

5281--A

2013-2014 Regular Sessions

I N S E N A T E

May 15, 2013

Introduced by Sen. CARLUCCI -- read twice and ordered printed, and when printed to be committed to the Committee on Mental Health and Developmental Disabilities -- recommitted to the Committee on Mental Health and Developmental Disabilities in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the mental hygiene law, in relation to limiting the work week of direct care workers

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 13.19 of the mental hygiene law, as amended by
2 section 2 of part J of chapter 56 of the laws of 2012, is amended to
3 read as follows:
4 S 13.19 Personnel of the office; regulations.
5 (a) The commissioner may, within the amounts appropriated therefor,
6 appoint and remove in accordance with law and applicable rules of the
7 state civil service commission, such officers and employees of the
8 office for people with developmental disabilities as are necessary for
9 efficient administration. The commissioner shall, in exercising his or
10 her appointing authority, take, consistent with article twenty-three-A
11 of the correction law, all reasonable and necessary steps to ensure that
12 any such person so appointed has not previously engaged in any act in
13 violation of any law which indicates a propensity to act in a manner
14 that would compromise the health and safety of individuals with develop-
15 mental disabilities.
16 (b) The director of a hospital or institute in the office shall have
17 professional qualifications and experience to be prescribed by the
18 commissioner.
19 (c) Notwithstanding the provisions of any other law, the position of
20 deputy director in an office facility may be filled by new hire or by

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 promotion open to employees who possess the minimum qualifications for
2 the position.

3 [(c)] (D) The use of volunteers in the office for people with develop-
4 mental disabilities shall be encouraged. The commissioner may establish
5 regulations governing such volunteer services.

6 [(d)] (E) Where, and to the extent that, an agreement between the
7 state and an employee organization entered into pursuant to article
8 fourteen of the civil service law so provides, the commissioner is
9 authorized to implement the provisions of such agreement relating to
10 discipline consistent with the terms thereof.

11 (F) NOTWITHSTANDING ANY OTHER PROVISION OF LAW NO PROVIDER OPERATING A
12 FACILITY LICENSED, OPERATED, OR CERTIFIED BY THE OFFICE SHALL REQUIRE A
13 DIRECT CARE WORKER TO WORK MORE THAN SIXTY HOURS IN A SEVEN DAY WORK
14 WEEK EXCEPT IN CASES OF EXTRAORDINARY EMERGENCY INCLUDING, BUT NOT
15 LIMITED TO, FIRE, FLOOD, OR DANGER TO LIFE OR PROPERTY. FOR THE PURPOSES
16 OF THIS SUBDIVISION, "DIRECT CARE WORKER" SHALL MEAN AN EMPLOYEE WHOSE
17 PRIMARY RESPONSIBILITY IS THE DAILY CARE OF, SUPERVISION OF, AND INTER-
18 ACTION WITH RESIDENTS OF A RESIDENTIAL FACILITY LICENSED, OPERATED, OR
19 CERTIFIED BY THE OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES.

20 S 2. Section 7.07 of the mental hygiene law is amended by adding a new
21 subdivision (g) to read as follows:

22 (G) NOTWITHSTANDING ANY OTHER PROVISION OF LAW NO PROVIDER OPERATING A
23 FACILITY LICENSED, OPERATED, OR CERTIFIED BY THE OFFICE OF MENTAL HEALTH
24 SHALL REQUIRE A DIRECT CARE WORKER TO WORK MORE THAN SIXTY HOURS IN A
25 SEVEN DAY WORK WEEK EXCEPT IN CASES OF EXTRAORDINARY EMERGENCY INCLUD-
26 ING, BUT NOT LIMITED TO, FIRE, FLOOD, OR DANGER TO LIFE OR PROPERTY. FOR
27 THE PURPOSES OF THIS SUBDIVISION "DIRECT CARE WORKER" SHALL MEAN AN
28 EMPLOYEE WHOSE PRIMARY RESPONSIBILITY IS THE DAILY CARE OF, SUPERVISION
29 OF, AND INTERACTION WITH RESIDENTS OF A RESIDENTIAL FACILITY LICENSED,
30 OPERATED, OR CERTIFIED BY THE OFFICE OF MENTAL HEALTH.

31 S 3. This act shall take effect on the ninetieth day after it shall
32 have become a law; provided, however, that effective immediately, the
33 addition, amendment and/or repeal of any rule or regulation necessary
34 for the implementation of this act on its effective date are authorized
35 and directed to be made and completed on or before such effective date.