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

7424

I N S E N A T E

April 29, 2016

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:

Section 1. The mental hygiene law is amended by adding a new section 9.42 to read as follows:

S 9.42 EFFORTS BY MENTAL HEALTH PRACTITIONERS TO REDUCE OR ELIMINATE RISKS OF HARM.

(A) FOR PURPOSES OF THIS SECTION, THE TERM "MENTAL HEALTH PRACTITIONER" SHALL INCLUDE ANY NEW YORK STATE LICENSED MENTAL HEALTH PRACTITIONER, INCLUDING PHYSICIANS, PSYCHOLOGISTS, REGISTERED PSYCHIATRIC NURSES AND NURSE PRACTITIONERS, AND LICENSED CLINICAL SOCIAL WORKERS.

(B) NOTWITHSTANDING ANY OTHER LAW TO THE CONTRARY, WHEN A PERSON TO WHOM A MENTAL HEALTH PRACTITIONER IS CURRENTLY PROVIDING TREATMENT DIRECTLY COMMUNICATES A THREAT OF SERIOUS, IMMINENT HARM TO SELF OR AGAINST A READILY IDENTIFIABLE PERSON OR PERSONS, AND THE THREAT INCLUDES BOTH A SERIOUS INTENT TO ACT AND THE ABILITY TO CARRY OUT THE THREAT, THE MENTAL HEALTH PRACTITIONER SHALL BE REQUIRED TO MAKE TIMELY AND REASONABLE EFFORTS TO REDUCE OR ELIMINATE THE RISK OF HARM. FOR PURPOSES OF THIS SECTION, REASONABLE EFFORTS MAY INCLUDE, BUT ARE NOT LIMITED TO: MODIFYING ASPECTS OF THE TREATMENT IN ORDER TO REDUCE OR ELIMINATE THE RISK OF HARM; INITIATING PROCEDURES FOR HOSPITALIZATION; NOTIFYING THE INTENDED VICTIM OR VICTIMS; OR NOTIFYING LAW ENFORCEMENT OFFICIALS.

(C) WHENEVER A MENTAL HEALTH PRACTITIONER IS REQUIRED TO MAKE TIMELY AND REASONABLE EFFORTS PURSUANT TO SUBDIVISION (B) OF THIS SECTION, HE OR SHE SHALL ALSO COMPLY WITH THE PROVISIONS OF SECTION 9.46 OF THIS ARTICLE.

(D) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO REQUIRE A MENTAL 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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ABLE PROFESSIONAL JUDGMENT, WOULD ENDANGER SUCH MENTAL HEALTH PRACTITIONER OR INCREASE THE DANGER TO A POTENTIAL VICTIM OR VICTIMS.

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

S 2. This act shall take effect immediately.