STATE OF NEW YORK

1202

2019-2020 Regular Sessions

IN ASSEMBLY

January 14, 2019

Introduced by M. of A. GOTTFRIED, PAULIN, GALEF, JAFFEE, COLTON, CAHILL, ENGLEBRIGHT, ABINANTI, HYNDMAN, STECK, D'URSO -- Multi-Sponsored by -- M. of A. CARROLL, DINOWITZ, GLICK, LIFTON, PERRY -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to remedies available in private actions by patients of residential health care facilities

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

Section 1. Subdivision 4 of section 2801-d of the public health law, as amended by chapter 61 of the laws of 2009, is amended and a new subdivision 4-a is added to read as follows:

4. Any damages recoverable pursuant to this section, including minimum damages as provided by subdivision two of this section, may be recovered in any action which a court may authorize to be brought as a class action pursuant to article nine of the civil practice law and rules. The remedies provided in this section are in addition to and cumulative with any other remedies available to a patient, **the patient's legal representative, or the patient's estate** at law or in equity or by administrative proceedings, including tort causes of action, and may be granted regardless of whether such other remedies are available or are sought. A violation of subdivision three of section twenty-eight hundred three-c of this article is not a prerequisite for a claim under this section. Exhaustion of any available administrative remedies shall not be required prior to commencement of suit hereunder.

4-a. Under this section, any action that may be brought, and any relief that may be sought or received, may be brought, sought or received in an appropriate case by the patient's legal representative or the patient's estate.

§ 2. This act shall take effect immediately and apply to any actions filed on and after such effective date.

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

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