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TO: NYS Article 31 Mental Health Provider Agencies
NYS Article 28 Hospital Provider Agencies
OMH-Operated Psychiatric Center Executive Directors, Quality and Risk
Management Directors

FROM: Mary LaPoint, Director, Office of Quality Improvement

DATE: October 6, 2023

SUBJECT: Security Personnel, Safety Officer, and Peace Officer involvement in OMH-
licensed and operated CPEP and inpatient programs

This memo is an update to the May 18, 2020, letter from the New York State Office of Mental Health Office of Quality Improvement regarding the role of Security Personnel, Safety Officers¹, and Peace Officers² (SP/SO/PO) in OMH-licensed and operated Comprehensive Psychiatric Emergency Programs (CPEP) and inpatient psychiatric programs.

This memo outlines parameters for incorporating important and effective roles for SP/SO/POs in psychiatric programs. We encourage you to evaluate your policies, procedures, and practices to ensure your facility minimizes risk, promotes a compassionate and recovery-oriented environment, and prioritizes staff, visitors, and patient safety.

Training

14 NYCRR 526.4 *Restraint and Seclusion* regulations require **all staff** with direct patient contact to receive ongoing education and training in the use of restraints and seclusion and must be able to demonstrate their competency in applying all techniques. This regulatory requirement includes SP/SO/PO who respond to OMH-operated or licensed psychiatric inpatient and CPEP programs.

If a physical intervention, such as restraint and/or seclusion, is required, such interventions should be initiated by appropriately trained mental health personnel with demonstrated competency. SP/SO/POs should not be considered the lead during a behavioral code or psychiatric crisis; facility policy must make it clear that clinical staff are the lead in these situations.

SP/SO/POs must be trained about the unique needs of psychiatric patients. Similar to the requirements for clinical staff, if SP/SO/POs are expected to be involved in physical interventions in a therapeutic space, such personnel must have adequate training and must possess a demonstrated competency.

OMH reserves the right to review documentation regarding restraint and seclusion, including staff training and competency records.

¹ MHL 7.25

² NY CPL 2.10

Implementation Guidelines related to 14 NYCRR 526.4 Restraint and Seclusion regulations can be found on the OMH website at <https://omh.ny.gov/omhweb/guidance/implementation-guidelines.pdf> .

Weapons

Using weapons in OMH-operated or licensed inpatient programs and CPEPs is not a safe, appropriate healthcare intervention. Using weapons to subdue, intimidate, or restrain a patient outside the commission of an arrest is strictly prohibited.

According to the Center for Medicare and Medicaid Services (CMS), weapons include but are not limited to pepper gel/spray, batons, mace, and stun guns.

Per CMS³, “Security staff may carry weapons as allowed by hospital policy and State and Federal law. However, the use of weapons by security staff is considered a law enforcement action, not a health care intervention. CMS does not support the use of weapons by any hospital staff as a means of subduing a patient in order to place that patient in restraint or seclusion. If a weapon is used by security or law enforcement personnel on a person in a hospital (patient, staff, or visitor) to protect people or hospital property from harm, we would expect the situation to be handled as a criminal activity and the perpetrator be placed in the custody of local law enforcement.”

Specific to firearms, *14 CRR-NY 542.5 Prohibition of firearms and granting of exceptions*⁴ regulations prohibit any person from possessing a firearm at any facility operated or licensed by the Office of Mental Health, except in limited circumstances in State-operated facilities. No exception allows a person to possess a firearm in an OMH-licensed facility.

Handcuffs

Handcuffs, manacles, shackles, and other chain-type restraint devices are considered law enforcement devices and are not authorized forms of mechanical restraint under 14 CRR-NY 526.4 Restraint and Seclusion regulations. Such devices are permitted when employed by safety or law enforcement staff (including Peace Officers) for the transport of patients under Article 10 of the Mental Hygiene Law, or patients committed to the custody of the Commissioner pursuant to a criminal court order, or if otherwise permitted by law.

Show of Force

SP/SO/POs shall not be deployed as a “show of force.” Deliberate intimidation of psychiatric patients by staff is prohibited.

Code of Conduct

All employees of a mental health provider, including Security Personnel, Safety Officers, and Peace Officers who have or may have direct patient contact, must review and sign the Code of Conduct.

³ Center for Medicare and Medicaid Services. State Operations Manual. (2/21/20). Page 120. [SOM Appendix A \(cms.gov\)](https://www.cms.gov)

⁴[https://govt.westlaw.com/nycrr/Document/I50364a67cd1711dda432a117e6e0f345?viewType=FullText&originati onContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)](https://govt.westlaw.com/nycrr/Document/I50364a67cd1711dda432a117e6e0f345?viewType=FullText&originati onContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default))

The Code of Conduct, developed by the NYS Justice Center for the Protection of People with Special Needs, pursuant to Section 554 of the Executive Law, exists as one measure to prevent abuse, neglect, and other harm toward vulnerable persons. 14 CRR-NY 524 regulations require employees of OMH-operated and licensed programs to review and sign the Code of Conduct annually.

Information regarding the Code of Conduct can be found here- [Code of Conduct | Justice Center for the Protection of People With Special Needs \(ny.gov\)](#)

If you have any questions, please get in touch with your OMH regional Clinical Risk Manager at (518) 474-3619.