Executive Summary

New York Physician Licensure Statute

**Licensure Requirements:** Those wishing to practice medicine in the state of New York need to obtain a limited or full medical license.

**Licensure Reciprocity:** The New York Licensure Statute is silent on reciprocity between states.

**Licensure Exceptions:** The New York Licensure Statute allows for the following common exceptions:

- Consultative Services: Physicians are able to offer consultative services, if the physicians’ practice is limited only to those consultations, without being required to receive full medical licensure.

- Military Exception: Those physicians, licensed in any one of the 50 states, are permitted to administer care to military members, as either a civilian contract employee or a military physician officer, without having to first receive additional licensure.

- Emergency Exception: A physician is permitted to administer care to a person in an emergency situation, regardless if that physician is licensed in the state where the care is taking place.

**Internet Prescribing of Medications:** The New York Board of Medicine has disciplined physicians for issuing prescriptions over the Internet without conducting a physical examination of the patient, as such actions constitute inappropriate care and unprofessional conduct.
NEW YORK PHYSICIAN LICENSURE STATUTE

Chapter 16. Of the Consolidated Laws
Title 8. The Professions
Article 131. Medicine

6522. Practice of Medicine and Use of Title “Physician”

Only a person licensed or otherwise authorized under this article shall practice medicine or use the title “physician.”

According to the Federation of State Medical Boards, the 10th Amendment police power grants states the right to regulate the practice of medicine.

6524. Requirements for a Professional License

To qualify for a license as a physician, an applicant shall fulfill the following requirements:

(1) Application: file an application with the department;

(2) Education: have received an education, including a degree of doctor of medicine, “M.D.”, or doctor of osteopathy, “D.O.”, or equivalent degree in accordance with the commissioner's regulations;

(3) Experience: have experience satisfactory to the board and in accordance with the commissioner's regulations;

(4) Examination: pass an examination satisfactory to the board and in accordance with the commissioner’s regulations;

(5) Age: be at least twenty-one years of age; however, the commissioner may waive the age requirement for applicants who have attained the age of eighteen and will be in a residency program until the age of twenty-one;

(6) Citizenship or immigration status: be a United States citizen or an alien lawfully admitted for permanent residence in the United States; provided, however that the board of regents may grant a three year waiver for an alien physician to practice in an area which has been designated by the department as medically underserved, except that the board of regents may grant an additional extension not to exceed six years to an alien physician to enable him or her to secure citizenship or permanent resident status,

An unlicensed physician is not entitled to receive compensation. See Accetta v. Zupa, 8 N.Y. Ann. Cas. 190, 54 A.D. 33, 66 N.Y.S. 303 (1900).

To access the application for licensure and first registration, click here.
provided such status is being actively pursued; and provided further that the board of regents may grant an additional three year waiver, and at its expiration, an extension for a period not to exceed six additional years, for the holder of an H-1b visa, an O-1 visa, or an equivalent or successor visa thereto;

(7) Character: be of good moral character as determined by the department; and

An applicant for medical licensure who provided incorrect educational information on employment applications, omitted an employer from an application, and submitted a forged letter of reference did not satisfy the “good moral character” requirement and thus could not renew his limited permit to practice medicine. *Anamdi v. New York State Educ. Com’r*, 244 A.D.2d 726, 664 N.Y.S.2d 486 (1997).

(8) Fees: Pay a fee of two hundred sixty dollars to the department for admission to a department conducted examination and for an initial license, a fee of one hundred seventy-five dollars for each reexamination, a fee of one hundred thirty-five dollars for an initial license for persons not requiring admission to a department conducted examination, a fee of five hundred seventy dollars for any biennial registration period commencing August first, nineteen hundred ninety-six and thereafter. The comptroller is hereby authorized and directed to deposit the fee for each biennial registration period into the special revenue funds-other entitled “professional medical conduct account” for the purpose of offsetting any expenditures made pursuant to section two hundred thirty of the public health law in relation to the operation of the office of professional medical conduct within the department of health, provided that for each biennial registration fee paid by the licensee using a credit card, the amount of the administrative fee incurred by the department in processing such credit card transaction shall be deposited by the comptroller in the office of the professions account established by section ninety-seven-nnn of the state finance law. The amount of the funds expended as a result of such increase shall not be greater than such fees collected over the registration period.

