State of New Jersey

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DIVISION OF MENTAL HEALTH SERVICES
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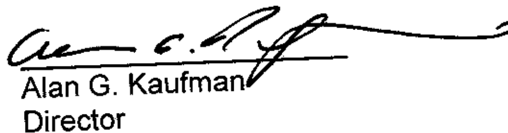
DIVISION OF MENTAL HEALTH SERVICES

ADMINISTRATIVE BULLETIN TRANSMITTAL MEMORANDUM

May 12, 2005

SUBJECT: **Administrative Bulletin 3:29**
Designation of Special Status Patients

The attached Administrative Bulletin is being forwarded for your review, action if necessary, and distribution to staff as appropriate. Please be advised that all employees are responsible for becoming familiar with its contents and assisting in ensuring that the Division complies with the new law. Also attached is a revised Administrative Bulletin Index for your Manual.



Alan G. Kaufman
Director

AGK:pjt
Attachment

DIVISION OF MENTAL HEALTH SERVICES

ADMINISTRATIVE BULLETIN 3:29

Effective Date: May 12, 2005

SUBJECT: **Designation of Special Status Patients**

I. Purpose

This Bulletin describes the criteria for designating Special Status Patient Review Committee (SSPRC) patients in the adult state psychiatric hospitals and the procedures for evaluating the risk presented by each candidate for SSPRC review.

II. Legal Authority

N.J.A.C. 10:36

III. Policy

It is the policy of the Division of Mental Health Services to carefully balance the liberty rights of patients with a criminal or violent history with the Division's responsibility to attend to the safety of the public and its employees, and to apply the standards in the law and regulations governing the custody and treatment of such patients in a consistent and fair manner across the hospitals and across the state.

This Administrative Bulletin establishes the criteria for placing patients on SSPRC status. It also establishes assessment procedures for making decisions about the risk of violent or criminal sexual behavior that is posed by patients at various stages of treatment and the referral procedures for teams to follow when such risk is identified. These procedures require that teams conduct clinical and actuarial risk assessments in order to identify patients at greatest risk who need closer oversight by SSPRC/CARP. Conversely, when patients are determined to be at low risk, their treatment teams shall have the authority to make privileging and discharge decisions with little or no SSPRC oversight.

IV. Definitions

A. For the purposes of this bulletin, "Enumerated Offenses" are crimes of violence listed in N.J.A.C. 10:36-1.2. They are:

Murder (N.J.S.A. 2C:11-3)
Manslaughter (N.J.S.A. 2C:11-4)
Sexual Assault (N.J.S.A. 2C:14-2)
Criminal Sexual Contact (N.J.S.A. 2C:14-3a)
First Degree Robbery (N.J.S.A. 2C:15-16)
Aggravated Assault (unless the only aggravating factor was a characteristic of the victim, e.g. police officer, judge, EMT, etc.) (N.J.S.A. 2C:12-1b)
Aggravated Arson (N.J.S.A. 2C:71-1a)
Weapons Offenses (except simple weapon possession under N.J.S.A. 2C:39-5) (N.J.S.A. 2C:39-1 et seq.)
Kidnapping (N.J.S.A. 2C:13-1)

B. "Sex Offender" means any individual who, at any time, has been convicted or adjudicated NGRI or found IST for a sexual offense. The offense need not be one that requires registration pursuant to N.J.S.A. 2C:7-1 et seq. (Megan's Law). A sexual offense, for purposes of this policy, is:

Murder (sexual component) (N.J.S.A. 2C:11-3g)
Aggravated Sexual Assault (N.J.S.A. 2C:14-2a)
Sexual Assault (N.J.S.A. 2C:14-2b)
Aggravated Sexual Contact (N.J.S.A. 2C:14-3a)
Kidnapping pursuant to N.J.S.A. 2C:13-1(2)c
Endangering the Welfare of a Child pursuant to N.J.S.A. 2C:24-4b (4) (pornography)
False Imprisonment if the victim is a minor and the offender not the child's parent (N.J.S.A. 2C:13-3)
Criminal Sexual Contact (N.J.S.A. 2C:14-3b)
Luring and Enticing (N.J.S.A. 2C:13-6)
Criminal Sexual Restraint if the victim is a minor (N.J.S.A. 2C:13-2)

C. "SSPRC" means a group of hospital staff designated, pursuant to N.J.A.C. 10:36-2.2, to provide a comprehensive review of the clinical treatment and management of patients who are on SSPRC status. The SSPRC shall include, but need not be limited to, the Medical/Clinical Director or Chief of Psychiatry, the Director of Psychology, the Director of Nursing Services, the Director of Rehabilitation Services, and the Director of Social Services, or their designees. The CEO may assign other staff at his/her discretion. One of the members shall be a psychiatrist. Designees shall not endorse recommendations that they may have made as treatment team members.

D. "CARP" is the Clinical Assessment and Review Panel, whose members are chosen by the Division's Medical Director to advise him/her on the review of SSPRC decisions where required or requested.

E. "History of criminal violence" shall mean violence against others, and shall be defined as being charged with or convicted of crimes such as murder, manslaughter, sexual assault, aggravated assault, aggravated arson or any similar violent crime. Self-violence or property violence alone will not be interpreted as a history of violence against others unless it is determined by the treatment team that the patient is likely to be violent toward other persons or may unwittingly or recklessly harm others in an attempt to damage property or self.

