

# STATE OF NEW YORK

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7263

2019-2020 Regular Sessions

## IN ASSEMBLY

April 18, 2019

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Introduced by M. of A. GUNTHER -- read once and referred to the Committee on Mental Health

AN ACT to amend the social services law, in relation to the protection of people with special needs regarding controlled substances and medical marihuana

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

1 Section 1. Paragraph (g) of subdivision 1 of section 488 of the social  
2 services law, as added by section 1 of part B of chapter 501 of the laws  
3 of 2012, is amended to read as follows:

4 (g) "Unlawful use or administration of a controlled substance," which  
5 shall mean any administration by a custodian to a service recipient of:  
6 a controlled substance as defined by article thirty-three of the public  
7 health law, without a prescription; or other medication not approved for  
8 any use by the federal food and drug administration, except for the  
9 administration of medical marihuana when such administration is in  
10 accordance with article thirty-three of the public health law, any regu-  
11 lations promulgated thereunder, and all rules, regulations, policies,  
12 and procedures of the state oversight agency or agencies governing such  
13 custodians. It also shall include a custodian unlawfully using or  
14 distributing a controlled substance as defined by article thirty-three  
15 of the public health law, at the workplace or while on duty.

16 § 2. Paragraphs (e) and (f) of subdivision 1 of section 490 of the  
17 social services law, as added by section 1 of part B of chapter 501 of  
18 the laws of 2012, are amended and a new paragraph (g) is added to read  
19 as follows:

20 (e) information regarding individual reportable incidents, incident  
21 patterns and trends, and patterns and trends in the reporting and  
22 response to reportable incidents is shared, consistent with applicable  
23 law, with the justice center, in the form and manner required by the  
24 justice center and, for facilities or provider agencies that are not

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

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1 state operated, with the applicable state oversight agency which shall  
2 provide such information to the justice center; [~~and~~]

3 (f) incident review committees are established; provided, however,  
4 that the regulations may authorize an exemption from this requirement,  
5 when appropriate, based on the size of the facility or provider agency  
6 or other relevant factors. Such committees shall be composed of members  
7 of the governing body of the facility or provider agency and other  
8 persons identified by the director of the facility or provider agency,  
9 including some members of the following: direct support staff, licensed  
10 health care practitioners, service recipients and representatives of  
11 family, consumer and other advocacy organizations, but not the director  
12 of the facility or provider agency. Such committee shall meet regularly  
13 to: (i) review the timeliness, thoroughness and appropriateness of the  
14 facility or provider agency's responses to reportable incidents; (ii)  
15 recommend additional opportunities for improvement to the director of  
16 the facility or provider agency, if appropriate; (iii) review incident  
17 trends and patterns concerning reportable incidents; and (iv) make  
18 recommendations to the director of the facility or provider agency to  
19 assist in reducing reportable incidents. Members of the committee shall  
20 be trained in confidentiality laws and regulations, and shall comply  
21 with section seventy-four of the public officers law[~~-~~]; and

22 (g) safe storage, administration, and diversion prevention policies  
23 regarding controlled substances and medical marihuana.

24 § 3. This act shall take effect on the one hundred eightieth day after  
25 it shall have become a law. Effective immediately, the addition, amend-  
26 ment and/or repeal of any rule or regulation necessary for the implemen-  
27 tation of this act on its effective date are authorized to be made and  
28 completed on or before such date.