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

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Introduced by M. of A. CANESTRARI, GORDON -- read once and referred to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Health in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to establishing a demonstration program to study transition authorization panels as an approach to secure decisions regarding the transition of incapable patients who do not have legally authorized decisionmakers from inpatient care to post-acute care; and providing for the repeal of such provisions upon expiration thereof

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

Section 1. The legislature finds and declares that in many instances there are hospital patients who are medically ready to transition to a different level of care, such as nursing home care, home care or assisted living, but they lack capacity to authorize the transition, and also lack a family member or other person who can authorize the transition on their behalf. As a result, such patients can be subject to inordinate delays in accomplishing a needed transition, and can remain as hospital inpatients for long periods. That delay is harmful to the interests of those patients, as well as to other persons who may need the scarce inpatient resources, to hospitals, to payors and to the public in general.

The legislature further finds that while article 81 of the mental hygiene law provides a procedure for the court-appointment of guardians who could be empowered to authorize transition for such patients, such procedure was designed for longer-term assistance with an incapacitated

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

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person's personal and property affairs, and includes features that often go beyond what is needed for transition-related decisions alone. As a result, the guardianship proceeding can require far more time, effort and expense than is warranted for this limited, non-contested decision.

Accordingly, the legislature finds that it would be valuable to study an alternative approach to secure decisions relating to the transition of isolated incapable patients from inpatient care to post-acute care. Specifically, the transition authorization panel demonstration program shows promise as means to protect the rights and interests of incapable patients in the transition decision, while allowing such decisions to be made within a reasonable timeframe.

S 2. The public health law is amended by adding a new section 2803-s to read as follows:

S 2803-S. TRANSITION AUTHORIZATION PANEL DEMONSTRATION PROGRAM. 1. THERE IS HEREBY ESTABLISHED A TRANSITION AUTHORIZATION PANEL DEMONSTRATION PROGRAM, CONDUCTED AT SIX PROGRAM SITES, TO EVALUATE AN APPROACH TO SECURE DECISIONS RELATING TO THE TRANSITION OF ISOLATED PATIENTS FROM INPATIENT CARE TO POST-ACUTE CARE.

2. AS USED IN THIS SECTION:

(A) "ELIGIBLE PATIENT" MEANS AN INPATIENT AT A PARTICIPATING HOSPITAL WHO, ACCORDING TO THE PATIENT'S ATTENDING PHYSICIAN:

(I) IS READY TO BE DISCHARGED AS AN INPATIENT, BUT NEEDS TO BE TRANSITIONED TO POST-ACUTE CARE;

(II) LACKS CAPACITY TO CONSENT TO THE DISCHARGE AND TO ADMISSION TO POST-ACUTE CARE;

(III) DOES NOT HAVE A GUARDIAN, HEALTH CARE AGENT OR POWER OF ATTORNEY, OR A FAMILY MEMBER, FRIEND OR OTHER REPRESENTATIVE WHO IS REASONABLY AVAILABLE AND WILLING TO MAKE A TRANSITION DECISION ON HIS OR HER BEHALF, WHOSE CONSENT WOULD BE ACCEPTED BY A PROPOSED POST-ACUTE CARE PROVIDER, AND WHO IS LEGALLY AUTHORIZED TO MAKE ALL REQUIRED TRANSITION-RELATED FINANCIAL ARRANGEMENTS;

(IV) HAS A DISCHARGE PLAN THAT IDENTIFIES AN APPROPRIATE POST-ACUTE CARE PROVIDER THAT IS OR MAY BE WILLING TO ADMIT THE PATIENT IF A TRANSITION AUTHORIZATION PANEL WERE TO AUTHORIZE THE TRANSITION AND, IF NECESSARY, MAKE TRANSITION-RELATED FINANCIAL ARRANGEMENTS; AND

(V) HAS NOT EXPRESSED AN OBJECTION TO ANY OF THE FOREGOING FINDINGS OR TO BEING TRANSITIONED TO THE PROPOSED POST-ACUTE FACILITY OR SERVICE OR, IF APPLICABLE, THE PROPOSED TRANSITION-RELATED FINANCIAL ARRANGEMENTS;

(B) "PARTICIPATING HOSPITAL" MEANS ANY OF THE FOLLOWING HOSPITALS, UPON THE CHIEF EXECUTIVE OFFICER OF THE HOSPITAL NOTIFYING THE COMMISSIONER IN WRITING THAT THE HOSPITAL ELECTS TO BE A PARTICIPATING HOSPITAL, AND UNTIL THE CHIEF EXECUTIVE OFFICER OF THE HOSPITAL NOTIFIES THE COMMISSIONER IN WRITING THAT THE HOSPITAL ELECTS TO CEASE BEING A PARTICIPATING HOSPITAL:

(I) CROUSE HOSPITAL, SYRACUSE, NY.

