

# STATE OF NEW YORK

5978

2021-2022 Regular Sessions

## IN SENATE

March 24, 2021

Introduced by Sen. PARKER -- 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 emergency mental health units

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

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

### ARTICLE 11

#### EMERGENCY MENTAL HEALTH UNITS

5 Section 11.01 Declaration of policy and statement of purpose.

6 11.03 Definitions.

7 11.05 New York state emergency mental health unit council.

8 11.07 Regional emergency mental health unit councils.

9 11.09 Emergency mental health unit certificate.

10 11.11 Powers and duties of the office and the commissioner.

11 § 11.01 Declaration of policy and statement of purpose.

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

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

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

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1 § 11.03 Definitions.

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

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

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

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

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

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

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

25 § 11.05 New York state emergency mental health unit council.

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

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

54 (c) In furtherance of the powers set forth in subdivision (b) of this  
55 section, the state council shall provide to the trustees of the state  
56 university of New York such information and recommendations as may be

1 requested by such trustees to assist such trustees' study of the feasi-  
2 bility of community colleges' and state university of New York offering  
3 credit and noncredit courses which would satisfy the educational  
4 requirements for certification and recertification of certified emergen-  
5 cy mental health responders.

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

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

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

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

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

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

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

1 assembly, and the fiscal and mental health committees of each house of  
2 the legislature.

3 § 11.07 Regional emergency mental health unit councils.

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

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

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

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

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

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

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

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

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

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

1 (8) contract for and to accept any gifts or grants, subsidies, or  
2 loans of funds or property, or financial or other aid in any form from  
3 the federal or state government or any agency or instrumentality there-  
4 of; or from any other source, public or private, and to comply, subject  
5 to the provisions of this article, with the terms and conditions there-  
6 of; provided, however, that the councils may contract for payment of  
7 debt evidenced by bonds or notes or other evidence of indebtedness,  
8 either directly or through a lease purchase agreement;

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

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

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

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

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

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

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

36 (g) Each regional council shall meet as frequently as its business may  
37 require.

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

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

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

54 (2) Such funds shall be provided upon approval by the office of an  
55 application submitted by a regional council. The application shall  
56 contain such information and be in such form as the commissioner shall

1 require pursuant to rules and regulations which he shall promulgate  
2 after consultation with the state council in order to effect the  
3 purposes and provisions of this subdivision.

4 § 11.09 Emergency mental health unit certificate.

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

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

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

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

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

29 § 11.11 Powers and duties of the office and the commissioner.

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

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

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

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

53 (e) For the purpose of promoting the public health, safety and welfare  
54 the commissioner is hereby authorized and empowered to contract with  
55 municipal emergency mental health units, or with the fire commissioners  
56 of fire districts operating emergency mental health units, upon such

1 terms and conditions as he shall deem appropriate and within amounts  
2 made available therefor, for reimbursement of the necessary and inci-  
3 dental costs incurred by such emergency mental health units in order to  
4 effectuate the provisions of this article.

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

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

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

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

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