STATE OF NEW YORK

6400--A

2023-2024 Regular Sessions

IN ASSEMBLY

April 6, 2023

Introduced by M. of A. SEAWRIGHT, McDONALD, ALVAREZ, McMAHON, LUNSFORD -- read once and referred to the Committee on People with Disabilities -- recommitted to the Committee on People with Disabilities in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the mental hygiene law, in relation to establishing a direct support professional worker registry

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

Section 1. Section 13.43 of the mental hygiene law, as added by chapter 209 of the laws of 2018, is renumbered section 13.44 and a new section 13.45 is added to read as follows:

§ 13.45 Direct support professional worker registry.

(a) As used in this section, the following terms shall have the following meanings:

(1) "Provider" means an entity operating with a certificate issued by the commissioner pursuant to section 16.03 of this title.

(2) "Direct support professional worker" or "worker" means any person engaged in or applying to become engaged in providing direct support professional services, as defined by the office in regulation.

(3) "Registry" means the direct support professional worker registry.

(4) "Direct support professional worker education or training program" or "program" means a program that provides education or training for persons to meet any requirement established by the office for direct support professional worker services, which is approved by the office.

(5) "Self-direction program" means the self-direction program implemented by the office pursuant to 42 CFR 441 Subpart M or any successor regulation.

(b) The office shall develop and maintain a direct support professional worker registry of persons who have successfully completed a

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

LBD10170-03-4

direct support professional worker education or training program approved by the commissioner. Information in the registry shall be accessible on the office's website by the public, direct support professional workers, persons enrolled in the self-direction program and providers licensed, funded, approved and/or certified by the office, subject to subdivision (i) of this section.

(c) The registry shall include, but not be limited to, the following information concerning each person who has successfully completed a direct support professional worker training program that is listed in the registry:

(1) full name, including pre-marital name and any other names currently used or previously used;

(2) current home address;

(3) gender;

(4) date of birth;

(5) contact information;

(6) the name of each state-approved education or training program successfully completed, the name of the entity providing the program, and the date on which such program was completed;

(7) history of work in direct support professional services through any provider entity, including dates of employment and name of such entity providing the employment;

(8) final findings made in accordance with the provisions of statutorily established proceedings subject to the state administrative procedure act or other similar law, that the person engaged in physical abuse, mistreatment, neglect while serving the patient as a direct support professional or in another capacity, the name of the governmental agency, case number if a number is assigned, and date of determination, together with any statement concerning such determination submitted by the person, that may not identify any other person and may not exceed one hundred fifty words; and

(9) a record of any determination of the department regarding the approval or disapproval of a prospective employee pursuant to subdivision five of section eight hundred forty-five-b of the executive law, together with any statement concerning such determination submitted by the person, that may not identify any other person and may not exceed one hundred fifty words.

(d) The registry shall include a comprehensive list of all state-approved direct support professional worker education or training programs and its contact details. The list shall be updated at least monthly by the office and the state education department. The office shall promptly submit updated information whenever such information changes.

(e) (1) The office shall specify which information for the registry shall be submitted and updated by the state-approved education or training program, direct support professional and provider, subject to the provisions of this subdivision.

(2) Any entity that offers or provides a state-approved education or training program shall provide the department the following documentation for every person who successfully completes any program provided by the entity, in the form and manner provided by the office:

(i) a written sworn statement by the senior official of the entity that offers or provides such program, made under penalty of perjury, certifying that each person has in fact successfully completed the identified program, identifying each such person by name, address, date of birth and date on which such program was completed, and describing the nature of the education or training covered in such program; and

(ii) proof that such entity has verified the true identity of each person who has successfully completed the identified program.

(f) A direct support professional employed by a provider shall only be required to provide for the registry that information specified in paragraphs one, two, three, four, five and six of subdivision (c) of this section, and, to the best of their knowledge and recollection, paragraph seven of subdivision (c) of this section.

(g) The registry shall be updated at least monthly. Any person or entity required to provide information to the registry shall promptly submit updated information whenever such information changes.

(h) No charges shall be imposed on any person or entity for any costs related to the registry.

(i) (1) Members of the public may access and obtain information in the registry through the department's website, except information specified in paragraphs two, four and five of subdivision (c) of this section. The department shall also provide toll-free telephone access for members of the public to access and obtain information from the registry, except information specified in paragraphs two, four and five of subdivision (c) of this section.

(2) A direct support professional worker may access or obtain any information in the worker's own listing in the registry.

(3) A provider entity or individual enrolled in the self-direction program may access or obtain any information in the registry relating to the direct support professional the provider or person is employing or considering employing.

(4) The office shall include security mechanisms in the registry to implement this subdivision and to maintain a record of accessing or obtaining information from the registry by every provider entity or individual enrolled in self-direction.

(j) The office shall provide reasonable and appropriate timetables, notices and phase-in mechanisms for applying various provisions of this section to state-approved education and training programs, provider entities, persons becoming direct support professionals and persons already employed as direct support professionals. Persons employed as direct support professionals on the effective date of this section shall be registered as soon as practicable, but not later than twelve months after such effective date.

(k) The commissioner shall promulgate rules and regulations reasonably necessary to implement the provisions of this section.

§ 2. This act shall take effect June 1, 2025. 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.