



**2021 JOINT LEGISLATIVE HEARING ON HIGHER EDUCATION  
FEBRUARY 4, 2021**

**Written Testimony Presented by:  
Lauri Cole, LMSW, Executive Director**

The NYS Council for Community Behavioral Healthcare is providing testimony on behalf of mental health and substance use disorder/addiction prevention, treatment and recovery providers across New York. We are a statewide membership association representing approximately 100 behavioral health organizations that provide mental health and substance use disorder/addiction prevention, treatment, recovery and harm reduction programs and services for tens of thousands of New Yorkers each day. Our membership includes community-based agencies, hospitals, and counties providing a broad array of behavioral health services.

**Issue:**

The NYS Council's primary mission is to ensure access to and continuity of care for children, youth, single individuals, and families seeking services from the public mental hygiene system. We are submitting testimony today because there is a critical shortage of mental health professionals across New York State and these shortages are impacting access to care and contributing to higher costs for voluntary nonprofit agencies. In June 2021, NYS Licensed Mental Health Counselors (LMHCs), Licensed Marriage and Family Therapists (LMFTs), and Psychoanalysts will no longer be permitted to diagnose patients. These essential practitioners have fully served care recipients in New York for decades but because of a sunset to a current exemption this will end.

For decades, the dramatic shortage of licensed mental health practitioners has been "masked" by an exemption to the scope of practice for certain practitioners licensed under Art 163 of the Education Law. That exemption was addressed in Part Y of Chapter 57 of the Laws of 2018 and is due to sunset permanently in June 2021.

**Solution:**

The solution is a modernization to the scope of practice and standardization of the Master level educational, clinical training, and licensing standards for LMHCs, LMFTs, and Psychoanalysts. According to the NYS Education Department, there are currently over 10,600 of these capable, trained and licensed practitioners working up to their full scope of training in New York State.

Mental health provider associations, providers, and clinical practice associations have drafted a legislative solution that does not include another exemption extension, but instead addresses the discrepancy in the scope of practice descriptions in law. The legislative solution will:

1. amend education law, in relation to requirements for licensure of certain mental health practitioners, and,
2. permit those licensed mental health practitioners to render a diagnosis.

The bill will set forth standards of educational coursework, supervised clinical training, and licensure examinations that are equal to those included in the licensed clinical social work law. There will be no discrepancy in the preparation of the various licensed practitioners.

The modernization of the scope of practice, removal of outdated statutory references, and authorization of a standard set of preparatory activities for licensed practitioners will alleviate workforce challenges at voluntary nonprofit agencies and ease access to care barriers. This is of particular importance given the ever-rising demand for these services that is, in part, due to the COVID pandemic.

*Background:*

In 2002, education law provided for the licensing of masters' social workers, clinical social workers, mental health counselors, marriage and family therapists, psychoanalysts and creative arts therapists. In addition, the 2002 statute enacted an exemption from licensure until January 1, 2010 for "any person in the employ of a program or services that is regulated, operated, funded or approved by" certain state agencies because the statutory changes recognized variations in the terms used to describe the scope of practice of each of the newly licensed professions. For example, the licensed social work titles included the term "diagnosing" in the law, while the other licensed practitioner titles describe using diagnostic tools (like the Diagnostic Statistical Manual, or DSM) to "identify, evaluate and treat dysfunctions and disorders."

The discrepancy has resulted in numerous laws extending the exemption to the 2002 law. Throughout this period, however, over 40 colleges and universities in New York have been graduating Master level Article 163 practitioners who are not only taking course work in diagnosing, but who are working in licensed clinical settings under the supervision of social workers, psychiatrists, and psychologists for between 2,000-3,000 hours to hone their skills before taking their licensing exams. These individuals, as allowed by law, are permitted the "use of assessment instruments and mental health counseling and psychotherapy to identify, evaluate and treat dysfunctions and disorders for purposes of providing appropriate mental health counseling services." Once licensed, they have been diagnosing mental illnesses in New York State without incident since 2002. All states contiguous to New York recognize the full scope of practice for similarly licensed practitioners.

According to Part Y of Chapter 57 of the Laws of 2018, in June 2021 any newly graduated Art 163 practitioner will not be permitted to diagnose patients in OMH, OASAS, OCFS or OPWDD settings during their clinical internships which are required to become licensed. The pipeline of incoming mental health practitioners will be cut off, as sites that offer clinical internships will have to select practitioners who will be able to perform a full scope of practice. Without these licensed practitioners, a bottleneck in diagnosing new patients and attesting to their medical necessity for Medicaid services will create a significant crisis.

*Request:*

We urge the Legislature to advance this workforce training and support initiative to address workforce shortages and mental health access challenges immediately as part of the negotiated budget agreement. We will present the relevant chairs with a petition signed by over 500 concerned citizens and licensed mental health practitioners who support this request. We also attach a list of colleges and universities that will be impacted.

Thank you for the opportunity to comment. If you have any questions, or would like further information, please contact Lauri Cole, LMSW, Executive Director, at 518-461-8200 or at lauri@nyscouncil.org.