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

8137

I N S E N A T E

June 13, 2016

Introduced by Sens. ORTT, CARLUCCI -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the insurance law and the public health law, in relation to utilization review program standards (Part A); to amend the insurance law, in relation to providing coverage for immediate access to a five day emergency supply of certain medication; to amend the social services law and the public health law, in relation to prohibiting prior authorization for a prescription for buprenorphine for opioid addiction detoxification or maintenance treatment (Part B); to amend the mental hygiene law, in relation to the heroin and opioid addiction wraparound demonstration services program; and to amend chapter 32 of the laws of 2014, amending the mental hygiene law relating to the heroin and opioid addiction wraparound services demonstration program, in relation to the effectiveness thereof (Part C); and to amend the mental hygiene law, in relation to emergency services for persons intoxicated, impaired, or incapacitated by alcohol and/or substances (Part D)

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

Section 1. This act enacts into law major components of legislation related to the treatment of heroin and opioid addictions. Each component is wholly contained within a Part identified as Parts A through D. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes a reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section three of this act sets forth the general effective date of this act.

PART A

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

LBD12085-01-6

Section 1. Paragraph 9 of subsection (a) of section 4902 of the insurance law, as added by chapter 41 of the laws of 2014, is amended to read as follows:

(9) When conducting utilization review for purposes of determining health care coverage for substance use disorder treatment, a utilization review agent shall utilize [recognized] evidence-based and peer reviewed clinical review [criteria] TOOLS DESIGNATED BY THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES that [is] ARE appropriate to the age of the patient and [is deemed appropriate and approved for such use by the commissioner of the office of alcoholism and substance abuse services in consultation with the commissioner of health and the superintendent.

The office of alcoholism and substance abuse services in consultation with the commissioner of health and the superintendent shall approve a recognized evidence-based and peer reviewed clinical review criteria, in addition to any other approved evidence-based and peer reviewed clinical review criteria] CONSISTENT WITH THE TREATMENT SERVICE LEVELS WITHIN THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES SYSTEM. ALL APPROVED TOOLS SHALL HAVE INTER RATER RELIABILITY TESTING COMPLETED BY DECEMBER THIRTY-FIRST, TWO THOUSAND SIXTEEN.

S 2. Paragraph (i) of subdivision 1 of section 4902 of the public health law, as added by chapter 41 of the laws of 2014, is amended to read as follows:

(i) When conducting utilization review for purposes of determining health care coverage for substance use disorder treatment, a utilization review agent shall utilize [recognized] evidence-based and peer reviewed clinical review [criteria] TOOLS DESIGNATED BY THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES that [is] ARE appropriate to the age of the patient and [is deemed appropriate and approved for such use by the commissioner of the office of alcoholism and substance abuse services in consultation with the commissioner and the superintendent of financial services.

The office of alcoholism and substance abuse services in consultation with the commissioner and the superintendent of financial services shall approve a recognized evidence-based and peer reviewed clinical review criteria, in addition to any other approved evidence-based and peer reviewed clinical review criteria] CONSISTENT WITH THE TREATMENT SERVICE LEVELS WITHIN THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES SYSTEM. ALL APPROVED TOOLS SHALL HAVE INTER RATER RELIABILITY TESTING COMPLETED BY DECEMBER THIRTY-FIRST, TWO THOUSAND SIXTEEN.

S 3. Any utilization review agent utilizing evidence-based and peer reviewed clinical review criteria approved by the office of alcoholism and substance abuse services on or before the effective date of this act shall have until December 31, 2016 to have their review tools redesignated by the office of alcoholism and substance abuse services pursuant to paragraph 9 of subsection (a) of section 4902 of the insurance law.

S 4. This act shall take effect immediately and shall apply to policies and contracts issued, renewed, modified, altered or amended on and after January 1, 2017.

