



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

COMMISSIONER OF EDUCATION
PRESIDENT OF THE UNIVERSITY OF THE STATE OF NEW YORK

June 29, 2012

TO: The Honorable Andrew Cuomo, Governor
The Honorable Dean Skelos, Senate President *Pro Tem*
The Honorable Sheldon Silver, Speaker of the Assembly
The Honorable Kenneth LaValle, Chair, Senate Higher Education Committee
The Honorable Deborah Glick, Chair, Assembly Higher Education Committee

RE: The Education Department Report Pursuant to Chapters 130 and 132 of the Laws of 2010

FR: Dr. John B. King, Jr.

It is my pleasure to submit to you the Department's report in regard to the exemption from professional licensure for certain entities and individuals providing services within the scopes of practice of social work, psychology, and mental health practitioners.

The report was prepared with the assistance of the seven agencies that are exempt from the licensing laws until July 1, 2013. Throughout the development of this report, we also sought input from all stakeholders to determine areas of concern, seek feedback on agency proposals, and identify areas that may not have been addressed in the report. While the final report accurately reflects the information received by the Department, the law also allows the commissioners of the exempt agencies to submit statements or alternative recommendations. We have attached to the report the statement submitted by the exempt agencies. We will post the report with attachments and appendices on the OP website (www.op.nysed.gov).

We look forward to working with you in the coming months to consider the need for changes to the law. If you have any questions about the report or wish to schedule follow-up meetings, please contact Deputy Commissioner Douglas E. Lentivech in the Office of the Professions at (518) 486-1765.

C: Valerie Grey, Executive Deputy Commissioner
Douglas E. Lentivech, Deputy Commissioner
David Hamilton, Executive Secretary
Kathleen Doyle, Executive Secretary

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

The Board of Regents oversees the licensure, practice and conduct of 49 professions established under Title VIII of the Education Law. In 2002, New York State enacted laws to restrict the practice of psychotherapy to individuals licensed by the Education Department. Previously, any individual could provide psychotherapy services. While the Education Law had previously authorized the licensure of psychologists and certified social workers and protected those titles, the 2002 legislation:

1. provided a protected scope of practice for psychologists;
2. replaced the single certified social worker license with two new title and scope protected licenses – licensed master social worker and licensed clinical social worker – and established licensure requirements for each;
3. created four new title and scope-protected professions – licensed creative arts therapist, licensed marriage and family therapist, licensed mental health counselor and licensed psychoanalyst – and established licensure requirements for each.

The statutes provided that beginning with the profession of psychology on September 1, 2003 and concluding on January 1, 2006 for the Mental Health Practitioner professions, the practices of the seven professions became restricted to those licensed, otherwise authorized, or exempt. Exemptions, which are established in statute, include students under supervision, other licensed professions and occupations, and individuals in certain settings. In addition, the 2002 statutes enacted an exemption from licensure until January 1, 2010 for individuals in programs and services that are regulated, operated, funded or approved by the Office of Mental Health (OMH), the Office of Mental Retardation and Developmental Disabilities (OMRDD), the Office of Alcohol and Substance Abuse Services (OASAS), or a local government unit as defined in the Mental Hygiene Law¹.

The original exemptions in the 2002 bills had been expanded in 2003 to include individuals in programs that are operated, regulated, funded or approved by the Office of Children and Family Services (OCFS) or a local social services district². The exemption was then extended to July 1, 2013 by chapters 130 and 132 of the Laws of 2010. With regard to the professions of social work and mental health practitioners, Chapters 130 and 132 also expanded the exemptions to include the Department of Health (DOH), State Office for the Aging (SOFA), and the Department of Corrections and Community Supervision (DOCCS).³ The expansion of the exemptions to these agencies did not apply to the profession of psychology since, in part, this profession contains permanent exemptions for persons employed in salaried positions in

¹ The exemption applied to individuals in programs but restricted the use of the titles established in Articles 153, 154, and 163 (Chapters 420 and 676 of Laws of 2002).

² The exemption was authorized by Chapter 433 of Laws of 2003.

³ The exemption was extended from January 1, 2010 to July 2010 in budget extenders and then extended until July 1, 2013 (Chapters 130 and 132 of Laws of 2010).

governmental entities, and further expansion of the exemption was opposed by the professional associations.

The implementation of these licensure laws revealed many unforeseen and unintended consequences of the law. The State Education Department has worked for several years with stakeholders to address these critical issues, which have included:

- The expiration of the state and local agency exemption on July 1, 2013 will require licensure in order to practice psychology, social work, or the mental health professions in numerous programs operated, regulated, funded or approved by these agencies, unless the programs are otherwise authorized or exempt under the law, e.g., persons employed in salaried positions with job descriptions as psychologists will continue to be exempt in entities operated by state, county and municipal agencies as they have been since 1956. In some cases, the requirement for licensure may have a dramatic impact on the way in which services are delivered to vulnerable populations throughout New York State.
- Many community-based not-for-profit corporations with a long history of providing mental health and social services could no longer lawfully provide counseling or psychotherapy services because they lacked the authority to provide professional services or employ or contract with professionals licensed under Title VIII of the Education Law. Some of these entities fall under the current licensure exemptions, but others may not have been aware of the applicability of the licensing laws. By their action in 2010, the Legislature created a waiver authorization process to address these corporate practice issues in order to maintain access to services by at-risk consumers.
- The implementation of licensure laws raised a variety of other concerns related to what constitutes acceptable experience for licensure in social work and mental health practice, interpretations of scopes of practice, alternative supervision or examination, and other issues which would require changes in law or regulation.
- In considering ways in which to address the many issues that have arisen, it has been necessary, of course, to ensure that the public is adequately protected through effective regulation of licensure, practice, and discipline of the professions.

Since 2008, the Office of the Professions has convened numerous meetings with the stakeholders, including the Executive and Legislative staff, State agencies, professional associations, provider associations and consumers. The goal of Chapters 130 and 132 of the Laws of 2010 was to ensure the continuation of services to at-risk consumers while providing oversight and accountability for professional practice, consistent with the Board of Regents authority, while reaching a resolution of the licensure concerns.

The 2010 laws also mandated a report from the State Education Department to the Legislature and the Governor by July 1, 2012 that recommends any changes in law, rules or regulations that are necessary to fully implement the licensing laws by July 1,

2013. The law set forth a process and timelines by which the Education Department, in consultation with the seven exempt agencies and other stakeholders, would complete this report (**Appendix A**).

Collaboration between SED and Exempt Agencies

Data Collection

The law required the exempt agencies to submit to the Commissioner of Education data concerning the functions performed by their workforce and the workforces of the local governmental units and social services districts, as defined in law, over which the agency has regulatory authority. It also required the Department to convene a workgroup of the exempt agencies to review the data and 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.

In order to collect information about the service provider workforce and to clarify the tasks and activities that, if not for the exemption, must only be performed by licensed or authorized personnel, the Education Department and the exempt State agencies collaborated on the development and administration of a survey (**Appendix B**). The survey collected information from all entities that were identified as exempt under the regulatory authority of the specified agencies. The survey collected information regarding the functions performed by licensed and unlicensed staff, the size of the work force, and the salaries paid to licensed and unlicensed staff in those agencies. In developing the survey, the Office of the Professions and the exempt agencies identified five activities (diagnosis, assessment/evaluation, psychotherapy, assessment-based treatment planning, and services other than psychotherapy) that, if not for the exemption, could only be provided by those appropriately licensed or otherwise authorized under law.

To assist programs in completing the survey, it provided examples of tasks that would constitute restricted professional practice and of tasks that could be performed by an unlicensed person. The Office of the Professions invited the participation of the exempt programs in the survey and the survey was disseminated by the exempt agencies to their service providers. The respondents accessed the survey through a unique collector for each agency, so that information could be reported individually and collectively. More than 2,200 programs completed the online survey, and the Office of the Professions shared the results with each exempt agency in May and June 2011. Representatives of the exempt agencies, the Governor's office and the Legislature participated in a meeting on July 7, 2011 where the Education Department provided a summary of the survey results (**Appendix C**) and set forth the form and detail of the reports to be submitted by each agency, as required in law.

In many instances, the survey data indicated that professional services were, in fact, being provided by individuals licensed and registered under Title VIII or authorized (e.g., interns, students and permit holders under supervision) (Table 1). Therefore, the law is "working" in the sense that licensed and registered persons are engaged in activities defined in the Education Law. However, in some cases, without the

exemption, some licensees would require supervision to provide the services and activities, e.g. a LMSW would require supervision by an LCSW to provide psychotherapy. Therefore, it may be necessary to provide clarification regarding the restricted activities and defined scopes of practice (allowed activities) when the exemptions are eliminated so that licensed individuals do not practice beyond their scope.

Table 1. Number of individuals in licensed professions or interns/permit holders who provide restricted services in exempt programs (all agencies included)

Professional Title/License	Assess/Evaluate	Diagnose	Psychotherapy	Assess Based Treatment Plg	Other services
LCSW	590	422	497	577	489
LMSW	627	380	494	584	508
Physician	585	566	331	498	367
Psychologist	411	309	303	362	290
MHC, MFT, CAT, LP (Article 163)	331	180	256	289	275
Interns (any profession)	225	126	170	179	168
Nurse Practitioner	219	193	114	185	147
Physician Asst	52	44	17	37	29
*Psychologist employed in gov't	57	44	40	51	45
*CASAC in OASAS	248	178	164	241	229

*these titles are permanently exempt from the licensure laws, therefore all restricted activities are permissible

The data also indicated that unlicensed individuals in occupational titles frequently provide services that would be restricted if not for the exemption (Table 2). The survey did not clarify whether individuals in some titles, e.g., case manager, are also licensed under Title VIII. Assuming that the individuals in these occupational titles do not hold a license or other exemption, Table 2 provides a picture of the individuals who would be affected when the exemption expires on July 1, 2013. In reviewing the data with the exempt agencies, it became clear that additional information is needed from agencies and programs that operate under the 2013 exemption. Some exempt agencies addressed this in the plans that were submitted to the Department, including requests for further clarification of those activities that do not require licensure.

Table 2. Number of individuals in occupational titles providing restricted services in programs that are currently exempt from licensure (only top seven titles reflected, all agencies included)

Occupational Title	Assess/Evaluate	Diagnose	Psychotherapy	Assess Based Treatment Plg	Other services
Counselor or Residential Aide	75	34	46	71	94
Applied Behavioral Analyst	133	52	97	143	128
Case Manager	117	24	32	108	101
Unlicensed MSW	291	128	176	238	226
Vocational Counselor	66	12	23	51	58
Certified Rehab Counselor	50	25	22	47	41
Recreation Therapist	30	9	11	27	31

Agency Reports

The exempt agencies utilized the data collected by the Office of the Professions and other data maintained or collected by the agency to develop the plans that are required under Chapters 130 and 132. The Office of the Professions has received from each exempt state agency a report on the utilization of personnel subject to the provisions of the law. These reports contain information required under the law, including but not limited to:

- identification of tasks and activities performed by such personnel categorized as tasks and functions that are restricted to licensed personnel and tasks and functions identified as not requiring a license under Education Law Article 153, 154, or 163;
- analysis of costs associated with employing only appropriately licensed or otherwise authorized personnel to perform tasks and functions that require licensure under Article 153, 154, or 163, including salary costs and costs associated with providing support to unlicensed personnel in obtaining appropriate licensure;
- 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
- recommendations on alternative pathways toward licensure.

The Education Department posted the reports submitted by the exempt agencies on the web: <http://www.op.nysed.gov/surveys/mhpsw/exempt-agencyrpts.htm>. These reports may be reviewed in their entirety on the web, and are not included in this report or the appendices to this report.

Public Comments on the Exempt Agency Reports

As required by law, the Commissioner of Education consulted with state agencies, not-for-profit providers, professional associations, consumers, and other key stakeholders regarding the plans submitted by the exempt State agencies. The Office of the Professions established an online survey to solicit comments from stakeholders and posted the survey link on our website and shared it with a wide range of stakeholders, including programs under the authority of exempt agencies, professional associations, and associations of consumers of services (e.g., Mental Health Associations in counties of New York and the National Alliance on Mental Illness - New York State (NAMI-NYS)). The online survey included the 20 proposals submitted by the seven exempt agencies (**Appendix D**).

Respondents were asked to indicate their agreement or disagreement with each of the following statements in regard to each recommendation:

- Do you agree with the Agency's recommendation;
- The Agency's recommendation is necessary to protect the public;
- The Agency's recommendation adequately protects the public;
- It is important to implement the Agency's recommendation;
- The Agency's recommendation is an affordable approach to providing care;
- The Agency's recommendation balances licensure to protect the public with controlling the cost of professional services; and
- The Agency's recommendation will increase the public's access to professional services.

The respondents could choose from strongly agree, agree, unknown, disagree and strongly disagree to demonstrate agreement or disagreement with each recommendation.

In addition, each respondent had the opportunity to provide open-ended answers to the following statements about each recommendation:

- What changes would you make in the Agency's recommendation?
- Do you believe that the Agency's recommendation will affect the protection of the public in the delivery of professional services and, if so, how?
- If you have specific concerns about the proposal or if you have your own recommendations, please briefly describe them.

At the conclusion of the survey, respondents were given the opportunity to make any final comments and invited to submit a statement or letter to the State Boards. The Department received comments from November 22 through December 30, 2011.

The proposals from the seven exempt agencies typically focused on that agency, although the Office of Mental Health referenced their agency and the other "O" agencies (OPWDD and OASAS) in their proposals. Respondents had the ability to review and comment on proposals from one agency or from all seven, so that a significant number of survey participants "skipped" the chance to comment on one or more agency proposal. Accordingly, the number of respondents varies across the seven exempt agencies.

Description of the respondents. The survey collected minimal demographic information about individuals who responded. Table 3 indicates that 27 percent of those who responded were not licensed in any profession (261/956). The next most frequent respondents identified as a licensed clinical social worker (25% or 239/956). The survey was also completed by individuals who identified as a licensed psychologist (15% or 147/956), licensed creative arts therapist (12% or 115/956) or licensed master social worker (9% or 91/956).

Table 3. Profession, if any, in which respondents are licensed under Title VIII.

If you are licensed under Title VIII of the Education Law, in what profession do you hold the license?	Frequency Percentage
Licensed Master Social Worker	91 (9%)
Licensed Clinical Social Worker	239 (25%)
Licensed Mental Health Counselor	52 (5%)
Licensed Creative Arts Therapist	115 (12%)
Licensed Marriage and Family Therapist	6 (<1%)
Licensed Psychoanalyst	8 (<1%)
Psychologist	147 (15%)
Physician	5 (<1%)
Physician Assistant/Specialist Assistant	1 (<1%)
Registered Professional Nurse	12 (1%)
Nurse Practitioner	1 (<1%)
Other Title VIII profession	18 (1%)
Not licensed in any Title VIII profession	261 (27%)
Answered question	956 (100%)
Skipped question	126

When asked to choose one or more titles that described the respondent, 228 indicated that the survey was being completed on behalf of a provider agency or professional association and 623 indicated it was being completed by a licensed professional (Table 4). The overwhelming majority of respondents provided personal opinions (72% or 761/1044) while 24% (228) indicated the response was on behalf of an organization. It is not possible to compare this sample to the general population of licensed professionals, members of the public, agency representatives, and other stakeholders, who may differ from the respondents. However, the opportunity to comment was shared with the exempt agencies and other stakeholders, posted on the Office of the Professions' website and Facebook page, all of which would suggest that interested parties could have responded, if they were so inclined. For purposes of this report, it will be assumed that there is no bias inherent in the sample that commented on the exempt agency reports.

Table 4. Respondents' self-description of role

Please select the option(s) below that best describes you? (multiple answers allowed)	Frequency (Percent)
a. Consumer or Parent/Guardian of Consumer	23 (2%)
b. Licensed Professional	623 (65%)
c. Student/permit holder in licensed profession	71 (7%)
d. Unlicensed individual providing mental health services	50 (5%)
e. Member of the public	37 (3%)
f. Provider agency	228 (24%)
g. Professional association	41 (4%)
h. Other (please specify)	75
Answered question	950
Skipped question	132

Attitudes toward licensure. The survey also asked respondents to indicate their level of agreement or disagreement on two statements that are related to access to professional services. The first statement was intended to identify the level of agreement with a statement that advocated the same licensure for individuals who provide services that are paid for by the public (e.g., Medicaid) as for those providing services to private-pay consumers. Sixty-eight percent of respondents to this question (571/832) **strongly agreed or agreed** that there should not be such an exemption and only 24% (204/832) strongly disagreed or disagreed.

Question	Strongly agree	Agree	Unknown	Disagree	Strongly disagree	Answered question	Skipped question
The licensing laws should not exempt from licensure individuals who provide services paid for by the public	391 (47%)	180 (26%)	57 (6%)	73 (8%)	131 (15%)	832 (100%)	250

Respondents were given a chance to indicate agreement or disagreement with a statement that measured support for culturally competent practitioners. An increasing concern for agencies and for consumers is whether a provider is of the same cultural background or understands the consumer's cultural background, in order to provide appropriate services. Fifty-six percent of respondents to this question **agreed or agreed strongly with the statement** (472/835) and 32% disagreed or strongly disagreed (271/835). These responses suggest that cultural competence is an important part of professional practice, in the eyes of individuals receiving services.

Question	Strongly agree	Agree	Unknown	Disagree	Strongly disagree	Answered question	Skipped question
When choosing a health or mental health care provider, my primary concern is whether the individual understands my culture and background.	143 (17%)	329 (39%)	92 (11%)	218 (26%)	53 (6%)	835 (100%)	247

Review of Public Responses to Agency Proposals

Office of the Professions staff and members of the State Board for Psychology, State Board for Social Work and State Board for Mental Health Practitioners reviewed the agency plans and the stakeholders' comments. The exempt agency proposals and survey results may be found in **Appendix E** to this report. This review and other comments received from interested parties, form the basis of the Department's conclusions within this statutorily-mandated report to the Governor and Legislature that recommends any amendments to law, rule or regulation necessary to fully implement the requirements for licensure.

Since the laws apply to professions established under separate articles of the Education Law, the discussion of proposed amendments will be presented in the same manner.

Social Work (Article 154)

In New York, there were 25,159 LMSWs and 25,558 LCSWs licensed and registered to practice as of April 1, 2011. Section 7701 of the law defines the practice of *licensed master social work* (LMSW) and the practice of *licensed clinical social work* (LCSW). Section 7702 of the law identifies additional tasks that may be performed by a licensee but are not, of themselves, restricted activities. That section also restricts the use of the titles Licensed Master Social Worker (LMSW) and Licensed Clinical Social Worker (LCSW) to those licensed or authorized under law.

§ 7701. Definitions.

1. *Practice of licensed master social work.*
 - a. *The practice of licensed master social work shall mean the professional application of social work theory, principles, and the methods to prevent, assess, evaluate, formulate and implement a plan of action based on client needs and strengths, and intervene to address mental, social, emotional, behavioral, developmental, and addictive disorders, conditions and disabilities, and of the psychosocial aspects of illness and injury experienced by individuals, couples, families, groups, communities, organizations, and society.*
 - b. *Licensed master social workers engage in the administration of tests and measures of psychosocial functioning, social work advocacy, case management, counseling, consultation, research, administration and management, and teaching.*
 - c. *Licensed master social workers provide all forms of supervision other than supervision of the practice of licensed clinical social work as defined in subdivision two of this section.*
 - d. *Licensed master social workers practice licensed clinical social work in facility settings or other supervised settings approved by the department under supervision in accordance with the commissioner's regulations.*
2. *Practice of clinical social work.*
 - a. *The practice of clinical social work encompasses the scope of practice of licensed master social work and, in addition, includes the diagnosis of mental, emotional, behavioral, addictive and developmental disorders and*

disabilities and of the psychosocial aspects of illness, injury, disability and impairment undertaken within a psychosocial framework; administration and interpretation of tests and measures of psychosocial functioning; development and implementation of appropriate assessment-based treatment plans; and the provision of crisis oriented psychotherapy and brief, short-term and long-term psychotherapy and psychotherapeutic treatment to individuals, couples, families and groups, habilitation, psychoanalysis and behavior therapy; all undertaken for the purpose of preventing, assessing, treating, ameliorating and resolving psychosocial dysfunction with the goal of maintaining and enhancing the mental, emotional, behavioral, and social functioning and well-being of individuals, couples, families, small groups, organizations, communities and society.

- b. Diagnosis in the context of licensed clinical social work practice is the process of distinguishing, beyond general social work assessment, between similar mental, emotional, behavioral, developmental and addictive disorders, impairments and disabilities within a psychosocial framework on the basis of their similar and unique characteristics consistent with accepted classification systems.*
- c. Psychotherapy in the context of licensed clinical social work practice is the use of verbal methods in interpersonal relationships with the intent of assisting a person or persons to modify attitudes and behavior which are intellectually, socially, or emotionally maladaptive.*
- d. Development of assessment-based treatment plans in the context of licensed clinical social work practice refers to the development of an integrated plan of prioritized interventions, that is based on the diagnosis and psychosocial assessment of the client, to address mental, emotional, behavioral, developmental and addictive disorders, impairments and disabilities, reactions to illnesses, injuries, disabilities and impairments, and social problems.*

§ 7702. Authorized practice and the use of the titles "licensed master social worker" and "licensed clinical social worker".

- 1. In addition to the licensed social work services included in subdivisions one and two of section seventy-seven hundred one of this article, licensed master social workers and licensed clinical social workers may perform the following social work functions that do not require a license under this article, including but not limited to:*
 - a. Serve as a community organizer, planner, or administrator for social service programs in any setting.*
 - b. Provide supervision and/or consultation to individuals, groups, institutions and agencies.*
 - c. Serve as a faculty member or instructor in an educational setting.*
 - d. Plan and/or conduct research projects and program evaluation studies.*
 - e. Maintain familiarity with both professional and self-help systems in the community in order to assist the client in those services when necessary.*
 - f. Assist individuals or groups with difficult day to day problems such as finding employment, locating sources of assistance, organizing community groups to work on a specific problem.*

- g. Consult with other agencies on problems and cases served in common and coordinating services among agencies or providing case management.*
- h. Conduct data gathering on social problems.*
- i. Serve as an advocate for those clients or groups of clients whose needs are not being met by available programs or by a specific agency.*
- j. Assess, evaluate and formulate a plan of action based on client need.*
- k. Provide training to community groups, agencies, and other professionals.*
- l. Provide administrative supervision.*

Section 7704 of the law sets forth the requirements for licensure as an LMSW and those requirements include: the establishment of good moral character, an application for licensure and fee, completion of a Master of Social Work (MSW) degree acceptable to the Department, and passing the national “masters” examination. The requirements for licensure as an LCSW include the establishment of good moral character, an application and fee, completion of an MSW degree with at least 12 semester hours of clinical content acceptable to the Department, at least 36 months of post-MSW supervised experience in diagnosis, psychotherapy and assessment-based treatment planning acceptable to the Department, and passing the national “clinical” examination.

Proposed Agency Solutions and Stakeholder Reactions

The proposals from the exempt agencies and comments from stakeholders related to Social Work (SW) may be divided into the areas of:

1. clarification of practice
2. delegation of professional services
3. occupational exemptions
4. alternative pathways
5. extension of broad-based exemptions from licensure
6. Civil Service titles

SW1. Clarification of practice. The Office for Children and Family Services (OCFS #3) suggested that the laws and/or regulations clarify the difference between the practice of licensed master social work and licensed clinical social work. More than 79% of respondents **(117/148) agreed or strongly agreed** with this recommendation and 11% disagreed or strongly disagreed (17/148). While the law defines certain tasks and activities that are restricted to licensed individuals, not all of these terms are clearly defined in law. For instance, section 7702 defines “psychotherapy” and “diagnosis” within the context of practice as an LCSW. It does not define the term “counseling” when performed by an LMSW, although it can be interpreted to suggest that this is an activity that is different from “psychotherapy” as an LMSW does not require supervision to provide counseling, but may only provide psychotherapy under supervision.

Conclusion. The Board of Regents and the Education Department, with the assistance of the State Board for Social Work, will continue to provide further clarification of terms and functions within the law. In some circumstances, it may be appropriate for the Department to seek amendments to the Education Law to

ensure the practice of the professions is consistent with education and examination requirements to protect the public.

Several agencies requested clarification of those activities that are within the scope of LMSW or LCSW and those that do not require licensure, beyond the listing provided in section 1 of 7702 of the Education Law. OCFS (OCFS #2) and the Office for the Aging (SOFA #1) asked for clarification in regards to “assessment and evaluation” which may include activities that are not restricted under Title VIII, but could be performed by a licensee within the scope of practice. Nearly two-thirds of respondents **(64% or 95/147) expressed agreement or strong agreement** for OCFS #2, versus 25% who expressed disagreement or strong disagreement (37/147). SOFA #1 earned **agreement or strong agreement from 58% of respondents (103/177)** versus strong disagreement or disagreement from 25% (46/177).

In general, assessment and evaluation may be used by a licensed master social worker or licensed clinical social worker in the process of conducting a psychosocial evaluation of the client, which may include measures of social and psychological functioning, as well as relationships with employers, family members and others and general health status. The application of professional knowledge, skills and abilities to interpret demographic or other data may be distinct from the collection of data and information about a client or prospective client. For instance, determination of eligibility for health or social welfare benefits, e.g., Medicaid, Medicare or low-income housing, may require that a prospective client provide demographic information such as height, weight, age, marital status, income, number of children, medications being taken, health concerns, and similar issues.

Conclusion. In the development of the survey that was distributed to programs under the exempt agencies, there was extensive discussion involved in identifying those activities that do not require licensure to complete an assessment or evaluation for purposes that are not part of the practice of the delivery of health or mental health services. Activities that do not require licensure include:

- Having a consumer complete a form that provides demographic information, including housing, employment, income, psychosocial or health status, as part of an “intake”
- Providing a consumer with a paper-and-pencil test to complete, when such test does not require the observation and judgment of a licensed professional and commonly is identified as “self-administered”
- Observing, describing and reporting on the behavior of consumers and, if appropriate gathering information about such things as the person’s living situation, health, nutrition and available supports to identify problems and needs.
- Providing case management services to individuals, including but not limited to, developing and implementing a plan to access services including transportation, employment, and housing, and scheduling appointments for the consumer.

These clarifications are examples of the collaboration between the exempt agencies and State Education Department and bode well for future efforts to clarify those activities that are and those that are not restricted under Title VIII.

Section 7702 of the Education Law defines activities that are within the scope of LMSW and LCSW, but which may be provided by an unlicensed person. This has resulted in confusion among employers, licensees, and consumers whether an individual with an MSW degree is practicing the profession as a licensee or not. The law restricts the use of the title to those licensed and registered and the licensee is responsible for practicing within the authorized scope. The Department is committed to working with stakeholders to provide clarification about professional practice and those activities that are performed by unlicensed persons.

SW2. Delegation of professional services. Several of the agencies (OASAS #3 and OPWDD #2), have raised concerns about the effect of licensure on an inter-disciplinary model of assessment, diagnosis, and treatment. In this type of model a licensed individual may head the team and delegate activities to licensed and unlicensed individuals. OASAS suggested that by allowing unlicensed personnel to work with and assist in the delivery of services and, where appropriate, recommend treatment options, subject to the direct supervision and sign-off by licensed practitioners, the multi-disciplinary team offers a proven, cost effective and viable alternative to the traditional private practice model. The survey respondents were closely divided on the OASAS proposal, with **47% expressing agreement or strong agreement (80/169) and 44% expressing disagreement or strong disagreement (76/169) with the proposal.** The OPWDD recommended a detailed review of the activities that are restricted under the Education Law and those tasks that can be delegated to unlicensed persons, to ensure that only licensed or authorized persons provide restricted services after July 1, 2013. Respondents were more definitive regarding the OPWDD proposal with **71% expressing strong agreement or agreement (177/246)** as compared to 21% who stated their disagreement or strong disagreement with OPWDD #2 (53/246).

The Education Law and the Regents Rules define as unprofessional conduct by a licensed professional the delegation of activities that are restricted to an individual who is not authorized, such as, an aide or an unlicensed assistant; in other words a licensee may not delegate restricted activities to an unlicensed person. However, this does not prevent the unlicensed person from engaging in activities that do not require licensure, including the collection of data from and observations of certain behaviors of consumers and clients. As with other functions, there may be data collection and observation that is directly related to professional decision making and is, therefore, restricted to those licensed. Some information that is collected by an unlicensed person may be used by the licensed professional in developing and modifying an appropriate treatment plan and delivering professional services to the client/consumer.

Conclusion. Multi-disciplinary teams of licensed professionals and unlicensed persons are an appropriate way to provide certain services to consumers. However, it is important that the activities assigned to members of the team are consistent with the scope of practice for each team member licensed or authorized under Title VIII, and those who are not so authorized may not engage in restricted activities, even under supervision. The Department and the exempt

agencies may collaborate in defining appropriate roles for unlicensed individuals, such as peer counselors, mental health therapy aides, and others who function as part of a multi-disciplinary team, but who do not make professional determinations.

The Office of Mental Health identified activities that, in their view, do not require licensure. These include assessment; skill building; supported education; supported employment services; recreational and socialization services; discharge planning, advocacy, linkage to social and support services; and respite (short-term child supervision). The Education Department would want to ensure consistent definitions of terms but, as discussed above, it may be possible to reach agreement on activities that do not require licensure, which would reduce the number of individuals who would require licensure under Title VIII, as well as the argument for a broad-based exemption.

OASAS (#4) has also suggested that the Education Law be amended to allow individuals who are defined as “qualified health professionals” in sub-section 800.2 (a) (15) of OASAS regulations, to provide services under supervision that would otherwise be restricted to those licensed and authorized. A majority of respondents **(53% or 83/156) disagreed or strongly disagreed with the proposal**; 42% of respondents agreed or strongly agreed with OASAS #4 (66/146).

Conclusion. At a minimum, the licensing laws require that professional services be provided by individuals who have met threshold qualifications established in law. While agencies may designate qualified staff for their programs, any such regulations should be consistent with Title VIII of the Education Law in regard to qualifications for licensure and the scope of practice, including supervision. The practice and supervision of the professions should be done by individuals who are accountable and qualified under the Education Law to provide services that the law has restricted to licensed persons to ensure the health, safety and welfare of the public.

SW3. Occupational exemptions. Article 154 provides a permanent exemption from licensure for individuals who are licensed in other Title VIII professions (e.g., psychology, nursing, occupational therapy) as well as individuals who are credentialed under any law. The latter includes attorneys, rape crisis counselors, and credentialed alcoholism and substance abuse counselors (CASAC) whose scope of practice includes the practices defined in the Education Law and who are performing or claiming to perform work authorized by the mental hygiene law (section 7706(5)(a)).

OASAS (#1) has suggested that the exemption cited above be expanded to include other credentials issued by that agency for individuals, including the CASAC trainee who provides services under supervision. A **majority of respondents agreed or strongly agreed with this proposal (52% or 115/219)**, while 41% (91/219) expressed disagreement or strong disagreement with OASAS #1. Counsel in OASAS has previously issued a guidance document that defines the trainee as exempt and OASAS is looking for clarification in law or regulation.

Conclusion. There is general agreement with OASAS Counsel's opinion, that a CASAC trainee may complete supervised experience, in settings defined by OASAS in law and regulation, to meet the requirements for the credential, similar to a student in a license-qualifying program or permit holder completing the experience required for licensure under Title VIII. If an agency proposes to create or expand credentials to allow individuals to provide services that would otherwise be restricted, it may be appropriate for the Legislature to enact standards that ensure the health, safety and welfare of patients receiving services from these credentialed individuals.

OASAS (#2) has proposed to build on the Federal Substance Abuse and Mental Health Services Administration (SAMHSA) to promulgate a scope of practice for the CASACs who work in OASAS programs and facilities. The framework would authorize counselors to engage in certain activities, on the basis of education, professional credential or license, and qualifying work experience. OASAS proposes to develop this framework with guidance from the Education Department to incentivize employers to support unlicensed individuals in earning a credential under the mental hygiene law and/or license under the Education Law. **Sixty-five percent of respondents (110/169) agreed or strongly agreed** with this recommendation; only 31% of respondents (53/169) disagreed or strongly disagreed with the proposal.

Conclusion. The Department could collaborate with OASAS to clarify activities that may be performed by unlicensed individuals who hold a credential from OASAS, with the intent of protecting the public and creating a career track for individuals seeking to provide services in the addictions field.

The Office of Mental Health (OMH) claims to have sufficient oversight mechanism and program supervision in the service delivery system to make the conversion of unlicensed staff to licensed staff unnecessary. While OMH #2 posited that the mental hygiene law sets forth a scheme for the provision of quality behavioral services under the oversight of OMH, OASAS and OPWDD, **71% of respondents expressed disagreement or strong disagreement (196/273)** with the proposal; only 23% agreed or strongly agreed (64/273) with OMH #2. It should be noted that the two recommendations from OMH received the most responses of all proposals submitted by the agencies and the respondents overwhelmingly disagreed with the recommendations.

Conclusion. There is strong disagreement with the OMH #2 proposal and concerns about any exemption to allow unlicensed persons to provide services that the law restricts to individuals licensed or authorized (e.g., students, permit holders and interns under supervision). The statutory restriction on the practice of the professions is to ensure that defined services are provided by qualified individuals, licensed under the Education Law and accountable for their practice.

Sections 7706 (5)(e) and (f) provide an exemption, effective September 1, 2004, for individuals who were performing clinical social work services as an employee of a federal, state, county or municipal government or in any other legal settings, so long as the individual maintains employment in the qualifying position. The exemption is limited to the services provided by the individual on September 1, 2004 and does not authorize

the use of the title “clinical social worker.” Some of the individuals identified in the survey of agency staff may qualify for the exemption, although it would be limited to those who maintained continuous employment in the same title with the same functions since September 1, 2004.

SW4. Alternative pathways. Chapters 130 and 132 of the Laws of 2011 require that agencies provide alternative pathways to licensure as part of their recommendations. The Office for People with Developmental Disabilities (OPWDD) suggested that the law allow for alternative pathways that would allow individuals with demonstrated experience acceptable to SED or individuals with an MSW degree who are working in a case manager, counselor or program aide titles to substitute experience for the licensing examination and/or other licensure requirements. (OPWDD #3). **A majority of respondents (55%) expressed agreement or strong agreement with this proposal (141/256)** although 41% of respondents expressed disagreement or strong disagreement (107/256). The licensing laws that were enacted in 2002 provided for a one-year period of licensure as an LMSW or LCSW without examination, for individuals who met the requirements in law and applied by September 1, 2005.

Conclusion. There is general support for an alternative pathway to licensure but concern that the criteria must be sufficient to ensure that individuals licensed under such pathway meet requirements that are equivalent to those for licensure by examination. The Legislature may wish to establish time-limited alternatives for long-standing practitioners who meet certain requirements for education and experience that ensure the protection of the public.

When reviewing data collected from the exempt programs in 2011, the results indicated that a large number of individuals who were not licensed were employed in titles as a “social worker” or “case manager.” OPWDD (#1) suggested that the Office of the Professions determine why an individual with an MSW degree, who should qualify for licensure as an LMSW, is not appropriately licensed and, based on those findings, implement policies to ensure compliance by July 1, 2013. **Seventy percent of respondents (186/263) agreed or strongly agreed with the proposal; 23%** expressed disagreement or strong disagreement (61/263). Some individuals identified perceived barriers to licensure, including the requirements for education, examination and supervised experience in clinical social work, although these standards are consistent with other jurisdictions. There may be a variety of reasons why individuals with an MSW degree have not sought licensure. Some may not have seen the need for licensure while employed by an exempt agency. Some may be employed in other titles, e.g., case manager, where licensure is not required. Others may have faced barriers to licensure such as failing the examination. Nonetheless, the group of individuals who have seemingly appropriate educational backgrounds is varied and determining the barriers to be resolved would be case specific.

Conclusion. Given adequate resources, the Department could assist the exempt agencies in outreach activities to provide information about licensure to those who hold an appropriate degree but who have not applied for licensure and those who applied for licensure but have not met all requirements. An on-going commitment to licensure within public programs and employer support for

applicants could achieve the goal of licensure for individuals who seek to provide services that are restricted under law.

The Department of Corrections and Community Supervision (DOCCS) has proposed that the Education Law be amended to require this Department to accept the civil service requirements for entry into the Alcohol and Substance Abuse Treatment (ASAT) titles as an alternative pathway to licensure as an LMSW or LCSW (DOCCS #1). By a factor of two to one, respondents rejected this proposal; **50% disagreed or strongly disagreed** (61/120) and 25% agreed or strongly agreed (30/120).

Conclusion. The establishment of an alternative pathway to licensure based on entry to a Civil Service title(s) or other criteria would not protect the public. Instead it would bypass the requirements established in law by the Legislature and Governor to ensure that individuals who are licensed in a profession have met specific requirements for education, examination and experience to protect the health, safety and welfare of consumers.

SW5. Extension of broad-based exemptions from licensure. The licensing law for social work was enacted in 2002, with an effective date of September 1, 2004, to allow time for the Department to promulgate regulations to implement the law. In order to provide additional time for programs under the authority of specific state agencies to comply, the law provided an exemption until January 1, 2010. The agencies that are defined as exempt and the deadline were subsequently amended, so that the current date for compliance is July 1, 2013.

The Office of Mental Health (OMH #1) has proposed a permanent exemption from licensure for programs that are regulated, operated, funded or approved by OMH. As noted earlier, the 329 responses submitted in regard to the OMH proposals exceeded those submitted in regard to proposals from the other exempt agencies. Nearly two-thirds of respondents (65%) **disagreed or strongly disagreed** with this proposal (217/329); only 27% of respondents agreed or strongly agreed with the OMH proposal for a permanent exemption (90/329).

The Office of Children and Family Services (OCFS #1) has proposed a permanent exemption from licensure for individuals in state-operated or state-regulated programs; the exemption would end for state-funded programs. The proposal was greeted with **disagreement or strong disagreement from 62% of respondents (108/173)**; 29% (51/173) agreed or strongly agreed. The State Office for the Aging (SOFA #2) has proposed a permanent exemption to allow programs that are part of the Aging Services Network to utilize unlicensed persons to provide mental health services that are funded by the Older Americans Act. This proposal received **strong agreement or agreement from 59%** of respondents (93/156); 26% disagreed or strongly disagreed with the proposal (41/156).

The survey response indicates strong disagreement with broad-based, permanent exemptions that allow unlicensed individuals in certain programs to provide services that would be restricted outside those publicly financed programs. This is consistent with the overall support for a single-tier standard of licensing that does not

discriminate on the basis of public-funding for services (e.g., Medicaid). It should be noted that there are few exemptions from licensure in other health care settings, so that only licensed physicians, registered professional nurses, licensed physical and occupational therapists, and pharmacists, can provide services that are restricted under the law, often inside the same programs that suggest nullifying the social work, mental health and psychology licensing laws.

Although the licensing laws have been in place for a decade, it would appear that programs under the exempt agencies are not ready to require licensure by the July 1, 2013 deadline. In addition, the implementation of alternative pathways to licensure and further clarification of activities that do or do not require licensure will require time and it is important to avoid disruption in services to vulnerable individuals. Therefore, the Legislature may want to consider ways to ensure a smooth transition for the exempt agencies and the individuals in programs that they regulate, fund or approve to provide services.

Conclusion. There is strong support for ending the permanent exemptions and requiring licensure of individuals who provide professional services in publicly funded programs, as in privately funded programs, to ensure the health, safety and welfare of the public. The Department is ready to collaborate with the Legislature, Executive and other stakeholders, to discuss the timeline for implementing changes in the licensing laws to minimize any disruptions in services and displacement of individuals or programs.

