ORIGINAL: 2178

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF SOCIAL WORKERS, MARRIAGE AND FAMILY THERAPISTS AND PROFESSIONAL COUNSELORS

Post Office Box 2649
Harrisburg, Pennsylvania 17105-2649
(717) 783-1389

April 19, 2001

The Honorable John R. McGinley, Chairman
Independent Regulatory Review Commission
14th Floor, Harristown 2
333 Market Street
Harrisburg, PA 17101

Re: Public Comment: Proposed Rulemaking (16A-694)
State Board of Social Workers, Marriage and Family Therapists and Professional Counselors
Licensure

Dear Chairman McGinley:

Pursuant to Section 5(b.1) of the Regulatory Review Act (71 P.S. §845/5(b.1), enclosed is a copy of written comments received by the State Board of Social Workers, Marriage and Family Therapists and Professional Counselors regarding Regulation 16A-694.

Very truly yours,

Thomas F. Matta

Thomas F. Matta, Ph.D., Chairman
State Board of Social Workers, Marriage and Family Therapists and Professional Counselors

TFM:ELC:apm
Enclosure
c: Joyce McKeever, Deputy Chief Counsel
Department of State

Clara Flinchum, Board Administrator
State Board of Social Workers, Marriage and Family Therapists and Professional Counselors

ORIGINAL: 2178

IRRC

From: Lehman, Gwen [GLehman@pamedsoc.org]
Sent: Thursday, December 20, 2001 5:08 PM
To: IRRC
Subject: Comments on regulation 2178

Act 163 regs.doc

Attached are our comments on regulation 2178, promulgated by the Board of
Social Work, Marriage and Family Therapy, and Professional Counseling. Hard copy, on letterhead, will be mailed.

<<Act 163 regs.doc>>

Gwen Lehman, Executive Director
Pennsylvania Psychiatric Society
P. O. Box 8820
Harrisburg, PA 17105-8820
glehman@pamedsoc.org <mailto:glehman@pamedsoc.org>

ORIGINAL: 2178

Dec. 20, 2001

John R. McGinley, Jr., Esq., Chair
Independent Regulatory Review Commission

by email (hard copy to follow)

Dear Mr. McGinley:

I am writing on behalf of the members of the Pennsylvania Psychiatric Society to comment on Final Regulation 2178 (16A-694). This regulation sets standards for the new licensing categories of Clinical Social Worker, Marriage and Family Therapist, and Professional Counselor, pursuant to Act 136 of 1998. Our interest in the regulations derives from our role in determining the final language of the authorizing legislation and from our professional commitment to the treatment of the mentally ill.

We support adoption of these regulations, since they correct the two greatest problems that we identified in the earlier, proposed regulations. The section allowing clinical social workers to diagnose mental illnesses has been eliminated (as we pointed out in our earlier comments, diagnosis is not in the scope of practice delineated in Act 136). Second, a definition of "related field" has been added, clearly and appropriately allowing supervision of trainees by psychiatrists.

Several other sections of the regulations are less than ideal – such as allowing one person to supervise up to 6 trainees, and allowing counselors to provide psychotherapy without requiring coursework in the subject. We would prefer that the regulations repeat the Act's critical requirement for referring patients to others when biologically-based illnesses (such as schizophrenia) may be present.

Nevertheless, on balance we believe that adoption of these regulations is appropriate because they seem consistent with the Act and will protect the public through educational and ethical standards that are otherwise unenforceable.

As always, we appreciate the opportunity to present our perspective, and we appreciate the Commission's commitment to the process of public comment and review.

Sincerely yours,

Lawrence A. Real, MD
President
Pennsylvania Psychiatric Society

cc: The Honorable Mario Civera
The Honorable Clarence Bell

govt/Act 163 regs

ORIGINAL: 2178
IRRC

From: Jim Rinck [rjrinck@sunlink.net]
Sent: Thursday, December 13, 2001 6:51 PM
To: IRRC

I have reviewed the PA regulations for the Licensed Clinical Social Worker which have been filed with the House Professional Licensure Committee. I have these concerns:

The regulations about supervision are at best onerous. You can do better. I want

1. clear,
2. simple rules that are
3. flexible in a variety of situations.

The regs are too restrictive and confusing. Who will have the time and money to meet them? I will probably be out of a job.

R. James Rinck, MSW, LSW
610 N. eighth Street, Selinsgrove, PA 178740
570-374-7767

ORIGINAL: 2178

IRRC

From: Steve Root [steveroo@altoona.com]
Sent: Thursday, December 13, 2001 2:44 PM
To: IRRC
Subject: HB 1813

Jubelirer
12-04-01.doc

Please see attached letter to Senator Jubelirer re: HB 1813.

