STATE OF NEW YORK

3409

2021-2022 Regular Sessions

IN SENATE

January 29, 2021

Introduced by Sen. BROUK -- read twice and ordered printed, and when printed to be committed 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 mental health facilities to family members upon written request

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

Section 1. Section 7.09 of the mental hygiene law is amended by adding a new subdivision (m) to read as follows:

(m) Notwithstanding the provisions of sections 33.13 and 33.16 of this chapter, the commissioner shall promulgate regulations in accordance with the federal health insurance portability and accountability act of 1996, and any regulations promulgated thereunder, governing the release of certain records pertaining to a deceased individual who resided in a facility operated or certified by the office. The regulations shall specify which information shall be released and shall include such records as the individual's name; dates of admission, discharge, birth and death; cause of death; treatment and services provided; employment; and residential history. Such records may be provided to family members upon written request. The commissioner shall not authorize the release of such records where the deceased individual had previously objected to the release of his or her records and such objection was in writing or otherwise documented in the individual's services plan and had not been withdrawn. In the case of an individual who lacked capacity to consent to the release of his or her records, a qualified person as defined in paragraph six of subdivision (a) of section 33.16 of this chapter may object to such release.

§ 2. Subdivision (c) of section 33.13 of the mental hygiene law is amended by adding a new paragraph 18 to read as follows:

18. upon written request by the physician of a family member of an individual, who has a demonstrable medical need for such information as

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

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it is relevant to the family member's own health care. The commissioner shall promulgate regulations to define family member for purposes of this section.

§ 3. This act shall take effect immediately; provided that section one of this act shall take effect on the one hundred eightieth day after it shall have become a law.