

STATE OF NEW YORK

9954

IN SENATE

November 22, 2024

Introduced by Sen. HOYLMAN-SIGAL -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the mental hygiene law, in relation to the hospitalization, care coordination, and assisted outpatient treatment for persons with mental illness by qualified clinical examiners or qualified mental health professionals

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. This act shall be known and may be cited as the "Harness
2 Expertise of Licensed Professionals Act" or the "H.E.L.P." act.
3 § 2. Section 9.01 of the mental hygiene law, as amended by chapter 723
4 of the laws of 1989, the seventh undesignated paragraph as amended by
5 chapter 595 of the laws of 2000, is amended to read as follows:
6 § 9.01 Definitions.
7 As used in this article:
8 (a) "in need of care and treatment" means that a person has a mental
9 illness for which in-patient care and treatment in a hospital is appropriate.
10
11 (b) "in need of involuntary care and treatment" means that a person
12 has a mental illness for which care and treatment as a patient in a
13 hospital is essential to such person's welfare and whose judgment is so
14 impaired that ~~he~~ such person is unable to understand the need for such
15 care and treatment.
16 (c) "likelihood to result in serious harm" or "likely to result in
17 serious harm" means [~~(a)~~] (i) a substantial risk of physical harm to the
18 person as manifested by threats of or attempts at suicide or serious
19 bodily harm or other conduct demonstrating that the person is dangerous
20 to [~~himself or herself~~] themselves, or [~~(b)~~] (ii) a substantial risk of
21 physical harm to other persons as manifested by homicidal or other
22 violent behavior by which others are placed in reasonable fear of serious
23 physical harm.
24 (d) "need for retention" means that a person who has been admitted to
25 a hospital pursuant to this article is in need of involuntary care and
26 treatment in a hospital for a further period.

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

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1 (e) "record" of a patient shall consist of admission, transfer or
2 retention papers and orders, and accompanying data required by this
3 article and by the regulations of the commissioner.

4 (f) "director of community services" means the director of community
5 services for the mentally disabled appointed pursuant to article forty-
6 one of this chapter.

7 (g) "qualified psychiatrist" means a physician licensed to practice
8 medicine in New York state who: [~~(a)~~] (i) is a diplomate of the American
9 board of psychiatry and neurology or is eligible to be certified by that
10 board; or [~~(b)~~] (ii) is certified by the American osteopathic board of
11 neurology and psychiatry or is eligible to be certified by that board.

12 (h) "qualified clinical examiner" means a psychiatric nurse practi-
13 tioner certified by the department of education, a psychologist licensed
14 pursuant to article one hundred fifty-three of the education law, or a
15 clinical social worker licensed pursuant to article one hundred fifty-
16 four of the education law.

17 (i) "qualified mental health professional" means a qualified clinical
18 examiner, a professional nurse registered pursuant to article one
19 hundred thirty-nine of the education law, or any of the following work-
20 ing under the supervision of a physician or qualified clinical examiner:
21 a master social worker licensed pursuant to article one hundred fifty-
22 four of the education law, a mental health counselor licensed pursuant
23 to article one hundred sixty-three of the education law, or a marriage
24 and family therapist licensed pursuant to article one hundred sixty-
25 three of the education law.

26 § 3. Section 9.05 of the mental hygiene law, as renumbered by chapter
27 978 of the laws of 1977, is amended to read as follows:

28 § 9.05 Examining physicians, qualified clinical examiners, and medical
29 certificates.

30 (a) A person is disqualified from acting as an examining physician or
31 qualified clinical examiner in the following cases:

32 1. if [~~he is~~] they are a relative of the person applying for the
33 admission or of the person alleged to be mentally ill.

34 2. if [~~he is~~] they are a manager, trustee, visitor, proprietor, offi-
35 cer, director, or stockholder of the hospital in which the patient is
36 hospitalized or to which it is proposed to admit such person, except as
37 otherwise provided in this chapter, or if [~~he has~~] they have any pecuni-
38 ary interest, directly or indirectly, in such hospital, provided that
39 receipt of fees, privileges, or compensation for treating or examining
40 patients in such hospital shall not be deemed to be a pecuniary inter-
41 est.

42 3. if [~~he is~~] they are on the staff of a proprietary facility to which
43 it is proposed to admit such person.

44 (b) A certificate, as required by this article, must show that the
45 person is mentally ill and shall be based on an examination of the
46 person alleged to be mentally ill made within ten days prior to the date
47 of admission. The date of the certificate shall be the date of such
48 examination. All certificates shall contain the facts and circumstances
49 upon which the judgment of the physicians or qualified clinical examin-
50 ers is based and shall show that the condition of the person examined is
51 such that [~~he needs~~] they need involuntary care and treatment in a
52 hospital and such other information as the commissioner may by regu-
53 lation require.

54 § 4. The section heading and subdivisions (a), (d), (e) and (i) of
55 section 9.27 of the mental hygiene law, as renumbered by chapter 978 of

1 the laws of 1977, subdivision (i) as amended by chapter 847 of the laws
2 of 1987, are amended to read as follows:

3 Involuntary admission on [~~medical~~] clinical certification.

4 (a) The director of a hospital may receive and retain therein as a
5 patient any person alleged to be mentally ill and in need of involuntary
6 care and treatment upon the certificates of two examining physicians,
7 two examining qualified clinical examiners or a combination of an exam-
8 ining physician and an examining qualified clinical examiner, accompa-
9 nied by an application for the admission of such person. The examination
10 may be conducted jointly but each examining physician or qualified clin-
11 ical examiner shall execute a separate certificate.

12 (d) Before an examining physician or qualified clinical examiner
13 completes the certificate of examination of a person for involuntary
14 care and treatment, [~~he~~] the physician or qualified clinical examiner
15 shall consider alternative forms of care and treatment that might be
16 adequate to provide for the person's needs without requiring involuntary
17 hospitalization. If the examining physician or qualified clinical exam-
18 iner knows that the person [~~he-is~~] they are examining for involuntary
19 care and treatment has been under prior treatment, [~~he~~] they shall,
20 insofar as [~~possible~~] reasonable, consult with the physician or
21 [~~psychologist~~] qualified mental health professional furnishing such
22 prior treatment prior to completing [~~his~~] the certificate. Nothing in
23 this section shall prohibit or invalidate any involuntary admission made
24 in accordance with the provisions of this chapter.

25 (e) The director of the hospital where such person is brought shall
26 cause such person to be examined forthwith by a physician or qualified
27 clinical examiner who shall be a member of the psychiatric staff of such
28 hospital other than the original examining physicians or qualified clin-
29 ical examiner whose certificate or certificates accompanied the applica-
30 tion, and [~~r~~] if such person is found to be in need of involuntary care
31 and treatment, [~~he~~] they may be admitted thereto as a patient as herein
32 provided.

