

 <b>Office of Mental Health</b>		<b>Official Policy Manual Directive</b>		<b>Section</b> Patient Care – Discharge and Conditional Release	<b>Section #</b> PC-401
Prepared by  Nancy Pepe, Associate Counsel	T.L.  19-02	<b>Title</b> Discharge and Conditional Release of Patients to the Community from State Operated Children’s Psychiatric Facilities/Units			
Commissioner’s Approval Ann Marie T. Sullivan, M.D.		<b>Date Issue</b> 5/9/2019	<b>Supersedes</b> 1/17/2013		

**A. Policy Statement:**

Children who are to be discharged or conditionally released from State operated psychiatric facilities return to a variety of settings--their family homes, mental health residential programs, the custody of social services, the juvenile justice system, or the court system. The discharge planning process for such patients is a means of anticipating a patient’s needs after discharge from inpatient treatment, as well as a means of building a support system for the child. It involves identifying services available in the community to meet the child’s needs, facilitating the linkage to those services, and following up after discharge to determine if the child is receiving the services recommended.

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.

It should be noted that children who are ordered to a facility for a mental health evaluation, by a court, are being evaluated for the court. State operated children’s psychiatric facilities/units do not do discharge planning for these children, except insofar as the court has requested that the facility render an opinion as to the child’s need for services. Youth referred for treatment pursuant to CPL 730.40, under a Temporary Order of Observation, must return to court, and are also exempted from the discharge process.

Responsibility for discharge planning for children and adolescent patients of State operated psychiatric facilities rests with the Executive Director of the facility, in collaboration with the local governmental unit (LGU) Director or his/her designee, and where applicable, through the Single Point of Access (SPOA) process<sup>1</sup> and local social services officials. Facility and designated LGU/SPOA staff, are expected to work jointly to develop, coordinate, and implement the discharge plan, meeting the needs and desires of the patient and the family. Children under the age of 16, and children who have been voluntarily admitted by their parents or guardians, should be consulted, whenever appropriate, as to their wishes and goals concerning discharge, but ultimately discharge decisions for these patients are determined by the parents, guardians or custodial agencies. Adolescents who are emancipated minors, (that is, have been legally emancipated) who are married, who are parents, or over the age of 16 and have signed themselves in on a voluntary admission, will make their own decisions concerning discharge, unless they are in the custody of an agency.

<sup>1</sup> As of the effective date of this policy directive, not all areas of the State have SPOAs which are in operation but the expectation is that eventually all areas will have a SPOA.

This policy directive supersedes all previous guidance and directions on this subject. It requires that a written service plan and wellness self management 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 process; and
2. whenever possible, written agreements establishing responsibility for the discharge planning process between the State operated psychiatric facility, the LGU/SPOA, and 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, Parts 540 and 541 of Title 14, Official Compilation of Codes, Rules and Regulations of the State of New York of

## **C. Definitions**

Conditional Release - 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.

Discharge - 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.

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 a psychiatric diagnosis 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 diagnosis.

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 self manage their 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 used to record the 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 children and adolescents released from State operated psychiatric facilities must result in a written service plan. The form titled Discharge Summary/Service Plan (Inpatient) Part II - Services 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 subdivisions (g) and (h) 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, if appropriate, 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 service available to the patient in such residence;
  - iii) a listing of organizations, facilities, including those of the department, and individuals who are available to provide services in accordance with the identified needs of the patient;
  - iv) notification to the appropriate school district and, if applicable, to the committee on special education regarding the proposed charge of release of a patient under 21 years of age, consistent with all applicable federal and state laws relating to confidentiality of such information; and
  - v) 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 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 individually appropriate for each individual who is discharged:

- i) case management,
- ii) outpatient mental health treatment,
- iii) residential placement,
- iv) physical health care and treatment,
- v) mental health, mental retardation, or chemical dependence services,
- vi) educational services,
- vii) family services,
- viii) vocational/training services,
- ix) social services,
- x) services related to self care needs,
- xi) natural supports,
- xii) services related to cultural needs, and
- xiii) a self-management plan.

The patient and family shall have the opportunity to participate actively in the development of the discharge plan, taking into consideration the status of emancipated minors and minors over the age of 16. Responsibilities of representatives of the LGU/SPOA, should be addressed in written agreements developed pursuant to Section D. 3) of this directive.

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/family refuse to sign a consent for 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. The patient/family 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. If the patient being discharged is over 18, and treatment non compliant, the facility should also determine whether an assisted outpatient treatment petition is necessary.

## 2) Facility Procedure for Discharge Planning

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

The facility procedure shall 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 family, the LGU/SPOA, the mental health aftercare service provider(s), the school district, and others, as appropriate. The facility shall include adequate information to provide appropriate service and assure continuing care.