PART B

Section 1. Subsection (i) of section 3216 of the insurance law is amended by adding a new paragraph 31-a to read as follows:

(31-A) (A) EVERY POLICY THAT PROVIDES MEDICAL, MAJOR MEDICAL OR SIMILAR COMPREHENSIVE-TYPE COVERAGE AND PROVIDES COVERAGE FOR PRESCRIPTION DRUGS FOR MEDICATION FOR THE TREATMENT OF A SUBSTANCE USE DISORDER SHALL

INCLUDE IMMEDIATE ACCESS, WITHOUT PRIOR AUTHORIZATION, TO A FIVE DAY EMERGENCY SUPPLY OF PRESCRIBED MEDICATIONS COVERED UNDER THE POLICY FOR THE TREATMENT OF SUBSTANCE USE DISORDER WHERE AN EMERGENCY CONDITION EXISTS, INCLUDING A PRESCRIBED DRUG OR MEDICATION ASSOCIATED WITH THE MANAGEMENT OF OPIOID WITHDRAWAL AND/OR STABILIZATION, EXCEPT WHERE OTHERWISE PROHIBITED BY LAW. FURTHER, COVERAGE OF AN EMERGENCY SUPPLY SHALL INCLUDE MEDICATION FOR OPIOID OVERDOSE REVERSAL OTHERWISE COVERED UNDER THE POLICY PRESCRIBED TO AN INDIVIDUAL COVERED BY THE POLICY.

(B) FOR PURPOSES OF THIS PARAGRAPH, AN "EMERGENCY CONDITION" MEANS A SUBSTANCE USE DISORDER CONDITION THAT MANIFESTS ITSELF BY ACUTE SYMPTOMS OF SUFFICIENT SEVERITY, INCLUDING SEVERE PAIN OR THE EXPECTATION OF SEVERE PAIN, SUCH THAT A PRUDENT LAYPERSON, POSSESSING AN AVERAGE KNOWLEDGE OF MEDICINE AND HEALTH, COULD REASONABLY EXPECT THE ABSENCE OF IMMEDIATE MEDICAL ATTENTION TO RESULT IN:

(I) PLACING THE HEALTH OF THE PERSON AFFLICTED WITH SUCH CONDITION IN SERIOUS JEOPARDY, OR IN THE CASE OF A BEHAVIORAL CONDITION, PLACING THE HEALTH OF SUCH PERSON OR OTHERS IN SERIOUS JEOPARDY;

(II) SERIOUS IMPAIRMENT TO SUCH PERSON'S BODILY FUNCTIONS;

(III) SERIOUS DYSFUNCTION OF ANY BODILY ORGAN OR PART OF SUCH PERSON;

(IV) SERIOUS DISFIGUREMENT OF SUCH PERSON; OR

(V) A CONDITION DESCRIBED IN CLAUSE (I), (II), OR (III) OF SECTION 1867(E)(1)(A) OF THE SOCIAL SECURITY ACT.

(C) COVERAGE PROVIDED UNDER THIS PARAGRAPH MAY BE SUBJECT TO COPAYMENTS, COINSURANCE, AND ANNUAL DEDUCTIBLES THAT ARE CONSISTENT WITH THOSE IMPOSED ON OTHER BENEFITS WITHIN THE POLICY; PROVIDED, HOWEVER, NO POLICY SHALL IMPOSE AN ADDITIONAL COPAYMENT OR COINSURANCE ON AN INSURED WHO RECEIVED AN EMERGENCY SUPPLY OF MEDICATION AND THEN RECEIVED UP TO A THIRTY DAY SUPPLY OF THE SAME MEDICATION IN THE SAME THIRTY DAY PERIOD IN WHICH THE EMERGENCY SUPPLY OF MEDICATION WAS DISPENSED. THIS SUBPARAGRAPH SHALL NOT PRECLUDE THE IMPOSITION OF A COPAYMENT OR COINSURANCE ON THE INITIAL EMERGENCY SUPPLY OF MEDICATION IN AN AMOUNT THAT IS LESS THAN THE COPAYMENT OR COINSURANCE OTHERWISE APPLICABLE TO A THIRTY DAY SUPPLY OF SUCH MEDICATION, PROVIDED THAT THE TOTAL SUM OF THE COPAYMENTS OR COINSURANCE FOR AN ENTIRE THIRTY DAY SUPPLY OF THE MEDICATION DOES NOT EXCEED THE COPAYMENT OR COINSURANCE OTHERWISE APPLICABLE TO A THIRTY DAY SUPPLY OF SUCH MEDICATION.

S 2. Subsection (l) of section 3221 of the insurance law is amended by adding two new paragraphs 7-a and 7-b to read as follows:

(7-A) EVERY POLICY THAT PROVIDES MEDICAL, MAJOR MEDICAL OR SIMILAR COMPREHENSIVE-TYPE LARGE GROUP COVERAGE SHALL PROVIDE COVERAGE FOR MEDICATION FOR THE DETOXIFICATION OR MAINTENANCE TREATMENT OF A SUBSTANCE USE DISORDER APPROVED BY THE FOOD AND DRUG ADMINISTRATION FOR THE DETOXIFICATION OR MAINTENANCE TREATMENT OF SUBSTANCE USE DISORDER.

