*** § 9.40 Emergency observation, care and treatment in comprehensive psychiatric emergency programs.**

(a) The director of any comprehensive psychiatric emergency program may receive and retain therein for a period not to exceed seventy-two hours, any person alleged to have a mental illness for which immediate observation, care and treatment in such program is appropriate and which is likely to result in serious harm to the person or others. The director shall cause to be entered upon the program records the name of the person or persons, if any, who have brought the person alleged to have a mental illness to the program and the details of the circumstances leading the person or persons to bring the person alleged to have a mental illness to the program. The director shall, in accordance with section 33.13 of this chapter, upon receipt of a person under this section, ensure that reasonable efforts are made to identify and promptly notify any community provider of mental health services that maintains such person on its caseload.

(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 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 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 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 is likely to result in serious harm to the person 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 has been confirmed after

examination by another physician 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 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.

(d) If at any time it is determined that the person is no longer in need of immediate observation, care and treatment in accordance with this section and is not in need of involuntary care and treatment in a hospital, such person shall be released without regard to the provisions of section 29.15 of this chapter, unless such person agrees to be admitted to another appropriate hospital as a voluntary or informal patient. Provided, however, the facility shall:

1. advise such person of clinically appropriate aftercare services; and

2. for individuals with complex needs, as defined by the regulations of the office:

(i) for individuals in care management programs, coordinate discharge planning with the care management program; and

(ii) provide referrals, if clinically appropriate and available, for care management services, community-based services, residential services, or peerbased programs; and

3. comply with additional requirements as may be set forth by the

regulations of the office of mental health.

(e) If at any time within the seventy-two hour period it is determined that such person continues to require immediate observation, care and treatment in accordance with this section and such requirement is likely to continue beyond the seventy-two hour period, such person shall be removed within a reasonable period of time to an appropriate hospital authorized to receive and retain patients pursuant to section 9.39 of this article and such person shall be evaluated for admission and, if appropriate, shall be admitted to such hospital in accordance with section 9.39 of this article, except that if the person is admitted, the fifteen day retention period of subdivision (b) of section 9.39 of this article shall be calculated from the time such person was initially registered into the emergency room of the comprehensive psychiatric emergency program. Any person removed to a hospital pursuant to this paragraph shall be removed without regard to the provisions of section 29.11 or 29.15 of this chapter and shall not be considered to have been transferred or discharged to another hospital.

(f) Nothing in this section shall preclude the involuntary admission of a person to an appropriate hospital pursuant to the provisions of this article if at any time during the seventy-two hour period it is determined that the person is in need of involuntary care and treatment in a hospital and the person does not agree to be admitted to a hospital as a voluntary or informal patient. Efforts shall be made to assure that any arrangements for such involuntary admissions in an appropriate hospital shall be made within a reasonable period of time.

(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 receipt or retention under this section.

(h) All time periods referenced in this section shall be calculated from the time such person is initially registered into the emergency room of the comprehensive psychiatric emergency program.

* NB Repealed July 1, 2027