



Department of Veterans Affairs Office of Inspector General

Healthcare Inspection

Alleged Certification Irregularities of Licensed Clinical Social Workers VA Western New York Healthcare System Buffalo, New York

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Executive Summary

The purpose of the review was to determine the validity of allegations concerning the improper certification of required clinical experience and supervision of social workers (SWs) to the New York State Division of Professional Licensing Services (referred to as NYS in this report) by Social Work managers at the Western New York Healthcare System, Buffalo, New York.

An anonymous complainant alleged that seven social workers (SWs) did not perform the requisite number of supervised psychotherapy clinical hours they needed to obtain their Licensed Clinical Social Worker (LCSW) credentials from NYS. It was also alleged that the LCSW supervisor falsely certified to NYS that the supervised clinical hours were completed and that based on the LCSW supervisor's certification, NYS issued licenses to the seven SWs.

We found that two of the seven SWs named in the complaint were Licensed Master Social Workers (LMSWs), who were not pursuing their LCSW credentials; therefore, they were not required to meet the supervised clinical hours requirement. Two other SWs named in the complaint did fulfill NYS requirements for the LCSW, based on clinical experience and supervision done before regulations changed in 2004; they were appropriately credentialed LCSWs.

The LCSW supervisor told the inspectors that supervision requirements for the remaining three SWs were met, and the three remaining SWs named in the complaint told the inspectors that they fulfilled all NYS requirements for their LCSW credentials. Because there was no documentation to support that requirements for supervised clinical hours were or were not fulfilled, we could neither refute nor substantiate the allegations in these three cases.

We recommended that management establish a SW Professional Standards Board/Council as required by VA policy and that the Board/Council require definitive documentation that all SW professional practice standards are fulfilled.



DEPARTMENT OF VETERANS AFFAIRS
Office of Inspector General
Washington, DC 20420

TO: Director, VA Healthcare Network Upstate New York (10N2)

SUBJECT: Healthcare Inspection – Alleged Certification Irregularities of Licensed Clinical Social Workers, VA Western New York Healthcare System, Buffalo, New York

Purpose

The VA Office of Inspector General, Office of Healthcare Inspections conducted an inspection to determine the validity of allegations concerning the improper certification of requisite clinical experience and supervision of social workers (SWs) to the New York State Department of Education, Office of Professions, Division of Professional Licensing Services (referred to as NYS in this report) by Social Work Service managers at the VA Western New York Healthcare System (the system), Buffalo, NY.

Background

The system consists of two divisions, located in Buffalo and Batavia, NY. The Buffalo division provides inpatient and outpatient medical, surgical, mental health, and long-term care services. The Batavia division provides long-term care services, post-traumatic stress disorder services, and primary care services. The system is academically associated with the State University of New York at Buffalo School of Medicine and Biomedical Sciences.

The Allegations: An anonymous complainant alleged that:

- Seven SWs did not perform the requisite number of supervised psychotherapy¹ clinical hours that they needed to obtain their Licensed Clinical Social Work (LCSW) credentials from NYS.
- The LCSW supervisor falsely certified to NYS that the supervised clinical hours were performed.
- Based on the LCSW supervisor's certification, NYS issued licenses to the seven SWs.

¹ New York State Education Law, Article 154, Section 7701, September 1, 2004 defines psychotherapy in the context of licensed clinical social work practice as “the use of verbal methods in interpersonal relationships with the intent of assisting a person or persons to modify attitudes and behavior which are intellectually, socially, or emotionally maladaptive.”

VA Requirements for Social Work: Veterans Health Administration (VHA) social workers provide clinical social services to veterans and other VA beneficiaries in VA medical centers, clinics, domiciliaries, nursing care facilities, and in community care settings. In performing these duties at the entry level, VA social workers use such methodologies as casework, group work, community organization, and social work research.

