

STATE OF NEW YORK

4997

2017-2018 Regular Sessions

IN ASSEMBLY

February 6, 2017

Introduced by M. of A. ORTIZ, SANTABARBARA -- read once and referred to the Committee on Mental Health

AN ACT to amend the mental hygiene law, in relation to review of a provider's previous financial practices

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraph 2 of subdivision (c) of section 16.05 of the
2 mental hygiene law, as amended by section 8 of part MM of chapter 58 of
3 the laws of 2015, is amended to read as follows:

4 (2) The character, competence [~~and~~], standing in the community, and
5 fiscal management practices related to the operation of a mental hygiene
6 facility or program and other programs or facilities under the jurisdic-
7 tion of an agency other than the department as described in paragraph
8 five of this subdivision of the person or entity including members of
9 the board of directors responsible for operating the facility or provid-
10 ing services;

11 § 2. Paragraph 3 of subdivision (d) of section 16.05 of the mental
12 hygiene law, as added by chapter 618 of the laws of 1990, is amended to
13 read as follows:

14 (3) the ability of the operator to provide the services required by
15 the operating certificate as demonstrated by the operator's fiscal
16 management practices related to the operation of such facility or
17 program and compliance with applicable laws and regulations within the
18 previous ten years;

19 § 3. Subdivision (b) of section 31.22 of the mental hygiene law, as
20 amended by chapter 75 of the laws of 2006, is amended to read as
21 follows:

22 (b) An application for approval of the proposed certificate of incor-
23 poration or articles of organization shall be filed with the commission-
24 er together with such other forms and information as shall be prescribed
25 by, or acceptable to, the commissioner.

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

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1 The commissioner shall not approve a certificate of incorporation or
2 articles of organization or grant an operating certificate unless he is
3 satisfied, insofar as applicable, as to (1) the public need for the
4 services or the facility which the proposed corporation or proposed
5 provider of services is empowered to perform or maintain at the time and
6 place and under the circumstances proposed; (2) the character, compe-
7 tence ~~[and]~~, standing in the community, and fiscal management practices
8 related to the operation of a mental hygiene facility or program and
9 other programs or facilities as described by this subdivision which are
10 under the jurisdiction of an agency other than the department of the
11 proposed incorporators, directors, sponsors, stockholders, members,
12 managers, partners, or operators, provided that in making such determi-
13 nation the commissioner is authorized to consider whether or not, within
14 ten years of the date of the application, any such persons have been
15 denied renewal for cause of an operating certificate, or have had an
16 operating certificate revoked or suspended for cause, and such denial,
17 revocation or suspension was not reversed after an administrative hear-
18 ing or other appeal, for a program or facility licensed or operated by a
19 health, mental hygiene, social services or education agency or depart-
20 ment of this or any state or have failed to operate a program serving
21 the mentally disabled, other disabled persons as defined in subdivision
22 twenty-one of section two hundred ninety-two of the executive law, the
23 aged, children or other persons receiving health, mental hygiene, resi-
24 dential, social or educational services in continuous compliance with
25 applicable laws or regulations within the previous ten years in any
26 state; (3) the financial resources of the proposed corporation or
27 proposed provider of services and its sources of future revenues; (4)
28 the availability of facilities or services which may serve as alternates
29 or substitutes for the facility or services which the proposed corpo-
30 ration or proposed provider of services is empowered to maintain or
31 render; (5) such other matters as he shall deem pertinent in the public
32 interest. The commissioner in approving the proposed certificate of
33 incorporation or articles of organization or issuing the proposed oper-
34 ating certificate may request and consider information and advice from
35 all available sources including local and regional mental health and
36 health planning agencies and groups as to the matters set forth herein.
37 If the commissioner proposes to disapprove the application he shall
38 afford the applicant an opportunity to request a public hearing. The
39 commissioner shall not take any action contrary to the advice of the
40 health systems agency for facilities other than community residences or
41 residential care centers for adults until he affords an opportunity to
42 the agency to request a public hearing and, if so requested, a public
43 hearing shall be held. The commissioner, on his own motion, may hold a
44 public hearing on the application. Any public hearings held pursuant to
45 this subdivision may be conducted by the commissioner or by an individ-
46 ual designated by the commissioner.

47 § 4. This act shall take effect on the first of January next succeed-
48 ing the date on which it shall have become a law.