

# PROGRAM BILL # 31

Legislative Bill Drafting Commission  
12085-01-6

## IN SENATE

Senate introducer's signature

The senators whose names are circled below wish to join me in the sponsorship  
of this proposal

S. -----  
Senate  
-----

s15 Addabbo	s31 Espallat	s27 Hoylman	s25 Montgomery	s56 Robach
s52 Akshar	s49 Farley	s09 Kaminsky	s40 Murphy	s10 Sanders
s46 Amedore	s17 Felder	s63 Kennedy	s54 Nozzolio	s23 Savino
s11 Avella	s02 Flanagan	s34 Klein	s58 O'Mara	s41 Serino
s42 Bonacic	s55 Funke	s28 Krueger	s62 Ortt	s29 Serrano
s04 Boyle	s59 Gallivan	s24 Lanza	s60 Panepinto	s51 Seward
s44 Breslin	s12 Gianaris	s39 Larkin	s21 Parker	s26 Squadron
s38 Carlucci	s22 Golden	s37 Latimer	s13 Peralta	s16 Stavisky
s14 Comrie	s47 Griffio	s01 LaValle	s30 Perkins	s35 Stewart-
s03 Croci	s20 Hamilton	s45 Little	s19 Persaud	Cousins
s50 DeFrancisco	s06 Hamon	s05 Marcellino	s61 Ranzenhofer	s53 Valesky
s32 Diaz	s36 Hassell-	s43 Marchione	s48 Ritchie	s08 Venditto
s18 Dilan	Thompson	s07 Martins	s33 Rivera	s57 Young

IN SENATE--Introduced by Sen

--read twice and ordered printed,  
and when printed to be committed  
to the Committee on

----- A.  
Assembly  
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## IN ASSEMBLY

Assembly introducer's signature

The Members of the Assembly whose names are circled below wish to join me in the  
multi-sponsorship of this proposal:

IN ASSEMBLY--Introduced by M. of A.

a049 Abbate	a034 DenDekker	a011 Jean-Pierre	a003 Murray	a076 Seawright
a092 Abinanti	a054 Dilan	a135 Johns	a133 Nojay	a087 Sepulveda
a084 Arroyo	a081 Dinowitz	a077 Joyner	a037 Nolan	a027 Simanowitz
a035 Aubry	a147 DiPietro	a094 Katz	a130 Oaks	a052 Simon
a120 Barclay	a115 Duprey	a074 Kavanagh	a069 O'Donnell	a036 Simotas
a106 Barrett	a004 Englebright	a142 Kearns	a051 Ortiz	a104 Skartados
a060 Barron	a109 Fahy	a040 Kim	a091 Otis	a099 Skoufis
a082 Benedetto	a071 Farrell	a131 Kolb	a132 Palmesano	a022 Solages
a042 Bichotte	a126 Finch	a105 Lalor	a002 Palumbo	a114 Stec
a079 Blake	a008 Fitzpatrick	a013 Lavine	a088 Paulin	a110 Steck
a117 Blankenbush	a124 Friend	a134 Lawrence	a141 Peoples-	a127 Stirpe
a098 Brabenec	a095 Galef	a050 Lentol	Stokes	a112 Tedisco
a026 Braumstein	a137 Gantt	a125 Lifton	a058 Perry	a101 Tenney
a044 Brennan	a007 Garbarino	a072 Linares	a086 Pichardo	a001 Thiele
a119 Brindisi	a148 Giglio	a102 Lopez	a089 Pretlow	a061 Titone
a138 Bronson	a080 Gjonaj	a123 Lupardo	a073 Quart	a031 Titus
a093 Buchwald	a066 Glick	a010 Lupinacci	a019 Ra	a055 Walker
a118 Butler	a023 Goldfeder	a121 Magee	a012 Raia	a146 Walter
a103 Cahill	a150 Goodell	a129 Magnarelli	a006 Ramos	a141 Weinstein
a065 Cancel	a075 Gottfried	a064 Malliotakis	a043 Richardson	a024 Wepzin
a062 Castorina	a005 Graf	a030 Markey	a078 Rivera	a059 Williams
a145 Ceretto	a100 Gunther	a090 Mayer	a056 Robinson	a113 Woerner
a047 Colton	a046 Harris	a108 McDonald	a068 Rodriguez	a143 Wozniak
a032 Cook	a139 Hawley	a014 McDonough	a067 Rosenthal	a070 Wright
a144 Corwin	a083 Heastie	a017 McKeivitt	a025 Rozic	a096 Zebrowski
a085 Crespo	a028 Hevesi	a107 McLaughlin	a116 Russell	a020
a122 Crouch	a048 Rikind	a038 Miller	a149 Ryan	a033
a021 Curran	a018 Hooper	a015 Montesano	a009 Saladino	
a063 Cusick	a128 Hunter	a136 Morelle	a111 Santabarbara	
a045 Cymbrowitz	a029 Hyndman	a057 Mosley	a016 Schimel	
a053 Davila	a097 Jaffee	a039 Moya	a140 Schimminger	

