

Agenda
State Board for Mental Health
Practitioners

Friday, September 20, 2024
10:00 a.m.12:30 p.m.

Sites:

Albany
Education Building EB 150 Albany, NY

NYC
1411 Broadway 10th Floor

Syracuse OPD Office
333 East Washington Street, Suite 211 Syracuse, New York

Rochester OPD office
NYS Department of Education Access-VR
109 S. Union Street 2nd Floor Rochester, New York 14607

To attend the **Mental Health Practitioners Board** meeting, let the board office know by emailing Tinika.White@nysed.gov

to add your name to the security list of the site you choose.

“Members of the public may attend and observe the meeting. Please note that due to security restrictions, you are asked to arrive 15 minutes earlier if possible than the start of the meeting.”

Thank you!

***Agenda and Discussion**

1. Welcome and review of Agenda.
2. Introductions
3. Review of June 23rd, meeting minutes
4. Executive Secretary's Report
 - a. Staffing and Processing
 - b. Board member recruitment.
5. Legislation and Regulation concerning Mental Health
 - a. Diagnostic Privilege for Mental Health Practitioners (Ch. 230 of 2022) progress.

- b. An FYI of an amendment of Mental Hygiene Law (Ch. 233 of 2024)
- 6. Discussion Topics
 - a. Tele-supervision reg
- 7. Other business
- 8. Adjournment

The University of the State of New York
State Education Department
Office of the Professions

**State Board for Mental Health Practitioners
Meeting Minutes (Draft)**

Friday, June 7, 2024

This meeting was held in-person at the following location:

State Education Building, 89 Washington Avenue, EB 201, Albany, NY 12234

Board members present:

Susan Boxer Kappel
Renee Jones
Christopher Smith
Timothy Mooney
John/Jay Cerio
Melissa Dukofsky
Shirley Disu
Helena Boersma
Ann Canastra

Board members absent:

Angela Musolino
Jasmine Thomas
Thomas Biglin
Michele “Mikki” Meyer

Staff present:

Evan Seiden, Executive Secretary
Kate Letzelter, Associate in Professional Education
Michele Govertsen, Senior Administrative Analyst
Henry Phillips, Education Program Assistant
Kellie Murphy, SED Deputy Commissioner’s Office

Welcome and Review of the Agenda

Evan Seiden called the meeting to order at 10:07 AM. Board members and staff introduced themselves. Kellie Murphy from the Deputy Commissioner’s Office was added to the agenda with a presentation on Professional Connections.

Review of the March 1, 2024, Board Meeting Minutes

The minutes of the March 1, 2024, Board meeting was reviewed. There were no changes made. A quorum of members was present. A motion was made and seconded to approve the previous meetings' minutes; motion was passed unanimously. Minutes accepted.

Executive Secretary's Report

Evan Seiden noted the queue for experience reviews and Limited Permit applications are both about 4 weeks out. Staff is actively working on answering questions on the Diagnostic Privilege. Diagnostic Privilege FAQ is live on the NYSED OP website. Diagnostic Privilege forms are live on the NYSED OP website.

Board actively in the process of recruiting new members – looking for Psychiatrist, 1 LCAT, and 1 Psychoanalyst. Nomination forms for potential Board members are being reviewed and additional candidates continue to be recruited. Board nomination forms can be found on the NYSED website.

Professional Connections Presentation

Presenter: Kellie Murphy

Kellie Murphy from the SED Deputy Commissioner's office gave a presentation on Professional Connections. Professional Connections raises awareness of professionals in NYS. OP website has Career Paths page for each profession with information on the profession itself, requirements for the license, as well as salary information, employment settings, and interests, abilities, and skills related to each profession. Website is <https://www.op.nysed.gov/careers-index>.
<https://www.op.nysed.gov/careers/explore-your-options/mental-health-practitioners-careers>

The website has a compilation of tools and resources for each profession. It also has information on related associations.

Suggestions were solicited of resources to add to the website. The Board discussed different suggestions of other resources and information that could be added to the website. The Board discussed adding local chapter information, NBCC resources. The Board suggested adding social media: Twitter, Facebook, Instagram. The Board suggested working with colleges and institutions – career services officers, graduate advisors, college career center representatives.

