

# STATE OF NEW YORK

4346

2021-2022 Regular Sessions

## IN SENATE

February 3, 2021

Introduced by Sen. BROUK -- read twice and ordered printed, and when printed to be committed to the Committee on Mental Health

AN ACT to amend the mental hygiene law, in relation to establishing a credentialing pilot program for direct support professionals

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

1 Section 1. The mental hygiene law is amended by adding a new section  
2 13.44 to read as follows:

3 § 13.44 Direct support professional credential pilot program.

4 (a) Within the amounts appropriated, the office shall implement a  
5 professional credentialing pilot program to assist and enhance the field  
6 of direct care support.

7 (b) The pilot program participants shall be selected by the commis-  
8 sioner, in consultation with the regional offices under his or her  
9 jurisdiction and the regional centers for workforce transformation. Such  
10 pilot program participants shall include individuals employed by state-  
11 operated facilities under the auspices of the office and not-for-profit  
12 providers licensed and/or certified by the office. Pilot program partic-  
13 ipants shall be geographically disbursed throughout the state, and as  
14 determined by the commissioner, in regions of the state with the great-  
15 est need.

16 (c) (1) When implementing the pilot program, the office shall focus on  
17 assisting individuals in the field of direct support by advancing initi-  
18 atives that: (i) promote direct support work as a career, with a focus  
19 on creating opportunities for career advancement within the profession,  
20 (ii) further professionalize the field by developing advanced skills and  
21 competencies, (iii) promote the health, safety and well-being of the  
22 people being served, and (iv) enhance workforce recruitment and  
23 retention efforts, with a focus on direct support professional posi-  
24 tions.

25 (2) Such initiatives shall include but not be limited to:

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

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1 (i) a credentialing and education program for direct support profes-  
2 sionals which shall utilize best practices including but not limited to  
3 New York state direct support professional competencies, certification  
4 programs offered by institutions of higher learning, and direct support  
5 professional credentialing and education initiatives in other states;  
6 and

7 (ii) a comprehensive training program which may include on-line train-  
8 ing, mentorships, and support group components. To develop the training  
9 program, the pilot may utilize national direct support professional  
10 competency programs or credentialing standards and trainings.

11 (d) (1) There is hereby established within the office an advisory  
12 council for direct support professional credentialing, which shall  
13 advise, oversee and assist with the implementation of the pilot program  
14 established pursuant to this section.

15 (2) (i) The council shall consist of the commissioner or his or her  
16 designee, who shall chair the council and twenty-one additional members.  
17 Seven members shall be appointed upon the recommendation of the commis-  
18 sioner, seven members shall be appointed upon the recommendation of the  
19 temporary president of the senate and seven members shall be appointed  
20 upon the recommendation of the speaker of the assembly. (ii) The compo-  
21 sition of the council shall be as follows:

22 (A) five individuals from the direct support professional credential  
23 technical report advisory group, at least two of whom shall be not-for-  
24 profit providers of services;

25 (B) five individuals from the direct support professional credential  
26 technical report advisory group project staff identified by the commis-  
27 sioner, at least one of whom is from an institute of higher learning;

28 (C) six individuals from the office's regional center for workforce  
29 transformation; each individual shall represent one of the six regions  
30 covered by the regional center for workforce transformation;

31 (D) four direct support professionals, of whom two shall be creden-  
32 tialed direct support professionals; and

33 (E) a self-advocate or a representative of a self-advocacy association  
34 for individuals with intellectual or developmental disabilities.

35 (3) Members of the taskforce shall serve without compensation, but may  
36 be reimbursed for actual costs incurred for participation on such task-  
37 force.

38 (4) The council shall meet at least four times in each full calendar  
39 year or at the request of the chair or commissioner.

40 (5) The council may establish committees as it deems necessary to  
41 particular subjects of importance related to the implementation of the  
42 pilot program.

43 (6) The council may consider any matter relating to initiatives  
44 advanced as part of the pilot program and shall advise and provide  
45 recommendations to the office on any such matter, including, but not  
46 limited to:

47 (i) ensuring the program is person-centered, accessible, applicable  
48 and relevant for people and families who reside in the state of New  
49 York; and

50 (ii) providing recommendations and assistance to the office to: (A)  
51 seek approval from the federal centers for Medicare and Medicaid  
52 services for the statewide credentialing program to be included in the  
53 state's 1115 demonstration waiver, as approved by the commissioner; (B)  
54 collaborate with managed care organizations to ensure the statewide  
55 credentialing program is incorporated into managed care contracts for

1 long term services and supports; and (C) develop the report required  
2 pursuant to subdivision (e) of this section.

3 (e) The office in consultation with the participants of the pilot  
4 program and the advisory council established pursuant to this section,  
5 shall issue a report no later than November fifteenth, two thousand  
6 twenty-four to the governor, the temporary president of the senate, the  
7 speaker of the assembly, the assembly chair of the committee on mental  
8 health, and the senate chair of the committee on mental health and  
9 developmental disabilities, detailing the progress of the pilot program,  
10 all relevant data and information taking into consideration any privacy  
11 concerns or confidential restrictions to share such information, and  
12 recommendations which shall include but not be limited to:

13 (1) rate of recruitment and retention for direct support professionals  
14 of providers participating in the pilot program compared to the rate for  
15 non-participating providers;

16 (2) number of direct support professionals credentialed;

17 (3) enhancement of quality supports and services to individuals with  
18 developmental disabilities;

19 (4) correlation between how wage increases for credentialed individ-  
20 uals demonstrates commitment to the profession, leadership qualities,  
21 retention in the field, improved supports and services, and family and  
22 individual satisfaction;

23 (5) identified barriers to meeting the pilot programs goals and objec-  
24 tives and recommendations on how to eliminate such barriers; and

25 (6) any recommendation related to achieving a successful implementa-  
26 tion of a statewide credentialing program including but not limited to  
27 continuing and/or expanding the operation of the credentialing pilot  
28 program or additional investment of resources required by the state.

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