

# Social Work Guide to Practice

The University of the State of New York  
THE STATE EDUCATION DEPARTMENT

Office of the Professions  
Division of Professional Licensing Services  
89 Washington Avenue  
Albany, NY 12234-1000  
[www.op.nysed.gov](http://www.op.nysed.gov)



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**New York is unique in placing its system of professional governance under the Board of Regents, a citizen body. Boards of professionals and public members advise the Regents and the Education Department on all aspects of professional education, licensing, practice, and discipline.**

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**Note:** A list of current Board members is available on the Office of the Professions’ Web site at [www.op.nysed.gov](http://www.op.nysed.gov)



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## **FOR FUTURE REFERENCE**

**IN THE EVENT OF AN EMERGENCY** that impacts the licensed professions, the Office of the Professions will provide important information, specific to the situation, through our **Web site** ([www.op.nysed.gov](http://www.op.nysed.gov)), our **automated phone system** (518-474-3817), and/or our **regional offices**. This information will include emergency provisions for professional practice as well as updates on scheduled events and services (licensing examinations, professional discipline proceedings, examination reviews, etc.).

# WELCOME FROM THE ASSOCIATE COMMISSIONER

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Dear New Professional Licensee:

On behalf of the New York State Board of Regents and the Education Department, I welcome you into the community of New York State licensed professionals. You have worked hard to earn your new professional license. Congratulations on your achievement! In New York State, through the Education Department's Office of the Professions, the Board of Regents licenses and regulates 47 professions and 31 related certificate areas, including:

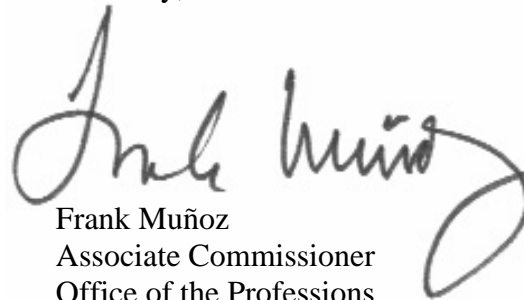
- Licensed master social workers, licensed clinical social workers, massage therapists, occupational therapists, pharmacists, nurses and other professionals who safeguard our health and well being.
- Accountants and other professionals who ensure the integrity of our business affairs.
- Architects, engineers, and other professionals who keep our roads and buildings safe.

Since 1891, New York's Board of Regents has ensured public protection, quality of professional preparation, and fairness for all professionals. The Regents, representing all regions of the State, oversee the granting of more than 48,000 new licenses each year, registration of over 740,000 professionals every 2 or 3 years, and the investigation of over 7,000 professional misconduct complaints every year. You join the community of other active professionals in New York State, nearly 25,000 who are licensed clinical social workers and over 25,000 who are licensed master social workers.

Your license carries with it certain expectations and responsibilities. It represents both your basic qualifications and your commitment to maintaining your competence and rendering quality professional services throughout your career. To support you in meeting your professional responsibilities, the Office of the Professions will help keep you up-to-date with changes in your profession through our Web site - [www.op.nysed.gov](http://www.op.nysed.gov). We will also respond to your questions and process your registration materials promptly. In our efforts to educate the public about their rights to professional services, we provide them with the tools to check the licensure and registration status of professionals and information about reporting professional misconduct and unlicensed practice. Our comprehensive approach will ensure that your professional license is backed by the integrity of an effective, unified system of professional regulation under the Board of Regents that has the protection of the public at its heart.

Congratulations again on your new profession and best wishes for a long and satisfying career.

Sincerely,



Frank Muñoz  
Associate Commissioner  
Office of the Professions

# WELCOME MESSAGE FROM THE EXECUTIVE SECRETARY

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Dear New Professional Licensee:

On behalf of the New York State Board for Social Work, I would like to welcome you to the practice of your profession in New York State. As you begin what we hope will be a rewarding career in New York, there are a few things you should know.

On September 1, 2004, the Education Law established two new social work professions: Licensed Master Social Worker (LMSW) and Licensed Clinical Social Worker (LCSW). This guide contains the law and regulations that reflect the new professions.

In New York State you are licensed for life, unless your license is surrendered or revoked following disciplinary action by the Board of Regents. However, if you are practicing in New York, in addition to being licensed, you are also required to be registered. Your initial period of registration begins with your date of licensure, and you must reregister every three years thereafter. As long as we have your current address, you will automatically receive reregistration materials in the mail four months before your registration expires. You are required, by law, to inform us if your name or address changes. If you change your name or move, please notify us by submitting the Change of Name/Address Form contained in this *Guide to Practice*.

As a New York State licensed professional, the *Regents Rules on Unprofessional Conduct* require that you confine your practice to your personal scope of competence. While New York has no continuing education requirements in your profession at the present time, it is our expectation that you will remain current with the best practices in your field. The New York State Board of Regents, the Education Department, and the State Board for Social Work, are committed to the protection of the public and to the highest standards of professional services.

If you have questions related to social work practice, please contact the Office of the Professions' State Board for Social Work, 89 Washington Avenue, Albany, NY 12234-1000 by phone at 518-474-3817, ext. 450, fax at 518-486-2981, or e-mail at [swbd@mail.nysed.gov](mailto:swbd@mail.nysed.gov).

The members of the State Board for Social Work join me in wishing you years of satisfaction in the practice of your profession.

Sincerely,



David Hamilton  
Executive Secretary  
State Board for Social Work

# OFFICE OF THE PROFESSIONS STRATEGIC PLAN

## ***VISION***

A regulatory system that promotes the highest quality of professional services for public protection.

## ***MISSION***

To protect the public by fostering high standards of professional licensure, practice and discipline.

## ***GOALS***

- The credentialing and discipline processes are fair, prompt, clear, and accurate.
- Accurate information will be provided promptly in a clear and courteous manner to consumers, licensees, and the interested public.
- Policies, practices, interpretations, standards, decisions, and processes for the licensed professions balance the needs and concerns of consumers and professionals, consistent with the law.
- All staff are informed, share in decision making, are clear about their role, have meaningful responsibility and opportunity to contribute, and have training to develop their potential.
- Partnerships are developed to promote diversity and increase awareness of careers in the licensed professions.



# Your New York License and Registration

## IMPORTANT INFORMATION ABOUT YOUR REGISTRATION TO PRACTICE IN NEW YORK STATE

- Your professional license is valid for life unless revoked or surrendered; however, you **must** register with the State Education Department every three years to practice your profession or use your professional title in New York State.
- **Month-of-birth registration –**  
Once licensed, about four months before your initial three year registration expires, you will be sent a registration renewal application assigning you to a one-time *transitional registration period*. This period will end with the month prior to your date of birth between two and three years from the date of your first registration renewal. This allows us to adjust your triennial registration cycle to coincide with the month of your date of birth and helps to ensure a speedy renewal of your registration. The registration fee for this transitional period will be prorated so that you pay only for the number of months included in the period. Thereafter, you will be registered for a three-year period beginning on the first day of your month of birth.

**Remember** that it is your responsibility to notify us of a change of address. You can access the license verification service on the Office of the Professions' Web site - [www.op.nysed.gov](http://www.op.nysed.gov) - to confirm your registration expiration date.

<i>For answers about...</i>	<i>Contact:</i>
<p><b>PRACTICE ISSUES OR THE RULES GOVERNING YOUR PROFESSION</b></p> <ul style="list-style-type: none"> <li>• Standards of Practice</li> <li>• Scope of Practice</li> <li>• Related Areas</li> </ul>	<p><b>OFFICE OF THE PROFESSIONS, STATE BOARD FOR SOCIAL WORK:</b></p> <p><b>Call:</b> 518-474-3817 ext. 450  <b>E-Mail:</b> <a href="mailto:swbd@mail.nysed.gov">swbd@mail.nysed.gov</a>  <b>Write:</b> Office of the Professions            State Board for Social Work            89 Washington Avenue            Albany, NY 12234-1000  <b>Fax:</b> 518-486-2981</p>
<p><b>INACTIVE REGISTRATION</b></p> <ul style="list-style-type: none"> <li>• If you are not practicing your profession or using your title in New York, <b>you may inactivate</b> your registration at no cost. You must advise us of your decision to be inactive; otherwise, you will be expected to keep your registration current and pay all registration fees due.</li> </ul> <p>If you decide to resume practice in New York after inactivating your registration, you must re-register with the Department.</p>	<p><b>TO INACTIVATE YOUR REGISTRATION OR TO RENEW AN INACTIVE OR LAPSED REGISTRATION:</b></p> <p><b>Call:</b> 518-474-3817 ext. 410  <b>E-mail*:</b> <a href="mailto:opregfee@mail.nysed.gov">opregfee@mail.nysed.gov</a>  <b>Write*:</b> Registration Unit            Office of the Professions            Division of Professional Licensing Services            89 Washington Avenue            Albany, New York 12234-1000  <b>Fax*:</b> 518-474-3004</p> <p><b>Licensure Status Information:</b> <a href="http://www.op.nysed.gov">www.op.nysed.gov</a>            (Click on 'Online Licensure Verification')</p> <p>*Be sure to include your name, profession, license number, date of birth, old address, new address (including suite or apartment) and daytime telephone number.</p>

# Your New York License

## *For answers about...*

## *Contact:*

### **CHANGING YOUR ADDRESS OR NAME IN OUR RECORDS**

Education Law and Commissioner's Regulations require that you **notify us within 30 days of a change in your name or address.**

You may use the form at the back of this Guide to notify us of changes in your name or address or use one of the methods outlined in the box to the right.

### **FOR ADDRESS OR NAME CHANGES:**

**Call:** 518-474-3817  
**E-mail:** op4info@mail.nysed.gov  
**Write:** Records and Archives Unit  
 Office of the Professions  
 Division of Professional Licensing Services  
 89 Washington Avenue  
 Albany, New York 12234-1000  
**FAX:** 518-486-3617

**Your notification must include your name, profession, license number, social security number, date of birth, and both your old and new address and/or name. Please note: An original signature and notary certification is required for a name change; therefore, phone, fax, or e-mail notifications are not acceptable.**

### **REPLACING YOUR REGISTRATION CERTIFICATE OR YOUR LICENSE**

- Your **license** is the permanent document issued at the time of your licensure.
- Your renewable **registration certificate** indicates that you are currently registered to practice under that license in New York State.

### **FOR AN APPLICATION TO REPLACE A LOST OR DESTROYED LICENSE:**

**Call:** 518-474-3817 ext. 380  
**E-mail:** oparchiv@mail.nysed.gov  
**Write:** Records & Archives Unit  
 Office of the Professions  
 Division of Professional Licensing Services  
 89 Washington Avenue  
 Albany, New York 12234-1000  
**FAX:** 518-486-3617

### **TO REPLACE A LOST OR DESTROYED REGISTRATION CERTIFICATE:**

**Call:** 518-474-3817 ext. 410  
**E-mail:** opregfee@mail.nysed.gov  
**Write:** Registration Unit  
 Office of the Professions  
 Division of Professional Licensing Services  
 89 Washington Avenue  
 Albany, New York 12234-1000  
**FAX:** 518-474-3004

**An original signature of the licensee is required for replacement documents.**

# Your New York License

<i>For answers about...</i>	<i>Contact:</i>
<p><b>VERIFYING YOUR NEW YORK LICENSE</b></p> <p>New York issues two types of written confirmation of licensure, both of which require <b>a written request and a fee</b>. Determine exactly which type is needed by the party to whom the information will be sent.</p> <p><b>Verification:</b> states only whether an individual is licensed and currently registered. <b>Fee: \$10</b></p> <p><b>Certification:</b> states the basis of licensure, including professional school and licensing examination results. This statement will only be issued at the request of the licensee or another licensing authority. <b>Fee: \$20</b></p>	<p><b>FOR A WRITTEN VERIFICATION OR CERTIFICATION:</b></p> <p><b>Send request and fee to:</b></p> <p style="text-align: center;">Certifications and Verifications Unit Office of the Professions Division of Professional Licensing Services 89 Washington Avenue Albany, New York 12234-1000</p> <p><b>NO COST VERIFICATION OPTIONS:</b></p> <p><b>By phone:</b> 518-474-3817 ext. 570</p> <p><b>On the Web:</b> <a href="http://www.op.nysed.gov">www.op.nysed.gov</a></p>
<p><b>UNLICENSED PRACTICE OR PROFESSIONAL MISCONDUCT</b></p> <p>You may contact the office of the State board for advice on practice issues.</p> <p><b>The Office of the Professions' Office of Professional Discipline (OPD)</b></p> <ul style="list-style-type: none"> <li>• Investigates and prosecutes complaints against licensed professionals; and</li> <li>• works with other enforcement agencies in cases involving illegal (unlicensed) practice.</li> </ul>	<p><b>TO FILE A COMPLAINT AGAINST A PROFESSIONAL LICENSED BY THE STATE EDUCATION DEPARTMENT* OR REPORT SOMEONE YOU BELIEVE IS PRACTICING WITHOUT A LICENSE, CALL 1-800-442-8106 OR CONTACT AN OFFICE OF THE PROFESSIONS REGIONAL OFFICE:</b></p> <p><b>Brooklyn and Staten Island:</b> 718-246-3060  <b>Bronx/Queens:</b> 718-794-2457 or 2458  <b>Manhattan:</b> 212-961-4369  <b>Albany:</b> 518-485-9350  <b>Long Island:</b> 631-425-7758  <b>Mid Hudson:</b> 914-934-7550  <b>Buffalo:</b> 716-842-6550  <b>Syracuse:</b> 315-476-5081  <b>Rochester:</b> 585-241-2810</p> <p><b>E-mail:</b> <a href="mailto:conduct@mail.nysed.gov">conduct@mail.nysed.gov</a></p>
<p>*The Office of Professional Medical Conduct (OPMC) of the New York State Health Department investigates complaints against <b>physicians, physician assistants, and specialist assistants</b></p> <p><b>OPMC: 800-663-6114 or 518-402-0836</b></p>	
<p><b>Information about the Office of the Professions and the licensed professions is available on our Web site at: <a href="http://www.op.nysed.gov">www.op.nysed.gov</a></b></p>	



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## QUESTIONS AND ANSWERS REGARDING LICENSURE AND PRACTICE FOR LICENSED MASTER SOCIAL WORKERS AND LICENSED CLINICAL SOCIAL WORKERS

We are pleased to provide you with the following list of questions and answers about licensure and practice for licensed master social workers and licensed clinical social workers. This information is intended to provide general guidance to those who may have questions about licensing or professional conduct. The answers to the questions have been derived from provisions in Education Law, Commissioner's Regulations and Rules of the Board of Regents and administrative decisions made by the State Education Department. While they reflect provisions of Law, Regulation, and interpretations, the legal application will depend upon the facts of a particular situation. Title VIII of the New York State Education Law and Title 8 of the Codes, Rules and Regulations of the State of New York (8NYCRR) control both licensing and professional regulation. Pertinent sections of the Law, Rules and Regulations are contained in this Guide and are also available on the Web at [www.op.nysed.gov/title8.htm](http://www.op.nysed.gov/title8.htm). If you have questions that are not directly addressed by this section or believe that special factual circumstances may distinguish your question from those addressed here, you are advised to consult private legal counsel or you may contact the Office of the Professions' State Board for Social Work. Additional information is available on our Web site at [www.op.nysed.gov/sw.htm](http://www.op.nysed.gov/sw.htm).

### Use of Professional Title and Scope of Practice

#### 1. What is the appropriate use of titles for social workers?

New York State issues licenses to licensed master social workers and licensed clinical social workers who meet the requirements for age, moral character, education, examination and experience. Only an individual licensed in the title *licensed master social worker* or *licensed clinical social worker* may use the title "licensed master social worker" or "licensed clinical social worker" and the abbreviations "LMSW" or "LCSW" when offering services in New York State. Although an LMSW under supervision and some exempt individuals may provide clinical social work services, the use of the title "licensed clinical social worker" and "psychotherapist" is restricted to the LCSW. Section 29.2 of the Regents Rules limits the use of the title "doctor", unless the individual clearly specifies the profession in which the doctorate was earned (e.g., doctor in social work).

#### 2. Can I refer to myself as a "psychoanalyst" or "marriage and family therapist"?

Article 163 of the Education Law authorizes a qualified LMSW or LCSW to practice mental health counseling, marriage and family therapy, creative arts therapy or psychoanalysis. However, the LMSW or LCSW may not use a title that implies licensure in one of those professions unless the social worker is licensed in that profession in addition to the social work license. An LMSW or LCSW who uses a licensed title without authorization may face charges of unprofessional conduct for advertising that is misleading or not in the public interest.

**3. Must I wear an identification badge when I am providing licensed master social work services or licensed clinical social work services in a health care setting?**

Yes. You must wear a nametag indicating your name and your professional title if you are practicing as an employee or operator of a hospital, clinic, group practice, or multi-professional facility, or at a commercial establishment offering health services to the public. The professional titles are "licensed master social worker" or "LMSW" and "licensed clinical social worker" or "LCSW".

**4. The scopes of practice for the professions of LMSW and LCSW are defined in the law. Does that mean that I can do everything that falls within the legal scope of practice of my profession?**

Part 29 of the Rules of the Board of Regents requires that licensees practice only to the extent of their *individual* scope of professional competence. Therefore, if you are not competent to provide a service, even one that falls within the legal scope of practice for your profession, you may not provide that service. As a licensed professional, it is your responsibility to practice within the scope of your abilities and expertise. If you practice beyond your personal scope of competence, you can be charged with professional misconduct.

## **License and Registration**

**5. What is the difference between licensure and registration?**

Licensees in each of the 47 professions regulated by the State Education Department are licensed for life unless that license is revoked or suspended by the Board of Regents. To practice your profession, however, you must be registered with the Department. The registration period for LMSWs and LCSWs is three years. The Department typically sends out a renewal notice four months before your registration is scheduled to expire. Your first registration will be for three years, but your second registration will be adjusted to your birth month and is typically for less than three years. It is your responsibility to renew your registration with the State Education Department's Office of the Professions, even if you do not receive the automatic renewal notice.

## **Reporting Suspected Child Abuse and Neglect**

**6. Are licensed master social workers and licensed clinical social workers mandated reporters of suspected child abuse or neglect in accordance with Section 413 of the Social Services Law?**

Yes. Section 413 of the Social Services Law was amended on September 1, 2004 to include licensed master social worker (LMSW) and licensed clinical social worker (LCSW) in the list of professionals required to report suspected child abuse or neglect. To be licensed or to receive a limited permit to practice, you must complete the two-hour course in the identification and reporting of suspected child abuse and neglect from a provider approved by the Education Department or file a request for exemption. Willful failure to file a report of suspected child abuse or neglect could result in criminal prosecution and charges of professional misconduct.

## **Recordkeeping**

### **7. Do I have to maintain patient records?**

Yes. As a health professional licensed under Title VIII of the Education Law, you are responsible for maintaining a record for each of your patients. The record must accurately reflect the evaluation and treatment of that patient. Unless otherwise provided by law, all patient records must be kept for at least six years. Records for children must be kept until the child is 22, even if that means keeping the record for more than six years. Failure to comply with the requirements of Part 29.2 could result in charges of professional misconduct.

### **8. Do I have to provide a patient's records if he or she requests them? If so, can I collect a fee for the cost of the copies and my time in making the copies? Is there a deadline for providing the records? Can I exclude any portion of the record?**

Yes, unless exempted by law, you must provide copies of a record to a patient or patient who requests them. You are allowed to request a reasonable charge for duplicating a record. While no specific time period is defined in law for responding, 10 to 14 days is considered a reasonable time to fulfill the request. You may exclude your own personal notes and observations, information you determine would cause substantial harm to the patient or others, and information received from other practitioners still in practice who can respond directly to the patient.

### **9. Are the sessions between my patient and myself confidential or can a third-party have access to information about what was discussed and recommended actions?**

If you receive a subpoena or other legal document you should consult your personal attorney or the legal representative for your agency. You should know that Section 4508 of the Civil Practice Laws and Rules (CPLR) establishes privileged communication between patients and the LMSW or LCSW licensed under the Education Law. The privilege extends to any clerk, stenographer or other person working for the same employer as the social worker or for the social worker. The waiver provision in §4508(a)(2) allows an LMSW or LCSW, in accordance with his or her clinical judgment, to notify potential victims or authorities or significant others of a patient's contemplation of a crime or harmful act, but does not waive the privilege for actions completed in the past.

## **Use of an "Aide" or "Assistant", Individuals with BSWs, or Student Interns**

### **10. May I use an "aide" or "assistant" to provide social work services?**

No, it is not legal for an unlicensed person to provide professional services. An unlicensed person can only perform tasks that are not within the definition of practice of any licensed profession, unless authorized or exempted. For instance, section 7702 of the Education Law lists various services including community organization, program administration, and program evaluation as functions that do not require a license, even though these activities may be performed by an LMSW or LCSW. Section 7706 of the Education Law provides exemptions for individuals licensed in other mental health professions, students in registered bachelor's of social work and master of social work programs, and individuals in certain agencies or settings. Delegating to an unlicensed person tasks that require a license could

subject the LMSW or LCSW to charges of unprofessional conduct under Section 29.1 of the Rules of the Board of Regents.

**11. Can an individual with a bachelor's in social work (BSW) degree provide social work services?**

The Education Law provides a specific exemption for individuals who have completed a bachelor in social work program in a college or university registered by the New York State Education Department, or the equivalent. Subdivision 2 of section 7706 of the Education Law allows the individual with the BSW to provide the services of an LMSW without being licensed, so long as the individual with the BSW is under the supervision of an LMSW or an LCSW. The individual with the BSW may not provide psychotherapy, diagnosis or clinical social work services in any setting, even under the supervision of an LCSW, licensed psychologist or psychiatrist.

**12. Can an LCSW delegate clinical social work services to an LMSW or to a student intern?**

The Education Law restricts the practice of clinical social work, which includes diagnosis, psychotherapy, and assessment-based treatment planning, to LCSWs. However, an LMSW or a student intern in an MSW program registered by the Department may perform clinical social work services under the supervision of an LCSW, a licensed psychologist or physician qualified in psychiatry.

**Dispensing, Administering, or Monitoring Medications**

**13. What should an LMSW or an LCSW do if a facility assigns him or her to dispense, administer and/or monitor medication to patients?**

The dispensing or monitoring of medications is not within the definition of practice of social work and ordinarily requires a license in some other profession (e.g., medicine). A licensee may not accept any assignment that involves practicing beyond his or her authorized scope. Providing this service could lead to a disciplinary action against your license, which would compromise not only your career, but also the integrity of the facility and, more importantly, the care of the patients.

**Third Party Reimbursement**

**14. How can I be reimbursed by third-party payers for providing psychotherapy to individuals, families or groups?**

New York State Insurance Law authorizes two privileges to the LCSW's license. The first privilege is earned upon licensure as an LCSW, which requires at least three years of post-degree supervised experience in psychotherapy. This privilege has been called "make available legislation" because an insurance company is required to provide reimbursement of psychotherapy services by an LCSW only at the request of the insured group, which is usually represented by a labor union. The second privilege requires three or more additional years of supervised experience in psychotherapy and is designated by the inclusion of the letter "R" in the LCSW's license number (e.g., R123456). The second psychotherapy



privilege requires insurance carriers to provide reimbursement for social work services whenever a health insurance contract includes psychotherapy benefits, no request necessary.

**15. Does the New York State Education Department's State Board for Social Work determine third-party reimbursement for social work services, including psychotherapy provided by LCSWs?**

No. The New York State Education Department does not make determinations about whether a particular service or treatment should be covered by a third-party payer nor about the reimbursement rate. If you have questions or concerns about a third-party payer, you should contact the New York State Insurance Department at 800-342-3736 or at [www.ins.state.ny.us](http://www.ins.state.ny.us) or the New York State Department of Health's Office of Managed Care at 800-206-8125 or at [www.health.state.ny.us](http://www.health.state.ny.us). These State agencies are responsible for the regulation of managed care organizations and utilization review companies and can provide information on the rights of consumers and providers under New York State law.

**Employment of Individuals Licensed in Other Professions**

**16. As an LMSW or LCSW can I employ individuals licensed in other professions?**

A licensee in one profession may hire a licensee in a different profession when:

- the scope of practice of the employing licensee is broader than and completely encompasses the scope of practice of the licensee to be employed; and
- where the purpose of the licensee to be employed is to provide services that are incidental to the services provided to patients of the practice by the employing licensee.

Given this principle, a LMSW hiring a physician would not be acceptable. Neither would an LCSW employing a massage therapist, since massage is not included in social work practice.

**Professional Entities**

**17. As an LMSW can I form a corporate entity, such as a Professional Limited Liability Corporation, with individuals licensed in other professions?**

The 1994 Limited Liability Law allows individuals licensed by the State Education Department to combine their assets to jointly form a Professional Limited Liability Company or Registered Limited Liability Partnership. For instance, an LMSW could form an entity with individuals licensed in the professions of physical therapy, occupational therapy, psychology and speech-language pathology and the entity could provide services in all of these professions. However, the entity could not provide optometric or respiratory therapy services, since none of the partners or members of the corporation are licensed in those professions. The entity may not employ or contract with a teacher, who is not licensed to provide professional services.

