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|  Office of Mental Health | | Official Policy Manual Directive | | Section Patient Care – Discharge and Conditional Release | Section # PC-400 |
| Prepared by Nancy Pepe, Associate Counsel | T.L. 19-01 | Title Discharge and Conditional Release of Patients to the Community from Adult State Operated Psychiatric Facilities | | | |
| Commissioner's Approval Ann Marie T. Sullivan, M.D. | | Date Issued 5/9/2019 | Supersedes 1/17/2013 | | |

A) Policy Statement

Patients who are to be discharged or conditionally released from State operated psychiatric facilities often require assistance in locating available clinical services, social services, and housing which will enable them to manage their symptoms effectively, live in the community and recover. The discharge planning process is a means of identifying a support system and should identify skills and elements to self manage. This may include anticipating a patient's needs after discharge from inpatient treatment, identifying services available in the community to meet those needs, and following up after discharge to determine if the patient has received all recommended services. Coordination of inpatient and aftercare services is necessary to ensure a smooth transition to the community. The discharge planning process is a critical aspect of patient care which should begin at admission and continue through aftercare treatment.

Responsibility for discharge planning for patients of State operated psychiatric facilities rests with the director of the facility. Local social services officials and directors of local governmental units have a responsibility to cooperate in the process.

This policy directive supersedes all previous correspondence on this subject. It requires that a written service plan be developed for each patient discharged or conditionally released from a State operated psychiatric facility. In addition, to provide structure to the discharge planning process, it requires that the following documents be developed:

1. a written facility procedure for the discharge planning process; and
2. whenever possible, written agreements establishing responsibility for the discharge planning process between the State operated psychiatric facility, the local governmental units and the local department of social services serving the facility's catchment area.

B) Relevant Statutes and Standards

Mental Hygiene Law Sections 29.15 and 41.17
 Part 36 of Title 14, Official Compilation of Codes, Rules and Regulations of the State of New York
 Part 540 of Title 14, Official Compilation of Codes, Rules and Regulations of the State of New York
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C) Definitions

Advance Directive- means an individual's written instruction, recognized under New York State law, which relates to the provision of health care in the event that such individual lacks the capacity to make health care decisions.

Conditional Release of Non-Forensic Patients - shall mean release subject to the right of the hospital to return the patient to inpatient care pursuant to the conditions set forth in Section 29.15 of the Mental Hygiene Law.

Conditional Release of Forensic Patients - for forensic patients committed to the custody of the Commissioner pursuant to Criminal Procedure Law (CPL) Article 730, conditional release shall mean the act of ending facility's inpatient period of service to a patient without ending the facility's legal responsibility for the patient. For forensic patients who are defendants committed to the custody of the Commissioner pursuant to CPL Section 330.20, the term release order is used and it means a court order directing the Commissioner to terminate a defendant's inpatient status without terminating the Commissioner's responsibility for the defendant.

Discharge of Non-Forensic Patients - shall mean release and the termination of any right to retain or treat the patient on an inpatient basis. Discharge shall not preclude the patient from receiving necessary services on other than an inpatient basis nor shall it preclude subsequent readmission as an inpatient if made in accordance with Article 9 of the Mental Hygiene Law.

Discharge of Forensic Patients - for forensic patients committed to the custody of the Commissioner pursuant to Criminal Procedure Law (CPL) Article 730, discharge shall mean the act of ending a facility's inpatient period of service to a patient and the facility's legal responsibility for that patient. For forensic patients who are defendants committed to the custody of the Commissioner pursuant to Criminal Procedure Law Section 330.20, it means a court order terminating an order of conditions or unconditionally discharging a defendant from the supervision of the courts under the provisions of CPL Section 330.20.

Forensic Patients - are either defendants committed to the custody of the Commissioner pursuant to Criminal Procedure Law (CPL) Section 330.20 or patients committed to the custody of the Commissioner pursuant to CPL Article 730. NOTE: This category does not include persons committed under a final order pursuant to CPL Article 730 whose criminal charges have been dismissed.

Local Governmental Unit Director - shall mean the chief executive officer, by whatever title known, of the identifiable entity within the local government which directs and administers a local comprehensive planning process for services to persons with mental illness, mental retardation and developmental disability and those suffering from alcoholism, alcohol abuse, substance abuse or substance dependence.

