

New York State
Behavioral Health Services Advisory Council
Bylaws

Article I: Officers

Section 1. The officers of the Council shall be a Chair, a Vice Chair, and Executive Secretary. The Chair shall be designated by the Governor. The Vice Chair shall be elected by the Council and shall serve for one year or until his or her successor has been elected. The Executive Secretary shall be assigned as agreed by the Commissioners of the Office of Addiction Services and Supports (OASAS) and the Office of Mental Health (OMH).

Section 2. The Officers of the Council shall perform the duties ordinarily associated with their respective offices.

Section 3. In the absence or disability of the Chair, the Vice Chair shall perform the duties of the Chair. In the absence of the Chair and Vice Chair from any meeting, the Council may elect one of its members to preside during such absence.

Section 4. The Chair shall supervise the Council's work. Unless otherwise provided by the Council, the Chair shall have the power to represent the Council before the Governor, the Legislature, or public authorities.

Article II: Purpose, Responsibilities and Duties

Section 1. The purpose of the Council is to advise OMH and OASAS on matters relating to the provision of behavioral health services; issues of joint concern to the offices, including the integration of various behavioral health services and the integration of behavioral health services with health services; and issues related to the delivery of behavioral health services that are responsive to local, state and federal concerns.

Section 2. The Council shall have the following responsibilities:

- (a) In cooperation with the Commissioners of OASAS and OMH, to establish statewide goals and objectives for services to persons with behavioral disorders, pursuant to Mental Hygiene Law Section 5.07;
- (b) to review and make recommendations to the Commissioners on the statewide comprehensive plan(s) as developed and updated annually pursuant to MHL Section 5.07;
- (c) to review and make recommendations to the Commissioners on the behavioral health component of statewide health plans developed in accordance with any applicable federal law;

(d) to review applications seeking OASAS/OMH approval for incorporation or establishment or construction of a behavioral health facility; ~~and~~

(e) to review and make recommendations to the Commissioners on proposed OASAS/OMH rules and regulations, other than emergency rules and regulations and regulations promulgated pursuant to MHL Section 43.01; **and.**

(d) to review and make recommendations on issues related to substance use disorder treatment disparities and ways to achieve treatment equity.

Section 3. At its discretion, the Council may review closures of State operated Office of Mental Health (OMH) and Office of Addiction Services and Supports (OASAS) hospitals/wards, and of programs licensed and/or certified by OMH or OASAS and issue recommendations pertaining to issues including reinvestment, continuity of care and system impact.

Section 4. Each member of the Council, duly appointed by the Governor, shall be expected to carry out all duties of membership until the Governor has accepted his or her resignation from the Council, or duly appointed a successor on or after the expiration of said member's previous appointment.

Article III: Meetings of the Council

Section 1. The Council shall meet at least four times in each full calendar year. Additional meetings of the Council or of a Committee on behalf of the Full Council may be called upon the individual initiative of either Commissioner or the Chair. In addition, a special meeting of the Council shall be called by the Chair upon request by a majority of Council members.

Section 2. The Chair shall notify the Executive Secretary preferably two weeks in advance of any meeting other than a regularly scheduled meeting. The Executive Secretary shall notify each member of the Council by sending notice to each member preferably ten days before the meeting. Council members shall designate a regular mail address or an electronic mail address for the receipt of Council notices.

Section 3. Except as otherwise provided in these Bylaws, in the event that urgent questions requiring action by the Council should develop between meetings, such questions/proposals shall, be transmitted by the Executive Secretary to the Council members for their individual approval or disapproval, and the majority decision shall be formally adopted at the next regular meeting at which a quorum is present.

Section 4. Matters requiring action by the Council shall be determined by vote, and a record of each vote shall be maintained. A majority of the Council shall constitute a quorum and all matters requiring action shall be passed by a vote of no less than a majority of those present and not abstaining. Each abstention, including an abstention required because of a conflict of interest under Article V, shall be counted as a vote for the purpose of establishing a quorum. Members present at a meeting shall be recorded as voting with the majority unless a member specifically requests that he or she be counted as voting with the minority, or abstaining. The normal method of voting shall be by voice. If the Chair or any other member expresses a doubt about the outcome of a voice vote, the vote shall be verified. To verify a vote, the vote shall be retaken by a show of hands or by rising. On the request of any member of the Council, a roll call vote on any question shall be taken by ayes and nays, abstentions noted, and the name and vote or abstention of each Council member entered in the minutes.

