

FILED BY *M.M.C.*

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

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ROBERT P. DE TROMP
CLERK OF DISTRICT COURT
WESTERN DIVISION

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 STATE OF TENNESSEE, et al)
)
 Defendants.)

Civil Action No. (96-2312)

STIPULATION AND ORDER

Plaintiff, the United States of America, and Defendants, the State of Tennessee, et. al., in order to ensure adequate protection of the constitutional and federal statutory rights of patients of the Memphis Mental Health Institute ("MMHI"), to effectuate the Consent Decree entered in this case, and to remedy what Plaintiffs have alleged is Defendants' non-compliance with certain provisions of the Consent Decree, do hereby Stipulate as follows:

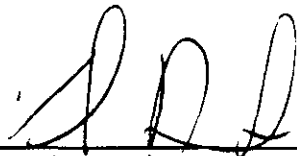
I. STAFFING AND PATIENT SUPERVISION AND SAFETY

A. Within 30 days of the entry of this Stipulation and Order Defendants shall employ and retain sufficient nursing staff (including Registered Nurses and Psychiatric Technicians) to maintain at least 5.5 Nursing Care Hours Per Patient Day ("NCHPPD") on the Fourth and Fifth floors of MMHI. Compliance with 5.5 NCHPPD shall be determined by taking the number of patients on a unit (census), multiplying that number by 5.5 and then dividing that figure by 7.5 (the number of hours worked in a shift). If this calculation results in a fraction of a person, MMHI shall round up to the next highest whole number. Excluded

CERTIFICATE OF SERVICE

I, Verlin Hughes Deerinwater, hereby certify that a copy of the attached Joint Motion for Entry of Stipulation and Order and accompanying Stipulation and Order were mailed by overnight mail to the following counsel of record this 10th day of September, 1998.

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from this calculation are: a) nursing staff involved in 1:1 supervision or other special assignments and nursing staff serving primarily administrative or supervisory duties; and b) any patients on 1:1 supervision.

B. The nursing staff shall be deployed in such a manner so as to ensure that at least thirty percent (30%) of staff on each ward on each shift that comprise the NCHPPD requirement are to be registered nurses.

C. The NCHPPD requirement shall be met without excessive use of overtime, excessive use of temporary or agency personnel, or the excessive use of staff reassigned from their regularly worked units. Defendants may contract with a private agency for the provision of temporary staff in case of discrete emergencies (when regular state employed staff are not available), and for the provision of continuous staff on a continuous long-term basis (i.e., to provide a certain number of consistent, non-rotating individual staff, who will serve on a continuous basis for at least six months). Staff who serve at MMHI pursuant to contracts with private agencies on a long-term basis will receive the same training as state employed MMHI staff. For example, nurses provided by private agencies pursuant to long-term contracts will receive the same initial training and orientation that state employed nurses receive at or immediately prior to commencement of their duties at MMHI, and will receive the same ongoing or in service training that state employed nurses receive. Temporary staff employed in case of emergency will receive similar training whenever practicable.

D. Psychiatric Technicians will be expected to know the whereabouts of the patients for whom they are responsible and will observe them at least every fifteen (15) minutes. The technicians will document their observations every thirty (30) minutes. At

D. By no later than 12 months from entry of this Stipulation and Order, Defendants shall ensure that each MMHI patient's Master Treatment Plan meets the objectives set forth in ¶¶s II (C) (1-11) above.

E. When individuals must be discharged pursuant to Tenn. Code Ann. § 33-6-109, Defendants will seek to complete a comprehensive treatment plan, but parties recognize there may be time constraints on developing treatment plans for these discharges.

F. Within 120 days of entry of this Stipulation and Order, the Clinical Director, or such other qualified physician(s) as MMHI may designate, shall prepare the Clinical Director's Quarterly Report by overseeing an ongoing peer-review of randomly-selected patient records. The results of that review will be provided to the facility Superintendent. Corrective action for identified deficiencies must begin immediately upon identification of such deficiencies, including written notification of the deficiencies to the clinicians involved.

III. RESTRAINT AND SECLUSION

A. Within 30 days of entry of this Stipulation and Order, Defendants shall ensure that MMHI adheres to the requirements of its policy entitled "Restraint and Seclusion," which is attached hereto as Attachment A. Special attention shall be paid to the requirement that all patients placed in restraints are afforded 1:1 supervision while in restraints. MMHI will provide to the United States any revisions to this policy prior to implementation, and the United States shall have an opportunity to object.

IV. DISCHARGE PLANNING

Upon entry of this Stipulation and Order, Defendants shall take the following steps as part of the discharge process from MMHI:

A. For every patient who requires outpatient mental health services, including substance abuse services, Defendants shall ensure that at least an initial appointment with the entity providing outpatient services is arranged for the patient by the time of discharge. If a patient refuses such services, refusal of services will be documented.