SW6. Civil Service titles. The Department of Civil Service is responsible for establishing titles, defining the requirements for entry to such title, and setting out the functions that may be performed by an individual in such title, including the need for supervision where appropriate. At this time, the Civil Service titles for social workers do not reflect the licensing laws nor are licensed individuals required in many settings or for certain titles. In our discussions with the exempt agencies, we learned of situations in which a licensed individual in a Civil Service title is practicing beyond the scope of practice, such as one LMSW supervising another LMSW providing clinical social work and psychotherapy to sex offenders in State correctional facilities.

Conclusion. Titles should be created and duties set forth by the Department of Civil Service to conform to Title VIII of the Education Law where they do not currently exist, or where there is confusion or lack of specificity within titles. This would include supervision of an individual who is only authorized to practice under supervision, (e.g., LMSW providing clinical services), as well as providing promotional opportunities (e.g., LMSW to LCSW to LCSW Supervisor).

The adoption of Civil Service titles that reflect the Education Law will assist programs operated by the State and local governments in hiring appropriately qualified staff, but will also “flow-down” to the voluntary, not-for-profit sector which may not use Civil Service titles but will have clear direction about qualified practitioners.

DOCCS also suggested that the Civil Service titles be amended to create a “Qualified Health Professional” title and that the CASAC be included in the definition of a QHP

(DOCCS #2). DOCCS asked for consideration of an alternative pathway for entry into the CASAC and QHP titles. **Respondents expressed more disagreement or strong disagreement** (47% or 56/118) than agreement or strong agreement (37% or 44/118) for the proposal. It should be noted that certain state agencies, including OMH and OASAS, define “qualified health professionals” or “qualified mental health professionals” in their regulations (e.g., Section 800.2 of the OASAS regulations) and the individuals who meet such criteria are neither consistent nor are they always licensed or authorized under Title VIII to provide services that may be restricted under the Education Law.

Conclusion. There is disagreement with the proposal to provide an alternative pathway into Civil Service titles, if this substitutes for appropriate licensure under Title VIII of the Education Law. There is agreement that titles and duties established in the Civil Service regulations should be consistent with the standards established for the licensed professions, to ensure that individuals hold an appropriate license based on standards established in the Education Law for education, experience and examination.

The DOCCS (#3) recommended that regulations be amended to develop waivers in regard to the percentages of staff defined as Qualified Health Professionals (QHP) to address staffing considerations when DOCCS sites are identified for certification by the Office of Alcoholism and Substance Abuse Services. Nearly one half of respondents **(48% or 52/108) disagreed or strongly disagreed** with this proposal; 25% agreed or strongly agreed with DOCCS #3 (27/108).

Conclusion. The recommendation seems to be directed at OASAS and their regulations. As stated previously, the public has expressed disagreement with proposals that would waive appropriate licensure or standards for supervision that place the health, safety and welfare of the public at risk.

Mental Health Practitioners (Article 163).

Chapter 676 of the Laws of 2002 defined the scope of practice for the professions of mental health counseling, marriage and family therapy, creative arts therapy, and psychoanalysis in Article 163 of the Education Law.

§8402. Mental health counseling.

1. *Definition of the practice of mental health counseling. The practice of the profession of mental health counseling is defined as:*
 - a. *the evaluation, assessment, amelioration, treatment, modification, or adjustment to a disability, problem, or disorder of behavior, character, development, emotion, personality or relationships by the use of verbal or behavioral methods with individuals, couples, families or groups in private practice, group, or organized settings; and*
 - b. *the use of assessment instruments and mental health counseling and psychotherapy to identify, evaluate and treat dysfunctions and disorders for purposes of providing appropriate mental health counseling services.*

§8403. Marriage and family therapy.

1. *Definition of the practice of marriage and family therapy. The practice of the profession of marriage and family therapy is defined as:*
 - a. *the assessment and treatment of nervous and mental disorders, whether affective, cognitive or behavioral, which results in dysfunctional interpersonal family relationships including, but not limited to familial relationships, marital/couple relationships, parent-child relationships, pre-marital and other personal relationships;*
 - b. *the use of mental health counseling, psychotherapy and therapeutic techniques to evaluate and treat marital, relational, and family systems, and individuals in relationship to these systems;*
 - c. *the use of mental health counseling and psychotherapeutic techniques to treat mental, emotional and behavioral disorders and ailments within the context of marital, relational and family systems to prevent and ameliorate dysfunction; and*
 - d. *the use of assessment instruments and mental health counseling and psychotherapy to identify and evaluate dysfunctions and disorders for purposes of providing appropriate marriage and family therapy services.*
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§8404. Creative arts therapy.

1. *Definition of the practice of creative arts therapy. The practice of the profession of creative arts therapy is defined as:*
 - a. *the assessment, evaluation, and the therapeutic intervention and treatment, which may be either primary, parallel or adjunctive, of mental, emotional, developmental and behavioral disorders through the use of the arts as approved by the department; and*
 - b. *the use of assessment instruments and mental health counseling and psychotherapy to identify, evaluate and treat dysfunctions and disorders for purposes of providing appropriate creative arts therapy services.*
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§8405. Psychoanalysis.

1. *Definition of the practice of psychoanalysis. The practice of the profession of psychoanalysis is defined as:*
 - a. *the observation, description, evaluation, and interpretation of dynamic unconscious mental processes that contribute to the formation of personality and behavior in order to identify and resolve unconscious psychic problems which affect interpersonal relationships and emotional development, to facilitate changes in personality and behavior through the use of verbal and nonverbal cognitive and emotional communication, and to develop adaptive functioning; and*
 - b. *the use of assessment instruments and mental health counseling and psychotherapy to identify, evaluate and treat dysfunctions and disorders for purposes of providing appropriate psychoanalytic services.*

The requirements for licensure vary among the four professions, but all require a masters or higher degree with course content specified in statute and acceptable to the

Department, supervised experience acceptable to the Department, application and fee, good moral character, and passing an appropriate examination.

Proposed Agency Solutions and Stakeholder Reactions

The proposals from the exempt agencies and comments from stakeholders related to the Mental Health Practitioners (MHP) may be divided into the areas of:

1. clarification of practice
2. delegation of professional services
3. occupational exemptions
4. alternative pathways
5. extension of broad-based exemptions from licensure
6. Civil Service titles

MHP1. Clarification of practice. There was support from the exempt agencies to provide clarification about the practice of the professions. Since the enactment of the laws to license individuals under Article 163, a major concern of the professional associations, educators, and employers, as well as of the Department, has been the absence of the term “diagnosis” within the scope of practice for each of the four professions. While the law authorizes a licensee to complete an assessment and evaluation and to use accepted classification systems, including the Diagnostic and Statistical Manual (DSM) of the American Psychiatric Association, it does not specify “diagnosis.” In discussions with the professional associations, educators, and exempt agencies, it has been pointed out that the absence of this term has a negative effect on employment opportunities and may create an artificial shortage of qualified professionals.

The Office of the Professions has reviewed the education requirements (masters or higher degree) including specified course work in the assessment, evaluation and treatment of individuals, couples and families, including psychopathology and the use of the DSM. An applicant for licensure must complete supervised internships in the practice of the profession as part of the degree program, as well as post-degree supervised practice under licensed professionals, and pass a clinical examination. These requirements are similar to other mental health professions, including the LMSW and LCSW, who often practice side-by-side with individuals licensed as a mental health counselor, marriage and family therapist, creative arts therapist or psychoanalyst.

Conclusions. There is agreement that “diagnosis” is a function that could be appropriately provided by individuals licensed under Article 163, although this term is not included in the scope of practice for each profession. The Legislature could provide clarity by amending Article 163 to define diagnosis within the practice of the professions or provide guidance that an interpretation of the existing language to include diagnosis would be consistent with the legislative intent.

The Board of Regents and the Education Department, in conjunction with the State Board for Mental Health Practitioners, has the responsibility to clarify the practice of the professions, to reflect the training and preparation received by individuals entering these professions. This can provide increased access to services for individuals in all parts of

New York, and hold accountable under the Education Law and Regents Rules those individuals who provide services without appropriate education, experience or training.

MHP 2. Delegation of professional services. The issues identified in the social work section would apply to the delegation of services provided under Article 163. There are no further comments or recommendations at this time.

MHP 3. Occupational exemptions. Article 163 contains the same occupational exemptions as those discussed in regard to social work (Article 154), therefore, the same comments would apply and are not repeated here.

MHP 4. Alternative pathways. Chapter 676 of the Laws of 2002 allowed the Department to license individuals on or after January 1, 2005 but did not require a license until January 1, 2006, to allow the Department to license qualified persons. This includes those who met “special provisions” as authorized by law and in regulations promulgated by the Department. There were 2,254 individuals licensed and registered to practice in the professions starting in September 2005 and ending on April 1, 2006, compared to 7,420 as of April 1, 2011:

<u>April 1, 2006</u>		<u>April 1, 2011</u>	
Mental Health Counseling	1,250	Mental Health Counseling	4,456
Marriage and Family Therapy	181	Marriage and Family Therapy	820
Creative Arts Therapy	463	Creative Arts Therapy	1,340
Psychoanalyst	360	Psychoanalyst	804

There is consensus that many individuals in exempt agencies have not applied for licensure, due to the continuing exemptions. Therefore, the ending of the exemption may disenfranchise those individuals and programs, particularly if the long-time practitioner does not meet the current requirements for licensure.

Conclusion. A significant number of long-time practitioners did not seek licensure, particularly under the special provisions in 2005 and, now must be appropriately licensed by the time the exemptions expire. As in the social work professions, there is agreement that appropriate standards for education and experience should be established as part of a time-limited, alternative pathway to licensure to avoid disruptions in the work force.

MHP 5. Extension of broad-based exemptions from licensure. The same concerns and issues that were expressed in regard to social work would apply to the mental health practitioners. This includes a commitment from the Department to work with stakeholders to collaborate in addressing practice questions raised by the exempt agencies and other stakeholders.

MHP 6. Civil Service titles. Since the four professions of mental health counseling, marriage and family therapist, creative arts therapist and psychoanalyst did not exist prior to 2006, the Civil Service titles do not include these professions. This has presented challenges to state agencies and programs, as well as the voluntary providers, in determining the services to be provided by individuals in these new

professions. In many cases, a licensee is placed in a social work or recreation therapy title, for instance, because those were used prior to the establishment of these professions.

Conclusion. There is agreement that the Department of Civil Service should revise job titles to reflect the new professions established in Article 163 and require an applicant to be licensed in order to hold a Civil Service position, in order to ensure the health, safety and welfare of the public.

The creation of appropriate titles will provide opportunities for qualified licensees seeking to provide services in state or local government programs, as well as in the voluntary not-for-profit sector.

Psychology (Article 153)

Chapter 676 of the Laws of 2002 provided a scope of practice in law for licensed psychologists; from 1959, the practice had been defined in regulation, and in 1984 specifically included the practice of psychotherapy. The functions and tasks of some other professions, e.g. social work, may include some of the activities that fall within the broad scope of practice of psychology. Licensure as a psychologist requires an applicant to be of good moral character, submit the application and fee, document the completion of a doctoral degree, acceptable to the department, complete supervised experience acceptable to the Department and pass the national examination. There were 12,283 psychologists licensed and registered to practice as of April 1, 2011. This figure does not include those authorized to practice as certified school psychologists or under Civil Service titles in the exempt state agencies, which would raise the figure by up to 4,000.

§7601-a. Definition of the practice of psychology.

- 1. The practice of psychology is the observation, description, evaluation, interpretation, and modification of behavior for the purpose of preventing or eliminating symptomatic, maladaptive or undesired behavior; enhancing interpersonal relationships, personal, group or organizational effectiveness and work and/or life adjustment; and improving behavioral health and/or mental health. The practice includes, but is not limited to psychological (including neuropsychological) testing and counseling; psychoanalysis; psychotherapy; the diagnosis and treatment of mental, nervous, emotional, cognitive or behavioral disorders, disabilities, ailments or illnesses, alcoholism, substance abuse, disorders of habit or conduct, the psychological aspects of physical illness, accident, injury or disability, psychological aspects of learning (including learning disorders); and the use of accepted classification systems.*
 - 2. The term "diagnosis and treatment" means the appropriate psychological diagnosis and the ordering or providing of treatment according to need. Treatment includes, but is not limited to counseling, psychotherapy, marital or family therapy, psychoanalysis, and other psychological interventions, including verbal, behavioral, or other appropriate means as defined in regulations promulgated by the commissioner.*
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Proposed Agency Solutions and Stakeholder Reactions

The proposals from the exempt agencies and comments from stakeholders related to Psychology (P) may be divided into the areas of:

1. clarification of practice
2. delegation of professional services
3. occupational exemptions
4. alternative pathways
5. extension of broad-based exemptions from licensure
6. Civil Service titles
7. new professions

P1. Clarification of practice. No changes were suggested, however, concern was noted about the potential impact of changes to related professions and the need to ensure such proposals to not have an unintended adverse impact on the practice of psychology.

Conclusion. The Legislature has established requirements for licensure in each of the 49 professions that ensure public protection through standards for entry to the profession, competent practice within the authorized scope and oversight by the Board of Regents to hold the licensee accountable for professional services provided directly or under supervision. There is agreement that any changes in law or regulation should minimize disruptions in service and protect the health, safety and welfare of the public.

P2. Delegation of professional services. The issues identified in the social work section would apply to the delegation of services provided under Article 153. There are no further comments or recommendations at this time.

P3. Occupational exemptions. Section 7605 of The Education Law states that nothing in the licensing law for psychologists shall “be construed to affect or prevent the activities, services, and use of the title of psychologist, or any derivation thereof, on the part of a person in the employ of a federal, state, county or municipal agency, or other political subdivision, or a chartered elementary or secondary school or degree-granting educational institution insofar as such activities and services are a part of the duties of his salaried position.” This exemption does not expire.

Conclusion. There is agreement that this long-standing exemption should remain, since it has applied solely to persons who are salaried employees of entities that are operated by state, federal, regional or municipal agencies where such persons commonly hold a minimum of a master’s degree or higher in psychology and whose job descriptions define their services; this has existed since 1956 without evidence of harm.

This exemption does not extend to individuals who are employed in programs operated by the voluntary sector. OPWDD #4 proposes to extend this exemption to those programs, creating a permanent exemption for individuals employed in certain titles in

public or private agencies. There was **slightly more agreement and strong agreement (47% or 116/243)** than disagreement or strong disagreement with this proposal (41% or 100/243).

Conclusion. The extension of the exemption to not-for-profit providers could be seen as a waiver of licensure in all settings for individuals who receive services through the OPWDD and, therefore, the Department is concerned that this recommendation is not in the public interest.

P4. Alternative pathways. When Chapter 676 took effect on September 1, 2003, there were no changes in the requirements for licensure or the creation of an alternative pathway since the only change in the law was the addition of the scope and a section on limited permits. The State Board for Psychology has suggested that if an alternative pathway was established, those with a doctoral degree in psychology, and a certain number of years of experience, including an attestation of competency from the applicant's supervisor(s), and no history of discipline could be licensed without examination, if all requirements are met by a date established in law.

Conclusion. The law should provide an alternative pathway, for a limited time period, for individuals who meet all requirements for licensure as a psychologist, as described above, except examination.

This would be consistent with other efforts to provide a time-limited alternative pathway to licensure for long-time practitioners who may not meet the current requirements/examination for licensure in the profession but whose work has been declared competent by a supervisor(s).

P5. Extension of broad-based exemptions from licensure. The same issues and concerns that were raised in regard to the social work professions would apply in regard to psychology. The health, safety and welfare of the public is served best when individuals providing services have met requirements for licensure and are accountable to the public for their actions

P6. Civil Service titles. The Department would support efforts to provide appropriate titles and requirements for Civil Service titles. As noted earlier, the long-standing regulation of psychology and the exemption in section 7605 of the Education law have resulted in a relatively clear understanding of the requirements and practice of psychology in agencies operated by government entities subject to Civil Service or federal oversight.

P7. New profession. The OPWDD (#5) has recommended that the Education law be amended to provide licensure as a behavioral health practitioner for an individual with appropriate education, experience and examination. OPWDD suggests that the appropriate education would include a master's in psychology. This proposal is based in part on the need to authorize the practice of individuals with Board-Certification as a Behavioral Analyst (BCBA) who currently provide services to children with autism or other disorders under the exemption. There was **agreement or strong agreement with the proposal from 54%** of respondents (132/241) and 33% expressed disagreement or strong disagreement (80/241). While some individuals with the BCBA may hold

licensure under Title VIII, many providers have earned a master's in psychology and would not qualify for licensure as a psychologist or mental health counselor.

Conclusion. The requirements for licensure under Title VIII in each profession include specific education, examination and, in many cases supervised experience that reflect the practice of the specific profession. There has been significant consideration and discussion of the nature and requirements that the establishment of a new profession would involve, including OPWDD's suggestion that a profession be established requiring a master's in psychology. Nonetheless, this is an issue that would require legislation to establish, and, it is also one that requires much more discussion.

Cost Considerations

Chapters 130 and 132 of the Laws of 2010 require that the plans submitted by the exempt agencies include estimates of the costs of licensure, including costs associated with employing only licensed or authorized personnel to perform tasks and functions that require licensure under Article 154, 153 or 163 and the cost associated with providing support for individuals who are seeking appropriate licensure. OMH, OASAS, OPWDD and OCFS made an assumption that individuals in existing job titles would all require licensure as a Licensed Clinical Social Worker and/or a salary equal to the average LCSW salary.

The cost-estimates and projections made by the agencies assume a worst-case scenario, including the replacement of unlicensed staff with licensees earning thousands of dollars more each year. In reviewing the agencies' projections, we have focused on factors identified early in this report that will mitigate the effect on existing staff and salaries. These factors include clarification of duties that do not require licensure (e.g., case management) and those individuals who will continue to be exempt under the law (e.g., CASAC) so that there would be no fiscal increase to retain those staff members. A more realistic cost estimate could be developed by considering these factors. It is worthy of note that the expanded use of licensed professionals as part of the multi-disciplinary team may increase third-party reimbursement for services and result in a revenue-neutral implementation, if not the possibility of revenue increases after July 1, 2013.

Agency	Basis of cost estimates from the exempt agencies
OMH	\$9,236 differential between salary paid to currently unlicensed staff and \$47,275 average of LMSW and LCSW salary
OASAS	\$16,253 differential between salary paid to currently unlicensed staff and \$47,690 LCSW salary
OPWDD	Cost to replace unlicensed staff with an LMSW, starting at \$44,000 or replace an ABSS with licensed psychologist at \$76,000
OCFS	Estimate \$10,000 differential between unlicensed social worker and LMSW
DOH	None indicated as DOH expects programs to employ licensed staff.
SOFA	\$14,331 difference between case manager and licensed professional
DOCCS	\$52,555 difference between employees and the need to contract with appropriately licensed individuals

Conclusion. The assumption that currently unlicensed staff would have to be licensed as an LCSW or another profession and paid a salary that is equivalent to the \$47,000 average is not supported by the data. When the Legislature enacts licensure, it is to establish minimum standards for education, examination and experience for those who will provide services that are restricted under the law; it is not guarantee of increased salaries.

The agencies utilized data collected in the 2011 survey of programs that are regulated, funded or approved by the exempt agencies to estimate the number of unlicensed staff who are, in the words of OASAS, “at-risk” of replacement or displacement if the exemption expires on July 1, 2013. Data collected by SED indicated that more than 2,000 individuals may provide one or more of the five services (diagnosis, assessment/evaluation, psychotherapy, assessment-based treatment planning, and services other than psychotherapy) that would be restricted to licensed or authorized persons when the exemption expires on July 1, 2013. This data, supplemented with other data collected by exempt agencies, was then multiplied by the costs cited above, to project the cumulative cost of licensure. The table below shows the estimated cost, based on survey data, and projections submitted by the agencies, based on multiplying the estimated cost by a factor of two or more.

Agency	Number	Fiscal impact	Agency Projection
OMH	2,523	\$23.3 million adjustment	Additional 2,523 in approved programs and 4,254 in operated (Total \$85.8M)
OASAS	2,330	\$37.8 million replacement	Additional \$36.6m recruitment
OPWDD	N/A	\$66 million for LMSW and \$21 million for psychology	Est. 3x as many staff for \$198 & \$63 million = \$261
OCFS	N/A	None provided	Estimate
SOFA	471	\$6.75 million	None provided
DOCCS	68	\$3.57 million	Add \$2.02 million payment to OMH for staffing; total \$5.6 m
DOH	N/A	N/A	None provided

Most of the cost assumptions are based on either replacing unlicensed staff with an LCSW or establishing licensure for new professions and paying the same salary as the LCSW. A careful reading of this report will affirm that functions such as case management do not require licensure, so that a significant number of unlicensed staff will not require replacement by a licensed professional. Therefore, SOFA would not incur their projected \$6.75 million cost of complying with licensure laws; other agencies estimates would be similarly reduced by clarifying those services that do not require licensure.

Prior to July 1, 2013, the exempt agencies should evaluate the services provided in programs under their authority and clarify in regulation and policy those activities that can only be performed by licensed or authorized persons, in consultation with the State Education Department. This may require that licensed persons assume some tasks that are performed by unlicensed persons under the exemption and vice-versa, that licensed persons delegate activities that are not restricted (e.g., case management) to qualified, unlicensed persons. This will ensure compliance with the laws that restrict the practice

to licensed and authorized persons and minimize the chance of un-necessary displacement of other direct care staff.

The exempt agency reports also suggest that many of the services that would be restricted to a licensed or authorized person can only be provided by an LCSW or licensed psychologist. This assumption does not consider the role of other mental health practitioners licensed under Article 163 who are authorized by law to provide similar services, including psychotherapy. As noted earlier in the report, the Department has concluded that the scope of practice for those professions could be clarified to define and include “diagnosis” within the practice of each profession since the current language of the article is ambiguous regarding the authority to diagnose. Legislative clarification could clarify the role of mental health practitioners in the professional workforce.

OMH used the SED survey data to identify more than 20 occupational titles that provide one or more of the five services that would be restricted after July 1, 2013. They used the salary reported for the 591 persons employed in those titles to calculate a total cost of \$22,641,813 and an average salary of \$38,039. This average salary was then subtracted from \$47,275 (the average salary for LMSW and LCSW) to establish the \$9,236 “differential” between unlicensed and licensed staff. OASAS used a similar methodology, using the average salary for 2,330 individuals in seven titles, to calculate a total salary of \$73,246,902 for that portion of the OASAS work force “at-risk” of replacement. OASAS then calculated an average LCSW salary of \$47,600 and assumed that all 2,330 staff would be replaced by an LCSW at that salary, for a total cost of \$111,117,700, or an annual differential of \$37,870,798. As discussed above, these numbers assume a fact pattern that does not exist, namely, a requirement that every unlicensed person must be replaced by an LCSW after July 1, 2013.

The Department reviewed the titles used to calculate salaries (see Table 5) and found that some of the individuals, e.g., a psychologist employed by a government entity or a CASAC, are permanently exempt under the law and would not require licensure. Still other titles, e.g., case manager, case worker, prevention counselor, youth counselor, etc., provide services that do not require licensure under the law. The agencies identified unlicensed social workers, social work case workers and social work case managers, who may hold an MSW degree but are not licensed. While there is a permanent exemption from licensure for individuals in a clinical social work title on September 1, 2004, for as long as the individual stays in that position and provides the same services, others may qualify for licensure but have not been licensed. It was suggested elsewhere in the report that it is important to determine why these individuals are not licensed, to develop strategies and interventions that can assist them in attaining appropriate licensure.

Conclusion. The Legislature established seven mental health professions (psychology, social work and mental health practitioners) to ensure public protection and expand access to psychotherapy and related services for individuals, families and groups. The laws also establish requirements for licensure, to ensure that practitioners meet minimum requirements for entry to practice in any setting, including one operated or regulated by a State agency,

and to ensure that the licensees are accountable for their services under the Education Law and Regents Rules. There may be increased costs associated with the use of licensed personnel, but the continued clarification of activities that do not require licensure can minimize these costs and reduce the possibility of reactionary reductions in the workforce.

Table 5. Titles identified in OMH programs that may be affected by licensure

Title	Number	Mean Salary	Total	Notes
ABAS	4	\$37,250.00	\$149,000.00	5
CARECO	7	38,643.00	270,501.00	2
CASAC	47	35,996.00	1,691,812.00	1
CASEMGR	67	30,656.00	2,053,952.00	2
CASEW	11	34,365.00	378,015.00	2
CRC	20	41,112.00	822,240.00	2
CSRESAID	27	25,730.00	694,710.00	2
MHTA	16	36,633.00	586,128.00	2
NBCC__COU	4	27,000.00	108,000.00	5
Other -LI	84	52,014.00	4,369,176.00	4
Other 1	59	35,618.00	2,101,462.00	4
Other2	20	32,723.00	654,460.00	4
Other3	3	39,407.00	118,221.00	4
Other4	1	27,787.00	27,787.00	4
PREVCSLR	4	32,000.00	128,000.00	2
PSYCHGOV	16	59,973.00	959,568.00	1
RECTH	17	36,943.00	628,031.00	2
REHABTH	6	42,929.00	257,574.00	2
SERVCOOR	8	31,546.00	252,368.00	2
SW	109	40,386.00	4,402,074.00	3
SWCASE	12	36,859.00	442,308.00	3
SWCSEW	7	38,548.00	269,836.00	3
YOUTHCSL	21	23,507.00	493,647.00	2
VOCSLR	21	37,283.00	782,943.00	2
	591	\$874,908.00	\$22,641,813.00	
Avg. Unlic. Salary		\$38,039.48		
Avg. of LMSW & LCSW Salary		\$47,275.50		
Salary Differential		\$9,236.02		

Notes:

1. Individuals in these titles have a permanent exemption, within the authority of law
2. Services provided by these titles do not require licensure
3. Individuals in social work titles on 9/1/2004 may continue providing same services if qualifications in law are satisfied.
4. Category is not defined so impossible to identify and clarify services and "Other-licensed" would include persons who are licensed and not affected by law.
5. Individuals may be eligible for licensure as LMHC and/or another profession

The cost estimates provided by the agencies predicted higher costs, e.g., to employ a licensed clinical social worker to supervise LMSWs. While the LCSW may have a higher cost, estimated at \$9,000 by the agencies, this calculation does not include the revenues that would be accessed under Medicare, Medicaid and private insurance for the provision of psychotherapy services. If the LCSW provided 20 direct client contact hours of psychotherapy each week for 48 weeks (960 hours) and the agency received \$20/hour of reimbursement, this would bring \$19,200 into the agency, which is double the cost increase estimated by OMH. The estimate of 20 hours/week of direct psychotherapy would still leave the LCSW sufficient time to provide an hour or more of supervision to permit holders completing the experience for licensure. Therefore, overall, the estimated costs of licensure would be offset by the revenue generated through services provided by the licensed professional, permit holder and student intern, as allowed by regulations from OMH and OASAS (Part 599 for OMH and Part 822 for OASAS). It is also necessary to consider whether providing services by licensed or credentialed professionals may reduce the overall cost of treatment by more effective or efficient practices that shorten the period of care or reduce or prevent recidivism and relapse.

Support for licensure. The law directs the exempt agencies to address the costs associated with providing support to unlicensed personnel in obtaining appropriate licensure. Several of the agencies raised concerns about the cost of a graduate degree in social work, mental health counseling or a related field as well as the challenges that would face workers trying to complete such a degree while employed. OASAS provided estimates of the costs that would be incurred if an individual sought the CASAC credential to provide services in an OASAS agency under the permanent exemption.

Article 154 provides an exemption for individuals who were employed by a government or not-for-profit agency on September 1, 2004 to provide services that would otherwise be restricted to an LCSW but allows those individuals to continue providing the same services in the same position; if the person leaves employment, the exemption would be "lost". OCFS suggested that the licensing laws be amended to include a similar provision that takes effect on July 1, 2013, to allow long-time employees to stay in their current positions.

Conclusion. There are financial and logistical barriers that face employees in completing the education, training and experience that may be required for licensure or credential. The Department is willing to work with the exempt agencies and licensure-qualifying programs, to explore distance learning and other formats that may facilitate the education process for individuals who choose to seek licensure in social work or another profession. The Legislature and Executive may wish to expand existing loan forgiveness and scholarship programs that provide incentives to new graduates to provide services in underserved communities.

The staffing patterns of exempt programs that responded to the 2011 SED survey indicate that there are individuals in occupations that are not presently licensed under the Education Law. As noted elsewhere, the Department received suggestions to consider licensure of rehabilitation counselors, bachelor's level social workers or others who provide specific services under the supervision of a licensee, master's education

psychologist assistants and Board-certified Behavior Analysts who provide services to children with autism. If these professions were established with scopes of practice and/or if the laws authorized a time-limited period of licensure under special provisions (e.g., substituting experience for examination), this could move unlicensed staff from “at-risk” into the licensed professions, authorized to provide services after the exemption, as noted in the OPWDD recommendations. However, any decision to create new professions is complex and must be made by the Legislature based on their assessment of various factors including available educational programs, numbers of potential licensees, overlap with existing professional scopes, and the need for public protection.

The direct costs of licensure are borne by individuals who complete graduate education programs to prepare for practice and then apply for licensure through the Education Department. The Education Department uses the application and registration fees to conduct the review and evaluation of an applicant’s qualifications; to receive, investigate and prosecute complaints of unprofessional conduct or illegal practice to protect the public; and to support the activities of 29 State Boards and committees that assist in the license, practice and discipline of the professions. The fees for licensure and registration in these professions are found in Table 6; the registration fee is paid every three years, after initial licensure.

Table 6. Fees for licensure, registration and examination in 7 professions

Profession	Application	Permit	Triennial registration	Examination fee paid to vendors	Total
Psychology	\$115	\$70	\$179	\$519	\$883
LMSW	\$115	\$70	\$179	\$230	\$594
LCSW	\$115	\$70	\$179	\$260	\$624
LCAT	\$175	\$70	\$196	\$235 (ATCB) \$220 (CBMT) \$780 (Narrative)	\$676 \$661 \$1,221
LMFT	\$175	\$70	\$196	\$245	\$686
LMHC	\$175	\$70	\$196	\$200	\$641
LP	\$175	\$70	\$196	\$780 (Narrative)	\$1,221

The costs for licensure are paid by the individual, although these costs may be reimbursed by an employer. While unlicensed staff would not incur the costs for licensure and registration, these unlicensed staff may qualify for credentials, e.g., CASAC, that would impose costs on the individual and/or the employer. If licensure were to be established for other professions, it would be reasonable to expect similar costs to the applicant, although fees would be established by the Legislature in law.

Areas in Need of Further Study

The reports submitted by the exempt agencies generated many responses, including some proposals that were not part of the agency reports or within the parameters defined in Chapters 130 and 132 of the Laws of 2012. These issues are briefly identified below and the Department could provide additional information, upon request.

- **Continuing education.** The Education Law mandates that licensees in 21 of the 49 professions complete continuing education, acceptable to the Department, as a condition of the triennial registration to practice. There is no requirement for continuing education by individuals licensed as social workers or mental health practitioners. It was suggested that Articles 154 and 163, respectively, be amended to require a licensee to complete continuing education for registration. The Department generally does not oppose such requirements, if the law includes resources to implement the process of reviewing and registering providers and monitoring compliance by licensees.
- **Workforce planning.** It was suggested that the Legislature establish a process by which the State can estimate the needs for social workers and other licensed professionals in the coming decades. The aging of the baby boomers and returning veterans from the wars in Afghanistan and Iraq are just two factors in the increasing need for health and mental health professionals. At this time, the Department collaborates with the Center for Health Workforce Studies at the University at Albany to collect data from licensees in medicine, nursing, dentistry and midwifery when they register. If this were expanded by the Legislature to include social workers, mental health practitioners and psychologists, additional resources would be necessary to implement the process.
- **Privileged communication.** When the licensing laws were implemented, the legislation did not include amendments to other sections of law that affect professional practice of health professions. It may be appropriate to consider amending the CPLR to extend privileged communication to individuals in the four mental health professions, similar to the protections provided to patients of social workers in section 4508 of the CPLR and psychologists in section 4507 of the CPLR.
- **Limited permits.** The law authorizes the Department to issue a two-year limited permit to an applicant in mental health counseling and a one-year permit to an applicant in marriage and family therapy, creative arts therapy, and psychoanalysis. The Department may provide a single, one-year extension to an applicant who has not yet met the experience and examination requirements for licensure. A significant number of applicants find it difficult to meet the requirements in the allotted time. It may be appropriate to consider an amendment to section 8409 of Education Law to allow the Department to extend a limited permit for two, one-year periods.
- **New professions.** The Department received comments about the possibility of licensing an individual with a bachelor's of social work degree (BSW) who is authorized under Article 154 to provide certain services under the supervision of an LMSW or LCSW. There is a national examination for licensure and 39 jurisdictions in the U.S. license the BSW. The Department would participate in discussions about any new profession.
- The Department also received comments about the possibility of establishing licensure for Psychology Assistant at the master's level, similar to the Physician Assistant licensure in medicine, where licensees would work under the

supervision of a licensed psychologist, but would be able to provide services in the generic practice of psychology to meet many needs. There is a national examination that is used in other States and several states that have various forms of such licensure. The Department would participate in discussions about any new profession.

- There are a number of bills in the Legislature to create licensure for individuals who would provide services that are related to mental health counselors, marriage and family therapists, creative arts therapists, and psychoanalysts, as well as social work and psychology. The Department has not taken a position on these bills, which would require legislative action in order to regulate:
 - Biofeedback therapy (A.3012)
 - Genetic counseling (A.5641/S.3514)
 - Therapeutic Recreation Specialists (A.674/S.4561)
 - Rehabilitation Counseling (S.6092 and A.967-A)
 - Vision Rehabilitation Services (A.8576/S.3880-A)

Some of these groups, e.g., rehabilitation counseling, were considered for licensure in 2002, but were not included in Chapter 676 of the Laws of 2002. When exempt programs responded to the survey in 2011 regarding the services provided by individuals who may or may not be licensed, some of the titles above were identified as unlicensed persons providing services under the exemption. The Legislature may wish to consider whether any of these professions should be included in legislation to address the need for appropriately trained staff in the agencies and programs.

Next Steps

This document was presented to the exempt State agencies to provide an opportunity for the commissioners of those agencies to submit to the Education Department statements or alternative recommendations for inclusion in the report, as required by law; their comments are attached. The final report has been submitted 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 for appropriate action prior to the July 1, 2013 expiration of the exemption.

Attachments: Appendix A – Chapters 130 and 132 of the Laws of 2010
 Appendix B – Survey for exempt programs regarding practice
 Appendix C – Results of survey of exempt programs
 Appendix D – Survey for public comments on agency proposals
 Appendix E – Results of request for public comments on proposals
 Appendix F – Statements from provider & professional associations

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State of New York

*Department of Corrections and Community Supervision
Department of Health
Office for the Aging
Office of Alcoholism and Substance Abuse Services
Office of Children and Family Services
Office of Mental Health
Office for People With Developmental Disabilities*

June 28, 2012

Dr. John B. King, Jr.
Commissioner of Education
New York State Education Department
89 Washington Avenue
Albany, New York 12234

Dear Commissioner King:

Thank you for the opportunity to review the Report prepared by the New York State Education Department pursuant to Chapters 130 and 132 of the Laws of 2010. This statement is being provided on behalf of all the undersigned agencies.

Respectfully submitted,

Brian Fischer, Commissioner
Department of Corrections
and Community Supervision

Nirav R. Shah, M.D., M.P.H., Commissioner
Department of Health

Greg Olsen, MSW, Director
Office for the Aging

Gladys Carrión, Esq., Commissioner
Office of Children and Family Services



Arlene González-Sánchez, Commissioner
Office of Alcoholism and
Substance Abuse Services



Michael F. Hogan, Ph.D., Commissioner
Office of Mental Health



Courtney Burke, Commissioner
Office for People With
Developmental Disabilities

Executive Summary

This joint statement is submitted by the Department of Corrections and Community Supervision (DOCCS), Department of Health (DOH), Office for the Aging (OFA), Office of Alcoholism and Substance Abuse Services (OASAS), Office of Children and Family Services (OCFS), Office of Mental Health (OMH) and Office for People With Developmental Disabilities (OPWDD), pursuant to Chapters 130 and 132 of the Laws of 2010, related to the impact of licensure on the following seven mental health professions: psychology, clinical social work, master social work, creative arts therapy, marriage and family therapy, mental health counselors and psychoanalysis.

This document presents an overview of the issues that warrant further consideration. Specifically addressed are the following topic areas:

- Regulatory Assurance / Public Protection
- Innovations / System Change
- Fiscal Issues
- Other Factors

History

This policy issue has its genesis in Chapters 420 and 676 of the Laws of 2002. These Chapters defined the professional practices for licensure of seven mental health professions and restricted the practices of psychotherapy to licensees in those professions, as well as physicians, physician assistants, and registered nurses and nurse practitioners.

The 2002 statutes enacted an exemption from licensure until January 1, 2010 for individuals working in programs and services that are regulated, operated, funded or approved by OMH, OPWDD, OASAS, or a local government unit as defined in the Mental Hygiene Law. The original exemptions were expanded by Chapter 433 of the Laws of 2003 to include individuals served in programs approved by the OCFS or a Local Social Services District.

Enactment of Chapters 130 and 132 of the Laws of 2010, which extended the exemption to July 1, 2013, broadened the exemption to include the DOH, OFA, and DOCCS.

Regulatory Assurance / Public Protection

Each impacted state agency is mission driven and serves the needs of New Yorkers by overseeing the delivery of quality services directly or through a network of highly regulated providers. Additionally, all are committed to addressing concerns related to quality of care. Programs licensed, regulated, or funded by the State agencies are subject to oversight, monitoring and regulation. Pursuant to federal and State law and regulation, State agencies provide individuals under their care with protections and require that those charged with the care and treatment of individuals are trained. Programs must comply with detailed requirements established in such agency's regulations, and, if funded by Medicaid, also are required to comply with the standards established by the Centers for Medicare and Medicaid Services and applicable Medicaid regulations.

Oversight by the State agencies is performed in several ways, including by regulation, prior approval and review, inspection and certification, background checks, enforcement, and other state and federal oversight. Agencies also have quality assurance mechanisms, which, by design, operate independently of programs and the provision of services that perform certification reviews and ongoing surveys of State and voluntary provider facilities and programs to monitor compliance with applicable federal and State regulations and related policies. These certification and oversight requirements support high quality care that in many respects exceeds those services provided by private licensed practitioners.

In addition to direct oversight, many programs operated or licensed by the agencies receive additional oversight from:

- New York State Department of Health;
- Centers for Medicare and Medicaid Services, U.S. Department of Health and Human Services (audits and inspections);
- U.S. Department of Justice;
- New York State Office of Medicaid Inspector General;
- New York State Office of State Comptroller (program audits);
- The New York State Justice Center for the Protection of People with Special Needs (effective June 30, 2013);
- private certification agencies including The Joint Commission and the Commission on Accreditation of Rehabilitation Facilities; and/or,
- New York State Family Court.

In addition to regulation, compliance and oversight, agencies are focused on the provision of quality services. This is accomplished in a variety of ways, including the following:

- **Multidisciplinary Teams:** Many licensed and funded programs are structured to build in quality control through the use of multi-disciplinary teams. These teams are composed of a range of staff, including psychiatrists, licensed and experienced therapists, and trained un-licensed peers. The strength of the teams is enhanced by strong supervision and final sign-off by experienced and appropriately licensed team members. Teams use a multi-disciplinary approach to establish treatment objectives, in consultation with the recipient of treatment. Professional staff on the team have overall responsibility for treatment plan implementation.
- **Standards of Care:** State agencies that license or operate clinical programs have Standards of Care which are essential for access to and quality of care for persons served by licensed clinics that provide services. These standards are based on regulatory requirements and must be incorporated into the policies of these licensed clinics and be applied consistently throughout the state. They highlight expectations for, among other areas, staffing, case loads, training and best practices.
- **Incident Reporting:** Incident management regulations require the development, implementation and ongoing monitoring of incident management programs by individual providers, and offer additional protections for the health and safety of clients and enhance their quality of care.

