

Legislative Bill Drafting Commission
16302-02-4

S. -----
Senate

IN SENATE--Introduced by Sen

--read twice and ordered printed,
and when printed to be committed
to the Committee on

----- A.
Assembly

IN ASSEMBLY--Introduced by M. of A.

with M. of A. as co-sponsors

--read once and referred to the
Committee on

MENTHYLA

(Relates to the hospitalization,
care coordination, and assisted
outpatient treatment for persons
with mental illness by qualified
clinical examiners or qualified
mental health professionals)

Men Hyg. qualified clinical exami

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

IN SENATE

Senate introducer's signature

The senators whose names are circled below wish to join me in the sponsorship
of this proposal:

| | | | | |
|----------------|---------------|---------------|----------------|--------------|
| s15 Addabbo | s34 Fernandez | s24 Lanza | s21 Parker | s11 Stavisky |
| s43 Ashby | s60 Gallivan | s16 Liu | s19 Persaud | s45 Stec |
| s36 Bailey | s12 Gianaris | s50 Mannion | s13 Ramos | s35 Stewart- |
| s57 Borrello | s59 Gonzalez | s04 Martinez | s05 Rhoads | Cousins |
| s46 Breslin | s26 Gounardes | s07 Martins | s33 Rivera | s44 Tedisco |
| s25 Brisport | s53 Griffo | s02 Mattera | s39 Rolison | s06 Thomas |
| s55 Brouk | s40 Harckham | s48 May | s61 Ryan | s49 Walczyk |
| s09 Canzoneri- | s54 Helming | s37 Mayer | s18 Salazar | s52 Webb |
| Fitzpatrick | s41 Hinchey | s03 Murray | s10 Sanders | s38 Weber |
| s17 Chu | s47 Hoylman- | s20 Myrie | s23 Scarcella- | s08 Weik |
| s30 Cleare | Sigal | s51 Oberacker | Spanton | s63 |
| s14 Comrie | s31 Jackson | s58 O'Mara | s32 Sepulveda | |
| s56 Cooney | s27 Kavanagh | s62 Ortt | s29 Serrano | |
| s22 Felder | s28 Krueger | s01 Palumbo | s42 Skoufis | |

IN ASSEMBLY

Assembly introducer's signature

The Members of the Assembly whose names are circled below wish to join me in the
multi-sponsorship of this proposal:

| | | | | |
|-------------------|--------------------|------------------|--------------------|----------------|
| a078 Alvarez | a140 Conrad | a034 Gonzalez- | a137 Meeks | a016 Sillitti |
| a031 Anderson | a032 Cook | Rojas | a017 Mikulin | a052 Simon |
| a121 Angelino | a039 Cruz | a150 Goodell | a122 Miller | a075 Simone |
| a037 Ardila | a043 Cunningham | a116 Gray | a051 Mitaynes | a114 Simpson |
| a035 Aubry | a021 Curran | a100 Gunther | a145 Morinello | a094 Slater |
| a120 Barclay | a077 Dais | a139 Hawley | a144 Norris | a005 Smith |
| a106 Barrett | a018 Darling | a083 Heastie | a045 Novakhov | a118 Smullen |
| a105 Beephan | a053 Davila | a028 Hevesi | a069 O'Donnell | a022 Solages |
| a107 Bendett | a072 De Los Santos | a128 Hunter | a091 Otis | a110 Steck |
| a082 Benedetto | a003 DeStefano | a029 Hyndman | a132 Palmesano | a010 Stern |
| a027 Berger | a070 Dickens | a079 Jackson | a088 Paulin | a127 Stirpe |
| a042 Bichotte | a054 Dilan | a104 Jacobson | a141 Peoples- | a102 Tague |
| Hermelyn | a081 Dinowitz | a011 Jean-Pierre | Stokes | a064 Tannousis |
| a117 Blankenbush | a147 DiPietro | a134 Jensen | a023 Pheffer | a086 Tapia |
| a015 Blumencranz | a009 Durso | a115 Jones | Amato | a071 Taylor |
| a073 Bores | a099 Eachus | a125 Kelles | a063 Pirozzolo | a001 Thiele |
| a098 Brabenc | a048 Eichenstein | a040 Kim | a089 Pretlow | a033 Vanel |
| a026 Braunstein | a074 Epstein | a013 Lavine | a019 Ra | a055 Walker |
| a138 Bronson | a109 Fahy | a065 Lee | a030 Raga | a143 Wallace |
| a046 Brook-Krasny | a061 Fall | a126 Lemondes | a038 Rajkumar | a112 Walsh |
| a020 Brown, E. | a008 Fitzpatrick | a095 Levenberg | a006 Ramos | a041 Weinstein |
| a012 Brown, K. | a004 Flood | a060 Lucas | a062 Reilly | a024 Weprin |
| a093 Burdick | a057 Forrest | a135 Lunsford | a087 Reyes | a059 Williams |
| a142 Burke | a124 Friend | a123 Lupardo | a149 Rivera | a113 Woerner |
| a119 Buttenschon | a050 Gallagher | a129 Magnarelli | a067 Rosenthal, L. | a080 Zaccaro |
| a133 Byrnes | a131 Gallahan | a101 Maher | a025 Rozic | a056 Zinerman |
| a044 Carroll | a007 Gandolfo | a036 Mamdani | a111 Santabarbara | a085 |
| a058 Chandler- | a068 Gibbs | a130 Manktelow | a090 Sayegh | a096 |
| Waterman | a002 Giglio, J.A. | a108 McDonald | a076 Seawright | |
| a049 Chang | a148 Giglio, J.M. | a014 McDonough | a084 Septimo | |
| a136 Clark | a066 Glick | a097 McGowan | a092 Shimsky | |
| a047 Colton | | a146 McMahan | a103 Shrestha | |

