

## **NEW YORK STATE OFFICE FOR THE AGING**

### **Overview of Aging Network Programs, Services, and Providers: Impact of Education Law to Provide a Scope of Practice for Selected Titles**

This document provides an overview of the New York State Office for the Aging's (NYSOFA) network of service providers and the data collected concerning the functions performed by its workforce to the Commissioner of Education as required by Chapter 420 of the Laws of 2002, and section 17-a of Chapter 676 of the Laws of 2002 as amended by Chapters 130 and 132 of the Laws of 2010. These Chapter Laws restrict the practice of psychology and establish the new professions of licensed master social workers, licensed clinical social workers, and the professions of licensed mental health counselor, marriage and family therapist, creative arts therapist, and licensed psychoanalyst. For the first time, the practice of psychotherapy, and the new professions was restricted to persons licensed or authorized to practice under New York State Law. Prior to the creation of these professions, any individual could provide services and use certain titles that are now restricted. It is important to note that enacting scopes of practice for these professions was undertaken as a way to protect consumers of mental health services from individuals using these titles who may have been unqualified to provide counseling and psychotherapy.

All affected state agencies were required to submit data and to report their findings to the State Education Department about the impact of licensing these new mental health professions on the agency's ability to provide or arrange for the provision of services. This requirement was enacted to specifically examine the impact of establishing a scope for each of these professions on the provision of programs and services by state agencies, including NYSOFA.

This discussion is being generated by the anticipated unintended consequences that will be caused by the enforcement of the scope of practice on the work force the exempt agencies oversee. NYSOFA has asserted that implementation of the Act without continuation of an exemption on scope enforcement could impact the operations the Aging Services Network programs and services. Recommendations are offered in this document for crafting an exemption that is based upon the shared terms/ functions used by the Aging Services Network and these professions, as well as an understanding of the legislative intent behind their enactment. This report also identifies issues that must be clarified about the requirements for licensure and practice of social work and also for mental health practitioners when operating within programs and services that are under state agency (NYSOFA) authority and requirements.

An overview is provided in this document of NYSOFA's role in administering programs serving older adults, the types of programs that are available, the network of Aging Service Network providers, and the projected need for services to care for the baby boom generation in the future.

## **INTRODUCTION AND OVERVIEW**

### **New York State Office for the Aging**

The New York State Office for the Aging (NYSOFA), established in 1965 by Article 19-J of the Executive Law (now, New York State Elder Law, Article II, Title 1), is designated as New York's lead agency in stimulating, promoting, coordinating, and administering Federal, State, and local programs and services for older New Yorkers. NYSOFA administers federal Older Americans Act programs and services, state-funded programs, and grant-related initiatives, and also plays a central role in advocating on behalf of the 3.7 million adults aged 60 and older and their families living in our State. NYSOFA collaborates with public and private organizations and agencies in order to achieve common goals in better serving older New Yorkers. In addition, NYSOFA is involved in facilitating and guiding policy development to improve the quality of life of older New Yorkers, and assuring the delivery of high-quality services in communities across the State to help older adults remain as independent as possible for as long as possible and engaging older adults, their families, and other stakeholders in this process.

### **Aging Services Network Overview**

The cornerstone of aging services can be found within the Older Americans Act (OAA). The programs supported by OAA funds are central to providing older New Yorkers with a high quality of life and maintaining older adults in their preferred living environment. New York State's investment in core programs and working to find new and better ways of delivering services demonstrates NYSOFA's commitment to services and community involvement to foster improvement in the lives of older persons. The goal is so that they may fully participate in all aspects of society and community life, be able to maintain their health and independence, and remain in their own homes and communities for as long as possible.

Through the 1965 federal OAA and subsequent amendments, NYSOFA administers funds to a network of 59 local Area Agencies on Aging (AAA) that cover all counties of New York State. AAAs are primarily based within county government; in 52 counties the AAA is a unit of county government (including two counties, Warren and Hamilton, which have combined to support one AAA). In four additional counties, the AAA is part of the voluntary sector. In New York City, the New York City Department for the Aging (DFTA) serves the five boroughs that comprise the City. Two Native American Reservations – the St. Regis Mohawk and the Seneca Nation of Indians Reservations – also have AAAs.

The 59 AAAs utilize a local service delivery subcontractor network of 1,443 community-based organizations to deliver a wide array of services in their communities. In addition, thousands of volunteers, mostly older persons, are working in the network delivering various services to older people who need them such as transportation, respite, health insurance counseling and assistance, home-delivered meals, etc. Together, New York's Aging Services Network consists of a vast array of diverse public and private organizations and volunteers serving older New Yorkers and their families in every county, town, village, hamlet, and community throughout the state.

