Part 587 of 14 NYCRR is amended to read as follows:

PART 587

OPERATION OF OUTPATIENT PROGRAMS

(Statutory Authority; Mental Hygiene Law §§7.09, 31.04)

Sec.]

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Section 587.1. Background and intent

(a) The purpose of outpatient programs for adults or children with a [~~diagnosis of~~]designated mental illness is the diagnosis and treatment of mental illness on an ambulatory basis. The goals of outpatient treatment for adults are to reduce symptoms, to maximize potential for recovery of meaningful social involvement to maintain the recipient's capacity to function in the community, or when appropriate, to improve parental functioning while maintaining or restoring minor children to the care of the parent where feasible.

(b) The purpose of outpatient programs serving children with [~~a diagnosis of~~]serious emotional disturbance is for the diagnosis and treatment of serious emotional disturbance on an ambulatory basis. The goals of outpatient treatment for children are to reduce symptoms and improve functioning while maintaining children in their natural environments, supporting family integrity and functioning, and providing ongoing support to the recipient and relevant collaterals.

(c) This Part establishes and sets certification standards for [~~six~~]the following categories of outpatient programs: [~~clinic treatment programs for adults, clinic treatment programs for children,~~] continuing day treatment, day treatment programs for children, [~~intensive psychiatric rehabilitation treatment,~~] and partial hospitalization.

(d) The Office of Mental Health issues operating certificates to programs which meet the standards set forth in this Part. Certification in and of itself does not confer eligibility to receive financial support from any governmental source. In order to qualify for reimbursement under the medical assistance program, outpatient programs must also comply with the standards specified in Part 588 of this Title.

Section 587.2. Legal base

(a) Sections 7.09 and 31.04 of the Mental Hygiene Law grant the Commissioner of Mental Health the power and responsibility to adopt regulations that are necessary and proper to implement matters under [~~his or her~~]their jurisdiction, and to set standards of quality and adequacy of facilities, equipment, personnel, services, records and programs for the rendition of

services for adults or children [diagnosed] with designated mental illness or children [~~diagnosed~~] with serious emotional disturbance, pursuant to an operating certificate.

(b) Section 31.02 of the Mental Hygiene Law prohibits the operation of nonresidential or outpatient programs providing services for the mentally disabled unless an operating certificate has been obtained from the commissioner.

(c) The Mental Hygiene Law, in sections 31.07, 31.09, 31.13 and 31.19, further authorizes the commissioner or [~~his or her~~]their representatives to examine and inspect such programs to determine their suitability and proper operation. Section 31.16 authorizes the commissioner to suspend, revoke or limit any operating certificate.

(d) Section 31.11 of the Mental Hygiene Law requires every holder of an operating certificate to assist the Office of Mental Health in carrying out its regulatory functions by cooperating with the commissioner in any inspection or investigation, permitting the commissioner to inspect its facility, books and records, including recipients' records, and making such reports, uniform and otherwise, as are required by the commissioner.

(e) Section 31.06 of the Mental Hygiene Law requires every holder of an operating certificate to develop policies and training programs in regard to reporting child abuse or neglect.

(f) Section 43.02(b) of the Mental Hygiene Law gives the commissioner authority to request from operators of facilities licensed by the Office of Mental Health such financial, statistical and program information as the commissioner may determine to be necessary.

(g) Reserved

(h) Article 33 of the Mental Hygiene Law establishes basic rights of persons diagnosed with mental illness.

(i) Section 364-j of the Social Services Law requires the establishment of managed care programs throughout the State and provides for the provision of special care services to enrollees in Medicaid managed care programs who require such services.

(j) Section 365-m of the Social Services Law authorizes the Commissioner of the Office of Mental Health and the Commissioner of the Office of Addiction Services and Supports [~~Alcoholism and Substance Abuse Services~~], in consultation with the Department of Health, to contract with regional behavioral health entities [~~organizations~~] to provide administrative and management services for the provision of behavioral health services.

Section 587.3. Applicability

(a) This Part applies to any provider of service which operates or proposes to operate a continuing day treatment, day treatment programs for children, and partial hospitalization program ~~nonresidential outpatient program in which staff are assigned on a regular basis to provide services for the treatment of adults with a diagnosis of mental illness or children with a diagnosis of emotional disturbance~~.

~~(b) Section 587.4(a)(5)(iii) of this Part, in regard to organic brain syndromes, shall not be effective until July 1, 1996.]~~

([~~c~~]b) This Part applies to any provider of service which provides carved-out services to enrollees in a Medicaid managed care program.

([~~d~~]c) This Part does not apply to the following activities which do not require an operating certificate issued by the Office of Mental Health:

(1) professional practice, on an individual or partnership basis, within the scope of professional licensure or certificate issued by an agency of the State;

(2) professional practice by a professional service corporation duly incorporated pursuant to the Business Corporation Law;

(3) pastoral counseling by a clergyman or minister as defined in section 2 of the Religious Corporation Law;

(4) nonresidential services that are provided in accordance with licensure or other supervision by a State agency other than the Office of Mental Health; or

(5) nonresidential services that are provided in accordance with purposes authorized in a charter or certificate of incorporation issued pursuant to the Education Law.

Section 587.4. Definitions

(a) Recipient-related definitions.

(1) Adult is an individual 18 years old and over.

(2) Child is an individual up to 18 years of age and may include an 18-year-old individual while such individual is currently enrolled in an outpatient program serving children with a [~~diagnosis of~~] serious emotional disturbance.

(3) Collateral persons are members of the recipient's family or household, or [~~significant others~~] collaterals who regularly interact with the recipient and are directly affected by or have the capability of affecting [~~his or her~~]their condition and are identified in the treatment or psychiatric rehabilitation service plan as having a role in treatment and/or identified in the preadmission notes as being necessary for participation in the evaluation and assessment of the recipient prior to admission. A group composed of collaterals of more than one recipient may be gathered together for purposes of goal-oriented problem solving, assessment of treatment strategies and provision of practical skills for assisting the recipient in the management of [~~his or her~~]their illness.

[~~(4) Current impairment in functioning with severe symptoms means a child must have experienced at least one of the following within the past 30 days:~~
~~(i) serious suicidal symptoms or other life-threatening self-destructive behaviors; or~~
~~(ii) significant psychotic symptoms (hallucinations, delusion, bizarre behaviors); or~~
~~(iii) behavior caused by emotional disturbances that placed the child at risk of causing personal injury or significant property damage; or~~
~~(iv) behavior caused by emotional disturbances that placed the child at substantial risk of removal from the household~~.]

([~~5~~]4) [~~Designated mental illness diagnosis is a DSM-III-R diagnosis (or ICD-9-CM equivalent) other than (i) alcohol or drug disorders, (ii) developmental disabilities, (iii) organic brain syndromes, or (iv) social conditions (V-Codes). V-Code 61.20 Parent-Child problem is included for eligibility for services in clinic treatment programs serving children with a diagnosis of emotional disturbance. ICD-9-CM categories and codes that do not have an equivalent in DSM-III-R are not included as designated mental illness diagnoses~~.] Designated mental illness means a disruption of normal cognitive, emotional, or behavioral functioning, which can be classified and diagnosed using the current edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM) or ICD10, other than:

(1) substance use disorders in the absence of other mental health conditions defined in the DSM or IDC;

(2) neurodevelopmental disorders in the absence of other mental health conditions defined in the DSM or IDC except attention deficit/hyperactivity disorder and tic disorders;
(3) major neurocognitive disorder, traumatic brain injury or mental disorders due to another medical condition; or
(4) social conditions (V-Codes). Other conditions that may be a focus of clinical attention (commonly described with Z Codes), except Parent-Child Relational Problem (V61.20/Z62.820) for children.

[~~(6) Dual diagnosis refers to those individuals with a designated mental illness diagnosis, in accordance with this paragraph, and a diagnosis of alcohol or drug disorders, developmental disabilities, or organic brain syndrome. Such individuals are considered eligible for treatment in outpatient programs specifically for treatment of their designated mental illness with consideration of their associated clinical needs.~~]

([~~7~~]5) [~~Dysfunction with regard to adults means deficits in self-care, activities of daily living, interpersonal relations, adaptation to change or task performance in work or work-like settings. With regard to children, dysfunction also includes deficits in adaptation to school, family or other residential settings.~~] Functional disability with regards to adults means a deficit that rises to the level of impairment in one or more of the following areas: self-care; activities of daily living; interpersonal relations; or adaptation to change or task performance in work or work-like settings. With regard to children, functional disability also includes deficits in adaptation to school, family or other residential settings.

([~~8~~]6) Serious emotional disturbance means a child or adolescent has a designated mental illness diagnosis according to the most current Diagnostic and Statistical Manual of Mental Disorders (DSM) and has experienced functional limitations due to emotional disturbance over the past 12 months on a continuous or intermittent basis. The functional problems must be moderate in at least two of the following areas or severe in at least one of the following areas:

(i) ability to care for self (e.g., personal hygiene; obtaining and eating food; dressing; avoiding injuries); or

(ii) family life (e.g., capacity to live in a family or family like environment; relationships with parents or substitute parents, siblings and other relatives; behavior in family setting); or

(iii) social relationships (e.g., establishing and maintaining friendships; interpersonal interactions with peers, neighbors and other adults; social skills; compliance with social norms; play and appropriate use of leisure time); or

(iv) self-direction/self-control (e.g., ability to sustain focused attention for a long enough period of time to permit completion of age-appropriate tasks; behavioral self-control; appropriate judgment and value systems; decision-making ability); or

(v) ability to learn (e.g., school achievement and attendance; receptive and expressive language; relationships with teachers; behavior in school).

([~~9~~]7) Utilization review authority means a person or persons designated by an outpatient program to perform the function of utilization review in accordance with section 587.6(l) of this Part and Part 588 of this Title.

(b) Program definitions.

(1) [~~Behavioral health organization or BHO means an entity selected by the Commissioner of the Office of Mental Health and the Commissioner of the Office of Alcoholism and Substance Abuse Services pursuant to section 365-m of the New York State Social Services Law to provide administrative and management services for the purposes of conducting concurrent review of behavioral health admissions to inpatient treatment settings, assisting in the coordination of behavioral health services, and facilitating the integration of such services with physical health care~~].

