STATE OF NEW YORK

6311

2021-2022 Regular Sessions

IN SENATE

April 21, 2021

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

AN ACT to amend the social services law, the public health law and the mental hygiene law, in relation to setting comprehensive outpatient services

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

Section 1. This act shall be known and may be cited as the "comprehensive outpatient services act of 2021".

§ 2. Section 364-m of the social services law is amended by adding a new subdivision 6 to read as follows:

6. Comprehensive outpatient services centers. (a) Definitions. For the purpose of this article, unless the context clearly requires otherwise:

(i) "Mental health services" means services for the treatment of mental illness.

(ii) "Addiction services" means services for the treatment of addiction disorders.

(iii) "Comprehensive outpatient services" means the systematic coordination of evidence-based health care services, to include the preventative, diagnostic, therapeutic and rehabilitative care and treatment of mental illness, addiction and the provision of physical health services, otherwise provided by a diagnostic and treatment center or general hospital outpatient program pursuant to article twenty-eight of the public health law, a mental health clinic licensed pursuant to article thirty-one of the mental hygiene law, or an addiction provider certified pursuant to article thirty-two of the mental hygiene law to an individual seeking services regardless of their primary diagnosis or health complaint; provided, however, that the scope of such services may be restricted pursuant to regulation.

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

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(iv) "Comprehensive outpatient services centers" means a facility approved in accordance with this section to provide comprehensive outpatient services in order to promote health and better outcomes for the recipient, particularly for populations at risk.

(v) "Medical director" is a physician who is responsible for the services delivered by the comprehensive outpatient services provider, for the overall direction of the services provided and the direct supervision of medical staff in the delivery of services.

(vi) "Physical health services" means services provided by a physician, physician's assistant, nurse practitioner, or midwife acting within his or her lawful scope of practice under title eight of the education law and who is practicing in a primary care specialty.

(b) Notwithstanding any law, rule, or regulation to the contrary, the commissioners of the department of health, the office of mental health, and the office of addiction services and supports are authorized to jointly establish a single set of licensing standards and requirements for the construction, operation, reporting and surveillance of comprehensive outpatient services centers. Such standards and requirements shall include, but not be limited to:

(i) scope of comprehensive outpatient services;

(ii) creation of an efficient application review process for comprehensive outpatient services centers;

(iii) facilitation of integrated treatment records that comply with applicable federal and state confidentiality requirements;

(iv) optimal use of clinical resources, including the development of a workforce capable of providing comprehensive care to an individual utilizing evidence-based approaches to integrated treatment;

(v) development of billing and reimbursement structures to enable the provision of comprehensive services to individuals regardless of their primary diagnosis or healthcare complaint;

(vi) reasonable physical plant standards to foster proper care and treatment;

(vii) standards for incident reporting and remediation pursuant to article eleven of the social services law; and

(viii) standards for adverse event reporting, provided however that any such adverse event reports shall be kept confidential and shall not be subject to disclosure under article six of the public officers law or article thirty-one of the civil practice law and rules.

(c) A provider shall not be authorized to provide comprehensive outpatient services unless they have sufficiently demonstrated, consistent with the standards and requirements set forth by the commissioners:

(i) experience in the delivery of physical, mental health, and addiction services;

(ii) capacity to offer comprehensive outpatient services in each comprehensive outpatient services center approved by each of the commissioners of the department of health, the office of mental health, and the office of addiction services and supports; and

(iii) compliance with standards established pursuant to this section for providing and receiving payment for comprehensive outpatient services.

(d) Notwithstanding any provision of law to the contrary, for the purposes of this subdivision, comprehensive outpatient service providers shall be considered contracted, approved or otherwise authorized by the office of addiction services and supports and the office of mental health for the purpose of sections 19.20, 19.20-a, and 31.35 of the mental hygiene law, as may be applicable. Providers shall be required to

comply with the review of criminal history information, as required in such sections, for prospective employees or volunteers who will have regular and substantial unsupervised or unrestricted physical contact with the clients of such provider.

(e) The commissioners of the department of health, the office of mental health, and the office of addiction services and supports are authorized to promulgate any regulatory requirements necessary to implement comprehensive outpatient services centers consistent with this section, including amending existing requirements.

§ 3. Subdivision 4 of section 488 of the social services law is amended by adding a new paragraph (a-1) to read as follows:

(a-1) a comprehensive outpatient services center which is licensed, or certified by section three hundred sixty-four-m of this chapter, provided however that such term shall not include the provision of physical health services rendered in such facility or program;

§ 4. Subdivision 1 of section 2801 of the public health law, as amended by section 1 of part Z of chapter 57 of the laws of 2019, is amended to read as follows:

1. "Hospital" means a facility or institution engaged principally in providing services by or under the supervision of a physician or, in the case of a dental clinic or dental dispensary, of a dentist, or, in the case of a midwifery birth center, of a midwife, for the prevention, diagnosis or treatment of human disease, pain, injury, deformity or physical condition, including, but not limited to, a general hospital, public health center, diagnostic center, treatment center, dental clinic, dental dispensary, rehabilitation center other than a facility used solely for vocational rehabilitation, nursing home, tuberculosis hospital, chronic disease hospital, maternity hospital, midwifery birth center, lying-in-asylum, out-patient department, out-patient lodge, dispensary and a laboratory or central service facility serving one or more such institutions, but the term hospital shall not include an institution, sanitarium or other facility engaged principally in providing services for the prevention, diagnosis or treatment of mental disability and which is subject to the powers of visitation, examination, inspection and investigation of the department of mental hygiene except for those distinct parts of such a facility which provide hospital service. The provisions of this article shall not apply to a facility or institution engaged principally in providing services by or under the supervision of the bona fide members and adherents of a recognized religious organization whose teachings include reliance on spiritual means through prayer alone for healing in the practice of the religion of such organization and where services are provided in accordance with those teachings. No provision of this article or any other provision of law shall be construed to: (a) limit the volume of primary care services that can be provided by comprehensive outpatient services centers, as defined in section three hundred sixty-four-m of the social services law; (b) limit the volume of mental health, substance use disorder services or developmental disability services that can be provided by a provider of primary care services licensed under this article and authorized to provide integrated services in accordance with regulations issued by the commissioner in consultation with the commissioner of the office of mental health, the commissioner of the office of [~~alcoholism and substance abuse services~~] addiction services and supports and the commissioner of the office for people with developmental disabilities, including regulations issued pursuant to subdivision seven of section three hundred sixty-five-l of the social services law or part L of chap-

ter fifty-six of the laws of two thousand twelve; [~~(b)~~] (c) require a provider licensed pursuant to article thirty-one of the mental hygiene law or certified pursuant to article sixteen or article thirty-two of the mental hygiene law to obtain an operating certificate from the department if such provider has been authorized to provide integrated services in accordance with regulations issued by the commissioner in consultation with the commissioner of the office of mental health, the commissioner of the office of [~~alcoholism and substance abuse services~~] addiction services and supports and the commissioner of the office for people with developmental disabilities, including regulations issued pursuant to subdivision seven of section three hundred sixty-five-l of the social services law or part L of chapter fifty-six of the laws of two thousand twelve.

§ 5. Subdivision (f) of section 31.02 of the mental hygiene law, as amended by section 2 of part Z of chapter 57 of the laws of 2019, is amended to read as follows:

(f) No provision of this article or any other provision of law shall be construed to require a provider licensed pursuant to article twenty-eight of the public health law or certified pursuant to article sixteen or article thirty-two of this chapter to obtain an operating certificate from the office of mental health if such provider has been authorized to provide integrated services in accordance with regulations issued by the commissioner of the office of mental health in consultation with the commissioner of the department of health, the commissioner of the office of [~~alcoholism and substance abuse services~~] addiction services and supports and the commissioner of the office for people with developmental disabilities, including regulations issued pursuant to subdivision seven of section three hundred sixty-five-l of the social services law or part L of chapter fifty-six of the laws of two thousand twelve. Furthermore, except as provided in paragraph (d) of subdivision six of section three hundred sixty-four-m of the social services law, no provision of this article or any other provision of law shall be construed to limit the volume of mental health services that can be provided by comprehensive outpatient services centers, as defined in section three hundred sixty-four-m of the social services law.

§ 6. Subdivision (b) of section 32.05 of the mental hygiene law, as amended by section 3 of part Z of chapter 57 of the laws of 2019, is amended to read as follows:

(b) (i) Methadone, or such other controlled substance designated by the commissioner of health as appropriate for such use, may be administered to an addict, as defined in section thirty-three hundred two of the public health law, by individual physicians, groups of physicians and public or private medical facilities certified pursuant to article twenty-eight or thirty-three of the public health law as part of a chemical dependence program which has been issued an operating certificate by the commissioner pursuant to subdivision (b) of section 32.09 of this article, provided, however, that such administration must be done in accordance with all applicable federal and state laws and regulations. Individual physicians or groups of physicians who have obtained authorization from the federal government to administer buprenorphine to addicts may do so without obtaining an operating certificate from the commissioner. (ii) No provision of this article or any other provision of law shall be construed to require a provider licensed pursuant to article twenty-eight of the public health law, article thirty-one of this chapter or a provider certified pursuant to article sixteen of this chapter to obtain an operating certificate from the office of [~~alcohol-~~

~~ism and substance abuse services~~] **addiction services and supports** if such provider has been authorized to provide integrated services in accordance with regulations issued by the commissioner of [~~alcoholism and substance abuse services~~] **addiction services and supports** in consultation with the commissioner of the department of health, the commissioner of the office of mental health and the commissioner of the office for people with developmental disabilities, including regulations issued pursuant to subdivision seven of section three hundred sixty-five-l of the social services law or part L of chapter fifty-six of the laws of two thousand twelve. **Furthermore, except as provided in paragraph (d) of subdivision six of section three hundred sixty-four-m of the social services law, no provision of this article or any other provision of law shall be construed to limit the volume of addiction services that can be provided by comprehensive outpatient services centers, as defined in section three hundred sixty-four-m of the social services law.**

§ 7. This act shall take effect January 1, 2022; provided, however, that the amendments to section 364-m of the social services law made by section two of this act shall not affect the repeal of such section and shall be deemed to repeal therewith. Effective immediately, the commissioner of the department of health, the commissioner of the office of mental health and the commissioner of the office of addiction services and supports are authorized to issue any rule or regulation necessary for the implementation of this act on or before its effective date.