

**TESTIMONY SUBMITTED TO PUBLIC PROTECTION
JOINT FISCAL COMMITTEES
OF THE NEW YORK STATE LEGISLATURE
REGARDING THE 2016-17 EXECUTIVE BUDGET**

Date: February 03, 2016

Submitted by:

**The National Association of Social Workers - NYS Chapter
The National Association of Social Workers - NYC Chapter
The New York State Society for Clinical Social Work
The New York State Association of Deans of the Schools of Social Work**

The Executive Budget proposes an additional five year extension of an exemption to the social work and mental health licensure laws enacted in 2002. The National Association of Social Workers-New York State and the New York State Society for Clinical Social Work, and The New York State Association of Deans of the Schools of Social Work strongly oppose an additional extension and urge the legislature to finally implement these important consumer protection statutes.

As iterated in the National Association of Social Workers - Code of Ethics, the primary mission of the social work profession is to enhance human wellbeing and help meet the basic human needs of all people, with particular attention to the needs and empowerment of people who are vulnerable, oppressed, and living in poverty. A historic and defining feature of social work is the profession's focus on individual wellbeing in a social context and the wellbeing of society. Fundamental to the practice of social work is the recognition of the environmental forces that create, contribute to, and address needs of all people in society and support the strengths that individuals and families use to cope effectively.

Social workers promote social justice and social change with and on behalf of clients (individuals, families, groups, organizations, and communities). Social workers are sensitive to cultural and ethnic diversity and strive to end discrimination, oppression, poverty, and other forms of social injustice. These activities may be in the form of direct practice, community organizing, supervision, consultation, administration, advocacy, social and political action, policy development and implementation, education, and research and evaluation. Social workers seek to enhance the capacity of people to address their own needs. Social workers also seek to promote the responsiveness of organizations, communities, and other social institutions to human needs and social problems.

While the above denotes the broad and diverse array of settings in which you'll find professional social workers, it also provides a context for the varied and broad set of skills required to practice appropriately and therefore reflects the importance that education and experience plays in the development of such skills.

According to the Social Work Policy Institute, social workers are the largest provider of mental health services, providing more services than all other mental health care providers combined. While many social workers provide services in private practice settings, the majority of services are offered in community-based agencies, both public and private, and in hospitals, clinics and prisons.

The profession of social work became one of the more 50 licensed professions with the passage of a statute defining the scopes of practice for the Licensed Master Social Worker (LMSW) and the Licensed Clinical Social Worker (LCSW) in 2002. The statute

was the result of several decades of collaboration with stakeholders across the spectrum of the mental health field and carefully defined the breadth and scope of services provided by each of the licenses in addition to the education and experience requirements sufficient to meet licensing requirements.

In the statute, as enacted by Chapter 420 of the laws of 2002 and subsequent amendments (Chapter 433 of the Laws of 2003, and Chapter 230 of the Laws of 2004) an exemption was allowed for individuals to practice in programs regulated, operated, or funded, by the Office of Mental Health, the former Office of Mental Retardation and Developmental Disabilities now the Office for People With Developmental Disabilities, Office of Alcoholism and Substance Abuse Services, Office of Children and Family Services and local mental hygiene or social service districts until January 1, 2010.

As the date of expiration grew closer, exempt agencies reported they were not yet compliance ready and as such, requested an extension. An extension was granted as part of the 2009-2010 budget for a period of five months. A third extension was granted in 2010 (Chapters 130 and 132 of the laws of 2010) that not only extended the exemption but also mandated that impacted agencies participate in a comprehensive workforce analysis that would include the following:

- identification of tasks and activities performed that are encompassed in the scopes of practice defined in Article 154 of the Education Law;
- identification of tasks and activities performed not requiring a license under article 154 of the education law;
- cost projections related to the transitioning of the workforce to come into compliance with the licensure statute;
- a compliance plan of action; and
- recommendations related to alternative pathways to licensure.

