

# STATE OF NEW YORK

1578

2019-2020 Regular Sessions

## IN ASSEMBLY

January 15, 2019

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

AN ACT to amend the mental hygiene law, in relation to duties of providers of services for the developmentally disabled

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

1 Section 1. Subdivision 2 of section 31.11 of the mental hygiene law,  
2 as amended by chapter 558 of the laws of 2011, is amended to read as  
3 follows:

4 2. (a) making such reports as are necessary to provide immediate  
5 reporting and notification to 911 by the mandated reporter, the district  
6 attorney or other appropriate law enforcement official and the commis-  
7 sioner or his or her authorized representative as soon as possible, [~~or~~  
8 ~~in any event within three working days,~~] if it appears that a crime may  
9 have been committed against a patient receiving services from such  
10 provider, unless it appears that the crime includes an employee, intern,  
11 volunteer, consultant, contractor, or visitor and the alleged conduct  
12 caused physical injury or the patient was subject to unauthorized sexual  
13 contact, or if it appears the crime is endangering the welfare of an  
14 incompetent or physically disabled person pursuant to section 260.25 of  
15 the penal law, or if the crime was any felony under state or federal  
16 law, then the district attorney or other appropriate law enforcement  
17 official must be contacted immediately[~~, and in any event no later than~~  
18 ~~twenty-four hours and such~~] . Such other reports, uniform and otherwise,  
19 as are required by the commissioner or his or her authorized represen-  
20 tative with respect to its operations. If there is reasonable cause to  
21 believe that the crime against the client may have occurred in a facili-  
22 ty or program of any other service provider licensed, certified, funded  
23 or operated by a state agency, the administrator or chief executive  
24 officer of such other service provider shall also be notified and also  
25 has the responsibility to ensure that 911 was notified as soon as possi-

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

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1 ble[~~, or in any event within three working days~~]. Provided however,  
2 nothing herein shall require such report to an administrator or chief  
3 executive officer of a provider who is alleged to have committed the  
4 crime. [~~The commissioner may execute a memorandum of understanding with~~  
5 ~~the commissioners of other appropriate state agencies to ensure the~~  
6 ~~coordination and cooperation of such agencies and providers of services~~  
7 ~~with regard to the conduct of any investigation and prevention of unnee-~~  
8 ~~essary duplicative investigations resulting from the report of an~~  
9 ~~alleged crime that may have occurred in a facility or program of another~~  
10 ~~service provider.~~] Information obtained by the commissioner or the  
11 commission on quality of care for the mentally disabled from the records  
12 of patients receiving services shall be kept confidential in accordance  
13 with the provisions of this chapter.

14 (b) Any and all state or private direct care employees or any other  
15 official, employee or volunteer within any facility operated by, certi-  
16 fied, licensed, funded or otherwise authorized by the department that  
17 witnesses and reports any allegation of abuse, neglect, maltreatment,  
18 unauthorized use of restraints or seclusion, or any other suspicious  
19 acts, or premature deaths pursuant to paragraph (a) of this subdivision  
20 shall be protected from any and all retribution, suspension or termi-  
21 nation by the facility, its employees or the department for reporting  
22 such. Any person that treats a whistleblower wrongfully, suspends a  
23 whistleblower or fires a whistleblower for his or her actions shall be  
24 subject to termination and shall not be entitled to absolute or quali-  
25 fied immunity in a cause of action for civil liability.

26 § 2. This act shall take effect immediately.