



ANDREW M. CUOMO  
Governor

ANN MARIE T. SULLIVAN, M.D.  
Commissioner

THOMAS E. SMITH, MD  
Chief Medical Officer

## MEMORANDUM

**TO:** NYS Article 28/31 Hospital Psychiatry Providers

**FROM:** Dr. Thomas Smith, Chief Medical Officer, NYS Office of Mental Health

**DATE:** June 5, 2020

**SUBJECT:** Update: Treatment Planning and Documentation Standards for Article 28/31 Hospital Psychiatry Providers during Emergency Period

This is an update to guidance issued to Article 28/31 hospital psychiatry providers on March 25, 2020. At that time, OMH eased several regulations, statutes and hospital policies for NYS Article 28/31 hospital psychiatry providers.

**Mental Health Treatment Standards. The following guidance will remain in effect indefinitely:**

During the COVID-19 emergency period, hospital-based mental health programs may modify their inpatient treatment programming as follows:

1. Hospital mental health programs should follow their hospital-wide policies regarding visitors.
2. Programs should cancel all therapeutic, rehabilitative, and recreational groups that do not align with physical distancing and other mitigation recommendations.
3. During individual sessions, if in-person, clinicians and patients should remain six feet apart.
4. Patients should be allowed to remain in their rooms during the day and should not be asked to remain in shared settings. Programs should maximize the space patients can occupy while on the unit.
5. Programs should continue to provide and even increase, where feasible, time for outside activities. Patients should be reminded to maintain at least six feet of distance from all other individuals while outside.

**Use of Telemental Health for Removal and Retention Pursuant to Article 9 of the Mental Hygiene Law. The following guidance remains in effect. NYS OMH is assessing the feasibility of preserving some or all of these standards after the COVID-19 emergency period. Further guidance is forthcoming.**

During the COVID-19 emergency period and until further notice, any evaluation or examination required as part of an involuntary removal from the community, involuntary retention in a hospital or Assisted Outpatient Treatment order pursuant to Article 9 of

the Mental Hygiene Law can be conducted via telemental health. Evaluations or examinations conducted via telemental health must comply with the current guidance issued by the Office of Mental Health posted at: <https://omh.ny.gov/omhweb/guidance/>.

This use of telemental health for Article 9 removals will be considered equivalent to face-to-face evaluations or examinations for purposes of meeting statutory requirements. However, this guidance does not alter applicable clinical or legal standards, and the provisions of Article 9 remain in effect.

The following scenarios can be considered:

1. For Article 9 voluntary admission paperwork, an off-site psychiatrist can explain the legal paperwork to the patient via telehealth and an on-site clinician can scribe the signature for the off-site psychiatrist.
2. For Article 9 involuntary paperwork, an off-site psychiatrist can print and complete paperwork and then send electronically to an on-site clinician to be placed in the patient's record. Original copies of the patient's legal paperwork should be retained and placed in the patient's medical record as soon as possible.

**Seclusion and Restraint. The following guidance remains in effect. NYS OMH is assessing the feasibility of preserving some or all of these standards after the COVID-19 emergency period. Further guidance is forthcoming.**

During the declared state of emergency, the requirements in NYCRR 526.4 (Restraint and Seclusion) requiring a physician for the order and the in-person, face-to-face examination of the patient for restraint or seclusion may temporarily be fulfilled by an order and an in-person, face-to-face examination by a licensed nurse practitioner or physician assistant.

NOTE: telehealth orders for seclusion and restraint are not permitted at this time.

**Use of Video and Telephone Technology for Treatment of Patients. The following guidance remains in effect. NYS OMH is assessing the feasibility of preserving some or all of these standards after the COVID-19 emergency period. Further guidance is forthcoming.**

Telemental health should also be used to support routine treatment planning on hospital inpatient mental health units. For example:

1. Hospitals may consider plans in which one psychiatrist is on-site during regular work hours to manage duties that require in-person evaluations while allowing other psychiatrists to complete evaluations, treatment, and daily rounds via video connections (or via telephone when clinically appropriate and if video is not available).
2. Hospital Psychiatric Consult-Liaison teams should also consider using telemental health when clinically appropriate from within the hospital in order to help preserve the hospital's supply of personal protective equipment.

**Documentation Requirements. Previous COVID-19 emergency period documentation guidance is rescinded. Hospital providers should resume adherence to all relevant documentation standards effective June 8, 2020.**

**Discharge Planning. Previous COVID-19 emergency period discharge planning guidance is rescinded. Hospital providers should resume adherence to all relevant discharge planning standards effective June 8, 2020.**

CC: OMH Executive Team  
OMH Senior Staff/Field Office Directors  
OMH COVID-19 Communication Team  
OMH Central Office COVID-19 Physicians On-Call  
Alison Burke, Greater New York Hospital Association  
Victoria Aufiero, Healthcare Association of New York State