

TOBACCO-FREE SERVICES
TITLE 14 NYCRR PART 856

[Statutory Authority: Mental Hygiene Law Sections 19.07(e), 19.09(b),
19.21(b), 19.21(d), 32.01, & 32.07(a)]

Notice: The following regulations are provided for informational purposes only. The Office of Alcoholism and Substance Abuse Services makes no assurance of reliability. For assured reliability, readers are referred to the *Official Compilation of Rules and Regulations*.

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Section 856.1 Background and intent

(a) To reduce addiction, illness and death caused by tobacco products.

(b) To provide a healthy environment for staff, patients, volunteers and visitors to entities organized and operating pursuant to the provisions of this Title and certified and/or funded by the Office of Alcoholism and Substance Abuse Services (“the Office”) as a provider of prevention, treatment or recovery services for alcoholism, substance abuse, chemical dependence and/or gambling.

(c) To establish tobacco-free services in a tobacco-free environment.

Section 856.2 Legal base

(a) Section 19.07(e) of the Mental Hygiene Law authorizes the Commissioner of the Office of Alcoholism and Substance Abuse Services (“the Commissioner”) to adopt standards including necessary rules and regulations pertaining to chemical dependence services.

(b) Section 19.09(b) of the Mental Hygiene Law authorizes the Commissioner to adopt regulations necessary and proper to implement any matter under his or her jurisdiction.

(c) Section 19.21(b) of the Mental Hygiene Law requires the Commissioner to establish and enforce certification, inspection, licensing and treatment standards for alcoholism, substance abuse, and chemical dependence facilities.

(d) Section 19.21(d) of the Mental Hygiene Law requires the Commissioner to promulgate regulations which establish criteria to assess alcoholism, substance abuse, and chemical dependence treatment effectiveness and to establish a procedure for reviewing and evaluating the performance of providers of services in a consistent and objective manner.

(e) Section 32.01 of the Mental Hygiene Law authorizes the Commissioner to adopt any regulation reasonably necessary to implement and effectively exercise the powers and perform the duties conferred by Article 32 of the Mental Hygiene Law.

(f) Section 32.07(a) of the Mental Hygiene Law authorizes the Commissioner to adopt regulations to effectuate the provisions and purposes of Article 32 of the Mental Hygiene Law.

Section 856.3 Applicability

(a) This Part applies to any entity (“the service”) organized and operating pursuant to the provisions of this Title and certified and/or funded by the Office of Alcoholism and Substance Abuse Services (“the Office”) as a provider of prevention, treatment or recovery services for chemical dependence and/or gambling.

Section 856.4 Definitions

(a) Tobacco-free means prohibiting the use of all tobacco products in facilities, on grounds and in vehicles owned or operated by the service subject to this Part.

(b) Facility means any part of the service that is utilized by patients, staff, volunteers or visitors. This shall include the service buildings and grounds which are under the direct control of the facility and vehicles that are owned and operated by the facility.

(c) Tobacco products include but are not limited to cigarettes, cigars, pipe tobacco, chewing or dipping tobacco.

(d) Patient means any recipient of services in a facility certified or funded by the Office.

Section 856.5 Policy and procedures

(a) The governing authority of the service shall determine and establish written policies, procedures and methods governing the provision of a tobacco-free environment. These policies, procedures and methods should at a minimum include the following:

- (1) Defines the facility, vehicles and grounds which are tobacco-free;
- (2) Prohibits patients, family members, and other visitors from bringing tobacco products and paraphernalia to the service;
- (3) Requires all patients, staff, volunteers and visitors be informed of the tobacco-free policy including posted notices and the provision of copies of the policy;
- (4) Prohibits staff from using tobacco products while at work, during work hours;
- (5) Establishes a tobacco-free policy for staff while they are on the site of the service;
- (6) Establishes treatment modalities for patients who use tobacco;
- (7) Describes training on tobacco use and nicotine dependence available to staff including clinical, non-clinical, administrative and volunteers;
- (8) Describes tobacco and nicotine prevention and education programs made available by the service to patients, staff, volunteers and others;
- (9) Establishes procedures, including a policy to address patients who relapse on tobacco products. This policy shall incorporate the policy and procedures contained in 816.5 (g), 817.4 (o), 818.4 (o), 819.4 (o), 820.7 (a), 821.4 (v), 822.4 (u), 828.14 (b),(c) & (d), and every effort shall be made to provide appropriate treatment services to all persons in need of alcohol and drug addiction services. Additionally, each facility shall address staff relapse consistent with the employment procedure of that facility.

Section 856.6 Severability

If any provision of this Part or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provision or applications of this Part which can be given effect without the invalid provision or applications, and to this end the provisions of this Part are declared to be severable.

Section 856.7 Effective Date

This regulation will be effective July 24, 2008.