

NYS CONFERENCE OF LOCAL MENTAL HYGIENE  
DIRECTORS, INC.



Social Work/Mental Health Counselor  
Licensure Survey  
May, 2009

## **Executive Summary**

### **May 2009**

The New York State Conference of Local Mental Hygiene Directors ("Conference") is established in conformity with requirements in Article 41 of the New York Mental Hygiene Law for the membership to consist of the commissioner/director of each of the state's 57 county mental hygiene departments and the mental hygiene department of the City of New York.

In 2005 there was a substantial change in the licensing of Mental Health Professionals and Social Workers in New York. A new Article 163 of the Education Law licensed mental health practitioners. Also at that time Article 154 of the Education Law was amended to change the practice of social work substantially, adding a scope of practice and a hierarchy of the licensed master social worker (LMSW) and a licensed clinical social worker (LCSW). Both articles generally prohibit anyone from practicing these professions unless they are licensed.

Both Article 163 and 154 established exemptions and alternatives. The law established that certain people do not have to be licensed and included some grandfathering provisions. Particularly noteworthy for local government is a temporary exemption that states: "Nothing in this act shall prohibit or limit the activities or services on the part of any person in the employ of a program or service operated, regulated, funded, or approved by the department of mental hygiene or the office of children and family services, or a local government unit as that term is defined in article 41 of the mental hygiene law or a social services district as defined in section 61 of the social services law, provided, however, this section shall not authorize the use of any title authorized pursuant to article 154 of the education law, except as otherwise provided by such articles, except that this section shall be deemed repealed on January 1, 2010."

While the law was extended in the 2009-2010 NYS Budget until June 30, 2010, the NYS Conference of Local Mental Hygiene Directors holds that there will be substantial harm to the public mental hygiene system if there is not a permanent exemption. In the absence of an exemption hundreds of social workers will be deemed immediately ineligible to practice, thousands of patients will lose access to treatment, continuity of care will be broken and providers will incur significant cost to replace social workers.

The Conference surveyed its membership earlier this legislative session to better understand the impact to those most vulnerable consumers served in local communities and on our members' ability to treat these consumers, the majority of whom are seriously and persistently mentally ill. The pages that follow summarize the results of the survey and implications for service delivery.

### **Highlights of Findings**

- ✓ The public mental health system is not the same as the private practice setting. In the public system providers are held to higher OMH accountability standards and work with the most acutely and critically ill members of our communities. Clinical oversight is an ongoing function of the operations of the public system. A psychiatrist oversees all cases and signs treatment plans for all clinic clients receiving treatment and social workers are part of a treatment team.
- ✓ These practitioners/social workers carry sizable caseloads and consumers will be losing services with limited or no alternatives available in their communities to treat them.

- ✓ Established therapeutic relationships will be lost with the dismantling of the public mental health system. Disruption to treatment will impede the recovery process for consumers.
- ✓ Reducing the volume of counseling services as a reaction to the absence of an exemption will most likely result in higher costs in the system (i.e. ER visits, long term hospital stays, costs in criminal system-jails, etc.)
- ✓ Valuable services which act as the safety net for vulnerable consumers in need will be lost.
- ✓ Some programs will not be able to meet OMH regulations for providing minimum staffing requirements.
- ✓ County operated clinics are subject to unionization of the county workforce and to hiring via civil service regulations. As such these employees have job protection that prevents removing them for the lack of psychotherapy privileging (R-number distinction). Therefore the county operated clinics would be forced to keep them on the payroll without the ability to bill for their services.
- ✓ Smaller counties are at a significant disadvantage in recruiting e.g. salaries are often lower, travel to and from work is often longer, and the lack of a wide variety of retail, entertainment, etc. resources makes it difficult to recruit qualified individuals who expect a higher salary to reflect their higher qualifications.

## **Recommendations**

- ✓ A permanent exemption to preserving access to mental health
- ✓ As our NYS workforce ages and readies itself for retirement there must be planning to ensure a trained and skilled set of professionals are in place for the future. Maintaining a sustainable workforce does not mean adding more professional requirements.
- ✓ The requirement of a license does not necessarily protect the public in itself. The license serves only as an entry or periodic qualification. Good peer supervision does protect the public and in the public sector it has more power over those practicing.
- ✓ The broader multidisciplinary mix of experienced professionals provides a richer source of treatment that is more likely to meet the needs of a variety of consumers, will be less expensive per visit, and will continue to serve a larger number of consumers. The multi-disciplinary treatment team model used in a clinic setting offers support as well as oversight to mental health professionals.
- ✓ If the exemption is not made permanent there will be no place for new MSW graduates to go to get the experience they will need to become licensed. If clinics cannot utilize their services under a supervisory model, there will be no incentive to hire them. A solution would be to require a collaborative effort between the Graduate Schools and the State Education Department to initiate the conditional licenses while the clinicians are still in school.
- ✓ The prime mission of the public mental health system should be maintained – that of caring for the most disabled and disenfranchised.

