

STATE OF NEW YORK

7474

2017-2018 Regular Sessions

IN ASSEMBLY

April 26, 2017

Introduced by M. of A. CAHILL -- Multi-Sponsored by -- M. of A. LUPARDO, STEC, STIRPE -- read once and referred to the Committee on Higher Education

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 authorizing ophthalmologists and ophthalmic dispensing practices 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 amended by chapter 475 of the laws of 2014, is amended
3 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
21 service limited liability company formed to provide veterinary services
22 as such services are defined in article 135 of the education law, each

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

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1 member of such limited liability company must be licensed pursuant to
2 article 135 of the education law to practice veterinary medicine in this
3 state. With respect to a professional service limited liability company
4 formed to provide professional engineering, land surveying, architec-
5 tural, landscape architectural and/or geological services as such
6 services are defined in article 145, article 147 and article 148 of the
7 education law, each member of such limited liability company must be
8 licensed pursuant to article 145, article 147 and/or article 148 of the
9 education law to practice one or more of such professions in this state.
10 With respect to a professional service limited liability company formed
11 to provide licensed clinical social work services as such services are
12 defined in article 154 of the education law, each member of such limited
13 liability company shall be licensed pursuant to article 154 of the
14 education law to practice licensed clinical social work in this state.
15 With respect to a professional service limited liability company formed
16 to provide creative arts therapy services as such services are defined
17 in article 163 of the education law, each member of such limited liabil-
18 ity company must be licensed pursuant to article 163 of the education
19 law to practice creative arts therapy in this state. With respect to a
20 professional service limited liability company formed to provide
21 marriage and family therapy services as such services are defined in
22 article 163 of the education law, each member of such limited liability
23 company must be licensed pursuant to article 163 of the education law to
24 practice marriage and family therapy in this state. With respect to a
25 professional service limited liability company formed to provide mental
26 health counseling services as such services are defined in article 163
27 of the education law, each member of such limited liability company must
28 be licensed pursuant to article 163 of the education law to practice
29 mental health counseling in this state. With respect to a professional
30 service limited liability company formed to provide psychoanalysis
31 services as such services are defined in article 163 of the education
32 law, each member of such limited liability company must be licensed
33 pursuant to article 163 of the education law to practice psychoanalysis
34 in this state. With respect to a professional service limited liability
35 company formed to provide applied behavior analysis services as such
36 services are defined in article 167 of the education law, each member of
37 such limited liability company must be licensed or certified pursuant to
38 article 167 of the education law to practice applied behavior analysis
39 in this state. In addition to engaging in such profession or
40 professions, a professional service limited liability company may engage
41 in any other business or activities as to which a limited liability
42 company may be formed under section two hundred one of this chapter.
43 Notwithstanding any other provision of this section, a professional
44 service limited liability company (i) authorized to practice law may
45 only engage in another profession or business or activities or (ii)
46 which is engaged in a profession or other business or activities other
47 than law may only engage in the practice of law, to the extent not
48 prohibited by any other law of this state or any rule adopted by the
49 appropriate appellate division of the supreme court or the court of
50 appeals. Notwithstanding any other provision of this section, with
51 respect to a limited liability company formed to provide integrated,
52 multidisciplinary medical services defined in article 131 of the educa-
53 tion law with optometry and/or ophthalmic dispensing services defined in
54 article 143 and/or article 144 of the education law, (i) each member of
55 such limited liability company must be licensed pursuant to article 131
56 and certified by the American board of ophthalmology, and/or licensed

pursuant to article 143 and/or article 144 of the education law to practice one or more of such professions in this state, (ii) each member shall only practice his or her profession as specified in his or her respective professional enabling statute under article 131 of the education law, and (iii) the clinical integration of professional practices within an integrated, multidisciplinary entity organized under this section does not alter, expand or curtail the scope of practice of any of the individuals licensed under the statute of his or her respective professional enabling law, provided that: (a) the clinical judgment, management and clinical decision-making of one or more article 131 providers in an integrated, multidisciplinary professional service limited liability company shall be controlling, (b) members licensed under article 143 and/or article 144 of the education law, shall not, directly or indirectly, interfere with the clinical judgment or legitimate clinical practice of a professional licensed under article 131, and (c) individuals licensed under article 131 may not order or direct a professional licensed under article 143 and/or article 144 of the education law to practice beyond the scope of his or her license under article 143 and/or article 144 of the education law, even if supervised directly or indirectly by a professional licensed under article 131.

