

STATE OF NEW YORK

240

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IN ASSEMBLY

(Prefiled)

January 9, 2019

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 optometrists 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

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

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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 services defined in article 131 of the educa-
54 tion law with optometry and/or ophthalmic dispensing services defined in
55 article 143 and/or article 144 of the education law, (i) each member of
56 such limited liability company must be licensed pursuant to article 131

1 and certified by the American board of ophthalmology, and/or licensed
2 pursuant to article 143 and/or article 144 of the education law to prac-
3 tice one or more of such professions in this state, (ii) each member
4 shall only practice his or her profession as specified in his or her
5 respective professional enabling statute under article 131 of the educa-
6 tion law, and (iii) the clinical integration of professional practices
7 within an integrated, multidisciplinary entity organized under this
8 section does not alter, expand or curtail the scope of practice of any
9 of the individuals licensed under the statute of his or her respective
10 professional enabling law, provided that: (a) the clinical judgment,
11 management and clinical decision-making of one or more article 131
12 providers in an integrated, multidisciplinary professional service
13 limited liability company shall be controlling, (b) members licensed
14 under article 143 and/or article 144 of the education law, shall not,
15 directly or indirectly, interfere with the clinical judgment or legiti-
16 mate clinical practice of a professional licensed under article 131, and
17 (c) individuals licensed under article 131 may not order or direct a
18 professional licensed under article 143 and/or article 144 of the educa-
19 tion law to practice beyond the scope of his or her license under arti-
20 cle 143 and/or article 144 of the education law, even if supervised
21 directly or indirectly by a professional licensed under article 131.

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

25 (b) With respect to a professional service limited liability company
26 formed to provide medical services as such services are defined in arti-
27 cle 131 of the education law, each member of such limited liability
28 company must be licensed pursuant to article 131 of the education law to
29 practice medicine in this state. With respect to a professional service
30 limited liability company formed to provide dental services as such
31 services are defined in article 133 of the education law, each member of
32 such limited liability company must be licensed pursuant to article 133
33 of the education law to practice dentistry in this state. With respect
34 to a professional service limited liability company formed to provide
35 veterinary services as such services are defined in article 135 of the
36 education law, each member of such limited liability company must be
37 licensed pursuant to article 135 of the education law to practice veter-
38 inary medicine in this state. With respect to a professional service
39 limited liability company formed to provide professional engineering,
40 land surveying, architectural, landscape architectural and/or geological
41 services as such services are defined in article 145, article 147 and
42 article 148 of the education law, each member of such limited liability
43 company must be licensed pursuant to article 145, article 147 and/or
44 article 148 of the education law to practice one or more of such
45 professions in this state. With respect to a professional service limit-
46 ed liability company formed to provide licensed clinical social work
47 services as such services are defined in article 154 of the education
48 law, each member of such limited liability company shall be licensed
49 pursuant to article 154 of the education law to practice licensed clin-
50 ical social work in this state. With respect to a professional service
51 limited liability company formed to provide creative arts therapy
52 services as such services are defined in article 163 of the education
53 law, each member of such limited liability company must be licensed
54 pursuant to article 163 of the education law to practice creative arts
55 therapy in this state. With respect to a professional service limited
56 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 services defined in article 131 of the education law with optometry and/or ophthalmic dispensing services defined in article 143 and/or article 144 of the education law, (i) each member of such limited liability company must be licensed pursuant to article 131 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, article 143, or article 144 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.

§ 3. 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 professional 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

