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## THE COUNCIL OF THE CITY OF NEW YORK

# **BRIEFING PAPER OF THE HUMAN SERVICES Division**

*Jeffrey Baker, Legislative Director*

*Andrea Vazquez, Deputy Director, Human Services Division*

**COMMITTEE ON HOSPITALS**

*Hon. Carlina Rivera, Chair*

**COMMITTEE ON MENTAL HEALTH, DISABILITES, AND ADDICTION**

#### *Hon. Farah Louis, Chair*

#### December 3, 2021

**Oversight: Access to Mental Health Services in New York City Hospitals**

**Proposed Int. No. 2141-A:**  By Council Members Rivera, Kallos, Louis, Rosenthal, and Chin

**Title:** A Local Law amend the New York city charter and the administrative code of the city of New York, in relation to removing outdated clinical language, and to repeal paragraph 2 of subdivision a of section 555 of such charter in relation to a report on the establishment of the department of health and mental hygiene

# **Introduction**

On December 3, 2021, the Committee on Hospitals, chaired by Council Member Carlina Rivera, and the Committee on Mental Health, Disabilities, and Addiction, chaired by Council Member Farah Louis, will hold a joint oversight hearing on access to mental health services in New York City (NYC) Hospitals. The Committees will hear Proposed Introduction Number 2141-A (Proposed Int. 2141-A), sponsored by Council Member Rivera, in relation to removing outdated clinical language, and to repeal paragraph 2 of subdivision a of section 555 of such charter in relation to a report on the establishment of the department of health and mental hygiene. Witnesses invited to testify include the NYC Department of Health and Mental Hygiene (DOHMH), NYC Health and Hospitals (H+H), the Greater New York Hospital Association (GNYHA), mental health professionals, community-based organizations, and other interested parties.

1. **Background**

*Overview of Behavioral Health Services in NYC*

In June 2018, the Committees held a hearing on behavioral health services in NYC hospitals.[[1]](#footnote-1) The hearing explored how H+H can cope with its increasing role as the main provider of inpatient mental health services in the City and the role voluntary hospitals can play in the treatment and care of individuals with mental health conditions.[[2]](#footnote-2) At the time of the hearing, H+H was the main provider of behavioral health and inpatient psychiatric care services in NYC, with nearly 1,500 licensed psychiatric beds representing 48 percent of all psychiatric inpatient beds in the metropolitan area.[[3]](#footnote-3) From 2014 to 2017, H+H saw a decrease in their “all cause”[[4]](#footnote-4) and psychiatric readmission rates by 24 and 27 percent respectfully, due to shifting from providing care in inpatient settings to outpatient settings, as well as State-wide initiatives to prevent avoidable hospital readmissions.[[5]](#footnote-5) At the hearing, H+H shared their detailed plans to expand access to mental health services in their ambulatory care settings by 2020, including units that can specifically meet the needs of those experiencing homelessness.[[6]](#footnote-6) H+H also discussed access to buprenorphine and other overdose prevention services, mental health care for youth and individuals who are incarcerated, and other specific services, as well as the impacts of social determinants of health and budgeting for behavioral health services.[[7]](#footnote-7)

*Overview of Behavioral Health Services at H+H*

NYC Health + Hospitals, a public benefit corporation, serves more than 1.2 million New Yorkers each year and is the largest municipal health system in the country.[[8]](#footnote-8) H+H is the successor entity to the Department of Hospitals[[9]](#footnote-9) and provides medical, mental health and substance abuse services. H+H operates eleven acute care hospitals, five long term care facilities, one certified home health agency, and a network of Federally Qualified Health Center clinics that includes six diagnostic and treatment facilities.[[10]](#footnote-10)

By providing services to patients regardless of their ability to pay, H+H is the default system of care for the uninsured, Medicaid patients, and other vulnerable populations. H+H is the single largest provider of health care to uninsured New Yorkers.[[11]](#footnote-11) Half of all uninsured hospital stays and uninsured emergency department visits in New York City happen at H+H facilities.[[12]](#footnote-12) Medicaid and uninsured patients represent nearly 70 percent of H+H total hospital stays, compared to 40 percent for other New York City hospitals.[[13]](#footnote-13)

H+H offers a wide range of affordable mental health services and programs at its locations around the city. These include comprehensive inpatient and outpatient programs to provide mental health care for children, adolescents, adults, and seniors, and emergency psychiatric services such as specialized care for those suffering from psychiatric crises or engaging in suicidal behavior.[[14]](#footnote-14) H+H also integrates behavioral health into primary care through its Collaborative Care program, assists individuals and families who are survivors of torture and human rights abuses through its Program for Survivors of Torture at Bellevue, provides support services for people that have been diagnosed with serious mental illness through a mobile, multi-disciplinary team in community settings, and offers short-term mental health services through mobile crisis teams for individuals who are unable or unwilling to access care in the community.[[15]](#footnote-15)

