

STATE OF NEW YORK

2104--A

2023-2024 Regular Sessions

IN SENATE

January 18, 2023

Introduced by Sens. HARCKHAM, ADDABBO, BROUK, GOUNARDES -- read twice and ordered printed, and when printed to be committed to the Committee on Alcoholism and Substance Abuse -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the mental hygiene law, in relation to creating the office of addiction and mental health services

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

1 Section 1. Subdivisions 2 and 2-a of section 1.03 of the mental
2 hygiene law, subdivision 2 as amended and subdivision 2-a as added by
3 chapter 281 of the laws of 2019, are amended to read as follows:

4 2. "Commissioner" means the commissioner of [~~mental health,~~
5 addiction and mental health services and the commissioner of develop-
6 mental disabilities [~~and the commissioner of addiction services and~~
7 ~~supports~~] as used in this chapter. Any power or duty heretofore assigned
8 to the commissioner of mental hygiene or to the department of mental
9 hygiene pursuant to this chapter shall hereafter be assigned to the
10 commissioner of [~~mental health~~ addiction and mental health services in
11 the case of facilities, programs, or services for individuals with
12 [~~mental illness~~] a mental health diagnosis, to the commissioner of
13 developmental disabilities in the case of facilities, programs, or
14 services for individuals with developmental disabilities, to the commis-
15 sioner of addiction [~~services~~] and [~~supports~~] mental health services in
16 the case of facilities, programs, or addiction disorder services in
17 accordance with the provisions of titles D and E of this chapter.

18 2-a. Notwithstanding any other section of law or regulation, on and
19 after the effective date of this subdivision, any and all references to
20 the office of alcoholism and substance abuse services and the predeces-
21 sor agencies to the office of alcoholism and substance abuse services
22 including the division of alcoholism and alcohol abuse and the division

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

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1 of substance abuse services and all references to the office of mental
2 health, shall be known as the "office of addiction [~~services~~] and
3 [~~supports~~] mental health services." Nothing in this subdivision shall
4 be construed as requiring or prohibiting the further amendment of stat-
5 utes or regulations to conform to the provisions of this subdivision.

6 § 2. Section 5.01 of the mental hygiene law, as amended by chapter 281
7 of the laws of 2019, is amended and two new sections 5.01-a and 5.01-b
8 are added to read as follows:

9 § 5.01 Department of mental hygiene.

10 There shall continue to be in the state government a department of
11 mental hygiene. Within the department there shall be the following
12 autonomous offices:

13 (1) office of addiction and mental health services; and

14 (2) office for people with developmental disabilities[+]

15 ~~(3) office of addiction services and supports~~].

16 § 5.01-a Office of addiction and mental health services.

17 (a) The office of addiction and mental health services shall be a new
18 office within the department formed by the integration of the offices
19 and services of mental health and addiction services and supports which
20 shall focus on the integration of care and issues related to both mental
21 illness and addiction in the state and carry out the intent of the
22 legislature in establishing the offices pursuant to articles seven and
23 nineteen of this chapter. The office of addiction and mental health
24 services is charged with ensuring the development of comprehensive plans
25 for the integration of programs and services in the area of research,
26 prevention, care and treatment, co-occurring disorders, rehabilitation,
27 education and training, and shall be staffed to perform the responsibil-
28 ities attributed to the office pursuant to sections 7.07 and 19.07 of
29 this chapter and provide integrated services and programs to promote
30 recovery for individuals with a mental health diagnosis, substance use
31 disorder, or a mental health diagnosis and substance use disorder.

32 (b) The commissioner of the office of addiction and mental health
33 services shall be vested with the powers, duties, and obligations of the
34 office of mental health and the office of addiction services and
35 supports. Additionally, two deputy commissioners shall be appointed,
36 one deputy commissioner to represent addiction services and supports,
37 which shall be prominently represented to ensure the needs of substance
38 use disorder communities are met, and one deputy commissioner to repre-
39 sent mental health services. In conjunction with one another, the
40 commissioners shall develop a plan for integrating services which shall
41 be made available for public comment.

42 (c) The office of addiction and mental health services may license
43 providers to provide integrated services for individuals with a mental
44 health diagnosis, substance use disorder, or a mental health diagnosis
45 and substance use disorder, in accordance with regulations issued by the
46 commissioner. Such direct licensing mechanism allows for resources to
47 get to community-based organizations in an expedited manner.

