

7791

I N S E N A T E

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Introduced by Sens. LAVALLE, HANNON -- read twice and ordered printed,
and when printed to be committed to the Committee on Higher Education

AN ACT to amend the education law, in relation to the requirement for
fingerprinting of licensed professionals under Title VIII of such law,
access to patient or client records in the investigation and prose-
cution of professional licensing and misconduct proceedings and summa-
ry suspension of professional licenses

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

1 Section 1. Section 6501 of the education law, as amended by chapter 81
2 of the laws of 1995, is amended to read as follows:
3 S 6501. Admission to a profession (licensing) AND CRIMINAL HISTORY
4 RECORDS SEARCH. 1. ADMISSION. Admission to practice of a profession in
5 this state is accomplished by a license being issued to a qualified
6 applicant by the education department. To qualify for a license an
7 applicant shall meet the requirements prescribed in the article for the
8 particular profession and shall meet the requirements prescribed in
9 section 3-503 of the general obligations law.
10 2. MORAL CHARACTER REQUIREMENT. NOTWITHSTANDING ANY OTHER PROVISION OF
11 LAW OR REGULATION TO THE CONTRARY, TO QUALIFY FOR A PROFESSIONAL LICENSE
12 OR TO BE A REGISTERED ENTITY UNDER THIS TITLE, AN APPLICANT FOR LICEN-
13 SURE OR REGISTRATION AS DEFINED BY THE COMMISSIONER IN REGULATIONS SHALL
14 BE OF GOOD MORAL CHARACTER AS DETERMINED BY THE DEPARTMENT.
15 3. CRIMINAL HISTORY RECORDS SEARCH. A. SEARCH. UPON RECEIPT OF AN
16 APPLICATION FOR PROFESSIONAL LICENSURE UNDER THIS TITLE ON OR AFTER JULY
17 FIRST, TWO THOUSAND SEVENTEEN, AS PRESCRIBED IN REGULATIONS OF THE
18 COMMISSIONER, THE DEPARTMENT SHALL, SUBJECT TO THE RULES AND REGULATIONS
19 OF THE DIVISION OF CRIMINAL JUSTICE SERVICES, INITIATE A CRIMINAL HISTO-
20 RY RECORDS SEARCH OF THE PERSON MAKING APPLICATION. PRIOR TO INITIATING
21 THE FINGERPRINTING PROCESS, THE DEPARTMENT SHALL FURNISH THE APPLICANT
22 WITH THE FORM DESCRIBED IN PARAGRAPH B OF THIS SUBDIVISION AND SHALL
23 OBTAIN THE APPLICANT'S CONSENT TO THE CRIMINAL HISTORY RECORDS SEARCH AS
24 A CONDITION OF LICENSURE. THE DEPARTMENT SHALL THEN REQUIRE THE APPLI-
25 CANT TO BE FINGERPRINTED, IN A MANNER AND TIMEFRAME PRESCRIBED BY THE

