FOR IMMEDIATE RELEASE

HUMAN RIGHTS AUTHORITY-NORTH SUBURBAN REGION

REPORT 22-100-9017
ELGIN MENTAL HEALTH CENTER

Introduction
On June 7, 2022 the North Suburban Regional Human Rights Authority opened an investigation of possible rights violations regarding care for a recipient of services at Elgin Mental Health Center. The specific complaints under investigation and their related statues are as follows:

- The Provider restricted the recipient's right to view their medical record and to have the record sent to his designated medical proxy; (740 ILCS 110/4(a); 735 ILCS 5/Art. VIII Part 20 (b); 45 CFR § 164.524)
- The provider inappropriately administered emergency injections as retaliation for the recipient's complaints (405 ILCS 5/2-107(a))
- Clinical staff repeatedly revealed the recipient's diagnosis and other confidential medical information to the unit without the recipient's consent (740 ILCS 110/5)
- Provider did not use the confidential mailing address provided by the Illinois Attorney General's Address Confidentiality Program, which authorized the recipient to use a substitute mailing address for all agency records (Address Confidentiality for Victims of Domestic Violence, Sexual Assault, Human Trafficking, or Stalking Act: 750 ILCS 61 Sec. 25.)

Elgin Mental Health Center (EMHC) is a State Psychiatric Hospital run by the Illinois Department of Human Services (IDHS). The hospital currently has 366 forensic beds and 42 civil beds. Clients receiving services at EMHC's Forensic Treatment Program have been remanded by Illinois County Courts to the IDHS under statutes finding them Unfit to Stand Trial (UST) or Not Guilty by Reason of Insanity (NGRI).

Method of Investigation
To proceed with this investigation, the HRA reviewed the recipient's clinical record (with authorization) from the service provider and obtained additional case information through a visit with the recipient, a conversation with the former interim Forensic Treatment Program (FTP) Director, and from written statements from the Director of EMHC.

Case Overview

According to the case record the recipient of services was admitted to Elgin Mental Health Center's Forensic Treatment Program March 23, 2022. Throughout the recipient's time in care, he refused and was not given regular psychotropic medication, and was reported to have generally calm behavior on the unit.

Record Requests

The record contains multiple occasions of the recipient and his designee requesting to view his medical record and being denied access to it. A Social Work Progress Note dated April 29, 2023 indicates that: *"[recipient] requested a copy of his medical records. The Team discussed and determined that receiving a copy of his medical records would be detrimental to his mental health [because he] perseverates on his legal rights, etc . . . he is here for fitness restoration, and allowing him to continue in his requests for multiple policies, records, etc related to his rights will affect his ability to concentrate on getting fit to stand trial, which is the ultimate goal."*

The recipient submitted a EMHC complaint form dated May 5, 2022 which states that he spoke with the Disability Rights Manager (DRM) at the HRA who told him that EMHC did not have the legal right to restrict access to his medical records (The HRA DRM verifies this). In this complaint form the recipient also requests that EMHC act to *"correct"* the violation, that is give him the records. The social worker responded: *"The team does not understand what you are writing. This is a part of your mental illness. Please focus on becoming fit to stand trial."*

On May 17, 2022, the HRA Disability Rights Manager (DRM) met with the recipient at EMHC. After the visit the DRM spoke with the interim FTP director in her office, requested that the recipient be given a copy of his medical record, and asked why he was restricted from viewing it. The interim director said that these records were restricted because the treatment team believed that the recipient's fixation on viewing the medical records was interfering with his fitness treatment. The DRM explained that restricting a recipient from viewing their medical record violates multiple statutes to, which the FTP director responded, *"well, that's our policy."*

The record contains a Notice Regarding Restriction of Rights of an Individual dated 5/27/2022 and 6/28/22 which indicates that the recipient and his designee were restricted from viewing the medical record.

On June 14, 2022 the HRA DRM emailed the director of EMHC to inform her that the recipient and his mother were being incorrectly restricted from their right to view his medical record and requested that the director's office look into this matter. According to the director of EHMC, *"After a review of the situation, I identified that the treatment team did not understand the requirements to share the information. They had appropriately asked the interim FTP Director what they should do. [The interim FTP Director] was not clear as to the requirements in this particular situation and gave inaccurate information to the team. I had a conversation with her and the team verbally and shared with her the requirements to provide information."* On July 8, the recipient was given access to his medical records.