B. Defendants shall ensure, that to the maximum extent appropriate, the patient's family members are involved in the treatment planning and discharge process. For patients who are discharged to a family setting, MMHI shall, taking into account the patient's history with his/her family and the patient's wishes, make every appropriate effort to inform the family of the patient's discharge and mental health status at time of discharge.

C. If Defendants discharge any patient who has been subject to restraint and/or seclusion or the administration of a STAT or PRN medication for the purpose of behavioral control within 24 hours prior to the time of discharge, the discharging psychiatrist shall make a specific note related to the event and the patient's status upon discharge.

V. CONTINUING FORCE AND EFFECT OF MARCH 27, 1996 CONSENT DECREE

All provisions of the March 27, 1996 Consent Decree entered as an Order of this Court that do not otherwise conflict with the terms of this Stipulation and Order shall remain in full force and effect.

VI. ADDITIONAL QUARTERLY REPORTS

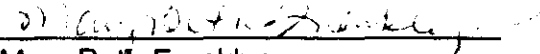
Beginning with the calendar-quarter reporting period during which this Stipulation and Order are entered, the State shall provide the United States with the following additional

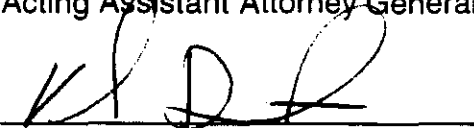
information as part of its Quarterly Status Reports required by Section II of the March 27, 1996 Consent Decree:

- A. The text of any policies, procedures or directives issued to comply with, or monitor compliance with, the terms of this Stipulation and Order;
- B. The quarterly report of the Clinical Director or designee referred to in Paragraph II.F of this Stipulation and Order;
- C. A narrative from MMHI's superintendent summarizing significant efforts taken by the State to comply with the requirements of this Stipulation and Order.

FOR THE STATE OF TENNESSEE
John Knox Walkup
Attorney General

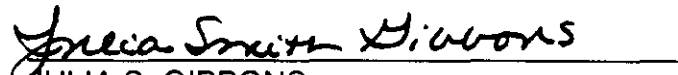
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SO ORDERED this 17th day of September, 1998, at

Memphis, Tennessee.


 JULIA S. GIBBONS
 UNITED STATES DISTRICT COURT JUDGE

MEMPHIS MENTAL HEALTH INSTITUTE
NURSING SERVICES
POLICY AND PROCEDURE MANUAL

SUBJECT: Locked-Door Seclusion or Restraint

EFFECTIVE DATE: 02-05-91

REVISE DATE: 10-01 97 *

APPROVED BY: Susan Schnuerer
Susan Schnuerer, MSN, RN, Director of Nursing

* Supersedes prior review/revise dates of 04-94, 05-97 and 02-96.

Policy:

- Staff will assist a patient in gaining control of his/her behavior.
- Locked-door seclusion or restraints are implemented after least restrictive behavioral control measures have been unsuccessful or the patient is out of control and requires immediate restraint for the protection of self and others.
- 3) The RN may initiate locked-door seclusion or restraints but a physician's order is required.
 - 4) Any patient placed in restraints is immediately placed on 1:1 observation (per MD's order).
 - 5) See Hospital Instruction 80-71.

Procedure:

1. The locked-door seclusion or restraint room should be checked at the beginning of each shift for readiness by the RN or his/her designee.
2. When a patient begins to lose self-control, the RN must assess the patient to determine what action is to be taken. The RN must use the least restrictive measure first, unless physical harm is being done to the patient or others.
 - A. Least restrictive measures:
 - 1) verbal cue;
 - 2) time-out;
 - 3) prn medications;
 - 4) locked-door seclusion;
 - 5) mechanical restraints as necessary - 1, 2, 3, 4, 5 and rarely a body net may be used;
 - 6) medication intervention.
3. A. If more restrictive measures are indicated, the R.N. directs the Nursing staff place the patient in locked-door seclusion or restraints. The R.N. determines the level of restraints and the patient is placed in a prone position except for pregnant patient.

