

STATE OF NEW YORK

4291

2017-2018 Regular Sessions

IN SENATE

February 8, 2017

Introduced by Sen. FUNKE -- 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 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

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

LBD09388-01-7

1 as such services are defined in article 135 of the education law, each
2 member of such limited liability company must be licensed pursuant to
3 article 135 of the education law to practice veterinary medicine in this
4 state. With respect to a professional service limited liability company
5 formed to provide professional engineering, land surveying, architec-
6 tural, landscape architectural and/or geological services as such
7 services are defined in article 145, article 147 and article 148 of the
8 education law, each member of such limited liability company must be
9 licensed pursuant to article 145, article 147 and/or article 148 of the
10 education law to practice one or more of such professions in this state.
11 With respect to a professional service limited liability company formed
12 to provide licensed clinical social work services as such services are
13 defined in article 154 of the education law, each member of such limited
14 liability company shall be licensed pursuant to article 154 of the
15 education law to practice licensed clinical social work in this state.
16 With respect to a professional service limited liability company formed
17 to provide creative arts therapy services as such services are defined
18 in article 163 of the education law, each member of such limited liabil-
19 ity company must be licensed pursuant to article 163 of the education
20 law to practice creative arts therapy in this state. With respect to a
21 professional service limited liability company formed to provide
22 marriage and family therapy services as such services are defined in
23 article 163 of the education law, each member of such limited liability
24 company must be licensed pursuant to article 163 of the education law to
25 practice marriage and family therapy in this state. With respect to a
26 professional service limited liability company formed to provide mental
27 health counseling services as such services are defined in article 163
28 of the education law, each member of such limited liability company must
29 be licensed pursuant to article 163 of the education law to practice
30 mental health counseling in this state. With respect to a professional
31 service limited liability company formed to provide psychoanalysis
32 services as such services are defined in article 163 of the education
33 law, each member of such limited liability company must be licensed
34 pursuant to article 163 of the education law to practice psychoanalysis
35 in this state. With respect to a professional service limited liability
36 company formed to provide applied behavior analysis services as such
37 services are defined in article 167 of the education law, each member of
38 such limited liability company must be licensed or certified pursuant to
39 article 167 of the education law to practice applied behavior analysis
40 in this state. In addition to engaging in such profession or
41 professions, a professional service limited liability company may engage
42 in any other business or activities as to which a limited liability
43 company may be formed under section two hundred one of this chapter.
44 Notwithstanding any other provision of this section, a professional
45 service limited liability company (i) authorized to practice law may
46 only engage in another profession or business or activities or (ii)
47 which is engaged in a profession or other business or activities other
48 than law may only engage in the practice of law, to the extent not
49 prohibited by any other law of this state or any rule adopted by the
50 appropriate appellate division of the supreme court or the court of
51 appeals. Notwithstanding any other provision of this section, with
52 respect to a limited liability company formed to provide integrated,
53 multidisciplinary medical and chiropractic services, as such services
54 are respectively defined under articles 131 and 132 of the education
55 law, (i) each member of such limited liability company must be licensed
56 pursuant to article 131 or article 132 of the education law to practice

1 his or her profession in this state, (ii) each member shall only prac-
2 tice his or her profession as specified in his or her respective profes-
3 sional enabling statute under article 131 or article 132 of the educa-
4 tion law, and (iii) the clinical integration of professional practices
5 within an integrated, multidisciplinary entity organized under this
6 section does not alter, expand or curtail the scope of practice of any
7 of the individuals licensed under the statute of his or her respective
8 professional enabling law, provided that: (a) the clinical judgment,
9 management and clinical decision-making of one or more article 131
10 providers in an integrated, multidisciplinary professional service
11 limited liability company shall be controlling, (b) members licensed
12 under article 132 of the education law, shall not, directly or indirect-
13 ly, interfere with the clinical judgment or legitimate clinical practice
14 of a professional licensed under article 131, and (c) individuals
15 licensed under article 131 may not order or direct a professional
16 licensed under article 132 of the education law to practice beyond the
17 scope of his or her license under article 132 of the education law, even
18 if supervised directly or indirectly by a professional licensed under
19 article 131.