48 (d) The office of addiction and mental health services shall establish
49 a standing advisory committee on addiction and mental health services.
50 The standing advisory committee shall consist of seven members appointed
51 by the governor as follows: (i) two members appointed on the recommenda-
52 tion of the temporary president of the senate; (ii) two members
53 appointed on the recommendation of the speaker of the assembly; (iii)
54 one member appointed on the recommendation of the minority leader of the
55 senate; (iv) one member appointed on the recommendation of the minority
56 leader of the assembly; and (v) one member appointed on the recommenda-

1 tion of the department of health AIDS institute, the office of mental
2 health and the office of addiction services and supports to ensure the
3 intent of the legislature is fulfilled in establishing the integration
4 of services by such office. Such standing advisory committee shall
5 consist of providers, peers, family members, individuals who have
6 utilized addiction services and supports and/or mental health services,
7 the local government unit as defined in article forty-one of this chap-
8 ter, public and private sector unions and representatives of other agen-
9 cies or offices as the designated standing advisory committee may deem
10 necessary. Such standing advisory committee shall meet regularly in
11 furtherance of its functions and at any other time at the request of the
12 designated standing advisory committee leader.

13 § 5.01-b Office of addiction and mental health services; composition of
14 office.

15 Until January first, two thousand twenty-five, the office of addiction
16 and mental health services shall consist of the office of mental health
17 and the office of addiction services and supports.

18 § 3. Section 5.03 of the mental hygiene law, as amended by chapter 281
19 of the laws of 2019, is amended to read as follows:

20 § 5.03 Commissioners.

21 The head of the office of addiction and mental health services shall
22 be the commissioner of [~~mental health~~] addiction and mental health
23 services; and the head of the office for people with developmental disa-
24 bilities shall be the commissioner of developmental disabilities[~~, and~~
25 ~~the head of the office of addiction services and supports shall be the~~
26 ~~commissioner of addiction services and supports~~]. Each commissioner
27 shall be appointed by the governor, by and with the advice and consent
28 of the senate, to serve at the pleasure of the governor. Until the
29 commissioner of addiction and mental health services is appointed by the
30 governor and confirmed by the senate, the commissioner of mental health
31 and the commissioner of addiction services and supports shall continue
32 to oversee mental health and addiction services respectively, and work
33 collaboratively to integrate care for individuals with both mental
34 health and substance use disorders.

35 § 4. Section 5.05 of the mental hygiene law, as added by chapter 978
36 of the laws of 1977, subdivision (a) as amended by chapter 168 of the
37 laws of 2010, subdivision (b) as amended by chapter 294 of the laws of
38 2007, paragraph 1 of subdivision (b) as amended by section 14 of part J
39 of chapter 56 of the laws of 2012, subdivision (d) as added by chapter
40 58 of the laws of 1988 and subdivision (e) as added by chapter 588 of
41 the laws of 2011, is amended to read as follows:

42 § 5.05 Powers and duties of the head of the department.

43 (a) The commissioners of the office of addiction and mental health
44 services and the office for people with developmental disabilities, as
45 the heads of the department, shall jointly visit and inspect, or cause
46 to be visited and inspected, all facilities either public or private
47 used for the care, treatment [~~and~~], rehabilitation, and recovery of
48 individuals with a mental [~~illness~~] health diagnosis, substance use
49 disorder and developmental disabilities in accordance with the require-
50 ments of section four of article seventeen of the New York state consti-
51 tution.

52 (b) (1) The commissioners of the office of addiction and mental
53 health[~~7~~] services and the office for people with developmental disabil-
54 ities [~~and the office of alcoholism and substance abuse services~~] shall
55 constitute an inter-office coordinating council which, consistent with
56 the autonomy of each office for matters within its jurisdiction, shall

1 ensure that the state policy for the prevention, care, treatment [~~and~~],
2 rehabilitation, and recovery of individuals with a mental [~~illness~~]
3 health diagnosis, substance use disorders and developmental disabili-
4 ties [~~, alcoholism, alcohol abuse, substance abuse, substance dependence,~~
5 ~~and chemical dependence~~] is planned, developed and implemented compre-
6 hensively; that gaps in services to individuals with multiple disabili-
7 ties are eliminated and that no person is denied treatment and services
8 because [~~he or she has~~] they have more than one disability; that proce-
9 dures for the regulation of programs which offer care and treatment for
10 more than one class of persons with mental disabilities be coordinated
11 between the offices having jurisdiction over such programs; and that
12 research projects of the institutes, as identified in section 7.17 [~~or~~],
13 13.17, or 19.17 of this chapter or as operated by the office for people
14 with developmental disabilities, are coordinated to maximize the success
15 and cost effectiveness of such projects and to eliminate wasteful dupli-
16 cation.

