S T A T E O F N E W Y O R K

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I N A S S E M B L Y

March 18, 2009

Introduced by M. of A. P. RIVERA, LUPARDO, LIFTON, SCHROEDER -- read once and referred to the Committee on Mental Health, Mental Retardation and Developmental Disabilities

AN ACT to amend the mental hygiene law, in relation to establishing the inter-office coordinating council, providing for such council's power and duties, and establishing the position of chairperson of the inter-office coordinating council

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

Section 1. Section 1.03 of the mental hygiene law is amended by adding two new subdivisions 1-a and 2-a to read as follows:

1-A. "CHAIRPERSON" MEANS THE CHAIRPERSON OF THE COUNCIL.

2-A. "COUNCIL" MEANS THE INTER-OFFICE COORDINATING COUNCIL.

S 2. Subdivisions 1, 2 and 3 of section 5.01 of the mental hygiene law are renumbered subdivisions 2, 3 and 4 and a new subdivision 1 is added to read as follows:

(1) INTER-OFFICE COORDINATING COUNCIL;

S 3. The mental hygiene law is amended by adding a new section 5.02 to read as follows:

S 5.02 CHAIRPERSON.

THE HEAD OF THE INTER-OFFICE COORDINATING COUNCIL SHALL BE THE CHAIRPERSON OF THE COUNCIL, WHO SHALL BE APPOINTED BY THE GOVERNOR, BY AND WITH THE CONSENT OF THE SENATE, TO SERVE AT THE PLEASURE OF THE GOVERNOR; PROVIDED HOWEVER THAT THE CHAIRPERSON SHALL NOT BE A COMMISSIONER.

S 4. Subdivisions (a) and (b) of section 5.05 of the mental hygiene law, subdivision (a) as added by chapter 978 of the laws of 1977 and subdivision (b) as amended by chapter 294 of the laws of 2007, are amended to read as follows:

(a) The CHAIRPERSON, AND THE commissioners of the offices of mental health and mental retardation and developmental [disability] DISABILITIES of the department, as the head of the department, shall jointly

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

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visit and inspect, or cause to be visited and inspected, all facilities either public or private used for the care, treatment and rehabilitation of persons suffering from mental illness, mental retardation and developmental disability in accordance with the requirements of section four of article seventeen of the New York state constitution.

(b) (1) The CHAIRPERSON, AND THE commissioners of the offices of mental health, mental retardation and developmental disabilities and alcoholism and substance abuse services shall constitute [an inter-office coordinating] THE council which, consistent with the autonomy of each office for matters within its jurisdiction, shall ensure that the state policy for the prevention, care, treatment and rehabilitation of mental illness, mental retardation and developmental disability, alcoholism, alcohol abuse, substance abuse, substance dependence, and chemical dependence is planned, developed and implemented comprehensively; that gaps in services to the multiply disabled are eliminated and that no person is denied treatment and services because he or she suffers from more than one disability; that procedures for the regulation of programs which offer care and treatment for more than one class of mentally disabled persons be coordinated between the offices having jurisdiction over such programs; and that research projects of the institutes, as identified in section 7.17 or 13.17 of this chapter, are coordinated to maximize the success and cost effectiveness of such projects and to eliminate wasteful duplication.

(2) The [inter-office coordinating] council shall annually issue a report on its activities to the legislature on or before December thirty-first. Such annual report shall include, but not be limited to, the following information: proper treatment models and programs for persons with multiple disabilities AND PERSONS WITH MULTIPLE DISABILITIES WHO ARE SUBSTANCE AND/OR ALCOHOL ABUSERS, and suggested improvements to such models and programs; research projects of the institutes and their coordination with each other; collaborations and joint initiatives undertaken by the offices of the department; consolidation of regulations of each of the offices of the department to reduce regulatory inconsistencies between the offices; inter-office or office activities related to workforce training and development; data on the prevalence, availability of resources and service utilization by persons with multiple disabilities; eligibility standards of each office of the department affecting clients suffering from multiple disabilities, and eligibility standards under which a client is determined to be an office's primary responsibility; agreements or arrangements on statewide, regional and local government levels addressing how determinations over client responsibility are made and client responsibility disputes are resolved; information on any specific cohort of clients with multiple disabilities for which substantial barriers in accessing or receiving appropriate care has been reported or is known to the [inter-office coordinating] council or the offices of the department; and coordination of planning, standards or services for persons with multiple disabilities between the [inter-office coordinating] council, the offices of the department and local governments in accordance with the local planning requirements set forth in article forty-one of this chapter.

