

February 17, 2010

Colleagues:

Recently OASAS General Counsel was asked the following question: Can a CASAC or CASAC-T perform clinical functions if the exemption for OASAS programs sunsets?

Counsel reviewed the legislative history and found that prior to 2002, the practice of psychotherapy was not regulated. In 2002, New York State provided title protection under the State Education Law for “licensed psychologists and certified social workers” under Article 153 (Psychology – enacted September 2003) and Article 154 (Social Work – enacted September 2004). At the same time, New York State also provided title protection for “licensed mental health practitioners” in Article 163 (Creative Arts Therapists, Licensed Mental Health Counselors, Psychoanalysts, and Marriage and Family Therapists) which was enacted January 2005 and enforced as of January 2006.

Included in this legislation was an exemption from “licensure” for individuals employed by programs regulated, funded, operated or approved by OMH, OMRDD, OASAS, OCFS, LGU or local social services districts that was set to expire January 1, 2010. As part of the 2009 State Budget, this exemption was extended five months and is set to expire on June 1, 2010. Governor David Paterson’s 2010-11 Executive Budget contains provisions to extend this exemption until June 1, 2014. This exemption was necessary because enactment of these laws created an issue for programs certified and operated by OASAS, OMH, OMRDD and OCFS which use paraprofessionals to perform duties that fall within the scopes of practice and do not hold any of the licenses or other credentials.

The 2002 legislation also included language that permanently allows “any individual who is a credentialed alcoholism and substance abuse counselor” to continue to perform their activities and services even though they fall within the scopes of practice of these other professional licenses.

Therefore, after review of the legislative history, it is clear that CASACs and CASAC-Ts may continue to perform clinical functions within OASAS-certified programs based on the permanent exemption contained in the 2002 legislation.

Sincerely,



Robert A. Kent
General Counsel