33 (i) After an application for the admission of a person has been
34 completed and both physicians or qualified clinical examiners have exam-
35 ined such person and separately certified that [~~he-or-she-is~~] they are
36 mentally ill and in need of involuntary care and treatment in a hospi-
37 tal, either physician or qualified clinical examiner is authorized to
38 request peace officers, when acting pursuant to their special duties, or
39 police officers[~~r~~] who are members of an authorized police department or
40 force or of a sheriff's department, to take into custody and transport
41 such person to a hospital for determination by the director whether such
42 person qualifies for admission pursuant to this section. Upon the
43 request of either physician or qualified clinical examiner, an ambulance
44 service, as defined by subdivision two of section three thousand one of
45 the public health law, is authorized to transport such person to a
46 hospital for determination by the director whether such person qualifies
47 for admission pursuant to this section.

48 § 5. Section 9.29 of the mental hygiene law, as renumbered by chapter
49 978 of the laws of 1977 and subdivision (a) as amended by chapter 789 of
50 the laws of 1985, is amended to read as follows:

51 § 9.29 Involuntary admission on [~~medical~~] clinical certification; notice
52 of admission to patients and others.

53 (a) The director shall cause written notice of a person's involuntary
54 admission on an application supported by [~~medical~~] clinical certifi-
55 cation to be given forthwith to the mental hygiene legal service.

1 (b) The director shall cause written notice of the admission of such
2 person, including such person's rights under this article, to be given
3 personally or by mail not later than five days, excluding Sunday and
4 holidays, after such admission to the following:

5 1. the nearest relative of the person alleged to be mentally ill,
6 other than the applicant, if there be any such person known to the
7 director.

8 2. as many as three additional persons, if designated in writing to
9 receive such notice by the person so admitted.

10 § 6. The section heading and subdivision (a) of section 9.31 of the
11 mental hygiene law, as renumbered by chapter 978 of the laws of 1977 and
12 subdivision (a) as amended by chapter 789 of the laws of 1985, are
13 amended to read as follows:

14 Involuntary admission on [~~medical~~] clinical certification; patient's
15 right to a hearing.

16 (a) If, at any time prior to the expiration of sixty days from the
17 date of involuntary admission of a patient on an application supported
18 by [~~medical~~] clinical certification, [~~he~~] such patient or any relative
19 or friend or the mental hygiene legal service gives notice in writing to
20 the director of request for hearing on the question of need for involun-
21 tary care and treatment, a hearing shall be held as herein provided. The
22 patient or person requesting a hearing on behalf of the patient may
23 designate the county where the hearing shall be held, which shall be
24 either in the county where the hospital is located, the county of the
25 patient's residence, or the county in which the hospital to which the
26 patient was first admitted is located. Such hearing shall be held in the
27 county so designated, subject to application by any interested party,
28 including the director, for change of venue to any other county because
29 of the convenience of parties or witnesses or the condition of the
30 patient upon notice to the persons required to be served with notice of
31 the patient's initial admission.

32 § 7. Subdivision (a) of section 9.33 of the mental hygiene law, as
33 amended by chapter 789 of the laws of 1985, is amended to read as
34 follows:

35 (a) If the director shall determine that a patient admitted upon an
36 application supported by [~~medical~~] clinical certification, for whom
37 there is no court order authorizing retention for a specified period, is
38 in need of retention and if such patient does not agree to remain in
39 such hospital as a voluntary patient, the director shall apply to the
40 supreme court or the county court in the county where the hospital is
41 located for an order authorizing continued retention. Such application
42 shall be made no later than sixty days from the date of involuntary
43 admission on application supported by [~~medical~~] clinical certification
44 or thirty days from the date of an order denying an application for
45 patient's release pursuant to section 9.31 of this article, whichever is
46 later; and the hospital is authorized to retain the patient for such
47 further period during which the hospital is authorized to make such
48 application or during which the application may be pending. The director
49 shall cause written notice of such application to be given the patient
50 and a copy thereof shall be given personally or by mail to the persons
51 required by this article to be served with notice of such patient's
52 initial admission and to the mental hygiene legal service. Such notice
53 shall state that a hearing may be requested and that failure to make
54 such a request within five days, excluding Sunday and holidays, from the
55 date that the notice was given to the patient will permit the entry
56 without a hearing of an order authorizing retention.

1 § 8. Section 9.37 of the mental hygiene law, as renumbered by chapter
2 978 of the laws of 1977, subdivision (a) as amended by chapter 723 of
3 the laws of 1989, subdivision (c) as amended by chapter 230 of the laws
4 of 2004, subdivision (d) as amended by chapter 357 of the laws of 1991
5 and relettered by chapter 343 of the laws of 1996, subdivisions (e) and
6 (f) as relettered by chapter 343 of the laws of 1996, and subdivision
7 (g) as added by chapter 978 of the laws of 1977 and relettered by chap-
8 ter 343 of the laws of 1996, is amended to read as follows:

9 § 9.37 Involuntary admission on certificate of a director of community
10 services or [~~his~~] the director's designee.

11 (a) The director of a hospital, upon application by a director of
12 community services or an examining physician or qualified clinical exam-
13 iner duly designated by [~~him or her~~] such director, may receive and care
14 for in such hospital as a patient any person who, in the opinion of the
15 director of community services or the director's designee, has a mental
16 illness for which immediate inpatient care and treatment in a hospital
17 is appropriate and which, without treatment, is likely to result in
18 serious harm to [~~himself or herself~~] self or others.

19 The need for immediate hospitalization shall be confirmed by a [~~staff~~]
20 physician or qualified clinical examiner on the staff of the hospital
21 prior to admission. Within seventy-two hours, excluding Sunday and holi-
22 days, after such admission, if such patient is to be retained for care
23 and treatment beyond such time and [~~he or she~~] the patient does not
24 agree to remain in such hospital as a voluntary patient, the certificate
25 of another examining physician or qualified clinical examiner who is a
26 member of the psychiatric staff of the hospital that the patient is in
27 need of involuntary care and treatment shall be filed with the hospital.
28 From the time of [~~his or her~~] the patient's admission under this section
29 the retention of such patient for care and treatment shall be subject to
30 the provisions for notice, hearing, review, and judicial approval of
31 continued retention or transfer and continued retention provided by this
32 article for the admission and retention of involuntary patients,
33 provided that, for the purposes of such provisions, the date of admis-
34 sion of the patient shall be deemed to be the date when the patient was
35 first received in the hospital under this section.

36 (b) The application for admission of a patient pursuant to this
37 section shall be based upon a personal examination by a director of
38 community services or [~~his~~] the director's designee. It shall be in
39 writing and shall be filed with the director of such hospital at the
40 time of the patient's reception, together with a statement in a form
41 prescribed by the commissioner giving such information as [~~he~~] the
42 commissioner may deem appropriate.