- **Mental Hygiene Legal Service (MHLS):** The Office of Court Administration funds MHLS to represent, protect and advocate for the rights of people who reside in, or are alleged to be in need of care and treatment in, facilities which provide services for persons with mental disabilities.
- **The Justice Center for the Protection of People with Special Needs:** This landmark legislation was introduced at the request of Governor Cuomo and passed in the 2012 legislative session. It will provide a number of even greater protections for persons who receive services from the public health and behavioral health sector.

Innovations / System Change

The impact of allowing the expiration of the exemption should be analyzed against the back drop of the efforts currently being undertaken by the agencies. For example, the State agencies and the networks they oversee are leading system changes and innovations that are nationally recognized. The behavioral health and health care systems are undergoing significant improvements to promote high quality care, including the ongoing transition to care coordination by health homes and behavioral health organizations as approved by the Medicaid Redesign Team (MRT). Future discussion should take into account the changes underway in the State's service delivery systems, particularly the innovations taking place in New York's health and human services systems. These systems are in the midst of enormous, rapid-paced changes that have the potential to dramatically improve outcomes for New Yorkers, decrease costs and improve the quality of care for all our citizens. Current trends and improvements to the service delivery framework may require flexibility in the parameters used to govern our professions that serve as the foundation for our health and human services workforce.

OPWDD plans to initiate major programmatic and financial advances in its service delivery system through the implementation of the "People First Waiver." These system changes will allow OPWDD to more accurately determine a person's needs for services through a care management model and provide individualized services to best meet those needs.

The new waiver will also allow OPWDD to review how well the current services, including behavioral and mental health services, meet the needs of people with developmental disabilities, and what can be done to promote better personal outcomes for persons who receive these services and their families.

Through the People First Waiver, OPWDD plans to update and improve how a person's needs are assessed so that a person with greater needs will receive appropriately greater levels of service.

Fiscal Issues

The SED Report noted that overall costs may be lower than the costs that were projected by the State agencies and that were reported by an MRT workgroup on this topic because licensed professionals may shorten the period of care or reduce or prevent recidivism and relapse. On the other hand, it is not clear that the existing oversight, regulation, licensing, and performance standards required by the State, as well as the ongoing transition to the provision of care

coordination by health homes and behavioral health organizations as approved by the MRT, are insufficient to ensure high quality care that prevents recidivism, relapse and unnecessary care.

Additional information from SED is needed to determine whether their analysis takes into account factors including the cost of recruitment, selection and training of new employees and unemployment insurance and related costs for State and NFP employees who may be removed from employment because they cannot achieve the required licensing standards. Associated costs could easily exceed the amount estimated by SED.

SED also noted that the costs of allowing the exemption to lapse could be lower than projected if agencies bill Medicaid, Medicare and private insurance. However, charging increased fees and additional billable services does not reduce costs – it simply shifts who would pay for the additional costs.

Other Factors

- While a survey is helpful in receiving input, and the views of professionals and related organizations are valuable, they should not be viewed in isolation as the conclusions may only represent a narrow perspective and may not present a balanced view without further analysis.
- A position-by-position review of civil service and NFP titles should be conducted since they appear to be associated with the care and treatment of individuals that could be considered protected by SED. Such services may fall within the scopes of practice of mental health professions associated with specific civil service titles.
- The future demands for licensed practitioners should be measured to ensure the delivery of needed care matches such demand.

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.

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

Appendix B
Survey of Exempt Programs
Regarding Practice



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY,
NY 12234

DEPUTY COMMISSIONER
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March 11, 2011

Dear Colleague:

I am writing to ask you to complete an online survey at <http://www.surveymonkey.com/s/DOCSSurvey>. Your assistance in this matter is of critical importance to agencies that provide social work, mental health and psychological services in New York. Laws that were enacted in 2002 established requirements for professional licensure, including education, examination and experience requirements, and restricted activities that, except for the temporary exemptions discussed below, may only be provided by licensed professionals or persons otherwise authorized under law. The affected professions include:

- Licensed Master Social Work
- Licensed Clinical Social Work
- Marriage and Family Therapy
- Mental Health Counseling
- Psychoanalysis
- Creative Arts Therapy
- Psychology

Provisions in that law enabled programs that are regulated, funded, operated or approved by certain State agencies or local government units to continue offering services utilizing unlicensed staff through an exemption that expired on January 1, 2010. In 2010, at the collaborative urging of this Department and the Executive agencies, the Legislature extended the exemption from January 1, 2010 to July 1, 2013 (Chapters 130 and 132 of the Laws of 2010).

Consequently, **any unlicensed person who is currently performing a restricted activity in a program that is licensed, regulated, funded, operated or approved by one of the affected agencies will be covered by the exemption until July 1, 2013.** The affected agencies are: the Office of Mental Health (OMH), Office for Persons with Developmental Disabilities (OPWDD), Office of Alcoholism and Substance Abuse Services (OASAS), Office of Children and Family Services (OCFS), local social service or mental hygiene district, and, for all professions except psychology, the Department of Health (DOH), Department of Correctional Services (DOCS), and the State Office for the Aging (SOFA). However, since the exemption expires in 2013, your input is critical toward the next steps in the legislative process.

Chapters 130 and 132 of the Laws of 2010 included a requirement that the affected agencies submit to the Commissioner of Education by July 1, 2011 a report which includes but is not limited to:

- Identification of tasks and activities performed by personnel that would, upon expiration of the exemptions, be restricted to licensed personnel, and tasks and functions that do not require a license under Articles 153, 154 or 163 of the Education Law;
- Analysis of the costs associated with employing only appropriately licensed or otherwise authorized personnel, to perform tasks and functions that would require licensure in the absence of the exemptions, including salary and costs associated with providing support to unlicensed personnel in obtaining appropriate licensure;
- An action plan detailing measures through which each affected agency shall, no later than July 1, 2013, employ only licensed or otherwise authorized personnel to perform tasks and functions requiring licensure, comply with professional licensure laws applicable to services provided, assist employees to become licensed and make recommendations on alternative pathways toward licensure.

After receiving the reports, the Education Department will consult with State agencies, not-for-profit providers, professional associations, consumers and other key stakeholders. Those interactions will inform a report that the Education Department is responsible for submitting to the Governor and legislative leaders by July 1, 2012. The report will recommend any amendments to law, rule or regulation necessary to achieve compliance with the licensing laws by July 1, 2013. Other state agency commissioners shall be provided an opportunity to include statements or alternative recommendations in such report.

We ask your assistance in the preparation of this report by completing the survey that we have developed, after extensive discussions with the State agencies and the Executive, to provide a snapshot of the current workforce and the tasks and activities performed in your program or agency by both licensed and unlicensed individuals. If you cannot click on the link in this letter, you can cut and paste it into your web browser. You can email questions about the survey administration to SWMHPSurvey@mail.nysed.gov.

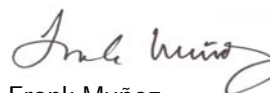
We recognize that this survey will take some time and effort on your part, but cannot stress strongly enough that the information you provide about your staff is critical to the Legislature's consideration of ways by which unlicensed personnel can obtain appropriate licensure or similar exemptions in the future.

The survey focuses on tasks within the categories of diagnosis, assessment-based treatment planning, assessment/evaluation, psychotherapy and services other than psychotherapy. Staff in your program may or may not provide all of the services listed in the survey, so you can skip those portions of the survey that do not pertain to your program. However, to the greatest extent possible, we need information about the services that are provided and the title or qualifications of individuals (licensed or not) who provide the services. This information is critical to identifying the need for alternative pathways to licensure and defining in law any titles or functions that should be exempt in the future.

Attached to this cover letter you will find the sections of law that define the practice of social work, mental health and psychology. In addition to the 2013 exemptions, the law provides exemptions for individuals in certain titles (e.g., CASAC or rape crisis counselors, students in an approved internship, etc.) that do not expire. You can access more information about the licensure and practice of the professions on the Office of the Professions' website: www.op.nysed.gov/title8/.

We are counting on you to provide accurate information about the individuals in the programs operated by your agency who may be affected by the sunset of this exemption. Given the importance of this survey, we ask that you respond **within the next 14 days**. The survey asks for the name and contact information of the person completing the survey, so we will be able to contact him or her with any follow-up questions. **All data collected will be aggregated and no individual respondent or program will be identified and the information collected for this survey will not be used for any other purpose.**

Sincerely,



Frank Muñoz

ATTACHMENT 1

Article 154 defines the practice of LMSW and LCSW (7701) and defines activities that may be performed by LMSW or LCSW but that do not require licensure (7702).

§ 7701. Definitions.

1. Practice of licensed master social work.
 - a. The practice of licensed master social work shall mean the professional application of social work theory, principles, and the methods to prevent, assess, evaluate, formulate and implement a plan of action based on client needs and strengths, and intervene to address mental, social, emotional, behavioral, developmental, and addictive disorders, conditions and disabilities, and of the psychosocial aspects of illness and injury experienced by individuals, couples, families, groups, communities, organizations, and society.
 - b. Licensed master social workers engage in the administration of tests and measures of psychosocial functioning, social work advocacy, case management, counseling, consultation, research, administration and management, and teaching.
 - c. Licensed master social workers provide all forms of supervision other than supervision of the practice of licensed clinical social work as defined in subdivision two of this section.
 - d. Licensed master social workers practice licensed clinical social work in facility settings or other supervised settings approved by the department under supervision in accordance with the commissioner's regulations.
2. Practice of clinical social work.
 - a. The practice of clinical social work encompasses the scope of practice of licensed master social work and, in addition, includes the diagnosis of mental, emotional, behavioral, addictive and developmental disorders and disabilities and of the psychosocial aspects of illness, injury, disability and impairment undertaken within a psychosocial framework; administration and interpretation of tests and measures of psychosocial functioning; development and implementation of appropriate assessment-based treatment plans; and the provision of crisis oriented psychotherapy and brief, short-term and long-term psychotherapy and psychotherapeutic treatment to individuals, couples, families and groups, habilitation, psychoanalysis and behavior therapy; all undertaken for the purpose of preventing, assessing, treating, ameliorating and resolving psychosocial dysfunction with the goal of maintaining and enhancing the mental, emotional, behavioral, and social functioning and well-being of individuals, couples, families, small groups, organizations, communities and society.
 - b. Diagnosis in the context of licensed clinical social work practice is the process of distinguishing, beyond general social work assessment, between similar mental, emotional, behavioral, developmental and addictive disorders, impairments and disabilities within a psychosocial framework on the basis of their similar and unique characteristics consistent with accepted classification systems.
 - c. Psychotherapy in the context of licensed clinical social work practice is the use of verbal methods in interpersonal relationships with the intent of assisting a person or persons to modify attitudes and behavior which are intellectually, socially, or emotionally maladaptive.
 - d. Development of assessment-based treatment plans in the context of licensed clinical social work practice refers to the development of an integrated plan of prioritized interventions, that is based on the diagnosis and psychosocial assessment of the client, to address mental, emotional, behavioral, developmental and addictive disorders, impairments and disabilities, reactions to illnesses, injuries, disabilities and impairments, and social problems.

§ 7702. Authorized practice and the use of the titles "licensed master social worker" and "licensed clinical social worker".

1. In addition to the licensed social work services included in subdivisions one and two of section seventy-seven hundred one of this article, licensed master social workers and licensed clinical social workers may perform the following social work functions that do not require a license under this article, including but not limited to:
 - a. Serve as a community organizer, planner, or administrator for social service programs in any setting.
 - b. Provide supervision and/or consultation to individuals, groups, institutions and agencies.
 - c. Serve as a faculty member or instructor in an educational setting.
 - d. Plan and/or conduct research projects and program evaluation studies.
 - e. Maintain familiarity with both professional and self-help systems in the community in order to assist the client in those services when necessary.
 - f. Assist individuals or groups with difficult day to day problems such as finding employment, locating sources of assistance, organizing community groups to work on a specific problem.
 - g. Consult with other agencies on problems and cases served in common and coordinating services among agencies or providing case management.
 - h. Conduct data gathering on social problems.
 - i. Serve as an advocate for those clients or groups of clients whose needs are not being met by available programs or by a specific agency.
 - j. Assess, evaluate and formulate a plan of action based on client need.
 - k. Provide training to community groups, agencies, and other professionals.
 - l. Provide administrative supervision.

§ 7707. Special provisions.

5. Licensed master social workers and licensed clinical social workers may use accepted classifications of signs, symptoms, dysfunctions and disorders, including, but not limited to, classifications used in the practice setting for the purpose of providing mental health services.

Exemption from licensure for individuals under Article 154:

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 that this section shall be deemed repealed on July 1, 2013.

Article 153 defines the practice of psychology

§7601-a. Definition of the practice of psychology.

1. The practice of psychology is the observation, description, evaluation, interpretation, and modification of behavior for the purpose of preventing or eliminating symptomatic, maladaptive or undesired behavior; enhancing interpersonal relationships, personal, group or organizational effectiveness and work and/or life adjustment; and improving behavioral health and/or mental health. The practice includes, but is not limited to psychological (including neuropsychological) testing and counseling; psychoanalysis; psychotherapy; the diagnosis and treatment of mental, nervous, emotional, cognitive or behavioral disorders, disabilities, ailments or illnesses, alcoholism, substance abuse, disorders of habit or conduct, the psychological aspects of physical illness, accident, injury or disability, psychological aspects of learning (including learning disorders); and the use of accepted classification systems.
2. The term "diagnosis and treatment" means the appropriate psychological diagnosis and the ordering or providing of treatment according to need. Treatment includes, but is not limited to counseling,

psychotherapy, marital or family therapy, psychoanalysis, and other psychological interventions, including verbal, behavioral, or other appropriate means as defined in regulations promulgated by the commissioner.

Exemption from licensure for individuals under Article 153:

- 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. 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.

Article 163 the practice of mental health practitioners.

§8401. Definitions.

For purposes of this article, the following terms shall have the following meanings:

1. "Board" means the state board for mental health practitioners authorized by section eighty-four hundred six of this article.
2. "Psychotherapy" means the treatment of mental, nervous, emotional, behavioral and addictive disorders, and ailments by the use of both verbal and behavioral methods of intervention in interpersonal relationships with the intent of assisting the persons to modify attitudes, thinking, affect, and behavior which are intellectually, socially and emotionally maladaptive.

§8402. Mental health counseling.

1. Definition of the practice of mental health counseling. The practice of the profession of mental health counseling is defined as:
 - a. the evaluation, assessment, amelioration, treatment, modification, or adjustment to a disability, problem, or disorder of behavior, character, development, emotion, personality or relationships by the use of verbal or behavioral methods with individuals, couples, families or groups in private practice, group, or organized settings; and
 - b. the use of assessment instruments and mental health counseling and psychotherapy to identify, evaluate and treat dysfunctions and disorders for purposes of providing appropriate mental health counseling services.

§8403. Marriage and family therapy.

1. Definition of the practice of marriage and family therapy. The practice of the profession of marriage and family therapy is defined as:
 - a. the assessment and treatment of nervous and mental disorders, whether affective, cognitive or behavioral, which results in dysfunctional interpersonal family relationships including, but not limited to familial relationships, marital/couple relationships, parent-child relationships, pre-marital and other personal relationships;
 - b. the use of mental health counseling, psychotherapy and therapeutic techniques to evaluate and treat marital, relational, and family systems, and individuals in relationship to these systems;
 - c. the use of mental health counseling and psychotherapeutic techniques to treat mental, emotional and behavioral disorders and ailments within the context of marital, relational and family systems to prevent and ameliorate dysfunction; and
 - d. the use of assessment instruments and mental health counseling and psychotherapy to identify and evaluate dysfunctions and disorders for purposes of providing appropriate marriage and family therapy services.

§8404. Creative arts therapy.

1. Definition of the practice of creative arts therapy. The practice of the profession of creative arts therapy is defined as:
 - a. the assessment, evaluation, and the therapeutic intervention and treatment, which may be either primary, parallel or adjunctive, of mental, emotional, developmental and behavioral disorders through the use of the arts as approved by the department; and
 - b. the use of assessment instruments and mental health counseling and psychotherapy to identify, evaluate and treat dysfunctions and disorders for purposes of providing appropriate creative arts therapy services.

§8405. Psychoanalysis.

1. Definition of the practice of psychoanalysis. The practice of the profession of psychoanalysis is defined as:
 - a. the observation, description, evaluation, and interpretation of dynamic unconscious mental processes that contribute to the formation of personality and behavior in order to identify and resolve unconscious psychic problems which affect interpersonal relationships and emotional development, to facilitate changes in personality and behavior through the use of verbal and nonverbal cognitive and emotional communication, and to develop adaptive functioning; and
 - b. the use of assessment instruments and mental health counseling and psychotherapy to identify, evaluate and treat dysfunctions and disorders for purposes of providing appropriate psychoanalytic services.

§8411. Special provisions.

3. Any person licensed pursuant to this article may use accepted classifications of signs, symptoms, dysfunctions and disorders, as approved in accordance with regulations promulgated by the department, in the practice of such licensed profession.

Exemption from licensure for individuals under Article 163

- a. 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

ATTACHMENT 2 Glossary of terms used in the survey

Direct care staff shall mean individuals employed by the program to provide services to persons served by the program. Direct care staff may include individuals licensed under Title VIII of the Education Law or other persons authorized in the regulations of the oversight agency.

Professional license shall mean a license, certification or registration issued to an individual under Title VIII of the Education Law that authorizes the license holder to engage in the practice of the profession and to use the professional title. The licensee must be registered with the Education Department in order to practice the profession and use the title established in the law, unless otherwise provided for in law.

Otherwise authorized person in the context of professional practice of a profession shall mean an individual who is defined as exempt from the licensure laws in Title VIII of the Education Law, such as an individual in another profession, a limited permit holder, or a student who is completing a supervised internship or externship under the supervision of a licensed professional, as part of a degree-program recognized by the Education Department, or a person who is employed in an exempt site.

Psychotherapy shall have the following meaning taken from Article 163 of the Education Law (section 8401(2)) whether or not provided by individuals licensed under that article: "Psychotherapy" means the treatment of mental, nervous, emotional, behavioral and addictive disorders, and ailments by the use of both verbal and behavioral methods of intervention in interpersonal relationships with the intent of assisting the persons to modify attitudes, thinking, affect, and behavior which are intellectually, socially and emotionally maladaptive.

Developmental Testing This term is defined specifically to mean developmental testing related to developmental disorders and disabilities. It's focus, among other things, is on the early diagnosis and recommendations for treatment and involves the identification of cognitive, language, sensorimotor, physical, and similar disorders and disabilities, among other areas of function, for young children, the identification and recommendations for treatment and placement for older children and the evaluation to determine levels of growth and delay, as well as training and other activities for adolescents and adults.

1. Introduction to the survey

This survey is intended to capture information about all of the individuals who engage in tasks and activities that may fall within the restricted scope of practice of certain, defined professions, established under Articles 153 (psychology), 154 (social work) and 163 (mental health practitioners) of the Education Law. This includes all individuals who work in your programs, whether they are employed directly by your agency or work under a contract arrangement, either individually or through a staffing agency. Chapters 130 and 132 of the Laws of 2010 provided an extension until July 1, 2013 of the exemption from professional licensure that was scheduled to expire on June 1, 2010 for persons employed in certain programs. The law also requires the Education Department, working with the impacted State agencies, to complete a report on the tasks performed by individuals in exempt programs.

The survey identifies five major functions that are within the scope of professional practice that may be provided in your program. We have included definitions of these functions, which include assessment/evaluation, diagnosis, assessment-based treatment planning, psychotherapy, and other treatment. To help you answer the survey about individuals working in your program, we have provided examples of services and activities that will be restricted to licensed individuals, beginning July 1, 2013 if the exemption is not extended, as well as examples of those services that would not require licensure. You should review these definitions and examples before you respond to questions about the individuals working in your program.

For each of the functions, please indicate the professional and occupational titles under which these individuals provide the service or activity to consumers, as well as the number of individuals in each title. For instance in completing the questions in section 9 (Psychotherapy staff), if the program has:

- 5 LCSWs employed to provide psychotherapy, please indicate this in the section for individuals licensed under the Education Law (Question 25);
- 2 Rehabilitation Counselors employed to provide psychotherapy, please indicate this in the section for individuals who are not licensed Education Law by indicating the most appropriate occupational title (Question 26);
- 3 pastoral counselors employed to provide psychotherapy, who are not licensed and whose occupational title is not listed, indicate these in the space provided (Question 27); and
- 2 volunteers or contracted individuals, who are not licensed, to provide psychotherapy, indicate the titles used for these persons in the space provided (Question 28).

If an individual holds more than one license and/or credential, the individual should only be identified once, preferably where he or she performs most of the services.

It is important to get an accurate count of individuals who provide these services as an employee, volunteer, or contractor, so that the final report can address the possible need for alternative pathways to licensure, continuing the current exemptions in the law if necessary, and other changes in law and regulation related to the licensed professions. If your agency uses occupational titles other than those listed, there is space to provide additional titles in the "comments" box after the question. If your agency does not provide a specific activity or service, please indicate this in the space provided on the survey. At the end of the survey, you can provide general comments about the anticipated effect on your program, including staff recruitment and retention, when the current exemptions from the licensure requirements expire on July 1, 2013.

SWMHP Survey

1. We are asking for information by program, based on the State agency that operates, regulates, approves or funds your program. This survey is being sent to programs that may have a regulatory relationship with multiple agencies. The organizations responding to this survey will vary significantly in size and in complexity. It is the intent to collect data at the “program level” in order to assess the feasibility of exempting certain program types, if it is determined appropriate to do so. Therefore, organizations which operate more than one program and receive funding from one or more state agencies should complete a separate survey for each program type that is operated. All data compiled in this survey will be reported in aggregate without identifying programs or respondents and will not be used for any other purpose.

This survey is being distributed to programs that are regulated by various state and local government entities. So that we can aggregate responses by regulatory agency and location, please provide the following information.

Your Agency Name:

Your Program Name:

2. Please provide a one-sentence description of your program:

SWMHP Survey

3. Program is operated, licensed, certified, regulated, approved, or funded by (select all that apply):

	Operated by	Licensed or Certified by	Regulated by	Approved by	Funded by
OMH	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
OPWDD	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
OASAS	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
OCFS	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DOH	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DOCS	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SOFA	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
NYSED	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Local Social Services District	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Local Mental Hygiene District	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Local Area Agency of Aging	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
NYC DHMH	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
NYC ACS	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Veterans' Administration	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other Federal Agency	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

4. Please indicate the county (counties) in which this program provides services

- | | | |
|--------------------------------------|-------------------------------------|---------------------------------------|
| <input type="checkbox"/> Albany | <input type="checkbox"/> Herkimer | <input type="checkbox"/> Richmond |
| <input type="checkbox"/> Allegany | <input type="checkbox"/> Jefferson | <input type="checkbox"/> Rockland |
| <input type="checkbox"/> Bronx | <input type="checkbox"/> Kings | <input type="checkbox"/> Saratoga |
| <input type="checkbox"/> Broome | <input type="checkbox"/> Lewis | <input type="checkbox"/> Schenectady |
| <input type="checkbox"/> Cattaraugus | <input type="checkbox"/> Livingston | <input type="checkbox"/> Schoharie |
| <input type="checkbox"/> Cayuga | <input type="checkbox"/> Madison | <input type="checkbox"/> Schuyler |
| <input type="checkbox"/> Chautauqua | <input type="checkbox"/> Monroe | <input type="checkbox"/> Seneca |
| <input type="checkbox"/> Chemung | <input type="checkbox"/> Montgomery | <input type="checkbox"/> St. Lawrence |
| <input type="checkbox"/> Chenango | <input type="checkbox"/> Nassau | <input type="checkbox"/> Steuben |
| <input type="checkbox"/> Clinton | <input type="checkbox"/> New York | <input type="checkbox"/> Suffolk |
| <input type="checkbox"/> Columbia | <input type="checkbox"/> Niagara | <input type="checkbox"/> Sullivan |
| <input type="checkbox"/> Cortland | <input type="checkbox"/> Oneida | <input type="checkbox"/> Tioga |
| <input type="checkbox"/> Delaware | <input type="checkbox"/> Onondaga | <input type="checkbox"/> Tompkins |
| <input type="checkbox"/> Dutchess | <input type="checkbox"/> Ontario | <input type="checkbox"/> Ulster |
| <input type="checkbox"/> Erie | <input type="checkbox"/> Orange | <input type="checkbox"/> Warren |
| <input type="checkbox"/> Essex | <input type="checkbox"/> Orleans | <input type="checkbox"/> Washington |
| <input type="checkbox"/> Franklin | <input type="checkbox"/> Oswego | <input type="checkbox"/> Wayne |
| <input type="checkbox"/> Fulton | <input type="checkbox"/> Otsego | <input type="checkbox"/> Westchester |
| <input type="checkbox"/> Genesee | <input type="checkbox"/> Putnam | <input type="checkbox"/> Wyoming |
| <input type="checkbox"/> Greene | <input type="checkbox"/> Queens | <input type="checkbox"/> Yates |
| <input type="checkbox"/> Hamilton | <input type="checkbox"/> Rensselaer | |

2. Assessment/Evaluation

Assessment/evaluation in the practice of the professions includes collecting information through clinical interviews, psychological and psychosocial tests and measures, contacts with members of the consumer's family and educational; employment, and/or health care settings/providers for the purpose of determining a behavioral health diagnosis and/or appropriate behavioral management, discharge, or treatment plan for the consumer. This includes the administration and interpretation of psychological tests and procedures including measures of cognitive, language, sensorimotor, and physical functioning to identify developmental disorders and disabilities in young children, and to determine levels of growth and delay for purposes of treatment, training and placement for adolescents and adults.

Examples of "assessment/evaluation" and related professional practices include, but are not limited to:

- a. Clinical interviews with the patient and/or collateral parties to collect information necessary to determine the consumer's level of function for persons with mental, emotional, nervous, behavioral and developmental needs, for the purpose of establishing a behavioral health diagnosis or completing or modifying a treatment plan.
- b. Determining the consumer's psychological and developmental progress, through the administration and scoring of appropriate instruments, including clinical interviews with the consumer, family members and others.
- c. Using written text, art, music, photographs, or other media to evaluate how the patient expresses emotions, thoughts, or behaviors, in order to develop or modify the mental or behavioral health diagnosis or treatment plan.
- d. Administering, scoring and interpreting clinical tests and measures of psychosocial, developmental, and psychological functioning and reviewing the results of the evaluation with a consumer to establish a behavioral health service plan.

Related activities which are generally NOT considered "assessment/evaluation" include, but are not limited to:

- a. Having a consumer complete a form that provides information that may include but is not limited to housing, employment, income, psychosocial or health status, as part of the "intake."
- b. Providing a consumer with a paper-and-pencil test to complete, when such test does not require the observation and judgment of a licensed professional and commonly is identified as self-administered.
- c. Observing, describing and reporting the behavior of consumers, and, if appropriate, gathering information about such things as the person's living situation, health, nutrition and available informal supports in order to identify problems and needs.

*** 5. You must choose one of the following and click "next" to continue the survey:**

- jm "Assessment/evaluation" is not provided in this program (skip to next question)
- jm "Assessment/evaluation" is provided in this program (please complete the following questions)

3. Assessment/evaluation staff

6. Please indicate the NUMBER of individuals licensed under the Education Law in this program who provide "assessment/evaluation," no matter how often. If an individual is licensed in more than one profession, you should report this person only once:

Physician	<input type="text"/>
Physician Assistant	<input type="text"/>
Licensed Master Social Worker	<input type="text"/>
Licensed Clinical Social Worker	<input type="text"/>
Psychologist	<input type="text"/>
Intern, resident, student, limited permittee	<input type="text"/>
Nurse Practitioner	<input type="text"/>
Creative Arts Therapist	<input type="text"/>
Marriage & Family Therapist	<input type="text"/>
Mental Health Counselor	<input type="text"/>
Psychoanalyst	<input type="text"/>
Other licensed professional	<input type="text"/>

SWMHP Survey

7. Please indicate the NUMBER of employees in each title in this program, who are not licensed under the Education Law and who provide "assessment/evaluation," no matter how often. If an individual is credentialed in more than one title, you should only list this person once:

Psychologist employed by a government entity	<input type="text"/>
CASAC or CASAC-T	<input type="text"/>
Social worker (not licensed)	<input type="text"/>
Certified Rehabilitation Counselor	<input type="text"/>
NBCC Counselor	<input type="text"/>
Care Coordinator	<input type="text"/>
Vocational Counselor	<input type="text"/>
Case Manager	<input type="text"/>
Prevention Counselor	<input type="text"/>
Applied Behavioral Sciences Specialist and/or Applied Behavioral Analyst	<input type="text"/>
Youth Counselor	<input type="text"/>
Correction Counselor	<input type="text"/>
Rehabilitation Therapist	<input type="text"/>
Recreation Therapist	<input type="text"/>
Counselor or Residential Program Aide	<input type="text"/>
Mental Health Therapy Aide or Assistant	<input type="text"/>
Case Worker	<input type="text"/>
Service Coordinator	<input type="text"/>
Correction Officer	<input type="text"/>
Correction Sergeant	<input type="text"/>
Correction Captain	<input type="text"/>
ASAT Program Assistant	<input type="text"/>
Correction Counselor (ASAT)	<input type="text"/>
Supervising Correction Counselor (ASAT)	<input type="text"/>
Supervising Correction Counselor	<input type="text"/>
ASAT Program Assistant (CASAC/T)	<input type="text"/>
Social work case manager	<input type="text"/>
Social work case worker	<input type="text"/>

SWMHP Survey

8. If there are employees in other occupational titles who are not licensed and are not listed above, please indicate the title(s) and number of individuals in each title, who provide "assessment/evaluation." Please very briefly describe the nature of these services and the population being served.

Title:	<input type="text"/>
Number:	<input type="text"/>
Services Provided:	<input type="text"/>
Title:	<input type="text"/>
Number:	<input type="text"/>
Services provided:	<input type="text"/>

9. Please indicate the number of individuals who are NOT employees in this program (e.g., contractors, volunteers, etc.), who are NOT licensed under the Education Law and who provide "assessment/evaluation" in this program, no matter how often:

Title:	<input type="text"/>
Number:	<input type="text"/>
Relationship to program:	<input type="text"/>
Services provided:	<input type="text"/>
Title:	<input type="text"/>
Number:	<input type="text"/>
Relationship to program:	<input type="text"/>
Services provided:	<input type="text"/>

10. Please provide any other comments about this service below:

4. Diagnosis

Diagnosis is the identification of a disorder on the basis of its signs and symptoms and an analysis of the underlying mental, nervous, emotional, behavioral, developmental and addictive disorders, impairment and disabilities to determine their cause and potential treatments. Such diagnoses are commonly made consistent with acceptable classification systems, such as the Diagnostic and Statistical Manual of Mental Disorders (DSM). Statutory definitions are attached to the cover letter that informed you of the survey.

Examples of "diagnosis" and related professional practice include, but are not limited to:

- a. Evaluating information that is gathered regarding the consumer's health, mental health, social, and developmental status directly from the consumer or in consultation with others, to make a behavioral health diagnosis using the DSM or similar classification system.
- b. Engaging in clinical interviews and clinical testing to gather, interpret and evaluate information from appropriate sources, to identify signs and symptoms and causes of behaviors for purposes of making a behavioral health diagnosis.
- c. The application of professional judgment based on the clinical evaluation, which could include relevant information received from consumers and others, including direct care staff, to reach a diagnosis of the consumer's disorder or dysfunction and identifying it using the DSM or other classification system.

Related activities which are generally NOT considered "diagnosis" include, but are not limited to:

- a. Recording and/or verifying information about the consumer, as part of an intake, or assessment document, for the purpose of providing the diagnosing clinician with information necessary to make the mental or behavioral health diagnosis.
- b. Assisting in the data gathering regarding psychosocial functioning and collecting other information about the consumer's social, mental and health status, to the extent such assistance does not involve restricted professional practice activities.
- c. Collecting information, including assisting the consumer in the completion of forms and questionnaires that will provide background information for the licensed professional who is making the mental or behavioral health diagnosis.
- d. Coordinating access to or arranging for services such as home care and other community based services, housing, employment, vocational training, or health care.
- e. Assisting in gathering information about previous mental health interventions, hospitalizations, emergency interventions and other forms of treatment, for review by the licensed professional.
- f. Reporting observations about the behavior, action and responses to treatment as part of a multi-disciplinary team.

*** 11. You must choose one of the following and click "next" to continue the survey:**

"Diagnosis" is not provided in this program (skip to next question)

"Diagnosis" is provided in this program (please complete the following questions)

5. Diagnosis staff

12. Please indicate the NUMBER of individuals licensed under the Education Law in this program who provide "diagnosis," no matter how often. If an individual is licensed in more than one profession, you should only report this person once:

Physician	<input type="text"/>
Physician Assistant	<input type="text"/>
Licensed Master Social Worker	<input type="text"/>
Licensed Clinical Social Worker	<input type="text"/>
Psychologist	<input type="text"/>
Intern, resident, student, limited perimtee	<input type="text"/>
Nurse Practitioner	<input type="text"/>
Creative Arts Therapist	<input type="text"/>
Marriage and Family Therapist	<input type="text"/>
Mental Health Counselor	<input type="text"/>
Licensed Psychoanalyst	<input type="text"/>
Other licensed professional	<input type="text"/>

SWMHP Survey

13. Please indicate the NUMBER of employees in each title in this program, who are not licensed under the Education Law and who provide “diagnosis” no matter how often. If an individual is credentialed in more than one title, you should only list this person once:

Psychologist employed by a government entity	<input type="text"/>
CASAC or CASAC-T	<input type="text"/>
Social worker (not licensed)	<input type="text"/>
Certified Rehabilitation Counselor	<input type="text"/>
NBCC Counselor	<input type="text"/>
Care Coordinator	<input type="text"/>
Vocational Counselor	<input type="text"/>
Case Manager	<input type="text"/>
Prevention Counselor	<input type="text"/>
Applied Behavioral Sciences Specialist and/or Applied Behavioral Analyst	<input type="text"/>
Youth Counselor	<input type="text"/>
Correction Counselor	<input type="text"/>
Rehabilitation Therapist	<input type="text"/>
Recreation Therapist	<input type="text"/>
Counselor or Residential Program Aide	<input type="text"/>
Mental Health Therapy Aide or Assistant	<input type="text"/>
Case Worker	<input type="text"/>
Service Coordinator	<input type="text"/>
Correction Officer	<input type="text"/>
Correction Sergeant	<input type="text"/>
Correction Captain	<input type="text"/>
ASAT Program Assistant	<input type="text"/>
Correction Counselor (ASAT)	<input type="text"/>
Supervising Correction Counselor (ASAT)	<input type="text"/>
Supervising Correction Counselor	<input type="text"/>
ASAT Program Assistant (CASAC/T)	<input type="text"/>
Social Work Case Manager	<input type="text"/>
Social Work Case Worker	<input type="text"/>

SWMHP Survey

14. If there are employees in other occupational titles who are not listed above, please indicate the title(s) and number of individuals in each title, who provide "diagnosis." Please very briefly describe the nature of these services and the population being served.

Title:	<input type="text"/>
Number:	<input type="text"/>
Services provided:	<input type="text"/>
Title:	<input type="text"/>
Number:	<input type="text"/>
Services provided:	<input type="text"/>

15. Please indicate the number of individuals who are NOT employees in this program (e.g., contractors, volunteers, etc.), who are NOT licensed under the Education Law and who provide "diagnosis" in this program, no matter how often:

Title:	<input type="text"/>
Number:	<input type="text"/>
Relationship to program:	<input type="text"/>
Services provided:	<input type="text"/>
Title:	<input type="text"/>
Number:	<input type="text"/>
Relationship to program:	<input type="text"/>
Services provided:	<input type="text"/>

16. Please provide any other comments about this service below:

6. Assessment-based treatment planning

Assessment-based treatment planning is described as the development of an integrated plan of prioritized interventions, that is based on the diagnosis and psychosocial assessment of the consumer, to address mental, emotional, behavioral, developmental and addictive disorders, impairments and disabilities, reactions to illnesses, injuries, disabilities and impairments, and social problems. Assessment-based treatment planning is used to determine when professional services should be initiated, altered, reduced or eliminated.

Examples of "assessment-based treatment planning" and related professional practice include, but are not limited to:

- a. Using professional knowledge and judgment to establish or approve recommended treatment goals with the consumer that reflect long- and short-term objectives for the purpose of improving mental health.
- b. Ongoing re-assessment and revision of a treatment plan related to a consumer's progress toward achieving treatment goals based on information obtained from the consumer, from psychosocial tests and measures, from appropriately trained staff, and from collateral sources.
- c. Conducting family or other corollary group meetings, alone or with the assistance of staff, to assess and integrate family interactions with the consumer into a long-term mental health treatment plan. This meeting is part of the treatment planning process, rather than family meetings concerning daily activities.
- d. Determining the appropriate psychotherapy and mental health services to be provided to a consumer.

Related activities which are generally NOT considered "assessment-based treatment planning," include, but are not limited to:

- a. Conducting an intake or needs assessment that attempts to identify the consumer's understanding and perception of the situation, problem(s) and needs, gather information related to such things as the person's living situation, functioning, health, nutrition and informal supports, determine eligibility and appropriateness for services from an agency, filling out standard forms and giving routine instructions.
- b. Collecting data, gathering information and providing input or opinion to enable the licensed professional to determine the consumer's progress in meeting the treatment goals and modify such goals to reflect changes in the consumer's condition.
- c. Identifying gaps in necessary services and advocating for consumers with public and private providers and government entities to provide access to services.
- d. Reviewing existing case records for available information to assist in gathering background information which may be used by the licensed professional or multi-disciplinary team to provide appropriate services.
- e. Providing information, assistance, referrals and support, consistent with applicable laws and policies, to the extent the individual is qualified by training and education.
- f. Providing case management services to individuals, including but not limited to, developing and implementing a plan to access services including transportation, employment, and housing, and scheduling appointments for the consumer.

*** 17. You must choose one of the following and click "next" to continue the survey:**

"Assessment-based treatment planning" is not provided in this program (skip to next question)

"Assessment-based treatment planning" is provided in this program (please complete the following questions)

7. Assessment-based treatment planning staff

18. Please indicate the NUMBER of individuals licensed under the Education Law in this program who provide "assessment-based treatment planning," no matter how often. If an individual is licensed in more than one profession you should only report this person once:

Physician	<input type="text"/>
Physician Assistant	<input type="text"/>
Licensed Master Social Worker	<input type="text"/>
Licensed Clinical Social Worker	<input type="text"/>
Psychologist	<input type="text"/>
Intern, resident student, limited permittee	<input type="text"/>
Nurse Practitioner	<input type="text"/>
Creative Arts Therapist	<input type="text"/>
Marriage & Family Therapist	<input type="text"/>
Mental Health Counselor	<input type="text"/>
Psychoanalyst	<input type="text"/>
Other licensed professional	<input type="text"/>

SWMHP Survey

19. Please indicate the NUMBER of employees in each title in this program, who are not licensed, under the Education Law and who provide “assessment-based treatment planning,” no matter how often. If an individual is credentialed in more than one title, you should only report that person once:

Psychologist employed by a government entity	<input type="text"/>
CASAC or CASAC-T	<input type="text"/>
Social worker (not licensed)	<input type="text"/>
Certified Rehabilitation Counselor	<input type="text"/>
NBCC Counselor	<input type="text"/>
Care Coordinator	<input type="text"/>
Vocational Counselor	<input type="text"/>
Case Manager	<input type="text"/>
Prevention Counselor	<input type="text"/>
Applied Behavioral Sciences Specialist and/or Applied Behavioral Analyst	<input type="text"/>
Youth Counselor	<input type="text"/>
Correction Counselor	<input type="text"/>
Rehabilitation Therapist	<input type="text"/>
Recreation Therapist	<input type="text"/>
Counselor or Residential Program Aide	<input type="text"/>
Mental Health Therapy Aide or Assistant	<input type="text"/>
Case Worker	<input type="text"/>
Service Coordinator	<input type="text"/>
Correction Officer	<input type="text"/>
Correction Sergeant	<input type="text"/>
Correction Captain	<input type="text"/>
ASAT Program Assistant	<input type="text"/>
Correction Counselor (ASAT)	<input type="text"/>
Supervising Correction Counselor (ASAT)	<input type="text"/>
Supervising Correction Counselor	<input type="text"/>
ASAT Program Assistant (CASAC/T)	<input type="text"/>
Social Work Case Manager	<input type="text"/>
Social Work Case Worker	<input type="text"/>

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20. If there are employees in other occupational titles who are not licensed and are listed not above, please indicate the title(s) and number of individuals in each title, who provide "assessment-based treatment planning." Please very briefly describe the nature of these services and the population being served.

