

14 NYCRR Part 57  
Express Terms

1. Section 57.1 of Title 14 NYCRR is amended to read as follows:

- (a) The forensic mental health system offers care to New Yorkers pursuant to Mental Hygiene, Criminal Procedure, and Correction Laws. The Office ensures that mental health services are available to members of this population at multiple geographical points throughout the forensic system. In addition to the Mid-Hudson Forensic Psychiatric Center and Kirby Forensic Psychiatric Center, the Office operates two maximum security regional forensic units: the Rochester Regional Forensic Unit, located on the grounds of the Rochester Psychiatric Center, and the Northeast Regional Forensic Unit, located at Central New York Psychiatric Center.
- (b) [The Mid-Hudson Psychiatric Center and Kirby Forensic Psychiatric Center are] These forensic facilities [in the Office of Mental Health] and units [which] offer a range and variety of programs and services for the care, treatment, and rehabilitation of [the mentally ill of the] persons age [of] 16 and over with mental illness, comparable with those offered at other hospitals in the Office of Mental Health. In addition, they have the staff and physical surroundings to enable them to offer such programs and services to patients requiring closer supervision than can be given at other hospitals.
- (c) Patients whose behavior is such as to raise the likelihood of their causing harm to others cannot be given the care and treatment they require at such other hospitals operated by the Office of Mental Health since, for the protection of other patients and staff of such hospitals, they must be kept in closed wards [and even] while in

[seclusion] a civil facility.

- (d) The Mid-Hudson Forensic Psychiatric Center, [and] Kirby Forensic Psychiatric Center, Rochester Regional Forensic Unit and Northeast Regional Forensic Unit [with] have specially trained staff and a secure perimeter. As such, these settings [security] permit freer movement, within [institution] facility grounds, of [such] patients who pose a risk of harm to others, as well as offer them an opportunity for [and the possibility of] rehabilitation, recreation, and therapies which, because of their need for close supervision, would not be available for them at the other hospitals.

2. The heading and subdivisions (a) and (b) of Section 57.2 of Title 14 NYCRR are amended to read as follows:

**Procedure for transfer to Mid-Hudson Psychiatric Center, [and] Kirby Forensic Psychiatric Center, Rochester Regional Forensic Unit and Northeast Regional Forensic Unit**

- (a) *Application.* The director of a hospital [in the department] operated by the Office of Mental Health may make application in writing to the commissioner or his designee for transfer of an involuntary patient at his facility to the Mid-Hudson Forensic Psychiatric Center, [or] Kirby Forensic Psychiatric Center, Rochester Regional Forensic Unit or Northeast Regional Forensic Unit. Such application must be supported by a statement of facts showing that:

- (1) there is a substantial risk that such patient may cause 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.

- (2) reasonable efforts at treatment have been made without eliminating such substantial risk of physical harm to others.
- (3) the patient needs the close supervision provided at the Mid-Hudson Forensic Psychiatric Center, [or] Kirby Forensic Psychiatric Center, Rochester Regional Forensic Unit or Northeast Regional Forensic Unit. A copy of the application together with a copy of this Part shall be given to the patient, to the nearest relative of the patient, if there be known to the director, and to the Mental Hygiene Legal Service. Proof of service of such copy and proof of service of any paper required by this Part shall be placed in the patient's record.

(b) *Notice of commissioner's decision.* If the commissioner or his designee finds that the application sets forth facts justifying the transfer of the patient to the Mid-Hudson Forensic Psychiatric Center, [or] Kirby Forensic Psychiatric Center, Rochester Regional Forensic Unit or Northeast Regional Forensic Unit, he shall so notify the director who made the application. Such director shall thereupon give notice of the proposed transfer of such patient to the Mid-Hudson Forensic Psychiatric Center, [or] Kirby Forensic Psychiatric Center, Rochester Regional Forensic Unit or Northeast Regional Forensic Unit, to the persons served with a copy of the application. The notice shall have attached thereto a copy of the determination of the commissioner or his designee and shall state that such transfer will be effected unless, within 48 hours of service of the notices, exclusive of Saturdays, Sundays, and holidays, the patient, or anyone on his behalf, files written objection to the transfer with such director.

