

1090

2015-2016 Regular Sessions

I N A S S E M B L Y

January 8, 2015

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

AN ACT to amend the mental hygiene law, in relation to authorizing the
release of certain records of deceased residents of OPWDD operated or
certified facilities to family members upon written request

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

1 Section 1. Subdivision (f) of section 13.09 of the mental hygiene law
2 is relettered subdivision (h) and a new subdivision (f) is added to read
3 as follows:

4 (F) NOTWITHSTANDING THE PROVISIONS OF SECTIONS 33.13 AND 33.16 OF THIS
5 CHAPTER, THE COMMISSIONER SHALL PROMULGATE REGULATIONS TO COVER THE
6 RELEASE OF CERTAIN RECORDS PERTAINING TO A DECEASED INDIVIDUAL WHO
7 RESIDED IN A FACILITY OPERATED OR CERTIFIED BY THE OFFICE. THE REGU-
8 LATIONS SHALL SPECIFY WHICH INFORMATION SHALL BE RELEASED AND SHALL
9 INCLUDE SUCH RECORDS AS THE INDIVIDUAL'S NAME; DATES OF ADMISSION,
10 DISCHARGE, BIRTH AND DEATH; CAUSE OF DEATH; TREATMENT, AND SERVICES
11 PROVIDED; EMPLOYMENT; AND RESIDENTIAL HISTORY TO FAMILY MEMBERS, UNLESS
12 THE DECEASED INDIVIDUAL, OR IN THE CASE OF AN INDIVIDUAL WHO LACKED
13 CAPACITY TO CONSENT TO THE RELEASE OF HIS OR HER RECORDS, A QUALIFIED
14 PERSON AS DEFINED IN PARAGRAPH SIX OF SUBDIVISION (A) OF SECTION 33.16
15 OF THIS CHAPTER, HAD PREVIOUSLY OBJECTED TO THE RELEASE OF HIS OR HER
16 RECORDS AND SUCH OBJECTION WAS IN WRITING OR OTHERWISE DOCUMENTED IN THE
17 INDIVIDUAL'S SERVICES PLAN AND HAD NOT BEEN WITHDRAWN, THE COMMISSIONER
18 SHALL NOT AUTHORIZE THE RELEASE OF SUCH RECORDS.

19 S 2. Subdivision (c) of section 33.13 of the mental hygiene law is
20 amended by adding a new paragraph 17 to read as follows:

21 17. UPON WRITTEN REQUEST BY THE PHYSICIAN OF A FAMILY MEMBER OF AN
22 INDIVIDUAL, WHO HAS A DEMONSTRABLE MEDICAL NEED FOR SUCH INFORMATION AS
23 IT IS RELEVANT TO THE FAMILY MEMBER'S OWN HEALTH CARE. THE COMMISSIONER

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

LBD04385-01-5

1 SHALL PROMULGATE REGULATIONS TO DEFINE FAMILY MEMBER FOR PURPOSES OF
2 THIS SECTION.

3 S 3. This act shall take effect immediately; provided that section one
4 of this act shall take effect on the one hundred eightieth day after it
5 shall have become a law.