

# STATE OF NEW YORK

6008--B

2021-2022 Regular Sessions

## IN ASSEMBLY

March 4, 2021

Introduced by M. of A. BRONSON, GALLAGHER, LUNSFORD, McDONALD, BARRETT, FORREST, CLARK, RICHARDSON, STECK, SANTABARBARA, DAVILA, MEEKS, ABINANTI, BURDICK, GUNTHER, WALSH, REILLY, ZINERMAN, STERN, JACKSON, MITAYNES, O'DONNELL, SIMON, HUNTER, HEVESI, JENSEN -- 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

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 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:

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" or "diagnose" means the process of distinguishing,  
4 beyond a general assessment, between similar mental, emotional, behav-  
5 ioral, developmental and addictive disorders, impairments and disabili-  
6 ties within a psychosocial framework on the basis of their similar and  
7 unique characteristics consistent with accepted classification systems.

8 4. "Assessment-based treatment plan" refers to an integrated plan of  
9 prioritized interventions, that is based on the diagnosis and psychoso-  
10 cial assessment of a client, to address mental, emotional, behavioral,  
11 developmental and addictive disorders, impairments and disabilities,  
12 reactions to illnesses, injuries, disabilities and impairments, and  
13 social problems.

14 § 2. Section 8402 of the education law is amended by adding a new  
15 subdivision 4 to read as follows:

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

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1 4. Licensed mental health counselors licensed after June thirtieth,  
2 two thousand twenty-six, and mental health counselors who have satisfied  
3 the requirements under section eighty-four hundred two-a of this article  
4 may diagnose and develop assessment-based treatment plans.

5 § 3. Paragraphs (b) and (c) of subdivision 3 of section 8402 of the  
6 education law, paragraph (b) as added by chapter 676 of the laws of 2002  
7 and paragraph (c) as amended by chapter 130 of the laws of 2010, are  
8 amended to read as follows:

9 (b) Education: Have received an education, including a master's or  
10 higher degree in counseling from a program registered by the department  
11 or determined by the department to be the substantial equivalent there-  
12 of, which shall include the completion of at least twelve credit hours  
13 of clinical courses, in accordance with the commissioner's regulations.  
14 A person who has received a master's, or equivalent degree in coun-  
15 seling, during which they did not complete all twelve credit hours of  
16 clinical courses, may satisfy such requirement by completing any remain-  
17 ing equivalent post-graduate clinical courses, in accordance with the  
18 commissioner's regulations. The graduate coursework shall include, but  
19 not be limited to, the following areas:

20 (i) human growth and development;  
21 (ii) social and cultural foundations of counseling;  
22 (iii) counseling theory and practice and psychopathology;  
23 (iv) group dynamics;  
24 (v) lifestyle and career development;  
25 (vi) assessment and appraisal of individuals, couples and families and  
26 groups;  
27 (vii) research and program evaluation;  
28 (viii) professional orientation and ethics;  
29 (ix) foundations of mental health counseling and consultation;  
30 (x) clinical instruction; and  
31 (xi) completion of a minimum one year supervised internship or practi-  
32 cum in mental health counseling;

33 (c) Experience: An applicant shall complete a minimum of three thou-  
34 sand hours of post-master's supervised experience relevant to the prac-  
35 tice of mental health counseling, two thousand hours of which shall  
36 include diagnosis, psychotherapy, and assessment-based treatment plans,  
37 satisfactory to the board and in accordance with the commissioner's  
38 regulations. Satisfactory experience obtained in an entity operating  
39 under a waiver issued by the department pursuant to section sixty-five  
40 hundred three-a of this title may be accepted by the department,  
41 notwithstanding that such experience may have been obtained prior to the  
42 effective date of such section sixty-five hundred three-a and/or prior  
43 to the entity having obtained a waiver. The department may, for good  
44 cause shown, accept satisfactory experience that was obtained in a  
45 setting that would have been eligible for a waiver but which has not  
46 obtained a waiver from the department or experience that was obtained in  
47 good faith by the applicant under the belief that appropriate authori-  
48 zation had been obtained for the experience, provided that such experi-  
49 ence meets all other requirements for acceptable experience;

50 § 4. The education law is amended by adding a new section 8402-a to  
51 read as follows:

52 § 8402-a. Diagnosis privilege; mental health counseling. 1. Applicants  
53 for licensure as a mental health counselor who have met the requirement  
54 of section eighty-four hundred two of this article shall be authorized  
55 to diagnose and develop assessment-based treatment plans without meeting  
56 any additional requirements.

