

# STATE OF NEW YORK

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685--B

Cal. No. 170

2017-2018 Regular Sessions

## IN SENATE

January 4, 2017

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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 -- 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 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

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

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1 previously objected to the release of his or her records and such  
2 objection was in writing or otherwise documented in the individual's  
3 services plan and had not been withdrawn, the commissioner shall not  
4 authorize the release of such records.

5 § 2. This act shall take effect on the one hundred eightieth day after  
6 it shall have become a law.