STATE OF NEW YORK

1416

2021-2022 Regular Sessions

IN ASSEMBLY

January 11, 2021

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

AN ACT to amend the mental hygiene law, in relation to non-compliant dwellings and harm reduction services

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

Section 1. Section 19.03 of the mental hygiene law is amended by adding five new subdivisions 3, 4, 5, 6 and 7 to read as follows:

3. "Non-compliant dwelling" means a building that meets one or more of the following criteria:

(a) located within a building that has been, in whole or in part, the subject of an active vacate order placed by any local, municipal, or county body charged with the enforcement of housing, sanitary, or safety standards, within the four years prior to the time when a client's placement is being planned, or when the agency otherwise considers referring a client to the address;

(b) located within a building against which any local, municipal, or county body has pending litigation; and

(c) located within a building for which one or more complaints have been received by any local, municipal, or county body charged with the enforcement of housing, sanitary, or safety standards within the last four years preceding the time when a client's placement is being planned, or when the agency otherwise considers referring a client to the address, pertaining to:

i. use contrary to that authorized for the building by law, or

ii. work performed without authorization required by law.

4. "Harm reduction services" means services to assist individuals with substance use issues in reducing the negative consequences associated with substance use and improving individuals' quality of life. Services shall be informed by a philosophy that recognizes drug and alcohol use and addiction as a part of tenants' lives, where tenants are engaged in

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

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nonjudgmental communication regarding drug and alcohol use, and where tenants are offered education regarding how to avoid risky behaviors and engage in safer practices. Services may include but are not limited to:

(a) syringe exchange;

(b) overdose prevention and treatment;

(c) risk reduction in the areas of substance use and sexual behavior;

(d) communicable disease prevention and treatment;

(e) health education;

(f) peer support; and

(g) individual and group counseling in health, mental health, and nutrition.

5. "Harm reduction services provider" means any entity that provides a range of harm reduction services with the goal of reducing such harm and behaviors associated with substance use and improving individual substance users' quality of life.

6. "Agency service provider" means any rehabilitation center, chemical dependence service or opioid treatment program integrated outpatient service as set forth in 14 NYCRR sections 816, 817, 819 and 820 or successor regulations licensed by the office.

7. "Chemical dependence residential service" or "residential service" means a chemical dependence residential service as set forth in 14 NYCRR section 819.2(a)(2) and (3) or successor regulations, and service providing an array of services for treatment of management of substance use, including all residential programs licensed and/or certified by such office. Such services may be provided directly or through cooperative relationships with other agency service providers.

§ 2. Section 22.03 of the mental hygiene law is amended by adding four new subdivisions (d), (e), (f) and (g) to read as follows:

(d) Every patient in a chemical dependence residential service or in a residential service that has a length of stay of thirty days or more shall have the right to remain unless removed through a special proceeding under article seven of the real property actions and proceedings law, provided that the patient has peaceably been in actual possession for thirty days or more. Nothing in this section shall be waived in the event a patient who was in possession for thirty days or more is absent due to a hospitalization.

(e) Any patient who is discharged from a chemical dependence residential service or from a residential service, shall be entitled to individualized housing placement services from the office to assist the patient in securing safe, permanent alternative housing.

1. Upon issuing a notice that a patient is discharged from a chemical dependence residential service, the agency service provider shall also issue notice of the discharged patient's eligibility for housing placement assistance by the agency service provider or designee prior to the patient's discharge date.

2. The agency service provider shall provide the discharged patient with a copy of the entitlement to housing placement assistance in English and Spanish and such other language as it deems necessary. The agency service provider shall notify such discharged patient of the name, office address and telephone number of the housing specialist assigned to the discharged patient.

3. Within ten days of admission to a chemical dependence residential service, the agency service provider shall conduct an assessment of the patient's prior housing and future housing needs. At least thirty days prior to discharge, the agency service provider shall assist the discharged patient to complete and submit applications for housing

subsidies for which the discharged patient may be eligible and for suitable housing placements on behalf of the discharged patient.

4. If the agency service provider fails to complete and submit applications pursuant to paragraph three of this subdivision, the agency service provider and/or office shall pay the cost of temporary market rate shelter on a daily basis until said applications have been completed and submitted.

