

MEMORANDUM IN SUPPORT

S1714 (By Senator Brouk)/A697-A (By Member of Assembly Gonzalez-Rojas)

AN ACT to amend the public health law, the county law, the executive law and the state finance law, in relation to prohibiting the use of the term excited delirium as a diagnosis, label, or cause of death

MHANYS **supports** the above referenced legislation. This legislation amends sections of the Public Health Law, County Law, Executive Law, and State Finance Law to prohibit the use of the term “excited delirium” as a diagnosis, label, or cause of death on death certificates, autopsy reports, police reports or any report, policy or procedure.

“Excited delirium” is not recognized as a mental disorder by the leading national and international medical and mental health professional societies including the World Health Organization, American Psychiatric Association, or American Medical Association. The Diagnostic and Statistical Manual of Mental Disorders (DSM-5) published by the American Psychiatric Association does not include excited delirium as a diagnosable mental disorder.

Excited delirium has been cited in a number of cases to explain or justify deaths of individuals in police custody. In 2020, the American Psychiatric Association adopted a Position Statement on Concerns About Use of the Term “Excited Delirium” and Appropriate Medical Management in Out-of-Hospital Contexts.¹ The position statement finds the term “excited delirium” (ExDs) is too non-specific to meaningfully describe and convey information about a person and maintains that “excited delirium” should not be used until a clear set of diagnostic criteria are validated. The APA statement urges, “An investigation should be undertaken of cases labelled with “excited delirium” to identify how the term is being used, whether consistent criteria are being applied, and whether it has any validity as a medical syndrome.” In 2021, the American Medical Association adopted a similar position statement, which reads in part “... current evidence does not support “excited delirium” or “excited delirium syndrome” as a medical diagnosis and opposes the use of the terms until a clear set of diagnostic criteria are validated.”² The position statement opposes the use of sedative/hypnotic and dissociative agents, including ketamine, “...when done solely for a law enforcement purpose and not for a legitimate medical reason.”

Here in New York, a 2021 study found “... that at least 56% of deaths that occur in police custody that are attributed to excited delirium involve Black and Latinx victims.”³⁴ States and law enforcement agencies are already acting to prohibit the use of excited delirium. In 2023, California enacted a law to prohibit the use of excited delirium as a cause of death. In December 2023, the Colorado Police voted to remove reference of excited delirium from training documents.⁵⁶

For the reasons above, MHANYS supports the enactment of S1714/A697-A.

¹ <https://www.psychiatry.org/getattachment/7769e617-ee6a-4a89-829f-4fc71d831ce0/Position-Use-of-Term-Excited-Delirium.pdf>

² <https://policysearch.ama-assn.org/policyfinder/detail/excited%20delirium?uri=%2FAMADoc%2FHOD.xml-H-130.932.xml>

³ <https://nysfocus.com/2023/12/12/new-york-police-nypd-excited-delirium#:~:text=A%20recent%20study%20found%20that,percent%20of%20the%20US%20population.>

⁴ https://www.virginialawreview.org/wp-content/uploads/2021/12/Obasogie_Book_107.pdf

⁵ <https://nysfocus.com/2023/12/12/new-york-police-nypd-excited-delirium#:~:text=A%20recent%20study%20found%20that,percent%20of%20the%20US%20population.>

⁶ <https://www.axios.com/local/denver/2023/12/06/colorado-excited-delirium-police>