

# STATE OF NEW YORK

3974

2025-2026 Regular Sessions

## IN ASSEMBLY

January 30, 2025

Introduced by M. of A. FORREST -- read once and referred to the Committee on Mental Health

AN ACT to amend the mental hygiene law, in relation to creating the office of the ombudsperson for behavioral health access

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

1 Section 1. The mental hygiene law is amended by adding a new section  
2 7.49 to read as follows:

3 § 7.49 Behavioral health access ombudsperson.

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

6 1. "Office of the ombudsperson" shall mean the office of the ombud-  
7 sperson for behavioral health access.

8 2. "Ombudsperson" shall mean the ombudsperson for behavioral health  
9 access to care.

10 (b) There is hereby created the office of the ombudsperson for behav-  
11 ioral health access for the purpose of assisting New Yorkers in access-  
12 ing behavioral health care.

13 (c) The office of the ombudsperson and the department of mental  
14 hygiene shall operate pursuant to a memorandum of understanding between  
15 the two entities. The memorandum of understanding shall contain, at a  
16 minimum:

17 1. a requirement that the office of the ombudsperson has its own  
18 personnel rules;

19 2. a requirement that the ombudsperson has independent hiring and  
20 termination authority over office of the ombudsperson employees;

21 3. a requirement that the office of the ombudsperson shall follow  
22 state fiscal rules;

23 4. a requirement that the office shall offer the office of the ombud-  
24 sperson limited support with respect to:

25 (i) personnel matters;

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

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1 (ii) recruitment;

2 (iii) payroll;

3 (iv) benefits;

4 (v) budget submission, as needed;

5 (vi) accounting; and

6 (vii) office space, facilities, and technical support; and

7 5. any other provisions regarding administrative support that will  
8 help maintain the independence of the office of the ombudsperson.

9 (d) The office of the ombudsperson shall operate with full independ-  
10 ence and with complete autonomy, control, and authority over operations,  
11 budget, and personnel decisions related to the office of the ombudsperson and the ombudsperson.

12 (e) 1. On or before January first, two thousand twenty-six, the gover-  
13 nor shall designate an ombudsperson for behavioral health access to  
14 care, who shall serve as director of the office of the ombudsperson.

15 2. The ombudsperson shall serve as a neutral party to help consumers,  
16 including consumers who are uninsured or have public or private health  
17 benefit coverage, including coverage that is not subject to state regu-  
18 lation, and health care providers acting on their own behalf, on behalf  
19 of a consumer with the consumer's written permission, or on behalf of a  
20 group of health care providers, navigate and resolve issues related to  
21 consumer access to behavioral health care, including care for mental  
22 health conditions and substance use disorders.

23 (f) The ombudsperson shall:

24 1. interact with consumers and health care providers with concerns or  
25 complaints to help such consumers and providers resolve behavioral  
26 health care access and coverage issues;

27 2. identify, track, and report to the appropriate regulatory or over-  
28 sight agency concerns, complaints, and potential violations of state or  
29 federal rules, regulations, or statutes concerning the availability of,  
30 and terms and conditions of, benefits for mental health conditions or  
31 substance use disorders, including potential violations related to quan-  
32 titative and non-quantitative treatment limitations;

33 3. receive and assist consumers and providers in reporting concerns  
34 and filing complaints with appropriate regulatory or oversight agencies  
35 relating to inappropriate care;

36 4. provide appropriate information necessary to help consumers obtain  
37 behavioral health care services;

38 5. develop appropriate points of contact for referrals to other state  
39 and federal agencies; and

40 6. provide appropriate information to help consumers and health care  
41 providers file appeals or complaints with the appropriate entities,  
42 including insurers and other state and federal agencies.

43 (g) The ombudsperson, employees of the office of the ombudsperson, and  
44 any persons acting on behalf of the office of the ombudsperson shall  
45 comply with all state and federal confidentiality laws that govern the  
46 department with respect to the treatment and disclosure of confidential  
47 information and records.

48 (h) The ombudsperson shall act independently of the office in the  
49 performance of such ombudsperson's duties. Any recommendations made or  
50 positions taken by the ombudsperson shall not reflect those of the  
51 office.

52 (i) The commissioner of financial services and the commissioner shall  
53 each appoint a liaison to the ombudsperson to receive reports of  
54 concerns, complaints, and potential violations described in paragraph  
55 two of subdivision (f) of this section.  
56

1 (j) 1. On or before November first of each year following the effec-  
2 tive date of this section, the ombudsperson shall prepare and submit a  
3 written report to the governor, the commissioner of financial services,  
4 the senate committee on health, the senate committee on mental health,  
5 and the senate committee on insurance, or any successor committees.

6 2. The report required by paragraph one of this subdivision shall:

7 (i) include information from the preceding fiscal year concerning  
8 actions taken by the ombudsperson relating to the duties of the office  
9 of the ombudsperson pursuant to paragraph two of subdivision (e) of this  
10 section; and

11 (ii) not include any personally identifying information about an indi-  
12 vidual consumer or health care provider or identifying information about  
13 a health care facility.

14 3. The ombudsperson shall post the report on the department's website.

15 § 2. This act shall take effect immediately.