



**Office for People With
Developmental Disabilities**

Executive Budget: Part Y

April 16, 2018 Providers' Association
Material Included Not Intended For Further Disclosure

Previously

- Provided a broad scope of practice exemption from professional licensure requirements
 - Psychology;
 - Social Work; and
 - Mental Health Practitioners
 - employed in programs operated, regulated, funded or approved by, among others, the Department of Mental Hygiene;

2018 Part Y Revision Generally

- Enacts a permanent solution eventually ending the broad scope of practice exemption from professional licensure requirements
- Clarifies the activities and services that may be performed by certain unlicensed persons and those activities which require licensure; and
- Creates additional exemptions from licensure for certain persons working in programs operated, regulated, funded or approved by, among others, the Department of Mental Hygiene.



Scope of Practice Exemption

- Extends the current broad-based scope of practice exemptions from professional licensure
- Extension will continue for one year from the date that State Education Dept. issues regulations

State Education Department

- SED is entity which would ordinarily regulate professional activities
- SED is required to issue guidance by 9/30/18 that is consistent with the legislative changes
- subsequent to guidance, SED is required to encapsulate in regulation (no date requirement)

Grandfathering Clause

- Continues broad exemption from professional licensure requirements for persons who are employed or who commence employment in a program or service operated, regulated, funded or approved by, among others, the Department of Mental Hygiene, prior to one year from the date when SED issues required regulations.
- Grandfather clause applies to such persons for as long as they remain employed by such programs or services and whether they remain employed by the same or other employers providing such programs or services.

Persons with Certain Master's Level Degrees

- New language creates two broad scope of practice exemptions for certain unlicensed master's level professionals who are working under the supervision of certain licensed professionals in designated programs:
 - Persons with a master's level degree in psychology (or its equivalent) who are working under the supervision of a licensed psychologist; and
 - Persons with a master's level degree required for licensure pursuant to the mental health practitioner requirements when working under the supervision of a licensed mental health practitioner, psychologist or social worker.

14 NYCRR 633.16

- Remember that all tasks must continue to be performed in accordance with OPWDD standards set forth in 633.16



Clarification of Tasks That Do Not Require Licensure

Clarifies and expands the tasks that may be performed by unlicensed persons generally, to include, among others:

- Advising individuals regarding the appropriateness of benefits they are eligible for;
- Providing general advice and guidance; and
- Assisting individuals with difficult day to day problems.

Creation, Development or Implementation of Service Plans

Clarifies that a license is not required to **create, develop or implement** a service plan that is not a behavioral health diagnosis or treatment plan

- Examples of such service plans include plans for and the provision of residential, day or community habilitation services.

Multi-Disciplinary Team

- Clarifies that an unlicensed person (as a member of a multi-disciplinary team that includes at least one of certain types of licensed professionals) may **“assist” in the development or implementation** of a behavioral health services or treatment plan in facilities or programs operating pursuant to, among others, Article 16 of the Mental Hygiene Law.

“Assist”

- Assist is defined as, among other tasks, the provision or performance of the following:
 - Collecting background information, including prior treatment, for use by the multi-disciplinary team/licensed professional;
 - **Engaging in immediate and long-term problem solving;**
 - **Engaging in the developmental of social skills;**
 - Distributing paper copies of self-administered tests for the individual to complete;
 - **Performing assessments** using standardized, structured interview tools or instruments;
 - Reporting on behavior, actions and responses to treatment by collecting written and/or observational data; and
 - **Directly delivering services outlined in the service plan** that are not clinical in nature.

OPWDD Standards

- All such activities to assist in the development and implementation of service plans would also need to be done in accordance with OPWDD regulations and requirements

