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I N A S S E M B L Y

May 21, 2014

Introduced by M. of A. GUNTHER -- read once and referred to the Committee on Mental Health

AN ACT to amend the mental hygiene law, in relation to compliance with operational standards by certain providers of services

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

1 Section 1. Section 31.08 of the mental hygiene law, as added by
2 section 55 of part H of chapter 59 of the laws of 2011, is amended to
3 read as follows:
4 S 31.08 Compliance with operational standards by [hospitals] CERTAIN
5 PROVIDERS OF SERVICES.
6 (a) Notwithstanding the provisions of section 31.07 of this article,
7 with respect to a [hospital] PROVIDER OF SERVICES as defined in section
8 1.03 of this chapter, which is a ward, wing, unit, or other part of a
9 hospital, as defined in article twenty-eight of the public health law,
10 which provides INPATIENT SERVICES, OUTPATIENT services OR BOTH SUCH
11 SERVICES for persons with mental illness pursuant to an operating
12 certificate issued by the commissioner, the requirements of section
13 31.07 of this article may be deemed to be met if such hospital has been
14 accredited by The Joint Commission, or any other hospital accrediting
15 organization to which the Centers for Medicare and Medicaid Services has
16 granted deeming status, and which the commissioner shall have determined
17 has accrediting standards sufficient to assure the commissioner that
18 hospitals so accredited are in compliance with the provisions of this
19 chapter and applicable laws, rules and regulations in regard to services
20 provided at such wing, ward, unit or other part of a hospital. Such
21 accreditation shall have the same legal effect as a determination by the
22 commissioner under section 31.07 of this article that the hospital is in
23 compliance with such provisions. The commissioner may exempt any such
24 hospital from the annual inspection and visitation requirements estab-
25 lished in section 31.07 of this article, provided that:
26 1. such hospital has a history of compliance with such provisions of
27 law, rules and regulations and a record of providing good quality care,
28 as determined by the commissioner;

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

LBD15127-01-4

1 2. a copy of the survey report and the certificate of accreditation of
2 The Joint Commission or other approved accrediting organization is
3 submitted by the accrediting body or the hospital to the commissioner,
4 within seven days of issuance to the hospital;

5 3. The Joint Commission or other accrediting organization has agreed
6 to and does evaluate, as part of its accreditation survey, any minimal
7 operational standards established by the commissioner which are in addi-
8 tion to the minimal operational standards of accreditation of The Joint
9 Commission or other accrediting organization; and

10 4. there are no constraints placed upon access by the commissioner to
11 The Joint Commission or other approved accrediting organization survey
12 reports, plans of correction, interim self-evaluation reports, notices
13 of noncompliance, progress reports on correction of areas of noncompli-
14 ance, or any other related reports, information, communications or mate-
15 rials regarding such hospital.

16 (b) Any hospital AS DEFINED IN ARTICLE TWENTY-EIGHT OF THE PUBLIC
17 HEALTH LAW, WHICH IS governed by the provisions of subdivision (a) of
18 this section shall at all times be subject to inspection or visitation
19 by the commissioner to determine compliance with applicable law, regu-
20 lations, standards or conditions as deemed necessary by the commission-
21 er. Any such hospital shall be subject to the full range of licensing
22 enforcement authority of the commissioner.

23 (c) Any hospital AS DEFINED IN ARTICLE TWENTY-EIGHT OF THE PUBLIC
24 HEALTH LAW, WHICH IS governed by the provisions of subdivision (a) of
25 this section shall notify the commissioner immediately upon receipt of
26 notice by The Joint Commission or other approved accrediting organiza-
27 tion, or any communication the hospital may receive that such organiza-
28 tion will be recommending that such hospital not be accredited, not have
29 its accreditation renewed, or have its accreditation terminated, or upon
30 receipt of notice or other communication from the Centers for Medicare
31 and Medicaid Services regarding a determination that the hospital will
32 be terminated from participation in the Medicare program because it is
33 not in compliance with one or more conditions of participation in such
34 program, or has deficiencies that either individually or in combination
35 jeopardize the health and safety of patients or are of such character as
36 to seriously limit the provider's capacity to render adequate care.

