

# STATE OF NEW YORK

254

2025-2026 Regular Sessions

## IN SENATE

(Prefiled)

January 8, 2025

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

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

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

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1 violent behavior by which others are placed in reasonable fear of seri-  
2 ous physical harm.

3 (d) "need for retention" means that a person who has been admitted to  
4 a hospital pursuant to this article is in need of involuntary care and  
5 treatment in a hospital for a further period.

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

9 (f) "director of community services" means the director of community  
10 services for the mentally disabled appointed pursuant to article forty-  
11 one of this chapter.

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

17 (h) "qualified clinical examiner" means a psychiatric nurse practi-  
18 tioner certified by the department of education, a psychologist licensed  
19 pursuant to article one hundred fifty-three of the education law, or a  
20 clinical social worker licensed pursuant to article one hundred fifty-  
21 four of the education law.

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

31 § 3. Section 9.05 of the mental hygiene law, as renumbered by chapter  
32 978 of the laws of 1977, is amended to read as follows:

33 § 9.05 Examining physicians, qualified clinical examiners, and medical  
34 certificates.

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

37 1. if [~~he~~] such person is a relative of the person applying for the  
38 admission or of the person alleged to be mentally ill.

39 2. if [~~he~~] such person is a manager, trustee, visitor, proprietor,  
40 officer, director, or stockholder of the hospital in which the patient  
41 is hospitalized or to which it is proposed to admit such person, except  
42 as otherwise provided in this chapter, or if [~~he has any pecuniary~~  
43 ~~interest, directly or indirectly, in such hospital, provided that~~  
44 ~~receipt of fees, privileges, or compensation for treating or examining~~  
45 ~~patients in such hospital shall not be deemed to be a pecuniary inter-~~  
46 ~~est.~~

47 ~~3. if he~~] such person is on the staff of a proprietary facility to  
48 which it is proposed to admit such person.

49 (b) A certificate, as required by this article, must show that the  
50 person is mentally ill and shall be based on an examination of the  
51 person alleged to be mentally ill made within ten days prior to the date  
52 of admission. The date of the certificate shall be the date of such  
53 examination. All certificates shall contain the facts and circumstances  
54 upon which the judgment of the physicians or qualified clinical examin-  
55 ers is based and shall show that the condition of the person examined is  
56 such that [~~he~~] the examined person needs involuntary care and treatment

1 in a hospital and such other information as the commissioner may by  
2 regulation require.

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

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

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

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

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

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

52 § 5. Section 9.29 of the mental hygiene law, as renumbered by chapter  
53 978 of the laws of 1977 and subdivision (a) as amended by chapter 789 of  
54 the laws of 1985, is amended to read as follows:

55 § 9.29 Involuntary admission on [~~medical~~] clinical certification; notice  
56 of admission to patients and others.

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

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

8 1. the nearest relative of the person alleged to be mentally ill,  
9 other than the applicant, if there be any such person known to the  
10 director.

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

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

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

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

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

38 (a) If the director shall determine that a patient admitted upon an  
39 application supported by [~~medical~~] clinical certification, for whom  
40 there is no court order authorizing retention for a specified period, is  
41 in need of retention and if such patient does not agree to remain in  
42 such hospital as a voluntary patient, the director shall apply to the  
43 supreme court or the county court in the county where the hospital is  
44 located for an order authorizing continued retention. Such application  
45 shall be made no later than sixty days from the date of involuntary  
46 admission on application supported by [~~medical~~] clinical certification  
47 or thirty days from the date of an order denying an application for  
48 patient's release pursuant to section 9.31 of this article, whichever is  
49 later; and the hospital is authorized to retain the patient for such  
50 further period during which the hospital is authorized to make such  
51 application or during which the application may be pending. The director  
52 shall cause written notice of such application to be given the patient  
53 and a copy thereof shall be given personally or by mail to the persons  
54 required by this article to be served with notice of such patient's  
55 initial admission and to the mental hygiene legal service. Such notice  
56 shall state that a hearing may be requested and that failure to make

1 such a request within five days, excluding Sunday and holidays, from the  
2 date that the notice was given to the patient will permit the entry  
3 without a hearing of an order authorizing retention.

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

12 § 9.37 Involuntary admission on certificate of a director of community  
13 services or [~~his~~] the director's designee.

