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

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I N A S S E M B L Y

January 25, 2012

Introduced by M. of A. WEISENBERG, P. RIVERA, JAFFEE, McKEVITT, CASTRO, ORTIZ, CERETTO, SCHIMEL, STEVENSON, ROSENTHAL, RAIA, CURRAN, COLTON, GUNTHER, COOK, GRAF, TOBACCO, RA -- Multi-Sponsored by -- M. of A. CAHILL, CROUCH, DUPREY, GIBSON, GOTTFRIED, RYAN, SAYWARD, SWEENEY, THIELE -- read once and referred to the Committee on Mental Health

AN ACT to amend the mental hygiene law, in relation to developmental disabilities services offices

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

Section 1. Section 13.34 of the mental hygiene law, as added by chapter 57 of the laws of 1987, subdivisions 1, 2 and 3 as amended by chapter 542 of the laws of 2011, is amended to read as follows:

S 13.34 On-site client advocacy in [developmental centers] DEVELOPMENTAL DISABILITIES SERVICES OFFICES.

1. There shall be at each [developmental center facility] DEVELOPMENTAL DISABILITIES SERVICES OFFICE listed in section 13.17 of this article, an ombudsman who shall be an employee of the commission on quality of care and advocacy for persons with disabilities under article forty-five of this chapter and who shall be responsible for receiving and responding to any complaints regarding individual clients residing in such [facility] DEVELOPMENTAL DISABILITIES SERVICES OFFICE. The ombudsman shall have the following powers and duties:

i. to advise and consult with parents, guardians, correspondents and other interested persons with respect to any complaints, or issues related to the conditions of clients' residents;

ii. to review and attempt to remedy specific complaints with responsible and appropriate staff;

iii. where it appears that care has not been rendered as required by applicable standards to refer the complaint to the appropriate agency or body for its attention;

iv. to receive and keep confidential any complaint, information or inquiry from any source. The records of the ombudsman shall be confidential, and shall not be available to the public;

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

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v. to advise and consult with the board of visitors of the developmental center IN EACH DEVELOPMENTAL DISABILITIES SERVICES OFFICE served by the ombudsman with respect to any complaints or issues relating to conditions of client's residence and to regularly attend the meetings of such board; and

vi. to meet with the commissioner, or a representative of the commissioner, on a quarterly basis regarding systemic issues in the ombudsman's jurisdiction.

2. The president of the board of visitors of each developmental center facility IN EACH DEVELOPMENTAL DISABILITIES SERVICES OFFICE listed in section 13.17 of this article, shall, in consultation with the members of such board, recommend three persons to serve as ombudsman at the [facility] DEVELOPMENTAL DISABILITIES SERVICES OFFICE. In making such recommendation, the president shall also consider the expressed opinion of parents, guardians and correspondents of clients residing [at such facility] IN SUCH DEVELOPMENTAL DISABILITIES SERVICES OFFICE. The persons so recommended as ombudsman shall have expressed an active interest or shall have had professional knowledge in advocating for persons who are mentally disabled. The commission on quality of care and advocacy for persons with disabilities shall select one of the recommended persons as ombudsman. The ombudsman may only be removed from office for just cause. An individual appointed as ombudsman shall be an exempt class employee as defined by section forty-one of the civil service law and may be removed by the commissioner upon the recommendation of the president of the board of visitors, for cause after notice and opportunity for a hearing on the charges.

3. The ombudsman shall be afforded initial training and orientation by the commission on quality of care and advocacy for persons with disabilities.

4. The director of each developmental center IN EACH DEVELOPMENTAL DISABILITIES SERVICES OFFICE shall insure that parents, guardians and correspondents of clients and other interested persons at [the facility] SUCH DEVELOPMENTAL DISABILITIES SERVICES OFFICES under his OR HER direction are informed with respect to the existence and duties of the ombudsman established pursuant to this section by regularly and conspicuously posting the name, location and duties of the ombudsman within such [facility] DEVELOPMENTAL DISABILITIES SERVICES OFFICE.

5. The facility director shall insure that each ombudsman is given reasonable and private office quarters, including a means of record keeping, on the grounds of [the facility] SUCH DEVELOPMENTAL DISABILITIES SERVICES OFFICE under his or her direction and that adequate administrative resources are provided to the ombudsman for the purpose of carrying out the duties prescribed by this section.

6. No one shall prevent or inhibit the ombudsman from reasonably executing the powers and duties prescribed by this section.

S 2. This act shall take effect immediately.