OAA and state funds administered by NYSOFA are used by New York's Network of 59 AAAs to provide supportive services including: personal care; case management and care coordination; in-home services; transportation; adult day care; legal assistance; home and congregate meals; comprehensive and objective information, assistance, and screening; chronic disease self management assistance; and a range of additional services. Access to these services is determined based on an assessment that is used to determine the functional status and eligibility of an older adult and create a service plan that addresses

his/her specific needs. NYSOFA does not require that these services are provided by individuals who are licensed professionals, but staffs are required to have completed on-the-job specialty training so that they may safely and appropriately meet the needs of clients. In addition, staff credentials are outlined in the regulations of State-funded programs that share many terms that are contained in the various scope of practice of social work and the mental health professions.

OAA funds also are used by the Aging Services Network to provide a continuum of services designed to assist older adults and support their caregivers and families. Services provided are targeted to those older individuals with greatest economic need, those with greatest social need, those residing in rural areas, Native Americans, low-income minority individuals, as well as those with limited English proficiency.

The services provided by NYOSFA are organized to be consistent with the Administration on Aging's (AoA) three focus areas:

- Older Americans Act (OAA) Core Programs;
- AoA Discretionary Grants; and
- Consumer Control and Choice.

### **Services Provided by the Aging Services Network**

The following is a partial list of NYSOFA's Core services and programs funded through the Older Americans Act and dedicated state funding. The services that make up our Core programs and services require staff to engage in activities that use similar or the same terminology and may be specifically related to scope of practice functions such as counseling, evaluating, assessing, and providing case management services. These terms are used in NYSOFA's Core services and programs and are noted in the descriptions provided below. Attachments offer further details about the program or service area and the relevant terms. Also attached is a draft of the most recent State Plan on Aging, submitted to the Administration on Aging, which provides an overview of the Plan goals and objectives and all NYSOFA programs and services (see Attachment 1).

***Information and Assistance*** – By providing information and assistance through the Aging Services Network regarding relevant programs and services, including long-term care, that meet specific needs and/or by reviewing and addressing complex situations, older New Yorkers and their caregivers are able to become connected and are able to more efficiently access vital supports in their community. In order to empower older New Yorkers, their families, and other consumers to know about available options, make informed decisions, and be able to readily access existing health and long-term care services that best address their needs; the New York State Office for the Aging has established various methods for constituents to receive prompt and thorough information and assistance. Information and assistance can be provided in many forms over a wide spectrum, ranging from responding to questions about the time a senior center opens, working to address a more complex situation involving heating assistance or home repairs, or assisting an older person and/or their caregiver seeking information to help navigate the long-term care system. Information and assistance functions through the local offices for the aging require that a general screen/assessment be completed to determine the types of services for which they may be eligible.

***NY Connects: Choices for Long Term Care (NY Connects)*** – NY Connects is a locally based point of access/no wrong door system that provides access to free, objective, and comprehensive information and assistance on all long-term care options available to the aged sixty and older population, individuals of all ages with physical disabilities and the informal caregiving population. Additionally, NY Connects targets the private pay population through local public education and outreach activities, as early intervention and prevention can delay or prevent the need for more intensive/costly services. NY Connects staff must use

a standardized, comprehensive screening process to explore long-term care options and possible avenues of direction that are specifically tailored to each individual's unique needs. The NY Connects staff who provide such information and assistance are long-term care specialists, qualified to serve the complex and multifaceted needs of the resident population, and are trained accordingly. Training requirements are outlined and ensured by the State Office for the Aging (see Attachment 2).

***Health Insurance Information and Counseling and Assistance Program (HIICAP)*** – HIICAP was established pursuant to Section 4360 of the Omnibus Budget Reconciliation Act of 1990 (OBRA) (Public Law 101-508, codified at 42 USC 1395 b-4), which authorized the Centers for Medicare & Medicaid Services (CMS) to make grants to States to fund State Health Insurance Assistance Programs (SHIPs). In New York this program is known as HIICAP and is administered locally by 59 Area Agencies on Aging (AAAs), which provide extensive health insurance counseling to Medicare beneficiaries, their caregivers, and families. The program seeks to strengthen the abilities of the Area Agencies on Aging to provide one-on-one health insurance counseling, promote Medicare preventive services, assist clients with the selection of Medicare prescription plans, and, conduct thousands of outreach events each year on how to use Medicare benefits. Staff and volunteers provide unbiased information and counseling services to Medicare beneficiaries so that they are able to make informed health insurance choices. The role and functions of the HIICAP Counselors and HIICAP Coordinators differ from those delineated in the scopes of practice but there is some shared terminology; an outline of the roles and responsibilities of HIICAP Counselors and Coordinators is provided (see Attachment 3).

