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DIVISION OF MENTAL HEALTH SERVICES
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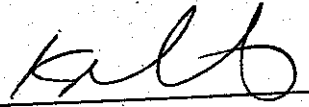
DIVISION OF MENTAL HEALTH SERVICES
ADMINISTRATIVE BULLETIN TRANSMITTAL MEMORANDUM

EFFECTIVE DATE: January 3, 2007

DATE ISSUED: January 3, 2007

SUBJECT: Administrative Bulletin 3:31
Searches for Contraband in Psychiatric Hospitals

The attached Administrative Bulletin is being forwarded for your review, action if necessary, and distribution to staff as appropriate. Please be advised that each recipient of this bulletin is responsible for being familiar with the content and ensuring that all affected personnel adhere to it. Also attached is a revised Administrative Bulletin Index for your Manual.


Kevin Martone
Assistant Commissioner

KM:pjt
Attachment

**DIVISION OF MENTAL HEALTH SERVICES
ADMINISTRATIVE BULLETIN 3:31**

EFFECTIVE DATE: January 3, 2007

SUBJECT: Searches for Contraband in Psychiatric Hospitals

I. POLICY

Searches for contraband are a necessary part of maintaining a safe environment for patients and staff in the hospitals. Consumers who are patients retain their civil rights to bodily integrity and privacy, and within certain limitations related to group living and clinical concerns, to maintain personal possessions. Searches will not be done to punish staff or patients, or without adequate justification. A body search of a patient will only be undertaken when it is the least intrusive means of finding contraband, and only when the search could reasonably be expected to assist the staff in successfully locating contraband. Searches shall be done only after each affected patient's clinical condition and past experience of trauma has been considered. The assessment of past experience of trauma shall include sexual assaults, child abuse and neglect history, and the like. Clinical condition shall include delusions, prior known behavioral triggers, cultural and religious sensitivities or taboos, and the relationship of the patient to the staff who will be conducting the search. Except in emergent circumstances, staff may decline to participate in searches based on personal experience of trauma relevant to the nature of the search.

II. AUTHORITY

NJSA 30:1-12
NJSA 30:4-24.2

III. RESPONSIBILITY

- A. CEO's are responsible for approving a policy and procedure that meets the standards in this bulletin, and for assigning and training staff who will authorize searches.
- B. Those staff designated to authorize searches shall assure that any search conducted is justified by the situation and carried out in accordance with this bulletin and the hospital's policy.
- C. All hospital staff shall be familiar with the hospital policy, and shall not bring contraband into areas where patients are housed or treated.
- D. The Human Services Police Department shall be responsible for the disposition of any contraband that is illegal to possess.

IV. DEFINITIONS

"Body cavity search" is a search in which a patient's body cavities are inspected for contraband.

"Body search" is a search in which the patient is asked to remove or change clothing under the direct observation of a staff person.

"Contraband" means any item or material that it is unlawful to possess or use, or that has been stolen, or that has the potential to pose a danger to the health or safety of the patient or others under the circumstances that exist in living units, work areas, program spaces, dining areas, or recreational facilities to which patients have supervised or unsupervised access.

"Environmental search" means a search of the common areas of a hospital, including visit sites, program space, dining areas, public areas, day rooms, and recreational facilities.

"Probable cause" or "reasonable suspicion" as used in any hospital search policy or procedure shall be construed to mean that, based upon a careful review of reasonably trustworthy information and known circumstances, there is reason to believe that the patient possesses a contraband item. Probable cause or reasonable suspicion requires more than mere suspicion or belief, unsupported by facts or circumstances.

"Room Search" means a search of a patient's living area and belongings.

"Routine contraband search" means a search of a patient, staff, or visitor's clothing, possessions, or incoming packages, and a visual inspection of the clothed person. Pockets may be required to be turned out, coats removed, and wand used to detect metals.

