

EFFECTIVE UNTIL APRIL 1, 2021:

14 NYCRR Part 853 is REPEALED and REPLACED with a new Part 853 to read as follows:

Credentialing of Addictions Professionals

[Statutory Authority: Mental Hygiene Law § 19.07(a), 19.07(d), 19.20, 19.20-a, 32.01 and 32.02;
Executive Law §554, 495; Chapter 501 of the Laws of 2012]

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§853.1 Legal base

- (a) Section 19.07(a) of the Mental Hygiene Law charges the Office of Alcoholism and Substance Abuse Services (OASAS or “Office”) with assuring the development of comprehensive plans, programs and services for research, prevention, care, treatment, rehabilitation, education and training related to substance use disorder and compulsive gambling.
- (b) Section 19.07(d) of the Mental Hygiene Law directs the Office to foster programs for the training and development of persons capable of providing substance use disorder and gambling addiction

services; to establish minimum qualifications for credentialed professionals; to issue credentials to persons who meet such qualifications; to suspend or revoke such credentials for good cause; and to establish a credentialing board to provide advice concerning the credentialing process.

(c) Section 19.20 of the Mental Hygiene Law authorizes the Office to receive and review criminal history information from the Justice Center related to employees or volunteers of treatment facilities certified, licensed or operated by the Office.

(d) Section 19.20-a of the Mental Hygiene Law authorizes the Office to receive and review criminal history information from the Justice Center related to persons seeking to be credentialed by the Office or applicants for an operating certificate issued by the Office.

(e) Section 32.01 of the Mental Hygiene Law authorizes the Commissioner of the Office to adopt any regulation reasonably necessary to implement and effectively exercise the powers and perform the duties conferred by Article 32 of the Mental Hygiene Law.

(f) Section 32.02 of the Mental Hygiene Law authorizes the Commissioner of the Office to adopt regulations necessary to ensure quality services to those suffering from problem gambling disorder.

(g) Section 554 of the Executive Law (Chapter 501 of the Laws of 2012), requires custodians, as defined in Part 836 of this Title, in programs licensed, certified or operated by the Office to adhere to the code of conduct for custodians developed by the Justice Center.

(h) The Protection of People with Special Needs Act (Chapter 501 of the Laws of 2012) establishes the Justice Center and requires criminal history information reviews be conducted for applicants for any credential issued by the Office pursuant to this Part.

(i) Section 495 of the Executive Law (Chapter 501 of the Laws of 2012) establishes the “Register of Substantiated Category One Cases of Abuse and Neglect” maintained by the Justice Center.

(j) Article 23-A of the Corrections Law is applicable to any application for a credential by a person who has previously been convicted of one or more criminal offenses in New York or in any other jurisdiction.

(k) Sections 308-a and 308-b of the Military Law provide for the preservation and extension of professional licenses held by persons in active military service.

§853.2 Applicability

The provisions of this Part shall apply to any person who, on or after the effective date of this Part, holds a current credential or initiates an application for a new credential or designation, or to renew or re-

activate an existing or inactive credential or designation issued and overseen by the Office pursuant to this Part.

§853.3 Definitions

- (a) “Active application period” means five (5) years from the date the Office receives an initial application. A credential or designation must be obtained during an active application period.
- (b) “Addiction services” means services delivered by a certified or authorized provider or program for the prevention, treatment or recovery from an addiction disorder limited to substance use disorder, as defined in Part 800 of this Title, gambling disorder as defined in the most recent edition of the Diagnostic and Statistical Manual (DSM), or problem gambling which means gambling behavior meeting less than four (4) of the DSM criteria for gambling disorder.
- (c) “Applicant” means a person who initiates an application for a new credential or designation, to renew or re-activate an existing credential, or to request permission to apply after a credential has been revoked.
- (d) “Approved work setting” means a program which meets one or more of the following conditions:
 - (1) is operated by the Office or holds a valid operating certificate issued by the Office; or
 - (2) is authorized by a licensing authority of another state or is a program providing addiction services consistent with OASAS’ standards and is licensed or operated by another New York state agency or the federal government such as the Indian Health Service or the Veterans’ Administration; or
 - (3) is a non-certified setting which provides addiction services such that it affords an applicant:
 - (i) the opportunity to establish proficiency in one or more of the professional competencies associated with a credential administered by the Office; and
 - (ii) on-site supervision by a Qualified Health Professional defined in Part 800 of this Title who meets the supervisory standards established by the Office.
- (e) “CASAC-T” or “CASAC-Trainee” means a person who has completed a specified level of education and training towards a CASAC but whose scope of practice is limited by standards established by the Office.
- (f) “Credentialed professional” means a Credentialed Alcoholism and Substance Abuse Counselor (“CASAC”), a Credentialed Prevention Professional (“CPP”), Credentialed Prevention Specialist (“CPS”), any of the preceding credentialed professionals with an additional Gambling designation (“CASAC-G,” “CPP-G,” “CPS-G,”), a Certified Problem Gambling Counselor (“CPGC”), a

Credentialed Alcoholism and Substance Abuse Counselor Trainee (“CASAC-T”), or a person holding any other credential which may be overseen by the office.

(g) “Dual relationship” or “multiple relationship” means a professional relating to a service recipient, their significant others or family members in more than one context whether professional, sexual, social or business. Dual relationships can occur simultaneously or sequentially (past, present or future) and have potential for abuse.

(h) “Justice Center” means the Justice Center for the Protection of People with Special Needs.

(i) “Prevention” and “prevention services” means a proactive, evidence-based process with focus on increasing protective factors and decreasing risk factors associated with alcohol, substance abuse, and problem gambling behavior in individuals, families, and communities.

(j) “Qualified Prevention Supervisor” means a person who meets at least one of the following criteria:

(1) is a Credentialed Prevention Professional (CPP);

(2) is licensed, certified or credentialed in a related discipline with a minimum of two (2) years of qualifying prevention work experience and has completed a minimum of thirty (30) hours of prevention-specific education and training. For purposes of this Part, related disciplines shall include: CASAC, CPGC; Certified Public Health Administrator (“CPHA”), NY State Education Licensed or Certified Teacher, Health Educator, Guidance Counselor, Rehabilitation Counselor, Social Worker, Licensed Mental Health Practitioner, Registered Nurse, Physician, or a counselor certified by the National Board of Certified Counselors; Certified Health Education Specialist; or

(3) is approved at the discretion of the Office.

