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I N S E N A T E

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Introduced by Sens. CARLUCCI, BALL, BONACIC, BOYLE, FELDER, GALLIVAN, GOLDEN, GRIFFO, HANNON, LANZA, LARKIN, LITTLE, MARCELLINO, MARCHIONE, MARTINS, MAZIARZ, NOZZOLIO, O'MARA, RANZENHOFER, RITCHIE, ROBACH, SAVINO, SEWARD, VALESKY, YOUNG -- read twice and ordered printed, and when printed to be committed to the Committee on Alcoholism and Drug Abuse

AN ACT to amend the mental hygiene law, in relation to establishing protocols for assisted outpatient treatment for substance abusers

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The mental hygiene law is amended by adding a new article 23 to read as follows:

ARTICLE 23

ASSISTED OUTPATIENT TREATMENT FOR SUBSTANCE ABUSERS

SECTION 23.01 CRITERIA FOR ASSISTED OUTPATIENT TREATMENT FOR SUBSTANCE ABUSERS.

23.03 RESPONSIBILITIES OF SERVICE PROVIDERS.

23.05 PETITION TO THE COURT.

23.07 SERVICE.

23.09 RIGHT TO COUNSEL.

23.11 HEARING.

23.13 WRITTEN TREATMENT PLAN.

23.15 DISPOSITION.

23.17 PETITION FOR ADDITIONAL PERIODS OF TREATMENT.

23.19 PETITION FOR AN ORDER TO STAY, VACATE OR MODIFY.

23.21 APPEALS.

23.23 FAILURE TO COMPLY WITH ASSISTED OUTPATIENT TREATMENT.

23.25 EFFECT OF DETERMINATION THAT A PERSON IS IN NEED OF

ASSISTED OUTPATIENT TREATMENT.

23.27 FALSE PETITION.

23.29 EXCEPTION.

23.31 EDUCATION AND TRAINING.

S 23.01 CRITERIA FOR ASSISTED OUTPATIENT TREATMENT FOR SUBSTANCE ABUSERS.

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [] is old law to be omitted.

S

LBD15281-02-4

(A) A PERSON MEETS THE CRITERIA FOR ASSISTED OUTPATIENT TREATMENT FOR SUBSTANCE ABUSE IF THERE IS A GOOD FAITH REASON TO BELIEVE THE PERSON IS SUBSTANCE ABUSE IMPAIRED AND, BECAUSE OF SUCH IMPAIRMENT SUCH PERSON HAS LOST THE POWER OF SELF-CONTROL WITH RESPECT TO SUBSTANCE USE, AND EITHER:

(1) HAS INFLICTED, OR THREATENED OR ATTEMPTED TO INFLICT, OR UNLESS PLACED IN TREATMENT IS LIKELY TO INFLICT, PHYSICAL HARM ON HIMSELF OR HERSELF OR ANOTHER; OR

(2) IS IN NEED OF SUBSTANCE ABUSE SERVICES AND, BY REASON OF SUBSTANCE ABUSE IMPAIRMENT, HIS OR HER JUDGMENT HAS BEEN SO IMPAIRED THAT THE PERSON IS INCAPABLE OF APPRECIATING HIS OR HER NEED FOR SUCH SERVICES AND OF MAKING A RATIONAL DECISION IN REGARD THERETO; HOWEVER, MERE REFUSAL TO RECEIVE SUCH SERVICES DOES NOT CONSTITUTE EVIDENCE OF LACK OF JUDGMENT WITH RESPECT TO HIS OR HER NEED FOR SUCH SERVICES; AND

(B) A PERSON MEETS THE CRITERIA FOR ASSISTED OUTPATIENT TREATMENT FOR SUBSTANCE ABUSE IF A COURT OF COMPETENT JURISDICTION FINDS BY CLEAR AND CONVINCING EVIDENCE THAT THE SUBJECT OF THE PETITION MEETS ALL OF THE FOLLOWING CRITERIA:

(1) IS EIGHTEEN YEARS OF AGE OR OLDER;

(2) HAS A HISTORY OF LACK OF COMPLIANCE WITH TREATMENT FOR SUBSTANCE ABUSE THAT HAS:

