



George E. Pataki
Governor

NEW YORK STATE
OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE
40 NORTH PEARL STREET
ALBANY, NEW YORK 12243-0001

Brian J. Wing
Commissioner

: INFORMATIONAL LETTER :

TRANSMITTAL: 99 INF-9

TO: Commissioners of
Social Services

DIVISION: Temporary
Assistance

DATE: June 29, 1999

SUBJECT: Temporary Assistance/Medicaid Eligibility: Expansion
of Who Can Conduct Drug/Alcohol Assessments

SUGGESTED

DISTRIBUTION: Temporary Assistance Directors,
Medicaid Directors,
CAP Coordinators,
Staff Development Coordinators

CONTACT PERSON: Regional Representatives: Region I (518-473-0332);
Region II (518-474-9344); Region III (518-474-9307);
Region IV (518-474-9300); Region V (518-473-1469);
Region VI (212-383-1658)

ATTACHMENTS: OFF-LINE OASAS Regulation, Section 853.15 of Title
14

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
97 ADM-23 97 INF-16		351.2(i)			GIS 99 TA/DC004

The purpose of this informational letter is to inform districts that the Office of Alcohol and Substance Abuse Services (OASAS) has filed an amendment to 14 NYCRR 853.15 (attached) that provides for the issuance of a temporary provisional alcohol and substance abuse counselor credential. This change is significant since it will expand the pool of individuals available statewide to conduct assessments and may help to alleviate problems some districts found in meeting the assessment mandate.

The amended regulation permits OASAS to issue a credential to professionals who meet certain standards without first having to take the Credentialed Alcohol and Substance Abuse Counselor (CASAC) examination and will provisionally qualify them to conduct the mandated D/A assessments. The provisional alcoholism and substance abuse credential will only be available through June 30, 2000.

To be eligible for a provisional alcoholism and substance abuse counselor credential, an applicant must be currently licensed, certified, or otherwise credentialed, in good standing as one of the following:

- (1) a certified social worker licensed and currently registered by the New York State Education Department;
- (2) a nurse practitioner who is licensed and currently registered as a professional nurse by the New York State Education Department;
- (3) a physician's assistant licensed and currently registered as such by the New York State Education Department and whose practice is in conformity with Section 3701 of the Public Health Law;
- (4) a registered nurse licensed and currently registered by the New York State Education Department;
- (5) a licensed practical nurse, practicing under the supervision of a registered nurse, and licensed by the New York State Education Department;
- (6) a psychologist licensed and currently registered by the New York State Education Department; or
- (7) a rehabilitation counselor certified by the Commission of Rehabilitation Counselor Certification.

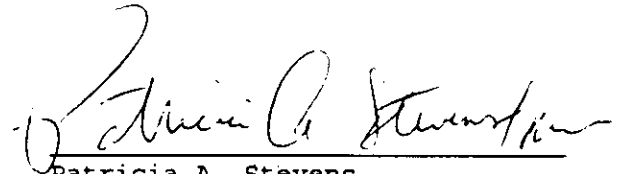
An individual seeking a provisional CASAC credential must also meet specific education, training and work experience defined in Part 853 which sufficiently demonstrates an understanding of safe practice by addressing a body of knowledge, work behavior, and skills related to chemical dependence treatment and/or dependence related problems.

Date June 29, 1999

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Page No. 3

The process for an individual to obtain the OASAS provisional credential to qualify to perform the drug and/or alcohol assessments is found in 14 NYCRR 853.15(d)(3).

A handwritten signature in cursive script, appearing to read "Patricia A. Stevens". The signature is written in dark ink and is positioned above a horizontal line.

Patricia A. Stevens
Deputy Commissioner
Division of Temporary Assistance



NEW YORK STATE
OFFICE OF ALCOHOLISM
AND
SUBSTANCE ABUSE SERVICES
1450 Western Avenue
Albany, New York 12203-3526

Jean Somers Miller
Commissioner

Julie Anne Rodak
Counsel

January 29, 1999

Ms. Debi Ritzko
State Register/Compilation Unit
Department of State
41 State Street, 11th Floor
Albany, New York 12207

RE: Draft Part 853.15, Title 14, NYCRR

Dear Ms. Ritzko:

Enclosed please find a Notice of Adoption for the
above-captioned regulations.

As always, thanks so much for your assistance.