S 5. Subdivision (a) of section 5.07 of the mental hygiene law, as amended by chapter 223 of the laws of 1992, the opening paragraph of paragraph 1 as amended by chapter 558 of the laws of 1999, is amended to read as follows:

(a) (1) THERE IS HEREBY CREATED, WITHIN THE DEPARTMENT, THE COUNCIL FOR MENTAL HYGIENE PLANNING. THE COUNCIL FOR MENTAL HYGIENE PLANNING

SHALL CONSIST OF THE CHAIRPERSON AND THE COMMISSIONERS OF MENTAL HEALTH, MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES AND ALCOHOLISM AND SUBSTANCE ABUSE SERVICES WHO SHALL SERVE EX-OFFICIO, THE CHAIRPERSON OF THE CONFERENCE OF LOCAL MENTAL HYGIENE DIRECTORS OR HIS OR HER DESIGNEE, AND FOURTEEN MEMBERS; SIX OF WHOM SHALL BE APPOINTED BY THE GOVERNOR, THREE OF WHOM SHALL BE APPOINTED BY THE TEMPORARY PRESIDENT OF THE SENATE, THREE OF WHOM SHALL BE APPOINTED BY THE SPEAKER OF THE ASSEMBLY, ONE OF WHOM SHALL BE APPOINTED BY EACH OF THE MINORITY LEADERS OF EACH SUCH HOUSE OF THE LEGISLATURE. THE COUNCIL FOR MENTAL HYGIENE PLANNING SHALL ESTABLISH STATEWIDE GOALS AND OBJECTIVES TO GUIDE COMPREHENSIVE PLANNING, RESOURCE ALLOCATION AND EVALUATION PROCESSES FOR STATE AND LOCAL SERVICES FOR THE MULTIPLY DISABLED.

(2) The mental health services council and the advisory councils on mental retardation and developmental disabilities and alcoholism and substance abuse services shall each establish statewide goals and objectives to guide comprehensive planning, resource allocation and evaluation processes for state and local services for the mentally ill, mentally retarded and developmentally disabled and those suffering from chemical abuse or dependence, respectively. Such goals and objectives shall:

a. be measurable in terms of attainment;

b. be communicated to THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, providers of services, department facilities, consumers and consumer representatives, and other appropriate state and local governmental agencies;

c. require that all state and local public and private services for the mentally disabled be organized, staffed and financed to best meet the needs of all mentally disabled persons whether receiving in-patient or non in-patient services;

d. reflect the partnership between state and local governmental units; and

e. emphasize that gaps in services be filled and that services are provided to the multiply disabled.

[(2)] (3) Such advisory councils shall establish, review, augment or delete from such goals and objectives, as appropriate, by means of a continuing annual goal-setting process which is:

a. open, visible and accessible to the public; and

b. consistent with the statewide planning, appropriation and evaluation processes and activities for services to the mentally disabled.

[(3)] (4) The advisory councils [are hereby empowered to] SHALL hold public hearings and meetings to enable them to accomplish their duties.

S 6. The opening paragraph of paragraph 1 and paragraph 3 of subdivision (b) of section 5.07 of the mental hygiene law, as amended by chapter 223 of the laws of 1992, paragraph 3 as renumbered by chapter 322 of the laws of 1992, are amended to read as follows:

The COUNCIL, AND THE offices of mental health [and], mental retardation and developmental disabilities and the office of alcoholism and substance abuse services shall each formulate a statewide comprehensive five-year plan for the provision of all state and local services for the MULTIPLY DISABLED, mentally ill, mentally retarded and developmentally disabled, and those suffering from alcoholism and substance abuse, respectively. Each plan shall be formulated from local comprehensive plans developed by each local governmental unit, with participation of consumers, consumer groups, providers of services and departmental facilities furnishing services to the mentally disabled of the area in conformance with statewide goals and objectives established by the COUN-

CIL FOR MENTAL HYGIENE PLANNING AND BY THE advisory council of each office. THE CHAIRPERSON AND THE COMMISSIONER OF EACH OFFICE OF THE DEPARTMENT, RESPECTIVELY, SHALL ANNUALLY CERTIFY TO THE TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY THAT SUCH STATEWIDE COMPREHENSIVE FIVE-YEAR PLAN HAS BEEN FORMULATED AS REQUIRED BY THIS PARAGRAPH. Each plan shall:

