STATE OF NEW YORK

8381

IN SENATE

January 25, 2024

Introduced by Sen. FERNANDEZ -- read twice and ordered printed, and when printed to be committed to the Committee on Alcoholism and Substance Use Disorders

AN ACT to establish the "recovery ready workplace act"

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

Section 1. Short title. This act shall be known and may be cited as the "recovery ready workplace act".

§ 2. Legislative findings and purpose. The legislature finds that:

1. Recovery ready workplace (RRW) programs have been initiated around the country as important interventions in the opioid use disorder (OUD) and substance use disorder (SUD) crisis.

2. The goal of RRW programs is to provide outreach, training, and certification to employers in cooperation with government officials, workers, labor unions, and communities to:

(a) prevent initiation of new cases of misuse and addiction related to workplace injury and stress through primary prevention of exposure to job hazards and stressors;

(b) support employees who are struggling and retain employees by providing access to treatment and pathways to return to work;

(c) provide healthy, gainful employment for people in recovery; and

(d) reduce absenteeism, presenteeism, and lost productivity among employees with substance use disorder.

3. Workers with painful injuries have frequently been overprescribed opioids, resulting in as many as twenty-five percent of workers developing opioid dependence and OUD or SUD.

4. RRW programs address the prevention of addiction related to workplace injury and stress while also providing support for workers who are struggling and opportunities for people in recovery to reenter the workforce.

5. Between 2009 to 2015, an estimated 225,000 New York workers were lost from the labor market due to opioids. New York's economy cumulatively lost $179.4 billion dollars in real economic output, which trans-

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

LBD14118-01-4

lates to the state's annual real GDP growth rate slowing by 0.8 percentage points.

6. Employers who establish RRW programs have saved money due to reduced absenteeism, healthier work environment, greater productivity, lower healthcare costs, greater workplace safety, employee retention, and reduced recruitment and hiring costs.

7. Employees in recovery save their employers an average of $8,500 dollars annually, with $8,175 dollars attributable to avoiding turnover, replacement, and healthcare costs.

8. There is an urgent need to establish resources and standards for RRWs in New York state as a key component of the state's response to the opioid crisis.

§ 3. Purpose. The purpose of this act shall be to:

1. establish the criteria for employers to obtain certification as an RRW;

2. protect the rights of employees;

3. establish training, outreach, and certification resources;

4. establish an advisory board within the New York state office of addiction services and supports; and

5. establish incentives for employers.

§ 4. Definitions. For purposes of this act, the following terms shall have the following meanings:

1. "Employer" shall have the same meaning as defined in section one hundred ninety of the labor law, and shall include any person, corporation, limited liability company, or association employing any individual in any occupation, industry, trade, business, or service. "Employer" shall include a public employer.

2. "Employee" means any person employed for hire by an employer in any employment and shall include public employees.

3. "Lived experience" means having first-hand experience living with mental health and/or substance use disorder and the associated challenges.

4. "Opioid use disorder" or "OUD" means a problematic pattern of opioid use leading to clinically significant impairment or distress and is a subset of SUD.

5. "Member assistance program" means a labor union administered education and assistance program that provides support to members struggling with mental health or substance use problems.

6. "Primary prevention" means a public health strategy that aims to prevent disease or injury before it occurs by preventing exposures to hazards that can cause disease or injury, altering unhealthy or unsafe behaviors that can lead to disease or injury, and addressing mental health issues that can affect physiological outcomes.

7. "Public employee" means any person holding a position by appointment or employment in the service of a public employer, except judges or justices of the unified court system and members of the legislature.

8. "Public employer" shall mean:

(a) the state of New York;

(b) a county, city, town, village, or other political subdivision or civil division of the state;

(c) a school district or any governmental entity operating a public school, college, or university;

(d) a public improvement or special district;

(e) a public authority, commission, or public benefit corporation; and

(f) any other public corporation, agency, instrumentality, or unit of government which exercises governmental power under the laws of the state.

9. "Recovery" means a process of change through which individuals improve their health and wellness, live a self-directed life, and strive to reach their full potential.

10. "Recovery ready workplace advisor" means a person who is an employee of or contractor for a recovery ready workplace program and whose duties include, but are not limited to, assisting employers through the process of becoming a certified recovery ready workplace;

11. "Certified peer support advocate" means a person with the lived experience of recovery from a substance use disorder or co-occurring disorder and who is certified to provide non-clinical, strengths-based support to others experiencing similar challenges. "Certified peer support advocates" shall also be known as "peer specialists", "peer recovery coaches", and "peer recovery support specialists".

12. "Recovery ready workplace" or "RRW" means an established program to prevent exposure to workplace factors that could cause or perpetuate a SUD while lowering barriers to seeking care, receiving care, and maintaining recovery, and to educate its management team and workers on issues surrounding SUDs to reduce the stigma around such challenge.