(k) “Renewal period” means the three (3) year period between a credential issue date and date of expiration.

(l) “Scope of practice” means a framework for practice and supervisory functions of credentialed and licensed professionals defined by the Office or other licensing agency in statute, regulation or guidance.

(m) “Staff Exclusion List” (“SEL”) means the statewide register maintained by the Justice Center containing the names of individuals found responsible for serious or repeated acts of abuse or neglect in their role as custodians. Individuals with either a *single* substantiated “Category 1” offense or *two* substantiated “Category 2” offenses within a three-year period are placed on the List and are prohibited from future care of vulnerable persons in the State of New York.

§853.4 Credentials board

(a) *Membership composition.* (1) The commissioner shall appoint no more than fifteen (15) members to serve on the credentials board to ensure a membership representative of the diverse field of substance use disorder and gambling disorder prevention, treatment and recovery.

(2) At least three (3) members must be CASACs, at least three (3) members must be CPPs and at least three (3) members must be CPGCs or hold a specialty designation in problem gambling treatment or prevention.

(3) No member shall be an employee of the Office.

(4) At least one member must be a QHP other than, or in addition to being, a CASAC, CPP/CPS or CPGC, or CASAC or CPP/CPS with a Gambling designation.

(5) At least three (3) members shall be consumers or members of the general public or holders of any new credential which may be established by the Office.

(b) *Membership terms.* Credentials board members shall serve terms of three (3) years.

(c) *Designation of chairperson.* The chairperson of the credentials board must be designated by the members of the board in accordance with the board's bylaws.

(d) *Reappointments.* (1) Reappointments may be made at the discretion of the commissioner except that no person shall serve more than two (2) consecutive terms.

(2) Former members of the credentials board may be reappointed after an absence of at least three (3) years.

(e) *Limitations.* No board member shall also serve as an officer or board member of any professional association representing regional or statewide alcoholism and substance abuse counselors, prevention practitioners or problem gambling counselors while serving as a member of the credentials board.

(f) *Functions.* (1) The credentials board shall serve in an advisory capacity to the commissioner concerning the credentialing process;

(2) The credentials board must establish written bylaws.

(g) *Removal of board members.* Members of the credentials board serve at the pleasure of the commissioner and may be removed without cause.

§853.5 Minimum qualifications for all credentials

- (a) An applicant must attest that: (1) at the time of initial application, s/he is at least eighteen (18) years of age; and
 - (2) At the time of credentialing, s/he is a resident of New York state; or, has lived or worked in New York state at least 51 percent of the time during the active application period.
- (b) *Completed education.* (1) An applicant for a CASAC or CPS must have earned at least a high school diploma or a general equivalency diploma.
 - (2) An applicant for a CPP must have earned at least a bachelor's degree.
- (c) *Criminal history information review.* An applicant for any credential or renewal must comply with the provisions of Part 805 of this Title in relation to provision of fingerprints and required criminal history information review.

853.6 Credentialing applications

- (a) *Forms.* Applications for all credentials and all credential status changes must be made on forms provided by the Office and must include the requisite fee as determined by the Office.
- (b) *Signed by applicant.* Each application, including an affidavit stating the applicant agrees to abide by the applicable Canon of Ethical Principles or Professional Code and Ethical Standards for the profession and the Code of Conduct for Custodians, must be initialed and signed by the applicant.
- (c) *Evaluations of character and competence.* (1) Each initial CASAC application must include two (2) evaluations of an applicant's work experience completed by persons as identified below with a minimum of six (6) months of direct knowledge of the applicant's supervised performance in the specified areas (evaluations from family members or subordinates of the applicant will not be accepted).
 - (i) the applicant's current clinical supervisor (in the absence of a current clinical supervisor, the evaluator may be the applicant's most recent clinical supervisor);
 - (ii) a current CASAC in good standing or person holding a comparable credential, certificate or license from another recognized certifying body as determined by the Office.
- (2) Each initial CPP or CPS application must include two (2) evaluations of an applicant's work experience completed by separate individuals, as follows (evaluations from family members or subordinates of the applicant will not be accepted):
 - (i) the applicant's current Qualified Prevention Supervisor (in the absence of a current Qualified Prevention Supervisor, the evaluator may be the applicant's most recent Qualified Prevention Supervisor); and

(ii) one individual familiar with the applicant's work in providing addiction disorder prevention services; such individuals must be a current CPP/CPS in good standing, or meet the prevention staffing qualifications outlined by the Office.

(3) Nothing in this subdivision shall be construed to exclude, by itself, any person who is a recovering individual, or has received mental health, substance use disorder or gambling disorder treatment services, or may have had a conflict with the legal system, provided that such individual provides a written attestation to a period of one year or more of rehabilitation; such one year period must include the year immediately prior to submitting a completed application.

(4) An applicant must notify the Office of any disciplinary action taken or any pending disciplinary action against the applicant as holder of any other license or certification issued by New York or any other federal or state authority.

(d) *Work experience.* (1) As applicable, requirements set forth in sections 853.7, 853.8, and 853.9 of this Part must be documented and shall be subject to verification and approval by the Office.

(2) Work experience may not include any experience gained during the course of, or as part of, or required by, an applicant's participation as a service recipient in a formal problem gambling or substance use disorder treatment program.

(3) Supervised practical training completed through a formal internship or formal field placement may be claimed as either work experience based on the number of hours worked, or as education and training clock hours based on the academic credit associated with completion (not the number of hours served in the field).

(e) *Education and training.* (1) Applicants for a CPP or CPS may claim participation in conferences sponsored by professional organizations to meet a maximum of thirty (30) hours of the education and training requirements of this Part for any credential.