Emergency Medication Administration

The recipient received one instance of emergency medication on May 2, 2022. An emergency medication progress note indicates: *"Pt highly agitated and verbally aggressive and threatening*

to staff. Not being redirectable and not being compliant with shower time." The recipient's record contained a personal safety plan indicating a number of calming strategies to be used *in advance* of a crisis, including: reading a book, writing a letter, talking to staff, calling a friend or family member, walking, going to his room, however the treatment plan does not indicate the patient's preference for emergency treatment. 405 ILCS 5/2-200(d) stipulates, *"upon commencement of services, or as soon thereafter . . . the facility shall inquire of the recipient which form of intervention the recipient would prefer if [emergency] circumstances should arise. The recipient's preference shall be noted in the recipient's record . . ."*

The emergency medication progress note does not indicate whether any alternative interventions were explored or available, indicating instead *"Patient not complying with [?] and unit rules."*. The medication progress note indicates that the patient's preference for emergency treatment was not utilized, the reason given is *"imminent danger to others."*

A nurse's note about this incident indicates*: "patient had been acting aggressive, agitated, and threatening and was unable to be redirected. Therefore patient was given Haloperidol 5mg, lorazepam 2mg, Diphenhydramine, 50mg.* A Restriction of Rights notice for this incident appears in the record and indicates the reason for the medication administration as: *"Patient was non-compliant with shower time, argumentative[?] and not redirectable. Became very [?] and aggressive towards staff."* The boxes that indicate if the individual's preference for emergency intervention were utilized are not checked on the Restriction of Rights, and no explanation is given.

A 90-Day Fitness to Stand Trial Progress Report also describes this incident: *"[the recipient] was argumentative with staff when they were discussing the shower rules. He threatened staff and became aggressive. He received restriction of rights."*

Confidentiality Issues

The recipient of services is a victim of domestic violence, sexual assault, and stalking, and is a participant in the Illinois Attorney General's Address Confidentiality Program which authorizes him to use a substitute mailing address for all state agency records (750 ILCS 61/25a). The recipient's non-confidential mailing address appears on the Illinois Department of Human Services Initial Forensic Placement Evaluation and on the Clinical Record Fact Sheet dated 3/24/2022. On May 3, 2023 the HRA DRM contacted the EMHC risk manager to request that all records be amended to show the recipient's confidential address only. The EMHC director told the HRA DRM that the records would be reviewed and any necessary changes made. The HRA DRM saw that the address was corrected on a Clinical Record Fact Sheet dated 6/20/2022. The record contained no other evidence of the recipient's non-confidential address being used, nor does the record contain any indication that clinical staff revealed the recipient's diagnosis or other confidential medical information on the unit. It is possible that clinical staff spoke about the recipient's medical information to other staff on the unit, however this is permissible under 740 ILCS 110/5.5 (f) which states: "*An individual who has received information under this Section shall not redisclose the information except as necessary to provide for the recipient's care . . ."*

Policy Review

The Human Rights Authority reviewed the following Elgin Mental Health Center Policies

- **503 Consent for Release of Information (revised 3/28/05):** This policy is found to be in alignment with the Mental Health and Developmental Disabilities Confidentiality Act (740 ILCS 110/5).

- **221 Patient Access to Records (revised 3/28/05)**: This policy is found to be misaligned with 740 ILCS 110/4(a); 735 ILCS 5/Art. VIII Part 20 (b); 45 CFR § 164.524) because it limits a patient's access to their medical record.
    - This policy states: *If the treatment team feels that the review of the medical record is clinically contraindicated, that is, the patient's access to their record could cause serious misunderstanding or harm to the patient or others, a written notice of restriction of rights shall be completed and given to the patient.*
    - 45 CFR § 164.524, *Access of individuals to protected health information,* permits the covered entity to deny an individual access to their record ***only*** if the individual is given a right to have the denial reviewed, and ***only*** in the following circumstances, including: *"(i) . . . that the access requested is reasonably likely to endanger the life or physical safety of the individual or another person".*
        - 45 CFR § 164.524, (4) maintains that *"If access is denied . . . the individual has the right to have the denial reviewed by a . . . reviewing official and who did not participate in the original decision to deny. The covered entity must provide or deny access in accordance with the determination of the reviewing official under paragraph (d)(4) of this section.*
    - EMHC's policy that allows a restriction for record access if "*the patient's access to their record could cause serious misunderstanding or harm to the patient or others"* sets a much lower bar for this rights restriction than the standard set in 45 CFR § 164.524.
    - EMHC's policy does not indicate that the provider must allow or deny record access in accordance with procedures stated in 45 CFR § 164.524 which include informing an individual of their rights to a review of a denial of access to records.

- **Policy 1740 Medication Refusal, Emergency and PRN Medication (revised 01/17/13):** This policy is found to be in alignment with 405 ILCS 5/2-107(a).

