

# STATE OF NEW YORK

3528--A

2023-2024 Regular Sessions

## IN SENATE

January 31, 2023

Introduced by Sen. FERNANDEZ -- 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 setting standards for addiction professionals

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

1 Section 1. Section 19.07 of the mental hygiene law, as added by chap-  
2 ter 223 of the laws of 1992, subdivisions (a) and (g) as amended by  
3 chapter 271 of the laws of 2010, subdivisions (b) and (c) as amended by  
4 chapter 281 of the laws of 2019, subdivision (d) as amended by section 5  
5 of part I of chapter 58 of the laws of 2005 and the opening paragraph of  
6 paragraph 1 of subdivision (d) as amended by chapter 449 of the laws of  
7 2021, subdivision (e) as amended by chapter 558 of the laws of 1999,  
8 subdivision (f) as added by chapter 383 of the laws of 1998, subdivision  
9 (h) as separately amended by chapters 322 and 494 of the laws of 2021,  
10 subdivision (i) as amended by section 31-a of part AA of chapter 56 of  
11 the laws of 2019, subdivision (j) as amended by chapter 146 of the laws  
12 of 2014, subdivision (k) as added by chapter 40 of the laws of 2014,  
13 subdivision (l) as added by chapter 323 of the laws of 2018, subdivision  
14 (m) as added by chapter 493 of the laws of 2019, subdivision (n) as  
15 added by chapter 190 of the laws of 2021 and subdivision (n) as added by  
16 chapter 762 of the laws of 2022, is amended to read as follows:

17 § 19.07 Office of [~~alcoholism and substance abuse services~~] addiction  
18 services and supports; scope of responsibilities.

19 (a) The office of [~~alcoholism and substance abuse services~~] addiction  
20 services and supports is charged with the responsibility for assuring  
21 the development of comprehensive plans, programs, and services in the  
22 areas of research, prevention, care, treatment, rehabilitation, includ-  
23 ing relapse prevention and recovery maintenance, education, and training

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

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1 of persons who [~~abuse or are dependent on alcohol and/or substances~~]  
2 have or are at risk of an addictive disorder and their families. The  
3 term addictive disorder shall include compulsive gambling education,  
4 prevention and treatment consistent with section 41.57 of this chapter.  
5 Such plans, programs, and services shall be developed with the cooper-  
6 ation of the office, the other offices of the department where appropri-  
7 ate, local governments, consumers and community organizations and enti-  
8 ties. The office shall provide appropriate facilities and shall  
9 encourage the provision of facilities by local government and community  
10 organizations and entities. [~~The office is also responsible for develop-~~  
11 ~~ing plans, programs and services related to compulsive gambling educa-~~  
12 ~~tion, prevention and treatment consistent with section 41.57 of this~~  
13 ~~chapter.~~]

14 (b) The office of [~~alcoholism and substance abuse services~~] addiction  
15 services and supports shall advise and assist the governor in improving  
16 services and developing policies designed to meet the needs of persons  
17 who suffer from or are at risk of an addictive disorder and their fami-  
18 lies, and to encourage their rehabilitation, maintenance of recovery,  
19 and functioning in society.

20 (c) The office of [~~alcoholism and substance abuse services~~] addiction  
21 services and supports shall have the responsibility for seeing that  
22 persons who suffer from or are at risk of an addictive disorder and  
23 their families are provided with addiction services, care and treatment,  
24 and that such services, care, treatment and rehabilitation is of high  
25 quality and effectiveness, and that the personal and civil rights of  
26 persons seeking and receiving addiction services, care, treatment and  
27 rehabilitation are adequately protected.

28 (d) The office of [~~alcoholism and substance abuse services~~] addiction  
29 services and supports shall foster programs for the training and devel-  
30 opment of persons capable of providing the foregoing services, including  
31 but not limited to a process of issuing, either directly or through  
32 contract, licenses, credentials, certificates or authorizations for  
33 [~~alcoholism and substance abuse counselors or gambling~~] addiction [~~coun-~~  
34 ~~selors~~] professionals in accordance with the following:

35 (1) The office shall establish minimum qualifications [~~for counselors~~]  
36 and a definition of the practice of the profession of an addiction  
37 professional in all phases of delivery of services to persons and their  
38 families who are suffering from [~~alcohol and/or substance abuse and/or~~  
39 ~~chemical dependence and/or compulsive gambling that shall include~~] or  
40 are at risk of an addictive disorder including, but not be limited to,  
41 completion of approved courses of study or equivalent on-the-job experi-  
42 ence in [~~alcoholism and substance abuse counseling and/or counseling of~~  
43 ~~compulsive gambling~~] addiction disorder services. Such approved courses  
44 of study or equivalent on-the-job experience shall include: providing  
45 trauma-informed, patient-centered care; referring individuals to appro-  
46 priate treatments for co-occurring disorders; and sensitivity training.  
47 Such courses shall be updated as needed to reflect evolving best prac-  
48 tices in harm reduction, treatment and long-term recovery. For the  
49 purposes of this paragraph, sensitivity training shall mean a form of  
50 training with the goal of making people more aware of their own preju-  
51 dices and more sensitive to others.

