuant to article 135 of the education
25 law to practice veterinary medicine in this state. Each partner of a
26 foreign limited liability partnership which provides professional engi-
27 neering, land surveying, architectural and/or landscape architectural
28 services in this state must be licensed pursuant to article 145, article
29 147 and/or article 148 of the education law to practice one or more of
30 such professions. Each partner of a foreign limited liability partner-
31 ship which provides licensed clinical social work services in this state
32 must be licensed pursuant to article 154 of the education law to prac-
33 tice licensed clinical social work in this state. Each partner of a
34 foreign limited liability partnership which provides creative arts ther-
35 apy services in this state must be licensed pursuant to article 163 of
36 the education law to practice creative arts therapy in this state. Each
37 partner of a foreign limited liability partnership which provides
38 marriage and family therapy services in this state must be licensed
39 pursuant to article 163 of the education law to practice marriage and
40 family therapy in this state. Each partner of a foreign limited liabil-
41 ity partnership which provides mental health counseling services in this
42 state must be licensed pursuant to article 163 of the education law to
43 practice mental health counseling in this state. Each partner of a
44 foreign limited liability partnership which provides psychoanalysis
45 services in this state must be licensed pursuant to article 163 of the
46 education law to practice psychoanalysis in this state. EACH PARTNER OF
47 A FOREIGN LIMITED LIABILITY PARTNERSHIP FORMED TO PROVIDE INTEGRATED,
48 MULTIDISCIPLINARY MEDICAL SERVICES DEFINED IN ARTICLE 131 OF THE EDUCA-
49 TION LAW WITH OPTOMETRY AND/OR OPHTHALMIC DISPENSING SERVICES DEFINED IN
50 ARTICLE 143 AND/OR ARTICLE 144 OF THE EDUCATION LAW, (I) EACH MEMBER OF
51 SUCH LIMITED LIABILITY COMPANY MUST BE LICENSED PURSUANT TO ARTICLE 131
52 AND CERTIFIED BY THE AMERICAN BOARD OF OPHTHALMOLOGY, AND/OR LICENSED
53 PURSUANT TO ARTICLE 143 AND/OR ARTICLE 144 OF THE EDUCATION LAW TO PRAC-
54 TICE ONE OR MORE OF SUCH PROFESSIONS IN THIS STATE, (II) SHALL ONLY
55 PRACTICE HIS OR HER PROFESSION AS SPECIFIED IN HIS OR HER RESPECTIVE
56 PROFESSIONAL ENABLING STATUTE UNDER ARTICLE 131, ARTICLE 143, OR ARTICLE

1 144 OF THE EDUCATION LAW, AND (III) THE CLINICAL INTEGRATION OF PROFES-
2 SIONAL PRACTICES WITHIN AN INTEGRATED, MULTIDISCIPLINARY ENTITY ORGAN-
3 IZED UNDER THIS SECTION DOES NOT ALTER, EXPAND OR CURTAIL THE SCOPE OF
4 PRACTICE OF ANY OF THE INDIVIDUALS LICENSED UNDER THE STATUTE OF HIS OR
5 HER RESPECTIVE PROFESSIONAL ENABLING LAW, PROVIDED THAT: (A) THE CLIN-
6 ICAL JUDGMENT, MANAGEMENT AND CLINICAL DECISION-MAKING OF ONE OR MORE
7 ARTICLE 131 PROVIDERS IN AN INTEGRATED, MULTIDISCIPLINARY PROFESSIONAL
8 SERVICE LIMITED LIABILITY COMPANY SHALL BE CONTROLLING, (B) MEMBERS NOT
9 LICENSED UNDER ARTICLE 131 OF THE EDUCATION LAW, SHALL NOT, DIRECTLY OR
10 INDIRECTLY, INTERFERE WITH THE CLINICAL JUDGMENT OR LEGITIMATE CLINICAL
11 PRACTICE OF A PROFESSIONAL LICENSED UNDER ARTICLE 131, AND (C) INDIVID-
12 UALS LICENSED UNDER ARTICLE 131 MAY NOT ORDER OR DIRECT A PROFESSIONAL
13 LICENSED UNDER ARTICLE 143 AND/OR ARTICLE 144 OF THE EDUCATION LAW TO
14 PRACTICE BEYOND THE SCOPE OF HIS OR HER LICENSE UNDER ARTICLE 143 AND/OR
15 ARTICLE 144 OF THE EDUCATION LAW, EVEN IF SUPERVISED DIRECTLY OR INDI-
16 RECTLY BY A PROFESSIONAL LICENSED UNDER ARTICLE 131.

