§ 7.37 Powers of the office and commissioner in relation to the planning and referral of mentally ill children for adult services.

(a) As used in this section:

1. "report" means a report submitted to the office pursuant to subparagraph five of paragraph b of subdivision one of section forty-four hundred two of the education law or subdivision thirteen of section three hundred ninety-eight of the social services law.

2. "child" means the child who is the subject of a report.

3. "local governmental unit" means a governmental unit as defined and used in article forty-one of this chapter.

4. "voluntary agency" shall have the same meaning as that used in article forty-one of this chapter.

(b) Upon receipt of a report, the commissioner shall review the report and shall determine if the child will likely need adult services. If necessary and appropriate, the commissioner may conduct an evaluation of the child to determine if adult services will be needed. Such evaluation shall include, but not be limited to, the medical, vocational or day services and social needs of the child, the desires of the child and of his or her parents or guardian, and the availability of appropriate services. If the child will likely need adult services, the commissioner shall develop a plan for continued care which shall include any evaluation and shall identify those adult programs or services which may be available and which are operated or licensed by the office and by the local governmental unit of the county in which the child resides, or in the event that the child resides in a county within the city of New York, the local governmental unit of the city of New York. Such written plan shall be made available to the individual, unless the individual objects, and his or her parents or guardian as soon as practicable but not later than one year before the individual attains the age of twenty-one. If such recommendation has been made prior to one year before the individual attains the age of twenty, the office shall provide yearly updates until the individual attains the age of twenty-one.

(c) If the commissioner determines, pursuant to subdivision (b) of this section, that such child will not require adult services, the commissioner shall notify the child's parent or guardian in writing of such determination. Such notice shall be given as soon as practicable but no later than six months before the child attains the age of twenty-one.

(d) Notwithstanding subdivisions (b) and (c) of this section, the commissioner may determine that the office is not responsible for determining and recommending adult services for the child. When such a determination is made it shall be made as soon as practicable after receiving the report and the commissioner shall promptly notify in writing the committee on special education, multidisciplinary team or social services official who sent the report that such determination has been made. Such notice shall state the reasons for the determination and may recommend a state agency which may be responsible for determining and recommending adult services.

(e) The commissioner may designate any qualified employee of the office or any psychiatric center to carry out the functions described in subdivisions (b), (c) and (d) of this section. The commissioner may enter agreements with local governmental units and voluntary agencies to provide the services described in subdivisions (b), (c) and (d) of this section. Consistent with these agreements, the commissioner may designate a local governmental unit or voluntary agency to carry out the functions of the commissioner described in this section and the local governmental unit or voluntary agency shall perform those functions.

(f) All information received by a local governmental unit or voluntary agency pursuant to this section shall be subject to the confidentiality requirements of the office.

(g) Nothing in this section shall be construed to create an entitlement to adult services.