The fee should be paid by personal check or money order made out to the New York State Education Department, and mailed to: New York State Education Department Office of the Professions P.O. Box 22063 Albany, NY 12201.

(9) For every license or registration issued after the effective date of this subdivision, an additional fee of thirty dollars shall be paid and deposited in the special revenue fund entitled “the professional medical conduct account” for the purpose of offsetting any
expenditures made pursuant to subdivision fifteen of section two hundred thirty of the public health law. The amount of such funds expended for such purpose shall not be greater than such additional fees collected over the licensure period or for the duration of such program if less than the licensure period.

(10) A physician shall not be required to pay any fee under this section if he or she certifies to the department that for the period of registration or licensure, he or she shall only practice medicine without compensation or the expectation or promise of compensation. The following shall not be considered compensation for the purposes of this subdivision: (a) nominal payment solely to enable the physician to be considered an employee of a health care provider, or (b) providing liability coverage to the physician relating to the services provided.

(11) No physician may be re-registered unless he or she, as part of the re-registration application, includes an attestation made under penalty of perjury, in a form prescribed by the commissioner, that he or she has, within the six months prior to submission of the re-registration application, updated his or her physician profile in accordance with subdivision four of section twenty-nine hundred ninety-five-a of the public health law.

6525. Limited Permits

Permits limited as to eligibility, practice and duration, shall be issued by the department to eligible applicants, as follows:

1. Eligibility: The following persons shall be eligible for a limited permit:

   (1) A person who fulfills all requirements for a license as a physician except those relating to the examination and citizenship or permanent residence in the United States;

   (2) A foreign physician who holds a standard certificate from the educational council for foreign medical graduates or who has passed an examination satisfactory to the state board for medicine and in accordance with the commissioner's regulations; or
(3) A foreign physician or a foreign intern who is in this country on a non-immigration visa for the continuation of medical study, pursuant to the exchange student program of the United States department of state.

A physician’s Education Council for Foreign Medical Graduates certificate is not the equivalent of a limited permit allowing the permit holder “to practice medicine only under supervision of licensed physician” without a full medical license. *Ellenberger v. Pena*, 88 A.D.2d 373, 453 N.Y.S.2d 436 (1982).

2. Limit of practice. A permittee shall be authorized to practice medicine only under the supervision of a licensed physician and only in a public, voluntary, or proprietary hospital.

3. Duration. A limited permit shall be valid for two years. It may be renewed biennially at the discretion of the department.

4. Fees. The fee for each limited permit and for each renewal shall be one hundred five dollars.

**6526. Exempt Persons**

The following persons under the following limitations may practice medicine within the state without a license:

1. Any physician who is employed as a resident in a public hospital, provided such practice is limited to such hospital and is under the supervision of a licensed physician;


2. Any physician who is licensed in a bordering state and who resides near a border of this state, provided such practice is limited in this state to the vicinity of such border and provided such physician does not maintain an office or place to meet patients or receive calls within this state;

   This exemption is similar to the one found in the Arizona and Washington state licensure statutes. Currently, there are □ of 50 states maintaining this exemption.
3. Any physician who is licensed in another state or country and who is meeting a physician licensed in this state, for purposes of consultation, provided such practice is limited to such consultation;

4. Any physician who is licensed in another state or country, who is visiting a medical school or teaching hospital in this state to receive medical instruction for a period not to exceed six months or to conduct medical instruction, provided such practice is limited to such instruction and is under the supervision of a licensed physician;

5. Any physician who is authorized by a foreign government to practice in relation to its diplomatic, consular or maritime staffs, provided such practice is limited to such staffs;

6. Any commissioned medical officer who is serving in the United States armed forces or public health service or any physician who is employed in the United States Veterans Administration, provided such practice is limited to such service or employment¹;

All 50 states allow for the military exception. A physician practicing in the military need only be licensed in one state to have licensure reciprocity in all 50 states.

7. Any intern who is employed by a hospital and who is a graduate of a medical school in the United States or Canada, provided such practice is limited to such hospital and is under the supervision of a licensed physician; or

8. Any medical student who is performing a clinical clerkship or similar function in a hospital and who is matriculated in a medical school which meets standards satisfactory to the department, provided such practice is limited to such clerkship or similar function in such hospital.

9. Any dentist or dental school graduate eligible for licensure in the state who administers anesthesia as part of a hospital residency program established for the purpose of training dentists in anesthesiology.