***Case Management*** – Case management is at the center of wellness and autonomy for older adults. The standard service definition for Case Management is: “a comprehensive process that helps older people with diminished capacity, and/ or their caregivers gain access to and coordinate appropriate services, benefits and entitlements.” Case management consists of assessment and re-assessment, care planning, arranging for services, follow-up and monitoring, and discharge. These activities must be provided by or under the direction of the designated case manager or case manager supervisor.

Case management or care coordination is a collaborative process that assesses, plans, implements, coordinates, monitors, and evaluates the options and services required to meet an older person's health and human service needs. OAA Title III-B, the Expanded In-home Services for the Elderly Program (EISEP) and Community Services for the Elderly program fund person-centered case management/care coordination provided by Area Agencies on Aging and/or their local sub-contract providers. Further, case management provides advocacy, access, assessment, planning, communication, education, resource management, and service coordination.

NYSOFA has requirements for case management, both in terms of a generic definition that applies to all funding streams and programs that can fund case management, as well as additional requirements for case management funded under the Expanded In-home Services for the Elderly Program (EISEP) and the Community Services for the Elderly Program (CSE). NYSOFA also has delineated assessment requirements in a Minimum Data Set (MDS) for six community-based long term care services when funded with Aging Services Network funds (i.e., funds that are administered by NYSOFA and managed locally by local offices for the aging). NYSOFA's MDS is an established set of items that must be addressed during an assessment/ reassessment of an individual seeking/ receiving any of the following services: case management, personal care level I, personal care level II, home health aide services, home delivered meals and social adult day services. The MDS applies to these services whether provided directly by a local office for the aging or under subcontract with a community based organization. The following are case management activities for clients receiving community-based long term services:

- A comprehensive MDS-compliant assessment includes the collection of information about a person's situation and functioning, and that of his/her caregivers, which allows identification of the person's specific strengths and needs in the major functional areas.
- A care plan is the formal agreement between the client and case manager and, if appropriate, the client's caregivers regarding strengths and problems, goals and the services to be pursued in the support of goals.
- Implementation of the care plan (arranging and authorizing services) includes contacting services providers, conducting case conferences and negotiating with providers for the delivery of needed services to the client as stated in the care plan.
- Follow-up and monitoring is ongoing and regular contact with the client and service providers to ensure that service delivery is meeting the client's needs and being delivered at the appropriate levels and quality.
- Re-assessment is the formal re-examination of the client's situation and functioning and that of his/ her caregivers to identify changes which occurred since the initial assessment / last assessment and to measure progress toward goals outlined in the care plan. It is done at least annually and more frequently as needed. Changes are made to the care plan as necessary.
- Discharge is the termination of case management services. Reasons for discharge may include the client requesting discharge, the attainment of goals described in the care plan, the client needing a type of service other than case management or ineligibility for the service. Care managers may also be functioning in the role of support coordinator or consultant. In this role, the case manager may be acting as a teacher, networker, counselor and/ or family guide.

For further detail about where there is overlap in terminology and function, NYSOFA case management requirements are provided (see Attachment 4) and also for the Minimum Data Set (see Attachment 5).

### ***In-Home Contact and Support Services – state funded***

Providing access to services that helps support an older person in their home so that they can live independently is a central goal and objective of NYSOFA. The Expanded In-home Services for the Elderly Program and the Community Services for the Elderly Program were established because there was a recognized absence of effective community support services, as well as a nursing home bias, often resulted in unnecessary institutional care. The overall goal of these programs is to improve access to and availability of appropriate and cost-effective non-medical support services for functionally impaired older individuals to maximize their ability to age in their community and avoid higher levels of care and publicly financed care.

#### *Expanded In-home Services for the Elderly Program*

The Expanded In-home Services for the Elderly Program (EISEP) was established in 1986 under Chapter 894 of the Laws of 1986. EISEP is a uniform, statewide program of non-medical in-home services, case management, non-institutional respite care, and ancillary services for functionally impaired older adults who are in need of community-based long-term care services and who are not eligible for similar services under other government programs, including Medicaid. It provides frail older persons access to a well-planned, coordinated package of in-home and other supportive services designed to support and supplement informal care based on an assessment and evaluation of their needs and availability of family supports. This process is used to develop a care plan that has the overall goal to improve access to and availability of appropriate and cost-effective non-medical support services for functionally impaired older individuals to maximize their ability to age in their community and avoid higher levels of care and publicly financed care.

To be eligible for the program a person must be: at least 60 years old; impaired in at least one "Activity of Daily Living" (such as eating, dressing, bathing, or toileting), or two "Instrumental Activities of Daily Living" (such as meal preparation, housekeeping, or shopping); in need of assistance; and able to be maintained safely at home. Information about EISEP staff training requirements is provided (see Attachment 6).

