STATE OF NEW YORK

7827

2023-2024 Regular Sessions

IN ASSEMBLY

June 15, 2023

Introduced by M. of A. BRAUNSTEIN -- read once and referred to the Committee on Mental Health

AN ACT to amend the mental hygiene law, in relation to hospitalization, care coordination, and assisted outpatient treatment for persons with mental illness

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

Section 1. This act shall be known and may be cited as "The Supportive Interventions Act".

§ 2. Legislative findings. The legislature finds that with proper support, the great majority of New Yorkers with severe mental illness can thrive in outpatient settings as fully-integrated members of the communities of our state.

The legislature further finds that a core function of our mental health system is to help each person with severe mental illness maximize their potential for a self-directed life. Fulfilling this responsibility requires a flexible approach that acknowledges the challenges that individuals with severe mental illness may face at certain junctures in recognizing their own illness and need for treatment. To empower a person to gain command of their own mental health recovery in due course, it is sometimes necessary to extend a lifeline through a period of mandated treatment.

The legislature further finds that it is always preferable for an individual in psychiatric crisis or at risk thereof to accept mental health treatment voluntarily, and that care providers be encouraged to make diligent efforts to exhaust such possibilities before resorting to involuntary care.

The legislature further finds that while New York law appropriately limits involuntary hospitalization to circumstances where a person's mental illness is deemed "likely to result in serious harm," a lack of statutory guidance has led to tragically narrow interpretations of this

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

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standard. The serious harm likely to result from egregious self-neglect, including psychiatric deterioration likely to result from an extended period of untreated psychosis, is too often not considered in the clinical evaluation of those in crisis.

The legislature further finds individuals not receiving essential mental health care because they are unable to recognize their own need for it may face "revolving door" hospitalization, and intolerable rates of victimization and premature death.

The legislature further finds that while assisted outpatient treatment, as established by "Kendra's Law" in 1999, has been highly effective in helping New Yorkers with severe mental illness live safely in the community and avoid hospitalization and criminal justice involvement, gaps and barriers in the law have prevented the participation of many individuals who meet the legal eligibility criteria and stand to benefit from this essential intervention.

The legislature intends and expects that the supportive interventions facilitated by this act will save lives, raise the quality of life for New Yorkers with severe mental illness and their loved ones, enhance public safety, reduce criminalization of mental illness, and improve the efficiency and cost-effectiveness of our public mental health system.

The legislature further finds that there is no choice to be made between the reforms enacted herein and the additional need to increase investments in community-based mental health. Ongoing efforts to expand availability of mental health treatment and services, supportive housing, and opportunities for social connection must continue, and offer great promise to reduce the need for the crisis response mechanisms addressed in this act.

§ 3. Section 9.01 of the mental hygiene law, as amended by chapter 723 of the laws of 1989, the seventh undesignated paragraph as amended by chapter 595 of the laws of 2000, is amended to read as follows:

§ 9.01 Definitions.

As used in this article:

"in need of care and treatment" means that a person has a mental illness for which in-patient care and treatment in a hospital is appropriate.

"in need of involuntary care and treatment" means that a person has a mental illness for which care and treatment as a patient in a hospital is essential to such person's welfare and [~~whose~~] **that so impairs the person's** judgment [~~is so impaired~~] that [~~he~~] **the person** is unable to understand the need for such care and treatment. **Care and treatment in a hospital shall be considered essential to a person's welfare if, in the absence of such care and treatment, the person's mental illness is likely to result in serious harm to self or others.**

[~~"likelihood to result in serious harm" or~~] "likely to result in serious harm **to self or others**" means [~~(a)~~] **presenting** a substantial risk of**: (a)** physical **or psychiatric** harm to the person as manifested by**: (i)** threats of or attempts at suicide or serious bodily harm**; (ii) substantial inability of the person to meet his or her basic need for food, clothing, shelter or medical care;** or **(iii)** other conduct demonstrating that the person is dangerous to himself or herself, or (b) [~~a substantial risk of~~] physical harm to other persons as manifested by homicidal or other violent behavior **or threats** by which others are placed in reasonable fear of serious physical harm.

"need for retention" means [~~that~~] **the need of** a person who has been admitted to a hospital pursuant to this article [~~is in need~~] **for a**

further period of involuntary care and treatment in a hospital [~~for a further period~~].

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

"director of community services" means the director of community services for the mentally disabled appointed pursuant to article forty-one of this chapter.

"qualified psychiatrist" means a physician licensed to practice medicine in New York state who: (a) is a diplomate of the American board of psychiatry and neurology or is eligible to be certified by that board; or (b) is certified by the American osteopathic board of neurology and psychiatry or is eligible to be certified by that board.

"qualified clinical examiner" means a psychiatric nurse practitioner certified by the department of education, a psychologist licensed pursuant to article one hundred fifty-three of the education law, or a clinical social worker licensed pursuant to article one hundred fifty-four of the education law.

"qualified mental health professional" means a qualified clinical examiner, a professional nurse registered pursuant to article one hundred thirty-nine of the education law, or any of the following working under the supervision of a physician or qualified clinical examiner: a master social worker licensed pursuant to article one hundred fifty-four of the education law, a mental health counselor licensed pursuant to article one hundred sixty-three of the education law, or a marriage and family therapist licensed pursuant to article one hundred sixty-three of the education law.

§ 4. The mental hygiene law is amended by adding a new section 9.04 to read as follows:

§ 9.04 Clinical determination of risk of harm.

A clinical determination of whether a person's mental illness is likely to result in serious harm to self or others shall take account of:

(a) all relevant information presented to the evaluating facility's staff, including credible reports of the person's recent behavior and any known information related to the person's medical and behavioral history;

(b) the person's current ability, with available support, to adhere to outpatient treatment; and

(c) the expected long-term impact on the person's health or safety of actions or self-neglect caused by mental illness.

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

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

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

1. if he or she is a relative of the person applying for the admission or of the person alleged to be mentally ill.

