

1940

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sens. FUSCHILLO, GRISANTI, ADDABBO, BONACIC, KENNEDY, MAZIARZ -- read twice and ordered printed, and when printed to be committed to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the limited liability company law, the business corporation law, the partnership law, the public health law and the education law, in relation to allowing doctors of chiropractic licensed under title VIII, article 132 of the education law to form limited liability companies

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, 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

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

LBD01399-02-3

1 law to practice dentistry in this state. With respect to a professional
2 service limited liability company formed to provide veterinary services
3 as such services are defined in article 135 of the education law, each
4 member of such limited liability company must be licensed pursuant to
5 article 135 of the education law to practice veterinary medicine in this
6 state. With respect to a professional service limited liability company
7 formed to provide professional engineering, land surveying, architec-
8 tural and/or landscape architectural services as such services are
9 defined in article 145, article 147 and article 148 of the education
10 law, each member of such limited liability company must be licensed
11 pursuant to article 145, article 147 and/or article 148 of the education
12 law to practice one or more of such professions in this state. With
13 respect to a professional service limited liability company formed to
14 provide licensed clinical social work services as such services are
15 defined in article 154 of the education law, each member of such limited
16 liability company shall be licensed pursuant to article 154 of the
17 education law to practice licensed clinical social work in this state.
18 With respect to a professional service limited liability company formed
19 to provide creative arts therapy services as such services are defined
20 in article 163 of the education law, each member of such limited liabil-
21 ity company must be licensed pursuant to article 163 of the education
22 law to practice creative arts therapy in this state. With respect to a
23 professional service limited liability company formed to provide
24 marriage and family therapy services as such services are defined in
25 article 163 of the education law, each member of such limited liability
26 company must be licensed pursuant to article 163 of the education law to
27 practice marriage and family therapy in this state. With respect to a
28 professional service limited liability company formed to provide mental
29 health counseling services as such services are defined in article 163
30 of the education law, each member of such limited liability company must
31 be licensed pursuant to article 163 of the education law to practice
32 mental health counseling in this state. With respect to a professional
33 service limited liability company formed to provide psychoanalysis
34 services as such services are defined in article 163 of the education
35 law, each member of such limited liability company must be licensed
36 pursuant to article 163 of the education law to practice psychoanalysis
37 in this state. In addition to engaging in such profession or
38 professions, a professional service limited liability company may engage
39 in any other business or activities as to which a limited liability
40 company may be formed under section two hundred one of this chapter.
41 Notwithstanding any other provision of this section, a professional
42 service limited liability company (i) authorized to practice law may
43 only engage in another profession or business or activities or (ii)
44 which is engaged in a profession or other business or activities other
45 than law may only engage in the practice of law, to the extent not
46 prohibited by any other law of this state or any rule adopted by the
47 appropriate appellate division of the supreme court or the court of
48 appeals. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, WITH
49 RESPECT TO A LIMITED LIABILITY COMPANY FORMED TO PROVIDE INTEGRATED,
50 MULTIDISCIPLINARY MEDICAL AND CHIROPRACTIC SERVICES, AS SUCH SERVICES
51 ARE RESPECTIVELY DEFINED UNDER ARTICLES 131 AND 132 OF THE EDUCATION
52 LAW, (I) EACH MEMBER OF SUCH LIMITED LIABILITY COMPANY MUST BE LICENSED
53 PURSUANT TO ARTICLE 131 OR ARTICLE 132 OF THE EDUCATION LAW TO PRACTICE
54 HIS OR HER PROFESSION IN THIS STATE, (II) EACH MEMBER SHALL ONLY PRAC-
55 TICE HIS OR HER PROFESSION AS SPECIFIED IN HIS OR HER RESPECTIVE PROFES-
56 SIONAL ENABLING STATUTE UNDER ARTICLE 131 OR ARTICLE 132 OF THE EDUCA-