[~~(2) Child and family clinic plus provider means a licensed clinic that has been approved by the Office of Mental Health to provide child and family clinic plus services.~~]

[(~~3) Concurrent review means the review of the clinical necessity for continued inpatient behavioral health services, resulting in a non-binding recommendation regarding the need for such continued inpatient services.~~]

[([~~4~~]]Off-site locations for purposes of providing outpatient services and reimbursement means any sites in the community where a recipient may require services.

([~~5~~]2) Program capacity means the maximum number of recipients that a provider can admit to its licensed program [~~who can be on-site~~] at a given time.

([~~6~~]3) Program space means discrete space dedicated to the purpose of the outpatient program and includes all space used by recipients enrolled in the program.

([~~7~~]4) Provider of service means the entity which is responsible for the operation of a program. [~~Such entity may be an individual, partnership, association or corporation.~~] For purposes of this Part, unless otherwise noted, the term also applies to a psychiatric center or institute operated by the Office of Mental Health.

([~~8~~]5) Satellite location of a primary program means a physically separate adjunct site to a [~~certified clinic treatment program,~~] continuing day treatment program, or day treatment program serving children [~~or intensive psychiatric rehabilitation treatment program~~] which provides either a full or partial array of outpatient services on a regularly and routinely scheduled basis (full or part time).

(c) Service definitions.

(1) [~~Activity therapy~~] Functional skill development [~~means therapy~~] is a therapeutic and rehabilitative service designed to assist a recipient in redeveloping the functional skills and social and environmental supports needed to function more successfully in current or intended life environments (i.e., living, learning, working and social). Such [~~therapy should~~] service provides

an opportunity for a recipient to practice the skills and build or sustain the supports needed to improve functioning.

(2) Assessment is the continuous clinical process of identifying an individual's behavioral strengths and weaknesses, problems and service needs, through the observation and evaluation of the individual's current mental, physical and behavioral condition and history. The assessment shall be the basis for establishing a diagnosis[,]or treatment plan [~~or psychiatric rehabilitation service plan.~~]

(3) Case management services are the process of linking the individual to the service system and monitoring the provision of services with the objective of continuity of care and service. Case management includes the following components:

(i) Linking. The process of referring the individual to all required services and supports as specified in the individual service plan.

(ii) Case-specific advocacy. The process of interceding on behalf of the individual to gain access to needed services and supports.

(iii) Monitoring. The process of observing the individual to assure that needed services and supports are received.

[~~(4) Carved-out services are those specialized services that are not included in the benefit package of a managed care provider, other than a duly authorized managed special care provider, for all current and future managed care enrollees, regardless of aid category. Such services are long term services for individuals with chronic illnesses and include the following:~~

~~(i) day treatment programs;~~

~~(ii) continuing day treatment programs;~~

~~(iii) intensive psychiatric rehabilitation programs;~~

~~(iv) partial hospitalization;~~

~~(v) comprehensive Medicaid case management (CMCM);~~

~~(vi) rehabilitation services provided to a resident of OMH rehabilitation treatment services;~~

~~(vii) services provided to children with serious emotional disturbances in designated clinics.~~]

[~~(5) Child and family clinic plus services are mental health screening, comprehensive assessment, in-home services and evidence-based treatment.~~]

([6]4) Clinical support services are services provided to collaterals, by at least one therapist, with or without recipients for the purpose of providing resources and consultation for goal oriented problem solving, assessment of treatment strategies and provision of skill development to assisting the recipient in management of [~~his or her~~]their illness.

[~~(7) Comprehensive assessment is an assessment that follows the American Academy of Child and Adolescent Psychiatry practice parameters for comprehensive assessment and includes the regular and methodical use of psychometric tools. This will include collecting the recipient's mental health history, and any current signs and symptoms of mental illness or emotional disturbance, identification of child and family strengths, and the assessment of the data to determine the recipient's mental health status and need for treatment.~~]

([~~8~~]5) Crisis intervention services are activities and interventions, including medication and verbal therapy, designed to address acute distress and associated behaviors when the individual's condition requires immediate attention.

([~~9~~]6) [~~Discharge planning is the process of planning for termination from a program or identifying the resources and supports needed for transition of an individual to another program~~

~~and making the necessary referrals, including linkages for treatment, rehabilitation and supportive services based on assessment of the recipient's current mental status, strengths, weaknesses, problems, service needs, the demands of the recipient's living, working and social environment, and the client's own goals, needs and desires.~~] Discharge planning is the process of planning for successful transition from one level of care to another, with or without additional services in place. Discharge planning may include identifying the resources and supports needed for transition of an individual to another program, and making the necessary referrals. Discharge planning should be done collaboratively with the clinician, the individual and collaterals involved with the individual's recovery, and should align with goals, needs and desires of the individual.

[~~(10) Evidence-based treatment is the application of therapeutic and/or psychopharmacological approaches that have been scientifically proven to be effective in the treatment of specific emotional disturbances.~~]

~~[(11) Family treatment means therapeutic interventions designed to treat the recipient's psychiatric condition (whether the recipient is an adult or a minor) to address family issues that have a direct impact on the symptoms experienced by the recipient, and to promote successful problem solving, communication, and understanding between a recipient and family members as it relates to the recipient's symptoms, treatment, and recovery.~~]

([12] 7) Health screening [~~service~~] and referral is the gathering of data concerning the recipient's medical history and any current signs and symptoms, and the assessment of the data to determine [~~his or her~~] the recipient's physical health status and need for referral for [~~noted~~] identified physical health problems. The data may be provided by the recipient or obtained with [~~his or her~~] the recipient's participation. The assessment of the data shall be done by a nurse practitioner, physician, physician's assistant, psychiatrist or registered professional nurse. The assessment of physical health status shall be integrated into the [~~patient~~] recipient's treatment plan.

[~~(13) In-home services are clinic services of a minimum duration of 30 minutes provided by a qualified mental health professional to a child and/or his or her family, pursuant to his or her treatment plan, within the child's or family's living environment~~.]

([~~14~~])8) Medication therapy means prescribing and/or administering medication, reviewing the appropriateness of the recipient's existing medication regimen through review of records and consultation with the recipient and/or family or caregiver, and monitoring the effects of medication on the recipient's mental and physical health.

~~[(15) Medication education means providing recipients with information concerning the effects, benefits, risks and possible side effects of a proposed course of medication.~~

~~(16) Mental health screening is a broad-based approach to identify children and adolescents with emotional disturbances and intervene at the earliest possible opportunity.~~

~~(17) Preadmission screening is the initial face-to-face process of contacting, interviewing and evaluating a potential recipient of mental health services to determine the individual's need for services~~.

~~(18) Psychiatric rehabilitation goal setting is the process by which a recipient selects a specific environment in which he or she intends to live, work, learn, and/or socialize. The psychiatric rehabilitation goal identifies a specific environment, specific time frames, and is mutually agreed upon by the recipient and the staff.~~

~~(19) Psychiatric rehabilitation treatment means therapeutic interventions designed to increase the functioning of a person with psychiatric disabilities so that he or she can succeed in a community environment of living, working, learning and social relationships.~~

~~(20) Psychiatric rehabilitation functional and resource assessment is the process by which the recipient and practitioner develop an understanding of the skills the recipient can and cannot~~

~~perform and the social and environmental resources that are available related to achieving the recipient's psychiatric rehabilitation goals.~~

~~(21) Psychiatric rehabilitation readiness determination means an interview and observation process which evaluates rehabilitation readiness based on a recipient's perceived need, motivation, and awareness of the process involved in making a change in his or her life.~~

~~(22) Psychiatric rehabilitation service planning is the process of designing and continuously revising an individualized program to assist the patient in obtaining and maintaining a psychiatric rehabilitation goal.~~

~~(23)Psychiatric rehabilitation skills and resource development is the process of improving a recipient's use of skills and arranging for or adapting social and environmental resources necessary to achieve a psychiatric rehabilitation goal.~~

~~(24) Psychiatric rehabilitation support services are consultation and technical assistance services provided to collaterals, by at least one therapist, with or without recipients. The purpose of this service is to enhance the capacity of the collateral to serve as a resource in assisting the recipient to achieve or maintain his or her psychiatric rehabilitation goal.~~]

([~~25~~] 9) Referral means a post-assessment planning activity with the objective of referring or directing an individual to a program providing the appropriate services.

([~~26~~] 10) Rehabilitation readiness assessment and development is the process of [~~building a recipient's~~] evaluating a recipient's readiness for and the appropriateness of psychiatric rehabilitation based on the recipient's functional deficits, motivation and willingness to participate and engage in psychiatric rehabilitation planning and services. Services involve developing the skills necessary for the recipient to proceed with the rehabilitation goal-setting process. This service may[~~ight~~] include confidence building [~~activities,~~] and self-awareness activities, or trial visits to various environments.

([~~27~~] 11) Social [~~training~~] skill development is a[~~n~~] rehabilitative activity whose purpose is to assist a child in the acquisition, improvement or development of age-appropriate social and interpersonal skills which may have been lost or unsuccessfully attained due to the onset of mental illness.

([~~28~~] 12) [~~Socialization~~] Recreational rehabilitation services is an activity [~~whose purpose is~~] designed to assist a child in the development, reacquisition, improvement or [~~maintain~~]maintenance [~~a child's capacity for social or~~]of age-appropriate recreational [~~involvement~~]skills which are necessary for the child's mental and behavioral health wellness by providing age-appropriate, supervised opportunities for the development, application and practice of [~~social or recreational~~]such skills.

([~~29~~] 13) Supportive skills training is the development of physical, emotional and intellectual skills needed to cope with mental illness and the performance demands of personal care and community living activities. Such training is provided through direct instruction techniques including explanation, modeling, role playing and social reinforcement interventions.

([~~30~~]) 14) Symptom management, as a service for adults, means the development and provision of appropriate skills and techniques specific to the individual recipient's condition to enable them [~~him or her~~] to recognize the onset of psychiatric symptoms and engage in activities designed to prevent, manage, or reduce such symptoms.

(15) Symptom management, as a service for children, means a set of skill building interventions, adjunct to verbal therapy.

