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

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:

Section 1. Subdivision (b) of section 7.21 of the mental hygiene law, as amended by chapter 789 of the laws of 1985, is amended to read as follows:

(b) Such director shall have the responsibility of seeing that there is humane treatment of the patients at his facility and shall investigate every case of alleged patient abuse or mistreatment. The director shall notify immediately, and in any event within three working days, the board of visitors of the facility and the mental hygiene legal service located in the same judicial department as the hospital, school, or institution of every complaint of patient abuse or mistreatment and shall inform the board and the mental hygiene legal service of the results of his investigation. If it appears that a crime may have been committed, the director shall give notice thereof to the district attorney or other appropriate law enforcement official as soon as possible, and in any event within three working days UNLESS IT APPEARS THAT THE CRIME INCLUDES AN EMPLOYEE, INTERN, VOLUNTEER, CONSULTANT, CONTRACTOR, OR VISITOR AND THE ALLEGED CONDUCT CAUSED PHYSICAL INJURY OR THE PATIENT WAS SUBJECT TO UNAUTHORIZED SEXUAL CONTACT, OR IF IT APPEARS THE CRIME IS ENDANGERING THE WELFARE OF AN INCOMPETENT OR PHYSICALLY DISABLED PERSON PURSUANT TO SECTION 260.25 OF THE PENAL LAW, OR IF THE CRIME WAS ANY FELONY UNDER STATE OR FEDERAL LAW, THEN THE DISTRICT ATTORNEY OR OTHER APPROPRIATE LAW ENFORCEMENT OFFICIAL MUST BE CONTACTED IMMEDIATELY, 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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S 2. Subdivision (b) of section 13.21 of the mental hygiene law, as amended by chapter 789 of the laws of 1985, is amended to read as follows:

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

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

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

sioner or the commission on quality of care for the mentally disabled from the records of clients receiving services shall be kept confidential in accordance with the provisions of this article.

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

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

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