<u>Findings</u>

This case investigation found the following:

1) The complaint that the provider violated 740 ILCS 110/4(a), 735 ILCS 5/Art. VIII Part 20 (b), and 45 CFR § 164.524 by restricting the recipient's right to view their medical record and to have the record sent to his designated medical proxy. ***<u>Substantiated</u>***
    a. The provider denied the recipient access to his record due to the concern that it would negatively impact his mental fitness and the treatment goal of restoring his fitness to stand trial. This reason does not rise to the standard set by 45 CFR § 164.524 which allows a denial of access to a record only in the case that it "*is reasonably likely to endanger the life or physical safety of the individual or another person."*
    b. The provider did not inform the recipient of a denial to access the record in accordance with 45 CFR § 164.524 and did not inform the individual of their right to have the denial reviewed.

c. There is evidence from the record, a conversation with the FTP director, and a policy review that this is a systemic misunderstanding of statutes governing access of individuals to protected health information.

2) The complaint that the provider violated 405 ILCS 5/2-107(a) and their own policies by inappropriately administering emergency injections. ***Substantiated***
    a. It is not clear if the recipient was given the opportunity to refuse the injection, as mandated by the Code.
    b. The record does not contain the recipient's preference for emergency intervention, as stipulated by 405 ILCS 5/2-200(d).
    c. The record does not indicate any alternative interventions attempted prior to the emergency injection, nor does it not provide a specific explanation as to why the patient's preference for emergency treatment was not utilized. A patient's designated preference must be considered for use when the need arises.
    d. The documented reason for the emergency medication administration was fairly generic and does not include specific descriptions of the need to prevent physical harm ("*verbally aggressive and threatening to staff. Not being redirectable and not being compliant"*). The events as described did not rise to the standard set by the Code that medication *"shall not be given unless such services are necessary to prevent the recipient from causing serious and imminent physical harm to the recipient or others and no less restrictive alternative is available."*
    e. Additionally, every other description of the recipient in the record portrays him as someone who can be verbally combative, but not physically threatening or aggressive.
    f. This investigation found no evidence to suggest that the provider administered emergency medication as *retaliation* for the recipient's complaints.

3) The complaint that the clinical staff violated 740 ILCS 110/5 by repeatedly revealing the recipient's diagnosis and other confidential medical information to the unit without the recipient's consent. ***Unable to be determined***
    a. This investigation found no evidence that this occurred or did not occur, as alleged.

4) The complaint that the provider violated 750 ILCS 61 Sec. 25 by not using the recipient's confidential mailing address in his records. ***Substantiated***
    a. This was brought to the attention of the HRA DRM at the start of the recipient's time in care, and the record was amended.

Recommendations

1) Revise EMHC Policy 221-Patient Access to Records to align with 740 ILCS 110/4(a); 735 ILCS 5/Art. VIII Part 20 (b); 45 CFR § 164.524)
    a. Provide proof of this new policy to the HRA
    b. Retrain all staff on this new policy.

2) Retrain staff on EMHC Policy 1740- Medication Refusal, Emergency and PRN Medication (revised 01/17/13) and provide the HRA with proof of this training. Training should highlight:
    a. Improved documentation when a situation rises to the definition of "serious and imminent physical threat".
    b. Improved documentation of which form of intervention the recipient would prefer in emergency circumstances (405 ILCS 5/2-200(d))
    c. Alternative interventions must be attempted and the recipient's preference for emergency treatment.

3) Retrain staff on requirements of Address Confidentiality for Victims of Domestic Violence, Sexual Assault, Human Trafficking, or Stalking Act: 750 ILCS 61 Sec. 25, which dictates the use of a substitute mailing address for all agency records.

RESPONSE

Notice: The following page(s) contain the provider response. Due to technical requirements, some provider responses appear verbatim in retyped format.

JB Pritzker, *Governor*

Illinois Department of Human Services

Grace B. Hou, *Secretary*

Elgin Mental Health Center
750 South State Street • Elgin, IL 60123

Ms. Mariah Balaban
Human Rights Authority
9511 Harrison Street, W-335
Des Plaines, IL 60016-1565

HRA# 22-100-9017

December 22, 2023

Dear Ms. Balaban:

Thank you for your letter regarding your findings. EMHC agrees that it is important that patients have access to medical records, and that emergency medication and restraint interventions are documented specifically and accurately to demonstrate the progress of the patient. Additionally, we support the Illinois Attorney General's Address Confidentiality Program, and are eager to make sure that it is being followed at our center.

Elgin Mental Health Center has revised EMHC Policy 221-Patient Access to Records to align with 740 ILCS 110/4(a); 735 ILCS 5/Art. VIII Part 20 (b); 45 CFR § 164.524). All staff are in the process of being retrained on this policy. Please see the enclosed revised policy.

