STATE OF NEW YORK

60

2019-2020 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 9, 2019

Introduced by M. of A. L. ROSENTHAL, PEOPLES-STOKES, GOTTFRIED, CARROLL, NIOU, PAULIN, ORTIZ, SIMON, DICKENS, D'URSO, QUART, McDONOUGH, RICHARDSON, MOSLEY, JAFFEE, EPSTEIN -- Multi-Sponsored by -- M. of A. LENTOL, LUPARDO -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to enacting the safer consumption services act

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

Section 1. The public health law is amended by adding a new article 33-B to read as follows:

ARTICLE 33-B

SAFER CONSUMPTION SERVICES ACT

Section 3398. Short title.

3398-a. Definitions.

3398-b. Program approval.

3398-c. Designation.

3398-d. Reporting.

3398-e. Immunity provided.

3398-f. Limitations on immunity.

§ 3398. Short title. This act shall be known and may be cited as the "safer consumption services act".

§ 3398-a. Definitions. As used in this article:

1. "Program" means a safer consumption services program established pursuant to this article.

2. "Entity" means any community based organization that provides educational, health, harm reduction, housing, or social services and any hospital, medical clinic or office, health center, nursing care facility, mental health facility, or other similar entity that provides medical care.

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

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3. "Participant" means an individual who seeks to utilize, utilizes, or has used a program established pursuant to this article.

§ 3398-b. Program approval. 1. Notwithstanding any other statute, law or rule to the contrary, the department or a local health district may approve an entity to operate a program in one or more jurisdictions upon satisfaction of the requirements set forth in subdivision two of this section. The department and local health jurisdictions shall establish standards for program approval and training and may promulgate such rules and regulations as are necessary to implement this section.

(a) The department or a local health district shall approve or deny an application under this section within forty-five days of the day of receipt of the application and provide a written explanation of such determination.

(b) An entity may make an application under this section at any time, regardless of previous applications.

2. The department or local health district may approve an entity to operate a program pursuant to this article, upon submission of an application that demonstrates the entity will, at a minimum:

(a) provide a hygienic space where participants may consume their preobtained drugs that is separate from the space in which the provider performs other business, if any;

(b) provide adequate staffing by healthcare professionals or other trained staff;

(c) provide sterile injection supplies, collect used hypodermic needles and syringes, and provide secure hypodermic needle and syringe disposal services;

(d) provide education on safe consumption practices, proper disposal of hypodermic needles and syringes, and overdose prevention, including written information in, at a minimum, the four most commonly spoken languages in the state as determined by the department or local health district;

(e) administer first aid, if needed, and monitor participants for potential overdose;

(f) provide referrals to addiction treatment, medical, social welfare, and employment and training services;

(g) educate participants on the risks of contracting HIV and viral hepatitis and provide sexual health resources and supplies, including, but not limited to, male and female condoms;

(h) provide access to naloxone or referrals to obtain naloxone for participants;

(i) provide reasonable and adequate security of the program site and equipment;

(j) ensure confidentiality of program participants by using an anonymous unique identifier;

(k) train staff members to deliver services offered by the program or attend trainings provided by the department or local health jurisdiction if required; and

(l) establish operating procedures for the program as well as eligibility criteria for program participants if not predetermined by the department or local health district.

§ 3398-c. Designation. A department approved program shall also be designated as an authorized syringe exchange program in accordance with the regulations of the department as set forth in 10 NYCRR 80.135 and as a registered provider of an opioid overdose prevention program in accordance with the regulations of the department as set forth in 10 NYCRR 80.138. A safer consumption program approved by a local health

district shall apply to be an authorized syringe exchange program and registered provider of an opioid overdose prevention program.

§ 3398-d. Reporting. An entity operating a safer consumption program under this section shall provide an annual report to the department or local health district that approved it for operation at a date set by the department or local health district that shall include:

1. the number of program participants;

2. aggregate information regarding the characteristics of program participants;

3. the number of hypodermic needles and syringes distributed for use on-site;

4. the number of overdoses experienced and the number of overdoses reversed on-site; and

5. the number of individuals directly and formally referred to other services and the type of service.

§ 3398-e. Immunity provided. Notwithstanding any other statute, law or rule to the contrary, the following persons shall not be arrested, charged, or prosecuted for any criminal offense or be subject to any civil or administrative penalty, including seizure or forfeiture of assets or real property or disciplinary action by a professional licensing board, or be denied any right or privilege, solely for participation or involvement in a safer consumption program approved by the department or local health districts pursuant to this article:

1. a participant;

2. a staff member or administrator of a program, including a healthcare professional, manager, employee, or volunteer; or

3. a property owner who owns real property at which a program is located and operates.

§ 3398-f. Limitations on immunity. Notwithstanding the provisions of section thirty-three hundred ninety-eight-e of this article, a property owner, staff member, manager, employee, volunteer, or individual utilizing a safer consumption services program is not immune from criminal prosecution for any activities not permitted or approved pursuant to this article.

§ 2. This act shall take effect immediately.