HEVANS Edits – March 9, 2021

DELETE AND REPLACE….

Section 1. Section 8401 of the education law is amended by adding a

new subdivision 3 and 4 to read as follows:

3. "Diagnosis" or “diagnose” means the process of distinguishing, beyond a general assessment, between similar mental, emotional, behavioral, developmental and addictive disorders, impairments and disabilities within a psychosocial framework on the basis of their similar and unique characteristics consistent with accepted classification systems.

4. Development of assessment-based treatment plans refers to the development of an integrated plan of prioritized interventions, that is based on the diagnosis and psychosocial assessment of the client, to address mental, emotional, behavioral, developmental and addictive disorders, impairments and disabilities, reactions to illnesses, injuries, disabilities and impairments, and social problems.

§2. Subdivision 2 of section 8402 of the education law, as added by chapter 676 of the laws of 2002, is amended to read as follows:

1. Definition of the practice of mental health counseling. The practice of the profession of mental health counseling is defined as:

1. the diagnosis, evaluation, assessment, amelioration, treatment, modification, or adjustment to a disability, problem, or disorder of behavior, character, development, emotion, personality or relationships by the use of verbal or behavioral methods with individuals, couples, families or groups in private practice, group, or organized settings; and
2. the use of assessment instruments and mental health counseling and psychotherapy to identify, evaluate ~~and treat~~ dysfunctions and disorders for purposes of providing appropriate assessment-based treatment plans and mental health counseling services.

2. Practice of mental health counseling and use of the titles "mental

health counselor" and "licensed mental health counselor". (a) Only a

person licensed or exempt under this article shall practice mental

health counseling or use the title "mental health counselor". Only a

person licensed under this article shall use the title "licensed mental

health counselor" or any other designation tending to imply that the

person is licensed to practice mental health counseling.

(b) Licensed Mental health counselors who have obtained the diagnosis privilege set forth in section eighty-four hundred two-a of this article may diagnose and develop assessment-based treatment plans as defined in section eighty-four hundred one of this article.

§3. Paragraphs (b) and (c) of subdivision 3 of section 8402 of the education law, paragraph (b) as added by chapter 676 of the laws of 2002 and paragraph (c) as amended by chapter 130 of the laws of 2010, are

amended to read as follows:

b) Education: Have received an education, including a master's or higher degree in counseling from a program registered by the department or determined by the department to be the substantial equivalent thereof, which includes the completion of at least twelve credit hours of clinical courses, in accordance with the commissioner's regulations. A

person who has received a master's, or equivalent degree in counseling,

during which they did not complete all twelve credit hours of clinical

courses, may satisfy this requirement by completing any remaining equivalent post-graduate clinical courses, in accordance with the commissioner's regulations. The graduate coursework shall include, but not be limited to, the following areas:

(i) human growth and development;

(ii) social and cultural foundations of counseling;

(iii) counseling theory and practice and psychopathology;

(iv) group dynamics;

(v) lifestyle and career development;

(vi) assessment and appraisal of individuals, couples and families and groups;

(vii) research and program evaluation;

(viii) professional orientation and ethics;

(ix) foundations of mental health counseling and consultation;

(x) clinical instruction; and

(xi) completion of a minimum one year supervised internship or practicum in mental health counseling;

c) Experience: An applicant shall complete a minimum of three thousand hours of post-master's supervised experience relevant to the practice of mental health counseling, two thousand hours of which shall include diagnosis, psychotherapy, and assessment-based treatment plans,

satisfactory to the board and in accordance with the commissioner's regulations. Satisfactory experience obtained in an entity operating

under a waiver issued by the department pursuant to section sixty-five

hundred three-a of this title may be accepted by the department,

notwithstanding that such experience may have been obtained prior to the

effective date of such section sixty-five hundred three-a and/or prior

to the entity having obtained a waiver. The department may, for good

cause shown, accept satisfactory experience that was obtained in a

setting that would have been eligible for a waiver but which has not

obtained a waiver from the department or experience that was obtained in

good faith by the applicant under the belief that appropriate authori-

zation had been obtained for the experience, provided that such experi-

ence meets all other requirements for acceptable experience;

§ 4. The education law is amended by adding a new section 8402-a to read as follows:

§ 8402-a. Diagnosis privilege; mental health counseling. 1. Applicants for licensure as a mental health counselor on January first, two thousand twenty-four or thereafter are authorized to diagnose and develop assessment-based treatment plans, as defined in section eighty-four hundred one of this article without meeting any additional requirements.

