NY SAFE Act

Introduction for Mental Health Providers

March 12, 2013
SAFE Act Summary

• Ban on large-capacity magazines
• Background checks on all ammunition purchases
• Background checks on all private sales (except to immediate family)
• Tougher assault weapons ban and registration of existing assault weapons
• Tougher criminal penalties for illegal gun use, including:
  – Enhanced sentences for murder of a first responder and gang prosecutions and drug/violent felonies that involve a loaded or unloaded gun
  – Enhanced penalties for possession of a weapon on school grounds and purchase of a gun for a disqualified individual
• Five-year recertification for firearms licenses
• Kendra’s Law strengthened
New MHL 9.46

- A “mental health professional” must report person who “is likely to engage in conduct that would result in serious harm to self or others” to County Director of Community Services (DCS) or designee as soon as practicable.

- If Director of Community Services or designee agrees that the person is likely to engage in such conduct, he/she fills out and submits secure online form to the NYS Division of Criminal Justice Services (DCJS).

- DCJS determines if subject of report has or has applied for a firearms license or has registered an assault weapon, and works with State Police, which notifies the appropriate county firearms licensing official.

- The county licensing official must suspend or revoke the license as soon as practicable.

- Licensing official notifies local law enforcement to remove gun(s).
MHL 9.46 Reporting Standard

- MHL 9.46 requires “mental health professionals” to report to the county DCS or designee when, in their reasonable professional judgment, one of the persons for whom they are currently providing mental health treatment services is “likely to engage in conduct that would result in serious harm to self or others.”
The standard has the same meaning as the term “likelihood to result in serious harm,” which is defined in current law MHL 9.01 to mean threats of, or attempts at, suicide/serious bodily harm to self, or homicidal/violent behavior towards others.

This standard justifies the need for immediate action, such as an involuntary transport by police or an ambulance service to a psychiatric hospital for an examination.

Mental health professionals must use reasonable professional judgment when making this determination.
Reporters under MHL 9.46

• The reporting requirement extends to “mental health professionals,” defined in the law as:
  
  – Physicians,
  – Psychologists,
  – Registered nurses, or
  – Licensed clinical social workers.
The reporting requirement becomes effective on March 16, 2013.
Exceptions to the MHL 9.46 Reporting Requirement

- A report is not required when, in the mental health professional’s reasonable professional judgment, a report would endanger him or her or would increase the danger to the potential victim or victims.
Potential Subjects of a MHL 9.46 Report

• The requirement applies to all persons receiving mental health treatment services from any of the four types of mental health professionals identified in the law — physicians, psychologists, registered nurses, or licensed clinical social workers — regardless of the setting in which they work.
Mental Health Professional Reports to DCS

• Once the conditions for making a report are met, the law requires the mental health professional to report to the local DCS or his/her designee. The mental health professional should convey information as necessary to allow the DCS or designee to review the matter to determine if he/she agrees that the person is likely to engage in such conduct and if so, the DCS or designee shall make a report to DCJS.
The Office of Mental Health has created this webpage to disseminate information regarding Hurricane Sandy. This page will be updated as more information becomes available so please check back often.

The Office of Mental Health is now offering crisis counseling services for those who may be experiencing adverse repercussions of Hurricane Sandy. Carefully trained professionals are available to provide support to those in need.

Project Hope Crisis Counseling Program is a crisis counseling program designed to assist individuals affected by natural disasters. If you or someone you know is in need of counseling, please contact Project Hope at the following:

Contact Information:

Phone: 1-888-788-7143
Email: info@projecthope.org
Website: www.projecthope.org
Safe Act Guidance Documents

New York Secure Ammunition and Firearms Enforcement Act of 2013

A resource for clinicians on the NY SAFE Act and Section 9:46 of the Mental Health Law. This page will be updated continuously to provide answers to commonly asked questions, guidance documents, explanatory videos and an avenue by which to ask questions and receive clarification of the new reporting requirements.

Save the Date

NY SAFE Act Reporting Requirement Webcast for Providers
Tuesday, March 12, 2013
Check Back Soon for Further Details

Comments or questions about the information on this page can be directed to the NY SAFE ACT.

