STATE OF NEW YORK

10400--A

IN ASSEMBLY

March 3, 2026

Introduced by M. of A. SIMON, CASHMAN, REYES -- read once and referred to the Committee on Mental Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the mental hygiene law, in relation to requirements for the appointment of a guardian for personal needs or property management; and to amend the banking law, in relation to bank statements for Medicaid applications

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

Section 1. Section 81.05 of the mental hygiene law is amended by adding a new subdivision (c) to read as follows:

(c) Notwithstanding subdivisions (a) and (b) of this section, if a social services official or agency is nominated as guardian, or is otherwise considered to be appointed as guardian, and has not been provided with notice as required by subparagraph (v) of paragraph one of subdivision (g) of section 81.07 of this article, such nominated or considered social services official or agency shall be permitted to provide information to the court as to the appropriate social services official or agency to be considered.

§ 2. Section 81.06 of the mental hygiene law is amended by adding a new subdivision (b) to read as follows:

(b) No entity shall commence a proceeding pursuant to this section solely to collect a debt of an alleged incapacitated person, to discharge the alleged incapacitated person from a hospital, nursing home or other institution that has a duty to care for such person, or to take any other action that is not in the best interests of the alleged incapacitated person.

§ 3. Paragraph 15 of subdivision (a) of section 81.08 of the mental hygiene law, as added by chapter 698 of the laws of 1992, is amended and a new paragraph 16 is added to read as follows:

15. any other information which in the petitioner's opinion will assist the court evaluator in completing the investigation and report in accordance with section 81.09 of this article[~~.~~]*;*

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

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16. any request, if any, for protective arrangement and/or single transactions as an alternative to full guardianship shall be considered, supported by specific findings on the record.

§ 4. Subdivision (c) of section 81.16 of the mental hygiene law is amended by adding a new paragraph 7 to read as follows:

7. If a social services official is appointed as guardian, counsel for the social services official shall prepare and submit the proposed order.

§ 5. Section 81.17 of the mental hygiene law, as added by chapter 698 of the laws of 1992, is amended to read as follows:

§ 81.17 Nomination of guardian.

(a) In the petition, or in a written instrument duly executed, acknowledged, and filed in the proceeding before the appointment of a guardian, the person alleged to be incapacitated may nominate a guardian.

(b) If the nominated guardian is a social services official, or the court considers the appointment of a social services official as guardian when no guardian has been nominated, the social services official shall be a party to the action, with the right to fully participate in the guardianship proceeding, including the right to respond to, modify or oppose any such nomination or the powers to be exercised by such guardian. Such social services officials shall also have the right to implead a social services official from a different social services district if it believes that social services district to be the proper party to the proceeding or the proper district of fiscal responsibility.

§ 6. Section 81.19 of the mental hygiene law is amended by adding a new subdivision (h) to read as follows:

(h) No social services official or agency shall be ordered by a court to be a guardian, temporary guardian or special guardian without such official's or agency's written consent. If such social services official or agency is nominated to be such a guardian by any other entity, such social services official or agency shall be a party to the action and shall be permitted to fully participate, including the right to respond, modify or oppose any such nomination or the powers to be exercised by such guardian.

§ 7. Subdivision (a) of section 81.20 of the mental hygiene law is amended by adding a new paragraph 8 to read as follows:

8. If the guardian is a social services official or agency, it may delegate any subordinate employees or agents to act on its behalf and with its authority.

§ 8. Section 81.36 of the mental hygiene law is amended by adding a new subdivision (f) to read as follows:

(f) Not withstanding any provision of law to the contrary, an interested party, incapacitated person, or person in need of a guardian may make an application pursuant to the provisions of this section for a modification of powers granted under this article where a Medicaid application was the only necessary power.

§ 9. Subdivision 1 of section 14 of the banking law is amended by adding a new paragraph (r) to read as follows:

(r) To require every banking organization, branch in this state of an out-of-state state bank established pursuant to article five-C of this chapter, foreign banking corporation licensed by the superintendent to transact business in this state, national bank, federal savings bank, federal savings and loan association, federal credit union and federal trust company, to, with authorization by the applicant or upon lawful request, provide all bank statements and other records necessary for a

Medicaid or public assistance application to a requesting department of social services or other state or local agency administering public assistance or medical assistance within a reasonable amount of time of receipt of such request; provided, however, that a banking organization, branch in this state of an out-of-state state bank established pursuant to article five-C of this chapter or foreign banking corporation licensed by the superintendent to transact business in this state shall provide such records within thirty days of receipt of such request.

§ 10. This act shall take effect on the one hundred eightieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.