Thank you,

Steve Root, LSW

ORIGINAL: 2178

Behavioral Medicine Center

304 Frankstown RD
Altoona, PA 16602
Telephone: 814.940.7244
Fax: 814.940.7244

September 17, 2001

Senator Robert Jubelirer
12 Sheraton Drive POB 2023
Altoona, PA 16602

Re: HB 1813

Dear Senator Jubelirer,

Act 136 requires that he current grandfathering requirement for obtaining the LCSW is 5 years of continuous clinical social work practice in Pennsylvania. I don't meet that requirement although I have been in clinical practice since 1975 and have had an LISW and LCSW respectively in Ohio and Indiana for years. My first job as a social worker was back in 1975 at Family and Children's Service, then under the direction of Sara Jane Moses. I returned to Altoona in September of 1999 to start my private practice at the Behavioral Medicine Center in association with Paula Root Pimentel, MSW, LCSW and Steve Hand.

House Bill 1813 removes the requirement for grandfathering that required the clinical practice to be in the Commonwealth of Pennsylvania (for 5 consecutive years). The bill also extends the grandfathering period to February 28,2003. Passage of this bill would validate my and other's previous clinical experience and enable us to obtain the LCSW through the grandfathering procedure.

I would appreciate anything you could do to ensure the passage of HB 1813. Thank you for your support.

Sincerely yours,

Steve Root, MSSW, ACSW, LSW

NASW

Emma T. Lucas, Ph D, LSW
President

Rebecca S. Myers, LSW
Executive Director
exec@nasw-pa.org

Original: 2178

December 10, 2001

Commissioners
Independent Regulatory Review Commission
14th Floor
333 Market St
Harrisburg PA 17101

Re: Final Regulation
State Board of Social Workers, Marriage and Family Therapists and Professional Counselors
16A-694: Licensure
IRRC #2178

Dear Commissioners:

Thank you for the opportunity to comment on the above-referenced regulations relating to licensure of clinical social workers, marriage and family therapists and professional counselors in Pennsylvania. The Pennsylvania Chapter of the National Association of Social Workers (PA Chapter – NASW) represents over 6,400 professional social workers in the Commonwealth and is committed to upholding standards of practice that include protecting the public.

Although we have numerous concerns with the final regulations, the PA Chapter – NASW does not wish to unreasonably withhold approval and therefore requests that IRRC approve the regulations. We do strongly request, however, that IRRC recommend that the State Board of Social Workers, Marriage and Family Therapists and Professional Counselors (Board) begin a stakeholder review to be completed within two years focused on addressing these outstanding regulatory issues.

Our specific concerns are as follows:

1. Sections 47.12c – Licensed Clinical Social Worker and 47.12d – Standards for Supervisors

Extensive detail is contained overall in these final regulations specifically in these two sections. These sections appear to exceed the legislative intent or the authority of the current law. The details could have the unintended consequence of creating onerous and unnecessary requirements for qualified professionals to obtain a license. In addition, the final regulations do not establish an appeal or grievance process for a licensee in the case of an exception or mitigating circumstances.

2. Section 47.1 Definitions

It would be helpful to have a definition of "supervised clinical experience." Is "supervised clinical experience" all of the hours worked or is it all of the hours of client contact?

Also, under "related field," are master's level nurses with psychiatric practice included? They are currently reimbursable under many mental health insurance plans. PA Chapter-NASW recommends that they be included under these final regulations.

3. Section 47.12c(c)

Section 47.12c(c) makes specific requirements on the licensee relating to the supervised clinical experience obtained within 5 years prior to final approval of these regulations. Because the requirement language has only been included in the final rulemaking released to the public on November 27, 2001, current Licensed Social Workers (LSWs) who would be seeking clinical licensure, while practicing under the best guidelines available for the profession, may not meet the new requirements of the certain number of hours under the supervision of a clinical social worker or meet the ratio of 2 hours of supervision per 40 hours of supervised clinical experience. In addition, what public health concern is being addressed with this new requirement? Does this requirement go beyond the authority provided in current law?

If "supervised clinical experience" includes all of the hours worked, not just contact hours with clients, these transition professionals will most likely not meet the standards of 2 hours of supervision for every 40 hours of "supervised clinical experience." In addition, they may have difficulty with the requirement that at least one-half of those hours must be under the supervision of a clinical social worker. Thus, an entire group of LSWs who practiced the highest standards of clinical social work may be unnecessarily denied this license through no fault of their own.

4. Section 47.12c(b)(5)

As stated above, it is important that the Board define the phrase "supervised clinical experience." Is "supervised clinical experience" intended to mean all hours of activity by a clinical social worker, which includes notes and follow-up on cases or is it defined as actual time spent with clients?

If supervised clinical experience is defined as all hours of activity by a clinical social worker, the requirement of 2 hours of supervision for every 40 hours works translates into 2 hours of supervision per week. It is our opinion that this level of supervision places undue burden on professional social workers with minimal public safety impact.

5. Section 47.12c(b)(8)

This section needs clarification. Is the intent of the section to mean that all counted supervision during the 3 years must meet this requirement of a single setting, so that a 30-50 hour per week clinical social worker could have only 12 settings total and a part-time clinical social worker could have only 6 settings total? If a clinical social worker works 30 hours per week at one setting and 15 hours per week at a second setting, does the second setting not count? PA Chapter is concerned that this section may be placing unnecessary and onerous requirements

upon the license holder. There may be circumstances beyond the clinical social worker's control such as a closing of an agency or a layoff, which would impact this requirement. In addition to reviewing this section for purposes and clarification, we request that IRRC suggest that the Board develop an appeals process for those exceptions referred to above.