(2) Four (4) hours of "Tobacco and Nicotine Dependence," fifteen (15) hours of "Cultural Competence," two (2) hours of "Child Abuse and Maltreatment Mandated Reporter" training, three (3) hours of training in medication assisted treatment, and fifteen (15) hours of training specific to ethics for addictions professionals must be completed and documented.

(3) Education and training for the CASAC credential must be obtained through an OASAS certified education and training provider or an accredited college or university as approved by the Office. Education for the CPP/CPS credentials may also be accepted from a governmental agency, or other entities, as approved by the Office.

(4) Requirements for renewal are found in 853.11.

(f) *Current contact information.* (1) Applicants must provide the Office with current contact information at all times including any changes to names, preferred mailing addresses (home and work), telephone numbers (home, work and cell phone), and email address(es) within ten (10) days of any such change.

(2) Failure to maintain current contact information may result in the expiration of the credential, imposition of a fine, or both.

(g) *Fees and fines.* (1) Each application submitted must include the requisite fee for the specific credential or change in credential status as determined by the Office and indicated below:

(i) CASAC:

(a) Initial application processing fee: \$100.00

(b) Computer based examination fee: \$245.00

(c) Renewal application processing fee: \$150.00

(d) Renewal fee for dual credential holders: \$100.00 (for each credential)

(e) Late renewal fee: \$25.00

(f) Reactivation fee: \$350.00

(g) Failure to update address fine: \$25.00

(ii) CPP / CPS

(a) Initial application processing fee: \$100.00

(b) Computer based examination fee: \$170.00

(c) CPS upgrade fee: \$50.00/\$100 (\$50.00 for upgrade within first year of issuance of CPA; \$100.00 for any time thereafter)

(d) Renewal application processing fee: \$150.00

(e) Renewal fee for dual credential holders: \$100.00 (for each credential)

(f) Late renewal fee: \$25.00

(g) Reactivation fee: \$350.00

(h) Failure to update address fine: \$25.00

(iii) Gambling specialty designation

(a) Processing fee: \$25.00.

(2) Late fees will be assessed for each six (6) month period, or any part thereof, beyond an expiration date and up to a maximum of one year.

(3) Applications cannot be finalized until all fees due, including late fees and outstanding fines, are paid in full.

(h) *Denied applications.* An initial, renewal, or reactivation application may be denied for the following reasons:

(1) The applicant's criminal history information review results in a binding negative determination by the Office; or

(2) The Office determines the application cannot be approved due to documented concerns about the applicant's competency and/or ethical practice including any reprimands, penalties, or other disciplinary action assessed against the applicant in connection with any credential or license held by the applicant; or

(3) The applicant is listed on the Justice Center Staff Exclusion List; or

(4) The application was not submitted as timely and complete.

(5) Denial of a renewal application is subject to the provisions of section 853.17 of this Part.

853.7 Additional qualifications to become a Credentialed Alcoholism and Substance Abuse Counselor (CASAC) or CASAC-Trainee

(a) *Core competencies.* (1) A CASAC must have the knowledge, skills and attitudes in the competency areas identified by the most current edition of "Addiction Counseling Competencies: The Knowledge, Skills and Attitudes of Professional Practice." (Technical Assistance Publication (TAP) Series 21. US Department of Health and Human Services, Substance Abuse and Mental Health Services Administration (SAMSHA), Center for Substance Abuse Treatment, publication No. (SMA) 08-4171, Rockville, MD). These competencies represent acquired knowledge, skills and attitudes demonstrated in supervised practical training in an approved work setting.

(2) In a work setting a CASAC or CASAC-T may be limited in their scope of practice depending on the counselor's level of education and experience. Counselors may not knowingly work outside of their scope of practice as defined in standards issued by the Office and available on the agency website.

(b) *Work experience.* (1) An applicant must complete and document a minimum of 6,000 hours of supervised work experience, including provision of direct services, in an approved work setting.

(i) At least 2,000 hours of such 6,000 hours of work experience claimed must have been gained during the five (5) years prior to the applicant's submission of work hours to the Office.

(ii) At least 50 percent of work experience must be obtained in any approved work setting defined in 853.3(d) (1) or (2); the other 50 percent may be obtained in an approved work setting as defined in 853.3(d)(3).

(iii) Work experience must include a minimum of 300 hours of supervised practical training in the core competencies referenced in subdivision (a) of this section, while working with service recipients in an approved work setting. Each of the core competencies must be performed for a minimum of ten (10) hours under the direct supervision of a QHP.

(2) Applicants who hold higher educational degrees from an accredited college or institution in an approved human services field, as defined by the Office, may substitute the highest level degree for work experience requirements of paragraph (1) as follows:

(i) an associate's degree may substitute for a maximum of 1,000 hours of work experience;

(ii) a bachelor's degree may substitute for a maximum of 2,000 hours of work experience;

(iii) a master's degree or higher may substitute for a maximum of 4,000 hours of work experience.

(3) Work experience must include regular, on-site documented clinical supervision by a QHP.

(c) *Education and Training.* An applicant must have completed 350 clock hours of education and training as determined by the Office. Minimum hourly subject matter requirements may be established and approved by the Office.

(d) *CASAC-Trainee.* (1) The Office shall issue a Credentialed Alcoholism and Substance Abuse Counselor Trainee (CASAC-T) certificate to an applicant who has met the minimum qualifications of section 853.5(a) and (b) of this Part and:

(i) has completed the 350 clock hours of education and training as required by the Office, or

(ii) has completed: a minimum of 4,000 of the required 6,000 hours of work experience as required by the Office, a minimum of 85 clock hours of education and training as required by the Office, and fifteen (15) hours of addiction specific ethics for counselors.

(2) A CASAC-Trainee certificate shall be valid from the date of issuance until the end of the five-year active application period, unless the trainee certificate is revoked by the Office.

(3) No applicant shall be considered for a CASAC-Trainee a second time.

(4) A CASAC-Trainee ("CASAC-T") may not be considered a Qualified Health Professional ("QHP") as defined in Part 800 of this Title for any purpose other than satisfying a qualified health professional clinical staff ratio requirement.

