

2473

2011-2012 Regular Sessions

I N A S S E M B L Y

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Introduced by M. of A. CANESTRARI -- read once and referred to the
Committee on Health

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:

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

12 The legislature further finds that while article 81 of the mental
13 hygiene law provides a procedure for the court-appointment of guardians
14 who could be empowered to authorize transition for such patients, such
15 procedure was designed for longer-term assistance with an incapacitated
16 person's personal and property affairs, and includes features that often
17 go beyond what is needed for transition-related decisions alone. As a
18 result, the guardianship proceeding can require far more time, effort
19 and expense than is warranted for this limited, non-contested decision.

20 Accordingly, the legislature finds that it would be valuable to study
21 an alternative approach to secure decisions relating to the transition

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

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1 of isolated incapable patients from inpatient care to post-acute care.
2 Specifically, the transition authorization panel demonstration program
3 shows promise as means to protect the rights and interests of incapable
4 patients in the transition decision, while allowing such decisions to be
5 made within a reasonable timeframe.

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

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

13 2. AS USED IN THIS SECTION:

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

16 (I) IS READY TO BE DISCHARGED AS AN INPATIENT, BUT NEEDS TO BE TRANSI-
17 TIONED TO POST-ACUTE CARE;

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

20 (III) DOES NOT HAVE A GUARDIAN, HEALTH CARE AGENT OR POWER OF ATTOR-
21 NEY, OR A FAMILY MEMBER, FRIEND OR OTHER REPRESENTATIVE WHO IS REASON-
22 ABLY AVAILABLE AND WILLING TO MAKE A TRANSITION DECISION ON HIS OR HER
23 BEHALF, WHOSE CONSENT WOULD BE ACCEPTED BY A PROPOSED POST-ACUTE CARE
24 PROVIDER, AND WHO IS LEGALLY AUTHORIZED TO MAKE ALL REQUIRED TRANSI-
25 TION-RELATED FINANCIAL ARRANGEMENTS;

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

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

33 (B) "PARTICIPATING HOSPITAL" MEANS ANY OF THE FOLLOWING HOSPITALS,
34 UPON THE CHIEF EXECUTIVE OFFICER OF THE HOSPITAL NOTIFYING THE COMMIS-
35 SIONER IN WRITING THAT THE HOSPITAL ELECTS TO BE A PARTICIPATING HOSPI-
36 TAL, AND UNTIL THE CHIEF EXECUTIVE OFFICER OF THE HOSPITAL NOTIFIES THE
37 COMMISSIONER IN WRITING THAT THE HOSPITAL ELECTS TO CEASE BEING A
38 PARTICIPATING HOSPITAL:

39 (I) CROUSE HOSPITAL, SYRACUSE, NY.

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

41 (III) MEMORIAL HOSPITAL, ALBANY, NY.

42 (IV) SAMARITAN HOSPITAL, TROY, NY.

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

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

45 (C) "POST-ACUTE CARE" MEANS CARE PROVIDED BY A RESIDENTIAL HEALTH CARE
46 FACILITY, TRANSITIONAL CARE UNIT, HOME CARE SERVICES, ASSISTED LIVING
47 PROGRAM, ADULT CARE FACILITY, HOSPICE, AND AN INPATIENT TREATMENT FACIL-
48 ITY OR RESIDENTIAL FACILITY LICENSED OR OPERATED BY THE OFFICE OF ALCO-
49 HOLISM AND SUBSTANCE ABUSE SERVICES, THE OFFICE OF MENTAL HEALTH OR THE
50 OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES, OR AN INPATIENT
51 TREATMENT FACILITY OR RESIDENTIAL FACILITY LICENSED BY A HEALTH, MENTAL
52 HYGIENE OR SOCIAL SERVICES AGENCY OF ANOTHER STATE.

53 (D) "TRANSITION AUTHORIZATION" MEANS A DECISION, MADE BY A TRANSITION
54 AUTHORIZATION PANEL PURSUANT TO THIS SECTION, TO AUTHORIZE THE TRANSI-
55 TION OF AN ELIGIBLE PATIENT FROM A PARTICIPATING HOSPITAL TO A SPECIFIC

1 POST-ACUTE CARE PROVIDER, AND "AUTHORIZE A TRANSITION" OR "AUTHORIZE THE
2 TRANSITION" MEANS TO MAKE SUCH DECISION.

3 (E) "TRANSITION AUTHORIZATION PANEL AGENT" OR "AGENT" MEANS AN INDI-
4 VIDUAL AUTHORIZED BY THE TRANSITION AUTHORIZATION PANEL TO CARRY OUT
5 TRANSITION RELATED FINANCIAL ARRANGEMENTS.