6. Section 47.12c(b)(9)

We recognize that the Board is responding to questions raised by the IRRC in this section but we are again concerned that there is no appeals process for a potential licensee to obtain an exception to this requirement. We recommend that an appeals process be put in place.

7. Section 47.12d(6)

As we stated in our April 20, 2001, comments on the proposed rulemaking, we are concerned about there being a balance of power between the supervisor and the supervisee. Again, we believe that there should be a process for a potential licensee to appeal the Supervisor's recommendation to interrupt or terminate activities or to appeal this decision to the Board.

8. Section 47.12d(10)

We are concerned about the requirement that a supervisor's notes be provided to the Board upon request. This raises issues of confidentiality and unnecessary intrusion into the supervisor/supervisee relationship. We recommend that this requirement be reviewed in any subsequent stakeholder discussions convened by the Board.

9. Section 47.12d(11)

As stated in our April 20, 2001, comments, clinical social work has a long-standing tradition of teaching with process recordings, case discussion, audio recordings where legally allowed, and direct observation where there is a one-way mirror. We hope that these methods are considered appropriate under "recordings of these sessions." We also recommend reviewing the necessity of a supervisor observing client/patient sessions of the supervisee. The physical presence of a supervisor during sessions is an intrusion upon the working relationship between the patient and the supervisee. It could also serve to impede the professional development of the supervisee, rather than improve it.

10. Section 47.12d(15)

We ask that IRRC recommend that the Board clarify this requirement, especially regarding "observe these cooperative encounters." Once again, we hope all of the methods detailed in 47.12d(11) apply to this section. We continue to raise the question about whether this detail is unnecessarily obstructive.

11. Section 47.14 Application for Licensure by Reciprocity

PA Chapter is concerned that this Section was not addressed in these regulations even though it was added to the regulations for the Marriage and Family Therapists and the Professional Counselors. We assume that the current section 47.14 will also apply to social workers seeking the LCSW and request that this point be clarified in future regulations pertaining to Chapter 47.

The PA Chapter continues to be interested in working with the Board and other appropriate entities to ensure that the health and safety needs of Pennsylvania's citizens are met. Therefore, we request IRRC's approval of these final regulations but also ask that the Board immediately begin working with its stakeholders to address these remaining concerns.

Thank you again for the consideration of our comments in your deliberations.

Sincerely,

Rebecca S. Myers, LSW
Executive Director

cc: Senator Clarence Bell
Senator Lisa Boscola
Representative Mario Civera
Representative William Rieger
State Board of Social Workers, Marriage and Family Therapists and Professional Counselors

ORIGINAL: 2178

NASW

Emma T. Lucas, Ph.D, LSW
President

Rebecca S. Myers, LSW
Executive Director
exec@nasw-pa.org

December 10, 2001

Commissioners
Independent Regulatory Review Commission
14th Floor
333 Market St
Harrisburg PA 17101

Re: Final Regulation
State Board of Social Workers, Marriage and Family Therapists and Professional Counselors
16A-694: Licensure
IRRC #2178

Dear Commissioners:

Thank you for the opportunity to comment on the above-referenced regulations relating to licensure of clinical social workers, marriage and family therapists and professional counselors in Pennsylvania. The Pennsylvania Chapter of the National Association of Social Workers (PA Chapter – NASW) represents over 6,400 professional social workers in the Commonwealth and is committed to upholding standards of practice that include protecting the public.

Although we have numerous concerns with the final regulations, the PA Chapter – NASW does not wish to unreasonably withhold approval and therefore requests that IRRC approve the regulations. We do strongly request, however, that IRRC recommend that the State Board of Social Workers, Marriage and Family Therapists and Professional Counselors (Board) begin a stakeholder review to be completed within two years focused on addressing these outstanding regulatory issues.

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Also, under "related field," are master's level nurses with psychiatric practice included? They are currently reimbursable under many mental health insurance plans. PA Chapter-NASW recommends that they be included under these final regulations.

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upon the license holder. There may be circumstances beyond the clinical social worker's control such as a closing of an agency or a layoff, which would impact this requirement. In addition to reviewing this section for purposes and clarification, we request that IRRC suggest that the Board develop an appeals process for those exceptions referred to above.

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Thank you again for the consideration of our comments in your deliberations.

