

3483

2009-2010 Regular Sessions

I N S E N A T E

March 20, 2009

Introduced by Sens. HUNTLEY, BRESLIN -- (at request of the Office of Mental Retardation and Developmental Disabilities) -- read twice and ordered printed, and when printed to be committed to the Committee on Mental Health and Developmental Disabilities

AN ACT to amend the mental hygiene law, in relation to changing the name of the office of mental retardation and developmental disabilities to the New York state developmental disabilities services office; and to repeal subdivision 6 of section 29.29 of such law relating thereto

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

1 Section 1. Subdivisions 2 and 11 of section 1.03 of the mental hygiene  
2 law, subdivision 2 as amended by chapter 223 of the laws of 1992 and  
3 subdivision 11 as added by chapter 978 of the laws of 1977, are amended  
4 to read as follows:

5 2. "Commissioner" means the commissioner of mental health, the commis-  
6 sioner of [mental retardation and] developmental disabilities SERVICES  
7 and the commissioner of alcoholism and substance abuse services as used  
8 in this chapter. Any power or duty heretofore assigned to the commis-  
9 sioner of mental hygiene or to the department of mental hygiene pursuant  
10 to this chapter shall hereafter be assigned to the commissioner of  
11 mental health in the case of facilities, programs, or services for the  
12 mentally ill, to the commissioner of [mental retardation and] develop-  
13 mental disabilities SERVICES in the case of facilities, programs, or  
14 services for the mentally retarded and developmentally disabled, to the  
15 commissioner of alcoholism and substance abuse services in the case of  
16 facilities, programs, or services for alcoholism, alcohol abuse,  
17 substance abuse, substance dependence, and chemical dependence in  
18 accordance with the provisions of titles D and E of this chapter.

19 11. "School" means the in-patient service of a developmental center or  
20 other residential facility for the mentally retarded and developmentally  
21 disabled under the jurisdiction of the [office of mental retardation

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

LBD07836-02-9

1 and] NEW YORK STATE developmental disabilities SERVICES OFFICE or a  
2 facility for the residential care, treatment, training, or education of  
3 the mentally retarded and developmentally disabled which has been issued  
4 an operating certificate by the commissioner of [mental retardation and]  
5 developmental disabilities SERVICES.

6 S 2. Section 5.01 of the mental hygiene law, as added by chapter 978  
7 of the laws of 1977, is amended to read as follows:

8 S 5.01 Department of mental hygiene.

9 There shall continue to be in the state government a department of  
10 mental hygiene. Within the department there shall be the following  
11 autonomous offices:

12 (1) office of mental health;

13 (2) NEW YORK STATE DEVELOPMENTAL DISABILITIES SERVICES office [of  
14 mental retardation and developmental disabilities]; AND

15 (3) office of alcoholism and substance abuse.

16 S 3. Section 5.03 of the mental hygiene law, as amended by chapter 223  
17 of the laws of 1992, is amended to read as follows:

18 S 5.03 Commissioners.

19 The head of the office of mental health shall be the commissioner of  
20 mental health; the head of the NEW YORK STATE DEVELOPMENTAL DISABILITIES  
21 SERVICES office [of mental retardation and developmental disabilities]  
22 shall be the commissioner of [mental retardation and] developmental  
23 disabilities SERVICES; and the head of the office of alcoholism and  
24 substance abuse services shall be the commissioner of alcoholism and  
25 substance abuse services. Each commissioner shall be appointed by the  
26 governor, by and with the advice and consent of the senate, to serve at  
27 the pleasure of the governor.

28 S 4. Subdivision (a) and paragraph 1 of subdivision (b) of section  
29 5.05 of the mental hygiene law, subdivision (a) as added by chapter 978  
30 of the laws of 1977 and paragraph 1 of subdivision (b) as amended by  
31 chapter 294 of the laws of 2007, are amended to read as follows:

32 (a) The commissioners of the offices of mental health and [mental  
33 retardation and] developmental [disability] DISABILITIES SERVICES of the  
34 department, as the head of the department, shall jointly visit and  
35 inspect, or cause to be visited and inspected, all facilities either  
36 public or private used for the care, treatment and rehabilitation of  
37 persons suffering from mental illness, mental retardation and develop-  
38 mental disability in accordance with the requirements of section four of  
39 article seventeen of the New York state constitution.

40 (1) The commissioners of the offices of mental health, [mental retar-  
41 dation and] developmental disabilities SERVICES and alcoholism and  
42 substance abuse services shall constitute an inter-office coordinating  
43 council which, consistent with the autonomy of each office for matters  
44 within its jurisdiction, shall ensure that the state policy for the  
45 prevention, care, treatment and rehabilitation of mental illness, mental  
46 retardation and developmental disability, alcoholism, alcohol abuse,  
47 substance abuse, substance dependence, and chemical dependence is  
48 planned, developed and implemented comprehensively; that gaps in  
49 services to the multiply disabled are eliminated and that no person is  
50 denied treatment and services because he or she suffers from more than  
51 one disability; that procedures for the regulation of programs which  
52 offer care and treatment for more than one class of mentally disabled  
53 persons be coordinated between the offices having jurisdiction over such  
54 programs; and that research projects of the institutes, as identified in  
55 section 7.17 or 13.17 of this chapter, are coordinated to maximize the

1 success and cost effectiveness of such projects and to eliminate waste-  
2 ful duplication.

3 S 5. The opening paragraph of paragraph 1 of subdivision (b) of  
4 section 5.07 of the mental hygiene law, as amended by chapter 223 of the  
5 laws of 1992, is amended to read as follows:

6 The [offices] OFFICE of mental health and [mental retardation and] THE  
7 NEW YORK STATE developmental disabilities SERVICES OFFICE and the office  
8 of alcoholism and substance abuse services shall each formulate a state-  
9 wide comprehensive five-year plan for the provision of all state and  
10 local services for the mentally ill, mentally retarded and develop-  
11 mentally disabled, and those suffering from alcoholism and substance  
12 abuse, respectively. Each plan shall be formulated from local comprehen-  
13 sive plans developed by each local governmental unit, with participation  
14 of consumers, consumer groups, providers of services and departmental  
15 facilities furnishing services to the mentally disabled of the area in  
16 conformance with statewide goals and objectives established by the advi-  
17 sory council of each office. Each plan shall:

18 S 6. Subdivisions (a), (b), (j) and (o) of section 10.03 of the mental  
19 hygiene law, as added by chapter 7 of the laws of 2007, are amended to  
20 read as follows:

21 (a) "Agency with jurisdiction" as to a person means that agency which,  
22 during the period in question, would be the agency responsible for  
23 supervising or releasing such person, and can include the department of  
24 correctional services, the office of mental health, the NEW YORK STATE  
25 DEVELOPMENTAL DISABILITIES SERVICES office [of mental retardation and  
26 developmental disabilities], and the division of parole.

27 (b) "Commissioner" means the commissioner of mental health or the  
28 commissioner of [mental retardation and] developmental disabilities  
29 SERVICES.

30 (j) "Psychiatric examiner" means a qualified psychiatrist or a  
31 licensed psychologist who has been designated to examine a person pursu-  
32 ant to this article; such designee may, but need not, be an employee of  
33 the office of mental health or the NEW YORK STATE DEVELOPMENTAL DISABIL-  
34 ITIES SERVICES office [of mental retardation and developmental disabili-  
35 ties].

36 (o) "Secure treatment facility" means a facility or a portion of a  
37 facility, designated by the commissioner, that may include a facility  
38 located on the grounds of a correctional facility, that is staffed with  
39 personnel from the office of mental health or the NEW YORK STATE DEVEL-  
40 OPMENTAL DISABILITIES SERVICES office [of mental retardation and devel-  
41 opmental disabilities] for the purposes of providing care and treatment  
42 to persons confined under this article, and persons defined in paragraph  
43 five of subdivision (g) of this section. Personnel from these same agen-  
44 cies may provide security services, provided that such staff are  
45 adequately trained in security methods and so equipped as to minimize  
46 the risk or danger of escape.

