

# STATE OF NEW YORK

2704

2023-2024 Regular Sessions

## IN SENATE

January 24, 2023

Introduced by Sen. HARCKHAM -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the social services law, the public health law and the mental hygiene law, in relation to setting comprehensive outpatient services

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

1 Section 1. This act shall be known and may be cited as the "comprehen-  
2 sive outpatient services act of 2023".

3 § 2. Section 364-m of the social services law is amended by adding a  
4 new subdivision 6 to read as follows:

5 6. Comprehensive outpatient services centers. (a) Definitions. For  
6 the purpose of this article, unless the context clearly requires other-  
7 wise:

8 (i) "Mental health services" means services for the treatment of  
9 mental illness.

10 (ii) "Addiction services" means services for the treatment of  
11 addiction disorders.

12 (iii) "Comprehensive outpatient services" means the systematic coordi-  
13 nation of evidence-based health care services, to include the preventa-  
14 tive, diagnostic, therapeutic and rehabilitative care and treatment of  
15 mental illness, addiction and the provision of physical health services,  
16 otherwise provided by a diagnostic and treatment center or general  
17 hospital outpatient program pursuant to article twenty-eight of the  
18 public health law, a mental health clinic licensed pursuant to article  
19 thirty-one of the mental hygiene law, or an addiction provider certified  
20 pursuant to article thirty-two of the mental hygiene law to an individ-  
21 ual seeking services regardless of their primary diagnosis or health  
22 complaint; provided, however, that the scope of such services may be  
23 restricted pursuant to regulation.

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

LBD07092-01-3

1 (iv) "Comprehensive outpatient services centers" means a facility  
2 approved in accordance with this section to provide comprehensive outpa-  
3 tient services in order to promote health and better outcomes for the  
4 recipient, particularly for populations at risk.

5 (v) "Medical director" is a physician who is responsible for the  
6 services delivered by the comprehensive outpatient services provider,  
7 for the overall direction of the services provided and the direct super-  
8 vision of medical staff in the delivery of services.

9 (vi) "Physical health services" means services provided by a physi-  
10 cian, physician's assistant, nurse practitioner, or midwife acting with-  
11 in his or her lawful scope of practice under title eight of the educa-  
12 tion law and who is practicing in a primary care specialty.

13 (b) Notwithstanding any law, rule, or regulation to the contrary, the  
14 commissioners of the department of health, the office of mental health,  
15 and the office of addiction services and supports are authorized to  
16 jointly establish a single set of licensing standards and requirements  
17 for the construction, operation, reporting and surveillance of compre-  
18 hensive outpatient services centers. Such standards and requirements  
19 shall include, but not be limited to:

20 (i) scope of comprehensive outpatient services;

21 (ii) creation of an efficient application review process for compre-  
22 hensive outpatient services centers;

23 (iii) facilitation of integrated treatment records that comply with  
24 applicable federal and state confidentiality requirements;

25 (iv) optimal use of clinical resources, including the development of a  
26 workforce capable of providing comprehensive care to an individual  
27 utilizing evidence-based approaches to integrated treatment;

28 (v) development of billing and reimbursement structures to enable the  
29 provision of comprehensive services to individuals regardless of their  
30 primary diagnosis or healthcare complaint;

31 (vi) reasonable physical plant standards to foster proper care and  
32 treatment;

33 (vii) standards for incident reporting and remediation pursuant to  
34 article eleven of the social services law; and

35 (viii) standards for adverse event reporting, provided however that  
36 any such adverse event reports shall be kept confidential and shall not  
37 be subject to disclosure under article six of the public officers law or  
38 article thirty-one of the civil practice law and rules.

39 (c) A provider shall not be authorized to provide comprehensive outpa-  
40 tient services unless they have sufficiently demonstrated, consistent  
41 with the standards and requirements set forth by the commissioners:

42 (i) experience in the delivery of physical, mental health, and  
43 addiction services;

44 (ii) capacity to offer comprehensive outpatient services in each  
45 comprehensive outpatient services center approved by each of the commis-  
46 sioners of the department of health, the office of mental health, and  
47 the office of addiction services and supports; and

48 (iii) compliance with standards established pursuant to this section  
49 for providing and receiving payment for comprehensive outpatient  
50 services.