2. Applicants for license as a mental health counselor who have been issued a limited permit and have successfully completed twelve credit hours of clinical courses, of which may be completed post-graduate, in accordance with the commissioner's regulations, shall be authorized to diagnose and develop assessment-based treatment plans while under supervision.

3. Mental health counselors licensed prior to June thirtieth, two thousand twenty-six, shall be granted the privilege to diagnose and develop assessment-based treatment plans if such mental health counselor:

(a) Files an application with the department;

(b) Is licensed and registered as a mental health counselor; and:

(i) Provides verification of twelve credit hours of clinical course work as defined by the department from a college or university acceptable to the department;

(ii) Provides verification of a minimum of two years of employment as a licensed mental health counselor by a licensed supervisor or colleague on forms acceptable to the department, in a program or service operated, regulated, funded, or approved by the department of mental hygiene, the office of children and family services, the office of temporary and disability assistance, the department of corrections and community supervision, the state office for the aging, the department of health, or a local governmental unit as such term is defined in article forty-one of the mental hygiene law, or a social services district as defined in section sixty-one of the social services law; or

(iii) Provides verification of being licensed as a mental health counselor for a minimum of two years; and

(1) Provides documentation of at least six credit hours of clinical coursework as defined by the department from a college or university acceptable to the department; or

(2) Provides documentation of at least twelve hours of continuing education in clinical coursework subject to section eighty-four hundred twelve-a of this article; and

(c) Pays a fee to the department of two hundred twenty dollars.

4. A privilege to diagnose issued under this section shall be valid for the life of the holder, unless revoked, annulled, or suspended by the board of regents. Such privilege shall be subject to the same oversight and disciplinary provisions as licenses issued under this title.

§ 5. Section 8403 of the education law is amended by adding a new subdivision 4 to read as follows:

4. Licensed marriage and family therapists licensed after June thirtieth, two thousand twenty-six and marriage and family therapists who have satisfied the requirements under section eighty-four hundred three-a of this article may diagnose and develop assessment-based treatment plans.

§ 6. Paragraphs (b) and (c) of subdivision 3 of section 8403 of the education law, paragraph (b) as added by chapter 676 of the laws of 2002 and paragraph (c) as amended by chapter 130 of the laws of 2010, are amended to read as follows:

(b) Education: Have received a master's or doctoral degree in marriage and family therapy from a program that requires sixty hours for graduation and that is registered by the department, or determined by the department to be the substantial equivalent, which shall include the completion of at least twelve credit hours of clinical coursework, in accordance with the commissioner's regulations or a graduate degree in an allied field from a program registered by the department and graduate level coursework determined to be equivalent to that required in a

1 program registered by the department. A person who has received a  
2 sixty-credit master's or equivalent degree in marriage and family thera-  
3 py during which they did not complete all twelve credit hours of clin-  
4 ical courses, may satisfy this requirement by completing any remaining  
5 equivalent post-graduate clinical courses, in accordance with the  
6 commissioner's regulations. This coursework shall include, but not be  
7 limited to:

8 (i) the study of human development, including individual, child and  
9 family development;

10 (ii) psychopathology;

11 (iii) marital and family therapy;

12 (iv) family law;

13 (v) research;

14 (vi) professional ethics; and

15 (vii) a practicum of at least three hundred client contact hours;