¹ In the 1960s, when Americans began exploring space travel, NASA started investing in technology that would allow astronauts to receive care at a distance. This process later became known as telemedicine. Shortly thereafter, the military began using telemedicine to triage medical injuries on the battlefield.
6527. Special Provisions

1. A not-for-profit medical or dental expense indemnity corporation or a hospital service corporation organized under the insurance law may employ licensed physicians and enter into contracts with partnerships or medical corporations organized under article forty-four of the public health law, health maintenance organizations possessing a certificate of authority pursuant to article forty-four of the public health law, professional corporations organized under article fifteen of the business corporation law or other groups of physicians to practice medicine on its behalf for persons insured under its contracts or policies.

2. Notwithstanding any inconsistent provision of any general, special or local law, any licensed physician who voluntarily and without the expectation of monetary compensation renders first aid or emergency treatment at the scene of an accident or other emergency, outside a hospital, doctor's office or any other place having proper and necessary medical equipment, to a person who is unconscious, ill or injured, shall not be liable for damages for injuries alleged to have been sustained by such person or for damages for the death of such person alleged to have occurred by reason of an act or omission in the rendering of such first aid or emergency treatment unless it is established that such injuries were or such death was caused by gross negligence on the part of such physician. Nothing in this subdivision shall be deemed or construed to relieve a licensed physician from liability for damages for injuries or death caused by an act or omission on the part of a physician while rendering professional services in the normal and ordinary course of his practice.

3. No individual who serves as a member of (a) a committee established to administer a utilization review plan of a hospital, including a hospital as defined in article twenty-eight of the public health law or a hospital as defined in subdivision ten of section 1.03 of the mental hygiene law, or (b) a committee having the responsibility of the investigation of an incident reported pursuant to section 29.29 of the mental hygiene law or the evaluation and improvement of the quality of care rendered in a hospital as

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2 CTel Comment: An example of a medical emergency in which a physician is permitted to assist is a car accident on the interstate highway. A physician can render care to save the injured person's life, regardless of where the physician is licensed.
defined in article twenty-eight of the public health law or a hospital as defined in subdivision ten of section 1.03 of the mental hygiene law, or (c) any medical review committee or subcommittee thereof of a local, county or state medical, dental, podiatry or optometrical society, any such society itself, a professional standards review organization or an individual when such committee, subcommittee, society, organization or individual is performing any medical or quality assurance review function including the investigation of an incident reported pursuant to section 29.29 of the mental hygiene law, either described in clauses (a) and (b) of this subdivision, required by law, or involving any controversy or dispute between (i) a physician, dentist, podiatrist or optometrist or hospital administrator and a patient concerning the diagnosis, treatment or care of such patient or the fees or charges therefor or (ii) a physician, dentist, podiatrist or optometrist or hospital administrator and a provider of medical, dental, podiatric or optometrical services concerning any medical or health charges or fees of such physician, dentist, podiatrist or optometrist, or (d) a committee appointed pursuant to section twenty-eight hundred five-j of the public health law to participate in the medical and dental malpractice prevention program, or (e) any individual who participated in the preparation of incident reports required by the department of health pursuant to section twenty-eight hundred five-l of the public health law, or (f) a committee established to administer a utilization review plan, or a committee having the responsibility of evaluation and improvement of the quality of care rendered, in a health maintenance organization organized under article forty-four of the public health law or article forty-three of the insurance law, including a committee of an individual practice association or medical group acting pursuant to a contract with such a health maintenance organization, shall be liable in damages to any person for any action taken or recommendations made, by him within the scope of his function in such capacity provided that (a) such individual has taken action or made recommendations within the scope of his function and without malice, and (b) in the reasonable belief after reasonable investigation that the act or recommendation was warranted, based upon the facts disclosed.
Neither the proceedings nor the records relating to performance of a medical or a quality assurance review function or participation in a medical and dental malpractice prevention program nor any report required by the department of health pursuant to section twenty-eight hundred five-l of the public health law described herein, including the investigation of an incident reported pursuant to section 29.29 of the mental hygiene law, shall be subject to disclosure under article thirty-one of the civil practice law and rules except as hereinafter provided or as provided by any other provision of law. No person in attendance at a meeting when a medical or a quality assurance review or a medical and dental malpractice prevention program or an incident reporting function described herein was performed, including the investigation of an incident reported pursuant to section 29.29 of the mental hygiene law, shall be required to testify as to what transpired thereat. The prohibition relating to discovery of testimony shall not apply to the statements made by any person in attendance at such a meeting who is a party to an action or proceeding the subject matter of which was reviewed at such meeting.