VA's Social Worker Qualification Standard Including Licensure and/or Certification Requirement (VHA Handbook 5338.4, December 6, 2001) sets forth the basic requirements for all grades as follows:

- (1) All applicants for the position of social worker in VHA, to qualify for appointment, must:
 - (a) Have a Master's degree in social work from a school of social work accredited by the Council on Social Work Education.
 - (b) Be licensed or certified at the Master's level to independently practice social work in a state.
- (2) Exception: ...VA social workers who are not licensed at the time of appointment must be licensed or certified at the Masters level, within 3 years of their appointment as a social worker or 1 year from the day they meet the full requirements of the state for licensure or certification, whichever is longer. Those who fail to obtain state licensure or certification within the required time frames must be removed from the General Schedule (GS)-185 social worker series. This may result in termination of employment.

Social Work Licensing in New York State: New York State licensing law establishes the requirements for licensure as a Licensed Master Social Worker (LMSW), a Licensed Clinical Social Worker (LCSW), and for the "R" psychotherapy privilege available to certain LCSWs. All licensees may only engage in those activities that are within the scope of practice and in which the licensee is competent. The major difference between the LMSW and the LCSW is that the LMSW may only provide "clinical social work" services (diagnosis, psychotherapy, and assessment-based treatment planning) under clinical supervision; the LCSW may provide those services without supervision.

Prior to September 1, 2004, NYS did not require that graduates from an accredited Masters of Social Work (MSW) program be licensed. However, to qualify for a certified social work² credential, individuals had to hold an MSW degree and pass a NYS

² The practice of a CSW is defined as "social casework, social group work, community organization, administration of a social work program, a social work education, social work research, or any combination of these. And the practice of SW is for the purpose of helping individuals, families groups and communities to prevent or to resolve problems caused by social or emotional stress." Title VIII of New York State of New York Education Law, 2000 – 2004. Article 154, Social Work.

licensing examination. Prior to September 1, 2004, there were no experience requirements for certified social workers.

On September 1, 2004, NYS put into effect several changes to the social work regulations. The State also required licensure for MSWs (who then became “licensed MSWs” or LMSWs). NYS retired the term “certified social worker.” Certified social workers who did not pursue the LCSW credential were given LMSW status. Certified social workers who wanted to pursue their LCSW credential were not required to retake a licensing examination, but they did have to fulfill NYS established requirements for supervised clinical experience in psychotherapy in order to qualify for the LCSW credential.

Since September 1, 2004, candidates for the LCSW credential had to possess an MSW degree, provide 3 years of full-time (or equivalent part-time) supervised post-masters psychotherapy to clients, and pass a licensing examination. Full-time supervised clinical experience consists of no more than 20 client contact hours of psychotherapy per week for 48 weeks per year for 3 years; part-time experience must not be less than 10 client contact hours per week. (Part-time experience is prorated so that the applicant will require more than 3 years to complete the equivalent of 36 months of supervised experience.) The requirements for clinical supervision are individual and/or group supervision for 1 hour per week or 2 hours every other week. According to the NYS regulations, group supervision may constitute no more than 50 percent of the total hours of supervision, that is, at least 2 hours per month must be individual supervision. An LCSW, a licensed psychologist, or a licensed psychiatrist must provide the supervision.³

Scope and Methodology

We interviewed the complainant and visited the system on July 9–12, 2007. We interviewed the LCSW supervisor, SWs identified in the complaint, the SW Executive, and other employees pertinent to the case.

We reviewed the SW position descriptions and Veterans Health Administration (VHA) directives, including VHA Directive 2002-029, May 23, 2002, *Social Work Professional Practice*; it requires the system to establish a Social Work Professional Practice Standards Board or Council to work with the Social Work Executive on oversight of practice functions. We reviewed the system’s Center Memorandum 122-1, *Social Work*, issued June 25, 2007, that requires that the Social Work Executive ensure SW professional practices are consistent with SW practice as defined by VA Central Office. Additionally, we reviewed NYS regulations related to the LCSW licensure requirements.

We conducted the inspection in accordance with the *Quality Standards for Inspections* published by the President’s Council on Integrity and Efficiency.

³ New York State Education Law: Article 154, Social Work, section 7704, September 1, 2004.

Inspection Results

Issue 1: Completion of Psychotherapy Hours

We did not substantiate the allegation that seven SWs failed to perform the required number of supervised clinical hours that qualified them for their LCSW credentials.

