# STATE OF NEW YORK

6584

2017-2018 Regular Sessions

# IN SENATE

June 5, 2017

Introduced by Sen. ORTT -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the mental hygiene law, in relation to limiting the work week of direct care workers

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

Section 1. Section 13.19 of the mental hygiene law, as amended by section 2 of part J of chapter 56 of the laws of 2012, is amended to read as follows:

§ 13.19 Personnel of the office; regulations.

(a) The commissioner may, within the amounts appropriated therefor, appoint and remove in accordance with law and applicable rules of the state civil service commission, such officers and employees of the office for people with developmental disabilities as are necessary for efficient administration. The commissioner shall, in exercising his or her appointing authority, take, consistent with article twenty-three-A of the correction law, all reasonable and necessary steps to ensure that any such person so appointed has not previously engaged in any act in violation of any law which indicates a propensity to act in a manner that would compromise the health and safety of individuals with developmental disabilities.

(b) The director of a hospital or institute in the office shall have professional qualifications and experience to be prescribed by the commissioner.

(c) Notwithstanding the provisions of any other law, the position of deputy director in an office facility may be filled by new hire or by promotion open to employees who possess the minimum qualifications for the position.

[~~(c)~~] **(d)** The use of volunteers in the office for people with developmental disabilities shall be encouraged. The commissioner may establish regulations governing such volunteer services.

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

LBD08979-01-7

[~~(d)~~] **(e)** Where, and to the extent that, an agreement between the state and an employee organization entered into pursuant to article fourteen of the civil service law so provides, the commissioner is authorized to implement the provisions of such agreement relating to discipline consistent with the terms thereof.

**(f) Notwithstanding any other provision of law no provider operating a facility licensed, operated, or certified by the office shall require a direct care worker to work more than sixty hours in a seven day work week except in cases of extraordinary emergency including, but not limited to, fire, flood, or danger to life or property. For the purposes of this subdivision, "direct care worker" shall mean an employee whose primary responsibility is the daily care of, supervision of, and interaction with residents of a residential facility licensed, operated, or certified by the office for people with developmental disabilities.**

§ 2. Section 7.07 of the mental hygiene law is amended by adding a new subdivision (g) to read as follows:

**(g) Notwithstanding any other provision of law no provider operating a facility licensed, operated, or certified by the office of mental health shall require a direct care worker to work more than sixty hours in a seven day work week except in cases of extraordinary emergency including, but not limited to, fire, flood, or danger to life or property. For the purposes of this subdivision "direct care worker" shall mean an employee whose primary responsibility is the daily care of, supervision of, and interaction with residents of a residential facility licensed, operated, or certified by the office of mental health.**

§ 3. This act shall take effect on the ninetieth day after it shall have become a law; provided, however, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.