

Supreme Court of the State of New York
Appellate Division, First Judicial Department

In the Matter of the Amendment of Rules of the

Appellate Division, First Department

ORDER

The Appellate Division of the Supreme Court, First Judicial Department,
pursuant to the authority vested in it,

Hereby, effective immediately, amends Part 622 of the official Compilation of Code, Rules and Regulations of the State of New York, as follows (additions in text are indicated by underlying and deletions by ~~strikethrough~~);

22 NYCRR 622.2 Duties of the Director

* * * *

(c) With regard to ~~inmates~~ incarcerated persons, defendants or patients committed to, transferred to or placed in facilities for the mentally disabled pursuant to the Correction Law or to the Criminal Procedure Law:

(1) In all matters or proceedings in which the service is required to be served with notice, the director shall:

(i) examine the papers, and shall ascertain that the notices required to be given have been duly served and that there has been due compliance with the prescribed procedure;

(ii) inform the ~~inmate~~ incarcerated person, defendant or patient of his or her rights including the right to judicial hearing, to review, to appeal and to be represented by the service or by privately retained counsel;

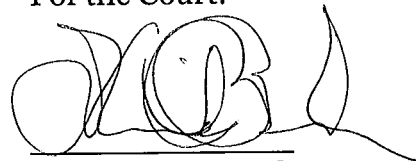
(iii) when a hearing has not been demanded, if the director determines that the case should be heard by the court or be reviewed by a court, or court and jury, the director may, in his or her discretion, demand a hearing or may request that the case be reviewed by the court or court and jury;

(iv) examine the records of the ~~inmate~~ incarcerated person, defendant or patient;

- (v) interview the attending psychiatrist, examining physician or psychologist who has knowledge of the condition of the inmate incarcerated person, defendant or patient;
- (vi) interview all other persons having information relevant to the matter or proceeding;
- (vii) perform such other services on behalf of the inmate incarcerated person, defendant or patient as the director in his or her discretion may determine. The court may request the director to perform additional services within the scope of, and consistent with, the service's statutory duties.
- (d) With regard to applications for authorization to administer psychotropic medication and to perform surgery, electro-convulsive therapy or major medical treatment in the nature of surgery upon parties or patients in facilities:
- (1) Copies of notice of such applications shall be served upon the director of the service of the judicial department in which the proceeding is brought and the director of the service of the judicial department in which the facility is located.
- (2) In all such proceedings the director shall:
- (i) examine the papers, and shall ascertain that the notices required to be given have been duly served;
- (ii) interview and inform the party or patient of the nature of the proceeding and of his or her rights, including the right to a judicial hearing, to appeal and to be represented by the service or by privately retained counsel, and determine whether he or she has any objection to the proceeding;
- (iii) when a hearing has not been demanded, if the director determines that the case should be heard by the court, the director may, in his or her discretion, demand a hearing on behalf of the party or patient;
- (iv) examine the records of the party or patient;
- (v) interview the party or patient's attending and consulting psychiatrist, physician or psychologist who has knowledge of the party or patient's condition;
- (vi) interview all other persons having information relevant to the matter or proceeding;
- (vii) perform such other services on behalf of the party or patient, as the court may request or the director may determine, consistent with the service's statutory duties.
- (e) In all the foregoing proceedings, the service shall represent the inmate incarcerated person, defendant, party or patient unless they otherwise have counsel or counsel has been dispensed with pursuant to article 81 of the Mental Hygiene Law.

Date: New York, New York
December 11, 2023

For the Court:

A handwritten signature in black ink, appearing to read 'DTR', with a long horizontal flourish extending to the right.

Dianne T. Renwick
Presiding Justice