(II) GLENS FALLS HOSPITAL, GLENS FALLS, NY.

(III) MEMORIAL HOSPITAL, ALBANY, NY.

(IV) SAMARITAN HOSPITAL, TROY, NY.

(V) UNIVERSITY OF ROCHESTER MEDICAL CENTER, ROCHESTER, NY.

(VI) WYCKOFF HEIGHTS MEDICAL CENTER, BROOKLYN, NY.

(C) "POST-ACUTE CARE" MEANS CARE PROVIDED BY A RESIDENTIAL HEALTH CARE FACILITY, TRANSITIONAL CARE UNIT, HOME CARE SERVICES, ASSISTED LIVING PROGRAM, ADULT CARE FACILITY, HOSPICE, AND AN INPATIENT TREATMENT FACILITY OR RESIDENTIAL FACILITY LICENSED OR OPERATED BY THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, THE OFFICE OF MENTAL HEALTH OR THE OFFICE OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES, OR AN INPA-

TIENT TREATMENT FACILITY OR RESIDENTIAL FACILITY LICENSED BY A HEALTH, MENTAL HYGIENE OR SOCIAL SERVICES AGENCY OF ANOTHER STATE.

(D) "TRANSITION AUTHORIZATION" MEANS A DECISION, MADE BY A TRANSITION AUTHORIZATION PANEL PURSUANT TO THIS SECTION, TO AUTHORIZE THE TRANSITION OF AN ELIGIBLE PATIENT FROM A PARTICIPATING HOSPITAL TO A SPECIFIC POST-ACUTE CARE PROVIDER, AND "AUTHORIZE A TRANSITION" OR "AUTHORIZE THE TRANSITION" MEANS TO MAKE SUCH DECISION.

(E) "TRANSITION AUTHORIZATION PANEL AGENT" OR "AGENT" MEANS AN INDIVIDUAL AUTHORIZED BY THE TRANSITION AUTHORIZATION PANEL TO CARRY OUT TRANSITION RELATED FINANCIAL ARRANGEMENTS.

(F) "TRANSITION AUTHORIZATION PANEL" OR "PANEL" MEANS A THREE-PERSON PANEL, CONVENED PURSUANT TO THIS SECTION, TO AUTHORIZE THE TRANSITION OF AN ELIGIBLE PATIENT FROM A PARTICIPATING HOSPITAL TO A POST-ACUTE CARE PROVIDER, AND TO MAKE TRANSITION-RELATED FINANCIAL ARRANGEMENTS.

(G) "TRANSITION AUTHORIZATION PANEL POOL" MEANS THE FULL POOL OF PERSONS QUALIFIED AND DESIGNATED TO SERVE ON TRANSITION AUTHORIZATION PANELS AT A PROGRAM SITE.

(H) "TRANSITION-RELATED FINANCIAL ARRANGEMENTS" MEANS ACTS NECESSARY:

(I) TO EXPEND THE ELIGIBLE PATIENT'S FUNDS FOR POST-ACUTE CARE FOR ONE HUNDRED TWENTY DAYS OR UNTIL THE COURT APPOINTMENT OF A GUARDIAN OF THE PROPERTY PURSUANT TO ARTICLE EIGHTY-ONE OF THE MENTAL HYGIENE LAW, WHICHEVER OCCURS FIRST.

(II) TO APPLY FOR THE ELIGIBLE PATIENT'S ENROLLMENT IN MEDICAID OR MEDICARE.

(III) TO ACCESS FINANCIAL INFORMATION ABOUT THE ELIGIBLE PATIENT FROM FINANCIAL INSTITUTIONS TO THE EXTENT NECESSARY FOR THE PURPOSES SET FORTH IN SUBPARAGRAPHS (I) AND (II) OF THIS PARAGRAPH.

(I) "FINANCIAL INSTITUTION" MEANS A FINANCIAL INSTITUTION AS DEFINED IN SUBDIVISION FIVE OF SECTION 5-1501 OF THE GENERAL OBLIGATIONS LAW.

