

STATE OF NEW YORK

1070

2019-2020 Regular Sessions

IN ASSEMBLY

January 14, 2019

Introduced by M. of A. L. ROSENTHAL -- read once and referred to the
Committee on Alcoholism and Drug Abuse

AN ACT to amend the mental hygiene law, in relation to non-compliant
dwellings and harm reduction services

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

1 Section 1. Section 19.03 of the mental hygiene law is amended by
2 adding five new subdivisions 3, 4, 5, 6 and 7 to read as follows:

3 3. "Non-compliant dwelling" means a building that meets one or more of
4 the following criteria:

5 (a) located within a building that has been, in whole or in part, the
6 subject of an active vacate order placed by any local, municipal, or
7 county body charged with the enforcement of housing, sanitary, or safety
8 standards, within the four years prior to the time when a client's
9 placement is being planned, or when the agency otherwise considers
10 referring a client to the address;

11 (b) located within a building against which any local, municipal, or
12 county body has pending litigation; and

13 (c) located within a building for which one or more complaints have
14 been received by any local, municipal, or county body charged with the
15 enforcement of housing, sanitary, or safety standards within the last
16 four years preceding the time when a client's placement is being
17 planned, or when the agency otherwise considers referring a client to
18 the address, pertaining to:

19 i. use contrary to that authorized for the building by law, or

20 ii. work performed without authorization required by law.

21 4. "Harm reduction services" means services to assist individuals with
22 substance use issues in reducing the negative consequences associated
23 with substance use and improving individuals' quality of life. Services
24 shall be informed by a philosophy that recognizes drug and alcohol use
25 and addiction as a part of tenants' lives, where tenants are engaged in

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

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nonjudgmental communication regarding drug and alcohol use, and where tenants are offered education regarding how to avoid risky behaviors and engage in safer practices. Services may include but are not limited to:

(a) syringe exchange;

(b) overdose prevention and treatment;

(c) risk reduction in the areas of substance use and sexual behavior;

(d) communicable disease prevention and treatment;

(e) health education;

(f) peer support; and

(g) individual and group counseling in health, mental health, and nutrition.

5. "Harm reduction services provider" means any entity that provides a range of harm reduction services with the goal of reducing such harm and behaviors associated with substance use and improving individual substance users' quality of life.

6. "Agency service provider" means any rehabilitation center, chemical dependence service or opioid treatment program integrated outpatient service as set forth in 14 NYCRR sections 816, 817, 819 and 820 or successor regulations licensed by the office.

7. "Chemical dependence residential service" or "residential service" means a chemical dependence residential service as set forth in 14 NYCRR section 819.2(a)(2) and (3) or successor regulations, and service providing an array of services for treatment of management of substance use, including all residential programs licensed and/or certified by such office. Such services may be provided directly or through cooperative relationships with other agency service providers.

§ 2. Section 22.03 of the mental hygiene law is amended by adding four new subdivisions (d), (e), (f) and (g) to read as follows:

(d) Every patient in a chemical dependence residential service or in a residential service that has a length of stay of thirty days or more shall have the right to remain unless removed through a special proceeding under article seven of the real property actions and proceedings law, provided that the patient has peaceably been in actual possession for thirty days or more. Nothing in this section shall be waived in the event a patient who was in possession for thirty days or more is absent due to a hospitalization.

(e) Any patient who is discharged from a chemical dependence residential service or from a residential service, shall be entitled to individualized housing placement services from the office to assist the patient in securing safe, permanent alternative housing.

1. Upon issuing a notice that a patient is discharged from a chemical dependence residential service, the agency service provider shall also issue notice of the discharged patient's eligibility for housing placement assistance by the agency service provider or designee prior to the patient's discharge date.

2. The agency service provider shall provide the discharged patient with a copy of the entitlement to housing placement assistance in English and Spanish and such other language as it deems necessary. The agency service provider shall notify such discharged patient of the name, office address and telephone number of the housing specialist assigned to the discharged patient.

3. Within ten days of admission to a chemical dependence residential service, the agency service provider shall conduct an assessment of the patient's prior housing and future housing needs. At least thirty days prior to discharge, the agency service provider shall assist the discharged patient to complete and submit applications for housing

1 subsidies for which the discharged patient may be eligible and for suit-
2 able housing placements on behalf of the discharged patient.

3 4. If the agency service provider fails to complete and submit appli-
4 cations pursuant to paragraph three of this subdivision, the agency
5 service provider and/or office shall pay the cost of temporary market
6 rate shelter on a daily basis until said applications have been
7 completed and submitted.

8 5. After completing and submitting applications pursuant to paragraph
9 3 of this subdivision, the housing specialist shall take the following
10 steps to assist the discharged patient in securing a permanent housing
11 placement:

12 i. Communicate with such discharged patient on a weekly basis to
13 inform such patient of potential housing placements and/or arrange view-
14 ing of available units;

15 ii. Document opportunities to view potential housing units and the
16 outcome of those viewings; and

17 iii. In the event that the discharged patient accepts a housing place-
18 ment, the housing specialist shall assist the discharged patient to
19 complete and submit any and all necessary application materials to
20 secure the placement and coordinate with city and or state agencies to
21 ensure that the deposit and rent payments are paid to the landlord time-
22 ly.

