

**NEW JERSEY ADMINISTRATIVE CODE
TITLE 10. DEPARTMENT OF HUMAN SERVICES
CHAPTER 35. COUNTY PSYCHIATRIC FACILITIES**

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SUBCHAPTER 1. GENERAL PROVISIONS

10:35-1.1 Scope

These rules shall apply to the operation of the six current county psychiatric facilities at Bergen Regional Medical Center; Buttonwood Hospital; Camden County Health Services Center; Essex County Hospital Center; Meadowview Hospital; and Runnells Specialized Hospital. These rules shall also apply to any additional county psychiatric facilities, which may be so designated by the Commissioner in the future.

10:35-1.2 Purpose

The purpose of these rules is to promote efficiency, accessibility, and high-quality services within the county psychiatric facilities as part of a publicly funded well-coordinated and integrated Statewide system of mental health services. In order to best accomplish this purpose, the Commissioner hereby delegates certain authority granted by P.L. 1990, c.73 to the Director as detailed throughout this chapter.

10:35-1.3 Definitions

The following words and terms, as used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Commissioner" means the Commissioner of the Department of Human Services.

"Compliance with Federal standards" means meeting the Medicare certification requirements in units for patients who require a level of care consistent with such Medicare certification.

"Compliance with State standards" means meeting the applicable licensure requirements of the New Jersey Department of Health and Senior Services.

"County psychiatric facility" means a psychiatric hospital or unit which is operated by the governing body of a county and which participates in the State aid program of the Department of Human Services, Division of Mental Health Services.

"Department" means the New Jersey Department of Human Services.

"Director" means the Director of the Division of Mental Health Services.

"Division" means the New Jersey Division of Mental Health Services within the Department of Human Services.

"Governing body of a county" means the office of the county executive. In those counties without a county executive, it shall mean the county board of chosen freeholders.

"Plan" means financial and management plan submitted by the governing body of a county.

"Regional State psychiatric facility" means those State psychiatric hospitals listed in N.J.S.A. 30:1-7 which are being utilized by the Division of Mental Health Services to treat adult psychiatric patients within designated regions of the State. These facilities are Ancora Psychiatric Hospital, Greystone Park Psychiatric Hospital, Trenton Psychiatric Hospital and Senator Garrett W. Hagedorn Psychiatric Hospital.

SUBCHAPTER 2. FINANCIAL AND MANAGEMENT PLAN

10:35-2.1 Purpose and deadline of plan

The governing body of each county that operates a county psychiatric facility shall submit to the Director a plan no later than December 31 of each calendar year so that the purpose articulated at N.J.A.C. 10:35-1.2 above may be achieved. In addition to the information listed at N.J.A.C. 10:35-2.2, the plan may need to include additional program or fiscal information deemed essential by the Director to fulfill the duties mandated by P.L. 1990, c.73. If any such additional information is needed, it shall be so requested in writing by the Director.

10:35-2.2 Content of plan

(a) The plan from each county facility shall minimally include the following information:

1. A statement of whether the governing body of the county intends to continue to operate a county psychiatric facility for the next calendar year;

2. A statement of any financial obligations that must be incurred in order to bring the facility into compliance with State and Federal standards, including any applicable plan of correction;
3. A statement of mission and the role of the facility within local and regional mental health systems;
4. A description of any program and facility deficiencies cited by State, Federal or private licensing, certifying or accrediting bodies and corrective action plans related to the cited deficiencies;
5. A description of target populations served, projected annual admissions and anticipated average daily population;
6. A description of admissions and discharge policies, including specific criteria;
7. A description of hours of operation, number and types of beds licensed and in use for psychiatric services;
8. A description of methodologies and/or data utilized to determine the need for current, modified or new programs;
9. A description of current and projected use of buildings and land for mental health and/or other purposes;
10. An identification of proposals or plans external to the psychiatric facility which may impact on the facility's ability to provide services; and
11. A description, in a format specified by the Director, of budgetary information and personnel listings sufficient to reasonably identify facility, staffing and program operational costs, expected revenues, and associated financial aspects of planned facility services.

10:35-2.3 Annual Certification Process

On or before December 31 of each year, the governing body of each county shall submit written certification to the Director as to the accuracy of information submitted and that information contained in the previously submitted plan remains in effect without change, if that is so.

10:35-2.4 Modifications to the plan

(a) If changes to the plan are anticipated for the next year, the governing body of each county shall submit written notification and description of the modifications to the Director on or before December 31 of the preceding year.

(b) If modifications occur subsequent to the annual certification, these changes must be reported immediately, in writing, to the Director.

(c) Facility or program modifications which would require a Certificate of Need (CN) as established by rules promulgated by the New Jersey Department of Health and Senior Services must be specified in a letter of intent to the Director, concurrent with the notification to the Department of Health and Senior Services.

