

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:

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

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

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

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

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

LBD15122-02-4

1 5. Subject to the provisions of this subdivision and subdivision (c)
2 of this section, upon the written request of any qualified person, a
3 facility shall furnish to such person, within a reasonable time, a copy
4 of any clinical record requested which the person is authorized to
5 inspect pursuant to this subdivision; provided, however, that nothing in
6 this section shall be construed as requiring that a facility retain
7 clinical records indefinitely or for any particular length of time in
8 anticipation of attempted access by an individual meeting the definition
9 of a qualified person.
10 § 3. This act shall take effect immediately.