



SECURITY ISSUES IN PSYCHIATRIC TREATMENT FACILITIES (HOSPITALS)

Wisconsin Department of Health Services / Division of Quality Assurance

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This publication is issued to remind hospitals of their responsibilities to provide sufficient staffing levels and adequate staff training in psychiatric treatment areas to respond safely and effectively to disruptive and aggressive patient behavior. This publication updates the information contained in and replaces memo DDES-BQA-05-011.

The routine presence of weapons in a psychiatric treatment facility, including firearms, pepper agents (spray and foam), and electric restraint devices (stun guns or tasers) is not acceptable. This practice is contrary to state and federal regulations.

STATE AND FEDERAL REQUIREMENTS

Wisconsin Administrative Code § DHS 94, Patient Rights and Resolution of Patient Grievances

- Treatment facilities shall provide patients with a clean, safe and humane environment ... [DHS 94.24(1)]
- Staff shall take reasonable steps to ensure the physical safety of all patients. [DHS 94.24(2)(a)]
- Each patient shall be treated with respect and with recognition of the patient's dignity by all employees of the service provider and by all licensed, certified, registered or permitted providers of health care with whom the patient comes in contact. [DHS 94.24(2)(b)]

Effective April 10, 2014, Wis. Stat. § 50.36(1) adopted 42 CFR 482.60 as standards that apply to psychiatric hospitals and, effective July 1, 2016, the Conditions of Medicare Participation for hospitals. Relevant federal requirements for hospitals participating in the Medicare program include:

- The hospital must have adequate numbers of qualified professional and supportive staff to evaluate patients, formulate written, individualized comprehensive treatment plans, provide active treatment measures and engage in discharge planning. [42 CFR 482.62]
- All patients have the right to be free from physical or mental abuse, and corporal punishment. All patients have the right to be free from restraint or seclusion, of any form, imposed as a means of coercion, discipline, convenience, or retaliation by staff. Restraint or seclusion may only be imposed to ensure the immediate physical safety of the patient, a staff member, or others and must be discontinued at the earliest possible time. [42 CFR 482.13(e)]

Federal Interpretive Guideline at CFR 482.13(e) includes the following information:

The Centers for Medicaid & Medicare Services (CMS) does not consider the use of weapons in the application of restraint as a safe and appropriate health care intervention. We consider the term “weapons” to include pepper spray, mace, nightsticks, tasers, cattle prods, stun guns, pistols, and other such devices. Security staff may carry weapons as allowed by hospital policy and state and federal law. The use of weapons by security staff is considered as a law enforcement use and not a health care intervention. CMS does not approve the use of weapons by any hospital staff as a means of subduing a patient to place that patient in restraint/seclusion. If a weapon is used by security or law enforcement personnel on a person in a hospital (patient, staff, 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 turned over to the local law enforcement.

ADDITIONAL GUIDANCE

Handcuffs, manacles, shackles, and other chain-type restraint devices are considered law enforcement restraint devices and would not be considered safe, appropriate health care restraint interventions for use by hospital staff to restrain patients. The use of such devices by non-hospital employed or contracted law enforcement officers are governed by federal and state law and regulations. If non-hospital employed or contracted law enforcement officers bring a prisoner wearing handcuffs or other restraints into the hospital for care, the officers are responsible for monitoring and maintaining the custody of their prisoner (the hospital's patient) and the officers will determine when their prisoner's restraint device can be removed in accordance with federal and state laws and regulations. This does not diminish the hospital's responsibility for appropriate assessment and provision of care for their patient (the officer's prisoner).

Although hospitals accredited by The Joint Commission or other federally approved accrediting organizations are deemed to meet Medicare standards, they are not exempt from federal and state requirements.

Law enforcement or security personnel should not routinely possess weaponry in psychiatric treatment areas. The hospital is expected to work with law enforcement authorities in the community to develop alternatives to law enforcement personnel retaining their weapons during routine situations on a psychiatric unit. Wherever possible, psychiatric patients should be removed from areas where law enforcement personnel are performing official activities, such as investigating crime scenes on a patient care unit.

Hospitals should anticipate and plan for occasional disruptive or aggressive behavior by psychiatric patients against other patients, themselves, staff, or visitors. Hospitals must develop policies and procedures for the management of these special incidents. If this involves using security staff or behavioral response teams that include non-psychiatric unit staff for rare circumstances of unusual and significant threats of harm, these personnel should receive training in team stabilization and appropriate restraint methods.