H+H has seen a significant increase in the hospitalization of patients with mental illness in the last several years.[[16]](#footnote-16) The New York State Nurses Association noted in its 2020 report, *A Crisis in Inpatient Psychiatric Services in New York State Hospitals,* that as financial pressures to close beds in voluntary hospitals mount, H+H has been tasked with providing more and more inpatient mental health care to New Yorkers.[[17]](#footnote-17) According to a New York Times and Independent Budget Office’s study on New York City psychiatry services, H+H often ended up with patients with severe mental illness who were unable to seek any other type of outpatient services or care, as they would present in the emergency department (ED) of a public hospital in serious crisis with few alternatives to hospitalization.[[18]](#footnote-18) In 2017, the H+H system had nearly 70,000 ED visits stemming from mental illness.[[19]](#footnote-19) However, Kings County, Elmhurst, Metropolitan Hospital, Jacobi Medical Center, and Queens Hospital Center all reduced their certified psychiatric bed capacity, even as discharges hit their highest levels in 20 years.[[20]](#footnote-20)

*Impact of COVID-19 on Mental Health Services in NYC hospitals*

According to the Treatment Advocacy Center, a minimum of 50 psychiatric beds per 100,000 people is considered necessary to provide minimally adequate treatment for individuals with severe mental illness.[[21]](#footnote-21) However, as of 2018, New York failed to meet this standard, as evidenced by its ratio of 16.3 beds per 100,000 people capacity.[[22]](#footnote-22)

As the COVID-19 pandemic increased the demand for behavioral healthcare services (e.g. mental health and substance use disorder treatment), many hospitals across New York State “repurposed” or closed hundreds of psychiatric, detox and drug rehabilitation beds to make room for COVID-19 patients.[[23]](#footnote-23) As mental healthcare treatment became harder to find, New York healthcare workers described patients being discharged early to “free up space even though many still showed signs of psychosis and mania.”[[24]](#footnote-24) According to mental health providers and advocates, people with mental health needs were, “discharged prematurely, or forced to stay in facilities far from their homes,” further exacerbating a “system already under strain.”[[25]](#footnote-25) As lockdowns eased and facilities returned to normal, it was reported that an estimated 14,000 psychiatric admissions were lost because people who needed care were unable to get it.[[26]](#footnote-26)

According to a 2020 New York State Nurses Association (NYSNA) study,[[27]](#footnote-27) “the closure of inpatient psychiatric units in the midst of a historic mental health crisis created by COVID-19” exacerbated an already deepening mental health emergency.[[28]](#footnote-28) As the pandemic hit New York, and then-Governor Cuomo suspended the Certificate of Needs applications requirement manding hospitals to undergo a public process before closing or changing services, “hospital administrations were emboldened, closing their inpatient psychiatric units, often without clarifying whether these moves [were] temporary or permanent.”[[29]](#footnote-29) Coupled with the already “changing landscape of psychiatric care” which had eliminated many inpatient services “under the auspices of deinstitutionalization,”[[30]](#footnote-30) inpatient behavioral health beds became increasingly rare. Simply put, as inpatient psychiatric services became less lucrative and private hospital systems decreased their services based on declining Medicaid reimbursements, H+H was tasked with providing more inpatient mental health care to more New Yorkers.[[31]](#footnote-31) Key findings of the NYSNA study revealed the following[[32]](#footnote-32):

* *NYC’s Mental Health Crisis is Deepening*
	+ Between 2015 and 2018, NYPD calls reporting emotionally disturbed persons increased about 23%.
	+ In the same time frame, according to HUD data, the seriously mentally ill homeless population in NYC jumped 23%.
	+ Since the onset of the COVID crisis, calls to New York City’s Mental Health Hotline and NAMI’s suicide hotline have skyrocketed.
* *Inpatient Psychiatric Care is Disappearing*
	+ In 2000, New York State had 6,055 certified inpatient psychiatric beds. By 2018 that number had dropped 12 percent to 5,419.
	+ In New York City particularly, inpatient psychiatric care has dropped at the same time as the population and the need have mushroomed. NYC accounts for 72 percent of the decline in inpatient psychiatric beds between 2000 and 2019, a total loss of 459 beds. Another 17 percent of the total bed decline came from the Long Island Region. NYC gained nearly 400,000 residents in this timeframe; Suffolk and Nassau counties gained 100,000 people.
* *As Private Hospital Beds Decreased, Public Hospitals and the Correctional System Absorbed the Burden*
	+ Between 2009 and 2014, there was a 20 percent increase in mental health discharges at NYC Health and Hospitals. In the same period, there was a 5 percent decrease in mental health discharges at NYC’s voluntary non-profit hospitals.
	+ Psychiatric bed closures in the Northwell system, the state’s largest private healthcare system, represent 25 percent of statewide closures. Meanwhile, H+H hospitals Bellevue, Kings County, and Elmhurst account for roughly 25 percent of Article 28 inpatient psychiatric beds in NYC.
	+ The corrections system picks up the remaining burden. Inpatient psychiatric beds in forensic facilities account for nearly one-fifth of the state’s total bed capacity.
	+ An estimated 12 percent of the state prison population has a serious mental illness—about five times as many people as there are beds in the correctional hospital system.[[33]](#footnote-33)