The written service plan shall identify the child's primary healthcare provider, who shall receive all pertinent medical reports and documents prior to the child's discharge. The package of material shall include, but is not limited to, the complete list of medications including strengths, frequencies and indication for use, current diagnosis(s), copies of all medical tests and procedures provided during the hospital stay, and any other reports or documents that help ensure coordination of care with the community health provider. In addition, the package of medical reports and documents shall be forwarded to the child's community psychiatrist prior to discharge.

- b) **Guidelines for assessing the patient's financial needs.** This assessment, where appropriate, must begin shortly after admission and may be updated during the ongoing treatment process, as necessary. Procedures must be delineated for contacting the Office of Mental Health Patient Resources Office which is responsible for initiating the formal process of eligibility determination for financial entitlements such as Medicaid and SSI.
- c) **Guidelines for contacting custodial agencies.** When the patient will be discharged into the custody of social services or the juvenile justice system, procedures must be delineated for contacting the social services, juvenile justice, or court officials responsible for the child.
- d) **Guidelines for ensuring that the patient, family, and/or custodial agency have an opportunity to participate actively in discharge planning.** The guidelines shall include but not be limited to: informing the patient, family, and/or custodial agency of the nature and intent of the discharge planning;
  - i) outlining the expectation for the active participation of the patient, family, and/or custodial agency in the process; and
  - ii) informing the patient and family of services that are available.
- e) **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/or disclosed only in accordance with applicable State and Federal Law and regulations.
- f) **Guidelines for determining the adequacy and appropriateness of the residential program to which the patient may be discharged.**
  - i) Nothing in this section prohibits the patient from returning to his/her own home and if appropriate, preference should be given to returning individuals to their own home.
  - ii) No patient who is to be discharged or conditionally released shall be directly recommended for any residential program 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 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.
- iv) If the patient and family select a residential accommodation against the advice of the treatment team, a notation of such on the written service plan is required. Discharge to a shelter is not considered a clinically appropriate discharge unless the child will reside with the family.

**g) Guidelines for verifying that services specified in the written service plan have been initiated for the patient discharged or conditionally released.**

- i) The time frame for verifying that aftercare services have been initiated should be based on the patient's needs, but should not be later than 30 days after discharge or conditional release.
- ii) The provider of aftercare services is a key participant in this process and may be delegated verification responsibility in accordance with written agreements between the facility and the LGU/SPOA, local department of social services or 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 conducted the follow-up, and the child's status. If the facility delegates verification pursuant to a written agreement then such agreement must require this level of documentation.
- iii) The facility shall contact the primary aftercare mental health treatment provider to determine that the child and family have presented for care, and that the child has been admitted and is receiving necessary mental health care.
- iv) In order to verify that the child is receiving all other services delineated in the discharge plan, the facility shall contact the child's custodial parent or custodial agency; or in the case of a placement in a residential program, the director/designee of the residential program; or in the case of a placement in the juvenile justice system, the director/designee of the juvenile justice program; or in the case of an emancipated minor, or adolescent over 16 who signed the discharge plan, with the adolescent.
- v) It is not necessary to verify aftercare services for children who are placed by the court system into OMH facilities for the exclusive purpose of evaluation.
- vi) When services are not being provided in accordance with the discharge plan, the LGU/SPOA shall be apprised of the situation by the State operated facility, and a remediation plan shall immediately be developed by the State operated facility and SPOA personnel.

- vii) Each facility shall develop detailed procedures for the verification of aftercare services, which shall include the manner in which verification activities are documented.
  - viii) Central Office personnel shall review the discharge planning verification process at facility Governing Body Meetings, in order to ensure organizational standardization and facility compliance with procedures.
- h) **Guidelines for providing that mental health appointments are scheduled to take place no later than five business days after 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 appointment for an initial assessment by an outpatient provider is to take place within five business days of discharge. The 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 parent or legal guardian within 48 hours of discharge from a 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 outpatient 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.).
  - a) For non-state operated licensed outpatient programs, the Director of Community Services and the Director of the OMH Field Office shall be notified, in writing, of a failure to meet the five day time frame, as required in applicable regulations.

### 3) Written Agreements

- a) Written agreements should be developed between the Director of the State operated psychiatric facility and the Director of the LGU/SPOA 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, the LGUs/SPOAs, and the local social services departments in the discharge planning process.

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 will assist in complying 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 the 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 Section 29.15 of the Mental Hygiene Law. ( MHL§29.15 (n))
- b) The agreement between the director of the State operated psychiatric facility and the directors of LGUs/SPOAs and local social services units 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.

The agreement must include, but need not be limited to the following:

- i) a statement of the role of Directors of LGU/SPOA 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 LGU/SPOA or the 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 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. Revision of the agreements shall 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 LGU/SPOA. This procedure must be in accordance with Section D.2)d) of this directive.