([~~32~~] 16) Task and skill development [~~training~~] is a non-vocational activity whose purpose is to enhance a child's age-appropriate skills necessary for functioning in home, school and community settings. Task and skill development [~~training~~] activities shall include, but not be limited to, personal care, budgeting, shopping, transportation, use of community resources, time management, and study skills.

([~~33~~] 17) [~~Treatment planning is the process of developing, evaluating and revising an individualized course of treatment based on an assessment of the recipient's diagnosis, behavioral strengths and weaknesses, problems, and service needs~~.] Treatment Plans are ongoing, collaborative and person and family centered process directed by the individual in collaboration with the individual's family or other collaterals, as appropriate and approved by the individual/family and a licensed clinician, resulting in the development of treatment and rehabilitative goals, needs, preferences, capacities and desired outcomes for the provision of Outpatient Mental Health Services.

([~~34~~] 18) Verbal therapy means providing goal-oriented therapy including psychotherapy, behavior therapy, family and group therapy and other face-to-face contacts between staff and recipients designed to address the specific [~~dysfunction~~] functional disability of the recipient as identified in [~~his or her~~]their treatment plan. As a service in a program serving children with a diagnosis of serious emotional disturbance, play therapy and expressive art therapy may also be included.

(d) Staffing definitions.

(1) Certified Peer Specialists, Credentialed Family Peer Advocates, and Credentialed Youth Peer Advocates are qualified by personal experience and shall be certified or provisionally certified as provided below. Certified Peer Specialists, Credentialed Family Peer Advocates, and Credentialed Youth Peer Advocates shall be supervised by competent mental health professionals, which include any Professional staff defined above.

(i)Certified Peer Specialists shall:

(*a*) Identify as being actively in recovery from a mental health condition or major life disruption and intentionally and voluntarily self-disclose one's mental health recovery journey; and

(*b*) Possess a certification from or are provisionally certified as a Certified Peer Specialist by an OMH-approved Certified Peer Specialist certification program

(ii) Credentialed Family Peer Advocates (FPA) shall:

(*a*) Demonstrate 'lived experience' as a parent or primary caregiver who has navigated multiple child-serving systems on behalf of their child(ren) with social, emotional, developmental, health and/or behavioral healthcare needs;

(*b*) Possess a credential from or are provisionally credentialed as a Family Peer Advocate by an OMH-approved Family Peer Advocate credentialing program;

(iii) Credentialed Youth Peer Advocate shall:

(*a*) Demonstrate "lived experience" as a person with first-hand experience with mental health and/or co-occurring behavioral health challenges in juvenile justice, special education, and/or foster care settings who is able to assist in supporting young people attain resiliency/recovery and wellness; and

(*b*) Possess a valid credential from or are provisionally certified as a Youth Peer Advocate by an OMH-approved Youth Peer Advocate credentialing program.

([~~1~~]) 2) Clinical staff are all staff members who provide services directly to recipients. Students and trainees may qualify if they are participating in a program leading to a degree or certificate appropriate to the goals, objectives and services of the outpatient program and are supervised in accordance with the policies governing the training program and are approved as part of the staffing plan by the Office of Mental Health.

([~~2~~] 3) Professional staff are individuals who are qualified by credentials, training and experience to provide supervision and direct service related to the treatment of mental illness and shall include the following:

[~~(i) Credentialed alcoholism and substance abuse counselor is an individual who is currently credentialed by the New York State Office of Alcoholism and Substance Abuse~~ Addiction ~~Services in accordance with Part 853 of this Title.~~]

(i[~~i~~]) Creative arts therapist is an individual who is currently licensed as a creative arts therapist by the New York State Education Department or possesses a creative arts therapist permit from the New York State Education Department [~~who has a master's degree in a mental health field from a program approved by the New York State Education Department, and registration or~~

~~certification by the American Art Therapy Association, American Dance Therapy Association, National Association of Music Therapy or American Association for Music Therapy~~].

([~~i~~]ii) Marriage and family therapist is an individual who is currently licensed as a marriage and family therapist by the New York State Education Department or possesses a permit from the New York State Education Department.

(iii[~~v~~]) Mental health counselor is an individual who is currently licensed as a mental health counselor by the New York State Education Department or possesses a permit from the New York State Education Department.

(iv) Nurse practitioner is an individual who is currently certified as a nurse practitioner by the New York State Education Department or possesses a permit from the New York State Education Department.

(v[i]) Occupational therapist is an individual who is currently licensed as an occupational therapist by the New York State Education Department.

(vi[i]) Pastoral counselor is an individual who has a master's degree or equivalent in pastoral counseling or is a Fellow of the American Association of Pastoral Counselors.

(vii[i]) Physician is an individual who is currently licensed as a physician by the New York State Education Department.

(viii[x]) Physician's assistant is an individual who is currently registered as a physician's assistant or a specialist's assistant by the New York State Education Department or possesses a permit from the New York State Education Department.

(ix) Psychiatrist is an individual who is currently licensed as a physician by the New York State Education Department and who is certified by, or eligible to be certified by, the American Board of Psychiatry and Neurology.

(x[~~i~~]) Psychoanalyst is an individual who is currently licensed as a psychoanalyst by the New York State Education Department or possesses a permit from the New York State Education Department.

(xi[~~i~~]) Psychologist is an individual who is currently licensed as a psychologist by the New York State Education Department. [~~Individuals who have obtained at least a master's degree in psychology may be considered professional staff for the purposes of calculating professional staff and full time equivalent professional staff but may not be assigned supervisory responsibility.~~]

(xii[~~i~~]) Registered professional nurse is an individual who is currently licensed as a registered professional nurse by the New York State Education Department.

(xiii[~~v~~]) Rehabilitation counselor is an individual who has either a master's degree in rehabilitation counseling from a program approved by the New York State Education Department or current certification by the Commission on Rehabilitation Counselor Certification.

(xiv) Social worker is an individual who is either currently licensed as a licensed master social worker or as a licensed clinical social worker by the New York State Education Department or has a master's degree in social work from a program approved by the New York State Education Department.

(xv[~~i~~]) Therapeutic recreation specialist is an individual who has either a master's degree in therapeutic recreation from a program approved by the New York State Education Department or registration as a therapeutic recreation specialist by the National Therapeutic Recreation Society.

([~~3~~] 4) Other professional disciplines may be included as professional staff with the prior written approval of the Office of Mental Health, when individuals in such disciplines shall have specified training or experience in the treatment of individuals diagnosed with mental illness.

([4] 5) Licensed practitioner means a person defined in paragraph ([2]3) of this subdivision who is licensed by the New York State Education Department.

Section 587.5. Certification

(a) A provider of service intending to operate an outpatient program must obtain an initial operating certificate issued by the Office of Mental Health in accordance with procedures established in Part 551 of this Title. Renewals of such operating certificates shall be issued for terms of up to three years, unless the Office of Mental Health shall deem that a term less than three years is appropriate.

(b) Each outpatient program site shall be authorized by a separate operating certificate. The operating certificate shall specify for each site:

(1) the program type to be operated;

(2) the location of the program;

(3) the hours of operation of the program;

(4) the program capacity for continuing day treatment, and partial hospitalization [~~and intensive psychiatric rehabilitation treatment~~] programs;

(5) the population to be served;

(6) the term of the operating certificate; and

(7) any approved [~~optional~~]additional services to be provided.

(c) Each outpatient program authorized by an operating certificate pursuant to this Part shall be clearly identifiable. Each outpatient program shall have separately identifiable staff, space and program policies and procedures.

[~~(d) The county director of community services shall be responsible for identifying specific licensed clinic treatment programs to be designated by the Commissioner as interim specialty clinic programs serving children in accordance with the identified need within the county. In making such identification, the county director of community services shall use the following criteria:~~

~~(1) All licensed satellites of a recommended provider in the same county shall be included if so designated by the Commissioner. New York City is one county for such purposes.~~

(2) A county with less than one percent of children in New York State, as defined in accordance with section 587.4(a)(4) and (8) of this Part, may have up to two designated providers. If only one licensed clinic is included on the recommended list, the county director of community services may recommend a second licensed clinic without recent Medicaid experience serving children. The Office of Mental Health may approve these recommendations based upon competence of a licensed clinic treatment program to serve such children and upon accessibility to the clinic by such children. Accessibility shall be based upon a geographic area rather than a catchment area of the recommended licensed clinic treatment program.

(3) A county with at least one percent and less than three percent of the projected number of children in New York State, as defined in accordance with section 587.4(a)(4) and (8) of this Part, may recommend up to six licensed clinic treatment programs including all licensed satellites of such recommended providers.

(4) A county with at least three percent and less than eight percent of the children in New York State, as defined in accordance with section 587.4(a)(4) and (8) of this Part, may recommend up to 10 licensed clinic treatment programs.

(5) The City of New York may recommend up to 85 licensed clinic treatment programs.

(6) New York City may reallocate the total number of licensed clinics of the five boroughs which appear on the recommended list amongst the five boroughs. However, no more than the total number of licensed clinic treatment programs which appear on the list for the five boroughs shall be designated as interim specialty clinic treatment programs serving children.

(e) The Commissioner shall designate a licensed clinic treatment program to provide interim specialty children's services to children as defined in accordance with section 587.4(a) of this Part. A clinic treatment program so designated shall be authorized to provide, and be reimbursed for providing, clinic treatment services to children notwithstanding the child's enrollment in a Medicaid managed care program. Such a clinic shall be designated as an interim specialty clinic treatment program serving children and shall operate in accordance with section 587.9 of this Part and Part 588 of this Title. An interim specialty clinic treatment program serving children shall be determined to meet at least one of the following criteria:

(1) In a county with less than three percent of the projected population of children in New York State, as defined in section 587.4(a) of this Part, the criteria for inclusion as a designated interim specialty clinic treatment program serving children includes:

(i) any licensed clinic treatment program, including all licensed satellite locations within the county, that had total Medicaid visits by children exceeding 400 visits annually for the most recent completed State fiscal year; or

(ii) any one licensed clinic treatment program location which had more than 200 Medicaid visits by children representing more than 75 percent of total Medicaid volume of visits at that location; or

(iii) all licensed clinic treatment programs in a county with two or fewer clinic treatment programs serving children; or

(iv) all county-operated clinic treatment programs serving children.