V. MINIMUM REQUIRED PROCEDURE

- A. Each hospital shall develop, publish as a part of an internal policy or procedure, and distribute to staff and patients (upon admission, upon request, and at regular intervals) a list of items that are to be considered contraband in any area of the hospital.
- B. Every environmental search shall be documented in the ward log and reported as an incident.
- C. Every room search shall be documented in each affected patient's chart and in the ward log.
- D. Every body cavity search and every body search shall be documented in each affected patient's chart and the ward log and reported to the Medical Director.

VI. STANDARDS

- A. All searches will be conducted in the presence of at least two staff who can give their whole attention to conducting or observing the search.
- B. A routine contraband search shall be conducted whenever a patient returns from a brief visit off grounds; such a search may be conducted on the authority of a member of the nursing staff or any person who could authorize a more intrusive search when a patient returns to the ward from any unescorted outing. No documentation is necessary unless contraband is found.
- C. Whenever a staff person at any level perceives that there is a threat to safety or that contraband may be present, that person shall have the responsibility to document the reasons for that perception and recommend to an administrator who can authorize a nonroutine search (any search that is not a routine contraband search) the least intrusive search likely to recover the suspected contraband. The only nonroutine searches authorized in a hospital policy or undertaken in practice shall be those in section D.
- D. The administrator shall authorize a search after confirming that the patient will not voluntarily produce the items of contraband and that the proposed search is the least intrusive manner in which to locate the contraband or to assure that such contraband does not exist. Nonroutine searches are listed here from least to most intrusive.
 1. An environmental search may be authorized by a Section Chief or SON. If the SON or Section Chief believes that the staff person has documented probable cause that contraband is concealed in the area, and that an environmental search is likely to reveal the contraband, s/he shall authorize the search.
 - a. The patients present at the time the need for a search is identified shall be told what contraband is suspected and given an opportunity to produce the contraband or assist in its recovery before the search is begun.
 - b. During the search, patients may be restricted from access to the area if the authorizing staff person documents that such restriction is needed for safety or if the patient's presence is clinically contraindicated.
 2. A room search may be authorized by the Section Chief or SON. If the SON or Section Chief believes that the staff person has documented probable cause that contraband is concealed in a patient's bedroom, and that a room search is likely to reveal the contraband, s/he shall authorize the search.
 - a. The patient shall be told what contraband is suspected and given an opportunity to produce the contraband before the search is begun.
 - b. During the search, patients may be restricted from access to the area if the authorizing staff person documents that such restriction is needed for safety or if the patient's presence is clinically contraindicated.

- c. The patient's treatment team shall place the search on the agenda of the next team meeting and shall discuss any security concerns and clinical effects of the search with the patient.
 3. A body search of a patient may be authorized by a physician, advance practice nurse, or the Clinical Director if he or she documents their determination that there is probable cause that the patient possesses an item of contraband that poses an imminent risk to the health or safety of the patient or others.
 - a. Before authorizing a body search, an assessment by a psychologist or psychiatrist on the person's team who is not the physician authorizing the search must conclude that at the time the search is proposed the likelihood of threat to the patient or others outweighs any negative clinical impact on the patient.
 - b. A body search shall be conducted by an R.N. or a physician; a second staff member must be present, and one of the staff shall be of the same gender as the patient. A body search shall not be recorded on surveillance cameras.
 - c. During a body search, the removed clothing may be searched, the patient's shoes and socks removed, and the patient's oral cavity and hair may be visually inspected.
 - d. The patient's treatment team shall place the search on the agenda of the next team meeting and shall discuss any security concerns and clinical effects of the search.
 4. A body cavity search may only be conducted only with the approval of the Medical Director or CEO.
 - a. The Medical Director or CEO shall only approve the search if a body search has been unsuccessful or is likely to be unsuccessful in disclosing the contraband; and if the staff has presented probable cause that the contraband is concealed in the patient's body cavities; and that the need to recover the contraband outweighs any foreseeable negative clinical reaction to the search based on the patient's history and current clinical condition.
 - b. A body cavity search shall be conducted by a physician, either at the hospital or in a community based acute care facility. A staff member must be present at all times with the physician, and either the physician or the staff person shall be of the same gender as the patient. A body search shall not be recorded on surveillance cameras.
 - c. Appropriate sedation shall be ordered by the physician conducting the search if the patient consents to its administration.
- E. The least intrusive search likely to produce the suspected contraband shall be performed. If after the least intrusive search no contraband is found, but the suspicion remains, a more intrusive search may be conducted. Once the sought contraband is located, the search may only be continued if separately justified and authorized.

