STATE OF NEW YORK

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2019-2020 Regular Sessions

IN ASSEMBLY

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Introduced by M. of A. WEPRIN, BUCHWALD -- Multi-Sponsored by -- M. of A. PAULIN, WALKER -- 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 allowing psychologists licensed under title VIII, article 153 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:

Section 1. Legislative intent. This bill would authorize physicians and psychologists to form limited liability companies, professional corporations and partnerships with one another. In the last two decades, practice in and among the health professions has changed. Artificial barriers in current law prohibit multidisciplinary practices, which prevents physicians and other providers, including psychologists, from co-owning a practice and collaborating and coordinating on patient care. Such restraints should not prevail, as they are no longer in keeping with best practices in modern health care which espouse the integration of behavioral and physical health.

§ 2. Subdivision (a) of section 1203 of the limited liability company law, as amended by chapter 475 of the laws of 2014, is amended to read as follows:

(a) Notwithstanding the education law or any other provision of law, one or more professionals each of whom is authorized by law to render a professional service within the state, or one or more professionals, at least one of whom is authorized by law to render a professional service within the state, may form, or cause to be formed, a professional service limited liability company for pecuniary profit under this article for the purpose of rendering the professional service or services as such professionals are authorized to practice. With respect to a profes-

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

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sional 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 member of such limited liability company must be licensed pursuant to article 163 of the education law to practice marriage and family therapy in this state. With respect to a professional service limited liability company formed to provide mental health counseling 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 mental health counseling in this state. With respect to a professional service limited liability company formed to provide psychoanalysis 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 psychoanalysis in this state. With respect to a professional service limited liability company formed to provide applied behavior analysis services as such services are defined in article 167 of the education law, each member of such limited liability company must be licensed or certified pursuant to article 167 of the education law to practice applied behavior analysis in this state. In addition to engaging in such profession or professions, a professional service limited liability company may engage in any other business or activities as to which a limited liability company may be formed under section two hundred one of this chapter. Notwithstanding any other provision of this section, a professional service limited liability company (i) authorized to practice law may only engage in another profession or business or activities or (ii)

which is engaged in a profession or other business or activities other than law may only engage in the practice of law, to the extent not prohibited by any other law of this state or any rule adopted by the appropriate appellate division of the supreme court or the court of appeals. **Notwithstanding any other provision of this section, with respect to a limited liability company formed to provide integrated, multidisciplinary medical and psychological services, as such services are respectively defined under articles 131 and 153 of the education law, (i) each member of such limited liability company must be licensed pursuant to article 131 or article 153 of the education law to practice his or her profession 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 or article 153 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) members licensed under article 153 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, (b) members licensed under article 131 shall not, directly or indirectly, interfere with the clinical judgment or legitimate clinical practice of a professional licensed under article 153, and (c) individuals licensed under article 131 may not order or direct a professional licensed under article 153 of the education law to practice beyond the scope of his or her license under article 153 of the education law, even if supervised directly or indirectly by a professional licensed under article 131.**

§ 3. 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 clin-

ical 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 member of such limited liability company must be licensed pursuant to article 163 of the education law to practice marriage and family therapy in this state. With respect to a professional service limited liability company formed to provide mental health counseling 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 mental health counseling in this state. With respect to a professional service limited liability company formed to provide psychoanalysis 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 psychoanalysis in this state. With respect to a professional service limited liability company formed to provide applied behavior analysis services as such services are defined in article 167 of the education law, each member of such limited liability company must be licensed or certified pursuant to article 167 of the education law to practice applied behavior analysis in this state. **Notwithstanding any other provision of this section, with respect to a professional service limited liability company formed to provide integrated, multidisciplinary medical and psychological services, as such services are respectively defined under articles 131 and 153 of the education law, (i) each member of such limited liability company must be licensed pursuant to article 131 or article 153 of the education law to practice his or her profession 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 or article 153 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) members licensed under article 153 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, (b) members licensed under article 131 shall not, directly or indirectly, interfere with the clinical judgment or legitimate clinical practice of a professional licensed under article 153, and (c) individuals licensed under article 131 may not order or direct a professional licensed under article 153 of the education law to practice beyond the scope of his or her license under article 153 of the education law, even if supervised directly or indirectly by a professional licensed under article 131.**

