

THE UNIVERSITY OF THE STATE OF NEW YORK
THE STATE EDUCATION DEPARTMENT

To: Celisia Street, Tracyavon Ford, Peg Barrett; Wendy Castiglia Amato *David Hamilton* **Date:** December 8, 2021
From: David Hamilton, State Board for Social Work
Subject: Background on school social work issues

The State Board for Social Work has received questions as to whether school social work services qualify an individual with the LMSW for experience in clinical social work. There have also been questions about qualified supervisors of the LMSW. The following information and attachment are background on these questions, as well as the continuing education requirement that must be met by each LMSW or LCSW to register in New York.

Attached you will find excerpts from the Medicaid in Education document published by the Department's School Support Services and Medicaid unit. While reimbursement is not part of the practice, the guidance may be illustrative of the activities performed by LMSWs in the school. The definition of psychotherapy and acceptable experience for the LCSW is established in law and would require action by the Legislature—with the participation of all parties—for any change.

Acceptable Experience for LCSW & R Privilege.

Vice Chair Ford has raised questions about the duties of school social workers, including clarification as to whether the counseling services provided in accordance with a student's Individualized Education Plan (IEP) constitutes acceptable experience in providing psychotherapy, as required to qualify for licensure as a LCSW in New York. In addition, there are concerns about appropriate supervision and whether the services provided are diagnosis and psychotherapy, as defined in Education Law §7701(2)(b) and (c):

- b. Diagnosis in the context of licensed clinical social work practice is the process of distinguishing, beyond general social work 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.*
- c. Psychotherapy in the context of licensed clinical social work practice is the use of verbal methods in interpersonal relationships with the intent of assisting a person or persons to modify attitudes and behavior which are intellectually, socially, or emotionally maladaptive.*

An applicant for LCSW must complete 36 months of supervised experience, acceptable to the State Board, in those activities only. If "counseling" in the school does not meet the definition, then experience will not qualify.

School health services.

Education Law §901 defines school health services to be provided in schools as:

- 1. School health services, as defined in subdivision two of this section, shall be*

provided by each school district for all students attending the public schools in this state, except in the city school district of the city of New York, as provided in this article. School health services shall include the services of a registered professional nurse, if one is employed, and shall also include such services as may be rendered as provided in this article in examining students for the existence of disease or disability and in testing the eyes and ears of such students.

2. School health services for the purposes of this article shall mean the several procedures, including, but not limited to, medical examinations, dental inspection and/or screening, scoliosis screening, vision screening and audiometer tests, designed to determine the health status of the child; to inform parents or other persons in parental relation to the child, pupils and teachers of the individual child's health condition subject to federal and state confidentiality laws; to guide parents, children and teachers in procedures for preventing and correcting defects and diseases; to instruct the school personnel in procedures to take in case of accident or illness; to survey and make necessary recommendations concerning the health and safety aspects of school facilities and the provision of health information.

Education Law §912 defines the health and welfare services to be provided to all children:

§ 912. Health and welfare services to all children. The voters and/or trustees or board of education of every school district shall, upon request of the authorities of a school other than public, provide resident children who attend such school with any or all of the health and welfare services and facilities which are made available by such voters and/or trustees or board of education to or for children attending the public schools of the district. Such services may include, but are not limited to all services performed by a physician, physician assistant, dentist, dental hygienist, registered professional nurse, nurse practitioner, school psychologist, school social worker or school speech therapist, and may also include dental prophylaxis, vision and hearing screening examinations, the taking of medical histories and the administration of health screening tests, the maintenance of cumulative health records and the administration of emergency care programs for ill or injured students. Any such services or facilities shall be so provided notwithstanding any provision of any charter or other provision of law inconsistent herewith. Where children residing in one school district attend a school other than public located in another school district, the school authorities of the district of residence shall contract with the school authorities of the district where such nonpublic school is located, for the provision of such health and welfare services and facilities to such children by the school district where such nonpublic school is located, for a consideration to be agreed upon between the school authorities of such districts, subject to the approval of the qualified voters of the district of residence when required under the provisions of this chapter. Every such contract shall be in writing and in the form prescribed by the commissioner, and before such contract is executed the same shall be submitted for approval to the superintendent of schools having jurisdiction over such district of residence and such contract shall not become effective until approved by such superintendent.