(A) PRIOR TO THE FILING OF THE PETITION, AT LEAST TWICE WITHIN THE LAST THIRTY-SIX MONTHS BEEN A SIGNIFICANT FACTOR IN NECESSITATING HOSPITALIZATION IN A HOSPITAL, OR RECEIPT OF SERVICES FOR SUBSTANCE ABUSE IN A CORRECTIONAL FACILITY, NOT INCLUDING ANY CURRENT PERIOD, OR PERIOD ENDING WITHIN THE LAST SIX MONTHS, DURING WHICH THE PERSON WAS OR IS HOSPITALIZED OR INCARCERATED; OR

(B) PRIOR TO FILING OF THE PETITION, RESULTED IN ONE OR MORE ACTS OF SERIOUS VIOLENT BEHAVIOR TOWARD SELF OR OTHERS OR THREATS OF, OR ATTEMPTS AT, SERIOUS PHYSICAL HARM TO SELF OR OTHERS WITHIN THE LAST FORTY-EIGHT MONTHS, NOT INCLUDING ANY CURRENT PERIOD, OR PERIOD ENDING WITHIN THE LAST SIX MONTHS, IN WHICH THE PERSON WAS OR IS HOSPITALIZED OR INCARCERATED;

(3) IS IN NEED OF SUBSTANCE ABUSE SERVICES AND, BY REASON OF SUBSTANCE ABUSE IMPAIRMENT, HIS OR HER JUDGMENT HAS BEEN SO IMPAIRED THAT THE PERSON IS INCAPABLE OF APPRECIATING HIS OR HER NEED FOR SUCH SERVICES AND OF MAKING A RATIONAL DECISION IN REGARD THERETO; HOWEVER, MERE REFUSAL TO RECEIVE SUCH SERVICES DOES NOT CONSTITUTE EVIDENCE OF LACK OF JUDGMENT WITH RESPECT TO HIS OR HER NEED FOR SUCH SERVICES;

(4) IS, AS A RESULT OF HIS OR HER SUBSTANCE ABUSE, UNLIKELY TO VOLUNTARILY PARTICIPATE IN THE OUTPATIENT TREATMENT THAT WOULD ENABLE HIM OR HER TO LIVE SAFELY IN THE COMMUNITY; AND

(5) IS LIKELY TO BENEFIT FROM ASSISTED OUTPATIENT TREATMENT.

(C) A COURT MAY NOT GRANT SUCH PETITION UNLESS IT FINDS THAT ASSISTED OUTPATIENT TREATMENT IS THE LEAST RESTRICTIVE ALTERNATIVE AVAILABLE FOR THE PERSON.

(D) FOR THE PURPOSES OF THIS ARTICLE, THE TERM "SUBSTANCE ABUSE" SHALL MEAN PERSONS WHO ARE UNDER THE INFLUENCE OF A CONTROLLED SUBSTANCE AS DEFINED IN SUBDIVISIONS (B) AND (C) OF SCHEDULE I OF SECTION THIRTY-THREE HUNDRED SIX OF THE PUBLIC HEALTH LAW.

S 23.03 RESPONSIBILITIES OF SERVICE PROVIDERS.

IT IS THE RESPONSIBILITY OF THE SERVICE PROVIDER TO:

(A) ENSURE THAT A PERSON WHO IS ADMITTED TO A SERVICE PROVIDER MEETS THE ADMISSION CRITERIA SPECIFIED BY SECTION 23.01 OF THIS ARTICLE;

(B) ASCERTAIN WHETHER THE MEDICAL AND BEHAVIORAL CONDITIONS OF THE PERSON AS PRESENTED ARE WITHIN THE SAFE MANAGEMENT CAPABILITIES OF THE SERVICE PROVIDERS; AND

(C) PROVIDE FOR THE ADMISSION OF THE PERSON TO THE SERVICE COMPONENT THAT REPRESENTS THE LEAST RESTRICTIVE AVAILABLE SETTING THAT IS RESPONSIVE TO THE PERSON'S TREATMENT NEEDS.

S 23.05 PETITION TO THE COURT.

