

APPLICATION FOR INVOLUNTARY ADMISSION ON MEDICAL CERTIFICATION

Note: The Examining Physician must consider alternative forms of care and treatment that might be adequate to provide for the person's needs without requiring involuntary hospitalization.

Section 9.27 Mental Hygiene Law

I. GENERAL PROVISIONS FOR INVOLUNTARY ADMISSION ON MEDICAL CERTIFICATION

A. Standard for Admission

A person alleged to be mentally ill and in need of involuntary care and treatment may be admitted to a hospital providing inpatient services for the mentally ill, upon the certificates of two examining physicians accompanied by an application for admission for such person.

- "In need of involuntary care and treatment" means that the person has a mental illness for which care and treatment as a patient in a hospital is essential to such person's welfare and whose judgment is so impaired that he or she is unable to understand the need for such care and treatment.
- The person in need of involuntary care and treatment must, as a result of his or her mental illness, pose a substantial threat of harm to self or others.

B. Application

The application must be made within 10 days prior to admission by:

- any person with whom the person alleged to be mentally ill resides;
- the father or mother, husband or wife, brother or sister or the child of any such person or the nearest available relative;
- the committee of such person;
- an officer of any public or well recognized charitable institution or agency or home in whose institution the person alleged to be mentally ill resides;
- 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;
- 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;
- the director or person in charge of a facility providing care to alcoholics or substance abusers or substance dependent persons;
- the director of the division for youth, acting in accordance with the provisions of section five hundred nine of the executive law;
- 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;
- 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; or
- 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 (* means a physician licensed to practice medicine in NY State, who is a diplomate of the American Board of Psychiatry and Neurology or is eligible to be certified by that Board, or who is certified by the American Osteopathic Board of Neurology and Psychiatry or is eligible to be certified by that Board).

C. Certification by Two Examining Physicians

The application must be supported and accompanied by two Certificates of Examining Physician (Form 471A). The examinations may be conducted jointly, but each examining physician must execute a separate certificate. If the examining physician knows that the person under examination has received prior treatment, s/he must, if possible, consult with the physician or psychologist furnishing such prior treatment.

The required examinations must be made within 10 days prior to the date of the patient's admission to the hospital.

A person is disqualified from acting as an examining physician if:

- he or she is not licensed to practice medicine in New York State.
- he or she is a relative of the person applying for admission, or of the person alleged to be in need of hospitalization.
- he or she is a manager, trustee, visitor, proprietor, officer, director, or stockholder of the hospital in which the patient is hospitalized or to which it is proposed to admit such person, or has any financial interest in such hospital other than receipt of fees, privileges or compensation for treating or examining patients in such hospital.
- he or she is on the staff of a proprietary hospital to which it is proposed to admit such person.

D. Hospital Evaluation, Admission and Retention

A physician on the psychiatric staff of the hospital, other than the original examining physicians, must examine the person alleged to be mentally ill and confirm the need for involuntary care and treatment prior to admission.

Subsequent to admission, if no request for a court hearing is made, the director may retain the patient for up to 60 days without taking other action.

If the hospital director determines that the condition of the patient requires hospitalization beyond 60 days:

- The patient may remain as a voluntary or informal patient if willing and suitable for such status.
- If the patient is unwilling or not suitable to remain as a voluntary or informal patient, the director must apply, before the end of the 60 day period, for a court order authorizing continued retention of the patient. The director must also inform the patient, the Mental Hygiene Legal Service, and others who received the original notice of the patient's commitment, that said director is applying for a court order, to give them the opportunity to request a hearing before the court, if they so desire.

State and Federal Laws prohibit discrimination based on race, color, national origin, age, sex, or disability.