with M. of A. as co-sponsors

--read once and referred to the  
Committee on

\*MENTHYLA\*  
(Relates to alcohol and substance  
abuse)

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Men Hyg. alc and substnce abuse

### AN ACT

to amend the insurance law and the  
public health law, in relation to  
utilization review program standards  
(Part A); to amend the insurance  
law, in relation to providing cover-  
age for immediate access to a five  
day emergency supply of certain  
medication; to amend the social  
services law and the public health  
law, in relation to prohibiting  
prior authorization for a  
prescription for buprenorphine for  
opioid addiction detoxification or  
maintenance treatment (Part B); to

1) Single House Bill (introduced and printed separately in either or both  
houses). Uni-Bill (introduced simultaneously in both houses and printed as one  
bill. Senate and Assembly introducer sign the same copy of the bill).

2) Circle names of co-sponsors and return to introduction clerk with 2 signed  
copies of bill and 4 copies of memorandum in support (single house); or 4 signed  
copies of bill and 8 copies of memorandum in support (uni-bill).

amend the mental hygiene law, in relation to the heroin and opioid addiction wraparound demonstration services program; and to amend chapter 32 of the laws of 2014, amending the mental hygiene law relating to the heroin and opioid addiction wraparound services demonstration program, in relation to the effectiveness thereof (Part C); and to amend the mental hygiene law, in relation to emergency services for persons intoxicated, impaired, or incapacitated by alcohol and/or substances (Part D)

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

1 Section 1. This act enacts into law major components of legislation  
2 related to the treatment of heroin and opioid addictions. Each component  
3 is wholly contained within a Part identified as Parts A through D. The  
4 effective date for each particular provision contained within such Part  
5 is set forth in the last section of such Part. Any provision in any  
6 section contained within a Part, including the effective date of the  
7 Part, which makes a reference to a section "of this act", when used in  
8 connection with that particular component, shall be deemed to mean and  
9 refer to the corresponding section of the Part in which it is found.  
10 Section three of this act sets forth the general effective date of this  
11 act.

12

## PART A

13 Section 1. Paragraph 9 of subsection (a) of section 4902 of the insur-  
14 ance law, as added by chapter 41 of the laws of 2014, is amended to read  
15 as follows:

16 (9) When conducting utilization review for purposes of determining  
17 health care coverage for substance use disorder treatment, a utilization  
18 review agent shall utilize [recognized] evidence-based and peer reviewed  
19 clinical review [criteria] tools designated by the office of alcoholism  
20 and substance abuse services that [is] are appropriate to the age of the  
21 patient and [is deemed appropriate and approved for such use by the  
22 commissioner of the office of alcoholism and substance abuse services in  
23 consultation with the commissioner of health and the superintendent.

