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| <b>State of New York</b><br><b>OFFICE OF MENTAL HEALTH</b><br><hr/> <b>OMH</b><br><b>OFFICIAL POLICY MANUAL</b> | <b>Date Issued</b><br>5/9/96                                      | <b>T. L.</b><br>96-02 | <b>Section #</b><br>QA-520 |
|   | <b>Section</b><br>Quality Assurance - Reporting and Investigation |                       |                            |
|   | <b>Directive</b><br>Missing Persons                               |                       |                            |

**A. Policy Statement**

All patients within State-operated psychiatric hospitals must be provided with safe and humane care. Inherent in this principle is the need to take prompt actions to attend to the safety of any inpatient who is missing from the hospital. Additionally, the Office of Mental Health needs to take action to attend to the welfare and safety of the general public and any person or persons who are known to be potentially endangered by a patient who has left a State-operated psychiatric hospital without authorization.

This policy directive sets parameters for the development of hospital procedures concerning search, notification, and return or discharge requirements related to inpatients who are missing from State-operated psychiatric hospitals.

The requirements of this policy directive, which is effective immediately, supplement and do not supersede the requirements of 14 NYCRR Part 524.

**B. Relevant Statutes and Standards**

Mental Hygiene Law, sections 29.16 and 29.19, and Article 67  
Criminal Procedure Law, Articles 330 and 730  
Correction Law, sections 402 and 508  
Executive Law, section 509  
Family Court Act  
14 NYCRR Parts 37, 524, 540 and 541

**C. Definitions**

- 1) **Missing Person** means an inpatient of a hospital who has not been accounted for when expected to be present and who has not been found on the hospital grounds or other expected location, or who is known to have left the hospital grounds without permission. Missing persons include the following three categories:
  - a) **Absent Person** means a missing person who is not otherwise considered to be an endangered person or an escaped person.
  - b) **Endangered Person** means a missing person who is:
    - i) considered to be dangerous to self or unable to care for self; and
    - ii) not otherwise considered to be an escaped person.
  - c) **Escaped Person** means a missing person who:
    - i) is considered to be dangerous to others; or
    - ii) was committed under a court order pursuant to the Criminal Procedure Law or Correction Law, regardless of any subsequent conversion to civil status, or remains subject to an order of conditions pursuant to section 330.20 of the Criminal

Procedure Law [NOTE: This category does not include non-dangerous persons committed pursuant to Article 730 of the Criminal Procedure Law whose criminal charges have been dismissed.]; or

- iii) is currently committed pursuant to the Family Court Act; or
- iv) was transferred from the Division for Youth in accordance with Executive Law section 509.

#### **D. Body of Directive**

##### **1) Initial Search and Classification Requirements**

- a) When a person is suspected to be missing, hospital staff shall make a preliminary effort to locate him or her in the immediate and general area in which he or she was last seen or can be expected to be, taking into consideration the circumstances surrounding the person's absence. If a preliminary effort to locate a person is unsuccessful, he or she shall be considered missing and appropriate supervisory staff shall be informed.
- b) When a person is considered missing, a clinical review of his or her record and other relevant information shall be completed by the person's treating psychiatrist, or the psychiatrist on call, in consultation with the treatment team. The purpose of such review is to determine his or her potential dangerousness to self or others, and his or her ability to care for self.
  - i) Determinations of danger to others shall include, but not be limited to, consideration of: the person's history of dangerous conduct associated with non-compliance with mental health treatment programs; the person's criminal history; the person's history of unauthorized absences; and the circumstances surrounding his or her absence.
  - ii) Determinations of danger to self and ability to care for self shall include, but not be limited to, consideration of: the person's ability to care for self, including the person's refusal or inability to meet his or her essential need for food, shelter, clothing or health care; the person's physical condition; any related environmental factors; and the circumstances surrounding his or her absence.
- c) Based on the results of the clinical review completed pursuant to section D.1)b), the missing person shall be classified as either an absent person, endangered person or escaped person. The clinical director or designee shall immediately review this determination and his or her approval of this determination, or any modification thereto, shall be noted in the clinical record.
- d) Immediately after a person is considered missing, hospitals shall conduct an on-grounds search for any missing person who reasonably still could be located on the hospital grounds. The duration and intensity of the search shall be commensurate with the results of the review completed pursuant to section D.1)b).
- e) The administrator on call shall assess the need to request assistance from local law enforcement authorities in the search for a missing person and shall immediately request such assistance, if necessary. The assistance of law enforcement authorities shall always be requested in the search for an endangered person or escaped person, including a request that the law enforcement authorities cause to enter a missing person report on the New York Statewide Police Information Network (NYSPIN).
- f) The administrator on call shall make every reasonable effort to promptly make assistance available to a missing person found in physical or psychiatric distress.