(d) Modifications that do not require a CN but that would have an impact on the provision of services within the New Jersey mental health system, require six months advance notice to the Director prior to implementing any program or facility modification.

(e) The governing body of each county shall immediately inform the Director, in writing, of any changes in the status of the psychiatric facility's licensure, accreditation or certification, as these occur during the year.

10:35-2.5 Division review of initial and modified plans and annual certification

(a) The Director shall complete the review of each facility's plan and notify in writing the governing body of the county of his or her decision to approve, or approve with conditions, the county's plan guiding the operations of its respective psychiatric facility within 90 days of the plan's receipt.

(b) If the county's plan receives conditional approval, the governing body of the county shall satisfactorily address the outstanding issues within 90 days of notification. Proposed modifications to the plan may be discussed and negotiated with the Director or the Director's designee within this 90 day period.

SUBCHAPTER 3. AFFILIATION AGREEMENT DEVELOPMENT

10:35-3.1 Affiliation agreement development

(a) Each county psychiatric facility shall negotiate and develop affiliation agreements with designated screening programs (as defined at N.J.A.C. 10:31-1.3), community based short term care facilities (as defined at N.J.A.C.10:31-1.3), Division contracted community mental health services, (for example liaison, case management, partial care, residential) and State psychiatric facilities.

(b) The purpose of these agreements shall be to effectively link the facility's services to these other services so that accessible, high quality mental health care is provided in the most clinically appropriate, least restrictive service environment consistent with an individual's needs.

(c) These agreements shall be consistent with the county psychiatric facility's mission statement, plan and license.

(d) Minimally, affiliation agreements shall include a description of each party's program components, as well as the referral and admissions process. The admission process shall specify inclusionary and exclusionary criteria. A section providing a description of the treatment planning process, length of stay objectives and the discharge planning process shall also be included in the affiliation agreement.

(e) Staff associated with Programs of Assertive Community Treatment and Integrated Case Management Services shall be credentialed and privileged to participate in treatment team and discharge planning processes.

(f) Each affiliation agreement shall contain a section identifying a problem resolution process agreed to by the signatories.

(g) The process and general procedures for referrals to and transfers among affiliating system components should be specified within the agreements, along with medical clearance procedures (when required).

(h) Affiliation agreements, as stipulated above, shall be completed within 180 days of the adoption of these rules.

10:35-3.2 Review process

(a) The county psychiatric facility affiliation agreements and any subsequent modifications should be developed in consultation with the county mental health board's professional advisory committee.

(b) The signed affiliation agreement shall be provided to the county mental health board on an annual basis.

(c) The signed affiliation agreement(s) as approved by the county psychiatric facility or their governing body shall be submitted to the Division.

(d) County systems review committees shall review the operational aspects of the psychiatric facility affiliation agreements.

(e) Both County and Regional State psychiatric facility representatives shall attend the system review committee ("SRC") meetings and provide SRC data on the forms used for that purpose.

SUBCHAPTER 4. TRANSFERS BETWEEN REGIONAL STATE AND COUNTY PSYCHIATRIC FACILITIES.

10:35-4.1 Scope

(a) The rules within this subchapter shall apply to patients residing at county psychiatric facilities being considered for transfer to a regional State psychiatric facility and to patients residing at a regional State psychiatric facility being considered for transfer to county psychiatric facilities. No provision within these rules is intended to override or replace provisions within valid judicial orders regarding patient placement or transfer.

(b) Within the parameters set out within this subchapter, the specific process for transfers between Regional State and county psychiatric facilities shall be specified within their affiliation agreement.

(c) Prior to a patient's initial commitment hearing, only emergency transfers may be made. Postponement of such hearings beyond 20 days after admission may not be requested by hospital staff due to the emergency transfer of a patient.

10:35-4.2 Basis for transfers

(a) Clinical considerations shall always be paramount in any transfer decision. Any of the factors described below may serve as a basis for the transfer of a patient:

1. To place him or her in closer proximity to family members;

i. If a patient and his or her family members disagree on a transfer request based on proximity to family members, a clinical determination shall be made by the hospital staff based solely on the clinical best interest of the patient;

2. To place the patient in the appropriate facility according to the patient's residence (catchment area);

3. To participate in a specialized psychiatric service that is offered in another psychiatric facility or in the community that is more accessible from the receiving facility;

4. To spare patients the consequence of overcrowding in a specific psychiatric facility;

5. In response to a natural catastrophe, fires or other life safety concerns which necessitate transfer;

6. As a consequence of inter-regional or intra-regional consolidation of services; or

7. In response to the request of the patient.

(b) A patient's stated preference for treatment at a particular State psychiatric facility shall always be a relevant consideration in transfer decisions. Transfers over the objection of a patient are permitted, however, when a clinical determination has concluded that the transfer is in the transferee's clinical best interest or necessary for the safety of other patients or administratively necessary due to a factor listed in (a) above. A transfer is

permitted only when, in the judgment of the treatment team, the transfer's permissible purpose outweighs any potential harm to the patient from the transfer.