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

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

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

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

1 ty services has made a reasonable effort to locate [~~a-designated~~] an  
2 examining physician or qualified clinical examiner designated pursuant  
3 to section 41.09 of this chapter but such [~~a~~] designee is not immediate-  
4 ly available and the director of community services, after personal  
5 observation of the person, reasonably believes that [~~he~~] such person may  
6 have a mental illness [~~which~~] that is likely to result in serious harm  
7 to [~~himself~~] self or others and inpatient care and treatment of such  
8 person in a hospital may be appropriate. In the event of an application  
9 pursuant to this subdivision, a physician or qualified clinical examiner  
10 of the receiving hospital shall examine the patient and shall not admit  
11 the patient unless [~~he or she~~] the examiner determines that the patient  
12 has a mental illness for which immediate inpatient care and treatment in  
13 a hospital is appropriate and [~~which~~] that is likely to result in seri-  
14 ous harm to [~~himself~~] themselves or others. If the patient is admitted,  
15 the need for hospitalization shall be confirmed by another [~~staff~~]  
16 physician or qualified clinical examiner on the staff of the hospital  
17 within twenty-four hours. An application pursuant to this subdivision  
18 shall be in writing and shall be filed with the director of such hospi-  
19 tal at the time of the patient's reception, together with a statement in  
20 a form prescribed by the commissioner giving such information as [~~he~~]  
21 the commissioner may deem appropriate, including a statement of the  
22 efforts made by the director of community services to locate a desig-  
23 nated examining physician or qualified clinical examiner prior to making  
24 an application pursuant to this subdivision.

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

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

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

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

49 § 8-a. Subdivision (a) of section 9.37 of the mental hygiene law, as  
50 renumbered by chapter 978 of the laws of 1977, is amended to read as  
51 follows:

52 (a) The director of a hospital, upon application by a director of  
53 community services or an examining physician or qualified clinical exam-  
54 iner duly designated by [~~him~~] the director, may receive and care for in  
55 such hospital as a patient any person who, in the opinion of the direc-  
56 tor of community services or [~~his~~] the director's designee, has a mental

1 illness for which immediate inpatient care and treatment in a hospital  
2 is appropriate and which, without treatment, is likely to result in  
3 serious harm to [~~himself~~] self or others; "likelihood of serious harm"  
4 shall mean:

5 1. substantial risk of physical harm to [~~himself~~] themselves as mani-  
6 fested by threats of or attempts at suicide or serious bodily harm or  
7 other conduct demonstrating that [~~he~~] the patient is dangerous to  
8 [~~himself~~] themselves, or

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

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

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

33 § 9.39 Emergency admissions for immediate observation, care, and treat-  
34 ment.

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

44 1. substantial risk of physical harm to [~~himself~~] themselves as mani-  
45 fested by threats of or attempts at suicide or serious bodily harm or  
46 other conduct demonstrating that [~~he~~] the person is dangerous to  
47 [~~himself~~] themselves, or

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

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

55 The director shall admit such person pursuant to the provisions of  
56 this section only if a [~~staff~~] physician or qualified clinical examiner

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

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



1 requested pursuant to the provisions of subdivision (a) of this section,  
2 the filing of an application for involuntary admission on [~~medical~~]  
3 clinical certification shall not delay or prevent the holding of the  
4 hearing.

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

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

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

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

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

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

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

5 § 12. Section 9.55 of the mental hygiene law, as amended by chapter  
6 598 of the laws of 1994, is amended to read as follows:

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

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

34 § 12-a. Section 9.55 of the mental hygiene law, as amended by chapter  
35 847 of the laws of 1987, is amended to read as follows:

36 § 9.55 Emergency admissions for immediate observation, care and treat-  
37 ment; powers of qualified psychiatrists and qualified clinical  
38 examiner.

39 A qualified psychiatrist or qualified clinical examiner shall have the  
40 power to direct the removal of any person[~~r~~] whose treatment for a  
41 mental illness [~~he~~] the qualified psychiatrist or qualified clinical  
42 examiner is either supervising or providing in a facility licensed or  
43 operated by the office of mental health [~~which~~] that does not have an  
44 inpatient psychiatric service, to a hospital approved by the commission-  
45 er pursuant to subdivision (a) of section 9.39 of this article, if [~~he~~]  
46 the qualified psychiatrist or qualified clinical examiner determines  
47 upon examination of such person that such person appears to have a  
48 mental illness for which immediate observation, care and treatment in a  
49 hospital is appropriate and [~~which~~] that is likely to result in serious  
50 harm to [~~himself~~] themselves or others, as defined in section 9.39 of this  
51 article. Upon the [~~request~~] directive of such qualified psychiatrist or  
52 qualified clinical examiner, peace officers, when acting pursuant to  
53 their special duties, or police officers, who are members of an author-  
54 ized police department or force or of a sheriff's department shall take  
55 into custody and transport any such person. Upon the request of a quali-  
56 fied psychiatrist or qualified clinical examiner, an ambulance service,

1 as defined by subdivision two of section three thousand one of the  
2 public health law, is authorized to transport any such person. Such  
3 person may then be admitted in accordance with the provisions of section  
4 9.39 of this article.

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

7 § 9.56 Transport for evaluation; powers of specialized staff of adult  
8 care facilities.

9 (a) A physician or qualified mental health professional who has  
10 completed training pursuant to subdivision (c) of this section and is  
11 employed as a clinical staff member or clinical contractor of an adult  
12 care facility as defined in section two of the social services law shall  
13 be authorized to request that the director of such facility, or such  
14 director's designee, direct the removal of any resident of such facility  
15 who appears to be mentally ill and is acting in a manner that is likely  
16 to result in serious harm to self or others, to a hospital approved by  
17 the commissioner pursuant to subdivision (a) of section 9.39 or section  
18 31.27 of this chapter or, where such physician or qualified mental  
19 health professional deems appropriate and the person voluntarily agrees,  
20 to a crisis stabilization center specified in section 36.01 of this  
21 chapter.