Sincerely,

Rebecca S. Myers, LSW
Executive Director

cc: Senator Clarence Bell
Senator Lisa Boscola
Representative Mario Civera
Representative William Rieger
State Board of Social Workers, Marriage and Family Therapists and Professional Counselors

PENNSYLVANIA SOCIETY FOR CLINICAL SOCIAL WORK

112 CAROL LANE
RICHBORO, PA 18954
215/942-0775
800/429-7579 (OUTSIDE 215 AND 610 AREA CODES)
EMAIL – PSCSW@AOL.COM

ORIGINAL: 2178

Commissioner John Jewett and Commissioners
Independent Regulatory Review Commission
333 Market St., 14th floor
Harrisburg, PA 17101

December 7,2001

Re: Proposed Rulemaking 16A-694: Licensure
State Board of Social Workers, Marriage and Family Therapists and Professional Counselors

Dear Commissioners,

As President of the Pennsylvania Society for Clinical Social Work, I wish to comment on the final regulations, especially as they relate to the licensing of Clinical Social Workers. We appreciate the work that went into formulating these regulations, your desire to set high standards and your willingness to respond to comments we submitted previously during the development process. PSCSW strongly recommends that IRRC approve these regulations. We do have some concerns about the regulations in their current form and want to advise you of them. These concerns we think are reflective of the current status of agency based practice, especially practice that is community based and publically funded and are concerned about the practical aspects of implementing them.
We are concerned that "diagnosis"is not included in 47.12c(b)(1) the definition of "clinical experience". And in general, two other areas –47.12c(b) and 47.12d appear to place supervisory expectations that will be difficult to meet in community based agencies. I will outline our concerns below.

47.12c(b)(1) Supervised clinical experience. We believe that DIAGNOSIS should be included in the list of clinical experiences. Many insurance companies and behavioral health care providers reimburse clinical social workers for providing behavioral health care services. They require that the social worker provide them with a diagnosis in order to complete the billing and accountability process. If social workers are not licensed to provide diagnosis, they may be in violation of their license. If these behavioral health care providers have to send their clients to a psychiatrist or psychologist before starting treatment with the social worker, this will complicate the process for consumers and increase the cost for the insurers. We understand that there may be other issues impacting

on this omission, but I did want to emphasize the potential for causing problems in implementation. In this section, we also think that COUPLES THERAPY should be included along with Family and Group Therapy.

47.12c(b)(3) This states that there is a requirement that the supervisee disclose their status to and obtain written permission from all clients before taking the cases to supervision. This would be time consuming and potentially interfere with the clinicians beginning connection with the client. The implication is that the clinician is a "trainee" yet they already must have passed an examination and are licensed as LSWs in the state of PA.

47.12c(b)(6) and 47.12c(c)(1) This requires 2 hours of supervision for every 40 hours of "supervised clinical experience". I worked in the Community Mental Health system for over 15 years, 8 years as Director of the Child and Family Division of a very large CMH/MR agency. We were known for our commitment to education and training of our staff. We provided 1 hour of supervision per week and I think that is fairly standard practice in agencies. This along with the high level of documentation expected from the supervisor could put undue stress on the system and could result in agencies not hiring LSWs because they cannot provide the staff time to meet the regulations for those wishing to move towards their LCSW license.

47.12c(b)(6) Although we recognize your intent in limiting the number of supervisees a supervisor is responsible for, many agencies have a limited number of eligible supervisors and one supervisor may be responsible for an entire unit or service. The supervisor may not be providing individual supervision on a weekly basis to every supervisee so that supervision does not dominate their clinical work. It seems reasonable that group supervision should be limited to no more than 6-8 supervisees but supervisors should not have this extreme limitation on the total number of supervisees they are working with.

47.12c(b)(8) Again, we understand the intent, but we think this is too restrictive. Many clinicians work several part time jobs which may be, for example,10 hours each, and under the regulations as written, this clinical experience will not count towards the LCSW. And, in reference to the 3 or 6 month minimum for working at a setting, agencies restructure and lay off workers who may have been there, for example, for 5 months and that supervised clinical experience would be lost. We suggest that the regulations be written less specifically with 3600 supervised clinical hours obtained in no less than 2(or 3) years (there are discrepancies about this time frame in the regulations) and no more than 6 years to allow for unexpected but unavoidable changes in job status.

47.12d(7), 47.12d(10), 47.12d(14) The expectations of supervisors are time consuming and accountability is already built into agency practice. For example it is customary to review an employees work performance on a yearly basis after a 3 or 6 month probationary period. Providing a quarterly evaluation would significantly increase the time and cost of supervision, again putting a strain on the agencies providing services.

Another point I would like to make is in reference to those LSWs with 1-5 years of experience who are not eligible for grandfathering. Many LSWs have been working in agencies where they received excellent supervision but not provided by social workers. This is because in many agencies there were no social work supervisors employed or available and, since the regulations had not yet been issued, they did not know that social work supervision would be required. I do not think it is fair to punish these clinicians for not meeting regulations that were not yet articulated. We suggest that for those who have accumulated close to their 3600 hours of supervised clinical experience that this supervision could have been provided by any of the acceptable categories of supervisors and not require that 50% be from a social worker.

In addition, we are concerned that licensure by reciprocity was not included in the LCSW portion of the regulations although it was included for the Marriage and Family Therapists and Professional Counselors sections.

The PSCSW wants to recommend that the IRRC approve these regulations. I know that I have covered a lot in this letter. We understand that you may not be able to respond to all of our concerns and hope that the issues that go unresolved will be addressed in the next several years.

Thank you very much for time and consideration of our concerns.

