

Attachment A

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 207, 6504, 6507, 8401, 8402, 8403, 8405, 8409, 8410, 8401-a of the Education Law and Chapter 230 of the Laws of 2022.

1. Section 79-9.6 of the Regulations of the Commissioner of Education is amended by adding new subdivisions (e), (f), (g), (h) and (i) to read as follows:

(e) Acceptable clinical education.

(1) To meet the clinical education requirement for the diagnostic privilege, the applicant shall cause to be submitted verification of receipt of a master's degree or higher in mental health counseling from a program which includes at least 60 semester hours or the equivalent, as defined in section 79-9.1 of this Subpart, and clinical content as defined in paragraph (2) of this subdivision, acceptable to the Department.

(2) Clinical coursework. An applicant must demonstrate satisfactory completion of at least 12 semester hours, or the equivalent, of clinical coursework that prepares the individual to diagnose and develop assessment-based treatment plans acceptable to the department that includes coursework such as:

(i) diagnosis and assessment-based treatment planning in the practice of mental health counseling and psychotherapy;

(ii) assessment, evaluation and diagnosis using accepted classification systems in the practice of mental health counseling;

(iii) developing and implementing assessment-based treatment plans for the provision of mental health counseling services; and

(iv) clinical mental health counseling interventions with diverse populations.

(3) Where an applicant has received a master's or higher degree pursuant to paragraph (1) of this subdivision but has not completed the clinical coursework hours required by paragraph (2) of this subdivision, such applicant may satisfy such requirement by taking post-graduate courses to remedy such deficiencies.

(f) Acceptable experience. To meet the experience requirement for the diagnostic privilege an applicant shall complete supervised experience, in accordance with subdivision (d) of this section, in an acceptable setting, as set forth in section 79-9.3(d) of this Subpart, that satisfies the following:

(1) An applicant who is licensed as a mental health counselor shall cause to be submitted, in a form and format acceptable to the Department, verification from a supervisor of the completion of at least 2,000 hours of supervised, direct client contact that shall include, but not be limited to, diagnosis, psychotherapy and the development of assessment-based treatment plans.

(2) Notwithstanding paragraph (1) of this subdivision, an applicant who is licensed as a mental health counselor prior to June 24, 2024 may also satisfy the experience requirement of this subdivision by submitting, in a form and format acceptable to the Department, an attestation from a supervisor that such licensee has at least three years of experience engaged in direct client contact that shall include diagnosis, psychotherapy and the development of assessment-based treatment plans. Such licensee shall submit the privilege application, fee and all required documentation to the department on or before June 24, 2027.

(g) Application. An applicant for the diagnostic privilege shall:

(1) Submit the application and pay the \$175 fee for issuance of a privilege;

(2) Submit verification of licensure as a mental health counselor in New York;

(3) Cause to be submitted verification of acceptable clinical education, as required by subdivision (e) of this section; and

(4) Cause to be submitted verification or attestation, as applicable, of supervised experience in diagnosis and assessment-based treatment plans, as required by subdivision (f) of this section.

(h) Registration. The holder of a privilege issued under this section shall register with the department as a privilege holder in the same manner and subject to the same provisions as required of a licensee pursuant to Education Law §6502, provided that, at the time of each registration, the privilege holder shall certify that he or she continues to meet the requirements for the diagnostic privilege. The fee for such registration shall be \$175 which shall be paid in addition to the triennial registration fee for the license. The registration period for a privilege holder shall be coterminous with his or her license registration.

(i) Privilege duration and oversight. A privilege issued under this section shall be valid for the life of the holder, unless revoked, annulled, or suspended by the Board of Regents. Such a privilege shall be subject to the same oversight and disciplinary provisions as licenses issued under Title VIII of the Education Law.

2. Section 79-10.6 of the Regulations of the Commissioner of Education is amended by adding new subdivisions (e) through (i) as follows:

(e) Acceptable clinical education.

