

Report to the Legislature and Executive
Pursuant to Chapters 130 & 132
of the Laws of 2010

Appendix A
Chapters 130 and 132
of the Laws of 2010

Section 9 of chapter 420 of the Laws of 2002, as amended by section 1 of chapter 433 of the Laws of 2004, as amended by chapter 132 of the laws of 2010 provides:

- a. **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, the office of children and family services, the department of correctional services, the state office for the aging, the department of health, or a local governmental 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154 of the education law, except as otherwise provided by such articles, except that this section shall be deemed repealed on July 1, 2013, provided, further, however, that **on or before October 1, 2010, each state agency identified in this subdivision shall submit to the commissioner of education data, in such form and detail as requested by the commissioner of education, concerning the functions performed by its service provider workforce and the service provider workforce of the local governmental units and social services districts as defined in this subdivision over which the agency has regulatory authority.** After receipt of such data, the commissioner shall convene a workgroup of such state agencies for the purpose of reviewing such data and also to make recommendations regarding amendments to law, rule or regulation necessary to clarify which tasks and activities must be performed only by licensed or otherwise authorized personnel. **No later than January 1, 2011, after consultation with such work group, the commissioner shall develop criteria for the report required pursuant to subdivision b** of this section and shall work with such state agencies by providing advice and guidance regarding which tasks and activities must be performed only by licensed or otherwise authorized personnel.
- b. **On or before July 1, 2011, each such state agency, after consultation with local governmental units and social services districts as defined in subdivision a of this section over which the agency has regulatory authority, shall submit to the commissioner of education a report on the utilization of personnel subject to the provisions of this section.** Such report shall include but not be limited to: identification of tasks and activities performed by such personnel categorized as tasks and functions restricted to licensed personnel and tasks and functions that do not require a license under article 154 of the education law; analysis of costs associated with employing only appropriately licensed or otherwise authorized personnel to perform tasks and functions that require licensure under such article 154, including salary costs and costs associated with providing support to unlicensed personnel in obtaining appropriate licensure. Such report shall also include an action plan detailing measures through which each such entity shall, no later than July 1, 2013, comply with professional licensure laws applicable to services provided and make recommendations on alternative pathways toward licensure.
- c. **The commissioner of education shall, after receipt of the report required under this section, and after consultation with state agencies, not-for-profit providers, professional associations, consumers, and other key stakeholders, submit a report to the governor, the speaker of the assembly, the temporary president of the senate, and the chairs of the senate and assembly higher education committees by July 1, 2012** to recommend any amendments to law, rule or regulation necessary to fully implement the requirements for licensure by July 1, 2013. Other state agency commissioners shall be provided an opportunity to include statements or alternative recommendations in such report.

- a. In relation to activities and services provided under **article 153** of the education law, 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 governmental 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**. In relation to activities and services provided under **article 163** of the education law, nothing in this act shall prohibit or limit such 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, the office of children and family services, the department of correctional services, the state office for the aging and the department of health or a local governmental 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, pursuant to authority granted by law**. This section shall not authorize the use of any title authorized pursuant to article 153 or 163 of the education law by any such employed person, except as otherwise provided by such articles respectively.
- b. This section shall be deemed repealed July 1, 2013 provided, however, that **on or before October 1, 2010, each state agency identified in subdivision a of this section shall submit to the commissioner of education data, in such form and detail as requested by the commissioner of education, concerning the functions performed by its service provider workforce and the service provider workforce of the local governmental units and social services districts as defined in subdivision a of this section over which the agency has regulatory authority**. After receipt of such data, the commissioner shall convene a workgroup of such state agencies for the purpose of reviewing such data and also to make recommendations regarding amendments to law, rule or regulation necessary to clarify which tasks and activities must be performed only by licensed or otherwise authorized personnel. **No later than January 1, 2011, after consultation with such workgroup, the commissioner shall develop criteria for the report required pursuant to paragraph one of this subdivision and shall work with such state agencies by providing advice and guidance regarding which tasks and activities must be performed only by licensed or otherwise authorized personnel.**
 1. On or before July 1, 2011, each such state agency, after consultation with local governmental units and social services districts as defined in subdivision a of this section over which the agency has regulatory authority, shall submit to the commissioner of education a report on the utilization of personnel subject to the provisions of this section. Such report shall include but not be limited to: identification of tasks and activities performed by such personnel categorized as tasks and functions restricted to licensed personnel and tasks and functions that do not require a license under article 153 or 163 of the education law; analysis of costs associated with employing only appropriately licensed or otherwise authorized personnel to perform tasks and functions that require licensure under such article 153 or 163, including salary costs and costs associated with providing support to unlicensed personnel in obtaining appropriate licensure. Such report shall also include an action plan detailing measures through which each such entity shall, no later than July 1, 2013, comply with professional licensure laws applicable to services provided and make recommendations on alternative pathways toward licensure.
 2. The commissioner of education shall, after receipt of the reports required under this section, and after consultation with state agencies, not-for-profit providers, professional associations, consumers, and other key stakeholders, submit a report to the governor, the speaker of the assembly, the temporary president of the senate, and the chairs of the senate and assembly higher education committees by July 1, 2012 to recommend any amendments to law, rule or regulation necessary to fully implement the requirements for licensure by July 1, 2013. Other state agency commissioners shall be provided an opportunity to include statements or alternative recommendations in such report.