Ultimately, “simply cutting inpatient beds in state psychiatric hospitals and transitioning people to outpatient services does little to reduce the need for inpatient psychiatric services” or provide comprehensive care to New Yorkers seeking treatment.[[34]](#footnote-34)

*Issues and Challenges to Mental Health Access in H+H*

There are several barriers to the provision of comprehensive, equitable care in NYC hospitals, and these include: a mental health labor shortage – particularly of culturally sensitive providers – within NYC and in the entire country; lack of supportive services within communities, such as housing and food access; and long waitlists for inpatient, outpatient and substance use treatment services. [[35]](#footnote-35)

**Mental Health Labor Shortage**

There are multiple factors that complicate and block the creation of a robust, culturally-sensitive mental health workforce in NYC, including insurance barriers, financial barriers, and language and cultural-competency barriers.[[36]](#footnote-36) Financially, advocates for mental health care have raised widespread concern about the practice of many managed care companies, insurance companies, Medicare, and Medicaid of providing more limited coverage for treatment of mental illness than for physical illness.[[37]](#footnote-37) Current law requires health insurers to apply similar processes and restrictions for treatment and coverage of mental health and substance use disorders as they would for medical and surgical benefits.[[38]](#footnote-38) When a health insurance plan has parity, it means conditions that share the same characteristics are treated in the same way.[[39]](#footnote-39) However, mental health providers often cite low reimbursement rates as the main reasons they have chosen not to participate in health plan networks.[[40]](#footnote-40)

A 2017 report by Milliman, an international actuarial and consulting firm,[[41]](#footnote-41) confirmed that reimbursement rates for mental health and substance use disorder treatment providers, through private insurance plans, were far lower than reimbursement rates for other medical providers, relative to Medicare rates.[[42]](#footnote-42) When insurance plans do not reimburse providers adequately, many choose not to participate in the plans’ networks.[[43]](#footnote-43) When an individual makes a decision to seek mental or behavioral health care but they are unable to find a provider in network, they often have to go out-of-network, resulting in higher costs.[[44]](#footnote-44) In a national survey of state efforts to ensure parity when it comes to behavioral health insurance benefits, New York received a failing grade.[[45]](#footnote-45) Practically, this means that there is little financial incentive for individuals to go into the mental health field, and that hospitals struggle to hire mental health providers, and to financially justify provision of a full range of mental health services.[[46]](#footnote-46)

However, it is not just a lack of providers that limits hospitals’ provision of mental health services, but also the lack of culturally competent providers.[[47]](#footnote-47) According to the American Psychological Association, in 2018, about 86 percent of psychologists in the United States workforce were white and fewer than 15 percent were from other racial and ethnic groups.[[48]](#footnote-48) This means that individuals often see mental health providers that do not have shared racial, ethnic, language, religious, or cultural experiences, all of which can influence the quality and effectiveness of the care they receive. [[49]](#footnote-49)

Culturally sensitive providers often have particular skills, such as language ability, cultural knowledge, and experience treating the special health care needs of the diverse communities of New York City.[[50]](#footnote-50) Culturally competent care creates stronger patient engagement, empathy, and trust.[[51]](#footnote-51) This trust and engagement are especially crucial in relationships in behavioral health in order to communicate and connect with disordered thoughts, moods, or other behaviors that can affect a person’s everyday function.[[52]](#footnote-52) If a network lacks providers of color, its members of color may find it more difficult to obtain services from an appropriate, competent, or conveniently located providers.[[53]](#footnote-53) It also means that community-based organization and hospitals in high-need communities without wide-ranging culturally competent care will compete over the same providers.[[54]](#footnote-54)

**Supportive Services with Communities**

Another factor that limits comprehensive mental health care within hospitals is the lack of supportive services within communities, such as housing, food access, economic and job stability, and supportive community infrastructure.[[55]](#footnote-55) According to the National Alliance on Mental Illness (NAMI), genetics, environment, lifestyle, internal and external stressors, as well as history of trauma are among the issues most likely to significantly impact mental health.[[56]](#footnote-56) In other words, mental health and serious mental illness can be understood within a greater framework referred to as “social determinants of health.”[[57]](#footnote-57) According to the Centers for Disease Control and Prevention (CDC), social determinants of health (SDOH) are “conditions in the places where people live, learn, work and play that affect a wide range of health and quality-of-life risks and outcomes.”[[58]](#footnote-58) Specifically, SDOH can be grouped into five domains that include:[[59]](#footnote-59) (1) *Healthcare Access and Quality*;[[60]](#footnote-60) (2) *Education Access and Quality*;[[61]](#footnote-61) (3) *Social and Community Context*;[[62]](#footnote-62) (4) *Economic Stability*;[[63]](#footnote-63) and (5) *Neighborhood and Built Environment*, which include concerns about the quality of housing and neighborhoods where people live, their access to transportation, healthy foods, clear air and water, and proximity to neighborhood crime and violence.[[64]](#footnote-64) Additionally, data from the 2017 NYC Social Determinants of Mental Health survey shows that racial and ethnic discrimination, inequities in accessing high quality health care, and, in particular, economic strain and stressful living environments were all related to poorer mental health outcomes resulting in a higher prevalence of serious psychological distress (SPD).[[65]](#footnote-65) SPD is defined by the CDC as: “mental health problems severe enough to cause moderate-to-serious impairment in social, occupational, or school functioning and to require treatment.”[[66]](#footnote-66)