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

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1 DEPARTMENT, AND THE APPLICANT SHALL PAY ANY REQUIRED FEES TO BE FINGER-
2 PRINTED, INCLUDING THE DIVISION OF CRIMINAL JUSTICE SERVICES PROCESSING
3 FEE IMPOSED PURSUANT TO SUBDIVISION EIGHT-A OF SECTION EIGHT HUNDRED
4 THIRTY-SEVEN OF THE EXECUTIVE LAW AND ANY FEE IMPOSED BY THE FEDERAL
5 BUREAU OF INVESTIGATION. THE DEPARTMENT SHALL REQUIRE THE TRANSMISSION
6 OF SUCH FINGERPRINTS AND FEES TO THE DIVISION OF CRIMINAL JUSTICE
7 SERVICES FOR ITS FULL SEARCH AND RETAIN PROCESSING IN A TIMEFRAME AND
8 MANNER PRESCRIBED BY THE DEPARTMENT. THE DIVISION OF CRIMINAL JUSTICE
9 SERVICES IS AUTHORIZED TO SUBMIT THE FINGERPRINTS AND THE APPROPRIATE
10 FEE TO THE FEDERAL BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL
11 HISTORY RECORD CHECK. THE DIVISION OF CRIMINAL JUSTICE SERVICES AND THE
12 FEDERAL BUREAU OF INVESTIGATION SHALL FORWARD SUCH CRIMINAL HISTORY
13 RECORD TO THE DEPARTMENT IN A TIMELY MANNER. FOR THE PURPOSES OF THIS
14 SECTION, THE TERM "CRIMINAL HISTORY RECORD" SHALL MEAN A RECORD OF ALL
15 CONVICTIONS OF CRIMES AND ANY PENDING CRIMINAL CHARGES MAINTAINED ON AN
16 INDIVIDUAL BY THE DIVISION OF CRIMINAL JUSTICE SERVICES AND THE FEDERAL
17 BUREAU OF INVESTIGATION. THE DEPARTMENT MAY REQUIRE ADDITIONAL FINGER-
18 PRINT SUPPORTED CRIMINAL HISTORY RECORDS SEARCHES FOR ISSUANCE OF ADDI-
19 TIONAL LICENSES, PERMITS OR OTHER PROFESSIONAL PRACTICE CREDENTIALS
20 UNDER THIS TITLE, IN ADDITION ITS CONSIDERATION OF OTHER EVIDENCE OF
21 MORAL CHARACTER INCLUDING, BUT NOT LIMITED TO, INFORMATION RECEIVED FROM
22 THE APPLICANT AND SUBSEQUENT CRIMINAL HISTORY NOTIFICATIONS FROM THE
23 DIVISION OF CRIMINAL JUSTICE SERVICES.

24 B. FORM. THE DEPARTMENT SHALL DEVELOP A FORM TO BE PROVIDED TO ALL
25 APPLICANTS THAT SHALL:

26 (I) INFORM THE APPLICANT THAT THE DEPARTMENT IS REQUIRED TO REQUEST
27 HIS OR HER CRIMINAL HISTORY INFORMATION FROM THE DIVISION OF CRIMINAL
28 JUSTICE SERVICES AND THE FEDERAL BUREAU OF INVESTIGATION AND REVIEW SUCH
29 INFORMATION PURSUANT TO THIS SECTION, AND PROVIDE A DESCRIPTION OF THE
30 MANNER IN WHICH HIS OR HER FINGERPRINTS WILL BE USED UPON SUBMISSION TO
31 THE DIVISION OF CRIMINAL JUSTICE SERVICES;

32 (II) INFORM THE APPLICANT THAT HE OR SHE HAS THE RIGHT TO OBTAIN,
33 REVIEW AND SEEK CORRECTION OF HIS OR HER CRIMINAL HISTORY INFORMATION
34 PURSUANT TO REGULATIONS AND PROCEDURES ESTABLISHED BY THE DIVISION OF
35 CRIMINAL JUSTICE SERVICES.

36 C. CONSENT. THE DEPARTMENT SHALL OBTAIN THE SIGNED, INFORMED CONSENT
37 OF THE APPLICANT ON SUCH FORM SUPPLIED BY THE DEPARTMENT WHICH INDICATES
38 THAT SUCH PERSON HAS:

39 (I) BEEN INFORMED OF THE RIGHT AND PROCEDURES NECESSARY TO OBTAIN,
40 REVIEW AND SEEK CORRECTION OF HIS OR HER CRIMINAL HISTORY INFORMATION;

41 (II) BEEN INFORMED OF THE REASON FOR THE REQUEST FOR HIS OR HER CRIMI-
42 NAL HISTORY INFORMATION;

43 (III) CONSENTED TO SUCH REQUEST FOR A REPORT;

44 (IV) SUPPLIED ON THE FORM A CURRENT MAILING OR HOME ADDRESS FOR THE
45 APPLICANT;

46 (V) BEEN INFORMED THAT HE OR SHE MAY WITHDRAW HIS OR HER APPLICATION
47 FOR LICENSURE PURSUANT TO THIS SECTION, WITHOUT PREJUDICE, AT ANY TIME
48 BEFORE THE LICENSE IS ISSUED, REGARDLESS OF WHETHER THE DEPARTMENT HAS
49 REVIEWED SUCH APPLICANT'S CRIMINAL HISTORY INFORMATION;