4. This article shall not be construed to affect or prevent the following:

   a. The furnishing of medical assistance in an emergency;

   b. The practice of the religious tenets of any church;

   c. A physician from refusing to perform an act constituting the practice of medicine to which he is conscientiously opposed by reason of religious training and belief.

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d. The organization of a medical corporation under article forty-four of the public health law, the organization of a university faculty practice corporation under section fourteen hundred twelve of the not-for-profit corporation law or the organization of a professional service corporation under article fifteen of the business corporation law.

e. The physician’s use of whatever medical care, conventional or non-conventional, which effectively treats human disease, pain, injury, deformity or physical condition.

5. There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any person, partnership, corporation, firm, society, or other entity on account of the communication of information in the possession of such person or entity, or on account of any recommendation or evaluation, regarding the qualifications, fitness, or professional conduct or practices of a physician, to any governmental agency, medical or specialists society, a hospital as defined in article twenty-eight of the public health law, a hospital as defined in subdivision ten of section 1.03 of the mental hygiene law, or a health maintenance organization organized under article forty-four of the public health law or article forty-three of the insurance law, including a committee of an individual practice association or medical group acting pursuant to a contract with a health maintenance organization. The foregoing shall not apply to information which is untrue and communicated with malicious intent.

6. A licensed physician may prescribe and order a non-patient specific regimen to a registered professional nurse, pursuant to regulations promulgated by the commissioner, and consistent with the public health law, for:

   (a) administering immunizations.
   
   (b) the emergency treatment of anaphylaxis.
   
   (c) administering purified protein derivative (PPD) tests.
   
   (d) administering tests to determine the presence of the human immunodeficiency virus.

7. [Eff. until March 31, 2012, pursuant to L.2008, c. 563, § 8.] A licensed physician may prescribe and order a non-patient specific regimen to a licensed pharmacist, pursuant to regulations promulgated by the commissioner, and consistent with the public health
An applicant was reasonably and appropriately denied licensure when he had not undergone medical training for a sufficient amount of time, and did not offer proof of having the required supervised clinical training. *Lock v. New York State Educ. Dept.*, 102 A.D.2d 979, 477 N.Y.S.2d 783 (1984).

6528. Qualifications for Certain Applicants for Licensure

(a) Notwithstanding any other provisions of this article or any law to the contrary, an individual who at the time of his enrollment in a medical school outside the United States is a resident of the United States shall be eligible for licensure in this state if he has satisfied the requirements of subdivisions one, five, six, seven and eight of section sixty-five hundred twenty-four of this chapter and:

(1) has studied medicine in a medical school located outside the United States which is recognized by the World Health Organization;

(2) has completed all of the formal requirements of the foreign medical school except internship and/or social service;

(3) has attained a score satisfactory to a medical school approved by the Liaison Committee on Medical Education on a qualifying examination acceptable to the state board for medicine, and has satisfactorily completed one academic year of supervised clinical training under the direction of such medical school;

(4) has completed the post-graduate hospital training required by the Board of all applicants for licensure; and

(5) has passed the examination required by the Board of all applicants for licensure.

(b) Satisfaction of the requirements of paragraphs (1), (2), and (3) of subdivision (a) of this section shall be in lieu of the completion of any foreign internship and/or social service requirements, and no such requirements shall be a condition of licensure as a physician in this State.

(c) Satisfaction of the requirements of paragraphs (1), (2), and (3) of subdivision (a) of this section shall be in lieu of certification by the Educational Council for Foreign Medical Graduates, and such certification shall not be a condition of licensure as a physician in this State for candidates who have completed the requirements of subdivision (a) of this section.
(d) No hospital licensed by this State, or operated by the State or a political subdivision thereof, or which receives state financial assistance, directly or indirectly, shall require an individual who has satisfied the requirements of paragraphs (1), (2), and (3) of subdivision (a) of this section, and who at the time of his enrollment in a medical school outside the United States is a resident of the United States, to satisfy any further education or examination requirements prior to commencing an internship or residency.

