S T A T E O F N E W Y O R K

7061

I N S E N A T E

April 26, 2012

Introduced by Sen. ROBACH -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education

AN ACT to amend the education law, in relation to mandatory continuing education for mental health practitioners and clarifies authorization to practice

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The education law is amended by adding a new section 8412 to read as follows:

S 8412. MANDATORY CONTINUING EDUCATION. 1. REQUIREMENT OF CONTINUING EDUCATION.

(A) EACH LICENSED MENTAL HEALTH COUNSELOR, MARRIAGE AND FAMILY THERAPIST, PSYCHOANALYST, AND CREATIVE ARTS THERAPIST REQUIRED UNDER THIS ARTICLE TO REGISTER TRIENNIALLY WITH THE DEPARTMENT TO PRACTICE IN THE STATE SHALL COMPLY WITH THE PROVISIONS OF THE MANDATORY CONTINUING EDUCATION REQUIREMENTS PRESCRIBED IN SUBDIVISION TWO OF THIS SECTION EXCEPT AS SET FORTH IN PARAGRAPHS (B) AND (C) OF THIS SUBDIVISION. LICENSED MENTAL HEALTH COUNSELORS, MARRIAGE AND FAMILY THERAPISTS, PSYCHOANALYSTS AND CREATIVE ARTS THERAPISTS WHO DO NOT SATISFY THE MANDATORY CONTINUING EDUCATION REQUIREMENTS SHALL NOT PRACTICE UNTIL THEY HAVE MET SUCH REQUIREMENTS, AND THEY HAVE BEEN ISSUED A REGISTRATION CERTIFICATE, EXCEPT THAT A LICENSED MENTAL HEALTH COUNSELOR, MARRIAGE AND FAMILY THERAPIST, PSYCHOANALYST, AND CREATIVE ARTS THERAPIST MAY PRACTICE WITHOUT HAVING MET SUCH REQUIREMENTS IF HE OR SHE IS ISSUED A CONDITIONAL REGISTRATION CERTIFICATE PURSUANT TO SUBDIVISION THREE OF THIS SECTION.

(B) EACH LICENSED MENTAL HEALTH COUNSELOR, MARRIAGE AND FAMILY THERAPIST, PSYCHOANALYST, AND CREATIVE ARTS THERAPIST SHALL BE EXEMPT FROM THE MANDATORY CONTINUING EDUCATION REQUIREMENT FOR THE TRIENNIAL REGISTRATION PERIOD DURING WHICH THEY ARE FIRST LICENSED. IN ACCORDANCE WITH THE INTENT OF THIS SECTION, ADJUSTMENT TO THE MANDATORY CONTINUING EDUCATION REQUIREMENT MAY BE GRANTED BY THE DEPARTMENT FOR REASONS OF HEALTH CERTIFIED BY AN APPROPRIATE HEALTH CARE PROFESSIONAL, FOR EXTENDED ACTIVE DUTY WITH THE ARMED FORCES OF THE UNITED STATES, OR FOR

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

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OTHER GOOD CAUSE ACCEPTABLE TO THE DEPARTMENT WHICH MAY PREVENT COMPLIANCE.

(C) A LICENSED MENTAL HEALTH COUNSELOR, MARRIAGE AND FAMILY THERAPIST, PSYCHOANALYST, AND CREATIVE ARTS THERAPIST NOT ENGAGED IN PRACTICE, AS DETERMINED BY THE DEPARTMENT, SHALL BE EXEMPT FROM THE MANDATORY CONTINUING EDUCATION REQUIREMENT UPON THE FILING OF A STATEMENT WITH THE DEPARTMENT DECLARING SUCH STATUS. ANY LICENSEE WHO RETURNS TO THE PRACTICE OF MENTAL HEALTH COUNSELING, MARRIAGE AND FAMILY THERAPY, PSYCHOANALYSIS, OR CREATIVE ARTS THERAPY DURING THE TRIENNIAL REGISTRATION PERIOD SHALL NOTIFY THE DEPARTMENT PRIOR TO REENTERING THE PROFESSION AND SHALL MEET SUCH MANDATORY EDUCATION REQUIREMENTS AS SHALL BE PRESCRIBED BY REGULATIONS OF THE COMMISSIONER.