47 S 7. Subdivision (a) of section 10.05 of the mental hygiene law, as  
48 added by chapter 7 of the laws of 2007, is amended to read as follows:

49 (a) The commissioner of mental health, in consultation with the  
50 commissioner of the department of correctional services and the commis-  
51 sioner of [mental retardation and] developmental disabilities SERVICES,  
52 shall establish a case review panel consisting of at least fifteen  
53 members, any three of whom may sit as a team to review a particular  
54 case. At least two members of each team shall be professionals in the  
55 field of mental health or the field of mental retardation and develop-  
56 mental disabilities, as appropriate, with experience in the treatment,

1 diagnosis, risk assessment or management of sex offenders. To the extent  
2 practicable, the workload of the case review panel should be evenly  
3 distributed among its members. Members of the case review panel and  
4 psychiatric examiners should be free to exercise independent profes-  
5 sional judgment without pressure or retaliation for the exercise of that  
6 judgment from any source.

7 S 8. Paragraph 4 of subdivision (b) of section 16.17 of the mental  
8 hygiene law, as amended by chapter 169 of the laws of 1992, is amended  
9 to read as follows:

10 (4) The facility operator, within ten days of the date when the emer-  
11 gency suspension or limitation pursuant to paragraph one of this subdi-  
12 vision is first imposed, may request an evidentiary hearing to contest  
13 the validity of the emergency suspension or limitation. Such an eviden-  
14 tiary hearing shall commence within ten days of the facility operator's  
15 request and no request for an adjournment shall be granted without the  
16 concurrence of the facility operator, NEW YORK STATE DEVELOPMENTAL DISA-  
17 BILITIES SERVICES office [of mental retardation and developmental disa-  
18 bilities], and the hearing officer. The evidentiary hearing shall be  
19 limited to those violations of federal and state law and regulations  
20 that existed at the time of the emergency suspension or limitation and  
21 which gave rise to the emergency suspension or limitation. The emergency  
22 suspension or limitation shall be upheld upon a determination that the  
23 NEW YORK STATE DEVELOPMENTAL DISABILITIES SERVICES office [of mental  
24 retardation and developmental disabilities] had reasonable cause to  
25 believe that a client's health or safety was in imminent danger. A  
26 record of such hearing shall be made available to the facility operator  
27 upon request. Should the commissioner determine to revoke, suspend or  
28 limit the facility's operating certificate pursuant to subdivision (a)  
29 of this section, no administrative hearing on that action shall commence  
30 prior to the conclusion of the evidentiary hearing. The commissioner  
31 shall issue a ruling within ten days after the receipt of the hearing  
32 officer's report.

33 S 9. The article heading of article 13 of the mental hygiene law, as  
34 added by chapter 978 of the laws of 1977, is amended to read as follows:

35 NEW YORK STATE DEVELOPMENTAL DISABILITIES OFFICE

36 [OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES]

37 S 10. The closing paragraph of section 13.01 of the mental hygiene  
38 law, as amended by chapter 353 of the laws of 2004, is amended to read  
39 as follows:

40 To accomplish these goals and meet the particular needs of persons  
41 with mental retardation and developmental disabilities, a new autonomous  
42 agency to be known as the NEW YORK STATE DEVELOPMENTAL DISABILITIES  
43 SERVICES office [of mental retardation and developmental disabilities]  
44 has been established. The office and its commissioner shall plan and  
45 work with local governments and voluntary organizations and all provid-  
46 ers of services, and persons with mental retardation and developmental  
47 disabilities and their families and representatives, to develop an  
48 effective, integrated, comprehensive system for the delivery of all  
49 necessary supports and services to all persons with mental retardation  
50 and developmental disabilities and to create financing procedures and  
51 mechanisms to support such a system of supports and services to ensure  
52 that all individuals with mental retardation and developmental disabili-  
53 ties in need of supports and services receive appropriate and timely  
54 supports and services close to their families and community. In carrying  
55 out these responsibilities, the office and its commissioner shall make  
56 full use of existing services in the community, including those provided

1 by voluntary and other service organizations, and within annual amounts  
2 made available shall add in-home, residential and day service and  
3 support capacity, to address the needs of persons with mental retarda-  
4 tion and developmental disabilities.

5 S 11. Section 13.03 of the mental hygiene law, as added by chapter 978  
6 of the laws of 1977, is amended to read as follows:

7 S 13.03 Definitions.

8 As used in this title:

9 1. "office" means the NEW YORK STATE DEVELOPMENTAL DISABILITIES  
10 SERVICES office [of mental retardation and developmental disabilities].

11 2. "commissioner" means the head of the NEW YORK STATE DEVELOPMENTAL  
12 DISABILITIES SERVICES office [of mental retardation and developmental  
13 disabilities].

14 S 12. The opening paragraph of subdivision (c) of section 13.05 of the  
15 mental hygiene law, as amended by chapter 55 of the laws of 1992, is  
16 amended to read as follows:

17 The mental retardation and developmental disabilities advisory council  
18 shall have no executive, administrative or appointive duties. The coun-  
19 cil shall have the duty to foster public understanding and acceptance of  
20 mental retardation and developmental disabilities. It shall, in cooper-  
21 ation with the commissioner of [mental retardation and] developmental  
22 disabilities SERVICES, establish statewide goals and objectives for  
23 services for persons with mental retardation and developmental disabili-  
24 ties and shall advise the commissioner on matters related to development  
25 and implementation of the [OMRDD's] NEW YORK STATE DEVELOPMENTAL DISA-  
26 BILITIES SERVICES OFFICE'S triennial state developmental disabilities  
27 comprehensive plan as required under paragraph two of subdivision (b) of  
28 section 5.07 of this chapter. The advisory council shall have the power  
29 to consider any matter relating to the improvement of the state mental  
30 retardation and developmental disabilities program and shall advise the  
31 commissioner of [mental retardation and developmental disabilities]  
32 DEVELOPMENTAL DISABILITIES SERVICES thereon and on any matter relating  
33 to the performance of their duties with relation to persons with mental  
34 retardation and developmental disabilities and on policies, goals, budg-  
35 et and operation of developmental disabilities services.

36 S 13. The section heading and subdivision (a) of section 13.07 of the  
37 mental hygiene law, the section heading as added by chapter 978 of the  
38 laws of 1977 and subdivision (a) as amended by chapter 676 of the laws  
39 of 1994, are amended to read as follows:

40 [Office of mental retardation and developmental disabilities] NEW YORK  
41 STATE DEVELOPMENTAL DISABILITIES SERVICES OFFICE; scope of  
42 responsibilities.

43 (a) The NEW YORK STATE DEVELOPMENTAL DISABILITIES SERVICES office [of  
44 mental retardation and developmental disabilities] shall assure the  
45 development of comprehensive plans, programs, and services in the areas  
46 of research, prevention, and care, treatment, habilitation, rehabili-  
47 tation, vocational and other education, and training of persons with  
48 mental retardation and developmental disabilities. Such plans, programs,  
49 and services shall be developed by the cooperation of the office, other  
50 offices of the department where appropriate, other state departments and  
51 agencies, local governments, community organizations and agencies  
52 providing services to persons with mental retardation and developmental  
53 disabilities, and persons with mental retardation and developmental  
54 disabilities, their families and representatives. It shall provide  
55 appropriate facilities, programs, supports and services and encourage

1 the provision of facilities, programs, supports and services by local  
2 government and community organizations and agencies.

