

# STATE OF NEW YORK

2760

2019-2020 Regular Sessions

## IN ASSEMBLY

January 25, 2019

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

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:

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

4 § 13.19 Personnel of the office; regulations.

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

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

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

23 [~~e~~] (d) The use of volunteers in the office for people with develop-  
24 mental disabilities shall be encouraged. The commissioner may establish  
25 regulations governing such volunteer services.

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

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

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

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

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

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