§ 2. Subdivision (b) of section 1207 of the limited liability company law, as amended by chapter 475 of the laws of 2014, is amended to read as follows:

(b) With respect to a professional service limited liability company formed to provide medical services as such services are defined in article 131 of the education law, each member of such limited liability company must be licensed pursuant to article 131 of the education law to practice medicine in this state. With respect to a professional service limited liability company formed to provide dental services as such services are defined in article 133 of the education law, each member of such limited liability company must be licensed pursuant to article 133 of the education law to practice dentistry in this state. With respect to a professional service limited liability company formed to provide veterinary services as such services are defined in article 135 of the education law, each member of such limited liability company must be licensed pursuant to article 135 of the education law to practice veterinary medicine in this state. With respect to a professional service limited liability company formed to provide professional engineering, land surveying, architectural, landscape architectural and/or geological services as such services are defined in article 145, article 147 and article 148 of the education law, each member of such limited liability company must be licensed pursuant to article 145, article 147 and/or article 148 of the education law to practice one or more of such professions in this state. With respect to a professional service limited liability company formed to provide licensed clinical social work services as such services are defined in article 154 of the education law, each member of such limited liability company shall be licensed pursuant to article 154 of the education law to practice licensed clinical social work in this state. With respect to a professional service limited liability company formed to provide creative arts therapy services as such services are defined in article 163 of the education law, each member of such limited liability company must be licensed pursuant to article 163 of the education law to practice creative arts therapy in this state. With respect to a professional service limited liability company formed to provide marriage and family therapy services as such services are defined in article 163 of the education law, each

1 member of such limited liability company must be licensed pursuant to
2 article 163 of the education law to practice marriage and family therapy
3 in this state. With respect to a professional service limited liability
4 company formed to provide mental health counseling services as such
5 services are defined in article 163 of the education law, each member of
6 such limited liability company must be licensed pursuant to article 163
7 of the education law to practice mental health counseling in this state.
8 With respect to a professional service limited liability company formed
9 to provide psychoanalysis services as such services are defined in arti-
10 cle 163 of the education law, each member of such limited liability
11 company must be licensed pursuant to article 163 of the education law to
12 practice psychoanalysis in this state. With respect to a professional
13 service limited liability company formed to provide applied behavior
14 analysis services as such services are defined in article 167 of the
15 education law, each member of such limited liability company must be
16 licensed or certified pursuant to article 167 of the education law to
17 practice applied behavior analysis in this state. Notwithstanding any
18 other provision of this section, with respect to a professional service
19 limited liability company formed to provide integrated, multidiscipli-
20 nary medical services defined in article 131 of the education law with
21 optometry and/or ophthalmic dispensing services defined in article 143
22 and/or article 144 of the education law, (i) each member of such limited
23 liability company must be licensed pursuant to article 131 and certified
24 by the American board of ophthalmology, and/or licensed pursuant to
25 article 143 and/or article 144 of the education law to practice one or
26 more of such professions in this state, (ii) each member shall only
27 practice his or her profession as specified in his or her respective
28 professional enabling statute under article 131, article 143, or article
29 144 of the education law, and (iii) the clinical integration of profes-
30 sional practices within an integrated, multidisciplinary entity organ-
31 ized under this section does not alter, expand or curtail the scope of
32 practice of any of the individuals licensed under the statute of his or
33 her respective professional enabling law, provided that: (a) the clin-
34 ical judgment, management and clinical decision-making of one or more
35 article 131 providers in an integrated, multidisciplinary professional
36 service limited liability company shall be controlling, (b) members
37 licensed under article 143 and/or article 144 of the education law,
38 shall not, directly or indirectly, interfere with the clinical judgment
39 or legitimate clinical practice of a professional licensed under article
40 131, and (c) individuals licensed under article 131 may not order or
41 direct a professional licensed under article 143 and/or article 144 of
42 the education law to practice beyond the scope of his or her license
43 under article 143 and/or article 144 of the education law, even if
44 supervised directly or indirectly by a professional licensed under arti-
45 cle 131.