1) Single House Bill (introduced and printed separately in either or
both houses). Uni-Bill (introduced simultaneously in both houses and printed
as one bill. Senate and Assembly introducer sign the same copy of the bill).

2) Circle names of co-sponsors and return to introduction clerk with 2
signed copies of bill and: in Assembly 2 copies of memorandum in support, in
Senate 4 copies of memorandum in support (single house); or 4 signed copies
of bill and 6 copies of memorandum in support (uni-bill).

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

1 Section 1. Section 9.01 of the mental hygiene law, as amended by chap-
2 ter 723 of the laws of 1989, the seventh undesignated paragraph as
3 amended by chapter 595 of the laws of 2000, is amended to read as
4 follows:

5 § 9.01 Definitions.

6 As used in this article:

7 (a) "in need of care and treatment" means that a person has a mental
8 illness for which in-patient care and treatment in a hospital is appro-
9 priate.

10 (b) "in need of involuntary care and treatment" means that a person
11 has a mental illness for which care and treatment as a patient in a
12 hospital is essential to such person's welfare and whose judgment is so
13 impaired that [he] such person is unable to understand the need for such
14 care and treatment.

15 (c) "likelihood to result in serious harm" or "likely to result in
16 serious harm" means [(a)] (i) a substantial risk of physical harm to the
17 person as manifested by threats of or attempts at suicide or serious
18 bodily harm or other conduct demonstrating that the person is dangerous
19 to [himself or herself] themselves, or [(b)] (ii) a substantial risk of
20 physical harm to other persons as manifested by homicidal or other
21 violent behavior by which others are placed in reasonable fear of seri-
22 ous physical harm.

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

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

1 (f) "director of community services" means the director of community
2 services for the mentally disabled appointed pursuant to article forty-
3 one of this chapter.

4 (g) "qualified psychiatrist" means a physician licensed to practice
5 medicine in New York state who: [(a)] (i) is a diplomate of the American
6 board of psychiatry and neurology or is eligible to be certified by that
7 board; or [(b)] (ii) is certified by the American osteopathic board of
8 neurology and psychiatry or is eligible to be certified by that board.

9 (h) "qualified clinical examiner" means a psychiatric nurse practi-
10 tioner certified by the department of education, a psychologist licensed
11 pursuant to article one hundred fifty-three of the education law, or a
12 clinical social worker licensed pursuant to article one hundred fifty-
13 four of the education law.

14 (i) "qualified mental health professional" means a qualified clinical
15 examiner, a professional nurse registered pursuant to article one
16 hundred thirty-nine of the education law, or any of the following work-
17 ing under the supervision of a physician or qualified clinical examiner:
18 a master social worker licensed pursuant to article one hundred fifty-
19 four of the education law, a mental health counselor licensed pursuant
20 to article one hundred sixty-three of the education law, or a marriage
21 and family therapist licensed pursuant to article one hundred sixty-
22 three of the education law.

23 § 2. Section 9.05 of the mental hygiene law, as renumbered by chapter
24 978 of the laws of 1977, is amended to read as follows:

25 § 9.05 Examining physicians, qualified clinical examiners, and medical
26 certificates.

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

1 1. if [he is] they are a relative of the person applying for the
2 admission or of the person alleged to be mentally ill.

3 2. if [he is] they are a manager, trustee, visitor, proprietor, offi-
4 cer, director, or stockholder of the hospital in which the patient is
5 hospitalized or to which it is proposed to admit such person, except as
6 otherwise provided in this chapter, or if [he has] they have any pecuni-
7 ary interest, directly or indirectly, in such hospital, provided that
8 receipt of fees, privileges, or compensation for treating or examining
9 patients in such hospital shall not be deemed to be a pecuniary inter-
10 est.

11 3. if [he is] they are on the staff of a proprietary facility to which
12 it is proposed to admit such person.

