

STATE OF NEW YORK

8597

IN SENATE

June 17, 2020

Introduced by Sen. PARKER -- 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 establishing emergency mental health units

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

Section 1. Title B of the mental hygiene law is amended by adding a new article 11 to read as follows:

ARTICLE 11

EMERGENCY MENTAL HEALTH UNITS

Section 11.01 Declaration of policy and statement of purpose.

11.03 Definitions.

11.05 New York state emergency mental health unit council.

11.07 Regional emergency mental health unit councils.

11.09 Emergency mental health unit certificate.

11.11 Powers and duties of the office and the commissioner.

§ 11.01 Declaration of policy and statement of purpose.

The furnishing of mental health assistance in an emergency is a matter of vital concern affecting the public health, safety and welfare. Prehospital emergency mental health care, the provision of prompt and effective communication among emergency services and hospitals and safe and effective care and transportation of persons experiencing mental health crises are essential public health services.

It is the purpose of this article to promote the public health, safety and welfare by providing for certification of all emergency mental health units; the creation of regional emergency mental health unit councils; and a New York state emergency mental health unit council to develop minimum training standards for certified emergency mental health units and minimum equipment and communication standards for emergency mental health units.

§ 11.03 Definitions.

As used in this article, unless the context otherwise requires:

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

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1 (a) "Emergency mental health service" means initial emergency mental
2 health assistance including, but not limited to, the initial assessment
3 and treatment of persons experiencing mental health crises.

4 (b) "Emergency mental health unit" means an individual, partnership,
5 association, corporation, municipality or any legal or public entity or
6 subdivision thereof engaged in providing emergency mental health care
7 and the transportation of persons experiencing mental health crises by
8 motor vehicle, aircraft or other forms of transportation to, from, or
9 between general hospitals or other health care facilities.

10 (c) "Certified emergency mental health responder" means an individual
11 who meets the minimum requirements established by regulations pursuant
12 to section 11.05 of this article and who is responsible for adminis-
13 tration of initial lifesaving mental health care to persons experiencing
14 mental health crises.

15 (d) "State council" means the New York state emergency mental health
16 unit council established pursuant to this article.

17 (e) "Regional council" means a regional emergency mental health unit
18 council established pursuant to this article.

19 (f) "Mental health crises" means a person with a mental illness or
20 serious mental illness as such terms are defined in section 1.03 of this
21 chapter who is a danger to himself or herself or others and requires
22 immediate treatment and care.

23 § 11.05 New York state emergency mental health unit council.

24 (a) There is hereby created in the office the New York state emergency
25 mental health unit council. The state council shall consist of thirty-
26 two members. Fourteen members of the state council shall be appointed by
27 the commissioner and shall be representative of each geographic area of
28 the state. At least one member shall be representative of the interests
29 of the general public. Other members shall be knowledgeable in various
30 aspects of emergency mental health services and shall include, but not
31 be limited to, representatives of emergency mental health units operat-
32 ing for profit, municipal emergency mental health units, hospitals, a
33 statewide organization representing mental health providers, physicians,
34 and nurses. The commissioner shall also appoint a representative from
35 each regional council, from nominations received from the appropriate
36 regional council. The members of the state council shall elect a chair-
37 person from among the members of the state council by a majority vote of
38 those present, who shall serve for a term of one year and until a
39 successor is elected.

40 (b) The state council shall have the power, by an affirmative vote of
41 a majority of those present, subject to approval by the commissioner, to
42 enact, and from time to time, amend and repeal, rules and regulations
43 establishing minimum standards for emergency mental health units, emer-
44 gency mental health unit certification, the provision of prehospital
45 emergency mental health care, public education, the development of a
46 statewide emergency mental health unit system, and the training, exam-
47 ination, and certification of certified emergency mental health respon-
48 ders. Such training shall be made available by video or computer to the
49 maximum extent possible. The state council shall have the same powers
50 granted to regional councils by this article in any region of the state
51 in which a regional council has not been established.

52 (c) In furtherance of the powers set forth in subdivision (b) of this
53 section, the state council shall provide to the trustees of the state
54 university of New York such information and recommendations as may be
55 requested by such trustees to assist such trustees' study of the feasi-
56 bility of community colleges' and state university of New York offering

1 credit and noncredit courses which would satisfy the educational
2 requirements for certification and recertification of certified emergen-
3 cy mental health responders.