The lack of stable housing, in particular, presents challenges to hospitals in their treatment of patients.[[67]](#footnote-67) Under New York State law, hospitals are required to produce discharge plans upon discharging patients.[[68]](#footnote-68) These plans become increasingly complicated when a patient lacks stable housing, access to food, or a supportive community to return to upon discharge.[[69]](#footnote-69) Patients that are discharged from mental health care in hospitals into unstable conditions in their communities are much more likely to be readmitted to hospitals, to linger in hospitals for longer than necessary, and to fall into an endless cycle of hospital admission, discharge, and possible eventual interaction with the criminal justice system.[[70]](#footnote-70) This puts a strain on hospitals, who must accordingly provide repeated care for patients that could be served within their communities if there were adequate resources and infrastructure.[[71]](#footnote-71)

**Waitlists for Inpatient, Outpatient and Substance Use Treatment Services**

Waitlists for mental health services can be extremely long, due to the reasons outlined above – lack of comprehensive, culturally-sensitive mental health workforce, growing mental health needs due to COVID isolation, poor financial incentives to provide mental health care, lack of infrastructure and supportive services within communities to share the burden with hospitals.[[72]](#footnote-72) This is especially true for specialty care, such as pediatric mental health care, where even patients experiencing suicidality and seeking outpatient services can wait over a month to receive care.[[73]](#footnote-73) The same is true for substance use disorder treatments, which are available on a very limited basis within hospitals, and which can have months-long waiting lists for both inpatient and outpatient treatment.[[74]](#footnote-74) Patients experiencing addiction or mental health emergencies may not have weeks or months to wait, but hospitals simply lack the available beds and referrals to provide inpatient and outpatient care.[[75]](#footnote-75)

1. **Legislation**

**Proposed Int. 2141-A**: A local law to amend the New York city charter and the administrative code of the city of New York, in relation to removing outdated clinical language, and to repeal paragraph 2 of subdivision a of section 555 of such charter in relation to a report on the establishment of the department of health and mental hygiene

In 2010, Congress passed Rosa’s Law, which changed references to “mental retardation” in specified federal laws to “intellectual disability,” in recognition of the fact that the term “mental retardation” is archaic, insensitive and stigmatizing, and clinically outdated. With respect to the City’s consolidated laws, the term “mental retardation” appears in 10 sections across the Charter and the Administrative Code. The proposed bill would remove references to “mental retardation” and substitute the term “intellectual disability” or “intellectual and developmental disability,” as applicable, in such sections.

This law would take effect immediately.

Proposed Int. No. 2141-A

By Council Members Rivera, Kallos, Louis, Rosenthal and Chin

..Title

A LOCAL LAW

To amend the New York city charter and the administrative code of the city of New York, in relation to removing outdated clinical language, and to repeal paragraph 2 of subdivision a of section 555 of such charter in relation to a report on the establishment of the department of health and mental hygiene

..Body

Be it enacted by the Council as follows:

 Section 1. Subdivision d of section 15 of the New York city charter, as added by a vote of the electors on November 6, 2001, and paragraph 2 of such subdivision, as amended by local law number 22 for the year 2002, is amended to read as follows:

d. 1. The city of New York recognizes that services for people suffering from [mental retardation] intellectual and developmental disabilities are provided by programs administered within a number of different city agencies, as well as by non-governmental entities. The city of New York further recognizes the need for coordination and cooperation among city agencies and between city agencies and non-governmental entities that provide such services.

2. There shall be [mental retardation] intellectual and developmental disability coordination within the office of operations. In performing functions relating to such coordination, the office of operations shall be authorized to: develop methods to: (i) improve the coordination within and among city agencies that provide services to people with [mental retardation] intellectual or developmental disabilities, including but not limited to the department of health and mental hygiene, the administration for children’s services, the human resources administration, department of youth and community development, the department of juvenile justice, and the department of employment, or the successors to such agencies, and the health and hospitals corporation and the board of education; and (ii) facilitate coordination between such agencies and non-governmental entities providing services to people with [mental retardation] intellectual or developmental disabilities; review state and federal programs and legislative proposals that may affect people with [mental retardation] intellectual or developmental disabilities and provide information and advice to the mayor regarding the impact of such programs or legislation; recommend legislative proposals or other initiatives that will benefit people with [mental retardation] intellectual or developmental disabilities; and perform such other duties and functions as the mayor may request to assist people with [mental retardation] intellectual or developmental disabilities and their family members.

§ 2. Section 550 of the New York city charter, as added by a vote of the electors on November 6, 2001, is amended to read as follows:

§ 550. Definitions. a. When used in this chapter[: the], the following terms have the following meanings:

Mentally disabled. The term “mentally disabled” [shall mean] means those with mental illness, [mental retardation, alcoholism, substance dependence or chemical dependence] developmental disability, or addiction disorder, as these terms are defined in section 1.03 of the mental hygiene law, or those with intellectual disability; or any other mental illness or mental condition placed under the jurisdiction of the department by the mayor[; the].