Staff have been retrained on EMHC Policy 1740- Medication Refusal, Emergency and PRN Medication (revised 01/17/13). Please see the attached documentation of this training, which was concluded on December 12, 2023.

Additionally, Health Information Management staff have been trained on the requirements of Address Confidentiality for Victims of Domestic Violence, Sexual Assault, Human Trafficking, or Stalking Act: 750 ILCS 61 Sec. 25.

Please feel free to include our response with any public release of your Report of Findings.

Respectfully,

Michelle Evans, DSW, MBA
Chief Executive Officer

NORTH SUBURBAN REGIONAL HUMAN RIGHTS AUTHORITY

HRA CASE NO. #22-100-9017

PROVIDER: ELGIN MENTAL HEALTH CENTER

Pursuant to Section 23 of the Guardianship and Advocacy Act (20 ILCS 3955/1 *et seq.*), we have received the Human Rights Authority report of findings.

IMPORTANT NOTE

Human Rights Authority reports may be made a part of the public record. Reports voted public, along with any response you have provided and indicated you wish to be included in a public document, will be posted on the Illinois Guardianship and Advocacy Commission Web Site. (Due to technical requirements, your response may be in a verbatim retyped format.) Reports are also provided to complainants and may be forwarded to regulatory agencies for their review.

We ask that the following action be taken:

x We request that our response to any recommendation/s, plus any comments and/or objections be included as part of the public record.

_____ We do not wish to include our response in the public record.

_____ No response is included.

Michelle Brown

NAME

Chief Executive Officer

TITLE

January 3, 2024

DATE

ELGIN MENTAL HEALTH CENTER MANUAL SYSTEM

Manual Title	Focus	Vol.	Section No. and Title
POLICY & PROCEDURE MANUAL	PATIENT RECORDS	I	PATIENT RIGHTS SPECIFIC

Policy/Procedure/Subject No. and Title	Page	Issued	Revised
221 PATIENT ACCESS TO RECORDS	1	3/3/05	12/22/23

I. PURPOSE

Policy/Purpose: In accordance with the provisions of the Illinois Mental Health Code, the Mental Health and Developmental Disability Confidentiality Act, Section (110/4-110/5) and Health Insurance Portability and Accountability Act (HIPAA) as promulgated in Administrative Directive 01.01.02.120, it is the policy of Elgin Mental Health Center that a patient, guardian or authorized representative is entitled to inspect and request copies of the patient's medical record for as long as the record is maintained. Any person entitled to access a record under this section may submit a written statement concerning any disputed or new information, which statement will be entered into the record as described in AD01.01.02.120.

Whenever any disputed part of the record is disclosed, the submitted statement relating thereto shall accompany the disclosed part. Additionally, any person entitled to access may request modification of any part of the record which he believes is incorrect or misleading. Whenever access or modification is requested the recipient and any action taken therein shall be noted in the recipient's record. Reasonable fees may be charged for any duplication of the record.

II. DEFINITION

Qualified Individual See Mental Health and Developmental Disability Confidentiality Act, Section (110/4), persons entitled to inspect and copy a recipient's record or any part thereof.

III. PROCEDURES

A. INSPECTION AND COPYING OF THE RECORDS:

1. A patient or other qualified individual is entitled to inspect and copy the patient's record upon request.

2. The request should be reviewed by the patient's treatment team. If the team approves the request, an appropriate staff, generally his/her case manager, will be assigned to be present to arrange assistance to the patient or other qualified individual.
3. The assigned staff will contact the patient or other qualified individual and set up an appropriate time and location for the record review. The review must be arranged so that a staff designee is available throughout the duration of the review to secure the record from tampering and to provide any needed interpretation.

    a. All materials must be made available with the exception of materials that would violate rules of re-disclosure. These materials must be requested directly from the providers.

    b. Information in the medical record is considered private and confidential. When a patient requests to review his/her record, the patient must be afforded privacy to conduct the review.

    c. Staff may make copies of the materials without charge provided the documents were copied and released.

d. If the patient requests the entire record, arrangements with their case manager should be made with application of reasonable copy charges applied.

B. DENIAL OF ACCESS TO RECORDS

1. If the treatment team believes that the access requested is reasonably likely to endanger the life or physical safety of the individual or another person a written notice of restriction of rights shall be completed and given to the patient. The procedure concerning restriction of rights should be followed. (See policy and procedure 290 for ROR).

2. When a patient requests to review their record and that request is denied the following options should be explained to the patient.

With treatment team approval, the patient may be allowed to review the record at a later date during the hospitalization.