2) **Initial Notification Requirements**

- a) The timing and manner of notifications completed pursuant to this section shall be made as soon as possible and appropriate, commensurate with the results of the clinical review completed pursuant to section D.1)b) and the circumstances surrounding the person's absence. All verbal notifications shall be noted in the missing person's case record. All verbal notifications regarding escaped persons shall be followed up with written notification.
- b) When a person is considered missing, any contact person identified in the missing person's case record (e.g., next-of-kin, friend, legal guardian) shall be notified.
- c) When a person is considered missing, any mental health program, including a case management program, which recently provided services to the person, or is likely to encounter the missing person, shall be notified.
- d) If an escaped person is considered dangerous to others, additional notifications shall include:
  - i) the law enforcement authority having jurisdiction of the area of the escaped person's likely destination, if known; and
  - ii) any identifiable person regarded as potentially in danger.
- e) If an escaped person was admitted under the Criminal Procedure Law, or if a missing person was admitted under the Criminal Procedure Law and his or her criminal charges were subsequently dismissed, additional notifications shall include each of the following:
  - i) the sheriff of the county in which the hospital is located (for locations other than New York City);
  - ii) the superintendent of State Police (for locations other than New York City);
  - iii) the police department having jurisdiction of the area in which the hospital is located;
  - iv) the police department having jurisdiction of the area in which the missing person last resided;
  - v) any person or entity designated by the committing court;
  - vi) the district attorney of the county from which the missing person was committed;
  - vii) the missing person's attorney, if any;
  - viii) the Office of Mental Health Bureau of Forensic Services;
  - ix) the court which issued the order under which the missing person is currently being held (persons admitted under CPL section 330.20 only); and
  - x) the Mental Hygiene Legal Service.
- f) If an escaped person was admitted under the Correction Law, an additional notification shall be made to the Commissioner of Correctional Services or the officer in charge of the jail or correctional institution from which the person was committed.
- g) If an escaped person was admitted under the Family Court Act, additional notifications shall include:

- i) the committing court;
  - ii) the Mental Hygiene Legal Service; and
  - iii) local law enforcement authorities.
- h) If an escaped person was transferred from the Division for Youth, additional notifications shall include:
- i) the Director of the Division for Youth;
  - ii) the Mental Hygiene Legal Service; and
  - iii) local law enforcement authorities.

3) **Ongoing Efforts to Locate Escaped and Endangered Persons**

Prior to the return or discharge of escaped and endangered persons, hospitals are responsible for ongoing efforts to attempt to locate such persons. Such efforts shall include contacting any persons who are considered likely to encounter or be contacted by the missing person. Such contacts shall be documented in the escaped or endangered person's case record. At a minimum, such contacts shall be made according to the following schedule:

- a) once a day for the first three days after the person is considered missing;
- b) once at the end of the first week and then once a week during weeks 2 - 4 after the person is considered missing; and
- c) once a month thereafter, for a period of one year after which the person is considered missing.