1 TION LAW, AND (III) THE CLINICAL INTEGRATION OF PROFESSIONAL PRACTICES
2 WITHIN AN INTEGRATED, MULTIDISCIPLINARY ENTITY ORGANIZED UNDER THIS
3 SECTION DOES NOT ALTER, EXPAND OR CURTAIL THE SCOPE OF PRACTICE OF ANY
4 OF THE INDIVIDUALS LICENSED UNDER THE STATUTE OF HIS OR HER RESPECTIVE
5 PROFESSIONAL ENABLING LAW, PROVIDED THAT: (A) THE CLINICAL JUDGMENT,
6 MANAGEMENT AND CLINICAL DECISION-MAKING OF ONE OR MORE ARTICLE 131
7 PROVIDERS IN AN INTEGRATED, MULTIDISCIPLINARY PROFESSIONAL SERVICE
8 LIMITED LIABILITY COMPANY SHALL BE CONTROLLING, (B) MEMBERS LICENSED
9 UNDER ARTICLE 132 OF THE EDUCATION LAW, SHALL NOT, DIRECTLY OR INDIRECT-
10 LY, INTERFERE WITH THE CLINICAL JUDGMENT OR LEGITIMATE CLINICAL PRACTICE
11 OF A PROFESSIONAL LICENSED UNDER ARTICLE 131, AND (C) INDIVIDUALS
12 LICENSED UNDER ARTICLE 131 MAY NOT ORDER OR DIRECT A PROFESSIONAL
13 LICENSED UNDER ARTICLE 132 OF THE EDUCATION LAW TO PRACTICE BEYOND THE
14 SCOPE OF HIS OR HER LICENSE UNDER ARTICLE 132 OF THE EDUCATION LAW, EVEN
15 IF SUPERVISED DIRECTLY OR INDIRECTLY BY A PROFESSIONAL LICENSED UNDER
16 ARTICLE 131.

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

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

1 of the education law, each member of such limited liability company must
2 be licensed pursuant to article 163 of the education law to practice
3 mental health counseling in this state. With respect to a professional
4 service limited liability company formed to provide psychoanalysis
5 services as such services are defined in article 163 of the education
6 law, each member of such limited liability company must be licensed
7 pursuant to article 163 of the education law to practice psychoanalysis
8 in this state. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION,
9 WITH RESPECT TO A PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY FORMED
10 TO PROVIDE INTEGRATED, MULTIDISCIPLINARY MEDICAL AND CHIROPRACTIC
11 SERVICES, AS SUCH SERVICES ARE RESPECTIVELY DEFINED UNDER ARTICLES 131
12 AND 132 OF THE EDUCATION LAW, (I) EACH MEMBER OF SUCH LIMITED LIABILITY
13 COMPANY MUST BE LICENSED PURSUANT TO ARTICLE 131 OR ARTICLE 132 OF THE
14 EDUCATION LAW TO PRACTICE HIS OR HER PROFESSION IN THIS STATE, (II) EACH
15 MEMBER SHALL ONLY PRACTICE HIS OR HER PROFESSION AS SPECIFIED IN HIS OR
16 HER RESPECTIVE PROFESSIONAL ENABLING STATUTE UNDER ARTICLE 131 OR ARTI-
17 CLE 132 OF THE EDUCATION LAW, AND (III) THE CLINICAL INTEGRATION OF
18 PROFESSIONAL PRACTICES WITHIN AN INTEGRATED, MULTIDISCIPLINARY ENTITY
19 ORGANIZED UNDER THIS SECTION DOES NOT ALTER, EXPAND OR CURTAIL THE SCOPE
20 OF PRACTICE OF ANY OF THE INDIVIDUALS LICENSED UNDER THE STATUTE OF HIS
21 OR HER RESPECTIVE PROFESSIONAL ENABLING LAW, PROVIDED THAT: (A) THE
22 CLINICAL JUDGMENT, MANAGEMENT AND CLINICAL DECISION-MAKING OF ONE OR
23 MORE ARTICLE 131 PROVIDERS IN AN INTEGRATED, MULTIDISCIPLINARY PROFES-
24 SIONAL SERVICE LIMITED LIABILITY COMPANY SHALL BE CONTROLLING, (B)
25 MEMBERS LICENSED UNDER ARTICLE 132 OF THE EDUCATION LAW, SHALL NOT,
26 DIRECTLY OR INDIRECTLY, INTERFERE WITH THE CLINICAL JUDGMENT OR LEGITI-
27 MATE CLINICAL PRACTICE OF A PROFESSIONAL LICENSED UNDER ARTICLE 131, AND
28 (C) INDIVIDUALS LICENSED UNDER ARTICLE 131 MAY NOT ORDER OR DIRECT A
29 PROFESSIONAL LICENSED UNDER ARTICLE 132 OF THE EDUCATION LAW TO PRACTICE
30 BEYOND THE SCOPE OF HIS OR HER LICENSE UNDER ARTICLE 132 OF THE EDUCA-
31 TION LAW, EVEN IF SUPERVISED DIRECTLY OR INDIRECTLY BY A PROFESSIONAL
32 LICENSED UNDER ARTICLE 131.

