

News Release

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Lawmakers, Children's Camps, Human Service Providers Urge Legislature to Correct Professional Employment Snafu

Children's camp supporters and human services organizations joined with lawmakers today to urge passage of remedial legislation (S.6466-A Bonacic, A.9794 Paulin) to allow licensed professionals to be employed by children's camps and permit the employment of licensed social workers in New York State.

Amy Paulin, Member of the New York State Assembly said: "Children and families throughout New York should have access to high-quality services from qualified, licensed professionals. This bill is crucial to ensuring that camps and other non-profits are able to provide the best care possible to the communities they serve."

Senator John Bonacic said: "As we approach the 2012 children's camp season, it is imperative that we work together to ensure children at camp are provided the same level of professional care and service they receive during the school year."

Background

Legislative action is critical because the NYS Education Department (SED) takes the position that it is a felony to employ licensed professionals in New York State without an operating certificate from agencies such as the Department of Health (DOH) or Office of Mental Health, or a newly created waiver authorizing non-profit organizations to employ Licensed Social Workers and certain other mental health professionals.

Although SED has implemented a "waiver" program in an effort to address the so-called "corporate practice of a profession" issue, the waivers don't help camps and many human services organizations. Waivers are not available to an organization that employs other licensed professionals (such as a camp that employs a nurse and a social worker). The waiver application is unduly burdensome, requiring excessive amount of paperwork and invasive personal information.

Children's Camps

Legislation to permit the lawful employment of licensed professionals by children's camps is needed so that camps may comply with DOH regulations requiring that they have licensed professionals as their camp health directors.

"Camp directors want to provide the safest, most nurturing environment for the hundreds of thousands of children who attend summer camp. To do so, we need to be able to hire those professionals necessary to provide the best care. Prohibiting a camp from hiring a trained nurse or a skilled social worker simply makes no sense," said Ross Coleman, President of **New York State Camp Directors Association**.

“This is important legislation which should be enacted. An exemption from the corporate practice ban for organizations that employ licensed social workers and mental health professionals will ensure that organizations can employ qualified staff and offer critical services to the communities they serve. In addition this legislation would ensure that camps can employ the full range of licensed professionals needed to meet the needs of children in a camp experience”, said Ron Soloway, Government Relations Managing Director, **UJA-Federation of New York**.

Exemption from the Corporate Practice Ban for Social Workers and Mental Health Professionals

Dozens of organizations from across New York have written in support of this legislation; as of now, no organization has publicly opposed the bill. The legislation replaces the waiver program with an exemption from the corporate practice ban, much like previous legislation that has provided exemptions for health maintenance organizations, hospices, speech pathologists, pharmacists, massage therapists, hospitals, insurance companies, and optometrists.

Earl Eichelberger, Director for Catholic Charities of the **New York State Catholic Conference**, said “We believe the waiver process was well intentioned; however, it has resulted in much confusion. It has resulted in a number of unintended consequences and created a number of conflicts. The proposed legislation is a straight forward approach that avoids the potential disruption of services that the waiver process, as it is being implemented, might create.”

“As a community based non-profit organization serving 3,500 homeless people each day through a dozen programs, **Coalition for the Homeless** is committed to providing the highest quality services for our clients, and assuring that other organizations are able to do the same,” said Shelly Nortz, Deputy Executive Director for Policy. “Government can do better than this, and we are so grateful to our bill sponsors for recognizing and advancing a “win-win” solution for our valued employees and the clients they serve,” said Ms. Nortz.

Waiver Program Flaws

Both the law and the manner in which it has been interpreted and implemented by the State Education Department have left many organizations with a number of unacceptable choices:

- Dismiss valued professional staff who serve the children at summer camps and provide vital social work services in communities across the state – and close these vital programs;
- Continue to employ them at risk of being accused of a Class E felony;
- Sign a waiver application that may contain unavoidable false statements;
- Sign an application containing the private home telephone numbers and addresses of volunteer board members even though the statute does not require this and it may present safety concerns;
- Ask volunteer board members – for each board on which they serve - to write detailed letters and provide decades-old court documents from even the most minor past offenses such as civil disobedience or petty crimes of their youth.