2. if he or she is a manager, trustee, visitor, proprietor, officer, director, or stockholder of the hospital in which the patient is hospitalized or to which it is proposed to admit such person, except as otherwise provided in this chapter, or if he or she has any pecuniary interest, directly or indirectly, in such hospital, provided that receipt of fees, privileges, or compensation for treating or examining patients in such hospital shall not be deemed to be a pecuniary interest.

3. if he **or she** is on the staff of a proprietary facility to which it is proposed to admit such person.

(b) A certificate, as required by this article, must show that the person is mentally ill and shall be based on an examination of the person alleged to be mentally ill made within ten days prior to the date of admission. The date of the certificate shall be the date of such examination. All certificates shall contain the facts and circumstances upon which the judgment of the physicians **or qualified clinical examiners** is based and shall show that the condition of the person examined is such that he **or she** needs involuntary care and treatment in a hospital**,** and such other information as the commissioner may by regulation require.

§ 6. The section heading and subdivisions (a), (d), (e), and (i) of section 9.27 of the mental hygiene law, section 9.27 as renumbered by chapter 978 of the laws of 1977 and subdivision (i) as amended by chapter 847 of the laws of 1987, are amended to read as follows:

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

(a) The director of a hospital may receive and retain therein as a patient any person alleged to be mentally ill and in need of involuntary care and treatment upon the certificates of two examining physicians, **two examining qualified clinical examiners or a combination of an examining physician and an examining qualified clinical examiner,** accompanied by an application for the admission of such person. The examination may be conducted jointly but each examining physician **or qualified clinical examiner** shall execute a separate certificate.

(d) Before an examining physician **or qualified clinical examiner** completes the certificate of examination of a person for involuntary care and treatment, [~~he~~] **the physician or qualified clinical examiner** shall consider alternative forms of care and treatment that might be adequate to provide for the person's needs without requiring involuntary hospitalization. If the examining physician **or qualified clinical examiner** knows that the person he **or she** is examining for involuntary care and treatment has been under prior treatment, he **or she** shall, insofar as [~~possible~~] **reasonable**, consult with the physician or [~~psychologist~~] **qualified mental health professional** furnishing such prior treatment prior to completing [~~his~~] **the** certificate. Nothing in this section shall prohibit or invalidate any involuntary admission made in accordance with the provisions of this chapter.

(e) The director of the hospital where such person is brought shall cause such person to be examined forthwith by a physician **or qualified clinical examiner** who shall be a member of the psychiatric staff of such hospital other than the original examining physicians **or qualified clinical examiner** whose certificate or certificates accompanied the application**,** and[~~,~~] if such person is found to be in need of involuntary care and treatment, he **or she** may be admitted thereto as a patient as herein provided.

(i) After an application for the admission of a person has been completed and both physicians **or qualified clinical examiners** have examined such person and separately certified that he or she is mentally ill and in need of involuntary care and treatment in a hospital, either physician **or qualified clinical examiner** is authorized to request peace officers, when acting pursuant to their special duties, or police officers[~~,~~] who are members of an authorized police department or force or of a sheriff's department, to take into custody and transport such person to a hospital for determination by the director whether such person qualifies for admission pursuant to this section. Upon the

request of either physician **or qualified clinical examiner,** an ambulance service, as defined by subdivision two of section three thousand one of the public health law, is authorized to transport such person to a hospital for determination by the director whether such person qualifies for admission pursuant to this section.

§ 7. The section heading and subdivision (a) of section 9.29 of the mental hygiene law, section 9.29 as renumbered by chapter 978 of the laws of 1977 and subdivision (a) as amended by chapter 789 of the laws of 1985, are amended to read as follows:

Involuntary admission on [~~medical~~] **clinical** certification; notice of admission to patients and others.

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

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

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

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

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

(a) If the director shall determine that a patient admitted upon an application supported by [~~medical~~] **clinical** certification, for whom there is no court order authorizing retention for a specified period, is in need of retention and if such patient does not agree to remain in such hospital as a voluntary patient, the director shall apply to the supreme court or the county court in the county where the hospital is located for an order authorizing continued retention. Such application shall be made no later than sixty days from the date of involuntary admission on application supported by [~~medical~~] **clinical** certification or thirty days from the date of an order denying an application for patient's release pursuant to section 9.31 **of this article**, whichever is later; and the hospital is authorized to retain the patient for such further period during which the hospital is authorized to make such application or during which the application may be pending. The director shall cause written notice of such application to be given **to** the patient and a copy thereof shall be given personally or by mail to the persons required by this article to be served with notice of such

patient's initial admission and to the mental hygiene legal service. Such notice shall state that a hearing may be requested and that failure to make such a request within five days, excluding Sunday and holidays, from the date that the notice was given to the patient will permit the entry without a hearing of an order authorizing retention.

§ 10. The section heading and subdivisions (a), (b), (c), (d), and (e) of section 9.37 of the mental hygiene law, section 9.37 as renumbered by chapter 978 of the laws of 1977, subdivision (a) as amended by chapter 723 of the laws of 1989, subdivision (c) as amended by chapter 230 of the laws of 2004, and subdivision (d) as amended by chapter 357 of the laws of 1991 and relettered by chapter 343 of the laws of 1996, and subdivision (e) as relettered by chapter 343 of the laws of 1996, are amended to read as follows:

Involuntary admission on certificate of a director of community services or [~~his~~] director's designee.

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

The need for immediate hospitalization shall be confirmed by a [~~staff~~] physician or qualified clinical examiner on the staff of the hospital prior to admission. Within seventy-two hours, excluding Sunday and holidays, after such admission, if such patient is to be retained for care and treatment beyond such time and he or she does not agree to remain in such hospital as a voluntary patient, the certificate of another examining physician or qualified clinical examiner who is a member of the psychiatric staff of the hospital that the patient is in need of involuntary care and treatment shall be filed with the hospital. From the time of his or her admission under this section the retention of such patient for care and treatment shall be subject to the provisions for notice, hearing, review, and judicial approval of continued retention or transfer and continued retention provided by this article for the admission and retention of involuntary patients, provided that, for the purposes of such provisions, the date of admission of the patient shall be deemed to be the date when the patient was first received in the hospital under this section.