Sincerely,

Diane M. Frankel

Diane M. Frankel MSS,LCSW,BCD
President

ORIGINAL: 2178

PENNSYLVANIA SOCIAL WORK COALITION

616 West Cliveden Street, Philadelphia, PA 19119-3601

Alliance of Black Social Workers ~ Pennsylvania Catholic Conference
Pennsylvania Chapter National Association of Social Workers
Pennsylvania Society for Clinical Social Work
Pennsylvania Council of Family Service Agencies
Society for Social Work Leadership in Health Care, Eastern PA Chapter, AHA
Pennsylvania Schools of Social Work

December 7, 2001

Commissioners
Independent Regulation Review Commission
333 Market Street, 14th floor
Harrisburg, PA 17101

Re: Proposed Rulemaking 16A-694: Licensure
State Board of Social Workers, Marriage and
Family Therapist and Professional Counselors

Dear Commissioners:

We have received the recent revisions of the Title 49, Subpart A and wish to offer our comments on Chapter 47. The revisions are a great improvement from when we testified before you in May of 2001, but they still include provisions which will make supervision for future clinical social workers expensive and a difficult process, at best. However, although I will elaborate on those provisions below, we are **strongly recommending that IRRC approve these regulations** because of the timing problems for the marriage and family therapists and for the professional counselors.

Our main concerns continue to be within Sections 47.12c(b) and (c) which was inserted since the March regulations were published and Section 47.12d. Basically, the specificity with which work sites are required to provide on-site supervision creates a more expensive, time-consuming process for senior staff than many of the agencies and institutions can or are willing to handle. An enclosed letter represents that view. We don't see why such micro-management requirements are necessary when our profession has had such a long history of apprenticeship supervision and when the overall requirements of the Law 136 only calls for 3600 hours of supervised experience. The details are as follows:

p.1 Related Field-- Should include master degree psychiatric nurse practitioner.

Under 47.12c (b) (1) (i) We still have a problem with diagnosis being prohibited by the law and think in light of the Maryland Supreme Court case and years of common practice in mental health agencies, family service agencies and private practice, "diagnosis" should be

reinstated. We have looked into several state regulations and I've enclosed an addendum containing excerpts from other state laws or regulations, which include diagnosis in the scope of practice. We acknowledge that this does not, of course, preclude the need for appropriate referrals.

(1)(v) After we asked that "multi-person psychotherapy" be included to the March rendition of the regulations, The State Board added (v) Family Therapy and (vi) Group Therapy. COUPLE THERAPY should be added to this list of services, as clinical social workers have been doing couple and marriage therapy for generations.

47.12c(b) (3) is also a problem, as you see in the enclosed letter. For profit sectors of agencies and private group practices will not want to risk losing clients by announcing that their licensed therapists are discussing their situation with a supervisors. In addition, agencies and practices are very cautious of legal problems.

47.12c(b) (5) The supervisor, or one to whom supervisory responsibilities have been delegated, shall meet with the supervisee for a "minimum of 2 hours for every 40 hours of supervised clinical experience." This again is a change from current practice and increases the practical problems and expense for agencies. It may be very hard to find venues which can supply this much expensive senior supervision time.

47.12c (6) requires that a supervisor shall oversee no more than 6 supervisees, with the caveat that a supervisor & supervisee may request hardship and request an exception. An application for exception looks to be a timely process, and again adds to the burden of current agencies and mental health centers, who may need to hire in a timely fashion. This could shut out social workers looking for clinical supervision.

47.12c (10) administrators have informed us that they would not let notes of supervisory session out of their establishments for confidentiality and legality reasons. This requirement is not practical. I know of no other states which require this nor Licensing Boards which want to take on this level of micro-management.

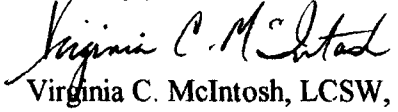
Under 47.12d (11) "the supervisor shall observe client/patient sessions of the supervisee or review recordings of these sessions," it would be very helpful, if the Board would **clarify if "recordings" includes *process recordings* or *written clinical materials***. Small agencies do not have one-way mirrors nor time to listen or watch hours of clinical work. There are agencies and private group practices which will not be willing nor will they have the resources to observe or tape sessions. In addition, some agencies are advised by their attorneys not to record case material, especially with children in them, nor let any such material leave the establishment for off-site supervision. They also won't allow off-site supervisors observe their cases. (See the enclosed email from the nursing home.)

Last, are two issues of importance: The reciprocity clause is included in the marriage and family therapist and the professional counselor chapters but is not in the clinical social work chapter and should be. But in addition, the phrase, "The other jurisdiction in which the applicant is licensed or certified must grant licenses by reciprocity to residents of this Commonwealth who possess a license as a social worker under this act and this chapter [LSW section]," may prevent experienced social workers from other states from attaining reciprocity because other states do not seek reciprocity with this commonwealth and Pennsylvania does not initiate it. Therefore, a clause just stating that equal credentials will qualify experienced clinical social workers for this license would clarify this section and the reciprocity practice, as well as make it available to all qualified applicants.