51 (d) Notwithstanding any provision of law to the contrary, for the  
52 purposes of this subdivision, comprehensive outpatient service providers  
53 shall be considered contracted, approved or otherwise authorized by the  
54 office of addiction services and supports and the office of mental  
55 health for the purpose of sections 19.20, 19.20-a, and 31.35 of the  
56 mental hygiene law, as may be applicable. Providers shall be required to

1 comply with the review of criminal history information, as required in  
2 such sections, for prospective employees or volunteers who will have  
3 regular and substantial unsupervised or unrestricted physical contact  
4 with the clients of such provider.

5 (e) The commissioners of the department of health, the office of  
6 mental health, and the office of addiction services and supports are  
7 authorized to promulgate any regulatory requirements necessary to imple-  
8 ment comprehensive outpatient services centers consistent with this  
9 section, including amending existing requirements.

10 § 3. Subdivision 4 of section 488 of the social services law is  
11 amended by adding a new paragraph (a-1) to read as follows:

12 (a-1) a comprehensive outpatient services center which is licensed, or  
13 certified by section three hundred sixty-four-m of this chapter,  
14 provided however that such term shall not include the provision of phys-  
15 ical health services rendered in such facility or program;

16 § 4. Subdivision 1 of section 2801 of the public health law, as  
17 amended by section 1 of part Z of chapter 57 of the laws of 2019, is  
18 amended to read as follows:

19 1. "Hospital" means a facility or institution engaged principally in  
20 providing services by or under the supervision of a physician or, in the  
21 case of a dental clinic or dental dispensary, of a dentist, or, in the  
22 case of a midwifery birth center, of a midwife, for the prevention,  
23 diagnosis or treatment of human disease, pain, injury, deformity or  
24 physical condition, including, but not limited to, a general hospital,  
25 public health center, diagnostic center, treatment center, dental clin-  
26 ic, dental dispensary, rehabilitation center other than a facility used  
27 solely for vocational rehabilitation, nursing home, tuberculosis hospi-  
28 tal, chronic disease hospital, maternity hospital, midwifery birth  
29 center, lying-in-asylum, out-patient department, out-patient lodge,  
30 dispensary and a laboratory or central service facility serving one or  
31 more such institutions, but the term hospital shall not include an  
32 institution, sanitarium or other facility engaged principally in provid-  
33 ing services for the prevention, diagnosis or treatment of mental disa-  
34 bility and which is subject to the powers of visitation, examination,  
35 inspection and investigation of the department of mental hygiene except  
36 for those distinct parts of such a facility which provide hospital  
37 service. The provisions of this article shall not apply to a facility or  
38 institution engaged principally in providing services by or under the  
39 supervision of the bona fide members and adherents of a recognized reli-  
40 gious organization whose teachings include reliance on spiritual means  
41 through prayer alone for healing in the practice of the religion of such  
42 organization and where services are provided in accordance with those  
43 teachings. No provision of this article or any other provision of law  
44 shall be construed to: (a) limit the volume of primary care services  
45 that can be provided by comprehensive outpatient services centers, as  
46 defined in section three hundred sixty-four-m of the social services  
47 law; (b) limit the volume of mental health, substance use disorder  
48 services or developmental disability services that can be provided by a  
49 provider of primary care services licensed under this article and  
50 authorized to provide integrated services in accordance with regulations  
51 issued by the commissioner in consultation with the commissioner of the  
52 office of mental health, the commissioner of the office of [~~alcoholism~~  
53 ~~and substance abuse services~~] addiction services and supports and the  
54 commissioner of the office for people with developmental disabilities,  
55 including regulations issued pursuant to subdivision seven of section  
56 three hundred sixty-five-1 of the social services law or part L of chap-

1 ter fifty-six of the laws of two thousand twelve; [~~(b)~~] (c) require a  
2 provider licensed pursuant to article thirty-one of the mental hygiene  
3 law or certified pursuant to article sixteen or article thirty-two of  
4 the mental hygiene law to obtain an operating certificate from the  
5 department if such provider has been authorized to provide integrated  
6 services in accordance with regulations issued by the commissioner in  
7 consultation with the commissioner of the office of mental health, the  
8 commissioner of the office of [~~alcoholism and substance abuse services~~]  
9 addiction services and supports and the commissioner of the office for  
10 people with developmental disabilities, including regulations issued  
11 pursuant to subdivision seven of section three hundred sixty-five-1 of  
12 the social services law or part L of chapter fifty-six of the laws of  
13 two thousand twelve.