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

(c) Notwithstanding the provisions of subdivision (b) of [~~this~~] section 41.09 of this chapter, in counties with a population of less than two hundred thousand, a director of community services who is a licensed psychologist pursuant to article one hundred fifty-three of the education law or a licensed clinical social worker pursuant to article one hundred fifty-four of the education law but who is not a physician or qualified clinical examiner may apply for the admission of a patient pursuant to this section without [~~a medical~~] an examination by a designated physician or qualified clinical examiner, if a hospital approved

by the commissioner pursuant to section 9.39 of this article is not located within thirty miles of the patient, and the director of community services has made a reasonable effort to locate [~~a designated~~] an examining physician or qualified clinical examiner designated pursuant to section 41.09 of this chapter but such [~~a~~] designee is not immediately available and the director of community services, after personal observation of the person, reasonably believes that [~~he~~] such person may have a mental illness [~~which~~] that is likely to result in serious harm to [~~himself~~] self or others and inpatient care and treatment of such person in a hospital may be appropriate. In the event of an application pursuant to this subdivision, a physician or qualified clinical examiner of the receiving hospital shall examine the patient and shall not admit the patient unless he or she determines that the patient has a mental illness for which immediate inpatient care and treatment in a hospital is appropriate and [~~which~~] that is likely to result in serious harm to [~~himself~~] self or others. If the patient is admitted, the need for hospitalization shall be confirmed by another [~~staff~~] physician or qualified clinical examiner on the staff of the hospital within twenty-four hours. An application pursuant to this subdivision shall be in writing and shall be filed with the director of such hospital at the time of the patient's reception, together with a statement in a form prescribed by the commissioner giving such information as [~~he~~] the commissioner may deem appropriate, including a statement of the efforts made by the director of community services to locate a designated examining physician or qualified clinical examiner prior to making an application pursuant to this subdivision.

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

(e) Reasonable expenses incurred by the director of community mental hygiene services or [~~his~~] the director's designee for the examination and temporary care of the patient and [~~his~~] such patient's transportation to and from the hospital shall be a charge upon the county from which the patient was admitted and shall be paid from any funds available for such purposes.

§ 11. Subdivisions (a) and (b) of section 9.39 of the mental hygiene law, subdivision (a) as amended by chapter 789 of the laws of 1985 and such section as renumbered by chapter 978 of the laws of 1977, are amended to read as follows:

(a) The director of any hospital maintaining adequate staff and facilities for the observation, examination, care, and treatment of persons alleged to be mentally ill and approved by the commissioner to receive and retain patients pursuant to this section may receive and retain therein as a patient for a period of fifteen days any person alleged to have a mental illness for which immediate observation, care, and treatment in a hospital is appropriate and [~~which~~] that is likely to result

in serious harm to [~~himself~~] **self** or others. [~~"Likelihood to result in serious harm" as used in this article shall mean:~~

~~1. substantial risk of physical harm to himself as manifested by threats of or attempts at suicide or serious bodily harm or other conduct demonstrating that he is dangerous to himself, or~~

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

The director shall cause to be entered upon the hospital records the name of the person or persons, if any, who have brought such person to the hospital and the details of the circumstances leading to the hospitalization of such person.

The director shall admit such person pursuant to the provisions of this section only if a [~~staff~~] physician **or qualified clinical examiner on the staff** of the hospital upon examination of such person finds that such person qualifies under the requirements of this section. Such person shall not be retained for a period of more than forty-eight hours unless within such period such finding is confirmed after examination by another physician **or qualified clinical examiner** who shall be a member of the psychiatric staff of the hospital. Such person shall be served, at the time of admission, with written notice of [~~his~~] **such person's** status and rights as a patient under this section. Such notice shall contain the patient's name. At the same time, such notice shall also be given to the mental hygiene legal service and personally or by mail to such person or persons, not to exceed three in number, as may be designated in writing to receive such notice by the person alleged to be mentally ill. If at any time after admission, the patient, any relative, friend, or the mental hygiene legal service gives notice to the director in writing of request for court hearing on the question of need for immediate observation, care, and treatment, a hearing shall be held as herein provided as soon as practicable but in any event not more than five days after such request is received, except that the commencement of such hearing may be adjourned at the request of the patient. It shall be the duty of the director upon receiving notice of such request for hearing to forward forthwith a copy of such notice with a record of the patient to the supreme court or county court in the county where such hospital is located. A copy of such notice and record shall also be given the mental hygiene legal service. The court [~~which~~] **that** receives such notice shall fix the date of such hearing and cause the patient or other person requesting the hearing, the director, the mental hygiene legal service 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 examine the person alleged to be mentally ill, if it be deemed advisable in or out of court, and shall render a decision in writing that there is reasonable cause to believe that the patient has a mental illness for which immediate inpatient care and treatment in a hospital is appropriate and [~~which~~] **that** is likely to result in serious harm to [~~himself~~] **self** or others. If it be determined that there is such reasonable cause, the court shall forthwith issue an order authorizing the retention of such patient for any such purpose or purposes in the hospital for a period not to exceed fifteen days from the date of admission. Any such order entered by the court shall not be deemed to be an adjudication that the patient is mentally ill, but only a determination that there is reasonable cause to retain the patient for the purposes of this section.

(b) Within fifteen days of arrival at the hospital, if a determination is made that the person is not in need of involuntary care and treatment, [~~he~~] **such person** shall be discharged unless [~~he~~] **such person** agrees to remain as a voluntary or informal patient. If [~~he~~] **such person** is in need of involuntary care and treatment and does not agree to remain as a voluntary or informal patient, [~~he~~] **such person** may be retained beyond such fifteen day period only by admission to such hospital or another appropriate hospital pursuant to the provisions governing involuntary admission on application supported by [~~medical~~] **clinical** certification and subject to the provisions for notice, hearing, review, and judicial approval of retention or transfer and retention governing such admissions, provided that, for the purposes of such provisions, the date of admission of the patient shall be deemed to be the date when the patient was first received under this section. If a hearing has been requested pursuant to the provisions of subdivision (a), the filing of an application for involuntary admission on [~~medical~~] **clinical** certification shall not delay or prevent the holding of the hearing.

