New York Education Law – Title 8, Article 164

Sections 8400-8411-Relating to Licensure of the professions of mental health counseling, marriage and Family therapy, creative arts therapy and psychoanalysis.

Relevant Sections relating to Licensure of Creative Arts Therapists

Section 8400: Introduction

This article applies to the professions of mental health counseling, marriage and family therapy, creative arts therapy, and psychoanalysis and provides for the licensing of such practitioners. The general provisions for all professions contained in article one hundred thirty of this title apply to this article.

Section 8401: Definitions

For purposes of this article, the following terms shall have the following meanings:

1. "Board" means the state board for mental health practitioners authorized by section eighty-four hundred six of this article.
2. "Psychotherapy" means the treatment of mental, nervous, emotional, behavioral and addictive disorders, and ailments by the use of both verbal and behavioral methods of intervention in interpersonal relationships with the intent of assisting the persons to modify attitudes, thinking, affect, and behavior which are intellectually, socially and emotionally maladaptive.

Section 8404: Creative arts therapy

1. Definition of the practice of creative arts therapy. The practice of the profession of creative arts therapy is defined as:

   (a) the assessment, evaluation, and the therapeutic intervention and treatment, which may be either primary, parallel or adjunctive, of mental, emotional, developmental and behavioral disorders through the use of the arts as approved by the department; and

   (b) the use of assessment instruments and mental health counseling and psychotherapy to identify, evaluate and treat dysfunctions and disorders for purposes of providing appropriate creative arts therapy services.

2. Practice of creative arts therapy and use of the titles "creative arts therapist" and "licensed creative arts therapist". Only a person licensed or exempt under this article shall practice creative arts therapy or use the title "creative arts therapist". Only a person licensed under this article shall use the title "licensed creative arts therapist" or any other designation tending to imply that the person is licensed to practice creative arts therapy.

3. Requirements for a professional license. To qualify for a license as a "licensed creative arts therapist", an applicant shall fulfill the following requirements:
(a) Application: File an application with the department;

(b) Education: Have received an education, including a master's or higher degree in creative arts therapy from a program registered by the department or determined by the department to be the substantial equivalent thereof, in accordance with the commissioner's regulations. The graduate coursework shall include, but not be limited to, the following areas:

(i) human growth and development;
(ii) theories in therapy;
(iii) group dynamics;
(iv) assessment and appraisal of individuals and groups;
(v) research and program evaluation;
(vi) professional orientation and ethics;
(vii) foundations of creative arts therapy and psychopathology; and
(viii) clinical instruction;

(c) Experience: Have completed at least fifteen hundred hours of postmaster's supervised experience in one or more creative arts therapies satisfactory to the department and in accordance with the commissioner's regulations;

(d) Examination: Pass an examination in creative arts therapy satisfactory to the department and in accordance with the commissioner's regulations;

(e) Age: Be at least twenty-one years of age;

(f) Character: Be of good moral character as determined by the department; and

(g) Fees: Pay a fee of one hundred seventy-five dollars for an initial license and a fee of one hundred seventy dollars for each triennial registration period.

Section 8406: State board for mental health practitioners

A state board for mental health practitioners shall be appointed by the board of regents on the recommendation of the commissioner for the purpose of assisting the board of regents and the department on matters of licensing and regulation. The board shall be composed of at least three licensed members from each profession licensed pursuant to this article and at least three public representatives who do not hold interests in the organization, financing, or delivery of mental health services. Additionally, the board shall contain one physician who shall be a psychiatrist. Members of the first board need not be licensed prior to their appointment to the board. The terms of the first appointed members shall be staggered so that five are appointed for three years, five are appointed for four years, and six are appointed for five years. An executive secretary to the board shall be appointed by the board of regents on recommendation of the commissioner.

Section 8407: Boundaries of professional competency

1. It shall be deemed practicing outside the boundaries of his or her professional competence for a person licensed pursuant to this article, in the case of treatment of any serious mental illness, to
provide any mental health service for such illness on a continuous and sustained basis without a medical evaluation of the illness by, and consultation with, a physician regarding such illness. Such medical evaluation and consultation shall be to determine and advise whether any medical care is indicated for such illness. For purposes of this section, "serious mental illness" means schizophrenia, schizoaffective disorder, bipolar disorder, major depressive disorder, panic disorder, obsessive-compulsive disorder, attention-deficit hyperactivity disorder and autism.