(3) The CHAIRPERSON, AND THE commissioners of each of the offices shall be responsible for the development of such statewide five-year plan for services within the jurisdiction of THE COUNCIL AND their respective offices and after giving due notice shall conduct one or more public hearings on such plan. The COUNCIL FOR MENTAL HYGIENE PLANNING AND THE advisory council of each office shall review the statewide five year plan developed by such COUNCIL OR office and report its recommendations thereon to such CHAIRPERSON OR commissioner. [Each] THE CHAIRPERSON AND EACH commissioner shall submit the plan, with appropriate modifications, to the governor no later than the first day of October of each year in order that such plan may be considered with the estimates of the offices for the preparation of the executive budget of the state of New York for the next succeeding state fiscal year.

[Each] THE CHAIRPERSON AND EACH commissioner shall also submit such plan to the legislature. The statewide plan shall be reassessed and updated at least annually to encompass the next ensuing five years to ensure responsiveness to changing needs and goals and to reflect the development of new information and the completion of program evaluations. An interim report detailing the CHAIRPERSON'S AND EACH commissioner's actions in fulfilling the requirements of this section in preparation of the plan and modifications in the plan of services being considered by the CHAIRPERSON AND EACH commissioner shall be submitted to the governor and the legislature on or before the fifteenth day of February of each year. Such interim report shall include, but need not be limited to:

[(a)] A. actions to include participation of consumers, consumer groups, providers of services and departmental facilities, as required by this subdivision; and

[(b)] B. any modifications in the plan of services being considered by the CHAIRPERSON OR THE RESPECTIVE commissioner, to include: (i) compelling budgetary, programmatic or clinical justifications or other major appropriate reason for any significant new statewide programs or policy changes from a prior (approved) five year comprehensive plan; and (ii) procedures to involve or inform local governmental units of such actions or plans.

S 7. Subparagraph (vi) of paragraph 4 of subdivision (b) of section 5.07 of the mental hygiene law, as amended by chapter 723 of the laws of 1993, is amended to read as follows:

(vi) specific proposals regarding the establishment of demonstration projects incorporating staff training, transfers and assignment of staff of state-operated hospitals to the offices in local governmental units and in voluntary agencies. Such proposals shall take into consideration those areas of the state that are determined to be most in need of the development of appropriate systems of service delivery to best meet the appropriate needs of persons with serious mental illness, including children and adolescents with serious emotional disturbances. On or before December first, [nineteen hundred ninety-four] TWO THOUSAND ELEVEN a copy of such report, and such recommendations as may be deemed appropriate shall be submitted to the governor, the temporary president

of the senate, the speaker of the assembly, and the respective minority leaders of each such house.

S 8. Title A of the mental hygiene law is amended by adding a new article 6 to read as follows:

ARTICLE 6

INTER-OFFICE COORDINATING COUNCIL

SECTION 6.01 DECLARATION OF POLICY.
6.03 INTER-OFFICE COORDINATING COUNCIL; SCOPE OF RESPONSIBILITIES.
6.05 POWERS OF THE COUNCIL AND THE CHAIRPERSON; HOW EXERCISED.
6.07 ORGANIZATION AND ADMINISTRATION OF THE COUNCIL.
6.09 PERSONNEL OF THE COUNCIL.

S 6.01 DECLARATION OF POLICY.

IT IS THE POLICY OF THE STATE OF NEW YORK THAT ALL OF ITS RESIDENTS WHO ARE MENTALLY DISABLED WILL RECEIVE SERVICES ACCORDING TO THEIR INDIVIDUALIZED NEEDS AND, WHENEVER FEASIBLE, IN THEIR HOME COMMUNITIES TO ENABLE THEM TO REALIZE THEIR FULLEST POTENTIAL FOR SELF-FULFILLMENT AND INDEPENDENT LIVING IN SOCIETY. IN ORDER TO ENSURE THAT THERE WILL BE MAXIMUM OPPORTUNITY FOR COOPERATION AMONG THE OFFICES OF THE DEPARTMENT, PARTICULARLY IN REFERENCE TO INDIVIDUALS WITH MULTIPLE DISABILITIES, AND IN STATE AND LOCAL RELATIONS IN PLANNING FOR AND FUNDING SERVICES FOR THE MULTIPLY DISABLED, THE INTER-OFFICE COORDINATING COUNCIL IS APPROPRIATELY ESTABLISHED, ACCORDING TO THE PROVISIONS OF THIS CHAPTER, WITHIN THE DEPARTMENT. THE ESTABLISHMENT OF THE COUNCIL IS DESIGNED TO PROVIDE THE GOVERNMENTAL FRAMEWORK WITHIN WHICH AVAILABLE RESOURCES WILL BE MORE EFFECTIVELY BROUGHT TO BEAR IN PROVIDING CARE AND TREATMENT FOR THE DIFFERENT CLASSES OF DISABLED PERSONS.