(e) *Examination.* (1) An applicant must pass the International Certification and Reciprocity Consortium (IC&RC) Alcohol and Drug Counselor (ADC) examination to receive a CASAC credential.

(2) The examination may be administered to an applicant who complies with §853.5(a) and (b) and has completed the required minimum 350 hours of education and training.

(3) If the applicant receives a passing score, such person will be eligible to receive a CASAC credential upon Office determination that all eligibility requirements have been completed.

§853.8 Additional qualifications to become a Credentialed Prevention Professional (CPP) or Credentialed Prevention Specialist (CPS)

(a) *Performance domains.* Both a Credentialed Prevention Professional (CPP) and a Credentialed Prevention Specialist (CPS) must demonstrate knowledge of, and ability to engage in, a range of professional activities consistent with the performance domains standardized by the International Certification & Reciprocity Consortium (IC&RC) and the National Academy of Medicine. These requirements, including more detail of required knowledge and skills, are found on the OASAS website and in the credentialing application.

(b) *Education and training.* Minimum hourly subject matter requirements may be established and approved by the Office.

(c) *Work experience.* At least 1,000 hours of the documented hours of work experience required for each credential as indicated in this section must have been gained during the five (5) years prior to the applicant's submission to the Office of the required hours of documented work experience.

(d) *Credentialed Prevention Specialist (CPS).* (1) *Work experience.* An applicant must have completed a minimum of 2,000 hours of supervised experience in an approved work setting as a direct service prevention staff member or supervisor of prevention services.

(2) *Education and Training.* An applicant must have completed 120 hours of education and training as determined by the Office.

(3) *Option to acquire Credentialed Prevention Professional (CPP) credential.* Persons with a bachelor's degree holding a valid CPS credential may acquire a CPP credential for a full three-year period upon submission of a required application fee, provided the requirements of subdivision (e) of this section are completed within the person's first credential renewal period (application fee is greater if the requirements in subdivision (e) are completed at any time after the first credential renewal period).

(e) *Credentialed Prevention Professional (CPP)*. (1) Work experience. An applicant must have completed a minimum of 4,000 hours of supervised experience in an approved work setting as a direct service prevention staff member or supervisor of prevention services. Work experience must include the performance domains standardized by the IC&RC referenced in subdivision (a) of this section.

(i) at least 50 percent (50%) of work experience claimed must be obtained in an approved work setting;

(ii) an applicant having a master's degree or higher in an approved human services field, as defined by the Office, from an accredited college or institution, may substitute such degree for a maximum of 2,000 hours of work experience;

(iii) work experience must include a minimum of 120 hours of supervised practical training in the IC&RC performance domains by a Qualified Prevention Supervisor.

(2) Education and training. An applicant must have successfully completed a minimum of 250 clock hours of education and training as determined by the Office.

(f) *Examination*. Applicants for both a CPP and CPS credential must pass the Credentialed Prevention Specialist examination administered under the direction of the Office. The examination may be administered to any applicant who has completed the education and training requirements for the CPS credential.

§853.9 Additional qualifications to receive a Gambling designation

(a) *Gambling designations*. A CASAC, a CPP or CPS may acquire an additional Gambling specialty designation (CASAC-G, CPP-G or CPS-G) by meeting additional requirements as determined by the Office and available from the Office credentialing website and in the designation application.

(b) *Previously Credentialed Problem Gambling Counselor (CPGC)*. (1) Individuals whose CPGC is valid at the time of the adoption of this Part, may, upon expiration of their credential:

(i) renew the credential pursuant to section 853.11(b) of this Part; or

(ii) if the individual is also a CASAC or CPP or CPS, such person may apply for a Gambling designation pursuant to subdivision (a) of this section; or

(iii) if the individual is a licensed social worker or mental health practitioner with no additional OASAS credential, such person may be eligible for inclusion on the OASAS listing of recognized problem gambling professionals as a Qualified Problem Gambling Professional as defined in Part 857.

§853.10 Issuance and registration of credentials

- (a) *Issuance of credential.* Each credential shall include, in the manner deemed appropriate by the Office, the effective date (date of issue) and expiration date of the credential.
- (b) *Expiration of credential.* Each credential, and any renewal thereafter shall be valid for a period of three (3) years and shall expire on the last day of the three (3) year period, unless suspended, revoked or annulled by the Office prior to the expiration date.
- (c) *Registry.* The Office shall maintain a current registry of all persons issued a credential or gambling designation pursuant to this Part. Counselor and prevention practitioner names, status of credential, credential numbers and cities and states of residence from this registry may be made public by the Office.
- (d) *Criminal History Information Review.* Every credentialed professional must provide updated fingerprints on a schedule as required by state or federal law or regulation.

§853.11 Credential renewal; inactive status

- (a) *Applications.* (1) The completed application for renewal, including all supporting documentation and fees or any request for inactive status, must be received by the Office at least seventy-five (75) days prior to the credential expiration date.
(2) An application for renewal shall be reviewed and evaluated by the Office within sixty (60) days of receipt and a determination made whether the applicant has satisfied the requirements for renewal. All information in the application is subject to verification and approval by the Office.
- (b) *Credential renewal requirements.* Applications for renewal of a credential pursuant to this section must include documentation of:
 - (1) completion of sixty (60) clock hours of continuing education and training relevant to the credential as determined by the Office. Such education and training must have been completed during the renewal applicant's current credentialed period.
 - (2) One (1) evaluation certifying continued competence as a credentialed professional and adherence to the principles of professional conduct from the applicant's most recent supervisor or program director.
- (c) *Expired credentials; inactive status.* (1) If a credentialed professional fails to apply for renewal pursuant to paragraph (2) of subdivision (a) of this section the credential will be invalid upon the date of expiration.

(2) If less than one year has elapsed since the expiration of the credential, the previously credentialed professional may apply to renew the credential in accordance with the renewal provisions of this section and submission of a late renewal fee as determined by the Office.

(3) Prior to expiration, credentialed professionals may apply to have their credential deemed inactive for the next renewal period in accordance with this paragraph.