46 § 3. Subdivision (a) of section 1301 of the limited liability company
47 law, as amended by chapter 475 of the laws of 2014, is amended to read
48 as follows:

49 (a) "Foreign professional service limited liability company" means a
50 professional service limited liability company, whether or not denomi-
51 nated as such, organized under the laws of a jurisdiction other than
52 this state, (i) each of whose members and managers, if any, is a profes-
53 sional authorized by law to render a professional service within this
54 state and who is or has been engaged in the practice of such profession
55 in such professional service limited liability company or a predecessor
56 entity, or will engage in the practice of such profession in the profes-

1 sional service limited liability company within thirty days of the date
2 such professional becomes a member, or each of whose members and manag-
3 ers, if any, is a professional at least one of such members is author-
4 ized by law to render a professional service within this state and who
5 is or has been engaged in the practice of such profession in such
6 professional service limited liability company or a predecessor entity,
7 or will engage in the practice of such profession in the professional
8 service limited liability company within thirty days of the date such
9 professional becomes a member, or (ii) authorized by, or holding a
10 license, certificate, registration or permit issued by the licensing
11 authority pursuant to, the education law to render a professional
12 service within this state; except that all members and managers, if any,
13 of a foreign professional service limited liability company that
14 provides health services in this state shall be licensed in this state.
15 With respect to a foreign professional service limited liability company
16 which provides veterinary services as such services are defined in arti-
17 cle 135 of the education law, each member of such foreign professional
18 service limited liability company shall be licensed pursuant to article
19 135 of the education law to practice veterinary medicine. With respect
20 to a foreign professional service limited liability company which
21 provides medical services as such services are defined in article 131 of
22 the education law, each member of such foreign professional service
23 limited liability company must be licensed pursuant to article 131 of
24 the education law to practice medicine in this state. With respect to a
25 foreign professional service limited liability company which provides
26 dental services as such services are defined in article 133 of the
27 education law, each member of such foreign professional service limited
28 liability company must be licensed pursuant to article 133 of the educa-
29 tion law to practice dentistry in this state. With respect to a foreign
30 professional service limited liability company which provides profes-
31 sional engineering, land surveying, geologic, architectural and/or land-
32 scape architectural services as such services are defined in article
33 145, article 147 and article 148 of the education law, each member of
34 such foreign professional service limited liability company must be
35 licensed pursuant to article 145, article 147 and/or article 148 of the
36 education law to practice one or more of such professions in this state.
37 With respect to a foreign professional service limited liability company
38 which provides licensed clinical social work services as such services
39 are defined in article 154 of the education law, each member of such
40 foreign professional service limited liability company shall be licensed
41 pursuant to article 154 of the education law to practice clinical social
42 work in this state. With respect to a foreign professional service
43 limited liability company which provides creative arts therapy services
44 as such services are defined in article 163 of the education law, each
45 member of such foreign professional service limited liability company
46 must be licensed pursuant to article 163 of the education law to prac-
47 tice creative arts therapy in this state. With respect to a foreign
48 professional service limited liability company which provides marriage
49 and family therapy services as such services are defined in article 163
50 of the education law, each member of such foreign professional service
51 limited liability company must be licensed pursuant to article 163 of
52 the education law to practice marriage and family therapy in this state.
53 With respect to a foreign professional service limited liability company
54 which provides mental health counseling services as such services are
55 defined in article 163 of the education law, each member of such foreign
56 professional service limited liability company must be licensed pursuant

