§ 6503-a. Waiver for entities providing certain professional services. 1. a. Notwithstanding any laws to the contrary, except as provided in subdivision two of this section, a not-for-profit corporation formed for charitable, educational, or religious purposes or other similar purposes deemed acceptable by the department; or an education corporation as defined in subdivision one of section two hundred sixteen-a of this chapter may provide the following services, provided that, except as otherwise provided in paragraph b of this subdivision, the entity was in existence prior to the effective date of this section and has applied to the department for a waiver pursuant to this section by no later than February first, two thousand twelve:

(i) services provided under article one hundred fifty-four, one hundred sixty-three or one hundred sixty-seven of this title for which licensure would be required, or

(ii) services constituting the provision of psychotherapy as defined in subdivision two of section eighty-four hundred one of this title and authorized and provided under article one hundred thirty-one, one hundred thirty-nine, or one hundred fifty-three of this title.

Such services may be provided either directly through the entity's employees or indirectly by contract with individuals or professional entities duly licensed, registered, or authorized to provide such services.

b. The department may issue a waiver on or after July first, two thousand twelve to an entity which was created before, on, or after the effective date of this section if there is a demonstration of need of the entity's services satisfactory to the department.

c. After the commissioner prescribes the application form and posts notice of its availability on the department's website, any entity described in paragraph a of this subdivision providing services on the effective date of this section, must apply for a waiver no later than February first, two thousand twelve. Upon submission of an application, an entity may continue to operate and provide services until the department shall either deny or approve the entity's application. After the department renders a timely initial determination that the applicant

has submitted the information necessary to verify that the requirements of paragraphs d, e, and f of this subdivision are satisfied, applications for waivers shall be approved or denied within ninety days; provided however, that if the waiver application is denied the entity shall cease providing professional services, pursuant to paragraph a of this subdivision, in the state of New York.

d. Such waiver shall provide that services rendered pursuant to this section, directly or indirectly, shall be provided only by a person appropriately licensed to provide such services pursuant to article one hundred thirty-one, one hundred thirty-nine, one hundred fifty-three, one hundred fifty-four, or one hundred sixty-three of this title, or by a person otherwise authorized to provide such services under such articles, or by a professional entity authorized by law to provide such services.

e. An application for a waiver to provide professional services pursuant to this section shall be on a form prescribed by the commissioner. Such application shall include:

(i) the name of the entity,

(ii) the names of the directors and officers of such entity,

(iii) a listing of any other jurisdictions where the entity may provide services, and

(iv) an attestation made by an officer authorized by the entity to make such attestation that identifies the scope of services to be provided; includes a list of professions under this title in which professional services will be provided by such entity; includes a statement that, unless otherwise authorized by law, the entity shall only provide professional services authorized under this section; includes a statement that only a licensed professional, a person otherwise authorized to provide such services, or a professional entity authorized by law to provide such services shall provide such professional services as authorized under this section; and attests to the adequacy of the entity's fiscal and financial resources to provide such services.

Such application shall also include any other information related to

the application as may be required by the department.

f. Each officer and director of such entity shall provide an attestation regarding his or her good moral character as required pursuant to paragraph h of this subdivision. The commissioner shall be further authorized to promulgate rules or regulations relating to the standards of the waiver for entities pursuant to this section. Such regulations shall include standards relating to the entity's ability to provide services, the entity's maintenance of patient and business records, the entity's fiscal policies, and such other standards as may be prescribed by the commissioner.

g. The entity operating pursuant to a waiver shall display, at each site where professional services are provided to the public, a certificate of such waiver issued by the department pursuant to this section, which shall contain the name of the entity and the address of the site. Such entities shall obtain from the department additional certificates for each site at which professional services are provided to the public. Each entity shall be required to re-apply for a waiver every three years. If any information supplied to the department regarding the entity shall change, the entity shall be required to provide such updated information to the department within sixty days.

