A BUDGET BILL submitted by the Governor
in accordance with Article VII of the Constitution

AN ACT to amend the education law and the public health law, in
relation to inquiries or complaints of professional
misconduct (Part __);

The People of the State of New York, represented in Senate and Assem-

bly, do enact as follows:

PART __

Section 1. Subdivision 28 of section 6530 of the education law, as
added by chapter 606 of the laws of 1991, is amended to read as follows:

28. Failing to respond within [thirty] ten days to written communi-
cations 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] ten 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] ten
days shall commence on the date of delivery to the licensee, as indi-
cated by the return receipt;

§ 2. Subdivision 4 of section 206 of the public health law, as amended
by chapter 602 of the laws of 2007, is amended to read as follows:

4. The commissioner may:

(a) issue subpoenas, compel the attendance of witnesses and compel
them to testify in any matter or proceeding before him, and may also
require a witness to attend and give testimony in a county where he resides or has a place of business without the payment of any fees;

(b) require, in writing, the production of any and all relevant documents in the possession or control of an individual or entity subject to an investigation or inquiry under this chapter. Unless a shorter period is specified in such writing, as determined for good cause by the commissioner, the required documents shall be produced no later than ten days after the delivery of the writing. Failure by the subject individual or entity to produce to the department the required documents within the ten day or otherwise specified period shall be a violation or failure within the meaning of paragraph (d) of this subdivision. Each additional day of non-production shall be a separate violation or failure;

(c) annul or modify an order, regulation, by-law or ordinance of a local board of health concerning a matter which in his judgment affects the public health beyond the territory over which such local board of health has jurisdiction;

[(c)] (d) assess any penalty prescribed for a violation of or a failure to comply with any term or provision of this chapter or of any lawful notice, order or regulation pursuant thereto, not exceeding two thousand dollars for every such violation or failure, which penalty may be assessed after a hearing or an opportunity to be heard;

[(d)] (e) assess civil penalties against a public water system which provides water to the public for human consumption through pipes or other constructed conveyances, as further defined in the state sanitary code or, in the case of mass gatherings, the person who holds or promotes the mass gathering as defined in subdivision five of section two hundred twenty-five of this article not to exceed twenty-five thousand dollars per day, for each violation of or failure to comply with
any term or provision of the state sanitary code as it relates to public
water systems that serve a population of five thousand or more persons
or any mass gatherings, which penalty may be assessed after a hearing or
an opportunity to be heard[.]; and

(f) seek to obtain a warrant based on probable cause from a judicial
officer authorized to issue a warrant. Such warrant authorizes the
commissioner and any person authorized by him to have the authority to
search all grounds, erections, vehicles, structures, apartments, build-
ings, places and the contents therein and to seize any books, records,
papers, documents, computers, electronic devices and other physical
objects.

§ 3. Paragraph (b) of subdivision 12 of section 230 of the public
health law, as amended by chapter 599 of the laws of 1996, is amended to
read as follows:

(b) When a licensee has pleaded or been found guilty or convicted of
committing an act constituting a felony under New York state law or
federal law, or the law of another jurisdiction which, if committed
within this state, would have constituted a felony under New York state
law, or when a licensee has been charged with committing an act constitu-
tuting a felony under New York state or federal law or the law of anoth-
er jurisdiction, where the licensee's alleged conduct may present a risk
to patients or to the public, which, if committed within this state,
would have constituted a felony under New York state law, or when the
duly authorized professional disciplinary agency of another jurisdiction
has made a finding substantially equivalent to a finding that the prac-
tice of medicine by the licensee in that jurisdiction constitutes an
imminent danger to the health of its people, or when a licensee has been
disciplined by a duly authorized professional disciplinary agency of
another jurisdiction for acts which if committed in this state would have constituted the basis for summary action by the commissioner pursuant to paragraph (a) of this subdivision, the commissioner, after a recommendation by a committee of professional conduct of the state board for professional medical conduct, may order the licensee, by written notice, to discontinue or refrain from practicing medicine in whole or in part or to take certain actions authorized pursuant to this title immediately. The order of the commissioner shall constitute summary action against the licensee and become public upon issuance. The summary suspension shall remain in effect until the final conclusion of a hearing which shall commence within ninety days of the date of service of the commissioner's order, end within ninety days thereafter and otherwise be held in accordance with paragraph (a) of this subdivision, provided, however, that when the commissioner's order is based upon a finding substantially equivalent to a finding that the practice of medicine by the licensee in another jurisdiction constitutes an imminent danger to the health of its people, the hearing shall commence within thirty days after the disciplinary proceedings in that jurisdiction are finally concluded. If, at any time, the felony charge is dismissed, withdrawn or reduced to a non-felony charge, the commissioner's summary order shall terminate.

§ 4. This act shall take effect immediately.