50 (VI) BEEN INFORMED THAT IN THE EVENT HIS OR HER LICENSE IS DENIED, THE
51 DEPARTMENT SHALL NOTIFY THE DIVISION OF CRIMINAL JUSTICE SERVICES OF
52 SUCH DENIAL, AND THE DIVISION OF CRIMINAL JUSTICE SERVICES SHALL DESTROY
53 THE FINGERPRINTS OF SUCH PERSON. SUCH PERSON MAY REQUEST THAT THE
54 DEPARTMENT NOTIFY THE DIVISION OF CRIMINAL JUSTICE SERVICES THAT HIS OR
55 HER FINGERPRINTS SHALL BE DESTROYED PRIOR TO THE DENIAL OF HIS OR HER
56 LICENSE IN WHICH CASE THE DEPARTMENT SHALL NOTIFY THE DIVISION OF CRIMI-

1 NAL JUSTICE SERVICES AND THE DIVISION SHALL DESTROY THE FINGERPRINTS OF
2 SUCH PERSON PROMPTLY UPON RECEIPT OF THE REQUEST; AND

3 (VII) BEEN INFORMED OF THE MANNER IN WHICH HE OR SHE MAY SUBMIT TO THE
4 DEPARTMENT ANY INFORMATION THAT MAY BE RELEVANT TO THE CONSIDERATION OF
5 HIS OR HER APPLICATION FOR LICENSURE INCLUDING, WHERE APPLICABLE, INFOR-
6 MATION IN REGARD TO HIS OR HER GOOD CONDUCT AND REHABILITATION.

7 D. FEES. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY,
8 APPLICANTS FOR LICENSURE MAY BE CHARGED FEES IN AN AMOUNT EQUAL TO THE
9 FEES ESTABLISHED PURSUANT TO LAW BY THE DIVISION OF CRIMINAL JUSTICE
10 SERVICES AND THE FEDERAL BUREAU OF INVESTIGATION AND ANY OTHER ADMINIS-
11 TRATIVE FEES FOR THE SEARCHES MANDATED BY THIS SECTION.

12 E. QUESTION OF MORAL CHARACTER. WHEN THE DEPARTMENT DETERMINES THAT
13 THE APPLICANT MAY NOT HAVE THE REQUISITE MORAL CHARACTER FOR LICENSURE,
14 BASED UPON THE INFORMATION CONTAINED IN THE CRIMINAL HISTORY RECORD, THE
15 APPLICANT SHALL BE AFFORDED NOTICE AND THE RIGHT TO BE HEARD AND OFFER
16 PROOF IN OPPOSITION TO SUCH DETERMINATION IN ACCORDANCE WITH THE REGU-
17 LATIONS OF THE DEPARTMENT.

18 F. DUTIES OF THE DEPARTMENT; SUBMISSION OF FINGERPRINTS. (I) THE
19 DEPARTMENT SHALL REQUIRE APPLICANTS FOR LICENSURE TO SUBMIT FINGERPRINTS
20 FOR A CRIMINAL HISTORY RECORDS SEARCH, IN A MANNER PRESCRIBED BY THE
21 COMMISSIONER IN REGULATIONS. THE DIVISION OF CRIMINAL JUSTICE SERVICES
22 AND THE FEDERAL BUREAU OF INVESTIGATION SHALL FORWARD SUCH CRIMINAL
23 HISTORY RECORD TO THE DEPARTMENT IN A TIMELY MANNER. FOR THE PURPOSES OF
24 THIS SECTION, THE TERM "CRIMINAL HISTORY RECORD" SHALL MEAN A RECORD OF
25 ALL CONVICTIONS OF CRIMES AND ANY PENDING CRIMINAL CHARGES MAINTAINED ON
26 AN INDIVIDUAL BY THE DIVISION OF CRIMINAL JUSTICE SERVICES AND THE
27 FEDERAL BUREAU OF INVESTIGATION.

