STATE OF NEW YORK

6400

2023-2024 Regular Sessions

IN ASSEMBLY

April 6, 2023

Introduced by M. of A. SEAWRIGHT -- read once and referred to the Committee on People with Disabilities

AN ACT to amend the mental hygiene law, in relation to establishing a direct support professional worker registry

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

Section 1. Section 13.43 of the mental hygiene law, as added by chapter 209 of the laws of 2018, is renumbered section 13.44 and a new section 13.45 is added to read as follows:

§ 13.45 Direct support professional worker registry.

(a) As used in this section, the following terms shall have the following meanings:

(1) "Provider" means an entity operating with a certificate issued by the commissioner pursuant to section 16.03 of this title.

(2) "Direct support professional worker" or "worker" means any person engaged in or applying to become engaged in providing direct support professional services, as defined by the office in regulation.

(3) "Registry" means the direct support professional worker registry.

(4) "Direct support professional worker education or training program" or "program" means a program that provides education or training for persons to meet any requirement established by the office for direct support professional worker services, which is approved by the office.

(5) "Self-direction program" means the self-direction program implemented by the office pursuant to 42 CFR 441 Subpart M or any successor regulation.

(b) The office shall develop and maintain a direct support professional worker registry of persons who have successfully completed a direct support professional worker education or training program approved by the commissioner or the accrediting body of other states or federal authorities, including the military. Information in the registry shall be accessible on the office's website by direct support profes-

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

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sional workers, persons enrolled in the self-direction program and providers licensed, funded, approved and/or certified by the office, subject to subdivision (h) of this section.

(c) Upon successful completion of a direct support professional worker education or training program approved by the commissioner, such worker shall be automatically enrolled in the registry; provided, however, that every worker shall have the option to opt-out of enrollment in the registry in a manner prescribed by the office. Provided, further, that the office, in consultation with the justice center for the protection of people with special needs, shall deny enrollment of any worker who engaged in behavior that constituted abuse or serious neglect, as those terms are defined in section 16.34 of this title, of a patient or consumer in a program licensed, operated, or certified by the office. A worker who is enrolled in the registry shall be notified of such enrollment by registered or certified mail within thirty days; provided, however, that the office may offer a paperless electronic notification option to a worker who successfully completes an approved direct support professional worker education or training program.

(d) No charges or fees shall be imposed on a direct support professional worker for any costs for registration in or removal from the registry.

(e) The registry shall include, but not be limited to, the following information concerning each person who has successfully completed a direct support professional worker training program and who has enrolled to be included in the registry:

(1) full name;

(2) home address, at the time of submission;

(3) gender;

(4) date of birth;

(5) contact information;

(6) the name of each state-approved education or training program successfully completed, the name of the entity providing the program, and the date on which such program was completed; and

(7) history of work in direct support professional services through any provider entity, including dates of employment and name of such entity providing the employment.

(f) The registry shall include a comprehensive list of all state-approved direct support professional worker education or training programs. The list shall be updated at least monthly by the office. The office shall promptly submit updated information whenever such information changes.

(g) The office shall make the contact details of direct support professional education or training programs approved by the office available on the office's website and readily accessible by the public.

(h) (1) A direct support professional worker may access or obtain any information in the worker's own listing in the registry.

(2) A provider entity may submit a request, on a form prescribed by the office, to access or obtain any information in the registry relating to any person a provider entity employs or is considering employing to provide direct support professional services, provided, however, that a provider entity shall present clear evidence of consideration of employment or current employment of such person in such form prescribed by the office, provided, further, that the commissioner may deny such access to the registry upon a determination by the commissioner that such provider entity is maliciously accessing the registry.

(3) An individual enrolled in a self-direction program may access or obtain any information in the registry relating to any person an individual in self-direction employs or is considering employing to provide direct support professional services.

(4) The office shall include security mechanisms in the registry to implement the provisions of this subdivision and to maintain a record of accessing or obtaining information from the registry by every provider entity.

(i) The commissioner shall promulgate rules and regulations reasonably necessary to implement the provisions of this section.

§ 2. This act shall take effect June 1, 2024. 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 effective date.