

# STATE OF NEW YORK

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6008--C

2021-2022 Regular Sessions

## IN ASSEMBLY

March 4, 2021

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Introduced by M. of A. BRONSON, GALLAGHER, LUNSFORD, McDONALD, BARRETT, FORREST, CLARK, STECK, SANTABARBARA, DAVILA, MEEKS, ABINANTI, BURDICK, GUNTHER, WALSH, REILLY, ZINERMAN, STERN, JACKSON, MITAYNES, O'DONNELL, SIMON, HUNTER, HEVESI, JENSEN, STIRPE -- Multi-Sponsored by -- M. of A. SILLITTI -- read once and referred to the Committee on Higher Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Higher Education in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to education requirements and authorization to develop assessment-based treatment plans for certain mental health practitioners and other mental health professionals

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

1 Section 1. Subdivision 1 of section 8402 of the education law, as  
2 added by chapter 676 of the laws of 2002, is amended and two new subdivisions 1-a and 4 are added to read as follows:  
3  
4 1. Definition of the practice of mental health counseling. The practice of the profession of mental health counseling is defined as:  
5  
6 (a) the evaluation, assessment, diagnosis, amelioration, treatment,  
7 modification, or adjustment to a disability, problem, or disorder of  
8 behavior, character, development, emotion, personality or relationships  
9 by the use of verbal or behavioral methods with individuals, couples,  
10 families or groups in private practice, group, or organized settings;  
11 and  
12 (b) the use of assessment instruments [~~and~~], assessment-based treatment plans,  
13 mental health counseling and psychotherapy to identify,

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [~~-~~] is old law to be omitted.

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1 evaluate and treat dysfunctions and disorders for purposes of providing  
2 appropriate mental health counseling services.

3 1-a. Mental health diagnoses. (a) "Diagnosis" in the context of  
4 licensed mental health counseling practice shall mean the process of  
5 distinguishing, beyond a general assessment, between similar mental,  
6 emotional, behavioral, developmental and addictive disorders, impair-  
7 ments and disabilities within a psychosocial framework on the basis of  
8 their similar and unique characteristics consistent with accepted clas-  
9 sification systems.

10 (b) "Development of assessment-based treatment plans" in the context  
11 of licensed mental health counseling practice shall mean the development  
12 of an integrated plan of prioritized interventions, that is based on the  
13 diagnosis and psychosocial assessment of a client, to address mental,  
14 emotional, behavioral, developmental and addictive disorders, impair-  
15 ments and disabilities, reactions to illnesses, injuries, disabilities  
16 and impairments, and social problems.

17 (c) Nothing in this subdivision or in subdivision one or four of this  
18 section shall be construed to limit the scope of mental health coun-  
19 seling practice as authorized prior to the effective date of this subdivi-  
20 sion. The authority to diagnose shall be authorized only in accordance  
21 with the provisions of this article and regulations promulgated by the  
22 commissioner.

23 4. Certificate to diagnose. (a) Certificate. The commissioner shall  
24 issue appropriate certificates to diagnose in accordance with the  
25 provisions of this subdivision to those mental health counselors who  
26 have satisfactorily completed the following:

27 (i) Standard pathway. A mental health counselor who has completed the  
28 standard pathway shall have:

29 (1) received a master's or higher degree in mental health counseling  
30 from a program registered by the department or determined by the depart-  
31 ment to be the substantial equivalent thereof, which shall include the  
32 completion of at least twelve credit hours of clinical courses, in  
33 accordance with the commissioner's regulations. A person who has  
34 received a master's, or equivalent degree in counseling, during which  
35 they did not complete all twelve credit hours of clinical courses, may  
36 satisfy such requirement by completing any remaining equivalent post-  
37 graduate clinical courses, in accordance with the commissioner's regu-  
38 lations. The graduate coursework shall include, but not be limited to,  
39 the following areas:

40 (A) human growth and development;

41 (B) social and cultural foundations of counseling;

42 (C) counseling theory, diagnosis, practice and psychopathology;

43 (D) group dynamics;

44 (E) lifestyle and career development;