1 entity, or will engage in the practice of such profession in the profes-
2 sional service limited liability company within thirty days of the date
3 such professional becomes a member, or each of whose members and manag-
4 ers, if any, is a professional at least one of such members is author-
5 ized by law to render a professional service within this state and who
6 is or has been engaged in the practice of such profession in such
7 professional service limited liability company or a predecessor entity,
8 or will engage in the practice of such profession in the professional
9 service limited liability company within thirty days of the date such
10 professional becomes a member, or (ii) authorized by, or holding a
11 license, certificate, registration or permit issued by the licensing
12 authority pursuant to, the education law to render a professional
13 service within this state; except that all members and managers, if any,
14 of a foreign professional service limited liability company that
15 provides health services in this state shall be licensed in this state.
16 With respect to a foreign professional service limited liability company
17 which provides veterinary services as such services are defined in arti-
18 cle 135 of the education law, each member of such foreign professional
19 service limited liability company shall be licensed pursuant to article
20 135 of the education law to practice veterinary medicine. With respect
21 to a foreign professional service limited liability company which
22 provides medical services as such services are defined in article 131 of
23 the education law, each member of such foreign professional service
24 limited liability company must be licensed pursuant to article 131 of
25 the education law to practice medicine in this state. With respect to a
26 foreign professional service limited liability company which provides
27 dental services as such services are defined in article 133 of the
28 education law, each member of such foreign professional service limited
29 liability company must be licensed pursuant to article 133 of the educa-
30 tion law to practice dentistry in this state. With respect to a foreign
31 professional service limited liability company which provides profes-
32 sional engineering, land surveying, geologic, architectural and/or land-
33 scape architectural services as such services are defined in article
34 145, article 147 and article 148 of the education law, each member of
35 such foreign professional service limited liability company must be
36 licensed pursuant to article 145, article 147 and/or article 148 of the
37 education law to practice one or more of such professions in this state.
38 With respect to a foreign professional service limited liability company
39 which provides licensed clinical social work services as such services
40 are defined in article 154 of the education law, each member of such
41 foreign professional service limited liability company shall be licensed
42 pursuant to article 154 of the education law to practice clinical social
43 work in this state. With respect to a foreign professional service
44 limited liability company which provides creative arts therapy services
45 as such services are defined in article 163 of the education law, each
46 member of such foreign professional service limited liability company
47 must be licensed pursuant to article 163 of the education law to prac-
48 tice creative arts therapy in this state. With respect to a foreign
49 professional service limited liability company which provides marriage
50 and family therapy services as such services are defined in article 163
51 of the education law, each member of such foreign professional service
52 limited liability company must be licensed pursuant to article 163 of
53 the education law to practice marriage and family therapy in this state.
54 With respect to a foreign professional service limited liability company
55 which provides mental health counseling services as such services are
56 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 services defined in article 131 of the education law with optometry and/or ophthalmic dispensing services defined in article 143 and/or article 144 of the education law, (i) each member of such limited liability company must be licensed pursuant to article 131 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, article 143, or article 144 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.

§ 4. 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 who are certified by the American board of ophthalmology, and one or

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

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

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

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

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

38 § 7. Subdivision 1 of section 2801 of the public health law, as
39 amended by section 1 of subpart B of part S of chapter 57 of the laws of
40 2018, is amended to read as follows:

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

1 inspection and investigation of the department of mental hygiene except
2 for those distinct parts of such a facility which provide hospital
3 service. The provisions of this article shall not apply to a facility or
4 institution engaged principally in providing services by or under the
5 supervision of the bona fide members and adherents of a recognized reli-
6 gious organization whose teachings include reliance on spiritual means
7 through prayer alone for healing in the practice of the religion of such
8 organization and where services are provided in accordance with those
9 teachings or to a business corporation, limited liability corporation or
10 partnership between a medical doctor and a duly licensed title VIII
11 healthcare professional. No provision of this article or any other
12 provision of law shall be construed to: (a) limit the volume of mental
13 health or substance use disorder services that can be provided by a
14 provider of primary care services licensed under this article and
15 authorized to provide integrated services in accordance with regulations
16 issued by the commissioner in consultation with the commissioner of the
17 office of mental health and the commissioner of the office of alcoholism
18 and substance abuse services, including regulations issued pursuant to
19 subdivision seven of section three hundred sixty-five-1 of the social
20 services law or part L of chapter fifty-six of the laws of two thousand
21 twelve; (b) require a provider licensed pursuant to article thirty-one
22 of the mental hygiene law or certified pursuant to article thirty-two of
23 the mental hygiene law to obtain an operating certificate from the
24 department if such provider has been authorized to provide integrated
25 services in accordance with regulations issued by the commissioner in
26 consultation with the commissioner of the office of mental health and
27 the commissioner of the office of alcoholism and substance abuse
28 services, including regulations issued pursuant to subdivision seven of
29 section three hundred sixty-five-1 of the social services law or part L
30 of chapter fifty-six of the laws of two thousand twelve.