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

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

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

(c) No person shall be involuntarily retained in accordance with this section for more than twenty-four hours, unless (i) within that time the determination of the examining staff physician **or qualified clinical examiner** has been confirmed after examination by another physician **or qualified clinical examiner** who is a member of the psychiatric staff of the program and (ii) the person is admitted to an extended observation bed, as such term is defined in section 31.27 of this chapter. At the time of admission to an extended observation bed, such person shall be served with written notice of his **or her** status and rights as a patient under this section. Such notice shall contain the patient's name. The notice shall be provided to the same persons and in the manner as if provided pursuant to subdivision (a) of section 9.39 of this article. Written requests for court hearings on the question of need for immediate observation, care and treatment shall be made, and court hearings

shall be scheduled and held, in the manner provided pursuant to subdivision (a) of section 9.39 of this article, provided however, if a person is removed or admitted to a hospital pursuant to subdivision (e) or (f) of this section the director of such hospital shall be substituted for the director of the comprehensive psychiatric emergency program in all legal proceedings regarding the continued retention of the person.

§ 13. Subdivision (a) of section 9.41 of the mental hygiene law, as amended by section 4 of part AA of chapter 57 of the laws of 2021, is amended to read as follows:

(a) Any peace officer, when acting pursuant to his or her special duties, or police officer who is a member of the state police or of an authorized police department or force or of a sheriff's department may take into custody any person who appears to be mentally ill and is [~~conducting himself or herself~~] acting in a manner [~~which~~] that is likely to result in serious harm to [~~the person~~] self or others. Such officer may direct the removal of such person or remove him or her to any hospital specified in subdivision (a) of section 9.39 of this article, or any comprehensive psychiatric emergency program specified in subdivision (a) of section 9.40 of this article, or pending his or her examination or admission to any such hospital or program, temporarily detain any such person in another safe and comfortable place, in which event, such officer shall immediately notify the director of community services or the director's designee, or if there be [~~none~~] no such director or designee, the health officer of the city or county of such action.

§ 14. Subdivision (a) of section 9.45 of the mental hygiene law, as amended by section 6 of part AA of chapter 57 of the laws of 2021, is amended to read as follows:

(a) The director of community services or the director's designee shall have the power to direct the removal of any person, within his or her jurisdiction, to a hospital approved by the commissioner pursuant to subdivision (a) of section 9.39 of this article, or to a comprehensive psychiatric emergency program pursuant to subdivision (a) of section 9.40 of this article, if the parent, adult sibling, spouse [~~or~~], domestic partner as defined in section twenty-nine hundred ninety-four-a of the public health law, child of the person, cohabitant of the person's residential unit, the committee or legal guardian of the person, a licensed psychologist, registered professional nurse or certified social worker currently responsible for providing treatment services to the person, a supportive or intensive case manager currently assigned to the person by a case management program, which program is approved by the office of mental health for the purpose of reporting under this section, a licensed physician, health officer, peace officer or police officer reports to [~~him or her~~] the director or the director's designee that such person has a mental illness for which immediate care and treatment is appropriate and [~~which~~] that is likely to result in serious harm to [~~himself or herself~~] self or others. It shall be the duty of peace officers, when acting pursuant to their special duties, or police officers[~~,~~] who are members of an authorized police department, or force or of a sheriff's department to assist representatives of such director to take into custody and transport any such person. Upon the request of a director of community services or the director's designee, an ambulance service, as defined in subdivision two of section three thousand one of the public health law, is authorized to transport any such person. Such person may then be retained in a hospital pursuant to the provisions of section 9.39 of this article or in a comprehensive psychiatric emergency program pursuant to the provisions of section 9.40 of this article.

§ 15. Subdivision (b) of section 9.46 of the mental hygiene law, as added by chapter 1 of the laws of 2013, is amended to read as follows:

(b) Notwithstanding any other law to the contrary, when a mental health professional currently providing treatment services to a person determines, in the exercise of reasonable professional judgment, that such person is likely to engage in conduct that would result in serious **physical** harm to self or others, [~~he or she~~] **the mental health professional** shall be required to report, as soon as practicable, to the director of community services, or the director's designee, who shall report to the division of criminal justice services whenever [~~he or she~~] **such director or designee** agrees that the person is likely to engage in such conduct. Information transmitted to the division of criminal justice services shall be limited to names and other non-clinical identifying information, which may only be used for determining whether a license issued pursuant to section 400.00 of the penal law should be suspended or revoked, or for determining whether a person is ineligible for a license issued pursuant to section 400.00 of the penal law, or is no longer permitted under state or federal law to possess a firearm.

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

(3) filing of petitions for assisted outpatient treatment pursuant to [~~paragraph~~] **subparagraph** (vii) **of paragraph one** of subdivision (e) of section 9.60 of this article, and documenting the petition filing date and the date of the court order;

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

§ 9.55 Emergency admissions for immediate observation, care and treatment; powers of qualified psychiatrists **and qualified clinical examiners**.

A qualified psychiatrist **or qualified clinical examiner** shall have the power to direct the removal of any person[~~,~~] whose treatment for a mental illness he or she is either supervising or providing in a facility licensed or operated by the office of mental health [~~which~~] **that** does not have an inpatient psychiatric service[~~,~~] to a hospital approved by the commissioner pursuant to subdivision (a) of section 9.39 of this article or to a comprehensive psychiatric emergency program, if he or she determines upon examination of such person that such person appears to have a mental illness for which immediate observation, care and treatment in a hospital is appropriate and [~~which~~] **that** is likely to result in serious harm to [~~himself or herself~~] **self** or others. Upon the [~~request~~] **directive** of such qualified psychiatrist[~~,~~] **or qualified clinical examiner,** peace officers, when acting pursuant to their special duties, or police officers[~~,~~] who are members of an authorized police department or force or of a sheriff's department shall take into custody and transport any such person. Upon the request of a qualified psychiatrist **or qualified clinical examiner,** an ambulance service, as defined by subdivision two of section three thousand one of the public health law, is authorized to transport any such person. Such person may then be admitted to a hospital in accordance with the provisions of section 9.39 of this article or to a comprehensive psychiatric emergency program in accordance with the provisions of section 9.40 of this article.