1 to article 163 of the education law to practice mental health counseling
2 in this state. With respect to a foreign professional service limited
3 liability company which provides psychoanalysis services as such
4 services are defined in article 163 of the education law, each member of
5 such foreign professional service limited liability company must be
6 licensed pursuant to article 163 of the education law to practice
7 psychoanalysis in this state. With respect to a foreign professional
8 service limited liability company which provides applied behavior analy-
9 sis services as such services are defined in article 167 of the educa-
10 tion law, each member of such foreign professional service limited
11 liability company must be licensed or certified pursuant to article 167
12 of the education law to practice applied behavior analysis in this
13 state. With respect to a foreign professional service limited liability
14 company formed to provide integrated, multidisciplinary medical services
15 defined in article 131 of the education law with optometry and/or
16 ophthalmic dispensing services defined in article 143 and/or article 144
17 of the education law, (i) each member of such limited liability company
18 must be licensed pursuant to article 131 and certified by the American
19 board of ophthalmology, and/or licensed pursuant to article 143 and/or
20 article 144 of the education law to practice one or more of such
21 professions in this state, (ii) each member shall only practice his or
22 her profession as specified in his or her respective professional enabl-
23 ing statute under article 131, article 143, or article 144 of the educa-
24 tion law, and (iii) the clinical integration of professional practices
25 within an integrated, multidisciplinary entity organized under this
26 section does not alter, expand or curtail the scope of practice of any
27 of the individuals licensed under the statute of his or her respective
28 professional enabling law, provided that: (a) the clinical judgment,
29 management and clinical decision-making of one or more article 131
30 providers in an integrated, multidisciplinary professional service
31 limited liability company shall be controlling, (b) members licensed
32 under article 143 and/or article 144 of the education law, shall not,
33 directly or indirectly, interfere with the clinical judgment or legiti-
34 mate clinical practice of a professional licensed under article 131, and
35 (c) individuals licensed under article 131 may not order or direct a
36 professional licensed under article 143 and/or article 144 of the educa-
37 tion law to practice beyond the scope of his or her license under arti-
38 cle 143 and/or article 144 of the education law, even if supervised
39 directly or indirectly by a professional licensed under article 131.

40 § 4. Paragraph (a) of section 1503 of the business corporation law, as
41 amended by chapter 475 of the laws of 2014, is amended to read as
42 follows:

43 (a) Notwithstanding any other provision of law, (i) one or more indi-
44 viduals duly authorized by law to render the same professional service
45 within the state may organize, or cause to be organized, a professional
46 service corporation for pecuniary profit under this article for the
47 purpose of rendering the same professional service, except that one or
48 more individuals duly authorized by law to practice professional engi-
49 neering, architecture, landscape architecture, land surveying or geology
50 within the state may organize, or cause to be organized, a professional
51 service corporation or a design professional service corporation for
52 pecuniary profit under this article for the purpose of rendering such
53 professional services as such individuals are authorized to practice[+],
54 and, (ii) one or more individuals duly licensed to practice medicine and
55 who are certified by the American board of ophthalmology, and one or
56 more optometrist and/or ophthalmic dispenser licensed under article 143

and/or article 144 of the education law, who may be board certified or qualified by his or her respective professional specialty boards, may organize, or cause to be organized, for business purposes only, a multidisciplinary professional service corporation formed for pecuniary profit under this article for the purpose of rendering integrated and non-integrated professional services within such a corporation as such individuals are authorized to practice individually in his or her respective professions, provided that the clinical integration of professional practices within an entity organized under this section does not alter, expand or curtail the scope of practice of any of the individuals licensed under the statute of his or her respective professional enabling law; that the clinical judgment, management and clinical decision-making of one or more article 131 providers in an integrated, multidisciplinary practice shall be controlling; that members licensed under article 143 and/or article 144 of the education law, shall not, directly or indirectly, interfere with the clinical judgment or legitimate clinical practice of a professional licensed under article 131; and that individuals licensed under article 131 may not order or direct a professional licensed under article 143 and/or article 144 of the education law to practice beyond the scope of his or her license under article 143 and/or article 144 of the education law in a professional service limited liability company, even if supervised directly or indirectly by a professional licensed under article 131.