Title:	<input type="text"/>
Number:	<input type="text"/>
Services provided:	<input type="text"/>
Title:	<input type="text"/>
Number:	<input type="text"/>
Services provided:	<input type="text"/>

21. Please indicate the number of individuals who are NOT employees in this program (e.g., contractors, volunteers, etc.), who are NOT licensed under the Education Law and who provide "assessment-based treatment planning" in this program, no matter how often:

Title:	<input type="text"/>
Number:	<input type="text"/>
Relationship to program:	<input type="text"/>
Services provided:	<input type="text"/>
Title:	<input type="text"/>
Number:	<input type="text"/>
Relationship to program:	<input type="text"/>
Services provided:	<input type="text"/>

22. Please provide any other comments about this service below:

8. Psychotherapy

Psychotherapy is defined in section 8401(2) of the Education Law as the treatment of mental, nervous, emotional, behavioral and addictive disorders, and ailments by the use of both verbal and behavioral methods of intervention in interpersonal relationships with the intent of assisting the person's ability to modify attitudes, thinking, affect, and behavior which are intellectually, socially and emotionally maladaptive.

There may be other definitions of psychotherapy in federal (e.g., Medicare) or state (e.g., Insurance) laws and in health insurance policies. This survey is using a definition in the Education Law which describes many theoretically-based, scientific systems of activities that are provided directly by individuals licensed or authorized under the Education Law or under an exemption until July 1, 2013.

Examples of "psychotherapy" and related professional practice include, but are not limited to:

- a. Providing individual, family or group therapy based on a professional assessment and as part of a behavioral health treatment plan developed by the individual licensed under Education Law.
- b. Planning, approving and/or overseeing the development or modification of a reward-based behavior modification treatment plan to reinforce positive behaviors (e.g., abstinence) or discourage negative behaviors (e.g., substance abuse). The licensed professional is responsible for determining the type and amount of psychotherapy that is needed, but may seek and consider information from direct care staff.
- c. Providing direct treatment to the consumer (alone or in group therapy) based on various psychotherapy models (e.g., Cognitive-Behavioral Therapy or psychoanalysis).
- d. Conducting and leading art or music therapy group sessions to assess and/or treat the consumer's mental health needs. Licensee can use appropriately trained staff to provide support for these activities, such as assisting consumers with movements or playing an instrument.
- e. Utilizing directive techniques to educate the consumer so that he/she can (1) learn and understand their symptoms and the purpose and goals of the treatment of their mental illness or other conditions and (2) develop/strengthen coping skills and personal strengths to more fully engage in treatment and life activities.

Related activities which are generally NOT considered "psychotherapy" include, but are not limited to:

- a. Assisting the consumer in the completion of forms or documents and collecting records and information for use by the licensed professional.
- b. Collecting information about consumer behavior and providing such information to the licensed professional.
- c. Providing rewards to consumers with points for positive activities, based on a token-based reward systems developed by an individual licensed under the Education Law.
- d. Leading peer support groups to provide group members with an opportunity to share information and experiences as a means to provide mutual support among members.
- e. Assisting consumers in arts and crafts, music, recreation or other activities to provide social and extracurricular activities that increase social interactions with others for socialization or recreational purposes.
- f. Discussing with the individual his/her situation, needs, concerns, and thoughts in order to help identify services that support the person's independence and quality of life.

*** 23. You must choose one of the following and click "next" to continue the survey:**

"Psychotherapy" is not provided in this program (skip to next question)

"Psychotherapy" is provided in this program (please complete the following questions)

9. Psychotherapy Staff

24. Please indicate the NUMBER of individuals licensed under the Education Law in this program who provide "psychotherapy," no matter how often. If an individual is licensed in more than one profession, you should only report this person once:

Physician	<input type="text"/>
Physician Assistant	<input type="text"/>
Licensed Master Social Worker	<input type="text"/>
Licensed Clinical Social Worker	<input type="text"/>
Psychologist	<input type="text"/>
Intern, resident student, limited permittee	<input type="text"/>
Nurse Practitioner	<input type="text"/>
Creative Arts Therapist	<input type="text"/>
Marriage & Family Therapist	<input type="text"/>
Mental Health Counselor	<input type="text"/>
Psychoanalyst	<input type="text"/>
Other licensed professional	<input type="text"/>

SWMHP Survey

25. Please indicate the NUMBER of employees in each title in this program, who are not licensed, under the Education Law and who provide "psychotherapy," no matter how often. If an individual is credentialed in more than one title, you should only report this person once:

Psychologist employed by a government entity	<input type="text"/>
CASAC or CASAC-T	<input type="text"/>
Social worker (not licensed)	<input type="text"/>
Certified Rehabilitation Counselor	<input type="text"/>
NBCC Counselor	<input type="text"/>
Care Coordinator	<input type="text"/>
Vocational Counselor	<input type="text"/>
Case Manager	<input type="text"/>
Prevention Counselor	<input type="text"/>
Applied Behavioral Sciences Specialist and/or Applied Behavioral Analyst	<input type="text"/>
Youth Counselor	<input type="text"/>
Correction Counselor	<input type="text"/>
Rehabilitation Therapist	<input type="text"/>
Recreation Therapist	<input type="text"/>
Counselor or Residential Program Aide	<input type="text"/>
Mental Health Therapy Aide or Assistant	<input type="text"/>
Case Worker	<input type="text"/>
Service Coordinator	<input type="text"/>
Correction Officer	<input type="text"/>
Correction Sergeant	<input type="text"/>
Correction Captain	<input type="text"/>
ASAT Program Assistant	<input type="text"/>
Social Work Case Manager	<input type="text"/>
Social Work Case Worker	<input type="text"/>

26. If there are employees in other occupational titles who are not licensed and are not listed above, please indicate the title(s) and number of individuals in each title, who provide "psychotherapy." Please very briefly describe the nature of these services and the population being served.

Title:	<input type="text"/>
Number:	<input type="text"/>
Services provided:	<input type="text"/>
Title:	<input type="text"/>
Number:	<input type="text"/>
Services provided:	<input type="text"/>

SWMHP Survey

27. Please indicate the number of individuals who are NOT employees in this program (e.g., contractors, volunteers, etc.), who are NOT licensed under the Education Law and who provide "psychotherapy" in this program, no matter how often:

Title:	<input type="text"/>
Number:	<input type="text"/>
Relationship to program:	<input type="text"/>
Services provided:	<input type="text"/>
Title:	<input type="text"/>
Number:	<input type="text"/>
Relationship to program:	<input type="text"/>
Services provided:	<input type="text"/>

28. Please provide any other comments about this service below:

10. Treatment other than psychotherapy

Treatment is a broad term that can be used to describe certain restricted activities performed by professionally licensed individuals, as well as non-restricted activities performed by those who are not licensed. It is difficult to define the term in such a way as to clearly draw a distinction between restricted and non-restricted activities. For purposes of this survey, professional treatment refers to activities and services that are based on the exercise of professional judgment in the provision of mental or behavioral health services and are within the scopes of practice of psychology, social work, mental health counseling, creative arts therapy, marriage and family therapy, and psychoanalysis. Examples of treatment are provided below.

Counseling is included in the scopes of practice of several professions and the term, when used in a professional context, is often used interchangeably with “psychotherapy” and “treatment”. Please note, however, that there are activities described as “counseling” (e.g., career counseling) that do not fall within the restricted scopes of practice of mental health professionals. There are also specific permanent exemptions in the Education Law for credentialed attorneys, rape crisis counselors, credentialed alcoholism and substance abuse counselors and for clergy members providing pastoral counseling when acting within their respective authorities (Education Law section 8410[2] and [4]). Additionally, Education Law section 8410(5) states that licensure is not required to provide instruction, advice, support, encouragement, or information to individuals, families, and relational groups.

Examples of “treatment other than psychotherapy” and related professional practice include, but are not limited to:

- a. Developing a behavioral health plan based on an assessment/evaluation of a person’s psychological, social and developmental functions, of supports and services to address addictive or behavioral disorders and conditions leading to purposeful behavioral change.
- b. Using psychological interventions to modify behavior for the purpose of preventing or eliminating symptomatic, maladaptive, or undesired behavior; to enhance interpersonal relationships, personal, group or organizational effectiveness, or work and/or life adjustment; or to improve behavioral or mental health.
- c. Assessing the consumer’s disability when developing a treatment plan based on that assessment and evaluation using the DSM, that may include counseling, job training and access to technology and services, that assists the patient in achieving maximum participation in work and social activities.
- d. Providing individual, couple, family, relational and group therapy by following a behavioral health treatment plan that is based on an assessment/evaluation, implementing change in the overall, long-term mental well-being of individuals, couple, families and those in other relationships, considering the nature and roles of individuals in relation to others, particularly in the family system.
- e. Using creative arts (e.g., dance, art, music) to care for the consumer who are assessed and evaluated using the DSM or similar classification systems and are following a treatment plan that by design seeks to increase awareness of self and others, cope with the symptoms of stress, illness and trauma, and enhance cognitive abilities through the creation of and reflection on art and the artistic process to improve self-esteem, develop more effective communications skills and relationships, gain insight into patterns of behavior, and create new options for coping with problems.
- f. Providing professional clinical interventions or professional counseling services to change or improve a consumer’s behavioral health related to addictions, such as alcohol or substance abuse; compliance with treatment programs for physical illnesses, such as cardiac rehabilitation regimens.
- g. Providing recommendations for mental and physical rehabilitation activities based on neuropsychological testing related to traumatic brain injury, disturbances of memory, thought, and attention, and/or sensorimotor functioning.
- h. Establishing and conducting behavior modification groups with the intent of changing the harmful behavior of persons.

SWMHP Survey

Related activities which are generally NOT considered "treatment other than psychotherapy" include, but are not limited to:

- a. Participating as a member of a multi-disciplinary team which is responsible for providing/monitoring treatment in accord with the treatment plan and providing verbal or written reports to the multi-disciplinary treatment team. Providing guidance, support, re-assurance or instruction to consumers.
- b. Providing advice, information and assistance to individuals and family members to identify needs and available resources in the community to meet the needs of the individual or a family member.
- c. Engaging in immediate and long-term problem solving, engaging in the development of social skills, or giving practical help in areas such as, but not limited to, housing, employment, child care, parenting, community based services and finances.
- d. Leading or coaching self-management support groups (such as in the Chronic Disease Self-Management Program) or other support groups that are part of other non-mental health treatment group programs.
- e. Offering education programs that provide information about disease identification and recommended treatments that may be provided by licensed health care professionals.
- f. Providing information about self-help services and access to community resources to assist the person receiving services in meeting goals for education, employment, mental health status, community living or other conditions.
- g. Providing concrete services, directly or through a third-party, such as child care, transportation, home care, home delivered meals and shopping and food preparation.
- h. Advocating with educational, judicial or other systems to ensure protection of the individual's rights and access to appropriate services.
- i. Implementing a care plan designed to address problems, needs and desires.
- j. Using de-escalation techniques to respond appropriately to dangerous or threatening behaviors and intervening as authorized to ensure the immediate safety of the patient and others.

*** 29. You must choose one of the following and click "next" to continue the survey:**

"Treatment other than psychotherapy" is not provided in this program (skip to next question)

"Treatment other than psychotherapy" is provided in this program (please complete the following questions)

11. Treatment other than psychotherapy staff

30. Please indicate the NUMBER of individuals licensed under the Education Law in this program who provide "treatment other than psychotherapy," no matter how often. If an individual is licensed in more than one profession, you should only report this person once:

Physician	<input type="text"/>
Physician Assistant	<input type="text"/>
Licensed Master Social Worker	<input type="text"/>
Licensed Clinical Social Worker	<input type="text"/>
Psychologist	<input type="text"/>
Intern, resident student, limited permittee	<input type="text"/>
Nurse Practitioner	<input type="text"/>
Creative Arts Therapist	<input type="text"/>
Marriage & Family Therapist	<input type="text"/>
Mental Health Counselor	<input type="text"/>
Psychoanalyst	<input type="text"/>
Other licensed professional	<input type="text"/>

SWMHP Survey

31. Please indicate the NUMBER of employees in each title in this program, who are not licensed, under the Education Law and who provide “treatment other than psychotherapy,” no matter how often. If an individual is credentialed in more than one title, you should only report this person once:

Psychologist employed by a government entity	<input type="text"/>
CASAC or CASAC-T	<input type="text"/>
Social worker (not licensed)	<input type="text"/>
Certified Rehabilitation Counselor	<input type="text"/>
NBCC Counselor	<input type="text"/>
Care Coordinator	<input type="text"/>
Vocational Counselor	<input type="text"/>
Case Manager	<input type="text"/>
Prevention Counselor	<input type="text"/>
Applied Behavioral Sciences Specialist and/or Applied Behavioral Analyst	<input type="text"/>
Youth Counselor	<input type="text"/>
Correction Counselor	<input type="text"/>
Rehabilitation Therapist	<input type="text"/>
Recreation Therapist	<input type="text"/>
Counselor or Residential Program Aide	<input type="text"/>
Mental Health Therapy Aide or Assistant	<input type="text"/>
Case Worker	<input type="text"/>
Service Coordinator	<input type="text"/>
Correction Officer	<input type="text"/>
Correction Sergeant	<input type="text"/>
Correction Captain	<input type="text"/>
ASAT Program Assistant	<input type="text"/>
Correction Counselor (ASAT)	<input type="text"/>
Supervising Correction Counselor (ASAT)	<input type="text"/>
Supervising Correction Counselor	<input type="text"/>
ASAT Program Assistant (CASAC/T)	<input type="text"/>
Social Work Case Manager	<input type="text"/>
Social Work Case Worker	<input type="text"/>

32. If there are employees in other occupational titles who are not licensed and are not listed above, please indicate the title(s) and number of individuals in each title, who provide "treatment other than psychotherapy." Please very briefly describe the nature of these services and the population being served.

Title:	<input type="text"/>
Number:	<input type="text"/>
Services provided:	<input type="text"/>
Title:	<input type="text"/>
Number:	<input type="text"/>
Services provided:	<input type="text"/>

33. Please indicate the number of individuals who are NOT employees in this program (e.g., contractors, volunteers, etc.), who are NOT licensed under the Education Law and who provide "treatment other than psychotherapy" in this program, no matter how often:

Title:	<input type="text"/>
Number:	<input type="text"/>
Relationship to program:	<input type="text"/>
Services provided:	<input type="text"/>
Title:	<input type="text"/>
Number:	<input type="text"/>
Relationship to program:	<input type="text"/>
Services provided:	<input type="text"/>

34. Please provide any other comments about this service below:

12. Aggregate Staffing Information

35. Total number of staff in the program (select one)

1 to 10

26 to 50

101 to 200

11 to 25

51 to 100

201 or more

36. Total number of licensed and unlicensed staff that provide any of the five services (assessment/evaluation, diagnosis, assessment-based treatment planning, psychotherapy, and treatment other than psychotherapy) identified in this survey:

37. Please provide the total number of staff who are currently unlicensed and who provide any of the five services identified in this survey.

38. Of the total number of staff identified in Question 37, please estimate the total number of FTEs (full-time equivalents) providing any of the five services identified in this survey:

Full-time equivalents
(FTEs)

39. Of the total FTEs providing any of the five services identified above, please estimate the total number of FTEs who are currently unlicensed:

Full-time equivalents
(FTEs)

SWMHP Survey

40. For each of the licensed professions listed below, that you have identified as providing any of the five services in this survey, please provide the entry level ANNUAL SALARY for that title:

Physician	<input type="text"/>
Physician Assistant	<input type="text"/>
Licensed Master Social Worker	<input type="text"/>
Licensed Clinical Social Worker	<input type="text"/>
Psychologist	<input type="text"/>
Intern, resident student, limited permittee	<input type="text"/>
Nurse Practitioner	<input type="text"/>
Creative Arts Therapist	<input type="text"/>
Marriage & Family Therapist	<input type="text"/>
Mental Health Counselor	<input type="text"/>
Psychoanalyst	<input type="text"/>
Other licensed professional	<input type="text"/>

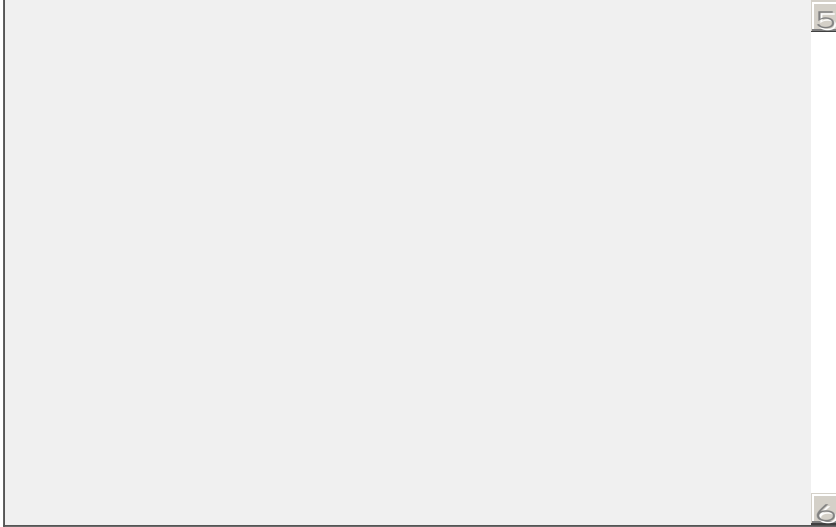
SWMHP Survey

41. For each of the titles below that you have identified as providing any of the five services in this survey, please provide the entry level ANNUAL SALARY for that title:

Psychologist employed by a government entity	<input type="text"/>
CASAC or CASAC-T	<input type="text"/>
Social worker (not licensed)	<input type="text"/>
Certified Rehabilitation Counselor	<input type="text"/>
NBCC Counselor	<input type="text"/>
Care Coordinator	<input type="text"/>
Vocational Counselor	<input type="text"/>
Case Manager	<input type="text"/>
Prevention Counselor	<input type="text"/>
Applied Behavioral Sciences Specialist and/or Applied Behavioral Analyst	<input type="text"/>
Youth Counselor	<input type="text"/>
Correction Counselor	<input type="text"/>
Rehabilitation Therapist	<input type="text"/>
Recreation Therapist	<input type="text"/>
Counselor or Residential Program Aide	<input type="text"/>
Mental Health Therapy Aide or Assistant	<input type="text"/>
Case Worker	<input type="text"/>
Service Coordinator	<input type="text"/>
Correction Officer	<input type="text"/>
Correction Sergeant	<input type="text"/>
Correction Captain	<input type="text"/>
ASAT Program Assistant	<input type="text"/>
Correction Counselor (ASAT)	<input type="text"/>
Supervising Correction Counselor (ASAT)	<input type="text"/>
Supervising Correction Counselor	<input type="text"/>
ASAT Program Assistant (CASAC/T)	<input type="text"/>
Social Work Case Manager	<input type="text"/>
Social Work Case Worker	<input type="text"/>
Other:	<input type="text"/>
Other:	<input type="text"/>
Other:	<input type="text"/>
Other:	<input type="text"/>
Other:	<input type="text"/>

13. Conclusion

42. We welcome any additional comments or information that you may wish to provide that may be helpful in determining the impact of the licensure laws.



43. Thank you for completing this survey. We value your input.

Please provide your name and contact information, in case we need to contact you with any questions or follow-up.

All information collected by this survey will be aggregated and no individual respondent or program will be identified and the information collected for this survey will not be used for any other purpose.

If you want to submit any questions or job titles/descriptions, please email those to SWMHPSurvey@mail.nysed.gov.

Name of person completing survey:

Title of person completing survey:

Email address:

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

Appendix C
Results of Survey of Exempt Programs

Discussion of exempt agency reports required pursuant to Chapters 130 & 132

Office of the Professions
New York State Education Department
July 7, 2011

Goals for today's meeting

- Review our progress toward meeting the requirements in Chapters 130 and 132
- Provide summary of data collection based on clarifications of restricted activities
- Set out the format for agency reports to be submitted to SED
- Next steps

Collaboration to clarify practice

- SED and exempt agencies identified 5 key activities that are restricted to those licensed or authorized under Title VIII
- More than 2,200 programs started the survey and 1,452 completed survey
- Results discussed with individual agencies
- Agencies should utilize this data and other sources to develop plans to comply

Programs with licensed or authorized persons providing restricted services

	Assess/ Evaluate	Diagnose	Psycho- therapy	Assess Based Plg	Other services
LCSW	590	422	497	577	489
LMSW	627	380	494	584	508
MD	585	566	331	498	367
Psychology	411	309	303	362	290
Article 163	331	180	256	289	275
Interns	225	126	170	179	168
Nurse Prac	219	193	114	185	147
PhysAsst	52	44	17	37	29

4

Programs with employees in selected titles providing restricted services

	Assess/ Evaluate	Diagnose	Psycho- therapy	ABTP	Other services
*PsyGov	57	44	40	51	45
*CASAC	248	178	164	241	229
CsResAide	75	34	46	71	94
ABAS	133	52	97	143	128
Case Mgr	117	24	32	108	101
Unlic SW	291	128	176	238	226
VocCslr	66	12	23	51	58
CRC	50	25	22	47	41
RecTher.	30	9	11	27	31

Programs with other employees and non-employees providing restricted services

General titles	Assess/ Evaluate	Diagnose	Psycho- therapy	ABTP	Other services
Behavior Specialist	X	X	X	X	X
Counselor	X	X	X	X	X
Fam Sup/ FuncFamTh	X			X	X
“Psych Asst”	X	X	X	X	X
Rehab Cslr	X		X	X	X
School SW/Psych	X	X	X	X	X
Habilitation Specialist	X		X	X	X

6

Total staff in programs responding to survey (scale)

	DOCCS	DOH	OASAS	OCFS	OMH	OPWDD	SOFA	Total
1 to 10	5	17	100	73	138	109	6	448
11 to 25	5	13	91	56	141	73	11	390
26 to 50	2	9	36	38	76	57	2	220
51 to 100	1	4	18	31	35	51	4	144
101 to 200	0	7	3	25	14	46	0	95
200+	3	14	6	11	8	64	1	107
Total	16	64	254	234	412	400	24	1,404 ₇

Staff in programs providing restricted services

(Excludes DOCCS with 16 programs and 20,475 staff)	Programs	Total Staff	Avg. Staff
Total staff providing any of 5 services	1,371	21,164	15.44
Unlic staff providing any of 5 services	1,340	10,260	7.66
FTE any of 5 services	1,320	16,934	12.83
FTE unlicensed Staff any of 5 services	1,289	8,905	6.91

Requirement for agency reports

- Education Law requires exempt agency to develop report on utilization of personnel that includes but is not limited to:
 - Identify tasks and functions restricted under law
 - Identify tasks and functions not restricted under law
 - Costs of employing only licensed or authorized personnel (salary & support to staff attaining licensure)
 - Action plan to detail measures by which agency shall, no later than 7/1/2013, comply with licensure laws and recommend alternative pathways to licensure

Format for report to be submitted by agencies exempt until 2013

In submitting information to the SED, it is suggested that each agency utilize a template that includes the following:

- I. Introduction and Overview
- II. Snapshot of Staffing
- III. Costs
- IV. Implementation and Conclusions

Refer to handout for more detailed information

Next steps to comply with laws

- Agencies to develop reports and work-plans and submit to SED
- SED will review information and seek clarification from agencies as necessary
- SED will develop draft report with recommendations for changes in laws
- SED will consult with identified stakeholders and agencies prior to completion of report
- SED will submit report to Legislature and Governor by July 1, 2012 with recommendations
 - exempt agencies may submit statements or alternatives

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

Appendix D
Survey for Public Comments
On Agency Proposals

Exemption Survey

The following section will provide the Department with important information about individuals and organizations who submit comments on the plans proposed by the exempt agencies.

1. Please provide your name and contact information so that we can reach you with any questions.

Name (optional):

Company (if applicable):

Email Address:

2. Please use the drop down menu to indicate the New York county in which you reside. If you do not reside in New York, please select "Outside of New York".

3. Please indicate if you are licensed under Title VIII of the Education Law in any of the following professions

- | | |
|--|---|
| <input type="radio"/> Licensed Master Social Worker | <input type="radio"/> Physician |
| <input type="radio"/> Licensed Clinical Social Worker | <input type="radio"/> Physician Assistant/Specialist Assistant |
| <input type="radio"/> Licensed Mental Health Counselor | <input type="radio"/> Registered Professional Nurse |
| <input type="radio"/> Licensed Creative Arts Therapist | <input type="radio"/> Nurse Practitioner |
| <input type="radio"/> Licensed Marriage and Family Therapist | <input type="radio"/> Other Title VIII profession |
| <input type="radio"/> Licensed Psychoanalyst | <input type="radio"/> Not licensed in any Title VIII profession |
| <input type="radio"/> Psychologist | |

4. Please select the option(s) below that best describe you.

- | | |
|---|---|
| <input type="checkbox"/> Consumer or Parent/Guardian of Consumer | <input type="checkbox"/> Member of the public |
| <input type="checkbox"/> Licensed Professional | <input type="checkbox"/> Provider agency |
| <input type="checkbox"/> Student/permit holder in licensed profession | <input type="checkbox"/> Professional association |
| <input type="checkbox"/> Unlicensed individual providing mental health services | |

Other (please specify)

Exemption Survey

***5. Are you submitting comments on the proposals as the representative of an agency (public or private), professional association, provider association, education program, or other organization?**

- No, I am responding as an individual (you will be directed to the survey)
- Yes, I am responding on behalf of an organization (you will be asked to provide more information about your program or association)

Exemption Survey

***6. You indicated in Question 5 that you are submitting comments as the representative of an agency, association or other group. Please provide the name of the agency, association or other group below. (If necessary, you can change your answer to Question 5 and you will be directed to the survey).**

If you are responding on behalf of an agency/program that provides professional services, please indicate below what relationship, if any, exists between your agency/program and the exempt State agencies. The following questions are for programs that have a relationship with one or more of the exempt State agencies.

7. Department of Health (DOH)

- Operated Regulated Funded Approved Not applicable

8. Office of Alcoholism & Substance Abuse Services (OASAS)

- Operated Regulated Funded Approved Not applicable

9. Office of Children and Family Services (OCFS)

- Operated Regulated Funded Approved Not applicable

10. Office of Mental Health (OMH)

- Operated Regulated Funded Approved Not applicable

11. Office for People with Developmental Disabilities (OPWDD)

- Operated Regulated Funded Approved Not applicable

12. State Office for the Aging (SOFA)

- Operated Regulated Funded Approved Not applicable

13. Department of Corrections and Community Supervision (DOCCS)

- Operated Regulated Funded Approved Not applicable

Exemption Survey

Please indicate your agreement or disagreement with the following statements about professional licensing and access to qualified practitioners.

14. The licensing laws should not exempt from licensure individuals who provide services that are paid for by the public (e.g., Medicaid) while requiring licensure for individuals who provide services to private-pay consumers.

- Strongly agree Agree Unknown Disagree Strongly disagree

15. When choosing a health or mental health care provider, my primary concern is whether the individual understands my culture and background in order to provide appropriate services

- Strongly agree Agree Unknown Disagree Strongly disagree

16. This survey asks for your comments on proposals from seven State agencies. You are encouraged to review and respond to as many or as few agency proposals as you wish. You can move forward and backward in the survey by choosing an agency from the list and then clicking "next" at the bottom of the page.

These options are presented at the end of each agency's recommendation(s). You may select "complete the survey" and click on "next" at any time to end the survey.

- Office of Alcoholism and Substance Abuse Services (OASAS) 4 proposals
- Office of Children and Family Services (OCFS) 3 proposals
- Office of Mental Health (OMH) 2 proposals
- Office for People with Developmental Disabilities (OPWDD) 5 proposals
- State Office for the Aging (SOFA) 2 proposals
- Department of Corrections and Community Supervision (DOCCS) 3 proposals
- Department of Health (DOH) 1 proposal
- Complete the survey and provide any additional comments

Exemption Survey

While Credentialed Alcoholism & Substance Abuse Counselors (CASAC) and CASAC Trainees are permanently exempt from the restrictions placed on unlicensed direct care staff, Chapters 130 and 132 of the Laws of 2010 may inadvertently “choke off” the pipeline of entry level counselors who are preparing to become CASACs.

To ensure that entry level counselors who pursue a CASAC in New York State will have the ability to earn qualifying work experience as counselors, it will be necessary for OASAS to obtain an expanded exemption. Such an exemption should require sufficient oversight and supervision of services provided by entry level counselors while ensuring that they have “hands on” practical training in the core counseling performance domains.

17. Do you agree with the Agency's recommendation?

- Strongly agree Agree Unknown Disagree Strongly disagree

18. The Agency's recommendation is necessary to protect the public

- Strongly agree Agree Unknown Disagree Strongly disagree

19. The Agency's recommendation adequately protects the public

- Strongly agree Agree Unknown Disagree Strongly disagree

20. It is important to implement the Agency's recommendation

- Strongly agree Agree Unknown Disagree Strongly disagree

21. The Agency's recommendation is an affordable approach to providing care

- Strongly agree Agree Unknown Disagree Strongly disagree

22. The Agency's recommendation balances licensure to protect the public with controlling the cost of professional services

- Strongly agree Agree Unknown Disagree Strongly disagree

23. The Agency's recommendation will increase the public's access to professional services

- Strongly agree Agree Unknown Disagree Strongly disagree

24. What changes would you make in the agency's recommendation?

25. Do you believe that the Agency's recommendation will affect the protection of the public in the delivery of professional services and, if so, how?

Exemption Survey

26. If you have specific concerns about the proposal or if you have your own recommendations, please briefly describe them in the box below.

Exemption Survey

Building on the model developed by the Federal Substance Abuse and Mental Health Services Administration (SAMHSA) in 2010, OASAS will look to promulgate a Scope of Practice framework for substance abuse counselors who work in its service delivery system. The framework currently under development would authorize “permitted activities” for counselors, based on education level achieved, professional credential or license status, and qualifying work experience.

The Scope of Practice framework will be guided by the licensure standards enacted by SED, while incentivizing providers to work with/support unlicensed staff to become credentialed as CASACs or licensed as social workers or mental health practitioners.

27. Do you agree with the Agency's recommendation?

- Strongly agree Agree Unknown Disagree Strongly disagree

28. The Agency's recommendation adequately protects the public

- Strongly agree Agree Unknown Disagree Strongly disagree

29. It is important to implement the Agency's recommendation

- Strongly agree Agree Unknown Disagree Strongly disagree

30. The Agency's recommendation is an affordable approach to providing care

- Strongly agree Agree Unknown Disagree Strongly disagree

31. The Agency's recommendation balances licensure to protect the public with controlling the cost of professional services

- Strongly agree Agree Unknown Disagree Strongly disagree

32. The Agency's recommendation will increase the public's access to professional services

- Strongly agree Agree Unknown Disagree Strongly disagree

33. What changes would you make in the agency's recommendation?

34. Do you believe that the Agency's recommendation will affect the protection of the public in the delivery of professional services and, if so, how?

Exemption Survey

35. If you have specific concerns about the proposal or if you have your own recommendations, please briefly describe them in the box below.

Exemption Survey

OASAS will continue to work with SED to more clearly define the parameters of the multi-disciplinary team model and how it can serve as the solution for the publicly-funded systems to comply with the State's licensure standards.

By allowing unlicensed personnel to work with and assist in the delivery of services and, where appropriate, recommend treatment options, subject to the direct supervision and sign off by licensed practitioners, the multi-disciplinary team offers a proven, cost effective and viable alternative to the traditional private practice model.

36. Do you agree with the Agency's recommendation?

- Strongly agree Agree Unknown Disagree Strongly disagree

37. The Agency's recommendation adequately protects the public

- Strongly agree Agree Unknown Disagree Strongly disagree

38. It is important to implement the Agency's recommendation

- Strongly agree Agree Unknown Disagree Strongly disagree

39. The Agency's recommendation is an affordable approach to providing care

- Strongly agree Agree Unknown Disagree Strongly disagree

40. The Agency's recommendation balances licensure to protect the public with controlling the cost of professional services

- Strongly agree Agree Unknown Disagree Strongly disagree

41. The Agency's recommendation will increase the public's access to professional services

- Strongly agree Agree Unknown Disagree Strongly disagree

42. What changes would you make in the agency's recommendation?

43. Do you believe that the Agency's recommendation will affect the protection of the public in the delivery of professional services and, if so, how?

44. If you have specific concerns about the proposal or if you have your own recommendations, please briefly describe them in the box below.

[Empty survey area]

Exemption Survey

To minimize disruption in the delivery of chemical dependence and compulsive gambling services and provide greater opportunity for the provider agencies in the OASAS system to transition their current staffing to one that is consistent with the provisions of Chapter 132 of the Laws of 2010, OASAS recommends:

- Expanding the permanent exemption to other OASAS credentialed professionals (e.g., Prevention Professionals, Compulsive Gambling Counselors, etc.)
- Amending the Education Law to allow other unlicensed OASAS “Qualified Health Professionals” to continue serving as part of the OASAS multi-disciplinary team.
- Amending the Education Law for temporary grandparenting into existing professions for qualified individuals who meet specified education, experience or credential requirements

45. Do you agree with the Agency's recommendation?

- Strongly agree Agree Unknown Disagree Strongly disagree

46. The Agency's recommendation adequately protects the public

- Strongly agree Agree Unknown Disagree Strongly disagree

47. It is important to implement the Agency's recommendation

- Strongly agree Agree Unknown Disagree Strongly disagree

48. The Agency's recommendation is an affordable approach to providing care

- Strongly agree Agree Unknown Disagree Strongly disagree

49. The Agency's recommendation balances licensure to protect the public with controlling the cost of professional services

- Strongly agree Agree Unknown Disagree Strongly disagree

50. The Agency's recommendation will increase the public's access to professional services

- Strongly agree Agree Unknown Disagree Strongly disagree

51. What changes would you make in the agency's recommendation?

52. Do you believe that the Agency's recommendation will affect the protection of the public in the delivery of professional services and, if so, how?

Exemption Survey

53. If you have specific concerns about the proposal or if you have your own recommendations, please briefly describe them in the box below.

54. This survey asks for your comments on proposals from seven State agencies. You are encouraged to review and respond to as many or as few agency proposals as you wish. You can move forward and backward in the survey by choosing an agency from the list and then clicking "next" at the bottom of the page. These options are presented at the end of each agency's recommendation(s). You may select "complete the survey" and click on "next" at any time to end the survey.

- Office of Children and Family Services (OCFS) 3 proposals
- Office of Mental Health (OMH) 2 proposals
- Office for People with Developmental Disabilities (OPWDD) 5 proposals
- State Office for the Aging (SOFA) 2 proposals
- Department of Corrections and Community Supervision (DOCCS) 3 proposals
- Department of Health (DOH) 1 proposal
- Complete the survey and provide any additional comments

Exemption Survey

Provide a permanent exemption for state operated or regulated programs as the regulatory oversight structure provides safeguards for consumers. The exemption for programs that are merely funded by one of the exempted agencies would be discontinued. Regulated residential programs (voluntary agencies) for children, for example, are a large portion of those providers who benefit from the current OCFS exemption.

It is unproven that licensure of voluntary agency staff would enhance the quality of services. As part of OCFS oversight of these programs, OCFS conducts case reviews, makes quarterly monitoring visits and investigates any allegations of child abuse and maltreatment. The focus should be shifted to the practitioners who were the reason for the 2002 enactment of licensing requirements. The legislation was meant for private practitioners who were unregulated and unsupervised and for whom licensing is desirable in order to bill insurance/Medicaid for services. An unintended consequence of the 2002 legislation was that it also impacted on government agencies and regulated not-for-profits.

55. Do you agree with the Agency's recommendation?

- Strongly agree Agree Unknown Disagree Strongly disagree

56. The Agency's recommendation adequately protects the public

- Strongly agree Agree Unknown Disagree Strongly disagree

57. It is important to implement the Agency's recommendation

- Strongly agree Agree Unknown Disagree Strongly disagree

58. The Agency's recommendation is an affordable approach to providing care

- Strongly agree Agree Unknown Disagree Strongly disagree

59. The Agency's recommendation balances licensure to protect the public with controlling the cost of professional services

- Strongly agree Agree Unknown Disagree Strongly disagree

60. The Agency's recommendation will increase the public's access to professional services

- Strongly agree Agree Unknown Disagree Strongly disagree

61. What changes would you make in the agency's recommendation?

62. Do you believe that the Agency's recommendation will affect the protection of the public in the delivery of professional services and, if so, how?

Exemption Survey

63. If you have specific concerns about the proposal or if you have your own recommendations, please briefly describe them in the box below.

Exemption Survey

Provide more clarity in statute/regulation on activities that are and are not within the restricted scopes of practice.

Based on the survey results, many people appeared to misunderstand the restricted practice of assessment and evaluation. More OCFS survey responders indicated that they provided assessment and evaluation than any of the other five activities and more of these responders said that they were unlicensed than said they were licensed.

64. Do you agree with the Agency's recommendation?

- Strongly agree Agree Unknown Disagree Strongly disagree

65. The Agency's recommendation adequately protects the public

- Strongly agree Agree Unknown Disagree Strongly disagree

66. It is important to implement the Agency's recommendation

- Strongly agree Agree Unknown Disagree Strongly disagree

67. The Agency's recommendation is an affordable approach to providing care

- Strongly agree Agree Unknown Disagree Strongly disagree

68. The Agency's recommendation balances licensure to protect the public with controlling the cost of professional services

- Strongly agree Agree Unknown Disagree Strongly disagree

69. The Agency's recommendation will increase the public's access to professional services

- Strongly agree Agree Unknown Disagree Strongly disagree

70. What changes would you make in the agency's recommendation?

71. Do you believe that the Agency's recommendation will affect the protection of the public in the delivery of professional services and, if so, how?

72. If you have specific concerns about the proposal or if you have your own recommendations, please briefly describe them in the box below.

Exemption Survey

Provide more clarity in statute/regulation on the differences between activities that may be performed by a Licensed Master Social Worker (LMSW) and those that are permissible only for a Licensed Clinical Social Worker (LCSW).

73. Do you agree with the Agency's recommendation?

- Strongly agree Agree Unknown Disagree Strongly disagree

74. The Agency's recommendation adequately protects the public

- Strongly agree Agree Unknown Disagree Strongly disagree

75. It is important to implement the Agency's recommendation

- Strongly agree Agree Unknown Disagree Strongly disagree

76. The Agency's recommendation is an affordable approach to providing care

- Strongly agree Agree Unknown Disagree Strongly disagree

77. The Agency's recommendation balances licensure to protect the public with controlling the cost of professional services

- Strongly agree Agree Unknown Disagree Strongly disagree

78. The Agency's recommendation will increase the public's access to professional services

- Strongly agree Agree Unknown Disagree Strongly disagree

79. What changes would you make in the agency's recommendation?

80. Do you believe that the Agency's recommendation will affect the protection of the public in the delivery of professional services and, if so, how?

