

5795

2011-2012 Regular Sessions

I N S E N A T E

June 16, 2011

Introduced by Sen. McDONALD -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the mental hygiene law, in relation to the reporting of crimes at mental hygiene facilities

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

1 Section 1. Subdivision (b) of section 7.21 of the mental hygiene law,
2 as amended by chapter 789 of the laws of 1985, is amended to read as
3 follows:
4 (b) Such director shall have the responsibility of seeing that there
5 is humane treatment of the patients at his facility and shall investi-
6 gate every case of alleged patient abuse or mistreatment. The director
7 shall notify immediately, and in any event within three working days,
8 the board of visitors of the facility and the mental hygiene legal
9 service located in the same judicial department as the hospital, school,
10 or institution of every complaint of patient abuse or mistreatment and
11 shall inform the board and the mental hygiene legal service of the
12 results of his investigation. If it appears that a crime may have been
13 committed, the director shall give notice thereof to the district attor-
14 ney or other appropriate law enforcement official as soon as possible,
15 and in any event within three working days UNLESS IT APPEARS THAT THE
16 CRIME INCLUDES AN EMPLOYEE, INTERN, VOLUNTEER, CONSULTANT, CONTRACTOR,
17 OR VISITOR AND THE ALLEGED CONDUCT CAUSED PHYSICAL INJURY OR THE PATIENT
18 WAS SUBJECT TO UNAUTHORIZED SEXUAL CONTACT, OR IF IT APPEARS THE CRIME
19 IS ENDANGERING THE WELFARE OF AN INCOMPETENT OR PHYSICALLY DISABLED
20 PERSON PURSUANT TO SECTION 260.25 OF THE PENAL LAW, OR IF THE CRIME WAS
21 ANY FELONY UNDER STATE OR FEDERAL LAW, THEN THE DISTRICT ATTORNEY OR
22 OTHER APPROPRIATE LAW ENFORCEMENT OFFICIAL MUST BE CONTACTED IMMEDIATE-
23 LY, AND IN ANY EVENT NO LATER THAN TWENTY-FOUR HOURS.

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

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1 S 2. Subdivision (b) of section 13.21 of the mental hygiene law, as
2 amended by chapter 789 of the laws of 1985, is amended to read as
3 follows:

4 (b) Such director shall have the responsibility of seeing that there
5 is humane treatment of the patients at his facility and shall investi-
6 gate every case of alleged patient abuse or mistreatment. The director
7 shall notify immediately, and in any event within three working days the
8 board of visitors of the facility and the mental hygiene legal service
9 located in the same judicial department as the hospital, school or
10 institution of every complaint of patient abuse or mistreatment and
11 shall inform the board and the mental hygiene legal service of the
12 results of his investigation. If it appears that a crime may have been
13 committed, the director shall give notice thereof to the district attor-
14 ney or other appropriate law enforcement official as soon as possible,
15 and in any event within three working days UNLESS IT APPEARS THAT THE
16 CRIME INCLUDES AN EMPLOYEE, INTERN, VOLUNTEER, CONSULTANT, CONTRACTOR,
17 OR VISITOR AND THE ALLEGED CONDUCT CAUSED PHYSICAL INJURY OR THE PATIENT
18 WAS SUBJECT TO UNAUTHORIZED SEXUAL CONTACT, OR IF IT APPEARS THE CRIME
19 IS ENDANGERING THE WELFARE OF AN INCOMPETENT OR PHYSICALLY DISABLED
20 PERSON PURSUANT TO SECTION 260.25 OF THE PENAL LAW, OR IF THE CRIME WAS
21 ANY FELONY UNDER STATE OR FEDERAL LAW, THEN THE DISTRICT ATTORNEY OR
22 OTHER APPROPRIATE LAW ENFORCEMENT OFFICIAL MUST BE CONTACTED IMMEDIATE-
23 LY, AND IN ANY EVENT NO LATER THAN TWENTY-FOUR HOURS.