(A) A PETITION FOR AN ORDER AUTHORIZING ASSISTED OUTPATIENT TREATMENT FOR SUBSTANCE ABUSERS MAY BE FILED IN THE SUPREME OR COUNTY COURT IN THE COUNTY IN WHICH THE SUBJECT OF THE PETITION IS PRESENT OR REASONABLY BELIEVED TO BE PRESENT. A PETITION TO OBTAIN AN ORDER AUTHORIZING ASSISTED OUTPATIENT TREATMENT MAY BE INITIATED ONLY BY THE FOLLOWING PERSONS:

(1) ANY PERSON EIGHTEEN YEARS OF AGE OR OLDER WITH WHOM THE SUBJECT OF THE PETITION RESIDES; OR

(2) THE PARENT, SPOUSE, SIBLING EIGHTEEN YEARS OF AGE OR OLDER, OR CHILD EIGHTEEN YEARS OR OLDER OF THE SUBJECT OF THE PETITION; OR

(3) THE DIRECTOR OF A HOSPITAL IN WHICH THE SUBJECT OF THE PETITION IS HOSPITALIZED; OR

(4) THE DIRECTOR OF ANY PUBLIC OR CHARITABLE ORGANIZATION, AGENCY OR HOME PROVIDING SUBSTANCE ABUSE SERVICES TO THE SUBJECT OF THE PETITION IN WHOSE INSTITUTION THE SUBJECT OF THE PETITION RESIDES; OR

(5) THE DIRECTOR OF COMMUNITY SERVICES, OR SOCIAL SERVICES OFFICIAL OF THE CITY OR COUNTY WHERE THE PERSON IS PRESENT OR IS REASONABLY BELIEVED TO BE PRESENT; OR

(6) A PAROLE OFFICER OR PROBATION OFFICER ASSIGNED TO SUPERVISE THE PERSON.

(B) THE PETITION MUST ALLEGE THAT THE SUBJECT OF THE PETITION MEETS THE CRITERIA FOR ASSISTED OUTPATIENT TREATMENT FOR SUBSTANCE ABUSERS CRITERIA AS DEFINED IN SECTION 23.01 OF THIS ARTICLE AND MUST BE SUPPORTED BY A SWORN STATEMENT OF ANY PERSON IDENTIFIED IN SUBDIVISION (A) OF THIS SECTION.

S 23.07 SERVICE.

THE PETITIONER SHALL CAUSE WRITTEN NOTICE OF THE PETITION TO BE GIVEN TO THE SUBJECT OF THE PETITION AND A COPY THEREOF TO BE GIVEN PERSONALLY OR BY MAIL TO THE HEALTH CARE AGENT IF ANY SUCH AGENT IS KNOWN TO THE PETITIONER, THE APPROPRIATE PROGRAM COORDINATOR, AND THE APPROPRIATE DIRECTOR OF COMMUNITY SERVICES, IF SUCH DIRECTOR IS NOT THE PETITIONER.

S 23.09 RIGHT TO COUNSEL.

THE SUBJECT OF THE PETITION SHALL HAVE THE RIGHT TO BE REPRESENTED BY A PUBLIC DEFENDER OR ASSIGNED COUNSEL, OR PRIVATELY FINANCED COUNSEL, AT ALL STAGES OF A PROCEEDING COMMENCED UNDER THIS SECTION.

S 23.11 HEARING.

(A) UPON RECEIPT OF THE PETITION, THE COURT SHALL FIX THE DATE FOR A HEARING. SUCH DATE SHALL BE NO LATER THAN THREE DAYS FROM THE DATE SUCH PETITION IS RECEIVED BY THE COURT, EXCLUDING SATURDAYS, SUNDAYS AND HOLIDAYS. ADJOURNMENTS SHALL BE PERMITTED ONLY FOR GOOD CAUSE SHOWN. IN GRANTING ADJOURNMENTS, THE COURT SHALL CONSIDER THE NEED FOR FURTHER EXAMINATION BY A PHYSICIAN OR THE POTENTIAL NEED TO PROVIDE ASSISTED OUTPATIENT TREATMENT EXPEDITIOUSLY. THE COURT SHALL CAUSE THE SUBJECT OF THE PETITION, ANY OTHER PERSON RECEIVING NOTICE PURSUANT TO SECTION 23.07 OF THIS ARTICLE, THE PETITIONER, THE PHYSICIAN WHOSE AFFIRMATION OR AFFIDAVIT ACCOMPANIED THE PETITION, AND SUCH OTHER PERSONS AS THE COURT MAY DETERMINE TO BE ADVISED OF SUCH DATE. UPON SUCH DATE, OR UPON SUCH OTHER DATE TO WHICH THE PROCEEDING MAY BE ADJOURNED, THE COURT SHALL HEAR TESTIMONY AND, IF IT BE DEEMED ADVISABLE AND THE SUBJECT OF

1 THE PETITION IS AVAILABLE, EXAMINE THE SUBJECT OF THE PETITION IN OR OUT
2 OF COURT. IF THE SUBJECT OF THE PETITION DOES NOT APPEAR AT THE HEARING,
3 AND APPROPRIATE ATTEMPTS TO ELICIT THE ATTENDANCE OF THE SUBJECT HAVE
4 FAILED, THE COURT MAY CONDUCT THE HEARING IN THE SUBJECT'S ABSENCE. IN
5 SUCH CASE, THE COURT SHALL SET FORTH THE FACTUAL BASIS FOR CONDUCTING
6 THE HEARING WITHOUT THE PRESENCE OF THE SUBJECT OF THE PETITION.