 Provider of services. The term “provider of services” [shall mean] means an individual, association, corporation or public or private agency which provides for the mentally disabled[; and the].

 Services for the mentally disabled. The term “services for the mentally disabled” [shall mean] means examination, diagnosis, care, treatment, rehabilitation, training, education, research, preventive services, referral, residential services or domiciliary care of or for the mentally disabled, not specifically limited by any other law.

b. Notwithstanding the foregoing, planning and programs for persons with substance dependence or chemical dependence shall be conducted by the department, and the department may act as a “local agency” to conduct substance abuse programs and seek reimbursement therefore pursuant to provisions of the mental hygiene law relating to funding for substance abuse services, as deemed appropriate by the commissioner in recognition of the programs currently administered by the New York state office of alcoholism and substance abuse services or its successor agency under article [nineteen] 19 of the mental hygiene law.

§ 3. Subdivision a of section 551 of the New York city charter, as amended by local law number 22 for the year 2002, is amended to read as follows:

a. There shall be a department of health and mental hygiene, the head of which shall be the commissioner of health and mental hygiene who shall be appointed by the mayor. The department shall have and exercise all powers of a local health department set forth in law. Notwithstanding any other provision of this charter to the contrary, the department shall be a social services district for purposes of the administration of health-related public assistance programs to the extent agreed upon by the department, the department of social services and the department of homeless services. Appropriations to the department for mental health, [mental retardation] intellectual and developmental disability, and alcoholism services shall be set forth in the expense budget in separate and distinct units of appropriation. In determining the annual amount of city funds to be appropriated by the city for mental health, [mental retardation] intellectual and developmental disability, and alcoholism services, the following provision shall apply: in the event that the executive budget proposes a decrease in city funds measured against the budget for the current fiscal year, as modified in accordance with section [one hundred seven] 107, for the units of appropriation for mental health, [mental retardation] intellectual and developmental disability, and alcoholism services, the executive budget shall not propose a greater percentage decrease in city funds measured against the budget for the current fiscal year, as modified in accordance with section [one hundred seven] 107, for the units of appropriation for mental health, [mental retardation] intellectual and developmental disability, and alcoholism services than has been proposed for the units of appropriation for public health services. If, however, in his or her discretion, the mayor determines that it is in the city’s best interest to submit an executive budget at variance with the requirements of this provision, the mayor shall include an explanation of the basis for this variation as part of the budget message.

§ 4. Section 552 of the New York city charter, as amended by a vote of the electors on November 6, 2001, is amended to read as follows:

§ 552. Deputy commissioners. The commissioner may appoint deputy commissioners, one of whom shall have the same qualifications as the commissioner. There shall be at least two executive deputy commissioners, one of whom shall have the qualifications established pursuant to the mental hygiene law for a director of community services of a local governmental unit, and shall be the director within the department of the division of mental hygiene services. Such division shall be and shall exercise the powers of a local governmental unit for purposes of the mental hygiene law, and the executive deputy commissioner heading such division shall have the powers of a director of community services of a local governmental unit as set forth in or pursuant to such law, and shall report directly to the commissioner. In the exercise of such powers, such executive deputy commissioner shall coordinate the fiscal and programmatic administration of contracts awarded by the department for mental health, [mental retardation] intellectual and developmental disability, and alcoholism services.

 § 5. Paragraph (2) of subdivision a of section 555 of the New York city charter is REPEALED.

§ 6. The opening paragraph of section 556 of the New York city charter, as added by a vote of the electors on November 6, 2001, is amended to read as follows:

§ 556. Functions, powers and duties of the department. Except as otherwise provided by law, the department shall have jurisdiction to regulate all matters affecting health in the city of New York and to perform all those functions and operations performed by the city that relate to the health of the people of the city, including but not limited to the mental health, [mental retardation] intellectual and developmental disability, alcoholism and substance abuse-related needs of the people of the city. The jurisdiction of the department shall include but not be limited to the following:

§ 7. Paragraphs (3) and (6) of subdivision b of section 556 of the New York city charter, as added by a vote of the electors on November 6, 2001, are amended to read as follows:

(3) engage in short-range, intermediate-range and long-range mental hygiene planning that reflects the entire array of city needs in the areas of mental health, [mental retardation] intellectual and developmental disabilities and alcoholism and substance abuse services within the department’s jurisdiction;

(6) receive and expend funds made available for the purposes of providing mental health, [mental retardation] intellectual and developmental disability and alcoholism and substance abuse related services;

§ 8. Paragraph (1) of subdivision a of section 568 of the New York city charter, as added by a vote of the electors on November 6, 2001, is amended to read as follows:

(1) There shall be a mental hygiene advisory board which shall be advisory to the commissioner and the deputy commissioner for mental hygiene services in the development of community mental health, [mental retardation] intellectual and developmental disability, alcoholism and substance abuse facilities and services and programs related thereto. The board shall have separate subcommittees for mental health, for [mental retardation and] developmental disabilities, and for alcoholism and substance abuse. The board and its subcommittees shall be constituted and their appointive members appointed and removed in the manner prescribed for a community services board by the provisions of the mental hygiene law. Pursuant to the provisions of such law, such members may be reappointed without limitation on the number of consecutive terms which they may serve.