# Survey Questions

**1. What is your best estimate of how many people are practicing under the exemption for mental health practitioners/social workers in programs operated, funded or approved by your county that would have to be licensed or fired if the current law allowing the exemption is allowed to sunset in January 2010?**

With 36 counties responding it was reported that approximately 800 currently practicing practitioners/social workers would need to be licensed or fired if the exemption is allowed to sunset in 2010.

**2. What is your best estimate of what the cost would be to replace these mental health practitioners/social workers with licensed individuals? NOTE: If you cannot provide a number, please give a range.**

| <u>Cost</u>           | <u>Counties</u> |
|-----------------------|-----------------|
| \$5,000 - \$50,000    | 4               |
| \$51,000 - \$100,000  | 8               |
| \$101,000 - 150,000   | 3               |
| \$151,000 - \$200,000 | 3               |
| \$201,000 - \$250,000 | 0               |
| \$251,000 - \$300,000 | 2               |
| Over \$300,000        | 4               |

**3. Are licensed mental health practitioners/social workers available to replace these potentially open positions in your geographic area?**

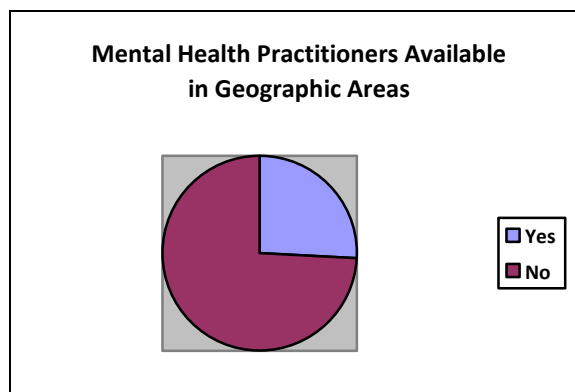


Figure 1: 35 Counties Responding (26 NO and 9 YES)

**4. If you answered "No" (there are not licensed mental health practitioners/social workers available to replace these potentially open positions), briefly describe what problems exist in recruiting licensed mental health practitioners/social workers in your geographic area.**

The following represents a sample of the problems that were described:

- There have always been hurdles in locating LCSWs who are seeking a line staff position. After fulfilling the three years of training most social workers are looking to secure a more supervisory, managerial position, with a higher salary. In addition, the civil service exam that is given annually historically has never had enough candidates to fill the need. At least two to three out of 15 are recent or prospective SUNY graduates. It would be near to impossible to find 47 LCSWs to fill the potential vacancies that would come about by this change.
- Our county is already a federally designated health manpower shortage area in mental health for psychiatry, psychologist and social workers. Historically, we have always had difficulty recruiting professional level employees. There is no graduate program in our county that could provide a potential work force.
- Rural counties are in competition with State and Veterans Affairs positions that offer higher pay.
- We have had significant problems in having properly credentialed and trained individuals apply for current openings. We also expect to have difficulty in finding professionals with children's experience.

"Our local clinic serves over 1600 individuals a month, and there just aren't enough licensed professionals in this area to accommodate the need without a waiver."

**5. If the exemption were allowed to sunset in 2010, what is your best estimate of the kinds of services that might be lost in your county?**

**CAPACITY ISSUES**

- Reduction in capacity, increased wait times, increase in unemployment to the state and clinic.
- It would close down the only mental health clinic in the county.
- Our Outpatient Clinic would be disrupted. We would have waiting lists until we could work out recruitment issues.
- Outpatient Clinic Services which currently have long waiting lists due to the shortage of professionals throughout all systems in the county.
- Clinic capacity within the MH system could be in jeopardy depending on the current staffing mix.
- The services wouldn't change but there would be longer wait times.
- We would need to reduce our clients served by 20-25% in an environment where we are meeting 50-60% of the need now.
- The clinic capacity would decrease.....very seriously if we are considering not being able to bill for LMSW's.

- We wouldn't lose any services; we would be significantly disrupted in how soon we could provide those same services given reduced staff.
- If the exemption were allowed to sunset in 2010 it would result in a decrease in the frequency of individual appointments for clients as we would be struggling to fill the position.
- Probably 1/3 of our Clinic Services would be lost.
- It would primarily affect Clinic Services on either a temporary (6-12 months) or, in some cases, permanent basis.
- Approximately 50% of the clinicians who are currently working would lose their jobs, thus half of the population receiving services in the community would no longer have service; significant delays in serving populations would occur; clinics may close. Off site services, and home visits would be more difficult.