Recovery - shall mean the process by which people with psychiatric diagnoses discover or rediscover their strengths and abilities, pursue goals, and develop a sense of identity that allows them to grow beyond labels associated with their diagnoses.

Social Services Official - shall mean the chief executive officer, by whatever title known, charged with the authority to administer public assistance and care in the local social services district.

Self Management Plan - shall mean a plan by which the individual identifies resources, (including people, procedures and skills) which they will use to manage his or her own symptoms.

Written Service Plan - shall mean the document that records the discharge plan for the patient being discharged or conditionally released. It includes the specific needs and goals of the patient, type and extent of services to be provided, and the individuals, organizations or facilities that will provide the identified care, treatment and follow-up services. The written plan of discharge services is the form used to record the written service plan for patients being discharged or conditionally released from State operated psychiatric facilities.

D) Body of Policy

All discharges shall be made in accordance with the provisions of Section 29.15 of the Mental Hygiene Law, in a form and format designated by the Office, in accordance with the following:

1. Written Service Plan

Discharge planning for individual patients discharged or conditionally released from State operated psychiatric facilities must result in a written service plan. The form titled Discharge Summary/Service Plan (Inpatient) Part II - Service Plan, which is commonly referred to as the individual service plan, is the form used to record the patient's discharge plan at the time of discharge or conditional release.

- a) As required by subdivision (g) of Mental Hygiene Law Section 29.15, the written service plan must include, but not be limited to the following:
 - (i) A statement of the patient's need, if any, for supervision, medication, aftercare services, and assistance in finding employment following discharge or conditional release;
 - (ii) A specific recommendation of the type of residence in which the patient is to live and a listing of the services available to the patient in such residence;
 - (iii) A listing of organizations, facilities, including those of the Office of Mental Health, and individuals who are available to provide services in accordance with the identified needs of the patient; and
 - (iv) An evaluation of the patient's need and potential eligibility for public benefits following discharge or conditional release, including public assistance, medicaid, and supplemental security income. An inpatient facility operated or licensed by the office of mental health shall provide reasonable and appropriate assistance to the patient, in cooperation with local social services districts, in applying for benefits identified in the written service plan prior to discharge or conditional release.

- b) The written service plan for non-forensic patients shall address the patient's current needs and goals and specify the services to be provided and by whom. The following areas may be considered as appropriate for each individual who is discharged:
- i) case management,
 - ii) assisted outpatient treatment,
 - iii) living arrangements,
 - iv) physical health care and treatment,
 - v) mental health, mental retardation, or chemical dependence services,
 - vi) economic support and assistance,
 - vii) vocational or training services,
 - viii) educational services,
 - ix) social services,
 - x) transportation,
 - xi) services related to family and other support,
 - xii) services related to self care needs,
 - xiii) natural supports,
 - xiv) services related to cultural needs,
 - xv) advance directives, and
 - xvi) a self-management plan.

The patient shall have the opportunity to participate actively in the development of his/her discharge plan. With the patient's consent, the patient's family and significant others (including individuals providing natural supports), as appropriate, shall be offered an opportunity to participate in the discharge planning process. A representative of the agency to which the patient is referred for mental health services may also participate in the discharge planning process. The information exchanged for the purpose of discharge planning is to be kept confidential, is to be exchanged solely for the benefit of the patient and must be used and/or disclosed only in accordance with applicable State and Federal Law and regulations. If the patient refuses to sign a consent for the release of information after a full explanation of the purpose and benefits of involving other people and agencies in the discharge planning process, the State operated psychiatric facility should document this on the written service plan and complete the discharge plan with the patient. The patient must be provided with the addresses and telephone numbers of appropriate aftercare service providers and encouraged to make contact as soon as possible. These actions must be recorded on the written service plan.

The responsibilities of representatives of the local governmental units and the local departments of social services should be addressed in written agreements developed pursuant to Section D.3) of this directive.