2. Applicants for license as a mental health counselor who have been

issued a limited permit after successfully completing the requirements of paragraph (b) of subdivision three of section eighty-four hundred two

of this article, which includes twelve credit hours of clinical courses,

are authorized to diagnose and develop assessment-based treatment plans as defined in section eighty-four hundred one of this article while under supervision.

3. Those licensed prior to January first, two thousand twenty-four,

shall be granted the privilege to diagnose and develop assessment-based treatment plans as defined in section eighty-four hundred one of this article, if the licensee fulfills the following requirements:

(a) Files an application with the department;

(b) Is licensed and registered as a mental health counselor; and:

(i) Provides verification of twelve credit hours of clinical course

work as defined by the department from a college or university accepta-

ble to the department; or

(ii) Provides verification of a minimum of two years of employment as

a licensed mental health counselor by a licensed supervisor or colleague

on forms acceptable to the department, in a program or service operated,

regulated, funded, or approved by the department of mental hygiene, the

office of children and family services, the office of temporary and

disability assistance, the department of corrections and community

supervision, the state office for the aging, the department of health,

or a local governmental unit as that term is defined in article forty-

one of the mental hygiene law or a social services district as defined

in section sixty-one of the social services law; or

(iii) Provides verification of being licensed as a licensed mental

health counselor for a minimum of two years; and

(1) Provides documentation of at least six credit hours of clinical

coursework as defined by the department from a college or university

acceptable to the department; or

(2) Provides documentation of at least twelve hours of continuing

education in clinical coursework subject to section eighty-four hundred

twelve-a of this article; and

(c) Pays a fee to the department of two hundred twenty dollars.

4. A privilege to diagnose issued under this section shall be valid

for the life of the holder, unless revoked, annulled, or suspended by

the board of regents. Such a privilege shall be subject to the same

oversight and disciplinary provisions as licenses issued under this

title.

§5. Subdivision 2 of section 8403 of the education law, as added by

chapter 676 of the laws of 2002, is amended to read as follows:

1. Definition of the practice of marriage and family therapy. The practice of the profession of marriage and family therapy is defined as:

1. the diagnosis, assessment and treatment of nervous and mental disorders, whether affective, cognitive or behavioral, which results in dysfunctional interpersonal family relationships including, but not limited to familial relationships, marital/couple relationships, parent-child relationships, pre-marital and other personal relationships;
2. the use of mental health counseling, psychotherapy and therapeutic techniques to evaluate and treat marital, relational, and family systems, and individuals in relationship to these systems;
3. the use of mental health counseling and psychotherapeutic techniques to treat mental, emotional and behavioral disorders and ailments within the context of marital, relational and family systems to prevent and ameliorate dysfunction; and
4. the use of assessment instruments and mental health counseling and psychotherapy to identify and evaluate dysfunctions and disorders for purposes of developing assessment-based treatment plans and providing appropriate marriage and family therapy services.

2. Practice of marriage and family therapy and use of the titles

"marriage and family therapist" and "licensed marriage and family thera-

pist". (a) Only a person licensed or exempt under this article shall

practice marriage and family therapy or use the title "marriage and

family therapist". Only a person licensed under this article shall use

the titles "licensed marriage and family therapist", "licensed marriage

therapist", "licensed family therapist" or any other designation tending

to imply that the person is licensed to practice marriage and family

therapy.

(b) Licensed marriage and family therapists who have obtained the diagnosis privilege set forth in section eighty-four hundred three-a of this article may diagnose and develop assessment-based treatment plans as defined in section eighty-four hundred one of this article.

