STATE OF NEW YORK

3528--A

2023-2024 Regular Sessions

IN SENATE

January 31, 2023

Introduced by Sen. FERNANDEZ -- read twice and ordered printed, and when printed to be committed to the Committee on Alcoholism and Substance 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 setting standards for addiction professionals

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

Section 1. Section 19.07 of the mental hygiene law, as added by chapter 223 of the laws of 1992, subdivisions (a) and (g) as amended by chapter 271 of the laws of 2010, subdivisions (b) and (c) as amended by chapter 281 of the laws of 2019, subdivision (d) as amended by section 5 of part I of chapter 58 of the laws of 2005 and the opening paragraph of paragraph 1 of subdivision (d) as amended by chapter 449 of the laws of 2021, subdivision (e) as amended by chapter 558 of the laws of 1999, subdivision (f) as added by chapter 383 of the laws of 1998, subdivision (h) as separately amended by chapters 322 and 494 of the laws of 2021, subdivision (i) as amended by section 31-a of part AA of chapter 56 of the laws of 2019, subdivision (j) as amended by chapter 146 of the laws of 2014, subdivision (k) as added by chapter 40 of the laws of 2014, subdivision (l) as added by chapter 323 of the laws of 2018, subdivision (m) as added by chapter 493 of the laws of 2019, subdivision (n) as added by chapter 190 of the laws of 2021 and subdivision (n) as added by chapter 762 of the laws of 2022, is amended to read as follows:

§ 19.07 Office of [~~alcoholism and substance abuse services~~] **addiction services and supports**; scope of responsibilities.

(a) The office of [~~alcoholism and substance abuse services~~] **addiction services and supports** is charged with the responsibility for assuring the development of comprehensive plans, programs, and services in the areas of research, prevention, care, treatment, rehabilitation, including relapse prevention and recovery maintenance, education, and training

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

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of persons who [~~abuse or are dependent on alcohol and/or substances~~] **have or are at risk of an addictive disorder** and their families. **The term addictive disorder shall include compulsive gambling education, prevention and treatment consistent with section 41.57 of this chapter.** Such plans, programs, and services shall be developed with the cooperation of the office, the other offices of the department where appropriate, local governments, consumers and community organizations and entities. The office shall provide appropriate facilities and shall encourage the provision of facilities by local government and community organizations and entities. [~~The office is also responsible for developing plans, programs and services related to compulsive gambling education, prevention and treatment consistent with section 41.57 of this chapter.~~]

(b) The office of [~~alcoholism and substance abuse services~~] **addiction services and supports** shall advise and assist the governor in improving services and developing policies designed to meet the needs of persons who suffer from **or are at risk of** an addictive disorder and their families, and to encourage their rehabilitation, maintenance of recovery, and functioning in society.

(c) The office of [~~alcoholism and substance abuse services~~] **addiction services and supports** shall have the responsibility for seeing that persons who suffer from **or are at risk of** an addictive disorder and their families are provided with addiction services, care and treatment, and that such services, care, treatment and rehabilitation is of high quality and effectiveness, and that the personal and civil rights of persons seeking and receiving addiction services, care, treatment and rehabilitation are adequately protected.

(d) The office of [~~alcoholism and substance abuse services~~] **addiction services and supports** shall foster programs for the training and development of persons capable of providing the foregoing services, including but not limited to a process of issuing, either directly or through contract, **licenses,** credentials**, certificates or authorizations** for [~~alcoholism and substance abuse counselors or gambling~~] addiction [~~counselors~~] **professionals** in accordance with the following:

(1) The office shall establish minimum qualifications [~~for counselors~~] **and a definition of the practice of the profession of an addiction professional** in all phases of delivery of services to persons and their families who are suffering from [~~alcohol and/or substance abuse and/or chemical dependence and/or compulsive gambling that shall include~~] **or are at risk of an addictive disorder including**, but not be limited to, completion of approved courses of study or equivalent on-the-job experience in [~~alcoholism and substance abuse counseling and/or counseling of compulsive gambling~~] **addiction disorder services**. Such approved courses of study or equivalent on-the-job experience shall include: providing trauma-informed, patient-centered care; referring individuals to appropriate treatments for co-occurring disorders; and sensitivity training. Such courses shall be updated as needed to reflect evolving best practices in harm reduction, treatment and long-term recovery. For the purposes of this paragraph, sensitivity training shall mean a form of training with the goal of making people more aware of their own prejudices and more sensitive to others.