(J) "ADMINISTRATOR" MEANS THE ADMINISTRATOR OF THE PROGRAM FOR THE PARTICIPATING HOSPITAL DESIGNATED UNDER SUBDIVISION THREE OF THIS SECTION.

3. EACH PARTICIPATING HOSPITAL SHALL:

(A) DESIGNATE A PERSON AS ADMINISTRATOR OF THE PROGRAM WITH RESPECT TO THAT PROGRAM SITE;

(B) CARRY OUT, AND BEAR THE COSTS OF, THE ADMINISTRATIVE RESPONSIBILITIES OF THE PROGRAM AS SET FORTH IN THIS SECTION, WITH RESPECT TO THAT PROGRAM SITE; AND

(C) CREATE AND MAINTAIN RECORDS OF (I) ALL REQUESTS, PANELS CONVENED AND ACTIONS TAKEN PURSUANT TO THIS SECTION, AND (II) ALL TRANSITION-RELATED FINANCIAL ARRANGEMENTS MADE PURSUANT TO THIS SECTION. SUCH RECORDS SHALL BE MADE AVAILABLE TO THE DEPARTMENT UPON REQUEST.

4. (A) A PARTICIPATING HOSPITAL MAY CREATE A TRANSITION AUTHORIZATION PANEL POOL AT A PROGRAM SITE, WHICH SHALL HAVE THREE CLASSES OF MEMBERS:

(I) ONE CLASS OF MEMBERS SHALL BE QUALIFIED PERSONS DESIGNATED BY THE HOSPITAL;

(II) ONE CLASS OF MEMBERS SHALL BE QUALIFIED PERSONS DESIGNATED BY THE LOCAL SOCIAL SERVICES COMMISSIONER; AND

(III) ONE CLASS OF MEMBERS SHALL BE QUALIFIED PERSONS DESIGNATED BY THE NEW YORK STATE OFFICE OF LONG TERM CARE OMBUDSMAN.

(B) FOR THE PURPOSES OF THIS SUBDIVISION, "QUALIFIED PERSONS" MEANS ADULT PERSONS WITH RECOGNIZED EXPERTISE OR DEMONSTRATED INTEREST IN THE CARE AND TREATMENT OF HOSPITAL AND POST-ACUTE CARE PATIENTS, AND WHO CAN BE EXPECTED TO APPLY THE STANDARDS OF THIS SECTION IN GOOD FAITH AND IN THE BEST INTERESTS OF THE ELIGIBLE PATIENT.

(C) THE PARTICIPATING HOSPITAL AND THE LOCAL SOCIAL SERVICES COMMISSIONER SHALL JOINTLY APPOINT ONE MEMBER AS CHAIR OF THE TRANSITION AUTHORIZATION PANEL POOL.

5. (A) THE REVIEW OF REQUESTS FOR TRANSITION AUTHORIZATION AND FOR TRANSITION-RELATED FINANCIAL ARRANGEMENTS SHALL BE UNDERTAKEN BY PANELS OF THREE MEMBERS DRAWN FROM THE TRANSITION AUTHORIZATION PANEL POOL, ONE FROM EACH CLASS. THE PARTICIPATING HOSPITAL SHALL APPOINT ONE MEMBER AS PANEL CHAIR.

(B) NO PERSON WHO IS A HEALTH CARE PROFESSIONAL ACTIVELY INVOLVED IN THE TREATMENT OF THE PATIENT WHOSE CASE IS UNDER CONSIDERATION BY A PANEL MAY SERVE ON THE PANEL WITH RESPECT TO SUCH PATIENT, ALTHOUGH OTHER HOSPITAL PERSONNEL MAY SERVE ON THE PANEL IF OTHERWISE QUALIFIED.