§ 9. Subdivision m of section 17-306 of the administrative code of the city of New York, as added by local law number 34 for the year 1993, is amended to read as follows:

m. “Disabled person”. Any person who has or had a physical or mental impairment that substantially limits one or more major life activities and has a record of such an impairment. For the purposes of this subdivision, “physical impairment” means a physiological disorder or condition, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; genitourinary; hemic and lymphatic; or skin and endocrine. It includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, muscular dystrophy, and multiple sclerosis. For the purposes of this subdivision, “mental impairment” means any mental or psychological disorder such as [mental retardation] intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities. For the purposes of this subdivision, “major life activities” means functions such as walking, seeing, hearing and speaking. For the purposes of this subdivision, a record of such an impairment shall be established by submission to the commissioner of either:

(a) A letter or certificate describing the physical or mental impairment of the applicant which must include the notarized signature of one of the following:

(i) A licensed physician, ophthalmologist, optometrist or psychologist; or

(ii) An authorized representative of a social agency that conducts programs for the disabled in cooperation with an official agency of the state and from which the applicant is receiving services such as, but not limited to, the state office of vocational rehabilitation; or

(b) A previous certification not more than one year old establishing the physical or mental impairment of the applicant such as, but not limited to, verification of an income tax exemption or social security benefits on the basis of physical or mental impairment.

§ 10. This local law takes effect immediately.

