

Memorandum Urging Approval

ELDER LAW & SPECIAL NEEDS SECTION

Elder #8 GOV

September 4, 2014

S. 7374
A. 9729

By: Senator Bonacic

By: M. of A. Jaffee

Senate Committee: Mental Health and
Developmental Disabilities

Assembly Committee: Mental Health

Effective Date: Immediately

AN ACT to amend the mental hygiene law, in relation to transitional care.

LAW & SECTION REFERRED TO: Section 13.37-a of the mental hygiene law

THE ELDER LAW & SPECIAL NEEDS SECTION URGES APPROVAL OF THIS LEGISLATION

The bill would require that the Office for People with Developmental Disabilities' (OPWDD) notification of a change in placement of a transitional care adult shall include disclosure of an appeal process. Where an appeal is made, OPWDD must schedule a hearing within five days of the appeal notice and provide a ten-day notice of the hearing to the appealing party. After a hearing that complies with the State Administrative Procedure Act, a written determination shall be made; such determination shall be the final administrative remedy and shall be subject to review pursuant to article seventy-eight of the Civil Practice Law and Rules.

Currently, developmentally disabled adults over the age of twenty-one and in transitional care are afforded little or no due process protections. In contrast, developmentally disabled adults receiving services in residential placements operated or certified by OPWDD are afforded due process protections under 14 N.Y.C.R.R. § 633.12.

Based on the foregoing, the Elder Law & Special Needs Section urges the Governor to **APPROVE** this legislation.

Persons who prepared memo: Bob Freedman, Esq. and Lisa Friedman, Esq.

Section Chair: Richard A. Weinblatt, Esq.