3 S 14. The section heading of section 13.11 of the mental hygiene law,  
4 as added by chapter 978 of the laws of 1977, is amended to read as  
5 follows:

6 Organization and administration of the NEW YORK STATE DEVELOPMENTAL  
7 DISABILITIES SERVICES office [of mental retardation and devel-  
8 opmental disabilities] and its facilities.

9 S 15. The section heading of section 13.15 of the mental hygiene law,  
10 as added by chapter 978 of the laws of 1977, is amended to read as  
11 follows:

12 Programs of the NEW YORK STATE DEVELOPMENTAL DISABILITIES SERVICES  
13 office [of mental retardation and developmental disabilities].

14 S 16. The section heading of section 13.17 of the mental hygiene law,  
15 as added by chapter 978 of the laws of 1977, is amended to read as  
16 follows:

17 Programs, services, and operations of facilities in the NEW YORK STATE  
18 DEVELOPMENTAL DISABILITIES SERVICES office [of mental retarda-  
19 tion and developmental disabilities].

20 S 17. Subdivisions (a) and (d) of section 13.19 of the mental hygiene  
21 law, subdivision (a) as amended by section 307 of the laws of 1979 and  
22 subdivision (d) as added by chapter 978 of the laws of 1977, are amended  
23 to read as follows:

24 (a) The commissioner may, within the amounts appropriated therefor,  
25 appoint and remove in accordance with law and applicable rules of the  
26 state civil service commission, such officers and employees of the NEW  
27 YORK STATE DEVELOPMENTAL DISABILITIES SERVICES office [of mental retar-  
28 dation and developmental disabilities] and school and facility officers  
29 and employees who are designated managerial or confidential pursuant to  
30 article fourteen of the civil service law as are necessary for efficient  
31 administration.

32 (d) The use of volunteers at facilities in the NEW YORK STATE DEVELOP-  
33 MENTAL DISABILITIES SERVICES office [of mental retardation and develop-  
34 mental disabilities] shall be encouraged. The commissioner may establish  
35 regulations governing such volunteer services.

36 S 18. The section heading and subdivisions (a) and (c) of section  
37 13.21 of the mental hygiene law, the section heading and subdivision (c)  
38 as added by chapter 978 of the laws of 1977 and subdivision (a) as  
39 amended by chapter 538 of the laws of 1987, are amended to read as  
40 follows:

41 Directors of schools in the NEW YORK STATE DEVELOPMENTAL DISABILITIES  
42 SERVICES office [of mental retardation and developmental disabilities].

43 (a) The director of a school in the NEW YORK STATE DEVELOPMENT DISA-  
44 BILITIES SERVICES office [of mental retardation and developmental disa-  
45 bilities] shall be appointed by the commissioner and shall be its chief  
46 executive officer. The director of a school shall be the director of the  
47 developmental disabilities services office serving the areas designated  
48 by the commissioner in regulation, and in such context, the term facili-  
49 ty shall also refer to such developmental disabilities services office.  
50 Each such director shall be in the non-competitive class and designated  
51 as confidential as defined by subdivision two-a of section forty-two of  
52 the civil service law and shall serve at the pleasure of the commission-  
53 er. Except for school and facility officers and employees for which  
54 subdivision (a) of section 13.19 of this article makes the commissioner  
55 the appointing and removing authority, the director of a school shall  
56 have the power, within amounts appropriated therefor, to appoint and

1 remove in accordance with law and applicable rules of the state civil  
2 service commission such officers and employees of the facility of which  
3 he is director as are necessary for its efficient administration. He  
4 shall in exercising his appointing authority take, consistent with arti-  
5 cle twenty-three-A of the correction law, all reasonable and necessary  
6 steps to insure that any such person so appointed has not previously  
7 engaged in any act in violation of any law which could compromise the  
8 health and safety of patients in the facility of which he is director.  
9 He shall manage the facility, and administer its personnel system,  
10 subject to applicable law, the regulations of the commissioner, and the  
11 rules of the state civil service commission. Before the commissioner  
12 shall issue any such regulation or any amendment or revision thereof, he  
13 shall consult with the directors of schools in the office regarding its  
14 suitability. The director shall maintain effective supervision of all  
15 parts of the facility and over all persons employed therein or coming  
16 thereon and shall generally direct the care and treatment of patients.  
17 Directors presently serving at facilities of the office shall continue  
18 to serve under the terms of their original appointment.

19 (c) In any investigation into the treatment and care of patients or  
20 the conduct, performance, or neglect of duty of officers or employees,  
21 the director of a school in the NEW YORK STATE DEVELOPMENTAL DISABILI-  
22 TIES SERVICES office [of mental retardation and developmental disabili-  
23 ties] shall be authorized to subpoena witnesses, compel their attend-  
24 ance, administer oaths to witnesses, examine witnesses under oath, and  
25 require the production of any books or papers deemed relevant to the  
26 inquiry or investigation. A subpoena issued under this section shall be  
27 regulated by the civil practice law and rules.

28 S 19. Subdivision (d) of section 13.27 of the mental hygiene law, as  
29 added by chapter 978 of the laws of 1977, is amended to read as follows:

30 (d) Laboratory services. Subject to the commissioner's regulations,  
31 the director may agree to make the laboratory service of a facility in  
32 the NEW YORK STATE DEVELOPMENTAL DISABILITIES SERVICES office [of mental  
33 retardation and developmental disabilities] available to adjacent local  
34 governments and may receive, apply, and spend money for the extension of  
35 laboratory service according to the terms of the agreement as approved  
36 by the commissioner.

37 S 20. Subdivisions (a) and (c) of section 13.29 of the mental hygiene  
38 law, as added by chapter 978 of the laws of 1977, are amended to read as  
39 follows:

40 (a) The commissioner, on behalf of the state and if in the public  
41 interest, shall accept, hold in trust, administer, apply, execute, or  
42 use gifts, devises, bequests, grants, powers, or trusts of personal or  
43 real property made to the state, the NEW YORK STATE DEVELOPMENTAL DISA-  
44 BILITIES SERVICES office [of mental retardation and developmental disa-  
45 bilities], a facility within the office, the commissioner, or the direc-  
46 tors or visitors of facilities which are to be used or may be used for  
47 purposes of the NEW YORK STATE DEVELOPMENTAL DISABILITIES SERVICES  
48 office [of mental retardation and developmental disabilities], includ-  
49 ing, but not limited to, the maintenance, support, or benefit of one or  
50 more patients in a facility.

51 (c) Subdivisions (a) and (b) of this section apply to gifts, devises,  
52 bequests, grants, powers, or trusts given to, received, or applied by  
53 the state, the commissioner, the NEW YORK STATE DEVELOPMENTAL DISABILI-  
54 TIES SERVICES office [of mental retardation and developmental disabili-  
55 ties], or facilities thereof and predecessor officers, agencies, or

1 facilities prior to as well as subsequent to the enactment of this  
2 section.

3 S 21. The opening paragraph and paragraph 1 of subdivision (a) of  
4 section 13.31 of the mental hygiene law, as added by chapter 978 of the  
5 laws of 1977, are amended to read as follows:

6 The commissioner, or the officer or employee of the office designated  
7 by him OR HER, shall:

8 1. Receive and turn over to the comptroller for liquidation all bonds,  
9 notes, mortgages, trust funds, and other securities and obligations  
10 belonging to the NEW YORK STATE DEVELOPMENTAL DISABILITIES SERVICES  
11 office [of mental retardation and developmental disabilities] or any  
12 subdivision thereof, except such as may have come into the possession of  
13 the said office or any subdivision thereof on account of or for the  
14 payment of charges for the care, maintenance, and treatment after Janu-  
15 ary first, nineteen hundred sixty-four of patients at those mental  
16 hygiene facilities as defined in section three of the facilities devel-  
17 opment corporation act which are under his OR HER jurisdiction, in which  
18 case the same shall be turned over to the commissioner of taxation and  
19 finance as agent for the facilities development corporation for liqui-  
20 dation, and he OR SHE shall have the authority to transfer all such  
21 securities and evidences of indebtedness and to execute on behalf of the  
22 NEW YORK STATE DEVELOPMENTAL DISABILITIES SERVICES office [of mental  
23 retardation and developmental disabilities] or any of its facilities or  
24 the facilities development corporation a satisfaction and release there-  
25 of.