**18. As an LCSW can I form a professional entity with individuals licensed in other professions?**

Effective September 1, 2004, the Business Corporation Law authorizes an LCSW to form a professional service corporation (PC), a professional service limited liability company (PLLC) or a registered limited liability partnership (RLLP) only with other LCSWs. The entity may not include individuals licensed in other professions, including LMSWs. However, the LCSW may employ LMSWs and other professionals with a scope of practice that is encompassed by the scope of the LCSW. Please note that corporate entities that were formed by Certified Social Workers prior to July 1, 2004, that would be prohibited after September 1, 2004, have until July 1, 2009 to restructure in compliance with the Education Law and Business Corporation Law. If you are considering the formation or restructuring of a professional entity you should consult a qualified attorney to discuss the many factors, including tax consequences and personal and professional liability, that could affect your decision.

**School Social Worker**

**19. How do I obtain New York State certification in school social work in order to work in elementary, middle and secondary schools, providing student support services?**

You must apply to become a school social worker through the Office of Teaching Initiatives. The requirements include graduate study in the social work field, supervised experience in a school setting, completion of Department-approved curricula in the prevention of school violence and identification and reporting of child abuse, and fingerprinting. To receive permanent certification as a school social worker, in addition to a Master's in Social Work degree, you will need to be an LMSW or LCSW. The applications and instructions for the school social worker certificate are available at [www.highered.nysed.gov/tcert](http://www.highered.nysed.gov/tcert). You may send written correspondence or questions about the qualifications and your application to the Office of Teaching Initiatives, Room 5N Education Building, 89 Washington Avenue, Albany, NY 12234.

**For Additional Information**

**20. If I have additional questions, where can I find more information?**

For more information, please contact:

Office of the Professions  
State Board for Social Work  
89 Washington Avenue, Albany, New York 12234-1000  
Phone: 518-474-3817 ext. 450  
Fax: 518-486-2981  
E-mail: [swbd@mail.nysed.gov](mailto:swbd@mail.nysed.gov)

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## PROFESSIONAL MISCONDUCT

A license to practice a profession in New York State is in effect for life unless surrendered by the holder or revoked by the Board of Regents upon a finding of professional misconduct.

Professional misconduct is defined in section 6509 of Article 130 of Education Law and in Part 29 of the Rules of the Board of Regents. **It is the responsibility of every professional to be aware of the laws and regulations governing his or her profession.**

Professional misconduct includes:

- practicing beyond the authorized scope of practice;
- practicing fraudulently;
- practicing with gross negligence or gross incompetence or with negligence or incompetence on more than one occasion;
- practicing while the ability to practice is impaired by alcohol, drugs, or mental disability;
- being a habitual user of drugs;
- being convicted of a crime;
- unlawful fee splitting;
- delegating professional duties to an unauthorized person;
- physically or sexually abusing a patient;
- filing false reports;
- failing to maintain proper records;
- ordering excessive or unnecessary tests;
- and other serious matters.

The Office of the Professions investigates and prosecutes allegations of professional misconduct in all professions except medicine (which includes physicians, physician assistants, and specialist assistants) where it is the responsibility of the Office of Professional Medical Conduct (OPMC) of the New York State Department of Health.

### REPORTING PROFESSIONAL MISCONDUCT OR ILLEGAL PRACTICE

Any person who suspects or has knowledge of professional misconduct should report the information to the appropriate Office of the Professions office listed below. **Complaints may be treated confidentially.** If an investigation develops sufficient evidence, disciplinary proceedings will be commenced. In the most serious cases, these proceedings may lead to the Regents suspending or revoking a license.

**The public is placed at risk whenever an unlicensed professional illegally practices a profession. The Office of the Professions has jurisdiction to investigate the practice of a profession by someone who is not licensed, which is a criminal act punishable as a Class E Felony. Any professional who discovers such illegal practice should immediately report the information to the appropriate office listed below. This should occur as soon as the illegal practice is suspected so that an investigation can be conducted and prompt action may be taken to protect the public and preserve the integrity of the profession involved.**

**To report professional misconduct for professions other than medicine or unlicensed practice, call, write, or e-mail the Office of the Professions.**

- **Toll-free Professional Misconduct Hotline: 1-800-442-8106**
- **E-mail address: [conduct@mail.nysed.gov](mailto:conduct@mail.nysed.gov).**

Complainants may also call or write any of the following regional offices:

- **Albany Regional Office:** New York State Education Department, Office of the Professions, Office of Professional Discipline, 80 Wolf Road, Suite 204, Albany, NY 12205 [phone: 518-485-9350; fax: 518-485-9361].
- **Bronx/Queens Regional Office:** New York State Education Department, Office of the Professions, Office of Professional Discipline, 2400 Halsey Street, Bronx, NY 10461 [phone: 718-794-2457 or 2458; fax: 718-794-2480].
- **Brooklyn and Staten Island Regional Office:** New York State Education Department, Office of the Professions, Office of Professional Discipline, 195 Montague Street, 4th Floor Brooklyn, NY 11201 [phone: 718-246-3060; fax: 718-246-3096].
- **Buffalo Regional Office:** New York State Education Department, Office of the Professions, Office of Professional Discipline, 295 Main Street, Suite 756, Buffalo, NY 14203 [phone: 716-842-6550; fax: 716-842-6551].
- **Long Island Regional Office:** New York State Education Department, Office of the Professions, Office of Professional Discipline, 1121 Walt Whitman Road, Suite 301, Melville, NY 11747 [phone: 631-425-7758; fax: 631-425-9109].
- **Manhattan Regional Office:** New York State Education Department, Office of the Professions, Office of Professional Discipline, 163 West 125<sup>th</sup> Street, Room 819, New York, NY 10027 [phone: 212-961-4369; fax: 212-961-4361].
- **Mid Hudson Regional Office:** New York State Education Department, Office of the Professions, Office of Professional Discipline, One Gateway Plaza, 3<sup>rd</sup> Floor, Port Chester, NY 10573 [phone: 914-934-7550; fax: 914-934-7607].
- **Rochester Regional Office:** New York State Education Department, Office of the Professions, Office of Professional Discipline, 85 Allen Street, Suite 120, Rochester, NY 14608 [phone: 585-241-2810; fax: 585-241-2816].
- **Syracuse Regional Office:** New York State Education Department, Office of the Professions, Office of Professional Discipline, State Tower Building, 109 South Warren Street, Suite 320, Syracuse, NY 13202 [phone: 315-476-5081; fax: 315-476-5182].

**To report misconduct by a physician, a physician assistant, or a specialist assistant,** write or call the Office of Professional Medical Conduct, New York State Department of Health, 433 River Street, Suite 303, Troy, NY 12180-2299 [phone: 1-800-663-6114 or 518-402-0836].

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## **PROFESSIONAL ASSISTANCE PROGRAM**

The Office of the Professions' Professional Assistance Program (PAP) assists licensed professionals with addictive illness. The program allows professionals to voluntarily and confidentially surrender their licenses while entering and receiving treatment in acceptable programs. It is only available to licensees who have not harmed patients or clients. In some cases, successful completion of the program may act as an alternative to disciplinary action.

The Committee for Professional Assistance, composed primarily of experts in addictive illness, advises the Education Department on the administration of the program. A member of the appropriate State professional board sits *ex officio* on each PAP panel. The panels interview applicants and determine their suitability for the program, monitor progress, and determine the readiness of the licensee to resume professional practice.

For additional information about this program contact the Professional Assistance Program, New York State Education Department, Office of the Professions, 80 Wolf Road, Suite 202, Albany, NY 12203; phone 518-474-3817 ext. 480; or e-mail [pap@mail.nysed.gov](mailto:pap@mail.nysed.gov).



# PAGE REFERENCE TO LAWS, RULES AND REGULATIONS

The following pages contain the laws, rules and regulations under which you must abide as a licensed master social worker or licensed clinical social worker. It is important that you familiarize yourself with these laws, rules and regulations as you begin practice in your profession. Pay particular attention to Part 29 of the Regents Rules.

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**Note: Laws, rules and regulations are current as of the date of this publication**

# LAWS, RULES AND REGULATIONS SPECIFIC TO SOCIAL WORK

## Education Law Article 154 Social Work (Effective September 1, 2004)

### § 7700. Introduction.

This article applies to the profession and practice of social work, the practice of licensed master social work and the practice of clinical social work, and to the use of the titles "licensed master social worker", and "licensed clinical social worker". The general provisions for all professions contained in article one hundred thirty of this title apply to this article.

### § 7701. Definitions.

#### 1. Practice of licensed master social work.

- (a) The practice of licensed master social work shall mean the professional application of social work theory, principles, and the methods to prevent, assess, evaluate, formulate and implement a plan of action based on client needs and strengths, and intervene to address mental, social, emotional, behavioral, developmental, and addictive disorders, conditions and disabilities, and of the psychosocial aspects of illness and injury experienced by individuals, couples, families, groups, communities, organizations, and society.
- (b) Licensed master social workers engage in the administration of tests and measures of psychosocial functioning, social work advocacy, case management, counseling, consultation, research, administration and management, and teaching.
- (c) Licensed master social workers provide all forms of supervision other than supervision of the practice of licensed clinical social work as defined in subdivision two of this section.
- (d) Licensed master social workers practice licensed clinical social work in facility settings or other supervised settings approved by the Department under supervision in accordance with the commissioner's regulations.

#### 2. Practice of clinical social work.

- (a) The practice of clinical social work encompasses the scope of practice of licensed master social work and, in addition, includes the diagnosis of mental, emotional, behavioral, addictive and developmental disorders and disabilities and of the psychosocial aspects of illness, injury, disability and impairment undertaken within a psychosocial framework; administration and interpretation of tests and measures of psychosocial functioning; development and implementation of appropriate assessment-based treatment plans; and the provision of crisis oriented psychotherapy and brief, short-term and long-term psychotherapy and psychotherapeutic

treatment to individuals, couples, families and groups, habilitation, psychoanalysis and behavior therapy; all undertaken for the purpose of preventing, assessing, treating, ameliorating and resolving psychosocial dysfunction with the goal of maintaining and enhancing the mental, emotional, behavioral and social functioning and well-being of individuals, couples, families, small groups, organizations, communities and society.

- (b) Diagnosis in the context of licensed clinical social work practice is the process of distinguishing, beyond general social work assessment, between similar mental, emotional, behavioral, developmental and addictive disorders, impairments and disabilities within a psychosocial framework on the basis of their similar and unique characteristics consistent with accepted classification systems.
- (c) Psychotherapy in the context of licensed clinical social work practice is the use of verbal methods in interpersonal relationships with the intent of assisting a person or persons to modify attitudes and behavior which are intellectually, socially, or emotionally maladaptive.
- (d) Development of assessment-based treatment plans in the context of licensed clinical social work practice refers to the development of an integrated plan of prioritized interventions, that is based on the diagnosis and psychosocial assessment of the client, to address mental, emotional, behavioral, developmental and addictive disorders, impairments and disabilities, reactions to illnesses, injuries, disabilities and impairments, and social problems.

### § 7702. Authorized practice and the use of the titles "licensed master social worker" and "licensed clinical social worker".

1. In addition to the licensed social work services included in subdivisions one and two of section seventy-seven hundred one of this article, licensed master social workers and licensed clinical social workers may perform the following social work functions that do not require a license under this article, including but not limited to:
  - (a) Serve as a community organizer, planner, or administrator for social service programs in any setting.
  - (b) Provide supervision and/or consultation to individuals, groups, institutions and agencies.
  - (c) Serve as a faculty member or instructor in an educational setting.

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- (d) Plan and/or conduct research projects and program evaluation studies.
- (e) Maintain familiarity with both professional and self-help systems in the community in order to assist the client in those services when necessary.
- (f) Assist individuals or groups with difficult day to day problems such as finding employment, locating sources of assistance, organizing community groups to work on a specific problem.
- (g) Consult with other agencies on problems and cases served in common and coordinating services among agencies or providing case management.
- (h) Conduct data gathering on social problems.
- (i) Serve as an advocate for those clients or groups of clients whose needs are not being met by available programs or by a specific agency.
- (j) Assess, evaluate and formulate a plan of action based on client need.
- (k) Provide training to community groups, agencies, and other professionals.
- (l) Provide administrative supervision.

2. Practice of "licensed master social work" and use of the title "licensed master social worker" and designation "LMSW".

- (a) Only a person licensed or exempt under this article shall practice "licensed master social work" as defined in subdivision one of section seventy-seven hundred one of this article.
- (b) Only a person licensed pursuant to subdivision one of section seventy-seven hundred four of this article shall use the title "licensed master social worker" or the designation "LMSW".

3. Practice of "licensed clinical social work" and use of the title "licensed clinical social worker" and designation "LCSW".

- (a) Only a person licensed or exempt under this article shall practice "licensed clinical social work" as defined in subdivision two of section seventy-seven hundred one of this article.
- (b) Only a person licensed pursuant to subdivision two of section seventy-seven hundred four of this article shall use the title "licensed clinical social worker" or the designation "LCSW".

**§7703. State board for social work.**

A state board for social work shall be appointed by the board of regents on recommendation of the commissioner for the purpose of assisting the board of regents and the department on matters of professional licensing, practice and conduct in accordance with section sixty-five hundred eight of this title. The board shall be composed of not less than twelve members, of which five shall be licensed clinical social workers, five shall be licensed master social

workers and two members of the public. Members of the first board need not be licensed prior to their appointment to the board. The terms of the first appointed members shall be staggered so that four are appointed for three years, four are appointed for four years, and four are appointed for five years. An executive secretary to the board shall be appointed by the board of regents on recommendation of the commissioner and shall be licensed pursuant to this article.

**S 7704. Requirements for a license.**

1. To qualify for a license as a "licensed master social worker" an applicant shall fulfill the following requirements:
  - (a) Application: file an application with the department;
  - (b) Education: have received an education, including a master's of social work degree from a program registered by the department, or determined by the department to be the substantial equivalent, in accordance with the commissioner's regulations;
  - (c) Experience: meet no requirement as to experience;
  - (d) Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;
  - (e) Age: be at least twenty-one years of age;
  - (f) Character: be of good moral character as determined by the department; and
  - (g) Fees: pay a fee of one hundred fifteen dollars to the department for admission to a department conducted examination and for an initial license, and a fee of one hundred fifty-five dollars for each triennial registration period.
2. To qualify for a license as a "licensed clinical social worker", an applicant shall fulfill the following requirements:
  - (a) Application: file an application with the department;
  - (b) Education: have received an education, including a master's of social work degree from a program registered by the department, or determined by the department to be the substantial equivalent, that includes completion of a core curriculum which includes at least twelve credit hours of clinical courses, in accordance with the commissioner's regulations; a person who has received a master's, or equivalent degree in social work, during which they did not complete a core curriculum which includes clinical courses, may satisfy this requirement by completing equivalent post-graduate clinical coursework, in accordance with the commissioner's regulations;
  - (c) Experience: have at least three years full-time supervised post-graduate clinical social work experience in diagnosis, psychotherapy, and assessment-based treatment plans, or its part-time equivalent, obtained over a continuous period not to exceed six years, under the supervision, satisfactory to the Department, of a psychiatrist, a licensed psychologist, or a licensed clinical social worker in a facility setting or other supervised settings approved by the Department.

**Note: Laws, rules and regulations are current as of the date of this publication**

- (d) Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;
- (e) Age: be at least twenty-one years of age;
- (f) Character: be of good moral character as determined by the department; and
- (g) Fees: pay a fee of one hundred fifteen dollars to the department for an initial license and a fee of one hundred fifty-five dollars for each triennial registration period.

**§ 7705. Limited permits.**

1. On recommendation of the board, the department may issue a limited permit to practice licensed clinical social work and use the title licensed clinical social worker, or to practice licensed master social work and use the title licensed master social worker to an applicant who has met all requirements for licensure as a licensed master social worker or a licensed clinical social worker except those relating to the examination and provided that the individual is under the general supervision of a licensed master social worker or a licensed clinical social worker, as determined by the Department. This limited permit shall be valid for a period of not more than twelve months.
2. The fee for each limited permit shall be seventy dollars.

**§7706. Exempt persons.**

Nothing contained in this article shall be construed to:

1. Apply to the practice, conduct, activities, services or use of any title by any person licensed or otherwise authorized to practice medicine within the state pursuant to article one hundred thirty-one of this title or by any person registered to perform services as a physician assistant within the state pursuant to article one hundred thirty-one-B of this title or by any person licensed or otherwise authorized to practice psychology within this state pursuant to article one hundred fifty-three of this title or by any person licensed or otherwise authorized to practice nursing as a registered professional nurse or nurse practitioner within this state pursuant to article one hundred thirty-nine of this title or by any person licensed or otherwise authorized to practice occupational therapy within this state pursuant to article one hundred fifty-six of this title or by any person licensed or otherwise authorized to practice mental health counseling, marriage and family therapy, creative arts therapy, or psychoanalysis within the state pursuant to article one hundred sixty-three of this title; provided, however, that no physician, physician assistant, registered professional nurse, nurse practitioner, psychologist, occupational therapist, licensed mental health counselor, licensed marriage and family therapist, licensed creative arts therapist, or licensed psychoanalyst may use the titles "licensed clinical social worker" or "licensed master social worker", unless licensed under this article.
2. Prevent or prohibit an individual possessing a baccalaureate of social work degree or its equivalent from the performance of activities and services within the scope of practice of licensed master social work as defined in paragraphs (a) and (b) of subdivision one of section seventy-seven hundred one of this article under supervision by a licensed master social worker, a licensed clinical social worker or in accordance with the commissioner's regulations.

3. Prevent or prohibit a licensed master social worker from the performance of activities and services within the scope of practice of licensed clinical social work as defined in subdivision two of section seventy-seven hundred one of this article in a facility setting and under supervision in accordance with the commissioner's regulations.
4. Prevent or prohibit the performance of activities and services within the scope of practice of licensed master social work as defined in subdivision one of section seventy-seven hundred one of this article by individuals, churches, schools, teachers, organizations, or not-for-profit businesses which are providing instruction, advice, support, encouragement or information to individuals, families and relational groups.
5. Prevent or prohibit the performance of activities and services within the scope of practice of licensed master social work or licensed clinical social work as defined in section seventy-seven hundred one of this article by the following:
  - (a) any individual who is credentialed under any law, including attorneys, rape crisis counselors, credentialed alcoholism and substance abuse counselors whose scope of practice includes the practices defined in section seventy-seven hundred one of this article from performing or claiming to perform work authorized by applicable provisions of this chapter and the mental hygiene law;
  - (b) provision of pastoral counseling services by any member of the clergy or christian science practitioner, from providing pastoral counselling services within the context of his or her ministerial charge or obligation;
  - (c) students who are enrolled in a baccalaureate of social work or professional graduate level social work program of study, and which are required to perform as part of the field work component of that program, services provided under the supervision of a field work supervisor approved by the program;
  - (d) on the part of a student or trainee who is enrolled in an institution or program registered by the department or accredited by an accrediting organization acceptable to the department to provide training in a discipline or profession, other than social work or clinical social work, that is licensed pursuant to this title, where such activities and services are authorized within the definition of the scope of practice of the profession, or discipline in which he or she is being trained as set forth in the education law or the commissioner's regulations, provided that such services are performed under the regular and ongoing supervision of a licensee in the profession or discipline in which he or she is being trained who assumes professional responsibility for the services performed under his or her supervision and that such activities and the provision of such services are a formal part of the professional training program in which he or she is enrolled;
  - (e) any federal, state, county or municipal employee performing clinical social work services upon the effective date of this section for the period during which they maintain such employment with such governmental unit within the context of such employment and shall be limited to the services provided upon such effective date; and

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- (f) any employee performing clinical social work services on the effective date of this section for the period during which they maintain such employment with such entity within the context of such employment, and shall be limited to the services provided prior to such effective date.

**§ 7707. Special provisions.**

1. Any person who is licensed as a certified social worker on the effective date of this article shall be licensed as a licensed master social worker without meeting any additional requirements.
2. Any person who possesses a master's of social work degree on the effective date of this section, who has five years of post-graduate social work employment and meets the requirements for a license pursuant to this article, except for examination, and who files with the Department within one year of the effective date of this section shall be licensed as a licensed master social worker.
3. Any person who is licensed as a certified social worker on the effective date of this section and who has been authorized pursuant to section three thousand two hundred twenty-one or section four thousand three hundred three of the insurance law shall be licensed as a licensed clinical social worker without meeting any additional requirements.
4. Any person who is licensed as a certified social worker on the effective date of this section, but who has not received authorization pursuant to section three thousand two hundred twenty-one or four thousand three hundred three of the insurance law, who files with the department within one year of the effective date of this section an application pursuant to subdivision two of section seventy-seven hundred four of this article, who demonstrates to the satisfaction of the department that they meet the experience requirements for authorization pursuant to section three thousand two hundred twenty-one or four thousand three hundred three of the insurance law, shall be licensed as a licensed clinical social worker without meeting any further requirements.
5. Licensed master social workers and licensed clinical social workers may use accepted classifications of signs, symptoms, dysfunctions and disorders, including, but not limited to, classifications used in the practice setting for the purpose of providing mental health services.

**§ 7708. Boundaries of professional practice.**

Any individual whose license or authority to practice derives from the provisions of this article shall be prohibited from:

1. Prescribing or administering drugs as defined in this chapter or as a treatment, therapy, or professional service in the practice of his or her profession; or
2. Using invasive procedures as a treatment, therapy, or professional service in the practice of his or her profession. For purposes of this subdivision, "invasive procedure" means any procedure in which human tissue is cut, altered, or otherwise infiltrated by mechanical or other means. Invasive procedure includes surgery, lasers, ionizing radiation, therapeutic ultrasound, or electroconvulsive therapy.

**§ 7709. Hospital privileges.**

Nothing herein contained shall be deemed to authorize, grant, or extend hospital privileges to individuals licensed under this article.

**Note: Sunset provision for individuals employed by certain programs**

Section 9 of chapter 420 of the Laws of 2002, as amended by section 1 of chapter 433 of the Laws of 2004, provides:

"Nothing in this act shall prohibit or limit the activities or services on the part of any person in the employ of a program or service operated, regulated, funded, or approved by the department of mental hygiene or the office of children and family services, or a local government unit as that term is defined in article 41 of the mental hygiene law or a social services district as defined in section 61 of the social services law, provided, however, this section shall not authorize the use of any title authorized pursuant to article 154 of the education law, except as otherwise provided by such articles, except that this section shall be deemed repealed on January 1, 2010."

**COMMISSIONER'S REGULATIONS  
Part 52  
Social Work  
(Effective September 1, 2004)**

**§52.30 Social work.**

(a) Programs leading to licensure in licensed master social work. In addition to meeting all applicable provisions of this Part, to be registered as a program recognized as leading to licensure in licensed master social work, which meets the requirements of subdivision (b) of section 74.1 of this Title, the program shall:

- (1) be a program in social work leading to a master's degree or its equivalent, which includes at least 60 semester hours, or the equivalent, of graduate study, provided that no more than half of the total semester hours for the program may be advanced

standing credit granted for social work study at the baccalaureate level;

(2) contain curricular content, including but not limited to, each of the following content areas:

- (i) social work values and ethics;
- (ii) diversity, social justice, and at-risk populations;
- (iii) human behavior in the social environment;

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- (iv) social welfare policy and service delivery systems;
- (v) foundation and advanced social work practice; and
- (vi) social work practice evaluation and research;

(3) include a field practicum of at least 900 clock hours in social work integrated with the curricular content prescribed in paragraph (2) of this subdivision.

(b) Programs leading to licensure in licensed clinical social work. In addition to meeting all applicable provisions of this Part, to be registered as a program recognized as leading to licensure in licensed clinical social work, which meets the requirements of subdivision (c) of section 74.1 of this Title, the program shall:

(1) be a program in social work leading to a master's degree or its equivalent, which includes at least 60 semester hours, or the equivalent, of graduate study, provided that no more than half of the total semester hours for the program may be advanced standing credit granted for social work study at the baccalaureate level;

(2) contain curricular content, including but not limited to, each of the following content areas:

- (i) social work values and ethics;
- (ii) diversity, social justice, and at-risk populations;

- (iii) human behavior in the social environment;
- (iv) social welfare policy and service delivery systems;
- (v) foundation and advanced social work practice; and
- (vi) social work practice evaluation and research;

(3) include a field practicum of at least 900 clock hours in social work integrated with the curricular content prescribed in paragraph (2) of this subdivision; and

(4) include at least 12 semester hours or the equivalent of coursework that prepares the individual to practice as a licensed clinical social worker, by providing clinical content which emphasizes the person-in-environment perspective and knowledge and skills in the following:

- (i) diagnosis and assessment in clinical social work practice;
- (ii) clinical social work treatment; and
- (iii) clinical social work practice with general and special populations.