17 S 7. Subdivision 1 of section 2801 of the public health law, as sepa-
18 rately amended by chapters 297 and 416 of the laws of 1983, is amended
19 to read as follows:

20 1. "Hospital" means a facility or institution engaged principally in
21 providing services by or under the supervision of a physician or, in the
22 case of a dental clinic or dental dispensary, of a dentist, for the
23 prevention, diagnosis or treatment of human disease, pain, injury,
24 deformity or physical condition, including, but not limited to, a gener-
25 al hospital, public health center, diagnostic center, treatment center,
26 dental clinic, dental dispensary, rehabilitation center other than a
27 facility used solely for vocational rehabilitation, nursing home, tuber-
28 culosis hospital, chronic disease hospital, maternity hospital, lying-
29 in-asylum, out-patient department, out-patient lodge, dispensary and a
30 laboratory or central service facility serving one or more such insti-
31 tutions, but the term hospital shall not include an institution, sani-
32 tarium or other facility engaged principally in providing services for
33 the prevention, diagnosis or treatment of mental disability and which is
34 subject to the powers of visitation, examination, inspection and inves-
35 tigation of the department of mental hygiene except for those distinct
36 parts of such a facility which provide hospital service. The provisions
37 of this article shall not apply to a facility or institution engaged
38 principally in providing services by or under the supervision of the
39 bona fide members and adherents of a recognized religious organization
40 whose teachings include reliance on spiritual means through prayer alone
41 for healing in the practice of the religion of such organization and
42 where services are provided in accordance with those teachings OR TO A
43 BUSINESS CORPORATION, LIMITED LIABILITY CORPORATION OR PARTNERSHIP
44 BETWEEN A MEDICAL DOCTOR AND A DULY LICENSED TITLE VIII HEALTHCARE
45 PROFESSIONAL.

46 S 8. Subdivision 19 of section 6530 of the education law, as added by
47 chapter 606 of the laws of 1991, is amended to read as follows:

48 19. Permitting any person to share in the fees for professional
49 services, other than: a partner, employee, associate in a professional
50 firm or corporation, professional subcontractor or consultant authorized
51 to practice medicine, or a legally authorized trainee practicing under
52 the supervision of a licensee OR AN OPTOMETRIST AND/OR OPHTHALMIC
53 DISPENSER PROVIDING PROFESSIONAL SERVICES IN THE SAME PRACTICE. This
54 prohibition shall include any arrangement or agreement whereby the
55 amount received in payment for furnishing space, facilities, equipment
56 or personnel services used by a licensee constitutes a percentage of, or

1 is otherwise dependent upon, the income or receipts of the licensee from
2 such practice, except as otherwise provided by law with respect to a
3 facility licensed pursuant to article twenty-eight of the public health
4 law or article thirteen of the mental hygiene law;

5 S 9. Section 6509-a of the education law, as amended by chapter 555 of
6 the laws of 1993, is amended to read as follows:

7 S 6509-a. Additional definition of professional misconduct; limited
8 application. Notwithstanding any inconsistent provision of this article
9 or of any other provision of law to the contrary, the license or regis-
10 tration of a person subject to the provisions of articles one hundred
11 thirty-two, one hundred thirty-three, one hundred thirty-six, one
12 hundred thirty-seven, one hundred thirty-nine, one hundred forty-one,
13 one hundred forty-three, one hundred forty-four, one hundred fifty-six,
14 one hundred fifty-nine and one hundred sixty-four of this chapter may be
15 revoked, suspended or annulled or such person may be subject to any
16 other penalty provided in section sixty-five hundred eleven of this
17 article in accordance with the provisions and procedure of this article
18 for the following:

19 That any person subject to the above enumerated articles, has directly
20 or indirectly requested, received or participated in the division,
21 transference, assignment, rebate, splitting or refunding of a fee for,
22 or has directly requested, received or profited by means of a credit or
23 other valuable consideration as a commission, discount or gratuity in
24 connection with the furnishing of professional care, or service, includ-
25 ing x-ray examination and treatment, or for or in connection with the
26 sale, rental, supplying or furnishing of clinical laboratory services or
27 supplies, x-ray laboratory services or supplies, inhalation therapy
28 service or equipment, ambulance service, hospital or medical supplies,
29 physiotherapy or other therapeutic service or equipment, artificial
30 limbs, teeth or eyes, orthopedic or surgical appliances or supplies,
31 optical appliances, supplies or equipment, devices for aid of hearing,
32 drugs, medication or medical supplies or any other goods, services or
33 supplies prescribed for medical diagnosis, care or treatment under this
34 chapter, except payment, not to exceed thirty-three and one-third per
35 centum of any fee received for x-ray examination, diagnosis or treat-
36 ment, to any hospital furnishing facilities for such examination, diag-
37 nosis or treatment. Nothing contained in this section shall prohibit
38 such persons from practicing as partners, in groups or as a professional
39 corporation or as a university faculty practice corporation nor from
40 pooling fees and moneys received, either by the partnerships, profes-
41 sional corporations, university faculty practice corporations or groups
42 by the individual members thereof, for professional services furnished
43 by any individual professional member, or employee of such partnership,
44 corporation or group, nor shall the professionals constituting the part-
45 nerships, corporations or groups be prohibited from sharing, dividing or
46 apportioning the fees and moneys received by them or by the partnership,
47 corporation or group in accordance with a partnership or other agree-
48 ment; provided that no such practice as partners, corporations or in
49 groups or pooling of fees or moneys received or shared, division or
50 apportionment of fees shall be permitted with respect to care and treat-
51 ment under the workers' compensation law except as expressly authorized
52 by the workers' compensation law. NOTHING CONTAINED IN THIS SECTION,
53 SHALL PROHIBIT AN INTEGRATED, MULTIDISCIPLINARY MEDICAL AND OPTOMETRY
54 AND/OR OPHTHALMIC DISPENSING PRACTICE FORMED PURSUANT TO SUBDIVISION (A)
55 OR (B) OF SECTION TWELVE HUNDRED THREE OF THE LIMITED LIABILITY COMPANY
56 LAW, SUBDIVISION (A) OF SECTION THIRTEEN HUNDRED ONE OF THE LIMITED

1 LIABILITY COMPANY LAW, PARAGRAPH (A) OF SECTION FIFTEEN HUNDRED THREE OF
2 THE BUSINESS CORPORATION LAW, SUBDIVISION (Q) OF SECTION 121-1500 OF THE
3 PARTNERSHIP LAW, OR SUBDIVISION (Q) OF SECTION 121-1502 OF THE PARTNER-
4 SHIP LAW FROM POOLING FEES OR MONIES RECEIVED. Nothing contained in this
5 chapter shall prohibit a medical or dental expense indemnity corporation
6 pursuant to its contract with the subscriber from prorationing a medical
7 or dental expense indemnity allowance among two or more professionals in
8 proportion to the services rendered by each such professional at the
9 request of the subscriber, provided that prior to payment thereof such
10 professionals shall submit both to the medical or dental expense indem-
11 nity corporation and to the subscriber statements itemizing the services
12 rendered by each such professional and the charges therefor.

