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Executive Director

Chris Rich, LSW, ACSW
President

June 29, 2011

Regulatory Unit Counsel
Department of State
P. O. Box 2649
Harrisburg, PA 17105-2649

Dear Regulatory Counsel,

The Pennsylvania Chapter of the National Association of Social Workers wishes to acknowledge the efforts of the State Board of Medicine to respond to previous concerns expressed by NASW-PA related to proposed final regulations 16A-4929. However, the modifications made to the regulations do not sufficiently address NASW-PA's concerns, nor do they fulfill the legislative intent of the Act. As a stakeholder in this process, NASW-PA made numerous requests to be involved in the re-drafting process of these regulations, but was not consulted before modifications were presented as final to IRRC.

Lack of Clarity

As the language was drafted in the new proposed final regulations; speech therapists, occupational therapists and nurses could claim that they are not required to secure a behavior specialist license to provide behavior modification services because their current scopes of practice do include "diagnostic assessment or treatment." This would be an accurate claim because these professions do conduct "diagnostic assessment and treatment." However, these functions are related to speech issues, occupational therapy or medical needs. Without narrowing the exemption to currently licensed mental health providers, the net for who is exempted from holding the behavior specialist license is simply cast far too wide. It would allow professionals with no documented mental health training or demonstrated competency to provide a mental health related service and bill private insurance.

If consulted, NASW-PA would have suggested the modifications outlined below to the language included in the regulation, "To the extent that an individual holds a professional license whose scope of practice includes ~~the mental health~~ diagnostic assessment or treatment of ~~autism spectrum~~ disorders, this subchapter is not intended to require dual licensure or impact the

licensee's scope of practice, ~~or impact the licensee's ability to qualify as a participating provider.~~"

Should that proposed modification not be seen as sufficient, a simple list could have been added to the language creating this statement instead, "To the extent that an individual holds a professional license as a psychologist, professional counselor, marriage and family therapist, clinical social worker or social worker whose scope of practice includes the diagnostic assessment or treatment of ~~autism spectrum~~ disorders, this subchapter is not intended to require dual licensure ~~impact the licensee's scope of practice, or impact the licensee's ability to qualify as a participating provider.~~"

Either version of the language would have provided what appears to have been the intended level of specificity. Without additional clarification language, NASW-PA has very serious concerns about how these regulations will impact the autism service delivery system here in the Commonwealth.

I would be remiss if I did not point out that regulations lack the necessary clarity in other aspects as well. The lack of any timeframe related to the hours of experience means that an individual could count an experience as a summer camp counselor during college with children on the spectrum as the necessary clinical experience. Additionally, only authorizing two entities to approve the appropriate instruction necessary to earn the license creates a monopoly situation which is unlike any other board. In general, there is a glaring lack of specificity that makes implementing these regulations fraught with complications. As someone who answers licensure questions daily, these regulations are going to be extremely problematic to enact as currently drafted.

Legislative Intent

It is my understanding that a key factor in creating the requirement for licensure or certification in ACT 62 of 2008 was to ensure that an acceptable level of competency was present among those professionals being compensated to serve children on the autism spectrum. Before the bill was even passed into law, NASW-PA voiced strong support for clear professional standards. NASW-PA believes that clients deserve to receive services from professionals that are well-trained and appropriately educated to offer services that will in fact be effective.

It was never our intent that any group of licensed professionals be completely exempt from demonstrating that they had coursework and experience specific to working with children on the autism spectrum. Our concern was that a licensed professional not be required to hold two separate licenses. We are supportive of a requirement that currently licensed mental health providers be required to earn a certification as a behavior specialist in addition to maintaining their professional license. Based on the social work professions' code of ethics it would be considered unethical for someone to practice in an area for which they did not have competency, and in keeping with that ethical requirement, we would like to have a separate track within the

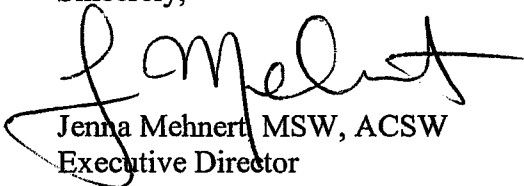
regulation for certification. Certification would only be appropriate for those who are already licensed as mental health providers and would not require any renewal process.

By no means is NASW-PA attempting to prolong the process of finalizing these regulations. However, the foundation of the social service system that will serve children on the autism spectrum here in the Commonwealth for decades to come will be decided by how these regulations are structured. It is rare that licensure regulations play such a pivotal role in designing a social services system, but since the heart of ACT 62 was to require private insurance to pay for services delivered by licensed or certified behavior specialist, these regulations open up a previously non-existent funding stream for service providers. Given the weight of what these regulations will mean to thousands of autistic children and their families, great caution must be exercised to ensure appropriate clarity and enactment of the legislative intent.

Once again, I ask that these comments be received in the spirit that they are intended. Clearly, professionals with good intentions have set about to draft regulatory language to enact a transformative piece of legislation. Wearing many hats, NASW-PA is in the unique position of being deeply saturated in the world of licensure issues, serving as advocates for sound social policy, being service direct providers to children on the spectrum, and in my case, also have the added insight of being a consumer of these services as the parent of a eight year old on the spectrum. It is our ethical mandate that we do everything in our power to ensure that the regulations that are issued as final will lay a clear and comprehensive framework for what will surely serve as a national model for serving this unique and challenging population of children.

NASW-PA remains willing to be of service to this effort should we be called upon to do so.

Sincerely,



Jenna Mehnert, MSW, ACSW
Executive Director

cc: Commissioner Katie True, BPOA, Department of State
Representative Dennis O'Brien
Secretary Gary Alexander
Wayne Crawford, Majority Executive Director, Professional Licensure
Marlene Tremmel, Minority Executive Director, Professional Licensure
Carol E. Rose, M.D., Chairperson, State Board of Medicine
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