

4900

2009-2010 Regular Sessions

I N S E N A T E

April 27, 2009

Introduced by Sen. 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 powers with respect to the property of patients

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

1 Section 1. Section 29.23 of the mental hygiene law is amended to read
2 as follows:
3 S 29.23 Powers with respect to property of patients.
4 (A) The commissioner may authorize the directors of department facilities,
5 to receive or obtain funds or other personal property, excepting
6 jewelry, due or belonging to a patient who has no committee, up to an
7 amount or value not exceeding [five thousand dollars] THE MEDICAL
8 ASSISTANCE RESOURCE EXCLUSION FOR A SINGLE PERSON AS DESCRIBED IN SUBDI-
9 VISION TWO OF SECTION THREE HUNDRED SIXTY-SIX OF THE SOCIAL SERVICES
10 LAW; and also from a committee upon his discharge when the final order
11 so provides where the balance remaining in the hands of such committee
12 does not exceed such amount. Such personal property, excepting jewelry,
13 other than moneys shall be retained by the director for the benefit of
14 the patient for whom received until sold as hereinafter provided. Such
15 funds and the proceeds of the sale of other personal property so
16 received shall be placed to the credit of the patient for whom received
17 and disbursed on the order of the director, to provide, in the first
18 instance, for luxuries, comforts, and necessities for such patient,
19 including burial expenses, and, if funds are thereafter available, for
20 the support of such patient. The commissioner may authorize directors,
21 on behalf of any such patient, to give receipts, execute releases and
22 other documents required by law or court order, to endorse checks and
23 drafts, and to convert personal property excepting jewelry into money by
24 sale for an adequate consideration, and to execute bills of sale or to

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

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1 permit such patient to do so, in order that the proceeds may be deposit-
2 ed to the credit of such patient in accordance with the provisions of
3 this section.

4 (B) Whenever, under the provisions of this section, the commissioner
5 shall authorize the director of a facility in the department to receive
6 moneys or other personal property excluding jewelry belonging to a
7 patient which are on deposit in any bank or other institution or which
8 are due to the person from any person or agency, such bank, institution,
9 person, or agency shall, upon the written request of the director,
10 forthwith turn over to such director from such moneys or personal prop-
11 erty the amount or value hereinbefore specified. Any moneys received by
12 the director of such facility shall be deposited by him in such bank or
13 trust company as shall be designated by the comptroller, except that the
14 commissioner may, in his discretion, invest so much thereof as he may
15 deem advisable in bonds issued by the United States government or any of
16 its agencies.

17 (C) Moneys belonging to a patient received by the director of such
18 facility pursuant to law shall be received by him in his official capac-
19 ity as such director and such receipt shall be deemed an exercise or
20 performance by him of a power and duty duly conferred by this section.

21 S 2. Section 33.07 of the mental hygiene law, subdivision (c) as
22 amended and subdivision (e) as added by chapter 709 of the laws of 1986,
23 such section as renumbered by chapter 978 of the laws of 1977, is
24 amended to read as follows:

25 S 33.07 Care and custody of the personal property of patients.

26 (a) A patient's right to retain his personal belongings upon admission
27 to a MENTAL HYGIENE facility shall be respected. The director, subject
28 to the regulations of the commissioner, may take temporary custody of
29 the patient's personal property upon the person of the patient.
30 Personal property which is retained for the patient's protection shall
31 be used for the support and benefit of the patient if deemed desirable.
32 Otherwise, it is to be conserved for his benefit. If a patient is trans-
33 ferred to another facility, his personal belongings shall be transferred
34 with him. Gifts received by a patient in a facility shall be handled in
35 the same manner.

36 (b) The director of a [department] MENTAL HYGIENE facility shall have
37 the power to take temporary and immediate custody of the personal prop-
38 erty of a patient which is in the possession of other persons upon
39 giving a receipt therefor to the person having possession thereof.

40 (c) Any interest on money received and held for a patient shall be the
41 property of the individual patient and shall not accrue for the general
42 welfare of all patients in a facility.

43 [(e)] (D) A mental hygiene facility which is a representative payee
44 for a patient pursuant to designation by the social security adminis-
45 tration or which assumes management responsibility over the funds of a
46 patient, shall maintain such funds in a fiduciary capacity to the
47 patient. The commissioners of mental health and mental retardation and
48 developmental disabilities shall develop standards regarding the manage-
49 ment of patient funds.

50 (E) THE COMMISSIONER MAY AUTHORIZE DIRECTORS OF MENTAL HYGIENE FACILI-
51 TIES, ON BEHALF OF A PATIENT, TO GIVE RECEIPTS AND EXECUTE RELEASES AND
52 OTHER DOCUMENTS REQUIRED BY LAW OR COURT ORDER.

53 S 3. This act shall take effect immediately.