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

8187

I N S E N A T E

June 15, 2010

Introduced by Sen. STAVISKY -- (at request of the State Education Department) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the education law, in relation to access to patient or client records in the investigation and prosecution of professional licensing and misconduct proceedings

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

Section 1. Subdivision 8 of section 6506 of the education law, as amended by chapter 866 of the laws of 1980, is amended to read as follows:

(8) Designate a professional conduct officer, who shall be the chief administrative officer of the office of the professions, or his designee, in connection with professional licensing and misconduct proceedings and criminal matters, such officer to be empowered to issue subpoenas and administer oaths in connection with such proceedings. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, SAID PROFESSIONAL CONDUCT OFFICER, OR HIS OR HER REPRESENTATIVES, IN AN INVESTIGATION OF A COMPLAINT OF PROFESSIONAL MISCONDUCT OR OF THE GOOD MORAL CHARACTER OF AN APPLICANT FOR LICENSURE OR IN THE PROSECUTION OF A LICENSING OR MISCONDUCT PROCEEDING, MAY EXAMINE AND OBTAIN RECORDS OF PATIENTS OR CLIENTS, WHICH RECORDS WERE PREPARED BY, OR AT THE DIRECTION OF, THE LICENSED PROFESSIONAL WHOSE CONDUCT IS THE SUBJECT OF THE INVESTIGATION OR PROCEEDING. UNLESS EXPRESS CONSENT IS OBTAINED FROM THE PATIENT OR CLIENT, ANY INFORMATION SO OBTAINED SHALL BE CONFIDENTIAL AND SHALL NOT BE FURTHER DISCLOSED EXCEPT TO THE EXTENT NECESSARY FOR THE PROPER FUNCTION OF THE DEPARTMENT, AND THE NAME OF THE PATIENT OR CLIENT SHALL NOT, UNLESS THE PATIENT OR CLIENT HAS EXPRESSLY CONSENTED, BE DISCLOSED BY THE DEPARTMENT OR ITS EMPLOYEES TO ANY THIRD PARTIES OTHER THAN THE SUBJECT OF A PROFESSIONAL DISCIPLINE OR LICENSING INVESTIGATION OR PROCEEDING AND/OR SAID SUBJECT'S ATTORNEY. ANY OTHER USE OR DISSEMINATION OF INFORMATION FROM SUCH RECORDS BY ANY PERSON BY ANY MEANS, UNLESS IT IS PURSUANT TO A VALID COURT ORDER OR OTHERWISE AUTHORIZED BY LAW, SHALL BE PROHIBITED;

S 2. This act shall take effect immediately.

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

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