7 (B) THE COURT SHALL NOT ORDER ASSISTED OUTPATIENT TREATMENT UNLESS AN
8 EXAMINING PHYSICIAN, WHO RECOMMENDS ASSISTED OUTPATIENT TREATMENT AND
9 HAS PERSONALLY EXAMINED THE SUBJECT OF THE PETITION NO MORE THAN SIX
10 MONTHS BEFORE THE FILING OF THE PETITION, TESTIFIES IN PERSON AT THE
11 HEARING. SUCH PHYSICIAN SHALL STATE THE FACTS AND CLINICAL DETERMI-
12 NATIONS WHICH SUPPORT THE ALLEGATION THAT THE SUBJECT OF THE PETITION
13 MEETS EACH OF THE CRITERIA FOR ASSISTED OUTPATIENT TREATMENT.

14 (C) THE SUBJECT OF THE PETITION SHALL BE AFFORDED AN OPPORTUNITY TO
15 PRESENT EVIDENCE, TO CALL WITNESSES ON HIS OR HER BEHALF, AND TO CROSS-
16 EXAMINE ADVERSE WITNESSES.

17 S 23.13 WRITTEN TREATMENT PLAN.

18 (A) THE COURT SHALL NOT ORDER ASSISTED OUTPATIENT TREATMENT UNLESS A
19 PHYSICIAN APPOINTED BY THE APPROPRIATE DIRECTOR, IN CONSULTATION WITH
20 SUCH DIRECTOR, DEVELOPS AND PROVIDES TO THE COURT A PROPOSED WRITTEN
21 TREATMENT PLAN. THE WRITTEN TREATMENT PLAN SHALL INCLUDE CASE MANAGEMENT
22 SERVICES OR ASSERTIVE COMMUNITY TREATMENT TEAM SERVICES TO PROVIDE CARE
23 COORDINATION. THE WRITTEN TREATMENT PLAN ALSO SHALL INCLUDE ALL Catego-
24 ries of services which such physician recommends that the subject of the
25 petition receive. ALL SERVICE PROVIDERS SHALL BE NOTIFIED REGARDING
26 THEIR INCLUSION IN THE WRITTEN TREATMENT PLAN. IF THE WRITTEN TREATMENT
27 PLAN INCLUDES MEDICATION, IT SHALL STATE WHETHER SUCH MEDICATION SHOULD
28 BE SELF-ADMINISTERED OR ADMINISTERED BY AUTHORIZED PERSONNEL, AND SHALL
29 SPECIFY TYPE AND DOSAGE RANGE OF MEDICATION MOST LIKELY TO PROVIDE MAXI-
30 MUM BENEFIT FOR THE SUBJECT. IF A DIRECTOR IS THE PETITIONER, THE WRIT-
31 TEN TREATMENT PLAN SHALL BE PROVIDED TO THE COURT NO LATER THAN THE DATE
32 OF THE HEARING ON THE PETITION. IF A PERSON OTHER THAN A DIRECTOR IS THE
33 PETITIONER, SUCH PLAN SHALL BE PROVIDED TO THE COURT NO LATER THAN THE
34 DATE SET BY THE COURT PURSUANT TO SUBDIVISION (C) OF SECTION 23.15 OF
35 THIS ARTICLE.

36 THE PHYSICIAN APPOINTED TO DEVELOP THE WRITTEN TREATMENT PLAN SHALL
37 PROVIDE THE FOLLOWING PERSONS WITH AN OPPORTUNITY TO ACTIVELY PARTIC-
38 IPATE IN THE DEVELOPMENT OF SUCH PLAN: THE SUBJECT OF THE PETITION; THE
39 TREATING PHYSICIAN, IF ANY; AND UPON THE REQUEST OF THE SUBJECT OF THE
40 PETITION, AN INDIVIDUAL SIGNIFICANT TO THE SUBJECT INCLUDING ANY RELA-
41 TIVE, CLOSE FRIEND OR INDIVIDUAL OTHERWISE CONCERNED WITH THE WELFARE OF
42 THE SUBJECT. IF THE SUBJECT OF THE PETITION HAS EXECUTED A HEALTH CARE
43 PROXY, THE APPOINTED PHYSICIAN SHALL CONSIDER ANY DIRECTIONS INCLUDED IN
44 SUCH PROXY IN DEVELOPING THE WRITTEN TREATMENT PLAN.

