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

4370--A

2009-2010 Regular Sessions

I N S E N A T E

April 22, 2009

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

AN ACT to amend the mental hygiene law, in relation to requiring substance abuse recovery houses to obtain an operating certificate

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

Section 1. Subdivision (a) of section 32.05 of the mental hygiene law, as added by chapter 558 of the laws of 1999, is amended to read as follows:

(a) Except as provided in subdivision (b) of this section no provider of services shall engage in any of the following activities without an operating certificate issued by the commissioner pursuant to this article:

1. operation of a residential program, including a community residence for the care, custody, or treatment of persons suffering from chemical abuse or dependence; [provided, however, that giving domestic care and comfort to a person in the home shall not constitute such an operation;]

2. operation of a discrete unit of a hospital or other facility possessing an operating certificate pursuant to article twenty-eight of the public health law for the purpose of providing residential or non-residential chemical dependence services; or

3. operation of a program established or maintained by a provider of services for the rendition of out-patient or non-residential chemical dependence services; provided, however, that such operation shall not be deemed to include (i) professional practice, within the scope of a professional license or certificate issued by an agency of the state, by an appropriately licensed individual or by a partnership of such indi-

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

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viduals, or by a professional service corporation duly incorporated pursuant to the business corporation law wherein all professionals bear the same professional license, or a university faculty practice corporation duly incorporated pursuant to the not-for-profit corporation law, unless more than fifty percent of such practice by either such corporation consists of the rendering of chemical dependence services; or (ii) non-residential services which are chartered or issued a certificate of incorporation pursuant to the education law; or (iii) pastoral counseling by a clergyman or minister, including those defined as clergyman or minister by section two of the religious corporations law; or (iv) services which are exclusively prevention strategies and approaches as defined in section 1.03 of this chapter.

4. COMMERCIAL OPERATION OF A SUBSTANCE ABUSE RECOVERY HOME, INCLUDING BUT NOT LIMITED TO, A RESIDENTIAL FACILITY THAT IS OWNED, OPERATED OR AFFILIATED WITH A LICENSED TREATMENT PROVIDER.

S 2. This act shall take effect on the sixtieth day after it shall have become a law.