17 (2) The inter-office coordinating council shall annually issue a
18 report on its activities to the legislature on or before December thir-
19 ty-first. Such annual report shall include, but not be limited to, the
20 following information: proper treatment models and programs for persons
21 with multiple disabilities and suggested improvements to such models and
22 programs; research projects of the institutes and their coordination
23 with each other; collaborations and joint initiatives undertaken by the
24 offices of the department; consolidation of regulations of each of the
25 offices of the department to reduce regulatory inconsistencies between
26 the offices; inter-office or office activities related to workforce
27 training and development; data on the prevalence, availability of
28 resources and service utilization by persons with multiple disabilities;
29 eligibility standards of each office of the department affecting clients
30 suffering from multiple disabilities, and eligibility standards under
31 which a client is determined to be an office's primary responsibility;
32 agreements or arrangements on statewide, regional and local government
33 levels addressing how determinations over client responsibility are made
34 and client responsibility disputes are resolved; information on any
35 specific cohort of clients with multiple disabilities for which substan-
36 tial barriers in accessing or receiving appropriate care has been
37 reported or is known to the inter-office coordinating council or the
38 offices of the department; and coordination of planning, standards or
39 services for persons with multiple disabilities between the inter-office
40 coordinating council, the offices of the department and local govern-
41 ments in accordance with the local planning requirements set forth in
42 article forty-one of this chapter.

43 (c) The commissioners shall meet from time to time with the New York
44 state conference of local mental hygiene directors to assure consistent
45 procedures in fulfilling the responsibilities required by this section
46 and by article forty-one of this chapter.

47 (d) [~~1-~~] (1) The commissioner of addiction and mental health services
48 shall evaluate the type and level of care required by patients in the
49 adult psychiatric centers authorized by section 7.17 of this chapter and
50 develop appropriate comprehensive requirements for the staffing of inpa-
51 tient wards. These requirements should reflect measurable need for
52 administrative and direct care staff including physicians, nurses and
53 other clinical staff, direct and related support and other support
54 staff, established on the basis of sound clinical judgment. The staffing
55 requirements shall include but not be limited to the following: (i) the
56 level of care based on patient needs, including on ward activities, (ii)

1 the number of admissions, (iii) the geographic location of each facility,
2 ty, (iv) the physical layout of the campus, and (v) the physical design
3 of patient care wards.

4 [~~2-~~] (2) Such commissioner, in developing the requirements, shall
5 provide for adequate ward coverage on all shifts taking into account the
6 number of individuals expected to be off the ward due to sick leave,
7 workers' compensation, mandated training and all other off ward leaves.

8 [~~3-~~] (3) The staffing requirements shall be designed to reflect the
9 legitimate needs of facilities so as to ensure full accreditation and
10 certification by appropriate regulatory bodies. The requirements shall
11 reflect appropriate industry standards. The staffing requirements shall
12 be fully measurable.

13 [~~4-~~] (4) The commissioner of addiction and mental health services
14 shall submit an interim report to the governor and the legislature on
15 the development of the staffing requirements on October first, [~~nineteen~~
16 ~~hundred eighty-eight~~] two thousand twenty-four and again on April first,
17 [~~nineteen hundred eighty-nine~~] two thousand twenty-five. The commissioner
18 shall submit a final report to the governor and the legislature no
19 later than October first, [~~nineteen hundred eighty-nine~~] two thousand
20 twenty-five and shall include in [~~his~~] their report a plan to achieve
21 the staffing requirements and the length of time necessary to meet these
22 requirements.

23 (e) The commissioners of the office of addiction and mental health[~~7~~]
24 services and the office for people with developmental disabilities[~~7~~ and
25 ~~the office of alcoholism and substance abuse services~~] shall cause to
26 have all new contracts with agencies and providers licensed by the
27 offices to have a clause requiring notice be provided to all current and
28 new employees of such agencies and providers stating that all instances
29 of abuse shall be investigated pursuant to this chapter, and, if an
30 employee leaves employment prior to the conclusion of a pending abuse
31 investigation, the investigation shall continue. Nothing in this section
32 shall be deemed to diminish the rights, privileges, or remedies of any
33 employee under any other law or regulation or under any collective
34 bargaining agreement or employment contract.

35 § 5. Section 7.01 of the mental hygiene law, as added by chapter 978
36 of the laws of 1977, is amended to read as follows:

37 § 7.01 Declaration of policy.

38 The state of New York and its local governments have a responsibility
39 for the prevention and early detection of mental [~~illness~~] health disor-
40 ders and for the comprehensively planned care, treatment [~~and~~], rehabil-
41 itation and recovery of [~~their mentally ill citizens~~] individuals with a
42 mental health diagnosis.