Sincerely,

Julie Anne Rodak
Julie Anne Rodak

Enclosure

cc: Dale Peterson

George E. Pataki
GOVERNOR



David S. Bradley
Acting Director of Regulatory Reform

January 13, 1999

The Honorable Jean Somers Miller
Commissioner
NYS Office of Alcoholism
and Substance Abuse Services
1450 Western Avenue
Albany, New York 12203

Dear Commissioner Miller:

The Office of Alcoholism and Substance Abuse Services' request, received May 29, 1998, to submit a notice of proposed rule making pursuant to Executive Order No. 20 to amend 14 NYCRR §853.15, Temporary Provisional Alcoholism and Substance Abuse Counselor Credentials, is hereby authorized.

A copy of this notification is being sent to Secretary of State Treadwell to inform him that the Office of Alcoholism and Substance Abuse Services may submit this proposed rule for publication in the State Register.

Sincerely,

A handwritten signature in black ink, appearing to read "David S. Bradley". The signature is fluid and cursive, written over a white background.

David S. Bradley

DSB/AFS/gmt

cc: The Honorable Alexander Treadwell
The Honorable Michael A. L. Balboni
The Honorable Joan K. Christensen
Julie A. Rodak, Esq.

Governor's Office of Regulatory Reform
17th Floor, A.E. Smith Building, PO Box 7027, Albany, New York 12225
Phone: 518-486-3292 Fax: 473-9342
Website: <http://www.state.ny.us/gor>

AGENCY NOTICE OF INTENT TO PROPOSE OR REVISE A RULE

AGENCY NAME:
NYS Office of Alcoholism and Substance Abuse Services

Pre-Approval Review Proposed Rule (Final) Proposed Revised Rule (Final)

Title of Proposed Rule or Action: Temporary Provisional CASAC	NYCRR Citation: 14 NYCRR Part 953	State Register ID # (for proposed rules only):
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BRIEF DESCRIPTION OF PROPOSED ACTION:
This emergency rule amends Part 953 to Title 14 NYCRR to provide for the issuance of a temporary provisional alcoholism and substance abuse counselor credential (CASAC) to enable such persons to provide employability assessments pursuant to Chapter 436 of the Laws of 1997, on a time limited basis, prior to qualifying for, applying for, and taking the requisite examination for, the CASAC.

Please check all attachments submitted as part of this notice of intent:

- Draft notice of proposed or revised rulemaking for publication in the *State Register*.
- Complete text of the rule.
- All required Regulatory Impact Statements; Regulatory Flexibility for Small Businesses Analyses; and Rural Flexibility Analyses.
- Cost-Benefit Analysis; Risk Assessment; and/or Job Impact Analysis (if required by the Governor's Office of Regulatory Reform or otherwise undertaken).
- Any results of a negotiated rulemaking or policy dialogues with regulated parties undertaken in connection with rule, if any.
- Assessment of relevant public comment, if any.
- Other relevant information (Please describe: _____)

SIGNATURE: *Jean S. Miller*
Agency Head (or designee)

5-28-98
Date

CONTACT PHONE NUMBER: Julie Podak 485-2312

Date Submitted to GORR: _____

Date Received by GORR: _____

SUBMIT TO:
Counselor
Governor's Office of Regulatory Reform
Alfred E. Smith Office Building, 17th Floor
P.O. Box 7027
Albany, NY 12225
(518) 473-0620

Notice of Emergency Adoption and Proposed Rule Making

New York State Office of Alcoholism and Substance Abuse Services

(SUBMITTING AGENCY)

NOTE: Filing and submission instructions are at the end of this form. Please be sure to COMPLETE ALL ITEMS. Incomplete forms and nonscannable text attachments will be cause for rejection of this notice.

Pursuant to the provisions of the State Administrative Procedure Act (SAPA), NOTICE is hereby given of the following agency action:

1. *Action taken:* This emergency rule amends Section 853.15 of Title 14 NYCRR to enable OASAS to issue a temporary provisional alcoholism and substance abuse counselor credentials to persons who meet certain standards to enable them to provide employability assessments pursuant to Chapter 436 of the Laws of 1997, pending the examination process.

2. *Effective date of emergency rule:* Date of filing Other: _____

3. *History of emergency actions:*

- This is the first time this emergency rule has been adopted.
- This is the first re-adoption of an emergency rule printed in the *State Register* on _____ under I.D. No. _____ and is a notice of emergency adoption and notice of proposed rule making

4. *Statutory authority under which the rule is adopted:*

Mental Hygiene Law Sections 19.07(c), 19.09(b), and 19.09(d).