13 (b) A certificate, as required by this article, must show that the
14 person is mentally ill and shall be based on an examination of the
15 person alleged to be mentally ill made within ten days prior to the date
16 of admission. The date of the certificate shall be the date of such
17 examination. All certificates shall contain the facts and circumstances
18 upon which the judgment of the physicians or qualified clinical examin-
19 ers is based and shall show that the condition of the person examined is
20 such that [he needs] they need involuntary care and treatment in a
21 hospital and such other information as the commissioner may by regu-
22 lation require.

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

27 Involuntary admission on [medical] clinical certification.

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

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

22 (e) The director of the hospital where such person is brought shall
23 cause such person to be examined forthwith by a physician or qualified
24 clinical examiner who shall be a member of the psychiatric staff of such
25 hospital other than the original examining physicians or qualified clin-
26 ical examiner whose certificate or certificates accompanied the applica-
27 tion, and[,] if such person is found to be in need of involuntary care

1 and treatment, [he] they may be admitted thereto as a patient as herein
2 provided.

3 (i) After an application for the admission of a person has been
4 completed and both physicians or qualified clinical examiners have exam-
5 ined such person and separately certified that [he or she is] they are
6 mentally ill and in need of involuntary care and treatment in a hospi-
7 tal, either physician or qualified clinical examiner is authorized to
8 request peace officers, when acting pursuant to their special duties, or
9 police officers[,] who are members of an authorized police department or
10 force or of a sheriff's department, to take into custody and transport
11 such person to a hospital for determination by the director whether such
12 person qualifies for admission pursuant to this section. Upon the
13 request of either physician or qualified clinical examiner, an ambulance
14 service, as defined by subdivision two of section three thousand one of
15 the public health law, is authorized to transport such person to a
16 hospital for determination by the director whether such person qualifies
17 for admission pursuant to this section.

18 § 4. Section 9.29 of the mental hygiene law, as renumbered by chapter
19 978 of the laws of 1977 and subdivision (a) as amended by chapter 789 of
20 the laws of 1985, is amended to read as follows:

21 § 9.29 Involuntary admission on [medical] clinical certification; notice
22 of admission to patients and others.

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

26 (b) The director shall cause written notice of the admission of such
27 person, including such person's rights under this article, to be given

1 personally or by mail not later than five days, excluding Sunday and
2 holidays, after such admission to the following:

3 1. the nearest relative of the person alleged to be mentally ill,
4 other than the applicant, if there be any such person known to the
5 director.

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

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

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

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

1 patient upon notice to the persons required to be served with notice of
2 the patient's initial admission.

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

6 (a) If the director shall determine that a patient admitted upon an
7 application supported by [medical] clinical certification, for whom
8 there is no court order authorizing retention for a specified period, is
9 in need of retention and if such patient does not agree to remain in
10 such hospital as a voluntary patient, the director shall apply to the
11 supreme court or the county court in the county where the hospital is
12 located for an order authorizing continued retention. Such application
13 shall be made no later than sixty days from the date of involuntary
14 admission on application supported by [medical] clinical certification
15 or thirty days from the date of an order denying an application for
16 patient's release pursuant to section 9.31 of this article, whichever is
17 later; and the hospital is authorized to retain the patient for such
18 further period during which the hospital is authorized to make such
19 application or during which the application may be pending. The director
20 shall cause written notice of such application to be given the patient
21 and a copy thereof shall be given personally or by mail to the persons
22 required by this article to be served with notice of such patient's
23 initial admission and to the mental hygiene legal service. Such notice
24 shall state that a hearing may be requested and that failure to make
25 such a request within five days, excluding Sunday and holidays, from the
26 date that the notice was given to the patient will permit the entry
27 without a hearing of an order authorizing retention.

1 § 7. Section 9.37 of the mental hygiene law, as renumbered by chapter
2 978 of the laws of 1977, subdivision (a) as amended by chapter 723 of
3 the laws of 1989, subdivision (c) as amended by chapter 230 of the laws
4 of 2004, subdivision (d) as amended by chapter 357 of the laws of 1991
5 and relettered by chapter 343 of the laws of 1996, subdivisions (e) and
6 (f) as relettered by chapter 343 of the laws of 1996, and subdivision
7 (g) as added by chapter 978 of the laws of 1977 and relettered by chap-
8 ter 343 of the laws of 1996, is amended to read as follows:

9 § 9.37 Involuntary admission on certificate of a director of community
10 services or [his] the director's designee.

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

19 The need for immediate hospitalization shall be confirmed by a [staff]
20 physician or qualified clinical examiner on the staff of the hospital
21 prior to admission. Within seventy-two hours, excluding Sunday and holi-
22 days, after such admission, if such patient is to be retained for care
23 and treatment beyond such time and [he or she] the patient does not
24 agree to remain in such hospital as a voluntary patient, the certificate
25 of another examining physician or qualified clinical examiner who is a
26 member of the psychiatric staff of the hospital that the patient is in
27 need of involuntary care and treatment shall be filed with the hospital.
28 From the time of [his or her] the patient's admission under this section

1 the retention of such patient for care and treatment shall be subject to
2 the provisions for notice, hearing, review, and judicial approval of
3 continued retention or transfer and continued retention provided by this
4 article for the admission and retention of involuntary patients,
5 provided that, for the purposes of such provisions, the date of admis-
6 sion of the patient shall be deemed to be the date when the patient was
7 first received in the hospital under this section.