43 (c) Notwithstanding the provisions of subdivision (b) of [~~this~~]
44 section 41.09 of this chapter, in counties with a population of less
45 than two hundred thousand, a director of community services [~~who is a~~
46 ~~licensed psychologist pursuant to article one hundred fifty three of the~~
47 ~~education law or a licensed clinical social worker pursuant to article~~
48 ~~one hundred fifty four of the education law but~~] who is not a physician
49 or qualified clinical examiner may apply for the admission of a patient
50 pursuant to this section without [~~a medical~~] an examination by a desig-
51 nated physician or qualified clinical examiner, if a hospital approved
52 by the commissioner pursuant to section 9.39 of this article is not
53 located within thirty miles of the patient, and the director of communi-
54 ty services has made a reasonable effort to locate [~~a designated~~] an
55 examining physician or qualified clinical examiner designated pursuant
56 to section 41.09 of this chapter but such [~~a~~] designee is not immediate-

1 ly available and the director of community services, after personal
2 observation of the person, reasonably believes that [~~he~~] such person may
3 have a mental illness [~~which~~] that is likely to result in serious harm
4 to [~~himself~~] self or others and inpatient care and treatment of such
5 person in a hospital may be appropriate. In the event of an application
6 pursuant to this subdivision, a physician or qualified clinical examiner
7 of the receiving hospital shall examine the patient and shall not admit
8 the patient unless [~~he or she determines~~] they determine that the
9 patient has a mental illness for which immediate inpatient care and
10 treatment in a hospital is appropriate and [~~which~~] that is likely to
11 result in serious harm to [~~himself~~] self or others. If the patient is
12 admitted, the need for hospitalization shall be confirmed by another
13 [~~staff~~] physician or qualified clinical examiner on the staff of the
14 hospital within twenty-four hours. An application pursuant to this
15 subdivision shall be in writing and shall be filed with the director of
16 such hospital at the time of the patient's reception, together with a
17 statement in a form prescribed by the commissioner giving such informa-
18 tion as [~~he~~] the commissioner may deem appropriate, including a state-
19 ment of the efforts made by the director of community services to locate
20 a designated examining physician or qualified clinical examiner prior to
21 making an application pursuant to this subdivision.

22 (d) After signing the application, the director of community services
23 or the director's designee shall be authorized and empowered to take
24 into custody, detain, transport, and provide temporary care for any such
25 person. Upon the written [~~request~~] directive of such director or the
26 director's designee it shall be the duty of peace officers, when acting
27 pursuant to their special duties, or police officers who are members of
28 the state police or of an authorized police department or force or of a
29 sheriff's department to take into custody and transport any such person
30 as requested and directed by such director or designee. Upon the written
31 [~~request~~] directive of such director or designee, an ambulance service,
32 as defined in subdivision two of section three thousand one of the
33 public health law, is authorized to transport any such person.

34 (e) Reasonable expenses incurred by the director of community mental
35 hygiene services or [~~his~~] the director's designee for the examination
36 and temporary care of the patient and [~~his~~] such patient's transporta-
37 tion to and from the hospital shall be a charge upon the county from
38 which the patient was admitted and shall be paid from any funds avail-
39 able for such purposes.

40 (f) The provisions of this section shall not be applicable to continue
41 any patient in a hospital who has already been admitted to the hospital
42 under this or any other section of this article.

43 (g) If a person is examined and determined to be mentally ill the fact
44 that such person suffers from alcohol or substance abuse shall not
45 preclude commitment under this section.

46 § 8-a. Subdivision (a) of section 9.37 of the mental hygiene law, as
47 renumbered by chapter 978 of the laws of 1977, is amended to read as
48 follows:

49 (a) The director of a hospital, upon application by a director of
50 community services or an examining physician or qualified clinical exam-
51 iner duly designated by [~~him~~] the director, may receive and care for in
52 such hospital as a patient any person who, in the opinion of the direc-
53 tor of community services or [~~his~~] the director's designee, has a mental
54 illness for which immediate inpatient care and treatment in a hospital
55 is appropriate and which, without treatment, is likely to result in

1 serious harm to [~~himself~~] self or others; "likelihood of serious harm"
2 shall mean:

3 1. substantial risk of physical harm to [~~himself~~] self as manifested
4 by threats of or attempts at suicide or serious bodily harm or other
5 conduct demonstrating that [~~he is~~] they are dangerous to [~~himself~~] them-
6 self, or

7 2. a substantial risk of physical harm to other persons as manifested
8 by homicidal or other violent behavior by which others are placed in
9 reasonable fear or serious physical harm.

10 The need for immediate hospitalization shall be confirmed by a [~~staff~~]
11 physician or qualified clinical examiner on the staff of the hospital
12 prior to admission. Within seventy-two hours, excluding Sunday and holi-
13 days, after such admission, if such patient is to be retained for care
14 and treatment beyond such time and [~~he~~] the patient does not agree to
15 remain in such hospital as a voluntary patient, the certificate of
16 another examining physician or qualified clinical examiner who is a
17 member of the psychiatric staff of the hospital that the patient is in
18 need of involuntary care and treatment shall be filed with the hospital.
19 From the time of [~~his~~] the patient's admission under this section the
20 retention of such patient for care and treatment shall be subject to the
21 provisions for notice, hearing, review, and judicial approval of contin-
22 ued retention or transfer and continued retention provided by this arti-
23 cle for the admission and retention of involuntary patients, provided
24 that, for the purposes of such provisions, the date of admission of the
25 patient shall be deemed to be the date when the patient was first
26 received in the hospital under this section.

27 § 9. Section 9.39 of the mental hygiene law, as renumbered by and
28 subdivision (c) as added by chapter 978 of the laws of 1977, and subdi-
29 vision (a) as amended by chapter 789 of the laws of 1985, is amended to
30 read as follows:

31 § 9.39 Emergency admissions for immediate observation, care, and treat-
32 ment.

33 (a) The director of any hospital maintaining adequate staff and facil-
34 ities for the observation, examination, care, and treatment of persons
35 alleged to be mentally ill and approved by the commissioner to receive
36 and retain patients pursuant to this section may receive and retain
37 therein as a patient for a period of fifteen days any person alleged to
38 have a mental illness for which immediate observation, care, and treat-
39 ment in a hospital is appropriate and which is likely to result in seri-
40 ous harm to [~~himself~~] self or others. "Likelihood to result in serious
41 harm" as used in this article shall mean:

42 1. substantial risk of physical harm to [~~himself~~] self as manifested
43 by threats of or attempts at suicide or serious bodily harm or other
44 conduct demonstrating that [~~he is~~] they are dangerous to [~~himself~~] them-
45 self, or

46 2. a substantial risk of physical harm to other persons as manifested
47 by homicidal or other violent behavior by which others are placed in
48 reasonable fear of serious physical harm.

49 The director shall cause to be entered upon the hospital records the
50 name of the person or persons, if any, who have brought such person to
51 the hospital and the details of the circumstances leading to the hospi-
52 talization of such person.