16 (c) Experience: The completion of at least [~~one~~] two thousand [~~five~~  
17 ~~hundred~~] client contact hours of supervised clinical experience, by  
18 persons holding a degree from a master's or doctoral program, or the  
19 substantial equivalent, in accordance with the commissioner's regu-  
20 lations or the completion of at least [~~one~~] two thousand [~~five hundred~~]  
21 client contact hours of supervised post-master's clinical experience in  
22 marriage and family therapy satisfactory to the department in accordance  
23 with the commissioner's regulations. Such two thousand client contact  
24 hours shall include diagnosis, psychotherapy and assessment-based treat-  
25 ment plans. Satisfactory experience obtained in an entity operating  
26 under a waiver issued by the department pursuant to section sixty-five  
27 hundred three-a of this title may be accepted by the department,  
28 notwithstanding that such experience may have been obtained prior to the  
29 effective date of such section sixty-five hundred three-a and/or prior  
30 to the entity having obtained a waiver. The department may, for good  
31 cause shown, accept satisfactory experience that was obtained in a  
32 setting that would have been eligible for a waiver but which has not  
33 obtained a waiver from the department or experience that was obtained in  
34 good faith by the applicant under the belief that appropriate authori-  
35 zation had been obtained for the experience, provided that such experi-  
36 ence meets all other requirements for acceptable experience;

37 § 7. The education law is amended by adding a new section 8403-a to  
38 read as follows:

39 § 8403-a. Diagnosis privilege; marriage and family therapist. 1.  
40 Applicants for licensure as a marriage and family counselor who have met  
41 the requirements of section eighty-four hundred three of this article  
42 shall be authorized to diagnose and develop assessment-based treatment  
43 plans without meeting any additional requirements.

44 2. Applicants for license as a marriage and family therapist who have  
45 been issued a limited permit and have successfully completed twelve  
46 credit hours of clinical courses, in accordance with the commissioner's  
47 regulations, shall be authorized to diagnose and develop assessment-  
48 based treatment plans while under supervision.

49 3. A marriage and family therapist licensed before June thirtieth, two  
50 thousand twenty-six, shall be authorized to diagnose and develop assess-  
51 ment-based treatment plans if such marriage and family therapist:

52 (a) Files an application with the department;

53 (b) Is licensed and registered as a marriage and family therapist;  
54 and;

1 (i) Provides verification of twelve credit hours of clinical course-  
2 work as defined by the department from a college or university accepta-  
3 ble to the department;

4 (ii) Provides verification of a minimum of two years of employment as  
5 a licensed marriage and family therapist by a licensed supervisor or  
6 colleague on forms acceptable to the department, in a program or service  
7 operated, regulated, funded, or approved by the department of mental  
8 hygiene, the office of children and family services, the office of  
9 temporary and disability assistance, the department of corrections and  
10 community supervision, the state office for the aging, the department of  
11 health, or a local governmental unit as such term is defined by article  
12 forty-one of the mental hygiene law, or a social services district as  
13 defined in section sixty-one of the social services law; or

14 (iii) Provides verification of being licensed as a licensed marriage  
15 and family therapist for a minimum of two years; and:

16 (1) Provides documentation of at least six credit hours of clinical  
17 coursework as defined by the department from a college or university  
18 acceptable to the department; or

19 (2) Provides documentation of at least twelve hours of continuing  
20 education in clinical coursework subject to section eighty-four hundred  
21 twelve-a of this article; and

22 (c) Pays a fee to the department of two hundred twenty dollars.

23 4. A privilege to diagnose issued under this section shall be valid  
24 for the life of the holder, unless revoked, annulled, or suspended by  
25 the board of regents. Such a privilege shall be subject to the same  
26 oversight and disciplinary provisions as licenses issued under this  
27 title.

28 § 8. Section 8405 of the education law is amended by adding a new  
29 subdivision 4 to read as follows:

30 4. Licensed psychoanalysts licensed after June thirtieth, two thousand  
31 twenty-six and psychoanalysts who have satisfied the requirements under  
32 section eighty-four hundred five-a of this article may diagnose and  
33 develop assessment-based treatment plans.