Secondly, we recognize that there are some experienced clinical social workers who have practiced for many years but do not have clinical experience in the last five years in the last seven years to be grandfathered. They are not accommodated in these regulations. The new section does not address people who have been supervising, administrating and/or teaching, or just not working for one reason or another for two or three years and therefore could not be grandfathered nor qualifying without going back to institutions in order to get 2 hours of supervision in agencies where they are too qualified to be supervised. This new section, 47.12c(c)(1) calls "FOR HOURS OF SUPERVISED CLINICAL EXPERIENCE OBTAINED WITHIN 5 YEARS PRIOR TO ". There needs to be a clause by which these senior professionals, who may have been doing clinical work for many years up until 8 or 9 years ago, may qualify for the LCSW without working as a novice. They could be required to take the exam to qualify for the LCSW, but not be required to fulfill the supervision requirements under 47.12c(c)(1). We would like IRRC to recommend that the Board rectify this oversight.

Thank you for your time and consideration of these matters and any influence you have on the State Board to address these issues in due time is appreciated. Meanwhile, the PA. Social Work Coalition is **strongly recommending that you pass these regulations in spite of their flaws.**

Sincerely yours,



Virginia C. McIntosh, LCSW, BCD, Acting Chair
215-844-1995 or gmacapple@aol.com

Pennsylvania Social Work Coalition
Addendum: Diagnosis

In May, 2001, IRRC asked The State Board of Social Workers, Marriage and Family Therapists, and Professional Counselors if diagnosis would be considered "practice" by any other professional licensing board? This is what we found:

It is in Wisconsin statute, under SFC2.01(9) "Clinical social work " means social work with a clinical emphasis consisting of assessment;' DIAGNOSIS; treatment, including psychotherapy and counseling; client--centered advocacy; consultation; and evaluation.

In the Florida statues (1997) under chapter 491 (7) The "practice of clinical social work" is defined as the ..... The practice of clinical social work includes methods of a psychological nature used to evaluate, assess, DIAGNOSE, treat and prevent emotional and mental disorders and dysfunctions (whether cognitive, affective, or behavioral),.....

Arizona's Revised Statutes, 1990, Volume 10A, Title 32 includes under 32-3251,
7. "Practice of social work" means professional services which are developed to effect change in .....Practice of social work includes:

(a) The use of psychotherapy for the purpose of DIAGNOSIS, evaluation and treatment of individuals, couples, families and groups.

In Ohio the Social Work and Professional Counseling statues include under Section 4757.01 (C) "Practice of social work" means the application of specialized knowledge of human development and behavior and social, economic, and cultural systems in directly assisting individuals, families and groups in a clinical setting to improve or restore their capacity for social functioning, including counseling, the use of psychosocial interventions, and the use of social psychotherapy, which includes the DIAGNOSIS and treatment of mental and emotional disorders.

In Delaware Law,c.462, under 3902 (2) "Clinical social work" shall mean the application of social work theory and methods, which may include the person-in-environment perspective, to the assessment, DIAGNOSIS, prevention and treatment of biopsychosocial dysfunction, disability and impairment, including mental and emotional disorders, developmental disabilities and substance abuse. The application of social work method and theory includes, but is not restricted to, assessment (excluding administration of the psychological tests which are reserved exclusively for use by licensed psychologists pursuant chapter 35 of this title), DIAGNOSIS, treatment planning and psychotherapy with individuals, couples, families and groups, case management, advocacy, crisis intervention and supervision of and consultation about clinical social work practice."

New York and California have different kinds of certification and licensing laws but both include diagnosis as part of the clinical social work scope of practice.

Subj: **Comment on LCSW Regulations**
Date: 12/5/2001 9:27:43 PM !!!First Boot!!!
From: bmack@voicenet.com (Burroughs Mack)
To: gmacapple@aol.com

Thank you for the opportunity to comment on the revised regulations to the LCSW law. As an executive director of a human service agency which employs master's level clinical social workers, our organization, and ultimately our clients, will be significantly impacted by these regulations if they are instituted in their current form.

While I understand and appreciate the intent of the regulations, I have serious concerns about the practical aspects of implementing them in an agency setting, particularly in a smaller, community-based agency.

My first concern is with the standards for supervisors. First, the requirement for written permission from each patient/client giving permission for the supervisee to discuss the case with the supervisor, while well-intentioned, is unnecessary and impractical. I would suggest that it takes up time that could be used more productively, creates more unnecessary paperwork, and will have the effect of discouraging clients from beginning or continuing their work with someone who might be perceived as a "trainee," while unnecessarily raising concerns about privacy and confidentially. There are already regulations, standards, and ethical codes which adequately address the very real confidentiality and privacy issues which are commonly encountered in agency practice.

Second, the requirement for direct observation or review of recordings does not specify the frequency of observation required. Obviously, this could be a very time consuming, and therefore expensive requirement. For agencies who do not currently provide live supervision, there would be a substantial initial investment in equipment to implement this regulation.

My third concern is for the overall level of supervisory documentation required by the regulations. Quarterly written evaluations (and discussion of same), for example, would significantly increase the time and therefore the cost of supervision.