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

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

1 provides health services in this state shall be licensed in this state.
2 With respect to a foreign professional service limited liability company
3 which provides veterinary services as such services are defined in arti-
4 cle 135 of the education law, each member of such foreign professional
5 service limited liability company shall be licensed pursuant to article
6 135 of the education law to practice veterinary medicine. With respect
7 to a foreign professional service limited liability company which
8 provides medical services as such services are defined in article 131 of
9 the education law, each member of such foreign professional service
10 limited liability company must be licensed pursuant to article 131 of
11 the education law to practice medicine in this state. With respect to a
12 foreign professional service limited liability company which provides
13 dental services as such services are defined in article 133 of the
14 education law, each member of such foreign professional service limited
15 liability company must be licensed pursuant to article 133 of the educa-
16 tion law to practice dentistry in this state. With respect to a foreign
17 professional service limited liability company which provides profes-
18 sional engineering, land surveying, architectural and/or landscape
19 architectural services as such services are defined in article 145,
20 article 147 and article 148 of the education law, each member of such
21 foreign professional service limited liability company must be licensed
22 pursuant to article 145, article 147 and/or article 148 of the education
23 law to practice one or more of such professions in this state. With
24 respect to a foreign professional service limited liability company
25 which provides licensed clinical social work services as such services
26 are defined in article 154 of the education law, each member of such
27 foreign professional service limited liability company shall be licensed
28 pursuant to article 154 of the education law to practice clinical social
29 work in this state. With respect to a foreign professional service
30 limited liability company which provides creative arts therapy services
31 as such services are defined in article 163 of the education law, each
32 member of such foreign professional service limited liability company
33 must be licensed pursuant to article 163 of the education law to prac-
34 tice creative arts therapy in this state. With respect to a foreign
35 professional service limited liability company which provides marriage
36 and family therapy services as such services are defined in article 163
37 of the education law, each member of such foreign professional service
38 limited liability company must be licensed pursuant to article 163 of
39 the education law to practice marriage and family therapy in this state.
40 With respect to a foreign professional service limited liability company
41 which provides mental health counseling services as such services are
42 defined in article 163 of the education law, each member of such foreign
43 professional service limited liability company must be licensed pursuant
44 to article 163 of the education law to practice mental health counseling
45 in this state. With respect to a foreign professional service limited
46 liability company which provides psychoanalysis services as such
47 services are defined in article 163 of the education law, each member of
48 such foreign professional service limited liability company must be
49 licensed pursuant to article 163 of the education law to practice
50 psychoanalysis in this state. WITH RESPECT TO A FOREIGN PROFESSIONAL
51 SERVICE LIMITED LIABILITY COMPANY FORMED TO PROVIDE INTEGRATED,
52 MULTI-DISCIPLINARY MEDICAL AND CHIROPRACTIC SERVICES, AS SUCH SERVICES
53 ARE RESPECTIVELY DEFINED UNDER ARTICLE 131 AND ARTICLE 132 OF THE EDUCA-
54 TION LAW, (I) EACH MEMBER OF SUCH LIMITED LIABILITY COMPANY MUST BE
55 LICENSED PURSUANT TO ARTICLE 131 OR ARTICLE 132 OF THE EDUCATION LAW TO
56 PRACTICE HIS OR HER PROFESSION IN THIS STATE, (II) EACH MEMBER SHALL

1 ONLY PRACTICE HIS OR HER PROFESSION AS SPECIFIED IN HIS OR HER RESPEC-
2 TIVE PROFESSIONAL ENABLING STATUTE UNDER ARTICLE 131 OR ARTICLE 132 OF
3 THE EDUCATION LAW, AND (III) THE CLINICAL INTEGRATION OF PROFESSIONAL
4 PRACTICES WITHIN AN INTEGRATED, MULTIDISCIPLINARY ENTITY ORGANIZED UNDER
5 THIS SECTION DOES NOT ALTER, EXPAND OR CURTAIL THE SCOPE OF PRACTICE OF
6 ANY OF THE INDIVIDUALS LICENSED UNDER THE STATUTE OF HIS OR HER RESPEC-
7 TIVE PROFESSIONAL ENABLING LAW, PROVIDED THAT: (A) THE CLINICAL JUDG-
8 MENT, MANAGEMENT AND CLINICAL DECISION-MAKING OF ONE OR MORE ARTICLE 131
9 PROVIDERS IN AN INTEGRATED, MULTIDISCIPLINARY PROFESSIONAL SERVICE
10 LIMITED LIABILITY COMPANY SHALL BE CONTROLLING, (B) MEMBERS LICENSED
11 UNDER ARTICLE 132 OF THE EDUCATION LAW, SHALL NOT, DIRECTLY OR INDIRECT-
12 LY, INTERFERE WITH THE CLINICAL JUDGMENT OR LEGITIMATE CLINICAL PRACTICE
13 OF A PROFESSIONAL LICENSED UNDER ARTICLE 131, AND (C) INDIVIDUALS
14 LICENSED UNDER ARTICLE 131 MAY NOT ORDER OR DIRECT A PROFESSIONAL
15 LICENSED UNDER ARTICLE 132 OF THE EDUCATION LAW TO PRACTICE BEYOND THE
16 SCOPE OF HIS OR HER LICENSE UNDER ARTICLE 132 OF THE EDUCATION LAW, EVEN
17 IF SUPERVISED DIRECTLY OR INDIRECTLY BY A PROFESSIONAL LICENSED UNDER
18 ARTICLE 131.