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

15 (c) Notwithstanding the provisions of subdivision (b) of [this]
16 section 41.09 of this chapter, in counties with a population of less
17 than two hundred thousand, a director of community services [who is a
18 licensed psychologist pursuant to article one hundred fifty-three of the
19 education law or a licensed clinical social worker pursuant to article
20 one hundred fifty-four of the education law but] who is not a physician
21 or qualified clinical examiner may apply for the admission of a patient
22 pursuant to this section without [a medical] an examination by a desig-
23 nated physician or qualified clinical examiner, if a hospital approved
24 by the commissioner pursuant to section 9.39 of this article is not
25 located within thirty miles of the patient, and the director of communi-
26 ty services has made a reasonable effort to locate [a designated] an
27 examining physician or qualified clinical examiner designated pursuant
28 to section 41.09 of this chapter but such [a] designee is not immediate-

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

22 (d) After signing the application, the director of community services
23 or the director's designee shall be authorized and empowered to take
24 into custody, detain, transport, and provide temporary care for any such
25 person. Upon the written [request] directive of such director or the
26 director's designee it shall be the duty of peace officers, when acting
27 pursuant to their special duties, or police officers who are members of
28 the state police or of an authorized police department or force or of a

1 sheriff's department to take into custody and transport any such person
2 as requested and directed by such director or designee. Upon the written
3 [request] directive of such director or designee, an ambulance service,
4 as defined in subdivision two of section three thousand one of the
5 public health law, is authorized to transport any such person.

6 (e) Reasonable expenses incurred by the director of community mental
7 hygiene services or [his] the director's designee for the examination
8 and temporary care of the patient and [his] such patient's transporta-
9 tion to and from the hospital shall be a charge upon the county from
10 which the patient was admitted and shall be paid from any funds avail-
11 able for such purposes.

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

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

18 § 7-a. Subdivision (a) of section 9.37 of the mental hygiene law, as
19 renumbered by chapter 978 of the laws of 1977, is amended to read as
20 follows:

21 (a) The director of a hospital, upon application by a director of
22 community services or an examining physician or qualified clinical exam-
23 iner duly designated by [him] the director, may receive and care for in
24 such hospital as a patient any person who, in the opinion of the direc-
25 tor of community services or [his] the director's designee, has a mental
26 illness for which immediate inpatient care and treatment in a hospital
27 is appropriate and which, without treatment, is likely to result in

1 serious harm to [himself] self or others; "likelihood of serious harm"
2 shall mean:

3 1. substantial risk of physical harm to [himself] self as manifested
4 by threats of or attempts at suicide or serious bodily harm or other
5 conduct demonstrating that [he is] they are dangerous to [himself] them-
6 self, or

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

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

27 § 8. Section 9.39 of the mental hygiene law, as renumbered by and
28 subdivision (c) as added by chapter 978 of the laws of 1977, and subdivi-

1 vision (a) as amended by chapter 789 of the laws of 1985, is amended to
2 read as follows:

3 § 9.39 Emergency admissions for immediate observation, care, and treat-
4 ment.

5 (a) The director of any hospital maintaining adequate staff and facil-
6 ities for the observation, examination, care, and treatment of persons
7 alleged to be mentally ill and approved by the commissioner to receive
8 and retain patients pursuant to this section may receive and retain
9 therein as a patient for a period of fifteen days any person alleged to
10 have a mental illness for which immediate observation, care, and treat-
11 ment in a hospital is appropriate and which is likely to result in seri-
12 ous harm to [himself] self or others. "Likelihood to result in serious
13 harm" as used in this article shall mean:

14 1. substantial risk of physical harm to [himself] self as manifested
15 by threats of or attempts at suicide or serious bodily harm or other
16 conduct demonstrating that [he is] they are dangerous to [himself] them-
17 self, or

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

21 The director shall cause to be entered upon the hospital records the
22 name of the person or persons, if any, who have brought such person to
23 the hospital and the details of the circumstances leading to the hospi-
24 talization of such person.