5. *This emergency rule is necessary for the preservation of:*

- public health
- public safety
- general welfare

6. *The specific reasons underlying the finding of necessity, above, are as follows:* This rule is essential in order for the welfare reform law (Chapter 436 of the Laws of 1997) to be effectively implemented in a timely manner. The requisite assessment for alcoholism and substance abuse problems is a key element in helping people obtain the assistance they may need in order to become self-sufficient and to ultimately achieve state work participation goals. In order to fulfill this requirement, an available pool of qualified and knowledgeable addiction professionals of sufficient size is essential. This rule is critical in order to achieve that goal.

7. *Subject of the:*

This proposal authorizes the issuance of a special, time limited credential to professionals who meet certain standards without first having to take the CASAC examination. The amendment provides such persons with two years within which they must take the examination if they wish to retain the credential on a permanent basis.

8. *Purpose of the:*

To permit the Agency to issue a special time limited credential to professionals meeting certain standards to enable them to provide employability assessments pursuant to Chapter 436 of the Laws of 1997.

NOTICE OF EMERGENCY ADOPTION AND EFFECTIVE DATE

8. *Terms of rule* (check applicable box):

- The rule is 2,000 words or less. An original copy of the text in scannable format is attached.
- The rule is more than 2,000 words. Therefore, an original copy of a summary of the text (in scannable format) is attached.
- Pursuant to SAPA § 202(7)(b), the agency elects to print a description of the subject, purpose and substance of the rule in less than 2,000 words. The original text in scannable format is attached.

9. *Regulatory Impact Statement (RIS)* (check applicable box):

- An RIS of 2,000 words or less is submitted with this notice.
- A summary RIS is submitted with this notice because the full text exceeds 2,000 words.
- A consolidated RIS is submitted with this notice because:
 - the rule is one of a series of closely related and simultaneously proposed rules.
 - the rule is one of a series of virtually identical rules proposed during the same year.
- An RIS is not submitted because this rule is a technical amendment and, therefore, exempt from SAPA § 202-a. Attached to this notice is a statement of the reason(s) for claiming this exemption.
- An RIS is not submitted because this rule is subject to a consolidated RIS printed in the *Register* in a notice of proposed rule making ID No. _____; *Register* date: _____
- An RIS is not submitted because this rule is a "rate making" as defined in SAPA § 102(2)(a)(ii).
- An RIS is not submitted, but will be published in the *Register* within 30 days of the rule's effective date.

10. *Regulatory Flexibility Analysis for Small Businesses (RFASB)* (check applicable box):

- An RFASB of 2,000 words or less is submitted with this notice.
- A summary RFASB is submitted with this notice because the full text exceeds 2,000 words.
- A consolidated RFASB is submitted with this notice because this rule is the first of a series of closely related rules that will be subject to the same analysis.
- An RFASB is not submitted because this rule will not impose any adverse economic impact or reporting, recordkeeping or other compliance requirements on small businesses. A statement is attached setting forth this agency's finding and the reasons upon which the finding was made, including what measures were used by this agency to ascertain that this rule will not impose such adverse economic impact or compliance requirements on small businesses.
- An RFASB is not submitted because the rule is subject to a consolidated RFASB printed in the *Register* under notice of proposed rule making, ID No. _____; *Register* date: _____
- An RFASB is not submitted because this rule is a "rate making" as defined in SAPA § 102(2)(a)(ii).
- An RFASB is not submitted, but will be published in the *Register* within 30 days of the rule's effective date.

11. *Rural Area Flexibility Analysis (RAFA)* (check applicable box):

- An RAFA of 2,000 words or less is submitted with this notice.
- A summary RAFA is submitted with this notice because the full text exceeds 2,000 words.
- A consolidated RAFA is submitted with this notice because this rule is the first of a series of closely related rules that will be subject to the same analysis.
- An RAFA is not submitted because this rule will not impose any adverse economic impact or reporting, recordkeeping or other compliance requirements on public or private entities in rural areas. A statement is attached setting forth this agency's finding and the reasons upon which the finding was made, including what measures were used by agency to ascertain that this rule will not impose such adverse impact or compliance requirements on rural areas.
- An RAFA is not submitted because the rule is subject to a consolidated RAFA printed in the *Register* under a notice of proposed rule making, ID No. _____; *Register* date: _____
- An RAFA is not submitted because this rule is a "rate making" as defined in SAPA § 102(2)(a)(ii).
- An RAFA is not submitted, but will be published in the *Register* within 30 days of the rule's effective date.

