STATE OF NEW YORK

9252

IN ASSEMBLY

February 22, 2024

Introduced by M. of A. GRAY -- read once and referred to the Committee on Correction

AN ACT to amend the correction law and the mental hygiene law, in relation to providing medication assisted treatment for opioid use disorders to incarcerated individuals in county correctional facilities

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

Section 1. Subdivision 19 of section 45 of the correction law, as amended by chapter 486 of the laws of 2022, is amended to read as follows:

19. Establish standards and guidelines for a program of medication assisted treatment for incarcerated individuals in county jails and/or county correctional facilities [~~equivalent to the program established in state correctional facilities pursuant to section six hundred twenty-six of this chapter and submit an annual report consistent with the requirements of subdivision three of such section~~] **pursuant to section 19.18-c of the mental hygiene law**.

§ 2. Subdivision 5 of section 505 of the correction law, as added by chapter 147 of the laws of 2022, is amended to read as follows:

5. Corrections-based substance use disorder treatment and transition services. Local correctional facilities shall operate a substance use disorder treatment and transition services program pursuant to a plan approved by the commissioner of the office of addiction services and supports in accordance with section 19.18-c of the mental hygiene law **and section five hundred six of this article**.

§ 3. The correction law is amended by adding a new section 506 to read as follows:

§ 506. Medical testing for opioid use. 1. All incarcerated individuals within county correctional facilities will be medically tested for opioid use upon incarceration.

2. Such testing shall be done by an organization, agency or medical professional that is separate and independent from the providers of medication assisted treatment.

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

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3. Incarcerated individuals who test positive for opioid use shall be informed of their eligibility for medication assisted treatment in accordance with section 19.18-c of the mental hygiene law.

§ 4. Section 19.18-c of the mental hygiene law, as amended by chapter 147 of the laws of 2022, is amended to read as follows:

§ 19.18-c Corrections-based substance use disorder treatment and transition services.

1. Notwithstanding any other provision of this chapter, the commissioner, in consultation with local governmental units, county sheriffs, the New York city department of corrections and other stakeholders, shall implement a jail-based substance use disorder treatment and transition services program that supports the initiation, operation and enhancement of substance use disorder treatment and transition services for persons with substance use disorder who are incarcerated in jails.

2. The services to be provided by such program shall be in accordance with plans developed by participating local governmental units, in collaboration with county sheriffs, [~~taking into account local needs and available resources~~] **medical professionals and correctional administrators for the most effective, least costly methods**. These plans must be approved by the commissioner and shall include, but not be limited to, the following:

(a) Alcohol, benzodiazepine, heroin and opioid withdrawal management;

(b) [~~At least one formulation of every form of~~] **Such formulations of** medication assisted treatments approved for the treatment of a substance use disorder by the Federal Food and Drug Administration necessary to ensure that each individual participating in the program receives the particular form found to be the most effective**, least costly method** at treating and meeting their individual needs **while minimizing the diversion of medication within the facility**. The commissioner may allow jails a limited exemption to providing opioid full agonist treatment medications where the commissioner determines that no providers that have received the required accreditation are located within a reasonable distance of the facility. Jails that do not have the resources available to meet standards set forth herein may apply to the commissioner for a limited exception allowing such jail to enter into an agreement with a community- or jail-based program offering substance use disorder treatment and transition services to provide such services to individuals in such jails. Any such determination shall be reviewed on a regular basis;

(c) Group and individual counseling and clinical support;

(d) Peer support;

(e) Discharge planning; [~~and~~]

(f) **Behavioral therapies; and**

(g) Re-entry and transitional supports.

3. (a) After [~~a~~] medical [~~screening~~] **testing**, incarcerated individuals who are determined to suffer from a substance use disorder for which medication assisted treatment exists shall be offered placement in the medication assisted treatment program. Placement in such program shall not be mandatory.

(b) Each participating incarcerated individual shall work with an authorized specialist to develop an individualized treatment plan, including an appropriate level of counseling and planning for continuity of care upon return to the community.

(c) Decisions regarding type, dosage, or duration of any medication regimen shall be made by a qualified health care professional licensed or certified under title eight of the education law who is authorized to

administer such medication in conjunction with the incarcerated individual **and shall be done in consultation with correctional administrators for the most effective, least costly method**.

(d) Participation in the medication assisted treatment program shall not be unreasonably withheld from a qualified incarcerated individual. An incarcerated individual using medication assisted treatment prior to such individual's incarceration shall be eligible to, upon request by such individual[~~, continue such treatment in the medication assisted treatment program for any period of time during the duration of such individual's incarceration~~] **within seventy-two hours of incarceration, receive such treatment and shall continue such treatment for any period of time during the duration of incarceration at the option of such individual**.

(e) **If not actively in medication assisted treatment throughout incarceration, the individual may, within four weeks prior to such incarcerated individual's scheduled release date, participate in medication assisted treatment, provided such incarcerated individual tested positive for opioid use or was actively participating in a treatment plan prior to incarceration.**

(f) No person shall be denied participation in the program on the basis of a positive drug screening upon entering custody or upon intake into the program; nor shall any person receive a disciplinary infraction for such positive drug screening. No person shall be removed from, or denied participation in the program on the basis of having received any disciplinary infraction: (1) before entry into the program; or (2) during participation in the program.

4. Within amounts appropriated therefor, funding shall be made available pursuant to criteria established by the office of addiction services and supports in consultation with local governmental units, which shall take into consideration the local needs and resources as identified by local governmental units, the average daily jail population, the average number of persons incarcerated in the jail that require substance use disorder services and such other factors as may be deemed necessary.

5. **The office of addiction services and supports shall develop and implement a training program for correctional staff and healthcare providers necessary for the implementation of medication assisted treatment.**

6. Any jail-based substance use disorder treatment and transition services program that is already in operation at the time this act shall have become law and meets or exceeds the standards set forth in this section shall be deemed to have met the requirements of subdivisions one and two of this section. Such programs shall certify annually in writing to the commissioner that they have met or exceeded the standards set forth herein.

§ 5. This act shall take effect on the ninetieth day after it shall have become a law. Effectively 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.