Jeff Wise, President/CEO, **New York State Rehabilitation Association** said, “As a matter of public policy, this bill is essential to guarantee that not-for-profit service agencies are permitted to provide the services expected from them, with the proper professionals, without fear of prosecution or of being caught in - with no way out of - a classic and unnecessary bureaucratic bind.”

Additional Support

“The licensing law is flawed and has unfortunately created many problems related to the provision of services by social workers and other professionals,” said Patricia Gallo Goldstein, LMSW, Chief Operating Officer of **The Coalition of Behavioral Health Agencies, LLC**. “This legislation is a first step to correcting some of the problems related to the “corporate practice of a profession” issue, which has only partially been addressed by the waiver applications required by the State Education Department. The Coalition is in full support of this legislation.”

“S.6466-A/A.9794 will help to ensure that vital substance use disorders prevention, treatment, and recovery programs do not lose staff and treatment capacity at a time of epidemic addiction and increasing overdose deaths,” said John Coppola, Executive Director of the **NY Association of Alcoholism and Substance Abuse Providers, Inc.** (ASAP).

"New York State should be encouraging non-profits to hire licensed social workers, not treating these hirings as felony offenses," said David Nocenti, Executive Director of **Union Settlement Association**, the largest social service provider in East Harlem. "The Legislature must act immediately to protect the jobs of licensed social workers, and to remove this threat to the ability of non-profits to serve those in need."

“The **Coalition of New York State Alzheimer’s Association Chapters** strongly supports Senate bill S.6466-A (Bonacic) and Assembly bill A. 9794 (Paulin), which would authorize community based organizations to employ licensed social workers and other licensed mental health professionals,” said Elaine Sproat and Catherine James, Co-Chairs of the Coalition of New York State Alzheimer’s Association Chapters. “Enactment of this legislation is important to the Coalition’s efforts to provide high quality services to those individuals and families in our communities that struggle with Alzheimer’s disease and other dementias.”

“The **NYS Council for Community Behavioral Healthcare** is grateful to Assemblywoman Paulin and Senator Bonacic for their leadership and continued concern for the best interests of thousands of New Yorkers receiving life-sustaining services each day from the men and women who need this exemption,” said Lauri Cole, Executive Director of the NYS Council for Community Behavioral Healthcare. “Without it, providers across NYS could be forced to choose between terminating these valued staff and violating the law. New York can ill afford to lose the talent and dedication these individuals bring to the healthcare delivery system.”

“The unintended consequences of this licensing law are serious and must be properly rectified for the long term stability of the human services sector. When applying for service contracts, organizations must be certified as being in compliance with all city and state laws. The current law makes reputable nonprofits employing social workers ineligible to serve those in need; that is senseless,” says Michael Stoller, Executive Director of the **Human Services Council**.

“Social workers are critical to the efforts of not for profit human service providers throughout New York State in assisting and supporting those in need. FPWA strongly supports Assemblywoman Paulin and Senator Bonacic in their stand to provide a sensible solution to a misguided law,” said Fatima Goldman, Executive Director and CEO of the **Federation of Protestant Welfare Agencies**.

“Nonprofit human services agencies are dealing with funding reductions, rising demand for services, and increased accountability requirements. The last thing we need is another regulation that hampers our ability to serve our communities. We are pleased to stand with Assemblywoman Paulin and Senator Bonacic to return common sense to nonprofit agency operations,” said Nancy Wackstein, Executive Director of **United Neighborhood Houses**.

“We are pleased to join with Assemblywoman Paulin and Senator Bonacic in urging passage of this bill. It will recognize the critical work social workers and other professional staff do every day to support the most vulnerable children and families in New York State. Further it eliminates a workload mandate that serves no useful purpose,” said James Purcell, Chief Executive Officer of the **Council of Family and Child Caring Agencies**.