§ 6. Paragraphs (b) and (c) of subdivision 3 of section 8403 of the

education law, paragraph (b) as added by chapter 676 of the laws of 2002

and paragraph (c) as amended by chapter 130 of the laws of 2010, are

amended to read as follows:

(b) Education: Have received a master's or doctoral degree in marriage

and family therapy from a program registered by the department, or

determined by the department to be the substantial equivalent, which

includes the completion of at least twelve credit hours of clinical

coursework in accordance with the commissioner's regulations or a gradu-

ate degree in an allied field from a program registered by the depart-

ment and graduate level coursework determined to be equivalent to that

required in a program registered by the department. A person who has

received a master's, or equivalent degree in marriage and family thera-

py, during which they did not complete all twelve credit hours of clin-

ical courses, may satisfy this requirement by completing any remaining

equivalent post-graduate clinical courses, in accordance with the

commissioner's regulations. This coursework shall include, but not be

limited to:

(i) the study of human development, including individual, child and

family development;

(ii) psychopathology;

(iii) marital and family therapy;

(iv) family law;

(v) research;

(vi) professional ethics; and

(vii) a practicum of at least three hundred client contact hours;

(c) Experience: The completion of at least [~~one~~] two thousand [~~five~~

~~hundred~~] client contact hours of supervised clinical experience, by

persons holding a degree from a master's or doctoral program, or the

substantial equivalent, in accordance with the commissioner's regu-

lations or the completion of at least [~~one~~] two thousand [~~five hundred~~]

client contact hours of supervised post-master's clinical experience in

marriage and family therapy satisfactory to the department in accordance

with the commissioner's regulations. The two thousand client contact

hours shall include diagnosis, psychotherapy and assessment-based treat-

ment plans. Satisfactory experience obtained in an entity operating

under a waiver issued by the department pursuant to section sixty-five

hundred three-a of this title may be accepted by the department,

notwithstanding that such experience may have been obtained prior to the

effective date of such section sixty-five hundred three-a and/or prior

to the entity having obtained a waiver. The department may, for good

cause shown, accept satisfactory experience that was obtained in a

setting that would have been eligible for a waiver but which has not

obtained a waiver from the department or experience that was obtained in

good faith by the applicant under the belief that appropriate authori-

zation had been obtained for the experience, provided that such experi-

ence meets all other requirements for acceptable experience;

§ 7. The education law is amended by adding a new section 8403-a to

read as follows:

§ 8403-a. Diagnosis privilege; marriage and family therapist. 1.

Applicants licensure as a marriage and family therapist on January first, two thousand twenty-four or thereafter are authorized to diagnose and develop assessment-based treatment plans as defined in section eighty-four hundred one of this article without meeting any additional requirements.

2. Applicants for license as a marriage and family therapist who have

been issued a limited permit after successfully completing the require-

ments of paragraph (b) of subdivision three of section eighty-four

hundred three of this article, which includes twelve credit hours of

clinical courses, are authorized to diagnose and develop assessment-based treatment plans as defined in section eighty-four hundred and one while under supervision.

3. Those licensed as a marriage and family therapist twenty-four or thereafter are authorized to diagnose and develop assessment-based treatment plans, as defined in section eighty-four hundred one of this article, if the licensee fulfills the following requirements:

(a) Files an application with the department;

(b) Is licensed and registered as a marriage and family therapist;

and:

(i) Provides verification of twelve credit hours of clinical

coursework as defined by the department from a college or university

acceptable to the department; or

(ii) Provides verification of a minimum of two years of employment as

a licensed marriage and family therapist by a licensed supervisor or

colleague on forms acceptable to the department, in a program or service

operated, regulated, funded, or approved by the department of mental

hygiene, the office of children and family services, the office of

temporary and disability assistance, the department of corrections

and community supervision, the state office for the aging, the

department of health, or a local governmental unit as that term is

defined in article forty-one of the mental hygiene law or a social

services district as defined in section sixty-one of the social services

law; or

(iii) Provides verification of being licensed as a licensed marriage

and family therapist for a minimum of two years and:

(1) Provides documentation of at least six credit hours of clinical

coursework as defined by the department from a college or university

acceptable to the department; or

(2) Provides documentation of at least twelve hours of continuing

education in clinical coursework subject to section eighty-four hundred

twelve-a of this article; and

(c) Pays a fee to the department of two hundred twenty dollars.

4. A privilege to diagnose issued under this section shall be valid

for the life of the holder, unless revoked, annulled, or suspended by

the board of regents. Such a privilege shall be subject to the same

oversight and disciplinary provisions as licenses issued under this

title.