2. DURING EACH TRIENNIAL REGISTRATION PERIOD AN APPLICANT FOR REGISTRATION AS A LICENSED MENTAL HEALTH COUNSELOR, MARRIAGE AND FAMILY THERAPIST, PSYCHOANALYST, AND CREATIVE ARTS THERAPIST SHALL COMPLETE A MINIMUM OF THIRTY-SIX HOURS OF ACCEPTABLE FORMAL CONTINUING EDUCATION AS SPECIFIED IN SUBDIVISION FOUR OF THIS SECTION, A MAXIMUM OF TWELVE HOURS OF WHICH MAY BE SELF-INSTRUCTIONAL COURSE WORK ACCEPTABLE TO THE DEPARTMENT. ANY LICENSED MENTAL HEALTH COUNSELOR, MARRIAGE AND FAMILY THERAPIST, PSYCHOANALYST, AND CREATIVE ARTS THERAPIST WHOSE FIRST REGISTRATION DATE FOLLOWING THE EFFECTIVE DATE OF THIS SECTION OCCURS LESS THAN THREE YEARS FROM SUCH EFFECTIVE DATE, BUT ON OR AFTER JUNE THIRTIETH, TWO THOUSAND THIRTEEN, SHALL COMPLETE CONTINUING EDUCATION HOURS ON A PRORATED BASIS AT THE RATE OF ONE-HALF HOUR PER MONTH FOR THE PERIOD BEGINNING JUNE THIRTIETH, TWO THOUSAND THIRTEEN UP TO THE FIRST REGISTRATION DATE THEREAFTER. A LICENSEE WHO HAS NOT SATISFIED THE MANDATORY CONTINUING EDUCATION REQUIREMENTS SHALL NOT BE ISSUED A TRIENNIAL REGISTRATION CERTIFICATE BY THE DEPARTMENT AND SHALL NOT PRACTICE UNLESS AND UNTIL A CONDITIONAL REGISTRATION CERTIFICATE IS ISSUED AS PROVIDED FOR IN SUBDIVISION THREE OF THIS SECTION. CONTINUING EDUCATION HOURS TAKEN DURING ONE TRIENNIUM MAY NOT BE TRANSFERRED TO A SUBSEQUENT TRIENNIUM.

3. THE DEPARTMENT, IN ITS DISCRETION, MAY ISSUE A CONDITIONAL REGISTRATION TO A LICENSEE WHO FAILS TO MEET THE CONTINUING EDUCATION REQUIREMENTS ESTABLISHED IN SUBDIVISION TWO OF THIS SECTION BUT WHO AGREES TO MAKE UP ANY DEFICIENCIES AND COMPLETE ANY ADDITIONAL EDUCATION WHICH THE DEPARTMENT MAY REQUIRE. THE FEE FOR SUCH A CONDITIONAL REGISTRATION SHALL BE THE SAME AS, AND IN ADDITION TO, THE FEE FOR THE TRIENNIAL REGISTRATION. THE DURATION OF SUCH CONDITIONAL REGISTRATION SHALL BE DETERMINED BY THE DEPARTMENT BUT SHALL NOT EXCEED ONE YEAR. ANY LICENSEE WHO IS NOTIFIED OF THE DENIAL OF REGISTRATION FOR FAILURE TO SUBMIT EVIDENCE, SATISFACTORY TO THE DEPARTMENT, OF REQUIRED CONTINUING EDUCATION AND WHO PRACTICES WITHOUT SUCH REGISTRATION MAY BE SUBJECT TO DISCIPLINARY PROCEEDINGS PURSUANT TO SECTION SIXTY-FIVE HUNDRED TEN OF THIS TITLE.

4. AS USED IN SUBDIVISION TWO OF THIS SECTION, "ACCEPTABLE FORMAL CONTINUING EDUCATION" SHALL MEAN FORMAL COURSES OF LEARNING WHICH CONTRIBUTE TO PROFESSIONAL PRACTICE IN MENTAL HEALTH COUNSELING, MARRIAGE AND FAMILY THERAPY, PSYCHOANALYSIS, OR CREATIVE ARTS THERAPY AND WHICH MEET THE STANDARDS PRESCRIBED BY REGULATIONS OF THE COMMISSIONER. SUCH FORMAL COURSES OF LEARNING SHALL INCLUDE, BUT NOT BE LIMITED TO, COLLEGIATE LEVEL CREDIT AND NON-CREDIT COURSES, PROFESSIONAL DEVELOPMENT PROGRAMS AND TECHNICAL SESSIONS OFFERED BY NATIONAL, STATE AND LOCAL PROFESSIONAL ASSOCIATIONS AND OTHER ORGANIZATIONS ACCEPTABLE TO THE DEPARTMENT, AND ANY OTHER ORGANIZED EDUCATIONAL AND TECHNICAL PROGRAMS ACCEPTABLE TO THE DEPARTMENT. THE DEPARTMENT MAY, IN ITS DISCRETION AND AS NEEDED TO CONTRIBUTE TO THE HEALTH AND WELFARE OF THE