25 The director shall admit such person pursuant to the provisions of
26 this section only if a [staff] physician or qualified clinical examiner
27 on the staff of the hospital upon examination of such person finds that
28 such person qualifies under the requirements of this section. Such

1 person shall not be retained for a period of more than forty-eight hours
2 unless within such period such finding is confirmed after examination by
3 another physician or qualified clinical examiner who shall be a member
4 of the psychiatric staff of the hospital. Such person shall be served,
5 at the time of admission, with written notice of [his] such person's
6 status and rights as a patient under this section. Such notice shall
7 contain the patient's name. At the same time, such notice shall also be
8 given to the mental hygiene legal service and personally or by mail to
9 such person or persons, not to exceed three in number, as may be desig-
10 nated in writing to receive such notice by the person alleged to be
11 mentally ill. If at any time after admission, the patient, any relative,
12 friend, or the mental hygiene legal service gives notice to the director
13 in writing of request for court hearing on the question of need for
14 immediate observation, care, and treatment, a hearing shall be held as
15 herein provided as soon as practicable but in any event not more than
16 five days after such request is received, except that the commencement
17 of such hearing may be adjourned at the request of the patient. It shall
18 be the duty of the director upon receiving notice of such request for
19 hearing to forward forthwith a copy of such notice with a record of the
20 patient to the supreme court or county court in the county where such
21 hospital is located. A copy of such notice and record shall also be
22 given the mental hygiene legal service. The court [which] that receives
23 such notice shall fix the date of such hearing and cause the patient or
24 other person requesting the hearing, the director, the mental hygiene
25 legal service and such other persons as the court may determine to be
26 advised of such date. Upon such date, or upon such other date to which
27 the proceeding may be adjourned, the court shall hear testimony and
28 examine the person alleged to be mentally ill, if it be deemed advisable

1 in or out of court, and shall render a decision in writing that there is
2 reasonable cause to believe that the patient has a mental illness for
3 which immediate inpatient care and treatment in a hospital is appropri-
4 ate and [which] that is likely to result in serious harm to [himself]
5 self or others. If it be determined that there is such reasonable cause,
6 the court shall forthwith issue an order authorizing the retention of
7 such patient for any such purpose or purposes in the hospital for a
8 period not to exceed fifteen days from the date of admission. Any such
9 order entered by the court shall not be deemed to be an adjudication
10 that the patient is mentally ill, but only a determination that there is
11 reasonable cause to retain the patient for the purposes of this section.

12 (b) Within fifteen days of arrival at the hospital, if a determination
13 is made that the person is not in need of involuntary care and treat-
14 ment, [he] such person shall be discharged unless [he] such person
15 agrees to remain as a voluntary or informal patient. If [he] such person
16 is in need of involuntary care and treatment and does not agree to
17 remain as a voluntary or informal patient, [he] such person may be
18 retained beyond such fifteen day period only by admission to such hospi-
19 tal or another appropriate hospital pursuant to the provisions governing
20 involuntary admission on application supported by [medical] clinical
21 certification and subject to the provisions for notice, hearing, review,
22 and judicial approval of retention or transfer and retention governing
23 such admissions, provided that, for the purposes of such provisions, the
24 date of admission of the patient shall be deemed to be the date when the
25 patient was first received under this section. If a hearing has been
26 requested pursuant to the provisions of subdivision (a) of this section,
27 the filing of an application for involuntary admission on [medical]

1 clinical certification shall not delay or prevent the holding of the
2 hearing.

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

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

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

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

1 program is appropriate, and [which] that is likely to result in serious
2 harm to [the person] self or others.

3 (c) No person shall be involuntarily retained in accordance with this
4 section for more than twenty-four hours, unless (i) within that time the
5 determination of the examining staff physician or qualified clinical
6 examiner has been confirmed after examination by another physician or
7 qualified clinical examiner who is a member of the psychiatric staff of
8 the program and (ii) the person is admitted to an extended observation
9 bed, as such term is defined in section 31.27 of this chapter. At the
10 time of admission to an extended observation bed, such person shall be
11 served with written notice of [his] their status and rights as a patient
12 under this section. Such notice shall contain the patient's name. The
13 notice shall be provided to the same persons and in the manner as if
14 provided pursuant to subdivision (a) of section 9.39 of this article.
15 Written requests for court hearings on the question of need for immedi-
16 ate observation, care and treatment shall be made, and court hearings
17 shall be scheduled and held, in the manner provided pursuant to subdivi-
18 sion (a) of section 9.39 of this article, provided however, if a person
19 is removed or admitted to a hospital pursuant to subdivision (e) or (f)
20 of this section the director of such hospital shall be substituted for
21 the director of the comprehensive psychiatric emergency program in all
22 legal proceedings regarding the continued retention of the person.

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

26 (3) filing of petitions for assisted outpatient treatment pursuant to
27 [paragraph] subparagraph (vii) of paragraph one of subdivision (e) of

1 section 9.60 of this article, and documenting the petition filing date
2 and the date of the court order;

3 § 11. Section 9.55 of the mental hygiene law, as amended by chapter
4 598 of the laws of 1994, is amended to read as follows:

5 § 9.55 Emergency admissions for immediate observation, care and treat-
6 ment; powers of qualified psychiatrists and qualified clinical
7 examiner.

