

STATE OF NEW YORK

8903

IN SENATE

January 14, 2026

Introduced by Sen. FAHY -- 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 former patients interred at present and former state mental health hospital cemeteries

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

Section 1. The mental hygiene law is amended by adding a new section 33.26 to read as follows:

§ 33.26 Burial records.

(a) To mark headstones or otherwise memorialize former patients interred at state mental health hospital cemeteries, the department and the office of mental health shall make burial records that include the deceased's name, date of birth, date of death, and burial location available to anyone within thirty days after the death of a patient. Additional burial records information shall be released in order to document the deceased's military service or family relationship.

(b) For the purposes of this section, the term "state mental health hospital" shall mean any state-funded institution that cares for and helps treat the mentally ill or developmentally disabled in the state. Such term shall include, but not be limited to former asylums for the insane, such as the New York State Lunatic Asylum, Utica State Hospital, Willard Asylum for the Insane, Willard State Hospital, New York State Inebriate Asylum, Binghamton Asylum for the Chronic Insane, Binghamton State Hospital, Buffalo State Asylum for the Insane, New York State Asylum for the Insane, Buffalo State Hospital, Kings Park Psychiatric Center, Central Islip State Hospital, Pilgrim Psychiatric Center, New York State Asylum for Idiots and the Asylum for Idiots in Albany.

(c) For the purposes of this section, "burial records" shall include but are not limited to, name, sex, date of birth, place of birth, date of death, place of death, date of burial, burial location, military status and military service number, next of kin, and previous home address of the deceased.

(d) No fee shall be charged for a search and report of burial records.

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

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1 (e) Current maps showing the burial lots, roads and paths in the pres-
2 ent and former state mental health hospital cemeteries shall be main-
3 tained and publicly available.

4 (f) A sign with the name of the cemetery, phone number, and address of
5 the point of contact for information about burials shall be posted at
6 each cemetery.

7 (g) Burial records shall be retained permanently.

8 (h) In the event that cemetery property or management is transferred
9 to another entity, all burial records and cemetery maps shall be
10 included.

11 (i) Medical, state mental health hospital clinical, and personnel
12 records of former patients who are buried in present and former hospital
13 cemeteries shall be kept indefinitely.

14 § 2. Paragraph 1 of subdivision (a) of section 33.16 of the mental
15 hygiene law, as amended by chapter 226 of the laws of 1991, is amended
16 to read as follows:

17 1. "Clinical record" means any information concerning or relating to
18 the examination or treatment of an identifiable patient or client main-
19 tained or possessed by a facility which has treated or is treating such
20 patient or client, except data disclosed to a practitioner in confidence
21 by other persons on the basis of an express condition that such data
22 would never be disclosed to the patient or client or other persons,
23 provided that such data has never been disclosed by the practitioner or
24 a facility to any other person. If at any time such data is disclosed,
25 it shall be considered clinical records for the purposes of this
26 section. For purposes of this subdivision, "disclosure to any other
27 person" shall not include disclosures made pursuant to section 33.13 of
28 this article, to practitioners as part of a consultation or referral
29 during the treatment of the patient or client, to the statewide planning
30 and research cooperative system, or to the committee or a court pursuant
31 to the provisions of this section or to an insurance carrier insuring,
32 or an attorney consulted by, a facility. Burial records of former state
33 mental health hospital patients are not part of the clinical record and
34 shall be managed in accordance with section 33.26 of this article.

35 § 3. This act shall take effect on the one hundred twentieth day after
36 it shall have become a law. Effective immediately, the addition, amend-
37 ment and/or repeal of any rule or regulation necessary for the implemen-
38 tation of this act on its effective date are authorized to be made and
39 completed on or before such effective date.