(7-B) (A) EVERY POLICY THAT PROVIDES MEDICAL, MAJOR MEDICAL OR SIMILAR COMPREHENSIVE-TYPE COVERAGE AND PROVIDES COVERAGE FOR PRESCRIPTION DRUGS FOR MEDICATION FOR THE TREATMENT OF A SUBSTANCE USE DISORDER SHALL INCLUDE IMMEDIATE ACCESS, WITHOUT PRIOR AUTHORIZATION, TO A FIVE DAY EMERGENCY SUPPLY OF PRESCRIBED MEDICATIONS COVERED UNDER THE POLICY FOR THE TREATMENT OF SUBSTANCE USE DISORDER WHERE AN EMERGENCY CONDITION EXISTS, INCLUDING A PRESCRIBED DRUG OR MEDICATION ASSOCIATED WITH THE MANAGEMENT OF OPIOID WITHDRAWAL AND/OR STABILIZATION, EXCEPT WHERE OTHERWISE PROHIBITED BY LAW. FURTHER, COVERAGE OF AN EMERGENCY SUPPLY SHALL INCLUDE MEDICATION FOR OPIOID OVERDOSE REVERSAL OTHERWISE COVERED UNDER THE POLICY PRESCRIBED TO AN INDIVIDUAL COVERED BY THE POLICY.

(B) FOR PURPOSES OF THIS PARAGRAPH, AN "EMERGENCY CONDITION" MEANS A SUBSTANCE USE DISORDER CONDITION THAT MANIFESTS ITSELF BY ACUTE SYMPTOMS

OF SUFFICIENT SEVERITY, INCLUDING SEVERE PAIN OR THE EXPECTATION OF SEVERE PAIN, SUCH THAT A PRUDENT LAYPERSON, POSSESSING AN AVERAGE KNOWLEDGE OF MEDICINE AND HEALTH, COULD REASONABLY EXPECT THE ABSENCE OF IMMEDIATE MEDICAL ATTENTION TO RESULT IN:

(I) PLACING THE HEALTH OF THE PERSON AFFLICTED WITH SUCH CONDITION IN SERIOUS JEOPARDY, OR IN THE CASE OF A BEHAVIORAL CONDITION, PLACING THE HEALTH OF SUCH PERSON OR OTHERS IN SERIOUS JEOPARDY;

(II) SERIOUS IMPAIRMENT TO SUCH PERSON'S BODILY FUNCTIONS;

(III) SERIOUS DYSFUNCTION OF ANY BODILY ORGAN OR PART OF SUCH PERSON;

(IV) SERIOUS DISFIGUREMENT OF SUCH PERSON; OR

(V) A CONDITION DESCRIBED IN CLAUSE (I), (II), OR (III) OF SECTION 1867(E)(1)(A) OF THE SOCIAL SECURITY ACT.

(C) COVERAGE PROVIDED UNDER THIS PARAGRAPH MAY BE SUBJECT TO COPAYMENTS, COINSURANCE, AND ANNUAL DEDUCTIBLES THAT ARE CONSISTENT WITH THOSE IMPOSED ON OTHER BENEFITS WITHIN THE POLICY; PROVIDED, HOWEVER, NO POLICY SHALL IMPOSE AN ADDITIONAL COPAYMENT OR COINSURANCE ON AN INSURED WHO RECEIVED AN EMERGENCY SUPPLY OF MEDICATION AND THEN RECEIVED UP TO A THIRTY DAY SUPPLY OF THE SAME MEDICATION IN THE SAME THIRTY DAY PERIOD IN WHICH THE EMERGENCY SUPPLY OF MEDICATION WAS DISPENSED. THIS SUBPARAGRAPH SHALL NOT PRECLUDE THE IMPOSITION OF A COPAYMENT OR COINSURANCE ON THE INITIAL EMERGENCY SUPPLY OF MEDICATION IN AN AMOUNT THAT IS LESS THAN THE COPAYMENT OR COINSURANCE OTHERWISE APPLICABLE TO A THIRTY DAY SUPPLY OF SUCH MEDICATION, PROVIDED THAT THE TOTAL SUM OF THE COPAYMENTS OR COINSURANCE FOR AN ENTIRE THIRTY DAY SUPPLY OF THE MEDICATION DOES NOT EXCEED THE COPAYMENT OR COINSURANCE OTHERWISE APPLICABLE TO A THIRTY DAY SUPPLY OF SUCH MEDICATION.