NYCRR Part 100 defines elementary and secondary education school program, which includes:

- (g) *Academic intervention services* means additional instruction which supplements the instruction provided in the general curriculum and assists students in meeting the State learning standards as defined in subdivision (t) of this section and/or student support services which may include guidance, counseling, attendance, and study skills which are needed to support improved academic performance; provided that such services shall not include services provided to students with limited English proficiency pursuant to Part 154 of this Title or special education services and programs as defined in Education Law, section 4401(1) and (2). Academic intervention services are intended to assist students who are at risk of not achieving the State learning standards in English language arts, mathematics, social studies and/or science, or who are at risk of not gaining the knowledge and skills needed to meet or exceed designated performance levels on State assessments. Academic intervention services shall be made available to students with disabilities on the same basis as nondisabled students, provided, however, that such services shall be provided to the extent consistent with the individualized education program developed for such student pursuant to section 4402 of the Education Law.

Guidance and counseling are not defined in this Part of the Commissioner's Regulations, but context suggests services provided by credentialed public personnel services staff, as defined in 80-1(b)(29):

- (29) *Provisional certificate* means the first teaching certificate obtained by a candidate that qualifies that individual to teach in the public schools of New York State for candidates who are required to meet the requirements of Subpart 80-2 of this Part, excluding the temporary license.

School counselors who applied and qualified for such title on or after February 2, 2023 must meet the requirements in Subpart 80-3.11 for an initial or professional certificate.

Practice as a school social worker is defined in Subpart 80-2.3(f) as follows:

- (3) Scope of practice. The provisional or permanent certificate in school social work shall authorize the holder of the certificate to practice licensed master social work, as defined in sections 7701(1) and 7702 of the Education Law, in public schools of New York State or any other school for which the law requires certification as a school social worker pursuant to Part 80 of this Title. For such individual to practice licensed clinical social work, as defined in section 7701(2) of the Education Law, in the public schools or any other location in New York State, the individual must be licensed and registered by the department as a licensed clinical social worker when performing such services, unless such individual is exempt from licensure in licensed clinical social work pursuant to section 7706 or other provision of article 154 of the Education Law.

NYCRR Part 200 describes services provided to children with handicapping conditions; section 200.1 provides definitions, including:

- (aa) *Individual evaluation* means any procedures, tests or assessments used selectively with an individual student, including a physical examination in accordance with the provisions of sections 903, 904 and 905 of the Education Law, an individual psychological evaluation, except where a school psychologist

has determined pursuant to section 200.4(b) of this Part that a psychological evaluation is unnecessary to evaluate a student of school age, a social history and other appropriate assessments or evaluations as may be necessary to determine whether a student has a disability and the extent of his/her special education needs, but does not include basic tests administered to, or procedures used with, all students in a school grade or class.

- (bb) *Individual psychological evaluation* means a process by which a New York State- certified school psychologist or licensed psychologist uses, to the extent deemed necessary for purposes of educational planning, a variety of psychological and educational techniques and examinations in the student's native language, to study and describe a student's developmental, learning, behavioral and other personality characteristics.

The Education Law and Commissioner's Regulations do not define school counseling services; school social work services are not defined, but school social workers may provide services that are authorized by the appropriate license, either LMSW or LCSW. There is no Title VIII equivalent to the school counselor, e.g., a school mental health counselor.

Clinical Supervision

The Education Law allows a LMSW to practice clinical social work only in an acceptable setting, as defined in law and regulations, under the supervision of a LCSW, a licensed psychologist or a licensed psychiatrist (physician credentialed in psychiatry by the American Board of Neurology & Psychiatry). An applicant for LCSW who has met all requirements for licensure except examination may apply for a 12-month limited permit to practice in an authorized setting under the supervision of a LCSW.

Continuing Education

In order to register and practice as a LMSW or LCSW, the licensee must complete 36 hours of continuing education, acceptable to the Department, every 36 months. Acceptable continuing education is generally courses offered by a provider approved by the Department on the basis of an application and fee, but may include:

Acceptable Activities	Continuing Education Hours
Successful completion of a credit- or non-credit bearing course at a higher education institution, that is related to the practice of social work and is offered by a provider approved by the Department to offer continuing education to LMSWs and LCSWs; and in a subject area that is acceptable to the Department	15 continuing education hours per each semester course credit hour, i.e., 3 credit course = 45 continuing education hours
Preparing and teaching a credit-bearing course in a higher education institution or psychotherapy institute approved by the Department to offer social work continuing education and is in a subject area that is acceptable to the Department; and meets the requirements of regulations, i.e., the licensee is teaching the course for the first time or is presenting new or revised material	Continuing education hours may include the actual instruction time plus up to two additional hours for preparation time for each hour of presentation. This means that a licensee could be credited with acceptable continuing education hours for developing and presenting a three-semester hour credit course, as follows: $45 + (45 \times 2) = 135$ hours for a three-semester hour course.