(2) In a county with three percent or more of the projected population of children in New York State, as defined in section 587.4(a)(4) and (8) of this Part, the criteria for inclusion as a designated interim specialty clinic treatment program serving children includes:

(i) any licensed clinic treatment program, including all licensed satellites within the county or the City of New York, which had total Medicaid visits by children exceeding 700 visits annually for the most recent completed State fiscal year; or

(ii) any one licensed clinic treatment program location which had more than 300 Medicaid visits by children representing more than 50 percent of total Medicaid volume of visits at that location; or

(iii) all licensed clinic treatment programs primarily serving physically handicapped or non-English speaking children; or

(iv) all county operated clinic treatment programs.

(3) In a county with one percent or more of the projected population of children in New York State, as defined in accordance with section 587.4(a)(4) and (8) of this Part, the Commissioner shall not designate a clinic treatment program as an interim specialty clinic treatment program serving children which is not on the list recommended by the county director of community services, even if the list contains less than the maximum number of recommended clinic treatment programs as provided by the county director of community services with the exception of clinic treatment programs primarily serving special populations, including, but not limited to, physically handicapped or non-English speaking children. Such clinic treatment programs may be added to the list of recommended clinic treatment programs. Any additions made to the list of

~~recommended licensed clinic treatment programs shall not increase the total number of programs to be designated as interim specialty clinic treatment programs serving children in a county.]~~

([~~f~~]d) Outpatient programs may provide services at off-site locations. To the extent that such services are provided in a given location on a regularly and routinely scheduled basis (full or part time), such site shall be considered a satellite location and shall be in compliance with subdivision (g) of this section. In determining the regular and routine nature of services at a given site, the Office of Mental Health shall take into consideration the volume of services, the number of recipients receiving services, the number of staff assigned, the range of services provided, and whether the site will be utilized on a permanent or temporary basis.

([~~g~~]e) Off-site locations which are determined by the Office of Mental Health to be satellite locations of a primary program shall meet the following requirements:

(1) the satellite must be approved and certified by the Office of Mental Health in accordance with procedures established in Part 551 of this Title prior to operation;

(2) there shall be an explicit clinical and administrative linkage between the satellite and the primary program which includes, but is not limited to, methods of staff supervision, treatment planning, review of treatment plans, maintenance of recipients' records and utilization review;

(3) there shall be adequate and sufficient staff to provide services at the satellite. The full range of the primary program's services must be available as clinically appropriate to recipients who utilize the satellite location; and

(4) satellite locations must meet the physical plant requirements for program space set forth in section 587.19 of this Part.

([~~h~~]f) Establishment of a new program or changes to the operating certificate, [~~other than changes in the hours of operation,~~] require prior approval of the Office of Mental Health in accordance with Part 551 of this Title. Such changes include the following:

(1) changes in the physical space or location, use of additional sites, and change in capacity;

(2) termination of the program; or

(3) changes in the powers or purposes set forth in the certificate of incorporation of the provider of service.

~~[(g) Changes in the hours of operation of a program may be made upon notification to the Office of Mental Health and the Office of Mental Health's determination that the changes will not~~

~~negatively affect the program and will not increase the program's total Medical Assistance revenue~~.]

([~~j~~]h) An operating certificate may be limited, suspended or revoked by the Office of Mental Health pursuant to Part 573 of this Title. The operating certificate is the property of the Office of Mental Health and as such shall be returned to the Office of Mental Health if it should be revoked.

([~~k~~]i) The commissioner may reduce the capacity of a program when it is determined that such program is not serving its certified capacity at a reasonable level.

([~~l~~]j) The provider of service shall frame and display the operating certificate within the outpatient program site in a conspicuous place which is readily accessible to the public.

([~~m~~]k) The provider of service shall cooperate with the Office of Mental Health during any review or inspection of the outpatient program.

([~~n~~]l) The commissioner shall have the authority to designate and approve demonstration projects for purposes of examining innovative program and administrative configurations; regulatory flexibility and alternative funding methodologies.

Section 587.6. Organization and administration

(a) The provider of service shall identify a governing body which shall have overall responsibility for the operation of the program. The governing body may delegate responsibility for the day-to-day management of the program to appropriate staff pursuant to an organizational plan approved by the Office of Mental Health.

(b) In programs operated by not-for-profit corporations other than hospitals licensed pursuant to article 28 of the Public Health Law, no person shall serve as a member of the governing body and of the paid staff of the program without prior approval of the Office of Mental Health.

(c) The governing body shall be responsible for the following duties:

(1) to meet at least four times a year;

(2) to review, approve and maintain minutes of all official meetings;

(3) to develop an organizational plan which indicates lines of accountability and the qualifications required for staff positions. Such plan may include the delegation of the

responsibility for the day-to-day management of the program to a designated professional who is qualified by training and experience to supervise program staff;
(4) to review the program's compliance with the terms and conditions of its operating certificate, applicable laws and regulations;
(5) to ensure that the design and operation of the program is consistent with and appropriate to the ethnic and cultural background of the patient population;
(6) to ensure that recipients and their families have a mechanism for participating in treatment [~~or psychiatric rehabilitation service planning~~] decisions;
(7) to develop, approve, and periodically review and revise as appropriate all programmatic and administrative policies and procedures. Such policies and procedures shall include, but are not limited to, the following:
(i) written personnel policies which shall prohibit discrimination on the basis of race, color, creed, disability, sex, marital status, age, national origin or sexual orientation;
(ii) written policies which shall provide for verification of employment history, personal references, work record and qualifications, as well as securing a signed, sworn statement whether, to the best of [~~his or her~~]their knowledge, the applicant has ever been convicted of a crime in this State or any other jurisdiction and for appropriate consideration and confidentiality of such information;
(iii) written volunteer policies which shall provide for screening of volunteers, verification of employment history, personal references and work history, and supervision of volunteers. Such policies shall also provide for securing a signed, sworn statement whether, to the best of [his or her]their knowledge, the volunteer has ever been convicted of a crime in this State or any other jurisdiction, for appropriate consideration and confidentiality of such information;
(iv) written policies which are consistent with the obligations imposed by title VII of the Civil Rights Act, Federal Executive Order 11246, the Rehabilitation Act of 1973, section 504, the Vietnam Era Veteran's Readjustment Act, the Federal Age Discrimination in Employment Act of 1967, the Federal Equal Pay Act of 1963, and the American Disabilities Act of 1990;

(v) written policies and procedures concerning the prescription and administration of medication which shall be consistent with applicable Federal and State laws and regulations;

(vi) written policies and procedures governing recipients' records which ensure confidentiality consistent with the Mental Hygiene Law, and which provide for appropriate retention of such records pursuant to section 587.18 of this Part;
(vii) written criteria for admission, and discharge from the program;
(viii) written policies and procedures regarding the mandatory reporting of child abuse or neglect, reporting procedures and obligations of persons required to report, provisions for taking a child into protective custody, mandatory reporting of deaths, immunity from liability, penalties for failure to report, and obligations for the provision of services and procedures necessary to safeguard the life or health of the child. Such policies and procedures shall address the requirements for the identification and reporting of abuse or neglect regarding recipients who are children, or who are the parents or guardians of children; and
(ix) written policies and procedures describing a recipient grievance process which ensure the timely review and resolution of recipients' complaints and which provides a process enabling recipients to request review by the Office of Mental Health when resolution is not satisfactory; and
(8) to ensure the establishment and implementation of an ongoing training program for current and new employees and volunteers which address the policies and procedures regarding child abuse and neglect described in subparagraph (7)(viii) of this subdivision.
(d) A provider of service certified as a partial hospitalization program shall ensure that electroconvulsive therapy is only used pursuant to a written plan previously approved by the Office of Mental Health.
[~~(e) The provider of service who provides carved-out services to enrollees of a managed care provider in need of such services shall enter into agreement(s) with managed care provider(s) in accordance with chapter 165 of the Laws of 1991 and the accompanying memorandum of agreement. Such agreements are intended to integrate special care and managed care within the Medicaid managed care program and the special care program based on the agreed upon protocols for the purposes of coordination of care and determination of need.~~]
(f) A provider of service shall ensure that an outpatient program does not use seclusion as a treatment intervention or response to a crisis situation and in accordance with Part 526 of this title.

(g) A provider of service shall ensure that an outpatient program does not use restraint as a treatment intervention or in response to a crisis situation and in accordance with Part 526 of this title.
(h) A provider of service shall ensure that recipient participation in research only occurs in accordance with applicable Federal and State requirements.
(i) A provider of service shall ensure the timely reporting, investigation, review, monitoring and documentation of incidents pursuant to the Mental Hygiene Law and Part 524 of this Title.
(j) A provider of service shall ensure that no otherwise appropriate recipient is denied access to services solely on the basis of [multiple] co-occurring diagnoses or a diagnosis of HIV infection, AIDS, or AIDS-related complex.
(k) There shall be an emergency evacuation plan and staff shall be knowledgeable about its procedures.
(l) There shall be a written utilization review procedure to ensure that all recipients are receiving appropriate services and are being served at an appropriate level of care. Such policies and procedures shall include provisions insuring that utilization review is performed only by professional staff trained to do such reviews, or by staff who are otherwise qualified by virtue of their civil service standing, and shall ensure to the maximum extent possible that the designated utilization review authority functions independently of the clinical staff which is treating the recipient under review.
(m) The provider of service shall participate as required with the local governmental unit in local planning processes pursuant to sections 41.05 and 41.16 of the Mental Hygiene Law. At a minimum, such participation shall include:
(1) provision of budgeting and planning data as requested by the local governmental unit;
(2) identification of the population being served by the program;
(3) identification of the geographic area being served by the program; and
(4) description of the program's relationship to other providers of service including, but not limited to, a description of all written agreements entered into pursuant to this Part.
(n) In programs which are not operated by State or local government, there shall be an annual audit, pursuant to a format prescribed by the Office of Mental Health, of the financial condition and accounts of the program performed by a certified public accountant who is not a member of

the governing body or an employee of the program. Government-operated programs shall comply with applicable laws concerning financial accounts and auditing requirements.
(o) The provider of service shall establish mechanisms for the meaningful participation of recipient representatives either through direct participation on the governing body, or through the creation of a recipient advisory board. If a recipient advisory board is used, the provider of service shall ensure a mechanism for the recipient advisory board to make recommendations to the governing body.
(p) The provider of service shall establish mechanisms which ensure that the cultural and ethnic backgrounds of recipients are taken into account such as participation of ethnic consumers, ethnic representation on the staff and board, and inclusion of ethnic appropriate content in service programs.
(q) The provider of service shall establish mechanisms to ensure priority access by individuals, referred to the provider, who are enrolled in an assisted outpatient treatment program established pursuant to section 9.60 of the Mental Hygiene Law. The provider of service shall cooperate with the local governmental unit or the commissioner, or their authorized representatives, in ensuring priority access by such individuals, and in the development, review and implementation of treatment plans for such individuals. Prior to the discharge by a provider of service of an individual who is also enrolled in an assisted outpatient treatment program, the provider of service shall notify the individual's case manager and the director of the assisted outpatient treatment program. Any and all related information, reports and data which may be requested by the commissioner or the local governmental unit shall be furnished by the provider of service. Any requests for clinical records from persons or entities authorized pursuant to section 33.13 or 33.16 of the Mental Hygiene Law, regarding individuals who are the subject of, or under consideration for, a petition for an order authorizing assisted outpatient treatment shall be given priority attention and responded to without delay.