S 3. Section 4303 of the insurance law is amended by adding two new subsections (l-1) and (l-2) to read as follows:

(L-1) EVERY CONTRACT THAT PROVIDES MEDICAL, MAJOR MEDICAL, OR SIMILAR COMPREHENSIVE-TYPE LARGE GROUP COVERAGE SHALL PROVIDE COVERAGE FOR MEDICATION FOR THE DETOXIFICATION OR MAINTENANCE TREATMENT OF A SUBSTANCE USE DISORDER APPROVED BY THE FOOD AND DRUG ADMINISTRATION FOR THE DETOXIFICATION OR MAINTENANCE TREATMENT OF SUBSTANCE USE DISORDER.

(L-2) (1) EVERY CONTRACT THAT PROVIDES MEDICAL, MAJOR MEDICAL OR SIMILAR COMPREHENSIVE-TYPE COVERAGE AND PROVIDES COVERAGE FOR PRESCRIPTION DRUGS FOR MEDICATION FOR THE TREATMENT OF A SUBSTANCE USE DISORDER SHALL INCLUDE IMMEDIATE ACCESS, WITHOUT PRIOR AUTHORIZATION, TO A FIVE DAY EMERGENCY SUPPLY OF PRESCRIBED MEDICATIONS COVERED UNDER THE CONTRACT FOR THE TREATMENT OF SUBSTANCE USE DISORDER WHERE AN EMERGENCY CONDITION EXISTS, INCLUDING A PRESCRIBED DRUG OR MEDICATION ASSOCIATED WITH THE MANAGEMENT OF OPIOID WITHDRAWAL AND/OR STABILIZATION, EXCEPT WHERE OTHERWISE PROHIBITED BY LAW. FURTHER, COVERAGE OF AN EMERGENCY SUPPLY SHALL INCLUDE MEDICATION FOR OPIOID OVERDOSE REVERSAL OTHERWISE COVERED UNDER THE CONTRACT PRESCRIBED TO AN INDIVIDUAL COVERED BY THE CONTRACT.

(2) FOR PURPOSES OF THIS PARAGRAPH, AN "EMERGENCY CONDITION" MEANS A SUBSTANCE USE DISORDER CONDITION THAT MANIFESTS ITSELF BY ACUTE SYMPTOMS OF SUFFICIENT SEVERITY, INCLUDING SEVERE PAIN OR THE EXPECTATION OF SEVERE PAIN, SUCH THAT A PRUDENT LAYPERSON, POSSESSING AN AVERAGE KNOWLEDGE OF MEDICINE AND HEALTH, COULD REASONABLY EXPECT THE ABSENCE OF IMMEDIATE MEDICAL ATTENTION TO RESULT IN:

(I) PLACING THE HEALTH OF THE PERSON AFFLICTED WITH SUCH CONDITION IN SERIOUS JEOPARDY, OR IN THE CASE OF A BEHAVIORAL CONDITION, PLACING THE HEALTH OF SUCH PERSON OR OTHERS IN SERIOUS JEOPARDY;

(II) SERIOUS IMPAIRMENT TO SUCH PERSON'S BODILY FUNCTIONS;

(III) SERIOUS DYSFUNCTION OF ANY BODILY ORGAN OR PART OF SUCH PERSON;

(IV) SERIOUS DISFIGUREMENT OF SUCH PERSON; OR

(V) A CONDITION DESCRIBED IN CLAUSE (I), (II) OR (III) OF SECTION 1867(E)(1)(A) OF THE SOCIAL SECURITY ACT.

