STATE OF NEW YORK

1157

2017-2018 Regular Sessions

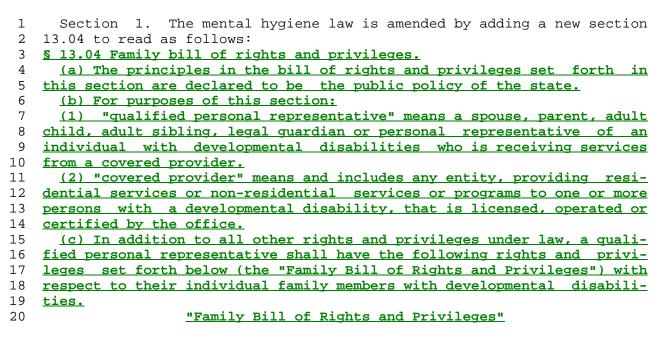
IN SENATE

January 6, 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

AN ACT to amend the mental hygiene law, in relation to creating a bill of rights for family and guardians of people with developmental disabilities that reside in residences certified or approved by the office for people with developmental disabilities

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



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

LBD03323-01-7

S. 1157

1	A qualified personal representative shall have the following general-
	ly-described rights and privileges concerning a family member with
2	
3	developmental disabilities receiving services; to:
4	Be treated with consideration and respect.
5	Participate in and provide meaningful input into the development,
6	review and revision of the individual's care plan, including placement
7	or transfer within or between facilities.
8	Access information regarding the individual's health and safety,
9	consistent with federal and state confidentiality protections.
10	Be notified within a reasonable time of any event that directly
11	impacts the individual's health and safety, consistent with federal and
12	state confidentiality protections.
13	Access information necessary for a qualified personal representative
14	to make informed decisions, when appropriate, about the individual's
15	care and care coordination.
16	Financial transparency, including access to budgetary information of
17	the facility and individual expenses, consistent with federal and state
18	confidentiality protections.
19	Visit unannounced.
20	Be informed of staffing changes.
21	Access a facility's fire and other safety plans and any information
22	regarding a facility's passage or failure of any safety drills conducted
23	by the facility and the office.
24	Access a facility's food menus.
25	Choose a care coordinator.
26	Consult and be represented by an independent advocate, mental hygiene
27	legal services or an attorney; and if services are provided under Medi-
28	caid managed care, to have a Medicaid ombudsman.
29	Be informed in writing in plain language with up-to-date information
30	about:
31	(i) the system of care and services for persons with developmental
32	disabilities, including but not limited to managed care;
33	(ii) the laws, rules, and regulations applicable to the rights of
34	family members and other personal representatives to participate in
35	decisions about the individual's life and to access information,
36	<u>records, reports, care plans, etc.; and</u>
37	(iii) the procedures to challenge any decision affecting the individ-
38	ual.
39	Nothing in this bill of rights and privileges shall limit any other
40	right or privilege under law. If any residential facility or non-resi-
41	dential service provider fails to afford these rights and privileges,
42	assistance may be sought from the facility or provider, or the office.
43	(d) A qualified personal representative may, in accordance with law
44	and appropriate due process, not exercise a right or privilege described
45	in this section if the subject individual receiving services, who is
46	competent to do so, specifically affirms, in a reasonably contemporane-
47	ous manner, that such identified qualified personal representative
48	shall not be afforded such specific right or privilege. Such determi-
49	nation by the subject individual shall be described and recorded in
50	writing in the case file by appropriate staff of the facility or service
51	provider and a statement of reasons for such denial shall be provided to
52	the qualified personal representative.
53	(e) The statement of rights and privileges set forth in this section
54	is intended to be a quide to the rights and privileges of qualified
55	personal representatives of individuals with developmental disabilities
56	receiving residential and non-residential services.

S. 1157

1	(f) Nothing in this section shall be read to limit any other rights or
2	privileges that qualified personal representatives may have or limit any
3	action or relief otherwise permitted by law. Nothing in this subdivi-
4	sion shall alter or affect any right of appeal, formal or otherwise,
5	such personal representative may have concerning the denial of any such
б	right.
7	(g) Each covered provider shall conspicuously post a copy of the bill
8	of rights and privileges in a public place at each of the covered
9	provider's facilities.
10	(h) The commissioner shall:
11	(1) Post a copy of the bill of rights and privileges on the office's
12	website;
13	(2) Make copies of the bill of rights and privileges in English, and
14	the top six languages other than English spoken in the state (according
15	to the latest available data from the U.S. bureau of census) available
16	to the public and every provider;
17	(3) Establish a public education program designed to disseminate
18	information regarding implementation of this section;
19	(4) Include specific information detailing the efforts of the commis-
20	sioner to effectuate this section in the statewide comprehensive plan
21	required pursuant to section 5.07 of this chapter;
22	(5) Adopt all rules and regulations necessary to effectuate this
23	section.
24	§ 2. This act shall take effect immediately.