24 The office of alcoholism and substance abuse services in consultation  
25 with the commissioner of health and the superintendent shall approve a  
26 recognized evidence-based and peer reviewed clinical review criteria, in

1 addition to any other approved evidence-based and peer reviewed clinical  
2 review criteria] consistent with the treatment service levels within the  
3 office of alcoholism and substance abuse services system. All approved  
4 tools shall have inter rater reliability testing completed by December  
5 thirty-first, two thousand sixteen.

6 § 2. Paragraph (i) of subdivision 1 of section 4902 of the public  
7 health law, as added by chapter 41 of the laws of 2014, is amended to  
8 read as follows:

9 (i) When conducting utilization review for purposes of determining  
10 health care coverage for substance use disorder treatment, a utilization  
11 review agent shall utilize [recognized] evidence-based and peer reviewed  
12 clinical review [criteria] tools designated by the office of alcoholism  
13 and substance abuse services that [is] are appropriate to the age of the  
14 patient and [is deemed appropriate and approved for such use by the  
15 commissioner of the office of alcoholism and substance abuse services in  
16 consultation with the commissioner and the superintendent of financial  
17 services.

18 The office of alcoholism and substance abuse services in consultation  
19 with the commissioner and the superintendent of financial services shall  
20 approve a recognized evidence-based and peer reviewed clinical review  
21 criteria, in addition to any other approved evidence-based and peer  
22 reviewed clinical review criteria] consistent with the treatment service  
23 levels within the office of alcoholism and substance abuse services  
24 system. All approved tools shall have inter rater reliability testing  
25 completed by December thirty-first, two thousand sixteen.

26 § 3. Any utilization review agent utilizing evidence-based and peer  
27 reviewed clinical review criteria approved by the office of alcoholism  
28 and substance abuse services on or before the effective date of this act

1 shall have until December 31, 2016 to have their review tools redesi-  
2 gnated by the office of alcoholism and substance abuse services pursuant  
3 to paragraph 9 of subsection (a) of section 4902 of the insurance law.

4 § 4. This act shall take effect immediately and shall apply to poli-  
5 cies and contracts issued, renewed, modified, altered or amended on and  
6 after January 1, 2017.

7

## PART B

8 Section 1. Subsection (i) of section 3216 of the insurance law is  
9 amended by adding a new paragraph 31-a to read as follows:

10 (31-a) (A) Every policy that provides medical, major medical or simi-  
11 lar comprehensive-type coverage and provides coverage for prescription  
12 drugs for medication for the treatment of a substance use disorder shall  
13 include immediate access, without prior authorization, to a five day  
14 emergency supply of prescribed medications covered under the policy for  
15 the treatment of substance use disorder where an emergency condition  
16 exists, including a prescribed drug or medication associated with the  
17 management of opioid withdrawal and/or stabilization, except where  
18 otherwise prohibited by law. Further, coverage of an emergency supply  
19 shall include medication for opioid overdose reversal otherwise covered  
20 under the policy prescribed to an individual covered by the policy.

21 (B) For purposes of this paragraph, an "emergency condition" means a  
22 substance use disorder condition that manifests itself by acute symptoms  
23 of sufficient severity, including severe pain or the expectation of  
24 severe pain, such that a prudent layperson, possessing an average know-  
25 ledge of medicine and health, could reasonably expect the absence of  
26 immediate medical attention to result in:

1 (i) placing the health of the person afflicted with such condition in  
2 serious jeopardy, or in the case of a behavioral condition, placing the  
3 health of such person or others in serious jeopardy;

4 (ii) serious impairment to such person's bodily functions;

5 (iii) serious dysfunction of any bodily organ or part of such person;

6 (iv) serious disfigurement of such person; or

7 (v) a condition described in clause (i), (ii), or (iii) of section  
8 1867(e)(1)(A) of the Social Security Act.

