

# STATE OF NEW YORK

1038--A

2023-2024 Regular Sessions

## IN ASSEMBLY

January 13, 2023

Introduced by M. of A. KELLES, BURDICK, GONZALEZ-ROJAS, EPSTEIN, CONRAD, BORES, K. BROWN -- read once and referred to the Committee on Alcoholism and Drug 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:

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

2. "Commissioner" means the commissioner of ~~[mental health,~~ addiction and mental health services and the commissioner of developmental disabilities ~~[and the commissioner of addiction services and supports]~~ as used in this chapter. Any power or duty heretofore assigned to the commissioner of mental hygiene or to the department of mental hygiene pursuant to this chapter shall hereafter be assigned to the commissioner of ~~[mental health]~~ addiction and mental health services in the case of facilities, programs, or services for individuals with ~~[mental illness]~~ a mental health diagnosis, to the commissioner of developmental disabilities in the case of facilities, programs, or services for individuals with developmental disabilities, to the commissioner of addiction ~~[services]~~ and ~~[supports]~~ mental health services in the case of facilities, programs, or addiction disorder services in accordance with the provisions of titles D and E of this chapter.

2-a. Notwithstanding any other section of law or regulation, on and after the effective date of this subdivision, any and all references to the office of alcoholism and substance abuse services and the predecessor agencies to the office of alcoholism and substance abuse services including the division of alcoholism and alcohol abuse and the division of substance abuse services and all references to the office of mental

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

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

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

8 § 5.01 Department of mental hygiene.

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

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

13 (2) office for people with developmental disabilities[~~+~~

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

15 § 5.01-a Office of addiction and mental health services.

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

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

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

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

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

12 § 5.01-b Office of addiction and mental health services; composition of  
13 office.

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

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

19 § 5.03 Commissioners.

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

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

41 § 5.05 Powers and duties of the head of the department.

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

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

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

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

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

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

ty, (iv) the physical layout of the campus, and (v) the physical design of patient care wards.

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

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

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

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

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

§ 7.01 Declaration of policy.

The state of New York and its local governments have a responsibility for the prevention and early detection of mental [~~illness~~] health disorders and for the comprehensively planned care, treatment [~~and~~], rehabilitation and recovery of [~~the mentally ill citizens~~] individuals with a mental health diagnosis.

Therefore, it shall be the policy of the state to conduct research and to develop programs which further prevention and early detection of mental [~~illness~~] health disorders; to develop a comprehensive, integrated system of treatment [~~and~~], rehabilitative and recovery services for [~~the mentally ill~~] individuals with a mental health diagnosis. Such a system should include, whenever possible, the provision of necessary treatment services to people in their home communities; it should assure the adequacy and appropriateness of residential arrangements for people in need of service; and it should rely upon improved programs of institutional care only when necessary and appropriate. Further, such a system should recognize the important therapeutic roles of all disciplines which may contribute to the care or treatment of [~~the mentally ill~~] individuals with a mental health diagnosis, such as psychology, social work, psychiatric nursing, special education and other disciplines in the field of mental illness, as well as psychiatry and should



1 establish accountability for implementation of the policies of the state  
2 with regard to the care [~~and~~], rehabilitation and recovery of [~~the~~  
3 ~~mentally ill~~] individuals with a mental health diagnosis.

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

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

21 § 19.01 Declaration of policy.

22 The legislature declares the following:

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

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

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

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

1 prevention and aftercare are two primary components of treatment that  
2 serve to promote and maintain recovery.

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

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

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

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