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

1 atric emergency program in accordance with the provisions of section
2 9.40 of this article.

3 § 11-a. Section 9.55 of the mental hygiene law, as amended by chapter
4 847 of the laws of 1987, is amended to read as follows:

5 § 9.55 Emergency admissions for immediate observation, care and treat-
6 ment; powers of qualified psychiatrists and qualified clinical
7 examiner.

8 A qualified psychiatrist or qualified clinical examiner shall have the
9 power to direct the removal of any person[,] whose treatment for a
10 mental illness [he is] they are either supervising or providing in a
11 facility licensed or operated by the office of mental health [which]
12 that does not have an inpatient psychiatric service, to a hospital
13 approved by the commissioner pursuant to subdivision (a) of section 9.39
14 of this article, if [he determines] they determine upon examination of
15 such person that such person appears to have a mental illness for which
16 immediate observation, care and treatment in a hospital is appropriate
17 and [which] that is likely to result in serious harm to [himself] self
18 or others, as defined in section 9.39 of this article. Upon the
19 [request] directive of such qualified psychiatrist or qualified clinical
20 examiner, peace officers, when acting pursuant to their special duties,
21 or police officers, who are members of an authorized police department
22 or force or of a sheriff's department shall take into custody and trans-
23 port any such person. Upon the request of a qualified psychiatrist or
24 qualified clinical examiner, an ambulance service, as defined by subdivi-
25 sion two of section three thousand one of the public health law, is
26 authorized to transport any such person. Such person may then be admit-
27 ted in accordance with the provisions of section 9.39 of this article.

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

3 § 9.56 Transport for evaluation; powers of specialized staff of adult
4 care facilities.

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

18 (b) A facility director or director's designee who receives a request
19 from a physician or qualified mental health professional pursuant to
20 subdivision (a) of this section may direct peace officers acting pursu-
21 ant to their special duties, or police officers who are members of an
22 authorized police department or force or of a sheriff's department, to
23 take into custody and transport the resident identified in such request.
24 Upon the request of such facility director or designee, an ambulance
25 service, as defined in subdivision two of section three thousand one of
26 the public health law, is authorized to transport any such persons. Such
27 persons may then be evaluated for admission in accordance with the
28 provisions of section 9.27, 9.39, 9.40 or other sections of this arti-

1 cle, provided that such transport shall not create a presumption that
2 the person should be involuntarily admitted to a hospital.

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

10 (d) A person removed to a hospital pursuant to this section shall
11 maintain their status as a resident of the adult care facility until
12 admitted as a patient at such hospital or for twenty-four hours follow-
13 ing such person's release upon a determination by a physician or quali-
14 fied clinical examiner at such hospital to not admit the person as a
15 patient; provided that this section shall not prevent the adult care
16 facility from continuing such person's residency status for a longer
17 period at the discretion of the facility director or as the facility may
18 otherwise be obligated. Any personal property of such person located at
19 the facility at the time of removal shall be securely maintained by the
20 facility for the duration of any resulting hospitalization or crisis
21 stabilization, unless transferred to another party upon such person's
22 request.

23 § 13. Section 9.57 of the mental hygiene law, as amended by chapter
24 598 of the laws of 1994, is amended to read as follows:

25 § 9.57 Emergency admissions for immediate observation, care and treat-
26 ment; powers of emergency room physicians or qualified clinical
27 examiners.

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

1 § 13-a. Section 9.57 of the mental hygiene law, as amended by chapter
2 847 of the laws of 1987, is amended to read as follows:

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

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

1 § 14. Subdivisions (b), (c) and (d) of section 9.58 of the mental
2 hygiene law, as added by chapter 678 of the laws of 1994, and paragraph
3 2 of subdivision (d) as amended by chapter 230 of the laws of 2004, are
4 amended to read as follows:

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

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

1 (d) As used in this section[:

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

6 [(2) "Qualified mental health professional" shall mean a licensed
7 psychologist, registered professional nurse, licensed clinical social
8 worker or a licensed master social worker under the supervision of a
9 physician, psychologist or licensed clinical social worker.]

10 § 15. Paragraphs 3 and 4 of subdivision (e) of section 9.60 of the
11 mental hygiene law, paragraph 3 as amended by chapter 158 of the laws of
12 2005, paragraph 4 as amended by chapter 382 of the laws of 2015, are
13 amended to read as follows:

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

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

22 (ii) no more than ten days prior to the filing of the petition, such
23 physician or qualified clinical examiner or [his or her] their designee
24 has made appropriate attempts but has not been successful in eliciting
25 the cooperation of the subject of the petition to submit to an examina-
26 tion, such physician or qualified clinical examiner has reason to
27 suspect that the subject of the petition meets the criteria for assisted
28 outpatient treatment, and such physician or qualified clinical examiner

1 is willing and able to examine the subject of the petition and testify
2 at the hearing on the petition.