53 The director shall admit such person pursuant to the provisions of
54 this section only if a [~~staff~~] physician or qualified clinical examiner
55 on the staff of the hospital upon examination of such person finds that
56 such person qualifies under the requirements of this section. Such

1 person shall not be retained for a period of more than forty-eight hours
2 unless within such period such finding is confirmed after examination by
3 another physician or qualified clinical examiner who shall be a member
4 of the psychiatric staff of the hospital. Such person shall be served,
5 at the time of admission, with written notice of [~~his~~] such person's
6 status and rights as a patient under this section. Such notice shall
7 contain the patient's name. At the same time, such notice shall also be
8 given to the mental hygiene legal service and personally or by mail to
9 such person or persons, not to exceed three in number, as may be desig-
10 nated in writing to receive such notice by the person alleged to be
11 mentally ill. If at any time after admission, the patient, any relative,
12 friend, or the mental hygiene legal service gives notice to the director
13 in writing of request for court hearing on the question of need for
14 immediate observation, care, and treatment, a hearing shall be held as
15 herein provided as soon as practicable but in any event not more than
16 five days after such request is received, except that the commencement
17 of such hearing may be adjourned at the request of the patient. It shall
18 be the duty of the director upon receiving notice of such request for
19 hearing to forward forthwith a copy of such notice with a record of the
20 patient to the supreme court or county court in the county where such
21 hospital is located. A copy of such notice and record shall also be
22 given the mental hygiene legal service. The court [~~which~~] that receives
23 such notice shall fix the date of such hearing and cause the patient or
24 other person requesting the hearing, the director, the mental hygiene
25 legal service and such other persons as the court may determine to be
26 advised of such date. Upon such date, or upon such other date to which
27 the proceeding may be adjourned, the court shall hear testimony and
28 examine the person alleged to be mentally ill, if it be deemed advisable
29 in or out of court, and shall render a decision in writing that there is
30 reasonable cause to believe that the patient has a mental illness for
31 which immediate inpatient care and treatment in a hospital is appropri-
32 ate and [~~which~~] that is likely to result in serious harm to [~~himself~~]
33 self or others. If it be determined that there is such reasonable cause,
34 the court shall forthwith issue an order authorizing the retention of
35 such patient for any such purpose or purposes in the hospital for a
36 period not to exceed fifteen days from the date of admission. Any such
37 order entered by the court shall not be deemed to be an adjudication
38 that the patient is mentally ill, but only a determination that there is
39 reasonable cause to retain the patient for the purposes of this section.

40 (b) Within fifteen days of arrival at the hospital, if a determination
41 is made that the person is not in need of involuntary care and treat-
42 ment, [~~he~~] such person shall be discharged unless [~~he~~] such person
43 agrees to remain as a voluntary or informal patient. If [~~he~~] such person
44 is in need of involuntary care and treatment and does not agree to
45 remain as a voluntary or informal patient, [~~he~~] such person may be
46 retained beyond such fifteen day period only by admission to such hospi-
47 tal or another appropriate hospital pursuant to the provisions governing
48 involuntary admission on application supported by [~~medical~~] clinical
49 certification and subject to the provisions for notice, hearing, review,
50 and judicial approval of retention or transfer and retention governing
51 such admissions, provided that, for the purposes of such provisions, the
52 date of admission of the patient shall be deemed to be the date when the
53 patient was first received under this section. If a hearing has been
54 requested pursuant to the provisions of subdivision (a) of this section,
55 the filing of an application for involuntary admission on [~~medical~~]

1 clinical certification shall not delay or prevent the holding of the
2 hearing.

3 (c) If a person is examined and determined to be mentally ill the fact
4 that such person suffers from alcohol or substance abuse shall not
5 preclude commitment under this section.

6 § 10. Subdivisions (a-1), (b) and (c) of section 9.40 of the mental
7 hygiene law, subdivision (a-1) as added and subdivision (b) as amended
8 by section 2 of part PPP of chapter 58 of the laws of 2020, and subdivi-
9 sion (c) as added by chapter 723 of the laws of 1989, are amended to
10 read as follows:

11 (a-1) The director shall cause triage and referral services to be
12 provided by a psychiatric nurse practitioner or physician of the program
13 as soon as such person is received into the comprehensive psychiatric
14 emergency program. After receiving triage and referral services, such
15 person shall be appropriately treated and discharged, or referred for
16 further crisis intervention services including an examination by a
17 physician or qualified clinical examiner as described in subdivision (b)
18 of this section.

19 (b) The director shall cause examination of such persons not
20 discharged after the provision of triage and referral services to be
21 initiated by a [~~staff~~] physician or qualified clinical examiner on the
22 staff of the program as soon as practicable and in any event within six
23 hours after the person is received into the program's emergency room.
24 Such person may be retained for observation, care and treatment and
25 further examination for up to twenty-four hours if, at the conclusion of
26 such examination, such physician or qualified clinical examiner deter-
27 mines that such person may have a mental illness for which immediate
28 observation, care and treatment in a comprehensive psychiatric emergency
29 program is appropriate, and [~~which~~] that is likely to result in serious
30 harm to [~~the person~~] self or others.

31 (c) No person shall be involuntarily retained in accordance with this
32 section for more than twenty-four hours, unless (i) within that time the
33 determination of the examining staff physician or qualified clinical
34 examiner has been confirmed after examination by another physician or
35 qualified clinical examiner who is a member of the psychiatric staff of
36 the program and (ii) the person is admitted to an extended observation
37 bed, as such term is defined in section 31.27 of this chapter. At the
38 time of admission to an extended observation bed, such person shall be
39 served with written notice of [~~his~~] their status and rights as a patient
40 under this section. Such notice shall contain the patient's name. The
41 notice shall be provided to the same persons and in the manner as if
42 provided pursuant to subdivision (a) of section 9.39 of this article.
43 Written requests for court hearings on the question of need for immedi-
44 ate observation, care and treatment shall be made, and court hearings
45 shall be scheduled and held, in the manner provided pursuant to subdivi-
46 sion (a) of section 9.39 of this article, provided however, if a person
47 is removed or admitted to a hospital pursuant to subdivision (e) or (f)
48 of this section the director of such hospital shall be substituted for
49 the director of the comprehensive psychiatric emergency program in all
50 legal proceedings regarding the continued retention of the person.

51 § 11. Paragraph 3 of subdivision (b) of section 9.47 of the mental
52 hygiene law, as amended by chapter 158 of the laws of 2005, is amended
53 to read as follows:

54 (3) filing of petitions for assisted outpatient treatment pursuant to
55 [~~paragraph~~] subparagraph (vii) of paragraph one of subdivision (e) of

1 section 9.60 of this article, and documenting the petition filing date
2 and the date of the court order;

3 § 12. Section 9.55 of the mental hygiene law, as amended by chapter
4 598 of the laws of 1994, is amended to read as follows:

5 § 9.55 Emergency admissions for immediate observation, care and treat-
6 ment; powers of qualified psychiatrists and qualified clinical
7 examiner.