14 § 5. Subdivision (f) of section 31.02 of the mental hygiene law, as  
15 amended by section 2 of part Z of chapter 57 of the laws of 2019, is  
16 amended to read as follows:

17 (f) No provision of this article or any other provision of law shall  
18 be construed to require a provider licensed pursuant to article twenty-  
19 eight of the public health law or certified pursuant to article sixteen  
20 or article thirty-two of this chapter to obtain an operating certificate  
21 from the office of mental health if such provider has been authorized to  
22 provide integrated services in accordance with regulations issued by the  
23 commissioner of the office of mental health in consultation with the  
24 commissioner of the department of health, the commissioner of the office  
25 of [~~alcoholism and substance abuse services~~] addiction services and  
26 supports and the commissioner of the office for people with develop-  
27 mental disabilities, including regulations issued pursuant to subdivi-  
28 sion seven of section three hundred sixty-five-1 of the social services  
29 law or part L of chapter fifty-six of the laws of two thousand twelve.  
30 Furthermore, except as provided in paragraph (d) of subdivision six of  
31 section three hundred sixty-four-m of the social services law, no  
32 provision of this article or any other provision of law shall be  
33 construed to limit the volume of mental health services that can be  
34 provided by comprehensive outpatient services centers, as defined in  
35 section three hundred sixty-four-m of the social services law.

36 § 6. Subdivision (b) of section 32.05 of the mental hygiene law, as  
37 amended by section 3 of part Z of chapter 57 of the laws of 2019, is  
38 amended to read as follows:

39 (b) (i) Methadone, or such other controlled substance designated by  
40 the commissioner of health as appropriate for such use, may be adminis-  
41 tered to an addict, as defined in section thirty-three hundred two of  
42 the public health law, by individual physicians, groups of physicians  
43 and public or private medical facilities certified pursuant to article  
44 twenty-eight or thirty-three of the public health law as part of a chem-  
45 ical dependence program which has been issued an operating certificate  
46 by the commissioner pursuant to subdivision (b) of section 32.09 of this  
47 article, provided, however, that such administration must be done in  
48 accordance with all applicable federal and state laws and regulations.  
49 Individual physicians or groups of physicians who have obtained authori-  
50 zation from the federal government to administer buprenorphine to  
51 addicts may do so without obtaining an operating certificate from the  
52 commissioner. (ii) No provision of this article or any other provision  
53 of law shall be construed to require a provider licensed pursuant to  
54 article twenty-eight of the public health law, article thirty-one of  
55 this [~~chapter~~] title or a provider certified pursuant to article sixteen  
56 of this chapter to obtain an operating certificate from the office of

1 [~~alcoholism and substance abuse services~~] addiction services and  
2 supports if such provider has been authorized to provide integrated  
3 services in accordance with regulations issued by the commissioner of  
4 [~~alcoholism and substance abuse services~~] addiction services and  
5 supports in consultation with the commissioner of the department of  
6 health, the commissioner of the office of mental health and the commis-  
7 sioner of the office for people with developmental disabilities, includ-  
8 ing regulations issued pursuant to subdivision seven of section three  
9 hundred sixty-five-1 of the social services law or part L of chapter  
10 fifty-six of the laws of two thousand twelve. Furthermore, except as  
11 provided in paragraph (d) of subdivision six of section three hundred  
12 sixty-four-m of the social services law, no provision of this article or  
13 any other provision of law shall be construed to limit the volume of  
14 addiction services that can be provided by comprehensive outpatient  
15 services centers, as defined in section three hundred sixty-four-m of  
16 the social services law.

17 § 7. This act shall take effect January 1, 2024; provided, however,  
18 that the amendments to section 364-m of the social services law made by  
19 section two of this act shall not affect the repeal of such section and  
20 shall be deemed to repeal therewith. Effective immediately, the commis-  
21 sioner of the department of health, the commissioner of the office of  
22 mental health and the commissioner of the office of addiction services  
23 and supports are authorized to issue any rule or regulation necessary  
24 for the implementation of this act on or before its effective date.