MHL/SIL

LS #13139

12/01/21 5:00 pm

1. NYC Council, *Off-Site Hearing: Oversight – The Future of Psychiatric Care in New York City’s Hospital Infrastructure. Location: NYC Health + Hospitals/Metropolitan 6th Floor Auditorium, Main Building 1901 First Avenue, New York, NY 10029*, available at <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=3473013&GUID=EDDCE5FD-742B-46C4-850B-51802FD5839A&Options=&Search=> [↑](#footnote-ref-1)
2. *Id.* [↑](#footnote-ref-2)
3. *Id.* [↑](#footnote-ref-3)
4. “All cause readmission” means that the cause of the readmission to the hospital does not need to be related to the cause of the initial hospitalization. [↑](#footnote-ref-4)
5. *Id.* [↑](#footnote-ref-5)
6. *Id.* [↑](#footnote-ref-6)
7. *Id.*  [↑](#footnote-ref-7)
8. New York City Health + Hospitals, *One New York: Health Care for Our Neighborhoods* (April 2016) [hereinafter *One New York*]. [↑](#footnote-ref-8)
9. The New York City Department of Hospitals owned and operated a network of public hospitals serving City residents through the early- to mid-twentieth century until the Health and Hospitals Corporation was created in 1969 by State law (New York City Health And Hospitals Corporation Act 1016/69). [↑](#footnote-ref-9)
10. New York City Health + Hospitals, *About* *NYC Health + Hospitals*, https://www.nychealthandhospitals.org/about-nyc-health-hospitals/. [↑](#footnote-ref-10)
11. *Id.* [↑](#footnote-ref-11)
12. *One New York, supra* note 1. [↑](#footnote-ref-12)
13. *Id.* [↑](#footnote-ref-13)
14. H+H, Mental Health Care, <https://www.nychealthandhospitals.org/services/mental-health-services/>. [↑](#footnote-ref-14)
15. *Id.* [↑](#footnote-ref-15)
16. New York State Nurses Association, *A Crisis in Inpatient Psychiatric Services in New York State Hospitals*, Aug. 2020, <https://www.nysna.org/sites/default/files/attach/ajax/2020/08/Psych%20Whitepaper%20NYSNA.pdf>. [↑](#footnote-ref-16)
17. *Id.* [↑](#footnote-ref-17)
18. *Id.* [↑](#footnote-ref-18)
19. *Id.* [↑](#footnote-ref-19)
20. *Id.* [↑](#footnote-ref-20)
21. Treatment Advocacy Center. (2018). Public Psychiatric Beds in New York. Available at <https://www.treatmentadvocacycenter.org/new-york> [↑](#footnote-ref-21)
22. *Id.* [↑](#footnote-ref-22)
23. Ramachandran, Shalini. (October 9, 2020). A Hidden Cost of Covid: Shrinking Mental Health Services. The Wall Street Journal. Available at <https://www.wsj.com/articles/a-hidden-cost-of-covid-shrinking-mental-health-services-11602255729> [↑](#footnote-ref-23)
24. *Id.* [↑](#footnote-ref-24)
25. *Id.* [↑](#footnote-ref-25)
26. *Id.* [↑](#footnote-ref-26)
27. New York State Nurses Association (2020). Closures Are Causing a Full Blown Mental Health Emergency in New York. August, 2020. Available at <https://www.nysna.org/blog/2020/08/20/closures-are-causing-full-blown-mental-health-emergency-new-york#.YaOyevHMKDV> [↑](#footnote-ref-27)
28. *Id.* [↑](#footnote-ref-28)
29. New York State Nurses Association, (2020) A Crisis in Inpatient Psychiatric Services in New York State Hospitals. Available at <https://www.nysna.org/sites/default/files/attach/ajax/2020/08/Psych%20Whitepaper%20NYSNA.pdf> [↑](#footnote-ref-29)
30. *Id.* [↑](#footnote-ref-30)
31. *Id.* [↑](#footnote-ref-31)
32. *Id.* [↑](#footnote-ref-32)
33. *Id.* [↑](#footnote-ref-33)
34. *Id.* [↑](#footnote-ref-34)
35. Factors will be outlined in this section. [↑](#footnote-ref-35)
36. Factors will be outlined in this section. [↑](#footnote-ref-36)
37. Judith A. Huntington, *Health Care in Chaos: Will We Ever See Real Managed Care*, OJIN, Jan. 1997, Available at:<https://ojin.nursingworld.org/MainMenuCategories/ANAMarketplace/ANAPeriodicals/OJIN/TableofContents/Vol21997/No1Jan97/HealthCareinChaos.html>. [↑](#footnote-ref-37)
38. Douglas, M., Dowd, K., Tampke, K., Rachel, S., Byrd, E., Miller, B., Lloyd, D., Wrenn, G. *What is Mental Health Parity? A Consumer Guide to the Evaluating State Mental Health and Addiction Parity Statutes Report.* The Kennedy Forum, 2018, Available at: [KF-Evaluating-State-Mental-Health-Consumer-Brief-0918\_web.pdf](https://pjk-wp-uploads.s3.amazonaws.com/www.paritytrack.org/uploads/2018/09/KF-Evaluating-State-Mental-Health-Consumer-Brief-0918_web.pdf). [↑](#footnote-ref-38)
39. *Id.* [↑](#footnote-ref-39)
40. *Out-of-Network, Out-of-Pocket, Out-of-Options: The Unfulfilled Promise of Parity*, NAMI, November 2016, Available at: <https://www.nami.org/Support-Education/Publications-Reports/Public-Policy-Reports/Out-of-Network-Out-of-Pocket-Out-of-Options-The>. [↑](#footnote-ref-40)
41. About, Milliman, last visited March 30, 2021, Available at <https://us.milliman.com/en/>. [↑](#footnote-ref-41)
42. *LANDMARK LEGISLATION ENTERS SECOND DECADE*, ParityTrack, last visited Mar. 30, 2021, Available at: <https://www.paritytrack.org/mhpaea-10th-anniversary/?utm_source=tkf&utm_medium=offline&utm_campaign=mhpaea10&utm_content=anniversary> [↑](#footnote-ref-42)
43. *Id.* [↑](#footnote-ref-43)
44. *Id.* [↑](#footnote-ref-44)
45. Lilo H. Stainton, *NJ Gets Report Card ‘F’ for Lack of Parity in Insurance Coverage of Mental Health*, NJ Spotlight News, October 5, 2018, Available at: <https://www.njspotlight.com/2018/10/18-10-04-nj-gets-report-card-f-for-lack-of-parity-in-insurance-coverage-of-mental-health/> [↑](#footnote-ref-45)
46. *Out-of-Network, Out-of-Pocket, Out-of-Options: The Unfulfilled Promise of Parity*, NAMI, November 2016, Available at: <https://www.nami.org/Support-Education/Publications-Reports/Public-Policy-Reports/Out-of-Network-Out-of-Pocket-Out-of-Options-The>. [↑](#footnote-ref-46)
47. Dr. Ashwin Vasan, *Biden wants to fix racial inequality. Mental health access is an important place to start.*, NBC News, Feb. 17, 2021, Available at: <https://www.nbcnews.com/think/opinion/biden-wants-fix-racial-inequality-mental-health-access-important-place-ncna1257376>. [↑](#footnote-ref-47)
48. *Id.* [↑](#footnote-ref-48)
49. *Id.* [↑](#footnote-ref-49)
50. Greenberg, Greg, *U.S. minorities’ access to health care under managed care: A synthesis of the literature*, Research in the Sociology of Health Care, 3, Dec. 2007, Available at: [https://www.researchgate.net/publication/235250736\_US\_minorities'\_access\_to\_health\_care\_under\_managed\_care\_A\_synthesis\_of\_the\_literature](https://www.researchgate.net/publication/235250736_US_minorities%27_access_to_health_care_under_managed_care_A_synthesis_of_the_literature). [↑](#footnote-ref-50)
51. Dr. Ashwin Vasan, *Biden wants to fix racial inequality. Mental health access is an important place to start.*, NBC News, Feb. 17, 2021, Available at: <https://www.nbcnews.com/think/opinion/biden-wants-fix-racial-inequality-mental-health-access-important-place-ncna1257376>. [↑](#footnote-ref-51)
52. *Id.* [↑](#footnote-ref-52)
53. Greenberg, Greg, *U.S. minorities’ access to health care under managed care: A synthesis of the literature*, Research in the Sociology of Health Care, 3, Dec. 2007, Available at: [https://www.researchgate.net/publication/235250736\_US\_minorities'\_access\_to\_health\_care\_under\_managed\_care\_A\_synthesis\_of\_the\_literature](https://www.researchgate.net/publication/235250736_US_minorities%27_access_to_health_care_under_managed_care_A_synthesis_of_the_literature). [↑](#footnote-ref-53)
54. *Id*. [↑](#footnote-ref-54)
55. *See, e.g.*, “Why Hospitals Are Getting Into the Housing Business,” KHN, Oct. 4, 2019, available at <https://khn.org/news/why-hospitals-are-getting-into-the-housing-business/>. [↑](#footnote-ref-55)
56. Greenberg, Greg, *U.S. minorities’ access to health care under managed care: A synthesis of the literature*, Research in the Sociology of Health Care, 3, Dec. 2007, Available at: [https://www.researchgate.net/publication/235250736\_US\_minorities'\_access\_to\_health\_care\_under\_managed\_care\_A\_synthesis\_of\_the\_literature](https://www.researchgate.net/publication/235250736_US_minorities%27_access_to_health_care_under_managed_care_A_synthesis_of_the_literature). [↑](#footnote-ref-56)
57. Centers for Disease Control and Prevention (May 6, 2021). Social Determinants of Health: Know What Affects Health. Available at <https://www.cdc.gov/socialdeterminants/index.htm>. [↑](#footnote-ref-57)
58. *Id*. [↑](#footnote-ref-58)
59. Centers for Disease Control and Prevention (2021) What are social determinants of health? Available at <https://www.cdc.gov/socialdeterminants/about.html> [↑](#footnote-ref-59)
60. Id. [↑](#footnote-ref-60)
61. Id. [↑](#footnote-ref-61)
62. Id. [↑](#footnote-ref-62)
63. Id. [↑](#footnote-ref-63)
64. Id. [↑](#footnote-ref-64)
65. Epi Data Brief (August 2019) Social Determinants of Mental Health among New York City Adults. Available at <https://www1.nyc.gov/assets/doh/downloads/pdf/epi/databrief115.pdf> [↑](#footnote-ref-65)
66. CDC National Center for Health Statistics (2021) Serious psychological distress among adults. Available at https://www.cdc.gov/nchs/products/databriefs/db203.htm [↑](#footnote-ref-66)
67. Will be further explained in this section. [↑](#footnote-ref-67)
68. New York Codes, Rules and Regulations, Title 10, Chapter V, Section 405.9. [↑](#footnote-ref-68)
69. #  *See, e.g.*, “Down and out in Kips Bay: Locals say loiterers, drug users roaming streets after hospital discharges,” AMNY, Sept. 1, 2021, available at <https://www.amny.com/lifestyle/city-living/kips-bay-drug-users-loiterers-roam-streets/>; *see also*, “Updated Process for Discharging Homeless Individuals and Individuals Requiring Isolation,” GNYHA, June 3, 2020, available at <https://www.gnyha.org/news/updated-process-for-discharging-homeless-individuals-and-individuals-requiring-isolation/>.

