§ 1.03 Definitions.

When used in this chapter, unless otherwise expressly stated or unless the context otherwise requires:

1. "Department" means the department of mental hygiene of the state of New York. Except as used in article five of this chapter, the term "department" shall hereafter refer to an office of the department created by section 5.01 of this chapter.

2. "Commissioner" means the commissioner of mental health, the commissioner of developmental disabilities and the commissioner of addiction services and supports as used in this chapter. Any power or duty heretofore assigned to the commissioner of mental hygiene or to the department of mental hygiene pursuant to this chapter shall hereafter be assigned to the commissioner of mental health in the case of facilities, programs, or services for individuals with mental illness, to the commissioner of developmental disabilities in the case of facilities, programs, or services for individuals with developmental disabilities, to the commissioner of addiction services and supports in the case of facilities, programs, or addiction disorder services in accordance with the provisions of titles D and E of this chapter.

2-a. Notwithstanding any other section of law or regulation, on and after the effective date of this subdivision, any and all references to the office of alcoholism and substance abuse services and the predecessor agencies to the office of alcoholism and substance abuse services including the division of alcoholism and alcohol abuse and the division of substance abuse services, shall be known as the "office of addiction services and supports." Nothing in this subdivision shall be construed as requiring or prohibiting the further amendment of statutes or regulations to conform to the provisions of this subdivision.

3. "Mental disability" means mental illness, intellectual disability, developmental disability, or an addictive disorder as defined in this section.

4. "Services for persons with a mental disability" means examination, diagnosis, care, treatment, rehabilitation, supports, habilitation or training or as may be more specifically defined in this section.

5. "Provider of services" means an individual, association, corporation, partnership, limited liability company, or public or private agency, other than an agency or department of the state, which provides services for persons with a mental disability. It shall not include any part of a hospital as defined in article twenty-eight of the public health law which is not being operated for the purpose of providing services for the mentally disabled. No provider of services shall be subject to the regulation or control of the department or one of its offices except as such regulation or control is provided for by other provisions of this chapter.

6. "Facility" means any place in which services for the mentally disabled are provided and includes but is not limited to a psychiatric center, developmental center, institute, clinic, ward, institution, or building, except that in the case of a hospital as defined in article twenty-eight of the public health law it shall mean only a ward, wing, unit, or part thereof which is operated for the purpose of providing services for the mentally disabled. It shall not include a place where the services rendered consist solely of non-residential services for the mentally disabled which are exempt from the requirement for an operating certificate under article sixteen, thirty-one or thirty-two of this chapter, nor shall it include domestic care and comfort to a person in the home.

7. "Department facility" means a facility within one of the offices of the department.

8. "Examining physician" means a physician licensed to practice medicine in the state of New York.

9. "Certified psychologist" means a person who has been certified and registered to practice psychology in the state of New York pursuant to the education law.

* 10. "Hospital" means the in-patient services of a psychiatric center under the jurisdiction of the office of mental health or other psychiatric in-patient facility in the department, a psychiatric in-patient facility maintained by a political subdivision of the state for the care or treatment of the mentally ill, a ward, wing, unit, or other part of a hospital, as defined in article twenty-eight of the public health law, operated as a part of such hospital for the purpose of providing services for the mentally ill pursuant to an operating certificate issued by the commissioner of mental health, a comprehensive psychiatric emergency program which has been issued an operating certificate by such commissioner, or other facility providing in-patient care or treatment of the mentally ill which has been issued an operating certificate by such commissioner.

* NB Effective until July 1, 2027

* 10. "Hospital" means the in-patient services of a psychiatric center under the jurisdiction of the office of mental health or other psychiatric in-patient facility in the department, a psychiatric in-patient facility maintained by a political subdivision of the state for the care or treatment of the mentally ill, a ward, wing, unit, or other part of a hospital, as defined in article twenty-eight of the public health law, operated as a part of such hospital for the purpose of providing services for the mentally ill pursuant to an operating certificate issued by the commissioner of mental health, or other facility providing in-patient care or treatment of the mentally ill which has been issued an operating certificate by such commissioner.

* NB Effective July 1, 2027

11. "School" means the in-patient service of a developmental center or other residential facility for individuals with developmental disabilities under the jurisdiction of the office for people with developmental disabilities or a facility for the residential care, treatment, training, or education of individuals with developmental disabilities which has been issued an operating certificate by the commissioner of developmental disabilities.

12. "Addictive disorder" or "addiction disorder" for purposes of this chapter means substance use disorder or gambling disorder as such terms

are defined in this section and derived from the most recent edition of the diagnostic and statistical manual of mental disorders (DSM), published by the American Psychiatric Association.

