

Overview of the Behavioral Health Services Advisory Council

The Behavioral Health Services Advisory Council (BHSAC) was created in 2012 by Chapter 56 of the Laws of State of New York, effective September 26, 2012. Chapter 56 amended section 1.03 of the Mental Hygiene Law, added a new section 5.06 to the Mental Hygiene Law, repealed section 19.05 of the Mental Hygiene Law and amended section 220 of the Public Health Law. What follows is a description of the statutory provisions underlying the Council, and how the Council is currently operating.

Statutory Provisions

Council Composition

The BHSAC shall consist of twenty-eight members appointed by the Governor, upon the advice and consent of the Senate. The Commissioners of the Office of Mental Health (“OMH”), Office of Alcoholism and Substance Abuse Services (“OASAS”), and the chair of the Conference of Local Mental Hygiene Directors or his or her designee shall serve as ex-officio members of the BHSAC. Members shall be appointed only if they have professional knowledge in the care of persons receiving behavioral health services, or an active interest in the behavioral health services system. The governor shall designate one of the members of the BHSAC as chair. At least one-half of the members of the BHSAC shall not be providers of behavioral health services. Membership shall reflect a balanced representation of persons with interests in mental health and substance use disorder services and shall include:

- At least five current or former consumers of behavioral health Services;
- At least three individuals who are parents or relatives of current or former consumers of behavioral health services;
- At least three members who are not providers of behavioral health services and who represent non-governmental organizations, such as not-for-profit entities representing health or behavioral health care employees, private payers of behavioral health services, or other organizations concerned with the provision of behavioral health services;
- At least five representatives of providers of services to persons with mental illness and at least five representatives of providers of services to persons with substance use disorders, at least two of whom shall be physicians and at least one of whom shall have provided services to veterans who served in a combat theater or combat zone of operations;
- One member appointed on the recommendation of the State Director of the Division of Veterans' Affairs and one member appointed on the recommendation of the Adjutant General of the Division of Military and Naval Affairs, at least one of who shall be a current or former consumer of mental health services or substance use disorder services who is a veteran who has served in a combat theater or combat zone of

- operations and is a member of a veterans organization;
- At least three representatives of local governments or other state and local agencies concerned with the provision of behavioral health services;
- At least two members who are also members of the Public Health and Health Planning Council pursuant to section two hundred twenty of the Public Health Law;

Members shall be appointed for terms of three years provided, however, that of the members first appointed, one-third shall be appointed for one year terms and one-third shall be appointed for two year terms. Vacancies shall be filled in the same manner as original appointments for the remainder of any unexpired term. No person shall be an appointed member of the BHSAC for more than six years in any period of twelve consecutive years.

Meeting Schedule

The BHSAC shall meet at least four times in each full calendar year. The BHSAC shall meet at the request of its chair or either Commissioner.

Council Structure

The BHSAC shall establish such committees as it deems necessary to address the service needs of special populations and to address particular subjects of importance in the development and management of behavioral health services.

Council Function

The BHSAC shall 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.

The BHSAC may consider any matter relating to the improvement of behavioral health services in the state and shall advise the Commissioners on any such matter, including, but not limited to: care and services to persons with behavioral health disorders, including special and underserved populations as determined by the Commissioner; financing behavioral health services; integration of behavioral health services with health services; care and services for persons with co-occurring disorders or multiple disabilities; prevention of behavioral health disorders; and improvement of care in state operated or community based programs, recruitment, education and training of qualified direct care personnel, and protection of the interests of employees affected by adjustments in the behavioral health service system.

The BHSAC shall review applications filed in accordance with the Mental Hygiene Law for the approval of the incorporation and establishment of a facility for which approval to operate is required from either the OMH or OASAS Commissioner or construction of a facility (except OMH family care homes, community residences or residential care facilities for adults) for which such approval to operate is required. In addition, the BHSAC shall review any other applications for which review is requested by the Commissioner of OASAS.

At least 60 days prior to the Commissioners' final approval of rules and regulations under their respective jurisdictions, other than emergency rules and regulations, the Commissioners shall submit such proposed rules and regulations to the Council for its review. The BHSAC shall review all proposed rules and regulations and report its recommendations to the Commissioners within 60 days. The Commissioner having statutory jurisdiction over the proposed rule or regulation shall not act in a manner inconsistent with the recommendations of the BHSAC without first appearing before the BHSAC to report the reasons for acting in such manner. Upon a majority vote of its members, the BHSAC may require that an alternative approach to the proposed rules and regulations be published with the notice of the proposed rules and regulations. When an alternative approach is so published, the Commissioner having statutory jurisdiction of the subject proposed rule or regulation shall state the reasons for not selecting such alternative approach.

By a majority vote of its members, the BHSAC may propose rules and regulations on any matter within the regulatory jurisdiction of OMH or OASAS, other than the establishment of OMH and OASAS fee schedules. Such proposed rules and regulations shall be forwarded to the Commissioners for review and consideration but shall not be promulgated without the approval of the Commissioner with jurisdiction of the rule or regulation. If such Commissioner determines not to promulgate the proposed rule or regulation, the Commissioner shall appear before the BHSAC to report the reasons for that determination.

The BHSAC shall, in cooperation with the Commissioners, establish statewide goals and objectives for services to persons with behavioral health disorders to guide comprehensive planning, resource allocation and evaluation processes for state and local services for persons with mental illness and those with substance use or compulsive gambling disorders. The BHSAC shall review the portion of the statewide plan which is required to be developed and updated annually by the Commissioners, and report its recommendations to the Commissioners. The BHSAC shall review any mental health or substance use component of statewide health plans developed in accordance with any applicable federal law, and shall report its recommendations to the Commissioners.

Current Operations

The BHSAC typically meets five to six times a year. There will be four (4) meetings that will be conducted by video-conference at OMH- in Albany, New York City and Rochester. There will be two meetings each year where the full Council will meet face to face at OASAS Offices in Albany or New York City. The full BHSAC meets from noon to 2:30 pm, while meetings of the Committees typically take place the morning of each meeting day from 10:00 to 11:30 am.

During the full BHSAC meeting, the Chairperson provides his or her report, which is followed by reports from the Committees. Meeting time is also devoted to presentations and discussion of select topics.

Committee Structure

The Council's Bylaws provide for the establishment of two standing committees: Project Review and Regulations. The Council may form further committees. The major role of each standing committee is as follows.

The Project Review Committee reviews Prior Approval Review (PAR) applications for consistency with criteria specified in PAR regulations and advises the full BHSAC of Committee findings on individual project. The full BHSAC acts on the Committee's report, the results of which are forwarded as recommendations to the Commissioner with jurisdiction of the project.

The function of the *Regulations Committee* is to review all proposed rules and regulations of OMH and OASAS, except emergency regulations, which are exempt from its review, and to report its recommendations to the full BHSAC.

The process generally includes an initial presentation by staff of the proposed rule, discussions by Committee members, and a vote by the Committee for approval or disapproval. The full BHSAC then considers the Committee's recommendations based on a majority vote of Committee members. When the Commissioners elect to act not in accordance with the full Council recommendation, the Commissioners shall meet with the Council to explain and discuss such action.