S 6.03 INTER-OFFICE COORDINATING COUNCIL; SCOPE OF RESPONSIBILITIES.

(A) THE COUNCIL IS CHARGED WITH THE RESPONSIBILITY FOR ASSURING THE DEVELOPMENT OF COMPREHENSIVE PLANS, PROGRAMS AND SERVICES IN THE AREAS OF RESEARCH, CARE, TREATMENT, REHABILITATION, EDUCATION AND TRAINING OF THE MULTIPLY DISABLED. SUCH PLANS, PROGRAMS AND SERVICES SHALL BE DEVELOPED WITH THE COOPERATION OF THE OFFICES OF THE DEPARTMENT WHERE APPROPRIATE, LOCAL GOVERNMENTS, CONSUMERS, FAMILY MEMBERS, AND COMMUNITY ORGANIZATIONS AND AGENCIES.

(B) THE COUNCIL SHALL ADVISE AND ASSIST THE GOVERNOR IN DEVELOPING POLICIES DESIGNED TO MEET THE NEEDS OF THE MULTIPLY DISABLED AND TO ENCOURAGE THEIR FULL PARTICIPATION IN SOCIETY.

(C) THE COUNCIL SHALL HAVE THE RESPONSIBILITY FOR ENSURING THAT MULTIPLY DISABLED PERSONS ARE PROVIDED WITH CARE, TREATMENT AND REHABILITATION, AND THAT SUCH CARE, TREATMENT AND REHABILITATION IS OF HIGH QUALITY AND EFFECTIVENESS, AND THAT THE PERSONAL AND CIVIL RIGHTS OF PERSONS RECEIVING SUCH CARE, TREATMENT AND REHABILITATION SERVICES ARE ADEQUATELY PROTECTED.

(D) THE COUNCIL SHALL FOSTER PROGRAMS FOR THE TRAINING AND DEVELOPMENT OF PERSONS CAPABLE OF PROVIDING THE FOREGOING SERVICES IN COOPERATION WITH THE OFFICES OF THE DEPARTMENT.

(E) THE COUNCIL SHALL COLLECT DATA AND SUBMIT A REPORT, ON OR BEFORE DECEMBER FIRST, TWO THOUSAND ELEVEN AND ANNUALLY THEREAFTER, ON MULTIPLY DISABLED PERSONS WITH REGARD TO THE EXACT NATURE OF THE DISABILITIES OF EACH PERSON. SUCH REPORT SHALL INCLUDE THE ELIGIBILITY STANDARDS FROM THE OFFICES OF THE DEPARTMENT RESPONSIBLE FOR PROVIDING SERVICES TO SUCH PERSONS.

(F) THE COUNCIL SHALL ENSURE THAT A LIST OF CURRENT INITIATIVES BETWEEN THE STATE AGENCIES BE AVAILABLE TO ASSIST PERSONS WITH MORE THAN ONE DISABILITY.

