

Legislative Bill Drafting Commission
15952-04-2

S. -----
Senate

IN SENATE--Introduced by Sen

--read twice and ordered printed,
and when printed to be committed
to the Committee on

----- A.
Assembly

IN ASSEMBLY--Introduced by M. of A.

with M. of A. as co-sponsors

--read once and referred to the
Committee on

EDUCLA
(Relates to diagnostic privilege)

Ed L. diagnostic privilege

AN ACT

to amend the education law, in
relation to diagnostic privilege;
and providing for the repeal of
certain provisions upon expiration
thereof

The People of the State of New
York, represented in Senate and
Assembly, do enact as follows:

IN SENATE

Senate introducer's signature

The senators whose names are circled below wish to join me in the sponsorship
of this proposal:

s15 Addabbo	s17 Felder	s07 Kaplan	s58 O'Mara	s10 Sanders
s52 Akshar	s59 Gallivan	s26 Kavanagh	s62 Ortt	s23 Savino
s36 Bailey	s05 Gaughran	s63 Kennedy	s01 Palumbo	s32 Sepulveda
s34 Biaggi	s12 Gianaris	s28 Krueger	s21 Parker	s41 Serino
s57 Borrello	s22 Gounardes	s24 Lanza	s19 Persaud	s29 Serrano
s04 Boyle	s47 Griffio	s11 Liu	s13 Ramos	s39 Skoufis
s44 Breslin	s40 Harckham	s50 Mannion	s61 Rath	s16 Stavisky
s25 Brisport	s54 Helming	s42 Martucci	s38 Reichlin-	s45 Stec
s08 Brooks	s46 Hinchey	s02 Mattera	Melnick	s35 Stewart-
s55 Brouk	s27 Hoylman	s53 May	s48 Ritchie	Cousins
s30 Cleare	s31 Jackson	s37 Mayer	s33 Rivera	s49 Tedisco
s14 Comrie	s43 Jordan	s20 Myrie	s60 Ryan	s06 Thomas
s56 Cooney	s09 Kaminsky	s51 Oberacker	s18 Salazar	s03 Weik

IN ASSEMBLY

Assembly introducer's signature

The Members of the Assembly whose names are circled below wish to join me in the
multi-sponsorship of this proposal:

a058	a039 Cruz	a034 Gonzalez-	a146 McMahon	a111 Santabarbara
a049 Abbate	a043 Cunningham	Rojas	a137 Meeks	a090 Sayegh
a092 Abinanti	a063 Cusick	a150 Goodell	a017 Mikulin	a099 Schmitt
a031 Anderson	a045 Cymbrowitz	a075 Gottfried	a101 Miller, B.	a076 Seawright
a122 Angelino	a018 Darling	a021 Griffin	a051 Mitaynes	a084 Septimo
a107 Ashby	a053 Davila	a100 Gunther	a015 Montesano	a016 Sillitti
a035 Aubry	a072 De Los Santos	a139 Hawley	a145 Morinello	a052 Simon
a120 Barclay	a003 DeStefano	a083 Heastie	a065 Niou	a114 Simpson
a030 Barnwell	a070 Dickens	a028 Hevesi	a037 Nolan	a005 Smith
a106 Barrett	a054 Dilan	a128 Hunter	a144 Norris	a118 Smullen
a082 Benedetto	a081 Dinowitz	a029 Hyndman	a069 O'Donnell	a022 Solages
a042 Bichotte	a147 DiPietro	a079 Jackson	a091 Otis	a110 Steck
Hermelyn	a009 Durso	a104 Jacobson	a132 Palmesano	a010 Stern
a117 Blankenbush	a048 Eichenstein	a011 Jean-Pierre	a088 Paulin	a127 Stirpe
a098 Brabenc	a004 Englebright	a134 Jensen	a141 Peoples-	a102 Tague
a026 Braunstein	a074 Epstein	a115 Jones	Stokes	a064 Tannousis
a138 Bronson	a109 Fahy	a077 Joyner	a023 Pheffer	a086 Tapia
a020 Brown, E.	a061 Fall	a125 Kelles	Amato	a071 Taylor
a012 Brown, K.	a080 Fernandez	a040 Kim	a089 Pretlow	a001 Thiele
a093 Burdick	a008 Fitzpatrick	a105 Lalor	a073 Quart	a033 Vanel
a085 Burgos	a057 Forrest	a013 Lavine	a019 Ra	a116 Walczyk
a142 Burke	a124 Friend	a097 Lawler	a038 Rajkumar	a055 Walker
a119 Buttenschon	a046 Frontus	a126 Lemondes	a006 Ramos	a143 Wallace
a094 Byrne	a095 Galef	a060 Lucas	a062 Reilly	a112 Walsh
a133 Byrnes	a050 Gallagher	a135 Lunsford	a087 Reyes	a041 Weinstein
a103 Cahill	a131 Gallahan	a123 Lupardo	a078 Rivera, J.	a024 Weprin
a044 Carroll	a007 Gandolfo	a129 Magnarelli	a149 Rivera, J.D.	a059 Williams
a136 Clark	a068 Gibbs	a036 Mamdani	a027 Rosenthal, D.	a113 Woerner
a047 Colton	a002 Giglio, J.A.	a130 Manktelow	a067 Rosenthal, L.	a096 Zebrowski
a140 Conrad	a148 Giglio, J.M.	a108 McDonald	a025 Rozic	a056 Zinerman
a032 Cook	a066 Glick	a014 McDonough	a121 Salka	

1) Single House Bill (introduced and printed separately in either or
both houses). Uni-Bill (introduced simultaneously in both houses and printed
as one bill. Senate and Assembly introducer sign the same copy of the bill).