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

22 (a) Notwithstanding any other provision of law, (I) one or more indi-
23 viduals duly authorized by law to render the same professional service
24 within the state may organize, or cause to be organized, a professional
25 service corporation for pecuniary profit under this article for the
26 purpose of rendering the same professional service, except that one or
27 more individuals duly authorized by law to practice professional engi-
28 neering, architecture, landscape architecture or land surveying within
29 the state may organize, or cause to be organized, a professional service
30 corporation or a design professional service corporation for pecuniary
31 profit under this article for the purpose of rendering such professional
32 services as such individuals are authorized to practice, AND, (II) ONE
33 OR MORE INDIVIDUALS DULY LICENSED TO PRACTICE MEDICINE AND ONE OR MORE
34 CHIROPRACTORS LICENSED UNDER ARTICLE 132 OF THE EDUCATION LAW, WHO MAY
35 BE BOARD CERTIFIED OR QUALIFIED BY HIS OR HER RESPECTIVE PROFESSIONAL
36 SPECIALTY BOARDS, MAY ORGANIZE, OR CAUSE TO BE ORGANIZED, FOR BUSINESS
37 PURPOSES ONLY, A MULTIDISCIPLINARY PROFESSIONAL SERVICE CORPORATION
38 FORMED FOR PECUNIARY PROFIT UNDER THIS ARTICLE FOR THE PURPOSE OF
39 RENDERING INTEGRATED AND NON-INTEGRATED PROFESSIONAL SERVICES WITHIN
40 SUCH A CORPORATION AS SUCH INDIVIDUALS ARE AUTHORIZED TO PRACTICE INDI-
41 VIDUALLY IN HIS OR HER RESPECTIVE PROFESSIONS, PROVIDED THAT THE CLIN-
42 ICAL INTEGRATION OF PROFESSIONAL PRACTICES WITHIN AN ENTITY ORGANIZED
43 UNDER THIS SECTION DOES NOT ALTER, EXPAND OR CURTAIL THE SCOPE OF PRACTICE
44 OF ANY OF THE INDIVIDUALS LICENSED UNDER THE STATUTE OF HIS OR HER
45 RESPECTIVE PROFESSIONAL ENABLING LAW; THAT THE CLINICAL JUDGMENT,
46 MANAGEMENT AND CLINICAL DECISION-MAKING OF ONE OR MORE ARTICLE 131
47 PROVIDERS IN AN INTEGRATED, MULTIDISCIPLINARY PRACTICE SHALL BE CONTROL-
48 LING; THAT MEMBERS LICENSED UNDER ARTICLE 132 OF THE EDUCATION LAW,
49 SHALL NOT, DIRECTLY OR INDIRECTLY, INTERFERE WITH THE CLINICAL JUDGMENT
50 OR LEGITIMATE CLINICAL PRACTICE OF A PROFESSIONAL LICENSED UNDER ARTICLE
51 131; AND THAT INDIVIDUALS LICENSED UNDER ARTICLE 131 MAY NOT ORDER OR
52 DIRECT A PROFESSIONAL LICENSED UNDER ARTICLE 132 OF THE EDUCATION LAW TO
53 PRACTICE BEYOND THE SCOPE OF HIS OR HER LICENSE UNDER ARTICLE 132 OF THE
54 EDUCATION LAW IN A PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY, EVEN
55 IF SUPERVISED DIRECTLY OR INDIRECTLY BY A PROFESSIONAL LICENSED UNDER
56 ARTICLE 131.