81. If you have specific concerns about the proposal or if you have your own recommendations, please briefly describe them in the box below.

Exemption Survey

82. This survey asks for your comments on proposals from seven State agencies. You are encouraged to review and respond to as many or as few agency proposals as you wish. You can move forward and backward in the survey by choosing an agency from the list and then clicking "next" at the bottom of the page. These options are presented at the end of each agency's recommendation(s). You may select "complete the survey" and click on "next" at any time to end the survey.

- Office of Alcoholism and Substance Abuse Services (OASAS) 4 proposals
- Office of Mental Health (OMH) 2 proposals
- Office for People with Developmental Disabilities (OPWDD) 5 proposals
- State Office for the Aging (SOFA) 2 proposals
- Department of Corrections and Community Supervision (DOCCS) 3 proposals
- Department of Health (DOH) 1 proposal
- Complete the survey and provide any additional comments

Exemption Survey

Most importantly, the Legislature should establish a permanent exemption from “scope of practice” restrictions for programs operated, funded, licensed, or regulated by OMH.

All of the State mental hygiene (“O”) agencies agree that the Education Law Title VII regulatory apparatus has many benefits, and where appropriate, as in the recent OMH Part 599 clinic regulation (14 NYCRR Part 599), has been wholeheartedly endorsed. However, OMH and the “O” agencies also have instituted within the public behavioral health system substantial cost-effective public protections, and there is no demonstrated need for additional restrictions on the operation of these programs.

83. Do you agree with the Agency's recommendation?

- Strongly agree Agree Unknown Disagree Strongly disagree

84. The Agency's recommendation adequately protects the public

- Strongly agree Agree Unknown Disagree Strongly disagree

85. It is important to implement the Agency's recommendation

- Strongly agree Agree Unknown Disagree Strongly disagree

86. The Agency's recommendation is an affordable approach to providing care

- Strongly agree Agree Unknown Disagree Strongly disagree

87. The Agency's recommendation balances licensure to protect the public with controlling the cost of professional services

- Strongly agree Agree Unknown Disagree Strongly disagree

88. The Agency's recommendation will increase the public's access to professional services

- Strongly agree Agree Unknown Disagree Strongly disagree

89. What changes would you make in the agency's recommendation?

90. Do you believe that the Agency's recommendation will affect the protection of the public in the delivery of professional services and, if so, how?

Exemption Survey

91. If you have specific concerns about the proposal or if you have your own recommendations, please briefly describe them in the box below.

Exemption Survey

The OMH has sufficient oversight mechanisms and program supervision in the service delivery system that makes conversion of unlicensed staff to licensed staff unnecessary.

Extension of the current exemption from the "scope of practice" provisions will preserve the State statutory scheme for the provision of quality behavioral health services as defined in the State's Mental Hygiene Law, as well as the important oversight role of the "O" agencies within the Department of Mental Hygiene.

92. Do you agree with the Agency's recommendation?

- Strongly agree Agree Unknown Disagree Strongly disagree

93. The Agency's recommendation adequately protects the public

- Strongly agree Agree Unknown Disagree Strongly disagree

94. It is important to implement the Agency's recommendation

- Strongly agree Agree Unknown Disagree Strongly disagree

95. The Agency's recommendation is an affordable approach to providing care

- Strongly agree Agree Unknown Disagree Strongly disagree

96. The Agency's recommendation balances licensure to protect the public with controlling the cost of professional services

- Strongly agree Agree Unknown Disagree Strongly disagree

97. The Agency's recommendation will increase the public's access to professional services

- Strongly agree Agree Unknown Disagree Strongly disagree

98. What changes would you make in the agency's recommendation?

99. Do you believe that the Agency's recommendation will affect the protection of the public in the delivery of professional services and, if so, how?

100. If you have specific concerns about the proposal or if you have your own recommendations, please briefly describe them in the box below.

Exemption Survey

101. This survey asks for your comments on proposals from seven State agencies. You are encouraged to review and respond to as many or as few agency proposals as you wish. You can move forward and backward in the survey by choosing an agency from the list and then clicking "next" at the bottom of the page. These options are presented at the end of each agency's recommendation(s). You may select "complete the survey" and click on "next" at any time to end the survey.

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- Office of Children and Family Services (OCFS) 3 proposals
- Office for People with Developmental Disabilities (OPWDD) 5 proposals
- State Office for the Aging (SOFA) 2 proposals
- Department of Corrections and Community Supervision (DOCCS) 3 proposals
- Department of Health (DOH) 1 proposal
- Complete the survey and provide any additional comments

Exemption Survey

The survey responses collected by the Office of the Professions do not provide specific information regarding the reasons why the MSWs reported in the survey are not licensed under current State Education Law. OPWDD recommends that further examination of the circumstances of the unlicensed MSWs is necessary to determine if individuals are:

1. Covered under the permanent exemption found in Article 154;
2. Working toward licensure during the extension of the time-limited exemption;
3. Employees of OPWDD state-operated programs who meet the Civil Service qualifications at the professional level, but are not required to be licensed for his/her job title under applicable Civil Service standards; and/or
4. Not authorized to provide restricted activities and must obtain a license and/or the requisite supervision or supervised experience in accordance with Education Law; or do not have the necessary education, training or experience to become licensed under current Education Law.

Further study of the above circumstances and receipt of guidance from the Office of the Professions and the Department of Civil Service will be necessary to enable OPWDD to develop and implement a policy that will assure compliance with the professional licensure laws for unlicensed MSWs employed in OPWDD state-operated programs and OPWDD approved, funded and regulated voluntary programs, not later than July 1, 2013.

102. Do you agree with the Agency's recommendation?

- Strongly agree Agree Unknown Disagree Strongly disagree

103. The Agency's recommendation adequately protects the public

- Strongly agree Agree Unknown Disagree Strongly disagree

104. It is important to implement the Agency's recommendation

- Strongly agree Agree Unknown Disagree Strongly disagree

105. The Agency's recommendation is an affordable approach to providing care

- Strongly agree Agree Unknown Disagree Strongly disagree

106. The Agency's recommendation balances licensure to protect the public with controlling the cost of professional services

- Strongly agree Agree Unknown Disagree Strongly disagree

107. The Agency's recommendation will increase the public's access to professional services

- Strongly agree Agree Unknown Disagree Strongly disagree

108. What changes would you make in the agency's recommendation?

Exemption Survey

109. Do you believe that the Agency's recommendation will affect the protection of the public in the delivery of professional services and, if so, how?

110. If you have specific concerns about the proposal or if you have your own recommendations, please briefly describe them in the box below.

Exemption Survey

OPWDD recommends more detailed review of the use of counselor/program aide/assistant and case manager/service coordinator titles in OPWDD state-operated programs and OPWDD approved, funded, regulated voluntary programs to provide services under the protected scope of practice of a LMSW and the performance of restricted activities associated with clinical social work practice.

OPWDD supports the efforts of the Office of the Professions to clarify the protected scopes of practice and clearly identify restricted activities that may not be performed by not-licensed or unauthorized individuals.

OPWDD is prepared to work in collaboration with representatives from the Office of the Professions, the Department of Civil Service and State and voluntary agency Human Resources departments to recommend appropriate realignment of job duties and responsibilities to insure that only individuals licensed or authorized under the law provide these services and perform restricted activities, after July 1, 2013.

111. Do you agree with the Agency's recommendation?

- Strongly agree Agree Unknown Disagree Strongly disagree

112. The Agency's recommendation adequately protects the public

- Strongly agree Agree Unknown Disagree Strongly disagree

113. It is important to implement the Agency's recommendation

- Strongly agree Agree Unknown Disagree Strongly disagree

114. The Agency's recommendation is an affordable approach to providing care

- Strongly agree Agree Unknown Disagree Strongly disagree

115. The Agency's recommendation balances licensure to protect the public with controlling the cost of professional services

- Strongly agree Agree Unknown Disagree Strongly disagree

116. The Agency's recommendation will increase the public's access to professional services

- Strongly agree Agree Unknown Disagree Strongly disagree

117. What changes would you make in the agency's recommendation?

118. Do you believe that the Agency's recommendation will affect the protection of the public in the delivery of professional services and, if so, how?

Exemption Survey

119. If you have specific concerns about the proposal or if you have your own recommendations, please briefly describe them in the box below.

Exemption Survey

OPWDD recommends that the Office of the Professions support the following recommendations to address this issue in its report to the Legislature:

1. In cases where individuals can demonstrate experience appropriate and acceptable to SED, OPWDD strongly supports consideration of an alternative pathway to licensure that includes substitution of experience for examination and/or other licensure requirements; and

2. If individuals in the occupational titles of counselor/program aide/assistant and case manager/service coordinator are also unlicensed MSWs, OPWDD supports the same consideration of an alternative pathway to licensure as described above.

120. Do you agree with the Agency's recommendation?

- Strongly agree Agree Unknown Disagree Strongly disagree

121. The Agency's recommendation adequately protects the public

- Strongly agree Agree Unknown Disagree Strongly disagree

122. It is important to implement the Agency's recommendation

- Strongly agree Agree Unknown Disagree Strongly disagree

123. The Agency's recommendation is an affordable approach to providing care

- Strongly agree Agree Unknown Disagree Strongly disagree

124. The Agency's recommendation balances licensure to protect the public with controlling the cost of professional services

- Strongly agree Agree Unknown Disagree Strongly disagree

125. The Agency's recommendation will increase the public's access to professional services

- Strongly agree Agree Unknown Disagree Strongly disagree

126. What changes would you make in the agency's recommendation?

127. Do you believe that the Agency's recommendation will affect the protection of the public in the delivery of professional services and, if so, how?

Exemption Survey

128. If you have specific concerns about the proposal or if you have your own recommendations, please briefly describe them in the box below.

Exemption Survey

OPWDD recommends that the Office of the Professions support the two permanent solutions to this issue in its report to the Legislature; the first proposal is:

Amendment to the Education Law expanding the current permanent exemption from licensure found in Article 153, psychology, for a psychologist in the employ of a federal, state, county or municipal agency, or other political subdivision, or a chartered elementary or secondary school or degree-granting educational institution insofar as such activities and services are a part of the duties of his salaried position to include OPWDD voluntary not-for-profit agencies;

Note: the second proposal on the next survey page.

129. Do you agree with the Agency's recommendation?

- Strongly agree Agree Unknown Disagree Strongly disagree

130. The Agency's recommendation adequately protects the public

- Strongly agree Agree Unknown Disagree Strongly disagree

131. It is important to implement the Agency's recommendation

- Strongly agree Agree Unknown Disagree Strongly disagree

132. The Agency's recommendation is an affordable approach to providing care

- Strongly agree Agree Unknown Disagree Strongly disagree

133. The Agency's recommendation balances licensure to protect the public with controlling the cost of professional services

- Strongly agree Agree Unknown Disagree Strongly disagree

134. The Agency's recommendation will increase the public's access to professional services

- Strongly agree Agree Unknown Disagree Strongly disagree

135. What changes would you make in the agency's recommendation?

136. Do you believe that the Agency's recommendation will affect the protection of the public in the delivery of professional services and, if so, how?

Exemption Survey

137. If you have specific concerns about the proposal or if you have your own recommendations, please briefly describe them in the box below.

Exemption Survey

OPWDD recommends that the Office of the Professions support the two permanent solutions to this issue in its report to the Legislature; the second proposal is:

Amendment to the Education Law adding a new Article requiring licensing of behavioral health practitioners. Licensing standards to include having a master's degree in psychology, or having successfully completed at least 60 graduate hours in a program leading to a doctoral degree in psychology; having two years of supervised full-time experience in the delivery of professional behavioral health or psychological services; and passing an examination.

NOTE: the first proposal is on the prior survey page

138. Do you agree with the Agency's recommendation?

- Strongly agree Agree Unknown Disagree Strongly disagree

139. The Agency's recommendation adequately protects the public

- Strongly agree Agree No opinion Disagree Strongly disagree

140. It is important to implement the Agency's recommendation

- Strongly agree Agree No opinion Disagree Strongly disagree

141. The Agency's recommendation is an affordable approach to providing care

- Strongly agree Agree No opinion Disagree Strongly disagree

142. The Agency's recommendation balances licensure to protect the public with controlling the cost of professional services

- Strongly agree Agree No opinion Disagree Strongly disagree

143. The Agency's recommendation will INCREASE the public's access to professional services

- Strongly agree Agree No opinion Disagree Strongly disagree

144. The Agency's recommendation will DECREASE the public's access to professional services

- Strongly agree Agree No opinion Disagree Strongly disagree

145. What changes would you make in the agency's recommendation?

Exemption Survey

146. Do you believe that the Agency's recommendation will affect the protection of the public in the delivery of professional services and, if so, how?

147. If you have specific concerns about the Agency's proposal or if you have your own recommendations, please briefly describe them in the box below.

148. This survey asks for your comments on proposals from seven State agencies. You are encouraged to review and respond to as many or as few agency proposals as you wish. You can move forward and backward in the survey by choosing an agency from the list and then clicking "next" at the bottom of the page. These options are presented at the end of each agency's recommendation(s). You may select "complete the survey" and click on "next" at any time to end the survey.

- Office of Alcoholism and Substance Abuse Services (OASAS) 4 proposals
- Office of Children and Family Services (OCFS) 3 proposals
- Office of Mental Health (OMH) 2 proposals
- State Office for the Aging (SOFA) 2 proposals
- Department of Corrections and Community Supervision (DOCCS) 3 proposals
- Department of Health (DOH) 1 proposal
- Complete the survey and provide any additional comments

Exemption Survey

Many of the programs regulated, operated, funded or approved by NYSOFA do not include the various functions from the various scopes of practice established by the Mental Health Practice Act but they use many shared terms that are being used in the scopes of the mental health and social work professions outlined in the Act. These shared terms include: assessments; case management; care coordination; counseling; intervention; self management; and treatment plan. NYSOFA uses these terms in the context of determining the needs and service eligibility of older adults for programs and services provided through the Aging Services Network under the Older Americans Act and the New York State Elder Law – not for the purpose of assessing, diagnosing and treating an older adult with mental illness.

It is recommended that programs that NYSOFA regulates, operates, and funds be provided: (1) clarification in statute and (2) an exemption that the use of shared terms by these professions is limited to the provision of mental health services such as psychotherapy, psychoanalysis, or diagnosis of mental health conditions, as per the DSM codes and ICD 10 codes.

149. Do you agree with the Agency's recommendation?

- Strongly agree Agree Unknown Disagree Strongly disagree

150. The Agency's recommendation adequately protects the public

- Strongly agree Agree Unknown Disagree Strongly disagree

151. It is important to implement the Agency's recommendation

- Strongly agree Agree Unknown Disagree Strongly disagree

152. The Agency's recommendation is an affordable approach to providing care

- Strongly agree Agree Unknown Disagree Strongly disagree

153. The Agency's recommendation balances licensure to protect the public with controlling the cost of professional services

- Strongly agree Agree Unknown Disagree Strongly disagree

154. The Agency's recommendation will increase the public's access to professional services

- Strongly agree Agree Unknown Disagree Strongly disagree

155. What changes would you make in the agency's recommendation?

156. Do you believe that the Agency's recommendation will affect the protection of the public in the delivery of professional services and, if so, how?

Exemption Survey

157. If you have specific concerns about the proposal or if you have your own recommendations, please briefly describe them in the box below.

Exemption Survey

The Administration on Aging (AoA) is developing objectives, priorities and a long-term plan for supporting State and local efforts pertaining to education, prevention, detection and treatment of mental disorders, including age-related dementia, depression, and Alzheimer's disease and related neurological disorders with neurological and organic brain dysfunction. Although the 2006 Amendments to the Older Americans Act include no specific requirements for States regarding new Title II mental health provisions, there are significant opportunities for States to:

- Ensure that mental health programs and services are aware of the role Aging and Disability Resource Centers play in connecting consumers with resources to meet their needs.
- Explore the availability of evidence-based mental health programs and incorporating them where practicable.
- Strengthen partnerships between mental health programs and services and the Aging Services Network at the State and AAA/community levels.

In order to ensure this work can continue, it is recommended that an exemption should be crafted that would allow the Aging Services Network to effectively carry out the mental health references that are contained in the Older Americans Act, which is the major source of funding for the Aging Services Network and is designed to encourage innovation.

158. Do you agree with the Agency's recommendation?

- Strongly agree Agree Unknown Disagree Strongly disagree

159. The Agency's recommendation adequately protects the public

- Strongly agree Agree Unknown Disagree Strongly disagree

160. It is important to implement the Agency's recommendation

- Strongly agree Agree Unknown Disagree Strongly disagree

161. The Agency's recommendation is an affordable approach to providing care

- Strongly agree Agree Unknown Disagree Strongly disagree

162. The Agency's recommendation balances licensure to protect the public with controlling the cost of professional services

- Strongly agree Agree Unknown Disagree Strongly disagree

163. The Agency's recommendation will increase the public's access to professional services

- Strongly agree Agree Unknown Disagree Strongly disagree

164. What changes would you make in the agency's recommendation?

Exemption Survey

165. Do you believe that the Agency's recommendation will affect the protection of the public in the delivery of professional services and, if so, how?

166. If you have specific concerns about the proposal or if you have your own recommendations, please briefly describe them in the box below.

167. This survey asks for your comments on proposals from seven State agencies. You are encouraged to review and respond to as many or as few agency proposals as you wish. You can move forward and backward in the survey by choosing an agency from the list and then clicking "next" at the bottom of the page. These options are presented at the end of each agency's recommendation(s). You may select "complete the survey" and click on "next" at any time to end the survey.

- Office of Alcoholism and Substance Abuse Services (OASAS) 4 proposals
- Office of Children and Family Services (OCFS) 3 proposals
- Office of Mental Health (OMH) 2 proposals
- Office for People with Developmental Disabilities (OPWDD) 5 proposals
- Department of Corrections and Community Supervision (DOCCS) 3 proposals
- Department of Health (DOH) 1 proposal
- Complete the survey and provide any additional comments

Exemption Survey

Recommendations on alternative pathways to licensure would be to receive SED's acceptance of the established Civil Service education and experience requirements for the Alcohol and Substance Abuse Treatment (ASAT) titles.

168. Do you agree with the Agency's recommendation?

- Strongly agree Agree Unknown Disagree Strongly disagree

169. The Agency's recommendation adequately protects the public

- Strongly agree Agree Unknown Disagree Strongly disagree

170. It is important to implement the Agency's recommendation

- Strongly agree Agree Unknown Disagree Strongly disagree

171. The Agency's recommendation is an affordable approach to providing care

- Strongly agree Agree Unknown Disagree Strongly disagree

172. The Agency's recommendation balances licensure to protect the public with controlling the cost of professional services

- Strongly agree Agree Unknown Disagree Strongly disagree

173. The Agency's recommendation will increase the public's access to professional services

- Strongly agree Agree Unknown Disagree Strongly disagree

174. What changes would you make in the agency's recommendation?

175. Do you believe that the Agency's recommendation will affect the protection of the public in the delivery of professional services and, if so, how?

176. If you have specific concerns about the proposal or if you have your own recommendations, please briefly describe them in the box below.

Exemption Survey

Recommendations on possible modification to the Civil Service requirements to include a Qualified Health Professional (QHP) of which a Credential Alcoholism & Substance Abuse Counselor (CASAC) is, could be explored, with the allowance for "grandfathering" in current employees in such titles.

177. Do you agree with the Agency's recommendation?

- Strongly agree Agree Unknown Disagree Strongly disagree

178. The Agency's recommendation adequately protects the public

- Strongly agree Agree Unknown Disagree Strongly disagree

179. It is important to implement the Agency's recommendation

- Strongly agree Agree Unknown Disagree Strongly disagree

180. The Agency's recommendation is an affordable approach to providing care

- Strongly agree Agree Unknown Disagree Strongly disagree

181. The Agency's recommendation balances licensure to protect the public with controlling the cost of professional services

- Strongly agree Agree Unknown Disagree Strongly disagree

182. The Agency's recommendation will increase the public's access to professional services

- Strongly agree Agree Unknown Disagree Strongly disagree

183. What changes would you make in the agency's recommendation?

184. Do you believe that the Agency's recommendation will affect the protection of the public in the delivery of professional services and, if so, how?

185. If you have specific concerns about the proposal or if you have your own recommendations, please briefly describe them in the box below.

Exemption Survey

Recommendations for amendments to law, rules and regulations necessary to fully implement the requirements for licensure by July 1, 2013 would be to develop established waivers in regard to percentages of Qualified Health Professional (QHP) staff necessary at each site to maintain the provision of substance abuse services, as well as action plans for those sites without QHP staff.

The collaboration between DOCCS and OASAS has developed waivers (Memorandum of Understanding) (ATTACHMENT #18 to the DOCCS Report) to address such staffing considerations when specified DOCCS sites are identified for OASAS certification.

186. Do you agree with the Agency's recommendation?

- Strongly agree Agree Unknown Disagree Strongly disagree

187. The Agency's recommendation adequately protects the public

- Strongly agree Agree Unknown Disagree Strongly disagree

188. It is important to implement the Agency's recommendation

- Strongly agree Agree Unknown Disagree Strongly disagree

189. The Agency's recommendation is an affordable approach to providing care

- Strongly agree Agree Unknown Disagree Strongly disagree

190. The Agency's recommendation balances licensure to protect the public with controlling the cost of professional services

- Strongly agree Agree Unknown Disagree Strongly disagree

191. The Agency's recommendation will increase the public's access to professional services

- Strongly agree Agree Unknown Disagree Strongly disagree

192. What changes would you make in the agency's recommendation?

193. Do you believe that the Agency's recommendation will affect the protection of the public in the delivery of professional services and, if so, how?

Exemption Survey

194. If you have specific concerns about the proposal or if you have your own recommendations, please briefly describe them in the box below.

195. This survey asks for your comments on proposals from seven State agencies. You are encouraged to review and respond to as many or as few agency proposals as you wish. You can move forward and backward in the survey by choosing an agency from the list and then clicking "next" at the bottom of the page. These options are presented at the end of each agency's recommendation(s). You may select "complete the survey" and click on "next" at any time to end the survey.

- Office of Alcoholism and Substance Abuse Services (OASAS) 4 proposals
- Office of Children and Family Services (OCFS) 3 proposals
- Office of Mental Health (OMH) 2 proposals
- Office for People with Developmental Disabilities (OPWDD) 5 proposals
- State Office for the Aging (SOFA) 2 proposals
- Department of Health (DOH) 1 proposal
- Complete the survey and provide any additional comments

Exemption Survey

The Department of Health does not believe any actions are necessary to amend the law and defers to agencies that are being impacted by this legislation for further recommendations. The Department looks forward to working with SED and other agencies in the future to ensure compliance with this legislation.

196. Do you agree with the Agency's recommendation?

- Strongly agree Agree Unknown Disagree Strongly disagree

197. The Agency's recommendation adequately protects the public

- Strongly agree Agree Unknown Disagree Strongly disagree

198. It is important to implement the Agency's recommendation

- Strongly agree Agree Unknown Disagree Strongly disagree

199. The Agency's recommendation is an affordable approach to providing care

- Strongly agree Agree Unknown Disagree Strongly disagree

200. The Agency's recommendation balances licensure to protect the public with controlling the cost of professional services

- Strongly agree Agree Unknown Disagree Strongly disagree

201. The Agency's recommendation will increase the public's access to professional services

- Strongly agree Agree Unknown Disagree Strongly disagree

202. What changes would you make in the agency's recommendation?

203. Do you believe that the Agency's recommendation will affect the protection of the public in the delivery of professional services and, if so, how?

204. If you have specific concerns about the proposal or if you have your own recommendations, please briefly describe them in the box below.

Exemption Survey

205. This survey asks for your comments on proposals from seven State agencies. You are encouraged to review and respond to as many or as few agency proposals as you wish. You can move forward and backward in the survey by choosing an agency from the list and then clicking "next" at the bottom of the page. These options are presented at the end of each agency's recommendation(s). You may select "complete the survey" and click on "next" at any time to end the survey.

- Office of Alcoholism and Substance Abuse Services (OASAS) 4 proposals
- Office of Children and Family Services (OCFS) 3 proposals
- Office of Mental Health (OMH) 2 proposals
- Office for People with Developmental Disabilities (OPWDD) 5 proposals
- State Office for the Aging (SOFA) 2 proposals
- Department of Corrections and Community Supervision (DOCCS) 3 proposals
- Complete the survey and provide any additional comments

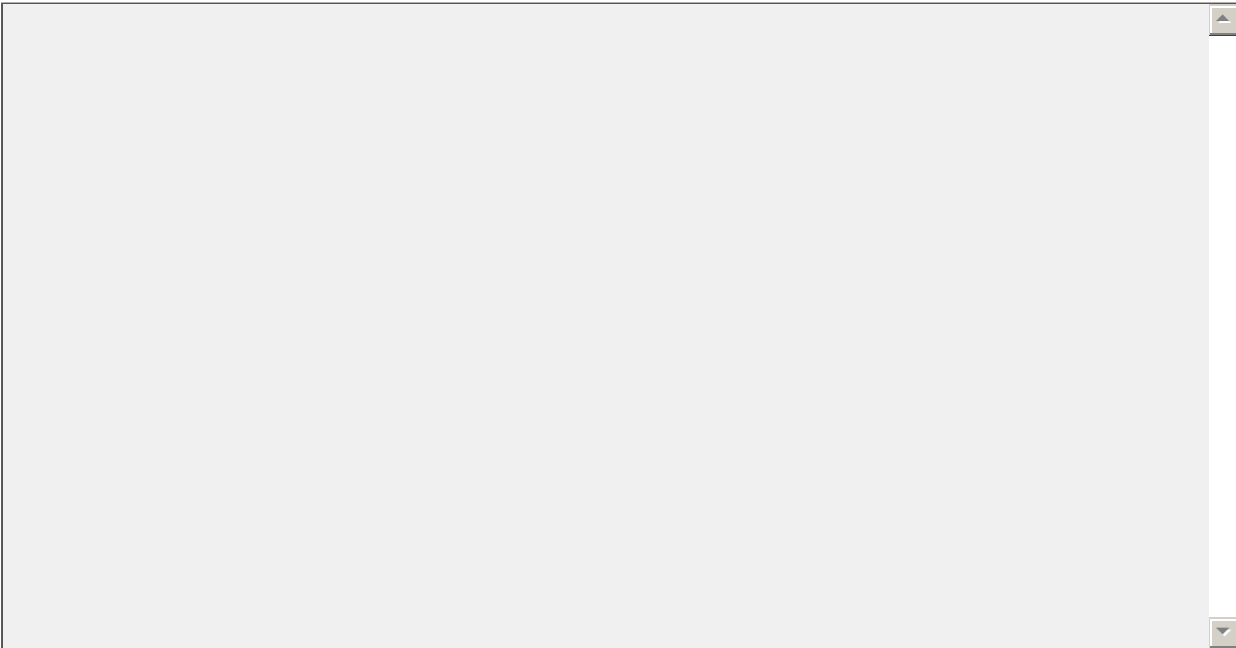
Exemption Survey

Thank you for taking the time to review the recommendations of the exempt State agencies in regard to the exemptions from licensure as a psychologist, social worker or mental health practitioner.

The Office of the Professions will be compiling and reviewing the information, in order to develop the report mandated by law. Your comments and thoughts will prove valuable in completing this process.

If you have additional comments or suggestions we would invite you to provide them in the box below.

206. Please provide any additional comments or suggestions for consideration by the Office of the Professions in developing the report and recommending changes in laws, rules or regulations. If you wish to submit a separate letter, you may send it by email to SWMHPSurvey@mail.nysed.gov.



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

Appendix E
Results of Requests for
Public Comments on Proposals

Appendix E
Agency proposals and results of public comments

This document provides the proposals from each of the exempt agencies, along with the Survey Monkey results. The respondents had the ability to pick and choose the proposals to which he/she reacted, so that a large number of individuals skipped entire sections of the survey. These are reflected in the total results for each item.

Office of Alcohol and Substance Abuse Services (OASAS) #1

While Credentialed Alcoholism & Substance Abuse Counselors (CASAC) and CASAC Trainees are permanently exempt from the restrictions placed on unlicensed direct care staff, Chapters 130 and 132 of the Laws of 2010 may inadvertently “choke off” the pipeline of entry level counselors who are preparing to become CASACs.

To ensure that entry level counselors who pursue a CASAC in New York State will have the ability to earn qualifying work experience as counselors, it will be necessary for OASAS to obtain an expanded exemption. Such an exemption should require sufficient oversight and supervision of services provided by entry level counselors while ensuring that they have “hands on” practical training in the core counseling performance domains.

Question	Strongly agree	Agree	Unknown	Disagree	Strongly disagree	Answered question	Skipped question
1. Do you agree with the Agency's recommendation?	57 (26%)	58 (26%)	15 (6%)	29 (13%)	62 (28%)	219 (100%)	863
2. The Agency's recommendation is necessary to protect the public	51 (23%)	46 (21%)	22 (10%)	39 (18%)	61 (28%)	217 (100%)	865
3. The Agency's recommendation adequately protects the public	44 (20%)	39 (18%)	40 (18%)	32 (14%)	63 (29%)	216 (100%)	866
4. It is important to implement the Agency's recommendation	49 (23%)	45 (21%)	26 (12%)	30 (14%)	62 (29%)	210 (100%)	872
5. The Agency's recommendation is an affordable approach to providing care	46 (21%)	37 (17%)	54 (25%)	28 (13%)	47 (22%)	211 (100%)	871
6. The Agency's recommendation balances licensure to protect the public with controlling the cost of professional services	40 (19%)	33 (15%)	20 (43%)	38 (18%)	57 (27%)	209 (100%)	873
7. The Agency's recommendation will	40 (18%)	40 (18%)	43 (20%)	41 (19%)	51 (23%)	214 (100%)	868

increase the public's access to professional services							
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Open-ended Question (comments are accessible online)	Answered Question	Skipped question
8. What changes would you make in the agency's recommendation?	86	996
9. Do you believe that the Agency's recommendation will affect the protection of the public in the delivery of professional services and, if so, how?	92	990
10. If you have specific concerns about the proposal or if you have your own recommendations, please briefly describe them in the box below.	61	1,021

OASAS #2

Building on the model developed by the Federal Substance Abuse and Mental Health Services Administration (SAMHSA) in 2010, OASAS will look to promulgate a Scope of Practice framework for substance abuse counselors who work in its service delivery system. The framework currently under development would authorize “permitted activities” for counselors, based on education level achieved, professional credential or license status, and qualifying work experience.

The Scope of Practice framework will be guided by the licensure standards enacted by SED, while incentivizing providers to work with/support unlicensed staff to become credentialed as CASACs or licensed as social workers or mental health practitioners.

Question	Strongly agree	Agree	Unknown	Disagree	Strongly disagree	Answered question	Skipped question
11. Do you agree with the Agency's recommendation?	41 (24%)	69 (34%)	17 (10%)	14 (8%)	39 (23%)	169 (100%)	913
12. The Agency's recommendation adequately protects the public	42 (24%)	47 (27%)	31 (18%)	15 (8%)	37 (21%)	171 (100%)	911
13. It is important to implement the Agency's recommendation	42 (25%)	49 (29%)	22 (13%)	18 (10%)	38 (22%)	168 (100%)	914
14. The Agency's recommendation is an affordable approach to providing care	37 (22%)	36 (21%)	47 (28%)	19 (11%)	28 (16%)	166 (100%)	916
15. The Agency's recommendation balances licensure to protect the public with controlling the cost of professional	36 (21%)	37 (22%)	39 (23%)	20 (12%)	34 (20%)	165 (100%)	917

services							
16. The Agency's recommendation will increase the public's access to professional services	36 (21%)	39 (23%)	36 (21%)	24 (14%)	32 (19%)	166 (100%)	916

Open-ended Question (comments are accessible online)	Answered Question	Skipped question
17. What changes would you make in the agency's recommendation?	58	1,024
18. Do you believe that the Agency's recommendation will affect the protection of the public in the delivery of professional services and, if so, how?	55	1,027
19. If you have specific concerns about the proposal or if you have your own recommendations, please briefly describe them in the box below.	29	1,053

OASAS #3

OASAS will continue to work with SED to more clearly define the parameters of the multi-disciplinary team model and how it can serve as the solution for the publicly-funded systems to comply with the State's licensure standards.

By allowing unlicensed personnel to work with and assist in the delivery of services and, where appropriate, recommend treatment options, subject to the direct supervision and sign off by licensed practitioners, the multi-disciplinary team offers a proven, cost effective and viable alternative to the traditional private practice model.

Question	Strongly agree	Agree	Unknown	Disagree	Strongly disagree	Answered question	Skipped question
20. Do you agree with the Agency's recommendation?	39 (23%)	41 (24%)	13 (7%)	21 (12%)	55 (32%)	169 (100%)	913
21. The Agency's recommendation adequately protects the public	35 (29%)	41 (24%)	16 (9%)	24 (14%)	53 (31%)	169 (100%)	913
22. It is important to implement the Agency's recommendation	38 (22%)	38 (22%)	19 (11%)	18 (10%)	54 (32%)	167 (100%)	915
23. The Agency's recommendation is an affordable approach to providing care	38 (22%)	33 (19%)	36 (21%)	18 (10%)	45 (26%)	169 (100%)	913
24. The Agency's recommendation	36 (21%)	31 (18%)	27 (16%)	27 (16%)	48 (28%)	168 (100%)	914

balances licensure to protect the public with controlling the cost of professional services							
25. The Agency's recommendation will increase the public's access to professional services	36 (21%)	36 (21%)	26 (15%)	26 (15%)	44 (26%)	167 (100%)	915

Open-ended Question (comments are accessible online)	Answered Question	Skipped question
26. What changes would you make in the agency's recommendation?	51	1,031
27. Do you believe that the Agency's recommendation will affect the protection of the public in the delivery of professional services and, if so, how?	60	1,022
28. If you have specific concerns about the proposal or if you have your own recommendations, please briefly describe them in the box below.	40	1,042

OASAS #4

To minimize disruption in the delivery of chemical dependence and compulsive gambling services and provide greater opportunity for the provider agencies in the OASAS system to transition their current staffing to one that is consistent with the provisions of Chapter 132 of the Laws of 2010, OASAS recommends:

- Expanding the permanent exemption to other OASAS credentialed professionals (e.g., Prevention Professionals, Compulsive Gambling Counselors, etc.)
- Amending the Education Law to allow other unlicensed OASAS “Qualified Health Professionals” to continue serving as part of the OASAS multi-disciplinary team.
- Amending the Education Law for temporary grand parenting into existing professions for qualified individuals who meet specified education, experience or credential requirements

Question	Strongly agree	Agree	Unknown	Disagree	Strongly disagree	Answered question	Skipped question
29. Do you agree with the Agency's	34 (21%)	32 (20%)	8 (5%)	28 (17%)	55 (35%)	156 (100%)	926

recommendation?							
30. The Agency's recommendation adequately protects the public	31 (20%)	32 (20%)	9 (5%)	32 (20%)	52 (33%)	155 (100%)	927
31. It is important to implement the Agency's recommendation	33 (21%)	31 (20%)	13 (8%)	23 (15%)	54 (35%)	153 (100%)	929
32. The Agency's recommendation is an affordable approach to providing care	33 (21%)	25 (16%)	31 (20%)	18 (11%)	48 (31%)	154 (100%)	928
33. The Agency's recommendation balances licensure to protect the public with controlling the cost of professional services	33 (21%)	20 (13%)	24 (15%)	25 (16%)	51 (33%)	152 (100%)	930
34. The Agency's recommendation will increase the public's access to professional services	31 (19%)	29 (18%)	25 (16%)	24 (15%)	48 (30%)	156 (100%)	926

Open-ended Question (comments are accessible online)	Answered Question	Skipped question
35. What changes would you make in the agency's recommendation?	47	1,035
36. Do you believe that the Agency's recommendation will affect the protection of the public in the delivery of professional services and, if so, how?	50	1,032
37. If you have specific concerns about the proposal or if you have your own recommendations, please briefly describe them in the box below.	32	1,050

OCFS #1

Provide a permanent exemption for state operated or regulated programs as the regulatory oversight structure provides safeguards for consumers. The exemption for programs that are merely funded by one of the exempted agencies would be discontinued. Regulated residential programs (voluntary agencies) for children, for example, are a large portion of those providers who benefit from the current OCFS exemption.

It is unproven that licensure of voluntary agency staff would enhance the quality of services. As part of OCFS oversight of these programs, OCFS conducts case reviews, makes quarterly monitoring visits and investigates any allegations of child abuse and maltreatment. The focus should be shifted to the practitioners who were the reason for the 2002 enactment of licensing requirements. The legislation was meant for private practitioners who were unregulated and unsupervised and for whom licensing is desirable in order to bill insurance/Medicaid for services. An unintended consequence of the 2002 legislation was that it also impacted on government agencies and regulated not-for-profits.

Question	Strongly agree	Agree	Unknown	Disagree	Strongly disagree	Answered question	Skipped question
38. Do you agree with the Agency's recommendation?	22 (12%)	29 (16%)	15 (8%)	38 (22%)	70 (40%)	173 (100%)	909
39. The Agency's recommendation adequately protects the public	20 (11%)	37 (15%)	21 (12%)	37 (21%)	68 (39%)	172 (100%)	910
40. It is important to implement the Agency's recommendation	20 (11%)	30 (17%)	19 (11%)	36 (21%)	67 (39%)	171 (100%)	911
41. The Agency's recommendation is an affordable approach to providing care	24 (14%)	33 (19%)	36 (21%)	29 (17%)	49 (28%)	170 (100%)	912
42. The Agency's recommendation balances licensure to protect the public with controlling the cost of professional services	21 (12%)	26 (15%)	29 (17%)	35 (20%)	58 (34%)	168 (100%)	914
43. The Agency's recommendation will increase the public's access to professional services	21 (12%)	22 (12%)	32 (18%)	36 (21%)	61 (35%)	171 (100%)	911

Open-ended Question (comments are accessible online)	Answered Question	Skipped question
44. What changes would you make in the agency's recommendation?	66	1,016
45. Do you believe that the Agency's recommendation will affect the protection of the public in the delivery of professional services and, if so, how?	65	1,017
46. If you have specific concerns about the proposal or if you have your own recommendations, please briefly describe them in the box below.	47	1,035

OCFS #2

Provide more clarity in statute/regulation on activities that are and are not within the restricted scopes of practice.

Based on the survey results, many people appeared to misunderstand the restricted practice of assessment and evaluation. More OCFS survey responders indicated that they provided assessment and evaluation than any of the other five activities and more of these responders said that they were unlicensed than said they were licensed.

Question	Strongly agree	Agree	Unknown	Disagree	Strongly	Answered	Skipped
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					disagree	question	question
47. Do you agree with the Agency's recommendation?	36 (24%)	59 (40%)	17 (11%)	15 (10%)	22 (15%)	147 (100%)	935
48. The Agency's recommendation adequately protects the public	28 (19%)	53 (36%)	22 (15%)	18 (12%)	26 (17%)	145 (100%)	937
49. It is important to implement the Agency's recommendation	32 (21%)	54 (36%)	24 (16%)	16 (10%)	23 (15%)	147 (100%)	935
50. The Agency's recommendation is an affordable approach to providing care	21 (14%)	36 (25%)	52 (36%)	10 (7%)	26 (18%)	143 (100%)	939
51. The Agency's recommendation balances licensure to protect the public with controlling the cost of professional services	26 (17%)	441 (28%)	39 (26%)	15 (10%)	27 (18%)	146 (100%)	936
52. The Agency's recommendation will increase the public's access to professional services	20 (13%)	31 (21%)	53 (36%)	15 (10%)	28 (19%)	145 (100%)	937

Open-ended Question (comments are accessible online)	Answered Question	Skipped question
53. What changes would you make in the agency's recommendation?	36	1,046
54. Do you believe that the Agency's recommendation will affect the protection of the public in the delivery of professional services and, if so, how?	38	1,044
55. If you have specific concerns about the proposal or if you have your own recommendations, please briefly describe them in the box below.	26	1,056

OCFS #3

Provide more clarity in statute/regulation on the differences between activities that may be performed by a Licensed Master Social Worker (LMSW) and those that are permissible only for a Licensed Clinical Social Worker (LCSW).

