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

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I N S E N A T E

February 4, 2010

Introduced by Sens. MORAHAN, HUNTLEY -- 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 the establishment of procedures or mechanisms to receive allegations of abuse or mistreatment of patients served by programs licensed or operated under the mental hygiene law and repealing certain provisions of such law relating thereto

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

Section 1. Subdivision 6 of section 29.29 of the mental hygiene law is REPEALED and a new subdivision 6 is added to read as follows:

6. THE COMMISSIONERS SHALL ESTABLISH PROCEDURES OR MECHANISMS TO RECEIVE ALLEGATIONS OR COMPLAINTS OF ABUSE OR MISTREATMENT OF PATIENTS SERVED BY PROGRAMS LICENSED OR OPERATED BY THE OFFICES, INCLUDING RECEIPT OF ANONYMOUS ALLEGATIONS OR COMPLAINTS. SUCH MECHANISMS SHALL INCLUDE THE OPERATION OF A TOLL-FREE NUMBER. ALLEGATIONS OR COMPLAINTS RECEIVED SHALL BE EVALUATED AND, IF NECESSARY, REFERRED FOR APPROPRIATE CORRECTIVE ACTION, CONSISTENT WITH LAWS, REGULATIONS AND PROCEDURES ESTABLISHED FOR THE INVESTIGATION, RESOLUTION AND RESPONSE TO INCIDENT REPORTS TO ENSURE THE CARE AND SAFETY OF ALL PATIENTS. THE INABILITY OF THE PERSON REPORTING THE ABUSE TO IDENTIFY THE ALLEGED PERPETRATOR SHALL, IN NO CIRCUMSTANCE, CONSTITUTE THE SOLE CAUSE TO REJECT SUCH ALLEGATION FOR INVESTIGATION OR FAIL TO REFER SUCH ALLEGATION FOR CORRECTIVE ACTION. WHEN AN ALLEGATION OF ABUSE OR MALTREATMENT OF A CHILD IS MADE, THE ALLEGATION SHALL BE REFERRED TO THE STATEWIDE CENTRAL REGISTER OF CHILD ABUSE AND MALTREATMENT, ESTABLISHED PURSUANT TO SECTION FOUR HUNDRED TWENTY-TWO OF THE SOCIAL SERVICES LAW.

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

1. Establish procedures to assure effective investigation of complaints of patients and their parents or legal guardians and employees of mental hygiene facilities affecting such patients including alle-

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

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gations of patient abuse or mistreatment, including all reports of abuse or neglect of children in residential care as defined in paragraphs (g), (h) and (i) of subdivision four of section four hundred twelve-a of the social services law, except such facilities or programs enumerated in paragraph (j) of subdivision four of such section, and made pursuant to title six of article six of such law. Such procedures shall include but not be limited to receipt of written complaints, interviews of persons, patients and employees and on-site monitoring of conditions. In addition, the commission shall establish procedures for the speedy and impartial review of patient abuse and mistreatment allegations called to its attention. NO COMPLAINT, REPORT OR ALLEGATION SHALL BE DECLINED BY THE COMMISSION SOLELY BECAUSE THE COMPLAINT, REPORT OR ALLEGATION IS MADE ANONYMOUSLY.

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