8 A qualified psychiatrist or qualified clinical examiner shall have the
9 power to direct the removal of any person[~~r~~] whose treatment for a
10 mental illness [~~he or she is~~] they are either supervising or providing
11 in a facility licensed or operated by the office of mental health
12 [~~which~~] that does not have an inpatient psychiatric service, to a hospi-
13 tal approved by the commissioner pursuant to subdivision (a) of section
14 9.39 of this article or to a comprehensive psychiatric emergency
15 program, if [~~he or she determines~~] they determine upon examination of
16 such person that such person appears to have a mental illness for which
17 immediate observation, care and treatment in a hospital is appropriate
18 and [~~which~~] that is likely to result in serious harm to [~~himself or~~
19 ~~herself~~] self or others. Upon the [~~request~~] directive of such qualified
20 psychiatrist or qualified clinical examiner, peace officers, when acting
21 pursuant to their special duties, or police officers, who are members of
22 an authorized police department or force or of a sheriff's department
23 shall take into custody and transport any such person. Upon the request
24 of a qualified psychiatrist or qualified clinical examiner, an ambulance
25 service, as defined by subdivision two of section three thousand one of
26 the public health law, is authorized to transport any such person. Such
27 person may then be admitted to a hospital in accordance with the
28 provisions of section 9.39 of this article or to a comprehensive psychi-
29 atric emergency program in accordance with the provisions of section
30 9.40 of this article.

31 § 12-a. Section 9.55 of the mental hygiene law, as amended by chapter
32 847 of the laws of 1987, is amended to read as follows:

33 § 9.55 Emergency admissions for immediate observation, care and treat-
34 ment; powers of qualified psychiatrists and qualified clinical
35 examiner.

36 A qualified psychiatrist or qualified clinical examiner shall have the
37 power to direct the removal of any person[~~r~~] whose treatment for a
38 mental illness [~~he is~~] they are either supervising or providing in a
39 facility licensed or operated by the office of mental health [~~which~~]
40 that does not have an inpatient psychiatric service, to a hospital
41 approved by the commissioner pursuant to subdivision (a) of section 9.39
42 of this article, if [~~he determines~~] they determine upon examination of
43 such person that such person appears to have a mental illness for which
44 immediate observation, care and treatment in a hospital is appropriate
45 and [~~which~~] that is likely to result in serious harm to [~~himself~~] self
46 or others, as defined in section 9.39 of this article. Upon the
47 [~~request~~] directive of such qualified psychiatrist or qualified clinical
48 examiner, peace officers, when acting pursuant to their special duties,
49 or police officers, who are members of an authorized police department
50 or force or of a sheriff's department shall take into custody and trans-
51 port any such person. Upon the request of a qualified psychiatrist or
52 qualified clinical examiner, an ambulance service, as defined by subdi-
53 vision two of section three thousand one of the public health law, is
54 authorized to transport any such person. Such person may then be admit-
55 ted in accordance with the provisions of section 9.39 of this article.

1 § 13. The mental hygiene law is amended by adding a new section 9.56
2 to read as follows:

3 § 9.56. Transport for evaluation; powers of specialized staff of adult
4 care facilities.

5 (a) A physician or qualified mental health professional who has
6 completed training pursuant to subdivision (c) of this section and is
7 employed as a clinical staff member or clinical contractor of an adult
8 care facility as defined in section two of the social services law shall
9 be authorized to request that the director of such facility, or such
10 director's designee, direct the removal of any resident of such facility
11 who appears to be mentally ill and is acting in a manner that is likely
12 to result in serious harm to self or others, to a hospital approved by
13 the commissioner pursuant to subdivision (a) of section 9.39 or section
14 31.27 of this chapter or, where such physician or qualified mental
15 health professional deems appropriate and the person voluntarily agrees,
16 to a crisis stabilization center specified in section 36.01 of this
17 chapter.

18 (b) A facility director or director's designee who receives a request
19 from a physician or qualified mental health professional pursuant to
20 subdivision (a) of this section may direct peace officers acting pursu-
21 ant to their special duties, or police officers who are members of an
22 authorized police department or force or of a sheriff's department, to
23 take into custody and transport the resident identified in such request.
24 Upon the request of such facility director or designee, an ambulance
25 service, as defined in subdivision two of section three thousand one of
26 the public health law, is authorized to transport any such persons. Such
27 persons may then be evaluated for admission in accordance with the
28 provisions of section 9.27, 9.39, 9.40 or other sections of this arti-
29 cle, provided that such transport shall not create a presumption that
30 the person should be involuntarily admitted to a hospital.

31 (c) The commissioner shall develop standards relating to the training
32 requirements of physicians and mental health professionals authorized to
33 request transport pursuant to this section. Such training shall, at a
34 minimum, help to ensure that crisis and emergency services are provided
35 in a manner that protects the health and safety, and respects the indi-
36 vidual needs and rights, of persons being evaluated or transported
37 pursuant to this section.

38 (d) A person removed to a hospital pursuant to this section shall
39 maintain their status as a resident of the adult care facility until
40 admitted as a patient at such hospital or for twenty-four hours follow-
41 ing such person's release upon a determination by a physician or quali-
42 fied clinical examiner at such hospital to not admit the person as a
43 patient; provided that this section shall not prevent the adult care
44 facility from continuing such person's residency status for a longer
45 period at the discretion of the facility director or as the facility may
46 otherwise be obligated. Any personal property of such person located at
47 the facility at the time of removal shall be securely maintained by the
48 facility for the duration of any resulting hospitalization or crisis
49 stabilization, unless transferred to another party upon such person's
50 request.

51 § 14. Section 9.57 of the mental hygiene law, as amended by chapter
52 598 of the laws of 1994, is amended to read as follows:

53 § 9.57 Emergency admissions for immediate observation, care and treat-
54 ment; powers of emergency room physicians or qualified clinical
55 examiners.

1 A physician or qualified clinical examiner who has examined a person
2 in an emergency room or provided emergency medical services at a general
3 hospital, as defined in article twenty-eight of the public health law,
4 [~~which~~] that does not have an inpatient psychiatric service, or a physi-
5 cian or qualified clinical examiner who has examined a person in a
6 comprehensive psychiatric emergency program shall be authorized to
7 request that the director of the program or hospital, or the director's
8 designee, direct the removal of such person to a hospital approved by
9 the commissioner pursuant to subdivision (a) of section 9.39 of this
10 article or to a comprehensive psychiatric emergency program, if the
11 physician or qualified clinical examiner determines upon examination of
12 such person that such person appears to have a mental illness for which
13 immediate care and treatment in a hospital is appropriate and [~~which~~]
14 that is likely to result in serious harm to [~~himself~~] self or others.
15 Upon the request of the physician or qualified clinical examiner, the
16 director of the program or hospital or the director's designee[~~r~~] is
17 authorized to direct peace officers, when acting pursuant to their
18 special duties, or police officers[~~r~~] who are members of an authorized
19 police department or force or of a sheriff's department, to take into
20 custody and transport any such person. Upon the request of an emergency
21 room physician or qualified clinical examiner or the director of the
22 program or hospital, or the director's designee, an ambulance service,
23 as defined by subdivision two of section three thousand one of the
24 public health law, is authorized to take into custody and transport any
25 such person. Such person may then be admitted to a hospital in accord-
26 ance with the provisions of section 9.39 of this article or to a compre-
27 hensive psychiatric emergency program in accordance with the provisions
28 of section 9.40 of this article.

