

STATE OF NEW YORK

685--A

Cal. No. 170

2017-2018 Regular Sessions

IN SENATE

January 4, 2017

Introduced by Sen. ORTT -- read twice and ordered printed, and when printed to be committed to the Committee on Mental Health and Developmental Disabilities -- recommitted to the Committee on Mental Health and Developmental Disabilities in accordance with Senate Rule 6, sec. 8 -- 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 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 Assembly, do enact as follows:

1 Section 1. Subdivision (f) of section 13.09 of the mental hygiene law
2 is relettered subdivision (i) 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 in accordance
6 with the federal health insurance portability and accountability act of
7 1996, and any regulations promulgated thereunder, to cover the release
8 of certain records pertaining to a deceased individual who resided in a
9 facility operated or certified by the office. The regulations shall
10 specify which information shall be released and shall include such
11 records as the individual's name; dates of admission, discharge, birth
12 and death; cause of death; treatment, and services provided; employment;
13 and residential history to family members, unless the deceased individ-
14 ual, or in the case of an individual who lacked capacity to consent to
15 the release of his or her records, a qualified person as defined in
16 paragraph six of subdivision (a) of section 33.16 of this chapter, had
17 previously objected to the release of his or her records and such
18 objection was in writing or otherwise documented in the individual's

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

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1 services plan and had not been withdrawn, the commissioner shall not
2 authorize the release of such records.

3 § 2. Subdivision (c) of section 33.13 of the mental hygiene law is
4 amended by adding a new paragraph 18 to read as follows:

5 18. upon written request by the physician of a family member of an
6 individual, who has a demonstrable medical need for such information as
7 it is relevant to the family member's own health care. The commissioner
8 shall promulgate regulations to define family member for purposes of
9 this section.

10 § 3. This act shall take effect immediately; provided that section one
11 of this act shall take effect on the one hundred eightieth day after it
12 shall have become a law.