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

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

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

55 § 14. Section 9.57 of the mental hygiene law, as amended by chapter  
56 598 of the laws of 1994, is amended to read as follows:

1 § 9.57 Emergency admissions for immediate observation, care and treat-  
2 ment; powers of emergency room physicians or qualified clinical  
3 examiners.

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

32 § 14-a. Section 9.57 of the mental hygiene law, as amended by chapter  
33 847 of the laws of 1987, is amended to read as follows:

34 § 9.57 Emergency admissions for immediate observation, care and treat-  
35 ment; powers of emergency room physicians or qualified clinical  
36 examiner.

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

1 defined by subdivision two of section three thousand one of the public  
2 health law, is authorized to take into custody and transport any such  
3 person. Such person may then be admitted in accordance with the  
4 provisions of section 9.39 of this article.

5 § 15. Subdivisions (b), (c) and (d) of section 9.58 of the mental  
6 hygiene law, as added by chapter 678 of the laws of 1994, and paragraph  
7 2 of subdivision (d) as amended by chapter 230 of the laws of 2004, are  
8 amended to read as follows:

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

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

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

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

42 § 16. Paragraphs 3 and 4 of subdivision (e) of section 9.60 of the  
43 mental hygiene law, paragraph 3 as amended by chapter 158 of the laws of  
44 2005, and paragraph 4 as amended by chapter 382 of the laws of 2015, are  
45 amended to read as follows:

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

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

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

1 the cooperation of the subject of the petition to submit to an examina-  
2 tion, such physician or qualified clinical examiner has reason to  
3 suspect that the subject of the petition meets the criteria for assisted  
4 outpatient treatment, and such physician or qualified clinical examiner  
5 is willing and able to examine the subject of the petition and testify  
6 at the hearing on the petition.

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

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

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

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

53 (3) If the subject of the petition has refused to be examined by a  
54 physician or qualified clinical examiner, the court may request the  
55 subject to consent to an examination by a physician or qualified clin-  
56 ical examiner appointed by the court. If the subject of the petition

1 does not consent and the court finds reasonable cause to believe that  
2 the allegations in the petition are true, the court may order peace  
3 officers, acting pursuant to their special duties, or police officers  
4 who are members of an authorized police department or force[~~r~~] or of a  
5 sheriff's department to take the subject of the petition into custody  
6 and transport [~~him or her~~] the subject of the petition to a hospital for  
7 examination by a physician or qualified clinical examiner. Retention of  
8 the subject of the petition under such order shall not exceed twenty-  
9 four hours. The examination of the subject of the petition may be  
10 performed by the physician or qualified clinical examiner whose affirma-  
11 tion or affidavit accompanied the petition pursuant to paragraph three  
12 of subdivision (e) of this section, if such physician or qualified clin-  
13 ical examiner is privileged by such hospital or otherwise authorized by  
14 such hospital to do so. If such examination is performed by another  
15 physician[~~, the examining physician~~] or qualified clinical examiner,  
16 such physician or qualified clinical examiner may consult with the  
17 physician or qualified clinical examiner whose affirmation or affidavit  
18 accompanied the petition as to whether the subject meets the criteria  
19 for assisted outpatient treatment.

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

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

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

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

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

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

46 § 9.64 Notice of admission determination to community provider.

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

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



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

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

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

52 (m) It shall be the responsibility of the chief administrator of any  
53 facility providing inpatient services subject to licensure by the office  
54 of mental health to notify [~~, when appropriate, the local social services~~  
55 ~~commissioner and appropriate state and local mental health represen-~~  
56 ~~tatives~~] the following persons when an inpatient is about to be

1 discharged or conditionally released and to provide to such [~~officials~~  
2 persons] the written service plan developed for such inpatient as  
3 required under subdivision (f) of this section: a representative of a  
4 community provider of mental health services, including a provider of  
5 case management services, that maintains the patient on its caseload; a  
6 representative of an adult care facility in which the patient resided at  
7 the time of the patient's admission; and, when appropriate, the local  
8 social services commissioner and appropriate state and local mental  
9 health representatives.

10 § 22. Subdivision (b) of section 41.09 of the mental hygiene law, as  
11 amended by chapter 588 of the laws of 1973, and as renumbered by chapter  
12 978 of the laws of 1977, is amended to read as follows:

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

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

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

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

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

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

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

47 f. the amendments to paragraph 1 of subdivision (e) of section 29.15  
48 of the mental hygiene law made by section twenty of this act shall not  
49 affect the expiration of such section pursuant to section 18 of chapter  
50 408 of the laws of 1999, as amended and shall expire and be deemed  
51 repealed therewith.