We found that two of the seven SWs were LMSWs and were not pursuing the LCSW credential at the time of the inspection. The LMSW is an appropriate license for VA employment; thus these two LMSWs were not required to meet the LCSW credentialing standards. As LMSWs, they may practice social work independently but may only provide clinical social work services under clinical supervision.

Our inspection also showed that two additional SWs were certified social workers prior to September 1, 2004; during a grace period after the law changed, they submitted documentation to NYS demonstrating that their prior experiences and clinical supervision satisfied the new requirements. NYS agreed and granted them their LCSW credentials.

The three remaining SWs were also certified social workers prior to September 1, 2004, but they had not met the supervised clinical hour requirement prior to September 1, 2004. Therefore, these three SWs were under the new regulations. We could neither substantiate nor refute the allegation concerning the performance of the requisite clinical hours for these three social workers.

During interviews with the three SWs, they told us that they provided the requisite supervised psychotherapy hours through their contact with patients during the performance of their regular duties. They all said that their patient contacts in their various work settings allowed them to satisfy the psychotherapy requirements. They all signed the NYS forms certifying that they completed the required psychotherapy hours, and the LCSW supervisor signed the forms verifying this. However, when asked by the inspectors for supporting documentation, neither the SWs nor the LCSW supervisor could produce documentation or provide references to specific patient medical records.

During interviews with the nurse managers from the units to which the three SWs were assigned, the nurse managers opined that it would have been difficult for the SWs to fulfill the requirement of 20 hours of direct psychotherapy per week given their assigned duties, such as case management and discharge planning. Interviews with a sample of the SWs' peers revealed that they were also of the opinion that it would have been difficult for the three SWs to fulfill the requirements during the SWs' regular tours of duty.

Issue 2: Social Work Clinical Supervision

We could not substantiate or refute the allegation that the LCSW supervisor falsely certified to NYS that the supervised clinical hours were performed.

The inspectors interviewed the LCSW supervisor on two occasions. During the first interview, the supervisor told inspectors that she provided clinical supervision to the SWs. The supervisor said supervision consisted of meetings with the SWs in group settings and that one SW supervisee would present a clinical case study at each of these settings. The SW supervisee who presented the case study counted that hour as individual supervision, while the rest counted that hour as group supervision. During the second interview, the supervisor told inspectors that while supervision was provided in group settings, the supervisor was available to the SWs on an individual basis if they felt the need for additional supervision. The LCSW supervisor presented no logs, attendance records, or other documentation to support that the supervisory requirements were fulfilled.

Inspectors interviewed the SW Executive. According to the system's Center Memorandum 122-1, the SW Executive is responsible for professional oversight and to ensure that SW practice is consistent with SW standards. VHA regulations (VHA Directive 2002-029) require that the SW managers establish a Social Work Professional Standards Board or Council to work with the SW Executive on oversight of practice functions. The regulation states, "While this board or council does not have supervisory authority for social workers, it does need to have authority and responsibility for defining and reviewing the professional practice of social workers within the facility." At the time of the inspection, a SW professional standards board/council had not been established. In our opinion, had this board/council been established, it would have ensured that documentation was in place to support that NYS requirements were fulfilled prior to certification being sent to the State.

Issue 3: Licensure Status

All seven SWs passed the necessary NYS licensing examinations. Two of the seven SWs held LMSW licenses; the five others held LCSWs. Two of these five were credentialed as LCSWs immediately after September 1, 2004, based on satisfactory prior experience and clinical supervision. The three remaining LCSWs were credentialed based in part on their experience in the system and certification provided to NYS by the LCSW supervisor. We verified that all seven licenses were current.

Conclusions

We concluded that in three cases there was insufficient evidence of clinical supervision due to the lack of documentation.

All seven SWs held current licenses. Two SWs named in the complaint were LMSWs and five were LCSWs. The two LMSWs were not pursuing the LCSW credential; therefore, they were not bound by the LCSW regulations. Additionally, we concluded that two other SWs named in the complaint had appropriately fulfilled the NYS requirements based on prior experience and were appropriately credentialed as LCSWs.