Legislation and Regulation affecting Mental Health Practice: Mental Health Practitioners' Diagnosis Privilege (Chapter 230 of the Laws of 2022)

Staff is actively working on answering questions on the Diagnostic Privilege. Diagnostic Privilege FAQ is live on the NYSED OP website. Diagnostic Privilege forms are live on the NYSED OP website. Regulations adopted at last Board of Regents meeting. Meetings with Comp Ed and DPLS on reviewing education for "D" privilege. A few licensees have been approved for this privilege at this time (privilege cannot be issued until 6/24/2024 at the earliest).

Form 4D has been updated to account for exempt settings. Some schools not sure how to complete Form 2D. Some clearinghouses won't fill out Form 2D. In either situation, applicants must ensure the school or clearinghouse is submitting a transcript. Comparative Education will reach out to the applicant if they need more information. Applicants can call the Board Office or processing unit for an update. "D" privilege will show up on verification website upon issuance.

Board Members had questions about the diagnostic privilege. Board members asked if approved education programs will be listed online. PDF/paper version on Form 1D not yet available on website. Applicants should email the Board Office with any questions on experience (Form 4D). Applicants will be notified if more information is needed during experience reviews. Board members requested more information on the website – timeline chart, notable dates, diagnostic exemption dates and information. Copy of Operating Certificate for exempt settings is required to be submitted with Form 4D.

Discussion: Tele-Supervision

Board noted that tele-supervision is still being accepted – current regulation allows tele-supervision. Regulations to make tele-supervision allowed permanently are out for public comment.

Discussion: Psychoanalytic Exam

Exam requirement for Psychoanalyst license consists of 2 case studies. There is an interest in looking for ways to improve the exam process. The board discussed possibility of 1 case study with a certain score being able to meet exam requirement. Requirement of 2 Case Narratives will remain for foreseeable future as change to the exam would require statutory change.

Other Business

Next Board meeting will be in September.

Board members can reach out if they need additional support with OPD duties. OPD investigators have been contacting Board members for assistance and advice.

Board Chair reminded members that Board member positions need to be filled.

Closing Remarks and Adjournment

Evan Seiden thanked the Board for their participation in the meeting. Board Chair Susan Boxer Kappel called for adjournment. Seconded by John Jay Cerio. The meeting was adjourned at 12:02pm by Board Chair Susan Boxer Kappel.

STATE OF NEW YORK

9787

IN SENATE

May 30, 2024

Introduced by Sen. BROUK -- (at request of the Office of Mental Health)
-- read twice and ordered printed, and when printed to be committed to
the Committee on Mental Health

AN ACT to amend the mental hygiene law, in relation to providing definitions of mental health and family and youth peer and requires the office of mental health to establish peer service qualification programs

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

1 Section 1. Section 7.03 of the mental hygiene law is amended by adding
2 six new subdivisions 3, 4, 5, 6, 7 and 8 to read as follows:

3 3. "Mental health peer" or "MHP" means an individual with lived-exper-
4 ience who is actively in recovery from a mental health condition and has
5 self-disclosed their mental health journey.

6 4. "Family peer advocate" or "FPA" means an individual with lived-ex-
7 perience as the biological, foster, or adoptive parent or primary care-
8 giver of a child or youth with a social, emotional, behavioral, mental
9 health, or developmental disability.

10 5. "Youth peer advocate" or "YPA" means an individual who self-identi-
11 fies as a person with first-hand experience with mental health and/or
12 co-occurring behavioral challenges as a young person or has received
13 services in any one of the child-serving systems or programs pursuant to
14 this chapter.

15 6. "New York state certified peer specialist" or "NYCPS" means a
16 mental health peer who has specialized training and holds a credential
17 from a certifying authority recognized by the commissioner.

18 7. "Credentialed family peer advocate" or "CFPA" means an individual
19 verified to have met the criteria for a family peer advocate as defined
20 in subdivision four of this section and who holds a credential from a
21 certifying authority recognized by the commissioner.