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

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

1 article 163 of the education law to practice marriage and family therapy
2 in this state. With respect to a professional service limited liability
3 company formed to provide mental health counseling services as such
4 services are defined in article 163 of the education law, each member of
5 such limited liability company must be licensed pursuant to article 163
6 of the education law to practice mental health counseling in this state.
7 With respect to a professional service limited liability company formed
8 to provide psychoanalysis services as such services are defined in arti-
9 cle 163 of the education law, each member of such limited liability
10 company must be licensed pursuant to article 163 of the education law to
11 practice psychoanalysis in this state. With respect to a professional
12 service limited liability company formed to provide applied behavior
13 analysis services as such services are defined in article 167 of the
14 education law, each member of such limited liability company must be
15 licensed or certified pursuant to article 167 of the education law to
16 practice applied behavior analysis in this state. Notwithstanding any
17 other provision of this section, with respect to a professional service
18 limited liability company formed to provide integrated, multidiscipli-
19 nary medical and chiropractic services, as such services are respective-
20 ly defined under articles 131 and 132 of the education law, (i) each
21 member of such limited liability company must be licensed pursuant to
22 article 131 or article 132 of the education law to practice his or her
23 profession in this state, (ii) each member shall only practice his or
24 her profession as specified in his or her respective professional enabl-
25 ing statute under article 131 or article 132 of the education law, and
26 (iii) the clinical integration of professional practices within an inte-
27 grated, multidisciplinary entity organized under this section does not
28 alter, expand or curtail the scope of practice of any of the individuals
29 licensed under the statute of his or her respective professional enabl-
30 ing law, provided that: (a) the clinical judgment, management and clin-
31 ical decision-making of one or more article 131 providers in an inte-
32 grated, multidisciplinary professional service limited liability company
33 shall be controlling, (b) members licensed under article 132 of the
34 education law, shall not, directly or indirectly, interfere with the
35 clinical judgment or legitimate clinical practice of a professional
36 licensed under article 131, and (c) individuals licensed under article
37 131 may not order or direct a professional licensed under article 132 of
38 the education law to practice beyond the scope of his or her license
39 under article 132 of the education law, even if supervised directly or
40 indirectly by a professional licensed under article 131.

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

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

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

1 licensed pursuant to article 163 of the education law to practice
2 psychoanalysis in this state. With respect to a foreign professional
3 service limited liability company which provides applied behavior analy-
4 sis services as such services are defined in article 167 of the educa-
5 tion law, each member of such foreign professional service limited
6 liability company must be licensed or certified pursuant to article 167
7 of the education law to practice applied behavior analysis in this
8 state. With respect to a foreign professional service limited liability
9 company formed to provide integrated, multi-disciplinary medical and
10 chiropractic services, as such services are respectively defined under
11 article 131 and article 132 of the education law, (i) each member of
12 such limited liability company must be licensed pursuant to article 131
13 or article 132 of the education law to practice his or her profession in
14 this state, (ii) each member shall only practice his or her profession
15 as specified in his or her respective professional enabling statute
16 under article 131 or article 132 of the education law, and (iii) the
17 clinical integration of professional practices within an integrated,
18 multidisciplinary entity organized under this section does not alter,
19 expand or curtail the scope of practice of any of the individuals
20 licensed under the statute of his or her respective professional enabl-
21 ing law, provided that: (a) the clinical judgment, management and clin-
22 ical decision-making of one or more article 131 providers in an inte-
23 grated, multidisciplinary professional service limited liability company
24 shall be controlling, (b) members licensed under article 132 of the
25 education law, shall not, directly or indirectly, interfere with the
26 clinical judgment or legitimate clinical practice of a professional
27 licensed under article 131, and (c) individuals licensed under article
28 131 may not order or direct a professional licensed under article 132 of
29 the education law to practice beyond the scope of his or her license
30 under article 132 of the education law, even if supervised directly or
31 indirectly by a professional licensed under article 131.

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

35 (a) Notwithstanding any other provision of law, (i) one or more indi-
36 viduals duly authorized by law to render the same professional service
37 within the state may organize, or cause to be organized, a professional
38 service corporation for pecuniary profit under this article for the
39 purpose of rendering the same professional service, except that one or
40 more individuals duly authorized by law to practice professional engi-
41 neering, architecture, landscape architecture, land surveying or geology
42 within the state may organize, or cause to be organized, a professional
43 service corporation or a design professional service corporation for
44 pecuniary profit under this article for the purpose of rendering such
45 professional services as such individuals are authorized to practice,
46 and, (ii) one or more individuals duly licensed to practice medicine and
47 one or more chiropractors licensed under article 132 of the education
48 law, who may be board certified or qualified by his or her respective
49 professional specialty boards, may organize, or cause to be organized,
50 for business purposes only, a multidisciplinary professional service
51 corporation formed for pecuniary profit under this article for the
52 purpose of rendering integrated and non-integrated professional services
53 within such a corporation as such individuals are authorized to practice
54 individually in his or her respective professions, provided that the
55 clinical integration of professional practices within an entity organ-
56 ized 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 132 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 132 of the education law to practice beyond the scope of his or her license under article 132 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 law to practice psychoanalysis in this state. Each partner of a registered limited liability partnership formed to provide applied behavior analysis service in this state must be licensed or certified pursuant to article 167 of the education law to practice applied behavior analysis in this state. Each partner of a registered limited liability partnership formed to provide integrated, multidisciplinary medical and chiropractic services, as such services are respectively defined under article 131 and article 132 of the education law, (i) must be licensed pursuant to article 131 or article 132 of the education law to practice his or her profession in this state, (ii) shall only practice his or her

profession as specified in his or her respective professional enabling statute under article 131 or article 132 of the education law, and (iii) the clinical integration of professional practices within an integrated, multi-disciplinary 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 132 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 132 of the education law to practice beyond the scope of his or her license under article 132 of the education law, even if supervised directly or indirectly by a professional licensed under article 131.

