

STATE OF NEW YORK

8337--B

2019-2020 Regular Sessions

IN ASSEMBLY

June 14, 2019

Introduced by M. of A. WALKER, WEPRIN -- read once and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Codes in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the mental hygiene law and the public health law, in relation to access to medical and psychiatric records of deceased inmates by the board of correction of the city of New York

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

1 Section 1. Paragraph 5 of subdivision (c) of section 33.13 of the
2 mental hygiene law, as amended by chapter 912 of the laws of 1984, is
3 amended to read as follows:

4 5. to the medical review board of the state commission of correction
5 or the board of correction of the city of New York when such board has
6 requested such information with respect to the death of a named person,
7 or, with the consent of a patient or client when such board has
8 requested information about the patient or client providing that such
9 board requires such information in the exercise of its statutory func-
10 tions, powers and duties. Information, books, records or data which are
11 confidential as provided by law shall be kept confidential by the state
12 commission or the board of correction of the city of New York and any
13 limitation on the release thereof imposed by law upon the party furnish-
14 ing the information, books, records or data shall apply to the medical
15 review board of the state commission and the board of correction of the
16 city of New York.

17 § 2. Paragraphs (n) and (o) of subdivision 1 of section 2782 of the
18 public health law, as added by chapter 584 of the laws of 1988, are
19 amended to read as follows:

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

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1 (n) a medical director of a local correctional facility as defined in
2 section forty of the correction law, in accordance with paragraph (a) of
3 subdivision two of section twenty-seven hundred eighty-six of this arti-
4 cle, to the extent the medical director is authorized to access records
5 containing such information in order to carry out his or her functions,
6 powers and duties with respect to the protected individual; ~~[ex]~~

7 (o) an employee or agent of the commission of correction or the board
8 of correction of the city of New York, in accordance with paragraph (a)
9 of subdivision two of section twenty-seven hundred eighty-six of this
10 article, to the extent the employee or agent is authorized to access
11 records containing such information in order to carry out the commis-
12 sion's functions, powers and duties with respect to the protected indi-
13 vidual, pursuant to article three of the correction law~~[ex]~~;

14 § 3. Paragraph (a) of subdivision 2 of section 2786 of the public
15 health law, as added by chapter 584 of the laws of 1988, is amended to
16 read as follows:

17 (a) Each state agency authorized pursuant to this article to obtain
18 confidential HIV related information and the board of correction of the
19 city of New York shall, in consultation with the department of health,
20 promulgate regulations: (1) to provide safeguards to prevent discrimi-
21 nation, abuse or other adverse actions directed toward protected indi-
22 viduals; (2) to prohibit the disclosure of such information except in
23 accordance with this article; (3) to seek to protect individuals in
24 contact with the protected individual when such contact creates a
25 significant risk of contracting or transmitting HIV infection through
26 the exchange of body fluids, and (4) to establish criteria for determin-
27 ing when it is reasonably necessary for a provider of a health or social
28 service or the state agency or a local government agency to have or to
29 use confidential HIV related information for supervision, monitoring,
30 investigation, or administration and for determining which employees and
31 agents may, in the ordinary course of business of the agency or provid-
32 er, be authorized to access confidential HIV related information pursu-
33 ant to the provisions of paragraphs (l) and (m) of subdivision one and
34 subdivision six of section twenty-seven hundred eighty-two of this arti-
35 cle; and provided further that such regulations shall be promulgated by
36 the chairperson of the commission of correction where disclosure is made
37 pursuant to paragraphs (n) and (o) of subdivision one of section twen-
38 ty-seven hundred eighty-two of this article.

39 § 4. This act shall take effect immediately.