Question	Strongly agree	Agree	Unknown	Disagree	Strongly disagree	Answered question	Skipped question
56. Do you agree with the Agency's recommendation?	44 (29%)	73 (49%)	15 (10%)	6 (4%)	11 (7%)	148 (100%)	934
57. The Agency's recommendation	33 (22%)	59 (41%)	36 (25%)	5 (3%)	13 (9%)	144 (100%)	938

adequately protects the public							
58. It is important to implement the Agency's recommendation	34 (23%)	62 (43%)	27 (19%)	5 (3%)	15 (10%)	142 (100%)	940
59. The Agency's recommendation is an affordable approach to providing care	25 (17%)	40 (28%)	61 (43%)	5 (3%)	13 (9%)	142 (100%)	940
60. The Agency's recommendation balances licensure to protect the public with controlling the cost of professional services	27 (19%)	43 (30%)	52 (37%)	7 (5%)	13 (9%)	140 (100%)	942
61. The Agency's recommendation will increase the public's access to professional services	25 (18%)	37 (26%)	52 (37%)	10 (7%)	16 (11)	139 (100%)	943

Open-ended Question (comments are accessible online)	Answered Question	Skipped question
62. What changes would you make in the agency's recommendation?	26	1,056
63. Do you believe that the Agency's recommendation will affect the protection of the public in the delivery of professional services and, if so, how?	22	1,060
64. If you have specific concerns about the proposal or if you have your own recommendations, please briefly describe them in the box below.	13	1,069

OMH #1

Most importantly, the Legislature should establish a permanent exemption from “scope of practice” restrictions for programs operated, funded, licensed, or regulated by OMH.

All of the State mental hygiene (“O”) agencies agree that the Education Law Title VII regulatory apparatus has many benefits, and where appropriate, as in the recent OMH Part 599 clinic regulation (14 NYCRR Part 599), has been wholeheartedly endorsed. However, OMH and the “O” agencies also have instituted within the public behavioral health system substantial cost-effective public protections, and there is no demonstrated need for additional restrictions on the operation of these programs.

Question	Strongly agree	Agree	Unknown	Disagree	Strongly disagree	Answered question	Skipped question
65. Do you agree with the Agency's recommendation?	40 (12%)	50 (15%)	22 (6%)	53 (16%)	164 (49%)	329 (100%)	753

66. The Agency's recommendation adequately protects the public	39 (12%)	50 (15%)	28 (8%)	56 (17%)	154 (47%)	325 (100%)	757
67. It is important to implement the Agency's recommendation	43 (13%)	48 (14%)	28 (8%)	49 (15%)	155 (48%)	322 (100%)	760
68. The Agency's recommendation is an affordable approach to providing care	42 (13%)	48 (15%)	67 (21%)	53 (16%)	109 (34%)	316 (100%)	766
69. The Agency's recommendation balances licensure to protect the public with controlling the cost of professional services	38 (12%)	45 (14%)	35 (11%)	71 (22%)	130 (41%)	317 (100%)	765
70. The Agency's recommendation will increase the public's access to professional services	41 (12%)	38 (11%)	55 (17%)	54 (17%)	134 (42%)	318 (100%)	764

Open-ended Question (comments are accessible online)	Answered Question	Skipped question
71. What changes would you make in the agency's recommendation?	139	943
72. Do you believe that the Agency's recommendation will affect the protection of the public in the delivery of professional services and, if so, how?	149	933
73. If you have specific concerns about the proposal or if you have your own recommendations, please briefly describe them in the box below.	103	979

OMH #2

The OMH has sufficient oversight mechanisms and program supervision in the service delivery system that makes conversion of unlicensed staff to licensed staff unnecessary.

Extension of the current exemption from the “scope of practice“ provisions will preserve the State statutory scheme for the provision of quality behavioral health services as defined in the State’s Mental Hygiene Law, as well as the important oversight role of the “O” agencies within the Department of Mental Hygiene.

Question	Strongly agree	Agree	Unknown	Disagree	Strongly disagree	Answered question	Skipped question
74. Do you agree with the Agency's recommendation?	34 (12%)	30 (11%)	14 (5%)	49 (17%)	147 (53%)	273 (100%)	809
75. The Agency's recommendation	32 (11%)	28 (10%)	22 (8%)	51 (18%)	140 (51%)	272 (100%)	810

adequately protects the public							
76. It is important to implement the Agency's recommendation	33 (12%)	30 (11%)	19 (7%)	51 (18%)	140 (51%)	272 (100%)	810
77. The Agency's recommendation is an affordable approach to providing care	30 (11%)	36 (13%)	47 (17%)	46 (17%)	108 (40%)	266 (100%)	816
78. The Agency's recommendation balances licensure to protect the public with controlling the cost of professional services	31 (11%)	32 (12%)	25 (9%)	60 (22%)	121 (45%)	267 (100%)	815
79. The Agency's recommendation will increase the public's access to professional services	31 (11%)	30 (11%)	44 (16%)	49 (18%)	117 (43%)	268 (100%)	814

Open-ended Question (comments are accessible online)	Answered Question	Skipped question
80. What changes would you make in the agency's recommendation?	94	988
81. Do you believe that the Agency's recommendation will affect the protection of the public in the delivery of professional services and, if so, how?	98	984
82. If you have specific concerns about the proposal or if you have your own recommendations, please briefly describe them in the box below.	69	1,013

OPWDD #1

The survey responses collected by the Office of the Professions do not provide specific information regarding the reasons why the MSWs reported in the survey are not licensed under current State Education Law. OPWDD recommends that further examination of the circumstances of the unlicensed MSWs is necessary to determine if individuals are:

1. Covered under the permanent exemption found in Article 154;
2. Working toward licensure during the extension of the time-limited exemption;
3. Employees of OPWDD state-operated programs who meet the Civil Service qualifications at the professional level, but are not required to be licensed for his/her job title under applicable Civil Service standards; and/or
4. Not authorized to provide restricted activities and must obtain a license and/or the requisite supervision or supervised experience in accordance with Education Law; or do not have the necessary education, training or experience to become

licensed under current Education Law.

Further study of the above circumstances and receipt of guidance from the Office of the Professions and the Department of Civil Service will be necessary to enable OPWDD to develop and implement a policy that will assure compliance with the professional licensure laws for unlicensed MSWs employed in OPWDD state-operated programs and OPWDD approved, funded and regulated voluntary programs, not later than July 1, 2013.

Question	Strongly agree	Agree	Unknown	Disagree	Strongly disagree	Answered question	Skipped question
83. Do you agree with the Agency's recommendation?	64 (24%)	122 (48%)	21 (8%)	22 (8%)	39 (14%)	263 (100%)	819
84. The Agency's recommendation adequately protects the public	54 (20%)	103 (39%)	44 (17%)	22 (8%)	39 (15%)	258 (100%)	824
85. It is important to implement the Agency's recommendation	61 (23%)	112 (43%)	25 (9%)	22 (8%)	42 (16%)	258 (100%)	824
86. The Agency's recommendation is an affordable approach to providing care	49 (19%)	73 (28%)	74 (28%)	23 (9%)	41 (16%)	256 (100%)	826
87. The Agency's recommendation balances licensure to protect the public with controlling the cost of professional services	46 (18%)	82 (32%)	65 (25%)	23 (9%)	42 (16%)	255 (100%)	827
88. The Agency's recommendation will increase the public's access to professional services	47 (18%)	73 (28%)	70 (27%)	28 (11%)	40 (15%)	255 (100%)	827

Open-ended Question (comments are accessible online)	Answered Question	Skipped question
89. What changes would you make in the agency's recommendation?	69	1,013
90. Do you believe that the Agency's recommendation will affect the protection of the public in the delivery of professional services and, if so, how?	71	1,011
91. If you have specific concerns about the proposal or if you have your own recommendations, please briefly describe them in the box below.	48	1,034

OPWDD #2

OPWDD recommends more detailed review of the use of counselor/program aide/assistant and case manager/service coordinator titles in OPWDD state-operated programs and OPWDD approved, funded, regulated voluntary programs to provide services under the protected scope of practice of a LMSW and the performance of restricted activities associated with clinical social work practice.

OPWDD supports the efforts of the Office of the Professions to clarify the protected scopes of practice and clearly identify restricted activities that may not be performed by not-licensed or unauthorized individuals.

OPWDD is prepared to work in collaboration with representatives from the Office of the Professions, the Department of Civil Service and State and voluntary agency Human Resources departments to recommend appropriate realignment of job duties and responsibilities to insure that only individuals licensed or authorized under the law provide these services and perform restricted activities, after July 1, 2013.

Question	Strongly agree	Agree	Unknown	Disagree	Strongly disagree	Answered question	Skipped question
92. Do you agree with the Agency's recommendation?	73 (29%)	104 (42%)	17 (6%)	25 (10%)	28 (11%)	246 (100%)	836
93. The Agency's recommendation adequately protects the public	61 (25%)	101 (41%)	34 (14%)	21 (8%)	27 (11%)	243 (100%)	839
94. It is important to implement the Agency's recommendation	68 (28%)	93 (38%)	28 (11%)	27 (11%)	26 (10%)	241 (100%)	841
95. The Agency's recommendation is an affordable approach to providing care	49 (20%)	77 (32%)	62 (25%)	26 (10%)	29 (12%)	239 (100%)	843
96. The Agency's recommendation balances licensure to protect the public with controlling the cost of professional services	48 (20%)	81 (33%)	57 (23%)	28 (11%)	28 (11%)	239 (100%)	843
97. The Agency's recommendation will increase the public's access to professional services	45 (28%)	77 (32%)	59 (24*)	32 (13%)	28 (11%)	238 (100%)	844

Open-ended Question (comments are accessible online)	Answered Question	Skipped question
98. What changes would you make in the agency's recommendation?	59	1,023

99. Do you believe that the Agency's recommendation will affect the protection of the public in the delivery of professional services and, if so, how?	59	1,023
100. If you have specific concerns about the proposal or if you have your own recommendations, please briefly describe them in the box below.	36	1,046

OPWDD #3

OPWDD recommends that the Office of the Professions support the following recommendations to address this issue in its report to the Legislature:

1. In cases where individuals can demonstrate experience appropriate and acceptable to SED, OPWDD strongly supports consideration of an alternative pathway to licensure that includes substitution of experience for examination and/or other licensure requirements; and
2. If individuals in the occupational titles of counselor/program aide/assistant and case manager/service coordinator are also unlicensed MSWs, OPWDD supports the same consideration of an alternative pathway to licensure as described above.

Question	Strongly agree	Agree	Unknown	Disagree	Strongly disagree	Answered question	Skipped question
101. Do you agree with the Agency's recommendation?	65 (25%)	76 (29%)	11 (4%)	50 (19%)	57 (22%)	256 (100%)	826
102. The Agency's recommendation adequately protects the public	50 (19%)	77 (30%)	27 (10%)	39 (15)	62 (24%)	254 (100%)	828
103. It is important to implement the Agency's recommendation	57 (22%)	72 (28%)	24 (9%)	43 (17%)	58 (23%)	252 (100%)	830
104. The Agency's recommendation is an affordable approach to providing care	52 (20%)	74 (29%)	42 (16%)	33 (13%)	51 (20%)	249 (100%)	833
105. The Agency's recommendation balances licensure to protect the public with controlling the cost of professional services	52 (20%)	71 (28%)	30 (12%)	43 (17%)	55 (22%)	249 (100%)	833
106. The Agency's recommendation will increase the public's access to	49 (19%)	70 (28%)	45 (18%)	36 (14%)	50 (20%)	248 (100%)	834

professional services							
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Open-ended Question (comments are accessible online)	Answered Question	Skipped question
107. What changes would you make in the agency's recommendation?	71	1,011
108. Do you believe that the Agency's recommendation will affect the protection of the public in the delivery of professional services and, if so, how?	63	1,019
109. If you have specific concerns about the proposal or if you have your own recommendations, please briefly describe them in the box below.	43	1,039

OPWDD #4

OPWDD recommends that the Office of the Professions support the two permanent solutions to this issue in its report to the Legislature; the first proposal is:

Amendment to the Education Law expanding the current permanent exemption from licensure found in Article 153, psychology, for a psychologist in the employ of a federal, state, county or municipal agency, or other political subdivision, or a chartered elementary or secondary school or degree-granting educational institution insofar as such activities and services are a part of the duties of his salaried position to include OPWDD voluntary not-for-profit agencies;

Note: the second proposal on the next survey page.

Question	Strongly agree	Agree	Unknown	Disagree	Strongly disagree	Answered question	Skipped question
110. Do you agree with the Agency's recommendation?	73 (30%)	43 (17%)	28 (11%)	39 (16%)	61 (25%)	243 (100%)	839
111. The Agency's recommendation adequately protects the public	64 (26%)	44 (18%)	32 (13%)	42 (17%)	59 (24%)	241 (100%)	841
112. It is important to implement the Agency's recommendation	67 (28%)	43 (18%)	29 (12%)	42 (17%)	58 (24%)	237 (100%)	845
113. The Agency's recommendation is an affordable approach to providing care	62 (26%)	40 (20%)	48 (20%)	31 (13%)	46 (19%)	236 (100%)	846
114. The Agency's recommendation balances licensure to protect the public with controlling the cost of professional services	60 (25%)	47 (19%)	42 (17%)	39 (16%)	51 (21%)	239 (100%)	843

115. The Agency's recommendation will increase the public's access to professional services	60 (25%)	43 (18%)	53 (22%)	34 (14%)	50 (20%)	239 (100%)	843
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Open-ended Question (comments are accessible online)	Answered Question	Skipped question
116. What changes would you make in the agency's recommendation?	67	1,015
117. Do you believe that the Agency's recommendation will affect the protection of the public in the delivery of professional services and, if so, how?	58	1,024
118. If you have specific concerns about the proposal or if you have your own recommendations, please briefly describe them in the box below.	37	1,045

OPWDD #5

OPWDD recommends that the Office of the Professions support the two permanent solutions to this issue in its report to the Legislature; the second proposal is:

Amendment to the Education Law adding a new Article requiring licensing of behavioral health practitioners. Licensing standards to include having a master's degree in psychology, or having successfully completed at least 60 graduate hours in a program leading to a doctoral degree in psychology; having two years of supervised full-time experience in the delivery of professional behavioral health or psychological services; and passing an examination.

NOTE: the first proposal is on the prior survey page

Question	Strongly agree	Agree	Unknown	Disagree	Strongly disagree	Answered question	Skipped question
119. Do you agree with the Agency's recommendation?	50 (20%)	82 (34%)	32 (13%)	35 (14%)	45 (18%)	241 (100%)	841
120. The Agency's recommendation adequately protects the public	45 (18%)	84 (34%)	45 (18%)	29 (12%)	41 (17%)	241 (100%)	841
121. It is important to implement the Agency's recommendation	46 (19%)	77 (32%)	41 (17%)	37 (15%)	42 (17%)	240 (100%)	842
122. The Agency's recommendation is an affordable approach to providing care	41 (17%)	63 (26%)	61 (25%)	35 (14%)	40 (16%)	238 (100%)	844
123. The Agency's recommendation balances licensure to protect the public	41 (17%)	66 (28%)	49 (20%)	42 (17%)	39 (16%)	235 (100%)	847

with controlling the cost of professional services							
124. The Agency's recommendation will increase the public's access to professional services	34 (14%)	64 (27%)	57 (24%)	42 (18%)	38 (16%)	233 (100%)	849
125. The Agency's recommendation will decrease the public's access to professional services	36 (15%)	41 (17%)	59 (25%)	61 (26%)	38 (16%)	234 (100%)	848

Open-ended Question (comments are accessible online)	Answered Question	Skipped question
126. What changes would you make in the agency's recommendation?	64	1,018
127. Do you believe that the Agency's recommendation will affect the protection of the public in the delivery of professional services and, if so, how?	47	1,035
128. If you have specific concerns about the proposal or if you have your own recommendations, please briefly describe them in the box below.	35	1,047

SOFA #1

Many of the programs regulated, operated, funded or approved by NYSOFA do not include the various functions from the various scopes of practice established by the Mental Health Practice Act but they use many shared terms that are being used in the scopes of the mental health and social work professions outlined in the Act. These shared terms include: assessments; case management; care coordination; counseling; intervention; self management; and treatment plan. NYSOFA uses these terms in the context of determining the needs and service eligibility of older adults for programs and services provided through the Aging Services Network under the Older Americans Act and the New York State Elder Law – not for the purpose of assessing, diagnosing and treating an older adult with mental illness.

It is recommended that programs that NYSOFA regulates, operates, and funds be provided: (1) clarification in statute and (2) an exemption that the use of shared terms by these professions is limited to the provision of mental health services such as psychotherapy, psychoanalysis, or diagnosis of mental health conditions, as per the DSM codes and ICD 10 codes.

Question	Strongly agree	Agree	Unknown	Disagree	Strongly disagree	Answered question	Skipped question
129. Do you agree with the Agency's recommendation?	47 (26%)	56 (31%)	28 (15%)	18 (10%)	28 (15%)	177 (100%)	905

130. The Agency's recommendation adequately protects the public	45 (25%)	52 (29%)	34 (19%)	20 (11%)	24 (13%)	175 (100%)	907
131. It is important to implement the Agency's recommendation	46 (26%)	56 (32%)	29 (16%)	19 (11%)	24 (13%)	173 (100%)	909
132. The Agency's recommendation is an affordable approach to providing care	45 (26%)	49 (25%)	42 (24%)	14 (8%)	22 (12%)	172 (100%)	910
133. The Agency's recommendation balances licensure to protect the public with controlling the cost of professional services	42 (24%)	47 (27%)	41 (24%)	19 (11%)	23 (13%)	171 (100%)	911
134. The Agency's recommendation will increase the public's access to professional services	40 (23%)	47 (27%)	44 (25%)	17 (9%)	23 (13%)	171 (100%)	911

Open-ended Question (comments are accessible online)	Answered Question	Skipped question
135. What changes would you make in the agency's recommendation?	34	1,048
136. Do you believe that the Agency's recommendation will affect the protection of the public in the delivery of professional services and, if so, how?	36	1,046
137. If you have specific concerns about the proposal or if you have your own recommendations, please briefly describe them in the box below.	19	1,063

SOFA #2

The Administration on Aging (AoA) is developing objectives, priorities and a long-term plan for supporting State and local efforts pertaining to education, prevention, detection and treatment of mental disorders, including age-related dementia, depression, and Alzheimer's disease and related neurological disorders with neurological and organic brain dysfunction. Although the 2006 Amendments to the Older Americans Act include no specific requirements for States regarding new Title II mental health provisions, there are significant opportunities for States to:

- Ensure that mental health programs and services are aware of the role Aging and Disability Resource Centers play in connecting consumers with resources to meet their needs.
- Explore the availability of evidence-based mental health programs and incorporating them where practicable.

- Strengthen partnerships between mental health programs and services and the Aging Services Network at the State and AAA/community levels.

In order to ensure this work can continue, it is recommended that an exemption should be crafted that would allow the Aging Services Network to effectively carry out the mental health references that are contained in the Older Americans Act, which is the major source of funding for the Aging Services Network and is designed to encourage innovation.

Question	Strongly agree	Agree	Unknown	Disagree	Strongly disagree	Answered question	Skipped question
138. Do you agree with the Agency's recommendation?	49 (31%)	44 (28%)	22 (14%)	20 (12%)	21 (13%)	156 (100%)	926
139. The Agency's recommendation adequately protects the public	43 (28%)	41 (27%)	27 (17%)	19 (12%)	23 (15%)	152 (100%)	930
140. It is important to implement the Agency's recommendation	47 (30%)	42 (27%)	24 (15%)	16 (10%)	23 (15%)	152 (100%)	930
141. The Agency's recommendation is an affordable approach to providing care	43 (28%)	34 (22%)	42 (27%)	16 (10%)	18 (11%)	153 (100%)	929
142. The Agency's recommendation balances licensure to protect the public with controlling the cost of professional services	39 (26%)	39 (26%)	32 (21%)	19 (12%)	21 (14%)	150 (100%)	932
143. The Agency's recommendation will increase the public's access to professional services	42 (25%)	40 (26%)	29 (19%)	19 (12%)	22 (14%)	152 (100%)	930

Open-ended Question (comments are accessible online)	Answered Question	Skipped question
144. What changes would you make in the agency's recommendation?	28	1,054
145. Do you believe that the Agency's recommendation will affect the protection of the public in the delivery of professional services and, if so, how?	27	1,055
146. If you have specific concerns about the proposal or if you have your own recommendations, please briefly describe them in the box below.	19	1,063

DOCCS #1

Recommendations on alternative pathways to licensure would be to receive SED’s acceptance of the established Civil Service education and experience requirements for the Alcohol and Substance Abuse Treatment (ASAT) titles.

Question	Strongly agree	Agree	Unknown	Disagree	Strongly disagree	Answered question	Skipped question
147. Do you agree with the Agency's recommendation?	11 (9%)	19 (15%)	30 (25%)	22 (18%)	39 (32%)	120 (100%)	962
148. The Agency's recommendation adequately protects the public	11 (9%)	18 (15%)	32 (26%)	21 (17%)	39 (32%)	119 (100%)	963
149. It is important to implement the Agency's recommendation	10 (8%)	19 (16%)	30 (25%)	22 (18%)	38 (32%)	117 (100%)	965
150. The Agency's recommendation is an affordable approach to providing care	12 (10%)	17 (14%)	37 (31%)	19 (16%)	32 (27%)	116 (100%)	966
151. The Agency's recommendation balances licensure to protect the public with controlling the cost of professional services	11 (9%)	17 (14%)	35 (30%)	20 (17%)	33 (28%)	115 (100%)	967
152. The Agency's recommendation will increase the public's access to professional services	12 (10%)	15 (13%)	36 (31%)	17 (15%)	34 (30%)	113 (100%)	969

Open-ended Question (comments are accessible online)	Answered Question	Skipped question
153. What changes would you make in the agency's recommendation?	19	1,063
154. Do you believe that the Agency's recommendation will affect the protection of the public in the delivery of professional services and, if so, how?	14	1,068
155. If you have specific concerns about the proposal or if you have your own recommendations, please briefly describe them in the box below.	6	1,076

DOCCS #2

Recommendations on possible modification to the Civil Service requirements to include a Qualified Health Professional (QHP) of which a Credential Alcoholism & Substance Abuse Counselor (CASAC) is, could be explored, with the allowance for “grandfathering” in current employees in such titles.

Question	Strongly agree	Agree	Unknown	Disagree	Strongly disagree	Answered question	Skipped question
156. Do you agree with the Agency's recommendation?	15 (12%)	29 (24%)	20 (16%)	16 (13%)	40 (33%)	118 (100%)	964
157. The Agency's recommendation adequately protects the public	14 (12%)	26 (22%)	22 (19%)	17 (14%)	38 (32%)	116 (100%)	966
158. It is important to implement the Agency's recommendation	13 (11%)	26 (22%)	23 (20%)	16 (13%)	38 (33%)	115 (100%)	967
159. The Agency's recommendation is an affordable approach to providing care	13 (11%)	23 (20%)	33 (29%)	14 (12%)	31 (27%)	113 (100%)	969
160. The Agency's recommendation balances licensure to protect the public with controlling the cost of professional services	11 (10%)	24 (21%)	28 (25%)	16 (14%)	32 (29%)	110 (100%)	972
161. The Agency's recommendation will increase the public's access to professional services	12 (10%)	24 (21%)	30 (26%)	16 (14%)	31 (27%)	112 (100%)	970

Open-ended Question (comments are accessible online)	Answered Question	Skipped question
162. What changes would you make in the agency's recommendation?	15	1,067
163. Do you believe that the Agency's recommendation will affect the protection of the public in the delivery of professional services and, if so, how?	11	1,071
164. If you have specific concerns about the proposal or if you have your own recommendations, please briefly describe them in the box below.	9	1,073

DOCCS #3

Recommendations for amendments to law, rules and regulations necessary to fully implement the requirements for licensure by July 1, 2013 would be to develop established waivers in regard to percentages of Qualified Health Professional (QHP) staff necessary at each site to maintain the provision of substance abuse services, as well as action plans for those sites without QHP staff.

The collaboration between DOCCS and OASAS has developed waivers (Memorandum of Understanding) (ATTACHMENT #18 to the DOCCS Report) to address such staffing considerations when specified DOCCS sites are identified for OASAS certification

Question	Strongly agree	Agree	Unknown	Disagree	Strongly disagree	Answered question	Skipped question
165. Do you agree with the Agency's recommendation?	9 (8%)	18 (16%)	29 (26%)	16 (14%)	36 (33%)	108 (100%)	974
166. The Agency's recommendation adequately protects the public	9 (8%)	18 (16%)	26 (24%)	17 (15%)	37 (34%)	107 (100%)	975
167. It is important to implement the Agency's recommendation	9 (8%)	18 (16%)	28 (26%)	16 (15%)	36 (33%)	107 (100%)	975
168. The Agency's recommendation is an affordable approach to providing care	9 (8%)	17 (16%)	36 (35%)	12 (11%)	30 (29%)	103 (100%)	979
169. The Agency's recommendation balances licensure to protect the public with controlling the cost of professional services	9 (8%)	16 (15%)	32 (30%)	17 (16%)	32 (30%)	105 (100%)	977
170. The Agency's recommendation will increase the public's access to professional services	9 (8%)	14 (13%)	36 (35%)	14 (13%)	30 (29%)	102 (100%)	980

Open-ended Question (comments are accessible online)	Answered Question	Skipped question
171. What changes would you make in the agency's recommendation?	11	1,071
172. Do you believe that the Agency's recommendation will affect the protection of the public in the delivery of professional services and, if so, how?	10	1,072
173. If you have specific concerns about the proposal or if you have your own recommendations, please briefly describe them in the box below.	8	1,074

DOH #1

The Department of Health does not believe any actions are necessary to amend the law and defers to agencies that are being impacted by this legislation for further recommendations. The Department looks forward to working with SED and other agencies in the future to ensure compliance with this legislation.

Question	Strongly agree	Agree	Unknown	Disagree	Strongly disagree	Answered question	Skipped question
174. Do you agree with the Agency's recommendation?	29 (19%)	43 (28%)	31 (20%)	22 (14%)	25 (16%)	149 (100%)	933
175. The Agency's recommendation adequately protects the public	27 (18%)	40 (27%)	35 (23%)	22 (14%)	25 (16%)	148 (100%)	934
176. It is important to implement the Agency's recommendation	29 (19%)	40 (27%)	36 (24%)	22 (15%)	22 (15%)	147 (100%)	935
177. The Agency's recommendation is an affordable approach to providing care	28 (19%)	35 (23%)	46 (31%)	17 (11%)	23 (15%)	147 (100%)	935
178. The Agency's recommendation balances licensure to protect the public with controlling the cost of professional services	25 (17%)	35 (24%)	39 (27%)	20 (14%)	25 (17%)	142 (100%)	940
179. The Agency's recommendation will increase the public's access to professional services	27 (18%)	28 (19%)	45 (31%)	20 (13%)	25 (17%)	144 (100%)	938

Open-ended Question (comments are accessible online)	Answered Question	Skipped question
180. What changes would you make in the agency's recommendation?	22	1,060
181. Do you believe that the Agency's recommendation will affect the protection of the public in the delivery of professional services and, if so, how?	16	1,066
182. If you have specific concerns about the proposal or if you have your own recommendations, please briefly describe them in the box below.	12	1,070

The survey provided an opportunity for an individual to submit additional comments at the end or to submit a written statement to the Office of the Professions. The comments are available on-line.

Open-ended Question (comments are accessible online)	Answered Question	Skipped question
183. Please provide any additional comments or suggestions for consideration by the Office of the Professions in developing the report and recommending changes in laws, rules or regulations. If you wish to submit a separate letter, you may send it by email to SWMHPSurvey@mail.nysed.gov .	144	938

Letters that were submitted by associations representing psychologists, social workers in health care, deans of social work programs, and individuals will be provided upon request.

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

Appendix F
Statements from Provider and
Professional Associations



**National Association of Social Workers
New York State and New York City Chapters**

May 29, 2012

David Hamilton, Ph.D., LMSW, ACSW
Executive Secretary
State Board for Social Work
State Board for Mental Health Practitioners
Office of the Professions
New York State Education Department
89 Washington Avenue, Albany, NY 12234-1000

Re: Response to SED Draft
Report

Dear Dr. Hamilton,

As per the recent solicitation for comments made by the Office of the Professions related to the *Draft Report to the Legislature and Executive*, NASW-NYS and NYC Chapter offer the following comments.

The two Chapters agree with the overall position reflected in the draft report that public services utilize licensed professionals in accordance with existing statutes and that permanent exemptions be opposed.

The two Chapters find the report to be, for the most part, consistent with many of our earlier offered recommendations and interpretations, specifically:

- the Department's willingness to "provide further clarification of terms and functions in the law,"
- the recognition of the need to better define "appropriate roles for unlicensed individuals such as peer counselors, mental health therapy aides and others whom function as part of a multidisciplinary team, but do not make professional determinations,"
- the acknowledgment that a "CASAC trainee may complete supervised experience, in settings defined by OASAS in law and regulations, to meet the requirements for the credential...". However, any expansion of credentials would require legislative action,

- the opposition to permanent broad based exemptions allowing unlicensed persons to continue to provide services restricted to licensed individuals,
- and the need to update civil service titles to reflect the scopes of practice defined and supervisory requirements defined in Education Law.

The Chapters also agree with the Department's assertion regarding the broad based support for the development of alternative pathways to licensure for MSWs who do not have a license. We certainly understand the potential that a measure such as this could provide in alleviating any shortage of licensed professionals. However, we share the concern that "the criteria must be sufficient to ensure individuals licensed under such a pathway meet requirements that are equivalent to those of licensure by examination." As such, we contend this topic should fall under the category of *Areas in Need of Further Study* (pg 27) as there is a clear need to engage stakeholders in a careful examination and deliberation of the issues involved.

We appreciate the inclusion of mandatory continuing education requirements as an area in need of further study. Mandatory continuing education for social workers has been adopted in every state but New York. The Chapters contend it is essential that social workers engage in continuous education to keep current with emerging practice and treatment trends and as such, the Chapters recommend such discussions take place in the context of any contemplated statutory changes during the 2013 legislative session.

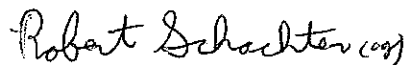
An area of significant concern to both the Chapters falls under the heading of *Clarification of Practice* whereby the Department recommends the inclusion of diagnosis in the scopes of practice for individuals licensed under Article 163. Classifying an alteration of this magnitude as merely a "clarification" is to ignore the history of careful deliberations by stakeholders *and* the legislature prior to enactment of the statute. After thoughtful consideration, legislative intent was clear in its determination that diagnosis should not be included in such scopes. While the Department asserts that the experience and educational "...requirements are similar to other mental health professions..." the Chapters contend that "similar" is not equivalent, specifically in relation to the depth of clinical experience an LCSW has accumulated upon licensure.

We thank you for the opportunity to provide input on these vital issues related to the practice of social work and we look forward to what appears will be considerable continued engagement in the near future. Should you have any questions, please do not hesitate to contact us.

Sincerely,



Reinaldo Cardona, MSSW, LCSW
Executive Director
NASW-NYS



Robert Schachter, DSW, ACSW
Executive Director
NASW-NYC

NEW YORK STATE SOCIETY FOR CLINICAL SOCIAL WORK

May 29, 2012

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

The New York State Society for Clinical Social Work, representing clinical social workers providing mental health services across New York State, offers the following comments on the above draft report.

We want to begin by congratulating Dr. David Hamilton and the State Education Department on an intelligent, readable draft report on the complex problem of providing safe and competent counseling and psychotherapy services to the public.

In the interest of maintaining a single tier of safe and proficient mental health services for the public, we would make the following suggestions:

- We strongly disagree with any permanent exemption for licensure.
- We strongly agree on the need for clarification of certain terms within the scopes of practice.

For Mental Health Practitioners (Article 163), we would like to note that there are major differences in the language of the four scopes of practice which suggests distinctive limitations on services which each of the four licenses can offer. Unlike the comprehensive scope of practice for the LCSW, no differentiations have been made for the differences between mental health practitioners. Compliance with physician consultation has not been addressed. Further, no specific course requirements in diagnosis, treatment, and special populations (including cultural distinctions) are required by the State in order to qualify for their licensing exams. Precedent has been set with the LCSW requirements for licensing.

We also recommend clarification of distinctions between services offered by the LMSW and the human services employee. Specifically, SW2: Activities that OMH listed as not requiring licensure. We recommend that discharge planning, often a complex arrangement requiring a biopsychosocial assessment of the individual and his resources be managed by a licensed professional.

We strongly recommend that OASAS include a licensed mental health professional in the intake/assessment process to safeguard that person suffering from dual-diagnostic illnesses be properly evaluated.

We cannot support a grandfathering provision until the criteria are specified. They must be sufficiently narrow to demonstrate adequate competence to provide mental health services.

- We would strongly support patient confidentiality laws passed for Article 163 providers.

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Thank you for this opportunity to participate in improving the mental health care of New York's mentally disabled population.

Marsha Wineburgh, DSW, LCSW

President, NYSSCSW

David Hamilton - Comments on Draft Report re: Chapters 130 and 132

From: "Richard Gallo " <rgallo@gallo-associates.com>
To: "David Hamilton" <DHAMILTO@MAIL.NYSED.GOV>
Date: 05/31/2012 4:07 PM
Subject: Comments on Draft Report re: Chapters 130 and 132
CC: "Kathleen Doyle" <kdoyle2@MAIL.NYSED.GOV>

David,

On behalf of the New York State Psychiatric Association, I am submitting the following brief comments on the Department's Draft Report to the Legislature and the Executive Pursuant to Chapters 130 and 132 of the Laws of 2010.

Our comments focus on the question of whether the scopes of practice of Article 163 licensed professionals, as they currently qualify to practice, should be expanded to include "diagnosis." The absence of the term "diagnose" in the practice definitions of the Article 163 professionals was neither an oversight on the part of the Legislature nor was it opposed by the proponents of the enabling legislation.

Practitioners licensed pursuant to Article 163 were expressly not authorized to "diagnose" because their level of education and post graduate clinical training was seen as being far less than that which is required of mental health professionals who are authorized by law in New York State to independently diagnose mental, nervous or emotional disorders and ailments; namely, physicians/psychiatrists, doctorate level clinical psychologists, licensed clinical social workers having successfully completed three years of supervised post graduate clinical training and psychiatric nurse practitioners in accordance with a written practice agreement with a psychiatrist.

In that regard the Legislature enacted paragraph 1. of Section 8407 which reads as follows:

§8407. Boundaries of professional competency.

1. It shall be deemed practicing outside the boundaries of his or her professional competence for a person licensed pursuant to this article, in the case of treatment of any serious mental illness, to provide any mental health service for such illness on a continuous and sustained basis without a medical evaluation of the illness by, and consultation with, a physician regarding such illness. Such medical evaluation and consultation shall be to determine and advise whether any medical care is indicated for such illness. For purposes of this section, "serious mental illness" means schizophrenia, schizoaffective disorder, bipolar disorder, major depressive disorder, panic disorder, obsessive-compulsive disorder, attention-deficit hyperactivity disorder and autism.

In our opinion Section 8407 does not lend itself to the conclusion that " ... diagnosis is a function that could be appropriately provided by individuals licensed under Article 163..."

Richard

Richard Gallo

Gallo Associates

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Albany, New York 12207

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E-mail: rgallo@gallo-associates.com



May 31, 2012

Doug Lentivech, Esq.
Deputy Commissioner
Office of the Professions
New York State Education Department
89 Washington Avenue
Albany NY 12234

Dear Mr. Lentivech,

Thank you for forwarding your department's Draft Report to the Legislature and the Executive Pursuant to Chapters 130 & 132 of the Laws of 2010. We appreciate the opportunity to comment on the issues involved.

We have attached a letter from NYSPA dated December 20, 2011, commenting on the Exempt Agency Reports. NYSPA remains committed to the positions that were stated in that letter and continues to encourage that the exemptions to licensure end as planned in 2013. The exempt programs have had over a decade to insure that their clients are provided treatment by licensed providers, and many programs have successfully accomplished this goal. With respect to psychology specifically, there are over 12,000 licensed psychologists in New York State, plus scores of psychology interns and hundreds of doctoral level providers who are required to provide a year of post-doctoral service under supervision. In addition, there is no shortage of licensed mental health providers among the other disciplines.

We remain concerned about protecting the public and believe that an extension of the exemptions would needlessly allow the public to receive treatment from non-licensed providers when other clinicians who are duly licensed or authorized are available. Allowing this to continue discriminates against the public that receives these services and against licensed mental health providers. We are unaware of any situations in which this population, which includes many persons of low financial status, receives medical treatment from unlicensed physicians. There is no sufficient rationale for allowing them to receive behavioral treatment from unlicensed providers. As mentioned in the December 2011 letter, we do not want to prevent patients from obtaining needed services. If it is determined that the extension of any exemption is needed to maintain access to services, we strongly recommend making any such extensions be time-limited and include strengthened requirements for supervision by licensed psychologists. Furthermore, it should go without saying that NYSPA remains vigorously opposed to the creation of any additional permanent exemptions to licensure.

In reviewing the Draft Report we are concerned by some of the other "solutions" that have been suggested by the exempt agencies. As health care reform continues, with its reliance on the integration of physical and behavioral health, we strongly urge the Board of Regents to resist ideas that will dilute that professionalism and quality of the mental health workforce. While such ideas may seem expedient in the short run we strongly believe that lowering standards in behavioral health will ultimately prove costly in many ways. Accordingly:

NYSPA opposes "alternative pathways" to licensure. The public can be assured that licensed psychologists are well-schooled in diagnostic techniques and treatment interventions that are evidence-based and have successfully passed a licensing examination reflective of current standards of care. As previously mentioned, in psychology there is a cohort of doctoral level providers who are required in New York State (but not in all other states) to have a year of post-doctoral, supervised experience prior to licensure. These

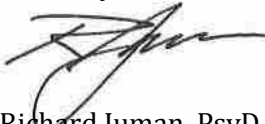
are generally young clinicians who have recently completed internships and are eager to enter the workforce. By contrast, we assume that many of the unlicensed providers that would be grandfathered in by alternative pathway have not been in an academic training situation in at least a decade. Providing an alternative pathway to licensure would make New York a state that is simultaneously maintaining obstacles against those young clinicians who have met the most stringent guidelines while creating a less stringent path to licensure for those who, for whatever reason, have not been able to fulfill the same requirements.

NYSPA is concerned about the “clarification of practice” that is discussed in the report and which could potentially allow Mental Health Counselors and other Article 163 providers to “diagnose” psychiatric illness. As you are aware, psychologists have highly specific training in both “diagnosis” and “treatment”, in part due to our expertise in psychological testing, which is reflected in our scope of practice. We are unclear as to how granting Article 163 providers the ability to diagnose will solve any of the issues presented by the expiration of the exemptions and believe that it should be considered carefully and in its own right, not rushed through at a convenient moment.

Similarly, we believe that the same degree of care must be exercised with respect to the consideration of the licensing of behavioral health practitioners. NYSPA appreciates the note of caution that is reflected in the draft report and would be very pleased to be part of such a discussion.