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

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

14 (h) Hearing. (1) Upon receipt of the petition, the court shall fix the
15 date for a hearing. Such date shall be no later than three days from the
16 date such petition is received by the court, excluding Saturdays,
17 Sundays and holidays. Adjournments shall be permitted only for good
18 cause shown. In granting adjournments, the court shall consider the need
19 for further examination by a physician or qualified clinical examiner or
20 the potential need to provide assisted outpatient treatment expeditious-
21 ly. The court shall cause the subject of the petition, any other person
22 receiving notice pursuant to subdivision (f) of this section, the peti-
23 tioner, the physician or qualified clinical examiner whose affirmation
24 or affidavit accompanied the petition, and such other persons as the
25 court may determine, to be advised of such date. Upon such date, or upon
26 such other date to which the proceeding may be adjourned, the court
27 shall hear testimony and, if it be deemed advisable and the subject of
28 the petition is available, examine the subject of the petition in or out

1 of court. If the subject of the petition does not appear at the hearing,
2 and appropriate attempts to elicit the attendance of the subject have
3 failed, the court may conduct the hearing in the subject's absence. In
4 such case, the court shall set forth the factual basis for conducting
5 the hearing without the presence of the subject of the petition.

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

21 (3) If the subject of the petition has refused to be examined by a
22 physician or qualified clinical examiner, the court may request the
23 subject to consent to an examination by a physician or qualified clin-
24 ical examiner appointed by the court. If the subject of the petition
25 does not consent and the court finds reasonable cause to believe that
26 the allegations in the petition are true, the court may order peace
27 officers, acting pursuant to their special duties, or police officers
28 who are members of an authorized police department or force[,] or of a

1 sheriff's department to take the subject of the petition into custody
2 and transport [him or her] them to a hospital for examination by a
3 physician or qualified clinical examiner. Retention of the subject of
4 the petition under such order shall not exceed twenty-four hours. The
5 examination of the subject of the petition may be performed by the
6 physician or qualified clinical examiner whose affirmation or affidavit
7 accompanied the petition pursuant to paragraph three of subdivision (e)
8 of this section, if such physician or qualified clinical examiner is
9 privileged by such hospital or otherwise authorized by such hospital to
10 do so. If such examination is performed by another physician[, the exam-
11 ining physician] or qualified clinical examiner, such physician or qual-
12 ified clinical examiner may consult with the physician or qualified
13 clinical examiner whose affirmation or affidavit accompanied the peti-
14 tion as to whether the subject meets the criteria for assisted outpa-
15 tient treatment.

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

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

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

6 (n) Failure to comply with assisted outpatient treatment. Where in the
7 clinical judgment of a physician or qualified clinical examiner, (i) the
8 assisted outpatient, has failed or refused to comply with the assisted
9 outpatient treatment, (ii) efforts were made to solicit compliance, and
10 (iii) such assisted outpatient may be in need of involuntary admission
11 to a hospital pursuant to section 9.27 of this article or immediate
12 observation, care and treatment pursuant to section 9.39 or 9.40 of this
13 article, such physician or qualified clinical examiner may request the
14 appropriate director of community services, the director's designee, or
15 any physician or qualified clinical examiner designated by the director
16 of community services pursuant to section 9.37 of this article, to
17 direct the removal of such assisted outpatient to an appropriate hospi-
18 tal for an examination to determine if such person has a mental illness
19 for which hospitalization is necessary pursuant to section 9.27, 9.39 or
20 9.40 of this article. Furthermore, if such assisted outpatient refuses
21 to take medications as required by the court order, or [he or she] such
22 outpatient refuses to take, or fails a blood test, urinalysis, or alco-
23 hol or drug test as required by the court order, such physician or qual-
24 ified clinical examiner may consider such refusal or failure when deter-
25 mining whether the assisted outpatient is in need of an examination to
26 determine whether [he or she] such outpatient has a mental illness for
27 which hospitalization is necessary. Upon the request of such physician
28 or qualified clinical examiner, the appropriate director, the director's

1 designee, or any physician or qualified clinical examiner designated
2 pursuant to section 9.37 of this article, may direct peace officers,
3 acting pursuant to their special duties, or police officers who are
4 members of an authorized police department or force or of a sheriff's
5 department to take the assisted outpatient into custody and transport
6 [him or her] such outpatient to the hospital operating the assisted
7 outpatient treatment program or to any hospital authorized by the direc-
8 tor of community services to receive such persons. Such law enforcement
9 officials shall carry out such directive. Upon the request of such
10 physician or qualified clinical examiner, the appropriate director, the
11 director's designee, or any physician or qualified clinical examiner
12 designated pursuant to section 9.37 of this article, an ambulance
13 service, as defined by subdivision two of section three thousand one of
14 the public health law, or an approved mobile crisis outreach team as
15 defined in section 9.58 of this article shall be authorized to take into
16 custody and transport any such person to the hospital operating the
17 assisted outpatient treatment program, or to any other hospital author-
18 ized by the appropriate director of community services to receive such
19 persons. Any director of community services, or designee, shall be
20 authorized to direct the removal of an assisted outpatient who is pres-
21 ent in [his or her] such director's county to an appropriate hospital,
22 in accordance with the provisions of this subdivision, based upon a
23 determination of the appropriate director of community services direct-
24 ing the removal of such assisted outpatient pursuant to this subdivi-
25 sion. Such person may be retained for observation, care and treatment
26 and further examination in the hospital for up to seventy-two hours to
27 permit a physician or qualified clinical examiner to determine whether
28 such person has a mental illness and is in need of involuntary care and