PUBLIC, REQUIRE THE COMPLETION OF CONTINUING EDUCATION COURSES IN SPECIFIC SUBJECTS TO FULFILL THIS MANDATORY CONTINUING EDUCATION REQUIREMENT. COURSES MUST BE TAKEN FROM A SPONSOR APPROVED BY THE DEPARTMENT, PURSUANT TO THE REGULATIONS OF THE COMMISSIONER.

5. LICENSED MENTAL HEALTH COUNSELORS, MARRIAGE AND FAMILY THERAPISTS, PSYCHOANALYSTS, AND CREATIVE ARTS THERAPISTS SHALL MAINTAIN ADEQUATE DOCUMENTATION OF COMPLETION OF ACCEPTABLE FORMAL CONTINUING EDUCATION AND SHALL PROVIDE SUCH DOCUMENTATION AT THE REQUEST OF THE DEPARTMENT. FAILURE TO PROVIDE SUCH DOCUMENTATION UPON THE REQUEST OF THE DEPARTMENT SHALL BE AN ACT OF MISCONDUCT SUBJECT TO DISCIPLINARY PROCEEDINGS PURSUANT TO SECTION SIXTY-FIVE HUNDRED TEN OF THIS TITLE.

6. THE MANDATORY CONTINUING EDUCATION FEE SHALL BE FORTY-FIVE DOLLARS, SHALL BE PAYABLE ON OR BEFORE THE FIRST DAY OF EACH TRIENNIAL REGISTRATION PERIOD, AND SHALL BE PAID IN ADDITION TO THE TRIENNIAL REGISTRATION FEE REQUIRED BY SECTION SIXTY-SEVEN HUNDRED THIRTY-FOUR OF THIS CHAPTER.

S 2. Subdivision 1 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:

(a) the evaluation, assessment, DIAGNOSIS, 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]

(b) the use of assessment instruments and mental health counseling and psychotherapy to identify, evaluate, DIAGNOSE and treat dysfunctions and disorders for purposes of providing appropriate mental health counseling services; AND

(C) DIAGNOSIS IN THE CONTEXT OF LICENSED MENTAL HEALTH COUNSELING PRACTICE IS THE PROCESS OF DISTINGUISHING 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.

S 3. Subdivision 1 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:

(a) the assessment, DIAGNOSIS 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;

(b) 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;

(c) 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]

(d) the use of assessment instruments and mental health counseling and psychotherapy to identify [and], evaluate, DIAGNOSE AND TREAT dysfunctions and disorders for purposes of providing appropriate marriage and family therapy services; AND

(E) DIAGNOSIS IN THE CONTEXT OF LICENSED MARRIAGE AND FAMILY THERAPY PRACTICE IS THE PROCESS OF DISTINGUISHING 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.

S 4. Subdivision 1 of section 8404 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 creative arts therapy. The practice of the profession of creative arts therapy is defined as:

(a) the assessment, evaluation, DIAGNOSIS and the therapeutic intervention and treatment, which may be either primary, parallel or adjunctive, of mental, emotional, developmental and behavioral disorders through the use of the arts as approved by the department; [and]

(b) the use of assessment instruments and mental health counseling and psychotherapy to identify, evaluate, DIAGNOSE and treat dysfunctions and disorders for purposes of providing appropriate creative arts therapy services; AND

(C) DIAGNOSIS IN THE CONTEXT OF LICENSED CREATIVE ARTS THERAPY PRACTICE IS THE PROCESS OF DISTINGUISHING 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.

S 5. Subdivision 1 of section 8405 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 psychoanalysis. The practice of the profession of psychoanalysis is defined as:

(a) the observation, description, evaluation, [and] interpretation, DIAGNOSIS AND TREATMENT 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 to identify, evaluate, DIAGNOSE and treat dysfunctions and disorders for purposes of providing appropriate psychoanalytic services; AND

(C) DIAGNOSIS IN THE CONTEXT OF LICENSED PSYCHOANALYSIS PRACTICE IS THE PROCESS OF DISTINGUISHING 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.

S 6. This act shall take effect immediately; provided, however, section one of this act shall take effect June 30, 2013. 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 and directed to be made and completed by the state education department.