

**MEDICAL SOCIETY**  
of the  
**STATE OF NEW YORK**

Elizabeth Dears, Esq.

Senior Vice President / Chief Legislative Counsel

*Division of Governmental Affairs*

**MEMORANDUM IN OPPOSITION**

CLICK [HERE](#) FOR BILL STATUS

**S.3280 (CARLUCCI)**

CLICK [HERE](#) FOR BILL STATUS

**A.4886 (ORTIZ)**

**AN ACT to amend the mental hygiene law, in relation to authorizing nurse practitioners to admit a patient to an inpatient mental health unit on a voluntary or involuntary basis**

This measure would expand the scope of practice, duties and responsibilities of a nurse practitioner to be the same as those of a physician/psychiatrist with respect to psychiatric hospitalization and treatment, as well as the medical-legal processes associated with a voluntary and involuntary civil commitment of an individual to a psychiatric hospital licensed or operated by the New York State Office of Mental Health. **The Medical Society of the State of New York strongly opposes this bill.**

Nurse practitioners are licensed professionals who are registered nurses who have completed additional education and experience in a distinct specialty area. The practice of a nurse practitioner is distinct and separate from the practice of medicine by virtue of education and training. This legislation eliminates the statutory distinction between physicians/psychiatrists and nurse practitioners with regards to the hospitalization of seriously mentally ill patients by granting nurse practitioners privileges and responsibilities currently restricted to licensed physicians.

The professional responsibilities and procedures that must be adhered to pursuant to Article 9 of the Mental Hygiene Law are carefully designed to balance (as the United States Court of Appeals, Second Circuit stated in upholding the New York statute in *Project Release v. Prevost* 722F.2d 960 (1983) "...the severe curtailment of liberty which involuntary confinement in a mental institution can entail, and of the process that must be accorded to those who may be affected by such action of the state. We (the court) are also mindful of the state interests served in providing care for those in need of treatment for mental illness and in maintaining order and preventing violence to self and others."

By granting equal status to both professions, which are not equal in the eyes of the Education Law, this bill may provide new grounds for a legal challenge to the state civil commitment laws as upheld in *Project Release v. Prevost*.

For the above reasons, **the Medical Society of the State of New York strongly opposes this bill and urges that it be defeated.**

Respectfully submitted,

**ELIZABETH DEARS, ESQ.**

4/29/13 – OPPOSE

BKE