45 (F) assessment and appraisal of individuals, couples and families and  
46 groups;

47 (G) research and program evaluation;

48 (H) professional orientation and ethics;

49 (I) foundation of mental health counseling and consultation;

50 (J) clinical instruction; and

51 (K) completion of a minimum one year supervised internship or practi-  
52 cum in mental health counseling; and

53 (2) completed a minimum of three thousand hours of post-master's  
54 supervised experience relevant to the practice of mental health coun-  
55 seling, of which two thousand hours shall be direct client contact hours  
56 that include diagnosis, psychotherapy, and assessment-based treatment

1 plans, satisfactory to the board and in accordance with the commission-  
2 er's regulations. Satisfactory experience obtained in an entity operat-  
3 ing under a waiver issued by the department pursuant to section sixty-  
4 five hundred three-a of this title may be accepted by the department,  
5 notwithstanding that such experience may have been obtained prior to the  
6 effective date of such section sixty-five hundred three-a and/or prior  
7 to the entity having obtained a waiver. The department may, for good  
8 cause shown, accept satisfactory experience that was obtained in a  
9 setting that would have been eligible for a waiver but which has not  
10 obtained a waiver from the department or experience that was obtained in  
11 good faith by the applicant under the belief that appropriate authori-  
12 zation had been obtained for the experience, provided that such experi-  
13 ence meets all other requirements for acceptable experience; or

14 (ii) Alternative pathway. The commissioner shall issue appropriate  
15 certificates to mental health counselors licensed prior to the effective  
16 date of this subdivision who have completed twelve credit hours of clin-  
17 ical courses of which a minimum of three credit hours shall include  
18 content in diagnosis in accordance with the commissioner's regulations.

19 § 2. Paragraph (g) of subdivision 3 of section 8402 of the education  
20 law, as amended by chapter 210 of the laws of 2004, is amended to read  
21 as follows:

22 (g) Fees: Pay a fee of one hundred seventy-five dollars for an initial  
23 license ~~[and]~~, a fee of one hundred seventy dollars for each triennial  
24 registration period, and for the additional authorization for the  
25 purpose of diagnosing, a fee of one hundred seventy-five dollars.

26 § 3. Subdivision 1 of section 8403 of the education law, as added by  
27 chapter 676 of the laws of 2002, is amended and two new subdivisions 1-a  
28 and 4 are added to read as follows:

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

31 (a) the diagnosis, assessment and treatment of nervous and mental  
32 disorders, whether affective, cognitive or behavioral, which results in  
33 dysfunctional interpersonal family relationships including, but not  
34 limited to familial relationships, marital/couple relationships,  
35 parent-child relationships, pre-marital and other personal relation-  
36 ships;

37 (b) the use of mental health counseling, psychotherapy and therapeutic  
38 techniques to evaluate and treat marital, relational, and family  
39 systems, and individuals in relationship to these systems;

40 (c) the use of mental health counseling and psychotherapeutic tech-  
41 niques to treat mental, emotional and behavioral disorders and ailments  
42 within the context of marital, relational and family systems to prevent  
43 and ameliorate dysfunction; and

44 (d) the use of assessment instruments ~~[and]~~, mental health counseling  
45 and psychotherapy, and assessment-based treatment plans to identify and  
46 evaluate and treat dysfunctions and disorders for purposes of providing  
47 appropriate marriage and family therapy services.

48 1-a. Diagnoses. (a) "Diagnosis" in the context of licensed marriage  
49 and family therapy practice shall mean the process of distinguishing,  
50 beyond a general assessment, between similar mental, emotional, behav-  
51 ioral, developmental and addictive disorders, impairments and disabili-  
52 ties within a psychosocial framework on the basis of their similar and  
53 unique characteristics consistent with accepted classification systems.

54 (b) "Development of assessment-based treatment plans" in the context  
55 of licensed marriage and family therapy practice shall mean the develop-  
56 ment of an integrated plan of prioritized interventions, that is based

1 on the diagnosis and psychosocial assessment of a client, to address  
2 mental, emotional, behavioral, developmental and addictive disorders,  
3 impairments and disabilities, reactions to illnesses, injuries, disabil-  
4 ities and impairments, and social problems.

