STATE OF NEW YORK

11665

IN ASSEMBLY

September 2, 2026

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Wieder) -- read once and referred to the Committee on Mental Health

AN ACT to amend the mental hygiene law, in relation to telehealth in-home mental health service delivery

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

Section 1. Legislative findings and intent. The legislature finds and declares that:

1. Access to mental health services is a critical public health priority throughout New York state, particularly in rural, underserved, and geographically isolated communities.

2. Telehealth has proven to be a vital and effective modality for delivering mental health outpatient treatment and rehabilitative services, removing barriers of geography, transportation, and stigma that prevent New Yorkers from obtaining needed care.

3. The office of mental health, through its regulations adopted pursuant to title 14 NYCRR parts 596 and 599, has broadly authorized licensed article thirty-one mental health outpatient treatment and rehabilitative service programs to deliver services via telehealth to recipients at their place of residence or other location, without regard to the county in which the recipient resides.

4. Notwithstanding such regulatory authority, certain regional field offices of the office of mental health have imposed, or attempted to impose, geographic restrictions limiting licensed article thirty-one providers to serving only recipients within the county of the program's primary operating certificate. Such restrictions have no basis in statute or regulation, are inconsistent with state policy, and cause direct harm to recipients who depend on telehealth services for continuity of care.

5. The legislature further finds that operating certificate renewal proceedings should not be used as a mechanism to enforce restrictions on geographic service areas that are unsupported by statute or duly promulgated regulation.

6. It is therefore the intent of the legislature to:

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

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(a) codify in statute the right of licensed article 31 mental health outpatient treatment and rehabilitative service programs to deliver telehealth services to recipients without restriction as to county of residence;

(b) ensure uniformity of regulatory interpretation across all regional field offices of the office of mental health; and

(c) protect recipient access to mental health services by prohibiting the imposition of county-based geographic service restrictions on telehealth delivery.

§ 2. The mental hygiene law is amended by adding a new section 31.04-a to read as follows:

§ 31.04-a Telehealth services; geographic service area.

(a) As used in this section:

1. "Article thirty-one telehealth provider" means a provider of mental health services licensed, designated, or authorized by the office pursuant to article thirty-one of this chapter that has received written approval from the office to provide telehealth services pursuant to this article and the regulations promulgated thereunder.

2. "Telehealth services" shall have the same meaning as set forth in section 596.2 of title 14 of the New York codes, rules and regulations, or any successor provision.

3. "Recipient" means an individual receiving or seeking to receive mental health outpatient treatment and rehabilitative services from a licensed article thirty-one telehealth provider.

(b) An article thirty-one telehealth provider that has been approved by the office to deliver telehealth services shall be authorized to provide such services to recipients located anywhere within the state of New York, without regard to the county in which the recipient resides or in which the recipient is physically located at the time of service. No condition, restriction, or limitation imposed on a provider's operating certificate shall be construed to restrict telehealth services to recipients within any particular county or counties unless such restriction is expressly set forth in statute or in a regulation duly promulgated pursuant to the state administrative procedure act.

(c) The commissioner shall not, and no regional field office of the office of mental health shall, by letter, guidance, directive, informal instruction, condition on operating certificate, condition on operating certificate renewal, corrective action plan, or other non-regulatory action, restrict or limit an article thirty-one telehealth provider's authority to deliver telehealth services based solely on the county of residence or location of the recipient, unless such restriction is:

1. expressly required by a statute of the state of New York or federal law; or

2. adopted as a regulation through the rulemaking procedures set forth in the state administrative procedure act.

(d) The delivery of telehealth services by an article thirty-one telehealth provider to a recipient shall be governed by the clinical needs of the recipient and the recipient's right to choose their provider. No article thirty-one telehealth provider shall be penalized, sanctioned, or subject to adverse operating certificate action for providing telehealth services to recipients located outside the county of the provider's primary licensed site, provided that such services are otherwise delivered in compliance with applicable statutes and duly promulgated regulations.

(e) The commissioner shall ensure that the office's policies and standards regarding the geographic scope of telehealth service delivery by

article thirty-one providers are applied uniformly by all regional field offices of the office of mental health. Within one hundred eighty days of the effective date of this section, the commissioner shall issue written guidance to all regional field offices clarifying:

1. that no county-based geographic restriction on telehealth delivery is authorized under this article or any regulation promulgated thereunder, except as provided in subdivision (c) of this section; and

2. the standard operating procedures for review and approval of telehealth service plans submitted by article thirty-one providers.

(f) The renewal of an operating certificate issued to an article thirty-one telehealth provider shall not be denied, conditioned, or delayed based on the provider's delivery of telehealth services to recipients outside the county of the provider's primary licensed site, where such delivery was otherwise consistent with the provider's approved telehealth plan and applicable statutes and duly promulgated regulations.

(g) The commissioner shall have the authority to promulgate rules and regulations necessary to implement the provisions of this section, consistent with the requirements of the state administrative procedure act.

(h) Where a recipient is unable or unwilling to attend a clinic site for in-person services, and it is clinically determined that telehealth is not a viable option, an article thirty-one telehealth provider shall be authorized to deliver services at the recipient's place of residence. The commissioner shall establish a Medicaid reimbursement rate for in-home services delivered pursuant to this subdivision equivalent to the standard office visit rate applicable to licensed article thirty-one outpatient services, so as to ensure no additional fiscal impact to the state.

§ 3. Severability. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 4. This act shall take effect on the ninetieth day after it shall have become a law.