3. Section 57.3 of Title 14 NYCRR is amended to read as follows:

[(1)] (a) An application may be made for the immediate transfer of a patient to Mid-Hudson Forensic Psychiatric Center, [or] Kirby Forensic Psychiatric Center, Rochester Regional Forensic Unit or Northeast Regional Forensic Unit [may request immediate transfer thereto]. In such case, the application shall set forth all the facts required by section 57.2 of this Part and, in addition shall set forth facts showing that the hospital where he is being held cannot manage the patient and that a delay in the transfer would seriously jeopardize the safety of the patient, other patients at the facility, or employees thereof. A copy of the application shall be served upon the nearest relative of the patient, if there be any known to the director, and upon the Mental Hygiene Legal Service. If the commissioner or his designee approves the application, he shall order, within 48 hours of receipt of the application the immediate transfer of the patient. The order shall contain a provision that the transfer is conditional upon full review by the commissioner or his designee. A copy of the order shall be served upon the patient, the Mental Hygiene Legal Service, and any relative served with a copy of the application.

[(2)] (b) Within 24 hours of the patient's arrival at Mid-Hudson Forensic Psychiatric Center, [or] Kirby Forensic Psychiatric Center, Rochester Regional Forensic Unit or Northeast Regional Forensic Unit, the director of the Mid-Hudson Forensic Psychiatric Center, [or] Kirby Forensic Psychiatric Center, Rochester Psychiatric Center or Central New York Psychiatric Center shall serve notice upon the patient, the nearest relative of the patient, if there be any known to him, and upon the Mental Hygiene Legal Service of the patient's rights to object to the transfer. The procedure set forth in section 57.2 of this Part shall apply. If the decision of the commissioner or his designee is to uphold the transfer, he shall issue an order confirming the transfer. If the decision is to the contrary,

he shall rescind the transfer.

4. Section 57.4 of Title 14 NYCRR is amended to read as follows:

(a) An involuntary patient transferred to Mid-Hudson Forensic Psychiatric Center, [or] Kirby Forensic Psychiatric Center, Rochester Regional Forensic Unit or Northeast Regional Forensic Unit shall be retained at such hospital only as long as his condition requires retention at such hospital in accordance with the criteria set forth in section 57.2(a) of this Part.

(b) The director of Mid-Hudson Forensic Psychiatric Center, [or] Kirby Forensic Psychiatric Center, Rochester Psychiatric Center or Central New York Psychiatric Center shall comply with the provisions of article 31 of the Mental Hygiene Law and apply, in accordance with such article, for the required periodic orders authorizing retention of involuntary patients. In addition, such director shall periodically review the need for retention in the Mid-Hudson Forensic Psychiatric Center, [or] Kirby Forensic Psychiatric Center, Rochester Regional Forensic Unit or Northeast Regional Forensic Unit of each involuntary patient and shall file a report with the commissioner or his designee for each such patient at intervals of not more than six months setting forth reasons why the patient needs continued retention at such facility. A copy of such report shall be served on the patient and the Mental Hygiene Legal Service.

(c) Involuntary patients who no longer need retention in the Mid-Hudson Forensic Psychiatric Center, [or] Kirby Forensic Psychiatric Center, Rochester Regional Forensic Unit or Northeast Regional Forensic Unit but who still require involuntary care and treatment shall be transferred to another hospital in the Office of Mental Health.

5. Section 57.5 of Title 14 NYCRR is amended to read as follows:

Each involuntary patient previously transferred to the Mid-Hudson Forensic Psychiatric Center, [or] Kirby Forensic Psychiatric Center, Rochester Regional Forensic Unit or Northeast Regional Forensic Unit who is a patient therein on the effective date of this Part, shall be served within one month of such date with a copy of this Part, a statement setting forth reasons why such patient needs continued retention therein, and a notice of the patient's rights to object to further retention at such facility. A copy of such statement and notice shall be served upon the nearest relative of the patient, if there be any known to the director, and upon the Mental Hygiene Legal Service. If there is no written objection made by or on behalf of the patient, the patient may be retained at Mid-Hudson Forensic Psychiatric Center, [or] Kirby Forensic Psychiatric Center, Rochester Regional Forensic Unit or Northeast Regional Forensic Unit subject to the provisions of section 57.4 of this Part. If there is an objection, the procedure set forth in sections 57.2 and 57.3 of this Part shall apply.

6. Section 57.6 of Title 14 NYCRR is amended to read as follows:

Nothing in this Part shall affect any right of the patient or someone acting on his behalf to initiate a proceeding allowed to him by law before a court of competent jurisdiction to challenge his transfer to or retention at Mid-Hudson Forensic Psychiatric Center, [or] Kirby Forensic Psychiatric Center, Rochester Regional Forensic Unit or Northeast Regional Forensic Unit.

7. Section 57.7 of Title 14 NYCRR is amended to read as follows:

The commissioner or his designee may, when supported by documentation that retention at Mid-

Hudson Forensic Psychiatric Center, [or] Kirby Forensic Psychiatric Center, Rochester Regional Forensic Unit or Northeast Regional Forensic Unit is no longer appropriate, authorize the return of a patient to the sending facility or other appropriate facility.

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