17. "Addiction treatment facility" or "Alcoholism facility" means an in-patient, residential or outpatient facility in the department suitable for the provision of addiction disorder services to persons suffering from an addictive disorder and which has been issued an operating certificate pursuant to article thirty-two of this chapter.

19. "Significant other" means a relative, close friend, associate or individual otherwise concerned with the welfare of a person suffering from an addictive disorder when that individual is directly affected by the person's addictive disorder.

20. "Mental illness" means an affliction with a mental disease or mental condition which is manifested by a disorder or disturbance in behavior, feeling, thinking, or judgment to such an extent that the person afflicted requires care, treatment and rehabilitation.

22. "Developmental disability" means a disability of a person which:

(a) (1) is attributable to intellectual disability, cerebral palsy, epilepsy, neurological impairment, familial dysautonomia, Prader-Willi syndrome or autism;

(2) is attributable to any other condition of a person found to be closely related to intellectual disability because such condition results in similar impairment of general intellectual functioning or adaptive behavior to that of intellectually disabled persons or requires treatment and services similar to those required for such person; or

(3) is attributable to dyslexia resulting from a disability described in subparagraph one or two of this paragraph;

(b) originates before such person attains age twenty-two;

(c) has continued or can be expected to continue indefinitely; and

(d) constitutes a substantial handicap to such person's ability to function normally in society.

23. "Patient" means a person receiving services for the mentally

disabled at a facility. It includes a resident at a school.

24. "Informal caregiver" means the family member, friends, neighbors, or other natural person who normally provides the daily care or supervision of a mentally disabled person. Such informal caregiver may, but need not reside in the same household as the mentally disabled person.

26. "Infant" or "minor" means a person who has not attained the age of eighteen years.

27. "Aftercare services" means services for persons no longer receiving in-patient services for the mentally disabled and may include, but shall not be limited to, medical care, including psychiatric care, and vocational and social rehabilitation.

28. "Community residence" means any facility operated by or subject to licensure by the office of mental health or the office for people with developmental disabilities which provides a supervised residence or residential respite services for individuals with mental disabilities and a homelike environment and room, board and responsible supervision for the habilitation or rehabilitation of individuals with mental disabilities as part of an overall service delivery system. A community residence shall include an intermediate care facility with fourteen or fewer residents that has been approved pursuant to law, and a community residential facility as that term is used in section 41.36 of this chapter. Such term does not include family care homes.

28-a. "Supervised living facility" means a community residence providing responsible supervisory staff on-site twenty-four hours per day for the purpose of enabling residents to live as independently as possible.

28-b. "Supportive living facility" means a community residence providing practice in independent living under supervision but not providing staff on-site on a twenty-four hour per day basis.

30. "Conditional release" means release subject to the right of the school, hospital, or alcoholism facility to return the patient to in-patient care pursuant to the conditions set forth in section 29.15 of this chapter.

31. "Discharge" means release and the termination of any right to retain or treat the patient on an in-patient basis. The discharge of such a patient shall not preclude the patient from receiving necessary services on other than an in-patient basis nor shall it preclude subsequent readmission as an in-patient if made in accordance with article nine, fifteen, or twenty-two of this chapter.

32. "Conference" means the New York state conference of local mental hygiene directors as established pursuant to section 41.10 of this chapter.

33. "Residential treatment facility for children and youth" shall mean an inpatient psychiatric facility which provides active treatment under the direction of a physician for individuals who are under twenty-one years of age, provided that a person who, during the course of treatment, attains the age of twenty-one may continue to receive services in a residential treatment facility for children and youth until he or she reaches the age of twenty-two. The term "residential treatment facility for children and youth" does not apply to the children's psychiatric centers described in section 7.17 of this chapter or to facilities specifically licensed by the office of mental health as children's hospitals. Residential treatment facilities for children and youth are a sub-class of the class of facilities defined to be "hospitals" in subdivision ten of this section.

34. "Authorized agency" shall have the meaning defined in section three hundred seventy-one of the social services law.

35. "Social services official" shall have the meaning defined in section two of the social services law.

36. "Residential care center for adults" means a facility which

provides long term residential care and support services to mentally ill adults, provides case management and medication management services, and assists residents in securing clinical, vocational and social services necessary to enable the resident to continue to live in the community. No residential care center for adults established after September first, nineteen hundred eighty-six shall have more than one hundred fifty residents. A residential care center for adults is not an adult care facility subject to licensure by the department of social services, nor is it an inpatient treatment facility.

* 37. "Comprehensive psychiatric emergency program" means a program which is licensed by the office of mental health to provide a full range of psychiatric emergency services within a defined geographic area to persons who are believed to be mentally ill and in need of such services, and which shall include crisis intervention services, crisis outreach services, crisis residence services, extended observation beds, and triage and referral services, as such terms are defined in section 31.27 of this chapter.

