



THE STATE EDUCATION DEPARTMENT/THE UNIVERSITY OF THE STATE OF NEW YORK/ALBANY, NY 12234

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TO: License-qualifying programs in mental health counseling

FR: David Hamilton, Ph.D. LMSW, Executive Secretary

RE: Licensure as a mental health counselor in New York

I am writing to provide you with updated information about the process by which students may be licensed as a mental health counselor under New York Law. Please share this information with faculty, field instructors, and students, as you see fit, so that students can pursue licensure in a legal manner after graduation.

In order to become a licensed mental health counselor, the graduate who wishes to complete supervised experience in New York, can only do so under a limited permit issued by the Department for an authorized setting and supervisor (see below). Please encourage your students to review the requirements set out on this memorandum, including limited permits, supervised experience, and approval from the State Board to take the National Clinical Mental Health Examination for licensure. New York does not accept other examinations (e.g., National Counselor Examination (NCE) or Clinical Mental Health Counselor (CMHC)) for licensure as a mental health counselor.

Effective January 1, 2006, an individual must be licensed, hold a limited permit or be in an exempt setting (as defined in statute¹) in order to practice mental health counseling and psychotherapy and use the restricted title. An individual who practices without

¹ In relation to activities and services provided under article 163 of the education law, nothing in this act shall prohibit or limit such activities or services on the part of any person in the employ of 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 article 41 of the mental hygiene law or a social services district as defined in section 61 of the social services law, pursuant to authority granted by law. This section shall not authorize the use of any title authorized pursuant to article 153 or 163 of the education law by any such employed person, except as otherwise provided by such articles respectively. This section shall be deemed repealed one year from the date that the regulations issued in accordance with section six of Part Y of the chapter of the laws of 2018 which amended this subdivision appear in the state register, or the date such regulations are adopted, whichever is later; provided however that the state education department shall notify the legislative bill drafting commission upon the occurrence of the date such regulations appear in the state register and the date of their adoption in order that the commission may maintain an accurate and timely effective database of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law.

authorization, even under supervision, could face questions about his/her moral character for licensure. A licensed supervisor who delegates activities to an unauthorized person could be charged with unprofessional conduct, under Part 29 of the Regents Rules.

When to apply: A student should be encouraged to start the application process prior to graduation and to use State-approved forms for all submissions. The information that is received is scanned and retained in the applicant's electronic folder pending verification of education from the college or university, in order to approve the applicant to take the examination and qualify for a limited permit.

Applying for Licensure: A student may apply for licensure at any time by submitting the application for licensure and fee (\$371). A student can use the online application (<https://eservices.nysed.gov/professions/>) and pay by credit card. The applicant must answer the "moral character" questions on the application. If the applicant answers yes to any of these questions, he or she must attach additional documentation (see "moral character" below).

Education for Licensure: The graduate school must submit Form 2 to verify that the student has met the degree requirements and received the 60-semester hour degree in mental health counseling. We do not require a transcript from graduates of NYSED-registered programs in mental health counseling. Every graduate of a registered program has completed the course work in child abuse identification and does not need to complete this separately.

If the student completed an advanced certificate ("bridge" program) that is registered by the Department, the student will need to have a Form 2 and transcript submitted by the original graduate program as well as a Form 2 and transcript from the graduate program that awards the advanced certificate. The Department will review the transcripts to determine if the combination of programs meets the education requirements for licensure.

Examination: When the Department has approved the individual's application for licensure and graduate education, the student will be eligible to take the National Clinical Mental Health Counseling Examination (NCMHCE). The Department notifies the examination vendor and sends the student a letter with registration instructions. **Although the exam may be taken any time after graduation, applicants should remember it is geared toward those with experience in mental health counseling and it may be completed anytime post-degree.** The applicant must submit the NBCC application and fee to schedule the examination which is available every month at multiple sites across the United States. NBCC provides candidates scores to the Department on a monthly basis. Students can access more information about the examination development, content, and scoring at www.nbcc.org. While an applicant may take the examination without a valid permit, experience requirements **must** be completed before the limited permit and any extension(s) have been exhausted.

Moral Character: The Education Law requires an applicant for a limited permit or license to be of good moral character as determined by the Department. The student must report

on the application for licensure (Form 1) any criminal arrests or convictions or disciplinary action in another licensed profession and attach documentation of the disposition of the matter. This information will be reviewed to determine if the applicant is of good moral character and eligible for the permit and/or license.

Experience for licensure: The Education Law requires an applicant to complete at least 3,000 hours of post-degree supervised experience in mental health counseling. The practice of mental health counseling is defined in the Education Law as: **the evaluation, assessment, 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 the use of assessment instruments and mental health counseling and psychotherapy to identify, evaluate and treat dysfunctions and disorders for purposes of providing appropriate mental health counseling services.**

The permit holder will provide direct and indirect services, within the practice of the profession, as part of the supervised experience. The Commissioner's Regulations require that at least one-half of the required 3,000 supervised hours in the practice of mental health counseling must be face-to-face with clients ("direct") and the remainder may be "indirect". Indirect activities would include supervision, record-keeping, professional development, research, and case management, as directed by the permit supervisor. This supervisor will report on Form 4B the total hours completed by the applicant under his/her supervision. An applicant may not complete direct experience in one setting and indirect experience in another setting, as the law intends a comprehensive supervised experience to prepare for post-licensure practice. The supervisor must report on Form 4B the total hours completed under his/her supervision, but at least 50 percent of the hours must constitute direct practice, as defined above.