 [↑](#footnote-ref-69)
70. *See, e.g.*, “Down and out in Kips Bay: Locals say loiterers, drug users roaming streets after hospital discharges,” AMNY, Sept. 1, 2021, available at <https://www.amny.com/lifestyle/city-living/kips-bay-drug-users-loiterers-roam-streets/>. [↑](#footnote-ref-70)
71. #  *See, e.g.*, “NYC’s mental health crisis spans far and wide with few answers in sight,” NY DailyNews, May 15, 2021available at <https://www.nydailynews.com/coronavirus/ny-nyc-mental-health-covid-20210516-zugqg7vmjbctbookukawwccrle-story.html>.

 [↑](#footnote-ref-71)
72. *See, e.g.*, “‘Nobody Has Openings’: Mental Health Providers Struggle to Meet Demand,” NYT, Feb. 17, 2021, available at <https://www.nytimes.com/2021/02/17/well/mind/therapy-appointments-shortages-pandemic.html>. [↑](#footnote-ref-72)
73. *See, e.g.*, “No Vacancy: How A Shortage Of Mental Health Beds Keeps Kids Trapped Inside ERs,” WBUR, May 17, 2021, available at <https://www.wbur.org/news/2021/05/17/children-teens-emergency-room-boarding-mental-health>. [↑](#footnote-ref-73)
74. #  See. e.g., “How ERs Fail Patients with Addiction: One Patient’s Tragic Death,” KHN, July 15, 2021, available at <https://khn.org/news/article/how-ers-fail-patients-with-addiction-one-patients-tragic-death/?utm_source=STAT+Newsletters&utm_campaign=5442b23852-MR_COPY_02&utm_medium=email&utm_term=0_8cab1d7961-5442b23852-151778981>.

 [↑](#footnote-ref-74)
75. *Id*. [↑](#footnote-ref-75)