4 (d) Upon appeal from the appropriate regional council, the state coun-
5 cil shall have the power, by an affirmative vote of a majority of those
6 present, to amend, modify and reverse determinations of the regional
7 councils made pursuant to subdivision (e) of section 11.07 of this arti-
8 cle. All determinations of the state council respecting applications for
9 emergency mental health unit certificates or statements of registration
10 or respecting the revocation, suspension (except temporary suspension),
11 limitation or annulment of an emergency mental health unit certificate
12 shall be subject to review as provided in article seventy-eight of the
13 civil practice law and rules. Application for such review shall be made
14 within sixty days after service in person or by registered or certified
15 mail of a copy of the determination upon the applicant or holder of the
16 certificate.

17 (e) Upon appeal from the applicant, the office, or any concerned
18 party, the state council shall have the power, by an affirmative vote of
19 a majority of those present, to amend, modify and reverse determinations
20 of the regional councils. All determinations of the state council with
21 respect to exemptions shall be subject to review as provided in article
22 seventy-eight of the civil practice law and rules. Application for such
23 review must be made within sixty days after service in person or by
24 registered or certified mail.

25 (f) The term of office of each member shall be two years. Vacancies
26 shall be filled by appointment for the remainder of an unexpired term.
27 The members shall continue in office until the expiration of their terms
28 and until their successors are appointed and have qualified. No member
29 shall be appointed to the state council for more than four consecutive
30 terms.

31 (g) The state council shall meet as frequently as its business may
32 require. The presence of a majority of the members shall constitute a
33 quorum. The members of the state council shall receive no compensation
34 for their services as members, but each shall be allowed the necessary
35 and actual expenses incurred in the performance of his or her duties
36 under this section.

37 (h) The commissioner, upon request of the state council, shall desig-
38 nate an officer or employee of the office to act as secretary of the
39 state council, and shall assign from time to time such other employees
40 as the state council may require.

41 (i) No civil action shall be brought in any court against any member,
42 officer or employee of the state council for any act done, failure to
43 act, or statement or opinion made, while discharging his or her duties
44 as a member, officer or employee of the state council, without leave
45 from a justice of the supreme court, first had and obtained. In no event
46 shall such member, officer or employee be liable for damages in any such
47 action if he or she shall have acted in good faith, with reasonable care
48 and upon probable cause.

49 (j) The state council shall, after consultation with the office and
50 the regional councils, forward to the commissioner not later than Decem-
51 ber first an estimate of the amounts needed to provide adequate funding
52 for emergency mental health units training. Such estimate shall be tran-
53 smitted without change by the commissioner to the governor, the division
54 of the budget, the temporary president of the senate, the speaker of the
55 assembly, and the fiscal and mental health committees of each house of
56 the legislature.

1 § 11.07 Regional emergency mental health unit councils.

2 (a) The commissioner, with the approval of the state council, shall
3 designate regional emergency mental health unit councils on or before
4 January first next succeeding the effective date of this section but in
5 no event shall the number of regional councils exceed eighteen. Such
6 regional councils shall be established on the basis of application for
7 designation as regional councils submitted by local organizations, the
8 members of which are knowledgeable in various aspects of emergency
9 mental health services. Such application shall describe the geographic
10 area to be served and contain a list of nominees for appointment to
11 membership on such regional councils and a statement as to the proposed
12 method of operation in such detail as the commissioner, with the
13 approval of the state council, shall prescribe.

14 (b) Each regional council shall be comprised of at least fifteen but
15 not more than thirty members to be initially appointed by the commis-
16 sioner, with the approval of the state council, from nominations submit-
17 ted by local organizations applying for establishment as the regional
18 council. Not less than one-third of the membership of the regional coun-
19 cils shall be representatives of emergency mental health units and the
20 remaining membership of the regional councils shall consist of, but not
21 be limited to, representatives of existing local emergency medical care
22 committees, physicians, nurses, hospitals, health planning agencies,
23 fire department emergency and rescue squads, public mental health offi-
24 cers and the general public. Members of each regional council shall be
25 residents living within the geographic area to be served by the regional
26 council. The presence of a majority of members shall constitute a
27 quorum.