The presence of weaponry on a psychiatric unit poses potential hazards to patients, both physically and psychologically. Healthcare security personnel who are assigned to work within psychiatric treatment areas may not routinely carry weapons. While it is recognized that security or law enforcement personnel who respond to rare incidents that are beyond the control of psychiatric unit staff may initially be armed, it is expected that officers will be asked to secure their weapons as soon as it is safe to do so. Weapons should be secured after an initial threat assessment (conducted off unit, when possible) determines that weapons are not needed, or as soon after control of a violent individual is established.

Law enforcement personnel should not be expected to deal with psychiatric patient management on the treatment unit. Use of armed security or law enforcement personnel should be limited to emergencies that are beyond the control of hospital staff.

When possible, teams comprised of healthcare staff and security (and/or police officers) should train together periodically to prepare for such emergencies using team stabilization methods. These methods should be used (instead of weapons), whenever possible, during emergencies that exceed the capability of the hospital staff.

Psychiatric patients are much more likely than the general population to be taking prescription medications and may have additional medical problems, including but not limited to, asthma, epilepsy, lung conditions, or heart conditions. Some patients may be under the influence of drugs when they are admitted and female patients may be pregnant. The hospital must make security or law enforcement officers who respond to incidents involving psychiatric patients aware that there is a potential for unintended harm to especially vulnerable patients.

All hospitals must have adequate policies and procedures to meet applicable state and federal regulations to ensure a safe environment for the specialized needs of patients, as well as staff.

RECOMMENDATIONS

- Hospitals may want to develop a written agreement with local law enforcement personnel to address the issue of weapons on psychiatric units.
- Hospitals may want to offer a lock box that is secured by the law enforcement officer for the storage of firearms, electric restraint devices, pepper agents, or other weaponry devices when an officer's presence is necessary on a psychiatric unit.
- Where possible, hospitals are encouraged to offer a secure, off-unit area for law enforcement personnel to use in meeting with a patient in an official capacity. In these situations, the hospital should provide staff to accompany the patient during interviews with police officers.
- Hospitals may want to provide a double-door arrangement outside of the psychiatric unit, or another designated place, to exchange the custody of patients so that law enforcement personnel would not need to enter an unsecured treatment unit or relinquish their weaponry.
- Hospitals should not use law enforcement personnel to remedy a lack of adequate staff to manage patient behavior on psychiatric units.
- Hospitals should provide all staff with training regarding the Federal Conditions of Participation for Patient Rights, especially those rights regarding the use of restraints or seclusion under 42 CFR 482.13 (e).
- Psychiatric staff, behavioral response teams, and security staff should be trained in team tactic stabilization.

SUMMARY

Psychiatric unit policies and procedures, adequate staffing levels (including backup staffing), and effective training of staff to safely de-escalate and contain problem situations are essential elements of effective inpatient psychiatric treatment. The use of security staff (contract or internal) is not a substitute for qualified patient care staff.

The routine presence of weaponry (including firearms, pepper agents and electric restraint devices), even in the possession of a trained law enforcement or security officer, is not an acceptable situation in psychiatric treatment areas. Hospitals are encouraged to develop policies and procedures and to implement necessary changes. Changes *may* be indicated in physical environment, staff training in both verbal de-escalation and alternatives to restraint or seclusion, training of hospital security staff (employee or contract) in patient rights, protective equipment for staff, cross-training other hospital staff in safe restraint techniques as back-up, and/or quality assurance studies to identify staffing needs and times of increased risk.

Law enforcement representatives have informed the Division of Quality Assurance that enforcement personnel prefer not to be used to address routine behavioral management issues on psychiatric treatment units due to the specialized needs of the patient population. A cooperative working relationship with local law enforcement is one of the many tasks hospitals must undertake to assure the welfare and safety of patients being treated for mental illness or substance abuse. Each hospital remains responsible for compliance with the Medicare Conditions of Participation, state administrative rules, and for working with the unique reality of their particular service area and patients.

QUESTIONS

Questions about this information may be directed to the Division of Quality Assurance, Bureau of Health Services, Acute Care Compliance Section (ACCS) at 414-227-4976 or 608-266-0269.