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

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

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

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

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

(d) A person removed to a hospital pursuant to this section shall maintain his or her status as a resident of the adult care facility until admitted as a patient at such hospital or for twenty-four hours following such person's release upon a determination by a physician or qualified clinical examiner at such hospital to not admit the person as a patient; provided that this section shall not prevent the adult care facility from continuing such person's residency status for a longer period at the discretion of the facility director or as the facility may otherwise be obligated. Any personal property of such person located at the facility at the time of removal shall be securely maintained by the facility for the duration of any resulting hospitalization or crisis stabilization, unless transferred to another party upon such person's request.

§ 19. The opening paragraph of section 9.57 of the mental hygiene law, as amended by chapter 598 of the laws of 1994, is amended to read as follows:

A physician or qualified clinical examiner who has examined a person in an emergency room or provided emergency medical services at a general hospital, as defined in article twenty-eight of the public health law, [~~which~~] that does not have an inpatient psychiatric service, or a physician or qualified clinical examiner who has examined a person in a comprehensive psychiatric emergency program shall be authorized to request that the director of the program or hospital, or the director's

designee, direct the removal of such person to a hospital approved by the commissioner pursuant to subdivision (a) of section 9.39 of this article or to a comprehensive psychiatric emergency program, if the physician **or qualified clinical examiner** determines upon examination of such person that such person appears to have a mental illness for which immediate care and treatment in a hospital is appropriate and [~~which~~] **that** is likely to result in serious harm to [~~himself~~] **self** or others. Upon the request of the physician **or qualified clinical examiner**, the director of the program or hospital or the director's designee[~~,~~] is authorized to direct peace officers, when acting pursuant to their special duties, or police officers[~~,~~] who are members of an authorized police department or force or of a sheriff's department to take into custody and transport any such person. Upon the request of an emergency room physician or the director of the program or hospital, or the director's designee, an ambulance service, as defined by subdivision two of section three thousand one of the public health law, is authorized to take into custody and transport any such person. Such person may then be admitted to a hospital in accordance with the provisions of section 9.39 of this article or to a comprehensive psychiatric emergency program in accordance with the provisions of section 9.40 of this article.

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

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

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

(d) As used in this section[~~:~~

~~(1) "Approved~~], **, "approved** mobile crisis outreach team" shall mean a team of persons operating as part of a mobile crisis outreach program approved by the commissioner of mental health, which may include mobile crisis outreach teams funded pursuant to section 41.55 of this chapter.

[~~(2) "Qualified mental health professional" shall mean a licensed psychologist, registered professional nurse, licensed clinical social~~

~~worker or a licensed master social worker under the supervision of a physician, psychologist or licensed clinical social worker.~~]

§ 21. Subparagraph (iii) of paragraph 4 of subdivision (c) of section 9.60 of the mental hygiene law, as amended by section 2 of subpart H of part UU of chapter 56 of the laws of 2022, is amended to read as follows:

(iii) notwithstanding subparagraphs (i) and (ii) of this paragraph, resulted in the issuance of a court order for assisted outpatient treatment [~~which~~] **that** has expired within the last six months, and since the expiration of the order, the person has experienced a substantial increase in symptoms of mental illness [~~and such symptoms~~] **that** substantially interferes with [~~or limits one or more major life activities as determined by a director of community services who previously was required to coordinate and monitor the care of any individual who was subject to such expired assisted outpatient treatment order. The applicable director of community services or their designee shall arrange for the individual to be evaluated by a physician. If the physician determines court ordered services are clinically necessary and the least restrictive option, the director of community services may initiate a court proceeding~~] **the person's ability to maintain his or her health or safety**.

§ 22. Subparagraphs (ii) and (vi) of paragraph 1 of subdivision (e) of section 9.60 of the mental hygiene law, as amended by chapter 158 of the laws of 2005, is amended to read as follows:

(ii) the parent, spouse, **domestic partner,** sibling eighteen years of age or older, or child eighteen years of age or older of the subject of the petition; or

(vi) a [~~psychologist, licensed pursuant to article one hundred fifty-three of the education law, or a social worker, licensed pursuant to article one hundred fifty-four of the education law,~~] **qualified mental health professional** who is treating the subject of the petition for a mental illness; or

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

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

(i) such physician **or qualified clinical examiner** has personally examined the subject of the petition no more than ten days prior to the submission of the petition, recommends assisted outpatient treatment for the subject of the petition, and is willing and able to testify at the hearing on the petition; or

(ii) no more than ten days prior to the filing of the petition, such physician **or qualified clinical examiner** or his or her designee has made appropriate attempts but has not been successful in eliciting the cooperation of the subject of the petition to submit to an examination, such physician **or qualified clinical examiner** has reason to suspect that the subject of the petition meets the criteria for assisted outpatient treatment, and such physician **or qualified clinical examiner** is willing and able to examine the subject of the petition and testify at the hearing on the petition.

(4) In counties with a population of less than eighty thousand, the affirmation or affidavit required by paragraph three of this subdivision may be made by a physician **or qualified clinical examiner** who is an

employee of the office. The office is authorized to make available, at no cost to the county, a qualified physician **or qualified clinical examiner** for the purpose of making such affirmation or affidavit consistent with the provisions of such paragraph.

§ 24. Paragraphs 1, 2, 3, and 4 of subdivision (h) of section 9.60 of the mental hygiene law, paragraphs 1, 3, and 4 as amended by chapter 158 of the laws of 2005, and paragraph 2 as amended by section 2 of subpart H of part UU of chapter 56 of the laws of 2022, are amended to read as follows:

(1) 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 qualified clinical examiner** 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 subdivision (f) of this section, the petitioner, the physician **or qualified clinical examiner** 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 the petition is available, examine the subject of the petition in or out of court. If the subject of the petition does not appear at the hearing, and appropriate attempts to elicit the attendance of the subject have failed, the court may conduct the hearing in the subject's absence. In such case, the court shall set forth the factual basis for conducting the hearing without the presence of the subject of the petition.

