STATE OF NEW YORK

7267

2023-2024 Regular Sessions

IN SENATE

May 19, 2023

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

AN ACT to amend the mental hygiene law, in relation to establishing emergency mental health units

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

Section 1. Title B of the mental hygiene law is amended by adding a new article 11 to read as follows:

ARTICLE 11
EMERGENCY MENTAL HEALTH UNITS

Section 11.01 Declaration of policy and statement of purpose.
11.03 Definitions.
11.05 New York state emergency mental health unit council.
11.07 Regional emergency mental health unit councils.
11.09 Emergency mental health unit certificate.
11.11 Powers and duties of the office and the commissioner.

§ 11.01 Declaration of policy and statement of purpose.

The furnishing of mental health assistance in an emergency is a matter of vital concern affecting the public health, safety and welfare. Prehospital emergency mental health care, the provision of prompt and effective communication among emergency services and hospitals and safe and effective care and transportation of persons experiencing mental health crises are essential public health services.

It is the purpose of this article to promote the public health, safety and welfare by providing for certification of all emergency mental health units; the creation of regional emergency mental health unit councils; and a New York state emergency mental health unit council to develop minimum training standards for certified emergency mental health units and minimum equipment and communication standards for emergency mental health units.

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

LBD08046-01-3

§ 11.03 Definitions.

As used in this article, unless the context otherwise requires:

(a) "Emergency mental health service" means initial emergency mental health assistance including, but not limited to, the initial assessment and treatment of persons experiencing mental health crises.

(b) "Emergency mental health unit" means an individual, partnership, association, corporation, municipality or any legal or public entity or subdivision thereof engaged in providing emergency mental health care and the transportation of persons experiencing mental health crises by motor vehicle, aircraft or other forms of transportation to, from, or between general hospitals or other health care facilities.

(c) "Certified emergency mental health responder" means an individual who meets the minimum requirements established by regulations pursuant to section 11.05 of this article and who is responsible for administration of initial lifesaving mental health care to persons experiencing mental health crises.

(d) "State council" means the New York state emergency mental health unit council established pursuant to this article.

(e) "Regional council" means a regional emergency mental health unit council established pursuant to this article.

(f) "Mental health crises" means a person with a mental illness or serious mental illness as such terms are defined in section 1.03 of this chapter who is a danger to himself or herself or others and requires immediate treatment and care.

§ 11.05 New York state emergency mental health unit council.

(a) There is hereby created in the office the New York state emergency mental health unit council. The state council shall consist of thirty-two members. Fourteen members of the state council shall be appointed by the commissioner and shall be representative of each geographic area of the state. At least one member shall be representative of the interests of the general public. Other members shall be knowledgeable in various aspects of emergency mental health services and shall include, but not be limited to, representatives of emergency mental health units operating for profit, municipal emergency mental health units, hospitals, a statewide organization representing mental health providers, physicians, and nurses. The commissioner shall also appoint a representative from each regional council, from nominations received from the appropriate regional council. The members of the state council shall elect a chairperson from among the members of the state council by a majority vote of those present, who shall serve for a term of one year and until a successor is elected.

(b) The state council shall have the power, by an affirmative vote of a majority of those present, subject to approval by the commissioner, to enact, and from time to time, amend and repeal, rules and regulations establishing minimum standards for emergency mental health units, emergency mental health unit certification, the provision of prehospital emergency mental health care, public education, the development of a statewide emergency mental health unit system, and the training, examination, and certification of certified emergency mental health responders. Such training shall be made available by video or computer to the maximum extent possible. The state council shall have the same powers granted to regional councils by this article in any region of the state in which a regional council has not been established.

(c) In furtherance of the powers set forth in subdivision (b) of this section, the state council shall provide to the trustees of the state university of New York such information and recommendations as may be

requested by such trustees to assist such trustees' study of the feasibility of community colleges' and state university of New York offering credit and noncredit courses which would satisfy the educational requirements for certification and recertification of certified emergency mental health responders.

(d) Upon appeal from the appropriate regional council, the state council shall have the power, by an affirmative vote of a majority of those present, to amend, modify and reverse determinations of the regional councils made pursuant to subdivision (e) of section 11.07 of this article. All determinations of the state council respecting applications for emergency mental health unit certificates or statements of registration or respecting the revocation, suspension (except temporary suspension), limitation or annulment of an emergency mental health unit certificate shall be subject to review as provided in article seventy-eight of the civil practice law and rules. Application for such review shall be made within sixty days after service in person or by registered or certified mail of a copy of the determination upon the applicant or holder of the certificate.

(e) Upon appeal from the applicant, the office, or any concerned party, the state council shall have the power, by an affirmative vote of a majority of those present, to amend, modify and reverse determinations of the regional councils. All determinations of the state council with respect to exemptions shall be subject to review as provided in article seventy-eight of the civil practice law and rules. Application for such review must be made within sixty days after service in person or by registered or certified mail.