NOTICE OF EMERGENCY ADOPTION AND PROPOSED RULE MAKING

13. *Job Impact Statement (JIS)* (check applicable box):

- An JIS of 2,000 words or less is submitted with this notice.
- A summary JIS is submitted with this notice because the full text exceeds 2,000 words.
- A JIS Request for Assistance is submitted with this notice.
- A consolidated JIS is submitted with this notice because this rule is the first of a series of closely related rules that will be subject to the same analysis.
- A JIS is not submitted because it is apparent from the nature and purpose of the rule that it will not have a substantial adverse impact on jobs and employment opportunities. A statement is attached setting forth this agency's finding that the rule will have a positive impact or no impact on jobs and employment opportunities; except when it is evident from the subject matter of the rule that it could only have a positive impact or no impact on jobs and employment opportunities, the statement shall include a summary of the information and methodology underlying that determination.
- A JIS is not submitted because this rule is subject to a consolidated JIS printed in the *Register* in a notice of proposed rule making ID No. _____; *Register* date: _____.
- A JIS is not submitted because this rule is a "rate making" as defined in SAPA § 102(2)(a)(ii).
- A JIS is not submitted because this rule is proposed by the State Comptroller or Attorney General.

14. *Emergency Expiration Date* (a first emergency rule is effective and enforceable for up to 90 days from the date of filing AND second and subsequent emergency rules are effective and enforceable for up to 60 days from their date of filing UNLESS the agency specifies an earlier date). This rule expires:

- 90 days after filing (specify): _____
- 60 days after filing (specify): _____
- Other (specify date): _____

15. *Proposed Expiration Date* (check only if applicable):

- This proposal will not expire in 180 days because it is for a "rate making" as defined in SAPA § 102(2)(a)(ii).

16. *Type of Notice*:

- This notice serves both as an emergency adoption and a notice of proposed rule making. This is not a notice revised rule making.

17. *Public Hearings* (check box and complete as applicable)

- A public hearing is required by law and will be held at _____ a.m./p.m. on _____ 19____
- A public hearing is not required by law and has not been scheduled.
- A public hearing is not required by law, but will be held at _____ a.m./p.m. on _____ 19____

18. *Interpreter Services* (check only if a public hearing is scheduled):

- Interpreter services will be made available to hearing impaired persons, at no charge, upon written request submitted within a reasonable time prior to the scheduled hearing. Requests must be addressed to the agency contact designated in this notice.

19. Accessibility (check appropriate box only if a public hearing is scheduled):

- All public hearings have been scheduled at places reasonably accessible to persons with a mobility impairment.
- All public hearings except the following have been scheduled at places reasonably accessible to persons with a mobility impairment:
 - 1. _____
 - 2. _____
 - 3. _____
- None of the scheduled public hearings are at places reasonably accessible to persons with a mobility impairment.
- An optional explanation is being submitted regarding the nonaccessibility of one or more hearing sites.

20. The text of the rule and any statements and analyses may be obtained from:

Name of agency contact Julie Anne Podak, Counsel
Office address 1450 Western Avenue
Albany, New York 12203-3526
Telephone number (518) 485-2312

21. Submit data, views or arguments to (complete only if different than previously named agency contact):

Name of agency contact _____
Office address _____
Telephone number _____

22. Additional matter required by statute:

Check box if NOT applicable.

23. Public comment will be received until:

- 45 days after publication of this notice (MINIMUM, public comment period)
- 60 days after the last scheduled public hearing required by statute (MINIMUM, with required hearing)
- Other (specify) _____

24. Referenced material (check one box):

- No information is being incorporated by reference in this rule making.
- This rule making contains referenced material in the following Parts, sections, subdivisions, or paragraphs:

25. For readoptions of emergency rule makings indicate if any changes were made to the text of this rule since the filed emergency rule making.

- No revisions to text
- Revisions were made in the following Parts, sections, subdivisions or paragraphs:

NOTICE OF EMERGENCY ADOPTION AND EFFECTIVE DATE

13. *Regulatory Agenda* (The Division of Housing and Community Renewal; Workers' Compensation Board; and the departments of Agriculture and Markets, Banking, Education, Environmental Conservation, Health, Insurance, Labor and Social Services and any other department specified by the governor or his designee *must complete* this item. If your agency has an optional agenda published, that should also be indicated below):

- This action was as a Regulatory Agenda item in the first January issue of the *Register*, 19 ____
- This action was as a Regulatory Agenda item in the last June issue of the *Register*, 19 ____
- This action was not under consideration at the time this agency's Regulatory Agenda was submitted for publication in the *Register*.

AGENCY CERTIFICATION (To be completed by the person who PREPARED the notice.)

I have reviewed this form and the information submitted with it. The information contained in this notice is correct to the best of my knowledge.

I have reviewed Article 2 of SAPA and Parts 260 through 263 of 19 NYCRR, and I hereby certify that this notice complies with all applicable provisions.