28 (II) NO CAUSE OF ACTION AGAINST THE COMMISSIONER, THE DEPARTMENT OR
29 THE DIVISION OF CRIMINAL JUSTICE SERVICES, OR THEIR OFFICERS OR EMPLOY-
30 EES, FOR DAMAGES RELATED TO THE DISSEMINATION OF CRIMINAL HISTORY
31 RECORDS PURSUANT TO THIS SECTION SHALL EXIST WHEN THE COMMISSIONER,
32 DEPARTMENT OR DIVISION OF CRIMINAL JUSTICE SERVICES, OR THEIR OFFICERS
33 OR EMPLOYEES HAVE REASONABLY AND IN GOOD FAITH RELIED UPON THE ACCURACY
34 AND COMPLETENESS OF CRIMINAL HISTORY INFORMATION FURNISHED TO IT BY
35 QUALIFIED AGENCIES. THE PROVISION OF SUCH INFORMATION BY THE DIVISION OF
36 CRIMINAL JUSTICE SERVICES SHALL BE SUBJECT TO THE PROVISIONS OF SUBDIVI-
37 SION SIXTEEN OF SECTION TWO HUNDRED NINETY-SIX OF THE EXECUTIVE LAW. THE
38 CONSIDERATION OF SUCH CRIMINAL HISTORY RECORD BY THE DEPARTMENT SHALL BE
39 SUBJECT TO ARTICLE TWENTY-THREE-A OF THE CORRECTION LAW.

40 (III) AFTER RECEIPT OF A CRIMINAL HISTORY RECORD FROM THE DIVISION OF
41 CRIMINAL JUSTICE SERVICES AND THE FEDERAL BUREAU OF INVESTIGATION THE
42 DEPARTMENT SHALL REVIEW THE CRIMINAL HISTORY RECORD TO DETERMINE IF A
43 REASONABLE QUESTION EXISTS AS TO THE APPLICANT'S MORAL CHARACTER AND,
44 UPON SUCH A DETERMINATION, CONDUCT A MORAL CHARACTER REVIEW PURSUANT TO
45 THE RULES OF THE BOARD OF REGENTS. WHEN THE DEPARTMENT MAKES A DETERMI-
46 NATION THAT THE APPLICANT LACKS THE REQUISITE MORAL CHARACTER FOR A
47 PROFESSIONAL LICENSE, SUCH APPLICANT SHALL BE AFFORDED NOTICE AND THE
48 RIGHT TO BE HEARD AND OFFER PROOF IN OPPOSITION TO SUCH DETERMINATION IN
49 ACCORDANCE WITH THE REGULATIONS OF THE DEPARTMENT.

50 (IV) THE DEPARTMENT AND THE DIVISION OF CRIMINAL JUSTICE SERVICES
51 SHALL ENTER INTO AN AGREEMENT FOR THE PURPOSES OF IMPLEMENTING THE
52 PROVISIONS OF THIS SECTION.

53 4. MANDATORY REPORTING OF CONVICTIONS AND PENDING CRIMINAL CHARGES AND
54 ADVERSE EMPLOYMENT ACTIONS. A. ALL LICENSED PROFESSIONALS AS DEFINED BY
55 THE COMMISSIONER IN REGULATION, SHALL BE REQUIRED TO REPORT TO THE
56 DEPARTMENT WITHIN THIRTY DAYS ANY RECORD OF A CONVICTION OF A CRIME

1 AND/OR ANY PENDING CRIMINAL CHARGES. SUCH REPORTING REQUIREMENTS SHALL
2 NOT APPLY FOR TRAFFIC VIOLATIONS, ACQUITTALS OR DISMISSED CHARGES.
3 LICENSEES SHALL ALSO REPORT TO THE DEPARTMENT WITHIN THIRTY DAYS ANY
4 CHARGES OF PROFESSIONAL MISCONDUCT IN ANY JURISDICTION AND/OR ANY
5 ADVERSE ACTIONS UNDERTAKEN BY A HOSPITAL, INSTITUTION OR EMPLOYER AS A
6 RESULT OF THE LICENSEE'S PROFESSIONAL DUTIES. FAILURE OF A LICENSED
7 PROFESSIONAL TO PROVIDE SUCH A REPORT TO THE DEPARTMENT WITHIN THIRTY
8 DAYS OF THE ACTION, SHALL BE GROUNDS FOR PROFESSIONAL MISCONDUCT PURSU-
9 ANT TO SECTION SIXTY-FIVE HUNDRED TEN OF THIS ARTICLE.