The increased costs associated with the implementation of these proposed regulations would most likely be such that I would avoid hiring a new MSW social worker who would need to accumulate 3600 hours of supervised experienced. It would most likely be more cost efficient to hire someone who already had the LCSW credential, or simply to employ other qualified professionals.

Burroughs P. Mack, M.S.S.
Executive Director
Family Service of Chester County
West Chester, PA

———— Headers ————
Return-Path: <bmack@voicenet.com>

Subj: **Re: [pscsw] IMPORTANT: Final chance to comment on LCSW regulations**
Date: 12/1/2001 2:58:41 AM !!First Boot!!!
From: shobhanakanal@hotmail.com (Shobhana Kanal)
To: gmacapple@aol.com

Dear Ginny:

Thank you for sending the information about the revised LCSW regulations. A couple of questions and comments: in item (11) of the list of supervisor requirements, does "review recordings of sessions" refer only to audio recordings, or would written process recordings count? Many clients will balk at being tape recorded. Must each and every session be either observed or recorded, or can the supervisor check on an occasional session?

I doubt most agencies would support their supervisory staffs' taking the time to observe sessions regularly, or listen to audio tapes, or review weekly process recordings. Especially if a supervisor has six supervisees, this adds up to a lot of time, unless only a couple of sessions per year need to be studied this closely for each supervisee.

For those of us who graduated one to five years ago: it sounds as though, if less than half our clinical hours were supervised by a clinical social worker, none of our experience to date will count towards the practice requirements for the LCSW, and we have to start from scratch now (or as soon as we can line up a clinical social worker to start providing supervision). Am I reading that right?

Thank you for all your work on licensure!

Sincerely,

Shobhi Kanal, MSS, LSW

>From: gmacapple@aol.com
>To: pscsw@yahoogroups.com
>Subject: [pscsw] IMPORTANT: Final chance to comment on LCSW regulations
>Date: Fri, 30 Nov 2001 16:59:34 EST
>
>IMPORTANT: Final regulation comment period--ACT Fast
>

---------- Headers ----------
Return-Path: <shobhanakanal@hotmail.com>
Received: from rly-yg01.mx.aol.com (rly-yg01.mail.aol.com [172.18.147.1]) by air-yg01.mail.aol.com (v82.22) with ESMTP id MAILINYG19-1130215841; Fri, 30 Nov 2001 21:58:41 -0500
Received: from hotmail.com (f28.law6.hotmail.com [216.32.241.28]) by rly-yg01.mx.aol.com (v82.22) with ESMTP id

437 E. Mt. Airy Avenue
Philadelphia, PA 19119

December 7, 2001

Ginny McIntosh
Fax 215-843-5318
Philadelphia Society of Clinical Social Workers

Dear Ms McIntosh:

Please include my Comments, as follows, in your upcoming communication with the Honorable Representative Mario Civera.

RE: Proposed LCSW regulations

I graduated with an MSS in May 1999. I passed the clinical level social work examination and received my LSW license in May, 1999. I do not have the experience to be grandparented in as an LCSW.

I am very concerned about the intensity of the proposed supervisory criteria. I am employed as a Mental Health Therapist in nursing homes. My employer does not provide clinical supervision. Therefore I, myself, hire a Licensed Clinical Social Worker for one hour of supervision per week. In this situation, the following LCSW licensing criteria would be unworkable.

- My off-site supervisor is not "empowered to recommend the interruption or termination of my activities in providing services to a patient." Nursing home staff refer clients to me. My off-site supervisor has no professional relationship with the nursing home.

- I would not be able to "obtain written permission from each patient to discuss his case with the supervisor." Although I work in nursing homes, my actual employer is a psychiatric hospital who contracts with nursing homes to provide the nursing homes with mental health therapists. The nursing-home Administrators would not allow me to obtain written permission from their residents to discuss cases with my supervisor who is off site and unknown and unaccountable to the nursing home.

- My off-site supervisor would not be able to "observe client sessions." Again, the reason is that my supervisor is not connected to the nursing homes. Furthermore, I believe the nursing home Administrator would not permit me to record psychotherapy sessions for my supervisor to review because of stringent nursing home regulations regarding Resident Rights.

- My off-site supervisor would not be able to "observe cooperative encounters" between myself and other nursing home staff who are "professionals in other disciplines."

Respectfully Submitted,

Martha Shur Isard LSW

Martha Shur Isard, MSS, LSW

Mental Health Therapist
Friends Professional Associates, New Courtland Project
Home Telephone: 215-247-8961

ORIGINAL: 2178

IRRC

From: Mindy Fuchs [mkfuchs@stargate.net]
Sent: Thursday, December 06, 2001 9:21 AM
To: IRRC
Cc: exec@nasw-pa.org
Subject: LCSW regulations