The patient may request family, significant other or legal advocate (if said advocate is not otherwise qualified) to review the record for him/her. A valid release of information is required for this to occur.

If access is denied to the patient. The individual has the right to have the denial reviewed by a reviewing official and who did not participate in the original decision to deny. The covered entity must provide or deny access in accordance with the determination of the reviewing official under paragraph.
740 ILCS 110/4(a); 735 ILCS 5/Art. VIII Part 20 (b); 45 CFR § 164.524)

C. GUIDELINES TO AMEND RECORDS

Requests to amend records will be referred immediately to the EMHC HIPAA Privacy Officer to be addressed according to AD 01.01.02.120, within the required timelines and with the required notifications to third parties.

IV. PROCEDURAL INSTRUCTIONS

None

V. REFERENCES

DHS Administrative Directive 01.01.02.120

Evans, Michelle

From: Jacobson, Ryma
Sent: Tuesday, November 28, 2023 3:38 PM
Cc: Evans, Michelle; Jacobson, Ryma
Subject: Mandatory Retraining Notice - HRA #22-100-9017
Attachments: EMHC PPM 1740.pdf; Information from HRA report.docx; STATUTORY REFERENCES.docx

Dear EMHC RNs, CNMs, and AODs,

In response to recent substantiated violation findings from the Human Rights Authority (HRA) investigation, a mandatory retraining initiative has been recommended. The investigation acknowledged the appropriateness of our EMHC policies and their adherence to the code. However, it emphasized the crucial need for enhanced documentation, particularly regarding enforced medication.

Key Highlights:

1. **Enhancing Documentation**:
   The HRA report emphasized a need for better documentation in situations defined as a *"serious and imminent physical threat."* To address this, we must enhance documentation by specifying behaviors posing a threat, and capturing patient statements, body language, and actual behavior. This thorough approach ensures clarity for those who were not present during the incident.

   Guidance:
   - Document specific behaviors rather than general terms.
   - Include factors like inability to redirect and non-compliance.
   - Provide a detailed picture for a complete understanding.

2. **Personal Safety Plan Documentation**:
   Each patient is required to have a Personal Safety Plan, which should be reviewed upon admission and monthly during the patient's staffing/treatment plan evaluation. This plan must outline the recipient's preferred emergency intervention in accordance with 405 ILCS 5/2-200(d).

3. **Alternative Interventions**:
   Documentation should indicate any attempted alternative interventions before resorting to emergency medication. Clearly explain why the patient's preferred emergency treatment was not used, considering the patient's designated preference. Decisions deviating from the patient's preference must be justified through documentation.

   Examples:

   a. *Patient Prefers Restraint:*
      If a patient selects restraint as their preferred intervention and exhibits aggression towards a peer, the nurse is not authorized to substitute emergency medication for restraints.

   b. *Patient Prefers Emergency Medication:*

If a patient chooses emergency medication and displays aggression towards a peer, the nurse may opt for restraints if there is an imminent risk of harm to others. However, such a decision must be meticulously documented.

This information and the related attachments will be distributed by your Clinical Nurse Manager for a read and sign to complete by December 12, 2023. Feel free to reach out if you have any questions.

Thank you.

Ryma Jacobson, MSN
Director of Nursing
Elgin Mental Health Center
847-742-1040, Ext 2004
ryma.jacobson@illinois.gov

IDHS
ILLINOIS DEPARTMENT OF HUMAN SERVICES
DIVISION OF
MENTAL HEALTH

The following information is derived directly from the official HRA report.

The Human Rights Authority opened an investigation after receiving complaints of possible rights violations regarding care provided at Elgin Mental Health Center. The provider inappropriately administered emergency injections as retaliation for the recipient's complaints (405 ILCS 5/2-107 (a)). The North Suburban Regional Human Rights Authority of the Illinois Guardianship and Advocacy Commission completed its investigation of the case and Substantiated policy and Code violations were found in the following instances.

a. It is not clear if the recipient was given the opportunity to refuse the injections, as mandated by the Code.
b. The record does not contain the recipient's preference for emergency intervention, as stipulated by 405 ILCS 5/2-200 (d).
c. The record does not indicate any alternative interventions attempted prior to the emergency injection, nor does it not provide a specific explanation as to why the patient's preference for emergency treatment was not utilized. A patient's designated preference must be considered for use when the need arises.
d. The documented reason for the emergency medication administration was fairly generic and does not include specific descriptions of the need to prevent physical harm *("verbally aggressive and threatening to staff. Not being redirectable and not being compliant").* The events as described did not rise to the standard set by the Code that medication *"shall not be given unless such services are necessary to prevent the recipient from causing serious and imminent physical harm to the recipient or others and no less restrictive alternative is available."*
e. Additionally, every other description of the recipient in the record portrays him as someone who can be verbally combative, but not physically threatening or aggressive.