§ 5. Subdivision (q) of section 121-1500 of the partnership law, as amended by chapter 475 of the laws of 2014, is amended to read as follows:

(q) Each partner of a registered limited liability partnership formed to provide medical services in this state must be licensed pursuant to article 131 of the education law to practice medicine in this state and each partner of a registered limited liability partnership formed to provide dental services in this state must be licensed pursuant to article 133 of the education law to practice dentistry in this state. Each partner of a registered limited liability partnership formed to provide veterinary services in this state must be licensed pursuant to article 135 of the education law to practice veterinary medicine in this state. Each partner of a registered limited liability partnership formed to provide professional engineering, land surveying, geological services, architectural and/or landscape architectural services in this state must be licensed pursuant to article 145, article 147 and/or article 148 of the education law to practice one or more of such professions in this state. Each partner of a registered limited liability partnership formed to provide licensed clinical social work services in this state must be licensed pursuant to article 154 of the education law to practice clinical social work in this state. Each partner of a registered limited liability partnership formed to provide creative arts therapy services in this state must be licensed pursuant to article 163 of the education law to practice creative arts therapy in this state. Each partner of a registered limited liability partnership formed to provide marriage and family therapy services in this state must be licensed pursuant to article 163 of the education law to practice marriage and family therapy in this state. Each partner of a registered limited liability partnership formed to provide mental health counseling services in this state must be licensed pursuant to article 163 of the education law to practice mental health counseling in this state. Each partner of a registered limited liability partnership formed to provide psychoanalysis services in this state must be licensed pursuant to article 163 of the education

1 law to practice psychoanalysis in this state. Each partner of a regis-
2 tered limited liability partnership formed to provide applied behavior
3 analysis service in this state must be licensed or certified pursuant to
4 article 167 of the education law to practice applied behavior analysis
5 in this state. Each partner of a registered limited liability partner-
6 ship formed to provide integrated, multidisciplinary medical services
7 defined in article 131 of the education law with optometry and/or
8 ophthalmic dispensing services defined in article 143 and/or article 144
9 of the education law, (i) must be licensed pursuant to article 131 and
10 certified by the American board of ophthalmology, and/or licensed pursu-
11 ant to article 143 and/or article 144 of the education law to practice
12 one or more of such professions in this state; and (ii) shall only prac-
13 tice his or her profession as specified in his or her respective profes-
14 sional enabling statute under article 131, article 143, or article 144
15 of the education law. The clinical integration of professional practices
16 within an integrated, multi-disciplinary entity organized under this
17 section does not alter, expand or curtail the scope of practice of any
18 of the individuals licensed under the statute of his or her respective
19 professional enabling law, provided that: (a) the clinical judgment,
20 management and clinical decision-making of one or more article 131
21 providers in an integrated, multidisciplinary professional service
22 limited liability company shall be controlling, (b) members licensed
23 under article 143 and/or article 144 of the education law, shall not,
24 directly or indirectly, interfere with the clinical judgment or legiti-
25 mate clinical practice of a professional licensed under article 131, and
26 (c) individuals licensed under article 131 may not order or direct a
27 professional licensed under article 143 and/or article 144 of the educa-
28 tion law to practice beyond the scope of his or her license under arti-
29 cle 143 and/or article 144 of the education law, even if supervised
30 directly or indirectly by a professional licensed under article 131.

31 § 6. Subdivision (q) of section 121-1502 of the partnership law, as
32 amended by chapter 475 of the laws of 2014, is amended to read as
33 follows:

34 (q) Each partner of a foreign limited liability partnership which
35 provides medical services in this state must be licensed pursuant to
36 article 131 of the education law to practice medicine in the state and
37 each partner of a foreign limited liability partnership which provides
38 dental services in the state must be licensed pursuant to article 133 of
39 the education law to practice dentistry in this state. Each partner of a
40 foreign limited liability partnership which provides veterinary service
41 in the state shall be licensed pursuant to article 135 of the education
42 law to practice veterinary medicine in this state. Each partner of a
43 foreign limited liability partnership which provides professional engi-
44 neering, land surveying, geological services, architectural and/or land-
45 scape architectural services in this state must be licensed pursuant to
46 article 145, article 147 and/or article 148 of the education law to
47 practice one or more of such professions. Each partner of a foreign
48 limited liability partnership which provides licensed clinical social
49 work services in this state must be licensed pursuant to article 154 of
50 the education law to practice licensed clinical social work in this
51 state. Each partner of a foreign limited liability partnership which
52 provides creative arts therapy services in this state must be licensed
53 pursuant to article 163 of the education law to practice creative arts
54 therapy in this state. Each partner of a foreign limited liability part-
55 nership which provides marriage and family therapy services in this
56 state must be licensed pursuant to article 163 of the education law to

1 practice marriage and family therapy in this state. Each partner of a
2 foreign limited liability partnership which provides mental health coun-
3 seling services in this state must be licensed pursuant to article 163
4 of the education law to practice mental health counseling in this state.
5 Each partner of a foreign limited liability partnership which provides
6 psychoanalysis services in this state must be licensed pursuant to arti-
7 cle 163 of the education law to practice psychoanalysis in this state.
8 Each partner of a foreign limited liability partnership which provides
9 applied behavior analysis services in this state must be licensed or
10 certified pursuant to article 167 of the education law to practice
11 applied behavior analysis in this state. Each partner of a foreign
12 limited liability partnership formed to provide integrated, multidisci-
13 plinary medical services defined in article 131 of the education law
14 with optometry and/or ophthalmic dispensing services defined in article
15 143 and/or article 144 of the education law, (i) must be licensed pursu-
16 ant to article 131 and certified by the American board of ophthalmology,
17 and/or licensed pursuant to article 143 and/or article 144 of the educa-
18 tion law to practice one or more of such professions in this state; and
19 (ii) shall only practice his or her profession as specified in his or
20 her respective professional enabling statute under article 131, article
21 143, or article 144 of the education law. The clinical integration of
22 professional practices within an integrated, multidisciplinary entity
23 organized under this section does not alter, expand or curtail the scope
24 of practice of any of the individuals licensed under the statute of his
25 or her respective professional enabling law, provided that: (a) the
26 clinical judgment, management and clinical decision-making of one or
27 more article 131 providers in an integrated, multidisciplinary profes-
28 sional service limited liability company shall be controlling, (b)
29 members not licensed under article 131 of the education law, shall not,
30 directly or indirectly, interfere with the clinical judgment or legiti-
31 mate clinical practice of a professional licensed under article 131, and
32 (c) individuals licensed under article 131 may not order or direct a
33 professional licensed under article 143 and/or article 144 of the educa-
34 tion law to practice beyond the scope of his or her license under arti-
35 cle 143 and/or article 144 of the education law, even if supervised
36 directly or indirectly by a professional licensed under article 131.

37 § 7. Subdivision 1 of section 2801 of the public health law, as
38 amended by chapter 397 of the laws of 2016, is amended to read as
39 follows:

40 1. "Hospital" means a facility or institution engaged principally in
41 providing services by or under the supervision of a physician or, in the
42 case of a dental clinic or dental dispensary, of a dentist, or, in the
43 case of a midwifery birth center, of a midwife, for the prevention,
44 diagnosis or treatment of human disease, pain, injury, deformity or
45 physical condition, including, but not limited to, a general hospital,
46 public health center, diagnostic center, treatment center, dental clin-
47 ic, dental dispensary, rehabilitation center other than a facility used
48 solely for vocational rehabilitation, nursing home, tuberculosis hospi-
49 tal, chronic disease hospital, maternity hospital, midwifery birth
50 center, lying-in-asylum, out-patient department, out-patient lodge,
51 dispensary and a laboratory or central service facility serving one or
52 more such institutions, but the term hospital shall not include an
53 institution, sanitarium or other facility engaged principally in provid-
54 ing services for the prevention, diagnosis or treatment of mental disa-
55 bility and which is subject to the powers of visitation, examination,
56 inspection and investigation of the department of mental hygiene except

1 for those distinct parts of such a facility which provide hospital
2 service. The provisions of this article shall not apply to a facility or
3 institution engaged principally in providing services by or under the
4 supervision of the bona fide members and adherents of a recognized reli-
5 gious organization whose teachings include reliance on spiritual means
6 through prayer alone for healing in the practice of the religion of such
7 organization and where services are provided in accordance with those
8 teachings or to a business corporation, limited liability corporation or
9 partnership between a medical doctor and a duly licensed title VIII
10 healthcare professional.

