§ 206-a. Discrimination in hospital staff appointments and privileges prohibited. 1. It shall be an unlawful discriminatory practice for the governing body of a hospital

a. To deny to or to withhold from a physician, dentist or podiatrist staff membership or professional privileges in a hospital because of his participation in any medical group practice, non-profit health insurance plan, or comprehensive health services plan offered by a health maintenance organization authorized by the laws of the state; or

b. To exclude or to expel a physician, dentist or podiatrist from staff membership or to curtail, terminate or diminish in any way a physician's, dentist's or podiatrist's professional privileges in a hospital because of his participation in any medical group practice, non-profit health insurance plan, or comprehensive health services plan offered by a health maintenance organization authorized by the laws of the state.

2. Any person claiming to be aggrieved by an unlawful discriminatory practice defined by this section may, by himself or his attorney, make, sign and file with the commissioner a verified complaint in writing which shall state the name and address of the hospital whose governing body is alleged to have committed the unlawful discriminatory practice complained of and which shall set forth the particulars thereof and contain such other information as may be required by the commissioner.

3. After the filing of any such complaint, the commissioner shall designate a deputy commissioner or other officer of the department to make a prompt investigation in connection therewith; and if such designee shall determine after investigation that probable cause exists for crediting the allegations of the complaint, he shall immediately endeavor to eliminate the unlawful discriminatory practice by conference, conciliation and persuasion.

4. In case of a failure so to eliminate such practice, or in advance thereof as in his judgment circumstances so warrant, the commissioner shall cause to be issued a written notice together with a copy of the

complaint, as the same may have been amended, requiring each member of the governing body of the hospital in question (or such member or members thereof as in his judgment are warranted), hereinafter sometimes referred to as respondent, to answer charges of such complaint at a hearing before him (or before a deputy commissioner or other officer of the department other than the designee who investigated the complaint), hereinafter referred to as hearing officer, at a time and place to be specified in such notice.

5. The respondent may file a written verified answer to the complaint and appear at such hearing in person or otherwise with or without counsel and submit testimony.

6. If, upon all the evidence at the hearing, the hearing officer shall find that a respondent has engaged in any unlawful discriminatory practice defined in this section, the hearing officer shall state his findings of fact and the commissioner shall issue and cause to be served on such respondent an order requiring such respondent to cease and desist from such unlawful discriminatory practice.

7. If, upon all the evidence at the hearing, the hearing officer shall find that a respondent has not engaged in any unlawful discriminatory practice defined in this section, the hearing officer shall state his findings of fact and the commissioner shall issue and cause to be served on the complainant an order dismissing the said complaint as to such respondent.

8. The commissioner shall establish rules of practice to govern, expedite and effectuate the foregoing procedure and the actions to be taken thereunder.

9. Any complaint filed pursuant to this section must be so filed within ninety days after the alleged act of discrimination.

10. Any complainant, respondent or other person aggrieved by such order of the commissioner may obtain judicial review thereof, and the commissioner may obtain an order of court for its enforcement, in a

proceeding as provided in this subdivision. Such proceeding shall be brought in the supreme court of the state within any county wherein the unlawful discriminatory practice which is the subject of the commissioner's order occurs or wherein any person required in the order to cease and desist from a unlawful discriminatory practice resides or transacts business. The findings of the hearing officer as to the facts shall be conclusive if supported by substantial evidence on the record considered as a whole. All such proceedings shall be heard and determined by the court and any appellate court as expeditiously as possible and with lawful precedence over other matters.

11. The following words, as used in this section, shall have the following meanings unless the context otherwise requires:

a. "Governing body" means the group or the individual ultimately responsible for a hospital's general policies with respect to staff membership and professional privileges and shall include, but not limited to, a board of trustees, a board of directors, a board of governors, a board of managers, a medical board, a director or any other official of a hospital with comparable responsibilities.

b. "Hospital" means an institution for the care and treatment of the sick and injured, equipped with the technical facilities, medical, nursing and other professional and technical personnel necessary for diagnosis and treatment of persons suffering from sickness or injury which requires bed care.

c. "Medical group practice" means the practice of medicine by physicians as partners or in groups with fees and moneys received for professional services furnished by any individual physician, member or employee of such partnership or group pooled and redistributed in accordance with a partnership or other agreement.

d. "Non-profit health insurance" means insurance issued by a non-profit medical expense indemnity corporation in accordance with article forty-three of the insurance law.

e. "Health maintenance organization" means such organization as defined in article forty-four of this chapter.

f. "Comprehensive health services plan" means such plan as defined in article forty-four of this chapter.