## **COMMISSIONER'S REGULATIONS**

### **Part 74**

### **Social Work**

### **(Effective April 7, 2005)**

#### **§74.1 Professional study of social work.**

a. As used in this section, acceptable accrediting agency shall mean an organization accepted by the department as a reliable authority for the purpose of accreditation at the postsecondary level, applying its criteria for granting accreditation of social work programs in a fair, consistent, and nondiscriminatory manner, such as the Council on Social Work Education, its successors, or an equivalent agency.

b. Education requirement for licensure as a licensed master social worker. To meet the professional education requirement for licensure as a licensed master social worker, the applicant shall present satisfactory evidence of having received a master's degree, or its equivalent, in social work through completion of:

1. a program in social work that is registered as leading to licensure in licensed master social work by the department pursuant to section 52.30 of this Title or a program in social work that is accredited by an acceptable accrediting agency or an equivalent social work program; or
2. a program in social work located outside the United States and its territories that is recognized by the appropriate civil authorities of the jurisdiction in which the program is located as a program that prepares an applicant for the professional practice of social work, has been verified in accordance with subdivision (c) of section 59.2 of this Title, and which is determined by the department to have substantial equivalence to a program in social work registered as licensure qualifying for

licensure as a licensed master social worker by the department pursuant to section 52.30 of this Title or to a program accredited by an acceptable accrediting agency.

c. Education requirement for licensure as a licensed clinical social worker.

1. To meet the professional education requirement for licensure as a licensed clinical social worker, the candidate shall present satisfactory evidence of having received a master's degree, or its equivalent in social work through completion of:

- i. a program in social work that is registered as leading to licensure in licensed clinical social work by the department pursuant to section 52.30 of this Title or an equivalent social work program, provided the candidate satisfactorily demonstrates completion of coursework prescribed in paragraph (2) of this subdivision; or
- ii. a program in social work that is accredited by an acceptable accrediting agency, provided the candidate satisfactorily demonstrates completion of coursework prescribed in paragraph (2) of this subdivision; or
- iii. a program in social work located outside the United States and its territories that is recognized by the appropriate civil authorities of the jurisdiction in which the program is located as a program that prepares an applicant

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for the professional practice of social work, has been verified in accordance with subdivision (c) of section 59.2 of this Title, and which is determined by the department to have substantial equivalence to a program in social work registered as leading to licensure in licensed clinical social work by the department pursuant to section 52.30 of this Title or to a program in social work accredited by an acceptable accrediting agency, provided the candidate satisfactorily demonstrates completion of coursework prescribed in paragraph (2) of this subdivision.

## 2. Clinical content.

i. A applicant must demonstrate satisfactory completion of at least 12 semester hours or the equivalent of coursework that prepares the individual to practice as a licensed clinical social worker, by providing clinical content which emphasizes the person-in-environment perspective and knowledge and skills in the following:

- a. diagnosis and assessment in clinical social work practice;
- b. clinical social work treatment; and
- c. clinical social work practice with general and special populations.

ii. The clinical content prescribed in subparagraph (i) of this paragraph must be coursework offered in a program prescribed in paragraph (1) of this subdivision. Such coursework may be taken as part of the master's degree program in social work that the candidate has completed or after completion of such program to remedy deficiencies in clinical content.

### §74.2 Professional licensing examinations.

#### a. Examination for licensure as a licensed master social worker.

1. Each candidate for licensure as a licensed master social worker shall pass an examination:

- i. that is offered by the Association of Social Work Boards, its successors, or another organization determined by the department to have satisfactory administrative and psychometric procedures in place to offer the licensing examination; and
- ii. that the department determines adequately tests social work proficiency at the master's degree level and adequately measures the candidate's knowledge concerning practice as a licensed master social worker as defined in subdivision (1) of section 7701 of the Education Law.

2. Requirements for admission to examination for licensure as a licensed master social worker. To be admitted to the licensing examination, the candidate shall be required to:

- i. file an application for licensure with the department;
- ii. pay the fees for the licensure application and first registration period; and
- iii. present satisfactory evidence of having met the education requirement for licensure as a licensed master social worker, as prescribed in subdivision (b) of section

74.1 of this Part, including receipt of the social work degree.

#### b. Examination for licensure as a licensed clinical social worker.

1. Each candidate for licensure as a licensed clinical social worker shall pass an examination:

- i. that is offered by the Association of Social Work Boards, its successors, or another organization determined by the department to have satisfactory administrative and psychometric procedures in place to offer the licensing examination; and
- ii. that the department determines adequately tests social work proficiency at the clinical level and adequately measures the candidate's knowledge concerning practice as a licensed clinical social worker as defined in subdivision (2) of section 7701 of the Education Law.

2. Requirements for admission to examination for licensure as a licensed clinical social worker.

i. To be admitted to the licensing examination, the candidate shall be required to:

- a. file an application for licensure with the department;
- b. pay the fees for the licensure application and first registration period; and
- c. present satisfactory evidence of having met the education requirement for licensure as a clinical social worker, as prescribed in subdivision (c) of section 74.1 of this Part, including receipt of the social work degree.
- (d) present satisfactory evidence of having met the experience requirements for licensure as a clinical social worker, as prescribed in section 74.3 of this Part.

c. Passing score. The passing score for the examination for licensure as a licensed master social worker and the examination for licensure as a licensed clinical social worker shall be determined by the State Board for Social Work.

### §74.3 Experience requirement for licensure as a licensed clinical social worker.

a. An applicant for licensure as a licensed clinical social worker shall meet the experience requirement for licensure by submitting documentation of three years of full-time supervised clinical social work experience in diagnosis, psychotherapy, and assessment-based treatment plans, or the part-time equivalent, or a combination of full-time and part-time supervised clinical social work experience in diagnosis, psychotherapy, and assessment-based treatment plans, completed over a period not to exceed six years, in accordance with the requirements of this section. For purposes of this subdivision, the full-time experience shall consist of not less than 48 weeks per year, excluding vacation, with not less than an average of 20 client contact hours per week. The part-time equivalent shall consist of the same total number of client contact hours provided over more than three years.

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1. The experience must be obtained after the applicant completes the master's degree program in social work required for licensure in licensed clinical social work, as prescribed in section 74.1(c) of this Part.

2. The supervised experience shall be obtained in a facility setting, as prescribed in subparagraph (i) of this paragraph or a nonfacility setting, as prescribed in subparagraph (ii) of this paragraph, or a combination of the two.

i. A facility setting shall mean a federal, state, county or municipal agency, or other political subdivision, or a chartered elementary or secondary school or degree-granting educational institution, or a not-for-profit or proprietary incorporated entity, which government agency, educational institution, or not-for-profit or proprietary incorporated entity is licensed or otherwise authorized to provide services that fall within the scope of practice of licensed clinical social work.

ii. A nonfacility setting shall mean any other setting not prescribed in subparagraph (i) of this paragraph.

3. Supervision of the experience. The experience shall be supervised in accordance with the requirements of this paragraph.

i. Supervision of the experience shall consist of contact between the applicant and supervisor during which:

- a. the applicant apprises the supervisor of the diagnosis and treatment of each client;
- b. the applicant's cases are discussed;
- c. the supervisor provides the applicant with oversight and guidance in diagnosing and treating clients;
- d. the supervisor regularly reviews and evaluates the professional work of the applicant; and
- e. the supervisor provides at least one hour per week or two hours every other week of in-person individual or group clinical supervision, provided that at least two hours per month shall be individual clinical supervision.

ii. The supervision shall be provided by:

- a. a licensed clinical social worker or the equivalent as determined by the department; or
- b. a psychologist who, at the time of supervision of the applicant, was licensed as a psychologist in the state where supervision occurred and was qualified in psychotherapy as determined by the department based upon a review of the psychologist's education and training, including but not limited to education and training in psychotherapy obtained through completion of a program in psychology registered pursuant to Part 52 of this Title or a program in psychology accredited by the American Psychological Association; or
- c. a physician who, at the time of supervision of the applicant, was a diplomate in psychiatry of the

American Board of Psychiatry and Neurology, Inc. or had the equivalent training and experience as determined by the department.

#### §74.4 Limited permits.

a. Limited permits to practice licensed master social work. As authorized by section 7705 of the Education Law, on recommendation of the State Board for Social Work, the department may issue a limited permit to practice licensed master social work under the general supervision of a licensed master social worker or a licensed clinical social worker, in accordance with the requirements of this subdivision.

1. An applicant for a limited permit to practice licensed master social work shall:

- i. file an application for a limited permit with the department and pay the application fee; and
- ii. satisfy all requirements for licensure as a licensed master social worker, except the examination requirement.

2. The limited permit in licensed master social work shall be issued for a specific employment setting. The setting shall not be a private practice owned or operated by the applicant.

3. An individual practicing licensed master social work under a limited permit shall be under the general supervision of a licensed master social worker or licensed clinical social worker. For purposes of this subdivision, general supervision shall mean that the supervising licensed master social worker or licensed clinical social worker is available for consultation, assessment and evaluation, has authorized the permit holder to provide the services, and exercises the degree of supervision appropriate to the circumstances.

4. The limited permit in licensed master social work shall be valid for a period of not more than 12 months, and shall not be renewable.

b. Limited permits to practice licensed clinical social work. As authorized by section 7705 of the Education Law, on recommendation of the State Board for Social Work, the department may issue a limited permit to practice licensed clinical social work under the general supervision of a licensed clinical social worker, in accordance with the requirements of this subdivision.

1. An applicant for a limited permit to practice licensed clinical social work shall:

- i. file an application for the limited permit with the department and pay the application fee; and
- ii. satisfy all requirements for licensure as a licensed clinical social worker, except the examination requirement.

2. The limited permit in licensed clinical social work shall be issued for a specific employment setting.

3. An individual practicing licensed clinical social work under a limited permit shall be under the general supervision of a licensed clinical social worker. For purposes of this subdivision, general supervision shall mean that supervision of practice under the limited permit shall consist of contact between the permit holder and supervisor during which:

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- i. the permit holder apprises the supervisor of the diagnosis and treatment of each client;
- ii. the permit holder's cases are discussed;
- iii. the supervisor provides the permit holder with oversight and guidance in diagnosing and treating clients;
- iv. the supervisor regularly reviews and evaluates the professional work of the permit holder; and
- v. the supervisor provides at least one hour per week or two hours every other week of in-person individual or group clinical supervision, provided that at least two hours per month shall be individual clinical supervision.

4. The limited permit in licensed clinical social work shall be valid for a period of not more than 12 months, and shall not be renewable.

**§74.5 Authorization qualifying licensed clinical social workers for certain insurance reimbursement.**

a. Upon satisfaction of the requirements set forth in subdivision (c) of this section, and filing with the department an application and a fee of \$85, a licensed clinical social worker may qualify for insurance reimbursement on the basis of three or more additional years of experience in psychotherapy beyond that required for licensure as a licensed clinical social worker, pursuant to Insurance Law, section 3221(1)(4)(D) or 4303(n).

b. Definition. As used in this section, psychotherapy means the use of verbal methods in interpersonal relationships with the intent of assisting a person or persons to modify attitudes and behavior which are intellectually, socially or emotionally maladaptive.

c. In order to fulfill the requirements of Insurance Law, section 3221(1)(4)(D) or 4303(n), the licensed clinical social worker shall complete three or more additional years of experience in psychotherapy beyond that required for licensure as a licensed clinical social worker in accordance with the following criteria:

1. Length of experience. Each candidate shall have the experience which meets the standards of subparagraph (i), (ii) or (iii) of this paragraph.

- i. Experience obtained in a facility shall be:
  - a. no less than three calendar years of experience providing psychotherapy services, which shall comprise no less than 2,400 direct client contact hours in sessions of at least 45 minutes each with not less than 400 client contact hours in any one year; and
  - b. in a facility formally approved in a manner satisfactory to the department by the State Education Department, Office of Mental Health, Office of Mental Retardation and Developmental Disabilities, Division of Substance Abuse Services, Division of Alcoholism and Alcohol Abuse, State Department of Health, State Board of Social Welfare, State Department of Social Services, Secretary of State (except professional service corporations), the Legislature of the State of New York, or comparable departments of other states, territories of the United

States, or the United States as determined by the department.

ii. Experience obtained in a nonfacility practice shall be no less than three calendar years of experience providing psychotherapy services, which shall comprise no less than 2,400 direct client hours in sessions of no less than 45 minutes each with no less than 400 client contact hours in any one year.

iii. A combination of experience in facilities and experience in nonfacility practice which meets the standards of subparagraphs (i) and (ii) of this paragraph.

2. Time of experience. Experience to be acceptable shall follow receipt of the master's degree in social work and shall have been obtained subsequent to the experience used as qualifying for licensure as a licensed clinical social worker.

3. Supervision of experience. All experience shall be under satisfactory supervision in accordance with the requirements of this paragraph.

i. The supervision of the experience shall be:

- a. individual supervision or consultation of no less than two hours per month;
- b. group supervision or group consultation of no less than four hours per month;
- c. case seminars of no less than four hours per month in a formal course offered by an institution of higher education chartered by the Board of Regents; or
- d. peer supervision, consisting of no less than four hours per month. Candidates presenting peer supervision for approval shall also submit two case summaries satisfactory to the board. Such case summaries shall include and demonstrate the relationships among the presenting problem, the background material, a formulation of case dynamics, a diagnostic statement, the treatment process, the treatment outcomes, and supervisory issues.

ii. To be satisfactory, supervision must be provided by:

- a. A licensed clinical social worker who, at the time of supervision of the applicant, met the qualifications for licensure as a licensed clinical social worker pursuant to Article 154 of the Education Law or their equivalent as determined by the department; or
- b. A psychologist who, at the time of supervision of the applicant, was licensed as a psychologist in the state where supervision occurred and was qualified in psychotherapy as determined by the department based upon a review of the psychologist's education and training, including but not limited to education and training in psychotherapy obtained through completion of a program in psychology registered pursuant to Part 52 of this Title or a program in psychology accredited by the American Psychological Association; or
- c. A physician who, at the time of supervision of the applicant, was a diplomate in psychiatry of the

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American Board of Psychiatry and Neurology, Inc. or had the equivalent training and experience as determined by the department.

#### **§74.6 Supervision of licensed master social worker providing clinical social work services.**

In accordance with section 7701(1)(d) of the Education Law, a licensed master social worker may provide clinical social work services in a facility setting or a non-facility setting, as defined by subdivision (a) of this section, under supervision, as prescribed in subdivision (b) of this section.

a. For purposes of this section:

1. A facility setting shall mean a federal, state, county or municipal agency, or other political subdivision, or a chartered elementary or secondary school or degree-granting educational institution, or a not-for-profit or proprietary incorporated entity, which government agency, educational institution, or not-for-profit or proprietary incorporated entity is licensed or otherwise authorized to provide services that fall within the scope of practice of licensed clinical social work.
2. A non-facility setting shall mean any other setting not prescribed in paragraph (1) of this subdivision.

b. Supervision of the clinical social work services provided by the licensed master social worker.

1. Supervision of the clinical social work services provided by the licensed master social worker shall consist of contact between the licensed master social worker and supervisor during which:
  - i. the licensed master social worker appraises the supervisor of the diagnosis and treatment of each client;
  - ii. the licensed master social worker's cases are discussed;
  - iii. the supervisor provides the licensed master social worker with oversight and guidance in diagnosing and treating clients;
  - iv. the supervisor regularly reviews and evaluates the professional work of the licensed master social worker; and
  - v. the supervisor provides at least one hour per week or two hours every other week of in-person individual or group clinical supervision, provided that at least two hours per month shall be individual clinical supervision.

2. The supervision shall be provided by:

- i. a licensed clinical social worker or the equivalent as determined by the department; or
- ii. a psychologist who, at the time of supervision of the applicant, was licensed as a psychologist in the state where supervision occurred and was qualified in psychotherapy as determined by the department based upon a review of the psychologist's education and training, including but not limited to education and training in psychotherapy obtained through completion of a program in psychology registered pursuant to Part 52 of this Title or a program in psychology accredited by the American Psychological Association; or

iii. a physician who, at the time of supervision of the applicant, was a diplomate in psychiatry of the American Board of Psychiatry and Neurology, Inc. or had the equivalent training and experience as determined by the department.

#### **§74.7 Supervision of baccalaureate social workers providing licensed master social work services.**

In accordance with section 7706(2) of the Education Law, an individual who holds a baccalaureate of social work degree or an equivalent degree based upon completion of a baccalaureate program registered by the department pursuant to Part 52 of this Title, or approved by an acceptable accrediting agency as defined in section 74.1(a) of this Part, shall be permitted to perform activities and services within the scope of practice of a licensed master social worker as defined in paragraphs (a) and (b) of subdivision (1) of section 7701 of the Education Law, under the supervision of a licensed master social worker or a licensed clinical social worker. For purposes of this section, supervision shall mean that the licensed master social worker or licensed clinical social worker is available for consultation, assessment and evaluation, has authorized the baccalaureate social worker to provide the services, and exercises the degree of supervision appropriate to the circumstances.

#### **§74.8 Special Provisions.**

a. Licensure as a licensed master social worker.

1. In accordance with subdivision (2) of section 7707 of the Education Law, an applicant who on September 1, 2004, possesses a master's of social work degree shall be licensed as a licensed master social worker, without having to pass the licensure examination as prescribed in section 74.3 of this Part, provided that the applicant meets all of the requirements of paragraph (2) of this subdivision by September 1, 2005.

2. The applicant shall:

- i. file an application for licensure as licensed master social worker with the department by September 1, 2005;
- ii. meet the education requirements for licensure as a licensed master social worker, as prescribed in subdivision (b) of section 74.1 of this Part;
- iii. possess five years of employment performing functions of a licensed master social worker, as defined in section 7701(1) of the Education Law, which all must be obtained after completing the master's degree program in social work;
- iv. be at least twenty-one years of age;
- v. be of good moral character as determined by the department; and (vi) pay a fee of one hundred fifteen dollars to the department for an initial license and a fee of one hundred fifty-five dollars for the first triennial registration period.

b. Licensure as a licensed clinical social worker.

1. In accordance with subdivision (4) of section 7707 of the Education Law, an applicant who is licensed as a certified social worker on September 1, 2004, but had not received an authorization for insurance reimbursement pursuant to section

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74.5 of this Part, who files with the department by September 1, 2005 an application for licensure as a licensed clinical social worker and by September 1, 2005 meets all of the requirements established in paragraph (2) of this subdivision, shall be licensed as a licensed clinical social worker without meeting any other requirements.

2. The applicant shall:

i. file an application for licensure as a licensed clinical social worker with the department by September 1, 2005;

ii. be of good moral character as determined by the department;

iii. pay a fee of one hundred fifteen dollars to the department for an initial license and a fee of one hundred fifty-five dollars for the first triennial registration period; and

iv. meet the requirement for a supervised experience for licensure as a licensed clinical social worker, as prescribed in section 74.3 of this Part, or for the credential for authorization for insurance reimbursement, as prescribed in section 74.5 of this Part.

## **INSURANCE LAW**

### **Sections 3221 and Article 4303(i) and (n)**

#### **§3221 State Insurance Law**

(A) Every insurer delivering a group policy or issuing a group policy for delivery, in this state, which provides reimbursement for psychiatric or psychological services or for the diagnosis and treatment of mental, nervous or emotional disorders and ailments, however defined in such policy, by physicians, psychiatrists or psychologists, must make available and if requested by the policyholder provide the same coverage to insureds for such services when performed by a licensed clinical social worker, within the lawful scope of his or her practice, who is licensed pursuant to article one hundred fifty-four of the education law. Written notice of the availability of such coverage shall be delivered to the policyholder prior to inception of such group policy and annually thereafter, except that this notice shall not be required where a policy covers two hundred or more employees or where the benefit structure was the subject of collective bargaining affecting persons who are employed in more than one state.

(B) The state board for social work shall maintain a list of all licensed clinical social workers qualified for reimbursement under this paragraph.

(C) Such coverage shall be made available at the inception of all new policies and, with respect to all other policies at any subsequent annual anniversary date of the policy subject to evidence of insurability.

(D) In addition to the requirements of subparagraph (A) of this paragraph, every insurer issuing a group policy for delivery in this state which policy provides reimbursement to insureds for psychiatric or psychological services or for the diagnosis and treatment of mental, nervous or emotional disorders and ailments, however defined in such policy, by physicians, psychiatrists or psychologists, must provide the same coverage to insureds for such services when performed by a licensed clinical social worker, within the lawful scope of his or her practice, who is licensed pursuant to subdivision two of section seven thousand seven hundred four of the education law and in addition shall have either (i) three or more additional years experience in psychotherapy, which for the purposes of this subparagraph shall mean the use of verbal methods in interpersonal relationships with the intent of assisting a person or persons to modify attitudes and behavior which are intellectually, socially or emotionally maladaptive, under supervision, satisfactory to the state board for social work, in a facility, licensed or incorporated by an appropriate governmental department, providing services for diagnosis or treatment of mental, nervous or emotional disorders or ailments, or (ii) three or more additional years experience in psychotherapy under the supervision, satisfactory to the state board for social work, of a psychiatrist, a licensed and registered psychologist or a licensed clinical social worker qualified for reimbursement pursuant to subsection (h) of this section, or (iii) a combination of the experience specified in items (i) and (ii) totaling three years, satisfactory to the state board for social work. The state board for social work shall maintain a list of all licensed clinical social workers qualified for reimbursement under this subparagraph.

#### **Article 4303 (i)**

A medical expense indemnity corporation or health service corporation which provides coverage for physicians, psychiatrists or psychologists for psychiatric or psychological services or for the diagnosis and treatment of mental, nervous or emotional disorders and ailments, however defined in such contract, must make available and if requested by all persons holding individual contracts in a group whose premiums are paid by a remitting agent or by the contract holder in the case of a group contract issued pursuant to section four thousand three hundred five of this article, provide the same coverage for such services when performed by a licensed clinical social worker, within the lawful scope of his or her practice, who is licensed pursuant to article one hundred fifty-four of the education law. The state board for social work shall maintain a list of all licensed clinical social workers qualified for reimbursement under this subsection. Such coverage shall be made available at the inception of all new contracts and, with respect to all other contracts, at any anniversary date subject to evidence of insurability. Written notice of the availability of such coverage shall be delivered to the group remitting agent or group contract holder prior to inception of such contract and annually thereafter, except that this notice shall not be required where a policy covers two hundred or more employees or where the benefit structure was the subject of collective bargaining affecting persons who are employed in more than one state.

#### **Article 4303 (n)**

In addition to the requirements of subsection (i) of this section, every health service or medical expense indemnity corporation issuing a group contract pursuant to this section or a group remittance contract for delivery in this state which contract provides reimbursement to subscribers or physicians, psychiatrists or psychologists for psychiatric or psychological services or for the diagnosis and treatment of mental, nervous or emotional disorders and ailments, however defined in such contract, must provide the same coverage to persons covered under the group contract for such services when performed by a licensed clinical social worker, within the lawful scope of his or her practice, who is licensed pursuant to subdivision two of section seven thousand seven hundred four of the education law and in addition shall have either (i) three or more additional years experience in psychotherapy, which for the purposes of this subsection shall mean the use of verbal methods in interpersonal relationships with the intent of assisting a person or persons to modify attitudes and behavior which are intellectually, socially or emotionally maladaptive, under supervision, satisfactory to the state board for social work, in a facility, licensed or incorporated by an appropriate governmental department, providing services for diagnosis or treatment of mental, nervous or emotional disorders or ailments, or (ii) three or more additional years experience in psychotherapy under the supervision, satisfactory to the state board for social work, of a psychiatrist, a licensed and registered psychologist or a licensed clinical social worker qualified for reimbursement pursuant to subsection (i) of this section, or (iii) a combination of the experience specified in paragraphs (i) and (ii) totaling three years, satisfactory to the state board for social work. The state board for social work shall maintain a list of all licensed clinical social workers qualified for reimbursement under this subsection.

**Note: Laws, rules and regulations are current as of the date of this publication**

**CIVIL PRACTICE LAW AND RULES**  
**Section 4508**  
**Confidentiality**

**§4508. Social worker**

a. Confidential information privileged. A person licensed as a licensed master social worker or a licensed clinical social worker under the provisions of article one hundred fifty-four of the education law shall not be required to disclose a communication made by a client, or his or her advice given thereon, in the course of his or her professional employment, nor shall any clerk, stenographer or other person working for the same employer as such social worker or for such social worker be allowed to disclose any such communication or advice given thereon; except

1. that such social worker may disclose such information as the client may authorize;
2. that such social worker shall not be required to treat as confidential a communication by a client which reveals the contemplation of a crime or harmful act;
3. where the client is a child under the age of sixteen and the information acquired by such social worker indicates that the client has been the victim or subject of a crime, the social worker may be required to testify fully in relation thereto upon any examination,

trial or other proceeding in which the commission of such crime is a subject of inquiry;

4. where the client waives the privilege by bringing charges against such social worker and such charges involve confidential communications between the client and the social worker.

b. Limitations on waiver. A client who, for the purpose of obtaining insurance benefits, authorizes the disclosure of any such privileged communication to any person shall not be deemed to have waived the privilege created by this section. For purposes of this subdivision:

1. "person" shall mean any individual, insurer or agent thereof, peer review committee, public or private corporation, political subdivision, government agency, department or bureau of the state, municipality, industry, co-partnership, association, firm, trust, estate or any other legal entity whatsoever; and
2. "insurance benefits" shall include payments under a self-insured plan.