(f) The term of office of each member shall be two years. Vacancies shall be filled by appointment for the remainder of an unexpired term. The members shall continue in office until the expiration of their terms and until their successors are appointed and have qualified. No member shall be appointed to the state council for more than four consecutive terms.

(g) The state council shall meet as frequently as its business may require. The presence of a majority of the members shall constitute a quorum. The members of the state council shall receive no compensation for their services as members, but each shall be allowed the necessary and actual expenses incurred in the performance of his or her duties under this section.

(h) The commissioner, upon request of the state council, shall designate an officer or employee of the office to act as secretary of the state council, and shall assign from time to time such other employees as the state council may require.

(i) No civil action shall be brought in any court against any member, officer or employee of the state council for any act done, failure to act, or statement or opinion made, while discharging his or her duties as a member, officer or employee of the state council, without leave from a justice of the supreme court, first had and obtained. In no event shall such member, officer or employee be liable for damages in any such action if he or she shall have acted in good faith, with reasonable care and upon probable cause.

(j) The state council shall, after consultation with the office and the regional councils, forward to the commissioner not later than December first an estimate of the amounts needed to provide adequate funding for emergency mental health units training. Such estimate shall be transmitted without change by the commissioner to the governor, the division of the budget, the temporary president of the senate, the speaker of the

assembly, and the fiscal and mental health committees of each house of the legislature.

§ 11.07 Regional emergency mental health unit councils.

(a) The commissioner, with the approval of the state council, shall designate regional emergency mental health unit councils on or before January first next succeeding the effective date of this section but in no event shall the number of regional councils exceed eighteen. Such regional councils shall be established on the basis of application for designation as regional councils submitted by local organizations, the members of which are knowledgeable in various aspects of emergency mental health services. Such application shall describe the geographic area to be served and contain a list of nominees for appointment to membership on such regional councils and a statement as to the proposed method of operation in such detail as the commissioner, with the approval of the state council, shall prescribe.

(b) Each regional council shall be comprised of at least fifteen but not more than thirty members to be initially appointed by the commissioner, with the approval of the state council, from nominations submitted by local organizations applying for establishment as the regional council. Not less than one-third of the membership of the regional councils shall be representatives of emergency mental health units and the remaining membership of the regional councils shall consist of, but not be limited to, representatives of existing local emergency medical care committees, physicians, nurses, hospitals, health planning agencies, fire department emergency and rescue squads, public mental health officers and the general public. Members of each regional council shall be residents living within the geographic area to be served by the regional council. The presence of a majority of members shall constitute a quorum.

(c) Each regional council shall have the power to:

(1) have a seal and alter the same at pleasure;

(2) acquire, lease, hold, and dispose of real and personal property or any interest therein for its purposes;

(3) make and alter by-laws for its organization and internal management, and rules and regulations governing the exercise of its powers and the fulfillment of its purposes under this article; such rules and regulations shall be filed with the secretary of state and the state council;

(4) enter into contracts for employment of such officers and employees as it may require for the performance of its duties; and to fix and determine their qualifications, duties, and compensation, and to retain and employ such personnel as may be required for its purposes; and private consultants on a contract basis or otherwise, for the rendering of professional or technical services and advice;

(5) enter into contracts, leases, and subleases and to execute all instruments necessary or convenient for the conduct of its business, including contracts with the commissioner and any state agency or municipal entity; and contracts with hospitals and physicians for the purposes of carrying out its powers under this article;

(6) undertake or cause to be undertaken plans, surveys, analyses and studies necessary, convenient or desirable for the effectuation of its purposes and powers, and to prepare recommendations and reports in regard thereto;

(7) fix and collect reasonable fees, rents, and other charges for the use of its equipment and the provision of its services;

(8) contract for and to accept any gifts or grants, subsidies, or loans of funds or property, or financial or other aid in any form from the federal or state government or any agency or instrumentality thereof; or from any other source, public or private, and to comply, subject to the provisions of this article, with the terms and conditions thereof; provided, however, that the councils may contract for payment of debt evidenced by bonds or notes or other evidence of indebtedness, either directly or through a lease purchase agreement;

(9) recommend to the office approval of training course sponsors within its region, and to develop, promulgate and implement annually an emergency mental health services training plan which addresses the needs of its region;

(10) enter into contracts or memoranda of agreement with other regional councils to provide services in a joint or cooperative manner;

(11) procure insurance against any loss or liability in connection with the use, management, maintenance, and operation of its equipment and facilities, in such amounts and from such insurers as it reasonably deems necessary; and

(12) do all things necessary, convenient and desirable to carry out its purposes and for the exercise of the powers granted in this article.

