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Legal Alert: Waivers to Employ Licensed Professionals to Practice Their Professions

Until recently, New York law did not allow a licensed professional (such as a social worker or therapist) to offer their professional services as an employee of a not-for-profit organization. A recent amendment to the Education Law now makes it possible for some licensed professionals to practice their profession as an employee of a nonprofit and to credit hours worked towards experience qualifications for licensure

New Exemption for Nonprofits to Employ Licensed Professionals

The newly passed Section 6503(a) of the Education Law of New York provides not-for-profit corporations and certain education corporations the opportunity to employ licensed professionals to practice their professions. Licensed professions now eligible to work in a nonprofit setting include social workers, licensed clinical social workers, licensed mental health counselors, licensed marriage and family therapists, licensed creative arts therapists, licensed psychoanalysts, and licensed psychologists.

In order to provide these services, the not-for-profit or education corporation must obtain a waiver from the New York State Department of Education (“SED”) no later than July 1, 2012. Entities eligible to apply for the waiver are those entities that were already in existence prior to June 28, 2010, the effective date of Section 6503(a). However, Section 6503(a) indicates that a corporation that has either missed the deadline of July 1, 2012 or that is formed after Section 6503(a) was passed is still able to qualify for a waiver if the SED finds the corporation has a satisfactory need for the licensed services.

Waiver Application to Qualify for the Exemption

The waiver application must be completed within 120 days after the application form is made available by the SED. According to the SED, the form is currently being designed and should be available within a few weeks as a link on the SED website at <http://www.op.nysed.gov/title8/subart1.htm>. Certain disclosures will be required on the application and SED is authorized to develop additional standards for when a waiver will be granted. All applications for waivers will be approved or denied within ninety days by the SED. Once an application is submitted, an entity can continue to operate or provide the applicable licensed services until the time their application is either approved or denied.

Each entity covered under Section 6503(a) must reapply for the waiver with the SED every three years.

Nonprofit Work Hours and Experience Qualifications for Licensures

All licensed employees eligible to work under a waiver in Section 6503(a) can now use hours worked in their profession at a nonprofit or education corporation as hours needed for experience qualifications for licensure. Please see Section 6503(a) and the SED website for more details.

This alert is meant to provide general information only, not legal advice. Please contact Linda Manley at Lawyers Alliance for New York at (212) 219-1800 x 239 or visit our website www.lawyersalliance.org for further information.

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