**PUBLIC HEALTH LAW**  
**Section 18**  
**Records Access**

**§18.1 Access to patient information.**

1. Definitions. For the purpose of this section:

- a. "Committee" means a medical access review committee appointed pursuant to subdivision four of this section.
- b. "Health care provider" or "provider" means a "health care facility" or a "health care practitioner" as defined by this subdivision.
- c. "Health care facility" or "facility" means a hospital as defined in article twenty-eight of this chapter, a home care services agency as defined in article thirty-six of this chapter, a hospice as defined in article forty of this chapter, a health maintenance organization as defined in article forty-four of this chapter, and a shared health facility as defined in article forty-seven of this chapter.
- d. "Health care practitioner" or "practitioner" means a person licensed under article one hundred thirty-one, one hundred thirty-one B, one hundred thirty-two, one hundred thirty-three, one hundred thirty-six, one hundred thirty-nine, one hundred forty-one, one hundred forty-three, one hundred forty-four, one hundred fifty-three, one hundred fifty-four, one hundred fifty-six or one hundred fifty-nine of the education law or a person certified under section twenty-five hundred sixty of this chapter.

- e. "Patient information" or "information" means any information concerning or relating to the examination, health assessment including, but not limited to, a health assessment for insurance and employment purposes or treatment of an identifiable subject maintained or possessed by a health care facility or health care practitioner who has provided or is providing services for assessment of a health condition including, but not limited to, a health assessment for insurance and employment purposes or has treated or is treating such subject, except (i) information and clinical records subject to the provisions of section 23.05 or 33.13 of the mental hygiene law, (ii) personal notes and observations of a health care practitioner, provided that such personal notes and observations are maintained by the practitioner and not disclosed by the practitioner to any other person after January first, nineteen hundred eighty-seven, (iii) information maintained by a practitioner, concerning or relating to the prior examination or treatment of a subject received from another practitioner, provided however, that such information may be requested by the subject directly from such other practitioner in accordance with the provisions of this section, and (iv) data disclosed to a practitioner in confidence by other persons on the basis of an express condition that such data would never be disclosed to the subject or other persons, provided that such data has never been disclosed to any other person. If at any time such personal notes and observations or such data is disclosed, it shall be considered patient information for

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purposes of this section. For purposes of this subdivision, "disclosure to any other person" shall not include disclosures made to practitioners as part of a consultation or referral during the treatment of the subject, to persons reviewing information or records in the ordinary course of ensuring that a provider is in compliance with applicable quality of care, licensure or accreditation standards, to an employee or official of a federal, state or local agency for the sole purpose of conducting an audit in the course of his or her official duties, to the statewide planning and research cooperative system, to other persons pursuant to a court order, to governmental agencies, insurance companies licensed pursuant to the insurance law and other third parties requiring information necessary for payments to be made to or on behalf of patients, to qualified researchers, to the state board for professional medical conduct when such board requests such information in the exercise of its statutory function, to an insurance carrier insuring, or an attorney consulted by, a health care provider, or to a health maintenance organization certified pursuant to article forty-four of this chapter or licensed pursuant to the insurance law, or to the committee or a court pursuant to the provisions of this section.

For purposes of this subdivision treatment of a subject shall not include diagnostic services performed by a practitioner at the request of another health care practitioner provided, however, that such information may be requested by the subject directly from the practitioner at whose request such diagnostic services were performed, in accordance with the provisions of this section.

- f. "Personal notes and observations" means a practitioner's speculations, impressions (other than tentative or actual diagnosis) and reminders, provided such data is maintained by a practitioner.
  - g. "Qualified person" means any properly identified subject, committee for an incompetent appointed pursuant to article seventy-eight of the mental hygiene law, or a parent of an infant, a guardian of an infant appointed pursuant to article seventeen of the surrogate's court procedure act or other legally appointed guardian of an infant who may be entitled to request access to a clinical record pursuant to paragraph (c) of subdivision two of this section.
  - h. "Subject" means an individual concerning whom patient information is maintained or possessed by a health care provider.
  - i. "Treating practitioner" means the health care practitioner who has primary responsibility for the care of the subject within the health care facility or if such practitioner is unavailable, a practitioner designated by such facility.
2. Access by qualified persons.
- a. Subject to the provisions of subdivision three of this section, upon the written request of any subject, a health care provider shall provide an opportunity, within ten days, for such subject to inspect any patient information concerning or relating to the examination or treatment of such subject in the possession of such health care provider.
  - b. Subject to the provisions of subdivision three of this section, upon the written request of the committee for an incompetent appointed pursuant to article seventy-eight of the mental hygiene law, a health care provider shall provide an opportunity, within ten days, for the inspection by such committee of any patient information concerning the incompetent subject in the possession of such health care provider.
  - c. Subject to the provisions of subdivision three of this section and except as otherwise provided by law, upon the written request of a parent or guardian of an infant appointed pursuant to article seventeen of the surrogate's court procedure act, or any other legally appointed guardian, a health care provider shall provide an opportunity, within ten days, for such parent or guardian to inspect any patient information maintained or possessed by such provider concerning care and treatment of the infant for which the consent of such parent or guardian was obtained or where care was provided without consent in an emergency which was the result of accidental injury or the unexpected onset of serious illness; provided, however, that such parent or guardian shall not be entitled to inspect or make copies of any patient information concerning the care and treatment of an infant where the health care provider determines that access to the information requested by such parent or guardian would have a detrimental effect on the provider's professional relationship with the infant, or on the care and treatment of the infant, or on the infant's relationship with his or her parents or guardian.
  - d. Subject to the provisions of subdivision three of this section, upon the written request of any qualified person, a health care provider shall furnish to such person, within a reasonable time, a copy of any patient information requested which the person is authorized to inspect pursuant to this subdivision.
  - e. The provider may impose a reasonable charge for all inspections and copies, not exceeding the costs incurred by such provider. However, the reasonable charge for paper copies shall not exceed seventy-five cents per page. A qualified person shall not be denied access to patient information solely because of inability to pay.
  - f. A provider may place reasonable limitations on the time, place, and frequency of any inspections of patient information.
  - g. In the event that a practitioner does not have space available to permit the inspection of patient information, the practitioner may, in the alternative, furnish a qualified person a copy of such information within ten days.
  - h. A provider may request the opportunity to review the patient information with the qualified person requesting such information, but such review shall not be a prerequisite for furnishing the information.
  - i. A provider may make available for inspection either the original or a copy of patient information.
3. Limitations on access.
- (a) Upon receipt of a written request by a qualified person to inspect or copy patient information, a practitioner may

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review the information requested. Unless the practitioner determines pursuant to paragraph (d) of this subdivision that:

- (i) the requested review of the information can reasonably be expected to cause substantial and identifiable harm to the subject or others which would outweigh the qualified person's right to access to the information, or
  - (ii) the material requested is personal notes and observations, or the information requested would have a detrimental effect as defined in subdivision two of this section, review of such patient information shall be permitted or copies provided.
- b. Upon receipt of a written request by a qualified person to inspect patient information maintained by a facility, the facility shall inform the treating practitioner of the request. The treating practitioner may review the information requested. Unless the treating practitioner determines, pursuant to paragraph (d) of this subdivision that the requested review of the information can reasonably be expected to cause substantial and identifiable harm to the subject or others which would outweigh the qualified person's right of access to the information or would have a detrimental effect as defined in subdivision two of this section, review of such patient information shall be permitted or copies provided.
- c. A subject over the age of twelve years may be notified of any request by a qualified person to review his/her patient information, and, if the subject objects to disclosure, the provider may deny the request. In the case of a facility, the treating practitioner shall be consulted.
- d. The provider may deny access to all or a part of the information and may grant access to a prepared summary of the information if, after consideration of all the attendant facts and circumstances, the provider determines that
- (i) the request to review all or a part of the patient information can reasonably be expected to cause substantial and identifiable harm to the subject or others which would outweigh the qualified person's right of access to the information, or would have a detrimental effect as defined in subdivision two of this section, or
  - (ii) the material requested is personal notes and observations. In conducting such review, the provider may consider, among other things, the following factors:
    - (i) the need for, and the fact of, continuing care and treatment
    - (ii) the extent to which the knowledge of the information may be harmful to the health or safety of the subject or others;
    - (iii) the extent to which the information contains sensitive material disclosed in confidence to the practitioner or treating practitioner by family members, friends and other persons;
  - (iv) the extent to which the information contains sensitive materials disclosed to the practitioner or the treating practitioner by the subject which would be injurious to the subject's relationships with other persons, except when the subject is requesting information concerning himself or herself; and
  - (v) in the case of a minor making a request for access pursuant to subdivision two of this section, the age of the subject.
- e. In the event of a denial of access, the qualified person shall be informed by the provider of such denial, and whether the denial is based on the reasonable expectation that release of the information can reasonably be expected to cause substantial and identifiable harm to the subject or others which outweighs the qualified person's right of access to the information or on the reasonable expectation that release of the information would have a detrimental effect as defined in subdivision two of this section, or on the basis that the materials sought to be reviewed constitute personal notes and observations, and of the qualified person's right to obtain, without cost, a review of the denial by the appropriate medical record access review committee. If the qualified person requests such review, the provider shall, within ten days of receipt of such request, transmit the information including personal notes and observations as defined herein, to the chairman of the appropriate committee with a statement setting forth the specific reasons for which access was denied. After an in camera review of the materials provided and after providing all parties a reasonable opportunity to be heard, the committee shall promptly make a written determination whether the requested review of the information can reasonably be expected to cause substantial and identifiable harm to the subject or others which outweighs the qualified person's right of access to the information pursuant to paragraph (d) of this subdivision or whether the requested review would have a detrimental effect as defined in subdivision two of this section, or whether all or part of the materials sought to be reviewed constitute personal notes and observations, and shall accordingly determine whether access to all or part of such materials shall be granted. In the event that the committee determines that the request for access shall be granted in whole or in part, the committee shall notify all parties and the provider shall grant access pursuant to such determination.
- f. In the event that access is denied in whole or in part because the requested review of information can reasonably be expected to cause substantial and identifiable harm to the subject or others which would outweigh the qualified person's right of access to the information, or would have a detrimental effect as defined in subdivision two of this section, the committee shall notify the qualified person of his or her right to seek judicial review of the provider's determination pursuant to this section: provided however, that a determination by the committee as to whether materials sought to be reviewed constitute personal notes and observations shall not be the subject of judicial review. Within thirty days of receiving notification of such decision, the qualified person may commence, upon notice, a special proceeding in supreme court for a judgement requiring the provider to make available the information for

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inspection or copying. The court upon such application and after an in camera review of the materials provided including the determination and record of the committee, and after providing all parties an opportunity to be heard, shall determine whether there exists a reasonable basis for the denial of access. The relief available pursuant to this section shall be limited to a judgement requiring the provider to make available to the qualified person the requested information for inspection or copying.

4. Medical record access review committees. The commissioner shall appoint medical record access review committees to hear appeals of the denial of access to patient information as provided in paragraph (e) of subdivision three of this section. Members of such committees shall be appointed by the commissioner from a list of nominees submitted by statewide associations of providers in the particular licensed profession involved; provided, however, that, with respect to patient information maintained by a psychiatrists. In the case of the licensed physicians, such association shall be the medical society of the state of New York. Such medical record access review committees shall consist of no less than three nor more than five licensed professionals. The commissioner shall promulgate rules and regulations necessary to effectuate the provisions of this subdivision.
5. Annual report. The commissioner shall submit an annual report on or before December thirty-first to the governor and the legislature. Such report shall include, but not be limited to, the number of requests for committee review of providers' denial of access and the committees' determinations thereon.
6. Disclosure to third persons. Whenever a health care provider, as otherwise authorized by law, discloses patient information to a person or entity other than the subject of such information or to other qualified persons, either a copy of the subject's written authorization shall be added to the patient information or the name and address of such third party and a notation of the purpose for the disclosure shall be indicated in the file or record of such subject's patient information maintained by the provider provided, however, that for disclosures made to government agencies making payments on behalf of patients or to insurance companies licensed pursuant to the insurance law such a notation shall only be entered at the time the disclosure is first made. This subdivision shall not apply to disclosure to practitioners or other personnel employed by or under contract with the facility, or to government agencies for purposes of facility inspections or professional conduct investigations. Any disclosure made pursuant to this section shall be limited to that information necessary in light of the reason for disclosure. Information so disclosed should be kept confidential by the party receiving such information and the limitations on such disclosure in this section shall apply to such party.
7. Applicability of federal law. Whenever federal law or applicable federal regulations affecting the release of patient information are a condition for the receipt of federal aid, and are inconsistent with the provisions of this section, the provisions of federal law or federal regulations shall be controlling.
8. Challenges to accuracy. A qualified person may challenge the accuracy of information maintained in the patient information and may require that a brief written statement prepared by him or her concerning the challenged information be inserted into the patient information. This statement shall become a permanent part of the patient information and shall be released whenever

the information at issue is released. This subdivision shall apply only to factual statements and shall not include a provider's observations, inferences or conclusions.

A facility may place reasonable restrictions on the time and frequency of any challenges to accuracy.

9. Waivers void. Any agreement by an individual to waive any right to inspect, copy or seek correction of patient information as provided for in this section shall be deemed to be void as against public policy and wholly unenforceable.
10. Nothing contained in this section shall restrict, expand or in any way limit the disclosure of any information pursuant to articles twenty-three, thirty-one and forty-five of the civil practice law and rules or section six hundred seventy-seven of the county law.
11. No proceeding shall be brought or penalty assessed, except as provided for in this section, against a health care provider, who in good faith, denies access to patient information.
12. Immunity from liability. No health care provider shall be subjected to civil liability arising solely from granting or providing access to any patient information in accordance with this section

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# LAWS, RULES AND REGULATIONS APPLICABLE TO ALL PROFESSIONS

## Education Law Article 130 General Provisions

### Subarticle 1 Introductory Summary

#### **§6500. Introduction.**

This title provides for the regulation of the admission to and the practice of certain professions. This first article applies to all the professions included in this title, except that prehearing procedures and hearing procedures in connection with the regulation of professional conduct of the profession of medicine and physician's assistants and specialist's assistants shall be conducted pursuant to the provisions of Title II-A of article two of the public health law. Each of the remaining articles applies to a particular profession.

#### **§6501. Admission to a profession (licensing).**

Admission to practice of a profession in this state is accomplished by a license being issued to a qualified applicant by the education department. To qualify for a license an applicant shall meet the requirements prescribed in the article for the particular profession and shall meet the requirements prescribed in section 3-503 of the general obligations law.

#### **§6501-a. Disclosure with respect to loans made or guaranteed by the New York State Higher Education Services Corporation.**

Every application for a license issued pursuant to the provisions of this article shall contain a question inquiring whether the applicant has any loans made or guaranteed by the New York state higher education services corporation currently outstanding, and if so, whether such applicant is presently in default on any such loan. The name and address of any applicant who answers either or both of such questions in the affirmative shall be transmitted to such corporation by the department prior to the date on which such license is issued.

#### **§6502. Duration and registration of a license.**

1. A license shall be valid during the life of the holder unless revoked, annulled or suspended by the board of regents or in the case of physicians, physicians practicing under a limited permit, physician's assistants, specialist's assistants and medical residents, the licensee is stricken from the roster of such licensees by the board of regents on the order of the state board for professional medical conduct in the department of health. A licensee must register with the department and meet the requirements prescribed in section 3-503 of the general obligations law to practice in this state.

2. The department shall establish the beginning dates of the registration periods for each profession and mail an application for registration conforming to the requirements of section 3-503 of the general obligations law to every licensee currently registered at least four months prior to the beginning of the registration period for the respective profession.

3. An application for registration and the required registration fee shall be submitted together with or as a part of the application for a license. A person initially licensed or a licensee resuming practice after a lapse of registration during the last two years of a triennial registration period shall receive a prorated refund of one-third of the total registration fee for each full year of the triennial period that has elapsed prior to the date of registration. Except as provided in subdivision three-a of this section, the department shall renew the registration of each licensee upon receipt of a proper application, on a form prescribed by the department and conforming to the requirements of section 3-503 of the general obligation law, and the registration fee. Any licensee who fails to register by the beginning of the appropriate registration period shall be required to pay an additional fee for late filing of ten dollars for each month that registration has been delayed. No licensee resuming practice after a lapse of registration shall be permitted to practice without actual possession of the registration certificate.

3-a. Prior to issuing any registration pursuant to this section and section sixty-five hundred twenty-four of this chapter, the department shall request and review any information relating to an applicant which reasonably appears to relate to professional misconduct in his or her professional practice in this and any other jurisdiction. The department shall advise the director of the office of professional medical conduct in the department of health of any information about an applicant which reasonably appears to be professional misconduct as defined in sections sixty-five hundred thirty and sixty-five hundred thirty-one of this chapter, within seven days of its discovery. The registration or re-registration of such applicant shall not be delayed for a period exceeding thirty days unless the director finds a basis for recommending summary action pursuant to subdivision twelve of section two hundred thirty of the public health law after consultation with a committee on professional conduct of the state board for professional medical conduct, if warranted. Re-registration shall be issued if the commissioner of health fails to issue a summary order pursuant to subdivision twelve of section two hundred thirty of the public health law within ninety days of notice by the department pursuant to this subdivision. Re-registration shall be denied if the commissioner of health issues a summary order pursuant to subdivision twelve of section two hundred thirty of the public health law.

4. Any licensee who is not engaging in the practice of his profession in this state and does not desire to register shall so advise the department. Such licensee shall not be required to pay an additional fee for failure to register at the beginning of the registration period.

5. Licensees shall notify the department of any change of name or mailing address within thirty days of such change. Failure to register or provide such notice within one hundred eighty days of such

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change shall be willful failure under section sixty-five hundred thirty of this chapter.

6. The fee for replacement of a lost registration certificate or license or for registration of an additional office shall be ten dollars.

7. An additional fee of twenty-five dollars shall be charged for the licensure or registration of any applicant who submits a bad check to the department.

#### **§6503. Practice of a profession.**

Admission to the practice of a profession (1) entitles the licensee to practice the profession as defined in the article for the particular profession, (2) entitles the individual licensee to use the professional title as provided in the article for the particular profession, and (3) subjects the licensee to the procedures and penalties for professional misconduct as prescribed in this article (sections sixty-five hundred nine, sixty-five hundred ten, and sixty-five hundred eleven).

#### **§6504. Regulation of the professions.**

Admission to the practice of the professions (licensing) and regulation of such practice shall be supervised by the board of regents (section sixty-five hundred six) and administered by the education department (section sixty-five hundred seven), assisted by a state board for each profession (section sixty-five hundred eight).

#### **§6505. Construction.**

No definition of the practice of a profession shall be construed to restrain or restrict the performance of similar acts authorized in the definition of other professions.

#### **§6505-a. Professional referrals.**

There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any association or society of professionals authorized to practice under this title, or any employee, agent, or member thereof, for referring any person to a member of the profession represented by such association or society provided that such referral was made without charge as a service to the public, and without malice, and in the reasonable belief that such referral was warranted, based upon the facts disclosed.

#### **§6505-b. Course work or training in infection control practices.**

Every dentist, registered nurse, licensed practical nurse, podiatrist, optometrist and dental hygienist practicing in the state shall, on or before July first, nineteen hundred ninety-four and every four years thereafter, complete course work or training appropriate to the professional's practice approved by the department regarding infection control and barrier precautions, including engineering and work practice controls, in accordance with regulatory standards promulgated by the department, in consultation with the department of health, which shall be consistent, as far as appropriate, with such standards adopted by the department of health pursuant to section two hundred thirty-eight of the public health law to prevent the transmission of HIV/HBV in the course of professional practice. Each such professional shall document to the department at the time of registration commencing with the first registration after July first, nineteen hundred ninety-four that the professional has completed course work or training in accordance with this section, provided, however that a professional subject to the provisions of paragraph (f)

of subdivision one of section twenty-eight hundred five-k of the public health law shall not be required to so document. The department shall provide an exemption from this requirement to anyone who requests such an exemption and who (i) clearly demonstrates to the department's satisfaction that there would be no need for him or her to complete such course work or training because of the nature of his or her practice or (ii) that he or she has completed course work or training deemed by the department to be equivalent to the course work or training approved by the department pursuant to this section. The department shall consult with organizations representative of professions, institutions and those with expertise in infection control and HIV and HBV with respect to the regulatory standards promulgated pursuant to this section.

#### **§6505-c. Articulation between military and civilian professional careers.**

1. The commissioner shall develop, jointly with the director of the division of veterans' affairs, a program to facilitate articulation between participation in the military service of the United States or the military service of the state and admission to practice of a profession. The commissioner and the director shall identify, review and evaluate professional training programs offered through either the military service of the United States or the military service of the state which may, where applicable, be accepted by the department as equivalent education and training in lieu of all or part of an approved program. Particular emphasis shall be placed on the identification of military programs which have previously been deemed acceptable by the department as equivalent education and training, programs which may provide, where applicable, equivalent education and training for those professions which are critical to public health and safety and programs which may provide, where applicable, equivalent education and training for those professions for which shortages exist in the state of New York.

2. The commissioner and the director shall prepare a list of those military programs which have previously been deemed acceptable by the department as equivalent education and training in lieu of all or part of an approved program no later than the thirtieth of August, two thousand three. On and after such date, such list shall be made available to the public and applicants for admission to practice of a profession.

3. The commissioner and the director shall prepare a list of those military programs which may provide, where applicable, equivalent education and training for those professions which are critical to public health and safety, programs which may provide, where applicable, equivalent education and training for those professions for which shortages exist in the state of New York and any other military programs which may, where applicable, be accepted by the department as equivalent education and training in lieu of all or part of an approved program no later than the thirty-first of October, two thousand three. On and after such date, such list shall be made available to the public and applicants for admission to practice of a profession.

4. Such lists shall be prepared annually no later than the thirtieth of June thereafter with additions and deletions made jointly by the commissioner and the director and made available to the public and applicants for admission to practice of a profession on such date.

**§6506. Supervision by the Board of Regents**

The board of regents shall supervise the admission to and the practice of the professions. In supervising, the board of regents may:

- (1) Promulgate rules, except that no rule shall be promulgated concerning article 131-A of this chapter;
- (2) Establish by rule, high school, preprofessional, professional and other educational qualifications required for licensing in the professions regulated by this title;
- (3) Charter schools offering educational programs for the professions regulated by this title, and no such school shall operate in this state without such a charter, except Columbia University, any school chartered by special act of the legislature prior to September one, nineteen hundred seventy-one, and schools specifically authorized to conduct such programs by the regents;
- (4) Appoint such committees as it deems necessary and compensate members of such committees who are not members of the board of regents or the department up to one hundred dollars per day for each day devoted to committee functions, together with their necessary expenses;
- (5) Waive education, experience and examination requirements for a professional license prescribed in the article relating to the profession, provided the board of regents shall be satisfied that the requirements of such article have been substantially met;
- (6) Indorse a license issued by a licensing board of another state or country upon the applicant fulfilling the following requirements:
  - (a) Application: file an application with the department;
  - (b) Education: meet educational requirements in accordance with the commissioner's regulations;
  - (c) Experience: have experience satisfactory to the board and in accordance with the commissioner's regulations;
  - (d) Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;
  - (e) Age: be at least twenty-one years of age;
  - (f) Citizenship or immigration status: be a United States citizen or an alien lawfully admitted for permanent residence in the United States;
  - (g) Character: be of good moral character as determined by the department; and
  - (h) Prior professional conduct: where an application is submitted for licensure endorsement in any profession regulated by this title and the board of regents determines that while engaged in practice in another jurisdiction the applicant:

- i. has been subject to disciplinary action by a duly authorized professional disciplinary agency of such other jurisdiction, where the conduct upon which the disciplinary action was based would, if committed in New York State,

constitute practicing the profession beyond its authorized scope, with gross incompetence, with gross negligence on a particular occasion, or with negligence or incompetence on more than one occasion under the laws of New York State, or

ii. has voluntarily or otherwise surrendered his or her professional license in another jurisdiction after a disciplinary action was instituted by a duly authorized professional disciplinary agency of such other jurisdiction, based on conduct that would, if committed in New York State, constitute practicing the profession beyond its authorized scope, with gross incompetence, with gross negligence on a particular occasion, or with negligence or incompetence on more than one occasion under the laws of New York State, the board of regents shall evaluate the conduct and may deny licensure endorsement to the applicant based on such conduct; and

- (7) Direct the department to remedy any error, omission, delay or other circumstance in the issuance or registration of a license;
- (8) Designate a professional conduct officer, who shall be the chief administrative officer of the office of the professions, or his designee, in connection with professional licensing and misconduct proceedings and criminal matters, such officer to be empowered to issue subpoenas and administer oaths in connection with such proceedings;
- (9) Establish by rule, standards of conduct with respect to advertising, fee splitting, practicing under a name other than that of the individual licensee (when not specifically authorized), proper use of academic or professional degrees or titles tending to imply professional status, and such other ethical practices as such board shall deem necessary, except that no rule shall be established concerning article 131-A of this chapter; and
- (10) Delegate to department officers the disposition of any licensing matters pursuant to rules.

**§6507. Administration by the Education Department.**

1. The commissioner and the department shall administer the admission to and the practice of the professions.
2. In administering, the commissioner may:
  - a. Promulgate regulations, except that no regulations shall be promulgated concerning article 131-A of this chapter;
  - b. Conduct investigations;
  - c. Issue subpoenas;
  - d. Grant immunity from prosecution in accordance with section 50.20 of the criminal procedure law to anyone subpoenaed in any investigation or hearing conducted pursuant to this title; and
  - e. Excuse, for cause acceptable to the commissioner, the failure to register with the department. Such excuse shall validate and authorize such practitioner's right to practice pending registration.