34 § 9. Paragraphs (b) and (c) of subdivision 3 of section 8405 of the  
35 education law, paragraph (b) as added by chapter 676 of the laws of 2002  
36 and paragraph (c) as amended by chapter 130 of the laws of 2010, are  
37 amended to read as follows:

38 (b) Education: Have received a master's degree or higher from a  
39 degree-granting program registered by the department or the substantial  
40 equivalent and have completed a program of study registered by the  
41 department in a psychoanalytic institute chartered by the board of  
42 regents or the substantial equivalent as determined by the department.  
43 The program of study in a psychoanalytic institute shall include course-  
44 work substantially equivalent to coursework required for a master's  
45 degree in a health or mental health field of study and shall also  
46 include the completion of at least twelve credit hours of clinical  
47 courses. An individual who has completed a licensed psychoanalyst  
48 program that did not include twelve credit hours of clinical courses may  
49 satisfy such requirement by completing any remaining equivalent post-  
50 graduate clinical courses, in accordance with the commissioner's regu-  
51 lations. The coursework shall include, but not be limited to, the  
52 following areas:

53 (i) personality development;

54 (ii) psychoanalytic theory of psychopathology;

55 (iii) psychoanalytic theory of psychodiagnosis;

56 (iv) sociocultural influence on growth and psychopathology;



(v) practice technique (including dreams and symbolic processes);  
(vi) analysis of resistance, transference, and countertransference;  
(vii) case seminars on clinical practice;  
(viii) practice in psychopathology and psychodiagnosis;  
(ix) professional ethics and psychoanalytic research methodology; and  
(x) a minimum of three hundred hours of personal analysis and one hundred fifty hours of supervised analysis;

(c) Experience: Have completed a minimum of [~~fifteen hundred~~ two thousand] hours of supervised clinical practice which shall include diagnosis, psychotherapy, and assessment-based treatment plans satisfactory to the department and in accordance with the commissioner's regulations. 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;

§ 10. The education law is amended by adding a new section 8405-a to read as follows:

§ 8405-a. Diagnosis privilege; psychoanalysts. 1. Applicants for licensure as a psychoanalyst who have met the requirement of section eighty-four hundred five of this article shall be authorized to diagnose and develop assessment-based treatment plans without meeting any additional requirements.

2. Applicants for license as a psychotherapist who have been issued a limited permit and have successfully completed twelve credit hours of clinical courses, of which may be completed post-graduate, in accordance with the commissioner's regulations, shall be authorized to diagnose and develop assessment-based treatment plans while under supervision.

3. A psychoanalyst licensed prior to June thirtieth, two thousand twenty-six, shall be granted the privilege to diagnose and develop assessment-based treatment plans if such psychoanalyst:

(a) Files an application with the department;  
(b) Is licensed and registered as a psychoanalyst; and:  
(i) Provides verification of twelve credit hours of clinical coursework as defined by the department from a college, university, or institute acceptable to the department;

(ii) Provides verification of a minimum of two years of employment as a licensed psychoanalyst by a licensed supervisor or colleague on forms acceptable to the department, in a program or service operated, regulated, funded, or approved by the department of mental hygiene, the office of children and family services, the office of temporary and disability assistance, the department of corrections and community supervision, the state office for the aging, the department of health, or a local governmental unit as such term is defined by article forty-one of the mental hygiene law, or a social services district as defined by section sixty-one of the social services law; or

(iii) Provides verification of being licensed as a licensed psychoanalyst for a minimum of three years; and

1 (1) Provides documentation of at least six credit hours of clinical  
2 coursework as defined by the department from a college, university, or  
3 institute acceptable to the department; or

4 (2) Provides documentation of at least twelve hours of continuing  
5 education in clinical coursework subject to section eighty-four hundred  
6 twelve-a of this article; and

7 (c) Pays a fee to the department of two hundred twenty dollars.