2) Circle names of co-sponsors and return to introduction clerk with 2
signed copies of bill and: in Assembly 2 copies of memorandum in support, in
Senate 4 copies of memorandum in support (single house); or 4 signed copies
of bill and 6 copies of memorandum in support (uni-bill).

1 Section 1. Section 8401 of the education law is amended by adding two
2 new subdivisions 3 and 4 to read as follows:

3 3. "Diagnosis" means the process of distinguishing, beyond a general
4 assessment, between similar mental, emotional, behavioral, develop-
5 mental, and addictive disorders, impairments, and disabilities within a
6 psychosocial framework on the basis of their similar and unique charac-
7 teristics consistent with accepted classification systems.

8 4. "Development of assessment-based treatment plans" means the devel-
9 opment of an integrated plan of prioritized interventions, that is based
10 on the diagnosis and psychosocial assessment of the client, to address
11 mental, emotional, behavioral, developmental, and addictive disorders,
12 impairments, and disabilities.

13 § 2. The education law is amended by adding a new section 8401-a to
14 read as follows:

15 § 8401-a. Diagnostic privilege. 1. For issuance of a privilege to
16 diagnose and develop assessment-based treatment plans, as defined in
17 section eighty-four hundred one of this article, the applicant shall
18 fulfill the following requirements:

19 (a) Application: File an application with the department;

20 (b) License: Be licensed and registered as a mental health counselor,
21 marriage and family therapist, or a psychoanalyst in the state;

22 (c) Education: Have completed at least twelve semester hours or clock
23 hour equivalent of clinical coursework acceptable to the department. A
24 person who has received a master's or higher degree during which they
25 did not complete the required hours, may satisfy such requirement by
26 completing the equivalent post-graduate courses in accordance with the
27 commissioner's regulations;

1 (d) Experience: Have completed at least two thousand hours of super-
2 vised, direct client contact that shall include, but not be limited to,
3 diagnosis, psychotherapy and the development of assessment-based treat-
4 ment plans, as defined in section eighty-four hundred one of this arti-
5 cle, satisfactory to the department; and

6 (e) Fee: Pay a fee of one hundred seventy-five dollars for issuance of
7 a privilege to diagnose and develop assessment-based treatment plans.

8 2. The provisions of paragraph (d) of subdivision one of this section
9 shall not apply to a mental health counselor, marriage and family thera-
10 pist or psychoanalyst who was licensed prior to June twenty-fourth, two
11 thousand twenty-four, who is currently employed, and has maintained such
12 employment in a facility setting or other supervised setting approved by
13 the department under supervision in accordance with the commissioner's
14 regulations for at least two years prior to June twenty-fourth, two
15 thousand twenty-four.

16 3. A mental health counselor, marriage and family therapist or psycho-
17 analyst who engages in diagnosis and the development of assessment-based
18 treatment plans without a privilege may be charged with professional
19 misconduct under section sixty-five hundred nine of this title.

20 4. A privilege issued under this section shall be valid for the life
21 of the holder, unless revoked, annulled, or suspended by the board of
22 regents. Such a privilege shall be subject to the same oversight and
23 disciplinary provisions as licenses issued under this title. The holder
24 of a privilege issued under this section shall register with the depart-
25 ment as a privilege holder in the same manner and subject to the same
26 provisions as required of a licensee pursuant to section sixty-five
27 hundred two of this title, provided that, at the time of each registra-
28 tion, the privilege holder shall certify that he or she continues to

1 meet the requirements for the privilege set forth in this section. The
2 fee for such registration shall be one hundred seventy-five dollars. The
3 registration period for a privilege holder shall be coterminous with his
4 or her registration under this article.

5 § 3. Subdivision 1 of section 8407 of the education law, as added by
6 chapter 676 of the laws of 2002, is amended to read as follows:

7 1. It shall be deemed practicing outside the boundaries of his or her
8 professional competence for a person licensed pursuant to this article,
9 in the case of treatment of any serious mental illness, to provide any
10 mental health service for such illness on a continuous and sustained
11 basis without a medical evaluation of the illness by, and consultation
12 with, a physician regarding such illness, unless such licensed profes-
13 sional has been issued a privilege to diagnosis and develop assessment-
14 based treatment plans by the department. Such medical evaluation and
15 consultation shall be to determine and advise whether any medical care
16 is indicated for such illness. For purposes of this section, "serious
17 mental illness" means schizophrenia, schizoaffective disorder, bipolar
18 disorder, major depressive disorder, panic disorder, obsessive-compul-
19 sive disorder, attention-deficit hyperactivity disorder and autism.

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

22 11. Prohibit or limit a mental health counselor, marriage and family
23 therapist, or psychoanalyst from engaging in diagnosis and the develop-
24 ment of assessment-based treatment plans, as defined in section eighty-
25 four hundred one of this article, in a facility setting or other super-
26 vised settings approved by the department under supervision in
27 accordance with the commissioner's regulations.

1 § 5. This act shall take effect June 24, 2022; provided however, that
2 sections two and three of this act shall take effect June 24, 2024;
3 provided, further, that the provisions of section four of this act shall
4 expire and be deemed repealed June 24, 2024. Effective immediately, the
5 addition, amendment and/or repeal of any rule or regulation necessary
6 for the implementation of this act on its effective date are authorized
7 to be made and completed on or before such effective date.