NYSPA appreciates the opportunity to comment on your report and would be happy to work collaboratively to make sure that all residents of New York State receive the best available mental health care.”

Sincerely,



Richard Juman, PsyD
NYSPA President

CC: NYSPA Executive Committee
David Hamilton, PhD, LMSW
Kathleen Doyle, PhD



December 20, 2011

Dr David Hamilton
State Board for Social Workers
Department of State, Division of Licensing Services
89 Washington Avenue
Albany, NY 12234

Dear Dr. Hamilton,

On behalf of the New York State Psychological Association (NYSPA), representing more than 3,000 psychologists and students of psychology across New York State (NYS), I am submitting comments on the practice of allowing non-licensed individuals to carry out duties that are protected under the Scope of Practice for Licensed Psychologists. We wish to thank the Office of Professions Division of Licensing Services for the opportunity to comment on the Exempt Agency Reports regarding the Temporary Exemption from Licensure under Chapters 130 and 132 of the Laws of 2010. For clarification we are not addressing the exemptions in the Psychology Scope of Practice Section 76-051.

NYSPA opposes this practice and recommends that the exemptions end as planned in 2013. We reference the Model Act for State Licensure of Psychology, American Psychological Association (APA), section J. 1. under Exemptions:

“The exemption should not be allowed if the individual engages in the direct delivery or supervision of psychological services to individuals or groups of individuals in any setting.”
(2010, p. 10)

We are particularly concerned about protecting the public. Allowing non-licensed individuals to practice psychology under the NYS exemption is not in the best interest of the patients being served. While it is our understanding that these non-licensed individuals are supervised by licensed professionals, we are concerned about the format of the supervision and believe in some instances not enough is required to protect the patients who need and seek mental and behavioral health care. Unless the Office of Professions and the State Education Department (OP/SED) can prove otherwise, there is no reason that licensed psychologists, or psychology interns or psychology residents under the supervision of a licensed psychologist, cannot fill these roles.

NYSPA especially wants to go on record in opposition of a permanent exemption. Providing a permanent exemption to allow services by unlicensed persons to an underserved public will result in a lower standard of care and is not in the best interest of public health and safety. A permanent exemption does not take into consideration that health reform is projected to increase the number of individuals who will receive mental and behavioral health services in NYS. Doctoral trained and licensed psychologists bring a necessary skill set to health reform and are vital in delivery of collaborative care to these future populations.

In the state of New York there are more than 10,000 licensed psychologists available to provide services and treatment as outlined in the scope of practice. The individuals/organizations that have been granted exemption for now more than 10 years have had the opportunity to transition to qualified, licensed professionals. We note that one agency in particular has been hiring licensed psychologists and other licensed professionals in preparation for the system transformation. Those that have not met the requirements should not be granted any additional exemption. The patients who rely on these organizations to provide services deserve to have the confidence that their provider is qualified and has met the state standards to professionally care for their needs.

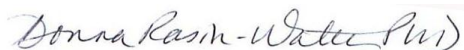
That being said, we do not want to prevent patients from obtaining needed services. If the department needs to go forward with exemptions, we strongly recommend that it remain limited and not be made into a permanent exemption. In addition we strongly recommend strengthening required supervision by licensed psychologists. This increased supervision will allow for a more efficient and effective transition to eliminating the exemption.

Finally, NYSPA would like to go on record as noting that the survey itself was presented in a cumbersome and complex manner, was very time consuming and thus not conducive to easy completion for professionals let alone consumers. As the department collects the information from the survey we hope this will be taken into consideration.

In summary, NYSPA will go on record as opposing the continued use of non-licensed professionals to carry out duties that are outlined in respective scopes of practice for licensed professionals. Further, NYSPA is strongly opposed to a permanent exemption as a solution. If further transition time is necessary so as to prevent an access issue for consumers, we suggest strengthening supervision requirements.

Again, we appreciate the time and attention to this matter from the Office of Professions and offer to work in collaboration toward a solution.

Sincerely,



Donna Rasin-Waters, PhD
NYSPA President

CC:
NYSPA Executive Committee
Dr Kathleen Doyle, Executive Secretary for the Board of Psychology

Attachment

American Psychological Association

Model Act for State Licensure of Psychologists

Adopted by Council as APA Policy 2/20/2010

As APA policy, the Model Act serves as a prototype for drafting state legislation regulating the practice of psychology. State legislatures are encouraged to use the language of this document and the policies that it espouses as the model for their own state licensure law. Inevitably each state law will reflect compromises and changes particular to that state, but the APA Model Act is meant to serve as a guide for those involved in the drafting process. State licensing boards must develop their own rules and regulations to supplement the legislation proposed here. This document also serves to educate legislatures about psychology training and practice and serves to synthesize APA policies that bear on the education, training, and practice of professional psychology.

This is the fifth set of guidelines for state legislation regulating the practice of psychology that has been developed by the American Psychological Association (APA). The first model for such regulation was developed and adopted as APA policy in 1955 (APA, 1955).

The 1955 guidelines stood for 12 years, during which the number of states enacting licensure legislation grew from 9 to 32. In 1967 the APA Committee on State Legislation (COSL) prepared the first revision of the guidelines. That revision was more comprehensive, provided more detailed guidance, and covered more issues relating to regulation of the practice of psychology, while reaffirming the basic concept found in the 1955 model (APA, 1967).

By 1977 all states and the District of Columbia had enacted licensure legislation. APA's Council of Representatives then determined that the model approved in 1967 was outdated and directed COSL to undertake a revision. However, in January 1979 the Council of Representatives failed to approve the revised model guidelines, leaving the 1967 guidelines to remain as APA policy. In 1984 the Council of Representatives directed the Board of Professional Affairs (BPA) to develop another revision of the existing 1967 model for the Council's consideration. BPA, in turn, directed its Committee on Professional Practice (COPP) to prepare it.

This document was approved by the Council of Representatives in February, 1987.

In 2006, at the recommendation of the Board of Professional Affairs and the Committee for the Advancement of Professional Practice, the APA Board of Directors and Council of Representatives funded a Task Force to undertake the revision of the 1987 model act. The existing model act did not reflect the developments in professional practice that had occurred over the preceding 20 years. Specific developments included some psychologists obtaining prescriptive authority, changes in the provision of industrial/organizational and consulting psychology that could make it desirable for those psychologists to be licensed, and changes in the recommended sequence of education and training for psychologists. The Task Force undertook this effort beginning with a comprehensive review of the 1987 document as well as relevant APA policies and other documents. Draft revisions were circulated for review and a 90-day public comment period ensued. Changes were made to the document based on commentary received. A second public comment period ensued and another review by governance groups followed by additional changes to the document occurred prior to the document being approved by Council in February 2010.

Each section of the proposed Model Act is introduced by commentary, the purpose of which is to explain the rationale for the proposed section that follows. To differentiate between the commentary and the proposed statutory language, the latter is *italicized*.

A. Declaration of Policy

This section declares that the intent of legislation for state licensure of psychologists is to ensure the practice of psychology in the public interest. The consumer should be assured that psychological services will be provided by

licensed and qualified professionals according to the provisions of this act. The public must also be protected from the consequences of unprofessional conduct by persons licensed to practice psychology.

The practice of psychology in (name of state) is hereby declared to affect the public health, safety, and welfare, and to be subject to regulation to protect the public from the practice of psychology by unqualified persons and from unprofessional conduct by persons licensed to practice psychology.

B. Definitions

Definitions provide consistent interpretation throughout the Act without unnecessary repetition of terms. Thus “Board,” once defined in this section, can subsequently be cited with the same meaning as presented in the definition.

In defining “institution of higher education,” it is further recognized that many foreign institutions prepare psychologists for professional practice, and provision should be made to accommodate them in Board regulations.

Psychological services should be described adequately and specified in order to identify clearly the areas of psychological services, provided to individuals, groups of individuals, or organizations, that require qualified and sound professional psychology practice. There can be a legitimate use for technology-supported services, such as electronic or telephonic means. All such activities must operate according to appropriate APA Ethical guidelines and Board regulations.

1. “Board” means the (name of state) State Psychology Board.
2. “Institution of higher education” means any regionally accredited institution of higher education in the United States, including a professional school, that offers a full-time doctoral course of study in psychology that is acceptable to the Board. For Canadian universities, it means an institution of higher education that is provincially or territorially chartered.
3. “Practice of psychology” is defined as the observation, description, evaluation, interpretation, and modification of human behavior by the application of psychological principles, methods, and procedures, for the purposes of (a) preventing, eliminating, evaluating, assessing, or predicting symptomatic, maladaptive, or undesired behavior; (b) evaluating, assessing, and/or facilitating the enhancement of individual, group, and/or organizational effectiveness – including personal effectiveness, adaptive behavior, interpersonal relationships, work and life adjustment, health, and individual, group, and/or organizational performance, or (c) assisting in legal decision-making.

The practice of psychology includes, but is not limited to, (a) psychological testing and the evaluation or assessment of personal characteristics, such as intelligence; personality; cognitive, physical, and/or emotional abilities; skills; interests; aptitudes; and neuropsychological functioning; (b) counseling, psychoanalysis, psychotherapy, hypnosis, biofeedback, and behavior analysis and therapy; (c) diagnosis, treatment, and management of mental and emotional disorder or disability, substance use disorders, disorders of habit or conduct, as well as of the psychological aspects of physical illness, accident, injury, or disability; (d) psychoeducational evaluation, therapy, and remediation; (e) consultation with physicians, other health care professionals, and patients regarding all available treatment options, including medication, with respect to provision of care for a specific patient or client; (f) provision of direct services to individuals and/or groups for the purpose of enhancing individual and thereby organizational effectiveness, using psychological principles, methods, and/or procedures to assess and evaluate individuals on personal characteristics for individual development and/or behavior change or for making decisions about the individual, such as selection; and (g) the supervision of any of the above. The practice of psychology shall be construed within the meaning of this definition without regard to whether payment is received for services rendered. (See Section G for Limitation of Practice and Maintaining and Expanding Competence and Section J for Exemptions.)

4. “Psychologist” means (a) any person licensed as a psychologist under this Act and (b) any general applied psychologist (see 5b below) whose practice areas are specifically exempted under this act, and includes a person representing himself or herself to be a psychologist if that person uses any title or description of services incorporating the words psychology, psychological, or psychologist, or if he or she uses any term that implies that

he or she possesses expert qualification in any area of psychology, or if that person offers to the public or renders to individuals or groups of individuals services defined as the practice of psychology in this Act. The title "psychologist" is also used by psychologists who are exempt from licensure as specified in Section J of this Act in their roles as teachers, researchers and/or general applied psychologists acting outside the licensed scope of practice.

5. "Applied psychologist" is one who provides services to individuals, groups, and/or organizations. Within this broad category there are two major groupings – those who provide health-related services to individuals and those who provide other services to individuals and/or services to organizations. Although licensure is generic, some of the Board's Rules and Regulations need to account for variations in relevant training, supervision, and practice.

a. "Health service provider" (HSP)

Psychologists are certified as health service providers if they are duly trained and experienced in the delivery of preventive, assessment, diagnostic, therapeutic intervention and management services relative to the psychological and physical health of consumers based on: 1) having completed scientific and professional training resulting in a doctoral degree in psychology; 2) having completed an internship and supervised experience in health care settings; and 3) having been licensed as psychologists at the independent practice level.

b. "General applied psychologist"

General applied psychologists provide psychological services outside of the health and mental health field and shall include: 1) the provision of direct services to individuals and groups, using psychological principles, methods, and/or procedures to assess and evaluate individuals on personal abilities and characteristics for individual development, behavior change, and/or for making decisions (e.g., selection, individual development, promotion, reassignment) about the individual, all for the purpose of enhancing individual and/or organizational effectiveness; and 2) the provision of services to organizations that are provided for the benefit of the organization and do not involve direct services to individuals, such as job analysis, attitude/opinion surveys, selection testing (group administration of standardized tests in which responses are mechanically scored and interpreted), selection validation studies, designing performance appraisal systems, training, organization design, advising management on human behavior in organizations, organizational assessment, diagnosis and intervention of organizational problems, and related services.

6. "Specialty" is a defined area of psychological practice which requires advanced knowledge and skills acquired through an organized sequence of education and training. The advanced knowledge and skills specific to a specialty are obtained subsequent to the acquisition of core scientific and professional foundations in psychology.

7. "Developed areas of practice" have all of the following characteristics:

- National recognition of the practice area by a national organization(s) whose purpose includes recognizing or representing and developing the practice area, by relevant divisions of the APA, or by involvement in similar umbrella organizations;
- An accumulated body of knowledge in the professional literature that provides a scientific basis for the practice area including empirical support for the effectiveness of the services provided;
- Representation by or in a national training council that is recognized, functional, and broadly accepted;
- Development and wide dissemination by the training council of doctoral educational and training guidelines consistent with the Accreditation Guidelines & Principles;
- Existence of the practice area in current education and training programs;
- Geographically dispersed psychology practitioners who identify with the practice area and provide such services.

8. "Emerging area of practice" is one that meets some but not all of the six requirements for a developed area of practice, or does not meet some of the requirements completely (e.g., there is some professional literature providing a scientific basis, but not an "accumulated body of knowledge" in that literature).

9. "Client" or "patient" is used to refer to the direct recipients of psychological services, which may include child, adolescent, adult, older adult, couple, family, group, organization, community, or any other individual. In many situations there are important and valid reasons for using such terms as consumer or person in place of client or

patient to describe the recipients of services. In some circumstances (e.g., an evaluation that is court-ordered, requested by an attorney, an agency, or other administrative body), the client may be the retaining party and not the examinee.

C. State Psychology Board

Legislation concerning the membership of the State Psychology Board should designate a sufficient number of members to accomplish the work of the Board, as well as make provisions for the appointment of public members. The appointing authority shall ensure that specialties in psychology are represented, as well as trainers and practitioners, both in health care and general applied psychology. A minimum of six psychologists plus one public member is recommended.

Public (consumer) members on boards is a recognition of the impact of consumerism on the current functioning of boards. A public member is recommended in order to ensure the representation of the public; that is, the recipient of psychological services. Members should be appointed at staggered times so that the entire group of members is not replaced at any one time.

There is hereby created the (name of state) State Psychology Board. The Board shall consist of minimally six licensed psychologists and one public member. Members should be representative of teaching, training, and the professional practice of psychology. Psychologist Board members shall be licensed to practice in this state. Each psychologist serving on the Board shall have a minimum of five years of post-licensure experience. Board members shall reflect a diversity of practice specialties, both in health care and other applications.

Board members shall be appointed who are free from conflicts of interest in performing the duties of the Board. A public member shall not be a psychologist, an applicant or former applicant for licensure as a psychologist, a member of another health profession, or a member of a household that includes a psychologist, or otherwise have conflicts of interest or the appearance of such conflicts with duties as Board members. Appointments to the Board shall be made by the duly constituted appointing authority in this state. The appointing authority in this state shall solicit nominations from psychological organizations and licensed psychologists in this state. The term of office shall be five years, with provision for reappointment for one additional term. Lengths of terms of Board members shall be staggered.

It is clear that the Board will need, from time to time, to adopt or delete rules and regulations to carry out the provisions of the Act that establish and enable the Board to operate. It is wise to have this authority clearly established within the Act.

In addition to the powers set forth elsewhere in this Act, the Board may adopt rules and regulations to carry out the provisions of this Act.

In general it is desirable for the Board to be self-supporting. Self-generated fees should be sufficient to cover all costs. This avoids the necessity of the Board's returning to the budgetary authority for approval each time fees must be increased in order for the Board to remain self-supporting. Boards should consider carefully the various elements of expense in establishing fees. Items such as overhead, examination costs, travel and per diem, disciplinary proceedings, and other expenses should be considered.

The Board shall, from time to time, establish reasonable fees for the issuance and renewal of licenses and its other services. Fees shall be set so as to defray the cost of administering the provisions of this Act, including applications, examinations, enforcement, and the cost of maintaining the Board.

It is important to have within the Act a statement that a member of the Board shall not be civilly liable for any act performed in good faith and within the scope of duties of the Board. It should be noted that such a statement does not pertain to any criminal charges brought against a member of the Board. Though individual members of the Board will not be held civilly liable, individuals may pursue legal action against the Board under any applicable state laws, such as, for example, under any administrative procedure act.

A member of the Board or any employee or agent of the Board shall not be held civilly liable for any act performed in good faith and within the scope of the duties of the Board.

D. Requirements for Licensure

There is a core of basic theory, principles, and accumulated knowledge that all professional psychologists should possess. Each practitioner must also master the specific skills and knowledge appropriate for the competent performance of psychological practice. The language of the model requires the Board to specify its criteria for acceptable professional education in psychology. In this regard, the Board will be guided by national standards.

All applicants for licensure must minimally be graduates of a regionally accredited institution of higher education, or a Canadian university that is provincially or territorially chartered, and must have completed a planned program of study which reflects an integration of the science and practice of psychology. A formal training program accredited by the American Psychological Association or Canadian Psychological Association is required. For areas of psychology where APA or CPA program accreditation does not exist, psychology programs must meet all the requirements listed below (D1).

The law recognizes that new doctoral programs may be developed in newly or already recognized specialties of professional psychology. In such instances, the law affords those programs an eight-year period in which to achieve accreditation or to meet the standards described in D1, during which the graduates of those programs may sit for licensure.

1. Educational requirements

The Act recognizes the doctorate as the minimum educational requirement for entry into professional practice as a psychologist.

Applicants for licensure shall possess a doctoral degree in psychology from a regionally accredited institution of higher education or from a Canadian university that is provincially or territorially chartered. The degree shall be obtained from a recognized program of graduate study in psychology as defined by the rules and regulations of the Board.

Applicants for licensure shall have completed a doctoral program in psychology that is accredited by the American Psychological Association (APA) or Canadian Psychological Association (CPA) or where APA or CPA program accreditation does not exist for that area of professional psychology, then the applicant must show that his or her doctoral program in psychology meets all of the following requirements:

- 1. Training in professional psychology is doctoral training offered in a regionally accredited institution of higher education. A regionally accredited institution is an institution with regional accreditation in the United States or an university that is provincially or territorially chartered in Canada.*
- 2. The program, wherever it may be administratively housed, must be clearly identified and labeled as a psychology program. Such a program must specify in pertinent institutional catalogues and brochures its intent to educate and train professional psychologists.*
- 3. The psychology program must stand as a recognizable, coherent organizational entity within the institution.*
- 4. There must be a clear authority and primary responsibility for the core and specialty areas whether or not the program cuts across administrative lines.*
- 5. The program must be an integrated, organized sequence of study.*
- 6. There must be an identifiable psychology faculty sufficient in size and breadth to carry out its responsibilities and a psychologist responsible for the program.*

7. *The program must have an identifiable body of students who are matriculated in that program for a degree.*

8. *The program must include supervised practicum, internship, field or laboratory training appropriate to the individual's chosen area of practice of psychology.*

9. *The curriculum shall encompass a minimum of three academic years of full time graduate study and a minimum of one year's residency or the equivalent thereof at the educational institution granting the doctoral degree. The core program shall require every student to demonstrate competence in each of the following substantive areas. Some content areas may appropriately be taught by integrating content across the curriculum, or this requirement may be met through substantial instruction in each of these foundational areas, as demonstrated by evidence of an integrated curriculum or a minimum of three graduate semester hours, 4.5 or more graduate quarter hours (when an academic term is other than a semester, credit hours will be evaluated on the basis of fifteen hours of classroom instruction per semester hour), or the equivalent:*

a. scientific and professional ethics and standards;

b. research design and methodology;

c. statistics;

d. psychometric theory;

e. biological bases of behavior: such as physiological psychology, comparative psychology, neuropsychology, sensation and perception, physical ergonomics, or psychopharmacology;

f. cognitive-affective bases of behavior: such as learning, thinking, motivation, emotion, memory, cognitive information processing, or social cognition;

g. social bases of behavior: such as social psychology, group processes, organizational and systems theory; and

h. individual differences: such as personality theory, human development, personnel psychology, or abnormal psychology.

10. *All professional education programs in psychology shall include course requirements in developed practice areas/specialties.*

11. *The program must demonstrate that it provides training relevant to the development of competence to practice in a diverse and multicultural society.*

When a new area of professional psychology is recognized as being a developed practice area and within the accreditation scope of the APA, doctoral programs within that area will be afforded a transition period of eight years from their first class of students to the time of their accreditation. During that transition period, graduates of such programs may sit for licensure examination whether or not the program has been accredited. The same principle applies as well to new doctoral programs in traditional practice areas previously recognized within the scope of APA accreditation.

Applicants trained in institutions outside the United States shall meet requirements established by the Board.

Psychologists trained in an area that falls outside the scope of APA accreditation (e.g., experimental, developmental, social) and who intend to practice in a traditional or developed practice area must complete a retraining program and/or appropriate supervised experience (e.g., internship in the developed practice area). Similarly, psychologists trained in HSP programs who intend to practice in general applied psychology non-exempt areas and psychologists trained in general applied psychology areas who intend to provide health services must first acquire the appropriate training and supervision.

2. Experience requirements

APA recommends that legislation requires the equivalent of two full-time years of sequential, organized, supervised, professional experience prior to obtaining the license. This training may be completed prior or subsequent to the granting of the doctoral degree. For applicants prepared for practice in the health services domain of psychology, one of those two years of supervised professional experience shall be a predoctoral internship which may be completed as a part-time intern over a two-year period provided that the total experience is the equivalent of one year of full-time experience. By seven years post adoption of these regulations, all licensure applicants prepared for

practice in the health services domain must minimally have completed an APA or CPA accredited (or equivalent) predoctoral internship. For applicants prepared for practice in the general applied (non-HSP) domain of psychology, whose graduate programs may not have formal internships, the option to obtain all supervision post doctorally should be available. In rules and regulations, the Board must define acceptable supervised experience at the predoctoral and postdoctoral levels as well as mechanisms for evaluation of this experience. Boards are encouraged to create definitions that are flexible and capture the variety of training and supervisory models that are appropriate for both HSP and GAP practice. Psychologists are required to limit their practice to their demonstrated areas of professional competence. Experience should be compatible with training.

To obtain licensure, applicants shall demonstrate that they have completed the equivalent of two full-time years of sequential, organized, supervised professional experience. For applicants prepared for practice in the health services domain of psychology, one of those two years of supervised professional experience shall be an APA or CPA accredited (or equivalent) predoctoral internship. For applicants prepared for practice in the general applied domain of psychology, whose graduate programs may not have formal internships, the option to obtain all supervision post doctorally should be available. The criteria for appropriate supervision shall be in accordance with regulations to be promulgated by the Board. Experience shall be compatible with the knowledge and skills acquired during formal doctoral and/or postdoctoral education in accordance with professional requirements and relevant to the intended area of practice. General Applied (non-HSP) Psychologist trainees may be supervised by an appropriate licensed psychologist outside the supervisee's place of employment so long as (a) the supervisee's employer engages the licensed supervisor to provide the required supervision; and (b) the supervisor assumes responsibility for the training of the supervisee. Applicants shall be required to show evidence of good character, e.g., that they have not been convicted of a criminal offense that bears directly on the fitness of the individual to be licensed.

3. Examinations

APA recommends that the Act specify the requirements for examination and the conditions under which the Board is authorized to waive examination. All examinations serve the purpose of verifying that a candidate for licensure has acquired a basic core of knowledge in the discipline of psychology and can apply that knowledge to the problems confronted in the practice of psychology within the applicant's area of practice as a health service provider or general applied psychologist. While written examinations typically evaluate the applicant's basic core of knowledge, any additional examinations such as oral examinations or work samples shall be representative of the applicant's area of practice. Boards should clearly specify the conditions under which the endorsement of another license will be granted.

The Board shall administer examinations to qualified applicants on at least an annual basis. The Board shall determine the subject matter and scope of the examination and shall require a written, and may require an oral, examination of each candidate for licensure. The written examination shall evaluate the basic core of knowledge in the discipline of psychology necessary to practice while any oral exams or work samples shall be representative of the applicant's area of practice as either a health service provider or general applied psychologist. The Board at its discretion, according to rules and regulations promulgated by the Board, may waive said examination of candidates for licensure. It is recommended that individuals applying for licensure be eligible to sit for the examination upon completion of all the requirements of the doctoral degree.

4. Prior credentials

APA recommends that the Act provide for continued licensure of persons already licensed as a psychologist at the time of enactment of a new law.

A person who is licensed as a psychologist under the provisions of (cite relevant section(s) of previous licensing law) as of the effective date of this Act shall be deemed to have met all requirements for licensure under this Act and shall be eligible for renewal of licensure in accordance with the provisions of this Act.

5. Applications from individuals licensed in other jurisdictions

Jurisdictions are strongly encouraged to adopt regulations to facilitate the mobility and portability of licensure. Jurisdictions may set criteria to determine conditions under which verification of education, experience, and examination requirements will be waived. These criteria may include holding a credential that verifies education and experiences of individuals (e.g. American Board of Professional Psychology (ABPP), National Register of

Health Service Providers in Psychology, Association of State and Provincial Psychology Boards' Certificate of Professional Qualification in Psychology (ASPPB's CPQ)), or Board determination that the criteria of the other jurisdiction are comparable to the Board's criteria, or other specified mechanism.

An individual applying for licensure with the Board who holds an active psychology license in another jurisdiction and shows evidence of good character is considered an eligible candidate for licensure in the jurisdiction. The Board may waive verifying the education, experience, and examination requirements for individuals who meet these criteria and for whom the Board's mechanism for verifying comparability of education, experience, and examination requirements is met. The Board retains the right to administer any required jurisdiction-specific examinations (written, oral, jurisprudence) prior to awarding the license.

E. Interstate Practice of Psychology

Psychologists may have legitimate interests in practicing in another jurisdiction for a limited amount of time. This section provides for limited practice in a jurisdiction other than the state in which the psychologist is licensed. This is not intended to eliminate the necessity for licensure for those who are setting up a regular professional practice in that jurisdiction. The psychologist must have an earned doctoral degree and be licensed in another jurisdiction.

Interjurisdictional practice is particularly critical for the practice of general applied psychology as frequently this involves activities crossing jurisdictional lines, such as engaging with employees of organizations operating in several jurisdictions. For those activities that fall under the licensed scope of practice of psychology, the provider of general applied psychological services should indeed be licensed. However, since increasingly, the provision of such services frequently does not involve face-to-face meetings but rather, these services are being provided telephonically and electronically across state lines, this section recognizes this practice and permits the provision of general applied psychological services in this manner provided that the provider of the services is licensed in at least one jurisdiction and is not using this section to avoid the requirement of licensure entirely.

Mechanisms may be developed to alleviate some of these difficulties and provide for easy interstate recognition of licensure. Jurisdictions are encouraged to adopt and implement such mechanisms as appropriate.

Nothing in this Act shall be construed to prohibit the practice of psychology in this state by a person holding an earned doctoral degree in psychology from an institution of higher education who is licensed or certified as a psychologist under the laws of another jurisdiction, provided that the aggregate of sixty (60) days per year of professional services as a psychologist under the provision of this subsection is not exceeded. Prior to providing services in this state, a doctoral level licensed psychologist from another jurisdiction should provide written notice to the Board of the type of services to be provided, approximate duration of such services along with documentation of licensure and consent to operating under the jurisdiction, law, and regulations of this state. Notice does not require approval of the Board prior to delivery of service if the aggregate of 60 days of services is maintained and the individual does not establish an ongoing, regular, professional practice in the jurisdiction.

Nothing in this Act shall be construed to prohibit an individual not domiciled in the state who does not practice psychology in an office or other place of business in the state from providing general applied psychological services telephonically and electronically if the individual holds an earned doctoral degree in psychology from an institution of higher education and is licensed or certified as a psychologist under the laws of another jurisdiction. Written notice is not required for the interjurisdictional provision of general applied psychological services that are delivered solely by telephonic or electronic means.

In disaster situations the time frame and conditions under which psychologists will provide disaster services in the jurisdiction will be defined by the Board.

To the extent that the jurisdiction has adopted the Uniform Emergency Volunteer Health Practitioners Act, it will apply in times of disaster.

F. Temporary Authorization to Practice

This portion of the Act provides for the conditions under which a licensed psychologist may practice until obtaining licensure in another jurisdiction. Jurisdictions are encouraged to adopt regulations to facilitate the mobility and portability of licensure. Provision is also made for the Board to waive examination if the requirements met by the psychologist in the original jurisdiction are judged to be equivalent to those in this state.

A psychologist holding a current, active license or certification under the laws of another jurisdiction may be authorized by the Board to practice psychology as defined in this Act for a maximum of one year, provided that the psychologist has made application to the Board for licensure and has met the educational and experience requirements for licensure in this state. Denial of licensure terminates this authorization. The Board may choose to waive examination if a psychologist is licensed in another jurisdiction on the basis of qualifications that are not less than those required for licensure in this state.

G. Limitation of Practice; Maintaining and Expanding Competence

This provision of the Act is intended to ensure licensed psychologists who provide services will not practice outside the limits of their competence. The burden of proof is on the applicant to provide evidence, acceptable to the Board, that the applicant has obtained the training necessary to engage in the practice of psychology in the specified area of competence. The Board may wish to develop forms that provide for the specification of the intended area of practice and the evidence necessary to document competence. The Board should recognize that training in psychology includes broad and general training in scientific psychology and in the foundations of practice. Practice areas include: clinical psychology, counseling psychology, school psychology, industrial-organizational psychology, and other developed practice areas.

Psychologists provide services to populations and in areas within the boundaries of their competence, based on their education, training, supervised experience, consultation, study, or professional experience and do not practice beyond their areas of competence. The Board develops requirements or structures (e.g., continuing education in general areas of practice as well as in specific areas such as ethics, domestic violence, and multicultural competence; declaration and documentation of competence) to ensure that psychologists undertake ongoing efforts to identify, develop, and maintain competence and ethical practice. Boards may choose to require applicants for licensure and renewal of licensure to self-declare their areas of practice competence. Should a psychologist's area of practice change, then the psychologist shall be required to provide documentation of the training, supervision, and/or mentoring undertaken to achieve competence in the new area at the time of license renewal. Psychologists practicing in emerging areas take reasonable steps to ensure the competence of their work by using relevant research, training, consultation, or study.

The Board shall ensure through regulations and enforcement that licensees limit their practice to demonstrated areas of competence as documented by relevant professional education, training, and experience. The Board shall develop structures to ensure that psychologists undertake ongoing efforts to maintain competence and ethical practice. The Board adopts as its standard of conduct the Ethical Principles of Psychologists and Code of Conduct of the American Psychological Association.

H. Inactive Status

A psychologist who is on military assignment outside the state, suffering from health problems, on sabbatical, retired, or who moves to another state may wish to be on inactive status. Relieving the psychologist from paying the fee will make it possible for that person to remain in good standing without being an active practitioner.

A psychologist in good standing who will not be practicing in the state for at least one year may petition the Board to have his or her license placed on inactive status without penalty. When such psychologist wishes to return to practice, an application shall be made to the Board, which shall reinstate him or her upon payment of the registration fee for the current year.

I. Practice Without a License

The Act must clearly specify what constitutes a violation of law and what penalties may be imposed for practice without a license or for misrepresentation of oneself as a psychologist. State legislatures have the latitude to determine penalties for such illegal activities. Boards are provided with the authority to suspend or revoke licenses and to prescribe conditions for reinstatement.

It shall be a violation of this Act for any person not licensed in accordance with the provisions of this Act to represent himself or herself as a psychologist. It shall be a violation of this Act for any person not licensed in accordance with the provisions of this Act to engage in the practice of psychology as defined in this Act, whether practicing as an individual, firm, partnership, corporation, agency, or other entity.

Any person who shall represent himself or herself as a psychologist in violation of this Act, or who shall engage in the practice of psychology in violation of this Act, shall be guilty of a misdemeanor and shall be fined not less than _____dollars and not more than _____dollars and, in addition thereto, may be imprisoned for not more than _____months. Each day such person shall practice psychology without meeting all the requirements of all laws now in force and of this Act shall constitute a separate offense. Any person filing or attempting to file, as his or her own, a diploma or license of another or a forged affidavit of identification shall be guilty of a felony and shall be subject to the punishment prescribed for forgery in the second degree.

Whenever a license to practice as a psychologist in the state has been suspended or revoked, it shall be unlawful for the person whose license has been so suspended or revoked to practice psychology in this state. The Board may issue, with or without reexamination, a new license whenever it deems such course safe and just.

The Board on its own motion may investigate any evidence or allegation that appears to show that any person is or may be in violation of any provision of this Act.

J. Exemptions

1. There should be an exemption from licensure for persons engaged solely in teaching in academic institutions, or research in academic and/or research institutions. In addition, those general applied (non-HSP) psychologists who provide services for the benefit of the organization as described in B.5.b.2 but not as described in B.5.b.1 and not involving direct services to individuals should be exempt from licensure and be allowed to refer to themselves as psychologists. The exemption should not be determined on the basis of work setting or place of primary employment, but on the basis of the purpose of the activity as defined in Section B3 (Practice of psychology). The exemption should not be allowed if the individual engages in the direct delivery or supervision of psychological services to individuals or groups of individuals in any setting. Persons engaged in teaching or research should not be excluded from licensure if they meet the statutory requirements for licensure.

Nothing in this Act shall be construed to prevent the teaching of psychology or the conduct of psychological research, provided that such teaching or research does not involve the delivery or supervision of direct psychological services. Nothing in this Act shall prevent the provision of general applied psychological services to organizations so long as those services are for the benefit of the organization, and does not involve direct service to individuals. Nothing in this Act shall prevent the provision of expert testimony by psychologists who are otherwise exempted by this Act. Persons holding a doctoral degree in psychology from an institution of higher education may use the title "psychologist" in conjunction with the activities permitted by this subsection.

2. Members of other established professions, such as physicians, attorneys, and clergy, may provide services that are similar or related to the scope of practice of psychology. They should be exempted from licensure on the condition that they not represent themselves to be psychologists.

Nothing in this Act shall be construed to prevent members of other recognized professions that are licensed, certified, or regulated under the laws of this state from rendering services consistent with their professional training and code of ethics, provided that they do not represent themselves to be psychologists. Duly recognized members of the clergy shall not be restricted from functioning in their ministerial capacity, provided that they do not represent themselves to be psychologists.

3. The prior version of this Model Act included an exemption for the use of the terms school psychologist or certified school psychologist for all individuals credentialed by the state agency regulating practice in public schools. This version acknowledges the authority of the relevant state education agency to credential individuals to provide school psychological services in settings under their purview and continues to restrict those individuals to practice within those settings. Additionally, the title so conferred, which must include the word “school”, is to be used solely while engaged in employment within those settings.

Nothing in this Act shall be construed to prevent (cite relevant state education authority or statutory provisions) from credentialing individuals to provide school psychological services in those settings that are under the purview of the state education agency. Such individuals shall be restricted in their practice and the use of the title so conferred, which must include the word "school", to employment within those settings.

This provision is not intended to restrict the activities of licensed psychologists.

4. Graduate students, interns, unlicensed postdoctoral trainees, and applicants for licensure are permitted to function under the supervision of a licensed psychologist, as are assistants not eligible for licensure in some states. None may use the title psychologist, but titles such as psychological trainee, psychological intern, psychological resident, or psychological assistant would be permissible under this exemption. The supervising psychologist is responsible for the professional actions of the student, trainee, or assistant. The Board is required to adopt regulations defining the nature and extent of training for qualified assistants and supervision for each category.

Nothing in this Act shall be construed to prevent persons under the supervision of a licensed psychologist from engaging in activities defined as the practice of psychology, provided that such persons shall not represent themselves by the title "psychologist," in accordance with regulations promulgated by the Board. Such persons who are preparing for the profession of psychology may use terms such as “psychological trainee,” “psychological intern,” “psychological resident.” Other persons may use terms such as “psychological assistant,” “psychological technician,” “psychological associate.” All such persons must perform their activities under the supervision and responsibility of a licensed psychologist in accordance with regulations promulgated by the Board.

Nothing in this section shall be construed to apply to any person other than:

(a) a matriculated graduate student in psychology whose activities constitute a part of the course of study for a graduate degree in psychology at an institution of higher education;
(b) an unlicensed individual pursuing postdoctoral training or experience in psychology, including persons seeking to fulfill the requirements for licensure under the provisions of this Act; or
(c) a qualified assistant, technician, or associate employed by, or otherwise directly accountable to, a licensed psychologist. Such individuals may, among other things, administer and score neuropsychological tests at the request of the supervising psychologist, but may not interpret such tests. The Board in regulations shall determine the number of assistants, technicians and associates that a psychologist may employ and the conditions under which they will be supervised.

5. This provision clarifies that the focus of licensure is the individual providing the services. Where the individual providing the services is duly licensed and qualified to provide the services, the goal of assuring the public that the services will be provided by licensed and qualified professionals is served.

Nothing in this Act shall be construed to require a license under this Act in order for a firm, partnership, corporation, limited liability company or other entity to provide general applied psychological services where such services are performed by an individual: (a) duly licensed in this state or otherwise authorized to provide general applied psychological services under this Act; or (b) supervised by a licensed psychologist in this state and permitted to provide general applied psychological services with such supervision under this Act.

6. Individuals who were previously unable to obtain licensure because of exemptions or exclusions in the previous version of this Act or where fulfilling requirements for licensure has been prohibitive (in some instances this has included I-O, human factors, and consulting psychologists), but are now expected to become licensed under the new regulations, a provision for extending licensure to those psychologists should be enacted.

All who have been practicing for 5 years or more exclusively outside of the health care psychology area and who were previously unable to obtain licensure because of exemptions or exclusions in the previous version of this Act or where fulfilling requirements has been prohibitive shall be grandparented, with the following requirements:

- a. Candidates should have graduated from a regionally accredited institution with a doctoral degree in I-O, consulting, or other recognized program in general applied psychology.*
- b. Attestation from the candidate that documents at least 5 years of relevant work history in I-O, consulting, or other general applied psychology practice. This should include written support from at least two licensed psychologists in good standing within that jurisdiction or APA Fellows in the same or similar area of practice that attests to the candidate's work history, quality of work, ethical practice and lack of any disciplinary action.*
- c. Completion of the jurisprudence examination of that jurisdiction with a passing grade.*

Individuals must have applied for this grandparenting option within two years from the enactment of this Act. After that date, the individual must comply with the regular licensing laws.

K. Grounds for Suspension or Revocation of Licenses

In order to have an effective law, the Board must have the power to suspend and revoke a license. Actions that are a violation of the enforceable standards of the APA Ethical Principles of Psychologists and Code of Conduct in effect at the time of the activities and other standards subscribed to by the Board should be clearly stated in the licensing law. Two considerations are specified below that refer to specific points in the text that follows:

Concerning Numbers 6 and 7

The Board shall specify, in rules and regulations, criteria for determining how long or under what conditions an individual or group of individuals remains a patient or a client.

Concerning Number 17

In this section, physical condition shall be differentiated from physical disability. There is no intent to obstruct physically disabled candidates' entry into the profession of psychology nor from practicing their profession after licensure as long as they practice with reasonable skill and safety to patients or clients.

A psychologist and anyone under his or her supervision shall conduct his or her professional activities in conformity with the ethical and professional standards of the APA Ethical Principles of Psychologists and Code of Conduct and those standards promulgated by the Board under its rules and regulations.