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

4 (q) Each partner of a registered limited liability partnership formed
5 to provide medical services in this state must be licensed pursuant to
6 article 131 of the education law to practice medicine in this state and
7 each partner of a registered limited liability partnership formed to
8 provide dental services in this state must be licensed pursuant to arti-
9 cle 133 of the education law to practice dentistry in this state. Each
10 partner of a registered limited liability partnership formed to provide
11 veterinary services in this state must be licensed pursuant to article
12 135 of the education law to practice veterinary medicine in this state.
13 Each partner of a registered limited liability partnership formed to
14 provide professional engineering, land surveying, architectural and/or
15 landscape architectural services in this state must be licensed pursuant
16 to article 145, article 147 and/or article 148 of the education law to
17 practice one or more of such professions in this state. Each partner of
18 a registered limited liability partnership formed to provide licensed
19 clinical social work services in this state must be licensed pursuant to
20 article 154 of the education law to practice clinical social work in
21 this state. Each partner of a registered limited liability partnership
22 formed to provide creative arts therapy services in this state must be
23 licensed pursuant to article 163 of the education law to practice crea-
24 tive arts therapy in this state. Each partner of a registered limited
25 liability partnership formed to provide marriage and family therapy
26 services in this state must be licensed pursuant to article 163 of the
27 education law to practice marriage and family therapy in this state.
28 Each partner of a registered limited liability partnership formed to
29 provide mental health counseling services in this state must be licensed
30 pursuant to article 163 of the education law to practice mental health
31 counseling in this state. Each partner of a registered limited liability
32 partnership formed to provide psychoanalysis services in this state must
33 be licensed pursuant to article 163 of the education law to practice
34 psychoanalysis in this state. EACH PARTNER OF A REGISTERED LIMITED
35 LIABILITY PARTNERSHIP FORMED TO PROVIDE INTEGRATED, MULTIDISCIPLINARY
36 MEDICAL AND CHIROPRACTIC SERVICES, AS SUCH SERVICES ARE RESPECTIVELY
37 DEFINED UNDER ARTICLE 131 AND ARTICLE 132 OF THE EDUCATION LAW, (I) MUST
38 BE LICENSED PURSUANT TO ARTICLE 131 OR ARTICLE 132 OF THE EDUCATION LAW
39 TO PRACTICE HIS OR HER PROFESSION IN THIS STATE, (II) SHALL ONLY PRAC-
40 TICE HIS OR HER PROFESSION AS SPECIFIED IN HIS OR HER RESPECTIVE PROFES-
41 SIONAL ENABLING STATUTE UNDER ARTICLE 131 OR ARTICLE 132 OF THE EDUCA-
42 TION LAW, AND (III) THE CLINICAL INTEGRATION OF PROFESSIONAL PRACTICES
43 WITHIN AN INTEGRATED, MULTI-DISCIPLINARY ENTITY ORGANIZED UNDER THIS
44 SECTION DOES NOT ALTER, EXPAND OR CURTAIL THE SCOPE OF PRACTICE OF ANY
45 OF THE INDIVIDUALS LICENSED UNDER THE STATUTE OF HIS OR HER RESPECTIVE
46 PROFESSIONAL ENABLING LAW, PROVIDED THAT: (A) THE CLINICAL JUDGMENT,
47 MANAGEMENT AND CLINICAL DECISION-MAKING OF ONE OR MORE ARTICLE 131
48 PROVIDERS IN AN INTEGRATED, MULTIDISCIPLINARY PROFESSIONAL SERVICE
49 LIMITED LIABILITY COMPANY SHALL BE CONTROLLING, (B) MEMBERS LICENSED
50 UNDER ARTICLE 132 OF THE EDUCATION LAW, SHALL NOT, DIRECTLY OR INDIRECT-
51 LY, INTERFERE WITH THE CLINICAL JUDGMENT OR LEGITIMATE CLINICAL PRACTICE
52 OF A PROFESSIONAL LICENSED UNDER ARTICLE 131, AND (C) INDIVIDUALS
53 LICENSED UNDER ARTICLE 131 MAY NOT ORDER OR DIRECT A PROFESSIONAL
54 LICENSED UNDER ARTICLE 132 OF THE EDUCATION LAW TO PRACTICE BEYOND THE
55 SCOPE OF HIS OR HER LICENSE UNDER ARTICLE 132 OF THE EDUCATION LAW, EVEN