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3. The department assisted by the board for each profession, shall:
  - a. Establish standards for preprofessional and professional education, experience and licensing examinations as required to implement the article for each profession. Notwithstanding any other provision of law, the commissioner shall establish standards requiring that all persons applying, on or after January first, nineteen hundred ninety-one, initially, or for the renewal of, a license, registration or limited permit to be a physician, chiropractor, dentist, registered nurse, podiatrist, optometrist, psychiatrist, psychologist, licensed master social worker, licensed clinical social worker or dental hygienist shall, in addition to all the other licensure, certification or permit requirements, have completed two hours of coursework or training regarding the identification and reporting of child abuse and maltreatment. The coursework or training shall be obtained from an institution or provider which has been approved by the department to provide such coursework or training. The coursework or training shall include information regarding the physical and behavioral indicators of child abuse and maltreatment and the statutory reporting requirements set out in sections four hundred thirteen through four hundred twenty of the social services law, including but not limited to, when and how a report must be made, what other actions the reporter is mandated or authorized to take, the legal protections afforded reporters, and the consequences for failing to report. Each applicant shall provide the department with documentation showing that he or she has completed the required training. The department shall provide an exemption from the child abuse and maltreatment training requirements to any applicant who requests such an exemption and who shows, to the department's satisfaction, that there would be no need because of the nature of his or her practice for him or her to complete such training;
  - b. Review qualifications in connection with licensing requirements; and
  - c. Provide for licensing examinations and reexaminations.

4. The department shall:

- a. Register or approve educational programs designed for the purpose of providing professional preparation which meet standards established by the department.
- b. Issue licenses, registrations, and limited permits to qualified applicants;
- c. (i) Issue a certificate of authority to a qualified professional service corporation being organized under section fifteen hundred three of the business corporation law or to a university faculty practice corporation being organized under section fourteen hundred twelve of the not-for-profit corporation law on payment of a fee of ninety dollars, (ii) file a certified copy of each certificate of incorporation and amendment thereto within thirty days after the filing of such certificate or amendment on payment of a fee of twenty dollars, (iii) file the annual statement required by section fifteen hundred fourteen of the business corporation law on payment of a fee of thirty-five dollars (iv) as of July first, nineteen hundred eighty-eight, file a triennial statement required on payment of a fee of one hundred five dollars. The first triennial period shall commence on July first, nineteen hundred eighty-eight.

- d. Revoke limited permits on the recommendation of the committee on professional conduct for the profession concerned, except for limited permits issued to physicians, physician's assistants and specialist's assistants which shall be subject to sections two hundred thirty, two hundred thirty-a, two hundred thirty-b and two hundred thirty-c of the public health law;
- e. Maintain public records of licenses issued and retain in its files identifying data concerning each person to whom a license has been issued;
- f. Collect the fees prescribed by this title or otherwise provided by law;
- g. Prepare an annual report for the legislature, the governor and other executive offices, the state boards for the professions, professional societies, consumer agencies and other interested persons. Such report shall include but not be limited to a description and analysis of the administrative procedures and operations of the department based upon a statistical summary relating to (i) new licensure, (ii) discipline, (iii) complaint, investigation, and hearing backlog, (iv) budget, and (v) the state boards for the professions. Information provided shall be enumerated by profession; and
- h. Establish an administrative unit which shall be responsible for the investigation, prosecution and determination of alleged violations of professional conduct.

5. Where an application is submitted for licensure or a limited permit in any profession regulated by this title and the commissioner determines that while engaged in practice in another jurisdiction:

- i. the applicant has been subject to disciplinary action by a duly authorized professional disciplinary agency of such other jurisdiction, where the conduct upon which the disciplinary action was based would, if committed in New York State, constitute practicing the profession beyond its authorized scope, with gross incompetence, with gross negligence on a particular occasion, or with negligence or incompetence on more than one occasion under the laws of New York State, or
- iii. the applicant has voluntarily or otherwise surrendered his or her professional license in another jurisdiction after a disciplinary action was instituted by a duly authorized professional disciplinary agency of such other jurisdiction based on conduct that would, if committed in New York State, constitute practicing the profession beyond its authorized scope, with gross incompetence, with gross negligence on a particular occasion, or with negligence or incompetence on more than one occasion under the laws of New York State, the department shall evaluate the conduct and the commissioner may deny licensure or issuance of a limited permit to the applicant based on such conduct.

6. The commissioner and the department shall perform any other functions necessary to implement this title.

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**§6508. Assistance by state boards for the professions.**

1. A board for each profession shall be appointed by the board of regents on the recommendation of the commissioner for the purpose of assisting the board of regents and the department on matters of professional licensing, practice, and conduct. The composition of each board shall be as prescribed in the article relating to each profession. Within each board a committee on licensing may be appointed by the board chairman.

Except as provided in paragraph (a) of this subdivision, the membership of each professional licensing board shall be increased by one member, and each such board shall have at least one public representative who shall be selected by the board of regents from the general public.

a. The membership of the professional licensing boards created under sections sixty-five hundred twenty-three, sixty-eight hundred four, sixty-nine hundred three, and seventy-four hundred three of this chapter shall be increased by two members, and each such board shall have at least two public representatives, who shall be selected by the board of regents from the general public.

b. For the purposes of this title, a "public representative" shall be a person who is a consumer of services provided by those licensed or otherwise supervised or regulated by the boards created hereunder, and shall not be, nor within five years immediately preceding appointment have been:

(i) a licensee or person otherwise subject to the supervision or regulation of the board to which appointed; or

(ii) a person maintaining a contractual relationship with a licensee of such board, which would constitute more than two percentum of the practice or business of any such licensee, or an officer, director, or representative of such person or group of persons.

2. Each board, or its committee on licensing, shall select or prepare examinations, may conduct oral and practical examinations and reexaminations, shall fix passing grades, and assist the department in other licensing matters as prescribed by the board of regents.

3. Each board shall conduct disciplinary proceedings as prescribed in this article and shall assist in other professional conduct matters as prescribed by the board of regents.

4. Members of each board shall be appointed by the board of regents for five-year terms except that the terms of those first appointed shall be arranged so that as nearly as possible an equal number shall terminate annually. A vacancy occurring during a term shall be filled by an appointment by the board of regents for the unexpired term. Each state professional association or society may nominate one or more candidates for each appointment to be made to the board for its profession, but the board of regents shall not be required to appoint candidates so nominated. Former members of a board may be re-appointed by the board of regents, on the recommendation of the commissioner, to serve as members of the board solely for the purposes of disciplinary proceedings, proceedings relating to the moral character of an applicant for licensure, and proceedings relating to applications for the restoration of a professional license. Former board members so appointed may not comprise a majority of any panel.

5. Each member of a board shall receive a certificate of appointment, shall before beginning his term of office file a constitutional oath of office with the secretary of state, shall receive up to one hundred dollars as prescribed by the board of regents for each day devoted to board work, and shall be reimbursed for his necessary expenses. Any member may be removed from a board by the board of regents for misconduct, incapacity or neglect of duty.

6. Each board shall elect from its members a chairman and vice-chairman annually, shall meet upon call of the chairman or the department, and may adopt bylaws consistent with this title and approved by the board of regents. A quorum for the transaction of business by the board shall be a majority of members but not less than five members.

7. An executive secretary to each board shall be appointed by the board of regents on recommendation of the commissioner. Such executive secretary shall not be a member of the board, shall hold office at the pleasure of, and shall have the powers, duties and annual salary prescribed by the board of regents.

**Subarticle 3  
Professional Misconduct**

**§6509. Definitions of professional misconduct.**

Each of the following is professional misconduct, and any licensee found guilty of such misconduct under the procedures prescribed in section sixty-five hundred ten shall be subject to the penalties prescribed in section sixty-five hundred eleven:

- (1) Obtaining the license fraudulently,
- (2) Practicing the profession fraudulently, beyond its authorized scope, with gross incompetence, with gross negligence on a particular occasion or negligence or incompetence on more than one occasion,
- (3) Practicing the profession while the ability to practice is impaired by alcohol, drugs, physical disability, or mental disability,

(4) Being habitually drunk or being dependent on, or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects,

- (5) (a) Being convicted of committing an act constituting a crime under:
  - (i) New York State law or,
  - (ii) Federal law or,
  - (iii) The law of another jurisdiction and which, if committed within this state, would have constituted a crime under New York State law;

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- (b) Having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York state, constitute professional misconduct under the laws of New York state;
- (c) Having been found by the commissioner of health to be in violation of article thirty-three of the public health law.
- (d) Having his license to practice medicine revoked, suspended or having other disciplinary action taken, or having his application for a license refused, revoked or suspended or having voluntarily or otherwise surrendered his license after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation, suspension or other disciplinary action involving the license or refusal, revocation or suspension of an application for a license or the surrender of the license would, if committed in New York state, constitute professional misconduct under the laws of New York state.
- (6) Refusing to provide professional service to a person because of such person's race, creed, color, or national origin,
- (7) Permitting, aiding or abetting an unlicensed person to perform activities requiring a license,
- (8) Practicing the profession while the license is suspended, or wilfully failing to register or notify the department of any change of name or mailing address, or, if a professional service corporation wilfully failing to comply with sections fifteen hundred three and fifteen hundred fourteen of the business corporation law or, if a university faculty practice corporation wilfully failing to comply with paragraphs (b), (c) and (d) of section fifteen hundred three and section fifteen hundred fourteen of the business corporation law,
- (9) Committing unprofessional conduct, as defined by the board of regents in its rules or by the commissioner in regulations approved by the board of regents,
- (10) A violation of section twenty-eight hundred three-d or twenty-eight hundred five-k of the public health law.
- (11) A violation of section six thousand five hundred five-b of this chapter by a professional other than a professional subject to the provisions of paragraph (f) of subdivision one of section twenty-eight hundred five-k of the public health law.
- (12) In the event that the department of environmental conservation has reported to the department alleged misconduct by an architect or professional engineer in making a certification under section nineteen of the tax law (relating to the green building tax credit) the board of regents, upon a hearing and a finding of willful misconduct, may revoke the license of such professional or prescribe such other penalty as it determines to be appropriate.

**§6509-a. Additional definition of professional misconduct; limited application.**

Notwithstanding any inconsistent provision of this article or of any other provision of law to the contrary, the license or registration of a person subject to the provisions of articles one hundred thirty-two, one hundred thirty-three, one hundred thirty-six, one hundred thirty-seven, one hundred thirty-nine, one hundred forty-one, one

hundred forty-three, one hundred forty-four, one hundred fifty-six, one hundred fifty-nine and one hundred sixty-four of this chapter may be revoked, suspended or annulled or such person may be subject to any other penalty provided in section sixty-five hundred eleven of this article in accordance with the provisions and procedure 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 per centum 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, university faculty practice corporations or groups by the individual members thereof, for professional services furnished by any 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 in groups or pooling of fees or moneys received or shared, division or apportionment of fees shall be permitted with respect to care and treatment under the workers' compensation law except as expressly authorized by the workers' compensation law. Nothing contained in this chapter shall prohibit a medical or dental expense indemnity corporation pursuant to its contract with the subscriber from prorating a medical or dental expense 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 medical or dental expense indemnity corporation and to the subscriber statements itemizing the services rendered by each such professional and the charges therefor.

**§6509-b. Additional definition of professional misconduct; arrears in payment of support; limited application.**

1. The provisions of this section shall apply in all cases of licensee or registrant arrears in payment of child support or combined child and spousal support referred to the board of regents by a court pursuant to the requirements of section two hundred forty-four-c of the domestic relations law or pursuant to section four hundred fifty-eight-b of the family court act.
2. Upon receipt of an order from the court pursuant to one of the foregoing provisions of law, the board of regents, if it finds such person to be so licensed or registered, shall within thirty days of receipt of such order from the court, provide notice to the licensee or registrant of, and cause the regents review committee to initiate, a

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hearing which shall be held at least twenty days and no more than thirty days after the sending of such notice to the licensee or registrant. The hearing shall be held solely for the purpose of determining whether there exists as of the date of the hearing proof that full payment of all arrears of support established by the order of the court to be due from the licensee or registrant have been paid. Proof of such payment shall be a certified check showing full payment of established arrears or a notice issued by the court or by the support collection unit where the order is payable to the support collection unit designated by the appropriate social services district. Such notice shall state that full payment of all arrears of support established by the order of the court to be due have been paid. The licensee or registrant shall be given full opportunity to present such proof of payment at the hearing in person or by counsel. The only issue to be determined by the regents review committee as a result of the hearing is whether the arrears have been paid. No evidence with respect to the appropriateness of the court order or ability of the respondent party in arrears to comply with such order shall be received or considered by the committee.

3. Notwithstanding any inconsistent provision of this article or of any other provision of law to the contrary, the license or registration of a person subject to the provisions of this title and/or subject to the provisions of title two-A of article two of the public health law shall be suspended if, at the hearing provided for by subdivision two of this section, the licensee or registrant fails to present proof of payment as required by such subdivision. Such suspension shall not be lifted unless the court or the support collection unit, where the court order is payable to the support collection unit designated by the appropriate social services district, issues notice to the regents review committee that full payment of all arrears of support established by the order of the court to be due have been paid.

4. The board of regents shall inform the court of all actions taken hereunder as required by law.

5. This section applies to support obligations paid pursuant to any order of child support or child and spousal support issued under provisions of article three-A or section two hundred thirty-six or two hundred forty of the domestic relations law, or article four, five or five-A of the family court act.

6. Notwithstanding any inconsistent provision of this article or of any other provision of law to the contrary, the provisions of this section shall apply to the exclusion of any other requirements of this article and to the exclusion of any other requirement of law to the contrary.

**§6509-c. Additional definition of professional misconduct; failure to comply in paternity or child support proceedings; limited application.**

1. The provisions of this section shall apply in all cases of licensee or registrant failure after receiving appropriate notice, to comply with a summons, subpoena or warrant relating to a paternity or child support proceeding referred to the board of regents by a court pursuant to the requirements of section two hundred forty-four-c of the domestic relations law or pursuant to section four hundred fifty-eight-b or five hundred forty-eight-b of the family court act.

2. Upon receipt of an order from the court pursuant to one of the foregoing provisions of law, the board of regents, if it finds such person to be so licensed or registered, shall within thirty days of receipt of such order from the court, provide notice to the licensee or registrant that his or her license or registration shall be suspended in

sixty days unless the conditions as set forth in subdivision three of this section are met.

3. Notwithstanding any inconsistent provision of this article or of any other provision of law to the contrary, the license or registration of a person subject to the provisions of this title and/or subject to the provisions of title two-A of article two of the public health law shall be suspended unless the court terminates its order to commence suspension proceedings. Such suspension shall not be lifted unless the court issues an order to the board of regents terminating its order to commence suspension proceedings.

4. The board of regents shall inform the court of all actions taken hereunder as required by law.

5. This section applies to paternity or child support proceedings commenced under, and support obligations paid pursuant to any order of child support or child and spousal support issued under provisions of section two hundred thirty-six or two hundred forty of the domestic relations law, or article four, five, five-A or five-B of the family court act.

6. Notwithstanding any inconsistent provision of this article or of any other provision of law to the contrary, the provisions of this section shall apply to the exclusion of any other requirements of this article and to the exclusion of any other requirement of law to the contrary.

**§6510. Proceedings in cases of professional misconduct.**

In cases of professional misconduct the proceedings shall be as follows:

1. Preliminary procedures.

a. Complaint. A complaint of a licensee's professional misconduct may be made by any person to the education department.

b. Investigation. The department shall investigate each complaint which alleges conduct constituting professional misconduct. The results of the investigation shall be referred to the professional conduct officer designated by the board of regents pursuant to section sixty-five hundred six of this article. If such officer decides that there is not substantial evidence of professional misconduct or that further proceedings are not warranted, no further action shall be taken. If such officer, after consultation with a professional member of the applicable state board for the profession, determines that there is substantial evidence of professional misconduct, and that further proceedings are warranted, such proceedings shall be conducted pursuant to this section. If the complaint involves a question of professional expertise, then such officer may seek, and if so shall obtain, the concurrence of at least two members of a panel of three members of the applicable board. The department shall cause a preliminary review of every report made to the department pursuant to section twenty-eight hundred three-e as added by chapter eight hundred sixty-six of the laws of nineteen hundred eighty and sections forty-four hundred five-b of the public health law and three hundred fifteen of the insurance law, to determine if such report reasonably appears to reflect conduct warranting further investigation pursuant to this subdivision.

c. Charges. In all disciplinary proceedings other than those terminated by an administrative warning pursuant to paragraph a of subdivision two of this section, the department shall prepare the charges. The charges shall state the alleged professional

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misconduct and shall state concisely the material facts but not the evidence by which the charges are to be proved.

d. Service of charges and of notice of hearing. A copy of the charges and notice of any hearing pursuant to subdivision two or three of this section shall be served on the licensee personally by the department at least fifteen days before the hearing. If personal service cannot be made after due diligence and such fact is certified under oath, a copy of the charges and the notice of hearing shall be served by certified mail, return receipt requested to the licensee's last known address by the department at least twenty days before the hearing.

e. Records and reports as public information. In all disciplinary proceedings brought pursuant to this section or in any voluntary settlement of a complaint between the licensee and the department, the department shall notify the licensee in writing that the record and reports of such disciplinary proceeding or of such voluntary settlement shall be considered matters of public information unless specifically excepted in this article, or in any other law or applicable rule or regulation.

## 2. Expedited procedures.

a. Violations. Violations involving professional misconduct of a minor or technical nature may be resolved by expedited procedures as provided in paragraph b or c of this subdivision. For purposes of this subdivision, violations of a minor or technical nature shall include, but shall not be limited to, isolated instances of violations concerning professional advertising or record keeping, and other isolated violations which do not directly affect or impair the public health, welfare or safety. The board of regents shall make recommendations to the legislature on or before June first, nineteen hundred eighty-one, for the further definition of violations of a minor or technical nature. The initial instance of any violation of a minor or technical nature may be resolved by the issuance of an administrative warning pursuant to paragraph b of this subdivision. Subsequent instances of similar violations of a minor or technical nature within a period of three years may be resolved by the procedure set forth in paragraph c of this subdivision.

b. Administrative warning. If a professional conduct officer, after consultation with a professional member of the state board, determines that there is substantial evidence of professional misconduct but that it is an initial violation of a minor or technical nature which would not justify the imposition of a more severe disciplinary penalty, the matter may be terminated by the issuance of an administrative warning. Such warnings shall be confidential and shall not constitute an adjudication of guilt or be used as evidence that the licensee is guilty of the alleged misconduct. However, in the event of a further allegation of similar misconduct by the same licensee, the matter may be reopened and further proceedings instituted as provided in this section.

c. Determination of penalty on uncontested minor violations. If a professional conduct officer, after consultation with a professional member of the state board, determines that there is substantial evidence of a violation of a minor or technical nature, and of a nature justifying a penalty as specified in this paragraph, the department may prepare and serve charges either by personal service or by certified mail, return receipt requested. Such charges shall include a statement that unless an answer is received within twenty days denying the charges, the matter

shall be referred to a violations committee consisting of five members of the state board for the profession, at least one of whom shall be a public representative for determination. The violations panel shall be appointed by the executive secretary of the state board. The licensee shall be given at least fifteen days notice of the time and place of the meeting of the violations committee and shall have the right to appear in person and by an attorney and to make a statement to the committee in mitigation or explanation of the misconduct. The department may appear and make a statement in support of its position. The violations committee may issue a censure and reprimand, and in addition, or in the alternative, may impose a fine not to exceed five hundred dollars for each specification of minor, or technical misconduct. If the fine is not paid within three months the matter may be reopened and shall be subject to the hearing and regents decision procedures of this section. The determination of the panel shall be final and shall not be subject to the regents decision procedures of this section. If an answer is filed denying the charges, the matter shall be processed as provided in subdivision three of this section.

d. Convictions of crimes or administrative violations. In cases of professional misconduct based solely upon a violation of subdivision five of section sixty-five hundred nine of this article, the professional conduct officer may prepare and serve the charges and may refer the matter directly to a regents review committee for its review and report of its findings, determination as to guilt, and recommendation as to the measure of discipline to be imposed. In such cases the notice of hearing shall state that the licensee may file a written answer, brief and affidavits; that the licensee may appear personally before the regents review committee, may be represented by counsel and may present evidence or sworn testimony on behalf of the licensee, and the notice may contain such other information as may be considered appropriate by the department. The department may also present evidence or sworn testimony at the hearing. A stenographic record of the hearing shall be made. Such evidence or sworn testimony offered at the meeting of the regents review committee shall be limited to evidence and testimony relating to the nature and severity of the penalty to be imposed upon the licensee. The presiding officer at the meeting of the regents review committee may, in his or her discretion, reasonably limit the number of witnesses whose testimony will be received and the length of time any witness will be permitted to testify. In lieu of referring the matter to the board of regents, the regents review committee may refer any such matter for further proceedings pursuant to paragraph b or c of this subdivision or subdivision three of this section.

3. Adversary proceedings. Contested disciplinary proceedings and other disciplinary proceedings not resolved pursuant to subdivision two of this section shall be tried before a hearing panel of the appropriate state board as provided in this subdivision.

a. Notice of hearing. The department shall set the time and place of the hearing and shall prepare the notice of hearing. The notice of hearing shall state (1) the time and place of the hearing, (2) that the licensee may file a written answer to the charges prior to the hearing, (3) that the licensee may appear personally at the hearing and may be represented by counsel, (4) that the licensee shall have the right to produce witnesses and evidence in his behalf, to cross-examine witnesses and examine evidence produced against him, and to issue subpoenas in accordance with the provisions of the civil practice law and rules, (5) that a stenographic record of the hearing will be made,

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and (6) such other information as may be considered appropriate by the department.

b. Hearing panel. The hearing shall be conducted by a panel of three or more members, at least two of whom shall be members of the applicable state board for the profession, and at least one of whom shall be a public representative who is a member of the applicable state board or of the state board for another profession licensed pursuant to this title. The executive secretary for the applicable state board shall appoint the panel and shall designate its chairperson. After the commencement of a hearing, no panel member shall be replaced. A determination by the administrative officer of a need to disqualify or remove any panel member will result in the disqualification or removal of the panel and cause a new panel to be appointed. In addition to said panel members, the department shall designate an administrative officer, admitted to practice as an attorney in the state of New York, who shall have the authority to rule on all motions, procedures and other legal objections and shall draft a report for the hearing panel which shall be subject to the approval of and signature by the panel chairperson on behalf of the panel. The administrative officer shall not be entitled to a vote.

c. Conduct of hearing. The evidence in support of the charges shall be presented by an attorney for the department. The licensee shall have the rights required to be stated in the notice of hearing. The panel shall not be bound by the rules of evidence, but its determination of guilt shall be based on a preponderance of the evidence. A hearing which has been initiated shall not be discontinued because of the death or incapacity to serve of one member of the hearing panel.

d. Results of hearing. The hearing panel shall render a written report which shall include (1) findings of fact, (2) a determination of guilty or not guilty on each charge, and (3) in the event of a determination of guilty, a recommendation of the penalty to be imposed. For the panel to make a determination of guilty, a minimum of two of the voting members of the panel must vote for such a determination. A copy of the report of the hearing panel shall be transmitted to the licensee.

#### 4. Regents decision procedures.

a. Regents review committee. The transcript and report of the hearing panel shall be reviewed at a meeting by a regents review committee appointed by the board of regents. The regents review committee shall consist of three members, at least one of whom shall be a regent.

b. Regents review committee meetings. The review shall be based on the transcript and the report of the hearing panel. The licensee may appear at the meeting, and the regents review committee may require the licensee to appear. The licensee may be represented by counsel. The department shall notify the licensee at least seven days before the meeting (1) of the time and place of the meeting, (2) of his right to appear, (3) of his right to be represented by counsel, (4) whether or not he is required to appear, and (5) of such other information as may be considered appropriate. After the meeting, the regents review committee shall transmit a written report of its review to the board of regents. In cases referred directly to the regents review committee pursuant to paragraph d of subdivision two of this section, the review shall be based upon the charges, the documentary evidence submitted by the department, any answer,

affidavits or brief the licensee may wish to submit, and any evidence or sworn testimony presented by the licensee or the department at the hearing, pursuant to the procedures described by paragraph d of subdivision two of this section.

c. Regents decision and order. The board of regents (1) shall consider the transcript, the report of the hearing panel, and the report of the regents review committee, (2) shall decide whether the licensee is guilty or not guilty on each charge, (3) shall decide what penalties, if any, to impose as prescribed in section sixty-five hundred eleven of this article, and (4) shall issue an order to carry out its decisions. Such decisions shall require the affirmative vote of a majority of the members of the board of regents. If the board of regents disagrees with the hearing panel's determination of not guilty, it shall remand the matter to the original panel for reconsideration or to a new panel for a new hearing. The panel's determination of not guilty on reconsideration or a new hearing shall be final. The order shall be served upon the licensee personally or by certified mail to the licensee's last known address and such service shall be effective as of the date of the personal service or five days after mailing by certified mail. The licensee shall deliver to the department the license and registration certificate which has been revoked, annulled, suspended, or surrendered within five days after the effective date of the service of the order. If the license or registration certificate is lost, misplaced or its whereabouts is otherwise unknown, the licensee shall submit an affidavit to that effect, and shall deliver such license or certificate to the department when located.