Section 587.7. Rights of recipients

(a) Recipients admitted to an outpatient program certified pursuant to this Part are entitled to the rights defined in this subdivision. A provider of service shall be responsible for ensuring the protection of these rights.

(1) Recipients have the right to an individualized plan of treatment services and to participate to the fullest extent consistent with the recipient's capacity in the establishment and revision of that plan.
(2) Recipients have the right to a full explanation of the services provided in accordance with their treatment [~~or psychiatric rehabilitation service~~] plan.
(3) Participation in treatment in an outpatient program is voluntary and recipients are presumed to have the capacity to consent to such treatment. The right to participate voluntarily in and to consent to treatment shall be limited only to the extent that:
(i) section 330.20 of the Criminal Procedure Law and Part 541 of this Title provide for court-ordered receipt of outpatient services;
(ii) article 81 of the Mental Hygiene Law provides for the surrogate consent of a court-appointed guardian for personal needs;
(iii) section 33.21 of the Mental Hygiene Law provides for the surrogate consent of a parent or guardian of a minor;
(iv) a recipient is enrolled in an assisted outpatient treatment program established pursuant to section 9.60 of the Mental Hygiene Law; or
(v) a recipient engages in conduct which poses a risk of physical harm to themself [~~himself~~] or others.
(4) While a recipient's full participation in treatment is a central goal, a recipient's objection to [~~his or her~~]their treatment [~~or psychiatric rehabilitation service~~]plan, or disagreement with any portion thereof, shall not, in and of itself, result in [~~his or her~~]their termination from the program unless such objection renders continued participation in the program clinically inappropriate or would endanger the safety of the recipient or others.
(5) The confidentiality of recipients' clinical records shall be maintained in accordance with section 33.13 of the Mental Hygiene Law.
(6) Recipients shall be assured access to their clinical records consistent with section 33.16 of the Mental Hygiene Law.
(7) Recipients have the right to receive clinically appropriate care and treatment that is suited to their needs and skillfully, safely and humanely administered with full respect for their dignity and personal integrity.
(8) Recipients have the right to receive services in such a manner as to assure nondiscrimination.

(9) Recipients have the right to be treated in a way which acknowledges and respects their cultural environment.
(10) Recipients have the right to a maximum amount of privacy consistent with the effective delivery of services.
(11) Recipients have the right to freedom from abuse and mistreatment by employees.
(12) Recipients have the right to be informed of the provider's recipient grievance policies and procedures, and to initiate any question, complaint or objection accordingly.
(b) A provider of service shall provide a notice of recipients' rights as described in subdivision (a) of this section to each recipient upon admission to an outpatient program. Such notice shall be provided in writing and posted in a conspicuous location easily accessible to the public. The notice shall include the address and telephone number of the Commission on Quality of Care and Advocacy for Persons with Disabilities, the nearest regional office of the Protection and Advocacy for Mentally Ill Individuals Program, the nearest chapter of the Alliance on Mental Illness of New York State and the Office of Mental Health.

Section 587.8 Reserved. [~~Clinic treatment programs for adults~~

~~(a) A clinic treatment program shall provide treatment designed to reduce symptoms, to improve functioning, and to provide ongoing support.~~

~~(b) Eligibility for admission to a clinic treatment program shall be based on a designated mental illness diagnosis.~~

~~(c) A clinic treatment program shall provide assessment services to all recipients and, in addition, shall provide health screening services to all recipients receiving medication therapy services. Treatment planning and discharge planning services shall be provided in accordance with section 587.16 of this Part.~~

~~(d) A clinic treatment program shall offer each of the following services, to be provided consistent with recipients' conditions and needs:~~

~~(1) health screening and referral;~~

~~(2) verbal therapy;~~

~~(3) medication therapy;~~

~~(4) medication education;~~

~~(5) symptom management; and~~

~~(6) psychiatric rehabilitation readiness determination and referral.~~

~~(e) A clinic treatment program satellite located in a local correctional facility shall provide crisis intervention services consistent with the recipients' conditions and needs.~~

~~(f) A clinic treatment program may also provide the following additional services:~~

~~(1) case management services;~~

~~(2) crisis intervention services;~~

~~(3) clinical support services; and~~

~~(4) family treatment services.~~

~~(g) The following services may be provided by other providers of service or by other programs operated by the provider service: case management; crisis intervention services; health screening and referral; psychiatric rehabilitation readiness determination; and clozapine monitoring. Additional services may be provided by other providers of service upon the prior review and approval by the Office of Mental Health.~~

(h) Any additional types of services provided by the clinic treatment program which are clinically appropriate shall be considered optional services and shall be subject to prior review and written approval by the Office of Mental Health. Electroconvulsive therapy and aversive conditioning therapy shall not be allowed as optional services.

(i) The clinic treatment program shall develop a plan for assuring continuity of care within the mental health system and with other service systems (e.g., social services, health care, local correctional systems). Such plan shall be subject to approval by the Office of Mental Health.

(j) Admission to a clinic treatment program must occur within the first three visits. A screening and admission note shall be written upon decision to admit which shall include the following:

(1) reason for referral;

(2) primary clinical and service-related needs and services to meet those needs; and

(3) admission diagnosis.

(k) When an admission is not indicated notation shall be made of the following:

(1) the reason for no admission;

(2) the disposition of the recipient; and

(3) any referrals made as appropriate.

(l) The provider of service of a clinic treatment program for adults shall develop a plan which will assure an appropriate response to recipients enrolled in the program who need assistance when the program is not in operation. Such plan shall be subject to approval by the Office of Mental Health.]

Section 587.9 Reserved. [~~Clinic treatment programs serving children~~

~~(a) A clinic treatment program serving children with a diagnosis of emotional disturbance shall provide treatment designed to reduce symptoms and improve functioning while maintaining children in their natural environments, supporting family integrity and functioning, and providing ongoing support to the recipient and relevant collaterals during treatment.~~

~~(b) Clinic treatment programs serving children shall be identified into two separate categories as follows:~~

~~(1) clinic treatment programs serving children with a designated mental illness diagnosis, including V-Code 61-20 Parent-Child; or~~

~~(2) clinic treatment programs serving children with a designated mental illness diagnosis, including V-Code 61-20 Parent-Child, plus either an extended impairment in functioning due to emotional disturbance or a current impairment in functioning with severe symptoms as defined in section 587.4(a)(4) and (8) of this Part.~~

~~(c) A clinic treatment program serving children with a diagnosis of emotional disturbance shall provide assessment services to all recipients and, in addition, shall provide health screening services to all recipients receiving medication therapy services. Treatment planning and discharge planning services shall be provided in accordance with section 587.16 of this Part.~~

~~(d) A clinic treatment program serving children with a diagnosis of emotional disturbance shall offer each of the following services, to be provided consistent with the recipients' conditions and needs:~~

~~(1) verbal therapy;~~

~~(2) symptom management;~~

~~(3) health screening and referral;~~

~~(4) medication therapy;~~

~~(5) medication education; and~~

~~(6) clinical support services.~~

~~(e) A clinic treatment program serving children with a diagnosis of emotional disturbance may also provide the following additional services:~~

~~(1) case management;~~

~~(2) crisis intervention services; and~~

~~(3) family treatment services.~~

~~(f) A clinic treatment program that has been approved to be a Children and Family Clinic Plus provider shall also provide the following services:~~

~~(1) Mental Health Screening. Such services shall be provided in a community setting, and shall be provided with the prior written consent of the child's parent or legal guardian.~~

~~(2) Comprehensive Assessment. A comprehensive assessment can be performed over the course of not more than three visits per client, and is intended to determine the presence and nature of any emotional disturbance and to develop a treatment plan where appropriate.~~

~~(3) In-Home Services.~~

~~(4) Evidence-Based Treatment.~~

~~(g) The following services may be provided by other providers of service or by other programs operated by the provider of service: case management; crisis intervention services; and health screening and referral. Additional services may be provided by other providers of service upon the prior review and approval by the Office of Mental Health.~~

~~(h) Any additional types of services provided by the clinic treatment program serving children with a diagnosis of emotional disturbance which are clinically appropriate shall be considered optional services and shall be subject to prior review and written approval by the Office of Mental Health. Electroconvulsive therapy and aversive conditioning therapy shall not be allowed as optional services.~~

~~(i) The clinic treatment program serving children with a diagnosis of emotional disturbance shall develop a plan for assuring continuity and integration of care within the mental health system and with other systems of care (e.g., social services, schools, juvenile justice). Such plan shall be subject to approval by the Office of Mental Health.~~

~~(j) Admission to a clinic treatment program serving children shall occur within the first three visits. A screening and admission note shall be written upon decision to admit which shall include the following:~~

~~(1) reason for referral;~~

~~(2) identification of collaterals interviewed;~~

~~(3) primary clinical and service-related needs and services to meet those needs; and~~

~~(4) admission diagnosis.~~

~~(k) When an admission is not indicated notation shall be made of the following:~~

~~(1) the reason for no admission;~~

~~(2) the disposition of the recipient; and~~

~~(3) any referrals made as appropriate.~~

~~(l) The clinic treatment program serving children shall develop a plan which will assure an appropriate response to recipients enrolled in the program who need assistance when the program is not in operation. Such plan shall be subject to approval by the Office of Mental Health.~~]

Section 587.10. Continuing day treatment programs

(a) A continuing day treatment program shall provide active treatment designed to maintain or enhance current levels of functioning and skills, to maintain community living, and to develop self-awareness and self-esteem through the exploration and development of strengths and interests.