6. (A) THE ATTENDING PHYSICIAN OF AN ELIGIBLE PATIENT MAY REQUEST THAT A PANEL BE CONVENED BY SUBMITTING A WRITTEN REQUEST TO THE ADMINISTRATOR. THE REQUEST MUST:

(I) INDICATE THAT IT IS A REQUEST FOR THE PANEL TO AUTHORIZE THE TRANSITION OF THE PATIENT TO POST-ACUTE CARE AND, IF APPLICABLE, TO MAKE TRANSITION-RELATED FINANCIAL ARRANGEMENTS;

(II) SET FORTH THE REASONS FOR BELIEVING THAT THE PATIENT IS AN ELIGIBLE PATIENT; AND

(III) SET FORTH THE PROPOSED POST-ACUTE CARE PROVIDER (OR PROVIDERS, IF APPLICATIONS HAVE OR WILL BE MADE TO MORE THAN ONE);

(B) UPON RECEIPT OF THE REQUEST, THE ADMINISTRATOR MAY EITHER DECLINE THE REQUEST AND NOTIFY THE ATTENDING PHYSICIAN OF THE REASON WHICH MAY INCLUDE BUT NOT BE LIMITED TO THE FACT THAT ALTHOUGH THE PATIENT IS ELIGIBLE, A TRANSITION CAN BE ACCOMPLISHED WITHOUT THE NEED TO CONVENE THE PANEL, OR ELSE TAKE THE FOLLOWING STEPS TO CONVENE THE PANEL:

(I) SET A TIME, DATE AND PLACE FOR THE TRANSITION AUTHORIZATION PANEL TO REVIEW THE REQUEST. SUCH REVIEW MAY BE SCHEDULED FOR ANY TIME AND DATE AT LEAST THREE DAYS AFTER THE REQUEST AND NOTICE IS SENT AS PROVIDED IN THIS PARAGRAPH; HOWEVER, THE REVIEW SHALL BE HELD EARLIER OR LATER THAN THE DATE SET FORTH IN THE NOTICE IF ALL PERSONS WHO ARE ENTITLED TO NOTICE, AS SET FORTH IN THIS PARAGRAPH, AGREE, IN WRITING OR VERBALLY (AS DOCUMENTED BY THE ADMINISTRATOR), TO THE TIME, PLACE AND DATE OF THE REVIEW.

(II) SEND A COPY OF THE REQUEST AND NOTICE, BY HAND, MAIL, FAX OR E-MAIL, TO THE FOLLOWING PERSONS:

(A) THREE MEMBERS OF THE TRANSITION AUTHORIZATION PANEL POOL, ONE FROM EACH CLASS, SELECTED BY THE POOL CHAIR, WHO ARE WILLING AND ABLE TO SERVE AS A PANEL FOR THE PURPOSE OF THIS REVIEW;

(B) THE PATIENT, IF THERE IS ANY INDICATION OF THE PATIENT'S ABILITY TO COMPREHEND SUCH NOTICE;

(C) TO A FAMILY MEMBER OR FRIEND OF THE PATIENT WHO MAY BE REASONABLY AVAILABLE AND WILLING TO MAKE A TRANSITION DECISION ON HIS OR HER BEHALF, IF THERE IS ANY SUCH PERSON;

(D) IF THE PATIENT WAS ADMITTED FROM A FACILITY OR RESIDENCE LICENSED BY THE OFFICE OF MENTAL HEALTH OR THE OFFICE OR MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES, TO THE FACILITY DIRECTOR AND TO THE MENTAL HYGIENE LEGAL SERVICES OFFICE UNDER ARTICLE FORTY-SEVEN OF THE MENTAL HYGIENE LAW; AND

(E) TO THE PATIENT'S ATTENDING PHYSICIAN.

(III) PROVIDE NOTICE TO THE PATIENT AND TO MENTAL HYGIENE LEGAL SERVICES WHICH SHALL INFORM THE PATIENT THAT HE OR SHE WILL BE AFFORDED AN OPPORTUNITY TO ADDRESS THE PANEL, MAY BE PRESENT FOR ANY OTHER ADDRESSES MADE TO THE PANEL, AND MAY BE PRESENT FOR OTHER PARTS OF THE

PANEL REVIEW AS THE CHAIR MAY PERMIT, BUT THAT HE OR SHE WILL NOT BE PERMITTED TO BE PRESENT DURING THE PANEL'S DELIBERATION.

(IV) PROVIDE NOTICE TO PERSONS DESCRIBED IN CLAUSES (B) THROUGH (E) OF SUBPARAGRAPH (II) OF THIS PARAGRAPH WHICH SHALL INFORM THE PERSON THAT HE OR SHE WILL BE AFFORDED AN OPPORTUNITY TO ADDRESS THE PANEL, AND MAY BE PRESENT FOR SUCH OTHER PARTS OF THE PANEL REVIEW AS THE CHAIR MAY PERMIT, THAT THE PATIENT AND MENTAL HYGIENE LEGAL SERVICES (WHEN REPRESENTING A PATIENT) MAY BE PRESENT WHEN ANY OTHER PERSON ADDRESSES THE PANEL, AND THAT NO PERSON DESCRIBED IN CLAUSES (B) THROUGH (E) OF SUBPARAGRAPH (II) OF THIS PARAGRAPH SHALL BE PERMITTED TO BE PRESENT DURING THE PANEL'S DELIBERATION.