Section 5. Members of the Council shall preserve decorum by operating in a civil and courteous manner to ensure a safe workspace for all attendees of a meeting. Members of the Council shall not make threatening or abusive comments or act in an otherwise aggressive or threatening manner. The Chair may limit or end discussion by a member if they deem the member's comments or behavior to be in violation of this Section. A member of the Council shall speak when recognized by the Chair on the issue under consideration. Other members shall not interrupt unless similarly recognized by the Chair or to ask the Chair to deem another member out of order. The Chair has the right to cut off discussion that is too personal, is threatening, abusive or not germane to the issue at hand. Under continuous violations of this Section a member may be removed from the meeting in accordance with Roberts Rules of Order.

Section 6. Council members are expected to attend all meetings of the Council.

(a) If a Council member is not able to attend a meeting, he or she shall give the Chair or Executive Secretary) at least 24 hours prior notice, except in emergency situations in which case notice shall be provided as soon as it is practicable. The Executive Secretary shall note in the minutes of the meeting all members who are not in attendance at the meeting but have provided proper prior notice that they would be unable to attend.

(b) If a Council member fails to attend three consecutive regular meetings of the Council, unless such absence is for good cause and is excused by the Chair, or in the case of the Chair[,] **is excused by** the Governor, the member's seat on the Council may be deemed vacant for purposes of the nomination and appointment of a successor.

Section 7. Meetings of the Council shall be noticed and conducted in accordance with the requirements of the Open Meetings Law as set forth in Article 7 of the Public Officers Law. Minutes shall be taken at all open meetings of the Council, which minutes shall consist of a record or summary of all motions, proposals, resolutions and any other matter formally voted upon and the vote thereon. At the start of each meeting, the minutes from the previous meeting shall be considered by the Council for formal approval, with corrections and clarifications to be noted and incorporated.

Section 8. Pursuant to Public Officers Law Section 103-a, Videoconferencing is authorized for all members of the Council, and the Council's committees, pursuant to the following requirements:

(a) A minimum number of members of the Council are present to fulfill the Council's quorum requirement in the same physical location or locations where the public can attend. (b). Members of the Council shall be physically present at such meetings unless the member is unable to be physically present due to extraordinary circumstances which shall include, but not be limited to, disability, illness, caregiving responsibilities or any other significant or unexpected factor or event which precludes the member's attendance at such meeting. (c) Except in the case of executive sessions conducted pursuant to Section 105 of the Open Meetings Law, the Council shall ensure that members can be heard, seen and identified while the meeting is being conducted, including, but not limited to any motions, proposals, resolutions and any other matters formally discussed or voted upon. (d) Notwithstanding any of the requirements of this Section of the Bylaws, a declaration of a State of Emergency by the Governor may result in the suspension or continued suspension of any or all of the requirements.

Section 9. The Council shall issue guidelines with regard to participation of members of the public in Council or Committee meetings, both in person and via videoconferencing. Absent such guidelines, members of the public shall not have a right to speak or otherwise participate in meetings unless granted such right at the discretion of the Council or Committee Chair.

Article IV: Committees

Section 1. There shall be the following standing committees of the Council:

(a) ***Project Review Committee (PRC):*** The PRC reviews Prior Approval Review (PAR) applications for consistency with criteria specified in PAR regulations and advises the full

Council of the PRC's findings on individual projects. The full Council considers the PRC's report and forwards a recommendation to the Commissioner.

(1) To ensure that projects are reviewed expeditiously, the PRC is authorized to meet and formulate a recommendation to the Commissioners on behalf of the full Council whenever there is a period of sixty days or more between scheduled meetings of the full Council, or a period of sixty days or more between a scheduled meeting and an actual meeting. When meeting on behalf of the full Council, the PRC is required to have a majority of its members present to constitute a quorum and any action which will be the basis for a recommendation to the Commissioners is required to be based on a vote equal to at least a majority of those present and not abstaining. (Each abstention shall be counted as a vote for the purpose of establishing a quorum.)

(b) ***Regulations Committee:*** The function of the Regulations Committee is to review all proposed rules and regulations of OASAS and OMH, except emergency regulations, which are exempt from its review, and to report its recommendations to the full Council. The full Council considers the Regulation Committee's report and forwards a recommendation to the Commissioner.

(1) To ensure that regulations are reviewed expeditiously, the Regulations Committee is authorized to meet and formulate a recommendation to the Commissioners on behalf of the full Council whenever there is a period of sixty days or more between scheduled meetings of the full Council, or a period of sixty days or more between a scheduled meeting and an actual meeting of the full Council. When meeting on behalf of the full Council, the Regulations Committee is required to have a majority of its members present to constitute a quorum and any action which will be the basis for a recommendation to the Commissioners is required to be based on a vote equal to at least a majority of those present and not abstaining. (Each abstention shall be counted as a vote for the purpose of establishing a quorum.)