### *Community Services for the Elderly Program*

In the late 1970s, the New York State Office for the Aging became increasingly aware of older New Yorkers experiencing unnecessary placement in institutional care. Considerable research had proven institutional settings to be counter-productive to persons who had the desire and the capability, with some support services, to thrive at home, in their communities. It was evident that the absence of effective community support services, as well as a nursing home bias, often resulted in unnecessary institutional care. In response, the New York State Legislature enacted the Community Services for the Elderly Act as section 541 of Article 19-J of the Executive Law of New York State (now, New York State Elder Law, Article II, Title 1). The Act established the Community Services for the Elderly (CSE) Program.

To accomplish the purposes of CSE, the Act mandated the provision of community support services and authorized State Aid to Localities for planning and coordination, for the creation of new and/or expansion of existing services, and for the establishment of new mechanisms to improve service-delivery systems. Such services include, but are not limited, to adult day services, in-home services, case management, home delivered meals, information and assistance, in-home contact and support, assisted transportation/escort, transportation, legal services, and other services designed to maximize older persons' independence within their homes and communities. CSE is the most flexible program managed by Area Agencies on Aging and their subcontractors. Access to CSE-related services are based on an assessment performed by aging services staff to determine program and service options that may be appropriate to support the older person in their home and community. The training, terminology and approach to any case management or EISEP-like services is identical to those provided in earlier descriptions of Case Management and EISEP in this report.

***Nutrition Program for the Elderly*** – The Nutrition Program for the Elderly (NPE) is authorized by the federal Older Americans Act of 1965, as amended in 2006. Since its inception, the program has operated statewide through 59 AAAs, including two Indian Tribal Organizations (ITOs). Services are provided directly or through sub-contract. Funding for nutrition services comes from a combination of federal, State, and local government sources, program income (contributions), and other sources at the local level. Since 1984, New York State's Supplemental Nutrition Assistance Program (SNAP) provides funding primarily for home-delivered meals to frail older persons who are unable to prepare meals for themselves, but it also supports nutrition counseling, nutrition education and congregate meals.

The NPE is the largest program administered by the New York State Office for the Aging, and it is well integrated into home and community settings through coordination with community partners. Nutrition education and health-promotion and disease-prevention services are provided in a variety of settings that, by design, seek to change or improve an older adult's nutritional habits. Nutrition screening and assessment are used to determine nutritional risk and need for individualized nutrition counseling for chronic-disease management that includes developing a care plan to enhance their well being and coordinate participation with other community-based programs and services. The process for assessing or reassessing a participant's eligibility is described in regulations and promulgated instructions (see Attachment 7). The NPE is a proven, cost-effective means of helping older adults maintain their health and independence, engage in community life, and stay in their own homes and communities as long as possible.

***Disease Prevention and Health Promotion Services*** – Since the introduction and increased promotion of Medicare preventive and screening benefits, the New York State Office for the Aging has worked to increase consumer awareness and use of these benefits among New Yorkers. These benefits include a one-time Welcome-to-Medicare examination, flu and pneumococcal vaccinations, smoking and tobacco use cessation, diabetes screening and diabetes self-management, medical nutrition therapy, HIV testing, and various cancer screening including mammography, pap and colorectal. Collectively these benefits provide an opportunity to help older adults to stay healthy. An annual wellness exam is a new benefit this year and will require physicians and other health providers to develop a preventive plan for Medicare beneficiaries to help them to stay healthy in the years ahead. Starting in January 1, 2011 many of the preventative and health screening benefits no longer have co-payments or deductibles, thereby removing a financial barrier to older adults to stay healthy. New York State’s Nutrition Program for the Elderly and the Health Insurance Information Counseling and Assistance Program (HIICAP) use their networks to update and inform older consumers about these available benefits. The Affordable Care Act provides even more opportunities to improve the overall health of older New Yorkers by expanding coverage for many prevention benefits.