9 (C) Coverage provided under this paragraph may be subject to copay-  
10 ments, coinsurance, and annual deductibles that are consistent with  
11 those imposed on other benefits within the policy; provided, however, no  
12 policy shall impose an additional copayment or coinsurance on an insured  
13 who received an emergency supply of medication and then received up to a  
14 thirty day supply of the same medication in the same thirty day period  
15 in which the emergency supply of medication was dispensed. This subpara-  
16 graph shall not preclude the imposition of a copayment or coinsurance on  
17 the initial emergency supply of medication in an amount that is less  
18 than the copayment or coinsurance otherwise applicable to a thirty day  
19 supply of such medication, provided that the total sum of the copayments  
20 or coinsurance for an entire thirty day supply of the medication does  
21 not exceed the copayment or coinsurance otherwise applicable to a thirty  
22 day supply of such medication.

23 § 2. Subsection (1) of section 3221 of the insurance law is amended by  
24 adding two new paragraphs 7-a and 7-b to read as follows:

25 (7-a) Every policy that provides medical, major medical or similar  
26 comprehensive-type large group coverage shall provide coverage for medi-  
27 cation for the detoxification or maintenance treatment of a substance

1 use disorder approved by the food and drug administration for the detox-  
2 ification or maintenance treatment of substance use disorder.

3 (7-b) (A) Every policy that provides medical, major medical or similar  
4 comprehensive-type coverage and provides coverage for prescription drugs  
5 for medication for the treatment of a substance use disorder shall  
6 include immediate access, without prior authorization, to a five day  
7 emergency supply of prescribed medications covered under the policy for  
8 the treatment of substance use disorder where an emergency condition  
9 exists, including a prescribed drug or medication associated with the  
10 management of opioid withdrawal and/or stabilization, except where  
11 otherwise prohibited by law. Further, coverage of an emergency supply  
12 shall include medication for opioid overdose reversal otherwise covered  
13 under the policy prescribed to an individual covered by the policy.

14 (B) For purposes of this paragraph, an "emergency condition" means a  
15 substance use disorder condition that manifests itself by acute symptoms  
16 of sufficient severity, including severe pain or the expectation of  
17 severe pain, such that a prudent layperson, possessing an average know-  
18 ledge of medicine and health, could reasonably expect the absence of  
19 immediate medical attention to result in:

20 (i) placing the health of the person afflicted with such condition in  
21 serious jeopardy, or in the case of a behavioral condition, placing the  
22 health of such person or others in serious jeopardy;

23 (ii) serious impairment to such person's bodily functions;

24 (iii) serious dysfunction of any bodily organ or part of such person;

25 (iv) serious disfigurement of such person; or

26 (v) a condition described in clause (i), (ii), or (iii) of section  
27 1867(e)(1)(A) of the Social Security Act.

1 (C) Coverage provided under this paragraph may be subject to copay-  
2 ments, coinsurance, and annual deductibles that are consistent with  
3 those imposed on other benefits within the policy; provided, however, no  
4 policy shall impose an additional copayment or coinsurance on an insured  
5 who received an emergency supply of medication and then received up to a  
6 thirty day supply of the same medication in the same thirty day period  
7 in which the emergency supply of medication was dispensed. This subpara-  
8 graph shall not preclude the imposition of a copayment or coinsurance on  
9 the initial emergency supply of medication in an amount that is less  
10 than the copayment or coinsurance otherwise applicable to a thirty day  
11 supply of such medication, provided that the total sum of the copayments  
12 or coinsurance for an entire thirty day supply of the medication does  
13 not exceed the copayment or coinsurance otherwise applicable to a thirty  
14 day supply of such medication.

15 § 3. Section 4303 of the insurance law is amended by adding two new  
16 subsections (1-1) and (1-2) to read as follows:

17 (1-1) Every contract that provides medical, major medical, or similar  
18 comprehensive-type large group coverage shall provide coverage for medi-  
19 cation for the detoxification or maintenance treatment of a substance  
20 use disorder approved by the food and drug administration for the detox-  
21 ification or maintenance treatment of substance use disorder.