(i) If an application for inactive status is granted, such status shall expire at the end of one renewal period (three years). Inactive status may be extended for subsequent renewal periods upon application to the Office prior to the end of each renewal period. In no event shall inactive status be extended more than three (3) renewal periods (9 years).

(ii) Inactive credentials may be re-activated during a period of inactive status upon application to the Office, submission of a reactivation fee, and documented completion of any continuing education requirements for each renewal period during which a credential is in inactive status. Failure to submit required documentation prior to the end of the renewal period will result in an expired application.

(4) Persons whose credentials are expired and not renewed or inactive and not re-activated, or are in inactive status for longer than nine (9) years, who wish to become credentialed must initiate a new application pursuant to section 853.6 of this Part.

(d) *Status of persons in active military service.* (1) Any continuing education requirements for any certification period during which active military service occurs shall be waived and such requirements shall be adjusted *pro rata* where such service is partially within a certification period.

(2) Any credential expiring during a period of active duty shall be extended for the duration of the period of active service and for twelve (12) months after the individual is released from active duty.

§853.12 Reciprocity

(a) *Applicability.* Reciprocity applies only to the CASAC, CPP, and the CPS credentials. The Office, without requiring an examination, shall issue a credential to any applicant determined to be eligible for reciprocity based on the following:

(1) applicant holds a current, valid credential or license eligible for reciprocity from a certifying body recognized by the IC&RC;

(2) the Office receives written verification from the IC&RC that the applicant is duly certified, credentialed or licensed, in good standing, and entitled to reciprocity in New York State;

(3) the Office receives documentation from the certifying body of any disciplinary actions taken against the applicant's certificate, credential or license establishing that any such disciplinary action has been resolved on terms acceptable to the Office; and

(4) the applicant complies with the provisions of Part 805 of this Title.

(b) *Credential issued.* Qualified persons shall be issued the appropriate credential upon:

(1) a determination of eligibility by the Office pursuant to subdivision (a) of this section; and

(2) approval by the Office of the reciprocity application; and

(3) receipt of a signed affidavit stating that the applicant agrees to abide by the applicable Canon of Ethical Principles for the profession governing the applicant's professional activities and the Code of Conduct for Custodians.

(c) *Renewal of credential based on reciprocity.* Upon first renewal, all persons issued a credential based on reciprocity must submit documentation of completion of training as required by the Office in addition to renewal requirements of section 853.11 of this Part.

§853.13 Misconduct

(a) *Canon of Ethics and Codes of Conduct.* Credentialed professionals must abide by the Canon of Ethical Principles or Professional Code and Ethical Standards applicable to their professions and any applicable credential designation and the Justice Center's Code of Conduct for Custodians.

(b) *Violations.* Any person applying for a credential, renewal or reactivation or who holds a valid credential or designation issued by the Office and who engages in misconduct as described in this section or otherwise violates the applicable Canon of Ethical Principles or Professional Code and Ethical Standards for the profession or the Code of Conduct for Custodians may be subject to the penalties or other remedial actions prescribed in this Part.

(c) *Misconduct.* The following constitutes misconduct:

(1) obtaining the credential or designation fraudulently;

(2) practicing or providing services fraudulently, with gross incompetence, with gross negligence on a particular occasion or negligence or incompetence on more than one occasion, or otherwise acting contrary to the interests of a service recipient;

(3) practicing or providing services while under the influence of alcohol and/or other substances;

(4) violating any term or condition or limitation imposed by the Office on the credentialed professional;

(5) refusing to provide services to a person, individual, organization or community because of race, creed, color, gender, age, disability, national origin, sexual orientation, or socioeconomic status;

(6) being convicted of or committing an act constituting a crime under New York state law, federal law, or the law of another jurisdiction which, if committed within New York, would constitute a crime in this state;

(7) promoting the inappropriate sale of services, goods, property or drugs in such manner as to exploit a service recipient for the financial gain of the certified/credentialed professional or of a third party;

(8) directly or indirectly offering, giving, soliciting or receiving, or agreeing to receive, any fee, or other consideration to or from a third party for the referral of a service recipient in connection with the performance of addiction services;

(9) entering into a dual relationship with a service recipient or former service recipient that is outside the boundaries of professional conduct;

(10) engaging in any conduct which would constitute a “reportable incident” as such terms are defined in Part 836 of this Title;

(11) failure by the applicant or credentialed professional to notify the Office of any disciplinary action taken against him or her as the holder of any other license or certification issued by New York state or any other federal or state authority;

(12) professional misconduct as the holder of another license or credential;

(13) unlawful use of the title Credentialed Alcoholism and Substance Abuse Counselor, Credentialed Alcoholism and Substance Abuse Counselor Trainee, Credentialed Prevention Professional, Credentialed Prevention Specialist or Credentialed Problem Gambling Counselor, including use of such title if a credential is inactive, suspended, expired or revoked, or is pending approval of reciprocity;

(14) no person shall use any of the following titles to engage in private practice unless otherwise authorized by law: Credentialed Alcoholism and Substance Abuse Counselor (CASAC), Credentialed Alcoholism and Substance Abuse Counselor Trainee (CASAC trainee), Credentialed Prevention Professional (CPP), Credentialed Prevention Specialist (CPS), or Credentialed Problem Gambling Counselor (CPGC);

(15) knowingly working outside of the scope of practice of the credential as applicable in the work setting.

§853.14 Complaints and investigations

(a) *Nature of complaints reviewed.* (1) A complaint may be made by the Office or by any person to the Office concerning misconduct or other prohibited acts as defined in this Part.

(2) Complaints must be submitted on forms provided by the Office.

(3) Upon receipt of a signed complaint, the Office shall make an initial determination whether the complaint is sufficient to warrant further investigation pursuant to subdivision (b) of this section; complaints deemed insufficient for further investigation may be dismissed at the discretion of the Office.

