

Licensure Update- April 2009

NASW-NYS continues to work with the Education Department, the Governor's office, and the Legislature in resolving the licensure implementation issues identified over the past year. Below is the latest news on each of the main implementation areas:

2010 Exemption for "O Agencies"

The Issue:

The social work licensing statute, as enacted in 2004, contained an exemption from licensure for individuals employed in programs under the auspices of the Office of Mental Health, Office of Alcoholism and Substance Abuse Services, Office of Mental Retardation and Developmental Disabilities, Office of Children and Family Services, and local social service and mental hygiene districts, to expire on January 1, 2010.

Update:

Negotiated language for the *Education, Labor, and Family Assistance* budget bill for fiscal year 2009-2010 extends the social work licensure exemptions by six months, to June 1, 2010. In partnership with many other provider organizations, NASW-NYS is advocating that a workforce study be performed, and that a taskforce convene to address any workforce issues related to moving toward compliance with the licensing statute upon the sunset of the agency exemption. We are working closely with the Governor's office and the Legislature to secure agreement on these provisions.

LMSWs in Private Clinical Practice and Purchasing Supervision

The Issue:

In June of 2008 The State Education Department issued "clarifications" on their website which led to a great deal of confusion, frustration and denials of applicants seeking the LCSW. Such "clarifications" focused on the practice of licensed clinical social work by licensed master social workers in independently owned and operated settings, and also on supervisor-supervisee business relationships. While statutorily, LMSWs were never permitted to provide clinical social work services (assessment based treatment planning, diagnosis and psychotherapy) in independently owned and operated settings, guidance documents authored by the State Education Department suggested that LMSWs could in fact provide such services. Further SED guidance documents suggested that LMSWs could hire their own clinical supervisors (both in private practices or agency settings), which actually violates labor laws.

Such misinformation has resulted in untold numbers of social workers facing denial of their LCSW under the grounds that their either a) clinical experience was obtained in an invalid setting and/or b) that such experience was not properly supervised because the LMSW was effectively employing their own supervisor, and could therefore fire him or her at will if they recommended a different course of treatment.

Update- Matter Resolved:

After months of work on the issue, the State Education Department's Committee on the Professions issued a decision on January 31 regarding the determination on experience for licensure as an LCSW (Licensed Clinical Social Worker). The decision authorizes the State Education Department to accept experience for licensure as a licensed clinical social worker that was completed in a private practice owned by the applicant and/or under a supervisor who was employed by the applicant, provided that such experience otherwise satisfies all other applicable legal and regulatory requirements. The decision further provided that in order to be acceptable under the Committee on the Professions decision, the experience must have commenced prior to February 2, 2009 and be completed no later than February 2, 2015.

For social workers to be considered for eligibility for either the private practice or the hired supervisor amnesty provisions, they must submit a [SWCOP-1 form](#) to the Office of Professions. Please visit the Office of Professions "Private Practice" link for full information on submission deadlines and forms at <http://www.op.nysed.gov/swprivatepractice.htm>

Corporate Practice of Professions and Illegal Practice Settings

The Issue:

Countless numbers of social workers have been denied their LCSW because of the corporate structure of the agency or program in which they were employed during the completion of their clinical experience. Many of these denials are based on the lack of an appropriate state agency operating certificate in the program, or that the agency's articles of incorporation/organization expressly prohibit the provision of Title VIII, or "professional services." Prior to 2004, social work was not a legally defined "professional service," and therefore such services were being legitimately held out for public benefit. Upon the licensing of social work, many corporate settings were practicing illegally by default, as they were now providing legally protected professional services.

Update:

The State Education Department has recognized that experience met in such settings was largely provided in good faith and that the social work services provided in most of these settings are critical to public health and well-being. Therefore, NASW-NYS is working closely with the Department and other parties to:

1. Develop a program/agency registry under the auspices of the State Education Department, which will allow such settings to register with the Department to legally provide scope-protected social work services. This will ensure that public health needs are met, while also allowing social workers to gain their LCSW clinical experience in such settings.
2. Allow previously denied LCSW applicants to apply for reconsideration of their application, holding them harmless for the corporate nature of their clinical experience setting.

The Department has been very receptive to our requests and we are engaged in regular discussion to resolve this matter.

The Need for Prospective Review of LCSW Experience

The Issue:

Currently, LCSW applicants are given very little guidance on what types of settings and other experience provisions are appropriate to fulfill the clinical requirements of the LCSW; this essentially forces social workers to wait three to six years while completing their clinical experience to finally apply for determination on whether any of this experience is legitimate.

Update:

Given much of the above listed confusion regarding appropriate experience and supervision requirements for the LCSW, NASW-NYS has requested that the State Education Department prospectively review the setting, task, and supervisor of social workers *before* they begin such experience, so they can be sure such experience will count toward their LCSW. We are currently working with the Department to negotiate appropriate language allowing for such prospective review of LCSW experience.