Name Julie Anne Rodak Signature *Julie Anne Rodak*
Address DASPS, 1450 Western Avenue, Albany, New York 12203-3526
Date _____ Telephone (518) 485-2312

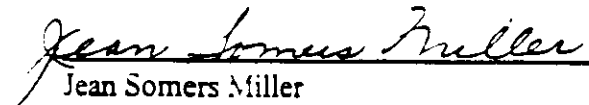
Please read before submitting this notice:

1. Except for this form itself, all text must be typed in scannable format as described in the Department of State's "NYS Reg: Procedures Manual."
2. Submit as one package:
 - a) the original certification stapled to the full text of the adopted rule and TWO copies (for the NYCRR); AND
 - b) the original notice and scanner copy collated as: (1) form; (2) text or summary of rule; and, if any, (3) a regulatory impact statement, regulatory flexibility analysis for small businesses, rural area flexibility analysis, job impact statement or assessment of public comment—and ONE copy of that set.
3. This notice may be hand delivered or mailed:
Hand deliver to: DOS Office of Information Services, 41 State Street (3rd Floor), Albany
Address mail to: Register/NYCRR Unit, Department of State, Albany, NY 12231

CERTIFICATION

Pursuant to Sections 19.07 and 19.09 of the Mental Hygiene Law, I, **Jean Somers Miller**, Commissioner of the Office of Alcoholism and Substance Abuse Services, hereby certify that this is the duly adopted original of an order of the New York State Office of Alcoholism and Substance Abuse Services which is adopted as an emergency measure on this date pursuant to the provisions of Section 202.6 of the State Administrative Procedure Act.

DATE: May 28, 1998



Jean Somers Miller
Commissioner
Office of Alcoholism and Substance Abuse Services

Section 853.15 of Chapter XXV of Title 14 of the Official Compilation of Codes, Rules and Regulations of the State of New York is amended to read as follows:

§853.15 Special (Credentialing) Conditions for the Issuance of Temporary Provisional Credentials

(a) Special credentialing shall be in effect for a period of 90 days beginning on the effective date of the promulgation of this Part.

(b) The credentialing board, during this period, may recommend issuance by the Office, without requiring written or oral examination, of a credential to any person who meets the following criteria:

(1) The person holds a current, valid alcoholism counselor credential (CAC) issued by the Office pursuant to Article 19 of the Mental Hygiene Law; or

(2) The person holds a current, valid substance abuse counselor credential (CSAC) issued by the Office pursuant to Article 19 of the Mental Hygiene Law.

(c) The Office shall issue the alcoholism and substance abuse counselor credential to all qualified persons during the 90 day period beginning on the effective date of this Part. After this period, regulations governing the establishment, issuance and renewal of the credentialed alcoholism counselor (Part 395 of this Title) and the credentialed substance abuse counselor (Part 827 of this Title) credentials shall be rescinded.]

(a) Background and intent. (1) Under Chapter 436 of the Laws of 1997, local social services districts are required by law to screen and assess all applicants and recipients of public assistance to determine if they have an alcoholism and/or substance abuse problem that prevents them from being employable. If so, such persons are mandated into alcoholism/substance abuse treatment and exempt from work participation rules until such time as they have progressed in their recovery to a point where they are employable.

(2) Assessments must be performed, as specified in the law, by "alcoholism and substance abuse professionals who have been issued credentials by the office of alcoholism and substance abuse services." This provision is intended to assure that assessments are provided by persons with demonstrated knowledge and experience in addiction.

(3) In order to ensure that a sufficient number of such professionals are immediately available to local districts, a special provisional credential issued on a temporary basis to appropriately qualified persons, pending the examination process, is needed such that the assessment service can be administered in a timely manner in all local social services districts.

(b) Applicability. The provisional credential is available under this section to alcoholism

and substance abuse professionals with assessment, clinical counseling, and/or vocational education experience who have the equivalent of three years of full time paid addiction treatment experience acquired in facilities licensed or certified by the Office during the period of May 1, 1987 through June 30, 1998 and who otherwise meet the requirements of the provision of this Section.

c) Limited availability of provisional credentialing mechanism. The provisional alcoholism and substance abuse credential mechanism established in this Section will be available for a limited time period, commencing June 30, 1998 through June 30, 2000. The mechanism will not be available to any applicant after June 30, 2000, and this section shall be deemed to be expired on and after July 31, 2002.