10 B. THE DEPARTMENT SHALL PROMULGATE A FORM TO BE PROVIDED TO ALL LICEN-
11 SEES BY WHICH THEY MUST REPORT CHARGES AS DEFINED IN PARAGRAPH A OF THIS
12 SUBDIVISION.

13 C. ALL SUCH RECORDS PROCESSED AND SUBMITTED PURSUANT TO THIS SUBDIVI-
14 SION SHALL BE CONFIDENTIAL PURSUANT TO THE APPLICABLE FEDERAL AND STATE
15 LAWS, RULES AND REGULATIONS, AND SHALL NOT BE PUBLISHED OR IN ANY WAY
16 DISCLOSED TO PERSONS OTHER THAN THE DEPARTMENT PERSONNEL, UNLESS OTHER-
17 WISE AUTHORIZED BY LAW. NO CAUSE OF ACTION AGAINST THE COMMISSIONER,
18 THE DEPARTMENT OR THE DIVISION OF CRIMINAL JUSTICE SERVICES FOR DAMAGES
19 RELATED TO THE DISSEMINATION OF RECORDS PURSUANT TO THIS SUBDIVISION
20 SHALL EXIST WHEN THE COMMISSIONER, DEPARTMENT OR DIVISION OF CRIMINAL
21 JUSTICE SERVICES HAVE REASONABLY AND IN GOOD FAITH RELIED UPON THE ACCU-
22 RACY AND COMPLETENESS OF INFORMATION FURNISHED TO IT BY THE LICENSEE OR
23 QUALIFIED AGENCIES.

24 D. UPON RECEIPT OF A REPORT FROM A LICENSED PROFESSIONAL THAT THEY
25 HAVE BEEN THE SUBJECT OF A CRIMINAL CONVICTION OR DISCIPLINARY ACTION,
26 THE DEPARTMENT MAY REFER THE REPORT TO THE PROFESSIONAL CONDUCT OFFICER
27 FOR AN INVESTIGATION OF POTENTIAL DISCIPLINARY ACTION UNDER THE APPLICA-
28 BLE PROVISIONS OF THIS SECTION.

29 E. IN THE EVENT THAT A LICENSED PROFESSIONAL IS CONVICTED OF ANY
30 CRIME, THE DISTRICT ATTORNEY SHALL PROVIDE NOTICE THEREOF TO THE COMMIS-
31 SIONER. UPON RECEIVING NOTICE OF A CONVICTION FROM A DISTRICT ATTORNEY
32 PURSUANT TO THIS PARAGRAPH, THE COMMISSIONER SHALL, WITHOUT DELAY,
33 PROCEED TO DETERMINE WHETHER THE INDIVIDUAL POSSESSES GOOD MORAL CHARAC-
34 TER, IN ACCORDANCE WITH THE REGULATIONS OF THE COMMISSIONER. NOTHING IN
35 THIS ARTICLE SHALL BE CONSTRUED AS CREATING ANY AUTHORITY TO TAKE AN
36 ADVERSE ACTION AGAINST A LICENSE BY VIRTUE OF A REPORT PURSUANT TO THIS
37 PARAGRAPH WHICH HAS NOT BEEN SUBSTANTIATED.

