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

June 15, 2010

Introduced by Sen. MORAHAN -- (at request of the Office of Mental Health) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the mental hygiene law, in relation to compliance with operational standards of the commissioner of mental health by psychiatric hospitals dually licensed under article 31 of the mental hygiene law and article 28 of the public health law

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

Section 1. The mental hygiene law is amended by adding a new section 31.08 to read as follows:

S 31.08 COMPLIANCE WITH OPERATIONAL STANDARDS BY HOSPITALS.

(A) NOTWITHSTANDING THE PROVISIONS OF SECTION 31.07 OF THIS ARTICLE, A HOSPITAL AS DEFINED IN SECTION 1.03 OF THIS CHAPTER, WHICH IS A WARD, WING, UNIT, OR OTHER PART OF A HOSPITAL, AS DEFINED IN ARTICLE TWENTY-EIGHT OF THE PUBLIC HEALTH LAW, WHICH PROVIDES SERVICES FOR PERSONS WITH MENTAL ILLNESS PURSUANT TO AN OPERATING CERTIFICATE ISSUED BY THE COMMISSIONER OF MENTAL HEALTH, MAY BE DEEMED TO BE IN COMPLIANCE WITH APPLICABLE PROVISIONS OF THIS CHAPTER AND OTHER APPLICABLE LAWS, RULES AND REGULATIONS, PROVIDED THAT SUCH HOSPITAL HAS BEEN ACCREDITED BY THE JOINT COMMISSION, OR ANY OTHER HOSPITAL ACCREDITING ORGANIZATION TO WHICH THE CENTERS FOR MEDICARE AND MEDICAID SERVICES HAS GRANTED DEEMING STATUS, AND WHICH THE COMMISSIONER OF MENTAL HEALTH SHALL HAVE DETERMINED HAS ACCREDITING STANDARDS SUFFICIENT TO ASSURE THE COMMISSIONER THAT HOSPITALS SO ACCREDITED ARE IN COMPLIANCE WITH SUCH PROVISIONS OF LAW, RULES AND REGULATIONS. THE COMMISSIONER MAY EXEMPT ANY SUCH HOSPITAL FROM THE ANNUAL INSPECTION AND VISITATION REQUIREMENTS ESTABLISHED IN SECTION 31.07 OF THIS ARTICLE, PROVIDED THAT:

1. SUCH HOSPITAL HAS A HISTORY OF COMPLIANCE WITH SUCH PROVISIONS OF LAW, RULES AND REGULATIONS AND A RECORD OF PROVIDING GOOD QUALITY CARE, AS DETERMINED BY THE COMMISSIONER;

2. A COPY OF THE SURVEY REPORT AND THE CERTIFICATE OF ACCREDITATION OF THE JOINT COMMISSION OR OTHER APPROVED ACCREDITING ORGANIZATION IS

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

LBD16035-07-0

SUBMITTED BY THE ACCREDITING BODY OR THE HOSPITAL TO THE COMMISSIONER, WITHIN SEVEN DAYS OF ISSUANCE TO THE HOSPITAL;

3. THE JOINT COMMISSION OR OTHER ACCREDITING ORGANIZATION HAS AGREED TO AND DOES EVALUATE, AS PART OF ITS ACCREDITATION SURVEY, ANY MINIMAL OPERATIONAL STANDARDS ESTABLISHED BY THE COMMISSIONER WHICH ARE IN ADDITION TO THE MINIMAL OPERATIONAL STANDARDS OF ACCREDITATION OF THE JOINT COMMISSION OR OTHER ACCREDITING ORGANIZATION; AND

4. THERE ARE NO CONSTRAINTS PLACED UPON ACCESS BY THE COMMISSIONER TO THE JOINT COMMISSION OR OTHER APPROVED ACCREDITING ORGANIZATION SURVEY REPORTS, PLANS OF CORRECTION, INTERIM SELF-EVALUATION REPORTS, NOTICES OF NONCOMPLIANCE, PROGRESS REPORTS ON CORRECTION OF AREAS OF NONCOMPLIANCE, OR ANY OTHER RELATED REPORTS, INFORMATION, COMMUNICATIONS OR MATERIALS REGARDING SUCH HOSPITAL.

(B) ANY HOSPITAL GOVERNED BY THE PROVISIONS OF SUBDIVISION (A) OF THIS SECTION, SHALL AT ALL TIMES BE SUBJECT TO INSPECTION OR VISITATION BY THE COMMISSIONER TO DETERMINE COMPLIANCE WITH APPLICABLE LAW, REGULATIONS, STANDARDS OR CONDITIONS AS DEEMED NECESSARY BY THE COMMISSIONER. ANY SUCH HOSPITAL SHALL BE SUBJECT TO THE FULL RANGE OF LICENSING ENFORCEMENT AUTHORITY OF THE COMMISSIONER.

(C) ANY HOSPITAL GOVERNED BY THE PROVISIONS OF SUBDIVISION (A) OF THIS SECTION SHALL NOTIFY THE COMMISSIONER IMMEDIATELY UPON RECEIPT OF NOTICE BY THE JOINT COMMISSION OR OTHER APPROVED ACCREDITING ORGANIZATION, OR ANY COMMUNICATION THE HOSPITAL MAY RECEIVE THAT SUCH ORGANIZATION WILL BE RECOMMENDING THAT SUCH HOSPITAL NOT BE ACCREDITED, NOT HAVE ITS ACCREDITATION RENEWED, OR HAVE ITS ACCREDITATION TERMINATED, OR UPON RECEIPT OF NOTICE OR OTHER COMMUNICATION FROM THE CENTERS FOR MEDICARE AND MEDICAID SERVICES REGARDING A DETERMINATION THAT THE HOSPITAL WILL BE TERMINATED FROM PARTICIPATION IN THE MEDICARE PROGRAM BECAUSE IT IS NOT IN COMPLIANCE WITH ONE OR MORE CONDITIONS OF PARTICIPATION IN SUCH PROGRAM, OR HAS DEFICIENCIES THAT EITHER INDIVIDUALLY OR IN COMBINATION JEOPARDIZE THE HEALTH AND SAFETY OF PATIENTS OR ARE OF SUCH CHARACTER AS TO SERIOUSLY LIMIT THE PROVIDER'S CAPACITY TO RENDER ADEQUATE CARE.

S 2. This act shall take effect immediately.