26 S 22. Paragraph 2 of subdivision (i) and subdivision (m) of section  
27 13.33 of the mental hygiene law, paragraph 2 of subdivision (i) as  
28 amended by chapter 14 of the laws of 1990 and subdivision (m) as amended  
29 by chapter 118 of the laws of 1991, are amended to read as follows:

30 (2) Any member or members of the board may visit and inspect a commu-  
31 nity residence operated by the [office of mental retardation and devel-  
32 opmental disabilities] NEW YORK STATE DEVELOPMENTAL DISABILITIES  
33 SERVICES OFFICE, which is within the catchment area of the school on the  
34 board of which such member or members serve. Such member or members  
35 shall be granted access to such facility and to all books, records and  
36 data pertaining to such facility deemed necessary for carrying out the  
37 purposes of such visit and inspection. Information, books, records or  
38 data which are confidential as provided by law shall be kept confiden-  
39 tial and any limitations on the release thereof imposed by law upon the  
40 party furnishing the information, books, records or data shall apply to  
41 such member or members of the board. After any such visits or  
42 inspection, a report containing findings and recommendations shall be  
43 submitted promptly to the commissioner and to the chairman of the state  
44 commission on quality of care for the mentally disabled.

45 (m) Members of the boards of visitors shall be considered officers of  
46 the NEW YORK STATE DEVELOPMENTAL DISABILITIES SERVICES office [of mental  
47 retardation and developmental disabilities] for the purposes of sections  
48 seventy-three, to the extent provided therein, and seventy-four of the  
49 public officers law relating to business or professional activities by  
50 state officers and employees and the code of ethics.

51 S 23. Subdivision (a) of section 13.39 of the mental hygiene law, as  
52 added by chapter 800 of the laws of 1986, is amended to read as follows:

53 (a) Notwithstanding any other law, rule or regulation, the executive  
54 director, chairperson or president of a voluntary, not-for-profit corpo-  
55 ration or facility which is subject to the jurisdiction of the NEW YORK  
56 STATE DEVELOPMENTAL DISABILITIES SERVICES office [of mental retardation

1 and developmental disabilities] shall furnish annually to the commis-  
2 sioner a list of the names and addresses of the current members of the  
3 board of directors or trustees of such facility or corporation. Failure  
4 to furnish such annual list shall remove such facility or corporation  
5 from consideration for recertification.

6 S 24. Paragraph 3 of subdivision (b) of section 15.07 of the mental  
7 hygiene law, as amended by chapter 789 of the laws of 1985, is amended  
8 to read as follows:

9 3. the right of the resident to communicate with the director, the  
10 board of visitors, the commissioner of [mental retardation and] develop-  
11 mental disabilities SERVICES, and the mental hygiene legal service.

12 S 25. Section 16.00 of the mental hygiene law, as added by chapter 786  
13 of the laws of 1983, is amended to read as follows:

14 S 16.00 Regulation and quality control of services for the mentally  
15 retarded and developmentally disabled.

16 This article sets forth provisions enabling the commissioner of the  
17 NEW YORK STATE DEVELOPMENTAL DISABILITIES SERVICES office [of mental  
18 retardation and developmental disabilities] to regulate and assure the  
19 consistent high quality of services provided within the state to its  
20 mentally retarded and developmentally disabled citizens. The commis-  
21 sioner may adopt and promulgate any regulation reasonably necessary to  
22 implement and effectively exercise the powers and perform the duties  
23 conferred by this article. This article shall govern the operation of  
24 programs, provision of services and the facilities hereinafter described  
25 and the commissioner's powers and authority with respect thereto, and  
26 shall supersede, as to such matters, sections of article thirty-one that  
27 are inconsistent with the provisions of this chapter.

28 S 26. Subdivision (d) of section 16.27 of the mental hygiene law, as  
29 added by chapter 611 of the laws of 1981, such section as renumbered by  
30 chapter 786 of the laws of 1983, is amended to read as follows:

31 (d) This section shall apply only to the facilities under the juris-  
32 diction of the NEW YORK STATE DEVELOPMENTAL DISABILITIES SERVICES office  
33 [of mental retardation and developmental disabilities]. Reference to the  
34 commissioner in this section shall mean the commissioner of [the office  
35 of mental retardation and] developmental disabilities SERVICES.

36 S 27. Subparagraphs (I) and (II) of paragraph 2 of subdivision (i) of  
37 section 29.15 of the mental hygiene law, as amended by chapter 534 of  
38 the laws of 2006, are amended to read as follows:

39 (I) A patient about to be discharged or conditionally released from a  
40 department facility licensed or operated by the NEW YORK STATE DEVELOP-  
41 MENTAL DISABILITIES SERVICES office [of mental retardation and develop-  
42 mental disabilities] or from an inpatient facility operated or licensed  
43 by the office of [alcohol] ALCOHOLISM and substance abuse services or  
44 the office of mental health to an adult home or residence for adults, as  
45 defined in section two of the social services law, shall be referred  
46 only to such home or residence that is consistent with that patient's  
47 needs and that operates pursuant to section four hundred sixty of the  
48 social services law, provided further that: (A) for a department facili-  
49 ty licensed or operated by the NEW YORK STATE DEVELOPMENTAL DISABILITIES  
50 SERVICES office [of mental retardation and developmental disabilities]  
51 or for an inpatient facility operated by the office of [alcohol] ALCO-  
52 HOLISM and substance abuse services or the office of mental health, the  
53 facility director retains authority to determine whether the home,  
54 program or residence is consistent with that patient's needs and (B)  
55 such referral shall be made to the patient's home county whenever possi-  
56 ble or appropriate.

1 (II) No patient about to be discharged or conditionally released from  
2 a department facility licensed or operated by the NEW YORK STATE DEVEL-  
3 OPMENTAL DISABILITIES SERVICES office [of mental retardation and devel-  
4 opmental disabilities] or from an inpatient facility operated or  
5 licensed by the office of [alcohol] ALCOHOLISM and substance abuse  
6 services or the office of mental health shall be referred to any adult  
7 home or residence for adults, as defined in section two of the social  
8 services law, which has received an official written notice from the  
9 department of health of: (A) the proposed revocation, suspension or  
10 denial of its operating certificate; (B) the limitation of its operating  
11 certificate with respect to new admissions; (C) the issuance of a  
12 department of health order or commissioner of health's order or the  
13 seeking of equitable relief pursuant to section four hundred sixty-d of  
14 the social services law; (D) the proposed assessment of civil penalties  
15 for violations of the provisions of subparagraph two of paragraph (b) of  
16 subdivision seven of section four hundred sixty-d of the social services  
17 law; or placement on the "do not refer list" pursuant to subdivision  
18 fifteen of section four hundred sixty-d of the social services law.  
19 Referrals may resume when such enforcement actions are resolved.