*Evidence- Based Disease and Disability Prevention Grant Program:*

More than 80 percent of New York State residents age 60 and older have one or more chronic diseases. And, almost all of these older adults are living in the community. To help people remain in the community and improve their quality of life, for the past six years the New York State Office for the Aging, the New York State Department of Health and the State University of New York at Albany’s Center for Excellence on Aging and Community Wellness have worked to make available self-management programs. These organizations work with six regional partners to expand the Chronic Disease Self-Management Program (CDSMP), an evidence-based health promotion program developed by Stanford University. NYSOFA received funding for the initial demonstration beginning in 2006 through the federal Administration on Aging. The CDSMP is a six-week program consisting of two and one-half hour sessions each week, which trains participants with one or more chronic diseases or their caregivers about modifying their daily activities and behaviors to better manage conditions associated with high blood pressure, arthritis, diabetes, chronic obstructive pulmonary disease and other chronic diseases. Program topics include physical activity, nutrition, medication management, compliance with treatment programs and improving communication with health care providers. Evaluation findings demonstrate reduced fatigue, increased quality of life, and decreased number of physician visits and hospitalizations of participants. In April 2010, AoA awarded NYSOFA a two-year grant as part of the American Recovery and Reinvestment Act of 2009 to implement the “Communities Putting Prevention to Work Chronic Disease Self-Management Program.” These funds have allowed NYSOFA to expand delivery of the CDSMP. An outline of the functions within the CDSMP that includes terminology that may overlap with scopes of practice (e.g., modifying behaviors) is provided (see Attachment 8).

*Medication Management:*

Medication Management activities are those that assist older persons to adequately manage the medications they are taking and avoid medication misuse and/or abuse. OAA Title III-D requires a portion of the funds under this Title to be used by the Aging Services Network for any of the following Medication Management activities:

- The creation and/or distribution of consumer information and counseling about Medication Management provided to individuals or at group settings such as senior centers, nutrition sites, social adult day care programs and health fairs.

- The provision and distribution of helpful devices such as: daily use pill boxes; immunization record charts; refrigerator reminders and magnets; medication use calendars; etc.
- The production and/or distribution of brochures and other educational materials dealing with drug interaction.
- Seminars concerning Medication Management conducted by Registered Dietitians, Pharmacists, Nurses or other qualified professionals.
- Assistance to older persons with information about and/or the registration for insurance programs about prescription drugs such as New York State's Elderly Pharmaceutical Insurance Coverage Program (EPIC).

***Supporting Caregivers*** - Informal caregivers are an invaluable resource for their loved ones and play a primary role in helping them to remain independent and avoid more intensive, higher levels of care. AARP estimates that the value of this unpaid care, if purchased at the market rate, would be about \$25 billion per year. New York's Area Agencies on Aging provide a multifaceted system of support services for informal caregivers of older people, as well as for grandparents and other older relatives caring for children.

The New York Elder Caregiver Support Program (funded under Title III, Part E of the Older Americans Act) assists unpaid caregivers - spouses, adult children, other family members, friends and neighbors – in their efforts to care for older persons who need help with everyday tasks. Because of the assistance they receive, these older persons with chronic illnesses or disabilities are able to continue living independently in the community. This includes providing direct respite services to offering counseling and supportive services designed to assist caregivers in dealing with the stress of their roles and avoiding care giver burnout.

#### *Respite Services*

Respite services, an important component of the home and community-based long-term care service delivery system, provide informal caregivers with a temporary break from their caregiving responsibilities and associated stresses. Informal caregivers often face financial, physical, and emotional burdens, which have an impact on their families, social lives, and careers. With the aging of the baby boomers, there will be an increasing number of older people due to the size of this cohort. As the boomers age, there is an increased likelihood that they will need support in everyday living tasks. As a result, the demands placed on informal caregivers will continue and likely will increase.

Informal caregivers play a critical role in the long-term care system; in fact, the system cannot function without them. Respite services temporarily relieve caregivers of their caregiving responsibilities by providing a short-term break, allowing the caregiver to devote time to address other needs. Respite services include home care (e.g., personal care levels I & II, companionship/supervision), community-based services (e.g., social adult day services, adult day health care), and facility-based overnight care (e.g., in a nursing home, adult home). The level and types of services provided are based on an assessment/ evaluation of an individual's needs and their families. Respite services assist caregivers in maintaining their loved ones at home for as long as possible and delays or forestalls nursing home placement, which often results in a much higher cost both to the family and the Federal/State/Local Medicaid Program.

Area Agencies on Aging provide respite services throughout the state through a variety of federal and state-funded programs. Two primary programs are the New York Elder Caregiver Support Program funded under Title III-E of the Older Americans Act, and the State-funded Expanded In-home Services

for the Elderly Program. In State Fiscal Year (SFY) 2011-12, there also are 10 community-based respite programs that are state grant funded.

### *Social Adult Day Services*

Social Adult Day Services (SADS) are an important component of the community-based service delivery system that helps to delay or prevent nursing home placement and the need for other more costly, yet preventable services, while providing vital assistance to the older person with cognitive and/or physical impairments and supporting their informal caregivers.