7. (A) PRIOR TO OR DURING THE REVIEW, THE PANEL CHAIR MAY REQUEST AND, NOTWITHSTANDING ANY OTHER LAW TO THE CONTRARY, SHALL BE ENTITLED TO RECEIVE FROM ANY HEALTH CARE PROVIDER AND DISCLOSE TO THE PANEL ANY INFORMATION WHICH IS RELEVANT TO THE PANEL'S REVIEW. INFORMATION WHICH IS CONFIDENTIAL, AS PROVIDED FOR BY LAW, SHALL BE KEPT CONFIDENTIAL BY THE PANEL AND ANY LIMITATIONS ON THE FURTHER RELEASE THEREOF IMPOSED BY LAW UPON THE PARTY FURNISHING THE INFORMATION SHALL APPLY TO THE PANEL.

(B) THE PANEL SHALL MEET IN PERSON OR BY VIDEO CONFERENCE TO CONDUCT ITS REVIEW.

(C) THE PANEL CHAIR MAY REQUEST THE ATTENDANCE AT THE REVIEW OF ANY PERSON WHO MIGHT ASSIST THE PANEL IN ITS REVIEW.

(D) THE PATIENT AND MENTAL HYGIENE LEGAL SERVICES (WHEN REPRESENTING A PATIENT) MAY BE PRESENT WHEN ANY OTHER PERSON ADDRESSES THE PANEL.

(E) WHERE PRACTICABLE, THE PANEL MEMBERS SHALL PERSONALLY INTERVIEW AND OBSERVE THE PATIENT PRIOR TO MAKING THEIR DECISION.

(F) NO PERSON DESCRIBED IN CLAUSES (B) THROUGH (E) OF SUBPARAGRAPH (II) OF PARAGRAPH (B) OF SUBDIVISION SIX OF THIS SECTION SHALL BE PERMITTED TO BE PRESENT DURING THE PANEL DELIBERATION.

(G) THE PANEL CHAIR MAY ADJOURN AND RECONVENE THE PANEL AS NECESSARY.

(H) THE ADMINISTRATOR SHALL ARRANGE FOR MINUTES TO BE TAKEN AND MAINTAINED OF ANY PANEL MEETING, BUT NO RECORDING OR TRANSCRIPTION SHALL BE REQUIRED.

(I) IN ITS REVIEW, THE PANEL SHALL CONSIDER WHETHER THE PROPOSED TRANSITION IS TO A FACILITY OR PROGRAM THAT APPEARS ABLE (I) TO MEET THE PATIENT'S NEEDS, AND (II) TO DO SO IN THE LEAST RESTRICTIVE SETTING REASONABLY AVAILABLE TO THE PATIENT.

8. (A) THE PANEL SHALL MAKE A DETERMINATION, BY MAJORITY VOTE, AS TO: (I) WHETHER THE PATIENT IS AN ELIGIBLE PATIENT, (II) WHETHER TO AUTHORIZE THE PROPOSED TRANSITION (PROVIDED THAT, IF THE PATIENT HAS A GUARDIAN, HEALTH CARE AGENT, SURROGATE OR OTHER REPRESENTATIVE WHO IS REASONABLY AVAILABLE AND WILLING TO MAKE A TRANSITION DECISION ON HIS OR HER BEHALF, BUT WHO IS NOT LEGALLY AUTHORIZED TO MAKE FINANCIAL ARRANGEMENTS, THEN SUCH PERSON AND NOT THE PANEL SHALL DECIDE WHETHER TO AUTHORIZE THE PROPOSED TRANSITION), AND (III) WHETHER TO AUTHORIZE TRANSITION-RELATED FINANCIAL ARRANGEMENTS. THE DETERMINATION SHALL BE SET FORTH IN WRITING AND SHALL BE SIGNED BY THE CHAIR ON BEHALF OF THE PANEL.