22 (1-2) (1) Every contract that provides medical, major medical or simi-  
23 lar comprehensive-type coverage and provides coverage for prescription  
24 drugs for medication for the treatment of a substance use disorder shall  
25 include immediate access, without prior authorization, to a five day  
26 emergency supply of prescribed medications covered under the contract  
27 for the treatment of substance use disorder where an emergency condition  
28 exists, including a prescribed drug or medication associated with the

1 management of opioid withdrawal and/or stabilization, except where  
2 otherwise prohibited by law. Further, coverage of an emergency supply  
3 shall include medication for opioid overdose reversal otherwise covered  
4 under the contract prescribed to an individual covered by the contract.

5 (2) For purposes of this paragraph, an "emergency condition" means a  
6 substance use disorder condition that manifests itself by acute symptoms  
7 of sufficient severity, including severe pain or the expectation of  
8 severe pain, such that a prudent layperson, possessing an average know-  
9 ledge of medicine and health, could reasonably expect the absence of  
10 immediate medical attention to result in:

11 (i) placing the health of the person afflicted with such condition in  
12 serious jeopardy, or in the case of a behavioral condition, placing the  
13 health of such person or others in serious jeopardy;

14 (ii) serious impairment to such person's bodily functions;

15 (iii) serious dysfunction of any bodily organ or part of such person;

16 (iv) serious disfigurement of such person; or

17 (v) a condition described in clause (i), (ii) or (iii) of section  
18 1867(e)(1)(A) of the Social Security Act.

19 (3) Coverage provided under this subsection may be subject to copay-  
20 ments, coinsurance, and annual deductibles that are consistent with  
21 those imposed on other benefits within the contract; provided, however,  
22 no contract shall impose an additional copayment or coinsurance on an  
23 insured who received an emergency supply of medication and then received  
24 up to a thirty day supply of the same medication in the same thirty day  
25 period in which the emergency supply of medication was dispensed. This  
26 paragraph shall not preclude the imposition of a copayment or coinsu-  
27 rance on the initial limited supply of medication in an amount that is  
28 less than the copayment or coinsurance otherwise applicable to a thirty

1 day supply of such medication, provided that the total sum of the copay-  
2 ments or coinsurance for an entire thirty day supply of the medication  
3 does not exceed the copayment or coinsurance otherwise applicable to a  
4 thirty day supply of such medication.

5 § 4. Section 364-j of the social services law is amended by adding a  
6 new subdivision 26-b to read as follows:

7 26-b. Managed care providers shall not require prior authorization for  
8 an initial or renewal prescription for buprenorphine or injectable  
9 naltrexone for detoxification or maintenance treatment of opioid  
10 addiction unless the prescription is for a non-preferred or non-formu-  
11 lary form of the drug or as otherwise required by section 1927(k)(6) of  
12 the Social Security Act.

13 § 5. Section 273 of the public health law is amended by adding a new  
14 subdivision 10 to read as follows:

15 10. Prior authorization shall not be required for an initial or  
16 renewal prescription for buprenorphine or injectable naltrexone for  
17 detoxification or maintenance treatment of opioid addiction unless the  
18 prescription is for a non-preferred or non-formulary form of such drug  
19 as otherwise required by section 1927(k)(6) of the Social Security Act.

20 § 6. This act shall take effect immediately; provided, sections one,  
21 two, and three of this act shall take effect on the first of January  
22 next succeeding the date on which it shall have become a law and shall  
23 apply to policies and contracts issued, renewed, modified, altered or  
24 amended on and after such date; and provided further that the amendments  
25 to section 364-j of the social services law made by section four of this  
26 act shall not affect the repeal of such section and shall be deemed to  
27 be repealed therewith.

1

## PART C

2 Section 1. Section 19.18-a of the mental hygiene law, as added by  
3 chapter 32 of the laws of 2014, is amended to read as follows:

4 § 19.18-a Heroin and opioid addiction wraparound services demonstration  
5 program.