SADS is a structured, comprehensive program that provides functionally impaired individuals with socialization, supervision and monitoring, case management, personal care, and nutrition in a protective setting. Eligibility for the program is based on a comprehensive assessment of an individual's needs and availability of family supports. The program also may provide other services and support, such as transportation, information and assistance, and caregiver assistance. In addition to addressing the individual's needs for assistance in activities of daily living, these programs provide a secure environment and therapeutic activities aimed at helping participants to achieve optimal physical and mental/cognitive functioning. They improve the quality of life for older adults by reducing social isolation, and increasing social and community engagement. For individuals with Alzheimer's disease or related dementias, SADS is a unique cost-effective package of services that provides person-centered interventions which promote slowing the progression of the illness. SADS prevents or delays further deterioration and the need for more expensive services. New York State's Area Agencies on Aging provide social adult day services through a variety of State and federal funding programs, including Older Americans Act Title III-B and III-E funds, and the State-funded Community Services for the Elderly program and Expanded In-home Services for the Elderly Program. In addition, the New York State Office for the Aging directly funds 17 SADS programs under a State-funded program (Section 215 of the New York Elder Law) and regulations have been promulgated detailing the training requirements for program staff (see Attachment 9).

### *Enhancing Older Americans Act Core Services*

Lifespan Respite Grant Program - New York is one of twelve states awarded a Lifespan Respite grant to develop and enhance coordinated, accessible, community-based respite care programs to family caregivers of children or adults of all ages with special needs.

Aging and Disability Resource Center (ADRC) Grant Programs - The purpose of the grant is to develop a care transitions program to facilitate smooth and effective transitions from hospital to home. This ADRC grant is being implemented in two NY Connects counties to standardize NY Connects' Long Term Care Options Counseling service, and develop a Consumer Supports Navigator Program which are the key components in achieving the grants objective.

Evidence-Based Care Transitions Model: Care Transitions Intervention<sup>SM</sup> - The program will serve a population of older adults diagnosed with a chronic disease who are currently in the hospital or have recently been discharged, as well as their caregivers. The reduction in preventable re-hospitalizations will result in lower health care costs, improved quality of care, increased patient satisfaction, support for caregivers, and skills for future self advocacy.

Community Living Grant Program - The program helps those individuals at imminent risk of nursing home placement and Medicaid spend-down to maintain their independence and remain in their communities by offering consumer directed models of care.

Veterans Directed Home and Community-Based Services Program - The program strives to keep veterans of all ages who are at-risk of nursing home placement in their homes by giving them more control over the services and goods they receive. Under this program, qualified veterans can hire whomever they

choose to provide personal care services, as long as the person is not legally or financially responsible for the veteran.

While these programs are in varying stages of being piloted, they are included here because they represent the direction that the Aging Services Network and long term care systems are moving, wherein individuals have increasing control over their care plans and the workers they choose to support them. These issues will further require mitigation of the requirements in the scopes of practice for licensure within the professions and extend the need for an exemption by NYSOFA to those requirements.

### ***Demographic Information – Future Demand for Service***

The impact of the aging of the Baby Boom population in New York is projected to be substantial. One of the challenges this phenomenon is going to generate will be assuring that there is a trained and ready workforce that will be able to meet their needs. Presently, in both the medical and non-medical professions, there is a lack of trained personnel who can address the needs of an aging population. The Center for Health Workforce Studies has found that New York lacks enough people trained as geriatric specialist in health and human service disciplines to meet the needs of this growing cohort. In addition, there is already a shortage of social workers and other well-qualified paraprofessionals and professional front line workers, including home care workers, case managers, certified nurse assistants, including those qualified as geriatric case managers. In 2010, 33 counties had populations where older people (aged 60 and over) constituted less than 20 percent of the total population; by 2020, the number of counties with less than 20 percent of the population aged 60 and over will dwindle to four of the boroughs in New York City. Overall, the state population is projected to be over 23 percent older people, compared to the national projection of 22 percent in 2020.

New York's total population is over 19 million individuals, and with 3.7 million individuals aged 60 and older, the State ranks third in the nation in the number of older adults. Rich in ethnic, racial, religious/spiritual, cultural and life-style diversity, New York is known for its status as a finance, transportation, and manufacturing center, as well as for its history as a gateway for immigration to the United States. According to the 2008 American Community Survey, nearly 22 percent of the population is foreign-born, with 29 percent of the population speaking a language other than English at home.

### ***Growth in Long-Term Care Needs***

According to the American Community Survey, 2009 estimates, 5.16 percent (or 135,028 persons) of State's aged 65 and over population live in group-care facilities. Historically, about 80 percent of that number (or about 108,022 persons) would live in nursing homes.

In addition, historically, for people aged 65 and older living at home in the community:

- 10 percent of the population have self-care limitations - that is, had difficulty taking care of his or her own personal needs, such as bathing, dressing, or getting around inside the house due to a health condition that had lasted for six or more months; and
- 20 percent of the population have mobility limitations - that is, had difficulty going outside the house alone, for example, to shop or visit a doctor's office due to a health condition that had lasted for six or more months.