45 (B) THE COURT SHALL NOT ORDER ASSISTED OUTPATIENT TREATMENT UNLESS A
46 PHYSICIAN APPEARING ON BEHALF OF A DIRECTOR TESTIFIES TO EXPLAIN THE
47 WRITTEN PROPOSED TREATMENT PLAN. SUCH PHYSICIAN SHALL STATE THE Catego-
48 ries of ASSISTED OUTPATIENT TREATMENT RECOMMENDED, THE RATIONALE FOR
49 EACH SUCH CATEGORY, FACTS WHICH ESTABLISH THAT SUCH TREATMENT IS THE
50 LEAST RESTRICTIVE ALTERNATIVE, AND, IF THE RECOMMENDED ASSISTED OUTPA-
51 TIENT TREATMENT PLAN INCLUDES MEDICATION, SUCH PHYSICIAN SHALL STATE THE
52 TYPES OR CLASSES OF MEDICATION RECOMMENDED, THE BENEFICIAL AND DETRI-
53 MENTAL PHYSICAL AND MENTAL EFFECTS OF SUCH MEDICATION, AND WHETHER SUCH
54 MEDICATION SHOULD BE SELF-ADMINISTERED OR ADMINISTERED BY AN AUTHORIZED
55 PROFESSIONAL. IF THE SUBJECT OF THE PETITION HAS EXECUTED A HEALTH CARE
56 PROXY, SUCH PHYSICIAN SHALL STATE THE CONSIDERATION GIVEN TO ANY

1 DIRECTIONS INCLUDED IN SUCH PROXY IN DEVELOPING THE WRITTEN TREATMENT
2 PLAN. IF A DIRECTOR IS THE PETITIONER, TESTIMONY PURSUANT TO THIS PARA-
3 GRAPH SHALL BE GIVEN AT THE HEARING ON THE PETITION. IF A PERSON OTHER
4 THAN A DIRECTOR IS THE PETITIONER, SUCH TESTIMONY SHALL BE GIVEN ON THE
5 DATE SET BY THE COURT PURSUANT TO SUBDIVISION (C) OF SECTION 23.15 OF
6 THIS ARTICLE.

7 S 23.15 DISPOSITION.

8 (A) IF AFTER HEARING ALL RELEVANT EVIDENCE, THE COURT DOES NOT FIND BY
9 CLEAR AND CONVINCING EVIDENCE THAT THE SUBJECT OF THE PETITION MEETS THE
10 CRITERIA FOR ASSISTED OUTPATIENT TREATMENT, THE COURT SHALL DISMISS THE
11 PETITION.

12 (B) IF AFTER HEARING ALL RELEVANT EVIDENCE, THE COURT FINDS BY CLEAR
13 AND CONVINCING EVIDENCE THAT THE SUBJECT OF THE PETITION MEETS THE
14 CRITERIA FOR ASSISTED OUTPATIENT TREATMENT, AND THERE IS NO APPROPRIATE
15 AND FEASIBLE LESS RESTRICTIVE ALTERNATIVE, THE COURT MAY ORDER THE
16 SUBJECT TO RECEIVE ASSISTED OUTPATIENT TREATMENT FOR AN INITIAL PERIOD
17 NOT TO EXCEED SIX MONTHS. IN FASHIONING THE ORDER, THE COURT SHALL
18 SPECIFICALLY MAKE FINDINGS BY CLEAR AND CONVINCING EVIDENCE THAT THE
19 PROPOSED TREATMENT IS THE LEAST RESTRICTIVE TREATMENT APPROPRIATE AND
20 FEASIBLE FOR THE SUBJECT. THE ORDER SHALL STATE AN ASSISTED OUTPATIENT
21 TREATMENT PLAN, WHICH SHALL INCLUDE ALL CATEGORIES OF ASSISTED OUTPA-
22 TIENT TREATMENT WHICH THE ASSISTED OUTPATIENT IS TO RECEIVE, BUT SHALL
23 NOT INCLUDE ANY SUCH CATEGORY THAT HAS NOT BEEN RECOMMENDED IN BOTH THE
24 PROPOSED WRITTEN TREATMENT PLAN AND THE TESTIMONY PROVIDED TO THE COURT
25 PURSUANT TO SECTION 23.13 OF THIS ARTICLE.