(d) Application requirements. Applicants who wish to obtain a provisional alcoholism and substance abuse counselor credential through the mechanism established in this Section must provide documentation which demonstrates that the applicant satisfies the following requirements:

(1) Professional license, certification, or other credential required. To be eligible for a provisional alcoholism and substance abuse counselor credential, an applicant must be currently licensed, certified, or otherwise credentialed, in good standing, as at least one of the following:

- (i) a certified social worker licensed and currently registered by the New York State Education Department;
- (ii) a nurse practitioner who is licensed and currently registered as a professional nurse by the New York State Education Department;
- (iii) a physician's assistant licensed and currently registered as such by the New York State Education Department and whose practice is in conformity with Section 3701 of the Public Health Law;
- (iv) a registered nurse licensed and currently registered by the New York State Education Department;
- (v) a licensed practical nurse, practicing under the supervision of a registered nurse, and licensed by the New York State Education Department; and/or
- (vi) a psychologist licensed and currently registered by the New York State Education Department;
- (vii) a rehabilitation counselor certified by the Commissioner of Rehabilitation Counselor Certification.

(2) Education, training, and work experience.

(i) The Office shall require documentation of education, training, and work experience which sufficiently demonstrates an understanding of safe practice by addressing a body of knowledge, work behavior, and skills related to chemical dependence treatment, including but not limited to:

(A) knowledge of the variety of models and theories of addiction and other

chemical abuse and/or dependence related problems:

(B) knowledge of the practices, policies, and outcomes of the most generally accepted models of treatment, recovery, relapse prevention and continuing care for chemical abuse or dependence related problems:

(C) familiarity with established diagnostic criteria for chemical abuse and dependence and understanding of the variety of treatment options and placement criteria within the continuum of care; and

(D) knowledge of the obligation of the credentialed qualified health professional to adhere to generally accepted ethical and behavioral standards of conduct in the helping relationship.

(ii) Education and Training. All education and training claimed shall be documented as directed by the Office and shall be subject to verification and approval by the Office.

(A) The person shall have received a high school diploma or general equivalency diploma (GED).

(B) The person must be able to document completion of a formal training program of sufficient duration and breadth to reasonably provide a comprehensive presentation of chemical dependence treatment, which was designed to promote an understanding of models and theories of addiction and other chemical abuse; behavioral, psychological, physical health, and social effects of chemical abuse or dependence; diagnostic criteria for chemical abuse and dependence; and/or the range of treatment options and placement criteria within the continuum of care. Such formal training program must have been completed within the ten years prior to the date of application.

(C) All education and training must have been completed within ten years of the date of application. At the discretion of the office, courses successfully completed more than ten years prior to the date of application as part of an accredited degree program may be accepted, and shall be accepted if the applicant has over fifteen years of experience working in facilities certified or licensed by the office.

(D) Training will be considered acceptable if it is obtained through an accredited college or university, a governmental agency, professional organization, training institute, or in-service training program approved by the office.

(iii) Work experience. An applicant must document a minimum of three years of paid full-time equivalent experience in facility licensed or certified by the Office. Such

experience must have been obtained within the ten years prior to the date of application and must include direct provision of treatment services to individuals and/or families with documented chemical dependence problems, or supervision of others in the direct provision of such treatment services. All qualifying experience must have been obtained within ten years of the date of application.

(3) Evaluations. (i) Each application shall include three evaluations written by persons with at least six months of direct knowledge of the applicant's performance as an alcoholism or substance abuse professional during the period of May 31, 1987 through June 30, 1998 in a work setting licensed or certified by the Office. Such evaluations shall be based upon the applicant's work experience as defined in paragraph (2) of this subdivision and shall be on forms provided by the Office. Of the three evaluations, one shall be written by a supervisor and at least one shall be written by a qualified health professional, as defined in this Part.

(ii) Evaluations submitted pursuant to this section shall be kept confidential.

(4) Affidavit of ethical principles. Each applicant shall sign an affidavit which states that the applicant subscribes and will adhere to the Canon of Ethical Principles, as included in Section 853.7 of this Part, which shall govern the applicant's professional activities as a provisional credentialed alcoholism and substance abuse counselor. Willful failure to sign such affidavit shall be grounds for denial of issuance of the credential.

(5) Fees. Each application submitted shall include the requisite fee as determined by the commissioner.

(6) Statement of purpose. Each applicant shall state that the provisional alcoholism and substance abuse counselor credential is being requested such that the applicant can utilize the credential to exclusively perform assessments pursuant to Chapter 436 of the Laws of 1997 and that the applicant intends to provide such services upon issuance of the provisional credential.