(b) *Investigation.* (1) Complaints concerning conduct which, if proven, would be sufficient to warrant a penalty or other remedial action shall be investigated by the Office. Subsequent to investigation, the Office may use administrative discretion to:

(i) dismiss a complaint that cannot be defined as misconduct or other prohibited acts; or cannot be substantiated;

(ii) settle complaints upon grounds satisfactory to the commissioner; or

(iii) determine appropriate penalties or remedial action.

(2) Subsequent to the completion of an investigation, the Office shall notify the credentialed professional in writing by certified mail, return receipt requested, and first class mail to the most recent address on file with the Office that a complaint has been filed and that s/he has fifteen (15) days from receipt thereof to submit a detailed statement in response, including any documentation or additional materials to be considered in connection with the complaint. Such notice shall be deemed received three (3) days after mailing.

(3) The results of any Office investigation may be provided to the Justice Center; results of any Justice Center investigation regarding the subject of the complaint may be provided to the Office. The Office may consider as a binding final agency determination against the credentialed person any determination by the Justice Center that results in placement on the Staff Exclusion List.

§853.15 Penalties

(a) *Penalties.* Any person who engages in any acts prohibited by section 853.13 of this Part shall be subject to one or more of the following penalties imposed by the commissioner, or as otherwise authorized by law:

(1) Administrative reprimand. Written notice citing an initial instance of misconduct or misconduct of a minor or technical nature. Such notice may include instructions to obtain remedial education and training, an assessment and any recommended course of therapy or treatment, supervision and/or payment of a fine within a stated period of time. Failure to comply with terms of an administrative reprimand within the specified time shall be grounds for suspension of the credential until the credentialed person submits documentation satisfactory to the Office establishing compliance.

(2) Suspension. A suspended credential is invalid until the terms and conditions of suspension are met.

(i) A credentialed professional whose credential has been suspended shall not use the title during the period of suspension.

(ii) A suspension does not stay, alter or extend the renewal period during which the suspension occurs. A credential expiring during the period of suspension may be extended pursuant to state administrative procedure law, provided a complete and timely renewal application pursuant to section 853.11(a)(2) of this Part was received by the Office.

(iii) Release of the suspension is subject to Office approval of documented compliance with any terms and conditions of the suspension. Conditions to end a suspension may include, but need not be limited to:

(a) completion of remedial education and training;

(b) supervised work experience;

(c) an assessment and completion of a course of therapy or treatment developed and approved by a qualified professional with expertise in the identified area of impairment;

(d) payment of any fines as determined by the Office.

(3) Denial of renewal. A credential renewal may be denied for a stated period of time and subject to terms and conditions. Conditions may include, but need not be limited to:

(i) completion of prescribed remedial education and training;

(ii) supervised work experience;

(iii) completion of a course of therapy or treatment developed and approved by a qualified professional with expertise in the identified area of impairment;

(iv) adjudication of any open complaint; and

(v) payment of any fees due or fines assessed as determined by the Office.

(4) Revocation. A credential may be revoked. A credentialed professional whose credential has been revoked pursuant to this section shall not engage in any professional activities authorized by the credential on and after the date of revocation.

(5) Denial of Application. A pending application by any person applying for a credential issued by the Office (other than an application for renewal or reactivation) may be denied.

(b) *Considerations.* Penalties are assessed upon a finding that a complaint is likely to be valid. Such finding may be based on consideration of the following factors, among others:

- (1) danger to service recipients;
- (2) patterns of misconduct;
- (3) impairment and willingness to address such impairment;
- (4) mitigating or aggravating factors and extenuating circumstances.

(c) *Fines.* Fines may be imposed in an amount determined by the Office.

(d) *Staff Exclusion List.* Placement by the Justice Center on the Staff Exclusion List constitutes grounds for revocation of any existing credential or rejection of any application.

§853.16 Summary action and other remedial actions

The commissioner may take the following actions when deemed appropriate:

(a) *Summary action.* (1) Suspension. Whenever the commissioner has reasonable grounds to believe that a credentialed professional has acted, or is acting, in a manner that threatens the health, welfare or safety of the public or of any individual receiving services, the commissioner may immediately suspend a credential for a period of 180 days or until a final agency determination in any pending or related disciplinary, Justice Center or criminal proceeding, whichever period is longest.

(i) Such suspension shall be effective upon receipt of notice pursuant to section 853.17 by the credentialed professional.

(ii) All additional terms of a suspended credential pursuant to section 853.15 are applicable to a summary suspension.

(2) Summary revocation. Upon notice to the Office that a credentialed professional has been included on the Staff Exclusion list pursuant to section 853.16 of this Part, the commissioner shall revoke such person's credential.

(b) *Dismissal with Guidance.* A written notice of caution and counseling may be issued with dismissal of a complaint pursuant to 853.14 of this Part.

(c) *Annulment.* The commissioner may summarily annul a credential determined to have been issued or renewed on the basis of mistake of fact or clerical error.

§853.17 Notifications; right to a hearing

(a) *Notification and right to a hearing.* Notification of a determination after investigation, determination of penalties, summary action or other remedial actions shall be sent to the credentialed professional or applicant by certified mail, return receipt requested, and first class mail to the most recent address on file with the Office. Such notice shall state the reasons for the determination and action and advise the credentialed person that, if applicable, he or she has thirty (30) days from the date of mailing of the notice to make a written request to the Office for a hearing. Hearing requests must be made in writing. Notices sent to the applicant or credentialed professional's most recent address on file with the Office are deemed received; any change of address that was not communicated in writing to the Office shall not constitute an excuse for failure to make a timely hearing request.

(b) *Right to a hearing.* Whenever a determination has been made to revoke or suspend a credential, impose a fine, or deny renewal the credentialed professional may choose to request a hearing pursuant to Part 831 of this title.

(c) *Notice of decision after a hearing and final agency determination.* Notice of decision and final agency determination shall be sent by the commissioner to the credentialed professional within thirty (30) days of such determination by certified mail, return receipt requested and first class mail to the most recent address on file with the Office. Such notice shall be deemed received three (3) days after mailing.

§853.18 Application following revocation

(a) *Permission to apply following revocation.* (1) A credentialed professional whose credential has been revoked may not apply for a credential without first submitting a written request for permission to apply as a credentialed professional.