29 § 14-a. Section 9.57 of the mental hygiene law, as amended by chapter
30 847 of the laws of 1987, is amended to read as follows:

31 § 9.57 Emergency admissions for immediate observation, care and treat-
32 ment; powers of emergency room physicians or qualified clinical
33 examiner.

34 A physician or qualified clinical examiner who has examined a person
35 in an emergency room or provided emergency medical services at a general
36 hospital, as defined in article twenty-eight of the public health law,
37 [~~which~~] that does not have an inpatient psychiatric service, shall be
38 authorized to request that the director of the hospital, or [~~his~~] the
39 director's designee, direct the removal of such person to a hospital
40 approved by the commissioner pursuant to subdivision (a) of section 9.39
41 of this article, if the physician or qualified clinical examiner deter-
42 mines upon examination of such person that such person appears to have a
43 mental illness for which immediate care and treatment in a hospital is
44 appropriate and [~~which~~] that is likely to result in serious harm to
45 [~~himself~~] self or others, as defined in section 9.39 of this article.
46 Upon the request of the physician or qualified clinical examiner, the
47 director of the hospital or [~~his~~] the director's designee, is authorized
48 to direct peace officers, when acting pursuant to their special duties,
49 or police officers[~~r~~] who are members of an authorized police department
50 or force or of a sheriff's department, to take into custody and trans-
51 port any such person. Upon the request of an emergency room physician or
52 qualified clinical examiner, or the director of the hospital, or [~~his~~]
53 the director's designee, an ambulance service, as defined by subdivision
54 two of section three thousand one of the public health law, is author-
55 ized to take into custody and transport any such person. Such person may

1 then be admitted in accordance with the provisions of section 9.39 of
2 this article.

3 § 15. Subdivisions (b), (c) and (d) of section 9.58 of the mental
4 hygiene law, as added by chapter 678 of the laws of 1994, and paragraph
5 2 of subdivision (d) as amended by chapter 230 of the laws of 2004, are
6 amended to read as follows:

7 (b) If the team physician [~~or qualified mental health professional~~]
8 determines that it is necessary to effectuate transport, [~~he or she~~]
9 such physician shall direct peace officers, when acting pursuant to
10 their special duties, or police officers, who are members of an author-
11 ized police department or force or of a sheriff's department, to take
12 into custody and transport any persons identified in subdivision (a) of
13 this section. Upon the request of such physician [~~or qualified mental~~
14 ~~health professional~~], an ambulance service, as defined in subdivision
15 two of section three thousand one of the public health law, is author-
16 ized to transport any such persons. Such persons may then be evaluated
17 for admission in accordance with the provisions of section 9.27, 9.39,
18 9.40 or other sections of this article, provided that [~~such admission~~
19 ~~decisions shall be made independent of the fact that the person was~~
20 ~~transported pursuant to the provisions of this section and, provided~~
21 ~~further,~~] such transport shall not create a presumption that the person
22 should be involuntarily admitted to a hospital.

23 (c) The commissioner shall be authorized to develop standards, in
24 consultation with the commissioner of the division of criminal justice
25 services, relating to the training requirements of teams established
26 pursuant to this section. Such training shall, at a minimum, help to
27 ensure that [~~the provision of~~] crisis and emergency services are
28 provided in a manner [~~which~~] that protects the health and safety and
29 respects the individual needs and rights of persons being evaluated or
30 transported pursuant to this section.

31 (d) As used in this section[+
32 ~~(1) "Approved~~], "approved mobile crisis outreach team" shall mean a
33 team of persons operating as part of a mobile crisis outreach program
34 approved by the commissioner of mental health, which may include mobile
35 crisis outreach teams funded pursuant to section 41.55 of this chapter.

36 [~~(2) "Qualified mental health professional" shall mean a licensed~~
37 ~~psychologist, registered professional nurse, licensed clinical social~~
38 ~~worker or a licensed master social worker under the supervision of a~~
39 ~~physician, psychologist or licensed clinical social worker.~~]

40 § 16. Paragraphs 3 and 4 of subdivision (e) of section 9.60 of the
41 mental hygiene law, paragraph 3 as amended by chapter 158 of the laws of
42 2005, and paragraph 4 as amended by chapter 382 of the laws of 2015, are
43 amended to read as follows:

44 (3) The petition shall be accompanied by an affirmation or affidavit
45 of a physician or qualified clinical examiner, who shall not be the
46 petitioner, stating either that:

47 (i) such physician or qualified clinical examiner has personally exam-
48 ined the subject of the petition no more than ten days prior to the
49 submission of the petition, recommends assisted outpatient treatment for
50 the subject of the petition, and is willing and able to testify at the
51 hearing on the petition; or

52 (ii) no more than ten days prior to the filing of the petition, such
53 physician or qualified clinical examiner or [~~his or her~~] their designee
54 has made appropriate attempts but has not been successful in eliciting
55 the cooperation of the subject of the petition to submit to an examina-
56 tion, such physician or qualified clinical examiner has reason to

1 suspect that the subject of the petition meets the criteria for assisted
2 outpatient treatment, and such physician or qualified clinical examiner
3 is willing and able to examine the subject of the petition and testify
4 at the hearing on the petition.

5 (4) In counties with a population of less than eighty thousand, the
6 affirmation or affidavit required by paragraph three of this subdivision
7 may be made by a physician or qualified clinical examiner who is an
8 employee of the office. The office is authorized to make available, at
9 no cost to the county, a qualified physician or qualified clinical exam-
10 iner for the purpose of making such affirmation or affidavit consistent
11 with the provisions of such paragraph.

12 § 17. Subdivision (h) of section 9.60 of the mental hygiene law, as
13 amended by chapter 158 of the laws of 2005, paragraph 2 as amended by
14 section 2 of subpart H of part UU of chapter 56 of the laws of 2022, is
15 amended to read as follows:

16 (h) Hearing. (1) Upon receipt of the petition, the court shall fix the
17 date for a hearing. Such date shall be no later than three days from the
18 date such petition is received by the court, excluding Saturdays,
19 Sundays and holidays. Adjournments shall be permitted only for good
20 cause shown. In granting adjournments, the court shall consider the need
21 for further examination by a physician or qualified clinical examiner or
22 the potential need to provide assisted outpatient treatment expeditious-
23 ly. The court shall cause the subject of the petition, any other person
24 receiving notice pursuant to subdivision (f) of this section, the peti-
25 tioner, the physician or qualified clinical examiner whose affirmation
26 or affidavit accompanied the petition, and such other persons as the
27 court may determine, to be advised of such date. Upon such date, or upon
28 such other date to which the proceeding may be adjourned, the court
29 shall hear testimony and, if it be deemed advisable and the subject of
30 the petition is available, examine the subject of the petition in or out
31 of court. If the subject of the petition does not appear at the hearing,
32 and appropriate attempts to elicit the attendance of the subject have
33 failed, the court may conduct the hearing in the subject's absence. In
34 such case, the court shall set forth the factual basis for conducting
35 the hearing without the presence of the subject of the petition.

