

New York State Psychiatric Association, Inc.

**Area II Council of the American Psychiatric Association
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MEMORANDUM IN OPPOSITION

**Re: Senate 3481 (Same as Assembly 801)
On Senate Corporations, Authorities and Commissions Committee Agenda
Wednesday, February 27, 2013, 1:30 p.m.**

AN ACT to amend the limited liability company law, the business corporation law, the partnership law, the public health law and the education law, in relation to allowing psychologists licensed under title VIII, article 153 of the education law to form limited liability companies

The New York State Psychiatric Association, Inc. (NYSPA), the medical specialty organization representing over 4,000 psychiatrists practicing in New York State and a division of the American Psychiatric Association, strongly opposes the above referenced legislation.

This bill would amend New York State's limited liability company law, business corporation law, and partnership law to authorize psychologists, licensed under Article 153 of the State Education Law, and physicians, licensed under Article 131 of the State Education Law, to form limited liability companies, professional corporations and partnerships with one another.

NYSPA opposes this legislation for several reasons. First and foremost, a non-psychiatrist physician and a psychologist are not, as the bill suggests, the equivalent of a psychiatrist. A psychiatrist is an individual who has completed four years of undergraduate study, four years of medical school, four or more years of residency training in psychiatry followed in some cases by a year or two of fellowship, which then qualifies the individual to take the written and oral examination to become a "board certified" psychiatrist. This rigorous educational and training process requires psychiatrists to obtain thousands of clinical hours. Many psychiatrists continue on after this process to become certified in child and adolescent psychiatry, geriatric psychiatry, forensic (legal) psychiatry, addiction psychiatry and other psychiatric specialties. Psychologists, on the other hand, do not have the same level of educational and clinical training.

Psychologists in New York State are currently prohibited, under Section 7606 of the State Education Law, from "*prescribing or administering drugs ... as a treatment, therapy, or professional service in the practice of his or her profession.*" This legislation would create a mechanism for skirting this prohibition through a business structure that would allow for patient referrals between psychologists and non-psychiatrist physicians.

Furthermore, this legislation would permit a business structure not previously authorized under New York State law; and, therefore raises a number of serious questions and concerns, including the breach of the longstanding prohibition on the corporate practice of medicine and the laws that prohibit the co-mingling of professions – a protection that has existed for decades to ensure the public's protection. NYSPA recognizes that psychologists are an integral part of New York's mental health care workforce; but, rather than providing for the "integration of behavioral and physical health," as this legislation purports, it will create, in fact, another silo and lead to further fragmentation.

For the reasons stated above, the New York State Psychiatric Association opposes this bill.

Respectfully Submitted,

Richard J. Gallo
Legislative Representative