(2) Such request may not be submitted until five (5) years or more after the effective date of the revocation. Such request must include a statement detailing the reasons why permission to apply should be granted and must include the current contact information of the person requesting permission to apply.

(3) The commissioner shall review the request and the submitted basis therefore, and shall grant or deny permission to apply based on the following:

(i) the presence or absence of demonstrated evidence that clearly shows the misconduct that formed the basis of the revocation has been thoroughly addressed;

(ii) the seriousness and nature of the misconduct which formed the basis of the revocation, particularly as related to service recipient safety and welfare;

(iii) if requested by the commissioner, an assessment of the applicant by a QHP approved by the Office or, when appropriate, a qualified problem gambling professional approved by the Office; and

(iv) the risk that service recipient safety and quality of care could be jeopardized in any way by granting the requestor permission to apply for renewal or reactivation of a credential.

(b) *Permission to apply following denial of an application.* An applicant whose application is denied pursuant to Section 853.15(a)(5) may not apply again for a credential without first submitting a written request for permission to apply as a credentialed professional. Such requests shall be subject to the same provisions of this Section applicable to requests for permission to apply after revocation.

(c) *Notice of decision.* (1) The person requesting permission to apply will be sent a notice of decision by certified mail, return receipt requested, and first class mail to the mailing address included with the request. Such notice of decision shall be deemed received three (3) days after mailing.

(2) If permission to apply has been granted, the notice of decision will include information detailing the procedures that must be followed by the applicant as well as any additional terms and conditions which may be required by the commissioner.

§853.19 Canons of Ethical Principles, Ethical Standards, and Code of Conduct

(a) *The Credentialed Alcoholism and Substance Abuse Counselor Canon of Ethical Principles.* The CASAC must:

(1) Practice objectivity and integrity; maintain the highest standards in the services offered; respect the values, attitudes and opinions of others; and provide services only in an appropriate professional relationship.

(2) Not discriminate in work-related activities based on race, religion, age, gender, disabilities, ethnicity, national origins, sexual orientation, economic condition or any other basis proscribed by law.

(3) Respect the integrity and protect the welfare of the person or group with whom the counselor is working.

(4) Embrace, as a primary obligation, the duty of protecting the privacy of service recipients and must not disclose confidential information or records under his/her control in strict accordance with federal, state and local laws.

(5) Not engage in dual relationships as defined in this Part. If a credentialed professional engages in conduct contrary to this prohibition or claims that an exception to this prohibition is warranted because of extraordinary circumstances, it is the credentialed professional who assumes the full burden of demonstrating that the former client has not been exploited, coerced, or manipulated, intentionally or unintentionally.

(6) Not engage in sexual activities or sexual contact with current or former clients (lack of consent is presumed).

(7) Not knowingly engage in behavior that is harassing or demeaning, including, but not limited to, sexual harassment.

(8) Not exploit service recipients or others over whom they have a position of authority.

(9) Treat colleagues and other professionals with respect, courtesy and fairness and cooperate in order to serve the best interests of service recipients.

(10) Notify appropriate authorities, including employers and OASAS, when they have direct knowledge of a colleague's impairment, Code of Conduct violations or misconduct which may interfere with treatment effectiveness and place service recipients and others at risk.

(11) Recognize the effects of their own impairment on professional performance and must not provide services which create conflict of interest or impair work performance and clinical judgment.

(12) Cooperate with investigations, proceedings, and requirements of OASAS or other authorities with jurisdiction over those charged with a violation of any statute, regulation or rule.

(13) Not participate in the filing of frivolous ethics complaints or which have a purpose other than to protect the public.

(14) Assure that financial practices are in accord with professional standards which safeguard the best interests of the service recipient, the counselor and the profession.

(15) Take reasonable steps to ensure documentation in records is accurate, sufficient and timely thereby ensuring appropriateness and continuity of services provided to service recipients.

(16) Uphold the legal and accepted moral codes which pertain to professional conduct.

(17) Recognize the need for ongoing education to maintain current competence, and to improve expertise and skills.

(18) Acknowledge the limits of present knowledge in public statements concerning alcoholism and substance abuse. The Credentialed Alcoholism and Substance Abuse Counselor must report fairly and accurately appropriate information, and must acknowledge and document materials and techniques used.

(19) Assign credit to all who have contributed to published material and for the work upon which publication is based.

(20) Strive to inform the public of the effects of alcoholism and substance abuse. The Credentialed Alcoholism and Substance Abuse Counselor must adopt a personal and professional stance which promotes the well-being of the recovery community.

(b) *New York State Office of Alcoholism and Substance Abuse Services Credentialed Prevention Professional (CPP)/Credentialed Prevention Specialists (CPS) Canon of Ethical Principles.*

The CPP and CPS must:

(1) Recognize that the profession is founded on national standards of competence which promote the best interest of society, the service recipient, the professional and the profession as a whole.

(2) Do no harm to service recipients. Practices must be respectful and non-exploitative. Services must protect the recipients from harm and the professional and the profession from censure.

(3) Maintain an objective, non-possessive relationship with those they serve and must not exploit them sexually, financially or emotionally.

(4) Not promote personal gain or profit.

(5) Not discriminate against service recipients or colleagues based on race, religion, national origin, sex, age, sexual orientation, economic condition or physical or mental disability. The CPP and CPS must broaden his/her understanding and acceptance of cultural and individual differences and, in so doing, render services and provide information sensitive to those differences.

(6) Observe the profession's technical and ethical standards; strive continually to improve personal competence and quality of service delivery and discharge professional responsibility to the best of his/her ability.

(7) Be diligent in discharging responsibilities by rendering services carefully and promptly by being thorough and by observing applicable technical and ethical standards.

(8) Adequately plan and supervise any professional activity for which he/she is responsible.

(9) Recognize limitations and boundaries of competencies and not use techniques or offer services outside of his/her own competencies. The CPP and CPS is responsible for assessing the adequacy of his/her own competence for the responsibility to be assumed.