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Last Modified: 3/12/2013

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Person Being Reported:

Name *
First * [Name fields]
Other Name / Maiden Name

Address
County of Residence * -- Choose A NY County --
Street
City
State New York
ZipCode

Date Of Birth
Guess Their Approximate Age *
MM/DD/YYYY [Date fields]

Social Security Number
Gender *
Female, Male, Unknown

Race
White, Black, American Indian/ Alaskan, Asian Pacific Islander, Other, Unknown

Diagnosis
Start typing for diagnostic code or text then choose from list

Reason you believe the person is likely to engage in conduct that would result in serious harm to self or others (including any specific threats, behaviors or actions):
Enter any specific threats, behaviors or actions here *

Submit Form
Completed Sample Report
NY SAFE Act Reporting
9.46 NYS Mental Hygiene Law
In the event of imminent risk of harm to self or others, call 911

Mar. 06, 2013

* fields with asterisk are required

Reporting Professional:

Professional's Name *
First Name * George Last Name * Veilleux

Provider Profession Type *
○ Physician ○ Psychologist ○ Unlicensed Psychology ○ Registered Nurse ○ LCSW License *
123456

Last 4 SSN *
1234 Date Of Birth *
11/25/1955 Phone Number *
5555551111 Phone Ext.

Email Address *
george.veilleux@myprovider.nyc.com

Reporting On Behalf Of A Hospital
☐ Hospital Submittal

Professional Relationship To Person:

Last Seen *
03/06/2013 Treatment Relationship *
Patient
NY SAFE Act Reporting
9.46 NYS Mental Hygiene Law
In the event of imminent risk of harm to self or others, call 911

If Psychologist does not have a license License field is automatically removed

<table>
<thead>
<tr>
<th>Professional's Name *</th>
<th>Last Name *</th>
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</thead>
<tbody>
<tr>
<td>Daniel</td>
<td>Brogan</td>
</tr>
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<table>
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<tr>
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<th>Phone Ext.</th>
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<tr>
<td>1234</td>
<td>11/25/1955</td>
<td>5185551212</td>
<td></td>
</tr>
</tbody>
</table>

Help Contact Us
Mar. 06, 2013
Person Being Reported:

Name *
First Name * Sam
Last Name * Ramos

Other Name / Maiden Name

Address
County of Residence * Kings
Street 4031 Briercliff Road
City New York
State New York
Zip Code 10013

Date Of Birth 02/20/1956

Guess Their Approximate Age *
57

Social Security Number 11223333

Gender *
○ Female ○ Male ○ Unknown

Race ○ White ○ Black ○ American Indian/ Alaskan ○ Asian Pacific Islander ○ Other ○ Unknown

Diagnosis
Start typing for diagnostic code or text then choose from list

Primary Diagnosis Selected
29289 : Substance Intoxication/Induced Anxiety Disorder/Sexual Dysfunction; Hallucinogen Persisting Perception Disorder (Flashbacks)

Reason you believe the person is likely to engage in conduct that would result in serious harm to self or others (including any specific threats, behaviors or actions):

Sam has threatened to kill his wife and children by tomorrow.
Enter Security And Submit:

XK8ZV

For security purposes please enter the code shown
XK8ZV

(Upper and Lower Case Letters are accepted)

Submit Clear

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Submitting When Individual is Hospitalized
**Reporting Professional:**

<table>
<thead>
<tr>
<th>Professional's Name *</th>
<th>Last Name *</th>
<th>License *</th>
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<tr>
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<td>Physician</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Email Address *</th>
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</thead>
<tbody>
<tr>
<td><a href="mailto:daniel.bogan@nyprovider.ny.com">daniel.bogan@nyprovider.ny.com</a></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Person Is Currently A Hospitalized Patient</th>
<th>Hospital Name *</th>
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<tr>
<td>Checked</td>
<td>BROOKHAVEN MEMORIAL HOSPITAL MEDICAL CENTER INC</td>
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<table>
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<tr>
<th>Professional Relationship To Person:</th>
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<tbody>
<tr>
<td>Last Seen *</td>
</tr>
<tr>
<td>03/06/2013</td>
</tr>
</tbody>
</table>

* fields with asterisk are required
Person Being Reported:

Name *
First * Sam
Middle
Last * Ramos

Other Name / Maiden Name

Address

County of Residence * Kings
Street 4031 Briercliff Road
City New York
State New York
ZipCode 10013

Date Of Birth 02/20/1956

Guess Their Approximate Age *
57

Social Security Number 111223333

Gender *
○ Female ○ Male ○ Unknown

Race ○ White ○ Black ○ American Indian/Alaskan ○ Asian Pacific Islander ○ Other ○ Unknown

Diagnosis

Primary Diagnosis Selected
29211: Substance-Induced Psychotic Disorder, With Delusions

Reason you believe the person is likely to engage in conduct that would result in serious harm to self or others (including any specific threats, behaviors or actions):
Sam has threatened to kill his wife and children by tomorrow
Enter Security And Submit:

Q6TL3

For security purposes, please enter the code shown:

q6tl3

(Upper and Lower Case Letters are accepted)

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If pressed, for next person to be submitted, professional’s information does **not** need to be re-entered.

