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

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I N S E N A T E

May 12, 2016

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 prosecution of professional licensing and misconduct proceedings and summary suspension of professional licenses

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

Section 1. Section 6501 of the education law, as amended by chapter 81 of the laws of 1995, is amended to read as follows:

S 6501. Admission to a profession (licensing) AND CRIMINAL HISTORY RECORDS SEARCH. 1. ADMISSION. Admission to practice of a profession in this state is accomplished by a license being issued to a qualified applicant by the education department. To qualify for a license an applicant shall meet the requirements prescribed in the article for the particular profession and shall meet the requirements prescribed in section 3-503 of the general obligations law.

2. MORAL CHARACTER REQUIREMENT. NOTWITHSTANDING ANY OTHER PROVISION OF LAW OR REGULATION TO THE CONTRARY, TO QUALIFY FOR A PROFESSIONAL LICENSE OR TO BE A REGISTERED ENTITY UNDER THIS TITLE, AN APPLICANT FOR LICENSURE OR REGISTRATION AS DEFINED BY THE COMMISSIONER IN REGULATIONS SHALL BE OF GOOD MORAL CHARACTER AS DETERMINED BY THE DEPARTMENT.

3. CRIMINAL HISTORY RECORDS SEARCH. A. SEARCH. UPON RECEIPT OF AN APPLICATION FOR PROFESSIONAL LICENSURE UNDER THIS TITLE ON OR AFTER JULY FIRST, TWO THOUSAND SEVENTEEN, AS PRESCRIBED IN REGULATIONS OF THE COMMISSIONER, THE DEPARTMENT SHALL, SUBJECT TO THE RULES AND REGULATIONS OF THE DIVISION OF CRIMINAL JUSTICE SERVICES, INITIATE A CRIMINAL HISTORY RECORDS SEARCH OF THE PERSON MAKING APPLICATION. PRIOR TO INITIATING THE FINGERPRINTING PROCESS, THE DEPARTMENT SHALL FURNISH THE APPLICANT WITH THE FORM DESCRIBED IN PARAGRAPH B OF THIS SUBDIVISION AND SHALL OBTAIN THE APPLICANT'S CONSENT TO THE CRIMINAL HISTORY RECORDS SEARCH AS A CONDITION OF LICENSURE. THE DEPARTMENT SHALL THEN REQUIRE THE APPLICANT 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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DEPARTMENT, AND THE APPLICANT SHALL PAY ANY REQUIRED FEES TO BE FINGERPRINTED, INCLUDING THE DIVISION OF CRIMINAL JUSTICE SERVICES PROCESSING FEE IMPOSED PURSUANT TO SUBDIVISION EIGHT-A OF SECTION EIGHT HUNDRED THIRTY-SEVEN OF THE EXECUTIVE LAW AND ANY FEE IMPOSED BY THE FEDERAL BUREAU OF INVESTIGATION. THE DEPARTMENT SHALL REQUIRE THE TRANSMISSION OF SUCH FINGERPRINTS AND FEES TO THE DIVISION OF CRIMINAL JUSTICE SERVICES FOR ITS FULL SEARCH AND RETAIN PROCESSING IN A TIMEFRAME AND MANNER PRESCRIBED BY THE DEPARTMENT. THE DIVISION OF CRIMINAL JUSTICE SERVICES IS AUTHORIZED TO SUBMIT THE FINGERPRINTS AND THE APPROPRIATE FEE TO THE FEDERAL BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORD CHECK. THE DIVISION OF CRIMINAL JUSTICE SERVICES AND THE FEDERAL BUREAU OF INVESTIGATION SHALL FORWARD SUCH CRIMINAL HISTORY RECORD TO THE DEPARTMENT IN A TIMELY MANNER. FOR THE PURPOSES OF THIS SECTION, THE TERM "CRIMINAL HISTORY RECORD" SHALL MEAN A RECORD OF ALL CONVICTIONS OF CRIMES AND ANY PENDING CRIMINAL CHARGES MAINTAINED ON AN INDIVIDUAL BY THE DIVISION OF CRIMINAL JUSTICE SERVICES AND THE FEDERAL BUREAU OF INVESTIGATION. THE DEPARTMENT MAY REQUIRE ADDITIONAL FINGERPRINT SUPPORTED CRIMINAL HISTORY RECORDS SEARCHES FOR ISSUANCE OF ADDITIONAL LICENSES, PERMITS OR OTHER PROFESSIONAL PRACTICE CREDENTIALS UNDER THIS TITLE, IN ADDITION ITS CONSIDERATION OF OTHER EVIDENCE OF MORAL CHARACTER INCLUDING, BUT NOT LIMITED TO, INFORMATION RECEIVED FROM THE APPLICANT AND SUBSEQUENT CRIMINAL HISTORY NOTIFICATIONS FROM THE DIVISION OF CRIMINAL JUSTICE SERVICES.