38 S 2. Section 6510 of the education law is amended by adding a new
39 subdivision 10 to read as follows:

40 10. SUMMARY ACTION. A. WHENEVER THE COMMISSIONER OR HIS OR HER DESIG-
41 NEE, (I) AFTER BEING PRESENTED WITH INFORMATION INDICATING THAT A LICEN-
42 SEE OR A REGISTERED ENTITY IS CAUSING OR ENGAGING IN CONDUCT WHICH HAS
43 RESULTED IN PATIENT AND/OR CLIENT HARM AND IF IN THE COMMISSIONER'S
44 OPINION IT WOULD BE PREJUDICIAL TO THE INTERESTS OF THE PEOPLE TO DELAY
45 ACTION UNTIL AN OPPORTUNITY FOR A HEARING CAN BE PROVIDED IN ACCORDANCE
46 WITH THE PREHEARING AND HEARING PROVISIONS OF THIS SECTION; OR (II)
47 AFTER AN INVESTIGATION AND A RECOMMENDATION BY THE COMMISSIONER THAT
48 BASED UPON A DETERMINATION THAT A LICENSEE IS CAUSING OR ENGAGING IN
49 CONDUCT WHICH IN THE COMMISSIONER'S OPINION CONSTITUTES AN IMMINENT
50 DANGER TO THE HEALTH AND/OR SAFETY OF THE PEOPLE, AND THAT IT THEREFORE
51 APPEARS TO BE PREJUDICIAL TO THE INTERESTS OF THE PEOPLE TO DELAY ACTION
52 UNTIL AN OPPORTUNITY FOR A HEARING CAN BE PROVIDED IN ACCORDANCE WITH
53 THE PREHEARING AND HEARING PROVISIONS OF THIS SECTION; THE COMMISSIONER
54 MAY ORDER THE LICENSEE, BY WRITTEN NOTICE, TO DISCONTINUE SUCH DANGEROUS
55 CONDUCT, WHICH SHALL INCLUDE THE SUSPENSION OF ANY PRIVILEGES TO PRAC-
56 TICE THE PROFESSION PURSUANT TO TITLE EIGHT OF THIS CHAPTER IN THE STATE