* NB Repealed July 1, 2027

38. "Residential services facility" or "Alcoholism community residence" means any facility licensed or operated pursuant to article thirty-two of this chapter which provides residential services for the treatment of an addiction disorder and a homelike environment, including room, board and responsible supervision as part of an overall service delivery system. Provided however, "certified recovery residence" as defined in subdivision fifty-nine of this section shall not be considered a residential services facility for the purposes of this chapter.

* 39. "Substance" shall mean:

(i) any controlled substance listed in section thirty-three hundred six of the public health law;

(ii) any substance listed in section thirty-three hundred eighty of the public health law;

(iii) any substance, except alcohol and tobacco, as listed in the published rules of the office which has been certified to the commissioner by the commissioner of health as having the capability of causing physical and/or psychological dependence. Notice of a proposed

rule listing any such substance shall be given to the speaker of the assembly and the temporary president of the senate. The commissioner shall consider the advice and recommendations of the legislature and shall hold a public hearing prior to listing any substance in its published rules.

* NB There are 2 sub 39's

* 39. "Employee assistance program" means a confidential program designed to assist employees and their families, through identification, motivation referral, and follow-up, with problems that may interfere with the employees' ability to perform on the job effectively, efficiently and safely. Such problems include addictive disorders, emotional, marital, family, and other personal problems.

* NB There are 2 sub 39's

42. "Substance use disorder program" or "Substance abuse program" shall mean any public or private person, corporation, partnership, agency, either profit or non-profit, or state or municipal government which provides substance use disorder services, in either a residential or ambulatory setting, to persons in need of services for the prevention of, or treatment and recovery from a substance use disorder. Any person or entity providing such services as a minor part of a general health or counseling unit subject to regulations promulgated by the commissioner and other appropriate agencies shall not be considered a substance use disorder program.

46. "Record" of a patient or client shall consist of admission, transfer or retention papers and orders, and accompanying data required by this article and the regulations of the commissioner.

47. "Director of community services" shall mean the director of community services for the mentally disabled appointed pursuant to this chapter.

48. "Practitioner" shall mean a physician, dentist, podiatrist, veterinarian, scientific investigator, or other person licensed, or otherwise permitted to dispense, administer or conduct research with respect to a controlled substance in the course of a licensed

professional practice or research licensed pursuant to this article. Such person shall be deemed a "practitioner" only as to such substances, or conduct relating to such substances, as is permitted by his license, permit or otherwise permitted by law.

49. "Prescription" shall mean an official New York state prescription, a written prescription or an oral prescription.

50. "Controlled substance" shall mean the definition of "controlled substance" as contained in section thirty-three hundred two of the public health law.

52. "Persons with serious mental illness" means individuals who meet criteria established by the commissioner of mental health, which shall include persons who are in psychiatric crisis, or persons who have a designated diagnosis of mental illness under the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders and whose severity and duration of mental illness results in substantial functional disability. Persons with serious mental illness shall include children and adolescents with serious emotional disturbances.

53. "Children and adolescents with serious emotional disturbances" means individuals under eighteen years of age who meet criteria established by the commissioner of mental health, which shall include children and adolescents who are in psychiatric crisis, or children and adolescents who have a designated diagnosis of mental illness under the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders and whose severity and duration of mental illness results in substantial functional disability.

54. "Gambling disorder" means an addictive disorder, as defined by the most recent edition of the diagnostic and statistical manual of mental disorders (DSM), published by the American Psychiatric Association, characterized by repeated problematic gambling behavior which causes significant problems or distress. Unless otherwise provided, for the purposes of this chapter, the term gambling disorder shall mean and include compulsive gambling, pathological gambling or problem gambling.

55. "Addiction disorder services" or "addiction services" shall mean engagement to treatment, examination, evaluation, diagnosis, care, treatment, rehabilitation, relapse prevention and recovery maintenance, and related education and training of persons suffering from or recovering from an addictive disorder and their significant others. Unless otherwise provided, for the purposes of this chapter, the term addiction disorder services shall mean and include "chemical dependence services," alcoholism and/or substance abuse services, substance use disorder services, substance dependence, and gambling disorder services.

56. "Substance use disorder" means recurrent use of alcohol and/or legal or illegal drugs causing clinical and functionally significant impairment to the individual's physical and mental health, or the welfare of others. Unless otherwise provided, for the purposes of this chapter the term substance use disorder shall mean and include alcoholism, alcohol abuse, drug abuse, substance abuse, substance dependence, chemical abuse, and/or chemical dependence.

58. "Behavioral health services" means examination, diagnosis, care, treatment, rehabilitation, or training for persons with mental illness, or addictive disorders.

59. "Certified recovery residence" means a shared living environment in the state that has been certified by the office of addiction services and supports and utilizes connection to services to promote sustained recovery from a substance use disorder.