

# STATE OF NEW YORK

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6437--A

2019-2020 Regular Sessions

## IN SENATE

June 11, 2019

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Introduced by Sen. SEPULVEDA -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- recommitted to the Committee on Cities in accordance with Senate Rule 6, sec. 8 -- 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:

20 (n) a medical director of a local correctional facility as defined in  
21 section forty of the correction law, in accordance with paragraph (a) of

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

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1 subdivision two of section twenty-seven hundred eighty-six of this arti-  
2 cle, to the extent the medical director is authorized to access records  
3 containing such information in order to carry out his or her functions,  
4 powers and duties with respect to the protected individual; [~~ex~~]

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

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

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

37 § 4. This act shall take effect immediately.