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

3650--A

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2015-2016 Regular Sessions

I N S E N A T E

February 13, 2015

Introduced by Sens. ORTT, CARLUCCI -- read twice and ordered printed, and when printed to be committed to the Committee on Mental Health and Developmental Disabilities -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the mental hygiene law, in relation to involuntary admittance

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

Section 1. Section 9.27 of the mental hygiene law is amended by adding a new subdivision (j) to read as follows:

(J) WHEN THERE IS AN INITIAL INVOLUNTARY ADMITTANCE TO AN IN-PATIENT FACILITY PURSUANT TO THIS SECTION, THE PERSON'S OR THE PERSON'S GUARDIAN'S CHOICE OF FACILITY SHALL BE RESPECTED; PROVIDED, HOWEVER, SUCH CHOICE SHALL BE SUBJECT TO THE FACILITY'S ABILITY TO PROVIDE THE PERSON'S NECESSARY LEVEL OF CARE AND THE AVAILABILITY OF A BED WITHIN A REASONABLE TIME PERIOD, AND PROVIDED THAT HONORING SUCH CHOICE WOULD NOT JEOPARDIZE THE HEALTH AND SAFETY OF THE INDIVIDUAL IN THE EXAMINING PHYSICIAN'S PROFESSIONAL JUDGMENT TAKING INTO ACCOUNT MITIGATING FACTORS INCLUDING BUT NOT LIMITED TO THE INDIVIDUAL'S ANTICIPATED DURATION OF STAY, AND LEVEL OF MEDICAL EMERGENCY.

S 2. Section 9.39 of the mental hygiene law is amended by adding a new subdivision (d) to read as follows:

(D) WHEN THERE IS AN INITIAL INVOLUNTARY ADMITTANCE TO AN IN-PATIENT FACILITY PURSUANT TO SECTION 9.27 OF THIS ARTICLE, THE PERSON'S OR THE PERSON'S GUARDIAN'S CHOICE OF FACILITY SHALL BE RESPECTED; PROVIDED, HOWEVER, SUCH CHOICE SHALL BE SUBJECT TO THE FACILITY'S ABILITY TO PROVIDE THE PERSON'S NECESSARY LEVEL OF CARE AND THE AVAILABILITY OF A BED WITHIN A REASONABLE TIME PERIOD, AND PROVIDED THAT HONORING SUCH CHOICE WOULD NOT JEOPARDIZE THE HEALTH AND SAFETY OF THE INDIVIDUAL IN

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

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THE EXAMINING PHYSICIAN'S PROFESSIONAL JUDGMENT TAKING INTO ACCOUNT MITIGATING FACTORS INCLUDING BUT NOT LIMITED TO THE INDIVIDUAL'S ANTICIPATED DURATION OF STAY, AND LEVEL OF MEDICAL EMERGENCY.

S 3. This act shall take effect on the one hundred twentieth day after it shall have become a law; provided, however, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.