- F. If a patient objects to a search, staff shall balance the degree of harm threatened by the patient's continued possession of the suspected contraband against the psychological and physical dangers involved in overcoming the patient's objection. Physical force shall not be used to overcome a patient's objection unless the failure to conduct the search would pose a risk of serious and imminent danger to the patient or others, and if necessary, the least amount of force necessary to overcome the patient's resistance shall be used.
- G. Any staff person can be subjected to a routine contraband search at any time by his or her supervisor or another staff person at the supervisor's direction if the supervisor has and documents a reasonable belief that contraband is on the premises.
- H. The hospital's policy shall instruct staff in how to store or dispose of any items confiscated during a search. All illegal items, including weapons and controlled substances, must be turned over to the Human Services Police for safekeeping and/or disposition pursuant to law.
- I. An environmental or room search by police may be requested by the Section Chief or SON if the suspected contraband is illegal or stolen. If the police are requested to conduct a search, the area should be secured and under the constant observation of staff or police until a warrant is obtained by the police.
- J. A body or body cavity search pursuant to a warrant may only be authorized by the CEO, and shall be conducted under police supervision by a physician or nurse as appropriate in accordance with the standards at VI. D. 3. and 4.

VII. DOCUMENTATION

The staff person authorizing a nonroutine search is responsible for ensuring that when the search is completed or abandoned the following items are appropriately documented:

1. The item or items sought;
2. The information and facts that supported the finding that there was a reasonable suspicion that the contraband was located in the searched areas or on the persons of the patients searched;
3. The time the search was authorized, by whom, and the time the search was completed or abandoned.
4. That the patient whose room or body was searched was informed of the purpose and intent of the search;
5. That appropriate patients were provided an opportunity to voluntarily cooperate by producing the contraband items;

If voluntary cooperation produced the items, skip to 11.

6. If the patient objected and resisted the search, and if the search was abandoned, skip items 7-12 and document clinical reasons for abandoning search and other means taken to protect staff and patients.


7. If the patient objected and resisted the search and if force was used to perform the search, the rationale justifying the use of force;
8. For a room search, whether the patient was present;
9. The name, title, gender of the staff person conducting the search;
10. The name, title, and gender of the staff person(s) who witnessed the search;
11. The results of the search or production, including the items found and confiscated; and
12. The disposition of confiscated property.

One copy of the documentation must be placed in the patient's clinical record. A second copy of the documentation must be sent to the director of quality assurance for the hospital and anyone else the hospital policy designates.

VIII. PATIENT EDUCATION/STAFF TRAINING

- A. To ensure that patients have sufficient opportunity to understand their rights related to inventories, room and body searches, and the related procedures, the hospital will:
 1. Include an explanation of its policy, in language that is easy to understand, in the orientation material or handbook provided upon admission;
 2. Require treatment teams to incorporate a discussion of this policy in the treatment planning process with the patient and to document the discussion.
 3. Provide patients, staff, and visitors with a list of contraband.
- B. The hospital's policy will be included in the orientation material provided to new employees, and shall be included in any relevant in-service training programs for direct care staff and supervisors. Staff assigned responsibilities for routine and nonroutine searches will be trained to conduct and observe all searches in a thorough, but dignified and respectful manner, and the training will be documented in their personnel files.