6 1. The commissioner, in consultation with the department of health  
7 shall develop a heroin and opioid addiction wraparound services demon-  
8 stration program. This program shall provide wraparound services to  
9 adolescent and adult patients during treatment, including, but not  
10 limited to, inpatient and outpatient treatment, and shall be available  
11 to such patients for a clinically appropriate period for up to nine  
12 months after completion of such treatment program. The commissioner  
13 shall identify and establish where the wraparound services demonstration  
14 program will be provided.

15 2. Wraparound services shall include;

16 (a) Case management services which address:

17 (i) Educational resources;

18 (ii) Legal services;

19 (iii) Financial services;

20 (iv) Social services;

21 (v) Family services; and

22 (vi) Childcare services;

23 (b) Peer supports, including peer to peer support groups;

24 (c) Employment support; and

25 (d) Transportation assistance.

26 3. Not later than [two years after the effective date of this section]  
27 June 30, 2018, the commissioner shall provide the governor, the tempo-

1 rary president of the senate, the speaker of the assembly, the chair of  
2 the senate standing committee on alcoholism and drug abuse and the chair  
3 of the assembly committee on alcoholism and drug abuse with a written  
4 evaluation of the demonstration program. Such evaluation shall, at a  
5 minimum, address the overall effectiveness of this demonstration program  
6 [and], identify best practices for wraparound services provided under  
7 this demonstration program, and any additional wraparound services that  
8 may be appropriate within each type of program operated, regulated,  
9 funded, or approved by the office and address whether continuation or  
10 expansion of this demonstration program is recommended. The written  
11 evaluation shall be made available on the office's website.

12 § 2. Section 2 of chapter 32 of the laws of 2014, amending the mental  
13 hygiene law relating to the heroin and opioid addiction wraparound  
14 services demonstration program, is amended to read as follows:

15 § 2. This act shall take effect immediately and shall expire and be  
16 deemed repealed [three years after such effective date] March 31, 2019.

17 § 3. This act shall take effect immediately; provided, however, that  
18 the amendments to section 19.18-a of the mental hygiene law made by  
19 section one of this act shall not affect the repeal of such section and  
20 shall be deemed repealed therewith.

21

PART D

22 Section 1. Section 22.09 of the mental hygiene law, as added by chap-  
23 ter 558 of the laws of 1999, is amended to read as follows:

24 § 22.09 Emergency services for persons intoxicated, impaired, or inca-  
25 pacitated by alcohol and/or substances.

26 (a) As used in this article:

1 1. "Intoxicated or impaired person" means a person whose mental or  
2 physical functioning is substantially impaired as a result of the pres-  
3 ence of alcohol and/or substances in his or her body.

4 2. "Incapacitated" means that a person, as a result of the use of  
5 alcohol and/or substances, is unconscious or has his or her judgment  
6 otherwise so impaired that he or she is incapable of realizing and  
7 making a rational decision with respect to his or her need for treat-  
8 ment.

9 3. "Likelihood to result in harm" or "likely to result in harm" means  
10 (i) a substantial risk of physical harm to the person as manifested by  
11 threats of or attempts at suicide or serious bodily harm or other  
12 conduct demonstrating that the person is dangerous to himself or  
13 herself, or (ii) a substantial risk of physical harm to other persons as  
14 manifested by homicidal or other violent behavior by which others are  
15 placed in reasonable fear of serious physical harm.

16 4. ["Hospital" means a general hospital as defined in article twenty-  
17 eight of the public health law] "Emergency services" means immediate  
18 physical examination, assessment, care and treatment of an incapacitated  
19 person for the purpose of confirming that the person is, and continues  
20 to be, incapacitated by alcohol and/or substances to the degree that  
21 there is a likelihood to result in harm to the person or others.

