

New York State Mental Hygiene Law

§ 9.13 Voluntary admissions

(a) The director of any hospital may receive as a voluntary patient any suitable person in need of care and treatment, who voluntarily makes written application therefor. If the person is under sixteen years of age, the person may be received as a voluntary patient only on the application of the parent, legal guardian, or next-of-kin of such person, or, subject to the terms of any court order or any instrument executed pursuant to section three hundred eighty-four-a of the social services law, a social services official or authorized agency with care and custody of such person pursuant to the social services law, the director of the division for youth, acting in accordance with section five hundred nine of the executive law, or a person or entity having custody of the person pursuant to an order issued pursuant to section seven hundred fifty-six or one thousand fifty-five of the family court act. If the person is over sixteen and under eighteen years of age, the director may, in his discretion, admit such person either as a voluntary patient on his own application or on the application of the person's parent, legal guardian, next-of-kin, or, subject to the terms of any court order or any instrument executed pursuant to section three hundred eighty-four-a of the social services law, a social services official or authorized agency with care and custody of such person pursuant to the social services law, the director of the division for youth, acting in accordance with section five hundred nine of the executive law, provided that such person knowingly and voluntarily consented to such application in accordance with such section, or a person or entity having custody of the person pursuant to an order issued pursuant to section seven hundred fifty-six or one thousand fifty-five of the family court act.

(b) If such voluntary patient gives notice in writing to the director of the patient's desire to leave the hospital, the director shall promptly release the patient; provided, however, that if there are reasonable grounds for belief that the patient may be in need of involuntary care and treatment, the director may retain the patient for a period not to exceed seventy-two hours from receipt of such notice. Before the expiration of such seventy-two hour period, the director shall either release the patient or apply to the supreme court or the county court in the county where the hospital is located for an order authorizing

the involuntary retention of such patient. The application and proceedings in connection therewith shall be in the manner prescribed in this article for a court authorization to retain an involuntary patient, except that notice of such application shall be served forthwith and, if a hearing be demanded, the date for hearing to be fixed by the court shall be at a time not later than three days from the date such notice has been received by the court. If it be determined by the court that the patient is mentally ill and in need of retention for involuntary care and treatment in the hospital, the court shall forthwith issue an order authorizing the retention of such patient for care and treatment in the hospital, or, if requested by the patient, his guardian, or committee, in such other non-public hospital as may be within the financial means of the patient, for a period not exceeding sixty days from the date of such order. Further application for retention of the patient for periods not exceeding six months, one year, and two year periods thereafter, respectively, may thereafter be made in accordance with the provisions of this article.

In the case of a patient under eighteen years of age, such notice requesting release of the patient may be given by the patient, by the person who made application for his admission, by a person of equal or closer relationship, or by the mental hygiene legal service. If such notice be given by any other person, the director may in his discretion refuse to discharge the patient and in the event of such refusal, such other person or the mental hygiene legal service may apply to the supreme court or to a county court for the release of the patient.

§ 9.15 Informal admissions

The director of any hospital approved by the commissioner for such purpose may receive therein as an informal patient any suitable person in need of care and treatment requesting admission thereto. Such person may be admitted as a patient without making formal or written application therefor and any such patient shall be free to leave such hospital at any time after such admission.

§ 9.27 Involuntary admission on medical certification

(a) The director of a hospital may receive and retain therein as a patient any person alleged to be mentally ill and in need of involuntary care and treatment upon the certificates of two examining physicians, accompanied by an application for the admission of such

person. The examination may be conducted jointly but each examining physician shall execute a separate certificate.

(b) Such application must have been executed within ten days prior to such admission. It may be executed by any one of the following:

1. any person with whom the person alleged to be mentally ill resides.
2. the father or mother, husband or wife, brother or sister, or the child of any such person or the nearest available relative.
3. the committee of such person.
4. an officer of any public or well recognized charitable institution or agency or home, including but not limited to the superintendent of a correctional facility, as such term is defined in paragraph (a) of subdivision four of section two of the correction law, in whose institution the person alleged to be mentally ill resides.
5. the director of community services or social services official, as defined in the social services law, of the city or county in which any such person may be.
6. the director of the hospital or of a general hospital, as defined in article twenty-eight of the public health law, in which the patient is hospitalized.
7. the director or person in charge of a facility providing care to alcoholics, or substance abusers or substance dependent persons.
8. the director of the division for youth, acting in accordance with the provisions of section five hundred nine of the executive law.
9. subject to the terms of any court order or any instrument executed pursuant to section three hundred eighty-four-a of the social services law, a social services official or authorized agency which has, pursuant to the social services law, care and custody or guardianship and custody of a child over the age of sixteen.
10. subject to the terms of any court order a person or entity having custody of a child pursuant to an order issued pursuant to section seven hundred fifty-six or one thousand fifty-five of the family court act.

11. a qualified psychiatrist who is either supervising the treatment of or treating such person for a mental illness in a facility licensed or operated by the office of mental health.

(c) Such application shall contain a statement of the facts upon which the allegation of mental illness and need for care and treatment are based and shall be executed under penalty of perjury but shall not require the signature of a notary public thereon.