5. Court review procedures. The decisions of the board of regents may be reviewed pursuant to the proceedings under article seventy-eight of the civil practice law and rules. Such proceedings shall be returnable before the appellate division of the third judicial department, and such decisions shall not be stayed or enjoined except upon application to such appellate division after notice to the department and to the attorney general and upon a showing that the petitioner has a substantial likelihood of success.

6. The provisions of subdivisions one through four of this section shall not be applicable to proceedings in cases of professional misconduct involving the medical profession, except as provided in paragraph m of subdivision ten of section two hundred thirty of the public health law.

7. Notwithstanding any other provision of law, persons who assist the department as consultants or expert witnesses in the investigation or prosecution of alleged professional misconduct, licensure matters, restoration proceedings, or criminal prosecutions for unauthorized practice, shall not be liable for damages in any civil action or proceeding as a result of such assistance, except upon proof of actual malice. The attorney general shall defend such persons in any such action or proceeding, in accordance with section seventeen of the public officers law.

8. The files of the department relating to the investigation of possible instances of professional misconduct, or the unlawful practice of any profession licensed by the board of regents, or the unlawful use of a professional title or the moral fitness of an applicant for a professional license or permit, shall be confidential and not subject to disclosure at the request of any person, except upon the order of a court in a pending action or proceeding. The provisions of this subdivision shall not apply to documents introduced in evidence at a hearing held pursuant to this chapter and shall not prevent the department from sharing information concerning investigations with

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other duly authorized public agencies responsible for professional regulation or criminal prosecution.

**§6510-b. Temporary surrender of licenses during treatment for drug or alcohol abuse.**

1. The license and registration of a licensee who may be temporarily incapacitated for the active practice of a profession licensed pursuant to title eight of this chapter, except professionals licensed pursuant to article one hundred thirty-one or article one hundred thirty-one-b thereof, and whose alleged incapacity is the result of a problem of drug or alcohol abuse which has not resulted in harm to a patient or client, may be voluntarily surrendered to the department, which may accept and hold such license during the period of such alleged incapacity or the department may accept the surrender of such license after agreement to conditions to be met prior to the restoration of the license. The department shall give written notification of such surrender to the licensing authorities of any other state or country in which the licensee is authorized to practice. In addition to the foregoing, the department shall also give written notification of such surrender, for professionals licensed pursuant to articles one hundred thirty-two, one hundred thirty-three, one hundred thirty-five, one hundred thirty-seven, one hundred thirty-nine and one hundred forty-one of this chapter to the commissioner of health or his designee, and where appropriate to each hospital at which the professional has privileges, is affiliated, or is employed. The licensee whose license is so surrendered shall notify all persons who request professional services that he or she has temporarily withdrawn from the practice of the profession. The department may provide for similar notification of patients or clients and of other interested parties, as appropriate under the circumstances of the professional practice and responsibilities of the licensee. The licensure status of such licensee shall be "inactive" and he or she shall not be authorized to practice the profession and shall refrain from practice in this state or in any other state or country. The voluntary surrender shall not be deemed to be an admission of disability or of professional misconduct, and shall not be used as evidence of a violation of subdivision three or four of section sixty-five hundred nine of this chapter, unless the licensee practices while the license is "inactive"; and any such practice shall constitute a violation of subdivision eight of said section. The surrender of a license under this subdivision shall not bar any disciplinary action except action based solely upon the provisions of subdivision three or four of section sixty-five hundred nine of this chapter, and only if no harm to a patient has resulted; and shall not bar any civil or criminal action or proceeding which might be brought without regard to such surrender. A surrendered license shall be restored upon a showing to the satisfaction of the department that the licensee is not incapacitated for the active practice of the profession, provided that the department may, by order of the commissioner, impose reasonable conditions on the licensee, if it determines that because of the nature and extent of the licensee's former incapacity, such conditions are necessary to protect the health, safety and welfare of the public. Prompt written notification of such restoration shall be given to all licensing bodies which were notified of the temporary surrender of the license.

2. There shall be appointed within the department, by the board of regents, a committee on drug and alcohol abuse, which shall advise the board of regents on matters relating to practice by professional licensees with drug or alcohol abuse problems, and which shall administer the provisions of this section. The board of regents shall determine the size, composition, and terms of office of such committee, a majority of the members of which shall be persons with expertise in problems of drug or alcohol abuse. The committee shall recommend to the board of regents such rules as are necessary to

carry out the purposes of this section, including but not limited to procedures for the submission of applications for the surrender of a license and for the referral of cases for investigation or prosecution pursuant to section sixty-five hundred ten of this chapter if a licensee fails to comply with the conditions of an approved program of treatment. There shall be an executive secretary appointed by the board of regents to assist the committee. Determinations by the committee relating to licensees shall be made by panels of at least three members of the committee designated by the executive secretary, who shall also designate a member of the state board for the licensee's profession as an ex-officio nonvoting member of each panel.

3. Application for the surrender of a license pursuant to this section shall be submitted to the committee, and shall identify a proposed treatment or rehabilitation program, and shall include a consent to the release of all information concerning the licensee's treatment to the committee. All information concerning an application, other than the fact of the surrender of the license and the participation in the program and the successful completion or failure of or withdrawal from the program, shall be strictly confidential, and may not be released by the committee to any person or body without the consent of the licensee. The immunity from disciplinary action conferred by this section shall be conditioned upon the approval of the treatment or rehabilitation program by the committee and its successful completion by the applicant and the elimination of the incapacity to practice. Approval of a treatment or rehabilitation program by the committee shall not constitute a representation as to the probability of success of the program or any assumption of financial responsibility for its costs.

4. The immunity from disciplinary action conferred by this section may be revoked by the committee upon a finding that the licensee has failed to successfully complete the program or that the incapacity to practice has not been eliminated. Such revocation shall be made only after notice and an opportunity to be heard, but no adjudicatory hearing shall be required. The matter shall be referred for appropriate proceedings pursuant to section sixty-five hundred ten of this chapter. The license must be returned unless charges are served pursuant to section sixty-five hundred ten within thirty days after the revocation of the approval of the special treatment afforded by this section.

5. The commissioner is authorized to adopt regulations to carry out the purposes of this section, including but not limited to the notice of temporary inactive status to be required in different professions and practice situations and the measures required upon temporary withdrawal from practice.

6. No individual who serves as a member of a committee whose purpose is to confront and refer either to treatment or to the department licensees who are thought to be suffering from alcoholism or drug abuse shall be liable for damages to any person for any action taken by such individual provided such action was taken without malice and within the scope of such individual's function as a member of such committee, and provided further that such committee has been established by and functions under the auspices of an association or society of professionals authorized to practice under this title.

7. In addition to the provisions of section two thousand eight hundred three-e of the public health law, any entity licensed pursuant to articles thirty-six, forty and forty-four of the public health law, and any mental hygiene facilities, and correctional, occupational, school and college health services shall provide a report to the office of professional discipline when there is a suspension, restriction,

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termination, curtailment or resignation of employment or privileges in any way related to a licensed nurse that is impaired when the impairment is alleged to have been caused by a drug-related problem. Any person, facility, or corporation which makes a report pursuant to this section in good faith shall have immunity from any liability, civil or criminal, for having made such a report except where the conduct constitutes negligence, gross negligence or intentional misconduct. For the purpose of any proceeding, civil or criminal, the good faith of any person, facility or corporation required to make a report shall be presumed. Such presumption may be rebutted by any competent evidence.

#### **§6510-c. Nurse peer assistance programs.**

1. As used in this section:

- a. "Drug-related problem" means a problem or problems that are related to the use, misuse or addiction to drugs or alcohol.
- b. "Participant" means an individual licensed pursuant to article one hundred thirty-nine of this title who has or may have a drug-related problem.
- c. "Approved nurse peer assistance program" means a program operated by the New York State Nurses Association or a statewide professional association of nurses which has experience in providing peer assistance services to nurses who have drug-related problems which are designed to help a participant or a licensee's employer and has been approved by the department in accordance with criteria established in regulations of the commissioner.
- d. "Peer assistance services" includes assessing the needs of a participant, including early identification of drug-related problems, and providing information, support, and advice as requested by a participant.

2.

- a. The department shall provide funds, including but not limited to a portion of the funds made available pursuant to the provisions of this section, for services provided by an approved nurse peer assistance program. Funds used to provide services shall not be used for the treatment of participants. Funded services shall include, but not be limited to:
  - 1. providing peer assistance services for nurses with drug-related problems;
  - 2. maintaining a toll-free telephone information line for anonymous nurses, their employers, and others to provide assistance in the identification of services and information for nurses dealing with drug-related problems;
  - 3. training monitors for the professional assistance program;
  - 4. arranging for mental health consultants to assess nurses for the professional assistance program, as needed; and
  - 5. preparing written assessments of nurses who have been referred from the professional assistance program.
- b. An additional fee of fifteen dollars shall be paid at the time of application for licensure and first registration and every registration by those licensed pursuant to article one hundred thirty-nine of this title for the purpose of implementing this program. The funds made available under this provision shall be

deposited in the office of professions special revenue account for its purposes in implementing this section. The department may use a portion of this amount for its administrative expenses incurred in implementing this program including, but not limited to, employment of personnel, the costs of approving and contracting with a peer assistance program as required by this section and outreach activities to promote this program.

3. No approved nurse peer assistance program or individual who serves in an approved nurse peer assistance program shall be liable in damages to any person for any action taken or not taken or recommendations made unless, based on the facts disclosed by a participant, the conduct of the program or person with respect to the person asserting liability constituted negligence, gross negligence, or intentional misconduct.

4. All information concerning a participant gathered by the approved nurse peer assistance program shall be strictly confidential and may not be released to any person or body without the consent of the participant, except upon the order of a court in a pending action or proceeding. Aggregate data may be released to the committee on drug and alcohol abuse.

#### **§6510-d. Voluntary non-disciplinary surrender of a license.**

A professional who is licensed pursuant to article one hundred thirty-nine of this title may voluntarily surrender a license to the committee on drug and alcohol abuse when such licensee requests to be monitored and/or receive peer support services in relation to the use, misuse or addiction to drugs. The committee shall accept such voluntary non-disciplinary surrender of a license and provide for expedited reinstatement of the license if the licensee meets criteria set by the committee. Such criteria will include, but not be limited to, confidence that the licensee's use of drugs and/or alcohol has not resulted in harm to a patient or client and the licensee is not incapacitated, unfit for practice or a threat to the health, safety and welfare of the public. Such voluntary surrender, if accepted by the committee, shall result in an immediate reinstatement of the license and shall provide immunity from a violation of subdivision three or four of section six thousand five hundred nine of this article and cannot be deemed an admission or used as evidence in professional misconduct. Acceptance by the committee shall not require a report to the department of health or to any employer or licensing authority of another jurisdiction, nor require any disclosure to patients or to the public that such license has been temporarily surrendered, except if it is subsequently determined by the department that a participant being monitored by the department is found to have used drugs and/or alcohol which has resulted in harm to a patient or client.

#### **§6511. Penalties for professional misconduct.**

The penalties which may be imposed by the board of regents on a present or former licensee found guilty of professional misconduct (under the definitions and proceedings prescribed in sections sixty-five hundred nine, sixty-five hundred ten and sixty-five hundred ten-a of this article) are:

- (1) censure and reprimand,
- (2) suspension of license, (a) wholly, for a fixed period of time; (b) partially, until the licensee successfully completes a course of retraining in the area to which the suspension applies; (c) wholly, until the licensee successfully completes a course of therapy or treatment prescribed by the regents;
- (3) revocation of license,

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- (4) annulment of license or registration,
- (5) limitation on registration or issuance of any further license,
- (6) a fine not to exceed ten thousand dollars, upon each specification of charges of which the respondent is determined to be guilty,
- (7) a requirement that a licensee pursue a course of education or training, and
- (8) a requirement that a licensee perform up to one hundred hours of public service, in a manner and at a time and place as

directed by the board. The board of regents may stay such penalties in whole or in part, may place the licensee on probation and may restore a license which has been revoked. Any fine imposed pursuant to this section or pursuant to subdivision two of section sixty-five hundred ten of this article may be sued for and recovered in the name of the people of the state of New York in an action brought by the attorney general. In such action the findings and determination of the board of regents or of the violations committee shall be admissible evidence and shall be conclusive proof of the violation and the penalty assessed.

#### **Subarticle 4 Unauthorized Acts**

#### **§6512. Unauthorized practice a crime.**

1. Anyone not authorized to practice under this title who practices or offers to practice or holds himself out as being able to practice in any profession in which a license is a prerequisite to the practice of the acts, or who practices any profession as an exempt person during the time when his professional license is suspended, revoked or annulled, or who aids or abets an unlicensed person to practice a profession, or who fraudulently sells, files, furnishes, obtains, or who attempts fraudulently to sell, file, furnish or obtain any diploma, license, record or permit purporting to authorize the practice of a profession, shall be guilty of a class E felony.

2. Anyone who knowingly aids or abets three or more unlicensed persons to practice a profession or employs or holds such unlicensed persons out as being able to practice in any profession in which a license is a prerequisite to the practice of the acts, or who knowingly aids or abets three or more persons to practice any profession as exempt persons during the time when the professional licenses of such persons are suspended, revoked or annulled, shall be guilty of a class E felony.

#### **§6513. Unauthorized use of a professional title a crime.**

1. Anyone not authorized to use a professional title regulated by this title, and who uses such professional title, shall be guilty of a class A misdemeanor.

2. Anyone who knowingly aids or abets three or more persons not authorized to use a professional title regulated by this title, to use such professional title, or knowingly employs three or more persons not authorized to use a professional title regulated by this title, who use such professional title in the course of such employment, shall be guilty of a class E felony.

#### **§6514. Criminal proceedings.**

1. All alleged violations of sections sixty-five hundred twelve or sixty-five hundred thirteen of this article shall be reported to the department which shall cause an investigation to be instituted. All alleged violations of section sixty-five hundred thirty-one of the education law shall be reported to the department of health which shall cause an investigation to be instituted. If the investigation substantiates that violations exist, such violations shall be reported to the attorney general with a request for prosecution.

2. The attorney general shall prosecute such alleged offenses in the name of the state, provided, however, in the event of alleged violations of article one hundred fifty-five of this title, a district attorney may prosecute such alleged offenses in the name of the state provided, however, that any district attorney may prosecute such offenses where they are incidental to a criminal prosecution instituted by him under other statutes.

3. All criminal courts having jurisdiction over misdemeanors are hereby empowered to hear, try and determine alleged violations under this title, which constitute misdemeanors, without indictment and to impose applicable punishment of fines or imprisonments or both. It shall be necessary to prove in any prosecution under this title only a single prohibited act or a single holding out without proving a general course of conduct.

4. A proceeding before a committee on professional conduct shall not be deemed to be a criminal proceeding within the meaning of this section.

#### **§6515. Restraint of unlawful acts.**

Where a violation of this title is alleged to have occurred, the attorney general or, in the event of alleged violations of article one hundred fifty-five of this title occurring in cities having a population of one million or more, the corporation counsel may apply to the supreme court within the judicial district in which such violation is alleged to have occurred for an order enjoining or restraining commission or continuance of the unlawful acts complained of. The court shall have jurisdiction of the proceedings and shall have power to grant such temporary relief or restraining order as it deems just and proper. In any such proceeding it shall be unnecessary to allege or prove that an adequate remedy at law does not exist or that irreparable damage would result if such order were not granted. The remedy provided in this section shall be in addition to any other remedy provided by law or to the proceedings commenced against a licensee under this title.

#### **6516. Civil enforcement proceedings and civil penalties.**

1. Issuance of cease and desist order. Whenever the department has reasonable cause to believe that any person has violated any provision of section sixty-five hundred twelve or sixty-five hundred thirteen of this article, the department may issue and serve upon such person a notice to cease and desist from such violation. Such cease and desist order shall be served personally by the department. If personal service can not be made after due diligence and such fact is certified under oath, a copy of the order shall be made by certified

mail, return receipt requested, to the person's last known address by the department.

2. Contents of cease and desist order. The cease and desist order shall be in writing and shall describe with particularity the nature of the violation, including a reference of the specific provision or provisions of law alleged to have been violated and an order to the respondent to cease any unlawful activity. The cease and desist order shall advise the respondent (a) of the right to contest the order by requesting a hearing within thirty days of the service of the cease and desist order before a hearing officer designated by the department (b) of the right to request a stay of the cease and desist order at the time a hearing is requested and (c) shall set forth the respondent's rights at such a hearing pursuant to subdivision five of this section.

3. Civil penalties. Civil penalties up to five thousand dollars may be imposed for each violation and the respondent may be ordered to make restitution to any person who has an interest in any money or property, either real or personal, acquired by the respondent as a result of a violation. Whenever the department concludes that civil penalties and/or restitution may be warranted because of the egregiousness of the unlawful activity, it may serve, along with the cease and desist order, a notice of a hearing on the allegations of unlawful activity and the department's intention to order the respondent to make restitution and/or impose a civil penalty. The notice should specify the civil penalty sought for each violation.

4. Request for hearing. If the respondent to a cease and desist order contests the cease and desist order, the respondent shall request a hearing conducted by the department within thirty days of the receipt of the cease and desist order. Such a hearing shall be scheduled, and the requesting party notified of the date, within fifteen days of the receipt of the request for a hearing. If the respondent requests a stay of the cease and desist order, the hearing officer shall determine whether the cease and desist order should be stayed in whole or in part within five working days of the request for a stay. The respondent may file a written answer to the cease and desist order prior to the hearing. A stenographic record of the hearing shall be made.

5. Conduct of hearing. The evidence in support of the cease and desist order shall be presented by an attorney for the department. The respondent may appear personally and may be represented by counsel at the hearing, may produce witnesses and evidence in his or her behalf at the hearing, may cross-examine witnesses and examine evidence produced against him or her at the hearing, and may issue subpoenas in accordance with section three hundred four of the state administrative procedure act. The hearing officer shall not be bound by the rules of evidence, but his or her determination that a violation of section sixty-five hundred twelve or sixty-five hundred thirteen of this article has occurred shall be based on a preponderance of the evidence. A hearing which has been initiated shall not be discontinued because of the death or incapacity of the hearing officer. In the event of a hearing officer's death or incapacity to serve, a new hearing officer shall be designated by the department to continue the hearing. The new hearing officer shall affirm in writing that he or she has read and considered evidence and transcripts of the prior proceedings.

6. Results of hearing. The hearing officer designated by the department shall render a written report which shall include (a) findings of fact, (b) a determination on each violation alleged in the cease and desist order, (c) a determination as to whether to accept, reject, or modify any of the terms of the cease and desist order in whole or in part, and (d) the civil penalty imposed, if any. A copy of

the hearing officer's written report shall be served upon the respondent with a notice setting forth the respondent's rights to an administrative appeal within ten days of the conclusion of the hearing.

7. Appeals. The decision of the hearing officer shall be final, except that it may be appealed to a regents review committee within twenty days of the receipt of the hearing officer's report. The initiation of an appeal shall not in and of itself affect the validity or terms of the cease and desist order. The regents review committee shall consist of three members, at least one of whom shall be a regent. The review shall be based on the transcript and the report of the hearing officer. The respondent may appear at the meeting, and the regents review committee may require the respondent to appear. The respondent may be represented by counsel. The department shall notify the respondent at least ten days before the meeting (a) of the time and place of the meeting, (b) of the right to appear, (c) of the right to be represented by counsel, (d) whether or not the respondent is required to appear, and (e) of such other information as may be considered appropriate. After the meeting, the regents review committee shall transmit a written report of its review to the board of regents. The board of regents (i) shall consider the transcript, the report of the hearing officer, and the report of the regents review committee, (ii) shall decide whether the respondent has violated each charge in the cease and desist order, (iii) shall decide what penalties, if any, to impose as prescribed in this section, and (iv) shall issue an order to carry out its decisions. Such decisions shall require the affirmative vote of a majority of the members of the board of regents. The order shall be served upon the respondent personally or by certified mail to the respondent's last known address and such service shall be effective as of the date of the personal service or five days after mailing by certified mail. The decisions of the board of regents under this section may be reviewed in a proceeding pursuant to article seventy-eight of the civil practice law and rules brought in the supreme court, Albany county. Such decisions shall not be stayed or enjoined except upon application to such supreme court pursuant to article sixty-three of the civil practice law and rules with notice to the department and to the attorney general.

8. General enforcement of cease and desist order. In any case where the cease and desist order is confirmed by the board of regents or where the respondent does not request an administrative hearing within the allotted time or does not appeal the decision of the hearing officer within the allotted time, an action or proceeding may be filed in the name of the state of New York seeking a restraining order, injunction, appropriate writ, or judgment against any person who violates the terms of the cease and desist order.

9. Special enforcement of civil monetary penalties. Provided that no appeal is pending on the imposition of such civil penalty, in the event such civil penalty imposed by the department remains unpaid, in whole or in part, more than forty-five days after written demand for payment has been sent by first class mail to the address of the respondent, a notice of impending default judgment shall be sent by first class mail to the respondent. The notice of impending default judgment shall advise the respondent: (a) that a civil penalty was imposed on the respondent; (b) the date the penalty was imposed; (c) the amount of the civil penalty; (d) the amount of the civil penalty that remains unpaid as of the date of the notice; (e) the violations for which the civil penalty was imposed; and (f) that a judgment by default will be entered in the supreme court, Albany county unless the department receives full payment of all civil penalties due within twenty days of the date of the notice of impending default judgment. If full payment shall not have been received by the department within thirty days of mailing of the notice of impending default judgment,

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the department shall proceed to enter with such court a statement of the default judgment containing the amount of the penalty or penalties remaining due and unpaid, along with proof of mailing of the notice of impending default judgment. The filing of such judgment shall have the full force and effect of a default judgment duly docketed with such court pursuant to the civil practice law and rules and shall in all respects be governed by that chapter and may be

enforced in the same manner and with the same effect as that provided by law in respect to execution issued against property upon judgments of a court of record. A judgment entered pursuant to this subdivision shall remain in full force and effect for eight years notwithstanding any other provision of law.



**REGENTS RULES  
Part 17**

**Disciplinary Proceedings in the Professions**

**§17.1 Complaints or other information.**

All complaints or other information relating to licensees authorized to practice a profession under title VIII of the Education Law shall be referred to the director of the Office of Professional Discipline.

**§17.2 Investigation.**

The director of the Office of Professional Discipline or that officer's designee shall, in matters involving possible professional misconduct, initiate an investigation of each such complaint or other information.

**§17.3 Prosecution or settlement of disciplinary proceedings.**

Prosecution or settlement of disciplinary proceedings shall be conducted as provided in title VIII of the Education Law, and as provided in this Part.

**§17.4 Reports.**

The director of the Office of Professional Discipline or that officer's designee shall submit a report by April first of each year on the status of cases investigated during the previous year, as well as on the disposition of any criminal or civil matters processed through the office, to the chairman of the State Board for each of the professions supervised by the Board of Regents.

**§17.5 Consent orders.**

Disciplinary proceedings conducted pursuant to the provisions of title VIII of the Education Law may be disposed of in accordance with the following procedure:

(a) A licensee who is under investigation, or against whom charges have been voted, who admits guilt to at least one of the acts of misconduct alleged or charged, in full satisfaction of all allegations or charges, or who does not contest the allegations or charges or who cannot successfully defend against at least one of the acts of misconduct alleged or charged, shall notify the director of the Office of Professional Discipline or the director's designee.

(b) If the director of the Office of Professional Discipline or the director's designee, a designated member of the State Board for the applicable profession, and the licensee agree to a statement by the licensee admitting guilt to one or more of the allegations or charges or setting forth a decision not to contest the allegations or charges or stating that the licensee cannot successfully defend against such allegations or charges and agreeing to a proposed penalty, and if a designated member of the Board of Regents thereafter agrees to such statement and proposed penalty, and if the Committee on the Professions thereafter agrees to such statement and proposed penalty, a written application, signed by all the above except the Committee on the Professions, shall be submitted by the licensee to the Board of Regents based upon the statement and proposed penalty consenting to the issuance of an order of the Commissioner of Education or his or her designee effectuating such penalty. The provisions of this section shall apply to licensees subject to disciplinary proceedings conducted pursuant to title VIII of the Education Law. They shall be applicable to individuals licensed or registered pursuant to articles 131 or 131-B of title VIII of the Education Law for those cases in which charges of

professional misconduct were served on or before July 26, 1991, the effective date of Chapter 606 of the Laws of 1991. They shall also be applicable to licensees and registrants subject to article 137 of the Education Law. With respect to such licensees subject to articles 131 or 131-B of title VIII of the Education Law, the agreement of the director of the Office of Professional Medical Conduct or that officer's designee, and of the Commissioner of Health or his or her designee, to the statement and proposed penalty and their signatures on the application shall be required in lieu of the agreement and signature of the director of the Office of Professional Discipline. With respect to such licensees subject to the provisions of articles 131 or 131-B of title VIII of the Education Law, the term *State Board* as used in this section means the State Board for Professional Medical Conduct. With respect to licensees and registrants subject to article 137 of the Education Law, the agreement of the executive secretary of the State Board for Pharmacy to the statement and proposed penalty and his or her signature on the application shall also be required.

(c) The application shall be in such form and shall contain such substance as is acceptable to the director of the Office of Professional Discipline or the director's designee.

