



February 7, 2014

Colleagues:

Recently OASAS General Counsel was asked the following question: Can NYS licensed Psychoanalysts be included on the OASAS Impaired Driver Services provider list?

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 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.

OASAS is charged with the responsibility of compiling and maintaining an authorized listing of agencies and professionals who are determined to be capable of providing screening, assessment, and treatment of alcohol and substance abuse dependency for individuals charged with or convicted of an impaired driving offense. Currently, the listing includes the following eligible licensed professionals: Licensed Clinical Social Worker, Licensed Marriage and Family Therapist, Licensed Mental Health Counselor, Physician, Psychiatrist, Psychologist, and Nurse Practitioner.

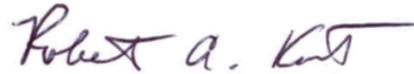
Under Article 163, licensed psychoanalysts examine “unconscious mental processes” that impact “personality and behavior” in order to identify and treat “psychic problems” that effect “interpersonal relationships.” In order to “facilitate changes in personality and behavior,” licensed psychoanalysts use “assessment instruments and mental health counseling.”

When compared to licensed marriage and family therapists, who are listed as eligible licensed professionals, several similarities exist. Like licensed psychoanalysts, under Article 163, licensed marriage and family therapists seek to identify and treat mental problems that effect “interpersonal” relationships. Additionally, licensed marriage and family therapists use “assessment instruments and mental health counseling.” Most importantly, licensed marriage and family therapists use “psychotherapy” and “psychotherapeutic techniques” to treat mental and behavioral problems.

Licensed psychoanalysts and licensed marriage and family therapists differ primarily in each profession’s focus on identifying and treating mental and behavioral problems as stemming from unconscious versus conscious mental processes. These two professions also differ with respect to their scopes of practice because they serve different clientele, as demonstrated by marriage and family therapists’ commitment to problems traditionally only within the context of familial relationships.

After a review of legislative history, current eligible licensed professionals, and Article 163's description of licensed psychoanalysts, it appears that licensed psychoanalysts' scope of practice is consistent with that necessary to perform screening, assessment, and treatment services to impaired driving clients. Thus, it is my conclusion that licensed Psychoanalysts are eligible to seek placement on the OASAS Impaired Driver Services list.

Sincerely,

A handwritten signature in dark ink, appearing to read "Robert A. Kent". The signature is written in a cursive style with a long horizontal stroke at the end.

Robert A. Kent
General Counsel