

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

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I N A S S E M B L Y

February 2, 2010

Introduced by M. of A. WEISENBERG, GUNTHER, GABRYSZAK, MAISEL, SCHROEDER, ORTIZ, M. MILLER, COOK, TITONE, ROBINSON, CAHILL, J. RIVERA, SCHIMEL, SPANO, FIELDS, CASTRO, JAFFEE, ROSENTHAL, BOYLAND, MILLMAN -- Multi-Sponsored by -- M. of A. CONTE, CROUCH, DelMONTE, DINOWITZ, DUPREY, ERRIGO, GIGLIO, HAWLEY, JOHN, JORDAN, KOLB, McDONOUGH, McKEVITT, MOLINARO, PERRY, PHEFFER, RAIA, P. RIVERA, SALADINO, SCARBOROUGH, SKARTADOS, SWEENEY, TOBACCO, TOWNSEND -- read once and referred to the Committee on Mental Health, Mental Retardation and Developmental Disabilities -- reported and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the mental hygiene law, in relation to the establishment of procedures or mechanisms to receive allegations of abuse or mistreatment of individuals served by agencies and providers licensed or operated under the mental hygiene law

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 33.06 to read as follows:
3 S 33.06 REPORTS OF ABUSE OR MISTREATMENT.
4 THE COMMISSIONER OF THE OFFICE OF MENTAL HEALTH AND THE COMMISSIONER
5 OF THE OFFICE OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES SHALL
6 ESTABLISH PROCEDURES OR MECHANISMS TO RECEIVE ALLEGATIONS OR COMPLAINTS
7 OF ABUSE OR MISTREATMENT OF INDIVIDUALS SERVED BY AGENCIES AND PROVIDERS
8 LICENSED OR OPERATED BY THE OFFICES, INCLUDING RECEIPT OF ANONYMOUS
9 ALLEGATIONS OR COMPLAINTS. SUCH MECHANISMS SHALL INCLUDE THE OPERATION
10 OF A TOLL-FREE NUMBER. ALLEGATIONS OR COMPLAINTS RECEIVED SHALL BE EVAL-
11 UATED AND, IF NECESSARY, REFERRED FOR APPROPRIATE CORRECTIVE ACTION,
12 CONSISTENT WITH LAWS, REGULATIONS AND PROCEDURES ESTABLISHED FOR THE
13 INVESTIGATION, RESOLUTION AND RESPONSE TO INCIDENT REPORTS TO ENSURE THE
14 CARE AND SAFETY OF ALL PATIENTS. THE INABILITY OF THE PERSON REPORTING
15 THE ABUSE TO IDENTIFY THE ALLEGED PERPETRATOR SHALL, IN NO CIRCUMSTANCE,
16 CONSTITUTE THE SOLE CAUSE TO REJECT SUCH ALLEGATION FOR INVESTIGATION OR
17 FAIL TO REFER SUCH ALLEGATION FOR CORRECTIVE ACTION. WHEN AN ALLEGATION

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

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1 OF ABUSE OR MALTREATMENT OF A CHILD IS MADE, THE ALLEGATION SHALL BE
2 REFERRED TO THE STATEWIDE CENTRAL REGISTER OF CHILD ABUSE AND MALTREAT-
3 MENT, ESTABLISHED PURSUANT TO SECTION FOUR HUNDRED TWENTY-TWO OF THE
4 SOCIAL SERVICES LAW.

5 S 2. Paragraph 1 of subdivision (c) of section 45.07 of the mental
6 hygiene law, as amended by chapter 323 of the laws of 2008, is amended
7 to read as follows:

8 1. Establish procedures to assure effective investigation of
9 complaints of patients and their parents or legal guardians and employ-
10 ees of mental hygiene facilities affecting such patients including alle-
11 gations of patient abuse or mistreatment, including all reports of abuse
12 or neglect of children in residential care as defined in paragraphs (g),
13 (h) and (i) of subdivision four of section four hundred twelve-a of the
14 social services law, except such facilities or programs enumerated in
15 paragraph (j) of subdivision four of such section, and made pursuant to
16 title six of article six of such law. Such procedures shall include but
17 not be limited to receipt of written complaints, interviews of persons,
18 patients and employees and on-site monitoring of conditions. In addi-
19 tion, the commission shall establish procedures for the speedy and
20 impartial review of patient abuse and mistreatment allegations called to
21 its attention. NO COMPLAINT, REPORT OR ALLEGATION SHALL BE DECLINED BY
22 THE COMMISSION SOLELY BECAUSE THE COMPLAINT, REPORT OR ALLEGATION IS
23 MADE ANONYMOUSLY.

24 S 3. This act shall take effect on the one hundred eightieth day after
25 it shall have become a law.