S 6.05 POWERS OF THE COUNCIL AND THE CHAIRPERSON; HOW EXERCISED.
(A) THE CHAIRPERSON SHALL EXERCISE ALL THE POWERS VESTED IN THE COUNCIL. THE CHAIRPERSON MAY DELEGATE ANY FUNCTION, POWER OR DUTY ASSIGNED TO HIM OR HER OR THE COUNCIL TO AN OFFICE OF THE DEPARTMENT UNLESS OTHERWISE PROVIDED BY LAW. THE CHAIRPERSON MAY ENTER INTO AGREEMENTS WITH THE COMMISSIONERS OF THE DEPARTMENT TO ENSURE THAT PROGRAMS AND SERVICES ARE PROVIDED FOR THE MULTIPLY DISABLED.
(B) THE CHAIRPERSON MAY ADOPT REGULATIONS NECESSARY AND PROPER TO IMPLEMENT ANY MATTER UNDER THE JURISDICTION OF THE COUNCIL. PROPOSED RULES AND REGULATIONS SHALL BE SUBMITTED AT LEAST SIXTY DAYS PRIOR TO ACTION THEREON TO THE COUNCIL FOR MENTAL HYGIENE PLANNING FOR ITS ADVICE IN ACCORDANCE WITH SECTION 5.07 OF THIS TITLE, UNLESS THE CHAIRPERSON DETERMINES THAT THE PUBLIC HEALTH, SAFETY OR GENERAL WELFARE REQUIRES THAT SUCH SUBMISSION BE DISPENSED WITH.
S 6.07 ORGANIZATION AND ADMINISTRATION OF THE COUNCIL.
THE CHAIRPERSON MAY, WITHIN THE AMOUNTS APPROPRIATED THEREFOR, LEASE SPACE OR FACILITIES IN WHICH SERVICES FOR THE MULTIPLY DISABLED ARE TO BE PROVIDED. THE CHAIRPERSON MAY DELEGATE THIS AUTHORITY TO AN APPROPRIATE STATE AGENCY.
S 6.09 PERSONNEL OF THE COUNCIL.
(A) THE CHAIRPERSON MAY, WITHIN THE AMOUNTS APPROPRIATED THEREFOR, APPOINT AND REMOVE, IN ACCORDANCE WITH APPLICABLE LAW AND RULES OF THE STATE CIVIL SERVICE COMMISSION, SUCH OFFICERS AND EMPLOYEES OF THE COUNCIL WHO ARE DESIGNATED MANAGERIAL OR CONFIDENTIAL PURSUANT TO ARTICLE FOURTEEN OF THE CIVIL SERVICE LAW.
(B) THE CHAIRPERSON SHALL ESTABLISH REGULATIONS GOVERNING THE PERSONNEL ADMINISTRATION OF THE COUNCIL.
S 9. Subdivision (a) of section 45.09 of the mental hygiene law, as amended by section 7 of part H of chapter 58 of the laws of 2005, is amended to read as follows:
(a) The commission, any member or any employee designated by the chair OF THE COMMISSION, must be granted access at any and all times to any mental hygiene facility, or adult home or residence for adults in which at least twenty-five percent or twenty-five residents, whichever is less, have at any time received or are receiving services from a mental hygiene provider which is licensed, operated or funded by the office of mental health, or the office of mental retardation and developmental disabilities in order to carry out the functions of the commission as provided for by section 45.10 of this article, or part thereof, and to all books, records, and data pertaining to any such facility deemed necessary for carrying out the commission's functions, powers and duties. The commission, any members or any employee designated by the chair OF THE COMMISSION may require from the officers or employees of such facility or from the CHAIRPERSON OR THE commissioners of the offices of the department [of mental hygiene] or in the case of an adult home or residence for adults, from the officers or employees of an adult home or residence for adults or from the department of health any information deemed necessary for the purpose of carrying out the commission's functions, powers and duties. The commission, any member, or any employee designated by the chair OF THE COMMISSION may require from any hospital, as defined under article twenty-eight of the public health law, any information, report or record necessary for the purpose of carrying out the functions, powers and duties of the commission related to the investigation of deaths and complaints of abuse or mistreatment concerning patients or former patients of mental hygiene facilities who have been treated at such hospitals, and from any adult care facility as defined

in [paragraph] SUBDIVISION twenty-one of section two of the social services law, such information, report or record, including access to such facility necessary for the purpose of carrying out the functions, powers and duties of the commission related to the investigation of deaths, as provided for by section 45.17 of this article, concerning patients of mental hygiene facilities who resided at such residential care facilities at the time of their death or were former residents of such residential care facilities and the commission determines that such information, report or record is necessary for the completion of its investigation. The results of investigations involving such residents of adult care facilities shall be provided promptly to the commissioner of [the department of] health and shall be treated as a record or personal information within the meaning of section ninety-six of the public officers law and shall not be disclosed except in accordance with such section ninety-six. Information, books, records or data which are confidential as provided by law shall be kept confidential by the commission and by non-profit organizations receiving contracts pursuant to subdivision (k) of section 45.07 of this article and any limitations on the release thereof imposed by law upon the party furnishing the information, books, records or data shall apply to the commission and such non-profit organizations receiving contracts pursuant to subdivision (k) of section 45.07 of this article.

S 10. This act shall take effect on the first of April next succeeding the date on which it shall have become a law; provided, however, that the commissioners of the offices of the department of mental hygiene and the person designated by the governor to exercise the powers of the chairperson of the inter-office coordinating council are hereby immediately authorized to take such actions as are necessary and proper to prepare for an orderly transition of the functions, powers and duties provided by this act including the preparation and submission of budget requests for the inter-office coordinating council as established by this act.