

8471

2011-2012 Regular Sessions

I N   A S S E M B L Y

June 17, 2011

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

AN ACT to amend the mental hygiene law, in relation to authorizing the  
release of certain records of deceased residents of OPWDD operated or  
certified facilities to family members upon written request

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

1     Section 1. Subdivision (f) of section 13.09 of the mental hygiene law  
2     is relettered subdivision (h) and a new subdivision (f) is added to read  
3     as follows:  
4     (F) NOTWITHSTANDING THE PROVISIONS OF SECTIONS 33.13 AND 33.16 OF THIS  
5     CHAPTER, THE COMMISSIONER SHALL PROMULGATE REGULATIONS TO AUTHORIZE,  
6     UPON WRITTEN REQUEST AND AS DETERMINED ON A CASE-BY-CASE BASIS, THE  
7     RELEASE OF CERTAIN RECORDS PERTAINING TO A DECEASED INDIVIDUAL WHO  
8     RESIDED IN A FACILITY OPERATED OR CERTIFIED BY THE OFFICE. THE REGU-  
9     LATIONS SHALL SPECIFY WHICH INFORMATION MAY BE RELEASED AND SHALL  
10    INCLUDE CONSIDERATION OF SUCH INFORMATION AS THE INDIVIDUAL'S NAME;  
11    DATES OF ADMISSION, DISCHARGE, BIRTH AND DEATH; CAUSE OF DEATH; A SUMMA-  
12    RY OF THE DIAGNOSIS, TREATMENT, AND SERVICES PROVIDED; EMPLOYMENT; RESI-  
13    DENTIAL AND FAMILY HISTORY; AND OTHER IDENTIFYING DATA. THE REGULATIONS  
14    SHALL SPECIFY THE CIRCUMSTANCES UNDER WHICH SUCH RECORDS SHALL BE  
15    RELEASED AND SHALL INCLUDE CONSIDERATION OF THE NEED OF A FAMILY MEMBER  
16    OTHER THAN A QUALIFIED PERSON AS DEFINED IN PARAGRAPH SIX OF SUBDIVISION  
17    (A) OF SECTION 33.16 OF THIS CHAPTER TO ACCESS INFORMATION. IN THE EVENT  
18    THE DECEASED INDIVIDUAL, OR IN THE CASE OF AN INDIVIDUAL WHO LACKED  
19    CAPACITY TO CONSENT TO THE RELEASE OF HIS OR HER RECORDS, A QUALIFIED  
20    PERSON AS DEFINED IN PARAGRAPH SIX OF SUBDIVISION (A) OF SECTION 33.16  
21    OF THIS CHAPTER, HAD PREVIOUSLY OBJECTED TO THE RELEASE OF HIS OR HER  
22    RECORDS AND SUCH OBJECTION WAS IN WRITING OR OTHERWISE DOCUMENTED IN THE  
23    INDIVIDUAL'S SERVICES PLAN AND HAD NOT BEEN WITHDRAWN, THE COMMISSIONER  
24    SHALL NOT AUTHORIZE THE RELEASE OF SUCH RECORDS.

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

LBD08788-01-1

1 S 2. Subdivision (c) of section 33.13 of the mental hygiene law is  
2 amended by adding a new paragraph 15 to read as follows:  
3 15. UPON WRITTEN REQUEST TO THE PHYSICIAN OF A FAMILY MEMBER OF A  
4 DECEASED INDIVIDUAL WHO HAS A DEMONSTRABLE MEDICAL NEED FOR SUCH INFOR-  
5 MATION AS IT IS RELEVANT TO THE FAMILY MEMBER'S OWN HEALTH CARE.  
6 S 3. This act shall take effect immediately; provided that section one  
7 of this act shall take effect on the one hundred eightieth day after it  
8 shall have become a law.