20 S 28. Section 29.20 of the mental hygiene law, as added by chapter 425  
21 of the laws of 1991, is amended to read as follows:

22 S 29.20 In-patient nasogastric feeding procedures.

23 The commissioners of the offices of mental health and [mental retarda-  
24 tion and] developmental disabilities SERVICES of the department shall  
25 each promulgate and administer regulations and policies governing the  
26 maximum size of nasogastric feeding tubes with the principal purposes of  
27 protecting patients from undue discomfort, for the benefit of any  
28 patient in a facility subject to the jurisdiction of the commissioners.

29 S 29. The opening paragraph and subdivision 4 of section 29.29 of the  
30 mental hygiene law, as amended by chapter 24 of the laws of 2007, are  
31 amended to read as follows:

32 The commissioners of the [offices] OFFICE of mental health and [mental  
33 retardation and] THE NEW YORK STATE developmental disabilities SERVICES  
34 OFFICE of the department shall establish policies and uniform procedures  
35 for their respective offices for the reporting, compilation, and analy-  
36 sis of incident reports. Incident reports shall, for the purposes of  
37 this chapter, mean reports of accidents and injuries affecting patient  
38 health and welfare at facilities. These policies and procedures shall  
39 include but shall not be limited to:

40 4. Each facility shall aggregate its data monthly for the director and  
41 that aggregated information shall be submitted, at least semi-annually  
42 to the commissioner of the office of mental health and to the commis-  
43 sioner of the [office of mental retardation and] developmental disabili-  
44 ties SERVICES.

45 S 30. Subdivision 6 of section 29.29 of the mental hygiene law is  
46 REPEALED.

47 S 31. The opening paragraph of subdivision (a) and subdivisions (b)  
48 and (c) of section 33.02 of the mental hygiene law, the opening para-  
49 graph of subdivision (a) as amended by chapter 401 of the laws of 2006  
50 and subdivisions (b) and (c) as amended by chapter 306 of the laws of  
51 1995, are amended to read as follows:

52 In order to ensure that residents of facilities or programs operated  
53 or licensed by the office of mental health and facilities or programs  
54 operated or certified by the NEW YORK STATE DEVELOPMENTAL DISABILITIES  
55 SERVICES office [of mental retardation and developmental disabilities]  
56 are treated consistently with the laws and regulations assuring quality

1 care, the commissioner of the office of mental health and the commis-  
2 sioner of [the office of mental retardation and] developmental disabili-  
3 ties SERVICES shall promulgate regulations informing residents of their  
4 rights under law. Such regulations shall include, but not be limited to,  
5 informing residents that they have the right to:

6 (b) The foregoing rights may not be limited as a punishment or for the  
7 convenience of staff. Any limitation on the rights enumerated shall be  
8 permitted for an individual resident of a hospital operated or licensed  
9 by the office of mental health or developmental center operated by the  
10 NEW YORK STATE DEVELOPMENTAL DISABILITIES SERVICES office [of mental  
11 retardation and developmental disabilities] only upon written order of a  
12 physician in the resident's clinical record stating the clinical justi-  
13 fication for such limitation and the specific period of time such limi-  
14 tation shall remain in effect. Any limitation on the rights enumerated  
15 shall be permitted for an individual resident of any other residential  
16 facility or program operated or licensed by the office of mental health  
17 or operated or certified by the NEW YORK STATE DEVELOPMENTAL DISABILI-  
18 TIES SERVICES office [of mental retardation and developmental disabili-  
19 ties] only upon written order by the director or chief executive officer  
20 of such facility or program upon receipt of a recommendation by the  
21 treating practitioner as defined by paragraph seven of subdivision (a)  
22 of section 33.16 of this article with such order to be placed in the  
23 resident's clinical record stating the clinical justification for such  
24 limitation and the specific period of time such limitation shall remain  
25 in effect.

26 (c) The commissioners and the facility director shall ensure that a  
27 notice of the rights included in regulations promulgated pursuant to  
28 this section is posted in each ward or living area of every hospital  
29 operated or licensed by the office of mental health and every develop-  
30 mental center operated by the NEW YORK STATE DEVELOPMENTAL DISABILITIES  
31 SERVICES office [of mental retardation and developmental disabilities],  
32 and that such notice is provided to every individual resident of any  
33 other residential facility or program operated or licensed by the  
34 respective offices upon admission to such facility or program, upon  
35 limitation on any right, or at the individual's request. The notice  
36 shall include the address and telephone numbers of the office of the  
37 facility director or such person's designee responsible for receiving  
38 questions or complaints, the board of visitors if applicable, the mental  
39 hygiene legal service and the commission on quality of care for the  
40 mentally disabled.

41 S 32. Subdivision (e) of section 33.07 of the mental hygiene law, as  
42 added by chapter 709 of the laws of 1986, is amended to read as follows:

43 (e) A mental hygiene facility which is a representative payee for a  
44 patient pursuant to designation by the social security administration or  
45 which assumes management responsibility over the funds of a patient,  
46 shall maintain such funds in a fiduciary capacity to the patient. The  
47 commissioners of mental health and [mental retardation and] develop-  
48 mental disabilities SERVICES shall develop standards regarding the  
49 management of patient funds.

50 S 33. Subdivision (c) of section 33.09 of the mental hygiene law, as  
51 amended by chapter 690 of the laws of 1989, is amended to read as  
52 follows:

53 (c) The provisions of the workers' compensation law, the unemployment  
54 insurance law, and articles thirteen, nineteen, and twenty of the labor  
55 law shall not apply to any patient in a facility with respect to his  
56 participation in a sheltered workshop program, provided, however, that

1 participants in sheltered workshop programs operated by the office of  
2 mental health, the NEW YORK STATE DEVELOPMENTAL DISABILITIES SERVICES  
3 office [of mental retardation and developmental disabilities] or volun-  
4 tary agencies or institutional worker programs operated by the office of  
5 mental health shall be eligible for workers' compensation benefits  
6 (excluding benefits provided pursuant to article nine of the workers'  
7 compensation law) if such offices or agencies elect to provide such  
8 benefits. Sheltered workshops operated at department facilities shall be  
9 subject to the laws and regulations applicable to sheltered workshops  
10 operated by voluntary agencies.

11 S 34. Section 33.11 of the mental hygiene law, as amended by chapter  
12 345 of the laws of 1985, is amended to read as follows:

13 S 33.11 Education for mentally disabled children.

14 The office of mental health and the NEW YORK STATE DEVELOPMENTAL DISA-  
15 BILITIES SERVICES office [of mental retardation and developmental disa-  
16 bilities] shall provide the same education for patients in office of  
17 mental health hospitals and residents in NEW YORK STATE DEVELOPMENTAL  
18 DISABILITIES SERVICES office [of mental retardation and developmental  
19 disabilities] schools who are between the ages of five and twenty-one  
20 which they would otherwise be entitled to receive in their local school  
21 districts pursuant to article eighty-nine of the education law. The cost  
22 of such education shall be a charge upon and shall be paid by the office  
23 of mental health or the NEW YORK STATE DEVELOPMENTAL DISABILITIES  
24 SERVICES office [of mental retardation and developmental disabilities]  
25 when received within such a hospital or school by a patient or resident  
26 therein. Such education shall be adapted to the mental attainments of  
27 such children. Provided, however, that such children as can benefit  
28 therefrom shall be admitted to the schools of the school district in  
29 which such hospital or school is located in accordance with regulations  
30 of the commissioner of education developed in consultation with the  
31 commissioners of mental health and [mental retardation and] develop-  
32 mental disabilities SERVICES. The cost of such instruction less the  
33 State aid attributed to such child, shall be a charge upon the school  
34 district in which the child resided at the time of admission to the  
35 State hospital or school, except in those cases as provided in paragraph  
36 c of subdivision five of section thirty-two hundred two of the education  
37 law.

