STATE OF NEW YORK

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3165

2019-2020 Regular Sessions

IN ASSEMBLY

January 28, 2019
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Introduced by M. of A. ORTIZ -- read once and referred to the Committee
  on Mental Health

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 Assem-
  bly, 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*
19 *services plan and had not been withdrawn, the commissioner shall not*
20 *authorize the release of such records.*
21   § 2. This act shall take effect on the one hundred eightieth day after
22 it shall have become a law.

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