(i) The office shall establish procedures for issuing, directly or through contract, **licenses,** credentials**, certificates or authorizations** to [~~counselors~~] **addiction professionals** who meet minimum qualifications, including the establishment of appropriate fees, and shall further establish procedures to suspend, revoke, or annul such **licenses,** creden-

tials, certificates or authorizations for good cause. Such procedures shall be promulgated by the commissioner by rule or regulation.

(ii) The commissioner shall establish [~~a credentialing~~] an addiction professionals board which shall provide advice concerning the licensing, credentialing, certification or authorization process.

(iii) The commissioner shall establish fees for the education, training, licensing, credentialing, certification or authorization of addiction professionals.

(2) The establishment, with the advice of the advisory council on alcoholism and substance abuse services, of minimum qualifications for [~~counselors~~] addiction professionals in all phases of delivery of services to those suffering from [~~alcoholism, substance and/or chemical abuse and/or dependence and/or compulsive gambling~~] or at risk of addictive disorders and their families that shall include, but not be limited to, completion of approved courses of study or equivalent on-the-job experience in [~~counseling for alcoholism, substance and/or chemical abuse and/or dependence~~] addiction disorder services and/or [~~compulsive~~] gambling disorder services, and establish appropriate fees, issue licenses, credentials, certificates or authorizations to [~~counselors~~] addiction professionals who meet minimum qualifications and suspend, revoke, or annul such licenses, credentials, certificates or authorizations for good cause in accordance with procedures promulgated by the commissioner by rule or regulation.

(3) For the purpose of this title, the term "addiction professional", including "credentialed alcoholism and substance abuse counselor" or "C.A.S.A.C.", means an official designation identifying an individual as one who holds a currently registered and valid license, credential, certificate or authorization issued or approved by the office of [~~alcoholism and substance abuse services~~] addiction services and supports pursuant to this section which documents an individual's qualifications to provide [~~alcoholism and substance abuse counseling~~] addiction disorder services. The term "gambling addiction [~~counselor"~~] professional" means an official designation identifying an individual as one who holds a currently registered and valid license, credential, certificate or authorization issued by the office of [~~alcoholism and substance abuse services~~] addiction services and supports pursuant to this section which documents an individual's qualifications to provide [~~compulsive~~] gambling [~~counseling~~] disorder services.

(i) No person shall use the title [~~credentialed alcoholism and substance abuse counselor or "C.A.S.A.C." or gambling addiction counselor~~] "addiction professional" or the title given to any licenses, credentials, certificates or authorizations issued by the office unless authorized [~~pursuant to~~] by the commissioner in accordance with this title.

(ii) Failure to comply with the requirements of this section shall constitute a violation as defined in the penal law.

(4) All persons holding previously issued and valid alcoholism or substance abuse counselor credentials issued by the office or an entity designated by the office, including a credentialed alcoholism and substance abuse counselor, certified prevention specialist, credentialed prevention professional, credentialed problem gambling counselor, gambling specialty designation, and certified recovery peer advocate, on the effective date of amendments to this section shall be deemed [~~C.A.S.A.C. designated~~] an addiction professional consistent with their experience and education.

(e) Consistent with the requirements of subdivision (b) of section 5.05 of this chapter, the office shall carry out the provisions of article thirty-two of this chapter as such article pertains to regulation and quality control of [~~chemical dependence~~] addiction disorder services, including but not limited to the establishment of standards for determining the necessity and appropriateness of care and services provided by [~~chemical dependence~~] addiction disorder providers of services. In implementing this subdivision, the commissioner, in consultation with the commissioner of health, shall adopt standards including necessary rules and regulations including but not limited to those for determining the necessity or appropriate level of admission, controlling the length of stay and the provision of services, and establishing the methods and procedures for making such determination.