43 Therefore, it shall be the policy of the state to conduct research and
44 to develop programs which further prevention and early detection of
45 mental [~~illness~~] health disorders; to develop a comprehensive, inte-
46 grated system of treatment [~~and~~], rehabilitative and recovery services
47 for [~~the mentally ill~~] individuals with a mental health diagnosis. Such
48 a system should include, whenever possible, the provision of necessary
49 treatment services to people in their home communities; it should assure
50 the adequacy and appropriateness of residential arrangements for people
51 in need of service; and it should rely upon improved programs of insti-
52 tutional care only when necessary and appropriate. Further, such a
53 system should recognize the important therapeutic roles of all disci-
54 plines which may contribute to the care or treatment of [~~the mentally~~
55 ~~ill~~] individuals with a mental health diagnosis, such as psychology,
56 social work, psychiatric nursing, special education and other disci-

1 plines in the field of mental illness, as well as psychiatry and should
2 establish accountability for implementation of the policies of the state
3 with regard to the care [~~and~~], rehabilitation and recovery of [~~the~~
4 ~~mentally ill~~] individuals with a mental health diagnosis.

5 To facilitate the implementation of these policies and to further
6 advance the interests of [~~the mentally ill~~] individuals with a mental
7 health diagnosis and their families, a new autonomous agency to be known
8 as the office of addiction and mental health services has been estab-
9 lished by this article. The office and its commissioner shall plan and
10 work with local governments, voluntary agencies and all providers and
11 consumers of mental health services in order to develop an effective,
12 integrated, comprehensive system for the delivery of all services to
13 [~~the mentally ill~~] individuals with a mental health diagnosis and to
14 create financing procedures and mechanisms to support such a system of
15 services to ensure that [~~mentally ill~~] persons in need of services
16 receive appropriate care, treatment and rehabilitation close to their
17 families and communities. In carrying out these responsibilities, the
18 office and its commissioner shall make full use of existing services in
19 the community including those provided by voluntary organizations.

20 § 6. Section 19.01 of the mental hygiene law, as added by chapter 223
21 of the laws of 1992, is amended to read as follows:

22 § 19.01 Declaration of policy.

23 The legislature declares the following:

24 [~~Alcoholism~~] Unhealthy alcohol use, substance [~~abuse~~] use disorder and
25 chemical dependence pose major health and social problems for individ-
26 uals and their families when left untreated, including family devas-
27 tation, homelessness, [~~and~~] unemployment, and death. It has been proven
28 that successful prevention [~~and~~], integrated treatment, and sustained
29 recovery can dramatically reduce costs to the health care, criminal
30 justice and social welfare systems.

31 The tragic, cumulative and often fatal consequences of [~~alcoholism~~]
32 unhealthy alcohol use and substance [~~abuse~~] use disorder are, however,
33 preventable and treatable disabilities that require a coordinated and
34 multi-faceted network of services.

35 The legislature recognizes locally planned and implemented prevention
36 as a primary means to avert the onset of [~~alcoholism~~] unhealthy alcohol
37 use and substance [~~abuse~~] use disorder. It is the policy of the state to
38 promote comprehensive, age appropriate education for children and youth
39 and stimulate public awareness of the risks associated with [~~alcoholism~~]
40 unhealthy alcohol use and substance [~~abuse~~] use disorder. Further, the
41 legislature acknowledges the need for a coordinated state policy for the
42 establishment of prevention [~~and~~], treatment, and recovery programs
43 designed to address the problems of chemical dependency among youth,
44 including prevention and intervention efforts in school and community-
45 based programs designed to identify and refer high risk youth in need of
46 chemical dependency services.

47 Substantial benefits can be gained through [~~alcoholism~~] unhealthy
48 alcohol use and substance [~~abuse~~] use disorder treatment for both
49 addicted individuals and their families. Positive treatment outcomes
50 that may be generated through a complete continuum of care offer a cost
51 effective and comprehensive approach to [~~rehabilitating~~] treating such
52 individuals. The primary goals of the [~~rehabilitation~~] treatment and
53 recovery process are to [~~restore~~] rebuild social, family, lifestyle,
54 vocational and economic supports by stabilizing an individual's physical
55 and psychological functioning. The legislature recognizes the impor-
56 tance of varying treatment approaches and levels of care designed to

1 meet each [~~elient's~~] individual's needs. [~~Relapse~~] Reoccurrence
2 prevention and aftercare are two primary components of treatment that
3 serve to promote and maintain recovery.

