

Green, David

2820

From: David Tive [dtive@tivelobbying.com]
Sent: Friday, April 22, 2011 11:34 AM
To: Green, David
Subject: Regulation 16A-429 16A-4929

RECEIVED
IRRC

2011 APR 28 P 1: 24

Mr. Green,

I am the lobbyist for the PA Society for Clinical Social Work, representing licensed clinical social workers (LCSWs) in Pennsylvania. On behalf of the Society, I have a couple of questions regarding the final form regulation 16A-429 licensing behavior specialists.

When we reviewed the proposed form regulations early last year we did not have any particular concerns because those regulations merely certified the behavior specialists. However, the final form regulations turn that certification into licensure, and that leads to a number of issues.

Basically, our questions center around how the licensure of the behavior specialists impacts the licensed status and practice of LCSWs. As I am sure you know, typically in licensure laws provision is made to either exempt other licensed professionals as long as they are practicing within their licensed scope of practice, or to grandfather those professionals into the new law, again as long as they are practicing within their licensed scope of practice. However, in 16A-429, we can find neither an exemption nor a grandfather provision for LCSWs. Working to implement treatment plans for those with autism spectrum disorders is clearly within the scope of practice of LCSWs and is something that they have done for a long time. The Society is concerned that the new licensure of behavior specialists would conflict with that.

Act 62 of 2008 authorizes the certification or licensure of behavior specialists. Section 635.2(f)(2) of the act contains a definition of "autism service provider" which would include LCSWs since they are licensed and they follow a treatment plan when working with autistic patients. At section 635.2(f)(4) there is a definition of behavior specialist. That definition includes a number of things that are done by LCSWs. There clearly is an overlap in the statute, but that is not addressed in 16A-429 where neither autism service providers nor LCSWs are mentioned.

At the same time that Act 62 was passed, the General Assembly also passed Act 108 of 2008. That act amended the Blue Shield law to allow for the inclusion of LCSWs and others as providers so that autistic patients with Blue Shield insurance would be eligible for insurance reimbursement for treatment provided to them by LCSWs in accordance with their treatment plan. There is ample evidence that the intent of the General Assembly was to allow LCSWs to provide treatment for autism spectrum disorders.

As a result of all of this, we have the following questions:

Under 16A-429 as proposed in final form, would LCSWs be able to continue their long-standing practice of working with patients with autism spectrum disorders?

In order to do so, would they be required to seek separate and additional licensure as behavior specialists?

If their current license would no longer qualify them to treat those with autism spectrum disorders, where does the statutory authority come from to repeal that portion of their scope of practice from their licensure law?

Was there any consideration of exempting or grandfathering LCSWs in the behavior specialist licensure?

In addition, there are other professions that could be seriously and negatively impacted by these regulations, such as psychologists, professional counselors, marriage and family therapists, physical therapists,

occupational therapists, speech-language pathologists and possibly others. Was there any consideration about the potential impact on these professional, and the autistic patients they treat, as the regulations were being developed?

I am asking these questions in order to better enable me and my client to understand what the potential impact of 16A-429 will be on LCSWs and the patients they help. Please be assured that we are merely seeking information about what the intent and of the Medical Board was in approving the regulations, and what their understanding was about the potential impact of the regulations. This information will help us decide what action to take, if any, with regard to the regulations.

Given the short time-frame available before IRRC considers the final form regulations, and the even shorter time frame before the deadline for the relevant legislative committees to act, I would appreciate a quick response to these questions. You can use this e-mail address to respond, or perhaps a phone call might be more efficient. I can be reached at either of the numbers below.

Thank you for your time and help.

David Tive
Tive Lobbying
O – 717-233-1631
C – 717-877-0318