- c) The written service plan requirements for forensic patients who are defendants committed to the custody of the Commissioner pursuant to CPL Section 330.20 are set forth in Section 541.8(c) of 14 NYCRR. The discharge or conditional release for forensic patients who are committed to the custody of the Commissioner pursuant to Criminal Procedure Law Article 730 are set forth in Section 540.8 of 14 NYCRR. NOTE: This category does not include persons committed under a final order pursuant to Article 730 of the Criminal Procedure Law whose criminal charges have been dismissed.

2. Facility Procedure for Discharge Planning

The director of each State operated psychiatric facility is responsible for developing a written procedure that delineates the operational steps of the discharge planning process.

The facility procedure may include, but need not be limited to, the following components:

a) **Guidelines for ensuring coordination of inpatient and outpatient care and treatment.** In order to develop the written service plan, the clinical staff of the inpatient facility must make timely contact with the patient and, with the patient's consent, with:

- i) the family, and significant others, as appropriate;
- ii) the mental health aftercare service provider(s);
- iii) the generic aftercare service provider(s) (e.g., medical, residential); and
- iv) others, as appropriate.

The written service plan should identify the patient's community health care provider. Upon receipt of consent to release information, medical information should be provided to the community health care provider within 30 days. The material should include, but not be limited to, the complete list of medications, dosage, frequency and indication for use, current diagnosis(es), copies of pertinent medical tests and procedures provided during the hospital stay and other reports that help ensure coordination of care with a community health care provider.

Information necessary to provide appropriate service and assure continuity of care shall be provided to all individuals and agencies named in the written service plan.

b) **Guidelines for assessing the patient's needs for social services, including but not limited to financial needs.** This assessment must begin shortly after admission and may be updated during the ongoing treatment process, as necessary.

- i) Procedures must be delineated for contacting the Office of Mental Health Patient Resource Office responsible for initiating the formal process of eligibility determination for financial entitlements.
- ii) Procedures must be delineated for contacting the social services officials responsible for providing direct protective or preventive services in the geographic area where the patient will reside upon discharge or conditional release.
- iii) Procedures must be delineated to ensure that the appropriate County Medicaid Office receives the form OMH-5, for every potential medicaid qualifying discharge, in order that the County be informed of the individual's eligibility for 621 Medicaid.

c) **Guidelines for ensuring that the patient has an opportunity to participate actively in discharge planning.** The guidelines shall include but need not be limited to:

- i) informing the patient of the nature and intent of discharge planning;
- ii) outlining the expectation for the active participation of the patient and, with the written consent of the patient; the family, or significant others, as appropriate in the process; and
- iii) informing the patient of services that are available including, but not limited to, the assistance of the Mental Hygiene Legal Services.

d) **Guidelines for ensuring the confidentiality of patient information.**

The information exchanged for the purpose of discharge planning is to be kept confidential, is to be exchanged solely for the benefit of the patient and must be used and/or disclosed only in accordance with applicable State and Federal Law and regulations.

e) **Guidelines for determining the adequacy and appropriateness of the residence to which the patient is to be discharged.**

- i) Nothing in this section prohibits the patient from returning to his/her own home or any other residence that s/he selects upon discharge or conditional release. If appropriate, preference should be given to returning individuals to their own home. If the patient selects a residential accommodation against the advice of the treatment team, a notation of such on the written service plan is required.
- ii) No patient who is to be discharged or conditionally released shall be directly referred to any residence subject to licensure, certification or approval by any State agency or department, unless it has been determined that such residence has a current license, certificate or approval.
- iii) No patient who is to be discharged or conditionally released shall be directly referred to any residential accommodation not subject to licensure, certification or approval by a State agency or department unless it has been determined, after consultation with appropriate agencies, that such residential accommodation complies with all appropriate local zoning, building, fire and safety codes, ordinances and regulations.
- iv) A patient who is to be discharged or conditionally released to a residence for adults, shall be referred only to such residence that is consistent with that patient's needs and that operates in compliance with the Social Services Law. Such referral shall be made to the patient's home county whenever possible and appropriate.

