

## Licensure Update

As many of you are aware, the Chapter's Policy Staff has been meeting with key leaders in the State Education Department, other stakeholders, and the governor's office regarding a number of licensure implementation issues and as such have prepared the following update...

**Issue # 1:** 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 specifically on the practice of licensed clinical social work by licensed master social workers in independently owned and operated settings. 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 if they purchased outside supervision. Such misinformation has resulted in untold numbers of social workers facing denial of their LCSW under the grounds that their clinical experience was obtained in an invalid setting and that such experience was not properly supervised.

**Recent Resolution:** 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 will authorize the State Education Department staff 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 the requirements set forth in section 74.3 of the Regulations of the Commissioner of Education and is otherwise in compliance with all applicable laws and regulations, and further provided that in order to be acceptable under this vote, the experience must have been commenced prior to February 2, 2009 and the application must be submitted to the Department no later than February 2, 2015 on forms prescribed by the Department.

**Issue #2:** Exemptions provided in the originally enacted statute for OMH, OASAS, OMRDD and OCFS employees are due to expire in less than a year (1/1/2010). Such agencies have requested that the exemption become permanent on the basis that coming into compliance will be a costly and encumbered process. The 2010 sunset provision in the social work licensing statute was and is intended as a consumer protection mechanism, requiring that all social workers adhere to standardized criteria by a reasonable date from enactment of the statute. The failure of professionals and select agencies to comply with social work licensing standards will jeopardize consumer safety and compromise the probity of the social work profession; however, we understand that imposing the exemption on a workforce that is not prepared could have dire consequences for both the social work profession and the clients they serve. As such, we have met with each of the agencies and executive chamber staff in an effort to reach a compromise.

**Update:** While we are indeed opposed to the lifetime exemption request made by the agencies, NASW-NYS Policy Staff have proposed an extension with a mandate on each of the exempt agencies to conduct a workforce study and the establishment of a stakeholder taskforce. 2009-10 Executive Budget proposal language includes a straight-out extension of the exemption for an additional four years. NASW-NYS originally drafted and submitted a Memo of Concern whereby we outlined the need for provisions and benchmarks necessary to move toward compliance. However, the organization has, in response to workforce concerns, softened that position to the above noted workforce study and taskforce. Negotiations are ongoing.

**Issue #3:** Applicants who have met the experiential and educational requirements are routinely being denied licensure on the grounds that their experience was not acquired in a setting expressly authorized (through licensure by a State agency) to provide licensed clinical social work services such as non-for-profit agencies. Prior to social work licensure this was not an issue and hundreds of community based service providers routinely hired social workers to provide clinical services. Upon enactment of social work licensure (and thus the beginning of “scope protection”), such agencies were never informed of the rule change and have therefore continued to provide scope-protected services without express legal authority. The continuing legal prohibition of the provision of scope-protected services in such settings has and will create huge workforce and service delivery disruptions.

**Update** In an effort to stem such a disruption, NASW-NYS Policy Staff have recommended legislation granting statutory authority to SED to create and maintain a registry for currently unauthorized settings providing licensed clinical social work services. In addition, we have also requested a retrospective review of previously denied applications due to unlicensed settings (at no additional cost to the applicant). SED is agreeable to such a request, and is currently in the final stages of drafting language which will soon be shared with Policy Staff. Once language is acceptable to each of the Chapters, legislative work will commence in tandem with the Department.

**Issue #4:** Mass confusion regarding appropriate settings and supervision for clinical experience required for the LCSW. Currently, applicants are only entitled to review of the acceptability of such qualifiers after three - six years (and often thousands of dollars in supervision) of experience.

**Update** NASW-NYS Policy staff has requested that SED create and maintain an optional prospective review process, whereby, SED reviews all relevant aspects of supervised clinical social work. For example, supervisor credentials, tasks, and intensity of experience. We have suggested that fees prescribed for such a review process would apply proportionately toward the LCSW application fee. SED is considering our proposal.