A qualified supervisor of a permit holder in mental health counseling shall be licensed and registered in New York State to practice mental health counseling, medicine, as a physician assistant, psychology, licensed clinical social work, or as a registered professional nurse or nurse practitioner, pursuant to Articles 163, 131, 131-b, 139, 153, or 154 of the Education Law, respectively. **A licensed master social worker, licensed marriage and family therapist, licensed creative arts therapist or licensed psychoanalyst is not a qualified supervisor under the law.** The supervisor is responsible for knowing that he/she is qualified on the basis of education, training, experience and/or national certification, to practice and supervise mental health counseling, as defined in law, and may be asked to demonstrate such competency to the Board Office. You can verify the licensure and registration status of a prospective supervisor at: www.op.nysed.gov/opsearches.htm. You may ask the prospective supervisor to include a copy of his/her national certification, post-degree training and/or syllabi to demonstrate competence in mental health counseling as part of the limited permit application.

The applicant's experience should be submitted by the supervisor on Form 4B before the applicant or supervisor leaves the setting or after the applicant has passed the NCMHCE. The State Board will not review experience until the applicant has passed the examination. **The applicant may only practice under a limited permit and supervision until such time as he/she is licensed in New York.**

Limited Permit: In order to practice the profession and meet the requirements for supervised experience and examination, **the applicant must have a limited permit issued by the Department.** The permit authorizes practice under the supervision of a qualified licensed professional, as defined in regulations, in a setting that is authorized to provide professional services. The supervisor is responsible for all services provided by the permit holder. In order to qualify for a limited permit, the applicant must submit the application for licensure and fee (\$371) and be of good moral character (as determined by the Department). The applicant's school must submit verification of graduate education (Form 2) and this must be approved by the Department before the applicant is eligible for a permit.

The applicant and prospective employer/supervisor must submit the permit application (Form 5) and \$70 fee for review by the State Board. The permit application must include a copy of the supervisor's current registration certificate and the operating certificate, waiver from corporate practice or professional corporation documents that authorize the employer/supervisor to employ and supervise the practice of mental health counseling. The Commissioner's Regulations define qualified supervisors and authorized settings; you can access information about the corporate practice waiver available to certain not-for-profit and education corporations at <http://www.op.nysed.gov/waiver-corporate-practice.htm>.

The applicant may not practice the profession, even under supervision, until the permit is issued. Therefore, it is highly recommended that the student start this process as soon as possible, to ensure the information is received in a timely manner for review by the State Board. An applicant may apply for additional permits and supervisors in the same or other settings; each application must include the required information, although an additional fee is not required for permits issued in the same period.

The permit supervisor is responsible for the assessment, evaluation and treatment of each patient that will be seen by the permit holder under supervision. **A supervisor must be employed in the setting and have responsibility for the patients, to ensure access to all relevant information as well as the informed consent of the patient to be treated by the permit holder practicing under supervision.** An applicant completing experience under a limited permit or in an exempt setting may not employ the supervisor or share information with third-parties who are not authorized by the setting and known to the patient.

The Commissioner's Regulations limit a licensee to supervising no more than 5 limited permit holders at one time, in order to protect the public. The supervisor is responsible for the assessment, evaluation and treatment of each patient seen under his/her supervision.

If the licensee supervises 5 permit holders and each permit holder is responsible for 40 patients, the supervisor is responsible for 200 patients. This limit applies even if the permit holders are in more than one profession, so that no supervisor can be responsible for more than 5 applicants for licensure.

The permit is valid for two years and may be renewed for two additional one year periods, upon filing of a new permit application (Form 5) and fee (\$70). If the permit holder practices in more than one setting, he or she must have a permit displayed in each setting. If the permit holder practices under more than one supervisor, all supervisors must be named on the permit. An employer that is authorized to provide mental health counseling services may hire a qualified supervisor to provide “third-party supervision” but there must be a letter of agreement submitted by the employer, supervisor and permit applicant for review by the Department. This letter must affirm that the supervisor will meet with the patients seen under his/her supervision in order to assess, evaluate and treat the patient and the patient must provide informed consent to treatment by a supervised permit holder. The permit holder and supervisor are responsible for ensuring that supervision is provided in accordance with the regulations: <http://www.op.nysed.gov/prof/mhp/mhplaw.htm>.

If the supervisor or permit holder leaves the setting, the supervisor is responsible for voiding and returning the permit and Form 4B to verify any supervised hours completed by the applicant. **The applicant may not practice until a new permit has been issued.** This also allows an applicant to “stop the permit clock” by having the supervisor return the permit, until new employment or a new supervisor is identified. Experience that is completed by an applicant without a valid limited permit or in an exempt setting is illegal and is not acceptable toward licensure. **The applicant will have to complete experience in a legal manner in order to meet the experience requirements for licensure.**

Licensure: When the applicant has met all requirements, in the determination of the Department, the Department may issue a license and three-year registration. The licensee must notify the Department within 30 days if of any change in address or name. The licensee will receive a renewal notice every three years and must be registered to practice the profession. It is the licensee’s responsibility to practice in accordance with the scope of practice, as defined in the Education Law, and Part 29 of the Regents Rules, which define unprofessional conduct in the professions.

Continuing Education: Effective January 1, 2017, every licensed mental health counselor must complete 36 hours of continuing education, acceptable to the Department, in each three-year registration period. A licensed mental health counselor does not have to complete continuing education in the first registration period after initial licensure. Individuals who were licensed prior to 2017 and are in the second registration period will have to complete a pro-rated number of acceptable hours of continuing education for the period starting January 1, 2017 through the end of the licensee’s current registration period. Information about CE may be found at <http://www.op.nysed.gov/prof/mhp/>.

Other jurisdictions: The requirements for licensure are established by each jurisdiction and can be accessed through the National Board for Certified Counselors' web site: www.nbcc.org.

Students can access license applications and instructions, as well as practice guidelines developed by the State Board at www.op.nysed.gov/prof/mhp/mhcllic.htm

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