(3) COVERAGE PROVIDED UNDER THIS SUBSECTION MAY BE SUBJECT TO COPAYMENTS, COINSURANCE, AND ANNUAL DEDUCTIBLES THAT ARE CONSISTENT WITH THOSE IMPOSED ON OTHER BENEFITS WITHIN THE CONTRACT; PROVIDED, HOWEVER, NO CONTRACT SHALL IMPOSE AN ADDITIONAL COPAYMENT OR COINSURANCE ON AN INSURED WHO RECEIVED AN EMERGENCY SUPPLY OF MEDICATION AND THEN RECEIVED UP TO A THIRTY DAY SUPPLY OF THE SAME MEDICATION IN THE SAME THIRTY DAY PERIOD IN WHICH THE EMERGENCY SUPPLY OF MEDICATION WAS DISPENSED. THIS PARAGRAPH SHALL NOT PRECLUDE THE IMPOSITION OF A COPAYMENT OR COINSURANCE ON THE INITIAL LIMITED SUPPLY OF MEDICATION IN AN AMOUNT THAT IS LESS THAN THE COPAYMENT OR COINSURANCE OTHERWISE APPLICABLE TO A THIRTY DAY SUPPLY OF SUCH MEDICATION, PROVIDED THAT THE TOTAL SUM OF THE COPAYMENTS OR COINSURANCE FOR AN ENTIRE THIRTY DAY SUPPLY OF THE MEDICATION DOES NOT EXCEED THE COPAYMENT OR COINSURANCE OTHERWISE APPLICABLE TO A THIRTY DAY SUPPLY OF SUCH MEDICATION.

S 4. Section 364-j of the social services law is amended by adding a new subdivision 26-b to read as follows:

26-B. MANAGED CARE PROVIDERS SHALL NOT REQUIRE PRIOR AUTHORIZATION FOR AN INITIAL OR RENEWAL PRESCRIPTION FOR BUPRENORPHINE OR INJECTABLE NALTREXONE FOR DETOXIFICATION OR MAINTENANCE TREATMENT OF OPIOID ADDICTION UNLESS THE PRESCRIPTION IS FOR A NON-PREFERRED OR NON-FORMULARY FORM OF THE DRUG OR AS OTHERWISE REQUIRED BY SECTION 1927(K)(6) OF THE SOCIAL SECURITY ACT.

S 5. Section 273 of the public health law is amended by adding a new subdivision 10 to read as follows:

10. PRIOR AUTHORIZATION SHALL NOT BE REQUIRED FOR AN INITIAL OR RENEWAL PRESCRIPTION FOR BUPRENORPHINE OR INJECTABLE NALTREXONE FOR DETOXIFICATION OR MAINTENANCE TREATMENT OF OPIOID ADDICTION UNLESS THE PRESCRIPTION IS FOR A NON-PREFERRED OR NON-FORMULARY FORM OF SUCH DRUG AS OTHERWISE REQUIRED BY SECTION 1927(K)(6) OF THE SOCIAL SECURITY ACT.

S 6. This act shall take effect immediately; provided, sections one, two, and three of this act shall take effect on the first of January next succeeding the date on which it shall have become a law and shall apply to policies and contracts issued, renewed, modified, altered or amended on and after such date; and provided further that the amendments to section 364-j of the social services law made by section four of this act shall not affect the repeal of such section and shall be deemed to be repealed therewith.

PART C

Section 1. Section 19.18-a of the mental hygiene law, as added by chapter 32 of the laws of 2014, is amended to read as follows:

S 19.18-a Heroin and opioid addiction wraparound services demonstration program.

1. The commissioner, in consultation with the department of health shall develop a heroin and opioid addiction wraparound services demonstration program. This program shall provide wraparound services to adolescent and adult patients during treatment, INCLUDING, BUT NOT LIMITED TO, INPATIENT AND OUTPATIENT TREATMENT, and shall be available to such patients for a clinically appropriate period for up to nine months after completion of such treatment program. The commissioner shall identify and establish where the wraparound services demonstration program will be provided.

2. Wraparound services shall include;

(a) Case management services which address:
(i) Educational resources;
(ii) Legal services;
(iii) Financial services;
(iv) Social services;
(v) Family services; and
(vi) Childcare services;
(b) Peer supports, including peer to peer support groups;
(c) Employment support; and
(d) Transportation assistance.