- v) No patient who is to be discharged or conditionally released shall be referred to any residence for adults which has received an official written notice of the proposed revocation, suspension or denial of its operating certificate; the limitation of its operating certificate with respect to new admissions, the issuance of a Department order or Commissioner's order or the seeking of equitable relief pursuant to Section 460-d of the Social Services Law; or the proposed assessment of civil penalties for violations of the provisions of Section 460-d(7)(b)(2) of the Social Services Law. Referrals may resume when such enforcement actions are resolved.
 - vi) No person shall be discharged to a transitional adult home, as defined in regulations of the Commissioner of Health, unless the patient was a resident of the home immediately prior to his or her current period of hospitalization.
 - vii) When a patient who is being prepared for discharge, indicates that his or her independent choice of residence, upon discharge, is a housing option that is not considered to be clinically appropriate, staff shall attempt to locate a clinically appropriate alternative housing option which is acceptable to the patient. However, if attempts to dissuade the patient are not successful, and if the patient no longer meets commitment criteria and the person is not under a court order to the contrary, staff must prepare the patient for discharge, yet take appropriate steps to link the individual with appropriate mental health services to help maintain the patient in the community and the residence of his or her choice. Staff shall fully document all steps taken pursuant to this subparagraph in the patient's clinical record
- f) Guidelines for verifying that services specified in the written service plan have been initiated for the patient discharged or conditionally released.**
- i) The provider of aftercare services is a key participant in this process and may be delegated verification and documentation responsibility in accordance with written agreements between the facility and the local governmental unit, local department of social services or voluntary treatment agency. Verification must be documented by the party conducting it, in writing, with at least the following information: when follow-up took place, who made the follow-up and the patient's status. If the facility delegates verification pursuant to a written agreement, then such agreement must require this level of documentation and the facility shall follow up with the entity conducting verification to confirm that appropriate verification and documentation has taken place.
 - ii) The time frame and frequencies for verifying that aftercare services have been initiated should be based on the patient's needs but should not exceed 30 days after discharge or conditional release.
- g) Guidelines for providing that mental health service appointments are scheduled to take place no later than five business days after the date of discharge. For new referrals, this appointment will include an initial assessment and, whenever possible, a psychiatric assessment is to take place within five business days of discharge.**

The discharging facility must take all appropriate steps to schedule such an appointment within this time frame. All State operated licensed outpatient programs are expected to conduct an initial engagement session with individuals prior to inpatient discharge from a State operated psychiatric facility. This may be completed in-person or by secure video teleconferencing/web-based means. Inpatient staff shall also conduct a post-discharge follow-up phone call to the patient within 48 hours of discharge from an adult State operated psychiatric facility. This phone call will be used as an opportunity to review the discharge plan, including medications and appointments, answer questions, and address any problems that may have arisen. Additional contact will be made by staff as clinically indicated.

If an outpatient provider fails to meet this time frame and is a State operated program, a Comprehensive Outpatient Program (COPS) provider or receives supplemental outpatient funding, the facility must report this as follows:

- 1) For State operated licensed outpatient programs, the facility director shall be notified, in writing, of a failure to meet this five day time frame. (State operated outpatient programs are required to meet the five day standard by this policy directive.)
- 2) For non-State operated licensed outpatient programs, the Director of Community Services and the OMH Field Office Director shall be notified, in writing, of a failure to meet the five day time frame, as required in applicable regulations.

h) Guidelines for patient readmission within 30 days subsequent to discharge or conditional release.

These guidelines must include procedures related to patients released within and outside the geographic area served by the discharging State operated psychiatric facility.

- i) If, within 30 days after discharge, a patient is in need of inpatient treatment, such treatment should be provided by a local hospital, licensed under Article 28 of the Public Health Law, pursuant to a written agreement (pursuant to Section D3), which shall also include agreement with such hospital. In the absence of such a local agreement, the State operated psychiatric facility whose catchment encompasses where the patient is currently located, or alternate facility as determined by State Operations, shall consider readmission of the patient.
- ii) If, within 30 days after discharge from a State operated psychiatric facility, a patient is admitted to inpatient psychiatric treatment in a facility other than the discharging facility, it is the responsibility of the State operated psychiatric facility whose catchment encompasses where the patient is currently located, or the assigned facility, to consider if readmission is clinically indicated, as soon as practicable. If the State operated psychiatric facility concludes that readmission is clinically indicated, the director shall order the patient to be transferred from the facility to which s/he was admitted to the receiving State operated psychiatric facility in accordance with the Office of Mental Health regulations. The discharging facility will be responsible for arranging for transportation of the patient from the discharging inpatient facility back to the admitting facility.

