STATE OF NEW YORK

6591

2019-2020 Regular Sessions

IN SENATE

June 17, 2019

Introduced by Sen. HARCKHAM -- (at request of the Office of Alcoholism and Substance Abuse Services) -- 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 definitions related to addiction disorders, to change the name of the office of alcoholism and substance abuse services, and the scope of responsibilities of such office; and to repeal certain provisions of such law relating thereto

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

Section 1. Subdivisions 2, 3 and 4 of section 1.03 of the mental hygiene law, subdivision 2 as amended by chapter 168 of the laws of 2010 and subdivisions 3 and 4 as amended by section 4 of part MM of chapter 58 of the laws of 2015, are amended to read as follows:

2. "Commissioner" means the commissioner of mental health, the commissioner of developmental disabilities and the commissioner of [~~alcoholism and substance abuse services~~] addiction services and supports as used in this chapter. Any power or duty heretofore assigned to the commissioner of mental hygiene or to the department of mental hygiene pursuant to this chapter shall hereafter be assigned to the commissioner of mental health in the case of facilities, programs, or services for individuals with mental illness, to the commissioner of developmental disabilities in the case of facilities, programs, or services for individuals with developmental disabilities, to the commissioner of [~~alcoholism and substance abuse services~~] addiction services and supports in the case of facilities, programs, or addiction disorder services [~~for alcoholism, alcohol abuse, substance abuse, substance dependence, and chemical dependence~~] in accordance with the provisions of titles D and E of this chapter.

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

LBD09086-01-9

3. "Mental disability" means mental illness, intellectual disability, developmental disability, [~~alcoholism, substance dependence, or chemical dependence~~] **or an addictive disorder as defined in this section**.

4. "Services for persons with a mental disability" means examination, diagnosis, care, treatment, rehabilitation, supports, habilitation or training [~~of the mentally disabled~~] **or as may be more specifically defined in this section**.

§ 2. Subdivision 12 of section 1.03 of the mental hygiene law is REPEALED and a new subdivision 12 is added to read as follows:

12. "Addictive disorder" or "addiction disorder" for purposes of this chapter means substance use disorder or gambling disorder as such terms are defined in this section and derived from the most recent edition of the diagnostic and statistical manual of mental disorders (DSM), published by the American Psychiatric Association.

§ 3. Subdivisions 13, 14, 15, 16, 18, 25, 29, 40, 41, 43, 44, 45 and 57 of section 1.03 of the mental hygiene law are REPEALED.

§ 4. Subdivision 17 of section 1.03 of the mental hygiene law, as amended by chapter 223 of the laws of 1992, is amended to read as follows:

17. **"Addiction treatment facility" or** "Alcoholism facility" means an in-patient**, residential or outpatient** facility in the department [~~designated by the commissioner of alcoholism and substance abuse services as~~] suitable for the [~~care and treatment of alcoholics or an in-patient facility which has been approved by such commissioner as suitable for the care and treatment of~~] **provision of addiction disorder services to** persons suffering from [~~alcoholism~~] **an addictive disorder** and which has been issued an operating certificate [~~by such commissioner~~] **pursuant to article thirty-two of this chapter**.

§ 5. Subdivision 19 of section 1.03 of the mental hygiene law, as added by chapter 978 of the laws of 1977, is amended to read as follows:

19. "Significant other" means a relative, close friend, associate or individual otherwise concerned with the welfare of a person suffering from [~~alcohol and/or substance abuse~~] **an addictive disorder** when that individual is directly affected by the person's [~~alcoholism and/or substance abuse~~] **addictive disorder**.

§ 6. Subdivisions 38 and 39 of section 1.03 of the mental hygiene law, subdivision 38 as amended by chapter 223 of the laws of 1992 and subdivision 39 as added by chapter 819 of the laws of 1992, are amended to read as follows:

38. **"Residential services facility" or** "Alcoholism community residence" means any facility licensed or operated [~~by the office of alcoholism and substance abuse services~~] **pursuant to article thirty-two of this chapter** which provides [~~a supervised residence for persons suffering from alcoholism or alcohol abuse~~] **residential services for the treatment of an addiction disorder** and a homelike environment, including room, board and responsible supervision [~~for the rehabilitation of such persons~~] as part of an overall service delivery system.

39. "Employee assistance program" means a confidential program designed to assist employees and their families, through identification, motivation referral, and follow-up, with problems that may interfere with the employees' ability to perform on the job effectively, efficiently and safely. Such problems include [~~alcohol and substance abuse problems~~] **addictive disorders**, emotional, marital, family, and other personal problems.

§ 7. Subdivision 42 of section 1.03 of the mental hygiene law, as added by chapter 223 of the laws of 1992, is amended to read as follows:

42. "Substance use disorder program" or "Substance abuse program" shall mean any public or private person, corporation, partnership, agency, either profit or non-profit, or state or municipal government which provides [~~substance abuse~~] substance use disorder services, in either a residential or ambulatory setting, to persons [~~who are substance abusers, substance dependent,~~] in need of services [~~to avoid becoming substance abusers, substance dependent or to significant others~~] for the prevention of, or treatment and recovery from a substance use disorder. Any person or entity providing such services as a minor part of a general health or counseling unit subject to regulations promulgated by the commissioner and other appropriate agencies shall not be considered a substance [~~abuse~~] use disorder program.