§ 8. Subdivision 2 of section 8405 of the education law, as added by

chapter 676 of the laws of 2002, is amended to read as follows:

Definition of the practice of psychoanalysis. The practice of the profession of psychoanalysis is defined as:

1. the observation, description, evaluation, and interpretation of dynamic unconscious mental processes that contribute to the formation of personality and behavior in order to diagnose, identify and resolve unconscious psychic problems which affect interpersonal relationships and emotional development, to facilitate changes in personality and behavior through the use of verbal and nonverbal cognitive and emotional communication, and to develop adaptive functioning; and
2. the use of assessment instruments and mental health counseling and psychotherapy to identify, evaluate ~~and treat~~ dysfunctions and disorders for purposes of developing assessment-based treatment plans and providing appropriate psychoanalytic services.

2. Practice of psychoanalysis and use of the titles "psychoanalyst"

and "licensed psychoanalyst". (a) Only a person licensed or exempt under

this article shall practice psychoanalysis or use the title "psychoana-

lyst". Only a person licensed under this article shall use the title

"licensed psychoanalyst" or any other designation tending to imply that

the person is licensed to practice psychoanalysis.

(b) Licensed psychoanalysts who have obtained the diagnosis privilege set forth in section eighty-five hundred three-a of this article may diagnose and develop assessment-based treatment plans as defined in section eighty-four hundred one of this article.

§ 9. Paragraphs (b) and (c) of subdivision 3 of section 8405 of the

education law, paragraph (b) as added by chapter 676 of the laws of 2002

and paragraph (c) as amended by chapter 130 of the laws of 2010, are

amended to read as follows:

(b) Education: Have received a master's degree or higher from a

degree-granting program registered by the department or the substantial

equivalent and have completed a program of study registered by the

department in a psychoanalytic institute chartered by the board of

regents or the substantial equivalent as determined by the department.

The program of study in a psychoanalytic institute shall include course-

work substantially equivalent to coursework required for a master's

degree in a health or mental health field of study and shall also

include the completion of at least twelve credit hours of clinical

courses. An individual who has completed a licensed psychoanalyst

program that did not include twelve credit hours of clinical courses may

satisfy this requirement by completing any remaining equivalent post-

graduate clinical courses, in accordance with the commissioner's regu-

lations. The coursework shall include, but not be limited to, the

following areas:

(i) personality development;

(ii) psychoanalytic theory of psychopathology;

(iii) psychoanalytic theory of psychodiagnosis;

(iv) sociocultural influence on growth and psychopathology;

(v) practice technique (including dreams and symbolic processes);

(vi) analysis of resistance, transference, and countertransference;

(vii) case seminars on clinical practice;

(viii) practice in psychopathology and psychodiagnosis;

(ix) professional ethics and psychoanalytic research methodology; and

(x) a minimum of three hundred hours of personal analysis and one

hundred fifty hours of supervised analysis;

(c) Experience: Have completed a minimum of [~~fifteen hundred~~] two

thousand hours of supervised clinical practice which shall include diag-

nosis, psychotherapy, and assessment-based treatment plans satisfactory

to the department and in accordance with the commissioner's regulations.

Satisfactory experience obtained in an entity operating under a waiver

issued by the department pursuant to section sixty-five hundred three-a

of this title may be accepted by the department, notwithstanding that

such experience may have been obtained prior to the effective date of

such section sixty-five hundred three-a and/or prior to the entity

having obtained a waiver. The department may, for good cause shown,

accept satisfactory experience that was obtained in a setting that would

have been eligible for a waiver but which has not obtained a waiver from

the department or experience that was obtained in good faith by the

applicant under the belief that appropriate authorization had been

obtained for the experience, provided that such experience meets all

other requirements for acceptable experience;

§ 10. The education law is amended by adding a new section 8405-a to

read as follows:

§ 8405-a. Diagnosis privilege. 1. Applicants for licensure as a psychoanalyst on January first, two thousand twenty-four or thereafter are authorized to diagnose and develop assessment-based treatment plans as defined in section eighty-four hundred one of this article without meeting any additional requirements.

2. Applicants for license as a psychoanalyst who have been issued a

limited permit after successfully completing the requirements of para-

graph (b) of subdivision two of section eighty-four hundred five of this

article, which includes twelve credit hours of clinical courses are

authorized to diagnose and develop assessment-based treatment plans as defined in section eighty-four hundred one of this article while under supervision.

