STATE OF NEW YORK

338--A

2023-2024 Regular Sessions

IN ASSEMBLY

January 6, 2023

Introduced by M. of A. L. ROSENTHAL, PEOPLES-STOKES, PAULIN, CARROLL, SIMON, DICKENS, EPSTEIN, CRUZ, STECK, GONZALEZ-ROJAS, MAMDANI, FORREST, MEEKS, GALLAGHER, GLICK, KELLES, BURDICK, HEVESI, MITAYNES, LAVINE, CLARK, TAYLOR, BICHOTTE HERMELYN, WEPRIN, AUBRY -- Multi-Sponsored by -- M. of A. LUPARDO -- read once and referred to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to enacting the safer consumption services act

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

Section 1. The public health law is amended by adding a new article 33-C to read as follows:

ARTICLE 33-C

SAFER CONSUMPTION SERVICES ACT

Section 3399. Short title.
3399-a. Definitions.
3399-b. Program approval.
3399-c. Designation.
3399-d. Reporting.
3399-e. Immunity provided.

§ 3399. Short title. This act shall be known and may be cited as the "safer consumption services act".

§ 3399-a. Definitions. As used in this article:

1. "Program" means an overdose prevention center program established pursuant to this article.

2. "Entity" means any community-based organization that is an authorized syringe exchange program in accordance with the regulations of the department which provides educational, health, harm reduction, housing, or social services and any hospital, medical clinic or office, health

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

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center, nursing care facility, mental health facility, or other similar entity that provides medical care.

3. "Participant" means an individual who seeks to utilize, utilizes, or has used a program established pursuant to this article.

§ 3399-b. Program approval. 1. Notwithstanding any other statute, law or rule to the contrary, the department may approve an entity to operate a program in one or more jurisdictions upon satisfaction of the requirements set forth in subdivision two of this section. The department shall establish standards for program approval and training and may promulgate such rules and regulations as are necessary to implement this section.

(a) The department shall approve or deny an application under this section within forty-five days of the day of receipt of the application and provide a written explanation of such determination.

(b) An entity may make an application under this section at any time, regardless of previous applications.

2. The department may approve an entity to operate a program pursuant to this article, upon submission of an application that demonstrates the entity will, at a minimum:

(a) provide a hygienic space where participants may consume their preobtained drugs that is separate from the space in which the provider performs other services;

(b) provide adequate staffing by healthcare professionals or other trained staff;

(c) provide sterile injection and other consumption supplies, collect used hypodermic needles and syringes, and provide secure hypodermic needle and syringe disposal services;

(d) provide education on safer consumption practices, proper disposal of hypodermic needles and syringes, and overdose prevention, including written information in, at a minimum, the four most commonly spoken languages in the state as determined by the department;

(e) administer first aid, if needed, and monitor participants for potential overdose;

(f) provide referrals to substance use disorder treatment, medical, social welfare, and employment and training services;

(g) educate participants on the risks of contracting HIV and viral hepatitis and provide sexual health resources and supplies, including, but not limited to, male and female condoms;

(h) provide access to naloxone or referrals to obtain naloxone for participants;

(i) provide reasonable and adequate security of the program site and equipment;

(j) ensure confidentiality of program participants by using an anonymous unique identifier;

(k) train staff members to deliver services offered by the program or attend trainings provided by the department; and

(l) establish operating procedures for the program as well as eligibility criteria for program participants.

§ 3399-c. Designation. A department approved program shall also be designated as an authorized syringe exchange program in accordance with the regulations of the department as set forth in 10 NYCRR 80.135 and as a registered provider of an opioid overdose prevention program in accordance with the regulations of the department as set forth in 10 NYCRR 80.138.

§ 3399-d. Reporting. An entity operating an overdose prevention center program under this article shall provide an annual report to the department at a date set by the department that shall include:

1. the number of program participants;
2. aggregate information regarding the characteristics of program participants;
3. the number of hypodermic needles and syringes distributed for use on-site;
4. the number of overdoses experienced, the number of overdoses intervened on-site, and the outcomes; and
5. the number of individuals directly and formally referred to other services and the type of service.

§ 3399-e. Immunity provided. Notwithstanding any other statute, law or rule to the contrary, the following persons shall not be arrested, charged, or prosecuted for any criminal offense or be subject to any civil or administrative penalty, including seizure or forfeiture of assets or real property or disciplinary action by a professional licensing board, or be denied any right or privilege, solely for participation or involvement in an overdose prevention center program approved by the department so long as such participation or involvement was in good faith and in accordance with established protocols pursuant to this article:

1. a participant;
2. a staff member or administrator of a program, including a healthcare professional, manager, employee, board member, director, or volunteer; or
3. a property owner who owns property at which a program is located and operates.

§ 2. This act shall take effect immediately.