## **LOSS OF VALUABLE SERVICES**

- It would depend upon the 25 mental health professionals who are potentially eligible for licensure. If they were able to obtain their license within the next 8-10 months, the impact would be less, but still dismantle the majority of the services provided by the County. The Mobile Crisis team, Mental Health Clinic, Case Management, Community Assessment and Referral Team are examples of what services would be lost.
- Mental Health Counseling, Chemical Dependency Counseling
- Counseling, case management.
- Approximately half of our mental health outpatient clinic services are provided by social workers who do not have the LCSW-R license. If the exemption were allowed to sunset in 2010, the Child and Family Clinic would be decimated. In addition, we would not be able to continue to provide services in the schools.
- We would lose our core Direct Services Programs: Outpatient Mental Health and Outpatient Substance abuse. Our service to the community would be severely compromised and perhaps terminated.
- Licensed RN, entry level social work positions and the capacity to be a training ground for MSW students.
- 3/4 of the individual and group therapy services.
- Services to SSI in Medicaid managed care.
- Therapy services to adults and children and further restriction to intake and admission to services.
- Outpatient Clinic Services would be the most severely affected. Waiting lists would increase, crises would increase.
- The current staff in this category provides assessment and crisis intervention as well as on-going monitoring/psychotherapy of long term patients. Their work represents a caseload of over two hundred patients.
- Substance abuse treatment services as well as a reduction in mental health treatment services.

## **FINANCIAL IMPLICATIONS**

- Services would not be lost but become more costly.
- We are not likely to lose services due to the law but we will be in a difficult place in terms of recruitment in the future. Most immediately we would have difficulty meeting the demands for service because we do not have adequate licensed staff to bill for services.
- Various agencies in our region would be in turmoil in attempting to replace individuals and having to figure out strategies to either fire existing staff or hire additional staff to do billable

services. This, along with some of possible proposals of the clinic restructuring project that separate who can bill for what, are a nightmare. Clinical services will be lost.

**6. If the exemption were allowed to sunset in 2010, what is your best estimate of the numbers of persons who might not be served in your county?**

- 10 Counties reported **100-200** people would not be served due to practitioner loss
- 5 Counties reported **201-400** people would not be served due to practitioner loss
- 4 Counties reported **401-800** people would not be served due to practitioner loss
- 6 Counties reported **801-1500** people would not be served due to practitioner loss
- 1 County reported **8,000 – 10,000** people would not be served due to practitioner loss
- 7 Counties did not offer an estimate

**7. Briefly describe the kinds of supervisory oversight in the programs in your county that are in place to protect the client in the same way that the “license” would protect consumers of private practice services.**

**The following represents a sample of the supervisory oversights that are currently provided:**

- Each of these staff is assigned to a clinical team and receives team-based supervision weekly by a LCSW. Additionally, they receive individual supervision weekly (1 hr) by the same LCSW. They participate in weekly general staff meetings at which time they are exposed to reports from MD's, psychologists, nurse, LCSW on any variety of cases that are placed on a watch list for weekend on call. Lastly, they are required to attend all inservice training, generally two to three 90 minute presentations monthly given by clinical experts on various topics related to clinical work.
- All clinical employees participate in group supervision. Individual supervision is provided to all new employees for a period of at least one year. Treatment plan review occurs in a format that includes the psychiatrist, clinician and administration. We operate in a team fashion.
- All clinical staff receives supervision. The LMSW/LMHC staff receives weekly group or individual supervision by LCSW. All evaluations and treatment plans are reviewed by LCSW supervisors and Psychiatrists.
- Our clinic has a Director and two senior social workers who are CSW's or CSW-R's. One of the senior social workers does all intakes; the other senior social worker and the Director each provide weekly face to face clinical supervision with all other clinical staff.
- All Admission Decisions are made in a team meeting with the clinic psychiatrist. Clinicians also receive weekly 1-hour individual supervision with their immediate supervisor (and LCSW-R), and peer review of cases in a weekly team meeting. Utilization and Review also occurs to assure clients are receiving appropriate care as outlined in state regulations and in accordance with the clinic's policies and procedures. Also, corporate compliance audits check for adherence to documentation standards.
- The level of supervision and monitoring far exceeds that found or required in private practice. All social workers receive weekly clinical supervision. The Quality Assurance process reviews all case records for treatment appropriateness and effectiveness. Length of stay is reviewed for enrolled clients as an additional monitor of effective treatment. There is

a well developed client complaint response process that closely reviews all situations where clients express concerns about their treatment. The incident review process reviews all incidents for potential treatment related causes.

- We use a multidisciplinary team approach consisting of staff psychiatrists, Nurse Practitioners, Nurses, Psychiatric Social Workers, Case Managers and Forensic Counselors. These individuals work in one place and are in contact with each other daily. Individual and Group supervision is used weekly. Case reviews, with psychiatrists present in team formats occur weekly. Assignment of cases, led by the medical director occurs weekly. The assertion is correct. This model is completely different that a private practice model in many, many ways. It is a an excellent place to work and train to provide public mental health, given the massive amount of experience that is built into a very stable, team based, system of care.