4) **Location and Return of Missing Persons**

- a) When a missing person, who has not been discharged pursuant to section D.5), is located off the hospital grounds, the hospital shall take all reasonable and appropriate steps to return the person to the hospital when such person is subject to court authorized retention, or whenever reasonable grounds exist to believe that the person may be in need of involuntary care and treatment. Facilities are encouraged to consult with the OMH Counsel's Office if there are questions regarding such actions. When a clinical assessment of the person's need for involuntary care and treatment is indicated, such assessment shall, whenever possible, be conducted at the location where the missing person is found. When a missing person is returned to the hospital, the necessity for conducting a search of the person shall be evaluated in accordance with the clinical circumstances and the hospital's policy on patient searches.
- b) If a missing person is found outside the hospital's catchment area but, for clinical or logistical reasons, immediate return to that hospital is not a viable alternative, the person may be admitted to another psychiatric hospital.
- c) When a missing person who is on informal, voluntary or expired involuntary admission status is returned to the hospital, he or she shall be discharged unless he or she agrees to voluntarily remain a patient at the hospital, or there are reasonable grounds for belief that he or she may be in need of involuntary care and treatment, in which case the patient shall be evaluated and, if appropriate, involuntarily admitted and retained in accordance with the applicable provisions of Article 9 of the Mental Hygiene Law.

- d) In the event a missing person is found out-of-state or is brought to another psychiatric hospital, and return to the original hospital is clinically appropriate, the original hospital shall bear responsibility for assuring that transportation for the person's return is provided within a reasonable time frame. The Interstate Compact (Mental Hygiene Law, Article 67) shall be used as appropriate.
- e) In the event of a dispute between psychiatric hospitals involving the return of a missing person, the Commissioner or designee shall resolve the dispute.
- f) When a missing person is returned to or discharged from the hospital pursuant to this section, any person or entity previously notified pursuant to section D.2) shall be so notified. Such notification shall be documented in the missing person's case record. All verbal notifications regarding escaped persons shall be followed up with written notifications. A specific request shall be made to law enforcement authorities regarding the immediate removal of any missing person's name from the NYSPIN system.

**5) Continued Status and Discharge of Missing Persons**

- a) Absent persons who were informally or voluntarily admitted shall remain on absent person status for a period of 72 hours and then discharged in accordance with section D.5)d), unless prior to that time, they are:
  - i) returned to the hospital; or
  - ii) evaluated and determined not to be in need of involuntary commitment and subsequently discharged.
- b) Absent persons who were involuntarily committed shall remain on absent person status for a period of 30 days and then discharged in accordance with section D.5)d), unless prior to that time, they are:
  - i) returned to the hospital; or
  - ii) evaluated and determined not to be in need of continued commitment and subsequently discharged.
- c) Escaped and endangered persons shall remain on escaped person or endangered person status for a period of one year and then discharged in accordance with section D.5)d), except as follows:
  - i) they are returned to the hospital prior to that time;
  - ii) they are evaluated and determined not to be in need of commitment, and subsequently discharged prior to that time;
  - iii) they are committed under the Criminal Procedure Law section 330.20, in which case they cannot be removed from escaped person status or discharged as long as they remain subject to an order of conditions;
  - iv) they are committed under the Criminal Procedure Law Article 730, in which case they cannot be removed from escaped person status or discharged if the court order committing them is still valid; or
  - v) they are committed under Correction Law section 402, in which case they cannot be removed from escaped person status or discharged, unless so ordered by a court, or returned to jail or prison.

- d) A discharge completed in accordance with sections D.5)a), b) and c) shall be considered an administrative discharge. For purposes of this directive, an administrative discharge means the termination of a person's inpatient status in the absence of a contemporaneous determination of his or her suitability for continued inpatient care and treatment.
- e) When a missing person is discharged pursuant to this section, any person or entity previously notified pursuant to section D.2) shall be notified regarding the person's discharge. All verbal notifications regarding escaped persons shall be followed up with written notifications. Such notifications shall be documented in the missing person's case record.
- f) If a person under the age of 18 is missing and discharge is being contemplated pursuant to this section, but no parent or responsible agency has been identified and contacted, the local Department of Social Services shall be notified. Such notifications shall be documented in the missing person's case record. All verbal notifications regarding escaped persons shall be followed up with written notifications.

6) **Hospital Census Calculations**

All missing persons who have not been discharged may remain on hospital inpatient census rolls for a maximum of seven days after they are considered missing. All missing persons who are removed from hospital inpatient census rolls, but not discharged, shall be placed on absent person, endangered person or escaped person status. For purposes of entering status changes in DMHIS, the date of the status change shall be the date on which the person was considered missing.