The Board shall have the power and duty to suspend, place on probation, or require remediation for any psychologist for a specified time, to be determined at the discretion of the Board, or to revoke any license to practice psychology or to take any other action specified in the rules and regulations whenever the Board shall find by a preponderance of the evidence that the psychologist has engaged in any of the following acts or offenses:

- 1. fraud in applying for or procuring a license to practice psychology;*
- 2. immoral, unprofessional, or dishonorable conduct as defined in the rules and regulations promulgated by the Board;*
- 3. practicing psychology in such a manner as to endanger the welfare of clients or patients;*
- 4. conviction of a felony (a copy of the record of conviction, certified to by the clerk of the court entering the conviction shall be conclusive evidence);*
- 5. conviction of any crime or offense that reflects the inability of the practitioner to practice psychology with due regard for the health and safety of clients or patients;*
- 6. harassment, intimidation, or abuse, sexual or otherwise, of a client or patient;*
- 7. engaging in sexual intercourse or other sexual contact with a client, patient or the individual who is the direct recipient of psychological services (where services are provided to an organization, client refers only to the individuals who are direct recipients of psychological services);*
- 8. use of repeated untruthful or deceptive or improbable statements concerning the licensee's qualifications or the effects or results of proposed treatment, including functioning outside of one's professional competence established by education, training, and experience;*
- 9. gross malpractice or repeated malpractice or gross negligence in the practice of psychology;*
- 10. aiding or abetting the practice of psychology by any person not licensed by the Board;*

11. conviction of fraud in filing Medicare or Medicaid claims or in filing claims to any third party payor (a copy of the record of conviction, certified to by the clerk of the court entering the conviction, shall be conclusive evidence);
12. exercising undue influence in such a manner as to exploit the client, patient, student, or supervisee for financial or other personal advantage to the practitioner or a third party;
13. the suspension or revocation by another state of a license to practice psychology (a certified copy of the record of suspension or revocation of the state making such a suspension or revocation shall be conclusive evidence thereof);
14. refusal to appear before the Board after having been ordered to do so in writing by the executive officer or chair of the Board;
15. making any fraudulent or untrue statement to the Board;
16. violation of the APA Ethical Principles of Psychologists and Code of Conduct and other standards adopted in the rules and regulations of the Board; and
17. inability to practice psychology with reasonable skill and safety to patients or clients by reason of illness, inebriation, misuse of drugs, narcotics, alcohol, chemicals, or any other substance, or as a result of any mental or physical condition.

When the issue is whether or not a psychologist is physically or mentally capable of practicing psychology with reasonable skill and safety to patients or clients, then, upon a showing of probable cause to the Board that the psychologist is not capable of practicing psychology with reasonable skill and safety to patients or clients, the Board may petition a court of competent jurisdiction to order the psychologist in question to submit to a psychological examination by a psychologist to determine psychological status and/or a physical examination by a physician to determine physical condition. Such psychologist and/or physician is to be designated by the Board. The expense of such examination shall be borne by the Board. Where the psychologist raises the issue of mental or physical competence or appeals a decision regarding his or her mental or physical competence, the psychologist shall be permitted to obtain his or her own evaluation at the psychologist's expense. If the objectivity or adequacy of the examination is suspect, the Board may complete an examination by its designated practitioners at its own expense. When mental or physical capacity to practice is at issue, every psychologist licensed to practice psychology in the state shall be deemed to have given consent to submit to a mental or physical examination or to any combination of such examinations and to waive all objections to the admissibility of the examination, or to previously adjudicated evidence of mental incompetence.

L. Board Hearings and Investigations

In the interest of protecting the public, the Board must have authority to regulate the practice of psychology. This section specifies the powers and duties of the Board to conduct investigations, hold hearings, consider evidence or allegations brought against a psychologist, and to discipline a licensee for violation of law or regulation. Both the Board and licensee are required to follow due process standards in any disciplinary proceeding.

The Board on its own motion may investigate or cause to be investigated any allegation or evidence that appears to show that a psychologist licensed to practice in this state is, or may be, in violation of this Act or of any of the acts, offenses, or conditions set forth by the Board in rules and regulations. Investigations will be limited to the allegation or evidence upon which they were initially based, except in situations when the investigation uncovers evidence of serious misconduct on the part of the psychologist that is unrelated to the initial allegation or evidence.

1) Any accusation filed against a psychologist licensed to practice in this state shall be filed within three years from the date the Board discovers the alleged act or omission that is the basis for disciplinary action, or within seven years from the date the alleged act or omission that is the basis for disciplinary action occurred, whichever occurs first. If an alleged act or omission involves a minor, the seven-year limitations period provided for shall be tolled until the minor reaches the age of majority.

2) The following are exceptions to the limitations period in paragraph (1):

- a. acts or offenses involving a violation of Sections K(1), K(13), or K(15) ;
- b. acts or offenses involving a violation of Sections K4, where there is an element of dishonesty or fraud, and Section K5;

- c. acts or offenses involving fraudulent, deceptive or dishonest conduct that adversely affects the persons' ability or fitness to practice psychology;
- d. acts or offenses involving allegations of sexual misconduct with a psychotherapy client, or with a former psychotherapy client for a period of two years following the date of the last professional contact with the former client.

The Board shall have the power and duty to suspend, place on probation, or require remediation for a licensee for a specified time, to be determined at the discretion of the Board, or to revoke any license to practice psychology, whenever the licensee shall be found by the Board, by a preponderance of the evidence, to have engaged in conduct prohibited by this Act or rules and regulations duly promulgated pursuant thereto.

Any psychologist holding a license to practice in this state is required to report to the Board any information such psychologist in good faith may have that appears to show that any psychologist holding a license to practice in this state may be in violation of this Act or guilty of any of the acts, offenses, or conditions set forth by the Board and such violation has substantially harmed or is likely to substantially harm a person or organization, unless such intervention would violate confidentiality rights under this statute or when the knowledge comes from a peer review process qualifying under the state peer review statute or when the psychologist has been retained to review the work of that psychologist whose professional conduct is in question. Any psychologist who in good faith makes such a report to the Board shall be absolutely immune from civil liability to any person and/or entity for any statement or opinion made in such report.

If, in the opinion of the majority of the Board, there is probable cause that the information provided to it under the provisions of this section may be valid, the Board shall request by registered mail a formal interview with the psychologist. If the psychologist who is ordered to a formal interview before the Board refuses to appear for such interview, such refusal shall be considered grounds for the Board, at its discretion, to suspend or revoke the license of such psychologist. Any proceeding for suspension or revocation of a license to practice as a psychologist in this state shall be conducted in accordance with procedures established by the Board. In the event that these provisions conflict with the state's general administrative procedures, these specific provisions will take precedence. The psychologist shall be informed of his or her rights concerning Board hearings and investigations:

1. the right to a hearing within a reasonable period of time after the Board receives the allegation or evidence that serves as the basis for an investigation by the Board and 30-days notice of the hearing;
2. the right to notice that a complaint has been filed and a copy of the complaint within 120 days of receipt of the complaint and the licensed psychologist and the complainant is provided notification, at least every three months as to the status of any outstanding complaint unless the Board makes an affirmative determination that the disclosure would prejudice the investigation of the complaint and notifies the licensee of the determination or disposes of the complaint within 120 days of the date of receipt of the complaint;
3. the right to see a signed (electronically or otherwise) complaint (non anonymous);
4. the right to have access to the Board's rules and procedures;
5. the right to self-representation or representation by counsel;
6. the right to discovery: each side can request from the other side relevant documents, a list of witnesses, and for any expert witnesses, the name, C.V. and a detailed report of the expert's expected testimony;
7. the right to compel the attendance of, and produce, witnesses and to confront and cross examine opposing witnesses, and to have witnesses testify under oath;
8. the right to a written decision setting forth the violation, findings of fact, sanctions, and reasons for the sanctions, within a reasonable period following the hearing;
9. a determination of the size of the vote necessary to find a violation;
10. a determination whether the hearing will be closed or open to the public;
11. the right not to have Board members who were on the investigative committee also appear on the formal hearing panel.
12. the right to an appeal to an administrative board of review and/or to a court of competent jurisdiction.

The licensee may knowingly and voluntarily waive in writing his or her right to the formal adversary proceeding described in this section.

The Board shall have the right to conduct an ex parte hearing if, after due notice, the individual fails or refuses to appear. The Board shall have the right to issue subpoenas for production of documents and witnesses and to administer oaths. The Board shall have the right to apply to a court of competent jurisdiction to take appropriate action should a subpoena not be obeyed.

The Board shall temporarily suspend the license of a psychologist without a hearing simultaneously with the institution of proceedings for a hearing provided under this section if the Board finds that evidence in its possession indicates that the psychologist's continuation in practice may constitute an immediate danger to the public. Appropriate officials may petition the court for an injunction barring further practice unless or until the person is properly licensed. The injunction may be issued in addition to, or in lieu of, the criminal sanctions provided for in this section.

A psychologist may surrender his or her license when such person is charged with unethical conduct and upon receipt of that charge, that person decides to surrender the license, such surrender and acceptance by the Board shall constitute acknowledgment by the psychologist of guilt as charged.

A psychologist may request in writing to the Board that a restriction be placed upon his or her license to practice as a psychologist. The Board, in its discretion, may accept a surrender or grant such a request for restriction and shall have the authority to attach such restrictions to the license of the psychologist to practice psychology within this state or otherwise to discipline the licensee.

Subsequent to the holding of a hearing and the taking of evidence by the Board as provided for in this section, if a majority of the Board finds that a psychologist is in violation of this Act or guilty of any of the acts, offenses, or conditions as enumerated by the Board, the following actions may be taken:

- 1. The Board may revoke or suspend the license and impose a monetary penalty.*
- 2. The Board may suspend imposition of a revocation or suspension of a license and/or a monetary penalty.*
- 3. The Board may impose revocation or suspension of a license and/or a monetary penalty, but suspend enforcement thereof by placing the psychologist on probation, which probation shall be revocable if the Board finds the conditions of the probation order are not being followed by the psychologist.*
- 4. The Board may require the psychologist to submit to care, counseling, or treatment by a professional designated by the Board. Such action may, but is not required to, be a condition of probation. The expense of such action shall be borne by the psychologist.*
- 5. The Board may, at any time, modify the conditions of the probation and may include among them any reasonable condition for the purpose of the protection of the public, or for the purpose of the rehabilitation of the probationer, or both.*
- 6. The Board shall have the power to require restitution when necessary,*
- 7. The Board shall have the power to assess the costs of the disciplinary proceeding.*

M. Privileged Communication

This section regulates and limits the powers of the judicial system. The courts or other administrative agencies with subpoena power have the right to make use of all relevant information in the judicial fact-finding process unless this right of access to information is specifically limited. Historically, courts and legislatures have been charged with fact-finding in order to seek truth and administer justice. At the same time they have attempted to maintain the integrity of the confidential and private relationship between psychologist and patient or client. However, some societal issues have emerged, such as child abuse and sexual abuse, that have changed the absolute nature of privileged communication. Though the privilege is not absolute, it is designed to be sufficiently broad to cover all situations except those specifically enumerated. It is a privilege "owned" by the patient or client, who may assert it or waive it, although the psychologist may assert it for a patient or client who wishes to maintain such privilege of communication. It is understood that the privilege encompasses only communications between the patient or client and the psychologist in a professional relationship. The provisions herein relate only to the disclosure of confidential communications in judicial, legislative, and administrative proceedings. They do not speak to the disclosure of confidential communications in other context, such as, for example, disclosures required or permitted by law or disclosures relating to consultations. Disclosure of confidential communications outside of judicial proceedings are governed by the relevant sections of the APA Ethics Code.

In judicial proceedings, whether civil, criminal, or juvenile; in legislative and administrative proceedings; and in proceedings preliminary and ancillary thereto, a patient or client, or his or her guardian or personal representative, may refuse to disclose or prevent the disclosure of confidential information, including information contained in administrative records, communicated to a psychologist licensed or otherwise authorized to practice psychology under the laws of this jurisdiction, or to persons reasonably believed by the patient or client to be so licensed, or to students, interns, and trainees under the supervision of a licensed psychologist, and their agents, for the purpose of diagnosis, evaluation, or treatment of any mental or emotional condition or disorder. In the absence of evidence to the contrary, the psychologist is presumed authorized to claim the privilege on the patient's or client's behalf.

This privilege may not be claimed by the patient or client, or on his or her behalf by authorized persons, in the following circumstances:

- 1. where abuse or harmful neglect of children, older adults, or disabled or incompetent individuals is known or reasonably suspected;*
- 2. where the validity of a will of a former patient or client is contested;*
- 3. where such information is necessary for the psychologist to defend against a malpractice action brought by the patient or client;*
- 4. where an immediate threat of physical violence against a readily identifiable victim is disclosed to the psychologist;*
- 5. in the context of civil commitment proceedings, where an immediate threat of self-inflicted damage is disclosed to the psychologist;*
- 6. in any proceeding in which the party relies upon his or her mental or emotional condition as an element of the party's claim or defense;*
- 7. where the patient or client is examined pursuant to court order; or*
- 8. in the context of investigations and hearings brought by the patient or client and conducted by the Board, where violations of this Act are at issue.*

N. Severability

As with any law, one provision may be subject to court challenge and ruled invalid or unconstitutional. For example, it is not legally clear whether state licensing boards can regulate persons working for federal agencies. Thus, if any provision is ruled invalid or unconstitutional, it is important that the entire Act not be affected. This can only be achieved by inserting a clause at the end of the Act stating that each provision of the Act is severable from all other provisions and that the declaration that one section is invalid or unconstitutional will not affect the constitutionality or enforceability of any other section.

If any section in this Act or any part of any section thereof shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of any section or part thereof.

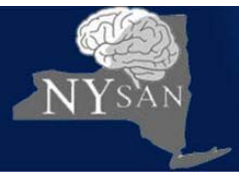
O. Effective Date

In any law regulating a profession there needs to be a specific date establishing when the law shall become effective. Thus, the final paragraph states:

This Act shall become effective upon the date it is signed by the Governor or on the date it otherwise becomes effective by operation of law.

REFERENCES

- American Psychological Association. (2002). Ethical principles of psychologists and code of conduct. *American Psychologist*, 57, 1060-1073.
- American Psychological Association. (1987). Model act for state licensure of psychologists. *American Psychologist*, 42, 696-703.
- APA Committee on Legislation. (1955). Joint report of the APA and CSPA (Conference of State Psychological Associations). *American Psychologist*, 10, 727-756.
- APA Committee on Legislation. (1967). A model for state legislation affecting the practice of psychology 1967: Report of the APA Committee on Legislation. *American Psychologist*, 22, 1095-1103.

**PRESIDENT**

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NYSAN-Advancing the Practice of Neuropsychology in New York State

May 30, 2012

Douglas E. Lentivech
Deputy Commissioner of the Professions
Office of the Professions
New York State Education Department
89 Washington Avenue
Albany, NY 12234

Dear Commissioner Lentivech:

I am writing in response to a recent SED posting "Draft Report to the Legislature and Executive Pursuant to Chapters 130 and 132 of the Laws of 2010." The posting reports on the public review and comment data generated from an exempt state agencies report on non-licensed service providers. The SED has requested input before finalizing the report and is using an online survey to complete that process. I am commenting on behalf of NYSAN by this letter instead.

The New York State Association of Neuropsychology (NYSAN) opposes the broad exemption of mental health professionals from state licensure. Extending the exemption will permit people without doctoral degrees in psychology to continue to function as psychologists in New York. The responses to the original survey, as stated in the report, clearly did not support this action. The report also does not clearly indicate how such an exemption will achieve its stated goal of public protection. It is unclear what the exemption decision was based on. If it is based on a lack of complaints to SED of consumer harm, will SED apply this same logic to exemptions for other non-licensed professionals in mental health settings?

NYSAN also asserts that the extension of the exemptions along with creating alternative pathways to licensure will create confusion among consumers as to the qualifications of a "psychologist." Exemption from qualifications dilutes the standards of psychological practice. Moreover, the healthcare redesign has clearly placed mental health and thus psychology in parity with medicine, eliminating the distinction between them in the healthcare system. Would the SED consider exempting thousands of unlicensed physicians to practice medicine in the state? Why should such a disparity exist?

The NYSAN board also believes that the proposal for license exemption creates an underclass of patients who are served by state agencies whose practitioners have bypassed the requirements of education, examination, and experience that protect the health, safety and welfare of consumers. These patients will not be afforded the same protections as other NY state citizens who will be

receiving their psychological services by a licensed, doctoral level psychologist. We believe that all citizens deserve the same protections when obtaining services.

We also oppose the alternative pathway to licensure by omitting an examination. The alternative pathway creates a separate class of practitioner, the distinction of which will not be clear to the public, again creating confusion among consumers as to the qualifications of the provider. This is clearly not in the public interest. The education and training of licensed professionals demonstrated by examination and submission of credentials is implied by the title and serves as protection against unqualified practitioners. Without uniformity in these requirements, the public is put at risk, both by the public's confusion and by the ability of unqualified person's to pass through the system.

NYSAN was encouraged to see that the report recognizes that there is broad-based support for "teams that are based on a clear definition of roles for licensed and for unlicensed persons, to provide comprehensive care in a safe and effective manner" and that "many services could, in fact, lawfully be performed by unlicensed persons". We interpret this as supporting NYSAN's long-standing assertion that safe and effective psychological practice includes the tightly restricted use of unlicensed psychological testing assistants who are under the supervision of a licensed psychologist. The supervising psychologist and trained testing assistant are a perfect example of such a team, a fact that has been recognized by virtually every other state in the country and by the Center for Medicare Services. We are dismayed that the report fails specifically to mention SED's opposition to this practice as one of the many unforeseen and unintended consequences to the licensure laws, as this has been the point of ongoing discussions and meetings since 2003. Finally, we note that the report states that no harm has been done to consumers by exempting certain mental health professionals from licensure requirements. While we certainly hope this is true, it is unclear to us what data this opinion is based on. If it is based on a lack of complaints to SED of consumer harm, we look forward to SED applying this same logic to evaluating use of supervised psychological testing assistants, as we are unaware of any such complaints or any other data suggesting harm resulting from this practice.

Signed,

A handwritten signature in black ink, appearing to read 'Joanne Festa', written in a cursive style.

Joanne Festa, PhD - President NYSAN
on behalf of the NYSAN membership

cc: NYSAN Board of Directors and Professional Affairs Committee



NEW YORK ASSOCIATION FOR MARRIAGE AND FAMILY THERAPY
 Chapters: Genesee Valley Central Albany/ Hudson Valley METRO Long Island

President: Dr. Robert Burns * President Elect: Karrie Damm * Legislative Chairman: Don Paine

***“Building bridges between legislators and licensed marriage and family therapists
 to create a community partnership for a healthier and better NY “***

May 29, 2012

Doug Lentivech, Deputy Commissioner
 Office of the Professions
 NYS Education Building, 2nd Floor
 89 Washington Avenue
 Albany, NY 12234

On behalf of the membership of the New York Association of Marriage and Family Therapy, I am writing regarding the “Draft Report to the Legislature and Executive Pursuant to Chapters 130 & 131 of the Laws of 2010.” As you know, NYAMFT is an advocacy organization representing the professional interests of almost 900 MFT’s living and working in New York State.

While there are a number of points of the report that are of interest to NYAMFT, three sections are critical to the future success of the profession of Marriage and Family Therapy:

1. Clarification of practice

NYAMFT strongly supports the conclusion outlined in the report. The absence of the term “diagnosis” has caused confusion for almost a decade. NYAMFT believes the statute provides credibility for the authorization to diagnose as is supported by the educational requirement related to psychopathology, the prevalence of diagnosing within the approved examination for licensure, and the authority of licensed mental health practitioners to use classification systems, including the Diagnostic Statistical Manual. Clarification in statute or guidance by the Legislature on the intent regarding diagnosis would assist in opening opportunities for licensed mental health practitioners to fulfill needed mental health care throughout the system;

2. Extension of broad-based exemptions from licensure

NYAMFT supports ending the exemption and requiring licensure of individuals providing professional services in all settings. We agree with the draft report’s statement that the exempt agencies should work with the New York State Education Department to identify ways to transition into a comprehensive licensure requirement that avoids disruption in services to vulnerable populations. We agree that a responsible transition may require the extension of the exemption while alternative pathways to licensure or other policy options are explored and implemented; and

3. Civil Service titles There is a significant need for Civil Service to establish titles for the four professions licensed under Article 163. The lack of titles has limited the opportunities for agencies and programs to utilize these professional. Licensed practitioners find themselves

restricted from applying to positions that could seamlessly be held by a licensed mental health counselor or the other three practitioners.

Thank you for considering our concerns. Should you require additional information, please feel free to contact me at dmurphymcgraw@hgmlobby.com or 518-463-5449.

All my best,

Denise Murphy McGraw
Legislative Representative
Partner, Hill, Gosdeck & McGraw, LLC

cc: David Hamilton, Executive Secretary Board of Mental Health Practitioners

PITTA BISHOP DEL GIORNO & GIBLIN LLC

consulting/government relations

June 1, 2012

Doug Lentivech, Deputy Commissioner
Office of the Professions
NYS Education Building, 2nd Floor
89 Washington Avenue
Albany, NY 12234

Dear Deputy Commissioner Lentivech:

Thank you for the opportunity to provide input on the “Draft Report to the Legislature and Executive Pursuant to Chapters 130 & 131 of the Laws of 2010.” On behalf of our client, the National Association for the Advancement of Psychoanalysis (NAAP), we submit the following comments in relation to the conclusions related to Mental Health Practitioners (Article 163):

1. Clarification of practice [MPH1].

Report Conclusion. There is agreement that “diagnosis” is a function that could be appropriately provided by individuals licensed under Article 163, although this term is not included in the scope of practice for each profession. The Legislature could provide clarity by amending Article 163 to define diagnosis within the practice of the professions or provide guidance that an interpretation of the existing language to include diagnosis would be consistent with the legislative intent.

NAAP strongly supports the conclusion to include “diagnose and treat” in Article 163 professions.

The absence of the term “diagnosis” within the scope of practice of psychoanalysis has caused significant confusion and has been a major concern within the profession. NAAP asserts that statutory authorization to “diagnose and treat” is supported by the statutory educational, experience, and examination requirements, and the statutory authority of licensed mental health practitioners to use classification systems, including the Diagnostic Statistical Manual (DSM).

NAAP supports the clarification as a means of bringing a common rationale for providing mental healthcare in New York State and enabling mental health professionals to meet the challenge of the ongoing and increasing needs for providing mental health care to all the citizens of New York State.

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Appendix F

2. Delegation of professional services [MHP 2]

Report Conclusion. Multi-disciplinary teams of licensed professionals and unlicensed persons are an appropriate way to provide certain services to consumers. However, it is important that the activities assigned to members of the team are consistent with the scope of practice for each team member licensed or authorized under Title VIII, and those who are not so authorized may not engage in restricted activities, even under supervision. The Department and the exempt agencies may collaborate in defining appropriate roles for unlicensed individuals, such as peer counselors, mental health therapy aides, and others who function as part of a multi-disciplinary team, but who do not make professional determinations. (Report refers same conclusion for Social Work & Mental Health Practitioners)

NAAP acknowledges the benefits of the use of a multidisciplinary team approach to care and advocates clearly defined roles for unlicensed individuals.

3. Alternative pathways [MPH4]

Report Conclusion. A significant number of long-time practitioners did not seek licensure, particularly under the special provisions in 2005 and, now must be appropriately licensed by the time the exemptions expire. As in the social work professions, there is agreement that appropriate standards for education and experience should be established as part of a time-limited, alternative pathway to licensure to avoid disruptions in the work force.

NAAP supports a structured, time-limited grandfathering period for current employees of exempt agencies. Individuals entering a profession should be held to statutory levels of education, experience, and examination to maintain public protection.

NAAP also agrees with the draft report's following statement: "an alternative pathway to licensure based on entry to a Civil Service title(s) or other criteria would not protect the public."

4. Extension of broad-based exemptions from licensure [MHP 5]

Report Conclusion. There is strong support for ending the permanent exemptions and requiring licensure of individuals who provide professional services in publicly funded programs, as in privately funded programs, to ensure the health, safety and welfare of the public. The Department is ready to collaborate with the Legislature, Executive and other stakeholders, to discuss the timeline for implementing changes in the licensing laws to minimize any disruptions in services and displacement of individuals or programs.

NAAP strongly supports ending the exemption and requiring licensure of individuals providing professional services in all settings. We understand that a responsible transition may require the extension of the exemption while alternative pathways to licensure and other policy initiatives are implemented.

5. Civil Service Titles [MHP 6]

Report Conclusion. There is agreement that the Department of Civil Service should revise job titles to reflect the new professions established in Article 163 and require an applicant to be licensed in order to hold a Civil Service position, in order to ensure the health, safety and welfare of the public.

NAAP asserts there is a need for Civil Service to establish titles for the four professions licensed under Article 163. The lack of titles has limited the opportunities for agencies and programs to utilize these professionals.

6. Areas in need of further study: Limited permits & Continuing Education

Limited Permits

NAAP advocates that SED review its current practices regarding limited permits to ensure that it accurately reflects the practices of each profession and does not inadvertently result in the discontinuation of essential mental health services for patients. NAAP welcomes the opportunity to work with the Department in this area.

Continuing Education

In conjunction with the clarification of the scope of practice, NAAP advocates implementation of a continuing education requirement for Article 163 licensed professionals to ensure that, all licensed mental health practitioners maintain the highest level of competency.

Thank you for your diligence in fulfilling your statutory charge and thank you for your continued efforts to give stakeholders a voice in the process. We look forward to further discussions on how to expand access to high quality mental health care for all New Yorkers.

Respectfully submitted on behalf of the National
Association for the Advancement of Psychoanalysis
by Pitta Bishop Del Giorno & Giblin LLC

c.c: David Hamilton, Executive Secretary Board of Mental Health Practitioners



New York Mental Health Counselors Association
206 Greenbelt Parkway, Holbrook, New York 11741
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NYMHCA2@optonline.net

Tuesday, May 22, 2012

Doug Lentivech, Deputy Commissioner
Office of the Professions
NYS Education Building, 2nd Floor
89 Washington Avenue
Albany, NY 12234

Dear Deputy Commissioner Lentivech:

On behalf of the membership of the New York Mental Health Counselors Association (NYMHCA), we are writing to submit comments regarding the “Draft Report to the Legislature and Executive Pursuant to Chapters 130 & 131 of the Laws of 2010”. NYMHCA is an advocacy organization representing over 1200 clinical counselors of New York State. NYMHCA is the state branch of the American Mental Health Counselors Association.

To begin, we would like to thank you and your office for prioritizing this assignment and allowing for ample opportunity for the public to participate in the discussion. The issues facing the professions are complicated and pervasive. The Office of the Professions has been thorough and diligent in its investigation and review of those issues. NYMHCA appreciates the opportunity to once again offer our comments.

For simplicity, we will organize our comments in order of the points highlighted under the section relating to mental health practitioners.

1. Clarification of practice [MPH1].

NYMHCA strongly supports the conclusion identified. Indeed, the absence of the term “diagnosis” has caused confusion. NYMHCA believes the statute provides credibility for the authorization to diagnose as is supported by the educational requirement related to psychopathology, the prevalence of diagnosing within the approved examination for licensure, and the authority of licensed mental health practitioners to use classification systems, including the Diagnostic Statistical Manual. Clarification in statute or guidance by the Legislature on the intent regarding diagnosis would assist in opening opportunities for licensed mental health practitioners to fulfill needed mental health care throughout the system.

2. Delegation of professional services [MHP 2]

NYMHCA supports the use of a multidisciplinary team approach to care. However, such approach does not inherently require the utilization of unlicensed individuals to perform scope protected work. Rather, clearly defined roles for unlicensed individuals can help establish efficient and effective teams.

3. Occupational exemptions [MPH 3]

NYMHCA supports the New York State Education Department working with OASAS to evaluate whether other agency credentialed positions, similar to the Credentialed Alcoholism and Substance Abuse Counselors (CASAC), should be exempt while in practice at an OASAS facility. In addition, NYMHCA believes candidates for the CASAC should be given considerations under supervision to obtain the necessary experience for credentialing.

4. Alternative pathways [MPH4]

NYMHCA supports a structured time-limited grandfathering period for current employees of exempt agencies that require sufficient criteria to ensure competency. NYMCHA would not support any alternative pathway that allowed individuals with less than a bachelor's degree to enter the licensed profession.

NYMHCA strongly agrees with the draft report's following statement: "an alternative pathway to licensure based on entry to a Civil Service title(s) or other criteria would not protect the public." Individuals entering a profession should be held to specific levels of education, experience and examination.

5. Extension of broad-based exemptions from licensure [MHP 5]

NYMHCA strongly supports ending the exemption and requiring licensure of individuals providing professional services in all settings. NYMHCA agrees with the draft report's statement that the exempt agencies should work with the New York State Education Department to identify ways to transition into a comprehensive licensure requirement that avoids disruption in services to vulnerable populations. We agree that a responsible transition may require the extension of the exemption while alternative pathways to licensure or other policy options are explored and implemented.

6. Civil Service titles [MHP 6]

There is a significant need for Civil Service to establish titles for the four professions licensed under Article 163. The lack of titles has limited the opportunities for agencies and programs to utilize these professional. Licensed practitioners find themselves restricted from applying to positions that could seamlessly be held by a licensed mental health counselor or the other three practitioners.

7. Areas in need of further study: Continuing education & limited permits

NYMHCA appreciates the inclusion of continuing education in the larger discussion of the exemptions especially as this requirement might relate to alternative pathways or a grandfathering period for current employees in exempt agencies. Should consideration be made to allow individuals to become licensed who do not currently meet the standards for licensure, the state should impose continuing education requirement on all Article 163 licensed professionals to ensure that over time, all licensed mental health practitioners maintain the highest level of competency.

Finally, individuals seeking to be licensed as mental health counselors are struggling to maintain full time employment that provides the necessary experience under a limited permit. Statutory language that would allow the New York State Education Department under its discretion to extend a limited permit would greatly benefit those who have been affected by the sluggish employment environment.

Once again, thank you for providing our organization the opportunity to submit comments. We look forward to a continued discussion on how to expand access to high quality mental health care for all New York citizens and among all settings. As always, do not hesitate to reach out with questions or comments.

Sincerely,



Joseph R. Franco, Ph.D. LMHC
President, NYMHCA



Judith Ritterman, LMHC, LMFT
Executive Director, NYMHCA

c.c: David Hamilton, Executive Secretary Board of Mental Health Practitioners



American Music Therapy Association Mid-Atlantic Regional Chapter

Delaware • D.C. • Maryland • New Jersey • New York • Pennsylvania • Virginia • West Virginia

June 1, 2012

David Hamilton, Ph.D., LMSW, ACSW
Executive Secretary
State Board for Social Work
State Board for Mental Health Practitioners
State Board for Podiatry (Acting)
Office of the Professions
New York State Education Department
89 Washington Ave., Albany, NY 12234-1000

Dear David;

Thank you for the opportunity to provide a comprehensive statement on behalf of LCAT music therapists in response to the *Draft Report to the Legislature and Executive Pursuant to Chapters 130 and 132 of the Laws of 2010*. As you know, the New York State Task Force on Occupational Regulation (NYSTF) has been an active participant throughout the legislative and regulatory process of the Mental Health Practitioners law.

On the issue of Clarification of Practice, based on the survey results and overwhelming support for this by the other professions, it seems appropriate to support the addition of “diagnosis” in the scope. Adding “diagnosis” would allow those who feel competent to do so to include this in their practice, while not requiring it of all practitioners. There are two main concerns that we feel must be addressed here:

1. The professional associations for music therapy (American Music Therapy Association, Certification Board for Music Therapists) as well as NYSTF were not contacted at any time to provide input, feedback, or perspective on the addition of “diagnosis” to the scope of practice for creative arts therapy. We need to be a full contributor in the process to insure that the definition of “diagnosis” is appropriate to our area of practice;
2. Faculty members in the music therapy profession have expressed concerns regarding the addition of curriculum content related to “diagnosis.”

Regarding delegation of professional services, it will be essential to insure appropriate oversight of the activity of unlicensed individuals to insure that they do not inadvertently or intentionally overstep the bounds of what services they are assigned to provide. Specific guidelines for what this scope is and how licensed professionals are to provide supervision as well as for how unlicensed individuals should seek guidance and clarification are warranted, and perhaps most appropriately delineated in regulations.

On the topic of occupational regulations, based on the survey results, consideration by the Department, and the strong commitment of LCAT music therapists to consumer protection, we oppose the exemption to allow unlicensed persons to provide restricted services. The importance of assuring consumer protection cannot be overstated. Scope of practice as well as title restrictions in statute must be insured by eliminating these occupational exemptions.

In terms of alternative pathways, we do not support the implementation of a second grandparenting period. NYSTF worked diligently during the original grandparenting period to support those who qualified to succeed with the application and licensing process, with the understanding that there would never be a second grandparenting period. Music therapists who did not meet the education and experience requirements have returned to school for their Masters degrees at great personal expense, both financially and in time. It will not be surprising if there are arguments or even lawsuits brought forth if others who ignored the original grandparenting period are now 'allowed' to be grandparented in. However, it appears that this may occur, in which case we strongly support seeking appropriately stringent standards for education and experience requirements for applicants.

Regarding broad-based, permanent exemptions, based on the strong commitment of LCAT music therapists to consumer protection, we strongly oppose the exemption to allow unlicensed persons to provide restricted services. The importance of assuring consumer protection cannot be overstated. Scope of practice as well as title restrictions in statute must be insured by eliminating permanent exemptions and requiring licensure. Frankly, we find it quite disturbing that NYS agencies which exist to protect and serve our most vulnerable citizens would advocate so strongly achieving permanent exemption from a NYS law that was enacted for the exact purpose of consumer protection.

Regarding Civil Service titles, we strongly support the establishment of Civil Service titles that reflect the new professions and their licensed scopes. It would be important for the department of Civil Service to include consideration of the following in this process:

1. Create a true career ladder for NYS LCATs, similar to that such as currently in place for OT, PT, Speech, etc., i.e. entry-grade, senior grade, head grade, chief grade;
2. Insure that specific areas of practice discipline are identified, e.g.:
 - CAT (art, dance, music)
 - Senior CAT (art, dance, music)
 - Head CAT (art, dance, music)
 - Chief CAT (art, dance, music)

In response to the areas in need of further study, NYSTF has no suggestions for things that should be added to this category, but we would like to take the opportunity to express strong support for an amendment to Articles 154 and 163 to require continuing education as a component of maintaining registration, as well as for an amendment to section 8409 to extend the time allotted for Limited Permits.

Thank you again for the opportunity to contribute. We look forward to continuing to work closely with the Board.

Most sincerely,

Donna

Donna W. Polen, LCAT, MT-BC
Chair, New York State Task Force on Occupational Regulation
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ASAP Comments on SED Report on Exemptions from Licensure Laws

The New York Association of Alcoholism and Substance Abuse Providers is strongly concerned with the significant costs, potential workforce crisis, and service access disruptions that will result from full implementation of social work licensure legislation as currently written. The State Education Department report on licensure related issues ignores the conservative estimates of the significant fiscal impact of implementation offered by OASAS and other state agencies, and incorrectly maintains that the cost of replacing the existing workforce with licensed individuals would be negligible. ASAP agrees with OASAS that the cost of replacing significant sectors of the existing workforce with licensed individuals would be substantial. OASAS conservatively estimates a cost of over \$70 million in the OASAS system alone, a figure that seems to have been completely dismissed in SED's report. New York State and substance use disorder prevention, treatment, and recovery services providers cannot afford this costly workforce overhaul and also cannot afford the loss of productivity and access to life-saving services that would result in attempting such a large-scale workforce shift.

New York Association of
Alcoholism and Substance
Abuse Providers, Inc.

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(F) 518 426-1046

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Albany, NY 12207
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ASAP also disagrees with the assertion in SED's report that the only and best way to "protect the public" is through the licensure of individuals who provide substance use disorders services and a broad range of other health and human services. OASAS' report clearly describes how the public is already adequately protected by OASAS's highly regulated use of a multi-disciplinary team approach, guided by proper supervision. With stringent oversight by OASAS, programs are afforded the opportunity to have diverse staff teams with varied backgrounds and professional experiences, creating well-rounded treatment teams that are required to adhere to specialized program guidelines and regulations. We agree that the creation of a scope of practice and career ladder for CASACs and CASAC trainees is important and we are pleased to have been working with OASAS for more than a year to develop scopes of practice and a career ladder. ASAP does not, however, support the notion that only licensed persons can provide a high quality of care or, conversely, that those without a license are not able to provide a high standard of care under the guidance of qualified supervision. OASAS regulations and oversight also work to ensure that service consumers receive quality care in safe settings, in compliance with the laws and regulations guiding the system. This important fact is ignored in the SED report. We maintain that the level of oversight provided by OASAS and the strengths of its regulatory structure do indeed protect society and to a much better degree than would occur by simply licensing social workers and relying on SED to monitor their work.

Finally, the SED report's lack of comment on the availability of licensed individuals to replace the large volume of workers that would lose their jobs if the law were fully implemented is a glaring deficiency in the report. ASAP, along with many other advocates, maintains that there are simply not enough currently



licensed individuals available to replace the employees that would be laid off if provisions in the licensure statute were to be implemented. The workforce impact of implementation reflected in all areas of the health and human service sectors would be catastrophic for service providers and those needing access to services.

If scope of practice exemptions are allowed to sunset, there will be a devastating impact on the workforce and on New York State's services infrastructure. ASAP strongly advocates for a permanent exemption to the scope of practice provisions contained in the social work licensure legislation for staff working in licensed and certified programs under the auspices of the Office of Mental Hygiene.



Leadership, voice and vision for child welfare in New York State

June 26, 2012

New York State Office of the Professions
State Education Building
2nd Floor, Albany, NY 12234

The Council of Family and Child Caring Agencies (COFCCA) is actively committed to strengthening children, families and communities through strategic advocacy, education and the promotion of quality, culturally competent child welfare and juvenile justice services in the State of New York. COFCCA seeks to achieve these goals by working to strengthen the capacity of its member agencies to provide high quality services.

Thank you for the opportunity to submit this letter in addition to the comments that we submitted in review of the draft report SED has prepared for the Legislature on data collected in reference to the Social Work and Other Mental Health Professionals Licensing law, specifically the scope of practice issues. This comprehensive and thorough report contains useful and appropriate directions for further research. We would like to take this opportunity to reinforce what we believe are the key issues for our members and the children and families they provide services to.

1. We strongly support further clarification of terms and functions within the law in regard to the scopes of practice and the exemptions. Amendments to the law should be made, if necessary, to maintain the highest quality of service provision and ensure that practice is consistent with education and examination requirements. Further educational outreach to clarify the scopes of practice and exemptions will be an essential part of implementation planning for providers.
2. We support further collaboration between SED, exempt agencies, and provider agencies to define appropriate roles for members of multi-disciplinary teams. The work of unlicensed professionals on the multi-disciplinary teams is critical to the effective treatment and evaluation of individuals receiving services.
3. An essential component of the implementation strategy must be the exploration of alternative pathways to licensure and outreach to practitioners who hold the appropriate degrees but have yet to seek licensure. This will require additional resources and we ask that this be under the careful consideration of SED, the Governor, and the Legislature.
4. We encourage and support SED, the Legislature, the Executive and other key stakeholders to work together to implement the changes in the licensing laws to minimize the disruption of services and displacement of individuals or programs. Revisiting the timeline to ensure that the other pieces of this report can be adequately resolved is of great benefit to New York State.



Leadership, voice and vision for child welfare in New York State

Not included in this report, but the second key issue in reference to the implementation of this law is the Corporate Practice Waiver Issue. The Corporate Practice issues have created additional administrative workloads for nonprofit agencies at the very same time that the Governor's Executive Order 38 imposes new restrictions on administrative expenses, even those imposed by State agencies that serve no measurable purpose, like the Corporate Practice waiver processes. We support legislation that creates exemptions for agencies who receive funding and regulatory oversight from State agencies and we ask that SED advocate for alternative solutions to the Corporate Practice Issue. We appreciate that this is included in the implementation strategy planning resulting from this report.

Please consider us for further collaboration on clarifying these issues and preparing for implementation.

Sincerely,

A handwritten signature in black ink that reads "Jim Purcell". The signature is written in a cursive, flowing style.

Jim Purcell, CEO
Council of Family and Child Caring Agencies