§ 7.09 Powers of the office and commissioner; how exercised.

(a) The commissioner shall exercise all powers vested in the office. He may delegate any function, power, or duty assigned to him or to the office of mental health to a director of a facility operated by such office or to any other officer or employee of such office, unless otherwise provided by law. He may enter into agreements with the executive director of the justice center for the protection of people with special needs or the other commissioners of the department in order to ensure that programs and services are provided for all of the mentally disabled.

(b) The commissioner may adopt regulations necessary and proper to implement any matter under his jurisdiction. Proposed rules and regulations shall be submitted at least sixty days prior to action thereon to the mental health services council for its advice, in accordance with section 7.05 of this chapter, unless the commissioner finds that the public health, safety or general welfare requires that such submission be dispensed with.

(c) The commissioner shall administer the forensic psychiatric program of the office. Commitments to the commissioner of mental hygiene pursuant to the provisions of the criminal procedure law and the correction law shall be deemed to be commitments to the custody of the commissioner of mental health or the commissioner of developmental disabilities, as appropriate. The commissioner of mental health shall arrange with the commissioner of developmental disabilities for the placement, where appropriate, of any such committed person in a school.

(d) The commissioner and directors of office facilities may request and upon such request the coroner, coroner's physician or medical examiner shall provide to such persons access to original autopsy slides, tissue materials and specimens derived from any autopsy or inquiry with respect to the death of a patient or resident in a mental hygiene facility, as defined in subdivision two of section five hundred fifty of the executive law. Such original materials shall be preserved intact, except for unavoidable changes due to necessary scientific testing, and shall be returned to the coroner, coroner's physician or medical examiner.

(e) The commissioner shall accept custody of a juvenile under an order issued by the family court pursuant to the provisions of section 322.2

of the family court act. He or she may place the juvenile in any appropriate facility or program under his or her jurisdiction, but he or she shall comply with any order requiring treatment in a residential facility made pursuant to paragraph (c) of subdivision five of section 322.2 of the family court act, unless, after a hearing held in accordance with subdivision seven of section 322.2 of the family court act, the court modifies the order. In determining the appropriate placement, the commissioner shall be furnished with a copy of the findings of the court pursuant to subdivision four or five of section 322.2 of the family court act and shall consider the nature of the act alleged in such findings and the level of the juvenile's mental disability. The commissioner shall review the condition of the juvenile in accordance with the requirements of section 322.2 of the family court act and he or she may petition the family court at any time for any relief authorized by such section.

(f) The commissioner may approve special employment programs which are operated by facilities within the office of mental health, for purposes of producing products and services for procurement by the state or any governmental agency, political subdivision or public benefit corporation thereof, in accordance with the provisions of sections one hundred seventy-five-a and one hundred seventy-five-b of the state finance law. The term "special employment program" shall have the same meaning as such term is defined in section one hundred seventy-five-c of the state finance law.

(g) The commissioner shall work cooperatively with the commissioner of the office for people with developmental disabilities and the commissioner of the office of temporary and disability assistance to assist the commissioner of education in furnishing integrated employment services to individuals with severe disabilities, including the development of an integrated employment implementation plan, pursuant to article twenty-one of the education law.

(h) The commissioner shall promulgate rules and regulations to address the communications needs of non-English speaking individuals seeking or receiving services in facilities operated or licensed by the office in order to facilitate their access to services. Such rules and regulations shall include, but not be limited to, reasonable means to accommodate the language capabilities and preferences of non-English speaking

individuals in such facilities where a significant number of non-English speaking individuals seek or receive services.

(i) The commissioner of mental health shall be authorized to have access to criminal history information contained in the central data facility established by the division of criminal justice services, upon such terms and conditions as the commissioner of mental health and the commissioner of the division of criminal justice services shall agree. The report containing such criminal history information may be summarized for inclusion in the patient's clinical record, however, such report shall be destroyed within fourteen days of its receipt. Such information shall be used for purposes of making decisions regarding care and treatment, health and safety, privileges and discharge planning for patients admitted to or retained in hospitals operated by the office of mental health. The commissioner of mental health shall promulgate standards regarding the use of such information, which may include, but not be limited to, consideration of the type of offense and the date of conviction, and its relevance to care and treatment, health and safety, privileges and discharge planning. Patients shall be given written notice that their criminal history information will be obtained by the hospital, that the opportunity exists to request the correction of any inaccurate criminal history information in accordance with the regulations of the division of criminal justice services, and that the opportunity exists to challenge the accuracy of such information maintained in the patients' clinical record to the extent authorized by section 33.16 of this chapter. Such information shall be kept confidential to the extent required under applicable federal and state law, including section 33.13 of this chapter.