(d) In the event an application is not granted by the Board of Regents, nothing contained therein shall be binding upon the licensee or construed to be an admission of any act of misconduct alleged or charged, and such application shall not be used against the licensee in any way. Any such application shall be kept in strict confidence during the pendency of the disciplinary proceeding. In addition, such denial by the Board of Regents shall be without prejudice to the continuance of the disciplinary proceeding and the final determination by the Board of Regents pursuant to the provisions of the Education Law.

(e) In the event the Board of Regents grants the application, the commissioner or his or her designee shall issue an order in accordance therewith.

**§17.6 Surrender of license.**

Disciplinary proceedings conducted pursuant to the provisions of title VIII of the Education Law may be disposed of in accordance with the following procedure:

(a) A licensee who is under investigation or against whom charges have been voted, who wishes to surrender his or her license to practice any of the professions enumerated in title VIII, shall notify the director of the Office of Professional Discipline or that officer's designee.

(b) An application to surrender a license shall be based upon a statement that the licensee admits guilt to at least one of the acts of misconduct alleged or charged, in full satisfaction of all allegations or charges, or does not contest the allegations or charges, or cannot successfully defend against at least one of the acts of misconduct alleged or charged. If the director or the director's designee, a designated member of the State Board for the applicable profession, and the licensee agree to such statement, and if a designated member of the Board of Regents thereafter agrees to such statement, and if the Committee on the Professions thereafter agrees to such statement, a

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written application, signed by the licensee, shall be submitted to the Board of Regents. The application shall be in such form and shall contain such substance as is acceptable to the director of the Office of Professional Discipline or the director's designee. The provisions of this section shall apply to licensees subject to disciplinary proceedings conducted pursuant to title VIII of the Education Law. They shall be applicable to individuals licensed or registered pursuant to articles 131 or 131-B of title VIII of the Education Law for those cases in which charges of professional misconduct were served on or before July 26, 1991, the effective date of Chapter 606 of the Laws of 1991. They shall also be applicable to licensees and registrants subject to article 137 of the Education Law. With respect to such licensees subject to articles 131 or 131-B of title VIII of the Education Law, the agreement of the director of the Office of Professional Medical Conduct or that officer's designee and the Commissioner of Health or his or her designee to the statement, and their signature on the application, shall be required in lieu of the agreement and signature of the director of the Office of Professional Discipline. With respect to such licensees subject to articles 131 or 131-B of title VIII of the Education Law, the term *State Board* as used in this section means the State Board for Professional Medical Conduct. With respect to licensees and registrants subject to article 137 of the Education Law, the agreement of the executive secretary of the State Board of Pharmacy to the statement and his or her signature on the application shall also be required.

(c) In the event the application is not granted by the Board of Regents, nothing contained therein shall be binding upon the licensee or construed to be an admission of any act of misconduct alleged or charged, and such application shall not be used against the licensee in any way. The application shall be kept in strict confidence during the pendency of the disciplinary proceeding. In addition, any such denial by the Board of Regents shall be made without prejudice to the continuance of any disciplinary proceeding and the final determination by the Board of Regents pursuant to the provisions of the Education Law.

(d) In the event the Board of Regents grants the application, the commissioner or his or her designee shall issue an order in accordance therewith.

#### **§17.7 Violation of probation.**

(a) Upon the receipt of information indicating that the respondent may be in violation of any of the terms or conditions of respondent's probation, the department shall conduct an investigation.

(b) The director of the Office of Professional Discipline shall review the results of the investigation and if the director determines that a violation of probation proceeding is warranted, the director shall give notice to the respondent, by letter, of the facts forming the basis of the alleged violation of respondent's probation. The respondent, in said letter, shall be requested to indicate whether there is any dispute as to the facts, and shall be informed that if respondent disputes any of the facts the respondent shall be entitled to a hearing thereon.

(c) If the respondent does not dispute the facts forming the basis of the alleged violation of probation, the matter shall be submitted to the Regents Review Committee for its review and recommendations(s) [sic] as to whether, based upon the undisputed facts, there has been a violation of the terms or conditions of respondent's probation and, if so, as to the measure of discipline to be imposed upon the respondent.

(d) If the respondent disputes any of the facts forming the basis of the alleged violation of probation, the respondent shall be afforded a

hearing before a hearing officer appointed by the commissioner to hear and make findings of fact, conclusions of law and recommendation(s). The department shall give the respondent at least 10 days' notice of the hearing, 15 if by mail. The evidence in support of the application shall be presented by counsel on behalf of the department and the respondent shall also have the right to be represented by counsel. The department and the respondent have the right to produce witnesses and other evidence, to cross-examine witnesses, and to examine any other evidence produced at the hearing. A stenographic record of the hearing will be made, and the hearing officer shall not be bound by the rules of evidence, but the findings of fact and conclusions of law of the hearing officer shall be based upon substantial evidence.

(e) The report of the hearing officer shall be reviewed by the Regents Review Committee.

(f) The Regents Review Committee shall notify the respondent, at least seven days before its meeting, of the time and place of such meeting, and shall also notify the respondent of the opportunity to appear in person and to be represented by counsel at such meeting.

(g) The Regents Review Committee shall transmit the report of the hearing officer and a written report of its review to the Board of Regents. The final determination shall be made by the Board of Regents, and the commissioner or his or her designee shall issue an order implementing such determination.

(h) The measure of discipline to be imposed for any violation of probation may be to continue the respondent on probation for a period in addition to the period of probation imposed in the original order, or to terminate the probation, vacate the stay of execution, and impose any measure of discipline authorized by section 6511 of the Education Law. A violation of probation shall constitute unprofessional conduct, and may constitute the basis for proceedings under either the provisions of section 6510 of the Education Law or of this Part.

#### **§17.8 Hearing panel; administrative officers.**

Findings of fact, recommendations as to penalties to be imposed, and any other actions taken by a hearing panel in disciplinary proceedings, except as hereinafter set forth, shall be made by majority vote. Any determination of guilt shall require a minimum of a four fifths vote of the hearing panel. An administrative officer, admitted to practice as an attorney in the State of New York, shall rule on all motions, procedures and other legal objections, and draft a report which shall reflect the determination and recommendation of the panel and be subject to the approval of and signature by the panel chairperson on behalf of the panel. The administrative officer shall not be entitled to a vote.

#### **§17.9 Summary suspensions.**

(a) If the director of the Office of Professional Discipline or that officer's designee believes that the public health, safety or welfare imperatively requires emergency action against a professional license, certificate, registration, permit or other authorization of the licensee to practice under title VIII of the Education Law, the director or the director's designee may make an application, on behalf of the department, to the Board of Regents for the summary suspension of said authorization pending the prompt institution prosecution and completion of formal disciplinary proceedings as provided under section 6510 of the Education Law.

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(b) Summary suspension proceedings shall be commenced by the service on the licensee of a notice of hearing and a verified petition. The notice of hearing shall state the time and place of oral argument on the application for summary suspension and the regent designated by the chancellor to hear the matter, and shall include a copy of this rule. The notice of hearing and petition shall be personally served upon the licensee no later than five days prior to the date set for oral argument. If personal service cannot be made after due diligence, the notice of hearing and petition may be served by certified mail, to the licensee's last known address, not less than eight days prior to the date set for oral argument. The petition shall set forth the basis for the application and shall include sworn statements upon personal knowledge and/or exhibits demonstrating probable cause to believe that respondent has committed professional misconduct and that the public health, safety or welfare imperatively requires emergency action to summarily suspend respondent's license. A verified answer and any sworn statements and supporting exhibits may be served by respondent upon the director of the Office of Professional Discipline or the director's designee no later than two days prior to the date set for oral argument. The director of the Office of Professional Discipline or the director's designee may serve a verified reply, together with any sworn statement and supporting exhibits, to the answer no later than the day prior to the date of oral argument. The answer and/or reply may be served by certified mail by mailing to the addressee no later than three and two days, respectively, prior to the date set for oral argument. The petition, answer and reply, together

with any sworn statement and supporting exhibits, shall be transmitted at the time of service of each paper to the regent designated to hear the case. Saturdays, Sundays and legal holidays shall be excluded in calculating the periods of time set forth in this subdivision.

(c) At the oral argument, the Office of Professional Discipline and respondent and/or his or her attorney shall have the right to be heard, but no testimony shall be taken and no transcript of oral arguments shall be required. No further papers shall be submitted at the oral argument except by permission of the regent designated to conduct the proceeding.

(d) The regent designated by the chancellor to conduct the proceeding shall submit a written report of his or her conclusions and recommendation(s) to the Board of Regents, which shall determine whether to grant or deny the application for summary suspension. A determination by the Board of Regents granting the application must be based upon a finding that the public health, safety or welfare imperatively requires emergency action.

(e) Any determination of the Board of Regents shall be without prejudice to the department or licensee in any subsequent formal disciplinary proceeding.

## **REGENTS RULES**

### **Part 24**

#### **Committee on the Professions**

#### **§24.1 Membership.**

The Committee on the Professions shall consist of three department officers designated by the Board of Regents pursuant to section 6506(10) of the Education Law.

#### **§24.2 Purpose.**

The Committee on the Professions shall review and make recommendations or determinations in licensing and disciplinary matters as provided in this Part or pursuant to referrals from the Board of Regents.

#### **§24.3 Standards.**

The Committee on the Professions shall review and determine questions of the preprofessional or professional education of applicants for licensure or other authorizations to practice in accordance with the following standards.

##### *(a) Preprofessional education.*

(1) The Committee on the Professions may accept graduation from a professional program which is either registered by the department or nationally accredited in lieu of a maximum of six semester hours of preprofessional education.

(2) The Committee on the Professions may accept postsecondary study satisfactory to the department and performed after completion of professional study requirements in lieu of a maximum of 30 semester hours of required preprofessional study.

(b) *Professional education.* As the equivalent of a professional program registered by the department, the Committee on the Professions may accept a professional program which is:

(1) offered by an institution accredited by an accrediting organization acceptable to the department or recognized by appropriate civil authorities of the country in which the school is located as an acceptable program of preparation for professional practice;

(2) designed and conducted by the degree-granting institution to prepare graduates for the professional practice of the profession in the State or country in which the institution is located; and

(3) demonstrated to be the substantial equivalent in scope, content and resources to a program meeting the requirements established by Part 52 of this Title for the registration of a professional licensure qualifying program in the State.

(c) Waiver of citizenship requirement for an alien physician. The Committee on the Professions shall be authorized to grant a one-time three-year waiver of the citizenship requirement for medical licensure to an alien physician, provided that such applicant:

(1) applies for medical licensure;

(2) meets all requirements for a medical license except citizenship;

(3) agrees to maintain lawful immigration status; and

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(4) agrees to practice in an area which has been designated by the State Education Department as medically underserved.

#### **§24.4 Review of appeals - education or experience.**

The Committee on the Professions may review and determine appeals for licensing determinations of the department staff relating to education or experience requirements if the chairman of the committee determines that the appeal involves a substantial or novel question which should be reviewed by the committee.

#### **§24.5 Review of appeals - license surrender and restoration.**

The Committee on the Professions shall review and determine appeals pursuant to section 18.7 of this Title relating to the voluntary surrender and restoration of licenses.

#### **§24.6 Review of questions of moral character.**

The Committee on the Professions shall review and determine questions of moral character in accordance with the provisions of Part 28 of this Title.

#### **§24.7 Review in other cases.**

(a) The Committee on the Professions shall review and submit its recommendation to the Board of Regents for final determinations in the following cases:

(1) applications pursuant to Education Law, section 6506(5), for the waiver of an education, experience or examination requirement on the ground that the requirement has been substantially met; and

(2) petitions for restoration of a professional license which has been revoked or surrendered pursuant to sections 6510 or 6510-a of the Education Law or title II-A of article 2 of the Public Health Law. For individuals served prior to June 20, 1997 with an order of revocation, acceptance of surrender, or denial of an application for restoration or reinstatement by vote of the Board of Regents, at least one year shall have elapsed from the date of such service for the acceptance by the department of a petition to the Board of Regents for restoration of a license or certificate, except that a period of time during which the license was suspended during the pendency of the discipline proceeding may reduce the one-year waiting period. For individuals served on or after June 20, 1997 with an order of revocation, acceptance of surrender, or denial of an application for restoration or reinstatement by vote of the Board of Regents, at least three years shall have elapsed from the date of such service for the acceptance by the department of a petition to the Board of Regents for restoration of a license or certificate, except that a period of time during which the license was suspended during

the pendency of the discipline proceeding may reduce the three-year waiting period. This section shall not apply to restoration of licenses which have been temporarily surrendered pursuant to Education Law, section 6520-b, or Public Health Law, section 230(13).

(i) Materials submitted in response to the Committee on the Professions' recommendation to the Board of Regents shall be filed no later than 15 days following the postmarked date of the written notification of the decision or recommendation of the Committee on the Professions.

(ii) If an applicant has failed to remain current with developments in the profession, and a substantial question is presented as to the applicant's current fitness to enter in to the active practice of the profession, the Board of Regents may require that the applicant take and obtain satisfactory grades on a proficiency examination satisfactory to the department prior to the issuance of a license or limited permit.

(iii) An applicant shall pay to the department a fee of \$750 at the time he or she submits an application for the restoration of a professional license, which has been revoked or surrendered as prescribed in this paragraph.

(b) The Committee on the Professions shall review and determine whether to agree to the following:

(1) a statement upon which an application for a consent order is based and proposed penalty, pursuant to section 17.5 of this Title; and

(2) a statement upon which an application to surrender a license is based, pursuant to section 17.6 of this Title.

#### **§24.8 Unacceptable practice protocols.**

The Committee on the Professions shall review and determine appeals from findings of unacceptable practice protocols involving nurse practitioners and collaborating physicians.

#### **§24.9 Reconsideration.**

An application for reconsideration of a determination made by the Committee on the Professions or by the Board of Regents following a Committee on the Professions recommendation may be accepted upon a showing that the original action was based on an error of law, or that there is new and material evidence which was not previously available, or that circumstances have changed subsequent to the original determination.

## **REGENTS RULES Part 28**

### **Determination of Good Moral Character in the Professions**

#### **§28.1 Determination of good moral character.**

The determination of whether an applicant for authorization to practice a profession, under title VIII of the Education Law, is of good moral character shall be made in accordance with the procedures specified in this Part.

#### **§28.2 Information.**

All information indicating that an applicant has been convicted of a crime, or has committed an act which raises a reasonable question as to the applicant's moral character, shall be referred to the director of the Office of Professional Discipline or his or her designee.

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### **§28.3 Investigation.**

The director of the Office of Professional Discipline, or his or her designee, shall arrange for a full and complete investigation of the circumstances surrounding such conviction or act. If it is determined that a reasonable question exists as to the applicant's moral character, then the director, or his or her designee, shall submit the results of the investigation, including any letters of reference from peers or others which may have been submitted by the applicant, to a panel of the appropriate professional State Board for its review. The panel shall consist of three or more members of the State Board.

### **§28.4 Review.**

Upon such review, the panel, by majority vote, may conclude in favor of the applicant to the effect that the moral character of the applicant is adequate for licensure, thereby fulfilling that licensure requirement, and the applicant and the director of the Division of Professional Licensing Services shall be notified of such conclusion by the Office of Professional Discipline. If, upon such review, the panel concludes, by a majority vote, that a substantial question exists as to the moral character of the applicant, the applicant shall be notified thereof. Upon the written request of the applicant, within 30 days after receipt of such notice, the department shall schedule a hearing on such question.

### **§28.5 Hearing.**

The applicant shall be given 15 days' notice, by mail, of the time and place of the hearing and a statement of the matters asserted which raised the question of the applicant's moral character. The applicant may be represented at the hearing by an attorney, may cross-examine witnesses, may produce witnesses, and may present evidence in support of the applicant's good moral character. The hearing, at which a verbatim record shall be taken, shall take place before a panel consisting of three or more members of the appropriate professional State Board, and before an administrative officer admitted to practice as an attorney in the State of New York, designated by the department. Such administrative officer shall have authority to rule on all motions, procedures and other legal objections, but shall not be entitled to vote in the determination of the panel. The determination of the panel shall be made by a majority vote of the panel and shall be rendered in a written report which shall be drafted by the administrative officer, shall reflect the

determination and recommendations of the panel, and shall be subject to the approval of and signature by the panel chairperson on behalf of the panel. Copies of the report shall be forwarded to the director of the Division of Professional Licensing Services and to the applicant.

### **§28.6 Appeal.**

The applicant or the director of the Office of Professional Discipline may appeal the determination of the panel concerning the licensure requirement of good moral character by filing a written notice of appeal therefrom with the Committee on the Professions within 30 days after service of the report of the panel upon the party taking the appeal. In the event no appeal is taken from the determination of the panel, the determination of the panel shall be final. In the event either party appeals from the determination of the panel, the appellant may submit a brief to the Committee on the Professions and the opposing party within 30 days after filing the notice of appeal. An answering brief may be filed by the opposing party with the Committee on the Professions within 20 days after the receipt by the opposing party of the brief submitted by the appellant. The Committee on the Professions may affirm, reverse or modify the determination of the panel and/or make such other determination as it may deem just and proper under the circumstances. The determination of the Committee on the Professions shall be final and copies thereof shall be forwarded to the applicant and to the director of the Office of Professional Discipline.

### **§28.7 Reapplication.**

Whether or not the applicant appeals from the determination of the panel, the applicant may reapply for licensure to the director of the Division of Professional Licensing Services after the expiration of 18 months from the date of service of the report of the panel.

### **§28.8 Proficiency examination.**

If the Committee on the Professions determines that the applicant otherwise meets the moral character requirements, but has failed to remain current with developments in the profession, and a substantial question is presented as to the applicant's current fitness to enter into the active practice of the profession, the Committee on the Professions may require that the applicant take and obtain satisfactory grades on a proficiency examination satisfactory to the department prior to the issuance of a license or limited permit.

## **REGENTS RULES Part 29 Unprofessional Conduct**

### **§29.1 General provisions.**

(a) Unprofessional conduct shall be the conduct prohibited by this section. The provisions of these rules applicable to a particular profession may define additional acts or omissions as unprofessional conduct and may establish exceptions to these general prohibitions.

(b) Unprofessional conduct in the practice of any profession licensed, certified or registered pursuant to title VIII of the Education Law, except for cases involving those professions licensed, certified or registered pursuant to the provisions of Article 131 or 131-B of such law in which a statement of charges of professional misconduct was not served on or before July 26, 1991, the effective date of chapter 606 of the Laws of 1991, shall include:

- (1) willful or grossly negligent failure to comply with substantial provisions of Federal, State or local laws, rules or regulations governing the practice of the profession;
- (2) exercising undue influence on the patient or client, including the promotion of the sale of services, goods, appliances or drugs in such manner as to exploit the patient or client for the financial gain of the practitioner or of a third party;
- (3) directly or indirectly offering, giving, soliciting, or receiving or agreeing to receive, any fee or other consideration to or from a third party for the referral of a patient or client or in connection with the performance of professional services;

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(4) 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 the same profession, or a legally authorized trainee practicing under the supervision of a licensed practitioner. 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 professional 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 28 of the Public Health Law or article 13 of the Mental Hygiene Law;

(5) conduct in the practice of a profession which evidences moral unfitness to practice the profession;

(6) willfully making or filing a false report, or failing to file a report required by law or by the Education Department, or willfully impeding or obstructing such filing, or inducing another person to do so;

(7) failing to make available to a patient or client, upon request, copies of documents in the possession or under the control of the licensee which have been prepared for and paid for by the patient or client;

(8) revealing of personally identifiable facts, data or information obtained in a professional capacity without the prior consent of the patient or client, except as authorized or required by law;

(9) practicing or offering to practice beyond the scope permitted by law, or accepting and performing professional responsibilities which the licensee knows or has reason to know that he or she is not competent to perform, or performing without adequate supervision professional services which the licensee is authorized to perform only under the supervision of a licensed professional, except in an emergency situation where a person's life or health is in danger;

(10) delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified, by training, by experience or by licensure, to perform them;

(11) performing professional services which have not been duly authorized by the patient or client or his or her legal representative;

(12) advertising or soliciting for patronage that is not in the public interest:

(i) Advertising or soliciting not in the public interest shall include, but not be limited to, advertising or soliciting that:

- (a) is false, fraudulent, deceptive or misleading;
- (b) guarantees any service;
- (c) makes any claim relating to professional services or products or the cost or price therefor which cannot be substantiated by the licensee, who shall have the burden of proof;

(d) makes claims of professional superiority which cannot be substantiated by the licensee, who shall have the burden of proof; or

(e) offers bonuses or inducements in any form other than a discount or reduction in an established fee or price for a professional service or product.

(ii) The following shall be deemed appropriate means of informing the public of the availability of professional services:

(a) informational advertising not contrary to the foregoing prohibitions; and

(b) the advertising in a newspaper, periodical or professional directory or on radio or television of fixed prices, or a stated range or prices, for specified routine professional services, provided that if there is an additional charge for related services which are an integral part of the overall service being provided by the licensee, the advertisement shall so state, and provided further that the advertisement indicates the period of time for which the advertised prices shall be in effect.

(iii)

(a) all licensees placing advertisements shall maintain, or cause to be maintained, an exact copy of each advertisement, transcript, tape or videotape thereof as appropriate for the medium used, for a period of one year after its last appearance. This copy shall be made available for inspection upon demand of the Education Department;

(b) a licensee shall not compensate or give anything of value to representatives of the press, radio, television or other communications media in anticipation of or in return for professional publicity in a news item;

(iv) Testimonials, demonstrations, dramatizations, or other portrayals of professional practice are permissible provided that they otherwise comply with the rules of professional conduct and further provided that the following conditions are satisfied:

(a) the patient or client expressly authorizes the portrayal in writing;

(b) appropriate disclosure is included to prevent any misleading information or imagery as to the identity of the patient or client;

(c) reasonable disclaimers are included as to any statements made or results achieved in a particular matter;

(d) the use of fictional situations or characters may be used if no testimonials are included; and

(e) fictional client testimonials are not permitted;

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(13) failing to respond within 30 days to written communications from the Education Department or the Department of Health and to make available any relevant records with respect to an inquiry or complaint about the licensee's unprofessional conduct. The period of 30 days shall commence on the date when such communication was delivered personally to the licensee. If the communication is sent from either department by registered or certified mail, with return receipt requested, to the address appearing in the last registration, the period of 30 days shall commence on the date of delivery to the licensee, as indicated by the return receipt;

(14) violating any term of probation or condition or limitation imposed on the licensee by the Board of Regents pursuant to Education Law, section 6511.

## §29.2 General provisions for health professions.

(a) Unprofessional conduct shall also include, in the professions of:

acupuncture  
athletic training  
audiology  
certified dental assisting  
chiropractic  
creative arts therapy  
dental hygiene  
dentistry  
dietetics/nutrition  
licensed practical nursing  
marriage and family therapy  
massage therapy  
medicine  
mental health counseling  
midwifery  
occupational therapy  
occupational therapy assistant  
ophthalmic dispensing  
optometry  
pharmacy  
physical therapist assistant  
physical therapy  
physician assistant  
podiatry  
psychoanalysis  
psychology  
registered professional nursing  
respiratory therapy  
respiratory therapy technician  
social work  
specialist assistant  
speech-language pathology,

(except for cases involving those professions licensed, certified or registered pursuant to the provisions of article 131 or 131-B of the Education Law in which a statement of charges of professional misconduct was not served on or before July 26, 1991, the effective date of chapter 606 of the Laws of 1991):

(1) abandoning or neglecting a patient or client under and in need of immediate professional care, without making reasonable arrangements for the continuation of such care, or abandoning a professional employment by a group practice, hospital, clinic or other health care facility, without reasonable notice and under

circumstances which seriously impair the delivery of professional care to patients or clients;

(2) willfully harassing, abusing or intimidating a patient either physically or verbally;

(3) failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient. Unless otherwise provided by law, all patient records must be retained for at least six years. Obstetrical records and records of minor patients must be retained for at least six years, and until one year after the minor patient reaches the age of 21 years;

(4) using the word "Doctor" in offering to perform professional services without also indicating the profession in which the licensee holds a doctorate;

(5) failing to exercise appropriate supervision over persons who are authorized to practice only under the supervision of the licensed professional;

(6) guaranteeing that satisfaction or a cure will result from the performance of professional services;

(7) ordering of excessive tests, treatment, or use of treatment facilities not warranted by the condition of the patient;

(8) claiming or using any secret or special method of treatment which the licensee refuses to divulge to the State Board for the profession;

(9) failing to wear an identifying badge, which shall be conspicuously displayed and legible, indicating the practitioner's name and professional title authorized pursuant to the Education Law, while practicing as an employee or operator of a hospital, clinic, group practice or multiprofessional facility, registered pharmacy, or at a commercial establishment offering health services to the public;

(10) entering into an arrangement or agreement with a pharmacy for the compounding and/or dispensing of coded or specially marked prescriptions;

(11) with respect to all professional practices conducted under an assumed name, other than facilities licensed pursuant to article 28 of the Public Health Law or article 13 of the Mental Hygiene Law, failing to post conspicuously at the site of such practice the names and the licensure field of all of the principal professional licensees engaged in practice at that site (*i.e.*, principal partners, officers or principal shareholders);

(12) issuing prescriptions for drugs and devices which do not contain the following information: the date written, the prescriber's name, address, telephone number, profession and registration number, the patient's name, address, and age, the name, strength and quantity of the prescribed drug or device, as well as the directions for use by the patient. In addition, all prescriptions for controlled substances shall meet the requirements of article 33 of the Public Health Law; and

(13) failing to use scientifically accepted infection prevention techniques appropriate to each profession for the cleaning and sterilization or disinfection of instruments, devices, materials and work surfaces, utilization of protective garb, use of covers

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for contamination-prone equipment and the handling of sharp instruments. Such techniques shall include but not be limited to:

(i) wearing of appropriate protective gloves at all times when touching blood, saliva, other body fluids or secretions, mucous membranes, nonintact skin, blood-soiled items or bodily fluid-soiled items, contaminated surfaces, and sterile body areas, and during instrument cleaning and decontamination procedures;

(ii) discarding gloves used following treatment of a patient and changing to new gloves if torn or damaged during treatment of a patient; washing hands and donning new gloves prior to performing services for another patient; and washing hands and other skin surfaces immediately if contaminated with blood or other body fluids;

(iii) wearing of appropriate masks, gowns or aprons, and protective eyewear or chin-length plastic face shields whenever splashing or spattering of blood or other body fluids is likely to occur;

(iv) sterilizing equipment and devices that enter the patient's vascular system or other normally sterile areas of the body;

(v) sterilizing equipment and devices that touch intact mucous membranes but do not penetrate the patient's body or using high-level disinfection for equipment and devices which cannot be sterilized prior to use for a patient;

(vi) using appropriate agents, including but not limited to detergents for cleaning all equipment and devices prior a sterilization or disinfection;

(vii) cleaning, by the use of appropriate agents, including but not limited to detergents, equipment and devices which do not touch the patient or that only touch the intact skin of the patient;

(viii) maintaining equipment and devices used for sterilization according to the manufacturer's instructions;

(ix) adequately monitoring the performance of all personnel, licensed or unlicensed, for whom the licensee is responsible regarding infection control techniques;

(x) placing disposable used syringes, needles, scalpel blades, and other sharp instruments in appropriate puncture-resistant containers for disposal; and placing reusable needles, scalpel blades, and other sharp instruments in appropriate puncture-resistant containers until appropriately cleaned and sterilized;

(xi) maintaining appropriate ventilation devices to minimize the need for emergency mouth-to-mouth resuscitation;

(xii) refraining from all direct patient care and handling and handling of patient care equipment when the health care professional has exudative lesions or weeping dermatitis and the condition has not been medically evaluated and determined to be safe or capable of being safely protected against in providing direct patient care or in handling patient care equipment; and

(xiii) placing all specimens of blood and body fluids in well-constructed containers with secure lids to prevent leaking; and cleaning any spill of blood or other body fluid with an appropriate detergent and appropriate chemical germicide.