52 (i) The office shall establish procedures for issuing, directly or  
53 through contract, licenses, credentials, certificates or authorizations  
54 to [~~counselors~~] addiction professionals who meet minimum qualifications,  
55 including the establishment of appropriate fees, and shall further  
56 establish procedures to suspend, revoke, or annul such licenses, creden-

1 tials, certificates or authorizations for good cause. Such procedures  
2 shall be promulgated by the commissioner by rule or regulation.

3 (ii) The commissioner shall establish [~~a-credentialing~~] an addiction  
4 professionals board which shall provide advice concerning the licensing,  
5 credentialing, certification or authorization process.

6 (iii) The commissioner shall establish fees for the education, train-  
7 ing, licensing, credentialing, certification or authorization of  
8 addiction professionals.

9 (2) The establishment, with the advice of the advisory council on  
10 alcoholism and substance abuse services, of minimum qualifications for  
11 [~~counselors~~] addiction professionals in all phases of delivery of  
12 services to those suffering from [~~alcoholism, substance and/or chemical~~  
13 ~~abuse and/or dependence and/or compulsive gambling~~] or at risk of addic-  
14 tive disorders and their families that shall include, but not be limited  
15 to, completion of approved courses of study or equivalent on-the-job  
16 experience in [~~counseling for alcoholism, substance and/or chemical~~  
17 ~~abuse and/or dependence~~] addiction disorder services and/or [~~compulsive~~  
18 gambling disorder services, and establish appropriate fees, issue  
19 licenses, credentials, certificates or authorizations to [~~counselors~~]  
20 addiction professionals who meet minimum qualifications and suspend,  
21 revoke, or annul such licenses, credentials, certificates or authori-  
22 zations for good cause in accordance with procedures promulgated by the  
23 commissioner by rule or regulation.

24 (3) For the purpose of this title, the term "addiction professional",  
25 including "credentialed alcoholism and substance abuse counselor" or  
26 "C.A.S.A.C.", means an official designation identifying an individual as  
27 one who holds a currently registered and valid license, credential,  
28 certificate or authorization issued or approved by the office of [~~aleo-~~  
29 ~~holism and substance abuse services~~] addiction services and supports  
30 pursuant to this section which documents an individual's qualifications  
31 to provide [~~alcoholism and substance abuse counseling~~] addiction disor-  
32 der services. The term "gambling addiction [~~counselor~~] professional"  
33 means an official designation identifying an individual as one who holds  
34 a currently registered and valid license, credential, certificate or  
35 authorization issued by the office of [~~alcoholism and substance abuse~~  
36 ~~services~~] addiction services and supports pursuant to this section which  
37 documents an individual's qualifications to provide [~~compulsive~~] gambl-  
38 ing [~~counseling~~] disorder services.

39 (i) No person shall use the title [~~credentialed alcoholism and~~  
40 ~~substance abuse counselor or "C.A.S.A.C." or gambling addiction counse-~~  
41 ~~ler~~] "addiction professional" or the title given to any licenses,  
42 credentials, certificates or authorizations issued by the office unless  
43 authorized [~~pursuant to~~] by the commissioner in accordance with this  
44 title.

45 (ii) Failure to comply with the requirements of this section shall  
46 constitute a violation as defined in the penal law.

47 (4) All persons holding previously issued and valid alcoholism or  
48 substance abuse counselor credentials issued by the office or an entity  
49 designated by the office, including a credentialed alcoholism and  
50 substance abuse counselor, certified prevention specialist, credentialed  
51 prevention professional, credentialed problem gambling counselor, gambl-  
52 ing specialty designation, and certified recovery peer advocate, on the  
53 effective date of amendments to this section shall be deemed [~~C.A.S.A.C.~~  
54 ~~designated~~] an addiction professional consistent with their experience  
55 and education.

1 (e) Consistent with the requirements of subdivision (b) of section  
2 5.05 of this chapter, the office shall carry out the provisions of arti-  
3 cle thirty-two of this chapter as such article pertains to regulation  
4 and quality control of ~~[chemical-dependence]~~ addiction disorder  
5 services, including but not limited to the establishment of standards  
6 for determining the necessity and appropriateness of care and services  
7 provided by ~~[chemical-dependence]~~ addiction disorder providers of  
8 services. In implementing this subdivision, the commissioner, in consul-  
9 tation with the commissioner of health, shall adopt standards including  
10 necessary rules and regulations including but not limited to those for  
11 determining the necessity or appropriate level of admission, controlling  
12 the length of stay and the provision of services, and establishing the  
13 methods and procedures for making such determination.