(f) The office of [~~alcoholism and substance abuse services~~] addiction services and supports shall develop a list of all agencies throughout the state which are currently certified by the office and are capable of and available to provide evaluations in accordance with section sixty-five-b of the alcoholic beverage control law so as to determine need for treatment pursuant to such section and to assure the availability of such evaluation services by a certified agency within a reasonable distance of every court of a local jurisdiction in the state. Such list shall be updated on a regular basis and shall be made available to every supreme court law library in this state, or, if no supreme court law library is available in a certain county, to the county court library of such county. The commissioner may establish an annual fee for inclusion on such list.

(g) The office of [~~alcoholism and substance abuse services~~] addiction services and supports shall develop and maintain a list of the names and locations of all licensed agencies and [~~alcohol and substance abuse~~] addiction professionals, as defined in paragraphs (a) and (b) of subdivision one of section eleven hundred ninety-eight-a of the vehicle and traffic law, throughout the state which are capable of and available to provide an assessment of, and treatment for, [~~alcohol and substance abuse and dependency~~] addiction disorders. Such list shall be provided to the chief administrator of the office of court administration and the commissioner of motor vehicles. Persons who may be aggrieved by an agency decision regarding inclusion on the list may request an administrative appeal in accordance with rules and regulations of the office. The commissioner may establish an annual fee for inclusion on such list.

(h) The office of addiction services and supports shall monitor programs providing care and treatment to incarcerated individuals in correctional facilities operated by the department of corrections and community supervision who have a history of [~~alcohol or substance use disorder or dependence~~] an addiction disorder. The office shall also develop guidelines for the operation of [~~alcohol and substance use disorder treatment programs~~] addiction disorder services in such correctional facilities, based on best practices, and tailored to the nature of the individual's substance use, history of past treatment, and history of mental illness or trauma, which may include harm reduction strategies, in order to ensure that such [~~programs~~] services sufficiently meet the needs of incarcerated individuals with a history of [~~alcohol or substance use disorder or dependence~~] an addiction disorder and promote the successful transition to treatment in the community upon release. No later than the first day of December of each year, the office shall submit a report regarding: (1) the adequacy and effectiveness of [~~alcohol and substance use disorder treatment programs~~] addiction disorder

services operated by the department of corrections and community supervision; (2) the total number of incarcerated individuals in correctional facilities that have been screened for, and determined to have, [~~a substance use~~] an addiction disorder; (3) information regarding which substances incarcerated individuals are most dependent upon and the available treatment for such individuals within each correctional facility; (4) the total number of individuals who participate in each of the [~~treatment programs~~] addiction disorder services operated by the department of corrections and community supervision; and (5) the total number of individuals who participated in [~~a substance use disorder treatment program~~] addiction disorder services but failed to complete such [~~program~~] services, as well as whether such failure to complete [~~the program~~] such addiction disorder services was a result of disciplinary action taken by the facility against the individual for instances unrelated to their participation in [~~the treatment program~~] such services. The department of corrections and community supervision shall provide the office with information needed to complete this report. Such report shall be sent to the governor, the temporary president of the senate, the speaker of the assembly, the chairman of the senate committee on crime victims, crime and correction, and the chairman of the assembly committee on correction.

(i) The office of [~~alcoholism and substance abuse services~~] addiction services and supports shall periodically, in consultation with the state director of veterans' services: (1) review the programs operated by the office to ensure that the needs of the state's veterans who served in the U.S. armed forces and who are recovering from [~~alcohol and/or substance abuse~~] an addiction disorder are being met and to develop improvements to programs to meet such needs; and (2) in collaboration with the state director of veterans' services and the commissioner of the office of mental health, review and make recommendations to improve programs that provide treatment, rehabilitation, relapse prevention, and recovery services to veterans who have served in a combat theatre or combat zone of operations and have a co-occurring mental health and [~~alcoholism or substance abuse~~] addiction disorder.