Recommendations:

Retrain staff on EMHC Policy 1740 – Medication Refusal, Emergency, and PRN Medication (revised 1/17/13) and provide the HRA with proof of this training. Training should highlight:

a. Improved documentation when a situation rises to the definition of "serious and imminent physical threat".
b. Improved documentation of which form of intervention the recipient would prefer in emergency circumstances (405 ILCS 5/2-200(d)).
c. Alternative interventions must be attempted and the recipient's preference for emergency treatment.

STATUTORY REFERENCES

(405 ILCS 5/2-107) (from Ch. 91 1/2, par. 2-107)

Sec. 2-107. Refusal of services; informing of risks.

(a) An adult recipient of services or the recipient's guardian, if the recipient is under guardianship, and the recipient's substitute decision maker, if any, must be informed of the recipient's right to refuse medication or electroconvulsive therapy. The recipient and the recipient's guardian or substitute decision maker shall be given the opportunity to refuse generally accepted mental health or developmental disability services, including but not limited to medication or electroconvulsive therapy. If such services are refused, they shall not be given unless such services are necessary to prevent the recipient from causing serious and imminent physical harm to the recipient or others and no less restrictive alternative is available. The facility director shall inform a recipient, guardian, or substitute decision maker, if any, who refuses such services of alternate services available and the risks of such alternate services, as well as the possible consequences to the recipient of refusal of such services.

(b) Psychotropic medication or electroconvulsive therapy may be administered under this Section for up to 24 hours only if the circumstances leading up to the need for emergency treatment are set forth in writing in the recipient's record.

(c) Administration of medication or electroconvulsive therapy may not be continued unless the need for such treatment is redetermined at least every 24 hours based upon a personal examination of the recipient by a physician or a nurse under the supervision of a physician and the circumstances demonstrating that need are set forth in writing in the recipient's record.

(405 ILCS 5/2-108) (from Ch. 91 1/2, par. 2-108)

Sec. 2-108. Use of restraint. Restraint may be used only as a therapeutic measure to prevent a recipient from causing physical harm to himself or physical abuse to others. Restraint may only be applied by a person who has been trained in the application of the particular type of restraint to be utilized. In no event shall restraint be utilized to punish or discipline a recipient, nor is restraint to be used as a convenience for the staff.

(405 ILCS 5/2-200) (d) Upon commencement of services, or as soon thereafter as the condition of the recipient permits, the facility shall advise the recipient as to the circumstances under which the law permits the use of emergency forced medication or electroconvulsive therapy under subsection (a) of Section 2-107, restraint under Section 2-108, or seclusion under Section 2-109. At the same time, the facility shall inquire of the recipient which form of intervention the recipient would prefer if any of these circumstances should arise. The recipient's preference shall be noted in the recipient's record and communicated by the facility to the recipient's guardian or substitute decision maker, if any, and any other individual designated by the recipient. If any such circumstances subsequently do arise, the facility shall give due consideration to the preferences of the recipient regarding which form of intervention to use as communicated to the facility by the recipient or as stated in the recipient's advance directive.

(Source: P.A. 102-593, eff. 8-27-21.)

Manual Title	Focus	Vol.	Section No. and Title
POLICY & PROCEDURE MANUAL	CONTINUUM OF CARE	II	1700 MEDICATION

Policy/Procedure/Subject No. and Title	Page	Issued	Revised
PPM 1740 MEDICATION REFUSAL, EMERGENCY AND PRN MEDICATION	1	01/17/13	

I. POLICY

In compliance with the Illinois Mental Health and Developmental Disabilities Code and Department of Human Services directives, the refusal of psychotropic medication is documented and tracked by the facility, so that aggregate data is available.

II. DEFINITIONS

"Initiation" of a petition occurs when the petition is filed with the Court.

"Refusal of psychotropic medication" has occurred if verbal and/or non-verbal communication of the patient indicates unwillingness to receive the medication. For patients who have a guardian of person, refusal has occurred if the guardian or the patient indicates unwillingness that the patient receive the medication.

III. PROCEDURES

See EMHC Policy and Procedure 1703, Administration of Psychotropic Drugs, for procedures regarding psychotropic medication education, prescription, and administration. Procedures for administration of emergency and court-ordered medication will follow DHS PPD 02.06.02.020, Administration of Psychotropic Medication.