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

13 19. Permitting any person to share in the fees for professional
14 services, other than: a partner, employee, associate in a professional
15 firm or corporation, professional subcontractor or consultant authorized
16 to practice medicine, or a legally authorized trainee practicing under
17 the supervision of a licensee or an optometrist and/or ophthalmic
18 dispenser providing professional services in the same practice. This
19 prohibition shall include any arrangement or agreement whereby the
20 amount received in payment for furnishing space, facilities, equipment
21 or personnel services used by a licensee constitutes a percentage of, or
22 is otherwise dependent upon, the income or receipts of the licensee from
23 such practice, except as otherwise provided by law with respect to a
24 facility licensed pursuant to article twenty-eight of the public health
25 law or article thirteen of the mental hygiene law;

26 § 9. Section 6509-a of the education law, as amended by chapter 555 of
27 the laws of 1993, is amended to read as follows:

28 § 6509-a. Additional definition of professional misconduct; limited
29 application. Notwithstanding any inconsistent provision of this article
30 or of any other provision of law to the contrary, the license or regis-
31 tration of a person subject to the provisions of articles one hundred
32 thirty-two, one hundred thirty-three, one hundred thirty-six, one
33 hundred thirty-seven, one hundred thirty-nine, one hundred forty-one,
34 one hundred forty-three, one hundred forty-four, one hundred fifty-six,
35 one hundred fifty-nine and one hundred sixty-four of this chapter may be
36 revoked, suspended or annulled or such person may be subject to any
37 other penalty provided in section sixty-five hundred eleven of this
38 article in accordance with the provisions and procedure of this article
39 for the following:

40 That any person subject to the above enumerated articles, has directly
41 or indirectly requested, received or participated in the division,
42 transference, assignment, rebate, splitting or refunding of a fee for,
43 or has directly requested, received or profited by means of a credit or
44 other valuable consideration as a commission, discount or gratuity in
45 connection with the furnishing of professional care, or service, includ-
46 ing x-ray examination and treatment, or for or in connection with the
47 sale, rental, supplying or furnishing of clinical laboratory services or
48 supplies, x-ray laboratory services or supplies, inhalation therapy
49 service or equipment, ambulance service, hospital or medical supplies,
50 physiotherapy or other therapeutic service or equipment, artificial
51 limbs, teeth or eyes, orthopedic or surgical appliances or supplies,
52 optical appliances, supplies or equipment, devices for aid of hearing,
53 drugs, medication or medical supplies or any other goods, services or
54 supplies prescribed for medical diagnosis, care or treatment under this
55 chapter, except payment, not to exceed thirty-three and one-third per
56 centum of any fee received for x-ray examination, diagnosis or treat-