26 (C) IF AFTER HEARING ALL RELEVANT EVIDENCE PRESENTED BY A PETITIONER
27 WHO IS NOT A DIRECTOR, THE COURT FINDS BY CLEAR AND CONVINCING EVIDENCE
28 THAT THE SUBJECT OF THE PETITION MEETS THE CRITERIA FOR ASSISTED OUTPA-
29 TIENT TREATMENT, AND THE COURT HAS YET TO BE PROVIDED WITH A WRITTEN
30 PROPOSED TREATMENT PLAN AND TESTIMONY PURSUANT TO SECTION 23.13 OF THIS
31 ARTICLE, THE COURT SHALL ORDER THE APPROPRIATE DIRECTOR TO PROVIDE THE
32 COURT WITH SUCH PLAN AND TESTIMONY NO LATER THAN THE THIRD DAY, EXCLUD-
33 ING SATURDAYS, SUNDAYS AND HOLIDAYS, IMMEDIATELY FOLLOWING THE DATE OF
34 SUCH ORDER. UPON RECEIVING SUCH PLAN AND TESTIMONY, THE COURT MAY ORDER
35 ASSISTED OUTPATIENT TREATMENT AS PROVIDED FOR IN SUBDIVISION (B) OF THIS
36 SECTION.

37 (D) IF THE PETITIONER IS THE DIRECTOR OF A HOSPITAL THAT OPERATES AN
38 ASSISTED OUTPATIENT TREATMENT PROGRAM, THE COURT ORDER SHALL DIRECT THE
39 HOSPITAL DIRECTOR TO PROVIDE OR ARRANGE FOR ALL CATEGORIES OF ASSISTED
40 OUTPATIENT TREATMENT FOR THE ASSISTED OUTPATIENT THROUGHOUT THE PERIOD
41 OF THE ORDER. IN ALL OTHER INSTANCES, THE ORDER SHALL REQUIRE THE APPRO-
42 PRIATE DIRECTOR, AS THAT TERM IS DEFINED IN THIS SECTION, TO PROVIDE OR
43 ARRANGE FOR ALL CATEGORIES OF ASSISTED OUTPATIENT TREATMENT FOR THE
44 ASSISTED OUTPATIENT THROUGHOUT THE PERIOD OF THE ORDER.

45 (E) THE DIRECTOR SHALL CAUSE A COPY OF ANY COURT ORDER ISSUED PURSUANT
46 TO THIS SECTION TO BE SERVED PERSONALLY, OR BY MAIL, FACSIMILE OR ELEC-
47 TRONIC MEANS, UPON THE ASSISTED OUTPATIENT, OR ANYONE ACTING ON THE
48 ASSISTED OUTPATIENT'S BEHALF, THE ORIGINAL PETITIONER, IDENTIFIED
49 SERVICE PROVIDERS, AND ALL OTHERS ENTITLED TO NOTICE UNDER SECTION 23.07
50 OF THIS ARTICLE.

51 S 23.17 PETITION FOR ADDITIONAL PERIODS OF TREATMENT.

52 (A) PRIOR TO THE EXPIRATION OF AN ORDER PURSUANT TO THIS SECTION, THE
53 APPROPRIATE DIRECTOR SHALL REVIEW WHETHER THE ASSISTED OUTPATIENT
54 CONTINUES TO MEET THE CRITERIA FOR ASSISTED OUTPATIENT TREATMENT. IF, AS
55 DOCUMENTED IN THE PETITION, THE DIRECTOR DETERMINES THAT SUCH CRITERIA
56 CONTINUE TO BE MET OR HAS MADE APPROPRIATE ATTEMPTS TO, BUT HAS NOT BEEN

1 SUCCESSFUL IN ELICITING, THE COOPERATION OF THE SUBJECT TO SUBMIT TO AN
2 EXAMINATION, WITHIN THIRTY DAYS PRIOR TO THE EXPIRATION OF AN ORDER OF
3 ASSISTED OUTPATIENT TREATMENT, SUCH DIRECTOR MAY PETITION THE COURT TO
4 ORDER CONTINUED ASSISTED OUTPATIENT TREATMENT PURSUANT TO PARAGRAPH TWO
5 OF THIS SUBDIVISION. UPON DETERMINING WHETHER SUCH CRITERIA CONTINUE TO
6 BE MET, SUCH DIRECTOR SHALL NOTIFY THE PROGRAM COORDINATOR IN WRITING AS
7 TO WHETHER A PETITION FOR CONTINUED ASSISTED OUTPATIENT TREATMENT IS
8 WARRANTED AND WHETHER SUCH A PETITION WAS OR WILL BE FILED.