5 (c) Nothing in this subdivision or in subdivision one or four of this  
6 section shall be construed to limit the scope of marriage and family  
7 therapy practice as authorized prior to the effective date of this  
8 subdivision. The authority to diagnose shall be authorized only in  
9 accordance with the provisions of this article and regulations promul-  
10 gated by the commissioner.

11 4. Certificate to diagnose. (a) Certificate. The commissioner shall  
12 issue appropriate certificates to diagnose in accordance with the  
13 provisions of this subdivision to those marriage and family counselors  
14 who have satisfactorily completed the following:

15 (i) Standard pathway. A marriage and family counselor who has  
16 completed the standard pathway shall have:

17 (1) received a master's or doctoral degree with a minimum of sixty  
18 credit hours in marriage and family therapy from a program registered by  
19 the department, or determined by the department to be the substantial  
20 equivalent, which shall include the completion of at least twelve credit  
21 hours of clinical coursework, in accordance with the commissioner's  
22 regulations or a graduate degree in an allied field from a program  
23 registered by the department and graduate level coursework determined to  
24 be equivalent to that required in a program registered by the depart-  
25 ment. A person who has received a master's or equivalent degree in  
26 marriage and family therapy during which they did not complete all  
27 twelve credit hours of clinical courses, may satisfy such requirement by  
28 completing any remaining equivalent post-graduate clinical courses, in  
29 accordance with the commissioner's regulations. Such coursework shall  
30 include, but not be limited to:

31 (A) the study of human development, including individual, child and  
32 family development;

33 (B) diagnosis and psychopathology;

34 (C) marital and family therapy;

35 (D) family law;

36 (E) research;

37 (F) professional ethics; and

38 (G) a practicum of at least three hundred client contact hours; and

39 (2) completed a minimum of two thousand hours of post-master's super-  
40 vised experience relevant to the practice of marriage and family therapy  
41 comprised of direct client contact hours including diagnosis, psychoth-  
42 erapy and assessment-based treatment plans. Satisfactory experience  
43 obtained in an entity operating under a waiver issued by the department  
44 pursuant to section sixty-five hundred three-a of this title may be  
45 accepted by the department, notwithstanding that such experience may  
46 have been obtained prior to the effective date of such section sixty-  
47 five hundred three-a and/or prior to the entity having obtained a waiv-  
48 er. The department may, for good cause shown, accept satisfactory expe-  
49 rience that was obtained in a setting that would have been eligible for  
50 a waiver but which has not obtained a waiver from the department or  
51 experience that was obtained in good faith by the applicant under the  
52 belief that appropriate authorization had been obtained for the experi-  
53 ence, provided that such experience meets all other requirements for  
54 acceptable experience;

55 (ii) Alternative pathway. The commissioner shall issue appropriate  
56 certificates to marriage and family therapists licensed prior to the

effective date of this subdivision who have completed twelve credit hours of clinical courses of which a minimum of three credit hours shall include content in diagnosis in accordance with the commissioner's regulations.

§ 4. Paragraph (g) of subdivision 3 of section 8403 of the education law, as amended by chapter 210 of the laws of 2004, is amended to read as follows:

(g) Fees: Pay a fee of one hundred seventy-five dollars for an initial license ~~[and]~~, a fee of one hundred seventy dollars for each triennial registration period, and for the additional authorization for the purpose of diagnosing, a fee of one hundred seventy-five dollars.

§ 5. Subdivision 1 of section 8405 of the education law, as added by chapter 676 of the laws of 2002, is amended and two new subdivisions 1-a and 4 are added to read as follows:

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

(a) the observation, description, evaluation, diagnosis and interpretation of dynamic unconscious mental processes that contribute to the formation of personality and behavior in order to 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

(b) the use of assessment instruments ~~[and]~~, mental health counseling and psychotherapy, and assessment-based treatment plans to identify, evaluate and treat dysfunctions and disorders for purposes of providing appropriate psychoanalytic services.