22 8. "Credentialed youth peer advocate" or "CYPA" means an individual
23 verified to have met the criteria for a youth peer advocate as defined
24 in subdivision five of this section and who holds a credential from a
25 certifying authority recognized by the commissioner.

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

LBD07364-01-3

1 § 2. Subdivision (d) of section 7.07 of the mental hygiene law, as
2 added by chapter 978 of the laws of 1977, is amended to read as follows:

3 (d) The office of mental health shall foster programs for the training
4 and development of persons capable of providing the foregoing services,
5 and for the qualification of persons capable of providing peer services
6 as defined in subdivisions three, four, five, six, seven, and eight of
7 section 7.03 of this article and in accordance with criteria established
8 by the commissioner.

9 § 3. This act shall take effect on the one hundred eightieth day after
10 it shall have become a law.



TO: Professional Practice Committee

FROM: David H. Hamilton *David H. Hamilton*

SUBJECT: Proposed Amendment of Sections 74.1, 74.6, 79-9.3, 79-10.3, 79-11.3 and 79-12.3 and Repeal of Section 74.5 of the Regulations of the Commissioner of Education Relating to Social Work and Mental Health Practitioner Supervision Requirements, Acceptable Accrediting Bodies for Social Work Education Programs, and the Social Work Psychotherapy Privilege

DATE: April 25, 2024

AUTHORIZATION(S): *Don McGreevey* *Billy Altomare*

SUMMARY

Issue for Discussion

Should the Board of Regents amend sections 74.1, 74.6, 79-9.3, 79-10.3, 79-11.3 and 79-12.3 and repeal section 74.5 of the Regulations of the Commissioner of Education relating to social work and mental health practitioner supervision requirements, acceptable accrediting bodies for social work education programs, and the social work psychotherapy privilege?

Reason for Consideration

Review of policy and required by State statute (Chapter 818 of the Laws of 2022).

Proposed Handling

The proposed amendment will be presented to the Professional Practice Committee for discussion at the May 2024 meeting of the Board of Regents. A copy of the proposed rule (Attachment A) is attached.

Procedural History

A Notice of Proposed Rule Making will be published in the State Register on May 22, 2024, for a 60-day public comment period required under the State Administrative Procedure Act (SAPA). Supporting materials for the proposed rule are available upon request from the Secretary to the Board of Regents.

Background Information

Supervision Requirements:

Applicants for licensure as a Licensed Clinical Social Worker (LCSW), mental health counselor, marriage and family therapist, creative arts therapist, or psychoanalyst must complete supervised experience under a qualified supervisor in an authorized setting. While this supervision must occur in-person, the Department temporarily authorized remote supervision during the state of emergency declared during the COVID-19 pandemic.

There is increased demand for mental health services provided by licensed professionals, including social workers and mental health practitioners. These services may be provided in-person or using technology. However, other than the COVID-19 exception mentioned above, qualified supervisors of applicants completing experience for licensure are required to conduct supervision in-person.

Therefore, the Department proposes to amend the supervision requirements for social workers and mental health practitioners in sections 74.6, 79-9.3, 79-10.3, 79-11.3, and 79-12.3 of the Commissioner's regulations to allow the use of secure technology for these five mental health professions.

This amendment is consistent with regulations for the supervision of psychologists and mental health practitioners earning the diagnostic privilege, adopted by the Board of Regents in March 2022 and June 2022 respectively, that allow an applicant in those professions to receive face-to-face supervision through secure, real-time technology acceptable to the Department, such as videoconferencing.

Acceptable Accrediting Agencies:

Commissioner's regulations §74.1(a) and (b) require an applicant for licensure as a LMSW or LCSW to complete a master's degree of at least 60 semester hours with specified content or, in the determination of the Department, an equivalent program. Subdivision (a) allows the Department to accept coursework from a program accredited by an acceptable accrediting agency. The regulation names the Council on Social Work Education (CSWE). However, the standards of private organizations such as CSWE may change and become inconsistent with New York standards. Additionally, regulations concerning the Professions do not typically name specific organizations. Therefore, the Department proposes to amend this provision to remove the reference to CSWE.