(b) Unprofessional conduct shall also include, in those professions specified in section 18 of the Public Health Law and in the professions of acupuncture, creative arts therapy, marriage and family therapy, massage therapy, mental health counseling, and psychoanalysis, failing to provide access by qualified persons to patient information in accordance with the standards set forth in section 18 of the Public Health Law. In the professions of acupuncture, creative arts therapy, marriage and family therapy, massage therapy, mental health counseling, and psychoanalysis, qualified persons may appeal the denial of access to patient information in the manner set forth in section 18 of the Public Health Law to a record access committee appointed by the executive secretary of the appropriate State Board. Such record access review committees shall consist of not less than three, nor more than five members of the appropriate State Board.

#### **§29.16. Special provisions for the social work professions.**

Unprofessional conduct in the practice of licensed master social work and licensed clinical social work shall include conduct prohibited by sections 29.1 and 29.2 of this Part and, in accordance with section 7708 of the Education Law, shall also include:

(a) prescribing or administering drugs as a treatment, therapy, or professional service in the practice of his or her profession; or

(b) using invasive procedures as a treatment, therapy, or professional service in the practice of his or her profession. For purposes of this subdivision, invasive procedure means any procedure in which human tissue is cut, altered, or otherwise infiltrated by mechanical or other means. Invasive procedure includes, but is not limited to, surgery, lasers, ionizing radiation, therapeutic ultrasound, or electroconvulsive therapy.



**COMMISSIONER'S REGULATIONS**  
**Part 59**  
**General Provisions**

**§59.1 Applicability.**

(a) As used in this Subchapter, *license* shall mean a permanent authorization, issued pursuant to title VIII of the Education Law, to practice a profession or to use a professional title.

(b) The provisions of this Part shall apply to admission to the licensing examination and to the issuance of licenses in each of the professions supervised by the Board of Regents except as may otherwise be provided in this Subchapter with respect to specific professions.

**§59.2 Education requirements.**

(a) An applicant for a professional license shall satisfy all education requirements before being admitted to a professional licensing examination, except that the department may accept professional examination grades earned in another state or jurisdiction of the United States prior to completion of professional education if the applicant was licensed in that jurisdiction on the basis of said examination and both the grades and the examination satisfy requirements in this State. Education requirements for a professional license shall include any preprofessional education or experience required as a prerequisite for admission to a registered program of professional education. The department, in its discretion, may accept in satisfaction of a professional education requirement, the completion of an approved or registered program or a program accredited by a professional accreditation organization acceptable to the department. The department, in its discretion, may also accept graduation by a transfer student from such a program, provided such student has completed not less than the final year of professional education in such program subsequent to the date of approval, registration or accreditation of the program and approval of the accrediting organization by the department. The department may accept graduation by a transfer student from an unaccredited program of professional education, provided such student satisfies the educational requirements of statute and regulation in accordance with this Part and as otherwise provided in this Subchapter with respect to the specific profession, and further provided that such student completes not less than the final year in the unaccredited program to which he has transferred.

(b) Education and experience required for the issuance of a license or limited permit shall have been performed in accordance with all requirements of the jurisdiction in which it took place. The department may require contemporaneous evidence of the education and/or experience required for the issuance of a license or limited permit.

**§59.3 English proficiency requirement.**

An applicant for licensure whose application is based upon credit granted for the completion of courses of study in a country where English is not the principal language spoken shall demonstrate proficiency in English by passing an examination in English proficiency acceptable to the department or by passing a licensing examination acceptable to the department given in English.

**§59.4 Citizenship or immigration status requirements.**

In those professions where citizenship or immigration status is required for licensure, an applicant shall submit evidence satisfactory to the department of compliance with such requirement.

**§59.5 Professional examinations.**

(a) The department may develop its own examinations or may select in whole or in part examinations developed or administered by other organizations. Unless specifically authorized by the department, no examination shall be deemed acceptable which has been used in its entirety during the five years previous to the current administration.

(b) Applications for admission to a licensing examination, including all required fees shall be completed and filed not less than 60 days prior to the examination. When the department finds that the application is complete and that the requirements for admission to an examination have been met, it will issue to the applicant an admission card which will include the date, time and place of the examination and entitle the applicant to admission thereto.

(1) The department may accept applications for admission to department conducted examinations after the filing date for such examinations provided that the department is able to review and process such applications in a timely manner and that there are adequate examination facilities and materials available. Such applications shall require the payment of the late filing fee enumerated in Section 59.9 of this Part, which shall be in addition to the regular admission or reexamination fee. If, upon review of a late application, the department determines that the applicant is ineligible to be admitted to the examination, the department shall retain the late filing fee. In the event that the department is unable to review a late application, the late filing fee shall be refunded.

(2) The department may waive the late filing fee or delay the required date for filing in cases where notification to the applicant of the results of the previous examination are released less than 75 days prior to the next examination.

(c) For the purpose of identification for admission to the examination, the applicant shall present the current admission card with a photograph attached and, at the conclusion of the examination, return the card to the department representative conducting the examination. A candidate shall permit fingerprints to be taken during each part of an examination.

(d) Licensing examinations shall be held at times and places determined by the commissioner and conducted under the following conditions. Any candidate violating such conditions may be dismissed from the examination by the department representative, and the examination paper of such candidate shall be deemed a failure. At the discretion of the department, such candidate may be denied admission to subsequent licensing examinations.

(1) No candidate shall enter any examination more than 60 minutes after the scheduled admission time, nor shall any candidate leave the examination until 60 minutes have elapsed from the scheduled admission time. No candidate shall leave a

**Note: Laws, rules and regulations are current as of the date of this publication**

department administered practical or clinical examination until dismissed by the chief examiner.

(2) Compensatory time may be granted candidates arriving late for an examination, at the discretion of the department.

(3) A candidate shall not obtain unauthorized possession of examination materials.

(4) During the examination, no candidate shall give or receive help, or communicate with any other candidate in any way, except upon the express permission of the department representative.

(5) A candidate shall bring into the examination room only such books and other materials as are indicated on the admission card and permitted by the department.

(6) A candidate shall not remove from the examination room any of the materials provided for an examination, and shall not reproduce or reconstruct any portion of the examination or answer paper, or aid in such reproduction or reconstruction by any means, unless authorized by the department. Such materials include examination booklets, individual examination questions, answer sheets or score sheets, instructions and any reference tables or papers which were provided by the department and which may have been used in the course of the examination.

(e) Papers will be scored and candidates notified of success or failure by the department or its designee. If the candidate has failed, the department will advise when and on what basis the candidate may be reexamined and of any procedure for review of the failed examination.

(f) The passing score in each component of each part of the licensing examination shall be determined as provided by law and shall be computed without rounding. In those examinations administered by the department, unless otherwise provided in the regulations pertaining to a specific profession, a candidate may retain credit for scores earned on examination parts for a period not to exceed five years from the examination date. A candidate who is reexamined in a part already passed shall not retain credit for such part from earlier examinations. In those professions which use national or regional examinations administered by the Department, this subdivision shall apply whether or not the examination is taken in the State of New York.

(g) In those professions where reviews of examination papers are permitted, candidates will be allowed to review only those parts of the examination which they failed with a score of 60 or higher. In those professions which permit candidates to pass on average all scores used in computing the average are reviewable. A request for review of an examination paper or score may be made in writing to the department not later than 30 days after examination grades are released by the department. A candidate shall not remove from the reviewing site any of the materials provided for the review of an examination given previously, and shall not reproduce or reconstruct any portion of the examination or the answer paper, or aid in such reproduction or reconstruction by any means, unless authorized by the department. No one other than the candidate will be permitted access to examination materials. Where examinations are offered under contract with testing agencies, reviews shall be consistent with these contracts, where applicable. All reviews shall be conducted at sites selected and supervised by the department or an authorized testing agency.

(h) An applicant who has been admitted to a professional licensing examination conducted by the department and subsequently fails to appear for such an examination twice shall forfeit any remaining fee credits for that examination. The applicant, upon subsequently applying for readmission to that examination, shall pay all required admission fees.

#### **§59.6 License by endorsement.**

An applicant for endorsement of a license issued by another jurisdiction shall establish that the applicant:

(a) meets all requirements of section 6506 (6) of the Education Law;

(b) has had satisfactory professional experience of at least two years following initial licensure, unless a different period is provided in the regulations pertaining to a particular profession; and

(c) has not attempted unsuccessfully a licensing examination used by the State of New York either prior to or after making application for licensure by endorsement, unless such applicant has later passed a comparable licensing examination.

#### **§59.7 Licenses and initial registrations.**

When the candidate fulfills all requirements for licensure, the department shall issue a first registration certificate and a license. The first registration shall be for the remainder of the applicable registration period. Pursuant to section 6502 of the Education Law the registration fee shall be prorated for those persons newly licensed and registered, or reactivating registration, during the second or third year of a registration period.

#### **§59.8 Registration for professional practice.**

(a) Each licensee shall be responsible for registering with the department. Failure to register shall subject the practitioner to the late fee set forth in section 6502 (3) of the Education Law. Any practitioner who willfully refuses to register shall be subject to the penalties set forth in section 6511 of such law.

(b) A licensee not practicing or using a restricted title in New York State or an individual practicing only in a setting which is exempt from licensure in accordance with law may allow registration to lapse without being subject to the late fee set forth in section 6502 of the Education Law, by notifying the department of their cessation of practice or exemption in the State. At such time as the licensee may choose to resume practice or enter practice in a nonexempt setting in New York State, a registration certificate may be issued upon the filing of a proper application and the payment of the required registration fee.

(c) Registration certificates shall be conspicuously displayed by each licensee in each office in which the profession is practiced. In instances where licensees regularly practice at more than one professional office, registration certificates shall be obtained for each office bearing the licensee's name and the exact address of each such office upon making proper application to the department and submitting a fee. Where practice is carried on in other than individual offices, each licensee shall have a current registration certificate available for inspection at all times.

(d) Registration periods for each profession shall be in accordance with schedules established by the department.

**Note: Laws, rules and regulations are current as of the date of this publication**

(e) Each professional practitioner shall notify the department in writing of any change of name or address not later than 30 days after such change.

(f) When an applicant or licensee pays a fee by a personal check and it is subsequently not honored by the issuing institution, the applicant or licensee must subsequently pay by a certified check, a bank check, or a money order. The replacement payment shall include any late and penalty charges required under section 6502 (3) and (7) of the Education Law.

(g) Any licensee who fails to submit a replacement registration payment as required in subdivision (f) of this section, shall have his or her registration voided 60 days from the date the department sends notification that said fee was not honored by the issuing institution.

#### **§59.9 Special service fees.**

The department will charge the following fees for special services not otherwise provided by Education Law:

(a) for the issuance of a trainee permit in ophthalmic dispensing, \$25;

(b) for certification of completion of pharmacy internship, \$20;

(c) for admission to the fundamental theory section of the examination in landscape architecture, \$50 and for each subsequent reexamination, \$50, the remainder of the fee set forth in section 7324 of the Education Law to be paid prior to admission to the remainder of the examination;

(d) for certification of licensure or examination grades to another jurisdiction, \$20;

(e) for certification in acupuncture of a licensed physician or dentist, \$150;

(f) for the issuance of an additional registration certificate, \$10;

(g) for the issuance of a letter of eligibility to undertake clinical clerkships, \$30;

(h) for the issuance of a Medical Science Knowledge Profile (MSKP) or satisfactory equivalent examination certificate to undertake clinical clerkships, \$20;

(i) for review by the department of an examination conducted by the department, \$25;

(j) for rescoring of an examination conducted by the department, \$20;

(k) for verification by the department of the transcript of an applicant or licensee, \$20;

(l) for admission to the Special Purpose Examination (SPEX) in medicine, \$175;

(m) for late filing for admission to a licensing examination, \$50;

(n) for written verification of licensure and/or registration status, \$10;

(o) for reregistration of a licensee whose six-month registration has expired due to his or her failure to satisfy child support or combined

child and spousal support obligations as prescribed in section 3-503 of the General Obligations Law, an amount equal to the licensee's registration fee; and

(p) for provision of a non-mandatory photo identification card for professionals licensed and registered pursuant to Title VIII of the Education Law, a fee not to exceed \$35 for the cost of administration.

#### **§59.10 Professional service corporations.**

(a) Applications to the State Education Department for the issuance of a certificate pursuant to Business Corporation Law, section 1503 (b) (ii), shall be made by submitting to the department a fully executed certificate of incorporation which complies with the provisions of such section and of section 1512 of such law, and which sets forth or has annexed to it an affidavit of one of the original officers, directors or shareholders of the corporation setting forth the name of each individual who is to be one of the original shareholders, directors or officers of the corporation.

(b) If the name of a proposed professional service corporation contains the name of a deceased person, the certificate of incorporation, when submitted to the department for the issuance of a certificate pursuant to Business Corporation Law, section 1503 (b) (ii) shall be accompanied by an affidavit of one of the subscribers to the certificate of incorporation establishing compliance with the provisions of Business Corporation Law, section 1512 (a) (2).

(c) A certificate pursuant to Business Corporation Law, section 1503 (b) (ii) may be issued when:

(1) the proposed name of the corporation appropriately describes the profession practiced and the services to be provided; and

(2) if the proposed name of the corporation includes a reference to a specialized area of professional practice, satisfactory evidence is submitted of compliance with any provision of Part 29 of this Title, rules of the Board of Regents restricting or regulating the use of specialty titles or announcements of limitations of practice in the particular profession.

#### **§59.11 Refunds.**

Monies received by the State Education Department pursuant to section 110 of the Education Law, may be refunded as follows:

(a) Full refunds may be granted when:

(1) the fee submitted is an overpayment;

(2) the requested service cannot be provided;

(3) a written request for the refund of a registration fee is received prior to the beginning of that registration period; or

(4) a registrant who has paid a registration fee is deceased prior to the beginning of that registration period and a written refund request is received within one year of the date of death.

(b) Partial refunds not to exceed 50 percent of the licensure application fee may be granted if an applicant for any practice authorization elects to withdraw such application prior to the issuance or denial by the department of such authorization, and such applicant

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has not been admitted to a department conducted examination. Each applicant who has at any time withdrawn an application and received a refund shall be required to pay in full all fees upon submitting any subsequent application.

**§59.12 Training regarding child abuse and maltreatment reporting.**

(a) All persons applying on or after January 1, 1991 for the issuance or renewal of a license/registration or limited permit in medicine, chiropractic, dentistry, dental hygiene, registered professional nursing, podiatry, optometry, psychology and any other professions listed in section 6507 (3) (a) of the Education Law shall submit documentation acceptable to the department of the completion of two hours of coursework or training regarding the identification and reporting of child abuse and maltreatment and obtained either from a provider approved by the department pursuant to Part 57 of this Title or as a matriculant in a registered program under Section 52.2 (c) (12) of this Title, unless the applicant receives an exemption from such requirement as provided in subdivision (b) of this section.

(b) The department may exempt an applicant or licensee from the coursework or training requirement of subdivision (a) of this section upon receipt of a written application for such exemption establishing that there would be no need to complete the coursework or training because the nature of the applicant's/licensee's practice excludes contact with children. It is the professional responsibility of the licensee who holds an exemption to notify the department in writing, within 30 days, when the nature of the practice changes to the extent that the basis for the exemption ceases to exist.

**§59.13 Training regarding infection control practices.**

(a) Commencing July 2, 1994, all persons applying for the issuance of a license or renewal of a registration in dentistry, registered professional nursing, licensed practical nursing, podiatry, optometry, dental hygiene, or any other profession subject to the requirements of section 6505-b of the Education Law shall affirm to the department, and maintain and/or submit such documentation as the department may require, that they have completed, in the four years immediately preceding such application, course work or training in infection control and barrier precautions which is approved by the department, pursuant to Part 58 of this Title, or which is approved as part of a program registered pursuant to Part 52 of this Title. As provided in subdivision (b) of this section, an applicant may be exempted from the infection control and barrier precautions course work or training requirement; or as provided in subdivision (c) of this section, may be exempted from the requirement to document the completion of such course work or training.

(b) The department may exempt an applicant for registration from the course work or training required pursuant to subdivision (a) of this section either upon receipt of:

(1) a written application for such exemption establishing that there would be no need to complete the course work or training because the nature of the applicant's/licensee's practice does not require the use of infection control techniques or barrier precautions; or

(2) documentation satisfactory to the department that the applicant/licensee has completed course work or training equivalent to that approved by the department, pursuant to Part 58 of this Title.

(c) Maintenance or submittal of documentation pursuant to subdivision (a) of this section is not required of any dentist or podiatrist who is subject to the provisions of paragraph (f) of subdivision (1) of section 2805-k of the Public Health Law and who attests at the time of registration that documentation requirements have been met as required in the Public Health Law.

(d) If there are changes in the nature of the practice of a licensee who has been granted an exemption under paragraph (b) (1) of this section and such changes require the licensee to use infection control techniques or barrier precautions, the licensee shall notify the department in writing of the change within 30 days of such change. If the licensee has not taken approved course work or training in infection control and barrier precautions during the four years immediately preceding the change in practice, the licensee shall obtain such course work or training within 90 days of the change in practice.

# ADDRESS/NAME CHANGE FORM

## INSTRUCTIONS

Use this form to report a change in your address and/or name. Please read these instructions carefully and be sure you complete the appropriate sections of this form. Please print clearly in ink.

- **For address changes only:** Complete Sections I, II, and IV. **For address changes only,** you may fax this form to the Records and Archives Unit at 518-486-3617 or provide the required information by E-mail: oparchiv@mail.nysed.gov. Your records will be updated. Currently registered licensed professionals will be sent a new registration certificate.
- **For name changes only:** Complete Sections I, III, IV and V. **Name changes** require an original notarized signature in your new name and cannot be accepted prior to your official change of name. Sign the Section IV affidavit and have your signature notarized by a notary public. Currently registered licensed professionals will be sent a new registration certificate.
- **For address and name changes:** Complete all sections.

Licensed professionals can check the Office of the Professions' Web site at www.op.nysed.gov to verify your name, city, state, registration expiration date, and license number on record.

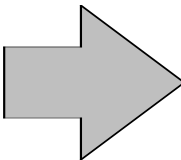
**NOTE:** Important information and registration renewals will be sent to the address on file for you. **You must notify the Department in writing within 30 days if your address or name changes.**

### Section I: Your General Information

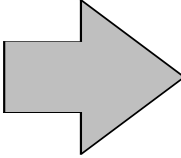
- Name (currently on record): \_\_\_\_\_
- Social Security Number:          Birth Date: Month   Day   Year    
 Telephone: Home: \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ Work: \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_  
 E-mail: \_\_\_\_\_ Fax: \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_
- Are you reporting an address and/or name change?  address change  name change  both
- Effective date of change: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ **(Note: Changes cannot be accepted until after the effective date.)**
- Licensure status in New York State:  
 I am an applicant for licensure in New York State for the licensed profession(s) of: \_\_\_\_\_  
 I am currently licensed in New York State in the profession(s) of: \_\_\_\_\_ (see list of professions on page 2)  
(see list of professions on page 2)

_____	New York State license number: <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
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### Section II: Address Change (please print)

Information <u>C</u> urrently On Record	→	New Information
Apt./Bldg. _____		Apt./Bldg. _____
Street _____		Street _____
City _____		City _____
State _____		State _____
Zip Code <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>		Zip Code <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
Province or Country (if not U.S.) _____		Province or Country (if not U.S.) _____

**Section III: Name Change (please print)** If you are reporting a name change, please sign using your **NEW** name in Section IV. Your new signature must be notarized for any name changes. **If you are currently registered you will receive a new registration certificate.**

Information <u>Currently</u> On Record		New Information
Last Name _____		Last Name _____
First Name _____		First Name _____
Middle or Initial _____		Middle or Initial _____

Check here if you wish to have your existing license parchment replaced with one in your **NEW** name. Enclose your **original parchment** and a **\$10 check or money order** made payable to the New York State Education Department with your request. You will be sent a new parchment.

**Section IV: Affidavit**

*I declare and affirm that the statements above are true, complete, and correct. I understand that any false or misleading information in, or in connection with, my application or this notification may be cause for denial or loss of licensure and may result in criminal prosecution.*

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**Section V: For Name Changes Only: Notary Certification And Identification**

State of \_\_\_\_\_ County of \_\_\_\_\_ On the \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_ before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to this application and acknowledged to me that he/she executed the application and swore that the statements made by him/her in the application and all supporting materials are true, complete, and correct.

Notary Public signature \_\_\_\_\_

Notary ID number \_\_\_\_\_


Expiration date \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_  
Month Day Year


Notary Stamp

**Professional Titles Licensed Under Education Law**

(See item #5 on page 1 of the form.)

- |   |  |   |
|---|--|---|
| <p>Acupuncturist<br/>Architect<br/>Athletic Trainer<br/>Audiologist<br/>Certified Clinical Laboratory Technician<br/>Certified Dental Assistant<br/>Certified Public Accountant<br/>Certified Shorthand Reporter<br/>Chiropractor<br/>Clinical Laboratory Technologist<br/>Creative Arts Therapist<br/>Cytotechnologist<br/>Dental Hygienist<br/>Dentist<br/>Dietitian/Nutritionist<br/>Interior Designer</p> | <p>Landscape Architect<br/>Land Surveyor<br/>Licensed Clinical Social Worker<br/>Licensed Master Social Worker<br/>Licensed Practical Nurse<br/>Marriage and Family Therapist<br/>Massage Therapist<br/>Medical Physicist<br/>Mental Health Counselor<br/>Midwife<br/>Nurse Practitioner<br/>Occupational Therapist<br/>Occupational Therapy Assistant<br/>Ophthalmic Dispenser<br/>Optometrist<br/>Pharmacist</p> | <p>Physical Therapist<br/>Physical Therapist Assistant<br/>Physician<br/>Podiatrist<br/>Professional Engineer<br/>Psychoanalyst<br/>Psychologist<br/>Public Accountant<br/>Registered Physician Assistant<br/>Registered Professional Nurse<br/>Registered Specialist Assistant<br/>Respiratory Therapist<br/>Respiratory Therapy Technician<br/>Speech-Language Pathologist<br/>Veterinarian<br/>Veterinary Technician</p> |
|---|--|---|

**New Applicants** mail to  New York State Education Department, Office of the Professions, Division of Professional Licensing Services, (insert name of profession from above list) Unit, 89 Washington Avenue, Albany, NY 12234-1000.

**Licensees** mail to  New York State Education Department, Office of the Professions, Division of Professional Licensing Services, Records and Archives Unit, 89 Washington Avenue, Albany, NY 12234-1000.



THE STATE EDUCATION DEPARTMENT  
Office of the Professions  
Division of Professional Licensing Services  
89 Washington Avenue  
Albany, NY 12234-1000