3. Not later than [two years after the effective date of this section] JUNE 30, 2018, the commissioner shall provide the governor, the temporary president of the senate, the speaker of the assembly, the chair of the senate standing committee on alcoholism and drug abuse and the chair of the assembly committee on alcoholism and drug abuse with a written evaluation of the demonstration program. Such evaluation shall, AT A MINIMUM, address the overall effectiveness of this demonstration program [and], IDENTIFY BEST PRACTICES FOR WRAPAROUND SERVICES PROVIDED UNDER THIS DEMONSTRATION PROGRAM, AND ANY ADDITIONAL WRAPAROUND SERVICES THAT MAY BE APPROPRIATE WITHIN EACH TYPE OF PROGRAM OPERATED, REGULATED, FUNDED, OR APPROVED BY THE OFFICE AND ADDRESS whether continuation or expansion of this demonstration program is recommended. THE WRITTEN EVALUATION SHALL BE MADE AVAILABLE ON THE OFFICE'S WEBSITE.

S 2. Section 2 of chapter 32 of the laws of 2014, amending the mental hygiene law relating to the heroin and opioid addiction wraparound services demonstration program, is amended to read as follows:

S 2. This act shall take effect immediately and shall expire and be deemed repealed [three years after such effective date] MARCH 31, 2019.

S 3. This act shall take effect immediately; provided, however, that the amendments to section 19.18-a of the mental hygiene law made by section one of this act shall not affect the repeal of such section and shall be deemed repealed therewith.

PART D

Section 1. Section 22.09 of the mental hygiene law, as added by chapter 558 of the laws of 1999, is amended to read as follows:

S 22.09 Emergency services for persons intoxicated, impaired, or incapacitated by alcohol and/or substances.

(a) As used in this article:

1. "Intoxicated or impaired person" means a person whose mental or physical functioning is substantially impaired as a result of the presence of alcohol and/or substances in his or her body.

2. "Incapacitated" means that a person, as a result of the use of alcohol and/or substances, is unconscious or has his or her judgment otherwise so impaired that he or she is incapable of realizing and making a rational decision with respect to his or her need for treatment.

3. "Likelihood to result in harm" or "likely to result in harm" means (i) a substantial risk of physical harm to the person as manifested by threats of or attempts at suicide or serious bodily harm or other conduct demonstrating that the person is dangerous to himself or herself, or (ii) a substantial risk of physical harm to other persons as manifested by homicidal or other violent behavior by which others are placed in reasonable fear of serious physical harm.

4. ["Hospital" means a general hospital as defined in article twenty-eight of the public health law] "EMERGENCY SERVICES" MEANS IMMEDIATE PHYSICAL EXAMINATION, ASSESSMENT, CARE AND TREATMENT OF AN INCAPACITATED PERSON FOR THE PURPOSE OF CONFIRMING THAT THE PERSON IS, AND CONTINUES TO BE, INCAPACITATED BY ALCOHOL AND/OR SUBSTANCES TO THE DEGREE THAT THERE IS A LIKELIHOOD TO RESULT IN HARM TO THE PERSON OR OTHERS.

5. "TREATMENT FACILITY" MEANS A FACILITY DESIGNATED BY THE COMMISSIONER WHICH MAY ONLY INCLUDE A GENERAL HOSPITAL AS DEFINED IN ARTICLE TWENTY-EIGHT OF THE PUBLIC HEALTH LAW, OR A MEDICALLY MANAGED OR MEDICALLY SUPERVISED WITHDRAWAL, INPATIENT REHABILITATION, OR RESIDENTIAL STABILIZATION TREATMENT PROGRAM THAT HAS BEEN CERTIFIED BY THE COMMISSIONER TO HAVE APPROPRIATE MEDICAL STAFF AVAILABLE ON-SITE AT ALL TIMES TO PROVIDE EMERGENCY SERVICES AND CONTINUED EVALUATION OF CAPACITY OF INDIVIDUALS RETAINED UNDER THIS SECTION.

(b) 1. An intoxicated or impaired person may come voluntarily for emergency [treatment] SERVICES to a chemical dependence program or treatment facility authorized by the commissioner to [give such emergency treatment] PROVIDE SUCH EMERGENCY SERVICES. A person who appears to be intoxicated or impaired and who consents to the proffered help may be assisted by any peace officer acting pursuant to his or her special duties, police officer, or by a designee of the director of community services to return to his or her home, to a chemical dependence program or treatment facility, or to any other facility authorized by the commissioner to [give emergency treatment] PROVIDE SUCH EMERGENCY SERVICES. In such cases, the peace officer, police officer, or designee of the director of community services shall accompany the intoxicated or impaired person in a manner which is reasonably designed to assure his or her safety, as set forth in regulations promulgated in accordance with subdivision [(f)] (D) of this section.

