§ 8410. Exemptions. Nothing contained in this article shall be construed to:

1. Apply to the practice, conduct, activities, services or use of any title by any person licensed or otherwise authorized to practice medicine within the state pursuant to article one hundred thirty-one of this title or by any person registered to perform services as a physician assistant within the state pursuant to article one hundred thirty-one-B of this title or by any person licensed or otherwise authorized to practice psychology within this state pursuant to article one hundred fifty-three of this title or by any person licensed or otherwise authorized to practice social work within this state pursuant to article one hundred fifty-four of this title, or by any person licensed or otherwise authorized to practice nursing as a registered professional nurse or nurse practitioner within this state pursuant to article one hundred thirty-nine of this title or by any person licensed or otherwise authorized to practice applied behavior analysis within the state pursuant to article one hundred sixty-seven of this title; provided, however, that no physician, physician's assistant, registered professional nurse, nurse practitioner, psychologist, licensed master social worker, licensed clinical social worker, licensed behavior analyst or certified behavior analyst assistant may use the titles "licensed mental health counselor", "licensed marriage and family therapist", "licensed creative arts therapist", or "licensed psychoanalyst", unless licensed under this article.

2. Prohibit or limit any individual who is credentialed under any law, including attorneys, rape crisis counselors, certified alcoholism counselors and certified substance abuse counselors from providing mental health services within their respective established authorities.

3. Prohibit or limit the practice of a profession licensed pursuant to this article by a student, intern or resident in, and as part of, a supervised educational program in an institution approved by the department.

4. Prohibit or limit the provision of pastoral counseling services by

any member of the clergy or Christian Science practitioner, within the context of his or her ministerial charge or obligation.

5. Prohibit or limit individuals, churches, schools, teachers, organizations, or not-for-profit businesses, from providing instruction, advice, support, encouragement, or information to individuals, families, and relational groups.

6. Prohibit or limit an occupational therapist from performing work consistent with article one hundred fifty-six of this title.

7. Prohibit the practice of mental health counseling, marriage and family therapy, creative arts therapy or psychoanalysis, to the extent permissible within the scope of practice of such professions, by any not-for-profit corporation or education corporation providing services within the state of New York and operating under a waiver pursuant to section sixty-five hundred three-a of this title, provided that such entities offering mental health counseling, marriage and family therapy, creative arts therapy or psychoanalysis services shall only provide such services through an individual appropriately licensed or otherwise authorized to provide such services or a professional entity authorized by law to provide such services.

8. (a) Prevent a person without a license from: performing assessments including but not limited to basic information collection, gathering of demographic data, and informal observations, screening and referral used for general eligibility for a program or service and determining the functional status of an individual for the purpose of determining need for services; advising individuals regarding the appropriateness of benefits they are eligible for; providing general advice and guidance and assisting individuals or groups with difficult day to day problems such as finding employment, locating sources of assistance, and organizing community groups to work on a specific problem; providing peer services; selecting for suitability and providing substance abuse treatment services or group re-entry services to incarcerated individuals in state correctional facilities; or providing substance abuse treatment services or re-entry services to incarcerated

individuals in local correctional facilities.

(b) Prevent a person without a license from creating, developing or implementing a service plan or recovery plan that is not a behavioral health diagnosis or treatment plan. Such service or recovery plans shall include, but are not limited to, coordinating, evaluating or determining the need for, or the provision of the following services: job training and employability; housing; homeless services and shelters for homeless individuals and families; refugee services; residential, day or community habilitation services; general public assistance; in home services and supports or home-delivered meals; recovery supports; adult or child protective services including investigations; detention as defined in section five hundred two of the executive law; prevention and residential services for victims of domestic violence; services for runaway and homeless youth; foster care, adoption, preventive services or services in accordance with an approved plan pursuant to section four hundred four of the social services law, including, adoption and foster home studies and assessments, family service plans, transition plans, permanency planning activities, and case planning or case management as such terms are defined in the regulations of the office of children and family services; residential rehabilitation; home and community based services; and de-escalation techniques, peer services or skill development.

(c)(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 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.