h. Entities operating under a waiver pursuant to this section shall be under the supervision of the regents and shall be subject to disciplinary proceedings and penalties. The waivers for such entities shall be subject to suspension, revocation or annulment for cause in the same manner and to the same extent as individuals and professional services corporations with respect to their licenses, certificates, and registrations, as applicable, as provided in this title relating to the applicable profession. All officers and directors of such entities shall be of good moral character. Entities operating pursuant to a waiver and their officers and directors shall be entitled to the same due process procedures as are provided to such individuals and professional services corporations. No waiver issued under this section shall be transferable or assignable, as such terms are defined in the regulations of the commissioner.

i. An entity operating pursuant to a waiver shall not practice any profession licensed pursuant to this title or hold itself out to the public as authorized to provide professional services pursuant to this title except as specifically authorized by this section or as otherwise authorized by law.

2. No waiver pursuant to this section shall be required of:

a. any entity operated under an operating certificate appropriately issued in accordance with article sixteen, thirty-one, or thirty-two of the mental hygiene law, article twenty-eight of the public health law, or comparable procedures by a New York state or federal agency, political subdivision, municipal corporation, or local government agency or unit, in accordance with the scope of the authority of such operating certificate; or

b. a university faculty practice corporation duly incorporated pursuant to the not-for-profit corporation law; or

c. an institution of higher education authorized to provide a program leading to licensure in a profession defined under article one hundred thirty-one, one hundred thirty-nine, one hundred fifty-three, one hundred fifty-four or one hundred sixty-three of this title, to the extent that the scope of such services is limited to the services authorized to be provided within such registered program; or

d. an institution of higher education providing counseling only to the students, staff, or family members of students and staff of such institution; or

e. any other entity as may be defined in the regulations of the commissioner, provided that such entity is otherwise authorized to provide such services pursuant to law and only to the extent such services are authorized under any certificates of incorporation or such other organizing documents as may be applicable.

3. Nothing in this section shall be construed to limit the authority of another state agency to certify, license, contract or otherwise authorize an entity applying for a waiver pursuant to this section, if such state agency is otherwise authorized under another provision of law to certify, license, contract or authorize such an entity, nor shall a waiver pursuant to this section be construed to provide an exemption of such entity from any certification, licensure, need to contract or any other such requirement established by such state agency or under any other provision of law. If a state agency determines that such certification, licensure, contract or other authorization is required, a waiver pursuant to this section shall not have the effect of authorizing the provision of professional services under the jurisdiction of such agency in the absence of certification, licensure, a contract or other authorization from such state agency, and the department shall consult with such agency regarding the need for licensure, contracting, certification or authorization. In determining an application for a waiver pursuant to this section, the department shall consider as a factor in such determination any denial of an operating certificate or other authority to provide the services authorized pursuant to this section by a New York state or federal agency, political subdivision, municipal corporation, or local government agency or unit, and shall not approve a waiver application authorizing an entity to provide a program or services where the entity operated such a program or provided such services for which an operating certificate or license is pending, was disapproved or was revoked, or a written authorization or contract was terminated for cause, by one of such agencies, except upon approval of such action by the appropriate state agency. Such state agencies shall notify the department, upon request and within a fifteen day period, whether a waiver applicant has been subject to such disapproval, revocation or termination for cause or has a pending application for a license or operating certificate.

4. Nothing in this section shall be construed to limit the authority of the following entities to provide professional services they are authorized by law to provide:

a. any appropriately organized professional entity, including, but not

limited to, those established under the business corporation law, the limited liability company law or the partnership law; or

b. any entity operated by a New York state or federal agency, political subdivision, municipal corporation, or local government agency or unit pursuant to authority granted by law, including but not limited to any entity operated by the office of mental health, the office for people with developmental disabilities, or the office of alcoholism and substance abuse services under articles seven, thirteen, and nineteen of the mental hygiene law, respectively.

5. For the purposes of this section, "professional entity" shall mean and include sole proprietorships and any professional services organization established pursuant to article fifteen of the business corporation law, article twelve of the limited liability company law and section two and article eight-B of the partnership law.