1-a. Diagnoses. (a) "Diagnosis" in the context of licensed psychoanalysis practice shall mean the process of distinguishing, beyond a general psychoanalysis 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.

(b) "Development of assessment-based treatment plans" in the context of licensed psychoanalysis practice shall mean the development of an integrated plan of prioritized interventions, that is based on the diagnosis and psychosocial assessment of a client, to address mental, emotional, behavioral, developmental and addictive disorders, impairments and disabilities, reactions to illnesses, injuries, disabilities and impairments, and social problems.

(c) Nothing in this subdivision or in subdivision one or four of this section shall be construed to limit the scope of licensed psychoanalysis practice as authorized prior to the effective date of this subdivision. The authority to diagnose shall be authorized only in accordance with the provisions of this article and regulations promulgated by the commissioner.

4. Certificate to diagnose. (a) Certificate. The commissioner shall issue appropriate certificates to diagnose in accordance with the provision of this subdivision to those psychoanalysts who have satisfactorily completed the following:

(i) Standard pathway. A psychoanalyst who has completed the standard pathway shall have:

(1) 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 coursework substantially equivalent to coursework required for a master's degree in a health or mental health field of study which shall also include the completion of at least twelve credit hours, or the substantial equivalent, of clinical courses, as determined by the department. An individual who has completed a licensed psychoanalyst program that did not include twelve credit hours, or the substantial equivalent, of clinical courses may satisfy such requirement by completing any remaining equivalent post-graduate clinical courses, in accordance with the commissioner's regulations. The coursework shall include, but not be limited to, the following areas:

(A) personality development;  
(B) psychoanalytic theory of psychopathology;  
(C) diagnosis, and psychoanalytic theory of psychodiagnosis;  
(D) sociocultural influence on growth and psychopathology;  
(E) practice technique (including dreams and symbolic processes);  
(F) analysis of resistance, transference, and countertransference;  
(G) case seminars on clinical practice;  
(H) practice in psychopathology and psychodiagnosis;  
(I) professional ethics and psychoanalytic research methodology; and  
(J) a minimum of three hundred hours of personal analysis and one hundred fifty hours of supervised analysis; and

(2) completed a minimum of two thousand hours of supervised clinical practice relevant to the practice of psychoanalysis comprised of direct client contact hours including diagnosis, psychotherapy, and assessment-based treatment plans satisfactory to the department and in accordance with the commissioner's regulations. This supervised clinical practice may not begin prior to the successful completion of two years of coursework that includes twelve credit hours, or the substantial equivalent, of clinical coursework, as determined by the department. 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; or

(ii) Alternative pathway. The commissioner shall issue appropriate certificates to psychoanalysts licensed prior to the effective date of this subdivision who have completed twelve credit hours, or the substantial equivalent, of clinical courses of which a minimum of three credit hours, or the substantial equivalent, shall include content in diagnosis in accordance with the commissioner's regulations.

§ 6. Paragraph (g) of subdivision 3 of section 8405 of the education law, as amended by chapter 210 of the laws of 2004, is amended to read as follows:

(g) Fees: Pay a fee of one hundred seventy-five dollars for an initial license ~~[and]~~, a fee of one hundred seventy dollars for each triennial registration period, and for the additional authorization for the purpose of diagnosing, a fee of one hundred seventy-five dollars.

§ 7. 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.

§ 8. Subparagraph (i) of paragraph (c) of subdivision 8 of section 8410 of the education law, as amended by section 5 of part Y of chapter 57 of the laws of 2018, is amended to read as follows:

(i) 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 **this** 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 of this chapter]~~.

§ 9. Subparagraph (i) of paragraph (c) of subdivision 7 of section 7706 of the education law, as amended by section 4 of part Y of chapter 57 of the laws of 2018, is amended to read as follows:

(i) 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 sixty-three 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 **this** 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 of this article]~~.