(1) To meet the clinical education requirement for the diagnostic privilege, the applicant shall cause to be submitted verification of receipt of a master's degree or higher in marriage and family therapy from a program which includes at least 60 semester hours or the equivalent, as defined in section 79-10.1 of this Subpart, and clinical content as defined in paragraph (2) of this subdivision, acceptable to the Department.

(2) Clinical coursework. An applicant must demonstrate satisfactory completion of at least 12 semester hours or equivalent coursework that prepares the individual to diagnose and develop assessment-based treatment plans acceptable to the department, including

coursework such as:

(i) diagnosis and assessment-based treatment planning in the practice of marriage and family therapy and psychotherapy;

(ii) assessment, evaluation and diagnosis using accepted classification systems in the practice of marriage and family therapy;

(iii) developing and implementing assessment-based treatment plans for the provision of marriage and family therapy services; and

(3) clinical marriage and family therapy interventions with diverse populations. Where an applicant has received a master's or higher degree pursuant to paragraph (1) of this subdivision but has not completed the clinical coursework hours required by paragraph (2) of this subdivision, such applicant may satisfy such requirement by taking post-graduate courses to remedy such deficiencies.

(f) Acceptable experience. To meet the experience requirement for the diagnostic privilege an applicant shall complete supervised experience, in accordance with subdivision (d) of this section in an acceptable setting, as set forth in section 79-10.3(e) of this Subpart, that satisfies the following:

(1) An applicant who is licensed as a marriage and family therapist shall cause to be submitted, in a form and format acceptable to the Department, verification of the completion of at least 2,000 hours of supervised, direct client contact that shall include, but not be limited to, diagnosis, psychotherapy and the development of assessment-based treatment plans.

(2) Notwithstanding paragraph (1) of this subdivision, an applicant who is licensed as marriage and family therapist prior to June 24, 2024 may also satisfy the experience requirement of this subdivision by submitting, in a form and format acceptable to the department, an attestation from a supervisor that such licensee has at least three years of experience engaged in direct client contact that shall include diagnosis, psychotherapy and the

development of assessment-based treatment plans. Such licensee shall submit the privilege application, fee and all required documentation to the department on or before June 24, 2027.

(g) Application. An applicant for the diagnostic privilege shall:

(1) Submit the application and pay the \$175 fee for issuance of a privilege;

(2) Submit verification of licensure as a marriage and family therapist in New York;

(3) Cause to be submitted verification of acceptable clinical education, as defined in subdivision (e) of this section; and

(4) Cause to be submitted verification or attestation, as applicable, of supervised experience in diagnosis and assessment-based treatment plans, as defined in subdivision (f) of this section.

(h) Registration. The holder of a privilege issued under this section shall register with the department as a privilege holder in the same manner and subject to the same provisions as required of a licensee pursuant to Education Law §6502, provided that, at the time of each registration, the privilege holder shall certify that he or she continues to meet the requirements for the diagnostic privilege. The fee for such registration shall be \$175 which shall be paid in addition to the triennial registration fee for the license. The registration period for a privilege holder shall be coterminous with his or her license registration.

(i) Privilege duration and oversight. A privilege issued under this section shall be valid for the life of the holder, unless revoked, annulled, or suspended by the Board of Regents. Such a privilege shall be subject to the same oversight and disciplinary provisions as licenses issued under Title VIII of the Education Law.

3. Section 79-12.6 of the Regulations of the Commissioner of Education is amended by adding subdivisions (e) through (i) as follows:

(e) Acceptable clinical education.

(1) To meet the clinical education requirement for the diagnostic privilege, the applicant

shall cause to be submitted verification of receipt of a master's degree or higher in psychoanalysis from a program which includes at least 60 semester hours or the clock hour equivalent as defined in section 79-12.1 of this Subpart, and clinical content as defined in paragraph (2) of this subdivision, acceptable to the Department.

