



New York State Chapter

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Mr. Frank Muñoz, Deputy Commissioner,
Office of the Professions, NY State Education Department,
89 Washington Ave., Albany, NY 12234-1000
Albany, NY 12234

Dear Mr. Muñoz:

The National Association of Social Workers New York State and New York City Chapters have reviewed the Education Departments proposed emergency regulations related to social work licensure and as such has enclosed the following copy of our comments. Please feel free to contact us if you have any questions.

Sincerely,

Reinaldo Cardona, MSSW, LCSW
Executive Director NYS Chapter

Robert Schachter, DSW, LMSW
Executive Director NYC Chapter

NASW-NYS and NASW-NYC

Comments on Proposed Amendments to the Regulations of the Commissioner of Education Relating to Limited Permits for Licensed Master Social Workers and Licensed Clinical Social workers and Experience, Supervision and Endorsement Requirements for Licensure as a Licensed Clinical Social Worker

The NYS and NYC Chapters of the National Association of Social Workers would like to take this opportunity to thank the staff of the Office of Professions in the New York State Education Department for working with the Chapters and many other concerned stakeholders on a number of social work licensure implementation issues, many of which, will be ameliorated through the proposed emergency regulatory changes currently pending review of the NYS Board of Regents.

Primarily, the Chapters are strongly supportive of the proposed emergency regulatory changes as they generally reflect our multi-year efforts to alleviate a number of cumbersome barriers to licensure such as prescribed weekly hourly requirements in relation to client contact and supervision, the structure of supervision and difficulty applicants faced when attempting to determine if their particular setting was deemed “appropriate.”

The Chapters are pleased with proposed amendments to § 74.3(a), which provides for a decrease in the amount of client contact hours from 2,880 to 2,000 and allows applicants to aggregate such hours over the course of three to six years. Such a provision alleviates a substantial burden on many potential applicants while continuing to maintain one of the highest standards for licensure (at the clinical level) in the nation.

The Chapters are also supportive of the proposed amendments to § 74.6 regarding the number of supervisory hours to be accrued over the period of supervised experience, the clarification of settings, an allowance to combine multiple settings in the pursuit of acceptable clinical experience and the provision that creates a prospective review process. Each of these measures will undoubtedly provide LCSW applicants with a simplified process, particularly, the prospective review process, a measure that will alleviate applicants from running the risk of completing three years of experience, only to learn, it was acquired in an unauthorized setting. We do, however, respectfully request that such applications be expedited to the degree possible, as applicants will remain in a holding pattern awaiting such approval.

We are, however, in opposition to a number of amendments to § 74.6 regarding requirements for an LCSW to qualify for insurance privileges established in § 3221(l)(4)(D) or 4303(n) of the insurance law. The proposed emergency amendments seek to disallow an LCSW R applicant to accrue time toward their R privilege until they have received their LCSW. On the face of it, this seems reasonable, however, in reality; such a provision is highly problematic as the Office of Professions is severely backlogged (while understandably so given the current breadth of work to be done). We have had several reports that such backlogs have reached a twelve to thirteen month period,

consigning applicants to sacrifice an enormous amount of accrued experience toward their R privilege. While we understand the Department's position on the matter is rooted in an attempt to conform with the "intent of the law" we respectfully disagree with such an assertion, as the statute reads that an Licensed Clinical Social Worker "shall have...three or more additional years experience in psychotherapy" (Insurance Law 3221(1)(4)(D) and 4303(n)), however, it does not specify when the clock begins ticking for the aforementioned "three or more additional years," therefore, it is our contention that the Department currently possesses a flexibility of interpretation and should utilize such to the benefit of the applicants accruing experience in good faith. It is also our position that such applicants should not be penalized for a workforce shortage and resulting backlog within the Department. We respectfully recommend that such an amendment be reconsidered and abandoned and clarification be provided through regulations that experience can be accrued upon completion of experience for the LCSW.

In addition, the Chapters also object to proposed regulatory provisions outlined in new § 74.5(c)(2) requiring applicants to submit a supervisory experience plan prior to commencement of such supervised experience. Not only does such a provision impinge upon the ability of the LCSW to rightfully practice under his or her license, but also places a burden upon the LCSW that is merely an option for the LMSW; seeming exceedingly incongruous.

Also, with respect to newly iterated provisions in 74.5, the Chapters object to the newly established requirement that an LCSW R applicant be supervised by an individual holding an R credential as opposed to the longstanding practice and allowance of peer supervision. While we note that the rationale for such change is the Department's "intent" to conform to existing statute, we respectfully disagree with such an assertion as the two statutes referencing such supervisory relationships appear to be in conflict with one another, those being sections 3221(1)(4)(d)(i)/4303(n)(i) and 3221(1)(4)(d)(ii)/4303(n)(ii); subdivision (iii) of the insurance law. In the former subdivision (i), the Insurance Law refers to "supervision, satisfactory to the state board for social work, in a facility, licensed or incorporated by an appropriate governmental department..."; the statute is, however, silent on the level of practitioner required for such supervision and provides express authority to the State Board for Social Work to determine "satisfactory" supervision in such facility settings through the rulemaking process. The latter subdivision (ii), Insurance Law does require supervision to be performed by a "licensed clinical social worker qualified for reimbursement pursuant to subsection (h) of this section [the LCSW-R credential]." Therefore the Chapter suggests that any supervision provided in settings *other than those facility settings* enumerated in sections 3221(1)(4)(d)(i) or 4303(n)(i) must be provided by an LCSW with the R-credential (or a licensed psychologist or psychiatrist), however the proposed regulations should not impose this higher standards on other settings when not required to do so by law. Further, we request clarification that it is indeed allowable for LCSW in pursuit of the R credential to hire a supervisor as a consultant.

Thank you for the opportunity to work with the Department on such vital social work licensure implementation issues.