1 treatment in a hospital pursuant to the provisions of this article. Any
2 continued involuntary retention in such hospital beyond the initial
3 seventy-two hour period shall be in accordance with the provisions of
4 this article relating to the involuntary admission and retention of a
5 person. If at any time during the seventy-two hour period the person is
6 determined not to meet the involuntary admission and retention
7 provisions of this article, and does not agree to stay in the hospital
8 as a voluntary or informal patient, [he or she] such outpatient must be
9 released. Failure to comply with an order of assisted outpatient treat-
10 ment shall not be grounds for involuntary civil commitment or a finding
11 of contempt of court.

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

14 § 9.64 Notice of admission determination to community provider.

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

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

25 1. In the case of an involuntary patient on conditional release, the
26 director may terminate the conditional release and order the patient to
27 return to the facility at any time during the period for which retention
28 was authorized, if, in the director's judgment, the patient needs in-pa-

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

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

22 (f) The discharge or conditional release of all clients at develop-
23 mental centers, patients at psychiatric centers or patients at psychiat-
24 ric inpatient services subject to licensure by the office of mental
25 health shall be in accordance with a written service plan prepared by
26 staff familiar with the case history of the client or patient to be
27 discharged or conditionally released and in cooperation with appropriate
28 social services officials and directors of local governmental units. In

1 causing such plan to be prepared, the director of the facility shall
2 take steps to assure that the following persons are interviewed,
3 provided an opportunity to actively participate in the development of
4 such plan and advised of whatever services might be available to the
5 patient through the mental hygiene legal service: the patient to be
6 discharged or conditionally released; a representative of a community
7 provider of mental health services, including a provider of case manage-
8 ment services, that maintains the patient on its caseload; an authorized
9 representative of the patient, to include the parent or parents if the
10 patient is a minor, unless such minor sixteen years of age or older
11 objects to the participation of the parent or parents and there has been
12 a clinical determination by a physician that the involvement of the
13 parent or parents is not clinically appropriate and such determination
14 is documented in the clinical record and there is no plan to discharge
15 or release the minor to the home of such parent or parents; and upon the
16 request of the patient sixteen years of age or older, [a significant] an
17 individual significant to the patient including any relative, close
18 friend or individual otherwise concerned with the welfare of the
19 patient, other than an employee of the facility.

20 (m) It shall be the responsibility of the chief administrator of any
21 facility providing inpatient services subject to licensure by the office
22 of mental health to notify[, when appropriate, the local social services
23 commissioner and appropriate state and local mental health represen-
24 tatives] the following persons when an inpatient is about to be
25 discharged or conditionally released and to provide to such [officials]
26 persons the written service plan developed for such inpatient as
27 required under subdivision (f) of this section: a representative of a
28 community provider of mental health services, including a provider of

1 case management services, that maintains the patient on its caseload; a
2 representative of an adult care facility in which the patient resided at
3 the time of the patient's admission; and, when appropriate, the local
4 social services commissioner and appropriate state and local mental
5 health representatives.

6 § 21. Subdivision (b) of section 41.09 of the mental hygiene law, as
7 amended by chapter 588 of the laws of 1973, and as renumbered by chapter
8 978 of the laws of 1977, is amended to read as follows:

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

21 § 22. This act shall take effect immediately; provided, however, that:

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

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

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

7 d. the amendments to sections 9.55 and 9.57 of the mental hygiene law
8 made by sections eleven and thirteen of this act shall be subject to the
9 expiration and reversion of such section pursuant to section 21 of chap-
10 ter 723 of the laws of 1989, as amended, when upon such date the
11 provisions of sections eleven-a and thirteen-a of this act shall take
12 effect;

13 e. the amendments to section 9.60 of the mental hygiene law made by
14 sections fifteen, sixteen and seventeen of this act shall not affect the
15 repeal of such section and shall be deemed repealed therewith; and

16 f. the amendments to paragraph 1 of subdivision (e) of section 29.15
17 of the mental hygiene law made by section nineteen of this act shall not
18 affect the expiration of such section pursuant to section 18 of chapter
19 408 of the laws of 1999, as amended and shall expire and be deemed
20 repealed therewith.