Hello,

I am concerned about the proposed regulations for LCSW' s regarding supervision. Consideration should be made relative to what is happening in today's society. More people are in need of mental health services because of the added stress and anxiety of terrorism. In many rural areas such as Washington County, there appears to already be an unbalanced ratio of client to therapist. Clients in need of services often have to wait 8 weeks for an appointment. There are some insurance networks that require only LSW's and they provide excellent services to patients. The required 3600 hours is extreme. Review of the licensure exam shows that over 75% of the questions are clinically related. Social workers who pass this exam and have graduated from accredited MSW programs that include intensive field training already have valuable experience. The addition of 3600 hours delays many qualified practitioners from servicing people in need. While regulations are necessary for the protection of clients / patients, they can be detrimental for providing effective, efficient, and quality service to these people in need. We all need to keep in mind the growing issues in today's society. Awareness, education, and acceptance have bolstered the mental health field. More and more people are going to therapists and counselors. We also need to keep in mind the future of clinical social work. Look what is happening in the nursing field. The shortage of nurses continues to grow. Ask anyone who has recently been a patient the hospital about his / her experience. Strict regulations (along with low income) can diminish future social workers resulting in a shortage of service providers. Then, are we really serving?

Please consider these important concerns for the proposed LCSW regulations:

47.12c(b)(3) *Supervisee shall disclose his status...* This can lower the confidence for the patient and what if the patient refuses to sign the release form? Do resident physicians tell their patients that they are residents? And if so, how does that make the patient who is suffering from a critical illness, feel? How happy are you when a "student" takes care of you?

47.12c(b)(5) *The supervisee, or one to whom supervisory responsibilities...1 hour per 20 hours of supervised clinical experience.* Many supervisors have their own work load. This additional hour for individual meeting with the supervisee adds more onto their existing load and takes his / her time away from other duties. This is NOT efficient nor cost effective. Also, what does "to whom supervisory responsibilities have been delegated" mean. Can a supervisor designate the receptionist or someone else as supervisor? This contradicts the rigid regulations proposed for supervisors themselves.

47.12c(b)(8) *Supervised work activity will be counted toward satisfying...if it takes place in a single setting...* What happens if the agency the supervisee is working in closes? does that negate accrued supervised hours? This field of work often lends itself to employment at more than one agency and as part time status. Part time employee status is appealing to many agencies because of budget issues (no payment of benefits for part timers). Therefore, not only is this penalizing the social worker who works part time, but it also causes negative consequences for the agencies.

47.12c(b)(9) *The supervised clinical experience shall be completed in no less than 2 years...no more than 1800 hours may be credited in any 12 month period.* First, "The supervised clinical experience" sounds like something one would get at a day spa. Placing these controlled time frames on social workers who have already completed accredited academic training, intensive internships, and a licensing exam, who are required to complete 30 hours of continuing education every 2 years, and who want to serve patients and communities (and not for the financial incentive) adds to their personal stress. This regulation does not take into account those workers who may work part time at 15 hours per week.

47.12d(6) *The supervisor shall be empowered to recommend the interruption...to terminate the supervisory*

relationship. What kind of recourse does the supervisee have? Does the supervisee have the right to appeal this type of issue?

47.12d(7) *The supervisor shall ensure that the...discuss his case with he supervisor.* Redundant -- this has already been addressed in 47.12c(b)(3).

47.12d(11) *The supervisor shall observe client / patient sessions or review recordings of these session.* Are these recordings video, audio, or written records? How often is this required? This would require yet another form for the client / patient to sign. Consideration MUST be made for the clients / patients who we are serving. Someone in an emotional crisis does not want to spend part of the session trying to understand regulations and filling out forms.

Thank you for your time and attention in this critical matter.

Pennsylvania Psychiatric Society

The Pennsylvania District Branch of the American Psychiatric Association

ORIGINAL: 2178

December 21, 2001

John R. McGinley, Jr., Esq., Chair
Independent Regulatory Review Commission
14th Floor, Harristown 2
333 Market Street
Harrisburg, PA 17101

Dear Mr. McGinley:

I am writing on behalf of the members of the Pennsylvania Psychiatric Society to comment on Final Regulation 2178 (16A-694). This regulation sets standards for the new licensing categories of Clinical Social Worker, Marriage and Family Therapist, and Professional Counselor, pursuant to Act 136 of 1998. Our interest in the regulations derives from our role in determining the final language of the authorizing legislation and from our professional commitment to the treatment of the mentally ill.

We support adoption of these regulations, since they correct the two greatest problems that we identified in the earlier, proposed regulations. The section allowing clinical social workers to diagnose mental illnesses has been eliminated (as we pointed out in our earlier comments, diagnosis is not in the scope of practice delineated in Act 136). Second, a definition of "related field" has been added, clearly and appropriately allowing supervision of trainees by psychiatrists.

Several other sections of the regulations are less than ideal – such as allowing one person to supervise up to 6 trainees, and allowing counselors to provide psychotherapy without requiring coursework in the subject. We would prefer that the regulations repeat the Act's critical requirement for referring patients to others when biologically-based illnesses (such as schizophrenia) may be present.

Nevertheless, on balance we believe that adoption of these regulations is appropriate because they seem consistent with the Act and will protect the public through educational and ethical standards that are otherwise unenforceable.

As always, we appreciate the opportunity to present our perspective, and we appreciate the Commission's commitment to the process of public comment and review.

Sincerely yours,

Lawrence A. Real, MD
President

cc: The Honorable Mario Civera
The Honorable Clarence Bell

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