13. "Substance use disorder" or "SUD" means the recurrent use of alcohol and/or drugs that causes clinically significant impairment, including health problems, disability, and failure to meet major responsibilities at work, school, or home.

14. "Workplace" means any office, warehouse, building, or any other location outside of an employee's residence or other work-from-home location, whether permanent or temporary, where an employee performs any work-related duty or duties in the scope and course of the employee's employment. For purposes of this act, employees may have more than one workplace.

§ 5. Criteria for employers to obtain certification as a recovery ready workplace. The office of addiction services and supports, shall promulgate regulations establishing the criteria by which an employer can obtain certification as a RRW. Such criteria shall include, but not be limited to, the following:

1. a signed letter of interest from the employer to become a RRW;

2. issuance of a written declaration to employees;

3. collaboration with employees, collective bargaining agents or labor unions, recovery community organizations, and government officials in establishing a RRW and the development of the proposed recovery ready workplace program in writing;

4. proactively identifying and addressing the primary prevention of workplace hazards and sources of stress at work associated with opioid and other substance misuse, including prescription medications and through self-medication;

5. establishing availability of naloxone onsite and training personnel on its administration and other first aid measures that reduce the risk of death as a result of an overdose;

6. supporting and providing information to injured workers on how to avoid opioid and other substance misuse and seek alternative pain treatments;

7. providing training and orientation to supervisors, management, employees, and union officials;

8. providing resources and information to employees;

9. connecting with a recovery community organization within six months of certification;

10. assessing and addressing workplace culture issues by:

(a) encouraging all qualified applicants, including persons in recovery;

(b) having programs and practices that promote and support employee health, wellness, and work-life balance, such as but not limited to labor union based member assistance programs; and

(c) supporting employees who seek treatment and who require residential or outpatient treatment and related disability leave, including planning for return to work;

11. offering health benefits that provide comprehensive coverage for SUDs, including medications for OUD and SUD, aftercare, and counseling;

12. evaluating and improving, as needed, access to treatment and recovery resources and ensure mental health and substance use benefits are equal to those for physical health as required by paragraph 5 of subsection 1 of section 3221 and subsections (g) and (h) of section 4303 of the insurance law, and the federal mental health parity addiction equity act;

13. providing work accommodations for employees in recovery to attend treatment and recovery services and providing reasonable work accommodations to support workers in recovery in compliance with federal and state law; and

14. ensuring employer RRW policies include confidentiality provisions to maintain confidentiality of employees accessing services.

§ 6. Employee involvement. 1. An employer shall develop the plan to become certified as an RRW in cooperation with the collective bargaining representative, if any, or with meaningful participation of employees where there is no collective bargaining representative, for all aspects of the plan, and such plan shall be tailored to the specific industry and work sites of the employer.

2. Employers shall be encouraged to establish multi-stakeholder committees, subcommittees, or task forces to help develop RRW programs. Where there is a collective bargaining agent, the collective bargaining representative shall select employees to be members of such committee.

3. To the extent that any individual voluntarily self-discloses lived experience with SUD or recovery, a RRW committee, subcommittee, or task force shall invite representatives with lived experience to participate in the development and the annual review of the RRW plan, while maintaining confidentiality.

4. The employer shall update its drug and alcohol policies in writing within one year of certification. The employer shall make such policies available to all employees, shall review such policies annually in consultation with the employers' RRW committee, and shall update such policies as necessary, except as described in subdivision 5 of this section.

5. Employer policies related to accessing treatment and recovery resources shall be evaluated and improved, as necessary, including a review of mental health and substance use benefits to assess parity to those for physical health in conformance with federal, state, and local laws.

§ 7. No diminishment of employee rights. The provisions of this act shall not be construed to diminish the rights of any employee pursuant to any other law, regulation, or collective bargaining agreement.

§ 8. Certifying body. 1. A certifying body shall be established within the office of addiction services and supports.

2. Such certifying body shall include an advisory board with multiple state agency and stakeholder involvement, to be established by the office of addiction services and supports, which shall include employers, labor unions, recovery community organizations, community representatives, local and county officials, and persons in recovery. The advisory board shall assist in the development of regulations, outreach materials, and program evaluation and shall work with employers to ensure that public notification has been provided to the community about such employer's certification as a RRW.

§ 9. Incentives. 1. The office of addiction services and supports shall develop a pilot program to provide stipends to employees in recovery to cover expenses for transportation, including to and from work and treatment, and auxiliary recovery services during work hours.

2. The office of addiction services and supports shall develop a pilot program to reimburse employers for providing traineeships to workers in recovery and shall promulgate rules and regulations to include places of employment as eligible locations for reimbursing organizations who deploy peer services.

§ 10. This act shall take effect immediately.