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PRESIDENT'S MESSAGE

Violation of Grandfather Clause

A few years ago a law was passed that provided that certified social workers could apply for authorization by the State Board for Social Work for the purpose of becoming qualified to receive third party reimbursement for professional services under the Insurance Law. One of the requirements of this provision was supervision in psychotherapy. Last summer one of our senior members reported to us that she had been denied recognition as a supervisor of psychotherapy for a social worker under this provision on the grounds that she didn't have a Ph.D., although she had been a Licensed Psychologist since 1958 under the "grandfather" provision. She has been in the practice of psychotherapy and psychoanalysis since 1947, and is a graduate of NYAP. She has been on the faculty and the board, and has been a control analyst for two of our psychoanalytic institutes, for a total of over 20 years of teaching and supervising experience.

She was turned down on the basis of a ruling made by the State Board for Psychology on January 20th, 1978, that "...the Board determined that the psychology supervisor must be a licensed psychologist at the doctoral level when the supervision was given and also meet one of the following criteria:

1. Diplomate of ABPP in clinical or counseling psychology, or;
2. Doctorate in clinical or counseling psychology from an APA approved program with one year's internship which includes psychotherapy training, or;
3. Completion of a formal "Respecialization" program in clinical or counseling psychology, or;
4. Completion of a postdoctoral program in psychotherapy in an institution chartered by the Board of Regents (or its equivalent as determined by the State Board for Psychology).

This decision was reviewed by the Board again at its September 14, 1979 meeting. The Board reiterated its earlier position. Even though a person may have been "grandfathered" into licensure on the basis of a master's degree and eight years experience, that determination twenty years ago should have been followed by obtaining the doctoral degree if the intent was to act as a supervisor of other mental health professionals. When specialty designation takes place for psychology, the Board feels that the same qualifications should be applied to their supervisors. The only exception to this standard would apply to supervision which occurred before the licensure law for psychology was passed (1956).

The Council of Psychoanalytic Psychotherapists protested this ruling by letter in August, and again in September 1979, and communicated our concern to other interested parties, including the New York Society of Clinical Psychologists, who also protested it in writing.

(Continued on page 2)
Violation of Grandfather Clause
(Continued from page 1)

In December, 1979 Attorney William Mariano, representing Council and other interested groups presented a memo to the Counsel of the State Education Department requesting a review of this ruling, and stating:

"The criteria adopted are extremely disturbing, as they serve to deprive certain psychologists of the full value of their license and apparently have little relationship to the person's supervisory ability.

It is my opinion that these criteria are violative of the provisions of the Insurance Law and serve to unconstitutionally discriminate against psychologists holding licenses, issued by the State of New York, who do not meet the criteria adopted. For example, under the criteria set forth, any "grandfathered" psychologist not holding a Ph.D., or any psychologist holding a European degree, would be barred from practicing as a psychotherapy supervisor.

A reading of Section 162 of the Insurance Law clearly indicates that the Social Work Board has the right to promulgate standards as to the quality of supervision received by a clinical social worker. It does not have any such right with regard to the qualifications of licensed psychologists:

"... (ii) three years post degree experience under the supervision, satisfactory to the Social Board of Social Work, of a psychiatrist, a certified and registered psychologist or a social worker qualified for reimbursement..."

The phrase off-set in brackets modifies the term "supervision" and not the listing of the people qualified to render such supervision. In fact, the only restriction to be found in the section which pertains to the party rendering the supervision, relates to social workers, thereby adding emphasis to the fact that licensure as a psychologist is the standard.

In addition, the criteria utilize standards established by private interests, independent of the State Education Department, thereby allowing a group which is not responsible to the Department to define and limit the scope of the license issued by the department. This is clearly an unacceptable delegation of the State's power and authority.

I also point out that these criteria were adopted without public notice or hearing, and without the opportunity of public review or comment before their implementation. Such action is violative of the administrative process and proper procedural process.

In conclusion, it is requested that you advise the State Board for Social Work that the criteria adopted are inappropriate in that they are placing an improper restriction on the license issued to psychologists by the State of New York."

This ruling deprives one group of licensed psychologists of their right to practice their profession and make a living doing supervision, which has traditionally been part of their professional practice. It discriminates against social workers who may have spent many years of supervisory time and thousands of dollars getting excellent supervision, which will not count toward their professional advancement. This ruling is an attack on training institutes that use "grandfather" psychologists as supervisors, and is a pressure to replace them with Ph.D. psychologists. This ruling gives no recognition to the value of psychoanalytic and psychotherapy training institute training, or to personal psychoanalysis and clinical experience in determining standards for supervision. The Board asserts that "persons grandfathered into licensure 20 years ago... should have obtained the doctoral degree if the intent was to act as a supervisor of other mental health professionals." This is an attempt to re-write history and impose new conditions retroactively.

We believe that this is a time of increasing pressure from organized medicine against the interests of non-medical mental health professionals, and that this action of the State Board of Psychology needlessly promotes strife and bitterness within psychology and social work at a time when cooperation is called for.

We shall continue to try to persuade the powers in authority that this ruling is illegal, unfair, and unwise, but we must face the fact that major litigation in the courts may ultimately be necessary if we are to prevail.

What do you think? I would really like you to write me your opinions about this.

Edwin Fancher, President, CPP.
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