22 5. "Treatment facility" means a facility designated by the commission-  
23 er which may only include a general hospital as defined in article twen-  
24 ty-eight of the public health law, or a medically managed or medically  
25 supervised withdrawal, inpatient rehabilitation, or residential stabili-  
26 zation treatment program that has been certified by the commissioner to  
27 have appropriate medical staff available on-site at all times to provide

1 emergency services and continued evaluation of capacity of individuals  
2 retained under this section.

3 (b) 1. An intoxicated or impaired person may come voluntarily for  
4 emergency [treatment] services to a chemical dependence program or  
5 treatment facility authorized by the commissioner to [give such emergen-  
6 cy treatment] provide such emergency services. A person who appears to  
7 be intoxicated or impaired and who consents to the proffered help may be  
8 assisted by any peace officer acting pursuant to his or her special  
9 duties, police officer, or by a designee of the director of community  
10 services to return to his or her home, to a chemical dependence program  
11 or treatment facility, or to any other facility authorized by the  
12 commissioner to [give emergency treatment] provide such emergency  
13 services. In such cases, the peace officer, police officer, or designee  
14 of the director of community services shall accompany the intoxicated or  
15 impaired person in a manner which is reasonably designed to assure his  
16 or her safety, as set forth in regulations promulgated in accordance  
17 with subdivision [(f)] (d) of this section.

18 [(c)] 2. A person who appears to be incapacitated by alcohol and/or  
19 substances to the degree that there is a likelihood to result in harm to  
20 the person or to others may be taken by a peace officer acting pursuant  
21 to his or her special duties, or a police officer who is a member of the  
22 state police or of an authorized police department or force or of a  
23 sheriff's department or by the director of community services or a  
24 person duly designated by him or her to a [general hospital or to any  
25 other place authorized by the commissioner in regulations promulgated in  
26 accordance with subdivision (f) of this section to give emergency treat-  
27 ment, for immediate observation, care, and emergency treatment] treat-  
28 ment facility for purposes of receiving emergency services. Every

1 reasonable effort shall be made to protect the health and safety of such  
2 person, including but not limited to the requirement that the peace  
3 officer, police officer, or director of community services or his or her  
4 designee shall accompany the apparently incapacitated person in a manner  
5 which is reasonably designed to assure his or her safety, as set forth  
6 in regulations promulgated in accordance with subdivision [(f)] (d) of  
7 this section.

8 [(d)] 3. A person who comes voluntarily or is brought without his or  
9 her objection to any such facility or program in accordance with this  
10 subdivision [(c) of this section] shall be given emergency care and  
11 treatment at such place if found suitable therefor by authorized person-  
12 nel, or referred to another suitable facility or treatment program for  
13 care and treatment, or sent to his or her home.

14 4. The director of a treatment facility may receive as a patient in  
15 need of emergency services any person who appears to be incapacitated as  
16 defined in this section.

17 [(e)] 5. A person who comes voluntarily or is brought with his or her  
18 objection to [any] a treatment facility [or treatment program in accord-  
19 ance with subdivision (c) of this section] shall be examined as soon as  
20 possible but not more than twelve hours after arriving at such treatment  
21 facility by an examining physician. If such examining physician deter-  
22 mines that such person is incapacitated by alcohol and/or substances to  
23 the degree that there is a likelihood to result in harm to the person or  
24 others, he or she may be retained [for emergency treatment] to receive  
25 emergency services and shall be regularly reevaluated to confirm contin-  
26 ued incapacity by alcohol and/or substances to the degree that there is  
27 a likelihood to result in harm to the person or others. If the examin-  
28 ing physician determines at any time that such person is not incapaci-

1 tated by alcohol and/or substances to the degree that there is a likeli-  
2 hood to result in harm to the person or others, he or she must be  
3 released. Notwithstanding any other law, in no event may such person be  
4 retained against his or her objection beyond whichever is the shorter of  
5 the following: (i) the time that he or she is no longer incapacitated by  
6 alcohol and/or substances to the degree that there is a likelihood to  
7 result in harm to the person or others or (ii) a period longer than  
8 [forty-eight] seventy-two hours.

