

# STATE OF NEW YORK

5289--A

2019-2020 Regular Sessions

## IN SENATE

April 23, 2019

Introduced by Sen. RIVERA -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to enacting the overdose prevention centers act; and providing for the repeal of such provisions upon expiration thereof

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

1 Section 1. The public health law is amended by adding a new article  
2 33-B to read as follows:

### ARTICLE 33-B

#### OVERDOSE PREVENTION CENTERS ACT

3 Section 3398. Short title.

4 3398-a. Definitions.

5 3398-b. Program approval.

6 3398-c. Designation.

7 3398-d. Reporting.

8 3398-e. Immunity provided.

9 3398-f. Limitations on immunity.

10 § 3398. Short title. This act shall be known and may be cited as the  
11 "overdose prevention centers act".

12 § 3398-a. Definitions. As used in this article:

13 1. "Program" means an overdose prevention centers program established  
14 pursuant to this article that is authorized to evaluate and test the  
15 public health impact of overdose prevention center services within a  
16 jurisdiction.

17 2. "Entity" means a not-for-profit, community based organization that  
18 is approved to provide educational, health, harm reduction, housing,  
19 syringe exchange or social services.  
20  
21

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

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1 3. "Jurisdiction" means any entity operating at a location approved by  
2 the department or local health district in the city of Ithaca or in the  
3 boroughs of Manhattan, Brooklyn or the Bronx in the city of New York.

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

6 § 3398-b. Program approval. 1. Notwithstanding any other statute, law  
7 or rule to the contrary, the department or a local health district may  
8 approve an entity to operate a program in one or more jurisdictions upon  
9 satisfaction of the requirements set forth in subdivision two of this  
10 section. The department or a local health district shall establish stan-  
11 dards for program approval and training and may promulgate such rules  
12 and regulations as are necessary to implement this section.

13 (a) The department or a local health district in a jurisdiction shall  
14 approve or deny an application under this section within forty-five days  
15 of the day of receipt of the application and provide a written explana-  
16 tion of such determination.

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

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

23 (a) provide a hygienic space where participants may consume their  
24 pre-obtained drugs that is separate from the space in which the entity  
25 performs other business, if any;

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

28 (c) provide sterile injection supplies, collect used hypodermic  
29 needles and syringes, provide secure hypodermic needle and syringe  
30 disposal services, and provide the ability to self-test the composition  
31 of pre-obtained drugs;

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

37 (e) administer first aid, if needed, and monitor participants for  
38 potential overdose, including the administration of naloxone by an  
39 appropriately trained or credentialed staff member of the program, which  
40 may include, but is not limited to a registered nurse pursuant to  
41 section sixty-nine hundred nine of the education law;

42 (f) provide referrals to OASAS licensed and certified providers,  
43 established harm reduction programs, addiction treatment, medical,  
44 social welfare, and employment and training services;

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

48 (h) provide access to naloxone or to equivalent treatments, or refer-  
49 als to obtain naloxone or such equivalent treatments, for participants;

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

52 (j) ensure confidentiality of program participants by using an anony-  
53 mous unique identifier, unless participants provide appropriate consent;

54 (k) train staff members to deliver services offered by the program or  
55 attend trainings provided by the department or local health district if  
56 required;

1 (l) establish and make available to the public operating procedures  
2 for the program, including but not limited to the standard hours of  
3 operation, a minimum number of personnel required to be on-site during  
4 those hours of operation, the licensing and training standards for staff  
5 present, an established maximum number of individuals who can be served  
6 at one time and an established relationship with the nearest emergency  
7 department of a general acute care hospital, as well as eligibility  
8 criteria for program participants if not predetermined by the department  
9 or local health district.

10 (m) establish a good neighbor policy that facilitates communication  
11 from and to local businesses and residences, to the extent they exist,  
12 to address any neighborhood concerns and complaints; and

13 (n) establish a policy for informing local government officials and  
14 neighbors about the approved entity's complaint procedures, and the  
15 contact number of the director, manager, or operator of the approved  
16 entity.

17 § 3398-c. Designation. A department approved program shall also be  
18 designated as an authorized syringe exchange program in accordance with  
19 the regulations of the department as set forth in 10 NYCRR 80.135 and as  
20 a registered provider of an opioid overdose prevention program in  
21 accordance with the regulations of the department as set forth in 10  
22 NYCRR 80.138. An overdose prevention center program approved by a local  
23 health district shall apply to be an authorized syringe exchange program  
24 and registered provider of an opioid overdose prevention program.

25 § 3398-d. Reporting. An entity operating an overdose prevention center  
26 program under this section shall provide an annual report to the tempo-  
27 rary president of the senate, the speaker of the assembly and the  
28 department and/or local health district that approved it for operation  
29 at a date set by the department or local health district that shall  
30 include:

31 1. the number of program participants;

32 2. aggregate information regarding the characteristics of program  
33 participants;

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

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

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

40 6. any other information requested by the department or local health  
41 district in furtherance of its public health and safety authority.

42 § 3398-e. Immunity provided. Notwithstanding any other statute, law or  
43 rule to the contrary, the following persons shall not be arrested,  
44 charged, or prosecuted for any criminal offense, including for attempt,  
45 aiding and abetting, or conspiracy, or be subject to any civil or admin-  
46 istrative penalty, including seizure or forfeiture of assets or real  
47 property or disciplinary action by a professional licensing board, or be  
48 denied any right or privilege, solely for participation or involvement  
49 in a program approved by the department or local health districts pursu-  
50 ant to this article:

51 1. a participant;

52 2. a staff member or administrator of a program, including a health  
53 care professional, manager, employee, or volunteer; or

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

1 § 3398-f. Limitations on immunity. Notwithstanding the provisions of  
2 section thirty-three hundred ninety-eight-e of this article, a property  
3 owner, staff member, manager, employee, volunteer, or individual utiliz-  
4 ing an overdose prevention center program is not immune from criminal  
5 prosecution for any activities not permitted or approved pursuant to  
6 this article.

7 § 2. This act shall take effect immediately and shall expire and be  
8 deemed repealed December 31, 2021.