

New York State Mental Hygiene Law, Title E, Article 41
Part 102 Directors of Community Services

§ 102.1 Background and intent.

(a) This Part sets forth the minimum requirements for directors of community services in order to ensure the effective direction and administration by each local governmental unit of a local comprehensive service system.

(b) This Part establishes the educational, experiential and licensing requirements for individuals seeking to be appointed as directors of community services.

(c) This Part delineates the powers and duties of the position of director of community services and establishes the process for review of candidates by the Inter-Office Coordinating Council.

§ 102.2 Legal Base.

(a) Section 5.05 of the Mental Hygiene Law establishes the powers and the duties of the Inter-Office Coordinating Council of the Department of Mental Hygiene.

(b) Section 41.09 of the Mental Hygiene Law authorizes local governments to appoint and remove directors of the local governmental unit. Each director shall meet the standards set forth in this Part.

§ 102.3 Applicability.

(a) This Part applies to all local governmental units which contract for and/or provide services, licensed in accordance with the provisions of the Mental Hygiene Law, for persons diagnosed with mental illness, persons with mental retardation, persons with developmental disabilities, persons with alcoholism and persons who abuse substances.

(b) This Part applies to all persons making application for the position of director of community services.

(c) This Part applies to the Inter-Office Coordinating Council which is responsible for reviewing and ruling upon the appointment of a proposed director of community services.

§ 102.4 Definitions.

(a) Board means a community services board which plans for services to persons diagnosed with mental illness, persons with mental retardation, persons with developmental disabilities, persons with alcoholism and persons who abuse substances.

(b) Local governmental unit means the unit of a local government given

authority by local government to contract for and/or provide local or unified mental health, mental retardation and development disabilities, alcohol abuse and substance abuse services.

(c) "Director of community services" means the chief executive officer of a local governmental unit, by whatever title known.

(d) "Inter-Office Coordinating Council" means a council constituted by the Commissioner of the Office of Mental Health, Commissioner of the Office of Mental Retardation and Developmental Disabilities, the Commissioner of the Office of Alcoholism and Substance Abuse Services which shall ensure that the state policy for the prevention, care, treatment and rehabilitation of mental illness, mental retardation and developmental disability, alcoholism and substance abuse is comprehensively planned, developed, implemented and regulated.

§ 102.5 Appointment process.

(a) The local governmental unit shall appoint a director of community services utilizing the procedures set forth by the Inter-Office Coordinating Council. The Inter-Office Coordinating Council shall promptly review and rule upon the appointment of a proposed director.

(b) Each director of community services appointed prior to the effective date of this Part may continue as the director of community services and shall be eligible for reappointment in the same local governmental unit.

(c) Each director of community services appointed with an acting status prior to the promulgation of this Part and having at least one year of tenure prior to the effective date of this Part shall be approved individually by the IOCC for permanent appointment and shall not be subject to the standards in Section 102.6 of this Part.

§ 102.6 Qualifications.

(a) Each director of community services appointed on or after the effective date of this Part shall meet the following requirements:

(1) The individual shall be a physician licensed to practice medicine in New York State who shall be deemed board certified or board eligible in psychiatry, neurology, pediatrics, or

(2) The individual shall be a psychologist who is currently licensed as a psychologist by the New York State Education Department; or

(3) The individual shall have obtained a master's degree in social work, and is currently licensed as a licensed master social worker or as a licensed clinical social worker by the New York Education Department; or

(4) The individual shall have obtained a master's degree in psychiatric mental health nursing and shall be licensed by the New York State Education Department as a registered nurse; or

(5) The individual shall have obtained a master's degree in rehabilitation counseling, psychology, social work, public health administration, public administration, hospital administration, human services administration, business administration or other equivalent degrees as determined by a curriculum reviewed and approved by the New York State Education Department; and

(6) The individual must have obtained a degree or degrees from a college or university recognized by the New York State Education Department; and

(7) The individual with a doctoral degree or medical degree, or an individual with a master's degree shall have had at least five years of progressively responsible clinical and/or administrative experience in a governmental, private, not-for-profit or proprietary program providing services for people who have a diagnosis of mental illness, mental retardation, developmental disability, alcoholism or substance abuse. At least two of the five years shall include functioning in an administrative capacity for the management of a program in which the candidate was responsible for the overall direction and control of an identifiable organizational unit or program. Such experience shall be specifically related to the powers and duties of the director of community services in accordance with section 102.7 of this Part.