1/3/07
Date



Kevin Martone, Assistant Commissioner



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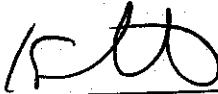
EFFECTIVE DATE: January 3, 2007

REVISED: March 27, 2007

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Searches for Contraband in Psychiatric Hospitals

See 4/2

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VI. STANDARDS

- A. All searches will be conducted in the presence of at least two staff who can give their whole attention to conducting or observing the search.
- B. A routine contraband search shall be conducted whenever a patient returns from a brief visit off grounds; such a search may be conducted on the authority of a member of the nursing staff or any person who could authorize a more intrusive search when a patient returns to the ward from any unescorted outing. No documentation is necessary unless contraband is found.
- C. Whenever a staff person at any level perceives that there is a threat to safety or that contraband may be present, that person shall have the responsibility to document the reasons for that perception and recommend to an administrator who can authorize a nonroutine search (any search that is not a routine contraband search) the least intrusive search likely to recover the suspected contraband. The only nonroutine searches authorized in a hospital policy or undertaken in practice shall be those in section D.
- D. The administrator shall authorize a search after confirming that the patient will not voluntarily produce the items of contraband and that the proposed search is the least intrusive manner in which to locate the contraband or to assure that such contraband does not exist. Nonroutine searches are listed here from least to most intrusive.
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 - a. The patients present at the time the need for a search is identified shall be told what contraband is suspected and given an opportunity to produce the contraband or assist in its recovery before the search is begun.

- b. During the search, patients may be restricted from access to the area if the authorizing staff person documents that such restriction is needed for safety or if the patient's presence is clinically contraindicated.
2. A room search may be authorized by the Section Chief or SON. If the SON or Section Chief believes that the staff person has documented probable cause that contraband is concealed in a patient's bedroom, and that a room search is likely to reveal the contraband, s/he shall authorize the search.
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 - b. During the search, patients may be restricted from access to the area if the authorizing staff person documents that such restriction is needed for safety or if the patient's presence is clinically contraindicated.
 - c. The patient's treatment team shall place the search on the agenda of the next team meeting and shall discuss any security concerns and clinical effects of the search with the patient.
3. A body search of a patient may be authorized by a physician, advance practice nurse, or the Clinical Director if he or she documents their determination that there is probable cause that the patient possesses an item of contraband that poses an imminent risk to the health or safety of the patient or others.
 - a. Before authorizing a body search, an assessment by a psychologist or psychiatrist on the person's team who is not the physician authorizing the search must conclude that at the time the search is proposed the likelihood of threat to the patient or others outweighs any negative clinical impact on the patient. If a psychologist or psychiatrist is unavailable during other than regular duty hours, the Supervisor of Nursing shall conduct the assessment and provide authorization for a body search.
 - b. A body search shall be conducted by a RN or a physician; a second staff member must be present, and one of the staff shall be of the same gender as the patient. A body search shall not be recorded on surveillance cameras.
 - c. During a body search, the removed clothing may be searched, the patient's shoes and socks removed, and the patient's oral cavity and hair may be visually inspected.

- d. The patient's treatment team shall place the search on the agenda of the next team meeting and shall discuss any security concerns and clinical effects of the search.
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- a. The Medical Director or CEO (AOC during other than regular duty hours) shall only approve the search if a body search has been unsuccessful or is likely to be unsuccessful in disclosing the contraband; and if the staff has presented probable cause that the contraband is concealed in the patient's body cavities; and that the need to recover the contraband outweighs any foreseeable negative clinical reaction to the search based on the patient's history and current clinical condition.
 - b. A body cavity search shall be conducted by a physician, either at the hospital or in a community-based acute care facility. A staff member must be present at all times with the physician, and either the physician or the staff person shall be of the same gender as the patient. A body search shall not be recorded on surveillance cameras.
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- H. The hospital's policy shall instruct staff in how to store or dispose of any items confiscated during a search. All illegal items, including weapons and

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 3. Provide patients, staff, and visitors with a list of contraband.
- B. The hospital's policy will be included in the orientation material provided to new employees, and shall be included in any relevant in-service training programs for direct care staff and supervisors. Staff assigned responsibilities for routine and nonroutine searches will be trained to conduct and observe all searches in a thorough, but dignified and respectful manner, and the training will be documented in their personnel files.



Kevin Martone, Assistant Commissioner