14 (f) The office of ~~[alcoholism and substance abuse services]~~ addiction  
15 services and supports shall develop a list of all agencies throughout  
16 the state which are currently certified by the office and are capable of  
17 and available to provide evaluations in accordance with section sixty-  
18 five-b of the alcoholic beverage control law so as to determine need for  
19 treatment pursuant to such section and to assure the availability of  
20 such evaluation services by a certified agency within a reasonable  
21 distance of every court of a local jurisdiction in the state. Such list  
22 shall be updated on a regular basis and shall be made available to every  
23 supreme court law library in this state, or, if no supreme court law  
24 library is available in a certain county, to the county court library of  
25 such county. The commissioner may establish an annual fee for inclusion  
26 on such list.

27 (g) The office of ~~[alcoholism and substance abuse services]~~ addiction  
28 services and supports shall develop and maintain a list of the names and  
29 locations of all licensed agencies and ~~[alcohol and substance abuse]~~  
30 addiction professionals, as defined in paragraphs (a) and (b) of subdi-  
31 vision one of section eleven hundred ninety-eight-a of the vehicle and  
32 traffic law, throughout the state which are capable of and available to  
33 provide an assessment of, and treatment for, ~~[alcohol and substance~~  
34 ~~abuse and dependency]~~ addiction disorders. Such list shall be provided  
35 to the chief administrator of the office of court administration and the  
36 commissioner of motor vehicles. Persons who may be aggrieved by an agen-  
37 cy decision regarding inclusion on the list may request an administra-  
38 tive appeal in accordance with rules and regulations of the office. The  
39 commissioner may establish an annual fee for inclusion on such list.

40 (h) The office of addiction services and supports shall monitor  
41 programs providing care and treatment to incarcerated individuals in  
42 correctional facilities operated by the department of corrections and  
43 community supervision who have a history of ~~[alcohol or substance use~~  
44 ~~disorder or dependence]~~ an addiction disorder. The office shall also  
45 develop guidelines for the operation of ~~[alcohol and substance use~~  
46 ~~disorder treatment programs]~~ addiction disorder services in such correc-  
47 tional facilities, based on best practices, and tailored to the nature  
48 of the individual's substance use, history of past treatment, and histo-  
49 ry of mental illness or trauma, which may include harm reduction strate-  
50 gies, in order to ensure that such ~~[programs]~~ services sufficiently meet  
51 the needs of incarcerated individuals with a history of ~~[alcohol or~~  
52 ~~substance use disorder or dependence]~~ an addiction disorder and promote  
53 the successful transition to treatment in the community upon release. No  
54 later than the first day of December of each year, the office shall  
55 submit a report regarding: (1) the adequacy and effectiveness of ~~[also~~  
56 ~~alcohol and substance use disorder treatment programs]~~ addiction disorder

1 services operated by the department of corrections and community super-  
2 vision; (2) the total number of incarcerated individuals in correctional  
3 facilities that have been screened for, and determined to have, [~~a~~  
4 ~~substance-use~~] an addiction disorder; (3) information regarding which  
5 substances incarcerated individuals are most dependent upon and the  
6 available treatment for such individuals within each correctional facil-  
7 ity; (4) the total number of individuals who participate in each of the  
8 [~~treatment programs~~] addiction disorder services operated by the depart-  
9 ment of corrections and community supervision; and (5) the total number  
10 of individuals who participated in [~~a substance-use disorder treatment~~  
11 ~~program~~] addiction disorder services but failed to complete such  
12 [~~program~~] services, as well as whether such failure to complete [~~the~~  
13 ~~program~~] such addiction disorder services was a result of disciplinary  
14 action taken by the facility against the individual for instances unre-  
15 lated to their participation in [~~the treatment program~~] such services.  
16 The department of corrections and community supervision shall provide  
17 the office with information needed to complete this report. Such report  
18 shall be sent to the governor, the temporary president of the senate,  
19 the speaker of the assembly, the chairman of the senate committee on  
20 crime victims, crime and correction, and the chairman of the assembly  
21 committee on correction.