(j) The office, in consultation with the state education department, shall identify or develop materials on problem gambling among school-age youth which may be used by school districts and boards of cooperative educational services, at their option, to educate students on the dangers and consequences of problem gambling as they deem appropriate. Such materials shall be available on the internet website of the state education department. The internet website of the office shall provide a hyperlink to the internet page of the state education department that displays such materials.

(k) Heroin and opioid addiction awareness and education program. The commissioner, in cooperation with the commissioner of the department of health, shall develop and conduct a public awareness and educational campaign on heroin and opioid addiction. The campaign shall utilize public forums, social media and mass media, including, but not limited to, internet, radio, and print advertising such as billboards and posters and shall also include posting of materials and information on the office website. The campaign shall be tailored to educate youth, parents, healthcare professionals and the general public regarding: (1) the risks associated with the abuse and misuse of heroin and opioids; (2) how to recognize the signs of addiction; and (3) the resources available for those needing assistance with heroin or opioid addiction. The campaign shall further be designed to enhance awareness of the

opioid overdose prevention program authorized pursuant to section thirty-three hundred nine of the public health law and the "Good Samaritan law" established pursuant to sections 220.03 and 220.78 of the penal law and section 390.40 of the criminal procedure law, and to reduce the stigma associated with addiction.

(l) The office of [~~alcoholism and substance abuse services~~] **addiction services and supports**, in consultation with the state education department, shall develop or utilize existing educational materials to be provided to school districts and boards of cooperative educational services for use in addition to or in conjunction with any drug and alcohol related curriculum regarding the misuse and abuse of alcohol, tobacco, prescription medication and other drugs with an increased focus on substances that are most prevalent among school aged youth as such term is defined in section eight hundred four of the education law. Such materials shall be age appropriate for school age children, and to the extent practicable, shall include information or resources for parents to identify the warning signs and address the risks of substance [~~abuse~~] **misuse and addiction**.

(m) (1) The office shall report on the status and outcomes of initiatives created in response to the heroin and opioid epidemic to the temporary president of the senate, the speaker of the assembly, the chairs of the assembly and senate committees on alcoholism and drug abuse, the chair of the assembly ways and means committee and the chair of the senate finance committee.

(2) Such reports shall include, to the extent practicable and applicable, information on:

(i) The number of individuals enrolled in the initiative in the preceding quarter;

(ii) The number of individuals who completed the treatment program in the preceding quarter;

(iii) The number of individuals discharged from the treatment program in the preceding quarter;

(iv) The age and sex of the individuals served;

(v) Relevant regional data about the individuals;

(vi) The populations served; and

(vii) The outcomes and effectiveness of each initiative surveyed.

(3) Such initiatives shall include opioid treatment programs, crisis detoxification programs, 24/7 open access centers, adolescent club houses, family navigator programs, peer engagement specialists, recovery community and outreach centers, regional addiction resource centers and the state implementation of the federal opioid state targeted response initiatives.

(4) Such information shall be provided quarterly, beginning no later than July first, two thousand nineteen.

(n) The office in consultation with the office of mental health, the department of health, the division of housing and community renewal and any other agency that may oversee an appropriate program or service shall monitor and ensure funds appropriated pursuant to section ninety-nine-nn of the state finance law are expended for services and programs in accordance with such section.

[~~(n)~~] **(o)** The office of addiction services and supports, in consultation with the commissioner of health, shall provide and publish, in electronic or other format, training materials for health care providers, as defined by subdivision six of section two hundred thirty-eight of the public health law, and qualified health professionals, recognized by the office to enable the implementation of the screening, brief

intervention, and referral to treatment program (SBIRT). Such training materials shall include any and all materials necessary to inform health care providers and qualified health professionals of the method for administering the SBIRT program to a patient in the care of health care providers or qualified health professionals. Such training materials shall be made available to health care providers and qualified health professionals through the official websites of the office and the department of health and by any other means deemed appropriate by the commissioner.

§ 2. This act shall take effect on the first of April next succeeding the date on which it shall have become a law.