

# STATE OF NEW YORK

10400

## IN ASSEMBLY

March 3, 2026

Introduced by M. of A. SIMON -- read once and referred to the Committee on Mental Health

AN ACT to amend the mental hygiene law, in relation to requirements for the appointment of a guardian for personal needs or property management; and to amend the banking law, in relation to bank statements for Medicaid applications

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 81.05 of the mental hygiene law is amended by  
2 adding a new subdivision (c) to read as follows:

3 (c) Notwithstanding subdivisions (a) and (b) of this section, if a  
4 social services official or agency is nominated as guardian, or is  
5 otherwise considered to be appointed as guardian, and has not been  
6 provided with notice as required by subparagraph (v) of paragraph one of  
7 subdivision (g) of section 81.07 of this article, such nominated or  
8 considered social services official or agency shall be permitted to  
9 provide information to the court as to the appropriate social services  
10 official or agency to be considered.

11 § 2. Section 81.06 of the mental hygiene law is amended by adding a  
12 new subdivision (b) to read as follows:

13 (b) No entity shall commence a proceeding pursuant to this section  
14 solely to collect a debt of an alleged incapacitated person, to  
15 discharge the alleged incapacitated person from a hospital, nursing home  
16 or other institution that has a duty to care for such person, or to take  
17 any other action that is not in the best interests of the alleged inca-  
18 pacitated person.

19 § 3. Paragraph 15 of subdivision (a) of section 81.08 of the mental  
20 hygiene law, as added by chapter 698 of the laws of 1992, is amended and  
21 a new paragraph 16 is added to read as follows:

22 15. any other information which in the petitioner's opinion will  
23 assist the court evaluator in completing the investigation and report in  
24 accordance with section 81.09 of this article[-];

25 16. any request, if any, for protective arrangement and/or single  
26 transactions as an alternative to full guardianship shall be considered,  
27 supported by specific findings on the record.

28 § 4. Subdivision (c) of section 81.16 of the mental hygiene law is  
29 amended by adding a new paragraph 7 to read as follows:

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

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1 7. If a social services official is appointed as guardian, counsel for  
2 the social services official shall prepare and submit the proposed  
3 order.

4 § 5. Section 81.17 of the mental hygiene law, as added by chapter 698  
5 of the laws of 1992, is amended to read as follows:

6 § 81.17 Nomination of guardian.

7 (a) In the petition, or in a written instrument duly executed,  
8 acknowledged, and filed in the proceeding before the appointment of a  
9 guardian, the person alleged to be incapacitated may nominate a guardi-  
10 an.

11 (b) If the nominated guardian is a social services official, or the  
12 court considers the appointment of a social services official as guardi-  
13 an when no guardian has been nominated, the social services official  
14 shall be a party to the action, with the right to fully participate in  
15 the guardianship proceeding, including the right to respond to, modify  
16 or oppose any such nomination or the powers to be exercised by such  
17 guardian. Such social services officials shall also have the right to  
18 implead a social services official from a different social services  
19 district if it believes that social services district to be the proper  
20 party to the proceeding or the proper district of fiscal responsibility.

21 § 6. Section 81.19 of the mental hygiene law is amended by adding a  
22 new subdivision (h) to read as follows:

23 (h) No social services official or agency shall be ordered by a court  
24 to be a guardian, temporary guardian or special guardian without such  
25 official's or agency's written consent. If such social services official  
26 or agency is nominated to be such a guardian by any other entity, such  
27 social services official or agency shall be a party to the action and  
28 shall be permitted to fully participate, including the right to respond,  
29 modify or oppose any such nomination or the powers to be exercised by  
30 such guardian.

31 § 7. Subdivision (a) of section 81.20 of the mental hygiene law is  
32 amended by adding a new paragraph 8 to read as follows:

33 8. If the guardian is a social services official or agency, it may  
34 delegate any subordinate employees or agents to act on its behalf and  
35 with its authority.

36 § 8. Section 81.36 of the mental hygiene law is amended by adding a  
37 new subdivision (f) to read as follows:

38 (f) Notwithstanding any provision of law to the contrary, an inter-  
39 ested party, incapacitated person, or person in need of a guardian may  
40 make an application pursuant to the provisions of this section for a  
41 modification of powers granted under this article where a Medicaid  
42 application was the only necessary power.

43 § 9. Subdivision 1 of section 14 of the banking law is amended by  
44 adding a new paragraph (r) to read as follows:

45 (r) To require every banking organization, national banking associ-  
46 ation, federal mutual savings bank, federal savings and loan association  
47 and federal credit union to provide all necessary bank statements for a  
48 Medicaid application to a requesting department of social services with-  
49 in thirty days of having received such request.

50 § 10. This act shall take effect on the one hundred eightieth day  
51 after it shall have become a law. Effective immediately, the addition,  
52 amendment and/or repeal of any rule or regulation necessary for the  
53 implementation of this act on its effective date are authorized to be  
54 made and completed on or before such effective date.