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December 18, 2018

Secretary Marylou Sudders
Executive Office of Health and Human Services
One Ashburton Place, Room 1109
Boston, Massachusetts 02108

Re: Harm Reduction Sites and Social Worker Regulations

Dear Secretary Sudders:

The Board of Registration of Social Workers (“the Board”) has received your letter dated October 19, 2018 in regard to possible regulation changes that could help facilitate implementation of Chapter 208 of 2018, an Act for Prevention and Access to Appropriate Care and Treatment of Addiction (the “Act”). Specifically, you requested feedback from the Board on what regulations changes may be necessary to allow licensed professionals to attend to these centers without jeopardizing discipline against their license.

At this juncture, and without a working model of how the Harm Reduction Sites will be managed, it does not appear that this Board would need any regulations changes. However there are a few provisions that you should be aware of as the Harm Reduction Commission gets underway. I provide the citation and wording and then a comment in italics. They are as follows:

- (1) 258 CMR 20.01(8) which provides that unethical conduct is:

“Engaging in any other conduct which violates federal or state law and which reasonably calls into question his or her fitness to practice social work.”

With the passage of the Act we do not think this would jeopardize any of our licensees under the Commonwealth’s laws but the Federal Law could be a concern for Massachusetts licensees. As such, at this time, the Board is unable to opine on the impact of Federal Law on its licensees.

- (2) 258 CMR 20.02 which provides, among other things that:

“A social worker shall not perform or attempt to perform any social work service or function without the informed consent of the client or prospective client who is to receive that service or, in the case of a service recipient who lacks the legal capacity to give valid consent, the informed consent of an individual who is legally authorized to give consent on behalf of that client or prospective client.”



This is more of a trap for a licensee who might be performing social work services and a patient who might be in a situation where they are not mentally prepared to give consent due to the effects of the drugs ingested. The regulation goes on to what a licensee should do in the event that informed consent might be impossible to obtain.

(3) 258 CMR 20.03(1) which provides that licensees may not:

“Prescrib[e], furnish[], or administer[] any pharmacological agent to a client in the course of his or her professional practice, whether or not the pharmacological agent in question is a controlled substance under federal or state law.”

I think the perils of this provision are self-explanatory that licensees may not administer any drug to any patient.

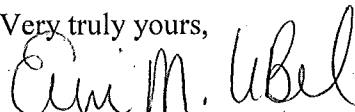
As I mentioned from the outset, we don't think that the Board needs to change any of its regulations to affect the Commission's work, but the forgoing are areas for licensees and managers to consider when using Social Workers at the Harm Reduction Sites.

Finally, all the rules and regulations¹ pertaining to Social Workers are always in force while our licensees are performing Social Work services. Additionally, the Board has prosecutorial discretion to pursue enforcement actions as it deems necessary and appropriate to carry out its mission. Factors weighed in exercising this discretion include, but are not limited to, impact on the consumer, impact to the public, and established public policy.

I hope this information has been helpful and please feel free to reach out with any other questions, comments or concerns.

Thank you for your kind attention in this regard.

Very truly yours,



Erin M. LeBel
Executive Director.

EML:jao

¹ Also in force is the Code of Ethics of the National Association of Social Workers, which is incorporated by reference at 258 CMR 20.01(10).