36 (2) The court shall not order assisted outpatient treatment unless an
37 examining physician~~[7]~~ or qualified clinical examiner who recommends
38 assisted outpatient treatment and has personally examined the subject of
39 the petition no more than ten days before the filing of the petition,
40 testifies in person or by videoconference at the hearing. Provided
41 however, a physician or qualified clinical examiner shall only be
42 authorized to testify by video conference [~~when it has been: (i) shown~~
43 ~~that diligent efforts have been made to attend such hearing in person~~
44 ~~and~~ upon consent of the subject of the petition [~~consents to the physi-~~
45 ~~cian testifying by video conference;~~] or [~~(ii) the court orders the~~
46 ~~physician to testify by video conference~~] upon a finding of good cause.
47 Such physician or qualified clinical examiner shall state the facts and
48 clinical determinations which support the allegation that the subject of
49 the petition meets each of the criteria for assisted outpatient treat-
50 ment.

51 (3) If the subject of the petition has refused to be examined by a
52 physician or qualified clinical examiner, the court may request the
53 subject to consent to an examination by a physician or qualified clin-
54 ical examiner appointed by the court. If the subject of the petition
55 does not consent and the court finds reasonable cause to believe that
56 the allegations in the petition are true, the court may order peace

1 officers, acting pursuant to their special duties, or police officers
2 who are members of an authorized police department or force~~[7]~~ or of a
3 sheriff's department to take the subject of the petition into custody
4 and transport ~~[him or her]~~ them to a hospital for examination by a
5 physician or qualified clinical examiner. Retention of the subject of
6 the petition under such order shall not exceed twenty-four hours. The
7 examination of the subject of the petition may be performed by the
8 physician or qualified clinical examiner whose affirmation or affidavit
9 accompanied the petition pursuant to paragraph three of subdivision (e)
10 of this section, if such physician or qualified clinical examiner is
11 privileged by such hospital or otherwise authorized by such hospital to
12 do so. If such examination is performed by another physician~~[, the exam-~~
13 ~~ining physician]~~ or qualified clinical examiner, such physician or qual-
14 ified clinical examiner may consult with the physician or qualified
15 clinical examiner whose affirmation or affidavit accompanied the peti-
16 tion as to whether the subject meets the criteria for assisted outpa-
17 tient treatment.

18 (4) A physician or qualified clinical examiner who testifies pursuant
19 to paragraph two of this subdivision shall state~~[+(i)]~~ the facts and
20 conclusions which support the allegation that the subject meets each of
21 the criteria for assisted outpatient treatment~~[, (ii)]~~ and that ~~[the]~~
22 assisted outpatient treatment is the least restrictive alternative~~[7~~
23 ~~(iii) the recommended assisted outpatient treatment, and (iv) the~~
24 ~~rationale for the recommended assisted outpatient treatment. If the~~
25 ~~recommended assisted outpatient treatment includes medication, such~~
26 ~~physician's testimony shall describe the types or classes of medication~~
27 ~~which should be authorized, shall describe the beneficial and detri-~~
28 ~~mental physical and mental effects of such medication, and shall recom-~~
29 ~~mend whether such medication should be self-administered or administered~~
30 ~~by authorized personnel].~~

31 (5) The subject of the petition shall be afforded an opportunity to
32 present evidence, to call witnesses on ~~[his or her]~~ the subject's
33 behalf, and to cross-examine adverse witnesses.

34 § 18. Subdivision (n) of section 9.60 of the mental hygiene law, as
35 amended by chapter 1 of the laws of 2013, is amended to read as follows:

36 (n) Failure to comply with assisted outpatient treatment. Where in the
37 clinical judgment of a physician or qualified clinical examiner, (i) the
38 assisted outpatient, has failed or refused to comply with the assisted
39 outpatient treatment, (ii) efforts were made to solicit compliance, and
40 (iii) such assisted outpatient may be in need of involuntary admission
41 to a hospital pursuant to section 9.27 of this article or immediate
42 observation, care and treatment pursuant to section 9.39 or 9.40 of this
43 article, such physician or qualified clinical examiner may request the
44 appropriate director of community services, the director's designee, or
45 any physician or qualified clinical examiner designated by the director
46 of community services pursuant to section 9.37 of this article, to
47 direct the removal of such assisted outpatient to an appropriate hospi-
48 tal for an examination to determine if such person has a mental illness
49 for which hospitalization is necessary pursuant to section 9.27, 9.39 or
50 9.40 of this article. Furthermore, if such assisted outpatient refuses
51 to take medications as required by the court order, or ~~[he or she]~~ such
52 outpatient refuses to take, or fails a blood test, urinalysis, or alco-
53 hol or drug test as required by the court order, such physician or qual-
54 ified clinical examiner may consider such refusal or failure when deter-
55 mining whether the assisted outpatient is in need of an examination to
56 determine whether ~~[he or she]~~ such outpatient has a mental illness for

1 which hospitalization is necessary. Upon the request of such physician
2 or qualified clinical examiner, the appropriate director, the director's
3 designee, or any physician or qualified clinical examiner designated
4 pursuant to section 9.37 of this article, may direct peace officers,
5 acting pursuant to their special duties, or police officers who are
6 members of an authorized police department or force or of a sheriff's
7 department to take the assisted outpatient into custody and transport
8 [~~him or her~~] such outpatient to the hospital operating the assisted
9 outpatient treatment program or to any hospital authorized by the direc-
10 tor of community services to receive such persons. Such law enforcement
11 officials shall carry out such directive. Upon the request of such
12 physician or qualified clinical examiner, the appropriate director, the
13 director's designee, or any physician or qualified clinical examiner
14 designated pursuant to section 9.37 of this article, an ambulance
15 service, as defined by subdivision two of section three thousand one of
16 the public health law, or an approved mobile crisis outreach team as
17 defined in section 9.58 of this article shall be authorized to take into
18 custody and transport any such person to the hospital operating the
19 assisted outpatient treatment program, or to any other hospital author-
20 ized by the appropriate director of community services to receive such
21 persons. Any director of community services, or designee, shall be
22 authorized to direct the removal of an assisted outpatient who is pres-
23 ent in [~~his or her~~] such director's county to an appropriate hospital,
24 in accordance with the provisions of this subdivision, based upon a
25 determination of the appropriate director of community services direct-
26 ing the removal of such assisted outpatient pursuant to this subdivi-
27 sion. Such person may be retained for observation, care and treatment
28 and further examination in the hospital for up to seventy-two hours to
29 permit a physician or qualified clinical examiner to determine whether
30 such person has a mental illness and is in need of involuntary care and
31 treatment in a hospital pursuant to the provisions of this article. Any
32 continued involuntary retention in such hospital beyond the initial
33 seventy-two hour period shall be in accordance with the provisions of
34 this article relating to the involuntary admission and retention of a
35 person. If at any time during the seventy-two hour period the person is
36 determined not to meet the involuntary admission and retention
37 provisions of this article, and does not agree to stay in the hospital
38 as a voluntary or informal patient, [~~he or she~~] such outpatient must be
39 released. Failure to comply with an order of assisted outpatient treat-
40 ment shall not be grounds for involuntary civil commitment or a finding
41 of contempt of court.