- iii) In cases of disagreement involving patient readmission within 30 days subsequent to discharge or conditional release, a consultation with the appropriate OMH field office should be initiated for resolution.

ALL ADMISSIONS AND READMISSIONS TO PSYCHIATRIC FACILITIES MUST BE CONSISTENT WITH PROVISIONS OF THE MENTAL HYGIENE LAW. NOTHING IN THIS POLICY SHALL SUPERSEDE A PATIENT'S RIGHT TO PURSUE VOLUNTARY ADMISSION TO ANY HOSPITAL OR TO REFUSE ADMISSION. IN ADDITION, NOTHING IN THIS POLICY SHALL SUPERSEDE ANYONE'S RIGHT TO PURSUE INVOLUNTARY COMMITMENT PROCEDURES AS AUTHORIZED BY THE MENTAL HYGIENE LAW.

3. Written Agreements

- a) Written agreements should be developed between the director of the State operated psychiatric facility and the directors of the local governmental units and local social services officials serving the facility's catchment area. There may be one agreement or a number of agreements depending on the nature of the catchment area and other factors. These agreements should identify the respective roles of the State operated psychiatric facility, local governmental units and the local social services departments in the discharge planning process. Although responsibility for initiating these agreements rests with the director of the State operated psychiatric facility, they may be initiated by any of the participants. It is recognized that local government officials cannot, by policy directive, be required to enter into such written agreements. Where such an agreement has not been developed, facilities should document that appropriate efforts have been made to develop an agreement with each local governmental unit. Such efforts shall include, if necessary, providing notice to directors of local governmental units and local social service districts that development of such written agreements is useful in ensuring compliance with Mental Hygiene Law sections 29.15(f), 29.15(h) and 29.15(n), which assign certain duties and responsibilities to the facility, the local governmental unit and local social service officials as follows:
 - (i) It is the responsibility of the director of any department facility from which a client or patient has been discharged or conditionally released, in collaboration, when appropriate, with appropriate social services officials and directors of local governmental units, to prepare, to cause to be implemented, and to monitor a comprehensive program designed:
 - 1) To determine whether the residence in which such client or patient is living, is adequate and appropriate for the needs of such patient or client;
 - 2) To verify that such patient or client is receiving the services specified in such patient's or client's written service plan; and
 - 3) To recommend, and to take steps to assure provision of, any additional services.

- (ii) It is the duty of directors of local social services districts and local governmental units to cooperate with facilities licensed or operated by an office of the department in the preparation and implementation of comprehensive written services plans as required by MHL Section 29.15 (MHL §29.15(n)).
- b) The written agreement between the director of the State operated psychiatric facility and the directors of local governmental units and local social services officials shall define their respective roles in identifying services available in the community which are appropriate to meet the needs of individual patients to be discharged or conditionally released, making such services available to patients and verifying whether or not patients who have been discharged or conditionally released are receiving the services identified in their written service plan. Such agreements must include, but need not be limited to the following:
 - i) a statement of the role of directors of local governmental units or designees in the discharge planning process;
 - ii) a clearly delineated procedure for identifying the roles and responsibilities of the State operated psychiatric facility and the directors of the local governmental units or their designees in developing the written service plan for patients who will be discharged or conditionally released;
 - iii) a statement of each party's responsibilities for verifying whether or not patients discharged or conditionally released are receiving the services specified in their written service plan (the documentation of monitoring of services must be specified);
 - iv) the agreement shall be signed by the director of the State operated psychiatric facility, the director of the local governmental unit and the director of the local social services district; and
 - v) the agreements shall be reviewed periodically and updated as necessary. Revisions of the agreements shall be in writing and be signed by all parties.
- c) A procedure that ensures the confidentiality of patient information and which satisfies applicable requirements of 45 CFR Parts 160 and 164 (HIPAA), must be included in the written agreements between the director of the State operated psychiatric facility and directors of local governmental units and local social services officials. This procedure must be in accordance with Section D.2)d) of this directive.