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New Laws in the New Year

Lance Plunkett JD, LLM
NYSDA, lplunkett@nysdental.org

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Dentists impacted by changes to child abuse and beneficial ownership reporting laws.

Lance Plunkett, J.D., LL.M.

There are two new laws in New York that will affect dentists and dental practices. The first is an addition to a recent amendment on child abuse reporting training. The second is a New York State parallel to a recent federal reporting law on beneficial ownership of certain business entities.

Let's deal with the child abuse reporting training law, which is a purely state law matter, first.

It might be helpful to explore the historical background of the child abuse reporting training law that is relevant to the latest changes in 2024. Chapter 56 of the Laws of 2021 amended New York State Social Services Law Section 413 to require additional child abuse reporting training that includes protocols to reduce implicit bias in decision-making processes, strategies for identifying adverse childhood experiences, and guidelines to assist in recognizing signs of abuse or maltreatment while interacting virtually. These new items are to be included in the New York State Mandated Identification and Reporting of Child Abuse and Maltreatment/Neglect coursework. This law requires that mandated reporters like dentists, including those who have previously undergone the current child abuse reporting training, complete the updated training curriculum by April 1, 2025.

You can find information about approved training providers at: https://www.op.nysed.gov/about/training-continuing-education/child-abuse-identification-reporting.

Documentation in the form of an authorized Certification of Completion must be submitted to the New York State Education Department at the time of reregistration or initial application for licensure, certification or a limited permit. Within 10 days of coursework completion, the approved provider from whom you obtain the training is required to issue you two copies of the certification form.

The law exempts from the training an individual who can document, to the satisfaction of the Education Department, that there is no need for the training based on the nature of his or her practice. You may be eligible for an exemption if the nature of your practice is such that you do not have professional contact with persons under the age of 18 and you do not have contact with persons 18 years of age or older with a handicapping condition who reside in a residential care school or facility. You can access an exemption application at: https://www.op.nysed.gov/sites/op/files/documents/form1ce.pdf.

Now for the latest developments. On Nov. 17, 2023, Gov. Hochul signed into law still more requirements for child abuse reporting training as Chapter 646 of the Laws of 2023. This new law requires specific training on handling a child who has an intellectual or developmental disability. That law was scheduled to take effect on Nov. 17, with people having one year from that date to complete the new training (which would have been a deadline of Nov. 17, 2025). However, Gov. Hochul only signed Chapter 646 of the Laws of 2023 on condition that a chapter amendment would be passed in 2024 to extend that compliance deadline. The governor believed there would be insufficient time to adapt the child abuse reporting training coursework to the latest requirements on top of the changes already required to be completed by April 1, 2025.

Thus, on Feb. 7, Gov. Hochul signed into law Chapter 25 of the Laws of 2024. This law allows two years instead of one year in which to take the new training on intellectually or developmentally disabled children, which will be part of the regular child abuse reporting training course that establishes a deadline to complete the new training by Nov. 17, 2026. More details will need to come from the state agencies implementing the new course requirements—the New York State Education Department for dentists.

It should be emphasized that this is different from the changes made to the child abuse reporting training law that must be completed by April 1, 2025. The new training on children with intellectual or developmental disabilities must be completed by Nov. 17, 2026. It would be ideal if the child abuse reporting training could be synchronized so that all the coursework changes could be taken at once—meaning that the newest intellectually and developmentally disabled child training could be incorporated in the coursework by the April 1, 2025, deadline for the reducing implicit bias, identifying adverse childhood experiences and telehealth abuse recognition training items. Nobody would prefer taking a second course by April 1, 2025, and then a third course by Nov. 17, 2026. Sometimes government can do surprising things, although the surprises are not always pleasant ones.

LLCs, Pay Attention

On Dec. 22, 2023, Gov. Hochul signed into law Chapter 772 of the Laws of 2023. This law requires limited liability companies (LLCs) to report to the New York State Department of State who their beneficial owners are. The bill is similar to the federal Corporate Transparency Act law, except that the New York law applies only to limited liability companies (which includes professional limited liability companies—PLLCs). Gov. Hochul signed Chapter 772 of the Laws of 2023 only on the condition that a chapter amendment be enacted in 2024 to fix certain technical problems with the new law.

The New York State Legislature passed that chapter amendment on Feb. 14, as A.8544 (Gallagher) / S.8059 (Hoylman-Sigal). The governor signed the chapter amendment into law as Chapter 102 of the Laws of 2024 on March 1. Interestingly, it effectively rewrites the entirety of Chapter 772 of the laws of 2023. One of the major things it fixes is the starting date for LLC reporting to the New York State Department of State, which will commence on Jan. 1, 2026 (more details on that below).

First, a few words on the federal Corporate Transparency Act may prove helpful. The federal Corporate Transparency Act applies to professional corporations (PCs), LLCs and any other business entity that has to go through the New York State Department of State to be formed—which takes in many more business organization formats than PCs and LLCs but excludes the ordinary sole proprietorship. Reporting under the federal Corporate Transparency Act is made to the United States Treasury Department through its FinCEN (Financial Crimes Enforcement Network). The New York law, found at Section 1107 of the New York State Limited Liability Company Law, accepts all the exemptions that the federal Corporate Transparency Act accepts. Publicly traded entities and not-for-profit entities are exempt. But the main exemption is for large business entities, which means any entity with more than 20 employees and more than $5 million in gross receipts or sales in a calendar year.

It may seem odd that the exemption is for large businesses. However, the purpose of both the federal Corporate Transparency Act and the New York State Act is to protect against money laundering, and the reality is that most money laundering is carried on through small businesses and not large businesses. While the federal Corporate Transparency Act focuses on many types of business organization formats, the New York law is targeted only to LLCs, because New York has experienced particularly difficult problems with the LLC format—especially in the area of political contributions.

Under the federal Corporate Transparency Act, FinCEN began accepting reports on Jan.1. If your company was created or registered prior to Jan. 1, you will have until Jan. 1, 2025, to report to FinCEN. If your company is created or registered in 2024, you must report to FinCEN within 90 calendar days after receiving actual or public notice that your company's creation or registration is effective, whichever is earlier. If your company is created or registered on or after Jan. 1, 2025, you must file with FinCEN within 30 calendar days after receiving actual or public notice that its creation or registration is effective.

Any updates or corrections to beneficial ownership information that you previously filed with FinCEN must be submitted within 30 days. However, you do not need to refile unless there are updates or changes to report. You also do not need to file anything if you are claiming an exemption—just be sure you actually qualify for an exemption. Fortunately, FinCEN has published a useful guide for reporting under the federal Corporate Transparency Act that can be accessed at: https://www.fincen.gov/boi.

Under the New York law, the Department of State will begin accepting LLC reports on Jan. 1, 2026. If your LLC was created or registered prior to that date, you will have until Jan. 1, 2027, to report to the Department of State. If your LLC is created or registered on Jan. 1, 2026, or thereafter, you must report to the Department of State within 30 calendar days after your LLC initial filing. In New York, you must annually update or confirm your LLC report even if there are no changes. Also, unlike the federal Corporate Transparency Act, the New York law requires any LLC to electronically file with the Department of State when claiming an exemption to the New York LLC reporting law and to confirm that exemption annually.

The differences between the federal and state laws can create a trap for the unwary LLC or PLLC. For these entities, there is a double burden of complying with two somewhat different sets of laws. For all other entities, only the federal law matters.

A busy start to 2024.

The material contained in this column is informational only and does not constitute legal advice. For specific questions, dentists should contact their own attorney.