

10025

I N A S S E M B L Y

June 9, 2014

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Gunther) --
read once and referred 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 ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. The mental hygiene law is amended by adding a new article
2 23 to read as follows:

3 ARTICLE 23

4 ASSISTED OUTPATIENT TREATMENT FOR SUBSTANCE ABUSERS

5 SECTION 23.01 CRITERIA FOR ASSISTED OUTPATIENT TREATMENT FOR
6 SUBSTANCE ABUSERS.

7 23.03 RESPONSIBILITIES OF SERVICE PROVIDERS.

8 23.05 PETITION TO THE COURT.

9 23.07 SERVICE.

10 23.09 RIGHT TO COUNSEL.

11 23.11 HEARING.

12 23.13 WRITTEN TREATMENT PLAN.

13 23.15 DISPOSITION.

14 23.17 PETITION FOR ADDITIONAL PERIODS OF TREATMENT.

15 23.19 PETITION FOR AN ORDER TO STAY, VACATE OR MODIFY.

16 23.21 APPEALS.

17 23.23 FAILURE TO COMPLY WITH ASSISTED OUTPATIENT TREATMENT.

18 23.25 EFFECT OF DETERMINATION THAT A PERSON IS IN NEED OF
19 ASSISTED OUTPATIENT TREATMENT.

20 23.27 FALSE PETITION.

21 23.29 EXCEPTION.

22 23.31 EDUCATION AND TRAINING.

23 S 23.01 CRITERIA FOR ASSISTED OUTPATIENT TREATMENT FOR SUBSTANCE ABUS-
24 ERS.

25 (A) A PERSON MEETS THE CRITERIA FOR ASSISTED OUTPATIENT TREATMENT FOR
26 SUBSTANCE ABUSE IF THERE IS A GOOD FAITH REASON TO BELIEVE THE PERSON IS
27 SUBSTANCE ABUSE IMPAIRED AND, BECAUSE OF SUCH IMPAIRMENT SUCH PERSON HAS

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

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1 LOST THE POWER OF SELF-CONTROL WITH RESPECT TO SUBSTANCE USE, AND
2 EITHER:

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

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

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

16 (1) IS EIGHTEEN YEARS OF AGE OR OLDER;

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

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

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

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

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

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

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

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

48 S 23.03 RESPONSIBILITIES OF SERVICE PROVIDERS.

49 IT IS THE RESPONSIBILITY OF THE SERVICE PROVIDER TO:

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

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

1 (C) PROVIDE FOR THE ADMISSION OF THE PERSON TO THE SERVICE COMPONENT
2 THAT REPRESENTS THE LEAST RESTRICTIVE AVAILABLE SETTING THAT IS RESPON-
3 SIVE TO THE PERSON'S TREATMENT NEEDS.

4 S 23.05 PETITION TO THE COURT.

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

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

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

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

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

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

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

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

30 S 23.07 SERVICE.

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

36 S 23.09 RIGHT TO COUNSEL.

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

40 S 23.11 HEARING.

41 (A) UPON RECEIPT OF THE PETITION, THE COURT SHALL FIX THE DATE FOR A
42 HEARING. SUCH DATE SHALL BE NO LATER THAN THREE DAYS FROM THE DATE SUCH
43 PETITION IS RECEIVED BY THE COURT, EXCLUDING SATURDAYS, SUNDAYS AND
44 HOLIDAYS. ADJOURNMENTS SHALL BE PERMITTED ONLY FOR GOOD CAUSE SHOWN. IN
45 GRANTING ADJOURNMENTS, THE COURT SHALL CONSIDER THE NEED FOR FURTHER
46 EXAMINATION BY A PHYSICIAN OR THE POTENTIAL NEED TO PROVIDE ASSISTED
47 OUTPATIENT TREATMENT EXPEDITIOUSLY. THE COURT SHALL CAUSE THE SUBJECT OF
48 THE PETITION, ANY OTHER PERSON RECEIVING NOTICE PURSUANT TO SECTION
49 23.07 OF THIS ARTICLE, THE PETITIONER, THE PHYSICIAN WHOSE AFFIRMATION
50 OR AFFIDAVIT ACCOMPANIED THE PETITION, AND SUCH OTHER PERSONS AS THE
51 COURT MAY DETERMINE TO BE ADVISED OF SUCH DATE. UPON SUCH DATE, OR UPON
52 SUCH OTHER DATE TO WHICH THE PROCEEDING MAY BE ADJOURNED, THE COURT
53 SHALL HEAR TESTIMONY AND, IF IT BE DEEMED ADVISABLE AND THE SUBJECT OF
54 THE PETITION IS AVAILABLE, EXAMINE THE SUBJECT OF THE PETITION IN OR OUT
55 OF COURT. IF THE SUBJECT OF THE PETITION DOES NOT APPEAR AT THE HEARING,
56 AND APPROPRIATE ATTEMPTS TO ELICIT THE ATTENDANCE OF THE SUBJECT HAVE