ment, to any hospital furnishing facilities for such examination, diagnosis or treatment. Nothing contained in this section shall prohibit such persons from practicing as partners, in groups or as a professional corporation or as a university faculty practice corporation nor from pooling fees and moneys received, either by the partnerships, professional corporations, university faculty practice corporations or groups by the individual members thereof, for professional services furnished by any individual professional member, or employee of such partnership, corporation or group, nor shall the professionals constituting the partnerships, corporations or groups be prohibited from sharing, dividing or apportioning the fees and moneys received by them or by the partnership, corporation or group in accordance with a partnership or other agreement; provided that no such practice as partners, corporations or in groups or pooling of fees or moneys received or shared, division or apportionment of fees shall be permitted with respect to care and treatment under the workers' compensation law except as expressly authorized by the workers' compensation law. Nothing contained in this section, shall prohibit an integrated, multidisciplinary medical and optometry and/or ophthalmic dispensing practice formed pursuant to subdivision (a) or (b) of section twelve hundred three of the limited liability company law, subdivision (a) of section thirteen hundred one of the limited liability company law, paragraph (a) of section fifteen hundred three of the business corporation law, subdivision (g) of section 121-1500 of the partnership law, or subdivision (g) of section 121-1502 of the partnership law from pooling fees or monies received. Nothing contained in this chapter shall prohibit a medical or dental expense indemnity corporation pursuant to its contract with the subscriber from prorationing a medical or dental expense indemnity allowance among two or more professionals in proportion to the services rendered by each such professional at the request of the subscriber, provided that prior to payment thereof such professionals shall submit both to the medical or dental expense indemnity corporation and to the subscriber statements itemizing the services rendered by each such professional and the charges therefor.

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

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

That any person subject to the above-enumerated articles has directly or indirectly requested, received or participated in the division, transference, assignment, rebate, splitting, or refunding of a fee for, or has directly requested, received or profited by means of a credit or other valuable consideration as a commission, discount or gratuity, in connection with the furnishing of professional care or service, including x-ray examination and treatment, or for or in connection with the sale, rental, supplying, or furnishing of clinical laboratory services or supplies, x-ray laboratory services or supplies, inhalation therapy service or equipment, ambulance service, hospital or medical supplies, physiotherapy or other therapeutic service or equipment, artificial limbs, teeth or eyes, orthopedic or surgical appliances or supplies, optical appliances, supplies, or equipment, devices for aid of hearing,

1 drugs, medication, or medical supplies, or any other goods, services, or
2 supplies prescribed for medical diagnosis, care, or treatment under this
3 chapter, except payment, not to exceed thirty-three and one-third
4 percent of any fee received for x-ray examination, diagnosis, or treat-
5 ment, to any hospital furnishing facilities for such examination, diag-
6 nosis, or treatment. Nothing contained in this section shall prohibit
7 such persons from practicing as partners, in groups or as a professional
8 corporation or as a university faculty practice corporation, nor from
9 pooling fees and moneys received, either by the partnerships, profes-
10 sional corporations, or university faculty practice corporations or
11 groups by the individual members thereof, for professional services
12 furnished by an individual professional member, or employee of such
13 partnership, corporation, or group, nor shall the professionals consti-
14 tuting the partnerships, corporations or groups be prohibited from shar-
15 ing, dividing, or apportioning the fees and moneys received by them or
16 by the partnership, corporation, or group in accordance with a partner-
17 ship or other agreement; provided that no such practice as partners,
18 corporations, or groups, or pooling of fees or moneys received or
19 shared, division or apportionment of fees shall be permitted with
20 respect to and treatment under the workers' compensation law. Nothing
21 contained in this section, shall prohibit an integrated, multidiscipli-
22 nary medical and optometry and/or ophthalmic dispensing practice formed
23 pursuant to subdivision (a) or (b) of section twelve hundred three of
24 the limited liability company law, subdivision (a) of section thirteen
25 hundred one of the limited liability company law, paragraph (a) of
26 section fifteen hundred three of the business corporation law, subdivi-
27 sion (q) of section 121-1500 of the partnership law, or subdivision (q)
28 of section 121-1502 of the partnership law from pooling fees or monies
29 received. Nothing contained in this chapter shall prohibit a corporation
30 licensed pursuant to article forty-three of the insurance law pursuant
31 to its contract with the subscriber from prorationing a medical or
32 dental expenses indemnity allowance among two or more professionals in
33 proportion to the services rendered by each such professional at the
34 request of the subscriber, provided that prior to payment thereof such
35 professionals shall submit both to the corporation licensed pursuant to
36 article forty-three of the insurance law and to the subscriber state-
37 ments itemizing the services rendered by each such professional and the
38 charges therefor.

39 § 11. This act shall take effect on the thirtieth day after it shall
40 have become a law.