1 OF NEW YORK, OR TAKE CERTAIN ACTION IMMEDIATELY AND FOR A PERIOD OF
2 NINETY DAYS FROM THE DATE OF SERVICE OF THE ORDER. WITHIN TEN DAYS FROM
3 THE DATE OF SERVICE OF THE SAID ORDER, THE DEPARTMENT SHALL REGULARLY
4 SCHEDULE SUCH HEARING PROCEEDINGS AS REQUIRED BY THIS SECTION, PROVIDED,
5 HOWEVER, THAT THE HEARING SHALL BE COMPLETED WITHIN NINETY DAYS OF THE
6 DATE OF SERVICE OF THE ORDER. TO THE EXTENT THAT THE ISSUE OF IMMINENT
7 DANGER OR HARM CAN BE PROVEN WITHOUT THE ATTORNEY REPRESENTING THE
8 DEPARTMENT PUTTING IN ITS ENTIRE CASE, THE COMMISSIONER SHALL FIRST
9 DETERMINE WHETHER BY A PREPONDERANCE OF THE EVIDENCE THE LICENSEE IS
10 CAUSING, ENGAGING IN OR MAINTAINING A CONDITION OR ACTIVITY WHICH
11 CONSTITUTES AN IMMINENT DANGER OR HARM TO THE HEALTH OF THE PEOPLE. THE
12 ATTORNEY REPRESENTING THE DEPARTMENT SHALL HAVE THE BURDEN OF GOING
13 FORWARD AND PROVING BY A PREPONDERANCE OF THE EVIDENCE THAT THE
14 LICENSEE'S CONDUCT, ACTIVITY OR PRACTICE RESULTED IN PATIENT OR CLIENT
15 HARM, OR SUCH PRACTICE CONSTITUTES AN IMMINENT DANGER TO THE HEALTH
16 AND/OR SAFETY OF THE PEOPLE. THE LICENSEE SHALL HAVE AN OPPORTUNITY TO
17 BE HEARD AND TO PRESENT PROOF. WHEN BOTH THE DEPARTMENT AND THE LICENSEE
18 HAVE COMPLETED THEIR CASES WITH RESPECT TO THE QUESTION OF HARM OR IMMI-
19 NENT DANGER, THE COMMISSIONER OR HIS OR HER DESIGNEE SHALL PROMPTLY MAKE
20 A RECOMMENDATION TO A SINGLE MEMBER OF THE BOARD OF REGENTS, APPOINTED
21 BY THE CHANCELLOR OF THE BOARD OF REGENTS OR HIS OR HER DESIGNEE, ON THE
22 ISSUE OF HARM OR IMMINENT DANGER AND DETERMINE WHETHER THE SUMMARY ORDER
23 SHOULD BE LEFT IN EFFECT, MODIFIED OR VACATED, AND CONTINUE THE HEARING
24 ON ALL THE REMAINING CHARGES, IF ANY, IN ACCORDANCE WITH PARAGRAPH F OF
25 SUBDIVISION ONE OF THIS SECTION. WITHIN TEN DAYS OF THE COMMISSIONER OR
26 HIS OR HER DESIGNEE'S RECOMMENDATION, THE SINGLE MEMBER OF THE BOARD OF
27 REGENTS, AS APPOINTED BY THE CHANCELLOR OF THE BOARD OF REGENTS OR HIS
28 OR HER DESIGNEE, SHALL DETERMINE WHETHER OR NOT TO ADOPT THE RECOMMENDA-
29 TIONS OF THE COMMISSIONER OR HIS OR HER DESIGNEE, IN WHOLE OR IN PART,
30 AND SHALL LEAVE IN EFFECT, MODIFY OR VACATE THE SUMMARY ORDER. WHERE THE
31 ORDER OF THE COMMISSIONER REMAINS IN EFFECT EITHER IN WHOLE OR IN PART,
32 A HEARING ON THE REMAINING CHARGES OF PROFESSIONAL MISCONDUCT SHALL BE
33 COMMENCED PURSUANT TO THE PROVISIONS OF THIS SECTION. THE DEPARTMENT
34 MUST MAKE A REASONABLE EFFORT TO AVOID ANY DELAY IN COMPLETING AND
35 DETERMINING SUCH PROCEEDINGS. IF, AT THE CONCLUSION OF THE INITIAL
36 HEARING, (A) THE SINGLE BOARD MEMBER OF THE BOARD OF REGENTS DETERMINES
37 THAT THE BASIS OF THE CHARGES CONSTITUTED IMMINENT DANGER OR HARM AND
38 THAT THE SUMMARY ORDER SHALL CONTINUE, AND (B) THE NINETY DAY TERM OF
39 THE ORDER HAS NOT EXPIRED, THE SUMMARY ORDER SHALL REMAIN IN FULL FORCE
40 AND EFFECT UNTIL A FINAL DECISION HAS BEEN RENDERED BY THE BOARD OF
41 REGENTS PURSUANT TO THE APPLICABLE PROVISIONS OF THIS SECTION. NOTWITH-
42 STANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, A SUMMARY ORDER
43 SHALL BE PUBLIC UPON ISSUANCE.

44 B. WHEN A LICENSEE HAS PLEADED OR BEEN FOUND GUILTY OR CONVICTED OF
45 COMMITTING AN ACT CONSTITUTING A FELONY UNDER NEW YORK STATE LAW OR
46 FEDERAL LAW, OR THE LAW OF ANOTHER JURISDICTION WHICH, IF COMMITTED
47 WITHIN THIS STATE, WOULD HAVE CONSTITUTED A FELONY UNDER NEW YORK STATE
48 LAW, OR WHEN THE DULY AUTHORIZED PROFESSIONAL DISCIPLINARY AGENCY OF
49 ANOTHER JURISDICTION HAS MADE A FINDING SUBSTANTIALLY EQUIVALENT TO A
50 FINDING THAT THE PRACTICE OF THE PROFESSION BY THE LICENSEE IN THAT
51 JURISDICTION CONSTITUTES AN IMMINENT DANGER TO THE HEALTH OF ITS PEOPLE,
52 OR WHEN A LICENSEE HAS BEEN DISCIPLINED BY A DULY AUTHORIZED PROFES-
53 SIONAL DISCIPLINARY AGENCY OF ANOTHER JURISDICTION FOR ACTS WHICH IF
54 COMMITTED IN THIS STATE WOULD HAVE CONSTITUTED THE BASIS FOR SUMMARY
55 ACTION BY THE DEPARTMENT PURSUANT TO PARAGRAPH A OF THIS SUBDIVISION, A
56 SINGLE BOARD MEMBER OF THE BOARD OF REGENTS, APPOINTED BY THE CHANCELLOR