1 FAILED, THE COURT MAY CONDUCT THE HEARING IN THE SUBJECT'S ABSENCE. IN
2 SUCH CASE, THE COURT SHALL SET FORTH THE FACTUAL BASIS FOR CONDUCTING
3 THE HEARING WITHOUT THE PRESENCE OF THE SUBJECT OF THE PETITION.

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

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

14 S 23.13 WRITTEN TREATMENT PLAN.

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

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

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

1 THAN A DIRECTOR IS THE PETITIONER, SUCH TESTIMONY SHALL BE GIVEN ON THE
2 DATE SET BY THE COURT PURSUANT TO SUBDIVISION (C) OF SECTION 23.15 OF
3 THIS ARTICLE.

4 S 23.15 DISPOSITION.

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

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

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

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

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

48 S 23.17 PETITION FOR ADDITIONAL PERIODS OF TREATMENT.

49 (A) PRIOR TO THE EXPIRATION OF AN ORDER PURSUANT TO THIS SECTION, THE
50 APPROPRIATE DIRECTOR SHALL REVIEW WHETHER THE ASSISTED OUTPATIENT
51 CONTINUES TO MEET THE CRITERIA FOR ASSISTED OUTPATIENT TREATMENT. IF, AS
52 DOCUMENTED IN THE PETITION, THE DIRECTOR DETERMINES THAT SUCH CRITERIA
53 CONTINUE TO BE MET OR HAS MADE APPROPRIATE ATTEMPTS TO, BUT HAS NOT BEEN
54 SUCCESSFUL IN ELICITING, THE COOPERATION OF THE SUBJECT TO SUBMIT TO AN
55 EXAMINATION, WITHIN THIRTY DAYS PRIOR TO THE EXPIRATION OF AN ORDER OF
56 ASSISTED OUTPATIENT TREATMENT, SUCH DIRECTOR MAY PETITION THE COURT TO

1 ORDER CONTINUED ASSISTED OUTPATIENT TREATMENT PURSUANT TO PARAGRAPH TWO
2 OF THIS SUBDIVISION. UPON DETERMINING WHETHER SUCH CRITERIA CONTINUE TO
3 BE MET, SUCH DIRECTOR SHALL NOTIFY THE PROGRAM COORDINATOR IN WRITING AS
4 TO WHETHER A PETITION FOR CONTINUED ASSISTED OUTPATIENT TREATMENT IS
5 WARRANTED AND WHETHER SUCH A PETITION WAS OR WILL BE FILED.

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

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

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

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

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

45 S 23.21 APPEALS.

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

49 S 23.23 FAILURE TO COMPLY WITH ASSISTED OUTPATIENT TREATMENT.

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

54 S 23.25 EFFECT OF DETERMINATION THAT A PERSON IS IN NEED OF ASSISTED
55 OUTPATIENT TREATMENT.

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

5 S 23.27 FALSE PETITION.

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

10 S 23.29 EXCEPTION.

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

15 S 23.31 EDUCATION AND TRAINING.

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

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

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