38 S 35. Section 33.12 of the mental hygiene law, as added by chapter 345  
39 of the laws of 1985, is amended to read as follows:

40 S 33.12 Hearing evaluation.

41 The NEW YORK STATE DEVELOPMENTAL DISABILITIES SERVICES office [of  
42 mental retardation and developmental disabilities] shall provide suit-  
43 able hearing evaluations periodically for the residents in state  
44 schools. Upon the ascertainment that any resident so evaluated is deaf  
45 or hard of hearing, it shall be the duty of the office to provide suit-  
46 able remedial efforts, to include, but not be limited to, hearing aids,  
47 alternative forms of communication and auditory training to overcome  
48 this handicap and to ascertain the true level of intelligence of such  
49 residents.

50 S 36. Subdivision (a) and paragraph 10 of subdivision (c) of section  
51 33.13 of the mental hygiene law, subdivision (a) as amended by chapter  
52 571 of the laws of 2005 and paragraph 10 of subdivision (c) as amended  
53 by chapter 230 of the laws of 2008, are amended to read as follows:

54 (a) A clinical record for each patient or client shall be maintained  
55 at each facility licensed or operated by the office of mental health or  
56 the NEW YORK STATE DEVELOPMENTAL DISABILITIES SERVICES office [of mental

1 retardation and developmental disabilities], hereinafter referred to as  
2 the offices. For the purposes of this section, the term "facility" shall  
3 mean "facility" as such term is defined in section 1.03 of this chapter,  
4 provided, however, such term shall also include any provider of services  
5 for persons with mental illness, mental retardation or developmental  
6 disabilities which is operated by, under contract with, receives funding  
7 from, or is otherwise approved to render services by, a director of  
8 community services pursuant to article forty-one of this chapter or one  
9 or both of the offices, including any such provider which is exempt from  
10 the requirement for an operating certificate under article sixteen or  
11 article thirty-one of this chapter. The record shall contain information  
12 on all matters relating to the admission, legal status, care, and treat-  
13 ment of the patient or client and shall include all pertinent documents  
14 relating to the patient or client. The commissioners of such offices, by  
15 regulation, each shall determine the scope and method of recording  
16 information, including data pertaining to admission, legal matters  
17 affecting the patient or client, records and notation of course of care  
18 and treatment, therapies, restrictions on patient's or client's rights,  
19 periodic examinations, and such other information as he or she may  
20 require.

21 10. to a correctional facility, when the chief administrative officer  
22 has requested such information with respect to a named inmate of such  
23 correctional facility as defined by subdivision three of section forty  
24 of the correction law or to the division of parole, when the division  
25 has requested such information with respect to a person under its juris-  
26 diction or an inmate of a state correctional facility, when such inmate  
27 is within four weeks of release from such institution to the jurisdic-  
28 tion of the division of parole. Information released pursuant to this  
29 paragraph may be limited to a summary of the record, including but not  
30 limited to: the basis for referral to the facility; the diagnosis upon  
31 admission and discharge; a diagnosis and description of the patient's or  
32 client's current mental condition; the current course of treatment,  
33 medication and therapies; and the facility's recommendation for future  
34 mental hygiene services, if any. Such information may be forwarded to  
35 the department of correctional services staff in need of such informa-  
36 tion for the purpose of making a determination regarding an inmate's  
37 health care, security, safety or ability to participate in programs. In  
38 the event an inmate is transferred, the sending correctional facility  
39 shall forward, upon request, such summaries to the chief administrative  
40 officer of any correctional facility to which the inmate is subsequently  
41 incarcerated. The office of mental health and the NEW YORK STATE DEVEL-  
42 OPMENTAL DISABILITIES SERVICES office [of mental retardation and devel-  
43 opmental disabilities], in consultation with the commission of  
44 correction and the division of parole, shall promulgate rules and regu-  
45 lations to implement the provisions of this paragraph.

46 S 37. Subdivision (d) of section 33.16 of the mental hygiene law, as  
47 amended by chapter 223 of the laws of 1992, is amended to read as  
48 follows:

49 (d) Clinical records access review committees. The commissioner of  
50 mental health, the commissioner of [mental retardation and] develop-  
51 mental disabilities SERVICES and the commissioner of alcoholism and  
52 substance abuse services shall appoint clinical record access review  
53 committees to hear appeals of the denial of access to patient or client  
54 records as provided in paragraph four of subdivision (c) of this  
55 section. Members of such committees shall be appointed by the respective  
56 commissioners. Such clinical record access review committees shall

1 consist of no less than three nor more than five persons. The commis-  
2 sioners shall promulgate rules and regulations necessary to effectuate  
3 the provisions of this subdivision.

4 S 38. Paragraph 1 of subdivision (a) and paragraph 2 of subdivision  
5 (e) of section 41.34 of the mental hygiene law, paragraph 1 of subdivi-  
6 sion (a) as amended by chapter 1025 of the laws of 1981 and paragraph 2  
7 of subdivision (e) as added by chapter 823 of the laws of 1992, are  
8 amended to read as follows:

9 (1) "Community residential facility for the disabled" means a support-  
10 ive living facility with four to fourteen residents or a supervised  
11 living facility subject to licensure by the office of mental health or  
12 the NEW YORK STATE DEVELOPMENTAL DISABILITIES SERVICES office [of mental  
13 retardation and developmental disabilities] which provides a residence  
14 for up to fourteen mentally disabled persons, including residential  
15 treatment facilities for children and youth.

16 (2) The office of mental health and the NEW YORK STATE DEVELOPMENTAL  
17 DISABILITIES SERVICES office [of mental retardation and developmental  
18 disabilities] shall not issue an operating certificate for the operation  
19 of a supportive living facility or a supervised living facility of more  
20 than fourteen residents if the agency or unit of government, voluntary  
21 agency or any other person or organization which intends to establish or  
22 operate such a facility does not notify the chief executive officer of  
23 the municipality in which that facility is to be established in writing  
24 of the intention to establish such facility and include in such notice  
25 the specific address of the site, the type of residence, the number of  
26 residents and the community support requirements of the program;  
27 provided, however, that nothing contained in this paragraph shall either  
28 be construed to require facilities of more than fourteen beds to meet  
29 any other requirement of this section, or to deem such facilities family  
30 units for the purposes of local laws and ordinances.

31 S 39. Paragraphs 1, 2 and 5 of subdivision (a) of section 41.36 of the  
32 mental hygiene law, paragraphs 1 and 5 as added by chapter 809 of the  
33 laws of 1980 and paragraph 2 as amended by chapter 262 of the laws of  
34 1992, are amended to read as follows:

35 1. "Community residential facility" means any facility subject to  
36 licensure by the NEW YORK STATE DEVELOPMENTAL DISABILITIES SERVICES  
37 office [of mental retardation and developmental disabilities] which  
38 provides a supervised residence or residential respite services for  
39 mentally disabled persons. Such term does not include family care homes.

40 2. "Reimbursable services" means services, other than intermediate  
41 care services, comprehensive medicaid case management and personal care  
42 services for which funding is available under Title XIX of the federal  
43 social security act, provided at a community residential facility  
44 described by regulations of the commissioner of [mental retardation and]  
45 developmental disabilities SERVICES for which fees or rates may be paid  
46 to a provider of services pursuant to this section.

47 5. "Commissioner" means the commissioner of [mental retardation and]  
48 developmental disabilities SERVICES.

