



Leadership, voice and vision for child welfare in New York State

April 10, 2012

Hon. Richard Gottfried
Chair, Assembly Health Committee
Legislative Office Building, Room 822
Albany, New York 12248

Hon. Kenneth LaValle
Chair, Senate Higher Education Committee
Legislative Office Building, Room 806
Albany, New York 12247

Hon. Amy Paulin
Member of the Assembly
Legislative Office Building, Room 646
Albany, New York 12248

Hon. John Bonacic
New York State Senate
Legislative Office Building, Room 509
Albany, New York 12247

Re: Letter in Support of S.6466-A (Bonacic) and A.9794 (Paulin)

Dear Senator Bonacic, Senator LaValle, Assemblymember Gottfried and Assemblymember Paulin:

On behalf of the Council of Family and Child Caring Agencies (COFCCA), a state-wide member organization representing over 100 not-for-profit child welfare providers, I am writing to express our strong support for Senate Bill 6466-A (Bonacic) and Assembly Bill 9794 (Paulin), which would authorize non-profits to employ licensed social workers and other licensed mental health professionals. Enactment of this legislation is crucial to the efforts of our members to provide assistance to children and families in New York State.

This bill is essential because the State Education Department (SED) takes the position that it will be a felony for non-profits to employ licensed social workers unless they receive a waiver from SED to do so by July 1. Our members are non-profit organization dedicated to helping the most vulnerable New Yorkers, and as such must be able to hire experienced professionals – including licensed social workers – when needed to provide vital services. This law and its interpretation could create a potentially dangerous situation for those who depend on non-profit human services providers- tens of thousands of families and children in New York State.

In response to this problem, in 2010 the Legislature passed Education Law § 6503(a), which authorized SED to issue “waivers” to allow not-for-profit entities to employ licensed social workers and other licensed health professionals. The original deadline for entities to file for a waiver was originally June 16, 2011, and was extended to February 1, 2012 at the end of 2011 legislative session.

The waiver process was a well intentioned but grossly inadequate solution to a workforce and care delivery problem, and creates a number of serious problems and unintended consequences.

The waiver process consumes inordinate amounts of staff time at agencies and at SED; all for no useful purpose. Our agency programs are already under the supervision and monitoring of OCFS, OMH, and other state agencies which regulate and fund these services. In addition, each board member at a non-profit agency must complete a moral character affidavit, and an agency must update SED every time there is a



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change on its board. Finally after all the necessary work is completed, every agency must reapply every three years!

Absent a change in the law, according to SED, any social service or other organizations that did not apply for a waiver prior to February 1, 2012 – and we believe there are hundreds of such entities – will be committing a felony by continuing to employ licensed social workers and other licensed professionals, and cannot hire such individuals unless and until they receive waivers from SED as of July 2012. This imposes tremendous harm not just on the agencies themselves, but also on the many licensed social workers whose jobs are at risk, or whose employment prospects are now severely curtailed because there are a limited number of organizations that they may now legally work for.

Most importantly, the current system will have a tremendous adverse impact on many poor and underserved communities throughout New York State, many of which rely upon local human service organizations to provide crucial assistance to residents in need.

Fortunately, S.6466-A and A.9794 provide a simple, common sense solution that will address all these problems, by providing an exemption from corporate practice restrictions for organizations and governmental agencies employing licensed social workers and mental health professionals. There is ample precedent for such exemptions, which already exist for hospice organizations, speech pathologists, pharmacists, massage therapists, hospitals, insurance companies, optometrists and health maintenance organizations. One important consideration for our member agencies includes how this exemption will effect the 853 schools and early intervention programs that are important parts of these agencies.

An exemption from the corporate practice ban for organizations that employ licensed social workers and mental health professionals will ensure that that these organizations can retain their qualified staff and offer critical services to the communities they serve. Otherwise, countless organizations will be forced to choose between terminating valued staff members or violating the law. Most importantly, without action, the vulnerable children and families in communities throughout the state will lose all their support services.

For all of these reasons, we strongly support S.6466-A and A.9794, and urge the swift passage of this legislation.

Sincerely,

James F. Purcell, CEO, COFCCA