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I N   S E N A T E

April 29, 2016

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Introduced by Sen. CARLUCCI -- read twice and ordered printed, and when printed to be committed to the Committee on Mental Health and Developmental Disabilities

AN ACT to amend the mental hygiene law, in relation to imposing a duty to protect upon mental health practitioners

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

1     Section 1. The mental hygiene law is amended by adding a new section  
2     9.42 to read as follows:  
3     S 9.42 EFFORTS BY MENTAL HEALTH PRACTITIONERS TO REDUCE OR ELIMINATE  
4         RISKS OF HARM.  
5     (A) FOR PURPOSES OF THIS SECTION, THE TERM "MENTAL HEALTH PRACTITION-  
6     ER" SHALL INCLUDE ANY NEW YORK STATE LICENSED MENTAL HEALTH PRACTITION-  
7     ER, INCLUDING PHYSICIANS, PSYCHOLOGISTS, REGISTERED PSYCHIATRIC NURSES  
8     AND NURSE PRACTITIONERS, AND LICENSED CLINICAL SOCIAL WORKERS.  
9     (B) NOTWITHSTANDING ANY OTHER LAW TO THE CONTRARY, WHEN A PERSON TO  
10    WHOM A MENTAL HEALTH PRACTITIONER IS CURRENTLY PROVIDING TREATMENT  
11    DIRECTLY COMMUNICATES A THREAT OF SERIOUS, IMMINENT HARM TO SELF OR  
12    AGAINST A READILY IDENTIFIABLE PERSON OR PERSONS, AND THE THREAT  
13    INCLUDES BOTH A SERIOUS INTENT TO ACT AND THE ABILITY TO CARRY OUT THE  
14    THREAT, THE MENTAL HEALTH PRACTITIONER SHALL BE REQUIRED TO MAKE TIMELY  
15    AND REASONABLE EFFORTS TO REDUCE OR ELIMINATE THE RISK OF HARM. FOR  
16    PURPOSES OF THIS SECTION, REASONABLE EFFORTS MAY INCLUDE, BUT ARE NOT  
17    LIMITED TO: MODIFYING ASPECTS OF THE TREATMENT IN ORDER TO REDUCE OR  
18    ELIMINATE THE RISK OF HARM; INITIATING PROCEDURES FOR HOSPITALIZATION;  
19    NOTIFYING THE INTENDED VICTIM OR VICTIMS; OR NOTIFYING LAW ENFORCEMENT  
20    OFFICIALS.  
21    (C) WHENEVER A MENTAL HEALTH PRACTITIONER IS REQUIRED TO MAKE TIMELY  
22    AND REASONABLE EFFORTS PURSUANT TO SUBDIVISION (B) OF THIS SECTION, HE  
23    OR SHE SHALL ALSO COMPLY WITH THE PROVISIONS OF SECTION 9.46 OF THIS  
24    ARTICLE.  
25    (D) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO REQUIRE A MENTAL  
26    HEALTH PRACTITIONER TO TAKE ANY ACTION WHICH, IN THE EXERCISE OF REASON-

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

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1 ABLE PROFESSIONAL JUDGMENT, WOULD ENDANGER SUCH MENTAL HEALTH PRACTI-  
2 TIONER OR INCREASE THE DANGER TO A POTENTIAL VICTIM OR VICTIMS.

3 (E) THE DECISION OF A MENTAL HEALTH PRACTITIONER TO DISCLOSE OR NOT TO  
4 DISCLOSE THE PATIENT'S OR CLIENT'S CONFIDENTIAL TREATMENT INFORMATION TO  
5 OTHERS IN ACCORDANCE WITH THIS SECTION, WHEN MADE REASONABLY AND IN GOOD  
6 FAITH, SHALL NOT BE THE BASIS FOR ANY CIVIL OR CRIMINAL LIABILITY OF  
7 SUCH MENTAL HEALTH PRACTITIONER, INCLUDING LIABILITY PURSUANT TO UNPRO-  
8 FESSIONAL CONDUCT AS DESCRIBED IN THE RULES OF THE BOARD OF REGENTS OF  
9 NEW YORK STATE, PART 29.

10 S 2. This act shall take effect immediately.