9 [1.] 6. Every reasonable effort must be made to obtain the person's  
10 consent to give prompt notification of a person's retention in a facili-  
11 ty or program pursuant to this section to his or her closest relative or  
12 friend, and, if requested by such person, to his or her attorney and  
13 personal physician, in accordance with federal confidentiality regu-  
14 lations.

15 [2.] 7. A person may not be retained pursuant to this section beyond a  
16 period of [forty-eight] seventy-two hours without his or her consent.  
17 Persons suitable therefor may be voluntarily admitted to a chemical  
18 dependence program or facility pursuant to this article.

19 (c) Discharge procedures. 1. The discharge procedure process shall  
20 begin as soon as the patient is admitted to the treatment facility and  
21 shall be considered a part of the treatment planning process. The  
22 discharge plan shall be developed in collaboration with the patient and  
23 any significant other(s) the patient chooses to involve. If the patient  
24 is a minor, the discharge plan must also be developed in consultation  
25 with his or her parent or guardian, unless the minor is being treated  
26 without parental consent as authorized by section 22.11 of this chapter.

27 2. No patient shall be discharged without a discharge plan which has  
28 been completed and reviewed by the multi-disciplinary team prior to the

1 discharge of the patient. This review may be part of a regular treatment  
2 plan review. The portion of the discharge plan which includes the refer-  
3 als for continuing care shall be given to the patient upon discharge.  
4 This requirement shall not apply to patients who refuse continuing care  
5 planning, provided, however, that the treatment facility shall make  
6 reasonable efforts to provide information about the dangers of long term  
7 substance use as well as information related to treatment including, but  
8 not limited to, the OASAS HOPELINE and the OASAS Bed Availability Dash-  
9 board.

10 3. The discharge plan shall be developed by the responsible clinical  
11 staff member, who, in the development of such plan, shall consider the  
12 patient's self-reported confidence in maintaining abstinence and follow-  
13 ing an individualized relapse prevention plan. The responsible clinical  
14 staff member shall also consider an assessment of the patient's home and  
15 family environment, vocational/educational/employment status, and the  
16 patient's relationships with significant others. The purpose of the  
17 discharge plan shall be to establish the level of clinical and social  
18 resources available to the patient upon discharge from the inpatient  
19 service and the need for the services for significant others. The  
20 discharge plan shall include, but not be limited to, the following:

21 (i) identification of continuing chemical dependence services includ-  
22 ing management of withdrawal or continuing stabilization and any other  
23 treatment, rehabilitation, self-help and vocational, educational and  
24 employment services the patient will need after discharge;

25 (ii) identification of the type of residence, if any, that the patient  
26 will need after discharge;

27 (iii) identification of specific providers of these needed services;

28 and

1 (iv) specific referrals and initial appointments for these needed  
2 services.

3 4. A discharge summary which includes the course and results of care  
4 and treatment must be prepared and included in each patient's case  
5 record within twenty days of discharge.

6 ~~[(f)]~~ (d) The commissioner shall promulgate all rules and regulations,  
7 after consulting with representatives of appropriate law enforcement and  
8 chemical dependence providers of services, establishing procedures for  
9 taking intoxicated or impaired persons and persons apparently incapacitated  
10 by alcohol and/or substances to their residences or to appropriate  
11 public or private facilities for emergency [treatment] services and for  
12 minimizing the role of the police in obtaining treatment of such persons  
13 necessary to implement the provisions of this section, including but not  
14 limited to establishing procedures for transporting incapacitated  
15 persons to a treatment facility for emergency services.

16 § 2. This act shall take effect on the ninetieth day after it shall  
17 have become law; provided however, that any and all regulations necessary  
18 for the implementation of this act shall have been promulgated  
19 prior to such effective date.

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

1     § 3. This act shall take effect immediately provided, however, that  
2 the applicable effective date of Parts A through D of this act shall be  
3 as specifically set forth in the last section of such Parts.