(ii) For the purposes of this paragraph, "assist" shall include, but not be limited to, the provision or performance of the following tasks, services, or functions by an individual who has obtained the training and experience required by the applicable state oversight agency to perform such task, service or function in facilities or programs operating pursuant to article nineteen-G of the executive law; articles seven, sixteen, thirty-one or thirty-two of the mental hygiene law; or title three of article seven of the social services law:

(1) helping an individual with the completion of forms or questionnaires;

(2) reviewing existing case records and collecting background information about an individual which may be used by the licensed professional or multi-disciplinary team;

(3) gathering and reporting information about previous behavioral health interventions, hospitalizations, documented diagnosis, or prior treatment for review by the licensed professional and multi-disciplinary team;

(4) discussing with the individual his or her situation, needs, concerns, and thoughts in order to help identify services that support the individual's goals, independence, and quality of life;

(5) providing advice, information, and assistance to individuals and family members to identify needs and available resources in the community to help meet the needs of the individual or family member;

(6) engaging in immediate and long-term problem solving, engaging in the development of social skills, or providing general help in areas including, but not limited to, housing, employment, child care, parenting, community based services, and finances;

(7) distributing paper copies of self-administered tests for the individual to complete when such tests do not require the observation and judgment of a licensed professional;

(8) monitoring treatment by the collection of written and/or observational data in accordance with the treatment plan and providing verbal or written reports to the multi-disciplinary team;

(9) identifying gaps in services and coordinating access to or arranging services for individuals such as home care, community based services, housing, employment, transportation, child care, vocational

training, or health care;

(10) offering education programs that provide information about disease identification and recommended treatments that may be provided, and how to access such treatment;

(11) reporting on behavior, actions, and responses to treatment by collecting written and/or observational data as part of a multi-disciplinary team;

(12) using de-escalation techniques consistent with appropriate training;

(13) performing assessments using standardized, structured interview tools or instruments;

(14) directly delivering services outlined in the service plan that are not clinical in nature but have been tailored to an individual based on any diagnoses such individual may have received from a licensed professional; and

(15) advocating with educational, judicial or other systems to protect an individual's rights and access to appropriate services.

(d) Provided, further, that nothing in this subdivision shall be construed as requiring a license for any particular activity or function based solely on the fact that the activity or function is not listed in this subdivision.

9. Notwithstanding any other provision of law to the contrary, nothing in this article shall be construed to prohibit or limit the activities or services provided under this article by any person who is employed or who commences employment in a program or service operated, regulated, funded, or approved by the department of mental hygiene, the office of children and family services, the department of corrections and community supervision, the office of temporary and disability assistance, the state office for the aging and the department of health or a local governmental unit as that term is defined in section 41.03 of the mental hygiene law or a social services district as defined in section sixty-one of the social services law on or before two years from the date that the regulations issued in accordance with section six of part Y of chapter fifty-seven of the laws of two thousand eighteen appear in the state register or are adopted, whichever is later. Such prohibitions or limitations shall not apply to such employees for as

long as they remain employed by such programs or services and whether they remain employed by the same or other employers providing such programs or services. Provided however, that any person who commences employment in such program or service after such date and performs services that are restricted under this article shall be appropriately licensed or authorized under this article. Each state oversight agency shall create and maintain a process to verify employment history of individuals exempt under this subdivision.

10. The activities or services provided by a person with a master's level degree required for licensure pursuant to this article, working under the supervision of a professional licensed pursuant to article one hundred fifty-three, one hundred fifty-four or this article in a program or service operated, regulated, funded, or approved by the department of mental hygiene, the office of children and family services, the department of corrections and community supervision, the office of temporary and disability assistance, the state office for the aging and the department of health or a local government unit as that term is defined in section 41.03 of the mental hygiene law or a social services district as defined in section sixty-one of the social services law.

* 11. Prohibit or limit a mental health counselor, marriage and family therapist, or psychoanalyst licensed and registered pursuant to this article from engaging in diagnosis and the development of assessment-based treatment plans, as defined in section eighty-four hundred one of this article, in a facility setting or other supervised settings approved by the department under supervision in accordance with the commissioner's regulations.

* NB Repealed June 24, 2027