(b) Eligibility for admission to a continuing day treatment program shall be based on a designated mental illness diagnosis and a [~~dysfunction~~] functional disability due to mental illness.

(c) A continuing day treatment program shall provide assessment and health screening services to all recipients. Treatment planning and discharge planning services shall be provided in accordance with section 587.16 of this Part.

(d) A continuing day treatment program shall offer each of the following services, to be provided consistent with recipients' conditions and needs:

(1) medication therapy;

(2) medication [~~education~~] skill-building;

(3) case management;

(4) health screening and referral;

(5) rehabilitation readiness assessment and development; and

(6) psychiatric rehabilitation readiness determination and referral; and

(7) symptom management.

(e) A continuing day treatment program may also provide the following additional services:

(1) supportive skills training;

(2) [~~activity therapy~~] functional skill development;

(3) verbal therapy;

(4) crisis intervention services; and

(5) clinical support services.

(f) The following services may be provided by other providers of service or by other programs operated by the provider of service: case management; crisis intervention services; health screening and referral; [~~psychiatric rehabilitation readiness determination and referral~~] rehabilitation readiness assessment and development; and clozapine monitoring. Additional services may be provided by other providers of service upon the prior review and approval by the Office of Mental Health.

(g) Any additional services provided by a continuing day treatment program which are clinically appropriate shall be considered [~~optional~~]additional services and shall be subject to prior review and written approval by the Office of Mental Health. Sheltered work activities may not be included as pre-vocational activities. Electroconvulsive therapy and aversive conditioning therapy shall not be allowed as [~~optional~~]additional services.

(h) The provider of service of a continuing day treatment program shall develop a plan for assuring continuity of care within the mental health system and other service systems (e.g., social services, health care, local correctional systems). Such plan shall be subject to approval by the Office of Mental Health.

(i) The provider of service of a continuing day treatment program shall develop a plan to assure an appropriate response to persons enrolled in the program who need assistance when the program is not in operation. Such plan shall be subject to approval by the Office of Mental Health.

(j) Admission to a continuing day treatment program shall occur within the first three visits. A screening and admission note shall be written upon a decision to admit which shall include the following:

(1) reason for referral;

(2) primary clinical and service-related needs and services to meet those needs; and

(3) admission diagnosis.

(k) When an admission is not indicated a notation shall be made of the following:

(1) the reason for no admission;

(2) the disposition of the recipient; and

(3) any referrals made as appropriate.

Section 587.11. Day treatment programs serving children

(a) A day treatment program serving children shall provide mental health treatment designed to stabilize children's adjustment and in the development of emotional and behavioral skills needed to support their return to a more traditional educational setting [~~to educational settings, to prepare children for return to educational settings, and to transition children to educational settings~~]. Upon approval of the Commissioner, a day treatment program may continue to serve individuals over the age of 18, but under the age of 22, who continue to meet the admission criteria for a day treatment program, in order to ensure that the individual has received the necessary educational services required to move to independent living.

(b) Eligibility for admission to a day treatment program serving children shall be based on a designated mental illness diagnosis, plus either an extended impairment in functioning due to serious emotional disturbance [~~or a current impairment in functioning with severe symptoms, as defined in section 587.4(a)(4) and (8) of this Part.~~]

(c) A day treatment program serving children shall provide assessment and health screening services to all recipients. Treatment planning and discharge planning services shall be provided in accordance with section 587.16 of this Part.

(d) A day treatment program serving children shall offer each of the following services, to be provided consistent with the recipients, conditions and needs:

(1) health screen and referral;

(2) medication therapy;

(3) verbal therapy;

(4) crisis intervention services;

(5) case management;

(6) social [~~training~~] skill development;

(7) task and skill [~~training~~] development; and

(8) [~~socialization~~] recreational rehabilitation services.

(e) The following services may be provided by other providers of service or by programs operated by the provider of service: [~~social training, task and skill training, and socialization~~]social skill development, task and skill development, and recreational rehabilitation services. Additional services may be provided by other providers of service upon the review and approval by the Office of Mental Health.

(f) Any additional types of services provided by the day treatment program serving children which are clinically appropriate shall be considered [~~optional~~]additional services and shall be subject to prior review and written approval by the Office of Mental Health. Electroconvulsive therapy and aversive conditioning therapy shall not be allowed as [~~optional~~]additional services.

(g) The day treatment program serving children shall develop a plan for assuring continuity and integration of care within the mental health system and with other systems of care. Such plan shall be subject to approval by the Office of Mental Health.

(h) The day treatment program serving children shall develop a plan which will assure an appropriate response to persons enrolled in the program who need assistance when the program is not in operation. Such plan shall be subject to approval by the Office of Mental Health.

(i) Admission to a day treatment program serving children shall occur within the first three visits. A screening and admission note shall be written upon decision to admit which shall include the following:

(1) reason for referral;

(2) identification of collaterals interviewed;

(3) primary clinical and service-related needs and services to meet those needs; and

(4) admission diagnosis.

(j) When an admission is not indicated, notation shall be made of the following:

(1) the reason for no admission;

(2) the disposition of the recipient; and

(3) any referrals made as appropriate.

Section 587.12. Partial hospitalization programs

(a) A partial hospitalization program shall provide active treatment designed to stabilize and ameliorate acute symptoms, to serve as an alternative to inpatient hospitalization, or to reduce the length of a hospital stay within a medically supervised program.

(b) Eligibility for admission to a partial hospitalization program shall be based on a designated mental illness diagnosis which has resulted in [~~dysfunction~~] functional disability due to acute symptomatology which requires medically supervised intervention to achieve stabilization and which, but for the availability of a partial hospitalization program, would necessitate admission to or continued stay in an inpatient hospital. At least one-third of annual admissions shall come

from clinically appropriate referrals from 9.39 approved hospitals, comprehensive psychiatric emergency programs, and State operated facilities[, and Comprehensive Outpatient Program providers]. In order to ensure [assure] that this referral process best meets the needs of the local mental health system, a partial hospitalization program shall develop admission referral and linkage agreements with providers designated by the Office of Mental Health in consultation with the appropriate local government unit. These agreements shall be approved in writing by the local government unit and the Office of Mental Health.

(c) A partial hospitalization program shall provide assessment and health screening services to all recipients. Treatment planning and discharge planning services shall be provided in accordance with section 587.16 of this Part.

(d) A partial hospitalization program shall offer each of the following services, to be provided consistent with recipients' conditions and needs:

(1) health [referral] screening and referral;

(2) symptom management;

(3) medication therapy;

(4) medication [education]skill-building;

(5) verbal therapy;

(6) case management;

(7) [psychiatric rehabilitation readiness determination and referral]rehabilitation readiness assessment and development;

(8) crisis intervention services;

(9) [~~activity therapy~~]functional skill development; and

(10) clinical support services.

(e) The following services may be provided by other providers of service or by other programs operated by the provider of service: case management; crisis intervention services; health screening and referral[~~;~~] and [~~psychiatric rehabilitation readiness determination and referral~~] rehabilitation readiness assessment and development. Additional services may be provided by other providers of service upon the prior review and approval by the Office of Mental Health.

(f) Any additional services provided by the partial hospitalization program which are clinically appropriate shall be considered [~~optional~~]additional services and shall be subject to prior review and written approval by the Office of Mental Health. Aversive conditioning therapy shall not be allowed as an [~~optional~~]additional service.

(g) A partial hospitalization program may provide services to children if:

(1) the provider has demonstrated its capability in providing services to children, or is otherwise affiliated with an inpatient facility; and

(2) services to children are separate from those provided to adults enrolled in the program.

(h) The provider of service of a partial hospitalization program shall develop a plan for assuring continuity of care within the mental health system and other service systems (e.g., social services, health care, local correctional systems). Such plan shall be subject to approval by the Office of Mental Health.

(i) Admission to a partial hospitalization program shall occur within the first three visits. A screening and admission note shall be written upon a decision to admit which shall include the following:

(1) reason for referral;

(2) primary clinical and service-related needs and services to meet those needs; and

(3) admission diagnosis.

(j) When an admission is not indicated notation shall be made of the following:

(1) the reason for no admission;

(2) the disposition of the recipient; and

(3) any referrals made as appropriate.

(k) The partial hospitalization program shall develop a plan which will assure an appropriate response to persons enrolled in the program who need assistance when the program is not in operation. Such plan shall be subject to Office of Mental Health approval.