(e) A document granted by a medical school located outside the United States which is recognized by the World Health Organization issued after the completion of all the formal requirements of such foreign medical school except internship and/or social service shall, upon certification by the medical school in which such training was received of satisfactory completion by the person to whom such document was issued of the requirements listed in paragraph (3) of subdivision (a) of this section, be deemed the equivalent of a degree of doctor of medicine for purposes of licensure and practice as a physician in this State.
6521. Definition of Practice of Medicine

The practice of the profession of medicine is defined as diagnosing, treating, operating or prescribing for any human disease, pain, injury, deformity or physical condition.

6530. 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 two hundred thirty of the public health law shall be subject to penalties as prescribed in section two hundred thirty-a of the public health law except that the charges may be dismissed in the interest of justice:

1. Obtaining the license fraudulently;

   “‘Practicing the profession fraudulently’ involves the intentional misrepresentation or concealment of a known fact without the requirement that the fraud caused an injury to a patient or a benefit to the doctor.” Torres v. Ashmawy, 24 Misc.3d 506, 511-12, 875 N.Y.S.2d 781 (2009).

2. Practicing the profession fraudulently or beyond its authorized scope;

3. Practicing the profession with negligence on more than one occasion;

4. Practicing the profession with gross negligence on a particular occasion;

5. Practicing the profession with incompetence on more than one occasion;

6. Practicing the profession with gross incompetence;

   A physician committed gross incompetence and incompetence on more than one occasion because the physician’s failure to order a blood count and other tests prior to discharging the patient fell below acceptable standards of care. Sidoti v. State Bd. for Professional Medical Conduct, 55 A.D.3d 1162, 866 N.Y.S.2d 801 (2008).

4 In an action against a physician for misconduct, actual harm is irrelevant to the standards of care applied by the State Board for Professional Medical Conduct; a showing of harm to a patient is not required to prove that a physician engaged in substandard care. Gant v. Novello, 302 A.D.2d 690, 754 N.Y.S.2d 746 (2003).
7. Practicing the profession while impaired by alcohol, drugs, physical disability, or mental disability;

8. Being a habitual abuser of alcohol, or being dependent on or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects, except for a licensee who is maintained on an approved therapeutic regimen which does not impair the ability to practice, or having a psychiatric condition which impairs the licensee’s ability to practice;

9. (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;

(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 guilty in an adjudicatory proceeding of violating a state or federal statute or regulation, pursuant to a final decision or determination, and when no appeal is pending, or after resolution of the proceeding by stipulation or agreement, and when the violation would constitute professional misconduct pursuant to this section;

(d) Having his or her license to practice medicine revoked, suspended or having other disciplinary action taken, or having his or her application for a license refused, revoked or suspended or having voluntarily or otherwise surrendered his or her 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;
(e) Having been found by the commissioner of health to be in violation of article thirty-three of the public health law;

10. Refusing to provide professional service to a person because of such person's race, creed, color or national origin;

11. Permitting, aiding or abetting an unlicensed person to perform activities requiring a license;

A salaried, unregistered employee working for a registered physician cannot treat, write prescriptions for, or take fees from patients while his physician employer is absent. 1908, Op.Atty.Gen. 552.

12. Practicing the profession while the license is suspended or inactive as defined in subdivision thirteen of section two hundred thirty of the public health law, or willfully failing to register or notify the department of education of any change of name or mailing address, or, if a professional service corporation, willfully 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;

13. A willful violation by a licensee of subdivision eleven of section two hundred thirty of the public health law;

14. A violation of section twenty-eight hundred three-d, twenty-eight hundred five-k or subparagraph (ii) of paragraph (h) of subdivision ten of section two hundred thirty of the public health law; or

15. Failure to comply with an order issued pursuant to subdivision seven, paragraph (a) of subdivision ten, and subdivision seventeen of section two hundred thirty of the public health law;

16. A willful or grossly negligent failure to comply with substantial provisions of federal, state, or local laws, rules, or regulations governing the practice of medicine;

17. Exercising undue influence on the patient, including the promotion of the sale of services, goods, appliances, or drugs in such manner as to exploit the patient for the financial gain of the licensee or of a third party;
18. 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 in connection with the performance of professional services;