(2) To ensure that regulations may be promulgated promptly following approval of the regulations by the Council, proposed regulations may be submitted to the Council electronically any time in between Council meetings. Distribution of an electronic copy of proposed regulations to all Council members at least sixty days in advance of the promulgation of the regulations shall be deemed to satisfy the statutory requirement that proposed regulations be submitted to the Council for review at least sixty days prior to adoption.

(c) The Council for Treatment Equity.

(1) The function of the Council for Treatment Equity is to work collaboratively with the OASAS to:

- (i) set priorities to achieve treatment equity in racially and ethnically diverse areas and for vulnerable populations throughout the State;
- (ii) to analyze collected data to determine the causes of treatment disparities in both racially and ethnically diverse areas and for vulnerable populations throughout the state, including economic, physical, social or cultural barriers;
- (iii) development and implement strategies aimed at achieving treatment equity in racially and ethnically diverse areas and among vulnerable populations; and
- (iv) review the impact of current laws, rules, regulations, policies and programs that may be affecting the ability to achieve treatment equity.

(2) The full Council considers the Council for Treatment Equity's report and forwards a recommendation(s) to the Commissioner.

(3) To ensure the expeditious review of equity focused issues, the *Council for Treatment Equity* is authorized to meet and formulate a recommendation to the Commissioners on behalf of the full Council whenever there is a period of sixty (60) days or more between scheduled meetings of the full Council, or a period of sixty (60) days or more between a scheduled meeting and an actual meeting of the full Council. When meeting on behalf of the full Council, the *Council for Treatment Equity* is required to have a majority of its members present to constitute a quorum and any action which will be the basis for a recommendation to the Commissioners is required to be based on a vote equal to at least a majority of those present and not abstaining. (Each abstention shall be counted as present for the purpose of establishing a quorum.)

(4) The *Council for Treatment Equity* shall submit a written report to the Governor, the Temporary President of the Senate and the Speaker of the Assembly beginning in June 2023 and annually thereafter, setting forth the findings, recommendations and activities of the *Council for Treatment Equity*.

Section 2. The Chair shall appoint all members of standing committees and designate the Chair of each Committee at the first meeting of each calendar year. The Council Chair may, as he or she deems necessary, add or replace committee members at any other meeting of the Council.

Section 3. The Council may at any time provide for the appointment of any additional special committees on any subject or subjects. All such special committees not previously discharged by the Council shall be discharged at the next succeeding annual meeting following their appointment, unless the Council shall continue them. The chair may appoint without regard

to their membership on the Council, but balanced in accordance with status of Council members, such advisory committees as he or she believes will further the purposes of the Council.

Section 4. When making a report to the Council, a committee should, in addition to reporting any recommendations of the majority of the committee, endeavor to report any significant deliberations leading to such recommendations as well as any significant comments, opinions, or recommendations of committee members who did not support the majority recommendations.

Article V: Code of Ethics and Conflicts of Interest

Section 1. Code of Ethics

(a) No member of the Council should have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his or her duties as a Council member.

(b) Members should exercise their duties and responsibilities as Council members in the public interest of the inhabitants of the state, regardless of their affiliation with, or relationship to, any facility, agency or program, category of provider, or interest group.

(c) The standards which should guide the conduct of Council members are set forth in Public Officers Law Section 74. If a Council member is uncertain as to the application of the Code of Ethics, the Public Officers Law or any of the provisions of this Article V, he or she should seek advice either from the OASAS or OMH Counsels' Offices or the New York State Joint Commission on Public Ethics.

Section 2. Prior to the first meeting of each calendar year of the Council, and throughout the year if needed to update information and keep the Council current, each member shall submit to the Executive Secretary(ies) a written statement on a form provided identifying each agency or facility funded or licensed by OASAS and/or OMH in which he or she or relative has an interest, financial or otherwise, whether as owner, officer, director, fiduciary employee, consultant or supplier of goods or services. For purposes of this Article, "relative" shall mean any person living in the same household as the individual and any person who is a direct relative of that individual's grandparents or the spouse of such relative. Prior to the meeting, the Executive Secretary(ies) shall distribute to each member a copy of the annual statement submitted by all other members.

Section 3. Project Review. This section applies both to activities of the full Council and

activities of committees of the Council.