(d) Each regional council shall have the responsibility to coordinate emergency mental health unit programs within its region, including but not limited to, the establishment of certified emergency mental health responder courses and the issuance of uniform certified emergency mental health responder insignia and certificates. Such training courses shall be made available by video or computer to the maximum extent possible.

(e) The regional council shall have the responsibility to make determinations of public need for the establishment of additional emergency mental health units. The regional council shall make such determination by an affirmative vote of a majority of all of those members consisting of voting members.

(f) The term of office of members of the regional council shall be four years, except that of those members first appointed, at least one-half but not more than two-thirds shall be for terms not to exceed two years.

(g) Each regional council shall meet as frequently as its business may require.

(h) The commissioner, upon request of the regional council, may designate an officer or employee of the office to act as secretary of the regional council, and may assign from time to time such other employees as the regional council may require.

(i) No civil action shall be brought in any court against any member, officer or employee of any designated regional council for any act done, failure to act, or statement or opinion made, while discharging his duties as a member, officer or employee of the regional council, without leave from a justice of the supreme court, first had and obtained. In any event such member, officer or employee shall not be liable for damages in any such action if he shall have acted in good faith, with reasonable care and upon probable cause.

(j)(1) The office shall provide each regional council with the funds necessary to enable such regional council to carry out its responsibilities as mandated under this section within amounts appropriated therefor.

(2) Such funds shall be provided upon approval by the office of an application submitted by a regional council. The application shall contain such information and be in such form as the commissioner shall

require pursuant to rules and regulations which he shall promulgate after consultation with the state council in order to effect the purposes and provisions of this subdivision.

§ 11.09 Emergency mental health unit certificate.

(a) No emergency mental health unit operating for profit, hospital emergency mental health unit or municipal emergency mental health unit shall operate unless it possesses a valid emergency mental health unit certificate issued pursuant to this article.

(b) A certificate issued to an emergency mental health unit shall be valid for two years. The initial certification fee shall be one hundred dollars. Thereafter the biennial fee shall be in accordance with the schedule of fees established by the commissioner pursuant to this article.

(c) No initial certificate shall be issued unless the commissioner finds that the proposed operator or operators are competent and fit to operate the unit and that the emergency mental health unit is staffed and equipped in accordance with rules and regulations promulgated pursuant to this article.

(d) No emergency mental health unit shall begin operation without prior approval of the appropriate regional council, or if there is no appropriate regional council established such emergency mental health unit shall apply for approval from the state council.

(e) Applications for a certificate shall be made by the owner of an emergency mental health unit operating for profit or the responsible official of a municipal emergency mental health unit upon forms provided by the office. The application shall state the name and address of the owner and such other information as the office may require pursuant to rules and regulations.

§ 11.11 Powers and duties of the office and the commissioner.

(a) The office may inquire into the operation of emergency mental health units and conduct periodic inspections of facilities, communication services, vehicles, methods, procedures, materials, staff and equipment. It may also evaluate data received from emergency mental health units.

(b) The office may require emergency mental health units to submit periodic reports of calls received, services performed and such other information as may be necessary to carry out the provisions of this article.

(c) The commissioner, with the advice and consent of the state council, shall designate not more than eighteen geographic areas within the state wherein a regional emergency mental health unit council shall be established. In making the determination of a geographic area, the commissioner shall take into consideration the presence of emergency mental health units, hospital facilities, trained health personnel, health planning agencies and communication and transportation facilities. The commissioner shall promote and encourage the establishment of a regional emergency medical services council in each of said designated areas.

(d) The commissioner may propose rules and regulations and amendments thereto for consideration by the state council. The commissioner shall establish a schedule of certification fees for emergency mental health units.

(e) For the purpose of promoting the public health, safety and welfare the commissioner is hereby authorized and empowered to contract with municipal emergency mental health units, or with the fire commissioners of fire districts operating emergency mental health units, upon such

terms and conditions as he shall deem appropriate and within amounts made available therefor, for reimbursement of the necessary and incidental costs incurred by such emergency mental health units in order to effectuate the provisions of this article.

(f) The commissioner is hereby authorized, for the purposes of effectuating the provisions of this article in the development of a statewide emergency mental health unit system, to contract with any emergency mental health unit or with the fire commissioners of fire districts operating certified emergency mental health units for the use of necessary equipment upon such terms and conditions as the commissioner shall deem appropriate.

(g) The commissioner may recommend to the state council minimum qualifications for certified emergency mental health responders in all phases of emergency mental health technology including but not limited to, communications, first aid, equipment, maintenance, emergency techniques and procedures, patient management and knowledge of procedures and equipment for emergency mental health care.

(h) The commissioner shall provide every certified emergency mental health unit with an official insignia which may be attached to every vehicle owned or operated by a certified emergency mental health unit.

(i) The office shall provide the state council with such assistance as the council may request in order to carry out its responsibilities as set forth in this article.

§ 2. This act shall take effect on the one hundred eightieth day after it shall have become a law. 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.