Among people aged 75 and older living at home, these prevalence rates have historically increased to 15 percent and 30 percent, respectively.

The severity of functional impairments related to disabling health conditions varies considerably. Two frequently used classifications of functional impairments are instrumental activities of daily living (IADLs) - where help is needed for outside mobility, meal preparation, grocery shopping, money management, housework and laundry or taking medications; and, activities of daily living (ADLs) - where help is needed for bathing, transferring, dressing, toileting or eating.

While 5.16 percent (or 135,028 persons) of the aged 65 and over population live in nursing homes or other group care facilities, NYSOFA estimates (based on historical data) that approximately 30 percent of the 2,616,716 people 65 and older in New York State (ACS 2009 One-Year Estimates) were functionally impaired by chronic health conditions. This includes 8 percent with ADL limitations living at home in the community and 16 percent with IADL limitations living at home in the community.

Home and community-based services will become more important to support those with chronic conditions and functional limitations. For most, residential facilities are not appropriate as the individual may not require that high a level of skilled care. Data has shown that frail individuals can indeed live independent and productive lives with community supports such as personal care, case management, and other support services.

## **SCOPE OF PRACTICE DATA NOTES/ SURVEY RESULTS**

The New York State Office for the Aging (NYSOFA) has reviewed the data generated by the survey developed by the New York State Education Department Office of the Professions and circulated via Survey Monkey to gather information from the AAAs and sub-contractors concerning the functions performed by the Aging Services Network service provider workforce in relation to the functions/ activities contained in the scopes of practice of social work and the other mental health professions.

Generally, NYSOFA staff, based on the review of the data generated by the survey, conclude that many of the programs regulated, operated, funded or approved by the agency do not include the various functions that would be restricted by the licensed professions; however there is taxonomy/terminology within the scope of practice that is similar or the same as that used in a variety of programs and services overseen by NYSOFA, and thus, NYSOFA should be exempt from those scope requirements.

This view point is also supported by the examples provided in the survey instrument to assist those completing it in identifying whether they engaged in the functions/ activities that were contemplated to be restricted to one of the licensed professions. The process of developing the examples, particularly the discussions regarding legislative intent and the mental health/ cognitive therapy focus of the functions included in the survey, helped to more clearly define and limit the scope and context of the Mental Health Practice Act. Ensuring that the scope and context was limited to the various aspects of providing behavioral therapy greatly limited the impact on the services being provided by the Aging Services Network.

Documents contained in the *Bill Jackets for Chapter 420 and 676 -2002* indicate that establishing the scopes of social work and the various mental health professions were enacted to protect consumers who unknowingly may seek mental health services from untrained individuals, since they are often vulnerable to exploitation by incompetent, unqualified and fraudulent practitioners. Accordingly, NYSOFA did not expect that the entire Aging Services Network would respond to this survey but only those providers offering services under programs that may involve activities that may fall within the scope of the practice of licensed master social work, licensed clinical social work, psychology, or mental health practitioners.

As noted above, one concern is that NYSOFA programs and services share many common terms with those being used to establish the scopes of social work and the mental health professions. A partial list of the shared terms include assessments, case management, care coordination, counseling, intervention 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 federal guiding statute – the Older Americans Act and state statute – the Elder Law.

For example, pursuant to Title IIIB of the Older Americans Act, the State provides supportive services designed to assist older adults in avoiding institutionalization and to assist residents of long-term care institutions who are able to return to their communities. These services include client assessment, case management services, and development and coordination of community services (Older Americans Act §321(a) (5)). For purposes of the Older Americans Act the term “case management” is defined in §102(11)(A) as “a service provided to an older individual, at the direction of the older individual or a family member of the individual- (i) by an individual who is trained or experienced in the case management skills that are required to deliver the services and coordination described in subparagraph (B); and (ii) to assess the needs, and to arrange, coordinate, and monitor an optimum package of services to meet the needs, of the older individual; and (B) includes services and coordination such as- (i) comprehensive assessment of the older individual (including the physical, psychological, and social needs of the individual); (ii) development and implementation of a service plan with the older individual to mobilize the formal and informal resources and services identified in the assessment to meet the needs of the older individual...”

Another example is the program for Disease Prevention and Health Promotion Services funded under Title III-D of the Older Americans Act. The term “disease prevention and health promotion services” is defined as including “screening for the prevention of depression coordination of community mental health services; provision of educational activities, and referral to psychiatric and psychological services; medication management screening and education to prevent incorrect medication and adverse drug reactions; gerontological counseling; and, counseling regarding social services and follow-up health services based on any of the other services that constitute disease prevention and health promotion services.”