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

(a) "Foreign professional service limited liability company" means a professional service limited liability company, whether or not denominated as such, organized under the laws of a jurisdiction other than this state, (i) each of whose members and managers, if any, is a profes-

sional authorized by law to render a professional service within this state and who is or has been engaged in the practice of such profession in such professional service limited liability company or a predecessor entity, or will engage in the practice of such profession in the professional service limited liability company within thirty days of the date such professional becomes a member, or each of whose members and managers, if any, is a professional at least one of such members is authorized by law to render a professional service within this state and who is or has been engaged in the practice of such profession in such professional service limited liability company or a predecessor entity, or will engage in the practice of such profession in the professional service limited liability company within thirty days of the date such professional becomes a member, or (ii) authorized by, or holding a license, certificate, registration or permit issued by the licensing authority pursuant to, the education law to render a professional service within this state; except that all members and managers, if any, of a foreign professional service limited liability company that provides health services in this state shall be licensed in this state. With respect to a foreign professional service limited liability company which provides veterinary services as such services are defined in article 135 of the education law, each member of such foreign professional service limited liability company shall be licensed pursuant to article 135 of the education law to practice veterinary medicine. With respect to a foreign professional service limited liability company which provides medical services as such services are defined in article 131 of the education law, each member of such foreign professional service limited liability company must be licensed pursuant to article 131 of the education law to practice medicine in this state. With respect to a foreign professional service limited liability company which provides dental services as such services are defined in article 133 of the education law, each member of such foreign professional service limited liability company must be licensed pursuant to article 133 of the education law to practice dentistry in this state. With respect to a foreign professional service limited liability company which provides professional engineering, land surveying, geologic, architectural and/or landscape architectural services as such services are defined in article 145, article 147 and article 148 of the education law, each member of such foreign professional service 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 foreign professional service limited liability company which provides licensed clinical social work services as such services are defined in article 154 of the education law, each member of such foreign professional service limited liability company shall be licensed pursuant to article 154 of the education law to practice clinical social work in this state. With respect to a foreign professional service limited liability company which provides creative arts therapy services as such services are defined in article 163 of the education law, each member of such foreign professional service 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 foreign professional service limited liability company which provides marriage and family therapy services as such services are defined in article 163 of the education law, each member of such foreign professional service limited liability company must be licensed pursuant to article 163 of the education law to practice marriage and family therapy in this state.

With respect to a foreign professional service limited liability company which provides mental health counseling services as such services are defined in article 163 of the education law, each member of such foreign professional service limited liability company must be licensed pursuant to article 163 of the education law to practice mental health counseling in this state. With respect to a foreign professional service limited liability company which provides psychoanalysis services as such services are defined in article 163 of the education law, each member of such foreign professional service limited liability company must be licensed pursuant to article 163 of the education law to practice psychoanalysis in this state. With respect to a foreign professional service limited liability company which provides applied behavior analysis services as such services are defined in article 167 of the education law, each member of such foreign professional service limited liability company must be licensed or certified pursuant to article 167 of the education law to practice applied behavior analysis in this state. **With respect to a foreign professional service limited liability company formed to provide integrated, multidisciplinary medical and psychological services, as such services are respectively defined under article 131 and article 153 of the education law, (i) each member of such limited liability company must be licensed pursuant to article 131 or article 153 of the education law to practice his or her profession 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 or article 153 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) members licensed under article 153 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, (b) members licensed under article 131 shall not, directly or indirectly, interfere with the clinical judgment or legitimate clinical practice of a professional licensed under article 153, and (c) individuals licensed under article 131 may not order or direct a professional licensed under article 153 of the education law to practice beyond the scope of his or her license under article 153 of the education law, even if supervised directly or indirectly by a professional licensed under article 131.**

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

(a) Notwithstanding any other provision of law, **(i)** one or more individuals duly authorized by law to render the same professional service within the state may organize, or cause to be organized, a professional service corporation for pecuniary profit under this article for the purpose of rendering the same professional service, except that one or more individuals duly authorized by law to practice professional engineering, architecture, landscape architecture, land surveying or geology within the state may organize, or cause to be organized, a professional service corporation or a design professional service corporation for pecuniary profit under this article for the purpose of rendering such professional services as such individuals are authorized to practice**, and, (ii) one or more individuals duly licensed to practice medicine and one or more psychologists licensed under article one hundred fifty-three**

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 one hundred thirty-one providers in an integrated, multidisciplinary practice shall be controlling; that members licensed under article one hundred fifty-three of the education law, shall not, directly or indirectly, interfere with the clinical judgment or legitimate clinical practice of a professional licensed under article one hundred thirty-one; and that individuals licensed under article one hundred thirty-one may not order or direct a professional licensed under article one hundred fifty-three of the education law to practice beyond the scope of his or her license under article one hundred fifty-three of the education law in a professional service limited liability company, even if supervised directly or indirectly by a professional licensed under article one hundred thirty-one.