9 (B) WITHIN THIRTY DAYS PRIOR TO THE EXPIRATION OF AN ORDER OF ASSISTED
10 OUTPATIENT TREATMENT, THE APPROPRIATE DIRECTOR OR THE CURRENT PETITION-
11 ER, IF THE CURRENT PETITION WAS FILED PURSUANT TO SECTION 23.05 OF THIS
12 ARTICLE, AND THE CURRENT PETITIONER RETAINS HIS OR HER ORIGINAL STATUS
13 PURSUANT TO THE APPLICABLE SUBPARAGRAPH, MAY PETITION THE COURT TO ORDER
14 CONTINUED ASSISTED OUTPATIENT TREATMENT FOR A PERIOD NOT TO EXCEED ONE
15 YEAR FROM THE EXPIRATION DATE OF THE CURRENT ORDER. IF THE COURT'S
16 DISPOSITION OF SUCH PETITION DOES NOT OCCUR PRIOR TO THE EXPIRATION DATE
17 OF THE CURRENT ORDER, THE CURRENT ORDER SHALL REMAIN IN EFFECT UNTIL
18 SUCH DISPOSITION.

19 THE NOTICE PROVISIONS SET FORTH IN SECTION 23.15 OF THIS ARTICLE SHALL
20 BE APPLICABLE. ANY COURT ORDER REQUIRING PERIODIC BLOOD TESTS OR URINA-
21 LYSIS FOR THE PRESENCE OF ALCOHOL OR ILLEGAL DRUGS SHALL BE SUBJECT TO
22 REVIEW AFTER SIX MONTHS BY THE PHYSICIAN WHO DEVELOPED THE WRITTEN
23 TREATMENT PLAN OR ANOTHER PHYSICIAN DESIGNATED BY THE DIRECTOR, AND SUCH
24 PHYSICIAN SHALL BE AUTHORIZED TO TERMINATE SUCH BLOOD TESTS OR URINALY-
25 SIS WITHOUT FURTHER ACTION BY THE COURT.

26 S 23.19 PETITION FOR AN ORDER TO STAY, VACATE OR MODIFY.

27 (A) IN ADDITION TO ANY OTHER RIGHT OR REMEDY AVAILABLE BY LAW WITH
28 RESPECT TO THE ORDER FOR ASSISTED OUTPATIENT TREATMENT, THE ASSISTED
29 OUTPATIENT, OR ANYONE ACTING ON THE ASSISTED OUTPATIENT'S BEHALF MAY
30 PETITION THE COURT ON NOTICE TO THE DIRECTOR, THE ORIGINAL PETITIONER,
31 AND ALL OTHERS ENTITLED TO NOTICE UNDER SECTION 23.07 OF THIS ARTICLE TO
32 STAY, VACATE OR MODIFY THE ORDER.

33 (B) THE APPROPRIATE DIRECTOR SHALL PETITION THE COURT FOR APPROVAL
34 BEFORE INSTITUTING A PROPOSED MATERIAL CHANGE IN THE ASSISTED OUTPATIENT
35 TREATMENT PLAN, UNLESS SUCH CHANGE IS AUTHORIZED BY THE ORDER OF THE
36 COURT. SUCH PETITION SHALL BE FILED ON NOTICE TO ALL PARTIES ENTITLED TO
37 NOTICE UNDER SECTION 23.07 OF THIS ARTICLE. NOT LATER THAN FIVE DAYS
38 AFTER RECEIVING SUCH PETITION, EXCLUDING SATURDAYS, SUNDAYS AND HOLI-
39 DAYS, THE COURT SHALL HOLD A HEARING ON THE PETITION; PROVIDED THAT IF
40 THE ASSISTED OUTPATIENT INFORMS THE COURT THAT HE OR SHE AGREES TO THE
41 PROPOSED MATERIAL CHANGE, THE COURT MAY APPROVE SUCH CHANGE WITHOUT A
42 HEARING. NON-MATERIAL CHANGES MAY BE INSTITUTED BY THE DIRECTOR WITHOUT
43 COURT APPROVAL. FOR THE PURPOSES OF THIS PARAGRAPH, A MATERIAL CHANGE IS
44 AN ADDITION OR DELETION OF A CATEGORY OF SERVICES TO OR FROM A CURRENT
45 ASSISTED OUTPATIENT TREATMENT PLAN, OR ANY DEVIATION WITHOUT THE
46 ASSISTED OUTPATIENT'S CONSENT FROM THE TERMS OF A CURRENT ORDER RELATING
47 TO THE ADMINISTRATION OF PSYCHOTROPIC DRUGS.