22 (i) The office of [~~alcoholism and substance abuse services~~] addiction  
23 services and supports shall periodically, in consultation with the state  
24 director of veterans' services: (1) review the programs operated by the  
25 office to ensure that the needs of the state's veterans who served in  
26 the U.S. armed forces and who are recovering from [~~alcohol and/or~~  
27 ~~substance abuse~~] an addiction disorder are being met and to develop  
28 improvements to programs to meet such needs; and (2) in collaboration  
29 with the state director of veterans' services and the commissioner of  
30 the office of mental health, review and make recommendations to improve  
31 programs that provide treatment, rehabilitation, relapse prevention, and  
32 recovery services to veterans who have served in a combat theatre or  
33 combat zone of operations and have a co-occurring mental health and  
34 [~~alcoholism or substance abuse~~] addiction disorder.

35 (j) The office, in consultation with the state education department,  
36 shall identify or develop materials on problem gambling among school-age  
37 youth which may be used by school districts and boards of cooperative  
38 educational services, at their option, to educate students on the  
39 dangers and consequences of problem gambling as they deem appropriate.  
40 Such materials shall be available on the internet website of the state  
41 education department. The internet website of the office shall provide a  
42 hyperlink to the internet page of the state education department that  
43 displays such materials.

44 (k) Heroin and opioid addiction awareness and education program. The  
45 commissioner, in cooperation with the commissioner of the department of  
46 health, shall develop and conduct a public awareness and educational  
47 campaign on heroin and opioid addiction. The campaign shall utilize  
48 public forums, social media and mass media, including, but not limited  
49 to, internet, radio, and print advertising such as billboards and post-  
50 ers and shall also include posting of materials and information on the  
51 office website. The campaign shall be tailored to educate youth,  
52 parents, healthcare professionals and the general public regarding: (1)  
53 the risks associated with the abuse and misuse of heroin and opioids;  
54 (2) how to recognize the signs of addiction; and (3) the resources  
55 available for those needing assistance with heroin or opioid addiction.  
56 The campaign shall further be designed to enhance awareness of the



opioid overdose prevention program authorized pursuant to section thirty-three hundred nine of the public health law and the "Good Samaritan law" established pursuant to sections 220.03 and 220.78 of the penal law and section 390.40 of the criminal procedure law, and to reduce the stigma associated with addiction.

(l) The office of [~~alcoholism and substance abuse services~~] addiction services and supports, in consultation with the state education department, shall develop or utilize existing educational materials to be provided to school districts and boards of cooperative educational services for use in addition to or in conjunction with any drug and alcohol related curriculum regarding the misuse and abuse of alcohol, tobacco, prescription medication and other drugs with an increased focus on substances that are most prevalent among school aged youth as such term is defined in section eight hundred four of the education law. Such materials shall be age appropriate for school age children, and to the extent practicable, shall include information or resources for parents to identify the warning signs and address the risks of substance [~~abuse~~] misuse and addiction.

(m) (1) The office shall report on the status and outcomes of initiatives created in response to the heroin and opioid epidemic to the temporary president of the senate, the speaker of the assembly, the chairs of the assembly and senate committees on alcoholism and drug abuse, the chair of the assembly ways and means committee and the chair of the senate finance committee.

(2) Such reports shall include, to the extent practicable and applicable, information on:

(i) The number of individuals enrolled in the initiative in the preceding quarter;

(ii) The number of individuals who completed the treatment program in the preceding quarter;

(iii) The number of individuals discharged from the treatment program in the preceding quarter;

(iv) The age and sex of the individuals served;

(v) Relevant regional data about the individuals;

(vi) The populations served; and

(vii) The outcomes and effectiveness of each initiative surveyed.

(3) Such initiatives shall include opioid treatment programs, crisis detoxification programs, 24/7 open access centers, adolescent club houses, family navigator programs, peer engagement specialists, recovery community and outreach centers, regional addiction resource centers and the state implementation of the federal opioid state targeted response initiatives.

(4) Such information shall be provided quarterly, beginning no later than July first, two thousand nineteen.

(n) The office in consultation with the office of mental health, the department of health, the division of housing and community renewal and any other agency that may oversee an appropriate program or service shall monitor and ensure funds appropriated pursuant to section ninety-nine-nn of the state finance law are expended for services and programs in accordance with such section.

[~~(n)~~] (o) The office of addiction services and supports, in consultation with the commissioner of health, shall provide and publish, in electronic or other format, training materials for health care providers, as defined by subdivision six of section two hundred thirty-eight of the public health law, and qualified health professionals, recognized by the office to enable the implementation of the screening, brief

1 intervention, and referral to treatment program (SBIRT). Such training  
2 materials shall include any and all materials necessary to inform health  
3 care providers and qualified health professionals of the method for  
4 administering the SBIRT program to a patient in the care of health care  
5 providers or qualified health professionals. Such training materials  
6 shall be made available to health care providers and qualified health  
7 professionals through the official websites of the office and the  
8 department of health and by any other means deemed appropriate by the  
9 commissioner.

10 § 2. This act shall take effect on the first of April next succeeding  
11 the date on which it shall have become a law.