§ 9.37 Involuntary admission on certificate of a director of community services or his designee.

* (a) The director of a hospital, upon application by a director of community services or an examining physician duly designated by him or her, 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 is likely to result in serious harm to himself or herself or others.

The need for immediate hospitalization shall be confirmed by a staff physician 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 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.

* NB Effective until July 1, 2027

* (a) The director of a hospital, upon application by a director of community services or an examining physician duly designated by them, may receive and care for in such hospital as a patient any person who, in the opinion of the director of community services or their designee, has a mental illness for which immediate inpatient care and treatment in a hospital is appropriate and which is likely to result in serious harm to themself or others. "Likelihood of serious harm" shall mean:

1. substantial risk of physical harm to themself as manifested by threats of or attempts at suicide or serious bodily harm or other

conduct demonstrating that they are dangerous to themself, 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 or serious physical harm, or

3. a substantial risk of physical harm to the person due to an inability or refusal, as a result of their mental illness, to provide for their own essential needs such as food, clothing, necessary medical care, personal safety, or shelter.

The need for immediate hospitalization shall be confirmed by a staff physician 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 they do not agree to remain in such hospital as a voluntary patient, the certificate of another examining physician 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 their 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.

* NB Effective July 1, 2027

(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 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 may deem appropriate.

(c) Notwithstanding the provisions of subdivision (b) of this section, 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 may apply for the admission of a patient pursuant to this section without a medical examination by a designated physician, 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 examining physician but such a designee is not immediately available and the director of community services, after personal observation of the person, reasonably believes that he may have a mental illness which is likely to result in serious harm to himself 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 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 is likely to result in serious harm to himself or others. If the patient is admitted, the need for hospitalization shall be confirmed by another staff physician 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 may deem appropriate, including a statement of the efforts made by the director of community services to locate a designated examining physician 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 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 designee for the examination and temporary care of the patient and his 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.

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

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