§ 10. Subparagraph (i) of paragraph (c) of subdivision 10 of section 7605 of the education law, as amended by section 2 of part Y of chapter 57 of the laws of 2018, is amended to read as follows:

(i) 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-four or one hundred sixty-three 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 **this** title ~~[VIII of this chapter]~~, and those who are not so authorized may not engage in the following

1 restricted practices: the diagnosis of mental, emotional, behavioral,  
2 addictive and developmental disorders and disabilities; patient assess-  
3 ment and evaluating; the provision of psychotherapeutic treatment; the  
4 provision of treatment other than psychotherapeutic treatment; or inde-  
5 pendently developing and implementing assessment-based treatment plans  
6 [~~as defined in section seventy-seven hundred one of this title~~].

7 § 11. Subdivision 9 of section 8410 of the education law, as amended  
8 by chapter 159 of the laws of 2021, is amended to read as follows:

9 9. Notwithstanding any other provision of law to the contrary, nothing  
10 in this article shall be construed to prohibit or limit the activities  
11 or services provided under this article by any person who is employed or  
12 who commences employment in a program or service operated, regulated,  
13 funded, or approved by the department of mental hygiene, the office of  
14 children and family services, the department of corrections and communi-  
15 ty supervision, the office of temporary and disability assistance, the  
16 state office for the aging and the department of health or a local  
17 governmental unit as that term is defined in section 41.03 of the mental  
18 hygiene law or a social services district as defined in section sixty-  
19 one of the social services law on or before two years from the date that  
20 the regulations issued in accordance with section six of part Y of chap-  
21 ter fifty-seven of the laws of two thousand eighteen appear in the state  
22 register or are adopted, whichever is later. Such prohibitions or limi-  
23 tations shall not apply to such employees for as long as they remain  
24 employed by such programs or services and whether they remain employed  
25 by the same or other employers providing such programs or services.  
26 Provided however, that any person who commences employment in such  
27 program or service after such date and performs services that are  
28 restricted under this article shall be appropriately licensed or author-  
29 ized under this article. Each state oversight agency shall create and  
30 maintain a process to verify employment history of individuals exempt  
31 under this subdivision. Provided, however, that notwithstanding any  
32 other provision of law to the contrary, licensed mental health counse-  
33 lor, licensed marriage and family therapist, and licensed psychoanalyst  
34 employed in a program or service operated, regulated, funded, or  
35 approved by the department of mental hygiene, the office of children and  
36 family services, the department of corrections and community super-  
37 vision, the office of temporary and disability assistance, the state  
38 office for the aging and the department of health or a local govern-  
39 mental unit as defined by section 41.03 of the mental hygiene law or a  
40 social services district as defined by section sixty-one of the social  
41 services law prior to June twenty-fourth, two thousand twenty-two may  
42 diagnose and develop assessment-based treatment plans as long as they  
43 remain employed by such programs, provided however, such licensed mental  
44 health counselor, licensed marriage and family therapist and licensed  
45 psychoanalyst is required to hold a certificate to diagnose by the  
46 commissioner two years after the effective date of the chapter of the  
47 laws of two thousand twenty-two that amended this subdivision.

48 § 12. Subdivision 8 of section 7706 of the education law, as amended  
49 by chapter 159 of the laws of 2021, is amended to read as follows:

50 8. Notwithstanding any other provision of law to the contrary, nothing  
51 in this article shall be construed to prohibit or limit the activities  
52 or services provided under this article by any person who is employed or  
53 who commences employment in a program or service operated, regulated,  
54 funded, or approved by the department of mental hygiene, the office of  
55 children and family services, the department of corrections and communi-  
56 ty supervision, the office of temporary and disability assistance, the