Psychotherapy Privilege:

Effective January 1, 2023, Chapter 818 of the Laws of 2022 eliminated the psychotherapy privilege established under the Insurance Law for certain LCSWs. Therefore, the Department proposes to repeal section 74.5 of the Commissioner's regulations, which established the requirements met by LCSWs seeking this privilege.

Related Regents Items

April 2020: [Proposed Amendments to Sections 52.3, 52.21, 57-4.5, 70.4, 74.6, 75.2, 75.5, 76.2, 79-9.3, 79-10.3, 79-11.3, 79-12.3, 80-1.13, 80-1.5, 80-3.15, 80-4.3, 83.5, 87.2, 87.5, 100.2, 100.4, 100.5, 100.6, 100.10, 100.21, 119.1, 119.5, 125.1, 151-1.4, 154-2.3, 175.5, 200.4, 200.5, 200.7, 200.20 and 275.8 and addition of Section 279.5 to the Regulations of the Commissioner of Education Relating to Addressing the COVID-19 Crisis](https://www.regents.nysed.gov/sites/regents/files/420bra6.pdf)

(<https://www.regents.nysed.gov/sites/regents/files/420bra6.pdf>)

March 2022: [Proposed Amendment of Sections 52.10, 72.1, 72.2, 72.3, 72.4 and 72.5 and Addition of Section 72.8 to the Regulations of the Commissioner of Education Relating to the Licensure of Psychologists](https://www.regents.nysed.gov/sites/regents/files/322ppca1.pdf)

(<https://www.regents.nysed.gov/sites/regents/files/322ppca1.pdf>)

July 2022: [Proposed Repeal of Sections 79-9.6, 79-10.6, 79-12.6, Addition of New Sections of 79-9.6, 79-10.6, 79-12.6 and Amendment of Sections of 79-9.4, 79-10.4, 79-12.4 of the Regulations of the Commissioner of Education Relating to Mental Health Practitioners' Diagnosis Privilege](https://www.regents.nysed.gov/sites/regents/files/722ppca1.pdf)

(<https://www.regents.nysed.gov/sites/regents/files/722ppca1.pdf>)

Recommendation

Not applicable.

Timetable for Implementation

It is anticipated that the proposed amendment will be presented to the Board of Regents for permanent adoption at the September 2024 Regents meeting, after publication in the State Register and the expiration of the 60-day public comment period required under the State Administrative Procedures Act. If adopted at the September 2024 meeting, the proposed rule will become effective as a permanent rule on September 25, 2024.

AMENDMENT OF THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 207, 6504, 6507, 7701, 7704, 8402, 8403, 8404 and 8405 of the Education Law and Chapter 818 of the Laws of 2022.

1. Subparagraph (v) of paragraph (1) of subdivision (c) of section 74.6 of the Regulations of the Commissioner of Education is amended to read as follows:

(v) the supervisor provides at least one hundred hours of [in-person] face-to-face individual or group clinical supervision, distributed appropriately over the period of the supervised experience. [The Department, in its discretion, may accept alternative means to meet the in-person supervision requirements of this subparagraph that cannot be successfully completed due to the State of Emergency declared by the Governor pursuant to an Executive Order for the COVID-19 crisis.] Face-to-face supervision may utilize technology acceptable to the Department, including secure video conferencing to protect confidentiality.

2. Subparagraph (v) of paragraph (1) of subdivision (d) of section 74.6 of the Regulations of the Commissioner of Education is amended to read as follows:

(v) the supervisor provides at least two hours per month of [in-person] face-to-face individual or group clinical supervision. [The Department, in its discretion, may accept alternative means to meet the in-person supervision requirements of this subparagraph that cannot be successfully completed due to the State of Emergency declared by the Governor pursuant to an Executive Order for the COVID-19 crisis.] Face-to-face supervision may utilize technology acceptable to the Department, including secure video conferencing to protect confidentiality.