(b) When a local governmental unit appoints a director of community services with an administrative degree as defined in paragraph (5) of this section, the local governmental unit shall also designate a senior level clinician with responsibilities for supervision of clinical services. Such designee shall have a clinical degree and licensure or certification in addition to demonstrable clinical work experience.

§ 102.7 Powers and duties.

(a) The director of community services shall be subject to the provisions of article 41 of the Mental Hygiene Law regarding powers and duties and any other such requirements as may be lawfully delegated. The director of community services shall:

(1) serve as chief executive officer of the local governmental unit and shall be a full-time employee, except in cases where the IOCC has expressly waived this requirement pursuant to the provision of Section 102.8 of this Part;

(2) employ and remove such officers, employees and consultants as may be necessary for the work of the board within the amounts made available by appropriations;

(3) exercise general supervision and program monitoring over local services and local facilities;

(4) exercise general supervision over the treatment of patients who are receiving local or unified services or who are in local facilities;

(5) make recommendations to the board for the provision of services

and the establishment of facilities, including contracts and other matters necessary as desirable to ensure the effective direction and administration of a local comprehensive service system;

(6) encourage the development and expansion of preventive, rehabilitation and treatment programs in the field of mental illness, mental retardation and developmental disabilities, alcoholism, and substance abuse;

(7) make an annual report to the board of the programs under the auspice of the local governmental unit, including a fiscal accounting;

(8) carry on such activities as may be appropriate to planning, advocacy, service coordination and quality assurance of local services and local facilities; and

(9) carry on such studies as may be appropriate for the discharge of duties.

§ 102.8 Waiver option for full-time director requirement.

(a) The local governmental unit may request that the Inter-Office Coordinating Council waive the requirement that the director of community services be a full-time director, as set forth in Section 102.7(a)(1).

(b) The request for a waiver shall include a full description of the duties and responsibilities of the other position which the director of community services would hold, shall include a description of any known responsibilities which might cause a conflict between the two positions, shall estimate the amount of time required for the adequate performance of each of the positions and shall include a copy of the code of ethics adopted by the local governmental unit pursuant to General Municipal Law article 18.

(c) The request shall be submitted, in its entirety, to the Chairperson of the Inter-Office Coordinating Council, who shall provide the other council members with duplicate copies. Each of the members shall review the request within 30 days of receipt and provide his or her recommendation back to the chairperson. The chairperson shall notify the local governmental unit of the determination of the majority of council members.

(d) In making a determination whether to grant the request for a waiver, the members of the Inter-Office Coordinating Council shall consider the following:

(1) Whether the director will have adequate time to competently perform all the functions, duties and responsibilities as the director of community services.

(2) Whether there will be a conflict of interest or incompatibility between the dual positions. In order to determine this, factors which may be considered include, but are not limited to, the following:

(i) Inconsistencies in the functions of the two positions, whereby the

position holder could not fully and impartially discharge the duties of both positions without conflict.

(ii) The right of the holder of one position to interfere with the other, such as where one position is subordinate to or subject to audit and review by the other.

(3) Whether the code of ethics adopted by the locality, pursuant to General Municipal Law article 18, would permit the holding of both positions by one individual.

(e) The director may, as part of his or her responsibilities, serve as director of a mental hygiene facility operated by the local governmental unit, if he or she meets the specific qualifications necessary for such position, without being required to obtain a waiver for such position.