1 state office for the aging and the department of health or a local  
2 governmental unit as that term is defined in section 41.03 of the mental  
3 hygiene law or a social services district as defined in section sixty-  
4 one of the social services law on or before two years from the date that  
5 the regulations issued in accordance with section six of part Y of chap-  
6 ter fifty-seven of the laws of two thousand eighteen appear in the state  
7 register or are adopted, whichever is later. Such prohibitions or limi-  
8 tations shall not apply to such employees for as long as they remain  
9 employed by such programs or services and whether they remain employed  
10 by the same or other employers providing such programs or services.  
11 Provided however, that any person who commences employment in such  
12 program or service after such date and performs services that are  
13 restricted under this article shall be appropriately licensed or author-  
14 ized under this article. Each state oversight agency shall create and  
15 maintain a process to verify employment history of individuals exempt  
16 under this subdivision. Provided, however, that notwithstanding any  
17 other provision of law to the contrary, licensed mental health counse-  
18 lor, licensed marriage and family therapist, and licensed psychoanalyst  
19 employed in a program or service operated, regulated, funded, or  
20 approved by the department of mental hygiene, the office of children and  
21 family services, the department of corrections and community super-  
22 vision, the office of temporary and disability assistance, the state  
23 office for the aging and the department of health or a local govern-  
24 mental unit as defined in section 41.03 of the mental hygiene law or a  
25 social services district as defined in section sixty-one of the social  
26 services law prior to June twenty-fourth, two thousand twenty-two may  
27 diagnose and develop assessment-based treatment plans as long as they  
28 remain employed by such programs, provided however, such licensed mental  
29 health counselor, licensed marriage and family therapist and licensed  
30 psychoanalyst is required to hold a certificate to diagnose by the  
31 commissioner two years after the effective date of the chapter of the  
32 laws of two thousand twenty-two that amended this subdivision.

33 § 13. Subdivision 12 of section 7605 of the education law, as amended  
34 by chapter 159 of the laws of 2021, is amended to read as follows:

35 12. Notwithstanding any other provision of law to the contrary, noth-  
36 ing in this article shall be construed to prohibit or limit the activ-  
37 ities or services provided under this article by any person who is  
38 employed or who commences employment in a program or service operated,  
39 regulated, funded, or approved by the department of mental hygiene, the  
40 office of children and family services, or a local governmental unit as  
41 that term is defined in section 41.03 of the mental hygiene law or a  
42 social services district as defined in section sixty-one of the social  
43 services law on or before two years from the date that the regulations  
44 issued in accordance with section six of part Y of chapter fifty-seven  
45 of the laws of two thousand eighteen appear in the state register or are  
46 adopted, whichever is later. Such prohibitions or limitations shall not  
47 apply to such employees for as long as they remain employed by such  
48 programs or services and whether they remain employed by the same or  
49 other employers providing such programs or services. Provided, however,  
50 that any person who commences employment in such program or service  
51 after such date and performs services that are restricted under this  
52 article shall be appropriately licensed or authorized under this arti-  
53 cle. Each state oversight agency shall create and maintain a process to  
54 verify employment history of individuals exempt under this subdivision.  
55 Provided, however, that notwithstanding any other provision of law to  
56 the contrary, licensed mental health counselor, licensed marriage and

1 family therapist, and licensed psychoanalyst employed in a program or  
2 service operated, regulated, funded, or approved by the department of  
3 mental hygiene, the office of children and family services, the depart-  
4 ment of corrections and community supervision, the office of temporary  
5 and disability assistance, the state office for the aging and the  
6 department of health or a local governmental unit as defined in section  
7 41.03 of the mental hygiene law or a social services district as defined  
8 in section sixty-one of the social services law prior to June twenty-  
9 fourth, two thousand twenty-two may diagnose and develop assessment-  
10 based treatment plans as long as they remain employed by such programs  
11 or services and whether they remain employed by the same or other  
12 employers providing such programs or services, provided however, such  
13 licensed mental health counselor, licensed marriage and family therapist  
14 and licensed psychoanalyst is required to hold a certificate to diagnose  
15 by the commissioner two years after the effective date of the chapter of  
16 the laws of two thousand twenty-two that amended this subdivision.

17 § 14. This act shall take effect on first day of the eighteenth full  
18 month after it shall have become a law; provided, however that sections  
19 fourteen, fifteen, and sixteen of this act shall take effect on June 24,  
20 2022. Effective immediately, the addition, amendment and/or repeal of  
21 any rule or regulation necessary for the implementation of this act on  
22 or before its effective date are authorized to be made and completed on  
23 or before such effective date.