(B) IF THE PANEL DETERMINES TO AUTHORIZE THE PROPOSED TRANSITION AND/OR TRANSITION-RELATED FINANCIAL ARRANGEMENTS, THE AUTHORIZATION SHALL BE SET FORTH IN AN ORDER, SIGNED BY THE CHAIR ON BEHALF OF THE PANEL. THE ORDER SHALL DESCRIBE THE SCOPE OF SUCH AUTHORIZATION AND, IF IT AUTHORIZES TRANSITION-RELATED FINANCIAL ARRANGEMENTS, DESIGNATE A TRANSITION AUTHORIZATION PANEL AGENT.

(C) THE DETERMINATION, AND THE ORDER IF THERE IS ONE, SHALL BE MADE PART OF THE PATIENT'S MEDICAL RECORD.

(D) NOTWITHSTANDING ANY LAW TO THE CONTRARY, THE ADMINISTRATOR AND THE AGENT SHALL DISCLOSE THE ORDER TO SUCH PERSONS AS NECESSARY FOR THE PURPOSE OF CARRYING OUT ITS TERMS.

(E) THE ORDER AUTHORIZING THE PROPOSED TRANSITION SHALL BE, AND MAY BE RELIED UPON BY THE PARTICIPATING HOSPITAL, BY POST-ACUTE CARE PROVIDERS, BY FINANCIAL INSTITUTIONS, AND BY OTHER THIRD-PARTIES AS LEGAL AUTHORITY FOR THEM TO PERFORM OR COOPERATE IN THE PERFORMANCE OF THE AUTHORIZED ACTS, INCLUDING LEGAL AUTHORITY:

(I) FOR THE PARTICIPATING HOSPITAL TO DISCHARGE THE PATIENT;

(II) FOR THE POST-ACUTE CARE PROVIDER TO ADMIT THE PATIENT;

(III) FOR THE TRANSITION AUTHORIZATION PANEL AGENT TO MAKE TRANSITION-RELATED FINANCIAL ARRANGEMENTS; AND

(IV) FOR MEDICAID, FINANCIAL INSTITUTIONS AND OTHER PARTIES TO PROVIDE FINANCIAL AND OTHER PERSONAL INFORMATION ABOUT THE PATIENT RELATED TO THE TRANSITION AND TRANSITION-RELATED FINANCIAL ARRANGEMENTS TO THE ADMINISTRATOR OR AGENT, AND TO OTHERWISE COOPERATE IN THE TRANSITION-RELATED FINANCIAL ARRANGEMENTS.

SUCH PARTIES SHALL BE IMMUNE FROM LIABILITY FOR ACTIONS TAKEN IN GOOD FAITH AND REASONABLE RELIANCE UPON SUCH ORDER.

(F) A TRANSITION AUTHORIZATION PANEL AGENT, IN THE PERFORMANCE OF HIS OR HER DUTIES UNDER THIS SECTION, SHALL BE DEEMED THE PERSONAL REPRESENTATIVE OF THE PATIENT FOR PURPOSES OF FEDERAL REGULATIONS RELATING TO THE PRIVACY OF INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION (HIPAA).

9. A PARTICIPATING HOSPITAL, THE LOCAL SOCIAL SERVICES DEPARTMENT, AND ANY OTHER PERSON MAY, BUT SHALL NOT BE REQUIRED TO, ENTER INTO AN AGREEMENT WITH A POST-ACUTE CARE PROVIDER FOR SUCH HOSPITAL, DEPARTMENT, OR OTHER PERSON TO PETITION FOR THE APPOINTMENT OF A GUARDIAN UNDER ARTICLE EIGHTY-ONE OF THE MENTAL HYGIENE LAW FOR A PATIENT TRANSITIONED PURSUANT TO THE ORDER OF A TRANSITION AUTHORIZATION PANEL, EITHER BEFORE OR AFTER THE TRANSITION, AS A WAY TO PROVIDE FOR BROADER AND LONGER TERM DECISIONMAKING AUTHORITY WITH RESPECT TO THE TRANSITIONED PATIENT. THE CHIEF EXECUTIVE OFFICER OF A PARTICIPATING HOSPITAL, OR HIS OR HER DESIGNEE, THAT ENTERS INTO SUCH AGREEMENT PRIOR TO THE PATIENT'S DISCHARGE SHALL BE DEEMED TO HAVE THE AUTHORITY TO COMMENCE A PETITION UNDER PARAGRAPH SEVEN OF SUBDIVISION (A) OF SECTION 81.06 OF THE MENTAL HYGIENE LAW.