13 S 10. Section 6531 of the education law, as amended by chapter 555 of
14 the laws of 1993, is amended to read as follows:

15 S 6531. Additional definition of professional misconduct, limited
16 application. Notwithstanding any inconsistent provision of this article
17 or any other provisions of law to the contrary, the license or registra-
18 tion of a person subject to the provisions of this article and article
19 one hundred thirty-one-B of this chapter may be revoked, suspended, or
20 annulled or such person may be subject to any other penalty provided in
21 section two hundred thirty-a of the public health law in accordance with
22 the provisions and procedures of this article for the following:

23 That any person subject to the above-enumerated articles has directly
24 or indirectly requested, received or participated in the division,
25 transference, assignment, rebate, splitting, or refunding of a fee for,
26 or has directly requested, received or profited by means of a credit or
27 other valuable consideration as a commission, discount or gratuity, in
28 connection with the furnishing of professional care or service, includ-
29 ing x-ray examination and treatment, or for or in connection with the
30 sale, rental, supplying, or furnishing of clinical laboratory services
31 or supplies, x-ray laboratory services or supplies, inhalation therapy
32 service or equipment, ambulance service, hospital or medical supplies,
33 physiotherapy or other therapeutic service or equipment, artificial
34 limbs, teeth or eyes, orthopedic or surgical appliances or supplies,
35 optical appliances, supplies, or equipment, devices for aid of hearing,
36 drugs, medication, or medical supplies, or any other goods, services, or
37 supplies prescribed for medical diagnosis, care, or treatment under this
38 chapter, except payment, not to exceed thirty-three and one-third
39 percent of any fee received for x-ray examination, diagnosis, or treat-
40 ment, to any hospital furnishing facilities for such examination, diag-
41 nosis, or treatment. Nothing contained in this section shall prohibit
42 such persons from practicing as partners, in groups or as a professional
43 corporation or as a university faculty practice corporation, nor from
44 pooling fees and moneys received, either by the partnerships, profes-
45 sional corporations, or university faculty practice corporations or
46 groups by the individual members thereof, for professional services
47 furnished by an individual professional member, or employee of such
48 partnership, corporation, or group, nor shall the professionals consti-
49 tuting the partnerships, corporations or groups be prohibited from shar-
50 ing, dividing, or apportioning the fees and moneys received by them or
51 by the partnership, corporation, or group in accordance with a partner-
52 ship or other agreement; provided that no such practice as partners,
53 corporations, or groups, or pooling of fees or moneys received or
54 shared, division or apportionment of fees shall be permitted with
55 respect to and treatment under the workers' compensation law. NOTHING
56 CONTAINED IN THIS SECTION, SHALL PROHIBIT AN INTEGRATED, MULTIDISCIPLI-

1 NARY MEDICAL AND OPTOMETRY AND/OR OPHTHALMIC DISPENSING PRACTICE FORMED
2 PURSUANT TO SUBDIVISION (A) OR (B) OF SECTION TWELVE HUNDRED THREE OF
3 THE LIMITED LIABILITY COMPANY LAW, SUBDIVISION (A) OF SECTION THIRTEEN
4 HUNDRED ONE OF THE LIMITED LIABILITY COMPANY LAW, PARAGRAPH (A) OF
5 SECTION FIFTEEN HUNDRED THREE OF THE BUSINESS CORPORATION LAW, SUBDIVI-
6 SION (Q) OF SECTION 121-1500 OF THE PARTNERSHIP LAW, OR SUBDIVISION (Q)
7 OF SECTION 121-1502 OF THE PARTNERSHIP LAW FROM POOLING FEES OR MONIES
8 RECEIVED. Nothing contained in this chapter shall prohibit a corporation
9 licensed pursuant to article forty-three of the insurance law pursuant
10 to its contract with the subscriber from prorationing a medical or
11 dental expenses indemnity allowance among two or more professionals in
12 proportion to the services rendered by each such professional at the
13 request of the subscriber, provided that prior to payment thereof such
14 professionals shall submit both to the corporation licensed pursuant to
15 article forty-three of the insurance law and to the subscriber state-
16 ments itemizing the services rendered by each such professional and the
17 charges therefor.

18 S 11. This act shall take effect on the thirtieth day after it shall
19 have become a law.