5. After completing and submitting applications pursuant to paragraph three of this subdivision, the housing specialist shall take the following steps to assist the discharged patient in securing a permanent housing placement:

i. Communicate with such discharged patient on a weekly basis to inform such patient of potential housing placements and/or arrange viewing of available units;

ii. Document opportunities to view potential housing units and the outcome of those viewings; and

iii. In the event that the discharged patient accepts a housing placement, the housing specialist shall assist the discharged patient to complete and submit any and all necessary application materials to secure the placement and coordinate with city and or state agencies to ensure that the deposit and rent payments are paid to the landlord timely.

6. The housing specialist shall continue to work with the discharged patient in accordance with this subdivision for one year unless and until the discharged patient has secured a permanent housing placement.

7. This discharged patient retains the right to decline a referral from the housing specialist. If the discharged patient declines such a referral, the housing specialist shall record and retain documentation indicating the reason the referral was declined.

(f) Any patient who is discharged from a chemical dependence outpatient service or opioid treatment program integrated outpatient service as set forth in 14 NYCRR sections 816, 817, 819 and 820 or successor regulations, shall be provided a referral to a harm reduction service provider. Such referral shall consist of, at minimum, the following steps performed by the discharging program or service:

1. Identification of at least one harm reduction service provider located as close as practically possible to the discharging program or service;

2. Provision to the patient of a written referral including the name, location, contact information, and description of services provided by the harm reduction service provider;

3. An introduction of the patient to an appropriate contact at the harm reduction service provider by telephone or other live communication, facilitated by the discharging program or service; and

4. Reimbursement to the patient of reasonable travel expenses for the cost of a trip from the discharging program or service to the location of the harm reduction service provider.

(g) To the extent that publicly available information is available, staff referring to housing any patient who is discharged from a chemical dependence service or opioid treatment program integrated outpatient service as set forth in 14 NYCRR sections 816, 817, 819 and 820 or successor regulations, shall examine publicly available information for all such dwellings located in a city with a population of more than one million, such as on government websites. No patient shall be referred to a non-compliant dwelling.

1. To the extent that publicly available information is available, staff referring to housing any participant in a chemical dependence outpatient service or opioid treatment program integrated outpatient service as set forth in 14 NYCRR sections 816, 817, 819 and 820 or successor regulations, shall examine publicly available information for all such dwellings located in a city with a population of more than one million, such as on government websites. No patient shall be referred to a non-compliant dwelling.

2. An agency service provider may not prevent a patient from choosing to move to a non-compliant dwelling. If a patient chooses to move into a non-compliant dwelling, the agency service provider staff must inform the patient that the housing option that the patient has chosen fails to meet the minimum standards outlined by this article. Agency service provider staff must document this conversation in any case record the agency service provider maintains for that patient.

3. Any landlord or housing provider, or agent, employee, representative of the landlord or housing provider, that seeks to conduct a recruitment, advertising, solicitation, or informational presentation or who desires to distribute or cause to be distributed promotional or informational materials at a chemical dependence service or opioid treatment program integrated outpatient service shall be required to disclose the addresses for any building owned, operated, or managed by said landlord or housing provider.

4. Any landlord or housing provider, or agent, employee, representative of the landlord or housing provider, that seeks referrals from the office or agency service provider or seeks to conduct presentations or otherwise distribute information at the agency, shall certify to the agency that it does not require residents to sign waivers of their right to court process prior to eviction and that it does not require residents to attend any kind of treatment program as a condition of residency. Such certification shall be made in writing, under oath by the landlord, managing agent, or director of the housing program, and shall be mailed to the agency service provider by certified or registered mail, return receipt requested. Such certification shall be supported by a sworn statement by the individual making the certification, attesting that the certification is true.

5. If any address disclosed by a landlord or housing provider pursuant to subdivision (e) of this section is a non-compliant dwelling, the landlord or housing provider shall be prohibited from conducting any presentation or from distributing promotional or informational materials at the site of the chemical dependence outpatient service or opioid treatment program integrated outpatient service.

6. If an agency service provider refers a patient to housing that the patient believes is non-compliant, the agency service provider shall assist the patient to make a complaint to the 311 Citizens Service Center. Agencies shall provide the patient with access to a telephone if the patient does not have one available. If the patient declines the referral based on the belief that the housing referred is a non-compliant dwelling, the agency service provider shall provide the patient with a new referral to other suitable housing. In the event a patient refuses housing, the reasons for the refusal must be documented in the patient's case record.

7. Agency service providers shall distribute to all patients who are currently or were formerly incarcerated, hospitalized, in shelter, in substance abuse treatment, or homeless a plain language document that describes what a non-compliant dwelling is and contains information

about how to contact the department of buildings and the 311 Citizen Service Center.

§ 3. This act shall take effect on the ninetieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such date.