8 4. A privilege to diagnose issued under this section shall be valid  
9 for the life of the holder, unless revoked, annulled, or suspended by  
10 the board of regents. Such a privilege shall be subject to the same  
11 oversight and disciplinary provisions as licenses issued under this  
12 title.

13 § 11. Subdivision 2 of section 8409 of the education law, as amended  
14 by chapter 485 of the laws of 2013, is amended to read as follows:

15 2. Limited permits shall be for [~~two~~] three years; such limited  
16 permits may be renewed, at the discretion of the department, for up to  
17 two additional one year periods.

18 § 12. Subparagraph (i) of paragraph (c) of subdivision 8 of section  
19 8410 of the education law, as amended by section 5 of part Y of chapter  
20 57 of the laws of 2018, is amended to read as follows:

21 (i) Prevent a person without a license from participating as a member  
22 of a multi-disciplinary team to assist in the development of or imple-  
23 mentation of a behavioral health services or treatment plan; provided  
24 that such team shall include one or more professionals licensed under  
25 this article or articles one hundred thirty-one, one hundred thirty-  
26 nine, one hundred fifty-three or one hundred fifty-four of this [~~chap-~~  
27 ~~ter~~] title; and provided, further, that the activities performed by  
28 members of the team shall be consistent with the scope of practice for  
29 each team member licensed or authorized under this title [~~VIII of this~~  
30 ~~chapter~~], and those who are not so authorized may not engage in the  
31 following restricted practices: the diagnosis of mental, emotional,  
32 behavioral, addictive and developmental disorders and disabilities;  
33 patient assessment and evaluating; the provision of psychotherapeutic  
34 treatment; the provision of treatment other than psychotherapeutic  
35 treatment; or independently developing and implementing assessment-based  
36 treatment plans as defined in section seventy-seven hundred one and  
37 section eight thousand one of this [~~chapter~~] title.

38 § 13. Subparagraph (i) of paragraph (c) of subdivision 7 of section  
39 7706 of the education law, as amended by section 4 of part Y of chapter  
40 57 of the laws of 2018, is amended to read as follows:

41 (i) Prevent a person without a license from participating as a member  
42 of a multi-disciplinary team to assist in the development of or imple-  
43 mentation of a behavioral health services or treatment plan; provided  
44 that such team shall include one or more professionals licensed under  
45 this article or articles one hundred thirty-one, one hundred thirty-  
46 nine, one hundred fifty-three or one hundred sixty-three of this [~~chap-~~  
47 ~~ter~~] title; and provided, further, that the activities performed by  
48 members of the team shall be consistent with the scope of practice for  
49 each team member licensed or authorized under this title [~~VIII of this~~  
50 ~~chapter~~], and those who are not so authorized may not engage in the  
51 following restricted practices: the diagnosis of mental, emotional,  
52 behavioral, addictive and developmental disorders and disabilities;  
53 patient assessment and evaluating; the provision of psychotherapeutic  
54 treatment; the provision of treatment other than psychotherapeutic  
55 treatment; or independently developing and implementing assessment-based

1 treatment plans as defined in section seventy-seven hundred one of this  
2 article and section eight thousand one of this title.

3 § 14. Subparagraph (i) of paragraph (c) of subdivision 10 of section  
4 7605 of the education law, as amended by section 2 of part Y of chapter  
5 57 of the laws of 2018, is amended to read as follows:

6 (i) A person without a license from participating as a member of a  
7 multi-disciplinary team to assist in the development of or implementa-  
8 tion of a behavioral health services or treatment plan; provided that  
9 such team shall include one or more professionals licensed under this  
10 article or articles one hundred thirty-one, one hundred thirty-nine, one  
11 hundred fifty-four or one hundred sixty-three of this [~~chapter~~] title;  
12 and provided, further, that the activities performed by members of the  
13 team shall be consistent with the scope of practice for each team member  
14 licensed or authorized under this title [~~VIII of this chapter~~], and  
15 those who are not so authorized may not engage in the following  
16 restricted practices: the diagnosis of mental, emotional, behavioral,  
17 addictive and developmental disorders and disabilities; patient assess-  
18 ment and evaluating; the provision of psychotherapeutic treatment; the  
19 provision of treatment other than psychotherapeutic treatment; or inde-  
20 pendently developing and implementing assessment-based treatment plans  
21 as defined in section seventy-seven hundred one and section eight thou-  
22 sand one of this title.