3. Paragraphs (1) and (3) of subdivision (c) of section 79-9.3 of the Regulations of the Commissioner of Education are amended to read as follows to reads as follows:

(1) An applicant shall obtain experience under this section while under the general supervision of a qualified supervisor. General supervision shall mean that a qualified supervisor shall be available for consultation, assessment and evaluation when professional services are being rendered by an applicant and the supervisor shall exercise the degree of supervision appropriate to the circumstances. The supervisor shall provide an average of one hour per week or two hours every other week of [in-person] face-to-face individual or group supervision wherein the supervisor of such experience shall:

(i) ...

(ii) ...

(3) [The Department, in its discretion, may accept alternative means to meet the in-person supervision requirements of paragraph (1) of this subdivision that cannot be successfully completed due to the State of Emergency declared by the Governor pursuant to an Executive Order for the COVID-19 crisis.] Face-to face supervision may utilize technology acceptable to the Department, including secure video conferencing to protect confidentiality.

4. Paragraphs (1) and (3) of subdivision (d) of section 79-10.3 of the Regulations of the Commissioner of Education are amended to read as follow:

(1) An applicant shall obtain experience under this section while under the general supervision of a qualified supervisor. General supervision shall mean that a qualified supervisor shall be available for consultation, assessment and evaluation when professional services are being rendered by an applicant and the supervisor shall exercise the degree of supervision appropriate to the circumstances. The supervisor

shall provide an average of one hour per week or two hours every other week of [in-person] face-to-face individual or group supervision wherein the supervisor shall:

(i) ...

(ii) ...

(3) [The Department, in its discretion, may accept alternative means to meet the in-person supervision requirements of paragraph (1) of this subdivision that cannot be successfully completed due to the State of Emergency declared by the Governor pursuant to an Executive Order for the COVID-19 crisis.] Face-to-face supervision may utilize technology acceptable to the Department, including secure video conferencing to protect confidentiality.

5. Paragraphs (1) and (3) of subdivision (c) of section 79-11.3 of the Regulations of the Commissioner of Education are amended to read as follows:

(1) An applicant shall obtain experience under this section while under the general supervision of a qualified supervisor. General supervision shall mean that a qualified supervisor shall be available for consultation, assessment and evaluation when professional services are being rendered by an applicant and the supervisor shall exercise that degree of supervision appropriate to the circumstances. The supervisor shall provide at least one hour per week or four hours per month of [in-person] face-to-face individual or group supervision wherein the supervisor shall:

(i) ...

(ii) ...

(3) [The Department, in its discretion, may accept alternative means to meet the in-person supervision requirements of this paragraph (1) of this subdivision that cannot be successfully completed due to the State of Emergency declared by the Governor

pursuant to an Executive Order for the COVID-19 crisis.] Face-to-face supervision may utilize technology acceptable to the Department, including secure video conferencing to protect confidentiality.

6. Paragraphs (1) and (3) of subdivision (c) of section 79-12.3 of the Regulations of the Commissioner of Education are amended to read as follows:

(1) An applicant shall obtain experience under this section while under the general supervision of a qualified supervisor. General supervision shall mean that a qualified supervisor shall be available for consultation, assessment and evaluation when professional services are being rendered by an applicant and the supervisor shall exercise the degree of supervision appropriate to the circumstances. The supervisor shall provide an average of one hour per week or two hours every other week of [in-person] face-to-face individual or group supervision wherein the supervisor shall:

(i) ...

(ii) ...

(3) [The Department, in its discretion, may accept alternative means to meet the in-person supervision requirements of paragraph (1) of this subdivision that cannot be successfully completed due to the State of Emergency declared by the Governor pursuant to an Executive Order for the COVID-19 crisis.] Face-to-face supervision may utilize technology acceptable to the Department, including secure video conferencing to protect confidentiality.

7. Paragraph (a) of section 74.1 of the Commissioner's Regulations is amended to read as follows:

(a) As used in this section, acceptable accrediting agency shall mean an organization accepted by the department as a reliable authority for the purpose of accreditation at the postsecondary level, applying its criteria for granting accreditation of

social work programs in a fair, consistent, and nondiscriminatory manner[, such as the Council on Social Work Education, its successors, or an equivalent agency].

8. Section 74.5 of the Commissioner's Regulations is REPEALED.