In view of the shared use of taxonomy (terminology) by distinct service networks, NYSOFA sought to ensure that the survey would not negatively affect the Aging Services Network by resulting in requirements being incorrectly applied simply because it shares terminology with that used in the mental health services network. Therefore, NYSOFA urged the developers of the survey to clarify that the scope is limited to mental health services such as psychotherapy, psychoanalysis, or diagnosis of mental health conditions per the DSM codes and ICD 10 codes and treatment of mental health conditions.

The survey results do not provide data that would enable NYSOFA to identify the number of workers who would need to become licensed, or to identify the alternate pathways for current Aging Services Network providers to achieve licensure, or the costs associated with establishing an alternate pathway. NYSOFA had conducted an assessment of the potential effects of the enactment of Articles 153, 154 and 163 of the Education Law regarding psychology, social work, and mental health practitioners. Presently, NYSOFA is keenly aware that there is a severe shortage of workers who are available to work with older New Yorkers.

Enforcement of the licensure laws would likely make it even more difficult to recruit and retain individuals to work in Aging Services Network-related programs administered by NYSOFA and its network. A study about workforce education and training completed by the State Society on Aging of New York and NYSOFA in 2008 reported that as a state, we do not have the training and work place

systems in place to meet current – let alone future – demand for specialists in gerontology and aging services, and specifically, there is a lack of adequately trained social workers in the field of aging.<sup>1</sup>

Enforcement of the scope of practice of social work is potentially most problematic for the Aging Services Network of all of the new professions because of the potential broad overlap of the protected activities contained in the professional scope, many of which, when provided in the Aging Services Network as outlined in this report, are considered to be unrelated to the provision of mental health services. This could greatly limit the potential pool of those considered qualified to work in the Aging Services Network. In addition, it is important to note that the fiscal crisis confronting New York will make it very unlikely that funding will be available to pay the higher salaries demanded by those in a licensed profession.

It is also worth noting there is also a shortage of geropsychologists who are also in high demand, but in short supply. Geropsychologists are clinical psychologists with specialized expertise working with older adults. They are trained to conduct competency examinations and to provide evidence-based treatment for depression, sleep problems, stress experienced by caregivers of older adults, and treat, through therapy, behavioral problems among adults with dementia. Researchers have determined, based on a national web-based survey, that 88 percent of psychology trainees had completed only one course or less in aging.

### **NYSOFA: Programs and Services Affected by Scopes of Practice in the Aging Services Network**

The following are the major programs funded and administered by NYSOFA, which we believe likely to be affected by requirements that the network use licensed professionals to provide assessment, care planning, counseling, and other services using the taxonomy/terminology within the Aging Services Network but that is also used within the scopes of practice, if the requirements are not limited to the provision of behavioral mental health services per legislative intent.

Each program listed below requires the provision of case management services and a comprehensive non-medical assessment to determine eligibility for services and the development of a plan of care. Presently, approximately less than 5 percent of case management staff providing these services are licensed professionals.

NYSOFA estimates that there are 471 case managers/care coordinators working in the following programs:

- Expanded In-home Services for the Elderly Program (EISEP) – 51,000 clients served
- Community Services for the Elderly Program (CSE) – 78,516 clients served
- Home Delivered Meals – 64,600 clients served
- Social Adult Day Care – 4,530 clients served
- Respite – 6,100 clients served.

The estimated costs associated with hiring licensed professionals to provide these services would exceed \$6.75 million (the difference between the average case manager salaries versus the salaries of the average licensed professional).

### **RECOMMENDATIONS**

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.

2. 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.

## REFERENCES AND ATTACHMENTS

### Attachment 1

New York State Plan on Aging 2011-2015

### Attachment 2

NY Connects

### Attachment 3

Health Insurance Information and Counseling and Assistance Program (HIICAP)

### Attachment 4

Case Management Requirements

### Attachment 5

NYSOFA Minimum Data Set

### Attachment 6

EISEP Staff Training Requirements

### Attachments 7 a,b,c,d and e

Nutrition Program Screening, Assessment, and Counseling Components

### Attachment 8

Chronic Disease Self-Management Program (CDSMP)

### Attachment 9

Social Adult Day Services – Program Staff Training Requirements

<sup>1</sup> Rosenbaum, J., Heiser, D., Brownell, P., Horowitz, B., Maiden, R., Howe, J., and Krout, J. (2008). *Working with Older Adults: Charting the Future of Workforce Training and Education in New York Listening Sessions: Summary and Next Steps*. New York State Office for the Aging: Albany, New York.

<sup>2</sup> Howe, J.L., Bowen, L., Frank, J., Maiden, R., McBride, M., Stepp, D., and St. Hill, H. (2007). *Environmental Scan Report: Certification in the Field of Gerontology in Higher Education*. Association of Gerontology in Higher Education.