19. 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 medicine, or a legally authorized trainee practicing under the supervision of a licensee. 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 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 twenty-eight of the public health law or article thirteen of the mental hygiene law;

20. Conduct in the practice of medicine which evidences moral unfitness to practice medicine;

21. Willfully making or filing a false report, or failing to file a report required by law or by the department of health or the education department, or willfully impeding or obstructing such filing, or inducing another person to do so;

22. Failing to make available to a patient, 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;

23. Revealing of personally identifiable facts, data, or information obtained in a professional capacity without the prior consent of the patient, except as authorized or required by law;

24. 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;

25. 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;

25-a. With respect to any non-emergency treatment, procedure or surgery which is expected to involve local or general anesthesia, failing to disclose to the patient the identities of all physicians, except medical residents in certified training programs, podiatrists and dentists, reasonably anticipated to be actively involved in such treatment, procedure or surgery and to obtain such patient's informed consent to said practitioners' participation;

26. Performing professional services which have not been duly authorized by the patient or his or her legal representative;

27. Advertising or soliciting for patronage that is not in the public interest. (a) Advertising or soliciting not in the public interest shall include, but not be limited to, advertising or soliciting that: (i) is false, fraudulent, deceptive, misleading, sensational, or flamboyant;

(ii) represents intimidation or undue pressure;

(iii) uses testimonials;

(iv) guarantees any service;

(v) makes any claim relating to professional services or products or the costs or price therefor which cannot be substantiated by the licensee, who shall have the burden of proof;

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

(b) The following shall be deemed appropriate means of informing the public of the availability of professional services: (i) informational advertising not contrary to the foregoing prohibitions; and

(ii) the advertising in a newspaper, periodical or professional directory or on radio or television of fixed prices, or a stated range of 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.

(c) (i) All licensees placing advertisements shall maintain, or cause to be maintained, an exact copy of each advertisement, transcript, tape or video tape 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 department of health;

(ii) 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;

(d) No demonstrations, dramatizations or other portrayals of professional practice shall be permitted in advertising on radio or television;

28. Failing to respond within thirty days to written communications from the department of health and to make available any relevant records with respect to an inquiry or complaint about the licensee's professional misconduct. The period of thirty days shall commence on the date when such communication was delivered personally to the licensee. If the communication is sent from the department of health by registered or certified mail, with return receipt requested, to the address appearing in the last registration, the period of thirty days shall commence on the date of delivery to the licensee, as indicated by the return receipt;
29. Violating any term of probation or condition or limitation imposed on the licensee pursuant to section two hundred thirty of the public health law;

30. Abandoning or neglecting a patient 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;

31. Willfully harassing, abusing, or intimidating a patient either physically or verbally;

32. Failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient, provided, however, that a physician who transfers an original mammogram to a medical institution, or to a physician or health care provider of the patient, or to the patient directly, as otherwise provided by law, shall have no obligation under this section to maintain the original or a copy thereof. 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 eighteen years;

33. Failing to exercise appropriate supervision over persons who are authorized to practice only under the supervision of the licensee;

34. Guaranteeing that satisfaction or a cure will result from the performance of professional services;

35. Ordering of excessive tests, treatment, or use of treatment facilities not warranted by the condition of the patient;

36. Claiming or using any secret or special method of treatment which the licensee refused to divulge to the department of health;

37. Failing to wear an identifying badge, which shall be conspicuously displayed and legible, indicating the practitioner's name and professional title authorized pursuant to this chapter, while practicing as an employee or operator of a hospital, clinic, group
practice or multiprofessional facility, or at a commercial establishment offering health services to the public;

38. Entering into an arrangement or agreement with a pharmacy for the compounding and/or dispensing of coded or specially marked prescriptions;

39. With respect to all professional practices conducted under an assumed name, other than facilities licensed pursuant to article twenty-eight of the public health law or article thirteen of the mental hygiene law, failing to post conspicuously at the site of such practice the name and licensure field of all of the principal professional licensees engaged in the practice at that site (i.e., principal partners, officers or principal shareholders);

40. Failing to provide access by qualified persons to patient information in accordance with the standards set forth in section eighteen of the public health law as added by chapter 497 of the laws of 1986;