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

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

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

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

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

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

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

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

28 3. EACH PARTICIPATING HOSPITAL SHALL:

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

31 (B) CARRY OUT, AND BEAR THE COSTS OF, THE ADMINISTRATIVE RESPONSIBIL-
32 ITIES OF THE PROGRAM AS SET FORTH IN THIS SECTION, WITH RESPECT TO THAT
33 PROGRAM SITE; AND

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

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

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

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

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

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

51 (C) THE PARTICIPATING HOSPITAL AND THE LOCAL SOCIAL SERVICES COMMIS-
52 SIONER SHALL JOINTLY APPOINT ONE MEMBER AS CHAIR OF THE TRANSITION
53 AUTHORIZATION PANEL POOL.

54 5. (A) THE REVIEW OF REQUESTS FOR TRANSITION AUTHORIZATION AND FOR
55 TRANSITION-RELATED FINANCIAL ARRANGEMENTS SHALL BE UNDERTAKEN BY PANELS
56 OF THREE MEMBERS DRAWN FROM THE TRANSITION AUTHORIZATION PANEL POOL, ONE

1 FROM EACH CLASS. THE PARTICIPATING HOSPITAL SHALL APPOINT ONE MEMBER AS
2 PANEL CHAIR.

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

7 6. (A) THE ATTENDING PHYSICIAN OF AN ELIGIBLE PATIENT MAY REQUEST THAT
8 A PANEL BE CONVENED BY SUBMITTING A WRITTEN REQUEST TO THE ADMINISTRA-
9 TOR. THE REQUEST MUST:

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

13 (II) SET FORTH THE REASONS FOR BELIEVING THAT THE PATIENT IS AN ELIGI-
14 BLE PATIENT; AND

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

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

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

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

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

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

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

40 (D) IF THE PATIENT WAS ADMITTED FROM A FACILITY OR RESIDENCE LICENSED
41 BY THE OFFICE OF MENTAL HEALTH OR THE OFFICE FOR PEOPLE WITH DEVELOP-
42 MENTAL DISABILITIES, TO THE FACILITY DIRECTOR AND TO THE MENTAL HYGIENE
43 LEGAL SERVICES OFFICE UNDER ARTICLE FORTY-SEVEN OF THE MENTAL HYGIENE
44 LAW; AND

45 (E) TO THE PATIENT'S ATTENDING PHYSICIAN.

46 (III) PROVIDE NOTICE TO THE PATIENT AND TO MENTAL HYGIENE LEGAL
47 SERVICES WHICH SHALL INFORM THE PATIENT THAT HE OR SHE WILL BE AFFORDED
48 AN OPPORTUNITY TO ADDRESS THE PANEL, MAY BE PRESENT FOR ANY OTHER
49 ADDRESSES MADE TO THE PANEL, AND MAY BE PRESENT FOR OTHER PARTS OF THE
50 PANEL REVIEW AS THE CHAIR MAY PERMIT, BUT THAT HE OR SHE WILL NOT BE
51 PERMITTED TO BE PRESENT DURING THE PANEL'S DELIBERATION.

52 (IV) PROVIDE NOTICE TO PERSONS DESCRIBED IN CLAUSES (B) THROUGH (E) OF
53 SUBPARAGRAPH (II) OF THIS PARAGRAPH WHICH SHALL INFORM THE PERSON THAT
54 HE OR SHE WILL BE AFFORDED AN OPPORTUNITY TO ADDRESS THE PANEL, AND MAY
55 BE PRESENT FOR SUCH OTHER PARTS OF THE PANEL REVIEW AS THE CHAIR MAY
56 PERMIT, THAT THE PATIENT AND MENTAL HYGIENE LEGAL SERVICES (WHEN REPRES-

1 ENTING A PATIENT) MAY BE PRESENT WHEN ANY OTHER PERSON ADDRESSES THE
2 PANEL, AND THAT NO PERSON DESCRIBED IN CLAUSES (B) THROUGH (E) OF
3 SUBPARAGRAPH (II) OF THIS PARAGRAPH SHALL BE PERMITTED TO BE PRESENT
4 DURING THE PANEL'S DELIBERATION.

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

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

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

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

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

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

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

24 (H) THE ADMINISTRATOR SHALL ARRANGE FOR MINUTES TO BE TAKEN AND MAIN-
25 TAINED OF ANY PANEL MEETING, BUT NO RECORDING OR TRANSCRIPTION SHALL BE
26 REQUIRED.