Such an analysis was completed and submitted by each of the originally exempt agencies as well as by the Department of Health, the Department of Corrections and the State Office for the Aging (all subsequent additions to the class of exempt agencies). Results of such data collection were presented to the Legislature on June 29, 2012 and found:

- Cost estimates related to compliance “assume a worst case scenario” presuming replacement of many workers whose tasks do not actually run afoul of the scopes of practices, however,
 - Further clarification related to terms such as “counseling” and “assessment” may be required to ensure that practice of the professions is consistent with education and examination requirements,

- Additional clarification of tasks not requiring a license may be required,
 - Clarification that the use of multi-disciplinary teams of licensed and unlicensed persons is an appropriate manner of service delivery (provided tasks are appropriately assigned) may be required.
- An overwhelming majority of respondents (ranging from 62% to 71%), strongly disagreed with the notion that exempt agencies should be permanently excused from licensure compliance (regardless of their internal supervision and oversight mechanisms),
 - Support for (highly specified) alternative pathways to licensure (such as grand parenting),
 - Mandated continuing education should be further considered.

After review of the State's report, continued concerns by exempt agencies and much negotiation, Chapter 57 of the laws of 2013 provided for an additional extension, pushing the implementation date to July 1, 2016. In response to concerns raised by the exempt agencies during the negotiations, and a recognition that a number of necessary tasks provided in exempt agencies parallel the LMSW, the Chapter also clarified activities that do not require licensure.

In 2015, the Office of the Professions at the State Education Department completed yet another mandated workforce analysis. As excerpted from the Department's report, information was collected from programs and agencies regarding:

- a. whether the number of unlicensed individuals increased or decreased between July 1, 2013 and July 1, 2014;
- b. what requirements have not been met by individuals employed in titles that approximate the licensed professions; and
- c. what requirements could not be met by individuals employed in other occupational titles.

In its summation of results, the Department reported that despite previous statutory clarification, questions remain among state agencies regarding tasks and activities not defined in law, the delegation of professional services, the potential need to provide for permanent exemptions for some certified or credentialed individuals whose tasks may overlap with that of a licensed profession, the potential need for alternative pathways to licensure (particularly related to ESL - English as a Second Language), and the potential need to reopen a grand parenting provision.

While we continue to maintain that requiring all social workers adhere to standardized criteria by a reasonable date from enactment of the statute is critical to providing consumer protection, we agree that a number of clarifications may be required for full implementation. As such, we have attempted to reach consensus with stakeholders (including exempt agencies, policy makers and professional organizations) to craft language that:

- provides for further clarification of tasks not requiring a license,
- provides further clarification of tasks that may be delegated to a multi-disciplinary team member,
- clarifies that any individual rendering a diagnosis of a serious mental illness must have (at a minimum) one face to face interaction with each client and be appropriately authorized to provide such a diagnosis,
- provides for further exemptions for some professions,
- provides for an additional grandparenting provision, and
- calls for funding to support ESL and culturally sensitive test preparation.

We contend that the above noted language, if enacted, would allow for full implementation without service disruption or serious fiscal impact while supporting standards of care and professional enforcement mechanisms.

Continued exemption from licensure of individuals in certain settings not only risks the quality of care for many of our most vulnerable citizens, but also exempts certain providers from compliance with the Rules of the Board of Regents which oversees the licensed professions and holds the ability to enforce professional standards in this state. Continuation of the exemption creates a de facto environment which allows for a bifurcated system of care; people seeking services from the public system can be served by unlicensed professionals, while those with resources to receive services from the private system are cared for by licensed professionals. We must work together to employ creative solutions that will create a highly competent, culturally diverse workforce across the spectrum of delivery systems. Twelve years is ample time to implement a statute that is based on consumer protection. We would never entertain such a concept in the medical field...when an individual exhibits symptoms of heart disease, treatment protocols call for care by a qualified (licensed) physician specializing in cardiology; if signs of kidney disease are present, treatment protocols would call for a qualified (licensed) physician specializing in nephrology; should a citizen require care for a suspected serious mental illness, we must assure that providers are appropriately qualified as well.