§ 6. Subdivision (q) of section 121-1502 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 foreign limited liability partnership which provides medical services in this state must be licensed pursuant to article 131 of the education law to practice medicine in the state and each partner of a foreign limited liability partnership which provides dental services in the state must be licensed pursuant to article 133 of the education law to practice dentistry in this state. Each partner of a foreign limited liability partnership which provides veterinary service in the state shall be licensed pursuant to article 135 of the education law to practice veterinary medicine in this state. Each partner of a foreign limited liability partnership which provides 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. Each partner of a foreign limited liability partnership which provides licensed clinical social work services in this state must be licensed pursuant to article 154 of the education law to practice licensed clinical social work in this state. Each partner of a foreign limited liability partnership which provides 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 foreign limited liability partnership which provides 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 foreign limited liability partnership which provides 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 foreign limited liability partnership which provides psychoanalysis services in this state must be licensed pursuant to article 163 of the education law to practice psychoanalysis in this state. Each partner of a foreign limited liability partnership which provides applied behavior analysis services in this state must be licensed or certified pursuant to article 167 of the education law to practice applied behavior analysis in this state. Each partner of a foreign limited liability partnership formed to provide integrated, multidisciplinary medical and chiropractic services, as such services are defined

1 under article 131 or article 132 of the education law, (i) must be
2 licensed pursuant to article 131 or article 132 of the education law to
3 practice his or her profession in this state, (ii) shall only practice
4 his or her profession as specified in his or her respective professional
5 enabling statute under article 131 or article 132 of the education law,
6 and (iii) the clinical integration of professional practices within an
7 integrated, multidisciplinary entity organized under this section does
8 not alter, expand or curtail the scope of practice of any of the indi-
9 viduals licensed under the statute of his or her respective professional
10 enabling law, provided that: (a) the clinical judgment, management and
11 clinical decision-making of one or more article 131 providers in an
12 integrated, multidisciplinary professional service limited liability
13 company shall be controlling, (b) members not licensed under article 131
14 of the education law, shall not, directly or indirectly, interfere with
15 the clinical judgment or legitimate clinical practice of a professional
16 licensed under article 131, and (c) individuals licensed under article
17 131 may not order or direct a professional licensed under article 132 of
18 the education law to practice beyond the scope of his or her license
19 under article 132 of the education law, even if supervised directly or
20 indirectly by a professional licensed under article 131.

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

24 1. "Hospital" means a facility or institution engaged principally in
25 providing services by or under the supervision of a physician or, in the
26 case of a dental clinic or dental dispensary, of a dentist, or, in the
27 case of a midwifery birth center, of a midwife, for the prevention,
28 diagnosis or treatment of human disease, pain, injury, deformity or
29 physical condition, including, but not limited to, a general hospital,
30 public health center, diagnostic center, treatment center, dental clin-
31 ic, dental dispensary, rehabilitation center other than a facility used
32 solely for vocational rehabilitation, nursing home, tuberculosis hospi-
33 tal, chronic disease hospital, maternity hospital, midwifery birth
34 center, lying-in-asylum, out-patient department, out-patient lodge,
35 dispensary and a laboratory or central service facility serving one or
36 more such institutions, but the term hospital shall not include an
37 institution, sanitarium or other facility engaged principally in provid-
38 ing services for the prevention, diagnosis or treatment of mental disa-
39 bility and which is subject to the powers of visitation, examination,
40 inspection and investigation of the department of mental hygiene except
41 for those distinct parts of such a facility which provide hospital
42 service. The provisions of this article shall not apply to a facility or
43 institution engaged principally in providing services by or under the
44 supervision of the bona fide members and adherents of a recognized reli-
45 gious organization whose teachings include reliance on spiritual means
46 through prayer alone for healing in the practice of the religion of such
47 organization and where services are provided in accordance with those
48 teachings or to a business corporation, limited liability corporation or
49 partnership between a medical doctor and a duly licensed title VIII
50 healthcare professional.