4 The legislature recognizes that the distinct treatment needs of
5 special populations, including women and women with children, persons
6 with HIV infection, persons [~~diagnosed~~] with a mental [~~illness~~] health
7 diagnosis, persons who [~~abuse~~] misuse chemicals, the homeless and veter-
8 ans with posttraumatic stress disorder, merit particular attention. It
9 is the intent of the legislature to promote effective interventions for
10 such populations in need of particular attention. The legislature also
11 recognizes the importance of family support for individuals in alcohol
12 or substance [~~abuse~~] use disorder treatment and recovery. Such family
13 participation can provide lasting support to the recovering individual
14 to [~~prevent relapse and maintain~~] support sustained recovery. The inter-
15 generational cycle of chemical dependency within families can be inter-
16 cepted through appropriate interventions.

17 The state of New York and its local governments have a responsibility
18 in coordinating the delivery of [~~alcoholism~~] unhealthy alcohol use and
19 substance [~~abuse~~] use disorder services, through the entire network of
20 service providers. To accomplish these objectives, the legislature
21 declares that the establishment of a single, unified office of [~~alcohol-~~
22 ~~ism and substance abuse~~] addiction and mental health services will
23 provide an integrated framework to plan, oversee and regulate the
24 state's prevention and treatment network. In recognition of the growing
25 trends and incidence of chemical dependency, this consolidation allows
26 the state to respond to the changing profile of chemical dependency.
27 The legislature recognizes that some distinctions exist between the
28 [~~alcoholism~~] unhealthy alcohol use and substance [~~abuse~~] use disorder
29 field and the mental health field and where appropriate, those
30 distinctions may be preserved. Accordingly, it is the intent of the
31 state to establish one office of [~~alcoholism and substance abuse~~]
32 addiction and mental health services in furtherance of a comprehensive
33 service delivery system.

34 § 7. Upon or prior to January 1, 2025, the governor may nominate an
35 individual to serve as commissioner of the office of addiction and
36 mental health services. If such individual is confirmed by the senate
37 prior to January 1, 2025, they shall become the commissioner of the
38 office of addiction and mental health services. The governor may desig-
39 nate a person to exercise the powers of the commissioner of the office
40 of addiction and mental health services on an acting basis, until
41 confirmation of a nominee by the senate, who is hereby authorized to
42 take such actions as are necessary and proper to implement the orderly
43 transition of the functions, powers and duties as herein provided,
44 including the preparation for a budget request for the office as estab-
45 lished by this act.

46 § 8. Upon the transfer pursuant to this act of the functions and
47 powers possessed by and all of the obligations and duties of the office
48 of mental health and the office of addiction services and supports as
49 established pursuant to the mental hygiene law and other laws, to the
50 office of addiction and mental health services as prescribed by this
51 act, provision shall be made for the transfer of all employees from the
52 office of mental health and the office of addiction services and
53 supports into the office of addiction and mental health services.
54 Employees so transferred shall be transferred without further examina-
55 tion or qualification to the same or similar titles and shall remain in
56 the same collective bargaining units and shall retain their respective

1 civil service classifications, status, and rights pursuant to their
2 collective bargaining units and collective bargaining agreements.

3 § 9. Notwithstanding any contrary provision of law, on or before Octo-
4 ber 1, 2024 and annually thereafter, the office of addiction and mental
5 health services, in consultation with the department of health, shall
6 issue a report, and post such report on their public website, detailing
7 the office's expenditures for addiction and mental health services,
8 including total Medicaid spending directly by the state to licensed or
9 designated providers and payments to managed care providers pursuant to
10 section 364-j of the social services law. The office of addiction and
11 mental health services shall examine reports produced pursuant to this
12 section and may make recommendations to the governor and the legislature
13 regarding appropriations for addiction and mental health services or
14 other provisions of law which may be necessary to effectively implement
15 the creation and continued operation of the office.

16 § 10. Any financial saving realized from the creation of the office of
17 addiction and mental health services shall be reinvested in the services
18 and supports funded by such office.

19 § 11. Severability. If any clause, sentence, paragraph, section or
20 part of this act shall be adjudged by any court of competent jurisdic-
21 tion to be invalid, such judgment shall not affect, impair or invalidate
22 the remainder thereof, but shall be confined in its operation to the
23 clause, sentence, paragraph, section or part thereof directly involved
24 in the controversy in which such judgment shall have been rendered.

25 § 12. This act shall take effect immediately. Effective immediately,
26 the office of mental health and the office of addiction services and
27 supports are authorized to promulgate the addition, amendment and/or
28 repeal of any rule or regulation or engage in any work necessary for the
29 implementation of this act on its effective date authorized to be made
30 and completed on or before such effective date.