§ 8. Subdivisions 54, 55, 56 and 58 of section 1.03 of the mental hygiene law, subdivision 54 as added by chapter 83 of the laws of 1995, subdivision 55 as added by chapter 558 of the laws of 1999 and subdivisions 56 and 58 as added by section 1 of part N of chapter 56 of the laws of 2012, are amended to read as follows:

54. [~~"Compulsive gambling~~] "Gambling disorder" means an [~~impulse control disorder~~] addictive disorder, as defined by the most recent edition of the diagnostic and statistical manual of mental disorders (DSM), published by the American Psychiatric Association, characterized by repeated problematic gambling behavior which causes significant problems or distress. Unless otherwise provided, for the purposes of this chapter, the term gambling disorder shall mean and include compulsive gambling, pathological gambling or problem gambling.

55. [~~"Chemical dependence~~] "Addiction disorder services" or "addiction services" shall mean engagement to treatment, examination, evaluation, diagnosis, care, treatment, rehabilitation, [~~or~~] relapse prevention and recovery maintenance, and related education and training of persons suffering from [~~alcohol and/or substance abuse and/or dependence~~] or recovering from an addictive disorder and their significant others. Unless otherwise provided, for the purposes of this chapter, the term addiction disorder services shall mean and include "chemical dependence services," [~~shall mean and include~~] alcoholism and/or substance abuse services, substance use disorder services, substance dependence, and gambling disorder services.

56. "Substance use disorder" means [~~the misuse of, dependence on, or addiction to alcohol and/or legal or illegal drugs leading to effects that are detrimental~~] recurrent use of alcohol and/or legal or illegal drugs causing clinical and functionally significant impairment to the individual's physical and mental health, or the welfare of others [~~and shall include~~]. Unless otherwise provided, for the purposes of this chapter the term substance use disorder shall mean and include alcoholism, alcohol abuse, drug abuse, substance abuse, substance dependence, chemical abuse, and/or chemical dependence.

58. "Behavioral health services" means examination, diagnosis, care, treatment, rehabilitation, or training for persons with mental illness, [~~substance use disorder, or compulsive gambling disorder~~] or addictive disorders.

§ 9. Section 1.03 of the mental hygiene law is amended by adding a new subdivision 2-a to read as follows:

2-a. Notwithstanding any other section of law or regulation, on and after the effective date of this subdivision, any and all references to the office of alcoholism and substance abuse services and the predecessor agencies to the office of alcoholism and substance abuse services including the division of alcoholism and alcohol abuse and the division

of substance abuse services, shall be known as the "office of addiction services and supports." Nothing in this subdivision shall be construed as requiring or prohibiting the further amendment of statutes or regulations to conform to the provisions of this subdivision.

§ 10. Section 5.01 of the mental hygiene law, as amended by chapter 168 of the laws of 2010, is amended to read as follows:

§ 5.01 Department of mental hygiene.

There shall continue to be in the state government a department of mental hygiene. Within the department there shall be the following autonomous offices:

(1) office of mental health;

(2) office for people with developmental disabilities;

(3) office of [~~alcoholism and substance abuse~~] addiction services and supports.

§ 11. Section 5.03 of the mental hygiene law, as amended by chapter 168 of the laws of 2010, is amended to read as follows:

§ 5.03 Commissioners.

The head of the office of mental health shall be the commissioner of mental health; the head of the office for people with developmental disabilities shall be the commissioner of developmental disabilities; and the head of the office of [~~alcoholism and substance abuse services~~] addiction services and supports shall be the commissioner of [~~alcoholism and substance abuse services~~] addiction services and supports. Each commissioner shall be appointed by the governor, by and with the advice and consent of the senate, to serve at the pleasure of the governor.

§ 12. Subdivisions (b) and (c) of section 19.07 of the mental hygiene law, subdivision (b) as amended by chapter 271 of the laws of 2010 and subdivision (c) as added by chapter 223 of the laws of 1992, are amended to read as follows:

(b) The office of alcoholism and substance abuse services shall advise and assist the governor in improving services and developing policies designed to meet the needs of persons who [~~abuse or are dependent on alcohol and/or substances~~] suffer from an addictive disorder and their families, and to encourage their rehabilitation, maintenance of recovery, and functioning in society.

(c) The office of alcoholism and substance abuse services shall have the responsibility for seeing that persons who [~~abuse or are dependent on alcohol and/or substances~~] suffer from an addictive disorder and their families are provided with addiction services, care and treatment, and that such services, care, treatment and rehabilitation is of high quality and effectiveness, and that the personal and civil rights of persons seeking and receiving addiction services, care, treatment and rehabilitation are adequately protected.

§ 13. This act shall take effect immediately.