28 (c) Each regional council shall have the power to:

29 (1) have a seal and alter the same at pleasure;

30 (2) acquire, lease, hold, and dispose of real and personal property or
31 any interest therein for its purposes;

32 (3) make and alter by-laws for its organization and internal manage-
33 ment, and rules and regulations governing the exercise of its powers and
34 the fulfillment of its purposes under this article; such rules and regu-
35 lations shall be filed with the secretary of state and the state coun-
36 cil;

37 (4) enter into contracts for employment of such officers and employees
38 as it may require for the performance of its duties; and to fix and
39 determine their qualifications, duties, and compensation, and to retain
40 and employ such personnel as may be required for its purposes; and
41 private consultants on a contract basis or otherwise, for the rendering
42 of professional or technical services and advice;

43 (5) enter into contracts, leases, and subleases and to execute all
44 instruments necessary or convenient for the conduct of its business,
45 including contracts with the commissioner and any state agency or munic-
46 ipal entity; and contracts with hospitals and physicians for the
47 purposes of carrying out its powers under this article;

48 (6) undertake or cause to be undertaken plans, surveys, analyses and
49 studies necessary, convenient or desirable for the effectuation of its
50 purposes and powers, and to prepare recommendations and reports in
51 regard thereto;

52 (7) fix and collect reasonable fees, rents, and other charges for the
53 use of its equipment and the provision of its services;

54 (8) contract for and to accept any gifts or grants, subsidies, or
55 loans of funds or property, or financial or other aid in any form from
56 the federal or state government or any agency or instrumentality there-

1 of; or from any other source, public or private, and to comply, subject
2 to the provisions of this article, with the terms and conditions there-
3 of; provided, however, that the councils may contract for payment of
4 debt evidenced by bonds or notes or other evidence of indebtedness,
5 either directly or through a lease purchase agreement;

6 (9) recommend to the office approval of training course sponsors with-
7 in its region, and to develop, promulgate and implement annually an
8 emergency mental health services training plan which addresses the needs
9 of its region;

10 (10) enter into contracts or memoranda of agreement with other
11 regional councils to provide services in a joint or cooperative manner;

12 (11) procure insurance against any loss or liability in connection
13 with the use, management, maintenance, and operation of its equipment
14 and facilities, in such amounts and from such insurers as it reasonably
15 deems necessary; and

16 (12) do all things necessary, convenient and desirable to carry out
17 its purposes and for the exercise of the powers granted in this article.

18 (d) Each regional council shall have the responsibility to coordinate
19 emergency mental health unit programs within its region, including but
20 not limited to, the establishment of certified emergency mental health
21 responder courses and the issuance of uniform certified emergency mental
22 health responder insignia and certificates. Such training courses shall
23 be made available by video or computer to the maximum extent possible.

24 (e) The regional council shall have the responsibility to make deter-
25 minations of public need for the establishment of additional emergency
26 mental health units. The regional council shall make such determination
27 by an affirmative vote of a majority of all of those members consisting
28 of voting members.

29 (f) The term of office of members of the regional council shall be
30 four years, except that of those members first appointed, at least one-
31 half but not more than two-thirds shall be for terms not to exceed two
32 years.

33 (g) Each regional council shall meet as frequently as its business may
34 require.

35 (h) The commissioner, upon request of the regional council, may desig-
36 nate an officer or employee of the office to act as secretary of the
37 regional council, and may assign from time to time such other employees
38 as the regional council may require.

39 (i) No civil action shall be brought in any court against any member,
40 officer or employee of any designated regional council for any act done,
41 failure to act, or statement or opinion made, while discharging his
42 duties as a member, officer or employee of the regional council, without
43 leave from a justice of the supreme court, first had and obtained. In
44 any event such member, officer or employee shall not be liable for
45 damages in any such action if he shall have acted in good faith, with
46 reasonable care and upon probable cause.

47 (j)(1) The office shall provide each regional council with the funds
48 necessary to enable such regional council to carry out its responsibil-
49 ities as mandated under this section within amounts appropriated there-
50 for.

51 (2) Such funds shall be provided upon approval by the office of an
52 application submitted by a regional council. The application shall
53 contain such information and be in such form as the commissioner shall
54 require pursuant to rules and regulations which he shall promulgate
55 after consultation with the state council in order to effect the
56 purposes and provisions of this subdivision.