[(c)] 2. A person who appears to be incapacitated by alcohol and/or substances to the degree that there is a likelihood to result in harm to the person or to others may be taken by a peace officer acting pursuant to his or her special duties, or a police officer who is a member of the state police or of an authorized police department or force or of a sheriff's department or by the director of community services or a person duly designated by him or her to a [general hospital or to any other place authorized by the commissioner in regulations promulgated in accordance with subdivision (f) of this section to give emergency treatment, for immediate observation, care, and emergency treatment] TREATMENT FACILITY FOR PURPOSES OF RECEIVING EMERGENCY SERVICES. Every reasonable effort shall be made to protect the health and safety of such person, including but not limited to the requirement that the peace officer, police officer, or director of community services or his or her designee shall accompany the apparently incapacitated person in a manner which is reasonably designed to assure his or her safety, as set forth in regulations promulgated in accordance with subdivision [(f)] (D) of this section.

[(d)] 3. A person who comes voluntarily or is brought without his or her objection to any such facility or program in accordance with THIS subdivision [(c) of this section] shall be given emergency care and treatment at such place if found suitable therefor by authorized personnel, or referred to another suitable facility or treatment program for care and treatment, or sent to his or her home.

4. THE DIRECTOR OF A TREATMENT FACILITY MAY RECEIVE AS A PATIENT IN NEED OF EMERGENCY SERVICES ANY PERSON WHO APPEARS TO BE INCAPACITATED AS DEFINED IN THIS SECTION.

[(e)] 5. A person who COMES VOLUNTARILY OR is brought with his or her objection to [any] A TREATMENT facility [or treatment program in accordance with subdivision (c) of this section] shall be examined as soon as possible BUT NOT MORE THAN TWELVE HOURS AFTER ARRIVING AT SUCH TREATMENT FACILITY by an examining physician. If such examining physician determines that such person is incapacitated by alcohol and/or substances to the degree that there is a likelihood to result in harm to the person or others, he or she may be retained [for emergency treatment] TO RECEIVE EMERGENCY SERVICES AND SHALL BE REGULARLY REEVALUATED TO CONFIRM CONTINUED INCAPACITY BY ALCOHOL AND/OR SUBSTANCES TO THE DEGREE THAT THERE IS A LIKELIHOOD TO RESULT IN HARM TO THE PERSON OR OTHERS. If the examining physician determines AT ANY TIME that such person is not incapacitated by alcohol and/or substances to the degree that there is a likelihood to result in harm to the person or others, he or she must be released. Notwithstanding any other law, in no event may such person be retained against his or her objection beyond whichever is the shorter of the following: (i) the time that he or she is no longer incapacitated by alcohol and/or substances to the degree that there is a likelihood to result in harm to the person or others or (ii) a period longer than [forty-eight] SEVENTY-TWO hours.

[1.] 6. Every reasonable effort must be made to obtain the person's consent to give prompt notification of a person's retention in a facility or program pursuant to this section to his or her closest relative or friend, and, if requested by such person, to his or her attorney and personal physician, in accordance with federal confidentiality regulations.

[2.] 7. A person may not be retained pursuant to this section beyond a period of [forty-eight] SEVENTY-TWO hours without his or her consent. Persons suitable therefor may be voluntarily admitted to a chemical dependence program or facility pursuant to this article.

(C) DISCHARGE PROCEDURES. 1. THE DISCHARGE PROCEDURE PROCESS SHALL BEGIN AS SOON AS THE PATIENT IS ADMITTED TO THE TREATMENT FACILITY AND SHALL BE CONSIDERED A PART OF THE TREATMENT PLANNING PROCESS. THE DISCHARGE PLAN SHALL BE DEVELOPED IN COLLABORATION WITH THE PATIENT AND ANY SIGNIFICANT OTHER(S) THE PATIENT CHOOSES TO INVOLVE. IF THE PATIENT IS A MINOR, THE DISCHARGE PLAN MUST ALSO BE DEVELOPED IN CONSULTATION WITH HIS OR HER PARENT OR GUARDIAN, UNLESS THE MINOR IS BEING TREATED WITHOUT PARENTAL CONSENT AS AUTHORIZED BY SECTION 22.11 OF THIS CHAPTER.

