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

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:

Section 1. Section 31.08 of the mental hygiene law, as added by section 55 of part H of chapter 59 of the laws of 2011, is amended to read as follows:

S 31.08 Compliance with operational standards by [hospitals] CERTAIN PROVIDERS OF SERVICES.

(a) Notwithstanding the provisions of section 31.07 of this article, with respect to a [hospital] PROVIDER OF SERVICES as defined in section 1.03 of this chapter, which is a ward, wing, unit, or other part of a hospital, as defined in article twenty-eight of the public health law, which provides INPATIENT SERVICES, OUTPATIENT services OR BOTH SUCH SERVICES for persons with mental illness pursuant to an operating certificate issued by the commissioner, the requirements of section 31.07 of this article may be deemed to be met if such hospital has been accredited by The Joint Commission, or any other hospital accrediting organization to which the Centers for Medicare and Medicaid Services has granted deeming status, and which the commissioner shall have determined has accrediting standards sufficient to assure the commissioner that hospitals so accredited are in compliance with the provisions of this chapter and applicable laws, rules and regulations in regard to services provided at such wing, ward, unit or other part of a hospital. Such accreditation shall have the same legal effect as a determination by the commissioner under section 31.07 of this article that the hospital is in compliance with such provisions. The commissioner may exempt any such hospital from the annual inspection and visitation requirements established in section 31.07 of this article, provided that:

1. such hospital 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;

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

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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 hospital to the commissioner, within seven days of issuance to the hospital;

3. The Joint Commission or other 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 hospital.

(b) Any hospital AS DEFINED IN ARTICLE TWENTY-EIGHT OF THE PUBLIC HEALTH LAW, WHICH IS 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 hospital shall be subject to the full range of licensing enforcement authority of the commissioner.

(c) Any hospital AS DEFINED IN ARTICLE TWENTY-EIGHT OF THE PUBLIC HEALTH LAW, WHICH IS 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 hospital may receive that such organization will be recommending that such hospital 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 hospital will be terminated from participation in the Medicare 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 2. Section 32.14 of the mental hygiene law, as added by section 56 of part H of chapter 59 of the laws of 2011, is amended to read as follows:

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

(a) Notwithstanding the provisions of section 32.13 of this article, with respect to a provider of services as defined in section 1.03 of this chapter that occupies a ward, wing, unit, or other part of a hospital, as defined in article twenty-eight of the public health law, which provides INPATIENT SERVICES, OUTPATIENT services OR BOTH SUCH SERVICES for persons with mental disabilities pursuant to an operating certificate issued by the commissioner, the requirements of section 32.13 of this article may be deemed to be met if such hospital has been accredited by The Joint Commission, or any other accrediting organization to which the Centers for Medicare and Medicaid Services has granted deeming status, and which the commissioner shall have determined has accrediting standards sufficient to assure the commissioner that providers of services occupying a ward, wing, unit or other part of such hospital so accredited are in compliance with the provisions of this chapter and applicable laws, rules and regulations 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.