RSING SERVICES POLICY AND PROCEDURE MANUAL: Locked-Door Seclusion or Restraint (Page 2)

- B. The R.N. will immediately notify the physician/OD to obtain an order and Nursing Supervisor. The physician must assess the patient within two hours of being placed in restraints. No patient will be placed in locked-door seclusion or restraints without a physician's order.
 - C. The written order must say "up to" the number of points of restraints and "up to" the number of hours, not to exceed four (4) hours. The continuation of the restraints each four-hour period requires a new order by the physician. The physician may renew the order one time without reassessing the patient. The second renewal requires reassessment by the physician.
 - D. The Nursing staff checks the patient's pockets for hazards such as matches, lighter, pencils or other sharp objects.
 - E. Nursing staff removes the patient's shoes and hazardous objects and gives them to the nurse in charge. The nurse documents on the "Special Care Record: Locked-Door Seclusion or Restraint" what was removed and where it was placed for safekeeping. (This documentation must be co-signed by another staff member.)
 - F. If less than 5 points are used, the remaining restraints are locked down.
(All Nursing staff employees receive keys for the Posey Restraints from Staff Development during "new employee" orientation.)
4. If a patient is in locked-door seclusion or restraints and another patient needs to be placed in locked-door seclusion or restraints, the patient room across from the nurses' station will be used as the locked-door seclusion or restraint room (using a hospital bed). The patient must be placed on 1:1 observation with the door opened and the technician sitting in the doorway.
- [Follow this Nursing Policy and Procedure for locked-door seclusion or restraint.]
- 5. The RN initiates a Special Care Record: Locked-Door Seclusion or Restraint (see Attachment A). The nurse describes the patient's behavior that necessitated the use of restraints, verbal responses, the use of the least restrictive measures and that patient was placed on 1:1. This entry should be very detailed and descriptive. A note is also made by the nurse in the progress notes stating briefly that the patient was placed in restraints and "see Special Care Record".
 - 6. The RN designates a Nursing staff member to monitor and document every 15 minutes on the Special Care Record: Locked-Door Seclusion or Restraint.
 - 7. The documentation on the Special Care Record: Locked-Door Seclusion or Restraint should reflect specific behaviors and responses of the patient. All spaces on the form must be completed appropriately.
- The Nursing staff assigned to monitor the 1:1 may sit in the anteroom of the locked-door seclusion or restraint room as long as the staff member has full view of the patient at all times. It is not necessary to lock the door.
- 8. The Nursing staff will visibly check the patient every 15 minutes for circulation of the extremities as well as the general comfort and condition of the patient. Circulation is assessed by temperature, presence of edema, color, pulse, movement and patient's reports of numbness, tingling or pain. Observe for an self-mutilating behavior. Adequate circulation will be designated by "WNL". If not WNL, designate with an "O" for other and describe in the "Nursing Progress Notes" section of the Special Care Record.
- The Nursing staff will offer fluids and bathroom privileges to the patient every two hours and prn. This must be documented on the Special Care Record.
- 10. Nursing staff will serve meals in unbreakable containers, paper plates and paper cup to the patient in restraints. Trays are not to be left in the room. When removing articles, Nursing staff should account for all items that were brought into the room especially utensils.

NURSING SERVICES POLICY AND PROCEDURE MANUAL: Locked-Door Seclusion or Restraint (Page 3)

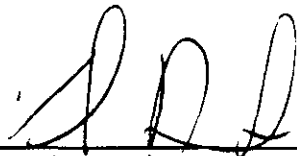
11. Nursing staff will take vital signs every shift and prn as soon as the patient de-escalates and document on the blue sheet.
12. The RN assesses the patient and documents on the Special Care Record: Locked-Door Seclusion or Restraint every two hours and reviews all previous entries for completeness and accuracy. Documentation should reflect specific behaviors, responses, affect and the justification for continued use of restraints.
13. The nurse will administer routine medicines and prn's as needed.
14. When the patient is calmer, the RN will explain to the patient the reason as to why locked-door seclusion or restraint occurred.
15. The nurse has the discretion of reducing the number of points of restraints and removing the patient from locked-door seclusion or restraints within the points and time as ordered restraint if this decision is made.
16. The Nursing Supervisor and/or the Nurse Manager documents on the Special Observation Record every eight hours and reviews all previous entries for completeness and accuracy.
17. When a patient is released, the RN makes a final entry on the Special Observation Care Record documenting his/her behavior. A note is made in the progress notes stating that locked-door seclusion or restraint has been discontinued.

All restraints are to be removed, bagged and sent to Central Medical Supply (CMS). The restraint bed is to be sprayed with disinfectant. Clean linens and restraints are to be put on the bed.
18. If the patient is removed from locked-door seclusion or restraints but escalates (requiring locked-door seclusion or restraints), the physician must give a new order and assess the patient within two (2) hours.
19. If the patient has shown a pattern of aggressive behavior, the RN discusses the patient in unit team staffing. On an existing Master Treatment Plan, appropriate Nursing interventions will be included.
20. The nurse reports to the Nursing Office on the 8-hour reports. The carbon of the physician's order is stapled to the 8-Hour Report.
21. The Director of Nursing Services or designee reports all incidents of patient locked-door seclusion or restraint to the Superintendent each day. This information is obtained on the Supervisor's shift report.

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