A. Refusal Documentation

Every twenty-four hours of business days, the patient's refusal of psychotropic medication must be documented in the unit's EMHC Morning Report. This applies when psychotropic medication is refused, including when it is refused after a petition process is started, after the petition has been filed and even after the petition is granted and in force. Exhibit 1 (DOC-0012) must be completed BUT ONLY until a petition has been started. These documents will indicate the treating physician's determination whether emergency medication is warranted and if not, why not; whether a petition is warranted and if not, why not; and whether a petition is in process and if not, why not.

1. Completion of DOC-0012

a. At the point that a patient refuses psychotropic medication, the RN will begin the form with the date and time of refusal, the RN's name, the medication(s) refused and apply a label or write in the name, ID # and Unit.

b. The RN will determine whether the patient requires emergency medication and if so, the RN will contact the available MD/MOD to complete Section A by checking A, 1., signing his/her name, date and time, and will complete a Progress Note described in C below. When the MOD determines that it is clinically appropriate and safe, the MOD will also meet with the patient to discuss and resolve medication concerns with a goal of the patient's accepting medication. In the event that the patient continues to refuse medication, the form will be retained by Nursing to be completed for the Morning Staff meeting on the next regular work day.

c. If the RN determines that the patient does not require emergency medication, the RN will check A, 2.

d. All forms with Section A completed will be placed in the Shift-to-shift book for review at the Morning meeting.

e. During the Morning Meeting, the attending psychiatrist with the team will complete Section B, the determination whether the court should be petitioned to order medication for the patient. If the psychiatrist selects B, 2, the reason for not petitioning must be completed.

f. The completed form will be used by the Morning Report scribe to complete the Morning Report. If option 2 is selected for Section B, the original is filed in the patient's chart in the Legal section, and a copy is sent to Court Services in Kilbourne for data entry. For all other Options for Section B, the original is sent to Court Services in Kilbourne for data entry. Court Services will add the date of the filing.

2. All psychotropic medication refusals are entered in the unit Morning Report. They are also reported on the Medication Refusal form (DOC-0012) until or unless a petition for court-ordered medication has been started. This information is reported on Medication Refusal form (DOC-0012) and the Morning Report once every twenty-four hours during regular business days.

3. Court Services will maintain a file and a count of DOC-0012's, attaching the form to those petitions initiated and note whether they are granted, and will report to the Hospital Administrator on a quarterly basis, the number of petitions initiated and the number granted.

B. Emergency Psychotropic Medication Administration

1. Immediately following the decision to administer psychotropic medication, the physician shall proceed as follows:

a. Document the rationale for administering the psychotropic medication, under the given circumstances, in the patient's clinical record. The rationale is to specify the reasons the psychotropic medication is considered to be necessary to prevent the patient from causing serious and imminent physical harm to self or others. The rationale shall include alternatives considered and why they were considered to be inappropriate and/or were not used.

b. A restriction of rights order must be completed.

c. The appropriate treatment staff member shall complete a Notice of Restricted Rights of Individuals form (IL462-2004, formerly MHDD-4, commonly referred to as ROR) and distribute it as described in Elgin MHC Policy and Procedure 290.

2. Emergency medication may be initially ordered for 24 hours. If the physician makes a personal examination of the patient and determines the need, another 24 hour period may be authorized.

3. The emergency use of medication is limited to three consecutive days, not including weekends and holidays, unless a petition has been initiated under Section 2-107.1 of the MHDD Code (as outlined in D., below) and the medication continues to be necessary in order to prevent the patient from causing serious and imminent physical harm to self or others.

4. The physician shall discuss the advantages of receiving medication, possible side effects, alternative treatment and/or alternate medication(s) or routes of administration, and possible consequences of refusal with the guardian of person (if any) as soon as possible, or with the patient as soon as the patient's condition permits.

C. PRN Medication as Emergency Medication

Refer to Exhibit 1 for flow chart.

1. If a patient refuses a PRN medication, and the nurse determines the PRN must be given against the patient's will (due to imminent danger of harming self or others), the PRN medication then becomes an emergency medication.

2. If using a PRN as an emergency medication, the symptoms or behaviors requiring the nurse to enforce the medication must be the same symptoms or behaviors as those specified in the physician's order for the PRN.

3. A physician's order for Restriction of Rights (ROR) must be obtained. If possible, the nurse should discuss his/her assessment with the physician and obtain the ROR order before administering the ordered medication. In all situations, ROR order must be obtained within one hour after administering the PRN as an emergency medication.

4. The physician may give an order to continue the emergency medication for up to 24 hours.

5. A Notice of Restricted Rights of Individuals form (IL462-2004, commonly referred to as "ROR") must be completed every time emergency medication is administered.

