§ 32.05 Operating certificate required.

(a) Except as provided in subdivision (b) of this section no provider of services shall engage in any of the following activities without an operating certificate issued by the commissioner pursuant to this article:

1. operation of a residential program, including a community residence for the care, custody, or treatment of persons suffering from chemical abuse or dependence; provided, however, that giving domestic care and comfort to a person in the home shall not constitute such an operation;

1-a. operation of a certified recovery residence in accordance with section 32.05-a of this article for the promotion of sustained recovery of persons suffering from a substance use disorder;

2. operation of a discrete unit of a hospital or other facility possessing an operating certificate pursuant to article twenty-eight of the public health law for the purpose of providing residential or non-residential chemical dependence services; or

3. operation of a program established or maintained by a provider of services for the rendition of out-patient or non-residential chemical dependence services; provided, however, that such operation shall not be deemed to include (i) professional practice, within the scope of a professional license or certificate issued by an agency of the state, by an appropriately licensed individual or by a partnership of such individuals, or by a professional service corporation duly incorporated pursuant to the business corporation law wherein all professionals bear the same professional license, or a university faculty practice corporation duly incorporated pursuant to the not-for-profit corporation law, unless more than fifty percent of such practice by either such corporation consists of the rendering of chemical dependence services; or (ii) non-residential services which are chartered or issued a certificate of incorporation pursuant to the education law; or (iii) pastoral counseling by a clergyman or minister, including those defined as clergyman or minister by section two of the religious corporations law; or (iv) services which are exclusively prevention strategies and

approaches as defined in section 1.03 of this chapter.

* (b) (i) Methadone, or such other controlled substance designated by the commissioner of health as appropriate for such use, may be administered to a person with substance use disorder, as defined in section thirty-three hundred two of the public health law, by individual physicians, groups of physicians and public or private medical facilities certified pursuant to article twenty-eight or thirty-three of the public health law as part of a chemical dependence program which has been issued an operating certificate by the commissioner pursuant to subdivision (b) of section 32.09 of this article, provided, however, that such administration must be done in accordance with all applicable federal and state laws and regulations. Individual physicians or groups of physicians who have obtained authorization from the federal government to administer buprenorphine to people with substance use disorder may do so without obtaining an operating certificate from the commissioner. (ii) No provision of this article or any other provision of law shall be construed to require a provider licensed pursuant to article twenty-eight of the public health law, article thirty-one of this chapter or a provider certified pursuant to article sixteen of this chapter to obtain an operating certificate from the office of alcoholism and substance abuse services if such provider has been authorized to provide integrated services in accordance with regulations issued by the commissioner of alcoholism and substance abuse services in consultation with the commissioner of the department of health, the commissioner of the office of mental health and the commissioner of the office for people with developmental disabilities, including regulations issued pursuant to subdivision seven of section three hundred sixty-five-l of the social services law or part L of chapter fifty-six of the laws of two thousand twelve.

* NB Effective until the date that the rates of reimbursement for integrated behavioral health services are approved and certified by parties set forth in chapter 60 of 2026 § 8

* (b) (i) Methadone, or such other controlled substance designated by the commissioner of health as appropriate for such use, may be administered to a person with substance use disorder, as defined in section thirty-three hundred two of the public health law, by individual physicians, groups of physicians and public or private medical

facilities certified pursuant to article twenty-eight or thirty-three of the public health law as part of a chemical dependence program which has been issued an operating certificate by the commissioner pursuant to subdivision (b) of section 32.09 of this article, provided, however, that such administration must be done in accordance with all applicable federal and state laws and regulations. Individual physicians or groups of physicians who have obtained authorization from the federal government to administer buprenorphine to people with substance use disorder may do so without obtaining an operating certificate from the commissioner. (ii) No provision of this article or any other provision of law shall be construed to: (A) require a provider licensed pursuant to article twenty-eight of the public health law, article thirty-one of this title or a provider certified pursuant to article sixteen of this chapter to obtain an operating certificate from the office of addiction services and supports if such provider has been authorized to provide integrated services in accordance with regulations issued by the commissioner of addiction services and supports in consultation with the commissioner of the department of health, the commissioner of the office of mental health and the commissioner of the office for people with developmental disabilities, including regulations issued pursuant to subdivision seven of section three hundred sixty-five-l of the social services law or part L of chapter fifty-six of the laws of two thousand twelve; or (B) require a provider licensed under section 36.08 of this title to obtain an operating certificate from the office of addiction services and supports. Furthermore, no provision of this article or any other provision of law shall be construed to limit the volume of addiction services by a program licensed to provide integrated behavioral health services, as defined in section 36.08 of this title.

* NB Effective on the date that the rates of reimbursement for integrated behavioral health services are approved and certified by parties set forth in chapter 60 of 2026 § 8

(c) No individual, partnership, association, corporation, limited liability company or partnership, public or private agency or any part thereof shall adopt a corporate name or hold itself out to the public in a manner which indicates, directly or indirectly, the availability of treatment, programs, or services for persons suffering from chemical abuse or dependence unless it has obtained an operating certificate from

the commissioner in accordance with the provisions of this article.

(d) The operation of a program for which an operating certificate is required shall be in accordance with the terms of the operating certificate and regulations of the commissioner.

(e) Any individual, partnership, association, corporation, limited liability company or partnership, public or private agency or any part thereof who knowingly fails to comply with the provisions of this section shall be guilty of a misdemeanor as defined in the penal law.

(f) If the commissioner has reason to believe that there is an individual, partnership, association, corporation, limited liability company or partnership, public or private agency or any part thereof which is providing chemical dependence services or which purports to provide such services and which does not possess a required current valid operating certificate, he or she shall proceed pursuant to applicable sections of this chapter including but not limited to sections 32.13, 32.15, 32.19 and 32.27 of this article.