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

(3) If the subject of the petition has refused to be examined by a physician **or qualified clinical examiner**, the court may request the subject to consent to an examination by a physician **or qualified clinical examiner** appointed by the court. If the subject of the petition does not consent and the court finds reasonable cause to believe that the allegations in the petition are true, the court may order peace officers, acting pursuant to their special duties, or police officers who are members of an authorized police department or force[~~,~~] or of a sheriff's department to take the subject of the petition into custody and transport him or her to a hospital for examination by a physician **or qualified clinical examiner**. Retention of the subject of the petition under such order shall not exceed twenty-four hours. The examination of

the subject of the petition may be performed by the physician **or qualified clinical examiner** whose affirmation or affidavit accompanied the petition pursuant to paragraph three of subdivision (e) of this section, if such physician **or qualified clinical examiner** is privileged by such hospital or otherwise authorized by such hospital to do so. If such examination is performed by another physician[~~, the examining physician~~] **or qualified clinical examiner, such physician or qualified clinical examiner** may consult with the physician **or qualified clinical examiner** whose affirmation or affidavit accompanied the petition as to whether the subject meets the criteria for assisted outpatient treatment.

(4) A physician **or qualified clinical examiner** who testifies pursuant to paragraph two of this subdivision shall state[~~: (i)~~] the facts **and conclusions** which support the allegation that the subject meets each of the criteria for assisted outpatient treatment[~~, (ii)~~] **and** that [~~the~~] **assisted outpatient** treatment is the least restrictive alternative[~~, (iii) the recommended assisted outpatient treatment, and (iv) the rationale for the recommended assisted outpatient treatment. If the recommended assisted outpatient treatment includes medication, such physician's testimony shall describe the types or classes of medication which should be authorized, shall describe the beneficial and detrimental physical and mental effects of such medication, and shall recommend whether such medication should be self-administered or administered by authorized personnel~~].

§ 25. Subdivision (i) of section 9.60 of the mental hygiene law, as amended by chapter 158 of the laws of 2005, is amended to read as follows:

(i) Written treatment plan. (1) The court shall not order assisted outpatient treatment unless a physician **or psychiatric nurse practitioner** appointed by the appropriate director, in consultation with such director, develops and provides to the court a proposed written treatment plan. The written treatment plan shall include case management services or assertive community treatment team services to provide care coordination. The written treatment plan also shall include all categories of services, as set forth in paragraph one of subdivision (a) of this section, which such physician **or psychiatric nurse practitioner** recommends that the subject of the petition receive. All service providers shall be notified regarding their inclusion in the written treatment plan. If the written treatment plan includes medication, it shall state whether such medication should be self-administered or administered by authorized personnel, and shall specify type and dosage range of medication most likely to provide maximum benefit for the subject. If the written treatment plan includes alcohol or substance abuse counseling and treatment, such plan may include a provision requiring relevant testing for either alcohol or illegal substances provided the physician's **or psychiatric nurse practitioner's** clinical basis for recommending such plan provides sufficient facts for the court to find (i) that such person has a history of alcohol or substance abuse that is clinically related to the mental illness; and (ii) that such testing is necessary to prevent a relapse or deterioration [~~which~~] **that** would be likely to result in serious harm to [~~the person~~] **self** or others. If a director is the petitioner, the written treatment plan shall be provided to the court no later than the date of the hearing on the petition. If a person other than a director is the petitioner, such plan shall be provided to the court no later than the date set by the court pursuant to paragraph three of subdivision (j) of this section.

(2) The physician **or psychiatric nurse practitioner** appointed to develop the written treatment plan shall provide the following persons with an opportunity to actively participate in the development of such plan: the subject of the petition; the treating physician, if any; and upon the request of the subject of the petition, an individual significant to the subject including any relative, close friend or individual otherwise concerned with the welfare of the subject. If the subject of the petition has executed a health care proxy, the appointed physician **or psychiatric nurse practitioner** shall consider any directions included in such proxy in developing the written treatment plan.

(3) The court shall not order assisted outpatient treatment unless a physician **or psychiatric nurse practitioner** appearing on behalf of a director testifies **in person or by video conference** to explain the written proposed treatment plan**; provided that such testimony shall only be permitted by video conference upon consent of the subject of the petition or upon a finding of good cause**. Such physician **or psychiatric nurse practitioner** shall state the categories of assisted outpatient treatment recommended, the rationale for each such category, facts which establish that such treatment is the least restrictive alternative, and, if the recommended assisted outpatient treatment plan includes medication, [~~**such physician shall state**~~] the types or classes of medication recommended, the beneficial and detrimental physical and mental effects of such medication, and whether such medication should be self-administered or administered by an authorized professional. If the subject of the petition has executed a health care proxy, such physician **or psychiatric nurse practitioner** shall state the consideration given to any directions included in such proxy in developing the written treatment plan. If a director is the petitioner, testimony pursuant to this paragraph shall be given at the hearing on the petition. If a person other than a director is the petitioner, such testimony shall be given on the date set by the court pursuant to paragraph three of subdivision (j) of this section.

§ 26. Paragraph 2 of subdivision (j) of section 9.60 of the mental hygiene law, as amended by chapter 1 of the laws of 2013, is amended to read as follows:

(2) If after hearing all relevant evidence, the court finds by clear and convincing evidence that the subject of the petition meets the criteria for assisted outpatient treatment, and there is no appropriate and feasible less restrictive alternative, the court may order the subject to receive assisted outpatient treatment for an initial period [~~**not to exceed**~~] **of** one year**; provided that the court may order assisted outpatient treatment for a shorter period upon a showing of good cause or upon the request of the petitioner**. In fashioning the order, the court shall specifically make findings by clear and convincing evidence that the proposed treatment is the least restrictive treatment appropriate and feasible for the subject. The order shall state an assisted outpatient treatment plan, which shall include all categories of assisted outpatient treatment, as set forth in paragraph one of subdivision (a) of this section, which the assisted outpatient is to receive, but shall not include any such category that has not been recommended in both the proposed written treatment plan and the testimony provided to the court pursuant to subdivision (i) of this section.