6. Follow procedures outlined in III. A. Emergency Psychotropic Medication Administration, above.

D. Security and Emergency Medication

1. If security is called to assist with medication, then this assumes that the patient is NOT consenting to medication or is UNWILLING to take the medication.

2. Staff is responsible to recognize that Security may be intimidating as a show of force and/or due to the uniform, and to take this into consideration in requesting assistance.

3. Procedures for emergency medication must be followed.

E. Court Ordered Psychotropic Medication Administration

Except in emergencies, as described in III., A. above, psychotropic medication may be administered to a patient against his/her will only as indicated in DHS PPD 02.06.02.020 and additionally:

1. A person 18 years of age or older (including any guardian) must have petitioned (form IL462-2025, formerly MHDD-25) the circuit court for an order authorizing the administration of psychotropic medication to the patient.

2. The petition shall state that the petitioner has made a good faith attempt to determine whether the patient has executed a Power of Attorney for Health Care under the Powers of Attorney for

Healthcare Law or a Declaration for Mental Health Treatment under the Mental Health Treatment Preference Act and to obtain copies of these instruments if they exist. If either of the above-named instruments is available to the petitioner, the instrument shall be attached to the petition as an exhibit. (Refer to Elgin MHC Policy and Procedure 401, Advance Directives.)

3. Petitions for psychotropic medications must include the specific lab tests and/or any other procedures that the physician intends to use to ensure the safe and effective administration of the medication.

4. Clinical staff shall submit all such petitions to the Elgin MHC Court Liaison.

5. The Elgin MHC Court Liaison shall review the petition and submit it to the Kane County Clerk of the Court for filing.

6. When petitions for psychotropic medications are initiated, the patient, guardian, attorney, and any known agent or attorney-in-fact, if any, must be given at least ten days notice of the hearing.

7. If a new petition for medication is initiated at least 15 days prior to the expiration of a prior order and the patient agrees to any continuances on the new petition, the medications may continue to be given pending completion of the hearing on the new petition.

8. Guardians' consent to the administration of authorized involuntary treatment medications is only sufficient if the patient is not objecting. If the patient objects a Court hearing is necessary.

9. The physician shall have complete discretion not to administer any psychotropic medication authorized by a court order.

10. Nothing in this section (III. C.) shall prevent the administration of authorized involuntary treatment to patients in an emergency (see III. A.).

IV. REFERENCES

DHS Policy and Procedure Directive 02.06.02.020
Illinois Mental Health Developmental Disabilities Code
Illinois Administrative Code (Rule 112.80 and 112.90)

V. EXHIBITS

Exhibit 1: Psychotropic Medication Refusal Reporting Form

DEPARTMENT OF HUMAN SERVICES - DIVISION OF MENTAL HEALTH
PSYCHOTROPIC MEDICATION REFUSAL PHYSICIAN RESPONSE

Date of refusal: _____ Time of refusal: _____ RN initiating form: _____

Name of medication(s) refused: _____

SECTION A (To be completed by the unit psychiatrist/MOD)

Patient was at imminent risk of harm to self or others at the time of refusal:

☐ **1. Yes**, emergency medication was administered.
☐ **2. No**, emergency medication was not administered.

_____ _____
MD signature Date/time

SECTION B (To be completed by the unit psychiatrist)

Patient met the criteria for court-ordered medication:

☐ **1. No** He/she did not meet legal criteria for court enforced medication for the following reason(s):
- ☐ A. He/she does not have a serious mental illness
- ☐ B. He/she presents no deterioration in functioning, signs/symptoms of suffering, or threatening behavior
- ☐ C. There has not been a continued presence or repeated occurrence of deterioration in functioning, signs/symptoms of suffering, or threatening behavior
- ☐ D. The benefits of enforced medication do not outweigh the potential harm
- ☐ E. He/she does not lack capacity to make a reasoned decision about taking psychotropic medications
- ☐ F. Other, less restrictive services are more appropriate
- ☐ G. Other/comments: _____

☐ **2. Yes** BUT petition for Court-Ordered Medication **was NOT attempted because:**
- ☐ A. Transfer to more restrictive setting is in process
- ☐ B. History of compliance without need for court order
- ☐ C. Other/comments: _____

☐ **3. Yes**. Petition for Court-Ordered Medication **is in process.**

_____ _____
MD signature Date/time

SECTION C (To be completed by the Facility Director/designee)
Petition for Court-Ordered Medication **was filed on:** _____
Date/time
Petition Granted: Y N

ADDRESSOGRAPH/LABEL
or
Patient Name: _____
Patient ID: _____
Unit: _____

Original: File in chart per procedure
Copy: QM/Designee