3. For those licensed prior to January first, two thousand twenty-

four, shall be granted the privilege to diagnose and develop assessment-based treatment plans as defined in section eighty-four hundred one of this article, if the licensee fulfills the following

requirements:

(a) Files an application with the department;

(b) Is licensed and registered as a psychoanalyst; and

(i) Provides verification of twelve credit hours of clinical course

work as defined by the department from a college, university, or insti-

tute acceptable to the department; or

(ii) Provides verification of a minimum of two years of employment as

a licensed psychoanalyst by a licensed supervisor or colleague on forms

acceptable to the department, in a program or service operated, regu-

lated, funded, or approved by the department of mental hygiene, the

office of children and family services, the office of temporary and

disability assistance, the department of corrections and community

supervision, the state office for the aging, the department of health,

or a local governmental unit as that term is defined in article forty-

one of the mental hygiene law or a social services district as defined

in section sixty-one of the social services law; or

(iii) Provides verification of being licensed as a licensed psychoana-

lyst for a minimum of three years; and

(1) Provides documentation of at least six credit hours of clinical

coursework as defined by the department from a college, university, or

institute acceptable to the department; or

(2) Provides documentation of at least twelve hours of continuing

education in clinical coursework subject to section eighty-four hundred

twelve-a of this article; and

(c) Pays a fee to the department of two hundred twenty dollars.

4. A privilege to diagnose issued under this section shall be valid

for the life of the holder, unless revoked, annulled, or suspended by

the board of regents. Such a privilege shall be subject to the same

oversight and disciplinary provisions as licenses issued under this

title.

§ 11. Subdivision 2 of section 8409 of the education law, as amended

by chapter 485 of the laws of 2013, is amended to read as follows:

2. Limited permits shall be for [~~two~~] three years; such limited

permits may be renewed, at the discretion of the department, for up to

two additional one year periods.

§ 12. Section 8410 of the education law is amended by adding a new subdivision 11 to read as follows:

11. Notwithstanding any provision of law to the contrary, nothing in

this section shall be construed to prohibit or limit the activities or

services provided under this article on the part of any person who, upon

the effective date of this subdivision, is in the employ of a program or

service, as defined in this article, for the period during which such

person maintains employment in such program or service. This section

shall not authorize the use of any title authorized pursuant to this

article by any such employed person, except as otherwise provided by

this article respectively. Provided however, that any person who

commences employment in such program or service on or after June twenty-fourth two thousand twenty-one and performs services that are restricted under this article shall be appropriately licensed or authorized under this article.

§13. Subparagraph i, subdivision d, Paragraph 8 Section 8410 of the education law is amended to read as follows:

 Prevent a person without a license from participating as a member of a multi-disciplinary team to assist in the development of or implementation of a behavioral health services or treatment plan; provided that such team shall include one or more professionals licensed under this article or articles one hundred thirty-one, one hundred thirty-nine, one hundred fifty-three or one hundred fifty-four of this chapter; and provided, further, that the activities performed by members of the team shall be consistent with the scope of practice for each team member licensed or authorized under title VIII of this chapter, and those who are not so authorized may not engage in the following restricted practices: the diagnosis of mental, emotional, behavioral, addictive and developmental disorders and disabilities; patient assessment and evaluating; the provision of psychotherapeutic treatment; the provision of treatment other than psychotherapeutic treatment; or independently developing and implementing assessment-based treatment plans as defined in section seventy-seven hundred one and eight thousand and one of this chapter.

§14. The education law is amended by adding a new section 8412-a to

read as follows:

§ 8412-a. Continuing education for diagnosis privilege. 1. Continuing

education required in clause two of subparagraph (iii) of paragraph (b)

of subdivision three of section eighty-four hundred two-a of this article shall:

a) Be offered by a provider approved by the department pursuant to

paragraph (b) of subdivision three of section eighty-four hundred twelve of this article; and

b) In addition to meeting the standards set forth in paragraph (a) of

subdivision three of section eighty-four hundred twelve of this article, be determined by the department as providing clinical content in the following areas:

(i) Diagnosis in clinical practice;

(ii) Assessment based treatment; or

(iii) Clinical practice with general and special populations.

2. The department shall maintain a list of continuing education

approved by the department as meeting the requirements of this section.

3. A separate continuing education approval application fee, as deter-

mined by the department, shall be applied to providers seeking approval

of continuing education that meets the requirements of this section.

§15. This act shall take effect one year after it shall have become a law, provided that sections four, seven and ten of this act shall take effect January 1, 2024. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.