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

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

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

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

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

(II) BEEN INFORMED OF THE REASON FOR THE REQUEST FOR HIS OR HER CRIMINAL HISTORY INFORMATION;

(III) CONSENTED TO SUCH REQUEST FOR A REPORT;

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

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

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

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

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

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

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

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

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

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

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

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

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

B. THE DEPARTMENT SHALL PROMULGATE A FORM TO BE PROVIDED TO ALL LICENSEES BY WHICH THEY MUST REPORT CHARGES AS DEFINED IN PARAGRAPH A OF THIS SUBDIVISION.

C. ALL SUCH RECORDS PROCESSED AND SUBMITTED PURSUANT TO THIS SUBDIVISION SHALL BE CONFIDENTIAL PURSUANT TO THE APPLICABLE FEDERAL AND STATE LAWS, RULES AND REGULATIONS, AND SHALL NOT BE PUBLISHED OR IN ANY WAY DISCLOSED TO PERSONS OTHER THAN THE DEPARTMENT PERSONNEL, UNLESS OTHERWISE AUTHORIZED BY LAW. NO CAUSE OF ACTION AGAINST THE COMMISSIONER, THE DEPARTMENT OR THE DIVISION OF CRIMINAL JUSTICE SERVICES FOR DAMAGES RELATED TO THE DISSEMINATION OF RECORDS PURSUANT TO THIS SUBDIVISION SHALL EXIST WHEN THE COMMISSIONER, DEPARTMENT OR DIVISION OF CRIMINAL JUSTICE SERVICES HAVE REASONABLY AND IN GOOD FAITH RELIED UPON THE ACCURACY AND COMPLETENESS OF INFORMATION FURNISHED TO IT BY THE LICENSEE OR QUALIFIED AGENCIES.

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

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

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

10. SUMMARY ACTION. A. WHENEVER THE COMMISSIONER OR HIS OR HER DESIGNEE, (I) AFTER BEING PRESENTED WITH INFORMATION INDICATING THAT A LICENSEE OR A REGISTERED ENTITY IS CAUSING OR ENGAGING IN CONDUCT WHICH HAS RESULTED IN PATIENT AND/OR CLIENT HARM AND IF IN THE COMMISSIONER'S OPINION IT WOULD BE PREJUDICIAL TO THE INTERESTS OF THE PEOPLE TO DELAY ACTION UNTIL AN OPPORTUNITY FOR A HEARING CAN BE PROVIDED IN ACCORDANCE WITH THE PREHEARING AND HEARING PROVISIONS OF THIS SECTION; OR (II) AFTER AN INVESTIGATION AND A RECOMMENDATION BY THE COMMISSIONER THAT BASED UPON A DETERMINATION THAT A LICENSEE IS CAUSING OR ENGAGING IN CONDUCT WHICH IN THE COMMISSIONER'S OPINION CONSTITUTES AN IMMINENT DANGER TO THE HEALTH AND/OR SAFETY OF THE PEOPLE, AND THAT IT THEREFORE APPEARS TO BE PREJUDICIAL TO THE INTERESTS OF THE PEOPLE TO DELAY ACTION UNTIL AN OPPORTUNITY FOR A HEARING CAN BE PROVIDED IN ACCORDANCE WITH THE PREHEARING AND HEARING PROVISIONS OF THIS SECTION; THE COMMISSIONER MAY ORDER THE LICENSEE, BY WRITTEN NOTICE, TO DISCONTINUE SUCH DANGEROUS CONDUCT, WHICH SHALL INCLUDE THE SUSPENSION OF ANY PRIVILEGES TO PRACTICE THE PROFESSION PURSUANT TO TITLE EIGHT OF THIS CHAPTER IN THE STATE

