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

2695--A

2013-2014 Regular Sessions

I N A S S E M B L Y

January 17, 2013

Introduced by M. of A. GOTTFRIED, DINOWITZ, ROSENTHAL -- read once and referred to the Committee on Health -- reported and referred to the Committee on Rules -- Rules Committee discharged, bill amended, ordered reprinted as amended and recommitted to the Committee on Rules

AN ACT to amend the social services law, in relation to adult care facilities

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

Section 1. Section 2 of the social services law is amended by adding two new subdivisions 39 and 40 to read as follows:

39. RESIDENT REPRESENTATIVE MEANS A FAMILY MEMBER OR OTHER PERSON DESIGNATED BY A RESIDENT OF AN ADULT HOME, ENRICHED HOUSING PROGRAM OR RESIDENCE FOR ADULTS IN THE ADMISSIONS AGREEMENT TO ADVOCATE ON BEHALF OF THE RESIDENT. THE ADMISSIONS AGREEMENT SHALL BE AMENDED AT ANY TIME AT THE REQUEST OF THE RESIDENT TO DESIGNATE OR CHANGE A RESIDENT REPRESENTATIVE.

40. LEGAL REPRESENTATIVE MEANS A PERSON AUTHORIZED UNDER APPLICABLE LAW TO TAKE CERTAIN ACTION ON BEHALF OF A RESIDENT OF AN ADULT HOME, ENRICHED HOUSING PROGRAM OR RESIDENCE FOR ADULTS. SUCH LEGAL REPRESENTATIVE MAY INCLUDE, BUT IS NOT LIMITED TO, LEGAL COUNSEL, A COURT-APPOINTED GUARDIAN, AN ATTORNEY-IN-FACT UNDER A POWER OF ATTORNEY, AN AGENT UNDER A HEALTH CARE PROXY OR A REPRESENTATIVE PAYEE, DEPENDING UPON THE ACTION TO BE TAKEN.

S 2. Subdivision 3 of section 461-d of the social services law is amended by adding three new paragraphs (l), (m) and (n) to read as follows:

(L) EVERY RESIDENT SHALL HAVE THE RIGHT TO BE FULLY INFORMED BY HIS OR HER PHYSICIAN, OR OTHER HEALTH OR MENTAL HEALTH PROVIDER OF HIS OR HER MEDICAL CONDITION AND PROPOSED MEDICATION, TREATMENT AND SERVICES, UNLESS MEDICALLY CONTRAINDICATED, AND TO REFUSE MEDICATION, TREATMENT OR SERVICES AFTER BEING FULLY INFORMED OF THE CONSEQUENCES OF SUCH ACTIONS;

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

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PROVIDED THAT AN OPERATOR ACTING REASONABLY AND IN GOOD FAITH, SHALL NOT BE HELD LIABLE OR PENALIZED FOR COMPLYING WITH THE REFUSAL OF SUCH MEDICATION, TREATMENT OR SERVICES BY A RESIDENT WHO HAS BEEN FULLY INFORMED OF THE CONSEQUENCES OF SUCH REFUSAL.

(M) EVERY RESIDENT SHALL HAVE THE RIGHT TO CHOOSE HIS OR HER OWN HEALTH CARE PROVIDERS FOR SERVICES NOT COVERED BY HIS OR HER ADMISSION AGREEMENT, SUBJECT TO LIMITATIONS THAT MAY APPLY AS A RESULT OF A RESIDENT'S THIRD PARTY PAYOR COVERAGE.

(N) EVERY RESIDENT SHALL HAVE THE RIGHT TO CHOOSE HIS OR HER OWN LEGAL REPRESENTATIVE AND HIS OR HER OWN RESIDENT REPRESENTATIVE.

S 3. This act shall take effect on the thirtieth day after it shall have become a law.