STATE OF NEW YORK

8967--A

Cal. No. 1165

IN SENATE

April 3, 2024

Introduced by Sen. BRESLIN -- read twice and ordered printed, and when printed to be committed to the Committee on Mental Health -- reported favorably from said committee and committed to the Committee on Rules -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the mental hygiene law, in relation to allowing direct descendants of a patient who has been deceased for a period of fifty years or longer to access such patient's clinical records

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

Section 1. Paragraph 6 of subdivision (a) of section 33.16 of the mental hygiene law, as amended by chapter 233 of the laws of 2017, is amended to read as follows:

6. **(i)** "Qualified person" means any properly identified patient or client, guardian of a person with a developmental disability appointed pursuant to article seventeen-A of the surrogate's court procedure act, or committee for an incompetent appointed pursuant to this chapter or a parent of an infant, or a guardian of an infant appointed pursuant to article seventeen of the surrogate's court procedure act or other legally appointed guardian of an infant who may be entitled to request access to a clinical record pursuant to paragraph three of subdivision (b) of this section, or a parent, spouse, adult child, or adult sibling of an adult patient or client who may be entitled to request access to a clinical record pursuant to paragraph four of subdivision (b) of this section**, or a direct descendant of a former patient or client who has been deceased for a period of fifty years or longer**.

(ii) The commissioner of mental health shall promulgate rules and regulations to establish a process and standard of evidence according to which individuals may present to a facility proof of direct descent from a former patient or client.

§ 2. Paragraph 5 of subdivision (b) of section 33.16 of the mental hygiene law, as amended by chapter 233 of the laws of 1991, is amended to read as follows:

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

LBD15122-02-4

5. Subject to the provisions of this subdivision and subdivision (c) of this section, upon the written request of any qualified person, a facility shall furnish to such person, within a reasonable time, a copy of any clinical record requested which the person is authorized to inspect pursuant to this subdivision**; provided, however, that nothing in this section shall be construed as requiring that a facility retain clinical records indefinitely or for any particular length of time in anticipation of attempted access by an individual meeting the definition of a qualified person**.

§ 3. This act shall take effect immediately.