

STATE OF NEW YORK

7813

2019-2020 Regular Sessions

IN ASSEMBLY

May 23, 2019

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

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

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.

12 § 3398. Short title. This act shall be known and may be cited as the
13 "overdose prevention centers act".

14 § 3398-a. Definitions. As used in this article:

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

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

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

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

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

3 § 3398-b. Program approval. 1. Notwithstanding any other statute, law
4 or rule to the contrary, the department or a local health district may
5 approve an entity to operate a program in one or more jurisdictions upon
6 satisfaction of the requirements set forth in subdivision two of this
7 section. The department or a local health district shall establish stan-
8 dards for program approval and training and may promulgate such rules
9 and regulations as are necessary to implement this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

54 (l) establish and make available to the public operating procedures
55 for the program, including but not limited to the standard hours of
56 operation, a minimum number of personnel required to be on-site during

1 those hours of operation, the licensing and training standards for staff
2 present, an established maximum number of individuals who can be served
3 at one time and an established relationship with the nearest emergency
4 department of a general acute care hospital, as well as eligibility
5 criteria for program participants if not predetermined by the department
6 or local health district.

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

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

14 § 3398-c. Designation. A department approved program shall also be
15 designated as an authorized syringe exchange program in accordance with
16 the regulations of the department as set forth in 10 NYCRR 80.135 and as
17 a registered provider of an opioid overdose prevention program in
18 accordance with the regulations of the department as set forth in 10
19 NYCRR 80.138. An overdose prevention center program approved by a local
20 health district shall apply to be an authorized syringe exchange program
21 and registered provider of an opioid overdose prevention program.

22 § 3398-d. Reporting. An entity operating an overdose prevention center
23 program under this section shall provide an annual report to the tempo-
24 rary president of the senate, the speaker of the assembly and the
25 department and/or local health district that approved it for operation
26 at a date set by the department or local health district that shall
27 include:

28 1. the number of program participants;

29 2. aggregate information regarding the characteristics of program
30 participants;

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

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

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

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

39 § 3398-e. Immunity provided. Notwithstanding any other statute, law or
40 rule to the contrary, the following persons shall not be arrested,
41 charged, or prosecuted for any criminal offense, including for attempt,
42 aiding and abetting, or conspiracy, or be subject to any civil or admin-
43 istrative penalty, including seizure or forfeiture of assets or real
44 property or disciplinary action by a professional licensing board, or be
45 denied any right or privilege, solely for participation or involvement
46 in a program approved by the department or local health districts pursu-
47 ant to this article:

48 1. a participant;

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

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

53 § 3398-f. Limitations on immunity. Notwithstanding the provisions of
54 section thirty-three hundred ninety-eight-e of this article, a property
55 owner, staff member, manager, employee, volunteer, or individual utiliz-
56 ing an overdose prevention center program is not immune from criminal

1 prosecution for any activities not permitted or approved pursuant to
2 this article.

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