For the three remaining SWs, the LCSW supervisor told inspectors that their supervision requirements were met, and the three remaining SWs said that they fulfilled all NYS requirements for their LCSW credentials. Since there was no documentation to support that requirements were or were not fulfilled, we could not refute or substantiate the allegations in these cases.

We concluded that the SW managers needed to establish a SW Professional Standards Board/Council required by VHA regulations. SW managers needed to give the board/council the authority to require definitive documentation that all State and VHA regulations for SW professional practice have been fulfilled before allowing signed certification to go forward to the State.

Recommendations

Recommended Improvement Action 1. We recommended that the VISN Director ensure that the System Director requires that SW managers establish a SW Professional Standards Board/Council.

Recommended Improvement Action 2. We recommended that the VISN Director ensure that the System Director requires that the SW Professional Standards Board/Council request definitive documentation that State and VHA regulations for SW professional practice and supervision are fulfilled before any certification is forwarded to the State.

Comments

The VISN and Medical Center Directors concurred with the finding and recommendations and provided acceptable improvement plans. (See Appendixes A and B, pages 6–9, for the full text of the Directors’ comments.) We will follow up on the planned actions until they are completed.

(original signed by:)

JOHN D. DAIGH, JR., M.D.
Assistant Inspector General for
Healthcare Inspections

VISN Director Comments

**Department of
Veterans Affairs**

Memorandum

Date: October 15, 2007

From: Director, VA Healthcare Network Upstate New York (10N2)

Subject: Healthcare Inspection - Alleged Certification Irregularities of Licensed Clinical Social Workers, VA Western New York Healthcare System, Buffalo, New York

To: Director, Boston Office of Healthcare Inspections

I concur with the findings, recommendations, and action plans submitted by the VA Western New York Healthcare System, Buffalo, New York.

(original signed by:)

STEPHEN L. LEMONS, Ed.D, FACHE

Network Director

Facility Director Comments

**Department of
Veterans Affairs**

Memorandum

Date: October 15, 2007

From: Director, VA Western NY Healthcare System (528/00)

Subject: Healthcare Inspection - Alleged Certification Irregularities of Licensed Clinical Social Workers, VA Western New York Healthcare System, Buffalo, New York

To: Director, Boston Office of Healthcare Inspections

We concur with the findings and recommendations and an action plan is included in our response.

(original signed by:)

MICHAEL S. FINEGAN

Medical Center Director

**Director's Comments
to Office of Inspector General's Report**

The following Director's comments are submitted in response to the recommendation(s) in the Office of Inspector General's Report:

OIG Recommendation(s)

Recommended Improvement Action 1. We recommended that the VISN Director ensure that the System Director requires that SW managers establish a SW Professional Standards Board/Council.

Concur **Target Completion Date:** 10/31/07

The present Social Work Executive will re-establish the Social Work Professional Practice Council. This council will re-convene no later than October 31, 2007. The present Social Work Executive will seek the assistance from other VISN 2 Social Work Executives to establish a viable Social Work Professional Practice Council.

Recommended Improvement Action 2. We recommended that the VISN Director ensure that the System Director requires that the SW Professional Standards Board/Council requests definitive documentation that State and VHA regulations for SW professional practice and supervision are fulfilled before certification is forwarded to the State.

Concur **Target Completion Date:** 1/15/08

VA WNY Healthcare System Social Workers operate under a Scope of Practice, not Clinical Privileges. The Social Work Professional Practice Council will adopt a process whereby the scope of practice they endorse is approved by the Executive Committee of the Medical Staff.

Social Work is one of the professions transitioning to Hybrid 38. When the Social Work Qualification Standards are approved at the national level, all VHA facilities will establish a formal Social Work Professional Standards Board similar to the boarding process employed by other professions.

Social Workers supervised by a VA Social Worker (LCSW), Psychologist or Psychiatrist, must keep a record of the date of supervision, topic of supervision and case discussed. This log will be reviewed, and verified by the Social Work Professional Practice Council prior to the VA Social Worker, Psychologist or Psychiatrist signing the attestation and submission of same to the University of the State of New York, Education Division, Office of the Professions.

A Center Memorandum describing the above process will be developed.

OIG Contact and Staff Acknowledgments

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Acknowledgments	Annette Acosta Sunil Sen-Gupta

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