STATE OF NEW YORK

9063--A

IN ASSEMBLY

February 6, 2024

Introduced by M. of A. STECK, McDONALD, GALLAGHER, FAHY, BUTTENSCHON -- 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 establishing 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. The mental hygiene law is amended by adding a new section 32.40 to read as follows:

§ 32.40 Recovery-ready workplace program.

(a) Definitions. For purposes of this section, the following terms shall have the following meanings:

1. "Employer" shall include any person, entity, corporation, limited liability company, or association employing any individual in any occupation, industry, trade, business or service.

2. "Employee" means any person employed for hire by an employer in any employment.

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. "Prevention" means a way of preventing substance misuse through strategies to reduce the risk of injury and stress in the workplace and address other factors that may increase the risk of substance misuse and through training and education to build a substance use disorder and recovery literacy.

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

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7. "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.

8. "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.

9. "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".

10. "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.

11. "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.

12. "Workplace" means any site where an employee performs any work-related duty or duties in the scope and course of the employee's employment, provided that such locations shall not include an employee's domicile, permanent or temporary, where an employee performs any work-related duty in the course of their employment.

(b) The office, in consultation with the department of labor, shall establish a recovery ready workplace program to be administered and overseen by the office. At a minimum, the program shall:

1. Develop a process through which employers may apply to become a recovery ready workplace participant or certified as recovery ready as set forth in this section;

2. Develop an orientation process that includes training materials for employers that provides a baseline introduction to substance use disorder, treatment, and recovery, including information on the science of addiction, stigma, substance use in the workforce, prevention measures, available local resources, and the ways in which employers can amend and implement recovery ready policies and practices to help their employees with substance use disorders;

3. Provide consultation, guidance, technical assistance, training and education, and other support to employers seeking to become participants or certified recovery ready workplaces, as well as to current program participants and certified recovery ready employers;

4. Conduct outreach to stakeholders, including employers that are not engaged in the program, labor unions, and recovery support organizations, to provide information regarding the program; and

5. Establish a recovery ready workplace program webpage on the office's website that provides information on substance use in the workplace to employers, employees, and the general public.

(c) 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 and, if any, the collective bargaining agent or the bona fide labor organization which has established itself and/or its affiliates as the collective bargaining representative for persons employed by such employer, 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;

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 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 five of subsection one of section three thousand two hundred twenty-one and subsections (g) and (h) of section four thousand three hundred three 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.

(d) 1. An employer shall develop the plan to become certified as a RRW in cooperation with the collective bargaining agent or the bona fide labor organization which has established itself and/or its affiliates as the collective bargaining representative for persons employed by such employer, 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 place or workplaces 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 or a bona fide labor organization which has established itself and/or its affiliates as the

collective bargaining representative for persons employed by such employer, such 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 (c) 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.

(e) The provisions of this section shall not be construed to diminish or alter the rights or benefits of any employee pursuant to any other law, regulation, or collective bargaining agreement.

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