10. NO PERSON SHALL BE SUBJECT TO CRIMINAL OR CIVIL LIABILITY OR SANCTION BY A GOVERNMENTAL AGENCY FOR ACTIONS TAKEN REASONABLY AND IN GOOD FAITH PURSUANT TO THIS ARTICLE (A) AS A MEMBER OR AGENT OF A TRANSITION AUTHORIZATION PANEL, OR AS ADMINISTRATOR OF A TRANSITION AUTHORIZATION PROGRAM; (B) DISCHARGING, TRANSFERRING OR ADMITTING A PATIENT FROM OR TO A FACILITY PURSUANT TO AN ORDER OF A TRANSITION AUTHORIZATION PANEL; OR (C) DISCLOSING FINANCIAL INFORMATION ABOUT A PATIENT OR DISBURSING PATIENT FUNDS PURSUANT TO AN ORDER OF A TRANSITION AUTHORIZATION PANEL.

11. (A) THE ADMINISTRATOR OF EACH PANEL SHALL SUBMIT AN ANNUAL REPORT TO THE COMMISSIONER, DUE WITHIN THIRTY DAYS OF EACH ANNIVERSARY OF THE EFFECTIVE DATE OF THIS SECTION. THE REPORT SHALL SET FORTH:

(I) WITH RESPECT TO EACH REQUEST TO CONVENE BY A PANEL, THE TYPE OF POST-ACUTE CARE REQUESTED; THE LENGTH OF TIME FROM THE DATE OF THE REQUEST UNTIL (A) THE PANEL CONVENED, (B) THE PANEL ISSUED ITS DETERMINATION, AND (C) THE PATIENT WAS DISCHARGED FROM THE PARTICIPATING HOSPITAL (IF THE DETERMINATION APPROVED THE TRANSITION); THE CATEGORIES OF PERSONS WHO ADDRESSED THE PANEL; THE NUMBER OF UNANIMOUS AND NON-UNANIMOUS PANEL VOTES; WHETHER THE ORDER CALLED FOR TRANSITION-RELATED FINANCIAL ARRANGEMENTS AND IF SO WHETHER THOSE ARRANGEMENTS WERE SUCCESSFULLY MADE; WHETHER THE PATIENT AND/OR FAMILY MEMBER OBJECTED TO THE PANEL'S DECISION; AND ANY DATA OR OTHER INFORMATION AVAILABLE TO THE ADMINISTRA-

TOR REGARDING THE IMPACT OF THE DEMONSTRATION ON THE HOSPITAL'S AVERAGE INPATIENT LENGTH OF STAY.

(II) AN EVALUATION BY THE PARTICIPATING HOSPITAL, THE LOCAL SOCIAL SERVICES DEPARTMENT, AND THE NEW YORK STATE OFFICE OF LONG TERM CARE OMBUDSMAN REGARDING WHETHER TRANSITION AUTHORIZATION PANELS ADEQUATELY PROTECTED THE INTERESTS AND RIGHTS OF PATIENTS INCLUDING THEIR INTEREST IN BEING TRANSITIONED TO THE LEAST RESTRICTIVE SETTING REASONABLY AVAILABLE, AND THE SUCCESS OF THE TRANSITION PLANS APPROVED BY THE PROGRAM IN MEETING THE NEEDS OF PATIENTS AND THEIR RECOMMENDATIONS FOR AMENDMENTS TO THIS SECTION, AND RECOMMENDATIONS REGARDING THE MERIT OF EXTENDING THIS DEMONSTRATION PROGRAM OR ADOPTING A PERMANENT AND STATEWIDE TRANSITION AUTHORIZATION PROGRAM.

(B) THE COMMISSIONER SHALL COMPILE THE REPORTS SUBMITTED TO HIM OR HER AS REQUIRED BY THIS SUBDIVISION, AND PROMPTLY SUBMIT SUCH REPORTS TO THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE MINORITY LEADER OF THE SENATE AND THE MINORITY LEADER OF THE ASSEMBLY, AND MAKE SUCH REPORTS AVAILABLE TO THE PUBLIC. THE COMMISSIONER MAY ADD HIS OR HER OWN RECOMMENDATIONS TO THAT COMPILATION.

S 3. This act shall take effect immediately, and shall expire and be deemed repealed three years and ninety days after it shall have become a law.