2. Any individual whose license or authority to practice derives from the provisions of this article shall be prohibited from:

   (a) prescribing or administering drugs as defined in this chapter as a treatment, therapy, or professional service in the practice of his or her profession; or

   (b) using invasive procedures as a treatment, therapy, or professional service in the practice of his or her profession. For purposes of this subdivision, "invasive procedure" means any procedure in which human tissue is cut, altered, or otherwise infiltrated by mechanical or other means. Invasive procedure includes surgery, lasers, ionizing radiation, therapeutic ultrasound, or electroconvulsive therapy.

Section 8408: Hospital privileges

Nothing herein contained shall be deemed to authorize, grant, or extend hospital privileges to individuals licensed under this article.

Section 8409: Limited permits

The following requirements for a limited permit shall apply to all professions licensed pursuant to this article:

1. The department may issue a limited permit to an applicant who meets all qualifications for licensure, except the examination and/or experience requirements, in accordance with regulations promulgated therefor.

2. Limited permits shall be for one year, except that limited permits for mental health counseling shall be for two years; such limited permits may be renewed, at the discretion of the department, for one additional year.

3. The fee for each limited permit and for each renewal shall be seventy dollars.

Section 8410: Exemptions

Nothing contained in this article shall be construed to:

1. Apply to the practice, conduct, activities, services or use of any title by any person licensed or otherwise authorized to practice medicine within the state pursuant to article one hundred thirty-one of this title or by any person registered to perform services as a physician assistant within the state pursuant to article one hundred thirty-one-B of this title or by any person licensed or otherwise authorized to practice psychology within this state pursuant to article one hundred
twenty-three of this title or by any person licensed or otherwise authorized to practice social work within this state pursuant to article one hundred fifty-four of this title, or by any person licensed or otherwise authorized to practice nursing as a registered professional nurse or nurse practitioner within this state pursuant to article one hundred thirty-nine of this title; provided, however, that no physician, physician's assistant, registered professional nurse, nurse practitioner, psychologist, licensed master social worker, or licensed clinical social worker may use the titles "licensed mental health counselor", "licensed marriage and family therapist", "licensed creative arts therapist", or "licensed psychoanalyst", unless licensed under this article.

2. Prohibit or limit any individual who is credentialed under any law, including attorneys, rape crisis counselors, certified alcoholism counselors and certified substance abuse counselors from providing mental health services within their respective established authorities.

3. Prohibit or limit the practice of a profession licensed pursuant to this article by a student, intern or resident in, and as part of, a supervised educational program in an institution approved by the department.

4. Prohibit or limit the provision of pastoral counseling services by any member of the clergy or Christian Science practitioner, within the context of his or her ministerial charge or obligation.

5. Prohibit or limit individuals, churches, schools, teachers, organizations, or not-for-profit businesses, from providing instruction, advice, support, encouragement, or information to individuals, families, and relational groups.

6. Prohibit or limit an occupational therapist from performing work consistent with article one hundred fifty-six of this title.

Section 8411: Special provisions

1. This section shall apply to all professions licensed pursuant to this article, unless otherwise provided.

2. Any nonexempt person practicing a profession to be licensed pursuant to this article shall apply for a license of said profession within one year of the effective date of the specified profession.

(a) If such person does not meet the requirements for a license established within this article, such person may meet alternative criteria determined by the department to be the substantial equivalent of such criteria.

(b) If such person meets the requirements for a license established within this article, except for examination, and has been certified or registered by a national certifying or registering body having certification or registration standards acceptable to the commissioner, the department shall license without examination.

(c) If such person meets the requirements for a license established within this article, except for examination, and there exists no national certifying or registering body having certification or registration standards acceptable to the commissioner, the department
shall license without examination if the applicant submits evidence satisfactory to the department of having been engaged in the practice of the specified profession for at least five of the immediately preceding eight years.

3. Any person licensed pursuant to this article may use accepted classifications of signs, symptoms, dysfunctions and disorders, as approved in accordance with regulations promulgated by the department, in the practice of such licensed profession.