

NEW YORK LEGISLATURE EXPANDS DEATH AND FELONY REPORTING REQUIREMENTS

Health Care Alert
December 20, 2017

On December 18, 2017, Governor Andrew M. Cuomo approved an Act (2017 N.Y. Laws ch. 459) expanding the death and felony reporting requirements under Section 461-m of the Social Services Law. The amendments change the “who, what, when, and where” of death and felony crime reporting as follows:

Who to Report: The amendments require enriched housing programs, which provide residential care in a community-integrated setting, to report any resident death or attempted suicide to the New York State Department of Health (DOH) within 24 hours of its occurrence. This is an expansion of current law, which limits the reporting obligation to adult homes and residences for adults, two other adult care facility categories.

What to Report: The amendments impose an affirmative duty to report to law enforcement “if the operator discovers an incident that the operator believes or reasonably should believe would constitute a felony crime against a resident.” This is a change from current law, which requires reporting “if it is believed that a felony crime may have been committed against a resident of such facility.”

When to Report: The amendments require the reporting to law enforcement to occur as soon as possible, or in any event within 24 hours, rather than 48 hours as under the current law.

Where to Report: The amendments require facilities subject to Section 488 of the Social Services Law, which relates to the protection of people with special needs, to send the report to the Justice Center for the Protection of People with Special Needs reports, if it involves a resident who received services from a mental hygiene service provider at any time. This report is due within 24 hours of the resident’s death or attempted suicide or the discovery of an incident that the operator believed or reasonably should have believed to be a felony crime.

The amendments take effect 60 days after approval. Adult care and assisted living facilities should review and revise their policies and procedures and prepare to implement the new requirements. If you have any questions, please contact one of the attorneys in the Health Care Practice Group.

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