F. "History of sexual offense" shall mean having been charged with and convicted, found IST, or found not guilty by reason of insanity of a sexual offense as a juvenile or as an adult.

V. Patients on SSPRC Status

A. Those patients in the adult state psychiatric hospitals required to be on SSPRC status include:

1. Patients who are charged with an enumerated offense at the time of, or any time after, their admission.

2. Patients who are involuntarily committed pursuant to an order for evaluation or treatment for competence to stand trial (IST) or who have been found Not Guilty by Reason of Insanity (NGRI/KROL) or incompetent to stand trial for one of the enumerated offenses.

3. Patients who have completed the maximum term of incarceration (e.g. "maxed out") for either an enumerated offense or a sexual offense.

B. Any patient involuntarily committed or admitted voluntarily to an adult state psychiatric hospital may be placed on SSPRC status if his/her past history indicates a predisposition for serious violence or other high risk behaviors. Patients must be referred for SSPRC review if a risk assessment conducted by the treatment team determines that he/she is at moderate to high risk for violence or sexual re-offending when not under close supervision or upon discharge.

VI. Risk Assessments

A. The treatment team may conduct a clinical assessment and administer risk assessment instruments at any time the team believes it is necessary to assess a patient's risk and such testing will assist the team in determining risk. However, all SSPRC patients shall have a clinical and actuarial risk assessment, as shall the following categories of patients who may need to be referred to the SSPRC because they present a moderate to high risk of violence or sexual re-offending when not under close supervision or upon discharge:

1. Any patient with a history of sexual offense, whether the patient was admitted upon completion of a term of incarceration or from the community, shall have a risk assessment for sexual re-offending.

2. Any patient with a history of criminal violence shall have a risk assessment for violence.

B. The risk assessment shall be administered by a member of the patient's team who has received special training in regard to the actuarial instruments that are used (e.g., HCR-20 or VRAG for violence; MnSOST-R or STATIC-99 for sexual offending).

C. Risk assessments shall be completed when the team assessments are being done during development of the patient's comprehensive treatment plan, unless this is not possible because of the need for additional information. However, no orders shall be written for an initial change in a patient's Level of Supervision until a risk assessment has been completed if the patient has a history of criminal violence or a history of sexual offense. Risk assessments shall be maintained in the "Assessment" section of the patient's medical records.

D. Risk assessments conducted at Ann Klein Forensic Center shall be included in the medical records sent to the regional adult state psychiatric hospital upon a patient's transfer. However, the risk assessment shall be updated a soon as possible after transfer if any change in clinical status occurs and shall be submitted with every SSPRC request.

E. If the patient refuses to cooperate or is unable to cooperate with a risk assessment, or if the risk assessment would not be an accurate reflection of the patient's risk of re-offending, and the treatment team feels a risk assessment is unnecessary to assess the patient

as having a moderate or high risk of reoffense, the treatment team may refer the patient to the SSPRC without a risk assessment. The referral shall include documentation of the clinical risk factors which have been identified indicating that the patient presents a moderate to high risk for violence or sexual offending.

F. The treatment team shall make every effort to obtain a detailed history of a patient's offenses by consulting conviction records, the patient's criminal history, any discovery file transmitted with the patient, the Megan's Law Unit of the appropriate Prosecutor's Office where applicable, and relevant public records. These efforts and any results shall be documented in the request for SSPRC review.

VII. Referrals to SSPRC

A. If a patient is determined to present a moderate to high risk for violence or sexual recidivism, the team shall forward completed risk assessments or their clinical assessment, along with their specific recommendation regarding SSPRC status, to the hospital's SSPRC Coordinator.

B. The treatment team shall inform patients that they have been referred to the SSPRC and make them aware of the process and their rights under these procedures. A note that the referral was discussed with the patient shall be made in the patient's medical records.

C. All treatment team members are responsible to know the hospital referral procedures for the SSPRC. Each hospital shall promulgate a policy that requires submission of referral materials to the hospital SSPRC Coordinator through the unit Section Chief as soon as possible after a patient's admission and/or the completion of a risk assessment and prior to any administrative reduction in supervision.

D. SSPRC requests shall be maintained by the SSPRC Coordinator and not placed in the patient's medical records.

VIII. Removal from SSPRC

A. Whenever a patient is determined to no longer exhibit high risk behaviors or to present a significant risk of violence or sexual re-offending, his/her treatment team may request that the patient be removed from SSPRC status under the following circumstances:

1. The patient has been adjudicated NGRI or IST for one of the enumerated offenses but the order is terminated by the judge and the patient becomes a voluntary patient or is civilly committed.

2. The patient was admitted and charged or indicted with an enumerated offense, or was committed on an IST order for an enumerated offense, but the charge or indictment has been dismissed or downgraded to a crime that is not one of the enumerated offenses.

3. Any other case in which the treatment team believes review is no longer necessary for either clinical or legal reasons.

B. In order to remove a patient from SSPRC status, the treatment team shall make a formal request and obtain approval from the SSPRC. The SSPRC shall forward a recommendation for removal to the Division's Medical Director for final approval.

IX. Administrative Issues

A. All questions concerning these or other SSPRC issues should be referred to the hospital's SSPRC Coordinator, CARP or the Division's Legal Liaison.

B. The hospitals shall ensure that all appropriate staff receive training in administering the risk assessment instruments required for compliance with this policy.

5/12/05
Date

Alan G. Kaufman, Director
Division of Mental Health Services

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