

8471

2011-2012 Regular Sessions

I N A S S E M B L Y

June 17, 2011

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23 INDIVIDUAL'S SERVICES PLAN AND HAD NOT BEEN WITHDRAWN, THE COMMISSIONER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.

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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.