23 6. The housing specialist shall continue to work with the discharged
24 patient in accordance with this subdivision for one year unless and
25 until the discharged patient has secured a permanent housing placement.

26 7. This discharged patient retains the right to decline a referral
27 from the housing specialist. If the discharged patient declines such a
28 referral, the housing specialist shall record and retain documentation
29 indicating the reason the referral was declined.

30 (f) Any patient who is discharged from a chemical dependence outpa-
31 tient service or opioid treatment program integrated outpatient service
32 as set forth in 14 NYCRR sections 816, 817, 819 and 820 or successor
33 regulations, shall be provided a referral to a harm reduction service
34 provider. Such referral shall consist of, at minimum, the following
35 steps performed by the discharging program or service:

36 1. Identification of at least one harm reduction service provider
37 located as close as practically possible to the discharging program or
38 service;

39 2. Provision to the patient of a written referral including the name,
40 location, contact information, and description of services provided by
41 the harm reduction service provider;

42 3. An introduction of the patient to an appropriate contact at the
43 harm reduction service provider by telephone or other live communi-
44 cation, facilitated by the discharging program or service; and

45 4. Reimbursement to the patient of reasonable travel expenses for the
46 cost of a trip from the discharging program or service to the location
47 of the harm reduction service provider.

48 (g) To the extent that publicly available information is available,
49 staff referring to housing any patient who is discharged from a chemical
50 dependence service or opioid treatment program integrated outpatient
51 service as set forth in 14 NYCRR sections 816, 817, 819 and 820 or
52 successor regulations, shall examine publicly available information for
53 all such dwellings located in a city with a population of more than one
54 million, such as on government websites. No patient shall be referred to
55 a non-compliant dwelling.

1 1. To the extent that publicly available information is available,
2 staff referring to housing any participant in a chemical dependence
3 outpatient service or opioid treatment program integrated outpatient
4 service as set forth in 14 NYCRR sections 816, 817, 819 and 820 or
5 successor regulations, shall examine publicly available information for
6 all such dwellings located in a city with a population of more than one
7 million, such as on government websites. No patient shall be referred to
8 a non-compliant dwelling.

9 2. An agency service provider may not prevent a patient from choosing
10 to move to a non-compliant dwelling. If a patient chooses to move into a
11 non-compliant dwelling, the agency service provider staff must inform
12 the patient that the housing option that the patient has chosen fails to
13 meet the minimum standards outlined by this article. Agency service
14 provider staff must document this conversation in any case record the
15 agency service provider maintains for that patient.

16 3. Any landlord or housing provider, or agent, employee, represen-
17 tative of the landlord or housing provider, that seeks to conduct a
18 recruitment, advertising, solicitation, or informational presentation or
19 who desires to distribute or cause to be distributed promotional or
20 informational materials at a chemical dependence service or opioid
21 treatment program integrated outpatient service shall be required to
22 disclose the addresses for any building owned, operated, or managed by
23 said landlord or housing provider.

24 4. Any landlord or housing provider, or agent, employee, represen-
25 tative of the landlord or housing provider, that seeks referrals from
26 the office or agency service provider or seeks to conduct presentations
27 or otherwise distribute information at the agency, shall certify to the
28 agency that it does not require residents to sign waivers of their right
29 to court process prior to eviction and that it does not require resi-
30 dents to attend any kind of treatment program as a condition of residen-
31 cy. Such certification shall be made in writing, under oath by the land-
32 lord, managing agent, or director of the housing program, and shall be
33 mailed to the agency service provider by certified or registered mail,
34 return receipt requested. Such certification shall be supported by a
35 sworn statement by the individual making the certification, attesting
36 that the certification is true.

37 5. If any address disclosed by a landlord or housing provider pursuant
38 to subdivision (e) of this section is a non-compliant dwelling, the
39 landlord or housing provider shall be prohibited from conducting any
40 presentation or from distributing promotional or informational materials
41 at the site of the chemical dependence outpatient service or opioid
42 treatment program integrated outpatient service.

43 6. If an agency service provider refers a patient to housing that the
44 patient believes is non-compliant, the agency service provider shall
45 assist the patient to make a complaint to the 311 Citizens Service
46 Center. Agencies shall provide the patient with access to a telephone if
47 the patient does not have one available. If the patient declines the
48 referral based on the belief that the housing referred is a non-compli-
49 ant dwelling, the agency service provider shall provide the patient
50 with a new referral to other suitable housing. In the event a patient
51 refuses housing, the reasons for the refusal must be documented in the
52 patient's case record.

53 7. Agency service providers shall distribute to all patients who are
54 currently or were formerly incarcerated, hospitalized, in shelter, in
55 substance abuse treatment, or homeless a plain language document that
56 describes what a non-compliant dwelling is and contains information

1 about how to contact the department of buildings and the 311 Citizen
2 Service Center.

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