

# STATE OF NEW YORK

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2933--A

Cal. No. 242

2017-2018 Regular Sessions

## IN SENATE

January 18, 2017

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Introduced by Sen. GALLIVAN -- 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, passed by Senate and delivered to the Assembly, recalled, vote reconsidered, restored to 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 adding adult siblings to those who may have access to clinical records

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraph 6 of subdivision (a) of section 33.16 of the  
2 mental hygiene law, as amended by chapter 37 of the laws of 2011, is  
3 amended to read as follows:

4 6. "Qualified person" means any properly identified patient or client,  
5 guardian of a person with a developmental disability appointed pursuant  
6 to article seventeen-A of the surrogate's court procedure act, or  
7 committee for an incompetent appointed pursuant to this chapter or a  
8 parent of an infant, or a guardian of an infant appointed pursuant to  
9 article seventeen of the surrogate's court procedure act or other legal-  
10 ly appointed guardian of an infant who may be entitled to request access  
11 to a clinical record pursuant to paragraph three of subdivision (b) of  
12 this section, or a parent, spouse ~~[or]~~, adult child, or adult sibling of  
13 an adult patient or client who may be entitled to request access to a  
14 clinical record pursuant to paragraph four of subdivision (b) of this  
15 section.

16 § 2. Paragraph 4 of subdivision (b) of section 33.16 of the mental  
17 hygiene law, as added by chapter 233 of the laws of 1991, is amended to  
18 read as follows:

19 4. Subject to the provisions of subdivision (c) of this section and  
20 except as otherwise required by law, upon the written request of a

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

LBD00244-04-7

1 parent of an adult patient or client, spouse [~~or~~], adult child, or adult  
2 sibling of a patient or client, a facility shall provide an opportunity,  
3 within ten days, for such parent, spouse [~~or~~], adult child or adult  
4 sibling to inspect any clinical record maintained or possessed by such  
5 facility concerning the care and treatment of such patient or client for  
6 which the parent, spouse [~~or~~], adult child or adult sibling is author-  
7 ized pursuant to law, rule or regulation to provide consent and has  
8 consented or is being requested to provide such consent; provided,  
9 however, that such parent, spouse [~~or~~], adult child or adult sibling  
10 shall not be entitled to inspect or make copies of any clinical record  
11 concerning the care and treatment of the patient or client where the  
12 treating practitioner determines that access to the information  
13 requested by such parent, spouse [~~or~~], adult child or adult sibling  
14 would have a detrimental effect on the practitioner's professional  
15 relationship with the patient or client, or on the care and treatment of  
16 the patient or client or on the relationship of the patient or client  
17 with his or her parents, spouse [~~or~~], adult child or adult sibling. Any  
18 inspection of a clinical record made pursuant to this paragraph shall be  
19 limited to that information which is relevant in light of the reason for  
20 such inspection.

21 § 3. This act shall take effect immediately.