§ 27. Paragraph 2 of subdivision (k) of section 9.60 of the mental hygiene law, as amended by chapter 1 of the laws of 2013, is amended to read as follows:

(2) Within thirty days prior to the expiration of an order of assisted outpatient treatment, the appropriate director or the current petitioner, if the current petition was filed pursuant to subparagraph (i) or (ii) of paragraph one of subdivision (e) of this section, and the current petitioner retains his or her original status pursuant to the applicable subparagraph, may petition the court to order continued assisted outpatient treatment for a period not to exceed one year from the expiration date of the current order. If the court's disposition of such petition does not occur prior to the expiration date of the current order, the current order shall remain in effect until such disposition. The procedures for obtaining any order pursuant to this subdivision shall be in accordance with the provisions of the foregoing subdivisions of this section; provided that the time restrictions included in paragraph four of subdivision (c) of this section shall not be applicable. The notice provisions set forth in paragraph six of subdivision (j) of this section shall be applicable. Any court order requiring periodic blood tests or urinalysis for the presence of alcohol or illegal drugs shall be subject to review after six months by the physician **or psychiatric nurse practitioner** who developed the written treatment plan or another physician **or psychiatric nurse practitioner** designated by the director, and such physician **or psychiatric nurse practitioner** shall be authorized to terminate such blood tests or urinalysis without further action by the court.

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

(n) Failure to comply with assisted outpatient treatment. Where in the clinical judgment of a physician **or qualified clinical examiner**, (i) the assisted outpatient, has failed or refused to comply with the assisted outpatient treatment, (ii) efforts were made to solicit compliance, and (iii) such assisted outpatient may be in need of involuntary admission to a hospital pursuant to section 9.27 of this article or immediate observation, care and treatment pursuant to section 9.39 or 9.40 of this article, such physician **or qualified clinical examiner** may request the appropriate director of community services, the director's designee, or any physician **or qualified clinical examiner** designated by the director of community services pursuant to section 9.37 of this article, to direct the removal of such assisted outpatient to an appropriate hospital for an examination to determine if such person has a mental illness for which hospitalization is necessary pursuant to section 9.27, 9.39 or 9.40 of this article. Furthermore, if such assisted outpatient refuses to take medications as required by the court order, or he or she refuses to take, or fails a blood test, urinalysis, or alcohol or drug test as required by the court order, such physician **or qualified clinical examiner** may consider such refusal or failure when determining whether the assisted outpatient is in need of an examination to determine whether he or she has a mental illness for which hospitalization is necessary. Upon the request of such physician **or qualified clinical examiner**, the appropriate director, the director's designee, or any physician **or qualified clinical examiner** designated pursuant to section 9.37 of this article, may direct peace officers, acting pursuant to their special duties, or police officers who are members of an authorized police department or force or of a sheriff's department to take the assisted outpatient into custody and transport him or her to the hospital operating the assisted outpatient treatment program or to any hospital authorized by the director of community services to receive such persons. Such law enforcement officials shall carry out such directive. Upon the request of such

physician **or qualified clinical examiner**, the appropriate director, the director's designee, or any physician **or qualified clinical examiner** designated pursuant to section 9.37 of this article, an ambulance service, as defined by subdivision two of section three thousand one of the public health law, or an approved mobile crisis outreach team, as defined in section 9.58 of this article, shall be authorized to take into custody and transport any such person to the hospital operating the assisted outpatient treatment program, or to any other hospital authorized by the appropriate director of community services to receive such persons. Any director of community services, or designee, shall be authorized to direct the removal of an assisted outpatient who is present in his or her county to an appropriate hospital, in accordance with the provisions of this subdivision, based upon a determination of the appropriate director of community services **or director's designee** directing the removal of such assisted outpatient pursuant to this subdivision. Such person may be retained for observation, care and treatment and further examination in the hospital for up to seventy-two hours to permit a physician **or qualified clinical examiner** to determine whether such person has a mental illness and is in need of involuntary care and treatment in a hospital pursuant to the provisions of this article. Any continued involuntary retention in such hospital beyond the initial seventy-two hour period shall be in accordance with the provisions of this article relating to the involuntary admission and retention of a person. If at any time during the seventy-two hour period the person is determined not to meet the involuntary admission and retention provisions of this article, and does not agree to stay in the hospital as a voluntary or informal patient, he or she must be released. Failure to comply with an order of assisted outpatient treatment shall not be grounds for involuntary civil commitment or a finding of contempt of court.

§ 29. Subdivision (s) of section 9.60 of the mental hygiene law, as added by section 2 of subpart H of part UU of chapter 56 of the laws of 2022, is amended to read as follows:

(s) **Disclosures. (1)** A director of community services or his or her designee may require a provider of [~~inpatient psychiatric~~] services operated or licensed by the office of mental health to provide [~~contemporaneous~~] information, including but not limited to relevant clinical records, documents, and other information concerning [~~the person receiving assisted outpatient treatment pursuant to an active assisted outpatient treatment order,~~] **an assisted outpatient, a subject of a currently pending petition pursuant to this section, or a person who is the subject of an investigation pursuant to paragraph two of subdivision (b) of section 9.47 of this article,** that is deemed necessary by such director or designee [~~who is required to coordinate and monitor the care of any individual who was subject to an active assisted outpatient treatment order to appropriately~~] **in the** discharge **of** their duties **of care coordination, care monitoring, or investigation** pursuant to section 9.47 of this article[~~, and where~~] **or treatment plan development pursuant to subdivision (i) of this section; provided that** such provider [~~of inpatient psychiatric services~~] is [~~required~~] **permitted** to disclose such information pursuant to paragraph twelve of subdivision (c) of section 33.13 of this chapter and such disclosure is in accordance with **paragraph two of this subdivision and** all other applicable state and federal confidentiality laws. None of the records or information obtained by the director of community services **or the director's designee** pursuant to this subdivision shall be public records, and the records shall not be

released by the director to any person or agency, except as already authorized by law.