49 S 40. The opening paragraph of subdivision (a) of section 41.39 of the  
50 mental hygiene law, as added by chapter 515 of the laws of 1992, is  
51 amended to read as follows:

52 The commissioner of mental health and the commissioner of [mental  
53 retardation and] developmental disabilities SERVICES shall, consistent  
54 with the state integrated employment implementation plan developed  
55 pursuant to subdivision two of section one thousand four-b of the educa-  
56 tion law, and subject to appropriations made therefor, to develop and

1 support services that provide individuals with mental disabilities the  
2 opportunity to learn and develop employment related skills and work  
3 experience, including but not limited to sheltered workshops and inte-  
4 grated employment opportunities, including supported employment, as  
5 provided pursuant to sections one thousand four-a and one thousand  
6 four-b of the education law. Such programs shall, to the extent possi-  
7 ble:

8 S 41. Subdivisions (a) and (c) of section 41.43 of the mental hygiene  
9 law, as amended by chapter 552 of the laws of 1992, are amended to read  
10 as follows:

11 (a) The commissioner of the NEW YORK STATE DEVELOPMENTAL DISABILITIES  
12 SERVICES office [of mental retardation and developmental disabilities],  
13 directly or through contract, and within amounts made available there-  
14 for, shall establish a family-directed, statewide system of comprehen-  
15 sive family support services. The purpose of family support services  
16 will be to enhance a family's ability to provide in-home care to their  
17 family members with a developmental disability.

18 (c) For purposes of this section, family supports are goods, services,  
19 and subsidies, determined by the family and the commissioner of the NEW  
20 YORK STATE DEVELOPMENTAL DISABILITIES SERVICES office [of mental retar-  
21 dation and developmental disabilities], which are provided to meet the  
22 goals of: (i) providing a quality of life comparable, to the extent  
23 practicable, to that of similarly situated families without a family  
24 member having a developmental disability; (ii) maintaining family unity;  
25 (iii) preventing premature or inappropriate out-of-home placement; (iv)  
26 reuniting families; (v) enhancing parenting skills; and (vi) maximizing  
27 the potential of the family member with a developmental disability.

28 S 42. Section 41.46 of the mental hygiene law, as amended by chapter  
29 669 of the laws of 1995, is amended to read as follows:

30 S 41.46 Disclosure by members, officers and employees.

31 In the event that an agency licensed by the NEW YORK STATE DEVELOP-  
32 MENTAL DISABILITIES SERVICES office [of mental retardation and develop-  
33 mental disabilities], the office of mental health or the office of alco-  
34 holism and substance abuse services enters into an agreement or has  
35 entered into an agreement for the purchase, lease, rehabilitation or  
36 improvement of real property or a cooperative share in real property,  
37 any employee who receives an annual salary in excess of thirty thousand  
38 dollars, or any board member, or officer of such agency who has a direct  
39 or indirect interest either financial or beneficial in such property  
40 including the interest of any person for whom he or she is related by  
41 consanguinity or affinity, shall disclose such interest prior to the  
42 making of such agreement or at the time of acquisition of such interest.  
43 Disclosure pursuant to this section shall be made in writing to the  
44 board of directors of such agency and shall indicate the material facts  
45 as to the member's, officer's, employee's or relative's interest in such  
46 property or cooperative share. Such disclosure shall be filed with the  
47 secretary of the corporation and entered on the minutes of a meeting of  
48 the board. Such disclosure shall also be forwarded in writing to the  
49 appropriate commissioner and to the director of community services of  
50 the local governmental unit within which the property or cooperative  
51 share is located prior to the approval of public funding related to the  
52 property or cooperative share which is the subject of disclosure made  
53 pursuant to this section or at the time of the acquisition of such  
54 interest, whichever occurs later.

1 S 43. Subdivisions (a) and (c) of section 41.48 of the mental hygiene  
2 law, as added by chapter 365 of the laws of 1987, are amended to read as  
3 follows:

4 (a) Notwithstanding any inconsistent provision of this article and  
5 within appropriations made therefor, the commissioners of the offices of  
6 mental health and [mental retardation and] developmental disabilities  
7 SERVICES are authorized upon the application of voluntary agencies, to  
8 make payments for the reasonable price of options to acquire an interest  
9 in real property, for the purpose of establishing a community mental  
10 hygiene facility. Such applications shall be made in the manner and on  
11 forms prescribed by the appropriate commissioner. Sellers of real prop-  
12 erty who are required to disclose financial or other beneficial inter-  
13 ests in such property under section 41.46 of this article shall not be  
14 eligible to receive payments under this section.

15 (c) As used in this section the term "reasonable price" shall mean an  
16 amount that is not in excess of guidelines developed by the commissioner  
17 of the office of mental health or [mental retardation and] developmental  
18 disabilities SERVICES and approved by the director of the budget and the  
19 state comptroller.

20 S 44. Section 43.02 of the mental hygiene law, as amended by chapter  
21 558 of the laws of 1999, is amended to read as follows:

22 S 43.02 Rates or methods of payment for services at facilities subject  
23 to licensure or certification by the office of mental  
24 health, the NEW YORK STATE DEVELOPMENTAL DISABILITIES  
25 SERVICES office [of mental retardation and developmental  
26 disabilities] or the office of alcoholism and substance  
27 abuse services.

28 (a) Notwithstanding any inconsistent provision of law, payment made by  
29 government agencies pursuant to title eleven of article five of the  
30 social services law for services provided by any facility licensed by  
31 the office of mental health pursuant to article thirty-one of this chap-  
32 ter or licensed or operated by the NEW YORK STATE DEVELOPMENTAL DISABIL-  
33 ITIES SERVICES office [of mental retardation and developmental disabili-  
34 ties] pursuant to article sixteen of this chapter or certified by the  
35 office of alcoholism and substance abuse services pursuant to this chap-  
36 ter to provide inpatient chemical dependence services, as defined in  
37 section 1.03 of this chapter, shall be at rates or fees certified by the  
38 commissioner of the respective office and approved by the director of  
39 the division of the budget, provided, however, the commissioner of  
40 mental health shall annually certify such rates or fees which may vary  
41 for distinct geographical areas of the state and, provided, further,  
42 that rates or fees for service for inpatient psychiatric services or  
43 inpatient chemical dependence services, at hospitals otherwise licensed  
44 pursuant to article twenty-eight of the public health law shall be  
45 established in accordance with section two thousand eight hundred seven  
46 of the public health law.

47 (b) Operators of facilities licensed by the office of mental health  
48 pursuant to article thirty-one of this chapter, licensed by the NEW YORK  
49 STATE DEVELOPMENTAL DISABILITIES SERVICES office [of mental retardation  
50 and developmental disabilities] pursuant to article sixteen of this  
51 chapter or certified by the office of alcoholism and substance abuse  
52 services pursuant to this chapter to provide inpatient chemical depend-  
53 ence services shall provide to the commissioner of the respective office  
54 such financial, statistical and program information as the commissioner  
55 may determine to be necessary. The commissioner of the appropriate

1 office shall have the power to conduct on-site audits of books and  
2 records of such facilities.

3 (c) The commissioner of the office of mental health, the commissioner  
4 of the NEW YORK STATE DEVELOPMENTAL DISABILITIES SERVICES office [of  
5 mental retardation and developmental disabilities] and the commissioner  
6 of the office of alcoholism and substance abuse services shall adopt  
7 rules and regulations to effectuate the provisions of this section. Such  
8 rules and regulations shall include, but not be limited to, provisions  
9 relating to:

10 (i) the establishment of a uniform statewide system of reports and  
11 audits relating to the quality of care provided, facility utilization  
12 and costs of providing services; such a uniform statewide system may  
13 provide for appropriate variation in the application of the system to  
14 different classes or subclasses of facilities licensed by the office of  
15 mental health pursuant to article thirty-one of this chapter or licensed  
16 or operated by the NEW YORK STATE DEVELOPMENTAL DISABILITIES SERVICES  
17 office [of mental retardation and developmental disabilities] pursuant  
18 to article sixteen of this chapter, or certified by the office of alco-  
19 holism and substance abuse services pursuant to this chapter to provide  
20 inpatient chemical dependence services; and

21 (ii) methodologies used in the establishment of the schedules of rates  
22 or fees pursuant to this section.

