S T A T E O F N E W Y O R K

3168--A

2011-2012 Regular Sessions

I N S E N A T E

February 10, 2011

Introduced by Sen. HUNTLEY -- read twice and ordered printed, and when printed to be committed to the Committee on Mental Health and Developmental Disabilities -- recommitted to the Committee on Mental Health and Developmental Disabilities in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the mental hygiene law, in relation to authorizing the release of certain records of deceased residents of OPWDD operated or certified facilities to family members upon written request

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivision (f) of section 13.09 of the mental hygiene law is relettered subdivision (h) and a new subdivision (f) is added to read as follows:

(F) NOTWITHSTANDING THE PROVISIONS OF SECTIONS 33.13 AND 33.16 OF THIS CHAPTER, THE COMMISSIONER SHALL PROMULGATE REGULATIONS TO COVER THE RELEASE OF CERTAIN RECORDS PERTAINING TO A DECEASED INDIVIDUAL WHO RESIDED IN A FACILITY OPERATED OR CERTIFIED BY THE OFFICE. THE REGULATIONS SHALL SPECIFY WHICH INFORMATION SHALL BE RELEASED AND SHALL INCLUDE SUCH RECORDS AS THE INDIVIDUAL'S NAME; DATES OF ADMISSION, DISCHARGE, BIRTH AND DEATH; CAUSE OF DEATH; TREATMENT, AND SERVICES PROVIDED; EMPLOYMENT; AND RESIDENTIAL HISTORY TO FAMILY MEMBERS, UNLESS THE DECEASED INDIVIDUAL, OR IN THE CASE OF AN INDIVIDUAL WHO LACKED CAPACITY TO CONSENT TO THE RELEASE OF HIS OR HER RECORDS, A QUALIFIED PERSON AS DEFINED IN PARAGRAPH SIX OF SUBDIVISION (A) OF SECTION 33.16 OF THIS CHAPTER, HAD PREVIOUSLY OBJECTED TO THE RELEASE OF HIS OR HER RECORDS AND SUCH OBJECTION WAS IN WRITING OR OTHERWISE DOCUMENTED IN THE INDIVIDUAL'S SERVICES PLAN AND HAD NOT BEEN WITHDRAWN, THE COMMISSIONER SHALL NOT AUTHORIZE THE RELEASE OF SUCH RECORDS.

S 2. Subdivision (c) of section 33.13 of the mental hygiene law is amended by adding a new paragraph 15 to read as follows:

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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15. UPON WRITTEN REQUEST BY THE PHYSICIAN OF A FAMILY MEMBER OF AN INDIVIDUAL, WHO HAS A DEMONSTRABLE MEDICAL NEED FOR SUCH INFORMATION AS IT IS RELEVANT TO THE FAMILY MEMBER'S OWN HEALTH CARE. THE COMMISSIONER SHALL PROMULGATE REGULATIONS TO DEFINE FAMILY MEMBER FOR PURPOSES OF THIS SECTION.

S 3. This act shall take effect immediately; provided that section one of this act shall take effect on the one hundred eightieth day after it shall have become a law.