

9768--A

Cal. No. 885

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 -- reported from committee, advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the mental hygiene law, in relation to compliance with operational standards by general hospitals

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

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

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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 GENERAL hospital AS DEFINED IN ARTICLE TWENTY-EIGHT OF THE
17 PUBLIC HEALTH LAW, WHICH IS governed by the provisions of subdivision
18 (a) of this section shall at all times be subject to inspection or visi-
19 tation by the commissioner to determine compliance with applicable law,
20 regulations, standards or conditions as deemed necessary by the commis-
21 sioner. Any such hospital shall be subject to the full range of licens-
22 ing enforcement authority of the commissioner.

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

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

41 S 32.14 Compliance with operational standards by providers of services
42 in GENERAL hospitals.

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

lations in regard to services provided at such [ward, wing, unit or other part of a] hospital. Such accreditation shall have the same legal effect as a determination by the commissioner under section 32.13 of this article that the provider of services is in compliance with such provisions. The commissioner may exempt any such provider of services[, in regard to services provided at such ward, wing, unit or other part of a hospital,] from the annual inspection and visitation requirements established in section 32.13 of this article, provided that:

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

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

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

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

(b) Any provider of services governed by the provisions of subdivision (a) of this section shall at all times be subject to inspection or visitation by the commissioner to determine compliance with applicable law, regulations, standards or conditions as deemed necessary by the commissioner. Any such provider of services shall be subject to the full range of certification enforcement authority of the commissioner.

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

S 3. This act shall take effect immediately.