When pressed, all information is cleared and moved to a "thank you page"
<table>
<thead>
<tr>
<th>Last 4 SSN</th>
<th>Date Of Birth</th>
<th>Phone Number</th>
<th>Phone Ext</th>
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<td>5185551212</td>
<td></td>
</tr>
</tbody>
</table>

**Email Address**: daniel.brogan@nyprovider.ny.com

**Person Is Currently A Hospital Submittal**: Yes

**Professional Relations**

<table>
<thead>
<tr>
<th>Last Seen</th>
<th>Treatment Relationship</th>
</tr>
</thead>
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<tr>
<td>03/06/2013</td>
<td></td>
</tr>
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</table>

**Required Relationship Data**
Enter in your relationship to the person.
DCS Reports to DCJS

- DCS reports will be made through a secure online portal.
- A DCS or designee may only disclose a patient’s name and other non-clinical identifying information (e.g., name, date of birth, race, sex, SS#, address) to DCJS.
- DCJS, working with State Police, will use that information to determine if the patient has or has applied for a firearms license or has registered an assault weapon. If the patient has such a license/registration, State Police will report that information to the local firearms licensing official, who must either suspend or revoke the license.
Immunity Standard under MHL 9.46

• The new law specifically provides that if a mental health professional uses “reasonable professional judgment” and acts in “good faith” when making a determination, this decision cannot be the basis for any civil or criminal liability on the part of that professional.
Mechanics of 9.46 Form Submission

- Directors/designees will be able to access IJ Portal screens relating to the 9.46 form.
- The 9.46 form captures a patient’s demographic information. No diagnosis/medical information is provided.
- Information captured on the form will only be visible to a limited number of DCJS and State Police staff who will be responsible for matching the individuals identified on the form with pending and active firearms licenses and assault weapons registrations.
Confidentiality

• DCJS must destroy a report five years after receipt.

• DCJS currently receives, processes and stores confidential criminal justice data. The agency has established detailed protocols and systems to maintain the confidentiality of the information and ensure that it is only accessed by appropriate individuals for legitimate business purposes.

• FOIL requires that the state keep confidential information that would result in an unwarranted invasion of personal privacy.
Questions?
Does the reporting requirement apply to “mental health professionals” providing services outside of a psychiatric ward — such as in private practice or on general hospital wards?

• Yes, the requirement to report is not dependent upon the location of the treating professional or the patient.
Does MHL 9.46 prevent mental health professionals from reporting directly to law enforcement?

- MHL 9.46 does not affect or limit other reporting authority under the law. For example, mental health professionals are currently authorized to report to law enforcement, without violating patient confidentiality, when the patient poses an imminent threat to self or others.

- In addition, under MHL 9.45, certain mental health professionals may report to the DCS or designee when a person has a mental illness for which immediate care and treatment in a hospital is appropriate and which is likely to result in serious harm to self or others. Under such circumstances, the DCS or designee may direct the removal of the person to a psychiatric hospital for an examination.
Does the SAFE Act require an assessment for an emergency removal order under 9.45 of the Mental Hygiene Law each time a MHL 9.46 report is made?

• Though not explicitly required under the SAFE Act, it is likely that when reviewing each 9.46 report for persons who are not already hospitalized, the DCS (or designee) will also review each 9.46 report to determine whether to direct an emergency “removal” and transport to a hospital for a psychiatric examination and possible admission, since the standard by which 9.46 reports are to be made is consistent with the standard for an emergency assessment under Mental Hygiene Law Section 9.45.
Does the reporting requirement pertain to children?

• There is no age restriction or limitation in the SAFE Act, however an individual mental health professional should use their reasonable professional judgment while understanding that the notification is for the purpose of limiting access to firearms and that the duration of any individual report will last for 5 years.
NY SAFE ACT
New York Secure Ammunition and Firearms Enforcement Act of 2013

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