37 S 2. Section 32.14 of the mental hygiene law, as added by section 56
38 of part H of chapter 59 of the laws of 2011, is amended to read as
39 follows:

40 S 32.14 Compliance with operational standards by CERTAIN providers of
41 services [in hospitals].

42 (a) Notwithstanding the provisions of section 32.13 of this article,
43 with respect to a provider of services as defined in section 1.03 of
44 this chapter that occupies a ward, wing, unit, or other part of a hospi-
45 tal, as defined in article twenty-eight of the public health law, which
46 provides INPATIENT SERVICES, OUTPATIENT services OR BOTH SUCH SERVICES
47 for persons with mental disabilities pursuant to an operating certif-
48 icate issued by the commissioner, the requirements of section 32.13 of
49 this article may be deemed to be met if such hospital has been accred-
50 ited by The Joint Commission, or any other accrediting organization to
51 which the Centers for Medicare and Medicaid Services has granted deeming
52 status, and which the commissioner shall have determined has accrediting
53 standards sufficient to assure the commissioner that providers of
54 services occupying a ward, wing, unit or other part of such hospital so
55 accredited are in compliance with the provisions of this chapter and
56 applicable laws, rules and regulations in regard to services provided at

1 such ward, wing, unit or other part of a hospital. Such accreditation
2 shall have the same legal effect as a determination by the commissioner
3 under section 32.13 of this article that the provider of services is in
4 compliance with such provisions. The commissioner may exempt any such
5 provider of services, in regard to services provided at such ward, wing,
6 unit or other part of a hospital, from the annual inspection and visita-
7 tion requirements established in section 32.13 of this article, provided
8 that:

9 1. such provider of services has a history of compliance with such
10 provisions of law, rules and regulations and a record of providing good
11 quality care, as determined by the commissioner;

12 2. a copy of the survey report and the certificate of accreditation of
13 The Joint Commission or other approved accrediting organization is
14 submitted by the accrediting body or the provider of services to the
15 commissioner, within seven days of issuance to such provider of
16 services;

17 3. The Joint Commission or other approved accrediting organization has
18 agreed to and does evaluate, as part of its accreditation survey, any
19 minimal operational standards established by the commissioner which are
20 in addition to the minimal operational standards of accreditation of The
21 Joint Commission or other accrediting organization; and

22 4. there are no constraints placed upon access by the commissioner to
23 The Joint Commission or other approved accrediting organization survey
24 reports, plans of correction, interim self-evaluation reports, notices
25 of noncompliance, progress reports on correction of areas of noncompli-
26 ance, or any other related reports, information, communications or mate-
27 rials regarding such provider of services.

28 (b) Any provider of services governed by the provisions of subdivision
29 (a) of this section shall at all times be subject to inspection or visi-
30 tation by the commissioner to determine compliance with applicable law,
31 regulations, standards or conditions as deemed necessary by the commis-
32 sioner. Any such provider of services shall be subject to the full range
33 of certification enforcement authority of the commissioner.

34 (c) Any provider of services governed by the provisions of subdivision
35 (a) of this section shall notify the commissioner immediately upon
36 receipt of notice by The Joint Commission or other approved accrediting
37 organization, or any communication the provider of services may receive
38 that such organization will be recommending that such provider of
39 services not be accredited, not have its accreditation renewed, or have
40 its accreditation terminated, or upon receipt of notice or other commu-
41 nication from the Centers for Medicare and Medicaid Services regarding a
42 determination that the provider of services will be terminated from
43 participation in the Medicare or Medicaid program because it is not in
44 compliance with one or more conditions of participation in such program,
45 or has deficiencies that either individually or in combination jeopard-
46 ize the health and safety of patients or are of such character as to
47 seriously limit the provider's capacity to render adequate care.

48 S 3. This act shall take effect immediately.