23 S 45. Subdivision 1 and paragraph (c) of subdivision 2 of section  
24 43.04 of the mental hygiene law, subdivision 1 as amended by section 187  
25 of part A of chapter 389 of the laws of 1997 and paragraph (c) of subdivi-  
26 sion 2 as amended by section 108 of part A of chapter 56 of the laws  
27 of 1998 and subparagraph (iii) of paragraph (c) of subdivision 2 as  
28 added by section 3 of part D of chapter 58 of the laws of 2007, are  
29 amended to read as follows:

30 1. For purposes of this section, provider of services shall refer to  
31 (i) those providers as defined by subdivision five of section 1.03 of  
32 this chapter which are licensed by the NEW YORK STATE DEVELOPMENTAL  
33 DISABILITIES SERVICES office [of mental retardation and developmental  
34 disabilities] pursuant to article sixteen of this chapter as intermedi-  
35 ate care facilities for persons who are developmentally disabled,  
36 providers of day treatment services or specialty hospitals, except that  
37 on and after December first, nineteen hundred ninety-seven, provider of  
38 services shall not include specialty hospitals, and (ii), for purposes  
39 of paragraph (c) of subdivision two of this section only, the term  
40 provider of services, shall mean, and for purposes of this subdivision  
41 shall include, the NEW YORK STATE DEVELOPMENTAL DISABILITIES SERVICES  
42 office [of mental retardation and developmental disabilities] as the  
43 operator of intermediate care facilities for persons who are develop-  
44 mentally disabled. Providers of services are charged assessments on  
45 their gross receipts received from services and care related to interme-  
46 diate care facilities, day treatment services, or specialty hospitals  
47 until November thirtieth, nineteen hundred ninety-seven, for persons who  
48 are developmentally disabled and other operating income, less personal  
49 needs allowances and refunds, on a cash basis in the percentage amounts  
50 and for the periods specified in subdivision two of this section. Such  
51 assessments shall be submitted by or on behalf of such providers of  
52 services to the commissioner of [the office of mental retardation and]  
53 developmental disabilities SERVICES or HIS OR her designee.

54 (c) (i) For the provider of services as set forth in clause (ii) of  
55 subdivision one of this section in the category of intermediate care  
56 facilities for persons who are developmentally disabled operated by the

1 NEW YORK STATE DEVELOPMENTAL DISABILITIES SERVICES office [of mental  
2 retardation and developmental disabilities], the assessment shall be  
3 six-tenths of one percent of the gross receipts received for all  
4 services rendered within such service category on a cash basis beginning  
5 April first, nineteen hundred ninety-five and ending March thirty-first,  
6 two thousand one.

7 (ii) For the provider of services as set forth in clause (ii) of  
8 subdivision one of this section in the category of intermediate care  
9 facilities for persons who are developmentally disabled operated by the  
10 NEW YORK STATE DEVELOPMENTAL DISABILITIES SERVICES office [of mental  
11 retardation and developmental disabilities], an additional assessment  
12 shall be two and four-tenths percent of the gross receipts for all  
13 services rendered within such service category on a cash basis beginning  
14 April first, nineteen hundred ninety-five; provided, however, such addi-  
15 tional assessment shall be five and four-tenths percent of the gross  
16 receipts received for all services rendered within such service category  
17 on a cash basis beginning April first, nineteen hundred ninety-six and  
18 ending March thirty-first, two thousand one.

19 (iii) For each provider of services as set forth in clause (ii) of  
20 subdivision one of this section in the category of intermediate care  
21 facilities for persons who are developmentally disabled operated by the  
22 NEW YORK STATE DEVELOPMENTAL DISABILITIES SERVICES office [of mental  
23 retardation and developmental disabilities], notwithstanding any other  
24 provision of this paragraph, the total assessment shall be six percent  
25 of the provider's gross receipts received on a cash basis for all  
26 services rendered, beginning April first, two thousand one, and five and  
27 five-tenths percent of the provider's gross receipts received on a cash  
28 basis for all services rendered, beginning January first, two thousand  
29 eight.

30 S 46. Section 43.12 of the mental hygiene law, as added by chapter 305  
31 of the laws of 2007, is amended to read as follows:

32 S 43.12 Electronic submission of periodic cost reports to the NEW YORK  
33 STATE DEVELOPMENTAL DISABILITIES SERVICES office [of mental  
34 retardation and developmental disabilities].

35 Notwithstanding any provision of law, rule or regulation to the  
36 contrary, every operator of a facility which is licensed by the NEW YORK  
37 STATE DEVELOPMENTAL DISABILITIES SERVICES office [of mental retardation  
38 and developmental disabilities] (hereinafter "office") and every provid-  
39 er of services which is subject to the regulation or control of the  
40 office shall submit electronically, via the internet, any annual cost  
41 report which is required to be submitted to the office pursuant to the  
42 provisions of section 43.02 of this article and any rules and regu-  
43 lations promulgated thereunder and any other required periodic cost  
44 report or accounting which may be prescribed by the commissioner of  
45 [mental retardation and] developmental disabilities SERVICES as subject  
46 to such electronic submission. The office shall publish and make avail-  
47 able at all times on its website instructions for the submission of such  
48 reports or accountings via the internet, including instructions relating  
49 to the use of an electronic signature as may be required by the commis-  
50 sioner of [mental retardation and] developmental disabilities SERVICES  
51 which signature shall be subject to, and submitted in accordance with,  
52 the provisions of the state technology law and any rules and regulations  
53 promulgated thereunder. Any operator or provider of services that is  
54 unable to submit such cost report or accounting in accordance with this  
55 section may apply for a waiver of such required submission from the  
56 commissioner of [mental retardation and] developmental disabilities

1 SERVICES. The commissioner of [mental retardation and] developmental  
2 disabilities SERVICES may grant a waiver for any given submission to  
3 such operator or provider of services for good cause shown and may grant  
4 a general waiver to all operators or providers of services with respect  
5 to any required submission. On and after the effective date of this  
6 section, any contract entered into between the office and a provider of  
7 services which involves the provision of services to persons with mental  
8 retardation and developmental disabilities and which contains provisions  
9 that require the submission of any periodic report or accounting may  
10 also contain provisions that require the submission of any periodic cost  
11 report or accounting required under such contract to be submitted elec-  
12 tronically as set forth in this section.

13 S 47. Terms occurring in laws, contract and other documents. Whenever  
14 the functions, powers, obligations, duties and officials relating to the  
15 office of mental retardation and developmental disabilities or the  
16 commissioner of the office of mental retardation and developmental disa-  
17 bilities is referred to or designated in any other law, regulation,  
18 contract or document, such reference or designation shall be deemed to  
19 refer to the appropriate functions, powers, obligations, duties, offi-  
20 cials and commissioner of the New York state developmental disabilities  
21 services office, as designated by this act.

22 S 48. Existing rights and remedies preserved. No existing right or  
23 remedy of any character shall be lost, impaired or affected by reason of  
24 this act.

25 S 49. Severability. If any clause, sentence, paragraph, subdivision,  
26 section or part contained in any part of this act shall be adjudged by  
27 any court of competent jurisdiction to be invalid, such judgment shall  
28 not affect, impair, or invalidate the remainder thereof, but shall be  
29 confined in its operation to the clause, sentence, paragraph, subdivi-  
30 sion, section or part contained in any part thereof directly involved in  
31 the controversy in which such judgment shall have been rendered. It is  
32 hereby declared to be the intent of the legislature that this act would  
33 have been enacted even if such invalid provisions had not been included  
34 herein.

35 S 50. This act shall take effect immediately.