1 IF SUPERVISED DIRECTLY OR INDIRECTLY BY A PROFESSIONAL LICENSED UNDER
2 ARTICLE 131.

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

6 (q) Each partner of a foreign limited liability partnership which
7 provides medical services in this state must be licensed pursuant to
8 article 131 of the education law to practice medicine in the state and
9 each partner of a foreign limited liability partnership which provides
10 dental services in the state must be licensed pursuant to article 133 of
11 the education law to practice dentistry in this state. Each partner of a
12 foreign limited liability partnership which provides veterinary service
13 in the state shall be licensed pursuant to article 135 of the education
14 law to practice veterinary medicine in this state. Each partner of a
15 foreign limited liability partnership which provides professional engi-
16 neering, land surveying, architectural and/or landscape architectural
17 services in this state must be licensed pursuant to article 145, article
18 147 and/or article 148 of the education law to practice one or more of
19 such professions. Each partner of a foreign limited liability partner-
20 ship which provides licensed clinical social work services in this state
21 must be licensed pursuant to article 154 of the education law to prac-
22 tice licensed clinical social work in this state. Each partner of a
23 foreign limited liability partnership which provides creative arts ther-
24 apy services in this state must be licensed pursuant to article 163 of
25 the education law to practice creative arts therapy in this state. Each
26 partner of a foreign limited liability partnership which provides
27 marriage and family therapy services in this state must be licensed
28 pursuant to article 163 of the education law to practice marriage and
29 family therapy in this state. Each partner of a foreign limited liabil-
30 ity partnership which provides mental health counseling services in this
31 state must be licensed pursuant to article 163 of the education law to
32 practice mental health counseling in this state. Each partner of a
33 foreign limited liability partnership which provides psychoanalysis
34 services in this state must be licensed pursuant to article 163 of the
35 education law to practice psychoanalysis in this state. EACH PARTNER OF
36 A FOREIGN LIMITED LIABILITY PARTNERSHIP FORMED TO PROVIDE INTEGRATED,
37 MULTIDISCIPLINARY MEDICAL AND CHIROPRACTIC SERVICES, AS SUCH SERVICES
38 ARE DEFINED UNDER ARTICLE 131 OR ARTICLE 132 OF THE EDUCATION LAW, (I)
39 MUST BE LICENSED PURSUANT TO ARTICLE 131 OR ARTICLE 132 OF THE EDUCATION
40 LAW TO PRACTICE HIS OR HER PROFESSION IN THIS STATE, (II) SHALL ONLY
41 PRACTICE HIS OR HER PROFESSION AS SPECIFIED IN HIS OR HER RESPECTIVE
42 PROFESSIONAL ENABLING STATUTE UNDER ARTICLE 131 OR ARTICLE 132 OF THE
43 EDUCATION LAW, AND (III) THE CLINICAL INTEGRATION OF PROFESSIONAL PRAC-
44 TICES WITHIN AN INTEGRATED, MULTIDISCIPLINARY ENTITY ORGANIZED UNDER
45 THIS SECTION DOES NOT ALTER, EXPAND OR CURTAIL THE SCOPE OF PRACTICE OF
46 ANY OF THE INDIVIDUALS LICENSED UNDER THE STATUTE OF HIS OR HER RESPEC-
47 TIVE PROFESSIONAL ENABLING LAW, PROVIDED THAT: (A) THE CLINICAL JUDG-
48 MENT, MANAGEMENT AND CLINICAL DECISION-MAKING OF ONE OR MORE ARTICLE 131
49 PROVIDERS IN AN INTEGRATED, MULTIDISCIPLINARY PROFESSIONAL SERVICE
50 LIMITED LIABILITY COMPANY SHALL BE CONTROLLING, (B) MEMBERS NOT LICENSED
51 UNDER ARTICLE 131 OF THE EDUCATION LAW, SHALL NOT, DIRECTLY OR INDIRECT-
52 LY, INTERFERE WITH THE CLINICAL JUDGMENT OR LEGITIMATE CLINICAL PRACTICE
53 OF A PROFESSIONAL LICENSED UNDER ARTICLE 131, AND (C) INDIVIDUALS
54 LICENSED UNDER ARTICLE 131 MAY NOT ORDER OR DIRECT A PROFESSIONAL
55 LICENSED UNDER ARTICLE 132 OF THE EDUCATION LAW TO PRACTICE BEYOND THE
56 SCOPE OF HIS OR HER LICENSE UNDER ARTICLE 132 OF THE EDUCATION LAW, EVEN