(a) ***Absolute Disqualification.*** When a member or his or her relative has an interest, financial or otherwise, whether as owner, officer, director, fiduciary employee, consultant or supplier of goods or services, to or in a program, agency or facility funded or licensed by OASAS or OMH which program, agency or facility has an application pending before the Council or a committee of the Council for consideration or determination, that member shall be deemed to have a conflict of interest and shall (1) promptly identify such interest to the Council at any such meeting, (2) refrain from any action or discussion that could reasonably be interpreted as an attempt to influence the vote or recommendation of a Council member or OASAS and/or OMH staff at any time prior to or at any Council meeting at which the application is to be considered, provided, however, that such member may remain in the meeting and may only answer questions directed to that Council member by another member of the Council, and (3) not participate in any vote of the Council on that application.

(b) ***Disclosure and Possible Disqualification.*** When a facility, agency, or program makes an application to serve a community or service area already served by a facility, agency, or program in which a Council member or his or her relative has an interest, financial or otherwise, or when a Council member or his or her relative has an interest or association that might reasonably be construed to raise an appearance of conflict of interest, he or she shall, at the time of formal consideration of such application and prior to any discussion with regard thereto, disclose such interest or association. A Council member who so discloses may elect to abstain from discussion or vote with respect to such regulation or policy matter and shall so state for the record immediately subsequent to his or her disclosure of interest.

(c) Prior to discussion or vote on an application, and at the request of the Chair, the Council members shall disclose all actual or potential conflicts and, when appropriate, explain the conflicts. When a member does not disclose an actual or potential conflict, the Chair may remind such member of such actual or potential conflict. The Chair may also, at his or her discretion, request members to disclose any conversation or correspondence they have had with the applicant, any competitor of the applicant, other Council members, OASAS and/or OMH staff regarding the application.

Section 4. Pending Regulations and Policy Matters. When a member of the Council or his or her relative has any of the interests noted in section 3(a) of this Article in a facility, agency or program, the status of which might reasonably be affected by a regulation or policy matter which is before a committee or the Council, or when a member has an interest or association which

might reasonably be construed as tending to embarrass the committee or Council or elicit public suspicion that he or she might be engaged in acts in violation of his or her trust, the member shall, at the time of formal consideration of such regulation or policy matter by the committee or Council, disclose such interest or association to the committee or Council so that it is fully aware of such member's interest or association. A member who discloses such interest or association may, but shall not be required to, abstain from participation in the discussion of or vote on such regulation or policy matter at the committee meeting.

Section 5. The minutes of each meeting of the Council shall reflect all disclosures, discussions, votes and abstentions regarding conflicts of interest.

Article VI: Office of the Council – Executive Secretary

Section 1. The official headquarters of the Council, at which the official copy of its minutes, records, documents, and other papers shall be kept, shall be the office of the Executive Secretary within either the office of OASAS or OMH, as the case may be, depending upon which agency employs the person assigned to that role.

Section 2. The Executive Secretary shall be responsible for the safekeeping of all minutes, papers, records, documents, correspondence, and other things belonging to the Council. Every member of the Council shall have access to all such minutes, papers, records, documents, correspondence, and other things belonging to the Council during the ordinary office hours of OASAS and OMH.

Section 3. The Executive Secretary shall prepare a set of minutes of each meeting of the Council as soon as practicable after the meeting and shall send a copy of said minutes to each member of the Council as soon as practicable. The minutes, as approved or corrected, shall serve as the legal (public) record of a meeting of the Council.

Section 4. The Executive Secretary shall retain on file a copy of the current annual statement submitted by each Council member in accordance with Article V hereof which reflects his or her interests and those of his or her relative in any facility, agency or program funded or licensed by OASAS and/or OMH, and a copy of a current list of all Council members which indicates the interest or capacity in which that member serves on the Council (e.g., provider, family member).

Section 5. Whenever the Executive Secretary is absent from the office, he or she shall designate some person to be in charge of all such minutes, papers, records, documents, correspondence, and other things belonging to the Council during such absence.

Section 6. If requested by the Chair, the Executive Secretary shall prepare and send, or assist the Chair in sending, official notice of recommendations of the Council to the Commissioners. The Executive Secretary shall also administer the daily business of the Council under the general direction of the Chair. The Executive Secretary shall work with the Public Information Officers of OASAS and OMH in making available records requested under the Freedom of Information Law and in making announcements to the media and public of scheduled meetings as required by the Open Meetings Law, and shall otherwise act as the official Council representative under the general direction of the Chair. The Executive Secretary shall also perform such other duties as are customarily attached to that office.

Article VII: Amendment of Bylaws

These bylaws may be amended by the affirmative vote of a majority of the members of the Council at any regular or special meeting, provided that notice of the proposed amendment and a copy of the proposed amendment has been sent by the Executive Secretary to each member of the Council at least 30 days prior to the meeting.