(7) Submission through county. Each application, including the requisite fee as established in paragraph (5) of this subdivision, shall be submitted to the local social services district of the county in which the applicant's current place of employment is located, including a request that such submission be forwarded to the Office for consideration for a provisional alcoholism and substance abuse counselor credential in accordance with this Section. The local social services district, in consultation with the local mental hygiene director, shall forward all such applications which it deems appropriate to the Office without undue delay for consideration.

(e) Review of applications. (1) Completeness review. Applications shall be reviewed by the Office for completeness and eligibility.

(i) Complete applications. Applicants whose applications are determined to be complete shall undergo an eligibility determination.

(ii) Incomplete applications.

(A) Applicants whose applications are not complete shall be notified by the Office, by mail, as to information required for completeness.

(B) If information required for completeness is received within a reasonable timeframe specified by the Office, the application will undergo an eligibility determination. If information required for completeness is not received within a reasonable timeframe specified by the Office, the application shall be deemed ineligible.

(2) Issuance of Credential.

(i) If the Office determines that the requirements of this Section have been sufficiently demonstrated by the applicant, it shall issue such applicant a provisional alcoholism and substance abuse counselor credential.

(ii) If the Office determines that the requirements of this Section have not been sufficiently demonstrated, such person shall be so notified in writing, providing the reasons for such determination.

(A) Such person shall be provided an opportunity to submit documentation within ten business days of receipt of the determination supporting a position that the Office's determination was based on mistake of fact.

(B) The Office shall review any additional documentation submitted by the applicant and shall make a determination whether to issue or deny the provisional alcoholism and substance abuse counselor credential. A determination to uphold denial of the provisional credential shall not be subject to further administrative review.

(d) Expiration of provisional alcoholism and substance abuse counselor credential. Each provisional credential issued in accordance with this Section shall be valid for a period of two years from the date of issuance. The date of expiration shall be included on the provisional credential.

(e) Renewal of provisional alcoholism and substance abuse counselor credentials. A provisional alcoholism and substance abuse counselor credential issued under this Section is not subject to renewal. A person who has been issued a provisional credential in accordance with this Section must, within two years after issuance of such provisional credential, qualify for, apply for, take, and successfully complete an oral and written examination in accordance with Sections 853.7, 853.8, and 853.10 of this Part in order to remain credentialed beyond the expiration date of his or her provisional credential. Such persons shall be issued credentials in accordance with

and shall be subject to all provisions of this Part governing alcoholism and substance abuse counselor credentials.

(f) Revocation, suspension, or other remedial actions. A provisional credential issued under this Section may be subject to revocation, suspension, annulment, or other administrative action in accordance with Sections 853.21 or 853.22 of this Part. If a provisional credential is revoked, or expires during a period of suspension, the alcoholism or substance abuse professional cannot apply for a new provisional credential under this Section.

(g) Ineligibility for reciprocity. No alcoholism or substance abuse professional who has been issued a provisional credential pursuant to this Section, shall be eligible for reciprocity, by virtue of his or her provisional credential, with credentials or certifications issued by certifying bodies of other states.

(h) Property of Office. The provisional credential shall remain the property of the Office and must be returned to the Office upon expiration or revocation of the provisional credential.

SUMMARY

This emergency rulemaking would amend Part 853 of Title 14 NYCRR to establish a mechanism for issuing a time limited special provisional alcoholism and substance abuse counselor credential to appropriately qualified persons, pending the examination process, to ensure that counties will be able to fulfill state welfare reform law alcoholism/substance abuse assessment requirements.

REGULATORY IMPACT STATEMENT

1. **Statutory Authority:**

Sections 19.07(c) and 19.09(b) of the Mental Hygiene Law authorize the Commissioner of the Office of Alcoholism and Substance Abuse Services to adopt regulations as necessary and proper to implement any matter under his or her jurisdiction. Section 19.07 (d) of such law authorizes the Commissioner to establish minimum qualifications for credentialed alcoholism and substance abuse counselors.

2. **Legislative Objectives:**

Under Chapter 436 of the Laws of 1997, local districts are required by law to screen and assess all applicants and recipients of public assistance to determine if they have an alcoholism and/or substance abuse problem that prevents them from being employable. If so, such persons are mandated into alcoholism/substance abuse treatment and exempt from work participation rules until such time as they have progressed in their recovery to a point where they are employable.

Assessments must be performed, as specified in the law, by "professionals who have been issued credentials by the office of alcoholism and substance abuse services." This provision is intended to assure that assessments are provided by persons with demonstrated knowledge and experience in addiction.