(j) (1) The commissioner, in cooperation with other applicable state agencies, shall collect, retain or modify data or records, and shall transmit such data or records: (i) to the division of criminal justice services, or to the criminal justice information services division of the federal bureau of investigation, for the purposes of responding to queries to the national instant criminal background check system regarding attempts to purchase or otherwise take possession of firearms, as defined in 18 USC 921(a)(3), in accordance with applicable federal laws or regulations, or (ii) to the division of criminal justice services, which may re-disclose such data and records only for

determining whether a license issued pursuant to section 400.00 of the penal law should be denied, suspended or revoked, under subdivision eleven of such section, or for determining whether a person is no longer permitted under federal or state law to possess a firearm. Such records, which may not be used for any other purpose, shall include only names and other non-clinical identifying information of persons who have been involuntarily committed to a hospital pursuant to article nine of this chapter, or section four hundred two or subdivision two of section five hundred eight of the correction law, or article seven hundred thirty or section 330.20 of the criminal procedure law or sections 322.2 or 353.4 of the family court act, or to a secure treatment facility pursuant to article ten of this chapter.

(2) The commissioner shall establish within the office of mental health an administrative process to permit a person who has been or may be disqualified from possessing such a firearm pursuant to 18 USC 922(4)(d) or who has been or may be disqualified from continuing to have a license to carry, possess, repair, or dispose of a firearm under section 400.00 of the penal law because such person was involuntarily committed or civilly confined to a facility under the jurisdiction of the commissioner, to petition for relief from that disability where such person's record and reputation are such that such person will not be likely to act in a manner dangerous to public safety and where the granting of the relief would not be contrary to public safety. The commissioner shall promulgate regulations to establish the relief from disabilities program, which shall include, but not be limited to, provisions providing for: (i) an opportunity for a disqualified person to petition for relief in writing; (ii) the authority for the agency to require that the petitioner undergo a clinical evaluation and risk assessment; and (iii) a requirement that the agency issue a decision in writing explaining the reasons for a denial or grant of relief. The denial of a petition for relief from disabilities may be reviewed de novo pursuant to the proceedings under article seventy-eight of the civil practice law and rules.

* (k) Notwithstanding any other law, rule or regulation, on request by a representative of a cemetery organization or funeral establishment, the commissioner and directors of office facilities shall release to the representative the name, date of birth, or date of death of a person who

was a patient at the facility when the person died, unless the person or the person's guardian provided written instructions to the facility not to release such person's name or dates of birth and death. A representative of a cemetery organization or a funeral establishment may use a name or date released under this subdivision only for the purpose of inscribing the name or date on a grave marker.

* NB There are 2 sb (k)'a

* (k) The commissioner shall develop clear and detailed definitions of at least four categories of types of injuries that a staff member or person confined may experience as the result of an assault by or an altercation between a person confined and any staff member or other person confined in state forensic psychiatric centers as such term is defined in section 7.17 of this article. On at least a quarterly basis beginning in January of each year, the commissioner shall report to the legislature on the number of types of injuries within the detailed categories required by this subdivision.

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(l) Notwithstanding any general or special law to the contrary, the commissioner, in conjunction with the commissioner of the office of addiction services and supports and the director of the department of veterans' services shall develop a public education initiative designed to eliminate stigma and misinformation about mental illness and substance use among service members, veterans, and their families, improve their understanding of mental and substance use disorders and the existence of effective treatment, and provide information regarding available resources and how to access them. These public education initiatives may include the use of the internet, including the use of social networking sites.

(m) The commissioner shall publish on the website of the office information regarding the mental illness anti-stigma distinctive license plate established under section four hundred four-dd of the vehicle and traffic law. Such information shall include, but not be limited to, a link to the department of motor vehicle website where an individual may order such license plate.