

5223

2013-2014 Regular Sessions

I N   S E N A T E

May 14, 2013

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Introduced by Sen. CARLUCCI -- read twice and ordered printed, and when printed to be committed to the Committee on Mental Health and Developmental Disabilities

AN ACT to amend the mental hygiene law, in relation to creating a bill of rights for family and guardians of people with developmental disabilities that reside in residences funded, licensed and operated by the office for people with developmental disabilities

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

1     Section 1. The mental hygiene law is amended by adding a new section  
2     13.04 to read as follows:  
3     S 13.04 FAMILY BILL OF RIGHTS.  
4     (A) THE PRINCIPLES ENUNCIATED IN SUBDIVISION (C) OF THIS SECTION ARE  
5     DECLARED TO BE THE PUBLIC POLICY OF THE STATE AND A COPY OF SUCH STATE-  
6     MENT OF RIGHTS SHALL BE POSTED CONSPICUOUSLY IN A PUBLIC PLACE IN EACH  
7     RESIDENCE FUNDED, LICENSED AND OPERATED BY THE OFFICE. FOR PURPOSES OF  
8     THIS SECTION, "QUALIFIED FAMILY MEMBER" MEANS A PARENT, SPOUSE, SIBLING,  
9     GRANDPARENT, AUNT, UNCLE OR AN ADULT CHILD OF THE RESIDENT.  
10    (B) THE COMMISSIONER SHALL MAKE AVAILABLE TO EVERY RESIDENCE FUNDED,  
11    LICENSED AND OPERATED BY THE OFFICE, ON THE OFFICE'S WEBSITE A COPY OF  
12    THE STATEMENT OF RIGHTS PROVIDED IN SUBDIVISION (C) OF THIS SECTION IN  
13    THE TOP SIX LANGUAGES OTHER THAN ENGLISH SPOKEN IN THE STATE ACCORDING  
14    TO THE LATEST AVAILABLE DATA FROM THE U.S. BUREAU OF CENSUS, AND SHALL  
15    ADOPT ANY RULES AND REGULATIONS NECESSARY TO ENSURE THAT SUCH QUALIFIED  
16    FAMILY MEMBERS AND GUARDIANS ARE TREATED IN ACCORDANCE WITH THE  
17    PROVISIONS OF SUCH STATEMENT.  
18    (C) THE STATEMENT OF RIGHTS SHALL CONSIST OF THE FOLLOWING:  
19    "FAMILY BILL OF RIGHTS"  
20    QUALIFIED FAMILY MEMBERS AND GUARDIANS SHALL HAVE THE FOLLOWING RIGHTS  
21    IN REGARDS TO A RESIDENT WHO RESIDES IN A RESIDENCE FUNDED, OPERATED OR  
22    LICENSED BY THE OFFICE. THESE RIGHTS SHALL INCLUDE:

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

LBD10708-04-3

1 YOU HAVE THE RIGHT TO HAVE ACCESS TO A RESIDENCE'S FIRE SAFETY PLAN  
2 AND ANY INFORMATION REGARDING A RESIDENCE'S PASSAGE OR FAILURE OF ANY  
3 FIRE SAFETY DRILLS CONDUCTED BY THE RESIDENCE AND THE OFFICE.

4 YOU HAVE THE RIGHT TO IMMEDIATE NOTIFICATION OF ANY EVENT THAT WOULD  
5 IMPACT THE HEALTH AND SAFETY OF THE INDIVIDUAL.

6 YOU HAVE THE RIGHT TO HAVE ACCESS TO INFORMATION REGARDING THE HEALTH  
7 AND SAFETY OF THE INDIVIDUAL.

8 YOU HAVE THE RIGHT TO HAVE ACCESS TO A RESIDENCE'S FOOD MENUS.

9 YOU HAVE THE RIGHT FOR A QUALIFIED FAMILY MEMBER OR GUARDIAN TO BE  
10 ABLE TO HAVE UNANNOUNCED VISITS.

11 YOU HAVE THE RIGHT TO HAVE INPUT IN ANY DECISION MADE BY THE OFFICE OR  
12 LOCAL GOVERNMENTAL UNIT REGARDING THE APPROPRIATE PLACEMENT OF A PERSON  
13 WITH DEVELOPMENTAL DISABILITIES WITHIN A RESIDENCE OR THE DECISION TO  
14 TRANSFER A PERSON WITH DEVELOPMENTAL DISABILITIES FROM ONE RESIDENCE TO  
15 ANOTHER.

16 YOU HAVE THE RIGHT TO FINANCIAL TRANSPARENCY INCLUDING ACCESS TO BUDG-  
17 ETARY INFORMATION OF THE RESIDENCE INCLUDING INDIVIDUAL EXPENSES.

18 YOU HAVE THE RIGHT TO ACCESS ALL JUSTICE CENTER REPORTS OF INVESTI-  
19 GATIONS OF ALLEGATIONS OF ABUSE AND ANY REPORTS REGARDING FINAL DETERMI-  
20 NATIONS REGARDING ANY DEATHS OR ABUSE IN RESIDENTIAL FACILITIES.

21 YOU HAVE THE RIGHT TO BE INFORMED REGARDING ANY STAFFING CHANGES.

22 FOR PURPOSES OF MEDICAID WAIVERS OBTAINED BY THE STATE:

23 YOU HAVE THE RIGHT TO CHOOSE A CARE COORDINATOR

24 YOU HAVE THE RIGHT TO HAVE ACCESS TO ALL DOCUMENTS AND INFORMATION  
25 REGARDING CARE AND PROGRAMS

26 YOU HAVE THE RIGHT TO INDEPENDENT ADVOCATES

27 YOU HAVE THE RIGHT TO MANDATED PROCEDURES IF QUALIFIED FAMILY MEMBERS  
28 OR GUARDIANS NEED TO CHALLENGE A DECISION

29 ALL THE ABOVE ARE YOUR RIGHTS. IF THE RESIDENTIAL FACILITY DOES NOT  
30 HONOR THESE RIGHTS YOU CAN SEEK HELP BY CONTACTING THE NEW YORK STATE  
31 DEPARTMENT OF HEALTH OR BY CONTACTING THE RESIDENTIAL FACILITY.

32 (D) THE COMMISSIONER SHALL ESTABLISH A PUBLIC EDUCATION PROGRAM TO  
33 DISSEMINATE INFORMATION REGARDING IMPLEMENTATION OF THIS SECTION. SUCH  
34 INFORMATION SHALL INCLUDE, BUT NOT BE LIMITED TO, PUBLICATION OF THE  
35 FAMILY BILL OF RIGHTS AS SPECIFIED IN SUBDIVISION (C) OF THIS SECTION;  
36 PUBLICATION OF THE RIGHTS OF QUALIFIED FAMILY MEMBERS AND GUARDIANS OF A  
37 RESIDENT WHO RESIDES IN A RESIDENCE FUNDED, OPERATED OR LICENSED BY THE  
38 OFFICE; AND PUBLICATION OF CERTAIN PROVISIONS RELATING TO MEDICAID WAIV-  
39 ERS OBTAINED BY THE STATE.

40 S 2. This act shall take effect immediately.