23 § 15. Section 8410 of the education law is amended by adding a new  
24 subdivision 11 to read as follows:

25 11. Prohibit or limit the activities or services on the part of any  
26 person in the employ of a program or service operated, regulated, fund-  
27 ed, or approved by the department of mental hygiene, the office of chil-  
28 dren and family services, the office of temporary and disability assist-  
29 ance, the department of corrections and community supervision, the state  
30 office for the aging, the department of health, or a local governmental  
31 unit as such term is defined in article forty-one of the mental hygiene  
32 law, or a social services district as defined in section sixty-one of  
33 the social services law, provided, however, this subdivision shall not  
34 authorize the use of any license authorized pursuant to this article.

35 § 16. Section 7706 of the education law is amended by adding a new  
36 subdivision 9 to read as follows:

37 9. Prohibit or limit the activities or services on the part of any  
38 person in the employ of a program or service operated, regulated, fund-  
39 ed, or approved by the department of mental hygiene, the office of chil-  
40 dren and family services, the office of temporary and disability assist-  
41 ance, the department of corrections and community supervision, the state  
42 office for the aging, the department of health, or a local governmental  
43 unit as such term is defined in article forty-one of the mental hygiene  
44 law, or a social services district as defined in section sixty-one of  
45 the social services law, provided, however, this subdivision shall not  
46 authorize the use of any license authorized pursuant to article one  
47 hundred sixty-three of this title.

48 § 17. Section 7605 of the education law is amended by adding a new  
49 subdivision 14 to read as follows:

50 14. The activities or services on the part of any person in the employ  
51 of a program or service operated, regulated, funded, or approved by the  
52 department of mental hygiene, the office of children and family  
53 services, the office of temporary and disability assistance, the depart-  
54 ment of corrections and community supervision, the state office for the  
55 aging, the department of health, or a local governmental unit as such  
56 term is defined in article forty-one of the mental hygiene law, or a



1 social services district as defined in section sixty-one of the social  
2 services law, provided, however, this subdivision shall not authorize  
3 the use of any license authorized pursuant to article one hundred  
4 sixty-three of this title.

5 § 18. The education law is amended by adding a new section 8412-a to  
6 read as follows:

7 § 8412-a. Continuing education for diagnosis privilege. 1. Continuing  
8 education required under clause two of subparagraph (iii) of paragraph  
9 (b) of subdivision three of section eighty-four hundred two-a of this  
10 article shall:

11 (a) Be offered by a provider approved by the department pursuant to  
12 paragraph (b) of subdivision three of section eighty-four hundred twelve  
13 of this article; and

14 (b) Be determined by the department as providing clinical content in  
15 the following areas:

16 (i) Diagnosis in clinical practice;

17 (ii) Assessment based treatment; or

18 (iii) Clinical practice with general and special populations.

19 2. The department shall maintain a list of continuing education  
20 approved by the department as meeting the requirements of this section.

21 3. A separate continuing education approval application fee, as deter-  
22 mined by the department, shall be applied to providers seeking approval  
23 of continuing education that meets the requirements of this section.

24 § 19. This act shall take effect one year after it shall have become a  
25 law, provided, however, that:

26 (a) sections three, six and nine of this act shall take effect June  
27 30, 2027; and

28 (b) sections fifteen, sixteen and seventeen of this act shall take  
29 effect June 24, 2022 and shall expire January 1, 2025 when upon such  
30 date the provisions of such sections shall be deemed repealed.

31 Effective immediately, the addition, amendment and/or repeal of any  
32 rule or regulation necessary for the implementation of this act on or  
33 before its effective date are authorized to be made and completed on or  
34 before such effective date.