(2) A requirement to disclose information pursuant to this subdivision shall be in writing and shall be accompanied by documentation demonstrating that:

(i) the identified person consents to such disclosure; or

(ii) (A) the director of community services or the director's designee provided or made a good faith attempt to provide the identified person with written notice of the director's or the director's designee's intent to seek such disclosure; (B) such notice was sufficient to provide such person with a reasonable opportunity to challenge such disclosure in court; and (C) either no such challenge was filed or the court resolved such challenge by authorizing disclosure.

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

§ 9.64 Notice of admission determination to community provider.

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

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

1. In the case of an involuntary patient on conditional release, the director may terminate the conditional release and order the patient to return to the facility at any time during the period for which retention was authorized, if, in the director's judgment, the patient needs in-patient care and treatment and the conditional release is no longer appropriate; provided, however, that in any such case, the director shall cause written notice of such patient's return to be given to the mental hygiene legal service. The director shall cause the patient to be retained for observation, care and treatment and further examination in a hospital for up to seventy-two hours if a physician **or qualified clinical examiner** on the staff of the hospital determines that such person may have a mental illness and may be in need of involuntary care and treatment in a hospital pursuant to the provisions of article nine of this chapter. Any continued retention in such hospital beyond the initial seventy-two hour period shall be in accordance with the provisions of this chapter relating to the involuntary admission and retention of a person. If at any time during the seventy-two hour period the person is determined not to meet the involuntary admission and retention provisions of this chapter, and does not agree to stay in the hospital as a voluntary or informal patient, he or she must be released, either conditionally or unconditionally.

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

(f) The discharge or conditional release of all clients at developmental centers, patients at psychiatric centers or patients at psychiatric inpatient services subject to licensure by the office of mental health shall be in accordance with a written service plan prepared by staff familiar with the case history of the client or patient to be

discharged or conditionally released and in cooperation with appropriate social services officials and directors of local governmental units. In causing such plan to be prepared, the director of the facility shall take steps to assure that the following persons are interviewed, provided an opportunity to actively participate in the development of such plan and advised of whatever services might be available to the patient through the mental hygiene legal service: the patient to be discharged or conditionally released; **a representative of a community provider of mental health services, including a provider of case management services, that maintains the patient on its caseload;** an authorized representative of the patient, to include the parent or parents if the patient is a minor, unless such minor sixteen years of age or older objects to the participation of the parent or parents and there has been a clinical determination by a physician that the involvement of the parent or parents is not clinically appropriate and such determination is documented in the clinical record and there is no plan to discharge or release the minor to the home of such parent or parents; and upon the request of the patient sixteen years of age or older, [~~a significant~~] **an** individual **significant** to the patient including any relative, close friend or individual otherwise concerned with the welfare of the patient, other than an employee of the facility.

(m) It shall be the responsibility of the chief administrator of any facility providing inpatient services subject to licensure by the office of mental health to notify[~~, when appropriate, the local social services commissioner and appropriate state and local mental health representatives~~] **the following persons** when an inpatient is about to be discharged or conditionally released and to provide to such [~~officials~~] **persons** the written service plan developed for such inpatient as required under subdivision (f) of this section**: a representative of a community provider of mental health services, including a provider of case management services, that maintains the patient on its caseload; a representative of an adult care facility in which the patient resided at the time of the patient's admission; and, when appropriate, the local social services commissioner and appropriate state and local mental health representatives**.

§ 33. Section 29.15 of the mental hygiene law is amended by adding a new subdivision (f-1) to read as follows:

(f-1) Prior to the discharge of a patient from a psychiatric center or from psychiatric inpatient services subject to licensure by the office of mental health, the staff of such facility shall conduct a review as to whether the patient meets the criteria for assisted outpatient treatment pursuant to article nine of this chapter. Before discharge, staff shall record in the patient's medical record the finding of such review, the basis of the finding, and, for a patient found to meet the criteria for assisted outpatient treatment, the actions taken to initiate an assisted outpatient treatment petition or referral. Such facilities shall report on a quarterly basis to the office of mental health: the number of psychiatric inpatients discharged; the number of such patients who were screened for assisted outpatient treatment eligibility; the number of patients determined to meet the criteria for assisted outpatient treatment; and the number of patients determined to meet the criteria for assisted outpatient treatment who were referred or petitioned for assisted outpatient treatment. The office of mental health shall develop an electronic form to facilitate such reporting.

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

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

§ 35. The office of mental health shall conduct live training and shall disseminate training materials on the changes to law included in this act and their implications for professional practice. Such training and materials shall be specifically tailored and directly provided to multiple audiences, including mental health professionals, hospital personnel, adult care facility personnel, law enforcement officers, ambulance service personnel, and the general public.

§ 36. This act shall take effect on the ninetieth day after it shall have become a law; provided, however, that:

a. the amendments to subdivision (a) of section 9.37 of the mental hygiene law made by section ten of this act shall not affect the expiration and reversion of such subdivision and shall be deemed to expire therewith;

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

c. the amendments to sections 9.41 and 9.45 of the mental hygiene law made by sections thirteen and fourteen of this act shall not affect the expiration and reversion of such sections pursuant to section 21 of chapter 723 of the laws of 1989, as amended, and shall expire and be deemed repealed therewith;

d. the amendments to paragraph 3 of subdivision (b) of section 9.47 of the mental hygiene law made by section sixteen of this act shall not affect the repeal of such subdivision and shall be deemed to be repealed therewith;

e. the amendments to sections 9.55 and 9.57 of the mental hygiene law made by sections seventeen and nineteen of this act shall not affect the expiration and reversion of such sections pursuant to section 21 of chapter 723 of the laws of 1989, as amended, and shall be deemed repealed therewith;

f. the amendments to section 9.60 of the mental hygiene law made by sections twenty-one, twenty-two, twenty-three, twenty-four, twenty-five, twenty-six, twenty-seven, twenty-eight and twenty-nine of this act shall not affect the repeal of such section and shall be deemed repealed therewith; and

g. the amendments to subdivision (e) of section 29.15 of the mental hygiene law made by section thirty-one of this act shall not affect the expiration and repeal of such section pursuant to section 18 of chapter 408 of the laws of 1989, as amended and shall expire and be deemed repealed therewith.

Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.