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

31 8. (A) THE PANEL SHALL MAKE A DETERMINATION, BY MAJORITY VOTE, AS TO:
32 (I) WHETHER THE PATIENT IS AN ELIGIBLE PATIENT, (II) WHETHER TO AUTHOR-
33 IZE THE PROPOSED TRANSITION (PROVIDED THAT, IF THE PATIENT HAS A GUARDI-
34 AN, HEALTH CARE AGENT, SURROGATE OR OTHER REPRESENTATIVE WHO IS REASON-
35 ABLY AVAILABLE AND WILLING TO MAKE A TRANSITION DECISION ON HIS OR HER
36 BEHALF, BUT WHO IS NOT LEGALLY AUTHORIZED TO MAKE FINANCIAL ARRANGE-
37 MENTS, THEN SUCH PERSON AND NOT THE PANEL SHALL DECIDE WHETHER TO
38 AUTHORIZE THE PROPOSED TRANSITION), AND (III) WHETHER TO AUTHORIZE TRAN-
39 SITION-RELATED FINANCIAL ARRANGEMENTS. THE DETERMINATION SHALL BE SET
40 FORTH IN WRITING AND SHALL BE SIGNED BY THE CHAIR ON BEHALF OF THE
41 PANEL.

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

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

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

53 (E) THE ORDER AUTHORIZING THE PROPOSED TRANSITION SHALL BE, AND MAY BE
54 RELIED UPON BY THE PARTICIPATING HOSPITAL, BY POST-ACUTE CARE PROVIDERS,
55 BY FINANCIAL INSTITUTIONS, AND BY OTHER THIRD-PARTIES AS LEGAL AUTHORITY

1 FOR THEM TO PERFORM OR COOPERATE IN THE PERFORMANCE OF THE AUTHORIZED
2 ACTS, INCLUDING LEGAL AUTHORITY:

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

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

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

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

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

14 (F) A TRANSITION AUTHORIZATION PANEL AGENT, IN THE PERFORMANCE OF HIS
15 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).

18 9. A PARTICIPATING HOSPITAL, THE LOCAL SOCIAL SERVICES DEPARTMENT, AND
19 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
20 OTHER PERSON TO PETITION FOR THE APPOINTMENT OF A GUARDIAN UNDER ARTICLE
21 EIGHTY-ONE OF THE MENTAL HYGIENE LAW FOR A PATIENT TRANSITIONED PURSUANT
22 TO THE ORDER OF A TRANSITION AUTHORIZATION PANEL, EITHER BEFORE OR AFTER
23 THE TRANSITION, AS A WAY TO PROVIDE FOR BROADER AND LONGER TERM DECISIONMAKING AUTHORITY WITH RESPECT TO THE TRANSITIONED PATIENT. THE CHIEF
24 EXECUTIVE OFFICER OF A PARTICIPATING HOSPITAL, OR HIS OR HER DESIGNEE,
25 THAT ENTERS INTO SUCH AGREEMENT PRIOR TO THE PATIENT'S DISCHARGE SHALL
26 BE DEEMED TO HAVE THE AUTHORITY TO COMMENCE A PETITION UNDER PARAGRAPH
27 SEVEN OF SUBDIVISION (A) OF SECTION 81.06 OF THE MENTAL HYGIENE LAW.

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

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

41 (I) WITH RESPECT TO EACH REQUEST TO CONVENE BY A PANEL, THE TYPE OF
42 POST-ACUTE CARE REQUESTED; THE LENGTH OF TIME FROM THE DATE OF THE
43 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
44 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
45 MADE; WHETHER THE PATIENT AND/OR FAMILY MEMBER OBJECTED TO THE PANEL'S
46 DECISION; AND ANY DATA OR OTHER INFORMATION AVAILABLE TO THE ADMINISTRATOR REGARDING THE IMPACT OF THE DEMONSTRATION ON THE HOSPITAL'S AVERAGE
47 INPATIENT LENGTH OF STAY.

53 (II) AN EVALUATION BY THE PARTICIPATING HOSPITAL, THE LOCAL SOCIAL
54 SERVICES DEPARTMENT, AND THE NEW YORK STATE OFFICE OF LONG TERM CARE
55 OMBUDSMAN REGARDING WHETHER TRANSITION AUTHORIZATION PANELS ADEQUATELY
56 PROTECTED THE INTERESTS AND RIGHTS OF PATIENTS INCLUDING THEIR INTEREST

1 IN BEING TRANSITIONED TO THE LEAST RESTRICTIVE SETTING REASONABLY AVAIL-
2 ABLE, AND THE SUCCESS OF THE TRANSITION PLANS APPROVED BY THE PROGRAM IN
3 MEETING THE NEEDS OF PATIENTS AND THEIR RECOMMENDATIONS FOR AMENDMENTS
4 TO THIS SECTION, AND RECOMMENDATIONS REGARDING THE MERIT OF EXTENDING
5 THIS DEMONSTRATION PROGRAM OR ADOPTING A PERMANENT AND STATEWIDE TRANSI-
6 TION AUTHORIZATION PROGRAM.

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

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