42 § 19. The mental hygiene law is amended by adding a new section 9.64
43 to read as follows:

44 § 9.64 Notice of admission determination to community provider.

45 Upon a determination by a physician or qualified clinical examiner
46 pursuant to the provisions of this article as to whether a person should
47 be admitted as a patient in a hospital or received as a patient in a
48 comprehensive psychiatric emergency program, the director of such hospi-
49 tal or program shall ensure that reasonable efforts are made to identify
50 and promptly notify of such determination any community provider of
51 mental health services that maintains such person on its caseload.

52 § 20. Paragraph 1 of subdivision (e) of section 29.15 of the mental
53 hygiene law, as amended by chapter 408 of the laws of 1999, is amended
54 to read as follows:

55 1. In the case of an involuntary patient on conditional release, the
56 director may terminate the conditional release and order the patient to

1 return to the facility at any time during the period for which retention
2 was authorized, if, in the director's judgment, the patient needs in-pa-
3 tient care and treatment and the conditional release is no longer appro-
4 priate; provided, however, that in any such case, the director shall
5 cause written notice of such patient's return to be given to the mental
6 hygiene legal service. The director shall cause the patient to be
7 retained for observation, care and treatment and further examination in
8 a hospital for up to seventy-two hours if a physician or qualified clin-
9 ical examiner on the staff of the hospital determines that such person
10 may have a mental illness and may be in need of involuntary care and
11 treatment in a hospital pursuant to the provisions of article nine of
12 this chapter. Any continued retention in such hospital beyond the
13 initial seventy-two hour period shall be in accordance with the
14 provisions of this chapter relating to the involuntary admission and
15 retention of a person. If at any time during the seventy-two hour period
16 the person is determined not to meet the involuntary admission and
17 retention provisions of this chapter, and does not agree to stay in the
18 hospital as a voluntary or informal patient, [~~he or she~~] such person
19 must be released, either conditionally or unconditionally.

20 § 21. Subdivisions (f) and (m) of section 29.15 of the mental hygiene
21 law, subdivision (f) as amended by chapter 135 of the laws of 1993, and
22 subdivision (m) as added by chapter 341 of the laws of 1980, are amended
23 to read as follows:

24 (f) The discharge or conditional release of all clients at develop-
25 mental centers, patients at psychiatric centers or patients at psychiat-
26 ric inpatient services subject to licensure by the office of mental
27 health shall be in accordance with a written service plan prepared by
28 staff familiar with the case history of the client or patient to be
29 discharged or conditionally released and in cooperation with appropriate
30 social services officials and directors of local governmental units. In
31 causing such plan to be prepared, the director of the facility shall
32 take steps to assure that the following persons are interviewed,
33 provided an opportunity to actively participate in the development of
34 such plan and advised of whatever services might be available to the
35 patient through the mental hygiene legal service: the patient to be
36 discharged or conditionally released; a representative of a community
37 provider of mental health services, including a provider of case manage-
38 ment services, that maintains the patient on its caseload; an authorized
39 representative of the patient, to include the parent or parents if the
40 patient is a minor, unless such minor sixteen years of age or older
41 objects to the participation of the parent or parents and there has been
42 a clinical determination by a physician that the involvement of the
43 parent or parents is not clinically appropriate and such determination
44 is documented in the clinical record and there is no plan to discharge
45 or release the minor to the home of such parent or parents; and upon the
46 request of the patient sixteen years of age or older, [~~a significant~~] an
47 individual significant to the patient including any relative, close
48 friend or individual otherwise concerned with the welfare of the
49 patient, other than an employee of the facility.

50 (m) It shall be the responsibility of the chief administrator of any
51 facility providing inpatient services subject to licensure by the office
52 of mental health to notify[~~, when appropriate, the local social services~~
53 ~~commissioner and appropriate state and local mental health represen-~~
54 ~~tatives~~] the following persons when an inpatient is about to be
55 discharged or conditionally released and to provide to such [~~officials~~]
56 persons the written service plan developed for such inpatient as

1 required under subdivision (f) of this section: a representative of a
2 community provider of mental health services, including a provider of
3 case management services, that maintains the patient on its caseload; a
4 representative of an adult care facility in which the patient resided at
5 the time of the patient's admission; and, when appropriate, the local
6 social services commissioner and appropriate state and local mental
7 health representatives.

8 § 22. Subdivision (b) of section 41.09 of the mental hygiene law, as
9 amended by chapter 588 of the laws of 1973, and as renumbered by chapter
10 978 of the laws of 1977, is amended to read as follows:

11 (b) Each director shall be a psychiatrist or other professional person
12 who meets standards set by the commissioner for the position. If the
13 director is not a physician or qualified clinical examiner as defined in
14 article nine of this chapter, [~~he~~] the director shall not have the power
15 to conduct examinations authorized to be conducted by an examining
16 physician or qualified clinical examiner or by a director of community
17 services pursuant to this chapter but [~~he~~] shall designate an examining
18 physician or qualified clinical examiner who shall be empowered to
19 conduct such examinations on behalf of such director. A director need
20 not reside in the area to be served. The director shall be a full-time
21 employee except in cases where the commissioner has expressly waived the
22 requirement.

23 § 23. This act shall take effect immediately; provided, however, that:

24 a. the amendments to subdivision (a) of section 9.37 of the mental
25 hygiene law made by section eight of this act shall be subject to the
26 expiration and reversion of such subdivision pursuant to section 21 of
27 chapter 723 of the laws of 1989, when upon such date the provisions of
28 section seven-a shall take effect;

29 b. the amendments to section 9.40 of the mental hygiene law made by
30 section ten of this act shall not affect the repeal of such section and
31 shall be deemed repealed therewith;

32 c. the amendments to paragraph 3 of subdivision (b) of section 9.47 of
33 the mental hygiene law made by section eleven of this act shall not
34 affect the repeal of such subdivision and shall be deemed repealed ther-
35 ewith;

36 d. the amendments to sections 9.55 and 9.57 of the mental hygiene law
37 made by sections twelve and fourteen of this act shall be subject to the
38 expiration and reversion of such section pursuant to section 21 of chap-
39 ter 723 of the laws of 1989, as amended, when upon such date the
40 provisions of sections twelve-a and fourteen-a of this act shall take
41 effect;

42 e. the amendments to section 9.60 of the mental hygiene law made by
43 sections sixteen, seventeen and eighteen of this act shall not affect
44 the repeal of such section and shall be deemed repealed therewith; and

45 f. the amendments to paragraph 1 of subdivision (e) of section 29.15
46 of the mental hygiene law made by section twenty of this act shall not
47 affect the expiration of such section pursuant to section 18 of chapter
48 408 of the laws of 1999, as amended and shall expire and be deemed
49 repealed therewith.