Section 587.13 Reserved.[~~. Intensive psychiatric rehabilitation treatment programs~~

~~(a) An intensive psychiatric rehabilitation treatment program is time limited, with active psychiatric rehabilitation designed to assist persons in forming and achieving mutually agreed upon goals in living, learning, working and social environments, to intervene with psychiatric rehabilitation technologies to overcome functional disabilities, and to improve environmental supports.~~

~~(b) Eligibility for admission to an intensive psychiatric rehabilitation treatment program shall be based on:~~

~~(1) a designated mental illness diagnosis;~~

~~(2) a dysfunction due to mental illness which is likely to continue for a prolonged time;~~

~~(3) readiness to participate in a designated intensive psychiatric rehabilitation treatment program; and~~

~~(4) referral by a licensed practitioner.~~

~~(c) An intensive psychiatric rehabilitation treatment program shall provide psychiatric rehabilitation service planning and discharge planning services in accordance with section 587.17 of this Part. In addition, the program shall offer each of the following services, to be provided consistent with the recipients' conditions and needs:~~

~~(1) psychiatric rehabilitation readiness determination;~~

~~(2) psychiatric rehabilitation goal setting;~~

~~(3) psychiatric rehabilitation functional and resource assessment;~~

~~(4) psychiatric rehabilitation skills and resource development; and~~

~~(5) psychiatric rehabilitation support services.~~

~~(d) Any additional services provided by the intensive psychiatric rehabilitation treatment program which are clinically appropriate shall be considered optional services and shall be subject to prior review and written approval by the Office of Mental Health, but shall not include vocational rehabilitation or educational services to which the recipient is otherwise legally entitled. Electroconvulsive therapy and aversive conditioning therapy shall not be allowed as optional services.~~

~~(e) An intensive psychiatric rehabilitation treatment program may provide services to persons aged 15-17 years if:~~

~~(1) the provider has demonstrated its capability in providing services to adolescents; and~~

~~(2) services to adolescents are separate from those provided to adults enrolled in the program.~~

~~(f) An intensive psychiatric rehabilitation treatment program shall have the capacity to provide services both on-site and off-site in community settings.~~

~~(g) An intensive psychiatric rehabilitation treatment program shall provide direct supervision to a recipient engaged in skills and resource development. An intensive psychiatric rehabilitation treatment program shall provide staff support off-site to an enrolled person as needed when such person is engaged independently in the community as part of planned rehabilitation activities.~~

~~(h) The provider of service of an intensive psychiatric rehabilitation treatment program shall develop a plan for assuring continuity of care within the mental health system and other service systems (e.g., social services, health care, local correctional systems). Such plan shall be subject to approval by the Office of Mental Health.~~

~~(i) Admission to an intensive psychiatric rehabilitation treatment program shall occur within the first three visits. A screening and admission note must be written upon decision to admit which shall include the following:~~

~~(1) reason for referral;~~

~~(2) primary needs and rehabilitation aspirations;~~

~~(3) admission diagnosis; and~~

~~(4) results of a psychiatric rehabilitation readiness determination.~~

~~(j) When an admission is not indicated notation shall be made of the following:~~

~~(1) the reason for no admission;~~

~~(2) the disposition of the recipient; and~~

~~(3) any referrals made as appropriate.~~

~~(k) The provider of service shall retain written documentation of the referral for services in the case record.~~]

Section 587.14. Reserved[~~Behavioral health organizations~~

~~Providers shall cooperate with the designated regional behavioral health organizations and shall be authorized pursuant to Section 33.13(d) of the Mental Hygiene Law to exchange clinical information concerning clients with such organizations. Information so exchanged shall be limited to the minimum necessary in light of the reason for the disclosure. Such information shall be kept confidential and any limitations on the release of such information imposed on the party giving such information shall apply to the party receiving such information.~~]

Section 587.15. Staffing

(a) A provider of service shall continuously employ an adequate number and appropriate mix of staff to carry out the objectives of the program and to assure the outcomes of the program. The staffing plan shall document the staff qualifications, including training, clinical experience with adults or children [~~diagnosed~~] with a designated mental illness or children with a [~~diagnosis of~~] serious emotional disturbance, and supervisory experience in a clinical setting, the appropriateness of the mix of staff, the assignment of staff to the primary program site and any approved satellite locations, and the supervisory relationships among the staff. Such plan shall be subject to review and approval by the Office of Mental Health at the time of issuance or renewal of the program's operating certificate.

(b) The staff of an outpatient program shall include a sufficient mix of clinical and professional staff to provide all of the required services and to implement the treatment plans of the program's service recipients. In order to provide adequate clinical supervision and programmatic direction, a sufficient number of the professional staff must be qualified by training and clinical supervisory experience in the treatment of adults diagnosed with mental illness, or children with a [~~diagnosis of~~] serious emotional disturbance, as appropriate. Outpatient programs, [~~except for intensive psychiatric rehabilitation treatment programs,~~] shall, at a minimum, have a psychiatrist on staff for one-fifth of the operating hours of the program or for one-fifth of the hours of a full-time employee, whichever is less.

(c) A minimum percentage of the total clinical staff hours of the outpatient program shall be provided by professional staff, of which a minimum percentage must be employed full time.

[~~(1) At least 70 percent of the total clinical staff hours of a clinic treatment program shall be provided by professional staff. At least 20 percent of the total full-time equivalent professional staff shall be employed full time.~~]

([~~2~~]1) At least 40 percent of the total clinical staff hours of a continuing day treatment program shall be provided by professional staff. At least 20 percent of the total full-time equivalent professional staff shall be employed full time.

([~~3~~]2) At least 50 percent of the total clinical staff hours of a day treatment program serving children shall be provided by professional staff. At least 20 percent of the total full-time equivalent professional staff shall be employed full time.

([4]3) At least 70 percent of the total clinical staff hours of a partial hospitalization program shall be provided by professional staff. At least 30 percent of the total full-time equivalent professional staff shall be employed full time.

[~~(5) At least 50 percent of the total clinical staff hours of an intensive psychiatric rehabilitation treatment program shall be provided by professional staff. At least 40 percent of the total professional staff shall be employed full time.~~]

(d) Continuing day treatment programs, day treatment programs serving children, and partial hospitalization programs, [~~and intensive psychiatric rehabilitation treatment programs~~] shall maintain an adequate and appropriate number of clinical staff members on site in proportion to the number of recipients on site. Providers shall be deemed to have met such standards if their staffing ratios are at least in accordance with the following:

(1) continuing day treatment programs: one clinical staff member on site for every 10 recipients on site;
(2) day treatment programs serving children: one clinical staff member on site for every eight recipients on site; and
(3) partial hospitalization programs: one clinical staff member on site for every five recipients on site[~~; and~~
~~(4) intensive psychiatric rehabilitation treatment programs: one full-time equivalent clinical staff member available for every eight recipients on site and/or off site during hours when the program is in operation~~].
(e) A day treatment program serving children may include special education teachers as professional staff when such teachers are essential to accomplishing the goals and objectives of the day treatment program and are justified as part of the staffing plan. A special education teacher is an individual who is currently certified as a teacher of special education by the New York State Education Department.
(f) A partial hospitalization program shall have a full-time equivalent professional staff member on call for crisis intervention services 24 hours per day, seven days per week.
(g) Staff may be shared among programs and shall be reflected in the staffing plan with discrete work assignments and hours noted for shared staff. Staff sharing is subject to approval by the Office of Mental Health at the time of issuance or renewal of the program's operating certificate. Such approval shall take into consideration factors such as, but not limited to, the number of recipients being served, staff recruitment and availability, and availability of and access to other programs in the area.

Section 587.16. Treatment planning for [~~clinic treatment programs,~~] continuing day treatment programs, day treatment programs serving children and partial hospitalization programs

(a) Treatment planning shall be an ongoing assessment process carried out by the professional staff in cooperation with the recipient and [~~his or her~~] their family and/or other collaterals, as appropriate, which results in a treatment plan. The treatment plan shall be updated or revised as necessary to document changes in the recipient's condition or needs and the services and treatment provided.

(b) Treatment planning shall be based on an assessment of the recipient's psychiatric, physical, social, and/or psychiatric rehabilitation needs which result in the identification of the following:
(1) the recipient's designated mental illness diagnosis;
(2) the recipient's problems and strengths;
(3) the recipient's treatment goals consistent with the purpose and intent of the program; and
(4) the specific objectives and services necessary to accomplish goals.
(c) Recipient participation in treatment planning by an adult and approval of the plan shall be documented by the recipient's signature. Reasons for nonparticipation and/or approval by the recipient shall be documented in the case record.
(d) A treatment plan for a child shall be developed by professional staff of the program with participation of the recipient, as appropriate. A description of such participation shall be documented. The recipient's family and/or collaterals shall participate as appropriate in the development of the treatment plan. Collaterals participating in the development of the treatment plan shall be specifically identified in the plan.
(e) The treatment plan shall include, but need not be limited to, the following:
(1) the signature of the physician involved in the treatment;
(2) the recipient's designated mental illness diagnosis;
(3) the recipient's treatment goals, objectives and related services;
(4) plan for the provision of additional services to support the recipient outside of the program; and
(5) criteria for discharge planning.
(f) Progress notes shall be recorded by the clinical staff member(s) who provided services to the recipient. Such notes shall identify the particular services provided and the changes in goals, objectives and services, as appropriate. Progress notes shall be recorded within the following intervals:
[~~(1) clinic treatment programs--each visit and/or contact;~~]
([2]1) continuing day treatment programs--at least every two weeks;
([3]2) partial hospitalization programs--each visit and/or contact; and
([4]3) day treatment programs--at least every week.
(g) A periodic review of the treatment plan shall include the following:
(1) input of all staff involved in treatment of the recipient;

(2) the recipient, [~~his or her~~]their family and/or other collaterals, as appropriate;
(3) assessment of the progress of the recipient in regard to the mutually agreed upon goals in the treatment plan;
(4) adjustment of goals, time periods for achievement, intervention strategies or initiation of discharge planning, as appropriate; and
(5) the signature of the physician involved in the treatment.

Section 587.17 Reserved. [~~Psychiatric rehabilitation service planning for an intensive psychiatric rehabilitation treatment program~~

~~(a) Psychiatric rehabilitation services in an intensive psychiatric rehabilitation treatment program shall be provided in accordance with an approved initial psychiatric rehabilitation service plan.~~
~~(b) The development of a psychiatric rehabilitation service plan shall be an ongoing process developed in accordance with section 587.4(c)(15) of this Part. Such plan shall be developed by the clinical staff, recipient, and any collaterals identified by the recipient for participation in planning, as appropriate. The psychiatric rehabilitation service plan shall be a mutually agreed upon course of action which identifies the following:~~
~~(1) statement of rehabilitation aspirations;~~
~~(2) statement of service goals and objectives;~~
~~(3) identification of planned interventions; and~~
~~(4) proposed time periods.~~
~~(c) The psychiatric rehabilitation service plan shall be reviewed and updated and shall include the following:~~
~~(1) input of all staff involved in the treatment of the recipient;~~
~~(2) the input of recipient, his or her family and/or other collaterals, as appropriate;~~
~~(3) assessment of the progress of the recipient in regard to mutually agreed upon goals in the psychiatric rehabilitation service plan; and~~
~~(4) adjustment of goals, time periods for achievement, intervention strategies or initiation of discharge planning, as appropriate.~~
~~(d) In such cases where the review indicates that mutually agreed upon goals have not been met, the staff who are working directly with the recipient, the recipient, and parties who were~~

~~involved in the initial psychiatric rehabilitation service planning, shall adjust goals and time periods for achievement of such goals, adjust intervention strategies or initiate discharge or referral~~.]