48 S 23.21 APPEALS.

49 REVIEW OF AN ORDER ISSUED PURSUANT TO THIS SECTION SHALL BE HAD IN
50 LIKE MANNER AS SPECIFIED IN SECTION 9.35 OF ARTICLE NINE OF THIS CHAP-
51 TER.

52 S 23.23 FAILURE TO COMPLY WITH ASSISTED OUTPATIENT TREATMENT.

53 WHERE THE SUBJECT FAILS TO COMPLY WITH THE ASSISTED OUTPATIENT PLAN
54 SET FORTH IN ACCORDANCE WITH SECTION 23.15 OF THIS ARTICLE, THE SUBJECT
55 SHALL BE BROUGHT TO A FACILITY OR TREATMENT PROGRAM FOR EMERGENCY
56 SERVICES PURSUANT TO SECTION 22.09 OF THIS CHAPTER.

1 S 23.25 EFFECT OF DETERMINATION THAT A PERSON IS IN NEED OF ASSISTED
2 OUTPATIENT TREATMENT.

3 THE DETERMINATION BY A COURT THAT A PERSON IS IN NEED OF ASSISTED
4 OUTPATIENT TREATMENT SHALL NOT BE CONSTRUED AS OR DEEMED TO BE A DETER-
5 MINATION THAT SUCH PERSON IS INCAPACITATED PURSUANT TO ARTICLE
6 EIGHTY-ONE OF THIS CHAPTER.

7 S 23.27 FALSE PETITION.

8 A PERSON MAKING A FALSE STATEMENT OR PROVIDING FALSE INFORMATION OR
9 FALSE TESTIMONY IN A PETITION OR HEARING UNDER THIS SECTION SHALL BE
10 SUBJECT TO CRIMINAL PROSECUTION PURSUANT TO ARTICLE ONE HUNDRED SEVEN-
11 TY-FIVE OR ARTICLE TWO HUNDRED TEN OF THE PENAL LAW.

12 S 23.29 EXCEPTION.

13 NOTHING IN THIS SECTION SHALL BE CONSTRUED TO AFFECT THE ABILITY OF
14 THE DIRECTOR OF A HOSPITAL TO RECEIVE, ADMIT, OR RETAIN PATIENTS WHO
15 OTHERWISE MEET THE PROVISIONS OF THIS ARTICLE REGARDING RECEIPT,
16 RETENTION OR ADMISSION.

17 S 23.31 EDUCATION AND TRAINING.

18 (A) THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, IN CONSUL-
19 TATION WITH THE OFFICE OF COURT ADMINISTRATION, SHALL PREPARE EDUCA-
20 TIONAL AND TRAINING MATERIALS ON THE USE OF THIS SECTION, WHICH SHALL BE
21 MADE AVAILABLE TO LOCAL GOVERNMENTAL UNITS, PROVIDERS OF SERVICES, JUDG-
22 ES, COURT PERSONNEL, LAW ENFORCEMENT OFFICIALS AND THE GENERAL PUBLIC.

23 (B) THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, IN CONSUL-
24 TATION WITH THE OFFICE OF COURT ADMINISTRATION, SHALL ESTABLISH A
25 SUBSTANCE ABUSE TRAINING PROGRAM FOR SUPREME AND COUNTY COURT JUDGES AND
26 COURT PERSONNEL. SUCH TRAINING SHALL FOCUS ON THE USE OF THIS SECTION
27 AND GENERALLY ADDRESS ISSUES RELATING TO HEROIN AND OPIOID ADDICTION.

28 S 2. This act shall take effect on the one hundred twentieth day after
29 it shall have become a law; provided, however, that effective immediate-
30 ly, the addition, amendment and/or repeal of any rule or regulation
31 necessary for the implementation of this act on its effective date are
32 authorized and directed to be made and completed on or before such
33 effective date.