1 OF THE BOARD OF REGENTS OR HIS OR HER DESIGNEE, AFTER A RECOMMENDATION
2 BY THE COMMISSIONER OR HIS OR HER DESIGNEE, MAY ORDER THE LICENSEE, BY
3 WRITTEN NOTICE, TO DISCONTINUE OR REFRAIN FROM PRACTICING THE PROFESSION
4 IN WHOLE OR IN PART OR TO TAKE CERTAIN IMMEDIATE ACTIONS AUTHORIZED
5 PURSUANT TO THIS TITLE. THE ORDER OF THE SINGLE MEMBER OF THE BOARD OF
6 REGENTS SHALL CONSTITUTE SUMMARY ACTION AGAINST THE LICENSEE AND BECOME
7 PUBLIC UPON ISSUANCE. THE SUMMARY SUSPENSION SHALL REMAIN IN EFFECT
8 UNTIL THE FINAL DETERMINATION OF THE REGENTS REVIEW COMMITTEE, WHICH
9 SHALL COMMENCE WITHIN NINETY DAYS OF THE DATE OF SERVICE OF THE DEPART-
10 MENT'S ORDER AND OTHERWISE BE HELD IN ACCORDANCE WITH PARAGRAPH A OF
11 THIS SUBDIVISION.

12 S 3. Subdivision 8 of section 6506 of the education law, as amended by
13 chapter 866 of the laws of 1980, is amended to read as follows:

14 (8) Designate a professional conduct officer, who shall be the chief
15 administrative officer of the office of the professions, or his desig-
16 nee, in connection with professional licensing and misconduct
17 proceedings and criminal matters, such officer to be empowered to issue
18 subpoenas and administer oaths in connection with such proceedings.
19 NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, SAID PROFESSIONAL
20 CONDUCT OFFICER, OR HIS OR HER REPRESENTATIVES, MAY EXAMINE AND OBTAIN
21 RECORDS OF PATIENTS OR CLIENTS IN ANY INVESTIGATION OR PROCEEDING BY THE
22 DEPARTMENT ACTING WITHIN THE SCOPE OF ITS AUTHORIZATION. UNLESS EXPRESS
23 CONSENT IS OBTAINED FROM THE PATIENT OR CLIENT, ANY INFORMATION SO
24 OBTAINED SHALL BE CONFIDENTIAL AND SHALL NOT BE FURTHER DISCLOSED EXCEPT
25 TO THE EXTENT NECESSARY FOR THE PROPER FUNCTION OF THE DEPARTMENT, AND
26 THE NAME OF THE PATIENT OR CLIENT MAY NOT BE DISCLOSED BY THE DEPARTMENT
27 OR ITS EMPLOYEES AT ANY STAGE OF THE PROCEEDINGS UNLESS THE PATIENT OR
28 CLIENT HAS EXPRESSLY CONSENTED. ANY OTHER USE OR DISSEMINATION OF INFOR-
29 MATION FROM SUCH RECORDS BY ANY PERSON BY ANY MEANS, UNLESS IT IS PURSU-
30 ANT TO A VALID COURT ORDER OR OTHERWISE AUTHORIZED BY LAW, SHALL BE
31 PROHIBITED;

32 S 4. This act shall take effect on the one hundred eightieth day after
33 it shall have become a law; provided, that subdivision 3 of section 6501
34 of the education law as added by section one of this act shall only
35 apply to applicants seeking licensure on or after July 1, 2017 and
36 provided further, that effective immediately, the addition, amendment
37 and/or repeal of any rule or regulation by the department of education
38 necessary for the implementation of this act on its effective date are
39 authorized to be made and completed on or before such date.