1 IF SUPERVISED DIRECTLY OR INDIRECTLY BY A PROFESSIONAL LICENSED UNDER
2 ARTICLE 131.

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

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

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

34 19. Permitting any person to share in the fees for professional
35 services, other than: a partner, employee, associate in a professional
36 firm or corporation, professional subcontractor or consultant authorized
37 to practice medicine, or a legally authorized trainee practicing under
38 the supervision of a licensee OR A CHIROPRACTOR PROVIDING PROFESSIONAL
39 SERVICES IN THE SAME PRACTICE. This prohibition shall include any
40 arrangement or agreement whereby the amount received in payment for
41 furnishing space, facilities, equipment or personnel services used by a
42 licensee constitutes a percentage of, or is otherwise dependent upon,
43 the income or receipts of the licensee from such practice, except as
44 otherwise provided by law with respect to a facility licensed pursuant
45 to article twenty-eight of the public health law or article thirteen of
46 the mental hygiene law;

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

49 S 6509-a. Additional definition of professional misconduct; limited
50 application. Notwithstanding any inconsistent provision of this article
51 or of any other provision of law to the contrary, the license or regis-
52 tration of a person subject to the provisions of articles one hundred
53 thirty-two, one hundred thirty-three, one hundred thirty-six, one
54 hundred thirty-seven, one hundred thirty-nine, one hundred forty-one,
55 one hundred forty-three, one hundred forty-four, one hundred fifty-six,
56 one hundred fifty-nine and one hundred sixty-four of this chapter may be

1 revoked, suspended or annulled or such person may be subject to any
2 other penalty provided in section sixty-five hundred eleven of this
3 article in accordance with the provisions and procedure of this article
4 for the following:

5 That any person subject to the above enumerated articles, has directly
6 or indirectly requested, received or participated in the division,
7 transference, assignment, rebate, splitting or refunding of a fee for,
8 or has directly requested, received or profited by means of a credit or
9 other valuable consideration as a commission, discount or gratuity in
10 connection with the furnishing of professional care, or service, includ-
11 ing x-ray examination and treatment, or for or in connection with the
12 sale, rental, supplying or furnishing of clinical laboratory services or
13 supplies, x-ray laboratory services or supplies, inhalation therapy
14 service or equipment, ambulance service, hospital or medical supplies,
15 physiotherapy or other therapeutic service or equipment, artificial
16 limbs, teeth or eyes, orthopedic or surgical appliances or supplies,
17 optical appliances, supplies or equipment, devices for aid of hearing,
18 drugs, medication or medical supplies or any other goods, services or
19 supplies prescribed for medical diagnosis, care or treatment under this
20 chapter, except payment, not to exceed thirty-three and one-third per
21 centum of any fee received for x-ray examination, diagnosis or treat-
22 ment, to any hospital furnishing facilities for such examination, diag-
23 nosis or treatment. Nothing contained in this section shall prohibit
24 such persons from practicing as partners, in groups or as a professional
25 corporation or as a university faculty practice corporation nor from
26 pooling fees and moneys received, either by the partnerships, profes-
27 sional corporations, university faculty practice corporations or groups
28 by the individual members thereof, for professional services furnished
29 by any individual professional member, or employee of such partnership,
30 corporation or group, nor shall the professionals constituting the part-
31 nerships, corporations or groups be prohibited from sharing, dividing or
32 apportioning the fees and moneys received by them or by the partnership,
33 corporation or group in accordance with a partnership or other agree-
34 ment; provided that no such practice as partners, corporations or in
35 groups or pooling of fees or moneys received or shared, division or
36 apportionment of fees shall be permitted with respect to care and treat-
37 ment under the workers' compensation law except as expressly authorized
38 by the workers' compensation law. NOTHING CONTAINED IN THIS SECTION,
39 SHALL PROHIBIT A MULTIDISCIPLINARY MEDICAL AND CHIROPRACTIC PRACTICE
40 FORMED PURSUANT TO SUBDIVISION (A) OR (B) OF SECTION TWELVE HUNDRED
41 THREE OF THE LIMITED LIABILITY COMPANY LAW, SUBDIVISION (A) OF SECTION
42 THIRTEEN HUNDRED ONE OF THE LIMITED LIABILITY COMPANY LAW, PARAGRAPH (A)
43 OF SECTION FIFTEEN HUNDRED THREE OF THE BUSINESS CORPORATION LAW, SUBDI-
44 VISION (Q) OF SECTION 121-1500 OF THE PARTNERSHIP LAW, OR SUBDIVISION
45 (Q) OF SECTION 121-1502 OF THE PARTNERSHIP LAW FROM POOLING FEES OR
46 MONIES RECEIVED. Nothing contained in this chapter shall prohibit a
47 medical or dental expense indemnity corporation pursuant to its contract
48 with the subscriber from prorating a medical or dental expense indem-
49 nity allowance among two or more professionals in proportion to the
50 services rendered by each such professional at the request of the
51 subscriber, provided that prior to payment thereof such professionals
52 shall submit both to the medical or dental expense indemnity corporation
53 and to the subscriber statements itemizing the services rendered by each
54 such professional and the charges therefor.