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

53 19. Permitting any person to share in the fees for professional
54 services, other than: a partner, employee, associate in a professional
55 firm or corporation, professional subcontractor or consultant authorized
56 to practice medicine, or a legally authorized trainee practicing under

1 the supervision of a licensee or a chiropractor providing professional
2 services in the same practice. This prohibition shall include any
3 arrangement or agreement whereby the amount received in payment for
4 furnishing space, facilities, equipment or personnel services used by a
5 licensee constitutes a percentage of, or is otherwise dependent upon,
6 the income or receipts of the licensee from such practice, except as
7 otherwise provided by law with respect to a facility licensed pursuant
8 to article twenty-eight of the public health law or article thirteen of
9 the mental hygiene law;

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

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

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

1 by the workers' compensation law. Nothing contained in this section,
2 shall prohibit a multidisciplinary medical and chiropractic practice
3 formed pursuant to subdivision (a) or (b) of section twelve hundred
4 three of the limited liability company law, subdivision (a) of section
5 thirteen hundred one of the limited liability company law, paragraph (a)
6 of section fifteen hundred three of the business corporation law, subdivi-
7 vision (q) of section 121-1500 of the partnership law, or subdivision
8 (q) of section 121-1502 of the partnership law from pooling fees or
9 monies received. Nothing contained in this chapter shall prohibit a
10 medical or dental expense indemnity corporation pursuant to its contract
11 with the subscriber from prorationing a medical or dental expense indem-
12 nity allowance among two or more professionals in proportion to the
13 services rendered by each such professional at the request of the
14 subscriber, provided that prior to payment thereof such professionals
15 shall submit both to the medical or dental expense indemnity corporation
16 and to the subscriber statements itemizing the services rendered by each
17 such professional and the charges therefor.

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

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

28 That any person subject to the above-enumerated articles has directly
29 or indirectly requested, received or participated in the division,
30 transference, assignment, rebate, splitting, or refunding of a fee for,
31 or has directly requested, received or profited by means of a credit or
32 other valuable consideration as a commission, discount or gratuity, in
33 connection with the furnishing of professional care or service, includ-
34 ing x-ray examination and treatment, or for or in connection with the
35 sale, rental, supplying, or furnishing of clinical laboratory services
36 or supplies, x-ray laboratory services or supplies, inhalation therapy
37 service or equipment, ambulance service, hospital or medical supplies,
38 physiotherapy or other therapeutic service or equipment, artificial
39 limbs, teeth or eyes, orthopedic or surgical appliances or supplies,
40 optical appliances, supplies, or equipment, devices for aid of hearing,
41 drugs, medication, or medical supplies, or any other goods, services, or
42 supplies prescribed for medical diagnosis, care, or treatment under this
43 chapter, except payment, not to exceed thirty-three and one-third
44 percent of any fee received for x-ray examination, diagnosis, or treat-
45 ment, to any hospital furnishing facilities for such examination, diag-
46 nosis, or treatment. Nothing contained in this section shall prohibit
47 such persons from practicing as partners, in groups or as a professional
48 corporation or as a university faculty practice corporation, nor from
49 pooling fees and moneys received, either by the partnerships, profes-
50 sional corporations, or university faculty practice corporations or
51 groups by the individual members thereof, for professional services
52 furnished by an individual professional member, or employee of such
53 partnership, corporation, or group, nor shall the professionals consti-
54 tuting the partnerships, corporations or groups be prohibited from shar-
55 ing, dividing, or apportioning the fees and moneys received by them or
56 by the partnership, corporation, or group in accordance with a partner-

1 ship or other agreement; provided that no such practice as partners,
2 corporations, or groups, or pooling of fees or moneys received or
3 shared, division or apportionment of fees shall be permitted with
4 respect to and treatment under the workers' compensation law. Nothing
5 contained in this section, shall prohibit a multidisciplinary medical
6 and chiropractic practice formed pursuant to subdivision (a) or (b) of
7 section twelve hundred three of the limited liability company law,
8 subdivision (a) of section thirteen hundred one of the limited liability
9 company law, paragraph (a) of section fifteen hundred three of the busi-
10 ness corporation law, subdivision (q) of section 121-1500 of the part-
11 nership law, or subdivision (q) of section 121-1502 of the partnership
12 law from pooling fees or monies received. Nothing contained in this
13 chapter shall prohibit a corporation licensed pursuant to article
14 forty-three of the insurance law pursuant to its contract with the
15 subscribed from prorationing a medical or dental expenses indemnity
16 allowance among two or more professionals in proportion to the services
17 rendered by each such professional at the request of the subscriber,
18 provided that prior to payment thereof such professionals shall submit
19 both to the corporation licensed pursuant to article forty-three of the
20 insurance law and to the subscriber statements itemizing the services
21 rendered by each such professional and the charges therefor.

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