

VETO MESSAGE - No. 9

TO THE ASSEMBLY:

I am returning herewith, without my approval, the following bill:

Assembly Bill Number 1685, entitled:

"AN ACT to amend the criminal procedure law, in relation to certain persons designated as peace officers"

NOT APPROVED

The bill would amend the Criminal Procedure Law to extend peace officer status to all security hospital treatment assistants (SHTAs) employed by the Office of Mental Health (OMH). SHTAs are direct care workers in OMH's secure treatment environments who are responsible for a wide range of patient care activities, including aiding clinical staff in the administration of medications, assisting patients in daily living activities and leading other therapeutic and rehabilitative activities. In extending peace officer status to all SHTAs, the bill would eliminate the current statutory discretion of the OMH Commissioner to designate SHTAs as peace officers when they are transporting convicted criminals to court, a mental health facility or a correctional facility. This bill would take effect on November 1, 2005.

This bill would confer broad law enforcement powers, including the authority to make warrantless arrests, use physical and deadly force where justified, carry licensed firearms, and execute warrantless searches, that go well beyond the traditional scope of the duties performed by SHTAs. In urging disapproval of the bill, the Office of Mental Health, the New York State Commission on Quality Care and Advocacy for Persons with Disabilities, and the New York State Chapter of the National Alliance for the Mentally Ill have all expressed concern that the effect of the bill would be to diminish the treatment aspect of these jobs and shift the emphasis of SHTAs to that of security and law enforcement. Furthermore, it is important to note that uniformed peace officers are currently assigned at OMH's facilities to ensure safety and security.

I disapproved an identical bill in 2003, noting then, as I do again now, that I have not been persuaded that the board grant of law enforcement authority that would be conferred by this bill is necessary to the performance of their duties. See: Veto No. 167 of 2003. Therefore,

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while I appreciate the difficult and demanding work that SHTAs perform

in our secure hospital facilities, in the absence of any new compelling facts or circumstances, I am constrained to again disapprove the bill.

The bill is disapproved.

(signed) GEORGE E. PATAKI

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