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

1 S 6531. Additional definition of professional misconduct, limited
2 application. Notwithstanding any inconsistent provision of this article
3 or any other provisions of law to the contrary, the license or registra-
4 tion of a person subject to the provisions of this article and article
5 one hundred thirty-one-B of this chapter may be revoked, suspended, or
6 annulled or such person may be subject to any other penalty provided in
7 section two hundred thirty-a of the public health law in accordance with
8 the provisions and procedures of this article for the following:

9 That any person subject to the above-enumerated articles has directly
10 or indirectly requested, received or participated in the division,
11 transference, assignment, rebate, splitting, or refunding of a fee for,
12 or has directly requested, received or profited by means of a credit or
13 other valuable consideration as a commission, discount or gratuity, in
14 connection with the furnishing of professional care or service, includ-
15 ing x-ray examination and treatment, or for or in connection with the
16 sale, rental, supplying, or furnishing of clinical laboratory services
17 or supplies, x-ray laboratory services or supplies, inhalation therapy
18 service or equipment, ambulance service, hospital or medical supplies,
19 physiotherapy or other therapeutic service or equipment, artificial
20 limbs, teeth or eyes, orthopedic or surgical appliances or supplies,
21 optical appliances, supplies, or equipment, devices for aid of hearing,
22 drugs, medication, or medical supplies, or any other goods, services, or
23 supplies prescribed for medical diagnosis, care, or treatment under this
24 chapter, except payment, not to exceed thirty-three and one-third
25 percent of any fee received for x-ray examination, diagnosis, or treat-
26 ment, to any hospital furnishing facilities for such examination, diag-
27 nosis, or treatment. Nothing contained in this section shall prohibit
28 such persons from practicing as partners, in groups or as a professional
29 corporation or as a university faculty practice corporation, nor from
30 pooling fees and moneys received, either by the partnerships, profes-
31 sional corporations, or university faculty practice corporations or
32 groups by the individual members thereof, for professional services
33 furnished by an individual professional member, or employee of such
34 partnership, corporation, or group, nor shall the professionals consti-
35 tuting the partnerships, corporations or groups be prohibited from shar-
36 ing, dividing, or apportioning the fees and moneys received by them or
37 by the partnership, corporation, or group in accordance with a partner-
38 ship or other agreement; provided that no such practice as partners,
39 corporations, or groups, or pooling of fees or moneys received or
40 shared, division or apportionment of fees shall be permitted with
41 respect to and treatment under the workers' compensation law. NOTHING
42 CONTAINED IN THIS SECTION, SHALL PROHIBIT A MULTIDISCIPLINARY MEDICAL
43 AND CHIROPRACTIC PRACTICE FORMED PURSUANT TO SUBDIVISION (A) OR (B) OF
44 SECTION TWELVE HUNDRED THREE OF THE LIMITED LIABILITY COMPANY LAW,
45 SUBDIVISION (A) OF SECTION THIRTEEN HUNDRED ONE OF THE LIMITED LIABILITY
46 COMPANY LAW, PARAGRAPH (A) OF SECTION FIFTEEN HUNDRED THREE OF THE BUSI-
47 NESS CORPORATION LAW, SUBDIVISION (Q) OF SECTION 121-1500 OF THE PART-
48 NERSHIP LAW, OR SUBDIVISION (Q) OF SECTION 121-1502 OF THE PARTNERSHIP
49 LAW FROM POOLING FEES OR MONIES RECEIVED. Nothing contained in this
50 chapter shall prohibit a corporation licensed pursuant to article
51 forty-three of the insurance law pursuant to its contract with the
52 subscribed from prorating a medical or dental expenses indemnity
53 allowance among two or more professionals in proportion to the services
54 rendered by each such professional at the request of the subscriber,
55 provided that prior to payment thereof such professionals shall submit
56 both to the corporation licensed pursuant to article forty-three of the

1 insurance law and to the subscriber statements itemizing the services
2 rendered by each such professional and the charges therefor.
3 S 11. This act shall take effect on the thirtieth day after it shall
4 have become a law.