2. NO PATIENT SHALL BE DISCHARGED WITHOUT A DISCHARGE PLAN WHICH HAS BEEN COMPLETED AND REVIEWED BY THE MULTI-DISCIPLINARY TEAM PRIOR TO THE DISCHARGE OF THE PATIENT. THIS REVIEW MAY BE PART OF A REGULAR TREATMENT PLAN REVIEW. THE PORTION OF THE DISCHARGE PLAN WHICH INCLUDES THE REFERRALS FOR CONTINUING CARE SHALL BE GIVEN TO THE PATIENT UPON DISCHARGE. THIS REQUIREMENT SHALL NOT APPLY TO PATIENTS WHO REFUSE CONTINUING CARE PLANNING, PROVIDED, HOWEVER, THAT THE TREATMENT FACILITY SHALL MAKE REASONABLE EFFORTS TO PROVIDE INFORMATION ABOUT THE DANGERS OF LONG TERM SUBSTANCE USE AS WELL AS INFORMATION RELATED TO TREATMENT INCLUDING, BUT NOT LIMITED TO, THE OASAS HOPELINE AND THE OASAS BED AVAILABILITY DASHBOARD.

3. THE DISCHARGE PLAN SHALL BE DEVELOPED BY THE RESPONSIBLE CLINICAL STAFF MEMBER, WHO, IN THE DEVELOPMENT OF SUCH PLAN, SHALL CONSIDER THE PATIENT'S SELF-REPORTED CONFIDENCE IN MAINTAINING ABSTINENCE AND FOLLOWING AN INDIVIDUALIZED RELAPSE PREVENTION PLAN. THE RESPONSIBLE CLINICAL STAFF MEMBER SHALL ALSO CONSIDER AN ASSESSMENT OF THE PATIENT'S HOME AND FAMILY ENVIRONMENT, VOCATIONAL/EDUCATIONAL/EMPLOYMENT STATUS, AND THE PATIENT'S RELATIONSHIPS WITH SIGNIFICANT OTHERS. THE PURPOSE OF THE

DISCHARGE PLAN SHALL BE TO ESTABLISH THE LEVEL OF CLINICAL AND SOCIAL RESOURCES AVAILABLE TO THE PATIENT UPON DISCHARGE FROM THE INPATIENT SERVICE AND THE NEED FOR THE SERVICES FOR SIGNIFICANT OTHERS. THE DISCHARGE PLAN SHALL INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING:

(I) IDENTIFICATION OF CONTINUING CHEMICAL DEPENDENCE SERVICES INCLUDING MANAGEMENT OF WITHDRAWAL OR CONTINUING STABILIZATION AND ANY OTHER TREATMENT, REHABILITATION, SELF-HELP AND VOCATIONAL, EDUCATIONAL AND EMPLOYMENT SERVICES THE PATIENT WILL NEED AFTER DISCHARGE;

(II) IDENTIFICATION OF THE TYPE OF RESIDENCE, IF ANY, THAT THE PATIENT WILL NEED AFTER DISCHARGE;

(III) IDENTIFICATION OF SPECIFIC PROVIDERS OF THESE NEEDED SERVICES; AND

(IV) SPECIFIC REFERRALS AND INITIAL APPOINTMENTS FOR THESE NEEDED SERVICES.

4. A DISCHARGE SUMMARY WHICH INCLUDES THE COURSE AND RESULTS OF CARE AND TREATMENT MUST BE PREPARED AND INCLUDED IN EACH PATIENT'S CASE RECORD WITHIN TWENTY DAYS OF DISCHARGE.

[(f)] (D) The commissioner shall promulgate ALL RULES AND regulations, after consulting with representatives of appropriate law enforcement and chemical dependence providers of services, establishing procedures for taking intoxicated or impaired persons and persons apparently incapacitated by alcohol and/or substances to their residences or to appropriate public or private facilities for emergency [treatment] SERVICES and for minimizing the role of the police in obtaining treatment of such persons NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS SECTION, INCLUDING BUT NOT LIMITED TO ESTABLISHING PROCEDURES FOR TRANSPORTING INCAPACITATED PERSONS TO A TREATMENT FACILITY FOR EMERGENCY SERVICES.

S 2. This act shall take effect on the ninetieth day after it shall have become law; provided however, that any and all regulations necessary for the implementation of this act shall have been promulgated prior to such effective date.

S 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

S 3. This act shall take effect immediately provided, however, that the applicable effective date of Parts A through D of this act shall be as specifically set forth in the last section of such Parts.