(2) Clinical coursework. An applicant must demonstrate satisfactory completion of at least 12 semester hours or the clock work equivalent of coursework that prepares the individual to diagnose and develop assessment-based treatment plans, acceptable to the department that includes coursework such as:

(i) diagnosis and assessment-based treatment planning in the practice of psychoanalysis and psychotherapy;

(ii) assessment, evaluation and diagnosis using accepted classification systems in the practice of psychoanalysis;

(iii) developing and implementing assessment-based treatment plans for the provision of psychoanalysis services; and

(iv) clinical psychoanalysis interventions with diverse populations.

(3) Where an applicant has received a master's or higher degree pursuant to paragraph (1) of this subdivision but has not completed the clinical coursework hours required by paragraph (2) of this subdivision, such applicant may satisfy such requirement by taking post-graduate courses to remedy deficiencies.

(f) Acceptable experience. To meet the experience requirement for the diagnostic privilege an applicant shall complete supervised experience, in accordance with subdivision (d) of this section in an acceptable setting, as set forth in section 79-12.3(d) of this Subpart, that satisfies the following:

(1) An applicant who is licensed as a psychoanalyst shall cause to be submitted, in a form and format acceptable to the Department verification of the completion of at least 2,000

hours of supervised, direct client contact that shall include, but not be limited to, diagnosis, psychotherapy and the development of assessment-based treatment plans.

(2) Notwithstanding paragraph (1) of this subdivision, an applicant who is licensed as a psychoanalyst prior to June 24, 2024 may also satisfy the experience requirement of this subdivision by submitting, in a form and format acceptable to the department, an attestation from a supervisor that such licensee has at least three years of experience engaged in direct client contact that shall include diagnosis, psychotherapy and the development of assessment-based treatment plans. Such licensee shall submit the privilege application, fee and all required documentation to the department on or before June 24, 2027.

(g) Application. An applicant for the diagnostic privilege shall:

(1) Submit the application and pay the \$175 fee for issuance of a privilege;

(2) Submit verification of licensure as a psychoanalyst in New York;

(3) Cause to be submitted verification of acceptable clinical education, as defined in subdivision (e) of this section; and

(4) Cause to be submitted verification or attestation, as applicable, of supervised experience in diagnosis and assessment-based treatment plans, as defined in subdivision (f) of this section.

(h) Registration. The holder of a privilege issued under this section shall register with the department as a privilege holder in the same manner and subject to the same provisions as required of a licensee pursuant to Education Law §6502, provided that, at the time of each registration, the privilege holder shall certify that he or she continues to meet the requirements for the diagnostic privilege set forth in this section. The fee for such registration shall be \$175 which shall be paid in addition to the triennial registration fee for the license. The registration period for a privilege holder shall be coterminous with his or her license registration.

(i) A privilege issued under this section shall be valid for the life of the holder, unless

revoked, annulled, or suspended by the Board of Regents. Such a privilege shall be subject to the same oversight and disciplinary provisions as licenses issued under this Title VIII of the Education Law.

4. Subpart 29.15 of the Rules of the Board of Regents is amended, to read as follows:

29.15 Special provisions for the professions of creative arts therapy, marriage and family therapy, mental health counseling, and psychoanalysis.

Unprofessional conduct in the practice of creative arts therapy, marriage and family therapy, mental health counseling and psychoanalysis shall include conduct prohibited by sections 29.1 and 29.2 of this Part and, in accordance with section 8407 of the Education Law, shall also include:

(a) in the case of treatment of schizophrenia, schizoaffective disorder, bipolar disorder, major depressive disorder, panic disorder, obsessive-compulsive disorder, attention-deficit hyperactivity disorder and autism, providing 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, unless such licensed professional has been issued a privilege to diagnose and develop assessment-based treatment plans by the department.

Such medical evaluation and consultation shall be to determine and advise whether any medical care is indicated for such illness;

(b) prescribing or administering drugs as a treatment, therapy, or professional service in the practice of his or her profession; [or]

(c) 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, but is not limited to surgery, lasers, ionizing radiation, therapeutic ultrasound, or electroconvulsive therapy; or

(d) a mental health counselor, marriage and family therapist or psychoanalyst
who engages in diagnosis and/or the development of assessment-based treatment plans
without a diagnostic privilege.