1 § 11.09 Emergency mental health unit certificate.

2 (a) No emergency mental health unit operating for profit, hospital
3 emergency mental health unit or municipal emergency mental health unit
4 shall operate unless it possesses a valid emergency mental health unit
5 certificate issued pursuant to this article.

6 (b) A certificate issued to an emergency mental health unit shall be
7 valid for two years. The initial certification fee shall be one hundred
8 dollars. Thereafter the biennial fee shall be in accordance with the
9 schedule of fees established by the commissioner pursuant to this arti-
10 cle.

11 (c) No initial certificate shall be issued unless the commissioner
12 finds that the proposed operator or operators are competent and fit to
13 operate the unit and that the emergency mental health unit is staffed
14 and equipped in accordance with rules and regulations promulgated pursu-
15 ant to this article.

16 (d) No emergency mental health unit shall begin operation without
17 prior approval of the appropriate regional council, or if there is no
18 appropriate regional council established such emergency mental health
19 unit shall apply for approval from the state council.

20 (e) Applications for a certificate shall be made by the owner of an
21 emergency mental health unit operating for profit or the responsible
22 official of a municipal emergency mental health unit upon forms provided
23 by the office. The application shall state the name and address of the
24 owner and such other information as the office may require pursuant to
25 rules and regulations.

26 § 11.11 Powers and duties of the office and the commissioner.

27 (a) The office may inquire into the operation of emergency mental
28 health units and conduct periodic inspections of facilities, communi-
29 cation services, vehicles, methods, procedures, materials, staff and
30 equipment. It may also evaluate data received from emergency mental
31 health units.

32 (b) The office may require emergency mental health units to submit
33 periodic reports of calls received, services performed and such other
34 information as may be necessary to carry out the provisions of this
35 article.

36 (c) The commissioner, with the advice and consent of the state coun-
37 cil, shall designate not more than eighteen geographic areas within the
38 state wherein a regional emergency mental health unit council shall be
39 established. In making the determination of a geographic area, the
40 commissioner shall take into consideration the presence of emergency
41 mental health units, hospital facilities, trained health personnel,
42 health planning agencies and communication and transportation facili-
43 ties. The commissioner shall promote and encourage the establishment of
44 a regional emergency medical services council in each of said designated
45 areas.

46 (d) The commissioner may propose rules and regulations and amendments
47 thereto for consideration by the state council. The commissioner shall
48 establish a schedule of certification fees for emergency mental health
49 units.

50 (e) For the purpose of promoting the public health, safety and welfare
51 the commissioner is hereby authorized and empowered to contract with
52 municipal emergency mental health units, or with the fire commissioners
53 of fire districts operating emergency mental health units, upon such
54 terms and conditions as he shall deem appropriate and within amounts
55 made available therefor, for reimbursement of the necessary and inci-

1 dental costs incurred by such emergency mental health units in order to
2 effectuate the provisions of this article.

3 (f) The commissioner is hereby authorized, for the purposes of effec-
4 tuating the provisions of this article in the development of a statewide
5 emergency mental health unit system, to contract with any emergency
6 mental health unit or with the fire commissioners of fire districts
7 operating certified emergency mental health units for the use of neces-
8 sary equipment upon such terms and conditions as the commissioner shall
9 deem appropriate.

10 (g) The commissioner may recommend to the state council minimum quali-
11 fications for certified emergency mental health responders in all phases
12 of emergency mental health technology including but not limited to,
13 communications, first aid, equipment, maintenance, emergency techniques
14 and procedures, patient management and knowledge of procedures and
15 equipment for emergency mental health care.

16 (h) The commissioner shall provide every certified emergency mental
17 health unit with an official insignia which may be attached to every
18 vehicle owned or operated by a certified emergency mental health unit.

19 (i) The office shall provide the state council with such assistance as
20 the council may request in order to carry out its responsibilities as
21 set forth in this article.

22 § 2. This act shall take effect on the one hundred eightieth day after
23 it shall have become a law. Effective immediately, the addition, amend-
24 ment and/or repeal of any rule or regulation necessary for the implemen-
25 tation of this act on its effective date are authorized to be made and
26 completed on or before such effective date.