41. Knowingly or willfully performing a complete or partial autopsy on a deceased person without lawful authority;

42. Failing to comply with a signed agreement to practice medicine in New York state in an area designated by the commissioner of education as having a shortage of physicians or refusing to repay medical education costs in lieu of such required service, or failing to comply with any provision of a written agreement with the state or any municipality within which the licensee has agreed to provide medical service, or refusing to repay funds in lieu of such service as consideration of awards made by the state or any municipality thereof for his or her professional education in medicine, or failing to comply with any agreement entered into to aid his or her medical education;

43. Failing to complete forms or reports required for the reimbursement of a patient by a third party. Reasonable fees may be charged for such forms or reports, but prior payment for the professional services to which such forms or reports relate may not be required as a condition for making such forms or reports available;

44. In the practice of psychiatry, (a) any physical contact of a sexual nature between licensee and patient except the use of films and/or other audiovisual aids with individuals or groups in the development of appropriate responses to overcome sexual
Where a nurse exploited relationship of trust and confidence with a patient, he was properly disciplined for his sexual relations with that former patient after she had been discharged from a mental health facility. *Block v. Ambach*, 73 N.Y.2d 323, 540 N.Y.S.2d 6, 537 N.E.2d 181 (1989).

45. In the practice of ophthalmology, failing to provide a patient, upon request, with the patient's prescription including the name, address, and signature of the prescriber and the date of the prescription.

46. A violation of section two hundred thirty-nine of the public health law by a professional.

47. Failure to use scientifically accepted barrier precautions and infection control practices as established by the department of health pursuant to section two hundred thirty-a of the public health law.

48. A violation of section two hundred thirty-d of the public health law or the regulations of the commissioner of health enacted thereunder.

49. Except for good cause shown, failing to provide within one day any relevant records or other information requested by the state or local department of health with respect to an inquiry into a report of a communicable disease as defined in the state sanitary code, or HIV/AIDS.

6531. Additional Definition of Professional Misconduct, Limited Application

Notwithstanding any inconsistent provision of this article or any other provisions of law to the contrary, the license or registration of a person subject to the provisions of this article and article one hundred thirty-one-B of this chapter may be revoked, suspended, or annulled or such person may be subject to any other penalty provided in section two hundred thirty-a of the public health law in accordance with the provisions and procedures of this article for the following:

That any person subject to the above-enumerated articles has directly or indirectly requested, received or participated in the division, transference, assignment, rebate, splitting, or refunding of a fee for, or has directly requested, received or profited by means of a credit or other valuable consideration as a commission, discount or gratuity, in connection with the furnishing of professional care or service, including x-ray examination and treatment, or for or in connection with the sale, rental, supplying, or furnishing of clinical laboratory services or supplies, x-ray laboratory services or supplies, inhalation therapy service or equipment, ambulance service, hospital or medical supplies, physiotherapy or other therapeutic service or equipment, artificial limbs, teeth or eyes, orthopedic or surgical appliances or supplies, optical appliances, supplies, or equipment, devices for aid of hearing, drugs, medication, or medical supplies, or any other goods, services, or supplies prescribed for medical diagnosis, care, or treatment under this chapter, except payment, not to exceed thirty-three and one-third percent of any fee received for x-ray examination, diagnosis, or treatment, to any hospital furnishing facilities for such examination, diagnosis, or treatment. Nothing contained in this section shall prohibit such persons from practicing as partners, in groups or as a professional corporation or as a university faculty practice corporation, nor from pooling fees and moneys received, either by the partnerships, professional corporations, or university faculty practice corporations or groups by the individual members thereof, for professional services furnished by an individual professional member, or employee of such partnership, corporation, or group, nor shall the professionals constituting the partnerships, corporations or groups be prohibited from sharing, dividing, or apportioning the fees and moneys received by them or by the partnership, corporation, or group in accordance with a partnership or other agreement; provided that no such practice as partners, corporations, or groups, or pooling of fees or moneys received or shared, division or apportionment of fees shall be permitted with respect to and treatment under the workers' compensation law. Nothing contained in this chapter shall prohibit a corporation licensed pursuant to article forty-three of the insurance law pursuant to its contract with the subscribed from prorating a medical or dental expenses indemnity allowance among two or more professionals in proportion to the services rendered by each such professional at the request of the subscriber, provided that prior to payment thereof such professionals shall submit both to the corporation licensed pursuant to article forty-three of the insurance law and to the subscriber statements itemizing the services rendered by each such professional and the charges therefor.