(10) Report to the appropriate authorities any unethical conduct or practice on the part of any agency or individual providing prevention services when aware of such conduct or practice. The CPP and CPS must not participate in the filing of frivolous ethics complaints or which have a purpose other than to protect the public.

(11) Perform all professional responsibilities with the highest sense of integrity in order to maintain and broaden public confidence. Integrity can accommodate the inadvertent error and the honest difference of opinion, but it cannot accommodate deceit or the subordination of principle.

(12) Not subordinate services and the public trust for personal gain and advantage. Services, including referrals, must be based in the best interest of the recipient(s). All information must be presented fairly and accurately. The CPP and CPS must document and assign credit to all contributing sources used in published material or public statements.

(13) Not misrepresent, either directly or by implication, professional qualifications or affiliations.

(14) Not be associated, directly or indirectly, with any services or products which in any way are misleading or incorrect.

(15) Report any suspected child abuse to the appropriate agency and follow up to ensure appropriate action has been taken.

(16) Be supportive of assistance and treatment where there is evidence of impairment in a colleague or service recipient.

(17) Recognize the effect of impairment on professional performance and be willing to seek appropriate treatment for him/herself.

(18) Protect service recipients' rights and ensure confidentiality by adhering to all applicable state and federal laws and regulations. The CPP and CPS must not participate in, or condone, any illegal activity, including the use of illegal chemicals or the possession, sale or distribution of illegal chemicals. The CPP and CPS must not participate in, condone, or be an accessory to dishonesty, fraud, deceit or misrepresentation.

(19) Take the initiative to support, promote and improve the delivery of high-quality services throughout the continuum of care of prevention, treatment and recovery.

(20) Advocate for changes in public policy and legislation to afford opportunities and choices for all persons whose lives are impaired or impacted by the disease of alcoholism, tobacco use and other drug abuse and addictions and to promote the health and well-being of all human beings.

(21) Actively participate in the public awareness of the effects of alcohol, tobacco and other drug effects, including alcoholism and other addictions and act to assure that all persons, especially the disadvantaged, have access to necessary resources and services.

(22) Not engage in dual relationships as defined in this Part. If a credentialed professional engages in conduct contrary to this prohibition or claims that an exception to this prohibition is warranted because of extraordinary circumstances, it is the credentialed professional who assumes the full burden of demonstrating that the former client has not been exploited, coerced, or manipulated, intentionally or unintentionally.

(23) Not engage in sexual activities or sexual contact with current or former clients (lack of consent is presumed).

(24) Notify appropriate authorities, including employers and OASAS, when they have direct knowledge of a colleague's impairment or misconduct which may interfere with treatment effectiveness and place service recipients and others at risk.

(c) *Additional Standards for CPGCs and Gambling Designations. Credentialed Problem Gambling Counselor Professional Code and Ethical Standards* (Adapted from the National Council on Problem Gambling Professional Code and Ethical Standards, A.2). A CPGC and gambling designee must:

(1) Recognize that the profession is founded on national standards of competence which promote the best interest of society, of the service recipient, of the counselor and of the profession as a whole.

(2) Espouse objectivity and integrity; maintain the highest standards in the services offered; respect the values, attitudes and opinions of others; and provide services only in an appropriate professional relationship.

(3) Not discriminate in work-related activities based on race, religion, age, gender, disabilities, ethnicity, national origins, sexual orientation, economic condition or any other basis proscribed by law.

(4) Recognize the need for ongoing education to maintain current competence and to improve expertise and skills.

(5) Uphold the legal and accepted moral codes pertaining to professional conduct.

(6) Respect the integrity and protect the welfare of the person or group with whom the counselor is working.

(7) Embrace, as a primary obligation, the duty of protecting the privacy of service recipients and must not disclose confidential information acquired in teaching, practice, research or investigation and maintain the confidentiality of records under their control.

(8) Inform the prospective service recipient of the important aspects of the nature of services to be provided and the service recipient/counselor relationship.

(9) Not engage in dual relationships as defined in this Part. If a credentialed professional engages in conduct contrary to this prohibition or claims that an exception to this prohibition is warranted because of extraordinary circumstances, it is the credentialed professional who assumes the full burden of demonstrating that the former client has not been exploited, coerced, or manipulated, intentionally or unintentionally.

(10) Not engage in sexual activities or sexual contact with current or former clients (lack of consent is presumed).

(11) Treat colleagues and other professionals with respect, courtesy and fairness and cooperate in order to serve the best interests of their service recipients.

(12) Not knowingly engage in behavior that is harassing or demeaning, including, but not limited to, sexual harassment.

(13) Not exploit service recipients or others over whom they have a position of authority.

(14) Acknowledge the limits of present knowledge in public statements concerning compulsive gambling, as well as report fairly and accurately the appropriate information and acknowledge and document materials and techniques used.

(15) Not participate in the filing of frivolous ethics complaints or which have a purpose other than to protect the public.

(16) Recognize the effects of their own impairment on professional performance and must not provide services which create conflict of interest or impair work performance and clinical judgment.

(17) Assure that financial practices are in accord with professional standards which safeguard the best interests of the service recipient, the counselor and the profession.

(18) Strive to inform the public, through civic and professional participation in community affairs, of the effects of problem gambling and adopt a personal and professional stance which promotes the well-being of all human beings.

(19) Assign credit to all who have contributed to published material and for the work upon which publication is based.

(20) Support all efforts toward a primary goal of recovery for service recipients and families.

(21) Notify appropriate authorities, including employers and OASAS, when they have direct knowledge of a colleague's impairment or misconduct which may interfere with treatment effectiveness and place service recipients and others at risk.

(d) *Justice Center Code of Conduct for Custodians of People with Special Needs.* Persons holding any of the credentials or designations issued by the Office are required to sign and adhere to the provisions of the Code of Conduct if they have regular and substantial contact with a service recipient. The most recent version of the Code of Conduct may be found on the Office website.

§853.20 Severability

If any provision of this Part or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provision or applications of this Part which can be given effect without the invalid provision or applications, and to this end the provisions of the Part are declared to be severable.