OASAS has been informed by certain districts that the pool of CASACs available to provide the assessment service is not sufficient to adequately fulfill this provision of law, which is currently being implemented. These districts are being asked to fulfill a requirement that they are physically unable to fulfill. It is therefore critical that appropriately qualified persons be available to provide this service for local districts immediately.

OASAS has determined that certain professionals have the requisite knowledge and experience in addictions to be able to effectively administer assessments pursuant to the welfare reform law. Hence, OASAS seeks to issue a special, time limited credential to professionals who meet certain standards without first having to take the CASAC examination. The amendment provides such persons with two years within which they must take the examination if they wish to retain the credential on a permanent basis.

3. **Needs and Benefits:**

This rule expands the pool of persons from which local governments can draw to perform employability assessments under the welfare reform law. It consequently better ensures that local governments will be able to fulfill their statutory assessment responsibilities under welfare reform and would therefore be of considerable benefit to local

governments.

Costs:

(a) There are no unbudgeted costs or savings to the State as a result of implementation of this rule.

(b) As this proposal standardizes existing requirements and adds an optional credential opportunity that is not a requirement, there are no new costs to regulated parties for the implementation and continuing compliance with the proposed rule.

(c) There are no additional costs to the Office of Alcoholism and Substance Abuse Services, the State, or local governments for the implementation and continued administration of this rule. The agency will need to dedicate staff to process the credential applications, but this cost should be offset by the administrative filing fee.

(d) The above statements are based on the fact that the proposed rule does not place any mandates on regulated parties.

This regulation places no additional burdens on businesses. There are no additional costs to the State or local governments associated with the implementation of the rule. The credential envisioned in the regulation is entirely optional.

Local Government Mandates:

Under Chapter 436 of the Laws of 1997, local districts are required by law to screen and assess all applicants and recipients of public assistance to determine if they have an alcoholism and/or substance abuse problem that prevents them from being employable. If so, such persons are mandated into alcoholism/substance abuse treatment and exempt from work participation rules until such time as they have progressed in their recovery to a point where they are employable.

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immediately.

Hence, OASAS seeks to quickly issue a temporary, time limited alcoholism and substance abuse counselor credential to persons meeting certain standards, without first taking the requisite examination. Such persons will have two years within which to take the examination if they wish to retain their credential beyond this

6. **Paperwork:**

Any paperwork required by those who wish to apply for the special credential is reasonable in scope and is limited to that necessary to verify possession of certain standards and qualifications. It is neither onerous nor burdensome.

7. **Duplication:**

The proposed regulation does not duplicate any State or Federal requirements.

8. **Alternatives:**

The alternative to this regulatory amendment is to remain with the status quo. As OASAS has heard that the existing pool of credentialed alcoholism and substance abuse counselors is not sufficient to fulfill the need of local governments for assessment capabilities, that alternative was necessarily rejected.

9. **Federal Standards:**

No federal standards are exceeded.

10. **Compliance Schedule:**

The proposed regulations will be effective immediately upon filing. Persons who wish to obtain a credential can submit relevant paperwork as soon as this regulation is effective.

REGULATORY FLEXIBILITY ANALYSIS

A regulatory flexibility analysis of this emergency action is not required by Section 202-a of the State Administrative Procedure Act. This rule will not adversely affect small businesses and there are no small business recordkeeping requirements, required professional services, or compliance costs associated with these regulations.

This regulation places no additional burdens on businesses. There are no additional costs to the State or local governments associated with the implementation of the rule. The credential envisioned in the regulation is entirely optional: those who wish to obtain it in order to provide a specific service, for which they likely will be compensated, will be required to pay a modest fee to cover OASAS administrative costs in issuing the credential.

RURAL AREA FLEXIBILITY ANALYSIS

A rural area flexibility analysis for this emergency action is not required. In fact, these regulations will make it easier for local governments in rural areas to fulfill statutory welfare reform requirements such that the initiative can be promptly and effectively implemented. The assessment for alcoholism and substance abuse problems is a key element in helping people obtain the help they may need in order to become self sufficient and to ultimately achieve state work participation goals. In order to fulfill this requirement, an available pool of qualified and knowledgeable addiction professionals of sufficient size is essential for local governments. This rule is critical in order to achieve this goal.

JOB IMPACT STATEMENT

A job impact statement is not submitted. This rule permits the agency to issue a temporary special alcoholism and substance abuse counselor credential to persons meeting certain standards to enable them to perform assessments for the purposes of the new welfare reform law, Chapter 436 of the Laws of 1997. Therefore, it will have no adverse impact on jobs and employment opportunities and, from its very nature and purpose, will have an obvious positive impact on jobs and employment opportunities.