24 S 3. Subdivision (b) of section 16.13 of the mental hygiene law, as
25 amended by chapter 435 of the laws of 2005, is amended to read as
26 follows:

27 (b) Making such reports as are necessary to provide notification to
28 the district attorney or other appropriate law enforcement official and
29 the commissioner or his or her authorized representative as soon as
30 possible, or in any event within three working days, if it appears that
31 a crime may have been committed against a client receiving services from
32 such provider, UNLESS IT APPEARS THAT THE CRIME INCLUDES AN EMPLOYEE,
33 INTERN, VOLUNTEER, CONSULTANT, CONTRACTOR, OR VISITOR AND THE ALLEGED
34 CONDUCT CAUSED PHYSICAL INJURY OR THE PATIENT WAS SUBJECT TO UNAUTHOR-
35 IZED SEXUAL CONTACT, OR IF IT APPEARS THE CRIME IS ENDANGERING THE
36 WELFARE OF AN INCOMPETENT OR PHYSICALLY DISABLED PERSON PURSUANT TO
37 SECTION 260.25 OF THE PENAL LAW, OR IF THE CRIME WAS ANY FELONY UNDER
38 STATE OR FEDERAL LAW, THEN THE DISTRICT ATTORNEY OR OTHER APPROPRIATE
39 LAW ENFORCEMENT OFFICIAL MUST BE CONTACTED IMMEDIATELY, AND IN ANY EVENT
40 NO LATER THAN TWENTY-FOUR HOURS and such other reports, uniform and
41 otherwise, as are required by the commissioner or his or her authorized
42 representative with respect to its operations. If there is reasonable
43 cause to believe that the crime against the client may have occurred in
44 a facility or program of any other service provider licensed, certified,
45 funded or operated by a state agency, the administrator or chief execu-
46 tive officer of such other service provider shall also be notified as
47 soon as possible, or in any event within three working days. Provided
48 however, nothing herein shall require such report to an administrator or
49 chief executive officer of a provider who is alleged to have committed
50 the crime. The commissioner may execute a memorandum of understanding
51 with the commissioners of other appropriate state agencies to ensure the
52 cost-effective coordination and cooperation of such agencies and provid-
53 ers of services with regard to the conduct of any investigation and
54 prevention of unnecessary duplicative investigations resulting from the
55 report of an alleged crime that may have occurred in a facility or
56 program of another service provider. Information obtained by the commis-

1 sioner or the commission on quality of care for the mentally disabled
2 from the records of clients receiving services shall be kept confiden-
3 tial in accordance with the provisions of this article.

4 S 4. Subdivision 2 of section 31.11 of the mental hygiene law, as
5 amended by chapter 435 of the laws of 2005, is amended to read as
6 follows:

7 2. making such reports as are necessary to provide notification to the
8 district attorney or other appropriate law enforcement official and the
9 commissioner or his or her authorized representative as soon as possi-
10 ble, or in any event within three working days, if it appears that a
11 crime may have been committed against a patient receiving services from
12 such provider, UNLESS IT APPEARS THAT THE CRIME INCLUDES AN EMPLOYEE,
13 INTERN, VOLUNTEER, CONSULTANT, CONTRACTOR, OR VISITOR AND THE ALLEGED
14 CONDUCT CAUSED PHYSICAL INJURY OR THE PATIENT WAS SUBJECT TO UNAUTHOR-
15 IZED SEXUAL CONTACT, OR IF IT APPEARS THE CRIME IS ENDANGERING THE
16 WELFARE OF AN INCOMPETENT OR PHYSICALLY DISABLED PERSON PURSUANT TO
17 SECTION 260.25 OF THE PENAL LAW, OR IF THE CRIME WAS ANY FELONY UNDER
18 STATE OR FEDERAL LAW, THEN THE DISTRICT ATTORNEY OR OTHER APPROPRIATE
19 LAW ENFORCEMENT OFFICIAL MUST BE CONTACTED IMMEDIATELY, AND IN ANY EVENT
20 NO LATER THAN TWENTY-FOUR HOURS and such other reports, uniform and
21 otherwise, as are required by the commissioner or his or her authorized
22 representative with respect to its operations. If there is reasonable
23 cause to believe that the crime against the client may have occurred in
24 a facility or program of any other service provider licensed, certified,
25 funded or operated by a state agency, the administrator or chief execu-
26 tive officer of such other service provider shall also be notified as
27 soon as possible, or in any event within three working days. Provided
28 however, nothing herein shall require such report to an administrator or
29 chief executive officer of a provider who is alleged to have committed
30 the crime. The commissioner may execute a memorandum of understanding
31 with the commissioners of other appropriate state agencies to ensure the
32 coordination and cooperation of such agencies and providers of services
33 with regard to the conduct of any investigation and prevention of unnec-
34 essary duplicative investigations resulting from the report of an
35 alleged crime that may have occurred in a facility or program of another
36 service provider. Information obtained by the commissioner or the
37 commission on quality of care for the mentally disabled from the records
38 of patients receiving services shall be kept confidential in accordance
39 with the provisions of this chapter.

40 S 5. This act shall take effect on the sixtieth day after it shall
41 have become a law.