OF NEW YORK, OR TAKE CERTAIN ACTION IMMEDIATELY AND FOR A PERIOD OF NINETY DAYS FROM THE DATE OF SERVICE OF THE ORDER. WITHIN TEN DAYS FROM THE DATE OF SERVICE OF THE SAID ORDER, THE DEPARTMENT SHALL REGULARLY SCHEDULE SUCH HEARING PROCEEDINGS AS REQUIRED BY THIS SECTION, PROVIDED, HOWEVER, THAT THE HEARING SHALL BE COMPLETED WITHIN NINETY DAYS OF THE DATE OF SERVICE OF THE ORDER. TO THE EXTENT THAT THE ISSUE OF IMMINENT DANGER OR HARM CAN BE PROVEN WITHOUT THE ATTORNEY REPRESENTING THE DEPARTMENT PUTTING IN ITS ENTIRE CASE, THE COMMISSIONER SHALL FIRST DETERMINE WHETHER BY A PREPONDERANCE OF THE EVIDENCE THE LICENSEE IS CAUSING, ENGAGING IN OR MAINTAINING A CONDITION OR ACTIVITY WHICH CONSTITUTES AN IMMINENT DANGER OR HARM TO THE HEALTH OF THE PEOPLE. THE ATTORNEY REPRESENTING THE DEPARTMENT SHALL HAVE THE BURDEN OF GOING FORWARD AND PROVING BY A PREPONDERANCE OF THE EVIDENCE THAT THE LICENSEE'S CONDUCT, ACTIVITY OR PRACTICE RESULTED IN PATIENT OR CLIENT HARM, OR SUCH PRACTICE CONSTITUTES AN IMMINENT DANGER TO THE HEALTH AND/OR SAFETY OF THE PEOPLE. THE LICENSEE SHALL HAVE AN OPPORTUNITY TO BE HEARD AND TO PRESENT PROOF. WHEN BOTH THE DEPARTMENT AND THE LICENSEE HAVE COMPLETED THEIR CASES WITH RESPECT TO THE QUESTION OF HARM OR IMMINENT DANGER, THE COMMISSIONER OR HIS OR HER DESIGNEE SHALL PROMPTLY MAKE A RECOMMENDATION TO A SINGLE MEMBER OF THE BOARD OF REGENTS, APPOINTED BY THE CHANCELLOR OF THE BOARD OF REGENTS OR HIS OR HER DESIGNEE, ON THE ISSUE OF HARM OR IMMINENT DANGER AND DETERMINE WHETHER THE SUMMARY ORDER SHOULD BE LEFT IN EFFECT, MODIFIED OR VACATED, AND CONTINUE THE HEARING ON ALL THE REMAINING CHARGES, IF ANY, IN ACCORDANCE WITH PARAGRAPH F OF SUBDIVISION ONE OF THIS SECTION. WITHIN TEN DAYS OF THE COMMISSIONER OR HIS OR HER DESIGNEE'S RECOMMENDATION, THE SINGLE MEMBER OF THE BOARD OF REGENTS, AS APPOINTED BY THE CHANCELLOR OF THE BOARD OF REGENTS OR HIS OR HER DESIGNEE, SHALL DETERMINE WHETHER OR NOT TO ADOPT THE RECOMMENDATIONS OF THE COMMISSIONER OR HIS OR HER DESIGNEE, IN WHOLE OR IN PART, AND SHALL LEAVE IN EFFECT, MODIFY OR VACATE THE SUMMARY ORDER. WHERE THE ORDER OF THE COMMISSIONER REMAINS IN EFFECT EITHER IN WHOLE OR IN PART, A HEARING ON THE REMAINING CHARGES OF PROFESSIONAL MISCONDUCT SHALL BE COMMENCED PURSUANT TO THE PROVISIONS OF THIS SECTION. THE DEPARTMENT MUST MAKE A REASONABLE EFFORT TO AVOID ANY DELAY IN COMPLETING AND DETERMINING SUCH PROCEEDINGS. IF, AT THE CONCLUSION OF THE INITIAL HEARING, (A) THE SINGLE BOARD MEMBER OF THE BOARD OF REGENTS DETERMINES THAT THE BASIS OF THE CHARGES CONSTITUTED IMMINENT DANGER OR HARM AND THAT THE SUMMARY ORDER SHALL CONTINUE, AND (B) THE NINETY DAY TERM OF THE ORDER HAS NOT EXPIRED, THE SUMMARY ORDER SHALL REMAIN IN FULL FORCE AND EFFECT UNTIL A FINAL DECISION HAS BEEN RENDERED BY THE BOARD OF REGENTS PURSUANT TO THE APPLICABLE PROVISIONS OF THIS SECTION. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, A SUMMARY ORDER SHALL BE PUBLIC UPON ISSUANCE.

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

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

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

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

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