§ 6. 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 psychological services, as such services are respectively defined under article 131 and article 153 of the education law, (i) must be licensed pursuant to article 131 or article 153 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 153 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) members licensed under article 153 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, (b) members licensed under article 131 shall not, directly or indirectly, interfere with the clinical judgment or legitimate clinical practice of a professional licensed under article 153, and (c) individuals licensed under article 131 may not order or direct a professional licensed under article 153 of the education law to practice beyond the scope of his or her license under article 153 of the education law, even if supervised directly or indirectly by a professional licensed under article 131.**

§ 7. 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 coun-

seling 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 psychological services, as such services are defined under article 131 or article 153 of the education law, (i) must be licensed pursuant to article 131 or article 153 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 153 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) members not licensed under article 131 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, (b) members licensed under article 131 shall not, directly or indirectly, interfere with the clinical judgment or legitimate clinical practice of a professional licensed under article 153, and (c) individuals licensed under article 131 may not order or direct a professional licensed under article 153 of the education law to practice beyond the scope of his or her license under article 153 of the education law, even if supervised directly or indirectly by a professional licensed under article 131.**

§ 8. Subdivision 1 of section 2801 of the public health law, as amended by section 1 of subpart B of part S of chapter 57 of the laws of 2018, is amended to read as follows:

1. "Hospital" means a facility or institution engaged principally in providing services by or under the supervision of a physician or, in the case of a dental clinic or dental dispensary, of a dentist, or, in the case of a midwifery birth center, of a midwife, for the prevention, diagnosis or treatment of human disease, pain, injury, deformity or physical condition, including, but not limited to, a general hospital, public health center, diagnostic center, treatment center, dental clinic, dental dispensary, rehabilitation center other than a facility used solely for vocational rehabilitation, nursing home, tuberculosis hospital, chronic disease hospital, maternity hospital, midwifery birth center, lying-in-asylum, out-patient department, out-patient lodge, dispensary and a laboratory or central service facility serving one or more such institutions, but the term hospital shall not include an institution, sanitarium or other facility engaged principally in providing services for the prevention, diagnosis or treatment of mental disability and which is subject to the powers of visitation, examination, inspection and investigation of the department of mental hygiene except for those distinct parts of such a facility which provide hospital service. The provisions of this article shall not apply to a facility or institution engaged principally in providing services by or under the supervision of the bona fide members and adherents of a recognized religious organization whose teachings include reliance on spiritual means

through prayer alone for healing in the practice of the religion of such organization and where services are provided in accordance with those teachings **or to a business corporation, limited liability corporation or partnership between a medical doctor and a duly licensed healthcare professional under title VIII of the education law**. No provision of this article or any other provision of law shall be construed to: (a) limit the volume of mental health or substance use disorder services that can be provided by a provider of primary care services licensed under this article and authorized to provide integrated services in accordance with regulations issued by the commissioner in consultation with the commissioner of the office of mental health and the commissioner of the office of alcoholism and substance abuse services, including regulations issued pursuant to subdivision seven of section three hundred sixty-five-l of the social services law or part L of chapter fifty-six of the laws of two thousand twelve; (b) require a provider licensed pursuant to article thirty-one of the mental hygiene law or certified pursuant to article thirty-two of the mental hygiene law to obtain an operating certificate from the department if such provider has been authorized to provide integrated services in accordance with regulations issued by the commissioner in consultation with the commissioner of the office of mental health and the commissioner of the office of alcoholism and substance abuse services, including regulations issued pursuant to subdivision seven of section three hundred sixty-five-l of the social services law or part L of chapter fifty-six of the laws of two thousand twelve.

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

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

§ 10. This act shall take effect immediately.