Section 587.18. Case records

(a) There shall be a complete case record maintained for each person admitted into an outpatient program. Such case record shall be maintained in accordance with recognized and acceptable principles of recordkeeping as follows:

(1) hard copy case record entries shall be made in nonerasable ink or typed[~~writer~~] and shall be legible;

(2)electronic records which use accepted mechanisms for clinician signatures and are maintained in a secure manner, may be utilized. Such records may be kept in lieu of a hard copy case record [~~case records shall be legible~~];

(3) case records shall be periodically reviewed for quality and completeness; and

(4) all entries in case records shall be dated and signed by appropriate staff.

(b) The case record shall be available to all staff of the outpatient program who are participating in the treatment of the recipient and shall include the following information:

(1) individual demographics, recipient identifying information and history;

(2) admission note; [~~preadmission screening notes, as appropriate~~];

(3) diagnosis;

(4) assessment of the recipient's psychiatric, physical, social, and/or psychiatric rehabilitation needs;

(5) reports of all mental and physical diagnostic exams, assessments, tests, and consultations;

(6) the treatment plan [~~or psychiatric rehabilitation service plan~~];

(7) record and date of all on-site and off-site face to face contacts with the recipient, the type of service provided and the duration of contact;

(8) dated progress notes which relate to goals and objectives of treatment;

(9) dated progress notes which relate to significant events and/or untoward incidents;

(10) periodic treatment plan reviews;

(11) dated and signed records of all medications prescribed;

(12) discharge summary;

(13) referrals to other programs and services;
(14) consent forms;
(15) record of contacts with collaterals; and
(16) discharge plan.
(c) The discharge summary shall be transmitted to the receiving program prior to the arrival of the recipient, or within two weeks, whichever comes first. When circumstances interfere with a timely transmittal of the discharge summary, notation shall be made in the record of the reason for delay. In such circumstances a copy of all clinical documentation shall be forwarded to the receiving program, as appropriate, prior to the arrival of the recipient.
(d) When a recipient is transferred between programs offered by the same provider, a consolidated record format which follows the recipient may be used.
(e) Records must be retained for a minimum period of six years from the last date of service. In the case of a minor, for at least six years after the last date of service or three years after reaching 18 years of age, whichever time period is longer.
(f) Information in case records that is subject to the confidentiality protections of Mental Hygiene Law section 33.13 may be shared between facilities, agencies and programs responsible for the provision of services pursuant to an approved local or unified services plan (including programs that receive funding from the Office disbursed via a State Aid letter); the Office and any of the psychiatric centers and programs that it licenses or operates; and facilities, agencies, and programs that are not licensed by the Office and are not participants in an approved local or unified services plan, but are responsible for the provision of services to any patient pursuant to a written agreement with the Office as a party, provided, however, if a case record contains HIV or AIDS information that is protected by Public Health Law article 27-F, or information provided by a federally-funded alcoholism/substance abuse provider that is protected under 42 CFR part 2, such information shall only be redisclosed as permitted by such law or regulation.

Section 587.19. Premises

(a) The provider of service shall maintain premises which are adequate and appropriate for the safe and effective operation of an outpatient program in accordance with the following:

(1) Program capacity of a continuing day treatment program, [~~intensive psychiatric rehabilitation treatment program,~~] and partial hospitalization program shall be determined by allocating adequate space for the number of persons [~~served by~~]admitted to the program.
(2) Occupancy of a continuing day treatment program, [~~intensive psychiatric rehabilitation treatment program~~] and partial hospitalization program shall not exceed the program capacity stated in the program's operating certificate by more than 15 percent.
(3) All outpatient programs shall provide for sufficient private rooms consistent with the capacity and purpose of the program.
(4) All outpatient programs shall provide for sufficient types and arrangements of spaces to provide group activities consistent with the capacity and purpose of the program.
(5) A continuing day treatment program space may be considered as part of sheltered workshop space only if a discrete portion of that space is identified as part of a continuing day treatment program and used exclusively for such purpose.
(6) All outpatient programs shall provide for controlled access to and maintenance of medication and supplies in accordance with all applicable Federal and State laws and regulations.
(7) All outpatient programs shall provide for controlled access to and maintenance of records.
(8) All outpatient programs shall provide for appropriate furnishings and equipment consistent with the purpose of the program.
(b) The provider of service shall ensure life safety on the premises by possession of a certificate of occupancy in accordance with the Building Code of New York State and the Property Maintenance Code of New York State (19 NYCRR Chapter XXXIII, Subchapter A, Parts 1221 and 1226) or comparable local codes.
(c) The provider of service shall consider the use of appropriate features and equipment which enable the accessibility of persons with physical disabilities, consistent with the population being served by the program.

Section 587.20. Reserved.[~~Waivers~~

~~(a) Psychiatric coverage may be waived under the following circumstances:~~
~~(1) The Office of Mental Health may approve the use of a physician in lieu of a psychiatrist in circumstances where the outpatient program can demonstrate that a psychiatrist is unavailable to~~

~~meet the requirement. Such physician shall have specialized training or experience in the treatment of mental illness.~~

~~(2) If the requirements of paragraph (1) of this subdivision cannot be met, the Office of Mental Health may approve a plan for the provision of an equivalent level of care which shall include, but not be limited to, a physician who does not have specialized training or experience in the treatment of the mentally ill and at least a licensed psychologist or a registered nurse or a licensed social worker who is experienced in the treatment of adults with a diagnosis of mental illness and/or children with a diagnosis of emotional disturbance.~~

~~(b) The minimum percentage of the total full-time equivalent professional staff members required to be employed full time may be reduced with the prior written approval of the Office of Mental Health if the outpatient program can demonstrate that such reduction will not diminish the effectiveness of the services provided.~~

~~(c) Referral source requirements for partial hospitalization programs, as provided in section 587.13(b) of this Part, may be waived with the prior written approval of the Office of Mental Health.~~

~~(d) Providers shall apply for waivers in such form as the commissioner shall require. Waivers shall run concurrently with the term of the program's operating certificate. The Office of Mental Health may renew such waivers based upon a determination that conditions continue to warrant the granting of such waivers.]~~

Section 587.21. Reserved.[~~Transition from Part 585 to Part 587~~

~~(a) Programs certified pursuant to Part 585 of this Title may continue to operate pursuant to the requirements of Part 585 of this Title until the expiration of the term of their operating certificate.~~

~~(b) Upon the expiration of an operating certificate issued pursuant to Part 585 of this Title, a provider may:~~

~~(1) apply for a single renewal of such certificate for up to two years pursuant to Part 573 of this Title;~~

~~(2) return its operating certificate to the Office of Mental Health; or~~

~~(3) apply for an operating certificate as a program established under this Part. Such application may also be made prior to the expiration of an existing operating certificate, at any time after the effective date of this Part.~~

~~(c) Programs operating pursuant to the requirements of Part 585 of this Title shall be reimbursed pursuant to the rates established in Part 579 of this Title.~~

~~(d) Programs operating pursuant to the requirements of this Part shall be reimbursed pursuant to the rates and utilization review requirements established in Part 588 of this Title.~~] **Reserved**

Section 587.22. Enforcement standards and procedures

(a) A provider of service shall exercise due diligence in complying with the requirements of this Part. Due diligence means the exercise of reasonable and appropriate efforts to ensure compliance with the standards set forth in this Part.

(b) The Office of Mental Health shall review the program and practices of the provider of service in order to facilitate determinations as to whether providers are exercising the requisite due diligence and are otherwise in compliance with this Part.

(c) If, based on a review of the program and practice of a provider of service, the Office of Mental Health determines that a provider of service is not exercising due diligence in complying with the requirements of this Part, the Office of Mental Health shall give notice of the deficiency to the provider of service and may also initiate the following:

(1) request that the provider of service prepare a plan of correction, which plan shall be subject to approval by the Office of Mental Health; and

(2) provide such technical assistance as the Office of Mental Health deems necessary to assist the provider of service in developing and implementing an appropriate plan of correction.

(d) If the provider of service fails to prepare an acceptable plan of correction within a reasonable time or refuses to permit the Office of Mental Health to provide technical assistance or fails to promptly or effectively implement a plan of correction which has been approved by the Office of Mental Health, it shall be determined that the provider of service is in violation of this Part.

(e) Upon a determination that a provider of service is in violation of this Part or upon a determination that a provider of service has failed to otherwise comply with the terms of its operating certificate or with the provisions of any applicable statute, rule or regulation, the

commissioner may revoke, suspend or limit the provider's operating certificate or impose fines in accordance with Mental Hygiene Law, section 31.16 and Parts 573 and 503 of this Title.
(f) Nothing in this section shall limit or preclude the commissioner from taking whatever immediate measures may be necessary, including the exercise of his authority under Mental Hygiene Law, sections 31.16(b) and 31.28, in the event that a patient's health or safety is in imminent danger or there exists any condition or practice which poses imminent danger to the health or safety of any recipient or the public.

Section 587.23. Exemptions

Providers of service shall be exempt from the following requirements of this Part as they relate to recipients who are currently enrolled in a managed care organization which is certified or approved by the Commissioner of the New York State Department of Health, or a designated partial capitation program (e.g., pre-paid mental health program), and who are currently receiving services which are covered by the benefit package of the managed care organization or a designated partial capitation program:
(a) section 587.6(l);
(b) section 587.8(j);
(c) section 587.9(i);
(d) section 587.10(j);
(e) section 587.11(i);
(f) section 587.12(i);
(g) section 587.13(i);
(h) section 587.16(e)(1); and
(i) section 587.16(f)-(g).