1. When a transferring facility is capable of meeting the clinical or administrative purpose for a proposed transfer as contained in the factors at (a) above, an objecting patient shall not be transferred.
2. Transfers shall be the least restrictive available treatment alternative necessary to achieve the purposes of the transfer request as contained in the factors at (a) above.

10:35-4.3 General transfer policies and procedures

(a) Transfers over the objection of a patient are permitted when a clinical determination has concluded that the decision is in the transferee's clinical best interest or necessary for the safety of other patients or administratively necessary due to a factor listed in N.J.A.C. 10:35-4.2.

(b) Transfers occurring as a result of overcrowding, life safety concerns, natural catastrophes or consolidation of services shall require the approval of the Director.

(c) The following procedures shall be in effect for transfers of patients between facilities:

1. Facility staff should actively promote patient and family input into transfer decisions.
2. The designated sending psychiatric facility must discuss the transfer with the designated receiving psychiatric facility. If the parties agree to the transfer, they will arrange for a specific date and time for the transfer to occur.
3. Both the patients scheduled to be transferred, and their families, shall be notified by the sending psychiatric facility as soon as possible after the transfer decision has been made, but no later than 72 hours prior to the transfer. When a patient requests transfer, staff shall notify him or her of their decision promptly.
4. In the event of an emergency transfer, defined as imminent danger of serious bodily harm to self or others which less restrictive placement alternatives other than transfer cannot adequately address, the 72 hour notification requirement shall be waived. Only factors listed at N.J.A.C. 10:35-4.2(a)3 and 5 may serve as the basis for an emergency transfer.
5. The psychiatric facility initiating the transfer shall make the arrangements for the transfer, including transportation.
6. If the two psychiatric facilities do not agree on the transfer, the matter shall be referred to the chief executive officers, or their designee, of the respective facilities for resolution. The patient's attorney shall be notified of the disagreement. If the chief executive officers

are unable to resolve the matter, the Director or a designee shall finally resolve the matter.

7. All transfers are to be handled in a timely manner as specified in the affiliation agreement.

10:35-4.4 Specific procedures when patients object to transfer

(a) When a patient objects to the transfer, the following procedures shall apply:

1. Each patient and their attorney shall receive notice of the proposed transfer as soon as possible but in no instance less than 72 hours prior to the proposed transfer date;
2. If a patient objects to such a transfer, he or she shall be provided an opportunity to state the basis for the objection and present any relevant facts, including statements by other individuals, with or through a representative as so desired before an individual who is not a member of the treatment team seeking transfer. This individual may be a member of the office of the facility's clinical director or other facility staff member capable of providing an independent review of the need for the proposed transfer; and
3. The individual who reviews the proposed transfer shall have the authority to approve or disapprove the proposed transfer.

SUBCHAPTER 5. SANCTIONS AND APPEALS PROCESS

10:35-5.1 Sanctions

(a) If the Director determines that any of the provisions of this chapter have been violated by the governing body of a county or a county psychiatric facility, administrative and financial sanctions may be imposed in writing by the Director upon the violators as warranted by the specific situation.

(b) Administrative sanctions may include, but not be limited to, notices or letters of warning to the governing body of a county and a county psychiatric facility.

(c) Financial sanctions may include, but not be limited to, fines and the withholding of funds from the governing body of a county and the county psychiatric facility.

(d) N.J.S.A. 30:4-78.4 provides that in the event a county continues to operate and maintain a county psychiatric facility, the Commissioner shall have the power to replace the chief executive officer, the chief financial officer, the medical director and other appropriate administrative personnel upon the Commissioner's determination that financial expenditures of the facility are repeatedly and substantially in excess of similar expenditures in other State and county psychiatric facilities or the quality of care provided in the facility is repeatedly and substantially below State and Federal standards.

10:35-5.2 Appeals process

(a) The governing body of a county or a county psychiatric facility may appeal any sanction imposed by the Director except that sanctions related to the plan review and approval process may only be appealed by the governing body of a county.

(b) Appeal requests must be received by the Director within 30 days of receipt of the written sanctions by the governing body of the county or the county psychiatric facility.

(c) The Director shall schedule the appeal for review within 60 days of receipt of the appeal request.

(d) The appellant may present all relevant information for consideration by the Director at the review and the Director shall communicate a determination in writing to the appellant within 30 days of the review.

(e) The appellant may appeal the Director's determination to the Commissioner in writing within 60 days of receipt of the Director's determination.

(f) The Commissioner, or a Departmental designee, shall schedule the Departmental appeal for review within 60 days of receipt of the Department appeal request.

(g) The appellant may present all relevant information for consideration by the Commissioner or Departmental designee at the review and the Commissioner or Departmental designee shall communicate a determination in writing to the appellant within 30 days of the review.