(d) Before an examining physician completes the certificate of examination of a person for involuntary care and treatment, he shall consider alternative forms of care and treatment that might be adequate to provide for the person's needs without requiring involuntary hospitalization. If the examining physician knows that the person he is examining for involuntary care and treatment has been under prior treatment, he shall, insofar as possible, consult with the physician or psychologist furnishing such prior treatment prior to completing his certificate. Nothing in this section shall prohibit or invalidate any involuntary admission made in accordance with the provisions of this chapter.

(e) The director of the hospital where such person is brought shall cause such person to be examined forthwith by a physician who shall be a member of the psychiatric staff of such hospital other than the original examining physicians whose certificate or certificates accompanied the application and, if such person is found to be in need of involuntary care and treatment, he may be admitted thereto as a patient as herein provided.

(f) Following admission to a hospital, no patient may be sent to another hospital by any form of involuntary admission unless the mental hygiene legal service has been given notice thereof.

(g) Applications for involuntary admission of patients to residential treatment facilities for children and youth or transfer of involuntarily admitted patients to such facilities shall be reviewed by the pre-admission certification committee serving such facility in accordance with section 9.51 of this article.

(h) 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.

(i) After an application for the admission of a person has been

completed and both physicians have examined such person and separately certified that he or she is mentally ill and in need of involuntary care and treatment in a hospital, either physician is authorized to request peace officers, when acting pursuant to their special duties, or police officers, who are members of an authorized police department or force or of a sheriff's department, to take into custody and transport such person to a hospital for determination by the director whether such person qualifies for admission pursuant to this section. Upon the request of either physician an ambulance service, as defined by subdivision two of section three thousand one of the public health law, is authorized to transport such person to a hospital for determination by the director whether such person qualifies for admission pursuant to this section.

§ 9.39 Emergency admissions for immediate observation, care, and treatment

(a) The director of any hospital maintaining adequate staff and facilities for the observation, examination, care, and treatment of persons alleged to be mentally ill and approved by the commissioner to receive and retain patients pursuant to this section may receive and retain therein as a patient for a period of fifteen days any person alleged to have a mental illness for which immediate observation, care, and treatment in a hospital is appropriate and which is likely to result in serious harm to himself or others. "Likelihood to result in serious harm" as used in this article shall mean:

1. substantial risk of physical harm to himself as manifested by threats of or attempts at suicide or serious bodily harm or other conduct demonstrating that he is dangerous to himself, 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 of serious physical harm.

The director shall cause to be entered upon the hospital records the name of the person or persons, if any, who have brought such person to the hospital and the details of the circumstances leading to the hospitalization of such person.

The director shall admit such person pursuant to the provisions of this section only if a staff physician of the hospital upon examination of such person finds that such person qualifies under the requirements of

this section. Such person shall not be retained for a period of more than forty-eight hours unless within such period such finding is confirmed after examination by another physician who shall be a member of the psychiatric staff of the hospital. Such person shall be served, at the time of admission, with written notice of his status and rights as a patient under this section. Such notice shall contain the patient's name. At the same time, such notice shall also be given to the mental hygiene legal service and personally or by mail to such person or persons, not to exceed three in number, as may be designated in writing to receive such notice by the person alleged to be mentally ill. If at any time after admission, the patient, any relative, friend, or the mental hygiene legal service gives notice to the director in writing of request for court hearing on the question of need for immediate observation, care, and treatment, a hearing shall be held as herein provided as soon as practicable but in any event not more than five days after such request is received, except that the commencement of such hearing may be adjourned at the request of the patient. It shall be the duty of the director upon receiving notice of such request for hearing to forward forthwith a copy of such notice with a record of the patient to the supreme court or county court in the county where such hospital is located. A copy of such notice and record shall also be given the mental hygiene legal service. The court which receives such notice shall fix the date of such hearing and cause the patient or other person requesting the hearing, the director, the mental hygiene legal service and such other persons as the court may determine to be advised of such date. Upon such date, or upon such other date to which the proceeding may be adjourned, the court shall hear testimony and examine the person alleged to be mentally ill, if it be deemed advisable in or out of court, and shall render a decision in writing that there is reasonable cause to believe 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 it be determined that there is such reasonable cause, the court shall forthwith issue an order authorizing the retention of such patient for any such purpose or purposes in the hospital for a period not to exceed fifteen days from the date of admission. Any such order entered by the court shall not be deemed to be an adjudication that the patient is mentally ill, but only a determination that there is reasonable cause to retain the patient for the purposes of this section.

(b) Within fifteen days of arrival at the hospital, if a determination is made that the person is not in need of involuntary care and treatment, he shall be discharged unless he agrees to remain as a voluntary or

informal patient. If he is in need of involuntary care and treatment and does not agree to remain as a voluntary or informal patient, he may be retained beyond such fifteen day period only by admission to such hospital or another appropriate hospital pursuant to the provisions governing involuntary admission on application supported by medical certification and subject to the provisions for notice, hearing, review, and judicial approval of retention or transfer and retention governing such admissions, 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 under this section. If a hearing has been requested pursuant to the provisions of subdivision (a), the filing of an application for involuntary admission on medical certification shall not delay or prevent the holding of the hearing.

(c) 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.