Acceptable Activities	Continuing Education Hours
Preparing and teaching a continuing education course for an approved provider that is in an approved subject matter area; and meets the requirements of regulations, i.e., the licensee is teaching the course for the first time or is presenting new or revised material	For every in-class continuing education hour, one hour of continuing education credit may be awarded plus up to two additional hours for preparation time for each hour of presentation. A licensee could be credited with 6 hours of acceptable continuing education credit for a two-hour course, i.e., $2 + (2 \times 2) = 6$
Making a technical presentation at a professional conference sponsored by an organization that is an approved provider of social work continuing education that is in an approved subject matter area; and meets the requirements of regulations, i.e., the licensee is presenting the information for the first time or is presenting new or revised material	For every presentation contact hour, one hour of continuing education credit may be awarded plus up to two additional hours for preparation time for each hour of presentation.
Authoring a first-time article published in a peer-reviewed journal or a chapter in a published book on the practice of LMSW or LCSW	2 hours of continuing education
Authoring a first-time book on the practice of LMSW or LCSW	5 hours of continuing education
Completing a structured, self-study program offered by a provider approved by the Department that is based on audio, audio-visual, written, on-line or other media; and does not include live instruction that allows the licensee to interact with the instructor and/or other students	One hour of continuing education credit for each 50-minute hour of instruction, as determined by the approved provider. Self-study may comprise no more than 12 continuing education hours in any three-year registration period, or one-third of the hours for a registration period other than 36 months.

A licensee who does not meet the CE requirement may submit the application and \$224 fee for a one-year Conditional Registration (CR). The CR provides 12 months to complete the 36 hours from the prior period plus 12 for the Conditional period (total 48). A Conditional cannot be extended or renewed.

A licensee who is not registered but seeks to return to practice after January 1, 2015 **Delayed Registration** (DR) must complete acceptable continuing education for the un-registered period, starting no earlier than January 2015 (effective date of the law). The certificates must be submitted prior to the start of the new registration period or the hours may be completed during a one-year conditional registration. The online delayed registration is at <http://www.op.nysed.gov/renewalinfo.htm> item #22. The registration fee will be calculated by the Registration Unit after you submit the application.

§ 7701. Definitions.

1. Practice of licensed master social work.
 - a. The practice of licensed master social work shall mean the professional application of social work theory, principles, and the methods to prevent, assess, evaluate, formulate and implement a plan of action based on client needs and strengths, and intervene to address mental, social, emotional, behavioral, developmental, and addictive disorders, conditions and disabilities, and of the psychosocial aspects of illness and injury experienced by individuals, couples, families, groups, communities, organizations, and society.
 - b. Licensed master social workers engage in the administration of tests and measures of psychosocial functioning, social work advocacy, case management, **counseling**, consultation, research, administration and management, and teaching.
 - c. Licensed master social workers provide all forms of supervision other than supervision of the practice of licensed clinical social work as defined in subdivision two of this section.
 - d. **Licensed master social workers practice licensed clinical social work in facility settings or other supervised settings approved by the department under supervision in accordance with the commissioner's regulations.**

2. Practice of clinical social work.
 - a. The practice of clinical social work encompasses the scope of practice of licensed master social work and, in addition, includes the diagnosis of mental, emotional, behavioral, addictive and developmental disorders and disabilities and of the psychosocial aspects of illness, injury, disability and impairment undertaken within a psychosocial framework; administration and interpretation of tests and measures of psychosocial functioning; development and implementation of appropriate assessment-based treatment plans; and the provision of crisis oriented psychotherapy and brief, short-term and long-term psychotherapy and psychotherapeutic treatment to individuals, couples, families and groups, habilitation, psychoanalysis and behavior therapy; all undertaken for the purpose of preventing, assessing, treating, ameliorating and resolving psychosocial dysfunction with the goal of maintaining and enhancing the mental, emotional, behavioral, and social functioning and well-being of individuals, couples, families, small groups, organizations, communities and society.
 - b. Diagnosis in the context of licensed clinical social work practice is the process of distinguishing, beyond general social work 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.
 - c. **Psychotherapy in the context of licensed clinical social work practice is the use of verbal methods in interpersonal relationships with the intent of assisting a person or persons to modify attitudes and behavior which are intellectually, socially, or emotionally maladaptive.**
 - d. Development of assessment-based treatment plans in the context of licensed clinical social work practice 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.