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

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

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

48 § 6509-a. Additional definition of professional misconduct; limited
49 application. Notwithstanding any inconsistent provision of this article
50 or of any other provision of law to the contrary, the license or regis-
51 tration of a person subject to the provisions of articles one hundred
52 thirty-two, one hundred thirty-three, one hundred thirty-six, one
53 hundred thirty-seven, one hundred thirty-nine, one hundred forty-one,
54 one hundred forty-three, one hundred forty-four, one hundred fifty-six,
55 one hundred fifty-nine and one hundred sixty-four of this chapter may be
56 revoked, suspended or annulled or such person may be subject to any

1 other penalty provided in section sixty-five hundred eleven of this
2 article in accordance with the provisions and procedure of this article
3 for the following:

4 That any person subject to the above enumerated articles, has directly
5 or indirectly requested, received or participated in the division,
6 transference, assignment, rebate, splitting or refunding of a fee for,
7 or has directly requested, received or profited by means of a credit or
8 other valuable consideration as a commission, discount or gratuity in
9 connection with the furnishing of professional care, or service, includ-
10 ing x-ray examination and treatment, or for or in connection with the
11 sale, rental, supplying or furnishing of clinical laboratory services or
12 supplies, x-ray laboratory services or supplies, inhalation therapy
13 service or equipment, ambulance service, hospital or medical supplies,
14 physiotherapy or other therapeutic service or equipment, artificial
15 limbs, teeth or eyes, orthopedic or surgical appliances or supplies,
16 optical appliances, supplies or equipment, devices for aid of hearing,
17 drugs, medication or medical supplies or any other goods, services or
18 supplies prescribed for medical diagnosis, care or treatment under this
19 chapter, except payment, not to exceed thirty-three and one-third per
20 centum of any fee received for x-ray examination, diagnosis or treat-
21 ment, to any hospital furnishing facilities for such examination, diag-
22 nosis or treatment. Nothing contained in this section shall prohibit
23 such persons from practicing as partners, in groups or as a professional
24 corporation or as a university faculty practice corporation nor from
25 pooling fees and moneys received, either by the partnerships, profes-
26 sional corporations, university faculty practice corporations or groups
27 by the individual members thereof, for professional services furnished
28 by any individual professional member, or employee of such partnership,
29 corporation or group, nor shall the professionals constituting the part-
30 nerships, corporations or groups be prohibited from sharing, dividing or
31 apportioning the fees and moneys received by them or by the partnership,
32 corporation or group in accordance with a partnership or other agree-
33 ment; provided that no such practice as partners, corporations or in
34 groups or pooling of fees or moneys received or shared, division or
35 apportionment of fees shall be permitted with respect to care and treat-
36 ment under the workers' compensation law except as expressly authorized
37 by the workers' compensation law. Nothing contained in this section,
38 shall prohibit an integrated, multidisciplinary medical and optometry
39 and/or ophthalmic dispensing practice formed pursuant to subdivision (a)
40 or (b) of section twelve hundred three of the limited liability company
41 law, subdivision (a) of section thirteen hundred one of the limited
42 liability company law, paragraph (a) of section fifteen hundred three of
43 the business corporation law, subdivision (q) of section 121-1500 of the
44 partnership law, or subdivision (q) of section 121-1502 of the partner-
45 ship law from pooling fees or monies received. Nothing contained in this
46 chapter shall prohibit a medical or dental expense indemnity corporation
47 pursuant to its contract with the subscriber from prorating a medical
48 or dental expense indemnity allowance among two or more professionals in
49 proportion to the services rendered by each such professional at the
50 request of the subscriber, provided that prior to payment thereof such
51 professionals shall submit both to the medical or dental expense indem-
52 nity corporation and to the subscriber statements itemizing the services
53 rendered by each such professional and the charges therefor.

54 § 10. Section 6531 of the education law, as amended by chapter 555 of
55 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, drugs, medication, or medical supplies, or any other goods, services, or supplies prescribed for medical diagnosis, care, or treatment under this chapter, except payment, not to exceed thirty-three and one-third percent of any fee received for x-ray examination, diagnosis, or treatment, 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, or university faculty practice corporations or groups by the individual members thereof, for professional services furnished by an 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 groups, or pooling of fees or moneys received or shared, division or apportionment of fees shall be permitted with respect to and treatment under 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 (q) of section 121-1500 of the partnership law, or subdivision (q) of section 121-1502 of the partnership law from pooling fees or monies received. Nothing contained in this chapter shall prohibit a corporation licensed pursuant to article forty-three of the insurance law pursuant to its contract with the subscriber from prorationing a medical or dental expenses 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 corporation licensed pursuant to

1 article forty-three of the insurance law and to the subscriber state-
2 ments itemizing the services rendered by each such professional and the
3 charges therefor.
4 § 11. This act shall take effect on the thirtieth day after it shall
5 have become a law.